



**Regulation & Compliance  
Sub-Committee Meeting**

**To be held at:**

**Thoresby College, South Quay  
King's Lynn, PE30 1HX**

**28<sup>th</sup> August 2013  
1030 hours**

Meeting: **Regulation and Compliance Sub-Committee**

Date: 28 August 2013

Time: 10:30

Venue: Thoresby College  
10, Queen Street,  
King's Lynn,  
PE30 1HX



*"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."*

- 1 Welcome/Election of Chair *Hd MP (Acting Clerk)*
- 2 Apologies for absence - *Hd MP*
- 3 Declaration of members' interests - *Chair*

#### **Action Items**

- 4 Minutes of the Regulation & Compliance Sub-Committee meeting on 26<sup>th</sup> September 2012 - *Chair*
- 5 Matters Arising
- 6 Byelaw for management of fishing activities in Wash and North Norfolk coast European Marine Site. - *Hd MP/Hd ER*

#### **Information Items**

- 7 Progress report on Byelaw review process - *Hd MP*
- 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

Philip Haslam  
Chief Executive Officer  
13 August 2013

## Regulation & Compliance 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 Regulation & Compliance Sub-Committee took place at the EIFCA office, King's Lynn on 26 September 2012 at 12.45 hours

### Members Present:

Cllr Stephen Williams	Chair	Lincolnshire County Council
Mr John Stipetic	Vice-Chair	Marine Management Organisation
Mr Shane Bagley		Marine Management Organisation
Mr Peter Barham		Marine Management Organisation
Mr Roy Brewster		Marine Management Organisation
Mr Neil Lake		Marine Management Organisation
Mr Ceri Morgan		Marine Management Organisation
Mr Tom Pinborough		Marine Management Organisation
Cllr Ken Sale		Suffolk County Council
Cllr Hilary Thompson		Norfolk County Council

### Eastern IFCA Officers Present:

Eden Hannam	Acting Chief Executive Officer
Julian Gregory	Head of Marine Protection

### Also Present:

Phil Haslam	Eastern IFCA Chief Executive Officer Designate
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### Clerk:

Mary Clancy

### **R&C12/01 Item 1: Welcome by the Chair**

The Chair welcomed Members to the first meeting of the Regulatory & Compliance Sub-Committee which had been brought forward from 14.00 hours by agreement with Members. He also welcomed Chief Executive Officer designate, Phil Haslam. Mr Haslam was due to begin work on 1 October 2012.

### **R&C12/02 Item 2: Apologies for Absence**

Apologies were received from Conor Donnelly and Cllr Tony Goldson.

### **R&C12/03 Item 3: Declarations of Interest**

There were no declarations of interest.

### **R&C12/04 Item 4: Review of Standing Orders: advice of Lincolnshire, Norfolk and Suffolk Monitoring Officers on a draft Constitution for the Eastern IFCA**

Members had joined the meeting of the Finance & Personnel Sub-Committee at 12.15 hours to discuss this item. The Clerk presented the report. She reminded Members that, at its meeting in July 2012, the Authority had accepted the offer of the Lincolnshire County Council Monitoring Officer to commission legal advice on the standing orders and proposed Constitution and had decided to refer further discussion to the

Finance & Personnel and Regulatory & Compliance Sub-Committees who were also asked to make recommendations for consideration at the Authority meeting on 31 October 2012.

The Clerk said that the Monitoring Officer had commissioned the Assistant Director – Legal Services Lincolnshire (who is also Monitoring Officer for some of the Lincolnshire district councils) to provide the advice. This was included as Appendix 2 to the report on this item. The Assistant Director concluded that the majority of the standing orders were prescribed by legislation and the rest seemed 'entirely sensible' and she also considered it sensible for the Eastern IFCA to have a code of conduct setting out expectations of member behaviour. She drew attention to new access to information requirements for councils, acknowledging that they did not apply to IFCAs, but recommended that the Authority consider at some time in the future whether it would be appropriate to adopt these requirements as they would become standard practice for county council members of the Eastern IFCA.

Members then discussed the draft Constitution and standing orders. There was general acceptance of the Assistant Director's view. Turning to the proposed resolutions, Cllr Williams said that the notice period for sub-committee agendas and papers should be at least 5 clear working days as for meetings of the full Authority as Members needed enough time to consider the information fully before the meeting and seek the views of others as necessary. Mr Pinborough agreed that 3 working days did not give Members enough time to prepare properly for a meeting. There was also general acceptance of the need to review the Authority's arrangements for delegated decision-making now that the new CEO was in post.

**Members resolved to recommend that, at its meeting on 31 October 2012, the Authority should:**

- a) accept the advice commissioned by the Lincolnshire County Council Monitoring Officer as set out in Appendix 2;**
- b) adopt the Constitution set out in Appendix 1 including the proposed notice period for sub-committee agendas and papers of 5 clear working days;**
- c) agree that the Constitution should be published on the Eastern IFCA's website;**
- d) review the current restriction on members' eligibility for the offices of Chair and Vice-Chair of the Authority at its meeting in January 2013;**
- e) ask officers to review the applicability of the new Access to Information provisions to the Eastern IFCA's decision-making and make recommendations to a future Authority meeting;**

**Members also resolved to ask officers to begin a review of delegations of function and make initial recommendations to the Authority meeting on 31 October 2012.**

**Proposed:** Cllr Stephen Williams

**Seconded:** Tom Pinborough

**All agreed**

**R&C12/05** **Item 5: Direction of travel and structure for next steps for Byelaw Review**

The Acting Chief Executive introduced the report. He said that officers proposed to begin the Byelaw Review by looking at the existing byelaws in order to identify those in need of revision, areas of duplication and gaps in provision where new byelaws were required. Officers would then identify the priorities for action. The Head of Marine Protection explained that the timescales for carrying out the Eastern IFCA's review could be influenced by the discussions of the national Byelaws Workshop which had been set up to support the byelaw reviews that all IFCAs had to carry out by 2015. However, as set out in the report, officers proposed to complete the initial stages of the Eastern IFCA's review in time to present a review plan to the January 2013 meeting of the full Authority. Members of this Sub-Committee would be consulted by email on the proposed review plan before it was finalised.

Tom Pinborough said he and the previous CEO had looked at the existing byelaws earlier this year and found that they were not straightforward. The Acting CEO said that, in future, the intention was to group them by type rather than chronologically as in the past. This would enable people with particular interests to locate easily the byelaws relevant to them. Cllr Williams pointed out that they should also be in plain English.

Tom Pinborough also raised the issue of fixed net research which the previous CEO had agreed to carry out when they were looking at the byelaws. The Acting CEO said that this research would be included in the 2013 research and development plan as there had not been resources available to carry out this research in 2012.

**Members resolved to:**

- a) note the requirement to review all byelaws by April 2015;**
- b) agree the outline approach for the review of the Eastern IFCA bylaws set out in the report;**
- c) agree the outline timetable for the initial stages of the review set out in the report.**

**Proposed:** John Stipetic  
**Seconded:** Cllr Hilary Thompson  
**All Agreed**

**R&C12/06** **Item 6: Policy development for a shore launched vessel zone**

The Acting Chief Executive presented the report. He said that inshore fishermen using shore-launched boats on the North Norfolk coast had identified problems caused by the increased amount of fishing in the area by people who had been displaced from other areas by, for example, wind farms or fishing restrictions elsewhere. The fishermen were concerned that the pressure on stocks would prevent them from continuing which would have a knock-on effect on local tourism if the local shore-launched fishing boats disappeared. In response to these concerns, officers were considering the possibility of using the existing no trawling/dredging zone as a basis for a shore-launched fishing zone which would be established under a 'gentlemen's agreement' with those concerned. It was proposed to consult on this basis and, if a 'gentlemen's agreement' could not be achieved, a byelaw could be considered to enforcing the zone.

Neil Lake expressed concern that enforcement could result in discrimination against harbour-launched boats of the same size as those launched from the shore. However, he accepted that consultation on the gentlemen's agreement approach to resolving the issue was appropriate. Cllr Hilary Thompson asked officers to let Members of the Sub-Committee know when the consultation was to begin so they would be prepared for discussion with stakeholders who might raise it with them.

Cllr Williams asked whether additional resources would be required. The Acting Chief Executive said that the consultation would not be a separate project but would be built into the existing quarterly community engagement structure. Interested fishermen would be invited to the next community engagement meeting. John Stipetic was concerned about the relatively short deadline of January 2013 to evaluate the effectiveness of the approach but the Acting Chief Executive said it fitted in with the proposed Byelaw Review timetable, should enforcement be required.

**Members resolved to:**

- a) note that there is increased fishing effort on the North Norfolk coast, some of it effort displaced from elsewhere, that fishermen have come to the Authority with their concerns, and that officers have discussed solutions with them;**
- b) agree that Authority Officers should begin a wider consultation, including possible solutions such as a shore launched vessel zone, with fishing communities in the wider areas;**
- c) request officers report back to the Authority meeting in January 2013 with progress, and if there is need for regulatory change.**

**Proposed:** Neil Lake

**Seconded:** Tom Pinborough

**All Agreed**

**R&C12/07 Item 7: Any other urgent business**

There was no other business.

The meeting closed at 13.15 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*



### Action Item 6

## Eastern IFCA Regulatory and Compliance Sub-Committee

**28<sup>th</sup> August 2013**

**Report by:** Eden Hannam, Head of Marine Environment and Research  
Julian Gregory, Head of Marine Protection

### **Fisheries Management in European Marine Sites – Byelaw making**

#### **Purpose of report**

This report is to enable the Regulatory and Compliance Sub-Committee to make a byelaw and issue four regulatory notices. The purpose of the byelaw is to create a flexible approach to managing areas for conservation purposes, focused on managing European marine sites.

#### **Recommendations**

**It is recommended that members:**

- 1. Note the Contents of this paper**
- 2. Agree the proposed Protected Areas Byelaw, and direct Officers to undertake the formal consultation process and to seek ministerial assent to make this byelaw**
- 3. Recognise the Principles of byelaw making**
- 4. Agree four Regulatory Notices, as set out in the Protected Areas Byelaw to be enacted upon Ministerial assent of the Protected Areas Byelaw that will:**
  - a. Close to bottom towed gear Areas A to I (as set out in Appendix b - chart 1) to protect persistent the biogenic reef of the *Sabellaria spinulosa* feature in the Wash and North Norfolk Coast European Marine Site;**
  - b. Close to bottom towed gear Area J (as set out in Appendix b – chart 2) to protect the Sub-tidal Boulder and Cobble Communities sub-feature in the Wash and North Norfolk Coast European Marine Site;**
  - c. Close to bottom towed gear areas SH, EH, SF, BP and BC (as set out in Appendix b – chart 3) to protect the attributes of *Zostera* Beds in the Wash and North Norfolk Coast European Marine Site; and**
  - d. Close to all fishing activity areas K (as set out in Appendix b – chart 4) to protect *Zostera* as a sub-feature of the intertidal mud-flat and sand flats in the Humber Estuaries European Marine Site.**
- 5. Direct Authority staff to review the above closed areas in the financial year 2016-17.**

## Background

At the beginning of August 2011 the Marine Conservation Society and Client Earth wrote to Defra challenging the management programme for European Marine Sites and pointed out the likelihood that infraction proceedings could result. At the 3<sup>rd</sup> Eastern IFCA Statutory meeting in October 2011 this issue was raised through a paper by the Senior Environment Officer (EIFCA11/66) who providing a briefing to the Authority and agreed steps forward for Eastern IFCA. This has been a consistent item on Authority agendas since then to allow Authority members to monitor developments on this issue.

Following sustained pressure from the Marine Conservation Society and Client Earth along with independent legal advice; Defra announced, in August 2012, a 'revised approach' to managing commercial fisheries in European Marine Sites. The newer approach is an England-wide system to create a consistent methodology to European Marine Site management. It listed all the known features of all the sites against the likely risk from damage by particular gear type to produce a risk matrix. Features of a marine site are important habitat types or species for which that site was designated. These features are often broken down into sub-features or attributes. Risk of damage to these features by particular gear types was then prioritised and colour coded. Those features most at risk of damage from particular fishing gears were coded red and it is Defra's desire that these red feature/gear interactions are mitigated against by the end of 2013. The only desirable mitigation for red features is the use of regulatory instruments. In 2014 and 2015 Eastern IFCA will be examining feature and gear interactions with a lesser risk coding. These would not necessarily require regulatory management in the first instance

Following discussions with Natural England, there were features identified as being at risk in the Eastern IFCA district. These features are found in the Wash and North Norfolk European Marine Site and the Humber Estuaries European Marine Site. The features that are red risk are below:

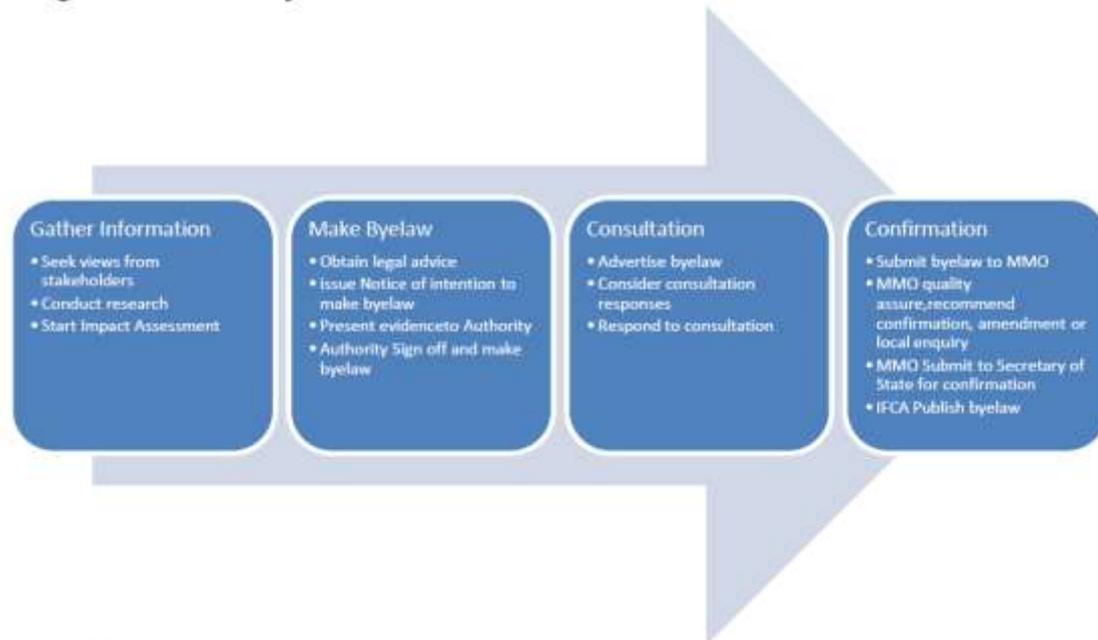
- Reef: biogenic reef of Sabellaria spinulosa (Ross Worm) a feature inside the Wash and North Norfolk Coast European Marine Site
- Sub-tidal Boulder and Cobble Communities as a constituent sub-feature of the Large Shallow Inlet and Bay feature of the Wash and North Norfolk Coast European Marine Site
- Zostera spp (Eel-grass) as an attribute of intertidal mud-flat and sand flats sub-feature of the Large Shallow Inlet and Bay feature that is in the Wash and North Norfolk Coast European Marine Site and a sub-feature of the intertidal mud-flat and sand flats in the Humber Estuaries European Marine Site.

To allow a full range of advice to be included, and to assist in transparent decision making, Natural England or the MMO will provide their opinion separately at relevant points in this paper.

## Process for Introducing a Byelaw

The diagram below sets out the steps for making a byelaw.

### Diagram to show Byelaw Procedure



Following formal advice from Natural England on the red risk feature locations and extent Eastern IFCA officers sought permission at the 9<sup>th</sup> Authority meeting (5 June 2013) to begin the byelaw procedure. This permission included outlining potential closed areas, next steps in the information gathering process and a longer term timeline that would get the byelaw to the confirmation stage in December this year. Decision making was delegated to the Regulatory and Compliance sub-committee.

Since this meeting, Officers have concluded the information gathering process, canvassing results from stake holders. This has included:

- E-mail shots
- Mail shots
- Community meetings
- Twitter
- Mention at county/community events

The outcome of this process has informed the impact assessment for the byelaw, and allowed refinement of protective measures where possible. The outcomes of the information gathering process are discussed in the in greater detail below.

Natural England Comment: We note the reference to *advice* received from Natural England throughout this paper. We consider it important to clarify that this refers to evidence provided - data, reports and maps - rather than input that Natural England have had in further discussing appropriate management proposals based on the evidence provided. In that regard we have had informal discussions with Eastern IFCA officers but the content of those discussions isn't captured in this paper. Our views on the management proposals for each of the red risk features are therefore included in a letter which accompanies our response to this paper and is provided with the caveat that we have only seen draft closed area maps.

MMO Comment: The DEFRA IFCA Byelaw guidance, can be found at: <http://www.association-ifca.org.uk/Upload/About/ifca-byelaw-guidance.pdf>

### **Principles for Byelaw Making**

The information gathering steps are now complete and the summary of submissions and impact assessment are appended for your information and to assist you in your decision making capacity as an Authority member. In addition, when formally making the byelaw, Authority members need to take into account the following principles in their decision making:

#### Independence of IFCA's:

All IFCA's sought a legal opinion on the steps and responsibilities in making a byelaw, particularly related to this instance where IFCA's are required to administer the desires of Defra. From this opinion and subsequent discussions it is clear that IFCA's have the ability to make byelaws but they must show understanding of what they are doing and the reasons behind it.

There is no defence for the Authority when challenged to say that byelaws were made because 'Defra told us...' or 'Natural England told us...'. Authority members must show understanding of the reasons for the proposal for a byelaw and that they have considered the arguments presented to them and finally agree an outcome. If further information is required they should request their officials to prepare further information and advice where possible. Ultimately the power to make byelaws rests with the Authority. When it chooses to exercise its byelaw making powers the Authority does so autonomously.

Natural England Comment: Management choice is ultimately up to Eastern IFCA. However, it is important to be able to justify management decisions that do not support the advice provided by Natural England. Our advice on the management proposals is included as a separate letter, with the caveat that we have only seen draft closed area maps.

MMO Comment: No further comment.

#### Precautionary Principle:

The precautionary principle is a decision making tool used when there is incomplete information. It is widely used, appearing in a host of international agreements. It first came into common use for the environmental field following the 'Rio Summit' of 1992. Due to its wide use it has been applied in very different ways and contexts which has led to considerable confusion about its application. In this instance it is best to consider the

version that is used by the European Commission<sup>1</sup>. The purpose of the precautionary principle is to create an impetus to take a decision notwithstanding scientific uncertainty about the nature and extent of the risk. In this case the risk is damage to a European Marine Site feature.

In its guidance the Commission notes:

*Decision-makers need to be aware of the degree of uncertainty attached to the results of the evaluation of the available scientific information. Judging what is an "acceptable" level of risk for society is an eminently political responsibility. Decision-makers faced with an unacceptable risk, scientific uncertainty and public concerns have a duty to find answers. Therefore, all these factors have to be taken into consideration...*

*...The decision-making procedure should be transparent and should involve as early as possible and to the extent reasonably possible all interested parties.*

The Commission goes on to state:

*Where action is deemed necessary, measures based on the precautionary principle should be, inter alia:*

- proportional to the chosen level of protection,*
- non-discriminatory in their application,*
- consistent with similar measures already taken,*
- based on an examination of the potential benefits and costs of action or lack of action (including, where appropriate and feasible, an economic cost/benefit analysis),*
- subject to review, in the light of new scientific data, and*
- capable of assigning responsibility for producing the scientific evidence necessary for a more comprehensive risk assessment.*

In preparing the closure areas required to give protective effect to features of the European Marine Sites, Authority staff members have tried to act consistently with the above points. Authority members should use this as a check list for their own decision making.

When trying to act in a precautionary way in preparing the package of measures to protect high risk red features Authority staff have initially sought advice from Natural England on the:

- Condition of the feature
- The known extent of the feature, and any variability
- Condition targets (should they exist)

Using this information, Staff members tried to create a level of protection that would maintain or enhance the condition of the feature. Because of the lack of information in some areas, or the hugely variable nature of some of the features, Authority staff have prepared a flexible closed area byelaw to enable management to respond to new information.

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<sup>1</sup> [http://ec.europa.eu/dgs/health\\_consumer/library/pub/pub07\\_en.pdf](http://ec.europa.eu/dgs/health_consumer/library/pub/pub07_en.pdf)

Natural England Comment: We apply the EC guidance on application of Precaution, as applied to the Habitats Directive (Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC, 2007). Management decisions should be proportionate and pragmatic, whilst ensuring that the feature is still able to meet its conservation objectives.

We have not provided advice on the condition of red risk features or their condition targets. As discussed in the accompanying letter, we are shortly due to review our conservation advice for European marine site features which will involve incorporating new evidence and updating conservation objectives accordingly. As a result of this, our advice on adequate protection of the features within The Wash and North Norfolk coast EMS may change. As such we consider the flexible byelaw is important as it will enable the IFCA to respond in a timely way to improvements in the evidence base and understanding of the features.

Our advice on the management proposals is included in an accompanying letter, with the caveat that we have only seen draft closed area maps

MMO Comment: No further comment.

#### Reasonable/proportionate:

Article 2 (3) of the Habitats directive states: *Measures taken pursuant to this Directive shall take account of economic, social and cultural requirements and regional and local characteristics.*

The purpose of the Habitats Directive (Council Directive 92/43/EEC) was not to prevent plans or projects within EMS but to ensure they are not conducted to the detriment of important habitats and species (i.e. those named in the directive). Article 2 (3) of the Habitats directive states: *Measures taken pursuant to this Directive shall take account of economic, social and cultural requirements and regional and local characteristics.* To this end, Eastern IFCA is taking a reasonable/proportional approach to delivering Defra's revised approach (to fisheries management in EMS and meeting our obligations as per Article 6(2)) whilst minimising the potential for negative impacts to the local fishing economy.

Eastern IFCA has used best available evidence to identify where credible risk to sub-features may occur from fishing activity. A credible risk as defined by case law is: *evidence that there was a real, rather than a hypothetical risk* (Peter Boggis and Easton Bavents Conservation v Natural England and Waveney DC Court of Appeal 20<sup>th</sup> October 2009). With particular reference to *S. spinulosa* reef in The Wash, Eastern IFCA (as advised by Natural England) is proposing restrictions where the feature is known to consistently occur (i.e. core reef areas). *S. spinulosa* reef is known to be highly ephemeral in occurrence. Given that the three features under consideration are currently considered to be in favourable condition, Eastern IFCA considers this to be suitably precautionary to fulfil Defra's revised approach.

Natural England Comment: We note that you consider the management proposals to be suitably precautionary to fulfil Defra's revised approach, of which one of the considerations for this is given as the favourable condition of the red risk features. As mentioned earlier, and further discussed in the accompanying letter, our conservation advice for European marine sites is currently being reviewed through our Conservation Advice project. The review will update our understanding of the favourable conservation status of the features in this site and their conservation objectives in light of the latest evidence and understanding of the feature. It will therefore be necessary to ensure that management measures can be modified to take into account the results of this review.

We agree that based on current best available evidence, closure to towed demersal gear of core areas of reef based on an index  $\geq 2$  will give adequate protection to this feature and we consider these areas, along with a suitable buffer, to represent the minimum amount of closure that should be applied in The Wash and North Norfolk Coast SAC for this feature. In addition, the proposed management areas for subtidal boulder and cobble communities and eelgrass should give adequate protection to these features. However, we have not yet seen the EIFCA's final closed area maps and would need to see these before confirming that the current proposals are adequate in our view. Further discussions on the proposed management for all the red risk features is provided in the accompanying letter.

MMO Comment: No further comment.

## Habitats Directive

The changes to management relate to European Marine Sites. These sites are known by a number of names including Natura 2000 sites and marine Special Areas of Conservation or Special Protected Areas. These sites are set up to meet commitments made in the European Birds Directive (79/409/EEC and 2009/147/EC) and Habitats Directive (92/43/EEC).

The key parts of the Habitats Directive revolve around Article VI which contains four parts, which the Commission summarises as<sup>2</sup>:

**Paragraphs 6(1) and 6(2)** require that within Natura 2000 sites, Member States:

- *Take appropriate conservation measures to maintain and restore the habitats and species for which the site has been designated to a favorable conservation status;*
- *Avoid damaging activities that could significantly disturb these species or deteriorate the habitats of the protected species or habitat types.*

**Paragraphs 6(3) and 6(4)** lay down the procedure to be followed when planning new developments that might affect a Natura 2000 site. Thus:

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<sup>2</sup> [http://ec.europa.eu/environment/nature/natura2000/management/guidance\\_en.htm#art6](http://ec.europa.eu/environment/nature/natura2000/management/guidance_en.htm#art6)

- *Any plan or project likely to have a significant effect on a Natura 2000, either individually or in combination with other plans or projects, shall undergo an **Appropriate Assessment** to determine its implications for the site. The competent authorities can only agree to the plan or project after having ascertained that it will not adversely affect the integrity of the site concerned (Article 6.3)*
- *In exceptional circumstances, a plan or project may still be allowed to go ahead, in spite of a negative assessment, provided there are no alternative solutions and the plan or project is considered to be of overriding public interest. In such cases the Member State must take appropriate compensatory measures to ensure that the overall coherence of the N2000 Network is protected. (Article 6.4)*

The current change in approach as announced by Defra and agreed by its implementation group is to focus on high risk sites (as outlined above) under the general duty outlined in Article 6(2). Lower risk features (amber/green) will be assessed using habitats regulations assessments set out under Article 6(3). The difference is that protection is due to a general duty to protect features, while 6(3) focuses on specific activities that must be assessed against their impacts on a named feature of European Marine Site.

The Commission guidance on Article VI<sup>3</sup> notes, when discussing 6(2), that there is a 'limit of acceptability' between species and habitats. For species, disturbance has to be significant (a degree of disturbance is allowed) while this is not the case for habitats. For habitats deterioration is about physical conditions as measures by a series of indicators. Indicators are attributes to which human experts can agree and measure that "shall enable the natural habitat types and the species" habitats concerned to be maintained at favourable conservation status in their natural range. Condition Assessments are formally reported to the European Commission on a 6 yearly basis.

Natural England Comment: As discussed in the accompanying letter, we are shortly due to review our conservation advice for European Marine Site (EMS) features which will involve incorporating new evidence and updating conservation objectives accordingly. The Wash and North Norfolk Coast EMS review is scheduled to be undertaken between autumn 2013 and spring 2014. As a result of this, our advice on adequate protection of the features within The Wash and North Norfolk coast EMS may change. As such we consider the flexible byelaw is important as it will enable the IFCA to respond in a timely way to improvements in the evidence base and understanding of the features.

With regard to *S. spinulosa* reef feature, it is important to recognise that all the existing data on this feature in The Wash and North Norfolk Coast has been collected in the context of an on-going shrimp fishery and our view is that a recover conservation objective is likely to be appropriate. We will consider this further through the review of conservation advice for this EMS. The flexible closed area byelaw approach being undertaken is therefore vital to ensure that Eastern IFCA management can respond to changes in the evidence base and our understanding of the feature so that the most appropriate management is applied to this feature in as timely a way as possible.

<sup>3</sup> [http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/provision\\_of\\_art6\\_en.pdf](http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/provision_of_art6_en.pdf)

MMO Comment: No further comment.

## **Proposed Byelaw**

### Options:

The more conventional approach to introducing a byelaw to restrict or prohibit fishing activity is to introduce a fixed and specific byelaw to address the matter in hand, in this case the 'red risk' features. However, whilst such an approach would achieve the immediate objective it is not management focused. This regulation would not enable change to be introduced and removed in response to developments such as changes in the marine environment, the discovery of new information and/or developments in fishing techniques.

With this in mind, it is proposed that to address both the current requirement to regulate and to cater for the foreseeable need to manage in relation to other conservation issues, such as Marine Conservation Zones and future tranches of EMS, that a flexible byelaw is introduced. Such a byelaw will enable prohibitions and restrictions to be introduced and removed by the Authority in accordance with a process set out in the byelaw.

When discussing such an approach it is relevant to consider the existing provisions for making byelaws. The primary route is under s.155 Marine and Coastal Access Act 2009, which involves an established process and approval by the Secretary of State before a byelaw can come into force. The process is time consuming and can take from six to nine months to complete.

The secondary route is under s.157 Marine and Coastal Access Act 2009, which enables emergency byelaws to be introduced by the Authority without prior approval from the Secretary of State. Emergency byelaws can only be introduced where the Authority considers that there is an urgent need for the byelaw, and that the need to make the byelaw could not reasonably have been foreseen. Such byelaws normally apply for 12 months unless specific circumstances exist and the Secretary of State agrees an extension. Extensions are time bound.

Introducing a flexible byelaw will enable the Authority, subject to appropriate checks and balances, to introduce and remove regulatory restrictions in a more dynamic and responsive manner as a consequence of developments. Importantly, it will enable swift regulation in circumstances where it is necessary but the requirements under s.155 for an emergency byelaw cannot be met. This approach is supported by Natural England who consider that it is vital to ensure that Eastern IFCA management can respond to changes in the evidence base and to our understanding of the features.

The concept of flexible byelaws has been met with some caution from Defra, who are concerned about the issue of unlawful sub-delegation of regulatory powers and the potential for Judicial Review. Legal advice has been sought, which concludes that there is the ability under current legislation to make flexible byelaws providing that the method and procedure for the operation of that flexibility is contained within the byelaw when made and that it includes provision for any variation to be signed off by the Authority as a corporate body. A copy of the written advice can be obtained from the Head of Marine Protection if required.

### Flexible Byelaw:

The proposed byelaw is set out below with *explanatory notes* where appropriate after each paragraph (these will not appear in the byelaw).

### **Protected Areas Byelaw**

*The Authority of the Eastern Inshore Fisheries and Conservation District in exercise of the powers conferred by sections 155 and 156 of the Marine and Coastal Access Act 2009 makes the following byelaw for that 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) '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 (SI 2010/2189);
- c) 'Regulatory Notice' means a notice issued by the Authority in accordance with paragraphs 2 to 5;
- d) 'Fishing' for the purposes of this byelaw includes: digging for bait; shooting, setting, towing and hauling of fishing gear; gathering Sea Fisheries Resources by hand or using a hand operated implement; catching, taking or removing Sea Fisheries Resources on board and fish shall be construed accordingly.
- e) 'Fishing Gear' for the purpose of this byelaw includes: any nets, pots, ropes, anchors, surface markers, lines, dredges, grabs, rakes or other implements used or deployed during Fishing.
- f) 'Protected Area' means any of the areas defined in the Schedule;

**Note:** *The definitions are intended to provide clarity on key words or phrases in order to avoid doubt when implementing and enforcing regulation.*

### **Regulatory Notices**

2. The Authority may issue a Regulatory Notice in relation to fishing within a protected area in accordance with the procedure outlined in paragraph 5.
3. A Regulatory Notice may contain provision restricting or prohibiting any one or more of the following:
  - a) fishing for specified sea fisheries resources;
  - b) specified methods of fishing;
  - c) fishing during specified periods;

- d) fishing using fishing gear of a specified description;
- e) fishing using vessels of a specified description.

In this paragraph 'specified' means specified in the Regulatory Notice.

**Note:** The intention is to provide the ability to introduce restrictions and prohibitions with as much flexibility as possible in order to cater for current, predicted and currently unknown future requirements.

4. A Regulatory Notice issued by virtue of paragraph 2:
  - a. takes effect from the date specified in the Regulatory Notice; and
  - b. remains in force (unless revoked) for such period specified in the Regulatory Notice or, if no period is specified, until revoked.
5. The procedure for issuing a Regulatory Notice shall 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;
  - b. 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 any restrictions or prohibition;
  - c. The undertaking of a regulatory impact assessment;
  - d. Consideration by the Authority of all information arising from subparagraphs (a) to (c) above;
  - e. Where the Authority decides to issue a Regulatory Notice, the Regulatory Notice shall be published in relevant local media.

**Note:** The inclusion of the both the procedure for introducing and reviewing a regulatory notice (para 7 post) is essential in order to address the issue of unlawful delegation. Legal advice indicates that by including a clear procedure that is identifiable and predictable and which gives ultimate responsibility for authorising new variations or additions to the Authority then any arguments about sub-delegation could be defeated

6. The Authority shall review a Regulatory Notice as specified in the Regulatory Notice and no less frequently than every six years from the date the Regulatory Notice takes effect.

**Note:** The review element meets both the requirement to 'evaluate and adapt' in the Evidence Based Marine Management Cycle and the good practice requirement to have a

'sunset clause' in a byelaw<sup>4</sup>. The maximum of six years before review has been chosen to align with the Condition Assessments Programme, which requires Natural England to report to the EU. The first tranche of review dates is likely to be less than six years in order to align the two.

7. The procedure for reviewing a Regulatory Notice shall include:
  - a. The steps set out at sub-paragraphs 5 (a) and (b) above.
  - b. Consideration by the Authority of all the information arising from sub-paragraph (a) above.
  - c. The decision of the Authority to remove or to maintain a Regulatory Notice will be published in relevant local media.

### **Application and Exemption**

8. Contravention of a provision of a Regulatory Notice constitutes a contravention of this byelaw.
9. Where a Regulatory Notice contains provision which restricts or prohibits fishing using fishing gear of a specified description in a protected area, no vessel shall carry any such fishing gear in that protected area unless it is stored in such a way that use cannot readily be made of it for any purpose.
10. This byelaw shall 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.

**Note:** *Section 158(6) Marine and Coastal Access Act 2009 provides that byelaws relating to Sites of Special Scientific Interest, RAMSAR sites, National Nature Reserves, European Marine Sites and Marine Conservation Zones have priority over any right of several fishery and any right on, to or over any portion of the seashore that is enjoyed by a person under a local or special Act, a Royal charter, letters patent, or by prescription or immemorial usage. They do not, however, take priority over rights of common on common land.*

### **Explanatory Note**

(This note does not form part of the byelaw)

This Byelaw enables the Authority to provide protection to sensitive marine habitats and species, in a manner that seeks to balance the needs of inshore fisheries and local socio-economic considerations with the requirement to secure a sustainable marine environment. This Byelaw introduces flexibility in the way that the Authority manages inshore fisheries and will support the achievement of conservation objectives in marine protected areas. This Byelaw enables the Authority to issue Regulatory Notices to restrict or prohibit fishing where this is necessary.

Paragraph 10 of this Byelaw specifically reserves personal "rights of common". These are particular specialised and defined rights held by "commoners" in respect of registered "common land" falling within the areas designated under this byelaw. Such rights cannot be prohibited by byelaws. However, this Byelaw retains full force and effect against all other persons including those exercising their common law right of fishery as well as any person exercising a private or several right of fishery. If you have

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<sup>4</sup> 'IFCA Byelaw Guidance'. Guidance on the byelaw making powers and general offence under Part 6, Chapter 1, Sections 155 to 164 of the Marine and Coastal Access Act. Defra, March 2011.

any doubts about the applicability of this Byelaw to you, you should seek guidance from Eastern IFCA before fishing for or taking any sea fisheries resources.

### **Features for Protection**

The current proposal to address the 'red risk' European marine sites is to prohibit fishing using towed demersal fishing gear in order to protect the following features:

- *Sabellaria spinulosa* (Ross Worm) – nine locations in the Wash
- *Subtidal Cobble and Boulder Communities* – one location in the Wash
- *Zostera spp* (Eel-grass) – five locations in North Norfolk and one location in the vicinity of the Humber (bait digging and shellfish collection will also be prohibited within this area)

Charts of the proposed prohibited areas can be found at Appendix A.

#### *Sabellaria spinulosa* reef

*Sabellaria spinulosa* is a commonly occurring, tube-dwelling marine worm often called Ross worm. The species is typically found in encrusting form – that is with short tubes (made from sand grains taken from the water and glued together) built by individual worms amalgamated to form a low covering in patches over the sea bed. On rare occasions, more significant Ross worm colonies develop to form reef structures: dense aggregations of Ross worm tubes, emergent some tens of centimetres from the seabed. True reefs are considered to be aggregations over a certain height, containing a certain density of tubes with a high occupancy rate, and whose structures persist for a period of time. These biogenic (living) reef formations are fragile (sensitive to physical damage by external forces) and ephemeral (accreting rapidly, persisting for a time and then being lost, for example to smothering, storms).

The Wash and North Norfolk Coast Special Area of Conservation supports one of the UK's best known examples of what is considered to be well developed Ross worm reef habitats. The site has been extensively monitored since the late 1990s by Natural England working with Eastern IFCA, its predecessor Eastern Sea Fisheries Joint Committee and offshore energy developers. These surveys have identified that the reef features are not fixed stable structures. It can at times be ephemeral, but some reefs are known to have been stable or persistent over time. The recurrence of *Sabellaria spinulosa* reef in particular zones, identified through the long term data series, enabled Natural England and Eastern IFCA to identify "core reef areas" in the Wash. It is these areas that will be afforded protection under the proposed byelaw.

Since the Wash and North Norfolk Coast Special Area of Conservation was first designated in 1996, the status of Ross worm reefs has been upgraded from a sub-feature of 'Large Shallow Inlets and Bays' to a feature in their own right. This reflects their importance to the UK's biodiversity. In contrast to its relatively impoverished surroundings, Ross worm reef in the Wash supports a diverse associated fauna which includes the commercially important pink shrimp *Pandalus montagui*. The structural complexity of these reefs provides crevasses in which many species find shelter.

Ross worm reef is highly sensitive to physical disturbance. Bottom towed fishing gear (for example dredges and trawls) can damage even well-developed Ross worm reef by

breaking up reef and lowering its elevation to crust levels. No specific studies have been carried out to demonstrate the impact of light shrimp beam trawls (such as those used in the Wash) on *Sabellaria spinulosa* reef. However, evidence at other locations has shown that trawling can damage biogenic reef features, and that repeated damage from fishing gear can lead to the permanent loss of the reef habitat.

The locations of core reef areas in The Wash are shown in the accompanying charts. All core reef areas have been highlighted, and a buffer zone drawn around them. The proposed closed areas for *Sabellaria spinulosa* feature include core reef areas and the relevant buffer zone (established using standard guidance from JNCC). The final shapes of the closed areas (around the buffer zones) have been designed for practicality in relation to enforcement and fishing, and wherever possible have been designed to minimise loss of available fishing grounds.

The evidence supporting the location of *Sabellaria spinulosa* reefs is derived from the annual ESFJC and Eastern IFCA Research Reports, Centrica survey reports, and the Natural England/JNCC analysis of the combined survey data (in the *Sabellaria* synthesis report; Bussell and Saunders 2011)

#### Rational for protection

Eastern IFCA was aware of the need to implement measures for the protection of *S. spinulosa* reef for some time and had looked towards drawing up a 'gentlemen's agreement' with the fishing industry to this end. Defra's revised approach<sup>5</sup> requires a 'hard measure' (in the form of byelaws) to be used to protect red-risk features.

Eastern IFCA's initial restricted area proposals were based on the proportional approach of closing 'core reef' areas to trawling and dredging activity. 'Core reef' refers to stable, long-term formations of *S. spinulosa* reef<sup>6</sup>. Given the ephemeral and mobile nature of *S. spinulosa* reef, it was advised by Natural England that protecting the 'core reef' would sufficiently protect the feature. The protection areas were oriented north to south and included buffers as per the advice produced by Natural England.

Two revisions have been made in the light of responses from the information gathering process.

1. The orientation of the closed boxes were changed to a north east, south west orientation to take into account the direction of travel by fishing vessels as directed by the tide/towing. This will allow for fishing activity which takes place adjacent to the restricted areas. This was a result of comments from fishermen.
2. Three areas of *S. spinulosa* reef restricted areas (boxes A,B and D) have been enlarged. This is to reflect a larger buffer zone around the feature, greater than the minimum requirement from the buffer zone advice. This was as a result of comments made by the Wildlife Trusts.

The final proposals for the restricted areas reflect a balance of precaution with reducing the credible risk of damage to the *S. spinulosa* reef feature.

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<sup>5</sup> Defra policy statement on Defra's revised approach to fisheries management in European Marine Sites.

<sup>6</sup> Gubbay workshop 2007

### Boulder and Cobble reef

The Wash is the largest bay in the UK and is principally made up of soft sediments; however, some areas of hard seabed occur in discrete patches. Boulder and Cobble reef within the Wash and North Norfolk Coast Special Area of Conservation is an important example of such a habitat. The presence of the harder areas of seabed serves to increase the bay's structural diversity, which in turn increases the variety of plant and animal life (biodiversity) in the region. Sub-tidal boulder and cobble communities is therefore named as a key sub-feature of the Large Shallow Inlet and Bays feature of the Wash and North Norfolk Coast Special Area of Conservation.

These Boulder and Cobble reef areas support a diverse range of associated species including bryozoan turfs, hydroids, soft corals, coralline algae and sea squirts, which require the hard attachment surface in order to survive. They can also provide a settlement surface for commercially important mussel larvae.

This feature is considered highly sensitive to physical disturbance from bottom towed fishing gear (for example dredges and trawls). These forms of fishing activity can lead loss of hard substrata to the detriment of diversity within The Wash. In addition, the feature can be lost through natural change, for example the shifting of mobile sediments, which is common in highly dynamic systems such as The Wash.

The evidence supporting Eastern IFCA's identification of Cobble and Boulder communities within The Wash and North Norfolk Coast Special Area of Conservation has been provided by Natural England. Benthic habitat surveys were undertaken by Centre for Environment, Fisheries and Aquaculture Sciences (CEFAS) in 2011 to cover the central outer Wash and peripheral inner areas (Meadows & Barrio Frojan 2012). Further surveys are due for completion during August 2013 – these should confirm the presence of this habitat feature in the central outer Wash, and provide some insight into the possible occurrence of this feature at three other likely locations in the inner Wash.

### Rational for protection

The Cobble and Boulder proposed protected area location was based on survey worked conducted by Eastern IFCA and Natural England in 2011. Buffer zones were included in the proposed restricted area as per JNCC/Natural England's advice.

One revision was made in light of responses from the information gathering process.

1. The north eastern edge of the initial proposed restricted area was removed. The original boundary was to maintain a 'simple shape'. This change allowed for fishing activity whilst still protecting the sub-feature including its buffer zone. This was as a result of comments from the fishing industry.

### Eelgrass

Eelgrass (or seagrass) is the generic name for three UK species of the plants in the genus *Zostera* (*Zostera noltii*, *Zostera angustifolia* and *Zostera marina*). Eelgrass is the only marine flowering plant in Britain and is considered nationally and internationally scarce. The Humber Estuary and Wash and North Norfolk Coast historically supported greater amounts of eelgrass but diebacks during the 1930's and 1940's throughout much of the UK as a result of disease lead to it disappearing completely from The Wash.

Eelgrass can still be found in certain parts of the North Norfolk Coast and the outer Humber Estuary, although it occurs in discrete, sparse patches rather than dense beds.

Eelgrass has many important functions within its environment: it stabilises sediment which can help reduce coastal erosion, it contributes towards primary productivity and provides an important food source for overwintering waterfowl, most notably dark-bellied Brent geese. Eelgrass beds also provide an important nursery and feeding habitat for juvenile fish species. Eelgrass is highly sensitive to physical disturbance from bottom towed fishing gear (such as dredges and trawls) as well as digging for bait (e.g. lugworms) and hand collection of other intertidal species (such as cockles).

The evidence base for the eelgrass habitat feature on the North Norfolk Coast was the 2010 survey report (West *et al* 2010) commissioned by Natural England. West *et al* showed that of ten areas surveyed (each historically known to contain eelgrass beds) only five still supported this feature. Further surveys commissioned by Natural England were carried out in August 2013, with final information arriving mid-August 2013. Natural England has advised that following the historical losses through disease and environmental change (e.g. accretion of saltmarsh in some areas, and changes from mud-dominated to sand-dominated sediments in others), the re-establishment of eelgrass beds in the remaining five areas (after over fifty years of absence) is not likely.

Evidence for eelgrass habitat on the south bank of the outer Humber estuary has been found in the form of reports to the National Biodiversity Network. Sightings of eelgrass have been recorded at three locations in the North Coast mudflats, in the far north of the Authority's district. As for north Norfolk, recent records show this habitat to be greatly diminished compared to the early parts of the 20<sup>th</sup> Century. Anecdotal information suggests that natural coastal processes (e.g. accretion of sandbanks at Saltfleet) and human intervention (e.g. managed realignment at Donna Nook) have changed the local environment making it less suitable for the re-establishment of eelgrass beds.

It should be noted that eelgrass beds have been identified in the Spurn area on the north bank of the Humber. This area lies within the jurisdiction of North Eastern IFCA, who are in the process of developing a complementary byelaw to Eastern IFCA's proposed new byelaw, for the protection of this feature in their part of the Humber Estuary SAC.

Further eelgrass surveys will be undertaken on the north Norfolk coast and the south Humber estuary during August 2013.

#### Rational for protection

Proposed eelgrass restricted areas for the North Norfolk Coast were initially based on 2010 baselines<sup>7</sup> as per advice from Natural England. Eastern IFCA initially proposed restricted areas for all survey sites on the North Norfolk Coast as per a precautionary approach. Eelgrass records for the Humber Estuary EMS were lacking at the time of the information gathering and advice from Natural England had been to delay imposing restrictions at this site until further information had been gained.

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<sup>7</sup> West *et al* 2010; Survey of Eelgrass species (*Zostera* spp.) on intertidal habitats within the Wash and North Norfolk Coast Marine Special Area of Conservation.

Two revisions have been made in light of the responses from the information gathering process.

1. The proposed restricted area at Wells Harbour has been refined in accordance with data provided from the Wells Harbour Authority. Wells Harbour Authority has collected eelgrass extent data since 2009 and as such, this long standing data set was deemed as appropriate for informing the situation of the restricted areas at this location.
2. The revised wording of the byelaw will not impede on activities carried out by Common Rights Holders on the North Norfolk Coast. This was a result of comments from Common Rights Holders.

In addition to the information gathering process, further advice has been received from Natural England which has resulted in three further refinements to the proposals.

1. Natural England's advice to delay restricting damaging activities on eelgrass within the Humber Estuary SAC was revised and it was advised that a byelaw to protect eelgrass at this location should also be in place by the 31<sup>st</sup> December. As such, Eastern IFCA made the decision (10<sup>th</sup> statutory meeting, 31<sup>st</sup> July 2013) to include Humber eelgrass in the restrictions despite not including it as part of the information gathering process.

Historical records indicated three sites within the Humber Estuary EMS which contained eelgrass. An Eastern IFCA survey (in partnership with Natural England and the Wildlife Trust) indicated that no eelgrass was present within the areas as suggested by the historical records but was present just nearby. As such, an area has been proposed which encompasses the historical records and the patch found during the recent survey. It is felt that this is suitably precautionary to protect the sub-feature including its potential to extend its distribution.

2. Further Natural England advice was received (6 August 2013) indicating that it was not necessary to protect all eelgrass survey locations from the 2010 report. As such, Eastern IFCA has removed from its proposal five of the eelgrass protection sites on the North Norfolk Coast. Eelgrass restricted areas now reflect locations where it was found during the 2010 survey<sup>8</sup>.
3. Natural England commissioned surveys of known eelgrass beds and this information was received (13 August 2013) recently. This saw the SH area closure change from a small box to a larger area at the mouth of the Stiffkey River, North Norfolk.

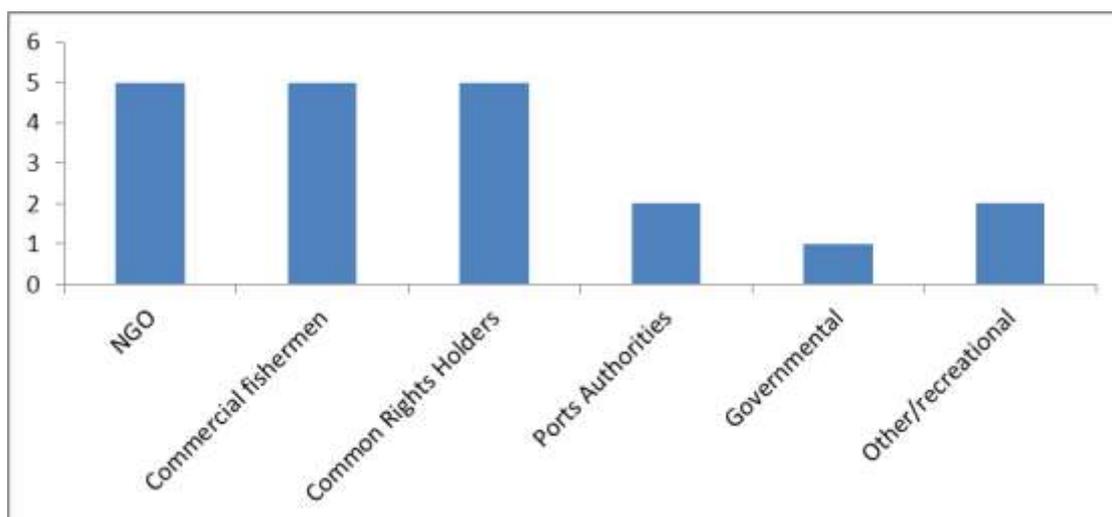
## **Information Gathering**

On the 28<sup>th</sup> of June 2013 information gathering for sub-tidal boulder and cobble communities, and *Sabellaria spinulosa* reef closed, with information gathering on eelgrass closing on the 5<sup>th</sup> July 2013. There have been twenty submissions to the information gathering with responses evenly spread across the stakeholder base (see chart 1).

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<sup>8</sup> West *et al.* 2010; Survey of Eelgrass species (*Zostera* spp.) on intertidal habitats within the Wash and North Norfolk Coast Marine Special Area of Conservation.

Chart 1. Break down by sector of submissions to information gathering



The information gathering also identified that most responders had concerns about the information used to make decisions, and the protective effect of the proposed closed areas.

While most responders had some key concerns that were particular to them, there were some recurring themes. These are set out in the following table

Stakeholder comments	Stakeholder's interest(s)
Negative impacts on commercial fishing activity – particularly the possibility of foreclosing on the pink shrimp fishery and severely impeding the brown shrimp fishery.	Commercial Fishermen
Boundaries not aligned to tidal influences and fishing practices	Commercial fishermen
Negative impacts on designated features – <i>Sabellaria</i> not sufficiently protected by proposed byelaws	National NGO, Local NGO
Needing to consider the precautionary principle further, in particular the need to be suitably cautious both in terms of buffer size and possible presence of <i>Sabellaria spinulosa</i> as a reef feature.	National NGO's
Lack of consistency between sectors – especially aggregate dredging and offshore wind-farm development.	Commercial fishermen
Lack of evidence of fishing impacts on features – 'light gear' has not been considered in risk audit.	Commercial fishermen
Positive impacts to designated features – Will protect features and is likely to have wider positive impacts	NGO, recreational
Unnecessary regulation – At present there are no activities occurring at the eelgrass sites that would damage the integrity of the site (with particular reference to trawling an	Common Rights Holders

dredging in eelgrass sites)	
Legality of introducing byelaws on Common Land	Common Rights Holders

A late submission from Centrica was received but is not discussed here.

In responding to the above:

Commercial:

The submissions to the information gathering identified that the proposed closed areas have the potential to have significant impact on the commercial fishery for Pink Shrimp or Prawn (*Pandalus montagui*). The closed areas outlined in the initial information gathering documents would have had significant impacts and could have the potential to extinguish the fishery (as informed by the submissions and subsequent discussions). The Brown Shrimp (*Crangon crangon*) is likely to be impacted upon as well, though not as severely as the Pink Shrimp fishery due to its association with Ross Worm. Eastern-IFCA acknowledges in the Impact Assessment that this is a likely economic/social impact for closing areas.

As mitigation, during refinement process following submission the boundaries were re-aligned to run, where possible, parallel to the traditional tow lines. Where the traditional tow lines encroached on core reef areas, they will still be interrupted.

Commercial fishermen also raised the point that little is known about the interaction between trawling and Sabellaria. Much of the research that identified impacts in the risk matrix came from research using flat fish beam trawling which uses much heavier gear. Fishermen also tend to want to fish the margins of Sabellaria patches/reefs as they would otherwise clog their nets and limit their catch. Eastern IFCA has identified that more research would be required in this area. A similar point was made on the impact of light fishing gear on cobble and boulder communities and again, this may be an area for further research.

National NGOs:

The approach agreed with Natural England is to protect core reef *S. spinulosa*, which is essentially a point of disagreement with NGOs. National NGOs including Client Earth/Marine Conservation Society and the Wildlife Trusts have expressed concern at the level of precaution being shown towards protecting features at risk in European Marine Sites.

The Wildlife Trust has indicated concern about the buffers particularly on smaller sites and recommended that we look at a minimum buffer size.

Client Earth/Marine Conservation Society (and copied by Sea Search) looked at the need to be precautionary in relation to *S. spinulosa* and its occurrence. They postulated that being precautionary would include protecting all patches of *S. spinulosa* as there is a possibility that it could include reef forming 'phenotype'.

Common Rights Holders:

The proposed byelaw makes it clear that rights in common will not be affected and as a consequence the legality of the byelaw is not in question. The only activity that will be prohibited is the use of towed demersal gear and whilst it is acknowledged that it does not currently appear to be an issue on eelgrass sites the objective is to ensure that the sites are protected from any future activity. Other activity, such as bait digging, will not be prohibited on the basis that there is currently little or no activity, there is some existing statutory protection under SSSI provisions and there is a good level of site monitoring by Natural England staff.

Natural England Comment: We recognise the issues for commercial fishermen in relation to closure and agree that further research into specific Wash gear types would be useful to address level of impact of the specific fishing gear type on *S. spinulosa* reef and sub-tidal boulder and cobble communities. However, current evidence is not available to confirm that there is not a risk to these features from trawling. Modification of closed boxes to better reflect fishing practice is appropriate, but these still need to ensure that the red risk features are adequately protected and minimum buffer (with additional considerations) is still applied.

Given the opposition of some NGOs to management of *S. spinulosa* reef using a core area management approach, it would be useful to present the options for *S. spinulosa* reef management and the reasoning behind using the final approach taken. Please see the attached letter for further discussion. In addition, it would be useful to see the decisions taken on appropriate buffer size for the all the red risk features.

MMO Comment: The MMO provided comments on the draft byelaw on 9/08/2013. In addition to these comments, under section 3,

Review, Sunsetting Regulations :Guidance, states 'other than in exceptional circumstances, the date of the publication of the first statutory review should be no later than five years after the regulation comes into force'.

## **Impact Assessment**

A full copy of the Impact Assessment can be found at Appendix B. The assessment can be summarised as follows:

Impact upon commercial fishers:

All 229 vessels operating within the Eastern IFCA district could potentially be affected by the proposed byelaw. The main vessels that would be affected by the conditions proposed in the byelaw are those that fish for shrimp within the Wash and Norfolk Coast Special Area of Conservation. Eastern IFCA records indicate that there are around 25 vessels<sup>9</sup> currently landing pink and brown shrimp. In addition, there are several smaller fisheries which operate bottom towed gears (sole, skate etc) which may be impacted upon.

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<sup>9</sup> Estimate based on Eastern IFCA Officer reports from 2012.

The maximum estimated value of catches that may be impacted for vessels over 15m is estimated at £50,790 per year. It is difficult to estimate the value of catches impacted for the under 15m fleet because of a lack of spatial information on their fishing activity. In addition, values of catches in the restricted areas were not forthcoming during Eastern IFCA's pre-consultation 'Information Gathering'. However it was made clear during the pre-consultation that there would be impacts on catches and thus income, particularly from sub-tidal Boulder and Cobble and *S. spinulosa* reef restricted areas. It was estimated that between 10 and 100% of income could be lost by certain fishermen. Between £79,909.30 and £380,349.50 is the best range of values that can be estimated from the current available information. Actual costs may be higher or lower. In addition it was indicated that these losses may also result in the loss of orders and fishing licenses.

There is the potential for fisheries benefits as a result of the proposed protection (overspill effects of protected brood stocks). However any benefits are likely to be longer term which may not balance the short term loss of fishing grounds if orders and licences are lost as a result of initial loss of fishing grounds. Furthermore, the potential for fisheries benefits resulting from the proposed closure have little or nil supporting evidence.

#### Impact upon the environment:

There is the potential for trawling and dredging activities to be displaced on to other areas within Marine Protected Areas. In the case of shrimp trawling, this is unlikely as consultation with the industry has indicated that there are no alternative sites for shrimp trawling. With regards to other demersal species (skates, sole etc.) the potential impacts are unknown.

Environmental benefits of this closure include the protection of important habitats as a food source for overwintering birds, a nursery area for juvenile species, coastal protection services and reducing suspended sediments in the water.

Local economies and society: There is the potential for social and economic costs to the local community as a result of potential landings lost and loss of orders. The shrimp fishery in The Wash is recently re-developing and has historically been worth as much as £2-3 million. There is the potential that the development of this fishery will be hampered by restrictions posed by this byelaw. Impact on the local fishery is difficult to assess.

Enforcement bodies: The lead responsibility of enforcing the proposed closed area would fall to the Eastern IFCA and therefore the additional enforcement cost would impact on this authority as the regulator. These additional costs are estimated at circa £25k.

## **Risk**

### Legal

The Marine and Coastal Access Act 2009<sup>10</sup> states that the Authority 'must seek to ensure that the conservation objectives of an MCZ in the district are furthered'. This duty is central to the IFCA construct and is a requirement from central Government. Failure to

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<sup>10</sup> MaCAA 2009 Part 6 Chpt 1 Art 154

take appropriate action to assure the requisite protective effect of features within the site may result in infraction by the EU with associated financial penalties for non-compliance.

The byelaw making process has been designed to ensure that all stakeholders are engaged from the outset thereby reducing the opportunity for subsequent judicial review based upon a flawed process. There are many potential grounds for judicial review; however the three main categories are unlawfulness, unreasonableness and unfairness. In arriving at any decision relating to the management of fisheries in a European marine site, members must be mindful of any of these factors. The most likely risk of review is in connection with the public law duty not to abdicate or fetter decision making powers. It is an established principle that a public body's basic statutory functions, powers and duties are inalienable. Public bodies are not entitled to surrender or ignore their powers and duties but must exercise their own mind and must not fetter their discretion by rigidly adopting a particular course of action or approach.

### Financial

The direct financial implications for the Authority to note stem from the increased incidence of legal advice which in turn, will drive greater expenditure. To date engagement with legal professionals has been kept to essential byelaw review activity only and has driven costs of circa £750. Any challenge to the byelaw making process will necessarily drive a requirement for legal opinion which has the potential to absorb significant sums of Authority funds. As a contingency, the legal budget has been increased to reflect a likelihood of increased demand and Authority members will be kept apprised of any legal challenge.

### Reputational

The delivery of the management of fishing activity in European Marine sites is a key deliverable upon which the effectiveness of the IFCA construct will be judged. The conservation remit of IFCAs is unequivocal and the expectation of both central and local Government is that Eastern IFCA will adhere to Defra's guidance and timescale. Clearly, any omission or tardiness will not reflect positively on the Authority.

## **Media engagement**

Given the increasing social interest in marine management and associated concerns over the environmental damage caused by human activity, it is likely that there will be media interest once the byelaw is advertised. Members will be provided with lines to take should they be approached by members of the local and national media.

## **Appendices**

Appendix A - Protected Areas Byelaw

Appendix B - Prohibited Area Charts

Appendix C - Impact Assessment

Appendix D - Advice Letter from Natural England

# **Appendix A**

## **Protected Areas Byelaw**

**EASTERN INSHORE FISHERIES AND CONSERVATION AUTHORITY**  
**MARINE AND COASTAL ACCESS ACT 2009**

**Protected Areas Byelaw**

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

**Interpretation**

1. In this byelaw: -

- g) '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);
- h) '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 (SI 2010/2189);
- i) 'Regulatory Notice' means a notice issued by the Authority in accordance with paragraphs 2 to 5;
- j) 'Fishing' for the purposes of this byelaw includes: digging for bait; shooting, setting, towing and hauling of fishing gear; gathering Sea Fisheries Resources by hand or using a hand operated implement; catching, taking or removing Sea Fisheries Resources on board and fish shall be construed accordingly.
- k) 'Fishing Gear' for the purpose of this byelaw includes: any nets, pots, ropes, anchors, surface markers, lines, dredges, grabs, rakes or other implements used or deployed during Fishing.
- l) 'Protected Area' means any of the areas defined in the Schedule;

**Regulatory Notices**

- 2. The Authority may issue a Regulatory Notice in relation to fishing within a protected area in accordance with the procedure outlined in paragraph 5.
- 3. A Regulatory Notice may contain provision restricting or prohibiting any one or more of the following:
  - f) fishing for specified sea fisheries resources;
  - g) specified methods of fishing;
  - h) fishing during specified periods;
  - i) fishing using fishing gear of a specified description;

j) fishing using vessels of a specified description.

In this paragraph 'specified' means specified in the Regulatory Notice.

4. A Regulatory Notice issued by virtue of paragraph 2:
  - a. takes effect from the date specified in the Regulatory Notice; and
  - b. remains in force (unless revoked) for such period specified in the Regulatory Notice or, if no period is specified, until revoked.
  
5. The procedure for issuing a Regulatory Notice shall 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;
  - b. 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 any restrictions or prohibition;
  - c. The undertaking of a regulatory impact assessment;
  - d. Consideration by the Authority of all information arising from subparagraphs (a) to (c) above;
  - e. Where the Authority decides to issue a Regulatory Notice, the Regulatory Notice shall be published in relevant local media.
  
6. The Authority shall review a Regulatory Notice as specified in the Regulatory Notice and no less frequently than every six years from the date the Regulatory Notice takes effect.
  
7. The procedure for reviewing a Regulatory Notice shall include:
  - a. The steps set out at sub-paragraphs 5 (a) and (b) above.
  - b. Consideration by the Authority of all the information arising from subparagraph (a) above.
  - c. The decision of the Authority to remove or to maintain a Regulatory Notice will be published in relevant local media.

## **Application and Exemption**

8. Contravention of a provision of a Regulatory Notice constitutes a contravention of this byelaw.
9. Where a Regulatory Notice contains provision which restricts or prohibits fishing using fishing gear of a specified description in a protected area, no vessel shall carry any such fishing gear in that protected area unless it is stored in such a way that use cannot readily be made of it for any purpose.
10. This byelaw shall 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.

## **Explanatory Note**

*(This note does not form part of the byelaw)*

*This Byelaw enables the Authority to provide protection to sensitive marine habitats and species, in a manner that seeks to balance the needs of inshore fisheries and local socio-economic considerations with the requirement to secure a sustainable marine environment. This Byelaw introduces flexibility in the way that the Authority manages inshore fisheries and will support the achievement of conservation objectives in marine protected areas. This Byelaw enables the Authority to issue Regulatory Notices to restrict or prohibit fishing where this is necessary.*

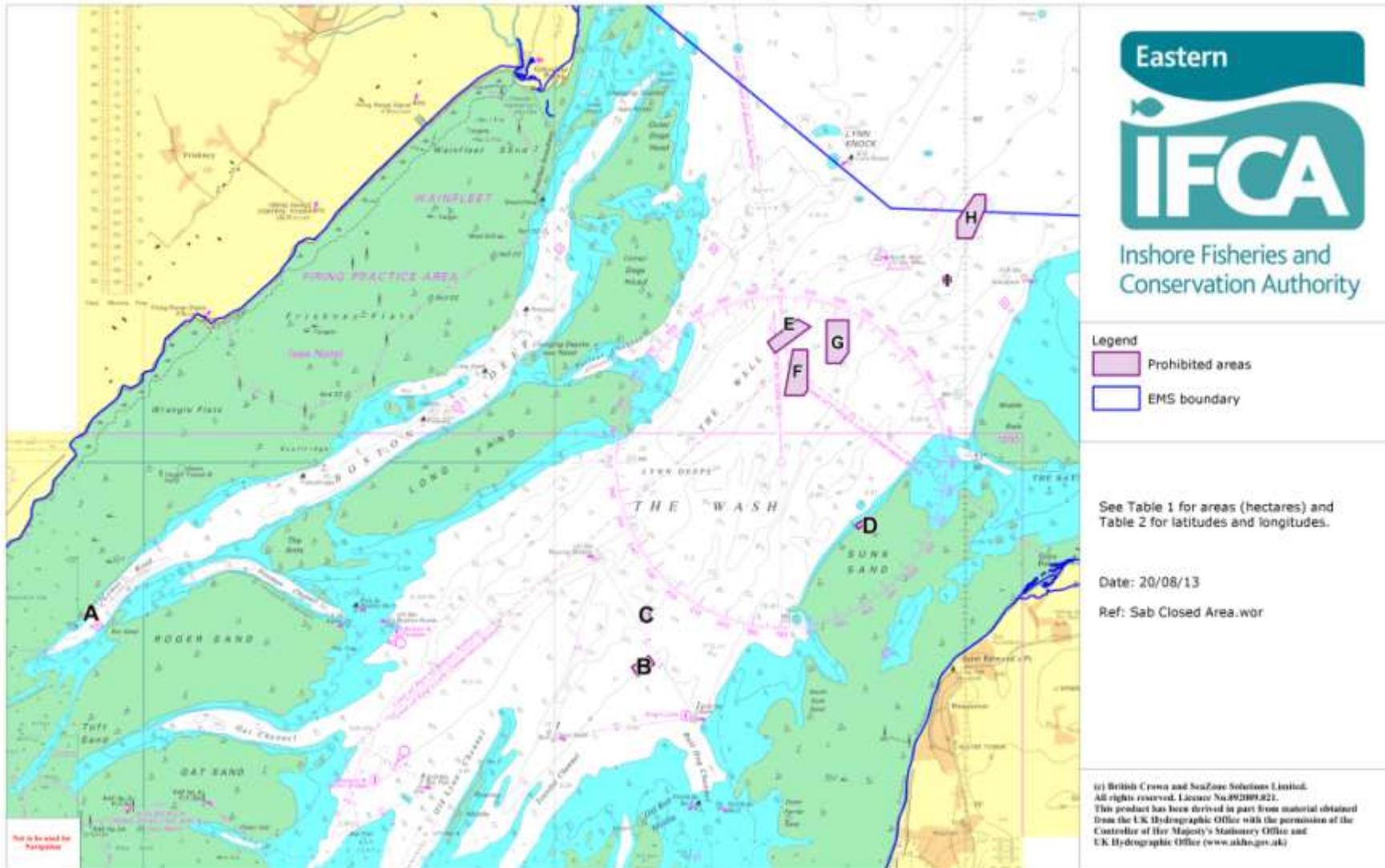
*Paragraph 10 of this Byelaw specifically reserves personal "rights of common". These are particular specialised and defined rights held by "commoners" in respect of registered "common land" falling within the areas designated under this byelaw. Such rights cannot be prohibited by byelaws. However this Byelaw retains full force and effect against all other persons including those exercising their common law right of fishery as well as 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 Eastern IFCA before fishing for or taking any sea fisheries resources.*

# **Appendix B**

## **Prohibited Area Charts**

### **Charts 1 to 4**

Chart 1: Ross worm reef (*Sabellaria spinulosa*) - Towed demersal gear prohibited areas



**Ross worm (*Sabellaria spinulosa*) - towed demersal gear prohibited areas**

Area Label	Area (hectares)
A	3.794
B	16.02
C	7.048
D	2.397
E	40.87
F	62.53
G	66.62
H	59.33
I	2.726

Table 1. Area in hectares of prohibited areas

		Decimal Degrees		Degrees and Decimal Minutes			
Area	Point	Latitude	Longitude	Latitude		Longitude	
A	A	52.9644	0.1452	52°	57.87 'N	00°	08.71 'E
A	B	52.9642	0.1468	52°	57.85 'N	00°	08.81 'E
A	C	52.9637	0.1472	52°	57.82 'N	00°	08.83 'E
A	D	52.9618	0.1442	52°	57.71 'N	00°	08.65 'E
A	E	52.9622	0.1430	52°	57.73 'N	00°	08.58 'E
B	A	52.9525	0.3713	52°	57.15 'N	00°	22.28 'E
B	B	52.9507	0.3738	52°	57.04 'N	00°	22.43 'E
B	C	52.9476	0.3670	52°	56.86 'N	00°	22.02 'E
B	D	52.9499	0.3644	52°	56.99 'N	00°	21.86 'E
C	A	52.9644	0.3689	52°	57.86 'N	00°	22.14 'E
C	B	52.9644	0.3718	52°	57.86 'N	00°	22.31 'E
C	C	52.9611	0.3718	52°	57.67 'N	00°	22.31 'E
C	D	52.9611	0.3689	52°	57.67 'N	00°	22.14 'E
D	A	52.9852	0.4577	52°	59.11 'N	00°	27.46 'E
D	B	52.9844	0.4587	52°	59.06 'N	00°	27.52 'E
D	C	52.9833	0.4564	52°	59.00 'N	00°	27.38 'E
D	D	52.9844	0.4553	52°	59.06 'N	00°	27.32 'E
E	A	53.0342	0.4318	53°	02.05 'N	00°	25.91 'E
E	B	53.0324	0.4371	53°	01.94 'N	00°	26.23 'E
E	C	53.0260	0.4226	53°	01.56 'N	00°	25.36 'E
E	D	53.0286	0.4195	53°	01.72 'N	00°	25.17 'E
F	A	53.0268	0.4299	53°	01.61 'N	00°	25.79 'E
F	B	53.0268	0.4357	53°	01.61 'N	00°	26.14 'E
F	C	53.0170	0.4359	53°	01.02 'N	00°	26.15 'E
F	D	53.0156	0.4342	53°	00.94 'N	00°	26.05 'E
F	E	53.0157	0.4265	53°	00.94 'N	00°	25.59 'E
G	A	53.0339	0.4435	53°	02.03 'N	00°	26.61 'E
G	B	53.0339	0.4525	53°	02.03 'N	00°	27.15 'E
G	C	53.0262	0.4525	53°	01.57 'N	00°	27.15 'E
G	D	53.0234	0.4491	53°	01.41 'N	00°	26.95 'E
G	E	53.0234	0.4435	53°	01.41 'N	00°	26.61 'E
H	A	53.0644	0.5036	53°	03.86 'N	00°	30.22 'E
H	B	53.0644	0.5079	53°	03.86 'N	00°	30.48 'E
H	C	53.0612	0.5079	53°	03.67 'N	00°	30.48 'E
H	D	53.0537	0.5026	53°	03.22 'N	00°	30.15 'E
H	E	53.0537	0.4964	53°	03.22 'N	00°	29.78 'E
H	F	53.0580	0.4964	53°	03.48 'N	00°	29.78 'E
I	A	53.0444	0.4910	53°	02.66 'N	00°	29.46 'E
I	B	53.0444	0.4939	53°	02.66 'N	00°	29.63 'E
I	C	53.0432	0.4939	53°	02.59 'N	00°	29.63 'E
I	D	53.0432	0.4910	53°	02.59 'N	00°	29.46 'E

Table 2. Latitudes and longitudes of prohibited areas 'A' to 'I'

**Chart 2: Boulder and Cobble Communities - Towed demersal (trawling and dredging) prohibited area**

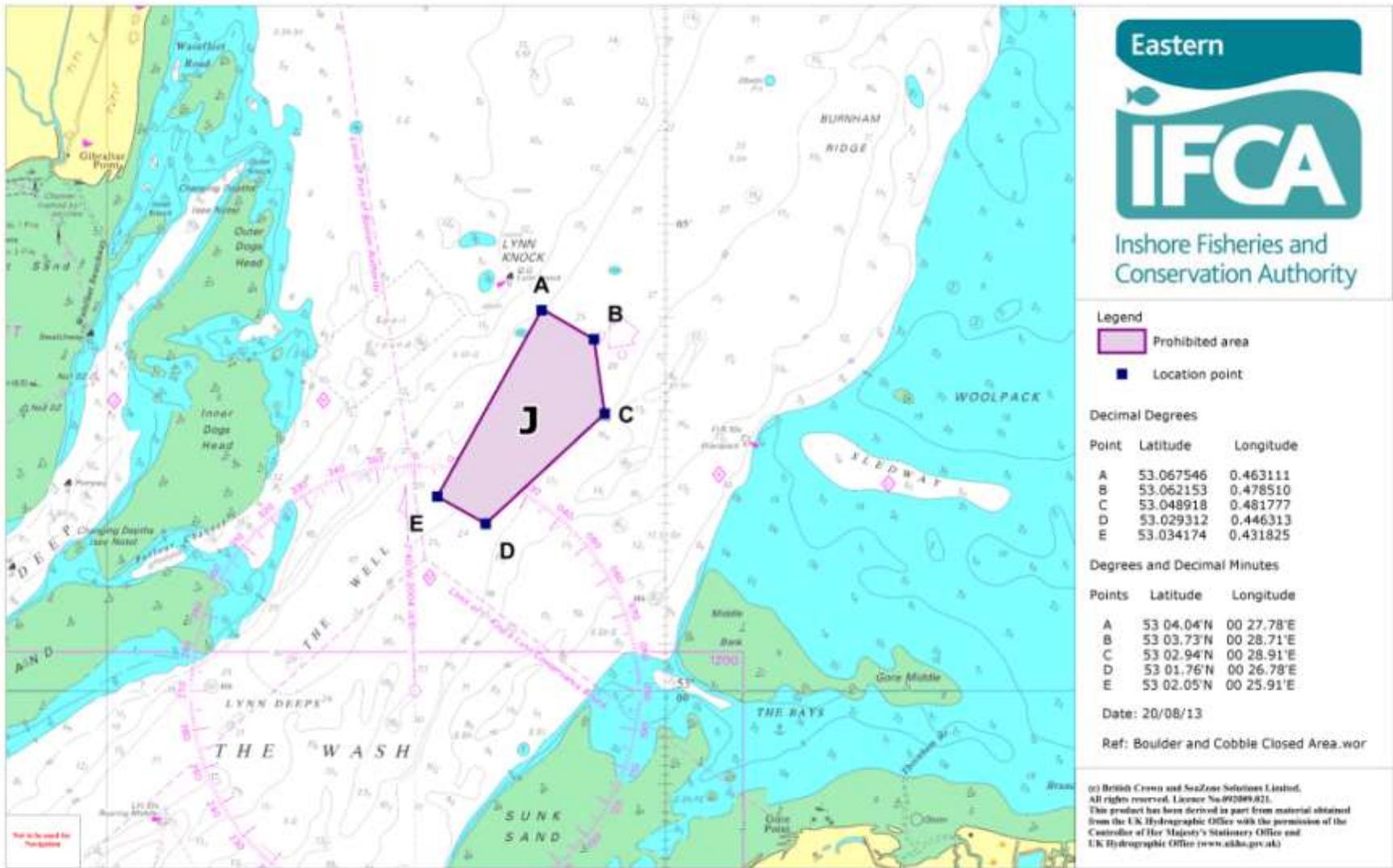
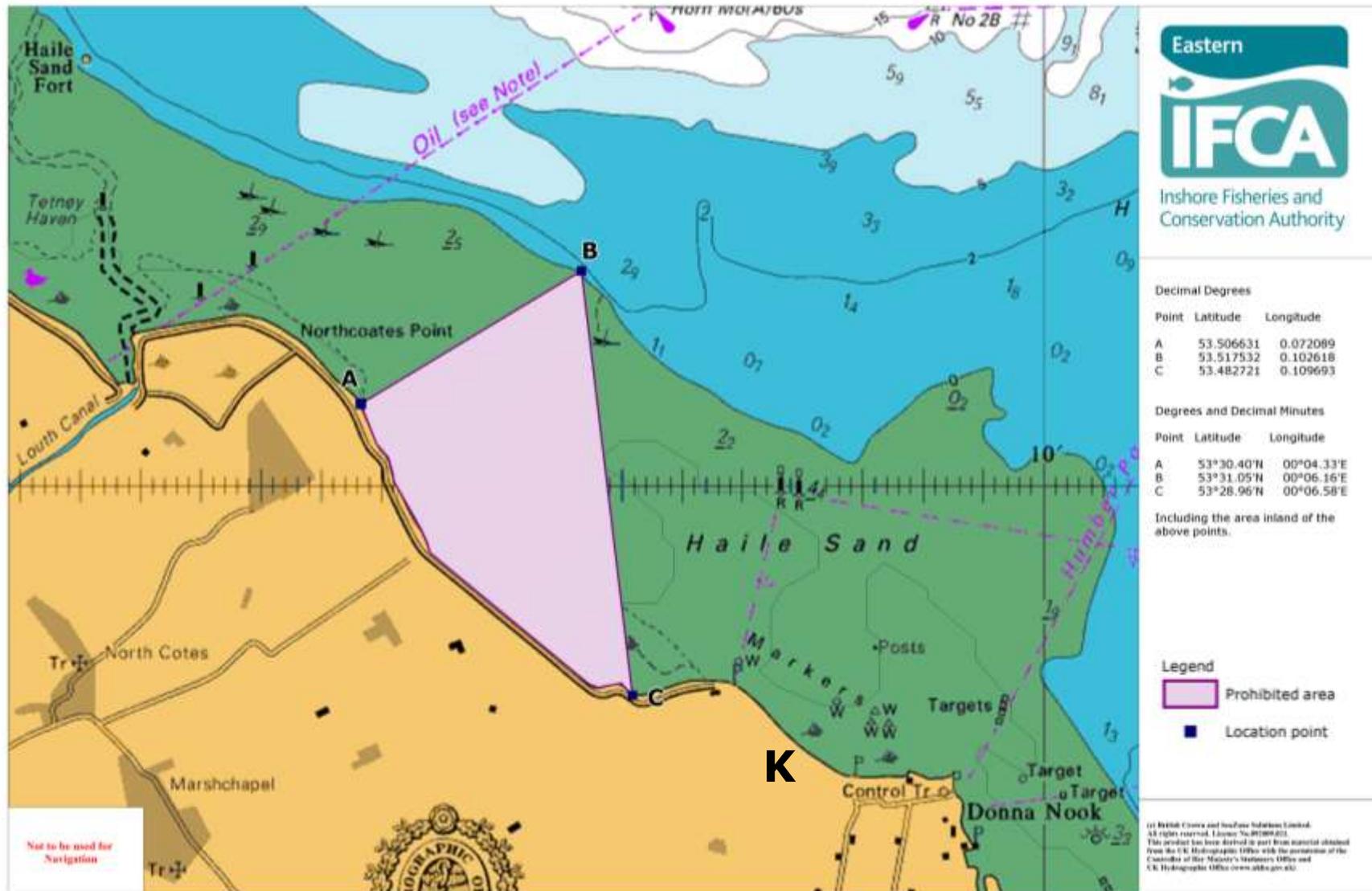




Chart 4: Eelgrass (*Zostera*) – Towed demersal (trawling and dredging), bait collection and intertidal hand working prohibited area K



# **Appendix C**

## **Impact Assessment**

<b>Title:</b>  <b>Impact Assessment of measures to protect Marine Protected Areas from damaging fishing activities</b>  <b>Lead department or agency:</b> Eastern Inshore Fisheries and Conservation Authority (Eastern IFCA)  <b>Other departments or agencies:</b>	Impact Assessment (IA)
	<b>IA No:</b>
	<b>Date: 15/08/2013</b>
	<b>Stage:</b> Development/Options/Consultation
	<b>Source of intervention:</b> European
	<b>Type of measure:</b> Secondary legislation
<b>Contact for enquiries:</b> Eden Hannam – Head of Marine Environment and Research 01553 775321	

## Summary: Intervention and Options

### What is the problem under consideration? Why is government intervention necessary?

Defra's revised approach to the management of fishing activities in European Marine Sites (EMS) has resulted in the identification of sub-feature/fishing gear type interactions which are incompatible with the conservation objectives of EMS. The UK government has obligations under the Habitats Directive to ensure that protected features of the site are maintained at favourable conservation status. Within Eastern IFCA's district, three sub-features have been found incompatible with bottom-towed gear and one sub-feature has been found incompatible with hand gathering; these have therefore been flagged as a 'red risk' sites within the Natural England/MMO 'matrix'. Additional sub-feature/fishing gear type interactions will be addressed on a priority basis and as such it may be necessary for further restrictions to be put in place in the future.

### What are the policy objectives and the intended effects?

To further the conservation objectives of the EMS within Eastern IFCA's district by ensuring that fishing activity within EMS are regulated such that damaging sub-feature/fishing gear type interactions are restricted. The intended effects are that the potential for damage to sub-features from fishing activity will be reduced and obligations under the Habitats Directive will have been met. The distribution of certain sub-features (for example *Sabellaria spinulosa* reef and eelgrass beds) is likely to change over time. As such, a flexible byelaw is required to protect 'moveable' features. It is intended to create sufficient protection of EMS features to achieve the relevant conservation objectives whilst minimalizing restriction on sustainable fishing operations.

### What policy options have been considered? Please justify preferred option (further details in Evidence Base)

The potential management options for this site for consideration within this impact assessment include four options: do nothing, voluntary measures, introduction of an IFCA byelaw or introduction of an MMO byelaw. The preferred policy option from Defra is an IFCA byelaw as the IFCAs are the lead regulator to take forward management of inshore fisheries and have been identified as the lead regulator for EMS within 6nm. The evidence base supports the requirement for appropriate regulatory intervention, as action is required in order to protect the site from damage. Therefore an IFCA byelaw is the preferred option. Voluntary agreements and the 'do nothing' option do not fulfil the requirements of Defra's revised approach which requires regulatory measures to exclude damaging activities from 'red risk' sites.

### When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?

It will be reviewed  
31/12/2014

**Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?**

Yes

**SELECT SIGNATORY Sign-off** For consultation stage Impact Assessments:

*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 SELECT SIGNATORY:..... Date: .....**

**Description: EIFCA byelaw prohibiting Conservation feature/fishing gear type interactions**

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Unknown	High: Unknown	Best Estimate: Unknown

COSTS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition Price)	Annual (Constant Price)	Total (Present Value)	Cost
Low						£145,766 annually
High						£446,206 annually
Best Estimate						Unknown

**Description and scale of key monetised costs by 'main affected groups'**

Additional annual enforcement costs are estimated to be in the region of £25,067.30. Estimated annual value of catches for vessels over 15m are £50,790 in ICES sub-rectangles that contain proposed restricted areas. Annual costs to the inshore (under 15m fleet) is estimated at between £79,909.30 and £380,349.50 annually. With the current available information it would not be appropriate to estimate a 'Best estimate'. The estimated minimum cost to the inshore fishing industry is greater than the income of a single fisherman.

**Other key non-monetised costs by 'main affected groups'**

Potential increases in fuel and time costs for searching and fishing in new areas; potential costs of impacts from displacement of fishing effort on other sub-features.

BENEFITS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition Price)	Annual (Constant Price)	Total (Present Value)	Benefit
Low						
High						
Best Estimate						

**Description and scale of key monetised benefits by 'main affected groups'**

No monetised figures are available for the benefits of the recommended closure. However, significant potential benefits are described below.

**Other key non-monetised benefits by 'main affected groups'**

Non-compliance with EC Habitats Directive would result in large fines from the European Commission, which are likely to be passed down to local government. The current proposal provides mitigation against such fines. Environmental benefits include the protection of internationally important habitats and progression towards a UK (and European) network of well-managed marine protected areas. In the current proposal there is no evidence that areas closed to bottom towed gear would have benefits to the fisheries themselves (e.g. as a result of overspill from a protected brood stock) and are therefore not included.

**Key assumptions/sensitivities/risks (%)**

Discount rate

Cost estimates are based on MMO landings values for vessels over 15m which cover whole ICES sub-rectangles. It is unknown how much of this total value was derived from catch from the proposed closed area which makes up only a proportion of the ICES sub-rectangles. There is no VMS data available for under 15m vessels to assess actual fishing activity in this area. Information has been gathered from Eastern IFCA's pre-consultation 'Information Gathering' which included questionnaires and meetings. Information gathered from fishermen is also anecdotal. A key assumption of intervention is that it will be successful in preventing damage to the sub-features and the conservation objectives of the Wash and North Norfolk Coast SAC and Humber Estuary SAC will be furthered.

<b>Impact on admin burden (AB) (£m):</b>			<b>Impact on policy cost savings</b>		<b>In scope</b>
<b>New AB:</b>	<b>AB savings:</b>	<b>Net:</b>	<b>Policy cost savings:</b>		Yes/No

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			Other: EIFCA District		
From what date will the policy be implemented?			01/01/2014		
Which organisation(s) will enforce the policy?			Eastern IFCA		
What is the annual change in enforcement cost (£)?			Circa £25,067.30		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			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	
Does the proposal have an impact on competition?			Yes		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			<b>Costs:</b> N/A	<b>Benefits:</b> N/A	
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	<b>Micro</b> N/A	<b>&lt; 20</b> N/A	<b>Small</b> N/A	<b>Medium</b> N/A	<b>Large</b> N/A
Are any of these organisations exempt?	No	No	No	No	No

## Specific Impact Tests: Checklist

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties</b> <sup>11</sup> <a href="#">Statutory Equality Duties Impact Test guidance</a>	No	32
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	Yes	32
Small firms <a href="#">Small Firms Impact Test guidance</a>	Yes	32
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	32
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	32
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	Yes	33
Human rights <a href="#">Human Rights Impact Test guidance</a>	No	33
Justice system <a href="#">Justice Impact Test guidance</a>	No	33
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	No	33
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	33

<sup>11</sup> Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

**Annual profile of monetised costs and benefits\* - (£m) constant prices**

	<b>Y<sub>0</sub></b>	<b>Y<sub>1</sub></b>	<b>Y<sub>2</sub></b>	<b>Y<sub>3</sub></b>	<b>Y<sub>4</sub></b>	<b>Y<sub>5</sub></b>	<b>Y<sub>6</sub></b>	<b>Y<sub>7</sub></b>	<b>Y<sub>8</sub></b>	<b>Y<sub>9</sub></b>
<b>Transition costs</b>										
<b>Annual recurring</b>										
<b>Total annual costs</b>										
<b>Transition benefits</b>	N/A									
<b>Annual recurring</b>	N/A									
<b>Total annual benefits</b>	N/A									

\* For non-monetised benefits please see summary pages and main evidence base section

## **Evidence Base (for summary sheets)**

1. Introduction
2. Rationale for intervention
3. Policy objectives and intended effects
4. The options
  - Recommended options
  - Alternative options
5. Evidence base
  - Impacts of dredging activity on eelgrass beds
    - S. spinulosa* reef
    - Sub-tidal cobble and boulder
    - Eelgrass
    - Scope for recovery
6. Sectors affected
7. Analysis of costs and benefits
  - Costs
    - Analysis of fisheries costs
    - Environmental costs
    - Administration and enforcement costs
  - Benefits
    - Environmental benefits
  - Summary of costs and benefits

## **Annexes**

- Annex 1: Specific Impact Tests
- Annex 2: Condition assessment summary for the Wash and North Norfolk Coast SAC
- Annex 3: Questions asked of stakeholders during 'Information Gathering' pre-consultation
- Annex 4: Summary of responses

## **1. Introduction**

1.1 Within Eastern IFCA's district there are several EMS: seven SAC and 10 SPA. There are also several SSSI, Ramsar Sites and seven recommended MCZ (Marine and Coastal Access Act 2009). EMS are designated or classified for habitats and species as per the annexes of their relevant Directive. MCZ are currently recommended for habitats and species identified during two evidence gathering projects (Net Gain and Balanced Seas) in the Eastern IFCA district.

1.2 Defra's revised approach to managing fishing activities in EMS has resulted in an audit of sub-feature/fishing gear interactions. The resulting risk matrix has highlighted certain fishing activities to be of high-risk to certain sub-features. Regulation to protect against these high risk interactions are to be brought in by 31/12/2013. The revised approach requires lower risk sub-feature/fishing gear interactions are to be considered and regulation put into place by 2016. In addition to EMS, any MCZ designated in the Eastern IFCA district will require similar levels of regulation to protect against damage to their associated features.

1.3 The high-risk interactions identified relate to two separate EMS. Within the Wash and North Norfolk Coast; *S. spinulosa* reef, cobble and boulder reef and eelgrass have been identified as being at high-risk from bottom towed gears. Within the Humber Estuary SAC; eelgrass has been identified as being at high-risk from bottom towed gear, hand gathering of shellfish and bait digging.

1.4 This Impact Assessment has been prepared to outline the costs and benefits of the proposed permanent byelaw. It also indicates why this option is being recommended rather than others considered. This Impact Assessment will be the subject of a public consultation.

1.5 The principle purpose of this process and impact assessment is to put into place a management mechanism that will allow for flexible regulation of fishing activity based on appropriate evidence and statutory advice from Natural England. The dynamic nature of the marine environment (including the mobility of certain features over time) requires such a flexible regulatory mechanism to ensure that European and national conservation objectives can be achieved.

1.6 Data and evidence to inform this Impact Assessment have been gathered from Natural England, the MMO statistics office and Eastern IFCA officers. Eastern IFCA held an 'Information Gathering' consultation with its stakeholders to address issues of potential gains and losses with respect to each stakeholder's involvement with the presently proposed restricted areas. In addition, IFCA officers hosted three community engagement meetings, and an additional four separate meetings with fishermen to ask direct questions and gather evidence as to the economic impacts of the proposed closed area. A summary of the results from the 'Information Gathering' are presented in annexes 3 and 4.

## **2. Rationale for intervention**

2.1 In 2012 Defra revised its approach to the management of fishing activities within EMS. Activities classed as a high-risk are those which have been prioritised within the resulting audit as requiring immediate (by 31/12/2013) additional management measures to avoid

deterioration and disturbance in line with obligations under Article 6(2) of the Habitats Directive.

2.2 Paragraphs 6(1) and 6(2) of the Habitats Directive<sup>4</sup> require that, within Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), Member States:

- Take appropriate conservation measures to maintain and restore the habitats and species for which the site has been designated to a favourable conservation status;
- Avoid damaging activities that could significantly disturb these species or deteriorate the habitats of the protected species or habitat types.

2.3 The requirement for a permanent IFCA byelaw is in line with Defra's revised approach in that 'soft-measures' (i.e. voluntary codes of conduct, gentlemen's agreements) are not appropriate for sub-feature/gear type interactions identified as high-risk.

2.4 Eastern IFCA (as a local authority) is required under 28G(2) of schedule 6 of the Countryside and Rights of Way Act 2000 to take responsible steps consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest.

2.5 IFCAs have a duty under the Marine and Coastal Access Act 2009 to ensure that the conservation objectives for MCZ are furthered. The proposed intervention would allow Eastern IFCA to protection designated features in MCZ as well as EMS.

### **3. Policy objectives and intended effects**

3.1 The Inshore Fisheries and Conservation Authorities (IFCAs) were established under the Marine and Coastal Access Act 2009<sup>5</sup> 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.

3.2 The policy objective pertinent to this Impact Assessment is to further the conservation objectives of the Marine Protected Areas (EMS, Sites of Scientific Interest, Ramsar Sites and MCZ) within Eastern IFCA's district by ensuring that the associated features and sub-features are protected from damage from fishing activity occurring within such sites.

3.3 It is intended that, should sufficient and appropriate evidence or advice come into Eastern IFCA's possession, a discrete area can be closed to fishing activity for the above reasons. The details of closed areas would be presented in the annexes of the byelaw.

3.4 To this end, should an area require a closure to fishing activity, an agreed process would take place to i) receive and consider advice from Natural England (as statutory advisers) of the potential or occurrence of damage to a protected feature or sub-feature, ii) consult and inform relevant stakeholders of the amendment to the annexes of the byelaw (i.e. the details of the proposed additional closure, iii) have the new amendment agreed by the Eastern Inshore Fisheries and Conservation Authority, iv) implement additional restrictions.

3.5 The intended effects are a reduction in potential damage to features identified at risk and compliance with obligations under the Habitats Directive<sup>4</sup> and Marine & Coastal Access Act. In addition, in following the process outlined in paragraph 3.4, the social and economic impacts of management intervention will be balanced with the environmental benefits in order to secure a sustainable fishery.

#### 4. The options

4.1 As part of the Defra’s revised policy, the national approach to any required management measures has been defined by Defra as IFCA byelaws within 6nm and MMO byelaws outside of 6nm (Option 1). Alternative options include Option 2: Do nothing; or Option 3: Implement voluntary closed areas to protect high-risk features. Neither of these options meets the requirement for regulatory measures to manage the high-risk interactions. Therefore only one option is being put forward as part of the public consultation (Option 1):

##### Option 1: Eastern IFCA Byelaw

In order to enable Eastern IFCA to fulfil its conservation responsibilities under the Marine and Coastal Access Act 2009 it will be necessary to regulate and to restrict or prohibit fishing activities in order to manage or conserve natural/environmental features. Such restrictions or prohibitions could be for:

1. fishing for specified sea fisheries resources;
2. specified methods of fishing;
3. fishing during specified periods;
4. fishing using fishing gear of a specified description;
5. fishing using vessels of a specified description.

The means by which restrictions and prohibitions would be introduced would be by Regulatory Notices issues by the Authority following a process of evidence gathering and consideration as set out in the byelaw.

The flexibility of this byelaw would cater for the dynamic nature of the marine environment, enabling areas to be opened and closed on an evidence led basis. It would also enable a more responsive approach to the emergence of new areas to be protected, for example future tranches of EMS and the introduction of MCZ. The final model for a flexible byelaw is likely to be introduced for other reasons including managing fisheries stock, managing conflict between gear types/method and dealing with pollution.

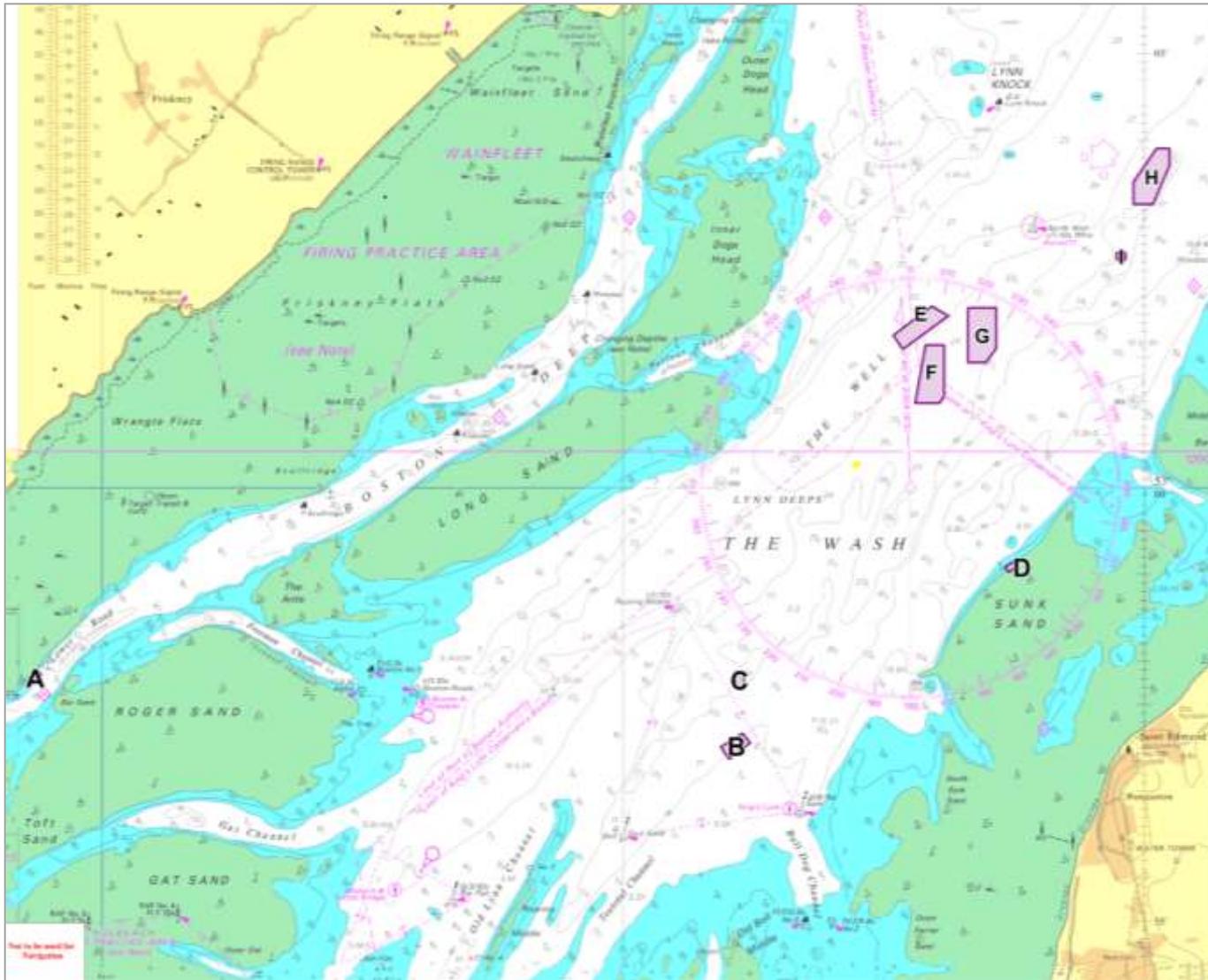
The exact details of currently closed area will be presented in a schedule of the byelaw. The initial schedule is presented below:

<b>Date Made</b>	<b>Area</b>	<b>Type of closure</b>	<b>Date of expiry</b>
1/01/2014	<i>S. spinulosa</i> reef areas A-H (see appended charts and table)	Closed to all bottom towed gears	Permanent*

1/01/2014	Boulder and cobble reef area A (see appended charts and table)	Closed to all bottom towed gears	Permanent*
1/01/2014	North Norfolk Coast eelgrass areas A-J (see appended charts and table)	Closed to all bottom towed gears	Permanent*
1/01/2014	Humber estuary eelgrass areas (see appended charts and table)	Closed to all bottom towed gears	Permanent*

\* Permanent until time of review or until further evidence becomes known to the Authority.

Ross worm reef (*Sabellaria spinulosa*)– Towed demersal gear prohibited



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Table 1. Area in hectares of prohibited areas

		Decimal Degrees		Degrees and Decimal Minutes		
Area	Point	Latitude	Longitude	Latitude		Longitude
A	A	52.9644	0.1452	52°	57.87 'N	00° 08.71 'E
A	B	52.9642	0.1468	52°	57.85 'N	00° 08.81 'E
A	C	52.9637	0.1472	52°	57.82 'N	00° 08.83 'E
A	D	52.9618	0.1442	52°	57.71 'N	00° 08.65 'E
A	E	52.9622	0.1430	52°	57.73 'N	00° 08.58 'E
B	A	52.9525	0.3713	52°	57.15 'N	00° 22.28 'E
B	B	52.9507	0.3738	52°	57.04 'N	00° 22.43 'E
B	C	52.9476	0.3670	52°	56.86 'N	00° 22.02 'E
B	D	52.9499	0.3644	52°	56.99 'N	00° 21.86 'E
C	A	52.9644	0.3689	52°	57.86 'N	00° 22.14 'E
C	B	52.9644	0.3718	52°	57.86 'N	00° 22.31 'E
C	C	52.9611	0.3718	52°	57.67 'N	00° 22.31 'E
C	D	52.9611	0.3689	52°	57.67 'N	00° 22.14 'E
D	A	52.9852	0.4577	52°	59.11 'N	00° 27.46 'E
D	B	52.9844	0.4587	52°	59.06 'N	00° 27.52 'E
D	C	52.9833	0.4564	52°	59.00 'N	00° 27.38 'E
D	D	52.9844	0.4553	52°	59.06 'N	00° 27.32 'E

E	A	53.0342	0.4318	53°	02.05	'N	00°	25.91	'E
E	B	53.0324	0.4371	53°	01.94	'N	00°	26.23	'E
E	C	53.0260	0.4226	53°	01.56	'N	00°	25.36	'E
E	D	53.0286	0.4195	53°	01.72	'N	00°	25.17	'E
F	A	53.0268	0.4299	53°	01.61	'N	00°	25.79	'E
F	B	53.0268	0.4357	53°	01.61	'N	00°	26.14	'E
F	C	53.0170	0.4359	53°	01.02	'N	00°	26.15	'E
F	D	53.0156	0.4342	53°	00.94	'N	00°	26.05	'E
F	E	53.0157	0.4265	53°	00.94	'N	00°	25.59	'E
G	A	53.0339	0.4435	53°	02.03	'N	00°	26.61	'E
G	B	53.0339	0.4525	53°	02.03	'N	00°	27.15	'E
G	C	53.0262	0.4525	53°	01.57	'N	00°	27.15	'E
G	D	53.0234	0.4491	53°	01.41	'N	00°	26.95	'E
G	E	53.0234	0.4435	53°	01.41	'N	00°	26.61	'E
H	A	53.0644	0.5036	53°	03.86	'N	00°	30.22	'E
H	B	53.0644	0.5079	53°	03.86	'N	00°	30.48	'E
H	C	53.0612	0.5079	53°	03.67	'N	00°	30.48	'E
H	D	53.0537	0.5026	53°	03.22	'N	00°	30.15	'E
H	E	53.0537	0.4964	53°	03.22	'N	00°	29.78	'E
H	F	53.0580	0.4964	53°	03.48	'N	00°	29.78	'E
I	A	53.0444	0.4910	53°	02.66	'N	00°	29.46	'E
I	B	53.0444	0.4939	53°	02.66	'N	00°	29.63	'E
I	C	53.0432	0.4939	53°	02.59	'N	00°	29.63	'E
I	D	53.0432	0.4910	53°	02.59	'N	00°	29.46	'E

Table 2. Latitudes and longitudes of prohibited areas 'A' to 'I'

## Boulder and Cobble Communities - Location Information



### Decimal Degrees

Point	Latitude	Longitude
A	53.067343	0.462934
B	53.062153	0.478510
C	53.048918	0.481777
D	53.029312	0.446313
E	53.034174	0.431825

### Degrees and Decimal Minutes

Point	Latitude	Longitude
A	53°04.04'N	00°27.78'E
B	53°03.73'N	00°28.71'E
C	53°02.94'N	00°28.91'E
D	53°01.76'N	00°26.78'E
E	53°02.05'N	00°25.91'E

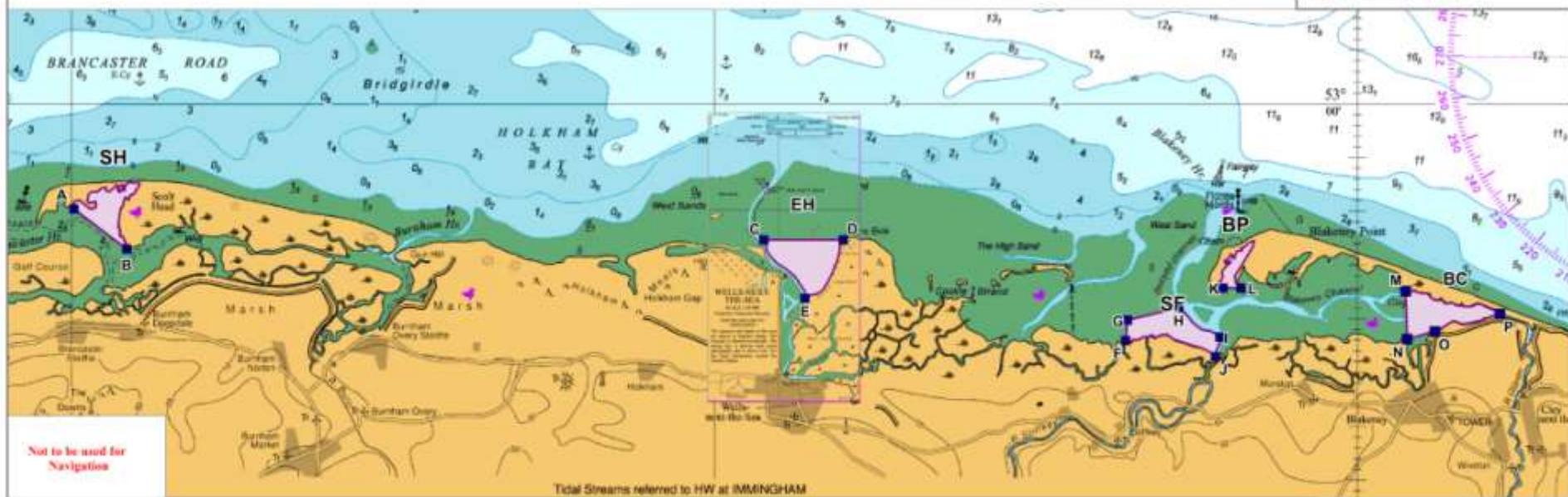
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**Elgrass (*Zostera*) - Towed demersal (trawling and dredging) prohibited area**

		Decimal Degrees		Degrees and Decimal Minutes		Area (hectares)
Area	Point	Latitude	Longitude	Latitude	Longitude	
SH	A	52.983409	0.667169	52° 59.00 'N	00° 40.03 'E	51.69
SH	B	52.977240	0.680874	52° 58.63 'N	00° 40.85 'E	
EH	C	52.978593	0.846025	52° 58.72 'N	00° 50.76 'E	80.34
EH	D	52.978593	0.866672	52° 58.72 'N	00° 52.00 'E	
EH	E	52.969567	0.856735	52° 58.17 'N	00° 51.40 'E	
SF	F	52.963065	0.939933	52° 57.78 'N	00° 56.40 'E	
SF	G	52.966218	0.940334	52° 57.97 'N	00° 56.42 'E	64.55
SF	H	52.968101	0.953662	52° 58.09 'N	00° 57.22 'E	
SF	I	52.963585	0.964350	52° 57.82 'N	00° 57.86 'E	
SF	J	52.960523	0.963145	52° 57.63 'N	00° 57.79 'E	
BP	K	52.971159	0.965113	52° 58.27 'N	00° 57.91 'E	
BP	L	52.971159	0.969722	52° 58.27 'N	00° 58.18 'E	
BC	M	52.970719	1.012510	52° 58.24 'N	01° 0.75 'E	67.89
BC	N	52.963239	1.012818	52° 57.79 'N	01° 0.77 'E	
BC	O	52.964414	1.020003	52° 57.86 'N	01° 1.20 'E	
BC	P	52.967168	1.036962	52° 58.03 'N	01° 2.22 'E	

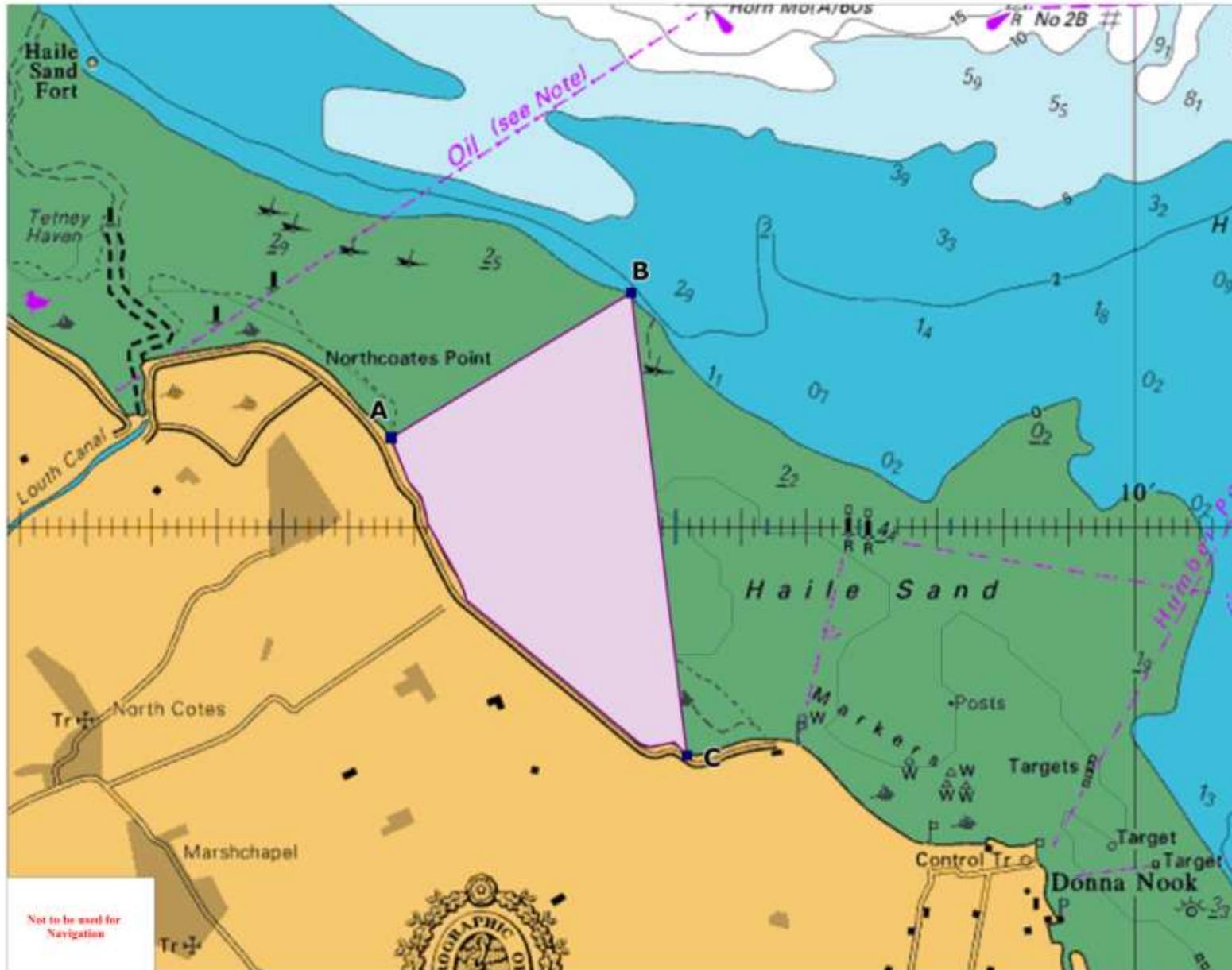


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**Eelgrass (*Zostera*) - Towed demersal (trawling and dredging), bait collection and inrettidal hand working prohibited area**



Decimal Degrees

Point	Latitude	Longitude
A	53.506631	0.072089
B	53.517532	0.102618
C	53.482721	0.109693

Degrees and Decimal Minutes

Point	Latitude	Longitude
A	53°30.40'N	00°04.33'E
B	53°31.05'N	00°06.16'E
C	53°28.96'N	00°06.58'E

Including the area inland of the above points.

Not to be used for Navigation

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## Option 2: Do Nothing

This option would involve allowing the existing fishing activity to take place with no restrictions. This option would mean that risks to the site from damaging activities would not be addressed and there is the potential that obligations under Article 6 (2) of the Habitats Directive would not be met.

## Option 3: Voluntary Compliance

This option would involve the development of voluntary codes of practice or so-called 'gentleman's agreements' to protect features. As with Option 2, this option would carry the risk that damaging activities to sites may continue and that obligations under Article 6 (2) of the habitats Directive would not be met.

## 5. Evidence Base

Impacts of bottom towed gear on 'high risk' sub-features within Eastern IFCA district – **Subtidal boulder and cobble reef, *S. spinulosa* reef and eelgrass beds.**

5.1 Risk audits have been produced for each of the sub-feature/gear-type interaction<sup>12</sup>. Sub-feature/gear-type interactions have been categorised as 'red' (high risk of damage occurring) based on the evidence presented within the audits. Confidence in the evidence was provided and is presented below (Table.5.1).

5.2 There is not currently a risk audit for the sub-feature/gear-type interaction; eelgrass beds/ hand-gathering or bait-digging.

**Table.5.1 The confidence in evidence provided for the potential of a fishing gear to damage each sub-feature.**

Sub-feature	Gear type	Confidence
Subtidal boulder and cobble reef	Towed demersal trawls	<b>Medium</b> - The conclusions are supported by directly relevant scientific information from a number of different sources. However, this is partly from grey literature based on expert inference and peer reviewed empirical evidence of the impacts of fishing gear to similar habitats in other parts of the world
Subtidal boulder and cobble reef	Towed dredges	<b>High</b> - There is peer reviewed, highly relevant scientific information to directly support the conclusions
Eelgrass	Towed demersal trawls	<b>High</b> - There is peer reviewed evidence from the Mediterranean Sea ( <i>Posidonia</i> spp). Given the similar ecological requirements and sensitivities of this species and the evidence concerning impacts of towed demersal fishing gears, this evidence is considered to be highly relevant scientific information which directly supports the conclusions on categorisation of this activity/sub feature combination.

<sup>12</sup>[http://www.marinemanagement.org.uk/protecting/conservation/ems\\_fisheries.htm](http://www.marinemanagement.org.uk/protecting/conservation/ems_fisheries.htm)

Eelgrass	Towed dredges	<b>High</b> - There is peer reviewed, highly relevant scientific information to directly support the conclusion
Eelgrass	Dredges (other)	<b>Medium</b> - There is directly relevant scientific information to support the conclusion but it comes from 'grey literature' sources
<i>S. spinulosa</i> reef	Towed demersal trawls	<b>Medium</b> - The conclusions are supported by directly relevant scientific information from a number of different sources. However, this is predominantly grey literature based on expert inference rather than direct peer reviewed empirical evidence of the impacts of fishing gear.
<i>S. spinulosa</i> reef	Towed dredges	<b>High/Medium</b> - The conclusions have been inferred from the effects of dredge gears on other types of highly sensitive biogenic reef, these studies are considered to be directly applicable. These are also supported by directly relevant scientific information from a number of different sources. However, this is predominantly grey literature based on expert inference rather than direct peer reviewed empirical evidence of the impacts of fishing gear.

## Sub-feature distribution

### *S. spinulosa* reef

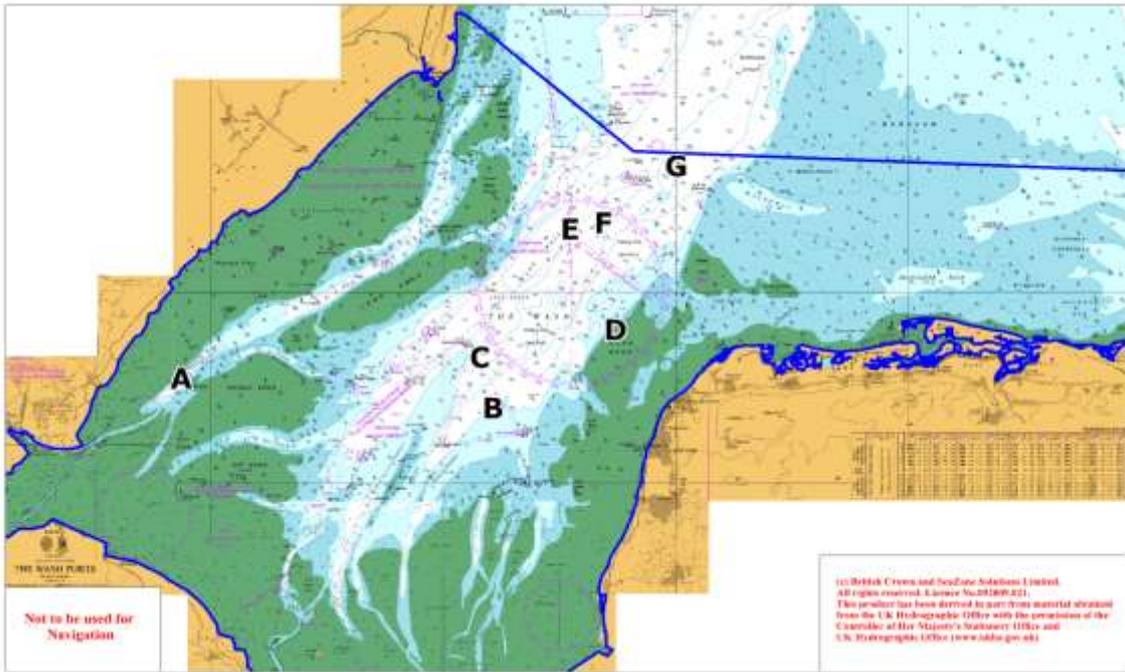
5.3 *S. spinulosa* is an encrusting, tube-dwelling worm with a wide distribution across the UK and within the Wash and North Norfolk Coast SAC (primarily within the embayment of The Wash). *S. spinulosa* is only an Annex 1 protected habitat (ECC Habitats directive) when it is found in its reef form<sup>13, 14</sup>.

5.4 Certain 'core-areas' of relative stable, long-term *S. spinulosa* reef has been highlighted as requiring protection. Chart 5.1 shows the locations of these 'core-areas' within The Wash.

Chart 5.1 – locations of 'core-reef' within The Wash. Letters A to G represent the approximate locations of the reef.

<sup>13</sup> Gubbay 2007, JNCC Report No 405: Defining and managing *Sabellaria spinulosa* reefs: Report of an inter-agency workshop

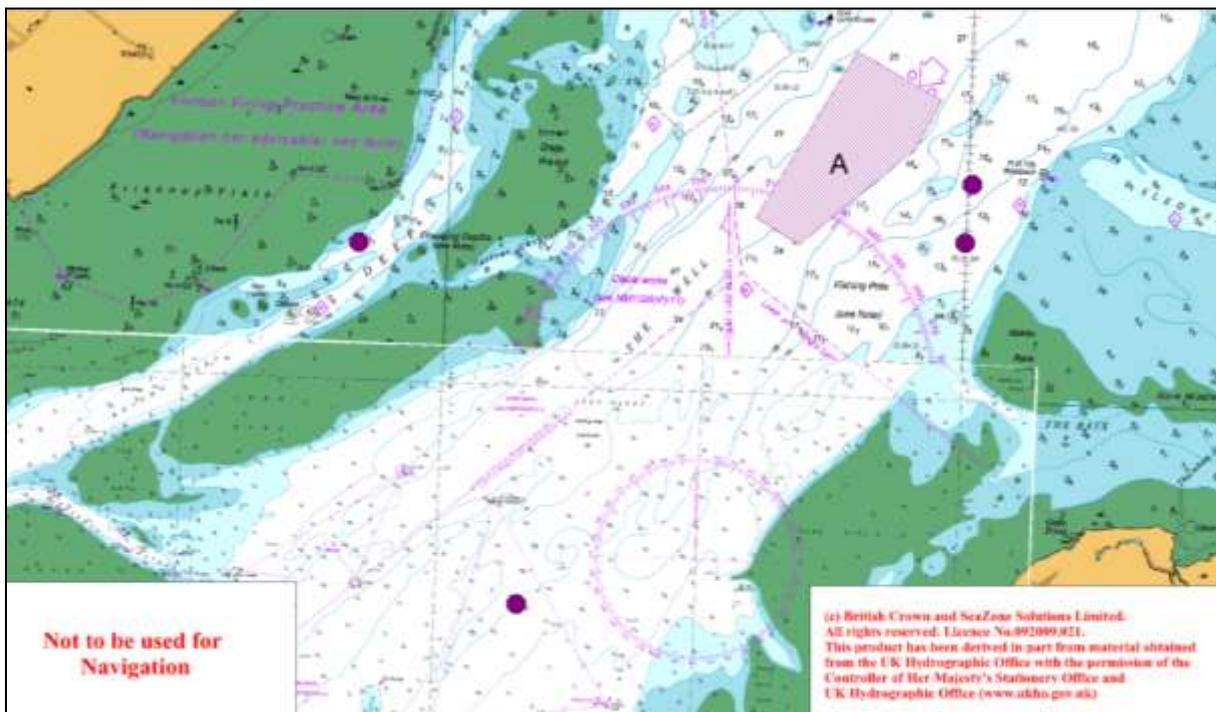
<sup>14</sup> European Commission, 2013: Interpretation Manual of European Union Habitats



## Sub-tidal Cobble and Boulder Reef

5.5 Sub-tidal cobble and boulder reef is thought to occur in several locations across The Wash, within the EMS. Best available evidence indicated that there is an example of this feature in 'The Well' part of The Wash (see chart 5.2). Further surveys are scheduled to take place in 2013 to confirm other areas of the sub-feature.

Chart 5.2 – Box A represents the area where best available evidence has indicated that sub-tidal cobble and boulder does occur. The four purple points within The Wash represent areas where the sub-feature may occur. Natural England have scheduled surveys for 2013 to confirm the occurrence of the sub-feature.



## Eelgrass

5.6 *The Wash and North Norfolk Coast Special Area of Conservation* – Best available evidence is in the form of the 2010 Natural England report on eelgrass distribution<sup>15</sup>. Eelgrass with the SAC is found only on the North Norfolk Coast. Point locations for eelgrass were presented in the report but extent of beds was not. Further surveys are planned for 2013 to further the baseline for eelgrass distribution on the North Norfolk Coast.

5.7 Consultation with Wells Harbour Authority has indicated more recent eelgrass monitoring data is available. This will be incorporated into the annex of the proposed byelaw at a later date.

5.8 *Humber Estuary Special Area of Conservation* – Various sources of information have been used to estimate eelgrass distribution in the Humber Estuary SAC (Table 5.2). Further surveys are planned for 2013 to gain further extent information.

Table 5.2 – Data sources for eelgrass distribution in The Humber Special Area of Conservation.

Location	Description	Source	Original citation
North Cotes, Horse Shoe Point	A few plants, none flowering, scattered over 10m square area on intertidal mud/sand	Greater Lincolnshire Nature Partnership	Produced by Charlie Barnes on the 14/3/2013
North Cotes, Horse Shoe Point	Two small patches on intertidal mud/sand	Greater Lincolnshire Nature Partnership	Produced by Charlie Barnes on the 14/3/2013
North Cotes, Horse Shoe Point	Two small patches on intertidal mud/sand	Greater Lincolnshire Nature Partnership	Produced by Charlie Barnes on the 14/3/2013
North Cotes, Horse Shoe Point	ID to be confirmed. On intertidal mud/sand	Greater Lincolnshire Nature Partnership	Produced by Charlie Barnes on the 14/3/2013
North Cotes, Horse Shoe Point	Sparse cover over c. 1 m. square on intertidal mud/sand	Greater Lincolnshire Nature Partnership	Produced by Charlie Barnes on the 14/3/2013
North Cotes, Horse Shoe Point	Small patch c. 0.3m square on intertidal mud/sand	Greater Lincolnshire Nature Partnership	Produced by Charlie Barnes on the 14/3/2013
North Cotes, Horse Shoe Point	A few scattered sparse shoots	Greater Lincolnshire Nature Partnership	Produced by Charlie Barnes on the 14/3/2013
North Cotes, Horse Shoe Point	A few scattered sparse shoots	Greater Lincolnshire Nature Partnership	Produced by Charlie Barnes on the 14/3/2013

<sup>15</sup>West R.B., Grenham M.F. & Kirby, J.S. 2010: Survey of Eelgrass species (*Zostera* spp.) on intertidal habitats within the Wash and North Norfolk Coast Marine Special Area of Conservation

Point			
Humber		NBN Records	Botanical Society of the British Isles Date Range 1500/1969
Humber		NBN Records	Botanical Society of the British Isles 1943
Humber		NBN Records	Botanical Society of the British Isles Date Range 1950/1999
Tetney		NBN Records	Botanical Society of the British Isles 1956
R Humber		NBN Records	Botanical Society of the British Isles 1974
North Linc		NE Report 2003, No.547, The Humber Estuary: A comprehensive review of its nature conservation interest	LEACH, S., personal communication, 2002. Botanist for English Nature, Taunton

## Scope for sub-feature recovery

### ***S. spinulosa* reef**

5.9 The current Conservation Objective for *S. spinulosa* reef is to **maintain** the feature in favourable condition. There is not currently an extent target for the *S. spinulosa* reef feature. Eastern IFCA's approach is to protect 'core' areas of reef. This is informed by advice from Natural England.

5.10 This feature is currently in favourable condition<sup>16</sup>, as such recovery is not anticipated. However the proposed regulations should provide additional assurance for future maintenance of this feature.

### **Boulder and Cobble reef**

5.11 The current Conservation Objective for boulder and cobble reef is to **maintain** the feature in favourable condition. With regards to the Large shallow inlet and bays feature (for which boulder and cobble is a sub-feature) the relevant favourable condition target is: *Maintain variety of habitats identified for the site, subject to natural change and Maintain the pattern of distribution of habitats throughout the feature (as identified in Foster-Smith & Sotheran, 1999; Bailey, Coad & Bamber, 2005).*

5.12 This feature is currently in favourable condition<sup>17</sup>, as such recovery is not anticipated. However the proposed regulations should provide additional assurance for future maintenance of this feature.

<sup>16</sup> Condition assessment summary (Annex 2)

## **Eelgrass**

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

5.13 The current Conservation Objective for eelgrass reef is to **maintain** the feature in favourable condition (as part of the mud communities sub-feature of Mudflats and sand flats not covered by seawater at low tide).

5.14 The target extent of the eelgrass beds with the Wash and North Norfolk Coast SAC is East Hills / Lodge Marsh, 25ha; Scolthead, 0.03ha, 0.75ha, 0.05ha; Stiffkey, 0.48ha. The 2010 Natural England report<sup>18</sup> indicated that the extent of eelgrass has showed no-change or has increased since the 2002 surveys.

5.15 This feature is currently in favourable condition<sup>19</sup>, as such recovery is not anticipated. In addition, expert opinion has indicated that there are not currently any activities taking place at the site which are potentially damaging to the feature. As such, the proposed regulation will only prevent against future shifts in activity at the site.

### ***The Humber Estuary SAC***

5.16 The current Conservation Objective for eelgrass reef is to **maintain** the feature in favourable condition (as part of the mud communities sub-feature of Mudflats and sand flats not covered by seawater at low tide).

5.17 The current extent target for eelgrass communities has not been provided as part of the Regulation 33 Advice for the Humber Estuary SAC. Current condition of the sub-feature has not been reported at sites containing eelgrass beds. Evidence from the MMO and Eastern IFCA officers suggests there is no commercial fishing activity at these sites. As such, it is unknown as to whether recovery will occur. The proposed regulations will, at least protect against future shifts in the levels of activity at the site.

## **Rational for protection**

### ***Sabellaria spinulosa* reef**

5.18 Eastern IFCA was aware of the need to implement measures for the protection of *S. spinulosa* reef for some time and had looked towards drawing up a 'gentlemen's agreement' with the fishing industry to this end. Defra's revised approach<sup>20</sup> requires 'hard measure' (in the form of byelaws) to be used to protect red-risk features.

5.19 Eastern IFCA's initial restricted area proposals were based on the proportional approach of closing 'core reef' areas to trawling and dredging activity. 'Core reef' refers to stable, long-term formations of *S. spinulosa* reef<sup>21</sup>. Given the ephemeral and mobile nature of *S. spinulosa* reef, it was advised by Natural England that protecting the 'core reef' would sufficiently protect the feature. The protection areas were oriented north to south and included buffers as per the advice produced by natural England.

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<sup>17</sup> Condition assessment summary (Annex 2)

<sup>18</sup> West R.B., Grenham M.F. & Kirby, J.S. 2010: Survey of Eelgrass species (*Zostera* spp.) on intertidal habitats within the Wash and North Norfolk Coast Marine Special Area of Conservation

<sup>19</sup> Condition assessment summary (Annex x)

<sup>20</sup> Defra policy statement on Defra's revised approach to fisheries management in European Marine Sites.

<sup>21</sup> Gubbay workshop 2007

5.20 Two revisions have been made in the light of responses from the information gathering process.

1.The orientation of the closed boxes were changed to a north east, south west orientation to take into account the direction of travel by fishing vessels as directed by the tide. This will allow for fishing activity which takes place adjacent to the restricted areas. This was a result of comments from fishermen.

2.Three areas of *S. spinulosa* reef restricted areas (box's A,B and D) have been enlarged. This is to reflect a larger buffer zone around the feature, greater than the minimum requirement from the buffer zone advice. This was as a result of comments made by the Wildlife Trust.

5.22 The final proposals for the restricted areas reflect a balance of precaution with reducing the credible risk of damage to the *S. spinulosa* reef feature.

#### Cobble and boulder reef

5.23 The cobble and boulder proposed protected area location was based on survey worked conducted by Eastern IFCA and Natural England in 2011. Buffer zones were included in the proposed restricted area as per Natural England's advice.

5.24 One revision was made in light of responses from the information gathering process.

1.The north eastern edge of the initial proposed restricted area was removed. This allowed for fishing activity whilst still protecting the sub-feature including its buffer zone. This was as a result of comments from the fishing industry.

#### Eelgrass beds

5.25 Proposed eelgrass restricted areas for the North Norfolk Coast were initially based on 2010 baselines<sup>22</sup> as per advice from Natural England. Eastern IFCA initially proposed restricted areas for all survey sites on the North Norfolk Coast as per a precautionary approach. Eelgrass records for the Humber Estuary EMS were lacking at the time of the information gathering and advice from Natural England had been to delay imposing restrictions at this site until further information had been gained.

5.26 Two revisions have been made in light of the responses from the information gathering process.

1.The proposed restricted area at Wells Harbour has been refined in accordance with data provided from the Wells Harbour Authority. Wells Harbour Authority has collected eelgrass extent data since 2009 and as such, this long standing data set was deemed as appropriate for informing the situation of the restricted areas at this location.

2.The revised wording of the byelaw will not impede on activities carried out by Common Rights Holders on the North Norfolk Coast. This was a result of comments from Common Rights Holders.

5.27 In addition to the information gathering process, further advice has been received from Natural England which has resulted in two further refinements to the proposals.

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<sup>22</sup> West *et al* 2010; Survey of Eelgrass species (*Zostera* spp.) on intertidal habitats within the Wash and North Norfolk Coast Marine Special Area of Conservation.

1. Natural England's advice to delay restricting damaging activities on eelgrass within the Humber Estuary SAC was revised and it was advised that a byelaw to protect eelgrass at this location should also be in place by the 31<sup>st</sup> December. As such, Eastern IFCA made the decision (10<sup>th</sup> statutory meeting, 31<sup>st</sup> July 2013) to include Humber eelgrass in the restrictions despite not including it as part of the information gathering process.

Historical records indicated three sites within the Humber Estuary EMS which contained eelgrass. An Eastern IFCA survey (in partnership with Natural England and the Wildlife Trust) indicated that no eelgrass was present within the areas as suggested by the historical records but was present just nearby. As such, an area has been proposed which encompasses the historical records and the patch found during the recent survey. It is felt that this is suitably precautionary to protect the sub-feature including its potential to extend its distribution.

2. Further Natural England advice was received (date) indicating that it was not necessary to protect all eelgrass survey locations from the 2010 report. As such, Eastern IFCA has removed from its proposal five of the eelgrass protection sites on the North Norfolk Coast. Eelgrass restricted areas now reflect locations where it was found during the 2010 survey<sup>23</sup>.

## **Summary**

5.28 The evidence base relating to feature recovery will be enhanced when Natural England have completed their review of Conservation Advice for marine protected areas. When there is a defined conservation objective for each of the three high risk features *S. spinulosa* reef, eelgrass beds, and boulder and cobble reef, Eastern IFCA will be better able to align the closed areas under the proposed byelaw with the recovery of these features.

## **6. Sectors affected**

**Fishing:** All 229 vessels operating within the Eastern IFCA district could potentially be affected by the proposed byelaw. The main vessels that would be affected by the conditions proposed in the current annex of the byelaw are those that fish for shrimp within the Wash and Norfolk Coast Special Area of Conservation. Eastern IFCA records indicate that there are around 25 vessels currently landing brown shrimp and one vessel landing pink shrimp<sup>24</sup>. In addition, there are several smaller fisheries which operate bottom towed gears (sole, skate etc) which may be impacted upon.

**Local economies and society:** There is the potential for social and economic costs to the local community as a result of potential landings lost and loss of orders. The shrimp fishery in The Wash is recently re-developing and has historically been worth as much as £2-3 million per year. There is the potential that the development of this fishery will be hampered by restrictions posed by this byelaw. Impact on the local fishery is difficult to assess. The wider environmental benefit of protecting the eelgrass beds is outlined in section 7.

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<sup>23</sup> West *et al.* 2010; Survey of Eelgrass species (*Zostera* spp.) on intertidal habitats within the Wash and North Norfolk Coast Marine Special Area of Conservation.

<sup>24</sup> Estimate based on Eastern IFCA Officer reports from 2012.

Enforcement bodies: The lead responsibility of enforcing the proposed closed area would fall to the EIFCA and therefore the additional enforcement cost would impact on this authority as the regulator. These estimated costs are outlined in section 7.

## **7. Analysis of costs and benefits**

### **Costs for recommended option**

7.1 Restrictions on fishing activity as according to the proposed byelaw schedule would result in the following costs:

- Direct cost to the industry from reduced fishing grounds
- Costs associated with displacement to other fishing grounds
- Potential impacts on other marine protected area features due to displacement
- Administrative and enforcement costs

Where information is available<sup>25</sup>, direct costs to the fishing industry, including potential displacement costs and administrative and enforcement costs can be monetised and these estimated values have been collated and presented as part of the impact assessment. Environmental costs due to increased damage of habitats are difficult to value and are therefore described here as non-monetised costs.

### **Analysis of fisheries costs**

7.2 Where available, information has been considered for fishing activity relating to the areas to be closed to bottom towed gear, hand gathering and bait digging (see Section 4 for charts of the proposed closed areas).

7.3 Information available to inform an assessment of the impacts of the proposed closure has been taken from:

- MMO data for vessels over 15m vessels.
- Defra sightings data (Available but not currently used, liaising with MMO on issue)
- Eastern IFCA landings data
- Zone of Influence
- Information gathered from 'Information Gathering' (Eastern IFCA pre-consultation with stakeholders; annexes 3 and 4)

### **Uncertainty and data assumptions**

**MMO data for vessels over 15m** – Data presented by ICES sub-rectangle, in most cases the proposed restricted areas are smaller than the sub-rectangle they reside in. In addition, most proposed restricted areas reside over more than one sub-rectangle. This

<sup>25</sup> Fishing activity is not currently known within the portion of the Humber Estuary SAC which resides within Eastern IFCA's district.

may have the effect of over-estimating the potential value of the restricted area with regards to vessels over 15m. Furthermore, fishing effort is unlikely to be evenly distributed throughout the ICES sub-rectangle; specific areas within each ICES sub-rectangle may be more important for fishing activity. The value of catch could potentially be underestimated if values were calculated as a proportion of the sub-rectangle covered by a restricted area. As such values of landed catch for over 15m vessels has been estimated as a total of a sub-rectangle which contains a restricted area. As discussed above, this may over-estimate the value of each restricted area however it is felt that this approach is suitably precautionary.

**Eastern IFCA landings data** – Data is collated by Eastern IFCA officers throughout the year from each port. The data provided relies upon a mixture of fishers memories and records and whilst it is considered to be a good indicator it should not be regarded as being definitive.

**Zone of Influence** – Data was gained from consultation with fishermen willing to participate. The data is not representative of all fishing activity within the inshore fleets (generally vessels under 15m). Vessels under 15m are not required to carry Vessel Monitoring Systems. The Zone Of Influence data represents the best available information with regards to where these vessels carry out fishing activity. The data indicates where fishermen carry out fishing activity by gear. The data does not indicate levels of fishing activity. This has been augmented with information gained through Eastern IFCA's pre-consultation 'Information gathering'.

**Information gathered from 'Information Gathering' (Eastern IFCA pre-consultation with stakeholders)** – Exact values for landed catch were not forthcoming during the pre-consultation or meeting held with fishermen. Percentages of total income from some restricted areas were provided by two respondents.

**For clarity, it is stated throughout section 7 which dataset is being referred to after each statement/assumption on fishing activity.**

### ***Fishing activities within areas to be closed to bottom towed gear***

7.4 There is not currently any data for inshore fishing activity within the Eastern IFCA section of the Humber Estuary Special Area of Conservation. Anecdotal evidence from Eastern IFCA officers indicates that current activity is likely to be low to nil. The Eastern IFCA pre-consultation 'Information Gathering' phase did not include stakeholders in this region of the district. Since, at the time of the pre-consultation, Eastern IFCA had been advised by Natural England not to take forward protective measures at this time because of data deficiency. As such, no information is available on the fisheries activities that are currently taking place.

7.5 Within the Wash and North Norfolk Coast EMS, fishing activity predominantly consists of vessels from the ports of King's Lynn and Boston (zone of influence, *pers comms* Eastern IFCA officers). The main species landed at these ports are cockles, mussels, brown shrimp and pink shrimp (Eastern IFCA landings data). The most likely fishery to have conflict with the proposed restricted areas is the pink and brown shrimp fisheries (pre-consultation, *pers comms* Eastern IFCA officers)

7.6 Eastern IFCA records indicate that in 2012, 14 vessels landed brown shrimp at King's Lynn and 8 vessels landed brown shrimp at Boston. In addition, a single vessel from King's Lynn landed pink shrimp. In 2012, the vessels involved in the shrimp fishery from both ports totalled around 950 trips.

### Valuation of affected landings

**Table 7.1 Landings of brown and pink shrimp into King's Lynn and Boston as an average per year ( 2010 –2012) – Eastern IFCA landings records**

	Mean landed weight per annum (tonnes)	Mean Value per annum (£)
Brown Shrimp	415,526	735,103
Pink Shrimp	11,448	12,798
<b>Total</b>	<b>426,974</b>	<b>747,901</b>

*\*collective average of landings for all months from 2010, 2011 and 2012*

**Table 7.2 Value of landed catch from each ICES sub-rectangle which includes a restricted area – MMO landings data**

Restricted areas	Value of landings
boulder and cobble areas	£25,287*
<i>S. spinulosa</i> reef areas	£44,943**
North Norfolk Coast Eelgrass areas	£9,560***

*\*Average figure over 3 years (2009-2011)*

*\*\* Average figure over 3 years (2009-2011)*

*\*\*\* Average figure over 2 years (2009 & 2010)*

## ***Likely effects on fishing fleet from closure***

### **Under 15m Vessels**

7.7 It is uncertain to what extent the brown and pink shrimp fisheries will be impacted by the proposed restrictions. The majority of the vessels landing shrimp at Boston and King's Lynn are under 15m and as such do not have a requirement to use Vessel Monitoring System (VMS). Therefore Eastern IFCA does not have accurate information on the level of fishing activity at each restricted site.

7.8 Consultation with the fishing industry has indicated that the proposed Boulder and Cobble closed area A covers the main pink shrimp fishing ground. It also indicated that there is no alternative pink shrimp site in The Wash. As such this fishery is likely to be the most affected. One respondent indicated that fishing at this site represented more than 50% of his income. As such, an estimate for the cost to the pink shrimp fishery would be £6,399 to £12,798 annually. The business risk introduced to a fishing business where failure to deliver ordered catch to buyer causes that buyer to source produce elsewhere on a permanent basis is a factor that cannot be quantified but will have a significant impact.

7.9 It is unclear to what extent the brown shrimp fishery will be impacted. Consultation with the fishing industry has indicated that *S. spinulosa* reef areas A, B, D, E and F overlap with important brown shrimp grounds and represent 10 – 50% of income. As such, it is estimated that the cost to the brown shrimp fishery would be between £73,510.30 and £367,551.50 annually.

7.10 In addition to the shrimp fisheries, consultation indicated that demersal fish (skates, sole etc) are also targeted within some of the proposed restricted areas (both the *S. spinulosa* reef and Boulder and Cobble reef areas). Landings data from King's Lynn indicates that relatively small amounts of skates, cod and sole are landed however no values are given.

7.11 Eastern IFCA does not have any information on inshore fishing activity at either the Humber Estuary or Wash and North Norfolk Coast eelgrass sites. Anecdotal evidence and some responses from the 'Information Gathering' pre-consultation have indicated that no commercial trawling or dredging activity takes place at these sites.

### **Over 15m Vessels**

7.12 The figures presented in Table 7.2 are landings values from ICES sub-rectangles which contain proposed restricted areas. Restricted areas only represent a portion of each sub-rectangle and as such, values are potentially overestimates.

### ***Adaptability***

7.13 In order to assess the likely effects of the proposed closure on fishing activities, the extent to which vessels would be able to maintain the value of the catch by moving effort to other areas needs to be assessed.

7.14 A single vessel targeting pink shrimp sailing out of Boston has responded to the 'Information Gathering' consultation with the comment that there are no alternatives to the Boulder and Cobble Area A.

7.15 Pink and brown shrimp landings make up 9.24% of landings in Boston and King's Lynn by weight and 27.32% by value. This is a significant proportion of the income to these fishermen. The remainder income for these fishermen will mainly come from cockle and mussel landings, both of which are within the Wash Fishery Order 1992 and are regulated by Eastern IFCA. Whilst effort on the mussel and cockle fisheries is variable, it is not directed solely by commercial need but also through the Eastern IFCA's responsibility to maintain sustainable fisheries which do not damage the features of The Wash and North Norfolk Coast SAC. As such, it is unlikely that the shortfall in income from restrictions on the pink and brown shrimp fishery can be mitigated through increased effort on other fisheries.

### ***Indirect costs***

7.16 There may be increased steaming costs (travel costs) associated with displacement of fishing activity from restricted sites. Consultation with the fishing industry has indicated that with fewer sites to fish for pink and brown shrimp, fishermen may not be able to fulfil orders and may lose future contracts as a result. In addition, there are concerns from the fishermen that if fishermen are restricted from trawling at certain sites (for fin fish), they may lose their MMO licence to fish because of non-use.

### **Environmental costs**

7.17 There is the potential for trawling and dredging activities to be displaced on to other areas within Marine Protected Areas. In the case of shrimp trawling, this is unlikely as consultation with the industry has indicated that there are no alternative sites for shrimp trawling. With regards to other demersal species (skates, sole etc.) the potential impacts are unknown.

7.18 There is also the potential for potting to increase in areas closed to bottom towed gears, particularly in cobble and boulder area A. The risk matrix (ref) has indicated that potting activity is an 'amber' risk to subtidal cobble and boulder indicating that potting at certain levels may be damaging. Impacts of fishing activity on 'amber' and 'green' sub-features will be considered and any required regulation will be in place by 2016.

### **Administrative and enforcement costs**

7.19 The lead responsibility of enforcing an IFCA byelaw under section 155 of the Marine and Coastal Access Act 2009 will fall to the Eastern IFCA. All of the proposed closed area lies within 6nm. Whilst the Eastern IFCA does conduct some sea patrols the objective is for these to be intelligence led and targeted and they may not cover all of the areas to be protected. The necessity to ensure that new and in some cases contentious closed areas are not breached means that additional bespoke patrols are likely to be undertaken, which would result in additional cost. As most of the vessels using the proposed restricted areas are less than 15m they do not have VMS and as such, there is currently no method other than sea patrols for monitoring use of the sites.

7.20 Estimated potential additional costs have been calculated and are shown in table 7.4.

**Table 7.3 Annual additional costs of enforcement of recommended option**

<b>Activity</b>	<b>Cost per Unit (£)</b>	<b>Number of Units per year</b>	<b>Total cost per year (£)</b>
Additional IFCA patrols*	£365 (per patrol)	36-48	£15,000
Prosecution/investigation/ Guilty Plea only **	£10,000 per case	1	£10,000.00
<b>TOTAL</b>			<b>£25,067.30</b>

\* An average of 3-4 patrols per month. Cost per unit based on additional fuel costs, additional servicing and depreciation.

\*\* Including IFCO and PV time. Administration and Legal fees. Not Guilty Pleas could substantially increase Court costs

### **Benefits for recommended option**

7.21 The exclusion of towed gear, hand gathering and bait digging from the proposed areas would result in the following benefits:

- Environmental benefits of maintaining designated features of EMS
- Shrimp fishery is more likely to meet Marine Stewardship Council (MSC) accreditation

Environmental benefits and related ecosystem services can be valued but this is difficult to apply and the techniques required are beyond the scope of this impact assessment. Therefore the environmental benefits are described here as non-monetised benefits.

### **Environmental benefits**

#### ***S. spinulosa* reef**

7.22 The Wash and North Norfolk Coast Special Area of Conservation is particularly important as it is the only currently known location of well-developed stable *S. spinulosa* reef in the UK<sup>26</sup>. The reefs are also particularly important components of the subtidal as they are highly diverse communities compared with the surrounding areas, and large number of mobile species such as polychaetes, mysid shrimps, the pink shrimp *Pandalus montagui*, and crabs are all associated with the *Sabellaria* reef.

7.23 It is considered that the *S. spinulosa* is an important food source for the commercially important pink shrimp *Pandalus montagui* (see overview in Holt et al. 1998).

#### **Cobble and Boulder reef**

7.24 The Wash is principally a region of soft sediments but includes important areas of subtidal boulder and cobble communities within the Wash. There are two main types of communities that occur on these boulders and cobbles. The larger cobbles and boulders tend to be slightly scoured but relatively stable and as a result they are characterised by turfs of bryozoans such as *Flustra foliacea* and hydroids including *Nemertesia antennina*,

<sup>26</sup> English Nature's advice given under Regulation 33(2) of the Conservation (Natural Habitats &c.) Regulations 1994

*Abietinaria abietina*, *Halecium halecinum*, *Hydrallmania falcata* and *Obelia longissima* with the soft coral *Alcyonium digitatum* and anemones such as *Urticina felina*<sup>27</sup>.

7.25 Where scouring is more intense, or the substratum is of a smaller size and therefore less stable, communities are dominated by encrusting species such as the keelworm *Pomatoceros lamarcki*, barnacles *Balanus crenatus*, encrusting bryozoans *Conopeum reticulum* and coralline algae. Short turfs of bryozoans (*Crisia* sp. and *Bugula* sp.) and the sea squirt *Dendrodoa grossularia* may also occur.

7.26 Hard subtidal substrata have recently been found to be important for the settlement of mussel larvae which are relayed by the fishing industry up onto intertidal areas (Eastern IFCA, *Pers. Comm.*).

### **Eelgrass beds**

7.27 There are a number of ecological benefits provided by seagrass. It is important as a habitat, food source and plays a role in coastal protection.. Seagrass habitats act as nursery areas for juvenile animals providing shelter from strong currents. The reduced current caused by the presence of seagrass beds also promotes settling of suspended sediments, the roots bind together the substrate helping to prevent coastal erosion.

7.28 Eelgrass beds provide a nursery habitat for a number of juvenile species including fish and crustaceans some of which are of commercial value. For example, eelgrass beds in the Solent have traditionally been important as shrimping and prawning grounds. Commercial species such as bass and pollock are also associated with eelgrass beds and cuttlefish lay eggs on eelgrass foliage.

7.29 Several species of birds graze on eelgrass directly including brent geese. The importance of eelgrass as a portion of the diet of brent geese was recorded when declines in eelgrass populations in the 1930s also led to a decline in the occurrence of these birds. Brent geese are an internationally important regularly occurring migratory species.

7.30 The structure of eelgrass plants help to stabilise sediments and this was demonstrated when declines of eelgrass in the 1930s due to the wasting disease led to erosion of mud from Langstone Harbour<sup>28</sup>. Evidence of reduction in suspended particles and turbidity due to presence of eelgrass has been documented in a study of this species in Chesapeake Bay<sup>29</sup>.

7.31 However there is not currently believed to be any damaging activity occurring on eelgrass beds (*pers. Coms.* – Mike Rooney, National Nature Reserve manager for the North Norfolk Coast). As such, the present restrictions are only precautionary in nature (i.e. to prevent damage to the feature should trends shift towards more activity on eelgrass sites). Therefore no direct benefit is anticipated through regulation of these sites.

### **MSC Accreditation**

7.32 The shrimp fishery in The Wash is thought to supply mainly a Dutch market. It is uncertain whether the market demand for shrimp from the Dutch market will be

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<sup>27</sup> English Nature's advice given under Regulation 33(2) of the Conservation (Natural Habitats &c.) Regulations 1994

<sup>28</sup> Hampshire Wildlife Trust: Inventory of Eelgrass Beds in Hampshire and the Isle of Wight 2011

<sup>29</sup> Moore, K. A., 2004. Influence of seagrasses on water quality in shallow regions of the lower Chesapeake Bay. *Journal of Coastal Research*. 20: 162-178.

maintained in the future unless the Wash shrimp fishery can obtain MSC accreditation. Protection of EMS features is one of the assessment criteria of this process.

7.33 Implementing the proposed byelaw may be beneficial to the shrimp fishery in this sense however Eastern IFCA does not have the information to estimate the potential benefits (in terms of an estimated monetised value). However, failure to meet MCS accreditation in the future may lead to significant loss in earnings to the Wash Fishermen.

## **SUMMARY**

7.34 The maximum estimated value of catches that may be impacted for vessels over 15m is estimated at £50,790 per year. It is difficult to estimate the value of catches impacted for the majority of vessels fishing within the site (the under 15m fleet) because of a lack of spatial information on their fishing activity. In addition, values of catches in the restricted areas were not forthcoming during Eastern IFCA's pre-consultation 'Information Gathering'. However it was made clear during the pre-consultation that there would be impacts on catches and thus income particularly from sub-tidal boulder and cobble and *S. spinulosa* reef restricted areas. It was estimated that between 10 and 100% of income could be lost by certain fishermen. Between £79,909.30 and £380,349.50 is the best range of values that can be estimated from the current available information. Actual costs may be higher or lower. In addition it was indicated that these losses may also result in the loss of orders and fishing licenses Which would entail more significant and long term losses.

7.35 Environmental benefits of this closure include the protection of important habitats as a food source for overwintering birds, a nursery area for juvenile species, coastal protection services and reducing suspended sediments in the water.

7.36 There is the potential for fisheries benefits as a result of the proposed protection (overspill effects of protected brood stocks). However any benefits are likely to be longer term which may not balance the short term loss of fishing grounds if orders and licences are lost as a result of initial loss of fishing grounds. Furthermore, the potential for fisheries benefits resulting from the proposed closure have little or nil supporting evidence.

7.37 It is not possible to make a comparison of monetised costs and benefits so this has been outlined in a qualitative manner in the evidence base. The government is obligated to take appropriate conservation measures to maintain and restore the habitats for which sites were designated. Eastern IFCA also has a responsibility to ensure the sustainable management of inshore fisheries balancing environmental, social and economic costs and benefits.

## **Annexes**

### **Annex 1: Specific Impact Tests**

#### **2.1 Statutory Equality Duties**

2.1.1 Public bodies have a duty to take action to deliver better outcomes for different groups of people. This assessment is required if the proposal is relevant to equality.

2.1.2 There are no specific impacts in relation to equality to consider as part of this assessment.

#### **2.2 Competition Assessment**

2.2.1 The competition assessment is aimed at ensuring policies are implemented which do not unduly limit or damage competition in markets. Where a policy restricts competition, this can be expected to lead to an economic cost. Conversely, some policies can stimulate greater competition and economic benefits.

2.2.2 The proposed closure is not likely to impact on businesses in an equal manner. . The single vessel targeting pink shrimp is likely to be affected by the restrictions to a greater extent than the fishermen targeting brown shrimp. The proposed restrictions cover the main pink shrimping ground (Cobble and boulder area A) and consultation with the fishermen indicated that there were no alternative pink shrimp fishing areas. It is unknown as to whether the income lost from the restrictions on pink shrimp fishing can be negated by targeting another species.

#### **2.3 Small Firms Impact**

2.3.1 The small firms impact test is required if the proposal imposes or reduces costs on business. There is then a need to identify and explore the potential to minimise the impact of requirements on small firms.

2.3.2 Pink and brown shrimp fisheries are likely to be the most affected by the proposed restrictions. Fishermen targeting these shrimp fisheries also target mussel and cockle seasonally. Mussel and cockle fisheries are regulated by Eastern IFCA and total allowable catch (TAC) is limited by environmental, ecological and sustainability considerations. Because of the regulated nature of the mussel and cockle fishery, losses incurred due to restrictions placed on the shrimp fishery cannot necessarily be negated by increased effort in these fisheries. As such, there is potential for impact on small firms.

#### **2.4 Greenhouse Gas Assessment**

2.4.1 The purpose of this assessment is to identify net impacts on greenhouse gas emissions as a result of the proposal and to monetise these to be factored into the cost/benefit analysis.

2.4.2 There are no specific impacts in relation to the greenhouse gasses to consider as there will be no impact on emissions or the impact will be minimal.

#### **2.5 Wider Environmental Issues**

2.5.1 This test aims to determine, and where possible quantify, the environmental consequences of proposals.

2.5.2 Potential wider environmental impact caused by displacement from the proposed closed area to other European Marine Sites is considered within the evidence base of the impact assessment.

## **2.6 Health and Well being**

2.6.1 There is the potential for the proposed closure to cause a degree of stress to the fishers concerned which may have a negative impact on their health. With current coinciding management measures such as the MCZ projects leading to additional potential closures, fishers are increasingly concerned about potential impacts on their livelihoods.

## **2.7 Human Rights**

2.7.1 The aim of this test is to consider potential impacts on human rights.

2.7.2 There are no specific impacts in relation to human rights to consider.

## **2.8 Justice System Test**

2.8.1 The aim of this test is to consider the impact of the proposal on the justice system and potential cost implications.

2.8.2 Due to the small scale of the proposal there are no specific impacts in relation to the justice system to consider.

## **2.9 Rural Proofing**

2.9.1 This test is to ensure that proposals take into account the circumstances and needs of rural people and places.

2.9.2 There are no specific impacts in relation to the rural proofing to consider as the proposal will not have a disproportionate impact on rural communities.

## **2.10 Sustainable Development Test**

2.10.1 The aim of this test is to reflect further on the conclusion of the IA to determine whether there are any compelling sustainability-related reasons to amend the policy. Sustainable development is the principle that the current generation satisfies its basic needs and enjoys improving quality of life without compromising the position of future generations.

2.10.2 There are no specific impacts in relation to sustainable development to consider. This proposal is being implemented to increase sustainability.

## Annex 2: Condition assessment summary for the Wash and North Norfolk Coast SAC

<b>Gibraltar Point SPA</b>	<b>Condition Status</b>
Breeding Annex 1 birds	Favourable
Regularly occurring migratory birds	Favourable
PA review additional features: knot and assemblage of > 20,000 waterfowl & seabirds	Favourable
<b>The Wash SPA</b>	<b>Condition Status</b>
Breeding Annex 1 birds	Favourable
Assemblage of >20,000 waterfowl & seabirds	Favourable
Non-breeding Annex 1 birds	Favourable
Unfavourable declining	
<b>North Norfolk Coast SPA</b>	
Breeding Annex 1 birds	
Unfavourable declining	(Little tern and ringed plover, common tern unfavourable no change, 5 other sub-features all favourable or unfavourable recovering)
Regularly occurring migratory birds	Favourable
Assemblage of >20,000 waterfowl & seabirds	Favourable
<b>Wash &amp; North Norfolk Coast SAC</b>	<b>Condition Status</b>
Samphire & other annuals colonising mud & sand	Favourable*
Atlantic salt meadows	Favourable *
Mediterranean saltmarsh scrub	Favourable *
Lagoons (Snettisham)	Unfavourable * (Ongoing investigation into concerns over poor water quality & potential impact of unregulated development of new quays / jetties on extent of lagoons)
Intertidal mudflats and sandflats	Unfavourable declining (14 attributes in total, one unfavourable declining due to loss of cockle from le Strange. 13 in The Wash assessed as favourable or unfavourable recovering. Concerns over future loss of habitat through saltmarsh accretion and sea level rise.
Subtidal sandbanks (in The Wash only)	Favourable * (All 6 attributes are favourable in The Wash only. However, potential concerns over apparent significant change in sediment in north-western and south-eastern Wash that will be further investigated in 2011)
Reef	Favourable (but potential impact from towed gears being addressed through ESFJC byelaw)
Large shallow inlet & bay	Favourable *

### **Annex 3: Questions asked During 'Information Gathering' pre-consultation with stakeholders**

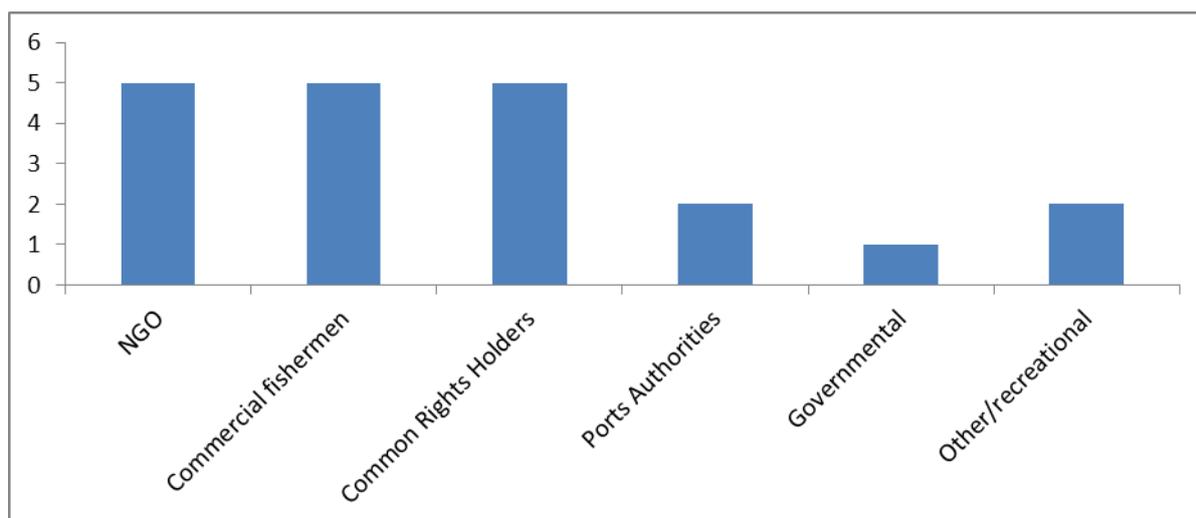
1. What is your relationship with the Wash and North Norfolk Coast European Marine Site?
2. How far from the site do you live or have your base of operations?
3. Given the proposed restricted areas (see the attached charts); what time of the year do you mainly use these areas?
4. Do you gain an income from within the proposed restricted areas?
5. If restricted from using this area, are there alternative areas or methods you would use?
6. Do you think there would be additional travel to use an alternative area – over and above your current travel?
7. If restricted from using this area, are there any additional costs, such as increased need processing or changes to insurance, that you can foresee?
8. Would you be willing to confidentially discuss the value of income lost with an officer?
9. What benefits do you predict coming from restricting activities on this site?
10. Do you foresee site biodiversity/condition improving with the proposed area restrictions?
11. Do you expect wider fishing stocks improving with the proposed area restrictions?
12. There is a potential for both losses and benefits to be influenced by other 'in-combination' effects (for example climate change). Can you suggest other activities that could influence these areas?
13. Do you think there is sufficient information regarding the feature site?
14. Do you think the proposed restricted areas will protect the features concerned?
15. Do you think the shape of the proposed restricted areas is appropriate for your use of the site?
16. Could you suggest any other measures that could support the features within the site?
17. Do you have any further comment on this issue?

## Annex 4: Summary of responses

### Summary of responses

On the 28<sup>th</sup> of June 2013 information gathering for sub-tidal boulder and cobble communities, and *Sabellaria spinulosa* reef closed, with information gathering on eel-grass closing on the 5<sup>th</sup> July 2013. There have been twenty submissions to the information gathering with responses evenly spread across the stakeholder base (see chart 1). There was an additional submission past the closing date.

Chart 1. Break down by sector of submissions to information gathering



The information gathering also identified that most submitters had concerns about the information used to make decisions, and the protective effect of the proposed closed areas.

While most submitters had some key concerns that were particular to them, there were some recurring themes. These are set out in the following table

Stakeholder comments	Stakeholder's interest(s)
Negative impacts on commercial fishing activity – particularly the possibility of foreclosing on the pink shrimp fishery and severely impeding the brown shrimp fishery.	Commercial Fishermen
Boundaries not aligned to tidal influences and fishing practices	Commercial fishermen
Negative impacts on designated features – <i>Sabellaria</i> not sufficiently protected by proposed byelaws	National NGO, Local NGO
Needing to consider the precautionary Principle further, in particular the need to be suitably cautious both in terms of buffer size and possible presence of <i>Sabellaria spinulosa</i> as a reef feature.	National NGO's
Lack of consistency between sectors – especially aggregate dredging and offshore wind-farm development.	Commercial fishermen
Lack of evidence of fishing impacts on features – 'light gear' has	Commercial fishermen

not been considered in risk audit.	
Positive impacts to designated features – Will protect features and is likely to have wider positive impacts	NGO, recreational
Unnecessary regulation – At present there are no activities occurring at the eelgrass sites that would damage the integrity of the site (with particular reference to trawling and dredging in eelgrass sites)	Common Rights Holders
legality of introducing byelaws on Common Land	Common Rights Holders

# Summary of Responses

## Questions

1. What is your relationship with the Wash and North Norfolk Coast European Marine Site?
2. How far from the site do you live or have your base of operations?
3. Given the proposed restricted areas (see the attached charts); what time of the year do you mainly use these areas?
4. Do you gain an income from within the proposed restricted areas?
5. If restricted from using this area, are there alternative areas or methods you would use?
6. Do you think there would be additional travel to use an alternative area – over and above your current travel?
7. If restricted from using this area, are there any additional costs, such as increased need processing or changes to insurance, that you can foresee?
8. Would you be willing to confidentially discuss the value of income lost with an officer?
9. What benefits do you predict coming from restricting activities on this site?
10. Do you foresee site biodiversity/condition improving with the proposed area restrictions?
11. Do you expect wider fishing stocks improving with the proposed area restrictions?
12. There is a potential for both losses and benefits to be influenced by other 'in-combination' effects (for example climate change). Can you suggest other activities that could influence these areas?
13. Do you think there is sufficient information regarding the feature site?
14. Do you think the proposed restricted areas will protect the features concerned?
15. Do you think the shape of the proposed restricted areas is appropriate for your use of the site?
16. Could you suggest any other measures that could support the features within the site?
17. Do you have any further comment on this issue?

**Note - some responses have been summarised below rather than copied in their entirety.**

**[ ] in EIFCA Comments indicate key points raised by response.**

## Response 1 *Please note – this response was summarised*

Organisation: [Local fishing business] and Kings Lynn Fishing Industry Co-operative

Focus of response – *Sabellaria spinulosa* reef and cobble and boulder reef (The Wash)

Question	Response	Eastern IFCA Comments
Employees/ members	5 employees and 40 members	Noted
1	Commercial Fisherman	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
2	Inside/Adjacent	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
3	All year	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
4	Yes – 10 to 50% (High inter-annual variability – demersal-tow for primarily pink shrimp but also sole, skate etc.)	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
5	No – No alternative to <i>Sabellaria</i> reef areas E & F and Cobble and boulder area A.	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
6	Yes – no estimate given	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
7	Yes – Loss of pink shrimp orders ( <i>Sabellaria</i> areas B-H and Cobble and boulder area A). Loss of brown shrimp income ( <i>Sabellaria</i> area A, B and D). Potential loss of MMO fish license (skate, sole etc.) due to non-use.	<ul style="list-style-type: none"> <li>Commercial loss is used to inform Impact Assessment.</li> <li>Loss of fishing options used to inform Impact Assessment and to be discussed with the MMO.</li> </ul>
8	Yes	
9	None –Other activities will still be consented (such as aggregate dredging and wind-farm development). Makes reference to Centrica’s Race Bank proposal for a cable	<ul style="list-style-type: none"> <li>[No benefits anticipated]</li> <li>Eastern IFCA and MMO working together to</li> </ul>

	route that overlaps with <i>Sabellaria</i> areas C, E, F, G & H and Cobble and boulder area A. Believes fishing industry is being unfairly targeted.	evolve a consistent approach.
10	No – Present restrictions do not restrict other damaging activities such as aggregate dredging and wind-farm development. Lack of evidence that the lighter demersal gears used by Wash fishermen will damage features, the 'high-risk' status is based on heavier gears. Restricting demersal gear may have a negative impact on biodiversity as seen with the Plaice Box in the North Sea, making the area much less suitable for interest feature. As there is no evidence that can rebut this, applying the precautionary principle would keep things as they are. In excluding demersal trawling, the area may be used more intensely for potting possibly affecting commercial stock levels and/or lead to degradation of the site.	<ul style="list-style-type: none"> <li>• [No benefits to biodiversity anticipated]</li> <li>• Eastern IFCA and MMO working together to evolve a consistent approach.</li> <li>• The supporting information<sup>30</sup> to the risk audit<sup>31</sup> did not focus on impacts on <i>Sabellaria</i> reef from 'light gears'. Changes to best available evidence can be reflected in a flexible byelaw.</li> <li>• There may be unintended consequences of restricting towed gear and the potential for increased potting activity is likely to require monitoring.</li> <li>• Potting activity on <i>Sabellaria</i> reef has been identified as an 'amber' risk and appropriate management measures (if required) will be in place by 2016.</li> </ul>
11	No – Given that the target species within the proposed restricted areas are mobile, the restricted areas will be too small to act as nursery areas or significant refuges for resident mature breeding adults. No overspill benefits are likely to occur for any locally commercial species (including brown crab and lobster). Closing the area to demersal trawling may increase potting effort leading to a reduction of target species.	<ul style="list-style-type: none"> <li>• [No benefits to fish stocks anticipated]</li> <li>• There may be unintended consequences of restricting towed gear and the potential for increased potting activity is likely to require monitoring.</li> <li>• Potting activity on <i>Sabellaria</i> reef has been identified as an 'amber' risk and appropriate management measures (if required) will be in</li> </ul>

<sup>30</sup> [Sabellaria spp reef](http://www.marinemanagement.org.uk/protecting/conservation/documents/ems_fisheries/sabellaria.pdf) – Supporting document for *S.spinulosa* reef ([http://www.marinemanagement.org.uk/protecting/conservation/documents/ems\\_fisheries/sabellaria.pdf](http://www.marinemanagement.org.uk/protecting/conservation/documents/ems_fisheries/sabellaria.pdf))

<sup>31</sup> [High risk inshore European marine sites and features and sub-features](http://www.marinemanagement.org.uk/protecting/conservation/documents/ems_fisheries/redsitelist.pdf) -

[http://www.marinemanagement.org.uk/protecting/conservation/documents/ems\\_fisheries/redsitelist.pdf](http://www.marinemanagement.org.uk/protecting/conservation/documents/ems_fisheries/redsitelist.pdf)

		place by 2016.
12	Aggregate dredging, offshore wind-farm development (ploughing in and EMF), oil and gas, pot fishing, land derived anthropogenic water pollution (agricultural, industrial, domestic), fresh water input into The Wash, Climate change.	Noted
13	No - <i>Sabellaria</i> survey appears to have been restricted by wind-farm developers (i.e. does not cover Lynn Knock although this is a known identified area supporting high quality reef) and by potting activities ( <i>Sabellaria</i> areas are largely outside of the “potting areas” of the local long-standing trawling-potting gentlemen’s agreement). The known area around Lynn Knock (from the 2008 consultation between ESF and the Wash fishing industry) should be included in the proposed sites to clearly highlight to central government and to green NGOs the conflict between offshore wind and protection of features of the designated site. This area was proposed because it was high quality reef and not in conflict with fishing activity.	<ul style="list-style-type: none"> <li>• [Not sufficient evidence with regards to feature]</li> <li>• <i>Sabellaria</i> reef at Lynn Knock is mostly outside of the Wash and North Norfolk Coast Special Area of Conservation (SAC).</li> <li>• One small section of <i>Sabellaria</i> reef (which is mostly within the Wash and North Norfolk Coast SAC) does extend outside of the SAC but is still protected through the proposed byelaw to protect site integrity.</li> <li>• The proposed restrictions may have unintended effects however the current proposal is in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> </ul>
14	No – See answers above to need to prevent non-fishing activities which might be justified as “of over-riding public interest”.	<ul style="list-style-type: none"> <li>• [Proposed restriction will not protect the <i>Sabellaria</i> reef and cobble and boulder reef features]</li> <li>• Eastern IFCA and MMO are working together to ensure consistent approach.</li> </ul>
15	No - <i>Sabellaria</i> areas C, E, F not aligned with the way that the tide runs. The NW and SE corners jut out across the tide. Better to snip off those corners. <i>Sabellaria</i> area F completely blocks pink shrimp tows over clear (as in un-restricted) ground to NE and SW. Tows typically 2hrs	<ul style="list-style-type: none"> <li>• [The proposed restricted areas are not appropriate]</li> <li>• Eastern IFCA has to act on the best available evidence.</li> </ul>

	at 2.3kts going through this track (and SE half of <i>Sabellaria</i> area E, and SE quarter of Boulder Cobble area A)	<ul style="list-style-type: none"> <li>The shape and orientation of the restricted 'boxes' are being revised with information gained from the 'Information Gathering' process being taken into account.</li> </ul>
16	Yes - No aggregate dredging, no wind-farm development (turbines or cabling), no other non-fishing activities affecting the seabed.	<ul style="list-style-type: none"> <li>Eastern IFCA and MMO working together to evolve a consistent approach.</li> <li>Comments should be reflected in the Eastern Marine Plan consultation.</li> </ul>
17	<p>There is a lack of evidence of damage being caused by light demersal gear on the designated features; evidence is more appropriate to heavier gear. A convenient blind-eye is being turned to damage done by offshore wind development. We are being forced to act too quickly without time to make an informed decision. Assurances were given by Defra that The Wash's European designations would not affect the fishing industry in The Wash. The whole thing is deeply dissatisfying. It does not foster the fishing community buy-in or support that which has been cultured in The Wash over many years. Promotes antagonism between EIFCA/Natural England and the fishing industry. Driven by agents outside of EIFCA and Natural England.</p> <p>In particular, restrictions in <i>Sabellaria</i> areas E &amp; F and cobble and boulder area A will remove key shrimp fishing areas from that fishery. Shrimp fishermen in The Wash will be less likely to fulfil and keep important shrimp orders. This would damage the prospects of the re-emerging shrimp fishery which, going on historical trends, would be worth £2-3 million and which if re-started would be important to local economy.</p> <p>It would be better to cut out the SE corner of the boulder cobble area per my emails with EIFCA, so as to</p>	<ul style="list-style-type: none"> <li>Summary reinforces points made above.</li> <li>Eastern IFCA agrees that ideally more time could be taken however regulatory measures must be in place for their protection by 31<sup>st</sup> December 2013.</li> <li>Eastern IFCA has used best available evidence in order to adhere to the timeframe. Eastern IFCA is keen to discuss potential <i>Sabellaria</i> reef experiments with Natural England.</li> <li>Eastern IFCA and MMO working together to evolve a consistent approach.</li> </ul>

leave that available for pink shrimp and fish trawling.

Adjusting the *Sabellaria* areas E & F would leave a clear corridor between E2N and E2S through into the area cut out of Boulder Cobble Area A, making an off-side demersal tow principally for pink shrimp.

Also by trimming corners off to better align with the run of the tide, hence the direction of tow of demersal gear, there is less "shadow" effect of areas that become unworkable because the corners (of the original neatly north-south and east-west drawn boxes) jut out across the tide and direction of working the ground.

It might be worth considering that the area between E2S and F2 might well not be workable with demersal towed gear (too short a gap and would have to be worked

10

across the tide where the tide runs strongly) so by way of compensation those two areas could be merged (but keeping borders aligned with the direction of the tide, not lat/long grid lines).

## Response 2

**Organisation: [Local fishing business]**

**Focus of response – *Sabellaria spinulosa* reef and boulder and cobble reef**

Question	Response	Eastern IFCA Comments
Employees/ members	55 employees	Noted
1	Commercial Fishing	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
2	Inside/adjacent	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
3	All year	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
4	Yes – 50% plus	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
5	No – no alternative area	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
6	n/a	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
7	Yes – closing the proposed fishing grounds would lead to unemployment (cobble and boulder site)	<ul style="list-style-type: none"> <li>Commercial loss used to inform Impact Assessment.</li> </ul>
8	Yes	
9	None	<ul style="list-style-type: none"> <li>[No benefits anticipated]</li> </ul>
10	No – Ground is currently in good condition with fishing activity occurring. Lack of fishing may have a negative effect.	<ul style="list-style-type: none"> <li>[No benefits to biodiversity anticipated]</li> <li>There may be unintended consequences of restricting towed gear. Monitoring may be required in addition to Natural England’s Condition Assessment.</li> </ul>
11	No – Look at North Sea Plaice Box for example	<ul style="list-style-type: none"> <li>[No benefits to fish stocks anticipated]</li> </ul>

12	Wind-farms, wind-farm cables, aggregate dredging, beach recharge	<ul style="list-style-type: none"> <li>• Eastern IFCA and MMO working together to evolve a consistent approach.</li> </ul>
13	No – There has been no consultation with the fishing industry within NetGain programme with regard to boulder and cobble feature.	<ul style="list-style-type: none"> <li>• Confusion between the MCZ process and the current EMS work. This is understandable given the timing of the two projects.</li> <li>• Boulder and cobble reef is not an interest feature of the Marine Conservation Zones.</li> <li>• Eastern IFCA will endeavour to make a clearer distinction between the current proposals with regards to EMS and MCZs.</li> </ul>
14	No – Fishing industry in The Wash has had no detrimental effect on biodiversity so far, preventing fishing activity may have detrimental effects.	<ul style="list-style-type: none"> <li>• [Proposed restriction will not protect the <i>Sabellaria</i> reef and cobble and boulder reef features]</li> <li>• Eastern IFCA and MMO are working together to ensure consistent approach.</li> <li>• The proposed restrictions may have unintended effects however the current proposal is in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> </ul>
15	No – we want to see the up-to-date information regarding the feature.	<ul style="list-style-type: none"> <li>• [The proposed restricted areas are not appropriate]</li> <li>• Eastern IFCA has to act on the best available evidence. The shape and orientation of the restricted 'boxes' are being revised with information gained from the 'Information Gathering' process being taken into account.</li> <li>• Further surveys have been committed to in 2013 to survey boulder and cobble reef to further inform the restricted areas.</li> <li>• Changes in best available evidence can be reflected in a flexible byelaw.</li> </ul>

16	Yes - continue current activities because obviously the features are not being damaged by fishing activities.	<ul style="list-style-type: none"> <li>• The proposal is in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> <li>• Changes in best available evidence can be reflected in a flexible byelaw.</li> </ul>
17	The charts supplied with the questionnaire are not sufficient for us to discuss livelihoods.	<ul style="list-style-type: none"> <li>• Eastern IFCA has produced more informative charts for further discussions and will provide these charts during the formal consultation process.</li> </ul>

## Response 3

**Organisation:** [Local fishing business]

**Focus of response:** *Sabellaria spinulosa* reef and boulder and cobble reef

NB: Response received as a letter

Question	Response	Eastern IFCA Comments
Employees/ member		
1	Commercial fisherman	[interpreted from letter] <ul style="list-style-type: none"><li>• Used to inform Impact Assessment</li></ul>
2	[Inside/adjacent]	[interpreted from letter] <ul style="list-style-type: none"><li>• Used to inform Impact Assessment</li></ul>
3		
4		
5	Not during autumn	[interpreted from letter] <ul style="list-style-type: none"><li>• Used to inform Impact Assessment</li></ul>
6		
7		
8		
9		
10		

11		
12		
13	No – One of the largest boulder areas in The Wash has not been considered.	<ul style="list-style-type: none"> <li>• [Not sufficient evidence with regards to feature]</li> <li>• Eastern IFCA has to act on the best available evidence. Further surveys have been committed to in 2013 to survey boulder and cobble reef to further inform the restricted areas.</li> </ul>
14	No – as above	<ul style="list-style-type: none"> <li>• [Proposed restriction will not protect cobble and boulder reef feature]</li> <li>• Eastern IFCA has to act on the best available evidence. Further surveys have been committed to in 2013 to survey boulder and cobble reef to further inform the restricted areas.</li> </ul>
15	<p>No – <i>Sabellaria</i> areas E &amp; F are what we call the float ground. We regularly fish here for pink shrimps; in fact in autumn it is the only place we can find them. E and F are exactly in the middle of the tow. It would not be viable to haul and shoot round these areas when you consider the amount of warp you need to fish this ground. We do not have room to manoeuvre either side of the boxes because to the west of the Well which is too rough for our light gear and to the east is too shallow for quality pink shrimp. The whole area is inundated with pots. We only have a small corridor through them, which is exactly where E and F are situated.</p> <p>The north east section of cobble and boulder area A is important for shrimp. Shortening the NE end would be broadly acceptable.</p>	<ul style="list-style-type: none"> <li>• [The proposed restricted areas are not appropriate]</li> <li>• Eastern IFCA has to act on the best available evidence. The shape and orientation of the restricted 'boxes' are being reviewed in light of information gained from the 'Information Gathering' process.</li> </ul>
16		

17	A meeting with the industry to try and find a solution which both parties can live with.	<ul style="list-style-type: none"><li>• Community meetings have been held.</li></ul>
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## Response 4

**Organisation: Wells Harbour Authority**

**Response focus: eelgrass communities**

Question	Response	Eastern IFCA Comments
Employees/ members	14 employees	Noted
1	Other: Harbour Authority with multiple interests - <i>Commercial fishing, recreational fishing, bait digging, recreational boating, bird watching, local resident and other recreational</i>	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
2	Inside/adjacent	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
3	All year	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
4	Yes – 50% plus	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
5	No	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
6	N/A	
7	N/A	
8	Yes	
9	None	<ul style="list-style-type: none"> <li>[No benefits anticipated]</li> </ul>
10	No	<ul style="list-style-type: none"> <li>[No benefits to biodiversity anticipated]</li> </ul>
11	No	<ul style="list-style-type: none"> <li>[No benefits to fish stocks anticipated]</li> </ul>
12	None suggested	

13	No – Eight (eelgrass) sites identified on plan by IFCA. Actual areas – only one ring hence no need to have such a large restricted area. See attached survey area <sup>32</sup> of Zostera beds for Wells Harbour.	<ul style="list-style-type: none"> <li>• [Not sufficient evidence with regards to feature]</li> <li>• The shape and orientation of the restricted ‘boxes’ are being reviewed in light of information gained from the ‘Information Gathering’ process being.</li> </ul>
14	No – The area in question (relating to the eelgrass areas within the Wells Harbour) is already highly regulated and monitoring is carried out under Wells Harbour Commission’s Policy. No fishing activity traditionally has ever taken place in the area.	<ul style="list-style-type: none"> <li>• [Proposed restriction will not protect the eelgrass feature]</li> <li>• The proposal is in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> <li>• Defra’s policy statement<sup>33</sup> stipulates that ‘high risk sub-features must be protected regardless of current activity or condition’</li> </ul>
15	No – The proposed restricted area is too large, only the area of the eelgrass beds should be restricted.	<ul style="list-style-type: none"> <li>• [The proposed restricted areas are not appropriate]</li> <li>• The shape and orientation of the restricted ‘boxes’ are being reviewed in light of information gained from the ‘Information Gathering’ Process.</li> </ul>
16	No	
17	<p>The proposed area is already highly regulated being in an SSSI, SAC, RAMSAR site etc. The harbour Authority already monitors the eelgrass beds and submits an annual report to the MMO, Natural England and Cefas.</p> <p><i>Comments received by same respondent via email prior to receiving completed questionnaire:</i> Thank you for your email 17<sup>th</sup> June requesting a response to your proposals on a revised approach regarding fishing activity</p>	<ul style="list-style-type: none"> <li>• The proposed restrictions are a result of the listed conservation designations rather than being in addition to them.</li> <li>• The proposal is in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> </ul> <p>Email responded to by Eden Hannam</p>

<sup>32</sup> Chart attached as appendix 1

<sup>33</sup> [EMS revised approach policy and delivery paper](http://www.marinemanagement.org.uk/protecting/conservation/documents/ems_fisheries/policy_and_delivery.pdf) - [http://www.marinemanagement.org.uk/protecting/conservation/documents/ems\\_fisheries/policy\\_and\\_delivery.pdf](http://www.marinemanagement.org.uk/protecting/conservation/documents/ems_fisheries/policy_and_delivery.pdf)

within European Marine Sites.

The Information in the [attached] zipped file included a chart of Wells-next-the-sea showing a proposed area which would be closed to dredging and trawling.

Firstly can I ask could you give me more clarity on the term "dredging and trawling" as the Port of Wells dredges the channel which is in this area to maintain the depth so that the Port is fit for purpose. The dredging the Port carries out is bottom dredging where the material is taken from the main channel and side swiped onto the eastern edge of the channel. This is approved and licenced by the MMO, Natural England, Cefas etc.

Also your chartlet shows a big area divided off by two red lines, with eight circles depicting eelgrass beds. There is only one area of eelgrass bed within Wells Harbour which would be in the area of your southern most red circle, so my question to you would be why are there eight areas identified and why have you taken such a big area which incorporates the Outer Harbour and dredged channel into your proposed closed area?

Furthermore Wells Harbour have engaged Royal

Haskoning over the last 3+ years to monitor the eelgrass bed quarterly within the Harbour and their findings/results are submitted to the MMO annually.

I look forward to your response and then I can submit our comments with your questionnaire.

## Response 5

**Organisation: Spalding Ramblers Club**

**Combined from 2 responses from same stakeholder**

**Response focus: *Sabellaria spinulosa* reef, boulder and cobble reef and eelgrass communities.**

Question	Response	Eastern IFCA Comments
Employees/ member	70 members	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
1	Bird watching and other recreational (walking on Norfolk Coast)	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
2	20-50 miles	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
3		
4		<ul style="list-style-type: none"> <li>[No economic impacts anticipated]</li> </ul>
5		
6		
7	No – It would only impact on our recreation if any area of land surrounding the said areas were restricted.	<ul style="list-style-type: none"> <li>[No impacts anticipated]</li> </ul>
8		
9	Supporting wildlife	<ul style="list-style-type: none"> <li>[Benefit to wildlife is anticipated]</li> </ul>
10	Yes	<ul style="list-style-type: none"> <li>[Benefit to biodiversity is anticipated]</li> </ul>
11	Yes - Assume this would happen if the habitat is	<ul style="list-style-type: none"> <li>[Benefit to fish stocks is anticipated]</li> </ul>

	protected.	
12		
13	Yes	<ul style="list-style-type: none"> <li>• [There is enough evidence regarding the feature]</li> </ul>
14	Yes	<ul style="list-style-type: none"> <li>• [Restrictions will protect the <i>Sabellaria</i> reef, cobble and boulder reef and eelgrass communities features]</li> </ul>
15		
16	No	
17		

## Response 6

Organisation: n/a (Stakeholder 1)

Response focus: *Sabellaria spinulosa* reef and boulder and cobble reef

Question	Response	Eastern IFCA Comments
Employees/ members	n/a	
1	Bird watching	<ul style="list-style-type: none"> <li>Used to inform impact assessment</li> </ul>
2	20-50 miles	<ul style="list-style-type: none"> <li>Used to inform impact assessment</li> </ul>
3		
4	No	<ul style="list-style-type: none"> <li>[No economic impacts are anticipated]</li> </ul>
5		
6		
7		
8		
9		
10	Yes – Restricting the use of bottom dredging at the site should be more viable for a larger range of species and to allow a safe zone for the larvae and young to further expand beyond the zone thus increasing fish stocks.	<ul style="list-style-type: none"> <li>[Benefit to biodiversity is anticipated]</li> </ul>
11	Yes – Allows a safe zone from which stocks can expand without the disruption and destruction of dredge trawlers.	<ul style="list-style-type: none"> <li>[Benefit to fish stocks is anticipated]</li> </ul>

12	Pollution	Noted
13	Yes	<ul style="list-style-type: none"> <li>[There is sufficient evidence regarding the <i>Sabellaria</i> reef, cobble and boulder reef feature]</li> </ul>
14	Yes	<ul style="list-style-type: none"> <li>[Restrictions will protect the <i>Sabellaria</i> reef, cobble and boulder reef and eelgrass communities features]</li> </ul>
15		
16	No	
17	As a conservationist and the enjoyment of eating seafood I think this is a win-win situation. OK the fishermen will lose in the short term, with the potential of increased stock from the protected zone will gain in the end.	<ul style="list-style-type: none"> <li>[Stakeholder is supportive of the proposals]</li> </ul>

## Response 7

**Organisation: Marine Conservation Society, Client Earth**

**Response focus: *Sabellaria spinulosa* reef**

Question	Response	Eastern IFCA Comments
Employees/ members	62 employees, 5000 members	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
1	National NGO	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
2	50 miles plus	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
3	n/a	
4	No	<ul style="list-style-type: none"> <li>[No economic impacts anticipated]</li> </ul>
5	n/a	
6	n/a	
7	n/a	
8	n/a	
9	European compliance (if management is at appropriate scale), MSC compatibility (can only be achieved if the requirements of the habitats directive are met. The current proposals do not allow for necessary precautionary protection of the sites conservation features), supporting wildlife, tourist attraction, greater fish stocks, level playing field, unique selling point, increased biodiversity.	<ul style="list-style-type: none"> <li>[Benefit to biodiversity is anticipated]</li> <li>[Restrictions do not go far enough]</li> <li>The proposal is in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> <li>Eastern IFCA seeks a proportionate approach in balancing the precautionary principle with the current status of the features,</li> </ul>

		the potential for credible risk and best available evidence.
10	Yes/No – There will be some improvement perhaps, but on a miniscule scale compared to the requirements to protect the whole site. Dredging and trawling over biogenic feature reduces the ability of that feature to achieve a climax community state. This is the case for temporary, periodic or more concentrated trawling. A 'climax community' state is where the growth of a community will achieve a level at which natural dominant assemblages will be able to recruit, colonise, establish and grow. These long-lived and more mature communities will provide reproductive output to areas outside the protected zones for colonisation elsewhere, and will provide a sheltering point from which commercial and non-commercial species will build up in biomass, increasing the reproductive potential from the site. Therefore, for biodiversity / condition of the site to improve, dredging and trawling should be restricted from any area that could potentially accrete and grow into a reef. According to the Habitats Directive, a reef is any feature that stands proud of the surrounding seabed. NE have hosted workshops that have created rather arbitrary measures of what constitutes 'reef'. This definition differs from the HD definition.	<ul style="list-style-type: none"> <li>• Site vs features approach was discussed at national level.</li> <li>• Eastern IFCA's approach is focussed on protecting core reef areas.</li> <li>• A 'climax community' of <i>Sabellaria spinulosa</i> reef is difficult to apply to a 'naturally ephemeral species'.</li> <li>• Changes to best available evidence can be reflected in a flexible byelaw.</li> <li>• MCS have an alternative view on the potential for damage to occur to <i>Sabellaria</i> reef from fishing activity (see response 1,2 and 3).</li> <li>• The definition of 'biogenic reef' provided within the Habitats Directive and the Interpretation Manual<sup>34</sup> are generic.</li> <li>• The Gubbay workshop (2007) definition has been used as it is more specific and can be practically applied to the feature.</li> <li>• This definition of 'biogenic reef' has been applied to sites and in Habitats Regulation Assessments nationally, across many plans and projects.</li> </ul>
11	No – because the restricted areas are too small, disconnected, and will not allow the entire site	<ul style="list-style-type: none"> <li>• [No benefits to fish stocks anticipated]</li> </ul>

<sup>34</sup> [Interpretation Manual](http://ec.europa.eu/environment/nature/legislation/habitatsdirective/#interpretation) - <http://ec.europa.eu/environment/nature/legislation/habitatsdirective/#interpretation>

	<p>to maintain ecological integrity of the <i>Sabellaria</i> feature. The restricted areas should be expanded and connected, not only to provide precautionary protection to the habitat (which is a requirement of The Directive), but also to provide an opportunity for reef communities to build up. In addition, this would also allow the spawning stock biomass of the target species (predominantly pink shrimp) to build up, and provide eggs at higher concentrations to fished areas outside the closed areas. However, the Habitats Directive requires that EIFCA should primarily be concerned that the favourable conservation status of the <i>Sabellaria</i> habitat is maintained or recovered for the entire site.</p>	<ul style="list-style-type: none"> <li>• The current buffers placed around each identified area of <i>Sabellaria</i> reef are consistent with advice from Natural England.</li> <li>• However, the shape and orientation of the restricted 'boxes' are being revised in light of information gained from the 'Information Gathering' process.</li> <li>• Given the variability of <i>Sabellaria spinulosa</i>, it is difficult to predict reef occurrence and fishing activity is unlikely to be the only limiting factor of reef formation.</li> <li>• Eastern IFCA will monitor buffer zones to survey for reef formation.</li> <li>• Changes to best available evidence can be reflected in a flexible byelaw.</li> <li>• Pink shrimp fisherman in The Wash avoid <i>Sabellaria</i> reef as it 'clogs-up' the shrimp nets.</li> <li>• Eastern IFCA agrees that our '<i>primary concern should be the favourable status of the Sabellaria habitat</i>'.</li> </ul>
12	<p>Yes - Indeed, sea level rise and increased wave action associated with stronger weather events will likely impact this site, and the location of reef features. Also, it is clear from research in the North Sea that reefs are naturally ephemeral. In the absence of real-time annual surveys of the entire site to adequately describe reef areas, protection of all previous and potential distributions of the reef feature should be the initial default management measure in order to be compliant with the Article 6 of the Directive. This is in line with the law, and Defra's 'new' policy.</p>	<ul style="list-style-type: none"> <li>• Eastern IFCA agrees that '<i>it is clear from research in the North Sea that reefs are naturally ephemeral</i>'.</li> <li>• Eastern IFCA currently conducts annual surveys of <i>Sabellaria</i> reef within the Wash. Data is passed on to Natural England to provide statutory advice.</li> </ul>

13	<p>No - The historical baseline of the potential areas for feature distribution should be considered in order to ensure that the potential areas for restoration, recovery or regeneration of the habitat can occur. Continuous abrasion by trawls will likely compromise the ability of potential new <i>Sabellaria</i> reef to (re)grow. We strongly recommend that these protected measures are established over current populations of the habitat, AND areas of historical populations such as those reported in NE report #543 (<a href="http://publications.naturalengland.org.uk/file/79001">http://publications.naturalengland.org.uk/file/79001</a>). We attach a map for reference.</p>	<ul style="list-style-type: none"> <li>• [Not sufficient evidence with regards to feature]</li> <li>• Eastern IFCA conduct annual <i>Sabellaria</i> reef surveys, data from these surveys were used in the NE report 543.</li> <li>• The latest condition assessment for the Wash and North Norfolk Coast SAC was produced in 2010, after NE report 543 (2004).</li> </ul>
14	<p>No - MCS believe the area of the proposed protected areas are not an appropriate management solution to maintain the integrity of the entire range of the feature(s). The Habitats Directive requires a precautionary approach for sites in the absence of perfect knowledge of distribution. If there is the potential for features to persist in a wider area outside the current mapped area, then these areas should be protected. If this is not known, then there is scientific doubt (Article 6(3)), and the entire site should be protected. It is then up to the members of the fishing industry that want to use a specific area of the site to fund a study to ensure that area for that particular year doesn't host the feature and that the proposed fishing activity will not affect the integrity of the site. This is the same logic that applies to other potentially damaging industries wishing to access European Marine Sites.</p>	<ul style="list-style-type: none"> <li>• [Proposed restriction will not protect the <i>Sabellaria</i> reef feature]</li> <li>• Eastern IFCA seeks a proportionate approach in balancing the precautionary principle with the current status of the features, the potential for credible risk and using best available evidence.</li> <li>• MCS's comment is not reflective of the wider obligations of Eastern IFCA as mandated by the Marine and Coastal Access Act (MaCAA) (2009) and the Marine Policy Statement is not considered. The provisions of MaCAA are not subordinate to the requirement to introduce a protective effect for habitats and species and in taking action, IFCA's must be cognisant of the wider duties and responsibilities expected of them.</li> </ul>

15	<p>No - Neither the size nor the shapes of the proposed restricted areas are based on current knowledge of distribution of <i>Sabellaria</i> for the entirety of the site, or its potential for distribution. The areas A to H in the EIFCA map should be protected, but in addition, larger areas outlined in the attached map also need to be protected in accordance with the requirements of the Habitats Directive. The larger areas in the attached map show previously recorded distributions of <i>Sabellaria</i> in an official NE report (#543). This would provide a much more comprehensive measure of protection to the site, whilst allowing some access between features.</p>	<ul style="list-style-type: none"> <li>• [The proposed restricted areas are not appropriate]</li> <li>• Eastern IFCA has acted on best available evidence to inform the size and location of the proposed restricted areas.</li> <li>• The shape and orientation of the restricted 'boxes' are being reviewed in light of information gained from the 'Information Gathering' Process.</li> <li>• <i>Sabellaria spinulosa</i> itself is not a European Protected Species nor an Annex 1 habitat; only in its reef form is it protected under the Habitats Directive.</li> </ul>
16	<p>Yes - The use of pelagic trawls or traps as opposed to using bottom trawls could provide better protection for the features. The effects of such measures would still need to be monitored to ensure that site integrity is maintained.</p>	<ul style="list-style-type: none"> <li>• The potential to explore the use of alternative fishing methods and gears is noted. Eastern IFCA will seek to investigate this possibility with the fishing industry alongside other gear-impact and gear-mitigation studies.</li> </ul>
17	<p>Article 6(3) of The Habitats Directive requires precautionary protection for sites when the distribution of features is uncertain, or where there could be a likely significant effect of a conservation feature being damaged. Unfortunately (for managers and fishers), the <i>Sabellaria</i> naturally occurs in different areas of the site at different times. A legal requirement of The Directive is to protect features within the site in areas where it may be considered the feature is currently present, or could be present. Thus we have recommended larger protected areas in order to bring fisheries management into greater compliance with the</p>	<ul style="list-style-type: none"> <li>• The current proposal is relevant to Article 6(2) of the Habitats Directive. Article 6(3) will be relevant when considering 'amber' and 'green' gear-type/sub-feature interactions.</li> <li>• The approach to protect individual sub-features rather than the whole site is consistent with the national approach.</li> </ul>

	requirements of the Directive.	
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## Response 8

**Organisation: Scolt Head & District Common Right Holders**

**Response focus: Eelgrass (North Norfolk Coast)**

Question	Response	Eastern IFCA Comments
Employees/ members	>400 members	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
1	Bait digging, local resident and Common Rights Holder	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
2	Inside/adjacent	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
3	All year	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
4	No	<ul style="list-style-type: none"> <li>[No economic impacts anticipated]</li> </ul>
5	No – Common Rights cannot be restricted	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
6	n/a	
7	n/a	
8	n/a	
9	None – Common Right activities at this area is negligible and there is no dredging/trawling allowed anyway as it is common land.	<ul style="list-style-type: none"> <li>[No benefit to biodiversity is anticipated]</li> <li>[Trawling and dredging does not occur on common land]</li> <li>The proposed restrictions are in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> <li>Defra’s policy statement stipulates that ‘high risk sub-features</li> </ul>

		must be protected regardless of current activity or condition'
10	No – The proposed restrictions do not affect common rights. There is, in fact, no dredging allowed in the area already because it is common land with Rights over it. The effect common right activity has on this area is negligible and at present there is no trawling/dredging, so a restriction would actually change nothing.	<ul style="list-style-type: none"> <li>• [Benefit to biodiversity is anticipated]</li> <li>• [Trawling and dredging does not occur on common land]</li> <li>• The proposed restrictions are in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> <li>• Defra's policy statement stipulates that 'high risk sub-features must be protected regardless of current activity or condition'</li> </ul>
11	No	<ul style="list-style-type: none"> <li>• [No benefits to fish stocks anticipated]</li> </ul>
12		
13	I have no idea what information is available to you.	
14	No – because the proposed restriction will have no effect as what is proposed doesn't happen anyway. Other activity in the area has a negligible effect.	<ul style="list-style-type: none"> <li>• [Proposed restriction will not protect the eelgrass feature]</li> <li>• The proposed restrictions are in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> <li>• Defra's policy statement stipulates that 'high risk features must be protected regardless of current activity or condition'</li> </ul>
15		
16	- I am not in possession of the appropriate facts or information. Isn't that what experts are for? My concern is that any further measures should only be considered bearing in mind the small amount of common right activity in the area which cannot be restricted.	<ul style="list-style-type: none"> <li>• [Common Rights activities have negligible impacts]</li> </ul>
17	Since the activities being restricted by the	<ul style="list-style-type: none"> <li>• The proposed restrictions are in line with the national approach</li> </ul>

proposal don't take place there and are not allowed on Common Land anyway it would seem a considerable waste of time and effort consulting on it. Also, given that the activity in that area is minimal and also given that my understanding is that the amount of eelgrass in the area has been pretty constant, I think that Defra and EIFCA should find more productive things to spend their time on.

to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.

- Defra's policy statement stipulates that 'high risk features must be protected regardless of current activity or condition'

## Response 9

**Organisation: n/a (Stakeholder 2)**

**Response Focus: Eelgrass (North Norfolk Coast)**

Question	Response	Eastern IFCA Comments
Employees/ members	n/a	Noted
1	Recreational fishing, local resident, bait digging, recreational boating, other recreational [common rights holder]	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
2	0-5 miles	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
3	All year	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
4	No	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
5	Yes – However proposed restricted area is part of Common Land (CL65). The Common also has a number of Rights registered to it including; bait digging, fishing, shellfish, samphire, wildfowling and many more. Any restrictions to prohibit the exercise of these Rights is unlawful.	<ul style="list-style-type: none"> <li>[Economic impacts anticipated]</li> <li>Used to inform Impact Assessment</li> <li>Eastern IFCA is seeking legal advice on the legality of proposing byelaws on common land.</li> </ul>
6	No – 0-5 miles.	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
7	No	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
8	No	
9		
10	No	<ul style="list-style-type: none"> <li>No benefit to biodiversity is anticipated.</li> </ul>
11	No	<ul style="list-style-type: none"> <li>No benefit to fish stocks is anticipated.</li> </ul>

12		
13	Yes (eelgrass)	<ul style="list-style-type: none"> <li>• [There is sufficient evidence regarding the <i>Sabellaria</i> reef, cobble and boulder reef feature]</li> </ul>
14	No – There is no dredging or trawling that takes place inside of Overy Harbour (chart 3) so there is no need for restriction. The area of eelgrass will not be damaged by another activity.	<ul style="list-style-type: none"> <li>• [Proposed restriction will not protect the eelgrass feature]</li> <li>• [Trawling and dredging does not occur on common land]</li> <li>• The proposed restrictions are in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> <li>• Defra’s policy statement stipulates that ‘high risk features must be protected regardless of current activity or condition’</li> </ul>
15	No – No restriction is needed so the shape is immaterial	Noted
16	No	
17	As Mentioned previous (5) the restricted area fall within CL65 which is registered Common Land (Common Registration Act 1965 updated 2006). There are a number of Common Rights Registered under the same Acts of Parliament. Any restrictions placed on Common Land which prevents commoners from exercising the Rights is unlawful. A register of Rights and Rights Holders is held by Commons Registration Authority, County Hall, Norfolk.	<ul style="list-style-type: none"> <li>• Eastern IFCA is seeking legal advice on the legality of proposing byelaws on common land.</li> </ul>

## Response 10

**Organisation: n/a (stakeholder 3)**

**Response Focus: Eelgrass (North Norfolk Coast)**

Question	Response	Eastern IFCA Comments
Employees/ members	n/a	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
1	Commercial fisherman, local resident, bird watching, other recreation.	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
2	0-5 miles.	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
3	July, August and September	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
4	Yes - 0-5%	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
5	Yes	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
6	Yes – 0-5 miles	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
7		
8		
9		
10	No	<ul style="list-style-type: none"> <li>No benefit to biodiversity is anticipated.</li> </ul>
11	No	<ul style="list-style-type: none"> <li>No benefits to wider fish stocks are anticipated.</li> </ul>
12		
13	Yes (eelgrass)	<ul style="list-style-type: none"> <li>[There is sufficient evidence regarding this feature]</li> </ul>

14	No – I am only referring to [eelgrass site] J at the east end of Blakeney, There are no fishing activities that effect this site, only small scale samphire picking and the odd fixed net.	<ul style="list-style-type: none"> <li>• [Proposed restriction will not protect the eelgrass feature]</li> <li>• [Trawling and dredging does not occur on common land]</li> <li>• The proposed restrictions are in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> <li>• Defra’s policy statement stipulates that ‘high risk features must be protected regardless of current activity or condition’</li> </ul>
15	Yes	Noted
16	No	
17	The main threat to the eelgrass beds at site J is silting up, this is happening at an alarming rate. Probably about 2-3 feet in 50 years.	<ul style="list-style-type: none"> <li>• Eelgrass communities are potentially at risk from natural processes that occur within the site.</li> </ul>

## Response 11

**Organisation: Lincolnshire Wildlife Trust**

**Response focus: *Sabellaria spinulosa* reef and boulder and cobble reefs**

Question	Response	Eastern IFCA Comments
Employees/ members	70 employees, 25,000 members	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
1	National NGO	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
2	Inside/adjacent	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
3	n/a	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
4	No	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
5		
6		
7		
8		
9	European compliance, increased biodiversity, supporting wildlife, level playing field	<ul style="list-style-type: none"> <li>[Benefits are anticipated as a result of the proposed restrictions]</li> </ul>
10	Yes - We would hope from restricting damage to these features their condition will improve as will the biodiversity associated with the reef features. It will also be interesting to see whether the buffer areas will see development of <i>sabellaria</i> reef once pressures have been removed from these areas.	<ul style="list-style-type: none"> <li>[The restrictions will have a beneficial effect on biodiversity]</li> <li>Eastern IFCA seeks to monitor reef development in buffer zones.</li> </ul>
11	No	<ul style="list-style-type: none"> <li>[No benefits to wider fish stocks are anticipated]</li> </ul>

12		
13	Yes	
14	<p>Yes - We are pleased the level of surveys in the Wash have allowed for the core reef features to be identified. However, we do have concerns around how the buffer zones have been decided upon and that in some cases this will result in buffer zones that are too small. We understand that NE have provided advice that the buffer should be 4 times the water depth, while this may be ok for fixed features, when the feature is fairly mobile which is the case for <i>sabellaria</i> we think in shallow waters this will result in buffers that are too small. For example one of your sites has a buffer of only 12m which we do not think is large enough to ensure protection of the core reef. We would like to see a minimum buffer of 50m applied to all the features, or 4 times the water depth when this is greater than 50m.</p>	<ul style="list-style-type: none"> <li>• [The proposed restrictions will protect the feature]</li> <li>• Buffers placed around each identified area of <i>Sabellaria</i> reef are consistent with the national approach.</li> <li>• The shape and orientation of the restricted 'boxes' are being reviewed in light of information gained from the 'Information Gathering' process.</li> </ul>
15		
16		
17	<p>We would expect monitoring to be carried out on the areas of both the core reef features plus the buffer areas. If core reefs develop in the buffer zones once pressure has been removed we would expect the restricted areas to be increased to include the appropriate buffer zones for the newly formed reef.</p>	<ul style="list-style-type: none"> <li>• Eastern IFCA seeks to monitor reef development in buffer zones.</li> <li>• Changes to best available evidence can be reflected in a flexible byelaw.</li> </ul>

## Response 12

**Organisation: King's Lynn Port Authority**

**Response focus: *Sabellaria spinulosa* reef**

Note: response received as an email

Question	Response	Eastern IFCA Comments
Employees/ members	Not given	
1	Regulatory	
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

13		
14		
15		
16		
17	<p><i>Sabellaria</i> area B and coble and boulder community – This area is within the designated anchorage for vessels using the Port of King’s Lynn and other Wash Ports. This anchorage is clearly marked on the nautical charts and has been in existence for many years. I have not completed the questionnaire as it does not seem particularly relevant to Port Authority operations, but I would expect this email to receive the same attention as if it had been completed and submitted.</p> <p>I would like to confirm that you have no plans for trying to restrict anchorage of vessels in this area.</p>	<ul style="list-style-type: none"> <li>• Anchorage site licences are not within Eastern IFCA’s remit (Anchorage licences are considered by the MMO).</li> <li>• Eastern IFCA is working with the MMO to evolve a consistent approach.</li> </ul>

## Response 13

Organisation: n/a (Stakeholder 4)

Response Focus: Eelgrass (North Norfolk Coast)

Question	Response	Eastern IFCA Comments
Employees/ members	n/a	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
1	Common Rights Holder	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
2	0-5 miles	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
3		
4		
5	No	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
6		
7		
8	No	
9		
10	No	<ul style="list-style-type: none"> <li>[No benefit to biodiversity is anticipated]</li> </ul>
11	No	<ul style="list-style-type: none"> <li>[No benefits to wider fish stocks are anticipated]</li> </ul>
12	Scolt Head is eroding on the north side and building westward. The recent breakthrough to the north east of the cockle bight will in time break through the hills to the south and there is a fair chance the area to be protected could disappear through tidal forces	<ul style="list-style-type: none"> <li>Eelgrass communities are potentially at risk from natural processes that occur within the site.</li> </ul>

13	No - The whole of CL65 is common land with registered common rights, therefore as commoners we cannot be restricted from our lawful activities. When considering any marine conservation, "Commoners" must be taken into account as their "rights" cannot be restricted without heavy penalty.	<ul style="list-style-type: none"> <li>• [There is not sufficient evidence regarding this feature]</li> <li>• Eastern IFCA is seeking legal advice on the legality of the proposed byelaws on Common Land.</li> </ul>
14	No - No more than already exist under local agreements	<ul style="list-style-type: none"> <li>• [Proposed restriction will not protect the eelgrass feature]</li> <li>• The proposed restrictions are in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> <li>• Defra's policy statement stipulates that 'high risk features must be protected regardless of current activity or condition'</li> </ul>
15	No - No shape at all as the area is common land and commoners cannot be restricted	<ul style="list-style-type: none"> <li>• [The proposed restricted areas are not appropriate]</li> <li>• Eastern IFCA is seeking legal advice on the legality of the proposed byelaws on Common Land.</li> </ul>
16		
17	The I.F.C.A proposal to ban or restrict anything on common land is totally out of order, unless the correct procedures are adopted, and then for not exercising our "rights" compensation would have to be paid to every "commoner", and what price do you put on a "right". I feel the whole idea has been ill conceived by beaurocrats who have no idea about local customs and way of life More time should also be given to local people in any area to air their views before submitting replies.	<ul style="list-style-type: none"> <li>• It is noted that more time was required to make a more considered response to this stage of the process. There will be more opportunity and time to consider the proposals during the formal consultation phase of the byelaw introduction process.</li> <li>• The proposed restrictions are in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> <li>• Eastern IFCA's approach is to balance the national approach with the requirements of local stakeholders, hence our communications with stakeholders at this early stage of the process.</li> </ul>

## Response 14

Organisation: n/a (Stakeholder 5)

Response Focus: Eelgrass (North Norfolk Coast)

Question	Response	Eastern IFCA Comments
Employees/ members	n/a	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
1	Common Rights Holder	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
2	0-5 miles	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
3	All year	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
4	n/a	
5	No	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
6	n/a – This question is not applicable to Common Rights Holders as only the area CL65 can be used, No alternative area	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
7	Once more, Commoners cannot be restricted from usage under Commons Law. Any restrictions would then evoke heavy claims under the compensation Acts	<ul style="list-style-type: none"> <li>Eastern IFCA is seeking legal advice on the legality of the proposed byelaws on Common Land.</li> </ul>
8	No	Noted
9	No other benefits above that which is already in place under the Law relating to Commons	<ul style="list-style-type: none"> <li>[No benefits are anticipated as a result of the proposed restrictions]</li> </ul>
10	No	<ul style="list-style-type: none"> <li>[No benefit to biodiversity are anticipated]</li> </ul>
11	No	<ul style="list-style-type: none"> <li>[No benefits to wider fish stocks are anticipated]</li> </ul>

12	The movement of Scolt Head southward as is happening with the erosion to the north	<ul style="list-style-type: none"> <li>Eelgrass communities are at risk from natural processes.</li> </ul>
13	No – Only that this is Common land with registered Common Rights. The only Right the public has is for air and exercise	<ul style="list-style-type: none"> <li>[There is not sufficient evidence regarding this feature]</li> </ul>
14	No - No more than already exist	<ul style="list-style-type: none"> <li>[Proposed restriction will not protect the eelgrass feature]</li> <li>The proposed restrictions are in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> </ul>
15	No – That cannot be applicable to common land without getting the appropriate permissions.	<ul style="list-style-type: none"> <li>[The proposed restrictions are not appropriate]</li> <li>Eastern IFCA is seeking legal advice on the legality of the proposed byelaws on Common Land.</li> </ul>
16	Yes – Enforcement of the law of commons	<ul style="list-style-type: none"> <li>Eastern IFCA is seeking legal advice on the legality of the proposed byelaws on Common Land.</li> </ul>
17	The I.F.C.A proposal to ban dredging at Brancaster and Burnham Overy on Common Land CL65 is out of order unless the correct procedure is adopted the designation will not be enforceable. Firstly every Commoner has to be informed individually of any change in the status or works on common land. Secondly application has to be made to the Minister. By way of the 1925 law of Property Act he can only give permission if it is for the benefit of the neighbourhood (i.e Public Inquiry) and does not infringe upon Common Rights, also the commons Acts of the 1800s are still enforceable. It would be far better if IFCA banned dredging under the auspices of the law relating to the commons. Personally I would endorse this approach. The reinforce the above,	<ul style="list-style-type: none"> <li>Eastern IFCA notes the requirement to inform every individual commoner and will do so as part of the formal consultation stage.</li> <li>There has not been the time required to explore the respondent’s suggestion of using existing common law.</li> <li>Eastern IFCA is seeking legal advice on the legality of implementing a byelaw on Common land.</li> </ul>

EN (NE) sought legal advice as to the effect of the SSI, SSSI SACs would have on common Rights. The answer was, as every commoner had not been contacted these would not infringe upon common Rights, I have letters from NE and the Minister of the Environment to uphold this statement. Be free to phone me or I could call to see you at KL. Looking forward to your deliberations on this matter shortly.

## Response 15

Organisation: n/a (Stakeholder 6)

Response Focus: Eelgrass (North Norfolk Coast)

Question	Response	Eastern IFCA Comments
Employees/ members	2 employees	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
1	Commercial Fishing	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
2	0-5 miles	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
3	All year	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
4	Yes – 5-10%	<ul style="list-style-type: none"> <li>[Economic impact anticipated]</li> <li>Used to inform Impact Assessment</li> </ul>
5	No	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
6	Yes – [no estimate given]	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
7	No	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
8	No	
9		
10	No	<ul style="list-style-type: none"> <li>[No benefit to biodiversity is anticipated]</li> </ul>
11	No	<ul style="list-style-type: none"> <li>[No benefits to wider fish stocks are anticipated]</li> </ul>
12		
13	No	<ul style="list-style-type: none"> <li>[Not sufficient evidence regarding the eelgrass feature]</li> </ul>
14	No – Cockle Bight is silting up I would say in ten	<ul style="list-style-type: none"> <li>[Proposed restrictions will not protect the eelgrass feature]</li> </ul>

	years all the eelgrass there will be gone.	<ul style="list-style-type: none"> <li>• [Eelgrass communities are at risk from natural processes]</li> </ul>
15	No	<ul style="list-style-type: none"> <li>• [The proposals are not appropriate for the site]</li> </ul>
16	No – cull every migrating bird that feeds on eelgrass	Noted
17	Fishermen have worked Cockle Bight for generations with no impact to the site. We only use traditional methods to gather cockles, mussels samphire etc. Removing this site from the fishing industry could have an impact on the local economy.	<ul style="list-style-type: none"> <li>• The proposed restrictions are in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> <li>• Defra’s policy statement stipulates that ‘high risk sub-features must be protected regardless of current activity or condition’</li> <li>• Hand gathering methods of collecting cockle, mussel and samphire are not being restricted through the proposed byelaws.</li> <li>• Natural England has advised that there is sufficient protection for eelgrass communities on the North Norfolk Coast from Hand gathering and bait digging through the SSSI legislation active at the site.</li> </ul>

## Response 16

Organisation: n/a (Stakeholder 7)

Response Focus: Eelgrass communities

Question	Response	Eastern IFCA Comments
Employees/ members	n/a	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
1	Common Rights Holder	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
2	0-5	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
3	All year	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
4	Yes – 0-5%	<ul style="list-style-type: none"> <li>[Economic impact anticipated]</li> <li>Used to inform Impact Assessment</li> </ul>
5		
6		
7		
8		
9		
10	No	<ul style="list-style-type: none"> <li>[No benefit to biodiversity is anticipated]</li> </ul>
11	No	<ul style="list-style-type: none"> <li>[No benefits to wider fish stocks are anticipated]</li> </ul>
12		
13		
14	No	<ul style="list-style-type: none"> <li>Eelgrass communities are at risk from natural processes.</li> </ul>

15	No	<ul style="list-style-type: none"> <li>• [Proposals are not appropriate for the site]</li> </ul>
16		
17	<p>As I discussed with you after the meeting at Brancaster Staithe Wednesday night. All these things seem rather ridiculous. They get the [Brancaster residents] backs up for trifling reasons mainly through a lack of expertise on behalf of some of the organisations involved. I suppose at one time Zostera beds were regarded as important feed areas for wintering wildfowl especially dark bellied brent geese. Now of course they are not and anyway a hideous body such as Natural England grants licences for bleating arable farmers to shoot them. Over the next couple of months I will do a detailed survey of the last remaining zostera areas on the Cockle Bight. On recent rough calculations I would suggest it would only amount to some 30-50 square meters. I enclose recent article from British Wildlife, native oysters I feel there ought to be something more like this going on to get fishermen involved in conservation that offers them some reward at the end of it – hopefully; rather than them always <u>cannot do</u> this or not allowed to go there anymore.</p>	<ul style="list-style-type: none"> <li>• Eelgrass communities under consideration are small, discrete areas however these areas are still considered important for site integrity.</li> <li>• The proposed restrictions are in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> <li>• Defra’s policy statement stipulates that ‘high risk sub-features must be protected regardless of current activity or condition’</li> <li>• Eastern IFCA, in conjunction with the Wildlife Trust and Natural England are planning to conduct eelgrass surveys in late summer of 2013.</li> <li>• The recommended project will be considered along with other suggested projects for the 2014/2015 Research and Environment Plan.</li> </ul>

## Response 17

**Organisation: National Trust**

**Response focus: Eelgrass communities**

Question	Response	Eastern IFCA Comments
Employees/ members	4,000 + employees, 3.8 million members	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
1	National NGO	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
2	Inside/Adjacent	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
3	All year	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
4	No	<ul style="list-style-type: none"> <li>[No economic impact anticipated]</li> </ul>
5	n/a	
6	n/a	
7	n/a	
8	n/a	
9	Supporting wildlife	<ul style="list-style-type: none"> <li>[The proposals will have a beneficial effect]</li> </ul>
10	No	<ul style="list-style-type: none"> <li>[No benefit to biodiversity is anticipated]</li> </ul>
11	No	<ul style="list-style-type: none"> <li>[No benefits to wider fish stocks are anticipated]</li> </ul>
12	Yes - Accretion of sand and mudflats, colonisation by <i>Spartina</i> sp. And growth in Atlantic and Harbour seal populations may affect presence/absence of eelgrass.	<ul style="list-style-type: none"> <li>[Eelgrass communities are at risk from natural processes that occur within the site]</li> </ul>

13	No – Further eelgrass surveys should be carried out compared to existing survey data to identify trends in population and natural factors influencing populations of eelgrass.	<ul style="list-style-type: none"> <li>• Eastern IFCA has to act on the best available evidence.</li> <li>• Eastern IFCA, in conjunction with the Wildlife Trust and Natural England are planning to conduct eelgrass surveys in late summer of 2013.</li> <li>• The shape and orientation of the restricted ‘boxes’ are being revised in the light of information gained from the ‘Information Gathering’ process.</li> </ul>
14	Yes	<ul style="list-style-type: none"> <li>• [will sufficiently protect the eelgrass feature]</li> </ul>
15	No – do not understand the rationale between the proposed restricted areas and the eelgrass sites and buffer zones.	<ul style="list-style-type: none"> <li>• Eastern IFCA notes that proposals need to be made clearer for formal consultation stage.</li> <li>• The current buffers placed around each identified area of eelgrass are consistent with advice from Natural England.</li> </ul>
16	No	
17	We are pleased to have the opportunity to feed into this consultation and we are fully supportive of the existing levels of protection provided as an interest feature of the Wash and North Norfolk Coast SAC. Whilst we are fully supportive of the need to safeguard eelgrass currently no dredging or trawling takes place within the sites of interest to the National Trust. These sites are: Area B (Scolt Cackle Bight), Area C (East End Scolt), Area F. G and H (Holkham NNR intertidal areas), Area I (Stanley’s Cackle Bight, Blakeney Point) and J (Cley Channel). Both Blakeney and Brancaster Harbour’s are inaccessible to trawling and marine dredging. Measures are in place through existing nature conservation designations which require prior consent and EIA’s for plans and projects which involve dredging. Specifically,	<ul style="list-style-type: none"> <li>• The proposed restrictions are in line with the national approach to meet Habitats Directive obligations and avoid incurring penalties for non-compliance.</li> <li>• Defra’s policy statement stipulates that ‘high risk sub-features must be protected regardless of current activity or condition’</li> </ul>

<p>Brancaster Harbour is designated as a Common and any proposal to dredge or trawl is likely to interfere with Common Rights which in itself is likely to require consent from the Secretary of State.</p>	
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## Response 18

**Organisation: MCS/Seasearch East**

**Response focus: *Sabellaria spinulosa* reef**

**Note – Response sent with the below email, for comments made by Eastern IFCA see respondent 7**

*I would endorse the MCS response. As well as [their] reservations I'd observe that many of the areas appear impractically small to offer anything other than paper protection. As such the requirements of the EMS directives would appear to being addressed only nominally.*

*So that this is clearly a second response I have attached a version of his with my details, although the content is the same.*

Question	Response	Eastern IFCA Comments
Employees/ members	120 members (+5000 MCS members)	Noted
1	Local NGO	Noted and used to inform Impact Assessment
2	50 miles plus	Noted and used to inform Impact Assessment
3	n/a	
4	No	Please see comments for respondent 7
5	n/a	
6	n/a	
7	n/a	
8	n/a	
9	European compliance (if management is at appropriate scale), MSC compatibility (can only be achieved if the requirements of the habitats directive are met. The current proposals do not allow for necessary precautionary protection of	Please see comments for respondent 7

	the sites conservation features), supporting wildlife, tourist attraction, greater fish stocks, level playing field, unique selling point, increased biodiversity.	
10	<p>Yes/No – There will be some improvement perhaps, but on a miniscule scale compared to the requirements to protect the whole site. Dredging and trawling over biogenic feature reduces the ability of that feature to achieve a climax community state. This is the case for temporary, periodic or more concentrated trawling. A 'climax community' state is where the growth of a community will achieve a level at which natural dominant assemblages will be able to recruit, colonise, establish and grow. These long-lived and more mature communities will provide reproductive output to areas outside the protected zones for colonisation elsewhere, and will provide a sheltering point from which commercial and non-commercial species will build up in biomass, increasing the reproductive potential from the site. Therefore, for biodiversity / condition of the site to improve, dredging and trawling should be restricted from any area that could potentially accrete and grow into a reef. According to the Habitats Directive, a reef is any feature that stands proud of the surrounding seabed. NE have hosted workshops that have created rather arbitrary measures of what constitutes 'reef'. This definition differs from the HD definition.</p>	Please see comments for respondent 7
11	No – because the restricted areas are too small, disconnected, and will not allow the entire site	Please see comments for respondent 7

	<p>to maintain ecological integrity of the <i>Sabellaria</i> feature. The restricted areas should be expanded and connected, not only to provide precautionary protection to the habitat (which is a requirement of The Directive), but also to provide an opportunity for reef communities to build up. In addition, this would also allow the spawning stock biomass of the target species (predominantly pink shrimp) to build up, and provide eggs at higher concentrations to fished areas outside the closed areas. However, the Habitats Directive requires that EIFCA should primarily be concerned that the favourable conservation status of the <i>Sabellaria</i> habitat is maintained or recovered for the entire site.</p>	
12	<p>Yes - Indeed, sea level rise and increased wave action associated with stronger weather events will likely impact this site, and the location of reef features. Also, it is clear from research in the North Sea that reefs are naturally ephemeral. In the absence of real-time annual surveys of the entire site to adequately describe reef areas, protection of all previous and potential distributions of the reef feature should be the initial default management measure in order to be compliant with the Article 6 of the Directive. This is in line with the law, and Defra's 'new' policy.</p>	<p>Please see comments for respondent 7</p>
13	<p>No - The historical baseline of the potential areas for feature distribution should be considered in order to ensure that the potential areas for restoration, recovery or regeneration of the habitat can occur. Continuous abrasion by trawls will likely compromise the ability of</p>	<p>Please see comments for respondent 7</p>

	<p>potential new <i>Sabellaria</i> reef to (re)grow. We strongly recommend that these protected measures are established over current populations of the habitat, AND areas of historical populations such as those reported in NE report #543 (<a href="http://publications.naturalengland.org.uk/file/79001">http://publications.naturalengland.org.uk/file/79001</a>). We attach a map for reference.</p>	
14	<p>No - MCS believe the area of the proposed protected areas are not an appropriate management solution to maintain the integrity of the entire range of the feature(s). The Habitats Directive requires a precautionary approach for sites in the absence of perfect knowledge of distribution. If there is the potential for features to persist in a wider area outside the current mapped area, then these areas should be protected. If this is not known, then there is scientific doubt (Article 6(3)), and the entire site should be protected. It is then up to the members of the fishing industry that want to use a specific area of the site to fund a study to ensure that area for that particular year doesn't host the feature and that the proposed fishing activity will not affect the integrity of the site. This is the same logic that applies to other potentially damaging industries wishing to access European Marine Sites.</p>	Please see comments for respondent 7
15	<p>No - Neither the size nor the shapes of the proposed restricted areas are based on current knowledge of distribution of <i>Sabellaria</i> for the entirety of the site, or its potential for distribution. The areas A to H in the EIFCA map should be protected, but in addition, larger</p>	Please see comments for respondent 7

	<p>areas outlined in the attached map also need to be protected in accordance with the requirements of the Habitats Directive. The larger areas in the attached map show previously recorded distributions of <i>Sabellaria</i> in an official NE report (#543). This would provide a much more comprehensive measure of protection to the site, whilst allowing some access between features.</p>	
16	<p>Yes - The use of pelagic trawls or traps as opposed to using bottom trawls could provide better protection for the features. The effects of such measures would still need to be monitored to ensure that site integrity is maintained.</p>	<p>Please see comments for respondent 7</p>
17	<p>Article 6(3) of The Habitats Directive requires precautionary protection for sites when the distribution of features is uncertain, or where there could be a likely significant effect of a conservation feature being damaged. Unfortunately (for managers and fishers), the <i>Sabellaria</i> naturally occurs in different areas of the site at different times. A legal requirement of The Directive is to protect features within the site in areas where it may be considered the feature is currently present, or could be present. Thus we have recommended larger protected areas in order to bring fisheries management into greater compliance with the requirements of the Directive.</p>	<p>Please see comments for respondent 7</p>

## Response 19

**Organisation: Environment Agency**

**Response focus: *Sabellaria spinulosa* reef, eelgrass communities and boulder and cobble reef**

Question	Response	Eastern IFCA Comments
Employees/ members	10 000 employees	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
1	Arm's length government body	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
2	20-50	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
3		<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
4	No	<ul style="list-style-type: none"> <li>[No economic impact anticipated]</li> </ul>
5	Yes – other parts of The Wash, please see further comments.	<ul style="list-style-type: none"> <li>Used to inform Impact Assessment</li> </ul>
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16		
17	<p>We undertake a range of activities that could be considered to be towed bottom gear as part of our monitoring requirements for Water Framework Directive (WFD). In addition we collect grab samples of benthic habitats primarily in soft sediment, but recently this has extended into courser (gravelly) substrates. It is not clear if the proposed restriction extends wider than trawling and dredging activities and whether these other surveying techniques are also impacted by the proposal. However, with regard to an impact on our current activities we can only see a very minor impact.</p> <p>-we stopped WFD bottom trawling in The Wash last year so we no longer have a trawl site in the area and the areas have no small beam trawling in the proposed areas also.</p> <p>-we will be going back to the Outer Wash for WFD benthic grabbing in 2014, so if the areas are closed to bottom towed gear we will assume they will not want grab samples collected either, but would request confirmation of this. We may need to move our monitoring sites to restrict them to finer substrates as a result of this proposal. This is unlikely to significantly impact on the evidence base and is not expected to result in additional survey-related costs.</p> <p>To this end if the areas are closed, we need the</p>	<ul style="list-style-type: none"> <li>• More clarity on the scope of the byelaw is required for formal consultation phase.</li> <li>• Certain survey techniques conducted within Eastern IFCA's district would require a dispensation from existing byelaws.</li> <li>• Eastern IFCA has acted on the best available evidence; further eelgrass surveys are being conducted in late summer of 2013 to further inform the restricted areas.</li> </ul>

final co-ordinates as actual areas, so we can avoid them when we complete our grab survey in 2014 or if we want to undertake new trawling work in the area in the future.

We contributed to data gathering process to help define the recommended/proposed MCZs, so would not expect to comment on the relevance or appropriateness of the proposed areas. We would defer to Natural England on this matter.

The proposed closed fishing areas [for seagrass] seem to be very small patches in intertidal areas, I don't think we undertake any WFD surveys (e.g. benthic or fishing) or activities that would affect them.

We only collect data for intertidal seagrass beds from surveillance water bodies, none of these are in the areas of interest. There may be patches of subtidal eelgrass in the WNNC EMS that would be more at risk of bottom towed gear, but I'm not sure who would be able to provide evidence of this.

## Response 20

**Organisation: North Sea Wildlife Trust (combined Wildlife Trust Teams)**

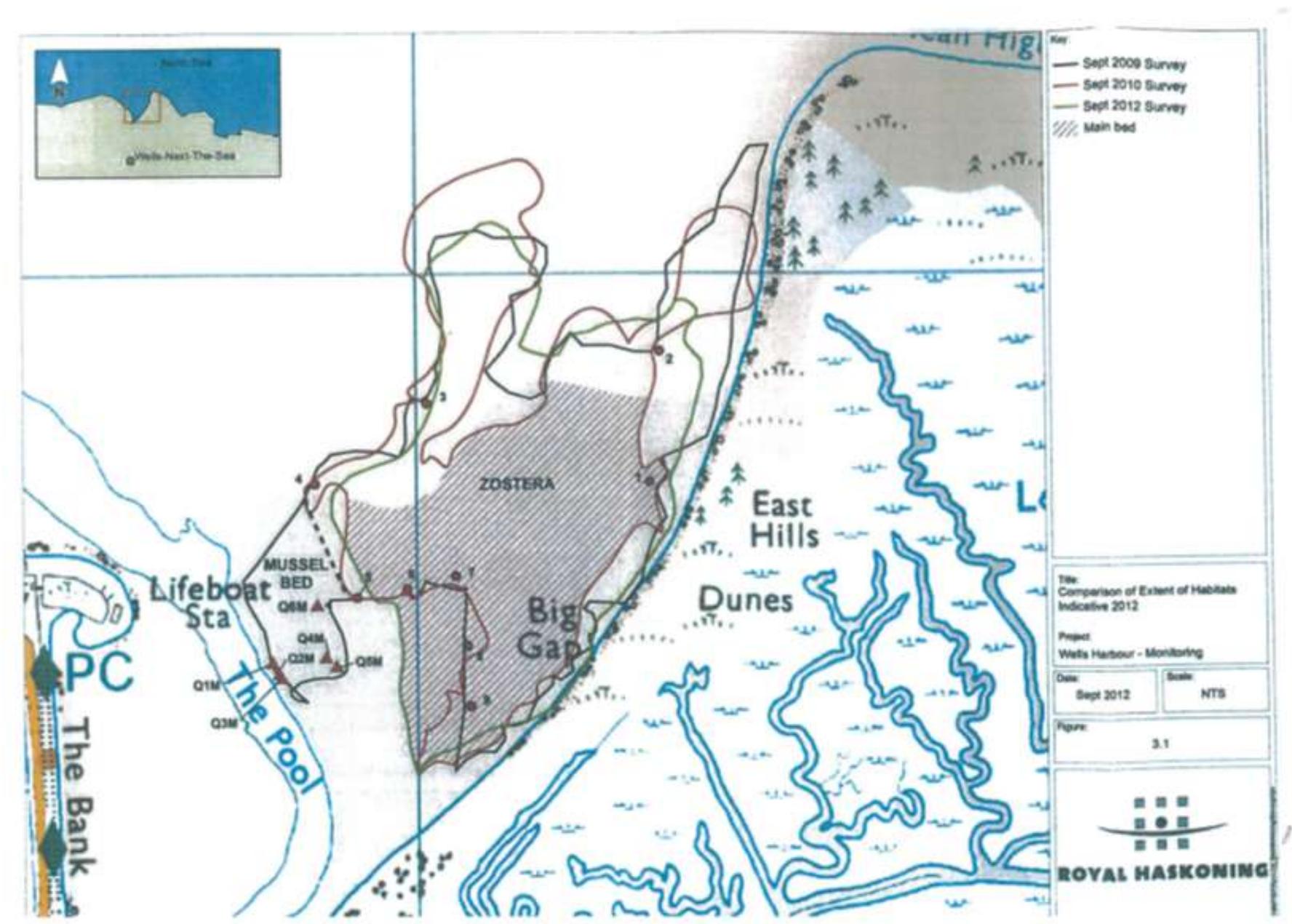
**Response focus: Eelgrass communities**

Question	Response	Eastern IFCA Comments
Employees/ members	231,000 members	
1		
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4		
5		
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12		
13		
14		

15		
16		
17	<p>We would like to thank you for the opportunity to comment on your proposals, and broadly welcome the approach. However, we do have some concerns regarding the buffers that are being applied to the proposed closed areas. We understand the approach that has been taken for the <i>Sabellaria</i> and boulder and cobble communities is based on Natural England guidance, which as we mentioned in the questionnaire we are concerned that some of these will not result in adequate protection from both direct and indirect impacts. From reading the draft guidance from NE we understand that these should only be taken as minimum guidance and that in shallow waters other considerations should be taken into account. We hope that you will revisit these buffers and propose enlarged sites for closure to ensure adequate protection. In view of this, we also wanted clarity on the buffers that are being applied to the eelgrass beds and to ensure that adequate protection will be afforded.</p> <p>For management of hand working and its impacts on eelgrass we understand the proposed approach is to use existing mechanisms through SSSI. To ensure we can properly assess impacts of this please could you provide further details for how the current management works and how monitoring is carried out to ensure the activities aren't</p>	<ul style="list-style-type: none"> <li>• The current buffers placed around each identified feature are consistent with the national approach and in accordance with advice from Natural England.</li> <li>• The shape and orientation of the restricted 'boxes' are being reviewed in light of information gained from the 'Information Gathering'.</li> <li>• Surveys have been planned for late summer of 2013.</li> <li>• A flexible byelaw would allow for changes in best available evidence to be reflected in restrictions.</li> </ul>

<p>impacting on the eelgrass? In addition will buffers for protection of the eelgrass be able to be applied through this mechanism to prevent damage to the feature?</p>	
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**Appendix 1** – Chart submitted by Wells Harbour Authority.



# **Appendix D**

## **Natural England Advice**

Date: 14<sup>th</sup> August 2013  
Our ref:



Conor Donnelly  
Natural England  
Apex Court  
City Link  
Nottingham  
NG2 4LA

T: 0300 060 0308  
Conor.donnelly@naturalengland.org.uk

Dear Eden and Greg

Thank you for the opportunity to comment on your draft Authority EMS byelaw paper, outlining your proposals for implementing Defra's change in approach to the management of fisheries in European Marine Sites.

We have provided comments on the draft byelaw paper within the document and this letter will be used to expand on our views around the byelaw making process and the proposals. Accompanying the draft byelaw paper, we note you have sent us a copy of the impact assessment, which hasn't previously been shared with us, and a 'working papers' document but we haven't had time to consider these in any detail given the extremely short time (3 working days) requested for our response.

### Summary

The byelaw paper presents Defra's change in approach to the management of fisheries in EMS in the context of legal challenge from the Marine Conservation Society and Client Earth. We do not feel that this manner of presentation is the most appropriate way to garner support from your committee members for progressing the necessary measures to help the IFCA meet its conservation remit. We also note your references to *advice* received from Natural England throughout the paper. We consider it important to clarify that this refers to evidence provided - data, reports and maps - rather than input that Natural England have had in further discussing appropriate management proposals based on the evidence provided. In that regard we have had informal discussions with EIFCA officers but the content of those discussions isn't captured in this paper. Our views on the management proposals for each of the red risk features are therefore further explored below.

We consider the byelaw proposals provide adequate protection for the red risk features (*Sabellaria spinulosa* reef; Subtidal boulder and cobble communities; and *Zostera*) within The Wash and North Norfolk coast SAC and Humber Estuary SAC, subject to important caveats. We note we haven't seen the final closed area maps as yet. We are also in the process of reviewing our conservation advice for European marine sites (EMS). The Wash and North Norfolk coast SAC, for example, is due to be undertaken between autumn 2013 and spring 2014. It is important to recognise that new data from recent surveys of the features will be incorporated through the conservation advice project, as well as potential changes to the conservation objectives. As such it will be necessary to review the proposed management measures in the near future to ensure that they still provide adequate protection to the features. This is particularly important in relation to *S. spinulosa* reef and is discussed in further detail below.

### **Partnership working with Natural England**

We would like to highlight that whilst we have so far provided you with evidence, and have had informal discussions with officers, we feel a more structured approach to engaging with Natural England would have given us the opportunity to provide advice on the management options available to you and to what extent they provide protection to the red risk features in order to comply with Defra's change in approach to fisheries management in EMS. We feel that it would have been beneficial to be able to input this advice at an early stage and that whilst you quote that advice has been received from Natural England, this was largely through informal discussions and your paper does not capture our full reasoning behind the adequacy of particular management measures referred to in those discussions. Because of this we feel it important to provide some of this extra detail below.

We welcome the suggestion of meeting with you in September to reflect on our partnership working and review lessons learned from this process so far. This will help us to work together more effectively going forward and to clarify our roles, requirements and timelines for management of amber and green risk feature/gear types.

### **Information submitted to EIFCA**

Natural England have provided evidence to EIFCA for location and, where possible, extent of the red risk features and this is detailed in Annex 1 to this letter.

### **Further comments on management proposals:**

#### ***Sabellaria spinulosa* reef**

We understand that the current EIFCA proposals for a closed area to towed demersal gear are based upon the core reef maps produced by Natural England in 2011, which we provided at your request earlier this year. The identification of core reef recognises the importance of those areas of the site that consistently support reef since in many places reef appears to be ephemeral. Core reef has been identified using an index approach that compares the number of times a reef is found at a particular location in relation to the number of times that it has been surveyed at that location. Using this approach provides an indication of areas in The Wash in which reef persistently occurs (although not necessarily always present), compared to those where it may be less persistent or has only occurred occasionally or once.

It is important to consider reef persistence when making management decisions for closures to be placed as appropriately as possible so as to give protection to the reef, but not unnecessarily excluding fishing activities in areas where reef is unlikely to be present. In previous discussions with ESFJC/EIFCA, it was decided that using a reef index score of  $\geq 2$  would be the most suitable way to define reef as being 'core'. To give an example of what this means in practice, this would entail reef being found in both surveys for an area that has been surveyed twice, and four times in an area surveyed six times and provided a high level of confidence based on persistence of the reef. Confidence in the underlying data was also calculated, based on the quality of the data collection and its suitability to detect reef. This needed to be above a particular threshold for reef to be considered core.

We agree that based on current best available evidence, closure to towed demersal gear of core areas of reef based on an index  $\geq 2$  will give adequate protection to this feature and we consider these areas, along with a suitable buffer, to represent the minimum amount of closure that should be applied in The Wash and North Norfolk Coast SAC for this feature. This view is based on the information we have access to to date and is subject to the important caveats set out under the headings below. We have not yet seen the EIFCA's final closed area maps for *S.spinulosa* reef and recognise that there have been several changes to proposed closed areas based on the

feedback from the information gathering stage. We would need to see these before confirming that the current proposals are adequate in our view. With regard to deciding on a suitable buffer, we sent EIFCA a copy of the document 'Draft NE buffer guidance' to help inform decisions on suitable buffer sizes, taking into consideration any particular requirements of certain features e.g. mobile habitats.

#### **Protection of reef outside of core areas**

It is important to note that we consider the favourable conservation status (FCS) for this feature is not entirely met by core reef areas; areas of reef outside the core areas and within the SAC will also contribute to the FCS of this feature in this site. We are still developing our understanding of FCS for reef in this site and will be considering it further through our Conservation Advice project. We consider closed areas focussed on core areas of *S.spinulosa* reef is a proportionate approach to managing wide ranging fishing activities in relation to a feature that appears to be ephemeral within much of the SAC. Closure of the core areas to towed demersal gear provides sufficient protection to *S.spinulosa* reef core areas, therefore contributing to FCS of the feature. However, it is important to recognise that further survey work may identify areas of *S.spinulosa* reef outside of these core areas. This reef needs to be considered on a case by case basis, taking into account the quality of the reef and the confidence in the data, and *high quality reef* areas should be given protection through closure to towed demersal gear. Natural England can provide further advice on this.

#### **Review of closed areas**

As we have discussed with EIFCA officers, it is important to be aware that Natural England's *published* conservation advice (Regulation 33 package) for European marine sites is currently being reviewed through our Conservation Advice project. This review will include the features of The Wash & North Norfolk Coast SAC, including reef of *Sabellaria spinulosa*, and is currently scheduled to be undertaken between this autumn and spring 2014. As noted above, the review will update our understanding of this site's contribution to the favourable conservation status of this feature, as well as the appropriateness of the conservation objective in light of the latest evidence and understanding of *S.spinulosa* and pressures acting upon it. As part of the review, we will be incorporating data collected since the synthesis was last undertaken (2011), which will provide an up to date understanding of the distribution of *S.spinulosa* reef in The Wash and North Norfolk coast SAC.

The review *may* result in both changes to our view on the condition of *S.spinulosa* reef in The Wash and North Norfolk coast SAC, as well as changes to the size and distribution of core reef areas due to the incorporation of new data from surveys carried out since the last synthesis was undertaken. Given that all the existing data on *S. spinulosa* in The Wash has been collected in the context of an on-going shrimp fishery, albeit a reportedly small scale<sup>1</sup> pink shrimp fishery, our view is that a recover conservation objective is likely to be appropriate. The flexible closed area byelaw approach being undertaken is therefore vital to ensure that EIFCA management can respond to changes in the evidence base and our understanding of the feature so that the most appropriate management is applied to this feature in as timely a way as possible. We consider the first review of the closed areas should take into account the conclusion of the review of the conservation advice for The Wash & North Norfolk Coast SAC to ensure that *S.spinulosa* reef is given appropriate protection. We expect the review to be completed by spring 2014 and would look to re-visit the closed areas for *S.spinulosa* reef shortly thereafter. We would also welcome a further discussion on the frequency of review periods going forward.

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<sup>1</sup> An estimated 25 vessels involved in pink and brown shrimp fishing in the Wash (estimate based on EIFCA officer reports, 2012), of which only a couple of these may be specifically targeting pink shrimp (anecdotal information from EIFCA officers during previous discussions on management of *S.spinulosa* reef in relation to shrimping).

### **Monitoring the closed areas**

We consider it will also be necessary to discuss the monitoring requirements of the proposed closed areas to ensure adequate monitoring is in place to measure potential reef development in the absence of fishing activity. This will help further the understanding of *S.spinulosa* reef not least the understanding of the impacts of Wash-specific towed demersal gear.

### **Subtidal boulder and cobble communities**

The final version of the EIFCA maps to show the closed areas and associated buffers has not yet been made available to us. Assuming that the current proposals encompass the full 471 ha boulder and cobble reef area as outlined in Meadows and Barrio-Frojan (2012), with the application of a suitable buffer, we can agree that the current proposals to close specified areas to towed demersal gear provides adequate protection to subtidal boulder and cobble communities. Once the final maps are available we would be able to confirm this.

We consider the survey carried out in 2011 (Meadows and Barrio-Frojan, 2012) is of high quality and currently represents the best evidence in relation to location and extent of the subtidal boulder and cobble communities subfeature. A further survey is being carried out this August which may result in the need to modify the closed area(s).

### ***Zostera* spp. (eelgrass) within The Wash and North Norfolk coast SAC**

We support closure of the five areas of *Zostera* on the North Norfolk coast to towed demersal gear (Scot Head; East Hills, Wells-next-the-Sea; Stiffkey Freshes; Stanley's cockle bight, Blakeney Point; Cley/Blakeney channel). These areas were surveyed by Natural England between 5<sup>th</sup> and 9<sup>th</sup> August 2013 to confirm extent of the beds. We have now received the maps of bed extent from the contractor carrying out the survey and forwarded these to EIFCA.

There has consistently been an absence of eelgrass in four survey areas (Thornham Harbour; Burnham Overy Harbour; Lodge Marsh, Wells-next-the-sea and West Sand Creek) where eelgrass has not been observed for at least the past 50 years. It is likely that these locations do not provide a suitable habitat for eelgrass development. Therefore, as we have previously advised closed areas at these locations are not necessary.

At one site, High Sand Creek/Cabbage Creek, a small area of eelgrass was present in 1997 (67 plants) and 2002 (30 plants). However, none was found in 2010. The absence of eelgrass has been attributed to sand coverage, although it was also noted that mud may be reappearing beneath the sand. In addition, the intertidal survey of the Wash and North Norfolk coast SAC carried out in November 2012 assessed biotopes along a transect in the vicinity of the area in which seagrass had previously been found. The biotope was reported as 'barren or amphipod dominated mobile sand shores', confirming that this area is still currently likely to be unsuitable for eelgrass development. As such, we advise that closure of this area is not required at this time. However, due to recent presence of eelgrass and potential changes in sediment character, this is a location which should continue to be assessed and closure may be required in the future should there be any eelgrass development.

*Zostera* is also sensitive to bait digging and shellfish gathering. We have previously provided advice to you that existing regulatory mechanisms are in place and ensure that this interest feature of the EMS will not be damaged. Therefore action to develop an additional overlapping regulation (i.e. IFCA byelaw) is not required. Activity levels in this area are low, and all commercial bait digging activities can only be carried out by a common right holder or with a SSSI consent from Natural England. Natural England and EIFCA have good local intelligence through National Nature Reserve managers, The National Trust, RSPB wardens and other local shore users who are present on the coast and can report any activities of concern to Natural

England/EIFCA. In addition, responses from common rights holders on the North Norfolk coast supported our conclusion that activity levels in this area are low. Should activity levels on the North Norfolk coast change and current regulatory mechanisms are deemed no longer adequate, further regulation by EIFCA may be required.

***Zostera* spp. (eelgrass) within the Humber Estuary SAC**

We recognise the limited evidence for *Zostera* within the Humber Estuary SAC and agree with closures to demersal towed gear, bait digging and shellfish gathering to areas of *Zostera* based on reports from the National Biodiversity Network. We also recognise that further survey work is being carried out this August and that this will help to confirm the presence and absence of *Zostera* within the Humber Estuary SAC. Should any further occurrences of *Zostera* be found, further closed areas should be incorporated into the byelaw.

Please do not hesitate to contact me or Emma Thorpe should you have any comments on the matters raised above

Yours sincerely



Conor Donnelly  
Senior Adviser, Southern North Sea Team

## **Annex 1. Information submitted to EIFCA**

### ***Sabellaria spinulosa* reef**

- The '*Sabellaria* synthesis report' (Bussell and Saunders, 2011) describing the methodology used to synthesise the data identifying areas of *Sabellaria spinulosa* reef in the Wash collected between 1999 and 2009.
- The maps associated with the *Sabellaria* synthesis report.
- The underlying GIS data files.

### **Subtidal boulder and cobble communities**

- Report of the baseline monitoring survey of the Wash and North Norfolk coast SAC Large Shallow Inlet and Bay feature (Meadows and Barrio-Frojan, 2012).
- A further baseline study is being carried out this August to provide further information on the extent of boulder and cobble reef in The Wash.

### ***Zostera* spp:**

- Reports of *Zostera* surveys carried out on the North Norfolk coast in 1997, 2002 and 2010 (McCallum, 1997; West, 2002; West *et al.*, 2010).
- A survey of the *Zostera* beds on the North Norfolk coast has been carried out to refine the extent of the beds. The GIS files from this survey were forwarded to EIFCA on 13<sup>th</sup> August 2013.

**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 7****Regulatory and Compliance Sub-Committee**

**28<sup>th</sup> August 2013**

**Report by:** J. Gregory, Head of Marine Protection

**Byelaw Review****Purpose of report**

The Eastern IFCA is required to undertake a review of its bylaws by 2015 in accordance with High Level Objectives set by DEFRA. The purpose of this report is to update members on progress to date.

**Recommendations**

**Members are recommended to:**

- **Note the contents of this report**

**Background:**

When the Eastern IFCA came into being it inherited a number of byelaws from the former North Eastern Sea Fisheries Committee as well as those from the former Eastern Sea Fisheries Joint Committee. The result is one set of byelaws that pertain to the northern part of the district (between Haile sand Fort and a line drawn due east from the control tower at the RAF bombing range at Donna Nook, Lincolnshire) and another set of byelaws that pertain to the remainder of the district. As a consequence of this and the fact that byelaws have tended to develop in a piecemeal manner over a number of years the Eastern IFCA has a suite of byelaws that do not follow any particular structure, that are not consistent in their style and content and which contain a number of inconsistencies.

High Level Objectives from DEFRA require all IFCA's to review their byelaws by 2015. Recent clarification has established that by April 2015 each IFCA should have:

- Reviewed its suite of byelaws (and other management measures if appropriate)
- Extinguished redundant or duplicate byelaws
- Have a plan in place for updates, be making and drafting new byelaws but not necessarily have all proposed new byelaws in place

A national MMO/DEFRA/IFCAs and Natural England Byelaws Workshop has been established to support the review in order to share good practice and to ensure that common standards are adopted around the country.

At a meeting of the Regulatory and Compliance Sub-Committee on 26<sup>th</sup> September 2012 it was agreed that work on the review of bylaws commences during the autumn of 2012. An outline approach to the review was agreed together with an indicative timetable.

**Progress**

Initial actions have been completed, which have identified which byelaws are likely to be removed and which require more detailed analysis. However, as reported at the full Authority meeting of 31<sup>st</sup> July 2013 this project has necessarily been shelved to make room for the more pressing EMS byelaw activity. The plan is still to engage with this process in 2013-14.

**Background Papers**

Regulatory and Compliance Sub-Committee paper, Byelaw Review, September 2012

Julian Gregory  
Head of Marine Protection

**Vision**

Inshore Fisheries and Conservation Authorities 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 Type: Regulation & Compliance sub-committee

Item Number: 6

Date of meeting: 26<sup>th</sup> September 2012

**Title: Bylaw Review**

**Proposal:** That members note and agree the outline approach for the forthcoming review of the Eastern IFCA bylaws

**Problem/Issue Statement:** The Eastern IFCA is required to undertake a review of its bylaws by 2015 in accordance with High Level Objectives set by DEFRA

**Background:** When the Eastern IFCA came into being it inherited a number of byelaws from the former North Eastern Sea Fisheries Committee as well as those from the former Eastern Sea Fisheries Joint Committee. The result is one set of bylaws that pertain to the northern part of the district (between Haile sand Fort and a line drawn due east from the control tower at the RAF bombing range at Donna Nook, Lincolnshire) and another set of bylaws that pertain to the remainder of the district. As a consequence of this and the fact that bylaws have tended to develop in a piecemeal manner over a number of years the Eastern IFCA has a suite of bylaws that do not follow any particular structure, that are not consistent in their style and content and which contain a number of inconsistencies. High Level Objectives from DEFRA require all IFCA's to review their bylaws by 2015. Recent clarification has established that by April 2015 each IFCA should have:

- Reviewed its suite of byelaws (and other management measures if appropriate)
- Extinguished redundant or duplicate byelaws
- Have a plan in place for updates, be making and drafting new byelaws but not necessarily have all proposed new byelaws in place

A national MMO/DEFRA/IFCAs and Natural England Byelaws Workshop has been established to support the review in order to share good practice and to ensure that common standards are adopted around the country.

**Comment and recommendations:** It is proposed that work on the review of bylaws commences during the autumn of 2012. The intended methodology will be to produce a matrix to map and categorise all bylaws, to identify duplication and gaps and to prioritise the order in which bylaws will be addressed. Appropriate research and consultation will then be applied to the development of each bylaw, which will include considering national guidance/good practice and consistency with neighbouring IFCA's. The overall objective will be to implement a suite of bylaws that are set out in a logical and structured manner and which, as far as possible, follow a consistent content and style that is easily understood.

### Outline Plan

- Develop a matrix to map and categorise all current Eastern IFCA byelaws by - November 2012
- Identify duplication and gaps and to draw up a prioritised list for action - December 2013
- Develop a detailed project plan with timescales to meet the April 2015 deadline – January 2013

**Recommendation:** It is recommended that the Authority:

- Note the requirement to review all byelaws by April 2015
- Agree the outline approach for the review of the Eastern IFCA bylaws
- Agree the outline timetable for the initial stages of the review

Julian Gregory

Head of Marine Protection