



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

**To be held at:**

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

**Wednesday  
11<sup>th</sup> March 2020**

**1030 hours**

### Vision

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



### Meeting: **39<sup>th</sup> Eastern IFCA Meeting**

Date: 11<sup>th</sup> March 2020

Time: 1030hrs

Venue: The Boathouse Business Centre,  
1 Harbour Square, Nene Parade,  
Wisbech, Cambridgeshire, PE13 3BH

### Agenda

- 1 Welcome - *Chair*
- 2 To accept apologies for absence - *Chair*
- 3 Declaration of Members' interests – *Chair*

### Action items

- 4 To receive and approve as a true record, minutes of the 38<sup>th</sup> Eastern IFCA Meeting, held on 11<sup>th</sup> December 2019 – *Chair (pg3)*
- 5 Matters arising (including actions from previous meetings) – *Clerk*
- 6 To receive a report to consider Health and Safety risks and mitigation – *Hd Operations (pg12)*
- 7 To receive a report on the meeting of the Finance and HR sub-committee held on 4<sup>th</sup> February 2020 - *CEO / Hd Finance & HR (pg18)*
- 8 Strategic Assessment 2020–21 – *IFCO/Project Officer (pg21)*
- 9 Business Plan 2020-2025 – *CEO / Project Officer (pg25)*
- 10 Wash Fishery Order 1992 replacement – *Senior IFCO (Regulation) (pg27)*
- 11 Cockle Fishery Management in The Wash – *Senior IFCO (Regulation) (pg68)*
- 12 Offshore Windfarm Compensatory Measures – *Senior MSO (Environment) (pg72)*
- 13 Quarterly Review of Business Plan priorities – *CEO (pg79)*

### Information items

- 14 Fishing into the Future presentation – *Mike Warner*
- 15 CEO update – CEO
  - a. Various (verbal)
  - b. Association of IFCA minutes (pg92)

- 16 Head of Operations update
  - a. Marine Protection Quarterly report (pg98)
  - b. Marine Science Quarterly report (pg105)

**Any other business**

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

J. Gregory  
Chief Executive Officer  
25<sup>th</sup> February 2020

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

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



A meeting of the Eastern IFCA took place at The Boathouse Business Centre, Wisbech on Wednesday 11<sup>th</sup> December 2019 at 1030 hours.

### Members Present:

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

### Eastern IFCA (EIFCA) Officers Present:

Andrew Bakewell	Head of Finance and HR
Jon Butler	Head of Operations
Luke Godwin	Senior IFCO (Regulation)
Julian Gregory	Chief Executive Officer (CEO) & Clerk
Ron Jessop	Senior Marine Science Officer
Judith Stoutt	Senior Marine Science Officer
Greg Brown	IFCO / Project Officer

### Other Bodies Represented:

Jason Berry	East Suffolk Council
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### Minute Taker:

Jodi Hammond

### EIFCA19/58 Item 1: Welcome

Cllr Skinner welcomed members to the meeting.

## **EIFCA19/59 Item 2: Apologies for Absence**

Apologies for Absence were received from Messrs Brewster and Worrall (MMO Appointees).

## **EIFCA19/60 Item 3: Declarations of Members Interest**

There were no additional Declarations of Interest to those already recorded by members.

## **EIFCA19/61 Item 4: Minutes of the 37<sup>th</sup> EIFCA Meeting, held on 11<sup>th</sup> September 2019**

EIFCA19/53 COCKLE FISHERY MANAGEMENT PLAN: Mr Williamson advised that a comment he made with regard to the purchase of Mr Lake's cockles had been repeated to Mr Lake, but slightly out of context. Mr Williamson requested it be noted that the comment was not meant in any malicious manner.

**Members Agreed that the minutes were a true record of the meeting.**

**Proposed:** Cllr Goldson

**Seconded:** Cllr Chenery

**All Agreed**

## **EIFCA19/62 Item 5: Matters Arising**

EIFCA19/50 COCKLE FISHERY 2019: The CEO advised members that a month after the opening of Friskney Sand, mussel surveys had indicated a 50% decline in mussel stocks which could have an impact on the Total Allowable Catch for the 2020 cockle fishery so the decision had been made to close the cockle fishery in order to protect the stocks for the following season.

EIFCA19/52 ANNUAL REPORT 2018-2019: Following the meeting a few minor amendments had been made prior to the report being published.

EIFCA19/53 WFO COCKLE FISHERY MANAGEMENT PLAN: Members were advised the Cockle Fishery Management Plan had been put into effect.

EIFCA19/54 SHRIMP FISHERY MANAGEMENT: The shrimp permit scheme was scheduled to be put out for consultation prior to Christmas

### **EIFCA19/63 Item 6: Health & Safety Risks**

Members were advised the whole staff team had taken part in H&S training which covered general safety precautions. There had also been two days of training relating to work onboard vessels and it was anticipated this would be repeated on a bi-annual basis.

Since the previous report three incidents had been reported, no injuries had occurred, and adjustments had been made where necessary.

**Members Agreed to note the report.**

### **EIFCA19/64 Item 7: Risk Register Review**

The CEO advised members that although the Risk Register was published in the Business Plan there was no formal review mechanism in place. The Internal Auditors had noted this and as a consequence it was agreed to monitor, review and update the Risk Register at the Authority's quarterly meetings.

It had also been noted that New Burden Funding had not been highlighted as a risk, this had now been added. It was noted that if New Burden Funding was not renewed in some form this would represent a 25% shortfall in funding.

**Members Agreed to note the report.**

### **EIFCA19/65 Item 8: Renaissance of East Anglian Fisheries (REAF)**

Members were advised that REAF was a community led long-term strategy for fisheries in the region. The objective of the strategy was to rejuvenate the fisheries in East Anglia.

Jason Berry from East Suffolk Council gave members a presentation on how REAF had been established, the various bodies involved and the aims of the strategy.

There were a number of questions following the presentation and some concerns expressed around the difficulties involved in implementing the strategy and in particular the challenges of getting young people into the industry. There was also positive comment, but this was tinged with concern that the Government had historically showed little support for the UK fishing fleet, which resulted in limited investment.

The CEO emphasised that REAF was an example of a body trying to do something positive for the industry and therefore he was supportive of the direction in which they were hoping to move and felt this was an

opportunity to influence the development of the future a fisheries management regime.

**Members Resolved to:**

- **Note** the content of the report and the presentation
- **Agree** that Eastern IFCA would engage with work to support progression of the REAF strategy.

**Proposed:** Cllr Chenery

**Seconded:** Cllr Goldson

**All Agreed**

**EIFCA19/66 Item 9: Finance & HR Sub-committee meeting held on 5<sup>th</sup> November 2019**

The Head of Finance & HR provided members with a resume of the matter discussed at the sub-committee meeting. Since the meeting EMFF grant funding had been received to cover the costs incurred by Operation Blake.

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

**EIFCA19/67 Item 10: Budget and Levies 2020-21 and Budget Forecast to 2025**

Members were advised that in 2017 the County Councils had agreed to a 2% annual uplift on the levy, with any surplus in the levy being put into capital replacement reserves, this principle had been re-confirmed at a meeting of the Finance Directors in October.

The Forecast to 2025 was issued with a note of caution as there was no certainty with regard to New Burden Funding or the level of salary increases that may be awarded.

**Members Resolved to:**

- **Approve** the Budget 2020/21
- **Approve** the Levies for 2020/21
- **Approve** the Forecast for the following 4 years to 2024/25

**Proposed:** Cllr Goldson

**Seconded:** Cllr Chenery

**All Agreed**

**EIFCA19/68 Item 11: Meeting Dates 2020-21**

Members were provided with a schedule of meetings for 2020-21 which took into account the revised sub-committee arrangements.

**Members Resolved to:**

- **Approve** the calendar of meetings

**Proposed:** Cllr Chenery  
**Seconded:** Cllr Collis  
**All Agreed**

## **EIFCA19/69 Item 12: Minimum Size Byelaw 2019**

Members were advised this byelaw was to replace the Emergency Byelaw which was in place to provide the protective effect of minimum size rules on fish stocks which had been in place prior to changes in European legislation.

Some amendments to the Emergency byelaw were proposed, such as ensuring fish caught legally elsewhere where not deemed illegal on landing.

The next step for this byelaw would be to go out to consultation, as this process could be time consuming it was recommended that if the Byelaw did not look like being in place before the expiration date of the Emergency Byelaw then a 6 month extension of it should be applied for.

The CEO advised this byelaw was being proposed by 4 IFCA's so the formal consultation costs would be shared amongst them.

Members considered the proposed byelaw, the potential to amend some of the MLS and whether EU legislation would remain in force should the UK leave the EU, and why the MLS for species varied in other areas.

### **Members Resolved to:**

- **Note** the results of the informal consultation and the associated Impact Assessment;
- **Agree** to make the Minimum Sizes Byelaw 2019;
- **Direct** officers to undertake a formal consultation on the Minimum Sizes Byelaw 2019;
- **Agree** to delegate authority to the CEO to make changes to the byelaw which do not substantially alter the intended effects of the byelaw, taking into account responses from the formal consultation and the formal QA process;
- **Direct** the CEO to submit a final version of the Wash Restricted Areas Byelaw to the Marine Management Organisation for formal QA after completing a formal consultation;
- **Agree** to delegate authority to the CEO to extend the Fish, Mollusc and Crustacea Minimum Size Emergency Byelaw 2019 by six months if the replacement byelaw is unlikely to be

implemented prior to the expiry of the emergency byelaw (12<sup>th</sup> August 2020)

**Proposed:** Dr Bolt  
**Seconded:** Mr Spray  
**All Agreed**

### **EIFCA19/70 Item 13: Closed Area Byelaw 2019**

Members were provided with an update on the progress of this byelaw. Work began in 2012 which resulted in the Protected Areas Byelaw in 2014. This had been revamped in 2016 following recommendation from Defra. In 2018 additional substantial new closures were put in place.

Further review had found additional need for closures in the Cromer Shoal Marine Conservation Zone with possible need for further closure for spatial restricts in the future.

Members expressed concern at the level of closures over the previous 4 years and how many more would be put in place during the following 4 years. It was questioned whether there had been any surveys of the windfarm areas for presence of Sabellaria, whether it was still there. It was believed there had been no review over the previous 10 years. It was felt there may be some data in monitoring reports, Mr Tyack agreed to report back on what level of feedback the MMO had received. Ms Moffatt also agreed to report back on what areas NE were looking into.

#### **Members Resolved to:**

- **Note** the rationale and justification for the circalittoral rock closed area in The Wash & North Norfolk Coast SAC;
- **Note** the Impact Assessment associated with the proposed circalittoral rock closure;
- **Agree** to include the closed area in the Wash & North Norfolk Coast SAC in the Closed Areas Byelaw 2020 when it is made; and
- **Note** the progress made with towards management of red risk fishing/feature interactions in the Inner Dowsing, Race Bank and North Ridge SAC.

**Proposed:** Mr Spray  
**Seconded:** Cllr Chenery  
**All Agreed**

### **EIFCA19/71 Item 14: Wash Restricted Area Byelaw 2019**

Members were reminded that the Wash Emergency Byelaw 2018 was scheduled to expire on 26 January 2020, consequently it had been agreed that the Wash Restricted Area Byelaw 2019 would be made along with associated eligibility criteria and permit conditions, and the associated Formal Operation Procedure. Following consultation minor amendments had been made.

Wording of the Eligibility Criteria had been amended to provide clarity to the intention that a WRA permit would replicate the person and vessel named on a WFO licence, and a person could only hold as many WRA permits as they had WFO licences.

The Formal Operating Procedure had been amended following advice from the MMO to include a 'definition' of risk.

Members were advised some fishers had expressed concern about the WRA Byelaw, it was also noted that following the review of the Wash Fishery Order the Wash Restricted Area would be subsumed into the whole site. This Byelaw was a temporary measure.

**Members Resolved to:**

- **Note** the amendments made to the Formal Operating Procedure and eligibility criteria for the Wash Restricted Area Byelaw 2019;
- **Agree** to delegate authority to the CEO to make further amendments to the Formal Operating Procedure, eligibility criteria and permit conditions as may be required, and which do not substantially alter the intended effects of the byelaw

**Proposed: Cllr Goldson**

**Seconded: Mr Davies**

**All Agreed**

**EIFCA19/72 Item 15: Wash Mussel Fisheries**

Although the annual mussel surveys had not been completed Members were advised that a decline in stocks had been identified so it was felt advisable to inform members of the findings so far.

It was anticipated that the final outcome of the surveys would be stock levels well below the conservation objective target, it seemed unlikely there would be a harvestable mussel fishery in 2020 particularly once bird food requirements were taken into account.

The decline of mussel stocks was thought to be attributable to mussels dying once they reach 2-3 years old which was before they had reached a fishable size. Recruitment was also sporadic on intertidal beds with the most likely areas to recruit being existing beds with shell and byssus threads present. Mytillicola was also a factor possibly affecting the falling mussel stocks.

Members were advised of trials which had been put in place during the previous years to attempt to boost the stock recruitment. It was felt this could be a matter for discussion at the Working Group meeting in January.

Members were advised that despite the findings of the majority of the Wash mussel stocks, those on the Welland Wall were thought to be in a stable condition and did not fall into the constraints of the Conservation Objective targets, it was therefore recommended that this remain open to fishing, with the proviso that the CEO be delegated authority to manage the fishery as required following the results of the mussel survey.

Members discussed the decline of the mussel fishery, potential affect on the cockle fishery and potential ways to recover the mussel fishery.

**Members Resolved to:**

- **Note** the initial findings of the Mussel survey 2019;
- **Agree** to maintain the Welland Wall mussel fishery as open to relaying and harvestable fisheries;
- **Agree** to issue the licence conditions and adopt the enforcement policy as at Appendices 1 and 2 in relation to the Welland Wall Mussel fishery;
- **Agree** to delegate authority to the CEO to introduce, vary and revoke management measures (including the licence conditions, operating times and Total Allowable Catch) and to open and close part or all of the mussel fishery within the Wash or the Welland Wall fishery as may be considered appropriate or required, including for the protection of the Wash and North Norfolk Coast Special Area of Conservation and Special Protection Area or for fisheries management purposes including the sustainability of the mussel stocks

**Proposed:** Cllr Chenery

**Seconded:** Cllr Collis

**All Agreed**

**EIFCA19/73 Item 16: Quarterly Progress against Business Plan priorities**

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

**EIFCA19/74 Item 17 – CEO Update**

The CEO gave a verbal update on matters of interest.

IVMS remained an ongoing project, latest suggestions were that it may operate on a mobile phone.

There had been no updates regarding the Review of IFCAs which had been carried out.

Several MMO appointees were approaching the 10 years maximum membership time. Defra only permit extension beyond 10 years in exceptional circumstances and each member is considered individually, so a blanket extension was not possible.

AIFCA minutes were included for members information.

**Members Agreed to note the information provided and the AIFCA minutes.**

**EIFCA19/75 Item 18 – Head of Operations Update**

Members were advised these reports would in future be circulated earlier to allow members sufficient time to read and consider before the meeting.

Pertinent incidents which had taken place during the previous three months were highlighted to members including prosecutions for landing undersized bass and fishing inside 6nm for whelks.

It was also noted that the industry should soon know if they had been awarded MSC accreditation for the Brown Shrimp Fishery.

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

There being no other business the meeting closed at 1325 hours.

### Vision

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### Action Item 6

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

11<sup>th</sup> March 2020

### Health and Safety update

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

#### **Purpose of report**

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

#### **Recommendations**

It is recommended that members:

- **Note** the contents of this report

#### **Background**

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

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

#### **Incidents**

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

During 2019 there were 14 report H&S incidents compared to 22 in 2018.

#### **Risks/Mitigation**

Lee Torrice (Senior Skipper) and myself are booked to attend shock mitigation training at the start of April, this will ensure that we are compliant with relevant legislation and have all protective measures in place to ensure officers are safe whilst undertaking activities on Authority vessels.

A further three days of vessel training are planned at Sutton Bridge, one day will be for all sea going officers to embed learning from the autumn training, a further two days will be focused on the Marine Protection Team looking at pot hauling and vessel boarding.

Personal Locator Beacons have been purchased along with a smoke/day handheld flare as officers were concerned that radio communication can fail and there were not able to raise the alarm if required whilst undertaking survey work in inter tidal areas.

There have been five incidents to report since the last meeting, with a positive culture of Health and Safety retained across the organisation.

<b>Date</b>	<b>Nature of incident</b>	<b>Injury / damage occurred</b>	<b>Action Taken</b>	<b>RIDDOR MAIB Y/N</b>	<b>Investigation complete Y/N</b>	<b>Name of investigating Officer</b>	<b>Follow-up action required Y/N. If Y then what?</b>
23/11/2019	Vehicle – engine failure	None	Officer replace vehicle	N	Y	Jon Butler	None
27/11/2019	Vessel Three Counties – Wipers failed	None	Wipers repaired at Refit	N	Y	Lee Torrice	None
14/01/2020	Person – Back Injury lifting hatch	Yes	Hatch adjusted to stop it catching	Yes MAIB	Y	Jon Butler	None
28/01/2020	Vessel Three Counties – Fire Extinguisher in engine room discharged	Noe	Extinguisher replaced and key removed to prevent further accidental discharge	N	Y	Lee Torrice	Signs to be made to ensure cabinet is not open whilst people in engine room.
17/02/2020	Person - Fall	None	Officers reminded to consider surrounding and beware of open hatches	N	Y	Simon Lee	None

## Appendix 2

### Eastern IFCA Health and Safety risks

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

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

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

\*

<b>Risk Rating</b>
High
Medium
Low

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

### Vision

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### Action Item 7

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

Report by: Andrew Bakewell – Head of Finance & HR

#### Meeting of the Finance & HR Sub-committee held on 4<sup>th</sup> February 2020

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

To inform members of the key outputs and decisions from the Finance & HR Sub-Committee meeting held on 4<sup>th</sup> February 2020.

##### **Recommendations**

Members are asked to:

- **Note** the content of the report.

#### F&HR 20/04 Minutes of the F&HR Meeting 5<sup>th</sup> November

- Signed as a true record

#### F&HR20/05 Matters Arising

F&HR19/17 Vessel replacement. CEO advised that Norfolk County Council had been retained to carry out the procurement process.

#### Finance Matters

##### **Re minute F&HR 20/06 Quarter 3 Payments and Receipts**

- Head of Finance reported high level of spend on Members expenses due to a backdated claim. Agreed to review setting time limit later in the agenda.
- Grant income relates to claims for Operation Blake and purchase of Seaspray.

Members Agreed to:

- **Note** the content of the report

##### **Re minute F&HR 20/07 Quarter 3 Management Accounts**

- Reported that salary savings for the remainder of the year would be reduced following recruitment to the post of Project Officer (Fixed Term).
- Despite overspend on Three Counties maintenance due to breakdowns, related to the vessels' age, savings elsewhere indicate an anticipated £50k underspend for the year.

Members Agreed to:

- **Note** the content of the report.

#### **Re minute F&HR 20/08 Investment Strategy**

- The Head of Finance and HR having investigated various options had concluded that the most efficient way forward was to “pool” funds with NCC in the hope of achieving c.1% return. Final details were to be agreed and documentation drawn up by NCC Legal Department.

Members agreed to:

- **Approve** the management of Authority reserves by NCC Treasury.
- **Agree** to delegate authority to the CEO to transfer c.£2.5 million to NCC subject to agreeing terms and accessibility arrangements.

#### **Re minute F&HR 20/09 Review of Spending Limits**

- A revised set of spending limits was proposed that recognised increasing costs and introduction of an additional limit for Grade 6 Officers of £750 to reflect added responsibilities and practical operational needs.

Members resolved to:

- **Agree** that the spending limits be amended as proposed.

#### **Re minute F&HR 20/10 MMO Appointee Expenses**

- Following debate concerning the overspend caused by the backdated expense claim.

Members resolved to:

- **Agree** To recommend that for the new Financial Year a three-month time limit, from the date of the meeting/duty, be imposed for expense claims to be honoured.
- **Approve** the payment of expenses to MMO appointees for the 2020/21 Financial Year

#### **Re minute F&HR 20/11 Appointment of Auditors**

Members resolved to:

- **Approve** that NCC Audit Services be engaged to carry out the internal audit and PKF Littlejohn be appointed to audit the Annual Return.

#### **Re minute F&HR 20/12 Exclusion of the Public**

All agreed to the resolution.

#### **Re minute 20/13 Office Accommodation**

- Members were provided with details on 4 options and after some deliberation selected two of the options for further consideration. Funding via the County Councils was discussed.

Members resolved to:

- **Agree** that options 3 and 4 (conversion of an empty industrial unit or a bespoke new build) were preferred
- **Agree** that purchase of the freehold was preferred to rental
- **Agree** that funding options be explored with the County Councils.
- **Agree** to delegate decision making to the CEO in consultation with the Chair and Vice-Chair members to be updated via email and at each meeting

## **HR Matters**

### **Re minute F&HR20/14 HR Update**

Members were advised on the following

- The Temporary (Fixed Term) Project Officer had started.
- An IFCO had successfully completed his probation and his permanent position had been confirmed.
- Recruitment process for a replacement IFCO was in progress.

## **Background Documents**

Unconfirmed minutes of the Finance and HR sub-committee meeting held on the 4<sup>th</sup> February 2020.

### Vision

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## Action Item 8

### Eastern Inshore Fisheries and Conservation Authority Meeting

11 March 2020

#### **Strategic Assessment 2020 - 21**

**Report by:** Greg Brown - IFCO/Project Officer

#### **Purpose of Report**

The purpose of this report is to present the Strategic Assessment for 2020 for approval and subsequent publication.

#### **Recommendations**

It is recommended that members:

- **Note and Approve** the content of the Strategic Assessment, including the priorities identified for 2020-21

#### **Background**

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

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

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

#### **Report**

##### **Development of the Strategic Assessment**

In previous years additional criteria have been added to incorporate new and improved information/evidence. No further criteria were identified this year. The criteria used reflect the main duties of the Authority and are as follows:

- *Evidence base* – an assessment of the available evidence for each species in relation to fishing effort, landings, stock health and presence of spawning and nursery areas.

- *Current Regulation* – assesses species based on measures currently in place in relation to protection of pre-spawning individuals, gear management or specification and effort restrictions.
- *Ecosystem impacts* – assessment considers the potential ecosystem level impacts of the main gears associated with each species (e.g. by-catch, habitat damage).
- *Fisheries performance* – considers the landed weight and value of catch from within the Eastern IFCA district, any detectable trends in landed catch, landings from within the district as a proportion of the UK total and available ICES advice.
- *Presence or absence of spawning and nursery grounds* – scores were assigned to each fishery to reflect a higher risk where spawning and nursery grounds are present.
- *EIFCA landings in a UK context* – landed weights from within the Eastern IFCA district were reflected as a proportion of UK total landings for each species. Scores were assigned which reflect a higher risk where fisheries had greater national importance.
- *Fisheries trends* – landed weights were analysed to detect positive or negative trends in landed weights over time. Scores were assigned which reflect a higher risk where a strong positive or negative trend was detected.

Risk scores have continued to be related to fisheries performance and the scoring system has remained simpler following changes from previous years. Use of the Community Voice method data has been incorporated into the assessment as part of the contextual issues section. This is of importance as it provides a level of objectivity to an otherwise subjective part to the strategic assessment. The industry viability section that was introduced last year has been kept for this year.

The 2020 assessment (Appendix 1) sets out the high priority work, key 'business as usual' work-streams and identifies future work and priorities. 'Business as usual' priorities relate to established work-streams responsible for maintaining a lower risk score for certain fisheries. These include, for example, the annual cockle stock survey, without which, the risk associated with the cockle fishery would increase. These are set out to reflect the full suite of demands on the IFCA. Identification of future priorities and work streams relate to risks identified within the assessment which are considered less of a priority. It is important to highlight these potential work streams as they may inform future Strategic Assessments or, opportunities may present during the year which enable these workstreams to be completed.

Additional consideration was given to key messages received from stakeholders throughout the year. These messages are routinely recorded through message forms, patrol reports and correspondence libraries. Last year this information was included under each fisheries section, however this year it has been moved to dedicated

section. This allowed for a more careful consideration of the issues and concerns raised by our stakeholder's whilst setting the annual priorities.

### Outputs of the Strategic Assessment 2019

Annual priorities reflect the work which is the focus during the financial year rather than distinct, annual projects. Whilst the priorities identified during the 2019 Strategic Assessment have been progressed, most of these work-streams require continued development and completion.

This is reflected in the outputs of the 2020 assessment which has indicated that the key priorities are those carried over from 2019-20. Other 2019-20 priorities have been re-prioritised to account for wider developments which have reduced risk. New priorities are set out below.

### **New High Priority work 2020-21**

- Bivalve Molluscs
  - Implementation of new WFO lease conditions
  - Economic assessment of hand-work cockle fishery viability
  - Review of WFO as highlighted in other sections.
  - Investigation into mussel die off
- Crustaceans
  - Engagement to gather evidence for the MCZ assessment;
  - Dialogue with Marine Conservation Society regarding 'Good Fish Guide' assessment for Cancer pagurus and Homarus gammarus in Southern North Sea.
- Shrimps/Prawns
  - Monitor effort in line with effort limitation model
  - Continue to implement MPA management measures
- Whelk
  - Undertake stock assessment and assessment of size at sexual maturity
  - To be determined by associated stock assessment, minimum size review and permit conditions review

### **New Business as Usual Critical work streams 2019-20**

No new work streams identified

### **Risk**

The risk associated with the assessment is that it does not detect a priority work-stream. This is mitigated by the further development of the assessment as set out above. In addition, the Strategic Assessment is a live document, which is intended to be updated to reflect new evidence and changing contextual needs.

### **Financial Implications**

None

**Legal Implications**

None

**Appendices**

1. Strategic Assessment 2020

**Background Documents**

Not Applicable

### Vision

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



## Action Item 9

### Eastern Inshore Fisheries and Conservation Authority Meeting

11 March 2020

#### 2020-25 Business Plan

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

#### **Purpose of Report**

The purpose of this report is to submit the draft Business Plan for 2020-25 for approval and subsequent publication.

#### **Recommendations**

It is recommended that members:

- **Note and Approve** the content of the Business Plan, including the priorities and plans for 2020-21

#### **Background**

A rolling five-year Business Plan was developed and introduced in April 2016, bringing together all elements of activity undertaken by the organisation.

The plan is intended to project five years in advance with annual reviews to update the strategic and financial context and to prioritise and plan for each financial year.

The planning model is intended to provide a longer term and more cohesive approach to business planning by drawing together all elements of activity in a single plan.

#### **Report**

The Business Plan (Appendix 1) provides the strategic framework within which Eastern IFCA operates and describes our ability to deliver against our vision and priorities. This is demonstrated by setting out factors such as effective leadership arrangements; the strength of the team in terms of experience, qualifications and skills; being appropriately equipped; operating effectively and effective financial management.

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

The plan shows a clear linkage to Defra's vision and strategy, including the 25-Year Environment Plan. Although IFCAs are not Defra bodies, they do deliver into the Defra remit and understanding the link demonstrates synergy between the work of Eastern IFCA and the national framework. The Business Plan also incorporates the Success Criterion and High-Level Objectives, which are agreed between Defra and the IFCAs and will guide the work of Eastern IFCA.

### **Priorities 2020-21**

The overall priorities for 2020-21 have been identified by the annual Strategic Assessment and are set out in Appendix 3 of the Business Plan. Most priorities are carried over as work in progress from previous years.

The Enforcement plan is set out in Appendix 4 and follows a similar format to previous years.

The Communications and Engagement Plan is set out in Appendix 5. It sets out an approach of focusing our engagement around ongoing regulatory workstreams.

### **Risk**

The risk matrix in the plan is set out in Appendix 1 reflects the most significant strategic risks to the Authority which demand management action. The key risk to Eastern IFCA is remains uncertainty of future funding due to New Burdens funding only being guaranteed to 2020.

### **Financial Implications**

None

### **Legal Implications**

None

### **Appendices**

Appendix 1 - Draft Business Plan 2020-25

### **Background Documents**

Not Applicable

### 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 10

### Eastern Inshore Fisheries and Conservation Authority Meeting

11 March 2020

### Wash Fishery Order 1992 replacement

**Report by:** L. Godwin – Senior IFCO (Regulation)

#### Purpose of Report

To present a report on potential regulatory mechanisms to replace the Wash Fishery Order 1992.

#### Recommendations

It is recommended that members:

- **Note** the content of the report;
- **Agree** subject to supporting legal advice, to replace the regulated fishery element of the Wash Fishery Order 1992 with a byelaw-based permit scheme;
- **Agree** to replace the several fishery element of the Wash Fishery Order 1992 with a new several Order under the Sea Fisheries (Shellfish) Act 1967.

#### Background

The Sea Fisheries (Shellfish) Act 1967<sup>1</sup> (hereafter the ‘Shellfish Act’) makes provision for the Minister to grant the right of regulated and several (i.e. private) fisheries by way of making an Order. Eastern Sea Fisheries Joint Committee (as was) made application for such an Order which would grant both the right of a regulated and several fisheries in 1987. The Wash Fishery Order 1992<sup>2</sup> (WFO) came into force on the 4<sup>th</sup> of January 1993. The rights established under the WFO were transferred from the Joint Committee to Eastern IFCA by way of transitional and saving provisions<sup>3</sup> in 2011.

The WFO enables the Authority to manage specified public shellfish fisheries (i.e. cockles, mussels, clams, scallops, queens and oysters) as a regulated fishery including through prohibiting access without a licence issued by the Authority and setting restrictions and regulations. The WFO also enables the Authority to administer and manage private aquaculture in The Wash as a several fishery (i.e. ‘the lays’).

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<sup>1</sup> [Sea Fisheries \(Shellfish\) Act 1967](#)

<sup>2</sup> [The Wash Fishery Order 1992](#)

<sup>3</sup> [The Marine and Coastal Access Act 2009 \(Transitional and Savings Provisions\) Order 2011](#)

Orders made under the Shellfish Act can apply for a maximum of 60 years. The WFO was made to have effect for only 30 years and as such it expires on the 3<sup>rd</sup> January 2023.

## **Report**

### *The need to replace the WFO*

The regulated cockle fishery within The Wash is one of the most economically important and productive within the Eastern IFC District with an annual first sale values of between an estimated £1 and 5 million over the last five years. Historically the mussel fishery has been as important but has been in decline in recent years. Mussel fishing activity from the several fishery has been more important, with some lay holders still activity cultivating and selling mussel within The Wash.

Presently, up to 61 different vessels are licensed to fish within the fishery which provide catch to three local processors (two in King's Lynn and one in Boston) and there is a 'waiting list' of more than 40 other persons who are seeking access. Cockle catch from The Wash constitutes a significant proportion of the output of each, contributing to wider employment (factory operators, delivery drivers etc.) and international trade. Several different business models operate within the fishery including independent fishermen, small family business and larger business models which operate up to ten different vessels within the fishery.

The Wash also hosts several different nature conservation designations and is often cited as one of the most heavily designated sites in Europe. Enabling fisheries within the site requires a significant resource to assess the potential impacts of a fishery and to ensure management measures mitigate risks to the conservation objectives of the site.

Given the high economic value of the Wash shellfish fisheries and the conservation status of site, fisheries management is considered necessary to ensure fishing activity is sustainable and compatible with the associated conservation objectives.

It is noteworthy that industry have made strong representation to the effect that their preference is that the Authority extends the current WFO, rather than consider a new model. Whilst an Order can be extended (up to a total life span of 60 years), this option is not considered appropriate on the grounds that there are recognised deficiencies with the WFO which need to be addressed and that the process for extending an Order is as time consuming as making a new Order (i.e. there would be no benefit for the same amount of resource). Officers have also been advised that Defra are not considering extensions to Orders in any case (*pers coms Michael Gubbins, 2020*).

### *Consideration of most appropriate approach to replace the WFO*

The WFO has enabled the Joint Committee and Eastern IFCA to manage the Wash shellfish fisheries, balancing the economic viability of the fishery and environmental protection of the site in which the they operate. Management of the fisheries under the WFO has often been used an example of best practice internationally.

At the time it was made, the WFO was the first 'hybrid Order' to be made in England, consisting of both a regulating and several order. It offered the Joint Committee broad

powers to manage a fishery including through limiting access to the fishery at a time when byelaw making powers were very limited (as per s.5 of the Sea Fisheries Regulation Act 1966). Orders provided a unique autonomy in managing fisheries at a local level and were the only mechanism for local authorities to implement bespoke and reactive management.

The Wash fisheries are complex; in recent years it has become common place to revise management measures during a cockle fishery in response to concerns raised by the industry or evidence of environmental impacts. A flexible approach is therefore crucial to effectively manage fisheries in The Wash. Licence conditions are used to reflect the needs identified from an annual assessment and can be varied mid-season. There are limited procedural requirements to issuing, varying or revoking licence conditions or opening and closing a fishery under the Order as this is sub-delegated to the grantee of the Order. This is inherent in the autonomy provided with the right of regulating fishery.

However, there have been significant legislative advancements since the implementation of the WFO and in particular relating to IFCA byelaw making powers. Where the purposes for which Joint Committee byelaws could be made were specified in the Sea Fishing Regulations Act 1966, IFCA byelaw making powers under the Marine and Coastal Access Act 2009 (hereafter MaCAA) are very broad, restricted to managing the exploitation of sea fisheries resources '*for the purposes of performing the duty imposed by section 153 or the duty imposed by section 154*' that is to say the Authority's 'main duties' and that to protect Marine Conservation Zones.

MaCAA includes powers for IFCAs to implement permit schemes, limiting access to fisheries and implementing permit conditions. Eastern IFCA has implemented such a scheme to manage whelk fisheries in 2015. The capabilities of a permit scheme have been further explored through the development of the Shrimp Permit Byelaw 2018 and most recently and pertinently, through the development of the Wash Restricted Area Byelaw 2019, which seeks to manage a part of the Wash which fell outside of both the WFO and the le Strange Estate in a manner consistent with the WFO.

Whilst this work has identified that there is potential to use a byelaw mechanism to introduce a flexible fisheries management scheme, no assessment has been undertaken (to the best knowledge of officers) to compare the capabilities of a byelaw with that of an Order under the Shellfish Act. Given that the process for developing and implementing byelaws is well established within Eastern IFCA and that the same for implementing Orders is less well understood but likely to be greatly more complex and resource consuming, officers have undertaken a legislative comparison to help identify the most effective method to replace the Wash Fishery Order. This assessment is set out at Appendix 1. The assessment considered all relevant provisions within the Shellfish Act and the WFO against what is achievable under an IFCA byelaw mechanism. The methodology and key findings are summarised below under relevant headings.

#### Methodology

The Shellfish Act sets out provisions for granting the right of regulated and several fisheries and the WFO is the Order which establishes these rights as granted to Eastern IFCA.

The assessment considered each provision within the Shellfish Act and the WFO against byelaw making powers and other relevant legislation. Several sections of the Shellfish Act and WFO were scoped out as not being relevant to the assessment, for example, s.6 of the Shellfish Acts which deals with reports to Parliament made by the Minister. The provisions scoped in generally relate to powers provided to the grantee of an Order.

Where provisions were scoped in, officers assessed whether analogous powers were provided under MaCAA in the first instance and, where available, examples were sought from existing IFCA byelaws including those from other IFCAs. All relevant legislation is referenced in the assessment at Appendix 1.

The assessment has been submitted to Andrew Jackson Solicitors LLP for legal advice to confirm our assessment.

#### Establishing a several fishery

Whilst the assessment has identified IFCAs have much greater byelaw making powers than was the case previously, there is no analogous mechanism within our byelaw making abilities to establish any several fisheries. A several Order established under s.2 of the Shellfish Act is the only mechanism to grant the right of a several fisheries to the same effect as under the WFO.

The Lays are not presently considered to constitute as significant a fishery as had historically been the case. For the most part, Lays sub-leased to fishermen by Eastern IFCA are unused and in all likelihood not compliant with the requirement to be well maintained. This is in part a reflection of the general decline of mussel fisheries nationally resulting in a lack of 'seed' (i.e. juvenile mussel) to stock the lays.

In addition, administration of the lays poses a risk to the Authority in terms of the resource required to manage them, including undertaking Habitat Regulation Assessments, monthly monitoring of 'food availability'<sup>4</sup> and habitat surveys. The Authority is to an extent liable for biosecurity issues relating to Lay holders restocking lays with mussel from outside of the Wash. One notable example saw a significant amount of mussel deposited onto Lays without the Authority's consent (as is required under to lease conditions) so as to enable officers to undertake the necessary checks to mitigate importing non-native species or disease. It could therefore be argued that the Authority is effectively subsidising private ventures and taking on additional responsibility and providing the survey work and environmental assessment which would ordinarily be undertaken by the fishermen themselves. It is noteworthy that management of 'lays' outside The Wash generally fall outside of Eastern IFCAs remit, with the Fish Health Inspectorate being the consenting authority and as such required to manage their use and ensure compliance with biosecurity and conservation legislation.

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<sup>4</sup> Officers monitor phytoplankton levels and collect mussel samples to test meat yield on a monthly basis whilst collecting samples for the Borough Council's Environmental Health samples. These inform a continuous monitoring programme which is aimed at identifying if food availability reduces as a result of mussel aquaculture in the Lays.

The matter of lays is further complicated by recent widespread cockle settlements which have included settlement onto the Lays. Once a lay is granted, all shellfish therein are the 'absolute property' of the lay holder and as such, any settlement of 'wild' shellfish then fall outside of the public fishery. This led to a conflict during the 2016 cockle fishery whereby some fishers took exception to some Lay holders effectively having access to additional parts of the wild stock.

However, despite its complications, Eastern IFCA's administration and management of Lays serves to mitigate the risk associated with the fishing industry doing so in the context of Eastern IFCA having to manage the regulated fishery in the same sea area. It provides the Authority with an ability to ensure that the activity does not impact the wild fisheries or the conservation objectives of The Wash.

It is therefore recommended that the Authority applies for a Several Fishery under the Shellfish Act and, in the first instance, develops the management plan to that effect.

#### Flexible management approach

The assessment has identified that broadly speaking, the same level of flexibility is achievable under a byelaw as would be the case under an Order.

An Order would provide a greater level of sub-delegated power to the Authority by way of granting a 'right' to a regulating fishery which enables a greater level of flexibility and autonomy.

Flexible mechanisms can be drafted into byelaws but generally, these reflect slower time changes to 'permit conditions' which still require formal consultation and consideration of impacts on stakeholders. This would preclude reactionary management of a type which is often required within The Wash, for example, in closing or opening a bed mid-season.

Officers have however developed a mechanism to provide a similar level of flexibility within the draft Wash Restricted Area Byelaw 2019. This is achieved by including mechanisms which allow management measures to be introduced, varied or revoked with as little as 12 hours' notice to fishermen but which only have effect for a limited amount of time without further review (which would then include consultation with industry and a form of impact assessment). Formal advice has been received from the Marine Management Organisation's legal team (who QA IFCA byelaws) to the effect that such mechanisms effectively mitigate any risk of unlawful sub-delegation of power. As such, it is concluded that a byelaw mechanism can effectively replace the effects of an Order in this regard.

#### Limiting access to fisheries

As set out above, permitting schemes are an established form of management implemented by most IFCAs. Such a permit scheme can include a limitation on the number of permits and implementing criteria to determine eligibility for

such. This is analogous to the provisions of the WFO, all of which are achievable under an IFCA byelaw.

This includes for example; the inclusion of an 'entitlement' system as currently applies under the WFO whereby holding a licence provides an 'entitlement' to a further licence (as is the case with North Western Byelaw 3 – see appendix 1). In addition, byelaws can include provisions to remove any such 'entitlement' as in the case of the WFO where a fisherman has committed a 'relevant offence' i.e. a conviction at court. IFCA byelaws are in that respect more powerful than an Order inasmuch as permits may be suspended where there is 'non-compliance' rather than a conviction as is evidenced by formal advice from the Marine Management Organisation regarding the draft Wash Restricted Area Byelaw 2019.

Whilst it is outside the scope of this paper, whether any replacement (be it an Order or a Byelaw) includes reference to an 'Entitlement' requires further consideration. Fishermen have raised concerns regarding business continuity in any system whereby a permit cannot be guaranteed each year. Conversely, there are also concerns that the 'entitlement' system is not equitable and has led to dubious practices to obtain or retain a licence. In reality, even under the WFO, the Authority has the ability to limit the number of licences issued to less than the number of those who have an Entitlement and a more wholistic approach to permitting access could be adopted to include for example, a points-based system.

#### Safeguards for stakeholders

Within the Shellfish Act, the Minister is empowered to hold the grantee to account in relation to the management of the Order. Where the Minister is minded to do so, they can cause an inquest and require testimony under oath to investigate any short fallings of the grantee. This likely reflects the additional power provided to the grantee of an Order.

Within the byelaw making process, the Minister can amend or revoke byelaws which are considered unnecessary, inadequate or disproportionate but there is no analogous process for holding IFCAs to account in its use of byelaws in the same way as under an Order. That said, Eastern IFCA is held to account against its general duties under MaCAA and decisions may be subject to judicial review and/or public enquiry.

In reality, it is likely that Eastern IFCA will be no less accountable for the effective and proportionate management of fisheries whether using a byelaw or an Order.

#### Elements lost if an Order is not used

All the elements of the WFO can be replicated through byelaw mechanisms and the vast majority of the 'rights' granted by the Shellfish Act through an Order are analogous to those provided under MaCAA. The exception is the loss of the ability to apply for 'grants or loans' from Treasury to fund the restoration of shellfish beds under s.9 of the Shellfish Act.

### Amending Orders versus byelaws

Orders made under the Shellfish Act require consideration before Parliament and are generally considered more 'permanent' than byelaws. A byelaw having a maximum lifespan of 6 years before review versus an Order which can theoretically persist for 60 years. A reflection of the additional sub-delegated power and permanency of an Order is the additional process required to make and amend such compared to a byelaw.

It is noteworthy that Defra have advised the timeframe for making an Order is likely to greatly exceed the '2 years' stated within the associated guidance and that even a byelaw making, with its comparably limited process can exceed a two-year timeframe.

The utility of the WFO has been degraded over time, since its implementation. Fishing practices and policies change over much shorter periods than 30 years (the life span of the Order) but amending an Order to reflect this is considered too high a resource burden to regularly update. By contrast, IFCA byelaws are inherently more suited to review and replacement and such is encouraged by Defra advice for regular byelaw reviews.

### Process

Developing and implementing an Order is likely to be a more complex and resource intensive undertaking, the timescales for which are for the most part out of Eastern IFCA's control with a reliance on an Order being put before parliament and its initial drafting and later consideration at the behest Defra. Officers have informally been advised that the process will greatly exceed the two year timeframe stated within the associated guidance.

By contrast the byelaw making process is well established and, as a result of a recent review, streamlined to make it more efficient.

Ultimately, both will require significant dialogue with the industry which will represent the majority of Eastern IFCA resource input into the process.

The full process associated with each is applicable when amending Orders or Byelaws.

### Recommendation on the basis of the assessment

Replacing the WFO with an Order under the Shellfish Act would provide additional sub-delegation of power to the Authority in managing the shellfish fisheries in The Wash. However, contemporary IFCA byelaw making powers and other powers established under MaCAA provide sufficient mechanisms for Eastern IFCA to create a management scheme analogous to that of a regulating order. In some cases, byelaw making powers exceed those under the Shellfish Act.

Given that the process for developing and implementing an order is more costly and complex than is the case for byelaw making, use of a byelaw provides less of a risk that the Order will expire without a replacement and other priority workstreams are less likely to be effected as a result of committing resource to this workstream.

In addition, use of a byelaw provides additional opportunity to make amendments over time as industry practices change. The WFO is often found to use wording and mechanisms which are not in keeping with contemporary fisheries management and it is likely that even best attempts at future proofing will not provide an order which will remain relevant for 30 or more years. Our inability to amend the Order has often been cited as a shortcoming which has precluded dealing with some of the wider management issues within The Wash including, for example, the renting out of licences.

On balance, the use of a byelaw mechanism to replace the regulating element of the WFO is considered the most appropriate mechanism. There is no alternative with respect to the several Order elements of the WFO and if we are to administer and manage lays, an order is the only option to do so.

### **Financial Implications**

With the exception of the cost of obtaining legal advice, no additional costs are identified. The process for developing an Order or Byelaw is resource intensive but relates mostly to staff time and the main impact would relate impacts on other workloads. Work relating to the development of an Order is likely to be more resource intensive than making a byelaw.

### **Legal Implications**

The legal implications relating to a decision on this matter are limited given that there are few, if any, direct consequences of the decision on industry.

### **Appendices**

Appendix 1 - Assessment of provisions made under Orders against that achievable under a byelaw.

### **Background Documents**

Not applicable

Appendix 1 – assessment of provisions made under Orders against that achievable under a byelaw.					
Key:	Achievable under a byelaw		Partially achievable under a byelaw		Not achievable under a byelaw
Relevant Legislation	Wording		Assessment against Byelaw provisions		
s.1(5) Sea Fisheries (Shellfish) Act 1967	<p><b>Power to make orders as to fisheries for shellfish.</b></p> <p><i>No order under this section shall take away or abridge any right of several fishery or any right on, to or over any portion of the sea shore, being a right enjoyed by any person under any local or special Act of Parliament or any Royal charter, letters patent, prescription, or immemorial usage, except with the consent of that person</i></p>		<p>More limited than a byelaw within an MPA. S.158 Marine and Coastal Access Act allows IFCA's to impose restrictions in 'private' fisheries etc. within MPAs.</p>		
s.1(9) to (14) Sea Fisheries (Shellfish) Act 1967	<p><b>Power to make orders as to fisheries for shellfish.</b></p> <p><i>(9) Subsection (10) below applies in any case where it appears to the appropriate Minister that—</i></p> <p><i>(a) permission has been granted for the carrying out of any development in, on or over any portion of the sea shore to which</i></p>		<p>Affords some protection from 'developments' being undertaken within the area of an Order which would preclude fishing activity.</p> <p>Enables the Minister to amend or revoke Orders to allow for a development. But in doing so, the Minister must consult with those effected. In the case of a Several Fishery, the Minister can require compensation (not the case in the Regulating Order).</p>		

	<p><i>an order made under this section relates (the “affected area”), and</i></p> <p><i>(b) as a result of the development, it will be impossible or impracticable to exercise any right of several fishery or of regulating a fishery conferred by the order in the affected area.</i></p> <p><i>(10) In any such case, the appropriate Minister may—</i></p> <p><i>(a) vary the order so that the area to which the order relates no longer includes the affected area, or</i></p> <p><i>(b) if the affected area comprises the whole or the greater part of the area to which the order relates, revoke the order.</i></p> <p><i>(11) The provision that may be made by an order made by virtue of subsection (10) above includes—</i></p> <p><i>(a) provision requiring the owners of the affected area to pay compensation to any persons who, at the time of the making of the order, are entitled to a right of several</i></p>	<p>In relation to Regulating Orders, it potentially affords only the same level of protection as the Eastern Marine Plan. i.e. within FH1 as follows:</p> <p><i>Within areas of fishing activity, proposals should demonstrate in order of preference: a) that they will not prevent fishing activities on, or access to, fishing grounds b) how, if there are adverse impacts on the ability to undertake fishing activities or access to fishing grounds, they will minimise them c) how, if the adverse impacts cannot be minimised, they will be mitigated d) the case for proceeding with their proposal if it is not possible to minimise or mitigate the adverse impacts</i></p> <p>The plan also refers to SOC1 and SOC3 as being relevant to fishing activity<sup>5</sup>.</p> <p>In addition, any planning activity includes consultation with Eastern IFCA. Given that the wording of the Act refers only to ‘consultation’ it is likely that the Marine Plan affords more ‘protection’ by way of FH1 than the Order does.</p> <p>That said, in order for a Minister to use the provisions of s.1(10), he must make an Order to remove the right of a Regulating or Several Fishery which affords a degree of</p>
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<sup>5</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/312496/east-plan.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/312496/east-plan.pdf) Paragraph 137 refers to fisheries as contributing to food security and healthy diets in relation to SOC1. SOC3 refers to considering cultural impacts as part of the marine planning process.

	<p><i>fishery in any part of the affected area by virtue of an order under this section;</i></p> <p><i>(b)provision for the amount of any such compensation to be specified in, or determined in accordance with provision made by, the order (including provision for or in connection with the appointment of a person to make any such determination).</i></p> <p><i>(12) Before making an order by virtue of subsection (10) above, the appropriate Minister must consult—</i></p> <p><i>(a)any persons who are entitled to a right of several fishery or a right of regulating a fishery in any part of the affected area by virtue of an order under this section, and</i></p> <p><i>(b)the owners or reputed owners, lessees or reputed lessees and occupiers, if any, of the affected area.</i></p> <p><i>(13) The appropriate Minister may require the owners of the affected area to provide him with such information relating to the development as he may reasonably require for the purpose of deciding whether to make an order by virtue of subsection (10) above.</i></p>	<p>'procedural protection' i.e. that secondary legislation would have to be made and considered by parliament.</p>
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	<p>(14) In this section “ development ” has the same meaning as in the Town and Country Planning Act 1990.</p>	
<p>s.3(1) Sea Fisheries (Shellfish) Act 1967</p>	<p><b>Effect of grant of right of regulating a fishery</b></p> <p>.... the grantees shall have power to do all or any of the following things, namely—</p> <p>(a) to carry into effect and enforce any such restrictions and regulations;</p> <p>(b) to levy any such tolls or royalties;</p> <p>(c) to provide for depositing and propagating shellfish of any description to which the order applies within those limits and for <b>[F1 regulating ]</b> the regulated fishery or regulated part, as the case may be.</p>	<p>MaCAA sets out powers analogous to (a) and (b) under s.156.</p> <p>(c) enables the grantees to deposit and propagate shellfish fisheries. This would include for example, laying of cockle culch to act as mussel settling surface or relaying mussel onto ‘wild’ beds. This is reflected in the WFO in para 12 ‘Power to remove brood of any of prescribed species’. This provides only for the redepositing of shellfish onto wild beds (i.e. not into the Several Fishery Lays).</p> <p>s.172 MaCAA (Development, etc of Fisheries) sets out that an IFCA ‘may take such steps as it considers necessary or expedient for or in connection with the development of any fishery for any sea fisheries resources’ and that this ‘includes power to stock or restock a public fishery for any sea fisheries resources’.</p> <p>Essex Native Oyster Restoration Project included application for a marine licence to propagate the oyster bed at Black Water including laying culch and oysters. This was achieved outside of an Order<sup>6</sup>.</p>

<sup>6</sup> <https://essexnativeoyster.com/> & <https://www.gov.uk/guidance/deposits#deposit-of-any-substance-or-object>

		MMO have informally advised that an Order is not necessary to deposit shellfish. What would be needed is a mechanism to close areas which are being propagated etc. to prevent removal of the brood to allow for regeneration etc. which is also achievable under a byelaw.
3(2) Sea Fisheries (Shellfish) Act 1967	<p><b>Effect of grant of right of regulating a fishery</b></p> <p><i>Subject to the provisions of [F2sections 4 and 5A] of this Act, all such restrictions, regulations, tolls and royalties as aforesaid shall be imposed on and apply to all persons equally, and shall be for the benefit of the regulated fishery or part only, and [F3 , subject to subsection (2A) of this section, ]any such tolls and royalties shall be applied [F4 for purposes relating to the regulation of ] that fishery or part.</i></p>	<p>Sets out that management must apply equally to all persons and must be for the benefit of the Regulated Fishery.</p> <p>Same principles apply in byelaw making process and which is assessed by Minister (MMO and Defra) but no such wording is found within MaCAA. This is potentially more restrictive than would be the case under a byelaw but the same ‘protection’ applies to stakeholders through byelaw making process.</p>
3(2A) Sea Fisheries (Shellfish) Act 1967	<p><b>Effect of grant of right of regulating a fishery</b></p> <p><i>An order under section 1 of this Act ...</i></p> <p><i>may provide that the grantees may, for the purposes of recouping any costs incurred by the grantees in connection with applying for the order, retain such portion of those tolls and royalties as may be specified in the order.]</i></p>	<p>Enables the grantee to recoup costs associated with applying for an Order. Analogous powers found within Byelaw making provisions in MaCAA (s.156(4)(a) provision for the charging of fees for permits). Varying costs is potentially easier under the Order as it can be done without amending the Order whereas varying fees in a byelaw requires the full byelaw making procedure. That said, varying fees requires Ministerial consent a process analogous to that of making a byelaw is still required (i.e. formal consultation, Impact Assessment).</p>

		Therefore the two processes require a similar amount of Officer resource in any case.
3(3) & (5) Sea Fisheries (Shellfish) Act 1967	<p><b>Effect of grant of right of regulating a fishery</b></p> <p><i>Any person who dredges, fishes for or takes shellfish of any description to which any such order applies in contravention of any such restriction or regulation, or without paying any such toll or royalty, as aforesaid shall be guilty of an offence and liable on summary conviction to [F6a fine not exceeding [F7 £50,000 ][F6a fine]] and to forfeit all such shellfish so taken or, if they have been sold, a sum equal to their value; and any shellfish or sum so forfeited shall be recoverable in like manner as a fine.</i></p> <p><i>Where any sea fishing boat is used in the commission of an offence under subsection (3) [F11or (4B)]of this section, the master, the owner and the charterer (if any) shall each be guilty of an offence and liable on summary conviction to [F12a fine not exceeding £50,000[F12a fine]].]</i></p>	<p>Sets out offence and fine level including in relation to the Owner and charterer is applicable of vessels. Same provisions exist within MaCAA for Byelaws at s.163(1) and (2) which includes liability to the owner or charterer of a vessel used in connection with an offence.</p> <p>Fines for offences under MaCAA are unlimited.</p>
3(4) Sea Fisheries (Shellfish) Act 1967	<p><b>Effect of grant of right of regulating a fishery</b></p> <p><i>The court by which any such forfeiture is imposed may direct the shellfish or sum forfeited</i></p>	Enables courts to pass money resultant of forfeiture during a conviction to Eastern IFCA to be used for the purposes of regulating the fishery.

	<p><i>to be delivered or paid to the grantees to be applied by them [F8 for purposes relating to the regulation of ] the regulated fishery or part.</i></p>	<p>The same applies for offences under Eastern IFCA byelaws.</p>
<p>3(4A), (4B) &amp; 4(C) Sea Fisheries (Shellfish) Act 1967</p>	<p><b>Effect of grant of right of regulating a fishery</b></p> <p><i>(4A) Subsection (4B) applies where an order under section 1 of this Act—</i></p> <p><i>(a) confers a right of regulating a fishery for any specified description of shellfish, and</i></p> <p><i>(b) imposes restrictions on, or makes regulations respecting, the dredging, fishing for and taking of any specified description of shellfish within the limits of the regulated fishery or any part of it.</i></p> <p><i>(4B) A person commits an offence if—</i></p> <p><i>(a) the person is found within the limits of, or in the immediate vicinity of, the regulated fishery,</i></p> <p><i>(b) the person is found there at, or about, a time at which the restrictions imposed or regulations made by the order apply,</i></p> <p><i>(c) when so found, the person is in possession of such equipment, vehicle, apparatus or other</i></p>	<p>Amendment made to Act under Scottish legislation (although wording implies it applies generically).</p> <p>Powerful provision which increases scope of offences in relation to regulations and restrictions made under the Order albeit not set out as a strict liability offence.</p> <p>Similar effect achievable under byelaw through ‘deeming clause’ (e.g. as in Devon and Severn Mobile fishing byelaw<sup>7</sup>, paragraph 5.) i.e. deem a vessel to be fishing if they are within the fishery whilst carrying on board cockle suction dredge etc. Such a deeming clause would be more powerful than the provision of the Order as it could be written as ‘strict liability’ (i.e. does not require proof of intent). It is worth noting that Defra had concerns regarding the use of deeming clauses but also that some still persists in IFCA byelaws.</p> <p>Similar effect potentially achievable by restricting access to areas when a vessel named on a permit is carrying gear e.g. North Western Byelaw 3 – PERMIT TO FISH FOR COCKLES</p>

<sup>7</sup> Devon and Severn IFCA, Mobile Fishing permit Byelaw: <https://www.devonandsevernifca.gov.uk/Resource-library/E-Legislation-and-management-relevant-to-functions/Current-Permit-Byelaws-Permit-Conditions>

	<p><i>gear or paraphernalia (including clothing) as may be used for the purpose of dredging, fishing for and taking shellfish in contravention of the restrictions or regulations, and</i></p> <p><i>(d)it is reasonable to infer from those facts (either by themselves or taken together with other circumstances) that the person intends to dredge, fish for and take shellfish in contravention of the restrictions or regulations.</i></p> <p><i>(4C)A person who commits an offence under subsection (4B) is liable on summary conviction to a fine not exceeding £50,000.]</i></p>	<p><i>(Cerastoderma edule) AND MUSSELS (Mytilus edulis)<sup>8</sup> para 4 “No person shall have in their possession any article for use in the course of or in connection with gathering cockles or mussels within or from a fishery in breach of this byelaw”.</i></p> <p>Any such byelaw provisions would likely need to be caveated to reflect ‘safe navigation’ etc.</p> <p>It is worth noting that this provision has not been used in prosecuting non-compliance.</p>
<p>3(A) Sea Fisheries (Shellfish) Act 1967</p>	<p><b><i>Effect of grant of right of regulating a fishery</i></b></p> <p><i>(1)Subsection (2) applies in proceedings against a person (“the accused”) for an offence under section 3(3) of this Act involving dredging, fishing for and taking shellfish in contravention of restrictions imposed or regulations made by—</i></p> <p><i>(a)an order under section 1 of this Act, or</i></p> <p><i>(b)the grantee of such an order.</i></p> <p><i>(2)It is to be presumed that the accused was, or had been, dredging, fishing for and taking</i></p>	<p>Effectively a deeming clause which sets out that a person is to be considered as having fished if they have the necessary equipment and in the area where restrictions and regulations apply. This also requires proof of ‘intent’ and similar to 4(A) etc. (above and is potentially less powerful than a deeming clause under a byelaw.</p> <p>Same effect may be achievable via byelaw prohibitions or permit conditions e.g. it is prohibited to carry on board a suction dredge when operating a licenced / permitted vessel</p>

<sup>8</sup> North Western IFCA Byelaw 3: <https://www.nw-ifca.gov.uk/app/uploads/NWIFCA-Byelaw-3.pdf>

	<p><i>shellfish in contravention of the restrictions or regulations if—</i></p> <p><i>(a) it is proved that—</i></p> <p><i>(i) the accused was found within the limits of, or in the immediate vicinity of, the regulated fishery to which the order relates,</i></p> <p><i>(ii) the accused was found there at, or about, a time at which the restrictions or regulations apply, and</i></p> <p><i>(iii) when so found, the accused was in possession of any of the things mentioned in subsection (3), and</i></p> <p><i>(b) it is reasonable to infer from those facts (either by themselves or taken together with other circumstances) that the accused was, or had been, dredging, fishing for and taking shellfish in contravention of the restrictions or regulations.</i></p> <p><i>(3) The things are—</i></p> <p><i>(a) such equipment, vehicle, apparatus or other gear or paraphernalia (including clothing) as may be used for the purpose of dredging, fishing for and taking shellfish in contravention of the order,</i></p>	<p>within the area etc. (see reference to North Western Byelaw 3 above)</p>
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	<p><i>(b) shellfish the dredging, fishing for and taking of which is prohibited by the restrictions or regulations.</i></p> <p><i>(4) Subsection (2) does not apply if evidence is adduced sufficient to raise an issue as to whether—</i></p> <p><i>(a) the accused's presence within the limits of, or in the vicinity of, the regulated fishery to which the order relates was for the purpose of dredging, fishing for and taking shellfish in contravention of the restrictions or requirements, or</i></p> <p><i>(b) where the accused was found in possession—</i></p> <p><i>(i) of any of the things mentioned in paragraph (a) of subsection (3), the possession of the thing was for that purpose,</i></p> <p><i>(ii) of shellfish mentioned in paragraph (b) of that subsection, the shellfish were caught or taken in contravention of the restrictions or requirements.]</i></p>	
<p>s.4 Sea Fisheries (Shellfish) Act 1967</p>	<p><b>Licensing powers in case of regulated fishery.</b></p>	<p>Enables grantee to limit access to the fishery to those with licences, limit number of licences issued and to prescribe the manner in which licences may operate within the fishery.</p>

	<p><i>(1) This section applies to an order made under section 1 of this Act, being an order which confers a right of regulating a fishery.</i></p> <p><i>(2) The restrictions imposed by an order to which this section applies may include restrictions prohibiting all persons from dredging, fishing for or taking, within the limits of the fishery or of that part of the fishery within which the right is exercisable, shellfish of the description to which the order applies except under the authority of a licence issued in that behalf by the grantees.</i></p> <p><i>(3) Any power to vary an order to which this section applies shall (without prejudice to the generality of that power) include power to vary the order so as to impose restrictions in accordance with subsection (2) of this section.</i></p> <p><i>(4) Where an order to which this section applies (either as originally made or as varied) imposes any such restrictions, then, subject to the provisions of the order and of this section, licences may be issued under the order in such numbers and to such persons, and operative for such periods, and may authorise the dredging, fishing for or taking of shellfish at such times, in</i></p>	<p>Analogous with permitting provisions under s.156(4) MaCAA. When limiting number of licences however, we must 'notify the minister' and operate under any direction they give. This is not the case under permitting byelaws and we have an established provision for limiting permits without Ministerial consent. Therefore, an IFCA byelaw is more powerful in this sense.</p> <p>Provides that a licence cannot be cancelled by the grantee without the <u>consent</u> of the Minister. Established provision within byelaws for cancelling permits without Ministerial consent (for example in the Wash Restricted Area Byelaw 2019 as a result of non-compliance with certain measures). Therefore, an IFCA byelaw is more powerful in this sense.</p>
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*such manner and to such extent, as the grantees may determine.*

*(5)Where in pursuance of such an order the grantees propose to issue licences, they shall, unless they propose to issue licences to all such persons as may apply for them, notify the appropriate Minister of their intention; and the appropriate Minister may give directions to the grantees as to the exercise of their powers under subsection (4) of this section.*

*(6)If the grantees issue or withhold licences without complying with the requirements of subsection (5) of this section or of any directions given thereunder, then, for the purposes of section 5 of this Act (and without prejudice to the generality of that section) the grantees shall be taken not to be properly carrying into effect the restrictions imposed by the order; but no licence issued in contravention of any such requirements shall be invalid by reason only that it was so issued.*

*(7)Any licence issued under an order to which this section applies may with the consent of the appropriate Minister be cancelled by the grantees if the person to whom the licence is issued[F1 is convicted ] of an offence of*

	<p><i>contravening a restriction imposed by the order <a href="#">F2</a>...; but, except as provided by this subsection, a licence so issued shall not be cancelled before it is due to expire unless the person to whom it was issued dies or surrenders the licence.</i></p> <p><i>(8)In this section any reference to the imposition of restrictions includes a reference to the making of regulations.</i></p>	
<p>s.4ZA Sea Fisheries (Shellfish) Act 1967</p>	<p><b><i>Licensing powers in case of regulated fishery.</i></b></p> <p><i>(1)This section applies where the grantees of an order to which section 4 of this Act applies issue one or more licences in pursuance of the order.</i></p> <p><i>(2)The grantees shall establish and maintain a register containing the names and addresses of all persons who for the time being hold licences issued by the grantees.</i></p> <p><i>(3)The register shall be available for inspection free of charge by any person at such place or places, and during such hours, as are determined by the grantees.</i></p>	<p>Requires grantee to hold a register of licences issued which is also publicly available (including names and addresses). There is no such requirement with regard to IFCA permit byelaws.</p>

	<p><i>(4)The grantees shall make arrangements for the provision of a copy of an entry in the register to any person on request.</i></p> <p><i>(5)The arrangements that may be made under subsection (4) of this section include arrangements for the payment of a reasonable fee by the person making the request.】</i></p>	
<p>4B Sea Fisheries (Shellfish) Act 1967</p>	<p><b><i>Powers of sea-fishery officers on land to enforce regulated fishery</i></b></p> <p><i>Whole section – not included due to size</i></p>	<p><b>N.B.</b> <i>4A applies only in relation to Scottish fisheries.</i></p> <p>4B applies in relation to British sea-fishery officers and not IFCOs. S.166 MaCAA sets out powers of IFCOs in relation to byelaws analogous to those in 4B.</p>
<p>4CA Sea Fisheries (Shellfish) Act 1967</p>	<p><b><i>Power to enter land</i></b></p> <p><i>(1)For the purposes of exercising the powers conferred by sections 4A to 4C, and of enforcing the restrictions imposed by, or regulations made by, an order under section 1 conferring a right of regulating a fishery, a British sea-fishery officer may at any time enter land (including the foreshore) other than a dwelling house, and for that purpose may—</i></p>	<p><b>N.B.</b> <i>4C applies only in relation to Scottish fisheries.</i></p> <p>4CA applies in relation to British sea-fishery officers and not IFCOs. S.166 MaCAA sets out powers of IFCOs in relation to byelaws analogous to those in 4CA.</p>

	<p><i>(a) open lockfast places,</i></p> <p><i>(b) remove any objects preventing the officer from gaining access to the land,</i></p> <p><i>(c) require any person who has placed an object in such a position as to prevent the officer from gaining access to the land to remove the object,</i></p> <p><i>(d) require the owner or occupier of the land to allow the officer access to the land.</i></p> <p><i>(2) A British sea-fishery officer may—</i></p> <p><i>(a) exercise the power of entry under subsection (1) on foot or in a vehicle,</i></p> <p><i>(b) when exercising that power, take with the officer—</i></p> <p><i>(i) such persons as appear to the officer to be necessary,</i></p> <p><i>(ii) any equipment or material.</i></p> <p><i>(3) The power of entry under subsection (1)—</i></p>	
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	<p><i>(a) may not be exercised in relation to land in respect of which section 4B confers a power of entry, and</i></p> <p><i>(b) is without prejudice to the power of entry conferred by that section.</i></p> <p><i>(4) A British sea-fishery officer who proposes to exercise the power of entry conferred by subsection (1) must, if so required, produce evidence of the officer's identity.]]</i></p>	
<p>4D Sea Fisheries (Shellfish) Act 1967</p>	<p><b>supplementary</b></p> <p><i>(1) A British sea-fishery officer, or a person assisting such an officer by virtue of section 4A(2) or [F3, 4B(3) or (12) or 4CA(2)(b)], is not liable in any civil or criminal proceedings for anything done in the purported exercise of a power conferred by section 4A, 4B [F4, 4C or 4CA ] if the court is satisfied—</i></p> <p><i>(a) that the act was done in good faith;</i></p> <p><i>(b) that there were reasonable grounds for doing it; and</i></p>	<p>4D (1) provides protection to officers against civil or criminal proceeding where acting under good faith etc. also provided under s.291 MaCAA.</p> <p>4D (2) establishes that it is an offence to fail to comply with a requirement imposed by an officer exercising powers of enforcement. Analogous provisions are set out in s292 MaCAA.</p>

	<p><i>(c)that it was done with reasonable skill and care.</i></p> <p><i>(2)A person who—</i></p> <p><i>(a)fails without reasonable excuse to comply with any requirement imposed on the person by a British sea-fishery officer under a power conferred by section 4A [F5, 4B or 4CA ];</i></p> <p><i>(b)without reasonable excuse prevents, or attempts to prevent, any other person from complying with such a requirement; or</i></p> <p><i>(c)obstructs such an officer in the exercise of any of those powers or the powers conferred by section 4C,shall be guilty of an offence.</i></p> <p><i>(3)A person who commits an offence under subsection (2) is liable—</i></p> <p><i>(a)on summary conviction, to a fine not exceeding the statutory maximum;</i></p> <p><i>(b)on conviction on indictment, to a fine.]</i></p>	
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<p>5 Sea Fisheries (Shellfish) Act 1967</p>	<p><b>Cesser of right conferred by order under s.1</b>  <i>Whole section</i> – not included due to size</p>	<p>Empowers the Minister to cancel the Regulating or Several Order if ‘not satisfied’ with how its being managed. Provision includes reference: ‘<i>that the grantees are properly cultivating the ground for shellfish</i>’ but also enforcing restrictions and regulations and levying tolls etc.</p> <p>Also requires grantees to provide such information and evidence (including requiring attendance to do so) as is required by the Minister to undertake an investigation regarding the above.</p> <p>Similar level of scrutiny can be applied by Minister for byelaws (s.159 MaCAA). Wording of Shellfish Act implies a greater level of husbandry and ownership in relation to being grantee of a Regulating Order. Our duties in MaCAA and as a public authority imply the same in any case.</p>
<p>7 (1) to (3) Sea Fisheries (Shellfish) Act 1967</p>	<p><b>Protection of fisheries</b>  <i>(1)The provisions of this section shall have effect where—</i>  <i>(a)an order under section 1 of this Act grants a right of several fishery, or</i></p>	<p>Sets out that shellfish within Several fisheries are the absolute property of the grantee etc.</p> <p>Not achievable with an IFCA Byelaw</p>

*(b)a [F1 private shellfish bed ] is owned by any person independently of this Act and is sufficiently marked out or sufficiently known as such.*

*(2)All shellfish of a description to which the order applies in or on a bed for such shellfish within the area of the fishery with respect to which the right of several fishery is conferred, or, as the case may be, all [F2 relevant shellfish ] in or on the [F3 private shellfish bed ], shall be the absolute property of the grantees or, as the case may be, of the owner of the bed and in all courts and for all purposes shall be deemed to be in the actual possession of the grantees or, as the case may be, owner.*

*(3)All such shellfish removed by any person from a bed for such shellfish within the area of the fishery with respect to which the right of several fishery is conferred, or, as the case may be, all [F4 relevant shellfish ] removed by any person from the [F5 private shellfish bed ], shall, unless F6. . . or disposed of by or under the authority of the grantees or, as the case may be, of the owner of the bed, be the absolute property of the grantees or, as the case may be,*

	<i>of the owner, and in all courts and for all purposes the absolute right to the possession thereof shall be deemed to be in the grantees or, as the case may be, owner.</i>	
7 (4), (4A) and (5) Sea Fisheries (Shellfish) Act 1967	<b>Protection of Fisheries</b> <i>Whole section - Not included due to size</i>	Sets out offences in relation to several fisheries. IFCOs have powers to enforce this provision under s.166 MaCAA. No relevance to Regulating fishery.
9 Sea Fisheries (Shellfish) Act 1967	<b>Grants and loans for restoration of fisheries.</b> <i>(1)The appropriate Minister may, with the approval of the Treasury, make grants or loans to any person in respect of any expenses incurred or to be incurred by him in cleansing and reinstating (including restocking) any shellfish beds to which this subsection applies which have been affected by any disease or pest.</i> <i>[F1(1A)Subsection (1) above has effect in relation to Scotland, with the modification that for “waters adjacent to England and Wales to” there is substituted “that part of the Scottish zone within”.]</i> <i>(2)Subsection (1) of this section applies—</i> <i>(a)to any shellfish bed within the limits of a fishery in respect of which an order under</i>	Enables the Minister (with consent from Treasury) to make grants or loans to Grantees for the purpose of ‘cleansing and reinstating (including restocking)’.  The Authority would lose this potential source of funding if the Order is replaced with a Byelaw, albeit whether or not such funding would be provided by the Treasury is questionable.

	<p><i>section 1 of this Act is for the time being in force, and</i></p> <p><i>(b) to any other shellfish bed used for the propagation or cultivation of oysters, mussels or cockles, being a shellfish bed in respect of which a person has an exclusive right to take oysters, mussels or cockles.</i></p>	
<p>Schedule 1 (2), (3), (4) Sea Fisheries (Shellfish) Act 1967</p>	<p><b>Provisions with respect to making or Orders under section 1</b></p> <p><i>(2) Where a draft order is prepared and a copy thereof served on the applicants under paragraph 1 above, the applicants shall cause printed copies of the draft order to be published and circulated in such manner as the appropriate Minister thinks sufficient and proper for giving information to all parties interested, and shall give notice of the application, in such manner as that Minister directs or approves, to the owners or reputed owners, lessees or reputed lessees, and occupiers, if any, of the portion of the sea shore to which the proposed order relates and of the lands adjoining thereto.</i></p>	<p>Process for making an Order is for the most part directed by the Minister and in accordance with the timescales ‘convenient’ to that Minister<sup>9</sup>. It is likely that the Minister will seek our guidance on what is appropriate.</p> <p>Being a small body and given our greater depth of knowledge of the Wash fisheries, Eastern IFCA can likely operate more efficiently and over shorter timescales under this process whilst still ensuring due diligence in decision making.</p> <p>Further process under s(4) includes examination under oath etc. Includes not less than 28 days-notice of each sitting etc. Potential to be a very time-consuming process and unlikely to be a priority to Defra. Defra guidance suggests ‘it may take up</p>

<sup>9</sup> Defra guidance regarding application process for Regulating and Several Orders: <https://www.gov.uk/guidance/get-fishing-or-management-rights-for-a-shellfishery#management-rights-for-a-shellfishery-regulating-order>

	<p>(3) <i>During the period of one month after the first publication of the draft order under paragraph 2 above, the appropriate Minister shall receive any objections or representations made to him in writing respecting the proposed order.</i></p> <p>(4) <b>F1</b>(1). . . . .</p> <p>(2) <b>F2</b><b>F3</b><i>The Scottish Ministers ]</i> <b>F2</b> <i>Where he considers it appropriate to do so, the appropriate Minister may ]</i> <b>F4</b><i>as soon as conveniently may be</i> <b>F4</b><i>may as soon as reasonably practicable]]</i> <i>after the expiration of the period of one month referred to in paragraph 3 above appoint some fit person to act as inspector respecting the proposed order.</i></p>	<p>to two years' but informally, officers have been advised that time scales are much longer (<i>pers coms Michael Gubbins</i>).</p> <p>Applicant is liable for all the costs of inquiry and advertising etc.</p> <p>Process is analogous to that of making an IFCA Byelaw however, the IFCA byelaw making process includes less procedure (reflecting the 'lower level' of legislation), does not require Parliamentary consideration and is subject to an established and streamlined procedure administered by a dedicated team at the MMO.</p>
<p>5 Wash Fishery Order 1992</p>	<p><b><i>Taking of samples for the purpose of disease control</i></b></p> <p><b>5.</b> <i>The Committee shall permit any person authorised in that behalf by the Minister to do the following things for any purpose connected with preventing the spread of disease—</i></p> <p>(a) <i>at any reasonable time to obtain samples of any of the prescribed species found within the fishery and to take them away provided that they</i></p>	<p>Needed within an Order to enable Eastern IFCA to obtain samples without a licence.</p> <p>Still required for several Order – not necessary under a Byelaw for 'regulated' fishery. 'Application and exemptions byelaw' has the function of exempting our activity for the purpose of 'biosecurity' in any case.</p>

	<p><i>have been marked, labelled or otherwise made capable of identification;</i></p> <p><i>(b)when the purpose for which any such sample was taken has been satisfied, to dispose of it as he may determine.</i></p>	
<p><b>6 Wash Fishery Order 1992</b></p>	<p><b>Power to grant leases</b></p> <p><i>Whole section – not included due to size</i></p>	<p>Several fisheries – this would be lost without an Order and there is no similar mechanism to provide a ‘right’ to persons operating lays under a byelaw.</p>
<p><b>7 Wash Fishery Order 1992</b></p>	<p><b>Power to impose restrictions and make regulations</b></p> <p><i>7.—(1) The Committee may, with the consent of the Minister, from time to time impose restrictions on, and make regulations respecting, the dredging, fishing for and taking of any of the prescribed species within the whole or any specified part of the regulated fishery.</i></p> <p><i>(2) Without prejudice to the generality of paragraph (1) above, regulations may be made under that paragraph for the purpose of—</i></p> <p><i>(a)determining the size below which or above which it shall be unlawful to take any of the prescribed species from the regulated fishery or to remove them from one part of the fishery to another; and</i></p>	<p>Eastern IFCA would be able to make regulations and restrictions (i.e. management measures) under the byelaw mechanism i.e. as a byelaw provision rather than a permit conditions. All of the purposes referred to under 7(2) are achievable under a byelaw.</p> <p>The process for making measures under an Order is analogous to that under the byelaw making process.</p> <p>2(c) includes removal of ‘vermin’ – under the byelaw making mechanism, Eastern IFCA could implement a similar provision. Application and Exemptions Byelaw covers ‘biosecurity’ but this is unlikely to include ‘vermin’. Could be implemented through a byelaw with specific reference in face of byelaw.</p>

	<p><i>(b) determining the size or description of vessels, dredges and fishing instruments to be used in dredging, fishing for or taking any of the prescribed species; and</i></p> <p><i>(c) regulating the disposal of such vermin as may be dredged or otherwise taken in dredging, fishing for or taking any of the prescribed species.</i></p> <p><i>(3) The production of a copy of any regulation purporting to be certified by any officer authorised by the Minister of Agriculture, Fisheries and Food shall be conclusive evidence of the existence of the regulation and of the due making of it.</i></p>	
<p>8 (1), (2) &amp; (4) Wash Fishery Order 1992</p>	<p><b>Licencing of Fishing</b></p> <p><i>8.—(1) No person shall dredge, fish for or take any of the prescribed species within the regulated fishery except under the authority of a licence issued in that behalf, on application, by the Committee.</i></p> <p><i>(2) No person shall use a vessel for dredging, fishing for or taking any of the prescribed species within the regulated fishery except under the authority of a licence issued under paragraph (1) above in which the vessel is named.</i></p>	<p>Analogous to a prohibition without a permit to fish under a byelaw as per s.156(4).</p> <p>Sets out a time limit on each licence, similarly achievable under a byelaw.</p>

	<i>(4) A licence shall be valid for the period not exceeding 12 months specified therein</i>	
8 (3) Wash Fishery Order 1992	<p><b><i>Licensing of Fishing cont.</i></b></p> <p><i>(3) Subject to paragraph (9) below, a licence for dredging, fishing for or taking any of the prescribed species from a vessel shall be issued jointly to the applicant, who shall be the owner of the vessel, and his representative and shall be used only by those persons or, with the written authority of the Committee and in accordance with any conditions contained in that authority, by a deputy nominated by them.</i></p>	Requires vessels and ‘nominated representatives’ to be named on a vessel
8(5) & (6) Wash Fishery Order 1992	<p><b><i>Licensing of Fishing cont.</i></b></p> <p><i>(5) Subject to any directions given by the Minister and the provisions of this article, licences may be issued by the Committee under paragraph (1) above in such numbers and to such persons, and may authorise the dredging, fishing for or taking of the prescribed species at such times, in such manner and in such parts of the regulated fishery as the Committee may determine.</i></p> <p><i>(6) The Committee may, after consultation with such organisations as appear to it to be representative of interests likely to be</i></p>	<p>Enables the Authority to limit the number of licences issued. Same is achievable under IFCA byelaws (s.156(4)). The exception being that under a byelaw, this would not be subject to direction of the Minister. Instead, this would need to be in accordance with a process set out in the byelaw which would need to include due process. Established process within Whelk permit Byelaw 2016, and draft Shrimp Permit Byelaw 2018.</p> <p>This also provides transparency to stakeholders i.e. as it sets out we have to consult. This is also a requirement of permit</p>

	<p><i>substantially affected by a limitation on the number of licences issued, and such other persons as the Committee thinks fit, place a limitation on the number of licences issued in any one year having particular regard to scientific advice on the desirability of limiting the level of exploitation.</i></p>	<p>byelaws and such is set out in byelaw to mitigate against unlawful sub delegation of powers.</p>
<p>8(7) Wash Fishery Order 1992</p>	<p><b><i>Licensing of Fishing cont.</i></b></p> <p><i>(7) Any person dredging, fishing for or taking any of the prescribed species under the authority of a licence issued under paragraph (1) above shall, when so requested by any officer authorised by the Committee and after production by that officer of written evidence of his authority if so required, produce the licence and shall desist from dredging, fishing for or taking any of those species until it is produced.</i></p>	<p>Requirement to produce licence on request –also includable under a permit byelaw.</p>
<p>8(8) &amp; (9) Wash Fishery Order 1992</p>	<p><b><i>Licensing of Fishing cont.</i></b></p> <p><i>(8) Subject to paragraphs (6) above and (9) below, an applicant for a licence shall be entitled to have a licence issued to him if—</i></p> <p><i>(a) in respect of licences for the first fishing year after the coming into force of this Order, he was engaged in dredging, fishing for or taking any of the prescribed species within the regulated</i></p>	<p>Entitlements – sets out that persons are ‘Entitled’ to a licence if they meet the criteria. Also gives some certainty of continuity of a licence. In reality, the number of Entitlements can be reduced (see 8(5)) in any case.</p>

	<p><i>fishery as a commercial activity or as part of a commercial activity in the fishing season immediately prior to the date of advertisement of this Order, or</i></p> <p><i>(b)in respect of licences for all subsequent fishing years, he held a licence at any time within the period of 24 months immediately preceding the date of application for the licence.</i></p> <p><i>(9) At the Committee’s discretion—</i></p> <p><i>(a)no person may be named on a licence in accordance with paragraph (3) above as the representative of an applicant if on at least two separate occasions within the period specified in paragraph (8)(b) above that person has been convicted of a relevant offence, and</i></p> <p><i>(b)the entitlement described in paragraph (8) above shall not apply if on at least two separate occasions within the period specified in paragraph (8)(b) above the applicant has been convicted of a relevant offence.</i></p>	<p>Orders are often cited as providing a sense of ‘inherent entitlement’ which is considered to make managing effort more difficult.</p> <p>Also provides for the removal of an ‘Entitlement’ where there have been two convictions in 24 months.</p> <p>A similar provision can be added as ‘eligibility criteria’ under a permit byelaw.</p>
<p>8(10) Wash Fishery Order 1992</p>	<p><b><i>Licensing of Fishing cont.</i></b></p> <p><i>(10) In this regulation “relevant offence” means either an offence under section 3(3) of the Sea Fisheries (Shellfish) Act 1967 or an offence under</i></p>	<p>This provision sets out what constitutes a ‘relevant offence’ which would lead to the lose of an ‘Entitlement; under the Order. Wording does not reflect amendment via MaCAA (i.e. reference to byelaws made under MaCAA).</p>

	<p><i>section 11(5) of the Sea Fisheries Regulation Act 1966 in so far as that offence relates to the contravention of a byelaw made under the powers contained in section 5(1)(d) of that Act.</i></p>	<p>This includes only a narrow range of offences deemed relevant and doesn't include 'non-compliance' i.e. only a conviction. Byelaws can include issuing of a FAP (<i>perrs coms Racheal Joyce, MMO Byelaw Team</i>). Therefore, the Authority's capabilities under a Byelaw exceed that of an Order.</p>
<p>9 Wash Fishery Order 1992</p>	<p><b><i>Tolls and fees payable for fishing</i></b></p> <p><i>9.—(1) Any person to whom the Committee proposes to issue a licence under the provisions of article 8 of this Order shall pay to the Committee before or upon receipt of the licence a toll in respect of a combined licence which authorises the dredging, fishing for and taking of cockles and mussels of either £200 per annum or £30 per month.</i></p> <p><i>(2) The Committee may from time to time with the consent of the Minister vary the toll payable under paragraph (1) above and introduce separate tolls in respect of each of the prescribed species for which dredging, fishing for or taking is authorised.</i></p>	<p>Fees can be applied via an IFCA byelaw (156(4)). Amendment of fees under the WFO requires formal consultation and consent of the Minister, this would be the case for changes to byelaw fees also.</p>
<p>10 Wash Fishery Order 1992</p>	<p><b><i>Power to create reserves</i></b></p>	<p>This provision provides a power to the grantee to prohibit fishing within an area designated for certain purposes (for</p>

	<p><b>10.</b> <i>The Committee may from time to time designate and mark out as reserves such parts of the regulated fishery as it thinks necessary for—</i></p> <p><i>(a) experimental, management or scientific purposes, including the control of pests or diseases of any of the prescribed species;</i></p> <p><i>(b) cleansing and subsequent restocking with any of the prescribed species and the protection of stock introduced;</i></p> <p><i>(c) the collection of spat of any of the prescribed species; or</i></p> <p><i>(d) the deposit or re-laying of any of the prescribed species for the purposes of cleansing before their removal from the fishery</i></p> <p><i>and may use such reserves for their designated purposes and prohibit their use for any other purpose connected with or ancillary to fishing for any of the prescribed species.</i></p>	<p>example for restocking) without any consultation with industry or consideration by the Minister.</p> <p>This is a very broad power and it is unlikely that the same provision can be captured within a byelaw provision without the risk of challenge on the grounds of unlawful sub-delegation of power. However, which certain limitations (for example limiting the timeframe such a ‘closure’ could be applied), a mechanism could be included within a byelaw to a similar effect. A similar provision is found within the Draft Wash Restricted Area Byelaw 2019 which MMO legal have concluded does mitigate risk of unlawful sub-delegation of power. Ultimately, to make any such closure permanent, without it being on the face of a byelaw, additional process would be needed including consultation with the industry to mitigate any risk of challenge on the grounds of unlawful sub-delegation of power.</p>
<p>11 Wash Fishery Order 1992</p>	<p><b>Restriction on removal of culch</b></p> <p><b>11.—(1)</b> <i>Except with the prior consent in writing of the Committee, no person shall remove any culch or other material for the reception of spat from the fishery or from one part of the fishery to another.</i></p>	<p>The provision within the Order is very broad and would apply to non-fishing activities (as per sub-section 2 as follows “<i>Any person lifting any culch... whether in the course of fishing or dredging or otherwise</i>”) whereas byelaws can apply to fishing activity or activities ancillary to fishing (i.e. as per s.153 of MaCAA ‘<i>manage the exploitation of fisheries resources</i>’). This</p>

	<p><i>(2) Any person lifting any culch or other such material within the regulated fishery, whether in the course of fishing or dredging or otherwise, shall replace it forthwith as nearly as possible in the place from which it was lifted.</i></p> <p><i>(3) Paragraphs (1) and (2) above shall not apply to a removal or lifting effected by raising an anchor or other mooring device for the purpose of navigation.</i></p>	<p>therefore provides an extra element of protection to The Wash beds which would be lost if the Order was replaced under byelaw i.e. where an area of culch (which is important for the settlement of shellfish) is to be considered for development which would see the culch removed.</p> <p>However, s.58(1) MaCAA requires that ‘a public authority must take any authorisation... in accordance with the appropriate marine policy..’. Where a consent is needed for extractive operations (most likely to be a Marine Licence issued by the MMO or the Crown Estate), the FSH1 and FSH2 policies would need to be taken into account and Eastern IFCA would feed into that process via consultation. Therefore some form of protection remains and which was not in place at the time the Order was created.</p>
<p>12 &amp; 13 Wash Fishery Order 1992</p>	<p><b>Power to remove brood of any of prescribed species</b></p> <p><i>12. For the purpose of cultivating the regulated fishery any person authorised by the Committee may remove any spat or small oysters, mussels, cockles, clams, scallops or queens from the regulated fishery or from one part of the fishery to any other part at such times and in such quantities as the Committee may direct.</i></p> <p><i>13. The Committee may, by authority given in writing, exempt any person who is dredging,</i></p>	<p>The Authority can provide exemption for persons to remove ‘brood’ (i.e. undersize shellfish) through Application and Exemptions byelaw which goes beyond the provisions under the Order i.e. the Authority can authorise the removal of undersize shellfish for the purpose of stocking aquaculture rather than just the ‘natural beds’ as per 12 of the WFO. Therefore the Authority’s powers would be greater under a byelaw compared to an Order.</p>

	<p><i>fishing for or taking any of the prescribed species for scientific purposes from any provision of this Order or from any restriction imposed or regulation made under this Order.</i></p>	
<p>14 Wash Fishery Order 1992</p>	<p><b>Accounts of income and expenditure and other information</b></p> <p><i>14. The Committee shall render to the Minister annual accounts of its income and expenditure under this Order, shall furnish to the Minister all other information required by him with reference to this Order and to the fishery in such form and at such times as he may require, shall allow any person authorised by the Minister in that behalf to inspect the fishery and all books of account and other documents in the possession of the Committee relating to this Order and to the fishery and shall give to such person any information relating thereto as he may require</i></p>	<p>A reflection of being the grantee of an Order is also additional reporting to Defra. Such reporting would not be required under a byelaw.</p>

<p>15 Wash Fishery Order 1992</p>	<p><b><i>Rights of the Crown</i></b></p> <p><b>15.</b> <i>Nothing in this Order or in any restriction imposed or regulation made by the Committee shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and in particular nothing therein contained shall authorise the Committee to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditament, subject or right of whatever description belonging to Her Majesty in right of the Crown and under the management of the Crown Estate Commissioners or belonging to Her Majesty in right of Her Majesty's Duchy of Lancaster.</i></p>	<p>This would be the case under a byelaw.</p>
<p>16 Wash Fishery Order 1992</p>	<p><b><i>Rights of various persons and bodies</i></b></p> <p><b>16.—</b><i>(1) Nothing in this Order shall affect prejudicially—</i></p> <p><i>(a) the exercise of any statutory power or authority from time to time vested in or exercisable by any person carrying on an undertaking falling within paragraph (2) below;</i></p> <p><i>(b) any right, power or privilege of Hamon le Strange of Hunstanton in the County of Norfolk or his executors, administrators or assigns and</i></p>	<p>This provision sets out the limitations of the 'rights' granted to the Authority under the WFO. It sets out that restrictions within the Order cannot have an effect on activities listed in sub-section 2 which includes sewage works and telecoms works. Article 11 applies generally to any person undertaking any activity within the Wash but, by way of example, would not apply to any activity listed in subsection 2.</p> <p>Notably, this includes '<i>the undertaking of any person authorised... to generate, transmit or supply electricity</i>'.</p>

	<p><i>in a like manner nothing herein contained shall be deemed to be a consent to or be construed to recognise or admit on behalf of the Committee the existence of any right, power or privilege of the said Hamon le Strange, his executors, administrators or assigns.</i></p> <p><i>(2) The following are the undertakings which fall within paragraph (1)(a) above—</i></p> <p><i>(a)the undertaking of any water undertaker or sewage undertaker;</i></p> <p><i>(b)any undertaking consisting in the running of a telecommunications code system, within the meaning of Schedule 4 to the Telecommunications Act 1984(1);</i></p> <p><i>(c)the undertaking of any public gas supplier within the meaning of Part I of the Gas Act 1986(2);</i></p> <p><i>(d)the undertaking of any person authorised by a licence under Part I of the Electricity Act 1989(3) to generate, transmit or supply electricity;</i></p> <p><i>(e)the undertaking of any navigation, harbour, general lighthouse or conservancy authority.</i></p>	<p>Those not on the list would be subject to the provisions of the Order.</p> <p>The extent to which ‘rights’ are affected by IFCA Byelaws are set out in s.158 of MaCAA and the applicability of byelaws are determined by the Authority’s ‘main duties’ as set out in s.153 and s.154 i.e. that that the Authority has powers to make byelaws in relation to the ‘<i>exploitation of sea fisheries resources</i>’.</p> <p>Restrictions made under the WFO do not apply to the le Strange Estate as per 16(1)(b). However, as per s.158 of MaCAA, a byelaw would apply (if so desired) within the le Strange Estate as the area is within a Marine protected Area. As such, the power of a byelaw exceeds that of an Order.</p>
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### Vision

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## Action Item 11

### Eastern Inshore Fisheries and Conservation Authority Meeting

11 March 2020

### Cockle Fishery Management in The Wash

**Report by:** Luke Godwin (Senior IFCO – Regulation)

#### Purpose of Report

The purpose of this report is to seek delegated authority for the CEO to open the 2020 Wash Fishery Order 1992 (WFO) and Wash Restricted Area cockle fishery and to introduce, vary or revoke management measures, including closing the fishery, as required.

#### Recommendations

It is recommended that members:

- **Agree** to delegate authority to the CEO to open cockle fisheries, including the 2020 cockle fishery, within the Wash Fishery Order 1992 and Wash Restricted Area in accordance with the Cockle Fishery Management Plan and Formal Operating Procedure;
- **Agree** to delegate authority to the CEO to introduce, vary and revoke management measures (including the licence conditions, operating times and Total Allowable Catch) and to open and close part or all of the fisheries within the Wash Fishery Order 1992 and Wash Restricted Area as may be required for the protection of the Wash marine protected areas or for fisheries management purposes including the sustainability or viability of the fisheries in accordance with the Cockle Fishery Management Plan and Formal Operating Procedure;
- **Agree** to delegate authority to the CEO to introduce, vary or revoke management measures or to open or close the fishery or parts of the fisheries within the Wash Fishery Order 1992 and Wash Restricted Area, without 7 days' notice (as per the cockle charter) where it is judged necessary to do so to meet the conservation objectives of the Wash marine protected areas or for the sustainability or viability of the fisheries in accordance with the Cockle Fishery Management Plan and Formal Operating Procedure;

- **Direct** Officers to report on the management of the 2020 WFO cockle fishery at the 40<sup>th</sup> Eastern IFCA meeting;
- **Note** the potential implications of low mussel stocks on the 2020 cockle fishery.

## Background

The Authority has the right of a Regulated fishery within The Wash under the Wash Fishery Order 1992 (WFO). Through the Order, The Authority can issue licences, make restrictions and regulations and set licence conditions.

In 2018, The Authority implemented the Wash Emergency Byelaw 2018 to manage fisheries within the area between the le Strange Estate and the WFO (hereafter the 'Wash Restricted Area') in a manner consistent with that under the WFO. At the time of writing, the Emergency Wash Byelaw has expired (having been extended to the maximum term possible)<sup>10</sup> and is yet to be replaced with a permanent byelaw to manage the area. The replacement byelaw, the Wash Restricted Area Byelaw 2019, is presently undergoing formal QA with the Marine Management Organisation. In the interim, the area is closed to fishing via Byelaw 8: Temporary closure of shellfish fisheries and Byelaw 3: Molluscan shellfish methods of fishing. Officers anticipate that the Wash Restricted Area Byelaw 2019 will be in effect for the start of the cockle fishery 2020.

Reference to management measures in this report and in the recommendations refer to measures implemented under the WFO and the Wash restricted Area Byelaw 2019.

Members have variously considered management proposals for a cockle fishery at the full Authority and sub-committee levels. Consideration of the cockle fishery had previously been moved to full Authority to reflect the contentious debate regarding a potential dredge fishery. This debate has more recently been limited and Members have established that the fishery shall be hand-work only which is now enshrined in the Cockle Fishery Management Plan.

Management of fisheries under the Wash Restricted Area Byelaw 2019 also has to take into account the Formal Operating Procedure associated with that byelaw. This sets out in more detail how the Authority will exercise its powers to introduce, vary and revoke flexible management measures using the byelaw and is effectively a reflection of the process we 'normally' undertake when doing the same under the Order. This is required for the byelaw as to mitigate risks of unlawful sub-delegation of power in relation to an IFCA Byelaw. The Formal Operating procedure was agreed by Members at the 36<sup>th</sup> Eastern IFCA Meeting.

At the 36<sup>th</sup> Eastern IFCA Meeting, members also agreed to delegate authority to the CEO to open a cockle fishery within The Wash and to introduce, vary or revoke management measures as required in accordance with the established policies and

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<sup>10</sup> S.158 Marine and Coastal Access Act 2009 (c.23) enables IFCA's to implement emergency byelaws for the period of 12 months with the potential for extension for up to a further 6 months where there is a continued need for protection.

procedures. These were set out in Action Item 17 of that meeting and are now set out in the Cockle Fishery management Plan. This includes taking into account the results of the annual spring cockle survey, a Habitats Regulations Assessment and consultation with industry.

## **Report**

### Opening of cockle fisheries

Officers undertake cockle stock assessments in spring of each year and intend to start this year's cockle survey on the last week of March 2020. Typically, Members consider proposals for each year's cockle fishery subsequent to the completion of the annual survey and consultation with industry, with a fishery opening during June.

As a result of changes to the timings of Eastern IFCA meetings, consideration by Members would not be possible until the second Wednesday of June which would preclude the fishery from opening at its 'normal' time. In addition, this would preclude an 'early' start to the fishery where conditions would warrant such, for example, if potential die-off was identified within the fishery early in the season which has been the case in previous years.

Given that the process for opening cockle fisheries is well established and now enshrined in the Cockle Fishery Management Plan and Formal Operating Procedure which has been agreed by the Authority, it is recommended that authority is delegated to the CEO to manage these fisheries in accordance with this plan. This would include opening or closing fisheries and introducing, varying or revoking management measures under the WFO and Wash Restricted Area Byelaw 2019 (noting that the latter is yet to come into effect). It is noteworthy that this level of delegation is established within the recent mussel fisheries.

### The WFO Cockles Fishery 2020

As reported at the 38<sup>th</sup> Eastern IFCA Meeting and the Fisheries and Conservation Management Working Group (21<sup>st</sup> January 2020), the annual mussel surveys have identified a significant decrease in mussel stocks.

Officers are developing a plan which seeks to identify causes of the mussel declines and explore remedial actions if possible. In the short-term however, this has the potential to impact on the 2020 cockle fishery as the related Total Allowable Catch may be reduced to take into account the 'bird food availability' targets which relate to the conservation objectives of the Wash Special Protection Area. It is worth noting however, that there is an established approach to dealing with this situation (which has occurred previously) and such actions are covered in the Cockle Fishery management plan.

## **Financial Implications**

None identified

## **Legal Implications**

There is an inherent risk in the Authority exercising its powers to manage fisheries and is mitigated through the application of due process and evidencing well informed, reasonable decisions.

In the case of the cockle fisheries, due process is enshrined in the Cockle Fisheries Management Plan and Formal Operating procedure (for the Wash Restricted Area fisheries) which itself has been exposed to public consultation and agreement by Members.

In addition, internal processes ensure that due process has taken place with the CEO ultimately signing off on any decisions within a decision memo. This acts as a evidence base for how the Cockle Fishery Management Plan and Formal Operating Procedure has been taken into account including the evidence base for decision making.

As such, officers recommend that legal risks are mitigated.

### **Appendices**

Not applicable

### **Background Documents**

- 36<sup>th</sup> Eastern IFCA Meeting, Action Item 14 - Wash Restricted Area Byelaw 2019;
- 36<sup>th</sup> Eastern IFCA Meeting, Action Item 17- Wash Fishery Order 1992 and Wash Restricted Area cockle fishery 2019;
- 38<sup>th</sup> Eastern IFCA Meeting, Action Item 15 – Wash Mussel Fisheries

### Vision

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## Action Item 12

### Eastern Inshore Fisheries and Conservation Authority Meeting

11 March 2020

### Offshore Wind Farm Compensatory Measures

**Report by:** Judith Stoutt, Senior Marine Science Officer (Environment)

#### **Purpose of Report**

This report is presented to make Authority members aware of recent discussions relating to compensatory measures for offshore wind farms and of potential fisheries implications associated with the measures. This includes national considerations and two project-specific developments that could affect the Eastern IFCA district. A recommendation has been included in this report for the Authority to adopt a position statement relating to compensatory measures for offshore wind farms.

#### **Recommendations**

It is recommended that members:

- **Note** the content of the report, and
- **Agree** the following position statement:

*Eastern IFCA will support exploring compensatory measures with environmental benefits and no adverse impact upon fishing activities but will not support compensatory measures that increase restrictions on fishing activities, particularly where those activities have been assessed and found to be compatible with conservation objectives for the designated site.*

#### **Background**

The UK's commitment to low-carbon energy generation is supporting the rapid expansion of offshore wind farms. The southern North Sea is a key area for this sector because of relatively shallow waters and good wind resource. There are currently eight operational offshore wind farms with export electricity cables that run through the Eastern IFCA district. Five more are under construction and eight more are planned but yet to be consented, all with cables to run through the Eastern IFCA district.

The southern North Sea also contains numerous marine protected areas (MPA), including Special Areas of Conservation (SAC), Special Protection Areas (SPA) and Marine Conservation Zones (MCZ), both inshore and offshore. More than 95% Eastern IFCA district is designated. Under the Habitats Regulations (2017), all sectors, including offshore wind and fisheries, must assess the impact of their activities and ensure they do not have adverse effects on the designated sites. Where applicants (or

regulators) cannot prove the absence of adverse effects, consent for activities is only granted if no alternatives are available, if there are deemed to be “imperative reasons of over-riding public interest” (IROPI) for the activity to be permitted, and when appropriate compensatory measures have been agreed.

Eastern IFCA participates in the planning process for offshore activities, providing advice to developers and regulators (The Crown Estate, Marine Management Organisation, the Planning Inspectorate and Department for Business, Energy and Industrial Strategy) on inshore fisheries and conservation interests. This includes input at strategic planning workshops, at planning examinations for individual projects and to marine licence consultations for works associated with individual projects.

## **Report**

### *National workshop*

Eastern IFCA participated in a strategic workshop run by The Crown Estate on 21<sup>st</sup> January 2020 to consider ideas for compensatory measures for offshore wind projects. These measures are actions that could be undertaken by offshore wind energy developers to compensate for damage they cause to marine protected areas, for example damage to seabed habitats through use of cable protection or damage to protected bird populations through collisions with turbine blades. The application of compensatory measures is new for the offshore wind industry (although not new for certain other major infrastructure projects) and it was emphasised that any kind of idea for measures could be considered at this stage. However, at the workshop it became clear that the offshore wind sector had been considering compensatory measures for over two years and had already developed preferred options, including measures that impact on fisheries.

Eastern IFCA had been invited to participate because the Eastern IFCA district is considerably more affected by offshore wind development than other areas, and because two projects (see below) with cables planned to cross the district had already been directed by the Secretary of State for BEIS to identify appropriate compensatory measures. In addition, some of the measures for consideration were restrictions on fishing activities, with IFCA suggested as relevant delivery bodies.

Fisheries restrictions were suggested because it was considered that fishing causes damage to designated sites, so limiting fishing would benefit designated sites by balancing against damage caused by wind farm projects. This critical point was challenged by Officers, who highlighted that fisheries are already subject to assessment under the Habitats Regulations, and that measures have been put in place (or are in development) to ensure fisheries do not have an adverse effect on designated sites. Therefore, wind farm compensatory measures based on restricting fishing would not pass the “additionality test” – i.e. would not bring additional benefit to marine protected areas.

Major points taken from the workshop were:

- It seems likely that the need for compensatory measures will become “the norm” for the southern North Sea offshore wind developments;

- Current processes at Hornsea 3 & Norfolk Vanguard (see below) may well set a precedent for what happens in the future;
- Consideration of this possibility is something that has been considered by developers for some time, with some relevant documents having been prepared as far back as (at least) October 2017;
- An option for compensatory measures that seems to have been considered – and found to have considerable attraction – by developers is to close areas of seabed to fishing as a compensation measure for impacts to MPAs caused by windfarm developments. There are several points of concern around this as proposals stand at the moment –
  - The compensation measures proposed are in order to permit a commercial entity to undertake a commercial activity within an MPA. It seems fundamentally unfair and unreasonable to decide that in order for this commercial activity to take place, a different commercial activity – with significant socio-economic knock on effects – is to be impacted.
  - The proposed measures are likely to fail the “additionality” test, as any fisheries within MPAs will have already been assessed, and where appropriate, measures put in place to reduce impacts to acceptable levels, through the “revised approach” work undertaken by IFCA and MMO;
  - IFCA byelaws do not allow the implementation of closed areas for this purpose.
  - There seems an assumption of support from the fishing sector for such measures – a highly unlikely possibility.
  - Due to the way that the area required for compensation measures seems to be calculated, low impact fisheries would be impacted more than higher impact fisheries.

In light of these concerns, and the likelihood that this issue could arise for many wind farm project affecting the Eastern IFCA (and other IFCA) district(s), the CEO will raise the issue at the Association of IFCAs. The Authority is requested to agree a position statement for Eastern IFCA, which is set out in the Conclusion section of this paper.

#### *Project-specific measures*

In addition to the national (and still theoretical) considerations at that workshop, two offshore wind farms with cables to be routed through the Eastern IFCA district, which are currently awaiting planning consent, have been required to propose actual compensatory measures for potential impacts on MPAs. The projects are Hornsea Three (Figure 1, Table 1) and Norfolk Vanguard (Figure 2, Table 2). The developers have contacted Eastern IFCA to discuss compensatory measures that could affect

inshore fisheries, and for Hornsea Three have requested Eastern IFCA's assistance in delivering measures.

(i) *Hornsea Three (Orsted)- Appendix 3*

This project, if consented, will lay cables through the inshore waters of north Norfolk to make landfall at Weybourne. Eastern IFCA's involvement in the planning examination for this project has focused on highlighting concern that the cables would be laid through an area closed by Eastern IFCA to towed demersal fishing to protect subtidal mixed sediments.

The developer, Orsted, requested Eastern IFCA's input on two projects proposed as compensatory measures for damage to subtidal sandbanks in two SACs: North Norfolk Sandbanks & Saturn Reef, and The Wash & North Norfolk Coast. The developer emphasised that these projects would only be required if it the BEIS Habitats Regulations Assessment concluded that adverse effect from the Hornsea Three development could not be ruled out.

One project is for mussel bed regeneration in The Wash; the other is for the removal of fishing gear "debris" and reduction in ghost fishing (fishing by lost or abandoned gear) on the north Norfolk coast. After discussion and review of outline proposals, the CEO agreed to support both projects in principle, because they both aligned with the Eastern IFCA remit and are both designed to benefit fisheries as well as the environment. Officers emphasised that Authority support would be conditional on Orsted funding any Eastern IFCA involvement and after proper feasibility assessments/resource planning have been completed. The Authority's input was required ahead of this (39<sup>th</sup>) Full Authority meeting, in order to align with the Secretary of State's deadlines for the planning decision for this project. Officers submitted a statement agreeing in principle to these two projects to the Secretary of State for BEIS on 13<sup>th</sup> February 2020. The planning decision is anticipated on 1<sup>st</sup> June 2020.

(ii) *Norfolk Vanguard (Vattenfall) – Appendix 2*

This project, if consented, will lay cables through the inshore waters of east Norfolk to make landfall at Happisburgh. Eastern IFCA's involvement in the planning examination for this project has focused on highlighting concern that the cables would be laid through an area closed by Eastern IFCA to towed demersal fishing to protect *Sabellaria* reef.

The developer's environmental consultants discussed with officers' options for extending fisheries closed areas in the inshore section of Haisborough, Hammond and Winterton SAC, as potential compensatory measures for damage from the wind farm in this site. Officers explained that the Marine Protected Areas byelaw 2019 (agreed by the Authority in May 2019) closes areas agreed with Natural England as requiring closure to towed demersal fishing, and Eastern IFCA would not consider additional closures as being necessary or proportionate to risk of damage from fishing. Crucially, the proposals made by this developer, Vattenfall, differed from those made by Orsted in that the Orsted measures would be for habitat restoration without restricting fishing activities, whereas the Vattenfall measures would result in additional fisheries closures.

Vattenfall also suggested the Authority could introduce fisheries closures to protect an area of *Sabellaria* reef outside the boundary of the Haisborough, Hammond and Winterton SAC (between that site and the coast), as a possible compensatory measure for damage to the SAC from wind farm activities. Officers explained that IFCA's do not have powers to introduce closures to fishing for offsetting damage to conservation features caused by non-fishing sector activities. Even if such powers were available, it was not considered equitable to penalise inshore fishery stakeholders (by introducing additional spatial closures) for environmental damage caused by the offshore renewables industry.

### **Financial Implications**

Resource will be required for Eastern IFCA to assist in the development and delivery of compensatory measure projects (where it is deemed appropriate to do so). The developers are responsible for delivery of such projects and would pay in full for Eastern IFCA officer time and any operational costs. Therefore, there should be no costs to the Authority for involvement in these projects.

### **Legal Implications**

No specific issues identified.

### **Conclusion**

The Authority is requested to consider taking a position on the issue of compensatory measures affecting inshore fisheries and conservation interests. This position would then be presented by officers in relation to the two highlighted wind farm projects and to additional projects where compensatory measures are considered in future. The position would allow Authority support where appropriate for measures that could enhance or support fisheries and would allow opposition to wind farm compensatory measures that restrict fisheries beyond the restrictions required by existing conservation duties.

It is suggested that the following 'position statement' is adopted by the Authority:

*Eastern IFCA will support exploring compensatory measures with environmental benefits and no adverse impact upon fishing activities but will not support compensatory measures that increase restrictions on fishing activities, particularly where those activities have been assessed and found to be compatible with conservation objectives for the designated site.*

### **Appendices**

Appendix 1 – Hornsea Three

Appendix 2 – Norfolk Vanguard

### **Background Documents**

1. The Crown Estate – Offshore Activity map 2019: (included as a separate document)  
<https://www.thecrownestate.co.uk/media/3293/ei-all-offshore-activity-a3.pdf>

## Appendix 1

### Hornsea Three



■ Hornsea Project Three

Figure 1. Location of Hornsea Project Sea wind farm array. N.B. Cable route not shown.

Developer	Orsted
Planning status	Awaiting planning decision after planning examination (decision due on 1 <sup>st</sup> June 2020)
Array location	120 miles NE of Trimmingham, Norfolk
Cable landfall	Weybourne
Marine Protected Area interactions (relevant to Eastern IFCA district)	<ul style="list-style-type: none"> <li>• Subtidal sandbanks – The Wash and North Norfolk Coast SAC</li> <li>• Subtidal sand – Cromer Shoal Chalk Beds MCZ</li> </ul>
Compensatory measures under consideration	Mussel bed restoration (The Wash)
	Fishing litter / lost gear removal and fisheries engagement (north Norfolk coast)

## Appendix 2

### Norfolk Vanguard

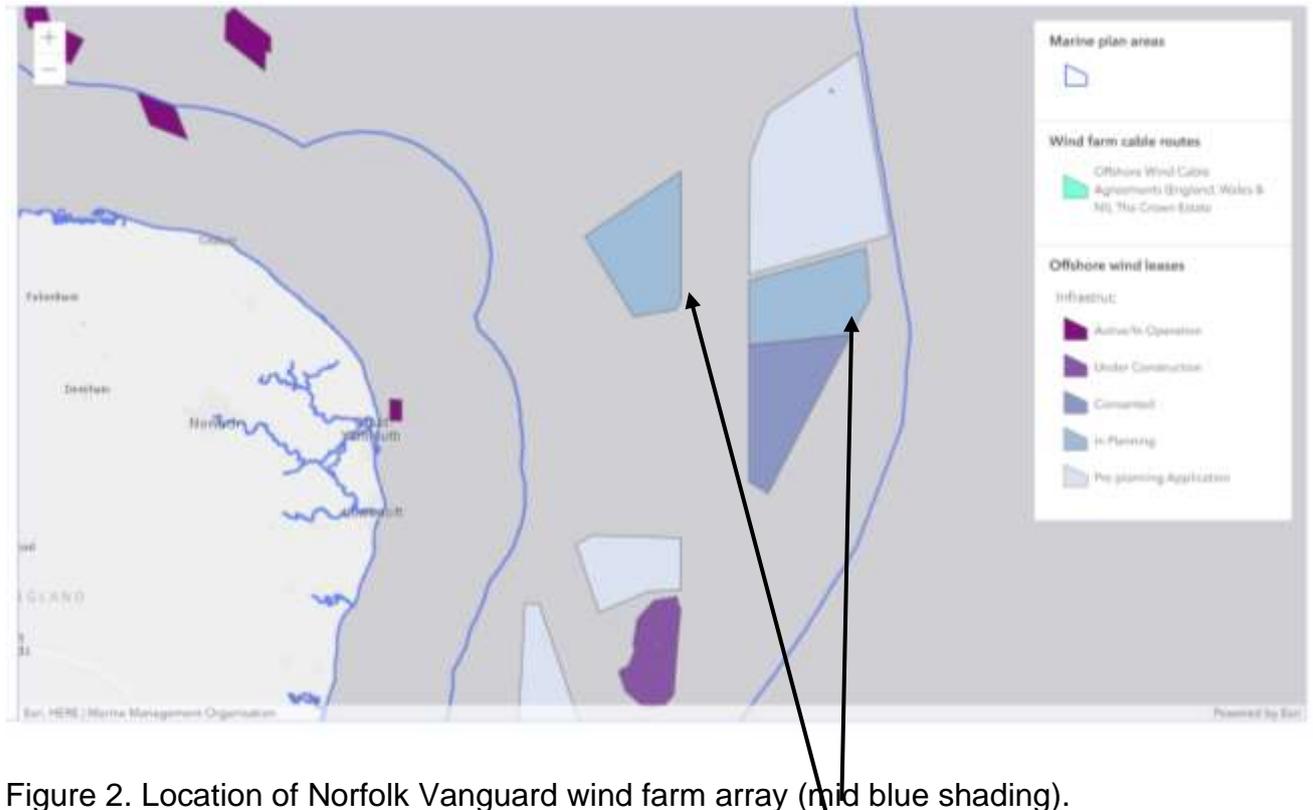


Figure 2. Location of Norfolk Vanguard wind farm array (mid blue shading). N.B. cable route not shown.

Developer	Vattenfall
Planning status	Awaiting planning decision after planning examination (decision due on 1 <sup>st</sup> June 2020)
Array location	40 NE of Gorleston, Norfolk (two arrays)
Cable landfall	Happisburgh
Marine Protected Area interactions (relevant to Eastern IFCA district)	<ul style="list-style-type: none"> <li>• Subtidal sandbanks – Haisborough, Hammond &amp; Winterton SAC</li> <li>• Biogenic reef – Haisborough, Hammond &amp; Winterton SAC</li> </ul>
Compensatory measures under consideration	Extension of areas closed to towed demersal fishing in inshore section of SAC
	Extension of Haisborough, Hammond & Winterton SAC boundary

### Vision

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



## Action Item 13

### 39<sup>th</sup> Eastern Inshore Fisheries and Conservation Authority Meeting

11 March 2020

**Report by:** J. Gregory, Chief Executive Officer

#### **Quarterly Review of Annual Priorities and Risk Register**

#### **Purpose of report**

The purpose of this report is to update members on progress against 2019-20 priorities and to review the Risk Register

#### **Recommendations**

Members are recommended to:

- **Note** the content of this report

#### **Background**

Eastern Inshore Fisheries and Conservation Authority is mandated to produce an annual plan each year to lay out the expected business outputs for the year ahead.

With effect from 2016-17 the Authority adopted a model for business planning which uses a rolling five-year Business Plan incorporating annual priorities informed by the annual Strategic Assessment. The plan incorporates the high-level objectives agreed with Defra.

A rolling five-year business plan reflects the need to engage in longer term planning in the context of high levels of demand and the requirement to be flexible with priorities to reflect the dynamic nature of inshore fisheries, the marine environment and the policy landscape.

The Risk Register is contained within the Business Plan and it captures key issues that are judged to pose potential risks to the organisation. The matrix sets out the magnitude of the risk to Eastern IFCA from an organisational viewpoint, incorporating amongst others reputational and financial risks. It also sets out the likelihood of an identified risk occurring

#### **Report**

The tables at Appendix 1 detail the progress against the key priorities for 2019-20, as set in the Business plan for 2019-24.

During Q 2, Officers identified a need for additional resource to progress priority workstreams over the next two years and secured an officer into a

new, temporary post, the Grade 5 Project officer post, during Q3 with a start date in Q4.

The Risk Register is set out at Appendix 2 and the current status of each risk area is shown at Appendix 3. The only item of note is that New Burdens funding for the forthcoming financial year is still to be confirmed.

### **Appendices**

Appendix 1 – Update on priorities set for 2019-20

Appendix 2 – Risk Register

Appendix 3 – Update on Risk Register

### **Background documents**

Eastern Inshore Fisheries and Conservation Authority Business Plan 2019-24.

## APPENDIX 1 - Progress against Annual Priorities – Quarter 3

5 key priorities are established for 2019-20.

Financial Year 2019-20		
Priorities 2019-20	Progress	Comment
<p>1. To ensure that the conservation objectives of Marine Protected Areas in the district are furthered by:</p> <p>a) Development of management measures for ‘red-risk’ gear/feature interactions in the Inner Dowsing, Race Bank and North Ridge SCI, and the Haisborough, Hammond &amp; Winterton SCI.</p> <p>b) Assessing the impact of fishing activities on the Cromer Shoal Chalk Beds (MCZ) and delivering management measures (if required).</p> <p>c) Development of priority Monitoring and Control plans as identified by the strategic assessment.</p> <p>d) Completion of amber/green gear/feature interactions. Development of management measures where required.</p>		<p>1a. <b>Ongoing.</b> <u>Haisborough, Hammond &amp; Winterton</u>: Officers have been reviewing the results of the formal consultation with a view to submit to the MMO for formal QA. Additional impacts on fishers were identified as a result of information received after the formal consultation which are being investigated. This work has been delayed as a result of other priorities.</p> <p><u>Inner Dowsing, Race Bank &amp; North Ridge</u>: Officers continued to examine feature evidence, and identified some areas where the data did not appear to support the conservation advice. Additional resource has been directed to this work to allow further evaluation. This dataset is used to identify which areas are classed as <i>Sabellaria</i> reef and would therefore require closure to bottom towed gear. Careful scrutiny of the data is being undertaken to ensure that any closures will be based on sound evidence. Informal engagement on potential management areas was undertaken in Q2 and identified potential impact on mussel seed fishery. Proposed measures to be presented for Authority consideration when feature evidence issues have been resolved.</p> <p>1b. <b>Ongoing.</b> Officers are assessing the impact of potting fisheries on the chalk features of the Cromer Shoal Chalk Beds MCZ. Additional evidence was received showing pots causing damage to chalk features and officers are assessing whether this in turn relates to impact on the conservation objectives of the site. The issue appeared to relate primarily to fishing gear which had been lost or abandoned and had been in situ for a long period of time. An</p>

		<p>additional evidence-gathering exercise was launched by officers in late December, to inform the assessment of potting fisheries. Officers have continued to liaise closely with Natural England, and are anticipating receipt of Natural England’s advice on the impacts of potting on chalk features during Q4.</p> <p>1c. <b>Ongoing.</b> No further progress has been made in Q3 on monitoring and control plans as work has been focused on red risk management. However, work undertaken to identify an appropriate shrimp fishing effort threshold will inform shrimp permit byelaw and monitoring and control plan.</p> <p>1.d. <b>Delayed.</b> Review of “revised approach” assessments not progressed in Q3 as work has continued to focus on red risk management and MCZ assessment.</p> <p>Officers started a formal consultation on shrimp fishing effort management in late December which is due to close on the 3<sup>rd</sup> March 2020. This will inform the final decision on the shrimp permit scheme (including permit conditions) which will limit effort within the Wash and North Norfolk Coast SAC, as agreed mitigation set out in the shrimp fishery Habitats Regulations Assessment.</p> <p>Assessments started for later-designated sites within (or straddling) EIFCA district: Greater Wash SPA and extension of Outer Thames Estuary SPA. Limited progress during quarter because of prioritisation of red risk work (see above) and Wash Fishery Order mussel surveys.</p>
<p>2. To ensure that sea fisheries resources are exploited sustainably and in accordance with MSFD requirements:</p>		<p>2a. <b>Ongoing.</b> Officers continued to engage with the industry led MSC accreditation of the shrimp fishery. Officers intend to consider potential sustainability management measures subsequent to the accreditation coming into effect.</p>

<p>a) Development of management measures in relation to shrimp fisheries sustainability.</p> <p>b) Development of management measures in relation to crab and lobster fisheries sustainability</p>		<p>2b. Ongoing. Work on sustainability measures for crab and lobster fisheries was paused during Q3 whilst officers focussed resource on MCZ related work. Further engagement on this matter is planned for Q4.</p>
<p>3. To ensure that the marine environment is protected from the effect of exploitation by reviewing district wide biosecurity measures including management of invasive, non-native species by:</p> <p>a) Development of district wide biosecurity measures</p> <p>b) Implementation of WFO Shellfish Lay lease conditions</p>		<p>a) <b>Complete.</b> Officers have developed an overview of biosecurity risks throughout the District which will underpin ongoing monitoring. To this end, officers have implemented a biosecurity risk log and produced educational material for officers and fishers which are issued in relation to identified risks. The workstream is now established as ‘business as usual’ and as such is considered ‘complete’ as a priority workstream.</p> <p>b) <b>Ongoing.</b> Replacement of the WFO lease conditions is required to effect changes identified as necessary in The Wash from a Biosecurity perspective. Replacement of these has been further delayed due to other priorities.</p>
<p>4. To develop management of the fisheries regulated under the WFO (regulated and several fishery):</p> <p>a) Continued development of WFO policies.</p>		<p>4a. <b>Delayed.</b> Formal consultation on policies to replace the interim policies was not progressed during Q3 due to other priority consultations (particularly the Shrimp Permit Scheme work).</p> <p>4b. <b>Delayed.</b> Work to the compare the options of another Regulating Order or a Permit Byelaw started in Q3.</p>

<p>b) Replacement of WFO 1992</p> <p>c) Implementation of proposed licence fees, fisheries management plan and Regulations.</p>		<p>4c. <b>Delayed.</b> Officers have been in dialogue with Defra for a significant amount of time. Some progress was made during Q3 and further iterations of the Regulations were submitted, and Officers awaited Defra feedback. The use of tenders when fishing for cockles and mussels continued to hamper progress as did conflicting advice from Defra.</p> <p>Officers are in dialogue with Defra regarding the implementation of the 'new' model as agreed at the 35<sup>th</sup> Eastern IFCA meeting towards 50% cost recovery of the cost to Eastern IFCA for managing the WFO. No feedback was received from Defra during Q3 in this regard.</p>
<p>5. Obtaining better fisheries data:</p> <p>a) Implementation of I-VMS for all fisheries</p>		<p><b>Ongoing.</b> No further progress was made during Q3 which reflects the delays in the national project.</p>

**Key:**

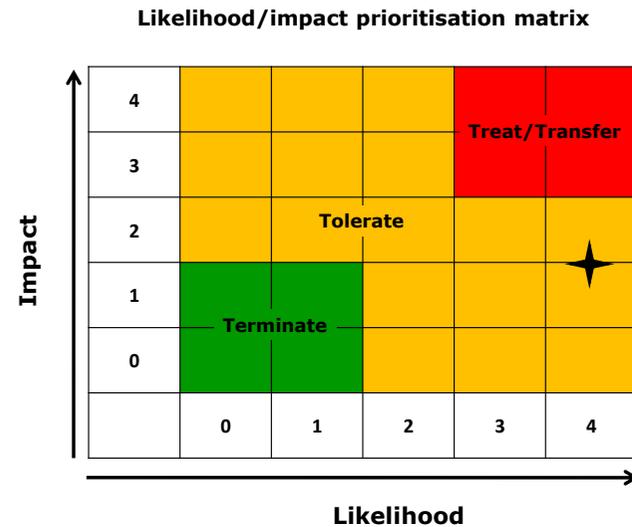
	<b>Complete</b>
	<b>In progress</b>
	<b>Progress stalled</b>

## APPENDIX 2 - Risk Register

The risk matrix sets out the magnitude of the risk to Eastern IFCA from an organisational viewpoint incorporating amongst others reputational and financial risks. The matrix also sets out the likelihood of an identified risk occurring. Mitigation which is in place or to be introduced is identified. Risk is ranked on an arbitrary scale from 0 (low risk - coloured green) to 4 (high risk - coloured red). The average of the combined financial and reputational risk is taken and plotted on to the matrix below, the likelihood of that risk occurring is also plotted. Mitigation action is noted. It should be noted that in most cases there are already many actions being undertaken as part of routine working practices to reduce the risks to the Eastern IFCA.

The four actions that can be applied are:

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



### Risk matrix with worked example

Risk A poses a financial threat (2) to the organisation and a reputation threat (1) generating a combined impact level of 1.5. The likelihood of the threat occurring is determined as 4. The resultant risk to Eastern IFCA is therefore plotted using the matrix and is identified as a risk that should be tolerated.

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Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Eastern IFCA fails to secure funding to replace assets	CEO/FPSC	Substantial reduction in Eastern IFCA mobility particularly seaborne activities with consequential inability to fulfil full range of duties	<b>4</b>		<b>2</b> Finance Directors agreed to annual capital contributions from 2019-20 onwards to cater for the cost of asset replacement as an alternative to requests for a lump sum amounts as assets are replaced. No guarantees were given or implied. Eastern IFCA will explore all avenues for funding.		<ul style="list-style-type: none"> <li>Current level of reserves provides a short-term buffer to cover replacement of <i>RV Three Counties</i></li> <li>EMFF funding for a new open RHIB was secured</li> <li>Seek efficiencies and promote cost effectiveness.</li> <li>Demonstrate value for money.</li> <li>Advertise/promote Eastern IFCA output and effectiveness to funding authorities through regular engagement with Council leaders and Financial Directors.</li> <li>Engage with partner agencies to identify alternative funding sources</li> <li>Explore asset sharing initiatives</li> </ul>	<b>Tolerate</b>
			<b>Reputation</b>	<b>Financial</b>				
			<b>4</b>	<b>4</b>				
			Drive for savings may impact County Councils' decisions regarding Eastern IFCA funding. Visible presence reduced, enforcement and survey activities compromised.	Inability to generate sufficient reserves to meet asset replacement schedule would threaten Eastern IFCA's ability to function.  Closure costs could result.				
Impact of EU exit on Eastern IFCA duties and the wider economic environment	CEO/FPSC	Potential changes in several areas, including: - regulatory framework - fisheries management methodology - regulations (enforcement) - environment conservation	<b>3</b>		<b>3</b> EU exit will have an inevitable but currently unpredictable impact. Eastern IFCA responsibilities unchanged in the short term to medium term		<ul style="list-style-type: none"> <li>Monitor EU exit developments – Defra lead on development of the post-EU exit landscape</li> <li>Engage in national fora to help inform and influence developments (e.g. IFCA Chief Officers Group, Association of IFCAs)</li> <li>Continue “business as usual”</li> <li>Prepare for change</li> <li>Ensure Eastern IFCA is “match fit”</li> <li>Maintain communication with partners</li> </ul>	<b>Transfer</b>
			<b>Reputation</b>	<b>Financial</b>				
			<b>3</b>	<b>3</b>				
			Eastern IFCA may be affected by developments beyond their control (fisher's expectations are high and may not be met). Blame for change and or lack of change.	Grant funding from EU not replaced. Market for fishers catch affected. Fee/licence income reduced. Operating costs increased.				

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Eastern IFCA fails to maintain relevance amongst partners	CEO/PCSC	If Eastern IFCA fails to maintain relevance amongst partners Eastern IFCA's utility will come under scrutiny potentially resulting in re-allocation of duties	<b>4</b>		<b>2</b>	Possible – Whilst positive relationships have been established the existence of disparate partner aspirations introduces complexities which may drive perceptions of bias or inefficiency.	<ul style="list-style-type: none"> <li>Provide a leadership function.</li> <li>Be proactive and identify issues early.</li> <li>Engage with all partners routinely.</li> <li>Use Business Plan to prioritise and communicate outputs</li> <li>Measure progress/deliver outputs</li> <li>Represent community issues to higher authorities</li> </ul>	<b>Tolerate</b>
			<b>Reputation</b>	<b>Financial</b>				
			<b>4</b>	<b>4</b>				
			Loss of confidence in the organisation Failure of the organisation to perform in accordance with the standards and practices of a statutory public body	Withdrawal of LA and Defra funding for the organisation				
Negative media comment	CEO/PCSC	Negative perceptions of Eastern IFCA utility and effectiveness created at MMO/Defra Loss of Partner confidence Media scrutiny of individual Authority members	<b>3</b>		<b>2</b>	Possible – disenfranchised partners seek to introduce doubt as to Eastern IFCA professionalism, utility and effectiveness	<ul style="list-style-type: none"> <li>Actively and regularly engage with all partners including media outlets.</li> <li>Utilise full potential of social media and web-based information.</li> <li>Embed professional standards and practices.</li> <li>Deliver change efficiently and effectively.</li> <li>Promote activity</li> <li>Assure recognition and understanding through community events</li> </ul>	<b>Tolerate</b>
			<b>Reputation</b>	<b>Financial</b>				
			<b>4</b>	<b>2</b>				
			Eastern IFCA perceived to be underperforming	Negative perceptions introduce risk to continued funding				
			Eastern IFCA considered poor value for money					
			Eastern IFCA perceived as irrelevant					

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Degradation of MPAs due to fishing activity	CEO/RCSC	Loss or damage of important habitats and species within environmentally designated areas Potential for European infraction nationally resulting in significant financial penalties at the local level.	<b>3.5</b>		<b>2</b>	Possible - Eastern IFCA's approach to managing sea fisheries resources considers environmental obligations	<ul style="list-style-type: none"> <li>Proposed fishing activities authorised by Eastern IFCA are assessed per Habitats Regulations</li> <li>Eastern IFCA is fully engaged in national fisheries/MPA project, prioritising management of highest risk fisheries in MPAs and implementing new management measures</li> <li>Effective monitoring of fishing activity and enforcement of measures</li> <li>Adaptive co-management approach to fisheries management – i.e. engagement with fishing and conservation interests in the development of management measures, and appropriate review of measures to respond to changing environmental and socio-economic factors</li> <li>Ongoing, close liaison with Natural England regarding all conservation matters</li> <li>Review agreed Wash Cockle &amp; Mussel Policies</li> <li>Develop the use of iVMS as a management tool by the Authority</li> <li>Continue to progress research into the impact of fishing activities on MPA features to ensure the Authority has an up-to-date evidence base to inform its management decisions.</li> </ul>	Tolerate
			<b>Reputation</b>	<b>Financial</b>				
			<b>4</b>	<b>3</b>				
			Eastern IFCA is not meeting statutory duties under EU & UK conservation legislation Eastern IFCA not achieving vision as champion of sustainable marine environment	Legal challenge brought against Eastern IFCA for failing to meet obligations under MaCAA and the Habitats Regulations				

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Failure to secure data	CEO/RCSC	Non-compliance with General Data Protection Regulations (GDPR) Prosecution casefiles compromised Loss of data in the event of fire or theft Breakdown in dissemination of sensitive information between key delivery partners	4		2		<ul style="list-style-type: none"> <li>All computers are password protected. Individuals only have access to the server through their own computer.</li> <li>Secure wireless internet</li> <li>Remote back up of electronic files</li> <li>Access to electronic files is restricted on all computers</li> <li>Up to date virus software installed on all computers</li> <li>Important documents secured in safes</li> <li>ICT equipment and policies provided by public sector provider – including encrypted laptops/secure governmental email system</li> <li>All Eastern IFCA personnel undergo DPA training</li> <li>Electronic backup of all Eastern IFCA documents held by ICT provider offsite</li> </ul>	Tolerate
			Reputation	Financial	Possible - Limited staff access to both electronic and paper files			
			4	4	Office secure with CCTV, keypad entry system and alarm			
			Partners no longer believe that confidential information they have supplied is secure Personnel issues arise over inability to secure information	Eastern IFCA open to both civil and criminal action regarding inability to secure personal information				

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
New Burdens Funding discontinued	CEO/RCSC	Substantial reduction in Eastern IFCA capability with consequential inability to fulfil full range of duties or additional burden on funding authorities.	4		2		<ul style="list-style-type: none"> <li>Association of IFCAs has consistently lobbied for the continuation of funding</li> <li>Association of IFCAs have engaged with Defra review of New Burdens funding during 2018-19 and submitted a paper in support of an increase nationally from £3m to £6m as part of the planned SR2019 (now on hold)</li> <li>Finance Directors representatives briefed and understand that in the event that the funding is discontinued there may be a desire to increase levies</li> </ul>	Tolerate
			Reputation	Financial				
			4	4				
			Inability to meet all obligations would have a significant impact upon reputation.	Circa 25% of the annual budget is provided by Defra under the New Burdens doctrine so its loss would have a significant impact.	Defra have continued to roll over new Burdens funding in recognition of the value that IFCAs provide in meeting national policy objectives.			

### Appendix 3 – Risk Register Update Quarter 3

Risk Description	Update
Eastern IFCA fails to secure funding to replace assets	Agreement in place with funding authorities for capital funding contributions each year. Confirmed at the annual meeting with representatives of the Finance Directors on Thursday 7 <sup>th</sup> November 2019.
Impact of EU exit on Eastern IFCA duties and the wider economic environment	Eastern IFCA is fully engaged with the MMO in terms of operational readiness for a 'no deal scenario. MoA in place for the provision of vessels and joint patrols. Also engaged with Cefas to support the export of live shellfish. Officers engaged in future of inshore fisheries management work with Defra and other stakeholders. Officers are also seeking engagement with the REAF initiative.
Eastern IFCA fails to maintain relevance amongst partners	Effective business planning process in pace. Leading role where appropriate e.g. Op Blake. Proactive approach to raising issues with Defra (e.g. Bass management, proposals for effort management trial). Participation in Parliamentary Review 2019.
Negative media comment	Routine updating of news items on website. Active on social media with demonstrable improvements in 'reach'. Parliamentary Review (above).
Degradation of MPAs due to fishing activity	MPA management has been a high priority since 2012 with substantial progress made. Current workstreams (e.g. Cromer Shoal MCZ, remaining 'red risk' sites) are a high priority and are being progressed.
Shellfish and fish stocks collapse	Annual surveys of Wash cockle and mussel stocks alongside innovative approach to management of the cockle fishery. Ongoing workstream to identify cause of mussel mortality. Closure of cockle fishery in Nov 2019 due to emerging findings of mussel surveys in order to mitigate impact on 2020 cockle fishery.
Failure to secure data	Policies and processes developed to ensure compliance with GDPR.
New Burdens funding discontinued	Officers have been active in supporting the work of AIFCA to maintain and potentially increase the level of New Burdens Funding. Finance Directors representatives from the three funding authorities are aware of this risk and the potential impact of levies being increased. Following discontinuance of SR2019 Defra included New Burdens funding in their departmental bid to Treasury for 2020-21 budgets. The outcome is awaited. <b>Funding for 2020-21 is still not confirmed.</b>

### **Vision**

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



## **Information Item 15b**

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

11 March 2020

**Report by:** Julian Gregory, CEO / Dr Bolt

#### **Association of IFCA Minutes**

#### **Purpose of report**

The purpose of this paper update members on the Association of IFCA quarterly meeting held on 3<sup>rd</sup> December 2019.

#### **Recommendations**

Members are asked to:

- **Note** the content of the report and the minutes of the AIFCA meeting held on 24<sup>th</sup> September 2019.

#### **Background**

The aim of the Association of IFCA is to assist and promote the regional IFCAs to ensure that the Authorities develop a leading and effective national role in fisheries and conservation management in line with the IFCA vision.

The Association is not a statutory body but was borne out of the previous Association of Sea Fisheries Committees and currently has nine Members (nine of the ten IFCAs) plus two associate members, Guernsey and the Isle of Man. The Association has been set up as a private limited company and is governed by Articles of Association, which are periodically reviewed. The Association is governed by twelve Directors, nine Chief Officers from the IFCAs, plus the Chairman, the Vice Chairman and the Chief Executive Officer of the Association, which meet quarterly. The Association holds quarterly member's forum meetings at which the 9 IFCA Chairs and Chief Officers as well as representatives from associate members attend and are predominantly held in London. The Association is funded primarily by its membership with each IFCA making a £13,000 annual contribution and the associate members making a £750 contribution per year.

Devon and Seven IFCA chose to leave the Association during 2017 and engagement to encourage them to re-join is ongoing.

#### **Report**

A quarterly meeting of the member's forum was held on 3<sup>rd</sup> December 2019 and a copy of the draft minutes can be found at Appendix A.

## **Appendices**

Appendix A – Unconfirmed minutes of the meeting of the Association of IFCA held on 3<sup>rd</sup> December 2019

## Appendix A

### **The Association of IFCA's Members Forum Meeting 3 December 2019 – 10:30 Followed by Directors Meeting**

**Watermen's Hall, 16-18 St Mary at Hill, London, EC3R 8EF**

Attendance for the Meeting:

Chair: Tony Tomlinson  
CEO: Stephen Bolt

Members: Tim Dapling, Mike Hardy, Paul Williams, David McCandless, Paul Skinner, Les Weller, Stephen Atkins, Chris Matthews, John Lamb, Will Wright, Samantha Davis, Julian Gregory, Stuart Harper, John Lamb, Mike Hardy.

Minutes: Samantha Davis

Apologies for absence: Andy Guy, Tom Hooper, John Humphreys, Sally Standing, Rob Clark, Stephen Axford, Sally Standing.

The Chair stated that the meeting would be recorded.

No declarations of interest.

#### **1. Minutes of the last meeting (24 September 2019)**

Minutes agreed.

##### **a. Matters arising from actions**

Action 1: There has been an exchange of emails between RC and Defra, not resolved. Four IFCA's have begun the process of replacing emergency minimum size byelaws with permanent ones.

Action 2: Not known.

Action 3: To be covered under agenda item 2 below.

Action 4: SB had spoken with Emma at NIFCA.

Action 5: JG had circulated paper as requested.

Action 6: SB/RC have written/spoken with Defra.

Discussion followed over issue regarding reappointment of MMO general members and the impact of the current 10 year rule. Issues raised included the sensitivity of involving Chief Officers in the selection of members to recommend for extension, the lack of parity with respect to the length of tenure of some councillors, the difficulties of advocating for one member over another if all of equal merit and value but the recognition that we need to respond to this request as Defra will not allow a blanket reappointment of all members.

There was recognition and agreement that there were two strands to this issue – a short term need to solve the cliff edge in members' reappointment in 2020 and the need for a longer term solution which enabled IFCA's to operate effectively.

**Action 1: All to send assessment spreadsheet back to SB.**

**2. Defra update** (via SB as Defra staff not invited to attend – see notes in agenda)  
Questions were raised about when we may receive confirmation of the new burdens funding for 2020/21 and the implications if we do not receive this funding, and comments raised about continuing delay over the publication of the IFCA 10 year review report.

**3. Finance & Resources**

- a. Profit and Loss – first quarter
- b. Budget variation

Discussion over 4a and 4b – offer from PW to fill resource gaps between financial reporting generated by SB and the requirements for the audit, in order to reduce audit costs to AIFCA.

PW also suggested having separate lines in the budget for one off, non-recurring items, to help clarify their impact on the budget.

**Action 2 : SB to speak to PW regarding audit process and to amend budget lines for non-recurring items.**

Suggestions made to reduce meeting costs including the use of Webex teleconferencing platform and the possibility of obtaining more free meetings at Fishmongers' Hall above the two currently being offered.

**Action 3: SB to investigate feasibility and costs for using teleconferencing for some AIFCA Members' Forum meetings in 2020.**

**4. Matters for decision** (not taken in order of agenda)

**4c National Lead Training Officer workstream update (paper by Will Wright/Ian Jones):** Discussion around the possibility of the use of EMFF through a bid to deliver a 3 year training plan, in preparation by WW and Ian Jones (IJ), but concerns about the lack of resilience in the longer term beyond this funding source. Bid due in before Christmas and if successful, costs of Torquay course could be reclaimed. If unsuccessful, WW will bring back alternative funding proposals to March 2020 Members Forum. WW highlighted other solutions to fund the role including use of NTLO to deliver training for other organisations and the possibility of his use as a floating enforcement officer for use to temporarily increase capacity at individual IFCA's. IJ will develop training packages for individual IFCA's.

Recommendations from NLTO update paper - that AIFCA Forum members:

1. AGREE the 2020 NLTO training fees and funding structure, as set out in section 1.2,
2. AGREE the proposed model of underwriting the NLTO post in section 2,
3. AGREE the long-term fiscal strategy for the NLTO post in section 5,
4. DISCUSS and NOTE the feedback from the advanced officer course and the proposed new courses to be run over the next 3 years.

**Recommendations above were agreed, with the proviso that the budget could be reprofiled without reliance on EMFF, all voted in favour, no abstentions.**

**4a. Paper on the review of the Association** (JG, on behalf of Task Group)

JG introduced update paper and drew attention to two recently developed options on p4 under recommendation 1 from 3KQ report – Option 1 reduces the number of directors to four and attaches specific duties to each to improve logistical effectiveness of running organisation, with strategic decisions taken at the Members' Forum where all 10 IFCA's are represented. Further suggestion from RC (via JG) that this could be expanded to five to include Operations Director. Question also rose over having Chief Executive as a director.

Option 2 offers an alternative model to operating as a company, by having AIFCA hosted by an IFCA, to improve resilience and reduce costs.

Points raised included differing views on who should be a director and the interrelationship between the directors and the Members Forum and the importance of following the recommendations set out in the paper. There was a recognition that additional detailed work would be required to flesh out the potential implementation of the options in the paper. A suggestion was made that SB should join the Task Group.

**4b 2020/21 budget proposals**

Points raised included the possibility of ceasing to insure the shared survey equipment through the AIFCA and passing that responsibility onto those IFCA's who use the equipment.

Following further discussion around issues raised regarding salary level for Chief Executive, a proposal was made and agreed to defer the decision on setting the budget until the March 2020 meeting.

**Action 5: Paper on 2020/21 to be submitted to March 2020 Members' Forum meeting.**

**5. Matters for noting**

**a. MPA project update (report) – p 18**

Report noted.

**b. MPA project Steering Group minutes – Page 19**

Report/minutes noted.

**c. iVMS verbal update – Julian Gregory**

JG has made representation to MMO project team about concerns over the potential use of mobile phones for reporting and the lack of tamper-free technology.

**d. CEO Meeting Log – Page 23**

Noted.

**e. Directors minutes - Page 25**

Noted and agreed.

**f. Association Annual Report 2018/19**

Report noted.

**g. Provisional dates for 2020**

Dates noted, venues not yet finalised.

**6. AOB**

TD reported that he had dialed into recent Angling Trust national angling strategy board meeting and reminded all COs that we have a tracker for this strategy so if we are doing work within our IFCA's that contribute to this strategy, to let TD know so he can feed that information back.

**Action 6: All to update TD of any relevant sea angling work to feed into national angling strategy.**

Close of meeting 15:30

**Date of next meeting – Tuesday 3 March 2020, venue tba.**

**Actions from this meeting**

<b>Action Number</b>	<b>Action</b>	<b>By Whom</b>
Action 1	Action 1: All to send general members assessment spreadsheet back to SB	All
Action 2	SB to speak to PW regarding audit process and to amend budget lines for non-recurring items.	SB
Action 3	Action 3: SB to investigate feasibility and costs for using teleconferencing for some AIFCA Members' Forum meetings.	SB
Action 4	Action 4: SB to speak with Fishmongers' Hall regarding its availability to us without cost.	SB
Action 5	Action 5: Paper on 2020/21 to be submitted to March 2020 Members' Forum meeting.	SB
Action 6	Action 6: All to update TD of any relevant sea angling work to feed into national angling strategy.	All

### 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 16a

### Eastern Inshore Fisheries and Conservation Authority Meeting

11 March 2020

#### Marine Protection Quarterly Report

**Report by:** Greg Brown – IFCO/Project Officer

#### **Purpose of Report**

To provide members with an overview of the work carried out by the Marine Protection team during the period of October, November and December 2019.

#### **Recommendations**

It is recommended that members:

- **Note** the content of the report

#### **Report**

#### **Enforcement and engagement priorities throughout district – overview**

##### October

The main enforcement goal was to maintain a good level of presence in ports, completing inspections as appropriate, focusing primarily on the cockle and whelk fisheries. In addition, around the coast officers maintained a presence on beaches with continued engagement with recreational anglers, with a focus on recreational vessels operating on the weekends. Officers had the following engagement priorities throughout the month:

- Promoting Eastern IFCA's work with the National line recycling scheme promotion
- Engagement and encouraging responses to the closed area byelaw informal consultation
- Engagement and encouraging responses to the MCRS byelaw informal consultation
- Engagement and encouraging responses to the Potting fisheries informal consultation

##### November

During the month enforcement priorities shifted primarily to the ongoing whelk fishery, in relation to permit conditions and MCRS enforcement, this was a district wide priority. Officers also addressed concerns in relation to recreational bass landings where

appropriate. Engagement priorities included encouraging responses to the ongoing potting informal consultation and communicating key messages and information in relation to EU exit.

### December

Enforcement and engagement priorities broadly mirrored those of November, with the addition of education and engagement around under 10 metre catch recording for impacted stakeholders.

### Enforcement Outcomes (district wide)

Throughout the period various offences were detected as follows:

- Fishing without a whelk permit
- Exceeding WFO daily quota (x 4)
- Retaining undersize Whelks (x 2)

### **EMS monitoring**

Monitoring of 'restricted areas' under the Marine Protected Areas Byelaw 2016 was carried out throughout the reporting period. The following monitoring occurred:

<b>Protected feature</b>	<b>Restricted areas</b>	<b>Number of separate patrols where one or more restricted areas was visited</b>
<i>Sabellaria spinulosa</i> (Ross Worm) Reef	A, B, C, D, E, F, G, H, I	6
Sub-tidal stony Reef	J	0
Eelgrass beds (North Norfolk Coast)	SH, EH, SF, BP, BC	2
Eelgrass beds (Humber)	K	1

## Area 1: West-North (Hail Sand Fort to Gibraltar Point) Fishing Trends

### October

No trends reported for this area during October.

### November

Limited commercial fishing effort occurred in this area during the month, with just a few vessels operating for crab and lobster primarily targeting lobster. Shrimp catches along the coast generally reported as poor. Recreational anglers reported that catches were poor with only limited catches, primarily of whiting, with the occasional codling.

### December

No trends reported for this area during December.

### **Metrics**

<b>Enforcement metric</b>	<b>Number completed</b>
Shore Patrols	5
Port visits	19
Catch inspections (landings observed)	0
Catch Inspections (landing not observed)	0
Vehicle Inspections	0
Premises inspections	2
Enforcement actions/Offences	0
Intelligence reports submitted	3
Fishers engaged	15
Vessel Patrols	0
Boardings	0
Gear Inspections	0

### **Engagement/ key messages received**

None recorded

## Area 2: West-South (The Wash and North Norfolk Coast to Brancaster) Fishing Trends

### October

The cockle fishery was open during the month and was the primary fishery in the area both the price and levels of catch were generally reported as good. The whelk fishery was reported as poor, with those that could staying on the cockle fishery.

### November

During the month, the cockle fishery closed for the year, many vessels continued working in the fishery right up until its closure. Prior to its closure, fishers reported it being a valuable fishery, although there were concerns raised regarding the fishing of small cockle. Some fishers chose to switch over to whelk fishing with the number of

vessels operating in this fishery increasing during the month, the number of vessels fishing for shrimp also increased. Recreational anglers reported good numbers of fish around, primarily whiting and dabs, with a few codlings being caught.

### December

There were two main fisheries in this area during the month; whelk and shrimp. 5 vessels were known to be actively working in the whelk fishery. Many fishers communicated their intentions to join this fishery during the following month. The price of shrimp was reported as low, compared to previous years, with around 10 vessels operating in this fishery. Many vessels remained in port for much of the month, citing poor weather and lack of opportunity as the reason why.

### **Metrics**

<b>Enforcement metric</b>	<b>Number completed</b>
Shore Patrols	16
Port visits	25
Catch inspections (landings observed)	38
Catch Inspections (landing not observed)	10
Vehicle Inspections	0
Premises inspections	1
Enforcement actions/Offences	4
Intelligence reports submitted	25
Fishers engaged	61
Vessel Patrols	26
Boardings	0
Gear Inspections	0

### **Engagement/ key messages received**

As is the usual trend much of the engagement and discussion was around the cockle fishery, which was the primary fishery in the area throughout the reporting period. The following comments were raised by our fisheries stakeholders:

- Disappointment when fishery closed as price and catches reported as good
- Surveys are not carried out in the right place
- The Friskney should have been left open as cockles will be lost naturally.

There were also concern regarding the current status of the mussel fishery, due to current status of the wild beds. This was raised on several occasions by various stakeholders.

### **Area 3: East-North (Brancaster to Great Yarmouth) Fishing Trends**

#### October

Several fishers reported that the fishing was generally good, although the catches of whelk were starting to slow slightly. Good quantities of lobster were reportedly caught. There were also good quantities of female crabs on the ground.

## November

The whelk fishery was reported as hit or miss, but generally good. No other fishing trends were reported.

## December

Good catches of herring were reported in the area, which were transported to Lowestoft market. Numbers of crab on the ground were reported to reduce as is the standard trend for the time of year. Lobsters were also reported as decreasing. Fishers reported it was still worth going to sea, and many of them attempted to get a few extra trips in prior to Christmas. Others were concentrating on getting their gear ashore for the winter and completing repairs.

Recreational anglers reported that there were a lot of fish around, including whiting, dabs, pout, dab and the odd codling. It was reported that many of the codling were remaining offshore.

### **Metrics**

<b>Enforcement metric</b>	<b>Number completed</b>
Shore Patrols	26
Port visits	102
Catch inspections (landings observed)	15
Catch Inspections (landing not observed)	11
Vehicle Inspections	0
Premises inspections	10
Enforcement actions/Offences	0
Intelligence reports submitted	6
Fishers engaged	82
Vessel Patrols	1
Boardings	0
Gear Inspections	0

### **Engagement/ key messages received**

Much of the engagement and concerns received in this area was in relation to under 10m catch returns which is an MMO lead project which Eastern IFCA supports as a joint working initiative. With the following comments and concerns being raised:

- Haven't read the information yet so not sure how to do it.
- Fishers don't have computers and smartphones so cannot comply with the requirement.

In addition to this there were further investigations into the MPA Byelaw 2019 proposed closures, and further information was gathered by officers to inform this byelaw.

## Area 4: East-South (Great Yarmouth to Harwich)

### Fishing Trends

#### October

Commercial fishers reported poor weather limiting fishing opportunities in the area. Lobster and crab catches started to ease through the month, with many fishers choosing to start bringing pots ashore. Good catches of sole and roker were reported. Recreational anglers reported that small whiting and dogfish were abundant, but there were very few other species being caught. There was a lot of recreational activity reported in this part of the district.

#### November

Commercial fishers reported reduced number of sole and bass. Some cod were reported but mostly small and thin on the ground. High numbers of herring were reported, but sales were reportedly low. Good catches of rays and smooth hound reported, high amounts of spurdog reported in the water. In general fishing effort reduced throughout the month as key species moved out of the district. Many vessels have been out the water to complete winter refits. The decreasing trend for crab and lobster continued with numbers continuing to drop off throughout the month. The whelk fishery was the primary fishery in the area, with fishers reporting that they are being forced into this fishery, due to lack of opportunities elsewhere. Recreational anglers reported high catches of whiting, with a few dogfish as the main species.

#### December

In early December commercial fishers reported a quiet period, which got busier nearer to Christmas, with a typical price spike in prices just before Christmas, with premium fish getting a very strong price at market. Lobster commanded the highest price ever seen on the market, at £30 per kilo. Skate made up the majority of the quantity of fish on the market. There was high effort in the whelk fishery with new vessels joining the fishery. As with previous months, the main catches reported by recreational anglers was reported a whiting. Recreational angling increased over the Christmas period, there were some reports of catching Ray, which is usually unheard of at this time of the year.

### Metrics

Enforcement metric	Number completed
Shore Patrols	43
Port visits	135
Catch inspections (landings observed)	25
Catch Inspections (landing not observed)	49
Vehicle Inspections	0
Premises inspections	50
Enforcement actions/Offences	2
Intelligence reports submitted	59
Fishers engaged	267

Vessel Patrols	2
Boardings	2
Gear Inspections	0

### **Engagement/ key messages received**

Discussions were had in relation to the new measures being implemented by the Maritime and Coastguard Agency, reports were that the new measures are sensible, but there are not enough surveyors in the area. Commercial fishers continued to raise concern around their inability to land Spurdog, and suggested it should be made available to land on an entitlement basis as is the case with Bass.

As with area 3 there were extensive discussions around the under 10 catch recording as implemented by the MMO.

- Reported as having problems accessing the app
- Some fishers communicated that they have resistive acceptance of the app.
- Fishers remain unconvinced of the need for catch reporting.
- Fishers do not understand how the system works and want it explained to them

Concerns were raised in relation to the local whelk fishery, with the following comments raised:

- Whelks are being overfished, as other fisheries are performing poorly
- Whelk pots are being shot over ground which is normally trawled on.
- Concerns regarding the Whelk Permit Byelaw 'forcing' fishers to fish outside the Eastern IFCA district

Discussions often turned to the impending EU exit, with fishers raising concerns about potential impacts, including changes to the Common fisheries policy and increasing the amount of super trawlers.

### **Financial Implications**

None

### **Legal Implications**

None

### **Appendices**

Not Applicable

### **Background Documents**

Not Applicable

### Vision

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## Information Item 16b

### Eastern Inshore Fisheries and Conservation Authority Meeting

11 March 2020

#### Marine Science Quarterly Reports

##### Report by:

- Ron Jessop, Senior Marine Science Officer (Research)
- Judith Stoutt, Senior Marine Science Officer (Environment)

##### Purpose of Report

The Authority runs a year-round programme of research projects, fishery assessment and development advice. This work provides evidence to underpin the development of fisheries management measures and supports other marine regulators in planning and licensing decisions. This paper informs Members of key activities undertaken by the Authority's Marine Science team during the period October to December 2019, any issues that have arisen (through internal or external drivers), and an indication of up-coming developments that could require future actions.

*Please note the Marine Science Quarterly Report delivered at the 38<sup>th</sup> Authority meeting (11<sup>th</sup> December 2019) covered the period August to November 2019, since the pattern of quarterly meetings was changed in 2019. To ensure future reports reflect a single quarter, they will be provided by calendar quarter, regardless of the next Authority meeting date. This means the current report has some overlap of content with that provided to the 38<sup>th</sup> Authority meeting.*

##### Recommendations

It is recommended that members:

Note the contents of the report.

##### Background

The Marine Science team has further progressed workstreams for the assessment and management of fisheries in marine protected areas (the "revised approach"), and towards the sustainable exploitation of stocks. The programme of field surveys, quayside catch monitoring and measurement and laboratory analysis (set out in the Marine Science Plan) has been followed, to enable the gathering of evidence to inform management. Engagement with partner organisations and the Marine Protection arm of Eastern IFCA remain integral to the Science team's work. Provision of advice on marine licence applications and other marine developments is continued and remains a significant undertaking for the Science team because of the high number of developments affecting the Eastern IFCA district.

## Report

### *WFO mussel stock assessment*

The annual WFO mussel surveys commenced in September and were planned to be completed by the end of October. Ongoing problems with the research vessel's main engines, combined with periods of poor weather, disrupted the survey programme, however, resulting in the survey programme ending in December with two surveys not conducted. Average changes to the other beds since the previous survey have been applied to these unsurveyed beds to provide an estimation of their stock biomass. The results from the surveys show that the majority of the beds have suffered significant losses for the second successive year, resulting in an overall 60% decline in biomass since 2017. Since 2010 the mussel stocks have suffered unusually high mortalities, particularly among mussels that are 2-3 years old. After a good settlement in 2016 helped stocks to recover to their highest levels since the 1980s in 2017, it was anticipated mortality rates would be high in 2018 and 2019 as these juvenile stocks reached what appears to be a vulnerable age. These predictions proved true both years, although losses seem larger than was anticipated. This is possibly as a result of the ageing population of older mussels that had so far survived also now declining.

There is uncertainty as to the cause of the high mortalities. Following the initial die-offs in 2010, Cefas identified a high incidence of the intestinal copepod parasite, *Mytilicola intestinalis*, in mussel samples and attributed the die-off to them. However, scientific literature is divided whether this parasite kills its host and recent studies of our own have not found significant correlation between this parasite and recent mortalities. If *Mytilicola intestinalis* is contributing towards the die-off, therefore, it is likely to be in combination with other environmental stresses. These stresses could include the long emersion times that result from the height of the wild inter-tidal beds resulting in reduced feeding opportunities and exposure to hot and cold weather. This would explain why juvenile mussels that have been taken off these beds and relayed onto lower lays tend to survive. The fact that mussels seem most vulnerable when they reach 2-3 years old (e.g. as they reach maturity) suggests that spawning behaviour, which results in a huge drain on the mussels' energy reserves, may also be a contributing factor in the die-offs. Irrespective of the cause of the mortalities, their effects have left the beds and the fishery they support, in a poor condition.

### *Inter-tidal Sabellaria survey*

While *Sabellaria spinulosa* is a common reef-forming species of polychaete worm in our district, it is usually found in sub-tidal habitats rather than inter-tidally. The Authority's predecessor, Eastern Sea Fisheries Joint Committee, first became aware of a relatively rare patch of inter-tidal *S. spinulosa* in 2004, however, on the edge of the Old Lynn Road channel. Due the interest in this feature, it has been surveyed several times since by both ourselves and Natural England. The most recent survey was a joint survey conducted by EIFCA and Natural England in October. During the period surveys have occurred, the bed has shrunk from 11 hectares in 2005, when it stretched 1.3 km along the edge of the sand, to its current size of 1.7 hectares. Natural England will be using the information they gathered during this last survey to assign 'reefiness' values to the reef using approved protocols.

### *Brown shrimp fishery effort management*

The Habitats Regulations Assessment for the brown shrimp fishery had identified certain sensitive areas that needed protecting with spatial closures. In addition to these closures, it is also necessary to ensure the fishing effort outside of those areas remains at a similar level to that occurring during the assessment period (2006 to 2016). After deliberating the pros and cons of the various metrics that could be used for monitoring “fishing effort”, monitoring “fishing trips” was determined to be the most favourable approach to take. Following that decision, officers have recently analysed EIFCA, processor and MMO landings data to determine what effort has been directed at the brown shrimp fishery within the W&NNC SAC. This has not only provided information on the number of trips that have occurred each year, but also characteristics of the fleet’s fishing patterns. This latter information can be used to determine if future legislation causes fishing patterns within the fleet to change.

### *Study of The Wash Embayment, Environment and Productivity*

This project monitors chlorophyll levels in the water and meat yields of mussels from three sample stations which are used as indicators to determine whether primary food availability in The Wash could be a limiting factor in shellfish growth and survival. Data collected from this ongoing monitoring programme show the mussel meat yields have been consistently above minimum thresholds, as have the chlorophyll levels measured by the sondes. Since 2010 the Authority has deployed a YSI 6600 sonde in situ on a buoy situated in the central Wash. To avoid downtime of the data while the buoy is out of the water being serviced, a second buoy was acquired this year to alternate with the original one. King’s Lynn Conservancy Board have been given a contract to regularly recover and service the buoys as they have the equipment to lift them safely. During this quarter malfunctions have occurred to both the hand-held unit of the hand sonde (thought to be associated with its SD card) and with the in situ sonde (in which a rubber seal appears to have perished between two parts of the sonde’s main body unit). Both units were sent back to the manufacturer for repairs, servicing and calibration and have subsequently been redeployed.

### *EHO water classification sampling*

In order to maintain long-term water classifications a minimum of 10 monthly samples are required to be collected each year from each of the monitoring stations. We are currently on target to meet these requirements on behalf of the Local Borough Councils (LBCs). In November two of the samples showed very high levels of E coli, prompting the Boston and King’s Lynn LBCs to investigate. It is thought these elevated levels were due to the high rainfalls that occurred in the week prior to the samples being collected, causing run-offs from arable land. As is often a problem in winter, December’s sampling was affected by poor weather that prevented any of the samples requiring vessel access to be missed. Further, the small size and meat yield content of the cockles gathered from the Nene Mouth station were too small for the laboratory to process the sample that had been collected.

## **Environment**

### *Assessment and management of commercial fishing in Marine Protected Areas (MPAs) - “Revised Approach” work*

This work remains the key priority for the Marine Science team. It directly supports the fulfilment of obligations relating to marine protected areas and has been subject to strict timelines set out by Defra. The Authority’s Business Plan sets out six priority marine protected area projects; progress with these is set out in Table 1.

The second Fisheries and Conservation Management Working Group (held on 22<sup>nd</sup> October 2019) proved a useful opportunity for Authority members and officers to discuss in detail key pieces of MPA work. These included the proposed Closed Areas Byelaw 2020, Shrimp permit conditions (including the Total Allowable Effort threshold derived from shrimp effort data), and interactions between potting fisheries and subtidal chalk.

### *The Wash & North Norfolk Coast Special Area of Conservation (SAC)*

Towed demersal fishing over “circalittoral rock” is a red-risk interaction that potentially occurs in this site. This sub-feature had not been identified when the original set of red-risk closures for this site was progressed but, now having been mapped and included in formal conservation advice, Eastern IFCA has a duty to ensure that fishing cannot damage it. Officers developed recommendations for a closure to towed demersal fishing over and around this sub-feature; this was agreed by the Authority at the 38<sup>th</sup> Authority meeting and will be taken forward in a new byelaw, the Closed Areas Byelaw 2020, that will replace the Marine Protected Areas Byelaw 2019.

Officers represented Eastern IFCA at the three advisory group meetings (Boston, King’s Lynn and Wells) of the Wash and North Norfolk Marine Partnership in November 2019. These meetings provide useful engagement opportunities where officers provide an update on Authority work in and around the site, and discuss with stakeholders any questions or concerns raised. This is particularly valuable given the Authority’s commitment to genuine dialogue with stakeholders in relation to local fisheries management and conservation.

### *Cromer Shoal Chalk Beds Marine Conservation Zone (MCZ)*

Officers are continuing to work with Natural England in relation to the in-combination assessment for the non-potting fisheries assessment (i.e. how fishing activities affect conservation features in combination with other activities within the site).

The assessment of potting fishing in the MCZ is ongoing. It will be informed by information gathered from the current (December 2019 to March 2020) engagement exercise with fishery stakeholders, and using updated advice expected from Natural England in late January 2020, following a dive survey in the site in October 2019. Obtaining better information about fishing patterns is crucial to ensure the assessment

is properly informed and so that management is effective and proportionate. If management of potting activities is required to protect MCZ features, these will be presented to the Authority after the assessment has been completed and will be consulted upon widely.

*Inner Dowsing, Race Bank and North Ridge Special Area of Conservation*

Detailed scrutiny of the evidence for the reef feature in this site has led officers to raise some queries over the distribution of the feature. Management is required (prohibition of use of towed demersal gear) to protect reef so it is crucial that there is a clear understanding of the extent of the reef feature. Officers are liaising closely with Natural England with regards to the evidence issue, which must be resolved before management can be developed.

Information gathered in the engagement exercise (September – October 2019) will be used to inform the Impact Assessment that accompanies new management measures for Authority consideration. The area of the Inner Dowsing, Race Bank and North Ridge SAC that is being considered for management (inshore of the Inner Dowsing and Lynn offshore wind farms) has formerly been a pink shrimp fishing ground and an important ground for seed mussel. This will be taken into account in developing management areas, but it is likely that there will be permanent exclusion of towed demersal fishing in some of this area, because of the need to protect the SAC reef feature.

**Table 1.** Revised approach<sup>11</sup>: summary of progress of priority assessments and development of management

Site name	Interaction and matrix risk level	Assessment conclusion	Next steps
The Wash & North Norfolk Coast Special Area of Conservation	<p>Beam trawling (shrimp)/subtidal sandbanks (subtidal mixed sediment and subtidal mud)</p> <p>Amber risk</p>	<p>Adverse effect cannot be confidently ruled out: mitigation required to reduce impact</p> <p>Research required to improve evidence around light beam trawl impacts</p>	<p>Mitigation in progress:</p> <ul style="list-style-type: none"> <li>• Marine Protected Areas Byelaw 2018 agreed (areas closed to towed demersal gear to protect <i>Sabellaria</i> reef, subtidal stony reef, eelgrass beds, intertidal mussel beds, subtidal mixed sediment and subtidal mud) – awaiting Defra sign-off.</li> <li>• Marine Protected Areas Byelaw 2019 agreed (additional areas closed to towed demersal gear to protect subtidal mixed sediment and intertidal sand) – internal QA before submission to MMO and Defra sign-off.</li> <li>• Shrimp Permit Byelaw (effort restriction, gear specification, vessel tracking device and catch returns requirement) – Byelaw in process of Defra sign-off. Effort threshold identified; EIFCA consultation on permit conditions launched in December 2019.</li> </ul> <p>Monitoring and Control Plan: initial plan drafted. Benthic monitoring plan to be developed (reliant on iVMS being in place).</p> <p>Additional red risk features:</p> <ul style="list-style-type: none"> <li>• Circalittoral rock closed area agreed by Authority (December 2019);</li> <li>• Intertidal <i>Sabellaria spinulosa</i> reef closed area to be taken forward in Closed Areas Byelaw 2020.</li> </ul>
Haisborough, Hammond & Winterton Special	Towed demersal fisheries/ <i>Sabellaria spinulosa</i> reef	High-risk interaction (red risk on matrix)	<p>Mitigation agreed:</p> <ul style="list-style-type: none"> <li>• Marine Protected Areas Byelaw 2019 – Agreed by Authority May 2019; public consultation complete July 2019; byelaw to be signed-off by Defra.</li> </ul>

<sup>11</sup> Revised approach: assessment and management of commercial fisheries in Marine Protected Areas

Site name	Interaction and matrix risk level	Assessment conclusion	Next steps
Area of Conservation	Red risk	so no assessment required	
Cromer Shoal Chalk Beds Marine Conservation Zone	All commercial fishing within site on all designated features  All risk levels	Towed demersal gear to be excluded from subtidal chalk areas of site.  Potting fishery requires further consideration.	Mitigation agreed for towed demersal gear: <ul style="list-style-type: none"> <li>• Marine Protected Areas Byelaw 2019 – Agreed by Authority May 2019; public consultation complete July 2019; byelaw to be signed-off by Defra.</li> </ul> Officers updating non-potting fisheries assessment following Natural England feedback.  Natural England to provide updated advice on chalk/potting interactions, following acquisition of new evidence from summer 2019 dive surveys. Information on potting activity currently being gathered (engagement December 2019 to March 2020). Mitigation for impacts of potting to be developed if found to be required. EIFCA officers to continue to work with Agents of Change project to promote local benefits of Marine Conservation Zone designation.
Inner Dowsing, Race Bank & North Ridge Special Area of Conservation	Towed demersal fisheries/ <i>Sabellaria spinulosa</i> reef  Red risk	High-risk interaction (red risk on matrix): no assessment required	Protection to reef feature to be applied using proposed Closed Areas Byelaw 2020. Officers currently in close dialogue with Natural England in relation to supporting evidence for reef feature. Stakeholder engagement undertaken to help understand importance of areas for fisheries.

### *Partnership work and stakeholder engagement*

Eastern IFCA officers continue to participate in a range of partnership and stakeholder groups. These enable sharing of information and identification of best practice, effective communication and information-gathering to inform assessments and to support the development of appropriate management. Whilst all partnership working is important, significant focus is given to relationships with fishery stakeholders, Natural England and conservation NGOs.

Numerous meetings and communications are attended / made on a regular basis, to ensure connectivity with the full range of Eastern IFCA stakeholders. Some of the key initiatives undertaken during October to December 2019 are listed below:

- Eastern IFCA officers have been actively involved in preparation for and promotion of the “Introduction to Sustainable Fishing (ISF) event organised by Fishing into the Future and to take place in London in January 2020. Further information can be found at <https://www.fishingintothefuture.co.uk/>, and specific information on the ISF event at <https://www.fishingintothefuture.co.uk/course/isf2020/>. There has been extensive, and ongoing, correspondence and teleconferencing in connection with this.
- Shrimp Fishery Advisory Working Group meeting – focus on delivering appropriate management / actions to support Marine Stewardship Council certification of this fishery.
- Officers have attended the three advisory group meetings for the Wash and North Norfolk Marine Partnership (see above)

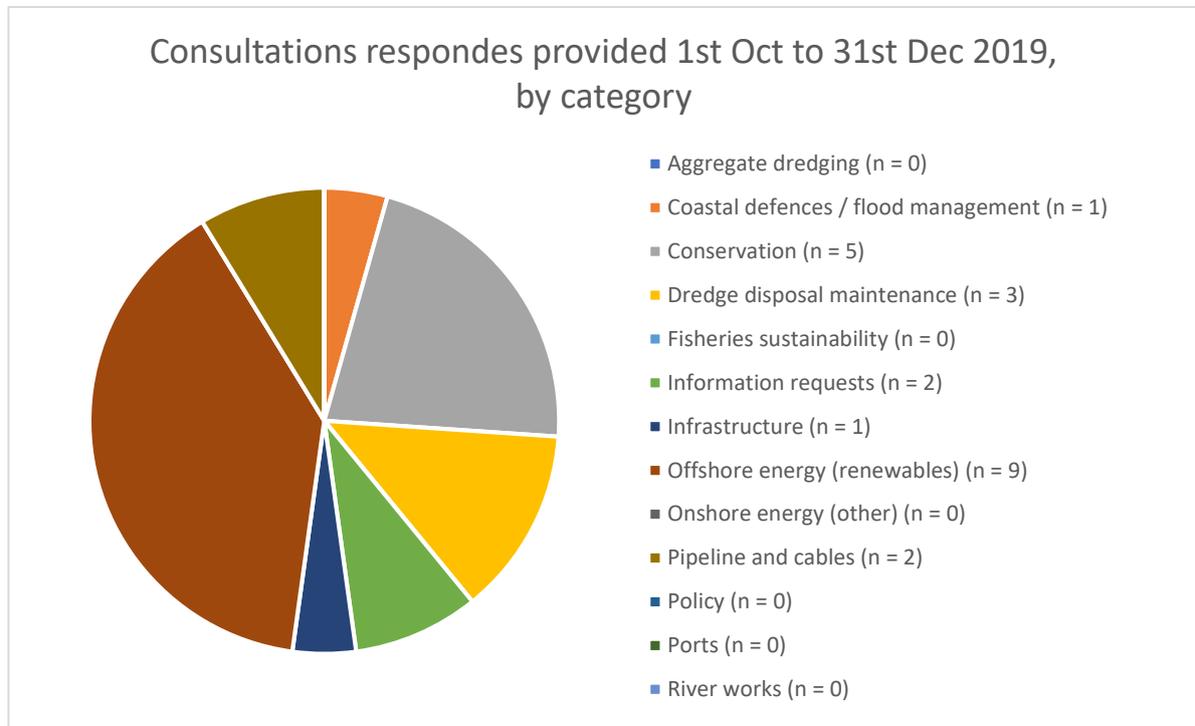
### *Eastern IFCA input to consultations on marine developments*

The Eastern IFCA district is subject to multiple marine and coastal activities that are regulated through consents by authorities such as the Marine Management Organisation (MMO), the Planning Inspectorate, Environment Agency, Defra and the Authority itself. The Marine Policy Statement and East Marine Plans provide overarching context. The impact of activities on fishing and marine conservation interests is considered by Authority officers through the consultation process. IFCA's are regarded as primary advisors to the MMO on marine licensing issues.

As well as providing consultation input, officers record feedback on whether and how our comments are reflected in planning or licensing decisions. MMO notifications on licensing decisions show that EIFCA's input regularly forms part of MMO licence conditions.

In the period October to December 2019, the Eastern IFCA Marine Science team received and dealt with 23 consultation requests. Figure 1 shows the categories of

development or policy that these consultations fit within. Once again, consultations relating to offshore renewable energy featured heavily, reflecting the large number of offshore wind farms currently in the planning, construction or operational stages around the Eastern IFCA district.



Three examples of consultations / engagement are set out below:

- Consultations included a Defra call for evidence relating to highly protected marine areas (HPMAs) – officers highlighted that 96% Eastern IFCA district is already protected and the need for any HPMA (no extractive or depositional activity) would have to be properly evidenced. We also raised that preference should not be given to designate HPMAs in inshore waters merely because it is perceived to be easier to regulate inshore areas than offshore. We echoed the Association of IFCA’s response that converting any existing marine protected areas (or parts of) to HPMAs would be a betrayal to stakeholders who have been assured over many years that marine protected areas are “sustainable use” sites rather than no take zones.
- Officers have represented Eastern IFCA at the Planning Inspectorate hearings for Norfolk Boreas offshore wind farm and have contributed to the process through the development of a Statement of Common Ground with the developer, answering questions at the hearings and providing additional written representations. This project, if consented, will lay electricity cables in the vicinity of areas agreed for closure to towed demersal gear by the Authority to protect *Sabellaria* reef within Haisborough, Hammond and Winterton Special Area of Conservation. The developer has agreed to

microsite cable routes to avoid *Sabellaria* where possible. Through engagement with Caister fishermen, officers have also highlighted local stakeholder interests at the hearings, including potential impacts on fish from pile driving and changes in inshore habitats resulting in increased number of seals, affecting fishing activities. Representation at Planning Inspectorate hearings is relatively resource-heavy but ensures the Authority's advice and local fishery stakeholder views are duly considered in the wind farm consenting process. The Authority received confirmation in December that two other wind farms, East Anglia ONE North and East Anglia TWO, have been accepted for examination, so officers will participate in the same process for these developments that are also planned for the southern North Sea.

- During the quarter, officers were contacted by Port of Boston with a view to identifying a suitable area for a new dredge disposal site in The Wash. Officers appreciated the early dialogue and the intention to locate an area that would not impact on other stakeholders. Officers provided information on the location of cockle and mussel beds, mussel lays, and conservation (closed) areas so these could be avoided. The port identified a potential site in Boston Deepes, but fishermen have raised concerns about proximity to mussel lays and impacts on shrimp fishing grounds. The Port is engaging with fishermen further.

#### *Derogations from Eastern IFCA byelaws*

The marine science team processes requests for derogations from Eastern IFCA byelaws. These typically relate to retention of undersized fish or shellfish, and/or operation of vessels within restricted areas for shellfish relaying or for scientific survey purposes. An increasing number of scientific survey requests are coming via the Foreign and Commonwealth Office (FCO). As the majority of EIFCA's district (over 96%) has marine protected area designations, the process involves liaison with Natural England, with the requirement to consider the likelihood of impacts occurring on protected habitats and species within these areas.

Between 1<sup>st</sup> October and 31<sup>st</sup> December 2019, four derogation requests were received, two of which were from the Royal Belgian Institute for Natural Sciences and a third for ICES – International Bottom Trawl survey (IBTS). All of these requests were assessed - officers reported, via the Foreign and Commonwealth Office that no clearances were required. The fourth request related to a Cefas beam trawl survey in the southern North Sea as part of an ICES co-ordinated research programme; four of the planned trawls are within EIFCA's inshore trawling restricted area (which is within 3nm of the coast) and therefore requires an exemption from Eastern IFCA's Byelaw 12. As these four planned trawl locations coincide with Marine Protected Areas, officers are liaising with Natural England in relation to potential impacts on the designated sites before determining the application.

**Publicity**

Officers continue to publish work of the Marine Science team via the Authority's website and increasingly through social media. Followers of EIFCA continue to grow and officers endeavour to keep material fresh to encourage people regularly check for updates.

**Financial Implications**

This report is a summary of ongoing activities so has no financial implications.

**Legal Implications**

This report summarises ongoing work activities and does not have any legal implications. These would be highlighted in specific papers brought before the Authority if required.

**Appendices**

There are no appendices to this report.

**Background Documents**

There are no background documents to this report.