

Title: Wash Cockle and Mussel Byelaw 2021 IA No: EIFCA010 Lead department or agency: Eastern Inshore Fisheries and Conservation Authority (IFCA) Other departments or agencies: Marine Management Organisation (MMO), Department for Environment, Food and Rural Affairs (Defra)	Impact Assessment (IA)
	Date: 22/02/2021
	Stage: Development/Options
	Source of intervention: Domestic
	Type of measure: Secondary Legislation
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Summary: Intervention and Options	RPC Opinion: N/A

Cost of Preferred (or more likely) Option (in 2021 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
£-1,245,230.40	£-619,499.70	£-71,970.50	Non-qualifying provision

What is the problem under consideration?
Eastern Inshore Fisheries and Conservation Authority (IFCA) manages certain bivalve mollusc fisheries within The Wash under the Wash Fishery Order (WFO) 1992 which expires in January 2023. The Wash hosts economically important cockle and mussel fisheries and is a Marine Protected Area (MPA).

Why is government action or intervention necessary?
The byelaw is required to enable Eastern IFCA to manage the fishery to ensure that fishing activity does not negatively impact on cockle or mussel stock sustainability or the conservation objectives of the Wash.

What are the policy objectives of the action or intervention and the intended effects?
To enable sustainable cockle and mussel fisheries in The Wash which do not impact on the conservation objectives of MPAs concurrent with the fishery.

It is intended that the byelaw will enable flexible management for cockle and mussel fisheries, in-keeping with the established fishery management plans for The Wash. Fishing will be prohibited without a permit which must be undertaken in accordance with any permit conditions or restrictions within the byelaw.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0 – “do nothing”

Option 1 – Wash Cockle and Mussel Byelaw 2021 – Implement a byelaw under the Marine and Coastal Access Act 2009 (c.23) which enables the implementation of the fisheries management plans for cockle and mussel fisheries in The Wash.

Option 2 – Regulating Order – As per Option 1 using a Regulating Order under the Sea Fisheries (Shellfish) Act 1967 (c.83).

Option 3 – As per Option 1 using voluntary measures.

Option 1 (Wash Cockle and Mussel Byelaw 2021) is the preferred option because it will enable flexible management, using contemporary legislative mechanisms which will be consistent with other management throughout the Eastern IFC District, which enables the Authority to manage the fisheries of The Wash in a local context. A regulatory approach is preferred to address the level of risk associated with the fisheries in relation to sustainability and protection of MPAs.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 03/2027				
Is this measure likely to impact on international trade and investment?			Yes	
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: Date:

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2021	PV Base Year 2021	Time Period Years	Net Benefit (Present Value (PV)) (£)		
			Low: -826,600	High: -1,495,704	Best Estimate: -1,203,121

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.0	£-174,205.6	£-1,495,703.7
High	0.0	£-96,274.6	£-826,599.9
Best Estimate	0.0	£-140,128.3	£-1,203,121.1

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

The permit fees represent the key monetised costs to busines. Other costs associated with the byelaw represent a continuation of management measures in place under the existing Wash Fishery Order 1992. Costs to Eastern IFCA relate to the administering of the permit scheme i.e. stock surveys, Habitat Regulation Assessments, administration, compliance activity and are offset by the permit fee with an intention to achieve approximately 50% cost recovery

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

Key non-monetised costs relate to the adaptation of management for the fisheries to reflect the flexible approach and Wash cockle and mussel fisheries management plans.

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

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

None identified

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

The key non-monetised benefit is the continuation of the cockle and mussel fisheries in The Wash in the context of them occurring within an MPA. Without implementation of measures which mitigate the potential for impacts on the conservation objectives of the site, the fisheries could not continue.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5%

Costs associated with the administering of a permit scheme are likely to vary as are estimated costs to business which assume a consistent number of permits issued each year.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £:			Score for Business Impact Target (qualifying provisions only) £:
Costs: 69536.7	Benefits:	Net: 69536.7	
			N/A

Evidence Base

Problem under consideration and rationale for intervention

The Wash is part of a heavily designated marine protected area (MPA) and holds the following designations: special area of conservation (SAC) special protection Area (SPA), site of special scientific interest (SSSI), Ramsar site and national nature reserves.

The Wash also hosts important cockle (*Cerastoderma edule*) and mussel (*mytilus edulis*) stocks. The cockle fishery has an estimated average annual market value circa £2.5 million. Mussel stocks within the Wash have been in decline for the past decade and have resulted in only limited mussel relaying fisheries (where juvenile mussel is removed and then set within private aquaculture) but historically represented significant fisheries.

Eastern IFCA currently limits access to the fishery, with 61 persons at present eligible to obtain a licence (under Eastern IFCA policies¹) to fish for cockles or mussels. The majority of the licence holders rely heavily or entirely on access to the cockle fishery in particular. In addition, the fisheries have wider economic importance within the Eastern IFC District in relation to the processing of cockles and mussels. The economic importance of the Wash cockle and mussel fisheries are currently the subject of an economic assessment.

Eastern IFCA has managed certain bivalve mollusc fisheries, including cockles and mussels, within The Wash (Norfolk & Lincolnshire) through the Wash Fishery Order (WFO) 1992 (hereafter, the Order), since the Order came into effect in January of 1993. The Order has enabled the implementation of flexible management of the Wash fisheries to mitigate potential impacts on site integrity of the MPAs concurrent with the fisheries and to ensure fisheries are sustainable to safeguard the economic importance of the fisheries.

The risk to the fishery, fisheries stakeholders and the MPA is considered sufficient to require regulatory management. This is evidenced by in the annual Habitat Regulation Assessments which are undertaken in relation to the fishery and which conclude that fishing activity would have an adverse effect on the MPA without the application of mitigation in the form of management measures.

IFCAs have a duty to ensure that fish stocks are exploited in a sustainable manner, and that any impacts from that exploitation on designated features in the marine environment are reduced or suitably mitigated, by implementing appropriate management measures.

Fishing activities can potentially cause negative outcomes as a result of market failures. These failures can be described as:

1. Public goods and services – a number of goods and services provided by the marine environment such as biological diversity are ‘public goods’ (no-one can be excluded from benefiting from them but use of the goods does not diminish the goods being available to others). The characteristics of public goods, being available to all but belonging to no-one, mean that individuals do not necessarily have an incentive to voluntarily ensure the continued existence of these goods which can lead to under-protection/provision.
2. Negative externalities – negative externalities occur when the cost of damage to the marine environment is not fully borne by the users causing the damage. In many cases no monetary value is attached to the goods and services provided by the marine environment and this can lead to more damage occurring than would occur if the users had to pay the price of damage. Even for those marine harvestable goods that are traded (such as wild fish), market prices often do not reflect the full economic cost of the exploitation or of any damage caused to the environment by that exploitation.
3. Common goods - a number of goods and services provided by the marine environment such as populations of wild fish are ‘common goods’ (no-one can be excluded from benefiting from those goods however consumption of the goods does diminish that available to others). The characteristics of common goods (being available but belonging to no-one, and of a diminishing quantity), mean that individuals do not necessarily have an individual economic incentive to ensure the long-term existence of these goods which can lead, in fisheries terms, to potential overfishing. Furthermore, it is in the interest of each individual to catch as much as possible as quickly as possible so that

¹ https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/2017_02_15_WFO_Interim_Policy.pdf

competitors do not take all the benefits. This can lead to an inefficient amount of effort and unsustainable exploitation.

IFCA byelaws aim to redress these sources of market failure in the marine environment through the following ways:

- Management measures to conserve designated features of MPAs will ensure negative externalities are reduced or suitably mitigated.
- Management measures will support continued existence of public goods in the marine environment by conserving the range of biodiversity in the sea of the Eastern IFC District.
- Management measures will also support continued existence of common goods in the marine environment by ensuring the long-term sustainability of shrimp stocks in the Eastern IFC District.

Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)

The key drivers for management of cockle and mussel fisheries are well established within annual Habitat Regulation Assessments and the Fisheries management plans for the fisheries².

In considering the scale of economic impact from the measures (which is primarily via the permit fee), only low confidence data is used as obtained through consultation with industry. It is intended that this is mitigated via the completion of an independent economic assessment of the fishery. However, the impacts of the permit fee is not considered to be a significant risk to business continuity.

Other impacts are not known as they will arise out of flexible management of the fishery which includes the implementation of technical measures (e.g. gear specification, catch restrictions) and the issuing of permits. In particular, setting eligibility criteria for a permit and the number of permits to be issued is a key concern of the fishery stakeholders. To mitigate this risk, the byelaw requires that consultation with impacted stakeholders must take place and that consideration of the impacts on them is taken into account when introducing, varying or revoking any such measures. This is in keeping with the established processes under IFCA permit byelaws.

Description of options considered

Option 0 – “do nothing”

This option is not considered appropriate on the basis that the fishery occurs within an MPA and which would impact site integrity without implementation of mitigation measures. In addition, the fisheries are economically important, particularly in a local context, and failure of the fisheries risks business continuity in relation to the 61 persons presently provided access (under the Order) and associated businesses (including the three processing facilities within the Eastern IFC District).

Option 1 - Wash Cockle and Mussel Byelaw 2021 (preferred option)

Option 1 would be to implement a byelaw under the Marine and Coastal Access Act 2009 (hereafter MaCAA).

The byelaw would prohibit access without a permit issued by the Authority and would enable flexible management of the fisheries, subject to due process, in a manner consistent with the fisheries management plans for the cockle and mussel fisheries. It would include restrictions which are established mitigation measures under the Order and provide for additional measures to be introduced via permit conditions. Access to the fishery would be determined via eligibility criteria and through application of due process (consultation and consideration of impacts) as a means of mitigating over-

² For mussels: https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO_Shellfish_management_policies_2008.pdf and for cockles: https://www.eastern-ifca.gov.uk/wp-content/uploads/2019/07/2019_07_WFO_cockle_fishery_management_plan_draft1.3.pdf

fishing and industry viability. It is judged that a Byelaw will enable the Authority to be more responsive over time than would be the case with a new Regulating Order.

Option 2 – Regulating Order

Option 2 would be to implement a Regulating Order under the Sea Fisheries (Shellfish) Act 1967 (hereafter, 'the Shellfish Act'). This would enable flexible management of the fisheries in a manner consistent with the fisheries management plans and in a manner similar to a byelaw.

A Regulating Order does not represent the most contemporary method for managing inshore fisheries and reflects a less flexible mechanism than a byelaw under MaCAA. Introduction of an Order (including one which extends the current Order for up to a further 30 years as per the Shellfish Act) would not enable the Authority to be as 'fleet if foot' as a byelaw when responding to developments affecting the fisheries. In addition, the provisions of MaCAA which enable management of fisheries by IFCA are a preferred option given that they were introduced for that reason and would provide consistency with fisheries management throughout the district.

Option 3 – Voluntary measures

Option 3 would be to implement management via non-regulatory agreements with fishing industry.

This option is not preferred as it does not adequately address the risk posed to the MPAs, stock sustainability or industry viability.

Policy objective

The intended outcome of the preferred option (Wash Cockle and Mussel Byelaw 2021) is sustainable and economically viable cockle and mussel fisheries within The Wash which do not hinder the conservation objectives, or impact site integrity of, the MPAs concurrent with the fisheries.

The key indicators of success would be the economic outputs of the fishery and favourable condition assessments for the MPAs concurrent with the fishery (in so far as they relate to fishing activity).

Summary and preferred option with description of implementation plan

The preferred option will come into effect via secondary legislation being a byelaw under section 155 of MaCAA which enables management of the fisheries in a manner consistent with the established fisheries management plans³.

The fisheries management plans are currently put into effect via the Order and a transition from the Order to a byelaw would include a review of the management of access to the fishery. The fishery management plan for cockles, key management measures (i.e. Regulations under the Order) and licence fees (under the Order) have been reviewed with the intention of adoption in the replacement to the Order (albeit subject to consultation in relation to the implementation of a byelaw).

Consideration of the transition in terms of access is being considered via consultation with fishery stakeholders and is intended to be implemented via a combination of policy, eligibility criteria (under the proposed byelaw) and a limitation on the number of permits issued (under the proposed byelaw). It is intended that this is informed by consultation with fishery stakeholders, which is ongoing.

It is intended that the proposed byelaw will come into effect on the expiry of the Order, in January of 2023.

After implementation, the management of the fishery via the byelaw will be the responsibility of the Authority, with accountability to the Secretary of State via MaCAA.

The proposed byelaw is intended to have the following effects in pursuance of achieving the intended outcome (above):

- Prohibit access to cockle and mussel fisheries within the Wash without a permit;
- Enable the Authority to limit and manage access (using eligibility criteria), having consulted with impacted stakeholders and taken into account the impacts of such

³ For mussels: https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO_Shellfish_management_policies_2008.pdf and for cockles: https://www.eastern-ifca.gov.uk/wp-content/uploads/2019/07/2019_07_WFO_cockle_fishery_management_plan_draft1.3.pdf

restrictions, so as to balance the needs of MPAs, stock sustainability and viability in inshore fishing interests;

- To cancel a licence where a person is convicted of an offence under the byelaw or accepted a Fixed Administrative Penalty for the same;
- Charge a fee for issuing permits to recover approximately fifty percent of the costs to the Authority for administering the permit scheme, which is in accordance with current practice under the WFO;
- Enable the Authority to flexibly manage the fishery by introducing, varying or revoking operating times (i.e. the times fishing is permitted), measures introduced as permit conditions, and the opening and closing of fisheries, following consultation with industry and consideration of the impacts of such, so as to balance the needs of MPAs, stock sustainability and viability in inshore fishing interests;
- Require catch returns for the fishery so as to gather data at a spatial resolution to enable the effective management of cockles and mussels in The Wash and at a frequency which enables dynamic management of the fishery;
- Prohibition on using any fishing gear unless it has been certified by the Authority;
- To implement established management measures currently in place within the fisheries under the WFO including:
 - Vessel length limitation of 14 metres with an exemption for those with established track record of operating within the fishery with a vessel greater than 14 metres;
 - Daily catch restrictions;
 - Mussel dredge restriction (number of dredges and width of opening);
 - Requirement that any catch sorted is returned immediately to the sea or seabed;
 - Prohibition on transshipping catch;
 - Requirement to land catch after it is removed from the fishery (save for that returned as a result of sorting);
 - Restricting on fishing for cockles or mussels if these have been removed from any other fishery during the same calendar day;
 - Requirements to land catch within bags of a specified size;
 - Restriction on using an anchor in the process of 'prop-washing' and requirement to redistribute any cockles (or mussels) disturbed using this method after the daily quota has been removed;
 - Restriction on the size of any tender carried aboard or towed by a vessel operating within the fishery.

- To amend other Eastern IFCA byelaws which make reference to the Wash Fishery Order and to reflect the use of this byelaw to manage the associated cockle and mussel fisheries

The byelaw is not intended to apply within the area of the le Strange Estate (within The Wash) or to persons collecting five kilograms or less of cockles or mussels from The Wash for recreational purposes.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

Option 0 – “do nothing”

The costs and benefits associated with this option cannot be monetised as there is too high a degree of uncertainty.

The costs on the Authority are not removed via this option as Eastern IFCA has a duty under MaCAA and the Conservation of Habitats and Species Regulations (2017) as amended (hereafter, ‘the Habitat Regulations’) to ensure that the MPAs within the site are not impacted by fishing activity and so “do nothing” is not a possible option. If a means to manage a fishery was not implemented, the fishery would have to be closed given it is known to impact site integrity without implementation of mitigation measures which would incur a cost.

Costs to industry would range from none, as there is no cost of a permit or any costs associated with complying with mitigation measures, to loss of the fishery entirely as it closes (to comply with the Habitat Regulations) and / or becomes unsustainable and stocks collapse.

Option 1 – Wash Cockle and Mussel Byelaw 2021

The main monetised costs relate to the fee associated with a permit to fish, the costs to comply with mitigation measures and the costs to the Authority of administering the permit scheme.

Permit fees are proposed to follow on from those in place under the Order which were revised in 2018 and as such would not constitute an additional or new cost. The fee is variable depending on the fishery targeted and gear method used and reflect the intention to recover approximately cost recovery at fifty percent of the costs incurred by the Authority for administering the permit scheme. Key non-monetised costs reflect costs of complying with any additional mitigation measures implemented through permit conditions.

Costs to the Authority will vary annually and include undertaking stock surveys, undertaking Habitat Regulation Assessments, administration (physical issuing of permits, data entry, correspondence) and compliance activities. Whilst these costs can be monetised, the flexible approach to management of the fisheries regularly requires additional activities on the part of the Authority which would be in addition to this and cannot be monetised due to high variability. These costs are also consistent with the management of the fishery under the current Order.

Benefits cannot be monetised but non-monetised benefits include the continuation of the fisheries and the flexible management of the fisheries to minimise any costs associated with delays in implementation with management. Often, management measures need to be introduced, varied or revoked within days or weeks to ensure the MPA and stock is not impacted and / or to enable the effective prosecution of the fishery, this flexibility is required to effectively manage the cockle and mussel fisheries in The Wash.

The key benefit with regards to use of a byelaw instead of an Order (as per option 2) is that the byelaw making powers within MaCAA provide a modern legislative mechanism which would be in keeping with management of the other fisheries throughout the district. They are also subject to review more often (in accordance with Defra policy), ensuring that they reflect the current situation and can be amended through a streamlined process compared to an Order, making them more efficient and less costly to keep fit for purpose. Ultimately, the mechanism is provided for in MaCAA as it is considered an appropriate model for IFCA's to use. The use of a byelaw also provides additional transparency and clarity to stakeholders via requirements to consult on flexible measures.

Option 2 – Regulating Order

The monetised costs and benefits associated with an Order would be the same as in Option 1.

No non-monetised benefits are identified compared to using a byelaw. Also, whilst an Order affords the IFCA a greater degree of sub-delegated power, the flexibility of an Order can be matched with that of an byelaw whilst an Order provides less obligation to consult with industry regards the introduction, varying or revoking of flexible measures and less consistency (and thus transparency) with other fisheries throughout the district.

Option 3 – voluntary measures

The costs to the Authority would be still constitute the administering of a permit scheme as these would be necessary to inform what voluntary measures would be needed. This cost would no however be mitigated by cost recovery (via permit fees) under options 1 and 2.

There are no identified monetised costs to busines under this option.

Direct costs and benefits to business calculations

There are three key fisheries within the Wash; the hand-work cockle fishery (being the main fishery over the last ten years), and the hand-work and dredge mussel fisheries.

Eastern IFCA undertakes annual cockle and mussel stock surveys. The annual cost of these is estimated as £92,439.53, having sought cost saving changes in 2016⁴.

In addition, there is a delivery cost associated with each individual fishery. These are set out in table 1 (below).

The proposed permit fee is made up of two elements; the first being the cost recovery in relation to cockle and mussel stock assessments (which at fifty percent cost recovery totals £46,219.75 annually) and the second in relation to the costs for delivery of each fishery (the total cost being set out in table 1).

At the time of the review of licence fees under the Order, 62 separate licences were eligible for issuing annually. The proposed permit fees reflect this level of access. i.e. a total of the survey cost and the delivery fee of a fishery divided by 62.

Table 1. estimated annual costs of delivering fisheries within the Wash and reflection of fee element within permit fees.			
Cost element	<i>Hand-work cockle fishery</i>	<i>Hand-work mussel fishery</i>	<i>Dredge mussel fishery</i>
Compliance requirements	£37,288.43	£7,753.47	£15,329.69
Habitat Regulation Assessments	£1,873.05	£1,873.05	£1,873.05
Administration of licences and catch returns	£1,203.64	£1,203.64	£1,203.64
Planning and development	£1,741.64	£1,741.64	£1,741.64
Total cost	£42,106.76	£12,571.80	£20,148.02
Contribution by licence holders at 50% cost recovery	£21,053.38	£6,285.90	£10,074.01

⁴ <http://www.eastern-ifca.gov.uk/wp-content/uploads/2016/02/35th-EIFCA.pdf> pages 51 to 65

Endorsement fee at 50% cost recovery	£339.57	£101.39	£162.48
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The variations in cost associated with each fishery reflect the different compliance approaches necessary to mitigate risk in each fishery. Further detail is provided in Action Item 13 of the 35th Eastern IFCA meeting (30/01/2019)⁵.

The scale of the impacts of costs on business are not considered to risk business continuity. The permit fee is estimated to represent between 3.3% and 8.5% of the first sale value of the fishery on an annual basis⁶.

Risks and assumptions

The key risks associated with the proposed byelaw relate to the protection of the MPAs within the Wash, the sustainability of the cockle and mussel stocks within The Wash and industry viability in relation to businesses which currently prosecute or rely on the fisheries.

The proposed byelaw is intended as a regulatory mechanism to implement the established fisheries management plans for cockle and mussel fisheries. The cockle fishery management plan, regulations and fees have been reviewed in consultation with industry and Natural England (with regards to mitigating impacts on the MPAs within The Wash). The remaining element of management to be reviewed is in relation to managing access to the fishery. This is the subject of ongoing consultation with fishery stakeholders and has identified concerns regarding the continuity of businesses currently allowed access to the fishery. This is being considered in the context of ensuring that access to the fishery is managed in a fair, equitable, and transparent way and through continued dialogue with industry.

The costs in relation to licence fees are not considered to risk business continuity based on currently available data⁷, however, it is intended that impacts on industry as a result of the measures will be further informed by an independent economic assessment of the fisheries, commissioned by the Authority.

Impact on small and micro businesses

The majority of businesses operating within the fishery are small or micro businesses and cannot be exempted whilst achieving the intended outcomes of the proposal. The application of the fisheries management plans for cockle and mussel fisheries dictates for the most part the impacts and costs as a result of these measures (i.e. the management measures) and these have been in place for between five and 28 years (some since the implementation of the order, some being more recent). As such, the restrictions implemented will not be new burdens.

An economic assessment of the fishery has been commissioned to inform this assessment further.

Wider impacts (consider the impacts of your proposals)

The key wider impact of the proposal relates to access to the fishery. The proposed byelaw will enable the Authority to manage access to the fishery by setting a limit on the number of permits issued to participate in each and setting eligibility criteria to determine who may have access.

The system currently in place under the Order and the associated policies limits access to those with an 'entitlement' to a further licence, under the Order. It is assumed that an open access fishery would likely reduce the viability of the fishery to each individual additional person who would seek to enter into it and this is a view shared by those within the fishery presently. However, limiting access in the manner established under the Order has led to concerns from the industry about monopolisation, circumvention of rules and an inability for new entrants to enter the fishery. In addition, limiting access in this way reduces competition which may lead to lower productivity⁸. As such, this element of management is the

⁵ <https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/02/35th-EIFCA.pdf> (pg 66 to 87)

⁶ <https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/02/35th-EIFCA.pdf> (pg 66 to 87)

⁷ Which is set out in <https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/02/35th-EIFCA.pdf> (pg 66 to 87)

⁸ According to Competition and Markets authority guidance; https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/460784/Competition_impact_assessment_Part_1_-_overview.pdf

subject of ongoing review which includes an independent economic assessment of the viability of the fishery and the level of access it can support whilst remaining 'viable' and dialogue with industry. It is intended that the management of access to the fishery is determined under the mechanisms of the byelaw and the review is undertaken in parallel with the making of the proposed byelaw. In addition, the inclusion of a mechanism to introduce, vary or revoke management of access will enable the Authority to adapt to changes in market forces and guidance from the Competition and Markets Authority.

The proposed byelaw is in keeping with the East Inshore Marine Plan a full assessment is at Appendix 1.

A summary of the potential trade implications of measure

None identified

Monitoring and Evaluation

The impacts and success of the measures will be reviewed in accordance with Defra guidance⁹. The key measures will be the assessment of impacts on the cockle and mussel stocks and the conservation objectives of the MPAs within the site, and the continuation of fishing activity within the Wash fisheries.

The productivity of the fishery will be monitored via catch returns and stock assessments. The Impacts on conservation objectives and site integrity will be monitored via habitat regulation assessments (which are also informed by stock assessments).

⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/182343/ifca-byelaw-guidance.pdf

Appendix 1 - Assessment of proposed intervention in relation to the Marine Policy Statement.

Marine Plan: Eastern Inshore Marine Plan

Marine Plan Policy	Policy Text	Policy screened in or out from assessment	Assessment of plan policy
Policy AGG1	Proposals in areas where a licence for extraction of aggregates has been granted or formally applied for should not be authorised unless there are exceptional circumstances.	Out	Does not apply.
Policy AGG2	Proposals within an area subject to an Exploration and Option Agreement with The Crown Estate should not be supported unless it is demonstrated that the other development or activity is compatible with aggregate extraction or there are exceptional circumstances.	Out	Does not apply.
Policy AGG3	Within defined areas of high potential aggregate resource, proposals should demonstrate in order of preference: a) that they will not, prevent aggregate extraction b) how, if there are adverse impacts on aggregate extraction, they will minimise these c) how, if the adverse impacts cannot be minimised, they will be mitigated d) the case for proceeding with the application if it is not possible to minimise or mitigate the adverse impacts	Out	Does not apply.

<p>Policy AQ1</p>	<p>Within sustainable aquaculture development sites (identified through research), proposals should demonstrate in order of preference:</p> <p>a) that they will avoid adverse impacts on future aquaculture development by altering the sea bed or water column in ways which would cause adverse impacts to aquaculture productivity or potential</p> <p>b) how, if there are adverse impacts on aquaculture development, they can be minimised</p> <p>c) how, if the adverse impacts cannot be minimised they will be mitigated</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	<p>✓</p>	<p>Proposals will not impact on aquaculture development.</p>
<p>Policy BIO1</p>	<p>Appropriate weight should be attached to biodiversity, reflecting the need to protect biodiversity as a whole, taking account of the best available evidence including on habitats and species that are protected or of conservation concern in the East marine plans and adjacent areas (marine, terrestrial).</p>	<p>✓</p>	<p>The proposed byelaw will not impact on biodiversity. The measures are intended to reduce the likelihood of impacts on cockle and mussel stock sustainability targeted by fishing activity which will ultimately prevent reduction in biodiversity (through overfishing).</p> <p>In addition, the measures ensure that fishing activity is managed in such a way so as to prevent impacts on site integrity of MPAs within The Wash which will also lend towards protecting biodiversity.</p>
<p>Policy BIO2</p>	<p>Where appropriate, proposals for development should incorporate features that enhance biodiversity and geological interests.</p>	<p>✓</p>	<p>Where the measures act to ensure stock sustainability, they will have the effect of enhancing biodiversity which would otherwise be lost due to overfishing or impacts on the environment where fishing occurs.</p>

Policy CAB1	Preference should be given to proposals for cable installation where the method of installation is burial. Where burial is not achievable, decisions should take account of protection measures for the cable that may be proposed by the applicant.	Out	Does not apply.
Policy CC1	Proposals should take account of: <ul style="list-style-type: none"> • how they may be impacted upon by, and respond to, climate change over their lifetime and • how they may impact upon any climate change adaptation measures elsewhere during their lifetime Where detrimental impacts on climate change adaptation measures are identified, evidence should be provided as to how the proposal will reduce such impacts.	✓	Managing the cockle and mussel stocks within The Wash will increase resilience to climate change and will enable the impacts of climate change to be taken into account in their management (via flexible measures).
Policy CC2	Proposals for development should minimise emissions of greenhouse gases as far as is appropriate. Mitigation measures will also be encouraged where emissions remain following minimising steps. Consideration should also be given to emissions from other activities or users affected by the proposal.	Out	Does not apply.
Policy CCS1	Within defined areas of potential carbon dioxide storage,(mapped in figure 17)proposals should demonstrate in order of preference: a) that they will not prevent carbon dioxide storage b) how, if there are adverse impacts on carbon dioxide storage, they will minimise them c) how, if the adverse impacts cannot be minimised, they will be mitigated d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts	Out	Does not apply.
Policy CCS2	Carbon Capture and Storage proposals should demonstrate that consideration has been given to the re-use of existing oil and gas infrastructure rather than the installation of new infrastructure (either in depleted fields or in active fields via enhanced hydrocarbon recovery).	Out	Does not apply.

Policy DD1	Proposals within or adjacent to licensed dredging and disposal areas should demonstrate, in order of preference a) that they will not adversely impact dredging and disposal activities b) how, if there are adverse impacts on dredging and disposal, they will minimise these c) how, if the adverse impacts cannot be minimised they will be mitigated d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts	Out	Does not apply
Policy DEF1	Proposals in or affecting Ministry of Defence Danger and Exercise Areas should not be authorised without agreement from the Ministry of Defence.	Out	Does not apply
Policy EC1	Proposals that provide economic productivity benefits which are additional to Gross Value Added currently generated by existing activities should be supported.		No additional benefits are identified as a result of the proposed byelaw as it effectively maintains the protective effect of measures which were in place prior to an amendment of Technical Conservation Regulations. The proposals do make negative impacts on economic productivity as a result of impacts on fish and shellfish stock sustainability less likely.
Policy EC2	Proposals that provide additional employment benefits should be supported, particularly where these benefits have the potential to meet employment needs in localities close to the marine plan areas.	In	The byelaw includes the ability to limit access to the fishery and apply eligibility criteria to determine such access. The intention of the ongoing review of access to the fishery is to determine the appropriate level of access so as to ensure a viable industry.
Policy EC3	Proposals that will help the East marine plan areas to contribute to offshore wind energy generation should be supported.	Out	Does not apply.

<p>Policy ECO1</p>	<p>Cumulative impacts affecting the ecosystem of the East marine plans and adjacent areas (marine, terrestrial) should be addressed in decision-making and plan implementation.</p>	<p>In</p>	<p>The proposed measures will support a healthy marine habitat by enabling the Authority to manage cockle and mussel fisheries within the Wash in accordance with the associated Fisheries management plans. This in turn should have a benefit on the wider ecosystem by, for example, ensuring appropriate food resource is available for protected over-wintering bird species and habitats on which fisheries occur are not damaged to the extent that they impact site integrity of the Wash MPAs.</p>
<p>Policy ECO2</p>	<p>The risk of release of hazardous substances as a secondary effect due to any increased collision risk should be taken account of in proposals that require an authorisation.</p>	<p>Out</p>	<p>No additional collision risk identified as a result of the proposed byelaw.</p>
<p>Policy FISH1</p>	<p>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</p>	<p>In</p>	<p>It is the intention of the byelaw to enable sustainable cockle and mussel fisheries.</p>

Policy FISH2	Proposals should demonstrate, in order of preference: a) that they will not have an adverse impact upon spawning and nursery areas and any associated habitat b) how, if there are adverse impacts upon the spawning and nursery areas and any associated habitat, they will minimise them c) how, if the adverse impacts cannot be minimised they will be mitigated d) the case for proceeding with their proposals if it is not possible to minimise or mitigate the adverse impacts	In	It is the intention of the byelaw to enable sustainable cockle and mussel fisheries by applying principles from the associated cockle and mussel fisheries management plans which include protection of juvenile and spawning stocks.
Policy GOV1	Appropriate provision should be made for infrastructure on land which supports activities in the marine area and vice versa.	Out	Does not apply.
Policy GOV2	Opportunities for co-existence should be maximised wherever possible.	Out	Does not apply.
Policy GOV3	Proposals should demonstrate in order of preference: a) that they will avoid displacement of other existing or authorised (but yet to be implemented) activities b) how, if there are adverse impacts resulting in displacement by the proposal, they will minimise them c) how, if the adverse impacts resulting in displacement by the proposal, cannot be minimised, they will be mitigated against or d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts of displacement	In	No adverse impacts identified.
Policy MPA1	Any impacts on the overall Marine Protected Area network must be taken account of in strategic level measures and assessments, with due regard given to any current agreed advice on an ecologically coherent network.	In	It is intended that the byelaw will enable the management of fisheries to the effect that they do not impact the MPAs of The Wash, as per the established Fisheries Management Plans.
Policy OG1	Proposals within areas with existing oil and gas production should not be authorised except where compatibility with oil and gas production and infrastructure can be satisfactorily demonstrated.	Out	Does not apply.

Policy OG2	Proposals for new oil and gas activity should be supported over proposals for other development.	Out	Does not apply.
Policy PS1	Proposals that require static sea surface infrastructure or that significantly reduce under-keel clearance should not be authorised in International Maritime Organization designated routes.	Out	Does not apply.
Policy PS2	Proposals that require static sea surface infrastructure that encroaches upon important navigation routes (see figure 18) should not be authorised unless there are exceptional circumstances. Proposals should: a) be compatible with the need to maintain space for safe navigation, avoiding adverse economic impact b) anticipate and provide for future safe navigational requirements where evidence and/or stakeholder input allows and c) account for impacts upon navigation in-combination with other existing and proposed activities	Out	Does not apply.
Policy PS3	Proposals should demonstrate, in order of preference: a) that they will not interfere with current activity and future opportunity for expansion of ports and harbours b) how, if the proposal may interfere with current activity and future opportunities for expansion, they will minimise this c) how, if the interference cannot be minimised, it will be mitigated d) the case for proceeding if it is not possible to minimise or mitigate the interference	Out	Does not apply.
Policy SOC1	Proposals that provide health and social well-being benefits including through maintaining, or enhancing, access to the coast and marine area should be supported.	Out	Proposed byelaw does not relate to access to the marine environment.

Policy SOC2	<p>Proposals that may affect heritage assets should demonstrate, in order of preference:</p> <p>a) that they will not compromise or harm elements which contribute to the significance of the heritage asset</p> <p>b) how, if there is compromise or harm to a heritage asset, this will be minimised</p> <p>c) how, where compromise or harm to a heritage asset cannot be minimised it will be mitigated against or</p> <p>d) the public benefits for proceeding with the proposal if it is not possible to minimise or mitigate compromise or harm to the heritage asset</p>	n/a	Does not apply.
Policy SOC3	<p>Proposals that may affect the terrestrial and marine character of an area should demonstrate, in order of preference:</p> <p>a) that they will not adversely impact the terrestrial and marine character of an area</p> <p>b) how, if there are adverse impacts on the terrestrial and marine character of an area, they will minimise them</p> <p>c) how, where these adverse impacts on the terrestrial and marine character of an area cannot be minimised they will be mitigated against</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	✓	Does not apply.
Policy TIDE1	<p>In defined areas of identified tidal stream resource (see figure 16), proposals should demonstrate, in order of preference:</p> <p>a) that they will not compromise potential future development of a tidal stream project</p> <p>b) how, if there are any adverse impacts on potential tidal stream deployment, they will minimise them</p> <p>c) how, if the adverse impacts cannot be minimised, they will be mitigated</p> <p>d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	✓	Does not apply.

<p>Policy TR1</p>	<p>Proposals for development should demonstrate that during construction and operation, in order of preference:</p> <ul style="list-style-type: none"> a) they will not adversely impact tourism and recreation activities b) how, if there are adverse impacts on tourism and recreation activities, they will minimise them c) how, if the adverse impacts cannot be minimised, they will be mitigated d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts 	<p>✓</p>	<p>Does not apply.</p>
<p>Policy TR2</p>	<p>Proposals that require static objects in the East marine plan areas, should demonstrate, in order of preference:</p> <ul style="list-style-type: none"> a) that they will not adversely impact on recreational boating routes b) how, if there are adverse impacts on recreational boating routes, they will minimise them c) how, if the adverse impacts cannot be minimised, they will be mitigated d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts 	<p>n/a</p>	<p>Does not apply.</p>
<p>Policy TR3</p>	<p>Proposals that deliver tourism and/or recreation related benefits in communities adjacent to the East marine plan areas should be supported.</p>	<p>✓</p>	<p>The proposed measures will reduce the risk of negative impacts on fish and shellfish stocks. Commercial and recreational fishing activities are considered important culturally within communities around the Eastern IFC District generating important tourist activity. Most notably the North Norfolk Coast.</p>

<p>Policy WIND1</p>	<p>Developments requiring authorisation, that are in or could affect sites held under a lease or an agreement for lease that has been granted by The Crown Estate for development of an Offshore Wind Farm, should not be authorised unless</p> <ul style="list-style-type: none"> a) they can clearly demonstrate that they will not compromise the construction, operation, maintenance, or decommissioning of the Offshore Wind Farm b) the lease/agreement for lease has been surrendered back to The Crown Estate and not been re-tendered c) the lease/agreement for lease has been terminated by the Secretary of State d) in other exceptional circumstances 	<p>n/a</p>	<p>Does not apply.</p>
<p>Policy WIND2</p>	<p>Proposals for Offshore Wind Farms inside Round 3 zones, including relevant supporting projects and infrastructure, should be supported.</p>	<p>n/a</p>	<p>Does not apply.</p>