



44th EIFCA Statutory Meeting

**To Be Held at:
Assembly Room, Kings Lynn Town Hall, Saturday Market Place, Kings
Lynn, Norfolk, PE30 5DQ**

Attendance by members of the public will be limited due to the COVID-19 restrictions. Anyone wishing to attend as spectators should contact Eastern IFCA on 07385 769305 or via e-mail: mail@eastern-ifca.gov.uk.
The meeting will be live-streamed on YouTube

**Wednesday
9th June 2021**

0930 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: **44th Eastern IFCA Meeting**

Date: 9th June 2021

Time: 0930hrs

Venue: Assembly Room, Kings Lynn Town Hall, Saturday Market Place, Kings Lynn, Norfolk, PE30 5DQ

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Revised Agenda

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

Action items

- 5 Declared Pecuniary Interests – *CEO / Senior IFCO (Regulation) (pg4)*
- 6 To receive and approve as a true record, minutes of the 43rd Eastern IFCA Meeting, held on 10th March 2021 – *Chair (pg10)*
- 7 Matters arising (including actions from previous meeting) – *Clerk*
- 8 To receive a report to consider Health and Safety risks and mitigation – *Hd Operations (pg24)*
- 9 To receive a report on the meeting of the Finance and HR sub-committee held on 27th April 2021 - *Hd Finance & HR (pg31)*
- 10 Wash and North Norfolk Coast Marine Partnership Memorandum of Agreement – *CEO (pg33)*
- 11 Wash cockle fishery 2021 – Senior MSO (Research) / Senior IFCO (Regulation) (pg57)
- 12 Wash Cockle and Mussel Byelaw 2021 update – *CEO/Senior IFCO (Regulation) (pg99)*
- 13 Wash Cockle and Mussel Fisheries policy development – *CEO/Project Officer (pg166)*

- 14 Quarterly review of annual priorities and Risk Register - *CEO*
(pg176)

Information items

- 15 CEO update – CEO
 - a. Various (verbal)
 - b. Association of IFCA (pg195)
- 16 Head of Operations update
 - a. Marine Protection Quarterly report (pg201)
 - b. Marine Science Quarterly report (pg207)

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
25th May 2021

Vision

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Action Item 5

Eastern Inshore Fisheries and Conservation Authority Meeting

09 June 2021

Disclosable Pecuniary Interests

Report by: Luke Godwin (Senior IFCO – Regulation)

Purpose of Report

To report to members the outcome of further consideration of members' interests and how they are managed.

Recommendations

It is recommended that members:

- **Note** the report
- **Agree** to continue to adopt a 'species approach' to considering whether members have a conflict in a matter for discussion

Background

General members (i.e. those appointed by the MMO) are required to register Disclosable Pecuniary Interests (DPIs). Where a member has a DPI in a matter which is being discussed at a meeting, the Localism Act 2011 ("the Act") determines what is and is not legal in terms of that members involvement in a decision.

It is an offence under s.34 of the Act for members with a DPI in a matter to discuss or vote on that matter.

Dispensations can however be granted to enable discussion or voting where there is a legitimate reason for doing so and in accordance with criteria set out in the Act. At the 29th Eastern IFCA meeting, members agreed to issue such dispensation to fishermen to enable participation in discussion on matters where there was a DPI, but not to vote. This was primarily on the basis that general members have knowledge and expertise that may be relevant to decisions for which they would likely have a DPI (i.e. fishing) but that such must be in accordance with the Nolan Principles, Standing Orders and Code of Conduct.

At the 34th Eastern IFCA meeting, members agreed to a revised approach to considering DPIs and granting dispensations. The revised model took into

account the species targeted by members who have DPIs in fishing. The intention of this 'species approach' was to ensure transparency and avoid unintentionally precluding a member from voting on a matter which related to a species they did not target or otherwise make financial gain from.

To aid administration of a meeting, members are sent a 'DPI conflicts' document at each meeting which sets out where registered interests of members are likely to be in conflict with an agenda item and what, if any, relevant dispensations are granted.

Report

Whilst the DPIs for members who are fishermen are generally obvious based on their registered interests, there has been a query with regards to the application of the 'species approach' in relation to those who have a DPI in the buying and selling of fish. Further consideration has been given to the approach including obtaining legal advice on the matter.

Our legal advice has concluded that, application of the species approach is appropriate when considering those with a DPI in buying and selling fish and shellfish.

In summary, this is because, even where there is less certainty about whether a DPI would itself disqualify a member from participation, bias, or the appearance of bias could undermine a decision which they participated in at judicial review.

The detail of this consideration is set out below.

Consideration and legal advice from NPLaw

Legal advice concluded with the three following paragraphs:

“Generally there will need to be a direct financial gain to result in an interest...this could be as simple as the situation where someone acting as an estate agent for the sale of the land took part in the decision making for a planning permission.”

“It is clear that those general members on the committee should have an interest in the business of the eastern inshore fisheries, however this will necessarily lead to careful scrutiny of interests”.

“I am informed by those that instruct me that this is often applied to different fish species, so those who fish or sell a particular species will be excluded from the voting. This seems to be largely right. It is difficult to imagine a situation where that would not lead to a pecuniary gain for the individual and further lead the matter challengeable due to bias”.

There are two key elements to the consideration, namely, the application of s.31 of The Act (DPIs) and the risk of legal challenge (via judicial review) as a result of bias or apparent bias.

To inform consideration as to whether a DPI exists and / or whether there is a bias, our legal advisor provided case law. A summary of this is set out below.

Extract from legal advice – NPLaw, Katrina Hulett, 27 May 2021

In Kelton v Wiltshire Council [2015] EWHC 2853 (Admin), [2016] JPL 273, the claimant sought to challenge the defendant council's grant of planning permission for residential development, including nine affordable homes, on the ground (among others) that the councillor (Macdonald) whose vote carried the decision in favour of granting the outline planning permission should have been disqualified from participating in the determination of the application because he was a director of a housing association [Selwood] that had an interest in the affordable housing part of the development.

Cranston J rejected this ground of challenge, holding at para... 45 [in relation to DPIs]

45. Mr Hunter [the claimant] contends that, under s.31, Councillor Macdonald had a disclosable pecuniary interest in the matter before the planning committee. He was aware that Selwood stood to benefit directly from the grant of permission and accordingly was statutorily disqualified from participation in the meeting and should have withdrawn. In my view, however, Councillor Macdonald had no disclosable pecuniary interest in the matter to be considered. Selwood was not the applicant for planning permission and at the point of the decision had no contract with HPH/HAB [the promoter and applicant]. It may have built up goodwill with its advice to them over a period, but at the time of the grant of planning permission the affordable housing part of the development was yet to be tendered. In the result, Councillor Macdonald was not disqualified under the 2011 Act s.31.

Cranston J went on, however, to quash the grant of planning permission on the ground of apparent bias.

The test is set out in In Porter v Magill [2001] UKHL 67, [2002] 2 AC 357, it was held, at para 103, that in deciding whether a tribunal's decision should be set aside on the ground of bias, the question is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased.

In Turner v Secretary of State for Communities and Local Government [2015] EWCA Civ 582, Sales LJ said at para 8:

"The test applicable to determine whether there has been apparent bias is based on the notional fair-minded and informed observer. That individual must be taken to have formed an

objective judgment having regard to all the circumstances. The fears expressed by a complainant that there has been an appearance of bias relevant, as Lord Hope said in paragraph 104 of Porter v Magill [2002] 2 AC 387 at 494, at the initial stage when the court has to decide whether the complaint needs to be investigated. But they lose their importance when the stage is reached of looking at the matter objectively. And the assertions by the [decision maker] that he was not biased are not likely to be helpful even if true. The test applicable is whether having regard to all the circumstances if our minded observer would conclude that there was a real possibility that the inspector was biased.”

From the case law, it is clear that even where no direct DPI does exist, even the appearance of bias can lead to a decision being successfully challenged at Judicial Review, as was the case in Kelton v Wiltshire Council [2015].

This is considered particularly relevant to the consideration of buyers and sellers of fish and application of the ‘species approach’. Most recently, for example, the matter of access to cockle fisheries in The Wash was discussed.

A member did not, at the time, purchase cockles from within The Wash. Whether or not a member had, at the time, a ‘direct’ DPI in the matter is debatable. It could be argued that there is a direct link where a decision on access would enable a supplier of the buyer to gain entry to the fishery for example.

Importantly however, even where a member may not have been disqualified as a result of a DPI, it is not unreasonable to come to a conclusion that there is the possibility of bias, given that the same could benefit from the products of the fishery. It is notable that the case law indicates that, even where the assertions of the member to the contrary are true, “*this is not likely to be helpful*”. In other words, even where there has been no bias, apparent bias is enough to lead to a decision to be quashed by judicial review.

In addition, it is noteworthy that the Nolan Principles apply to general members:

From <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>

The Seven Principles of Public Life (also known as the Nolan Principles) apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also apply to all those in other sectors delivering public services.

1 Selflessness

Holders of public office should act solely in terms of the public interest.

2 Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

3 Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

4 Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

5 Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

6 Honesty

Holders of public office should be truthful.

7 Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

In particular, principles 1 to 3 are relevant to considering whether a DPI is or could have an impact on the validity of decisions made by the Authority.

Summary

Where conflicts between DPIs and matters for discussion are less obvious / direct, the species approach could be considered over-precautionary. However, the case law and legal advice indicates that, even where there is certainly no DPI in a matter, bias, or the appearance of bias, can lead to a decision being successfully challenged at Judicial Review. The bias element of conflict can be described as having a lesser threshold therefore, and so a more precautionary approach in relation to DPIs themselves lends itself to

avoiding challenge on as a result of bias, in addition to avoiding members inadvertently committing an offence.

The species approach is intended to minimise the exclusion of members from participating. This is achieved by considering the species targeted, rather than their vocation generally, which would prevent fishermen and buyers / sellers of fish and shellfish from participation in any matter relating to fisheries management. On balance, taking into account the requirements under the Act in relation to DPIs and the relevance of bias or apparent bias and the Nolan Principles, the proposed approach to considering whether a members' DPI is in conflict with a matter for discussion appears to be appropriate and this is supported by the legal advice received.

Therefore, it is recommended that the 'species approach' continues to be applied to identify 'conflicts', not only to members from the catching sector but also from other elements of the fishing industry, including buying and selling fish.

Financial Implications

None identified

Legal Implications

None identified

Appendices

Not applicable

Background Documents

Action Item 21 and confirmed minutes of the 29th Eastern IFCA meeting (7 June 2017)

Action Item 7 and confirmed minutes of the 34th Eastern IFCA meeting (7 November 2018)

Vision

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43rd Eastern IFCA Meeting

A meeting of the Eastern IFCA took place on Wednesday 10th March 2021 at 1030 hours via Microsoft Teams video conferencing in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (Statutory Instrument 2020 no.392).

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
Roy Brewster		MMO Appointee
Cllr Chenery of Horsbrugh		Norfolk County Council
Cllr D Collis		Norfolk County Council
Tania Davey		MMO Appointee
John Davies		MMO Appointee
Paul Garnett		MMO Appointee
Cllr T Goldson		Suffolk County Council
Georgina Roberts		NE Representative
Justin Rowley		MMO Representative
Keith Shaul		MMO Appointee
Rob Spray		MMO Appointee
Cllr M Vigo Di Gallidoro		Suffolk County Council
Mike Warner		MMO Appointee
Stephen Williamson		MMO Appointee
Stephen Worrall		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
Sammy Hormbrey	Marine Science Officer
Ron Jessop	Senior Marine Science Officer
Judith Stoutt	Senior Marine Science Officer

Minute Taker:

Jodi Hammond

EIFCA21/01 Item 1: Welcome

Cllr Skinner opened the meeting at 1030 hours. He advised members that according to the planned meeting dates this would be the last meeting for three MMO Appointees. Messrs Brewster, Spray and Worrall were all presented with an engraved brass compass to commemorate the time they had spent on the Authority.

EIFCA21/02 Item 2: Apologies for Absence

Apologies for Absence were received from Cllr Coupland (LCC) and Dr I Hirst (EA Representative)
Mr Warner had advised he would join the meeting slightly late.

Prior to the meeting Agenda being addressed Cllr Stevens, who was attending as a member of the public, asked to be given an opportunity to speak on behalf of the Boston fishing industry. Members were advised the industry had expressed concern about replacing the WFO 1992 with a byelaw. Cllr Stevens asked questions on why the byelaw decision had been taken, and advised the industry were not in agreement with the decision. It was asked if a meeting could be convened with the fishing industry, Defra, MPs and EIFCA to attempt to reach a consensus of opinion, the Chair felt the process was not at this stage yet and it was important to follow due process. The CEO advised there had been two informal consultations since December, the responses to which would inform the way forward and allay some of the fears. He was however happy, in principle, to have a meeting.

EIFCA21/03 Item 3: Declarations of Members Interest

Messrs Garnett, Bagley and Brewster all declared an interest in items 8, 10 and 11 on the agenda. Mr Davies declared an interest in item 8.

The Senior IFCO Regulation advised members of the need for DPIs under the Localism Act and the need for members to update the Authority of any changes. In line with this it was noted that Mr Williamson had requested to add two species to those listed, crab and lobster, for these species he would be granted a dispensation to speak but not vote. Both Messrs Garnett and Williamson had advised of changes of vessel, these would not change their DPI status.

Members agreed to Note the revised list of Disclosable pecuniary Interests for MMO Appointees and the Assessment of DPI conflicts with Authority Business.

Members Resolved to grant dispensations from s.31(4) of the Localism Act 2011 (c.20) to MMO Appointees, as set out in

Appendix 2, to allow participation in discussions of matters for which they have a DPI for the period of four years or until their term of service is expired (whichever is the first).

Proposed: Mr Worrall

Seconded: Cllr Chenery of Horsbrugh

All Agreed

EIFCA21/04 Item 4: Minutes of the 42nd EIFCA Meeting, held on 9th December 2020

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

Proposed: Cllr Goldson

Seconded: Mr Worrall

All Agreed

EIFCA21/05 Item 5: Matters Arising

EIFCA20/43 WHELK PERMIT CONDITIONS REVIEW: The CEO advised the consultation had closed, responses would be reviewed and a report made to the Authority.

EIFCA20/44 CRAB & LOBSTER FISHERIES IMPROVEMENT PLAN: The CEO advised that whilst the Fisheries Improvement Plan was ongoing there were indications that only a small number would be approved.

EIFCA 20/45 CROMER SHOAL CHALK BEDS MCZ: In line with achieving an Adaptive Risk Management approach it was noted that a collective steering group had been established with EIFCA, Natural England and Industry Representatives.

EIFCA21/06 Item 6: Health & Safety Update

The Head of Operations advised the Authority continued to operate in a safe manner, although Covid remained an issue. Officers were taking Lateral Flow Tests prior to spending time at sea together, these were currently being carried out at local testing centres but would hopefully be carried out in house.

Members Agreed to note the content of the report.

EIFCA21/07 Item 7: Report of the Finance & HR Meeting held on 2nd February 2021

Members were advised this paper was a matter for noting, it summarised the actions of the previous meeting.

Members Agreed to note the content of the report.

EIFCA21/08 Item 8: Review of EIFCA Constitution and Standing Orders

The CEO advised this was the annual review of Standing Orders. There was some confusion of the date of the previous review as a result of a typing error. A substantial review had been undertaken in 2019, which included changes to the scheme of delegations and the discontinuation of three sub-committees. The annual review in 2020 had not been fully completed due, in part at least, to the Covid pandemic. Consequently this year they were given a full review with advice taken from NpLaw.

Mr Davies questioned why the review did not take place after the review of the WFO Item as the proposed changes to the Constitution and Standing Orders would preclude members with a DPI from making a proposal. Members were advised that making a proposal at a meeting on a matter for which the member had a DPI may not be in accordance with the Nolan principles of public life and members Terms and Conditions of Appointment. The amendment was intended to avoid members making an error and potentially putting themselves in jeopardy and bringing the Authority into disrepute.

The CEO advised the changes fell into three categories, the first related to DPIs, the second management of the cockle fishery, and the third was largely administrative changes to the Financial Regulations.

Members spent time discussing the proposed changes and whether or not the changes to DPIs meant the role of MMO Appointees would become worthless. Mr Williamson advised that he was distinctly unhappy with the proposals. Despite assurances that the changes did not stop MMO Appointees from providing opinion on matters affected by their DPIs, agreement could not be reached to agree to the changes.

Referring to the changes related to the management of the cockle fishery there was concern about decisions being made solely by the CEO, Chair and Vice Chair rather than decisions being made by the Authority. Although this process had effectively been operating in recent years there was concern that a change in CEO could mean wrong decisions being made due to lack of experience.

Having exhausted the discussion Dr Bolt proposed the recommendations as set out in the paper, this was seconded by Cllr Collis. As discussion had been so passionate it was agreed to have a recorded vote, the result was as follows:

Votes in Favour	Votes Against
Cllr Chenery of Horsbrugh	Mr Davies
Cllr FitzPatrick	Mr Shaul
Mr Rowley	Cllr Vigo Di Gallidoro
Mr Spray	Mr Warner
Dr Bolt	Mr Garnett
Mr Worrall	Mr Brewster
Ms Davey	Mr Bagley
Cllr Collis	Mr Williamson
	Cllr Goldson
	Cllr Skinner

Ms Roberts Abstained.

As the proposal was not carried members were asked to vote for an alternative motion.

Members were asked if they would like to vote for a revised recommendation to remove all recommended changes which did not relate to Financial Regulations listed on pages 41-44 and to agree to the proposed changes to Financial Regulations

Proposed: Chair

Seconded: Mr Williamson

All Agreed.

Discussion highlighted there was no agreement for the proposed amendments to DPIs or management of the Wash Fishery Order. It was questioned why MMO Appointees could not vote, and Councillors could. It was explained that a DPI meant there was potentially a chance of personal benefit, which Councillors would not have, and all their decisions would be made in the best interest of EIFCA.

Following discussion the CEO advised members if the amendment to the cockle fishery management was not made it would mean that he did not have delegated authority to open the 2021 fishery before the next Authority meeting in June.

Members Resolved to remove all recommended changes which did not relate to Financial Regulations listed on pages 41-44.

It was Resolved to Agree to the proposed changes to Financial Regulations.

Proposed: Chair

Seconded: Cllr Goldson

All those able to vote Agreed

EIFCA21/09 Item 9: 2020-21 Strategic Assessment and 2021-26 Business Plan

The CEO reminded members the Authority operated a 5 year rolling Business Plan with an Annual refresh.

Having been circulated the Plans in advance of the meeting Members Resolved to:

- **Note the content of the Strategic Assessment, including the priorities for 2021-22**
- **Approve the content of the Business Plan, including the priorities and plans for 2021-22**

Proposed: Chair

Seconded: Mr Shaul

All Agreed

At this point (1232 hours) the meeting broke until 1300 hours to allow a comfort break.

EIFCA21/10 Item 10: Wash Fishery Order Replacement

The CEO reminded members of their DPIs and formally recorded that members had been lobbied for the next two items on the Agenda.

Part of the lobbying included a document circulated to members the key points of which had been picked out and a response prepared for Members.

Senior IFCO Regulation provided a presentation relating to the document providing advice on the pertinent points. Members were advised MaCAA specifically allowed byelaws to be used to enable IFCAs to manage inshore fisheries. It was also noted that unlike the industry belief that a byelaw had no longevity a byelaw does not in fact expire and whilst they do have to be reviewed every 6 years, they can remain in place for any number of years. Byelaws were also considered to be the modern way to manage fisheries as they can easily be amended or revised rather than the long winded process to review an Order.

The opportunity was taken to explain to members the meaning of a hybrid Order which had been referred to. This was in fact the title given to an order which combined a Regulating and Several Order in the same area, both orders were still separate mechanisms.

Referring to replacing an Order with a Byelaw, Officers had found a byelaw could replicate an Order which had been confirmed by legal advice.

Original advice from Defra was that Orders were not being extended but this advice had subsequently been revised. However, because an extension would require review and consultation it would be effectively the same as making a new Order. It was noted that a key element of the WFO 1992 is the 'Entitlement provision and that more recently implemented Orders did not have such a provision.

The concern expressed by industry about legal advice being sought, as an alternative to consulting them, about the necessity to consult on whether or not to use a Byelaw or Order to manage the Wash fisheries was addressed,. It was clarified that this advice had been sought subsequent to the decision being made. It had been sought following challenges from industry, to check whether the view that the legal mechanism used was a matter for the Authority was correct. The advice had confirmed this.

The CEO also provided a presentation providing an overview of the process in place to replace the WFO 1992. This involved a dual approach, with a byelaw being progressed alongside work to develop new policies for access to the fisheries and an economic assessment to better understand the viability of the fisheries.

Members were being asked to 'make' the byelaw in the next agenda item but it was important to understand that this was in fact the start of the process and would inevitably involve changes being made following formal consultation before the final version of the byelaw was ready to be signed off.

Members were advised that informal consultation had already taken place with regard to the Aim and Objectives to guide the development of new policies. It was clear that there the majority would prefer a new regulating order as opposed to a byelaw, with two key concerns being about maintaining limited access to the fisheries and providing business continuity under a permit scheme. It was hoped these concerns would be addressed by two of the recommendations in the paper and the development of policies that were timetabled to run in tandem with the byelaw process, which could take up to two years to get in place.

Members were advised the next steps in the process were to:

- Finalise the Aim and Objectives
- Develop draft policies
- Formal Consultation for the Byelaw
- Economic Assessment – which will inform the decision making process.

All of which would need to be completed whatever the mechanism to be put in place.

Following the presentation Mr Brewster expressed opinions of how the industry felt about the process to replace the WFO 1992, and their frustration at not having been consulted about the decision to take the route of a Byelaw rather than a replacement Order. He felt this was contrary to the EIFCA policy to communicate with stakeholders. Mr Brewster expressed concern about limiting those who can fish, and also about the ability to give as many permits in a year as the surveys may suggest there were stocks for, rather than fishers knowing they would be able to take out a licence in any year if they had an Entitlement to do so. Mr Brewster advised feeling amongst the industry was so great that over 100 letters had been sent in, others hadn't felt able to write for fear of repercussions.

At this point Tania Davey left the meeting

Mr Brewster spoke passionately about the almost 30 year run under the WFO and how working with the Industry, EIFCA and NE things were going well under the Order, he expressed concern that this would be different under a byelaw which would be subject to review every 6 years and with permit numbers eligible to be changed on an annual basis. Members were advised the industry had asked several times for a meeting with the CEO to discuss the concerns but instead the CEO took legal advice and didn't consult the industry.

Mr Worrall understood the industry had concerns but also pointed out it was not possible to continue with the existing Order as it was, even under a new Order changes would take place and the current entitlement process may not form part of a new Order. It was important the new mechanism was robust enough to provide for the industry, the fishery and the environment in the future. He felt post Covid one of the main priorities for EIFCA should be ensuring face to face discussions take place with stakeholders so they could be reassured their views were being listened to.

There was heartfelt discussion and debate regarding the current WFO, transfer of entitlements, the possibility of too many fishers taking part in the fishery during good stock years, lack of fishing opportunity due to reduced permits in lean years and the possibility of compromising by having a new Order with new attachments in it.

Mr Spray felt it was time the industry accepted the Authority had an obligation to advance and they would be better placed ensuring new legislation met the needs of the industry rather than debating the name of the legislation.

Mr Williamson supported the views of the Wash fishermen but was saddened that the Chair had stated the decision had already been made in March 2020 to go down the route of a byelaw and

there was no chance of an amicable restart to the process. At this point Mr Williamson announced he was resigning from the Authority as he had failed to get his point across, he believed he had failed to represent the industry.

At this point Mr Williamson left the meeting

Mr Davies felt this was a sad event and there was a need to look at the proposals differently, there needed to be compromise on both sides. He felt discussions were going round in circles and it may be best to end the meeting and convene a special meeting at a later date.

Dr Bolt agreed there was no progress being made but whilst he accepted the industry had put forward reasonable and understandable concerns, he could see no evidence they were listening to the responses they were being given. Dr Bolt failed to understand why the industry wanted to hang on to outdated legislation rather than moving to modern flexible management.

The main issue for Mr Brewster remained the lack of consultation with industry prior to taking legal advice. He felt if the industry had been approached first there wouldn't be the problems being faced at this point. This was countered by the CEO who had received many letters about the matter, which members were advised of prior to any decision being made by the Authority.

At this point Mr Warner left the meeting.

Cllr Goldson, felt the situation had deteriorated to a point where the Councillors had lost trust and credibility and EIFCA were also losing credibility with the Industry. He felt there was a need to regroup and make sure the industry could see the vision the Officers had to allay the fears they had for the sustainability of their business plans, they needed to see it in writing, he felt it was necessary to jump forward a stage and then comeback. The Chair advised this was not possible as there was a legal process to follow.

The CEO advised that if the decision was made to reconvene to discuss this matter it would stall the process, particularly taking local elections and purdah into account, which would impact on the timescale for getting the byelaw in place before the WFO1992 expired. He remained confident that in time the industry's fears would be allayed and the process would be back on track but that due process needed to be followed. It was not possible to give guarantees in advance of research and consultation because to do so would effectively invalidate consultation. The CEO advised that if progress was wanted on policy making that was what this paper was aimed at and it contained various reassurances to industry that their concerns were being taken seriously. However,

if a decision was not made at this meeting it was likely no decision would be made until the Authority meeting in June after the County Council elections, which alongside changes in MMO appointed members, could potentially may mean significant changes in overall Authority membership. The CEO had grave concerns about delaying the decision of this item as it may mean a replacement would not be ready in time.

At the point of voting Mr Bagley requested it be minuted that Wash fishermen were not able to vote even though it was a policy for two years hence. He asked members to remember people had their houses on the line based on the old model and a new model could jeopardise that.

A recorded vote was requested.

Members Resolved to:

- **Note the content of the report;**
- **Agree to the overall Policy Objective for the replacement of the Wash Fishery Order 1992 as set out in the report;**
- **Agree to the proposed approach to engaging with industry in reviewing the management of access to the fishery and developing a new management regime, including the adoption of an Aim and objectives to guide this work;**
- **Agree in principle and subject to further research by officers and consultation, that access to the cockle and mussel fisheries in the Wash would be restricted to a finite number of primary permit holders, notwithstanding that there may be provision for modest increases for new entrants or other agreed purposes;**
- **Agree in principle and subject to further research by officers and consultation, that business continuity, including the principle that permits would be issued annually to those that meet the eligibility criteria, would be priorities when developing policies under the proposed Wash Cockle and Mussel Byelaw 2021.**

Proposed: Ms Roberts

Seconded: Dr Bolt

Result of the recorded vote was:

Votes in Favour	Votes Against
Cllr Chenery of Horsbrugh	Mr Davies
Cllr Skinner	
Cllr FitzPatrick	
Mr Rowley	

Mr Spray	
Dr Bolt	
Mr Worrall	
Cllr Collis	
Mr Shaul	
Cll Vigo Di Gallidoro	
Ms Roberts	
Cllr Goldson	

At the point Dr Bolt left the meeting

EIFCA21/11 Item 11: Wash Cockle and Mussel byelaw 2021

Cllr Goldson queried if it was possible to delay this item for a couple of weeks to attempt to build some bridges with the industry and allow them to put forward 3 or 4 suggestions of what they would like to see in the new legislation. The CEO felt a meeting of the industry and authority would be a huge meeting that would achieve little. Cllr Goldson suggested representatives from the industry come back with 3 or 4 crucial matters that the industry wanted addressed, which could be discussed and considered for inclusion in the byelaw. He felt it was important to rebuild credibility.

Mr Shaul felt this was covered in 'Next Steps' which was part of the next process for the previous item. Cllr Goldson still felt the decision to make the byelaw should be held back until some of the next steps had been completed.

Mr Worrall believed the previous item had deferred making the byelaw until some of the consultation of the policies had been started. He noted this would delay making the byelaw until June, what would happen if the new byelaw wasn't ready at the expiry of the order. Mr Brewster believed an Emergency Byelaw would be put in place. The CEO felt an Emergency Byelaw may not be appropriate as they are for unforeseen circumstances and by delaying it then it would be a foreseen circumstance, legal advice would be needed. Senior IFCO Regulation advised that by 'making the byelaw' at this meeting it did not make the process final, the next step would be consultation during which the byelaw could and most likely would be changed. Mr Garnett felt very wary of an Order but rather than delay a decision the byelaw process should begin with the understanding that if down the line an Order was considered the better option then there should be an agreement that a change would be made to an Order. Mr Garnett was aware there was only about two years to get everything in place which for getting this legislation in place was not long, and left him with concerns if there was nothing in place, particularly as it could mean the fishery being open to hundreds of fishers from outside the area all getting a track record for fishing.

The CEO responded to the comments and concerns, he was not in a position to give a definitive opinion on whether or not an Emergency Byelaw would be an option. On the matter of making the byelaw today it would not commit to the content. In answer to a specific question he said that he thought that the byelaw process could be stopped if it were decided to apply for a new Order.

Mr Brewster said getting a meeting of representatives could be arranged. He also advised that the industry was prepared to go to court as so much hung in the balance, the confidence in the industry had been lost, and if the Authority were not prepared to listen then they would go to court.

At this point Roy Brewster acknowledged he didn't have long left as a member, but he was resigning from the Authority.

The CEO, acting as Clerk read a paragraph from the Constitution and Standing Orders relating to Authority members with DPIs and how they should only provide specialist knowledge and not represent themselves or matters for a particular sector.

Cllr FitzPatrick expressed his appreciation for the common sense approach by Mr Garnett, and also his belief that the proposed delay would not be helpful. He suggested accepting the proposal put forward with the inclusion of three words at the end 'for a decision' so that members make the decisions. He hoped for goodwill on both sides and for the accusations to stop as they are not helpful.

Further discussion continued with regard to whether or not to move forward with the paper or put it on hold. Cllr Goldson had proposed putting it on hold but chose to withdraw that proposal for the presentation to take place.

Senior IFCO Regulation ran through the key points of the presentative before asking members for their comments.

Questions were asked about what was considered a severe offence which would result in the loss of a permit, specific examples could not be given but it was emphasised there would be a proportional approach to enforcement, with the aim being to get the industry compliant. Questions were also raised about retention of a permit in times when a fisher is unable to take out a licence in any period due to illness, buying a new vessel etc. Senior IFCO Regulation advised the eligibility criteria would take into account such scenarios.

Members Resolved to:

- **Note the contents of the report, including the justification for making the byelaw, the identified impacts on stakeholders and the feedback received from such stakeholder.**
- **Agree to make the Wash Cockle and mussel Byelaw 2021**
- **Direct officers to undertake formal consultation on the byelaw and to present the results and any recommended changes to the Byelaw at a subsequent Authority meeting for a decision.**

Proposed: Mr Spray
Seconded; Cllr FitzPatrick

Results of a recorded vote were:

Votes in Favour	Votes Against
Cllr Chenery of Horsbrugh	
Cllr Skinner	
Cllr FitzPatrick	
Mr Rowley	
Mr Spray	
Mr Worrall	
Mr Davies	
Mr Shaul	
Cllr Vigo Di Gallidoro	
Ms Roberts	
Cllr Goldson	

Cllr Collis was unavailable to vote

At this point Mr Rowley left the meeting

EIFCA21/12 Item 12: Review of Annual Priorities and Risk Register

The CEO advised progress was being made in line with the Annual Plan.

Referring to the Risk Register it was noted that there had still been no confirmation of New Burden Funding for the next financial year.

Members Agreed to note the report

EIFCA21/13 item 13: CEO Update

Association of IFCA Minutes were included for information.

Members Agreed to note the content of the report.

EIFCA21/14 Item 14 – Head of Operations Update

Members Agreed to note the report

EIFCA21/15 Item 15 – Any Other Business

There were no items of business to discuss but in light of members reaching the end of their maximum service and as County Council elections would be taking place before the next Authority Meeting the CEO took the opportunity to express his appreciation for the support of members and their valued support.

There being no other business the meeting closed at 1621 hours.

Vision

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



Action Item 8

44th Eastern Inshore Fisheries and Conservation Authority meeting

9th June 2021

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:

Three incidents have been reported in this period.

Risks/Mitigation

COVID-19 continues to impact on the way we work. As an Authority we have continued to ensure our assessments, policies and practice are kept up to date to ensure we remain COVID compliant. We received a spot check by the Health and Safety Executive in April to ensure our work practices were COVID compliant.

Officers that are required to work away from home undertake twice weekly Rapid Flow Tests, these can either be undertaken through self-testing at home or through observed LFT testing at our office in Kings Lynn. Testing has also been extended to the wider team as we look towards options to repopulate the

office. To date only 3 staff members have tested positive for COVID 19 and have all returned to work. It is not believed they contracted COVID through work.

Officers have also begun to receive COVID vaccinations based on government guidance, with some officers having now received their second jabs. We continue to work from home and in 'team bubbles' where possible with appropriate PPE.

Appendix 1

Date	Nature of incident	Injury / damage occurred	Action Taken	RIDDOR MAIB Y/N	Investigation complete Y/N	Name of investigating Officer	Follow-up action required Y/N. If Y then what?
02/03/2021	Vessel	Yes Twisted knee	Officer continued with task	N	Y	Jon Butler	Consider if sea state allows safe removal of Sonde
11/05/2021	Vehicle	Yes Scolded hand	Officer continued with task	N	Y	Simon Lee	Remind officers not to carry hot drinks without lids.
12/05/2021	Vessel	Yes Stiff back	Officer continued with task	N	Y	Simon Lee	Ensure briefing takes place when operating with another IFCA. Shock mitigation.

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"> • Introduction of revised management system (policies and process) • Managers tasked to review and develop the suite of risk assessments • Training session on risk assessments for first line managers 	<ul style="list-style-type: none"> • New or unusual activities may be overlooked and not have a risk assessment in place 	Tolerate	Treat
2. Unreported incidents/unilateral decisions with little regard for safe working practices.	<ul style="list-style-type: none"> • Leadership • NCC H&S officer led review of policy and procedure • Training • Equipment • Management systems to capture incidents • Routine agenda items at all meetings at all levels of Authority 	<ul style="list-style-type: none"> • Injury to personnel as a result of failure to acknowledge or adhere to H&S direction and guidance 	Tolerate	Treat
3. Inappropriate conduct of vessels at sea	<ul style="list-style-type: none"> • Leadership • Briefings 	<ul style="list-style-type: none"> • Death/injury of personnel/third parties through un-seamanlike 	Tolerate	Treat

	<ul style="list-style-type: none"> • Formal training and assessment • Periodic review of performance • Record of personal training inc. refreshers maintained 	operation of vessels at sea		
4. Whole Body Vibration	<ul style="list-style-type: none"> • Risk awareness training to manage impacts. • Health monitoring process to be developed. 	<ul style="list-style-type: none"> • Personal injury from boat movement owing to lower resilience as a result of individual physiology 	Treat	Treat
5. Lone working operations	<ul style="list-style-type: none"> • Management scrutiny of any proposal for lone working. • Introduction of electronic support means 	<ul style="list-style-type: none"> • Failure of devices to give requisite support. • Personnel interventions render devices unreliable or unworkable. 	Tolerate	Tolerate
6. Staff injury/long term absence through inappropriate posture at office work stations	<ul style="list-style-type: none"> • Information. • Training. • Risk assessment. 	<ul style="list-style-type: none"> • Individual failure to adhere to guidance 	Tolerate	Tolerate

	<ul style="list-style-type: none"> • Provision of suitable bespoke equipment where reasonable. • Access to NCC H&S team. • Occupational health assessment • KLWNBC H&S specialist advice 			
7. Staff stress through exposure to unacceptable behaviour of stakeholders	<ul style="list-style-type: none"> • Introduction of Unacceptable Behaviour policy • Stakeholder engagement plan and activity delivered in pursuit of corporate communications strategy. • Dialogue with Stakeholders to ensure appropriate tone of communications • Conflict resolution training for “front line” Officers • Introduction of Body worn Camera’s and Sky Guard Alarms. 	<ul style="list-style-type: none"> • No change in behaviour of some stakeholders. • Long term sickness caused by stakeholder hostility 	Tolerate	Tolerate
8. Damage to vehicles, trailers and/or equipment through inappropriate operation.	<ul style="list-style-type: none"> • Formal trailer training for unqualified officers • Refreshers for those with previous experience 	<ul style="list-style-type: none"> • Failure to adhere to training • Mechanical failure of vehicle or trailer 	Tolerate	Treat

	<ul style="list-style-type: none"> • Periodic vehicle maintenance checks training • In-house assessment for drivers using unfamiliar vehicles (crew transport, 4x4) 			
9. Physical fitness of personnel to undertake arduous duty	<ul style="list-style-type: none"> • Staff briefing • Management overview to ensure rostered duties are appropriate and achievable • Reasonable work adjustments • Routine periodic medical assessment (ML5) 	<ul style="list-style-type: none"> • Individual health fragilities • Individual lifestyle choice 	Tolerate	Tolerate
10. COVID 19	<ul style="list-style-type: none"> • Information • Guidance • Staff Briefing • Risk Assessments 	<ul style="list-style-type: none"> • Developing understanding of COVID 19 and rapidly changing guidance 	Tolerate	N/A

*

Risk Rating
High
Medium
Low

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

Vision

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Action Item 9

44th Eastern Inshore Fisheries and Conservation Authority meeting

Report by: Andrew Bakewell – Head of Finance & HR

Meeting of the Finance & HR Sub-committee held on 27th April 2021

Purpose of report

To inform members of the key outputs and decisions from the Finance & HR Sub-Committee meeting held on 27th April 2021.

Recommendations

Members are asked to:

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

F&HR

- Signed as a true record

F&HR21/20 Matters Arising

- Members were advised that the Vessel Procurement process was ongoing and that a joint press release with Goodchild Marine had been released. Plans for the interior layout were being finalized. Build on track to start later in the year.

Finance Matters

Re minute F&HR 21/21 Quarter 4 Payments and Receipts

- Head of Finance reported that payments were to date figures for Quarter 4 as final payments were still to be processed for the 2020/21 financial year.
- Income included LCC Levy that relates to 2021/22 year.
- Expenses included an unbudgeted gearbox overhaul on Three Counties (£27k).

Members Agreed to:

- **Note** the content of the report

Re minute F&HR 21/22 Quarter 4 Management Accounts

- Head of Finance reported a likely surplus of c. £40k for the financial year.

- Savings on Salaries, Accommodation and Staff Travel. Most notable overspend Three Counties refit.

Members Agreed to:

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

Re minute F&HR 21/22 HR Update

Head of Finance and HR reported:

- Grade 5 IFCO role filled by an in-house candidate had again become vacant as the staff member had chosen to accept an offer of an alternative external role.
- Pending news on Defra funding it was decided to keep the Grade 5 IFCO and MSO posts vacant.
- The Fixed Term Project Officer role had been filled, the successful candidate would start on the 17th May.
- Initial discussions with staff were taking place with regard to future working arrangements. The recently completed Welfare Review revealed that staff were in a good place and current model was working well.
- Members emphasized the need to remain cautious whilst the pandemic continues.
- The expiry of the legislation to allow on-line meetings has presented a challenge to all organisations who hold publicly accessible meetings. Options were being explored, initially for the Full Authority meeting on the 9th June.

Members Agreed to:

- **Note** the content of the report

Re minute F&HR 21/23 Any Other Business

The CEO advised:

- work on the North Norfolk MCZ would benefit from a Vessel Monitoring System. Given the slow pace of the national project Officers have identified a modestly priced alternative to be provided to affected vessels from within existing budgets.

Background Documents

Unconfirmed minutes of the Finance and HR sub-committee meeting held on the 27th April 2021.

Vision

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Action Item 10

Eastern Inshore Fisheries and Conservation Authority Meeting

09 June 2021

Wash and North Norfolk Marine Partnership Memorandum of Agreement

Report by: Julian Gregory, CEO

Purpose of Report

To seek approval for the agreement in principle to sign up to the latest Memorandum of Agreement (MoA) for the Wash and North Norfolk Marine Partnership.

Recommendations

It is recommended that members:

Agree that the Authority will continue as a member of the Wash and North Norfolk Marine Partnership and to sign the Memorandum of Agreement.

Background

In 1996, The Wash and North Norfolk Coast was designated a European Marine Site under EU and UK law in recognition of its nationally and internationally important marine wildlife and habitats, in order to protect the biodiversity which makes it so special.

This designation placed new and stronger responsibilities on public authorities and agencies, working in partnership with sea users, advisory groups and stakeholders to promote the use of a living working coast. The process of developing a Management Scheme began in 1996 and the Wash and North Norfolk European Marine Site management scheme was launched on 25th January 2002.

The objectives of the scheme are to safeguard wildlife and habitats whilst encouraging sustainable use, in order to meet statutory obligations to achieve favourable or improving condition. These statutory obligations are the responsibility of a number of Relevant Authorities and the management scheme coordinates their efforts.

Following the UK's departure from the European Union (EU) on 31st Jan 2020, Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) in the UK no longer form part of the EU's Natura 2000 ecological network. The 2019

Regulations have created a national site network on land and at sea, including both the inshore and offshore marine areas in the UK. The Wash and North Norfolk Coast network comprises:

- One Special Area of Conservation (SAC), as designated the Conservation of Habitats and Species Regulations 2017 (as amended) (including the adjacent territorial sea)
- Three Special Protection Areas (SPA), as designated under the Wildlife & Countryside Act 1981 (as amended) and the Conservation (Natural Habitats, & c.) Regulations 2010 (as amended)

Under the Bern Convention, The Wash and North Norfolk Coast designations are also part of a larger network of protected wildlife areas across Europe, known as Emerald Network sites.

Report

Eastern IFCA has always played a leading role in the partnership with a contribution in kind by hosting the Project Officer the CEO fulfilling the role of Chair of the partnership.

In recent years, following a review, the partnership re-branded as the Wash and North Norfolk Coast Marine Partnership and more recently the structures of the partnership have been revised to provide Steering, Management and Stakeholder Groups with the Chairs being elected as opposed to defaulting to the Eastern IFCA CEO.

The MoA is reviewed and signed every three years and the latest version sets out the new governance arrangements. Of particular note is the recent transfer of the Project Manager role to be hosted by Norfolk County Council. This has not affected Eastern IFCA's contribution, which remains 'in kind' though the provision of accommodation.

The MoA has been agreed in principle by the CEO and the Chair of the Authority.

Financial Implications

There are no additional financial implications as the Authority's contribution remains 'in kind.'

Legal Implications

There are no significant legal implications.

Appendices

Appendix A - The Wash and North Norfolk Marine Partnership Seventh Memorandum of Agreement

Appendix A

The Wash and North Norfolk Marine Partnership

Seventh Memorandum of Agreement

This Agreement is made this day of

2021

Between (listed in alphabetical order):

- (1) **Black Sluice Internal Drainage Board** of Station Road, Swineshead, Boston, Lincs, PE20 3PW
- (2) **Borough Council of King's Lynn & West Norfolk** of King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX
- (3) **Boston Borough Council** of Municipal Buildings, Boston, Lincolnshire, PE21 8QR
- (4) **Defence Infrastructure Organisation** of Bazalgette Pavilion G/F, RAF Wyton, Huntingdon, Cambridgeshire, PE28 2EA
- (5) **Eastern Inshore Fisheries and Conservation Authority** of 6 North Lynn Business Village, Bergen Way, King's Lynn, Norfolk, PE30 2JG
- (6) **East Lindsey District Council** of Tedder Hall, Manby, Lincolnshire, LN11 8UP
- (7) **Environment Agency** of Kingfisher House, Goldhay Way, Orton, Goldhay, Peterborough, Cambridgeshire, PE2 5ZR
- (8) **Fenland District Council** of Fenland Hall, County Road, March, Cambridgeshire, PE15 8NQ
- (9) **King's Lynn Conservancy Board** of Common Staithe, King's Lynn, Norfolk, PE30 1LL

- (10) **Lincolnshire County Council** of County Offices, Newland, Lincoln, LN1 1YL
- (11) **Lincolnshire Wildlife Trust** of Banovallum House, Manor House Street, Horncastle, Lincolnshire LN9 5HF
- (12) **Marine Management Organisation** of PO Box 1275, Newcastle upon Tyne, NE99 5BN
- (13) **Natural England** of 4th Floor, Foss House, Kings Pool, 1-2 Peasholme Green, York, YO1 7PX
- (14) **Norfolk County Council** of County Hall, Martineau Lane, Norwich, Norfolk, NR1 2SG
- (15) **North Norfolk District Council** of PO Box 5, Council Offices, Holt Road, Cromer, Norfolk, NR27 8DZ
- (16) **Port of Boston** of Dock Office, Boston, Lincolnshire, PE21 6BN
- (17) **Royal Society for the Protection of Birds** of The Lodge, Potton Road, Sandy, Bedfordshire, SG19 2DL
- (18) **South Holland District Council** of Council Offices, Priory Road, Spalding, Lincolnshire, PE11 2XE
- (19) **Water Management Alliance** (includes South Holland Internal Drainage Board and King's Lynn Internal Drainage Board) of Kettlewell House, Austin Fields, King's Lynn, Norfolk, PE30 1PH
- (20) **Welland and Deepings Internal Drainage Board** of Deeping House, Welland Terrace, Spalding, Lincs, PE11 2TD
- (21) **Wells Harbour Commissioners** of Harbour Office, Old Lifeboat House,

Wells-next-the-Sea, Norfolk, NR23 1AT

- (22) **Witham Fourth Internal Drainage Board** of 47 Norfolk Street, Boston, Lincs, PE21 6PP

Note: Whilst funding contributions will be reviewed on an annual basis, all Parties of this agreement respect conditions specified in Termination Clause 18.

1. Recitals

1.1 Following the UK's departure from the European Union (EU) on 31st Jan 2020, Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) in the UK no longer form part of the EU's Natura 2000 ecological network. The 2019 Regulations have created a national site network on land and at sea, including both the inshore and offshore marine areas in the UK. The Wash and North Norfolk Coast network comprises:

- One Special Area of Conservation (SAC), as designated the Conservation of Habitats and Species Regulations 2017 (as amended) (including the adjacent territorial sea)
- Three Special Protection Areas (SPA), as designated under the Wildlife & Countryside Act 1981 (as amended) and the Conservation (Natural Habitats, & c.) Regulations 2010 (as amended)

Under the Bern Convention, The Wash and North Norfolk Coast designations are also part of a larger network of protected wildlife areas across Europe, known as Emerald Network sites.

1.2 The Parties to this agreement fully recognise the nature conservation importance of The Wash and North Norfolk Coast designations. Notably, some Parties have statutory obligations placed upon them by the legislation referred to above. To assist in meeting these obligations, The Wash and North Norfolk Coast Management Group prepared, and subsequently

implemented, The Wash and North Norfolk Coast Management Scheme (hereinafter referred to as the “Management Scheme”).

- 1.3 The Wash and North Norfolk Marine Partnership (hereinafter referred to as “the Partnership”) objectives are set out in this agreement, along with the Partnership governance and funding arrangements.
- 1.4 The Partnership will work closely with other complementary initiatives, for example, The Norfolk Coast Partnership (NCP) and The Greater Lincolnshire Nature Partnership (GLNP).
- 1.5 Primarily, the Partnership will operate within the boundaries of the statutory designations. However, on occasions, operations may be extended to include adjoining areas, where a wider working area may be required to maintain favourable condition of conservation features.

2. Definitions and Interpretations

- 2.1 The provisions of Schedule 1 shall be incorporated herein and shall have effect, as if expressly set out herein.
- 2.2 Reference to clauses, sub-clauses and/or Schedules refer to those within this Memorandum of Agreement.

3. Nature of Agreement

- 3.1 Nothing in this Memorandum of Agreement will be construed as creating a joint venture. However, all Parties enter into this Memorandum of Agreement in the spirit of co-operation.
- 3.2 No party will represent itself as an agent of any of the other Parties nor is any party authorised to commit the other Parties, unless expressly

authorised by this Memorandum of Agreement.

4. Term

Subject to Clause 18, this Memorandum of Agreement shall run continuously from the Commencement Date, with a full review every three years.

5. Partnership Objectives

5.1 The purpose of the Partnership is to assist Relevant Authorities and local agencies in implementing the U.K. Habitats Regulations relevant to The Wash and North Norfolk coast. Specifically, the Partnership works to maintain/achieve favourable conservation status for the interest features for which the area has been designated, and to contribute to the sustainable use/development of the area. To assist this, the Partnership adheres to a Management Scheme. Furthermore, the Partnership supports three geographically distinct Advisory Groups to enable stakeholder and local community participation in the management of The Wash and North Norfolk coast.

5.2 The Partnership has three strategic work areas, which encompass the key pressures facing The Wash and North Norfolk coast. These work areas provide a framework for the tasks of the Partnership.

I. Environmental change

- Climate change
- Coastal processes (e.g. erosion, flood risk)

II. Disturbance

- Recreation
- Development

III. Tourism

- Sustainable business
- Visitor management

N.B. Further details can be found in the “WNNMP Vision, Mission & Work Packages” document (available upon request).

5.3 The Partnership Manager will also:

- Maintain an effective communication network between Relevant Authorities, stakeholders and other interested bodies
- Facilitate collaborative working
- Promote the achievements of the Partnership through bi-annual reports

6. Employment of Partnership Manager

6.1 The Partnership Manager is appointed to oversee the delivery of the Partnership objectives. The Partnership Manager is employed by Norfolk County Council and financially supported by the Partnership.

6.2 Norfolk County Council agree to:

- employ the Project Manager on a Norfolk County Council contract
- offer entry into the Local Government Pension Scheme
- provide appropriate office accommodation, as and when required

- provide administrative services
- provide professional and technical services, where appropriate
- pay travel and subsistence at rates established in the Local Government Scheme

6.3 The Partnership Manager will be line managed by a Norfolk County Council Head of Service (or named delegate) and directed by the Steering Group. However, the Partnership Manager will be expected to maintain regular contact with the other Parties to this agreement.

6.4 The Partnership Manager will submit bi-annual reports (April & October) to the Stakeholder Group, Management Group and Steering Group.

7. Partnership Governance

7.1 Stakeholder Group

7.1.1 The Stakeholder Group will oversee progress on implementing the Partnership objectives.

7.1.2 The Stakeholder Group will meet three times a year.

7.1.3 In carrying out its function, the Stakeholder Group will foster a spirit of mutual co-operation.

7.1.4 The Stakeholder Group will comprise representatives of the Parties (elected members and/or officers), and other interested parties, including the following:

- one representative from Holders of Rights in Common

- one representative from Norfolk Coast Partnership
- one representative from Crown Estates
- each of the Chairpersons of the Advisory Groups (see Schedule 1)

7.1.5 The Chair of the Stakeholder Group will act as the public face of the Partnership.

7.1.6 The Chair of the Stakeholder Group will also be the Chair of the Management Group. The Chair (of both Groups) will be elected by the Management Group, at a Management Group meeting (see subclause 7.2), in accordance with subclause 7.2.8.

7.1.7 The Vice-Chair of the Stakeholder Group will be a volunteered member of the Parties, with elections occurring every three years, in accordance with the renewal of the Memorandum of Agreement. The Vice-Chair of the Stakeholder Group will also act as the Vice-Chair for the Management Group (see subclause 7.2).

7.1.8 The Management Group will be serviced by the Partnership Manager.

7.1.9 It is anticipated that the members of the Stakeholder Group, besides representing the interests of their appointing body, will represent a broader constituency of views, thereby acting as an integrated and cohesive group in pursuing the best interests of the Partnership as a whole.

7.2 **Management Group**

7.2.1 The Management Group will oversee the work programme, with associated resources being discussed and agreed, before commitment to the next financial year.

7.2.2 The Management Group will meet (no less than) twice a year.

7.2.3 In carrying out its function, the Management Group will foster a spirit of mutual co-operation between all Parties to the Partnership.

7.2.4 The Management Group will comprise the following:

- one elected Member of the Boston Borough Council
- one elected Member of the East Lindsey District Council
- one representative of Natural England
- one elected Member of the Borough Council of King's Lynn & West Norfolk
- one elected Member of the Lincolnshire County Council
- one representative of the Environment Agency
- one elected Member of the Norfolk County Council
- one elected Member of the South Holland District Council
- one elected Member of Fenland District Council
- one elected Member of Internal Drainage Boards (to represent all other Lincolnshire and Norfolk Internal Drainage Boards)
- one representative of Eastern Inshore Fisheries and Conservation Authority
- one elected member of the North Norfolk District Council
- two ports representatives (to represent the King's Lynn Conservancy Board, the Port of Boston, and the Wells Harbour Commissioners)
- one representative of Defence Infrastructure Organisation
- one representative of the Marine Management Organisation

- one representative of Lincolnshire Wildlife Trust
- one representative of the Royal Society for the Protection of Birds

7.2.5 The Parties listed in subclause 7.2.4 will be entitled to one vote, or can delegate their vote to a named substitute, on all issues affecting the Partnership.

7.2.6 Additional officers representing the Parties listed in subclause 7.2.4 are welcome to attend Management Group meetings but are not entitled to vote.

7.2.7 Officers representing other local authorities and associated Partnerships (not listed in subclause 7.2.4) are welcome to attend (upon invitation) but are not entitled to vote.

7.2.8 The Chair of both the Management Group and Stakeholder Group will be an elected member of the Parties. Elections will occur every three years, at a Management Group meeting, in accordance with the renewal of the Memorandum of Agreement.

7.2.9 The Chair of the Management Group is not entitled to vote (organisational representation will be made by another member), unless the vote is split (subclause 7.2.13).

7.2.10 The Vice-Chair of the Management Group will be a volunteered member of the Parties, with elections occurring every three years, in accordance with the renewal of the Memorandum of Agreement.

7.2.11 The Vice-Chair of the Management Group is entitled to vote (except when acting as Chair, then subclause 7.2.9 applies).

7.2.12 The Management Group will be serviced by the Partnership Manager.

7.2.13 Except for the provisions of subclause 7.2.14 below, any decision, agreement, or approval to be made by the Management Group in respect of the Partnership shall be decided by votes taken at a Management Group meeting. Such meetings shall be convened with no less than 14 days written notice given to each of the Parties. The necessary quorum for such a meeting shall be no less than six individual Party representatives, each entitled to vote at the time, in person or by proxy. At such meetings, each representative will be entitled to one vote and resolutions shall be carried by a simple majority. In the event of a split vote, the Chair shall have the casting vote.

7.2.14 Where any decision, agreement, or approval is to be made by the Management Group which relates to a change in any contribution made by any or all Parties, or a change of a constitutional nature, this shall be decided by votes taken at a Management Group meeting. The decision, agreement, or approval of all Parties is required and shall only be resolved by a unanimous vote. Such meetings shall be convened with no less than 14 days written notice given to each of the Parties.

7.2.15 Any Party to this agreement may appoint another Party as their proxy to vote on their behalf at any meeting. The instrument appointing a proxy shall be in writing and deposited with the Chairperson of the Management Group at least one day before the meeting.

7.2.16 Representatives of other interests not directly represented on the Management Group may be invited to attend meetings on an *ad hoc* basis as appropriate but will not be entitled to vote.

7.3 The Steering Group

7.3.1 The Steering Group will set annual work programmes, reviewing and

reporting on progress and issues to the Management Group.

7.3.2 The Steering Group will meet three times a year and prior to Management Group meetings.

7.3.3 In carrying out its function, the Steering Group will foster a spirit of mutual co-operation between all Parties to the Partnership.

7.3.4 The Steering Group will comprise a subset of delegated members of the Management Group and include representatives of the following:

- Eastern Inshore Fisheries and Conservation Authority
- A Port Authority (to represent all the Port Authorities)
- A District Council (to represent all the District Councils)
- Natural England
- Lincolnshire County Council
- Environment Agency
- Norfolk County Council
- An Internal Drainage Board (to represent all other Lincolnshire and Norfolk Internal Drainage Boards)
- Marine Management Organisation
- Lincolnshire Wildlife Trust
- Royal Society for the Protection of Birds

If nominated officers cannot attend then suitable replacements, where possible, will be sent.

7.3.5 The Chair of the Steering Group will be an elected officer, with elections occurring every three years, in accordance with the renewal of the Memorandum of Agreement.

7.3.6 The Vice-Chair of the Steering Group will be a volunteered member, with elections occurring every three years, in accordance with the renewal of the Memorandum of Agreement.

7.3.7 The Management Group will be serviced by the Partnership Manager.

7.4 **Governance overview**

Stakeholder Group

Composition:

- Officers, elected members, representatives of user groups & other partner organisations
- Chaired by an elected member
- Serviced by the Partnership Manager

Role:

- Responsible for Management Scheme & progress
- Bids for project support within relevant authority/other partner organisations

Meeting Requirements:

- Three times a year

Management Group

Composition:

- Officers, elected members
- Chair as for Stakeholder Group
- Serviced by the Partnership Manager

Role:

- Accountable under legislation & protocols
- Agrees policy and direction

Meeting Requirements:

- (no less than) twice a year

Steering Group

Composition:

- A subset of delegated members of the Management Group
- Chaired by an elected member
- Serviced by the Partnership Manager

Role:

- Sets annual work programme
- Manages Partnership Manager

- Reports to & advises the Management Group

Meeting Requirements:

- Three times a year

8. Financial Arrangements

8.1 The Partnership's annual core funding will be shared between the Parties of this Memorandum of Agreement, as set out below:

Party	Requested Contribution (£)
Environment Agency	6,500
Natural England	6,500
Borough Council of King's Lynn & West Norfolk	3,510
Boston Borough Council	3,510
Lincolnshire County Council	3,510
Norfolk County Council	3,510
East Lindsey District Council	3,510
South Holland District Council	3,510
Fenland District Council	3,510
North Norfolk District Council	3,510
Defence Infrastructure Organisation	650
Lincolnshire Wildlife Trust	650
Royal Society for the Protection of Birds	650
Black Sluice Internal Drainage Board	398
Welland and Deeping Internal Drainage Board	398
Witham Forth Internal Drainage Board	398
Water Management Alliance	398
Eastern Inshore Fisheries and Conservation Authority	In-kind
King's Lynn Conservancy Board	In-kind
Port of Boston	In-kind
Wells Harbour Commissioners	In-kind
Marine Management Organisation	TBC

Notable exceptions, for financial year 2021/22:

- Fenland District Council - £2,700
- North Norfolk District Council - £2,700

- Water Management Alliance - £306
- Marine Management Organisation – No contribution

8.2 In-kind contributions

8.2.1 Eastern Inshore Fisheries and Conservation Authority will make an in-kind contribution by providing a permanent office base for the Partnership Manager.

8.2.2 The King’s Lynn Conservancy Board will make an in-kind contribution by providing accommodation for the King’s Lynn Joint Advisory Group meetings and office space for the Partnership Manager, as and when required.

8.2.3 The Port of Boston will make an in-kind contribution by providing alternative venues for Management Group, Stakeholder Group and Advisory Group meetings, and access to marine craft for site visits (all subject to requirement and availability), or other facilities, as agreed with them.

8.2.4 The Wells Harbour Commissioners will make an in-kind contribution by providing accommodation for the North Norfolk Advisory Group meetings, access to marine craft, and their Leisure Users Advisory Committee (all subject to requirement and availability), or other facilities, as agreed with them.

8.2.5 In addition to a financial contribution, Water Management Alliance will make an in-kind contribution through access to their conservation staff, conference room and Geographic Information Systems (subject to requirement and availability), or other facilities, as agreed with them.

8.3 The contributions set out in subclause 8.1 and 8.2 will be reviewed annually

by the Management Group.

- 8.4 Funds carried forward from previous years are to be used at the discretion of the Management Group to ensure the viability of the Partnership.
- 8.5 Annual financial contributions will be made to Norfolk County Council at the start of the new financial year (April).
- 8.6 Norfolk County Council will hold the accounts and will be responsible for invoicing on behalf of the Management Group. The Partnership Manager will be responsible for budget management on behalf of the Management Group.
- 8.7 Any financial payments legally due to staff, under the Redundancy Payments Act 1965, Employment Protection (Consolidation) Act (as amended by the Trade Union Reform and Employment Rights Act 1993), or other relevant legislation, on termination of employment shall be funded by the Partnership (through reserves) and administered by Norfolk County Council. Costs for public and employer's liability premiums and payments, in the event of industrial injury, should be met in the same way.

9. Statutory Duties

- 9.1 Nothing in the Memorandum of Agreement shall prejudice or affect any of the Parties signed up to it. This relates to the exercise of their functions, duties, powers, rights, jurisdictions, and obligations conferred, arising or imposed under any legislative provision, enactment, byelaw, or regulation.
- 9.2 Nothing in the Memorandum of Agreement shall operate as a statutory approval, consent, or licence from any of the Parties to this Agreement.

10. Assignment

- 10.1 No Party may assign or transfer all, or any part, of its rights or obligations under this Memorandum of Agreement, without prior written consent from the other Parties.
- 10.2 For the purpose of the Contracts (Rights of Third Parties) Act 1999, nothing in this agreement confers or purports to confer on a Third Party any benefit or right to enforce a term of this Agreement.

11. Waiver

- 11.1 No failure or delay by the Parties in exercising any right, power or privilege under this Memorandum of Agreement shall impair the same or operate as a waiver of the same. Nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same, or any other, right power or privilege.
- 11.2 The rights and remedies provided in this Memorandum of Agreement are cumulative and not exclusive of any rights and remedies provided by the law. No waiver will be effective, unless made in writing.

12. Data Protection

Where a Party processes personal data (as defined Under Article 4 of the General Data Protection Regulation, GDPR) on behalf of the Partnership, that Party shall take the appropriate technical and organisational measures, as necessary, to comply with the Data Protection Act 2018. In accordance with data protection principles, personal data must be:

- used fairly, lawfully, and transparently
- used for specified, explicit purposes

- used in a way that is adequate, relevant, and limited to only what is necessary
- accurate and, where necessary, kept up to date
- kept for no longer than is necessary
- handled in a way that ensures appropriate security, including protection against unlawful or unauthorised processing, access, loss, destruction, or damage

13. Entire Agreement

This Memorandum of Agreement shall supersede all previous arrangements or agreements relating to the matters within it.

14. Mutual Assurance

Each of the Parties undertakes with the others that it has full power and authority to enter into this Memorandum of Agreement.

15. Health & Safety

In carrying out this Memorandum of Agreement, Norfolk County Council will pay due regard to, and comply with, all relevant health and safety legal obligations. Norfolk County Council shall be solely responsible for the health and safety of the Partnership Manager and other persons employed by them, pursuant to this Memorandum of Agreement.

16. Dispute Resolution

16.1 All disputes under, or in connection with, this Memorandum of Agreement shall be referred to the Steering Group who will then make

recommendations to the Management Group.

- 16.2 If, within 30 days from referral, the Management Group is unable to resolve the dispute, it shall be referred to the Parties' respective senior Managers or Directors.
- 16.3 If the Parties' respective senior Managers or Directors are unable to resolve the dispute, it shall be referred to the Centre for Effective Dispute Resolution.
- 16.4 This procedure shall be binding for all Parties. All negotiations connected with the dispute shall be conducted in confidence, and without prejudice, to the rights of the Parties.
- 16.5 The Parties shall bear their own costs of the dispute resolution procedure. The costs and expenses of mediation shall be borne equally.

17. Insurance

Norfolk County Council shall insure and maintain insurance against Employer and Public liability to the value of £5,000,000.

18. Termination

- 18.1 Any of the Parties to this Memorandum of Agreement may reduce or withdraw funding after giving six months' notice, in writing, to the Chief Executives of all the Parties.
- 18.1.1 In the event that one or more of the Parties gives notice in accordance with subclause 18.1, the Management Group shall convene a meeting as soon as reasonably practicable, to decide if this Memorandum of Agreement should be terminated, and to agree the time scale of such termination.

18.2 In the event of termination of this Memorandum of Agreement, the Partnership will be liable to meet the net costs (after disposal of any assets), through reserves. Any remaining surplus will be returned to the organisations signed up to this Memorandum of Agreement (pro rata). This will be administered by Norfolk County Council.

19. Variation

This Memorandum of Agreement may be amended by mutual consent and will be subject to review annually, with any subsequent period of renewal as appropriate.

Schedule 1. Definition of terms

- ‘the Parties’ refers to the Parties in this Memorandum of Agreement
- ‘Commencement Date’ is the 6th April 2021
- ‘Internal Drainage Boards’ refers to Black Sluice Internal Drainage Board, Water Management Alliance, Welland Deeping Internal Drainage Board, and Witham Fourth Internal Drainage Board
- ‘Advisory Group’ refers to the body of representatives from local interest/user groups, formed to advise the Stakeholder Group

Schedule 2. Signature of Parties

Signed for and on behalf of the

in the presence of:

Witness signature

Witness name

Witness address

Witness occupation

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 11

Eastern Inshore Fisheries and Conservation Authority Meeting

09 June 2021

Wash cockle fishery 2021

Report by: Luke Godwin (Senior IFCO – Regulation), Ron Jessop (Senior Marine Science Officer – Research)

Purpose of Report

To report on the findings of the annual cockle survey and to propose management measures for the 2021 cockle fishery.

Recommendations

It is recommended that members:

- **Agree** to note the responses to the consultation with Wash Fishery Order Licence Holders, Nominated Representatives and endorse the consideration and proposed actions as the Authority's response to the consultation
- **Agree** open the cockle fishery within the Wash Fishery Order 1992 on 14 June 2021 subject to receiving favourable conservation advice from Natural England
- **Agree** to open the whole area of the WFO except for the areas proposed as closed as set out in Appendix 3
- **Agree** to implement operating times for the fishery as at Appendix 3
- **Agree** to Licence conditions as at Appendix 4
- **Agree** to delegate authority to the CEO, in consultation with the chair or vice-chair, to introduce, vary or revoke management measures for the Wash Fishery Order fishery including the open date, areas open or closed to the fishery, the operating times or Licence Conditions, including without 7-days' notice, where it is judged necessary to do so to meet the conservation objectives of the marine protected areas of The Wash or for the sustainability or the viability of the fishery
- **Agree** subject to the confirmation of the Wash Restricted Area Byelaw 2019 by the Secretary of State, to open the associated fishery in accordance with the operating times set out in Appendix 3
- **Agree** subject to the confirmation of the Wash Restricted Area Byelaw 2019 by the Secretary of State, to delegate Authority to the CEO in consultation with the Chair or the Vice-Chair, to introduce, vary or revoke flexible

management measures under paragraphs 15, 19, 20, 22, 24, 25, 27 and 28 of the Wash Restricted Areas Byelaw 2019 in a manner consistent with the associated Formal Operating Procedure

- **Agree** to delegate authority to the CEO, in consultation with the Chair or Vice-Chair, to introduce, vary or revoke licence conditions for the WFO fishery in the event that the revised Wash Fishery Order Regulations are consented by the Minister during the 2021 cockle fishery
- **Agree** to close the cockle fishery within the Wash Fishery Order 1992 or the Wash Restricted Area, on the exhaustion of the Total Allowable Catch or to enable the start of the 2022 cockle surveys
- **Agree** to delegate authority to the CEO, in consultation with the Chair or Vice-Chair, to close the cockle fishery in the Wash Fishery Order 1992 or the Wash Restricted Area, including without 7-days' notice where it is judged necessary to do so to meet the conservation objectives of the marine protected areas of The Wash or for the sustainability or the viability of the fishery.

Background

Eastern IFCA manages the cockle fisheries within The Wash under the Wash Fishery Order 1992. Annual cockle surveys inform the development of management measures for the fishery in accordance with the Cockle Fisheries Management Plan¹.

Report

Annual cockle survey

COVID-19 placed additional logistical restrictions on carrying out the annual cockle surveys and an enhanced risk that the surveys may not be completed. This had the potential to jeopardise the 2021 cockle fishery because no survey was conducted during 2020 (as a result of the COVID-19 restrictions) from which an indication of stock size could be based.

To mitigate the risk, a modified cockle survey methodology was developed which included an earlier start time, fewer stations being visited and re-alignment of some stations.

The cockle survey was successfully carried out on this basis. The full survey report is at Appendix 1.

In summary, the cockle surveys identified a reasonable stock which will enable a Total Allowable Catch (TAC) of 5,283 tonnes for the 2021 fishery, albeit at relatively low densities. However, the 2020 spatfall (settlement of juvenile cockles) has been poor compared to what was expected based on recent years (i.e. a good settlement every other year). While this means that there will be fewer closures to protect high-density, juvenile cockles, it also reduces the prospects for the 2022 and 2023 fisheries, which will rely primarily on the 2018 year-class of cockles which are also the main component of this year's fishery.

¹ https://www.eastern-ifca.gov.uk/wp-content/uploads/2021/03/2019_07_WFO_cockle_fishery_management_plan1.5_Final.pdf

Survival of the 2018 year-class was greater than expected during 2020 and whilst it is difficult to predict how many of them will survive through 2021, those on slower-growing beds are more likely to do so.

In addition, a significant biomass of cockle was found at Holbeach which is ordinarily unavailable for fishing during the 'normal' operating times (Monday to Thursday) because the area is used as a military firing range.

Habitat Regulations Assessment (HRA)

In order to open a cockle fishery, the Authority must be satisfied that the fishery will not impact the conservation objectives of the relevant Marine Protected Areas (MPA) of The Wash. This is achieved by completing a HRA, which is informed by advice from Natural England.

The HRA has been undertaken and submitted to Natural England for consideration and for their formal advice. Informal dialogue has indicated that advice will be to the effect that the fishery will not impact the Wash MPAs, taking into account the proposed mitigation (management measure). However dialogue is ongoing pending the receipt of formal advice which is expected between 4 June and 8 June.

The HRA has identified that closures are required to protect seals (a designated species of the Wash MPAs) from disturbance at their haul out sites. As a result of declines in the number of seals, advice from Natural England requires a more precautionary approach which has identified areas for closure in addition to what would typically have been the case.

Seal haul-out sites occur throughout the Wash. Closures are required only in those areas where there is likely to be the most fishing activity (and thus the most disturbance). Five such closures are proposed, and these are set out in Appendix 3, Chart 1 (light blue squares and triangles). The closures represent areas which would have been favoured by fishermen which could impact the availability of cockles to the fishery. It is noteworthy that two of the closures are in areas which are proposed closed to protect stocks for future years.

Additional data is being sought from the Sea Mammal Research Unit to help inform the most effective placement of these closures and Natural England are agreeable to reviewing the closures in the light of this data. However, so as to enable a fishery in good time (which is preferable in the context of potential die-off, see below), it is proposed that the closures as proposed are implemented in the first instance and subsequently revised as required subsequent to the fishery opening.

The seal haul-out closures are proposed as being in effect during the pupping season only (until 31 August 2021) however, this will be subject to the formal advice from Natural England and may need to be extended.

The HRA does not indicate the need for any closures to protect against disturbance to over-wintering birds. However, this may need review later in the season to inform whether closures are needed during the colder months (November onwards).

In general however, the mitigation in the form of management measures for the fishery is well established and is reflected in the proposals below.

Consultation with industry

WFO licence holders and skippers were consulted in writing between 13 May and 24 May 2021. The consultees were provided a summary of the cockle survey, charts which indicated biomass of cockle throughout The Wash and proposed management measures. The key management measures for which views were sought were in relation to the start date of the fishery, operating times and the areas proposed to be closed to the fishery.

Six responses were received during the consultation. Further dialogue subsequent to the deadline for responses was sought with a further four industry members to clarify views provided. The proposals for management measures (below) reflect the responses from Industry. A summary of responses, our consideration of them and proposed actions as a result is presented at Appendix 2.

Proposed management measures

Total Allowable Catch (TAC)

The TAC is determined in accordance with the cockle fishery management plan. Typically, the TAC reflects one third of the biomass of the adult cockle (length greater than 14mm) stock, where stocks are also sufficient to meet the conservation objectives of the Wash MPAs.

The stock size as estimated in the annual cockle survey enables a TAC of 5,283 tonnes.

Some feedback was received to reduce the TAC to potentially increase the fishing opportunities in 2022 and 2023, given the poor 2020 spatfall. However, the vast majority of the stock (nearly 80%) is susceptible to die-off this year and is unlikely to survive and so, this would be of limited benefit. In addition, some areas are proposed as closed to the fishery to preserve those cockles most likely to survive which is considered to be the most effective mitigation for this.

Open date

Taking into account the requirement to provide seven days' notice of the fishery opening and the suitability of tides indicate that the most appropriate opening date for the fishery was initially proposed as 21 June 2021.

As part of the consultation, industry was asked whether an earlier open date would be preferable. The majority view was that an opening date of 21 June is the most appropriate, however strong representation was made by some for an earlier opening due to a concern that atypical mortality will cause high levels of die-off by the middle of July.

There is an inherent risk within the cockle fishery of atypical mortality or ridging out of cockles, which is often a driver for an earlier open date. Two

cockle beds were visited on 10 May 2021 and atypical mortality was observed to be occurring. It was estimated, based on the expert knowledge of the officers in attendance, to be occurring at a rate of 1% per day although no measurements were taken. This is corroborated by an anecdotal report from a fisherman that die-off was occurring during a visit to the Thief cockle bed on 17 June. The risk of die-off due to ridging out (where cockles force each other out of the sand as a result of very high densities) is considered minimal due to the low densities identified in the 2021 survey.

If die-off is occurring due to atypical mortality, it is likely to be occurring across the majority of beds within the Wash. This reflects that adult cockles are most susceptible to atypical mortality and nearly 80% of cockles across all beds are considered 'adult'. This represents a much greater proportion of the total stock than is ordinarily the case (normally around 40%). Die-off at the rate estimated could result in around 1/3 of the adult cockle stock being lost prior to an opening date of 21 June 2021.

Die-off compounds the issue of low densities, which will continue to decrease as mortality continues. This will mean that the fishery will be unviable at some point as fishermen are unable to remove from the fishery adequate cockles to make a profit for the trip due to their scarcity. Enhancing fishing opportunity of cockles which would otherwise die will likely benefit industry given the poor prospects for the following years' fisheries.

It is therefore proposed that the fishery is opened on 14 June 2021. This is considered the earliest opportunity to open the fishery, to provide sufficient time for fishermen to receive and understand the management measures for the fishery and for the Authority to receive formal advice from Natural England.

Fishermen have been notified in writing that we are seeking members agreement on this opening date, or one as close to this as is possible, so as to have provided the 7-days' notice as per the Cockle Charter.

Open / Closed Areas

As per the cockle fishery management plan, areas of high-density, juvenile cockles require closure. Given that the surveys identified a limited spat-fall last year, the abundance and density of juvenile cockles is very limited. As a result, only two small areas are required to be closed for this reason (on the Gat Sand) and these are marked out as the yellow boxes in Appendix 3, chart 2.

Further closures are also proposed to safeguard stocks for subsequent fisheries. Given the limited spat-fall, the 2022 and 2023 fisheries will rely to a large extent on the 2018 year class of cockle which would ordinarily be open to the 2021 fishery. These closures are focussed on slower growing beds which are the most likely to survive to form part of the 2022 fishery.

Two key areas are identified for such closures. These are set out in Appendix 3, Charts 2 and 3 as the areas marked out with red boxes.

These areas reflect a revision made as a result of the consultation which reduced the size of the closure to enable fishing in the northern part of the Southeast (Appendix 3, Chart 3) closure. Cockles in this area are more likely to be susceptible to die-off because they are faster growing.

Two further areas were considered for such closures. These areas are marked out in pink at Appendix 3, Chart 3 (labelled as Areas A and B). These areas contain a mixture of slower and faster growing cockles and may contribute to a fishery in 2022 but there is a risk that some cockles from these areas would be lost. The industry was asked for their views on whether these areas should also be closed to enhance prospects for 2022 and 2023 fisheries or open to the 2021 fishery to reduce the risk of them being lost to the fishery before being fished.

There was no overwhelming consensus from the industry in this regard. Some feedback was to open both areas, whilst others responded that they should be closed.

Area A is considered more likely to be subject to die-off this year. It is therefore proposed that this area remains open to the fishery.

Area B is considered more likely to survive the 2021 season and so is proposed to remain closed for this season. It is noteworthy that two of the three most productive areas within Box B would be subject to closure to protect seal haul out sites in any case.

Operating times

Operating times are the open dates and times for the fishery. The principles for setting operating times are well established as follows;

1. Regular breaks
2. Four days per week (weekdays, preferably Monday to Thursday)
3. Minimum of 6.0 metre tides.

In order to maximise fishing opportunities where the tides are favourable, deviation from the second principle it is generally accepted.

The stock surveys have identified that there is a significant amount of cockle on Holbeach which is generally closed to fishing operations as it is used as a military firing range during weekdays. It is estimated that approximately 500 tonnes of cockle could be fished from Holbeach before densities become too low for the fishery to be viable. Feedback from the consultation has identified that there is a preference for open periods over weekends, particularly Sundays, to enable access to this area.

In addition, one open period in July has been revised to prioritise fishing activity during daylight hours.

Operating times are proposed taking this into account at Appendix 4. These operating times are recommended on the basis that they align with the

established principles so far as is possible but also maximise fishing opportunities, as is the preference of industry. This includes additional Sunday openings, but which would be limited to Holbeach only so as to ensure effort is directed there, rather than elsewhere in the fishery. It is proposed that the additional Sunday open periods are reviewed during August with a view to determine if they are necessary thereafter, as they deviate significantly from the agreed principles.

To implement open periods on Sundays for Holbeach only, an additional licence condition (condition 11) is included which prohibits fishing other than on Holbeach during Sunday openings (Appendix 5).

General measures

In addition to the above management measures, the fishery operates under a well-established set of management measures implemented as licence conditions. These are required as further mitigation against potential impacts to the Wash MPAs and to ensure stock sustainability and viability of industry. These are set out in full at Appendix 5 and summarised as follows:

- Hand-work fishery only
- Two-tonne daily catch restriction
- Weekly catch returns
- A transshipping prohibition
- A requirement for cockles fished to be taken straight to port and not left on the sands or deposited elsewhere in bags or other containers
- Only one landing per calendar day
- Dual fishing prohibition (which prohibits fishing for cockles within the WFO on the same calendar day as fishing for cockles within any other fishery)
- Requirement to land catch in a bag of specified dimensions
- Prohibition on using any anchor which affixes a vessel to the ground in undertaking 'prop-washing' (whereby vessels turn in tight circles to use the propellor to wash cockle out of the sediment and into an easily accessible pile)
- Prohibition on fishing during a Sunday except within the area designated as Holbeach.

These licence conditions, with the exception of Licence Condition 11 (prohibition on fishing on Sundays except in Holbeach) were provided to industry as part of the consultation. There was only limited feedback in regard to the licence conditions and no changes were proposed on this basis (see Appendix 2).

Closure of the fishery

It is proposed that the closure of the fishery is in the first instance determined by the exhaustion of the TAC. Typically, the uptake of the TAC is monitored, and a closing date is provided with 7-days' notice of when the TAC is estimated to be exhausted.

Where the TAC is not exhausted, it is proposed that the fishery closes to enable the 2022 stock surveys at the latest.

It is likely that this year, given the low densities, the fishery in effect will close as densities of cockles reduce to the point where fishing is no longer viable and yields reduce as colder weather sets in resulting in a lower price per kilo. This is likely to be prior to the exhaustion of the TAC.

Wash Restricted Area

The Wash Restricted Area (WRA) is the area of the Wash which falls between the boundaries of the WFO and the le Strange Estate. The Authority made the WRA Byelaw 2019 to enable management of fisheries in the area. The byelaw is yet to be confirmed by the Secretary of State and is not yet in force. And as such, this area is presently closed to fishing for bivalve molluscs under 'Byelaw 8: temporary closure of shellfish fisheries.'

The implementation of the byelaw is significantly delayed as a result of being linked to revised WFO Regulations which are being considered by Defra. These regulations were first submitted for consideration in 2017 and include additional regulations which align with the now well-established licence conditions. We are hopeful that the byelaw will come into effect during the 2021 cockle fishery to enable fishing in the WRA although, it is noteworthy that the survey indicates that the area does not currently support significant cockle stocks and is unlikely to attract much, if any, fishing effort.

Nonetheless, two routes are identified which would enable the byelaw to come into effect and are being pursued.

In summary, the preferred option is that the revised WFO regulation are consented by the Minister soon, and the byelaw can refer to these and operate under the same measures as the WFO fishery. In order to facilitate this option in a timely manner, prior to the next Authority meeting, it is proposed that the CEO is delegated authority in consultation with the Chair and Vice-Chair to open, and subsequently close a fishery within the WRA in line with the proposals for the WFO fishery. In addition, delegated authority to issue the operating times set out in Appendix 4 is proposed.

The less favoured option would be that the byelaw is consented with reference to the current WFO regulations. In order to facilitate this, the CEO would need the delegated authority (in consultation with the Chair or Vice-Chair) to open and close the fishery and issue operating times as above, but also to issue permit conditions under the byelaw which reflect those 'missing' from the current regulations. This would require a consultation as per the process set out in the byelaw and would ultimately take more time and result in the byelaw needing amendment at a later date.

Implementation of the revised Wash Fishery order 1992 Regulations

As above, the Minister is currently considering whether to consent the revised WFO Regulations which were first submitted in 2017. Should this happen during the

cockle fishery, most of the licence conditions proposed in this report would be unnecessary as they are replicated within the WFO Regulations.

It is therefore proposed that delegated authority is provided to the CEO, in consultation with the Chair or Vice Chair, which would enable the issuing, variation, or revocation of licence conditions having considered any implications of the revised WFO Regulations, as necessary.

Other delegated authority

It has been common practice over recent years for the CEO to be delegated authority, in consultation with the Chair or Vice-Chair, to introduce, vary or revoke management measures for both the WFO and WRA fisheries, including to the TAC, the opening times and areas and licence conditions, to accommodate the dynamic nature of the fishery without having to call a full Authority meeting. It is often the case that a delay in implementing such changes could result in either an impact to the Wash MPAs or to fishery livelihoods (for example, where there is evidence of mass die-off, areas of cockles need to be opened very quickly to avoid their loss prior to being fished).

This would also enable any requirements from the formal advice which is at the time of writing yet to be received from Natural England to be implemented as management measures to enable a fishery without calling a further full Authority meeting and at the earliest opportunity. In addition, this would enable revisions to the proposed management in line with any reviews which may be necessary, including for example, in relation to the additional Sunday openings to fish on Holbeach.

There is, during some years, a requirement to close the fishery for the purposes of mitigating disturbance to over-wintering birds during cold weather. Typically, this is more likely to occur during November and December.

Such authority would include revision of management measures with less than 7-days' notice where this is considered necessary.

It is proposed therefore that authority is delegated which can be exercised in consultation with the Chair or Vice-Chair as set out above.

Financial Implications

None identified

Legal Implications

None identified

Conclusion

The management of the 2021 cockle fishery is more complex than is often the case due to a combination of factors including the potential risk of die-off and the timing of

receiving advice from Natural England and consent for the revised WFO Regulations and WRA Byelaw 2019.

The recommendations proposed will mitigate risks to the Wash MPAs, the sustainability of stocks and to industry viability so far as is conceived possible. Delegated authority to the CEO (in consultation with the Chair and Vice Chair) is a crucial element to enabling a fishery in 2021 given the complexities identified and the dynamic circumstances of this years' fishery.

Appendices

Appendix 1 – Wash cockle survey summary 2021

Appendix 2 – Summary of feedback form WFO licence holders and nominated representatives

Appendix 3 – Proposed closed areas: Wash Fishery Order 1992 cockle fishery 2021

Appendix 4 – Proposed Operating times: Wash Fishery Order 1992 cockle fishery 2021

Appendix 5 – Proposed licence conditions: Wash Fishery Order 1992 cockle fishery 2021

Background Documents

Not applicable

Appendix 1 – Wash cockle survey summary 2021

SUMMARY OF THE 2021 ANNUAL SPRING COCKLE SURVEYS

Introduction

Covid-19 restrictions meant it was not possible to conduct the usual spring WFO 1992 cockle surveys in 2020. Instead, a limited stock assessment was conducted that focused on adjusting baseline data from the 2019 survey by changes seen at 74 sample stations. While this approach provided information with sufficient confidence to set a Total Allowable Catch (TAC) and open last year's fishery, albeit restricted to certain beds, cockle stocks are too dynamic to confidently use that approach two years consecutively. It was important, therefore, that a comprehensive survey was conducted this year. With Covid-19 still posing a significant risk to crew safety and operations, however, some changes were made to the usual survey routine to reduce the risk of the more important cockle beds remaining unsurveyed if the surveys had to be cancelled early due to crew ill-health. These changes included commencing the surveys one week sooner than usual, on March 14th and reducing the overall number of sample stations surveyed from approximately 1,150 to 960. This reduction in stations was accomplished in a manner that would have minimal impacts on the results, by:

1. Re-aligning 450 stations in the South West area of The Wash that had formally been sampled at a higher resolution to the rest of the beds, and
2. the removal of any stations that had not contained any cockles during the previous ten years.

Additionally, it was not possible for the boat to reach some of the stations situated higher up on the sands on the tides available. This reduced the final number of stations sampled to 942. Although these higher stations do occasionally support low densities of cockles, they are usually so slow growing they rarely reach 14mm width, so contribute little towards the TAC.

Results

Including the Ferrier, 23 beds were surveyed. Analysis of the data found the stocks to be:

Total Adult Stock (≥ 14 mm width)	15,848 tonnes
Total Juvenile Stock (< 14 mm width)	4,305 tonnes
Total Stock (all sizes)	20,153 tonnes

Based on the adult stocks levels, **the TAC for the 2021 fishery will be 5,283 tonnes**

Table 1 provides details about the stocks found on each bed, while figures 1-4 chart the distribution of the adult stocks (cockles ≥ 14 mm width), Year-0 juveniles, Year-1 juveniles and total cockle biomass found at each station. Total cockle biomass is not something we usually map, but given recent trends in the fishery have shifted towards targeting a higher proportion of smaller cockles than used to be the case, the distribution of total cockle biomass provides a better indication of which areas are most likely to be targeted than the chart showing only the distribution of larger cockles.

Table 1 - Summary of cockle stocks on the Wash intertidal beds – April 2021

SAND	Adult (≥14mm)				Juvenile (<14mm)				Total Biomass (t)	% Adult
	Area (ha)	Mean Density (no/m ²)	Mean Weight (t/ha)	Biomass (t)	Area (ha)	Mean Density (no/m ²)	Mean Weight (t/ha)	Biomass (t)		
Black Buoy	174	290.71	8.38	1459	149	170.83	2.59	387	1846	79
Blackguard	12	10.00	0.79	10	0	0.00	0.00	0	10	100
Breast	659	65.28	2.77	1825	622	102.60	1.87	1163	2988	61
Butterwick	311	54.00	2.71	843	124	21.00	0.34	42	885	95
Butterwick EXT	100	41.25	1.99	199	87	42.86	0.43	37	236	84
Daseley's	323	27.69	1.25	405	274	45.91	0.40	109	514	79
Friskney	572	43.26	2.80	1602	62	10.00	0.15	9	1611	99
Friskney EXT	149	17.50	1.13	169	25	15.00	0.24	6	175	97
Gat	162	41.54	3.28	531	25	1185.00	3.38	84	615	86
Herring Hill	137	24.55	1.03	140	211	188.82	2.30	486	627	22
Holbeach	709	70.35	3.27	2320	286	78.70	1.07	306	2626	88
IWMK	261	70.48	2.86	747	261	219.05	2.23	583	1329	56
Mare Tail	299	73.33	3.37	1006	348	192.14	2.39	832	1838	55
Outer Ferrier	12	10.00	0.90	11	0	0.00	0.00	0	11	100
Pandora	87	14.28	0.63	55	37	13.33	0.34	13	68	81
Peter Black	174	12.14	0.62	107	100	16.25	0.34	34	141	76
Roger	448	81.39	4.00	1789	100	85.00	1.10	109	1899	94
South Ferrier	137	22.72	1.22	167	50	30.00	0.16	8	175	95
Styleman's	25	25.00	1.43	36	12	10.00	0.33	4	40	90
Thief	162	20.00	1.31	211	50	72.50	0.59	29	241	88
Whiting Shoal	12	40.00	3.65	45	25	10.00	0.19	5	50	91
Wrangle	759	49.01	2.85	2166	224	17.78	0.19	43	2208	98
Wrangle EXT	12	10.00	0.44	5	37	23.33	0.40	15	20	27
Total	5,698			15,848	3,110			4,305	20,153	79

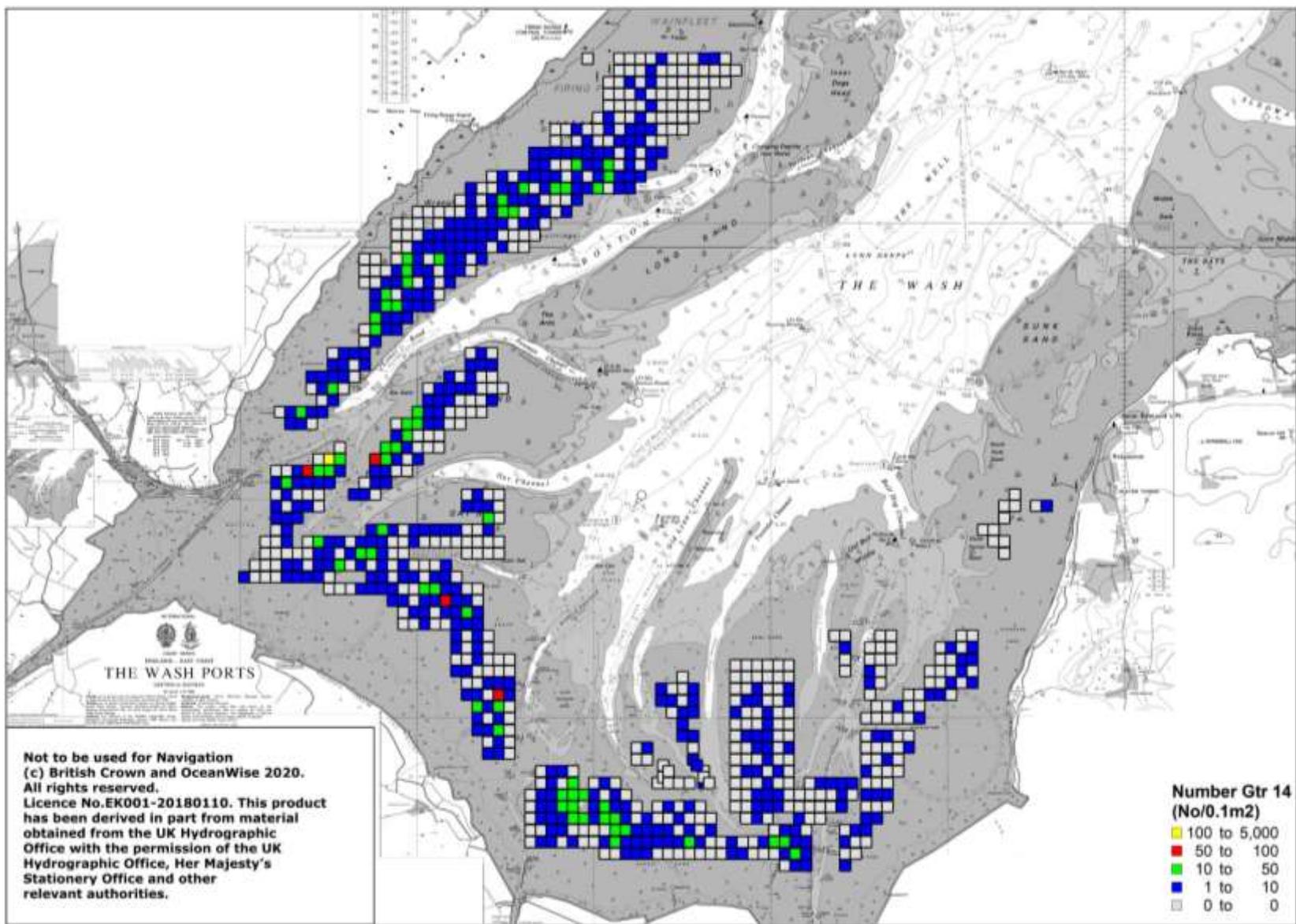


Figure 1 – Chart showing the distribution of adult cockles (≥ 14 mm width) at the time of the 2021 spring surveys

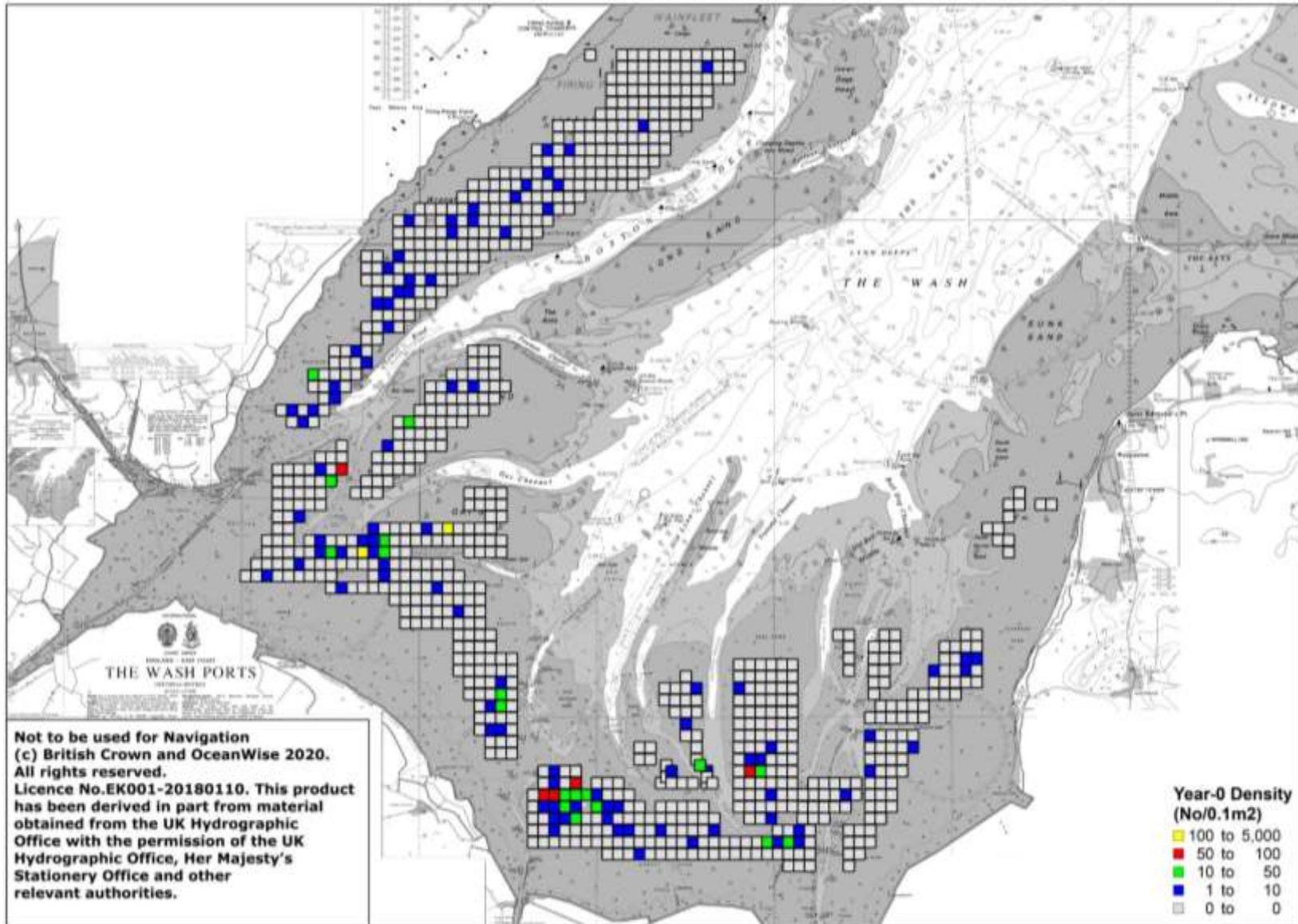


Figure 2 – Chart showing the distribution of Year-0 juvenile cockles (2020 cohort) at the time of the 2021 spring surveys

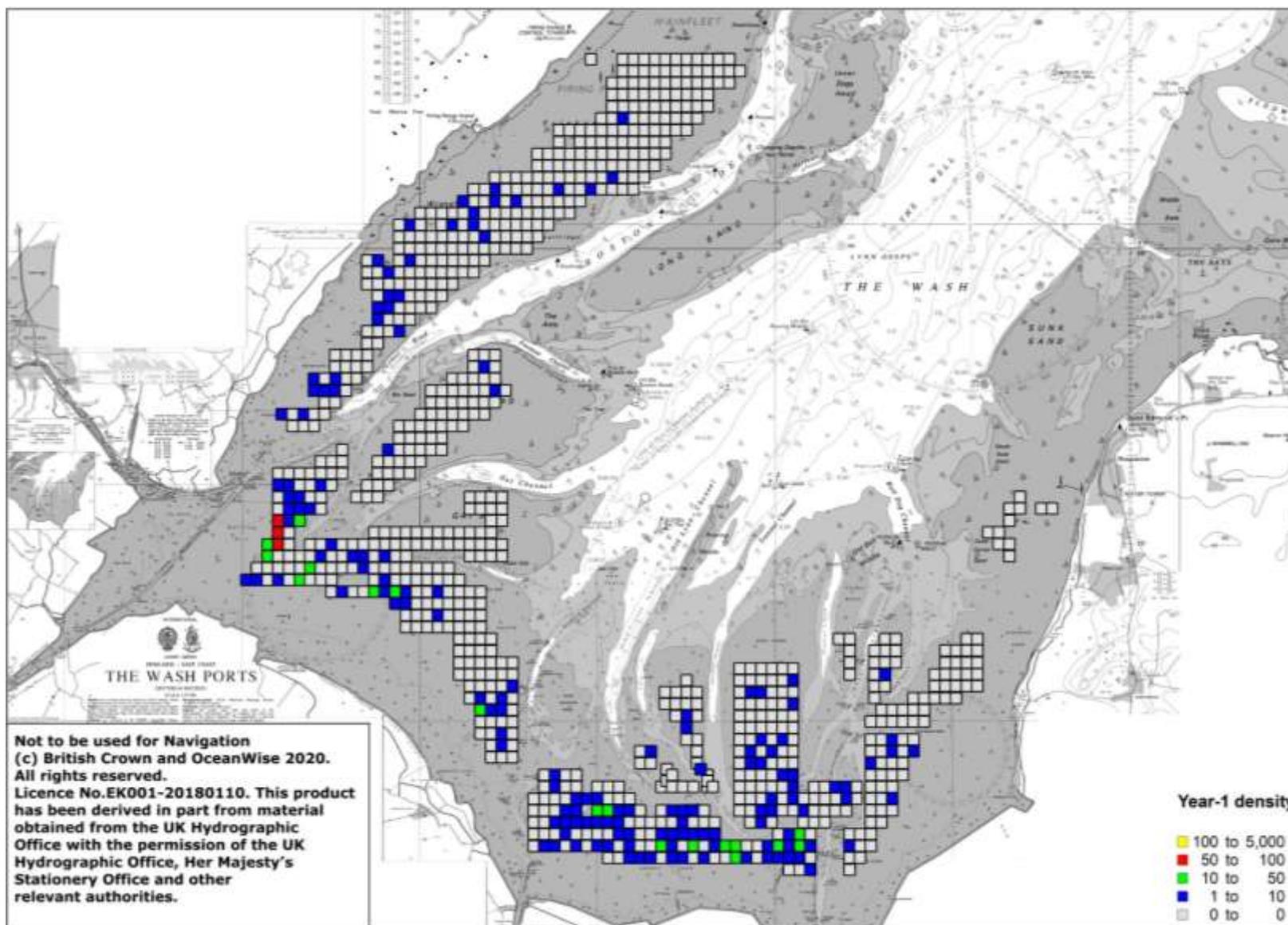


Figure 3 – Chart showing the distribution of Year-1 juvenile cockles (2019 cohort) at the time of the 2021 spring surveys

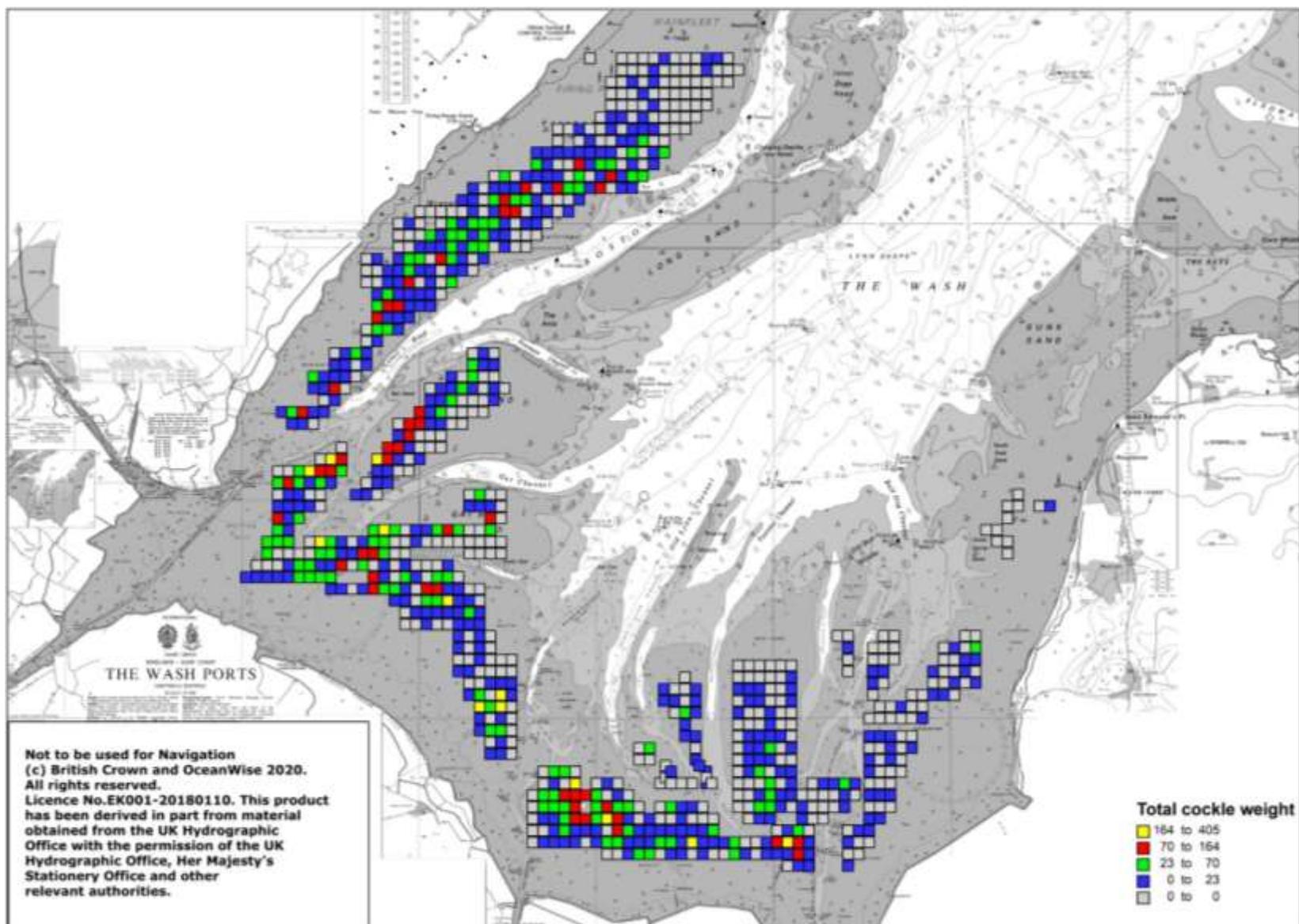


Figure 4 – Chart showing the total weight (g/0.1m²) of cockles at each station at the time of the 2021 spring surveys

Stock distribution and potential fishing opportunities

Since 2008, high proportions of cockles have died annually from what has been termed “atypical mortality”. This generally occurs during the summer months and primarily affects cockles that have reached a size of about 13-14mm width. On beds where cockle growth tends to be faster, mortalities usually occur among cockles that are two years old, while on slower growing beds, mortalities tend to be spread out among three and four year-old cockles. Past mortality trends indicated that the predominant cohort of 2018 year-class cockles on the faster-growing beds would be particularly vulnerable in 2020, with mortality rates as high as 90% anticipated on those beds. Although significant mortalities did occur over the summer, assessments conducted in August found mortalities were not as high as had been expected. The results from the recent survey confirm mortalities among the 2018 year-class cohort were not as high as had been expected. The distribution of adult cockle stocks in figure 1, which are predominantly composed of the 2018 year-class, show only low densities remain on the Roger, Gat, Friskney, Ferrier and IWMK sands. In addition to natural mortalities, however, all of these beds have supported one or both of the fisheries in 2019 and 2020. Elsewhere, other areas that had benefitted from a good settlement in 2018 but had either remained closed to the fishery, or had attracted lower fishing effort, still support fishable densities of cockles from this cohort. These include beds on the Dills and Tofts, plus smaller patches in Holbeach.

In the past decade, the high annual cockle mortalities have driven both fishing behaviours and fishery management decisions towards targeting smaller cockles before they die. As such, figures charting the distribution of $\geq 14\text{mm}$ cockles no longer truly reflect where the best fishing opportunities are situated, as the industry frequently target high-density patches of smaller cockles, or those areas supporting mixtures of large and smaller cockles. Figure 4, which shows the relative distribution of total cockle biomass, is a better indicator of where fishing opportunities will be. In addition to the beds on the Dills, Tofts and Holbeach, this chart highlights fishable patches at Butterwick, Wrangle, Mare Tail, IWMK and the Breast, plus small patches on the Gat.

Spatfalls

Since 2004 the cockle stocks in The Wash have benefited from a fairly consistent biennial pattern of successful spatfalls, with the best settlements occurring during the even-numbered years, interspersed with poor spatfalls during the odd-numbered years. The 2020 stock assessment did not have sufficient stations to ascertain whether there had been a good spatfall in 2019, but being an odd-numbered year, expectations of a good spatfall were not high. The current distribution of Year-1 year-class cockles (e.g. those that would have settled in 2019) shown in figure 3, indicates either the settlement in 2019 was indeed poor, or that mortalities have been high in the interim. The same biennial trend that predicted a poor settlement in 2019, suggested a good settlement should have occurred in 2020. However, only small quantities of Year-0 cockles were found during the recent survey and their distribution, shown in figure 2, is poor. There are only two small patches (on the Gat and Mare Tail) where their density exceeds $1,000/\text{m}^2$. To comply with the Handworked Cockle Fishery Management Plan, these two areas will need to be protected with closures shown in Figure 5.

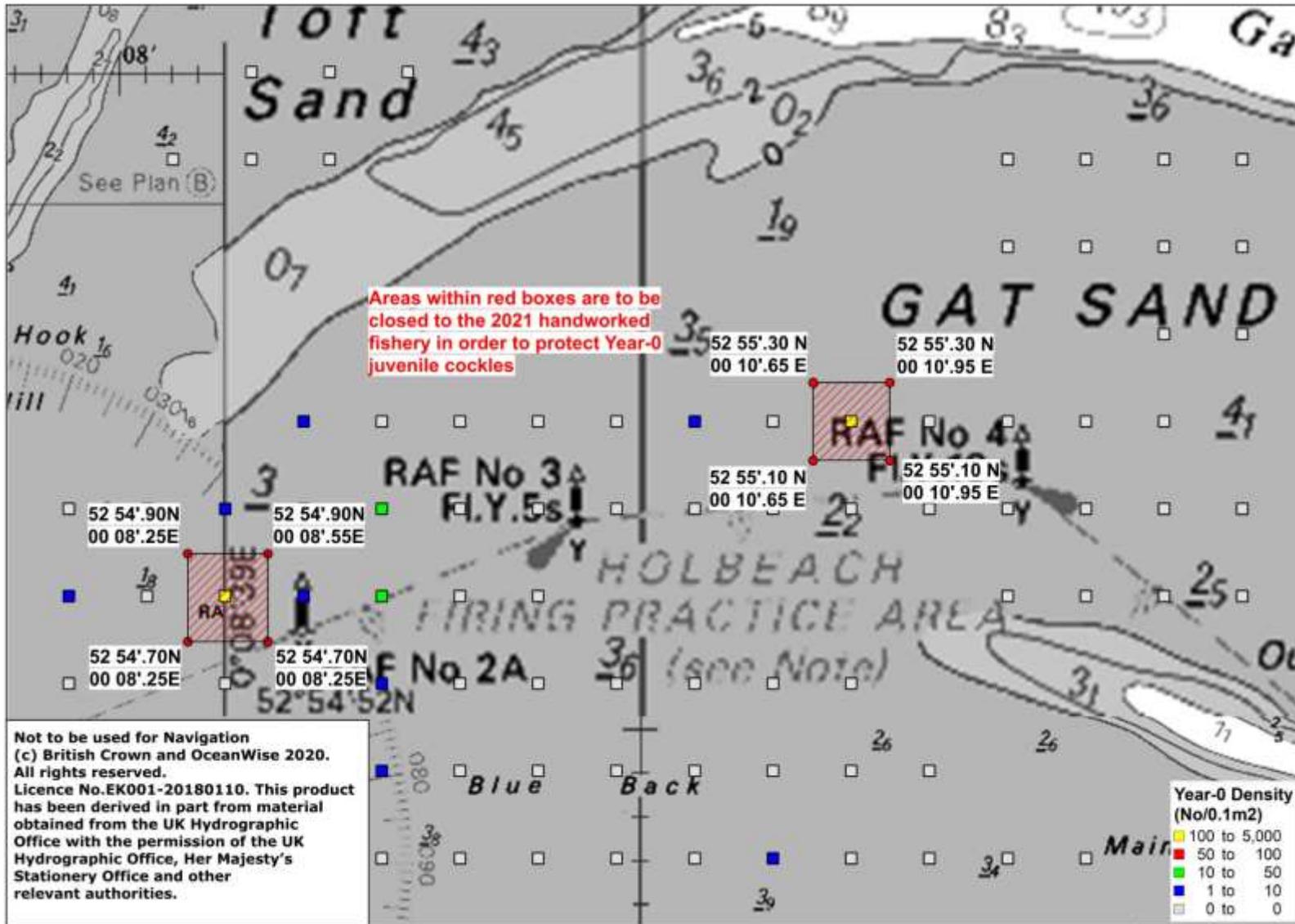


Figure 5 – Chart showing required closures to protect areas supporting high densities of Year-0 juvenile cockles

Stock composition

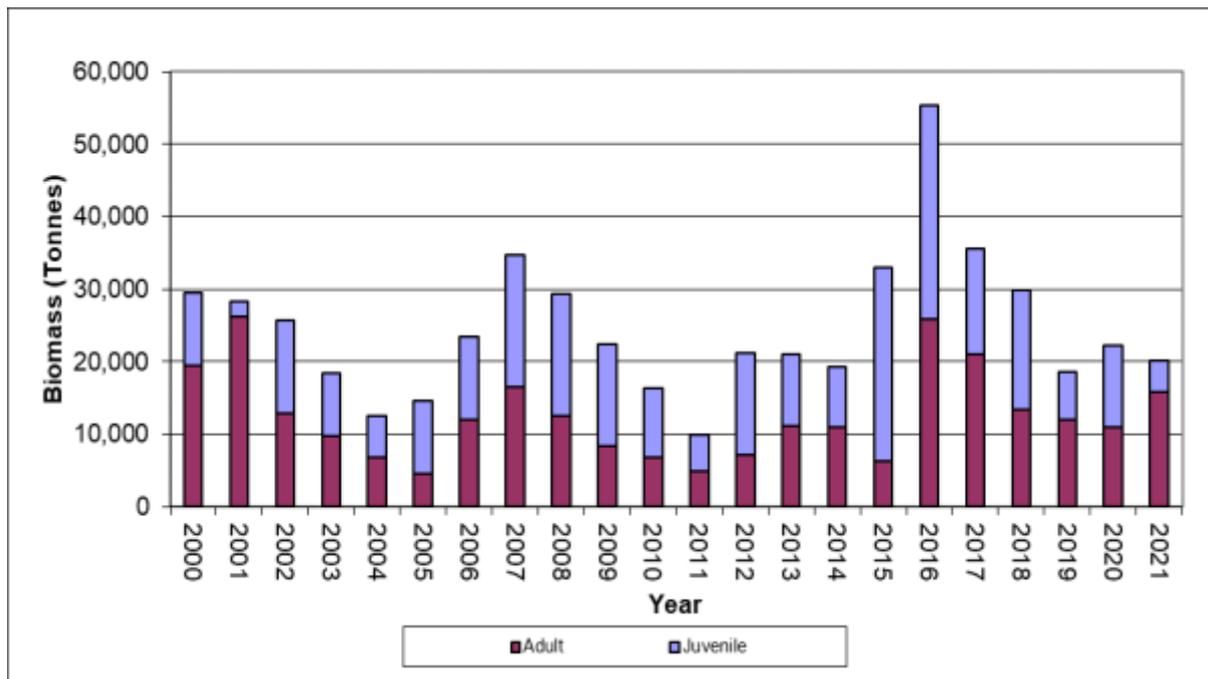


Figure 6 – Adult and juvenile cockle stock levels between 2000 and 2021 on the regulated beds

Figure 6 shows the biomass of cockles present during the annual surveys from 2000 onwards. From this chart it can be seen that this year's total stock of 20,153 tonnes is about average for this time-period. Due to a combination of two poor spatfalls and a better than usual survival of the adult stocks last year, however, the proportion of larger cockles within the population is much higher than usual. Prior to 2008, the proportion of adult cockles used to be about 50% of the total biomass. After 2008, the impact of "atypical" mortality killing disproportionate numbers of large cockles caused this number to fall to about 40%. This year, that proportion has risen to 79%, its highest level apart from in 2001. While this high proportion of adult cockles has benefited the industry with a relatively high TAC, it will bring challenges – particularly once the higher density patches of cockles become thinned.

Despite the high mortality rates that the cockles have suffered since 2008, regular spatfalls have helped the stocks to remain sustainable. The breaking of this cycle with the failure of two successive spatfalls, however, threatens that sustainability and will have serious ramifications for both next year's fishery and the following one in 2023. With only low densities of these juveniles in the population, next year's fishery will be heavily reliant on the surviving cockles from the 2018 year-class cohort – the same cohort that has supported the previous two fisheries and which will be the main target of this year's fishery. In order to support a fishery next year, therefore, serious consideration should be given to keeping some of the slower-growing beds closed this year. Figures 7 and 8 highlight areas that officers strongly recommend remain closed this year to facilitate a fishery in 2022 (red boxes) and additional areas (in blue boxes) for the industry's consideration. It should be noted that the blue box on Hook Hill (labelled A) does contain a dense patch of large cockles that are suitable for harvesting this year and would be vulnerable to being lost if not fished this year.

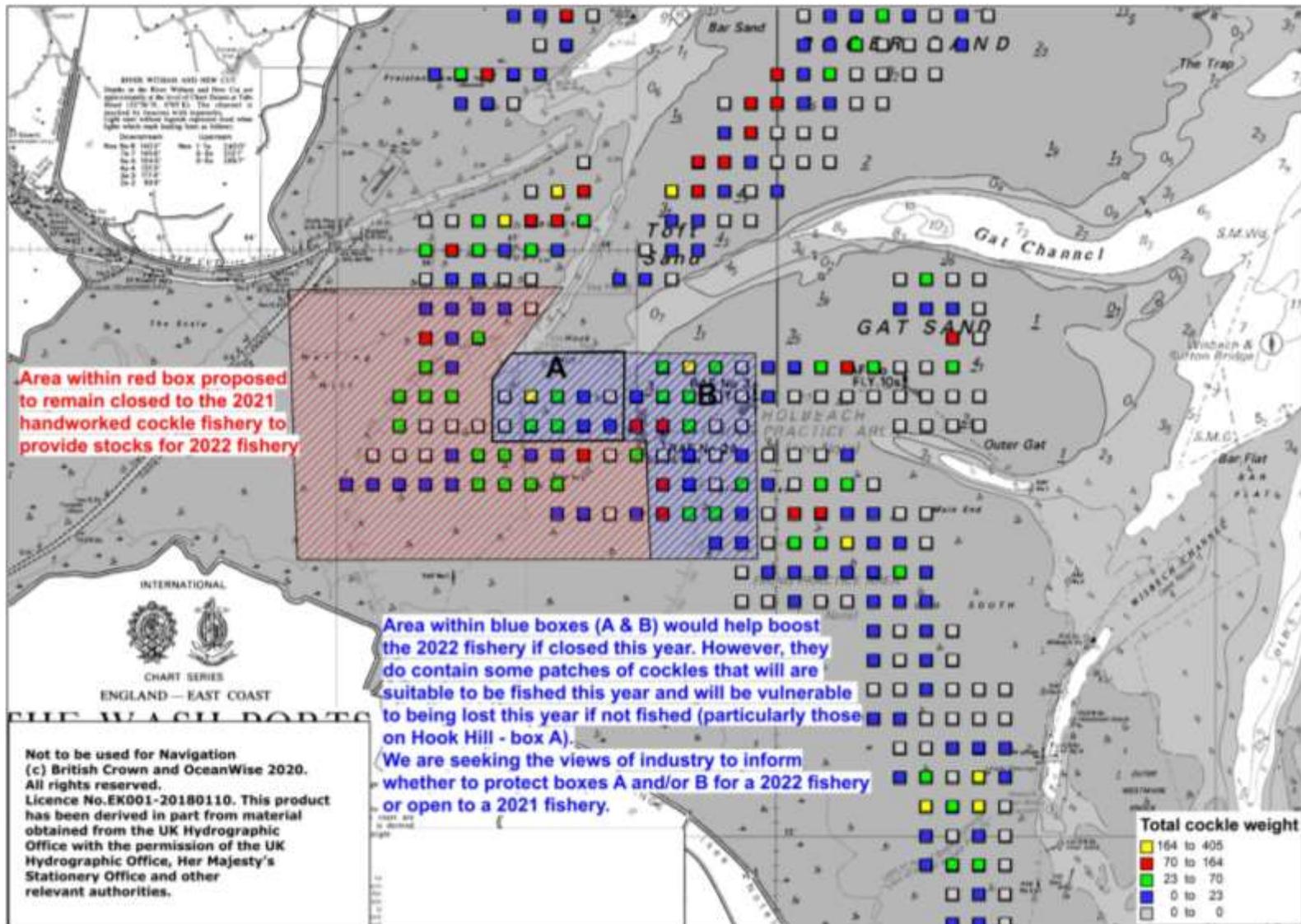


Figure 7 – Chart highlighting proposed closures on Black Buoy, Herring Hill and Mare Tail beds, to retain stocks for the 2022 fishery.

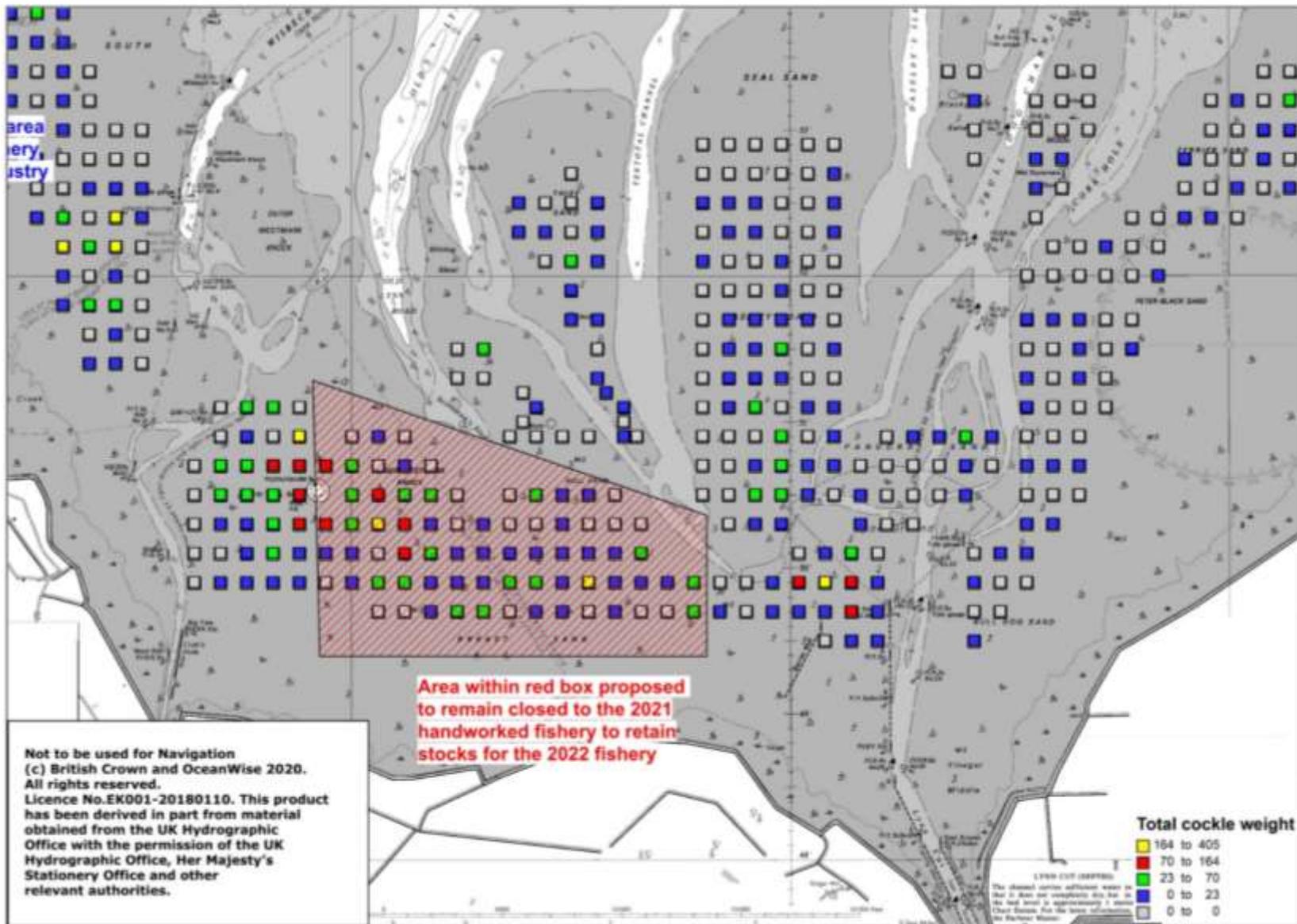


Figure 8 – Chart highlighting proposed closures on the Breast sand, to retain stocks for the 2022 fishery.

DETERMINING MANAGEMENT MEASURES FOR THE 2021 COCKLE FISHERY

When determining management measures for the cockle fisheries in The Wash, the Authority must comply with local byelaws and the Wash Fishery Order regulations. Further, as The Wash is designated a Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI), management measures applied to the shellfisheries must not have a detrimental impact to the Conservation Objectives for the site. To this end, when determining management measures for these fisheries, the Authority follows a number of management policies that were agreed in 2007 with Natural England and industry representatives, and have been subsequently reviewed and updated into the Wash Cockle Fishery Management Plan. These policies have helped guide the following proposals for the 2021 cockle fishery.

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

Total Allowable Catch (TAC)

Since its introduction in 1998, the TAC for the cockle fishery has been set at 33.3% of the adult ($\geq 14\text{mm}$ width) cockle biomass. The adult biomass identified during the surveys this year is 15,848 tonnes (note, this figure is the total for the WFO 1992 beds and the Restricted Area beds on the Ferrier combined). Based on this figure, **the TAC for the 2021 fishery is proposed to be 5,283 tonnes.**

Method of fishing

At a Full Authority meeting on 27th April 2016, the members determined that although hydraulic suction dredges should not be totally banned, future cockle fisheries should default to being hand-worked, with dredges retained only as a contingency option if exceptional circumstances required their use. It is not felt there are exceptional circumstances necessitating the requirement to use dredges for the 2021 fishery, so there is no recommendation for an exceptional dredge fishery.

The 2021 cockle fishery will, therefore, be hand-worked only.

Beds proposed to be opened to the 2021 fishery

Successful settlements of juveniles are vital for the sustainability of the fishery. To protect juvenile stocks, the Authority has a policy whereby high-density patches of Yr-0 juvenile cockles are kept closed from the fishery. Following a relatively poor spatfall in 2020, there are only two small patches of Year-0 cockles requiring closing this year. These are shown in figure 5.

For reasons described above, however, concerning the need to retain sufficient cockles to support a fishery in 2022, officers strongly recommend some of the stocks on the slower-growing beds remain closed this year. These areas are highlighted in figures 7 and 8. Officers strongly recommend that areas within the red boxes remain closed to the 2021 fishery. These areas mainly support smaller, slow-growing cockles, that tend to be less vulnerable to atypical mortality than faster-growing cockles. As

such, the benefit of closing these areas in order to support a fishery in 2022 outweighs the risk of losing them.

In addition to the red boxes that are recommended to be closed, two blue boxes (labelled A and B in figure 7) have also been highlighted for possible closure. As with the red boxes, the closure of either of these two boxes would benefit next year's fishery. However, it should be noted that these boxes do support some patches of larger cockles that are suitable to be harvested this year and that are of a size whereby they will be vulnerable to loss if not fished this year. A subsequent inspection of the cockles on the southern Hook Hill sand (in box A) on May 10th, did find a significant stock of cockles that could be vulnerable if left closed. Officers would like industry feedback on whether they would prefer either of these two boxes to be closed to the 2021 fishery. Their closure could significantly improve the 2022 fishery, but there is a high risk significant numbers of the cockles in these areas could die before then.

It should be noted that the closure of any of these areas will not affect the size of the TAC for the 2021 fishery, only the ease at which it is taken. While keeping more areas open this year would make it easier to harvest this year's TAC, thinning out those patches this year will make it much harder next year.

It is recommended that all beds are opened, subject to two closures to protect high-density juvenile stocks, plus highlighted areas (in red boxes) on the slower-growing beds to support the 2022 fishery. A decision regarding the opening or closure of the blue boxes should be made following consultation with the industry.

Daily Vessel Quota

Regulation 2 of the WFO sets the daily catch restriction at 2 tonnes, per vessel, per calendar day during a hand-worked fishery.

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

Appendix 2 – Summary of feedback from WFO License holders and nominated representatives

Feedback / objection	Consideration	Proposed action
<i>Strat date of fishery</i>		
<p>The fishery should open earlier to enable cockles to be taken before they are lost to die-off (specifically, atypical mortality). Some die off observed by fishermen on the Thief on the week commencing 17 May.</p>	<p>The view in the majority was that the fishery should open on the 21st as initially proposed. However, early representation (prior to consultation) was made to the effect that die-off was likely to have a significant impact this year and so industry were asked specifically about an earlier opening during the consultation. The earliest suggested opening date was the 7th of June.</p>	<p>A combination of factors (anecdotal reports of die-off, higher than usual proportion of stock susceptible to die-off and low densities of cockles) indicate that an early opening may be of benefit to the industry.</p>
<p>The start date should be the 21st as proposed. This will give cockles time to increase in yield and reflects a lower risk of die-off due to a cold spring.</p>	<p>In addition to the observations of fishermen (of die-off on the Thief), officers noted die-off (due to atypical mortality) on two other beds during a survey on the 10th of May. It is estimated that the rate of die-off at that time was around 1% per day, although no formal assessment was made at the time. At this rate of die-off, the biomass of adult cockles could reduce by 1/3 prior to a fishery opening.</p> <p>A greater proportion of the 2021 stock is susceptible to atypical mortality than in a typical year. This is because atypical mortality effects cockles during the season they become sexually mature (over 14mm in width) and spawn. The 2021 cockle stock survey identified that nearly 80% of the stock is adult stock, around twice as much as is typical. As such, a much greater proportion of the stock is likely to be lost this year than is ordinarily the case. This is true of the vast majority of beds in The Wash, meaning that most areas are susceptible to die-off.</p> <p>The survey also identified that, whilst there is a reasonable TAC, this is primarily made up of low density, larger cockles. This is likely to mean that the fishery will become unviable prior to the TAC being exhausted, as fishing and mortality reduces densities further throughout the</p>	<p>An opening date of the 7th of June was not possible as the opening is subject to the Authority receiving favourable conservation advice and providing sufficient notice of an opening.</p> <p>It is therefore proposed to open the fishery on the 14th of June, or as soon as possible after this date to enable some additional fishing opportunity, to mitigate losses due to die-off and</p>

	<p>season, to the point where hardworking is not effective at removing the required quantity of cockles.</p> <p>In addition, it is likely that the 2022 and 2023 cockle fisheries will be less productive, on the basis that there was poor spat fall in 2020. Therefore, enhancing the productivity of the 2021 cockle fishery will potentially mitigate the poorer fisheries in the following years.</p> <p>These factors combined indicate that there could be benefit in opening the fishery early, taking more cockle earlier in the season whilst densities are higher and prior to them being lost to atypical mortality.</p> <p>The potential risks of an early opening are that it could result in an earlier close (either because the TAC is exhausted or because densities become too low), putting earlier pressure on other fisheries, most notably the shrimp fishery. In addition, the majority view of industry is that the fishery is opened on the 21st of June to allow more time for cockles to increase in yield – cockles are likely to have a lower value earlier in the season prior to growth during warmer conditions. It is also noteworthy that some representations are to the effect that the die-off will be limited this year because of a cold spring (noting that atypical mortality has more impact on years where temperatures are warmer, as cockles grow and sawn earlier).</p>	<p>through decreased densities later in the season. This would be subject to receiving favourable conservation advice before this time. Industry have been notified of the potential for the opening date to be the 14th in writing.</p>
<i>Total Allowable Catch</i>		
<p>To reduce the Total Allowable Catch (TAC) to 4,500 tonnes to preserve some for next year and because low densities mean that the fishermen are unlikely to be able to take the full TAC in any case</p>	<p>Adult cockles are susceptible to atypical mortality and typically perish during the season that they spawn and, make up a much greater proportion of the total stock this year than is typical. Therefore, reducing the TAC to preserve stock for 2022 is unlikely to have the desired beneficial effect. It is acknowledged that the TAC is unlikely to be taken in full as a reflection of low densities and so the TAC is unlikely to be exhausted in any case.</p>	<p>To maintain the TAC as proposed.</p>

<i>Fishing on Holbeach</i>		
<p>Include Sunday opening to enable access to Holbeach (which is closed during weekdays when used as a military bombing range)</p>	<p>The majority view from the consultation was to open Holbeach on Sundays on a limited basis, with Holbeach being the only bed open to ensure effort is concentrated there.</p>	<p>To include additional open periods, where access is limited to Holbeach only, to enable access to the area as it represents a significant proportion of the available stock.</p>
<p>Holbeach should remain closed to allow cockles to spawn and contribute to future cockle fisheries</p>	<p>A significant proportion of the fishable stock is on Holbeach this year and it is not accessible during weekdays as the area is used as a military firing range.</p> <p>The industry typically prefers Sunday openings to Saturday openings if weekend openings are required.</p> <p>Holbeach will provide a significant amount of cockle spawn into the fishery. Typically, cockles spawn during spring and the majority are likely to have spawned prior to the opening of the fishery. Therefore, the benefit to future fisheries is considered limited on that basis.</p> <p>The preference of the industry is to open Holbeach on some Sundays in addition to the days already proposed. This will create longer working weeks and will go beyond the agreed principles which are ordinarily worked to (i.e. 4-days per week). However, it is considered appropriate given the risk of die-off, particularly earlier in the season, to enable additional fishing opportunity before densities are reduced to the point that the fishery is no longer viable.</p>	<p>In previous years, where Sunday openings have been included to enable access to Holbeach, the uptake has been limited. As such, it is proposed that this is reviewed during August with a view to revoke Sunday openings if uptake is low.</p>
<i>Open / closed areas</i>		
<p>Cannot comment on closed areas without first walking the sands</p>	<p>The proposed closed areas include two larger areas which contain cockles which are likely to contribute to the 2022 fishery. This is because they are on slower growing beds and are less likely to suffer from atypical mortality.</p>	<p>To reduce the size of the non-discretionary, Southeast closure to enable fishing on a part of the area which is faster growing and more</p>
<p>The closure over Inner West Mark Knock (non-discretionary area) is reconsidered as there is an</p>	<p>The original proposals included an area to the north of Inner West Mark Knock (i.e. north of 'the mountain'). This northern area is more likely to</p>	

<p>area of larger cockles to the North of the 'mountain' which would benefit from being fished this year.</p>	<p>be lost during 2021 as a result of atypical mortality as the area is lower and supports faster growing cockles as a result.</p>	<p>likely to be lost to atypical mortality.</p>	
<p>The discretionary areas should be open</p>	<p>Two additional (discretionary) areas were identified that contain a mixture of cockles which are likely to perish this year (from atypical mortality) and some which are less likely. Industry was asked specifically what their preference for these areas is (i.e. whether to keep them closed and risk some loss, or to open them and risk less being available next year).</p>	<p>One of the discretionary areas, (Box A, Herring Hill) is more likely to suffer from die-off this year. It is proposed therefore that this area is open to the 2021 fishery.</p>	
<p>The discretionary areas should be closed</p>			<p>The other discretionary area, (Box B) is less likely to suffer from die-off this year, although some risk remains. It is proposed that this area is closed to the 2021 fishery.</p>
<p>Additional closures for reasonable densities of juvenile cockles</p>			<p>There was no overwhelming consensus on this matter, with many fishermen explaining that they hadn't had time to walk the areas themselves and could not form a view.</p>
<p><i>Operating times</i></p>			
<p>Open times should reflect the timing (time of day) of tides as well as the height</p>	<p>The open periods are proposed following the principles agreed with industry previously (4 days per week, Mon to Thurs where possible, tide heights of 6.0m or higher).</p>	<p>To revise the July open period as suggested.</p>	

<p>The open periods 19 July to 22 July should be changes to 20 July to 23 July to enable fishing in daylight hours.</p>	<p>To enable as much fishing as possible in line with these principles, some open periods fall over unsociable hours and hours of darkness. We seek the views of industry so that this can be taken into account.</p> <p>Moving the open period in July, as suggested, is not considered to have any impact.</p>	
<p><i>Miscellaneous</i></p>		
<p>IFCOs should not weigh catch as it is landed in a standard bag.</p>	<p>Standard bags are required so as to reduce the risk associated with landing over the daily catch restriction. This is on the basis that the dimensions of the bags restrict the amount of cockle therein to approximately one tonne per bag.</p> <p>However, the size and yield of cockles can have an impact on the weight to volume relationship and so, the weighing of bags is still required to ensure compliance with the 2-tonne daily catch restriction.</p> <p>Whilst the use of standard bags does reduce the need to weigh all bags, it would not be possible to effectively enforce the daily catch restriction without weighing catch as required.</p> <p>It is noteworthy that this restriction is being actively considered as part of the work to replace the WFO.</p>	<p>Officers will continue to weigh bags as and when this is considered necessary.</p>
<p>Transshipping should be allowed.</p>	<p>Transshipping is prohibited to remove a potential defence for having landed over quota.</p> <p>Where there is a legitimate reason for transshipping (such as a vessel breakdown), the Authority exercised its discretion with regards to enforcing the measure and this has been the case on several occasions in the past.</p>	<p>It is proposed that the provision is retained as is and that discretion is exercised with regards to its enforcement.</p>

Appendix 3 – Proposed closed areas

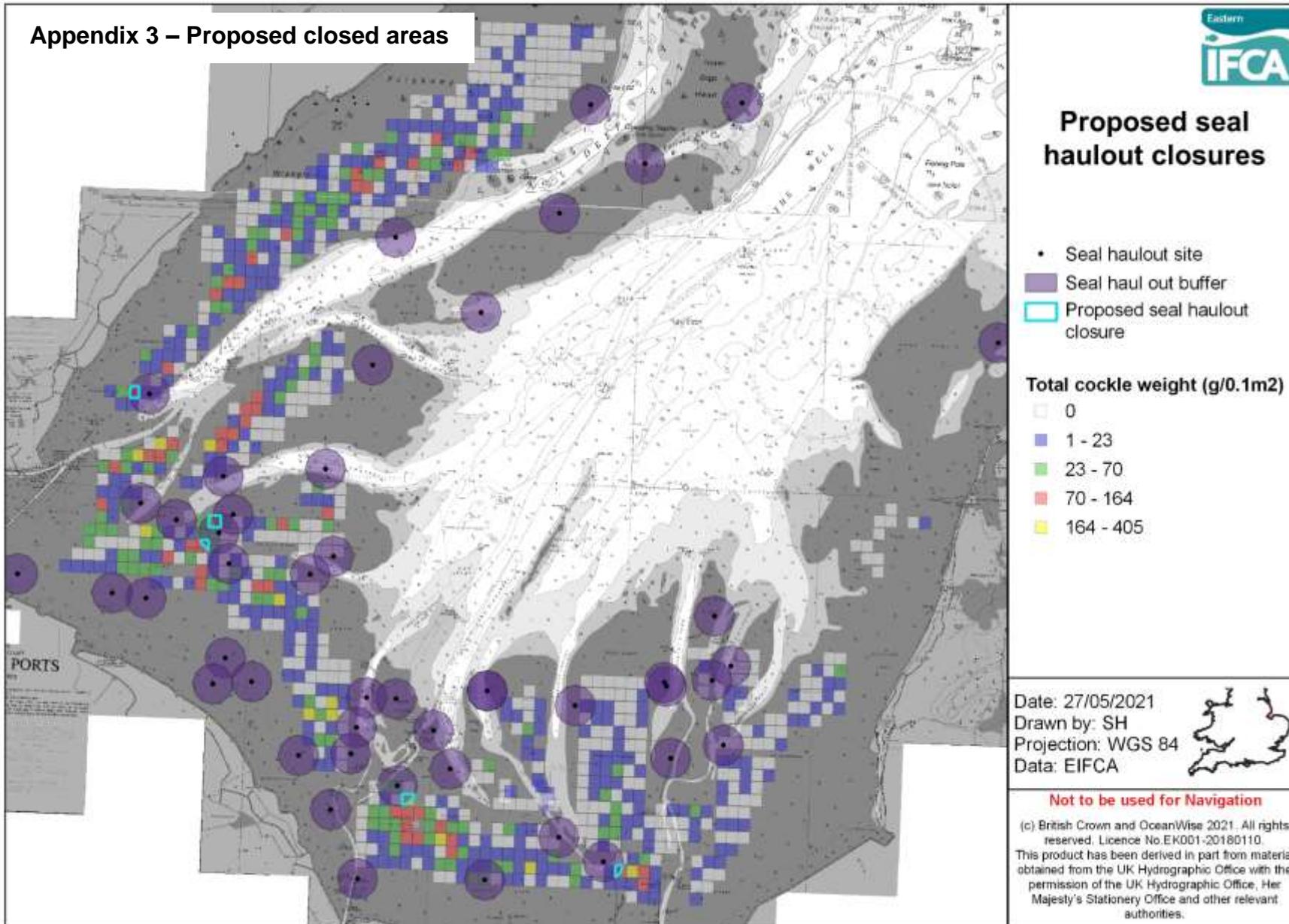


Chart 1: Seal Haul-out sites (purple circles) which overlap with areas of higher cockle abundance (yellow and red squares) require closed areas (light blue shapes) to protect seals from disturbance by fishermen.

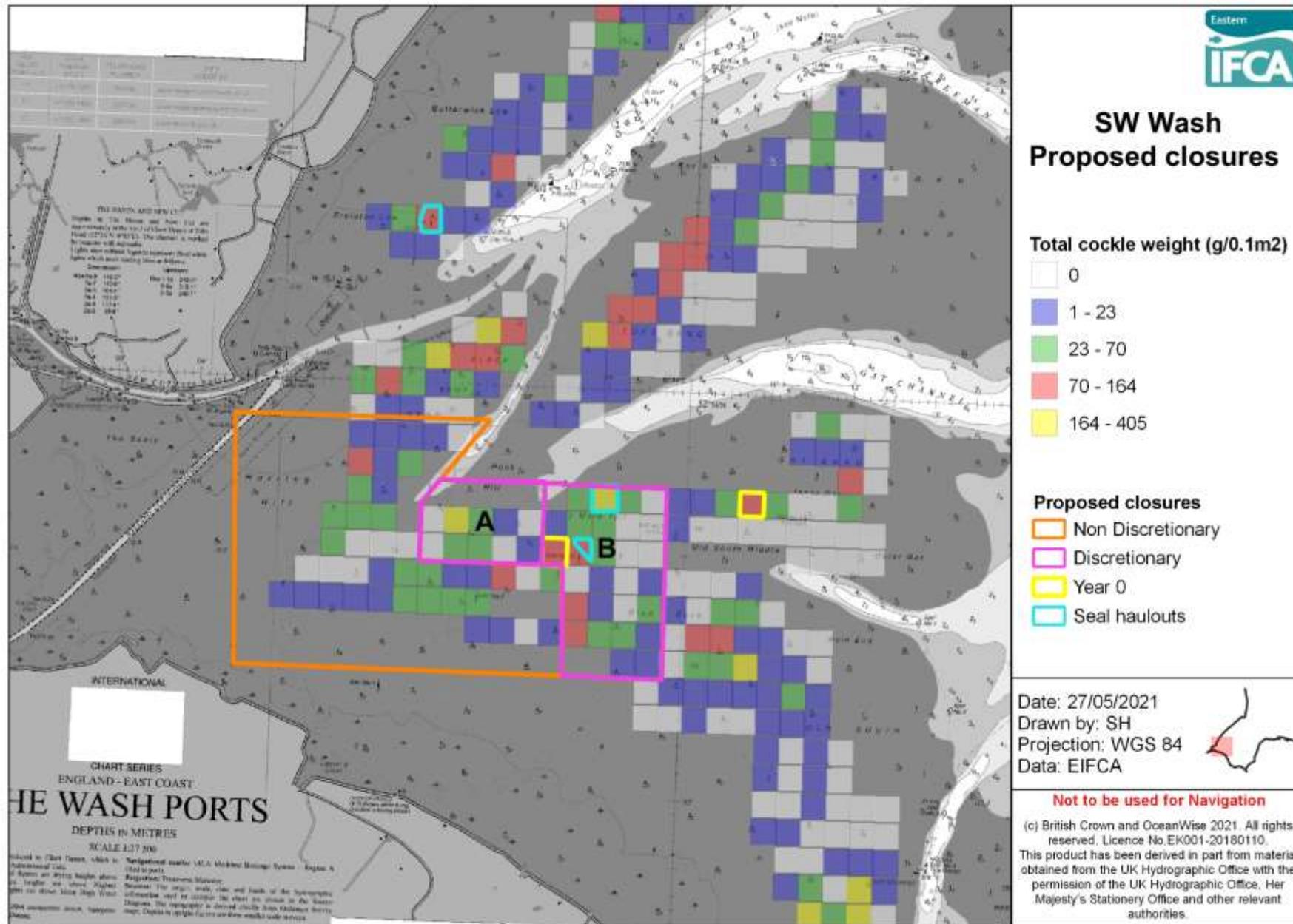


Chart 2: Proposed closed Areas on the South-West side of The Wash. Area A is proposed as being open to the cockle fishery.

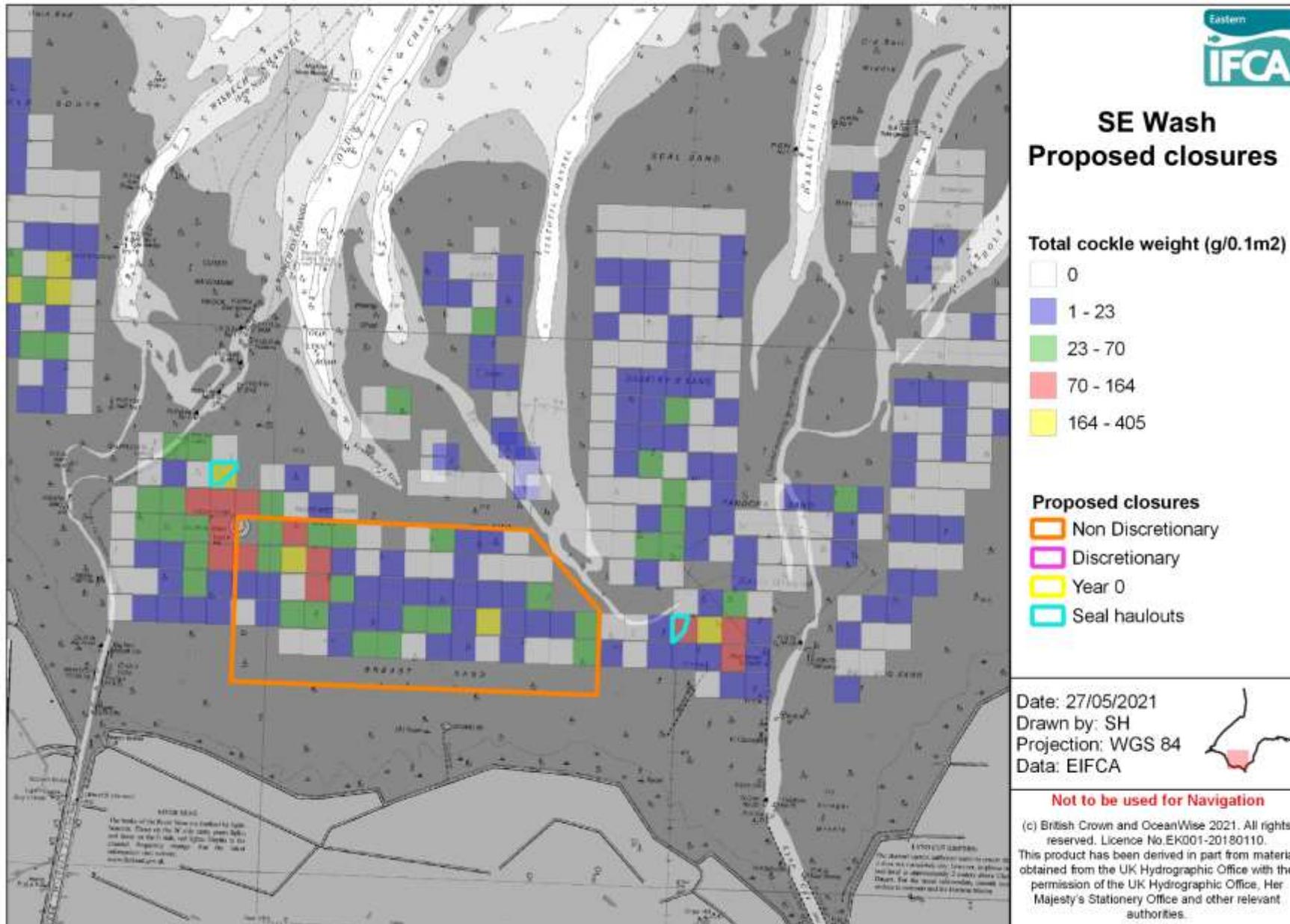


Chart 3: Proposed closed Areas on the South-East side of The Wash.

Appendix 4 – Proposed Operating times

Wash Fishery Order 1992 Cockle Fishery 2021: Proposed operating times

	White rows are open periods
	Orange rows are open to Holbeach only
	Blue rows are closed periods

June 2021

Date	Day	High Water	Height	High Water	Height	Open / Close
1	T	11:27	6.5	***	***	
2	W	00:39	6.0	12:24	6.2	
3	T	01:53	5.7	13:35	5.9	
4	F	03:00	5.7	14:51	5.9	
5	S	04:01	5.9	15:57	6.0	
6	S	04:53	6.1	16:51	6.2	
7	M	05:36	6.3	17:36	6.4	
8	T	06:12	6.5	18:18	6.6	
9	W	06:47	6.7	18:57	6.7	
10	T	07:20	6.9	19:35	6.8	
11	F	07:53	7.0	20:12	6.8	
12	S	08:25	7.0	20:48	6.7	
13	S	08:58	7.0	21:24	6.6	
14	M	09:33	6.8	22:03	6.4	Open @ 07:30
15	T	10:09	6.7	22:45	6.3	
16	W	10:51	6.5	23:33	6.1	
17	T	11:38	6.3	***	***	
18	F	00:30	5.9	12:34	6.2	Close @ 03:30
19	S	01:37	5.9	13:41	6.3	
20	S	02:47	6.0	14:51	6.4	
21	M	03:51	6.3	15:57	6.7	Open @ 02:00
22	T	04:50	6.6	16:59	7.0	
23	W	05:45	6.9	18:00	7.3	
24	T	06:36	7.2	18:57	7.4	
25	F	07:24	7.4	19:52	7.5	Close @ 22:50
26	S	08:09	7.5	20:45	7.5	
27	S	08:54	7.5	21:35	7.3	Open @ 07:00
28	M	09:37	7.4	22:24	6.9	
29	T	10:20	7.2	23:13	6.5	
30	W	11:04	6.9	***	***	

July 2021

Date	Day	High Water	Height	High Water	Height	Open / Close
1	T	11:51	6.5	***	***	
2	F	01:01	5.8	12:45	6.2	Close @ 03:00
3	S	02:00	5.6	13:48	5.9	
4	S	03:01	5.6	14:57	5.8	
5	M	04:00	5.7	16:04	5.8	
6	T	04:53	5.9	17:03	6.0	
7	W	05:39	6.2	17:54	6.2	Open @ 03:40
8	T	06:20	6.5	18:38	6.4	
9	F	06:57	6.7	19:18	6.6	Close @ 22:20
10	S	07:33	6.9	19:57	6.7	
11	S	08:09	7.1	20:34	6.8	Open @ 06:00
12	M	08:43	7.1	21:12	6.8	
13	T	09:19	7.2	21:51	6.8	
14	W	09:57	7.1	22:31	6.7	
15	T	10:35	7.0	23:15	6.5	
16	F	11:18	6.9	***	***	
17	S	00:02	6.3	12:06	6.7	Close @ 03:00
18	S	00:57	6.1	13:03	6.5	
19	M	02:04	6.0	14:15	6.4	
20	T	03:15	6.1	15:30	6.4	Open @ 01:00
21	W	04:24	6.3	16:47	6.6	
22	T	05:28	6.6	17:57	6.9	
23	F	06:24	7.0	18:57	7.2	Close @ 23:00
24	S	07:12	7.3	19:50	7.3	
25	S	07:57	7.6	20:38	7.4	Open @ 06:00
26	M	08:39	7.7	21:22	7.3	
27	T	09:19	7.6	22:03	7.0	
28	W	09:57	7.5	22:42	6.7	
29	T	10:36	7.2	23:19	6.3	
30	F	11:15	6.8	23:58	6.0	Close @ 03:00
31	S	11:57	6.4	***	***	

August 2021

Date	Day	High Water	Height	High Water	Height	Open / Close
1	S	00:43	5.7	12:48	5.9	
2	M	01:42	5.4	13:54	5.6	
3	T	02:53	5.3	15:14	5.4	
4	W	04:05	5.5	16:32	5.6	
5	T	05:06	5.9	17:33	5.9	
6	F	05:55	6.3	18:21	6.3	
7	S	06:36	6.7	19:03	6.6	
8	S	07:13	7.0	19:40	6.9	Open @ 05:15
9	M	07:49	7.3	20:17	7.1	
10	T	08:24	7.5	20:54	7.2	
11	W	09:00	7.6	21:32	7.3	
12	T	09:36	7.6	22:10	7.1	
13	F	10:14	7.6	22:50	6.9	
14	S	10:54	7.3	23:32	6.6	Close @ 02:30
15	S	11:39	7.0	***	***	
16	M	00:21	6.2	12:36	6.6	
17	T	01:26	5.9	13:51	6.2	
18	W	02:46	5.8	15:24	6.1	
19	T	04:09	6.0	16:55	6.3	Open @ 02:00
20	F	05:21	6.5	18:04	6.7	Close @ 21:00
21	S	06:15	7.0	18:58	7.1	
22	S	07:00	7.4	19:44	7.3	Open @ 05:00
23	M	07:41	7.6	20:24	7.4	
24	T	08:19	7.8	21:00	7.3	
25	W	08:55	7.8	21:33	7.1	
26	T	09:30	7.7	22:05	6.9	
27	F	10:05	7.4	22:35	6.6	Close @ 01:30
28	S	10:39	7.0	23:06	6.3	
29	S	11:14	6.5	23:42	5.9	
30	M	11:57	5.9	***	***	
31	T	00:30	5.5	12:57	5.4	

September 2021

Date	Day	High Water	Height	High Water	Height	Open / Close
1	W	01:41	5.2	14:27	5.1	
2	T	03:12	5.2	16:01	5.3	
3	F	04:30	5.6	17:10	5.8	
4	S	05:27	6.2	18:00	6.3	
5	S	06:10	6.7	18:41	6.8	
6	M	06:48	7.1	19:18	7.1	Open @ 04:50
7	T	07:24	7.5	19:54	7.4	
8	W	08:00	7.8	20:31	7.6	
9	T	08:36	8.0	21:07	7.6	
10	F	09:12	8.0	21:45	7.5	
11	S	09:51	7.9	22:22	7.2	Close @ 01:45
12	S	10:32	7.5	23:03	6.8	Open @ 08:30
13	M	11:19	7.0	23:51	6.3	
14	T	***	***	12:19	6.3	
15	W	00:56	5.9	13:48	5.8	Close @ 03:00
16	T	02:27	5.7	15:37	5.9	
17	F	04:01	6.0	17:02	6.3	
18	S	05:12	6.5	18:03	6.8	
19	S	06:03	7.0	18:49	7.2	Open @ 04:00
20	M	06:44	7.4	19:27	7.3	
21	T	07:20	7.7	20:00	7.4	
22	W	07:54	7.8	20:30	7.3	
23	T	08:29	7.8	21:00	7.3	
24	F	09:02	7.7	21:28	7.1	
25	S	09:34	7.4	21:56	6.8	Close @00:30
26	S	10:06	7.0	22:24	6.5	
27	M	10:38	6.4	22:55	6.1	
28	T	11:17	5.9	23:36	5.7	
29	W	***	***	12:11	5.3	
30	T	00:37	5.3	13:42	5.0	

October 2021

Date	Day	High Water	Height	High Water	Height	Open / Close
1	F	02:16	5.1	15:24	5.2	
2	S	03:46	5.5	16:36	5.7	
3	S	04:49	6.1	17:29	6.4	
4	M	05:36	6.7	18:12	6.9	Open @ 03:30
5	T	06:16	7.2	18:50	7.3	
6	W	06:54	7.7	19:27	7.6	
7	T	07:30	8.0	20:03	7.8	
8	F	08:09	8.2	20:40	7.8	Close @ 23:40
9	S	08:49	8.2	21:18	7.7	
10	S	09:31	7.9	21:57	7.3	Open @ 07:30
11	M	10:16	7.5	22:39	6.9	
12	T	11:09	6.8	23:30	6.4	
13	W	***	***	12:17	6.1	
14	T	00:36	5.9	14:00	5.7	Close @ 03:30
15	F	02:10	5.7	15:38	5.9	
16	S	03:45	6.0	16:51	6.4	
17	S	04:51	6.5	17:45	6.8	
18	M	05:40	7.0	18:27	7.1	Open @ 03:40
19	T	06:19	7.3	19:00	7.2	
20	W	06:54	7.5	19:30	7.3	
21	T	07:28	7.6	19:58	7.3	
22	F	08:02	7.6	20:27	7.3	Close @ 23:30
23	S	08:35	7.5	20:55	7.2	
24	S	09:07	7.2	21:23	7.0	Open @ 07:00
25	M	09:39	6.8	21:51	6.7	
26	T	10:11	6.4	22:21	6.4	
27	W	10:49	5.9	22:58	5.9	Close @ 01:20
28	T	11:41	5.4	23:54	5.5	
29	F	***	***	12:59	5.1	
30	S	01:17	5.3	14:38	5.3	
31	S	01:51	5.5	14:51	5.8	

November 2021

Date	Day	High Water	Height	High Water	Height	Open / Close
1	M	03:00	6.1	15:48	6.3	
2	T	03:52	6.7	16:35	6.9	Open @ 01:50
3	W	04:38	7.2	17:17	7.3	
4	T	05:20	7.7	17:57	7.6	
5	F	06:02	8.0	18:36	7.8	Close @ 21:30
6	S	06:45	8.2	19:15	7.8	
7	S	07:30	8.1	19:56	7.7	Open @ 05:30
8	M	08:18	7.8	20:38	7.4	
9	T	09:09	7.3	21:24	7.0	
10	W	10:07	6.7	22:15	6.6	
11	T	11:19	6.1	23:18	6.1	
12	F	***	***	12:53	5.8	Close @ 02:20
13	S	00:42	5.9	14:14	6.0	
14	S	02:10	6.1	15:21	6.3	
15	M	03:18	6.4	16:13	6.6	Open @ 01:15
16	T	04:09	6.7	16:54	6.8	
17	W	04:50	7.0	17:29	6.9	
18	T	05:27	7.1	17:59	7.1	Close @ 21:00
19	F	06:03	7.2	18:29	7.2	
20	S	06:39	7.3	18:59	7.2	
21	S	07:13	7.1	19:29	7.2	Open @ 05:15
22	M	07:47	6.9	19:58	7.0	
23	T	08:21	6.7	20:28	6.8	
24	W	08:55	6.4	21:00	6.6	
25	T	09:34	6.0	21:39	6.2	
26	F	10:22	5.7	22:28	5.9	Close @ 00:30
27	S	11:24	5.5	23:31	5.7	
28	S	***	***	12:42	5.5	
29	M	00:48	5.8	13:58	5.8	
30	T	02:03	6.1	15:00	6.2	Open @ 00:00

December 2021

Date	Day	High Water	Height	High Water	Height	Open / Close
1	W	03:04	6.6	15:54	6.7	
2	T	03:57	7.1	16:43	7.1	
3	F	04:48	7.5	17:28	7.4	Close @20:30
4	S	05:39	7.8	18:12	7.6	
5	S	06:30	7.9	18:56	7.7	Open @ 04:30
6	M	07:21	7.8	19:40	7.7	
7	T	08:13	7.6	20:25	7.5	
8	W	09:06	7.2	21:11	7.2	
9	T	10:03	6.7	22:00	6.7	
10	F	11:06	6.2	22:54	6.5	Close @ 02:00
11	S	***	***	12:21	5.9	
12	S	00:00	6.2	13:31	5.8	
13	M	01:17	6.1	14:34	5.9	
14	T	02:29	6.1	15:30	6.0	Open @ 00:30
15	W	03:28	6.3	16:17	6.3	
16	T	04:18	6.4	16:56	6.5	
17	F	05:03	6.6	17:32	6.7	Close @ 20:30
18	S	05:43	6.8	18:05	6.9	
19	S	06:21	6.8	18:38	7.1	Open @ 04:20
20	M	06:58	6.8	19:10	7.1	
21	T	07:33	6.8	19:42	7.1	
22	W	08:08	6.7	20:15	7.0	
23	T	08:44	6.5	20:49	6.8	Close @ 23:59
24	F	09:22	6.3	21:26	6.7	
25	S	10:04	6.1	22:08	6.5	
26	S	10:53	5.9	22:57	6.3	
27	M	11:51	5.8	23:55	6.2	
28	T	***	***	13:00	5.8	Open @ 23:00
29	W	01:06	6.2	14:10	6.0	
30	T	02:17	6.4	15:14	6.3	
31	F	03:24	6.7	16:13	6.7	Close @ 19:15

Appendix 5 – proposed Licence Conditions: Wash Fishery Order 1992 cockle fishery 2021

Wash Fishery Order 1992 Cockle Fishery 2021 – Licence conditions

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

The following Licence Conditions are applicable to fishers operating in the Wash Fishery Order 1992 cockle fishery 2021 from the date specified in Licence Condition 2 (Open date of fishery).

Licence Condition 1: Fishing Method

It is prohibited to fish for, take or remove from the fishery cockles using any method other than hand-working which can be augmented by prop-washing so far as it is permitted by Licence Condition 10: use of anchors for prop-washing (below).

Licence Condition 2: Opening Date

To be confirmed but anticipated to be 0200hrs Monday 21st June 2021

Licence Condition 3: Open/Closed areas

It is prohibited to fish for, take or remove from the fishery any cockles from within the Wash Fishery Order unless they are from areas marked as open in the charts publicised by Eastern IFCA.

Licence Condition 4: Days of Operation

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

Licence Condition 5: Catch Returns Data

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

Licence condition 6: Transhipping Prohibition

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

Licence condition 7: Requirement to Land

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

Licence condition 8: Dual Fishing Prohibition

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

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

Licence condition 9: Standard Bags

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

- (1) be of the following dimensions:
 - a. 120 centimetres or 60 centimetres in height
 - b. 97 centimetres in depth
 - c. 97 centimetres in width
- (2) have the words 'Wash Fishery Order' written on at least two sides with lettering which is at least 4 inches tall.

Licence condition 10: use of anchors for prop-washing

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

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

License condition 11: spatial restrictions on Sunday openings

It is prohibited to fish for, take or remove from the fishery any cockles during any Sunday opening as per the Days of Operation (Licence condition 4) except in the area designated as 'Holbeach'.

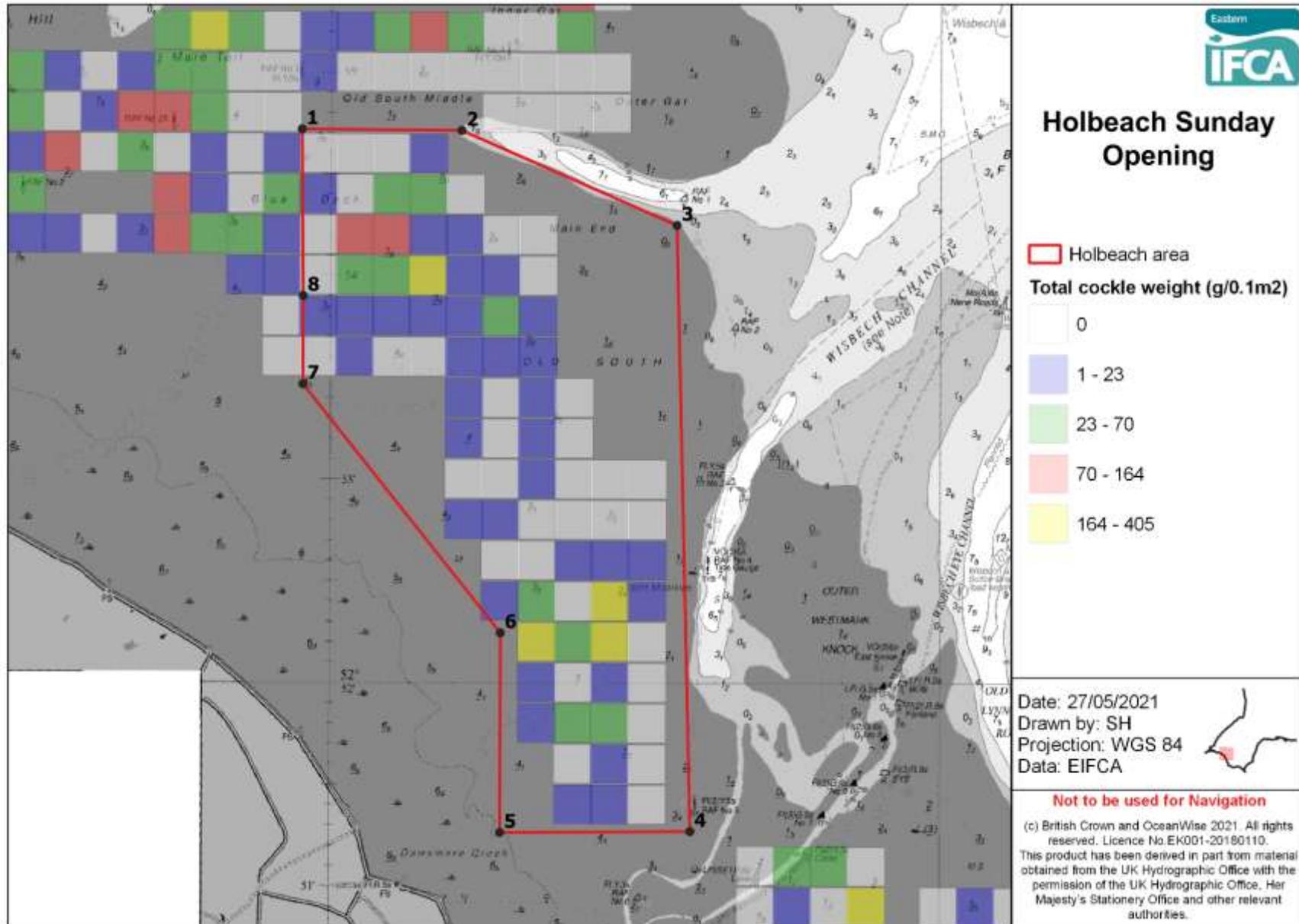
For the purpose of this Licence Condition, the area designated as 'Holbeach' is the area defined by a straight line drawn between each of the following coordinates in sequence and then a further straight line between Waypoint ID 8 and 1, as set out in Chart 1 for illustrative purposes:

Waypoint ID	Latitude	Longitude
1	52°54.715 'N	0°09.770 'E
2	52°54.715 'N	0°11.070 'E
3	52°54.250 'N	0°12.900 'E
4	52°51.265 'N	0°12.900 'E
5	52°51.265 'N	0°11.405 'E
6	52°52.245 'N	0°11.405 'E
7	52°53.465 'N	0°09.770 'E
8	52°53.900 'N	0°09.770 'E

Failure to comply with a licence condition is an offence under section 3(3) of the Sea Fisheries (Shellfish) Act 1967. The master, owner and charterer (if any) of a vessel used in the commission of an offence shall each be guilty of any such offence and liable to an unlimited fine on summary conviction.

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

Chart 1: Licence condition 11 (for illustrative purposes only)



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 12

Eastern Inshore Fisheries and Conservation Authority Meeting

09 June 2021

Wash Cockle and Mussel Byelaw 2021 Update

Report by: Luke Godwin (Senior IFCA – Regulation), Imogen Cessford (Project Officer)

Purpose of Report

To report the outputs of the formal consultation for the Wash Cockle and Mussel Byelaw 2021 and propose amendments to the byelaw and approach for further development of the byelaw.

Recommendations

It is recommended that members:

- **Note** the responses to the formal consultation for the Wash Cockle and Mussel Byelaw 2021 as at Appendix 2
- **Agree** to endorse the proposed Eastern IFCA position in relation to the responses received as at Appendix 2
- **Agree** in principle to the amendments to the Wash Cockle and Mussel Byelaw 2021 as set out at Appendix 3
- **Direct** officers to
 - respond to objectors in accordance with the considerations at Appendix 2;
 - continue to liaise with respondents and other stakeholders in relation to the objections and measures to manage access to the fisheries; and
 - report to the Authority at the next full Authority meeting the results of the further dialogue and a final draft of the Wash Cockle and Mussel Byelaw 2021.

Background

Eastern IFCA is the grantee of the Wash Fishery Order 1992 (WFO) which is used to manage public bivalve fisheries (Regulating Order) and the private fisheries (Several Order) within The Wash. The WFO expires in January of 2023. At the 39th Eastern IFCA meeting, members agreed to replace the Regulating Order part of the WFO with a byelaw, subject to receiving supporting legal advice.

Legal advice subsequently confirmed that a byelaw is an appropriate mechanism to replace the WFO.

The decision has generated significant opposition from current WFO licence holders and associated stakeholders. At the 43rd Eastern IFCA meeting, members were provided with a summary of the main concerns raised by stakeholders and the steps which have been taken to address these concerns. This reflected considerable dialogue and consultation which had been undertaken in the preceding 12 months.

At the 43rd Eastern IFCA meeting, members also agreed to make the Wash Cockle and Mussel Byelaw 2021 and directed Officers to undertake formal consultation on the byelaw and to present the results and any recommended changes to the byelaw at the 44th Authority meeting.

Report

Formal consultation

A public notice about the byelaw was posted in the Fishing News for two consecutive weeks at the beginning of the consultation (25th March and 1st April). After the second posting the consultation remained open for 28 days. The consultation closed on 3rd May 2021.

In addition to the public notice, as is standard for Eastern IFCA consultations with industry, documents notifying and engaging stakeholders about the consultation were also sent out directly to Wash industry stakeholders and made available on the Eastern IFCA website.

The consultation documents are at Appendix 1.

Furthermore, as an additional measure, a mailshot was sent to stakeholders across the district, informing them about the consultation and how to respond.

Responses

117 different individuals responded to the consultation and these were for the most part an objection to the byelaw. Many of those who responded to the consultation did so in multiple ways. The different responses can be considered collectively as 5 types, which are listed below.

1. Group letter of objection: 31 duplications of the same letter
2. Independent written responses: 3 independent written responses (2 were the same response submitted by different individuals)
3. Questionnaire paper/online: 7 separate responses using the provided questionnaire, this number includes those who submitted online and via post.
4. Collective letter: 85 duplications of a different letter to type 1 above, signed by individuals as a collective response.

5. Solicitor response: 39 copies of the same response provided by a solicitor in representation of their clients, some of these copies were submitted multiple times by the same individuals. The solicitor's response was additionally submitted on behalf of 8 individuals from whom paperwork was not received.

During the consultation period, fisheries stakeholders were also engaged through the arrangement of 5 separate meetings with the various fishing associations in the Wash. These were held in person or using online technology. Due to difficulties finding suitable times to hold meetings, two association meetings were held after the consultation deadline. Stakeholders present at these meetings were informed that we would be flexible in receiving their response to the consultation despite it being after the closing date.

A detailed summary of the feedback and objections is at Appendix 2. It is noteworthy that many of the points raised relate to the management of access to the fishery rather than the byelaw itself.

Consideration of responses and proposed amendments to seek to resolve objections

Consideration of the responses has highlighted five key areas of concern which appear to be the main drivers for objection. These are considered in more detail below. A full summary of responses is set out in Appendix 2 along with the proposed responses to objections. Proposed changes to the byelaw as a result of the representations are referred to below and also summarised in Appendix 3.

Flexibility of the byelaw

The byelaw is drafted to provide the Authority with a tool to manage the fisheries into the future and in a manner analogous with the WFO. The byelaw therefore contains mostly administrative processes that enable the IFCA to introduce, vary, or revoke such management measures, notwithstanding those carried over from WFO regulations and written into the byelaw.

Generally, feedback was to the effect that the level of flexibility within the byelaw will be to the detriment of the industry as it will not provide the same level of security as is perceived to exist under the WFO.

In reality, the provisions within the byelaw for flexible management measures provide for greater representation of the industry than would be the case under an Order. This is because the byelaw specifies the process which must be adhered to in making changes to management measures, whereas the WFO does not.

The benefits of a more flexible approach via a byelaw are documented in Whitley 2016² and two case studies therein identify where IFCA's have

² UK Shelfish Production and Several, Regulating and Hybrid Orders: The contribution and value of Orders in Relation to the Sector's Past development and future growth, Whiteley 2016, SeaFish (ISBN No: 978-1-911073-01-7)

previously chosen to adopt byelaws rather than Regulating Orders. In particular, Whiteley notes that under a byelaw “*the authority can review the permit conditions as required, and at each point consider the fishery, environmental, and enforcement aspects associated with it*”. This flexibility is considered crucial to ensure an ‘evidence based marine management cycle’ as set out in Defra guidance to IFCA³. In summary, this requires the regular consideration of the need to manage (review), identification for the best method for this and evaluation (monitoring) of the chosen course of action. Whitely highlights, as has been identified by officers, that the process for amending Orders is more time consuming and concludes that the process for amending and renewing Orders should be made more efficient in order to make them a more suitable method of management.

The key area of concern in this regard is in relation to access to the fishery. The WFO included a provision which ‘requires’ the Authority to issue licences where one had been issued previously (within 24 months). The proposed byelaw does not include an entitlement provision and access to the fishery will be at the discretion of the Authority. Under the WFO, the Authority may issue fewer licences than there are ‘entitlements’ but in doing so must notify the Minister who may give directions as to how we exercise that power. In the view of the industry, this provides an additional ‘safeguard’ from the perceived threat of the Authority.

The byelaw contains explicit provisions with regards to consulting and considering impacts on stakeholders when issuing, varying or revoking eligibility criteria (i.e. the tool for managing access to the fishery). This is intended to mitigate the perceived ‘threat’ of the Authority having additional ‘power’.

In addition, it is noteworthy that the Authority is no less accountable to the directions of the Secretary of State when using a byelaw compared to an Order. S.159(3) sets out that the Secretary of State can cause a local inquiry and further, revoke or amend the byelaw under s.159(2) where they are satisfied that any provision is unnecessary, inadequate, or disproportionate.

Furthermore, some objections suggest that the flexibility within the byelaw will degrade the industry’s ability to secure loans to finance their businesses. This is on the basis that they ‘cannot guarantee’ access beyond four years or less because the review period for eligibility criteria is four years and a review can be instigated at any time (as per Schedule 5 of the proposed byelaw). It is considered unlikely that this will be the case, not least because there will always be a requirement to manage the fisheries and as such there will always be a byelaw in place but also because it is intended to implement policy, in addition to the policy already adopted in principle at the 43rd Eastern IFCA meeting, to the effect that a permit will be issued annually to those who meet the eligibility criteria. This is effectively the same as an ‘entitlement’

3

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

under the WFO 1992 and is successfully utilised in the Southern IFCA management of inshore mollusc fisheries under a byelaw which replaced an Order there.

It is noteworthy that, new vessels are understood to have been built and purchased via bank loans specifically to operate within the WFO within recent years and within four years of its expiry (which sees the entitlement to a licence expire) but those seeking such loans do not appear to have been impacted in the way suggested.

Flexibility is considered a crucial element of the byelaw. However, following feedback from the consultation, the following amendments are proposed with the intention of enhancing the 'stability' of the new proposed system in the absence of an entitlement provision in the byelaw itself and in the context of still providing appropriate flexibility to the Authority:

- Amendments to Schedule 5 (procedure for flexible management measures: setting eligibility criteria)
 - Addition of criteria which the Authority must have particular regard to in relation to '*the stability, continuity and succession of businesses of the permit holders*', and '*the continuing ability of permit holders to finance their businesses*'
 - Increase in the review period from four years to six years;
 - Amendment of wording for reviews after less than six years to restrict a review to circumstances where '*there are urgent and compelling reasons to do so which would risk the sustainability of a fishery, the protection of a marine protected area within which the fishery operates or the viability of fishery stakeholders.*'
- Amendment to Schedule 4 (other flexible management measures) – increase of maximum review period from four years to six years.

It is recommended that, with the proposed changes to the byelaw, there are sufficient safeguards within the byelaw to ensure that the flexibility it provides will not be at the expense of 'security' to the industry.

Category Two Permits

Two categories of permit were included in the draft byelaw. The intention was to enable a different type of access to the fisheries that may better reflect the diversity of business models or to reduce latent capacity (i.e. where WFO Licences go unused for several years but are retained through the entitlement provision).

The use of the Category Two permit was intended to be considered under the development of measures to manage access to the fishery, however, there

has been significant opposition to the proposal during consultation of the byelaw.

In part, this reflected the uncertainty on how they will be or could be used, noting that this was intended to be identified under a separate consultation. There were concerns that they could be used to add additional effort to the fishery or to enable a cockle dredge fishery.

Others raised the issue that reducing latent capacity would potentially reduce viability of the fishery on the basis that the fishery is rarely prosecuted at its full capacity (i.e. all 61 WFO licences being taken out) which provides a greater 'share' of the Total Allowable Catch. Others considered that separate permits would create a 'two tier' system which would effectively degrade their standing.

Whilst it is likely that a system with two categories of permit would be of benefit to industry (including wider industry) by providing some means of others diversifying into the fishery or to better reflect some WFO licence holder's very limited access of the fishery, industry do not perceive any benefit. On this basis, it is recommended that the byelaw is amended to remove reference to a Category Two Permit.

Wording in consultation documentation was misleading

Defra guidance sets out the requirements for formal consultation as follows (extract from IFCA Byelaw Guidance⁴):

the Authority should give notice of its intention to apply for confirmation of the byelaw by advertising it for 2 consecutive weeks in publications which target the stakeholders affected by the byelaw's measures. The advertisement should contain:

- i. either a copy of the byelaw, or a summary of its provisions and the address where the byelaw may be inspected free of charge*
- ii. a statement directing any person wishing to object to the byelaw to write to the IFCA and MMO not later than 28 days after the date of the newspaper in which the last advertisement appears*
- iii. the address of the MMO and IFC Authority*

Wording in the public notice was as specified within the above guidance. However, objection was received in relation to the wording of additional consultation documentation provided to stakeholders.

Consultation documents (Appendix 1) were developed to aid engagement with stakeholders and are in addition to the required advertisement. Wording used in the consultation documentation was intentionally informal so as to be easily understood and to encourage feedback and aid understanding of the byelaw and the process.

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

The objection is to the effect that the wording of the material did not make it clear that the consultation was an opportunity for stakeholders to 'object' to the byelaw. Instead, the material refers to the opportunity to 'provide feedback' to 'inform the development' of the byelaw.

This is not considered misleading as this was the intention of the consultation. It is noteworthy also that there does not appear to have been any negative consequences because many of the responses were titled as 'objections' to the byelaw.

Further, the objection suggests that the material indicated that the byelaw was at an earlier stage of development than was factually correct. One of the documents created was a summary of the intentions and provisions of the byelaw (the 'Wash Cockle and Mussel Byelaw 2021 – formal consultation' at Appendix 1). The first paragraph of this reads:

Eastern IFCA intends to make a byelaw to replace the Wash Fishery Order 1992 to manage cockle and mussel fisheries in The Wash.

In reality, the byelaw had been 'made' at the 43rd Eastern IFCA meeting. This is the term given to the draft of the byelaw which the Authority agrees to prior to being formally consulted on. It has long been considered a confusing term as it gives a sense of finality which does not represent the reality – it is commonplace for a byelaw to be amended as a result of the formal consultation and this is indeed an anticipated part of the process.

Because the wording referred to our intent to make a byelaw, it is technically incorrect – the byelaw had been 'made'.

The phrasing was not intended to mislead but rather, was consciously written in plain and easily understandable English. It is noteworthy that this document accompanied a letter or email, which specifically set out that the next step for the byelaw was further consideration by the Authority and Secretary of State. In addition, the summary was available online as a link on a webpage which set out the same.

So as to ensure the integrity of the consultation, legal advice was sought as to whether the above issues would undermine the consultation. The advice provided was to the effect that the consultation had been in keeping with Defra guidance. It is therefore recommended that no further action is required.

Disproportionate impacts of removal of permits for conviction of an offence
The proposed byelaw includes a provision which cancels a permit where a person is convicted of a relevant offence. It is intended that eligibility criteria would be implemented to restrict the issue of a further permit to the same person for a period of 12 months.

The wording as originally proposed gives no discretion to the Authority with regards to when to apply the measure. The objection received is to the effect that the Authority should have the ability to exercise discretion and make a decision having heard the case of the person so effected.

The intention of the provision is to enhance the deterrent effect of the provision compared to the same within the WFO. This is achieved by reducing the number of convictions required to trigger its application (from two in two years to one in one year). However, the wording within the proposed byelaw represents a lesser sanction compared to the same provision within the Wash Fishery Order, which would result in the permanent loss of an 'entitlement'. That said, the WFO provision does enable the Authority to exercise discretion in its use.

It is proposed that further consideration is given to including discretion to the Authority on when to apply the provision. Such consideration would consider the potential loss of deterrent effect as a result of the exercise of discretion and may require development of a wider appeals process to ensure transparency and fairness.

Uncertainty regarding management of access to fisheries

A 'dual approach' to developing the replacement for the WFO has been adopted (as agreed by members at the 43rd Eastern IFCA meeting). This entails developing the byelaw which will be the tool for managing the fisheries through issuing, varying, or revoking flexible management measures whilst separately, developing policies and eligibility criteria which are implemented via the byelaw to manage access to the fishery. The intention of this approach was to reduce the risk of a delay in the byelaw coming into effect whilst ensuring stakeholders could give due consideration to the matter of access to the fishery as this is considered to be the key issue. It is intended that the management for access to the fisheries is developed as the next stage (i.e. in the coming weeks).

A key objection to the byelaw is that it does not provide clarity as to who will receive a permit because the associated policies and eligibility criteria are yet to be developed.

In recognition of this uncertainty leading to an objection to the byelaw itself, it is proposed that the formal submission of the byelaw is delayed until after the September Authority meeting, by which time it is anticipated that the key access policies will have been developed further, thus providing additional security to industry.

The key risk in this proposal is that the byelaw is delayed and does not come into effect before the expiry of the WFO. To mitigate this, the byelaw wording has been submitted to the MMO to start the QA process on an informal basis with the intention of reducing the time required on formal submission.

This delay would also serve to enable further dialogue with industry with the intention of resolving objections so far as is possible, including potentially further developments of the byelaw.

Further amendments to the byelaw

Other minor amendments are also proposed and set out at Appendix 3.

Next steps

As per Defra guidance, the Authority should respond to objections and, where appropriate, liaise with objectors with a view to resolve these. Whilst objections which cannot be resolved do not preclude consent by the Secretary of State, the Authority is required to adequately explain why such could not be resolved.

It is hoped that the amendments proposed to the byelaw will go some way to allay concerns regarding the proposed byelaw and that where objections have not led to a proposed amendment to the byelaw, the explanation as provided in Appendix 2 will have the same effect. However, the key issue which appears to be at the heart of concerns remains how the Authority will manage access.

It is likely that, in addition to the amendments proposed in this paper, continued development of the policies and eligibility criteria including via consultation with industry will further allay concerns.

It is intended that consultation on the matter of access will start in June and that proposals on the key elements of the work will have been progressed by the following Authority meeting. During this time, dialogue on the wording of the byelaw can continue on the basis of responses set out in accordance with Appendix 2 with a view to seek further resolution of objections which may include further amendments to the byelaw. It is proposed that a final draft version of the byelaw can be presented to the Authority along with key access proposals which can then be submitted for formal QA together.

Financial Implications

Additional legal advice has been sought and will be required to continue to develop the measures.

Legal Implications

There is an inherent risk associated with the implementation of regulatory measures. These are mitigated through adoption of due process, primarily in accordance with Defra guidance to IFCA's and our general duties as a public authority.

Legal advice has been sought which has concluded that the process has been undertaken in accordance with such. Therefore no legal risk is identified at this stage.

The next steps set out in the paper will further mitigate against the legal risks associated with making a byelaw.

Appendices

Appendix 1 – Wash Cockle and Mussel Byelaw consultation material

Appendix 2 – Responses to the formal consultation (Wash Cockle and Mussel Byelaw 2021) and consideration of objections

Appendix 3 – Table of proposed amendments to the Wash Cockle and Mussel Byelaw 2021

Background Documents

Confirmed Minutes of the 39th Eastern IFCA meeting

Unconfirmed minutes of the 43rd Eastern IFCA Meeting

Appendix 1 – Wash Cockle and Mussel Byelaw consultation material

1.1 Letter to WFO stakeholders

[to all entitlement holders and skippers]

25th March 2021

Dear [name]

Formal Consultation: Wash Cockle and Mussel Byelaw 2021

I am writing to inform you that we are formally consulting on the above byelaw to replace the Wash Fishery Order 1992 (WFO) when it expires. The **deadline for responses is the 3rd of May 2021**. Responses can be provided using our questionnaire (either online or using the enclosed hard copy) or as a written response, sent to our offices.

The full wording of the byelaw and the associated impact assessment can be found on our website (www.eastern-ifca.gov.uk) or we can provide hard copies on request.

Enclosed is a summary of the formal consultation and the provisions of the proposed byelaw. This is intended to aid you in providing feedback. We would advise that you also read the byelaw and officers are happy to talk through the proposals over the phone. We also intend to organise meetings, which maybe online due to current government guidelines around COVID19, to gather the views of industry and to answer questions.

A summary of the feedback you provide will be provided to the Authority to inform a decision on the byelaw and your responses will be provided to the Secretary of State for Environment, Food and Rural affairs when considering whether to confirm the byelaw.

Outputs from the informal consultation

The feedback we have received so far (through our ongoing engagement and informal consultations) has been carefully considered when developing the proposed management to replace the WFO. This includes amendments to the original draft of the byelaw and the adoption of two policies in principle by the Authority. More information about how we listened to your views and took them into account are enclosed.

We are aware of the concerns regarding using a byelaw instead of an Order to manage the fisheries of the Wash. All of the concerns raised have been thoroughly investigated and further legal advice has been sought as required. In summary, the conclusion remains that a byelaw can be used to manage the fishery in the same way as an Order but that a byelaw will be more effective because it is a more appropriate tool. We have enclosed a summary of the rationale for the decision with further information.

We have included a section within the questionnaire for you to provide your views on this matter. This is to help us understand the reasons outstanding for preferring an

Order so we can continue to seek to address them. It is also important that we continue to make progress in developing the replacement for the WFO and to that end, we would ask that you consider the proposals in the byelaw and provide feedback on this also.

Managing access

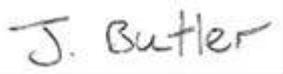
As you will be aware, we are consulting separately on the matter of access to the fishery. We are in the process of considering your feedback on the Aim and Objectives for managing access. After these are finalised, we will begin to draft the proposed policies and eligibility criteria which will determine who can access the fishery. We will seek your views on these. To inform this work we have commissioned an independent economic assessment of the cockle fishery in the Wash. We will not be involved in conducting this assessment. You will be contacted about participating in this assessment shortly.

As this work progresses, we will be able to provide more detail on these matters, which we hope will start to allay concerns about uncertainty and enable constructive dialogue, taking in to account your views.

Summary

We value the views and contributions of our stakeholders and intend to take your feedback into account. We look forward to receiving your responses.

Yours Sincerely



Jon Butler
Head of Operations

Encs.

1. Questionnaire – Wash Cockle and Mussel Byelaw 2021
2. Summary of formal consultation
3. Feedback from informal consultation
4. Wash Fishery Order 1992 replacement – decision to use a byelaw

1.2 Summary of formal consultation

Wash Cockle and Mussel Byelaw 2021 – formal consultation



Eastern IFCA intends to make a byelaw to replace the Wash Fishery Order 1992 to manage cockle and mussel fisheries in The Wash.

Why are we making a byelaw?



The Wash Fishery Order 1992 (WFO) is the regulation used to manage cockle and mussel fisheries in The Wash. **It expires on January 3rd, 2023.**

These fisheries need management to ensure that they continue to be **sustainable, viable**, and do not adversely impact on the **Marine Protected Areas** of The Wash.

What will the byelaw do?

It will be the tool to enable and manage the cockle and mussel fisheries in The Wash through:

- Opening and closing of fisheries;
- Setting operating times for fisheries;
- Issuing, varying and revoking permit conditions;
- Issuing, varying and revoking eligibility criteria (i.e. who is eligible for a permit);
- Limiting the number of permits issued.

It will carry over some management from the WFO including the WFO Regulations and permit fees.

It will enable management that can respond flexibly to the needs of the fishery.

It will require consultation with industry in advance of any changes.

It **does not** set out **who** can have permits, this will be determined through policy and eligibility criteria. These are the subject of separate consultations and they will be developed through consultation with industry over the next two years.

The provisions of the byelaw are set out overleaf.

How to have your say?



We have provided a questionnaire that asks for your review and comments on our proposals so that they can be taken into account by the Authority when considering the byelaw.

This consultation closes at noon on the 3rd of May 2021.

The full wording of the byelaw and associated impact assessment can be found on our website – www.eastern-ifca.gov.uk or, on request, in hard copy via the post.



Please provide completed questionnaires or written responses to: mail@eastern-ifca.gov.uk; or Eastern IFCA, Unit 6 North Lynn Business Villaae. King's Lynn. PE30 2JG

Summary of the Wash Cockle and Mussel Byelaw 2021

Intention of the Byelaw

The proposed Byelaw is intended to replace the Wash Fishery Order 1992. It has been drafted to enable management of the fisheries in a manner consistent with the established cockle and mussel fisheries management plans.

Permits

- You will need a permit to fish for cockles and mussels within The Wash;
- Permits last for 12 months;
- There is an annual permit fee, the fees are in line with those under the Wash Fishery Order:
 - £757.75 in addition to:
 - a hand-work cockle permit, £339.57;
 - a hand-work mussel fishery permit, £101.39;
 - a mussel dredge fishery permit, £162.48
- There are two types of each permit:
 - Category One Permits – main permit for the established fishery
 - Category Two Permits – separate form of permit available for use in innovative ways, to enable limited access as may be needed without impact on the established fishery.

Managing access

The byelaw will enable the Authority to manage access in the following ways:

- Limit the number of permits issued
- Issue, vary or revoke eligibility criteria for issuing permits

Where we limit the number of permits or use eligibility criteria, the Authority must consult with stakeholders and undertake an impact assessment of the proposals. Changes to eligibility criteria must include at least a 4-week consultation and decisions can only be made by the Authority or a sub-committee of the Authority.

We are currently engaging with stakeholders about eligibility criteria and policy, which will be used to manage access to the fishery, separately to this consultation.

Flexible management

The byelaw will enable flexible management of the fishery in the following ways

- Opening and closing of fisheries
- Setting operating times for the fishery
- Issuing, varying or revoking permit conditions

Where flexible management is used, the Authority must consult with stakeholders and undertake an impact assessment of the proposals. The Authority can issue, vary or revoke these measures without consultation under certain circumstances, but any such measures will expire within two months unless a review is undertaken which must include consultation with industry and consideration of the impacts.

Technical measures and restrictions

The byelaw proposes the following restrictions to activity (please refer to the full wording of the byelaw for the detail of the restrictions):

- Any fishing gear must be certified by the Authority
- Vessel length is limited to 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 (depending on the fishery)
- Mussel dredge restriction (number of dredges and width of opening)
- Where catch is sorted (for size or to remove shell etc.), and some of the catch is rejected, it must be returned immediately to the sea or seabed
- Prohibition on transshipping catch
- Catch must be landed after it is removed from the fishery (except for catch returned as a result of sorting)
- Restriction on fishing for cockles or mussels if these have been removed from any other fishery during the same calendar day
- Catch must be landed in bags of a specified size
- Restriction on using an anchor in the process of 'prop-washing', any cockles disturbed using this method if the daily quota is removed must be redistributed.
- Restriction on the size of any tender carried aboard or towed by a vessel operating within the fishery

These measures **reflect those established under the Wash Fishery Order 1992**. The wording of these measures has been amended in places to enable them to be changed via permit conditions as may be required.

Exemptions

The byelaw will not apply to:

- Any person taking no more than five kilograms of mussel or cockle for personal consumption
- The area of the Wash which is within the boundary of the le Strange Estate

Amendments and revocations

The byelaw will revoke Byelaw 4: mussel (*Mytilus edulis*) minimum sizes

The byelaw will amend the following byelaws in the following ways:

- Minimum Sizes Byelaw 2019 – addition of the minimum size for mussels
- Closed Areas Byelaw 2020 (not yet in effect) – will change reference from 'WFO licences' to 'Wash Cockle and Mussel Permits' in relation to the exemption for fishing on mussel beds;
- Byelaw 3: Molluscan shellfish methods of fishing – this will change references within the byelaw from the 'Wash Fishery Order 1992' to the 'Wash Cockle and Mussel Byelaw 2021'

1.3 feedback from informal consultation

Wash Cockle and Mussel Byelaw 2021 – feedback from informal consultation



This document summarises the feedback received from informal consultation about the byelaw, and sets out how Eastern IFCA has listened to the views of stakeholders.

The Authority is very grateful for to everyone who took the time to respond to the consultation. The responses were summarised for the Authority whereby they were carefully considered and used to inform revisions to the proposed byelaw. The full summary of responses can be found on our website (www.eastern-ifca.gov.uk). The key concerns raised are set out below in addition to our response to them.

Summary

Based on your feedback, we did the following:

- Changed the wording of the 'cancellation of permits' provisions to remove reference to a Financial Administrative Penalty.
- The Authority agrees, in principle, to issue permits annually to those who meet the eligibility criteria subject to further consultation and research.
- The Authority agrees, in principle, to limit the number of permits issued to a finite number, subject to further consultation and research.
- The process for issuing, varying, and revoking eligibility criteria is now separated from other 'flexible' measures and includes a minimum consultation period and a requirement that decisions must be made by the full Authority or an appropriately delegated sub-committee.
- The Authority agreed to an overall policy objective in relation to the replacement of the WFO to provide further clarity and transparency.

Cancellation of permits for relevant offences

The proposed byelaw included a provision that would cancel a permit for a limited amount of time (proposed 12 months) when a person accepts a financial administrative penalty (FAP) or is convicted by a court for certain offences. This reflects a similar provision within the Wash Fishery Order 1992 (WFO) which effectively prevented access to the fishery permanently where a person was convicted of two offences within two years.

Feedback was received that the provision in the byelaw was disproportionate and, that reference to the acceptance of a FAP would lead to an increase in these being rejected in favour of being heard at court.

Consequently, the Authority decided to remove the reference to a FAP, in acknowledgement of this feedback, and to ensure the Authority retains a scale of enforcement action to act as a deterrent to non-compliance.

Inclusion of an 'entitlement provision'

The Wash Fishery Order 1992 includes a provision which entitles a person to a licence if they held one within the last 24 months (the 'entitlement provision'). The proposed byelaw does not contain this provision and instead intends to manage access through eligibility criteria and policy. In our analysis of the Wash Fishery Order, and via previous feedback from fishery stakeholders, this provision has led to some practices which were not in keeping with the intention of an entitlement under an Order, including the use of licences as 'pensions' and 'renting out' of licences.

Further feedback was received to the effect that fishery stakeholders would prefer the 'entitlement provision' is included in the byelaw because this provides security of continued access to the fisheries.

The Authority decided not to include the 'entitlement provision' so as to avoid the issues associated with the Wash Fishery Order 1992 and to ensure that it retains discretion to issue permits as best suits the fishery, in line with the policies to be established through separate consultation with fisheries stakeholders.

The Authority intends to provide an appropriate level of security through transparent and clear policies and eligibility criteria and has agreed in principle that, subject to further consultation, permits would be issued annually to those who meet the eligibility criteria. In recognition of the importance of the matter, the Authority is undertaking **separate consultation** on access to the fishery to develop these.

Flexible eligibility criteria

Feedback was received that using flexible eligibility criteria does not provide enough security to fishery stakeholders to effectively plan and risks business continuity.

The Authority understands the importance of secure and stable management to support sustainable business practices. Unlike a time limited Order, the byelaw will not expire. Therefore, it is important that the Authority can review management of access to the fishery over time.

Changes to eligibility criteria will involve consultation with fishery stakeholders and consideration of the impacts. As a recognition of the importance of the issue, the byelaw was amended to include a separate process for eligibility criteria which includes:

- A minimum of four weeks consultation; and
- A requirement that decisions on eligibility criteria must be made by the full Authority or an appropriately delegated sub-committee.

These changes are intended to increase transparency and clarity with regards to how access is managed.

Limiting the number of permits issued

It is noted that there is concern regarding the current uncertainty about the potential number of permits issued under the byelaw.

In recognition of this, we have commissioned an independent economic assessment of the fishery to inform a decision about a sustainable number of permits that the fishery can support. The Authority has also agreed in principle that the number of permits issued will be limited to a finite number, subject to consultation with industry and further research.

The limit to the number of licences will be contained in the policies that will determine access to the fishery. This is part of a **separate consultation**.

Our approach to replacing the WFO

Feedback was received that a clear policy about our intentions on the replacement of the WFO would be beneficial. The Authority has agreed to the following overall policy objective:

To replace the Wash Fishery Order 1992 with a contemporary management regime to manage cockle and mussel fisheries in The Wash that:

- *Facilitates the conservation objectives of The Wash and stock sustainability*
- *Enables access to the fishery that is equitable*
- *Supports the viability of varying business models*
- *Provides appropriate safeguards for fishing industry members, including business continuity*
- *Provides flexibility and agility for the Authority in effectively discharging its duties*
- *Provides an appropriate degree of consistency with other fisheries management throughout the District*

The policies, permit conditions and eligibility criteria which are being developed as part of a **separate consultation** will meet this objective.

Use of a byelaw instead of an Order

The Authority recognise that many fishery stakeholders would prefer the use of an Order (under the Sea Fisheries (Shellfish) Act 1967) to a byelaw to manage the fisheries of The Wash. Having carefully considered the representations made in favour of an Order, including obtaining legal advice after concerns were raised as required, no new or compelling evidence to support an Order has emerged that is counter to the recommendation to use a byelaw.

In summary, a byelaw represents the most effective way to manage the fishery over time. The key benefits to a byelaw are:

- It can do everything the Wash Fishery Order currently does.
- It is more capable of adapting to the needs of the fishery and stakeholders over time than an order.
- It does not expire, but does require review every six years, this will ensure that it is effective and relevant over time.
- The views of industry are better represented under a byelaw than an Order.
- It will improve transparency and clarity as it will be more consistent with management throughout the Eastern IFCA district.

A summary of why a byelaw was chosen instead of an Order can be found on our website.

Full summary of responses and our consideration

A full summary of the responses received and our response to them can be found in our website (www.eastern-ifca.gov.uk).

1.4 Questionnaire (also made available online)

Eastern IFCA Wash Cockle and Mussel Byelaw 2021 Formal Consultation: Questionnaire



This consultation closes at midday on 3rd May 2021.

Your questionnaire responses will be sent to the MMO as required.

This questionnaire is space for you to have your say on the content of the byelaw.

You can read the full byelaw here, a summary of the byelaw and the impact assessment on our website: www.eastern-ifca.gov.uk

These are available in printed copies from the officer on request.

The information you provide will be processed in accordance with our privacy notice found here: <https://www.eastern-ifca.gov.uk/consultations/>

There are 8 sections to this questionnaire, aligned with the content of the byelaw:

1. Your details
2. The intention of the byelaw
3. Permits
4. Managing access
5. Flexible management
6. Technical measures and restrictions
7. Exemptions
8. Amendments and revocations

Thank you for taking the time to complete this questionnaire.

Background

Eastern IFCA are developing the Wash Cockle and Mussel Byelaw 2021 to enable and manage cockle and mussel fisheries in The Wash. This byelaw will replace the Wash Fishery Order (WFO) when it expires.

This byelaw has been drafted taking into account the views of fishery stakeholders which were gathered during earlier informal consultation and engagement.

You can read more about why a byelaw was selected and how your feedback has been included so far on our website, printed copies are available from the office on request.

This consultation is about the byelaw itself.

We are also developing measures to manage access to the fisheries, separately. This will be in the form of policies and eligibility criteria (which will determine who is eligible for a permit). This is subject to separate consultation in recognition of the importance of the matter.

We understand that because the development of the measures to manage access is outstanding, there is uncertainty about how the byelaw will impact individuals.

To provide additional clarity on this, Eastern IFCA have agreed an overall policy objective which will guide the development of the policies:

To replace the Wash Fishery Order 1992 with a contemporary management regime to manage cockle and mussel fisheries in The Wash that:

- Facilitates the conservation objectives of The Wash and stock sustainability
- Enables access to the fishery that is equitable
- Supports the viability of varying business models
- Provides appropriate safeguards for fishing industry members, including business continuity
- Provides flexibility and agility for the Authority in effectively discharging its duties
- Provides an appropriate degree of consistency with other fisheries management throughout the district

Section 1. Your Details

Please provide your details below. This will enable us to provide specific support if it is requested and to potentially contact you about your answers if we require further clarification.

Full name:

Operating port:

Vessel name and PLN:

Address:

.....

Telephone (landline):

Mobile:

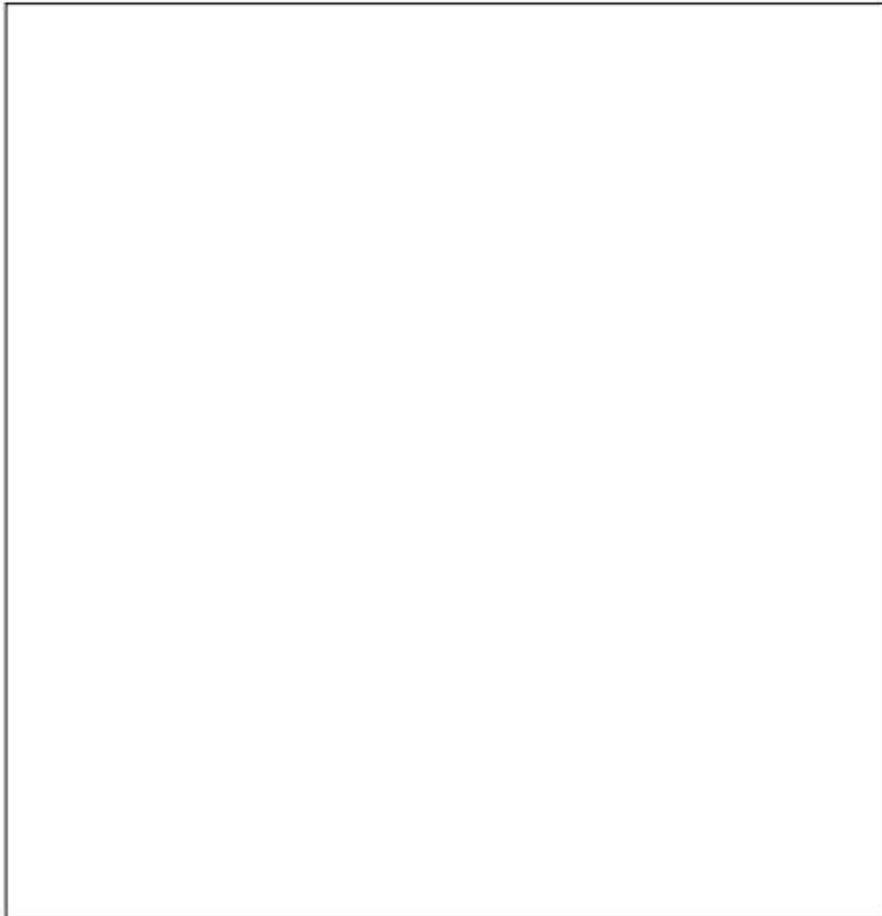
Email:

2. The intention of the byelaw

The byelaw is intended to replace the Wash Fishery Order 1992. It has been drafted to enable management of the fisheries in a manner consistent with the established cockle and mussel fisheries management plans.

If you have outstanding views about the replacement of the Wash Fishery Order with a byelaw, please write them here.

In particular, please let us know why, in your view, an Order would be a better tool for managing the fisheries than a byelaw. Through better understanding of your concerns we can seek to make sure that they are reasonably addressed by the byelaw.



3. Permits

The proposals for permits in the byelaw are as follows:

- You will need a permit to commercially fish for cockles and mussels within The Wash
- Permits last for 12 months
- There is an annual permit fee, the fees are inline with those under the WFO:
 - £757.75 in addition to:
 - £339.57: hand-work cockle permit
 - £101.39: hand-work mussel fishery permit
 - £162.48: mussel dredge permit
- There are two types of each permit:
 - Category One permits—main permit for the established fishery
 - Category Two permits—separate form of permit available for use in innovative ways, to enable limited access as may be needed, without impact on the established fishery.

What are your views on the proposals for permits?

5

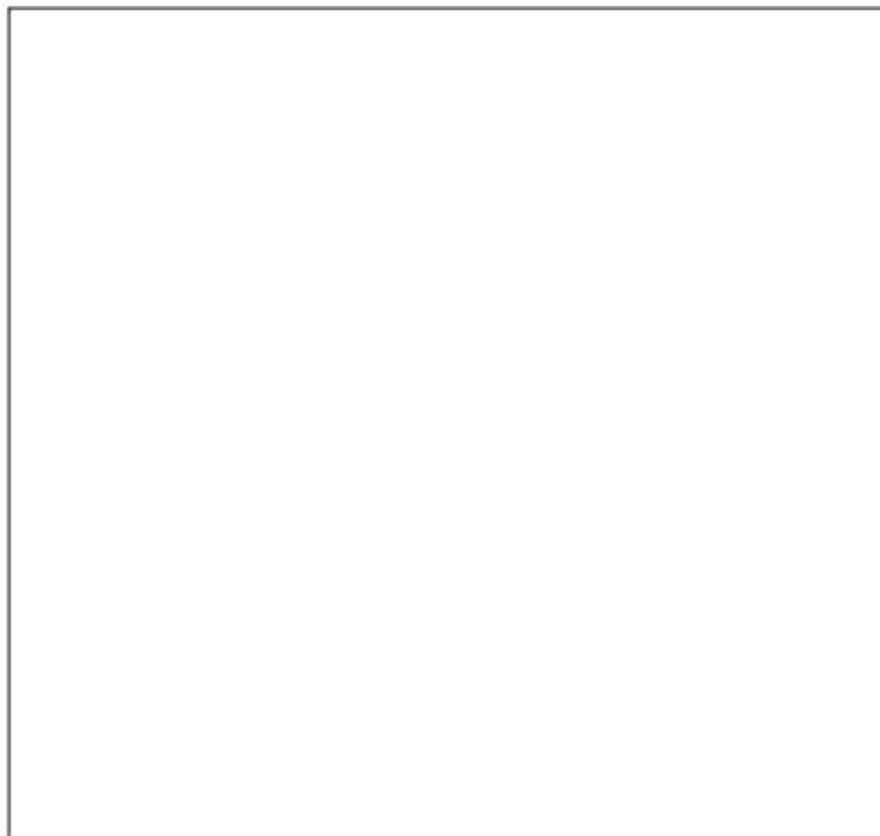
4. Managing access

The byelaw proposes to enable the Authority to manage access in the following ways:

- Limit the number of permits issued
- Issue, vary or revoke eligibility criteria for issuing permits

Decisions on what the eligibility criteria or the limit to permits will be, have not yet been made. They will be decided separately to this consultation, informed by the outcome to the economic assessment and further discussion with industry over the next two years. Changes to eligibility criteria must include at least a 4-week consultation and decisions can only be made by the Authority or a sub-committee of the Authority.

What are your views on the proposals for **how** the Authority will be able to manage access?



6

5. Flexible management

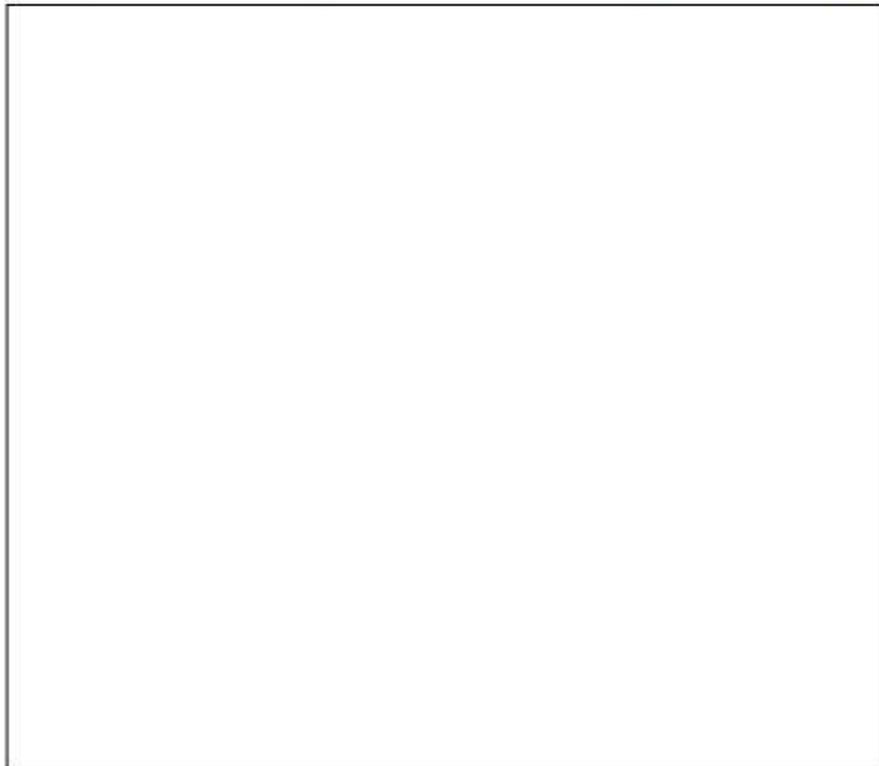
The byelaw proposes to enable flexible management of the fishery in the following ways:

- Opening and closing of fisheries
- Setting operating times for the fishery
- Issuing, varying or revoking permit conditions

Where these provisions are used, the Authority must consult with stakeholders and undertake an impact assessment of the proposals. The Authority can issue vary or revoke these measures without consultation under certain circumstances, but any such measures will expire within two months unless a review is undertaken which will include consultation with industry and consideration of the impacts.

These flexible measures will be used to manage the fishery annually taking into account the annual stock surveys, the protection of the marine protected areas of The Wash and the views of fishery stakeholders.

What are your views on the proposals for flexible management of the fishery?



7

6. Technical measures and restrictions

The byelaw proposes the following restrictions to activity (please refer to the full wording of the byelaw for the detail of the restrictions):

- Any fishing gear must be certified by the Authority
- Vessel length is limited 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 (depending on the fishery)
- Mussel dredge restriction (number of dredges and width of opening)
- Where catch is sorted (for size or to remove shell etc.), and some of the catch is rejected, it must be returned immediately to the sea or seabed
- Prohibition on transshipping catch
- Catch must be landed after it is removed from the fishery (except for catch returned as a result of sorting)
- Restriction on fishing for cockles or mussels if these have been removed from any other fishery during the same calendar day
- Catch must be landed in bags of a specified size
- Restriction on using an anchor in the process of 'prop-washing', any cockles disturbed using this method if the daily quota is removed must be redistributed.
- Restriction on the size of any tender carried aboard or towed by a vessel operating within the fishery

These measures **reflect those established under the Wash Fishery Order 1992**. The wording of these measures has been amended in places to enable them to be changed via permit conditions as may be required.

What are your views on these technical measures and restrictions?

8

7. Exemptions

The byelaw will not apply to:

- Any person taking no more than five kilograms of mussel or cockle for personal consumption
- The area of The Wash which is within the boundary of the le Strange Estate

What are your views on these exemptions?

8. Amendments and revocations

When the byelaw comes in to force it will result in amendments to, and revocations of, existing byelaws.

The byelaw will revoke Byelaw 4: mussel (*Mytilus edulis*) minimum sizes

The byelaw will amend the following byelaws in the following ways:

- Minimum Sizes Byelaw 2019 – addition of the minimum size for mussels
- Closed Areas Byelaw 2020 (not yet in effect) – will change reference from 'WFO licences' to 'Wash Cockle and Mussel Permits' in relation to the exemption for fishing on mussel beds;
- Byelaw 3: Molluscan shellfish methods of fishing – this will change references within the byelaw from the 'Wash Fishery Order 1992' to the 'Wash Cockle and Mussel Byelaw 2021'

What are your views on the amendments and revocations to existing byelaws?

9

QUESTIONNAIRE END.

Thank you for taking the time to complete this questionnaire. Please post your responses to:

The CEO, Eastern Inshore Fisheries and Conservation Authority
6 North Lynn Business Village, Bergen Way
King's Lynn, Norfolk, PE30 2JG

Your questionnaire responses will be forwarded to the MMO as is required. If you would prefer to respond by written representation, please send to the above address AND send a copy to:

Marine Conservation and Enforcement Team, Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle-Upon-Tyne, NE4 7HY,

MMO email: IFCAbyelaws@marinemanagement.org.uk

This consultation closes at midday on the 3rd May 2021.

Contact Us

The office is closed because of the COVID-19 crisis, but officers remain at work based at home. Should you need to contact us please use the email or mobile number provided below:

Phone: (during office hours) 07385 769305

Email: mail@eastern-ifca.gov.uk

If you require this questionnaire in a larger format, please contact the office and we can provide one for you.

If you would prefer, you can complete this questionnaire easily online. Once your questionnaire is completed online, your response is directly available to us. To access the online version questionnaire, scan the code here, or follow the link on our website:
www.eastern-ifca.gov.uk/consultations



10

1.5 Summary of decision to use a byelaw to replace the WFO 1992

Wash Fishery Order 1992 (WFO) replacement – decision to use a byelaw



In March 2020, the Authority carefully considered the options for replacing the WFO when it expires on January 3rd, 2023 and the concerns of stakeholders at the time. Since then, we have had further discussion with our stakeholders and have continued to carefully consider the case for using a byelaw, taking into account the concerns raised. This document addresses the key concerns and explains why a byelaw was chosen as the best regulatory mechanism to manage The Wash Cockle and Mussel fisheries.

A byelaw can do the same things as an Order

- The provisions of the WFO can be replicated in a byelaw.
- A byelaw can provide the same **level of flexibility** to manage a fishery as an Order.
- It is intended that fisheries management plans, WFO regulations (e.g. daily catch restrictions) and licence fees are carried over into a byelaw and so the **day-to-day management of fisheries will effectively be the same**.

Byelaws are intended to be used by IFCAs to manage inshore fisheries

- Byelaw making powers were **designed specifically for IFCAs** to manage inshore fisheries and are the most modern tool available to us.
- Byelaws enable an adaptive approach to fisheries management which ensures they remain **effective and relevant over time** – an Order is less adaptable because the process for amending one is more resource intensive and takes more time.
- This does not mean that there will be lots of changes and amending byelaws requires **due process** including consultation, consideration of impacts and confirmation by the Secretary of State.
- Byelaws **do not expire** – they require a review every six years. This will ensure that any issues can be identified and acted on to keep the byelaw relevant for the long-term.
- When using flexible measures, a byelaw also contains **more checks and balances** to ensure that the views of industry are considered as well as any impact.
- Using a byelaw will increase **clarity and transparency** of management as it will be more consistent with management throughout our district.

We understand that the key concern for fishery stakeholders is **access to the fishery** and in particular, whether those with access will continue to have access over time.

In recognition of the importance of this issue, we are undertaking a separate and **dedicated consultation** with fishery stakeholders on this matter. This will inform the development of our measures to manage access to the fishery.

1.7 Public Notice in Fishing News (01/04/2021)

24 CLASSIFIEDS/PUBLIC NOTICES Visit us at fishingnews.co.uk and on Twitter @YourFishingNews
1 April 2021

PUBLIC NOTICE

EASTERN INSHORE FISHERIES AND CONSERVATION AUTHORITY (IFCA)

Section 155 & 156 Marine and Coastal Access Act 2009

Section 155 & 156 Marine and Coastal Access Act 2009
Pursuant to the above Act, Eastern IFCA intends to apply to the Secretary of State for the Department for Environment, Food and Rural Affairs, for the confirmation of the Wash Cockle and Mussel Byelaw 2021.

The intention of the byelaw is to replace the Wash Fishery Order 1992 to manage the cockle and mussel fisheries in The Wash in accordance with the associated fisheries management plans to ensure sustainable fisheries which do not impact on the marine protected areas of The Wash and support a viable industry.

The byelaw applies to cockle and mussel fisheries in The Wash and includes the following provisions:

- Requirement to have a permit to fish including a permit fee.
- Ability for the Authority to limit and manage access to the fisheries, including through licensing, varying, or revoking eligibility criteria.
- Requirement for fishing gear used to be certified by the Authority.
- Cancellation of a permit where a relevant offence results in the conviction by a court.
- The ability for the Authority to issue, vary or revoke flexible permit conditions.
- The ability to open and close fisheries or parts of fisheries and to set operating times for a fishery.
- Requirement for catch returns and a prohibition on fishing where such are in arrears.
- Amendments to the 'Minimum Sizes Byelaw 2015', the 'Closed Areas Byelaw 2020' and 'Byelaw 3: molluscan methods of fishing'.
- Revocation of 'Byelaw 4: manual (Myluska edulis) - minimum size'.
- Requirement for the Authority to undertake consultation and to consider the impacts of issuing, varying, or revoking flexible management measures.
- Other technical measures including: a vessel length restriction, daily catch restrictions, vessel dredge restrictions, a requirement to replace catch rejected through sorting, prohibition on transhipping, a requirement to land cockles, a dual fishing prohibition, requirement to use bags of a specified dimension to store catch, requirements on the practice of prop-washing and a restriction on carrying or towing vessel tenders.
- The byelaw includes an exemption in relation to limited removal for personal consumption and in relation to the 10 Stanga Islands.

The full text of the byelaw, associated impact assessment and further information can be inspected at, or obtained from:

Eastern IFCA: 6 North Lynn Business Village, Bogen Way, King's Lynn, PE30 2JG. Tel: 01553 775321; email: mail@eastern-ifca.gov.uk; website: www.eastern-ifca.gov.uk.

Any person wishing to comment, support or object to the byelaw must do so in writing before 12pm on the 3rd of May 2021, to the CEO of Eastern IFCA at the above address and send a copy to:

Marine Conservation and Enforcement Team, Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle-Upon-Tyne, NE4 7HY.

Email: IFCABylaws@marinemanagement.org.uk



PUBLIC NOTICE



OIKOS MARINE & SOUTH SIDE DEVELOPMENT

SECTION 48 OF THE PLANNING ACT 2008
REGULATION 4 OF THE INFRASTRUCTURE PLANNING (APPLICATIONS, PRESCRIBED FORMS AND PROCEDURE) REGULATIONS 2009

NOTICE PUBLICISING A PROPOSED APPLICATION FOR A DEVELOPMENT CONSENT ORDER

Notice is hereby given that **OIKOS STORAGE LIMITED** ("Oikos") of **INGLE HAVEN WHARF, HAVEN ROAD, CANVEY ISLAND, ESSEX, SS9 0NR** intends to make an application to the Secretary of State for Transport under section 47 of the Planning Act 2008 ("the 2008 Act") for a Development Consent Order ("DCO") to redevelop part of its Canvey Island bulk liquid storage facility. If constructed, the development, known as the Ingle Haven & South Side Development ("OMSSD"), will be located within the administrative boundaries of Castle Point Borough Council and Essex County Council.

The proposed development consists of:

- The installation of additional marine loading and unloading infrastructure on two of the facility's existing jetties;
- The construction of new bulk liquid storage tanks within the southern part of the facility retained by the river;
- A central dredge;
- Additional moor loading facilities, together with related works including:
 - New operational infrastructure;
 - A new wharfside;
 - An office extension;
 - On-site landscaping;
 - Off-site ecological improvements; and
 - Increased parking within the facility.

The OMSSD project constitutes an Environmental Impact Assessment ("EIA") development for the purposes of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Oikos is, therefore, required to undertake an Environmental Impact Assessment and will be submitting an Environmental Statement as part of its application for a DCO.

A Preliminary Environmental Information Report ("PEIR") has been prepared on a topic by topic basis which considers the likely impact of the OMSSD project during both construction and operation. The PEIR and related consultation documents will be available to view and download from **Tuesday 6th April 2021** on the OMSSD consultation website at: www.oikos.co.uk/omssd/consultation. It is anticipated that the DCO application will be submitted later this year.

In accordance with the 2008 Act, Oikos is having a formal consultation on the OMSSD project between **Tuesday 6th April and 11:59pm on Tuesday 19th May 2021**.

Due to Covid-19 restrictions, the consultation will be held 'virtually' using an online virtual exhibition room which can be accessed from **Tuesday 6th April 2021** via www.cominfrastructure.gov.uk/Oikos-OMSSD. We will also be holding four online webinars including Q&A sessions during the consultation period, as follows:

Date	Time	Topic
Monday 5th April	10:00am - 11:00am	Introduction to the project
Tuesday 6th April	10:00am - 11:00am	Introduction to the project
Monday 11th May	10:00am - 11:00am	Introduction to the project
Tuesday 12th May	10:00am - 11:00am	Introduction to the project

To register to attend any of the above sessions please visit www.oikos.co.uk/omssd/consultation.

If you have questions about the OMSSD including the consultation process or wish to request copies of the consultation documents please contact us by email at enquiries@oikosinfrastructure.co.uk or by calling us on telephone: **0800 299 2363**.

All of the consultation documents, plans and maps showing the nature and location of the proposed OMSSD and a feedback questionnaire will be available to view and download free of charge from **Tuesday 6th April 2021** via the OMSSD website at: www.oikos.co.uk/omssd/consultation.

All the documents will be made available for inspection until **11:59pm on Tuesday 18th May 2021**. Printed copies of all of the documents and consultation materials can be provided on request using the contact details below or by calling us on telephone: **0800 299 2363**. Please note there may be a reasonable copying charge for certain documents of up to £300.

You can submit your views on the OMSSD project by:

- Completing the online feedback questionnaire at: www.oikos.co.uk/omssd/consultation or www.cominfrastructure.gov.uk/Oikos-OMSSD
- Emailing us at: enquiries@oikosinfrastructure.co.uk
- Writing to us at the following address: **OIKOS FREEPOST** please note this must be written in capitals and to stamp is required
- Requesting a hard copy of the feedback questionnaire to be sent to you in the post, and returning it via freepost to: **OIKOS FREEPOST** (must be written in capitals and no stamp is required)

All responses must be received by us in writing before **11:59pm on Tuesday 19th May 2021**. Responses received after that time may not be considered.

More information about the OMSSD project and the consultation can be found at: www.oikos.co.uk/omssd

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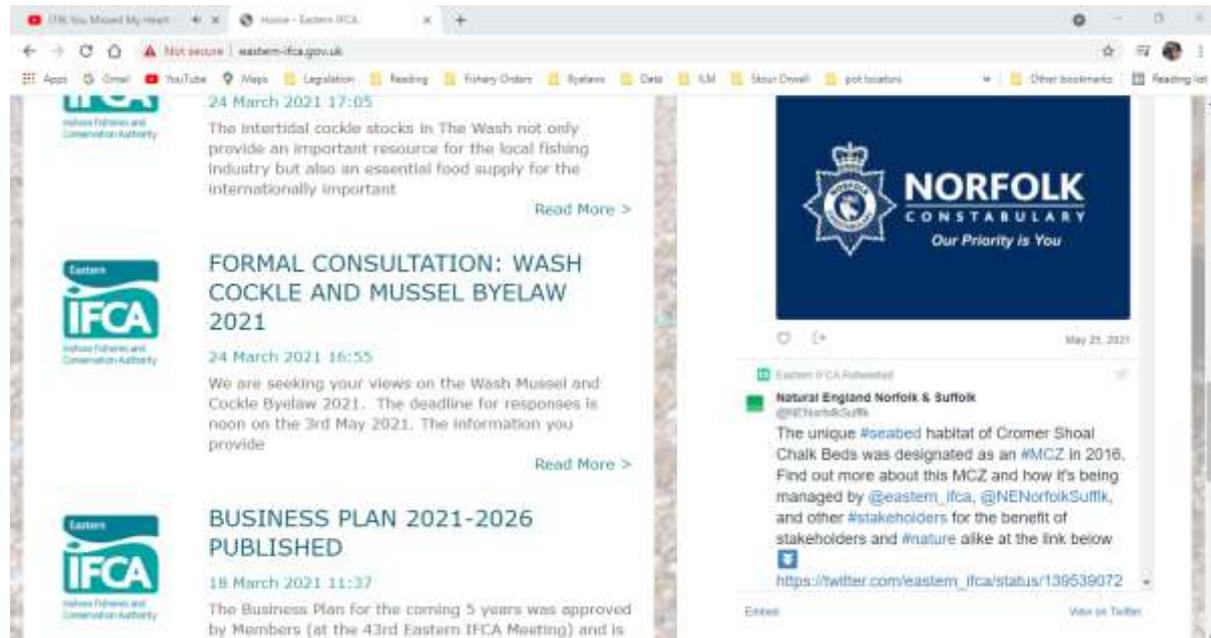
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1.7 Website news feed Notice



The screenshot shows a web browser displaying the Eastern IFCA website. The browser's address bar shows 'eastern-ifca.gov.uk'. The website has a navigation menu with links for 'Home', 'About', 'Legislation', 'Reading', 'Fishery Orders', 'Systems', 'Data', 'EM', 'Stour Dwell', and 'got location?'. There is also a 'Reading list' icon.

The main content area features three news items, each with the Eastern IFCA logo on the left:

- 24 March 2021 17:05**
The intertidal cockle stocks in The Wash not only provide an important resource for the local fishing industry but also an essential food supply for the internationally important
[Read More >](#)
- FORMAL CONSULTATION: WASH COCKLE AND MUSSEL BYELAW 2021**
24 March 2021 16:55
We are seeking your views on the Wash Mussel and Cockle Byelaw 2021. The deadline for responses is noon on the 3rd May 2021. The information you provide
[Read More >](#)
- BUSINESS PLAN 2021-2026 PUBLISHED**
18 March 2021 11:37
The Business Plan for the coming 5 years was approved by Members (at the 43rd Eastern IFCA Meeting) and is

On the right side of the screenshot, there is a Twitter post from 'Natural England Norfolk & Suffolk' (@NENorfolkSuff) dated May 21, 2021. The tweet includes the Norfolk Constabulary logo and the text: 'The unique seabed habitat of Cromer Shoal Chalk Beds was designated as an #MCZ in 2016. Find out more about this MCZ and how it's being managed by @eastern_ifca, @NENorfolkSuffik, and other #stakeholders for the benefit of stakeholders and #nature alike at the link below. https://twitter.com/eastern_ifca/status/136539072'. Below the tweet are 'Retweet' and 'View on Twitter' buttons.

1.8 Website News Item

The screenshot shows a web browser window displaying the Eastern IFCA website. The browser's address bar shows the URL: eastern-ifca.gov.uk/formal-consultation-wash-cockle-and-mussel-byelaw-2021/. The website header features the Eastern IFCA logo (Inshore Fisheries and Conservation Authority) on the left and a search bar, phone number (01553 775321), and email address (mail@eastern-ifca.gov.uk) on the right. A navigation menu includes links for HOME, ABOUT, CONSERVATION, REGULATIONS, PUBLICATIONS, VACANCIES, and CONTACT US. Social media icons for Facebook and Twitter are also present.

FORMAL CONSULTATION: WASH COCKLE AND MUSSEL BYELAW 2021

We are seeking your views on the Wash Mussel and Cockle Byelaw 2021. The deadline for responses is noon on the 3rd May 2021.

The information you provide will be used to inform further development of the byelaw and will be provided to the Authority and the Secretary of State to inform a decision on whether or not to confirm the byelaw.

We have produced a questionnaire and summary information to assist you in providing feedback, these can be found at the links below:

- Formal Consultation summary information
- Questionnaire (printable questionnaire is available [here](#))

The full wording of the byelaw and the associated impact assessment can be found at the links below:

- Draft Wash Cockle and Mussel Byelaw 2021
- Impact Assessment: Wash Cockle and Mussel Byelaw 2021

We have had a significant amount of dialogue during the development of the byelaw so far. The views of stakeholders have been used to inform the development of this byelaw and was taken into account by the Authority when this byelaw was considered. A summary of the feedback received and our response to that feedback can be found [here](#) and the rationale for using a byelaw instead of an Order (under the Sea Fisheries (Shellfish) Act, 1967) can be found [here](#).

We are also consulting separately on how we will manage access to the fishery under this byelaw. The separate consultation is in recognition of the importance of the matter. Having gathered the views of fishery stakeholders on the matter, we are finalising an Aim and set of objectives and are developing draft policies and eligibility criteria which will be subject to consultation over the coming months.

We are very grateful to everyone who has engaged with us so far and we look forward to receiving your responses to this consultation.

WCMB 2021 Formal Consultation Responses: You Said, Our Response. May 2021

You Said	Our Response
<p>The new byelaw will not provide fishermen with any long-term security, it will be too easily changed.</p> <p>An order can guarantee a 30-year future in fishing if the fisherman follows best practice.</p> <p>Until the byelaw assures fishermen of stability, flexibility in the byelaw represent a threat to investment and financial planning.</p>	<p>A byelaw can provide the same level of security as an order. Under the WFO much of the security was afforded by the ‘policies’ rather than written into the Order itself. It is particularly noteworthy that the WFO already enables the Authority, subject to any directions given by the Minister, to determine the number of licences issued and also, following consultation, to reduce the number of licences issued in any given year where it is desirable to limit exploitation of the fishery. What this means is that, in reality, the WFO has never provided the degree of security that is perceived. Perhaps more importantly, the Authority has not sought to do anything that threatens continuity of businesses and reductions in entitlements to licences have been achieved when ‘entitlements’ have no longer been required (e.g. as a consequence of fishermen retiring).</p> <p>In the case of ‘entitlement’ to further licences under the WFO, which <i>is</i> included in the Order itself, this provision can be replicated in the policies under a byelaw.</p> <p>Under the policies and eligibility criteria, ways are being considered to enable permits to be held for consecutive years, so that a fisherman can have secure future access to the fishery – which is understandably critical to assist in the sustainable management of individual business models.</p>

The content of the policies and eligibility criteria will be developed together with industry. This will make sure that they best fit the needs of the fishery and industry stakeholders.

The byelaw will be reviewed every 6 years, as is required by Defra. Review does not mean that substantial changes will be made and importantly, the byelaw does not expire. It is an opportunity to adjust the byelaw if necessary, to make sure that it continues to meet the needs of the fishery. This review also enables management to evolve with a consistently changing fisheries environment. The review will involve input from industry, including consultation on any changes, and IF changes are required these will be authorised by the full Authority to go into a new byelaw and whilst this happens the existing byelaw would remain in place.

Flexibility provided within the byelaw provides a future-proofed tool for the Authority to effectively manage the fishery which can better incorporate changes in the environment and fishery practices to the benefit of the industry. It is not intended to reduce stability in the industry. Safeguards, including a robust consultation process are written into the byelaw to ensure that flexibility and discretion is exercised whilst taking into account the impacts on businesses.

It is intended that stability is provided through the adoption of policy and eligibility criteria, a model which has been successfully implemented in Poole Harbour by Southern IFCA.

It is noteworthy that the same model of byelaw is in place to manage the whelk fishery i.e. that the byelaw enables the Authority to limit the number of permits issued and introduce, vary and revoke eligibility criteria and that new vessels have been built during this time in order to operate within this fishery.

	<p>The flexibility provided within the byelaw is not considered to provide a threat to investment on that basis and the development of policies, in consultation with industry will further reduce the perceived threat of instability.</p>
<p>Fishermen should not have to take a permit out every year to maintain their access to the fishery.</p>	<p>How and to whom a permit is issued will be subject to further input through consultation with industry.</p> <p>We agree that fishermen should have secure and stable access to the fishery to avoid any insecurity about their livelihoods.</p> <p>As discussed above, to meet the aim and objectives for managing access, which involve ensuring a sustainable and equitable fishery into the future, options are being considered to enable active fishermen to maintain their access to the fishery through a consecutive permit.</p> <p>This would provide the security of access to the fishery in the same way that is currently enjoyed under the WFO 1992.</p>
<p>The cancellation of a permit and 12-month suspension is not proportionate and risks the livelihood of individual fishermen.</p>	<p>Eastern IFCA’s approach to enforcement, as outlined in our Enforcement Policy is focused on education and engagement and is always proportionate to the offence.</p> <p>Currently, under the WFO, licence and entitlement holders can lose their access to the fishery <i>permanently</i> after two offences with 24 months. Permanent loss of access, even following conviction, would have a significant impact on livelihoods and was felt to be disproportionate.</p>

	<p>Under the byelaw, it is proposed that after one offence where it results in conviction by a court, would result in the loss of the permit for a limited period only (proposed to be 12 months). This is intended to maintain the deterrent effect of the provision under the WFO whilst being more proportionate in its impact than complete future loss of access, which is currently the case.</p> <p>Enforcement action that results in prosecution is not frequent, and typically reflects circumstances of multiple offences (following low level enforcement action) or in the case of serious breaches.</p> <p>Further consideration is being given to whether wording which would enable the Authority to exercise discretion is appropriate, in the context of maintaining an appropriate deterrent effect and to how best this may be achieved.</p>
<p>The byelaw will not allow me to hand down my licence to my children or close family, as is currently the case.</p> <p>The Wash fishery is an important part of the local history and diversity of the area and should be celebrated for its societal and economic benefits and be protected.</p> <p>Transfer of licences between family and close relatives should be</p>	<p>A decision about this issue has not been made. It is possible for the byelaw to include policy to enable the transfer of licences to children and close relatives. How and to whom a permit is issued will be subject to further input through consultation with industry.</p> <p>We acknowledge the importance of supporting the generational fishing activity that is so fundamental to The Wash and our whole district. The aim and objectives for managing access to the fishery reflect this prioritisation. We are keen to develop policy, with input from industry, which will continue to support this.</p> <p>It is also important that new ways are considered which do not negatively impact active fishermen who may not have generational fishing heritage, or children or close relatives to whom their activity can be passed on to.</p>

<p>extended to include other active fishermen.</p>	<p>This matter is under consideration as part of the development of policies on access to the fishery. The byelaw enables transfers via eligibility criteria.</p>
<p>Fishermen will no longer be able to form a partnership, so when they retire, they cannot sell their share of the partnership.</p>	<p>Under the WFO the sale of licences, and the practice of renting them out to maintain a retirement, is prohibited by current policy.</p> <p>Permits, or licences, are intended to be solely for access to and prosecution of a fishery.</p> <p>However, it is understood that partnerships between active fishermen can be a sustainable way of enabling access to a fishery where there are high overheads and upfront costs to enter.</p> <p>This issue will be considered in the development of the policies and eligibility criteria.</p>
<p>A Category 2 permit would allow access to everyone to the detriment of fisheries sustainability and industry viability. There is no need for them.</p> <p>The lack of certainty around how a permit will be used is worrying for fishermen.</p> <p>Category 2 permits could open the fishery to challenge enabling more vessels to enter. More information</p>	<p>In response to the involvement of industry and concerns raised in this consultation, amendments have been made to the byelaw, notably the removal of the option for two categories of permits, and the process of work to allow for more discussion on the policies before the byelaw itself is progressed.</p> <p>It was always the case that the provisions of a category one and category two permit would be developed in consultation with industry, with the intent that a system could be developed to the benefit of industry that would provide for the different business models and circumstances in the Wash than is provided currently with the one licence system.</p> <p>However, as made clear in responses from industry to this consultation, the uncertainty involved in the development of a new system was of key concern. Therefore it has been recommended to the Authority that the byelaw is amended to only provide one category</p>

<p>about how two permits could be used is required.</p>	<p>of permit, as a continuation of the current licence system under the WFO. This would also prevent any temporary access to the fishery which had been under consideration.</p> <p>It is intended that this resolves any uncertainty about the potential usage of category two permits.</p>
<p>The consultation about the management of access, through policy and eligibility criteria, should be part of this consultation.</p> <p>There is not enough information about the management of access to provide industry with the assurance and security of the continuation of the fishery.</p> <p>Not enough information has been provided to understand the intent of the byelaw due to the approach to separate the management of access from the byelaw consultation.</p> <p>The eligibility criteria must be formulated in parallel with the byelaw to be approved jointly with the byelaw by the minister.</p>	<p>The intention of the byelaw is set out in the ‘policy objective’ within the associated Impact Assessment. In summary, the intention is to provide a tool to manage the cockle and mussel fisheries within The Wash over time through a flexible permit scheme.</p> <p>It is recognised that the separation of the byelaw from consideration of the allocation of permits has created a level of uncertainty and as a consequence it is proposed that the two elements are brought closer together to provide more clarity.</p> <p>The Authority agreed the approach to the replacement of the WFO 1992 - to separate the byelaw itself from the policies - because the development of the policies will require repeated industry involvement as they are developed collaboratively.</p> <p>This would result in significant delays to the process of the byelaw, which is the mechanism, which can take up to two years to be reviewed and approved by the MMO and Defra. In an attempt to avoid a situation where the fishery is left without replacement management, resulting in there being no fishery in 2023, these processes have been separated.</p> <p>It is recognised however that matter of access to the fishery (the focus of the policies and eligibility criteria) are the key concern of the stakeholders involved and that many of the objections to the byelaw are in fact in relation to these, rather than the byelaw itself.</p>

	<p>There is a risk to delaying the consideration of the byelaw in that there is a clear deadline being the expiry of the WFO (Jan 2023). However, it may be appropriate to informally submit the byelaw for MMO QA prior to formal submission to the Minister for consideration such that the key policy work can be completed for submission at the same time. This would be with the intention of allaying concerns about the level of flexibility of the byelaw.</p>
<p>The byelaw will deter new entrants to the fishery.</p>	<p>The fishery currently under the WFO is a 'closed shop'. There are very few access opportunities to enter the fishery for new entrants. Even some fishermen who have been active in the cockle and mussel fisheries in the Wash do not have independent access to the fishery. Therefore it is not considered that the byelaw itself will be the deterrent to new entrants.</p> <p>The aim for the management of access to the fishery under the byelaw seeks to be sustainable and equitable into the future. This will involve ensuring that opportunities for new entrants, that are currently only available in specific circumstances, are more accessible for all.</p> <p>It is also the case that access to the fishery will be limited, as must be the case to meet the socio-economic requirements of the fishery and environmental requirements of the Wash. Therefore a balance between ensuring access to the fishery for active fishermen and supporting opportunities for new entrants must be found.</p>

<p>Regulating orders have a longer history of success than byelaw provisions (Whiteley 2016⁵)</p>	<p>Whiteley's (2016) report produced for Seafish on the contribution and value of several, regulating and hybrid orders in UK fisheries was considered in the development of the comparative document presented to the Authority at the 39th Meeting.</p> <p>The report has also proved very useful in the development of the aim and objectives for the fishery. The report emphasises the capabilities of Orders in enabling a 'security of tenure' (Whiteley 2016, 5) as a provision of security for fishermen, creating a sense of ownership and buy-in to management (2016, 30). As Whiteley discovers, the success of this provision is context dependent. We reflected the importance of security through referencing the continuity of business models directly in the objectives and intend to continue to do so in the development of policy, permit conditions and eligibility criteria.</p>
<p>Industry have been 'effectively disenfranchised' from decision making, which is contra to the government directive on partnership working in the fisheries white paper.</p> <p>Eastern IFCA is not following the government's agenda of co-management as outlined in the fisheries white paper.</p>	<p>It is incumbent upon Eastern IFCA that representations from industry are taken into account in decision making.</p> <p>Outcome reports produced by officers detailing how decisions are made incorporating input from our stakeholders are reported to the Authority, shared on our website, and often sent to respondents directly.</p> <p>Our approach to involving stakeholders in our work, through targeted letters, consultations, frequent and flexible meetings (currently online due to the ongoing Covid-19 pandemic), onshore quayside engagement and through social media is reflective of this.</p>

⁵ Whiteley, R. 2016, UK Shellfish Production and Several, Regulating and Hybrid Orders: The Contribution and Value of Orders in Relation to the Sector's Past Development and Future Growth, Seafish Report, pp.1-71

<p>The Fishing into the Future project is focused on the involvement of stakeholders in fisheries management.</p>	<p>In response to the involvement of industry and concerns raised in this consultation, amendments have been made to the byelaw, notably the removal of the option for two categories of permits, and the process of work to allow more discussion on the policies before the byelaw itself is progressed.</p> <p>We are continually reflecting upon our engagement strategies towards the management of different fisheries and welcome suggestions from our stakeholders as to how greater involvement can be achieved.</p> <p>Consultation with industry is intended to result in collaborative development of management measures. By way of example, the process for developing the management for access to the fishery has included stakeholder involvement by way of consultation from the inception of an aim and objectives to guide the development of the measures.</p> <p>In certain circumstances, shorter consultations to enable more reactive changes in management are required to manage the fishery effectively, as has been the case under the WFO since its implementation. Examples include the opening of beds rapidly due to potential 'die-off' of cockles.</p>
<p>Fishermen can be more involved with the development of an order than a byelaw.</p>	<p>Eastern IFCA recognises and prioritises involvement from our stakeholders in decision making. It is also the case that there is often a balance of requirements across the diverse perspectives among our stakeholders, alongside the task of managing a successful, sustainable, and equitable fishery in a heavily designated area for marine conservation.</p>

	<p>We encourage all our stakeholders who work in the fishery in all roles and scales to include themselves and their knowledge in the development of management. As an Authority of combined expertise, we currently have five commercial fishermen as members of the Authority.</p> <p>There are no less powers and rights for stakeholders under a byelaw than an order. The guidance on IFCA byelaws provided by Defra specifies a requirement to consult with stakeholders and take into account the impacts of any the associated measures.</p> <p>Feedback from our stakeholders has already been essential in the development of the byelaw, notably the removal of the suggested new system of two permit categories, and the removal of the acceptance of a Financial Administrative Penalty as cause for the permit to be withdrawn. Additionally, consultation towards the end of 2020, on the aim and objectives for managing access to the fisheries, afforded essential feedback from our stakeholders which significantly shaped the final version of these.</p>
<p>A regulating order would have more accountability due to the involvement of the Secretary of State.</p>	<p>IFCAs were established with statutory powers that enable them to manage fisheries and exercising these powers to manage the Wash cockle and mussel fisheries is in accordance with the Authority’s statutory duties. There is no apparent rationale that would support any degree of enhanced accountability for the Authority’s management of the cockle and mussel fisheries over and above other fisheries managed by the Authority.</p> <p>Under the proposed Byelaw, the provisions which enable restricting access to the fishery, by setting a limit on the number of permits and via eligibility criteria, also require due process to be undertaken, which includes consultation and an impact assessment, and subsequent authorisation from the full Authority.</p>

	<p>In addition, regardless of the powers provided under a byelaw, the Authority has duties provided by Article 8 of the European Convention of Human Rights to make reasonable and justifiable decisions in that regard and would be held accountable, for example, by way of Public Inquiry under the powers provided to the Secretary of State.</p>
<p>The current order should be the basis for a new order.</p>	<p>The WFO 1992 has been the basis for the development of the Wash Cockle and Mussel Byelaw 2021. Many aspects of the order have been carried across directly, such as the licence fees and regulations but other elements are considered to be outdated and require revision.</p>
<p>Eastern IFCA sought a loophole using legal advice to avoid talking to industry about the decision of a byelaw or an order.</p>	<p>Legal advice has been sought on several occasions with regards to issues raised by industry. Such legal advice has been sought to ensure that these issues were properly considered and that the use of a byelaw would not jeopardise the fishery. All of the advice received in relation to these issues has confirmed the use of a byelaw is appropriate.</p>
<p>Eastern IFCA have misled the committee about the decision of a byelaw or an order.</p> <p>Fishermen were told that the WFO would be renewed but with changes made.</p>	<p>The Wash Fishery Order 1992 expires after its 30-year term in January 2023 and therefore must be replaced. Any replacement, be it another Order or a Byelaw, would involve a review because much has changed in fisheries activity and management since 1992. This does not necessarily imply that there will be wholesale change, but some degree of change is likely, and it is appropriate that the management of the fishery is reviewed.</p> <p>Within Action Item 10, (39th Eastern IFCA meeting, 11 March 2020), it was reported that Defra had advised that Regulating Orders were not being extended; this was on the basis of personal correspondence with the Defra lead officer for Several and Regulating</p>

Eastern IFCA are unwilling to evaluate the option of a regulating order against the wishes of industry.

Orders. The same officer later clarified that, although this was based on a recent rejection of an extension to an order, this was not a general Defra policy but that, whilst Orders may be extended, it was unlikely that this would be the case without amendment to the wording because fisheries management has changed since the Orders had been in place. Therefore, it is likely that the wording would have to be reviewed and changed as in the case of proposing a new Order in any case.

The Defra officer further advised that the process for extending an Order was the same as for replacing it with a new Order and crucially, because an order grants access to the fishery at the exclusion of others, consultation is required. Therefore, whilst the position of Defra has been revised, this revision would not have changed the recommendation of officers as, the extension of the WFO would have been regarded as having the same benefits and drawbacks of replacing it with a new Order.

It is important to note that this issue was not a key factor in the Authority's decision, which was primarily based upon a detailed analysis of what could be achieved under a byelaw versus an order.

Options for the direction of replacement have been considered by the Authority, including the potential for extending the current order, replacing the order with a new order, or replacing the order with a byelaw. Assessment and subsequent legal advice have concluded that a byelaw will be the best mechanism for managing the fishery, continuing to ensure a successful and sustainable fishery into the future.

Aspects of the current order will be carried over to the new byelaw, such as the fees and regulations. While adjustments are required, it is not necessary to change all aspects of the current management regime under the new byelaw. We also recognise the

	<p>challenges in making changes to fisheries management and we will seek to avoid introducing new problems.</p> <p>In recognition of the representation we have received to this effect, we are refocusing our ‘dual approach’ to this work and will be progressing consultation with industry on the stage one policies and eligibility criteria that will address how access to the fishery is managed, prior to officers returning the byelaw to the Authority for consideration of any required changes.</p> <p>It is intended that this mitigation will provide industry with the necessary confidence in the future for the byelaw and the cockle and mussel fisheries, allaying potentially misplaced concerns about the management mechanism itself.</p>
<p>More permits to the fishery should not be given out on good years, the benefits of the fishery should be for the fishermen who are there in all years. Fishermen themselves are invested in protecting future stocks.</p> <p>There should be a limit to the number of permits to enter the fishery which should not be varied each year.</p>	<p>We understand the importance of maintaining consistent access to the fishery for fishermen that weather the good years and the bad. We also understand the security that can come from having overall limited access available for the fishery that is transparent and consistent.</p> <p>At the 43rd Authority meeting in March 2021 members agreed that, subject to further research by officers and consultation with industry, access to the cockle and mussel fisheries in the Wash will be restricted to a finite number of primary permit holders. This was in response to the ongoing concerns represented by industry about increasing access to the cockle and mussel fisheries in the Wash.</p> <p>The agreement also reflects the first policy objective for managing access which is ‘to limit access to the fishery to a number of persons which meets the aim’. Therefore</p>

	<p>permits to the fishery will be issued in accordance with the objectives, providing security to the individuals that are consistently active within the fishery.</p> <p>We also recognise the importance of designing policy that can account for when unexpected circumstances arise, or where an individual may not purchase a permit for a particular year, to make sure fishermen are not beholden to prosecuting the fishery to maintain access where it may put themselves or their business model at risk.</p>
<p>There has not been enough detail provided about what the amendments and revocations to existing byelaws will mean.</p>	<p>The revocations and amendments are specifically in reference to where the wording in existing legislation would require amending to refer to the new byelaw, rather than to the WFO 1992.</p> <p>A list of all the byelaws that are currently in place in our district is available on our website or from the office on request, including information about byelaws that are still in progress such as the Shrimp Permit Byelaw 2018, and the Marine Protected Areas Byelaw 2019.</p>
<p>The permit will be too expensive.</p>	<p>Fee increases under the WFO 1992 were agreed by the Authority in 2017 and are based upon cost recovery but capped at a maximum of 50%. The fee structure for the new byelaw will be carried over from the WFO.</p>
<p>The prevention of the use of tenders is a safety issue and should be down to the fisherman to decide their use.</p>	<p>There is national legislation on the use of tenders (following from the Sea Fish Licencing Regulations 2019), therefore this is regulation carried over from the WFO 1992.</p> <p>We recognise that the use of tenders for some activity is important for safety while the activity follows the national legislation on this issue.</p>

<p>There should be a 10% allowance on weight to allow for waste shell and mud and the weight of the bag. This should be responsive to the different beds when can have different levels of shell.</p> <p>Standard bags for the fishery should be used to measure the cockles by volume, as is practiced in the Thames Cackle Fishery.</p>	<p>The technical measures discussed here are carried over from the WFO as they were recently reviewed as part of the fisheries management plan in 2019.</p> <p>The issues surrounding this are understood and further consideration will be given as to whether changes to the byelaw and fisheries management plan are required.</p>
<p>The requirement to land cockles (regulations carried over from WFO) would prevent any future relaying of cockles.</p>	<p>The requirement to land cockles was introduced to deter the practice of hiding bags of cockles in rivers with the intention to land them after officers have left the quay. The provision makes it an offence in itself so as to reduce the potential for breaching the daily catch restriction in the cockle fishery.</p> <p>The relaying of cockles is thought to be very limited. However, this provision is not intended to preclude this activity. Proposed amendments to the wording of the provision will enable the 'relaying' on written authority from the Authority.</p>

<p>The flexibility of a byelaw would give IFCA too much power and rash decisions could be made that wouldn't be under an order.</p> <p>That substantial changes can be made at any time with only a four-week consultation is a threat to business security.</p>	<p>The flexibility provided by a byelaw is in accordance with the statutory duties of all IFCAs, which were established to manage inshore fisheries.</p> <p>The Secretary of State (SoS) for Defra, and the MMO, are still crucially involved in the development of the byelaw, as part of the quality assurance process, and any changes to the byelaw itself that are considered in the future will require consultation with industry and sign off from the SoS. However the byelaw, unlike an order, will not go before parliament.</p> <p>It is important to note that the capacity for policy changes to be made to the byelaw without involvement of the SoS, would still require due process to be followed, involving consultation and engagement with industry and consideration of any subsequent impacts.</p> <p>A four-week consultation period is analogous with the 28 days recommended within Defra guidance for making byelaws. This is considered sufficient to gather views of industry to inform decisions on eligibility criteria. Additional criteria have been added to the process for introducing, varying or revoking eligibility criteria to formalise the Authority taking into account the impacts of any such decisions.</p>
<p>Fishermen cannot work securely under a temporary permit.</p>	<p>It has been recommended to the Authority that the byelaw is amended to only provide one category of permit, as a continuation of the current licence system under the WFO.</p>

	<p>This would also prevent any temporary access to the fishery which had been under consideration.</p>
<p>The consultation documents do not provide an accurate statement of the status of the byelaw and do not clearly indicate that this is the opportunity for respondents to comment on, support, or object to the byelaw.</p>	<p>In accordance with Defra guidance to IFCA's on byelaw making, a public notice was placed in the Fishing News which set out our intention to submit a byelaw to the Secretary of State and that stakeholders could object to such.</p> <p>In addition, with the intention to ensure we reached all stakeholders who are known to us to be impacted by the byelaw, we sent out additional material via letter and published the same on the Eastern IFCA website. The wording of the material (the 'consultation documents') refer to stakeholders providing 'feedback' rather than using the formal term of 'objection'. The intention being to use less formal language to encourage genuine dialogue to inform the continued development of the byelaw, rather than to seek simple objections only.</p> <p>These documents correctly portray the status of the byelaw in that we are seeking views of industry in order to inform further development of the byelaw on that basis before we submit it to the Secretary of State.</p>
<p>Eastern IFCA should agree to a process of mediation which respects Defra policy about co-management. If this offer of mediation is rejected industry would have no alternative but to apply to the SoS to direct an inquiry to the IFCA's proposals.</p>	<p>The efforts of the legal and fisheries management representatives appointed by industry members to engage in dialogue and represent the industry are well received and have been taken as offered.</p> <p>There is an indication, however, that the industry is not completely represented by the appointed representatives, with the views of industry varying more than is evident from the proforma objections received.</p>

	<p>It is noted that Defra are considering the issue of co-management, but no firm proposals have yet been produced and it appears that the term ‘co-management’ has yet to be clearly defined and it may mean different things to different people. The IFCA construct, with the inclusion of industry members on the Authority and substantial efforts put into engagement and consultation, could be said to be a version of co-management and given the Authority’s constructive approach to engagement with industry, including taking account of their views and making amendments to the byelaw, it is not clear what mediation would achieve.</p>
<p>The schedules for the byelaw do not create clear mechanisms for there being differences in policies and eligibility criteria for the different categories of permit.</p>	<p>As above, category two permits have subsequently been removed from the byelaw following representation from industry.</p>
<p>There has been no policy framework to guide the development of the policies. That they are to be developed over the next two years is worrying and a clear indication that EIFCA do not have any concrete proposals. This will create a cliff-edge for management that is avoidable.</p>	<p>An aim and objectives were drafted which are intended to guide the development of policies and eligibility criteria. These were consulted on with industry with the intention that they would capture the key issues at the highest level with regards to managing access in the fishery.</p> <p>These were finalised following feedback from industry, discussed at the Fisheries and Conservation Management Group and are presented to the Authority at this meeting for consideration.</p>

	<p>In addition, recognising the concerns expressed by industry an overall policy objective for the replacement of the WFO was agreed by the Authority at their last meeting in March 2021.</p>
<p>It is irrational and unworkable to not include the other fisheries for bivalve molluscs in the Wash from this byelaw.</p>	<p>The cockle fishery and, to a lesser extent, the mussel fishery, are the two key bivalve mollusc fisheries in The Wash. No other bivalve fisheries are viable at present. It is intended that a separate and more generic bivalve mollusc byelaw will be introduced to enable management of these throughout the district. The intention is to recognise the importance of these two fisheries by having a standalone mechanism for their management. For these reasons, it is not considered irrational.</p> <p>Given that no other fisheries are presently active within The Wash, is not considered 'unworkable'.</p> <p>If other fisheries do emerge, they will require the development of fisheries management plans and habitat regulation assessments which are separate to those for cockle and mussels which are already well established. It is therefore possible, or even likely, that management for such would be very different to that established under the WFO for cockles and mussels and these should be considered as and when they occur. That said, a generic mechanism to enable this management is intended to be implemented via a separate byelaw as set out above.</p>
<p>It is impossible to prevent the permit from having 'value'.</p>	<p>This matter is not relevant to the byelaw. Policies and eligibility criteria which deal with access to the fishery will have an impact on this. It is the case that a permit allocation scheme can be developed whereby a permit has no value (as a tradeable commodity), for example, if there was no limit on the number of permits or if a permit allocated to the</p>

	<p>person actively fishing, rather than the owner of a vessel associated with the fishing. Management of the transfer of licences will also impact on this.</p>
<p>It has been overlooked that fishermen in the Wash exercise their right to a public fishery.</p>	<p>The matter of access to the fishery is being considered within the development of policies and eligibility criteria. The intention of the byelaw is to provide a mechanism to manage access to the fishery as part of a wider fisheries management plan. The right of those who currently fish in The Wash for cockles and mussels is no greater than the right enjoyed by any person at the point the WFO expires. It is recognised that the fishery may not be viable if access is not limited to a finite number and so a process is required to determine fair access to the fishery.</p>
<p>EIFCA don't want fishermen to earn pensions from licences.</p> <p>Retired fishermen should be able to benefit from the profits of the fishery</p>	<p>The wording of the byelaw will not act to prevent this, but it is a matter under consideration via the development of policies for access to the fishery.</p> <p>The policies and eligibility criteria will determine the allocation of permits rather than the byelaw. Nothing in the byelaw will affect the matter raised but this will be taken into consideration when considering access policies.</p>
<p>EIFCA is acting beyond its powers in the imposition of economic models operating within the fishery.</p>	<p>Nothing in the byelaw will act as an imposition of economic models operating in the fishery.</p>
<p>It is not clear why the byelaw should require financial information unless it is intended to attack economic models.</p>	<p>The byelaw includes a provision which would enable the Authority to ask for financial information to inform decisions on permit allocation. The intention is to enable evidence gathering to inform the fairest allocation of licences, which will meet the needs of all persons engaged in the fishery and it is anticipated that financial information will be useful in achieving this.</p>

References:

Whiteley, R. 2016, UK Shellfish Production and Several, Regulating and Hybrid Orders: The Contribution and Value of Orders in Relation to the Sector's Past Development and Future Growth, Seafish Report, pp.1-71

Appendix 3 – amendments to the Wash Cockle and Mussel Byelaw 2021

Paragraph	As drafted at 43 rd Eastern IFCA meeting	As amended	Explanation and Rationale
11	<p>The Authority may issue a:</p> <ul style="list-style-type: none"> a) Hand-work cockle permit authorising a person to fish for, take or remove cockles from a hand-work cockle fishery b) Hand work mussel permit authorising a person to fish for, take or remove mussels from a dredged mussel fishery c) Mussel dredge permit authorising a person to fish for, take or remove from the fishery mussels from within a dredged mussel fishery 	<p>The Authority may issue permits to authorise fishing:</p> <ul style="list-style-type: none"> a) within a hand-work cockle fishery; b) within a hand-work mussel fishery; c) within a dredged mussel fishery. 	<p>Revised wording for ease of reading.</p> <p>Removed phrasing ‘fish for take or remove’ as this is provided in the meaning of ‘fishing’ in the interpretation section.</p> <p>Intended effect remains the same i.e. that the Authority may issue any of the three separate permits.</p>
16	<p>Only one of each of the permits in paragraph 11 may be issued in respect of each vessel which is named on a permit or to each person issued a permit without a vessel and a person cannot hold a permit on</p>	<p>Only one permit under each subparagraph of paragraph 11 may be issued in respect of each vessel which is named on a permit or to each person issued a permit without a vessel and a person cannot hold a permit on which a vessel is named</p>	<p>Minor amendment to wording for ease of reading and clarity.</p> <p>Intended effect remains the same i.e. to limit the issuing of one of each</p>

	which a vessel is named and a permit on which no vessel is named.	and a permit on which no vessel is named.	permit to a vessel or person without a vessel as the case may be.
19	<p>An application for a permit must be made by completing forms available from the Authority which will require information and evidence in relation to:</p> <ul style="list-style-type: none"> a) applicant details; b) details of any named representatives; c) vessel details, documentation and certification; d) business or financial information. 	<p>An application for a permit must be made by completing forms available from the Authority which may require information and evidence in relation to:</p> <ul style="list-style-type: none"> a) applicant details; b) details of any named representatives; c) vessel details, documentation and certification; d) relevant business or financial information. 	<p>Replaced 'will' with 'may' with respect to the Authority asking for financial information so that the Authority has discretion with regards to this.</p> <p>Also amended sub-paragraph d to reflect the potential for requiring 'relevant' business or financial information.</p>
20	The Authority may issue, vary or revoke criteria 11 to restrict:	The Authority may issue, vary or revoke criteria separately in relation to each of the permits issuable under paragraph 11 to restrict:	Added wording to enhance clarity with regards to issuing, varying or revoking eligibility criteria separately for each permit.
21	For the purposes of paragraph 20 (above), 'the Authority' means either the full Authority, at a statutory meeting or members of an	For the purposes of paragraph 20 (above), 'the Authority' means either the full Authority, at a statutory meeting or members of an	Minor amendment for clarity as to meaning of a 'sub-committee'.

	appropriately delegated sub-committee only.	appropriately delegated sub-committee of the Authority only.	
23	The Authority may attach to permits flexible conditions which fall within one or more of the following categories;...	The Authority may attach separately in relation to each of the permits issuable under paragraph 11 , flexible conditions which fall within one or more of the following categories;...	Minor amendment to enhance clarity.
25(c)	<p>The Authority may, with no less than 12 hours' notice, issue, vary or revoke flexible permit conditions if:</p> <p>a) there is a risk to stocks;</p> <p>b) there is a risk to site integrity in relation to any marine protected areas that a fishery is situated within;</p> <p>c) which would facilitate effective prosecution of the fishery or detection or prevention of non-compliance.</p>	<p>The Authority may, with no less than 12 hours' notice, issue, vary or revoke flexible permit conditions if:</p> <p>a) there is a risk to stocks;</p> <p>b) there is a risk to site integrity in relation to any marine protected areas that a fishery is situated within;</p> <p>c) the Authority determines that there are other urgent and compelling reasons of which such action should be taken prior to a review under paragraph 24.</p>	Revised wording of sub-paragraph c for clarity and ease of reading.

26	Any action by the Authority under paragraph 25 will be reviewed in accordance with Schedule 4 within two months of the date of such action being taken	Where any action by the Authority under paragraph 25 is intended to have effect for more than three months, it will be reviewed in accordance with Schedule 4 within three months of the date of such action being taken	<p>Included wording which negates the need to review measures brought in via paragraph 25 (i.e. the need to consult and consider impacts) where the effects are intended to last for three months or less. This reflects that, where this is the case, the effect of the measure will have passed by the time a review is completed and will therefore have no effect.</p> <p>Increased the period for which a review is required to three months to align better with Authority meeting cycles if the decision is made without delegated authority. This revision was suggested in feedback received from the formal consultation for these reasons.</p>
29(c)	The Authority may, with no less than 12 hours' notice, open or close a fishery or parts thereof if	The Authority may, with no less than 12 hours' notice, open or close a fishery or parts thereof if	Revised wording of sub-paragraph c for clarity and ease of reading.

	<p>a) there is a risk to stocks;</p> <p>b) there is a risk to site integrity in relation to any marine protected areas that a fishery is situated within;</p> <p>c) which would facilitate effective prosecution of the fishery or detection or prevention of non-compliance.</p>	<p>a) there is a risk to stocks;</p> <p>b) there is a risk to site integrity in relation to any marine protected areas that a fishery is situated within;</p> <p>c) the Authority determines that there are other urgent and compelling reasons of which such action should be taken prior to a review under paragraph 28.</p>	
30	<p>Any closure under paragraph 29 shall be reviewed in accordance with Schedule 4 within two months after the date of such closure unless the closure is rescinded.</p>	<p>Where any closure under paragraph 29 is intended to have effect for more than three months, it shall be reviewed in accordance with Schedule 4 within three months after the date of such closure unless the closure is rescinded.</p>	<p>Increased the period for which a review is required to three months to align better with Authority meeting cycles if the decision is made without delegated authority. This revision was suggested in feedback received from the formal consultation for these reasons.</p>
31	<p>The Authority may close a fishery or parts thereof if the total allowable catch has been exhausted or as a result of a review undertaken under paragraph 30 or to enable a stock</p>	<p>The Authority may close a fishery or parts thereof if:</p> <p>a) the total allowable catch has been exhausted;</p>	<p>Revised wording with no change to intended effect for ease of reading and to enhance clarity.</p>

	survey in relation to the associated fishery.	<p>b) to enable a stock survey in relation to the associated fishery; or</p> <p>c) as a result of a review undertaken under paragraph 30.</p>	
33	<p>The Authority may, with no less than 12 hours' notice, issue, vary or revoke operating times if:</p> <p>a) there is a risk to stocks</p> <p>b) there is a risk to site integrity in relation to any marine protected areas that a fishery is situated within;</p> <p>c) which would facilitate effective prosecution of the fishery or detection or prevention of non-compliance.</p>	<p>The Authority may, with no less than 12 hours' notice, issue, vary or revoke operating times if:</p> <p>a) there is a risk to stocks</p> <p>b) there is a risk to site integrity in relation to any marine protected areas that a fishery is situated within;</p> <p>c) the Authority determines that there are other urgent and compelling reasons of which such action should be taken prior to a review under paragraph 32.</p>	Revised wording of sub-paragraph c for clarity and ease of reading.
34	Any action by the Authority under paragraph 33 shall be reviewed in	Where any action by the Authority under paragraph 33 is intended to	Increased the period for which a review is required to three months to

	accordance with Schedule 4, within two months after the date of such action being taken.	have effect for more than three months, it shall be reviewed in accordance with Schedule 4, within three months after the date of such action being taken.	align better with Authority meeting cycles if the decision is made without delegated authority. This revision was suggested in feedback received from the formal consultation for these reasons.
35	A person must not fish for, take or remove any cockles or mussels using a vessel unless they have on board catch return forms for the fishery they are operating in which will be provided by the Authority.	<i>Paragraph removed</i>	<p>This paragraph was intended to increase compliance with the requirement to complete and return accurate catch returns on the bass that they will be onboard and available to be completed as near to the time of fishing as possible.</p> <p>Feedback was received to the effect that, in some business models, this would likely reduce the likelihood of forms being completed correctly as administrative support is provided to aid the completion of forms. On balance, it is propose that the other related provisions will have a beneficial impact on levels of compliance with this measure and that this provision in particular will</p>

			be of limited benefit given the response received.
Schedule 2, paragraph 14 & 15	<p>14. a person fishing for cockles must:</p> <ul style="list-style-type: none"> a. take any cockles fished for straight to port; b. land such cockles immediately; and c. not leave cockles on the sand or deposited in the water in bags or any other container for later collection. 	<p>14. Subject to paragraph 15, a person fishing for cockles must:</p> <ul style="list-style-type: none"> a. take any cockles fished for straight to port; b. land such cockles immediately; and c. not leave cockles on the sand or deposited in the water in bags or any other container for later collection. <p>15. Paragraph 14 does not apply where a person has written authority from the Authority to relay cockles onto private shellfish aquaculture areas prior to them being landed.</p>	Added a provision (at paragraph 15) which allows for the relaying of cockles with written consent of the Authority
Schedule 4, paragraph 2	The Authority shall review flexible permit conditions and restrictions on the issuing of permits no less frequently than every four years after	The Authority shall review flexible permit conditions and restrictions on the issuing of permits no less frequently than every six years after	Amended the minimum review period from 4 years to 6 years. This reflects the concern raised that the

	the date that a flexible permit condition or restriction on the issuing of permits has taken effect.	the date that a flexible permit condition or restriction on the issuing of permits has taken effect.	flexibility of the byelaw risks continuity and reduces stability.
Schedule 5, paragraph 1(b)	<p>The procedure referred to in paragraph 20 (in this Schedule, ‘the proposed changes’) must include the following steps:</p> <p>a) consultation as follows:</p> <p>i) inviting comment on proposals for no less than four weeks; and</p> <p>ii) advertisement by such means as the Authority considers appropriate and through written means (either letter or email) to existing permit holders.</p> <p>b) undertaking an impact assessment relating to the proposed changes</p>	<p>The procedure referred to in paragraph 20 (in this Schedule, ‘the proposed changes’) must include the following steps:</p> <p>a) consultation as follows:</p> <p>i) inviting comment on proposals for no less than four weeks; and</p> <p>ii) advertisement by such means as the Authority considers appropriate and through written means (either letter or email) to existing permit holders.</p> <p>b) undertaking an impact assessment relating to the proposed</p>	<p>Added criteria to sub-paragraph b which the Authority must have particular regard to when considering eligibility criteria.</p> <p>This reflects feedback that the flexibility of the eligibility criteria is perceived as a threat to industry continuity and is suggested mitigation to counter this.</p>

		<p>changes having particular regard to the following:</p> <p>i) the stability, continuity and succession of businesses of the permit holders;</p> <p>ii) the continuing ability of permit holders to finance their businesses;</p>	
Schedule 5, paragraph 2	The Authority shall review eligibility criteria no less frequently than every four years after the date that an eligibility criterion has taken effect.	The Authority shall review eligibility criteria every six years after the date that an eligibility criterion has taken effect or more frequently where the Authority determines that there are urgent and compelling reasons to do so which would include a risk to the sustainability of a fishery, the protection of a marine protected area within which a fishery operates or the viability of fishery stakeholders.	<p>Amendments with the following effects:</p> <ul style="list-style-type: none"> • Sets out that reviews for eligibility criteria will be every six years (rather than four) • That such reviews will not be undertaken more frequently unless there is an urgent need to do so <p>This reflects concerns that frequent review of eligibility criteria will reduce stability for industry and</p>

			impact effective business planning and continuity.
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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

Eastern Inshore Fisheries and Conservation Authority Meeting

09 June 2021

Wash Cockle and Mussel Fisheries Policy Development

Report by: Imogen Cessford, Project Officer

Purpose of Report

To report to members the final aim and objectives for managing access to the cockle and mussel fisheries in The Wash, following consultation with industry and subsequent evaluation.

Recommendations

It is recommended that members:

- **Note** the content of the report
- **Agree** to the proposed final aim and set of objectives which will guide the development of management of access to the cockle and mussel fisheries in The Wash.
- **Direct** officers to develop the management of access to the fishery, via policies and eligibility criteria, including via consultation with industry as required to achieve the aim and objectives.

Background

Eastern IFCA is developing measures to manage access to Wash cockle and mussel fisheries as part of the replacement of the Wash Fishery Order 1992 (WFO).

It is recognised, and reflected in paper 12 of this meeting, that managing access of a key concern of the industry, and that until the policies are finalised, there remains uncertainty. In recognition of these concerns, at the 43rd Authority Meeting, an overall policy objective was agreed by members to provide assurances to industry on the key areas of their concern: security and future access. The policy objective encompasses all aspects of managing the cockle and mussel fisheries including the byelaw provisions, restrictions, and management of access to the fishery.

Following the agreement of the overall policy objective, at the 43rd Authority Meeting in March 2021 members agreed to the adoption of an aim and objectives as a more specific framework for managing access through the policies and eligibility criteria for the Wash Cockle and Mussel Byelaw 2021. At the meeting members were presented

with the draft aim and objectives and agreed to their finalisation by officers, taking in to account the views of industry from consultation in November/December 2020.

The final aim and objectives were considered at the Fisheries and Conservation Management Working Group in April 2021, where the amendments from the draft set were noted and informally approved. However, it is considered appropriate that because of the focus and sensitivity surrounding the work on the replacement of the WFO, the final aim and objectives should be returned to the Authority for formal approval at this meeting.

Report

Under the WFO, access to the fishery is managed primarily through policies. These have been under review for several years. A partial review of the 2008 policies resulted in the implementation of interim policies in 2017 which were intended to be temporary in advance of a full review including consultation with industry – which officers were directed by members to undertake (Action Item 14c, 27th Eastern IFCA meeting, 15th February 2017).

To guide the development of this work, officers developed a draft aim and set of objectives, which were discussed at the Fisheries and Conservation Management Working Group in October 2020 and subsequently went out to consultation with fisheries stakeholders in November/December 2020.

The purpose of this consultation was two-fold, to provide industry with an opportunity to contribute to the development of the aim and objectives thereby guiding the direction of management for the fishery, and to address the concerns of industry that had been raised prior to the consultation surrounding access and security.

58 responses to the consultation were received. 50 of these were duplicated responses, or signatories to the duplicated response, written by a solicitor in representation of their clients. The responses included comments and questions that were about the replacement of the Order with a byelaw more broadly. The full responses to this consultation were reported to members at the 43rd Authority meeting in March 2020.

Subsequently, the responses to this consultation and further analysis by officers have informed the final aim and set of objectives for managing access to the fishery. These set out an aspirational framework for the fishery in terms of managing access. They reflect the obligations to fairness and transparency incumbent upon Eastern IFCA as a public authority, and a commitment to our stakeholders.

The final aim and set of objectives are proposed for agreement by members as follows:

Aim: ‘To achieve a level of access to the fishery that is equitable, and which supports the viability of varying business models, the conservation objectives of The Wash, and stock sustainability’

Objectives:

1. To limit access to the fishery to a number of persons which will meet the aim.
2. To support effective business planning and continuity.
3. To enable a range of business models to operate within the fishery.
4. To prioritise the continuity of active participants in the fishery.
5. To enable appropriate permit turnover to create opportunity for suitably qualified new permit holders.
6. To prevent the permit from having its own value or becoming a tradable commodity.

This document will now review in brief the aim and the objectives in line with the responses to the Nov/Dec 2020 consultation and present the final version – if there were changes deemed necessary from the draft.

The Aim

To achieve a level of access to the fishery that is equitable, and which supports the viability of varying business models, the conservation objectives of The Wash and stock sustainability.

The aim received the least commentary or objection in consultation, and therefore remains the same as the draft. Some suggestions for revision were received and considered, such as to emphasise fishermen that are active within the fishery, and to remove reference to ‘business models’ in concern that a specific business model is implied.

The concern for reference to business models is understood and the aim specifies ‘varying business models’ in acknowledgement of this. The implication by this inclusion is that there is no business model that should be supported more than others. Access to the fishery should be equitable for all models currently fishing. The suggested replacement of ‘business models’ with ‘active fishermen’s livelihoods’ was considered. However, a revision to the aim has not been made, it was concluded that the current iteration remains a broad approach that encompasses all – individuals and business models at all scales – and it was felt that discussion of active participation within the fishery is emphasised sufficiently through objective 4.

The Objectives

Each objective is discussed briefly covering, the purpose, the main objections, suggestions for revision and action taken if necessary.

1. **Draft objective:** To limit access to the fishery to a number of persons which will meet the aim.

Revised objective: not required.

The purpose of this objective is to ensure that access to the fishery will be limited to avoid the fishery becoming oversubscribed to the extent that current individual viability is compromised. This objective is in light of industry concerns to this effect which include the lack of available species to diversify to, if the fishery became inaccessible, and the socioeconomic impacts of this. It is understood that, from a conservation perspective, limiting access is accounted for by the operation of the fishery under a total allowable catch. The objective outlines that access will be limited in line with the aim, i.e. it will be limited in such a way that continues to support stock sustainability, viable livelihoods, and the conservation objectives of The Wash.

There were two main points of discussion in consultation relevant to this objective in responses. Firstly, discussion around this objective was, understandably, focused on how and to whom access should and will be limited to. Emphasis was made in several responses that access should also be limited to, or should at least prioritise, local fishermen and those currently active. As was referenced in the outcome report, it is not considered appropriate to allocate fishing opportunities based on a vessels home port, as mentioned in s.23(4) of the Fisheries Act 2020. It is important to balance this with supporting the local fishing history and communities. Additionally it is noteworthy that limiting access to the fishery at all is management that must be justifiably sought. A revision to this objective to reflect this has therefore not been considered.

Secondly, it was suggested that this objective could imply that the limit of permits could be changed annually. The limitation of access to the fishery, through eligibility criteria and the number of permits can be subject to change as is required to meet the needs of the fishery. This is an important part of flexible management to enable it to be responsive in the face of change. However, any changes to the limit and management will involve consultation with affected stakeholders, whereby the impact of future changes are taken into account. A revision to this objective on this basis has therefore not been considered.

- 2. Draft objective:** To provide clarity and transparency to support effective business planning and continuity.

Revised objective:

To support effective business planning and continuity.

The purpose of this objective is to acknowledge the impact that changes in management have on our stakeholders. It also reflects the need for consistent and secure management to support business planning.

In addition, HM Government's UK Marine Policy Statement and the East Inshore and Offshore Marine Plan 2014 both emphasise economic and environmental sustainability in the inshore marine environment, with a high-level marine objective set as: 'Marine businesses are taking long term

strategic decisions and managing risks effectively'⁶. To this end, our second objective seeks to address the need for business continuity and planning.

Business security and continuity has understandably presented as the key area of concern for industry, consequently this objective can be considered as of the greatest priority to industry. Currently, the absence of security due to the uncertainty surrounding the development of the byelaw has impacted trust held between industry and fisheries management. The rebuilding and maintenance of trust is essential to well-managed fisheries.

Therefore, while some uncertainty is inevitable in change, by ensuring that access to the fishery is clear and transparent can help to mitigate any concerns. The objective is understood to reflect this commitment. Superficial changes have been made to the wording to assist comprehension and to make the objective as direct as possible.

Additionally, suggestions were made in responses for how this objective can be achieved, through further meetings, updates, and communication with industry. It is important that this is balanced with the need to keep communication concise to limit any potential confusion. It is acknowledged that COVID-19 has greatly impacted our approach to engagement, and while we have had success with online meetings, the absence of short regular in-person engagement with stakeholders has been felt.

- 3. Draft objective:** To enable a range of legitimate business arrangements that are compatible with known business models operating within the fishery.

Revised objective:

To enable a range of business models to operate within the fishery.

The purpose of this objective is to address any issues resulting from the current licence system under the WFO. It enables that new policy will explore options beyond those available under the order to support the diverse business models that exist within The Wash.

This objective received several objections. Overall, it was felt that this objective would lead to policy that is over-bureaucratic and potentially *ultra vires*. There were concerns that due to the specificity required to implement such an objective through policy, this would disproportionately affect smaller businesses. It was also raised that the process of determining the legitimacy of a business would require further criteria, and that this may in part contradict the aim to enable varying business models. Finally, it was felt that this objective contradicts with objective 6; if it is possible to be in a partnership in the ownership and management of a vessel and these partners can change, it will then be possible to transfer licences.

⁶ HM's Government UK Marine Policy Statement, 2011, p.11. Accessed at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69322/pb3654-marine-policy-statement-110316.pdf

Evaluation of these objections has raised the difficulty of establishing a criterion for businesses legitimacy. Alongside the strength of feeling received in response to the objective from industry, and subsequent legal advice, it is recommended that this objective is revised as written above.

The initial purpose of this objective, for policy and eligibility criteria to enable a range of business models, should be refocused as the emphasis of this objective. This revision would address concerns that businesses operating at a smaller scale or those that are based outside the two main ports are overlooked.

With the revisions made, the implication and purpose of this objective remains; for Officers to reconsider in policy and bring to light what can be appropriate as a partnership in vessel ownership and fishing activity without contradicting the need to prevent vessels having an attached value (objective 7).

- 4. Draft objective:** To prioritise the continuity of active participants and business models that can provide evidence best for practice and legitimate business practices.

Revised objective:

To prioritise the continuity of active participants in the fishery.

The purpose of this objective is to make clear intent to avoid unnecessary disruption of current business models and active participants during the replacement of the WFO 1992 and to develop policy to ensure stable and consistent access to the fishery for those who prosecute the fishery annually.

The perceived insecurity of a byelaw in comparison to a regulating order has been a key issue during engagement on the replacement of the WFO. This objective seeks to provide assurance to industry, particularly to those who depend on the cockle fishery as their main prosecuted fishery.

This objective also draws attention to those actively using the licence to fish as prioritised above those retaining a licence for purposes that are viewed as beyond the intentions of an entitlement to further licences such as, the renting out of licences or the use of a licence as a pension, a concern raised by stakeholders in consultation.

In the draft of this objective written above, there is reference to best practice and legitimate practice. This reflected the intention that fishermen in the Wash will be expected have to experience of the site to account for its environmental sensitivities (as with the current experience requirements) and good compliance to be eligible for access to the fishery and to maintain that access (as is the case currently under the Wash Fishery Order).

However, as with objective 3, concerns were raised by stakeholders in response to this objective about the potential implications of 'legitimate business practices.' Particularly, that reference to legitimacy could inadvertently be to the detriment of smaller scale activity. Unforeseen interpretations of this point have also been expressed in responses and further engagement, to the effect that Eastern IFCA intends to enforce only one business model to participate in the fishery. This is not the case. Developing management that caters for the different business models at different scales that operate in the Wash is central to our approach to equitable management. There is no 'one' business model in the Wash, and it is not the intent of Eastern IFCA to make this a reality. In fact, objective 6 is written to avoid the monopolisation of the Wash by one business model, in recognition of the important diversity of our stakeholders.

Concerns were also raised in meetings about how 'best practice' would be qualified. While it was intended that best practice and legitimate business practices would be defined through further engagement with industry, and importantly that meeting these criteria would not be solely or immediately incumbent upon industry, the uncertainty surrounding the terms at present was cause for concern.

A revision is suggested, considering these responses and previous evaluation (see objective 3), to remove reference to 'legitimate business practices.' Similarly, it is recommended that reference to 'best practice' is removed from this objective. This will remove any terms that could suffer from individual interpretation, providing clarity to our stakeholders.

Despite these objections, broadly the responses to this objective agreed that active fishermen should be supported and that it is important to enable continuity and security through management. Responses additionally highlighted the importance of understanding active participants across different scales of activity. The revised objective therefore emphasises focus upon active participants in the fishery. Where objective 3 acknowledges business models, this objective directly addresses the need for security through continued access for the fishermen themselves.

- 5. Draft objective:** To facilitate new entrants into the fishery by enabling appropriate permit turnover and infrastructure to log suitability to enter the fishery.

Revised objective:

To enable appropriate permit turnover to create opportunity for suitably qualified new permit holders.

This objective is necessary to reflect that, because the number of permits will be limited (as per objective 1), the main mechanism for change and new entrants will be through turnover. The objective has been revised to aid comprehension, a suggestion from the responses has been included.

Responses to this objective were contradictory. While many supported the inclusion of new entrants to the fishery, as an important part of maintaining a sustainable fishery into the future, there were also concerns that providing new entrants with permits is not the answer and would result in a smaller TAC and increased demand for few jobs.

It is not considered to be the case that an increase in available permits is required to reasonably enable some new entrants into the fishery. The Economic Assessment will inform more on the number of licences the fishery can viably support. Instead, this objective addresses instances where the passing on of a licence, in certain circumstances, is actively withheld or prevented by current legislation.

In reflection of this concern, it was suggested that the objective should be re-worded. Particularly the removal of reference to 'permit turnover' was encouraged. As discussed, this inclusion was intended to acknowledge that there will be a finite number of permits (objective 1) and therefore the capacity for new entrants is limited and the current turnover of permits is minimal. The objective has not been revised to this effect.

However, it was understood that there was a lack of immediately obvious connection between permit turnover and new entrants, and that consequently concerns could be raised that the Authority is seeking to enable many new entrants to the fishery, which is not the case and would contradict with objective 1. On this basis the ordering of the objective has been revised.

Additionally, it was considered by some that there is already access for new entrants within the fishery. While this is not debated, the level of access for new entrants is not equitable with existing licence holders. It is therefore important that new entrants are considered in the management of access. It is also important to note that new entrants in this case might simply be those who have been active participants in the fishery for many years but do not hold licences of their own.

This objective has subsequently been revised to read 'new permit holders' in place of 'new entrants' to emphasise this point, where new permit holders can encompass both, new entrants implies that access will be limited to those currently external to the fishery rather than existing fishermen without independent access. It is acknowledged however that as it is a fishery with limited access, space for new permit holders is limited, and balance between objectives 1 and 5 will be required.

6. **Draft objective:** To cater for standard business practices and issues which arise in operating within the fishing industry (such as vessel breakdowns and replacements)

Revised objective: objective removed.

This objective relates to current difficulties that have arisen under the WFO that have unnecessarily impinged upon business continuity. Its purpose is to

reasonably avoid policy that is obstructive when met with legitimate issues that may arise. Context was provided of an individual leaving a partnership.

This objective was largely objected to on the basis that it was felt to be unnecessary and that it contradicts with objective 3 as discussed above. It was also felt that 'standard business practices' required clarification, and that policy should seek to be proportionate and flexible where appropriate.

It is important to note that while enforcement can seek to take a proportionate approach, the purpose of policy is intended to provide a framework for equitable practice. It would not be appropriate for policy decisions to be managed on an individual basis, they must seek to balance the varying needs of, and impacts upon, fishing activity at different scales.

In consideration of these objections, it is recommended that this objective is removed. The aim itself is to be equitable in approach with consideration of viability which accounts for the main purpose of this objective. This objective is potentially an overcomplication that could present future difficulty in application.

7. **Draft objective:** To prevent the permit from having its own value or becoming a tradable commodity.

Revised objective: not required

This objective explicitly continues practice from the WFO in acknowledgement of its importance. Its purpose is to prevent permits from being tradable by having value attached, which can result in the monopolisation of the fishery by one business model which would contradict our objective to enable the operation of activity at different scales (objective 3).

Responses largely agreed with the purpose of this objective. Some objections were received to the effect that the monopolisation of the fishery by one business model should not be of concern, and that there is an inherent value to licences under the WFO that is impossible to prevent.

However to enable value and trading would be in direct opposition with our aim for managing access to support a more equitable fishery. This objective recognises the need to support fisheries for their social and historical importance and to balance this with efficacy and viability at all scales. A revision to this objective has therefore not been considered.

The final aim and set of objectives, as documented above, are recommended for agreement by members, and serve as an example of the continued engagement with industry and consideration given to their expertise in the development of the Wash Cackle and Mussel Byelaw 2021 and the associated policies and eligibility criteria.

Following their agreement from members, and subject to any necessary changes raised forthwith, the aim and objectives will guide the management of access to the cockle and mussel fisheries, providing an important framework that is supported by

our stakeholders. It is intended that the final set are shared with respondents to the consultation and publicised on the Eastern IFCA website.

Financial Implications

Additional legal advice has been sought and will be required in the development of the management of access.

Legal Implications

There is an inherent risk associated with the development of policy and policy frameworks. These are mitigated by the observation of due process, in accordance with Defra guidance to IFCAs and our general duties as a public Authority.

Legal advice has been sought on the final aim and set of objectives which has concluded that they are in keeping with such. Therefore there is no legal risk identified at this stage.

Conclusion

The responses from stakeholders to consultation held in November/December 2020 have been carefully considered in the finalisation of the aim and objectives for managing access to the cockle and mussel fisheries in The Wash.

The key concerns raised by industry which remain about the security of future access, and the definitive content of the policies are understood, and have been critical in their input to this final set. It intended that with this robust framework to guide us, the development of the policies and eligibility criteria that is now in progress can firmly address and resolve these concerns.

The aim and objectives are an aspirational view for the fishery which considers all participants and their livelihoods and dependencies in the round, to ensure that management of the fishery under the Wash Cockle and Mussel Byelaw 2021 is sustainable and equitable into the future.

Appendices

Not applicable

Background Documents

Confirmed minutes of the 27th Eastern IFCA meeting

Unconfirmed minutes of the 43rd Eastern IFCA meeting

Vision

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



Action Item 14

44th Eastern Inshore Fisheries and Conservation Authority Meeting

9th June 2021

Report by: J. Gregory, Chief Executive Officer
Review of Annual Priorities and Risk Register
Purpose of report

The purpose of this report is to update members on progress against 2020-21 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

This update encompasses the period from the last update to the end of March 2021.

The tables at Appendix 1 detail the progress against the key priorities for 2020-21, as set in the Business plan for 2020-25.

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 in its current format will not continue beyond this financial year but the IFCA Chief Officer Group have been working with Defra colleagues to bid for a replacement funding stream in Spending Review 2020. It is now clear that there will be a single year budget settlement for Government departments for 2021-22 and the outcome of this is awaited to see if some element of funding for IFCA's will continue.

Appendices

Appendix 1 – Update on priorities set for 2020-21

Appendix 2 – Risk Register

Appendix 3 – Update on Risk Register

Background documents

Eastern Inshore Fisheries and Conservation Authority Business Plan 2020-25.

APPENDIX 1 - Progress against Annual Priorities – January to April 2021

5 key priorities are established for 2020-21.

Financial Year 2020-21		
Priorities 2020-21	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 & 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>1a. Ongoing. <i>Haisborough, Hammond & Winterton</i>: The Marine Protected Areas Byelaw 2019, as agreed by Authority provides protection of "red risk" features in this site. The management measures for the site have been agreed but the Byelaw is yet to be implemented (pending resolution of artisanal shrimp fishing management within a different MPA that is affected by the same byelaw). <i>Inner Dowsing, Race Bank & North Ridge</i>: The Closed Areas Byelaw 2020 agreed by Authority in September 2020 provides protection of "red risk" feature in this site. Officers are continuing to scrutinise feature evidence to inform a decision whether to restrict activity in additional areas via a future iteration of this byelaw.</p> <p>1b. Ongoing. Officers are finalising an assessment of the impact of non-potting fisheries on Cromer Shoal Chalk Beds MCZ. Management of bottom towed fisheries within MCZ has been agreed in the form of the Marine Protected Areas Byelaw 2019. Work focussed on evidence gathering to re-assess interactions between potting fisheries and site features. An Adaptive Risk Management (ARM) approach is agreed with Natural England, to enable further research alongside the development of appropriate management measures. Collaboration with local fishermen, Natural England and research partners (University of Essex) is ongoing to help inform management in this site. As current evidence indicates the long-term effects from lost/stored</p>

d) Completion of amber/green gear/feature interactions. Development of management measures where required.

gear can have the severest impacts, management measures are being developed in close collaboration with affected stakeholders to minimise this risk.

A steering Group and Research Task & Finish Group was established with Terms of Reference and aims and objectives formalised for both groups. The intention of the groups is, in summary, to oversee an ARM approach and the relevant site research. A management Task & Finish Group is to be established, with initial focus on developing industry-led measures for management of lost and stored gear. Dialogue with fishery stakeholders is ongoing.

1c. **Ongoing.** This work has not progressed since the last update, since resources have been directed towards priority "red risk" and MCZ work.

1.d. **Ongoing.** Management agreed for "highest risk" amber/green gear/feature interactions, i.e. towed demersal fishing on subtidal sediment habitats. Amber/green assessments to be completed for more recently designated MPAs and management developed if found to be required. Original suite of amber/green assessments to be finalised (lower risk work that had been put on hold to enable focus on red risk and higher risk ambers).

Members agreed in principle to implement two further shrimp permit conditions at the 41st Eastern IFCA meeting. Consultation with industry on these additional measures, held together with the proposed additional management measures for whelk fisheries (discussed below in priority 2c), closed on 22nd February 2021. Review of responses

		<p>and development of the measures on that basis has been delayed whilst resource is focussed on the replacement of the WFO and in the context of a reduction in resource within the associated team. This work is now planned to start in quarter 1 of 2021/2022.</p>
<p>2. To ensure that sea fisheries resources are exploited sustainably and in accordance with MSFD requirements:</p> <ul style="list-style-type: none"> a) Development of management measures in relation to shrimp fisheries sustainability. b) Development of management measures in relation to crab and lobster fisheries 		<p>2a. Ongoing. As previously reported, the establishment of the industry-led voluntary measures pursuant of Marine Stewardship Council (MSC) accreditation satisfies this priority. The Authority is working collaboratively with industry, under a Memorandum of Understanding, to ensure the voluntary measures are adhered to and provide evidence relevant to the MSC audits of the fishery.</p> <p>2b. Ongoing. Crab stock assessments conducted by the Authority in 2020 indicate local stocks are not imminently</p>

c) Increase scope of research project and voluntary gathering of whelk samples and undertake stock assessment and assessment of size at sexual maturity sustainability

threatened by the current level of fishing activity. Development of regulatory measures for sustainability reasons has paused, therefore, while work focusses instead on management of the associated Cromer Shoal Chalk Bed Marine Conservation Zone, which could satisfy the requirement for any further sustainability measures.

Following the downgrading of the Southern North Sea crab fisheries MCS Good Fish Guide's rating, the Authority has been supporting the industry with the development of a Fisheries Improvement Project (FIP) (see 5b, below).

2c. Ongoing. For a number of years the Authority has been studying the Size of Maturity (SOM) of whelks in the district to determine whether the current minimum Landing Size (MLS) of 55mm is appropriate. Results from this study identified that whelks mature at different sizes through the district, and while the current MLS is appropriate for the Wash stocks, it is too small for those at Lowestoft and Sea Palling. The results also suggested that whelks from Southwold mature at a smaller size, but there were insufficient samples for this to be conclusive. The intention has been to collect further samples from Southwold to strengthen the current data, but Covid-19 restrictions have made this difficult this year. The project is currently in a hiatus until further samples can be sourced.

<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) Implementation of WFO Shellfish Lay lease conditions</p>		<p>a) Delayed. No progress was made during the last quarter with resource focussed on the replacement of the WFO generally. It is unlikely that this priority will be progressed in isolation now work is underway to replace the Several Order (under which leases are issued) within The Wash.</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>b) Replacement of WFO 1992</p> <p>c) Development of cockle fishery and mussel fishery management plans following their review for the WFO 1992 fisheries. Implementation of, fisheries management plan and regulations</p>		<p>4a. Ongoing. WFO policies deal primarily with how the Authority manages access to WFO fisheries. These are presently subject to review albeit with a focus on establishing a new model to implement as a replacement to the WFO. An aim and set of objectives has been developed to guide the development of these policies which has been considered by the Fisheries and Conservation Management group after having been subject to consultation with Industry. Draft policies and associated eligibility criteria have been developed during this period which are subject to further development (including via dialogue with industry and legal advisors) before being the subject of a dedicated industry consultation.</p> <p>4b. Ongoing. A draft of the Wash Cockle and Mussel Byelaw 2021 that will replace the management of the WFO1992 cockle and mussel fisheries in The Wash was</p>

presented to members at the 43rd Eastern IFCA meeting. The byelaw was then subject to a formal consultation during March with a deadline for responses in May 2021. The byelaw will be developed further taking into account the feedback from the consultation.

4c. **Ongoing.** The cockle fishery management plan was completed and signed off by the Authority in 2018. It has been used to inform management of the three subsequent Wash cockle fisheries.

Work has not started on developing a new mussel fishery management plan until the causes of the on-going high mortalities and poor recruitment affecting the beds are better understood and can be appropriately managed. A joint-project with Cefas has commenced to study the die-offs, for which we have been collecting regular samples. This study will also look into what may be causing the high cockle mortalities. In the interim, management of the mussel fisheries are still guided by policies within the 2008 WFO 1992 Shellfish Policies.

Defra are yet to formally consent the revised WFO regulations and these are yet to come into effect.

5. Industry Viability

a) Investigation into mussel die off

b) Development of a Fisheries Improvement Plan for crab and lobster

c) Economic assessment of hand-work cockle fishery viability

5a. **Ongoing.** In February 2020 officers began collaborating with scientists from Cefas to study what might be the cause of the high mussel mortalities seen in The Wash since 2010. This project was due to begin in March 2020, but Covid-19 restrictions meant it was unable to progress until restrictions eased after the summer allowing the Cefas laboratories to reopen. Since then, three sets of quarterly mussel samples have been collected and processed. The project will continue throughout 2021 in order to identify seasonal changes in the mussels. This spring, cockle samples were also collected for this project to study what might be the cause of the high “atypical” mortalities that have occurred each summer since 2008.

5b. **Ongoing.** Last year industry members approached the Authority to help them develop a Fisheries Improvement Plan (FIP) following the MCS Good Fish Guide downgrading its scores for the Southern North Sea crab and lobster fisheries. FIPs are required to be industry-led and funded, but the Authority provided support by researching the required steps, developing a “Needs Assessment” and liaising with other IFCA’s responsible for managing the Southern North Sea crab stock unit. The industry is currently seeking tenders for MSC accredited consultants to conduct a pre-assessment of the fishery, which is the next step in the FIP process. The Authority will continue to support the industry throughout the development of the FIP.

5c. **Ongoing.** Work is underway with the selected consultant: MarFishEco Fisheries Consultants, to begin the economic assessment of the bivalve fisheries in the Wash. Delays in starting the project persisted as resource was

		focused on dialogue with industry about the replacement byelaw and access policies.
6. Obtaining better fisheries data: a) Implementation of I-VMS for all fisheries		Ongoing. The national roll-out of I-VMS is still ongoing but delayed as a result of the COVID-19 pandemic and Brexit preparation. Recent indications are that the project will start to gather momentum in the coming months.

Key:

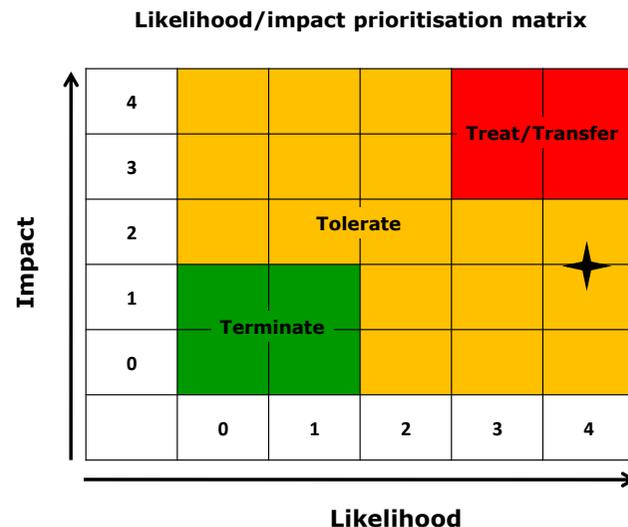
	Complete
	In progress
	Progress stalled

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:

Treat	Take positive action to mitigate risk
Tolerate	Acknowledge and actively monitor risk
Terminate	Risk no longer considered to be material to Eastern IFCA business
Transfer	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	4		2 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"> • Current level of reserves provides a short-term buffer to cover replacement of <i>RV Three Counties</i> • EMFF funding for a new open RHIB was secured • Seek efficiencies and promote cost effectiveness. • Demonstrate value for money. • Advertise/promote Eastern IFCA output and effectiveness to funding authorities through regular engagement with Council leaders and Financial Directors. • Engage with partner agencies to identify alternative funding sources • Explore asset sharing initiatives • 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 7th November 2019. 	Tolerate
			Reputation	Financial				
			4	4				
		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.					

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
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	3		3		<ul style="list-style-type: none"> Monitor EU exit developments – Defra lead on development of the post-EU exit landscape Engage in national fora to help inform and influence developments (e.g. IFCA Chief Officers Group, Association of IFCAs) Continue “business as usual” Prepare for change Ensure Eastern IFCA is “match fit” Maintain communication with partners 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. 	Transfer
			Reputation	Financial	EU exit will have an inevitable but currently unpredictable impact. Eastern IFCA responsibilities unchanged in the short term to medium term			
			3	3	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	4 Reputation 4	Financial 4	2 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"> Provide a leadership function. Be proactive and identify issues early. Engage with all partners routinely. Use Business Plan to prioritise and communicate outputs, Measure progress/deliver outputs Represent community issues to higher authorities 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. 	Tolerate
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	3 Reputation 4	Financial 2	2 Possible – disenfranchised partners seek to introduce doubt as to Eastern IFCA professionalism, utility and effectiveness		<ul style="list-style-type: none"> Actively and regularly engage with all partners including media outlets. Utilise full potential of social media and web-based information. Embed professional standards and practices. Deliver change efficiently and effectively. Promote activity Assure recognition and understanding through community events Routine updating of news items on website. Active on social media with demonstrable improvements in 'reach'. Parliamentary Review (above). 	Tolerate

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.	3.5		2	Possible - Eastern IFCA's approach to managing sea fisheries resources considers environmental obligations	<ul style="list-style-type: none"> Proposed fishing activities authorised by Eastern IFCA are assessed per Habitats Regulations Eastern IFCA is fully engaged in national fisheries/MPA project, prioritising management of highest risk fisheries in MPAs and implementing new management measures Effective monitoring of fishing activity and enforcement of measures 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 Ongoing, close liaison with Natural England regarding all conservation matters Review agreed Wash Cockle & Mussel Policies Develop the use of iVMS as a management tool by the Authority 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. 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. 	Tolerate
			Reputation	Financial				
			4	3				
			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
Shellfish and fish stocks collapse	CEO/MPASC		3		3		<ul style="list-style-type: none"> Annual stock assessments of bivalve stocks in Wash Annual review of the level of threat via the Strategic Assessment Ability to allocate sufficient resources to monitoring of landings and effective enforcement Consultation with industry on possible management measures Use Project Inshore Phase 4 output to inform MSC pre-assessment review of fisheries and validate management measures Develop stock conservation measures for crab and lobster fisheries through engagement with Cefas and fishing industry SWEEP research into primary productivity levels within the Wash Regular engagement with the industry to discuss specific matters Continued research into the cockle mortality events Maintain whelk management measures Introduce shrimp management measures Consider bass management measures if necessary in light of EU/UK measures 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. 	Treat
			Reputation	Financial	Possible - Bivalve stocks have high natural variation; "atypical mortality" affecting stocks despite application of stringent fishery control measures			
			3	3	Crustacean stocks not currently subject to effort control			
		Loss in confidence of the Eastern IFCA ability to manage the sea fisheries resources within its district	Resources directed at protecting alternative stocks from displaced effort	Additional resources applied to research in to the cause of collapsed stocks and increased engagement and discussion with partners	Bass stocks nationally and internationally under severe pressure			
					Regional whelk and shrimp fisheries effort becoming unsustainable.			
					Regional crab and lobster stocks being exploited beyond maximum sustainable yield			

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	High	<ul style="list-style-type: none"> All computers are password protected. Individuals only have access to the server through their own computer. Secure wireless internet Remote back up of electronic files Access to electronic files is restricted Up to date virus software installed on all computers Important documents secured in safes ICT equipment and policies provided by public sector provider – including encrypted laptops/secure governmental email system All Eastern IFCA personnel undergo DPA training Electronic backup of all Eastern IFCA documents held by ICT provider offsite Policies and processes developed to ensure compliance with GDPR. 	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	Partners no longer believe that confidential information they have supplied is secure Personnel issues arise over inability to secure information	4		2	High	<ul style="list-style-type: none"> Association of IFCAs has consistently lobbied for the continuation of funding 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) Finance Directors representatives briefed and understand that in the event that the funding is discontinued there may be a desire to increase levies 	Tolerate	
			Reputation	Financial					Defra have continued to roll over new Burdens funding in recognition of the value that IFCAs provide in meeting national policy objectives.
			4	4					Circa 25% of the annual budget is provided by Defra under the New Burdens doctrine so its loss would have a significant impact.
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.	Inability to meet all obligations would have a significant impact upon reputation.	4		2	High	<ul style="list-style-type: none"> Association of IFCAs has consistently lobbied for the continuation of funding 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) Finance Directors representatives briefed and understand that in the event that the funding is discontinued there may be a desire to increase levies 	Tolerate	
Reputation	Financial	Defra have continued to roll over new Burdens funding in recognition of the value that IFCAs provide in meeting national policy objectives.							
4	4	Circa 25% of the annual budget is provided by Defra under the New Burdens doctrine so its loss would have a significant impact.							

Appendix 3 – Risk Register Update January to April 2021

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 that this will continue at the annual meeting with representatives of the Finance Directors on Tuesday 10 th November 2020.
Impact of EU exit on Eastern IFCA duties and the wider economic environment	<p>Whilst Eastern IFCA supported the MMO in terms of operational readiness for a ‘no deal’ scenario and in particular was prepared to provide sea patrols under a Memorandum of Understanding, planned patrols did not take place as a consequence of weather and a deal with the EU meaning that there was not a strong requirement for them. Officers continued to support Cefas (and the Fish Health Inspectorate) in engaging industry regarding export and import of shellfish and worked with North Norfolk District Council to facilitate registration of food ‘premises’ as a result of EU exit related changes to the requirements.</p> <p>Officers engaged in future of inshore fisheries management work with Defra and other stakeholders. Officers are also monitoring development of the REAF initiative.</p>
Eastern IFCA fails to maintain relevance amongst partners	<p>The data sharing agreement between MMO and The Authority was completed during Q2 and was signed off in Q4. This will aid collaborative work towards both organisations’ objectives. Engagement regards collaborative ‘mobile working’ has continued, which seeks to establish shared systems between MMO and IFCAs to further facilitate collaborative work.</p> <p>Effective business planning process in pace. Leading role taken 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. Participation in the Fishing into the Future event in early 2020</p>
Negative media comment	<p>Routine updating of news items on website. Active on social media with demonstrable improvements in ‘reach’. Parliamentary Review (above). Engagement priorities set for IFCOs as part of the TCG process.</p> <p>The replacement of the WFO 1992 with a Byelaw has not been well received by industry and various means of expressing dissatisfaction are being employed, including the use of media. This is being monitored and explanatory information provided where possible and appropriate.</p>
Degradation of MPAs due to fishing activity	<p>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.</p> <p>Natural England recently provided advice regarding impacts of pot-based fisheries (crab and lobster) on chalk features within the Cromer Shoal Chalk Beds MCZ in Q2 and work was started in relation to</p>

	<p>delivering our duties under MaCAA to ensure the conservation objectives of the site are furthered. This includes collaborative work with Natural England and Agents of Change. A Steering Group is being established to take work forward and will include representatives from the fishing industry.</p>
Shellfish and fish stocks collapse	<p>Annual surveys of Wash cockle and mussel stocks alongside innovative approach to management of the cockle fishery. Ongoing workstream to identify causes of mussel and cockle mortality. Closure of cockle fishery in Nov 2019 due to emerging findings of mussel surveys in order to mitigate impact on 2020 cockle fishery. Innovative approach to surveys enabled the 2020 Wash cockle fishery.</p> <p>The 2020 cockle fishery came to an end during Q2 after the full Total Allowable Catch was taken. The management measures implemented reduce the risk of sustainability issues and delivered a fishery in the context of the COVID-19 pandemic precluding the normal stock assessment.</p> <p>Consultation on proposed revisions to whelk permit conditions launched in Q3 following consideration by the Authority.</p> <p>Work to support industry in establishing a Fisheries Improvement Plan for crab and lobster ongoing.</p>
Failure to secure data	<p>Policies and processes developed to ensure compliance with GDPR.</p> <p>New polices developed as part of workstream to implement Data Sharing Agreements between the IFCA's and the MMO and all staff received training on data protection and cyber security during Q1 & 2 this year.</p>
New Burdens funding discontinued	<p>Defra have advised that 2020-21 would be the last year that New Burdens funding will be paid in its current form. Defra and the IFCA's have been working on the 'co-design' of a replacement for New Burdens, which concluded that any funding would remain static at current levels, with the allocation to each IFCA unchanged. It was due to form part of SR 2020 but as a consequence of the Covid-19 pandemic there will be a single year funding settlement for 2021-22. Defra included IFCA funding in their bid to Treasury. .</p> <p>Budget planning had accounted for the possibility that central funding may not be forthcoming or may be reduced and the three Finance Directors representatives were fully briefed at the meeting of the 10th November 2020.</p> <p>Confirmation was received after the start of the new 2021-22 financial year to the effect that the funding would be provided for this year. Looking forward Defra have stated that they intend to continue to provide some funding at current levels and have included it in the spending plans and bid but it may be associated with the development of new metrics to demonstrate that the funding achieves value.</p>

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 15

44th Eastern Inshore Fisheries and Conservation Authority meeting

9th June 2021

Report by: Julian Gregory, CEO

CEO Update - Association of IFCA Minutes

Purpose of report

The purpose of this paper update members on the Association of IFCA quarterly meeting held on 9th March 2021.

Recommendations

Members are asked to:

- **Note** the content of the report and the minutes of the AIFCA meeting held on 9th March 2021.

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 ten Members (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.

Report

A quarterly meeting of the member's forum was held on 9th March 2021 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 9th March 2021

Appendix A

DRAFT AIFCA MEMBERS FORUM MINUTES

9th March 2021 @ 10:30 AM

MSTeam Videoconference



Attendees

Cllr Paul Williams
Les Weller
Mike Hardy
Dr Will Wright
Samantha Davis
Julian Gregory
Tom Hooper
Dr Stephen Atkins
Mike Hardy
Tony Tomlinson MBE
Ian Jones
Dr Stephen Axford
Tim Dapling
David McCandless

Officers

Robert Clark

1) Apologies for absence

Prof Mike Williams
Prof John Humphreys

2) Declaration of Interests

a. Minutes and actions from last Members Forum meeting

Paul Williams proposed that the minutes be accepted as a true record of the meeting and this proposal was seconded by Stewart Harper. All members were in favour.

b. Minutes and actions from last Director's meeting

Members NOTED the draft minutes

3) Chairman's announcements

John Humphreys is standing down at the next Southern IFCA meeting.

It was **AGREED** to formally record thanks to Prof John Humphreys for his significant contribution to both the AIFCA and inshore fisheries

4) Progress Reports

a. Member's recruitment process (verbal)

Members received an update from the Chief Officer; the Forum also heard feedback from the current recruitment process.

5) AIFCA Budget control statement

The members **AGREED** that the Chief Officer should investigate whether a better rate of return can be achieved on the AIFCA reserves.

*The budget control statement was **AGREED** by general consent.*

6) Terms of reference for the Management Group and Co-opted member for Finance

Cllr Paul Williams declared an interest in the Item and left the meeting.

After debate the Dave McCandless proposed and Sam Davies Seconded that;

that the end of year accounts should be externally audited.

the terms of reference of the AIFCA Management Group be adopted.

that the Association co-opts a member for finance to the management group from the AIFCA membership.

that the co-opted member for finance is paid an allowance which is bench marked to 2020/21 Co-optees Cornwall Council scheme.

that the allowance shall be reviewed at the end of the financial year and paid quarterly and in arrears.

The motions were **AGREED** by a majority vote in favour of the recommendations, with one against and one abstention.

The Chairman directed the *Chief Officer to report to members on an honorarium payment for the Co-optee the next meeting.*

Cllr Paul Williams re-joined the meeting.

7) AIFCA Business Plan

The members **AGREED** to adopt the AIFCA Business Plan

8) Allowances

Tony Tomlinson and Les Weller declared their interest in the item and left the meeting. Sam Davis chaired the item.

On John Lambs proposal and with Julian Gregory seconding the proposal it was **AGREED** by way of unanimous vote that;

an allowance scheme for the Chairman and Vice Chairman of the AIFCA be adopted.

the allowance be for the Chairman of the AIFCA be £2,751.05 as benchmarked against band eight in the Cornwall Council Special Responsibility allowance for 2020/21 for 2021/22 and the amount reviewed annually thereafter.

the allowance be for the Vice-Chairman of the AIFCA be £1,237.96 as benchmarked against band ten in the Cornwall Council Special Responsibility allowance for 2020/21 for 2021/22

That the organisation review the payments at the end of FY2022

Tony Tomlinson and Les Weller re-joined the meeting.

9) Temporary re-allocation of AIFCA post - Policy Officer

It was proposed by Julian Gregory and seconded by Mike Hardy and all **AGREED** that;

- a) *that the position of finance and administration officer of the AIFCA is not filled for the financial year 2021/22*

- b) *that the financial savings achieved by implementing recommendation A) are re-assigned to create a temporary policy officer position within the AIFCA for 2021/22, and that;*
- c) *the AIFCA recruits for the position by way of secondment*
- d) *that the decision and the need for the role is reviewed before the end of 12 months from commencement of the role to inform decisions for financial year (2021/22)*

The Chief officer was **DIRECTED** to engage with Isle of Scilly IFCA on recommendation c above and report back to members at the next meeting.

10) AIFCA Annual Delivery Plan

Steve Axford proposed and John Lamb seconded the motion that *the Annual Plan be adopted*. All were in favour of this recommendation and it was **AGREED**.

It was agreed that the AIFCA should develop reports for use by IFCA's to engage IFCA members in the work of the AIFCA.

11) AIFCA Budget 2021 / 22

After discussion and the correction of the income to reflect the payments from members a positive income of £26k for the financial year was reported.

Stephen Atkins proposed and Sam Davis seconded the motion that *the 2021/22 budget was AGREED*. All members were in favour.

It was also **AGREED** by general consent *that the revised budget (corrected to reflect the income) be circulated ahead of the Directors meeting.*

At 13:50 there was a 20-minute lunch break.

The meeting reconvened at 14:10

At the direction of the Chairman Item **16) The Training Officers Report** was received and Stevie Travis was welcomed by members. Stevie gave a presentation on his work and outlined the training plan. Kent and Essex IFCA were thanked for their support for the role. Stevie was thanked for his report and *the Training Officers Report was NOTED*.

12) Survey Equipment Ownership

It was **AGREED** by general consent

that the AIFCA disposes of survey equipment

that IFCA's be given the opportunity to submit their interest in one, or more, of the shared survey equipment items held by the AIFCA.

That the Directors allocate the items to the interested parties (at no cost), on the basis that the items be made available to other IFCA's use (subject to any reasonable conditions).

13) English aquaculture strategy

The members **NOTED** the English Aquaculture Strategy.

It was **AGREED** by general consent that the

- (a) *AIFCA supports the implementation of the English Aquaculture Strategy & its vision for aquaculture in England.*
- (b) *AIFCA continues to engage with the Aquaculture Leadership Group (ALG) and attend meetings with key industry stakeholders.*

- (c) *That the AIFCA works with the IFCA sector lead for aquaculture to develop an Aquaculture position statement & IFCA aquaculture 'showcase' programme*
- (d) *The AIFCA engage with Defra local authority partners and industry to seek to identify opportunities for investment to enable IFCAs can extend their support to the delivery an English Aquaculture Growth Strategy.*

Items for note

14) General Member's appraisals

The General Members appraisal policy was **NOTED**

The Chief Officer was **DIRECTED** to circulate a template.

15) Chief officers report

The Chief Officers Report was **NOTED**

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

10 June 2021

Marine Protection Quarterly Report

Report by: Steve Vaughan – IFCO

Purpose of Report

To provide members with an overview of the work carried out by the Marine Protection team during the period of January, February and March 2021

Recommendations

It is recommended that members:

- **Note** the content of the report

Report

Enforcement and engagement priorities throughout district – overview

January

The enforcement priorities during the month, were to focus on Whelk Permit Byelaw compliance, including at sea gear inspections and landing inspections. Engagement focussed on Covid lockdown effects, the Wash Fishery Order replacement and Shrimp and whelk permit conditions consultations.

February

Enforcement activity continued to focus on whelk fishing with landing inspections and at sea gear inspections. In port gear inspections and advice on shrimp management measures took place by arrangement. General landing inspections around the district where appropriate given the seasonal reduced fishing effort. Engagement continued regarding Covid impact, shrimp returns and CSCB MCZ. Working groups set up to progress a response to the Natural England report on impacts of potting on chalk.

March

Whelk landing and gear inspections continued around the district. Further inspections of shrimp gear took place and general landing inspections as the potting fishery slowly started to increase.

Engagement as previous months regarding Covid (new MMO administered fund available), whelk and shrimp consultation updates and measures to ascertain activity levels within the MCZ.

Enforcement Outcomes (district wide)

Various enforcement actions were undertaken throughout the period including verbal warnings and one reported for prosecution.

EMS monitoring

Monitoring of 'restricted areas' under the Marine Protected Areas Byelaw 2018 was carried out throughout the reporting period. The following monitoring occurred:

Protected feature	Restricted areas	Number of separate patrols where one or more restricted areas was visited		
		January	February	March
<i>Intertidal biogenic reef</i>	1 to 13	5	1	7
<i>Subtidal biogenic reef: Sabellaria spp. (Ross worm), subtidal stony reef, subtidal mixed sediments, subtidal mud.</i>	14 – 29 (The Wash Central and Northern)	3	1	2
Intertidal seagrass beds, subtidal mixed sediments, subtidal mud.	30, 31, 32,33,34, 35 (North Norfolk Coast)	1	1	1
Eelgrass beds (Humber)	36	0	0	0

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

January

Very little commercial effort. RSA catches of whiting from beaches

February

No trends reported

March

No fishing trends reported.

Metrics

Enforcement metric	Number completed		
	January	February	March
Shore Patrols	1	2	0
Port visits	6	15	0
Catch inspections (landings observed)	0	0	0
Catch Inspections (landing not observed)	0	0	0
Vehicle Inspections	0	0	0
Premises inspections	0	0	0
Enforcement actions/Offences	0	0	0
Intelligence reports submitted	0	1	1
Fishers engaged	1	1	0
Vessel Patrols	0	0	1
Boardings	0	0	0
Gear Inspections	0	0	0

Engagement/ key messages received.

Access to Horseshoe point is currently poor, with the road being damaged and in poor condition. No other engagement reported during the period.

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

January

Increased levels of whelk fishing. Shrimp effort reduced. Covid lockdown limiting RSA activity as well as Commercial

February

As per last month. Whelk effort high. Covid lockdown still impacting on all activity, coupled with seasonal reductions in effort and poor weather

March

Whelk effort still high. Covid restrictions in place until end of month. Crab fishery starting to open up in last two weeks.

Metrics

Enforcement metric	Number completed		
	January	February	March
Shore Patrols	11	8	2
Port visits	13	11	3
Catch inspections (landings observed)	3	2	2
Catch Inspections (landing not observed)	6	4	0
Vehicle Inspections	0	0	0
Premises inspections		0	0
Enforcement actions/Offences	0	4VW 1 reported	1 reported
Intelligence reports submitted	11	6	5
Fishers engaged	12	10	4
Vessel Patrols	10	8	18
Boardings	0	0	0
Gear Inspections	3	5	2

Engagement/ key messages received

Engagement in this area primarily focused on the WFO replacement, Shrimp returns forms and MSC shrimp certification. Some fishers raised that they would like to see catch returns updated so they could be completed in an app.

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

January

Almost no crab effort. Seasonal repairs and maintenance due to weather, water temp and Covid restrictions. Whelk effort increased from various ports/beaches. £1-30/kg All fishing effort minimal. Very little to catch, no market and export concerns responsible.

February

No real crab effort yet. Water too cold. Covid restrictions in place. Whelk effort steady. Herring starting to be caught. Price plummeted as soon as caught in numbers. RSA catching small Dab, small whiting and rockling

March

Whelk effort maintained. Crab fishery starting to develop. Still a bit cold but pot numbers increasing. Very few lobster about. Herring effort maintained a lot being retained or sold as bait.

RSA- not high in numbers (Covid restrictions in place) despite Bass season opening. Still too early for likely catches off beach.

Metrics

Enforcement metric	Number completed		
	January	February	March
Shore Patrols	19	14	16
Port visits	70	57	66
Catch inspections (landings observed)	5	6	15
Catch Inspections (landing not observed)	1	0	4
Vehicle Inspections	0	0	0
Premises inspections	2	0	1
Enforcement actions/Offences	0	0	1VW
Intelligence reports submitted	16	16	15
Fishers engaged	76	63	80
Vessel Patrols	11	3	1
Boardings	0	0	0
Gear Inspections	0	0	0

Engagement/ key messages received

Extensive engagement was had throughout the period, primarily in relation to the Cromer MCZ and any required future management options. This will be reported on in other areas.

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

Fishing Trends

January

Strong winds, poor market and Covid restrictions resulted in almost no fishing effort apart from a few herring catches and some Thornback Ray.

February

Fishermen ticking over with herring and thornback ray catches but still little effort due to Covid effects. Whelk fishing from local ports steady with landings at Southwold and Lowestoft. Complaints from fishermen about scale of whelk activity outside 6 miles.

March

High local effort for herring. Some sole catches and thornback ray but still effort minimal due to Covid impacts. Fishers in Suffolk preparing for increased crab effort as waters start to warm up. Whelk effort maintained.

Metrics

Enforcement metric	Number completed		
	January	February	March
Shore Patrols	15	15	12
Port visits	48	39	35
Catch inspections (landings observed)	8	4	2
Catch Inspections (landing not observed)	9	19	7
Vehicle Inspections	0	0	0
Premises inspections	12	6	8
Enforcement actions/Offences	0	0	0
Intelligence reports submitted	33	35	29
Fishers engaged	46	47	57
Vessel Patrols	2	0	0
Boardings	0	0	0
Gear Inspections	0	0	0

Engagement/ key messages received

Concerns were raised by some within the industry that large scale whelk fishing offshore is causing damage to the wider ecosystem due to the amount of dead bait being used stopping fish going into the area and in respect of the whelks themselves they will be unsustainable at current activity levels. This has been reported at various ports.

Ongoing concerns over the numbers of seals the impact being felt over an increasing area.

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

09 June 2021

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 January to March 2021, any issues that have arisen (through internal or external drivers), and an indication of upcoming developments that could require future actions.

Recommendations

It is recommended that members:

Note the contents of the report.

Background

The Marine Science team continues to progress workstreams for the assessment and management of fisheries in marine protected areas (the "revised approach"), and towards the sustainable exploitation of stocks. The ongoing COVID19 pandemic has required some adaptation to the programme of field surveys, quayside catch monitoring and measurement and laboratory analysis (set out in the Marine Science Plan) but it has been possible to continue most of the practical work and all desk work. Online meetings have enabled engagement with partner organisations and the Marine Protection Team at Eastern IFCA to continue. Provision of advice on marine licence applications and other marine developments remains an important role for the Science team because of the high number of developments affecting the Eastern IFCA district. After a noticeable fall in the number of cases requiring input in late 2020, thought to be a result of the pandemic, levels have been seen to increase again in 2021.

Report

Research

Poor weather and limited daylight hours mean the winter months are generally a quiet period for conducting outdoor research activities. This has been particularly so this year, with the risks posed by Covid-19 restricting fieldwork to essential needs. This has included ensuring the monthly EHO and biotoxin samples collected for the Local Borough Councils have been collected and a set of quarterly samples for the joint mussel mortality project being conducted with Cefas.

WFO 1992 Cockle surveys

With Covid-19 restrictions limiting the 2020 cockle surveys to a rudimentary stock assessment, it was important that a comprehensive survey was conducted this year. As Covid-19 still posed a significant risk to crew safety and the potential to complete a full survey, however, a survey plan was developed that would minimise the risk of being unable to complete the survey, leaving significant stocks unsurveyed. While working in discrete team bubbles and undergoing regular lateral flow tests helped minimise risks to the crew, a survey strategy was developed that would reduce the overall time required to collect the samples. This involved reducing the overall number of survey stations from approximately 1,150 to 960. To ensure this reduction would have minimal impact on the results, or to the fishery, this was achieved by realigning 450 stations in the South West area of The Wash that had formally been sampled at a higher resolution to the rest of the beds, and removing any stations that had not contained any cockles during the previous ten years. A sampling strategy was also developed that would enable a much higher proportion of the stations to be sampled on foot than usual, should Three Counties suffer significant breakdowns during the surveys.

The surveys commenced on March 14th, which is one week earlier than usual. Despite losing some days to poor weather, they progressed well enabling 607 of the stations to be sampled by the end of the month. The remaining stations will be sampled during April. Early indications from the survey suggest there has been a better survival of the remaining 2018 year-class cockles than was expected, but only a poor spatfall in 2020.

Crab and lobster Fisheries Improvement Plan (FIP)

Following the Marine Conservation Society's decision in 2020 to reduce their Good Fish Guide rating for the Southern North Sea crab stock from a 3 to a 4, which could affect the sales to some of the larger markets, industry representatives approached the Authority to help develop a 'Fisheries Improvement Plan' (FIP) for the crab and lobster fisheries. FIPs are required to be industry-led, but the Authority pledged support to the project and helped by conducting a "Needs Assessment" and developing a proposal for the project that can be taken forward and led by industry members. The next stage for the FIP will require an MSC pre-assessment to be conducted. Quotations are being sought from various qualified consultancies to conduct this assessment and funding being sought. In the meantime, the Authority continues to respond to consultations on MCS Good Fish Guide updates.

Cromer Shoal Marine Conservation Zone (MCZ)

A Research and Development Task and Finish group has been set up to deliver the evidence required to inform the Adaptive Risk Management (ARM) approach for

assessing and managing the impacts of the potting fishery in the Cromer Shoal MCZ. In addition to EIFCA officers, the group includes members from Natural England, Cefas, Essex University and representatives from the local fishing industry. The main objectives for the group are to understand better the sensitivities of various chalk structures to potting impacts and to map these features; to improve our understanding of the current fishing practices and activities in the MCZ; to determine and quantify the impacts that the potting fishery has on the chalk and to identify whether there are viable alternative ways that would help reduce the impact from the potting fishery. The group is currently considering approaches that can be taken to answer these objectives.

When Three Counties returned from its annual refit in Great Yarmouth, the opportunity was taken to deploy an underwater video camera at various stations around Cromer Shoal as it steamed past. The intention of this survey was to gather some seabed imagery of parts of the reef where current knowledge of the seabed is weak. Unfortunately, the poor weather conditions experienced at this time of the year had stirred up a lot of sediment into the water column making the images unusable.

EHO/biotoxin and SWEEP sampling

Despite Covid-19 restrictions, the Authority has managed to continue collecting the monthly EHO and biotoxin samples on behalf of the Local Borough Councils. This included collecting additional samples in March after a sewage pipe broke on farmland releasing raw sewerage into the River Great Ouse.

During the sampling trips, meat yields samples have also been collected to inform the SWEEP project. It has also been possible to redeploy the buoy sonde after the mounting collar on the buoy was repaired. This sonde is now collecting chlorophyll, turbidity, salinity and temperature data every 10 minutes.

Being able to map geo-referenced data has become an increasingly important component of the Marine Science team's work. In March several members of the team attended an online QGIS course to improve their skills with QGIS mapping software.

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, which cover 96% of the Eastern IFCA district. The Authority's Business Plan sets out six priority marine protected area projects. An overview of progress with these is set out in Appendix 1 of the Quarterly Progress Report.

Table 1 (below) outlines the fishing/feature interactions for which management has been required (to prevent adverse effects on marine protected areas), and the mechanisms in place or in development to deliver this management. Management has either been agreed and implemented (shaded green), or agreed and pending

implementation (shaded amber), for all red risk interactions, and most amber risks. Management still in development (for some amber interactions) is shaded red.

Most of the MPA casework extends across months or years, as evidence is gathered, analysed and used to assess fishery/feature interactions, management needs identified and measures developed.

The Marine Science team's MPA work during the quarter has focused on:

- Chalk/potting interactions in the Cromer Shoal Chalk Beds Marine Conservation Zone (MCZ);
- Small-scale shrimp fishery in the Cromer Shoal Chalk Beds MCZ;
- *Sabellaria* reef extent in the Inner Dowsing, Race Bank and North Ridge SAC

Chalk/potting interactions in the Cromer Shoal Chalk Beds Marine Conservation Zone (MCZ)

A Steering Group and a Research Task & Finish Group (see above) have been established to oversee and deliver research to better understand interactions between potting and chalk. The groups include fishery stakeholders, Natural England, IFCA officers, scientists and conservationists. An additional Management Task & Finish Group is planned to oversee development of any measures required to ensure the fishery does not hinder the conservation objectives of the MCZ. Close collaboration, particularly between fishery stakeholders and IFCA, is critical to the success of this work.

Small-scale shrimp fishery in Cromer Shoal Chalk Beds Marine Conservation Zone

Officers have assessed the impacts of the small-scale shrimp trawl fishery that operates in a small part of this MCZ. It is predicted that the fishery will not hinder the conservation objectives of the MCZ, so long as it continues to operate at the same location and scale as it has done previously. The next step is to obtain Natural England's advice on these findings, and to consider how the activity can be managed – specifically whether it is appropriate to exclude this activity (in a specified area) from the Marine Protected Areas Byelaw 2019 (i.e. whether to allow the activity despite other types of towed demersal fishing being excluded from the majority of the MCZ area).

Sabellaria reef extent in Inner Dowsing, Race Bank & North Ridge SAC⁷

The Authority agreed (September 2020) to introduce restricted areas to towed demersal fishing in some parts of the inshore part of this SAC to protect the *Sabellaria* reef feature. At that time, officers highlighted that there were additional areas advised by Natural England “to be managed as reef” but officers did not have sufficient confidence in the supporting evidence to recommend these areas for management. This fishery/feature interaction (towed demersal gear/*Sabellaria* reef) remains the last “red risk” interaction yet to be fully managed by the Authority across the large suite of

⁷ EIFCA is responsible for managing fishing in the inshore section of this site, but most of the site lies beyond 6nm and is managed by MMO. MMO consulted on proposed fisheries management measures in the offshore part of this site in February 2021; these include extensive closures to towed demersal gear (dredges and trawls) over sandbank features, and smaller-scale closures to towed demersal gear and static gear (pots and static nets) over *Sabellaria* reef features.

MPAs in the district. Officers committed to further review of the evidence for these areas, in close collaboration with Natural England.

Officers have continued this work during the quarter and have continued discussions with Natural England with a focus on the supporting evidence. This has resulted in an updated approach to evaluating the reef feature in part of the site (effectively agreement to not apply the “core reef” approach in part of the site, because of different interpretations of supporting data for that area). The result is some areas recommended by Natural England to be managed as reef being relatively evidence-poor, so officers have planned to re-survey focused areas in May 2021. Informal engagement on potential management areas is planned for launch also in May 2021. Although previously intended to present the findings of the evidence review to Members at the March 2021 Authority meeting, a combination of staff changes, competing priorities (for both Natural England and Eastern IFCA) and the updated approach have meant it has not been possible to complete the review at this point. The work will be completed, and management recommendations presented to the Authority as soon as possible.

Table 1. Revised approach⁸: summary of progress of priority assessments and development of management.

Key: Green shading = management in place; amber = management agreed but pending implementation; red = management in development.

Revised approach category	Interaction		Site	Management mechanism and status (N.B. each byelaw supersedes the previous)					
	Fishing activity/ activities	Designated feature(s)		Protected Areas Byelaw 2014	Marine Protected Areas Byelaw 2016	Marine Protected Areas Byelaw 2018	Marine Protected Areas Byelaw 2019	Closed Areas Byelaw 2020	In development
Red risk	Towed demersal fishing	<ul style="list-style-type: none"> • Biogenic reef: <i>Sabellaria</i> • Subtidal stony reef • Eelgrass 	The Wash & North Norfolk Coast SAC	√	√	√	√	√	n/a
		<ul style="list-style-type: none"> • Intertidal mussel beds 				√	√	√	
Red risk	Towed demersal fishing; bait collection; hand gathering	<ul style="list-style-type: none"> • Eelgrass 	Humber Estuary SAC	√	√	√	√	√	n/a

⁸ Revised approach: assessment and management of commercial fisheries in Marine Protected Areas

Revised approach category	Interaction		Site	Management mechanism and status (N.B. each byelaw supersedes the previous)					
	Fishing activity/ activities	Designated feature(s)		Protected Areas Byelaw 2014	Marine Protected Areas Byelaw 2016	Marine Protected Areas Byelaw 2018	Marine Protected Areas Byelaw 2019	Closed Areas Byelaw 2020	In development
Red risk	Towed demersal fishing	<ul style="list-style-type: none"> Biogenic reef: <i>Sabellaria</i> 	Haisborough, Hammond & Winterton SAC				✓	✓	n/a
							✓	✓	
Red risk	Towed demersal fishing	<ul style="list-style-type: none"> Subtidal chalk Peat and clay exposures 	Cromer Shoal Chalk Beds MCZ				✓	✓	n/a
							✓	✓	
Red risk	Towed demersal fishing	<ul style="list-style-type: none"> Biogenic reef: <i>Sabellaria</i> 	Inner Dowsing, Race Bank & North Ridge SAC					✓	✓

Revised approach category	Interaction		Site	Management mechanism and status (N.B. each byelaw supersedes the previous)					
	Fishing activity/ activities	Designated feature(s)		Protected Areas Byelaw 2014	Marine Protected Areas Byelaw 2016	Marine Protected Areas Byelaw 2018	Marine Protected Areas Byelaw 2019	Closed Areas Byelaw 2020	In development
Red risk	Towed demersal fishing	<ul style="list-style-type: none"> Intertidal biogenic reef: <i>Sabellaria</i> 	The Wash & North Norfolk Coast SAC					√	n/a
Amber / Green risk	Towed demersal fishing	<ul style="list-style-type: none"> Subtidal mixed sediment Subtidal mud Subtidal sand 	The Wash & North Norfolk Coast SAC			√	√	√	n/a
						√	√	√	
Amber risk	Static gear (potting)	<ul style="list-style-type: none"> Subtidal chalk (rugged chalk) 	Cromer Shoal Chalk Beds MCZ						√

The agreement of the Closed Areas Byelaw 2020 (at 41st Authority meeting) resulted in management being agreed for all the priority MPA interactions set out in the table above. A new priority MPA interaction was added to the table following receipt of conservation advice on the impact of potting on chalk in the Cromer Shoal Chalk Beds MCZ in August 2020.

Consideration of impact of Eastern IFCA activities on MPAs

In 2018 officers sought and were granted assent from Natural England for undertaking activities (including research and enforcement activities) in The Wash and North Norfolk Coast SAC. At that time, Officers undertook an assessment of the potential effects of such activity on designated features of this MPA. Officers publish an annual summary report of activities within the site to demonstrate compliance with the limits of the assent. The 2020 summary report, produced by Marine Science Officer Samantha Hornbrey, showed levels of activity were well within the acceptable limits, partly because of Covid-19 restrictions reducing the amount of activity undertaken – in particular the 2020 cockle surveys.

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.

Whilst face-to-face engagement was put on hold with COVID-19 restrictions ongoing throughout the quarter (including strict lockdown throughout January, February and March 2021) some partnership work was able to continue through remote working. Key highlights include continuation of established partnerships including projects described in previous quarterly reports to the Authority: Agents of Change, Southern North Sea Environment Group, Wash & North Norfolk Marine Partnership, Humber Coastal Conservation Partnership; Stour & Orwell Management Group. In addition, Marine Science officers have represented the Authority in a range of national / international forums including the “Big Picture” benthic imagery group (academics / practising scientists working with seabed imaging technology), Operation Blake (shellfish toxin response/monitoring group), the national Whelk Working Group (chaired by Marine Science Officer Rebecca Treacy), the International Council for Exploration of the Sea (ICES) benthic trawling working group, Defra’s Impacts Evidence Group, and the IFCA’s Technical Advisory Group.

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 January to March 2021, the Eastern IFCA Marine Science team received more than 30 consultation requests, mostly relating to marine licence applications. These related to a range of proposed activities or plans for the local marine environment, including shellfish aquaculture, seaweed aquaculture, fisheries sustainability, navigational dredging, aggregate extraction, ports and marinas, and offshore renewable energy. Renewable energy works were the most dominant category, reflecting the ongoing growth of this sector off the East Anglia coast. In addition to these one-off consultations, officers continued involvement in "ongoing" examinations relating to Planning Inspectorate examinations for two offshore wind farms (East Anglia One North and East Anglia Two) and the Sizewell C nuclear power station. Officers are keeping a watching brief but there are no matters under examination that relate directly to inshore fisheries.

Examples of consultations / engagement include:

- Hornsea Three offshore wind farm compensatory measures: EIFCA have been invited to help shape measures to be undertaken by Hornsea Three to reduce that project's impact on MPAs. Officers have clearly communicated the Authority's agreed position, i.e. *Eastern IFCA will actively engage in exploring opportunities for environmental compensatory measures but will not be supportive of measures that will have an overall adverse impact upon fishing activities and opportunities.*
- Oystercatcher tracking study: This project led by British Trust for Ornithology saw birds tagged on the East coast of the Wash in November/December 2020 and their movements tracked until February 2021. The results will help scientists understand how site-faithful these birds are to particular feeding or roosting areas, and therefore how activities such as fishing could impact on the bird populations. The work will also feed into a wider review of the Wash "Bird Food Model" that is used to predict energetic (food) requirements of birds whose main prey is shellfish; officers already use the Bird Food Model in quota calculations for the Wash annual cockle and mussel fisheries, to ensure the sufficient food remains available for protected bird species.

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 Commonwealth and Development Office (FCDO). 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 1st January and 31st March 2021, six derogation requests were received. Following assessment, four required a derogation from Eastern IFCA byelaws.

Ref. no.	Organisation	Details	Decision	NE consulted
196	Cefas	Herring study for Cefas customer EDF Energy, in support of its application to build the new Sizewell C power station. Cefas are seeking to obtain samples from fishermen operating their usual fishing practices - the samples will be retained for subsequent analysis by Cefas. Due to changes to the replacement Minimum Sizes Byelaw it was agreed that a derogation was no longer required.	Not Required	Yes
197	Cefas	Beam trawl survey in southern North Sea/eastern Channel as part of ICES co-ordinated research programme. Aim is to obtain fisheries-independent data on distribution and abundance of commercial flatfish species. Plan to collect biological data, including maturity and weight at age, of commercial species, to satisfy EU data regulations requirements. Aim to identify epibenthos by-catch taken in a 4-metre beam trawl and to quantify 12 species as agreed at Beam Trawl Working Group. Secondary aims: additional water sampling for nutrient analysis.	Required (pending)	Yes
198	Royal Belgian Institute for Natural Sciences	Outside EIFCA district	Not Required	No
199	Wells Harbour	Wells Harbour lobster hatchery project. Wells Harbour requested a derogation from Eastern IFCA's https://www.eastern-ifca.gov.uk/byelaw-6-berried-egg-bearing/ to obtain up to a maximum	Granted	Yes

		of 6 berried lobsters from local fishermen operating their usual fishing practices.		
200	Cefas	Activity will target dab (<i>Limanda limanda</i>) for fish disease and chemical body burden analysis. This is part of the Defra programme of work to meet objectives under the Defra 25-year Environmental Plan, and OSPAR policy commitments.	Granted	Yes
201	Royal Belgian Institute for Natural Sciences	Fishery-independent surveys of the adult flatfish stocks in the southern North Sea. Since 2011 marine litter is also documented. On an annual basis, the data are exchanged at the Working Group on Beam Trawl Surveys (WGBEAM), a group which is coordinated by the International Council for the Exploration of the Sea (ICES), and they are uploaded in the ICES-database DATRAS (http://datras.ices.dk) from 2004 onwards. The survey is a compulsory part of the Belgian National Data Gathering Program, in fulfilment of the requirements of EC Regulation no. 199/2008.	Required (Pending)	Yes

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.