

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 (addendum)

Eastern Inshore Fisheries and Conservation Authority Meeting

08 December 2021

Addendum to Action Item 8 (Wash Cockle and Mussel Byelaw 2021)

Report by: Luke Godwin (Senior IFCO – Regulation)

Purpose of Report

To propose an additional recommendation with regards to the Wash Cockle and Mussel Byelaw 2021.

Recommendations

It is recommended that members:

- **Agree** to delegate authority to the CEO, Chair and Vice-chair to determine whether or not to add 'transitional provisions' to the Wash Cockle and Mussel Byelaw 2021 pending the outcome of further dialogue with industry representatives on the matter and amend the byelaw accordingly in accordance with the decision.

Background

This is an addendum to Action Item 8 (Wash Cockle and Mussel Byelaw 2021) of the 46th Eastern IFCA meeting.

Report

Representatives of the 'coalition of interests' met with officers on 26 November 2021 to discuss proposals for replacing the WFO. The meeting was conducted 'without prejudice' and as such officers are unable to report on the detail save to say that it was constructive and identified several areas for continued development of the eligibility policies (which manage access to the fishery).

A key concern of industry is how the Authority will allocate permits in the first year of the byelaw being in effect. This is presently set out in the 'transitional provisions' within the access policies.

The submission from industry (Appendix 2 of the paper supporting agenda item 7, Wash Cockle and Mussel Byelaw Policies) suggests that the matters outlined should be contained within the byelaw. That is not considered desirable from the Authority's perspective because it would undermine the objective of providing some degree of flexibility in the long term. However, it is understood that inclusion of the transitional provisions within the face of the byelaw would be reassuring to industry on the basis that it would be 'fixed' within the byelaw. Whilst there is, perhaps, limited value in this

because the Authority would stand by what is in the final policy, it may be appropriate on the basis of providing assurance to industry and because these provisions would apply only in year one, with all subsequent matters being addressed via policy.

The transitional provisions proposed through the industry representatives have a similar effect to those originally suggested during the recent consultation, but further work is required to finalise the wording of them. In particular, there is a key distinction between the general feedback from the consultation and the proposal from the representatives on how to deal with WFO licences which were being 'rented out'. In addition, the transitional provisions would contain reference to the manner in which permits are issued generally (i.e. to the skipper of the vessel, the vessel owner or jointly etc.). Coming to a final decision on that matter also requires further consideration before a position can be finalised.

Delaying the start of the formal QA of the byelaw so as to finalise wording of transitional provisions would increase the risk of the WFO expiring before the byelaw comes into effect. The MMO (who undertake the formal QA) have informally advised that changes can be made to the byelaw during or subsequent to the formal QA, and that the inclusion of transitional provisions is unlikely to require a further formal consultation (which is typically required if there are 'substantive' changes to the byelaw after the original formal consultation).

Therefore, it is proposed that authority is delegated to the CEO, Chair and Vice-Chair, to determine whether or not to amend the byelaw to include transitional provisions, subsequent to further dialogue with industry representatives. This would enable the provisions to be included, if considered appropriate, without significantly increasing the risk of the byelaw being delayed as a result.

Given that the transitional provisions represent a major element of the access policies, there is a risk to accelerating their development for the purpose of inclusion in the byelaw, the effects of which would be more difficult to address as the wording would be in the byelaw rather than policies. There is an enhanced risk of unintended consequences, particularly without wider industry dialogue.

Given their importance it is intended that the two key issues (i.e. who a permit will be issued to and how to address WFO licences which are rented out) will be discussed with industry representatives with a view to making a decision about them so as to inform the wording of the transitional provisions. It may be that more time and wider dialogue with industry is required and if this is the case, it is likely that the matter would be brought back to the full Authority. Should it be necessary to use the delegated authority the CEO would share the draft wording with all members to seek feedback prior to it being formally considered with the Chair and Vice-Chair.

It should be noted that the time taken to finalise the transitional provisions may mean that they remain part of the policies, to prevent delay to the byelaw coming into effect.

Financial Implications

None identified

Legal Implications

None identified in addition to those set out in the adjoining paper