



## **50<sup>th</sup> 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 managed to account for COVID-19 safeguards. Anyone wishing to attend as spectators should contact Eastern IFCA on 01553 775321 or via e-mail: [mail@eastern-ifca.gov.uk](mailto:mail@eastern-ifca.gov.uk).

**Wednesday  
14<sup>th</sup> December 2022**

**1000 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: **51<sup>st</sup> Eastern IFCA Meeting**

Date: 8<sup>th</sup> March 2023

Time: 1030hrs

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

### Revised Agenda

- 1 Welcome - *Chair*
- 2 To accept apologies for absence - *Chair*
- 3 Declaration of Members' interests – *Chair / Senior IFCO (Regulation)*

### Action items

- 4 To receive and approve as a true record, minutes of the 50<sup>th</sup> Eastern IFCA Meeting, held on 8<sup>th</sup> December 2021 – *Chair (Pg4)*
- 5 Matters arising (including actions from previous meeting) – *Clerk*
- 6 To receive a report to consider Health and Safety risks and mitigation – *Hd Operations (pg18)*
- 7 To receive a report on the meeting of the Finance and HR sub-committee held on 7 February 2022 - *Hd Finance & HR (pg23)*
- 8 Strategic Assessment and Business Plan 2023-28 – *CEO / Project Officers (pg27)*
- 9 Wash Cockle and Mussel mortality study – *Senior MSO (Research) / Cefas representative (pg39)*
- 10 Wash Mussel Fishery 2023 – *Senior MSO (Research) / Senior IFCO (Regulation) (pg42)*
- 11 Wash Several Order application update – *Senior IFCO (Regulation) (pg50)*
- 12 Cromer Shoal MCZ update – *Senior MSO (Environment) (pg54)*
- 13 Cromer Shoal Chalk Beds Byelaw 2023 – *Senior IFCO (Regulation) (pg81)*
- 14 Crab and Lobster Byelaw 2023 - *Senior IFCO (Regulation) (pg103)*
- 15 Review of the Constitution and Standing Orders – *CEO (pg111)*
- 16 Quarterly review of annual priorities and Risk Register – *CEO (pg122)*

**Information items**

- 17 CEO update (verbal) – *CEO*
- 18 Head of Operations update (pg142)
  - a. Marine Protection Quarterly report
  - b. Marine Science Quarterly report

**Any other business**

- 19 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  
27 February 2023

## Eastern IFCA Meeting



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

A meeting of the Eastern IFCA took place on Wednesday 14<sup>th</sup> December 2022 at 1010 hours in the Assembly Rooms, King's Lynn Town Hall.

### Members Present:

Cllr T FitzPatrick	(Chair)	Norfolk County Council
Cllr M Vigo Di Gallidoro	(Vice Chair)	Suffolk County Council

Mr S Bagley	MMO Appointee
Mr I Bowell	MMO Appointee
Cllr Chenery of Horsbrugh	Norfolk County Council
Mr K Copeland	MMO Appointee
Mr J Davies	MMO Appointee
Mr L Doughty	MMO Appointee
Mr P Garnett	MMO Appointee
Ms J Love	Natural England Representative
Mr S Williamson	MMO Appointee

### Eastern IFCA (EIFCA) Officers Present:

Andrew Bakewell	Head of Finance & HR
Jon Butler	Head of Operations
Judith Stoutt	Senior Marine Science Officer
Luke Godwin	Senior IFCO (Regulation)
Ron Jessop	Senior Marine Science Officer
James Teasdale	Project Officer
Kristina Gurova	Project Officer
Jason Combes	Marine Science Officer

### Minute Taker:

Jodi Hammond

### EIFCA22/57 Item1:Welcome

The chair welcomed members to the meeting, apologising for the slight delay in the start time, due to weather conditions holding up some members arrival.

Members were advised that in the absence of the CEO the Head of Operations would act as Clerk for the duration of the meeting.

## **EIFCA22/58 Item 2: Apologies for Absence**

Apologies for absence were received from Mr Gregory (CEO), Cllrs Back (SCC), Coupland (LCC) & Skinner (LCC), Mr Rowley (MMO Representative), Ms Smith (MMO Appointee) and Messrs Goldson, Hirst, Mogford and Shaul (MMO Appointees).

## **EIFCA22/59 Item 3: Declaration of Members Interests**

Members were advised of the following dispensations:

- Agenda Item 9: Messrs Bagley, Doughty, Garnett and Williamson had a dispensation to discuss the item but not to vote.
- Agenda Item 10: Messrs Bagley, Doughty, Garnett and Williamson had a dispensation to discuss the item but not to vote.
- Agenda Item 13: Messrs Davies, Garnett, Shaul and Williamson had a dispensation to discuss but not to vote.

## **EIFCA22/60 Item 4: Minutes**

**Members Agreed the minutes were a true record of proceedings**

## **EIFCA22/61 Item 5: Matters Arising**

EIFCA22/44 Item 3: Wash Fishery Order replacement update  
The bylaw has had some revisions made as a consequence of the MMO quality assurance legal review, which have been approved by the Chair, Vice-Chair and CEO and the byelaw is back with the MMO for final QA prior to onward transmission to Defra for ministerial approval.

EIFCA22/50 Item 9: Wash Cockle & Mussel Byelaw 2021 – Managing Access

The application process under Phase 1 of the transition is underway. Officers have tailored letters to each likely applicant to minimise the burden on them and to make the process as simple as possible. This has been supplemented with individual phone calls to ensure that the requirements are understood. It is intended to establish a meeting of the Wash sub-ctte in the New Year to deal with the applications.

EIFCA22/53 Item 12: Annual Report 2021-2022

The report has been published on the website and a copy submitted to Defra as directed by the Authority

## **EIFCA22/62 Item 6: Health & Safety Risks and Mitigation**

Members were reminded this paper was submitted for noting. There had been no new cases or transmissions of Covid amongst the staff.

Mud familiarisation had been carried out with Officers who may find themselves struggling in some of the challenging conditions in the Wash, particularly those taking part in mussel surveys.

During the last quarter there had been two incidents reported, one involving an officer injuring his hand during routine maintenance and the other an officer struggling in the mud (prior to the familiarisation).

Two risks had been highlighted, the first potential for staff stress through exposure to unacceptable behaviour of stakeholders, the other relates to working at height off quayside ladders, this would be discussed with the H&S partners.

**Members Agreed to Note the contents of the report.**

## **EIFCA22/63 Item 7: Finance & HR Sub-Committee held on 2<sup>nd</sup> November 2022**

The Head of Finance advised the paper detailed the main items discussed. Further detail regarding the budget would be given in the next Agenda Item

**Members Agreed to Note the contents of the report.**

## **EIFCA22/64 Item 8: Budget and levies 2022-23 and Budget Forecast to 2028**

Proposed Budget and levies had previously been discussed by the Finance & HR Sub-Committee at which point it was agreed to put them forward to the full Authority for approval.

Members were advised that inflation had made budgeting difficult but the additional funding from Defra would alleviate the pressure on the current financial year. There has been indication there would be Defra funding for the following two years, without which it would be necessary to use reserves. It was pointed out that inevitably there would be changes, often there would be a change in staff which may create a saving. Ultimately there would be movement in reserves during the 'forecast' years.

A meeting with representatives of the three county council finance departments confirmed they were happy with the proposed budget

for 2023/2024 but advised budgets would be under greater scrutiny going forward.

Mr Doughty questioned how the shortfall from lack of payment of licence fees would be met, to which the Head of Finance advised this had been factored in and Defra funding would help with the shortfall.

**Members Resolved to:**

- **Approve the Draft Budget for 2023/24**
- **Approve the Levies for 2023/24**
- **Approve the Forecast for the following 4 years to 2027/28**

**Proposed: Cllr Chenery of Horsbrugh**

**Seconded: Cllr Vigo Di Gallidoro**

**All Agreed**

**EIFCA22/65` Item 9: Wash Cockle & Mussel Byelaw 2021 formal operating procedure**

The object of the paper was to reach agreement on the implementation of Formal Operating Procedures for flexible management which would provide clarity & transparency for stakeholders.

Senior IFCO Regulation presented members with the proposed FOPs advising the process which would be involved for General Operating, Urgent Measures and Eligibility. A further draft FOP was presented which included additional consultation with fishing industry and needed further consideration before being considered for approval.

Mr Doughty questioned whether this would allow for an early opening of a fishery, to which the Senior IFCO Regulation advised this was possible as months shown in the illustrations were only for indicative purposes, he thought that delegated authority (to the CEO) would be needed to do this in lieu of an Authority meeting..

Mr Bagley questioned what reference to a limited number of permits meant in Appendix 1. Senior IFCO Regulation advised the Authority were not looking to change permit numbers year on year based on stock levels. Consideration of any permit level adjustment would be part of a 6 year review.

**Members Resolved to:**

- **Note the contents of the report**
- **Agree to adopt Formal Operating Procedures 1 to 3 at Appendix 1**
- **Direct officers to consult with Wash fishery stakeholders to determine an effective mechanism to gather their views and incorporate this into a Formal Operating Procedure as**

**appropriate for consideration at a subsequent Authority meeting.**

**Proposed: Cllr Chenery of Horsbrugh**

**Seconded: Cllr Vigo Di Gallidoro**

**All those who could vote Agreed.**

## **EIFCA22/66 Item 10: Wash Fishery Order 1992 Transition**

Senior IFCO Regulation gave a presentation which set out the contents of the paper and made members aware that the development of management mechanisms to replace the WFO were regrettably delayed as a result of delays in receiving legal advice, providing additional opportunity for dialogue with fishing industry and additional legal scrutiny of proposals all with a view to get the best outcome for the fishery.

In addition, Senior IFCO Regulation reported that correspondence from the representatives appointed by a group of WFO Entitlement Holders was received the evening of 12 Dec 2022 which requested members were made aware of certain information to inform a decision on this item. The correspondence referred to points raised in the paper for this item and within a letter sent by the CEO to an industry member. Senior IFCO Regulation provided this information as follows:

- Our understanding is that the professional representatives are directly instructed by a small group of industry members who themselves represent wider industry. However, it is reported to us that some Entitlement Holders do not feel well represented, do not support all of the views provided by the representatives and are not kept informed of the work undertaken by the representatives.
- Objections to the Wash Cockle and Mussel Byelaw 2021 are likely to increase the time taken during Ministerial consideration and we are advised of such by Defra colleagues. Such has not already extended the time taken for ministerial consideration because the byelaw has not been formally considered by Defra yet;
- The professional representatives raised a concern in March of 2022 that the replacement mechanisms would not come into effect by 3 Jan 2023, and we acknowledged this at that time;
- The representatives believe that the Authority has 'lost control' of the lays as a result of the associated Crown Estate lease having expired and the tenancies transferring to the lay holders. Members were advised that the Crown Estate have advised that the lease is 'carried over' and that Eastern IFCA still manage the lays. As a consequence the Crown Lease is the subject of legal consideration presently. Ultimately,



- regardless of the outcome of the legal advice, lay holders will have continuity of access to their lays as is our intention;
- Industry object to the Fisheries Management Plan which supports the Several Order application, primarily on the grounds that it does not provide enough surety regarding lay tenure and because it contains 'errors in law' (relating to the Crown Estate Lease). Members were advised that the Authority must ensure that lays are productive and used appropriately given that these areas are severed from the public right of fishing and the FMP was amended as a result of industry feedback from the informal consultation. Ultimately there will be a formal consultation on the Several Order application and the concerns of lay holders will be gathered and considered;
  - The Several Order being 'delayed by six months' was not a 'decision' made by Officers but was one made by Defra as a result of seeking further legal advice and availability of securing parliamentary time for its consideration after a formal consultation. Lay holders have been made aware of our plan to manage lays between the WFO expiring and the new measures coming into effect;
  - Industry is of the view that in deciding whether or not to extend the WFO, the resource implications and potential impacts on other priority workstreams is not relevant and they ask that members disregard this information (as presented in the paper). We are of the view that such is an important element of decision making.

Ms Love enquired whether there was certainty the Byelaw would not be in place by 3<sup>rd</sup> January, she was concerned that having to put additional resources in to managing the Wash Fisheries may remove resource from other projects which were gaining momentum such as the Cromer MCZ Project, this could prove detrimental to the Project.

Mr Doughty questioned whether those who did not currently have a valid licence would be eligible for one under the exemptions proposed. Senior IFCO Regulation advised that all those with a current Entitlement would be eligible. This was queried by Mr Garnett who believed the CEO had previously advised all Entitlements would end when the Order ends and therefore that the wording in the recommendation (which refers to Entitlements) needed to be made clearer.

**At this point the Chair suggested adding additional wording to the Recommendations .**

**Members Resolved to agree to additional wording being added for clarity as follows:**

- **to add 'under the Wash Fishery Order 1992' after 'lay holders' in the second recommendation; and**

- **to add ‘under the Wash Fishery Order 1992’ after ‘entitlements’ in the first sub-point of the fourth recommendation.**

**Proposed: Chair**

**Seconded: Cllr Chenery of Horsbrugh**

**Motion carried by those able to vote.**

Mr Williamson provided members with some comments which had been passed to him and were not his personal views. Whilst the majority of the industry wanted a new Fishery Order they were 90% happy with what had been proposed. There was disappointment that a new mechanism was not ready to replace the WFO 1992 as they had been told it was easier and quicker to reinvent the wheel than to have a new Fishery Order. However, the industry wanted the replacement done right so had questioned whether a 2-year extension could be made to the Order to cover the time until the Byelaw was in place to make sure the remaining work to be done was not rushed and avoid the risk of Natural England taking the precautionary route and closing down the Wash Fisheries. At this point Ms Love advised she had not been suggesting the fishery would be closed down but that she was concerned resources would be taken from other projects.

Senior IFCO Regulation advised that most of the work to develop the byelaw had been completed and so applying for an extension, which would be time consuming, would only add to workloads rather than provide ‘more time’ as suggested by Mr Williamson.

Mr Doughty questioned how many times the proposed byelaw had been sent back by Defra; it was advised the third set of changes had just been made but it was anticipated it was now nearing the end of the process.

Referring to the question of the Several Order which had been submitted in April Mr Doughty questioned what action would be taken if the legal advice came back as wrong, would the Authority continue to pursue a Several Order. The question being posed was that if Rights to Fish were provided by Crown Estates why was a Several Order needed. The Senior IFCO Regulation advised that in that circumstance the matter would be referred to the full Authority.

Prior to considering the proposed recommendations Mr Williamson was asked whether, based on the comments he had made, he wished to propose an alternative recommendation. Mr Williamson advised that no he did not wish to put forward an alternative proposal.

**Members Resolved to:**

- **Note the content of the Report**

- **Agree in principle and subject to consideration of the formal consultation on the matter to close the cockle and mussel fisheries in The Wash, as defined by the boundaries of the Wash Fishery Order 1992 (WFO) and the Wash Restricted Area, using Byelaw 8 (Temporary Closure of Shellfish Fisheries) and to issue exemptions in relation to ‘entitlement’ holders and lay holders under the Wash Fishery Order 1992. The period of the closure being for 12 months or until the replacement management mechanisms come into effect, whichever occurs first**
- **Agree to delegate authority to the Chair, Vice-Chair and CEO, having considered the results of the consultation on the matter, to close the cockle and mussel fisheries in The Wash, as defined by the boundaries of the (WFO) and the Wash Restricted Area, and to re-open the same when the new management systems are in place.**
- **Agree to delegate authority to the CEO to:**
  - **Grant exemptions to persons with ‘entitlements’ under the Wash Fishery Order 1992 to fish wild cockle and mussel stocks within the Wash.**
  - **Grant exemptions to persons who hold a lay under the Wash Fishery Order 1992 to fish within their lays.**
  - **To issue conditions under which the exemptions (above) are granted that reflect WFO 1992 licence conditions and regulations and lay-holder lease conditions.**
  - **To revoke exemptions in consultation with the Chair and Vice-Chair for the purpose of closing a fishery in accordance with agreed management measures**

**Proposed: Cllr Chenery of Horsbrugh**

**Seconded: Cllr Vigo Di Gallidoro**

**There was 1 abstention all others able to vote were in favour, motion carried.**

*1121 hours the meeting adjourned for a break.*

*1147 the meeting reconvened.*

#### **EIFCA22/67 Item 11: Authority position on seaweed aquaculture within the Eastern IFCA district**

This paper had been prepared to draw members attention to the increasing number of Seaweed Farm applications being made within the Authority’s District and to highlight the IFCA’s duties with regard to seaweed farm operations.

The intention of the paper was also to suggest a position for the Authority to take regarding seaweed farms, and to consider how much EIFCA should become involved in managing the exploitation of wild stocks.

Members were provided with a brief presentation on the anticipated growth of the seaweed sector, and the need for consideration to be given to the economic, environmental and spatial impact of seaweed farms. It was suggested EIFCA have an agreed position for seaweed aquaculture to support sustainable development but to advise on potential conflict with other marine users.

Mr Doughty queried whether EIFCA would take responsibility for informing industry when MMO advise applications had been made to ensure the industry were fully informed. The Head of Ops advised that IFCOs would be advised so that it could be part of their engagement with industry, it had also been raised with MMO that industry were not always made aware of applications until too late in the day to respond.

Mr Davies expressed concern that it would not be possible for other marine users to co-exist in areas of seaweed farms, he also queried who would be responsible for clearing a site should the venture fail? SMSO Stoutt advised that EIFCA principles were trying to capture this be the need for a sound economic plan with a clean up contingency if business were to cease.

It was suggested this should be discussed as part of a FCMWG meeting.

**The Chair proposed the Authority should direct IFCA Officers to make industry members aware of relevant applications in particular areas.**

**Seconded: Cllr Vigo Di Gallidoro  
Proposal moved.**

Mr Williamson declared an interest in this agenda item, then went on to say that in terms of clear up it might be wise to have a form of bond in place. However, he felt these farms would be successful as the powers that be wanted them to succeed, he felt industry should be prepared for many more applications, the question was how many would EIFCA allow in the District? Mr Williamson felt EIFCA needed a statement ready before the applications started rolling in.

Mr Howell questioned whether other IFCA's were experiencing similar applications. Devon & Severn and North Eastern both had some development. A lot of work was going into looking at areas for Seaweed Aquaculture.

On the question of whether or not other IFCA's could be contacted to learn from their experiences, Head of Operations advised that EIFCA would talk to other IFCA's. He also explained that the Authority had a duty to consider all applications on their own merit.

Mr Bagley expressed concern it could become a massive industry, he was very concerned it could cause problems for fishing not only from supply issues and boat usage but also the area becoming a 'glorified bird table'.

The chair suggested sea weed farm applications updates should be considered at F&CMWG meetings going forward and it should be more regularly put forward for discussion.

Cllr Chenery questioned how much harvesting and how many species were involved, Ms Love advised that in the EIFCA district there was less stock than in other IFCA areas. SMSO Stutt advised that studies indicated some species may flourish in EIFCA conditions but it would be a limited variety in this district. Mr Davies advised care would have to be taken not to allow non-native species to be brought in.

Mr Garnett urged caution as seaweed cultivation meant extracting a lot of nutrients which may impact fisheries, if effort was not capped it could wreck the whole marine environment.

Members discussed the matter in detail, including the possibility for funding to assess the potential impacts and the fact that the areas available to fishing were getting much smaller.

**Members Resolved to :**

- **Note the contents of the report and that the FCMWG place this subject on their agenda on a regular basis.**
- **Agree the recommended position set out in this paper on seaweed aquaculture with the district to inform responses to planning applications.**
- **Agree to direct IFCA Officers to make industry members aware of relevant applications in particular areas.**

**Proposed: Chair**

**Seconded: Cllr Chenery of Horsbrugh**

**All Agreed who were able to vote.**

**EIFCA22/68 Item 12: Fisheries Management Plans and Defra funding**

Head of Operations advised there was new Defra funding available some of which was linked to Fisheries Management Plans and the additional workload they would create. It was inevitable that the new workload burdens may impact the priorities set out in the 2022-27 Business Plan, but if necessary the funding would allow for short-term posts to be funded to assist with the workload.

Mr Williamson noted the paper referred to workload created by implementing Highly Protected Marine Areas and questioned whether there were any within the EIFCA District. It was noted that none of the pilot areas were within the IFCA District but if these proved to be successful there may be others recommended and the

initial list had included a suggestion for the inshore areas of Cromer to be considered as a HPMA.

The question of who put forward areas was raised, whilst it was thought all recommendations were anonymous it was asked that SMEO Stoutt look into it.

**Members Agreed to note the content of the report and the potential impact upon delivery of the priorities and workstreams set out in the Business plan 2022-27.**

### **EIFCA22/69 Item 13: Crab and Lobster Management Update**

Project Officer Gurova gave an update on the development of crab and lobster management.

Voluntary risk management had been developed in collaboration with industry and other stakeholders.

Regulatory management was now required to mitigate risk posed by fishing, a byelaw was being developed which could deliver Adaptive Risk Management and implement further management if research dictated the need.

In relation to the byelaw, informal consultation had begun. Phase 1 was to provide an opportunity for measures to mitigate risk to be put forward by fishing industry. This phase took place by in-person meetings/discussions to gather the views of fishery stakeholders.

Phase 2 would target the full range of stakeholders, with the aim being to refine a byelaw and associated measures.

Mr Davies acknowledged that Phase 1 was progressing well but the whole of the industry were concerned with rising costs and additional permit costs would be an added burden.

He suggested that in the first instance the work should concentrate on the Cromer MCZ area, if that proved successful it could be extended to other parts of the District. He believed there was a need to talk to industry, consult and get all views rather than relying on Chinese Whispers.

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

### **EIFCA22/70 Item 14: Authority Meeting Dates 2023-24**

Members were provided with the Schedule of Meetings for 2023/24.

It was noted that venues would be confirmed when known and that Authority Meeting times had been pushed back to 10.30 to allow those from further afield more time to arrive.

The Chair asked that all members put the dates in their diaries and make every effort to attend.

Mr Davies requested the meeting scheduled for 10<sup>th</sup> January be revised as he would like to be part of discussion but would not be available that day. Head of Operations agreed to circulate an alternative date.

The Chair noted there was a meeting on 2<sup>nd</sup> May which was 2 days before elections, however, he did not feel it should prove problematic.

Mr Garnett noted there was a meeting on 14<sup>th</sup> June but questioned whether there would be discussion prior to that to consider an early opening of the cockle fishery. Head of Operations agreed to enquire whether this could be discussed at the March meeting, dependent on legality and stock assessments.

Ms Love advised that her commitments meant she always had to leave the meeting by 1330 hrs and enquired whether items relevant to NE could be put to the start of the agendas.

It was noted the FCMWG meeting was scheduled for 1030 hrs on 10<sup>th</sup> October while all others were 1400. The Chair agreed this was an oversight, the meeting would be held at 1400 hours.

**Members Resolved to Approve the calendar of meetings.**

**Proposed: Chair**

**Seconded: Cllr Vigo Di Gallidoro**

**All Agreed**

#### **EIFCA22/71 Item 15: Review of annual priorities and Risk Register**

Members were advised the paper was included as a matter for report and noting.

Mr Williamson questioned whether EIFCA had been in touch with NEIFCA and KEIFCA to discuss any links between the die off of cockle and whelk. It was advised that this had been discussed at TAG. Whilst no whelk die off had been noted in EIFCA district CEFAS would be providing a briefing paper for the next Authority meeting relating to the cockle and mussel in the Wash.

Mr Davies enquired what new information had been received re netting with in the MCZ. It was noted this was not new information

but an assessment which needed to take place that may provide new information.

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

### **EIFCA22/72 Item 16: CEO Update**

FISHERIES MANAGEMENT PLANS: Mentioned previously in the meeting, a paper on FMPs would be prepared and circulated to members in due course. In the meantime Officers on the ground were making industry aware and continued to promote meetings. Mr Bowell advised he had attended a Bass FMP meeting and asked what was EIFCA's view and could recruitment be added. The Head of Operations advised FMPs were still quite new and very little information was available, Officers would be attending meetings re Bass, whelk, crab & lobster, but it was pointed out these were National FMPs not something EIFCA had control of.

Mr Bowell advised that he had been part of consultation which suggested restricting fishing methods and having upper and lower size limits, did EIFCA not have this information? SMSO Stoutt advised the workshops in person and online for Bass had been fully booked but EIFCA had had input through other stakeholder processes.

The Head of Ops advised that currently EIFCA did not have a prepared view as they were still listening to concerns from Industry as the consultation phase took place. A paper updating members would be provided in due course.

WASH BARRAGE: Members may have heard recent proposals for a Wash Barrage. Similar plans had been proposed in the past, at this stage it was unknown whether this one would come to fruition, currently it was a matter of keeping a watching brief to see if an application was to be submitted.

IFCA REVIEW: As previously advised the 4 yearly review of IFCA's was underway, the Secretary of State must lay it before parliament at the end of the 4 year period. As part of the review members would be likely to receive a questionnaire for completion.

### **EIFCA22/73 Item 17: Head of Operations Update**

Marine Protection Updates had been circulated to members on a monthly basis. During the previous quarter two new officers had been recruited. Officers on the ground were continuing to focus on Industry engagement re the ongoing workstreams. Officers also continued to carry out inspections across commercial and recreational fisheries.



Marine Science Team had recruited three new officers since April and in September a long standing GIS Officer resigned.

The paper provided information on workstreams being carried out across the Science Team including data collection and survey work for both cockle and mussel fisheries.

Mussel surveys had been completed and it was anticipated a paper would be provided at the January meeting with the potential for a relaying fishery.

Whelk data suggested there was a continuing increase in both effort and landing which could lead to overfishing.

Mr Garnett advised the mussel bed reported to be a new area on Skate Run was in fact 5-6 years old but had not been surveyed in the past. He also felt the continuing loss of adult cockle and mussel was a concern and questioned whether it was time to consider changing management methods to promote more growth. He felt if mussel beds were cleared it would promote new growth in a couple of years.

Mr Davies felt there was some merit in this as areas left unfished seemed in a poor condition whilst those areas which were well fished produced better quality stock.

The Chair felt these were valid questions which he hoped could be answered by CEFAS.

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

There being no other business the meeting closed at 1334 hours.

## Vision

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



## Action Item 6

### 51<sup>st</sup> Eastern Inshore Fisheries and Conservation Authority meeting

8th March 2023

#### 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:

There has been one incident to report during this period.

#### **Risks/Mitigation**

**COVID-19** There have been a number of staff reporting positive tests for COVID since the last meeting. The mitigations remain in place to prevent spreading across the team to ensure business continuity is maintained. Officers are to continue to work from home if they test positive for COVID and are well enough to work or are suffering from respiratory illness, carefully consideration is given if the officer lives with someone who has tested positive with regards to their work and necessity to come into the office or work on a vessel.

All staff will be undergoing H&S training provided by NCC Health and Safety Team this month. The majority of staff have also completed Manual Handling Training

and IFCO's and Project Officers have also completed either refresher training or initial training in relation to conflict resolution due to the increased risk highlight in the previous update. Ongoing monitoring continues of stakeholder interactions with officers and addressed on case by case basis.

**Appendix 1**

<b>Date</b>	<b>Nature of incident</b>	<b>Injury / damage occurred</b>	<b>Action Taken</b>	<b>RIDDOR MAIB Y/N</b>	<b>Investigation complete Y/N</b>	<b>Name of investigating Officer</b>	<b>Follow-up action required Y/N. If Y then what?</b>
08/02/2023	Slip/Trip/Fall	Minor strain to shoulder	None required	N	Yes	Simon Lee	None required officer wearing correct PPE

## Appendix 2

### Eastern IFCA Health and Safety risks

Risk	Intervention	Residual Risk	Risk rating* (Current)	Risk rating* (Previous)
1. Whole Body Vibration	<ul style="list-style-type: none"> <li>Risk awareness training to manage impacts.</li> <li>Health monitoring process to be developed.</li> </ul>	<ul style="list-style-type: none"> <li>Personal injury from boat movement owing to lower resilience as a result of individual physiology</li> </ul>	Tolerate	Treat
2. Staff stress through exposure to unacceptable behaviour of stakeholders	<ul style="list-style-type: none"> <li>Introduction of Unacceptable Behaviour policy</li> <li>Stakeholder engagement plan and activity delivered in pursuit of corporate communications strategy.</li> <li>Dialogue with Stakeholders to ensure appropriate tone of communications</li> <li>Conflict resolution training for “front line” Officers</li> <li>Introduction of Body worn Camera’s and Sky Guard Alarms.</li> </ul>	<ul style="list-style-type: none"> <li>No change in behaviour of some stakeholders.</li> <li>Long term sickness caused by stakeholder hostility</li> </ul>	Treat	Treat
3. Damage to vehicles, trailers and/or equipment through inappropriate operation.	<ul style="list-style-type: none"> <li>Formal trailer training for unqualified officers</li> <li>Refreshers for those with previous experience</li> <li>Periodic vehicle maintenance checks training</li> <li>In-house assessment for drivers using unfamiliar vehicles (crew transport, 4x4)</li> </ul>	<ul style="list-style-type: none"> <li>Failure to adhere to training</li> <li>Mechanical failure of vehicle or trailer</li> </ul>	Tolerate	Treat
4. Physical fitness of personnel to	<ul style="list-style-type: none"> <li>Staff briefing</li> <li>Management overview to ensure rostered duties are appropriate and achievable</li> </ul>	<ul style="list-style-type: none"> <li>Individual health fragilities</li> <li>Individual lifestyle choice</li> </ul>	Tolerate	Tolerate

undertake arduous duty	<ul style="list-style-type: none"> <li>Reasonable work adjustments</li> <li>Routine periodic medical assessment (ML5)</li> </ul>			
5. COVID 19	<ul style="list-style-type: none"> <li>Information</li> <li>Guidance</li> <li>Staff Briefing</li> <li>Risk Assessments</li> </ul>	<ul style="list-style-type: none"> <li>Developing understanding of COVID 19 and rapidly changing guidance</li> </ul>	<b>Tolerate</b>	<b>N/A</b>
6. Working at Height	<ul style="list-style-type: none"> <li>Staff briefing</li> <li>Scoping of all quayside ladders</li> <li>Risk Assessment</li> <li>Training to be provided if required</li> </ul>	<ul style="list-style-type: none"> <li>Failure of quayside ladders</li> </ul>	<b>Treat</b>	<b>Treat</b>

\*

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

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

### Vision

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 7

## 51<sup>st</sup> Eastern Inshore Fisheries and Conservation Authority meeting

Report by: Andrew Bakewell – Head of Finance & HR

### Meeting of the Finance & HR Sub-committee held on 7<sup>th</sup> February 2023

#### Purpose of report

To inform members of the key outputs and decisions from the Finance & HR Sub-Committee meeting held on 1<sup>st</sup> November 2022.

#### Recommendations

Members are asked to:

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

### F&HR 22/40 Minutes of the F&HR Meeting held on the 1<sup>st</sup> November 2022

- Signed as a true record.

### F&HR 22/41 Matters Arising

- Members advised any matters were covered later in the agenda.

### Finance Matters

#### Re minute F&HR 22/42 Quarter 3 Payments and Receipts

- The Head of Finance & HR advised members that expenditure was catching up with expectations. Some overspends recorded.
- Month 8 included first tranche (£50k) of additional funding from Defra with a further £100k anticipated
- Expenditure on legal fees relating to the expiration of the WFO 1992 reported with more yet to be invoiced, a reserve existed for such expenditure. The CEO advised that Counsel's advice on a point of law relating to leases for lays had been provided in response to a view expressed by the representatives of the industry members. Final confirmation on this advice is awaited from our solicitor.
- It was noted expenditure included a settlement recommended by NPLaw on a commercial basis.
- It was noted the asset purchase payment related to the purchase of a replacement vehicle.
- Otherwise Expenditure mainly as expected apart from fuel and utility price increases.

Members Agreed to:

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

### **Re minute F&HR 22/43 Quarter 3 Management Accounts**

Salaries overall still showing savings after backpay following the pay settlement in

December despite an NI overspend (increase in NI not budgeted).

General Establishment reflected the impact of inflationary increases, fortunately a contingency sum had been put in place of which about £10k remained.

The fuel price increase had almost doubled the fuel expense incurred by EIFCA vehicles.

Training cost overspend due to having four relatively new IFCOs who were going through the required training regime.

Vessel operating costs overspent for the quarter maintenance issues on RV Three

Counties, and FPV Sebastian Terelinck refurbishment of impellers in the jet drives.

Ms Smith enquired why there was less income from WFO Licence Fees this was attributed

the status of the fishery in 2022. resulting in fewer renewals.

Cllr Chenery asked how expenditure on enforcement compared to other years, it was stated

that this was very much in line with previous years. It was also noted the cost for court cases

and legal fees would fall under the legal fees budget, the Enforcement Budget reflected the

cost of the original enforcement activity.

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

### **Re minute F&HR 22/44 External Audit Report**

The Head of Finance & HR reminded members that each year the Annual Statement was sent for review by an external Auditor. The report came back with no issues.

- **Members Agreed to note the report.**

### **Re minute F&HR22/45 Appointment of Auditors**

Members were reminded that the sub-committee annually appointed appropriate bodies to carry out the internal and external audits.



Previously these had been carried out by Norfolk Audit Services and PKF Littlejohn respectively.

**Members Resolved to engage the services of Norfolk Audit Services to carry out the internal audit and the appointment of PKG Littlejohn to audit the Annual Return for the accounts relating to 2022/2023 Financial Year**

**Proposed: Cllr Chenery of Horsbrugh**

**Seconded: Cllr Back**

**All Agreed**

#### **Re minute F&HR 22/46 Exclusion of the Public**

***Members Resolved that under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for item 10 on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 1 of Schedule 12A of the Act***

#### **Re minute F&HR 22/47 New Vessel Update**

The CEO provided a verbal update on the progress of the new vessel. Three issues reported previously had been addressed with what appeared to be satisfactory responses provided. This to be confirmed in writing with specific detail of the resolutions.

The next stage payment was on hold until the letter had been received, as it is essential that a document trail highlighting all areas of concern and resolutions exists.

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

#### **Re minute F&HR22/48 HR Update**

The Head of Finance advised there were no leavers and starters during the quarter. Leaving one plus one potential vacancy in the Marine Science Team.

It was noted there was an ongoing issue which fell outside the last quarter which would be included in the next quarterly report.

To avoid the expensive process of a tribunal NPLaw had recommend a settlement which has been paid. A review of the recruitment process is in hand. Outcomes from the review would be brought to a future meeting.

It was noted that the impending retirement of the Head of Finance and HR had been delayed as a result of illness having delayed finding suitable external accountants. Members were advised it was planned to trial an external provider; it was noted that the retiring incumbent had provided more than accounts expertise

which was why a trial period was required to see how well the change worked.  
The Chair thanked Mr Bakewell for the flexibility in his retirement date.

**Members Agreed to note the report.**

**Re minute F&HR 22/49 Any Other Business**

Following the departure of Dr Bolt there was a vacancy on the sub-committee.

**Background Documents**

Unconfirmed minutes of the Finance and HR sub-committee meeting held on the 7<sup>th</sup> February 2023

### Vision

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## Action Item 8

### 51<sup>st</sup> Eastern Inshore Fisheries and Conservation Authority Meeting

8 March 2023

### **Strategic Assessment 2023-24 & Business Plan 2023-28**

**Report by:** Julian Gregory, CEO

#### **Purpose of report**

The purpose of this report is to present the Strategic Assessment for 2023 and the Business Plan for 2023-28 for note and approval.

#### **Recommendations**

It is recommended that members:

- **Note** the content of the Strategic Assessment, including the priorities for 2023-24
- **Approve** the draft Business Plan, including the priorities and plans for 2023-28

#### **Background**

Each year, Eastern IFCA undertakes a strategic assessment of all commercial fisheries in the district to identify fisheries-related risks to stocks, the environment and industry viability. The assessment uses best available evidence to identify fisheries, environmental features and areas within the district which may require management and regulation to be implemented or reviewed to maintain an effective regulatory framework capable of ensuring sustainable fisheries, healthy seas, and a viable industry. This is used to identify priority workstreams for the financial year and to inform the rolling five-year Business Plan.

#### **Report**

##### **Strategic Assessment**

As a small organisation with a large area to cover, a broad remit and finite resources it is important that Eastern IFCA carefully prioritises workstreams to ensure that resources are targeted where they are needed most.

The Strategic Assessment 2023 assessed fisheries to assign risk ratings and identify workstreams which would mitigate the identified risks. The key criteria considered were available evidence, the current regulation in place, the potential ecosystem impacts, and fishery performance. The assessment

included a data driven, statistical analysis and a contextual assessment considering key legislative and policy drivers.

Workstreams were grouped into one of three categories; 'high priority', which are the one-off workstreams crucial to mitigating the key risks identified, 'business critical', which are the ongoing workstreams which already mitigate a risk and represent business as usual; and 'future and potential workstreams' which are considered likely to represent a high priority in the future.

The priorities for 2023-24 are set out in Appendix 1 (summary of the Strategic Assessment 2023). The full Strategic Assessment is available on the Eastern IFCA website<sup>1</sup>. The priorities identified during the 2022 Strategic Assessment have progressed, but most of these work-streams require continued development and completion and as such have, for the most part, carried over into the 2023-24 priorities.

Furthering conservation objectives for MPAs in the district remains a core priority, with the following updates:

- Added a sub-task to develop a permitting byelaw for the Cromer Shoal Chalk Beds MCZ
- Finalising assessments of 'Amber and Green' fishing gear / designated feature interactions in MPAs and implementing any management measures required will be a key focus in order to achieve the 25-year Environment Plan's goal of halting damaging activities within MPAs by 2024
- Development of monitoring and control plans (MCPs), which had previously been an annual priority, has moved to 'future priorities'. This reflects that completion of the 'Amber and Green' assessments is required to develop MCPs, which is where resource will be targeted.

A new priority has also been added, to support the delivery of Fisheries Management Plans.

### The Business Plan

The Business Plan provides the strategic framework within which Eastern IFCA operates and describes our ability to deliver against our vision and priorities. This is demonstrated by setting out factors such as effective leadership arrangements; the strength of the team in terms of experience, qualifications, and skills; being appropriately equipped; operating effectively and effective financial management. An important element of this approach is to demonstrate that the work of Eastern IFCA is an investment in the local marine environment and to develop a narrative that would lead contributing authorities to view funding in that context rather than simply being another demand on hard pressed finances.

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<sup>1</sup> <https://www.eastern-ifca.gov.uk/wp-content/uploads/2023/02/1-Eastern-IFCA-2023-Strategic-Assessment.pdf>

The draft Business Plan 2023-28 is available on the Eastern IFCA website<sup>2</sup>. The plan shows a clear linkage to Defra's vision and strategy, including the 25-Year Environment Plan, the Environment Act 2021, the Fisheries Act 2020 and Defra's Outcome Delivery Plan 2021-22.

It should be noted that new metrics to be linked to the continuation of 'New Burdens' funding from Defra for IFCAs are currently being developed in conjunction with the Association of IFCAs. Because this is still work in progress the metrics are not available for inclusion in the Business Plan and it is possible that it may not be appropriate or necessary to do so. Should it transpire that they should be included officers will add them when they have been finalised.

Key elements of note within the 2023-28 Business Plan relate to the replacement of key sea-going assets (*RV Three Counties* and *FPV John Alen*) and the revised organisational structure which now includes two permanent Project Officer posts to support the delivery regulatory workstreams.

In addition, the risk matrix has been updated to reflect changes in risk during the last financial year regards reputational risk in addition to additional measures to address (treat) this enhanced risk.

#### **Financial implications**

None

#### **Legal implications**

None

#### **Appendices**

Appendix 1 – Summary of Strategic Assessment 2023

#### **Background documents**

- The Strategic Assessment 2023<sup>3</sup>
- The draft Eastern IFCA 5-year Business Plan 2023-2028

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<sup>2</sup> <https://www.eastern-ifca.gov.uk/wp-content/uploads/2023/02/3-Eastern-IFCA-Business-Plan-2023-2028-DRAFT.pdf>

<sup>3</sup> Available at <https://www.eastern-ifca.gov.uk/wp-content/uploads/2023/02/1-Eastern-IFCA-2023-Strategic-Assessment.pdf>

# SUMMARY OF STRATEGIC ASSESSMENT

2023

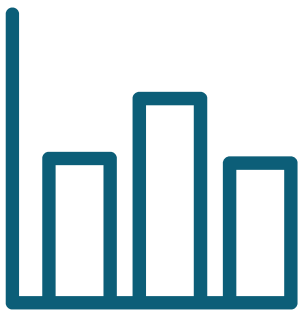


**This document summarises the outputs from the full strategic assessment which is available at [www.eastern-ifca.gov.uk](http://www.eastern-ifca.gov.uk)**

# What is the strategic assessment?

## PRIORITISATION BASED ON RISK

As a small organisation with a large area to cover, a broad remit and finite resources, Eastern IFCA needs to carefully plan and prioritise annual workstreams and ensure that resources are targeted where they are needed most. Each year an assessment is carried out using best available evidence to identify the highest risk elements of all the fisheries in the district, including risks to fisheries (stock) sustainability, ecosystems and industry viability.



## DATA DRIVEN ASSESSMENT

A range of data sources are analysed to detect trends, identify emerging issues and determine the economic importance of each fishery. This includes information gathered by the Authority and from our partners (such as the Marine Management Organisation).



## CONTEXTUAL ASSESSMENT

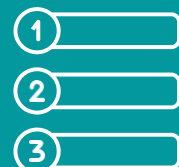
Context is provided to the data driven assessment by considering the legislative and policy drivers to actions including, for example, the presence of Marine Protected Areas and targets set on delivering favorable condition of such.



Detect risk



Identify  
workstreams



Assign annual  
priorities

# Bivalve Molluscs



**Overall: High Risk**

**Key species: cockles, mussels**

## DATA DRIVEN ASSESSMENT

Cockles are the only species of note. Landed weight for cockles has dropped significantly since 2017.

## CONTEXTUAL ASSESSMENT

### EVIDENCE BASE

is of high quality:  
**Low Risk**

### CURRENT REGULATION

is insufficient. Additional regulation is required to manage Wash cockle and mussel fisheries:  
**High Risk**

### ECOSYSTEM IMPACTS

are low and managed in accordance with an established Fisheries Management Plan:  
**Low Risk**

### FISHERIES PERFORMANCE

is of concern with die-offs and poor recruitment affecting cockles and mussels:  
**High Risk**

# Crustaceans



**Overall: High Risk**

**Key species: brown crab, lobsters**

## DATA DRIVEN ASSESSMENT

Crab landed weight stable, prices climbing. Lobster landings are variable, increasing in 2022. Price sharply increased in 2021 and remain high

## CONTEXTUAL ASSESSMENT

### EVIDENCE BASE

is of a poor quality due to loss of previous MSAR reporting and no access to the replacement system. Adaptive Risk Management efforts may mitigate this:  
**High risk**

### CURRENT REGULATION

is insufficient to conclude exploitation is sustainable. A byelaw is being proposed to mitigate the risk within Cromer MCZ, and national Fisheries Management Plans are in development:  
**High risk**

### ECOSYSTEM IMPACTS

are usually low with potting fisheries, however due to the activity within the Cromer MCZ risk is higher. ARM efforts and voluntary measures in place to mitigate:  
**High risk**

### FISHERIES PERFORMANCE

shows high levels of landings and stability over time however, Good Environmental Status cannot be evidenced, and concerns exist regarding the use of crabs for bait:  
**medium risk**



# Demersal



**Overall: Medium Risk**

**Key species: Bass, Sole, Plaice, Flounder, Dab**

## DATA DRIVEN ASSESSMENT

Generally a stable fishery, notable exceptions are the steady increase in weight of landed bass and the spike in whiting in 2021, which then nearly vanished in 2022.

## CONTEXTUAL ASSESSMENT

EVIDENCE BASE	CURRENT REGULATION	ECOSYSTEM IMPACTS	FISHERIES PERFORMANCE
is very limited, though most of the fishery has favourable ICES advice <b>Medium risk</b>	is also limited locally, but strong national measures and FMPs are in development: <b>Medium risk</b>	from demersal gear is high due to highly effective bottom-towed gear. However, restricted areas mitigate the risk <b>Medium risk</b> .	is uncertain due to shortage of data. Economic importance is significant but small-scale: <b>Medium risk</b>

# Dogfish & Sharks



**Overall: Low Risk**

**Key species: Lesser Spotted Dogfish**

## DATA DRIVEN ASSESSMENT

Very low landings of Lesser Spotted Dogfish, though prices have increased lately. Smoothhound landings steadily climbing

## CONTEXTUAL ASSESSMENT

EVIDENCE BASE	CURRENT REGULATION	ECOSYSTEM IMPACTS	FISHERIES PERFORMANCE
is very limited. Under-10m catch recording may mitigate, but catch for bait is a concern: <b>Medium risk</b>	is extensive, with no-take restrictions on most sharks. Dogfish are less protected but have high survivability. Possible Spurdog fishery. FMPs upcoming: <b>Low risk</b>	are low, with generally low impact gear used and small proportion of UK landings: <b>Low risk</b> .	is generally favourable (ICES advice) for species that aren't under no-take restrictions. Low weight fishery, though catch for bait is a concern: <b>Low risk</b>

# Pelagic



**Overall: Low Risk**

**Key species: Herring, Mackerel, Sprat**

## DATA DRIVEN ASSESSMENT

Significant increase in landings of herring in 2022. Otherwise a variable fishery, with other species on the lower end of average landed weight. Prices stable

## CONTEXTUAL ASSESSMENT

EVIDENCE BASE	CURRENT REGULATION	ECOSYSTEM IMPACTS	FISHERIES PERFORMANCE
is very limited. Under-10m catch recording may mitigate, but ICES advice is favourable and fisheries are marginal <b>Low risk</b>	consists of minimum landing sizes. Some indication MLS may be too large, but low activity mitigates risk: <b>Low risk</b>	are low, with generally low impact gear used and small proportion of UK landings: <b>Low risk</b>	is variable but far below MSY. Disturbance from seals should be monitored: <b>Medium risk</b>

# Shrimps / Prawns



**Overall: Medium Risk**

**Key species: Brown shrimp**

## DATA DRIVEN ASSESSMENT

Landings highly variable, but have been low during 2021 and 2022. Price is also variable, but was at the higher during 2022

## CONTEXTUAL ASSESSMENT

EVIDENCE BASE	CURRENT REGULATION	ECOSYSTEM IMPACTS	FISHERIES PERFORMANCE
is of mixed quality. VMS does not provide full fleet coverage and data provided by fishing industry is limited. Eastern IFCA catch returns monitoring & database now in place: <b>High risk</b>	is adequate, with the Shrimp Permit Byelaw approved and ready to implement, and returns required accounting for every day: <b>Medium risk</b>	are generally high from shrimp trawling gear. However restricted areas, MSC accreditation and Shrimp Permit Byelaw mitigate the risk: <b>Medium risk</b>	is variable, with low landings in the last two years. These are thought to be because of market demand and competition from Dutch fleets, rather than fishery health. <b>Medium risk</b>

# Skates and Rays



**Overall: Medium Risk**

**Key species:  
Thornback ray**

## DATADRIVENASSESSMENT

Steady downward trend in landings since 2018, with prices increasing

## CONTEXTUALASSESSMENT

EVIDENCE BASE	CURRENT REGULATION	ECOSYSTEM IMPACTS	FISHERIES PERFORMANCE
is hindered by identification issues. Under-10m catch recording should mitigate, along with quota system requiring identification: <b>Medium risk</b>	is through negotiated quotas with EU & Norway. MLS in place in neighbouring district. FMPs upcoming: <b>Medium risk</b>	are generally not a concern, although gillnet usage does pose some potential risks: <b>Medium risk</b> .	is uncertain due to lack of data and species are susceptible to pressure, but landings are low: <b>Medium risk</b>

# Whelks



**Overall: Medium Risk**

**Key species:  
Whelk**

## DATADRIVENASSESSMENT

One of the major fisheries by weight, downward trend since 2019 (54% drop 2019-2022), though this is driven by a peak in 2017. Prices stable

## CONTEXTUALASSESSMENT

EVIDENCE BASE	CURRENT REGULATION	ECOSYSTEM IMPACTS	FISHERIES PERFORMANCE
is improving, data is being collected and projects are being run regarding Landings per Unit Effort and Size of Maturity, but more work needed: <b>Medium risk</b>	is adequate, a permit mechanism is in place, effort gear and MLS all managed. FMPs upcoming. Some concerns exist regarding MLS: <b>Medium risk</b>	are generally low in potting fisheries. Degree of interaction in this fishery with Cromer MCZ is not fully known, and risks crab being used as bait for whelk poses some risk: <b>Medium risk</b> .	shows significant landed weight and concerns exist regarding sustainability as ease of access for the fishery and slow recovery of whelks raises risk: <b>High risk</b>

# Annual Priorities



The Strategic Assessment 2023 identified the following 'high priority' workstreams which require completion to mitigate associated risks.

## 1. To ensure that the conservation objectives of Marine Protected Areas in the district are furthered

**Implementation of management measures for 'red-risk' gear/feature interactions**

**Continued implementation of an Adaptive Risk Management (ARM) of Cromer Shoal Chalk Beds (MCZ)**

**Completion of 'amber/green' gear/feature interactions and development / implementation of mitigation where required**

## 2. Management of Wash cockle and mussel fisheries (wild capture and private)

**Confirmation of the Wash Cockle and Mussel Byelaw to enable management of wild capture fisheries**

**Implementation of Wash Cockle and Mussel Byelaw access policies (transition)**

**Develop appropriate management of private shellfish aquaculture within The Wash**

## 3. Obtaining better fisheries data

**Implementation of I-VMS for all fisheries and specifically the Wash Shrimp fishery**

## 4. Support the delivery of Fisheries Management Plans

**Contributing to the development of Fisheries Management Plans**

# Business critical

The following workstreams represent ongoing, 'business as usual' tasks which are required to continue to mitigate associated risks.

## 1. Marine Protected Areas management, industry viability and stock sustainability

**Effort monitoring within the Wash and North Norfolk Coast SAC including, and permit scheme administration**

**SWEEP (Study of the Wash Embayment, Environment and Productivity) to inform private aquaculture management**

**Wash cockle and mussel surveys and Management**

**Shrimp fishery management (MSC accreditation commitments)**

**Development of measures to address the sustainability of whelk stocks**

**Complete HRAs in relation to 'unplanned' fisheries**

**Advice in relation to the risk of conflicts with other marine users**

## 2. Enforcement & Engagement

**Compliance monitoring and engagement in accordance with the Compliance Risk Register and TCG**

**Engagement and education with RSAs on minimum sizes and applicable local and national regulation**

## 3. Biosecurity

**Monitoring of district-wide biosecurity risk**

## 4. Partnership working

**Continue and expand collaborative work with partner organisations**

# Future Workstreams

Explore initiatives to invigorate the herring fishery through participation in promotional/awareness raising campaign

Review of Mussel Fishery Fisheries Management Plan

If required reassess need to deliver 'unregulated netting'

Continue dialogue with MMO and other partner organisations to develop 'joined-up' approach to gathering fisheries data from fishers

Assessment of and development of management measures in relation to crab and lobster

Consider formalising the Eastern IFCA position into an Aquaculture Strategy

measures in the context of BNAs

fisheries sustainability

Investigate

shrimp fishing activity outside of Wash and North Norfolk Coast SAC

Development of relationships with RSA to obtain more fisheries data, including consideration of the added value of developing a RSA Strategy

Implementation of electronic/app based returns system (to be incorporated with MMO under 10's catch returns if possible).

Develop mechanism to monitor levels of Lesser Spotted Dogfish use as bait

Review the Humber estuary cockle byelaw (inherited from North Eastern Sea Fisheries Committee)

Gather information regarding recreational hand

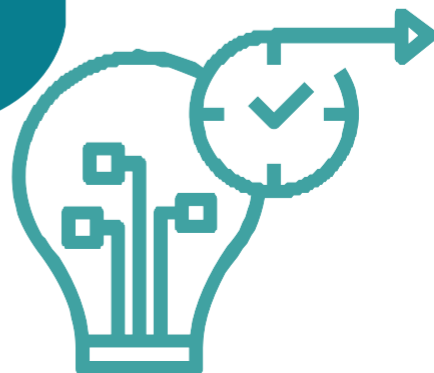
gathering

Investigate requirement/applicability of Netting permit

Development of Monitoring and Control Plans

Investigate cockle & mussel die-off

The Strategic Assessment 2023 identified the following potential future workstreams, completion of which would mitigate emerging, future or lower level risks and could deliver added benefit to existing workstreams.



### Vision

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



## Action Item 9

### Eastern Inshore Fisheries and Conservation Authority Meeting

08 March 2023

#### Wash Cockle and Mussel mortality study

**Report by:** Ron Jessop, Senior Marine Science Officer (Research)

#### **Purpose of Report**

To inform members of work conducted by officers and Cefas to better understand the possible causes that have resulted in high annual mortality rates of cockles and mussels in The Wash since 2008.

#### **Recommendations**

It is recommended that members:

- **Note** the contents of the paper and Cefas presentation

#### **Background**

Cockle and mussel populations in The Wash have suffered unusually high ongoing mortality rates since 2008 (cockles) and 2010 (mussels). Cefas commenced a project in 2020 to investigate the cause of these die-offs.

#### **Report**

##### Cockle (“atypical”) mortality

It is well-established that cockle mortality in The Wash through winter storms, predation and ridging-out as a result of over-crowding can be high. In 2008, Wash intertidal cockle stocks were observed to be suffering unusually high mortality rates on the Friskney and Wrangle sands that did not appear to be the result of storms, extreme temperatures, predation, or over-crowding. That die-off significantly reduced the quantity of cockles that had been expected to be landed from those sands during the fishery and was the first indication that something was amiss with the stocks, in what would become an ongoing series of annual die-offs referred to as “atypical” mortality.

Unlike ridging-out events, which typically result in the loss of high numbers of over-crowded cockles over a short space of time, daily losses from “atypical” mortality tend to be much lower but occur over a protracted period that results in significant losses. During these events weakened cockles tend to be found unburied on the surface, the more moribund among them often gaping. Studies have found the rate of mortality appears strongly linked to temperature, with rates rising when air temperatures exceed 14°C. Mortality also appears to be linked to the size of the



cockle, rather than age, with 12-13mm width being a vulnerable size at which die-offs start to occur. This link between cockle size and mortality suggests that maturity and spawning behaviour may be having an influence on mortality.

It is difficult to estimate how much stock has been lost as a result of “atypical” mortality since 2008, but a study of the survey data in 2010 estimated losses during the three-year period 2008-2010 to be roughly 26,000 tonnes. To put this figure into perspective, cockle landings during that same period were only 5,914 tonnes. Similar analysis of survey data has found annual losses of biomass among vulnerable cohorts can exceed 80% on faster-growing beds and is generally between 40-60% on slower-growing beds. Such high losses, particularly among cockles that have reached a size of maturity, has resulted in significant shifts in cockle stock demographics and how the fishery is managed. With far fewer cockles reaching older ages and larger sizes, the industry has shifted to targeting younger, smaller cockles than previously, resulting in a less-resilient fishery that is reliant on regular recruitment. In general, recruitment has been more regular since 2008 than it was before, but the failure of a year’s spatfall can result in the rapid decline in the fishery, as seen in 2021 and 2022.

#### Mussel mortality

The 2010 autumn mussel surveys showed a large, unexpected decline in mussel stock compared to the previous year. This appeared to be mainly due to the loss of relatively young mussels (2-3 years-old), large patches of which had either died or disappeared. Mortality rates among 2–3-year-old mussels has remained high in subsequent years, resulting in fewer individuals attaining larger sizes and a general decline of most of the mussel beds. Unlike with the cockles, where die-off events are evidenced by visibly moribund individuals, dying mussels have not been observed in large numbers, just their shells afterwards. This could be due to moribund mussels exhibiting less obvious symptoms than those of the cockles, so they are not recognised as being moribund, or simply a case of the beds not being visited at the most vulnerable times of the year. Irrespective, the overall impact has been a decline in the quality of the mussel beds, less regular fisheries and a greater reliance on good recruitment to maintain the stock biomass above conservation objective targets.

#### Previous studies

Samples of cockles and mussels were delivered to Cefas for analysis in 2010 to determine whether any pathogens were present that could be responsible for the observed mortalities.

Following analysis of the cockle samples, Cefas reported:

*Following reports of a mortality event in the Wash, two samples of cockles were submitted to the Cefas laboratory for analysis. Examination of these samples by histology revealed the presence of large inflammatory lesions at a prevalence of around 60%. Early developmental stages of haplosporidians were noted within the lesions. Few other pathogens of note were observed in these animals. Other than a single example of disseminated neoplasia due to a virus, no evidence was seen for a viral aetiology in the mortality. There is strong circumstantial evidence that the haplosporidian infections may be a*



*major contributory factor in the observed mortalities in the Wash (Longshaw, 2010)*

Analysis of the mussel samples identified high numbers of the copepod intestinal parasite, *Mytilicola intestinalis* to be present. This is a common parasite in mussel populations, but literature tends to be divided on the harm it causes. While its presence has been attributed with some large-scale mussel die-offs, these were possibly coincidental rather than causal. Studies conducted by Authority officers in 2010 and 2017-2019 have continued to find high incidence rates of this parasite in the mussel populations, but neither these studies nor one conducted by the University of Kingston upon Hull in 2018 found a correlation between *Mytilicola* and mussel die-offs.

### Current study

In 2020 Cefas began a project to thoroughly investigate both the cockle and mussel die-offs. Lockdowns resulting from the COVID-19 coronavirus pandemic delayed the start of this project, but samples of both species have subsequently been collected from specific beds for analysis. A member of the Cefas team will attend this meeting to present their findings to date.

### *References*

Longshaw M, 2010. Edible cockle mortalities in the UK. Cefas correspondence

### **Financial Implications**

The mortality events described in this paper have significant ongoing impacts on the resilience and financial value of two of the District's largest fisheries. The Cefas study seeks to better understand what may be causing these die-offs. No new measures or activities are proposed within this paper, but should further samples be required, officers will continue to support the project alongside existing research activities.

### **Legal Implications**

None identified

### **Conclusion**

Cefas will be presenting the preliminary findings of their study investigating the ongoing high mortality rates of cockle and mussel populations in The Wash.

## Vision

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



**Action Item 10**

## Eastern Inshore Fisheries and Conservation Authority Meeting

08 March 2023

### Wash Mussel Fisheries

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

### **Purpose of Report**

The purpose of this report is to summarise the findings of the 2022 autumn inter-tidal mussel surveys in The Wash and recommended fishery management measures to support a fishery; namely a relaying seed fishery with a maximum Total Allowable Catch of 1,147 tonnes focused on 7 beds. Further, it is recommended that the stocks on the Welland Wall, which are considered discrete to those on the inter-tidal beds, should remain open to the fishery.

### **Recommendations**

It is recommended that members:

- **Note** the findings of the 2022 Autumn Mussel surveys and specifically that the Conservation Objective target for total mussel biomass has been achieved but the target for adult biomass (mussels  $\geq 45\text{mm}$  length) has not;
- **Agree**, subject to consultation, to open a re-laying mussel fishery with a maximum TAC of 1,147 tonnes;
- **Agree** to delegate to the CEO in consultation with the Chair and Vice-Chair the ability to vary the TAC and / or the beds open to the fishery for both the dredged and hand-worked fishery based upon the outcome of consultation and if judged to be necessary during the period that the fishery is open.
- **Note** the proposed management measures for the fishery including the associated rationale and the mechanism for implementing management under the interim measures;
- **Agree** to delegate authority to the CEO in consultation with the Chair and Vice-Chair to introduce, vary or revoke flexible management measures referred to in Schedule 4 of the Wash Cockle and Mussel Byelaw 2021 to manage a cockle fishery in the event that the byelaw comes into effect;
- **Agree** to delegate authority to the CEO in consultation with the Chair and Vice-Chair to introduce, vary or revoke flexible management measures with less than 12-hours' notice as may be required, in accordance with the

provisions of the Wash Cockle and Mussel Byelaw 2021 should the byelaw come into effect.

- **Agree** that the dredge and hand-worked relaying fisheries will close on 31<sup>st</sup> August 2023 or when the respective quotas are exhausted, whichever is the sooner.

## **Background**

Until it expired in January 2023, the Authority managed intertidal mussel (*Mytilus edulis*) fisheries under the Wash Fishery Order 1992 (WFO). The Authority is seeking to replace the WFO with the Wash Cockle and Mussel Byelaw, which is at the later stages of the byelaw making process. In the interim, the Wash cockle and mussel fisheries will be managed by implementing a temporary closure and issuing exemptions to those who held Entitlements under the WFO. At the 50<sup>th</sup> Eastern IFCA Meeting, members agreed to delegate authority to the CEO to issue such exemptions and issue conditions attaching to conditions to implement required management measures.

There are two distinct fisheries within The Wash relating to mussels; one at Welland Wall, where the mussels are situated on a bank of the River Welland, and the fishery which occupies the rest of the Wash's mud and sand banks. The latter is further divided into a harvestable fishery, which targets adult mussels for landing directly for market, and a seed relaying fishery, which collects juvenile mussels from the intertidal beds for relaying onto private lays.

Mussel stock surveys are undertaken annually during autumn to determine if a fishery can be opened and to identify what management measures are required. Since 2010, high mortalities combined with poor recruitment have contributed to an overall decline in the inter-tidal mussel beds. This has left the majority of the older beds in poor condition, in which the mussels are heavily encrusted in barnacles and the ground covered in dead shell. In recent years, however, a small number of new beds have settled which have helped the total stock biomass to hover around the Conservation Objective target of 12,000 tonnes and small relaying fisheries to be opened.

The Welland Wall mussel fishery is considered discrete from the other inter-tidal beds, and the relative stability of the mussel stocks, supported by its rocky substate, generally enable it to remain open to a small-scale, hand-worked fishery. The majority of mussel removed is relayed onto lays within The Wash or the adjacent North Norfolk Coast.

## **Report**

### Mussel stock surveys

The 2022 Wash inter-tidal mussel surveys were conducted between September 12<sup>th</sup> and November 12<sup>th</sup>, during which 19 inter-tidal beds, plus the Welland Bank were surveyed. These surveys incorporated all of the known beds apart from two small beds on the Roger and Pandora sands, which had previously been removed from the survey programme due to their small stock size and general deterioration but included one new bed on the east side of the Breast sand, referred to as 'Back of the Wall'.

A short report detailing the main results and conclusions of the survey can be found on the Eastern-IFCA website<sup>4</sup>. In brief, the surveys found the overall mussel biomass (excluding the Welland Wall, which is managed separately to the inter-tidal beds) was 13,147 tonnes, meeting the 12,000 tonnes SSSI Conservation Objective target for the site. The biomass of mussels that had reached 45mm Minimum Landing Size (MLS) had declined from 6,008 tonnes to 4,471 tonnes. The Conservation Objective target for these larger mussels is 7,000 tonnes, a target that has not been achieved since 2009 when the higher-than-average levels of mortality were first observed.

Biomass of individual mussel beds varied significantly compared to last year, with some beds showing significant declines and others showing an increase. The overall biomass declined by circa 9% (only 1.3% of which is attributable to the fishery last year). However, inclusion of the 'Back of the Wall' mussel bed (which was not included in the 2021 survey programme) has the effect of making up for these losses and the overall biomass for all beds surveyed is relatively stable compared to last year.

It is noteworthy that 905 tonnes of mainly small mussels were lost from the Blackshore bed. The absence of dead shells, coupled with previous survey evidence of losses and patches of mussels migrating across this bed towards the nearby river channel, strongly suggest this bed is naturally ephemeral and should be managed accordingly.

Although this is one of the few occasions in the past twenty years that the total mussel biomass has exceeded 13,000 tonnes, the majority of the older, more established beds are in poor condition, with sparse coverage, lots of dead shell and poor-quality, barnacle-encrusted mussels.

### *Prospects for the 2023 mussel fishery*

The stock assessment is considered in the context of the 2008 Wash Shellfish Policies<sup>5</sup> which guides management decisions to ensure mussel fisheries are managed within environmental parameters.

#### *Harvestable and relaying fisheries*

If the stocks allow, the inter-tidal beds support two fisheries; a harvestable fishery, in which adult ( $\geq 45$ mm length) mussels are landed directly for market, and a relaying fishery, in which seed ( $< 45$ mm length) mussels are re-laid onto private lays for growing-on.

Because the biomass of adult mussels has failed to achieve the 7,000 tonnes Conservation Objective target, there are insufficient stocks to open a harvestable fishery this year. The total stock biomass and the juvenile stock biomass exceed associated thresholds required to open a seed fishery. The stocks can, therefore, support a seed re-laying fishery.

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<sup>4</sup><https://www.eastern-ifca.gov.uk/wp-content/uploads/2023/02/4-Summary-of-the-2022-Wash-intertidal-mussel-stock-assessment-surveys.pdf>

<sup>5</sup> [https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO\\_Shellfish\\_management\\_policies\\_2008.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO_Shellfish_management_policies_2008.pdf)

### Total Allowable Catch (TAC) for relaying fishery

To ensure mussel stocks meet the conservation objective of 12,000 tonnes, the maximum TAC for a seed relaying fishery is 1,147 tonnes.

Both cockles and mussels contribute towards the calculations used in the Bird Food Model when determining food availability for the over-wintering wader populations. Many industry members raised concerns last year about the size of the proposed 2022 mussel relaying fishery, fearing it would impact on the size of the subsequent cockle fishery. It is, therefore, recommended that the TAC for the relaying mussel fishery is determined after consideration of industry views via consultation.

### Beds to be opened to relaying fishery

To minimise disturbance to adult stocks, the relaying fishery can only target beds that are composed predominantly of juvenile mussels. To prevent over-fishing occurring on individual beds, average mussel densities should also be maintained above 25 tonnes/hectare within each bed.

However, although the mean density of mussels on the Blackshore bed is currently below 25 tonnes/hectare, the bed is believed to be vulnerable/ephemeral so could also be opened under the 2008 policies.

Taking into account the above conditions, 7 beds could potentially be opened to the 2023 relaying fishery. These are listed in table 1, which also shows the maximum mussel harvest that could be taken from each before their average densities fall below the 25 tonnes/hectare threshold (or in the case of the Backshore bed, 50% of the mussel biomass was removed). A total of 1,439 tonnes could potentially be removed from these beds, sufficient to satisfy the maximum available TAC of 1,147 tonnes). Charts highlighting the areas proposed to be opened to the relaying fishery are shown in Appendix 1.

**Table 1. Beds that could be opened to the 2023 relaying seed fishery and the maximum harvest rates that the policies would allow**

<b>Bed</b>	<b>Maximum harvest</b>
Shellridge	130
Tofts	28
Herring Hill	180
Trial Bank	292
Back of the Wall	507
Skate Run	196
Blackshore	106
<b>TOTAL</b>	<b>1,439</b>

### Fishing methods

Both dredging and hand-working methods are available for prosecuting the fishery. The majority of the fishery is usually targeted using dredges with a minority favouring hand-working. Ordinarily, the TAC for the dredge fisheries

has been set at 20% of the stock biomass, with an additional 2% reserved for the hand-worked fisheries. Last year however there was a preference from those targeting the fishery for a larger hand-worked TAC. Therefore, the allocation of the TAC between the two fisheries will be determined following consultation with the industry and could be varied during the fishery depending on uptake of either method.

#### Opening date

Mussels tend to partially bury themselves and form a firmer attachment to the substrate in winter and therefore relaying activities usually take place between March-May once the sea temperatures increase. It is intended that the opening date is determined following feedback from industry via a consultation but is anticipated to open around the 'normal' time.

#### Closing date

Annual mussel surveys ordinarily commence in September at which time the fishery will need to be closed to enable the survey if any quota remains. It is recommended, therefore, that the fishery closes on the exhaustion of the TAC or on 31<sup>st</sup> August 2023 whichever is soonest.

If it is judged necessary for the protection of the Marine Protected Area or for fisheries management purposes, the fishery may be closed prior to the exhaustion of the TAC as per the 2008 Shellfish Management Policies.

#### The Welland Wall Mussel Fishery

The cracks and crevices between the rocks of the man-made Welland Bank training wall provide shelter for mussel seed to settle and protection for juveniles. This protection, and the fact that the rocks cannot be dredged mean overfishing is unlikely to occur. These differences facilitate fisheries which are discrete and independent to those on the inter-tidal beds in the rest of the Wash and, as such, are managed separately. The mussels on the Welland Wall do not contribute towards the Conservation Objective targets so are not constrained by them. Because there is a very low risk of overfishing occurring, the Welland Wall mussel fishery is ordinarily left open. The 2022 survey found the mussel biomass on the wall had increased from 2021 and so support the continued opening of the fishery and to maintain the management measures currently in place for this fishery.

#### Habitat Regulation Assessment

Natural England will be formally notified of the Authority's intentions through the submission of a Habitats Regulation Assessment detailing the proposed mussel fishery activities. The opening date for the fishery may depend on the time taken for Natural England to provide a response to the Authority's proposals and whether Natural England agrees that the proposal would not have an adverse effect on the integrity of the Marine Protected Area. Additional management measures may be required to facilitate a fishery which does not adversely impact the conservation objectives of the Wash MPAs.

#### Mechanism for managing the 2023 fisheries

The delegated authority provided at the 50<sup>th</sup> Eastern IFCA meeting is sufficient to implement required management measures for the mussel fisheries (i.e. through



issuing exemptions to the temporary closure and attaching conditions). Management measures for re-laying mussel fisheries are well established and those applied this year are intended to be consistent with those in previous years and be the subject of consultation with fishery stakeholders. These include for example, restrictions imposed ordinarily through the WFO Regulations and Licence Conditions.

In the event that the Wash Cockle and Mussel Byelaw comes into effect prior to or during mussel relaying fisheries, it is recommended that the CEO is delegated authority in consultation with the Chair and Vice-Chair, to implement the same management measures as permit conditions using the provisions of that byelaw. This will ensure business continuity and avoid disruption to fishing operations through the transition.

### **Financial Implications**

The Authority has already planned for its resources to include an annual mussel survey and fishery. No additional change is foreseen at this time.

The interim measures for managing Wash mussel fisheries do not enable fees to be charged is ordinarily the case for these fisheries. The financial implications of this were considered in Action Item 10 of the 50<sup>th</sup> Eastern IFCA meeting.

### **Legal Implications**

Given the scrutiny on the protection of Marine Protected Areas (particularly the Wash and North Norfolk Coast) and the high-risk associated with the primary fishing gear (i.e. dredges) mitigation is required to ensure that the conservation objectives of the Wash MPAs are furthered to avoid legal challenge.

Legal risk is further mitigated through the recommendation that the CEO is delegated authority to implement management measures to ensure that site integrity is not significantly impacted.

### **Appendices**

Appendix 1 - Charts showing the beds proposed to be opened to the 2023 fishery

### **Background Documents**

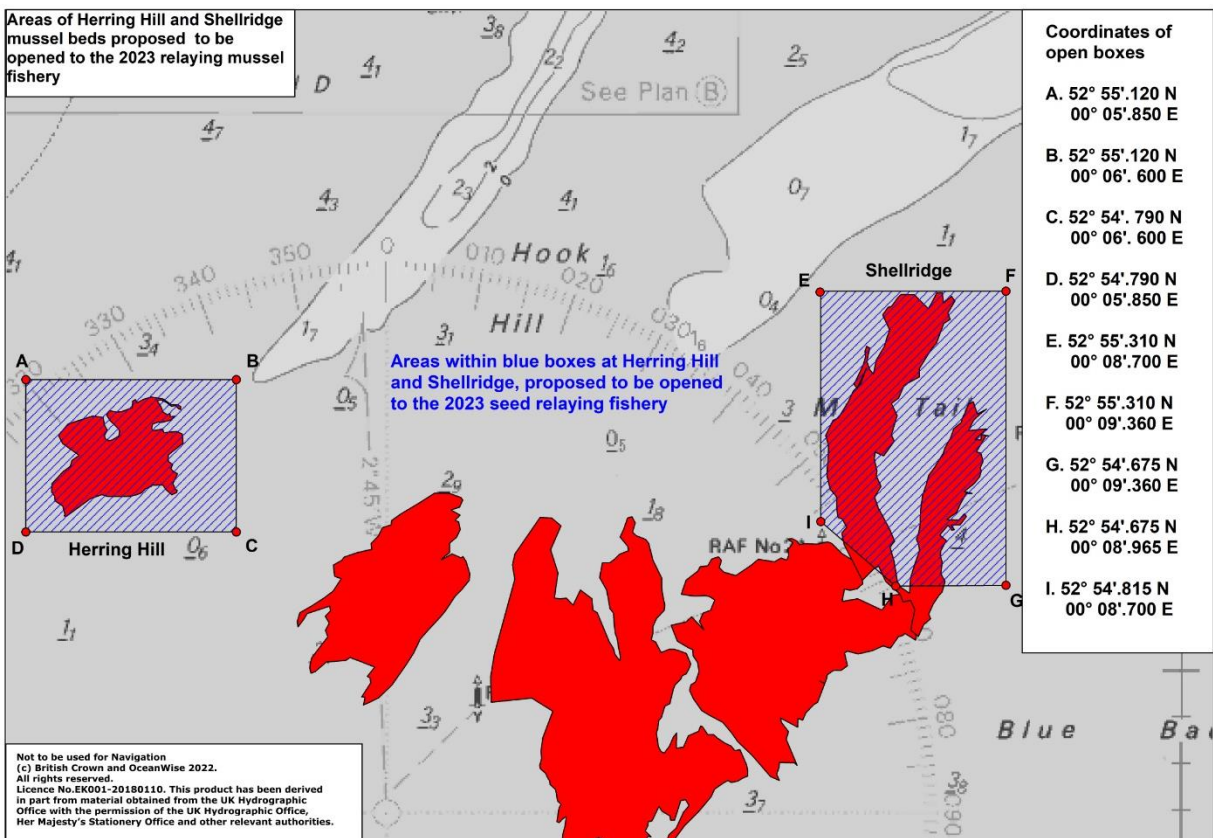
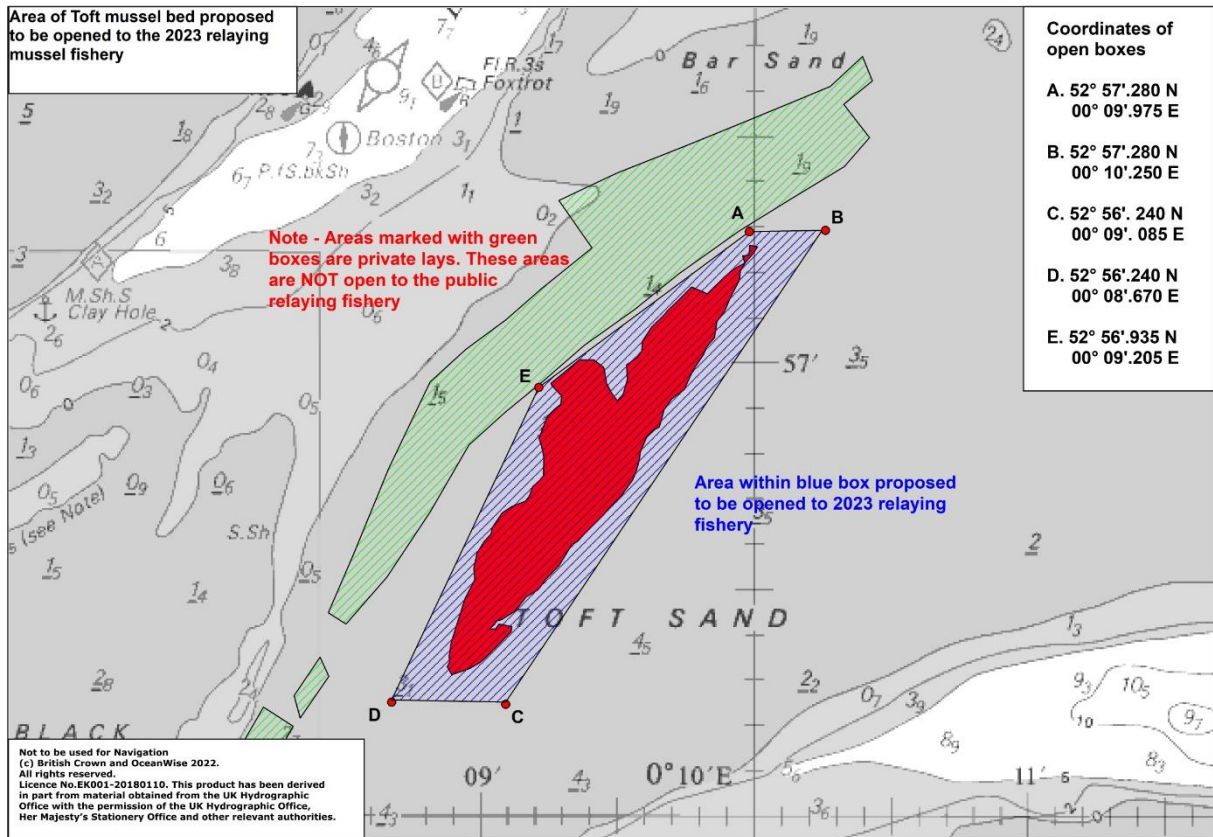
- Wash Mussel Survey report 2022<sup>6</sup>
- Wash Fishery order 1992 Shellfish Management Policies 2008<sup>7</sup>
- Papers and minutes for Action Item 10, 50<sup>th</sup> Eastern IFCA Meeting, 14 December 2022.

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<sup>6</sup> Available at <https://www.eastern-ifca.gov.uk/wp-content/uploads/2023/02/4-Summary-of-the-2022-Wash-intertidal-mussel-stock-assessment-surveys.pdf>

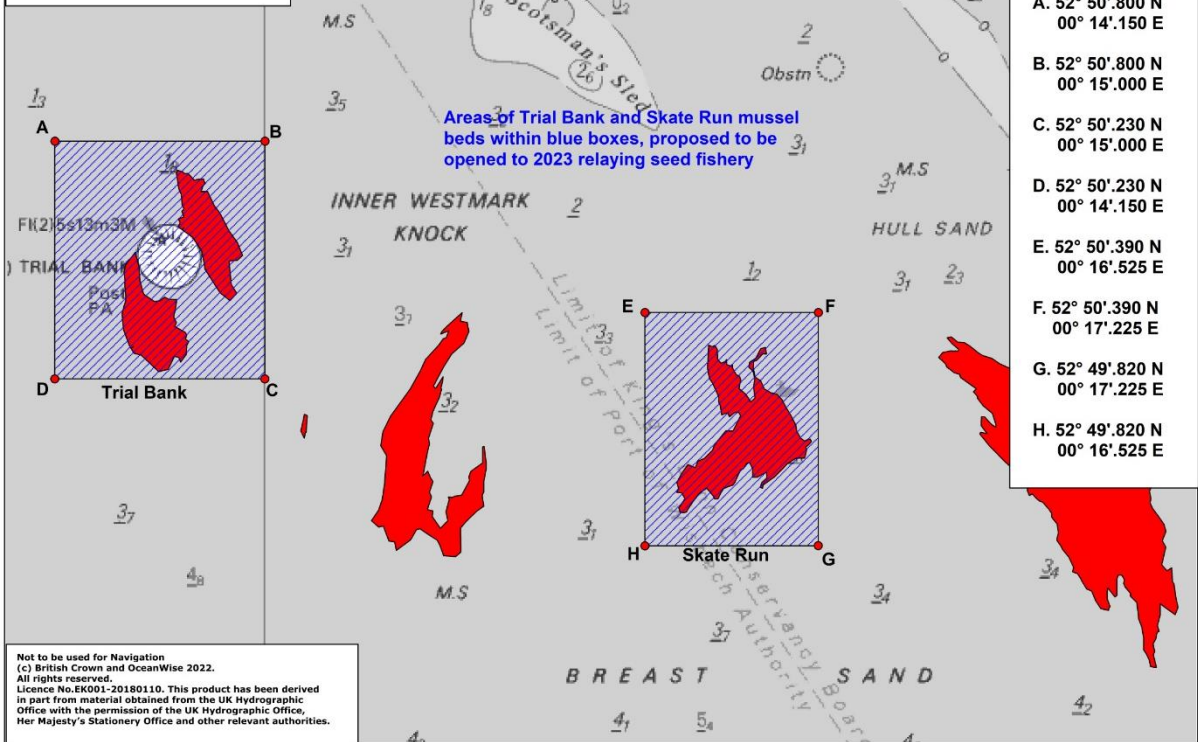
<sup>7</sup> Available at [https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO\\_Shellfish\\_management\\_policies\\_2008.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2016/03/WFO_Shellfish_management_policies_2008.pdf)

# Appendix 1:- Charts showing the beds proposed to be opened to the 2023 mussel relaying fishery





Areas of Trial Bank and Skate Run mussel beds proposed to be opened to the 2023 relaying mussel fishery

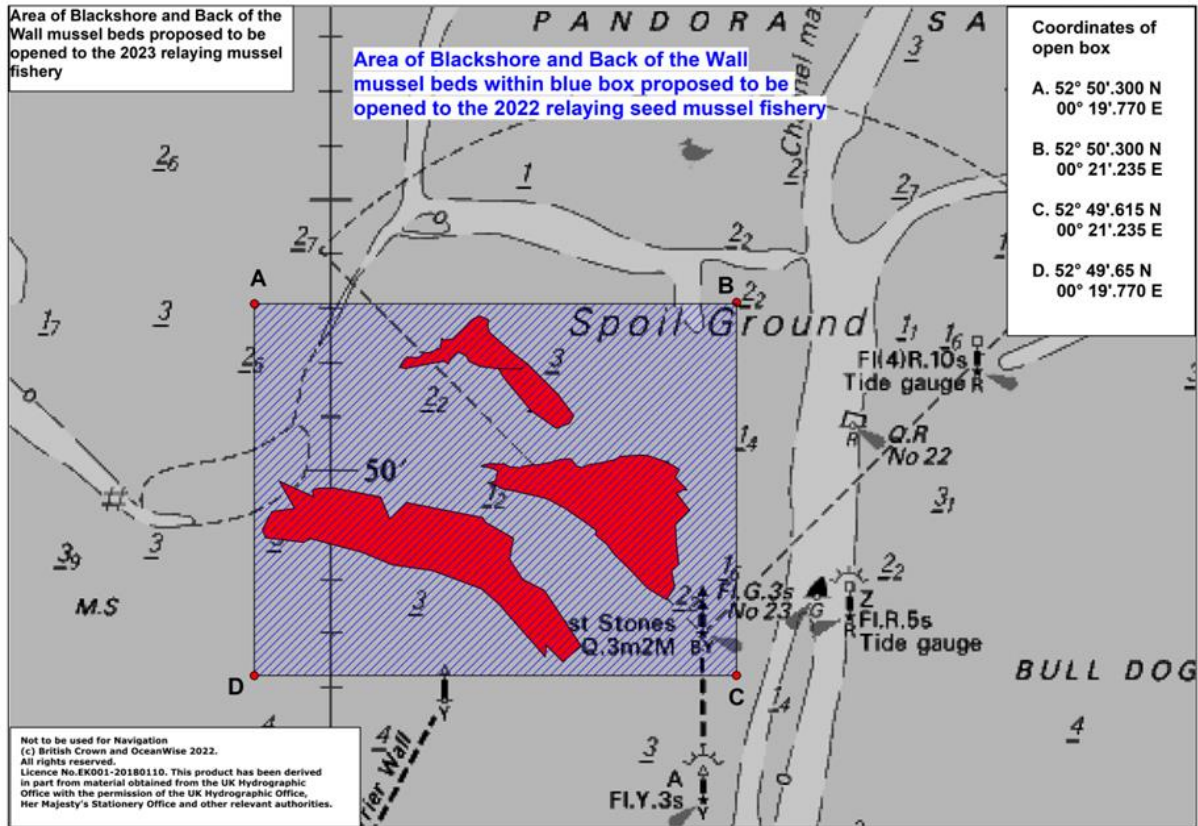


Coordinates of open box

- A. 52° 50'.800 N  
00° 14'.150 E
- B. 52° 50'.800 N  
00° 15'.000 E
- C. 52° 50'.230 N  
00° 15'.000 E
- D. 52° 50'.230 N  
00° 14'.150 E
- E. 52° 50'.390 N  
00° 16'.525 E
- F. 52° 50'.390 N  
00° 17'.225 E
- G. 52° 49'.820 N  
00° 17'.225 E
- H. 52° 49'.820 N  
00° 16'.525 E

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Area of Blackshore and Back of the Wall mussel beds proposed to be opened to the 2023 relaying mussel fishery



Coordinates of open box

- A. 52° 50'.300 N  
00° 19'.770 E
- B. 52° 50'.300 N  
00° 21'.235 E
- C. 52° 49'.615 N  
00° 21'.235 E
- D. 52° 49'.65 N  
00° 19'.770 E

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### Vision

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## Action Item 11

### 51<sup>st</sup> Eastern Inshore Fisheries and Conservation Authority Meeting

08 March 2023

#### **Wash Several Order Application update**

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

#### **Purpose of Report**

To update members on the current status of the application for a new Several Order in the Wash and associated issues.

#### **Recommendations**

It is recommended that members:

- **Note** the content of the report

#### **Background**

The Wash hosts private shellfish fisheries known as 'lays' which have historically been managed under various 'Several' Orders (so called because they are 'severing' the public right of fishing). Most recently, the lays were granted and administered by Eastern IFCA under the Wash Fishery Order 1992 (WFO).

At the 39<sup>th</sup> Eastern IFCA Meeting, members agreed to the use of a new several Order to continue the management of lays after the expiry of the WFO.

Granting Several Orders is within the purview of the Minister for fisheries, and subject to an application process which includes the development of a Fisheries Management Plan, informal and formal consultation with industry, the drafting of the wording of an Order and resolution of any substantive objections.

Members agreed to a draft Fisheries Management Plan (FMP) to support the application at the 45<sup>th</sup> Eastern IFCA Meeting on 8 September 2021 and directed officers to undertake informal consultation on the FMP.

#### **Report**

Informal consultation was undertaken during January and February 2022 and an outcome document was published on the Eastern IFCA website<sup>8</sup>. In summary, the key concern raised by lay holders was that the FMP did not provide sufficient surety for holding a lay over time to enable business continuity. In particular, the shorter

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<sup>8</sup> [https://www.eastern-ifca.gov.uk/wp-content/uploads/2022/09/2022\\_Wash\\_Several\\_Order\\_2022\\_Informal\\_Consultation\\_Outcome.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2022/09/2022_Wash_Several_Order_2022_Informal_Consultation_Outcome.pdf)

lifespan for leases before review (i.e. 5 years rather than 10) and the manner in which lays would be reviewed (to include for example where there is settlement of wild stocks or non-use of lays) was considered too restrictive to enable business planning for aquaculture activities. It is noteworthy also that many of the elements of concern amongst fishery stakeholders related to elements of lay management which were already in place under the WFO. At that time, representation was also made for a two-year extension to the WFO to maintain leases while further consideration (including additional dialogue with lay holders) could be given to a new FMP.

Careful consideration of the feedback resulted in some revisions to the draft FMP to include a transitional period of at least two years whereby the status quo would be maintained to further develop a plan for managing and administering lay leases. These amendments were included in a draft FMP with a view to seek agreement from members (on the amendments) prior to final submission to Defra to support the application.

A draft Several Order is in development (by Defra) and finalisation is pending further submissions from the Authority at the request of Defra. Once completed, a formal consultation on the application will then be required to continue the application process.

In the interim, representatives raised several legal questions regarding the lay leases and in particular, with respect to the applicability of the Landlord and Tenants Act 1995 ('the Act'). It was the view of the representatives that the lays leases could not be cancelled as a consequence of the application of the Act. Legal advice was sought in this regard on the basis that this would significantly limit the Authority's ability to manage lay activity, with the effect of limiting the Authority's ability to effectively manage the private fisheries as the grantee of an Order. Such legal advice was considered necessary to support the ongoing application of the Several Order. Finalised legal advice is pending but it is understood that the outcome is that the Act does not apply.

Once final legal advice is received, further submissions to Defra can be made to progress the application. It is intended that the draft Several order, supporting FMP and final application will be brought to the 52<sup>nd</sup> Authority meeting for approval before undertaking the formal consultation.

#### Additional considerations

Lay holder representatives have indicated an intention to object to the FMP during a formal consultation (for the reasons set out above). If such is considered substantive (by Defra), the consequence is that it will need resolution via a local enquiry or retraction prior to the Order being consented. It is the purpose of the informal consultation to detect such possible objections and to attempt to resolve them prior to formal consultation and or inform a decision as to whether the application should be progressed.

It is considered unlikely that any FMP will provide the 'surety' sought by lay holders without fettering the discretion of the Authority particularly with regards to justifying severance from the public fishery and managing the fisheries within MPAs and this may represent a critical block to the progression of the application. For this reason, it

is intended that a detailed business case is provided to consider the continuation of the Several Order application at the 52<sup>nd</sup> Authority meeting. This will consider the balance between the benefits of securing a new Several Order against other factors, including:

- The economic importance of the lays in recent history is considered limited. This is considered to reflect a lack of seed available nationally in addition to more recent impacts to trade as a result of EU Exit. The cost to the Authority should be considered against the economic benefits the Several Order.
- In becoming the grantee of a Several Order, the Authority is facilitating aquaculture in The Wash by undertaking the necessary assessments (e.g. Habitat Regulation Assessments and Biosecurity risk assessments) and associated monitoring (including monthly monitoring of food availability in The Wash) at a significant cost to the public purse. Further, the Authority is liable for issues that arise as a result.
- There has been significant non-compliance with lease conditions throughout the history of the WFO. These include failure to report on movement of shellfish into and out of lays and the formation of 'partnerships' between lay holders which are prohibited under lease conditions.
- There is no obligation on the Authority to manage private fisheries by becoming the grantee of a Several Order. In fact, the Marine and Coastal Access Act 2009 (MaCAA) enhanced the Authority's ability to manage fishing activity in 'private fisheries' via byelaws where they occur in MPAs. Byelaws cannot however replace a Several Order in relation to providing 'rights' to the grantee or, in the case of the WFO, the lay holders.
- A Several Order is not a good tool for the Authority to manage a fishery as there is limited scope for enforcing required management measures. The normal suite of enforcement actions (including Financial Administrative Penalties and prosecution by a court) are not available with respect to enforcing lease conditions. The only available recourse being to cancel a lease.

Continuation of the application process is dependent on members agreement on the draft Order and FMP. Given that the intention is to provide a business case at the next Authority meeting, such a review will not cause further delays to the application process.

### **Financial Implications**

Managing lay activity is considered 'business as usual' and as such the associated costs are not considered as additional implications. However, the ongoing costs to the Authority will be included in a business case presented at the next Authority meeting.

### **Legal Implications**

None identified at this stage of the application process, but due regard will be given to such and included in a business case to be presented at the next Authority meeting.

### **Conclusion**

The decision to apply for a new Several Order was based upon the premise that it was desirable to maintain the status quo inasmuch as both a 'regulated public fishery' and private 'lays' would be maintained upon expiry of the WFO, albeit with the regulating order element of the WFO being replaced with a byelaw. Whilst this may still be the case the issues raised during the process of applying for a new Several Order have given pause for thought on the appropriateness of the application.

It is acknowledged that there are clear benefits for industry in the Authority securing a new Several Order and perhaps some environmental benefits such as improving shellfish stock levels available for over-wintering birds. However, there are other factors that indicate that the contrary may be the case and proper consideration in the form of a business case is considered appropriate.

### **Background Documents**

Papers and minutes for Action Item 10, 39<sup>th</sup> Eastern IFCA Meeting, 11 March 2020  
Papers and minutes for Action Item 13, 45<sup>th</sup> Eastern IFCA Meeting, 8 September 2021



### 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

### 51<sup>st</sup> Eastern Inshore Fisheries and Conservation Authority Meeting

08 March 2023

### Cromer Shoal Chalk Beds Marine Conservation Zone

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

### Purpose of Report

To update Members on conservation advice relating to Eastern IFCA's assessment of the potting fishery in the Cromer Shoal Chalk Beds Marine Conservation Zone, and on work undertaken and planned in relation to Adaptive Risk Management for this site.

### Recommendations

It is recommended that members:

**Note** the contents of the report.

### Background

Eastern IFCA has been undertaking "Adaptive Risk Management" (ARM) of the potting fishery in the Cromer Shoal Chalk Beds (CSCB) Marine Conservation Zone (MCZ), following Natural England advice that this approach was required in 2020. ARM can be described as "trailing management". Its purpose is to provide a flexible approach to managing activities whilst gaining a better understanding of the subject through monitoring and research.

This work aligns with Eastern IFCA's high priority "to ensure that the conservation objectives of Marine Protected Areas in the district are furthered", as required in section 154 of the Marine & Coastal Access Act 2009.

In April 2022, Eastern IFCA submitted to Natural England an updated assessment of the impact of the potting fishery on the MCZ. Natural England provided formal advice in response to this assessment in January 2023.

There is considerable stakeholder interest in Eastern IFCA's management of the potting fishery in the MCZ, from commercial fisheries and from conservation interests. Eastern IFCA is committed to developing appropriate management that meets conservation requirements whilst minimising impacts on fishing operations as far as is possible.

## Report

### 1. Conservation Advice

Eastern IFCA and Natural England have remained in close liaison in relation to fisheries management in the MCZ since the site was designated in 2016.

Officers submitted an updated assessment of the impact of potting fisheries on CSCB MCZ to Natural England in April 2022. This assessment updated the previous version, completed in 2018, to consider new evidence presented to the Authority in Autumn 2018 by a third party and further evidence supplied in 2020 following a dive survey undertaken by Natural England. The literature review was refreshed to ensure the latest available scientific evidence was used to inform the assessment.

A timeline showing Eastern IFCA's assessments and Natural England advice is shown in Table 1a of Appendix 1.

Natural England provided formal advice to Eastern IFCA on the updated potting assessment in January 2023. A full breakdown of that advice and Eastern IFCA's response to it are shown in Table 2 of Appendix 1, and a summary is given below. The response to the latest advice reflects discussions held during a meeting between Natural England and Eastern IFCA in February 2023 where the advice was discussed and certain aspects were clarified.

#### *Key points<sup>9</sup> in Natural England's formal advice of January 2023*

- Natural England considers that pressures exerted on MCZ features are not likely to be hindering the conservation objectives of the MCZ at the current time;
- Eastern IFCA needs to provide a detailed plan of how Adaptive Risk Management (ARM) is being applied to reduce the risk of the potting fishery threatening conservation objectives in the longer term;
- The ARM plan should include:
  - timelines for implementation of management and research;
  - how existing and planned research will inform management;
  - how proposed management will reduce pressures identified in the assessment;
  - how legislative tools (e.g. byelaws) will be applied, and how the effectiveness of management measures will be monitored;
  - how different measures will be considered if ARM shows management does not reduce risks to the MCZ;
- If ARM is not effective mitigation to reduce the risks of the potting fishery hindering conservation objectives of the MCZ in the longer term, more

<sup>9</sup> Selected points from the advice are given here; a full breakdown of the advice is presented in Table 2 of Appendix 1.

precautionary management to limit or remove activities that could hinder conservation objectives could be required;

- The assessment needs to further consider peat and clay exposures;
- The in-combination assessment should consider all features of the MCZ, not just those potentially affected by the potting fishery;
- Natural England appreciate the work undertaken by Eastern IFCA and partners to date and support Eastern IFCA with planned ARM work.

Officers provided a response to this advice in February 2023. This includes a detailed response to the detailed advice, which is set out in Table 2 of Appendix 1, and a summary of Eastern IFCA's response, copied below:

*Summary of Eastern IFCA response to Natural England advice*

1. We note that Natural England considers that pressures from the potting fishery are not likely to have reached a point where conservation objectives are being hindered at the current time. This aligns with the conclusion in our assessment of impacts from potting in the MCZ that the fishery is not hindering conservation objectives in the short term, although – without mitigation – the fishery could be hindering the conservation objectives in the longer term. Whilst this means urgent management of the potting fishery is not required, we recognise that timely management is required to prevent cumulative impacts over time resulting in hindrance of the conservation objectives.
2. Eastern IFCA is committed to developing a clear, detailed Adaptive Risk Management (ARM) plan for managing potting fishing in Cromer Shoal Chalk Beds MCZ. We intend to provide this plan to Natural England in April 2023. It is envisaged that this plan will provide Natural England with confidence to agree with our conclusion that "with mitigation in the form of Adaptive Risk Management, the potting fishery is not hindering the conservation objectives of Cromer Shoal Chalk Beds Marine Conservation Zone" either in the short or longer term.
3. Eastern IFCA understands that ARM is a pragmatic alternative to precautionary restrictions or even the prohibition of potting fishing over the sensitive rugged chalk feature in the MCZ. We acknowledge that the concept of ARM requires *management* to be implemented, *monitoring* to be undertaken to assess the effectiveness of management, and *research* to be undertaken to better inform the collective understanding of the risk. It also allows for management to be amended as required, informed by the monitoring and research. Our ARM plan will demonstrate our commitment to this adaptable management, monitoring and research.



4. We are committed to developing appropriate management that will prevent conservation objectives being hindered, and we endeavour to identify measures that have the least impact on fishing activities as possible, so long as the conservation duty is met.
5. Following extensive consultation, Eastern IFCA is proposing a byelaw that will provide a mechanism to flexibly manage the potting fishery in Cromer Shoal Chalk Beds MCZ. Measures will be implemented under this byelaw as permit conditions, and could include effort controls, gear specification and spatial restrictions, as required.
6. Within a wider suite of research, we are currently developing a key study to examine natural change (e.g. physical damage) to rugged chalk in the MCZ and compare this with damage from potting. We note Natural England recognise that this work is key to improving our understanding of the significance of potting-related damage to chalk in relation to the site's conservation objectives.
7. We do not intend to update our potting assessment in the short term. This is so we can focus resource on developing and delivering the management, monitoring and research needed as part of ARM. When we update the potting assessment, we will liaise closely with Natural England to ensure we duly consider the best available feature and fishing activity information, all relevant MCZ features including peat and clay exposures, and other activities that could result in pressure to features.
8. Eastern IFCA continues to hold the assessment and management of the potting fishery in the MCZ as a high priority. We are committed to continuing to work with fishing industry, conservation interests, wider stakeholders, academia and Natural England, as we research, monitor and manage the fishery. We gratefully acknowledge the support we are continuing to receive from a wide range of individuals and groups, including Natural England, as we collectively work to manage this key fishery and deliver marine environmental protection.

## 2. Research

Since receiving Natural England's conservation advice in 2020, and reflecting the need for Eastern IFCA to *seek to ensure the conservation objectives of MCZs are furthered*, Eastern IFCA has prioritised research to better understand the interaction between the potting fishery and the subtidal chalk feature of the MCZ. A summary of research undertaken to date is given in Table 1b of Appendix 1. Officers are currently creating a detailed report on the various research activities; it is anticipated this will be

completed in April 2023. This *Interim Report* will provide detail on the methods and findings of the work, and discuss how it informs our understanding of interactions between the potting fishery and MCZ features.

A key piece of research planned to start in Spring 2023 is a natural disturbance study. This will examine rugged chalk in areas closed to potting and compare it with chalk in open areas. This work is being developed by the MCZ Research Task & Finish Group and involves an external partner, the NGO Blue Marine Foundation. This project was discussed with industry stakeholders in Cromer in February 2023; these stakeholders understood the need for this work and demonstrated their support of it.

### 3. Management

A core principle of IFCA fisheries management is that measures are evidence-based<sup>10</sup> and appropriate. The precautionary objective, set out in section 1 of the UK Fisheries Act 2020<sup>11</sup>, however, states that lack of scientific evidence should not be used as a reason to delay management of fisheries where there are risks to the marine environment.

Adaptive risk management (ARM) has been presented as a solution to managing risks of fisheries hindering conservation objectives in MPAs where evidence is lacking. Natural England has advised that Eastern IFCA takes an ARM approach to managing the potting fishery in Cromer Shoal Chalk Beds MCZ. ARM is about trialling management, monitoring effectiveness and adapting management as required. The research described above is additional to ARM in its true sense.

Table 1c in Appendix 1 provides a summary of management actions taken by Eastern IFCA since completing the first MCZ fisheries assessment in 2018. The latest development, following extensive stakeholder engagement, is the drafting of The Cromer Shoal Chalk Beds Byelaw 2023, which is presented to the Authority for consideration at Agenda Item 13. It is intended that this will provide a mechanism for the Authority to establish a permitting scheme for the potting fishery in the MCZ, and to introduce permit conditions that control effort, gear type and spatial extent of the fishery. Agreement of this byelaw will be a key action demonstrating the Authority's commitment to the ARM approach to managing risks associated with potting in the MCZ. Full detail is given at Agenda Item 13.

### 4. Next steps

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<sup>10</sup> See IFCA Success Criteria, [https://consult.defra.gov.uk/fisheries/ifcas-conduct-and-operation-report/supporting\\_documents/ifcavisionsuccess.pdf](https://consult.defra.gov.uk/fisheries/ifcas-conduct-and-operation-report/supporting_documents/ifcavisionsuccess.pdf)

<sup>11</sup> Fisheries Act 2020, <https://www.legislation.gov.uk/ukpga/2020/22/section/1/enacted>

Collaborative research, monitoring and management of the potting fishery in the MCZ remain a high priority for the Authority in the year ahead, as reflected in the Strategic Assessment and Business Plan presented at Agenda Item 8. Key actions for the coming months include:

- To publish the Interim Report detailing research already undertaken;
- To finalise a detailed Adaptive Risk Management plan, to provide Natural England with confidence in the findings of the Authority's assessment of potting in the MCZ, that the fishery is not hindering the site's conservation objectives with mitigation applied in the form of ARM;
- To formally consult on the Cromer Shoal Chalk Beds Byelaw 2023 (if approved by the Authority) and develop appropriate permit conditions, through continued engagement with stakeholders;
- To undertake planned research as set out in the ARM plan, including the natural disturbance study in partnership with Blue Marine Foundation;
- To monitor the effectiveness of management measures, including the Code of Best Practice for Lost and Stored Gear, to inform ARM;
- To continue to engage with stakeholders for two-way exchange of information and ideas, as well as to provide transparency in the Authority's work to support goals of viable inshore fisheries and marine environmental protection.

## **Financial Implications**

The work already completed and that yet to be undertaken requires a significant resource commitment from the Authority – involving Marine Science, Projects and Marine Protection Teams in seagoing, shore based and office based roles. The resource is justified given the Authorities duties towards supporting viable inshore fisheries and marine environmental protection.

## **Legal Implications**

Failure to successfully deliver Adaptive Risk Management of the Potting fishery in the Marine Conservation Zone would mean the Authority is unlikely to be able to demonstrate meeting its duties set out in the Marine and Coastal Access Act 2009.

## **Appendices**

1. Presentation of Natural England's January 2023 formal advice to Eastern IFCA on the assessment of the potting fishery on Cromer Shoal Chalk Beds Marine Conservation Zone, and Eastern IFCA's response to that advice.

## Appendix 1



### **Eastern IFCA's Response to Natural England's Advice on Eastern IFCA's Assessment of the Potting Fishery on Cromer Shoal Chalk Beds Marine Conservation Zone (CSCB MCZ)**

23<sup>rd</sup> February 2023

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## 1. Introduction

Eastern IFCA is committed to providing appropriate management of the potting fishery in the Cromer Shoal Chalk Beds (CSCB) Marine Conservation Zone (MCZ). Management will have the primary aim of ensuring the conservation objectives of the MCZ are not hindered, and a secondary aim of minimising the impact of management on current fisheries.

This document sets out Eastern IFCA's response to Natural England's recent (January 2023) advice on Eastern IFCA's assessment of the impacts of the potting fishery on the MCZ. This document is not an Adaptive Risk Management plan – that will be provided in a separate document.

## 2. Background

Before considering Natural England's latest advice relating to Eastern IFCA's assessment of the impacts of the potting fishery on Cromer Shoal Chalk Beds (CSCB) Marine Conservation Zone (MCZ), and presenting Eastern IFCA's response to that advice, some background information has been presented to provide additional context. This information relates to timelines of assessment and conservation advice, and research and management activities undertaken to date.

### 2.1 Timeline of Assessment and Conservation Advice

A summary of events relating to Eastern IFCA's assessment of potting on CSCB MCZ and Natural England's advice on the same is given in Table 1a. N.B. This does not include research and management actions, which have been ongoing throughout the period and are summarised in sections 2.2 and 2.3.

**Table 1a. Eastern IFCA assessment and Natural England conservation advice**

Date	Event	Key points
Summer 2018	Eastern IFCA completed original assessment of impacts of fisheries on CSCB MCZ	<ul style="list-style-type: none"><li>• Identified need to restrict towed demersal gear to protect subtidal chalk</li><li>• Natural England in broad agreement with conclusions; some corrections/clarifications needed.</li></ul>
Autumn 2018	New evidence provided to Eastern IFCA and Natural England showing damage to subtidal chalk in MCZ, potentially from potting fishery	<ul style="list-style-type: none"><li>• Further investigation required into impacts of potting fishery on subtidal chalk</li></ul>
Summer 2020	Natural England issued formal advice to Eastern-IFCA	<ul style="list-style-type: none"><li>• Eastern IFCA's assessment required updating to reflect new evidence</li></ul>

		<ul style="list-style-type: none"> <li>• Potting fishery is causing some damage to outcropped subtidal chalk</li> <li>• Key concern is potential impact of lost gear; this is priority for management</li> <li>• Adaptive Risk Management is appropriate approach to manage risks whilst researching effectiveness of management</li> </ul>
Spring 2022	Eastern IFCA completed updated assessment of potting fishery on CSCB MCZ	<ul style="list-style-type: none"> <li>• Potting fishery causes some impacts on outcropped subtidal chalk</li> <li>• Mitigation is being applied via ongoing Adaptive Risk Management</li> <li>• With mitigation in place, potting fishery is not hindering conservation objectives</li> </ul>
January 2023	Natural England provided advice on Eastern IFCA's updated potting assessment	<ul style="list-style-type: none"> <li>• Conservation objectives are not likely to be hindered at current time</li> <li>• Further detail is required in Adaptive Risk Management plan to demonstrate long term risk to conservation objectives is appropriately mitigated.</li> </ul>

## 2.2 Timeline of Research

Since receiving Natural England's conservation advice in 2020, and reflecting the need for Eastern IFCA to *seek to ensure the conservation objectives of MCZs are furthered*, Eastern IFCA has prioritised research to better understand the interaction between the potting fishery and the subtidal chalk feature of the MCZ. A summary of research actions is given in Table 1b. N.B. This does not include management actions, which have been ongoing throughout the period and are outlined in section 2.3.

**Table 1b. Research actions undertaken by Eastern IFCA and partners**

Date	Action	Key points
Summer 2019	Natural England undertook dive surveys with University of Essex to assess damage to outcropped chalk	<ul style="list-style-type: none"> <li>• Varying levels of damage to chalk identified in different areas</li> <li>• Some damage attributed to potting fishery</li> </ul>
Autumn 2020	Adaptive Risk Management <i>Project Board</i> and <i>Research Task and Finish Group</i> established	<ul style="list-style-type: none"> <li>• Partnership approach involving Eastern IFCA, Natural England, academia, and fishing industry</li> <li>• Group agrees research needed to deliver ARM</li> </ul>
2021 and 2022	Eastern IFCA habitat surveys undertaken	<ul style="list-style-type: none"> <li>• Provided improved understanding of extent of outcropped chalk in MCZ</li> </ul>

	Trackers voluntarily used by certain fishing vessels	<ul style="list-style-type: none"> <li>• Provided improved understanding of location and intensity of potting activity in MCZ</li> </ul>
	Economic assessment of value of outcropped chalk undertaken	<ul style="list-style-type: none"> <li>• Provided evaluation of catches “on” and “off” outcropped chalk areas of MCZ</li> <li>• Collaborative study with volunteer fisher</li> </ul>
	Eastern IFCA video transects undertaken to assess chalk damage; standardised process agreed for video analysis. Independent analysis of video data undertaken as well as Eastern IFCA analysis	<ul style="list-style-type: none"> <li>• Trialling use of new underwater drone with video camera</li> <li>• Poor video quality limits data value but does provide some evaluation of damage to chalk, and some quantification of damage that can be linked to potting activity</li> <li>• Identified very low occurrence of lost potting gear</li> </ul>
	Gear modification options discussed with fishers	<ul style="list-style-type: none"> <li>• Two gear modifications deemed feasible and suitable for further trials: (i) soft-armoured pots and (ii) floating ropes</li> </ul>
January 2023 onwards	Developing study to assess natural disturbance to rugged chalk	<ul style="list-style-type: none"> <li>• Minimum three-year study</li> <li>• Partnership approach – being developed with fishery stakeholders, Natural England, conservation NGO (Blue Marine Foundation) and academia</li> <li>• Objective is to quantify natural damage to rugged chalk and compare with quantified damage from potting activities</li> </ul>

### 2.3 Timeline of Management

A core principle of IFCA fisheries management is that measures are evidence-based<sup>12</sup> and appropriate. The precautionary objective, set out in section 1 of the UK Fisheries Act 2020<sup>13</sup>, however, states that lack of scientific evidence should not be used as a reason to delay management of fisheries where there are risks to the marine environment.

Adaptive risk management (ARM) has been presented as a solution to managing risks of fisheries hindering conservation objectives in MPAs where evidence is lacking. Natural England has advised that Eastern IFCA takes an ARM approach to managing the potting fishery in Cromer Shoal Chalk Beds MCZ (see section 2.1). ARM is about trialling management, monitoring effectiveness and adapting management as required. The research described at section 2.2 is additional to ARM in its true sense.

Table 1c provides a summary of management actions taken by Eastern IFCA since completing the first MCZ fisheries assessment in 2018.

<sup>12</sup> See IFCA Success Criteria, [https://consult.defra.gov.uk/fisheries/ifcas-conduct-and-operation-report/supporting\\_documents/ifcavisionsuccess.pdf](https://consult.defra.gov.uk/fisheries/ifcas-conduct-and-operation-report/supporting_documents/ifcavisionsuccess.pdf)

<sup>13</sup> Fisheries Act 2020, <https://www.legislation.gov.uk/ukpga/2020/22/section/1/enacted>



**Table 1c. Management actions undertaken by Eastern IFCA**

Date	Action	Key points
2019	Eastern IFCA agreed Marine Protected Areas Byelaw 2019	<ul style="list-style-type: none"> <li>Extended the existing no-trawl zone from the 0-3nm zone between Blakeney and Mundesley to a prohibition on towed demersal gear (dredges and bottom trawls) across most of MCZ</li> <li>No limits on potting fishery</li> </ul>
Autumn 2020	Adaptive Risk Management <i>Project Board</i> and <i>Management Task and Finish Group</i> established	<ul style="list-style-type: none"> <li>Partnership approach involving Eastern IFCA, Natural England, academia, and fishing industry</li> <li>Group supports development of management needed to deliver ARM</li> </ul>
2021	Eastern IFCA undertook extensive engagement with north Norfolk fishers to discuss measures to reduce occurrence of lost potting gear and encourage retrieval of lost gear	<ul style="list-style-type: none"> <li>Meetings, workshops and individual conversations held to gather industry expertise relating to lost gear</li> </ul>
December 2021	Eastern IFCA agreed Closed Areas Byelaw 2021	<ul style="list-style-type: none"> <li>Maintains prohibition on towed demersal gear across most of MCZ, but allows for low level, artisanal shrimp fishing activity in small part of MCZ</li> </ul>
May 2022	Code of Best Practice for Lost and Stored Gear agreed and implemented	<ul style="list-style-type: none"> <li>Code of Best Practice endorsed by local fishermen's societies</li> <li>Addresses key issue highlighted in Natural England advice, i.e. risk to outcropped chalk from lost or stored gear</li> </ul>
Summer 2022	Eastern IFCA undertook "Phase 1" consultation with fishers to discuss potential management of potting fishery using a permitting byelaw with flexible conditions	<ul style="list-style-type: none"> <li>Extensive engagement with fishing community undertaken by Eastern IFCA.</li> <li>Opposition to concept of permits but acceptance of need for a flexible management mechanism</li> <li>Various management tools suggested, including seasonal closure, gear marking, and limiting fishery in MCZ to beach-launched vessels to limit effort over sensitive chalk feature</li> </ul>
Winter 2022	Eastern IFCA developed reporting system to monitor effectiveness of Code of Best Practice	<ul style="list-style-type: none"> <li>Not possible to measure effectiveness in terms of rate of damage to outcropped chalk so monitoring application of Code of Best Practice is proxy metric</li> </ul>
Winter 2022-23	Eastern IFCA undertook "Phase 2" consultation with all stakeholders on	<ul style="list-style-type: none"> <li>Extensive engagement with a focus on potential measures identified at Phase 1 consultation (seasonal closure, gear</li> </ul>



Date	Action	Key points
	proposed crab and lobster permitting byelaw	marking and restriction to beach-launched vessels)
March 2023	“Cromer Shoal Chalk Beds Byelaw”, a potting permitting byelaw, to be presented to the Authority for agreement at their meeting in March 2023	<ul style="list-style-type: none"> <li>• If agreed, Eastern IFCA will undertake formal consultation on byelaw before it is submitted to Marine Management Organisation for QA and on to Defra for sign-off</li> <li>• Likely delay between byelaw submission to MMO and implementation of 6 months - 2 years.</li> </ul>

### 3. Eastern IFCA’s response to Natural England’s formal advice on the impact of potting fisheries in the Cromer Shoal Chalk Beds Marine Conservation Zone

#### 3.1 Context

Eastern IFCA submitted an updated assessment of the impact of potting fisheries on CSCB MCZ to Natural England in April 2022 (see Table 1a). This assessment updated the previous version, completed in 2018, to take into account new evidence presented to the Authority in Autumn 2018 by a third party and further evidence supplied in 2020 following a dive survey undertaken by Natural England. The literature review was refreshed to ensure the latest available scientific evidence was used to inform the assessment.

Natural England provided formal advice to Eastern IFCA on the updated potting assessment in January 2023. Section 3.2 of this report sets out this advice and Eastern IFCA’s response to it. We have followed the formatting used in Natural England’s advice letter, for ease of reference. A broad summary is provided at section 3.3.

Eastern IFCA and Natural England have remained in close liaison in relation to fisheries management in the MCZ since the site was designated in 2016. Our response to the latest advice reflects discussions held during a meeting between Natural England and Eastern IFCA in February 2023 where the advice was discussed, and certain aspects were clarified.

### 3.2 Detailed response

**Table 2. Eastern IFCA’s response to Natural England’s formal advice**

Section	#	Natural England (NE) advice	Eastern IFCA response
Summary	1	NE cannot currently agree with conclusions made regarding risk to peat and clay exposures and rugged chalk features resulting from potting activities within the MCZ. Further detail is required in Eastern IFCA’s plan for Adaptive Risk Management (ARM) in order to suitably manage this risk.	Eastern IFCA accepts that NE currently does not have confidence that the ARM approach being taken will deliver mitigation for the potential long-term impact of potting on outcropped chalk. Eastern IFCA anticipates that by providing further detail in the ARM plan, it can be demonstrated that the ARM approach being taken will deliver the required mitigation and prevent the conservation objectives being hindered. <b><i>We request that having considered the ARM plan that Eastern IFCA intends to provide in April 2023, NE advise whether it provides confidence to NE that the long-term impact of potting on outcropped chalk is mitigated.</i></b>
	2	We acknowledge that existing data on pressure/feature interactions for this fishery are limited and recognise Eastern IFCA’s commitment to fill these evidence gaps.	Research being undertaken by Eastern IFCA and partners, including NE, (see Table 1b above) has been designed to fill evidence gaps and better inform our understanding of the impact of potting on subtidal chalk. We appreciate the constructive contributions NE have made and continue to make in this process.
	3	We accept that pressures exerted on MCZ features are not likely to have reached a point where they could be hindering the conservation objectives at the current time; however it is our view that if the activity is allowed to continue unchecked then cumulative impacts from potting activities over time could cause significant risk to designated features.	This concurs with Eastern IFCA’s conclusion that potting is not currently hindering the conservation objectives of the MCZ. We consider that this means there is not an urgent need to implement immediate restrictive measures on the potting fishery. However, because of the risk of cumulative impacts building up over time and potentially hindering conservation objectives in the long term, it is appropriate for Eastern IFCA to develop management that can control the level of interaction between potting activity and outcropped chalk. Eastern IFCA has already made significant progress in developing a byelaw

Section	#	Natural England (NE) advice	Eastern IFCA response
			that will provide such a management mechanism – this will be described in Eastern IFCA’s ARM plan.
	4	Further detail is required [within Eastern IFCA’s ARM plan] before NE can provide statutory advice on the conclusions of the MCZ assessment	Eastern IFCA plans to provide NE with a detailed ARM plan in April 2023. <b><i>We request that NE provide statutory advice on the conclusions of the MCZ assessment after receiving Eastern IFCA’s ARM plan.</i></b> Until receipt of further advice, Eastern IFCA takes the current (January 2023) advice to be Natural England’s formal advice.
	5	As a minimum, this plan should provide: <ul style="list-style-type: none"> <li>• Clear and detailed management approach for reducing the impact of potting on subtidal chalk</li> <li>• Outline of how existing evidence and any proposed new research will be used to inform management both now and in future</li> <li>• Further clarification on how legislative tools (e.g., permitting byelaws) will be applied to management of the MCZ</li> <li>• Clear links between how the management proposed will mitigate against the pressures identified in the MCZ assessment</li> <li>• Detail on how management measures will be monitored and evaluated over time.</li> </ul>	Eastern IFCA is committed to providing an ARM plan that provides these aspects as a minimum.
	6	It is essential that an initial ARM plan sets clear timeframes for management, and that these are adhered to. <i>[This point is repeated several times in the advice.]</i>	Eastern IFCA will include in the ARM plan indicative timeframes for management. As discussed with NE on 7 <sup>th</sup> February 2023, management timeframes are not fully within Eastern IFCA control so we cannot commit to adhere to timeframes, e.g., for implementing a byelaw. However, we will include indicative timeframes that we consider to be reasonably achievable and will endeavour to adhere to these as far as possible.

Section	#	Natural England (NE) advice	Eastern IFCA response
	7	We will be happy to provide further advice or contribute to the ARM plan at an appropriate time	Eastern IFCA appreciate NE's support and will continue to liaise with NE as we develop the ARM plan
	8	We advise that measures to reduce or remove pressures exerted on peat and clay and rugged chalk features should be implemented by Eastern IFCA whilst details of the full ARM plan are being finalised.	Eastern IFCA queried this part of the advice during our meeting with NE on 7 <sup>th</sup> February 2023, because it does not align with the advice (see #3) that pressures are not likely to have reached a point where they are hindering conservation objectives at the current time, which leads us to understand that there is not an urgent need to implement immediate restrictive measures on the potting fishery. NE expressed at the meeting that they did not intend to mean that immediate management is needed. <b><i>We request that NE provides this clarification in writing, since stakeholders have highlighted this part of the advice and challenged Eastern IFCA to deliver immediate measures.</i></b>
	9	It should be noted that if it is not possible to implement an ARM plan within a reasonable timeframe (by April 2023), with specified deadlines that should be adhered to, then NE believe there may be an unacceptable risk to rugged chalk and outcropping peat and clay exposures within the site, and we may ultimately have to revise our position on whether an ARM approach remains acceptable as a mechanism of preventing risk to the site's Conservation Objectives. <i>Also under "Mitigation and Adaptive Risk Management" section:</i> If it is not possible to implement management as part of ARM within a reasonable timeframe, then NE believes Eastern IFCA would need to take a precautionary approach to limit or remove activities that hinder the conservation objectives of the MCZ.	Eastern IFCA is committed to producing an ARM plan and sharing this with NE in April 2023.  Please see response to #6 regarding deadlines in the ARM plan.  Eastern IFCA understands that the ARM approach has been advised by NE (in previous conservation advice, August 2020) as a pragmatic alternative to a more precautionary approach of restricting the potting fishery from the outset. We understand that implementing management is part of the ARM approach. We also acknowledge that ARM could lead us to require restrictions in the potting fishery. If required, Eastern IFCA will develop these in an evidence-based and participatory way with the objective of furthering conservation objectives and minimising socio-economic impacts where this is possible.
Detailed advice on	10	An ARM approach was advised by NE in August 2020 with the understanding that "Eastern IFCA	Following receipt of NE's advice in August 2020, Eastern IFCA established a collaborative Project Board, a Research Task &

Section	#	Natural England (NE) advice	Eastern IFCA response
Eastern IFCA's MCZ assessment: mitigation and adaptive risk management		were able to implement some measures to limit the impact of existing active and non-active potting on complex outcropping chalk as soon as possible" and were "able to work toward gathering further data" to better understand the scale of impact of the activity on the feature. We stated that "a plan for management and the necessary research should be laid out clearly, with set timelines and deadlines to be adhered to".	<p>Finish Group and a Management Task &amp; Finish Group to deliver ARM. We also established a stakeholder group (led by Agents of Change) to enable dialogue with interested parties not directly involved in the fishery or its management. We identified (from NE's advice in August 2020) that the most pressing need was to prevent lost or stored gear from impacting outcropping chalk, since this presented the highest risk to the feature. As a priority, we developed - through extensive stakeholder dialogue – a Code of Best Practice to manage lost, missing and stored gear. This was adopted by the industry in May 2022.</p> <p>We also identified research priorities, including purchase of new underwater ROVs to enable habitat survey and chalk damage surveys (undertaken in 2021 and 2022), and undertook a suite of research activities (e.g., Jessop 2022) to gather further data to better understand the scale of impact on the feature.</p> <p>We did not provide a single ARM plan from the outset, but we have planned and conducted the research work and development of management in close collaboration with NE through the ARM project groups and are committed to continue this approach.</p> <p>Eastern IFCA is committed to providing an ARM plan by April 2023.</p>
	11	It may be prudent to plan for a range of different management strategies based on the possible likely outcomes of evidence streams.	Eastern IFCA will demonstrate within the ARM plan how different management strategies are considered, based on the possible likely outcomes of different evidence streams.
	12	We recognise there is now a Code of Best Practice for Lost, Missing and Stored Gear, and would like to acknowledge Eastern IFCA's efforts with developing this code, and the engagement that has been required to gain support and participation from industry.	Eastern IFCA thanks NE for this acknowledgement, and for NE's role in helping to develop the Code of Best Practice and engage constructively with industry.

Section	#	Natural England (NE) advice	Eastern IFCA response
	13	<p>We welcome further information on the proposed system of retrieval [of gear reported as lost] and how this is implemented.</p> <p>We would like to see further detail in the MCZ assessment of how adherence to the Code of Best Practice (and therefore its success as a tool for management) will be monitored. If it becomes clear that the code is not being followed then stricter measures ... will be required, as this pressure has the potential to cause severe damage to subtidal chalk.</p>	<p>Eastern IFCA will provide information on the proposed system of retrieval, and implementation of the system, in the ARM plan.</p> <p>The plan – rather than the MCZ assessment – will also specify how adherence to the Code of Best Practice will be monitored, and options for stricter measures if the code is not being followed.</p>
Detailed advice on Eastern IFCA’s MCZ assessment – Comments on Feature data	14	We agree that the precautionary measure of assessing this group of features as “Subtidal chalk and rock features” is appropriate	Eastern IFCA will maintain this approach.
	15	<p>It is important that we fully understand the extent and distribution of this sub-feature [outcropped subtidal chalk. As the Eastern IFCA ROV data collected in August and September 2021 has now been fully analysed (O’Dell and Dewey, 2022), we advise that Figure 4 [chart showing distribution of outcropped chalk] should be updated to reflect the final published results, including appropriate buffers to account for reported GPS inaccuracies of between 50-100m.</p>	<p>Eastern IFCA agree that an understanding of the extent and distribution of outcropped chalk is critical to effectively managing the impacts of potting on this sub-feature. The potting assessment, submitted to NE in April 2022, used the latest available evidence on feature extent at that time. This pre-dated the O’Dell and Dewey report. As NE are aware, Eastern IFCA have continued to collect ROV data during summer 2022 and are currently analysing the data to further develop our understanding of feature extent.</p> <p>As discussed with NE on 7<sup>th</sup> February 2023, Eastern IFCA are not prioritising updating the potting assessment at this stage, but focusing resource on the ARM plan and on continuing to develop and implement the associated research and management actions. Eastern IFCA are committed to using the latest available evidence on feature extent to inform management that we develop for the MCZ. We will ensure this duly accounts for GPS inaccuracies.</p> <p><b><i>We request that NE provides clarification in writing at what stage it will appropriate to update the potting assessment with the latest available evidence.</i></b></p>

Section	#	Natural England (NE) advice	Eastern IFCA response
	16	In 2021, NE also commissioned a report by Cefas which collated existing bathymetric datasets from within the Cromer Shoal MCZ (Hawes and Pettafor, 2021). The resulting rugosity maps may be useful here.	Eastern IFCA will consider these rugosity maps to inform the above.
Fishing Activity	17	We must use precautionary principles to assume that up to 10,600 pots could potentially be laid on sensitive subtidal chalk and rock features at any given time. We do not agree that this fishery can necessarily be described as “small scale” on the sensitive rugged chalk feature without further context or information being provided. It should also be noted that the size/scale of a fishery alone is not material in making an initial assessment as to risk posed to MCZ features. The significance of <i>any</i> impact to features should be fully tested by the assessment process, and therefore the “small-scale” description of the fishery cannot be used in determining “no significant risk” to the features of the MCZ.	We agree that context would be helpful when we describe the fishery as being “small-scale” – this term has been used to describe the relative size of the Cromer crab fishery compared with other, larger crab fleets in the UK that use much larger vessels and deploy significantly more pots (e.g. Bridlington, Brixham). Eastern IFCA’s assessment of the potting fishery in the MCZ has considered the nature, extent and duration of the activity, based on best available information, and we have used precaution as appropriate to ensure we have considered a worst-case scenario.
Assessment of Pressure-Feature Interactions: Peat and clay exposures	18	Peat and clay exposures exist in flat and rugged forms throughout the MCZ and are particularly sensitive to abrasion (medium sensitivity) and penetration (high sensitivity) caused by pots, ropes and anchors (Natural England, 2017). Natural England provided advice to Eastern IFCA, dated November 2018 and available on request, stating ‘we advise that peat and clay exposures are managed in an equivalent manner to chalk due to their inability to structurally recover from damage’.  More robust evidence is needed to demonstrate the recoverability of this [peat and clay exposures] feature, alongside information on the frequency of	As discussed with NE on 7 <sup>th</sup> February 2023, Eastern IFCA will follow the same approach to assess peat and clay exposures as used when assessing chalk features and will consider rugged and flat forms of peat and clay exposures separately.  Eastern IFCA will review evidence relating to the recoverability of peat and clay exposures, the frequency of pressure-feature interactions, and the resilience of peat and clay exposures to abrasive/penetrative impacts of lost gear. This will include examining any video data we have for peat and clay exposures. Whilst understanding that the precautionary approach can impel management to minimise impacts even where there is no clear evidence of impacts, we consider that this approach must be balanced with proportionality – i.e. management should be



Section	#	Natural England (NE) advice	Eastern IFCA response
		pressure-feature interactions, to confidently state that this activity does not risk hindering the conservation objectives of this feature. Additional evidence is also required to demonstrate the resilience of peat and clay exposures to the abrasive/penetrative impacts of lost gear, and further management measures may be required to minimise these impacts.	developed if there is a realistic risk of impacts hindering the conservation objectives of the MCZ.
Assessment of Pressure-Feature Interactions: Subtidal Chalk and Rock features	19	NE supports the approach of grouping multiple rock features under the descriptor “subtidal rock and chalk features” where it is difficult to distinguish between them. We also agree that, for the purpose of this assessment, it was prudent to divide this group into more specific habitats (hard rock substrates, veneered chalk, etc.). However, we advise that if it is not possible to discern on “subtidal rock and chalk” habitat from another in practice, then it is important that the highest possible sensitivity level should be considered when determining risk. For example, where “hard rock substrates” cannot be discerned from “rugged chalk” they should be assessed as having the same sensitivity to pressures as rugged chalk.	Eastern IFCA understands the principle of assigning the highest possible level of sensitivity to a feature where the actual feature type cannot be determined. Our work to map the extent and distribution of rugged chalk, a feature that is more sensitive than hard rock or veneered chalk, will help us differentiate between different types of subtidal rock and chalk features, and develop management appropriate to the sensitivity level of the feature. We accept that there are likely to be some areas (for example where there is small-scale heterogeneity of features) where it will not be possible to assess or manage sub-features separately; in these cases we will manage according to the highest sensitivity level. During our meeting on 7 <sup>th</sup> February 2023, NE clarified that the geological feature of the MCZ has been duly considered within Eastern IFCA’s consideration of subtidal chalk. <b>NE agreed to provide this advice in writing.</b> EIFCA welcomes this.
<i>Abrasion and penetration of the substratum below the surface of the seabed</i>	20	Whilst we agree with Eastern IFCA’s overall conclusion of “no significant risk” to hard rock from abrasion and penetration, we must stress it is often impossible to differentiate between hard rock and chalk features using survey techniques currently available. As stated above, appropriate precaution is required when determining risk to such indistinguishable features.	Please see response for #19.
	21	In the assessment of “rugged chalk” feature to abrasion and penetration, Eastern IFCA have stated	Eastern IFCA stand by the statement that pressures caused by active gears are “short term, small in scale and highly

Section	#	Natural England (NE) advice	Eastern IFCA response
		<p>that pressures caused by active gears are “short term, small in scale and highly localised”. However, based on fishing data presented within the MCZ assessment, we do not agree this is the case and would require further evidence to justify this description of the potting industry’s impact on this feature. It is our understanding that continuous pressure is applied to rugged chalk throughout the potting season each year, and that the entire rugged chalk area is the primary focus of the industry (due to an anecdotal higher quality of catch in this habitat).</p>	<p>localised”. To explain, this is because we have differentiated between theoretical pressures, e.g. interaction between active pots and rugged chalk, and evidence of actual impacts from those interactions. Impacts from active potting gear are limited to the soak time of the gear. This is described as “short term” as it is typically 24 or 48 hours, meaning the individual interaction between gear and feature at a given location is limited in duration, rather than extending for weeks or months. Whilst potting activity is continuous on the rugged chalk during the season, there is not a continuous impact in any one area of the chalk.</p> <p>Evidence from Eastern IFCA’s ROV surveys and the NE dive survey shows that individual physical impacts on rugged chalk from active potting gear are small in scale – typically &lt;10 or tens of centimetres. [There is some evidence of abrasion from lost pots extending beyond the 0.5m<sup>2</sup> footprint of the pot, but this point refers to active gear rather than lost gear]. So although the pressure (potting activity over rugged chalk) is theoretically more extensive, evidence shows impacts are limited to discrete, highly localised areas of impact within the more extensive rugged chalk feature. By this we mean that only small parts of the feature are affected – as evidenced in the Eastern IFCA and NE surveys. Care is needed not to give an impression that all potting activity damages chalk wherever it occurs.</p>
	22	<p>Whilst we agree that “one-off impacts will not result in large changes to the structure of the chalk”, it should be noted that the scale of damage is dependent on the formation of the chalk (e.g. sloping/stacked) and the type of fishing gear involved (e.g., pot/anchor), among other variables that are yet to be quantified.</p>	<p>This is noted.</p>
	23	<p>It is also important to note that all damage to subtidal chalk is permanent, and that even small, localised</p>	<p>This is noted, and reflected in our conclusion that without mitigation, it cannot be shown that the potting fishery does not</p>

Section	#	Natural England (NE) advice	Eastern IFCA response
		impacts can accumulate and result in large changes to chalk structure over time (Tibbitt et al 2020).	hinder the conservation objectives of the MCZ in the long term. The ARM approach has been developed to prevent the conservation objectives being hindered by limiting the level of impacts from potting to chalk to an acceptable level, as well as undertaking further research to ascertain the significance of impacts to chalk from potting compared with impacts caused by natural forces.
	24	Evidence presented by Tibbitt et al (2020) and O'Dell and Dewey (2022) have identified a number of instances of damage that can be attributed to fishing activity, however they do not determine the significance of these in the context of natural change, and they do not attribute a timescale over which such damage has likely occurred. Further investigation is therefore required in both areas as part of the ARM approach. Additionally, there needs to be a commitment to a detailed and timely plan for further research and monitoring in order for the assessment conclusions to be robust.	As part of the ARM approach, Eastern IFCA are currently developing a project to examine natural change (i.e. impacts to chalk caused by natural forces) compared with impacts from potting. This project will involve surveys of chalk condition in fished areas and unfished control sites. The local fishing industry has expressed support for this study, which is being supported by Blue Marine Foundation, and is due to start in spring 2023. This study will include annual monitoring over three years, which will provide some indication of timescales over which damage occurs. The ARM plan (please see #5) will set out Eastern IFCA's commitment to a detailed and timely plan for further research and monitoring.
	25	Whilst NE agrees that the threats to overall site Conservation Objectives are more likely to be of concern if pressures are exerted over the medium/longer term, we do advise that in the short term there should be a concerted effort to prevent or reduce pressures that we know are occurring now. This will act to reduce the cumulative effect of those pressures on the Conservation Objectives of the site. As such, we advise against the assumption that only long-term impacts should be considered and recommend that additional research and mitigation measures are planned expeditiously with this in mind. Natural England can provide further advice in order to inform the ARM approach at such time that	Eastern IFCA has concluded that it cannot be shown that the potting fishery would not hinder the conservation objectives of the MCZ in the longer term, without mitigation. However, with mitigation, in the form of ARM, we conclude that hindering the conservation objectives can be avoided. ARM includes applying management and monitoring its effectiveness. Eastern IFCA has committed to taking this ARM approach, including applying management to reduce pressures that we have identified as occurring in the short term, to reduce the cumulative effect of those pressures over time. We would highlight, however, that notwithstanding the fact that short term impacts will eventually add to cumulative effects in the longer term, there is not a need to urgently prohibit the potting activity on rugged chalk in the MCZ, so long as Eastern

Section	#	Natural England (NE) advice	Eastern IFCA response
		is appropriate, and we look forward to working alongside Eastern IFCA in this area.	<p>IFCA presents a clear and detailed ARM plan. <b><i>We request that NE concurs with this statement, in order to provide clarity to stakeholders.</i></b></p> <p>The ARM plan that Eastern IFCA is committed to producing (please see #5) shows how research and mitigation measures are being planned expeditiously.</p> <p>Eastern IFCA appreciates NE’s offer of further advice and collaboration, as appropriate, and are committed to working closely with NE and stakeholders as we progress ARM.</p>
<i>Physical impacts to habitat and biota from lost gear</i>	26	Fishing gear that has been lost or discarded within the MCZ has the potential to apply continuous pressure to features, habitats, and associated communities over an undetermined timescale. We therefore cannot agree that lost gear does not hinder the conservation objectives of “rugged chalk features”, which are sensitive to the abrasive and penetrative impacts of pots, ropes and anchors, in the short- or medium- term. Additional management may be required to minimise these impacts.	<p>Eastern IFCA’s conclusion that lost gear does not hinder the conservation objectives in the short- or medium term is based upon our assessment of the low incidence of lost gear within the MCZ, based on Eastern IFCA video surveys. We concur that over time, lost gear can add to cumulative physical impacts on rugged chalk in the MCZ.</p> <p>By its nature, management of lost gear is difficult. However, we have established management of lost gear in the Code of Best Practice for Lost, Missing and Stored Gear (implemented in 2022) to minimise its occurrence and to recover lost gear, once found. In addition, the Cromer Shoal Chalk Beds MCZ Byelaw 2023, which is being recommended to Eastern IFCA at the March 2023 Authority meeting, includes a requirement for gear marking and a requirement to recover gear at sea or ashore when notified by the Authority.</p> <p>Eastern IFCA plan to undertake a review of the Code of Best Practice in March/April 2023. If monitoring of the Code indicates that voluntary measures do not sufficiently mitigate the risk, options for further management will be considered.</p>
Evidence gaps	27	There are several gaps in our collective knowledge which are yet to be addressed, and which should be acknowledged in the MCZ assessment.	<p>As noted above, Eastern IFCA are not planning to update the MCZ assessment at this stage, in order to focus on delivery of ARM.</p> <p>However, the ARM plan does include consideration of evidence gaps and how these can be addressed.</p>

Section	#	Natural England (NE) advice	Eastern IFCA response
	28	<p>...further investigation is necessary to access such impacts [damage to chalk by potting] in the context of natural change... We believe this evidence can be achieved via the direct comparison of areas that are subject to potting and areas that are not (i.e. areas that are closed to the fishery). Data could then be used to conclusively determine whether potting activities are having a significant impact on subtidal chalk features, or whether these impacts are negligible against the backdrop of natural change. ...research in this area should be considered as an essential priority for the 2023 potting season, since the absence of this information may ultimately lead to NE revising its position on whether an adaptive risk management approach remains acceptable for this site.</p>	<p>Eastern IFCA agree that an understanding of damage to chalk through natural processes will enable us to evaluate the significance of damage to chalk from potting activity. We are committed to working with NE, fishermen, other stakeholders and delivery partners to develop a robust research project, to be started in 2023, that will compare disturbance to chalk features in potting and non-potting (closed) areas of rugged chalk. (Please also see #24).</p>
	29	<p>It would be helpful for Eastern IFCA to provide a clear and comprehensive plan of how the true extent of rugged chalk will be determined. NE ...would recommend that precaution is used when drawing up a final area for management (i.e., recommending management over the largest possible extent of rugged chalk if data does not exist to reliably refine this).</p>	<p>Eastern IFCA will include details of our work to define the extent of rugged chalk within the ARM plan that we are committed to provide to NE. Appropriate precaution will be applied when defining any management areas for rugged chalk.</p>
	30	<p>Additional information on how the MCZ is used by fishers (e.g. the intensity of fishing on and off the rugged chalk) would be useful in determining management measures. We understand that a number of vehicle trackers are currently in place and would be interested to see what evidence these and any other sources have produced.</p>	<p>Fishing activity information is always used in assessing the requirement for management measures. We are improving our understanding of fishing effort and spatial distribution through the voluntary use of vehicle trackers on potting vessels working in the MCZ. We will provide a summary of the information in the Interim Report that we intend to provide to NE with the ARM plan in April 2023. Fishing activity information will be generalised to ensure we protect individuals' personal and commercially sensitive data.</p>

Section	#	Natural England (NE) advice	Eastern IFCA response
In-combination assessment	31	NE welcomes the consideration of in combination effects and advises that such effects could have implications on overall site Conservation Objectives. We therefore advise that an in-combination assessment should consider whether the cumulative effects of potting activity and other plans/projects could adversely impact all features, not only those that have been recognised as “at risk” in the “alone” assessment, and how this may impact the Conservation Objectives of the site.	Eastern IFCA will expand the in-combination section of the potting assessment to include consideration of all features, not only those that have been recognised as “at risk” in the “alone” assessment.
	32	NE is working to investigate impacts from recreational activities (e.g., yachting) on features of the MCZ and will present the results once concluded.	Eastern IFCA will consider these results in our in-combination assessment when they are available.
	33	We recommend that the activities of commercial vessels are also considered in the “alone” assessment, as initial evidence collected by both Eastern IFCA and NE suggest that commercial vessels may also be anchoring within the boundaries of the MCZ.	At our meeting on 7 <sup>th</sup> February 2023, NE clarified that activities happening at time of designation should be considered as part of the baseline, so can be considered in the “alone” part of the MCZ assessment – but if not addressed then, it needs to be added to the in-combination section. NE agreed to re-send a letter to Eastern IFCA on this matter for further clarification. <b><i>Eastern IFCA requests that NE provides this further written clarification.</i></b>
Concluding statement	34	Once again, NE would like to acknowledge the huge effort that Eastern IFCA have put into gathering evidence and consultation around this issue to date and your continued close engagement with NE, and other key stakeholders, on the development and progress of ARM. We understand that a number of potential management measures are now being considered and consulted on, and we are hopeful that some of these measures can be adopted in 2023, NE look forward to continuing working in partnership with Eastern IFCA and others to gather and interpret the evidence required to inform effective ARM in the Cromer Shoal Chalk Beds MCZ.	Eastern IFCA appreciates the ongoing engagement and support from NE as we work together with stakeholders to develop and deliver ARM.



### 3.3 Summary of Eastern IFCA's response to Natural England's advice

9. We note that Natural England considers that pressures from the potting fishery are not likely to have reached a point where conservation objectives are being hindered at the current time. This aligns with the conclusion in our assessment of impacts from potting in the MCZ that the fishery is not hindering conservation objectives in the short term, although – without mitigation – the fishery could be hindering the conservation objectives in the longer term. Whilst this means urgent management of the potting fishery is not required, we recognise that timely management is required to prevent cumulative impacts over time resulting in hindrance of the conservation objectives.
10. Eastern IFCA is committed to developing a clear, detailed Adaptive Risk Management (ARM) plan for managing potting fishing in Cromer Shoal Chalk Beds MCZ. We intend to provide this plan to Natural England in April 2023. It is envisaged that this plan will provide Natural England with confidence to agree with our conclusion that "with mitigation in the form of Adaptive Risk Management, the potting fishery is not hindering the conservation objectives of Cromer Shoal Chalk Beds Marine Conservation Zone" either in the short or longer term.
11. Eastern IFCA understands that ARM is a pragmatic alternative to precautionary restrictions or even the prohibition of potting fishing over the sensitive rugged chalk feature in the MCZ. We acknowledge that the concept of ARM requires *management* to be implemented, *monitoring* to be undertaken to assess the effectiveness of management, and *research* to be undertaken to better inform the collective understanding of the risk. It also allows for management to be amended as required, informed by the monitoring and research. Our ARM plan will demonstrate our commitment to this adaptable management, monitoring and research.
12. We are committed to developing appropriate management that will prevent conservation objectives being hindered, and we endeavour to identify measures that have the least impact on fishing activities as possible, so long as the conservation duty is met.
13. Following extensive consultation, Eastern IFCA is proposing a byelaw that will provide a mechanism to flexibly manage the potting fishery in Cromer Shoal Chalk Beds MCZ. Measures will be implemented under this byelaw as permit conditions, and could include effort controls, gear specification and spatial restrictions, as required.
14. Within a wider suite of research, we are currently developing a key study to examine natural change (e.g. physical damage) to rugged chalk in the MCZ and

compare this with damage from potting. We note Natural England recognise that this work is key to improving our understanding of the significance of potting-related damage to chalk in relation to the site's conservation objectives.

15. We do not intend to update our potting assessment in the short term. This is so we can focus resource on developing and delivering the management, monitoring and research needed as part of ARM. When we update the potting assessment, we will liaise closely with Natural England to ensure we duly consider the best available feature and fishing activity information, all relevant MCZ features including peat and clay exposures, and other activities that could result in pressure to features.
  
16. Eastern IFCA continues to hold the assessment and management of the potting fishery in the MCZ as a high priority. We are committed to continuing to work with fishing industry, conservation interests, wider stakeholders, academia and Natural England, as we research, monitor and manage the fishery. We gratefully acknowledge the support we are continuing to receive from a wide range of individuals and groups, including Natural England, as we collectively work to manage this key fishery and deliver marine environmental protection.

End.



### 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

### 51<sup>st</sup> Eastern Inshore Fisheries and Conservation Authority Meeting

08 March 2023

#### Cromer Shoal Chalk Beds Byelaw 2023

**Report by:** Kristina Gurova, Project Officer

#### **Purpose of Report**

The purpose of this report is to present the Cromer Shoal Chalk Beds Byelaw 2023 and the associated justification and seek agreement to make the byelaw.

#### **Recommendations**

It is recommended that members:

- **Note** the contents of the report, including the justification for making the byelaw, the identified impacts on stakeholders and the feedback received from such stakeholders.
- **Agree** to make the Cromer Shoal Chalk Beds Byelaw 2023.
- **Direct** Officers to undertake formal consultation on the byelaw and impact assessment and to present the results and any recommended changes to the Byelaw at a subsequent Authority meeting.
- **Agree** to delegate authority to the CEO to make amendments to the byelaw which do not significantly alter its intended effects.

#### **Background**

The Cromer Shoal Chalk Beds Marine Conservation Zone (hereafter 'the MCZ') is designated in part for its benthic chalk features. This includes so called 'rugged chalk' which protrudes from the seabed to create complex and diverse habitats. The area also supports an important commercial pot-based fishery for crabs and lobsters. Management of potting is required in relation to rugged chalk to prevent detrimental impacts on the site's conservation objectives.

Adaptive Risk Management (ARM), whereby management is implemented and refined as informed by research over time, is considered an appropriate approach. A project board oversees delivery of ARM, with 'task and finish groups' undertaking the

work. Additional background to this paper is reflected in Action Item 11 (Cromer Shoal Chalk Beds Marine Conservation Zone).

Voluntary measures to reduce the risk posed by lost gear have been developed collaboratively with stakeholders and are now in place. Further management in the form of regulation is also required to continue to reduce risks posed by fishing activity. To that end, a byelaw is being proposed which can deliver ARM and implement further management as informed by research.

## **Report**

The Cromer Shoal Chalk Beds Byelaw 2023 is at Appendix 1.

### Justification for the byelaw

Eastern IFCA has a duty under section 154 of the Marine and Coastal Access Act 2009 (MaCAA 2009), to seek to ensure that the conservation objectives of the MCZ are furthered.

Advice was received from Natural England to the effect that potting is damaging the rugged chalk and that management is needed as mitigation.<sup>14</sup> Due to the limitations in the available data Natural England advised that ARM has the potential to deliver more appropriate and proportionate evidence-based management, and to enable working more effectively with the fishing industry. Eastern IFCA completed a potting assessment which concluded that the risk of pressures resulting from fishing activity hindering the conservation objectives of the site cannot be ruled out in the long-term. Updated advice from Natural England on the potting assessment noted that although pressures from fishing activity exerted on MCZ features are not likely to have reached a point where they could be hindering the conservation objectives at the current time, if the activity is allowed to continue unchecked, then cumulative impacts from potting over time could cause significant risk to designated features.<sup>15</sup>

The level of risk posed by fishing activity to the MCZ's conservation objectives leads to a need for a regulatory approach to enable the continued delivery of ARM to the site.<sup>16</sup> Non-regulatory measures are not considered adequate to mitigate risks, though it is recognised that these can complement a regulatory approach and provide a level of mitigation while the proposed byelaw undergoes formal consultation and Quality Assurance by the Marine Management Organisation (MMO). A "do nothing" approach is similarly not considered appropriate.

### Policy objectives and intended outcomes

As per the draft impact assessment, the overall objective of the proposed byelaw is to further the conservation objectives within the MCZ through an ARM approach. The intended outcomes are:

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<sup>14</sup> This advice is included as an Appendix to the draft impact assessment, shared with Authority members in the Notification of Intention to make the byelaw. The draft impact assessment will be subject to formal consultation with stakeholders together with the wording of the byelaw.

<sup>15</sup> *ibid.*

<sup>16</sup> The alternative options considered and the rationale for the preferred option (Cromer Shoal Chalk Beds Byelaw 2023) are considered in more detail in the draft impact assessment.

- To develop and introduce appropriate and proportionate evidence-based management measures to reduce fishing pressures on sensitive features such that those pressures are kept within levels that are compatible with furthering the site's conservation objectives.
- To enable flexible management that can adapt to best available evidence.
- To minimise the social and economic costs to stakeholders of management that is either too precautionary or not precautionary enough, to the extent that this is compatible with Eastern IFCA's statutory duties.
- To contribute to the achievement of government policy on fisheries management and marine conservation, including the high-level fisheries objectives under the Fisheries Act 2020, the Joint Fisheries Statement, the UK Marine Strategy and the Environment Improvement Plan 2023.

An appendix to the draft impact assessment includes a description and the intention behind each provision of the proposed byelaw.

#### Feedback from stakeholders

The views of stakeholders were sought via an informal consultation, run in two phases, the second of which closed on 30<sup>th</sup> January 2023. The consultation was to inform the development of the proposed byelaw and a consideration of its impacts, as summarised below. The outcomes of both phases are available through the Eastern IFCA website.<sup>17</sup>

#### Key measures

##### *a. Substantive measures*

The substantive measures proposed in the byelaw include a requirement for permits for commercial and recreational fishing using pots in the MCZ, a requirement to mark gear using pot tags and surface markers, and a requirement to recover gear found at sea or ashore when notified. The measures relating to gear marking and recovery have received broad support from stakeholders during the informal consultation.<sup>18</sup> Fishing industry maintain some reservations in relation to the use of a permitting system, however dialogue suggests that there is a reluctant acceptance of the need to have flexibility to deliver ARM.

##### *b. Flexible measures*

Other provisions included in the proposed byelaw reflect enabling mechanisms to provide the Authority with the ability to support the delivery of ARM in the MCZ by:

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<sup>17</sup> The Outcome Report for Phase 1 is available at: [https://www.eastern-ifca.gov.uk/wp-content/uploads/2022/12/2022\\_11\\_22\\_Phase1\\_Outcome\\_PUBLIC\\_FACING.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2022/12/2022_11_22_Phase1_Outcome_PUBLIC_FACING.pdf); The Outcome Report for Phase 2 is available at: [https://www.eastern-ifca.gov.uk/wp-content/uploads/2023/02/2023\\_2\\_14\\_Phase2\\_Outcome.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2023/02/2023_2_14_Phase2_Outcome.pdf).

<sup>18</sup> See note 4 (above).

- Introducing, varying or revoking flexible management measures including, permit conditions, endorsements, and endorsement conditions. This includes the ability to make temporary emergency changes to flexible measures but only if there is a risk to the achievement of the conservation objectives of the MCZ or in the case of other urgent and compelling reasons.<sup>19</sup> The byelaw includes a requirement to review any such measures no later than 3 months after implementation.
- Introducing, varying or revoking eligibility to hold a permit and/or endorsement.
- Requiring fishing information, where such information is considered necessary to further the conservation objectives of the MCZ.

The level of flexibility included is necessary and reflects the iterative nature of ARM. To provide surety to stakeholders, the ability to introduce flexible measures is underpinned by established due process procedures which include requirements to consult and undertake separate impact assessments in relation to any proposed new measures and changes to existing measures. In relation to eligibility policy, the wording of the byelaw additionally requires impact assessments to have particular regard to:

- The stability, continuity and succession of businesses of the permit holders,
- The continuing ability of permit holders to finance their businesses, and
- The impacts to potential young entrants or recruits.<sup>20</sup>

### *c. Scope*

The geographical scope to which the byelaw is proposed to apply includes the area of the MCZ designation<sup>21</sup> and the inshore area 200 metres from the low water mark. This is proposed for administrative and logistical purposes as relying on the boundary as defined in the designating order would make prohibitions difficult to enforce.<sup>22</sup> While it is proposed that the byelaw applies to this inshore area, the Authority would have discretion on whether to introduce flexible management measures in this area when these are being considered.

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<sup>19</sup> The intention is to enable the rapid implementation of measures for the protection of the MCZ where there is a risk to its conservation objectives. Similar provisions exist and have been agreed by MMO legal in the Wash Restricted Area Byelaw 2019 and the Wash Cockle and Mussel Byelaw 2021.

<sup>20</sup> This has been included taking into account responses to the informal consultation indicating concerns in relation to potential unintended impacts of permitting systems.

<sup>21</sup> As defined in the Cromer Shoal Chalk Beds Marine Conservation Zone Designation Order 2016 (2016/4)/ Available at: <https://www.legislation.gov.uk/ukmo/2016/4/contents/created>.

<sup>22</sup> For example, there would be an additional evidential burden in 'proving' a vessel had not deployed all pots within the inshore zone where a permit would not be required.

Additional measures were proposed by stakeholders as being included in the byelaw, including for example, restrictions on vessels fishing within 3 nautical miles and temporary closures over 'rugged chalk' during January and February. These, and other suggested measures, have been scoped out of inclusion on the face of the byelaw and instead will be considered during the development of flexible management measures to implement under the byelaw.

### Impacts<sup>23</sup>

The full Impact Assessment can be found on the Authority' website.<sup>24</sup>

The main monetised costs on the fishing industry (commercial and recreational) associated with the proposed byelaw relate to the permit fee of £53.38 and the cost for tags (best estimate £0.90 per tag).<sup>25</sup> The scale of the impact to business is considered low because the total estimated annual cost (£9957) is a small proportion of the estimated first sale value of catch (from the main species) within the affected area<sup>26</sup> (£1,057,093). As such the monetised costs are not considered to risk business continuity overall.

### Next steps

It is recommended that members make the byelaw and then a formal consultation is held to seek the views of stakeholders on the proposals.

Both the wording of the byelaw and the associated impact assessment will be further developed having considered the outputs of a formal consultation. In addition, further legal scrutiny (from our independent legal advisor) is also likely to necessitate further changes during this development. It is therefore recommended that the CEO is delegated authority to amend the wording of the byelaw to the extent that the intended effects are maintained. If it is considered appropriate to amend the byelaw beyond its intended effects, revisions would be brought back to members for consideration.

## **Financial Implications**

None identified.

## **Legal Implications**

There is an inherent risk of challenge in making byelaws. Due to the flexible nature of the proposed byelaw, challenge could be on the basis of unlawful sub-delegation of power. This risk is mitigated through the inclusion of due process, as per Defra guidance, and through well-informed, justifiable, and reasonable decisions.

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<sup>23</sup> These are discussed in further detail in the draft impact assessment.

<sup>24</sup> <https://www.eastern-ifca.gov.uk/wp-content/uploads/2023/02/5-Cromer-Shoal-Chalk-Beds-Byelaw-2023-Impact-Assessment.pdf>

<sup>25</sup> Based on the lowest cost being £0.40 and the highest being £1.50 as per the draft impact assessment.

<sup>26</sup> Based on MMO data release 10/01/2023, landings of edible crabs, velvet crabs and lobsters from ICES statistical rectangles 34F0, 34F1, 35F0 and 35F1 for 2017 to 2022 inclusive. The area of the MCZ (the affected area) is only a proportion of the total area of the ICES rectangles (likely to overestimate) and the data only captures sales to a registered 'buyer' although it is known that many inshore fishermen sell direct to the public (likely to underestimate). Figures from the total area were reduced proportionally to reflect the number of vessels thought to operate in the MCZ.

Moreover, the development of the proposed byelaw has been informed by extensive dialogue with the industry and other stakeholders to date, in keeping with Defra guidance to engage with stakeholders when developing a byelaw even before it is 'made' and to use any engagement to inform its development.

As such, there is no greater risk that would ordinarily be the case in the byelaw making process.

### **Conclusion**

On balance, having taken into account the feedback received by stakeholders and the identified impacts on them, it is recommended that members agree to make the Cromer Shoal Chalk Beds Byelaw 2023, as at Appendix 1, and that officers are directed to undertake formal consultation on the wording of the byelaw and impact assessment and present this to the Authority at a subsequent meeting to take into account the representations received.

### **Appendices**

Appendix 1 – Cromer Shoal Chalk Beds Byelaw 2023

#### **Background Documents**

- Draft Cromer Shoal Chalk Beds Byelaw 2023 Impact Assessment<sup>27</sup>
- Papers and minutes for the 42<sup>nd</sup> Eastern IFCA meeting, 09 December 2020, Information Item 12
- Papers and minutes for the 48<sup>th</sup> Eastern IFCA Meeting, 08 June 2022, Information Item 12
- Papers and minutes for the 50<sup>th</sup> Eastern IFCA Meeting, 14 December 2023, Information Item 13

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<sup>27</sup> Available at <https://www.eastern-ifca.gov.uk/wp-content/uploads/2023/02/5-Cromer-Shoal-Chalk-Beds-Byelaw-2023-Impact-Assessment.pdf>

## Appendix 1 – Cromer Shoal Chalk Beds Byelaw 2023



### Eastern Inshore Fisheries and Conservation Authority

#### MARINE AND COASTAL ACCESS ACT 2009

#### Cromer Shoal Chalk Beds Byelaw 2023

The Eastern Inshore Fisheries and Conservation Authority in exercise of its powers under section 155(1) of the Marine and Coastal Access Act 2009<sup>28</sup> makes the following byelaw for the District:-

#### **Interpretation**

1. In this byelaw:
  - a. “the Authority” means the Eastern Inshore Fisheries and Conservation Authority as defined in Articles 2 and 4 of the Eastern Inshore Fisheries and Conservation Order 2010;<sup>29</sup>
  - b. “the District” means the Eastern Inshore Fisheries and Conservation District as defined in Articles 2 and 3 of the Eastern Inshore Fisheries and Conservation Order 2010;
  - c. “Category One Permit” means a permit issued under paragraph 10(a) which authorises fishing for commercial purposes or from a registered fishing vessel;
  - d. “Category Two Permit” means a permit issued under paragraph 10(b) which authorises fishing for recreational purposes;
  - e. “permit” means a Category One Permit or a Category Two Permit issued under this byelaw;

<sup>28</sup> Marine and Coastal Access Act 2009 c.23

<sup>29</sup> Eastern Inshore Fisheries and Conservation Order 2010, SI 2010/2189



- f. “eligibility policy” means the documents which are issued under paragraph 17 and which describe how the Authority will issue permits and endorsements and manage access to the fisheries under this byelaw to fulfil the Authority’s duties and which:
  - i. are created and agreed by the Authority;
  - ii. reviewed, issued, varied and revoked in accordance with Schedule 3 of this byelaw;
  - iii. are published on the Authority’s website;
  - iv. are deposited at, and available on request from, the Authority’s offices;
  
- g. “electronic monitoring systems” means equipment attached to a vessel or fishing gear which records fishing activity information, which may be remotely accessible to the Authority, including:
  - i. deployment or recovery of fishing gear;
  - ii. vessel position, speed and bearing information;
  - iii. vessel identification information;
  - iv. date and time information.
  
- h. “Cromer Shoal Chalk Beds” means the Marine Conservation Zone designated in The Cromer Shoal Chalk Beds Marine Conservation Zone Designating Order 2016;<sup>30</sup>
  
- i. “Cromer Shoal Chalk Beds area” means the area defined in Schedule 1 of this byelaw;
  
- j. “fishing” means digging for bait; the shooting, setting, towing and hauling of fishing gear; gathering sea fisheries resources by hand or using a hand operated implement; and catching, taking or removing sea fisheries resources;
  
- k. “fishing for commercial purposes” means fishing for sea fisheries resources for sale or reward;
  
- l. “fishing for recreational purposes” means fishing for sea fisheries resources except for sale or reward;
  
- m. “fishing gear” means any nets, pots, ropes, anchors, surface markers, lines, dredges, grabs, rakes or other implements used for the purposes of, or facilitating, fishing;

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<sup>30</sup> The Cromer Shoal Chalk Beds Marine Conservation Zone Designation Order 2016, Ministerial Order 2016/4



- n. “flexible permit conditions” means any of the conditions attached to permits or endorsements in accordance with paragraph 19 of this byelaw;
- o. “pot” means any folding or rigid cage device or structure with one or more openings or entrances capable of capturing any sea fisheries resources;
- p. “permit holder” means the person who is eligible to hold the permit under eligibility policy;
- q. “nominated deputy” means a person who is not the permit holder but has been nominated to fish under the authority of a permit by the permit holder in accordance with paragraph 13 of this byelaw;
- r. “vessel” means:
  - i. a ship, boat, raft or watercraft of any description and includes non-displacement craft, personal watercraft, seaplanes and any other thing constructed or adapted for floating on or being submerged in water (whether permanently or temporarily) and;
  - ii. a hover craft or any other amphibious vehicle, used or capable or being used as a means of transportation on water;
- s. “registered fishing vessel” means a vessel registered under Part II of The Registry of Shipping and Seaman as governed by the provisions of the Merchant Shipping Act 1995 and the Merchant Shipping (Registration of Ships) Regulations 1993, or in the Channel Islands or Isle of Man; and in respect of which there is a valid fishing licence issued under the Sea Fish (Conservation) Act 1967 (c.84);
- t. “WGS 84” means the World Geodetic System as revised in 1984 and 2004.

2. Co-ordinates used in this byelaw are measured from WGS 84 datum.

### **Commencement**

- 3. This byelaw comes into force on the date on which it is confirmed by the Secretary of State.

### **Prohibitions**

4. A person must not fish using pots within the Cromer Shoal Chalk Bed area unless that person is:
  - a) The holder of a valid Permit and any relevant endorsement attaching to that permit; or
  - b) The nominated deputy of the holder of a valid Permit and any relevant endorsement attaching to that permit.
  
5. A person must not fish using pots unless;
  - a) a valid permit pot tag that is capable of being read and provided by the Authority at cost, is affixed to each pot; and
  
  - b) where a single pot is being used to fish, unattached to other pots, it is marked with a single buoy in accordance with paragraph 6; or
  
  - c) where more than one pot is being used to fish which are attached in a string, each end of the string is marked with a buoy in accordance with paragraph 6.
  
6. A Buoy or buoys used to mark pots in accordance with paragraph 5 must be:
  - a) of sufficient size and shape to be clearly visible and remain fully afloat at all times;
  
  - b) marked with the number of the permit associated with the pots on that string in such a way that is it clearly visible and capable of being read; and
  
  - c) where a registered fishing vessel is named on the permit, marked with the port letters and number of that vessel name in such a way that is it clearly visible.
  
7. Subject to paragraph 8, a person must not fish using pots from a vessel, or to carry on board any sea fisheries resources caught using pots from within the Cromer Shoal Chalk Bed area unless:
  - a) that vessel is named on a permit with the same permit number as the pots being fished from that vessel; and
  
  - b) either the permit holder or nominated deputy is the skipper of that vessel.
  
8. Paragraph 7 does not apply where a person is fishing under the written agreement of the Authority and in accordance with any conditions of that agreement. Such agreement may be given in circumstances where the permit holder, nominated deputy or the named vessel, are unable to put to sea.

9. A person must not fish under the authority of a permit or endorsement except in accordance with any conditions attaching to that permit or endorsement.

### **Permits and endorsements**

10. The Authority may authorise fishing using pots by way of issuing:
  - a) a category one permit to fish from a registered fishing vessel and fishing for commercial purposes within the Cromer Shoal Chalk Beds area; or
  - b) a category two permit to fish other than from a registered fishing vessel or for recreational purposes; or
  - c) an endorsement attaching to a permit to fish where access is restricted under a flexible permit condition.
  
11. Permits and endorsements are:
  - a) created, issued and cancelled at the discretion of the Authority under this byelaw, subject to the eligibility policy and accordingly no legal title is created or implied by the issue of a permit or endorsement; and
  - b) issued to a named person, who shall be a natural person only and the permit holder; and
  - c) issued in relation to a single vessel only; and
  - d) valid from the date of issue for the remainder of that calendar year; and
  - e) not transferable between persons or vessels.
  
12. The Authority may restrict the number of permits and endorsements attaching to permits issued under this byelaw in accordance with the procedure in Schedule 2 of this byelaw.
  
13. A permit holder may nominate persons to fish under the authority of a permit, who may, subject to eligibility policy issued under paragraph 17, be named on the permit as the nominated deputy.

### **Permit fees**

14. A person must pay to the Authority the category one or category two permit fee and any fee relating to tags in accordance with paragraph 5 of this byelaw prior to their issue.
  
15. The amount payable will be determined by the Authority in accordance with Schedule 4.

### **Eligibility for permits, endorsements, and eligibility policy**

16. An application for a permit or endorsements attaching to permits must be made by completing forms available from the Authority's office or website and must provide all required information and evidence specified in the relevant form, including:

- a) applicant details;
- b) details of any nominated deputy;
- c) vessel details, documentation and certification; and
- d) relevant business or financial information.

17. The Authority may, in accordance with the procedure set out in Schedule 3, issue, vary or revoke eligibility policy separately in relation to permits and endorsements issuable under paragraph 10 in order to set the conditions for the:

- a) eligibility to hold a permit;
- b) eligibility for a permit to be endorsed;
- c) eligibility to be a nominated deputy on a permit;
- d) the maximum number of persons who may fish under the authority of a permit or endorsement attaching to a permit;;
- e) eligibility to fish under the authority of a permit or endorsement attaching to a permit;
  
- f) eligibility to skipper a vessel named on a permit for the purposes of fishing under the authority of that permit or endorsement attaching to a permit;
- g) eligibility to name a vessel on a permit;

18. For the purposes of paragraph 17, 'the Authority' means either

- a) members at a meeting of the Authority which is quorate in accordance with Article 13(1) of the Eastern Inshore Fisheries and Conservation Order 2010 ; or
- b) members at an appropriately delegated sub-committee of the Authority.

### **Flexible permit and endorsement conditions**

19. The Authority may, in relation to any permit or endorsement issued under paragraph 10 of this byelaw, impose flexible permit conditions within one or more of the following categories and with which a person fishing under the authority of a permit or an endorsement must comply:
- a) vessel design restrictions;
  - b) catch restrictions;
  - c) fishing gear and fishing gear use restrictions;
  - d) spatial restrictions;
  - e) temporal restrictions;
  - f) electronic monitoring systems requirements.
20. The Authority may, under paragraph 21 of this byelaw or in accordance with the procedure in Schedule 2 of this byelaw, issue, vary or revoke a flexible permit condition.
21. The Authority may, giving no less than 12 hours' notice in writing, issue, vary or revoke a flexible condition if:
- a) in the view of the Authority there is a risk to the achievement of conservation objectives within Cromer Shoal Chalk Beds MCZ;
  - b) in the view of the Authority there are other urgent and compelling reasons requiring such action to be taken.
22. If an action taken by the Authority under paragraph 21 of this byelaw is intended to have effect for more than three months, it must be reviewed in accordance with the procedure in Schedule 2 of this byelaw no later than three months after the date on which such action was taken.
23. Failure to comply with a flexible permit condition constitutes a contravention of this byelaw.

### **Fishing information**

24. The Authority may require persons fishing under the authority of a permit or endorsement issued under paragraph 10 to provide fishing information where such information is considered by the Authority to be necessary to further the conservation objectives of Cromer Shoal Chalk Beds MCZ, by such means

and with such regularity as are considered appropriate by the Authority for that purpose, including through the use of electronic monitoring systems.

25. The information referred to in paragraph 24 may include:

- a) spatial information;
- b) information on fishing operations including the shooting, setting, towing and hauling of fishing gear;
- c) information on fishing effort;
- d) catch data;
- e) gear information;
- f) date and time information
- g) vessel information.

### **Retrieval of Fishing Gear When Notified**

26. Persons fishing under the authority of a permit or endorsement issued under paragraph 10 of this byelaw must use fishing gear in such a way as to minimise the likelihood of it becoming lost.

27. The Authority may require a permit holder by way of notification, to retrieve, or cause to be retrieved, fishing gear located at sea or ashore.

28. When notified under paragraph 27 of this byelaw, a permit holder must retrieve, or cause to be retrieved, fishing gear at sea or ashore within the timeframes specified in the notification, or where this is not possible, as soon as is reasonably practicable.

29. If it is not reasonably practicable to retrieve the fishing gear that is the subject of the notification under paragraph 27 of this byelaw, the permit holder must notify the Authority and provide reasons as to why it is not reasonably practicable to do so.

### **Pot tags**

30. Lost or illegible pot tags are no longer valid pot tags.

31. Lost pot tags must be reported to the Authority within 21 days of the loss.

32. The holder of a permit may apply for replacement pot tags which have been lost or are illegible.
33. The Authority may issue replacement pot tags.
34. The replacement of pot tags will be at the cost of the permit holder.

### **Exemptions**

35. A person is exempt from paragraphs 4, 5, 6, 7 and 9 of this byelaw if they are fishing for whelk under the authority of a whelk permit issued under the Whelk Permit Byelaw 2016, made by the Authority on 17 November 2015 and confirmed by the Secretary of State on 1 November 2016.

### **Amendments**

36. The Whelk Permit Byelaw 2016, made by the Authority on 17 November 2015 and confirmed by the Secretary of State on 1 November 2016 is amended as follows:
- a. after paragraph 1(q), insert: “r) “electronic monitoring systems” means equipment attached to a vessel or fishing gear which records fishing activity information, which may be remotely accessible to the Authority, including: i) deployment or recovery of fishing gear; ii) vessel position, speed and bearing information; iii) vessel identification information; or iii) date and time information.”
  - b. in paragraph 2(a) insert after “the holder of a whelk permit”: “and any relevant endorsement attaching to that permit”;
  - c. in paragraph 2(b) insert after “the holder of a whelk permit”: “and any relevant endorsement attaching to that permit”;
  - d. in paragraph 4 insert after “such agreement may be given”: “subject to conditions”;
  - e. in paragraph 6, for “not set whelk pots” substitute “fish for whelks”;
  - f. for sub-heading “Permits” substitute “Permits and endorsements”;
  - g. after paragraph 9(b) insert the sub-paragraph “9 (c) issue an endorsement attaching to a permit to fish where access is restricted under a flexible permit condition”.
  - h. in paragraph 15 insert after “The Authority may restrict the number of whelk permits”, “or endorsements”;
  - i. in paragraph 19, insert after “The Authority may attach to permits”, “or endorsements”;
  - j. in paragraph 20 (c), for “fishing gear”, substitute “fishing gear and fishing gear use”;

- k. after paragraph 20 (f) insert sub-paragraphs:
  - i. “g) vessel design restrictions;” and
  - ii. “h) electronic monitoring system requirements”;
- l. For paragraph 21, substitute: “The Authority may a) issue, vary or revoke flexible permit conditions following a review conducted in accordance with the procedure set out in Schedule 1; b) giving no less than 12 hours’ notice in writing, issue, vary or revoke a flexible condition if; i) in the view of the Authority there is a risk to the achievement of conservation objectives within Cromer Shoal Chalk Beds MCZ; or ii) in the view of the Authority there are other urgent and compelling reasons requiring such action to be taken; and c) where an action taken by the Authority under sub-paragraph 21 (b) is intended to have effect for more than three months, it must be reviewed in accordance with the procedure in Schedule 1 no later than three months after the date on which such action was taken;
- m. in paragraph 22, after “...in relation to that permit” insert “unless under the written agreement of the Authority.”
- n. in paragraph 30, substitute “Replacement whelk permit tags will not be issued until the Authority has received payment at cost for the replacement tags”.

I hereby certify that the Cromer Shoal Chalk Beds Byelaw 2023 was made by Eastern Inshore Fisheries and Conservation Authority at their meeting on 8 March 2023.

Chief Executive Officer

Eastern Inshore Fisheries and Conservation Authority

6 North Lynn Business Village, Bergen Way, King’s Lynn, Norfolk PE30 2JG

*The Secretary of State for Environment, Food and Rural Affairs in exercise of the power conferred by section 155 (3) and (4) of the Marine and Coastal Access Act 2009 confirms the Wash Cockle and Mussel Byelaw 2021 made by the Eastern Inshore Fisheries and Conservation Authority on 10 March 2021.*



Date:

A Senior Civil Servant for, and on behalf of, the Secretary of State for Environment, Food and Rural Affairs.

### **Explanatory Note**

(this note does not form part of the byelaw)

This byelaw regulates fishing using pots within an area of the sea which includes Cromer Shoal Chalk Beds Marine Conservation Zone (MCZ). A permit is required to fish using pots commercially and recreationally within the MCZ. The permit holder, vessel and skippers must be named on the permit and fishing activity must be in accordance with any permit conditions or the conditions of any endorsement attaching to the permit. It is also prohibited to use pots for fishing unless they are marked according to the requirements under the byelaw.

The byelaw enables the Authority to implement flexible manage measures including setting; a limit on the number of permits or endorsements issued, separate permit and endorsement conditions and separate eligibility policy in relation to the allocation of permits and endorsements.

Introduction, variation or revocation of the flexible measures includes a requirement to consult with affected stakeholders and undertake an impact assessment. With the exception of eligibility policy, flexible measures can also be introduced with no consultation where there is a risk to the conservation objectives of the MCZ or in response to other compelling and urgent reasons. However, such measures require review unless they are temporary (not intended to last longer than three months, per the byelaw).

The byelaw enables the Authority to request any information relating to fishing which is considered necessary to further the conservation objectives of the MCZ and gives the Authority discretion as to the means and frequency by which such information may be requested so long as these are appropriate for the purpose.

Fishing gear must be used in such a way as to minimise the likelihood of it becoming lost and the Authority may issue notifications for the retrieval of gear either at sea or ashore within timescales that are reasonably practicable.

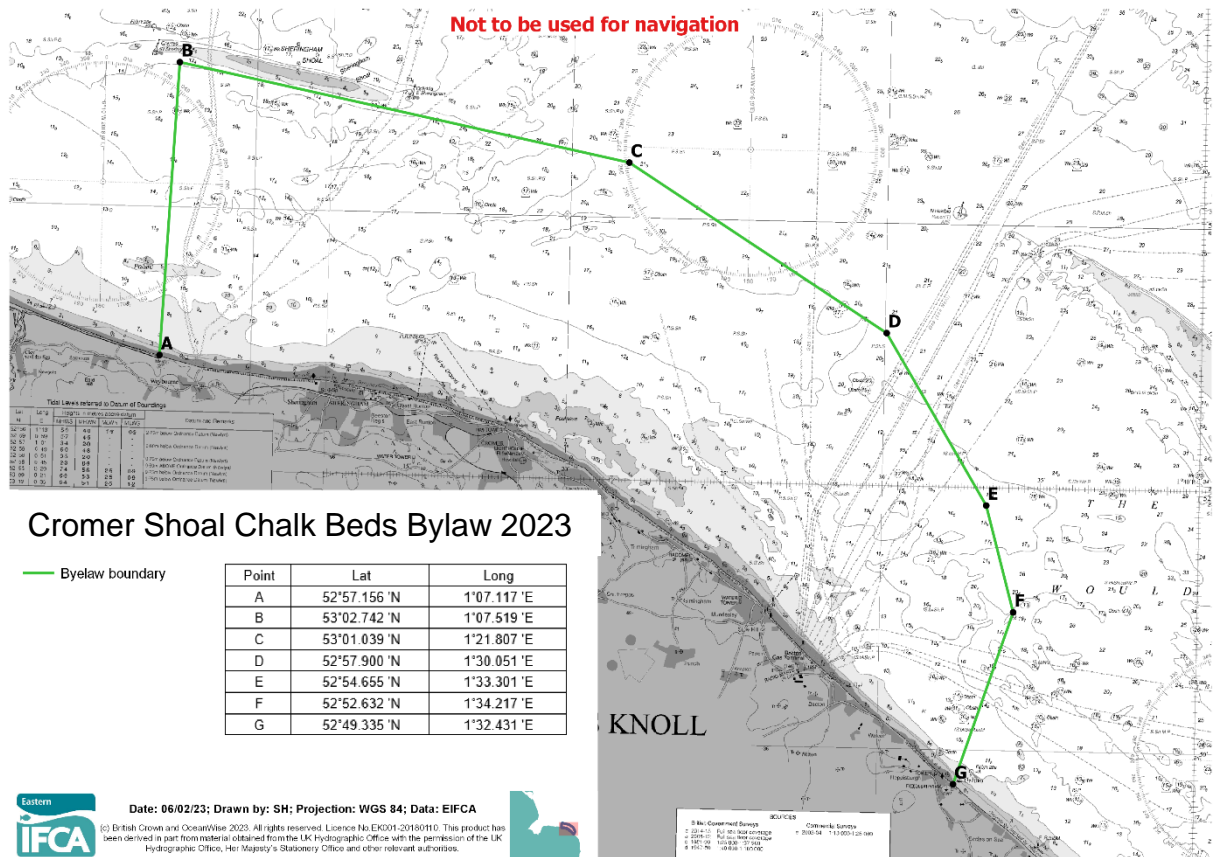
## Schedule 1

### The Cromer Shoal Chalk Beds area

The Cromer Shoal Chalk Beds area is defined as the area of the District landward of the line drawn by a contiguous series of points listed in the table below and as set out in figure 1 for illustrative purposes.

<b>Point</b>	<b>Latitude</b>	<b>Longitude</b>
A	52°57.156 'N	1°07.117 'E
B	53°02.742 'N	1°07.519 'E
C	53°01.039 'N	1°21.807 'E
D	52°57.900 'N	1°30.051 'E
E	52°54.655 'N	1°33.301 'E
F	52°52.632 'N	1°34.217 'E
G	52°49.335 'N	1°32.431 'E

**Figure 1 – chart indicating the area of sea referred to in this byelaw as the Cromer Shoal Chalk Beds area**



## Schedule 2

### **Procedure for flexible management measures: limiting the number of permits issued, endorsements issued and flexible conditions**

1. The procedure referred to in paragraphs 12, 20 and 22 of the byelaw (in this Schedule, 'the proposed changes') must include the following steps:
  - a. acquisition of relevant available evidence including:
    - i. scientific and survey data, and scientific advice provided by the Authority, the Centre for Environment, Fisheries and Aquaculture Sciences or such other persons as the Authority thinks fit;
    - ii. advice given by Natural England or other external authorities, organisations, persons or bodies as the Authority thinks fit; and
    - iii. information from any other relevant source including that which is relevant to effective enforcement;
  - b. consultation by such methods as the Authority considers appropriate with such stakeholders, organisations and persons as appear to the Authority to be representative of the interests likely to be substantially affected by the proposed changes; and
  - c. undertaking an impact assessment relating to the proposed changes.
2. The Authority must review a flexible condition or a restrictions on the issuing of permits or endorsements at least once every six years from after the date on which a flexible condition or restriction on the issuing of permits or endorsements has taken effect.
3. The review of flexible conditions or restrictions on the issuing of permits or endorsements must be in accordance the steps set out in paragraph 1 of this schedule.
4. The Authority must notify all permit holders when restrictions on the issuing of permits or endorsements or flexible conditions are issued, maintained, varied or revoked.

### **Schedule 3**

#### **Procedure for flexible management measures: setting eligibility policy for permits and endorsements**

1. The procedure referred to in paragraph 17 of the byelaw (in this Schedule, 'the proposed changes') must include the following steps:
  - a) Consultation, including:
    - a) inviting comment on proposals for no less than four weeks; and
    - b) advertisement by such means as the Authority considers appropriate and through written means (either letter or email) to existing permit holders.
  - b) undertaking an impact assessment relating to the proposed changes having particular regard to the following:
    - i. the stability, continuity and succession of businesses of the permit holders;
    - ii. the continuing ability of permit holders to finance their businesses; and
    - iii. the impacts to potential young entrants or recruits
2. The Authority must not review eligibility criteria more than once every six years from the date that an eligibility criterion has taken effect unless, in the view of the Authority, there are compelling reasons to do so which would include a risk to the conservation objectives of Cromer Shoal Chalk Beds MCZ, the sustainability of a fishery, or the viability of fishery stakeholders.
3. The review of eligibility criteria must include the steps set out in paragraph 1 of this schedule.
4. The Authority must notify all permit holders when eligibility criteria are issued, maintained, varied or revoked.

## **Schedule 4**

### **Fees**

1. The fees referred to in paragraph 14 of this byelaw are, subject to paragraphs 2 and 3 of this schedule, as follows:
  - a) the category one permit fee is £53.38
  - b) the category two permit fee is £53.38
  
2. The fees set out in paragraph 1 of this schedule may vary on 1 April each year in accordance with latest release available of the Consumer Prices Index, including the occupiers' housing costs 12-month inflation rate issued by the Office of National Statistics.
  
3. The Authority may vary fees otherwise than in accordance with paragraph 2 of this schedule, subject to the following conditions and procedures:
  - a) the Authority must consult in writing with permit holders;
  - b) the fee as varied may not be changed for any permit already issued;
  - c) the fee being varied must not be increased more than the equivalent value of 50 per cent; and
  - d) the Authority must make a decision whether to vary the permit fee taking into account:
    - i. any responses from the consultation under sub-paragraph 3 (a);
    - ii. expenditure arising from the administration of permits and processing permit holder data required by the Authority;
    - iii. any regulatory impact assessments associated with this byelaw;
    - iv. Authority expenditure to conduct any survey activities that support the implementation of permits;
    - v. Authority costs associated with arranging and attending meetings with permit holders; and
    - vi. any relevant Authority expenditure incurred by implementation of this byelaw.

### 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

### 51<sup>st</sup> Eastern Inshore Fisheries and Conservation Authority Meeting

08 March 2023

#### Crab and Lobster Byelaw 2023

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

#### **Purpose of Report**

The purpose of this report is to present the Crab and Lobster Byelaw 2023, along with the associated justification, and seek agreement to make the byelaw.

#### **Recommendations**

It is recommended that members:

- **Note** the contents of the report, including the review of the inherited byelaws, outputs from the associated informal consultation and the potential impacts on fishery stakeholders.
- **Agree** to make the Crab and Lobster Byelaw 2023.
- **Direct** officers to undertake a formal consultation with respect to the byelaw.
- **Agree** to delegate authority to the CEO to make amendments to the byelaw which do not significantly alter its intended effects.

#### **Background**

The Authority inherited several byelaws from its predecessor, the Eastern Sea Fisheries Joint Committee, including four which restrict fishing for edible crabs (*Cancer pagurus*), velvet crabs (*Necora puber*) and lobsters (*Homarus gammarus*) as follows:

- Byelaw 5: Prohibition on use of edible crab (*Cancer pagurus*) for bait;
- Byelaw 6: Berried (egg-bearing) or soft shelled crab (*Cancer pagurus*) or lobster (*Homarus gammarus*)
- Byelaw 7: Parts of shellfish
- Byelaw 10: Whitefooted edible crab (*Cancer pagurus*)

The key effects of the byelaws are as follows:

- Prohibition on the removal of crab and lobster which has recently cast its shell or is egg bearing;
- Prohibition on the removal of edible crab which has recently regrown its shell (i.e. 'whitefooted');
- Prohibition on the use of edible crab for bait;
- Prohibition on landing parts of crabs and lobsters.

The byelaws all apply to commercial and non-commercial fishing activity. Inherited byelaws require review to ensure they are fit for purpose and such review has been identified as a 'future' priority within the 2022 Strategic Assessment.

## Report

### Review of inherited byelaws

Consideration of four inherited byelaws relating to crab and lobster management were included as part of a recent, district-wide, informal consultation. Internal consideration was also given as to need for the byelaws and their effectiveness. A detailed consideration is provided within the associated draft Impact Assessment, which was included in the notification of intention to make the byelaw sent to Members on 21 February 2023 and is available on the Authority's website<sup>31</sup>.

In summary, the byelaws are considered to contribute to sustainable crab and lobster fisheries. In particular, they reduce the removal of pre-spawning crabs and lobsters to enable them to contribute to future fisheries, reduce the removal of 'lower value' edible crabs to enhance industry viability and sustainability and enhance the effectiveness of minimum size rules for each species.

Whilst the most recent (2019) Eastern IFCA stock assessments indicate relatively stable crab and lobster stocks<sup>32</sup>, the most recent Cefas stock assessments for edible crab and lobster indicate exploitation of stocks is beyond maximum sustainable yields<sup>33,34</sup>. As such, maintaining the above beneficial effects is considered appropriate.

In addition, informal consultation<sup>35</sup> indicates that, with one exception, there is general support for the inherited byelaw amongst fishery stakeholders who feel the byelaws are of benefit to the fisheries.

The exception being that some within industry feel that the prohibition on using edible crab for bait should exclude use of waste products generated from crab processing (i.e. cooked offal, also known as 'shickle'). In addition, the consultation also highlighted that edible crab is often used as a bait in recreational sea angling (as whole 'peeler crabs' or 'crab cart'), albeit relatively rarely within the Eastern IFC district. Those in favour of maintaining the total prohibition were concerned that

<sup>31</sup> <https://www.eastern-ifca.gov.uk/wp-content/uploads/2023/02/6-Crab-and-Lobster-Byelaw-2023-impact-Assessment.pdf>

<sup>32</sup> Brown crab Stock Assessment 2020, Tom Bridges, Nov 2020

<sup>33</sup> Cefas, Edible Crab (*Cancer pagurus*) Cefas Stock Status report 2019, October 2020

<sup>34</sup> Cefas, Lobster (*Homarus Gammarus*) Cefas Stock Status report 2019, October 2020

<sup>35</sup> <https://www.eastern-ifca.gov.uk/outcome-report-published-informal-consultation-on-crab-lobster-management-phase-2/>



allowing crab to be used as bait would increase the amount of 'low quality' crab being landed for the purpose of bait which is less sustainable given that its lower value would necessitate additional catches.

### Proposed byelaw

A byelaw has been developed which will have the effect of revoking and replacing the inherited byelaws. In doing so, the wording of the byelaws will meet modern legislative standards and be more consistent with other FCA byelaws with the intension of enhancing the effectiveness of the measures.

The proposed Crab and Lobster Byelaw 2023 is at Appendix 1.

The byelaw includes a revision to the prohibition on using edible crab for bait which enables its use in commercial fisheries if it is cooked offal and in recreational fishing by hook and line where the user can evidence the crab was not obtained from within the district. This is considered appropriate on the basis that the intention of the measure is to prevent removal of soft-shelled or undersize crabs to use as bait (which is already prohibited) and because maintaining the prohibition on removal of 'whitefooted' crab mitigates the risk of a 'bait crab' fishery becoming established.

It should be noted that the byelaw contains some duplication of national measures, namely prohibitions on the removal of soft-shelled or egg-bearing edible crabs and lobsters but that these include exemptions where such are to be used as bait (in the case of edible crab) and do not apply at all in relation to non-commercial fishing. The inherited byelaws address this, and it is proposed that such is maintained in the new byelaw. The byelaw includes an exemption in relation to landing (only) of egg-bearing lobster in the case of commercial vessels so as not to duplicate the associated national restriction.

### Potential impacts of the byelaw

The Impact Assessment<sup>36</sup> indicates that there will be no additional impacts associated with the byelaw given that it maintains measures which are already in place. There is likely to be an economic benefit in enabling the use of cooked offal of edible crab.

### Next steps

It is recommended that members make the byelaw and then a formal consultation is held to seek the views of stakeholders on the proposals.

Both the wording of the byelaw and the associated impact assessment will be further developed having considered the outputs of a formal consultation. In addition, further legal scrutiny (from our independent legal advisor) is also likely to necessitate further changes during this development. It is therefore recommended that the CEO is delegated authority to amend the wording of the byelaw to the extent that the intended effects are maintained. If it is considered appropriate to amend the byelaw beyond its intended effects, revisions would be brought back to members for consideration.

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<sup>36</sup> Available at [Impact Assessment template \(eastern-ifca.gov.uk\)](https://www.eastern-ifca.gov.uk/impact-assessment-template)

## **Financial Implications**

None identified

## **Legal Implications**

There is an inherent risk of legal challenge associated with making byelaws. This is mitigated through due diligence and undertaking the byelaw making process in accordance with Defra guidance<sup>37</sup> and the formal quality assurance process undertaken by the Marine Management Organisation.

## **Appendices**

The draft Crab and Lobster Byelaw 2023

## **Background Documents**

- Draft Crab and Lobster Byelaw 2023 Impact Assessment<sup>38</sup>

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<sup>37</sup> IFCA Byelaw Guidance, March 2011, Department for Environment, Food and Rural Affairs

<sup>38</sup> Available at [Impact Assessment template \(eastern-ifca.gov.uk\)](https://www.eastern-ifca.gov.uk/impact-assessment-template)

## Appendix 1 – draft Crab and Lobster Byelaw 2023



### Eastern Inshore Fisheries and Conservation Authority

#### MARINE AND COASTAL ACCESS ACT 2009

#### Crab and Lobster Byelaw 2023

The Eastern Inshore Fisheries and Conservation Authority in exercise of its powers under section 155(1) of the Marine and Coastal Access Act 2009<sup>39</sup> makes the following byelaw for the District:-

#### **Interpretation**

37. In this byelaw:

- a) “the Authority” means the Eastern Inshore Fisheries and Conservation Authority as defined in Articles 2 and 4 of the Eastern Inshore Fisheries and Conservation Order 2010<sup>40</sup>;
- b) “berried” means an organism carrying spawn or eggs attached to its tail or some other exterior part, or which is in such a condition as to show that, at the time when it was taken, it was carrying eggs so attached;
- c) “the District” has the meaning given by Article 3 of the Eastern Inshore Fisheries and Conservation Order 2010;
- d) “edible crab” means the marine organism with the scientific name *Cancer Pagurus*;
- e) “lobster” means the marine organism with the scientific name *Homarus gammarus*;
- f) “the minimum size” means the width of the carapace of an edible crab as specified in the Minimum Sizes Byelaw 2020 which was made by the Authority ;

<sup>39</sup> Marine and Coastal Access Act 2009 c.23

<sup>40</sup> Eastern Inshore Fisheries and Conservation Order 2010 (SI 2010/2189)

- g) “recreational purposes” means fishing other than for financial gain and includes fishing from a charter vessel;
- h) “relevant fishing vessel” means a vessel registered under Part II of The Registry of Shipping and Seaman as governed by the provisions of the Merchant Shipping Act 1995 and the Merchant Shipping (Registration of Ships) Regulations 1993, or in the Channel Islands or Isle of Man; and in respect of which there is a valid fishing licence issued under the Sea Fish (Conservation) Act 1967 (c.84);
- i) “soft-shelled” means edible crab, velvet crab or lobster which has recently cast its shell;
- j) “velvet crab” means the marine organism with the scientific name *Necora puber*;
- k) “whitefooted” means an edible crab the claw pincers of which are grey or white rather than black.

## Prohibitions

- 38. A person must not remove from the fishery, retain on board, land or tranship any whitefooted edible crab caught within the district between 1 November and the following 30 June.
- 39. A person must not remove from the fishery, retain on board, land or tranship and edible crab, velvet crab or lobster caught within the district where:
  - a) any claws, tail or other appendages are separated from the body of the organism; or
  - b) any such organism cannot be measured as follows:
    - a) for edible crabs or velvet crabs, the maximum width of the carapace measured perpendicular to the antero-posterior midline of the carapace;
    - b) for lobsters; the length of the carapace, parallel to the midline from the back of either eye socket to the distal edge of the carapace.
- 40. A person must not remove from the fishery, retain on board, land or tranship any soft-shelled edible crab or lobster which was caught within the district.
- 41. A person must not remove from the fishery, retain on board, land or tranship any berried edible crab which was caught within the district.
- 42. A person must not:
  - a) remove from the fishery;
  - b) retain on board;
  - c) land; or
  - d) tranship

any berried lobster.

43. A person must not use edible crab for bait unless the edible crab comprises cooked offal only.

44. A person is not liable to an offence under paragraph 7 if that person:

- a) is using edible crab as bait to fish for recreational purposes; and
- b) is fishing by hook and line; and
- c) provides evidence to the satisfaction of the Authority that the edible crab was not removed from the fishery within the district or was purchased as bait in which case such evidence must include details of the seller.

#### **Returning catch to sea**

45. Any edible crab, velvet crab or lobster which falls within the prohibitions in sections paragraphs 2 to 7, subject to paragraphs 9 and 10, must be returned immediately to the sea or foreshore and as close to the position of capture as is reasonably practicable.

#### **Exemptions**

46. Sub-paragraph 6 (c) does not apply to a person fishing from a relevant British fishing boat.

#### **Revocations**

47. The following byelaws are revoked:

- a) The byelaw with the title 'prohibition on the use of edible crab (*Cancer pagurus*) as bait', which was made by the Eastern Sea Fisheries Joint Committee on 31 January 1996 and was confirmed by the Minister on 10 April 1997;
- b) The byelaw with the title 'berried (egg bearing) or soft shelled crab (*Cancer pagurus*) or lobster (*Homarus gammarus*)' which was made by the Eastern Sea Fisheries Joint Committee on 31 January 1996 and confirmed by the Minister on 10 April 1997;
- c) The byelaw with the title 'parts of shellfish' which was made by the Eastern Sea Fisheries Joint Committee on 31 January 1996 and confirmed by the Minister on 10 April 1997; and
- d) The byelaw with the title 'whitefooted crab' which was made by the Eastern Sea Fisheries Joint Committee on 29 April 1998 and confirmed by the Minister on 29 January 1999.

I hereby certify that the Crab and Lobster Byelaw 2023 was made by Eastern Inshore Fisheries and Conservation Authority at their meeting on 8 March 2023.

Chief Executive Officer

Eastern Inshore Fisheries and Conservation Authority

6 North Lynn Business Village, Bergen Way, King's Lynn, Norfolk PE30 2JG

*The Secretary of State for Environment, Food and Rural Affairs in exercise of the power conferred by section 155 (3) and (4) of the Marine and Coastal Access Act 2009 confirms the Crab and Lobster byelaw 2023 made by the Eastern Inshore Fisheries and Conservation Authority on 8 March 2023.*

Date:

A Senior Civil Servant for, and on behalf of, the Secretary of State for Environment, Food and Rural Affairs.

#### **Explanatory Note**

(this note does not form part of the byelaw)

This byelaw prohibits the removal of species crabs and lobsters as follows:

'White footed' edible crabs, individuals which have recently hardened shells but with white or grey tips to their claws and legs, cannot be removed from the fishery, landed, transhipped or retained on board between 1 November and 30 June in any given year.

Claws or other appendages of edible crabs, velvet crabs and lobsters cannot be removed from the fishery, landed, transhipped or retained on board separately from the body of the organism and, any such organism landed must be 'whole' to the extent that it can be measured to determine compliance with minimum size legislation.

Berried (egg bearing) and soft-shelled edible crabs, velvet crabs and lobsters cannot be removed from the fishery, landed, transhipped or retained on board.

The prohibition on landing berried lobster in this byelaw does not apply to commercial fishing vessels.

This byelaw also prohibits the use of edible crab as bait within the district unless it is cooked offal. In addition, recreational hook and line fishing (including from a charter vessel) may use edible crab for bait but doing so requires the user to provide evidence that the crab did not come from within the Eastern IFC district or that it was bought as bait.

## 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 15

## 51<sup>st</sup> Eastern Inshore Fisheries and Conservation Authority meeting

8 March 2023

### Review of Eastern Inshore Fisheries and Conservation Authority (IFCA) Constitution and Standing Orders

Report by: J. Gregory, CEO

#### Purpose of report

The purpose of this report is to report the outcome of the annual review of the Eastern IFCA constitution and to seek approval for relatively minor changes.

#### Recommendations

It is recommended that members:

- **Agree** to the proposed changes to the Constitution and Standing Orders.

#### Background

Eastern IFCA adopted the current Constitution and Standing Orders on 31<sup>st</sup> October 2012 with a requirement for it to be reviewed annually. The Constitution and Standing Orders are the embodiment of the requirement for the Authority to ensure that it has sound governance.

A full review of the structure of the Authority and the Constitution and Standing Orders was undertaken during 2018-19, which resulted in a number of recommendations, which were all approved at the 39<sup>th</sup> meeting of the full Authority held in March 2019.

The overall objectives were to provide a more coherent approach to dealing with Authority business, to make best use of the skills, experience and accountabilities of members and to make meetings more meaningful and productive.

The changes included discontinuing three sub-committees and moving functions to the full Authority in order to engage the full Authority membership in the core business of the Authority, such as the strategic policy and planning framework and fisheries and conservation management decisions.

In order to remove duplication, the functions undertaken by the Finance and HR sub-committee were expanded to include all financial matters with the

exception of approving the annual budget and levy, which remained the preserve of the full Authority on recommendation from the Finance and HR sub-committee. In recognition of the expanded remit of this sub-committee it was agreed that the Chair and Vice-Chair of the Authority undertake the same functions on the sub-committee.

The Fisheries and Conservation Working Group was established to enable greater participation of members in the development of management measures. This enables issues to be identified and more discussion before formal proposals are prepared for consideration by the full Authority.

### **Report**

Some relatively minor amendments are proposed and are set out in Appendix A. The most notable of these are revisions to provisions in the scheme of delegations to enable business continuity and changes in the name and functions of the Wash Fisheries Transition sub-committee and the creation of the Wash Appeals sub-committee, which were approved at the meeting of the full Authority held on 14 September 2022.

The Constitution and Standing Orders and proposed changes have been reviewed by nplaw, who concluded that the document remains 'legally robust.' They also advised that there have been no changes in law that should be taken into account, but they did mention the Subsidy Control Act 2022, which might apply if the Authority are awarding subsidies (e.g. grants/funding), directly or indirectly from public resources. Whilst the Authority does not normally undertake such activity it may be a relevant issue in some circumstances so officers will review the relevant legislation.

### **Financial implications**

The only financial implications are charges for the assistance and advice drawn from nplaw.

### **Legal implications**

It is a legal requirement for the Authority to keep abreast of revised legislation for the operation and conduct of public business. Nplaw have advised on the revisions to the Constitution and Standing Orders.

### **Conclusion**

The Constitution and Standing Orders as adopted remain fit for purpose and require only the adjustments listed. The Clerk will continue to hold them under review and will bring any future changes to the Authority meeting in March annually unless there is a pressing need to make changes more urgently.

### **Appendices**

Appendix A – Proposed Revisions to the Constitution and Standing Orders

### **Background documents**

Papers and minutes of the 47<sup>th</sup> meeting of the full Authority held on 9 March 2022



Papers and minutes of the 49<sup>th</sup> meeting of the full Authority held on 14 September 2022.

Eastern IFCA Constitution and Standing Orders

[2021\\_03\\_09\\_EIFCA\\_Constitution\\_2022\\_Approved.pdf](#) ([eastern-ifca.gov.uk](http://eastern-ifca.gov.uk))

## Appendix A

<b>Proposed Revisions to the Constitution and Standing Orders</b>			
<b>Ref</b>	<b>Original Text</b>	<b>Revised Text</b>	<b>Rationale</b>
Chapter 1 Para 11.8	The quorum for a sub-committee will be one third of the total membership.	The quorum for a sub-committee will be three members. In the case of the Wash Appeals sub-committee all three members must be present.	Previous disparity as the full Authority requires less than a third of members to be quorate. Enable business continuity in the event of low turnout of members.
Chapter 1 Para 11.9	Only members of the Eastern IFCA are eligible to be members of a sub-committee. <sup>41</sup> Any member is eligible to be appointed to any sub-committee.	Only members of the Eastern IFCA are eligible to be members of a sub-committee. <sup>42</sup> Any member is eligible to be appointed to any sub-committee unless specified otherwise.	As set out in the papers supporting agenda item 13 of the 47 <sup>th</sup> Authority meeting and item 10 of the 49 <sup>th</sup> Authority meeting
Chapter 1 Para 11.10	Each sub-committee will consist of at least nine members of the Authority, including the Chair and Vice-Chair as ex-officio members. In the case of the Finance and HR sub-committee the Chair and Vice-Chair of the Authority will be full members of the sub-committee.	Unless otherwise stated, each sub-committee will consist of at least seven members of the Authority. The Chair and Vice-Chair will be ex-officio members of any sub-committee for which they are not a formal member with the exception of the Wash Fisheries sub-committee as a consequence of their role on the Wash Appeals sub-committee. In the case of the Finance and HR sub-committee the Chair and Vice-Chair of the	To cater for other amendments as a consequence of introducing the Wash Fisheries and Wash Appeals sub-committees

<sup>41</sup> Article 17(2) Eastern IFCA Order 2010

<sup>42</sup> Article 17(2) Eastern IFCA Order 2010

		Authority will be full members of the sub-committee.	
Chapter 1 Para 11.11	The Finance and HR sub-committee will comprise all council appointed members together with three non-elected members appointed by the Authority	The Finance and HR sub-committee will comprise all county council appointed members together with two non-elected members appointed by the Authority.	Revert to the previous number of members to reduce the burden on individual members
Chapter 1 Para 11.12	Not applicable – new paragraph	The Wash Fisheries sub-committee will comprise seven members, none of whom will have a Declared Pecuniary Interest or connection with the cockle and mussel fisheries in the Wash.	As set out in the papers supporting agenda item 13 of the 47 <sup>th</sup> Authority meeting and item 10 of the 49 <sup>th</sup> Authority meeting
Chapter 1 Para 11.13	Not applicable – new paragraph	The Wash Appeals sub-committee will comprise the Chair of the Authority, the Vice-Chair and one other elected member. No such members may have a Declared Pecuniary Interest or connection with the cockle and mussel fisheries in the Wash.	As set out in the papers supporting agenda item 10 of the 49 <sup>th</sup> Authority meeting
Chapter 1 Para 11.23 (old number) Para 11.25 (new number)	Any member of the Authority can act as a substitute for a member of a Sub-Committee.	Any member of the Authority can act as a substitute for a member of a Sub-Committee, except in the case of the Wash Fisheries and Wash Appeals sub-committees where substitutes must not have a DPI or other interest in the Wash	As set out in the papers supporting agenda item 13 of the 47 <sup>th</sup> Authority meeting and item 10 of the 49 <sup>th</sup> Authority meeting

		cockle and mussel fisheries.	
Chapter 4 Scheme of Delegations Wash Fisheries sub-committee.	<p>MATTERS WHICH IT IS THE RESPONSIBILITY OF THE WASH FISHERIES TRANSITION SUB-COMMITTEE TO DISCHARGE</p> <p>Managing all matters relating to the transition of access to the Wash cockle and mussel fisheries from the Wash Fishery Order 1992 to the Wash Cockle and Mussel Byelaw 2021 in accordance with approved policy including:</p> <ul style="list-style-type: none"> <li>• Transition from the entitlement to licences under Wash Fishery Order 1992 to eligibility for permits under the Wash Cockle and Mussel Byelaw 2021</li> <li>• Allocation of any new permits</li> <li>• Permit succession</li> <li>• Permit allocation in exceptional circumstances</li> </ul> <p>The Sub-Committee may delegate any of its powers to an individual member of the Sub-Committee or to the CEO except where the power falls to be discharged by a panel.</p> <p>The Chair of the Sub-Committee, or the CEO in consultation</p>	<p>MATTERS WHICH IT IS THE RESPONSIBILITY OF THE WASH FISHERIES SUB-COMMITTEE TO DISCHARGE</p> <p>Decision making in the matters set out below under the Wash Cockle and Mussel Byelaw 2021 Eligibility Policy:</p> <ul style="list-style-type: none"> <li>• Transition from the entitlement to licences under Wash Fishery Order 1992 to eligibility for permits under the Wash Cockle and Mussel Byelaw 2021</li> <li>• Allocation of new permits</li> <li>• Permit succession</li> <li>• Permit allocation in exceptional circumstances</li> <li>• Cancellation of a permit</li> <li>• Change of vessel or vessel ownership referred to the sub-committee by the CEO</li> </ul> <p>The Sub-Committee may delegate any of its powers to an individual member of the Sub-Committee or to the CEO except where the power falls to be discharged by a panel.</p> <p>The Chair of the Sub-Committee, or the CEO in consultation with the Chair, may refer any of the matters set out above to the full Authority for</p>	As set out in the paper supporting agenda item 10 of the 49th Authority meeting

	with the Chair, may refer any of the matters set out above to the full Authority for determination, where this is in the Authority's interests.	determination, where this is in the Authority's interests.	
Chapter 4 Scheme of Delegations Wash Appeals sub-committee.	Not applicable – new insertion	<b>MATTERS WHICH IT IS THE RESPONSIBILITY OF THE WASH APPEALS SUB-COMMITTEE TO DISCHARGE</b>  To consider appeals either in writing or in person against decisions taken under the Wash Cockle and Mussel Byelaw 2021 Eligibility Policy insofar as appeals are permitted under that policy.	As set out in the paper supporting agenda item 10 of the 49th Authority meeting
Chapter 4 Scheme of Delegations Chief Executive Officer	<b>Provision for emergencies</b> 27. Where, in the opinion of the CEO (or their nominated deputy in their absence) a decision which is within the powers of the Authority or a Sub-Committee, but is not within the CEO's delegated powers, is urgently required by the Eastern IFCA, and cannot be delayed until an Authority or relevant Sub-Committee meeting is convened, the CEO may take the decision, having first consulted the Chairman and the Vice-Chairman of the Authority and, where relevant, the Sub-Committee Chair and	<b>Provision for urgent matters and business continuity</b> 27. Where, in the opinion of the CEO (or their nominated deputy in their absence) a decision which is within the powers of the Authority or a Sub-Committee, but is not within the CEO's delegated powers, is urgently required by the Eastern IFCA, and cannot be delayed until an the next scheduled meeting of the Authority or relevant Sub-Committee, the CEO (or their nominated deputy in their absence) may take the decision, having first consulted the Chair and the Vice-Chair of the Authority or the relevant Sub-Committee. All such	To enable timely decisions and business continuity where necessary.

	<p>Vice-Chair. All such decisions must be reported to the next meeting of the Authority and the relevant Sub-Committee.</p>	<p>decisions must be reported to the next meeting of the Authority or the relevant Sub-Committee.</p> <p>28. Where a scheduled meeting of the Authority or a Sub-Committee is not quorate and in the opinion of the CEO (or their nominated deputy in their absence) a decision which is within the powers of the Authority or a Sub-Committee, but is not within the CEO's delegated powers, is required to enable business continuity the CEO (or their nominated deputy in their absence) may take the decision, having first consulted the Chair and the Vice-Chair of the Authority or the relevant Sub-Committee. All such decisions must be reported to the next meeting of the Authority or the relevant Sub-Committee.</p>	
<p>CHAPTER 5 Financial Regulations Para 2.1</p>	<p>Detailed estimates of income and expenditure on revenue services, and receipts and payments on capital account, shall be prepared each year by the RFO. Proposals in respect of revenue services and capital projects in a rolling five-year forecast shall also be prepared each year by the RFO.</p>	<p>Detailed estimates of income and expenditure on revenue services, and receipts and payments on capital account, shall be prepared as directed each year by the RFO. Proposals in respect of revenue services and capital projects in a rolling five-year forecast shall also be prepared as directed each year by the RFO.</p>	<p>To enable outsourced accountancy services</p>

<p>CHAPTER 5 Financial Regulations Para 4.2</p>	<p>The RFO shall be responsible for completing the annual accounts of the Authority as soon as practicable after the end of the financial year and shall submit them to and report thereon to the Finance and HR Sub-Committee by no later than 31st May in any one year. The Finance and HR Sub-Committee is responsible for the approval of the annual Statement of Accounts prior to submission to the external auditors</p>	<p>The RFO shall be responsible for ensuring the annual accounts are completed in a timely manner for presentation to the Authority as soon as practicable after the end of the financial year and shall submit them to and report thereon to the Finance and HR Sub-Committee at the first scheduled meeting after 31 May in any one year. The Finance and HR Sub-Committee is responsible for the approval of the annual Statement of Accounts prior to submission to the external auditors.</p>	<p>To address anomaly on target date that is not possible due to change in meeting dates for the Finance &amp; HR sub-cttee.</p>
<p>CHAPTER 5 Financial Regulations Para 5.2</p>	<p>A schedule of payments made, and monies received shall be prepared by the RFO and presented to the Finance and HR sub-committee at their Meetings. If the schedule is in order, it shall be authorised by a resolution of the members, and minuted, with such minutes signed/initialled by the Chair or Vice Chair.</p>	<p>A schedule of payments made, and monies received shall be prepared as directed by the RFO and presented to the Finance and HR sub-committee at their Meetings. If the schedule is in order, it shall be authorised by a resolution of the members, minuted with such minutes signed/initialled by the Chair or Vice Chair</p>	<p>To enable outsourced accountancy services</p>
<p>CHAPTER 5 Financial Regulations Para 5.3 (second para)</p>	<p>Payments by BACs or by bank transfer are executed online via a password protected system. Password is restricted to Head of Finance and the Finance Assistant.</p>	<p>Payments by BACs or by bank transfer are executed online via a password protected system. Password is restricted to Head of Operations, the Admin. Supervisor, and the CEO.</p>	<p>To enable outsourced accountancy services (Head of Finance &amp; HR post will not exist)</p>

<p>CHAPTER 5 Financial Regulations Para 6.3</p>	<p>Duly certified invoices shall be passed to the Head of Finance who on behalf of the RFO shall examine them in relation to arithmetical accuracy and authorisation and shall code them to the appropriate expenditure head. The RFO shall take all possible steps to settle all invoices submitted, and which are in order, within 30 days of their receipt.</p>	<p>Duly certified invoices shall be passed to the Admin. Supervisor who on behalf of the RFO shall examine them in relation to arithmetical accuracy and authorisation and shall code them to the appropriate expenditure head. The RFO shall take all possible steps to settle all invoices submitted, and which are in order, within 30 days of their receipt.</p>	<p>To enable outsourced accountancy services (Head of Finance &amp; HR post will not exist)</p>
<p>CHAPTER 5 Financial Regulations Para 7.1</p>	<p>The payment of salaries and wages shall be made by or on behalf of the RFO from the payroll account in accordance with the payroll records.</p>	<p>The payment of salaries and wages shall be made by the authorised Payroll Bureau on behalf of the RFO from the payroll account in accordance with the payroll records.</p>	<p>To cater for revised arrangements for payroll</p>
<p>CHAPTER 5 Financial Regulations Para 9.4</p>	<p>All sums received on behalf of the Authority shall either be paid to the RFO for banking or be banked by the officer collecting the money as directed by the RFO. In all cases all receipts shall be deposited with the Authority's bankers as soon as possible.</p>	<p>All sums received on behalf of the Authority shall either be paid to the RFO for banking or be banked by the officer collecting the money as directed by the RFO. In all cases, except cash, all receipts shall be deposited with the Authority's bankers as soon as possible. Where cash to a maximum of £500 is received, it should be reported to the RFO, appropriately recorded on the Sage system. If agreed by the RFO it may be deposited in Petty Cash as an alternative to banking.</p>	<p>This change reflects the current situation where depositing cash is both inconvenient and expensive.</p>



CHAPTER 5 Financial Regulations Para 10.1	An official order or letter shall be issued for all work, goods and services unless a formal contract is to be prepared or an official order would be inappropriate e.g. petty cash or low value purposes. Copies of orders issued shall be maintained.	An official order or letter shall be issued for all work, goods, and services unless a formal contract is to be prepared or an official order would be inappropriate e.g. petty cash or low value purposes (up to £50). Copies of orders issued shall be maintained.	Auditors identified that 'low value' was not defined – now defined as £50 maximum)
CHAPTER 5 Financial Regulations Para 11.1(b)	Not applicable – new insertion	(iii) the RFO shall not be obliged to accept the lowest of any quotation but will consider which provides Best Value for the Authority as well as such matters as timeliness of supply and quality.	To clarify to reflect actual practice

### 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 16

### 51<sup>st</sup> Eastern Inshore Fisheries and Conservation Authority Meeting

08 February 2023

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

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

#### **Purpose of report**

The purpose of this report is to update members on progress against 2022-23 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.

The Authority has a rolling five-year Business Plan that incorporates annual priorities informed by the annual Strategic Assessment. The plan also includes the high-level objectives agreed with Defra.

The 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 December 2022 to February 2023 (inclusive).

The tables at Appendix 1 detail the progress against the key priorities for 2022-23, as set in the Business plan for 2022-27.

The Risk Register is set out at Appendix 2 and the current status of each risk area is shown at Appendix 3.

### **Appendices**

Appendix 1 – Update on priorities set for 2022-23

Appendix 2 – Risk Register

Appendix 3 – Update on Risk Register

### **Background documents**

Eastern Inshore Fisheries and Conservation Authority Business Plan 2022-27.

## APPENDIX 1 - Progress against Annual Priorities – December 2022 to February 2023

Three key priorities are established for 2022-23.

Financial Year 2022-23		
Priorities 2022-23	Progress	Comment
<p>1. To ensure that the conservation objectives of Marine Protected Areas in the district are furthered by:</p> <p>a) Implementation of management measures for ‘red-risk’ gear/feature interactions.</p> <p>b) Continued implementation of the Adaptive Risk Management approach for the Cromer Shoal Chalk Beds MCZ</p> <p>c) Development of priority Monitoring and Control plans as identified by the strategic assessment (shrimp, pot and trap fisheries).</p> <p>d) Completion of amber/green gear/feature interactions and development / Implementation of management measures where required.</p> <p>e) Effort Monitoring within the Wash SAC including implementation of new catch returns system.</p>		<p>1.a) <b>Ongoing.</b> The Marine Protected Areas byelaw 2018 is in place. It protects the most sensitive habitats in Marine Protected Areas from damage from fishing activities (i.e. it manages “red-risk” gear/feature interactions). Further iterations of the byelaw have been agreed in 2019, 2020 and 2021, to create additional restricted areas to manage red-risk interactions. The Authority agreed the Closed Areas Byelaw 2021 in December 2021. This consolidates all the previous protected area byelaws. Formal consultation has been completed on the byelaw and it will be forwarded to MMO for final QA and Defra sign-off as soon as there is capacity to do so.</p> <p><i>Inner Dowsing, Race Bank &amp; North Ridge SAC:</i> Measures to protect red risk features in this site are included in the Closed Areas Byelaw 2021. Natural England have advised that an additional area should be closed within this site due to the presence of a red risk feature (<i>Sabellaria</i> reef). Officers reviewed the evidence and concluded <i>Sabellaria</i> reef was not present. To support this conclusion, an acoustic (side-scan sonar) survey was undertaken in May 2022, and associated video ground-truthing in July 2022. Analysis of these survey data showed no evidence of <i>Sabellaria</i> reef to be present. These conclusions will be reported to Natural England and support the conclusion that the additional area should not be closed.</p>

1.b) In 2021, an Adaptive Risk Management (ARM) approach was agreed with Natural England as the most suitable approach to assess and manage the interaction between potting fisheries and the site features. This allows research to be conducted alongside the development of management measures. Under the direction of a Project Board, two Task and Finish groups are operating to undertake the research and management workstreams, while a Stakeholder Group enables wider engagement.

To support the ARM approach, officers have continued with a programme of research workstreams that commenced in 2021. These include:

- (i) Mapping the extent of the sensitive rugged chalk feature, using a combination of existing baseline multibeam survey data showing the rugosity of the seabed, coupled with ongoing ground truth surveys. These latter surveys include using video cameras mounted on remotely operated vehicles (ROVs) to film the seabed features. Natural England provided funding for the survey data from both years to be analysed externally.
- (ii) Assessing interactions between deployed potting gear and rugged chalk. This has involved deploying the ROV along shanks of gear to record in situ interactions. Videos from 18 shanks of gear that were surveyed in 2022 are currently being analysed and annotated using Biigle software.
- (iii) Improving our understanding of spatial and temporal fishing activities within the site by monitoring the tracks of 12 vessels signed up to voluntary use of trackers.

- (iv) Improving our understanding of the economic importance of the rugged chalk by comparing crab and lobster catches from on and off the rugged chalk area. This has involved regular biosampling of catch aboard a commercial fishing vessel.
- (v) A plan to study the effectiveness of specific gear adaptations on reducing potting impacts on rugged chalk features. A set of pots was acquired in 2022 to test the effectiveness of soft-armouring on pots and attaching floats on the drop lines. Unfortunately, attempts to deploy the gear this year in 2022 were unsuccessful. This aspect of the project may now have been superseded by a planned project to study the impacts of natural disturbance compared to potting interactions (see below). The gear will nevertheless be used to support aspects of the natural disturbance study by using electronic sensors on the pots and ground rope to study gear movements over the tidal cycle.
- (vi) Members of the R&D Task and Finish group have been in discussion with Blue Marine Foundation to develop a project to study the impacts of natural disturbance compared to potting interactions. This project is planned to monitor changes to rugged chalk features in fished and unfished (closed) areas over a 3-year period.

With regards to the management aspects of ARM, a code of best practice is in effect, which seeks to minimise the incidents of fishing gear becoming lost in the MCZ, and officers are monitoring compliance with the code. A means

of safely recovering gear identified by divers is also in development to support the code.

Informal consultation on a management mechanism and some regulatory measures for the protection of the MCZ has been undertaken in two phases. Phase 1 focussed on dialogue with fishing industry to provide them an opportunity to propose measures which will reduce the risk to the site. Phase 2 of the consultation included dialogue with the full range of stakeholders to consider the full set of proposals and to inform the development of the Cromer Shoal Chalk Beds Byelaw, which is presented to members for consideration at this meeting (Agenda Item 13).

1.c) **Delayed. It has not been possible to progress this workstream** because resources have been directed towards priority MCZ work, Fisheries Management Plans and because of ongoing vacancies in the Marine Science team. However, it is re-iterated that fisheries monitoring and control comprise routine work for the Authority and continue despite formal monitoring and control plans not yet being produced.

1.d) **Delayed.** Management has been agreed for “highest risk” amber/green gear/feature interactions, i.e. towed demersal fishing on subtidal sediment habitats (Closed Areas Byelaw 2021 and previous iterations). Amber/green assessments (and subsequent management if required) yet to be completed for more recently designated MPAs. Officers plan to review/update the original suite of amber/green assessments (originally produced in 2015-16), but this work has been delayed because of the need to focus resource on

		<p>MCZ research and management, fisheries management plans, HRAs for ongoing Wash fisheries, and team churn / training.</p> <p>1.e) <b>Delayed.</b> A monitoring programme is now established, including effective compliance monitoring of catch return information which underpins the programme. The monitoring programme will ensure that shrimp fishing effort within the Wash MPAs is maintained at levels which do not hinder the associated conservation objectives. The Shrimp Permit Byelaw 2018 has been confirmed by the Secretary of State, under which effort limitation measures can be brought into effect as required. Implementation of the byelaw is delayed, primarily as a result of the timing of confirmation coinciding with the formal consultation on Wash access policies (late 2022) and WFO transition. However, monitoring identifies that shrimp fishing effort is very low (well below normal levels) and as such, there is no risk to conservation objectives in this regard at present. It is anticipated that implementation of the Shrimp Permit Byelaw will start in Q1 of 2023/24.</p>
<p>2. To develop management of the fisheries regulated under the WFO (regulated and several fishery)</p>		<p>2.a) <b>Ongoing.</b> The Wash Fishery Order 1992 (WFO) expired on 4 January 2023 and interim measures are in place to</p>



<ul style="list-style-type: none"> <li>a) Replacement of the Wash Fishery Order/Several Order with the Wash Cockle and Mussel Byelaw 2021 and the Wash Several Order 2022.</li> <li>b) Finalise and implement policy on access to the fisheries</li> </ul>		<p>manage fisheries pending confirmation of replacement management mechanisms.</p> <p>The application for a Several Order was delayed as a result of pursuing legal advice in relation to the interaction between the leases issued by the Authority to lay holders and the Landlord and Tenant’s Act 1954. Legal advice on the matter is being finalised however, lay holders have also indicated their intention to object to the Fisheries Management Plan which underpins the Several Order applications and the implications of these are being actively considered.</p> <p>The Wash Cockle and Mussel byelaw 2021, which will manage wild capture fisheries in place of the WFO, is at the latter stages of the formal quality assurance process undertaken by the MMO.</p> <p>2.b) <b>Ongoing.</b> Access policies were finalised and agreed by the Authority at the 49<sup>th</sup> Eastern IFCA meeting. Implementation of the transition under the policy is underway: phase 1, which deals with existing WFO entitlement holders, has been completed and Phase 2 was launched on 9 February. It is intended that the Wash Fisheries Sub-Committee will make decisions on issuing permits under phase 1 and 2 in April of 2023.</p>
<ul style="list-style-type: none"> <li>3. Obtaining better fisheries data <ul style="list-style-type: none"> <li>a. Implementation of I-VMS for all fisheries specifically the Wash Shrimp fishery (dependent on partnership working with MMO led project).</li> </ul> </li> </ul>		<p>4.a) <b>Ongoing.</b> National roll-out of I-VMS is underway (led by the MMO) and national legislation requiring such is anticipated in Autumn of 2023.</p>

		It is unlikely that national requirements to align reporting requirements from VMS and I-VMS vessels will come into effect in the near future. Therefore the need for IFCA byelaw to implement I-VMS requirements, particularly in the Wash shrimp fishery, is being considered.
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**Key:**

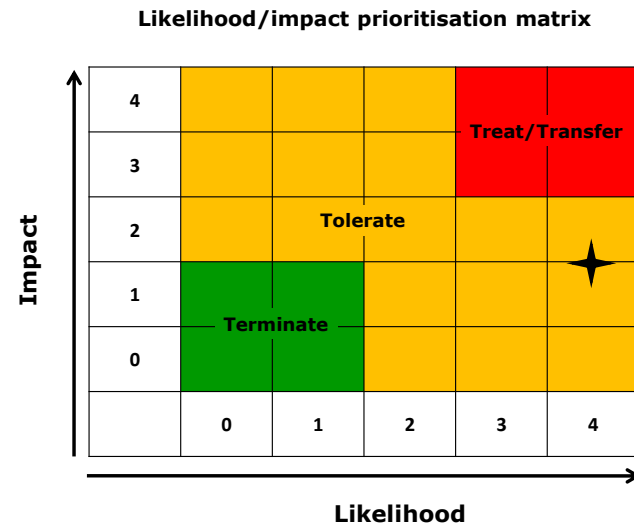
	<b>Complete</b>
	<b>In progress</b>
	<b>Progress stalled</b>

## APPENDIX 2 – Risk Register

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

The four actions that can be applied are:

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



### Risk matrix with worked example

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

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Eastern IFCA fails to secure funding to replace assets	CEO	Substantial reduction in Eastern IFCA mobility particularly seaborne activities with consequential inability to fulfil full range of duties	<b>4</b>		<b>2</b> Finance Directors agreed to annual capital contributions from 2019-20 onwards to cater for the cost of asset replacement as an alternative to requests for a lump sum amounts as assets are replaced. No guarantees were given or implied. Eastern IFCA will explore all avenues for funding.		<ul style="list-style-type: none"> <li>• Current level of reserves provides sufficient funding to cover replacement of <i>RV Three Counties</i></li> <li>• The open RHIB, FPV Seaspray, was procured using EMFF funding</li> <li>• Seek efficiencies and promote cost effectiveness.</li> <li>• Demonstrate value for money.</li> <li>• Advertise/promote Eastern IFCA output and effectiveness to funding authorities through regular engagement with Council leaders and Financial Directors.</li> <li>• Engage with partner agencies to identify alternative funding sources</li> <li>• Explore asset sharing initiatives</li> <li>• Agreement in place with funding authorities for capital funding contributions each year. Confirmed at the annual meeting with representatives of the Finance Directors.</li> </ul>	Tolerate
			<b>Reputation</b>	<b>Financial</b>				
			<b>4</b>	<b>4</b>				
			Drive for savings may impact County Councils' decisions regarding Eastern IFCA funding. Visible presence reduced, enforcement and survey activities compromised.	Inability to generate sufficient reserves to meet asset replacement schedule would threaten Eastern IFCA's ability to function.  Closure costs could result.				

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	Potential changes in several areas, including: - regulatory framework - fisheries management methodology - regulations (enforcement) - environment conservation	<b>3</b>		<b>3</b>		<ul style="list-style-type: none"> <li>• Monitor developments in the post-EU exit landscape, particularly fish and shellfish exports</li> <li>• Engage in national I to help inform and influence developments (e.g. IFCA Chief Officers Group, Association of IFCAs)</li> <li>• Continue "business as usual"</li> <li>• Maintain communication with partners</li> <li>• Eastern IFCA is fully engaged with the MMO in terms of operational readiness, with a MoU in place for the provision of vessels and joint patrols.</li> <li>• Eastern IFCA is engaged with Cefas and the FHI in engaging industry regarding export and import of shellfish and works with NNDC to facilitate registration of food premises as a result of EU exit related requirements</li> <li>• Officers engaged in future of inshore fisheries management work with Defra and other stakeholders.</li> <li>• The Authority is supportive the REAF initiative.</li> </ul>	<b>Tolerate</b>
			<b>Reputation</b>	<b>Financial</b>	EU exit will have an inevitable but currently unpredictable impact. Eastern IFCA responsibilities unchanged in the short term to medium term			
			<b>3</b> Eastern IFCA may be affected by developments beyond their control (fisher's expectations were high and were not fully met). Blame for change and or lack of change.	<b>3</b> 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	If Eastern IFCA fails to maintain relevance amongst partners Eastern IFCA's utility will come under scrutiny potentially resulting in re-allocation of duties	<b>4</b>	<b>4</b>	<b>2</b>	Possible – Whilst positive relationships have been established the existence of disparate partner aspirations introduces complexities which may drive perceptions of bias or inefficiency.	<ul style="list-style-type: none"> <li>Provide a leadership function.</li> <li>Be proactive and identify issues early.</li> <li>Engage with all partners routinely.</li> <li>Use Business Plan to prioritise and communicate outputs, Measure progress/deliver outputs</li> <li>Represent community issues to higher authorities</li> <li>Recent revisions undertaken to the ARM project for the MCZ to address wider stakeholders concerns about engagement</li> <li>Effective business planning process in place.</li> <li>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.</li> </ul>	Tolerate
			<b>Reputation</b> <b>4</b>	<b>Financial</b> <b>4</b>				
Negative media comment	CEO	Negative perceptions of Eastern IFCA utility and effectiveness created at MMO/Defra Loss of Partner confidence Media scrutiny of individual Authority members	<b>3</b>	<b>2</b>	<b>4</b>	Likely – disenfranchised partners seeking to introduce doubt as to Eastern IFCA professionalism, utility and effectiveness	<ul style="list-style-type: none"> <li>Actively and regularly engage with all partners including media outlets.</li> <li>Utilise full potential of social media and web-based information.</li> <li>Embed professional standards and practices.</li> <li>Deliver change efficiently and effectively.</li> <li>Promote activity</li> <li>Assure recognition and understanding through community events</li> <li>Routine updating of news items on website.</li> <li>Active on social media with demonstrable improvements in 'reach'.</li> <li>Parliamentary Review (above).</li> <li>Monitor media presence and engage where appropriate. Letters written in response to adverse articles regarding the WFO replacement in October 2021.</li> </ul>	Treat
			<b>Reputation</b> <b>4</b>	<b>Financial</b> <b>2</b>				
			Eastern IFCA perceived to be underperforming	Negative perceptions introduce risk to continued funding				
			Eastern IFCA considered poor value for money					
			Eastern IFCA perceived as irrelevant					

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Degradation of MPAs due to fishing activity	CEO	Loss or damage of important habitats and species within environmentally designated areas Potential for European infraction nationally resulting in significant financial penalties at the local level.	<b>3.5</b>		<b>2</b>	Possible - Eastern IFCA's approach to managing sea fisheries resources considers environmental obligations	<ul style="list-style-type: none"> <li>Proposed fishing activities authorised by Eastern IFCA are assessed per Habitats Regulations</li> <li>Eastern IFCA is fully engaged in national fisheries/MPA project, prioritising management of highest risk fisheries in MPAs and implementing new management measures</li> <li>Effective monitoring of fishing activity and enforcement of measures</li> <li>Adaptive co-management approach to fisheries management – i.e. engagement with fishing and conservation interests in the development of management measures, and appropriate review of measures to respond to changing environmental and socio-economic factors</li> <li>Ongoing, close liaison with Natural England regarding all conservation matters</li> <li>Review agreed Wash Cockle &amp; Mussel Policies</li> <li>Develop the use of I-VMS as a management tool by the Authority, &gt;12m implementation expected in 2022.</li> <li>Continue to progress research into the impact of fishing activities on MPA features to ensure the Authority has an up-to-date evidence base to inform its management decisions.</li> <li>MPA management has been a high priority since 2012 with substantial progress made. Current workstreams (e.g. Cromer Shoal MCZ, remaining 'red risk' sites and Closed Areas Byelaw 2021) are a high priority and are being progressed.</li> </ul>	Tolerate
			<b>Reputation</b>	<b>Financial</b>				
			<b>4</b>	<b>3</b>				
			Eastern IFCA is not meeting statutory duties under EU & UK conservation legislation Eastern IFCA not achieving vision as champion of sustainable marine environment	Legal challenge brought against Eastern IFCA for failing to meet obligations under MaCAA and the Habitats Regulations				

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Shellfish and fish stocks collapse	CEO	Risk of significant negative impact upon industry viability with associated social and economic problems	3		3		<ul style="list-style-type: none"> <li>Annual stock assessments of bivalve stocks in Wash</li> <li>Annual review of the level of threat via the Strategic Assessment</li> <li>Ability to allocate sufficient resources to monitoring of landings and effective enforcement</li> <li>Consultation with industry on possible management measures</li> <li>Use Project Inshore Phase 4 output to inform MSC pre-assessment review of fisheries and validate management measures</li> <li>Develop stock conservation measures for crab and lobster fisheries through engagement with Cefas and fishing industry. Continue support for industry led Fisheries Improvement Plan</li> <li>SWEEP research into primary productivity levels within the Wash</li> <li>Regular engagement with the industry to discuss specific matters</li> <li>Continued research into the cockle and mussel mortality events.</li> <li>Whelk research is ongoing to identify level of risk posed and potential mitigation for sustainability concerns.</li> <li>Consider bass management measures if necessary, in light of EU/UK measures</li> <li>Annual surveys of Wash cockle and mussel stocks alongside innovative approach to management of the cockle fishery e.g. closure of cockle fishery in Nov 2019 due to emerging findings of mussel surveys in order to mitigate impact on 2020 cockle fishery.</li> <li>Consideration given to an engagement plan to educate and inform about small cockles, including engagement with processors for officers to better understand the market context.</li> </ul>	Treat
			Reputation	Financial	Possible - Bivalve stocks have high natural variation; "atypical mortality" affecting stocks despite application of stringent fishery control measures. Crustacean stocks not currently subject to effort control. Bass stocks nationally and internationally under severe pressure. Regional whelk fisheries effort becoming unsustainable. Regional crab and lobster stocks being potentially exploited beyond maximum sustainable yield and limited data set to consider stock health at local level.			
			3	3	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 into the cause of collapsed stocks and increased engagement and discussion with partners			



Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Failure to secure data	CEO	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	Possible - Limited staff access to both electronic and paper files Office secure with CCTV, keypad entry system and alarm	<ul style="list-style-type: none"> <li>All computers are password protected. Individuals only have access to the server through their own computer.</li> <li>Secure wireless internet</li> <li>Remote back up of electronic files</li> <li>Access to electronic files is restricted</li> <li>Up to date virus software installed on all computers</li> <li>Important documents secured in safes</li> <li>ICT equipment and policies provided by public sector provider – including encrypted laptops/secure governmental email system</li> <li>All Eastern IFCA personnel undergo DPA training</li> <li>Electronic backup of all Eastern IFCA documents held by ICT provider offsite</li> <li>Policies and processes developed to ensure compliance with GDPR.</li> </ul>	Tolerate
			Reputation	Financial				
			4	4				
			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				
New Burdens Funding discontinued	CEO	Substantial reduction in Eastern IFCA capability with consequential inability to fulfil full range of duties or additional burden on funding authorities.	4		2	Defra have continued to roll over new Burdens funding in recognition of the value that IFCAs provide in meeting national policy objectives.	<ul style="list-style-type: none"> <li>Association of IFCAs has consistently lobbied for the continuation of funding</li> <li>Association of IFCAs have engaged with Defra review of New Burdens funding during 2018-19 and submitted a paper in support of an increase nationally from £3m to £6m as part of the planned SR2019 and SR2020 (both on hold due to the Covid-19 pandemic)</li> <li>Finance Directors representatives briefed and understood that in the event that the funding is discontinued there may be a desire to increase levies</li> <li>Defra funding settlement for 2022-23 includes NBF at existing level for this year and indicatively for 23-24 and 24-25. Additional function specific funding also included on the same basis for each year.</li> </ul>	Treat
			Reputation	Financial				
			4	4				
			Inability to meet all obligations would have a significant impact upon reputation.	Circa 25% of the annual budget is provided by Defra under the New Burdens doctrine so its loss would have a significant impact.				

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
The Wash Fishery Order 1992 is not replaced in time when it expires in January 2023	CEO	Inability to manage the fishery with consequential impact upon industry viability and associated social and economic issues	4		4 The Authority agreed to replace the WFO 1992 with a byelaw in March 2020 and work is underway to introduce such a byelaw. There is judged to be sufficient time to get a byelaw approved but industry opposition may adversely affect this. If a replacement Regulating Order were applied for then the likelihood rating would increase to 4 and it is thought that it would be very unlikely that a new Order would be in place in time		<ul style="list-style-type: none"> <li>• Early decision taken to replace the WFO 1992 with a byelaw</li> <li>• Engagement with industry to address misgivings about the use of a Byelaw</li> <li>• Engagement with industry to develop policies that will sit under the Byelaw</li> <li>• Byelaw has been 'made' by the Authority (Sept 2021) and submitted for QA to MMO and Defra legal teams</li> <li>• Dialogue maintained with Defra teams about short-term solutions for the replacement of the Several Order</li> <li>• 30/11/22 Contingency plan in place to use Byelaw 8 to manage what are currently the regulated and several fisheries upon expiry of the WFO.</li> </ul>	Treat
			Reputation	Financial				
			4	4				
			The effective management of all fisheries within the Wash is important in terms of industry viability, sustainability of stocks and managing the impact of fishing activity in a heavily designated MPA. Loss of confidence in Eastern IFCA's ability to manage the cockle and mussel fisheries is likely to be significant if the WFO 1992 is not replaced in a timely way	Potential for legal challenge against Eastern IFCA				

### Appendix 3 – Risk Register Update December 2022 to February 2023

Risk Description	Update
Eastern IFCA fails to secure funding to replace assets	<p>Agreement in place with funding authorities for capital funding contributions each year. Confirmed that this will continue in 2023-24 at the annual meeting with representatives of the Finance Directors on Wednesday 2 November 2022 Friday 19<sup>th</sup> November 2021. However, it was indicated that anticipated reductions in public sector funding may mean that this will be reviewed next year.</p> <p><b>No change from previous quarter</b></p>
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. Officers engaged in future of inshore fisheries management work with Defra and other stakeholders.</p> <p><b>No change from previous quarter</b></p>
Eastern IFCA fails to maintain relevance amongst partners	<p>Effective business planning process in pace. Leading role taken where appropriate e.g. CEO is one of two IFCA representatives on the IFCA/MMO Strategic Operations Group. Recent revisions to the Adaptive Risk Management project for Cromer Shoal MCZ to address wider stakeholder concerns about engagement with the project.</p> <p><b>No change from previous quarter</b></p>
Negative media comment	<p>Since the decision to replace the WFO 1992 with a byelaw there has been negative comment in a fishing industry publication. More recently issues associated with the annual Wash cockle fishery combined with other issues such as the replacement of the WFO led to a demonstration at the 48<sup>th</sup> Authority meeting and some adverse publicity in local media and the fishing industry publication. The grading has been increased to Treat to reflect this as there is a likelihood for continued criticism, which include the views of</p>

	<p>a minority but vocal group of stakeholders including allegations relating to the professionalism and integrity of officers.</p> <p>Increased risk given the current consultation in connection with the quadrennial review of IFCA's which may be disproportionately influenced by the more recent increase in negative media comment.</p> <p>The expiry of the WFO 1992 prompted a surge in activity on the part of those opposed to the planned changes, which focussed on seeking political support. Interim measures were put into place to manage cockle and mussel fisheries in the Wash and to safeguard and enable aquaculture. Proactive communications appeared to manage the situation with regard to the media.</p>
<p>Degradation of MPAs due to fishing activity</p>	<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 established priorities in the Business Plan and are being progressed.</p> <p><b>No change from previous quarter</b></p>
<p>Shellfish and fish stocks collapse</p>	<p>The annual cockle surveys conducted in spring identified that due to ongoing mortalities among older cockles, combined with poor recruitment in 2019 and 2020, a fishery in 2022 would be heavily reliant on harvesting pre-spawning juvenile cockles. While this could threaten the success of the 2023 fishery, by removing small cockles that would otherwise be fished the following year, it was felt that a handwork fishery was not sufficiently efficient to threaten the long-term sustainability of the stock itself. As such, a fishery was opened with spatial closures that protected over 40% of the juvenile stocks. During the course of the fishery, regular monitoring has been conducted that has shown the fishery is mainly targeting small cockles as was predicted. There have been subsequent requests to open two of the closed areas but following further assessments, these requests have been rejected.</p> <p>The risk associated with Wash-based whelk fisheries is reduced, to an extent, because of opening the cockle fishery as fishermen will not be solely reliant on these stocks and the fishery is subject to monitoring to detect risks to sustainability.</p> <p><b>No change from previous quarter</b></p>
<p>Failure to secure data</p>	<p>Policies and processes developed to ensure compliance with GDPR.</p> <p><b>No change from previous quarter</b></p>

<p>New Burdens funding discontinued</p>	<p>Defra previously advised that 2020-21 would be the last year that New Burdens funding would be paid in its current form. Defra and the IFCA's worked 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 was a single year funding settlement for 2021-22, which did include funding for IFCA's. 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 10<sup>th</sup> November 2020 and updated on 19<sup>th</sup> November 2021.</p> <p>Defra subsequently advised that they intend to continue to provide some funding and had included it in the spending plans, but it may be associated with the development of new metrics to demonstrate that the funding achieves value. More recently Defra asked IFCA's to submit funding proposal linked to specific areas of work in anticipation of a government wide comprehensive spending review that is being conducted during Autumn. As a consequence, the Association of IFCA's on behalf of all IFCA's, submitted their anticipated spending requirements for the next three years to Defra.</p> <p>Defra subsequently secured £3 million in New Burdens Funding for 2022/2023 and indicatively for 23/24 and 24/25. Funding for specific functions for 2022/2023 and indicatively for 23/24, including developing Fisheries Management Plans, MPA management and licensing, planning and consents.</p> <p>Allocation of the funding for 2022-23, which equates to £150k per year to Eastern IFCA, is underway as reported at the December meeting of the Authority. Objectives and funding for the FMP workstream have been received but objectives and funding for the remaining two workstreams are still awaited. Capital allocations have been made for Eastern IFCA that should cover the daughter vessel for the new build replacement of <i>RV Three Counties</i> this year and much of the cost of the new 'potting vessel' next year.</p>
<p>The Wash Fishery Order 1992 is not replaced in time when it expires in January 2023</p>	<p>Mechanisms to replace the WFO have been in the process of being considered for confirmation for some time. Because neither the new byelaw or the new several order were in place upon expiry of the WFO the likelihood increased to 4 but the severity remained unchanged at a high level. However, a contingency plan is in place that uses Byelaw 8 (Temporary Closure of Shellfish Fisheries) to effectively maintain the status quo in terms of enabling and managing exploitation in both the regulated and several fisheries as they exist under the WFO.</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 18**

### **51<sup>st</sup> Eastern Inshore Fisheries and Conservation Authority Meeting**

08 March 2023

#### **Operational Update**

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

#### **Purpose of Report**

To provide members with an overview of the work carried out by the Marine Protection (verbal) and Marine Science teams during the period of December, January and February.

#### **Recommendations**

It is recommended that members:

- **Note** the content of the reports

#### **Financial Implications**

None

#### **Legal Implications**

None

#### **Appendices**

Appendix 1 – Marine Science Report

#### **Background Documents**

Not Applicable

## Updates to the Marine Science Team

Although some long-standing staff remain, the current Marine Science team is a relatively new team and is holding two vacancies, meaning considerable resource has been directed by established officers to training. This has meant that some work areas (e.g. monitoring and control plans, and “amber-green” finalisation work) have needed to be paused whilst team development and priority work on the Cromer MCZ and The Wash fisheries are progressed.

In January, Marine Science officers received training in the use of Hypack survey navigation software. Bought to replace the dated Microplot 7 navigation software currently used by the team for conducting surveys at sea, the Hypack system has greatly increased functionality over the old system. This includes tools for designing surveys and recording survey data, improved navigation functions to support surveys and the ability to interface with our Edgetech side scan sonar system, enabling the acquired data to be captured and displayed in real-time tracks.

Also in January, members of the team without RYA Yachtmaster or Day Skipper theory training conducted a Navigation and Seamanship training course to develop confidence in navigating The Wash mudflats when out on survey. The course taught officers to understand, plot and amend vessel courses (passage planning), and improved understanding of navigating at sea; taking into account buoyage, tidal awareness and general rules of pilotage.

## Managing Fisheries in MPAs

### **Impacts of potting on chalk in Cromer Shoal Chalk Beds Marine Conservation Zone (MCZ)**

Officers have completed a literature review of interactions between potting fisheries and seabed rock features, but there are few studies of potting on relatively soft rocks like chalk. An assessment has been made of the sensitivities to damage of chalk communities found in the MCZ, their resilience and recoverability. Officers received formal advice from Natural England on the updated assessment in January, which states that whilst NE agree with our conclusion that risk to rugged chalk features cannot be ruled out in the long term, a more detailed plan setting out the proposed mitigation, Adaptive Risk Management (ARM), is required before they can agree that ARM will mitigate the risk. Officers are developing an ARM Plan and have been applying the ARM approach for managing the potting fishery in the Cromer Shoal MCZ for almost two years now. This means introducing measures to minimise environmental risks, whilst undertaking research to better understand the interactions, then adapting management as required. The research side of ARM has involved conducting research cooperatively with other organisations to gain a better understanding of where the sensitive chalk features are located, where the potting activity occurs with respect to these features and to better understand the interaction between potting and the site’s sensitive features. Most recently, officers have developed an interim report to address NE’s advice.

### ***Research Updates***

Officers have completed a review of the rugged chalk extent using new available evidence sources. A draft has been shared with, and feedback sought from, industry members, the Research and Development Task and Finish Group and the Evidence



Review Group. A final draft is due to be shared by April. This is not a discrete area; mapping of the rugged chalk is an ongoing process and will be reviewed again once data collected during 2022 ROV surveys has been analysed.



Video footage collected during the 2022 ROV surveys is currently being analysed externally by Envision Mapping (funded by NE) to assess habitat and benthic communities and internally to assess potting impacts.

Officers are working with Blue Marine Foundation and Industry members to develop a collaborative natural disturbance study to investigate impacts that potting activities have on the structure of chalk features and compare this to the level of change that occurs naturally to features. This natural disturbance study is planned to be conducted over the next three years and will require significant resources, necessitating reprioritising other projects. Therefore, the planned adaptive gear trials, aimed at testing the effectiveness of soft-armouring on pots and floats on the drop lines for reducing impacts on the sensitive chalk features, will be temporarily put on hold. The fishing gear acquired for the adaptive gear trials are still likely to be used to support elements of the new project, utilising electronic movement sensors attached to pots and ropes to help determine how much they move during the course of a tide. It is expected that the natural disturbance study will improve our understanding of natural and potting impacts, which in turn will inform future adaptive gear trials.

Fishermen are continually using trackers on a voluntary basis to provide high resolution spatial information on potting activities with a total of 15 trackers currently in use. EIFCA currently have a full year's worth of data which is in the process of being analysed and will be presented in the ARM Interim Report. Officers are also working with Evidence Group members to collect pot buoy count data to help provide further information on potting activities. Officers are also analysing beach clean data and lost gear reports to assess the level of lost gear within the MCZ and inform our assessment of potting activities.

The Project Board have agreed for the Marine Conservation Society to complete a social value study for the crab and lobster fishery in the context of the MCZ using existing data sources with a final report expected by the end of March 2023.

### ***Management Updates***

#### **Code of Best Practice on Potting in the MCZ**

The Code of Best Practice aims to reduce the risk that lost gear poses to the environment, fisheries' sustainability, and the viability of fisheries livelihoods. It aims to do this by building upon and promoting existing best practice in relation to the operation of fishing gear. The Code has been endorsed by the North Norfolk Fishermen's Society and the Norfolk Independent Fishermen's Association. It has been in place for almost a year now and officers are developing an approach to monitoring its uptake with a plan to review measures together with industry in the coming months.

#### **Cromer Shoal Chalk Beds Byelaw 2023**

A flexible permitting Byelaw is being recommended at this Authority meeting which will provide a mechanism for management measures to be introduced in the MCZ as



determined through ARM. Initial measures proposed in this Byelaw include a requirement for gear marking, a requirement to recover gear at sea or ashore when notified by the Authority, and a closed season to fishing on the rugged chalk during January and February (to be included as a flexible permit condition).

### **Voluntary Partnership Agreement on Reporting, Recovery and Disposal of Abandoned, Lost or Discarded Fishing Gear**

Officers are liaising with an organisation called Ghost Fishing UK to support stakeholder agreement on developing a Voluntary Partnership Agreement on reporting, recovery and disposal of ALDFG (Abandoned Lost or Discarded Fishing Gear) in the MCZ. The intention is for a stakeholder led initiative to facilitate collaboration between fishermen, divers and beach cleaners who wish to work together and to facilitate and monitor their reporting and recovery actions.

### **Marine Protected Area casework**

- Cromer Shoal Chalk Beds MCZ: multiple workstreams (see above);
- “Amber & Green” assessments: officers have started to review the Authority’s assessments of fishing activities in marine protected areas throughout the Authority district, but this work has been delayed because of the need to focus on other priority MPA casework.
- Monitoring and Control Plans: this workstream has been put on hold as officers have needed to focus on core work relating to Cromer Shoal Chalk Beds MCZ and replacement of the Wash Fishery Order.
- Officers have responded to concerns being raised about potential disturbance to birds from bait collection activities at Breydon Water. Breydon Water is a Special Protection Area designated for a range of wetland bird species and is also a SSSI and a Ramsar site. Officers undertook a site visit in December 2022 and engaged with bait collectors, Natural England and RSPB to gather more information. The next steps will be to assess the evidence and consider whether any management intervention might be required. This area of work is complicated given the authorities’ duties and powers relating to management of activities in SSSIs. Although stakeholders’ concerns have been noted, the current level of risk relating to this issue is judged to be low, and because of staff shortages in the Marine Science team this work has been paused in order to direct resource at other priorities.

### **District-wide partnership work and stakeholder engagement**

Eastern IFCA officers participate in a range of partnership and stakeholder groups, with significant focus given to relationships with fishery stakeholders, Natural England and conservation NGOs. As well as routine liaison, recent partnership work relating to fisheries in MPAs has included:



- Working with Natural England to secure long-term consent to use a drone in sites of special scientific interest (SSSI's) for research purposes. Officers used the drone in The Wash SSSI during Autumn 2022 mussel surveys to establish the perimeter of mussel beds, identify potentially undiscovered beds and aid in quantification of the density of mussels in a bed. Officers also hope to use the drone in the Cromer MCZ to aid in the pot buoy count

project. A member of the marine science team underwent drone pilot training in 2022.

- Attending Advisory Group meetings for *The Wash & North Norfolk Marine Partnership*;
- Working with the *University of St. Andrews* on the Cromer MCZ fishing trackers project;
- Working with *Sea Mammal Research Unit* and *Natural England* on seal haul-out mapping.
- Ongoing collaboration with *Natural England, University of Essex and Cefas* to improve understanding of the rugged chalk feature in Cromer Shoal Chalk Beds MCZ;
- Ongoing work with *Marine Conservation Society's Agents of Change* project for stakeholder engagement in relation to MCZ research and development of management.

## **Fisheries Sustainability**

### **Fisheries Management Plans**

Fishery Management Plans (FMPs) are being developed by partners for DEFRA and aim to deliver collaborative fishery management (Further information: [Fisheries management plans - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/fisheries-management-plans)). Eastern IFCA are stakeholders, not the owners of FMP, so we are actively broadcasting opportunities for stakeholders and the wider public to contribute to the FMPs through social media posts and IFCO engagement/outreach to stakeholders.



Last quarter, officers attended SeaFish-led engagement events for Whelk, and Crab and Lobster Fisheries Management Plans (FMPs) across the district. This quarter, EIFCA were asked to provide feedback on draft versions of the whelk and crab and lobster FMPs before the documents are made available for public consultation later in 2023.

Officers are using the opportunity to learn more about the proposals for national management measures and to hear industry's view.

*The Authority will be involved in the FMP process by:*



- Contributing expert sectoral and inshore fisheries management advice to FMP projects.
  - Contributing evidence and data as requested by delivery partners.
  - Evaluating draft FMP content; to include commenting on objectives, management measures, evidence plans.
- Facilitating engagement between delivery partners and the inshore fishing sector.

To learn more about FMPs visit [Fisheries Management Plans \(FMPs\) | Seafish](#).

### **Mussel Fishery in The Wash**

The 2022 mussel surveys surveyed 19 inter-tidal beds, plus the Welland Bank. Excluding the Welland Wall, which is managed separately to the inter-tidal beds, the total inter-tidal mussel stock biomass was found to be 13,147 tonnes. This is a slight decline of 210 tonnes from the 2021 figure of 13,357 tonnes but still exceeds the SSSI Conservation Objective target for the site of 12,000 tonnes. Although these figures suggest the stocks have been relatively stable since the previous year, changes to the biomass on individual beds show this is not the case. Several have continued to decline, while the figures for this year have been boosted by 1,019 tonnes of mussels on the Back of the Wall bed, which was included in the surveys for the first time in 2022. Declines in adult sized ( $\geq 45\text{mm}$  length) mussels have been particularly high, causing their biomass to fall from 6,008 tonnes to 4,471 tonnes. The Conservation Objective target for these larger mussels is 7,000 tonnes, a target that has not been achieved since 2009.

Because the adult mussel stocks failed to achieve their Conservation Objective target, a harvestable fishery cannot be opened in 2023. There are sufficient juvenile stocks to open a relaying seed fishery in the spring however, with a maximum TAC of 1,147 tonnes. If opened, this fishery would be restricted to beds that primarily support juvenile mussels in order to protect the remaining adult stocks. Agenda Item 10 presents a full report with recommendations on the potential for opening a relaying mussel fishery in 2023. A Habitats Regulations assessment for a relaying fishery is in preparation.

### **Long-term Cockle HRA**

Officers are currently undertaking a long-term Habitats Regulations assessment (HRA) assessing the potential impacts of the cockle fishery on the designated features of The Wash MPAs. The assessment would be valid for at least 5 years, and it is hoped that it will allow the fishery to be opened prior to commencement of the annual cockle surveys. If the fishery were to open before the surveys it would be opened with precautionary closures in place, which would be reviewed after the surveys are complete and stock density information is available. It is planned to be completed and submitted to Natural England by April.

### **Whelk stock assessment**

Having relatively poor mobility and no planktonic larval phase to aid dispersal and recolonisation, whelk are extremely vulnerable to localised over-fishing. Officers are monitoring monthly whelk returns data in 2023 in conjunction with data for 2015-2022 to assess long-term trends, overall health of the fishery and correct reporting practices.

### **Shrimp effort monitoring in The Wash and North Norfolk Coast**

Officers continue to monitor the Brown Shrimp Fishery in the district. Although the Total Allowable Effort (TAE) for this year was set to be the maximum (1746 trips), effort across the district remains low, with only 10% of the total TAE currently reached.

### **Environmental Monitoring**

#### **The Wash EHO/biotoxin & SWEEP sampling**

Officers were unable to collect the Toft and North Lays EHO samples, DSP samples or SWEEP samples in December due to unfavourable weather conditions and vessel issues. Other than this, all planned sampling during January and February has been carried out.

### **Sustainable Development**

#### **District-wide input to consultations on marine developments**

Input to consultations in this quarter have included offshore renewable energy and seaweed aquaculture. Consideration of wind farm compensatory measures has become the major focus for wind farm developers and regulators; primarily focussing on compensation for impacts of cabling on seabed habitats impacts on seabirds. Officers are currently in compensatory measures discussions for Norfolk Vanguard and Norfolk Boreas windfarms, and for the Sheringham Extension Project & Dudgeon Extension Project wind farms. Eastern IFCA officers initially raised questions about the Boston Alternative Energy Facility (BAEF) in 2019 and met with BAEF representatives in 2022 to discuss concerns. The Secretary of State's decision on the proposed BAEF was initially postponed to January 2023, however has been put back again to July 2023.

#### **Seaweed aquaculture and harvesting**

Aquaculture is a potential area for growth in the EIFCA district. The MMO is currently undertaking a new round of public consultation on a previous application for a seaweed farm off the Norfolk coast (22.5km NE of Wells-next-the-Sea). Fishery Officers have been briefed to inform industry how to have their say on the application using the MMO's public register for marine licensing. Officers are reviewing the application documents and will ensure that the position agreed by the Authority (December 2022) on seaweed farm applications will be reflected in the response provided on behalf of the Authority.



#### **Derogations from Eastern IFCA Byelaws**

Officers have reviewed, and where relevant, granted several applications for scientific derogations from Eastern IFCA byelaw during the quarter. One such derogation was granted for the Wells Lobster Hatchery, allowing them to catch and transport a

maximum of 40 berried lobsters to the hatchery for egg release, before the lobsters themselves are released. Cefas were granted derogations for conducting beam trawl surveys within the district at 6 locations, for a maximum period of 2 weeks.