



## **52<sup>nd</sup> EIFCA Statutory Meeting**

**To Be Held at:**

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

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> June 2023**

**1030 hours**

### Vision

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



Meeting: **52<sup>nd</sup> Eastern IFCA Meeting**

Date: 14 June 2023

Time: 1030hrs

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

### Agenda

- 1 Election of the Chair of the Authority – *Clerk*
- 2 Welcome - *Chair*
- 3 To accept apologies for absence – *Chair*
- 4 Election of the Vice-Chair of the Authority – *Chair*
- 5 Declaration of Members' interests – *Chair (pg4)*

### Action items

- 6 To receive and approve as a true record, minutes of the 51<sup>st</sup> Eastern IFCA Meeting, held on 8<sup>th</sup> March 2023 – *Chair (pg13)*
- 7 Matters arising (including actions from previous meeting) – *Clerk*
- 8 To receive a report to consider Health and Safety risks and mitigation – *Hd Operations (pg31)*
- 9 To receive a report on the meeting of the Finance and HR sub-committee held on 5<sup>th</sup> May 2023 – *CEO (pg36)*
- 10 Wash Several Order Application: Due Diligence Assessment – *Project Officer (pg39)*
- 11 Wash Several Order 2022 Update – *Senior IFCO (Regulation) (pg59)*
- 12 Wash Cockle and Mussel Byelaw 2021 amendments – *Senior IFCO (Regulation) (pg76)*
- 13 Fishery Management Plans – *Senior IFCO (Regulation) (pg79)*
- 14 Cockle Fishery 2023 – *Senior Marine Science Officer (Research) (pg81)*
- 15 Quarterly review of annual priorities and Risk Register - *CEO (pg86)*

**Information items**

- 16 CEO update (verbal) – *CEO*
- 17 Head of Operations update (*pg 105*)
  - a. Marine Protection Quarterly report
  - b. Marine Science Quarterly report

**Any other business**

- 18 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  
30 May 2023

### 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 5

### 52<sup>nd</sup> Eastern Inshore Fisheries and Conservation Authority meeting

14 June 2023

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

#### **Disclosable Pecuniary Interests**

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

To present proposals for dispensations under s.33 of the Localism Act 2011 (c.20) to enable participation in discussions where members have disclosable pecuniary interests (DPIs).

##### **Recommendations**

Members are recommended to:

- **Note** the revised list of Disclosable Pecuniary Interests (DPIs) for MMO appointees (Appendix 1) and the assessment of DPI conflicts with Authority Business (Appendix 2).
- **Agree** to grant dispensations from s.31(4) of the Localism Act 2011 (c.20) to MMO Appointees, as set out in Appendix 2, to allow participation in discussions of matters for which they have a DPI for the period of four years or until their term of service is expired (whichever is first).

##### **Background**

Section 31(4) of the Localism Act 2011 (the Act) requires that any members who have a Disclosable Pecuniary Interest (DPI) in a matter at a meeting cannot participate in the associated discussion or vote on the matter. Section 33 of the Act enables the Authority to grant dispensations from this requirement to enable participation in discussions and/or voting on a matter.

Dispensations are granted for a period of up to four years or until their term ends. Where members are reappointed or the dispensation period ends, dispensations are reconsidered. In addition, where existing members DPIs change, these are considered in the context of potentially causing a conflict with matters arising.

##### **Report**

At the 51<sup>st</sup> Eastern IFCA meeting, Mr Paul Garnett notified members that he potentially had a DPI in conflict with a matter for discussion to the effect that he

operates within a business with another person who is a lay holder and as such, may have a pecuniary interest in matters relating to the management of lays. At that meeting, members considered the rationale for enabling his contribution to a discussion about the replacement of the Several Order, albeit for a paper with no substantive decisions to be made, and agreed to enable such on the basis that his contribution would be valuable to the discussion.

Mr Paul Garnett has now formally included Wash Fishery Order 1992 (WFO) lays as one of his DPIs and this is set out in an amended registry of DPIs at Appendix 1.

### Summary of assessment of DPIs against matters considered at EIFCA meetings

DPIs are considered against the ‘types’ of matters which are considered at Authority meetings with as much specificity as possible to identify conflicts. Such conflicts include, for example, where a shrimp fisherman is present for the consideration of shrimp management measures. The potential for members to unfairly influence such discussions is mitigated by the Eastern IFCA Standing Orders and Code of Conduct which sets out that members must not seek to favour their own interests and that such instances may be subject to investigation.

An assessment of the potential for conflicts to occur, the potential impacts and mitigation and whether a dispensation under s.33 of the Localism Act is at Appendix 2.

In summary, the additional DPI (i.e. ‘ownership’ of a lay in The Wash) added by Mr Garnett is likely to be in conflict with matters arising at Authority meetings.

As with previous assessments, it is considered beneficial to the Authority for members with DPIs to partake in discussions. Mr Garnett would be able to provide insight in the effectiveness of proposed management measures for Lays in The Wash which is a priority workstream at present. The expertise of members in their related fields will generally add a robustness to decisions made and help Members consider ‘real-world’ consequences of decisions. It is therefore recommended that a dispensation is appropriate for Mr Garnett’s participation in matters relating to the additional species.

It is well-established within the Authority’s practices that those with a DPI in a matter do not vote in relation to that matter. This is still considered to be the case on the basis that there are sufficient voting rights on a full range of matters across Authority membership and the integrity of a vote is therefore not at risk through a lack of voting members. As such, it is recommended that no such dispensation is granted to Mr Garnett for voting on matters relating to his DPIs.

### **Legal implications**

Legal risk associated with DPIs is mitigated through the application of due process in accordance with the Localism Act 2011 and the Eastern IFCA Constitution and Standing orders.

### **Financial implications**

None identified.

### **Appendices**

- 1. Updated Disclosable Pecuniary Interests for MMO appointees**
- 2. Consideration of granting dispensations for members with Disclosable Pecuniary Interests under section 33 of the Localism Act 2011**

## Appendix 1 - Revised Disclosable Pecuniary Interests for MMO appointees (June 2023)

### Eastern IFCA - Register of Pecuniary Interests Non-elected members (MMO appointees)

## Register of Interests

Non-elected members (MMO appointees)

Date updated: 30/05/2023



Monitoring Officer: Julian Gregory (CEO)

Signed:

Date: 30/05/2023

**Register of Pecuniary interests.** Under section 30 of the Localism Act (2011) the following Disclosable Pecuniary Interests have been declared by non-elected members including those relating to a husband / wife / spouse or civil partner or person with whom the member is living as if they were civil partners.

Name of non-elected member	1. Employment	2. Sponsorship	3. Contracts	4. Land or licences	5. Corporate tenancies	6. Securities
Mr Shane Bagley	Fisherman (specifically cockles, mussels and brown shrimps)	None	None	Boston Quay	Wash Fishery Order Shellfish Lay	Ownership of shares in the fishing vessel LILI MAE (PLN: BN439) / Boston and Fosdyke Fishing Society Limited
Mr John Davies	Fisherman (specifically Crabs, Lobsters,	None	None	None	None	JJ and CAS Davies Limited / ownership of shares in fishing vessel RICHARD WILLIAM (PLN: YH3)

	whelk, bass, finfish) / Director and Secretary of JJ and CAS Davies Limited					
Mr Paul Garnett	R. J Garnett and Sons Limited (Director) / Fisherman (specifically cockles, mussels, whelks, brown shrimps, crabs and lobsters)	None	None	None	Wash Fishery Order Shellfish Lays	R. J. Garnett and Sons Limited / King's Lynn Fishing Industry Co-Operative Limited / ownership of shares in two fishing vessels: HARVESTER (PLN: LN84) and ELIZABETH MARY (PLN: LN84)
Mr Steven Williamson	Director of J and J Shellfish Ltd / Director of Lynn Shellfish Ltd / Director of Shrimp Producers Organisation Ltd / Owner of Donaldsons (specifically cockles, mussels, whelks, brown shrimps, crabs and lobsters)	None	None	Lynn Shellfish Ltd (processing factory)	Wash Fishery Order Shellfish Lays	J and J Shellfish Ltd / Lynn Shellfish Ltd / Donaldsons / Shrimp Producers Organisation Ltd / ownership of shares in the following vessels: PORTUNUS (LN91), SEAGULL (LN22), SEASWALLOW (LN20), LYNN PRINCESS (LN175), BOY NEIL (LN126), ABBIE JAYNE (LN454), WASH PRINCESS (LN161), JOHN WILLY (LN465), MATTY JAY (LO541), GEORGIE FISHER (LN474), JALETO (MT105), SUNNY MORN



						(LN475), DOG FISH (LO119), MOLLY P (BN444), FIVE J's (BN435)
Ms Inge Smith	Freelance Marine Environmental Scientist / Polyframe Ltd (manufacture of double-glazed doors and windows)	None	None	None	None	None
Mr Ian Bowell	None	None	None	None	None	None
Mr Kieran Coupland	Merlin Enterprise (SEA LIFE) Ltd / Gaywood Primary School	None	None	None	None	None
Mr Tony Goldson	None	None	None	None	None	None
Mr Leslie Mogford	None	None	None	None	None	None
Mr Lee Doughty	Fisherman (specifically: Cockles, shrimps, and mussels)	None	None	None	Wash Fishery Order 1992 Shellfish Lay	None

## Appendix 2 – Consideration of granting dispensations for members with Disclosable Pecuniary Interests under section 33 of the Localism Act 2011

### Consideration of matters which may conflict with DPIs

This assessment considers the following additional DPIs in relation to Mr Paul Garnett (MMO appointed member) as follows:

- Ownership of a Wash Fishery Order 1992 lay (or equivalent including under interim measures or under any replacement Order) via ownership of a company associated with a lay.

Authority business is centred around Eastern IFCA’s main duties i.e. the management of fishing activity in relation to industry viability, fisheries sustainability and environmental protection. The main ‘types’ of matters for which a conflict is likely are summarised below.

- Fishery management measures – where the Authority considers issuing, varying or revoking management measures there will likely be economic impacts on fishers including Authority members with related DPIs. This includes a range of fisheries (e.g. cockle fisheries, crab and lobsters etc.). In addition, members employed by a conservation body have a DPI in ‘conservation’;
- Leasing private Rights to fisheries in the Wash – The Wash Fishery Order 1992 enables Eastern IFCA to lease portions of seabed in The Wash to fishers, including some Authority Members, for the purpose of Aquaculture;
- Agreeing to contracts to undertake work on behalf of the Authority - Members have previously agreed to contract out works (specifically research work) to fishers. Where such matters are under consideration and discussed, Members may have related DPIs.

Section 33 of the Localism Act sets out that, in considering whether to issue dispensations, the Authority must consider ‘all relevant circumstances.’ Mr Williamson’s DPIs in relation to matters relating to Authority business are set out in Table 1 (below) which also sets out potential conflicts.

Table 1 – circumstances where Mr Williamson’s <b>additional DPIs</b> may come into conflict with matters arising at Authority meetings. DPIs identified include those relating to the spouse / civil partner of the non-elected member.		
<b>MMO Appointee</b>	<b>DPIs which relate to Authority Business</b>	<b>Matters for which a DPI is relevant (in addition to existing DPIs)</b>
Mr Steven Williamson	<u>Corporate tenancy</u> – a WFO Lay is issued to the owner of a business which Mr Garnett is also the Owner of.	Management measures in relation to management of Wash Aquaculture.

### Consideration of the benefits of granting dispensations

The MMO appoints Members to IFCA's in accordance with Defra guidance<sup>1</sup> and in particular to ensure that '*members appointed by the MMO are representative of and/or hold knowledge and experience relevant to the economic, social and environmental needs of that IFCA's district and will be selected for the relevant expertise that they will bring to the Committee*'.

In doing so an Authority is able to meet the aim of the Marine and Coastal Access Act 2009 in modernising the management of the entire marine environment by achieving an appropriate balance between commercial exploitation and stock and habitat protection.

MMO appointees are required to impart their local knowledge and expertise to provide insight into the potential outcomes of Authority decisions. Such decisions (and in particular those relating to the implementation of fisheries management) are likely to have much wider ranging effects than only directly on fishermen (for example fisheries related jobs such as factory workers, tourism and cultural impacts). Benefits in relation to each identified 'type' of matter are summarised below:

- Fishery management measures – Those employed within the fishing industry will have an insight into the potential impacts of recommended management measures and can use their experience and knowledge of the industry to 'sense-check' measures and associated Impact Assessments.
- Leasing private Rights to fisheries in the Wash – The Wash is a dynamic marine environment and fishers with on-the-ground experience provide an insight into the potential impacts of granting private fisheries.
- Agreeing to contracts to undertake work on behalf of the Authority - Members employed within the fishing industry will be able to provide insight into the practicality and logistical issues associated with new research projects where the industry may be asked to participate.

## **Recommended Dispensations**

### Dispensations under s.33(2) – participation in discussions for matters in which a member has a DPI

It is recommended that dispensation should be granted in relation the additional conflicts identified in Table 1 (i.e. management measures relating to management of Wash Aquaculture) with regards to participating in discussions. It is considered in the interest of persons living within the district and to ensure that the Authority has fully considered the potential impacts of decisions. Such benefits fall within the scope of s.33(2) of the Localism Act and as such dispensations are considered appropriate. It is also recommended that the dispensations are granted for the maximum period allowed within the Localism

---

<sup>1</sup> Guidance to the Marine Management Organisation (MMO) on the appointment of committee members to Inshore Fisheries and Conservation Authorities (IFCA's), April 2010 - [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/347493/ifca\\_appointments\\_guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/347493/ifca_appointments_guidance.pdf)

Act (2011) of four years or until their term of service is expired (whichever is first) so as to align MMO appointee full term appraisals with the consideration of granting dispensations.

Dispensations under s.33(2) – voting on matters in which a member has a DPI

It is recommended that, in relation to the DPI conflicts regarding those involved within the fishing industry and specific fisheries, dispensations to vote do not fulfil the requirements of s.33(2) of the Localism Act. This is primarily because there is sufficient representation from various parts of the fishing industry to mitigate the loss of a vote on a specific matter.

## 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 8<sup>th</sup> March 2023 at 1030 hours in the Assembly Rooms, King's Lynn Town Hall.

### Members Present:

Cllr T FitzPatrick	(Chair)	Norfolk County Council
Cllr E Back		Suffolk County Council
Mr S Bagley		MMO Appointee
Cllr Chenery of Horsburgh		Norfolk County Council
Cllr P Coupland		Lincolnshire County Council
Mr J Davies		MMO Appointee
Mr L Doughty		MMO Appointee
Mr P Garnett		MMO Appointee
Mr T Goldson		MMO Appointee
Ms J Love		Natural England Representative
Cllr P Skinner		Lincolnshire County Council
Ms I Smith		MMO Appointee
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
Steve Bunn	IFCO
Ben Ford	IFCO

### Minute Taker:

Jodi Hammond

### EIFCA23/01 Item1:Welcome

The chair welcomed members to the meeting. Members were advised during agenda items 9 and 11 pre-agreed members of the industry would be permitted to speak briefly.

## **EIFCA23/02 Item 2: Apologies for Absence**

Apologies for absence were received from Cllrs Adams (NCC) and Vigo Di Gallidoro (SCC), Mr Rowley (MMO Representative), Mr Hirst (EA Representative) and Messrs Bowell, Copeland, Mogford and Shaul (MMO Appointees).

## **EIFCA23/03 Item 3: Declaration of Members Interests**

Members were advised of the following dispensations:

- Agenda Item 10: Messrs Bagley, Doughty, Garnett and Williamson had a dispensation to discuss the item but not to vote.
- Agenda Item 11: Messrs Bagley, Doughty and Williamson had a dispensation to discuss the item but not to vote.
- Agenda Item 12: Messrs Davies, Garnett, Shaul and Williamson had a dispensation to discuss but not to vote.
- Agenda Item 13: Messrs Davies, Garnett, Shaul and Williamson had a dispensation to discuss but not to vote.
- Agenda Item 14: Messrs Davies, Garnett, Shaul and Williamson had a dispensation to discuss but not to vote.

At this point Mr Garnett advised that he believed he should be included in the members listed for item 11 relating to the Wash Several Order application update, Senior IFCO Godwin advised that as Mr Garnett did not have a lay, he had not been considered as having a DPI for this agenda item. Mr Garnett advised that his father had a lay, at this point it was acknowledged that Mr Garnett potentially had an interest and would need to apply for a dispensation. It was decided to ask members to vote on whether a dispensation would be given to Mr Garnett and Senior IFCO Godwin advised members that the rationale for such was that Mr Garnett would provide a benefit to informed decisions through contribution of his experience and knowledge in accordance with the Constitution and Standing Orders.

**Members Resolved to grant dispensation to Mr Garnett to discuss matters relating to use of lays within the Wash for which he had a Disclosable Pecuniary Interest.**

**Proposed: Cllr skinner**

**Seconded: Mr Davies**

**All Agreed.**

## **EIFCA23/04 Item 4: Minutes**

**Members Resolved the minutes were a true record of proceedings.**

**Proposed: Cllr Chenery of Horsbrugh**

**Seconded: Mr Garnett  
All Agreed**

### **EIFCA23/05 Item 5: Matters Arising**

EIFCA22/66 Item 10: Wash Fishery Order 1992 Transition: The CEO advised members there had been no notable issues from the consultation. Byelaw 8 had been used to put a temporary closure in place with exemptions being given to 'entitlement' and lay holders under the Wash Fishery Order 1992.

EIFCA22/67 Item 11: Seaweed Aquaculture within EIFCA District: members were reminded this topic had been discussed at the previous meeting and in view of the importance to keep appraised of applications it was intended this would be a standing item on the FCMWG meeting. Members were made aware that a seaweed farm which had previously been considered had been resurrected, EIFCA had put in a formal objection based on issues identified.

EIFCA22/68: Item 12: Fisheries Management Plans and Defra Funding: The CEO advised there were three workstreams for which funding was being provided. Monies for one had been received and it was anticipated the rest would be received before the next financial year. Mr Goldson questioned New Burden funding, the CEO advised that EIFCA had made the case that new burdens still existed for IFCA's and therefore the additional funding still remained a necessity, Defra had made additional funding available to cover three workstreams, this was in addition to New Burden funding for the current year.

EIFCA22/70: Item 14: Authority Meeting Dates 2023-24: The CEO advised that should a decision on an early opening for the cockle fishery be required prior to a full Authority meeting, the delegated powers provided for the use of Byelaw 8 would enable the CEO, Chair and Vice Chair to make a decision if necessary.

### **EIFCA23/06 Item 6: Health & Safety Risks and Mitigation**

The Head of Marine Protection advised there had been one incident involving a trip and fall which had resulted in minor injury. There had been a number of staff who had contracted Covid, as a precaution they had been asked to work from home to avoid any further spread.

Enforcement Officers had taken part in Conflict Resolution Training, and all staff had completed online training in Manual Handling.

Members were advised there were no significant changes to Appendix 2, with work continuing in the risks associated with working at heights.

Mr Goldson questioned whether the use of body worn cameras had been successful. It was noted that they have a 30 second capture rate when on standby or can be turned on at all times and their presence provides an element of safety for Officers as well as capturing information during investigation into enforcement issues.

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

**EIFCA23/07 Item 7: Finance & HR Sub-Committee held on 7<sup>th</sup> February 2023**

The Head of Finance gave members a synopsis of the discussions that had taken place. It was noted that expenditure was showing signs of the cost-of-living increase, particularly in relation to fuel costs. Salaries remained slightly lower than budgeted due to staffing levels being below full compliment. A payment had been made to resolve a tribunal issue, on the advice of NpLaw.

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

**EIFCA23/08 Item 8: Strategic Assessment and Business Plan 2023-28**

Members were reminded the Strategic Assessment was produced annually to provide an update and guidance on where the Authority's workload and priorities needed to be focussed. The Business Plan provided a rolling five-year strategic framework which EIFCA operated within and described the vision and priorities.

Project Officer Teasdale gave a presentation on the process undergone to assess risks and the key outputs of the Strategic Assessment as well as the high priority workstreams. Both reports followed the same format as previous years.

**Members Resolved to Note the content of the Strategic Assessment, including the priorities for 2023-24. Members Approved the draft Business Plan, including the priorities and plans for 2023-28.**

**Proposed: Mr Goldson**

**Seconded: Cllr Skinner**

**All Agreed**



## **EIFCA23/09 Item 9: Wash Cockle & Mussel mortality Study**

SMSO Jessop reminded members that since 2008 cockle stocks had been suffering from high mortality rates, with mussels encountering similar mortality rates since 2010. The impact of which was changing the face of the Wash fisheries. EIFCA Officers had endeavoured to find the source of the mortality by investigating a variety of parasites and food availability rates, but nothing had conclusively shown the cause of the increased mortality. Consequently CEFAS and EIFCA began a joint project in 2020.

Anna Tidy from CEFAS provided Members with a presentation on the findings of the joint project. In summary the result of the project was the presence of a parasite named Morteilia in the connective tissue and gills of the cockles. It was not possible to determine how long the parasite had been present in the Wash or where it had come from. The same parasite had been identified in cockles on the Welsh coast.

It was suggested further project work could concentrate on the connection between ageing and cockle mortality as well as testing any archive cockle samples for presence of the parasite.

Cllr Skinner expressed concern that the parasite might be coming into the Wash on vessels, as well as why it had taken 6 years to get to this point or what the way forward would be. Ms Tidy advised that at this time the prevalence of the parasite in other species in the Wash was not known, nor was the distribution around the rest of the coast. Ms Tidy advised she could not provide answers on how to get rid of the parasite, it appeared to be present and established indicating there was not a lot that could be done, although it may be possible to work out the stresses which trigger the higher mortality and try to avoid them, hopefully testing more samples would establish the best resilience.

Mr Williamson questioned whether cockles containing the parasite were safe to eat, it was thought that as the cockles are processed prior to eating they should be safe.

Mr Doughty enquired whether the parasite was the cause of the mortality or if the parasite was taking advantage of already weak cockles. Ms Tidy could confirm the parasite was weakening the cockle but could not say it was the only cause. This led Mr Doughty to question why the Authority had not made a decision to clear the sands in order to prevent the parasite spreading and before any more stocks were lost, he felt at the first sign of die off a bed should be cleared.

SMSO Jessop advised that over the last decade attempts had been made to target cockles most likely to suffer mortality, unfortunately the effect of taking all those cockles likely to die off

was that the fishery was made up of smaller cockles and taking all those susceptible to die off would render the fishery unsustainable.

Cllr Coupland questioned what strength CEFAS had on a national level, would they be able to push forward for a solution? Ms Tidy advised the next step would be to gather wider evidence to get a bigger picture of where the parasite may have come from and a plan of action, unfortunately the process would take time.

Cllr Skinner enquired whether there was a resistant strain of cockle which could be put on small beds and the mortality monitored, or would moving cockle around be beneficial, he felt it was important to find a solution instead of sitting back.

Mr Bagley thought maybe there should be a different management plan that took more of the stock from the fishery in an attempt to keep on top of the disease, he questioned that holding onto stock could mean holding onto the parasite. SMSO Jessop felt that taking more stock would lead to problems in future years as there would be no stock.

Mr Williamson suggested taking drastic action, if the stock was completely fished out and there was no fishery for 2 years at least action would have been taken, he felt action was need now not later. The CEO acknowledged the desire for action but felt it needed to be given careful thought and doubted that there was a simple solution. Mr Davies questioned whether water temperature could be a factor in the parasite growth and whether stress from ridging out could make the cockle more susceptible to the parasite, maybe fishing out some beds to a thin amount could be done to monitor the effect.

Mr Garnett advised members that in the 1990s he understood that a similar problem had been encountered in Spain, it would be interesting to know what happened that sorted out their issue. He was uncertain fishing out would eradicate the parasite, he felt it would be prudent to find a way to manage the problem rather than eradicate the cockles, such as removing the cockles before they reach the size when they were most likely to die off.

SMSO Jessop suggested it might be worth checking other species for the parasite, also whether it was in the water all the time or just at certain times of the year, but it would not be a quick fix.

Members continued in-depth discussion into the potential options to eradicate the problem and why it had taken 10 years to get this far with only two years' worth of samples having been tested.

Members were then provided with a presentation into the mussel mortality and the potentially declining mussel stocks. The conclusion was the presence of the Haplosporidium was having an impact.

There was discussion on whether the mussels were weakened as a result of food shortage or whether the haplosporidium was weakening the energy cell and whether further work could be done on a previous trial which involved spreading shell on sands to encourage growth. It was also questioned whether there was any data linking making seas cleaner or the change in environment that was affecting the strength of mussels.

The CEO advised that it was intended to hold a workshop with industry to discuss both the cockle and mussel fisheries. Because of the relevance of the Cefas study it had been decided to await the Cefas report before making arrangements.

*At this point three Industry Representatives were permitted 5 minutes each to put across their views.*

Mr Lines questioned whether CEFAS should be considered a Centre of Excellence when they hadn't originally found the parasite in 2009 but were able to identify it now. Ms Tidy advised methodology and technology had changed since 2009.

Mr Lines went on to state that science had not found the answer to the problems in the Wash, and they needed to be addressed, he noted the Le Strange fishery, which employed suction dredging as the fishing method, seemed to be healthy he suggested there was some underlying issue that needed to be identified, without answers there would be a lot of people unemployed.

Mr W Brewster asked if Le Strange had been included in the study and was water temperature taken into account. He observed that atypical mortality didn't appear to be happening in the Le Strange fishery, which unlike the public fishery, used suction dredges. Mr Brewster felt EIFCA needed to work with the fishermen to find the solution, or there would be no work. He stated that 2015 had seen the largest spatfall in the Wash and EIFCA did nothing, he suggested mussel would benefit from being moved to lower ground where it would feed better, he added the experiment using cockle shell for mussels to settle on should have been continued, he believed farming mussel might be away to work round the problem. Mr Brewster believed no one had listened to the fishermen for the last 10 years, this was the last chance.

Ms Mummery stepped in for Mr Ken Bagley who had decided not to speak. It was Ms Mummery's belief that someone had failed, the industry needed something to fish for so they could feed their families. Something drastic needed to be done, Ministers needed to be lobbied and until the shellfish mess was sorted out fishermen needed to be given other species to target.

Ms Mummery made the point that with food shortages in the UK fish were an important resource, she didn't want to hear about EIFCA getting a new boat, new employees or seaweed farms, if there was no fishing none of it would matter.

Mr Garnett advised members that the Le Strange fishery had experienced the same mortality as the rest of the Wash. He said that he had reported atypical cockle mortality at Heacham Beach (within the Le Strange private fishery) and at Wells- next-the-Sea to CEFAS. Mr Garnett said that he had supplied a sample of affected cockles from Heacham Beach to CEFAS who tested them and confirmed atypical cockle mortality as seen elsewhere in The Wash.

*NB Subsequent to the meeting it was identified that the information about sampling was not accurate, and Mr Garnett intends to rectify this at the 52<sup>nd</sup> meeting of the Authority.*

Mr Williamson questioned whether the parasite could be buried in the sands for long periods before resurfacing. Ms Tidy thought this unlikely as the parasite would need a living host.

Mr Goldson questioned what proposal was being put forward to address what EIFCA were going to do. The CEO advised the intention was to hold a workshop, it was clear there was a strength of feeling amongst the industry to get this problem resolved. However, there was a need to do due diligence and a number of challenges to be stepped through in the hope of finding something that would genuinely help.

**Members Agreed to note the content of the paper and CEFAS presentation.**

### **EIFCA23/10 Item 10: Wash Mussel Fishery 2023**

Members were reminded that EIFCA had to ensure conservation targets were met before opening a fishery, the suite of policies would be looked at in line with survey data to determine whether or not a fishery was possible.

SMSO Jessop provided members with the finding of the 2022 autumn inter-tidal mussel surveys in the Wash. A total of 19 beds and the Welland Wall had been surveyed, which indicated a total stock which when compared to the Conservation Target was not sufficient for a harvestable fishery. However, the possibility of a relaying fishery was not excluded, it was felt there was sufficient stock for a relaying fishery of 1147 tonnes.

Senior IFCA Godwin advised that whilst the WFO1992 had expired prior to the Cockle & Mussel byelaw coming into force, there was a mechanism in place to allow exemptions from the

Closed Area Byelaw which would enable fishing should a relaying fishery be opened.

Prior to making a decision the industry would be consulted on their views of the opening and licence conditions.

Mr Doughty questioned whether the seed taken from the fishery had to be re-laid onto lays or if it could be landed. When advised the seed had to be re-laid on to a lay as the intention of the fishery was to re-lay the seed and promote growth in the Wash, Mr Doughty questioned whether it could then be removed from a lay the day after it had been put down. Mr Doughty felt too much stock on a lay would encourage die off, and having to go back the next day was double the cost for fishers. The CEO reiterated the potential fishery was a relaying fishery and the intention was that the stock stayed within the Wash, whilst stock could theoretically be removed from a lay the next day that was not the intention of the fishery. Mr Doughty reaffirmed his thought that stock on the lay has no MLS and he did not believe you could stop them from being removed. Senior IFCO Godin advised that mussels could be removed from lays because the relevant byelaw had an exemption therein with respect to mussel coming out of The Wash but that it was not the intention that they would be removed immediately, reiterating the view of the CEO.

**Members Agreed to Note:**

- **the findings of the 2022 Autumn Mussel surveys and specifically that the Conservation Objective target for total mussel biomass had been achieved but the target for adult biomass had not:**
- **the proposed management measures for the fishery including the associated rationale and the mechanism for implementing management under the interim measures.**

**Members Resolved to Agree:**

- **subject to consultation, to open a re-laying mussel fishery with a maximum TAC of 1,147 tonnes;**
- **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 was open;**
- **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 mussel fishery in the event that the byelaw came into effect;**

- 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;
- that the dredge and hand-worked relaying fisheries would close on 31<sup>st</sup> August 2023 or when the respective quotas were exhausted, whichever was the sooner.

**Proposed: Mr Goldson**

**Seconded: Cllr Skinner**

**All Agreed**

### **EIFCA23/11 Item 11: Wash Several Order Application Update**

This Agenda item was intended to update Members on the status of the application for a new Several Order in the Wash and associated issues.

Consultation during January and February had revealed lay holders had concerns over the long-term surety of holding a lay and therefore business continuity. Particular concern was the review of leases every 5 years and the requirement to meet certain criteria in order to retain a lay, there was also legal questions raised in relation to the Landlord and Tenant Act being applicable to lay leases. This matter had been investigated; early indications were that the Act did not apply but final legal advice was pending. Once this was received Officers would continue to progress the application.

However, having heard the concerns of the industry and the intimation that industry may seek to object during consultation it was felt it was in the interest of the Authority to provide a detailed Business Plan for Members to consider with regard to continuing to progress the Several Order application. It was the intention this would be prepared in time for the next Authority Meeting, so members were fully informed on the implications of such a Several Order.

Members discussed the historical nature of lays, the fact that some fishers based their business around stock on their lays, but also the difficulty in recent years to gather sufficient seed to stock a lay. One member felt the lack of stock on a lay should not be a determining factor in whether or not a lay should be retained, if it wasn't stocked it was felt it was doing no harm. The CEO explained that being the grantee of an Order placed a responsibility on the Authority to make sure lays were being used because they were severed from the public fishery. Mr Doughty felt lays should be available to encourage the spreading around of spat in the Wash, he felt lays were the last

bastion of control fishers had and EIFCA were considering taking it away. Senior IFCO Godwin suggested if the lays were being used during the 5-year period there would be nothing to fear, and should the Authority decide not to pursue a Several Order fishers could look to take out their own Order as had been raised by Mr Doughty at the last Authority meeting.

*At this point Mr W Brewster was permitted to speak on behalf of the industry*

Mr Brewster questioned why EIFCA, with limited resources now wanted to spend time and money discussing something that had been in place since 1968. He felt lays had a positive impact bringing food into the Wash, the current negative impact was not down to the industry. He felt that rather than suggesting not replacing the Several Order EIFCA should be looking into ways of keeping them. The issue of a 5 year review he felt was not viable when it takes 3 years to grow mussels on, this was not conducive to a decent Business Plan, unfortunately those making the guidance had no experience of fisheries management.

Cllr Skinner felt the matter needed to be looked at properly, the industry needed support.

Mr Doughty felt it needed putting in perspective that the lay holdings amounted to only a tiny area compared to the rest of the Wash.

The CEO said that it was important that members were fully informed of the various issues relating to being the grantee of a several order, which included those identified in the paper. He said that it was obviously a balance and that there were many good reasons and benefits to industry in the Authority being the grantee of a several order and these would be reflected in the review, which was not being done with the sole intention of recommending that the application be discontinued.

The Chair advised Members no decision would be made immediately, and that there would be an opportunity for members to contribute at the Fisheries and Conservation Management Working Group.

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

*At this point the meeting was halted to allow members a break (1320 hours)*

*The meeting reconvened at (1405 hours)*

*At this point both Cllr Coupland and Mr Bakewell left the meeting.*

**EIFCA23/12 Item 12: Cromer Shoal MCZ Update**

Senior Marine Science Officer Stoutt gave members an insight into the vision for the Marine Conservation Zone, and an overview of potting in the area.

SMSO Stoutt reported that the impacts of potting on the MCZ have been assessed. The assessment found that current levels of potting were not considered to be hindering the conservation objectives of the site, but over the long term this could change. Adaptive Risk Management was the approach being taken in order to address potential future damage. Management measures would be implemented then reviewed at a later date through research and monitoring processes. NE had provided formal advice on the updated potting assessment in January 2023, which Officers explained to Members and advised of the EIFCA view on this advice: ultimately EIFCA intended to continue to work with the fishing industry, conservation interests, wider stakeholders, academia and Natural England to research, monitor and manage the fishery.

Ms Smith questioned how it was possible there would be no damage in the short term if the proposed byelaw took 2 years to put in place. SMSO Stoutt advised the assessment does not say there would be no damage in the short term, but that current levels of impact have been found not to be hindering conservation objectives. The assessment considered how communities were damaged and how long it took them to recover. ARM will allow us to evaluate the significance of damage from potting against natural erosion of chalk.

Mr Goldson was concerned that despite the fishery having existed for hundreds of years, with video evidence of pots being used on the beds, there was now a requirement to issue permits for vessels and set a maximum number of pots, he felt this was a total farce. The CEO advised that there were more vessels than that and quite a high number of pots. Ms Love advised that NE were concerned that over time the amount of damage from pots would build up and create a negative effect on the site, which was why precautionary legislation may be needed.

Unfortunately Mr Goldson still felt there was no evidence of damage caused over the 100s of years the fishery had been in operation. Ms Love acknowledged that the figures used in terms of maximum number of pots fishing in the MCZ was a best estimate, but it was based on a count of the number of buoys at sea and estimated shank size per buoy. Mr Davies stated that it would not be possible to have the reported number of pots all on the rugged chalk at the same time.

The CEO advised that all Authority Members were decision makers. He acknowledged that work on the MCZ represented a significant effort and resource on the Authority, but EIFCA were doing what they could to work with the industry and other stakeholders. The proposed byelaw was about providing regulatory support for adaptive risk management. Blue Marine



had been approached to help with a study to assess the level of natural disturbance so that could be understood in the context of concerns over the level of damage caused by potting. However, there were a lot of moving parts to get into place to support the study.

Mr Goldson enquired whether EIFCA still had access to side scan cameras. The CEO advised that side scan surveys had been ongoing for the previous two years; time had been spent mapping the extent of the rugged chalk.

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

### **EIFCA23/13 Item 13: Cromer Shoal Chalk Beds Byelaw 2023**

Project Officer Gurova presented Members with an outline of the case to introduce the proposed byelaw and what it was hoped to achieve, Members were also reminded that EIFCA had a statutory duty under MaCAA to ensure the conservation objectives of the MCZ.

During the course of the potting assessment it had been found that the risk to the site's conservation objectives from fishing gear, were not imminent but could not be ruled out in the long-term, which was why mitigation was required. To mitigate the risk an Adaptive Risk Management (ARM) approach was being taken, which NE were in agreement with. Initially some voluntary measures had been put in place with the support of industry but this was unlikely to be enough to address the level of risk to the site on its own which was why regulatory management was required, but in such a way that it was flexible enough to adapt to best available evidence in support of ARM. In order to develop the proposed byelaw and to understand the impact to stakeholders, two phases of consultation had taken place. The proposed byelaw was a permitting byelaw made up of both substantive and flexible measures designed to enable adaptive management which would cover the area of the MCZ designation as well as the inshore area 200 metres from the shore which was not covered by the designation. Members were provided with a breakdown of the management measures within the proposed byelaw.

Having heard the presentation Mr Goldson felt Members were being asked to look at a byelaw with no evidence to back it up, not even evidence of how many pots were fishing, he did not wish to support the byelaw and asked for it to be brought back when there was evidence to support it. Ms Love advised there was evidence and NE had provided evidence over the last 2 years, that showed damage was occurring. Ms Love added because of gaps in evidence NE had to advise to be precautionary.

*At this point the Chair asked members of the public to stop interjecting.*

Ms Smith advised there was evidence of 2 years' worth of damage as well as the survey in 2019 that identified damage caused by manmade interaction on the chalk. Mr Goldson requested an independent study by a university be carried out to get evidence in place.

The CEO advised that EIFCA had been advised by NE, which was supported by evidence and the byelaw was necessary to support ARM. Joint work with industry, NE and others had taken place for 2 years in what was a good working partnership. Importantly, ARM, supported by the byelaw, avoided the risk that closing areas to fishing might be the only alternative under a precautionary approach.

Mr Goldson questioned whether NE were advising or dictating and questioned what would happen if the byelaw was not progressed.

The CEO reminded members that NE were government statutory advisers and EIFCA were duty bound to take account of NE advice. Designation of MCZs were government policy. Ms Love stated that without the proposed Byelaw, Natural England would find it very difficult to support the ARM process. Ms Smith noted the possibility of legal challenge if the byelaw was not made.

Further exchange took place about the management of fisheries and perceived lack of evidence. Mr Williamson asked Mr Davies, as a Cromer crab fisherman, if he could accept the proposed management measures, Mr Davies was happy to an extent but could see sense in some of the comments being made.

Ms Love was asked if she was happy with the proposals, the response was that yes NE would be happy as long as it followed what was proposed and it was not a case of waiting 5 years to get management measured in place.

The CEO advised members that he felt this proposal would provide a means of resolving the issue in partnership with EIFCA, NE and the Industry. The byelaw was just part of a jigsaw of things that needed to be in place to support ARM. He reminded members that as the site was designated as an MCZ the Authority should take account of the advice from Natural England and that if ARM was not possible then the Authority may need to be more precautionary and close areas of the fishery.

Question was then raised as to why an area outside the MCZ designation was going to be included in the byelaw. It was explained that this was for both logistical and administrative purposes as excluding the zone would make management

measures difficult to enforce and understand. However, the Authority would maintain discretion over whether to introduce management in this area when specific measures were being introduced.

*At this point Cllr Chenery of Horsbrugh left the meeting.*

Mr Goldson reiterated he would like to see evidence produced by NE to see what damage there was, if any. He proposed an alternative recommendation to those put forward in the papers.

**Mr Goldson proposed that NE bring evidence which backed their advice and a survey of the damage be carried out and all other recommendations be rescinded.**

**Proposed: Mr Goldson**

**Seconded: Mr Bagley**

**Of those who could vote 3 were in favour and 4 against, the motion failed.**

Members then considered the recommendations included in the papers.

**Members Resolved to:**

- **note the contents of the report, including the justification for making the byelaw, the identified impacts on stakeholders and the feedback received from such 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 did not significantly alter its intended effects.**

**Proposed: Ms Smith**

**Seconded: Cllr Back**

**4 votes in favour**

**3 against, the motion was carried.**

#### **EIFCA23/14 Item 14: Crab & Lobster Byelaw 2023**

Members were provided with an overview of the proposed byelaw along with an explanation of why it was felt it was prudent to put all the crab and lobster byelaws inherited from ESFJC in to one all-encompassing byelaw. During discussions with Industry it had become apparent that there were different views on the amendment to the current byelaw which applied total prohibition to the use of edible crab as bait. It was felt there

were some grounds for use of cooked offal from crab processing as bait, provided there was strict guidance in place which prevented the use of undersize or soft-shelled crab and recreational fishers would need to provide evidence of their source of bait.

There was questioning about how EIFCA would be able to police recreational fishers and whether EIFCA had the resources to cover the district and Senior IFCO Godwin advised that engagement and enforcement of recreational fishing was already factored into the Enforcement Plan. Mr Davies did not see a problem with using cooked offal for bait in a commercial capacity.

**Members Resolved to:**

- **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 did not significantly alter its intended effects.**

**Proposed: Cllr Back**

**Seconded: Ms Smith**

**Agreed by all those able to vote.**

### **EIFCA23/15 Item 15: Review EIFCA Constitution and Standing Orders**

Members were advised some changes had been put in place to take account of the retirement of the Head of Finance & HR. There were also changes to take account of the newly formed Wash Fisheries Sub-Committee and the Wash Appeals Sub-Committee, and the number of members required to ensure a meeting was quorate. There were also some changes to the scheme of delegations to enable business continuity. All changes had been verified by NPLaw in advance of being put to members.

**Members Resolved to Agree to the proposed changes to the Constitution and Standing Orders.**

**Proposed: Cllr Back**

**Seconded: Mr Garnett**

**All Agreed.**

Following this vote the Mr Doughty asked if it was sensible for the CEO to also act as Clerk to the Authority. The CEO advised

that when the IFCA was established there had been a separate Clerk but when they resigned the role was taken on by the then CEO. It was noted that previously, as a Sea Fisheries Committee, the title and been Clerk and CFO, it was a standard model amongst IFCAs as it was considered completely appropriate for one person to “wear two hats”. Mr Goldson confirmed it was fully recognised in the wider field that a CEO could advise the Committee on clerking matters. The Chair believed it was similar to Council members acting as Authority Members and not County Councillors when they sat on EIFCA.

#### **EIFCA23/16 Item 16: Quarterly Review of Annual Priorities and Risk Register**

The paper was provided to set out priorities for the rest of the year and to reflect the perceived risks to the Authority. It had been updated since the last quarter.

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

#### **EIFCA23/17 Item 17: CEO Update**

The CEO advised members that Fisheries Management Plans were progressing, IFCAs had been asked to be the lead for the Cockle FMP, whilst this was an additional workload it was hard to turn it down as three IFCAs had substantial cockle fisheries and were best placed to lead on the FMP. The proposal was being considered under the auspices of the Association of IFCAs.

Members were provided with a selection of pictures showing progress of the new vessel build, anticipated delivery date was summer 2023. Whilst a name had yet to be decided the CEO suggested following on from previous vessels the new one could be named Protector IV.

Members agreed they would like a naming ceremony.

It was noted Three Counties would be marketed in the near future.

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

#### **EIFCA23/18 Item 18: Head of Operations Update**

Marine Protection Updates had been circulated to members on a monthly basis.

Marine Science Team paper provided information on workstreams being carried out across the Science Team including work to make the cockle HRA for flexible and EHO monitoring continuing.

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

**EIFCA23/19 Item 19: Any Other Business**

The CEO read a letter which had been sent to the MMO regarding the Cromer Shoal Chalk Bed Byelaw. He advised the content would be used during the consultation process.

There being no other business the Chair thanked members for attending, the meeting closed at 1650 hours.

## Vision

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



## Action Item 8

### 52<sup>nd</sup> Eastern Inshore Fisheries and Conservation Authority meeting

14 June 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 have been **seven** incidents to report during this period.

#### **Risks/Mitigation**

**COVID-19** There have been no reports of COVID 19 infections since the last meeting and overall sickness levels remain low. Discharge from risk matrix

All staff undertook H&S training provided by NCC Health and Safety Team, the training was well received and demonstrated overall a good culture of Health and Safety within the team. Ongoing monitoring continues of stakeholder interactions with officers and addressed on case by case basis.

## Appendix 1

Date	Nature of incident	Injury / damage occurred	Action Taken	RIDDOR MAIB Y/N	Investigation complete Y/N	Name of investigating Officer	Follow-up action required Y/N. If Y then what?
20/2/23	Person	Minor strain to shoulder	None required	N	Yes	Lee Torrice	Consider returning to mother vessel with tender if unable to beach or stand off landing point rather than trying to hold.
20/2/23	Vessel taking on water	None	Vessel lifted out of water	N	Y	Lee Torrice	Vessel lifted from water and repairs made.
15/03/23	Person	Banged head	None required	N	Yes	Jon Butler	Staff made aware of lowered mast
31/03/23	Person	Banged head	None required	N	Yes	Simon Lee	Staff made aware, protection placed around lowered mast, mast relocated once afloat.
19/05/23	Person	Verbal Threats of Violence	Officer deescalated	N	Yes	Simon Lee	Incident logged and further action to be considered if behaviour persists.



23/05/23	Person	Slip/Trip	None	N	Ongoing	Ron Jessop	Officer slipped whilst crossing creek, correct PPE being worn, procedures being followed.
24/05/23	Vehicle	Near miss	None	N	Ongoing	Judith Stoutt	Head of Operations to contact police and local businesses ask if they can ask staff to not park in location as it causes an obstruction.

## 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 undertake arduous duty	<ul style="list-style-type: none"> <li>Staff briefing</li> <li>Management overview to ensure rostered duties are appropriate and achievable</li> </ul>	<ul style="list-style-type: none"> <li>Individual health fragilities</li> <li>Individual lifestyle choice</li> </ul>	Tolerate	Tolerate

	<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>Terminate</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 9

### 52<sup>nd</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 23/04 Minutes of the F&HR Meeting held on the 2<sup>nd</sup> May 2023**

- Signed as a true record.

#### **F&HR 23/05 Matters Arising**

- Members advised that there were no matters arising.

#### **Finance Matters**

##### **Re minute F&HR 23/06 Quarter 4 Payments and Receipts**

- The Head of Finance & HR advised members of the following exceptional items:
  - Un-planned repairs to Sebastian Terelinck as a result of frost damage to engines and a leak issue.
  - Figures include 2023/24 vehicle insurance prepaid
  - Stage payment for Protector IV made in the period
  - Interest from SCC deposit (£13.2k) received
  - Expenditure higher in several areas (inflation)

Members Agreed to:

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

##### **Re minute F&HR 23/07 Quarter 4 Management Accounts**

- Members advised of the following:
  - Salaries showing vacancy savings offset by higher than budget pay settlement and NI overspend (increase in NI not budgeted).
  - General Establishment reflected the impact of inflationary increase.

- Legal Fees overspend related to WFO replacement.
  - Training overspent (new recruits)
  - Scheduled replacement of Laptops started
  - Internal Decoration (per lease terms)
  - ST repairs mentioned above.
  - Extra Defra funding £50k
  - Reduced Licence revenue (WFO)
- **Note** the content of the report.

### **Re minute F&HR 23/08 Exclusion of Public**

Members approved the resolution.

### **Re minute F&HR23/09 Appointment of External Accountants**

Members advised that following a selection process the Aston Shaw Accountants be appointed.

**Members Resolved to Approve the appointment of Aston Shaw Accountants to provide the services required following the retirement of the Head of Finance and HR.**

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

### **Re minute F&HR 23/10 HRI Update**

Since the last Update there had been one leaver and no new starters. The reported Interviews (MSO) resulted in a conditional offer. This offer has since been accepted with start date tbc.

The Appeal following termination during the probationary period was ongoing.

It was anticipated the Head of HR would retire on 30<sup>th</sup> June after completion of End of Year Accounts and handover to the new accountants.

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

### **Re minute F&HR 23/11 New Vessel Update**

The CEO provided a verbal update and advised that whilst the build was progressing well sea trials and delivery would be delayed due to ongoing bridge repairs restricting access to the sea. The Head of Ops was progressing acquisition of a potting vessel subject to an assessment of the feasibility and cost of modifications that would be required.

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

**Re minute F&HR 23/12 Any Other Business**

None.

**Background Documents**

Unconfirmed minutes of the Finance and HR sub-committee meeting held on the 2<sup>nd</sup> May 2023

## 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

### 52<sup>nd</sup> Eastern Inshore Fisheries and Conservation Authority Meeting

14 June 2023

#### Wash Several Order Application: Due Diligence Assessment

**Report by:** James Teasdale (Project Officer)

#### **Purpose of Report**

To report to members the due diligence assessment regarding the application for a Several order to manage private shellfish fisheries in The Wash.

#### **Recommendations**

It is recommended that members:

- **Note** the content of the report.
- **Decide** either to:
  1. Reconfirm the decision to apply for a Several Order made at the 39<sup>th</sup> Eastern IFCA Meeting, or
  2. Discontinue the application for a Several Order in principle, subject to legal advice on the matter

#### **Background**

Until its expiry on 3 January 2023, the Wash Fishery Order 1992 (WFO) contained a Several Order component that managed the private shellfisheries, or lays, of the Wash. The *status quo* is currently being maintained under 'Interim Measures' (i.e. closure of the fisheries and subsequent exemptions to operate within lays).

At the 39<sup>th</sup> Eastern IFCA Meeting, members agreed to the use of a new Several Order to continue this management. At this time, the main benefit identified in support of this was that it maintained the status quo for both the Authority and industry and provided the Authority with the ability to ensure that the risks of aquaculture activity in The Wash could be mitigated through the implementation of management measures. There was not, though, an assessment of cost or other implications for the Authority.

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. This informal consultation identified significant opposition from lay holders and in particular to plans for increased scrutiny of aquaculture operations by the Authority which sought to

increase productivity and equitability of lay use. Opposition included challenges to some fundamental aspects of management under a Several Order.

At the 52<sup>nd</sup> Eastern IFCA meeting it was reported that the situation was considered to be more complex and potentially carrying greater risk than was thought when members agreed to apply for an Order in March 2020.

## Report

Given the basis upon which the Authority decision at the 39<sup>th</sup> Eastern IFCA meeting was made, and that the situation has changed significantly since that time, it is important that members are fully aware of relevant factors and have the opportunity to decide whether to continue with the application or not.

A detailed assessment of the implications of becoming the grantee of a Several Order is at Appendix 1 of this paper. Consideration of the key objections to the draft FMP from industry is at Appendix 2. The key elements from both are summarised below:

- Whilst the professional representatives of industry have suggested that not applying for a new several order would be unlawful, this is not thought to be accurate and it is not considered to be the case that the Authority is mandated to become the grantee of a Several Order. Aquaculture in The Wash is of considerable potential economic benefit to Wash fishing business models, but several significant barriers exist which inhibit such currently being the case.
- Were the Authority to become the grantee of an Order, a significant barrier to aquaculture in the Wash would be removed (that associated with Habitat Regulation Assessments and environmental monitoring) but other barriers outside of the Authorities purview may continue to inhibit productive aquaculture (i.e. productivity rates in The Wash, seed availability, challenging market conditions and rising costs of overheads including mussel seed).
- Administering the Several Order represents a potentially significant cost to the Authority, the vast majority of which reflects the operating costs of Authority vessels (which is likely to reduce on the replacement of *RV Three Counties*) and meaningful cost recovery for such would likely be prohibitively expensive.
- The costs to the Authority would not be 'new', they have to date been entirely absorbed by the Authority and as the most significant proportion of costs (food availability monitoring<sup>2</sup>) is carried out alongside other tasks, ceasing the

---

<sup>2</sup> The Habitat Regulations Assessment for the lays concluded that adverse effects to site integrity cannot be ruled out in relation to high stocking densities of lays reducing the carrying capacity, essentially the amount of food available to shellfish in this case, in The Wash with potential impacts on wild stocks. The mitigation developed and implemented under the WFO involved monthly monitoring of phytoplankton levels and meat yield of mussels throughout the Wash. This is presently undertaken at the same time as samples are collected on behalf of District and Borough Councils relating to classification of The Wash as a shellfish production area.



application for a new Several Order may not materially impact total Authority expenditure.

- However, it should be noted that the tasks carried out alongside food availability monitoring also support the Several Fishery (as well as the public fishery) and in becoming the grantee of the Order, this monitoring must be carried out and so represents a genuine cost to the Authority which would increase if the other tasks were no longer carried out (because the trips undertaken to carry out the monitoring would only relate to work supporting the Several Order).
- As the grantee of the Order, the Authority would be expected to effectively implement controls. If lay holders act outside of the FMP or lease conditions and harm or damage occurs as a result, such as a failure to comply with biosecurity measures resulting in the introduction of pathogens or invasive species, the Authority would potentially be liable.
- Legal risks to the Authority can be mitigated through the development of appropriate management measures and enforcement of such however, the Authority's ability to enforce compliance is diminished as no sanctions are available with the only realistic deterrent being the removal of leases, for which a significant risk of challenge exists.
- To mitigate the lack of sanctions available under a Several Order, an accompanying byelaw may need to be developed to provide the Authority with practical enforcement options, regardless of whether a Several Order is held directly by the Authority or not. This represents a further substantial workstream and further costs to the Authority.
- Representations by industry indicate that there is likely to be a challenge to the Several Order application. Whilst officers do not necessarily agree with many of the points made, such representation reflects the potential risk of challenge to the Authority.
- Where the Authority is the grantee of the Order, it must manage the Several Fishery in accordance with its statutory duties and seek fair and equitable access to lays as is reflected in the draft Fisheries Management Plan. Measures to achieve this appear to be the most likely areas for objection on the part of existing lay holders and, in the context that Several Orders are more usually used and suited to being operated by private enterprises, this could represent a significant barrier to reaching agreement with the varying business models of The Wash.

- Different business models in The Wash exist and consultation has identified that the different models have different views and priorities with respect to Authority policy on lay allocation. This is likely to create a degree of conflict between any such policy and our stakeholders which would not exist were industry to seek their own Order(s).
- Where industry members uphold their objections, and Defra consider such to be substantive, a costly and resource consuming local enquiry would be required to address such. This represents the key short-term risk associated with the application.
- Given the complex legislative environment and high costs to meet associated requirements (assessments and monitoring), it appears unlikely that the full range of business models in The Wash could operate their own Several Orders with the outcome being that smaller outfits are 'priced out' and cannot benefit from such.
- Facilitating Aquaculture activity by becoming the grantee of an Order potentially contributes to the realisation of the English Aquaculture Strategy<sup>3</sup> by removing some administrative and cost burdens and management which can encourage innovation.
- Given the level of estimated cost and resource requirements, there is a reputational risk where the lays do not become more productive during the lifetime of the Order.

Noting the above key factors and appended reports, it is proposed that members either reaffirm the decision from the 39<sup>th</sup> Eastern IFCA meeting or decide to discontinue the application.

### **Financial Implications**

A full breakdown of the projected financial implications, in terms of both benefit and cost can be found in Appendix 1. Whilst potentially significant, accurate estimation is difficult on the basis that vessel operating costs should reduce in the short-term. In addition, these costs would not be fully removed on the cessation of the application because they are undertaken alongside other embedded workstreams (collecting water and shellfish samples for testing in relation to water classification in shellfish production areas). Associated costs would however increase in the perhaps unlikely event that the other workstream be discontinued.

The main short-term financial implication relates to the continued development of the Several Order and associated FMP and the potential for entering into protracted

---

<sup>3</sup> English Aquaculture Strategy: full report: <https://www.seafish.org/document/?id=9efe670c-847b-4a4f-b8ec-72f2e5396df6>

dialogue seeking to balance the different business needs of those involved, potentially resulting in a local enquiry.

### **Legal Implications**

The key risk of challenge is associated with the Authority's decision in March 2020 for which only a limited assessment was provided. This is mitigated by members having considered this report and reaffirming or otherwise the original decision.

Appendix 2 contains the details of challenge we received regarding the proposed Fishery Management Plan. In summary, the professional representatives of Wash lay holders make a number of arguments such as that the Authority must become the grantee of a Several Order to meet our statutory duties and that once a lease is issued, management of a lay is effectively out of the Authority's hands. Whilst it is not thought that these arguments have merit, it does indicate the possibility of legal challenge if the representatives' requests are not met.

In the event that members decide to discontinue the application, it is recommended that legal advice is sought on the matter, not least to confirm consideration of the points made by the industry representatives (at Appendix 2).

Appendix 1 also details the legal risks inherent in management of a Wash Several Order.

### **Conclusion**

It is clear that continuing with the application for a Several Order is likely to incur additional cost and risk and that, whilst this undertaking could be to the benefit of the wider Wash in the event lays are actively used, significant barriers remain.

In addition, in becoming the grantee of an Order, such would have to be managed in accordance with the Authority's statutory duties which may be at odds with the commercial endeavours of private enterprises that would ordinarily take on a private fishery. This is likely to be the key issue in getting agreement (or lack of objection) with regards the FMP and could lead to protracted consultation and a local enquiry.

However, it is likely that the administrative and monitoring burdens would be too great for industry seeking a Several Order in their own right, or if it were possible, unless an effective coalition could be formed it would only be so for larger business models and wider benefits would not materialise (namely reducing the reliance on wild fisheries for a wider range of Wash fishermen).

### **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

## **Appendix 1**

### **Due Diligence Assessment: Report on the Benefits, Costs and Risks of an Authority-managed Several Order in the Wash**

#### **Introduction**

A Several Order, issued under the Sea Fisheries (Shellfish) Act 1967, can be used to establish private shellfisheries, or lays, by 'severing' a designated area from the public fishery, granting exclusive fishing or management rights in that area to the grantee. The grantee of a Several Order becomes the legal owner of the shellfish species covered by the order within the designated area, and has exclusive right to take, collect, move or deposit the shellfish from or within the specified area, and to create and maintain shellfish beds. The order can place restrictions on the grantee, such as specifying what harvesting methods may be used.

Several Orders exist to encourage the setting up and improvement of shellfisheries, balancing the benefits of wider public access with the ability of a singular lay holder to invest in and improve a private shellfishery and therefore increase the long-term value of the fishery as a whole. The grant of a lay should be considered transactional; exclusive rights over an area of a shellfishery in exchange for the active use or improvement of that area, adding a greater value than would be had from the area being left in the public fishery.

Typically, Several Orders are applied for by and granted to private business interests who apply directly to Defra. Administration of Several Orders is not a duty of IFCAs but are discretionary: Defra advise the relevant minister with regards to Several Order applications and the Fish Health Inspectorate gather information and administer the Shellfish Aquaculture Production Business certification.

It is noteworthy however that the Sea Fisheries Committees which preceded IFCAs had used Several (and Regulating) Orders under the Shellfish Act to manage such and specific provision is contained within the Marine and Coastal Access Act 2009 (MaCAA) enabling IFCAs use such. Further, s. 158 (5) MaCAA specifically prevents IFCAs from using byelaws to interfere with fishing activity in Several Order fisheries without the consent of the grantee, though s.158 (6) grants an exemption from needing consent in the case of several fisheries within MPAs, as would be the case in the Wash.

It is therefore entirely possible for individuals or groups from the Wash fishing industry to seek a Several Order directly. Some industry members have previously expressed a preference for any Several Order not to be held by the Authority. In this case, the IFCA could still discharge its management duties using a byelaw. In fact, a Several Order, being only a method by which private shellfisheries can be established, does not contain any enforcement measures other than the revocation of the lay. To enable enforcement measures such as financial penalties or criminal

prosecution, it may be necessary for a byelaw to be developed alongside the Several Order establishing these measures.

### **Benefits of a Several Order**

In applying for and administering a Several Order the Authority takes on most of the administrative burden of the Order and would be facilitating industry and encouraging aquacultural efforts, which furthers the IFCA's objectives of managing sustainable fishery resources.

Whilst Several Orders could be applied for directly by industry, they are intensive processes, and especially in the current economic and environmental climate, it is not anticipated that many lay holders would be willing or able to undergo this process individually and collaborative applications by two more business models working together might still be difficult.

Should an Authority-managed Several Order be introduced, with the accompanying increased engagement with aquaculture, the beneficial factors set out below are relevant considerations.

#### Economic

The main aquaculture species in The Wash is mussel (*Mytilus edulis*). The Food and Agriculture Organization of the United Nations valued blue mussel at approximately £1,500 ton<sup>-1</sup> in 2019<sup>4</sup>, utilising farm-gate values and standardised indicative figures, and the first sale value of the of wild capture mussel was also £1,500 ton<sup>-1</sup> in 2021 according to MMO landings figures<sup>5</sup>. However, dialogue with Wash lay holders indicates much lower returns for cultivated mussels, reaching as low as £250 to £350 ton<sup>-1</sup>, although this can reach above the FAO and MMO figures if sold within smaller-scale, artisanal markets. Consultation has suggested lays can be stocked up to 100 ton<sup>-1</sup> per ha, but to reflect the lower availability of seed, a 10 ha lay stocked at 25t tonnes per ha could therefore yield mussel worth between £37,500 and £87,500 over a period of two to three years. This is not insubstantial when considered as supplementary to fishing wild stocks, though consultation suggested the market is not always currently available to sell their mussels. This also of course reflects the first sale value of the catch; whilst the form of aquaculture in Wash lays is potentially the most profitable compared to other forms (i.e. 'bottom set' rather than using rafts or ropes etc.) as a reflection of the limited infrastructure and maintenance requirements, there is a higher risk of loss (through predation, weather) and generally lower production rates<sup>6</sup>. Further, the profitability of lays is significantly

---

<sup>4</sup> FAO Fishery and Aquaculture Statistics 2019 - [https://www.fao.org/fishery/static/Yearbook/YB2019\\_USBcard/root/aquaculture/b54.pdf](https://www.fao.org/fishery/static/Yearbook/YB2019_USBcard/root/aquaculture/b54.pdf)

<sup>5</sup> <https://www.gov.uk/government/statistics/uk-sea-fisheries-annual-statistics-report-2021>

<sup>6</sup> Avdelas et al 2021, The decline of mussel aquaculture in the European Union: causes, economic impacts and opportunities, Reviews in Aquaculture - <https://onlinelibrary.wiley.com/doi/10.1111/raq.12465>.

reduced where mussel seed is purchased from a supplier rather than harvested locally.

For these reasons, lay use in The Wash has been very limited over the past decade with the main reason cited being seed availability. More recently, trade implications of EU Exit (namely the prohibition on export of live shellfish<sup>7</sup>), insecurities about the continuation of the Several Order, higher operating costs (including seed price increases) and difficult market conditions domestically have also been cited as reasons for not investing time or funds into aquaculture. This decline in production is against a backdrop of declining mussel aquaculture in Europe<sup>8</sup> generally.

Therefore, if lay aquaculture were to become more productive it has significant potential to provide at least a supplementary income for Wash-based fishermen to reduce pressure on the limited number of other available fisheries and does currently provide benefit to a small number of lay holders still actively using them. This also potentially has wider benefits, making these fisheries more sustainable and thus viable. However, there appear to be significant barriers to The Wash aquaculture productivity which have limited its operation and as such, with a few exceptions Wash aquaculture only represents a potential economic benefit at present.

### Oversight

Aquaculture operations in The Wash require a significant amount of assessment and monitoring to meet environmental legislative requirements (these are detailed in the 'costs' section below) in addition to a complex application process and reporting requirements. Wash several fisheries have, to date, operated in such a way that these costs have been borne entirely by the Authority (with lay 'rents' all provided to the Crown Estate rather than reflecting cost recovery). Noting that the current costs of operating a lay are considered by some to be prohibitive, the addition of these costs would reduce the likelihood of investment in lays further.

In addition, where the Authority is the grantee of an Order, it must manage such in accordance with its statutory duties including seeking to 'balance the different needs of persons engaged in the exploitation of sea fisheries resources'. As a result, management of lays by the Authority will provide for a wider range of business models, making it accessible to a greater range of persons than is likely to be the case where industry seek their own Orders. This is particularly true when considering the very small scale of some lay holders, who in all likelihood would not be able to operate a lay at all without the oversight provided by the Authority. In becoming the grantee of an Order, Wash aquaculture is likely to be more accessible to a wider

---

<sup>7</sup> <https://www.gov.uk/guidance/export-live-fish-and-shellfish-for-aquaculture-and-ornamental>

<sup>8</sup> Avdelas et al 2021, The decline of mussel aquaculture in the European Union: causes, economic impacts and opportunities, Reviews in Aquaculture - <https://onlinelibrary.wiley.com/doi/10.1111/raq.12465>.

range of business models, rather than only those large enough and with sufficient reserves to afford the application and ongoing monitoring costs.

Therefore, it is likely that a much lower level of aquaculture would be attainable were the Authority not to become the grantee of an Order and that such would not reflect the full range of business models in The Wash.

### Reputational

Managing the Several Order would potentially mitigate reputational risk to the IFCA, as choosing not to seek a new Several Order may be perceived as ‘taking away’ private shellfisheries, and be perceived as an antagonistic action, rather than being a business-like decision not to continue a potentially beneficial but expensive action. This is particularly pertinent at the moment, as the fishing industry faces pressure from multiple directions and so this would be a very unfortunate time for the Authority to stop supporting aquaculture via a Several Order.

The English Aquaculture Strategy<sup>9</sup>, endorsed by Defra and published in 2020, seeks as one of its objectives, a ‘ten-fold growth and diversification’ of aquaculture by 2040. Given that becoming the grantee of an Order is intended to have the effect of enabling aquaculture, it is likely to contribute to this objective.

### Resilience

The inshore fishing fleet largely operates around a flexible model, targeting different species and locations depending on availability and market conditions. However, the number of species available to Wash-based fishermen is limited to cockles and shrimp (and to a lesser albeit increasing extent, whelk). Adding aquaculture into this dynamic gives the fleet another option and thereby increases business resilience, which is especially pertinent given the current challenges facing the Wash.

### Social

The local region has a strong heritage of fishing, with the fishing industry important to local culture. Similarly, there is a long history of aquaculture in The Wash as reflected by the historic Order for which the IFCA’s predecessor was the grantee. Enabling the continuation of Wash Aquaculture is therefore also likely to have wider social and cultural benefits.

### Environmental

Aquaculture activity, with its commensurate increase in biomass and mussel stocks, can be argued to increase the food availability of the Wash for overwintering birds. Our own research indicates that there is a limit to the total biomass the Wash can sustain, so this benefit may not hold if and when the biomass is close to this limit.

However, there is an environmental benefit in the use of lays in that it provides an alternative to the fishing of wild stocks: every utilised source of income available to

---

<sup>9</sup> <https://www.seafish.org/document/?id=9efe670c-847b-4a4f-b8ec-72f2e5396df6>

the fleet reduces the pressure on other sources, in that if a fisherman is tending to their lays they are not actively fishing for other species, reducing effort in the fishing of wild stocks.

### Costs of a Several Order

The financial cost to the Authority for the general administration of the Several Order, at current annual costs (see table 1 below), is estimated to be significant; between £1.15m and 2.1m over the 20-year lifespan of the Order (taking into account a 3.5% inflation rate). The main ongoing costs relate to monthly monitoring of phytoplankton levels and meat yields as required to mitigate the risk posed by lays to general food availability in The Wash and of this, vessel operating costs represent the most significant part. It is likely that these costs will reduce once the replacement to *RV Three Counties* is operational. In addition, the financial burden can, to an extent, be mitigated by charging fees of lay holders although such would need to balance against the limited viability of operating lays at present given significant barriers (e.g. limited seed availability, high price of seed, increased fuel costs, prohibitions on exporting live shellfish into European markets etc.).

It is also noteworthy that, whilst the monitoring described above is a requirement of managing the lays, the activity is currently carried out alongside sample collection on behalf of the district and borough councils (for which some there is some cost recovery) to inform water classification in The Wash to enable the public and private fisheries therein. As such, not pursuing a Several Order may not have an immediate material impact on total Authority expenditure as it will not immediately reduce vessel activity requirements. However, it represents a genuine cost to the Authority on the basis that it is required to manage a Several order and because the costs of the associated task are partially recovered by way of charging per sample (i.e. the proportion of the cost represented by the Several Order is a cost the Authority has to bear).

Table 1: Projected Range of Annual Costs

Annual Costs		
Item	Min Annual Cost	Max Annual Cost
HRAs of existing Lays	£ 584.03	£ 778.70
SWEEP Surveys	£ 37,086.48	£ 37,086.48
Yearly Admin Costs	£ 528.47	£ 528.47
Processing Business Plans	£ 204.65	£ 204.65
FMP Yearly Review	£ 2,118.99	£ 2,118.99
Physical Monitoring of Lays (Compliance, Enforcement)	£ -	£ 33,567.21
<b>Annual Total</b>	£ 40,522.61	£ 74,284.50
<b>Annual Cost Per Hectare</b>	£ 147.35	£ 270.13



The main cause of variance between the minimum and maximum costs are down to vessel usage; trips have a cost that varies between vessel, and so the monitoring of lays, for example, is based on a minimum potential of no such trips to a maximum potential of 8 trips (enough to physically visit every lay) aboard *Three Counties*, the most expensive vessel. This may be required in the case of any compliance inspection, be that for lease compliance in the case of non or misuse of the lay, or for enforcement actions in the case of theft from lays.

By a very large margin, the major cost here is the cost of SWEEP surveys, but there are two points that should be borne in mind regarding them. Firstly, the surveys take place during the monthly EHO exercise, which require two days at sea, of which SWEEP constitutes about 30% of the time required. The EHO exercise needs to be undertaken regardless of whether a Several Order is pursued and would still require two days at sea: this cost can therefore be considered to be somewhat baked into Authority finances, especially given that cost recovery mechanisms are in place regarding EHO. The main risk in this case is that if future SWEEP surveys were to take place independently of EHO, this cost would then emerge as a major independent expenditure. This is somewhat mitigated by the second point, which is that the cost of EHO and SWEEP is so high because they are run from *Three Counties*, which is highly expensive to maintain on account of its operational lifespan having been stretched so far. The replacement vessel should be more efficient to run, bringing these costs down once it comes into service.

Table 2 shows the costs of opening lays and those involved in the purchase of seed for relaying. The cost of opening a new lay is on the basis of a vessel trip required to physically visit and survey the lay location, as well as the officer hours required for processing the survey. Neither of these are common costs, as there has been a moratorium on new lays and there have been very few applications to purchase seed recently, so they have not been included in the core projected costs.

*Table 2: Projected Irregular Costs*

<b>Ad Hoc Costs</b>				
Item	Min Cost		Max Cost	
Seed Purchase Application Handling	£	100.09	£	100.09
Visual Inspection of Purchased Seed	£	52.94	£	52.94
Opening New Lays	£	2,197.19	£	5,217.68

Finally, Table 3 shows the projected cost over the lifetime of the Several Order at the estimated costs in Table 1.

*Table 3: 20 Year Costs at 3.5% Inflation*

<b>Total Cost After 20 Years</b>	
Min	£ 1,145,966.57
Max	£ 2,100,742.02

These costs represent a substantial amount of public funds, though again it should be acknowledged that the major element of these costs is at current 'baked in' for efficiency alongside other workstreams, and the new vessel should also bring the costs down. It should also be noted that other cost-saving opportunities are being pursued, such as the removal of our Sonde Buoy workstreams.

Some degree of recovery of these costs could be managed through lease and application fees, however informal consultation has made it very clear that Wash industry members do not feel that significantly increased costs can be absorbed given the current state of Wash aquaculture. The potential therefore exists for this expensive workstream to be taken on, primarily to economically facilitate the industry in the Wash, only for it not to provide a suitable value proposition and therefore not be utilised.

The final financial consideration is that without an accompanying byelaw to manage legal recourse in the case of non-compliance, the Authority would need to – and in some cases be required to – take action via the civil courts, with all the associated costs. The likely necessary alternative of introducing a byelaw would incur both financial cost to the Authority, require officer time that would detract from achieving priorities in an already very busy Business Plan, and potentially invite further legal challenge during its development process. Table 4 shows projected approximate costs on the basis of officer time and the mandatory publication of a notice of intention to make a byelaw.

*Table 4: Projected Cost of a Byelaw*

<b>Byelaw Costs</b>		
Item	Min Cost	Max Cost
Project Team Time	£ 4237.98	£ 8475.96
Notice Publication	£ 1330.00	£ 1330.00
<b>Total</b>	£ 5567.98	£ 9805.96

### **Risks of a Several Order**

By applying for and administering a Several Order, Eastern IFCA would effectively be taking on the responsibilities associated with the Order on behalf of industry, as well as the duties and responsibilities of managing the Order of behalf of Defra.

These could, to varying extents, be 'passed on' but would nonetheless still ultimately sit with the Authority. The specific requirements a Several Order would place upon the IFCA as the grantees would be dependent on the FMP, however the potential risks are laid out below.

### Legal

Pursuing a Several Order carries several opportunities for legal challenge, with the financial, reputational, and workload consequences such challenges carry. Most immediately, it has been indicated that the proposed FMP will be challenged during its formal consultation. 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, which would delay the process, require officer hours to address, and likely result in the less flexible interim measures needing to be kept in place for longer.

Subsequently, if an order is successfully established, the Authority will take a share of legal liability regarding its management. In Several Order applications, it is Defra's duty to ensure that they are satisfied that a private shellfishery would have material benefit and any implications for other parties have been appropriately considered. If the IFCA applies for and administers a Several Order, it would be responsible initially for ensuring the application process is followed correctly and Defra is fully informed, and then subsequently for ensuring any restrictions or conditions associated with the order were being followed. This is of particular note regarding the notable 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. Should non-compliance occur this could breach any conditions of the Several Order that the IFCA may agree to as the grantee. Any lease conditions would align with the restrictions of the Several Order, but this alone would not prevent the responsibility for their upkeep ultimately staying with the Authority.

Eastern IFCA's role in managing fisheries under a Several Order is distinct from those managing public fisheries as a result of the rights conferred to lay holders. Noting that the only effective tool for the enforcement of lays is removal of the lease (in lieu of supplementary byelaws), and that shellfish within lays become the absolute property of the lay holder, enforcement actions are more likely to be challengeable and less effective. This increases the likelihood that non-compliance leads to the Authority not meeting its statutory duties and legal challenge to policy and measures intended to facilitate accessible aquaculture for wider industry.

Consequently, it is probable that in light of any new Several Order, the Authority would need to seek to develop a byelaw to enable effective enforcement and functional penalties for non-compliance, the development of which would also be potentially subject to challenge.

### Biosecurity

Because lays require the introduction of shellfish to farm, they carry a biosecurity risk due to the possibility that disease or invasive species could be introduced as a consequence of aquaculture. Eastern IFCA has introduced a Biosecurity Plan to identify and mitigate the risks associated with a Several Order, including withholding consent for relaying shellfish from outside the Wash except in cases where the applicant has mitigated the biosecurity risk, and ensuring leaseholders monitor shellfish mortality when laying new shellfish. However, as the Authority will hold these agreements with leaseholders, it will be the Authority's duty to ensure compliance, which will carry costs both for the administrative aspect, and any physical inspection elements, as well as carrying a liability risk should the plan fail to prevent the crystallisation of a biosecurity risk.

### Reputational

While the risk exists for reputational damage to the IFCA should a new Several Order not be pursued, developing a new order also carries its own reputational risks. In particular, the requirement to develop the FMP places the Authority between the expectations of Defra, who expect the grantee of a Several Order to ensure use of the lays in accordance with their associated business plans, and those of the Wash fishing industry, who desire continuity with their historic lays, and are likely to see any additional management or oversight measures as the IFCA bringing in unnecessary restrictions, even if those measures are necessary for Defra approval.

Finally, the effective result of an Authority-managed Several Order would be that the Authority would be entering into a business arrangement with the Wash industry. Given that there are elements of the industry who adopt an adversarial stance with the Authority, this relationship would potentially be fraught and could invite further complications and reputational risk should disagreements emerge.

## Appendix 2

### Response to Letter Received from Industry Representatives

The Authority has received a letter, dated 7<sup>th</sup> March 2023, from professional representatives of industry regarding the potential replacement of the Several Order element of the Wash Fishery Order 1992 (WFO). This follows a series of email exchanges between the CEO and the representatives, and this paper is intended to set out responses to the various challenges they have made regarding a Several Order and the associated Fishery Management Plan (FMP).

A number of points have been raised across these interactions, and so the paper shall be organised by the headings below.

- The necessity of an Authority-managed Several Order for Wash aquaculture
- Legal obligations of the Authority regarding supporting aquaculture
- Legal obligations of the Authority regarding environmental considerations
- Considerations regarding management of lays
- Species managed under the Several Order
- The impact of delays on lay investment
- Lease Security

#### **The necessity of an Authority-managed Several Order for Wash aquaculture**

The representatives write:

*“Deliberate actions on the part of the IFCA to destroy the relaying industry would be, it is submitted unlawful”, and:*

*“The submission of a report which focuses upon negative considerations (generally incorrect) suggests strongly that the Officers intend to argue [...] that the decision to apply for a replacement several order should be reversed and aquaculture in the Wash abandoned.”*

The review is not intended to prevent an Authority managed Several Order. Instead, in acknowledgement of the complexity of doing so, it is important the Authority makes such a decision fully informed, and so it should be considered an exercise in due diligence, rather than a challenge.

The Authority becoming the grantee of an Order is not necessary for the continuation of aquaculture in the Wash. Any such action would be to facilitate rather than enable aquaculture. The Sea Fisheries (Shellfish) Act 1967, which provides the mechanism for granting Several Orders, was originally intended to grant rights to the users rather than via a management body. This is highlighted by the lack of any reference in the Act to issuing leases, for example, which was pointed out by recent KC advice and historical legal advice.

Whilst it is appropriate and legal for the Authority to operate a Several Order in the way that it has done, highlighted by its reference within the Marine and Coastal

Access Act 2009 (MaCAA), it is not strictly necessary for the continuation of any aquaculture within the Wash, as industry members themselves are able to undertake the process of obtaining a Several Order, though it is acknowledged that without an Authority managed Several Order there is likely to be severely reduced engagement with Wash aquaculture.

Notwithstanding the above points and noting the submission that not pursuing a Several Order would be unlawful, in the event that members are not minded to pursue the application further legal analysis of such a decision will be sought.

### **Legal obligations of the Authority regarding supporting aquaculture**

The representatives write:

*“We would question the assertion that the IFCA is under no obligations to support aquaculture. Quite apart from the EU and national aquaculture policies, which the Authority should take into account, the Authority’s general duties in relation to sustainability and in relation to supporting the conservation objectives of the European site are engaged.”*

The reference to conservation objectives is addressed in later sections of this paper.

With regards to the wider duties to sustainability, it is acknowledged that productive aquaculture in The Wash is likely to have wider benefits, for example, in reducing the reliance on other fisheries with the effect of potentially making them more sustainable and this is referred to specifically in the FMP supporting the application. It is also acknowledged that without the Authority taking on the responsibility of the grantee of the Order, the business models operating lays are of such a small scale, that they are unlikely to be able to accommodate the application process (for example, undertaking Habitat Regulation Assessments, environmental monitoring, public consultations etc.). However, it is also the case that the current business models in The Wash have not, in recent years, been able to utilise lays to this extent and this is primarily for reasons outside of our control (availability and price of seed, trade implications of EU Exit).

Further, whilst the lays could provide a benefit to sustainability as above, it could also detract from such, for example in relation to biosecurity issues associated with importing seed which could impact wild stocks and their sustainability.

Overall, the level of benefit gained from the lays is something to be factored into a decision on expending resource at the expense of other priorities. Having any benefit does not necessitate the Authority’s ‘support’ for aquaculture or that it becomes the grantee of a Several Order.

## **Legal obligations of the Authority regarding environmental considerations**

The representatives write:

*“The cultivation of lays in the Wash also provides a substantial source of food for the avian species of European interest in relation to which the designation of a Special Protection Area for birds was made”, which in combination with the “duty derived from European law to support the conservation of the European site”, would cause the Authority to breach its duties by not applying for a Several Order.*

Similarly, their position is that “the duties of the Authority in relation to the Birds and Habitats Directives and UK regulations thereunder are unconditional: they are not limited by reference to expense.” Therefore, any “attempt to introduce a balance between cost to the Authority and the present economic value” is unlawful.

Given the observation that aquaculture could continue regardless of whether the Authority became the grantee of a Several Order, it does not appear likely that any decision not to do so would constitute a deliberate action to destroy the re-laying industry and therefore any associated environmental benefits. Similarly that any environmental benefit places an unconditional duty on the Authority and thereby prohibits consideration of expense, firstly because any benefit could continue under a Several Order not administered by the Authority, but also because the Authority does not have unlimited resources: it cannot pursue any and every course of action that may have benefit, and so must consider where to commit its limited resources.

Further, the position that mussel lays contribute to the conservation objectives of the Marine Protected Area is also not supported generally by the associated Habitats Regulations Assessment. The HRA indicates that mitigation is required, including by managing stocking density, to reduce the risk of aquaculture reducing the overall carrying capacity of The Wash to the extent that it cannot support wild shellfish stocks or other organisms which rely on the same food sources.

## **Considerations regarding management of lays**

The representatives write:

*“There seems to be a misunderstanding on the part of the Authority as to what management is required on the part of the lessor of a lay. Essentially the management of the lay is in the hands of the layholder, which is envisaged by the terms of the standard lease agreed with Crown Estate.”*

This suggests that as the lessor, any management of the lays would be out of the Authority’s hands but instead in the hands of the layholders themselves, with no clear indication of how adherence to the terms of the lease would be enforced. It has been apparent that currently, many of the lays are not used in line with their lease conditions. As such, if the representatives are correct in this position, then it would

potentially argue against an Authority managed Several Order, as for the Authority to act as the holder of the Several Order could be to knowingly fetter its discretion.

Further, there appears to be a contradiction in the positions that the lays' environmental benefit means that the Authority is obligated to support them, but also that the Authority has little or no basis for ensuring that they are used in such a way as to provide that benefit.

Regarding lease conditions, they write:

*“Taking into account accusations in relation to commercial partnerships or other agreements would also be unlawful: the leases contain no provisions barring commercial arrangements between lay holders. The mussel stocks on lays are the property of the lay holders, and they can take them or sell them in situ for others to dredge them. That is a simple matter of law.”*

It is true that the lease conditions do not include a 'prohibition' or the like on 'forming partnerships' between lay holders. However, they include a requirement to 'comply with the Order' which does include that a 'person' cannot hold more than 10 hectares of lays without ministerial consent and that a 'person' includes any two or more persons carrying on a business of shellfish cultivation in partnership. There is certainly room for improvement of the clarity of the lease conditions, however such partnerships were clearly not intended under the WFO and would need to be better managed under future arrangements.

Another of the issues raised to the Authority was the difficulty in enforcing any lease requirements under a Several Order. The representatives write that:

*“The proposition that “a Several Order is not a good tool for the Authority to manage a fishery” is rejected. These several orders were introduced in the 1860's and have been the standard tool for establishing private fisheries for 160 years. No better tool has been found.”*

It is entirely true that Several Orders are the standard tool for establishing private fisheries, but this does not necessarily make them the best tool for managing them as an Authority leasing to others to undertake the activity. The representatives appear to acknowledge this point in the below excerpt:

*“The assertion that any breach of the lease agreement can only be addressed by forfeiting the lease is wrong. The terms of the lease are readily enforceable in a county court: it is not necessary that a criminal court is involved. However, the powers of IFCA's in relation to private fisheries (including lay leases) have been exerted by MaCAA). Therefore the IFCA can perfectly well make a byelaw that can provide for criminal sanctions for breaches of particular requirements in relation to lay leases.”*



It is suggested that relying on civil action to deal with non-compliance is not an acceptable state of affairs for a public authority with legal enforcement duties. It is noted that also a byelaw is a suitable tool to provide for the enforcement of aquaculture conditions but note that such a byelaw is independent of any Several Order. It is acknowledged that a Several Order is the correct tool to create private fisheries, but it is not a particularly effective one for managing aquaculture in the context of the Authority's duties.

### **Species managed under the Several Order**

Regarding wild cockle settlements, they write:

*“If there is a settlement of cockles on a lay which is specifically for mussels the cockles remain subject to the public fishery. The proposition that the Authority needs to be able to terminate the lay lease in order make the cockles available to be fished under the regulated fishery is incorrect. The only operations prohibited to third parties are taking or damaging the mussels.”*

This is an intuitive position, however, the Shellfish Act s. 2(1) states (emphasis ours):

*Where an order under section 1 of this Act confers a right of several fishery, then, subject to any restrictions and exceptions contained in the order and to section 12 of this Act, the grantees shall have within the limits of the fishery, or of that part of the fishery within which the right is exercisable, the exclusive right of depositing propagating, dredging, fishing for and taking shellfish of any description to which the order applies, and in the exercise of that right may within those limits*

While the Wash Fishery Order's 'prescribed species' in relation to both the regulated and several fishery are listed within s.1(2):

*[...]*

*“the prescribed species” are oysters, mussels, cockles, clams, scallops and queens;*

*[...]*

In combination, it has been the Authority's position therefore that any cockles falling into a mussel lay are subject to the private fishery, and any attempt to allow public fishing of those mussels could be successfully challenged. This could however be corrected in the lease conditions of lays under a future Several Order.

### **The impact of delays on lay investment**

Regarding lay investment the representatives write:

*“It should be borne in mind that the failure of the authority to put in place replacement arrangements after the expiry of the WFO, and its insistence that the*

*lay leases then determined even though they had not expired has destroyed the confidence of the industry to invest in the lays.”*

Delays in the progression of the Several Order replacement may have contributed to a lack of investment in the lays for some. However, it is not apparent that confidence has been ‘destroyed’, as some lay holders have in fact stocked their lays recently. Therefore there is still a degree of confidence and investment, and secondly, other layholders have stated their intention not to stock lays due to EU Exit uncertainties and market conditions, which are not the result of any Authority delay.

### **Challenge to the proposed FMP**

Regarding the proposed FMP the representatives write:

*“On the Authority’s analysis, any mussels in the lays on the expiry of the order would be available to be fished as part of the public fishery; who, therefore, would lay down seed mussel in those circumstances? Similar considerations apply to the desire of the officers to make the lays very much more precarious than they are at present. It has a severe negative impact on investment – which is required to prepare and stock a lay.”*

The FMP is intended to enable the grantee to meet its obligations but also to provide layholders with sufficient surety to enable effective business planning. The FMP includes a regular review of lay use against the layholders’ business plans which would support their initial applications, and this is not considered to be ‘precarious’. Rather, it is intended to ensure lays granted are used and not left dormant, as many are, at the expense of those on the waiting list for a lay. Business plans do not need to account for unforeseeable events and neither does the business plan oblige a layholder to operate a lay in a way that is not possible in any given set of circumstances. The economic and environmental realities of aquaculture will be considered during any lease reviews. It is also noteworthy that further surety has been provided within the FMP through the potential to issue ‘limited leases’ which, in summary, could be issued were a lay holder ‘fails’ a review and which protect the stock therein for up to two years to enable further growth and removal.

### **Conclusion**

Whilst it is acknowledged that there are numerous benefits to aquaculture in the Wash, and that administering a Several Order therein would facilitate aquaculture, the specific arguments by the industry representatives are not necessarily accepted. It is relevant to note that their position appears to indicate that the Authority would be fettering its own discretion by undertaking a Several Order, although again this is not necessarily accepted. The situation remains that the administration of a Several Order is a valid and potentially worthwhile course of action, but that there is not thought to be a legal obligation to do so.

## Vision

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



## Action Item 11

### 52<sup>nd</sup> Eastern Inshore Fisheries and Conservation Authority Meeting

14 June 2023

#### Wash Several Order 2022 update and formal consultation

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

#### **Purpose of Report**

*If members decide not to continue with the application for a Several Order at Action Item 10 this paper will be withdrawn from the agenda and won't be considered.*

The purpose of the report is to present members with the draft Several Order, the outputs from additional informal dialogue and a revised Fisheries Management Plan to accompany the Several Order applications for agreement.

#### **Recommendations**

It is recommended that members:

- **Agree** to the draft wording of the Wash Several Order 2022 (Appendix 1).
- **Note** the outputs from the additional informal consultation (Appendix 2).
- **Agree** to the revised draft Fisheries Management Plan for managing aquaculture under a Several Order in The Wash (Appendix 3).
- **Agree** to delegate authority to the CEO in consultation with the Chair and Vice-Chair to agree a final draft of the Wash Several Order 2022 pending such being provided by Defra.
- **Direct** officers to undertake a formal consultation on the application for a Several Order on receipt of the final draft of the Wash Several Order 2022.
- **Agree** to delegate authority to the CEO in consultation with the Chair and Vice-chair to make changes to the draft Wash Several Order 2022 and associated Fisheries Management Plan as informed by the formal consultation.
- **Direct** officers to update members on progress towards agreeing a final version for confirmation at subsequent Authority Meetings
- **Direct** officers to seek a decision from the Authority on whether to proceed with the application in the event the Minister calls a local enquiry to resolve objections.

#### **Background**

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.

An informal consultation took place between 18 January 2022 and 25 February 2022. WFO Lay holders, wildfowler associations, the Crown Estate, the le Strange Estate, the Ministry of Defence, the Wash and North Norfolk Marine Partnership and the Royal Society for the Protection of Birds (RSPB) were contacted directly in addition to material being posted on the Authority's social media accounts and website. Natural England's advice was also sought.

The consultation highlighted several areas which would likely be the subject of objection at a formal consultation, and these were reported to members at the 51<sup>st</sup> Eastern IFCA meeting. These primarily related to the administration of lays (e.g. lease duration, need to review lay se etc.) under the FMP.

## **Report**

### **Draft Wash Several Order 2022**

The Draft Order is at Appendix 1. Dialogue with Defra is ongoing with regards to the wording of two parts in particular, that being the description of the Wash Several Order areas and the omission of provisions relating to the ability to charge fees. On the latter, we have sought confirmation that fees can be charged for the issuing of leases. In addition, a change in title is being sought to the Wash Several Order 2022, rather than Wash Fishery Order 2022, to avoid any confusion with the previous hybrid Order.

Members will note that, compared to the WFO, the draft Order is significantly less complicated and places a greater level of autonomy on the Authority to manage lays as it considers appropriate (via a Fisheries Management Plan). This reflects the wording of more modern Several Orders and is very similar to the wording of the recent Poole Harbour Order 2015 (SI: 2015/1346). In addition, Defra have also indicated that they will only consider an Order of up to 20 years duration (as opposed to the 30-year duration of the WFO).

Once a final version of the Order is drafted, it can then be consulted on via a 'formal consultation'. It is proposed that authority is delegated to the CEO in consultation with the Chair and Vice-Chair to agree to a final draft of the Order for the purpose of the formal consultation. It is likely that the process of resolving consultations will involve some iterative dialogue between respondents and Defra to seek changes to the Order as considered necessary. It is therefore further proposed that authority is similarly delegated to make any changes considered necessary as a result of the formal consultation to facilitate expedience of the application process.

### Refinement of the FMP

The FMP will also be the subject of formal consultation along with the wording of the draft Order.

A broad range of lay holders were contacted directly to seek their views on what were considered to be the key areas of concern based on ongoing dialogue and the previous informal consultation. The intention was to seek further information to refine the FMP and reduce the likelihood of objections during the formal consultation. The outputs of this consultation are published on the Eastern IFCA website and is appended to this report.

Several revisions have been made to the proposed FMP (Appendix 3) as informed by this consultation and the key amendments are summarised below:

- **Consideration of business plans as part of lay application and review** – Specific reference is made in the FMP to the current barriers facing Wash lay holders with respect to using lays and that these will be factored into any review of lay use. This is intended to allay concerns that lays will be removed where they have not been used as a result of external factors (seed availability, export barriers etc.). In addition, a simple *pro forma* has been developed to aid lay holders in providing the required information. It is noteworthy that, were lay holders to apply for an Order in their own right, this would require submission of a business planning including, for example, forecasts for the productivity.
- **Issuing of 'limited leases'** – Notwithstanding the point above, where the Authority decides not to re-issue a lay as a result of a review, a 'limited lease' will be issued for up to 2 additional years to enable the stock therein to be removed but which prohibits further depositing of stock. This is intended to allay concerns that lay holders will be reluctant to invest in seed within 2-3 years of a pending review because of a lack of certainty that they will be able to harvest the seed if the lease is cancelled.
- **Species specific leases** – The FMP sought to address a key concern that lays may be retained solely to benefit from settlement of wild shellfish (cockles in particular) at the expense of those who would actually wish to undertake aquaculture. This is addressed through the issuing of leases for the species intended to be cultivated only with the effect that any wild shellfish other than those being cultivated would be available to the public fishery. Any application for cockle aquaculture would have to satisfy the Authority that there is a genuine intention to seed the lay with cockle rather than cultivate that which naturally settles.

As the grantee of a Several Order, the Authority will be taking on responsibility and liability for aquaculture operations within lays. It is therefore incumbent on the Authority to have an FMP which manages lays in a fair and equitable way with sufficient measures to ensure the protection of MPAs and other fisheries. The FMP

at Appendix 3 is considered to be an appropriate balance between meeting our duties as the grantee and as an IFCA with enabling aquaculture in The Wash to the benefit of wider fisheries. It is suggested that applicants are significantly more likely to be able to receive rights to a lay under this FMP than would be the case if they applied for a Several order in their own right, which is the intention.

### Fees

Whilst the Authority's obligation to manage the exploitation of sea fisheries resources includes in relation to aquaculture, this does not necessitate doing so as the grantee of an Order. Doing so incurs a cost to the Authority which would ordinarily be borne by the lay holders themselves and as such, an element of cost recovery is considered appropriate.

The costs to the Authority are described in detail in section 7 of the FMP (Appendix 2). It is proposed that seeking full cost recovery would be appropriate, however doing so is likely to be prohibitively expensive in the context of limited mussel seed availability at present. In addition, the operating costs of *RV THREE COUNTIES* represent a significant proportion of the estimated cost, and which are likely to reduce once the replacement vessel is in operation.

The proposed annual fee is therefore £20 per hectare, which represents circa 16% cost recovery in relation to the minimum estimated cost. This is considered to be an appropriate level of cost recovery initially on the basis that it represents a 100% increase in the present minimum fee, because the costs to the Authority are anticipated to reduce on the replacement of *RV THREE COUNTIES* and because of the significant barriers to lay holders operating their lays at present. It is also noteworthy that, under the WFO, no cost recovery was achieved (except a £5 admin charge each year) and all fees gathered were paid to the Crown Estate. Therefore, the proposed fee will represent a significant increase in cost recovery to the Authority.

It is also proposed that this fee is reviewed within a reasonable timeframe of the confirmation of the Order to reconsider the appropriate level of cost recovery and particularly if lays become more active.

### Next steps

A formal consultation is the next major step in the application process. This will involve a 1-month consultation period and provide opportunity for objections to the proposal.

Where objections are considered (by Defra) to be substantive, these will require resolution either by way of amendment, or local enquiry.

The recent consultation identified that there is a preference to include a 2-year hiatus within the FMP whereby the status quo is maintained, and lays are effectively issued under the same provisions of the WFO 1992. This was a solution proposed in an earlier version of the FMP and informed by the first informal consultation. However, it is suggested that the further refinement of the FMP should be consulted on, with the position to include a two-year hiatus as a reasonable fall-back position in the event that there are substantive objectives which cannot be resolved with further

amendments. The benefit being that finalisation of the measures for administering lays will provide surety to lay holders to enable lay operations and associated investment sooner.

### **Financial Implications**

There are potentially significant financial implications associated with the application of the Wash Several Order 2022 and these are set out in Action Item 10 of this meeting. These are mitigated to an extent by the ability to charge fees of lay holders and the proposals in this paper describe the associated contribution to cost recovery.

The cost to the Authority and the contribution of lay holders to cost recovery will be monitored and reviewed as appropriate to further mitigate this risk.

Where objections cannot be resolved the Minister may call for a local enquiry to resolve such. This would potentially entail a significant financial and resource cost to the Authority. It is proposed that, at the point any such objection cannot be resolved reasonably (including via inserting the 'two-year hiatus' referred to above) the matter is referred back to the full Authority to make a further decision as to whether to proceed.

### **Legal Implications**

There is an inherent legal risk associated with decisions on proceeding with any management measures. However, these are limited at this stage of the application given that stakeholders will have the opportunity to object to these proposals.

The CEO, in conjunction with the Chair and Vice-Chair, will exercise due diligence (including seeking the legal advice as required) in exercising any delegated Authority, the provision of which is considered reasonable given the delays in this work stream to date. In addition, the delegated authority includes specific points at which the matter would be referred back to the full Authority.

### **Appendices**

Appendix 1 – Draft Wash Several Order 2022

Appendix 2 – Outcome report for additional Informal Consultation

Appendix 3 – Draft Fisheries Management Plan – available on the Authority's website at:

[Authority Meeting Papers - Eastern IFCA \(eastern-ifca.gov.uk\)](http://eastern-ifca.gov.uk)

### **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

Papers and minutes for Action Item 11, 51<sup>st</sup> Eastern IFCA Meeting, 8 March 2023

**2022 No.**

**SEA FISHERIES, ENGLAND**

**SHELLFISH**

**The Wash Fishery Order 2022**

*Made* - - - - - **\*\*\***  
*Laid before Parliament* **\*\*\***  
*Coming into force* *[4th January 2023]*

The Secretary of State, in exercise of the powers conferred by section 1 of the Sea Fisheries (Shellfish) Act 1967<sup>(10)</sup>, and now vested in the Secretary of State<sup>(11)</sup>, makes the following Order.

In accordance with section 1(2) of the Sea Fisheries (Shellfish) Act 1967, the Eastern Inshore Fisheries and Conservation Authority<sup>(12)</sup> (“the applicant”) has made an application to the Secretary of State for an Order conferring a right of several fishery under section 1 of that Act.

In accordance with Schedule 1 to the Sea Fisheries (Shellfish) Act 1967<sup>(13)</sup>—

- the Secretary of State prepared a draft order and served a copy of it on the applicant;
- the applicant caused printed copies of the draft order to be published and circulated, and gave notice of the application, as required by paragraph 2 of that Schedule;
- [\*to be completed – objections / representations]; and

---

<sup>(10)</sup> 1967 c. 83. Section 1 was amended by section 202(2) and (3) of the Marine and Coastal Access Act 2009 (c. 23) and by paragraph 15 of Schedule 2 to the Fishery Limits Act 1976 (c. 86). See section 22(1) for the definition of “the appropriate Minister”.

<sup>(11)</sup> The functions of the Minister of Agriculture, Fisheries and Food under section 1 were transferred to the Secretary of State by article 2(2) of S.I. 2002/794.

<sup>(12)</sup> The Eastern Inshore Fisheries and Conservation Authority is the IFC Authority provided for by section 150(1) of the Marine and Coastal Access Act 2009 in relation to the Eastern IFC district established under section 149 of that Act by virtue of S.I. 2010/2189.

<sup>(13)</sup> Schedule 1 was amended by sections 202(4) and 214(2) to (4) of the Marine and Coastal Access Act 2009.



the Secretary of State has had regard to the powers and duties of the Crown Estate Commissioners under the Crown Estate Act 1961<sup>(14)</sup>.

### **Citation, commencement and extent**

—(1) This Order may be cited as the Wash Fishery Order 2022 and comes into force on [4th January 2023].

This Order extends to England and Wales.

### **Interpretation**

In this Order—

“the Authority” means the Eastern Inshore Fisheries and Conservation Authority;

“the fishery area” means the area described in the Schedule;

“the management plan” means the management plan for the fishery area produced by the Authority, which may be amended from time to time in accordance with article 6, the original of which is entitled “The Wash Several Order (2022) Management Plan” dated [5th April 2022] and was submitted to the Secretary of State by the Authority as part of the application for this Order.

### **Right of several fishery**

The Secretary of State confers on the Authority the right of several fishery for—

mussels of the species *Mytilus edulis*,

cockles of the species *Cerastoderma edule*,

oysters of the species *Ostrea edulis*,

king scallops of the species *Pecten maximus*,

queen scallops of the species *Aequipecten opercularis*, and

carpet shell clams of the species *Tapes rhomboides*, *Venerupis spp* and *Ruditapes spp*

in the fishery area for a period of 20 years commencing on [4th January 2023] subject to the requirements of this Order.

### **Management plan**

The Authority must—

manage the fishery area in accordance with the management plan;

publish the management plan on its website<sup>(15)</sup>; and

make a copy of the management plan available for inspection at its office<sup>(16)</sup>.

### **Review of management plan**

—(2) Before the end of each calendar year during the period for which the right of several fishery is conferred under article 4, the Authority must conduct a review of the management plan.

Subject to paragraphs (3) and (4), the Authority may from time to time amend the management plan.

---

<sup>(14)</sup> 1961 c. 55.

<sup>(15)</sup> [www.eastern-ifca.gov.uk](http://www.eastern-ifca.gov.uk).

<sup>(16)</sup> The Eastern Inshore Fisheries and Conservation Authority is currently located at 6 North Lynn Business Village, Bergen Way, King’s Lynn, Norfolk, PE30 2JG.

On each occasion before amending the management plan the Authority must consult—

the Secretary of State;

Natural England<sup>(17)</sup>;

any person the Authority considers likely to be affected by the management plan or the proposed amendments; and

any person the Authority considers to be, or likely to be, the owner, lessee or occupier of the fishery area or part of it.

When consulting the bodies and persons listed in paragraph (3), the Authority must—

provide a minimum of four weeks for consultees to consider the proposed changes and make any representations (“the consultation period”), and

take account of any written representations it receives during the consultation period in deciding whether to proceed with making the proposed amendments.

Where the Authority amends the management plan, it must publish the updated version of the plan on its website.

### **Provisions relating to leases**

—(3) The Authority may lease to any person the right of several fishery for any of the species listed in article 4 within any part of the fishery area and upon such terms and for such period (subject to the period specified in article 4) as the Authority considers appropriate.

Any lease granted by the Authority under paragraph (1)—

has effect as if the right which it confers on the lessee were conferred by an order under section 1 of the Sea Fisheries (Shellfish) Act 1967 and as if any terms and conditions contained in the lease were contained in such an order, and

must include a provision prohibiting the lessee from taking such actions as may cause the Authority to be in contravention of the provisions of this Order and providing that the lease may be terminated by the Authority in the event of breach.

The Authority must take all reasonable steps to monitor compliance by a lessee with the provisions of a lease granted under paragraph (1).

### **Account of income and expenditure and other information**

—(4) The Authority must provide to the Secretary of State annual accounts of income and expenditure under this Order and such other information relating to this Order and to the fishery area in such form and at such times as the Secretary of State may reasonably require.

The Authority must allow any person authorised by the Secretary of State to inspect the fishery area and all accounting records and other documents in the possession of the Authority relating to this Order and to the fishery area.

The Authority must give any person authorised for the purposes of paragraph (2) such information in its possession relating to this Order and to the fishery area as that person may reasonably require.

### **Statutory undertakers**

—(5) Nothing in this Order prejudicially affects the lawful activities of a statutory undertaker in exercising that undertaker’s statutory functions or authority.

---

<sup>(17)</sup> Natural England was established by section 1 of the Natural Environment and Rural Communities Act 2006 (c. 16).

In paragraph (1) “statutory undertaker” has the meaning given in section 262(1) of the Town and Country Planning Act 1990<sup>(18)</sup> and article 1(2) of the Town and Country Planning (General Permitted Development) (England) Order 2015<sup>(19)</sup> and includes—

a person running a telecommunications code system, as defined in paragraph 1(1) of Schedule 4 to the Telecommunications Act 1984<sup>(20)</sup>; and

any person or body carrying out coast protection work within the meaning of the Coast Protection Act 1949<sup>(21)</sup> in accordance with any consent or approval under that Act.

---

<sup>(18)</sup> 1990 c. 8.

<sup>(19)</sup> S.I. 2015/596, to which there are amendments not relevant to these Regulations.

<sup>(20)</sup> 1984 c. 12.

<sup>(21)</sup> 1949 c. 74; relevant amendments were made by paragraphs 2 to 24 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29). See section 49 (interpretation) for the meaning of “coast protection work”.

Signed by authority of the Secretary of State for Environment, Food and Rural Affairs

Date *Name*  
[Parliamentary Under Secretary of State]  
Department for Environment, Food and Rural affairs

## SCHEDULE

Regulation 3

### The fishery area

1. Subject to paragraph 2, the fishery area is the area enclosed by the two boundary lines described in the table below by reference to the co-ordinates of the points joined by each line and a topographical description of each line.

<i>Boundary line</i>	<i>Set of co-ordinates of points which boundary line joins</i>	<i>Topographical description of boundary line</i>
1.	A, B	Mean high water line
2.	B, A	Geodesic line

where—

“A” is 53° 05’ 70” N and 00° 19’ 89” E; and

“B” is 52° 58’ 55” N and 00° 32’ 27” E.

2.[The fishery area does not include that part of the Wash which lies within the “the le Strange Estate” as defined in the judgment of Mr David Halpern QC sitting as a deputy High Court judge and handed down by the High Court on 27 July 2018 with the reference John Henry Loose -v- Lynn Shellfish and others: Neutral Citation Number: {2018} EWHC 1959(Ch).]

In paragraph 1, “co-ordinates” is a reference to co-ordinates of latitude and longitude according to the World Geodetic System 1984(22).

---

(22) The World Geodetic System 1984 (“WGS 84”) defines a reference frame for the earth, for use in geodesy and navigation. It was developed by the United States’ National Geospatial-Intelligence Agency and is maintained by it. WGS 84 is defined at paragraph 2.1 of the United States’ National Imagery and Mapping Agency Technical Report TR8350.2, third edition, amendment 1 of 3rd January 2000 entitled “Department of Defense World Geodetic System 1984” (<http://earthinfo.nga.mil/GandG/publications/tr8350.2/wgs84fin.pdf>).

## EXPLANATORY NOTE

*(This note is not part of the Order)*

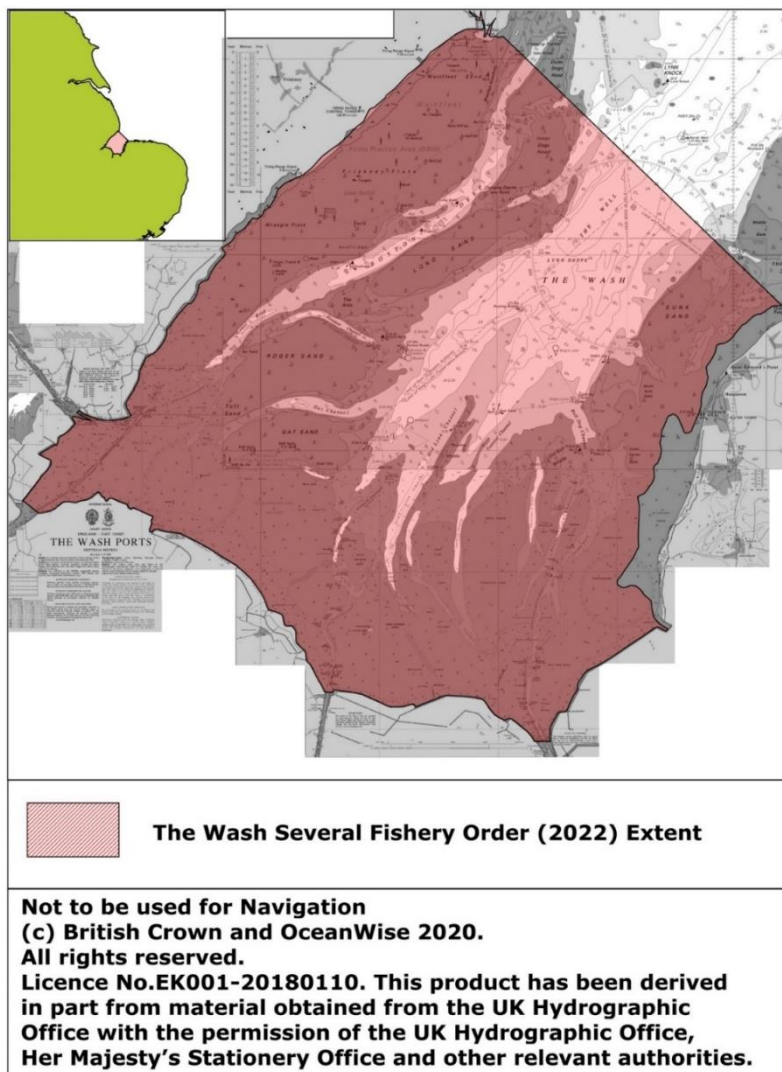
This Order grants the Eastern Inshore Fisheries and Conservation Authority (“the Authority”) a right of several fishery. This is the exclusive right to deposit, propagate, dredge, fish for and take mussels, cockles, oysters, scallops and clams in the Wash fishery for the period of 20 years commencing on [insert].

The area in respect of which the right is conferred lies within the Wash which straddles the counties of Lincolnshire and Norfolk, the boundary line of which is described in the Schedule by reference to co-ordinates and topographical descriptions. The area is shown (for illustrative purposes only) delineated on the map below and comprises approximately 62,430 hectares.

Article 5 requires the Authority to manage the fishery in accordance with the management plan as defined in article 3. Article 6 provides for the annual review of the management plan and for the Authority to amend the plan where appropriate. The management plan may be viewed on the Authority’s website ([www.eastern-ifca.gov.uk](http://www.eastern-ifca.gov.uk)) and is available for inspection at the office of the Authority (Eastern Inshore Fisheries and Conservation Authority, 6 North Lynn Business Village, Bergen Way, King’s Lynn, Norfolk, PE30 2JG).

Article 7 provides the Authority with the ability to lease the right of several fishery to other persons.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.



## Appendix 2 – Outcome of additional informal consultation

### Wash Several Order 2022 Application

### Fisheries Management Plan (FMP): Additional Informal Consultation Outcome

The FMP describes how Eastern IFCA will administer and manage shellfish aquaculture in The Wash under the proposed Wash Several Order 2022. Further to an informal consultation held during early 2022 and the subsequent ongoing dialogue with lay holders and their representatives, Eastern IFCA undertook an additional informal consultation in May of 2023.

During this consultation, a broad range of lay holders were contacted directly to seek their views on key areas of the FMP, particularly relating to the administration of lays. The number contacted represents approximately 40% of unique lay holders representing the vast majority of lay ground in The Wash.

#### Reviews of lay usage

##### Views of respondents

Although lay reviews were a contentious issue, the majority of respondents felt that a review mechanism is necessary. However, generally their concern that such a mechanism would penalise lay holders for issues outside of their control, such as the availability of seed and the conditions of the Wash. Other respondents felt there should not be any such review mechanism, some because they felt the lack of security would reduce lay usage because of the fear they could lose the lease after 5 years (i.e. would not want to stock it after the first two years as any seed might be lost if the lay is removed), others because they felt non-usage was either not an issue, or that most lays were being used.

Regarding the proposed 5-year review, most of the respondents who did not disagree with reviews felt 5 years would be fair, although there were some reservations that it was a little short and the 10 years of the WFO would be preferable. Those that did not agree to a review generally therefore felt there should not be shorter leases.

Two widely given suggestions for preventing non-usage of lays were to limit lays to entitlement/permit holders, or to have a requirement for lay holders to have a vessel with which to use their lay. Other responses included EIFCA physically inspecting lays for usage, and for increasing options for acquiring seed.

When asked whether settlement of wild shellfish should trigger a review, there was a general sentiment that mussel settlement should not. With respect to wild cockle settlements, respondents generally felt this should trigger a review, but there were some strong views to the contrary. Some noted that irregular settlement of cockle was not an issue, but where a bed is regularly becoming set with cockle, it should be returned to the public fishery. Others felt it might be appropriate to enable fishing of cockles from a person's lay should they settle but that the lay would remain there for the purpose of mussels. It was also noted that should a lay be removed for this reason, finding a replacement lay may be difficult as there is limited unoccupied lay ground remaining in The Wash.

### Consideration and proposals

A review mechanism is considered important to ensure lays are utilised for their intended purpose and not retained at the expense of those who would seek to use the lay themselves either for aquaculture or as part of the public fishery. Noting that there was a majority view from lay holders that reviews are necessary, it is felt that these should be included within the FMP but with the following amendments to address concerns raised.

1. **Use of a limited lease** – Where a lay holder ‘fails’ a review and the decision is made to cancel the lease, a ‘limited lease’ will be issued which will maintain the rights that person has over any shellfish therein for up to 2 years but prevent additional stock being placed onto the lay. This is intended to address the concern that reviewing lay usage every 5-years prevents lay holders from investing in seed etc. as it could be lost to them if the lay is removed.
2. **Set out review criteria** – The review criteria have been amended to be more explicit and concentrate on non-usage, rather than considering productivity. In addition, the criteria explicitly state the factors which will be taken into account as mitigating factors (e.g. seed availability, vessel loss etc.)
3. **Species specific applications and leases** – Amendment to the application process to the effect that the application must include reference to the species intended for cultivation and leases issued accordingly. Cockle aquaculture would be permitted, but the expectation is that a business plan would have to set out how seed for such would be gathered. By issuing leases for specific species only, other species would be harvestable to the extent that such would not disturb any relayed shellfish. In reality, if mussel are present on the lay, it is unlikely that cockle will settle and vice-versa. The intention is to remove the benefit of retaining lay areas as a means of taking what would ordinarily be wild shellfish.
4. **Regular wild settlement** – To insert a clause in the lease to the effect that, if species other than those named on the lease are detected as settling in the lay for 3 consecutive years, a review is triggered as to whether the lay ground should return to the public fishery. In addition, the FMP has been amended to include a transition from that lay to another, if such is available, including the

issuing of a limited lease to enable removal of any re-laid shellfish within a year.

5. **Criteria for holding a lay** – The FMP is amended to limit lay allocation to persons who have a vessel capable of operating in a Lay and who hold (or are eligible to hold) a Wash Cockle or Mussel Permit. This is intended to further reduce the likelihood of non-use of lays by restricting it to those with access to local seed mussel fisheries. There is an added benefit that the lays will also then reduce pressure on Wash-based fisheries by providing an alternative income.

## **Cost Recovery**

### Views of respondents

Lays have incurred a fee under the Wash Fishery order 1992 (WFO) but these have been passed to the Crown Estate as part of our lease agreement with them. Going forward, there is no need to hold a lease with the Crown and instead, we are seeking to introduce an element of cost recovery. Under the WFO, there was an annual fee of between £10 and £17.50 per hectare, depending on how much seed was made available that year in a relaying fishery.

There was broad consensus that lay holders could not afford much in the way of increased costs and would widely abandon lays if costs notably increased. There was a general understanding that costs to the IFCA may increase, but a strong sense that increased costs to lay holders simply would not be viable and the costs should be kept as low as possible. This is primarily as a result of the financial gains from operating lays being limited and more so now in the context of significant financial barriers.

In terms of costs to industry, the price of purchasing seed was said to have gone up, and the availability of seed to relay was described as very limited – and even then, the operating costs of fishing for seed would not be recovered for years in a relaying operation. In addition, aquaculture inherently represents an element of business risk, with many factors that can lead to the loss of a harvest, ranging from weather to predation to disease. Assuming a stock is eventually prepared, fishermen then face market uncertainties; since Brexit their ability to sell abroad is hindered and the internal market is less dependable. Aquaculture was painted as a very high-risk endeavour. Other barriers mentioned included the need to keep the lays marked with buoys, which was considered expensive, unnecessary and even potentially dangerous as they can get tangled around propellers, and the costs associated with cleaning lays.

### Consideration and proposals

The Authority will bear a cost as a result of being the grantee of a Several Order. The key annual costs are estimated as at between £40,523 and £74,284 annually



(monitoring of lays once per year and monthly food availability monitoring) equating to between £1.14m and £2.1m over the lifetime of the Order (20 years at a base rate of 3.5% inflation). In addition, the cost associated with processing a 'new' lay application is estimated as between £2,197 and £5,218. Detailed cost analysis is in Section 7 of the FMP. Whilst the Authority is obliged to manage exploitation of sea fisheries resources, this does not necessitate being the grantee of an Order and as such it could be argued that cost recovery would be expected of a public Authority to provide these services in the interest of private fisheries.

However, it is also clear that seeking complete or even 50% cost recovery could make the lays unviable from the perspective of current lay holders in the context of their current use and particularly in the context of the contemporary cost barriers described above. For example, if shared amongst lay holders on a per hectare basis, the fee for a 10 hectare lay would increase from £100 per year to £1,474 per year at 50% cost recovery in a year when no seed was available. Cost recovery to that extent is likely to lead to some lay holders giving up their lays, particularly given the lack of seed presently available to local fishermen.

One could argue that this cost is not significant in terms of operating an aquaculture business and is reasonable given that the cost would be significantly higher if lay holders intended to apply for a Several Order themselves. It would also deter those seeking to hold onto a lay with no real prospect of using it except for in the event of the emergence of a sub-littoral mussel bed, making it potentially available to a person with a business plan to buy seed in.

However, the intention of the lays is to enable an additional income source to Wash Fishermen to reduce pressure on wild stocks, particularly cockles and shrimps, and it is unlikely that any system could enable applying for and being granted a lay within the time frame of finding and prosecuting an ephemeral seed mussel fishery. This would potentially reduce the benefit of being the grantee of an Order to the extent that the cost to the Authority is not justified particularly in the context of limited seed availability at this time. That being the case, consideration has been given to achieving a balance between making lays more readily available to those without them in the event sublittoral mussels beds are identified and receiving the costs to the Authority as follows:

- **Introduce an application fee** – For new applicants only and set at 50% cost recovery for processing the application, up to a maximum of £2,500;
- **Introduce annual cost recovery fee** – The fee proposed is £20 per ha, which represents circa 16% cost recovery based on current estimates. It is recommended that this is reviewed within a reasonable timeframe and particularly once the replacement for *RV THREE COUNTIES* is in operation as the majority of estimated costs relate to her operation.

# Business Planning

## Views of respondents

Respondents almost unanimously agreed that the existing lays should be dealt with under the new system first, and that new entrants should be delayed until this was completed.

There were widespread reservations regarding the proposed business plans that would be required from lay holders. These largely revolved around the unpredictable nature of the Wash mussel fisheries, and the established reactive business model, where mussels are taken as and when they are available and relayed. Respondents were keen that the IFCA be understanding of the realities of the private fisheries, which may often deviate from any proposed plan. Some respondents questioned the ability of IFCA staff to fairly judge an aquaculture business plan. Several also mentioned the importance of flexibility and co-operation between lay holders to the Wash model, with reference to moving stock between beds, stock being washed onto neighbouring lays, and the value of lays being worked by another fishermen in years when they were not able to work them themselves.

The 10-hectare limit from the WFO was supported by the majority of respondents, although often with the caveat that lay holders should be able to co-operate. However, some felt that 10 was unrealistically small, with the need to move seed around or to be able to lay seed each year. One suggested that 10 was too small to rely on, but that it was adequate for a supplementary option for the Wash fleet. Regarding balancing those with the capacity to use more space against the potential monopolisation of the Wash lays, some highlighted the value of partnerships and co-operation (as opposed to singular ownership), others felt the larger operators should be able to get more space only if no smaller operators wanted it, and some felt that there should be a totally level playing field, that 10ha should be the maximum and to decide otherwise would be to reward over-investment.

## **When to implement the changes**

The majority of respondents felt that they would prefer the *status* effect, though some felt they would need to see the new system before they could decide and some felt they would prefer the certainty of the new system as soon as possible.

It is proposed that the new system is the subject of formal consultation before making a final decision on the matter to test whether stakeholders are in agreement with these refinements. The 2-year *status quo* could be included where objections on the new system cannot be resolved.

## Other Thoughts

Several respondents mentioned the availability of sublittoral mussel beds, particularly in the context of the time taken by Eastern IFCA to open them when discovered, and that this should be faster.

The vast majority of the district is covered by a form of Marine Protected Area and enabling a mussel fishery would therefore require the completion of a Habitats Regulation Assessment, potentially informed by surveys. This can be time consuming, but the Authority has an excellent working relationship with Natural England and is confident that a sub-littoral mussel bed could be opened reasonably quickly if one were detected.

There were a number of mentions of business continuity in the case of the deaths of lay holders. Some felt they would like to inherit access to business partners' lays (especially if there was ongoing co-operation), but others were concerned about lays passing through businesses, and that this could lead to monopolisation.

The policy put into place under the Wash Fishery Order 1992 ensured that stock within lays would be protected in the event of the death of a lay holder. It is also established practice that the lays are placed into business names such that the associated lease survives the death of the person who may be the lay holder such that the business can continue to operate it. This does to an extent fetter the Authority's discretion with regards to determining who can operate lays, as they become potentially tradeable assets. However, the FMP includes criteria which ensures that lay allocation meets the objectives of the plan.

### 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

### 52<sup>nd</sup> Eastern Inshore Fisheries and Conservation Authority Meeting

14 June 2023

#### Wash Cockle and Mussel Byelaw 2021 amendments

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

#### **Purpose of Report**

To inform members of the potential need for amendments to the Wash Cockle and Mussel Byelaw 2021 and to seek delegated Authority to make such amendments.

#### **Recommendations**

It is recommended that members:

- **Note** the report and rationale for potential amendments to the Wash Cockle and Mussel Byelaw.
- **Agree** to delegate authority to the CEO, in consultation with the Chair and Vice-Chair, to amend the Wash Cockle and Mussel Byelaw 2021 taking into account consultation responses, Marine management Organisation advice and legal advice on the matter.
- **Direct** officers to submit a final version of the Wash Cockle and Mussel Byelaw 2021 to the MMO once these amendments have been made.

#### **Background**

Members agreed to make the Wash Cockle and Mussel Byelaw 2021 at the 43<sup>rd</sup> Eastern IFCA meeting and the byelaw has subsequently been the subject of formal consultation and formal quality assurance checks (QA) by the Marine Management Organisation (MMO). Various amendments to the byelaw have been made as a result of both, and these have been reported to members at various Authority meetings since (see 'background documents').

#### **Report**

The MMO provided further advice on the draft byelaw in March of this year. The advice was, for the most part, to make minor wording changes which did not alter the intended effects of the byelaw.

However, the advice also suggested removal of the provisions to require (through flexible permit conditions) vessels to have onboard and report via Vessel Monitoring Systems (VMS). In addition, MMO advised that an additional consultation should be held on the wording of the byelaw in light of the level of changes made since the

formal consultation. In that regard, they also advised a short, targeted consultation would be sufficient.

A 're-consultation' was undertaken between 25 April and 15 May. All respondents to previous consultations on the byelaw were contacted directly via letters to seek their views.

The responses to this consultation are being considered, and an outcome report will be published detailing such. However, two key objections will potentially require further amendment to the byelaw.

The first relates to the permit fee which, in accordance with the wording of the byelaw, is set to increase annually in line with inflation. Given the ongoing cost of living crises and unexpectedly high inflation rates, it is proposed that the wording is amended to provide the Authority with discretion as to implementing such an increase each year and potentially to include reference to a reasonable cap.

The second relates to a provision which effectively creates an offence for carriage of cockles and mussels, with an objection to the effect that the Marine and Coastal Access Act 2009 (MaCAA) does not enable such a provision. Legal advice is being sought on the matter.

It is likely that amendments will be required to the byelaw prior to final submission and potentially after further consideration by the MMO, particularly with respect to provisions relating to VMS. Further careful consideration of the responses to the consultation are required to determine if further changes may be needed.

So as to enable the timely submission of the byelaw back to the MMO, it is proposed that authority is delegated to the CEO in consultation with the Chair and the Vice-Chair to make amendments to the byelaw.

### **Financial Implications**

There is a financial implication with respect to a decision regards an annual fee increase. These will be considered in making a decision on the matter, and in particular take into account the potential impact on the Authority where inflation increases costs to the Authority which are not then recovered by way of fee increases.

### **Legal Implications**

Risk of legal challenge to decisions made under delegated authority are mitigated through the adoption of due diligence and making such in accordance with statutory duties and Defra guidance. Where the CEO, Char and Vice-Chair feel that the level of amendment to the byelaw warrants additional scrutiny by the Authority, they will either consult members for their views before taking a decision or refer the matter back to an Authority meeting.

It is noteworthy that the above amendments referred to relate either to a point of law (i.e. whether vires is provided under MaCAA to include certain provisions) or to reduce the burden on industry (i.e. discretion around the implementation of fee increases) and as such are less likely to be the subject of successful challenge.

## **Appendices**

Not applicable

### **Background Documents**

Papers and minutes for the 39<sup>th</sup> Eastern IFCA Meeting (11 March 2020)

Papers and Minutes for the 43<sup>rd</sup> Eastern IFCA Meeting (10 March 2021)

Papers and Minutes for the 44<sup>th</sup> Eastern IFCA Meeting (09 June 2021)

Papers and Minutes for the 45<sup>th</sup> Eastern IFCA Meeting (08 September 2021)

Papers and Minutes for the 46<sup>th</sup> Eastern IFCA Meeting (08 December 2021)

Papers and Minutes for the 47<sup>th</sup> Eastern IFCA Meeting (09 March 2021)

Papers and Minutes for the 49<sup>th</sup> Eastern IFCA Meeting (14 September 2022)

### Vision

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



## Action Item 13

### Eastern Inshore Fisheries and Conservation Authority Meeting

14 June 2023

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

#### Purpose of Report

The purpose of this report is to inform members about forthcoming consultations with regards to Fisheries Management Plans and a proposed means of facilitating members input into these.

#### Recommendations

It is recommended that members:

- **Agree** to hold a Fisheries and Conservation Management Working Group to consider and provide feedback on upcoming Fisheries Management Plan consultations, the dates of which will be determined by the timing of the consultation.
- **Agree** to delegate responsibility to the CEO in consultation with the Chair and Vice-Chair, to formally respond on behalf of the Authority having taken into account the views provided by members.
- **Agree** to delegate responsibility to the CEO to decide if a Fisheries and Conservation Management Working Group meeting is to take place in accordance with the schedule agreed at Action Item 14 of the 50<sup>th</sup> Eastern IFCA meeting or should be re-arranged to fit with the FMP consultation schedule.

#### Background

The Fisheries Act 2020 provides the framework for the UK to manage its international responsibilities as an independent coastal state. The act requires the UK fisheries policy authorities (in this case Defra) to publish Fisheries Management Plans (FMPs) to help deliver the UK's ambition for sustainable fisheries.

Sitting alongside the Joint Fisheries Statement (JFS), FMPs will replace the EU Common Fisheries Policy, and are being developed with the goal of helping revitalise our fishing sector and coastal communities. The ambition is that FMPs will set out the policies to deliver a healthy marine environment supporting productive fish stocks that underpin a vibrant and profitable seafood sector. FMPs will help to inform future management actions, our negotiations with the EU, and drive the reform of retained EU law and create better regulation.

## **Report**

IFCAs, through the Association of IFCAs (AIFCA), have been working with other regulators and DEFRA to help inform and support this process and have been contributing to the Frontrunner FMP Projects (Whelk FMP, Bass FMP, Scallop FMP, Crab & Lobster FMP, Channel Non-Quota Demersal FMP and Southern North Sea & Eastern Channel Mixed Flatfish FMP).

To meet the legal requirements of the JFS, the final version of the frontrunner FMPs are required to be adopted by the end of 2023. Prior to this, each draft FMP will go through a public consultation phase in late spring/early summer. Whilst IFCAs have been engaging throughout the process of developing the plans, the consultation phase provides IFCA Authority members and officers the first tangible outline of how key fisheries in their district could be managed in the future. This is an important opportunity for IFCA members to provide input into the development of the plans.

To facilitate this, it is proposed that the Fisheries and Conservation Management Working Group is utilised as a forum to consider consultations and provide feedback as an Authority.

It is anticipated that FMP consultations will provide six weeks to provide feedback and it is proposed that, once launched, details are provided to members and a Working Group meeting is organised for circa four weeks after the date of launch. This is intended to give members and officers sufficient time to consider the proposals and to arrange a related meeting.

A response will then be compiled on behalf of the group which will be finalised by the CEO in consultation with the Chair and Vice-Chair after the Working Group Meeting, taking into account the views provided.

### Additional responses

Kent and Essex IFCA are also developing a proposal for gathering the views of members via recorded interviews, analogous with the 'Common Ground Project'<sup>23</sup> undertaken by Eastern IFCA. More details about this proposal will be provided if it develops into a formal proposal.

## **Financial Implications**

None identified

## **Legal Implications**

None identified

## **Appendices**

n/a

## **Background Documents**

Minutes and Papers for Action Item 14 of the 50<sup>th</sup> Eastern IFCA Meeting, 14 December 2022.

---

<sup>23</sup> <https://www.eastern-ifca.gov.uk/the-common-ground-project/>



### 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

### 52<sup>nd</sup> Eastern Inshore Fisheries and Conservation Authority Meeting

14 June 2023

#### Wash Cockle Fishery 2023

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

#### **Purpose of Report**

The purpose of this report is to brief members on proposed management measures for the coming Wash cockle fishery and seek agreement for a revision to the calculation of the Total Allowable Catch.

#### **Recommendations**

It is recommended that members:

- **Note** the contents of the report including the stock survey, the assessment on TAC calculations and the outcomes of the Wash Forum.
- **Agree** in principle to adopt the revised TAC calculation presented in Appendix 2 on a trial basis for the 2023 Wash Cockle Fishery subject to favourable conservation advice and consideration of a consultation on the matter.
- **Agree** to delegate authority to the CEO in consultation with the Chair and Vice-Chair to make a final decision on adopting the revised TAC calculation.
- **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.

## Background

The Authority manages cockle fisheries in The Wash and such management in accordance with the associated Fisheries Management Plan (FMP)<sup>24</sup> as agreed by the Authority at the 37<sup>th</sup> Eastern IFCA meeting. The FMP sets out how the Total Allowable Catch (TAC) for the fishery is calculated along with other policy and principles for management required to ensure a sustainable fishery which operates within environmental parameters.

To inform the bespoke management measures required for each fishery an annual stock survey is undertaken during spring.

The Wash cockle fisheries were managed under the Wash Fishery Order 1992 (WFO) until its expiry on 4 January 2023. At the 50<sup>th</sup> Eastern IFCA meeting, members agreed to interim measures to manage the fishery by way of implementing a temporary closure and issuing exemptions to such (to enable fishing) with conditions which reflect management measures for the fishery in accordance with the FMP. In addition, members agreed to delegate authority to the CEO to issue such exemptions (to open a fishery), to issue, vary and revoke conditions attaching to the exemptions and, in consultation with the Chair and Vice-Chair, revoke exemptions so as to effectively close the fishery in accordance with the FMP (e.g. because the TAC is exhausted).

## Report

### Annual stock assessment

The annual cockle stock survey was undertaken in spring of 2023 and a survey report has been published (Appendix 1). In summary, the cockle stocks have increased slightly compared to last year, with a significant increase in the biomass of 'juvenile' cockles (i.e. less than 14mm) outweighing the losses to the adult proportion. Importantly, the areas closed to last years fishery appear to have achieved their aim of protecting juvenile stock which have increased in biomass and can contribute to a fishery this year.

### Calculating the Total Allowable Catch (TAC)

In accordance with the cockle fishery FMP, the TAC for the cockle fishery is calculated as 1/3 of the adult cockle stock (cockles  $\geq 14$ mm width). Based on the current adult stock of 3,457, the TAC for the 2023 fishery should be 1,152 tonnes. The size of the TAC this year is one of the smallest since its introduction and does not represent well the abundance of fishable stocks available to be harvested.

Atypical mortality has, since around 2008, been affecting adult cockles in The Wash. This mortality has recently been attributed to a new species of *Marteilia* protozoa which appears to cause mortality at around the time of spawning (which typically occurs when cockle reach 14mm width). As a result, the cockle fishery now relies on smaller, often pre-spawning, cockles which do not factor in the TAC calculation.

---

<sup>24</sup> [https://www.eastern-ifca.gov.uk/wp-content/uploads/2021/03/2019\\_07\\_WFO\\_cockle\\_fishery\\_management\\_plan1.5\\_Final.pdf](https://www.eastern-ifca.gov.uk/wp-content/uploads/2021/03/2019_07_WFO_cockle_fishery_management_plan1.5_Final.pdf)

Because the TAC is determined considering only the adult proportion of the stock, a disparity between the size of the TAC and available stocks is observed and has been broadening in recent years. As the industry are no longer purely targeting the cockles that contribute to the TAC, the allocated TAC is often either too high or too low for the available stocks. This leads to difficulties achieving the TAC when it is too high and good fishing opportunities being wasted when it is too low. The way the TAC is calculated has been reviewed to determine whether there is a more appropriate approach that could be adopted, that would be more representative of the cockles being targeted. The review has been published online (Appendix 2).

In summary, it is recommended that the TAC is calculated as 1/6th of the total stock. Over the past 23 years this change would not have greatly altered the overall quantity of cockles that had been harvested, but in recent years would have provided greater parity between the size of the TAC and the available stocks. Additional minimum stock thresholds within the FMP ensure stock sustainability and food availability for the overwintering bird populations, safeguarding a change to the way the TAC is calculated.

Using a calculation of 1/6th total stocks, the TAC of the fishery this year would be 2,937 tonnes. It is recommended that this revised method for calculating the TAC is adopted for this year in principle and subject to conservation advice from Natural England (to determine the models compatibility with the conservation objectives of the Wash Marine Protected Areas) and consultation with the industry.

#### Protecting small cockles

The FMP contains measures to protect juvenile cockles, and this includes through the use of closures to protect the highest density patches of such to contribute to future fisheries. However, protection of smaller cockles generally relied on market forces which deterred their removal due to their lower value. More recently, smaller cockle has been commanding the same first sale value as larger cockles and as such they have been targeted more often.

Whilst the fishery can sustain removal of a proportion of smaller cockles, particularly those in belonging to the 'year-1' or 'year-2' cohort, removal of 'year-0' cockles is likely to impact the viability of the following years' fishery.

Given that the above recommendation acknowledges the removal of small cockles and the market failure leading to their removal being more financially attractive, additional measures are likely to be required to ensure sustainable fisheries.

At the recent Wash Forum<sup>25</sup> meeting, the attendees identified that the preferred measures for preventing the removal of small cockles was the requirement to use rakes and nets to sort cockles and the use of dynamic closed areas, whereby areas can be closed during the fishery if the proportion of 10mm and smaller cockles are being taken from them. These measures reflect voluntary measures to the same

---

<sup>25</sup> A workshop held on 3 May 2023 for Wash cockle and mussel fishermen to discuss the key issues currently facing the fisheries.

effect implemented last year, and it is proposed that the same are implemented as conditions attaching to exemptions to fish this year.

A report of the outcomes from the Wash Forum has been published online (Appendix 3).

Closures are also proposed with the intended effect of protecting high density (>1000 m<sup>-2</sup>) 'year-0' cockles (see Figures 18 to 20 in the Wash Intertidal Cockle Survey Report) in accordance with the FMP. Additional closures are also being considered for the Thief sand which would close additional areas of lower density 'year-0' cockles.

#### Other management measures

The Wash cockle fishery operates under a set of well-established management measures to mitigate risks to the sustainability of the fishery and the conservation objectives to the Wash MPAs. These are determined in accordance with the FMP and an annual Habitat regulation Assessment which considers disturbance of designated bird species and seals, for example.

These management measures, along with those described above for the protection of small cockles and the revised TAC calculation proposal, are presently at consultation with Wash cockle and mussel fishermen and will be the subject of consideration by Natural England within a Habitat regulation Assessment.

The full set of draft management measures have been published online (Appendix 4).

#### Next steps

With the exception of the revised TAC calculation, the delegated authority provided to the CEO at the 50<sup>th</sup> Eastern IFCA meeting is considered sufficient to open a fishery and implement the management measures described above. It is proposed that members agree in principle to the revised TAC calculation, and delegate authority to the CEO in consultation with the chair and Vice-Chair to make a final decision on such subject to the consultation and advice received from Natural England.

Additional delegated authority to the CEO, Chair and Vice-Chair is proposed to enable the implementation of the same management measures under the Wash Cockle and Mussel Byelaw 2021 should it come into effect during the fishery. This is intended to prevent any disruption as a result of the new byelaw coming into effect during the fishery. Any transition will be managed so as to avoid disruption to ongoing fishing operations.

#### **Financial Implications**

The interim measures for managing the cockle fishery (i.e. in lieu of the Wash Cockle and Mussel Byelaw 2021 coming into effect) do not include a mechanism for charging fees of fishermen. The financial implications of this were considered at the 50<sup>th</sup> Eastern IFCA meeting. No additional financial implications are identified.

## **Legal Implications**

The main legal implications relate to failing in our duties to protect the Wash MPAs of in enabling a fishery which is not sustainable. Such is potentially challengeable via a judicial review. Risk of legal challenge is mitigated through the adoption of due diligence in coming to a decision on the matters reported above. Such includes a robust evidence base on which the recommendations are based, seeking conservation advice from the Statutory Nature Conservation Advisor (Natural England) and consultation with stakeholders.

## **Conclusion**

The annual cockle stock assessment identifies that stocks are sufficient to enable a cockle fishery this year and mitigation in the form of management measures will be sufficient to ensure such is operated within acceptable environmental parameters.

## **Appendices**

Appendix 1 – 2023 Intertidal Wash Cockle Stock Survey Report

Appendix 2 - Review of the cockle fishery Total Allowable Catch and rationale for potential changes

Appendix 3 – Wash Forum 2023 report

Appendix 4 - Draft Management measures for the 2023 Wash Cockle Fishery

All Appendices available on the Authority's website at:

[Authority Meeting Papers - Eastern IFCA \(eastern-ifca.gov.uk\)](https://www.eastern-ifca.gov.uk/authority-meeting-papers-eastern-ifca)

## **Background Documents**

Minutes and papers for Action item 11 of the 37<sup>th</sup> Eastern IFCA Meeting, 11 September 2019.

Minutes and papers for Action item 10 of the 50<sup>th</sup> Eastern IFCA Meeting, 14 December 2022.

### 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

### 52<sup>nd</sup> Eastern Inshore Fisheries and Conservation Authority Meeting

14 June 2023

#### Review of Annual Priorities and Risk Register

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

#### **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**

It is recommended that members:

- **Note** the content of this report

#### **Background**

The 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 February 2023 to end of March 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
<b>1. To ensure that the conservation objectives of Marine Protected Areas in the district are furthered by:</b>		
a) Implementation of management measures for 'red-risk' gear/feature interactions.		<p>1.a) Delayed. 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 (<i>Sabellaria</i> reef) in this site are included in the Closed Areas Byelaw 2021. Natural England's feature extent advice includes an additional area for management as <i>Sabellaria</i> reef. Officers have reviewed the evidence and concluded <i>Sabellaria</i> reef was not present. In addition, an Eastern IFCA 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 findings have been reported to Natural England; a formal report and recommendation is to be developed.</p> <p>The byelaw is to be submitted to MMO for formal QA as soon as possible, but other work-streams have delayed progression since responding to Natural England in November of 2022.</p>



<p>b) Continued implementation of the Adaptive Risk Management approach for the Cromer Shoal Chalk Beds MCZ</p>		<p><b>Ongoing</b> - Since 2021, EIFCA has been applying an Adaptive Risk Management (ARM) approach, in line with Natural England advice, for the assessment and management of interactions between potting fisheries and MCZ site features. This approach requires the application of management measures alongside research to better understand interactions and assess effectiveness of interventions. Under the direction of a Project Board, two Task and Finish groups oversee the research and management workstreams, an Evidence Group considers available evidence, and a Stakeholder Group enables wider engagement.</p> <p>During February – March 2023, officers have continued the programme of research workstreams that commenced in 2021. Highlights include:</p> <ul style="list-style-type: none"> <li>(i) Mapping the extent of the sensitive rugged chalk feature: external contractors Envision are finalising their assessment of 2022 survey data, funded by NE. The output will be an updated chart of the rugged chalk extent.</li> <li>(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. Analysis of videos from 18 shanks of gear that were surveyed in 2022 annotation using Biigle software is ongoing. This will provide a spatially limited, but quantitative, assessment of interactions between potting gear and chalk, along the surveyed shanks.</li> <li>(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 – ongoing work. The output will be a chart showing the intensity of potting in the MCZ (from tracked vessels), at a fine spatial scale.</li> </ul>
---	--	--

		<p>(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 bio sampling of catch aboard a commercial fishing vessel. No sampling undertaken in February and March 2023 – to resume in Q1 2023-24.</p> <p>(v) Gear adaptations to reduce potting impacts on rugged chalk features: This aspect of research has not been progressed to date, and will be superseded by a planned project to study the impacts of natural disturbance compared to potting interactions (see below). The adapted potting 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. No fieldwork undertaken during reporting period (February/March 2023).</p> <p>(vi) Progress is being made with partners from Blue Marine Foundation to develop the natural disturbance study, which will monitor changes to rugged chalk features in fished and unfished (closed) areas over a 3-year period. Practical work is due to commence in summer 2023.</p> <p>Officers are drafting the Adaptive Risk Management Plan that will give an overview of the research and management being undertaken / planned, with timelines and milestones. This will be submitted to Natural England in April 2023. Officers are also currently drafting an Interim Report that will report on research outcomes since 2021. Both documents will be published on the EIFCA website when finalised (Q1 2023-24).</p> <p>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</p>
--	--	--

		<p>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.</p> <p>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, as presented to members for consideration at the 51st Authority meeting (Agenda Item 13). The formal consultation on that Byelaw commenced in March 2023, with an extended end date of May 31<sup>st</sup> 2023.</p>
<p>c) Development of priority Monitoring and Control plans as identified by the strategic assessment (shrimp, pot and trap fisheries).</p>		<p><b>Delayed.</b> A monitoring and control plan has been drafted for the shrimp fishery, but it has not been possible to progress this work for other fisheries because resources have been directed towards priority MPA work (including MCZ work described above, HRAs for various fisheries and for EIFCA's own activities) 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.</p>
<p>d) Completion of amber/green gear/feature interactions and development / Implementation of management measures where required.</p>		<p><b>Ongoing.</b> Management has been agreed for the 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. Since March 2023, officers have started to review and update the original suite of amber/green assessments (originally produced in 2015-16), but this work has taken a lower priority than the MCZ research and development of management, and the production of HRAs for the Wash mussel fishery, cockle fishery (long-term HRA), Eastern IFCA drone usage and Eastern IFCA intertidal activities.</p>

<p>e) Effort Monitoring within the Wash SAC including implementation of new catch returns system.</p>		<p><b>Ongoing.</b> As previously reported, 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. Implementation of the Shrimp Permit Byelaw is delayed, however monitoring identifies that shrimp fishing effort continues to be low and is not required for the purpose of the monitoring programme at this time. Therefore 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><b>2. To develop management of the fisheries regulated under the WFO (regulated and several fishery)</b></p>		
<p>a) Replacement of the Wash Fishery Order/Several Order with the Wash Cockle and Mussel Byelaw 2021 and the Wash Several Order 2022</p>		<p><b>Delayed.</b> As previously reported, the Wash Fishery Order 1992 (WFO) expired on 4 January 2023 and interim measures are in place to manage fisheries pending confirmation of replacement management mechanisms. The Wash Cockle and Mussel byelaw 2021 (WCMB2021), 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>The application for a Several Order was delayed as a result of complex ongoing dialogue with industry representatives. It is anticipated that the work will progress further in Q1 of 2023/24, which will include additional dialogue with lay holders to seek further information on concerns likely to lead to objections to the application.</p> <p>Both the WCMB2021 and the Several Order application are the subject of agenda items at this Authority meeting (52<sup>nd</sup> meeting).</p>

b) Finalise and implement policy on access to the fisheries		<p><b>Ongoing.</b> As previously reported, 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.</p> <p>NB The Wash Fisheries Sub-Committee was convened and made decisions on issuing permits under phase 1 and 2 in April of 2023.</p>
<b>Obtaining better fisheries data</b>		
Implementation of I-VMS for all fisheries specifically the Wash Shrimp fishery (dependent on partnership working with MMO led project).		<p><b>Ongoing.</b> National roll-out of I-VMS is underway (led by the MMO) and national legislation requiring such was anticipated in Autumn of 2023.</p> <p>NB In March 2023 issues with one particular make of device were identified that has resulted in the withdrawal of type approval. Because a large number of such devices have already been installed a large number of replacement devices will now need to be rolled-out. There may be a delay to the introduction of the SI as a consequence.</p> <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. Given the low risk associated with the Shrimp fishery at present, this work has not yet been prioritised.</p>

**Key:**

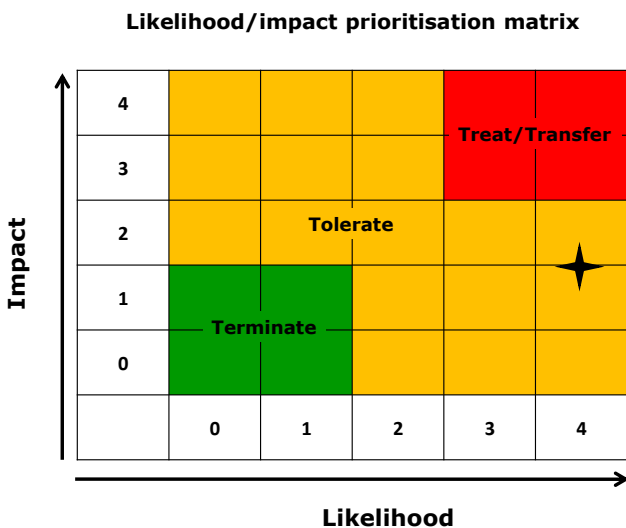
■	<b>Complete</b>
■	<b>In progress</b>
■	<b>Progress stalled / delayed</b>
■	<b>Not started</b>

## 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.



50

### 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	4		2 Finance Directors agreed to annual capital contributions from 2019-20 onwards to cater for the cost of asset replacement as an alternative to requests for a lump sum amounts as assets are replaced. No guarantees were given or implied. Eastern IFCA will explore all avenues for funding.		<ul style="list-style-type: none"> <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
			Reputation	Financial				
			4	4				
			Drive for savings may impact County Councils' decisions regarding Eastern IFCA funding. Visible presence reduced, enforcement and survey activities compromised.	Inability to generate sufficient reserves to meet asset replacement schedule would threaten Eastern IFCAs 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>	High	<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>	Tolerate
			<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>	<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.  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	4		2	Possible – Whilst positive relationships have been established the existence of disparate partner aspirations introduces complexities which may drive perceptions of bias or inefficiency.	<ul style="list-style-type: none"> <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
			Reputation	Financial	Likely – disenfranchised partners seeking to introduce doubt as to Eastern IFCA professionalism, utility and effectiveness			
			4	4				
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	3		4	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
			Reputation	Financial	Eastern IFCA perceived to be underperforming			
			4	2				
			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.	3.5		2	High	<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	
			Reputation	Financial					Possible - Eastern IFCA's approach to managing sea fisheries resources considers environmental obligations
			4	3					
			Eastern IFCA is not meeting statutory duties under EU & UK conservation legislation Eastern IFCA not achieving vision as champion of sustainable marine environment	Legal challenge brought against Eastern IFCA for failing to meet obligations under MaCAA and the Habitats Regulations					

Description	Owner	Implications	Organisational impact (Reputation + Financial/2)		Likelihood	Risk	Mitigation	Action
Shellfish and fish stocks collapse	CEO	Risk of significant negative impact upon industry viability with associated social and economic problems	<b>3</b>		<b>3</b>		<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>	<b>Treat</b>
			<b>Reputation</b>	<b>Financial</b>	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.			
			<b>3</b>	<b>3</b>	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	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	4	2	Defra have continued to roll over new Burdens funding in recognition of the value that IFCA's provide in meeting national policy objectives.	<ul style="list-style-type: none"> <li>Association of IFCA's has consistently lobbied for the continuation of funding</li> <li>Association of IFCA's 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	<b>4</b>		<b>4</b> 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 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
			<b>Reputation</b>	<b>Financial</b>				
			<b>4</b>	<b>4</b>				
			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 February 2023 to end of March 2023

Risk Description	Change in risk-rating / update
Eastern IFCA fails to secure funding to replace assets	<p><b>No change in risk rating from previous quarter</b></p> <p>The previous update is still relevant to this risk - <i>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.</i></p>
Impact of EU exit on Eastern IFCA duties and the wider economic environment	<p><b>No change in risk rating from previous quarter</b></p> <p>The previous update is still relevant to this risk - <i>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.</i></p> <p><i>Officers engaged in future of inshore fisheries management work with Defra and other stakeholders.</i></p>
Eastern IFCA fails to maintain relevance amongst partners	<p><b>No change in risk rating from previous quarter</b></p> <p>The previous update is still relevant to this risk - <i>Effective business planning process are 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.</i></p>
Negative media comment	<p><b>No change in risk rating from previous quarter</b></p> <p>The previous update is still relevant to this risk - <i>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</i></p>

	<p><i>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 a minority but vocal group of stakeholders including allegations relating to the professionalism and integrity of officers.</i></p> <p><i>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.</i></p> <p><i>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.</i></p>
Degradation of MPAs due to fishing activity	<p><b>No change in risk rating from previous quarter</b></p> <p>The previous update is still relevant to this risk - <i>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.</i></p>
Shellfish and fish stocks collapse	<p><b>No change in risk rating from previous quarter</b></p> <p>The 2022 Wash cockle fishery closed this quarter to enable the annual stock assessment. Surveys in the Spring of 2023 have identified that the management measures put into place during the fishery in 2022 appear to have had the intended protective effect so as to enable a fishery in Spring / Summer 2023.</p> <p>Monitoring of risk associated with the other key fisheries is ongoing and there does not appear to be any changes to risk at this time.</p>
Failure to secure data	<p><b>No change in risk rating from previous quarter</b></p> <p>The previous update is still relevant to this risk - <i>Policies and processes developed to ensure compliance with GDPR.</i></p>
New Burdens funding discontinued	<p><b>No change in risk rating from previous quarter</b></p> <p>The previous update is still relevant to this risk - <i>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-</i></p>

	<p><i>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 IFCAs. 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.</i></p> <p><i>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 IFCAs 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 IFCAs on behalf of all IFCAs, submitted their anticipated spending requirements for the next three years to Defra.</i></p> <p><i>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.</i></p> <p><i>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 RV Three Counties this year and much of the cost of the new ‘potting vessel’ next year.</i></p>
<p>The Wash Fishery Order 1992 is not replaced in time when it expires in January 2023</p>	<p><b>No change in risk rating from previous quarter</b></p> <p><i>The previous update is still relevant to this risk - 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.</i></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 17**

### **52nd Eastern Inshore Fisheries and Conservation Authority Meeting**

14 June 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 March, April and May 2023.

#### **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, meaning considerable resource had been directed by established officers to training. However, work previously paused to enable focus on team development has been resumed, with the “amber-green” marine protected area (MPA) assessment finalisation work becoming a priority in this quarter. The team also looks forward to welcoming a new sea-going marine science officer in Q2 2023.

## Managing Fisheries in Marine Protected Areas (MPA)

The main focus of MPA work continues to be assessment and management of the impacts of the potting fishery on subtidal chalk in Cromer Shoal Chalk Beds Marine Conservation Zone. Multiple research and management workstreams are ongoing, as summarised below. Other MPA work is summarised thereafter.

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

Officers completed and submitted an updated assessment of potting activities to Natural England in April 2022 and received formal advice from Natural England on this updated assessment in January 2023. In this latest advice, Natural England agreed with Eastern IFCA’s conclusion that potting is not currently hindering the MCZ’s conservation objectives but requested a more detailed, long-term plan setting out how Adaptive Risk Management (ARM) will be applied in the site before they can agree that ARM will suitably mitigate risk.

#### ***In response to this, officers have:***

- Agreed and published a Joint Statement outlining our joint position on Natural England’s latest advice. The Joint Statement is available on the Eastern IFCA website: [https://www.eastern-ifca.gov.uk/wpcontent/uploads/2023/03/2023\\_03\\_28 EIFCA NE Position statement\\_FINAL.pdf](https://www.eastern-ifca.gov.uk/wpcontent/uploads/2023/03/2023_03_28 EIFCA NE Position statement_FINAL.pdf)
- Compiled an Adaptive Risk Management Plan setting out a long-term approach for risk management under the ARM framework, including projected timescales in relation to key research, how research will inform management and how the effectiveness of measures will be monitored and adapted. A draft ARM plan was shared with Natural England at the end of April and officers await comment and feedback. Once a final plan has been agreed it will be shared more widely.
- Compiled a 2023 Interim Research Report summarises the research work that has been led and developed by the Research and Development Task and Finish Group to address the uncertainties and knowledge gaps identified in the assessment. This report is available on our website: [[Cromer Shoal Chalk Beds MCZ Update: Stakeholder Newsletter and 2023 Interim Research Report Now Available - Eastern IFCA \(eastern-ifca.gov.uk\)](#)].

## **Research Updates**

A review of the Rugged Chalk extent was completed at the end of 2022. This review is now available on our website: <https://www.eastern-ifca.gov.uk/cromer-shoal-chalk-beds-mcz-update-2022-rugged-chalk-review-and-interactive-maps-now-available/>. This is not our final assessment of the rugged chalk area, but an updated version based on the new data that we have collected or sourced since previously mapping the rugged chalk in 2020. The collection of habitat data to inform the rugged chalk extent is ongoing and the rugged

chalk extent will be reviewed again in 2023 to incorporate any further sources of habitat data which have since been made available or arise during the upcoming year.

Video footage collected during the 2022 ROV surveys has been analysed externally by Envision Mapping (funded by NE) to assess habitat and benthic communities and internally to assess potting impacts. Officers have provided comment on a draft report from Envision Mapping and are awaiting publication by Natural England before the final report is shared.

The Research and Development Task and Finish Group have been working with Blue Marine Foundation to develop a study which assesses the impacts of potting activities on the degradation of chalk features and compares it to that which occurs naturally. This will be a collaborative 3-year study utilising 3D photogrammetry techniques, high resolution multibeam and seabed video footage to assess and quantify structural changes to habitat over time. The study will involve closing areas to potting and other recreational activities on a voluntary basis, and subsequently requires industry and stakeholder support. The group are currently finalising a proposal for the work and progressing funding applications.

15 trackers distributed across the fleet and officers are continuing to collect valuable spatial data on activities from these units. Eastern IFCA 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 exploring ways that pot buoy counts can be used to provide information on potting densities, either through using drones or conducting counts from shore or a vessel, but also to provide a mechanism for monitoring activity levels and the uptake of the Code of Best Practice.

Officers recommenced onboard bio sampling in May this year to continue data collection to support Eastern IFCA's chalk value study and are currently developing a method to incorporate meat yields into the assessment.

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, whilst it was hoped that a final report would be expected by the end of March 2023, this project has been delayed due to the lead officer changing roles.

## **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**

The Cromer Shoal Chalk Beds Byelaw 2023 was made and approved at the last Authority meeting for formal consultation. Initially the closing date for this formal consultation period was the 22<sup>nd</sup> May but was extended to the 31<sup>st</sup>. The byelaw includes requirements for permits, marking of potting gear and recovering lost gear as well as the ability to attach conditions, endorsements or eligibility policy to permits.

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

Officers are continuing to liaise 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.

### WWF & East England Plastics Coalition Pot Tagging Study

Officers are applying for funding to test and roll out pot tags for fishermen who pot in the MCZ. This will include a feasibility study to test different pot tags and assess them based on cost, durability and practicality and trial Passive Integrated Transponder (PIT) technology which has the potential to support research and monitoring work.

### Other Marine Protected Area casework

- **“Amber & Green” assessments:** officers have started to review the Authority’s assessments of these lower risk fishing activities across seventeen marine protected areas throughout the Authority district. This work had been delayed because of the need to focus on other MCZ and Wash fisheries casework, but has now been resumed with the aim to meet the Government’s ambitions for MPA management to be developed by December 2023.
  
- **Wash fishery assessments:**
  - Officers completed a Habitats Regulations Assessment (HRA) for the proposed relaying mussel fishery in April 2023; Natural England provided favourable advice in May 2023 and the fishery is due to open in June 2023.
  - Work is continuing on the development of a long-term (multi-annual) HRA for the Wash cockle fishery. The assessment would be valid for at least 5 years, and it is intended that it will allow the fishery to be opened prior to commencement of the annual cockle surveys, if conditions were suitable. In such cases, the fishery would be opened with precautionary closures in place, to be reviewed after the surveys are completed and stock density information is available. The assessment is substantial and requires an in-depth review of current assessment methods. It is well-progressed but has been temporarily paused to complete the annual (2023) cockle HRA in order to open a cockle fishery as soon as possible.
  - A HRA for the 2023 Wash cockle fishery is currently being drafted, to support the opening of this fishery (see Agenda item 14). Particular consideration is being made of a potential change in approach to calculating the quota for the fishery, in order to better reflect the composition of cockle stocks in The Wash and maximise fishing opportunities whilst ensuring stock sustainability is safeguarded.
  
- **Seal disturbance mitigation:** Harbour seal is a protected feature of The Wash & North Norfolk Coast Special Area of Conservation (SAC). Officers have continued discussions with Natural England and the Sea Mammal Research Unit with a view to update the Authority’s seal disturbance mitigation approach (relevant to the Wash fisheries and the Authority’s own activities in The Wash). The intention remains to maximise fishing opportunities whilst ensuring activities undertaken by, or authorised by, the Authority do not result in significant disturbance to the Harbour seal population.

- **Drone HRA:** officers have submitted to Natural England an assessment of the impact of using drones on marine protected areas across the Authority district, for enforcement and research purposes. Drone use requires assent for each of the designated sites, meaning multiple NE staff are involved in considering the assessment. NE is considering the best way to address concerns about the permitted flight height as well as the unpredictability of drone usage for enforcement. A drone demonstration has been arranged for June 2023.



- **EIFCA Intertidal activities:** The Authority is required to renew its assessment (HRA) of the impacts of its own activities in intertidal areas (and features they support) of the Wash & North Norfolk Coast SAC. This considers potential disturbance to seals and birds, and the impacts of survey activities such as walking and sampling on the designated habitats and species. Particular consideration is needed for activities in periods of severe winter weather when birds are particularly vulnerable to impacts from disturbance.
- **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 the HRAs described above. However, the monitoring and control plan for the shrimp fishery has been developed in draft form and is being applied informally.

### 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:

- Officers attended the Sheringham Crab and Lobster Festival in Cromer in May, jointly with Natural England, with a stall to showcase the research being done in the Cromer MCZ and provide information on the Adaptive Risk Management approach. Officers were on site to answer questions and discuss the formal consultation on the Cromer Shoal Chalk Beds Byelaw 2023.
- Working with Natural England to secure long-term consent to use a drone in Sites of Special Scientific Interest (SSSI's) for research purposes. A habitats regulations assessment (HRA) assessing the potential for disturbance to MPA features was submitted to NE in May 2023. Officers intend to use the drone in the Cromer MCZ to aid in the pot buoy count project.
- 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. Officers are using the opportunity to learn more about the proposals for national management measures and to hear industry's view.

Last quarter, officers attended engagement events for Whelk, and Crab and Lobster Fisheries Management Plans (FMPs) across the district and 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. This quarter, officers have been liaising with FMP leads to make sure we are informed of upcoming FMP stakeholder events and continue to share these on our social media and website.

*The Authority will continue 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 Relaying Fishery in The Wash**

The Authority's mussel surveys undertaken in Autumn 2022, indicated that limited relaying seed mussel fishery could be supported. The proposed fishery was assessed and Natural England provided advice that, as proposed, the fishery would not adversely affect the integrity of the designated site. A consultation was held with fishers and final management measures (with a smaller quota as requested by fishers) agreed. The fishery will open in June and close in August 2023 or when the quota has been exhausted.

Because of a temporary downgrade in classification for the Ouse Mouth production area, EIFCA are proposing closures on beds that fall within this zone, until the class B status is restored.

### **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. The “shrimp year” runs from August to July, to avoid requiring restriction during the Autumn months when the fishery traditionally peaks.

## Environmental Monitoring

### The Wash EHO/biotoxin & SWEEP sampling



Officers collect cockle and mussel samples on behalf of local authorities (King’s Lynn, Boston and Fenland) and Cefas to maintain shellfish classification ratings, which are required to allow fisheries to take place in The Wash. The classification rating given to an area dictates what must be done to harvested produce before it can be consumed. More information is available at [Shellfish monitoring results - Cefas \(Centre for Environment, Fisheries and Aquaculture Science\)](#). Currently, The Wash is a class B area, with a long-term B classification. However, the Ouse Mouth zone was temporarily downgraded in May 2023 to a class C area, due to multiple consecutive high *E.coli* results (often associated with heavy rainfall periods resulting in storm overflow events). The Nene Mouth site has also returned higher than usual

*E.coli* results in the previous 2 months but has not yet reached the number of consecutive high results necessary to be downgraded. Officers will be collecting additional samples at the Ouse Mouth site as required under the action state as well as water samples from both the Ouse and the Nene to try and ascertain what is causing the abnormally high levels of *E.coli* in samples taken from these sites.

Officers also collect three SWEEP (study of The Wash embayment, environment and Productivity) samples; this is required as mitigation for The Wash several fishery and these samples encompass 1kg of mussels that are cooked and used to calculate mussel meat yields. Meat yields are then compared to a threshold value for each site. Yields above this threshold trigger the “business as usual” management for the fishery, whilst an action plan begins if yields fall below the thresholds. Multiple consecutive samples below the threshold would result in the closure of lays in certain areas, however this is unlikely and monitoring to date has found that results are yet to come anywhere close to this outcome. Environmental data is collected in conjunction with the mussel samples which is then analysed with the meat yield data to better understand any potential changes observed and may explain why meat yields were to fall below the threshold, for example. No SWEEP samples were missed during this quarter and none fell below threshold values.

## 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.

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

Officers have reviewed, and where relevant, granted several applications for scientific derogations from Eastern IFCA byelaw during the quarter. These include derogations permitted for pelagic and benthic fish stock assessments by the Thünen Institute of Sea Fisheries and the Flanders Research Institute.