

By: KEIFCA Chief Fishery Officer

To: Kent & Essex Inshore Fisheries and Conservation Authority
– 19 October 2022

Subject: Agreeing the final framework option

Classification Unrestricted

Summary: This paper builds on the feedback from the oral and written evidence collected as part of Consultation 2. Framework options are evaluated, and members are asked to vote on their preferred framework. The final framework option will then be developed further in the technical detail phase of the process. Consultation 3 will provide an opportunity for stakeholders to engage and contribute to this process.

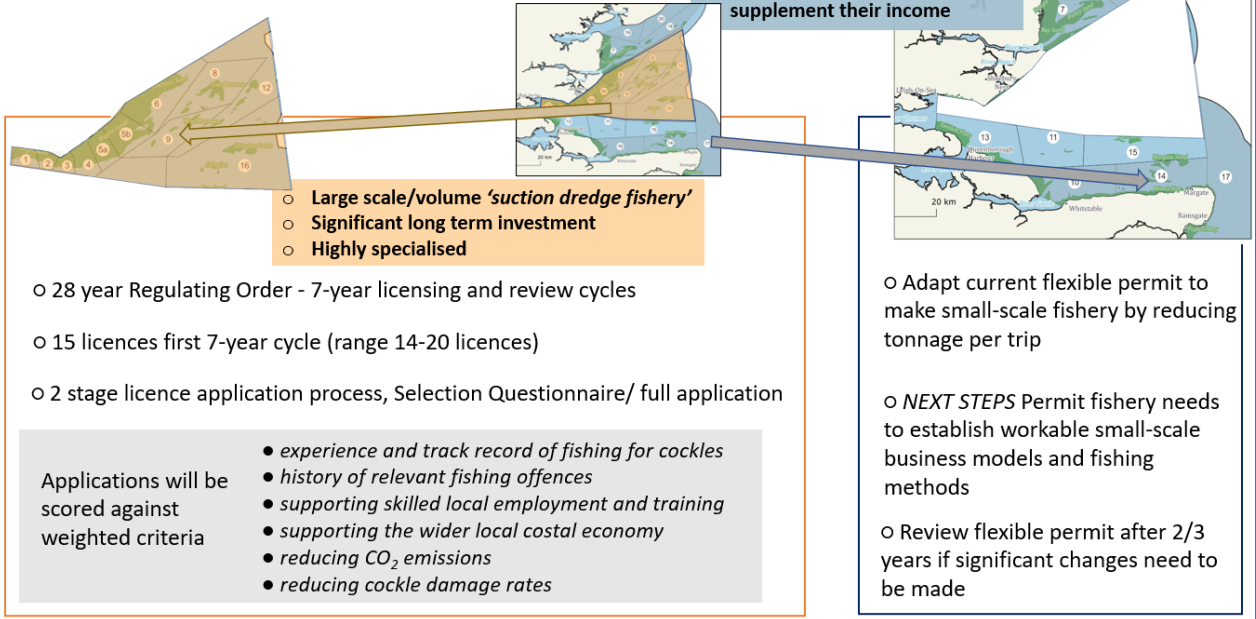
Recommendation: Members are asked to approve their preferred option for progression to technical detail phase and subsequent consultation

A summary of the framework options

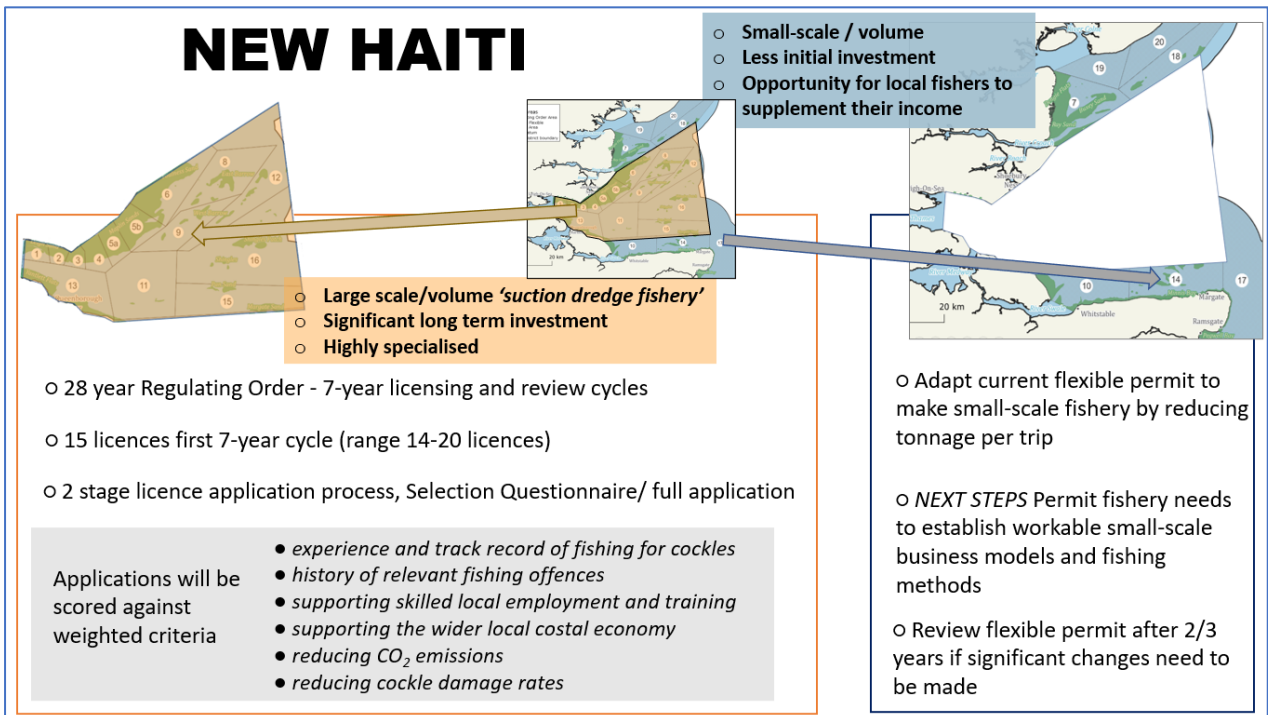
Following an extensive consultation process in Consultation 1, seven options were put to the vote at a special Authority meeting held on the 14 June 2022 and three framework options (NEW JAMAICA, NEW HAITI and NEW BERMUDA) were selected to go through to the next step in the process, Consultation 2. Consultation 2 ran from 21 July 2022 until 16 September 2022 and included an oral evidence session as well as a written consultation document.

A detailed explanation of each option, the 7-year licence and review cycle and the proposed licence application process can be found in "*CONSULTATION 2 - Evaluation and Summary*" in Appendix 1.

NEW JAMAICA

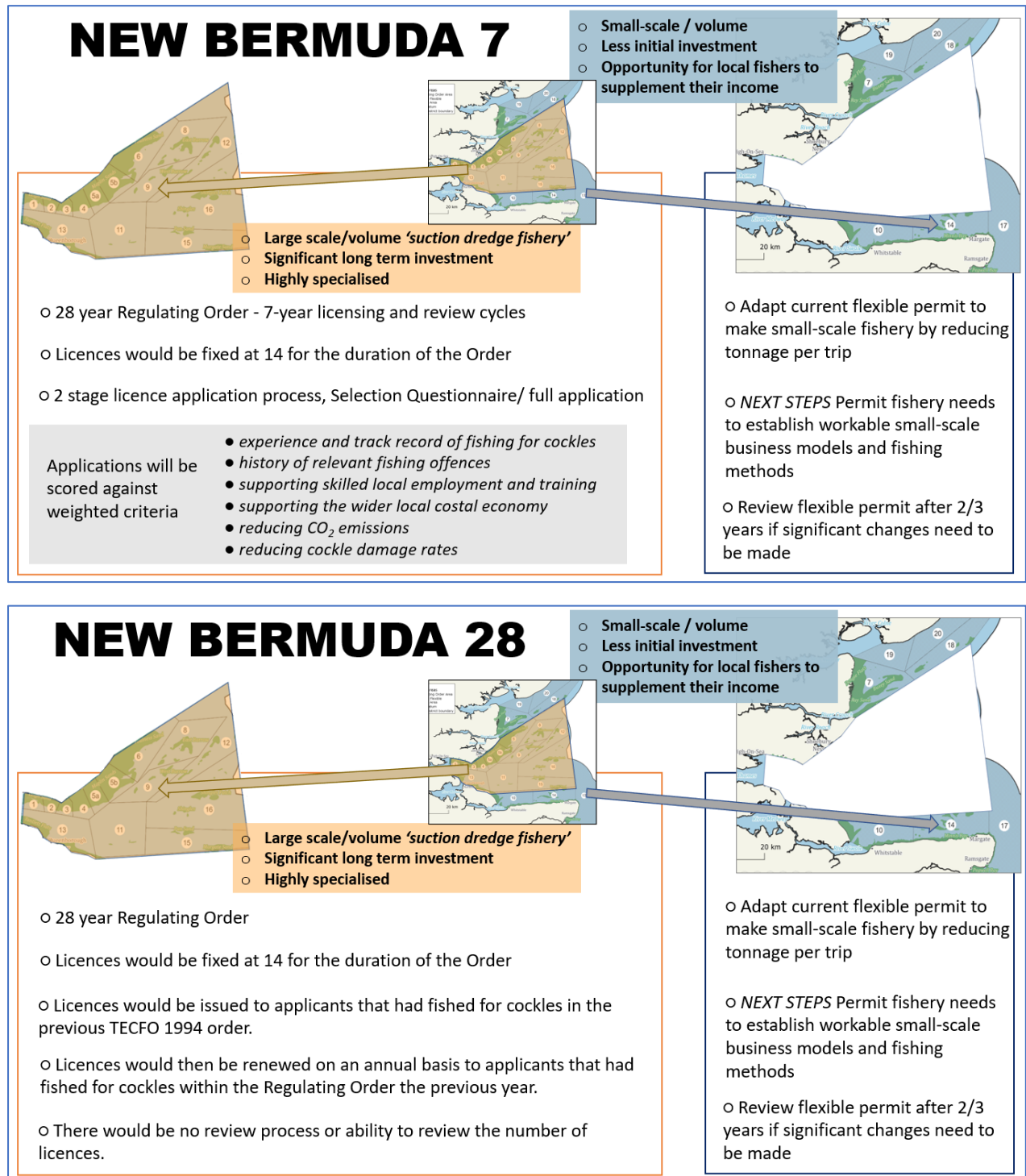


NEW HAITI







The key component of the NEW BERMUDA option was that the number of licences would be fixed at 14 for the duration of the new regulating order. When different access mechanisms were added to the NEW BERMUDA framework Authority members felt strongly that two versions of the NEW BERMUDA framework option should be included in the consultation and voted for both the New Bermuda 7 option and the New Bermuda 28 option at the Special Authority meeting on the 7

July 2022. Technically the New Bermuda 7 option and the New Bermuda 28 option are sub-options of the NEW BERMUDA framework option as they both contain the key component of the option, that licences would be fixed at 14 for the duration of the regulating order. In an effort to make the whole process as simple as possible officers took the decision not to keep on pointing out this technical difference.



Comparison of options

	Difference in option boundaries* Areas 13, 11 and 15		Is there a review mechanism?	Range of licences	No. licences issued in first 7-year cycle
NEW JAMAICA	 Included as part of small-scale permit fishery		7-year licence and review cycle	14-20	15
NEW HAITI	 Included as part of large-scale Regulating Order fishery		7-year licence and review cycle	14-20	15
NEW BERMUDA 7	 Included as part of large-scale Regulating Order fishery		7-year licence and review cycle	Fixed 14	
NEW BERMUDA 28	 Included as part of large-scale Regulating Order fishery		No review for duration of regulating order (28 yrs) Licences continue to be issued to current TECFO licence holders	Fixed 14	

Summary of feedback

Over 90% of respondents to the consultation outlined their preference for either the NEW JAMAICA option or the NEW BERMUDA 28 option. Of the replies that indicated a preference, 61% of respondents put NEW JAMAICA as their first choice (31 replies), 33% of respondents put NEW BERMUDA 28 as their first choice (17 replies), with NEW HAITI a distant third place with 4% (2 replies) and NEW BERMUDA 7 fourth with 2% (1 reply). Care needs to be taken in interpreting these figures as some consultation questionnaires responded on behalf of businesses employing numerous people, the results do however highlight the two clear preferred first choice options from the consultation.

Virtually all current licence holders strongly supported the NEW BERMUDA 28 option, with in general their second preference option being NEW BERMUDA 7, followed by the NEW HAITI option and the NEW JAMAICA option in fourth place. Some respondents did not fill in the ranked order options, just filling in the NEW BERMUDA 28 option.

Stakeholders that are not current licence holders, including current permit holders and members of the local under 10-metre fishing fleet overwhelmingly supported the NEW JAMAICA option. A number of fishermen did not rank the other options, however of the fishermen who did, the ranked order was opposite to that of the current licence holders, with NEW HAITI in second place, NEW BERMUDA 7 in third and NEW BERMUDA 28 in fourth.

Compared to Consultation 1 and other previous byelaw consultations, there was a lot of engagement from the local under 10-metre fishing fleet, who all supported the NEW JAMAICA option because they felt it provided a larger area and access to

cockle beds that the current TECFO boundary excludes them from. In general fishers commented that a new small-scale cockle fishery could provide them with more local fishing opportunities in the future.

In general, the current permit holders supported NEW JAMAICA because they felt this was the only option that would allow a fairer distribution of a greater amount of TAC between more fishers. Current permit holders also felt the chances of getting a licence in the new regulating order were very low.

The main reasons the current TECFO licence holders gave for choosing the NEW BERMUDA 28 option, was that a 28-year licence gave the most security for companies to invest in jobs, boats, factories and their staff, and that additional licences would proportionally decrease the share and earnings from each licence and would have a greater impact on the seabed. Several replies commented that this option was closest to the current TECFO fishery and saw no reason to change a fishery they felt was successful. Some TECFO respondents felt that the proposed criteria for a licence in the new regulating order should be applied to the initial issuing of licences in the NEW BERMUDA 28 option.

The proposed 7-year cycle for issuing licences received a lot of comment especially from the current TECFO licence holders, and the Authority also received feedback on this matter from the Thames Estuary Fisherman's Association and the Shellfish Association of Great Britain. The main theme of the feedback was that 7 years was too short a period for business to make significant investments and gain returns, and that a 7-year licence cycle would see a de-investment in the fishery.

Several consultation replies from the current TECFO licence holders and from TEFA suggested that the Authority should consider an additional option as part of the consultation process, where new licences could be issued if the TAC was above a certain level. Officers engaged with TEFA and asked for more detail regarding their proposal as this option fits within the frameworks the Authority has already agreed. The Chairman and Vice-Chairman agreed to include this option as an option for consideration by the Authority.

Several replies from permit holders and from the local under 10-metre fleet expressed their dissatisfaction with the frameworks already agreed by the Authority and the options provided in the consultation. The main areas of dissatisfaction were that the benefit of the cockle fishery should be shared with more businesses with either the number of licences in the new regulating order increased to 20 or that the size of the regulating order should be much smaller than that proposed in NEW JAMAICA to allow a greater access to more businesses.

All of the replies to the consultation can be found and read at <http://cocklereview.kentandessex-ifca.gov.uk>, including a summary of question-by-question answers. Thames Estuary Fishermens Association (TEFA) and the Shellfish Association of Great Britain (SAGB) both wrote letters to the Authority as part of the consultation, and these can be read in full in Appendix 4 of the "CONSULTATION 2 - Evaluation and Summary" document.

Thames Estuary Fisherman's Association (TEFA) Proposal

At the Consultation 2 oral evidence hearing, Mr Rattley, representing Thames Estuary Fisherman's Association (TEFA), included in his evidence, the opinion of his members that the Authority should strongly consider an additional proposal based on the ability to issue more licences if the Total Allowable Catch (TAC) tonnage allowed.

After consulting with the Chairman and Vice-Chairman, it was felt that the purpose of the consultation was to gather views and evaluate options. It was concluded that if there was a strong viable industry-led proposal submitted on behalf of a well-respected fisherman's Association then it would be appropriate for the Authority to consider it. This decision reflected the importance of the outcome of the meeting on the 19 October; that the management framework of the cockle fishery agreed at the meeting would impact the fishery and the opportunity of different fishermen for a generation.

The Chief Officer wrote to TEFA outlining this opportunity. After TEFA submitted their proposal as part of its consultation reply, a follow-up letter was sent by officers asking TEFA for clarification as to how key parts of their proposal would work in practice. To summarise and evaluate this proposal and allow Members to compare the proposal with the options a specific review document was compiled (Appendix 2).

Outline of TEFA Proposal *(for full text see Appendix 2)*

2. Q. What criteria and process would your members recommend the Authority should use to issue an extra licence. Answer. It is our members belief that the criteria and process to be used should be based on historic data of cockle fishing days within the current TECFO fishery order, from 1994 to 2010 the average days were 61.4 equating to an average TAC of 9394 tonnes from 2011 to date the average days are 42.1 equating to an average TAC of 6484 tonnes, since the dredging took place in the Estuary it is evident thru data that the fishery has been in decline in the second period. It would therefore be prudent to assume criteria of 53 days fishing of TAC of 8162 tonnes be achieved for a 3 year period to be the baseline to keep the fishery as being stable and sustainable with the current 14 licences, this would also ensure that inward investment is kept at its current levels and a very sustainable fishery. Any consideration for a new licence to be issued should be taken from the local boats that are fishing for cockles within the permit fishery areas as this would be a fair and straight forward achievement for the Authority in supporting the local fleets of Kent and Essex, by a majority vote it is not favoured by our members for licences or permits to be issued to any individual that has sold

Companies that previously had an entitlement to a cockle licence within the 1994 TECFO

3.Q What process would your members recommend the Authority should use to issue an Additional licence? The sampling takes place in April and the Provisional TAC is agreed in May the Fishery normally starts third week of June. Answer. We would suggest a very simple process that is clearly understood by all involved to issue an extra licence the annual Tac after a 3 year period needs to see and increase of 583 tonnes above the baseline of 8162tonnes for each licence considered. i.e 1extra licence a TAC of 8745 tonnes and for a 2nd licence a TAC of 9328 tonnes

Summary of proposal evaluation

The TEFA proposal provides a local industry-led mechanism to issue more licences. The proposal outlines a method by which the number of licences to be issued each year would be set based on a series of TAC tonnage trigger points. The proposal outlines a system that this would help maintain and protect the current licence holders and businesses that work in the District, whilst providing an opportunity to other members of the cockle industry when times are good. However, the year-to-year proposition of any new licences above the 14 would make long-term investment and planning very challenging for any business with a new licence.

Issuing licences based on TAC tonnage calculated before the start of the cockle season is fraught with practical issues and potential legal challenges from fishers with and without licences, and as such this proposal would carry a possible increased legal risk to KEIFCA.

Unfortunately, the TEFA proposal does not provide an answer to the critical question of 'who gets the additional licence(s)?', as the criteria provided would not allow the Authority to create a ranked list of applicants that the agreed number of new licences could be assigned to. If this proposal was selected as the option to take forward in the process, KEIFCA would have to re-run the 'licence application criteria and process' part of the Consultation 2 process.

Should the proposal be considered as an option to vote on with the other options outlined in the Consultation 2 process?

As outlined in the summary and evaluation document (Appendix 2) the TEFA proposal does not provide a cohesive option that answers all the requirements of the Consultation 2 process, however, the proposal does represent views of a respected fisherman's Association.

Members are asked to vote for whether to consider the TEFA proposal as an option that should be included in the voting process outlined in this paper.

Voting on the options

Although cockle stocks fluctuate every year, they are a finite stock which means that difficult decisions need to be made as to how that resource is divided by stakeholders, over what period and under what conditions. From the start of the review process, it has been clear that not everybody will get what they want, and the Authority will have to make hard choices that will have a significant impact on the earnings or earning potential of local fishing businesses, for a generation of fishermen.

From an officer's perspective we have worked as hard as we can to make a fair and transparent process where stakeholders are given the space, time, support and opportunity to contribute. Officers have spent years surveying, enforcing, writing management papers and working with the local fishing industry to build a fishery that everyone is proud of. We realise the stress this is putting on some members of the local industry, however the harsh legal reality is that the current TECFO will finish on the 28 September 2024 and with it the legitimate expectation of the current licence holders for an entitlement to a licence. The challenge for the Authority is to find the right balance going forward and we really appreciate the time and energy stakeholders have put into this consultation which will help the Authority members evaluate and weigh-up the strengths and weaknesses of the different options.

Of the four options consulted on in Consultation 2, none come with a Chief Officer's recommendation, this is because all the options presented are sensible options that can be technically delivered and go a long way to meeting the vision the Authority has agreed for this fishery. Instead, the Chief Officer has outlined a voting process where the Members have the scope to set the strategic long-term direction of the fishery, by sequentially voting down options to be left with one option that then is voted on by the Members as their recommended option.

In choosing a recommended option, Members are asked to consider that the options presented do have very different outcomes for different sections of the fishing fleet. The current TECFO licence holders have made a strong and compelling argument for NEW BERMUDA 28 and the benefits of issuing a licence for the next 28 years. However, this does need to be balanced against the fact

that without an opportunity to review, future KEIFCA Members would be significantly restricted as to the options available to them and the option would impact the opportunity to fish for cockles for a generation of fishermen.

Vote 1 - Members are asked to vote for the option they DO NOT think should be chosen.

Vote 2 – From the remaining options Members are again asked to vote for the option they DO NOT think should be chosen.

Vote 3 – From the remaining options Members are again asked to vote for the option they DO NOT think should be chosen. *(Vote only required if TEFA proposal is voted on by the Authority as an option).*

Vote 4 – From the 2 remaining options Members are asked to vote for the option they DO NOT think should be chosen.

The remaining option may now be considered for adoption as the preferred framework for progression to Consultation 3.

Recommendation: Members are asked to approve their preferred option for progression to technical detail phase and subsequent consultation.