

By: KEIFCA Chief Fishery Officer

To: Kent & Essex Inshore Fisheries and Conservation Authority
– 17 September 2021

Subject: Review and development of future cockle fishery
management

Classification Unrestricted

Summary: This paper outlines the proposed process and timescales relating to the review of current KEIFCA cockle fishery management and the development of future cockle fishery management.

Recommendation: Members are asked to **APPROVE**

1. The proposal to review all of the current cockle fishery management, including its underpinning legislation, which is in place within the KEIFCA District, and then to develop new cockle fishery management using the process described in this paper.
2. The proposed provisional process (including indicative dates) by which the review and development will be undertaken.
3. The setting up of a small working group of members (3-4) to act as an evidence gathering panel on the 20-21 October and **AGREE** a provisional budget of £8,404 (to be taken from reserves) for this project.

Background:

Cockle stocks within the KEIFCA District are currently managed under two different legislative management regimes. The cockle stocks in the majority of the District are managed under a KEIFCA byelaw called the Cockle Fishery Flexible Permit Byelaw (CFFPB). However, the main production beds contained within a specific area of the Thames Estuary are managed by KEIFCA under a Statutory Instrument called the Thames Estuary Cockle Fishery Order 1994 (TECFO). A map is shown of this in Appendix 1.

On the 28 September 2024 the TECFO, which started in 1994, will end. Although this is three years away, the ending of the TECFO provides an

opportunity to review how cockle stocks are managed, as well as the underpinning legislation, across the District including within the current TECFO area. Undertaking such a management review is timely as the CFFPB, which was confirmed in February 2015, will have been active for six years. Taking such an approach would provide scope for a wide range of potentially different management options to be considered and allow KEIFCA to take a holistic approach to the management of cockles across the District.

Reviewing and developing new management and legislation will not be easy as the cockle fisheries are one of the most important but complex fisheries in the KEIFCA District. The cockle fisheries provide income and jobs for a large number of fishermen and, with coastal towns like Leigh-on-Sea and Whitstable, provide tourism, cultural and historic links between the cockle fisheries and wider society. The fisheries also take place with a complex mosaic of Marine Protected Areas (MPAs) and the cockle stocks provide food for a wide range of bird and fish species, whilst also providing other wider environmental benefits such as filtering seawater and CO₂ capture.

Balancing the needs of different stakeholders; be it local community needs, current CFFPB permit holders, current TECFO licence holders, other fishers working within the cockle industry, cocklers working in the Wash, environmental NGOs, or other commercial fishermen from the Thames and beyond, will be difficult and there are likely to be a wide range of views. The significant financial value of the cockle fisheries and the historic access to the KEIFCA cockle fisheries are likely to significantly influence how different people view the current and future management of the fisheries.

Section 153 of the Marine and Coastal Access Act 2009 sets out KEIFCAs' duty to manage the exploitation of the cockle fisheries in a sustainable way, whilst seeking to balance the social and economic benefits of exploitation with the need to protect the marine environment. Section 153(d) also highlights the duty of the IFCA to seek to balance the different needs of persons engaged in the exploitation of the cockle fishery.

153 Management of inshore fisheries

- (1) The authority for an IFC district must manage the exploitation of sea fisheries resources in that district.
- (2) In performing its duty under subsection (1), the authority for an IFC district must—
 - (a) seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way,
 - (b) seek to balance the social and economic benefits of exploiting the sea fisheries resources of the district with the need to protect the marine environment from, or promote its recovery from, the effects of such exploitation,
 - (c) take any other steps which in the authority's opinion are necessary or expedient for the purpose of making a contribution to the achievement of sustainable development, and
 - (d) seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district.

The suggested process for reviewing the current cockle fisheries and developing future management:

With so many different needs and wants, it is important to acknowledge that it is unlikely that everyone will get what they want from any future cockle fishery management system. However, it is important to create a review and management development process that stakeholders recognise as transparent and evidence-based, where stakeholders can contribute their experience and views to decision makers, and where the advantages and disadvantages of different options on individuals and stakeholder groups are clearly understood when decisions are made.

It is also important that stakeholders involved in this process understand who makes decisions, and how they are made. Authority meetings follow standing orders and are supported by a Clerk from Kent County Council Democratic Services. Within this process there will also be times where KEIFCA will seek its own legal opinion and Members will need space and time to discuss this opinion and its impact on different possible management options.

<i>Position</i>	<i>Role</i>
Chairman	<p>Ensure that the Authority is able to carry out the business at its meetings efficiently, in line with its plans and policies, legal duties, Constitution and standing orders</p> <p>Enable members to participate fully in discussions and decisions so that the Authority can benefit from their experience and expertise, and their knowledge of the interests of the Kent & Essex IFCA's communities and stakeholders.</p>
Clerk	To attend, or ensure representation, at all meetings of the Kent and Essex Inshore Fisheries and Conservation Authority, Technical Panels and any special meetings and to advise such meetings on constitutional and procedural issues
KEIFCA member (MMO appointee)	Appointees to IFCA's are legally required to represent all the local fishing and marine environmental interests in the waters of the IFCA district, in a balanced way, taking full account of all the economic, social and environmental needs of that district. Appointees should recognise that they are part of a committee and should not regard themselves as representing solely one particular interest within the IFCA district.
KEIFCA member (Local Authority appointed)	<p>Local Authority appointees to outside bodies (i.e., IFCA's) should:</p> <ul style="list-style-type: none"> • Act according to the rules, constitution and framework set by the outside body. • Make independent personal judgements in line with their duty of care to the outside body. • Behave ethically and comply with the Code of Conduct for Councillors except and

	<p>insofar as it conflicts with any other lawful obligations to which that outside body may be subject.</p> <ul style="list-style-type: none"> • Take an active and informed role in the management of the outside body's affairs. <p>They should not:</p> <ul style="list-style-type: none"> • Represent the political party to which the Councillor owes their political loyalty. • Look at things simply from the Council's perspective.
<p>KEIFCA Chief Officer & Assistant Chief Officer</p>	<p>Ensure that all matters within the decision-making powers of the full Authority are brought forward to the relevant forum in a timely manner and with all information necessary for a robust and lawful decision.</p>

The proposed process for reviewing and developing future cockle management

The proposed process to review and develop future cockle management is split into a number of time defined steps that will build on each other (Appendix 2), with the overall aim of confirming new legislation (in whatever form it might look like) to be in place for when the current TECFO legislation ends in September 2024.

The first step is to undertake a specific listening and evidence gathering exercise, the second step looks at the framework of any future fisheries management, the third step develops the technical detail and final wording of any proposed legislation, and the fourth step takes the proposal through the statutory consultation and confirmation process of the agreed new legislation. With each step we have identified provisional processes and meeting dates, with the aim of setting out a clear process that helps everyone understand when, where and what could be decided at each stage (Appendix 3).

Review of current management

The proposed process starts with a general evidence gathering exercise or 'listening phase' where we want to gather views and ideas from a wide range of stakeholders. Key to this approach will be to understand what works well within the current fisheries management systems and where stakeholders believe changes need to be made. Specifically, views will be sought relating to the use of Regulating Orders or Byelaws as legislative mechanisms, as well as how access to the fisheries could be managed. In addition, we would also like to use the 'listening phase' to get feedback on the proposed review and management development process.

To best capture views and ideas, a bespoke engagement and consultation process has been developed, with a specific questionnaire (Appendix 4) and proposed recorded oral evidence sessions (Appendix 5). It is hoped that by

having specific oral evidence sessions where stakeholders can give evidence directly to Authority Members on specific topics in a standard way, we can include a wider range of people in the evidence gathering process. The aim will be to record this evidence (taking into account GDPR requirements) which would allow people not able to attend the session to hear the views expressed, and potentially to produce an edited film that can be played to the Authority and provide full and recorded transparency of the views which are made to inform decision making.

To run this session, we are looking to draw together a small working group of members (3-4) to act as an evidence gathering panel, that will listen to the evidence presented and ask questions to the stakeholders giving evidence. We have provisionally booked the main room in the Thurrock Hotel to run this process over the 20-21 October and Members would be booked into the hotel overnight. Filming companies have been contacted for quotes to undertake this work and a budget of £8,404 has been provisionally allocated from reserves, for the whole project (including room hire, over night stays, food and travel costs).

It is also intended that all of the documents and evidence collected as part of the 'listening phase' would be stored on SharePoint so that Authority members can access and review all of the available information.

Development of management

The next stage of the process will be to use the evidence gathered from the listening phase to help create a long-list of possible management options. The initial long-list of options would be developed at a special meeting of the full KEIFCA Authority. It is envisaged that KEIFCA legal opinion would be presented and discussed throughout the meeting, making the meeting exempt under the Local Government Act and therefore not open to the public. Following the meeting, an initial list of potential options would then be published, and a consultation process run where stakeholders would then be asked to comment on the proposed options, support specific options, suggest new options or amend the proposed long-list of options.

The feedback from the consultation would then be discussed in detail at a specific KEIFCA meeting and members would vote on a final long-list of options (maybe 5-7 options). The final long-list of options would then go through an extensive consultation process where stakeholders would be asked to put forward the advantages and disadvantages of each option and to rank the options.

Using the evidence gathered from this process members would then hold a further specific meeting where the long-list of options would be reduced to a short-list of options (2 or maybe in exceptional case 3 options). The short-list of options would then go through a final consultation phase which would provide evidence that would help inform a final vote to agree the management option that KEIFCA would take forward to manage the cockle fisheries into the future.

Following on from this, the next stage of the process would be to review the detailed technical measures that frame how cockle fishing takes place (e.g. maximum vessel length, dimensions and set-up of dredges and riddles, use of

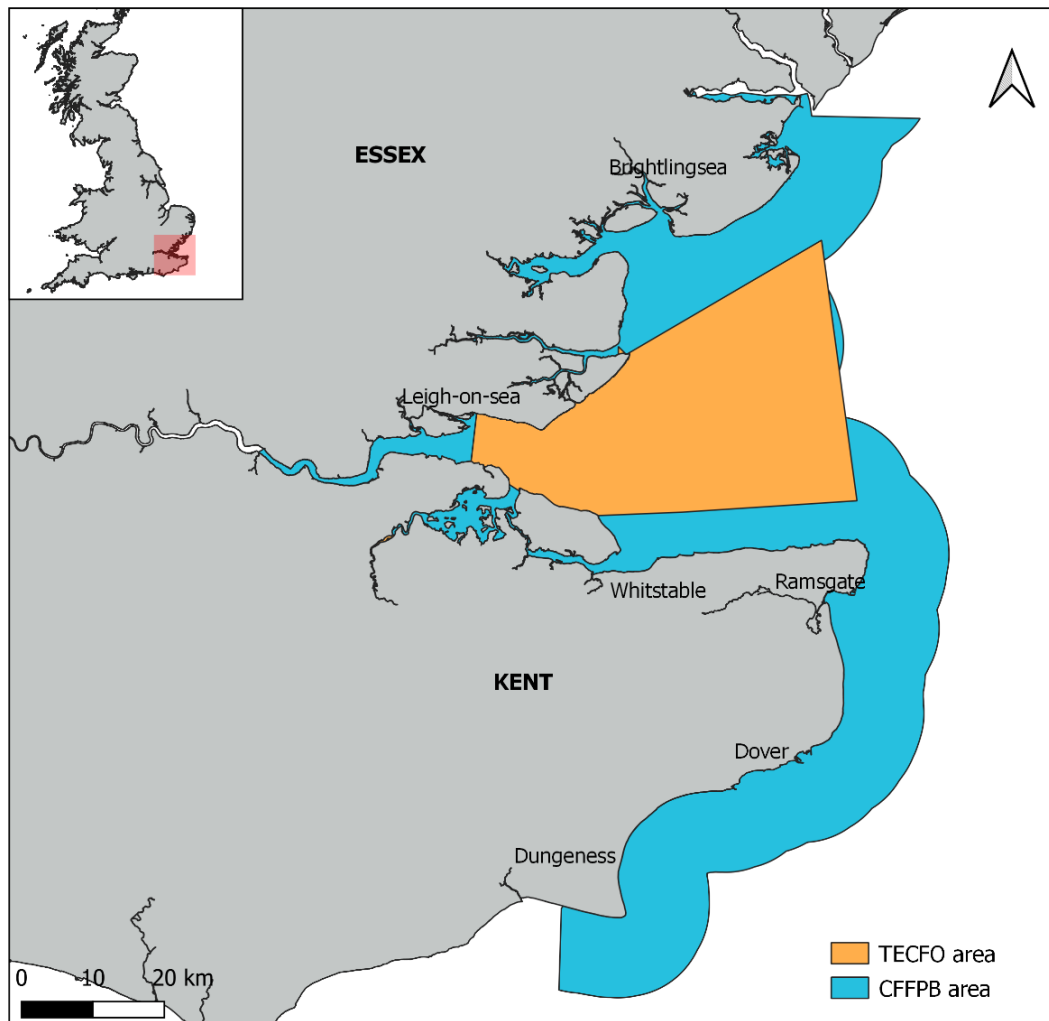
vessel tracking systems etc.) Once a final text had been voted on by the KEIFCA members then the legislation would be taken through the appropriate statutory consultation and confirmation process.

Recommendations

Members are asked to **APPROVE**

1. The proposal to review all of the current cockle fishery management, including its underpinning legislation, which is in place within the KEIFCA district, and then to develop new cockle fishery management using the process described in this paper.
2. The proposed provisional process (including indicative dates) by which the review and development will be undertaken
3. The setting up of a small working group of members (3-4) to act as an evidence gathering panel on the 20-21 October and **AGREE** a provisional budget of £8,404 (to be taken from reserves) for this project.

Appendix 1 – Map identifying the different regulatory mechanisms currently in place within the KEIFCA District



Sept 2021 - Nov 2021	Feb 2022 - Oct 2022	Oct 2022 - Mar 2023	Mar 2023 - Sept 2024
<p>Listening phase</p> <p>Gather views and ideas from stakeholders to understand what works well within the current fisheries management systems and where people believe changes need to be made.</p> <ul style="list-style-type: none"> ○ Questionnaires ○ Recorded oral evidence sessions ○ Letters from stakeholders 	<p>Develop legislative framework</p> <p>Discuss and develop the underlying legislative framework that determines who and how the resource is accessed. Working through a clear process, a range of management options will be consulted on and evaluated, working from a long list to a single option.</p> <ul style="list-style-type: none"> ○ Type of regulation (Byelaw/ Regulating Order) ○ Area covered by regulation ○ Mechanism/ criteria for issuing and reclaiming licences/ permits ○ Number of licences/permits issued per year ○ Length of time permit/licence issued for <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>KEIFCA develops initial long list of options → Industry and stakeholders</p> <ul style="list-style-type: none"> ● Suggest new options ● Amend an option(s) ● Support an option(s), from initial long list of options <p>→ Agree final long list of 5-7 options</p> <p>→ Agree final short list of 2 maybe 3 options</p> <p>→ Agree final management framework option</p> </div>	<p>Develop technical detail</p> <p>Discuss and develop the technical detail, and draft legal wording. Consult then agree final legislative wording taking into account feedback.</p> <ul style="list-style-type: none"> ○ Maximum vessel length ○ Dimensions and set-up of dredges and riddles ○ Use of vessel tracking systems 	<p>Statutory process</p> <p>Submit the agreed legislation wording and impact assessment to the appropriate body. Follow the prescribed statutory process.</p> <ul style="list-style-type: none"> ○ Impact Assessment ○ Statutory consultation ○ Legislation confirmed by Minister

Appendix 3 - The proposed key dates for reviewing and developing future cockle management

Date	Type of meeting	Purpose
17/09/2021	IFCA quarterly meeting – Thurrock Hotel	Agree premise of review and development process
20 + 21/10/2021	Oral Evidence Hearing – Thurrock Hotel	Two day hearing to listen to and question stakeholders on their opinions/issues relating to the current or future management of cockles in the district
26/11/2021	IFCA quarterly meeting – Chelmsford Council offices	Summary of listening phase Key issues to address Commission work
14/12/2021	MMO/defra/legal meeting – venue tba	Regulators workshop - Discuss legal options based on feedback from listening phase
08 + 09/02/2022	Members workshop -Dover Marina Hotel, Dover	Develop initial options long list
12/04/2022	Extraordinary IFCA meeting – venue tba	Agree final options long list
01 + 02/06/2022	Oral Evidence hearing – Thurrock Hotel	Two day hearing to listen to and question stakeholders on their opinions/issues relating to the proposed management of cockles in the district
12/07/2022	Extraordinary IFCA meeting – venue tba	Agree final options short list
16/09/2022	IFCA quarterly meeting – venue tba	Agree the management option that will be drafted into legal text
19/10/2022	Technical Panel meeting – venue tba	Discuss and agree first draft of legislative wording and technical measures
26/01/2023	IFCA quarterly meeting – venue tba	Discuss the consultation feedback and agree technical measures and final legal text
08/03/2023	Extraordinary IFCA meeting – venue tba	Agree/make legislation

2021

Month	Day	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
SEPT	Wed																															
	Thu																															
	Fri																															
	Sat																															
	Sun																															
	Mon																															
	Tue																															
OCT	Wed																															
	Thu																															
	Fri																															
	Sat																															
	Sun																															
	Mon																															
	Tue																															
NOV	Wed																															
	Thu																															
	Fri																															
	Sat																															
	Sun																															
	Mon																															
	Tue																															
DEC	Wed																															
	Thu																															
	Fri																															
	Sat																															
	Sun																															
	Mon																															
	Tue																															

Authority Meeting
Agree premise of review and development process

Listening phase 6 weeks

Oral evidence hearing

Authority Meeting

- Summary of listening phase
- Key issues to address
- Commission work

Regulators workshop Discuss legal options based on feedback from listening phase

A

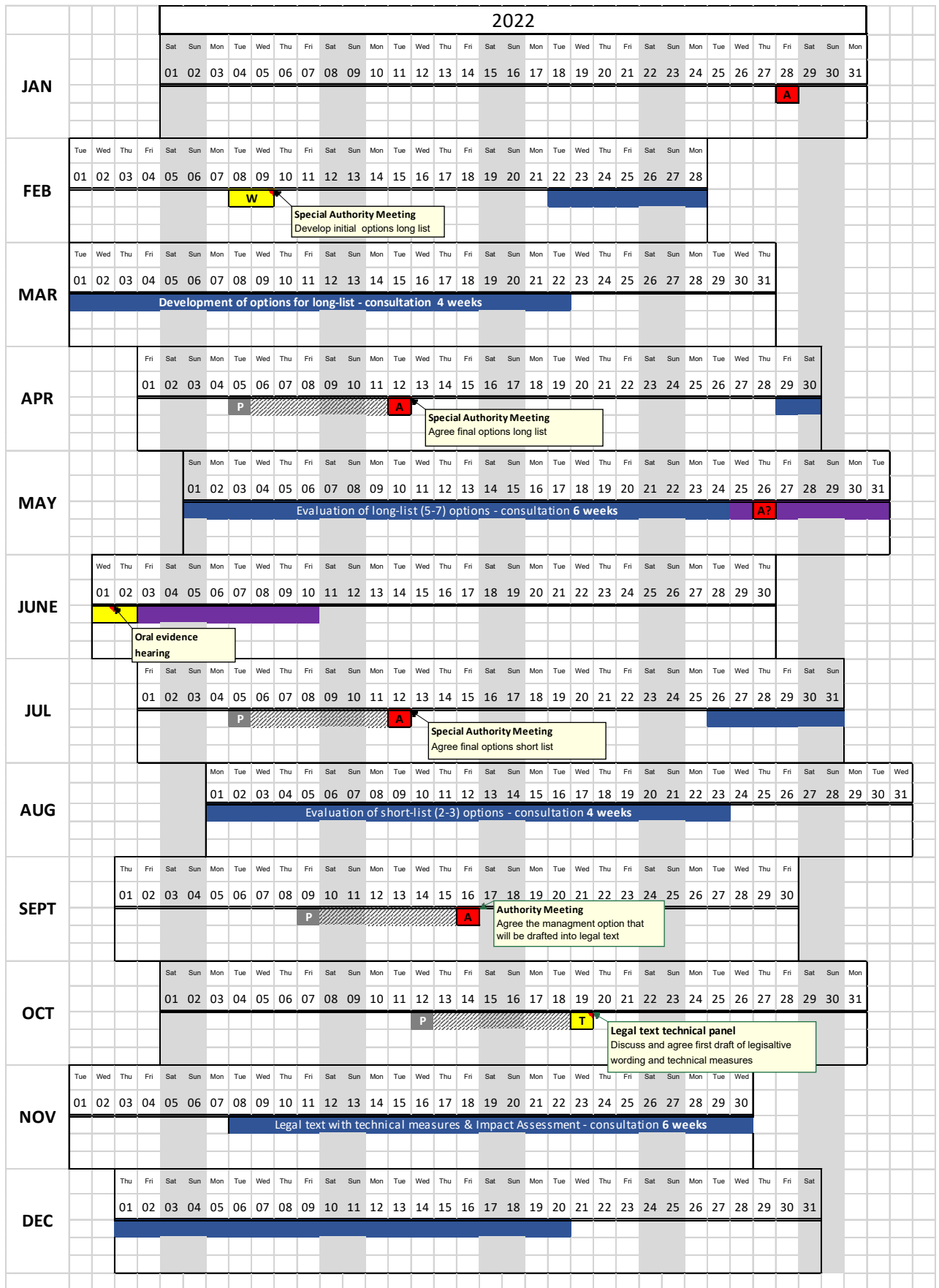
P

P

P

W

P



		2023																											
JAN	Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue	01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31																											
	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> Authority Meeting Discuss the consultation feedback and agree technical measures and final legal text </div>																												
FEB	Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue	01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28																											
	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> Legislation with Impact Assessments (Papers) </div>																												
MAR	Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri	01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31																											
	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> Special Authority Meeting Agree/ make legislation </div>																												
APR	Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun	01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30																											
MAY	Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed	01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31																											
JUNE	Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri	01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30																											
JUL	Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon	01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31																											
AUG	Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu	01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31																											
SEPT	Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat	01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30																											
OCT	Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue	01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31																											
NOV	Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu	01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30																											
DEC	Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu Fri Sat Sun	01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31																											