

TEFA Proposal - Summary and Evaluation

Background

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.

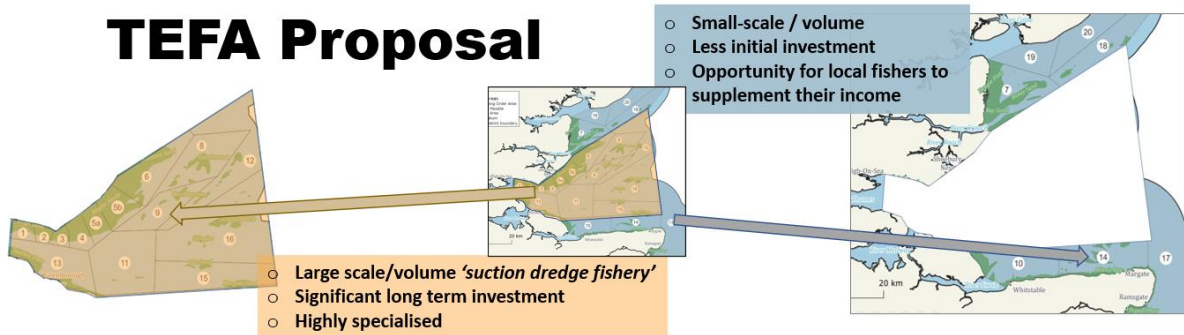
After consulting with the Chairman and Vice-Chairman, it was felt that the purpose of the consultation was to gather views and evaluate options. It was concluded that if there was a strong viable industry-led proposal submitted on behalf of a well-respected fisherman's Association then it would be appropriate 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 (included in Appendix 1), a follow-up letter was sent by officers asking TEFA for clarification as to how key parts of their proposal would work in practice.

The clarification letter from TEFA did modify and explain key elements of the initial proposal submitted as part of the consultation; however, officers also had follow-up conversations with the Chair of TEFA to confirm several fundamental points that were assumed by officers, but not clearly stated by TEFA in their letter.

- The TEFA option is based upon the NEW BERMUDA 28 option, with the same geographical boundary i.e. the current TECFO boundary rather than the NEW JAMAICA boundary.
- The option would issue the base number of 14 licences to the current 12 TECFO licence holders and would be issued for the length of the Order (28 years).
- Any additional licences would be issued until the TAC dropped back below the specified trigger point at which point it would be the additional licences to the new additional licence holders which would be revoked.

TEFA Proposal



Dear Will, Chairman and Authority Members

We Have answered your questions in the number order that you have asked them

1. Q How long would the additional licence be issued for? Answer. It is our belief the licence should only be issued for a 1 year period subject to the criteria being achieved in question and answer 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

4. Q. On what conditions would the additional licence be taken back by the Authority i.e. using your suggested model would the licence be taken back if the stock dropped below xxx tonnes for a consecutive 5 year period or would the licence be taken back once the TAC dropped below xxx tonnes in a given year? What tonnage would your members recommend these trigger points? Answer. We have given considerable thought to this multiple question and believe the less complicated method of retracting a licence would be to use the basic figure of if the TAC drops below 8745 tonnes in any given year that licence is automatically withdrawn, again using the example if the TAC drops below 8745 tonnes for any 1 extra licence that has been granted and for every licence above the baseline adding 583 †one per licence then that figure of 583 tonne is deducted and if it falls below the criteria the licence or licences are removed

5. Would landings tonnage work better than TAC as the amount of TAC can vary within a season(i.e. landings will be less than the TAC this year)? Answer. It is always very difficult to pre determine as to tonnage landings against TAC, we all know that scientific data is the binding guide used by the KEIFCA and that year class and spat-fall and survival over the previous winter plays a massive part in the determination of TAC, yet Mother Nature has a habit of changing the normal as has happened in 2017 and 2022 at least an annual TAC seems to provide a relatively stable method of deciding on the seasons capability.

Option Descriptions

Our apologies The New Haiti Option in which we commented that area's 15,13 and 11 were excluded we retract this portion as you have rightly brought to our attention that these area's are included, However we

must re-iterate that we can not support the option on 7 year licence reviews.

6. We really appreciate the engagement of the Thames Estuary Fishermans Association, in the cockle review and development of future management. As representatives the Association have taken part in the cockle review process it would greatly help KEIFCA, and our members that are considering consultation feedback, to understand both the members in your Association (a list of members and their vessels) and the process by which your members agreed the comments made by your representative. In your letter dated 4th July the Thames Estuary Fishermans Association was speaking on behalf of the 14 licence holders of the current 1994 TECFO, is this still the case. Answer. Our Members take a democratic decision by fully discussing and then voting on all matters and the majority vote is the decisive opinion put forward, as in all democratic discussions not every member agrees with each point discussed but a majority is always reached in the end by taking all points raised in to consideration having discussed all matters with their Skippers, Crew and staff before attending the meetings.

The 12 companies that hold the current 14 licences of the 1994 TECFO are the voting members for any matters regarding the Thames Cockle Fishery review.

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Visualisation of TEFA proposed mechanism for of setting the number of licences

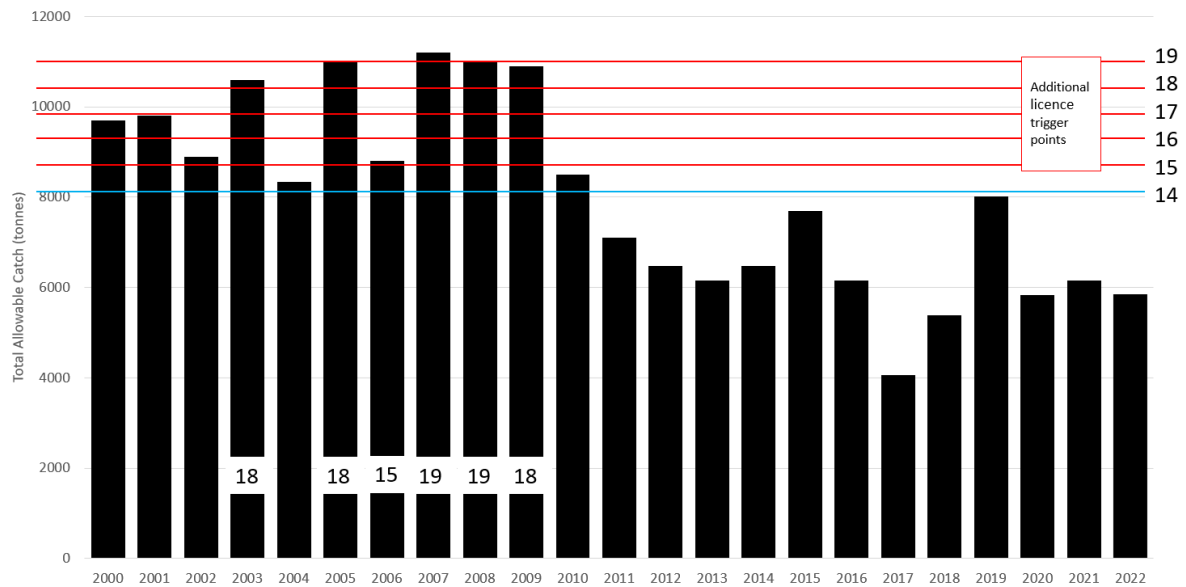


Figure 1. Historical Retrofit of TEFA Consultation 2 management proposal

The proposal from TEFA requires that the initial Total Allowable Catch (TAC) set for each year needs to be above a minimum tonnage of 8162 tonnes for three consecutive years prior to any additional licences being issued. Once the TAC is above this trigger point, the stock is judged to have reached a level of stability. Provided that the TAC does not drop below this minimum baseline of 8162 tonnes, in each year an additional licence would be issued for each 538 additional tonnes of stock over the 8162 tonnes baseline.

In an effort to show how this this option could work and help Member and stakeholder evaluate this option, Fig.1 shows how the proposal would have mapped onto historic TAC tonnage data. The graph tracks back to 2000 as this is when TAC tonnage was first used as a management tool in the fishery.

As can be seen, after the first three years of TAC tonnage above the minimum baseline, the stock in 2003 is above the agreed trigger point, so 4 licences would have been issued in addition to the usual minimum of 14 licences. In 2004, the TAC tonnage dropped back below the trigger point and so only the minimum 14 licences would have been issued. The number of licences then varies each year according to the amount of TAC above the minimum 8162 baseline, the number of licences in each year that is not 14 is shown in a white box within each year bar. In 2011 the TAC drops below the baseline and remains below until the last available data in 2022. For more licences to be issued above the minimum 14 licences, the TAC will have to increase above the 8162 tonnes baseline and remain above for three years.

Consideration of TEFA proposal mechanism to set the number of licences

Advantages

Simple concept – more stock, more licences available to fish the stock. The fishing opportunity is related to the amount of stock available.

This option is supported by the local TECFO cockle industry and does look to provide additional opportunity for other members of the cockle industry. This option helps maintain current businesses but gives opportunity to new businesses when available.

Using historic data, the trigger point suggested by TEFA for issuing additional licence(s) was reached in 2003 for an additional 4 licences for one year, with a return to 14 licences in 2004. In 2005 the trigger point for 4 additional licences was again reached, but reduced to 1 additional licence in 2006, before increasing to 5 additional licences in 2007 for 2 consecutive years and 4 additional licences in 2009. Since 2010, no additional licences would have been issued, and the baseline trigger point of 8162 tonnes has not been reached since 2011.

This method of issuing additional temporary licences has been used in the Dee cockle fishery, with their Regulating Order legislation including the ability of issuing additional short-term licences after certain extreme recruitment events that lead to very high stock levels.

Disadvantages

Legal challenges

Issuing new licences based on TAC levels would be contentious in certain scenarios, especially if the TAC amount was close to a trigger TAC tonnage that would mean additional licences would or would not be issued. Depending on the exact situation, businesses hoping for an additional licence might mount a legal challenge if the value was just under the trigger TAC tonnage or businesses that held a licence in the previous year but stand to lose it could issue a legal challenge. Conversely, businesses with a licence might issue a legal challenge if the TAC tonnage was just above a trigger point such that additional licences would be issued. During the 12-year period 2000 – 2010 when TAC's were above the 8162 baseline trigger point (shown in figure 1), the TAC was within 150 tonnes of an additional licence trigger point on 6 occasions and within 100 tonnes on 3 occasions.

Annual stock assessments are estimates and are updated and reset either up or down during the season based on the results of the September survey, feedback on the fishing and after consultation with the industry. The 2022 cockle season is an example of this with the TAC being set at 5852 in the May before the start of the fishery but had to be reduced to 5236 in September because of poor growth rates, markedly increased fishing times reported by the fleet, and poor stock levels found during the September 2022 stock assessment survey – a reduction of 616 tonnes. Similar notable decreases in permitted tonnage were seen in 2000, 2002 and 2015. Notable increases in available tonnage were seen in 2010, 2011 and 2018 – these are shown in figure 2.

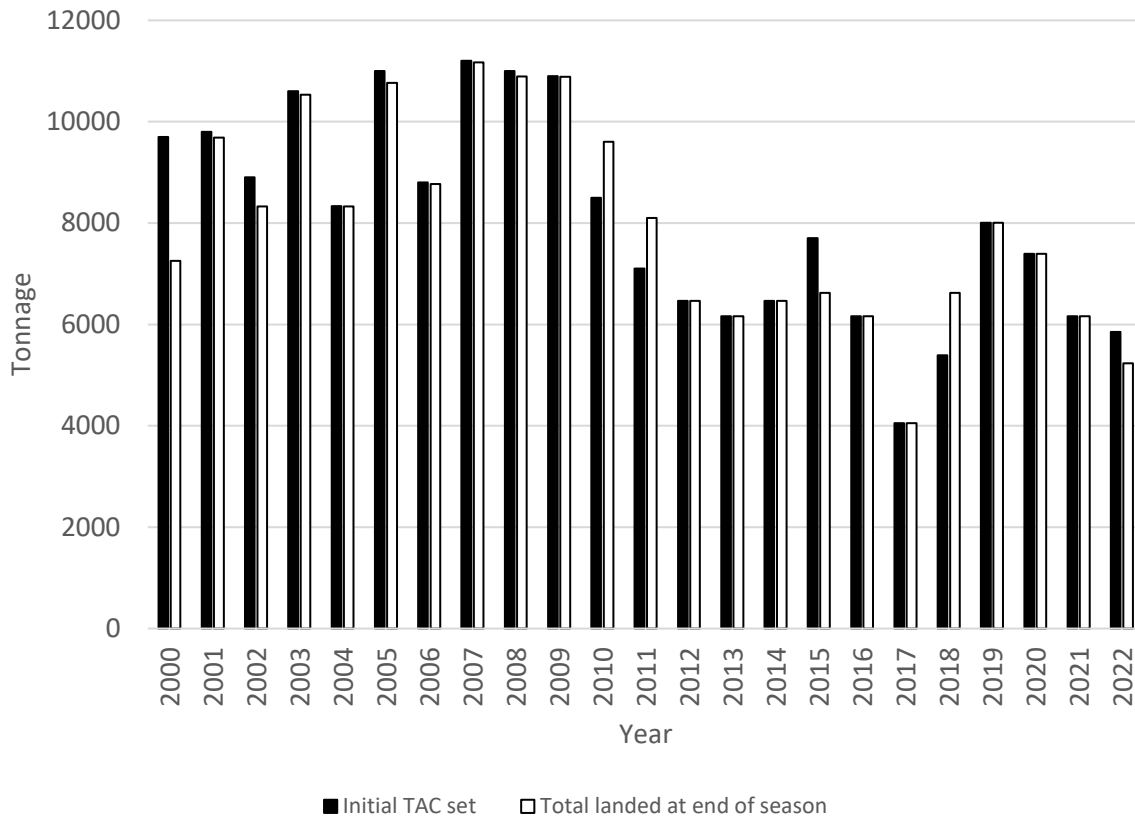


Figure 2 Comparison of initial TAC set and quantity landed by end of season within TECFO fishery

In season changes in TAC would become very contentious, especially if the TAC changes up or down then passed a TAC trigger tonnage. Such a move might be legally challenged by the fishers that could have had a licence but were not able to because the initial TAC tonnage was lower than the trigger point.

Business planning and investment

Whilst the proposal provides a reliable income for the current licence holders it does not provide a reliable income for additional licence holders. It would be hard for an additional licence holder to plan their business, keep skilled staff and make significant long-term investments without more long-term security in being able to fish for cockles within the new regulating order. Prospective licence holders would only know in May that more licences would be issued, or previously-issued licences would not be, for the fishery beginning the coming June. This would give little time to prepare for either the fishery or alternatives. The current TECFO licence holders have indicated that 7 years is too short a time to make a reasonable profit on the investment they would have to make.

Environmental impact and Habitats Regulations Assessment

When issuing more licences, the TEFA proposal does not consider the environmental impact of issuing more suction dredge licences on the seabed and wider ecosystem. Issuing 4 licences more than the previous year (as in years 2003, 2005 and 2007) in one go could have a significant impact on the ecosystem especially as the fishery is within an MPA. Most likely, work would need to be undertaken monitoring the impact of incremental increases in issuing suction dredge licences before a significant increase in licences (like a jump of 4 licences) would get agreement from Natural England and pass an HRA.

Cockle populations do fluctuate over time, but it would be very difficult to predict when the criteria for issuing a 15th licence would be reached. 8162 tonnes, the trigger for issuing the 15th licence was last reached in 2010, twelve years ago.

Compliance and industry engagement

The proposal creates a system where all licence holders are not treated equally, and enforcement could be more challenging with a licence holder that might just have access for one year, as there would be a much bigger incentive to break the rules and get the more than your quota if you might not be able to fish the next year if the TAC may drop below the trigger point. This option could also incentivise fishers with licences to attempt to fish the stock in such a way that it does not reach 8,162 tonnes.

The option uses TAC as the sole criteria or trigger point for issuing additional licences. As discussed in the consultation process, and outlined in the 13 evaluation criteria, when issuing new licences, it would be sensible and good practice for the Authority to consider a broad range of issues (i.e. impact on the seabed, long term and short term economic impact of the decision on fleets both inside and outside the Regulating Order etc) rather than just one factor. There is also logic in the Authority running a consultation to seek the views of stakeholders before finally agreeing a decision.

Comparison of proposed TEFA process for licence application and issuing compared to Consultation 2 options

Outputs and progress that needs to be made by the end of Consultation 2

Consultation 2 explores the different methods, systems, or criteria that the Authority might use to manage, limit or control access to a specific cockle management zone. Building on the decisions made in Consultation 1, the wide range of different possible access arrangements or criteria for potential licence holders can be thoroughly discussed and evaluated within the context of each agreed framework model. At the end of this step in the process the Authority needs to have agreed the final framework model and access arrangements/ criteria to develop further during the technical development phase.

TEFA proposal

While the option proposed by TEFA does present a mechanism to issue and revoke licences the option does not give detail as to the criteria and process that would be used to issue the licence to a new licence holder other than to say that:

“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 as this would be fair and straightforward for the Authority in supporting the local fleets of Kent and Essex, by the majority votes it is not favoured by our members for licences/ permits to be issued to any individual that has sold companies that previously has an entitlement to a cockle licence within the 1994 TECFO. “

There were 24 permit holders in the permit fishery in 2022 but have been 59 number of permit holders since the new flexible permit byelaw was introduced in 2015. A lot of the permit holders

Comparing the TEFA proposal to the other options in Consultation 2

The TEFA proposal is based primarily on NEW BERMUDA 28 as the current 14 licence holders would effectively be issued a licence for the next 28 years and would keep the current TECFO boundary. However, the proposal does provide a mechanism whereby licences can be set between the range of 14-20 licences as in the NEW HAITI option.

Key points made by stakeholders in the consultation on the principles of the TEFA option

It is difficult to say exactly what stakeholders' comments would have been on this option as the TEFA proposal was not consulted upon directly, however many of the points made in the consultation from different stakeholders can be applied to this proposal.

Current TECFO licence holders

Compared to the other options the TEFA proposal would, like the NEW BERMUDA 28 option, provide the current TECFO licence holders with effectively a 28-year licence. Replies from the consultation suggested that the current licence holders felt this was important as it offered long-term security and confidence in making long-term investments, including in boats, equipment, and a skilled work force. There were several respondents that made the point that they felt reduced investment would lead to the collapse of the local industry and no long-term cockle industry.

Current CFFPB permit holders

The TEFA proposal does provide the opportunity to issue more licences, however feedback from the current CFFPB permit holders reflecting the increase in number of licences in the NEW HAITI option, whilst positive and supported by some did overall receive a muted level of positive support, due to respondents feeling that there was a low likelihood of them getting one.

There was a reflection from the majority of permit holders that increasing the area covered by the permit fishery in the NEW JAMAICA option would make the fishery a more viable and reliable option that could create the potential for small businesses to invest with more confidence and contribute to the wider local economy. The TEFA proposal keeps the current TECFO boundary and would not provide the opportunity, highlighted in the majority of current permit holders replies, of increasing the areas of the permit fishery.

Catching Sector

In general, the catching sector did not comment in detail on the other options but instead focused their replies on support for the NEW JAMAICA option and the prospect of an increased permit area and access to local cockle beds that could generate a new income stream. There was the view however in several replies, that NEW HAITI, NEW BERMUDA 7 and NEW BERMUDA 28 options provided little new opportunity as it kept the current TECFO boundary that excluded them from key areas like the North Margate sands in Area 15. The TEFA proposal also keeps the same TECFO boundary.

Officer Comment

When comparing the opportunity of issuing new licences there is a significant difference between comparing the NEW JAMAICA and NEW HAITI options with the TEFA proposal. The NEW JAMAICA and NEW HAITI options specifically include the creation of a 15th licence starting in 2025 and running for 7 years, with fixed reviews every 7 years thereafter. Whereas first opportunity to issue a licence using the criteria in the TEFA option would be in year 3 of the 28-year regulation order and as

cockle populations do fluctuate over time, but it would be difficult to predict when the criteria for issuing a 15th licence would be reached.

Summary

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.