

Kent & Essex Inshore Fisheries and Conservation Authority

MINUTES of a meeting of the Authority held in the Council Chamber. Gravesham Council offices, Gravesend on Wednesday 6 August 2025

Present: Mr J Lamb (MMO), Mr J Nichols (MMO), Mr P Wexham (MMO), Mr W East (MMO), Mr J Rowley (MMO), Mr A Baker (NE), Cllr J Finch (KCC), Cllr M Lawes (KCC), Cllr J Henderson (KCC), Cllr C Mulroney (Southend Council), Cllr J Fleming (ECC), Cllr A Goggin (ECC), Mr E Hannam (MMO)

Apologies: Mr C Collins (MMO), Mrs E Gilson (MMO), Ms L Faulkner (EA), Cllr S Curry (Medway Council), Ms T Ferry (MMO), Cllr G Coxshall (Thurrock Council), Mr R Turner (MMO), Cllr M Skeels (ECC), Ms S Martin (KCC),

In Attendance: Mr J Cook (Clerk, KCC), Dr W Wright (Chief Fishery Officer), Mr D Bailey (Deputy Chief IFC Officer), Dr P Haupt (Principal Scientific & Conservation Officer), Miss K Stuart (IFCO/Scientific officer), Mrs K Woods (Admin Officer), Miss E Wyatt (IFCO, Mrs D O'Shea (Office Manager)

By invitation: Mr A Oliver (Andrew Jackson Solicitors), Ms E Howell (MMO), Mr M Buckingham (MMO)

The Chairman asked that Miss Kat Stuart be thanked for the work that had been undertaken by her to produce the Manila Clam handbook.

16. DECLARATION OF MEMBERS' INTERESTS (A1)

The Chairman requested Members to declare any interests on the Agenda item prior to it being dealt with and advised that those with a disclosable prejudicial interest may not vote on that Agenda item.

No declarations of interest were made

17. MINUTES OF 18 JUNE 2025

Members agreed that the minutes of the meetings held on 18 June 2025 were correctly recorded and that they be signed by the Chairman. No matters were arising.

10:05 MOTION TO EXCLUDE PRESS AND PUBLIC EXEMPT ITEMS

That under Section 100A of the Local Government Act 1972 that the public be excluded for the following business on the grounds that it involves the likely

disclosure of exempt information as defined in paragraphs 3 and 5 of Part 1 of Schedule 12A of the Act.

The Chairman advised Members that they had been provided with letters from the following people/companies:

- letter from WG & SJ Dell Ltd, previously emailed 04/08/2025
- letter from Ferris Fishing Ltd, previously emailed 04/08/2025

18. WG AND SJ DELL LTD REQUEST TO CHANGE 7-YEAR TECFO LICENCE TYPE – LEGAL CONSIDERATION OF EVIDENCE (E1) – BRIEFING FOR MEMBERS

Members received a briefing from officers and the solicitor for the IFCA in respect of the request made by WG & SJ Dell Ltd to transfer their application for a non-transitional licence to a transitional one.

12:35 Exempt meeting ended

Break

12:45 Cllr Lawes left the meeting

12:50 Public meeting restarted

19. CONSIDERATION OF REQUEST TO CHANGE TECFO LICENCE-TYPE APPLIED FOR BY WG & SJ DELL LTD (B1)

The Chairman welcomed Mr Dell to the meeting and invited him to address the Members of the IFCA.

Mr Dell addressed Members as follows:

I am a cockle fisherman from Leigh on Sea. My family owns and runs a business there. My father started the business 55 years ago and I have worked on the boat for the last 38 years. Since requesting to change our licence application we have tried to address all the questions raised to the best of our ability so will try to be as brief as possible. Catching and selling cockles is all our business does. The process of applying for a new cockle fishery licence was a very important issue. When we received a copy of the TECFO 24 via email we immediately read it to fully understand its meaning. The Order made it clear who would be eligible for transitional licences and who would be excluded from applying for full licences and we have explained our rationale in other communications for a full licence. The Authority have confirmed that the intent to issue 15 licences in the first year so we concluded that all others who were eligible for a transitional licences

applied for one a minimum of six full licences would be available. We reasoned that with our years of experience would stand us in good stead and given our knowledge of whom the other applicants would most likely be we decided that a full licence application would be a viable option. If we had been aware that companies with common officers or shareholders would be eligible for a transitional licence and that we would therefore be applying for one of only two available full licences we would have assessed the risk as being totally unacceptable and would have applied for a transitional licence ourselves. After going through the licence allocation process we were informed we were placed eighteenth on a ranked list and I would not be offered a licence. This was a complete shock which raised many questions. Who were all these other applicants, how were they then more qualified than us and what was wrong, if anything, with our own application. I sought some clarification and help from the officers as how I could proceed. I was told that they were restricted in what they could tell us but there was no appeals process and my only option was to write a letter to the Authority asking for our application to be reconsidered. This process was time dependant and we only knew our ranked position and had no reason to, at this point, suspect that the Order was being misapplied. We therefore concentrated on our own application and sought to address any perceived deficiencies. Once the full ranked list was shared and we had time to fully digest the implications we understood that the Order had not been applied as we had expected in particular Article 5(12). We immediately changed the focus of our letter of representation to reflect this alongside several other concerns. We have been asked why we didn't mention our reliance on Article 5(12) earlier in the process. I feel it is important to make clear that we had no reason to specifically mention this at any point before the full ranked list was circulated and understood. The TEFCO 24 was a validly passed law. From our perspective it had been scrutinised thoroughly by the Authority and DEFRA and we had no reason to believe it would not be applied as written. Our initial expectation was that once the Authority realised that the law had been misapplied, they would correct themselves by applying the law correctly as written. This would involve removing ineligible companies from the ranked list and moving the remaining applicants up as is suggested in the management plan. We never imagined that the Authority would seek to change the law part way through the process. By proceeding with a Variation Order rather than correcting the ranked list the Authority denied us the opportunity to be moved up the list and be offered the licence. When we found out we were able to apply for a transitional licence it was a great relief as this would enable us to stay in business and ensure the livelihoods of not only our family but those who work for us as well. We've engaged in the process of explaining our decision in good faith that the Authority will understand how we have been prejudiced by the misapplication of the original Order and the subsequent Variation. We do not seek to take unfair advantage of the situation but only ask for the correction of the situation that is not of our making and trust that you will carefully consider our request.

The CFO reminded Members that at their meeting on the 18 June 2025 they had agreed to continue the TECFO Licence Allocation Process (LAP) and if the Variation Order was passed by Parliament to ask those companies eligible for a transitional licence if they wished to change their type of licence in light of the changes made by the Variation Order. Following this meeting, on 27 June 2025 a second Pre-Action Protocol letter had been received in respect of the decision taken by Members at that meeting. KEIFCA had responded to this letter following advice of King's Counsel (KC).

The DCFO provided Members with an overview of the background behind the making of the new Order by the IFCA from 2021.

The CFO informed Members that the Variation Order had been signed on 14 July 2025 and had come into force on 5 August 2025. Officers had commissioned further legal advice from KC in respect of the decision made by them on 18 June 2025. This advice suggested that granting those eligible for a transitional licence an unrestricted ability to decide whether or not to switch the type of application they were making could give rise to accusations of procedural impropriety and unfairness.

The advice of the KC suggested consideration be given to whether anyone applying to switch their licence type had been unfairly prejudiced by the change made to Article 5(12) of TECFO 2024. If any applicant did make a request to change they should be required to satisfy the Authority that they would have applied for a different type of licence had Article 5(12) not precluded companies with common officers or shareholders from each holding transitional licences.

Following discussion with the Chairman and Vice Chairman, he had made a decision in line with his delegated duties under the Standing Orders to implement the decision made by the Authority on 18 June 2025 taking into account the legal advice from King's Counsel.

One request to change their application was received from WG & SJ Dell Ltd. Clarification of aspects of that request was requested from Mr Dell. The request and the responses to the clarification requests had been provided to Members with their papers.

It was now for the Authority to consider whether it was satisfied that WG and SJ Dell Ltd would have applied for a different type of licence had Article 5(12) not precluded companies with common officers or shareholders from each holding transitional licences. If the Authority was not satisfied that this was the case then they should not accept the request to change the licence of WG and SJ Dell Ltd to a transitional licence. Conversely if they were satisfied that this was the case then they should accept the request to change the licence type to transitional.

In response to a question from a Member on the consequences of not taking KC advice, Mr Oliver informed Members that he and Counsel had reviewed the papers provided to them and had set out a summary of how Members may wish to deal with them. Members were reminded that they must approach their decision with an open mind and not to

prejudice. Evidence had been provided to them and they had also heard from Mr Dell today and it was for them to decide what weight to put on any of that evidence. He advised them that the advice of the barrister and himself was advice only and that he and the barrister were not the decision makers. Members must not make assumptions, and their decision must be reasonable. Where there were two pieces of evidence that contradicted each other, then they should use balance of probabilities to decide which was more correct or likely to be believed.

Members made the following comments:

- this part of the meeting might appear to be quite hard and cold however it was important to take into account how long it had taken to get to this point. Members had discussed the decision they were being asked to make during the two hour exempt part of the meeting in a positive heated debate. This in itself was after several months of meetings and consideration of lots of letters. It might appear from the outside that Members were not interested or had not discussed this. This could not be further from the truth Members were aware that the decision they made today would affect someone negatively and somebody else positively. Whoever that was, this would be a firm with a family and with people employed by them, a key part of the community. I wish to make the point that this part of the meeting is quite quick and relatively cold looking as we will just be asked to vote but that is far from the reality of what has been gone through to get to this stage They needed to understand that Members had all been appointed for a reason and were chosen and selected for their judgment and decision making aptitude
- this process has been going on for three and a half years to get to where we are today. A number of management measures were amended as we went through the process as a result of consultation with Industry. Members need to be sure that what we are deciding is based on the evidence that we are in possession of. With regard to the 5(12) error were there any other applicants that queried this - in response the CFO stated that the first time anyone had known about it was when it was raised by Mr Dell. No one else had raised it as an issue.

Members **APPROVED** the following recommendations:

- 1) The Authority voted unanimously to **NOTE** the decision made by the Chief Officer to progress with the TECFO 24 7-year Licence Allocation Process taking into account legal advice of King's Counsel;
- 2) The Authority **CONSIDERED** the submissions made in the change request process as well as the legal summary provided and **DECIDED** that in regards to WG and SJ Dell Ltd that they were **not satisfied** that the applicant was prejudiced by the change of text of article 5(12).

In respect of Recommendation 2, Members voted as follows:

Satisfied that the applicant was prejudiced by the change of text of article 5(12):

Cllr J Fleming

Not satisfied that the applicant was prejudiced by the change of text of article 5(12):

Mr J Rowley
Mr E Hannam
Cllr C Mulroney
Cllr J Henderson
Cllr J Finch
Mr W East
Cllr A Goggin
Mr A Baker
Mr J Lamb
Mr J Nichols

Abstention:

Mr P Wexham

20. CONFIRMATION OF TECFO 2024 RANKED APPLICANTS LIST (B2)

The CFO reminded Members that for the first seven-year period of the Order they had agreed to issue fifteen licences and for that period holders of licences under the previous TECFO 1994 Order could apply for a transitional licence as long as certain conditions were adhered to.

Twenty-two applications had been received. Two were found to be non-compliant with article 5(12), twelve applied for transitional licences and eight applied for non-transitional licences of which there were three available. Scoring and ranking of these non-transitional applications were undertaken by the Applications Panel as set out in the management plan.

Following initial scoring, moderation and oral evidence sessions the final ranking of applications took place.

Members were advised that based on the decision made by them in Agenda item B1, the following ranked list would be provided for them to confirm:

Count	Applicant	Final Ranking
1	Arthur Marine Ltd	=1
2	Cardium Shellfish Ltd	=1
3	Coral Island Seafoods Ltd	=1
4	Deal Bros Ltd	=1
5	Essex Shellfish Ltd	=1
6	Fruits of the Sea Ltd	=1
7	M W Smith Shellfish Ltd	=1
8	Oly Ray Ltd	=1
9	Renown Fisheries Ltd	=1
10	S J Meddle Ltd	=1
11	Trevor Lineham (Shellfish) Ltd	=1
12	W H Osborne Ltd	=1
13	Seacraft Ltd	13
14	Osborne & Sons Ltd	14
15	O & L Fishing Ltd	15
16	Ferris Fisheries Ltd	16

17	Tricia B Shellfish Ltd	17
18	WG & SJ Dell Ltd	18
19	Hollowshore Shellfish Ltd	19
20	S W Fishing Ltd	20
21	Sea Breeze Trawlers Ltd	Ineligible
22	West's Seafoods Ltd	Ineligible

Should Members agree to the ranked list then it was intended to write to the applicants ranked one to fifteen to offer them a licence. They would be required to accept the offer in writing, pay the licence fee and provide details of the vessel and master for the first year of the licence by 13 August 2025. The fishery would then commence on 17 August 2025 at 1800hrs.

Members **APPROVED** the following recommendations:

1. **AGREED** the ranked list which aligns with the decision made in Agenda item B1;
2. **AGREED** that licences be offered to applicants in descending order of the chosen ranked list, in accordance with the process detailed in the report, until all 15 licences were issued; and
3. **DELEGATE** authority to the Chief Fishery Officer to take relevant actions to implement this decision as necessary.

13:30 Mr Rowley left the meeting

21. REVENUE BUDGET MONITORING (B3)

The CFO advised Members that the financial advisor to the IFCA was not in attendance to present the report. The projected underspend for the year was £4,999, although this could change. Members were provided with a breakdown of the forecast outturn within their papers.

Members **NOTED** the report and **APPROVED** the forecast underspend of £4,999

13:55 Mr Hannam left the meeting

22. MANILA CLAM TRIAL OVERVIEW (B4)

Members were informed that all fishermen who had previously registered an interest in taking part in the trial had been contacted in June 2025 and provided with details of the proposed two-year trial and how to apply to be considered. Six applications were received and all six had been accepted as successful. Officers had met with the trialists and discussed with them the proposed outline of the trial including a bar spacing experiment and the use of REM. The trial would run over six weeks from November 2025 to mid-December 2025. Trialists would be able to sell their catch. Final catch and trip limits would be determined following the September surveys, but it was anticipated that the catch limit would be set at 400kg per trip for the first three weeks of the trial and would be increased to 500kg per trip for the final three weeks. In addition the trialists would be allowed three prospecting trips; two trips at 300kg and one at 400kg to be carried out during the first week of the trial.

Discussions had been held with the trialists regarding the required REM systems. It was proposed that as the trialists had committed to a lot of investment to date KEIFCA would fund the units, installation and airtime. The estimated cost per unit would be £3,000 and would be taken from the DEFRA MPA reserve.

Officers had undertaken a study focussed on the bar spacing of the riddle, details of which were supplied to Members within the report. It was recommended that either a 21mm or 22mm bar spacing be adopted which would be used by trialists as part of the 2025 trial.

Members were also provided with a literature review handbook produced by KEIFCA which summarised key findings in respect of the biology and ecology of manila clams, the impact of dredging on the environment, manila clam fisheries across the globe and the domestic and export markets for manila clams.

The Chairman commended Ellie Wyatt and Kat Stuart for all the work they had put into setting up the trial and complying the literature review.

Members **APPROVED** the following recommendations:

- 1 a) **AGREED** the updated 2-year trial outline including the proposed trial fishery areas and catch and trip limits (also including the riddle experiment and further recommendation that field studies should be conducted as part of the 2025 trial).
 - b) **AGREED** that the Chief IFCO be authorised, after consultation with the Chairman and Vice Chairman, to implement changes to fishing controls to ensure future sustainability including for the purposes of setting TAC. These will be communicated to Members following decisions being made.
2. Funding the cost of £3,000 for the REM systems for the trialist vessels for the length of the 2-year manila clam trial fishery period which will be drawn down from the DEFRA MPA fund.
3. **APPROVE** the Literature Review Handbook

Members received a presentation from Ella Howell and Mike Buckingham on MMO English Offshore MPA Management Measures and the consultation process that was being undertaken in respect of Stage 3 of this. MPAs in the Kent and Essex district included in this process were:

- Margate and Long Sands
- Foreland
- Kentish Knock East
- Inner Bank

23. PHD PROJECT (B5)

Members were advised that KEIFCA had established a research partnership with the University of Essex and the Fishmongers' Company to co-fund a PhD project to investigate the temperature tolerance and climate related responses of key shellfish supplies in the Thames Estuary with the intention of providing evidence to support future management of these stocks. The title of this project would be "Shellfish fisheries under pressure from increasing frequency and intensity of marine heatwaves". The project would begin in January 2026 and would last three to four years and be supervised by Dr Michael Steinke from Essex University and by Dr Philip Haupt from KEIFCA as the co-supervisor.

It was intended to fund the project from monies received from Defra to support both the IFCA's Fisheries Management Plan work and Marine Protected Area work, in total £40,000.

Members **APPROVED** the following recommendations:

1. KEIFCA's involvement with the PhD project: Shellfish fisheries under pressure from increasing frequency and intensity of marine heatwaves; and
2. The contribution of £40,000 to part fund the PhD project from KEIFCA. With the funds for the project to be taken from funding we have received from DEFRA to support our FMP and MPA work, with £20,000 taken from each reserve.

14:45 Meeting ended