

By: Chief IFCO and Assistant Chief IFCO

To: Kent and Essex Inshore Fisheries and Conservation Authority – 23rd January 2017

Subject: **KEIFCA Native Oyster Permit Byelaw**

Classification Unrestricted

Summary:

This report provides Members with an update on the proposed Native Oyster Permit Byelaw development and engagement process by KEIFCA as well as key features of the potential byelaw.

Recommendations:

1. The Authority are asked to **AGREE** to use the key proposed features of the native oyster flexible permit byelaw as a basis to start to engage with stakeholders.
2. The Authority are asked to **AGREE** to the engagement and development process described in the paper.

Progress so far

After a lot of constructive work with Natural England regarding the management and restoration of native oyster stocks in the Blackwater, Crouch, Roach and Colne Estuaries MCZ there is now a clearer framework to start to develop specific native oyster management. As the current native oyster management for the site (a ban on native oyster fishing using the KEIFCA shellfish beds byelaw) is due to expire in March 2018, the development of a flexible native oyster permit byelaw would seem the most obvious route to pursue. Using IFCA powers, permits can be reasonably flexible and could, in conjunction with an accompanying fisheries management plan (with set trigger points) and an annual survey of the key (public) stocks, help provide an annual frame work to manage fishing effort on the site. KEIFCA officers have worked closely with NE staff as well as officers from other IFCAs to develop the key features of a byelaw that would work within the strict criteria of the MCZ legislation.

The legislation

The Blackwater, Crouch, Roach and Colne Estuaries Marine Conservation Zone (BCRC MCZ) was created using a Designation Order in 2013 and protects Intertidal mixed sediments (broadscale marine habitat), Native oyster (*Ostrea edulis*) beds (marine habitat) and Native oyster (*Ostrea edulis*) (Species of marine fauna).

Conservation objectives for the site

5.—(1) The conservation objective of the Zone is that the protected features—

(a) so far as already in favourable condition, remain in such condition; and

(b) so far as not already in favourable condition, be brought into such condition, and remain in such condition.

(2) In paragraph (1), “favourable condition” —

(a) with respect to a broadscale marine habitat or a marine habitat within the Zone, means that—

(i) its extent is stable or increasing; and

(ii) its structures and functions, its quality, and the composition of its characteristic biological communities are such as to ensure that it remains in a condition which is healthy and not deteriorating;

(b) with respect to a species of marine fauna within the Zone, means that the quality and quantity of its habitat and the composition of its population in terms of number, age and sex ratio are such as to ensure that the population is maintained in numbers which enable it to thrive;

(3) In paragraph (2)(a)(ii), the reference to the composition of the characteristic biological communities of a habitat includes a reference to the diversity and abundance of species forming part of or inhabiting that habitat.

(4) For the purposes of paragraph (2)(a)(ii), any temporary deterioration in condition is to be disregarded if the habitat is sufficiently healthy and resilient to enable its recovery.

(5) For the purposes of paragraph (2)(b), any temporary reduction of numbers is to be disregarded if the population is sufficiently thriving and resilient to enable its recovery.

(6) For the purpose of determining whether the feature of geological interest is sufficiently unobscured within the meaning of paragraph (2)(c)(iii), any obscurement of that feature brought about entirely by natural processes is to be disregarded.

(7) For the purpose of determining whether a protected feature is in favourable condition within the meaning of paragraph (2), any alteration to that feature brought about entirely by natural processes is to be disregarded.

Figure 1. Conservation objectives specified in the BCRC MCZ Designation Order 2013

Developing a permit

The BCRC MCZ order sets out the important factors that need to be considered and assessed when developing any form of management (Fig.1). The recover objective of the site 5(1)b means that the first action needs to be to bring the native oyster population and the native oyster beds on the site to a favourable condition. We know that the native oysters’ low growth rates and poor recruitment success make it a particularly vulnerable species. The legislation

clearly suggests that native oysters need to be closely managed until the stock is in a favourable condition and that during this phase, removal of oysters from fishing would need to be stopped.

Section 5 (5) indicates a route by which fishing could be allowed once the population is in a favourable condition; 'that any temporary reduction of numbers is to be disregarded if the population is sufficiently thriving and resilient to enable its recovery'. Taking this into account, any management measure developed would need to be adaptive, iterative and responsive to oyster population fluctuations and changing conditions and pressures. A flexible byelaw with an underpinning fisheries management plan would allow, within agreed limits, this type of flexibility.

Key proposed features of the byelaw

1. Anyone fishing for native oysters on public oyster beds would be required to have a permit.
2. The permit would be restricted to one per person per vessel.
3. The fishery would be open for a limited period each year.
4. The byelaw would divide the MCZ into a number of different fishing areas. A specific area or areas would be opened.
5. Each permit would be allocated an equal percentage of the overall Total Allowable Catch (TAC).
6. There would be a fee charged for a permit.
7. The adult size would be controlled by ring size
8. There would be controls on vessel size, gear size and dimensions
9. Each permit holder would be required to complete a detailed landing declaration
10. Vessels would be required to have vessel tracking whilst taking part in the fishery.
11. A management plan would look to set trigger points at which the fishery would be opened; guidelines or an expert officer assessment process that would consider the following
 - the composition of the oyster population in terms of
 - number (including biomass and density)
 - age (age range typical of a natural population)
 - sex ratio
 - the quality and quantity of the habitat

Process of developing a permit byelaw

As the management of native oysters on the BCRC MCZ site is very complex, it is key that the development of the byelaw puts the local oyster industry as well as local stakeholders at the heart of this process. The following engagement process is proposed to develop the byelaw

1. Industry meeting - 6-8pm, 20th Feb 2017 (West Mersea Yacht club): Members of the oyster industry would be invited to attend an evening event where the key principles of the byelaw and the management plan would be introduced and discussed. Members of the industry would then be able to feed back their views and comments on the proposed ideas. Engaging at an early stage with the industry will help identify any key issues quickly as well as root the process in

practical fisheries management. Having such a meeting would help make sure that all fishermen are aware of the process and how to engage in it.

2. Stakeholder workshop - 10am-3.30pm, 30th March 2017 (West Mersea Yacht club): – A half-day workshop would be held focusing on the specific conservation issues and more detailed and technical stock management issues that the byelaw would address. National and international experts would be invited to the meeting.

3. Feedback to the May Authority meeting - 23rd May 2017: – A summary of the discussions and conclusions from the two meetings would then be presented to the Authority.

4. Initial consultation - June-Aug 2017: - Following direction from the Authority, consultation documents outlining the proposed management options would then be developed and sent to all interested parties. A ten week consultation period would allow ample time for all stakeholders to engage and submit written replies outlining their views on the proposals.

5. Feedback to the September Authority meeting – 15th September 2017: – A summary of the consultation replies would then be presented to the Authority.

6. Technical Panel – 11am-2pm, 28th September 2017 (West Mersea Yacht club): – A Technical Panel would review the consultation replies and discuss the key technical details of the byelaw and impact assessment. The Technical Panel would then look to agree recommendations and the key wording of a draft byelaw.

7. Draft byelaw November Authority meeting – 30th November 2017: – Recommendations from the Technical Panel would then be discussed and byelaw wording agreed/ Make byelaw and start running through statutory consultation process.

KEIFCA Authority members would be invited to attend all the meetings and workshops, to help get a clear appreciation of the issues and help develop the detail of the byelaw.

Recommendations

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