

By: Assistant Chief IFCO

To: Kent and Essex Inshore Fisheries and Conservation Authority – 14 September 2018

Subject: **BCRC Native Oyster Flexible Permit Byelaw update**

Classification Unrestricted

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**Summary:**

This report provides Members with an update on the progress of the Blackwater, Crouch, Roach and Colne Estuaries MCZ Native Oyster Flexible Permit Byelaw

**Recommendations:**

This report is for noting, discussion and comment only.

**Background:**

On 22<sup>nd</sup> May 2018, the KEIFCA Authority made, following the longest and most in depth consultation ever undertaken by Kent and Essex, the BCRC MCZ Native Oyster Flexible Permit Byelaw. Following the making of the byelaw, the statutory consultation process started, whereby the byelaw was advertised for a period of two weeks followed by a six week long consultation reply period. This consultation closed on 12<sup>th</sup> July 2018.

Several responses were received which are attached in Appendix A. Some of these responses raised concerns or objected, whilst others wrote to express their support for the management measure being proposed. All of the consultees who expressed concern or objected were written to with their comments addressed as is required by the statutory process.

The comments received have resulted in some clarifications and corrections being made to the byelaw and management plan. These clarifications and corrections are not substantive and do not alter the intent or procedure which the byelaw creates to open and manage the fishery. These clarifications and corrections have been discussed with Natural England and they have expressed no concerns regarding them.

**Byelaw Correction**

The clarifications and corrections in the byelaw are as follows:

*Section 5b. details of the fishing operation have been provided to the Authority including place of fishing and time and place of landing two hours prior to the commencement of landing. Previously this paragraph stated ‘..two hours before’.*

### **Management Plan clarifications and corrections**

The clarifications and corrections in the management plan are as follows (additional or revised text highlighted in bold):

Introduction text

*The KEIFCA role in MCZ management is to lead on developing sustainable fisheries management, with Natural England leading on oyster recovery **work to achieve favourable condition** (additional text) alongside ENORI (Essex Native Oyster Restoration Initiative).*

Paragraph 15

*A specified tonnage of 800 tonnes is to be used as an initial aim for recovery of native oyster stocks. The figure will be used as an indicator of stock recovery, and stock **levels across the MCZ** (additional text) would be required to be approaching this figure from current levels prior to a fishery commencing.*

Paragraph 17

*The fishery will be **considered for opening** (this previously said ‘opened’) if either*

*(a) There has been a significant stock increase across the MCZ to the specified tonnage.*

*or*

*(b) There has been a significant increase in stock levels in one of the nine areas.*

*and*

*(c) the population across the MCZ has been stable or increasing for 3 years.*

*and*

*(d) there are no excessive biosecurity considerations*

Paragraph 19.

***Permitted zones within a limited part of an area or in neighbouring areas, bounded by specific coordinates, may be established for a limited period to provide for harvesting.***

This paragraph previously read: If there has been a significant increase in a limited part of an area or in neighbouring areas then permitted zones bounded by specific coordinates may be established for a limited period to provide for harvesting.

### **Further response**

On 3<sup>rd</sup> September a further response was received from Mr John Elbra, attached in Appendix B. Many of the issues raised by Mr Elbra in his initial response and his second response and this latest response are issues which have been discussed at the extensive and numerous meetings which have been held over the past two years regarding this byelaw and the management measures

contained within it. Mr Elbra is correct in some of his summation of the challenges faced within the BCRC MCZ and the recovery of native oysters, however those challenges are the reason for the complexity of this management measure compared to most others. The purpose of the byelaw is to enable a fishery to take place for native oysters, however this is now set within the landscape of the native oyster and the beds which they form being two highly protected features within the marine protected areas which is the Blackwater, Crouch, Roach and Colne MCZ. The native oysters need to firstly recover and then secondly, once recovered, harvesting of them must be tightly managed to meet the requirements set out in the legislation.

Therefore, it is suggested that the majority of Mr Elbra's objections are related to, and caused by, the complexity of the site and its designation, which unfortunately cannot be changed.

With regards to Mr Elbra's comments to calling in prior to landing when returning from fishing for oysters outside of the MCZ. This is a measure which has been trialled for many years within the cockle fisheries of the Kent and Essex district and enables monitoring of where vessels are working and more importantly in this case, allows them to inform officers of where they are not working despite harvesting a specific species, in this case native oysters. Mobile phone reception across the District is variable, however experience with the cockle fisheries suggests that this is not a large enough issue to outweigh the benefits. In addition, the Technical Panel meetings held to discuss the byelaw wording supported its inclusion for the reasons identified above. This is a low-cost measure with a relatively low level of burden upon industry, especially when viewed against the risk of vessels fishing inside the MCZ in contravention of the byelaw which would have a disproportionately large impact.

### **Next Steps**

The byelaw and management plan (attached in Appendix C) have now been sent, along with all of the responses to the consultation to Defra for ministerial approval. Once the byelaw is signed by the Secretary of State, the byelaw will come into force. This will start the next phase of management for the site, which is led by the recovery and restoration work being led by ENORI and Natural England.

The Authority is asked to **NOTE** the actions listed above, **DISCUSS** and provide **COMMENT**.