

Cromer Shoal Chalk Beds Byelaw 2023; Crab and Lobster Byelaw 2023



Formal Consultation March 2022: Outcome

This document presents the outcome to the formal consultation on the proposed Cromer Shoal Chalk Beds Byelaw 2023. This consultation ran from 30th March 2023 until 31st May 2023.¹

Authority members agreed to make the byelaw at the 51st Authority meeting on 8th March 2023. The Authority intends to apply to the Secretary of State for the Department for Environment, Food and Rural Affairs for the confirmation of the byelaws.

1. We asked

We asked stakeholders for their views on the wording of the draft byelaw and the associated draft impact assessment.²

2. You said and our response

Seven written responses were received, one of which was from a fishing association representing 24 fishers, one from a conservation action group and another from a collective of environmental charities. Feedback from the MCZ Stakeholder Group meeting which took place on Zoom on the 31st of May and Eastern IFCA's drop-in sessions held in Cromer on the 16th and 17th of May was considered alongside the written responses received.

A summary of the key issues which arose in relation to the byelaw is presented in Section 3.1 (below) alongside Eastern IFCA's consideration.

A more detailed breakdown of all of the responses received and our consideration is at Appendix 1. Location-based or numbers-based information, including information that could identify individuals, is not included in these tables.

3. Summary of outcome

The following points summarise the key outcomes as a result of the formal consultation:

- The provision on urgent flexible permit conditions has been removed from the byelaw.
- The period for reporting lost tags has been reduced from 21 days to 10 days.
- The requirement for reporting lost tags has been extended to cover pots.
- The requirement for permit numbers to be written alongside vessel Port Letters and Numbers (PLNs) on surface markers has been amended so that the permit holder is

¹ There was an extension to the original deadline of 8th May 2023 due to limited responses being received.

² [Eastern IFCA Formal Consultation: Cromer Shoal Chalk Beds Byelaw 2023; Crab and Lobster Byelaw 2023.](#)

given discretion over whether to use PLN or permit number or both on their surface markers.

- The prohibition on using pots other than those associated with an individual permit have been removed.

Section 3.1 below summarises the key issues in responses relating to the Cromer Shoal Chalk Beds Byelaw 2023. Eastern IFCA's consideration of the issue is included.

3.1 Overview of Key Issues: Cromer Shoal Chalk Beds Byelaw 2023

Permits

Responses were received in support of the use of a permit scheme and there appears to be a general understanding among stakeholders that there is a need for a flexible management system to enable Adaptive Risk Management. However, there also continues to be some objection to the requirement to pay for a permit.

Many respondents raised questions regarding the administration of permits and particularly in relation to eligibility to hold a permit, limits to permit numbers and permit succession. It was felt that these details could have profound effects on business continuity of existing fishers and on the continuation of the industry in the longer-term. Of particular concern was that the administration of permits does not prohibit new entrants into the fishery, with respondents emphasising the aging demographic of the current fleet, many of whom are looking to retire in the short to medium term, and the existing barriers to 'new entrants'.

A specific concern was raised with regards to fishermen occasionally allowing others to fish using their pots. Examples given related to seeking a person with a larger vessel to haul fishing gear during poor weather or collect catch from pots whilst the owner is not fishing (due to breakdown, illness, holiday etc.). Sharing of gear in this way is reportedly common practice, however the draft byelaw requires that only the permit holder, or their nominated representative may haul gear associated with that permit, effectively prohibiting the practice of sharing gear as described.

Eastern IFCA consideration

The byelaw is intended to provide a mechanism to deliver flexible management of the potting fisheries in the MCZ. Over time, this could include a limit on the number of permits and / or eligibility policy restricting who can access the fishery if these are required as a result of ARM. Such measures could impact the continuity of existing business models and those seeking to enter the fishery. In recognition of this, the draft byelaw requires that in the event any such measures are to be brought into effect, such are consulted on with industry and the impacts are carefully considered. This will ensure that any such impacts are identified and mitigated as far as is possible.

The proposed permit fee of £53.38 (annual fee) covers the costs of administering the permit only and represents only a fraction of the cost to the Authority of managing the fishery in the context of ARM. Whilst it is recognised that any fee can impact an individual's 'bottom-line', the potential impact is considered to be small in scale. It is noteworthy also that, in lieu of a flexible permit byelaw to facilitate the delivery of ARM, the likely alternative given Natural

England's advice³, is a far more precautionary approach, including potential closure of the fishery over the productive 'rugged chalk' area with significant impacts on fishing industry. On balance, the nominal permit fee is considered appropriate in this context.

It is recognised that the ability to allow other fishers to haul and reset fishing gear is an important component of the fishery. In the context of a small scale fishery and a fleet predominantly consisting of single-handed, less than 6m, open vessels, this flexibility is important to business continuity. In addition, given that pots left in situ are considered to present a higher risk to the sensitive rugged chalk features (because the ropes connecting pots will potentially abrade a specific chalk feature for longer), removing the ability to 'share' fishing gear as described could increase the likelihood of fishing gear causing damage to sensitive features.

The provision was included to facilitate the enforcement of a pot limitation should be required (as a permit condition) in particular, removing the potential for a multiple vessel owner to procure multiple permits across several vessels with the intention of fishing the maximum pots under each permit from one vessel (effectively circumventing the pot limitation). However, no pot limitation is proposed at present and, in the event one is required, a provision can be included within permit conditions which prevents circumvention of the limit as described above. This would also provide additional opportunity to consider such a provision to determine if 'sharing' gear can be allowed without providing a route to circumvent a pot limit.

Permit conditions / technical measures

Concerns were raised about the provision in the draft byelaw enabling the Authority to introduce urgent flexible conditions on short notice and without consultation in the first instance in case of an 'emergency'. Stakeholders queried what theoretical circumstances would trigger the use of this provision. Other questions related to the general procedure for introducing, varying or revoking flexible permit conditions. Some concern was expressed about the potential duplication of the national requirement for i-VMS and the provision in the draft byelaw enabling the Authority to request fishing information including through the use of electronic monitoring devices.

Responses also queried why certain management measures were not included within the body of the byelaw, specifically seasonal closed season, an 'inshore vessel restriction' and gear adaptations, all of which were suggested management measures during the informal consultation for the byelaw.

It was also suggested that effort limitation is needed immediately as a matter of urgency.

Eastern IFCA consideration

The provisions on urgent flexible conditions were carried over from similar provisions included in the Wash Cackle and Mussel Byelaw 2021. Following a review of this consultation, we are proposing to remove the urgent flexible conditions from the byelaw. This is based on the following key considerations:

³ Natural England Advice, 24 August 2020 'Formal advice on the impact of crab and lobster potting on Cromer Shoal Chalk Beds Marine Conservation Zone'.

- The normal procedure for introducing, varying and revoking flexible permit conditions would ordinarily take a minimum of 3 months. This is considered to be responsive enough for the purposes of the Cromer potting fishery, taking into account the nature of the fishery and our assessment of its impacts.
- The Cockle and Mussel Byelaw 2021, where this provision was carried over from, deals with very distinct fisheries and different conservation objectives which require a high level of responsiveness, for example to enable the closure of mussel beds when Total Allowable Catch has been exhausted. There are no identifiable comparisons in the Cromer fishery that would necessitate the same degree of rapid action.
- The risk of removing this provision is low. Should a situation of extreme urgency arise such that would necessitate emergency measures to be brought in, the Authority could do this through an emergency byelaw under the Marine and Coastal Access Act 2009.

The general procedure of introducing, varying or revoking flexible permit conditions can be found at Schedule 2 of the [draft byelaw](#). The procedure includes obtaining relevant evidence, consulting stakeholders and undertaking an impact assessment. This procedure will ensure measures are proportional and the impacts on fishers are carefully considered, is consistent with Defra advice to IFCA's on making byelaws⁴ and will enable flexible fisheries management capable of delivering ARM.

There are still uncertainties surrounding the national roll-out of an I-VMS requirement and future technologies may present themselves which would be of benefit to the management of the fishery. The byelaw includes the ability to require I-VMS or other electronic monitoring devices via permit conditions, but does not require such itself. The potential impacts of duplicating regulation would be taken into account when such measures as permit conditions which ultimately may not be required depending on the provisions of national requirements. That is to say, if the national requirements fulfil the management needs to deliver ARM and achievement of the MCZ's Conservation Objectives, such permit conditions may not be required.

During the informal consultation stage, we sought the preliminary views on a closed season to fishing over the rugged chalk in winter and measures to restrict inshore parts of the MCZ to 'beach-launched vessels' only. Based on the feedback received, it became apparent that further consideration and dialogue was needed to develop these proposals. Consequently, we will be consulting on these proposals as flexible permit conditions and/or through eligibility policy. The benefit of this approach, in addition to allowing for further stakeholder input into the development of management, is that the measures can be more readily adapted in accordance with delivery of ARM.

We will be launching a consultation on the first suite of permit conditions in the near future. Any feedback on closed seasons, inshore vessel restrictions or other management suggestions will be considered in detail as part of this consultation and a response provided. We are not currently proposing effort limitation as part of the first suite of permit conditions. This is because Eastern IFCA's Potting Assessment (2022) shows, and Natural

⁴ <https://assets.publishing.service.gov.uk/media/5a7b34e0ed915d3ed9062dce/ifca-byelaw-guidance.pdf>

England advice agrees, that the pressures exerted on the MCZ's rugged chalk features are not likely to have reached a point where they could be hindering the site's conservation objectives at this time or in the short-term. The byelaw enables the Authority to implement effort limitation which may be considered in the future as informed by further research.

In particular, the natural disturbance study⁵, is intended to determine the extent to which the damage caused by potting is impacting the conservation objectives of the MCZ and will inform further management decisions on the need for a pot limitation.

Byelaw extent

There was general support the byelaw's extent to include a 200m area between the shoreline and the southern boundary of the MCZ (the '200m inshore zone'). However, some stakeholders felt that the draft byelaw should cover the whole Eastern IFCA district.

Eastern IFCA consideration

Whilst the 200m inshore zone is not covered by the MCZ designation, it was included within the application of the byelaw to provide clarity and facilitate the administration and enforcement of the permitting system. When implementing management measures under the byelaw, the Authority will maintain discretion over whether measures should apply within this area. This is because our statutory duties are different in relation to areas within and outside of the MCZ.

In view of the ongoing development of a national Fisheries Management Plan (FMP) for crab and lobster, the Authority opted for a permit byelaw limited to managing the MCZ only so that the outcomes of the crab and lobster FMP could be understood and incorporated into management measures in the near future. Focussing on the management of fishing in the MCZ reflects our priority to ensure that the site is not damaged by the activity.

Gear marking and lost gear

It was suggested that permit numbers are not needed to be marked on surface markers as Port Letter Numbers (PLN) are sufficient to determine who pots belong to. It has also been suggested that there should be no limit to the number of tags issued because vessels will require a percentage of spares as pots can sometimes be changed daily when repair is needed. There was also objection to the requirement for permit holders to pay for tags themselves. Further, it was felt that the 21-day period for reporting lost tags is excessive and some concern has been logged in relation to tags adding more plastics to the oceans.

Eastern IFCA consideration

The draft byelaw includes requirements for fishing gear to be marked using pot tags and surface markers that are traceable to the individual fishing. On review, it is not considered necessary for such to include both the PLN and permit number on a marker buoy and the byelaw has been amended to give permit holders discretion over whether to mark surface markers with one or both of these.

⁵ The 'natural disturbance study' will monitor naturally occurring degradation of chalk so as to better understand the impacts of potting. The study will see the closure of three areas within the most rugged areas of chalk and compare these to similar areas where fishing activity occurs over time.

A funded pot tag trial is in development which may include funding for the provision of pot tags so as to remove this cost initially. However, noting the nominal permit fee and that the Authority is absorbing the vast majority of the cost to support Adaptive Risk Management, it is considered appropriate that the costs of tags are incurred by the industry going forward including for example, where tags need to be replaced.

The byelaw has also been amended to reduce the reporting period for lost tags from 21 days to 10 days as we acknowledge that 21 days may be too long in relation to the normal turnover period for pots in the fishery. It is also considered appropriate that loss of pots and this will build upon existing voluntary management and so the draft byelaw has been amended accordingly.

Recreational potting

Limited feedback was received on the subject of recreational potting, though there has been general consensus that recreational activity must also be permitted and managed to avoid impacts to the site. Some feedback has been received to the effect that a pot limit is needed for recreational fishing as for commercial fishing.

Eastern IFCA consideration

The initial management requirements for recreational fishing are to hold a permit and to mark gear with pot tags and surface markers in accordance with the provisions of the byelaw. These initial measures will enable the Authority to better understand the level of recreational fishing activity within the MCZ. Further management measures (and the need for such) for recreational fishing will be considered in the development of permit conditions. It is understood that any recreational fishing effort needs to reflect the recreational nature of the fishing activity.

Enforcement

Some concern was expressed about the Authority's officers hauling and re-setting fishing gear for compliance checks, specifically in relation to catch or pots getting damaged in the process. It has been queried whether pots can be inspected only in the presence of vessel owners. Other stakeholders queried how certain measures can/would be enforced, with some proposing severe penalties such as the loss of a permit for non-compliance.

Eastern IFCA consideration

It is recognised that fishing gear represents a significant business cost to commercial fishermen and that gear loss or damage as a result of compliance checks poses a potential risk. However, the Marine and Coastal Access Act 2009 provides specific powers for inspecting fishing gear at sea in the absence of the vessel / gear owner. It is important that officers can exercise these powers to prevent and detect non-compliance with the management measures which will protect the site. The 2009 Act also includes safeguards that require officers to report when they have hauled any gear. Eastern IFCA has a well-established process for this which includes leaving a report on the surface markers of any gear which has been hauled to alert the gear owner to the fact that the gear was hauled, by who, and how they can contact us in case of any issues.

Recognising the concerns of industry, we intend to engage with fishing industry as part of the tagging trial to exchange best practice and build trust and confidence in our approach.

In terms of enforcement, any non-compliance will be dealt with in accordance with our [Enforcement Policy](#) and [Regulation and Compliance Strategy](#). Eastern IFCA takes a proportionate and graduated approach to enforcement in line with government guidance, seeking compliance through education and engagement.

Lost gear

Concern has been expressed about the uptake of the Code of Best Practice (Lost & Stored Gear) and it has been suggested that measures included in the Code need to be included as regulation (i.e. inclusion in the draft byelaw). It has also been suggested that the byelaw should specify a 3 to 4-day turnover requirement for pots (i.e. that pots are not left in situ for more than 4 days). Some feedback concerned penalties for failure to report lost gear, with suggestions that this should result in the removal of a permit.

Eastern IFCA consideration

Reflections on the effectiveness and limitations of the Code have informed the development of the draft Cromer Shoal Chalk Beds Byelaw 2023, in particular the inclusion of requirements for the retrieval of fishing gear at paragraphs 26-29. These provisions have been included to strengthen existing measures under the voluntary Code.

The byelaw enables the Authority to attach permit conditions in relation to the categories listed.⁶ This will give the Authority the ability to introduce further measures including on gear use and others which can further build on and strengthen the Code of Best Practice as may be required.

General comments

Some respondents expressed concern about the timeframes involved in bringing regulation in, taking the view that management measures are needed sooner. Some questioned whether there is any scope for bringing in an emergency byelaw. There appeared to be some confusion about the purpose of and interaction between the byelaw and permit conditions and the ARM plan that NE asked Eastern IFCA to produce in their latest advice (January 2023), with some stakeholders seemingly expecting the 'detail' of management to be included in the ARM plan.

Eastern IFCA consideration

It is not possible to implement regulatory management until the regulatory mechanism – the Cromer Shoal Chalk Beds Byelaw 2023 – has been confirmed by the Secretary of State. The timescales for this are, to an extent, out of the control of the Authority.

It is not possible to use an emergency byelaw as the criteria (under the Marine and Coastal Access Act 2009) for this are that there is an urgent need (not the case as per our potting

⁶ The categories are: a) vessel design restrictions; b) catch restrictions; c) fishing gear and fishing gear use restrictions; d) spatial restrictions; e) temporal restrictions; f) electronic monitoring systems requirements

assessment) and that the need to make a byelaw could not reasonably have been foreseen (also not applicable in this case).

Eastern IFCA's Potting Assessment (2022) shows, and Natural England advice agrees, that the pressures exerted on the MCZ's rugged chalk features are not likely to have reached a point where they could be hindering the site conservation objectives at the this time.

It is recognised that over time, repeated potting interactions could lead to cumulative impacts, increasing the risk to designated features and requiring further restrictive measures. Cromer Shoal Chalk Beds Byelaw 2023 has been developed to support the implementation of regulatory measures and enable responsiveness in the face of any long-term and unforeseen changes in risk. How risk will be taken into account is elaborated on in Eastern IFCA's ARM Plan which will be published following feedback from Natural England. The ARM plan will set out Eastern IFCA's long-term plan for implementing the ARM approach, including predicted timescales and dependencies for research and management workstreams. The plan itself does not implement management measures. The implementation of management measures will be supported by the framework of the Cromer Shoal Beds Byelaw 2023 through flexible permit conditions attached to that byelaw once signed off by Defra.

Appendix 1: Detailed overview of responses received to the formal consultation and Eastern IFCA's consideration

Table 1. Stakeholder feedback on the draft Cromer Shoal Chalk Beds Byelaw 2023 and Eastern IFCA's consideration

Cromer Shoal Chalk Beds Byelaw 2023	
You Said	Eastern IFCA Response
Permits	
<p>General agreement on:</p> <ul style="list-style-type: none"> the issuing of permits and that only fishers operating with a permit should be permitted to fish within the MCZ; attaching flexible permit conditions and endorsements to permits to deliver ARM a flexible permit system will mitigate the impacts of potting activity 	<p>The permitting system under the Cromer Shoal Chalk Beds Byelaw 2023 has been designed to enable a flexible and responsive approach to the management of the fisheries, in line with the Adaptive Risk Management approach.</p>
<p>The permit scheme may cause a change in fishing behaviour, such as increased effort in an attempt to 'secure' a permit.</p>	<p>Changes in behaviour were identified as a potential risk in the early phases of the development of the byelaw (at the informal consultation stage). Specifically, we identified (through consultation) a potential risk that fishing effort may increase as fishers seek to establish 'track record' to enable access in the event that access is limited via the permit byelaw in the future.</p> <p>At the time, to mitigate for this risk we were clear that should permit limits be brought in, we would not be considering track record after a specified date.</p> <p>We will continue to monitor for changes in behaviour/fishing activity through dialogue with stakeholders and will assess how this changes the risk to the MCZ.</p>
<p>Will permits be transferable with the sale of a vessel?</p>	<p>Under the draft byelaw, there is no automatic ability to transfer permits between persons or vessels. Therefore, if a vessel is sold, the permit would no longer be valid as the permit holder would no longer be the owner of the vessel and the new vessel owner could then apply for a permit.</p>

	<p>However, transfers and succession of permits for the purposes of business continuity is intended to be considered via eligibility policy. This will set out how the Authority will use its discretion in issuing permits.</p>
<p>We believe that a limit on the number of permits awarded within the fishery should be imposed as part of a suite of management measures that should be used to sustainably manage both the fishery and the MCZ. This should be informed through evidence relating to impacts on the protected features of the site and wider biodiversity as well as stock assessments.</p>	<p>At the stage, the byelaw is intended to provide a mechanism to deliver flexible management as needed. This could include a limit on the number of permits to manage effort within the site once it is known what level of effort is appropriate. Presently, the potting fishery is not considered to be hindering the conservation objectives within the MCZ in the short-term. The potential for damage in the future will be better understood after further research is undertaken, including the natural disturbance study.</p> <p>In addition, the proposed byelaw enables the Authority to introduce a range of measures to manage effort other than permit limitations. These include spatial or seasonal closures or pot limitations. Should effort limitation be identified as necessary, the Authority will consider all options available to identify that which is most suited to the intended effects.</p>
<p>Will 'grandfather rights' will be afforded to permit holders, or will the permit expire and not be replaced once the permit holder leaves the fishery?</p>	<p>The byelaw enables the Authority to introduce eligibility policy for permits. The specific details in relation to the administration of and eligibility for permits will be determined through further consultation on eligibility policy.</p>
<p>In relation to the general provision on permits in the byelaw which states that permits are "issued in relation to a single vessel only":</p> <p>A person with more than one vessel should be able to use one permit for either vessel.</p>	<p>It is an established principle that permits are associated with a single vessel only. This is in the interests of an equitable and fair system and aligns with the national licencing system which is well understood by fishery stakeholders.</p> <p>We will however undertake a separate consultation on eligibility policy to be able to explore different options regarding administration and eligibility issues with stakeholders.</p>
<p>Objection in relation to permit fees.</p>	<p>We understand the pressures that the current economic climate and cost-of-living crisis is having on the inshore fleet. With this in mind, we have sought to minimise the costs of permit fees as far as possible. Eastern IFCA is expending a significant amount of resources to deliver Adaptive Risk Management to continue to enable fishing at the site. However, we are not seeking to recover these costs.</p> <p>The proposed permit fee covers the costs of administering the permit only, taking into account the</p>

	<p>current estimate for the number of commercial vessels operating in the MCZ (33).</p> <p>More information is available in the draft impact assessment on our website: https://www.eastern-ifca.gov.uk/wp-content/uploads/2023/03/2023_2_16_CSCB_IA_v1.pdf</p> <p>We are also exploring other ways to alleviate costs for industry (e.g. funding options to support the roll-out of tags).</p>
<p>Objection to the provision which prevents permitted fishermen from using each other's pots. It is common practice within Cromer to allow other fishermen to lift gear in the absence of the gear's owner (potentially through vessel breakdown, illness or vessel capability in poor weather).</p>	<p>We recognise that circumstances may arise where a fisher is unable to put to sea for the reasons described.</p> <p>The draft byelaw sought to address such circumstances through a provision which enables the Authority to grant written authorisation for fishing from another vessel (with conditions if required). However, we recognise that seeking written authorisation may be impractical in the circumstances described as often time, the decision allow another's vessel to fish ones gear may be spontaneous, based on a dynamic risk assessment made by the fisherman on site and at the time. This would not only result in the loss of a day's fishing but also in active pots being left to soak in the sea for a more prolonged period which can increase the chances of damaging interactions with rugged chalk features in the MCZ.⁷</p> <p>The requirement to only fish the pots that associated with the permitted vessel is intended to prevent the circumvention of pot limitations. Such a limitation is not currently in place in the MCZ, nor is it currently proposed. A rigid enforcement of these provisions, as described above, is likely to lead to the undesirable effect of leaving pots to soak for longer where a fisherman is unable to get to them.</p> <p>Accordingly, the provision has been removed and will be reconsidered if a pot limitation is required.</p>
<p>A permit scheme has the potential to act as a barrier to new entrants to the fishery which is particularly relevant</p>	<p>We recognise the importance of enabling new entrants into the fishery and reducing barriers to those who want to start a career in fishing.</p>

⁷ It has been agreed under the [Code of Best Practice on Potting in Cromer Shoal Chalk Beds MCZ \(Lost and Stored Gear\)](#) that regular turnover of pots in the rugged chalk (at least every 3-4 days) is needed to minimise the risk of damage to the rugged chalk and fishing gear.

given the aging demographic of the existing fleet.	The byelaw provides for the Authority to develop Eligibility policy; which will guide how the Authority exercise its discretion with regards to managing access. This matter will be considered during the development of eligibility policy if access is ultimately limited. The byelaw also specifies that in setting any eligibility policy for permits under the byelaw, impact assessments must have particular regard to the impacts to potential new entrants or recruits.
Byelaw extent	
We agree with the provision contained within the byelaw to include the inshore area 200m from the low water mark that currently falls outside of the MCZ. While aiding the Authority in its enforcement duties, the fact that currently intertidal chalk and subtidal chalk are detailed as Habitats of Principle Importance (HPI) means they should be considered when putting management measures in place.	<p>When implementing management measures under the byelaw, the Authority will maintain discretion over whether such measures should apply within the inshore area between the low water mark and the start of the MCZ's designation. This is because our statutory duties are different in relation to areas within and outside of the MCZ.</p> <p>However, in each case, in coming to a decision on the applicability of management, the Authority will consider the specific measure proposed in the wider context of all of the available evidence, stakeholder views and environmental, economic and social considerations.</p>
There is nothing to stop a vessel entering the MCZ to fish and ignore the byelaws as Eastern IFCA do not have the capability to manage and monitor closely enough. The byelaw should therefore cover the whole district, closing all loopholes and making management and monitoring an easier task for Eastern IFCA.	<p>The Authority considered whether the draft byelaw should cover the whole district or the MCZ only, taking stakeholder feedback and the wider strategic context into account.</p> <p>In view of the latter, and specifically the ongoing development of a national Fisheries Management Plan (FMP) for crab and lobster, it was determined that the byelaw should be limited to the MCZ pending the outcome of the FMP which may bring in requirements for our district in the near future. Meanwhile the Crab & Lobster Byelaw 2023 and the sustainability measures contained therein will apply to the whole district.</p> <p>It is suggested that while there are potential benefits to having a district-wide byelaw, this would not remove the challenges in relation to enforcement. For instance, using the hypothetical situation described, it would still be possible for an unpermitted vessel to enter the Eastern IFCA district, fish illegally and leave the area.</p> <p>The intelligence led, risk-based approach to enforce is considered effective and robust, however, the national roll-out of I-VMS, when complete, will significantly strengthen compliance monitoring.</p>

The byelaw should specifically ban fishing in rugged chalk areas.	A prohibition on fishing within the rugged chalk area is not considered necessary or proportionate at this time, noting that our assessment of potting within the MCZ concludes that there is no impact at this time or in the short-term and further, that Natural England advice is in agreement with this.
Gear marking	
Tidal movement and weather conditions on the N.Norfolk coast means that not all buoys or pot markers will remain afloat, unless anchor sizes are increased (which has implications in relation to the site's conservation objectives).	<p>Marking shanks using buoys is required for the traceability of gear and to enable compliance checks to be carried out.</p> <p>While it is understood that on occasion weather events can cause buoys to become undetectable or detached, in the event that this happens, permit holders must take all reasonable steps to replace them as soon as they are discovered to be missing. It is our understanding that this is a part of normal fishing practice.</p>
Marker buoys should be marked with the vessel PLN <u>or</u> permit numbers – there is insufficient size on a buoy to include both and either are sufficient to determine the gear's owners.	<p>Having considered this further, we acknowledge that there is no additional benefit in requiring both PLNs and permit numbers.</p> <p>We have amended the byelaw accordingly.</p>
<p>There should be no limit on the number of pot tags issued. Pots can be changed daily when repair is needed and so each vessel will require a percentage of spares.</p> <p>Moreover, the byelaw should read that the Authority 'will' issue replacement tags, not 'may'.</p> <p>Objection to paying for pot tags.</p>	<p>Currently, there is no limitation on the number of pots and therefore on the number of tags issued.</p> <p>It is intended that, in issuing pot tags, the Authority gains a better understanding of the number of pots being used in the MCZ. However, it is understood that several fishers set gear within and outside of the MCZ and that a tagging requirement within the MCZ only could cause an additional, unintended burden where tags for all gear is not provided.</p> <p>The principle of the requirement is considered appropriate however the Authority is seeking funding to provide fishers with tags prior to the byelaw coming into effect so as to mitigate the initial cost to industry. This may include provision for additional tags for any fisher operating within and outside of the MCZ.</p> <p>As regards costs generally, the Authority is absorbing the majority of cost to support Adaptive Risk Management and enable a fishery. It is considered appropriate that the costs of tags going forward are incurred by the industry, noting the intention to obtain funding to provide the initial set of tags.</p>

	The Authority requires discretion with regards to issuing replacement tags to enable effective management of a pot limitation if one is required in the future.
Gear marking is a well recognised tool for improving the overall management of fisheries; it can help to prevent and reduce the problem of abandoned, lost or otherwise discarded fishing gear and potential ghost fishing, improve safety at sea, reduce gear conflict and assist in the identification of illegal fishing activities by aiding enforcement efforts. We support the inclusion of provisions within the byelaw for fishers (both commercial and recreational) to adequately mark and identify their gear.	Gear marking has been included in the byelaw to enable effective monitoring and management.
A period to report lost tags of 21 days is excessive and could result in impacts to the MCZ.	<p>Having considered this issue further, a period of 21 days is considered to be excessive and this has been reduced to 10 days from the time that loss is first noticed.</p> <p>We have also extended this provision to cover the loss of the pots themselves (in addition to the loss of a tag) to support measures under the voluntary Code of Best Practice (Lost and Stored Gear).</p>
Recreational potting	
Support for the inclusion of the requirement for recreational potters to apply for a category 2 permit within the proposed byelaw.	It is acknowledged that any damaging impacts are not limited to the commercial sector and that management needs to extend to recreational potting. This rationale has led to the inclusion of the recreational permit category in the draft byelaw.

<p>There should be a limit on the number of recreational permits issued and a pot limit (of five pots) for recreational fishers.</p>	<p>The initial management requirements for recreational fishing are to hold a permit and to mark gear with pot tags and surface markers in accordance with the provisions of the byelaw. These initial measures will enable the Authority to understand the level of recreational fishing activity within the MCZ and consider the potential for impacts to the MCZ.</p> <p>Further management measures for recreational fishing will be considered in the development of permit conditions.</p>
<p>Enforcement</p>	
<p>Objection to the Authority's officers inspecting pots as sea and in the absence of the pots owners. Specifically, the concern is that any catch within the pots will become damaged in the process.</p>	<p>It is recognised that fishing gear represents a significant business cost to commercial fishermen and that gear loss or damage as a result of compliance checks poses a potential risk. However, the Marine and Coastal Access Act 2009 provides specific powers for inspecting fishing gear at sea in the absence of the vessel / gear owner. It is important that officers can exercise these powers to prevent and detect non-compliance with the management measures which will protect the site. The 2009 Act also includes safeguards that require officers to report when they have hauled any gear. Eastern IFCA has a well-established process for this which includes leaving a report on the surface markers of any gear which has been hauled to alert the gear owner to the fact that the gear was hauled, by who, and how they can contact us in case of any issues.</p> <p>Recognising the concerns of industry, we intend to engage with fishing industry as part of the tagging trial to exchange best practice and build trust and confidence in our approach.</p> <p>In terms of enforcement, any non-compliance will be dealt with in accordance with our Enforcement Policy and Regulation and Compliance Strategy. Eastern IFCA takes a proportionate and graduated approach to enforcement in line with government guidance, seeking compliance through education and engagement.</p>
<p>The byelaw should include a provision which removes a permit if a permit holder is non-compliant.</p>	<p>The consequences for a breach of a byelaw (or associated permit conditions) are set out in the Marine and Coastal Access Act 2009 (s.163). Withdrawal of a permit is a potential consequence of an offence under a byelaw in accordance with the Act. It is not considered necessary to include such a provision within the byelaw.</p>

	<p>In accordance with our Enforcement Policy and Regulation and Compliance Strategy Eastern IFCA takes a proportionate and graduated approach to enforcement in line with government guidance.</p>
Lost Gear	
<p>The byelaw should incorporate aspects of the voluntary code of best practice (which deals with lost and stored gear) to reduce the risk of such.</p>	<p>The Code of Best Practice has been an important milestone in the Adaptive Risk Management process. We have been refining our approach to monitoring the effectiveness of the Code and details will be included in our Adaptive Risk Management Plan which will be published following feedback from Natural England.</p> <p>Reflections on the effectiveness and limitations of the Code have informed the development of the draft Cromer Shoal Chalk Beds Byelaw 2023 and we would like to draw your attention to paragraphs 26-29 on the retrieval of gear when notified. These provisions have been included to strengthen existing measures under the voluntary Code.</p> <p>The byelaw enables the Authority to attach permit conditions in relation to the categories listed.⁸ This will give the Authority the ability to introduce further measures including ones which can build on and strengthen the Code of Best Practice.</p>
<p>Gear management and loss reporting is poorly established in the proposed byelaw. Fishermen should attend pots every 3 to 4 days to turnover, inspect equipment for damage and check tags are in place. This will mean that lost fishing gear can be reported to Eastern IFCA in 24 hours of discovery of loss. There should also be a regime that fishermen must be able to prove they are keeping records of pot maintenance and location, common practice in other industries.</p>	<p>The draft byelaw seeks to strengthen existing voluntary measures on lost gear management under the Code of Best Practice (Lost and Stored Gear). To that end, paragraphs 24-27 of the byelaw include a requirement to use fishing gear in such a way as to minimise the likelihood of loss as well as a requirement to recover gear when notified by the Authority. Paragraphs 38-32 address the loss of tags and we have extended the provisions on loss to cover the loss of any component of fishing gear.</p> <p>The measures are considered proportionate to the level of risk identified in our assessment of potting within the MCZ. However, the byelaw also enables the Authority to attach permit conditions in relation to the categories listed, which includes restrictions on fishing gear and fishing gear use.⁹ This will give the Authority the ability to introduce further measures including on pot turnover if required.</p>

⁸ The categories are: a) vessel design restrictions; b) catch restrictions; c) fishing gear and fishing gear use restrictions; d) spatial restrictions; e) temporal restrictions; f) electronic monitoring systems requirements

⁹ See note 1.

<p>Gear management and adaptation should be included within the byelaw to prevent sea mammal entanglement in addition to impacts on the MCZ.</p>	<p>Whilst it is acknowledged that there may be an interaction between sea mammals and potting gear, generally nets are considered to be of a grater concern.</p> <p>The byelaw is seeking to address potential hinderance on the consideration Objectives within the MCZ at this time, of which sea mammals are not included. That is not to diminish the potential impact on sea mammals, but limited resources mean a targeted and risk-based approach to resource allocation and the development of further measures relating to sea mammals is not considered as high a priority at this time.</p> <p>It is therefore considered appropriate that this matter is considered alongside other risks via Eastern IFCA's annual Strategic Assessment and business planning cycle.</p>
<p>The byelaw should place a greater emphasis on the retrieval of lost gear and should include a provision that the Authority can remove 'lost gear' if the fishers are unable to.</p>	<p>The draft byelaw seeks to strengthen existing voluntary measures on lost gear management under the Code of Best Practice (Lost and Stored Gear). To that end, a provision is included which would compel a permit holder to retrieve 'lost' gear if notified by the Authority. However, the Marine and Coastal Access Act 2009 does not provide a vires for given the Authority the ability to remove fishing gear itself and so such cannot be included in the byelaw. If fishing gear is non-compliant, the Authority has powers under the 2009 Act to seize it on inspection in certain circumstances however.</p> <p>We are currently in dialogue with Ghost Fishing UK about recovery of identified lost gear. The organisation consists of volunteer scuba divers, with extensive training in advanced diving practices, specifically in relation to minimising the impact on the environment. As such, they have been suggested by Natural England as an appropriate organisation to liaise with on the subject of recovery.</p> <p>Any non-compliance will be dealt with in accordance with our Enforcement Policy and Regulation and Compliance Strategy. Eastern IFCA takes a proportionate and graduated approach to enforcement in line with government guidance.</p>
<p>Waste or damaged gear has not been mentioned in the byelaw, neither has storing of gear at</p>	<p>The byelaw enables the Authority to attach permit conditions in relation to the categories listed, which include restrictions on fishing gear and fishing gear</p>

sea. The byelaw does not provide enough detail on gear management and loss reporting, allowing for loopholes.	use. ¹⁰ This will give the Authority the ability to introduce further measures as and when required through consultation with stakeholders.
How are provisions on lost gear and lost gear reporting going to be enforced?	Any non-compliance with the byelaw and any of its provisions will be dealt with in accordance with our Enforcement Policy and Regulation and Compliance Strategy . Eastern IFCA takes a proportionate and graduated approach to enforcement in line with government guidance, seeking compliance through education and engagement.
Permit conditions	
Objection to the provision in the byelaw which enables the Authority to impose flexible permit conditions within one or more of the categories listed. ¹¹	<p>The Cromer Shoal Chalk Beds Byelaw 2023 is a flexible permitting byelaw which enables conditions to be attached to permits and varied and revoked in accordance with best available evidence.</p> <p>This approach is required to enable the continued delivery of Adaptive Risk Management. The introduction, variation or revocation of permit conditions requires consultation with potentially impacted stakeholders and consideration of impacts. This will ensure that any such conditions are proportionate and effective.</p>
Objection to the inclusion of provisions for 'urgent' changes to permit conditions on the basis that there are no circumstances where they are required in reality.	<p>As a result of further consideration, we are proposing to remove the urgent flexible conditions from the byelaw. This is based on the following key considerations:</p> <ul style="list-style-type: none"> • The normal procedure for introducing, varying and revoking flexible permit conditions would ordinarily take roughly 3 months. This is considered to be responsive enough for the purposes of the Cromer potting fishery, taking into account the nature of the fishery and our assessment of its impacts. • The Cockle and Mussel Byelaw 2021, where this provision was carried over from, deals with very distinct fisheries and different conservation objectives which require a high level of responsiveness, for example to enable the closure of mussel beds when Total Allowable Catch has been exhausted. There are no identifiable comparisons in the Cromer fishery that would necessitate the same degree of rapid action.

¹⁰ See note 1.

¹¹ See note 1.

	<ul style="list-style-type: none"> The risk of removing this provision is low. Should a situation of extreme urgency arise such that would necessitate emergency measures to be brought in, the Authority could potentially do this through an emergency byelaw under the Marine and Coastal Access Act 2009.
The byelaw should include effort limitation, including a limit on the number of pots.	<p>Effort limitations are not required at this time based on the Authority's assessment of impacts to the MCZ and Natural England advice. Should effort limitation be identified as a necessary management measure, the draft byelaw presents a number of available options to achieve this including pot limitations introduced via permit conditions.</p> <p>We would stress that this would be subject to stakeholder consultation in line with the procedure outline in Schedule 2 to the byelaw.</p>
Seasonal closures should be included in the byelaw.	<p>It is intended that seasonal closures will be considered as a permit condition in the near future. Paragraph 19 of the byelaw enables the Authority to introduce conditions within one or more of the categories listed, including spatial restrictions and temporal restrictions. This provision gives the Authority the ability to bring in closed seasons. The introduction of permit conditions is subject to the procedure in Schedule 2 of the byelaw, including consultation with stakeholders.</p>
The byelaw should include technical gear requirements.	<p>There is insufficient evidence to determine what gear modifications would be effective at this time.</p> <p>However, paragraph 17 of the byelaw enables the Authority to introduce permit conditions relating to fishing gear and fishing gear use. This includes gear design, modifications and use conditions.</p> <p>The current consultation is about the overarching mechanism for introducing management – the draft Cromer Shoal Chalk Beds Byelaw 2023 – only.</p> <p>We will be launching a consultation on the first suite of permit conditions under the byelaw in due course. We will consider responses on specific management measures, including this one, as part of that consultation.</p>
Fishing information	

<p>In relation to the provision of the byelaw which enables the Authority to request fishing information in relation to the categories listed:¹²</p> <p>This is too much information, much of which is already available from I-VMS to Eastern IFCA via the MMO.</p>	<p>The Authority will always seek to avoid duplication and its associated impacts on stakeholders. In light of ongoing delays to the roll-out of I-VMS, it may be necessary to bring in monitoring measures under the byelaw to continue to support ARM.</p>
General comments	

¹² The categories are: a) spatial information; b) information on fishing operations including the shooting, setting, towing and hauling of fishing gear; c) information on fishing effort; d) catch data; e) gear information; f) date and time information g) vessel information.

<p>The MCZ is susceptible to damage and the byelaw making process has been and will be to slow to mitigate the damage being caused by fishing activity.</p> <p>The byelaw should contain greater restrictions in the absence of evidence to prove potting is not having an impact on the MCZ in accordance with the 'precautionary principle'.</p>	<p>Implementing ARM in the MCZ is one of our top organisational priorities. The Authority and its officers are expending significant time and resource to developing appropriate and informed management in consultation with our stakeholders to meet the site's conservation objectives.</p> <p>The ARM approach requires the adoption of management that is proportionate to the risks posed by the fishery and adequately precautionary in the face of uncertainty (JNCC (2019), Developing a participatory approach to the management of fishing activity in UK offshore Marine Protected Areas Review of the current context of Adaptive Risk Management).</p> <p>Eastern IFCA's Potting Assessment (2022) shows, and Natural England advice agrees, that the pressures exerted on the MCZ's rugged chalk features are not likely to have reached a point where they could be hindering the site conservation objectives at the this time. Thus, the risk is currently considered to be 'low'.</p> <p>It is recognised that over time, repeated potting interactions could lead to cumulative impacts, increasing the risk to designated features and requiring further restrictive measures. Cromer Shoal Chalk Beds Byelaw 2023 has been developed to support the implementation of regulatory measures and enable responsiveness in the face of any long-term and unforeseen changes in risk. How risk will be taken into account is elaborated on in Eastern IFCA's ARM Plan which will be published following feedback from Natural England.</p> <p>It is not possible to implement regulatory management until the regulatory mechanism – the Cromer Shoal Chalk Beds Byelaw 2023 – has been confirmed by Defra. These timescales are out of our control.</p>
<p>There is insufficient evidence to show potting is damaging the</p>	<p>Eastern IFCA has statutory duties under the Marine and Coastal Access Act 2009 to ensure that the conservation objectives in the MCZ are furthered. This</p>

MCZ and so it may not be legal to implement a byelaw.	is an overriding duty that requires us to mitigate any risks to the site even when their extent is not fully understood. It is now well documented that potting can damage rugged chalk in the MCZ, what is yet to be determined is whether the extent of the damage will hinder the conservation objectives of the site in the longer-term. Under the relevant legislation, we are therefore required to mitigate these impacts to ensure that the protected features and habitats continue to maintain favourable status.
Because the damage to features is permanent, does that not warrant emergency measures?	<p>It is also not possible to use an emergency byelaw as the criteria for this are that there is an urgent need (not the case as per our potting assessment) and that the need to make a byelaw could not reasonably have been foreseen (also not applicable in this case).</p> <p>Eastern IFCA's Potting Assessment (2022) shows, and Natural England advice agrees, that the pressures exerted on the MCZ's rugged chalk features are not likely to have reached a point where they could be hindering the site conservation objectives at the this time.</p> <p>However, it is recognised that over time, repeated potting interactions could lead to cumulative impacts, increasing the risk to designated features and requiring further restrictive measures. How we will respond to changes in risk is further elaborated on in our ARM plan which will be published once we have completed a review of Natural England's feedback on the plan.</p>
What is the comparative impact of permits on commercial versus recreational fishers?	The current extent of recreational fishing in the MCZ is not known and so it has not been possible to estimate impacts on recreational fishers like we have done for commercial fishing. Through the roll-out of the byelaw which requires a permit for recreational fishing as well as commercial fishing, we will get a better understanding of the level of recreational fishing in the MCZ as well what management is appropriate.
When can we expect IFCA feedback from responses to the informal consultation?	<p>We have published detailed outcome reports on the 2 phases of the informal consultation. These are available on our website through the following links:</p> <p>Phase 1 Outcome Report</p> <p>Phase 2 Outcome Report</p>