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Legal pluralism at the beach: Public access, land use and the struggle for the ‘coastal commons’

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Abstract: The constantly shifting boundaries between land and sea pose fundamental challenges in resolving land use disputes at the coast. These difficulties are compounded by the fact that multiple agencies and authorities are charged with managing the coastline. This means the coast is a space of legal plurality, subject to overlapping jurisdiction. This paper demonstrates the consequences of this with reference to Whitstable Beach, a case where customary law and established (‘as of right’) use is clashing with private property rights concerning the ownership of, and access to, a beach and foreshore. Noting that the legal authorities are struggling to reconcile these different rights claims, the paper concludes that the effect resolution of land use conflicts on a changing coastline demands legal pliability, and, ideally, a reduction in the overall number of organisations responsible for the regulation of the ‘coastal commons’.

Introduction

Recent scholarship in legal geography emphasises the intractability of land-use conflict, suggesting that attempts to provide clarity and consistency are often thwarted by *legal pluralism* (Robinson and Graham 2018). In the context of land use, this concept signals the co-existence of multiple legal orders by which specific objects/subjects are regulated, including long-established customary laws and systems of common law privileging land ownership alongside more recent environmental and planning regulations concerning the ‘best and highest’ use of land (Blomley 1997). To complicate things further, laws are enacted within jurisdictions that exist at different, overlapping scales – e.g. local, international, global – with rulings made at one level often impinging upon, or over-ruling, decisions made on other spatial scales (Hubbard and Prior 2018).

This paper argues this legal pluralism is compounded in coastal zones where the constantly-shifting boundaries between land and sea problematise adjudication of land-use and ownership conflicts. First and foremost, this is because, in comparison to planning on the land, environmental regulation in the coastal zone requires a more complicated and *volumetric* assessment of territory and property:

The broader transitional zone – the coast – includes areas above and below the water line, a zone where terrestrial environments and processes influence marine ones, and vice versa ... This liminal space is neither land nor sea; rather, it is a zone that merges two distinct geo- and biophysical domains. At the shore the land's seeming solidity and stability meet the liquidity and constant motion of water... The coast presents a continually changing land-/sea-scape, as tides advance and retreat, changing water depth and morphology (Gibbs 2018: 203)

In contrast to the (solid) land, therefore, the shoreline boasts specific material properties and capacities which constantly challenge legal attempts to fix patterns of land-use and property: pebbles shift, mud slides, and waves erode (Steinberg and Peters 2015). This requires a degree of pliability from the law, as demonstrated, for example, in the evolution of legal doctrines concerning the impact of *avulsion* and *accretion* on coastal land ownership (Lear 1990).

The shifting material properties of the coast matter in so much that law is a potentially valuable resource for tackling threats to the jointly-shared ecosystems services and resources associated with the coastal zone (Cabral and Aliño 2011). Globally, such zones are under attack, most significantly from sea level change, inundation and erosion (O'Donnell 2016), but also the creeping privatisation associated with tourist development, industrial-scale resource exploitation, and urban development (Jennings 2004; Collins 2013; Deason et al 2014). While these threats take distinctive local forms, a common tension is between the coast as productive (e.g. associated with fishing, aquaculture and maritime trades) and post-productive (e.g. a space of leisure and recreation). In England and Wales, such tensions are visible in controversies concerning the sequestration of shoreline by private landowners, and denial of public access to the 'coastal commons'. However, they are also revealed in more mundane conflicts between bait-diggers, fishermen, swimmers, surfers, kayakers, metal-detectorists, bird-watchers, ramblers and so on - groups whose rights to the 'coastal commons' come freighted with different legal weight. Such conflicting rights claims make identification of a 'public interest' extremely difficult (Scotford and Walsh 2013).

Drawing on the theoretical frameworks of legal geography, this paper explores the seemingly-intractable inter-legality of such coastal disputes through a case study of Whitstable West Beach.ⁱ This is a 'town beach' on the north Kent coast where established patterns of (customary) use are clashing with private property rights concerning the ownership of, and access to, a beach and

foreshore. As is the case for approximately 2,000 other beaches in the UK, Whitstable West beach is not Crown Property, but privately-owned. Irrespective, this paper demonstrates that different authorities – the county council, the delegated local authority, national maritime agencies and so on – have deployed a range of legal techniques to open-up (or close-down) this beach to specific land-uses and user groups. As will be described, instruments such as development control, conservation zone designation, harbour orders, marine licenses and village green designation have been used to change or challenge the existing use of the beach even though its ownership has not been disputed. This complex inter-legality suggests that the regulation of land-use at the coast remains excessively complex and unable to offer the pliability required to deal with complex land-use disputes (see also Boyes and Gibson 2014; Hubbard and Prior 2018).

The beach as multi-use space

Whitstable West Beach is a 1200m-long shingle beach, situated between the town centre (punctuated with weather-boarded houses and fisherman's huts) and gently-sloping mud-flats, over 500m wide in parts, undulating with tidal ridges. These flats attract breeding plover, oystercatchers and tern, as well as other migratory waterfowl. The beach itself has an unkempt appearance, with sea kale and horned poppies occasionally protruding through the pebbles, and valerian emerging from cracks in the wooden-groynes arrayed along the length of the beach. In winter, the beach is the haunt of dog-walkers, and the occasional bait-digger searching for lugworms: a more frequent sight is the oyster fishermen who daily use quad-bikes to go out to turn and sort the mesh bags that have been used to grow Pacific (non-native) oysters on the rows of steel-framed trestles constructed in the intertidal zone since 2009. Oysters have, however, been fished off Whitstable beach since Roman times, with the heyday of the industry in the nineteenth century when native 'wild' oysters were dredged by a large fleet of oyster smacks moored off the beach, and upwards of 300 fishermen landed their catch there.

Yet alongside the cultivation of oysters, the beach is also used for swimming and sunbathing in the summer, with records indicating the presence of sea-bathing machines from the 1760s, and increasing numbers of tourists arriving after the construction of the rail connection to London in 1860. Today, the beach is particularly crowded during the annual Oyster festival in July and sailing regatta in September, when day-trippers from London mingle with locals on the beach,

picnicking, barbequing, drinking. At high-tide younger children paddle and others drift by on inflatables, paddleboards or sea kayaks, with sailing dinghies launched from the Yacht Club at the eastern end of the beach.ⁱⁱⁱ At the other end of the beach, the *Old Neptune* pub, sited on the beach since the nineteenth century, sells drinks which people sometimes take down to the shore, consumed alongside fish and chips purchased at one of the town's take-aways.

This noted, Whitstable Beach initially has the appearance of a commons, freely-shared between many users. However, most partying, bathing, and picnicking have little idea they are on a beach whose freehold is owned by the Whitstable Oyster Fishery Company (WOFC), a company having its origin in the 1792 sale of the maritime part of the manor of Whitstable to the company of dredgers who had worked the oyster beds 'since time immemorial'ⁱⁱⁱⁱ. WOFC bought the beach from the Crown in 1856. Subsequent case law suggests that WOFC's rights of ownership do not extend to rights to charge tolls for those navigating over the beach at high tide, but that they do have exclusive right to fish on the beach under a 'public trust doctrine'. A key legal case - *Gann v Free Fishers of Whitstable* (1865) - established these property rights, ruling this land had been transferred not for the Crown but in the interest of the public defended by the Crown, namely the maintenance of oyster stocks at a time of over-fishing. Thus while the public has a right to swim and sail in the tidal waters off Whitstable, or dig bait when the tide is out, legally they have no general right to go onto the beach or foreshore for these purposes.

Territorialising the beach

In 2010, signs invoking WOFC's ownership of the beach were attached to groynes along the length of the beach. A few years later, additional signs appeared indicating that no swimming or water sports were permitted in the area of trestles in the intertidal zone marked off with buoys ([Figure One](#)). Following Bennett (2019), we could argue these signs were intended to defend territory by their normative appeal to moral notions of public and private. However, another interpretation is that these signs served to emphasize a more legalistic point: namely, that the public's use of the beach is 'by right', not 'as of right' (i.e. permitted by the land-owner, not without their knowledge or permission). This means that no prescriptive rights to the beach can be built up, nor adverse possession claims be made. It also potentially thwarts the registration of the beach as a Village Green, as, if a piece of land has been used by significant number of the inhabitants of any locality for not less than 20 years for 'lawful sports and pastimes' without

express permission, it is possible to make a Village Green designation. Short et al (2009: 47) suggest that ‘the most common reason for a Village Green application to be rejected is the failure of the applicant to show the use was ‘as of right’’ and not ‘by right’.

Like many other customary rights in Britain, the origins of Village Greens go back centuries, with the courts having protected sites of popular recreation long before the emergence of the planning system (Short et al 2009). The *Commons Registration Act 1965* formalised the process for their designation, requiring county councils to keep registers of all sites legally recognised as Village Greens. This designation constitutes an unconventional type of property right since it is created by a community’s application to a county council, meaning greens have a fraught position somewhere between property law and public law:

‘The registration of land as a green does not transfer property to the community ...but the effect is to curtail the rights of the landowner so that existing activities may continue, but little more than this’ (McGilvary and Holder 2007: 3).

While the notion of a Village Green summons up images of a green space nestling at the centre of a hamlet, it has been legally established that a beach can fit within the definition of a Village Green, and for those wanting to ensure Whitstable beach remains available for recreational use, its designation as Village Green has long been a key objective.

The 1999 Village Green Application

The efforts to secure Village Green registration for the beach began with the work of Bessie Aggersberg in the 1960s, and were continued by Ann Wilks and the Whitstable Beach Campaign (WBC), who submitted a formal application in 1999. WBC’s Village Green application for the West Beach nonetheless failed on three counts (McGilvary and Holder 2007). Firstly, the planning inspector ruled it had not been demonstrated that the use of the beach was predominantly by the residents of the locality (i.e. the town) as opposed to visitors. Secondly, it was ruled the use of the beach was not ‘as of right’ after 1993, when a letter from the landowner was published in the local newspaper stating they had always ‘encouraged people to use the beach’ provided they clear up any mess. This suggested that permission was ‘by right’ (despite the fact that most users of beach would be ignorant of this letter). Thirdly, it was ruled the

application site included a significant area of land that only became available for public use after sea-defence works were completed in 1989.^{iv} In effect, the beach the WBC claimed had been used for twenty years was ruled not to be the same beach as twenty years earlier:

Mrs Wilks [*the applicant*] contended that additions to the beach which occurred within the 20-year period would fall to be treated as town or village green even though the additions themselves had (by definition) not been enjoyed for the full 20-year period. Mr Chapman [*for the WOFC*] accepted this would be the case where the additional was a gradual and imperceptible accretion...but not where there was a substantial and recognizable change to the size of the beach. Mrs Wills accepted that the change that occurred in 1989 was not gradual and imperceptible but sought to extend the principles in *Mercer vs Denne*^v that obtained in this case. I think the weight of authority is against Mrs Wilks.^{vi}

In this same summation, the inspector suggested that whilst land registration allowed WOFC to claim ownership of the beach up to the high-water mark – a moving boundary, in effect - there was no flexibility under the *Commons Registration Act 1965* to define a village green in this way. The fact that the beach's boundaries were ruled to have shifted significantly fatally undermined WBC's Village Green application.

The 2013 Village Green Application

The 1999 ruling stresses that the regulation of the coast hinges upon what Keul (2015: 53) calls 'the conflict between the various physical materialities of coasts and the political abstraction necessary to bound (or territorialise) properties'. Here, the application failed to meet the strict criteria for Village Green designation given the swimming, dog-walking and sunbathing practiced on the beach could not be shown to be predominantly by local populations rather than visitors, with the former also being made aware they could use the beach permissively because of a letter published in the local press. But the issue of the changing form of the beach itself, and the significant alteration of the boundaries of land/sea, appeared to be fundamental, meaning the test of continuous use over a 20-year period was not met.

Undaunted by this failure, WBC applied for a public right of way along the beach in 2004 (which was declined by Kent County Council a full ten years later). However, the *Marine & Coastal Access*

Act 2009 subsequently addressed many of the concerns WBC had with regard to beach access by incorporating it into the national coastal path implemented by Natural England.^{vii} Given the 2009 Act enshrines the idea that land seaward of the coastal path is ‘spreading room’ which can be publicly-accessed, this guaranteed a degree of public accessibility to the beach – though not without limits given this ingress is still subject to constraints, including prohibitions on camping, fishing, and lighting or tending a fire (Clark 2009). The guaranteed access provided by the *Marine & Coastal Access Act 2009* also fails to prevent a private company from developing the beach, meaning the WBC continued to pursue the designation of the beach as a Village Green, fearful that WOFC might decide to industrialise the foreshore in a way that would preclude leisure uses in the future.

The WBC reapplied to register the beach as a Village Green in 2013 (i.e. after the WOFC signage appeared on the beach, raising new concerns about the rights claims the company were invoking). This new Village Green application was permitted given the *Commons Act 2006* changed the definition of the area from which users should be drawn to ‘a significant number of the inhabitants of any locality, or of any neighbourhood within a locality’ (previously, a Village Green was one used by inhabitants of a locality, without reference to the more localised notion of neighbourhood) (Short et al 2009). The fact that the changes to the beach in the period 1993-2013 were less obvious than those in the preceding two decades also meant the WBC application appeared to be made on firmer grounds.

However, the WBC application was opposed by the WOFC on seven grounds, including that unlimited public access would be incompatible with the company’s statutory functions. Here, WOFC suggested that if the beach were awarded Village Green status, building new agricultural sheds on the beach would be impossible, jeopardizing their long-term goals of maintaining oyster stocks. They also insisted that recreational use of the beach over the preceding twenty years had taken place ‘by right’ because of the 1993 newspaper letter. However, at the 2016 public inquiry much discussion revolved around whether this was still relevant given *Beresford v Sunderland (2003)* implied any permission has to be ‘effectively’ communicated to users, with it being suggested that the implied permission was not adequately advertised until the signage arrived on the beach, many years after the 1993 newspaper letter.^{viii}

A further objection to Village Green registration was received from Canterbury City Council, who cited the ‘statutory incompatibility’ principle as established in *Newhaven Port v East Sussex* 2014^{ix} to argue that registration would impede its ability to undertake coastal protection works:

It may be argued that coastal protection works are incompatible with the preservation of a beach village green and could be in breach of the relevant Acts. The argument would run that coastal protection works are intended NOT to protect and preserve a village green, but to protect life and property beyond the beach/village green. Coastal protection works often involve heavy plant/machinery and require not only access to but significant interference with beaches over extended periods of time, effectively suspending use of beach areas as a result. This in law appears to be wholly in conflict with the rights of users of land with village green protection. In practical terms, this means that until the law is clarified on this point, there is a real risk of both criminal and civil proceedings being brought against the Council, if the land in question is granted village green status.^x

However, at the public inquiry, the council reversed its stance to suggest the beach could instead be defined as a common with a general right to roam over it, which would allow the council to access it without causing the interruption of a Village Green’s use.^{xi} This implies that Canterbury City Council was broadly supportive of the WBC objectives of securing public access to, and use of, the beach, but that it felt the designation of a Village Green was not necessary given behaviours like swimming and sunbathing could be regarded as common law rights acquired through usage and custom over the decades. This is a highly contentious point given *Blundell v Catterall* (1821) 5 B & Ald 268 has been taken as establishing that under English law the public has no general right to go onto the foreshore for bathing or other recreation. Nonetheless, the fact that the planning inspector Ross Crail had not issued her conclusions a full three years after the 2016 public inquiry underlines the ‘very complex and legal issues in this particular case’^{xii}, and the difficulty of applying different rights claims to this stretch of the coast.

Situating Oyster trestles as (un)lawful development

Finding the appropriate means to guarantee a degree of public access to the beach whilst maintaining the property rights of the landowner clearly remains a vexed legal issue, and one that

has become arguably more contentious given a perceived increase in oyster cultivation. Here, those arguing for increased public access have alleged that the relatively small number of trestles first established on the beach foreshore by WOFC in 2009-10 increased to around 320 trestles by 2015 ([Figure Two](#)).^{xiii} This expansion also led to representations from the local Yacht Club, who felt this expansion threatened dingy-sailors and windsurfers. In 2017, independent experts commissioned by the Marine Management Organisation (MMO) reported these trestles posed ‘a hazard to navigation’, albeit this was perceived a low-risk with ‘no substantial incident rate or record of vessels contacting the trestles’.^{xiv} Responding, the Royal Yachting Association wrote to the MMO contending the trestles should still require a full marine licence, citing instances where dinghies and surfboards were damaged by partly-obscured trestles at high-tide. Nonetheless, in 2018 the MMO published an update confirming the trestles met the requirements of the exemption relating to shellfish cultivation under the *Marine Licensing (Exempted Activities) Order 2011* (Article 13).^{xv}

But while the development of the trestles was deemed lawful by the organisation charged with regulating marine activities, the local authority ultimately took a different view. In April 2017, Canterbury City Council issued a Planning Contravention Notice, and although WOFC argued the trestles had been present for at least four years, and should be granted a retrospect certificate of lawful use (CLEUD), their application (29 March 2018) was refused on the basis of inconsistency in numbers of trestles claimed to be on the foreshore at given times. In effect, it was argued by WOFC that the trestles present in March 2018 were all in place in March 2014. Here, the council rejected the evidence of aerial photographs said to demonstrate the number of trestles present in 2014 was similar to 2018, with several representations, including that from the WBC, suggesting very different figures.^{xvi} In theory, WOFC should now remove trestles present on land under jurisdiction of Canterbury Council – begging the question where their jurisdiction begins and ends: the indicative map sent to the applicant by Canterbury City Council in June 2018 suggests some of the trestles might be outside their jurisdiction, being located beyond the mean low water mark.^{xvii}

The discussion about the legality of these trestles hence draws on a complex set of appeals to legal authority, underpinned by different claims about Whitstable West beach’s histories and geographies. It could be argued this is essentially about local residents who use the beach as a space of recreation protesting against the visual intrusion of oyster production on the foreshore, albeit that this objection also entwines with a range of ecological concerns. Here, it is interesting

to note that among the 222 public-comments on the CLEUD application was the frequent objection that WOFC are growing imported Pacific oysters, not natives, with many suggesting imported oysters can be environmentally-damaging (see Herbert et al 2016). For example:

I am hugely concerned about the growing of non-native Oysters (pacific oysters) in these warm waters. These oysters are not native to Whitstable, so pose a problem to the delicate eco-system of which the whole town and tourist industry relies on. The Pacific Oysters will grow exponentially ... across the whole beach, not just within the oyster racks, and will ruin the balance of the sea-life in this area. They also present a safety hazard for use of the beach as the shells are razor sharp. There are campaigns to stop this spread of Pacific oysters in nearby areas of the coastline. The only Oysters that should be allowed to be grown here are Native Oysters (public comment submitted 11 May 2018)^{xviii}

Here, a range of arguments are conflated about the ‘dangers’ of oyster cultivation on these trestles, with the-then Chair of the WBC submitting a representation that opposes the ‘wholesale industrialisation’ of the beach, dangers to sea users, obstruction to navigation, as well as the threat to indigenous fauna.^{xix} Additionally, WBC has highlighted that the trestles appear to be sited on the exact same area of the foreshore where aggregate had been deposited in 2006 to help prevent further coastal flooding, suggesting that this might impede future works designed to counter sea-level change.^{xx}

This allusion to the fragility of the coastal environment is important given the coast is a complex socio-ecological assemblage whose forms and properties change relationally (e.g. trestle tables might encourage silting which could result in coastal erosion on other parts of the beach, which might require coastal defence works, which in turn could impact on the outflow of nutrients on which native oysters depend). The law is part of this assemblage, shaping the coast in a variety of ways:

Law is not a merely social pressure...law is a process emerging out of the intermingling of human and non-human bodies, as such inseparable from this continuum. Evidentially this is not a merely human framework, a socio-cultural construct superimposed on an inert, external, natural matter. Rather, spatio-legal refers to ... a configuration resulting from socio-natural interpenetration (Pavoni 2017: 89)

The example of Whitstable Beach underscores this point: the material forms of the coast, its use, and its regulation have developed over decades via a three-way symbiosis in which the law has responded to environmental conflicts and problems but has also *produced those conflicts*. As such, even when the adjudications on the 2013 Village Green application and the 2018 CLEUD application are finally published, it is unlikely these conflicts will disappear. Indeed, it is more likely these reports will raise further issues about the incompatibility of different claims to the beach. As an evolving spatial, legal and social formation, a beach is always becoming, and never settled.

Conclusion

While environmental and planning law aspires to produce a degree of certainty and consistency as it responds to land-use conflict at the coast, inter-legality and legal pluralism seem to thwart such ambitions. At Whitstable, this is aggravated by the fact that it has proved hard to define the land owned by the WOFC at different points in time: territory established in the eighteenth century (i.e. the property vested in the WOFC) effectively created a private beach whose current form is quite different because of the cumulative effects of longshore drift, sea-defence works, oyster cultivation, recreational practices, the impact of flora and fauna and so on. This changing form, and the evolving demands placed on this coast, has produced conflicts triggering successive attempts at order-making (e.g. the beach's designation of as a Site of Special Scientific Interest, a Special Protection Area, part of Marine Conservation Zone, an Existing Open Space in the adopted Local Plan, and, potentially, a Village Green). Here, the fact different systems overlap and clash is compounded by the fact these spatial ordering devices do not always align with each other, nor the bathymetric and ground survey data indicating tidal lines. This suggests that inconsistency is endemic to any adjudication of land-use conflict on the beach.

Though we need to be wary of generalising from a single case, this conclusion illustrates the wider point that the law needs to demonstrate pliability when faced with complex issues like coastal access - issues that may become ever-more pressing given concerns about climate change adaptation and sea-level rise (O'Donnell 2016). This conclusion also suggests a need for

streamlining the range of bodies responsible for coastal environments (Boyes and Elliot 2015). This is because the jurisdiction of those bodies charged with managing the British coast in the public interest (i.e. the local authorities, county councils, harbour boards, MMO) often overlaps to produce complexity, not clarity. In that sense, while case law and recent legislative developments in England and Wales indicate a general shift from the rights of those who make a profit from coastal land towards rights of public access, the ability of the law to adapt to changing patterns of coastal land use appears hampered by excessively complex regulation and legal pluralism.

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ENDNOTES

ⁱ This case study draws from an eight-year period (2010-2018) of engaging with the beach as a recreational walker/swimmer, interviews with some of the key individuals arguing the beach should be opened up to a wide range of uses/users, and textual analysis of key documents submitted as evidence to a variety of planning applications and public inquiries concerning the beach's future.

ⁱⁱ There is an 8-knot limit, imposed via a local authority, by-law to protect swimmers, applied to an area marked by buoys 150m from the mean high-water mark.

ⁱⁱⁱ This legal term, also referred to as 'time out of mind', is taken to indicate any practice that is thought to predate 1189.

^{iv} The 1989 flood-defences were a belated response to floods in 1978, with an earlier sea-wall having been constructed after the 1953 tidal surge.

^v *Mervet v Denne* [1904] 2 Ch 534 – on the use of a beach by trawlermen - ruled customary rights could apply to land added by accretion to land over which it could be shown that a custom existed.

^{vi} Cited in *Report and Recommendations of Philip Petchey to Kent County Council following a non-statutory public local inquiry: Application by Mrs Anne Wilks to register land at Whitstable, Kent as a Town or Village Green* (application 577), 12 Dec 2001, paragraph 18.

^{vii} The 58km coastal footpath between Whitstable and Iwade was consulted on in 2017 and is awaiting Secretary of State approval with anticipated new access rights in 2020.

^{viii} See *R (Beresford) v Sunderland CC* [2003] UKHL 60, in which the maintenance of a park by a council was not found to be evidence of consent and licence to use the park.

^{ix} See *R (Newhaven Port and Properties Ltd) v East Sussex County Council* [2015] UKSC 7 where the designation of a beach as a village green was deemed incompatible with the Port Authority's statutory powers.

^x *Rationale for the Head of Legal Services lodging an opposition to Whitstable Beach Village Green application*, Whitstable Area Panel, November 2014.

^{xi} Canterbury Council has been encouraged to compulsorily purchase Whitstable beach on several occasions but has declined to do so. However, in 2014 it moved to designate the beach as a Green Open Space in the Canterbury District Plan. While this would have granted protections similar to Village Green status, it was removed from the plan by the Planning Inspector on the basis the beach already receives significant protection (*Report on the Examination of the Canterbury District Plan* 15 June 2017, PINS/J2210/429/5).

^{xii} *Advice in the Matter of Application No. VGA658, For the Registration As a new Town or Village Green of land known as Whitstable Beach*, Ross Crail, 12 New Square, Lincoln's Inn, London, 24 April 2015.

^{xiii} These figures are disputed: see also note xviii.

^{xiv} Marico Marine report *Navigation Risk Assessment, Oyster Trestle Foreshore Deployment* for Maritime and Coastguard Agency, Report 17UK1322, 15 June 2017.

^{xv} Exemption 13 of the amended order covers 'the deposit and removal of any shellfish, trestle, cage, pole, rope, marker or line in the course of propagation and cultivation of shellfish when certain conditions are met'. (<https://www.gov.uk/government/news/update-on-investigation-into-whitstable-oyster-farm-activity>, accessed 5 March 2019).

^{xvi} Delegated report by Chris Pragnell: *Application for lawful development certificate for existing oyster trestles*, Canterbury City Council CA/18/00663/LUE, no date.

^{xvii} See https://publicaccess.canterbury.gov.uk/online-applications/files/AF09DA1A995FC7F7AA272B9DA719EFFB/pdf/CA_18_00663--1744991.pdf (last accessed

5 March 2019). In general, local authority jurisdiction coincides with the authority's administrative boundary: it has been consistently agreed that coastal local authorities have administrative jurisdiction over areas down to the low-water mark, though some local authorities have by-laws controlling use beyond this.

^{xviii} See: https://publicaccess.canterbury.gov.uk/online-applications/applicationDetails.do?activeTab=neighbourComments&keyVal=_CANTE_DCAPR_117205 (accessed 5 March 2019).

^{xix} See https://publicaccess.canterbury.gov.uk/online-applications/files/A2EF040A91D56F5CAC54C56ADDFCEB80/pdf/CA_18_00663-MCNALLY_P-1737439.pdf (accessed 5 March 2019).

^{xx} These introduced several new groynes and 70,000m³ shingle: the berm was raised to 6m and the slope to a 1-in-7 slope, with a significant advancement of mean high-water mark resulting.