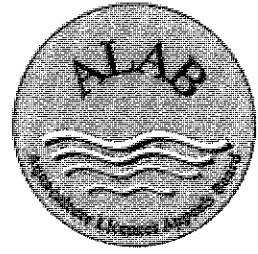


An Bord Achomharc Um Cheadúnais Dobharshaothraithe  
Aquaculture Licences Appeals Board



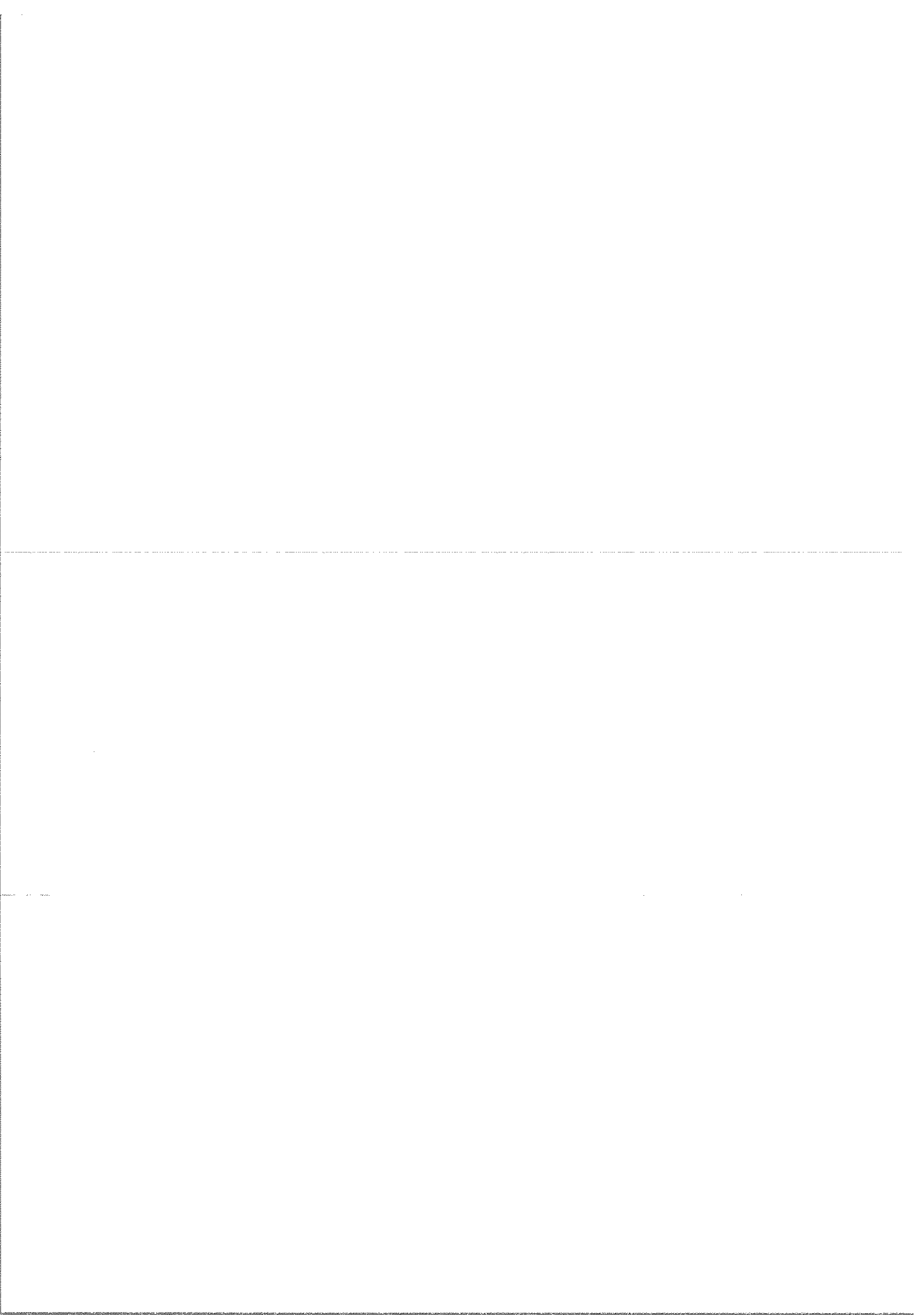
# AP4/2018

# Adrian Weir

# Appeal

Cúirt Chollí Mhínsí, Bóthar Bhaile Átha Cliath, Port Laoise, Contae Laoise, R32 DTW5  
Kilminchy Court, Dublin Road, Portlaoise, County Laois, R32 DTW5

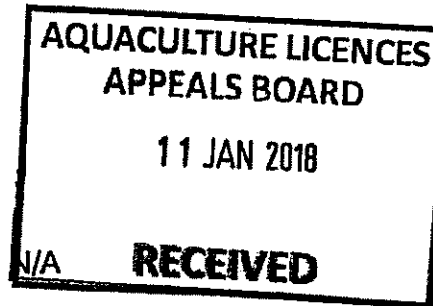
Guthán/Telephone: 057 8631912 R-phost/Email: [info@alab.ie](mailto:info@alab.ie) Láithreán Gréasáin/Website: [www.alab.ie](http://www.alab.ie)



# NOTICE OF APPEAL UNDER SECTION 40(1) OF FISHERIES (AMENDMENT) ACT 1997 (NO. 23)

**Name and address of appellant:**

Adrian Weir



**Telephone:** N/A

**Fax:**

**Mobile Tel:**

**E-mail address:**

**Subject matter of the appeal:**

TO APPEAL "Determination of Aquaculture/Foreshore Licensing Application (Renewal) – T12/37"

**Site Reference Number:-** T12/37

(as allocated by the Department of Agriculture, Food and the Marine)

**Appellant's particular interest in the outcome of the appeal:**

I want conditions put in place concerning Aquaculture/Foreshore Licensing Application (Renewal) - T12/37, that protect my rights to fish wild fisheries that lie within the said Aquaculture/Foreshore Licensed Area due for renewal.

**Outline the grounds of appeal (and, if necessary, on additional page(s) give full grounds of the appeal and the reasons, considerations and arguments on which they are based):**

See following pages 2 - 6

**Fee enclosed:** €152.37

(payable to the Aquaculture Licences Appeals Board in accordance with the Aquaculture Licensing Appeals (Fees) Regulations, 1998 (S.I. No. 449 of 1998))(See Note 2)

**Signed by appellant:** Adrian Weir

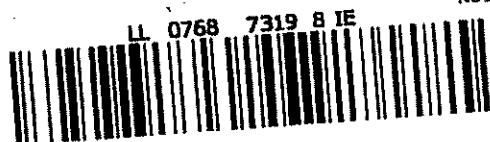
**Date:** 9/1/18

**Note 1:** This notice should be completed under each heading and duly signed by the appellant and be accompanied by such documents, particulars or information relating to the appeal as the appellant considers necessary or appropriate and specifies in the Notice.

**Note 2:** The fees payable are as follows:

Appeal by licence applicant	€380.92
Appeal by any other individual or organisation	€152.37
Request for an Oral Hearing (fee payable in addition to appeal fee)	€76.18

In the event that the Board decides not to hold an Oral Hearing the fee will not be refunded.



No sig req

## **NOTICE OF APPEAL UNDER SECTION 40(1) OF FISHERIES (AMENDMENT) ACT 1997 (NO. 23)**

I, Adrian Weir a licensed fisherman, of Aught, Quigleys Point, County Donegal, hold a Dredge Licence issued by Inland Fisheries Ireland (IFI) to fish oysters in Lough Swilly in season specified by IFI.

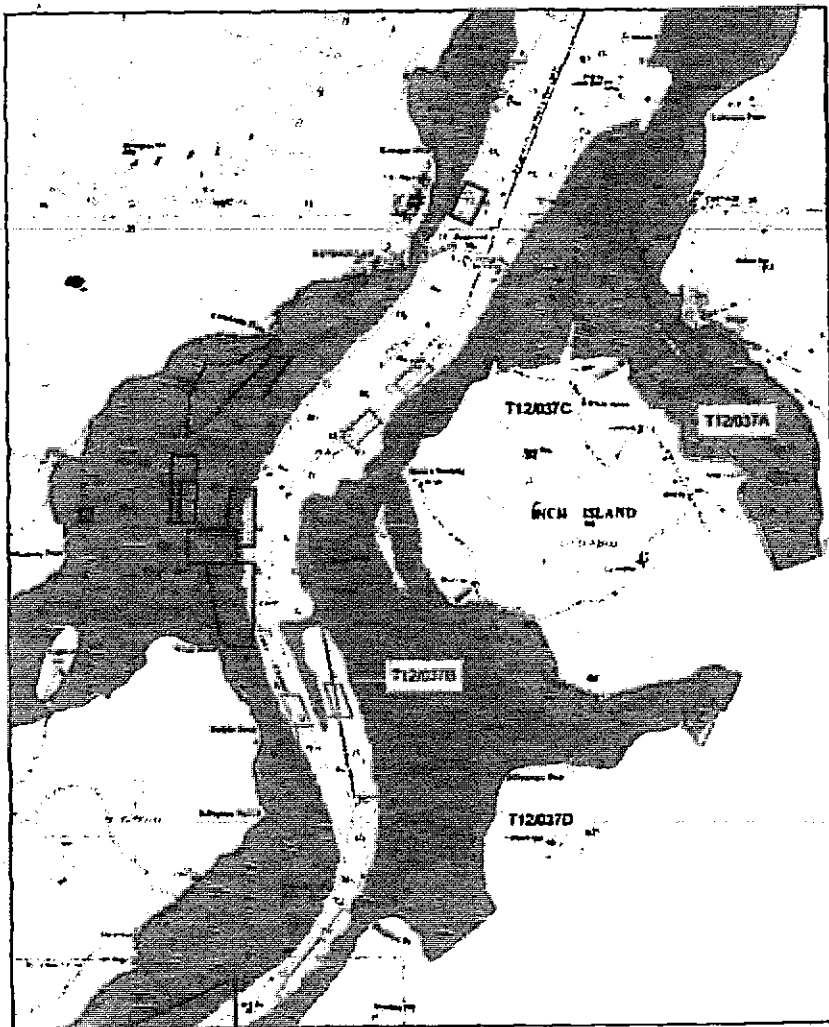
I am appealing said *"Determination of Aquaculture/Foreshore Licensing Application (Renewal) – T12/37"* on following grounds:

**(1) Site T12/37 includes wild fisheries. Other licensed fishermen including myself annually fish these areas for,**

- **Native Oysters (*Ostrea edulis*)** - This species has been recorded in Lough Swilly since 1604 and can be verified in various reports including surveys completed by the Marine Institute in 2011 and 2012. (NB The Marine Institute is to survey oyster fishing areas in January 2018)
- **Pacific Oysters (*Crassostrea Gigas*)** - This species was recorded as naturalised in 2011 by the Marine Institute and BIM. Myself and other licensed fishermen fish these as part of an environmental clean up operation to prevent the population from growing further as they can form reefs that would be harmful to the Native Oyster populations and other marine life. (NB The Marine Institute is to survey oyster fishing areas in January 2018)

## NOTICE OF APPEAL UNDER SECTION 40(1) OF FISHERIES (AMENDMENT) ACT 1997 (NO. 23)

(2) In relation to point 1, I provide maps from “Fishery Natura Plan for Native oysters in Lough Swilly / 2012-2017” showing population densities for Native Oysters on page 4 and wild Pacific Oysters on page 5 (NB The Marine Institute is due to survey oyster fishing areas during January 2018 - This will provide a more accurate mapping of the oyster fishery) - When comparing them to map below, provided by the applicant, you will notice that these wild fisheries are included in T12/37's application renewal. (NB This map is from 2004 application (renewal) and it is the only application listed for T12/37 on DAFM website, link as follows: <https://www.agriculture.gov.ie/seafood/aquaculture/reshoremanagement/aquaculture/licensing/aquaculture/reshore/licenceapplications/donegal/>)



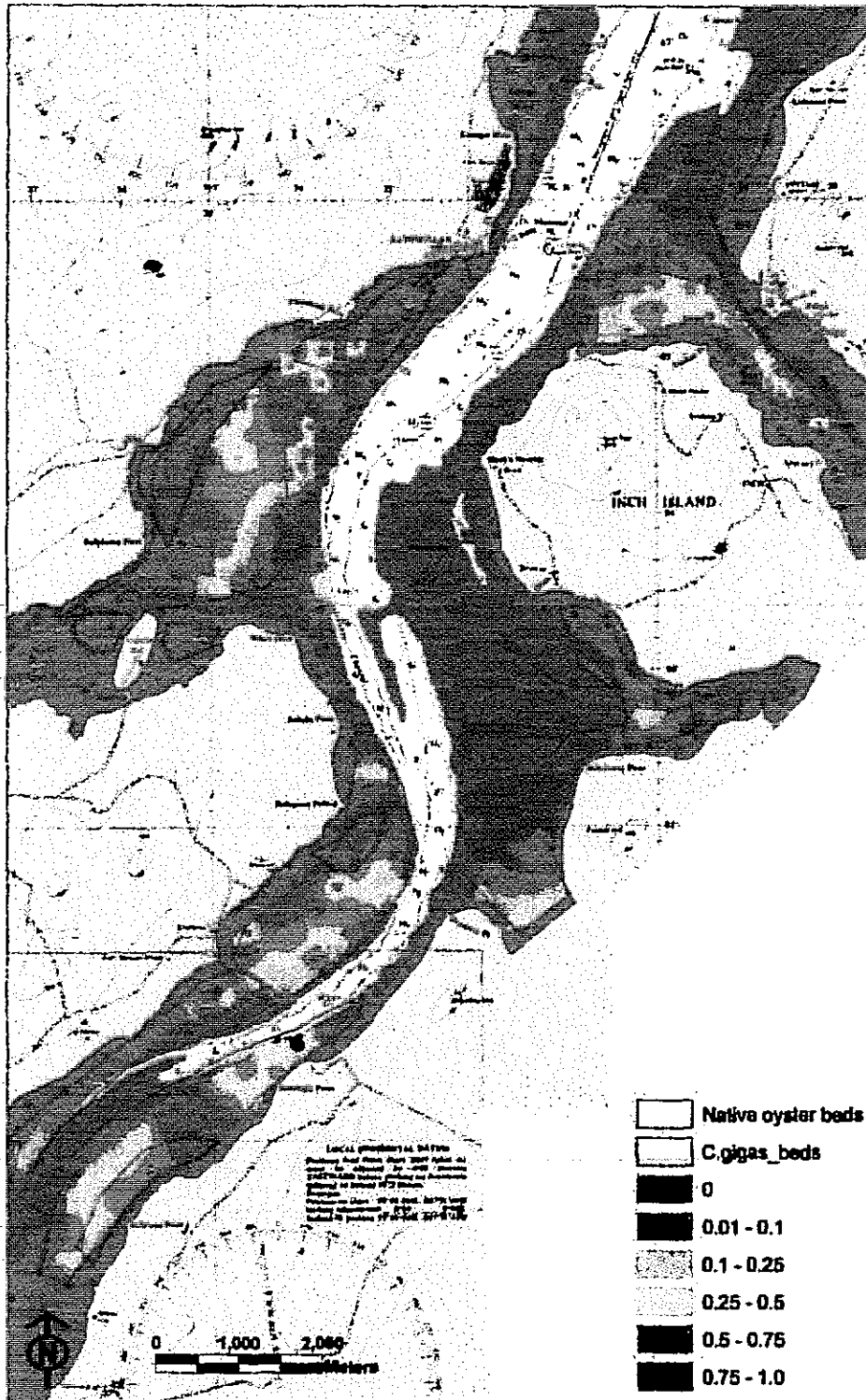
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The Highlighted in red denotes application

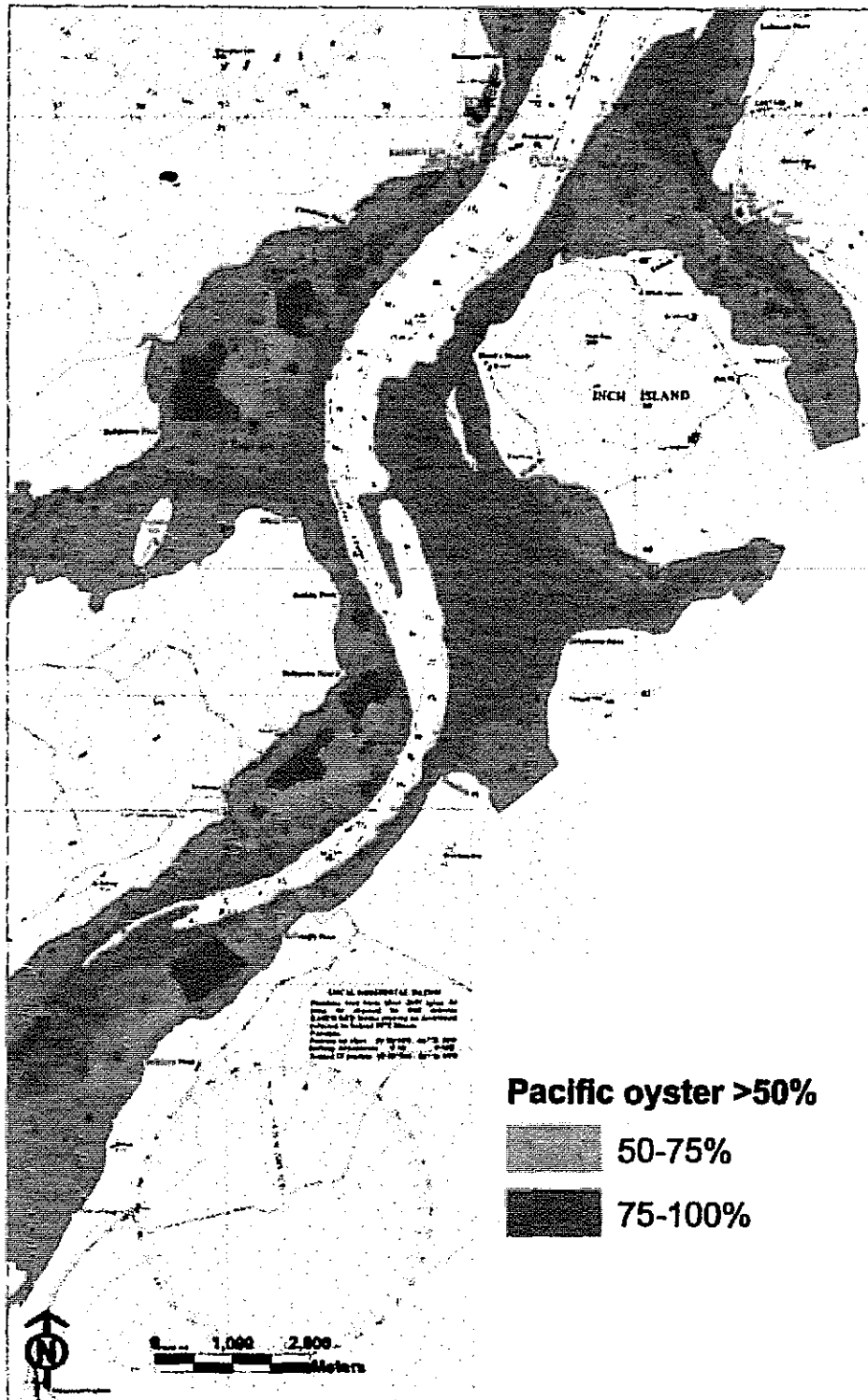
# NOTICE OF APPEAL UNDER SECTION 40(1) OF FISHERIES (AMENDMENT) ACT 1997 (NO. 23)



*Fig. 4. Distribution of Pacific oyster as a proportion of all oysters present in native oyster beds in L. Swilly as of Nov 2011. Pacific oyster beds known by local fishermen and which were also targeted in a 2010 and 2011 fishery are also shown*

**Map source:** (Fishery Natura Plan for Native oysters in Lough Swilly / 2012-2017)

# NOTICE OF APPEAL UNDER SECTION 40(1) OF FISHERIES (AMENDMENT) ACT 1997 (NO. 23)



*Fig. 5. Areas where Pacific oyster constitutes >50% of all oysters in native oyster beds in L. Swilly as of Nov 2011. The total area is 482 hectares.*

**Map source:** (Fishery Natura Plan for Native oysters in Lough Swilly / 2012-2017)

## **NOTICE OF APPEAL UNDER SECTION 40(1) OF FISHERIES (AMENDMENT) ACT 1997 (NO. 23)**

- (3) My fishing rights as a dredge licence holder issued to me by IFI have not being acknowledged in the Ministers decision "Determination of Aquaculture/ Foreshore Licensing Application (Renewal) – T12/37". I fear that issuing of said licence without conditions attached will abolish my fishing rights on these grounds, as the license holder of site T12/37 may order myself and other licensed fishermen to cease and desist from fishing these grounds.**
- (4) Failure to acknowledge my fishing rights as a dredge licence holder who annually fishes in area T12/37 for Native and Pacific Oysters may be in breach of my constitutional rights, namely Article 45, 2. The State shall, in particular, direct its policy towards securing: I. That the citizens (all of whom, men and women equally, have the right to an adequate means of livelihood) may through their occupations find the means of making reasonable provision for their domestic needs.**

### **Conclusion and recommendations**

**It is not my intention to get in the way of progress or to interfere with another persons livelihood, but I do respectively aim to protect my livelihood.**

**So that all parties may have a fair resolution I would ask you to consider these recommendations before you deem to grant a Aquaculture/Foreshore Licence to area T12/37.**

- (1) No new or renewal applications for Aquaculture/Foreshore Licences should be granted until Marine Institute survey January 2018 is completed and published - This will determine and map all Native and Pacific Oyster wild fisheries in Lough Swilly so it will be easier to define and separate wild fisheries from Aquaculture sites.**
- (2) If sites are granted for Aquaculture/Foreshore Licences that include wild fisheries, it should be stipulated that persons holding a dredge licence issued by Inland Fisheries Ireland will be entitled to fish in such areas without hindrance from aquaculture operators.**
- (3) Aquaculture operators will not be permitted to put trestles, cages or other devices suitable for on-growing of aquaculture species on any area that is deemed to be a wild fishery site, other than navigation buoys that will clearly mark the boundaries of trestles, cages or other devices suitable for on-growing of aquaculture species.**