



**AP3-16/2020 Ballyness Bay, Co. Donegal
Appropriate Assessment Conclusion Statement**

**Aquaculture Licences Appeals Board
5 April 2024**

Introduction

The Marine Institute on the behalf of the Department of Agriculture, Food and the Marine (DAFM) produced an Appropriate Assessment Report for Aquaculture Activity in Ballyness Bay in February 2019 (“the MI AA report”). DAFM produced an AA Conclusion Statement for Aquaculture Activity in Ballyness Bay in November 2019 (“the DAFM AA Conclusion Statement”).

The Board’s technical advisor found that the MI AA report and DAFM AA Conclusion Statement did not fully consider all the factors necessary within the Ballyness Bay SAC and surrounding Natura sites, meaning there were outstanding questions which had not been resolved to the level required under the legislation.

A notice was therefore sent to all applicants notifying them for the need for a supplemental Natura Impact Statement to be carried out. This notice was issued on 4 August 2023. The NIS report was received by ALAB on 22 January 2024, prepared by Aquafact on behalf of three of the applicants.

A supplemental AA report was prepared by the ALAB technical advisor in March 2024 to assess remaining issues and review the previous reports. This report found that generally, the technical advisor agreed with the recommendations made in the MI AA report and DAFM AA Conclusion Statement but felt a more conservative approach was required regarding seal disturbance than was recommended there. The technical advisor’s advice was to recommend a minimum distance of 200m and separation by a tidal channel from known seal haul out sites in the bay and proposed aquaculture developments.

The technical advisor also broadly agreed with the recommendations and mitigations put forward in the Aquafact report, although it was found that not all of these may be possible or will rely on other agencies for implementation e.g. regarding the set-up of a CLAMS organisation in the Bay.

The Board agreed with their technical advisor in relation to the recommendation regarding set up of a CLAMS group, and also found it would not be feasible to enforce a restriction on access to the shore during the hours of dawn and dusk due to the nature of the activity. The technical advisor confirmed that, in her opinion, this was not a necessary condition required to ensure compliance with the requirements of the Birds and Habitats Directive.

Following an assessment of the available reports and the additional information assessed in their own technical advisors supplemental AA report, the Board found that, once the recommendations and mitigations listed below (comprising of a combined selection from the DAFM Conclusion Statement and the Aquafact NIS report) are implemented, that the proposed developments would not have a significant negative impact on any of the conservation objectives or qualifying interest species of any of the SACs or SPAs assessed.

Mitigation Measures:

- Sites T12/441B and T12/441C which were originally assessed as oyster and clam cultivation are now being processed as oyster cultivation only sites.
- On the basis of the Appropriate Assessment findings only Triploid seed will be licensed for use in the Bay.
- Source of seed and changes to source of seed to be approved by the Department of Agriculture, Food and the Marine in advance.
- To avoid the overlap of proposed access routes with Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130], a new access route which was assessed in the AA and referenced in the draft conclusion statement will be implemented in relation to any sites to be licensed on the west side of the Bay, that had proposed routes which overlapped with the grey dunes' habitat.
- Locations where the sediments are extremely mobile (and soft) thus making them unsuitable for aquaculture operations will be excluded from licensing.
- A Licence condition requiring strict adherence to the identified access routes over intertidal and nearshore habitat in order to minimise species/habitat disturbance will be included.
- A Licence condition requiring full implementation of the measures set out in the draft Marine Aquaculture Code of Practice prepared by Invasive Species Ireland (e.g. <http://invasivespeciesireland.com/cops/aquaculture>).
- The use of updated and enhanced Aquaculture and Foreshore Licences containing terms and conditions which reflect the environmental protection required under EU and National law.

- A strict 200m distance buffer, along with separation by a tidal channel to be adhered to between any aquaculture activities and any seal species present in the bay.
- Regular maintenance of the sites to ensure no heavy build-up of organic material where possible is recommended.