

Technical Advisors' Final Report – Finfish Appeal

Appeal Ref No. AP1/2019

Appeals description:

Appeal against the decision of the Minister to revoke the statutory entitlement of Silver King Seafoods Ltd., a wholly owned company of Mowi Ireland, to continue aquaculture operations at site T06/202, Deenish Island, Co Kerry.

Technical Advisors: Mary Hegarty and Michelle Moloney

Date of site inspection: 29 April 2025

Contents

1.0	General Matters / Appeal Details.....	3
1.1	Background to Aquaculture Licence AQ199 for site T06/202	3
1.2	Appeal Details	4
1.3	Name and address of Appellant	4
1.4	Grounds for Appeal.....	4
1.5	Observer submissions.....	5
1.6	Minister's Response	6
1.7	TA's Evaluation of Appeal Received, Observers' Submissions & Minister's Response.	8
1.8	ALAB Technical Advisors Site Inspection.....	14
1.9	ALAB Technical Advisors Section 61 Assessment	14
2.0	Minister's file.....	15
3.0	Context of the Area	16
3.1	Physical descriptions	16
3.1.1	Water Quality	18
3.1.2	Population.....	20
3.1.3	Land Use	20
3.1.4	Weather	20
3.2	Resource Users.....	21
3.3	Statutory Status	21
3.3.1	Nature Conservation Designations.....	21
3.3.2	Protected Species	23
3.3.3	Statutory Plans	24
3.3.4	Water Quality Status	27
3.4	Man-made heritage.....	28
4.0	Section 46 and 47 Notices and Submissions received	29
4.1	Section 46 Notices and Submissions.....	29
4.2	Section 47 Notices and Submissions.....	32
5.0	Section 61 Assessment.....	34
5.1	Site Suitability	34
5.2	Other uses.....	34
5.3	Statutory Status	34
5.4	Economic effects	35
5.5	Ecological Effects	35
5.6	General Environmental Effects.....	39
5.7	Effect on man-made heritage.....	39
5.8	Section 61 Assessment Conclusions	40
6.0	Conclusions of the Deenish Appeal Technical Advisor's Final Report	40

1.0 General Matters / Appeal Details

1.1 Background to Aquaculture Licence AQ199 for site T06/202

A licence for the engagement of farming fish at the Deenish site was issued to Salmara Fisheries Ltd. on the 08 March 1990 and a subsequent Fish Culture Licence (FCL) was issued to Gaelic Seafoods (Ireland) Ltd. on the 30 January 1995.

The 1995 Gaelic Seafoods licence was assigned to Murpet Fish Ltd. on the 15 November 1999, and subsequently assigned to Silver King Seafoods Ltd. on the 31 July 2004.

In 2008 Comhlucht Iascaireachta Fanad Teoranta trading as Mowi Ireland, acquired Silver King Seafoods Ltd.

Since 2008 the Deenish site has been operated by Mowi Ireland and Mowi Ireland first stocked the site in 2010.

The site is 14.4899-hectares in area.

The Aquaculture Licence (AQ199) for the site (T06/202) lapsed on 17 February 2007 and Mowi Ireland have continued to operate in reliance on Section 19A (4) of the Fisheries (Amendment) Act 1997.

Silver King Seafoods Ltd. applied for a renewal of the Licence on 05 February 2007 however a decision has not been made on the renewal licence application to date. Aquaculture Licence AQ199 has an allowable input of 400,000 smolts and an annual harvest restriction of 500 tonne

A temporary amendment to the licence was granted on the 31 October 2012, allowing for increased standing stock, for the period up to and including the 31 March 2015.

From 01 April 2015 the entitlement to continue to operate reverted to the original condition of an allowable input of 400,000 smolts and an annual harvest restriction of 500 tonnes.

The Department's Marine Engineering Division's Deenish site inspection on the 02 July 2015 considered that the site was overstocked. The Department also considered that the stock levels were likely to result in a breach of the harvest limit of 500 tonnes for 2016.

Correspondence between the Department and Mowi took place in relation to these issues and the on the 12 April 2019 the minister decided on the basis of a breach in 2016 of the annual harvest limit specified in condition 2(e), to revoke the statutory entitlement of Silver King Seafoods Ltd., a wholly owned company of Mowi Ireland, to continue aquaculture operations at site T06/202, Deenish Island, Co Kerry.

To note Mowi submitted an application for a new Aquaculture Licence, for a 33.5 Hectare site at Deenish (see figure 2 new application site boundary) on the 03 March 2023. The application is currently being processed by the Department's Aquaculture and Foreshore Management Division.

The Board's former Technical Advisor (TA), Ciar O'Toole, prepared a report dated 12 April 2024 on the possible environmental and ecological impacts of the alleged breach of Condition 2(e).

The Board's current TAs prepared a site inspection report dated 16 May 2025 which outlined the history of the appeal and the findings of the site inspection and recommended that a full Section 61 assessment is carried out as part of the Deenish TA Final Report as appropriate in the circumstances of this particular appeal.

The purpose of this Final TA report is to evaluate the appeal and the submissions made from a technical perspective, and in particular the potential ecological and environmental impacts of the breach of Condition 2(e) as set out in the Section 61 assessment, pages 34 to 40.

1.2 Appeal Details

ALAB Appeal reference no.: AP1/2019

Date Appeal received: 09 May 2019

Appellant: Silver King Seafoods Ltd., a wholly owned company of Mowi Ireland

1.3 Name and address of Appellant

The name and address of the appellant is:

Silver King Seafoods Ltd., a wholly owned company of Mowi Ireland, Fanad Fisheries, Kindrum, Fanad, Letterkenny, Co. Donegal.

1.4 Grounds for Appeal

ALAB Appeal reference no.: AP1/2019

Date Appeal received: 09 May 2019

Appellant: Silver King Seafoods Ltd., a wholly owned company of Mowi Ireland

1.	Legislative	The Appellant is refuting the claim that they breached condition 2(e) of licence AQ 199 'the Licensee shall not harvest more than 500 tonnes (dead weight) of salmon in any one calendar year'.
2.	Environmental impact	The Appellant states that there is no evidence to conclude that there was an increase in the effluent discharged from the site as a result of the number of stock harvested in 2016.

3.	Effect of the Ministers Determination on the local economy	The Appellant claims that the Determination will have substantial impacts on the overall operation of Mowi Ireland and that it will have potential consequences for the economy of the local area.
4.	The Department's lack of progress in determining licence applications	The Appellant claims delays in progressing applications and failure to implement Maximum Allowable Biomass (MAB) for finfish licences is negatively impacting the development of the aquaculture sector.
5.	Condition 2(e) of the licence should be substituted with a condition which provides for the control production by reference to the MAB	The Appellant states that Condition 2(e) requires revision and review. Mowi are seeking amendment to the terms of the Licence to allow for the application of a MAB which will regularise the Deenish Licence and would be in line with internationally recognised sustainable farming practices.

1.5 Observer submissions

Five third-party observer submissions were received in relation to appeal AP1/2019. The key points in each of the third-party observer submissions are as follows:

1. Jack Power received 15 May 2019: The observer states that the restoration of the licence would undermine the integrity of the licensing process. The observer has concerns regarding the environmental impact of the farm and the potential impact to Lough Currane salmon stock.
2. Jenifer Corcoran received 18 May 2019: The observer supports the revocation of the licence.
3. Inland Fisheries Ireland (IFI) received 07 June 2019: IFI have concerns regarding the risk to wild salmon and sea trout stocks due to potential negative effects from sea lice and escapees. IFI also have concerns regarding the decline in stocks of salmon and sea trout at Lough Currane and the impact of large numbers of farmed salmon located 10.8 km from the mouth of the Waterville River. IFI state that they support the Minister's decision to discontinue the aquaculture licence at the Deenish Island site.
4. Galway Bay against Salmon Cages received 07 June 2019: The observer asks the Board to uphold the Minister's determination and raises concerns with regard to the breach

of licence and also regarding overstocking, sea lice, the decline in salmon and sea trout stocks in rivers on the west coast and generally in relation to all open sea cage salmon farming. The observer states that if the Minister had not taken any action, a precedent would have been set whereby Mowi or any other operator would not be sanctioned for breaching the conditions of their licence and it would be perceived by the public that the regulatory authorities could be ignored. The observer requests that the minister/licensing authority move to land closed cage containment systems.

5. Salmon Watch Ireland Submission received 09 June 2019: The observer endorses the minister's decision to revoke the licence. The observer is seeking enforcement of the license by discontinuing the entitlement to continue aquaculture operations. The observer states that Mowi's submissions illustrate that it understood the terms and conditions of the licence and chose not to comply with them. The observer states that failure to enforce the licence would undermine public trust in the regulatory regime. They also contend that benthic studies which are carried out annually are not a sufficient indicator especially considering the location of the Deenish farm. The observer highlights that the tonnage on site prior to harvest in May 2018 was reported as 1533 Tonnes.

The observer raised further concerns in relation to the impact of overstocking of the site, the decrease in sea trout stocks in the Waterville area, the collapse in angling tourism, losses to the economy, the potential licence breach regarding the lack of a movement order, issues with effluent from the farm due to over stocking and they claim that insufficient benthic studies and inspections are carried out.

The observer states that ocean currents and exposure to high winds at the site negate the results of the benthic studies and that due to the conditions at this site and the very open coastal area, effluent and other materials can travel widely from this site and will not be picked up by localised inspection.

The observer states that the tonnage on site in 2018 was 1,533 tonnes.

The observer goes on to states that "not to act would signal a complete collapse of public trust in the regulatory regime."

SWI also claim that Mowi were non-compliance and non-cooperative.

The above key points are addressed in Section 1.7 of this report.

1.6 Minister's Response

The Minister may submit a response to appeal submissions under the provision set out in Section 44(2) of the Fisheries Amendment Act 1997 which states:

"The Minister and each other party except the Appellant may make submissions or observations in writing to the Board in relation to the appeal within a period of 30 days beginning on the day on which a copy of the notice of appeal is sent to that party by the Board"

and any submissions or observations received by the Board after the expiration of that period shall not be considered by it”

Judicial Review proceedings were initiated by Mowi in May 2019, in respect of the Minister's decision and the Court ordered a stay on ALAB considering and determining the appeal made by them in respect of the Minister's decision pending the final determination of the proceedings.

The Minister submitted observations on the 19 December 2019, following the lifting of the Court ordered a Stay on Monday 02 December 2019.

In the submission DAFM reiterate the view that the Minister's decision to treat the licence as discontinued is warranted by the undisputed facts of this case and they state that the decision is proportionate having regard to the very significant excess in stock harvested (121% excess).

DAFM outline how it is clearly in the public interest that the Department enforce licences issued to operators in order to uphold the integrity of the State's regulatory regime.

In relation to Mowi's argument of no adverse environmental effects DAFM state that benthic impacts are only one indicator of adverse environmental and other effects and DAFM refer to other matters that should be considered including risks relating to sea lice, diseases, escapes, natura sites.

DAFM state that it has not to date received an application from the Appellant to amend the applicable licence to reflect harvesting by reference to MAB. DAFM state that the Appellant has not submitted the Environmental Impact Statement necessary to support the request for the change to MAB.

DAFM state that the current capping mechanism on harvesting based on tonnage harvested is viable and is the basis on that which the finfish industry generally in Ireland operates.

DAFM claim that this view is supported by the Marine Institute and DAFM go on to state that MAB would need to be calculated to reflect the current licence conditions at all currently licensed sites and that such a protocol/metric would need to be objective, transparent and independently validated. DAFM also state that such a protocol/metric should be subject to consultation and peer review. DAFM believe the conversion to MAB would represent a significant and material change to a licence and require an Environmental Impact Statement.

1.7 TA's Evaluation of the Appeal Received, Observers' Submissions and Minister's Response

Appeal Received:

Appeal	Appeal Issues Raised:	Technical Advisors response:
AP1/2019 Site T06/202 Appellant: Mowi Ireland Applicant: Mowi Ireland	<p>1. Legislative: The Appellant is refuting the claim that they breached condition 2(e) of licence AQ 199 'the Licensee shall not harvest more than 500 tonnes (dead weight) of salmon in any one calendar year'.</p> <p>2. Environmental Impacts: The Appellant states that there is no evidence to conclude that there was an increase in the effluent discharged from the site as a result of the number of stock harvested in 2016.</p> <p>3. Effect of the Ministers Determination on the local economy: The Appellant claims that the Determination will have substantial impacts on the overall operation of Mowi Ireland and that it will have potential negative consequences for the economy of the local area.</p> <p>4. The Department's lack of progress in determining licence applications: The Appellant claims delays in progressing applications and failure to implement MAB for finfish licences is negatively impacting the development of the aquaculture sector.</p> <p>5. Condition 2(e) of the licence should be substituted with a condition which</p>	<p>1. The argument that Mowi make that because no 'harvesting' took place at the Deenish Site in 2016 that there could not be any breach of condition 2(e) is a weak one. Mowi argue that that the term 'harvest' is not defined in the Licence and when originally issued in 1995 harvesting (i.e., the killing of live salmon) took place at the pens. The TA is of the opinion that Mowi did breach condition 2(e) of licence AQ 199. To note Mowi Ireland subsequently submitted on 21 July 2020 that the harvest batch from the Deenish site in 2016 was 1,862.91 tonnes HOG (Head On Gutted). Also to note the Board accepted that Mowi did breach condition 2(e) of licence AQ 199 at the 11 April 2024 Board meeting.</p> <p>2. The TA agrees with this statement. It is not possible to conclude, on the basis of the environmental data from the period, that there was an increase in the effluent discharged from the site as a result of the number of stock harvested in 2016. The above statement relates to the breach of condition 2(e) that occurred in 2016 and is distinct from any increased effluent</p>

	<p>provides for the control production by reference to the MAB</p>	<p>discharged due to overstocking which may have occurred from the 01 April 2015.</p> <p>3. The TA agrees that the Determination will have potential negative impacts on the local economy. The TA is not in a position to determine the economic impacts on the overall operation of Mowi Ireland. (see 5.4 Economic Effects)</p> <p>4. The Department's lack of progress in determining licence applications, whether MAB should be implemented across all finfish licences and its relevance to the determination of this appeal is a matter for the ALAB Board. To note DAFM state in their response received on the 19 December 2019 that they have not to date received an application from the Appellant to amend the applicable licence to reflect harvesting by reference to MAB.</p> <p>5. Noted. The TA is of the opinion that this is a matter for the Board which has been provided with legal advice on whether it has the power to amend the licence as part of its determination of this appeal.</p>
--	--	--

Observers' Submissions:

Observer	Issues Raised:	Technical Advisors response:
Mr. Jack Power, received 15 May 2019	<p>The observer states that the restoration of the licence would undermine the integrity of the licensing process.</p> <p>The observer has concerns regarding the environmental impacts of the farm and the potential impact to Lough Currane salmon stock.</p>	<p>Whether the restoration of the licence would undermine the integrity of the licensing process is not an issue that the TA can conclude on at this time; this is a matter for the Board to consider in the exercise of its discretion.</p> <p>While scientific evidence confirms that there are environmental impacts associated with marine-based salmon farms and potential implications for wild salmon stocks in the vicinity of marine-based salmon farms, the environmental impact of the Deenish salmon farm is not the principal issue at hand in this report. The principal environmental issue is whether the breach of condition 2(e) of Aquaculture Licence AQ 199, which occurred in 2016, and the actual or potential adverse environmental impacts of that breach and whether it resulted in overall increased negative environmental impacts.</p>
Jenifer Corcoran, received 18 May 2019	The observer supports the revocation of the licence.	Noted
Inland Fisheries Ireland (IFI), received 07 June 2019	IFI have concerns regarding the risk to wild salmon and sea trout stocks due to potential negative effects from sea lice and escapees. IFI also have concerns regarding the decline in stocks of salmon and sea trout at Lough Currane and the impact of large numbers of farmed salmon located	While scientific evidence confirms that there are environmental impacts associated with marine-based salmon farms and potential implications for wild salmon and sea trout stocks in the vicinity of marine-based salmon farms, the environmental impact of the Deenish salmon farm is not the principal issue at hand in this report.

	<p>10.8 km from the mouth of the Waterville River.</p> <p>IFI state that they support the Minister's decision to discontinue the aquaculture licence at the Deenish Island site.</p>	<p>The principal environmental issue is whether the breach of condition 2(e) of Aquaculture Licence AQ 199, which occurred in 2016, and the actual or potential adverse environmental impacts of that breach and whether it resulted in overall increased negative environmental impacts.</p> <p>Noted</p>
Galway Bay against Salmon Cages, received 07 June 2019	<p>The observer has issues with the breach of licence and also regrading regarding overstocking, sea lice, the decline in salmon and sea trout stocks in rivers on the west coast and generally in relation all open sea cage salmon farming.</p> <p>The observer states that if the Minister had not taken any action, a precedent would have been set whereby MOWI or any other operator would not be sanctioned for breaching the conditions of their licence and it would be perceived by the public that the regulatory authorities could be ignored.</p> <p>The observer requests that the minister/licensing authority move to</p>	<p>While scientific evidence confirms that there are environmental impacts associated with marine-based salmon farms and potential implications for wild salmon and sea trout stocks in the vicinity of marine-based salmon farms, the environmental impact of the Deenish salmon farm is not the principal issue at hand in this report. The principal environmental issue is whether the breach of condition 2(e) of Aquaculture Licence AQ 199, which occurred in 2016, and the actual or potential adverse environmental impacts of that breach and whether it resulted in overall increased negative environmental impacts.</p> <p>This is a matter for the Board to consider in the exercise of its discretion.</p> <p>Noted</p>

	land closed cage containment systems.	
Salmon Watch Ireland (SWI), received 09 June 2019	<p>The observer endorses the minister's decision to revoke the licence. The observer is seeking enforcement of the license by discontinuing the entitlement to continue aquaculture operations.</p> <p>The observer raised concerns regarding the impact of overstocking of the site, the decrease in sea trout stocks in the Waterville area, the collapse in angling tourism, losses to the economy, the potential licence breach regarding the lack of a movement order, issues with effluent from the farm due to over stocking and they claim that insufficient benthic studies and inspections are carried out.</p> <p>The observer states that oceanic currents and exposure to high winds at the site negate the results of the benthic studies and that due to the conditions at this site and the very open coastal area, effluent and other materials can travel widely from this site and will not be picked up by localised inspection.</p> <p>The observer states that the tonnage on site in 2018 was 1533 tonnes</p> <p>The observer goes on to states that "not to act would signal a complete collapse of public trust in the regulatory regime."</p> <p>SWI also claim that Mowi were non-compliance and non-cooperative.</p>	<p>Noted</p> <p>While scientific evidence confirms that there are environmental impacts associated with marine-based salmon farms and potential implications for wild sea trout stocks in the vicinity of marine-based salmon farms, the environmental impact of the Deenish salmon farm is not the principal issue at hand in this report.</p> <p>The principal environmental issue is whether the breach of condition 2(e) of Aquaculture Licence AQ 199, which occurred in 2016, and the actual or potential adverse environmental impacts of that breach and whether it resulted in overall increased negative environmental impacts.</p> <p>See section 5.4 in relation to economic effects.</p> <p>Noted</p> <p>Noted</p> <p>Noted</p>

Ministers Response:

Minister's Submission	Issues Raised:	Technical Advisors response:
<p>DAFM Observations received 19 December 2019</p>	<p>1.DAFM state that the decision is proportionate having regard to the very significant excess in stock harvested (121% excess).</p> <p>2.DAFM outline how it is clearly in the public interest that the Department enforce licences issued to operators in order to uphold the integrity of the State's regulatory regime.</p> <p>3.In relation to Mowi's argument of no adverse environmental effects DAFM state that benthic impacts are only one indicator of adverse environmental and other effects and DAFM refer to other matters that should be considered including risks relating to sea lice, diseases, escapes, natura sites.</p> <p>4.DAFM state that it has not to date received an application from the Appellant to amend the applicable licence to reflect harvesting by reference to MAB.</p> <p>5.DAFM state that the Appellant has not submitted the Environmental Impact Statement necessary to support the request for the change to MAB.</p> <p>6.DAFM state that the current capping mechanism on harvesting based on tonnage harvested is viable and is the basis on that which the</p>	<p>1. Noted by TA. The determination as to whether the decision to revoke aquaculture licence T06/202 was warranted will be made by the ALAB Board.</p> <p>2. Noted by TA. Submissions in relation to the public interest are a matter for the Board</p> <p>3. See sections 5.5 and 5.6 in relation to the assessment of ecological and environmental impacts, as a result of the 2016 breach of Condition 2(e) of licence AQ 199, based on the assessment of environmental data from 2015 through to 2017 and following an assessment of AA reports produced between 2012 and 2019.</p> <p>4. Noted</p> <p>5. Noted</p> <p>6. Noted</p>

	<p>finfish industry generally in Ireland operates.</p> <p>7.DAFM state that MAB would need to be calculated to reflect the current licence conditions at all currently licensed sites and that such a protocol/metric would need to be objective, transparent and independently validated. DAFM also state that such a protocol/metric should be subject to consultation and peer review. DAFM believe the conversion to MAB would represent a significant and material change to a licence and require an Environmental Impact Statement.</p>	<p>7. Noted</p>
--	--	-----------------

1.8 ALAB Technical Advisors Site Inspection

ALAB Technical Advisors Mary Hegarty and Michelle Moloney carried out an inspection of the site on 29 April 2025. The subsequent site inspection report concluded that there are areas to be considered under Section 61 of the 1997 Act relevant to the revocation which have not been fully answered in the Minister's file submitted to ALAB in relation to this appeal. The recommendation of the site inspection report was that a full Section 61 assessment is carried out as part of the Deenish Appeal Final Report (see pages 34 to 40 Section 61 assessment).

1.9 ALAB Technical Advisors Section 61 Assessment

Section 61 of the Fisheries (Amendment) Act 1997 outlines the matters that must be considered, as may be appropriate in the circumstances of the particular case, when determining applications for aquaculture licenses, appeals against decisions on licenses, or revocations/amendments of licenses. These considerations include Site Suitability, Other uses, Statutory Status, Economic effects, Ecological Effects, General Environmental Effects and Effect on man-made heritage.

With regards to Deenish Appeal Final Report Section 61 assessment the TAs are considering the assessment in the context of the breach of condition 2(e) of Aquaculture Licence AQ 199, which occurred in 2016, and the revocation of the statutory entitlement to operate on that basis.

2.0 Minister's file

The Minister's file was requested on the 17 May 2019 and received by ALAB on 11 December 2019.

The file contained:

- A copy of the letter, dated 12 April 2019, sent to the Mowi Ireland from the Aquaculture and Foreshore Management Division stating the Minister's decision to discontinue the statutory entitlement of Silver King Seafoods to continue aquaculture operations under the provisions of Section 19(A)4 of the 1997 Fisheries (Amendment) Act
- Copy of the certification of renewal, dated 04 August 2004, of Aquaculture Licence No. 199 and Foreshore Licence No. 199 (both licences dated 30 January 1995)
- Copy of the certificate of assignment, dated 31 July 2004, of Aquaculture Licence No. 199 from Murpet Fish Ltd. to Silver Kind Seafoods Ltd.
- Copy of the certificate of assignment, dated 15 November 1999, of Aquaculture and Foreshore Licences No. 199 to Murpet Fish Ltd.
- Copy of the Aquaculture Licence (then called Fish Culture Licence)
- Copy of Submission made by the Licencing Division to the Minister 11 July 2018
- Marine Engineering Division T06/202 Marine Fin-Fish Inspection reports July 2015
- Correspondences between the Aquaculture & Foreshore Management Division (AFMD) and Licence Applicants
- Copy of the certificate of renewal, dated 08 March 2001, of Aquaculture Licence No. 199 to Murpet Fish Ltd.
- Copies of Movement Approval Notices
- Copy of ALAB 2012 Determination to grant a two-year amendment to Aquaculture Licence AQ199
- Copy of Certificate of Amendment (until the 31 March 2015) of Aquaculture and Foreshore Licences 199 dated 31 October 2012
- Copy of Licence special conditions letter dated 01 April 2011
- AFMD Notice of Decision to amend Aquaculture Licence (site reference no. T6/202)
- Marine Harvest Stock Report dated 20 January 2015
- Aquafact Benthic Report issued September 2016
- Copy of Submission made by the Licencing Division to the Minister 01 November 2017
- DAFM map of Aquaculture sites @ Deenish, Co. Kerry, dated 10 December 2019

3.0 Context of the Area

3.1 Physical descriptions

Deenish Island is located off the Coast of County Kerry. The island is 122 acres in area and its highest point is 144m above sea level. Deenish is in the Atlantic Ocean approximately 1 km east of Scariff Island and 6 km west of Hogs Head. The island is uninhabited and grazed by sheep. Deenish lies on the northern entrance to Kenmare Bay. (See figures 1 and 2).

Aquaculture licence site T06/202 lies on the eastern side of Deenish Island and as such is sheltered from westerly and southerly swells. The seafloor underneath the northern section of the site is primarily flat. Sediments in this area are predominantly sands (ranging to fine and medium sand) with varying proportions of coarse shell fragments. Water depths increase toward the southern side of the site. The sea floor under the southern section of the site is uneven and comprises of gravel and rocky reef.

The 14.4899-hectare site currently consists of ten pens (with space for an additional two pens). Each pen is 18m deep, consisting of a 10m wall that is conical for the final 8m. All 10 pens have a similar construction. The pens are moored in a grid system where each pen is secured to an underwater grid with 8 mooring lines.

At four corners of the site there are navigation lights and radar reflectors for maritime navigation traffic purposes

Site T06/202 is located within the Kenmare River Special Areas of Conservation (SAC) and the Deenish Island and Scariff Island Special Protected Areas (SPA) (See figures 7 and 8).

There are several other licensed aquaculture sites in Kenmare Bay, licensed for European Flat Oyster, Blue Mussel, Pacific Oyster, Stony Sea Urchin, Red Seaweeds, Brown Seaweeds species, Atlantic salmon and Rainbow Trout.

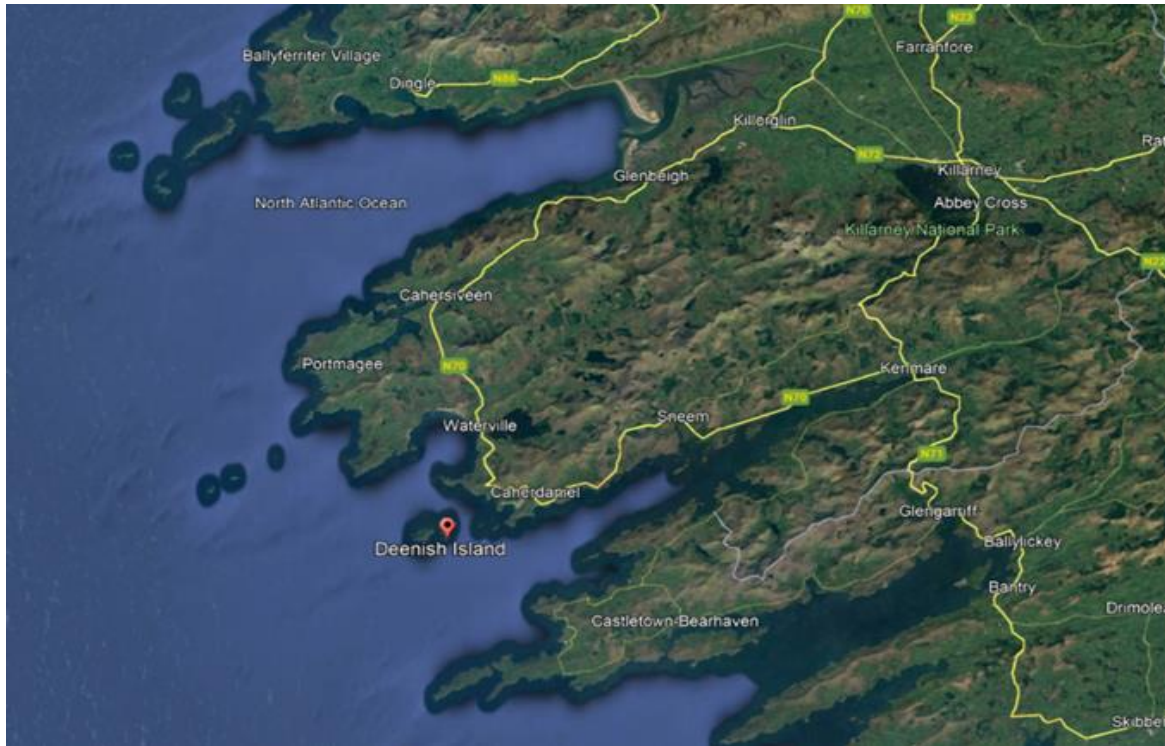


Figure 1: Location of Deenish Island (image courtesy of Google Maps)



Figure 2: Deenish aquaculture site T06/202 (received from AFMD 14 May 2025)

3.1.1 Water Quality

The Water Framework Directive (WFD) is an EU directive that requires member states, including Ireland, to protect and improve water quality to achieve what is called ‘good ecological status’. The WFD classifies surface waters into five categories (High, Good, Moderate, Poor, Bad) based on ecological and chemical status.

The 2016-2021 WFD status of the Waterbody in which the Deenish site is located is classified as High. While the status of the Outer Kenmare River’s Coastal Waterbody is classified as Good (see figure 3).

WFD Coastal and Transitional Waterbodies in the vicinity of the Deenish site, determination of risk can be seen in figures 4 and 5. This classification identifies Waterbodies that are at risk of deteriorating or being at less than good status by 2027.

And finally, the 2018 to 2020 Water Quality Report levels in the vicinity of the Deenish site can be seen in figure 6.

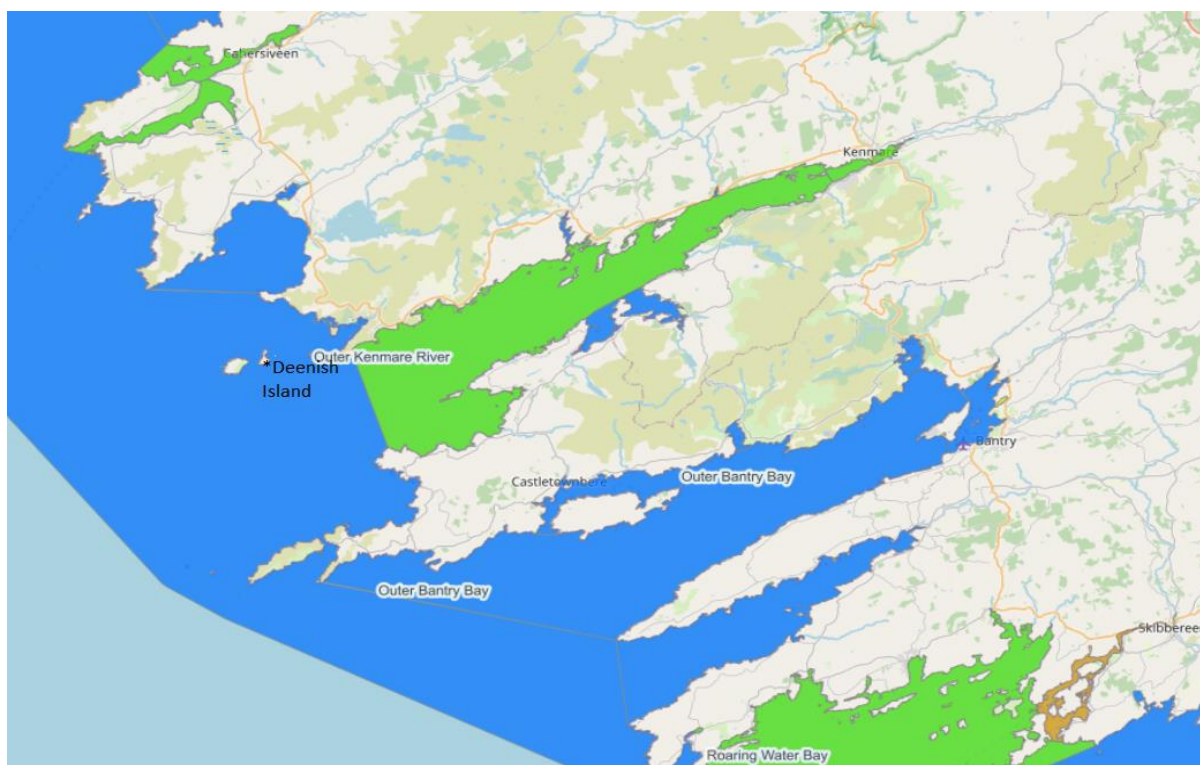


Figure 3: Coastal and Transitional Waterbody WFD Status 2016-2021

Blue is high, Green is good, (yellow is moderate) and Orange is poor. Source EPA maps.

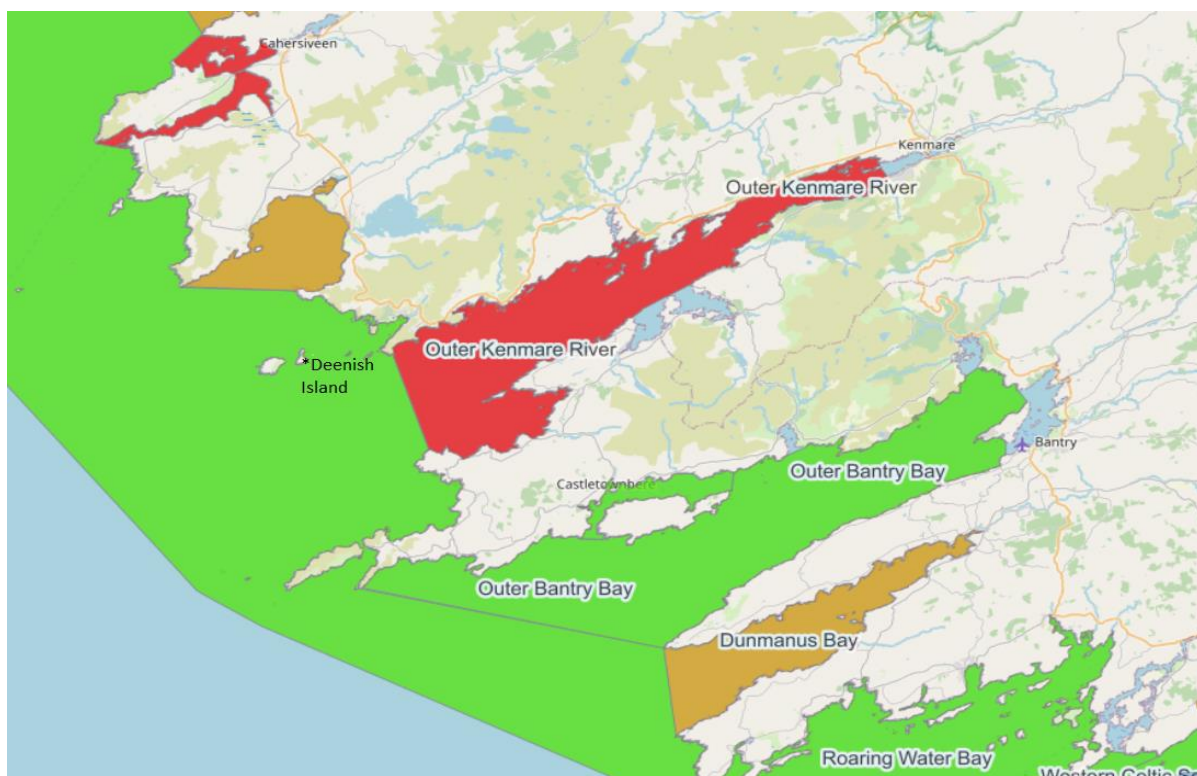


Figure 4: WFD Coastal Waterbodies Risk – Waterbodies that are at risk of deteriorating or being at less than Good status by 2027. Red is at risk, Green is not at risk and Orange is review. Source EPA maps.

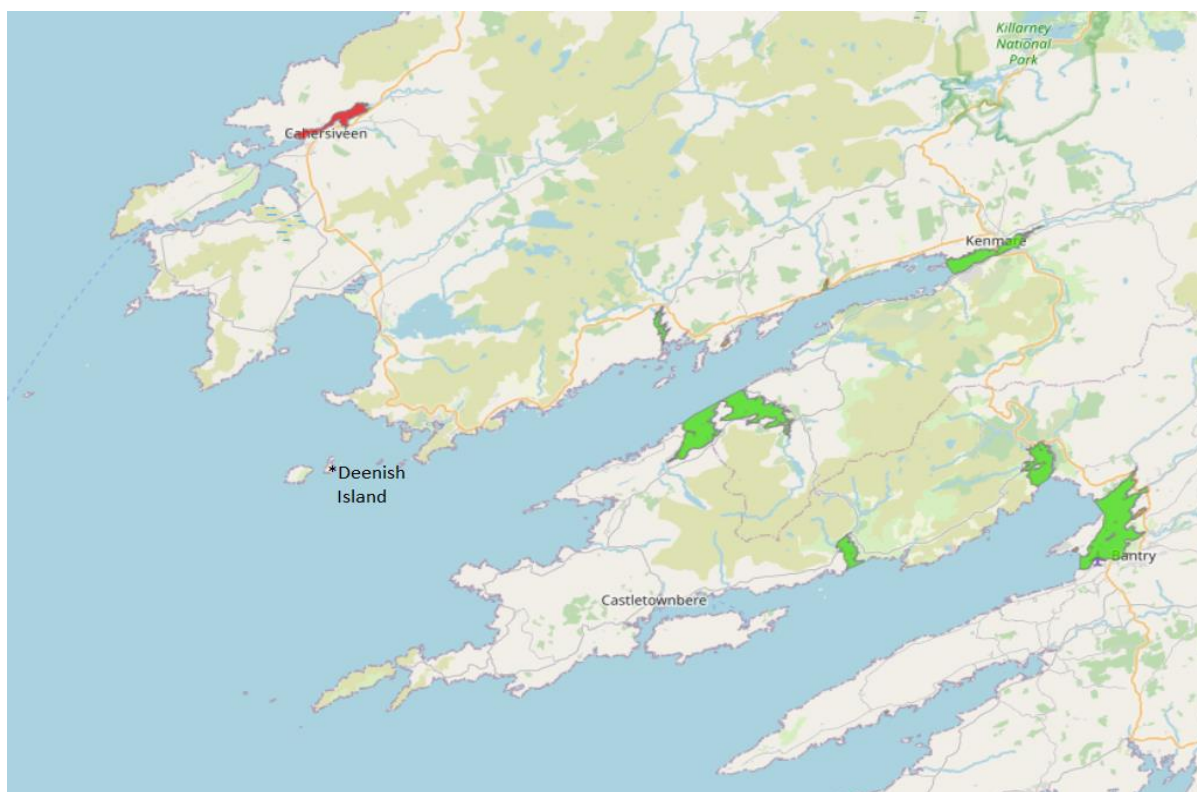


Figure 5: WFD Transitional Waterbodies Risk – Waterbodies that are at risk of deteriorating or being at less than Good status by 2027. Red is at risk and Green is not at risk. Source EPA maps.



Figure 6: Coastal Water Quality levels under the Water Quality Report 2018-2020. Blue is unpolluted, Green is intermediate, (Yellow is potentially eutrophic and Red is eutrophic). Source EPA maps.

3.1.2 Population

Deenish Island and the nearby Scariff Island are uninhabited. Towns in the vicinity of the site include Waterville, Sneem and Kenmare. The populations of these towns, according to the 2022 census were 555, 386 and 2,566 respectively. However, the surrounding area sees an increase in population during the summer months.

The Wastewater treatment plants (WWTP) of Waterville, Sneem and Kenmare are deemed to have sufficient capacity for their populations. However, according to information on Uisce Éireann's website the nearby Dungeagan/Ballinskelligs WWTP has no spare capacity at present.

3.1.3 Land Use

Agriculture is the predominant land use in the vicinity of the site.

3.1.4 Weather

Valentia observatory is the nearest weather station some 20km north of the site. The observatory carries out surface weather and upper-air meteorological measurements, as well as a wide range of other scientific activities including ozone monitoring, geomagnetics, seismology, solar radiation and environmental monitoring.

Valentia Observatory experiences significantly higher rainfall compared to most other parts of Ireland and the predominant winds are westerly.

Valentia Observatory generally experiences milder temperatures compared to other parts of Ireland due to its location on the coast and the influence of the Gulf Stream. Valentia generally has higher average temperatures and more sunshine when compared to Dublin and other inland locations.

3.2 Resource Users

Fishing and aquaculture activities in Kenmare Bay include pot fishing for crab/brown crab, lobster and shrimp and a larger scale shrimp fisheries occur in the inner Kenmare River.

Pair trawling for sprat also occurs in the area.

3.3 Statutory Status

3.3.1 Nature Conservation Designations

Special Areas of Conservation (SAC)

The Deenish licence AQ199 for site T06/202 which is the subject of the appeal before ALAB is within the Kenmare River SAC (site code: 002158) and the two closest SACs are the Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (5km distance and site code IE000365) and the Ballinskelligs Bay and Inny Estuary SAC (5.2km distance and site code IE000335).

The Qualifying Interests for the Kenmare River SAC are:

- Large shallow inlets and bays [1160]
- Reefs [1170]
- Perennial vegetation of stony banks [1220]
- Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]
- Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) [2120]
- Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]
- European dry heaths [4030]
- Juniperus communis* formations on heaths or calcareous grasslands [5130]
- Calaminarian grasslands of the *Violetalia calaminariae* [6130]
- Submerged or partially submerged sea caves [8330]
- Vertigo angustior* (Narrow-mouthed Whorl Snail) [1014]
- Rhinolophus hipposideros* (Lesser Horseshoe Bat) [1303]
- Phocoena phocoena* (Harbour Porpoise) [1351]
- Lutra lutra* (Otter) [1355]
- Phoca vitulina* (Harbour Seal) [1365]

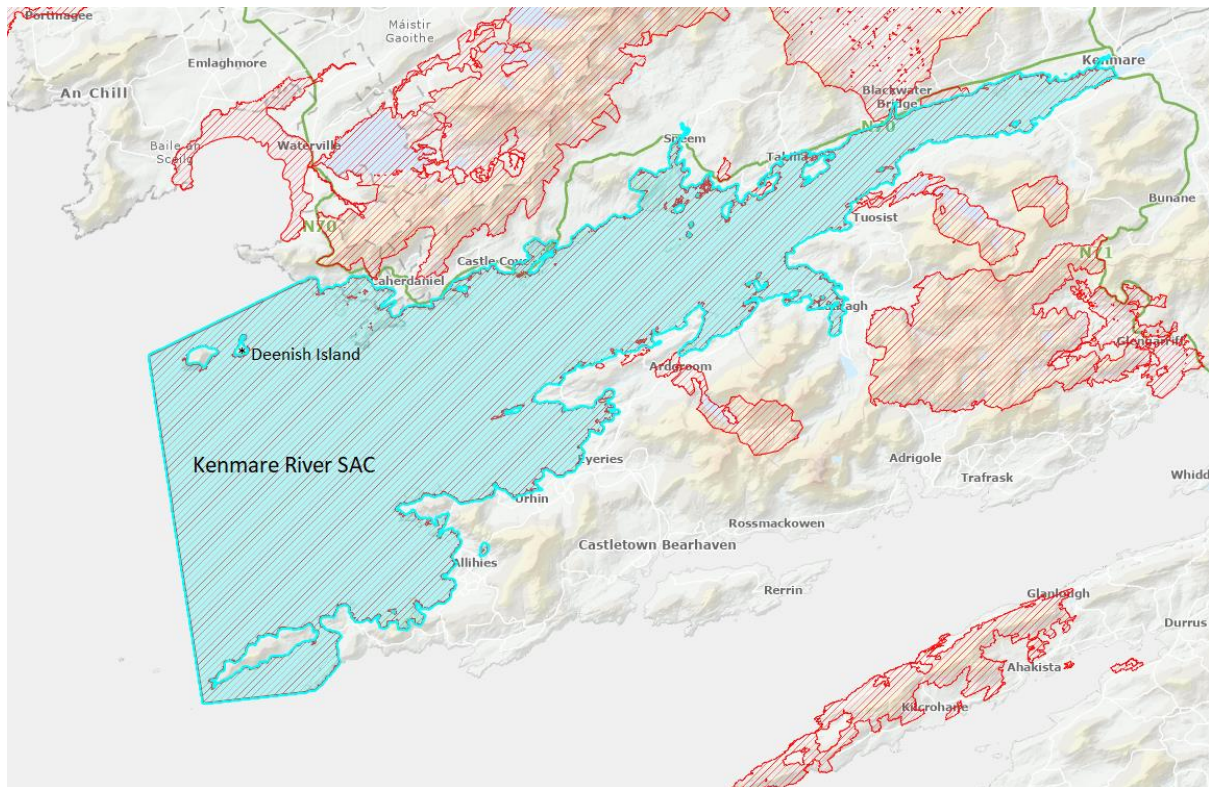


Figure 7: Boundary of Kenmare River SAC in blue and adjacent SACs in red. (Source: NPWS Designations viewer, 12 June 2025).

Special Protected Areas:

The Deenish licence site area which is the subject of this appeal is within the Deenish Island and Scariff Island SPA (site code IE002158), 3.3km from the Iveragh Peninsula SPA (site code IE004154), 10.5km from the Beara Peninsula SPA (site code IE004155), 16km from the Puffin Island SPA (site code IE004003), 16.5km from the Bull and The Cow Rocks SPA (site code IE004066) and 20km from the Skelligs SPA (site code IE004007).

The Qualifying Interests for the Deenish Island and Scariff Island SPA are:

- Fulmar (*Fulmarus glacialis*) [A009]
- Manx Shearwater (*Puffinus puffinus*) [A013]
- Storm Petrel (*Hydrobates pelagicus*) [A014]
- Lesser Black-backed Gull (*Larus fuscus*) [A183]
- Arctic Tern (*Sterna paradisaea*) [A194]

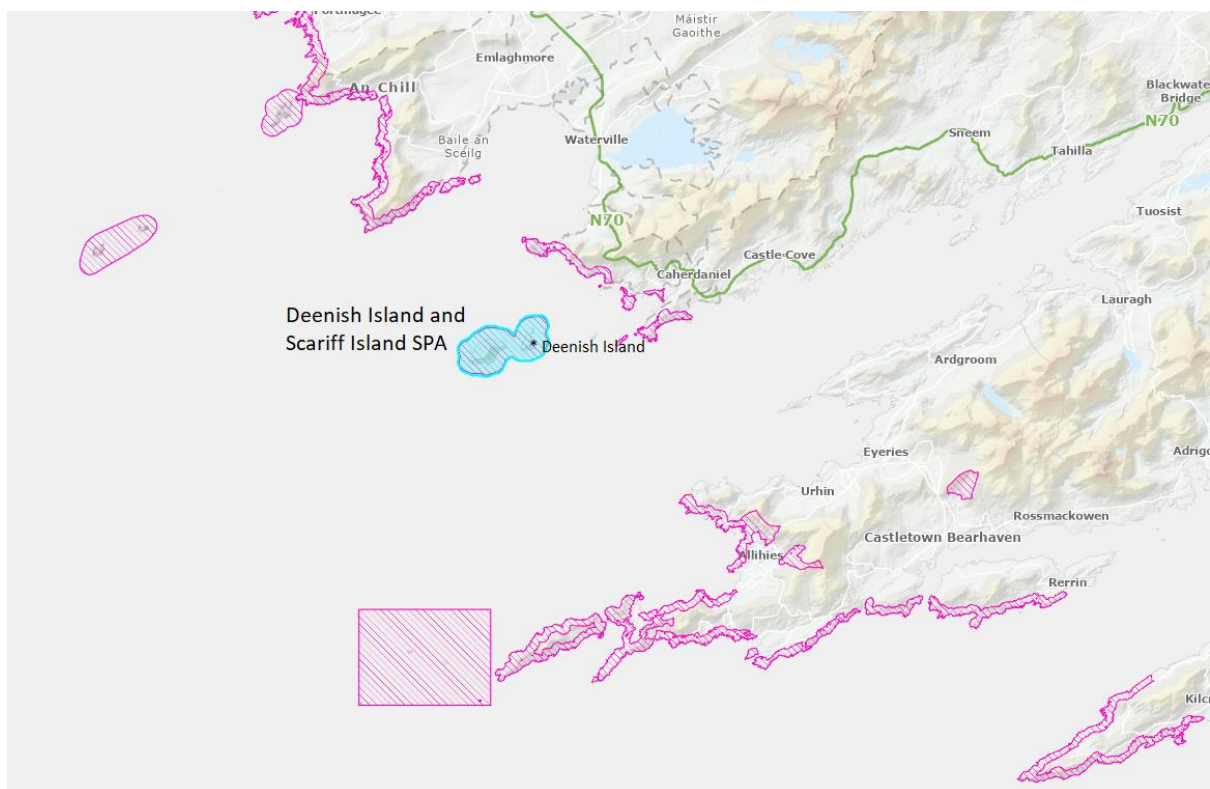


Figure 8: Boundary of Deenish Island and Scariff Island SPA in blue and adjacent SACs in pink. (Source: NPWS Designations viewer, 12 June 2025).

3.3.2 Protected Species

Below is a Table listing all recorded threatened and protected species in a 10km grid of the Deenish site as of 04 June 2025. Data taken from the Biodiversity Ireland website.

Species group	Species name	Record count	Date of last record
bird	Arctic Tern (<i>Sterna paradisaea</i>)	1	31/07/1991
bird	Atlantic Puffin (<i>Fratercula arctica</i>)	1	31/07/1991
bird	Barn Swallow (<i>Hirundo rustica</i>)	3	31/12/2011
bird	Black Guillemot (<i>Cepphus grylle</i>)	6	31/12/2011
bird	Black-legged Kittiwake (<i>Rissa tridactyla</i>)	4	31/12/2011
bird	Common Guillemot (<i>Uria aalge</i>)	5	31/12/2011
bird	Common Kestrel (<i>Falco tinnunculus</i>)	2	31/07/1991
bird	Common Linnet (<i>Carduelis cannabina</i>)	1	31/07/1972
bird	Common Starling (<i>Sturnus vulgaris</i>)	1	29/02/1984
bird	Common Tern (<i>Sterna hirundo</i>)	2	31/07/1991
bird	Eurasian Oystercatcher (<i>Haematopus ostralegus</i>)	7	31/12/2011
bird	European Shag (<i>Phalacrocorax aristotelis</i>)	10	15/10/2021
bird	European Storm-petrel (<i>Hydrobates pelagicus</i>)	3	31/12/2011
bird	Great Black-backed Gull (<i>Larus marinus</i>)	10	31/12/2011
bird	Great Cormorant (<i>Phalacrocorax carbo</i>)	5	31/12/2011

bird	Great Northern Diver (<i>Gavia immer</i>)	3	31/12/2011
bird	Herring Gull (<i>Larus argentatus</i>)	10	31/12/2011
bird	Lesser Black-backed Gull (<i>Larus fuscus</i>)	10	31/12/2011
bird	Manx Shearwater (<i>Puffinus puffinus</i>)	18	31/12/2011
bird	Mew Gull (<i>Larus canus</i>)	1	21/08/1995
bird	Northern Gannet (<i>Morus bassanus</i>)	34	31/12/2011
bird	Northern Wheatear (<i>Oenanthe oenanthe</i>)	2	31/12/2011
bird	Peregrine Falcon (<i>Falco peregrinus</i>)	1	31/12/2011
bird	Razorbill (<i>Alca torda</i>)	3	15/10/2021
bird	Red-billed Chough (<i>Pyrrhocorax pyrrhocorax</i>)	6	31/12/2011
bird	Red-throated Diver (<i>Gavia stellata</i>)	1	29/02/1984
bird	Rock Pigeon (<i>Columba livia</i>)	1	31/07/1972
bird	Sky Lark (<i>Alauda arvensis</i>)	1	31/07/1972
cartilaginous fish (Chondrichthyes)	Basking Shark (<i>Cetorhinus maximus</i>)	4	17/04/2014
flowering plant	Chamomile (<i>Chamaemelum nobile</i>)	1	31/12/1999
insect - butterfly	Dark Green Fritillary (<i>Argynnis aglaja</i>)	1	29/07/2019
insect - butterfly	Grayling (<i>Hipparchia semele</i>)	1	29/07/2019
insect - butterfly	Marsh Fritillary (<i>Euphydryas aurinia</i>)	1	31/12/1975
insect - butterfly	Wall (<i>Lasiommata megera</i>)	1	31/08/1976
marine mammal	Common Dolphin (<i>Delphinus delphis</i>)	16	17/09/2023
marine mammal	Common Porpoise (<i>Phocoena phocoena</i>)	7	18/09/2022
marine mammal	Grey Seal (<i>Halichoerus grypus</i>)	6	06/06/2012
marine mammal	Humpback Whale (<i>Megaptera novaeangliae</i>)	1	07/03/2023
marine mammal	Long-finned Pilot Whale (<i>Globicephala melas</i>)	1	19/03/1988
marine mammal	Minke Whale (<i>Balaenoptera acutorostrata</i>)	11	02/06/2022
marine mammal	Risso's Dolphin (<i>Grampus griseus</i>)	1	18/06/2010
mollusc	Kerry Slug (<i>Geomalacus (Geomalacus) maculosus</i>)	3	31/12/1965
reptile	Common Lizard (<i>Zootoca vivipara</i>)	1	29/07/2019
reptile	Leathery Turtle (<i>Dermochelys coriacea</i>)	2	08/10/2014
terrestrial mammal	Red Deer (<i>Cervus elaphus</i>)	1	31/12/2008

3.3.3 Statutory Plans

Statutory plans in existence at the time of the breach and the Minister's decision include the Kerry County Development Plan 2015-2021.

Current statutory plans include the Kerry County Development Plan 2022-2028.

The Kerry County Development Plan 2015-2021 was adopted on 16 February 2015. Objectives relevant to aquaculture include:

- NR-20 Support and promote the sustainable development of the aquaculture sector in order to maximise its contribution to employment and growth in coastal

communities and the economic wellbeing of the County, while ensuring environmental protection through the implementation of the objectives and Development Management, Guidelines and Standards of this Plan.

- NR-21 Support the sustainable use of existing port facilities for the catching and processing of fish as an economic activity that contributes to the food industry in the County.
- NR-22 Support added-value marine and freshwater foods and service industries in a sustainable manner and at appropriate locations where they comply with the general policies and development management standards of this plan.
- NR-27 Support the sustainable development of marine aquaculture and fishing industries and its diversification at appropriate locations having regard to the requirements of the EU Water Framework Directive, the relevant River Basin Management Plans, the Habitats Directive, the integrity of the Natura 2000 network and visual amenity.
- RD-41 Sustainably develop and improve ports, harbours, piers, slipways and associated shore facilities and access, at appropriate locations. This includes those that can be shared by leisure, tourism, fishing, renewable energy and aquaculture and where it can be demonstrated that the development will not have significant adverse effects on the environment including the integrity of the built, natural or cultural heritage.
- NE-53 Take an ecosystems-based approach to the assessment of the potential impact of development proposals on coastal and maritime areas. In assessing the impact that development would have on coastal and maritime natural heritage values, the Council will take a precautionary approach, and proposals will be required to demonstrate that there will be no likely significant adverse impact on key environmental attributes. Development proposals shall comply with all relevant objectives and standards of this plan including those relating to biodiversity and environmental assessment.
- NE-56 Co-operate with adjoining local/ planning authorities in promoting sustainable coastal zone management in a particular area, where the identification of coastal zone units involves crossing administration boundaries.

The Kerry County Development Plan 2022-2028 came into effect on the 15 August 2022. Objectives relevant to aquaculture include:

- KCDP 9-75 Support and promote the sustainable development of the marine and aquaculture sectors.
- KCDP 9-76 Facilitate and support sustainable aquaculture developments where the cumulative effects of existing and proposed aquaculture developments will not have a significant negative effect on the visual amenity of the area.

- KCDP 9-77 Support the sustainable use of existing port facilities for the catchments and processing of fish as an economic activity that contributes to the food industry in the County.
- KCDP 9-78 Support added-value marine and freshwater foods and service industries in a sustainable manner and at appropriate locations where they comply with the general policies and development management standards of this plan.
- KCDP 9-79 Support the protection of water quality, key habitat, and other natural resource requirements necessary to safeguard coastal, estuarine and freshwater fisheries.
- KCDP 9-81 Support the existing diverse nature of the marine sector in Kerry, and identify and promote sustainable growth opportunities, while protecting European sites. This shall be achieved through engagement and partnership with the relevant agencies, sectoral representatives and local communities.
- KCDP 9-82 Ensure that proposals for economic development associated with the marine sector are cognisant of the sensitivities of Kerry's coastal locations and that relevant environmental issues are appropriately considered.
- KCDP 9-84 Support the export, fisheries, marine tourism and marine economy potential of ports and harbours in the county. All development proposals will be subject to environmental assessment, implementation of mitigation measures outlined in applicable SEAs and AAs and feasibility studies to establish that any expansions can be achieved without adverse effects on any European sites and within the carrying capacity of the receiving environment of the ports.
- KCDP 9-85 Facilitate the sustainable development of the fisheries and aquaculture and support its diversification at appropriate locations having regard to best environmental practice to maximise its contribution to employment and the economic well-being of rural coastal communities.
- KCDP 11-46 Take an ecosystems-based approach to the assessment of the potential impact of development proposals on coastal and maritime areas. Proposals will be required to demonstrate that there will be no likely significant adverse impact on key environmental attributes.
- KCDP 11-47 Support and implement the objectives of the National Marine Planning Framework 2021 (NMPF).
- KCDP 11-48 Ensure alignment, and consistency between land use and ocean-based planning, and to ensure co-ordination, which supports the protection of the marine environment and the growth of the marine economy.
- KCDP 11-50 Support and promote investment and the sustainable development and improvement of marine infrastructure to maximise its contribution to employment and growth in coastal communities.

To note aquaculture licence site T06/202 is not in a designated shellfish growing water area (see section 3.3.4).

3.3.4 Water Quality Status

Water Framework Directive

The Status of the relevant waterbodies being considered here under the Water Framework Directive are discussed above under Section 3.1.1.

Shellfish Designated Waters

Following the European Council Directive 79/923/EEC on the quality required of shellfish waters and the numerous subsequent amendments to this directive, a codified version was produced - Directive 2006/113/EC on the quality required of shellfish waters. This directive sets out physical, chemical and microbiological parameters and regulations for the designation and sampling of Shellfish Designated Waters to protect or improve these waters in order to support shellfish (bi-valve and gastropod molluscs) life and growth, the directive also provides for the establishment of pollution reduction programmes for designated waters and thus, contribute to the high quality of shellfish products directly edible by man.

The Deenish site is not located in a Designated Shellfish Water under SI No 268 of 2006 European Communities (Quality of Shellfish Waters) Regulations 2006 (as amended). It is however 12.6 and 24.2 km respectively from the Kenmare River/Sneem/Ardgroom and the Castletownbere designated Shellfish Growing Water Areas (see figure 9). The Kenmare River/Sneem/Ardgroom Shellfish Growing Area was designated on the 31 October 2006 and the Castletownbere Shellfish Growing Water Area was designated on the 13 February 2009.

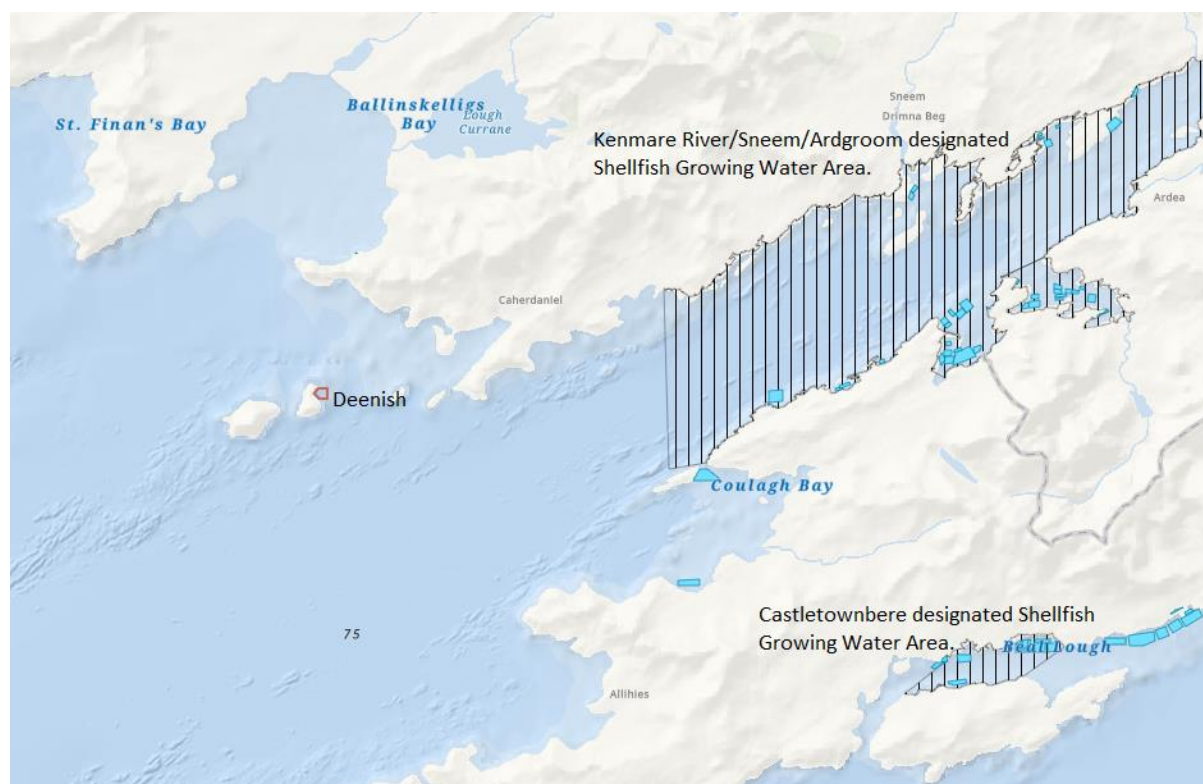


Figure 9: Adjacent designated Shellfish Growing Water Areas in black hatched lines (Source: Aquamis viewer, 04 June 2025).

3.4 Man-made heritage

A search of the Archaeological Survey of Ireland's [Historic Environment Viewer](#) [Accessed 04/06/2025] identified a number of land based features of historical importance on Scariff Island and on the mainland but none on Deenish Island. And a search of the 'wreck viewer' layer identified several shipwrecks in the vicinity of the island (see figures 10 and 11).

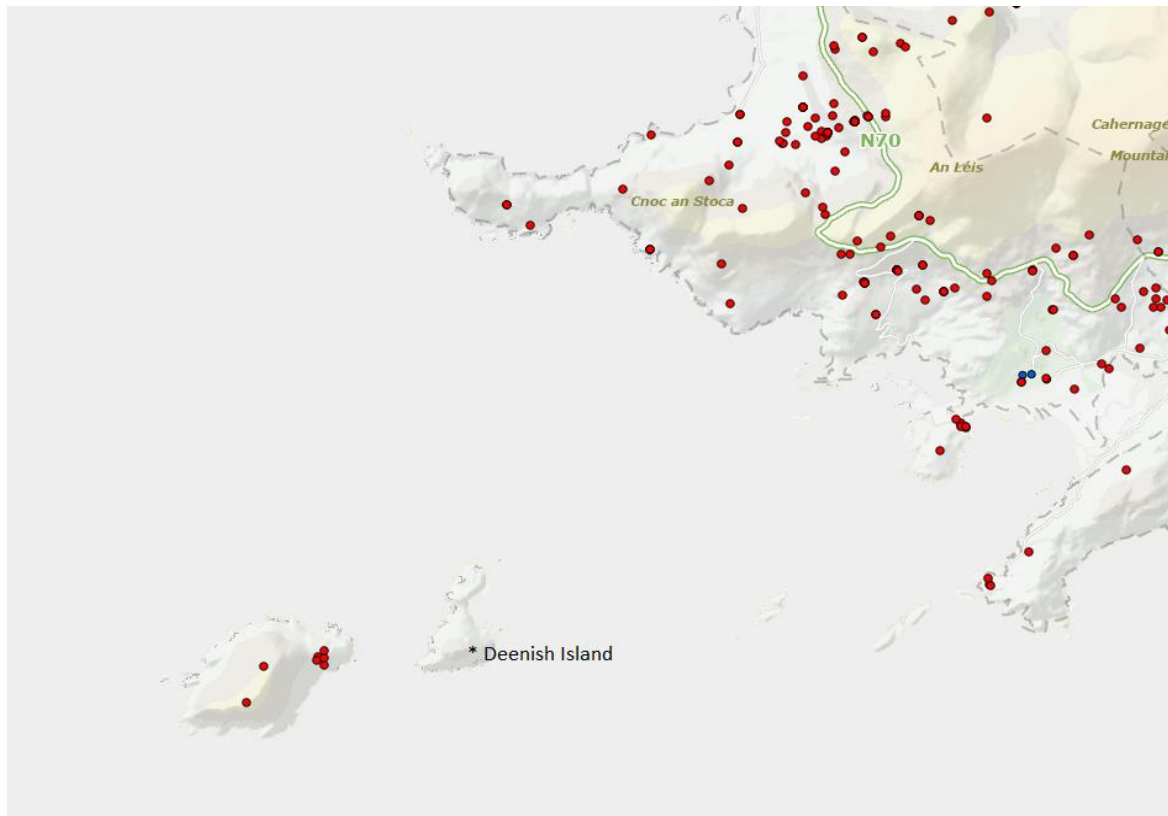


Figure 10: Land based features of historical importance in the vicinity of Deenish Island
Source: archaeology.ie historic environment viewer

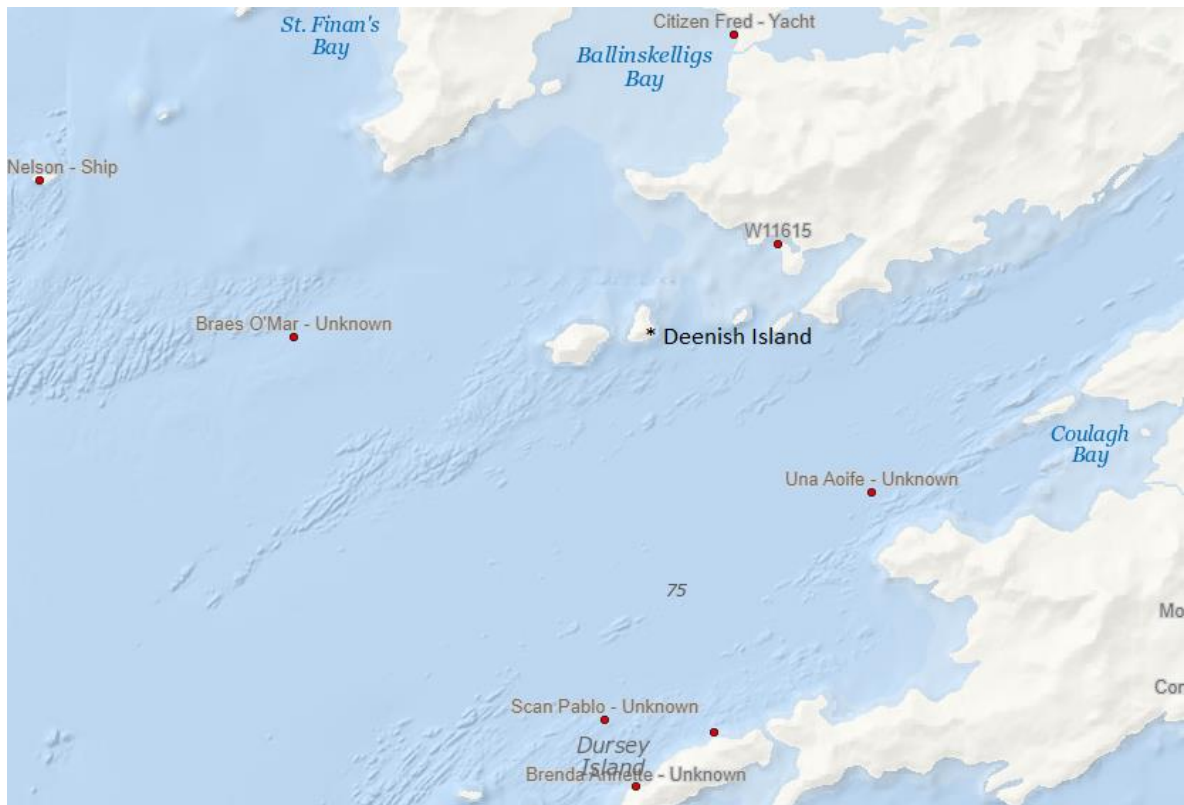


Figure 11: Shipwrecks in the vicinity of Deenish Island

Source: archaeology.ie historic environment viewer

4.0 Section 46 and 47 Notices and Submissions received

Section 46 of the Fisheries (Amendment) Act 1997 enables the Board to request that a party to the appeal or other person who has already made submissions/observations to the Board to make submissions /observations in relation to a matter which has arisen in relation to the appeal.

Section 47 of the Act enables the Board to request documents, particulars or other information that it deems necessary to enable it to determine an appeal from a party or other person who has made submissions or observations to the Board in relation to the appeal.

The following Section 46 and Section 47 Notices have been sent from ALAB in relation to the Deenish Appeal and the following Submissions received.

4.1 Section 46 Notices and Submissions

S46 request sent to Mowi sent on 16 December 2019 and response received 14 January 2020

ALAB enquired as to whether Mowi continue to maintain that the Board is entitled to consider and determine the Appeal.

Mowi responded that following receipt of the Minister's Opposition Papers (in which the Minister asserted that ALAB does have jurisdiction to entertain and determine the appeal) and following discussions between the Minister's and Mowi's legal representatives, it was

agreed that a legal stay should be lifted to enable ALAB to consider and determine the Appeal in accordance with the law. Mowi accepted that ALAB had jurisdiction to consider and determine the Appeal.

S46 request sent to DAFM 10 February 2020 and response received on the 03 March 2020.

ALAB submitted that the Minister's determination was not a decision of the Minister on an application for an aquaculture license or the revocation or amendment of an aquaculture licence, within the meaning of section 40 of the Fisheries (Amendment) Act 1997 (the "1997 Act"), and that the Board does not, therefore, have jurisdiction to consider or determine the appeal. However, before making its decision in this regard, pursuant to section 46 of the 1997 Act and as may otherwise be required by law, the Board requests their submissions or observations on this matter within 30 days beginning on the date of service of this notice

DAFM responded that they would be grateful if ALAB would furnish submissions or observations received from Silver King Seafoods Ltd. (then Marine Harvest Ireland) if the Board considers that that is appropriate to do so.

DAFM provided a comprehensive response outlining the history of the case leading up to the date of the revocation of the licence and its position on ALAB's jurisdiction to determine the appeal.

S46 request sent to DAFM 21 December 2023 and response received 12 February 2024

ALAB provided a link to the Deenish file on its website (the schedule of documents) and requested submissions and observations on these documents from DAFM.

DAFM responded that they had provided the Ministerial file on 11 December 2019 and that they had no additional submissions or observations to make in relation to the Ministerial decision.

S46 request sent to observers 21 December 2023 and response received 7 February 2024 from Galway Bay Against Salmon Cages (GBASC) and 19 January 2024 from Salmon Watch Ireland (SWI)

ALAB provided a link to a schedule of documents and requested submissions and observations on these documents from GBASC and SWI.

GBASC provided a submission on the 06 February 2024 in which they requested that ALAB reject the appeal against the minister's decision.

The response by GBASC reiterates their concerns that allowing the appeal would set a very negative precedent where salmon operators would not be sanctioned for breaching the conditions of their licences and refer to the Minister's submissions in this respect.

GBASC also raise general concerns in relation to diseases (triggered by stress factors such as sea lice, jellyfish, handling, pesticide treatments and toxic algal blooms), the risk of escapes and impacts on the Lough Currane and Waterville fisheries.

The response by SWI raises concerns regarding overstocking and harvest tonnage and submits that there is a clear breach of the licence conditions, and this is the only factor which should be considered.

SWI also comments generally on concerns regarding the environmental assessment carried out by Aquafact, sea lice, SACs not included in the EIA, amoebic gill disease and escapes and regarding sea trout stocks in the Waterville and Kenmare River systems.

SWI make a supplementary submission concerning the legal jurisdiction of ALAB and this is a matter for the Board.

SWI also state that they wish to draw ALABs attention to the pre-harvest figure of 1.862.91 tonnes HOG for 2016.

The current ALAB TA is in agreement that environmental impacts are associated with the operation of marine-based salmon farms. An assessment of the potential and observed environmental and ecological impacts, as a result of the breach of Condition 2(e) of licence AQ 199, was carried out by the ALAB TA in April 2024. The report addressed:

1. Impacts on benthos, both directly under the site and nearby,
2. Impacts on surrounding water quality, including status under the Water Framework Directive,
3. Potential for an increase in disease and pest risk including sea lice numbers,
4. Risk of introducing Invasive species,
5. Potential for an increased risk of escaped fish and the negative impacts of such and
6. Potential negative impacts on Protected species, habitats and sites, including those protected under the Birds and Habitats Directives

The TA found no evidence that the available data indicated an increased negative environmental or ecological impact due to the increased fish harvested from the Deenish Site T06/202 in 2016 under the headings examined (1 to 6 above).

The current TA agrees with the findings of the April 2024 TA report.

S46 request sent to Mowi 21 December 2023 and response received 22 January 2024

ALAB provided a link to the schedule of documents and requested submissions and observations on these documents from Mowi.

Mowi submitted sea lice data from the farm in relation to the third-party observations regarding sea lice.

4.2 Section 47 Notices and Submissions

S47 request sent to Mowi 24 June 2020 and response received 21 July 2020

ALAB requested all harvest records for the Deenish site.

Mowi responded by furnishing harvest records and details for the Deenish site.

The 2016 Annual harvested tonnage (pre-harvest stock) figure provided was 1,862.91 tonnes. While the 2018 Annual harvested tonnage (pre-harvest stock) figure provided was 1,793.74 HOG.

S47 request sent to DAFM 24 June 2020 and response received 22 July 2020

ALAB requested harvest records held by DAFM, information regarding the monitoring regime of harvest, a copy of DAFM's policy on harvest breaches and where no policy exists information regarding sites where annual harvests have been in excess. ALAB also requested details of any other licences which had been revoked, actions by the Minister in such cases, and details of any sanctions and or penalties in those cases.

DAFM responded that due to covid restrictions inspections were in electronic format only and they sent records for 2016 and 2018. They noted that all stocking records are provided by operator and not verified independently.

Copies of the submissions made by the Minister were attached and details of breaches and determinations made on 3 Mowi sites were furnished (Lough Altan, Inishfarnard, and Deenish). DAFM also provided a link to additional cases under consideration. They reiterated their view that the licence should be discontinued, and that the revocation is warranted due to the undisputed facts regarding excessive stock harvested.

S47 request sent to BIM 24 June 2020 and response received 19 August 2020

ALAB requested copies of records retained by BIM regarding harvest on the Deenish site.

BIM responded with harvest records from the Deenish site from the years 1993 to 2019.

S47 request sent to Marine Institute (MI) 24 June 2020 and response received 02 July 2020

ALAB requested copies of records retained by the Marine Institute regarding harvest on the Deenish site.

The Marine Institute responded confirming that they did not hold copies of any records regarding harvest at the site.

S47 request sent to Mowi 30 October 2020 and response received 03 November 2020

ALAB requested from Mowi any information regarding environmental survey reports and any other reports related to the pilot project period from 2012-2015.

Mowi responded with:

1. Deenish Fish Farm Benthic Monitoring Report, University of Stirling, 2010
2. Environmental Survey Beneath Finfish Cage at Deenish and Inisfarnard, Aquafact, July 2010
3. Environmental Survey Beneath Finfish Cages at Deenish and Inisfarnard, Aquafact, September 2012
4. Environmental Survey Beneath Finfish Pens at Deenish and Inisfarnard, Aquafact, August 2013
5. Environmental Survey Beneath Finfish Pens at Deenish, Aquafact, August 2014
6. Deenish 13S1 Stock Report, Marine Harvest, 20 January 2015

S47 request sent to the Marine Institute 30 October 2020 and response received 30 October 2020

ALAB requested scientific advice on the use of Maximum allowable biomass as assessed in terms of Standing stock biomass and Annual benthic review documents.

The Marine Institute responded with a briefing paper on Maximum allowable biomass and provided the MI Annual benthic review documents for the period.

S47 request sent to Mowi 23 April 2021 and response received 23 April 2021

ALAB requested the most recent Deenish Environmental Impact Assessment report.

Mowi responded with an Environmental Impact Assessment report completed in December 2020. The report was completed by Aquafact and comprises of volumes 1 (non-technical report) and 2 (main report).

S47 request sent to the Marine Institute 07 March 2023 and response received 03 April 2023

ALAB requested all Deenish benthic review documents from the Marine Institute.

The Marine Institute responded with Deenish benthic reports from the years 2020 and 2021.

S47 request sent to Mowi 07 March 2023 and response received 10 March 2023

ALAB requested any Environmental Impact Assessment Reports (EIAR) completed subsequent to April 2021.

Mowi responded with an EIAR completed in June 2022. The report was completed by Aquafact and comprises of volumes 1 (non-technical report), 2 (main report) and 3 (appendices).

S47 request sent to Mowi 07 March 2024 and response received 03 April 2024

ALAB requested all environmental impact assessment survey reports from 2016 through to 2019 inclusive.

Mowi responded with Kenmare Bay Water Quality Monitoring reports from 2015 through to 2019 and with Benthic Monitoring reports from 2016, 2017, 2018 and 2019.

5.0 Section 61 Assessment

Section 61 (a-e) of the 1997 Act outlines the matters which the licensing authority shall take account of, as may be appropriate in the circumstances of a particular case, when an application for or an appeal regarding a decision on an aquaculture licence application or a revocation or amendment of a licence is being considered. This section is used to assess the impact of the proposed aquaculture development under these headings, which are listed in 5.1 – 5.9 below.

5.1 Site Suitability

Section 61 (a) refers to the suitability of the place or waters in which the aquaculture is proposed to take place.

The Deenish site lies to the eastern side of Deenish Island and as such is sheltered from westerly and southerly swells. The site is in a visually isolated area i.e. the site is not easily seen or noticed from other locations. The site has been in operation as a Salmon farm since 1989.

In my opinion the Deenish site is suitable in principle for salmon farming.

5.2 Other uses

Section 61 (b) takes account of other beneficial uses, both in existence or future in the place and / or waters of the proposed site.

It can be determined that there are and were in 2016, no other users of the Deenish site maritime area. (see section 3 for more detail).

5.3 Statutory Status

Section 61 (c) refers to the statutory status of the place or waters under consideration including the provisions of any development plan.

The relevant Kerry County Development Plan Objectives are set out in section 3.3.3 and range from supportive to restrictive of aquaculture in the county. None of the objectives are determinative as to whether the given aquaculture should be located at site T06/202 and in particular at the stocking levels associated with the harvested tonnage in 2016.

Aquaculture licence site T06/202 which is the subject of the appeal before ALAB is within the Kenmare River SAC (site code: 002158) and the two closest SACs are the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (5km distance and site code IE000365) and the Ballinskelligs Bay and Inny Estuary SAC (5.2km distance and site code IE000335).

Aquaculture licence site T06/202 which is the subject of the appeal before ALAB is within the Deenish Island and Scariff Island SPA (site code IE002158), 3.3km from the Iveragh Peninsula SPA (site code IE004154), 10.5km from the Beara Peninsula SPA (site code IE004155), 16km from the Puffin Island SPA (site code IE004003), 16.5km from the Bull and The Cow Rocks SPA (site code IE004066) and 20km from the Skelligs SPA (site code IE004007).

Possible ecological impacts on European sites have been considered in the context of Appropriate Assessment reports from the years 2012 through to 2019 – see section 5.5.

Aquaculture licence site T06/202 is not in a designated shellfish growing water area (see section 3.3.4).

5.4 Economic effects

Section 61 (d) refers to the likely effect a proposed aquaculture development (or its amendment/revocation) would have on the economy of the area in which the aquaculture is to be located.

The existing project has a strong positive impact on the local economy, employing 4 full time on-site staff, 4 contract divers to carryout weekly inspections, a fish health inspector and net cleaning team is employed onsite on a 10 – 14-day cycle moving between farms, a contract haulage company engaged to transport the fish to Donegal and transport fish feed to farms, maintenance staff deployed when required and 3 full time site support staff employed in the Castletownbere monitoring station.

The project at the time of the 2019 Appeal being lodged, employed 6 full time staff and a number of contract and part-time processing staff.

The revocation of the entitlement to continue to operate at Deenish would be likely to have a significant direct negative effect on the current staff and on the economy of the local area.

It is determined that the project has and had in 2016, a positive impact on the local economy.

5.5 Ecological Effects

Section 61 (e) refers to the likely effect that the proposed aquaculture operation would have on wild fisheries, natural habitats and flora and fauna.

An assessment of the potential and observed environmental and ecological impacts, as a result of the breach of Condition 2(e) of licence AQ 199, was carried out by the ALAB TA in April 2024. The TA assessed all available environmental data in relation to the Deenish site from the years 2015 through to 2017. The subsequent report to the Board (dated 12 April 2024) addressed any measurable environmental or ecological impacts or both that would have resulted from the 2016 recorded harvest.

The report addressed:

- i. Impacts on benthos, both directly under the site and nearby,

- ii. Impacts on surrounding water quality, including status under the Water Framework Directive,
- iii. Potential for an increase in disease and pest risk including sea lice numbers,
- iv. Risk of introducing Invasive species,
- v. Potential for an increased risk of escaped fish and the negative impacts of such and
- vi. Potential negative impacts on Protected species, habitats and sites, including those protected under the Birds and Habitats Directives

The TA found no evidence that the available data indicated an increased negative environmental or ecological impact due to the increased fish harvested from the Deenish Site T06/202 in 2016 under the headings examined (categories i to vi above).

Benthic and water quality values did not show any declining values.

Sea lice showed an increase but only for one month and at a time of year where sea lice infestation is known to cause a reduced impact to wild fish.

There was no evidence of escape events, serious disease outbreaks or introductions of invasive species.

The TA went on to state that she had concerns regarding how robust and complete the Appropriate Assessment (AA) relating to Site T06/202 was in 2016.

I have reviewed the following Appropriate Assessment reports from the years 2012 through to 2019, for the purposes of considering possible ecological impacts on European sites as a result of the breach of condition 2(e) of licence AQ 199:

1. Natura Impact Statement, for salmon farm installation at Deenish Island, Watermark Aqua Environmental, June 2012
2. Report supporting Appropriate Assessment of Aquaculture and Fisheries Risk Assessment in Kenmare River SAC, October 2017
3. Report supporting Appropriate Assessment of Aquaculture and Fisheries Risk Assessment in Kenmare River SAC, March 2019 and the
4. Appropriate Assessment Conclusion Statement by Licensing Authority for aquaculture activities in Kenmare River SAC, September 2019

Natura Impact Statement, for salmon farm installation at Deenish Island, Watermark Aqua Environmental, June 2012:

The NIS considers the risks of direct impacts on the [at the time candidate] Kenmare River SAC and also on the Deenish Island and Scariff Island SPA. The report also considers the possibility of indirect risks on all other European site within a 20km radius.

The report finds no risks to Otter, Harbour Seal and Lesser horseshoe bat in the candidate Kenmare River SAC as it is stated that none are recorded as inhabitants in the vicinity of Deenish or Scariff Islands.

Haul-outs of Harbour and Grey seal are regarded as being too far away from the Deenish farm site for risks of direct impacts to be considered significant.

The report states that the Deenish farm site occupies no more than 3% of the Deenish Island and Scariff Island SPA marine area designated and the nesting areas of the protected species are on the opposite side of both the Deenish Island and Scariff Islands. The report then concludes that there is no significant risk of impact on seabirds as a result of spatial obstruction, noise and activity, smell, waste discharges or any other cause arising from the Deenish salmon farm.

The conclusions of the June 2012 NIS are representative of marine environment NISs carried out at that time.

The ALAB Board determined at its meeting on the 31 October 2012 to grant a two-year amendment to Aquaculture Licence AQ199 which was assigned to Silver King Seafoods Limited, thereby permitting the cultivation of salmon at Deenish Island, Ballinskelligs Bay, Co Kerry subject to the enforcement of a number of special conditions in the Schedule attached to the said licence.

Report supporting Appropriate Assessment of Aquaculture and Fisheries Risk Assessment in Kenmare River SAC, October 2017:

The October 2017 report supporting AA of Aquaculture and Fisheries Risk Assessment in Kenmare River SAC is the most applicable report to the 2016 recorded harvest. The report assesses all aquaculture and fishing activities taking place in Kenmare Bay.

The report describes the Deenish and Inisfarnard projects and acknowledges the method of stocking that was taking place at the Deenish and Inisfarnard sites at the time, stating that 'The sites operate on a two-year annual alternate site stocking cycle, inputting 800,000 smolts, to each site alternately and harvesting them in year two from months 16 to 22. The site is then left fallow for two months before next smolt input.'

The Natura Impact Statement, contained within the report, outlines the impacts of marine finfish farms in terms of disease and parasite management and pressures in terms of nutrient exchange, organic enrichment, disease risk and shading.

The report carries out an aquaculture activity Screening for AA and the qualifying interests' Large shallow inlets & bays (1160), Reef (1170), Otter (1355) and Harbour Seal (1365) are included for further consideration.

Salmon in net pens is determined to be non-disturbing to Large shallow inlets & bays and Reef community types due to the low levels of overlap between the pens and these habitats (0.08% to 0.35%).

Salmon in net pens is also determined to be non-disturbing to Otter and Harbour seal.

The conclusions of the October 2017 report supporting AA of Aquaculture and Fisheries Risk Assessment in Kenmare River SAC are representative of Screenings for AA reports carried out at that time.

The report considers the likely interactions between a range of aquaculture activities and conservation features of the Kenmare River SAC. In relation to Habitats the general conclusions relating to the interaction between current and proposed aquaculture activities with habitats is that consideration can be given to licencing (existing and applications) in the Annex 1 habitats – 1160 (Large Shallow Inlets and Bays) and 1170 (Reefs) with the exception of activities overlapping *Zostera*-dominated community, Maerl-dominated community and *Pachycerianthus multiplicatus* community. And in relation to Species the current levels of licenced aquaculture (existing and renewals) are considered non-disturbing to Harbour seal conservation features with the exception of oyster farming in Coongar Harbour.

Report supporting Appropriate Assessment of Aquaculture and Fisheries Risk Assessment in Kenmare River SAC, March 2019:

The 2019 report supporting AA of Aquaculture and Fisheries Risk Assessment in Kenmare River SAC is an updated version of the 2017 report, and the conclusion are the same as the 2017 report.

Appropriate Assessment Conclusion Statement by Licensing Authority for aquaculture activities in Kenmare River SAC, September 2019:

The DAFM AA Conclusion Statement outlines how it is proposed to licence and manage all aquaculture activities in the Kenmare River SAC.

As the 2019 report supporting AA of Aquaculture and Fisheries Risk Assessment in Kenmare River SAC determined salmon in net pens to be non-disturbing to the Annex I habitats considered further i.e. Large shallow inlets & bays and Reef habitat and to the Annex II species considered further i.e. Otter and Harbour seal, no mitigation measures specific to the culture of Atlantic Salmon were provided.

The below 2 Mitigation measures are provided which more generally relate to the culture of Atlantic Salmon in net pens:

- The movement of stock in and out of the Kenmare River SAC should adhere to relevant fish health legislation will be required for all relevant sites and
- 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 will be required for all relevant sites.

Section 61 (e) Ecological Effects conclusion:

In conclusion it cannot be established, based on the assessment of the environmental data from 2015 through to 2017 (i to vi above) and following the assessment of AA reports from 2012 through to 2019 (1 to 4 above) that there were any increased ecological impacts as a result of the breach of Condition 2(e) in 2016.

It cannot be conclusively determined at this time that the breach of Condition 2(e) was not likely to have any effect on wild fisheries, natural habitats and flora and fauna, including any effects on the European sites referred to above.

Stage 1 Screening for AA and stage 2 AA is a matter for the Minister as part of the assessment of the current licence application before the Department.

5.6 General Environmental Effects

Section 61 (f) refers to the effect or likely effect on the environment generally in the vicinity of the place or water on or in which the aquaculture is to be carried on –

- (i) on the foreshore, or
- (ii) at any other place, if there is or would be no discharge of trade or sewage effluent within the meaning of and requiring a licence under section 4 of the Local Government (Water Pollution) Act, 1977.

Section 5.5 assesses the ecological impacts, as a result of the breach of Condition 2(e) of licence AQ 199, based on the assessment of environmental data from 2015 through to 2017 and following an assessment of AA reports produced between 2012 and 2019.

All categories of environmental data from 2015 through to 2017 are applicable to Section 5.6 General Environmental Effects.

It is therefore concluded that it cannot be established, based on the assessment of the environmental data from 2015 through to 2017 (i to vi in Section 5.5 above) that there were any increased environmental impacts as a result of the breach of Condition 2(e) in 2016.

It cannot be conclusively determined at this time that the breach of Condition 2(e) was not likely to have any effect on the environment generally in the vicinity of the place or water on or in which the aquaculture is to be carried on.

5.7 Effect on man-made heritage

Section 61 (g) considers the effect or likely effect on the man-made environment of heritage value in the vicinity of the place or waters.

It can be determined at this time that there are no effects or likely effects, currently or in 2016 from the Deenish project on the man-made environment of heritage value in the vicinity of the site. (see Section 3 for more details).

5.8 Section 61 Assessment Conclusions

- Section 61 (a): In my opinion the Deenish site is and was in 2016 suitable in principal for salmon farming.
- Section 61 (b): In my opinion there are and were in 2016 no other users of the Deenish site maritime area.
- Section 61 (c): In my opinion none of the objectives in the Kerry County Development Plan are determinative as to whether the given aquaculture should be located at site T06/202 and in particular at the stocking levels associated with the harvested tonnage in 2016.
- Section 61 (d): In my opinion the project has and had in 2016 a positive impact on the local economy.
- Section 61 (e): In my opinion it cannot be conclusively determined at this time that the breach of Condition 2(e) was not likely to have any effect on wild fisheries, natural habitats and flora and fauna, including any effects on European sites.
- Section 61 (f): In my opinion it cannot be conclusively determined at this time that the breach of Condition 2(e) was not likely to have any effect on the environment generally in the vicinity of the place or water on or in which the aquaculture is to be carried on.
- Section 61 (g): In my opinion there are no effects or likely effects, currently or in 2016 from the Deenish project on the man-made environment of heritage value in the vicinity of the site.

6.0 Conclusions of the Deenish Appeal Technical Advisor's Final Report

In my opinion the Deenish site is and was in 2016 suitable in principal for salmon farming, there are and were in 2016 no other users of the Deenish site, the Deenish project has and had in 2016 a positive impact on the local economy and there are no current likely effects or effects from the project in 2016 on the man-made environment of heritage value in the vicinity of the site.

In my opinion none of the objectives of the Kerry County Development Plan are determinative as to whether aquaculture should be located at the Deenish site and in particular at the stocking levels associated with the harvested tonnage in 2016.

In my opinion it cannot be conclusively determined at this time that the breach of Condition 2(e) was not likely to have had any effect on wild fisheries, natural habitats and flora and fauna, including any effects on European sites or on the environment generally in the vicinity of the place or water on or in which the aquaculture is to be carried out.

Senior Technical Advisor: Mary Hegarty, MSc.

Date: 08/07/25