

13th April 2018

Your Ref: AP2-4/2018 & AP5/2018

Our Ref: See table below

Mary O'Hara
Secretary to the Board
Aquaculture Licences Appeals Board
Kilminchy Court, Dublin Road
Portlaoise
Co. Laois.



Dear Mary

I wish to acknowledge receipt of your letter to Mr. Michael Creed T.D., Minister for Agriculture, Food and the Marine (and copied to Mr. John Quinlan) regarding the appeal against the decisions to grant Aquaculture and Foreshore Licences to

ALAB Reference	Our Reference	Applicant
AP2-4/2018	T12/37A1, A2, B1, B2, B3, B4, and C	Lough Swilly Shellfish Growers Co-Operative
AP5/2018	T12/343	Alan O'Sullivan

I am attaching the following documentation for each applicant as requested – application form, Environmental Impact Assessment screening document, Ministerial Determination in relation to EIS requirement, Submission to Minister for Aquaculture Licence, Submission to the Minister for Foreshore Licence, Notification of Minister's decision to the applicant, Publication of the Minister's decision in Donegal Democrat and Notification to ALAB of Minister's decision.

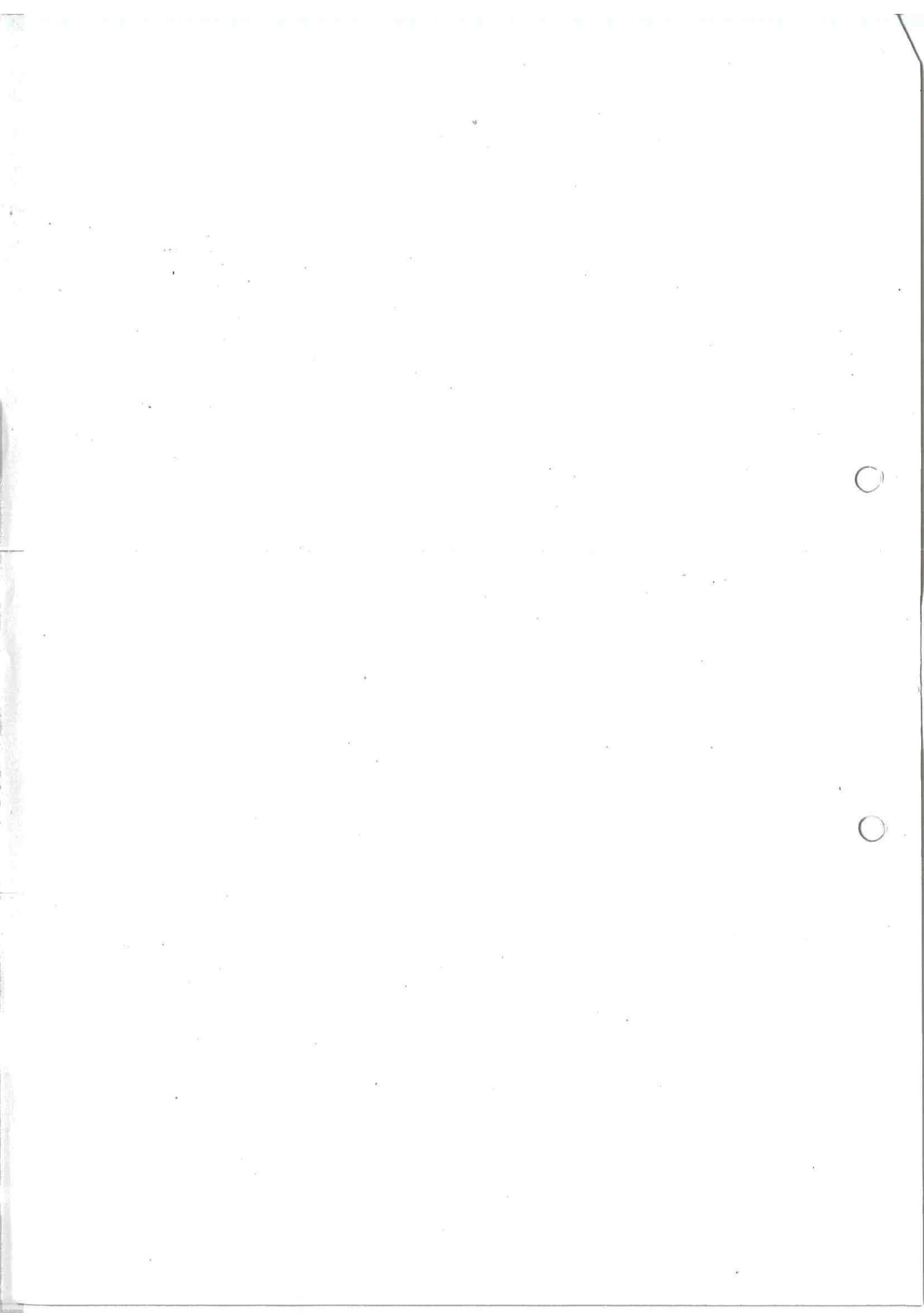
As all the appeals refer to sites in the same Bay (Lough Swilly) they are covered under the Appropriate Assessment for that Bay I am sending only one copy of the Appropriate Assessment and Conclusion Statement with map of sites attached. The sites are also all covered in an Archaeological Assessment from Mizen Archaeology and John Cronin & Associates, therefore I am attaching one copy of these documents also.

If you require anything further please let me know.

Yours sincerely



Eileen Maher
Aquaculture & Foreshore Management Division
National Seafood Centre
Clogheen, Clonakilty, Co. Cork
Phone: 023 8859505
Email: EileenM.Maher@agriculture.gov.ie





AQUACULTURE - LICENSING UNDER
FISHERIES (AMENDMENT) ACT, 1997
FORESHORE ACT, 1933

SHELLFISH AND FINFISH

Aquaculture and Foreshore Licence Application Form

Important Note

Section 4 of the Fisheries and Foreshore (Amendment) Act, 1998 (No. 54) prohibits any person making an application on or after 10 December 1998 for an Aquaculture Licence from commencing aquaculture operations until duly licensed under the Fisheries (Amendment) Act, 1997 (No. 23), and provides that a breach of that prohibition will cause the application to fail.

Coastal Zone Management Division
Department of Communications, Marine and Natural Resources
Leeson Lane, Dublin 2

Fax: (01) [REDACTED]
6782189

**AQUACULTURE AND FORESHORE LICENCE APPLICATION FORM, for purposes of
FISHERIES (AMENDMENT) ACT, 1997 and
FORESHORE ACT, 1933**

Accompanying Guidance Notes should be read before completing this form.

Note: Details provided in Parts 1 and 2 will be made available for public inspection. Details provided in Part 3 are confidential and are not for public disclosure.

Use block capitals in black ink

For Office Use
Application Ref. No. T12/343

Date of receipt, [Dept stamp]:



PART 1: PRELIMINARY DETAILS

Name(s) of Applicant(s) in full:	
1.A ALAN O' SULLIVAN.	
1.B	
Address(es) of Applicant(s) in full:	
1.A 18 BALLYMACCOOL WOOD	1.B
LETTERKENNY.	
CO. DONEGAL.	
Tel.:	Tel.: Fax:

1.C TYPE OF APPLICATION	<i>Insert X in relevant box</i>
Indicate the relevant type of application:	
- (i) Aquaculture Licence	<input checked="" type="checkbox"/>
- (ii) Trial Licence	<input type="checkbox"/>
- (iii) Review of Aquaculture Licence	<input type="checkbox"/>
- (iv) Renewal of Aquaculture Licence	<input type="checkbox"/>
- (v) Foreshore Licence	<input checked="" type="checkbox"/>
(This Application Form is valid for each type of application.)	

1.D TYPE OF AQUACULTURE	
Indicate the relevant type of aquaculture	
- (i) Land-based	<input type="checkbox"/>
- (ii) Marine-based	<input checked="" type="checkbox"/>
- Shellfish	
(iii) - extensive	<input type="checkbox"/>
(iv) - intensive	<input checked="" type="checkbox"/>
- (v) Finfish	<input type="checkbox"/>

The following documents are enclosed with this application:

(1) - Ordnance Survey Map (Scale of 1: 10,560, ie, a six inch map)

(2) - British Admiralty Chart (largest available scale)

(3) - Decision of planning authority under Planning Acts

(4) - Copy of licence under Section 4 of Local Government
Water Pollution) Act, 1977

(5) - Environmental Impact Statement

(6) - Drawing of the structures to be used and/or the layout of the farm

(7) - Water Quality Analysis Report (required for Land-based sites only)

(8) - Application Fee

(9) - Other (specify):

PART 2: DETAILS RELATING TO PROPOSED AQUACULTURE PROJECT

2.A Employment, Qualifications, Experience, etc.

(i) Details of Applicant's qualifications and experience in aquaculture:

SEVERAL YEARS EXPERIENCE IN ALL ASPECTS OF
FINFISH AND SHELLFISH FARMING.

(ii) Other relevant experience (courses attended, etc.):

DIPLOMA IN AQUACULTURE

(iii) Details of projected employment creation during first four years of proposed development:

INITIALLY OWNER OPERATOR, INCREASING TO TWO PERSONS.
FULL TIME IN YEAR THREE, AND TWO FULL TIME AND TWO
PART TIME IN YEAR FOUR

(iv) Projected employment (number of persons):

Year 1:	1	Year 2:	1	Year 3:	2	Year 4:	4
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2.B Aquaculture Site Details

Indicate type of site:

- (i) land-based
- (ii) marine-based

<input type="checkbox"/>
<input checked="" type="checkbox"/>

2.C Land-based Site

(To be completed if appropriate)

(i) State species to be farmed: _____

(ii) State proposed system of culture e.g., pond, raceway, circular tank or other method: _____

(iii) Full address of proposed site including townland and County: _____

(iv) Tonnage to be produced:

Year 1:		Year 2:		Year 3:		Year 4:	
---------	--	---------	--	---------	--	---------	--

(v) Proposed source of stock: _____

(vi) Name of river(s) supplying site with water: _____

(vii) Estimate drought flow in gallons per minute: _____

(viii) Is there a fall of 1.5 metres in the water level at the site or can this be obtained by damming the river without giving rise to flooding of your own or neighbour's land upstream of the site? _____

(ix) Area of proposed site (hectares) : _____

(x) Details of services available on the site e.g., main road access, electricity: _____

(xi) Are there at present any possible sources of pollution upstream of the site, e.g., discharge from sewerage plant, farmyard, sheep dip facility, silage effluent, quarry, sandpit or factory? YES NO

(xii) If yes, supply details: _____

Land-based Site (continued)

2.D The following must be supplied:

- (i) Sketch of the layout of the site in relation to the river(s), road(s) and buildings;
- (ii) Water Quality Analysis Report, which should be drawn up in accordance with the parameters set out in Annex C of the Guidance Notes.

2.E The following conditions must be met in order to allow for consideration of licensing of land-based aquaculture:

- (i) the buildings and equipment must be put in place to the Department's satisfaction; and
- (ii) the operation must comply with Local Authority requirements.

2.F Marine-based Site(s)

(To be completed if appropriate)

Location - (i) Bay: LOUGH SWILLY

- (ii) County: DONEGAL

(iii) OS Map No: _____

(iv) Size (hectares): 19

(v) Species (to be specified): PACIFIC OYSTER (Crassostrea gigas)

- Aquatic Plant(s)

- Any form of aquatic food suitable for the nutrition of fish

(vi) Method of culture (e.g., nets, ropes, tanks, trestles etc.)

BAG AND TRESTLE.

(vii) Drawings of structures to be used in method of culture should be enclosed.

(viii) If cages or tanks are proposed, state:

- (a) Number: _____

- (b) Type and shape: _____

- (c) Cubic capacity: _____

- (d) Depth: _____

(ix) Proposed specific site locations (with reasons): _____

(x) Describe proposed purification facilities to be used, where appropriate:

Marine-based Site(s) (continued)

2.G Give details of any special requirements relating to the health of the proposed project and the wider matters of public health and safety:

2.H Tonnage to be produced:

Species	Year 1:	Year 2:	Year 3:	Year 4:
(To state)				
Oysters	0	0	10	40

2.I Reasons for selection of site(s): THIS SITE WAS ORIGINALLY LICENSED TO A MR. GERARD HEENAN. (112/300). LATE LAST YEAR MR. HEENAN AGREED TO SELL THE SITE TO ME. HOWEVER WHEN WE WROTE TO YOUR DEPARTMENT REQUESTING THAT THE LICENSED BE CHANGED INTO OUR NAME YOUR DEPARTMENT INFORMED US THAT THE LICENSED HAD LARSED. WE NOW WISH TO SUBMIT A NEW APPLICATION UNDER OUR OWN NAME.

Note: The proposed access route to the site(s) from public road across tidal foreshore area must be indicated on the OS map accompanying the application.

2.J Environmental Impact Statement (EIS).

A copy of an EIS, if required with the application, should be enclosed. The EIS should contain the information specified in Annex B of the Guidance Notes.

2.K Trial Licence.

(To be completed if appropriate)

Describe experimental or investigative nature of the proposed project:

[Use separate page if required - to be signed and dated]

B. MARKETING (continued)

3. Will the product be processed or packaged?

YES

NO

4. If yes, give details

I/We hereby declare the information provided in Parts 1, 2 and 3 above to be true to the best of my/our knowledge. I/We enclose an application fee* of € _____ with this application.

Signature(s) of Applicant(s):

M. O. Sall...

Date:

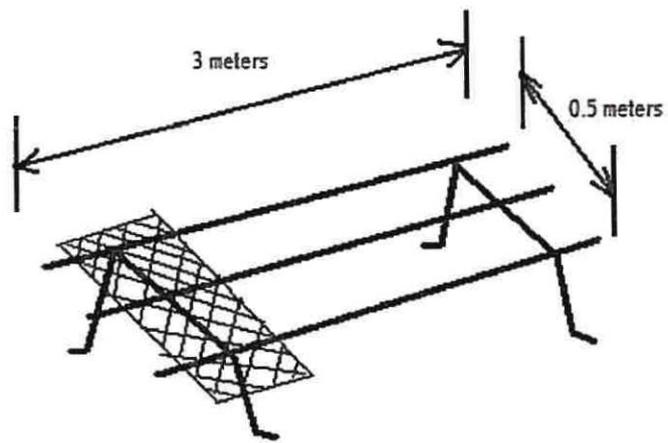
30/1/04.

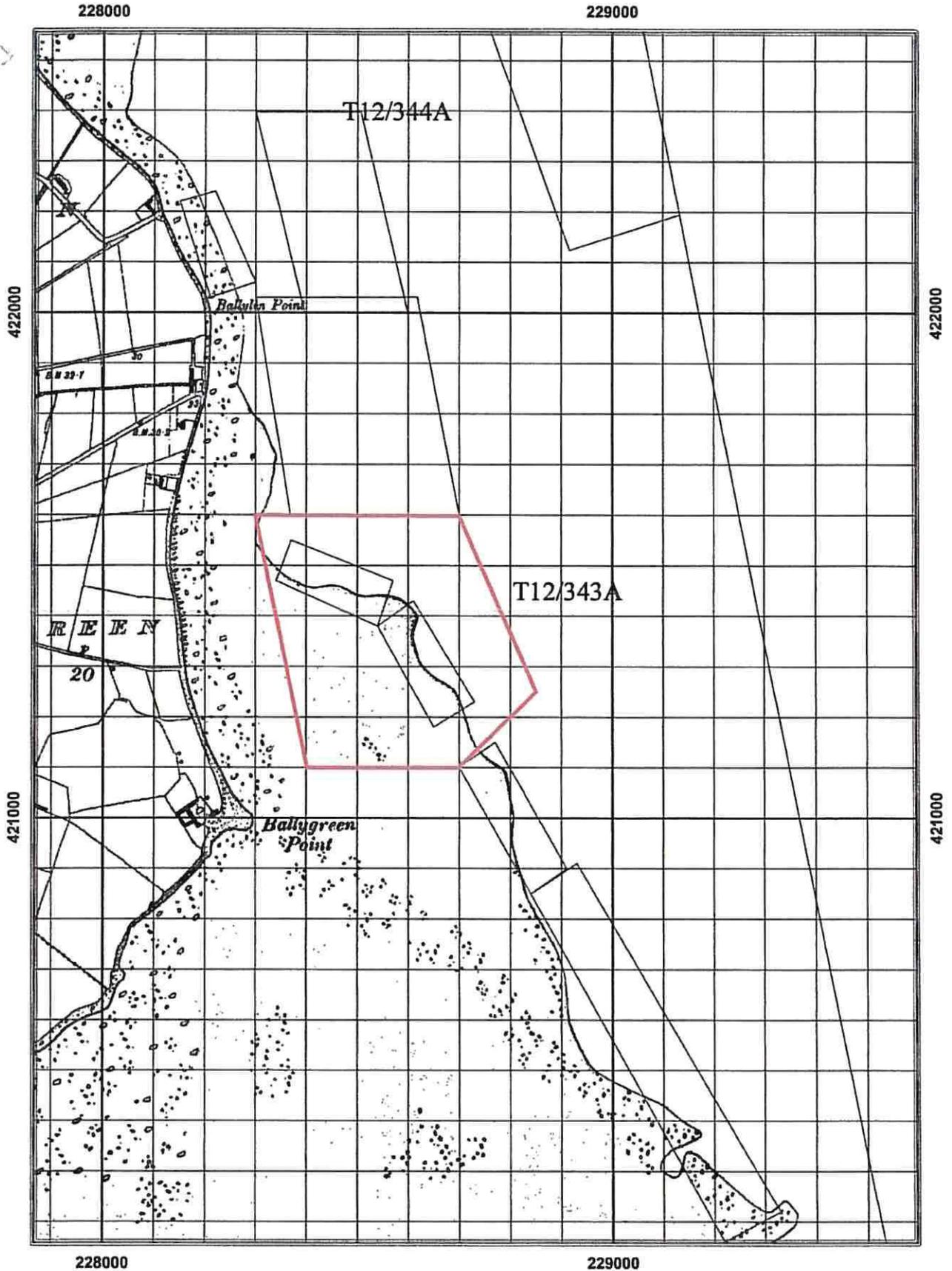
* Preferred method of payment is by cheque or bank draft. The fee should be made payable to The Department of the Marine and Natural Resources.

This form should be forwarded, with the required documents and application fee, to:

Aquaculture Licensing
Coastal Zone Administration Division
Department of the Marine and Natural Resources
Leeson Lane
Dublin 2

Structures to be used:
Standard Bag and Trestle.





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 1:10,560

Department of the Marine
 and Natural Resources
 Roinn na Mara agus Acmhalnna Nádurtha

1 NO. SITE AT LOUGH SWILLY CO.DONEGAL

Co-ordinates & Area

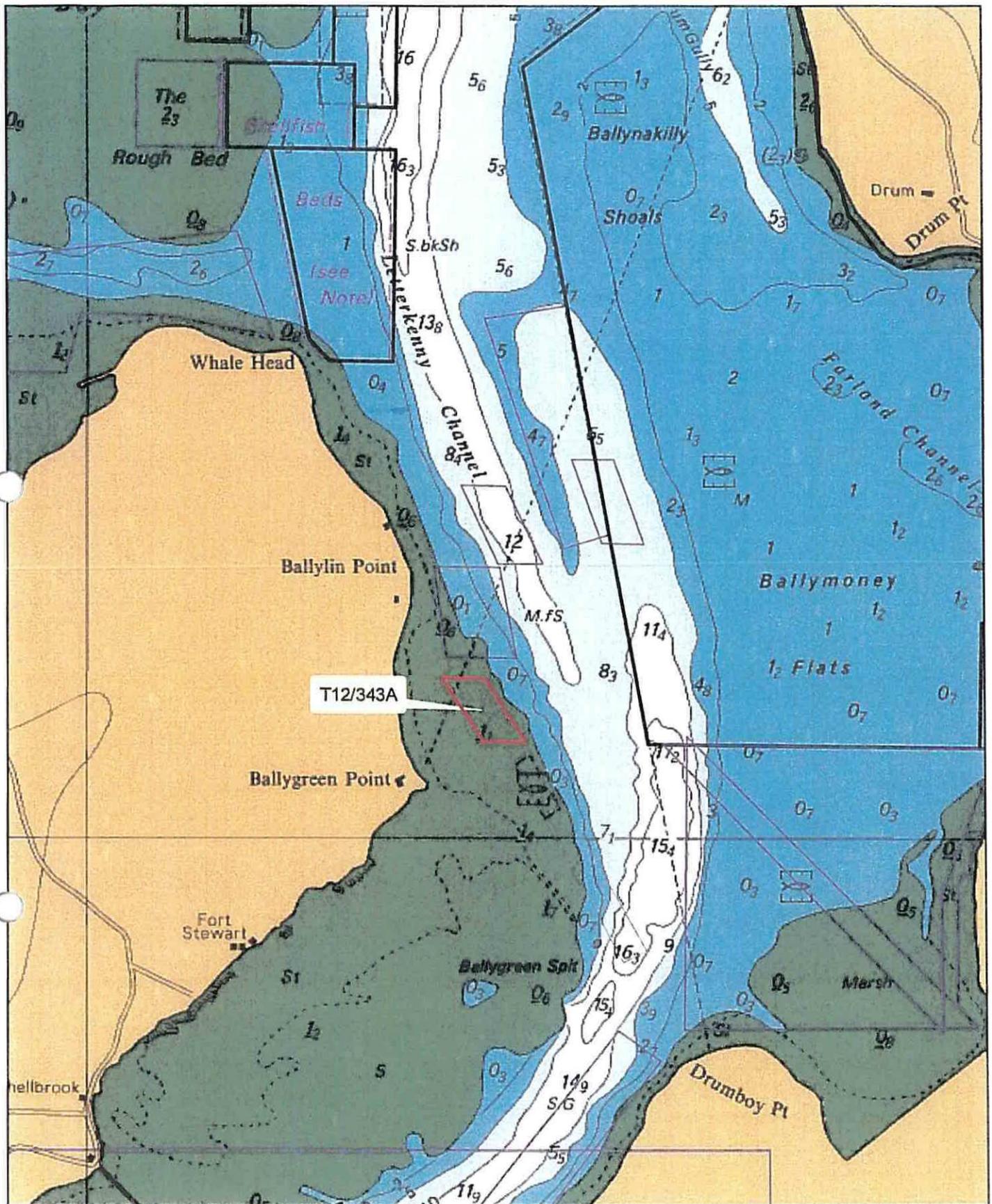
Site T12/343A (6 Ha)

The area seaward of the high water mark and enclosed by a line drawn from Irish National Grid Reference point

- 228350, 421500 to Irish National Grid Reference point
- 228550, 421500 to Irish National Grid Reference point
- 228750, 421200 to Irish National Grid Reference point
- 228550, 421200 to the first mentioned point.



Requested A. Hall 16/9/14
from J. Veldon.



1:24,000

Sites highlighted in red denotes Application

Part of Admiralty Chart No 2697-0
Not to be used for Navigation

Aqua Culture Sites
all other values

Site Status	Description
[Red outline]	Application
[Black outline]	Lapsed
[Grey outline]	Licensed
[White outline]	Refused
[Dotted outline]	Renewed
[Dashed outline]	Revoked
[Thin solid outline]	Suspended
[No outline]	Withdrawn


 Department of
**Agriculture,
 Food and the Marine**
 (An tAire) Talmhaíochta,
 Bia agus Mara

228000

229000

422000

422000

421000

421000



228000

229000

- Aqua Culture Sites**
 <all other values>
- Site_Status**
- Application
 - Lapsed
 - Licensed
 - Refused
 - Removed
 - Revoked
 - Surrendered
 - Withdrawn
 - 100 Meter Reference Grid

1:10,560

Sites highlighted in red denotes Application

Ordnance Survey Ireland Licence No. EN 0076413
 © Ordnance Survey Ireland/Government of Ireland



**Ministerial Determination in relation to EIS requirements
concerning the cultivation of shellfish by Alan O'Sullivan (T12/343)
in Lough Swilly, Co. Donegal**

I, Simon Coveney, Minister for Agriculture, Food and the Marine in accordance with the requirement of Regulation 5(2) of the Aquaculture (Licence Application) Regulations, 1998 has considered whether this licence application to culture shellfish is likely to have significant effects on the environment and would require the submission of an Environmental Impact Statement.

I have considered the proposed aquaculture activity, and determined that it would be unlikely to have significant effects on the environment and that an EIS is not required for this application for the reasons outlined below.

However, as part of a separate Appropriate Assessment carried out under Article 6 (3) of the Habitats Directive it was concluded that it was likely that the proposed aquaculture activity, alone or in combination with other aquaculture activities, would have significant impacts on the Conservation Objectives of Lough Swilly SAC/SPA. The conclusions of the Appropriate Assessment will need to be fully considered prior to any licence determination being made.

REASONS AND CONSIDERATIONS

I had regard to the provisions of:

- i. Regulation 5 of the Aquaculture (Licence Application) Regulations, 1998;
- ii. EIA Directives (codified by Council Directive 2011/92/EU);
- iii. The criteria specified in Annex III of Directive 2011/92/EU;
- iv. The guidance contained in the European Commission document entitled "Guidance on EIA, Screening" June 2001;
- v. The Appropriate Assessment of Aquaculture and Fisheries in Lough Swilly Special Area of Conservation and Special Protection Area

and also to the report and recommendations of the Department's Screening Group with particular reference to:

- a) the nature and scale of the proposed aquaculture activity relative to the body of coastal water within which it is located;
- b) the absence of any protected structures or recorded monuments in the area of the proposed aquaculture activity - as per Donegal County Development Plan;
- c) the low population density of the surrounding area;
- d) the low visual impact of the proposed aquaculture activity;
- e) the proposed aquaculture activity is not likely to have any significant impact on the wetlands in the area;
- f) the non-use of toxic or hazardous substances as part of the proposed aquaculture activity;
- g) the minor risk of accidents occurring as result of the proposed aquaculture activity;
- h) the low risk of impacts on navigational safety - impact will be mitigated by appropriate marks on the development;
- i) public access to recreational and other activities should not be impacted by the project;
- j) the findings of the Appropriate Assessment in relation to the impacts on protected habitats and species.

DATED:4th November 2015

EIA SCREENING ASSESSMENT T12/343

1. Applicant Details

Name
Address

Alan O'Sullivan
103 Ballymacool Wood
Letterkenny
Co. Donegal

2. Characteristics of Project

- a) Species cultivation proposed
- b) Method
- c) Production in intertidal zone
- d) Production beyond intertidal zone
- e) Source of seed/spat etc

Pacific Oysters
restles culture
Yes
No
Seasalter UK

f) Is a non-native species to be cultivated?

Yes. With the exception of Article 3 and 4, Regulation EC 708/2007 does not apply to the production of C. Gigas.

g) Annual Production Estimates - Tonnes

Year 1	0 tonnes
Year 2	0 tonnes
Year 3	10 tonnes
Year 4	40 tonnes

3. Location of Project

- a) File No.
- b) No. of sites
- c) Location
- d) Hectares
- e) Shellfish Waters Designation

If yes, identify area as per S.I. 268 of 2006/S.I. 55 of 2009
If yes, Name of designated area - Map No. & Date of Map
f) Natura 2000 site

If yes, identify site and type

- 4. Development Plan
- a) County Development Plan

If yes, identify relevant sections

T12/343	
1 site T12/343A	
Lough Swilly	
6 ha	
Yes	
SI 55 of 2009	
Lough Swilly – Map 28 August 2008	
Yes	
Lough Swilly SAC 2287 & Lough Swilly SPA 4075	

Yes Donegal County Development Plan
Chapter 8. Tourism and Marine. The Council will support the sustainable development of the aquaculture sector to maximise its contribution to economic

growth within the county. In particular, the Council acknowledge the development and expansion of the oyster farming industry in the county and its potential in terms of employment and product export.

2012-2018	
No	
No	

If yes, period covered

b) Local Area Plan

If yes, identify relevant sections

c) Other

If yes, please specify and identify relevant sections

T12/343			
EIA SCREENING CHECKLIST			
Is it an ANNEX II project?	YES		
Is the project located on or adjacent to a Natura 2000 area?	YES Lough Swilly SAC (SACC002287), Lough Swilly SPA (SPA 004075)-		
If yes, has the appropriate assessment been carried out?	YES - Appropriate Assessment of Aquaculture and Fisheries in Lough Swilly carried out by Marine Institute- published May 2013		
1. CHARACTERISTICS OF THE PROJECT - ANNEX III (1)	Yes/No - Briefly describe	Is this likely to result in a significant effect?	Yes/No? - Why
(a) Size of project			
Will the project be out of scale with the existing environment?	No. The development is small (6 Ha) in scale relative to the body of coastal water within which it is located.		
Will it lead to further consequential development or works (e.g. new roads, landing facilities, provision of new water supply)?	No. Existing infrastructure will be used and no additional infrastructure developments are needed.		
(b) Cumulation with other development			
Are there potential cumulative impacts with existing aquaculture projects or with other licensed aquaculture projects but which have not yet begun?	Yes. There are potential navigational, visual and benthic impacts. There are other aquaculture projects in the bay involving the cultivation of oysters.	The impact on the benthos will be localised and limited to the area directly beneath the trestles. The overall area involved is considered to be small. There will be no significant impact on other sensitive receptors e.g. air, water, cultural heritage, visual amenity. Oyster suspended culture type of aquaculture activity is deemed disturbing in the case of one of the community types found within the qualifying interests of Lough Swilly SAC i.e.	

<p>Are there potential cumulative impacts with existing foreshore projects or with foreshore projects licensed but which have not yet begun? T12/343</p>	<p>No.</p>	
<p>1. CHARACTERISTICS OF THE PROJECT - ANNEX III (1) cont'd</p>	<p>Yes/No - Briefly describe</p>	<p>Is this likely to result in a significant effect? Yes/No? - Why</p>
<p>(b) Cumulation with other development</p> <p>Should the application for this project be regarded as an integral part of a more substantial project? If so, can related projects which are subject to separate applications proceed independently?</p>	<p>No.</p>	
<p>(c) Use of natural resources</p> <p>Will installation or operation of the project use natural resources such as land, water, materials or energy, especially any resources which are non-renewable or in short supply?</p> <ul style="list-style-type: none"> • land (especially undeveloped or agricultural land)? • water? • energy including electricity and fuels? • any other resources? <p>(d) Production of waste</p> <p>Will the project produce wastes during installation or operation or decommissioning?</p> <ul style="list-style-type: none"> • municipal waste (household and/or commercial)? • surplus product? • construction or demolition wastes? • redundant machinery or equipment? • any other solid wastes? • liquid or solid wastes in suspension? 	<p>Yes. The proposed cultivation of oysters on the foreshore will use naturally accruing marine phytoplankton present in the seawater.</p>	<p>No. High levels of plankton occur naturally at the location and shellfish cultivation at this scale will not result in limiting plankton growth or abundance.</p>
	<p>Yes. The cultivation of shellfish will produce faeces and pseudofaeces. Grading and removal of mortalities will result in shells being discarded. Trestles, bags, associated with the growing process may need to be replaced.</p>	<p>No. The amount of produced faeces and pseudofaeces will be small and the impacted area will be limited to the area directly beneath the trestles. The site is well flushed and build up of excess organic matter on site will not be permitted. Discarding of damaged old bags, trestles or other material into the sea or on the foreshore will not be permitted.</p>

1. CHARACTERISTICS OF THE PROJECT - ANNEX III (1) cont'd		
(e) Pollution and nuisances	Yes/No - Briefly describe	Is this likely to result in a significant effect? Yes/No? - Why
<p>Will the project release pollutants or any hazardous, toxic, or noxious substances to air? Emissions from:</p> <ul style="list-style-type: none"> • combustion of fossil fuels from stationary or mobile sources? • Construction activities including plant & equipment? • any other sources. 	<p>Yes. There will be emissions associated with husbandry and harvesting of shellfish from tractors or other machinery. There will be no release to the air of other hazardous, toxic or noxious pollutants.</p>	<p>No. The emissions levels will not be significant.</p>
<p>Will the project cause noise and vibration or release of light? <ul style="list-style-type: none"> • from operation of equipment e.g. engines? • from blasting or piling? • from construction or operational traffic? • from lighting or other systems? • from any other sources? </p>	<p>Yes. There will be noise associated with husbandry and harvesting of shellfish from tractor and other noise.</p>	<p>No. Noise levels will not be significant.</p>
<p>(f) Risk of accidents, having regard in particular to substances or technologies used</p> <p>Will there be any risk of accidents during installation or operation of the project which could affect human health or the environment?</p>	<p>Yes. There may be a minimal risk of physical injury while working onsite but no risk to human health. There is minor risk to the environment from vehicle breakdown or accidents.</p>	<p>No. There is minor risk to the environment from onsite accidents.</p>
<p>Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No. No chemicals or hazardous substances will be used during the production process.</p>	
<p>Will the project involve use, storage, transport, handling or production of substances or materials which could be harmful to people or the environment (flora, fauna, water supplies)?</p> <ul style="list-style-type: none"> • use of hazardous or toxic substances? 	<p>No. Cultivation of oysters depends on naturally occurring marine resources. No harmful substances or materials will be used.</p>	

<ul style="list-style-type: none"> potential changes in occurrence of disease or effect on disease carriers (e.g. insect or water borne diseases)? 		
<p>T12/343</p>		
<p>1. CHARACTERISTICS OF THE PROJECT - ANNEX III (1) cont'd</p> <p>(g) Will installation, operation or decommissioning of the project involve actions which will cause physical changes in the locality (topography, land use, changes in waterbodies, etc)?</p> <ul style="list-style-type: none"> dredging? coastal structures (seawalls, piers)? offshore structures? facilities for storage of goods or materials? facilities for treatment or disposal of solid wastes or liquid effluents? new road, rail or sea traffic during construction or operation? new road, rail, air, waterborne or other transport infrastructure including new or altered routes and stations, ports, airports etc? closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements? new or diverted transmission lines or pipelines? transport of personnel or materials for construction, operation or decommissioning? decommissioning or restoration works? introduction of alien species? loss of native species or genetic diversity? any other changes? 	<p>Yes/No - Briefly describe</p> <p>Yes. Trestles will be placed on the foreshore.</p>	<p>Is this likely to result in a significant effect? Yes/No? - Why</p> <p>No. The disturbance of the sea bed will be minimal. The development can be considered as minor and reversible as all structures can be removed and no new infrastructure is required.</p>
	<p>Yes. <i>Crassostrea Gigas</i>. With the exception of Article 3 and 4, Regulation EC 708/2007 does not apply to the production of <i>C. Gigas</i>.</p>	<p>Tripliod stock only to be used for suspended culture of <i>C. Gigas</i>— No bottom culture of <i>C. Gigas</i> is likely to be permitted in Lough Swilly in future.</p>

		A feature of the conservation objectives for Lough Swilly is to maintain favourable conservation conditions of the <i>Ostrea edulis</i> dominated community.	The proposed area of this site overlaps with the <i>Ostrea edulis</i> dominated community. The AA concluded that no aquaculture activities should be carried out in " <i>Ostrea edulis</i> dominated community", as they are all considered disturbing to this habitat type.
(h) Inherent social changes			
Will the project result in social changes, for example, in demography, traditional lifestyles, employment?		It is anticipated that job opportunities would result from this project.	No. The impact will be locally beneficial but not significant
T12/343			
2. LOCATION OF THE PROJECT - ANNEX III (2)		Yes/No - Briefly describe	Is this likely to result in a significant effect? Yes/No? - Why
(a) Existing land use	Are there existing land uses on or around the location which could be affected by the project, e.g. homes, gardens, other private property, industry, commerce, recreation, public open space, community facilities, agriculture, forestry, tourism, water catchments, functional floodplains, mining or quarrying?	No. Terrestrial land use will not be affected and there is no spatial overlap with other users of the inter-tidal foreshore.	
	Are there any areas on or around the location which are occupied by sensitive land uses e.g. hospitals, schools, places of worship, community facilities, which could be affected?	No.	
	Is the project located in a previously undeveloped area?	No. There is other shellfish production in the bay.	
(b) Relative abundance, quality and regenerative capacity of natural resources in the area			
Are there any areas on or around the location which contain important, high quality or scarce resources which could be affected by the project?		Yes, Fisheries.	Yes. This site overlaps with the <i>Ostrea edulis</i> dominated community.
<ul style="list-style-type: none"> • groundwater resources • surface waters 			

<ul style="list-style-type: none"> • fisheries • tourism 		
T12/343		
2. LOCATION OF THE PROJECT - ANNEX III (2) cont'd.	Yes/No - Briefly describe	Is this likely to result in a significant effect? Yes/No? - Why
(c) Absorption capacity of the natural environment cont'd		
<p>Are there any areas on or around the location which are protected under international or national or local legislation for their ecological, landscape, cultural or other value, which could be affected by the project?</p>	<p>Yes. Sites located in Lough Swilly SAC (SAC002287), Lough Swilly SPA (SPA 004075)</p>	<p>The AA concluded that Oyster suspended culture type aquaculture activity overlaps with five of the community types found within the qualifying interest of Lough Swilly SAC and is deemed disturbing in the case of one of the community types i.e <i>Ostrea edulis</i> dominated community.</p> <p>The proposed area of this site overlaps with the <i>Ostrea edulis</i> dominated community. The AA concluded that no aquaculture activities should be carried out in "<i>Ostrea edulis</i> dominated community", as they are all considered disturbing to this habitat type.</p>
<p>Are there any other areas on or around the location which are important or sensitive for reasons of their ecology?</p> <ul style="list-style-type: none"> • wetlands, watercourses or other waterbodies? • the coastal zone? • mountains, forests or woodlands? • nature reserves and parks? 	<p>Yes. The wetlands habitats contained with the Lough Swilly SPA (004075) are of conservation importance for the waterbirds that use this resource</p>	<p>The AA concluded that none of the activities assessed will cause any change to the extent of subtidal, intertidal, supratidal and lagoon habitats. Therefore it is not likely to have any significant impacts on any wetlands in the area.</p>
<p>Are there any areas on or around the location which are used by protected, important or sensitive species of fauna or flora e.g. for breeding, nesting, foraging, resting, overwintering,</p>	<p>Yes. Lough Swilly SPA (004075) is designated for breeding populations of Black-headed Gull, Common Tern and Sandwich Tern and also non-breeding populations of</p>	<p>The Whooper Swan, Greenland White-fronted Goose, Greylag Goose and Coot were screened out as they do not have any significant spatial overlap with any of the</p>

<p>migration, which could be affected?</p>	<p>Whooper Swan, Greenland White-fronted Goose, Greylag Goose, Shelduck, Wigeon, Teal, Mallard, Shoveler, Scaup, Goldeneye, Red-breasted Merganser, Great Crested Grebe, Grey Heron, Coot, Oystercatcher, Knot, Dunlin, Curlew, Greenshank, Redshank, and Common Gull.</p>	<p>activities being assessed. The AA concluded that no potentially significant impacts from existing and proposed suspended oyster culture have been identified in this assessment.</p>
<p>Are there any inland, coastal, marine or underground waters on or around the location which could be affected?</p>	<p>No.</p>	
<p>Are there any groundwater source protection zones or areas that contribute to the recharge of groundwater resources?</p>	<p>No.</p>	
<p>Are there any areas or features of high landscape or scenic value on or around the location which could be affected?</p>	<p>No.</p>	
<p>Are there any routes or facilities on or around the location which are used by the public for access to recreation or other facilities, which could be affected?</p>	<p>No. Public access to recreational and other activities will not be impacted by the project.</p>	
<p>Are there any transport routes on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected?</p>	<p>No. Given the scale of production the amount of additional traffic generated will not be significant.</p>	
<p>Is the project in a location where it is likely to be highly visible to many people?</p>	<p>No. Population density in the area is low. Sites not visible from public viewing points or roads.</p>	

<p>T12/343</p> <p>2. LOCATION OF THE PROJECT - ANNEX III (2) cont'd</p> <p>(c) Absorption capacity of the natural environment cont'd</p>	<p>Yes/No - Briefly describe</p>	<p>Is this likely to result in a significant effect? Yes/No? - Why</p>
<p>Are there any areas or features of historic, cultural or archaeological importance on or around the location which could be affected?</p>	<p>No. No protected structures as per County Development Plan. Underwater Archaeology issue will be addressed in statutory consultation with the relevant body.</p>	
<p>Are there any areas on or around the location which are already subject to pollution or environmental damage e.g. where existing legal environmental standards are exceeded, which could be affected?</p>	<p>No. Results of monitoring under the Shellfish Waters Directive do not indicate water quality issues in the vicinity of the proposed shellfish production area. Oysters in this area currently have a "B" classification under Annex II of EU Regulation 854/2004.</p>	
<p>Is the area densely populated?</p>	<p>No. Population density in the area is low</p>	
<p>Is the location of the project susceptible to earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions e.g. temperature inversions, fogs, severe winds, which could cause the project to present environmental problems?</p>	<p>No.</p>	

Having considered the likelihood of the proposed aquaculture having significant effects on the environment the consensus of the Screening Group is that an Environmental Impact Statement is not required for this project. As part of a separate process, an Appropriate Assessment was carried out under Article 6(3) of the Habitats Directive which concluded that it was likely that the proposed activity, alone or in combination with other aquaculture activities, would have impacts on the Conservation Objectives of the Lough Swilly SAC/SPA. The conclusions of the Appropriate Assessment need to be fully considered prior to any licence determination being made.

EIA SCREENING GROUP NAMES	
Dr Terry McMahon	Marine Institute
Tony O'Sullivan	Department's Engineering Division
Paul O'Sullivan	Department's Engineering Division
Catherine Morrison	BIM
Karen Gill	Department's Aquaculture and Foreshore Management Division
Batt Whelton	Department's Aquaculture and Foreshore Management Division
SIGNED BY ON BEHALF OF THE GROUP	DEPARTMENT'S AQUACULTURE & FORESHORE MANAGEMENT DIVISION REPRESENTATIVE
NAME IN BLOCK CAPITALS - BATT WHELTON	DATE
<i>Batt Whelton</i>	<i>13th Oct 2015</i>



AAA

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 User Details Signature

00282-17: Recommendation to Grant Aquaculture and Foreshore Licences for a site (T12/343)

To: Minister	Author: Karen Gill
Status: Completed	Owner: Gill, Karen
Purpose: For Decision	Reviewers: Foley, Gerry, Whelton, Batt, Quinlan, John, Beamish, Cecil
Division/Office: Coastal Zone Management	
Decision By:	

Final Comment

Minister determines that a variation of the Aquaculture and Foreshore Licences applied for be granted for the reasons outlined.

Seen and Approved

Date Signed

Action Required

Ministerial Determination on Aquaculture/Foreshore Licensing Application (T12/343)

Executive Summary

The Minister's determination is requested in relation to an application for an Aquaculture Licence from Alan O'Sullivan, 103 Ballymacool Wood, Letterkenny, Co. Donegal. The application is for the cultivation of Pacific Oysters using bags and trestles on a site (T12/343A) of 6.0 ha on the foreshore in Lough Swilly, Co Donegal. The site is located c. 400m off Ballygreen Point on the western shore of Lough Swilly.

A submission in respect of the application for the Foreshore Licence is also set out for the Minister's consideration.

It is recommended that the Minister determines that a variation of the Aquaculture and Foreshore Licences applied for be granted for the reasons outlined in the 'Detailed Information' section below.

Comments

- (27/11/2017 12:28:23) Ann Smith: Approved for Submission to Minister.
- (27/11/2017 11:49:33) Cecil Beamish: recommended that the Minister determines that a variation of the Aquaculture and Foreshore Licences applied for be granted for the reasons outlined in the submission.
- (24/11/2017 15:51:32) John Quinlan: Recommended for approval please.
- (24/11/2017 15:22:46) Batt Whelton: I agree with the recommendation that Aquaculture and Foreshore Licences be granted for a reduced footprint - reason for the recommendation to reduce that footprint of site T12/343 ha is to ensure there is no overlap with the *Ostrea Edulis* (native oyster) dominated community
- (23/11/2017 16:01:26) Gerry Foley: It is recommended that the Minister determines that a variation of the Aquaculture and Foreshore Licences applied for by Alan O'Sullivan, 103 Ballymacool Wood, Letterkenny, Co. Donegal be granted for the reasons outlined in the submission above.

Detailed Information

Recommendation to grant a variation of the Aquaculture Licence application applied for

DECISION SOUGHT

The Minister's determination is requested please in relation to an application for an Aquaculture Licence from Alan O'Sullivan, 103 Ballymacool Wood, Letterkenny, Co. Donegal for a site in Lough Swilly, Co. Donegal.

A submission in respect of the accompanying Foreshore Licence is also set out below, for the Minister's consideration.

APPLICATION

An application for an Aquaculture Licence has been received from the applicant referred to above (in conjunction with an application for a Foreshore Licence) for the cultivation of Pacific Oysters using bags and trestles on a site (T12/343A) of 6 hectares on the foreshore of Lough Swilly.

Legislation

Section 7 of the Fisheries (Amendment) Act 1997 provides that the Licensing Authority (i.e. Minister, delegated officer or, on appeal, the Aquaculture Licences Appeals Board) may, if satisfied that it is in the public interest to do so, license a person to engage in aquaculture.

HABITATS

Article 6 (3) of the Habitats Directive provides that "Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon ... shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives ... the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned ..."

The Lough Swilly Appropriate Assessment process carried out under Article 6(3) of the Habitats Directive concluded that existing and proposed aquaculture activities would have significant impacts on the Conservation Objectives of the Lough Swilly SAC and SPA. In particular, it found that aquaculture, including both currently licensed sites and sites for which new applications have been made, overlaps all of the six different community types found within the qualifying interest of Lough Swilly SAC.

The Licensing Authority has prepared a Conclusion Statement (attached) outlining management responses to address this issue. These are as follows:

- Reduction in aquaculture site areas are required to bring habitat occupancy down below the threshold of 15% and also to meet the particular requirements specified for the *Ostrea edulis* (Native Oyster) areas
- Only native oyster activity will be allowed in *Ostrea edulis* dominated community
- The amount of habitat reduction required for each site was worked out on a pro rata basis, i.e. as a proportion of the cumulative habitat overlap arising for each habitat type. 10 applications encompassing a total area of 2139 ha are being reduced by an average 53.4% to 996ha
- Marine Engineering Division drew up maps of possible revised (and reduced) areas in respect of the relevant applications. They are shown on the map attached to the Conclusion Statement. The application site areas are shown in magenta and the proposed revised areas are shown in blue

CONSULTATION AND PUBLIC COMMENT

The application was sent to the Department's technical experts, statutory consultees and was also publicly advertised in a composite public notice covering both aquaculture and foreshore elements.

Technical Consultation

Marine Engineering Division (MED): Original site application 19 ha was reduced to 6 ha due to its proximity with adjacent bottom mussel site and to reduce possible negative visual impact. MED had no objection to the licensing of this site of 6 ha. Following the AA Report, MED was further involved in reducing this site to 2.09 ha in order to avoid overlap with 'native oyster' community.

Marine Survey Office: Had no objections from a navigational viewpoint.

Statutory Consultation

Regulation 10 of the Aquaculture (Licence Application) Regulations, 1998 requires certain statutory bodies to be notified of an Aquaculture Licence application.

Comments were received from the following statutory bodies:

DAHG: The application was examined by the Department of Arts, Heritage and the Gaeltacht (DAHG) from a nature conservation and underwater archaeological perspective.

Nature Conservation – DAHG raised a number of points concerning Lough Swilly SAC/SPA. Their concerns included potential impact of aquaculture on protected bird species and habitats. This Department's response is below:

The main mitigation measure to ensure reduction in impact is the proposed reduction of spatial extent of the aquaculture sites within the SAC/SPA. The guidance regarding not more than 15% occupancy of five habitat areas by the cumulative bottom mussel area is followed. Furthermore, no occupancy of Ostrea Edulis dominated community area is allowed. A reduction in the level of these activities is also likely to reduce the risk of disturbance to bird species.

The primary habitat issue in relation to T12/343 is that part of the site overlapped with native oyster dominated community. The footprint of site T12/343 has been significantly reduced to 2.09 ha to ensure there is no overlap with the Ostrea Edulis (native oyster) dominated community.

Underwater Archaeology – DAHG also recommend that a full underwater archaeological impact assessment be carried out.

An underwater archaeological study was commissioned and this found a series of kelp grids and linear stone alignments area visible in the intertidal zone. It found that the proposed metal trestles and suspended mussel culture system would pose no direct impact to these cultural heritage features. However, there is potential for inadvertent damage to these kelp grids caused by increased human traffic and in particular vehicular traffic associated with the operation of the aquaculture site. Although the proposed access route will traverse part of a kelp grid, the impact may be viewed as negligible for the following reasons: the kelp grids although of cultural heritage value are not a recorded cultural feature; the operation of the proposed access route will not involve the removal of any part of the kelp grids and the kelp grids are robust and extensive and have the capacity to absorb a potential impact of this scale and nature.

Conditions are being inserted into the licence that the kelp grids and associated features will not be removed and will be preserved in situ. Access to the site during operation should adhere strictly to agreed route to minimise impact on features of cultural significance.

Marine Institute: This site overlaps with "Ostrea edulis dominated community". Recommend that DAFM consider taking full account of the findings of the Appropriate Assessment and the proposed mitigation measures in the Natura Conclusion Statement.

The site is being significantly reduced to avoid overlap with the 'native oyster' community.

Commissioner of Irish Lights: No objection to the development.

BIM: No objections to the renewal and stated that they are satisfied that the proposed operation does not conflict with any other aquaculture or inshore fisheries interest in the area.

IFI (Inland Fisheries Ireland): Recommended that cognisance to be taken of the Lough Swilly Appropriate Assessment as these sites overlaps a native oyster bed and the extent of the disturbing activities. Care should be taken to avoid any obstruction to the passage of salmon and sea trout as the site is located close to the Leannan channel. They also referenced other issues of a generic nature which they would like to be addressed; these can be dealt with by way of licence conditions.

The site is being significantly reduced to avoid overlap with the 'native oyster' community.

Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in the "Donegal Democrat" on 25th January, 2016. The application and supporting documentation were available for inspection at Buncrana and Letterkenny Garda Station for a period of 4 weeks from the date of publication of the notice in the newspaper.

There was one **objection** received arising from the public consultation process. This was of a generic nature relating to applications for aquaculture in Lough Swilly. The objector asserted that any mussel spat areas should not be licensed but should be left as a common resource. However, the information available to the Department is that mussel spat area has been intermittently / infrequently found at different parts of the lower Lough and not at any specific area(s). In any event this application is for suspended oyster cultivation not mussels.

CRITERIA IN MAKING LICENSING DECISIONS

The licensing authority, in considering an application, is required by statute to take account, as appropriate, of the following points and also be satisfied that it is in the public interest to license a person to engage in aquaculture:

The suitability of the place or waters

*While the waters are suitable for the cultivation of oysters, part of the area applied for overlaps with the *Ostrea Edulis* (native oyster) dominated community.*

Other beneficial uses of the waters concerned

Public access to recreational and other activities can be accommodated by this project.

The particular statutory status of the waters

Natura 2000

The proposed site is located within Lough Swilly SAC/ SPA . An Article 6 Assessment has been carried out in relation to aquaculture activities in Lough Swilly SAC/ SPA. The Article 6 Assessment and its findings were examined by the Department and its scientific /technical advisors and mitigation measures were elaborated to accommodate the requirements of the Article 6 Assessment (see Conclusion Statement attached).

The primary mitigation measure to ensure reduction in impact is the proposed reduction of spatial extent of the aquaculture sites within the SAC/SPA. The guidance regarding not more than 15% occupancy of five habitat areas (and no occupancy of Ostrea Edulis dominated community) by the cumulative bottom mussel area is followed. A reduction in the level of these activities is also likely to reduce the risk of disturbance to bird species.

The main habitat issue with T12/343 was that part of the site overlapped with native oyster dominated community. To address this the footprint of site has been significantly reduced to 2.09 ha to ensure there is no overlap with the Ostrea Edulis (native oyster) dominated community.

Shellfish Waters

The site is located within Lough Swilly Shellfish Designated Waters. Mussels in these waters currently have a "B" Classification.

The likely effects on the economy of the area

Aquaculture has the potential to provide a range of benefits to the local community.

The likely ecological effects on wild fisheries, natural habitats, flora and fauna

The DAHG comments on ecological effects on natural habitats, flora and fauna are covered above under the Consultation and Public Comment section. No significant issues arose regarding wild fisheries.

The effect on the environment generally

The Minister has already determined that an Environmental Impact Statement is not required for this project (See Determination appended).

The DAHG recommended a full underwater archaeological impact assessment be carried out in Lough Swilly. A study has been commissioned to address concerns on this issue and its findings are covered above under the Consultation and Public Comment section.

RECOMMENDATION

It is recommended that the Minister:

approves the granting of a variation of the Aquaculture Licence sought, i.e. reducing and revising the footprint of the site as follows:

T12/343A as revised now has a footprint of 2.09 ha.

The reason for this recommendation is to mitigate the risk of the deterioration of the conservation status of *Ostrea edulis* (native oyster - which is one of the qualifying communities in Lough Swilly SAC) which is directly attributable to aquaculture operations.

REASONS FOR DECISION

The Minister for Agriculture, Food and the Marine is required to give public notice of both the licensing determination and the reasons for it. To accommodate this, it is proposed to publish the following on the Department's website, subject to the Minister approving the above recommendation:

"Determination of Aquaculture/Foreshore Licensing Application – T12/343

Alan O'Sullivan, 103 Ballymacool Wood, Letterkenny, Co. Donegal has applied for an Aquaculture Licence for the cultivation of Pacific Oysters using bags and trestles on a site located between Ballyglin Point and Ballygreen Point on the foreshore in Lough Swilly, Co. Donegal. (T12/343A)

The Minister for Agriculture, Food and the Marine has determined that it is in the public interest to grant a variation of the licences sought, i.e. reducing and revising the footprint of the site as follows:

T12/343A as revised now has a footprint of 2.09 ha.

In making his determination, the Minister considered those matters which by virtue of the Fisheries (Amendment) Act 1997, and other relevant legislation, he was required to have regard. Such matters include any submissions and observations received in accordance with statutory provisions. The following are the reasons and considerations for the Minister's determination to grant a variation of the licences sought:-

- Scientific advice is to the effect that the waters are suitable for the cultivation of oysters;*
- Public access to recreational and other activities can be accommodated by this project;*

- *The site is located within Lough Swilly Shellfish Designated Waters;*

- *The proposed aquaculture should have positive effects on the local economy;*

- *An EIA screening assessment was carried out and it concluded that the environmental impacts from the proposed activity will not be significant;*

- *The findings of the Underwater Archaeological Impact Assessment report on Lough Swilly aquaculture sites with particular reference to the assessment of potential archaeological impact of proposed access routes and oyster sites in Lough Swilly, including site T12/343. The operator will be required to comply with the designated access route to minimise any potential impact on features of cultural heritage significance;*

- *The site is located within Lough Swilly Special Area of Conservation (SAC) and Special Protected Area (SPA). An Article 6 Assessment has been carried out in relation to aquaculture activities in Lough Swilly SAC/ SPA. The Licensing Authority's Appropriate Assessment Conclusion Statement (available on the Department's website) outlines how aquaculture activities in this SAC/SPA, including this site, are being licensed and managed so as not to significantly and adversely affect the integrity of Lough Swilly SAC and SPA;*

- *Lough Swilly SAC is designated for a number of habitats and species, including Estuaries, and constituent communities recorded within this qualifying interest includes *Ostrea edulis* dominated community. The footprint of site T12/343 is being significantly reduced to 2.09 ha to ensure there is no overlap with the *Ostrea edulis* (native oyster) dominated community. This management action is being taken to mitigate the risk of the deterioration of the conservation status of *Ostrea edulis* (native oyster) and is directly attributable to aquaculture operations."*

Submitted please.

Karen Gill

Aquaculture & Foreshore Management Division

Recommendation to grant a Foreshore Licence for a reduced footprint (T12/343)

DECISION SOUGHT

The Minister's determination is requested please in relation to the application for a Foreshore Licence from Alan O'Sullivan, 103 Ballymacool Wood, Letterkenny, Co. Donegal for a site located between Ballyglin Point and Ballygreen Point on the foreshore in Lough Swilly, Co. Donegal on which it is proposed to conduct aquaculture.

BACKGROUND

Marine aquaculture operations require separate Aquaculture and Foreshore Licences and Ministerial approval is required in respect of this submission (Foreshore Submission) and submission above (Aquaculture Submission), which refer to the same site.

The Foreshore Licence allows for the occupation of the particular area of foreshore while the Aquaculture Licence defines the activity that is permitted in this area. The continuing validity of each licence is contingent on the other licence remaining in force.

APPLICATION FOR A FORESHORE LICENCE

An application for a Foreshore Licence has been received from the applicant referred to above (in conjunction with an Aquaculture Licence application), relating to the occupation of the foreshore associated with the Aquaculture Licence application. The application is for the cultivation of Pacific oysters using bags and trestles on a site located between Ballylin Point and Ballygreen Point on the foreshore in Lough Swilly, Co. Donegal. (343A).

LEGISLATION

Section 3 of the Foreshore Act, 1933 gives power to the Minister to license the use of foreshore, if he is of the opinion that it is in the public interest to do so.

CONSULTATION AND PUBLIC COMMENT

The application was sent to the Department's technical experts, and was also publicly advertised in a composite public notice covering both aquaculture and foreshore elements.

This application was also sent to the Department of the Housing, Planning and Local Government (DHPLG) in accordance with subsection (1B) of Section 3 of the Foreshore Act, 1933, which requires consultation between the Minister for Agriculture, Food and the Marine and the Minister for the Environment, Community and Local Government. Whilst aquaculture legislation requires certain statutory bodies to be notified of an aquaculture application, no other statutory bodies are prescribed consultees under Fisheries related foreshore legislation.

DHPLG: No comments received in respect of this application.

Technical Consultation

Marine Engineering Division (MED): Original site application 19 ha was reduced to 6 ha due to its proximity with adjacent bottom mussel site and to reduce possible negative visual impact. MED had no objection to the licensing of this site of 6 ha. Following the AA Report, MED were further involved in redrawing and reducing this site to 2.09 ha in order to avoid overlap with 'native oyster' community.

Marine Survey Office: No objection

Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in the "Donegal Democrat" on 25th January, 2016. The application and supporting documentation were available for inspection at Buncrana and Letterkenny Garda Station for a period of 4 weeks from the date of publication of the notice in the newspaper.

There was one **objection** received arising from the public consultation process. This was a general objection relating to applications for aquaculture in Lough Swilly. The objector asserted that any mussel spat areas should not be licensed but should be left as a common resource. However, the information available to the Department is that mussel spat area has been intermittently / infrequently found at different parts of the lower Lough and not at any specific area(s).

CRITERIA IN MAKING LICENSING DECISIONS

The Minister, in considering an application for a Foreshore Licence, may, if satisfied that it is in the public interest to do so, grant such a licence.

Section 82 of the Fisheries (Amendment) Act, 1997 stipulates that the Minister, in considering an application for a licence under the Foreshore Acts, which is sought in connection with the carrying on of aquaculture pursuant to an Aquaculture Licence, shall have regard to any decision of the licensing authority in relation to the Aquaculture Licence.

The Minister is also obliged pursuant to Regulation 5 (2) of the Aquaculture (Licence application) Regulations, 1998 to consider on a case by case basis whether the proposed aquaculture is likely to have significant effect on the environment. An EIA Screening Assessment was carried out by the EIA Screening Group (comprising of technical experts and Department officials). The Minister has already determined that an Environmental Impact Statement is not required for this project (See Determination appended).

RECOMMENDATION

It is recommended that the Minister, having regard to the decision in relation to the associated Aquaculture Licence application:

approves the granting of a Foreshore Licence (**TAB D**) to Alan O'Sullivan, 103 Ballymacool Wood, Letterkenny, Co. Donegal for a reduced footprint of 2.09ha. The licence is for a period of ten (10) years for the occupation of the site for the carrying out of aquaculture activities as defined in the Aquaculture Licence, and in accordance with the terms and conditions of the attached draft Foreshore Licence.

The reason for the recommendation to reduce that footprint of site T12/343 ha is to ensure there is no overlap with the *Ostrea Edulis* (native oyster) dominated community.

Karen Gill

Aquaculture and Foreshore Management Division

Related Submissions

There are no related Submissions.

User Details

Users with access to Submission

- Gill, Karen
- Foley, Gerry
- Whelton, Batt
- Quinlan, John
- Beamish, Cecil
- Sub Sec Gens Office
- eSub Ministers Office

Read receipt list

- BTSSP-SC
- Gill, Karen
- Foley, Gerry
- Whelton, Batt
- Quinlan, John
- Beamish, Cecil
- Smith, Ann
- Lennox, Graham

Action Logs

- **Created:** 23/11/2017 10:09:56: Submission created by Karen Gill
 - **Sent For Review:** 23/11/2017 10:20:29: Submission sent to Gerry Foley for review by Karen Gill
 - **Sent For Review:** 23/11/2017 16:02:59: Submission sent to Batt Whelton for review by Gerry Foley
 - **Reverted to the Author:** 24/11/2017 10:56:57: Submission reverted to Karen Gill by Batt Whelton
Reason: Karen For amendment, as discussed Batt
 - **Attachment removed:** 24/11/2017 14:23:03: Gill, Karen removed attachment TAB C.pdf
 - **Sent For Review:** 24/11/2017 14:48:49: Submission sent to Batt Whelton for review by Karen Gill
 - **Sent For Review:** 24/11/2017 15:23:41: Submission sent to John Quinlan for review by Batt Whelton
 - **Sent For Review:** 24/11/2017 15:52:02: Submission sent to Cecil Beamish for review by John Quinlan
 - **Sent to the Secretary General:** 27/11/2017 11:49:53: Submission sent to Secretary General for review by Cecil Beamish
 - **Sent to the Minister:** 27/11/2017 12:28:24: Submission sent to Minister for review by Ann Smith on behalf of the Secretary General
Reason: Approved for Submission to Minister.
 - **Completed:** 30/11/2017 17:16:33: Submission completed by Graham Lennox on behalf of the Minister
Reason: Minister determines that a variation of the Aquaculture and Foreshore Licences applied for be granted for the reasons outlined.
-

4th December 2017

Ref: T12/343

Mr. Alan O'Sullivan
103 Ballymacool Wood
Letterkenny
Co. Donegal

COPY



sent by registered post
RL 6570991IE

**FISHERIES (AMENDMENT) ACT, 1997 (NO.23)
NOTICE OF MINISTERIAL DECISION TO GRANT AN AQUACULTURE LICENCE
AND FORESHORE LICENCE.**

Dear Mr. O'Sullivan

I would like to inform you that the Minister For Agriculture, Food and the Marine has approved the granting to you of a 10-year Aquaculture Licences (one licence per site) and accompanying Foreshore Licences, for the cultivation of Pacific Oysters using bags and trestles on site No. T12/343 A See attached information note.) **I enclose a copy of the public notice of the decision which the Department has arranged to have published in "Donegal Democrat".**

Any person aggrieved by the decision may, in accordance with Section 41 of the Fisheries (Amendment) Act 1997, appeal against it in writing to the Aquaculture Licences Appeals Board. This appeal must be lodged within one month beginning on the date of the publication of the decision.

In addition, a person may question the validity of the Foreshore Licence determination by way of an application for judicial review, under Order 84 of the Rules of the Superior Court (SI No. 15 of 1986). Practical information on the review mechanism can be obtained from the Citizens Information Board at:
<http://www.citizensinformation.ie/>

The Licences will be issued to you as soon as possible after the end of the period of one month from the date of publication of the notice in "Donegal Democrat", if there is no appeal.

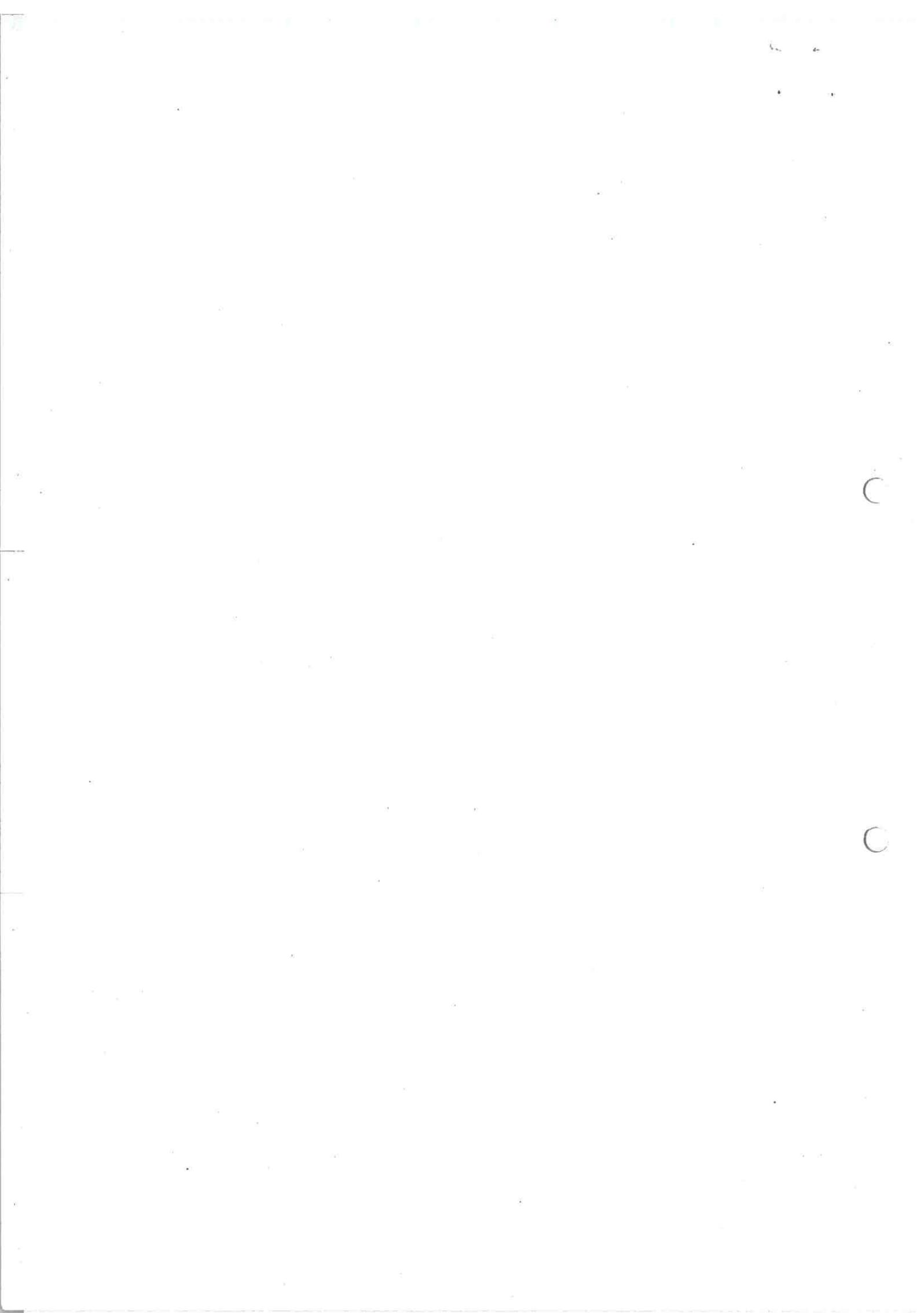
Please also find enclosed the conditions that will apply to any Aquaculture Licence that may be issued by the Minister.

Yours sincerely

Karen Gill
Aquaculture and Foreshore Management Division
National Seafood Centre
Clogheen, Clonakilty, Co. Cork

Phone: 023 8859586

Email: Karen.gill@agriculture.gov.ie



**S.12 (3) OF THE FISHERIES (AMENDMENT) ACT, 1997(NO.23)
INFORMATION NOTE TO APPLICANT FOR THE PURPOSE OF REGULATION 18
OF THE AQUACULTURE (LICENCE APPLICATION) REGULATIONS 1998**

REFERENCE NO: T12/343

APPLICANT: Alan O'Sullivan

**AQUACULTURE TO WHICH
DECISION RELATES:** Cultivation of Pacific Oysters using bags and
trestles on site T12/343A on the foreshore in
Lough Swilly, Co. Donegal

NATURE OF DECISION: Grant of Aquaculture Licences.

DATE OF DECISION: 30th /11/2017

CONDITIONS OF LICENCE: See attached.

DURATION OF LICENCE: 10 years

ISSUE OF LICENCE: The licence will be dated and issued
as soon as practicable after the end of the period
of one month from the date of publication of a
notice in a newspaper circulating in the vicinity of
the aquaculture, if no appeal is made to the
Aquaculture Licences Appeals Board within that
period, under Section 40 and 41 of the Fisheries
(Amendment) Act, 1997.

Note: It has been decided to grant the applicant a separate Foreshore Licence under the Foreshore Act, 1933 (No.12), contemporaneous with the Aquaculture Licence, subject to standard conditions applicable to Foreshore Licences.

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C

C

TAB C



Department of
**Agriculture,
Food and the Marine**

An Roinn
**Talmhaíochta,
Bia agus Mara**

T12/343

AQUACULTURE LICENCE

AQUACULTURE MARINE SHELLFISH
INTER/SUB-TIDAL
(Structures e.g. trestles)

Alan O'Sullivan

103 Ballymacool Wood

Letterkenny

Co. Donegal

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AQUACULTURE LICENCE NO. XXXX

GRANTED UNDER THE FISHERIES (AMENDMENT) ACT, 1997 (NO. 23 of 1997)

The Minister for Agriculture, Food and the Marine (hereinafter referred to as the "Minister"), in exercise of the powers conferred on him by the Fisheries (Amendment) Act, 1997 (No. 23 of 1997) (hereinafter referred to as the "Act"), grants an Aquaculture Licence to:

**ALAN O'SULLIVAN
103 BALLYMACOOL WOOD
LETTERKENNY
CO. DONEGAL**

(hereinafter referred to as the "Licensee") for the cultivation of Pacific Oysters on a site in Lough Swilly, Co. Donegal as specified in Schedule 1 attached (numbered T12/343A) and indicated by a red line on the attached map in accordance with the plans and drawing(s) in Schedule 2 attached as approved of by the Minister, subject to the Act and Regulations made under the Act and to the terms and conditions set out in the attached pages.

This Aquaculture Licence shall remain in force for a maximum period of ten (10) years commencing on XX XX XXXXXX 20XX, provided for so long as the Foreshore Licence granted on XX XXXXXXXXXXXX 20XX, under Section 3(1) of the Foreshore Act 1933 (No. 12 of 1933) in respect of the same site for the purpose referred to is in force.

A person authorised under Section 15(1)
of the Ministers and Secretaries Act 1924 to
authenticate the Seal of the Minister for
Agriculture, Food and the Marine.

TERMS AND CONDITIONS APPLYING TO THIS AQUACULTURE LICENCE

1. Licensed Area

- 1.1 The area specified in *Schedule 1* attached (2.09 hectares) (labelled T12/343A) and outlined in red on the map(s) in *Schedule 1*.
- 1.2 The co-ordinates for the site are based on the Irish National Grid Co-ordinate System.

2. Species, Cultivation and Method Licensed

- 2.1. Species to be farmed: Pacific Oysters
- 2.2. Method: Bag and Trestle Single-layer subject to the stocking and/or deployment limits as may be specified in *Schedule 4* attached.
- 2.3. The introduction of seed to the site shall comply with the legislation relating to fish health.

3. Infrastructure and Site Management

Indemnity

- 3.1. The Licensee shall indemnify and keep indemnified the State, the Minister, his officers, servants or agents against all actions, loss, damage, costs, expenses and any demands or claims howsoever arising in connection with the construction, maintenance or use of any structures, apparatus, equipment or any other thing used in connection with the licensed operation in the licensed area or in the exercise of the rights granted under the licence and the Licensee shall take such steps as the Minister may specify in order to ensure compliance with this condition.
- 3.2. The duty of maintenance and responsibility for the upkeep and safety of the site rests with the Licensee.

Design, Arrangement and Maintenance of Structures

- 3.3. The Licensee shall ensure that the equipment (including all flotation, mooring and anchoring devices) is placed within the licensed area only. Storage or placement of equipment or stock on the foreshore or seashore outside the licensed area is not permitted under any circumstances.
- 3.4. The Minister may direct as to the deployment of apparatus and flotation devices and their colour, within the site.
- 3.5. The Licensee shall obtain the prior approval of the Minister to any proposed material change to the plan/drawings or equipment as approved being used during the licensing period as specified in *Schedule 2* attached.

- 3.6. The Licensee shall at all times for the duration of the licence keep all equipment used for the purposes of the licensed operations in a good and proper state of repair and condition to the satisfaction of the Minister or other competent State authority.
- 3.7. The Licensee shall ensure that each trestle grouping/pole and all flotation and mooring devices in the licensed area legibly bear the Aquaculture Licence Number in an indelible weatherproof format.

Operational Conduct

- 3.8. The Licensee shall conduct its operations in a safe manner and with regard for other persons in the area and the environment and shall ensure that the operations are not injurious to adjacent lands or the public interest (including the environment) and do not interfere with navigation or other lawful activity in the vicinity of the licensed area, and shall comply with any lawful directions issued by the Minister and any other competent State authority in that regard.
- 3.9. The Licensee shall ensure that any aquaculture or other activity conducted under this licence does not adversely affect the integrity of the Natura 2000 network (if applicable) through the deterioration of natural habitats and the habitats of species and/or through disturbance of the species for which the area has been designated in so far as such a disturbance may be significant in relation to the stated conservation objectives of the site concerned.
- 3.10. The Licensee shall ensure that tractors (or other vehicles) accessing and leaving the site adhere strictly to approved access and egress routes as specified in Schedule 1 attached. Full compliance is required in order to minimise disturbance to the foreshore and habitat. All drivers shall be made fully aware of the specific route approved.
- 3.11. The Licensee shall ensure that journeys back and forth on the approved access and egress routes are kept to the minimum necessary.
- 3.12. The Licensee shall ensure that all tractors/towing vehicles to be used for aquaculture purposes on the foreshore are fitted with efficient exhaust/silencers/mufflers and that vibration noise from tractors and machinery is kept to a minimum.
- 3.13. The Licensee shall ensure that all vehicles are properly maintained so as to prevent leakages of oils, fuels, grease etc.
- 3.14. The Licensee shall ensure that all vehicles move slowly at all times on the foreshore, that engine revolution is kept to a minimum and that engines are turned off when not in use.
- 3.15. The Licensee shall ensure that if more than one vehicle is needed on the shore that all vehicles, where possible, arrive and depart together.
- 3.16. The Licensee shall so organise its operations in consultation with other licensed operators to ensure that the total number of vehicles and harvesting machines on the foreshore on any one day is kept to the minimum necessary.

- 3.17. The Licensee shall ensure that when carrying out aquaculture work on the foreshore, dogs owned or under the control of the Licensee shall not be present, in order to minimise disturbance to the birdlife in the area.
- 3.18. The Licensee shall ensure that best practice is employed to keep structures and netting clean at all times and any biofouling by alien invasive species shall be removed and disposed of in a responsible manner. In particular, in 'Natura 2000' sites care must be taken to ensure that any biofouling by alien invasive species will not pose a risk to the conservation features of the site. Measures to be undertaken are set out in the draft Marine Code of Practice prepared by Invasive Species Ireland and can be found on the web site at: <http://invasivespeciesireland.com/>.

Waste Management

- 3.19. The Licensee shall ensure that the licensed and adjoining area shall be kept clear of all redundant structures (including apparatus, equipment and/or uncontained stock), waste products and operational litter or debris and shall make provision for the prompt removal and proper disposal of such material. If the Licensee refuses or fails to do so, the Minister may cause the said structures, apparatus, equipment or other thing to be removed and the licensed area restored and shall be entitled to recover from the Licensee as a simple contract debt in any court of competent jurisdiction all costs and expenses incurred by him in connection with the removal and restoration.

Inspection

- 3.20. The licensed area and any equipment, structure, thing, or premises wherever situated used in connection with operations carried out in the licensed area shall be open for inspection at any time by an authorised person (within the meaning of Section 292 of the Fisheries (Consolidation) Act 1959) (No. 14 of 1959) (as amended by Fisheries Act 1980) (No. 1 of 1980), a Sea Fisheries Protection Officer (within the meaning of Sea Fisheries and Maritime Jurisdiction Act 2006) (No. 8 of 2006) or any other person appointed in that regard by the Minister or other competent State authority.
- 3.21. The Licensee shall give all reasonable assistance to an authorised officer or a Sea Fisheries Protection Officer or any person duly appointed by any competent State authority to enable the person or officer enter, inspect, examine, measure and test the licensed area and any equipment, structure, thing or premises used in connection with the operations carried out in the licensed area and to take whatever samples may be deemed appropriate by that person or officer.
- 3.22. The Licensee shall keep and maintain in the State for inspection on demand by the Minister or a competent State authority, at all times, records of all operations including compliance monitoring and any required follow up action. These records shall be produced by the Licensee on demand by the Minister or other competent State authority and in any event not later than 24 hours from the making of that demand.
- 3.23. The Licensee shall furnish to the Minister or other competent State authority in the form and at the intervals determined by the Minister or other competent State

authority, such information relating to the licensed area as may be required to determine compliance by the Licensee with the terms of this licence and applicable legislation.

4. **Navigation and Safety**

4.1. The Licensee shall ensure that Statutory Sanction from the Commissioners of Irish Lights is in place prior to the commencement of operations, regarding all aids to navigation. Statutory Sanction forms are available at <http://www.cil.ie/safety-navigation/statutory-sanction.aspx>.

4.2. The Licensee shall ensure that the site is marked in accordance with the requirements of both the Marine Survey Office and the Commissioners of Irish Lights as specified in *Schedule 3*.

The navigation marking detail is as illustrated in *Schedule 3*.

4.3. The Licensee shall comply with any specification requirement relating to navigational aids, flotation and mooring devices, supporting marking posts/poles, as required by the Minister or any other competent State authority.

4.4. Prior to commencement of operation the Licensee shall inform the UK Hydrographic Office at Taunton, of the location and nature of the site in order that charts and nautical publications can be updated. Tel: 00 44 1823337900 Fax: 00 44 1823 284077 Email: sdr@mhob.gov.uk the Licensee shall submit proof to the Department within 14 days of the date of this licence that the UK Hydrographic Office has been so informed.

5. **Monitoring**

5.1. The Licensee shall undertake and/or partake in monitoring, in particular environmental monitoring, as directed by the Minister or other competent State authority.

6. **Fish Health / Mortality Management / Movement of Fish**

Fish Health Regulation

6.1. Before the site is stocked the Licensee shall ensure that a Fish Health Authorisation under statutory provisions giving effect to Council Directive No. 2006/88/EC, as amended, or any other legislative act that replaces that Directive on animal health requirements for aquaculture animals and their products, and on the prevention and control of certain diseases in aquatic animals, is in place.

Disposal of Mortalities

6.2. The Licensee shall dispose of dead fish in accordance with the applicable statutory provisions and requirements.

Movement of Fish

6.3. The Licensee shall comply with any regulations in force governing the movement of fish.

7. **Duration, Cessation, Review, Revocation, Amendment, Assignment**

Duration, Cessation

7.1. This Licence shall remain in force until XX XXXXXXXXXX, 20XX and as long as the accompanying Foreshore Licence remains in force.

Review

7.2. The Licensee may apply for a review of the licence at any time after the expiration of three years since the granting of the licence or its last renewal in accordance with section 70 of the Act.

Revocation, Amendment

7.3. Subject to the Act, the Minister may revoke or amend the licence if:-

- (a) he considers that it is in the public interest to do so,
- (b) he is satisfied that there has been a breach of any condition specified in the licence e.g., operating outside the licensed area,
- (c) the licensed area to which the licence relates is not being properly maintained,
- (d) water quality results or general performance in the licensed area do not meet the standards set by the Minister or the competent State authority.

Assignment

7.4. This Licence shall not be assigned without the prior written consent of the Minister and may not be assigned during the period of three years, dating from the commencement or renewal of this licence, unless the Minister determines that it may be assigned under condition 7(5) or the condition set out in 7(6) applies.

7.5. A Licensee who considers that there are exceptional reasons for the assignment of the Licence during the first three years, may apply to the Minister, giving those reasons, for a determination that the Licence may be assigned. The Minister may, at his discretion, having considered the reasons given by the Licensee, determine whether or not the Licence may be assigned. The determination of the Minister in this regard is final.

7.6. Where the Licensee is a company (within the meaning of the Companies Acts) and goes into Liquidation (within the meaning of the Companies Acts) in the first three years dating from the commencement of the licence, the Liquidator shall, with the consent of the Minister, be entitled to assign the licence to enable him to discharge any debts of the liquidated company.

7.7. This licence is issued subject to any order that the High Court may make under section 218 of the Companies Act 1963 or otherwise with regard to the assignment of this licence.

8. **Fees**

8.1. The Licensee shall pay to the Minister an annual aquaculture licence fee in accordance with the Aquaculture (Licence Application and Licence Fees) Regulations 1998(S.I. No. 270/1998) as amended by the Aquaculture (Licence

Fees) Regulations 2000 (S.I. No. 282 of 2000) or an amount payable under Regulations made under section 64 of the Act.

8.2. The Minister may revoke the licence where the Licensee fails to pay the aquaculture licence fees on demand.

9. **General Terms and Conditions**

9.1. The Licensee shall at all times comply with all laws applicable to aquaculture operations.

9.2. Any reference to a statute or an act of an institution of the European Union (whether specifically named or not) includes any amendments or re-enactments in force and all statutory instruments, orders, notices, regulations, directions, bye-laws, certificates, permissions and plans made, issued or given effect under such legislation shall remain valid.

9.3. If any condition or part of a condition in this licence is held to be illegal or unenforceable in whole or in part, such condition shall be deemed not to form part of this licence but the enforceability of the remainder of this licence is not affected.

9.4. The Licensee shall at all times hold all necessary licences, consents, permissions, permits or authorisations associated with any activities of the Licensee in connection with the licensed area.

Notification

9.5. Without prejudice to any other remedy under the licence or in law, if the Minister is of the view that the Licensee is in breach of any obligation under this licence, the Minister may, by notice in writing, require that the Licensee rectifies such breach, within such time as is specified by the Minister. The Licensee shall comply with any direction of the Minister within the time specified in the notice.

9.6. Any notice to be given by the Minister may be transmitted through the Post Office addressed to the Licensee at the last known address of the Licensee.

9.7. The Licensee shall notify the Minister within 7 days of any change in the Licensee's address, telephone, e-mail or facsimile number.

Tax Clearance Certificate

9.8. During the term of this licence the Licensee shall provide to the Minister on demand a current tax clearance certificate.

Companies and Co-operatives

9.9. In the event of the licence being granted to a company (within the meaning of the Companies Acts), control of the licensee company shall not change in any respect from the control of the company as existed on the date that the licence was granted so long as this licence shall remain in force save with the prior written permission of the Minister.

- 9.10. In the event of a licence being granted to a company that has been incorporated outside this State, the licensee company shall register with the Companies Registration Office within one month of the establishment of a place of business in the State or alternatively, within one month of the establishment of a branch of the said company in the State and the licensee company shall submit proof to the Department within 14 days of the end of that month that it has been so registered.
- 9.11. Where the licensee is a company within the meaning of the Companies Acts, the licensee company shall ensure that it does not become dissolved within the meaning of the Companies Acts for so long as this licence shall remain in force.
- 9.12. In the event of the licence being granted to a society (within the meaning of section 2 of the Industrial and Provident Societies (Amendment) Act 1978 (No.23 of 1978) the following conditions shall apply:-
- 9.12.1. The rules relating to membership of the society shall enable any resident of the State to become a member of it where the resident fulfils all the conditions laid down by the society for membership of it and the rules shall not lay down different conditions for different classes of people;
- 9.12.2. The rules relating to the society to be submitted to the Minister before the grant of this licence shall not be amended subsequently other than with the written permission of the Minister; and
- 9.12.3. The Minister may, if he considers it necessary in the interests of good management of the licensed area, direct that an amendment may be made to the rules of the society, and the Licensee shall amend the rules in accordance with that direction.

Clearance of Site

- 9.13. The Licensee shall, at the Licensee's own expense, if so required by written notice from the Minister, and within three weeks after receipt of such notice or on cessation of the licence for any other cause, remove the structures, apparatus, equipment or any other thing to the satisfaction of the Minister. If the Licensee refuses or fails to do so, the Minister may cause the said structures, apparatus, equipment or other things to be removed and the licensed area restored and shall be entitled to recover from the Licensee as a simple contract debt in any court of competent jurisdiction all costs and expenses incurred by him in connection with the removal and restoration. The Licensee shall take such steps as the Minister may specify in order to secure compliance with this condition.

SCHEDULE 1

Schedule 1 contains:

- the co-ordinates of the site based on the Irish National Grid Co-ordinate System and the area of the site
- site map(s) which also shows the access/egress route to and from the site
- a chart showing the location of the site in relation to the surrounding area.

DRAFT

1 NO. SITE AT LOUGH SWILLY CO.DONEGAL

Co-ordinates & Area

Site T12/343A (2.029 Ha)

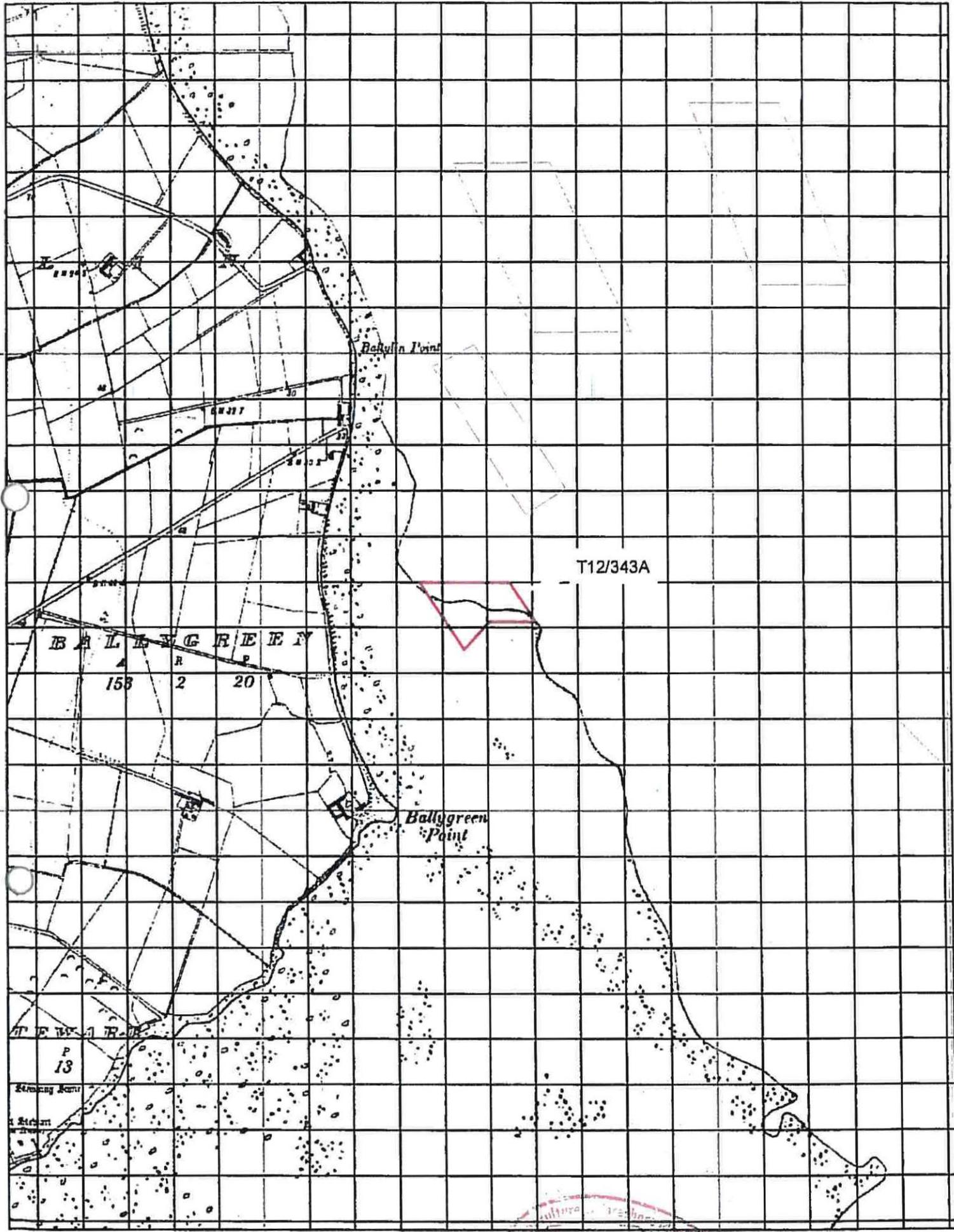
The area seaward of the high water mark and enclosed by a line drawn from Irish National Grid Reference point

228350, 421500 to Irish National Grid Reference point
228550, 421500 to Irish National Grid Reference point
228608, 421414 to Irish National Grid Reference point
228505, 421414 to the first mentioned point.
228449, 421352 to the first mentioned point.



422000

421000



228000

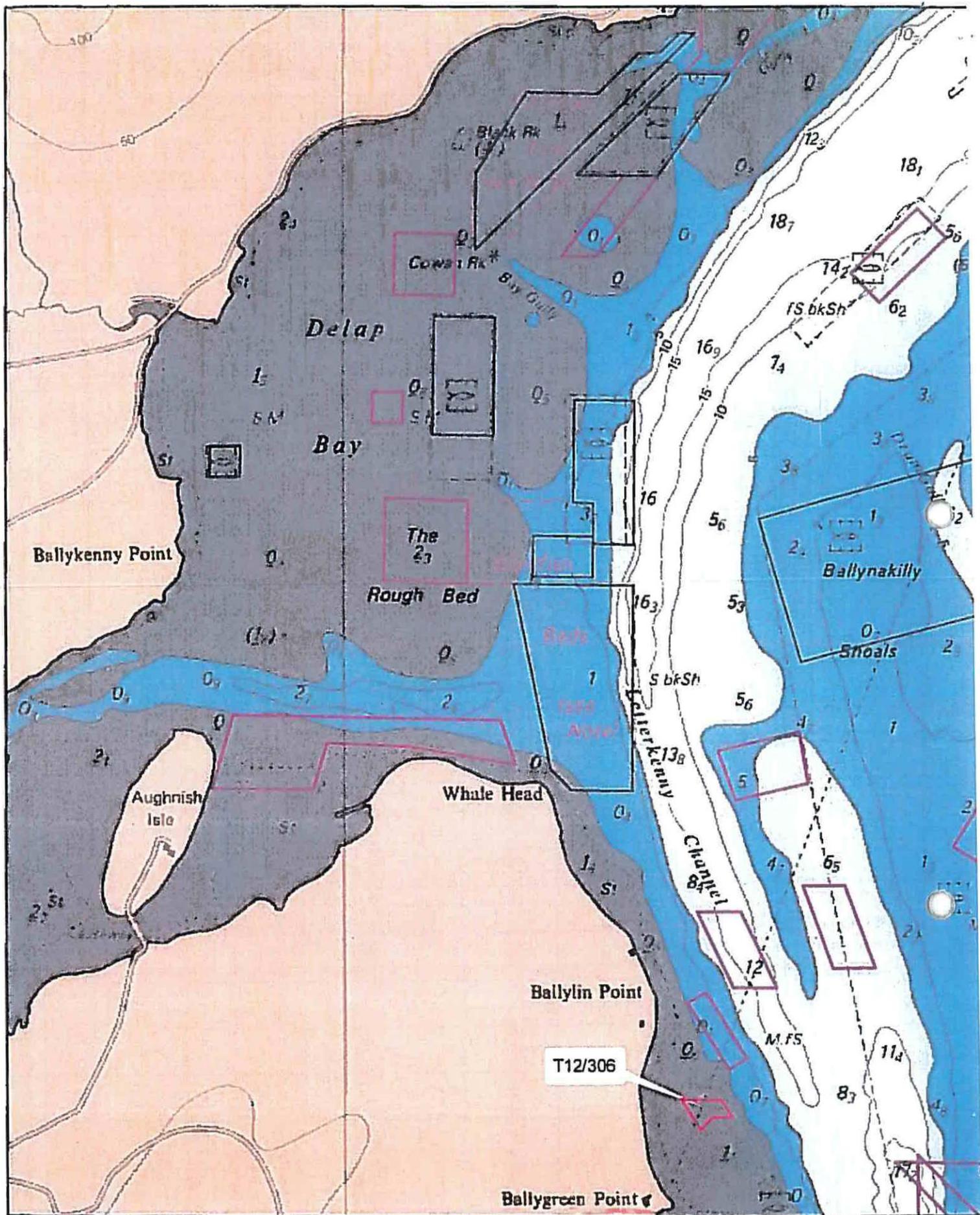
229000

- Aqua Culture Sites**
 No. 07/14/2016
 Scale 1:10,560
- Aquaculture
 - Landmark
 - Road
 - Boundary
 - Contour
 - Water
 - Spot Height

1:10,560

Sites highlighted in red denotes Application
 Ordnance Survey Ireland Licence No EN 0076413
 © Ordnance Survey Ireland/Government of Ireland





1:24,000

Sites highlighted in red denotes Application

Part of Admiralty Chart No =2697-0

Not to be used for Navigation



Aquaculture Sites
 See status
 Application
 Approved
 Revoked
 Suspended
 Withdrawn

Department of Agriculture, Food and the Marine
 Talmhafochta, Rinn na Mara

SCHEDULE 2

Schedule 2 contains:

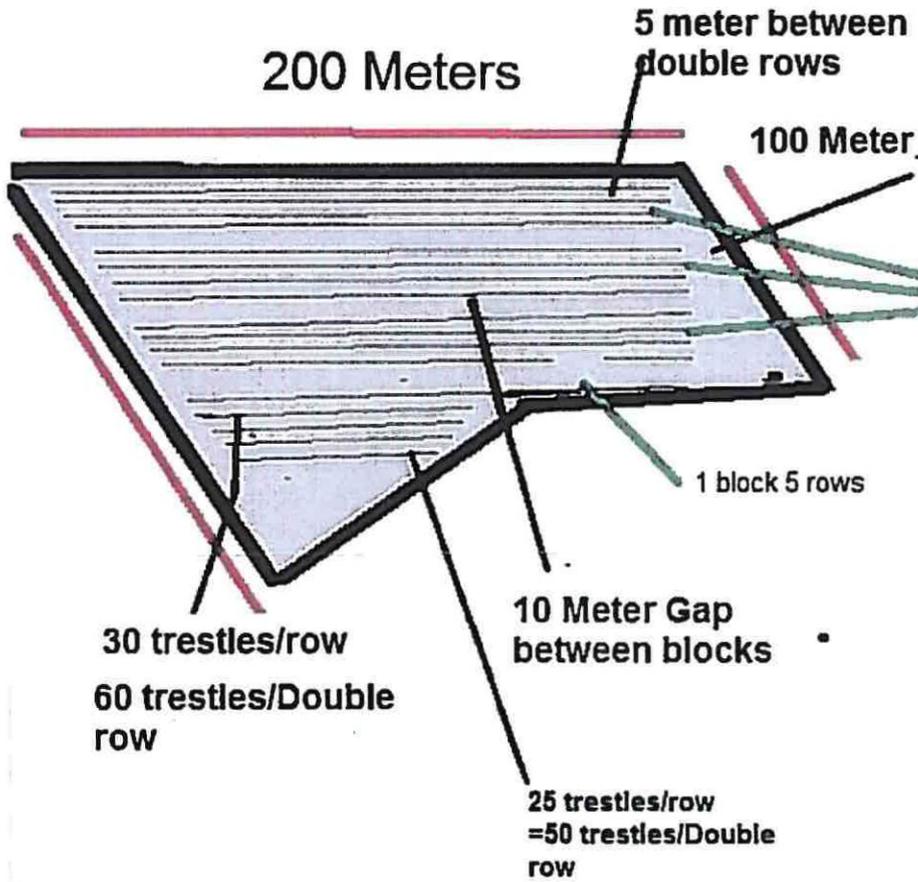
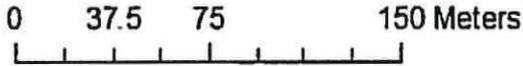
- **the approved plans and drawing(s)**

DRAFT

Shellfish Farm Layout T12/343

Size: 2.09 HA

Scale: 1: 2000



— Trestle Row

60 trestles/row
120 trestles/ double row
4 double rows/block

480 trestles Per block
3 blocks of 480 trestles
=1440 trestles

1 block 330 trestles (5 rows)

(1 row 120 trestles/ double row

1 row 60 trestles/Double row

3 rows 50 trestles/double row = 150 trestles)

Total trestles: 1770

1770 x 6 bags= 10620 bags

SCHEDULE 3

Schedule 3 contains:

- requirements of the CIL- the applicant secures Statutory Sanction from Commissioners of Irish Lights for the aids to navigation.
- requirements of the MSO- the navigation marking detail
Four post, projecting two meters above sea level at highest astronomical tide and with a topmark of a diagonal St. Andrews cross, painted yellow should be erected at the four corners of the development. Spacing between poles – one every 100 meters on the eastern side of the development.

DRAFT

SCHEDULE 4

Schedule 4 contains:

- **Triploid stock to be used as standard.**
- **Any kelp grids and associated features will not be removed and will be preserved in situ.**
- **Designated access route to be use to minimise impact on features of cultural heritage significance.**

DRAFT

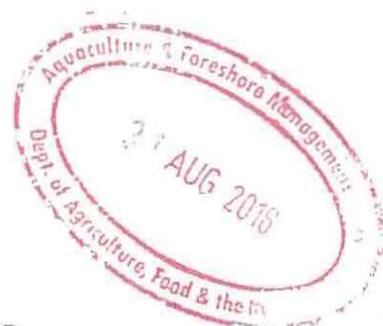
1 NO. SITE AT LOUGH SWILLY CO.DONEGAL

Co-ordinates & Area

Site T12/343A (2.029 Ha)

The area seaward of the high water mark and enclosed by a line drawn from Irish National Grid Reference point

- 228350, 421500 to Irish National Grid Reference point
- 228550, 421500 to Irish National Grid Reference point
- 228608, 421414 to Irish National Grid Reference point
- 228505, 421414 to the first mentioned point.
- 228449, 421352 to the first mentioned point.

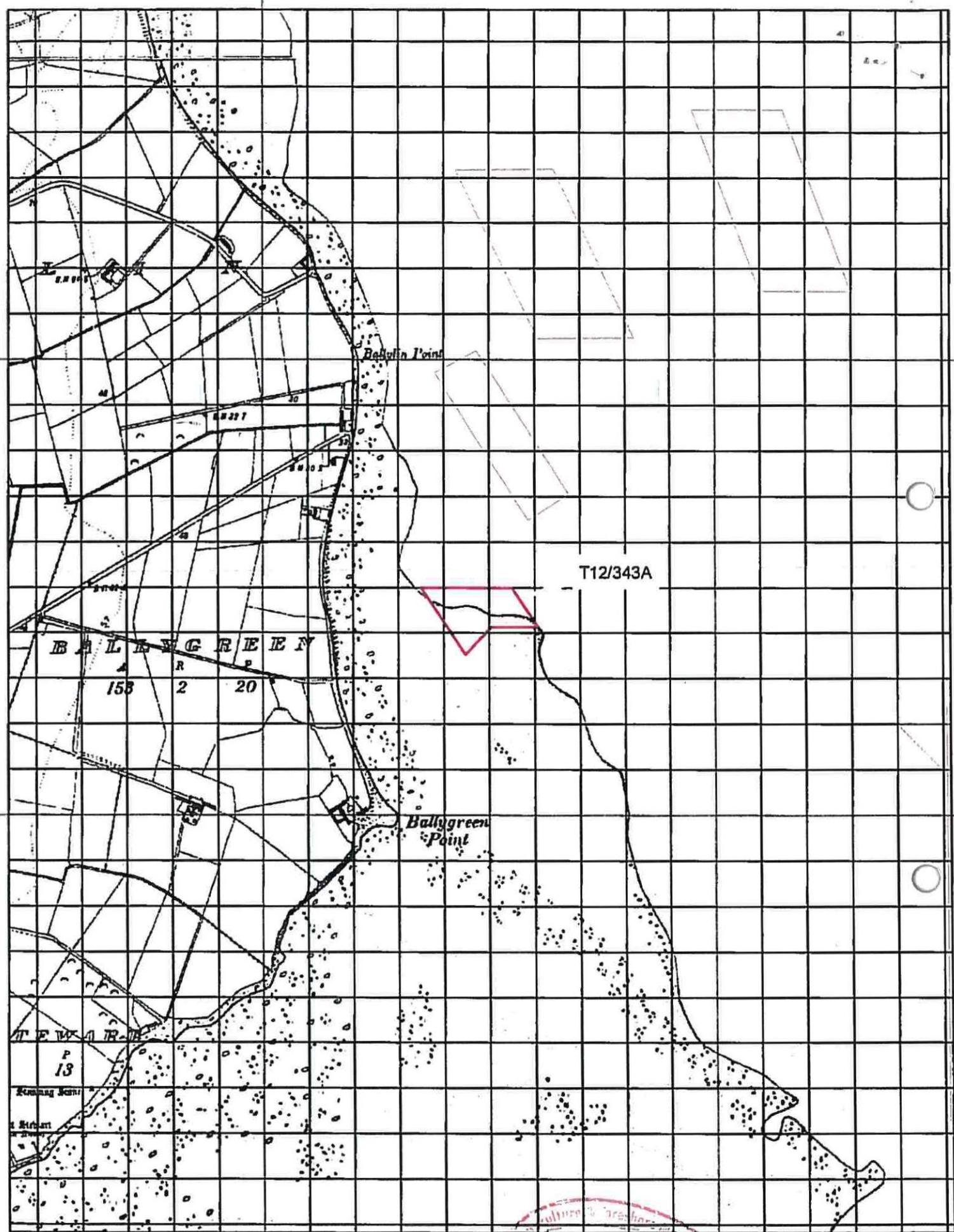


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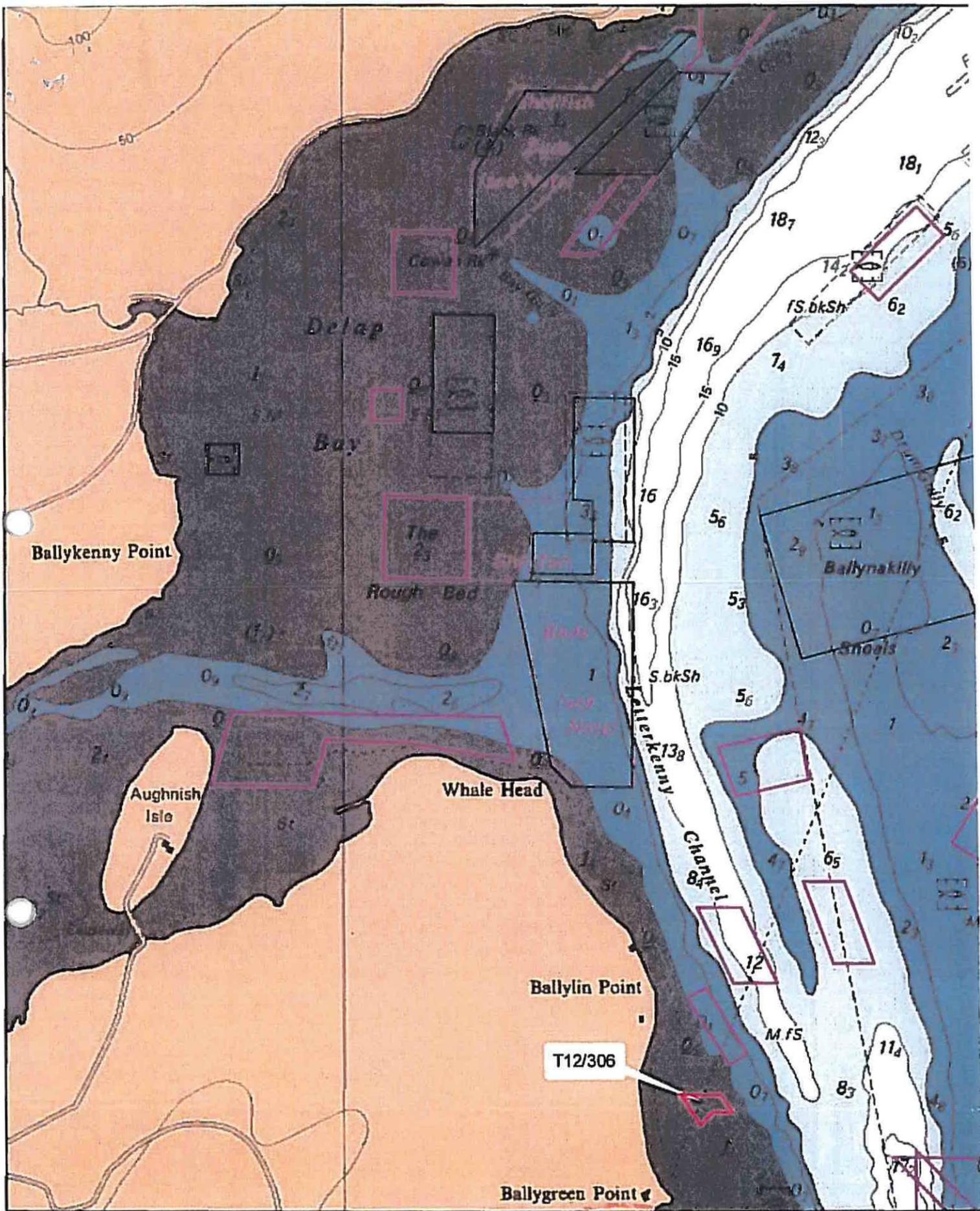


- Aqua Culture Sites**
 See 5 to 105
- Application
 - Licensed
 - Permitted
 - Proposed
 - Prohibited
 - Surrounding
 - Water
 - Other Water Features

1:10,560

Sites highlighted in red denotes Application
 Ordnance Survey Ireland Licence No. EN 0076413
 © Ordnance Survey Ireland/Government of Ireland





1:24,000

Sites highlighted in red denotes Application

Part of Admiralty Chart No =2697-0

Not to be used for Navigation



- Aquaculture Sites**
- Site Status
 - Application
 - Lapsed
 - Refused
 - Special
 - Revoked
 - Subsisted
 - Withdrawn



11/17/17





Department of
**Agriculture,
Food and the Marine**
An Roinn
**Talmhaíochta,
Bia agus Mara**

05/12/2017

To ALAB

File Ref: See Attached Table

**NOTIFICATION OF MINISTER'S DECISION TO GRANT AND TO REFUSE
TO GRANT AN AQUACULTURE LICENCE AND A FORESHORE
LICENCE.**

Dear Ms O'Hara,

I enclose a copy of the Notice of the Minister's Decision to grant and to refuse to grant an Aquaculture Licence to: see **attached table** which will be advertised in the "Donegal Democrat" on **Thursday the 07th of December 2017.**

Yours sincerely,

Eileen Maher
Aquaculture and Foreshore Management Division
Department of Agriculture Food and the Marine
National Seafood Centre
Clonakilty, Co Cork
EileenM.Maher@agriculture.gov.ie
Tel No:0238859505



Reference Number	Name	Species	Decision
T12/37 A 1	Lough Swilly Shellfish Growers Co-Operative Society Limited, Station House, Malin Road, Carndonagh, Co. Donegal.	Mussels	Grant Licence
T12/37 A 2	Lough Swilly Shellfish Growers Co-Operative Society Limited, Station House, Malin Road, Carndonagh, Co. Donegal.	Pacific Oysters	Grant Licence
T12/37 B 1	Lough Swilly Shellfish Growers Co-Operative Society Limited, Station House, Malin Road, Carndonagh, Co. Donegal.	Mussels	Grant Licence
T12/37 B 2	Lough Swilly Shellfish Growers Co-Operative Society Limited, Station House, Malin Road, Carndonagh, Co. Donegal.	Mussels	Grant Licence
T12/37 B 3	Lough Swilly Shellfish Growers Co-Operative Society Limited, Station House, Malin Road, Carndonagh, Co. Donegal.	Pacific Oysters	Grant Licence
T12/37 B 4	Lough Swilly Shellfish Growers Co-Operative Society Limited, Station House, Malin Road, Carndonagh, Co. Donegal.	Pacific Oysters	Grant Licence
T12/37 C	Lough Swilly Shellfish Growers Co-Operative Society Limited, Station House, Malin Road, Carndonagh, Co. Donegal.	Pacific Oysters & Mussels	Grant Licence
T12/297	Patrick Shovelin, Clondallon, Rathmullan, Co. Donegal	Pacific Oysters	Refuse Licence
T12/311	Hannigan Fish Trading Ltd, Fintra Road, Killybegs, Co. Donegal	Pacific Oysters	Refuse Licence
T12/343	Alan O'Sullivan, 103 Ballymacool Wood, Letterkenny, Co. Donegal	Pacific Oysters	Grant Licence



Call 074 97 40160

Classifieds

Public Notices

FISHERIES (AMENDMENT) ACT, 1997 (NO. 23) FORESHORE ACT, 1933 (NO. 12) NOTICE OF DECISION TO GRANT AND REFUSE TO GRANT AQUACULTURE AND FORESHORE LICENCES.

The Minister for Agriculture, Food and the Marine has decided to grant/refuse Aquaculture and Foreshore Licences to the following in the table below in Lough Swilly, Co. Donegal:

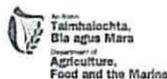
T12/37 A 1	Lough Swilly Shellfish Growers Co-Operative Society Limited, Station House, Malin Road, Carndonagh, Co. Donegal.	Mussels	Grant Licence
T12/37 A 2	Lough Swilly Shellfish Growers Co-Operative Society Limited, Station House, Malin Road, Carndonagh, Co. Donegal.	Pacific Oysters	Grant Licence
T12/37 B 1	Lough Swilly Shellfish Growers Co-Operative Society Limited, Station House, Malin Road, Carndonagh, Co. Donegal.	Mussels	Grant Licence
T12/37 B 2	Lough Swilly Shellfish Growers Co-Operative Society Limited, Station House, Malin Road, Carndonagh, Co. Donegal.	Mussels	Grant Licence
T12/37 B 3	Lough Swilly Shellfish Growers Co-Operative Society Limited, Station House, Malin Road, Carndonagh, Co. Donegal.	Pacific Oysters	Grant Licence
T12/37 B 4	Lough Swilly Shellfish Growers Co-Operative Society Limited, Station House, Malin Road, Carndonagh, Co. Donegal.	Pacific Oysters	Grant Licence
T12/37 C	Lough Swilly Shellfish Growers Co-Operative Society Limited, Station House, Malin Road, Carndonagh, Co. Donegal.	Pacific Oysters & Mussels	Grant Licence
T12/297	Patrick Shevelin, Ciondallon, Rathmullan, Co. Donegal.	Pacific Oysters	Refuse Licence
T12/311	Hannigan Fish Trading Ltd, Fintra Road, Killybegs, Co. Donegal.	Pacific Oysters	Refuse Licence
T12/345	Alan O Sullivan, 103 Ballymacool Wood, Letterkenny, Co. Donegal.	Pacific Oysters	Grant Licence

The reasons for this decision are elaborated on the Department's website at <http://www.agriculture.gov.ie/soil/food/foodandagriculture/foreshoremanagement/aquaculture/foreshoremanagement/foreshoremanagement/decisions/donswilly/>

An appeal against the Aquaculture Licence decision may be made in writing, within one month of the date of its publication, to THE AQUACULTURE LICENCES APPEALS BOARD, Kilminchy Court, Portlaoise, Co. Laois, by completing the Notice of Appeal Application Form available from the Board, phone 057 86 31012, e-mail info@alab.ie or website at <http://www.alab.ie/>

A person may question the validity of the Foreshore Licence determination by way of an application for judicial review, under Order 84 of the Rules of the Superior Court (SI No. 15 of 1986). Practical information on the review mechanism can be obtained from the Citizens Information Board at <http://www.citizensinformationboard.ie/>

www.agriculture.gov.ie
@agriculture_ie



Public Sector

FREE NMBI REGISTRATION FOR 2018



CALLING ALL NURSES, MIDWIVES, STUDENT NURSES & CARE ASSISTANTS NATIONWIDE

- Do you want to work in a *less stressful* work environment?
- Do you wish to have flexible hours and be in charge of your own work schedule?
- Do you just want to make a few extra euro for the holidays or something special?
- Try out a Hospital/Worksite with agency shifts through Nurse on Call before committing to a permanent position.
- Do you want to be able to work around family life and work when it suits you?
- Do you want to reduce your working hours but wish to keep your skills up?

WORK THIS WEEK—GET PAID NEXT WEEK

Pick and choose your own hours, work as much or as little as you like.
HSE Qualification/Location Allowances & Senior Staff Nurse Rate Payable.
Fast track registration.

Work Available Now for RGNs, RCNs, RMs, RPNs and RNIDs.
New Graduates and Nurses returning to work also very welcome
Student Nurses/Midwives & Care Assistants (Fetac Level 5 or in the process of attaining)
Huge Variety of Nursing Work Available – from HSE, DATHS & Private Hospitals to less Acute Care environments such as Care of the Elderly, ID Services and HSE Home Care

INTERVIEW TIMES & DATES**

Galway: Grey office Park Galway Retail Park –
Tuesday 05th December and Tuesday 19th December from 10am until 3.30pm
Sligo: Clayton Hotel, Clonon Road – Wednesday 06th December from 10am until 3.30pm
Letterkenny: Radisson Hotel, Letterkenny Retail Park – Thursday 07th December from 10am until 3.30pm

**For agency shifts in University Hospital Galway and Meelin Park University Hospital, Sligo Regional Hospital, Letterkenny University Hospital, Mayo General Hospital, Portlaoise Hospital, Roscommon County Hospital & other locations in the West.

For more information, please call 091 511412 (press 3) or email your CV to Interviewer@nurseoncall.ie Check out our website – www.nurseoncall.ie

Situations Vacant

Rúnaí bunskoile
Rúnaí bunskoile páirtaimsire (3 lá, 12 n-uair in aghaidh na seachtaine) de dhíth i nGaelscoil Éirne, Fearann an Bhaile, Béal Átha Seanaidh, Co Dhún na nGall ag tosnú ar 15/1/2018.

Ní mór don té a cheapfar a bheith líofa sa Ghaeilge. Bheadh taithi a bheith ag obair mar rúnaí bunskoile ina chabhair don té a cheapfar. Beidh an rúnaí ag obair faoi stúir an phríomhoide. Tá ard scileanna bainistíochta oifige, ard scileanna cumarsáide, ard scileanna eagrúcháin de dhíth don phost. Ní mór don té a cheapfar a bheith ábalta obair go neamhsplúch as a stuaín féin agus mar chuid de fhóireann. Tá eolas agus taithi in úsáid na teicneolaíochta ríachtanach don phost. Tá eolas ar buiseadu de dhíth chomh maith. Bheadh tuisctint ag an té a cheapfar ar an tábhacht a bhaineann le rindacht agus le bheith discrídíoch agus éilim bun a chihuid dualgais.

Beidh an ceapachán ag braith ar ghriinnfhoilseachán an nGardaí agus ar sheiceáil teistéimíreachtai. Beidh tréimhse celtire mhu ann don phromadh.

Seol do litir iarrtais, C.V agus cóip de do theastais chuig An Cathaoirleach, Gaelscoil Éirne, Fearann an Bhaile, Béal Átha seanaidh, Co.Dhún na nGall

roimh 22 /12/2017.

Situations Vacant

Electrician Required

Due to high growth and rapid expansion we are now seeking a Qualified Electrician for the Donegal area

Great Terms and conditions of the right candidate.

Starting salary €30,000 + per year

Please send you CV to:
Box No 222

Donegal Democrat, Quay Street, Donegal Town, Co. Donegal

What happens if you don't advertise...

...nothing

Farm Machinery & Equipment

WANTED! TRACTORS Diggers & Telehandlers in all conditions - All Makes and Models for Exporting and Breaking Top Prices Paid Nationwide Collection. Tel: UK 00447818452267 RCN 186 278 0014 www.welby-track-tractorsdiggers.com/trucktractors@btinternet.com

Planning Notices

DONEGAL COUNTY COUNCIL

Carraig Upper Co. Donegal

1. Joseph McCune on Applying to Donegal County Council for Planning Permission to Retain Demolish Garage at 72 Slove League Avenue Carrick in the townland of Carrick Upper, Cottages, Co. Donegal. This application may be inspected or purchased at a fee not exceeding the reasonable cost of making a copy at the Offices of the Planning Authority during Public Opening Hours of the Planning Authority County House Lifford. Submissions or objections in relation to this development may be made to the Planning Authority in writing on payment of 20 Euro within 5 weeks beginning on the date of receipt of the application from the authority.

Situations Vacant

Supporting You, Building Communities



Apex Housing Association provides housing, care and support for the needs of the whole community in a variety of settings across N. Ireland. Full details of all vacancies are available at www.apex.org.uk

Housekeeper

Fortwell Place, Letterkenny, Co. Donegal
Permanent Post: 1 x 15 hours per week & Reserve List
Salary: €17,797 per annum pro rata

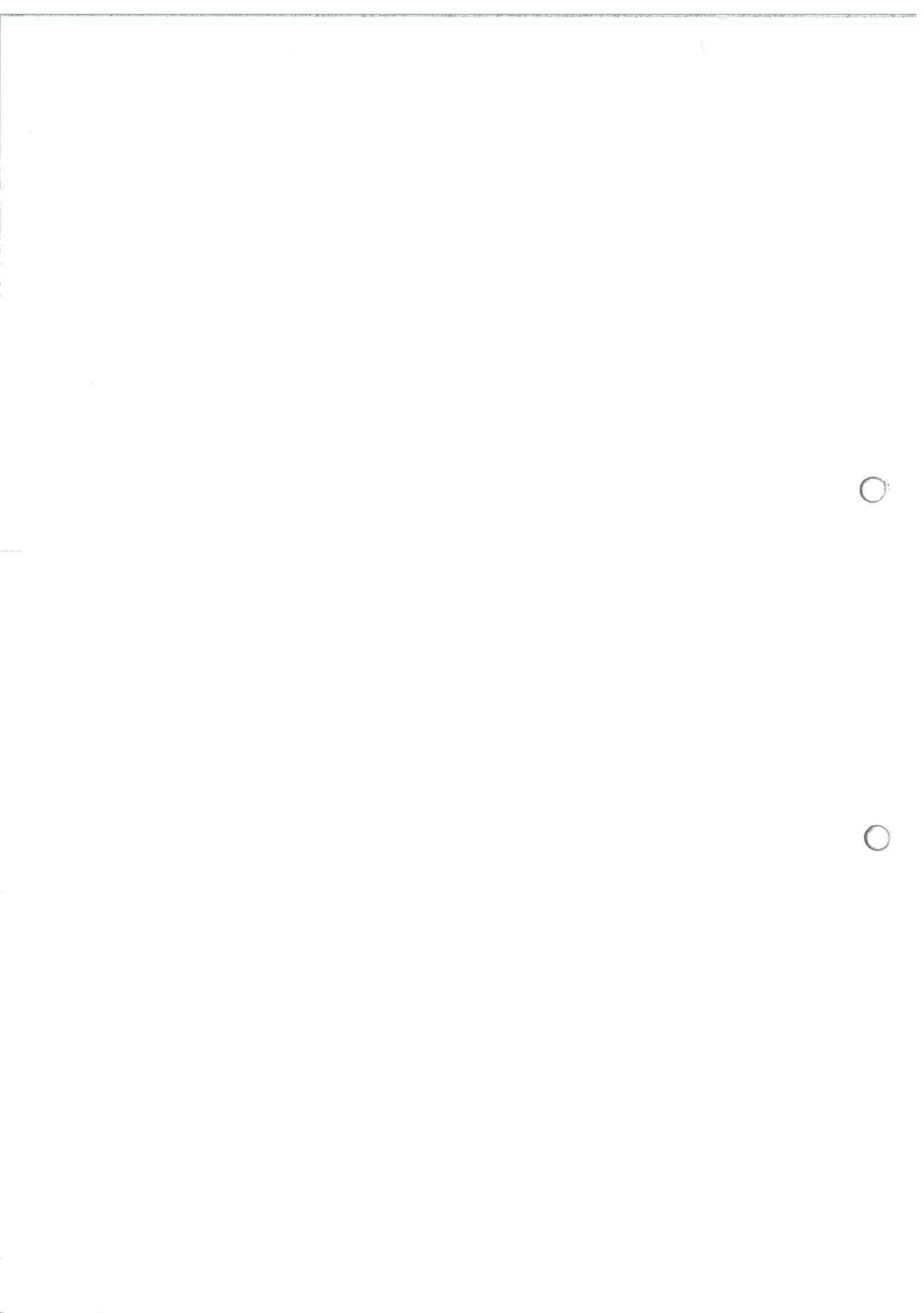
Application forms can be completed online at www.apex.org.uk or a hard copy requested by sending a large stamped addressed envelope with €1.65 postage (An Post stamps) to Personnel & Training Dept, Apex, to Butcher Street, Derry-Londonderry, BT48 6HL quoting the job title and location. If you require any further details, please contact the Personnel Department on +44 (0)28 7130 4888. Closing date for applications Wednesday, 20th December 2017.

Apex is an Equal Opportunity Employer and welcomes all applications regardless of gender, marital status, family status, religious belief, race, age, sexual orientation, or disability of membership of the above categories.



www.apex.org.uk





AQUACULTURE - LICENSING UNDER
FISHERIES (AMENDMENT) ACT, 1997 and
FORESHORE ACT, 1933

SHELLFISH AND FINFISH

Aquaculture and Foreshore Licence Application Form

Important Note

Section 4 of the Fisheries and Foreshore (Amendment) Act, 1998 (No. 54) prohibits any person making an application on or after 10 December 1998 for an Aquaculture Licence from commencing aquaculture operations until duly licensed under the Fisheries (Amendment) Act, 1997 (No. 23), and provides that a breach of that prohibition will cause the application to fail.

Coastal Zone Management Division
Department of Communications, Marine and Natural Resources
Leeson Lane, Dublin 2

Fax: (01) 6782189

AQUACULTURE AND FORESHORE LICENSING APPLICATION FORM, for purposes
of FISHERIES (AMENDMENT) ACT, 1997 and FORESHORE ACT, 1933

Accompanying Guidance Notes should be read before completing this form.

Note: Details provided in Parts 1 and 2 will be made available for public inspection. Details provided in Part 3 are confidential and are not for public disclosure.

For Office Use Application Ref. No. _____ Date of receipt, (Dept. Stamp):

USE BLOCK CAPITALS IN BLACK INK

PART 1: PRELIMINARY DETAILS

Name(s) of Applicant(s) in full: 1.A LOUGH SWILLY SHELLFISH GROWERS CO-OPERATIVE SOCIETY LTD	
1.B	
Address(es) of Applicant(s) in full:	
1.A STATION HOUSE	1.B
MALIN ROAD	
CARNDONAGH	
CO DONEGAL	
[REDACTED]	5 Tel: _____ Fax: _____

<u>TYPE OF APPLICATION</u>		Insert X in relevant box
Indicate the relevant type of application:		
- (i) Aquaculture Licence		<input checked="" type="checkbox"/>
- (ii) Trial Licence		<input type="checkbox"/>
- (iii) Review of Aquaculture Licence		<input type="checkbox"/>
- (iv) Renewal of Aquaculture Licence		<input checked="" type="checkbox"/>
- (v) Foreshore Licence		<input checked="" type="checkbox"/>
(This Application Form is valid for each type of application.)		

<u>1.D TYPE OF AQUACULTURE</u>	
Indicate the relevant type of application:	
- (i) Land-based	<input type="checkbox"/>
- (ii) Marine-based	<input type="checkbox"/>
- Shellfish	
(iii) - extensive	<input checked="" type="checkbox"/>
(iv) - intensive	<input type="checkbox"/>
- (v) Finfish	<input type="checkbox"/>

1.E.DOCUMENTS ENCLOSED WITH THIS APPLICATION

The following documents are enclosed with this application:

- | | |
|--|-------------------------------------|
| (1) - Ordnance Survey Map (Scale of 1: 10,560, ie, a six inch map) <i>OBLIGATORY</i> | <input checked="" type="checkbox"/> |
| (2) - British Admiralty Chart (largest available scale) | <input checked="" type="checkbox"/> |
| (3) - Decision of planning authority under Planning Acts | <input type="checkbox"/> |
| (4) - Copy of licence under Section 4 of Local Government
Water Pollution) Act, 1977 | <input type="checkbox"/> |
| (5) - Environmental Impact Statement | <input type="checkbox"/> |
| (6) - Drawing of the structures to be used and/or the layout of the farm <i>OBLIGATORY</i> | <input type="checkbox"/> |
| (7) - Water Quality Analysis Report (required for Land-based sites only) | <input type="checkbox"/> |
| (8) - Application Fee <i>OBLIGATORY</i> | <input type="checkbox"/> |
| (9) - Other (specify): _____ | |

PART 2: DETAILS RELATING TO PROPOSED AQUACULTURE PROJECT

2.A Employment, Qualifications, Experience, Etc.

(i) Details of Applicant's qualifications and experience in aquaculture: _____

ALL MEMBERS HAVE BEEN INVOLVED IN THE CULTIVATION OF OYSTERS AND MUSSELS FOR APPROX 14 YEARS

(ii) Other relevant experience (courses attended, etc): _____

(iii) Details of projected employment creation during first four years of proposed development: _____

SAME AS PREVIOUS RECORDS

(iv) Projected employment (number of persons): _____

Year 1:		Year 2:		Year 3:		Year 4:	
---------	--	---------	--	---------	--	---------	--

2.B Aquaculture Site Details

Indicate type of site:

- (i) Land-based
- (ii) Marine-based

2.C Land-Based Site
(To be completed if appropriate)

(i) State species to be farmed:

_____ N/A _____

(ii) State proposed system of culture e.g., pond, raceway, circular tank or other method: _____ N/A _____

(iii) Full address of proposed site including Townland and County: _____ N/A _____

(iv) Tonnage to be produced:

Year 1:		Year 2:		Year 3:		Year 4:	
---------	--	---------	--	---------	--	---------	--

(v) Proposed source of stock: _____

(vi) Name of river(s) supplying site with water: _____ N/A _____

(vii) Estimate drought flow in gallons per minute: _____

(viii) Is there a fall of 1.5 metres in the water level at this site or can this be obtained by damming the river with giving rise to flooding of your own or neighbour's land upstream of the site? _____

(ix) Area of proposed site (hectares): _____

(x) Details of services available on the site e.g., main road access, electricity: _____

(xi) Are there at present any possible sources of pollution upstream of the site, e.g. discharge from sewerage plant, farmyard, sheep dip facility, silage effluent, quarry, sandpit _____ _____

or factory?
ii) If yes, supply details: _____

YES

NO

N/A

Land-based Site (continued)

2.D The following must be supplied:

- (i) Sketch of the layout of the site in relation to the river(s), road(s) and buildings;
- (ii) Water quality Analysis Report, which should be drawn up in accordance with the parameters set out in Annex C of the Guidance Notes.

2.E The following conditions must be met in order to allow for consideration of licensing of land-based aquaculture:

- (i) the buildings and equipment must be put in place to the Department's satisfaction; and
- (ii) the operation must comply with Local Authority requirements.

2.F Marine-based Site(s)

(To be completed if appropriate)

Location - (i) Bay: _____ LOUGH SWILLY

- (ii) County: _____ DONEGAL

(iii) OS Map No: _____ DONEGAL SHEET 37

(iv) Size (hectares): _____ 776

(v) Species (to be specified): _____ COMMON MUSSEL, GIGAS OYSTERS, NATIVE OYSTERS

-Aquatic Plant(s)

-Any form of aquatic food suitable for the nutrition of fish

(vi) Method of culture (e.g., nets, ropes, tanks, trestles, etc.) _____ BOTTOM CULTURE /BAG & TRESTLE /HANGING BASKET METHOD FOR OYSTERS

(vii) Drawings of structures to be used in method of culture should be enclosed.

(viii) If cages or tanks are proposed, state:

-(a) Number: _____

-(b) Type and shape: _____

-(c) Cubic Capacity: _____

-(d) Depth: _____

(ix) Proposed specific site locations (with reasons): _____

(x) Describe proposed purification facilities to be used, where appropriate: _____

Marine-based Site(s) (continued)

2.G Give details of any special requirements relating to the health of the proposed project and the wider matters of public health and safety: _____

2.H Tonnage to be produced:

<u>Species</u> (To state)	<u>Year 1:</u>	<u>Year 2:</u>	<u>Year 3:</u>	<u>Year 4:</u>
_____	_____	_____	_____	_____
<u>500/1000 TONS OF MUSSELS PER MEMBER (11 MEMBERS)</u>	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

2.I Reasons for selection of site(s): _____

N/A

Note: The proposed access route to the site(s) from public road across tidal foreshore area must be indicated on the OS map accompanying the application.

2.J Environmental Impact Statement (EIS).

A copy of an EIS, if required, should be enclosed with the application. The EIS should contain the information specified in Annex B of the Guidance Notes.

B. MARKETING (continued)

3. Will the product be processed or packaged?

YES NO

4. If yes, give details: _____

N/A

I/We hereby declare the information provided in Parts 1, 2 and 3 above to be true to the best of my/our knowledge. I/We enclose an application fee* of € 64-49 with this application.

Signature(s) of Applicant(s):

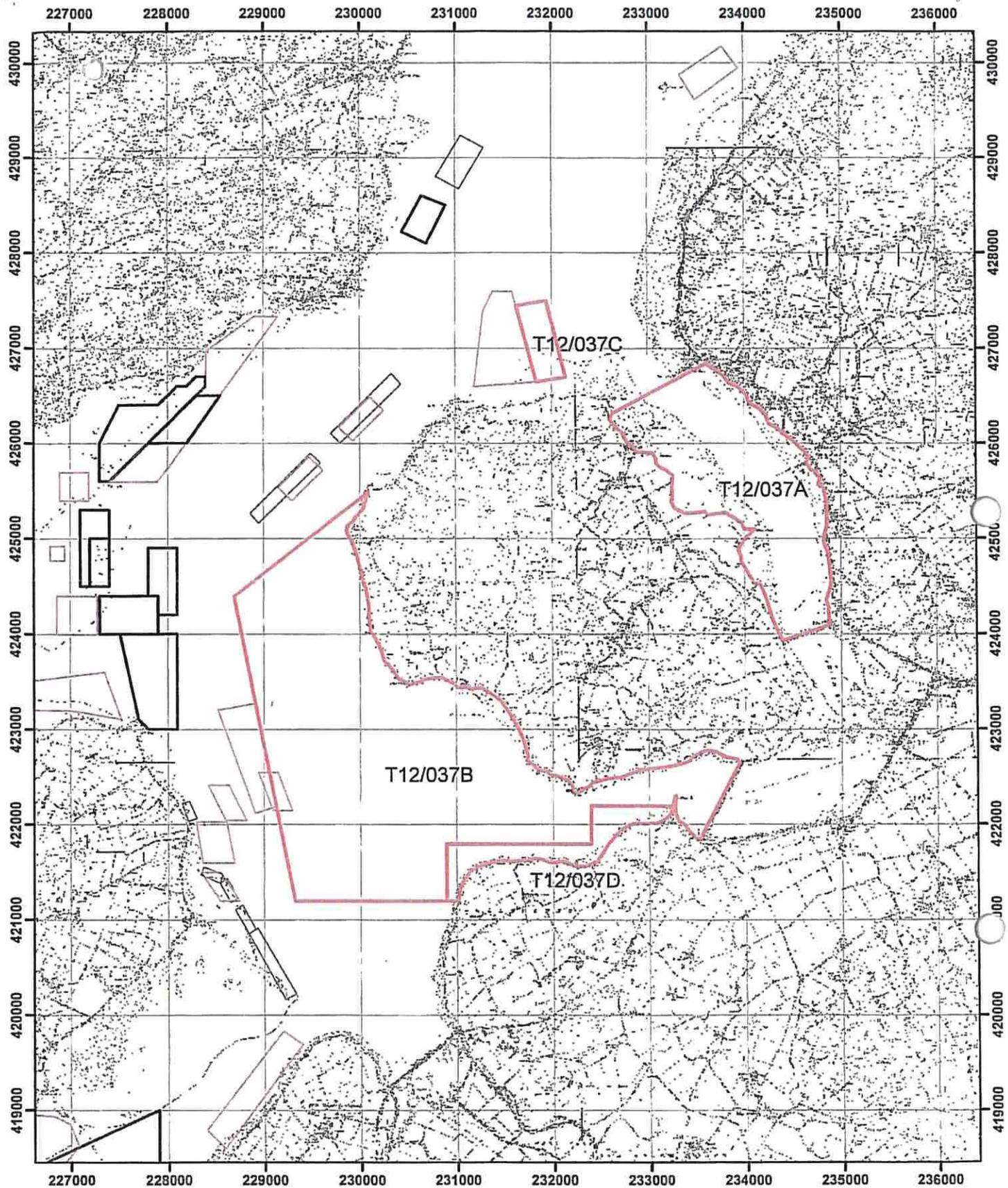
[Handwritten Signature]
[Handwritten Signature]

Date: 23.9.04

*Preferred method of payment is by cheque or bank draft. The fee should be made payable to the Department of Communications, Marine and Natural Resources.

This form should be forwarded, with the required documents and application fee, to:

Aquaculture Licensing
Coastal Zone Management Division
Department of Communications, Marine and Natural Resources
Leeson Lane
Dublin 2



- Aqua Culture Sites**
- <all other values>
- Site_Status**
- Application
 - Application Lapsed
 - Application Refused
 - Application Renewed
 - Application Withdrawn
 - License Altered
 - License Revised
 - License Surrendered
 - Licensed
 - Oyster Fishery Order
 - Unknown
 - Unlicensed

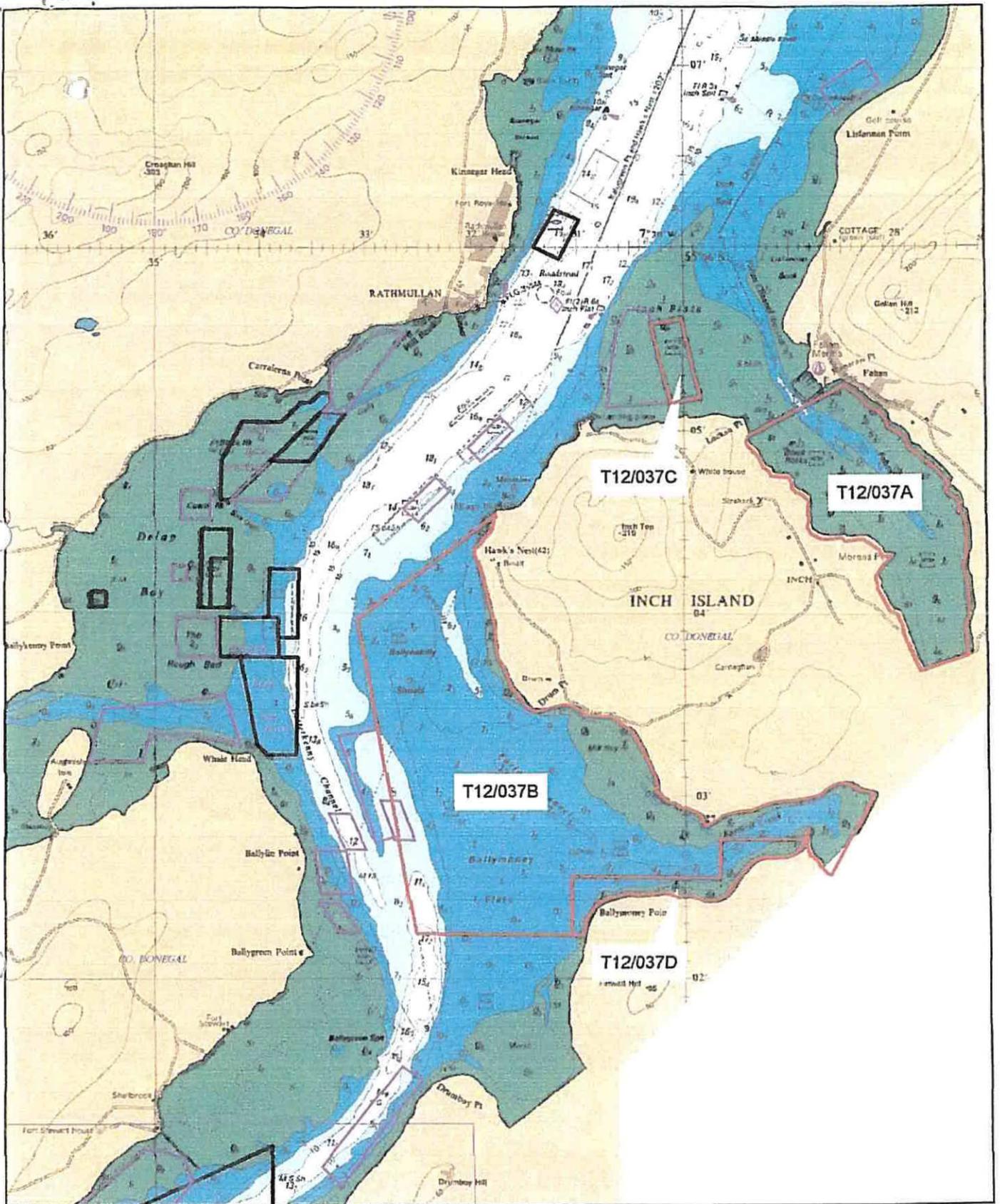
1:50,000

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OS Permit No. DNE 0001 001



Department of Communications, Marine and Natural Resources
Roinn Cumarsáide, Mara agus Achmairne Nádurtha

Site Highlighted in red denotes application



Part of Admiralty Chart No. 2697-0
Not to be used for Navigation.

1:50,000



Department of Communications, Marine and Natural Resources
Roinn Cumarsáide, Mara agus Aeráin Náisiúna

Site Highlighted in red denotes application

1 NO. SITE AT Lough Swilly CO.DONEGAL

Co-ordinates & Area

Site T12/037D (60.135 Ha)

The area seaward of the high water mark and enclosed by a line drawn from Irish National Grid Reference point

230900, 421200 to Irish National Grid Reference point
230900, 421800 to Irish National Grid Reference point
232400, 421800 to Irish National Grid Reference point
232400, 422200 to Irish National Grid Reference point
233247, 422200 to Irish National Grid Reference point
231018, 421200 to the first mentioned point.

1 NO. SITE AT Lough Swilly CO.DONEGAL

Co-ordinates & Area

Site T12/037B (847.37 Ha)

The area seaward of the high water mark and enclosed by a line drawn from Irish National Grid Reference point

228700, 424400 to Irish National Grid Reference point
230090, 425490 to Irish National Grid Reference point
233942, 422651 to Irish National Grid Reference point
233523, 421848 to Irish National Grid Reference point
233247, 422200 to Irish National Grid Reference point
232400, 422200 to Irish National Grid Reference point
232400, 421800 to Irish National Grid Reference point
230900, 421800 to Irish National Grid Reference point
230900, 421200 to Irish National Grid Reference point
229327, 421200 to the first mentioned point.

1 NO. SITE AT Lough Swilly CO.DONEGAL

Co-ordinates & Area

Site T12/037C (25.4205 Ha)

The area seaward of the high water mark and enclosed by a line drawn from Irish National Grid Reference point

231640, 427448 to Irish National Grid Reference point
231950, 427500 to Irish National Grid Reference point
232150, 426700 to Irish National Grid Reference point
231850, 426650 to the first mentioned point.

1 NO. SITE AT Lough Swilly CO.DONEGAL

Co-ordinates & Area

Site T12/037A (306.1135 Ha)

The area seaward of the high water mark and enclosed by a line drawn from Irish National Grid Reference point

232630, 426317 to Irish National Grid Reference point

233603, 426845 to Irish National Grid Reference point

234880, 424100 to Irish National Grid Reference point

234390, 423934 to the first mentioned point.



TAB B

Ministerial Determination in relation to EIS requirements concerning the cultivation of shellfish by Lough Swilly Shellfish Growers Co-Operative Society Ltd. (T12/37) in Lough Swilly, Co. Donegal

I, Simon Coveney, Minister for Agriculture, Food and the Marine in accordance with the requirement of Regulation 5(2) of the Aquaculture (Licence Application) Regulations, 1998 has considered whether this licence application to culture shellfish is likely to have significant effects on the environment and would require the submission of an Environmental Impact Statement.

I have considered the proposed aquaculture activity, and determined that it would be unlikely to have significant effects on the environment and that an EIS is not required for this application for the reasons outlined below.

However, as part of a separate Appropriate Assessment carried out under Article 6 (3) of the Habitats Directive it was concluded that it was likely that the proposed aquaculture activity, alone or in combination with other aquaculture activities, would have significant impacts on the Conservation Objectives of Lough Swilly SAC/SPA. The conclusions of the Appropriate Assessment will need to be fully considered prior to any licence determination being made.

REASONS AND CONSIDERATIONS

I had regard to the provisions of:

- i. Regulation 5 of the Aquaculture (Licence Application) Regulations, 1998;
- ii. EIA Directives (codified by Council Directive 2011/92/EU);
- iii. The criteria specified in Annex III of Directive 2011/92/EU;
- iv. The guidance contained in the European Commission document entitled "Guidance on EIA, Screening" June 2001;
- v. The Appropriate Assessment of Aquaculture and Fisheries in Lough Swilly Special Area of Conservation and Special Protection Area

and also to the report and recommendations of the Department's Screening Group with particular reference to:

- a) the nature and scale of the proposed aquaculture activity relative to the body of coastal water within which it is located;
- b) the absence of any protected structures or recorded monuments in the area of the proposed aquaculture activity - as per Donegal County Development Plan;
- c) the low population density of the surrounding area;
- d) the low visual impact of the proposed aquaculture activity;
- e) the proposed aquaculture activity is not likely to have any significant impact on the wetlands in the area;
- f) the non-use of toxic or hazardous substances as part of the proposed aquaculture activity;
- g) the minor risk of accidents occurring as result of the proposed aquaculture activity;
- h) the low risk of impacts on navigational safety - impact will be mitigated by appropriate marks on the development;
- i) public access to recreational and other activities should not be impacted by the project;
- j) the findings of the Appropriate Assessment in relation to the impacts on protected habitats and species.

DATED: 4th November 2015

EIA SCREENING ASSESSMENT T12/37

1. Applicant Details

Name
Address

Lough Swilly Shellfish Growers Society
Station House
Malin Road
Carndonagh
Co. Donegal

2. Characteristics of Project

- a) Species cultivation proposed
- b) Method
- c) Production in intertidal zone
- d) Production beyond intertidal zone
- e) Source of seed/spat etc
- f) Is a non-native species to be cultivated?
- g) Annual Production Estimates - Tonnes

Blue Mussels (<i>Mytilus edulis</i>) Oysters (<i>Osirea Edulis</i> and <i>C. Gigas</i>)	
Bottom culture for mussels-bag and trestle and hanging basket for oysters	
Yes	
Yes	
Natural falling/Irish Sea mussel seed – Oyster seed France Naissan Turbot	
Yes With the exception of Articles 3 & 4 Regulation EC 708/2007 does not apply to the production of <i>C. Gigas</i>	
Year 1 c. 1000MT mussels- 200 tonnes oysters	
Year 2 c. 1000MT mussels- 200 tonnes oysters	
Year 3 c. 1000MT mussels- 200 tonnes oysters	
Year 4 c. 1000MT mussels- 200 tonnes oysters	

3. Location of Project

- a) File No.
- b) No. of sites
- c) Location
- d) Heclares
- e) Shellfish Waters Designation
- f) Natura 2000 site

If yes, identify area as per S.I. 268 of 2006/S.I. 55 of 2009

- 4. Development Plan
- a) County Development Plan

If yes, identify site and type

T12/37	
3 sites on expired licence - proposal for division into 4 sites	
Lough Swilly	
1,174 ha- as assessed in AA	
Yes	
S.I. 55 of 2009 Lough Swilly Map No. 28 August 2008	
Yes	
Lough Swilly SAC (SAC002287), Lough Swilly SPA (SPA 004075)	
Yes – Donegal County Development Plan	

Chapter 8 -Tourism and Marine. The Council will support the sustainable development of the aquaculture sector to maximise its contribution to economic growth within the County. In particular, the Council acknowledge the development and expansion of the oyster farming industry in the county and its potential in terms of employment and product export.

If yes, period covered
b) Local Area Plan
If yes, identify relevant sections
c) Other
If yes, please specify and identify relevant sections

2012-2018	
No	
No	
No	

T12/37		
EIA SCREENING CHECKLIST		
Is it an ANNEX II project?	YES	
Is the project located on or adjacent to a Natura 2000 area?	YES Sites located in Lough Swilly SAC Site Code(002287), Lough Swilly SPA Site Code (004075)	
If yes, has the appropriate assessment been carried out?	YES - Appropriate Assessment of Aquaculture and Fisheries in Lough Swilly carried out by Marine Institute- published May 2013	
1. CHARACTERISTICS OF THE PROJECT - ANNEX III (1)	Yes/No - Briefly describe	Is this likely to result in a significant effect? Yes/No? - Why
(a) Size of project		
Will the project be out of scale with the existing environment?	Yes . The development is large (1,174 Ha) in scale relative to the body of coastal water within which it is located.	As part of a separate process an Appropriate Assessment was carried out under Article 6(3) of the Habitats Directive it concluded that it was likely that the proposed activity, alone or in combination with other aquaculture activities, would have significant impacts on the Conservation Objections of the Lough Swilly SAC and the Lough Swilly SPA.
Will it lead to further consequential development or works (e.g. new roads, landing facilities, provision of new water supply)?	No . Existing infrastructure will be used and no additional infrastructure developments are needed.	
(b) Cumulation with other development		
Are there potential cumulative impacts with existing aquaculture projects or with other licensed aquaculture projects but which have not yet begun?	Yes . There are other aquaculture projects adjacent to this site involving the cultivation of mussels and oysters.	Cumulative impacts of bottom mussel cultivation in the Lough was considered in the Appropriate Assessment. It was concluded that this aquaculture type, both currently licensed sites and sites for which new applications have been made, overlaps all of the six different community types

	<p>found within the qualifying interest of Lough Swilly SAC. Considering the range of impacts identified (Biodeposition, Physical disturbance, Introduction of non-native species) and the persistent nature of the culture method, this activity is considered disturbing on all of the sedimentary habitats within the Lough. Alone this activity overlaps more than 15% of three communities (Sub-tidal Mixed Sediment with Polychaetes and Bivalves community -32.1%, Muddy Fine Sand <i>Thyasira flexuosa</i> community – 16.1%, <i>Ostrea edulis</i> dominated community – 26.5%) and is therefore deemed to have a significantly disturbing effect on these communities.</p> <p>Oyster suspended culture type aquaculture activity is deemed disturbing in the case of one of the community types found within the qualifying interests of Lough Swilly SAC i.e. <i>Ostrea edulis</i> dominated community.</p> <p>There will be no significant cumulative impacts on other sensitive receptors such as air quality, water quality, cultural heritage.</p> <p>The BST longline system may impact on visual amenity due to higher duration of periods of exposure at low tide.</p>
<p>Are there potential cumulative impacts with existing foreshore projects or with foreshore projects licensed but which have not yet begun?</p>	<p>No.</p>

<p>Should the application for this project be regarded as an integral part of a more substantial project? If so, can related projects which are subject to separate applications proceed independently?</p>	<p>No.</p>	
<p>T12/37</p> <p>1. CHARACTERISTICS OF THE PROJECT - ANNEX III (1) cont'd</p> <p>(c) Use of natural resources</p> <p>Will installation or operation of the project use natural resources such as land, water, materials or energy, especially any resources which are non-renewable or in short supply?</p> <ul style="list-style-type: none"> • land (especially undeveloped or agricultural land)? • water? • energy including electricity and fuels? • any other resources? <p>(d) Production of waste</p> <p>Will the project produce wastes during installation or operation or decommissioning?</p> <ul style="list-style-type: none"> • municipal waste (household and/or commercial)? • surplus product? • construction or demolition wastes? • redundant machinery or equipment? • any other solid wastes? • liquid or solid wastes in suspension? 	<p>Yes/No - Briefly describe</p> <p>Yes, The cultivation of mussels and oysters on the foreshore will use naturally occurring marine phytoplankton present in the seawater.</p>	<p>Is this likely to result in a significant effect? Yes/No? - Why</p> <p>No. High levels of plankton occur naturally at the location and shellfish cultivation at this scale will not result in limiting plankton growth or abundance.</p>
	<p>Yes. The cultivated shellfish will produce faeces and pseudofaeces. Thinning, grading, harvesting and removal of mortalities will result in shells being discarded. Materials associated with the cultivation process may need to be replaced or discarded.</p>	<p>No. The amount of faeces and pseudofaeces produced will be small and the impacted area will be limited to the area of the sites. The sites are well flushed and build up of excess organic matter with subsequent reduction in oxygen is not considered likely. Amounts of discarded shells will be small and build up of excess on site will not be permitted. Discarding of old bags, trestles or other material into the sea or on the foreshore will not be permitted.</p>

(e) Pollution and nuisances		
<p>Will the project release pollutants or any hazardous, toxic or noxious substances to air? Emissions from:</p> <ul style="list-style-type: none"> • combustion of fossil fuels from stationary or mobile sources? • construction activities including plant & equipment? • any other source 	<p>Yes. There will be emissions associated with the husbandry and harvesting of shellfish from tractors/ boats and other machinery. There will be no release to the air of other hazardous, toxic or noxious pollutants.</p>	<p>No. The emissions levels will be low and will not have a significant effect.</p>
T12 /37		
1. CHARACTERISTICS OF THE PROJECT - ANNEX III (1) cont'd		
e) Pollution and nuisances		
<p>Will the project cause noise and vibration or release of light?</p> <ul style="list-style-type: none"> • from operation of equipment e.g. engines? • from blasting or piling? • from construction or operational traffic? • from lighting or other systems? • from any other sources? 	<p>Yes. There will be noise associated with the husbandry and harvesting of the shellfish e.g., use of tractors/boats and other machinery.</p>	<p>No. Noise levels will not be significant.</p>
(f) Risk of accidents, having regard in particular to substances or technologies used		
<p>Will there be any risk of accidents during installation or operation of the project which could affect human health or the environment?</p>	<p>Yes. There may be a minimal risk of physical injury while working on the site but no risk to human health. There is minor risk to the environment from vessel breakdown or accidents.</p>	<p>No. The risk of occurrence and magnitude of impact are likely to be low.</p>
<p>Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No. No chemicals or hazardous substances will be used during the production process.</p>	

<p>Will the project involve use, storage, transport, handling or production of substances or materials which could be harmful to people or the environment (flora, fauna, water supplies)?</p> <ul style="list-style-type: none"> • use of hazardous or toxic substances? • potential changes in occurrence of disease or effect on disease carriers (e.g. insect or water borne diseases)? 	<p>No. Cultivation of mussels and oysters depends on naturally occurring marine resources. No harmful substances or materials will be used or released during the production process.</p>	
<p>T12 /37</p> <p>1. CHARACTERISTICS OF THE PROJECT - ANNEX III (1) cont'd</p> <p>(g) Will installation, operation or decommissioning of the project involve actions which will cause physical changes in waterbodies, etc)?</p> <ul style="list-style-type: none"> • dredging? • coastal structures (seawalls, piers)? • offshore structures? • facilities for storage of goods or materials? • facilities for treatment or disposal of solid wastes or liquid effluents? • new road, rail or sea traffic during construction or operation? • new road, rail, air, waterborne or other transport infrastructure including new or altered routes and stations, ports, airports etc? • closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements? • new or diverted transmission lines or pipelines? • transport of personnel or materials for construction, operation or decommissioning? • decommissioning or restoration works? • introduction of alien species? • loss of native species or genetic diversity? • any other changes? 	<p>Yes/No - Briefly describe</p> <p>Yes. There will be dredging. Trestles, poles and baskets will be placed on the foreshore.</p>	<p>Is this likely to result in a significant effect? Yes/No? - Why</p> <p>Yes. The dredging activities (seed relaying, stock movements, predator control and harvesting associated with bottom culture practice are deemed disturbing to the physical habitat and to the resident faunal community. Such physical disturbance can lead to the removal and /or destruction of infaunal species and changes to sediment composition.</p>
	<p>Yes. <i>Crassostrea Gigas</i>. With the exception of Article 3 and 4, Regulation EC 708/2007 does not apply to the production of <i>C. Gigas</i>.</p> <p>A feature of the conservation objectives for Lough Swilly is to maintain favourable</p>	<p>There is a significant risk of reproduction of Pacific oyster and the formation of naturalised populations within Lough Swilly. Bottom culture of pacific oysters in the past has had this impact in Lough Swilly. Continuation of this activity is not likely to be approved for the reason of feral population establishment in the past. Suspended culture of pacific oysters will require use of triploid (only) stock.</p>

	conservation conditions of the <i>Ostrea edulis</i> dominated community.	The AA found that the bottom cultivation of mussels overlaps of the <i>Ostrea edulis</i> dominated community. In particular, in relation to the proposed area of this site, there is a small overlap (5.90 ha or 0.65%) with the <i>Ostrea edulis</i> dominated community. The AA concluded that bottom culture aquaculture activity is considered disturbing on the <i>Ostrea edulis</i> dominated community.
(h) Inherent social changes		
Will the project result in social changes, for example, in demography, traditional lifestyles, employment?	It is anticipated that job opportunities would result from this project.	Locally beneficial but not significant.
T12 /37		
2. LOCATION OF THE PROJECT - ANNEX III (2)	Yes/No - Briefly describe	Is this likely to result in a significant effect? Yes/No? – Why
(a) Existing land use		
Are there existing land uses on or around the location which could be affected by the project, e.g. homes, gardens, other private property, industry, commerce, recreation, public open space, community facilities, agriculture, forestry, tourism, water catchments, functional floodplains, mining or quarrying?	No. Terrestrial land uses will not be affected and there is no spatial overlap with other users of the foreshore.	
Are there any areas on or around the location which are occupied by sensitive land uses e.g. hospitals, schools, places of worship, community facilities, which could be affected?	No.	
Is the project located in a previously undeveloped area?	No. There is other shellfish production in the bay	

T12/37			
2. LOCATION OF THE PROJECT - ANNEX III (2)	Yes/No - Briefly describe	Is this likely to result in a significant effect? Yes/No? - Why	
(b) Relative abundance, quality and regenerative capacity of natural resources in the area			
<p>Are there any areas on or around the location which contain important, high quality or scarce resources which could be affected by the project?</p> <ul style="list-style-type: none"> • groundwater resources • surface waters • fisheries • tourism 	<p>Yes. Fisheries</p>	<p>There is a small overlap with the <i>Ostrea edulis</i> dominated community. The AA concluded that bottom culture aquaculture activity is considered disturbing on the <i>Ostrea edulis</i> dominated community.</p>	
(c) Absorption capacity of the natural environment			
<p>Are there any areas on or around the location which are protected under international or national or local legislation for their ecological, landscape, cultural or other value, which could be affected by the project?</p>	<p>Yes. Sites located in Lough Swilly SAC (SACC002287), Lough Swilly SPA (SPA 004075)</p>	<p>The AA concluded that Mussel bottom culture is deemed disturbing in the case of the six community types found within the qualifying interest of Lough Swilly SAC. Oyster suspended culture type aquaculture activity overlaps with five of the community types found within the qualifying interest of Lough Swilly SAC and is deemed disturbing in the case of one of the community types found within the qualifying interest of Lough Swilly SAC, i.e. <i>Ostrea edulis</i> dominated community.</p>	
<p>Are there any other areas on or around the location which are important or sensitive for reasons of their ecology?</p> <ul style="list-style-type: none"> • wetlands, watercourses or other waterbodies? • the coastal zone? • mountains, forests or woodlands? • nature reserves and parks? 	<p>Yes. The wetlands habitats contained with the Lough Swilly SPA (004075) are of conservation importance for the waterbirds that use this resource</p>	<p>The AA concluded that none of the activities assessed will cause any change to the extent of subtidal, intertidal, supratidal and lagoon habitats. Therefore it is not likely to have any significant impacts on any wetlands in the area.</p>	
<p>Are there any areas on or around the location which are used by protected, important or sensitive species of fauna or flora e.g. for breeding, nesting, foraging, resting, overwintering, migration, which could be affected?</p>	<p>Yes. Lough Swilly SPA (004075) is designated for breeding populations of Black-headed Gull, Common Tern and</p>	<p>The Whooper Swan, Greenland White-fronted Goose, Greylag Goose and Coot were screened out as they do not have any</p>	

	<p>Sandwich Tern and also non-breeding populations of Whooper Swan, Greenland White-fronted Goose, Greylag Goose, Shelduck, Wigeon, Teal, Mallard, Shoveler, Scaup, Goldeneye, Red-breasted Merganser, Great Crested Grebe, Grey Heron, Coot, Oystercatcher, Knot, Dunlin, Curlew, Greenshank, Redshank, and Common Gull.</p> <p>A feature of the conservation objectives for Lough Swilly is to maintain favourable conservation conditions of the <i>Ostrea edulis</i> dominated community.</p>	<p>significant spatial overlap with any of the activities being assessed.</p> <p>The AA concluded based on the assumption of 100% occupancy of the mussel bottom culture plots, and that birds are uniformly distributed through suitable habitat, the following potentially significant impacts have been identified in this assessment.</p> <p>Ongrowing of mussel seed in inter-tidal nursery areas could potentially cause significant displacement impacts to Shelduck, Shoveler and Dunlin. The assumption of a negative response of these species to inter-tidal mussel cover is a precautionary assumption in the absence of clear evidence about the nature of their responses. There is some evidence that Dunlin, may, in fact have a positive association with mussel beds.</p> <p>Ongrowing of mussels in sub-tidal water could potentially cause significant displacement impact on Red-breasted Merganser, Great Crested Grebe due to potential impact on benthic prey resources. The existence of alternative prey resources (pelagic fish) that would not be affected means that complete displacement is unlikely to occur.</p> <p>Assessment of potential impacts to the Sandwich Tern and Common Tern is limited by the lack of information about the distribution of their foraging habitat within Lough Swilly. Ongrowing of mussels in sub-tidal waters could have significant</p>
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		<p>impact on Common Tern prey resources. Sandwich Tern prey resources are less likely to be significantly affected. Mussel bottom culture has the potential to contribute towards a significant cumulative impact on their prey resources if the pelagic fisheries also affect their prey resources.</p> <p>The AA found that the bottom cultivation of mussels and oysters overlaps with the <i>Ostrea edulis</i> dominated community. In particular, in relation to the proposed area of this site, there is a small overlap with the <i>Ostrea edulis</i> dominated community. The AA concluded that bottom culture aquaculture activity is considered disturbing on the <i>Ostrea edulis</i> dominated community.</p> <p>Oyster suspended culture type aquaculture activity overlaps with five of the community types found within the qualifying interest of Lough Swilly SAC and is deemed disturbing in the case of one of the community types found within the qualifying interest of Lough Swilly SAC, i.e. <i>Ostrea edulis</i> dominated community.</p>
<p>Are there any inland, coastal, marine or underground waters on or around the location which could be affected?</p>	<p>No.</p>	
<p>Are there any groundwater source protection zones or areas that contribute to the recharge of groundwater resources?</p>	<p>No.</p>	

T12/37	2. LOCATION OF THE PROJECT - ANNEX III (2) cont'd	Yes/No - Briefly describe	Is this likely to result in a significant effect? Yes/No? - Why
(c) Absorption capacity of the natural environment cont'd			
Are there any areas or features of high landscape or scenic value on or around the location which could be affected?	No.	No. Public access to recreational and other activities will not be impacted by the project.	
Are there any routes or facilities on or around the location which are used by the public for access to recreation or other facilities, which could be affected?	No. The amount of additional traffic generated will not be significant.		
Are there any transport routes on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected?	No. Population density in the area is low. Visibility of the site from public views is low.		
Is the project in a location where it is likely to be highly visible to many people?	No. No protected structures identified in the County development plan. Underwater Archaeology issue will be addressed in statutory consultation with the relevant body.		
Are there any areas or features of historic, cultural or archaeological importance on or around the location which could be affected?	No. Results of monitoring under Shellfish Waters Directive do not indicate water quality issues in the vicinity of proposed shellfish production area. Mussels and Oysters in this area currently have a "B" classification under Annex II of EU Regulation 854/2004		
Are there any areas on or around the location which are already subject to pollution or environmental damage e.g. where existing legal environmental standards are exceeded, which could be affected?			
Is the area densely populated?	No.		

Is the location of the project susceptible to earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions e.g. temperature inversions, fogs, severe winds, which could cause the project to present environmental problems?

No.

Having considered the likelihood of the proposed aquaculture having significant effects on the environment the consensus of the Screening Group is that an Environmental Impact Statement is not required for this project. As part of a separate process, an Appropriate Assessment was carried out under Article 6(3) of the Habitats Directive which concluded that it was likely that the proposed activity, alone or in combination with other aquaculture activities, would have impacts on the Conservation Objectives of the Lough Swilly SAC/SPA. The conclusions of the Appropriate Assessment need to be fully considered prior to any licence determination being made.

EIA SCREENING GROUP NAMES

Dr Terry McMahon	Marine Institute
Tony O'Sullivan	Department's Engineering Division
Paul O'Sullivan	Department's Engineering Division
Catherine Morrison	BIM
Karen Gill	Department's Aquaculture and Foreshore Management Division
Batt Whelton	Department's Aquaculture and Foreshore Management Division
SIGNED ON BEHALF OF THE GROUP	DEPARTMENT'S AQUACULTURE & FORESHORE MANAGEMENT DIVISION REPRESENTATIVE
NAME IN BLOCK CAPITALS - BATT WHELTON	DATE 13 th Oct 2015

Batt Whelton



AAA

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00277-17: Recommendation to Grant Aquaculture and Foreshore Licences for 7 sites (T12/37)

To: Minister	Author: Karen Gill
Status: Completed	Owner: Gill, Karen
Purpose: For Decision	Reviewers: Foley, Gerry,Whelton, Batt,Quinlan, John,Beamish, Cecil
Division/Office: Coastal Zone Management	
Decision By:	

Final Comment

Minister determines that a variation of the Aquaculture and Foreshore Licences applied for be granted for the reasons outlined.

Seen and Approved

Date Signed

Action Required

Ministerial Determination on Aquaculture/Foreshore Licensing Application (T12/37)

Executive Summary

The Minister's determination is requested in relation to an application for the renewal of an Aquaculture Licence from Lough Swilly Shellfish Growers Co-Operative Society Limited. The application is for the cultivation of bottom mussels on 4 sites (T12/37 A1, T12/37B1, T12/37B2, T12/37C) with bottom oysters on one of the sites (T12/37C) and also Pacific Oysters using bags and trestles on 3 Sites T12/37A2, T12/37B3, T12/B4 on the foreshore in Lough Swilly, Co Donegal. The original licence covered over 2,000 ha, but only approximately 1,470 ha of this related to the foreshore.

A submission in respect of the application for the Foreshore Licence is also set out for the Minister's consideration.

It is recommended that the Minister determines that a **variation** of the Aquaculture and Foreshore Licences applied for be granted for the reasons outlined in the 'Detailed Information' section below. The variation involves a reduction and revision of the footprint to 7 individual sites with a cumulative hectareage of 450.25 ha.

Comments

- (27/11/2017 12:26:59) Ann Smith: Approved for Submission to Minister.
- (27/11/2017 11:45:26) Cecil Beamish: Recommended that the Minister determines that a variation of the Aquaculture and Foreshore Licences applied for be granted for the reasons outlined in the submission.
- (24/11/2017 15:53:51) John Quinlan: Recommended for approval please.

- (24/11/2017 15:00:02) Batt Whelton: I agree with the recommendation that Aquaculture and Foreshore licences be granted for a reconfigured and reduced footprint consisting of 7 individual sites with a cumulative hectareage of 450.25 ha.
- (23/11/2017 10:12:37) Gerry Foley: It is recommended that the Minister approves the granting of a variation of the Aquaculture / Foreshore licences (renewals) applied for by the Lough Swilly Shellfish Growers Co-Operative Society Limited for the reasons outlined in the submission above.

Detailed Information

Recommendation to grant a variation of Aquaculture Licence Renewal Application (T12/37)

DECISION SOUGHT

The Minister's determination is requested please in relation to an application for the renewal of an Aquaculture Licence from Lough Swilly Shellfish Growers Co-Operative Society Limited (T12/37) for 3 sites in Lough Swilly, Co. Donegal. These sites surround Inch Island in Lough Swilly (see map attached **Tab A**).

Also attached is a submission in respect of the accompanying Foreshore Licence, for the Minister's consideration.

RENEWAL APPLICATION

A renewal application for an Aquaculture Licence has been received from the applicant referred to above (in conjunction with an application for a Foreshore Licence). The original licence was for the bottom cultivation of mussels and the cultivation of oysters in bags and trestles and the licensed area consisted of three sites (37A, 37B & 37C) with a cumulative hectareage of over 2,000 ha, including approximately 1,470 hectares of foreshore.

In 1994 Lough Swilly Shellfish Co-Op was granted a 10 year foreshore licence for the cultivation of oysters and mussels under the Foreshore Act 1933 and was also granted a ten year fish culture licence for the deposit, propagation and harvesting of oysters and mussels under section 15 of the Fisheries Consolidation Act 1959 (1959 Act).

The effect of Section 75 of the Fisheries (Amendment) Act 1997 (1997 Act) and Section 3 of the Fisheries and Foreshore (Amendment) Act 1998 (1998 Act) is that a foreshore licence under the Foreshore Act 1933 for aquaculture purposes and a fish culture licence under Section 15 of the Fisheries (Consolidation) Act 1959 were deemed to the aquaculture licences granted under the 1997 Act. By virtue of Section 19A(4) of the 1997 Act the Co-Op is entitled to continue operating as if those licences, which were deemed by the 1997 and the 1998 Act to be aquaculture licences, were still in force, pending a Ministerial determination on the renewal application.

Section 7 of the Fisheries (Amendment) Act 1997 provides that the Licensing Authority (i.e. Minister, delegated officer or, on appeal, the Aquaculture Licences Appeals Board) may, if satisfied that it is in the public interest to do so, license a person to engage in aquaculture.

HABITATS

Article 6 (3) of the Habitats Directive provides that *"Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon ... shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives ... the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned ..."*

The Lough Swilly Appropriate Assessment process carried out under Article 6(3) of the Habitats Directive concluded that existing and proposed aquaculture activities would have significant impacts on the Conservation Objectives of the Lough Swilly SAC and SPA. In particular, it found that aquaculture, including both currently licensed sites and sites for which new applications have been made, overlaps all of the six different community types found within the qualifying interest of Lough Swilly SAC.

An Appropriate Assessment Conclusion Statement has previously been approved by the Minister (see Conclusion Statement attached) which outlines management responses to address licensing aquaculture in this SAC/SPA in compliance with Birds/Habitats requirements. The measures being undertaken are as follows:

- Reduction in aquaculture site footprint to bring habitat occupancy down below the 15% threshold of overlap between a disturbing activity (e.g. bottom mussel cultivation) and a habitat and also to meet the particular requirements specified for the *Ostrea edulis* (Native Oyster) areas
- Only native oyster activity will be allowed in *Ostrea edulis* dominated community
- The amount of habitat reduction required for each site was worked out on a pro rata basis, i.e. as a proportion of the cumulative habitat overlap arising for each habitat type. Ten applications, including this application, encompassing a total area of 2139ha are being reduced by an average 53.4% to 996ha
- Marine Engineering Division drew up indicative maps of the re-configured and reduced areas in respect of this application. They are part of the maps **appended to the Conclusion Statement** (attached to this submission). The application site areas are shown in magenta and the proposed revised areas are shown in blue
- The current Engineering maps (TAB A) for this application are a further refinement of the indicative maps attached to the AA Conclusion Statement (following discussions with the applicant). The guidance regarding not more than

15% occupancy of five habitat areas (and no occupancy of *Ostrea Edulis* dominated community) by the cumulative bottom mussel area is followed

CONSULTATION AND PUBLIC COMMENT

The original application was sent to the Department's technical experts, statutory consultees and was also publicly advertised in a composite public notice covering both aquaculture and foreshore elements.

Technical Consultation

Engineering Division: Stated that it would not be considered appropriate to further renew a licence of this size given the low productivity and excessive area licensed. The current proposals for licensing (i.e. significantly reduced footprint) have been developed in consultation with Marine Engineering Division and taking account of habitats requirements.

Marine Survey Office: Stated no objection to this licence renewal.

Sea Fisheries Protection Authority: Stated no objection from a food safety and fishery control perspective.

Statutory Consultation

Regulation 10 of the Aquaculture (Licence Application) Regulations, 1998 requires certain statutory bodies to be notified of an Aquaculture Licence application.

Comments were received from the following statutory bodies:

DCHG: The application was examined by the Department of Culture, Heritage and the Gaeltacht (DCHG) from a nature conservation and underwater archaeological perspective.

Nature Conservation – DCHG raised a number of points concerning Lough Swilly SAC/SPA. Their concerns included potential impact of aquaculture on protected bird species and habitats. This Department's response is below:

*The primary mitigation measure to ensure reduction in impact is the proposed reduction of spatial extent of the aquaculture sites within the SAC/SPA. The guidance regarding not more than 15% occupancy of five habitat areas (and no occupancy of *Ostrea Edulis* dominated community) by the cumulative bottom mussel area is followed. A*

reduction in the level of these activities is also likely to reduce the risk of disturbance to bird species. All issues are fully addressed in the Licensing Authority's Conclusion Statement.

This application (T12/37) is being rationalised down from a cumulative hectarage of over 2,000 ha, including approximately 1,470 hectares of foreshore to 450.25 ha to address habitats issues. The reason for the proposed reduction is the requirement to rationalise bottom based aquaculture areas to reduce overlap to <15% with each of 5 individual habitats (Fine sand community complex, Intertidal mixed sediment with Polychaetes, Mud community complex, Muddy fine sand with *thysaira flexuosa* and Subtidal mixed sediment with Polychaetes and Bivalves).

DCHG -Underwater Archaeology also recommend that a full underwater archaeological impact assessment be carried out.

An underwater archaeological study was commissioned and this found no evidence of archaeological structures, features or objects within the site/s of the proposed aquaculture in Lough Swilly. Sites T12/037A1, T12/037B1, T12/037B2 and T12/037C, bottom mussel, are applications for licence renewal and the area has previously been subject to harvesting using the type of dredge used does not penetrate the seabed deeply the likelihood of encountering in situ features are greatly reduced. The negative impact is classified as low. Sites T12/037A2, T12/037B3 and T12/037B4, oyster trestles and BST, are applications for licence renewal. There will be minimal disturbance to potential buried archaeological sites due to the placement of trestles directly on the surface of the foreshore. While the passage of tractors or other vehicles to and from the cultivation area, may compress upon unknown buried archaeological remains, the routes are well established access ways have which have been in use for a number of years. The potential negative impact is classified as imperceptible. Therefore, no further archaeological input is deemed necessary.

The draft licence(s) contain general requirements in relation to archaeological objects and the legal provisions applicable in this area.

Marine Institute: Recommends that DAFM take full account of the findings of the Appropriate Assessment report and the proposed mitigation measures in the Natura Conclusion Statement (*The re-configuration and reduction in footprint of the sites addresses "habitat" issues*). Recommended use of triploid oysters as a specific licence condition. This will be operationalised by way of a licence condition.

Commissioner of Irish Lights: No objection to the development.

Inland Fisheries Ireland: Recommended that cognisance to be taken of the Lough Swilly Appropriate Assessment as part of the renewal site overlaps with a native oyster bed, and other habitats and the extent of the disturbing activities (*The re-configuration and reduction in footprint of the sites addresses this "habitat" issue*).

IFI also referenced other issues of a generic nature which they would like to be addressed; these are covered by standard licence conditions.

BIM: No objections to the renewal and stated that they are satisfied that the proposed operation does not conflict with any other aquaculture or inshore fisheries interest in the area.

Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in the "Donegal Democrat" on 28th January, 2016. The application and supporting documentation were available for inspection at Buncrana and Letterkenny Garda Stations for a period of 4 weeks from the date of publication of the notice in the newspaper.

There was one **objection** received arising from the public consultation process.

The objector asserted that any mussel spat areas should not be licensed but should be left as a common resource. *However, the information available to the Department is that mussel spat areas have been intermittently/infrequently found in different parts of the lower Lough – not just in part of co-op site.*

CRITERIA IN MAKING LICENSING DECISIONS

The licensing authority, in considering an application, is required by statute to take account, as appropriate, of the following points and also be satisfied that it is in the public interest to license a person to engage in aquaculture:

The suitability of the place or waters

Scientific advice is to the effect that the waters are suitable for the cultivation of oysters/mussels. However, note has also to be taken of the implications for these Natura sites and their Conservation Objectives.

Other beneficial uses of the waters concerned

Public access to recreational and other activities can be accommodated by this project. This aquaculture has co-existed with other leisure activities in the area.

The particular statutory status of the waters

Natura 2000

The proposed site is located within Lough Swilly SAC/ SPA . An Article 6 Assessment has been carried out in relation to aquaculture activities in Lough Swilly SAC/ SPA. The Article 6 Assessment and its findings were examined by the Department and its scientific /technical advisors and significant site reductions were recommended to accommodate the requirements of the Article 6 Assessment (see AA Conclusion Statement attached). The footprint in respect of this renewal application is being re-configured and reduced from a cumulative hectareage of over 2,000 ha, including 1,471.5 hectares of foreshore, in Lough Swilly to 450.25 ha of foreshore. This management action is being taken to mitigate the risk of the deterioration of conservation status of habitats/species that is directly attributable to aquaculture operations.

Shellfish Waters

The site is located within Lough Swilly Shellfish Designated Waters. Oysters and Mussels in these waters currently have a "B" Classification.

The likely effects on the economy of the area

Aquaculture has the potential to provide a range of benefits to the local community.

The likely ecological effects on wild fisheries, natural habitats, flora and fauna

The DCHG comments on ecological effects on natural habitats, flora and fauna are covered under the Consultation and Public Comment section. No significant issues arose regarding wild fisheries.

The effect on the environment generally

- The Minister has already determined that an Environmental Impact Statement is not required for this project (TAB B).

- DAHG recommended a full underwater archaeological impact assessment be carried out in Lough Swilly. A study was commissioned to address concerns on this issue and found no evidence of archaeological structures, features or objects within the sites of the proposed aquaculture

SPECIAL LICENCE CONDITIONS

The existing licence held by the Co-op does not include any conditions relating to membership of the Co-Op. The renewal licences contains standard conditions regarding cooperative membership.

The cultivation of Pacific Oysters is conditional on the use of triploid seed.

RECOMMENDATION

It is recommended that the Minister:

Approves the granting of a variation of the Aquaculture Licences sought, i.e. reducing and revising the footprint of the sites as follows:

T12/37A as revised is now made up of 2 sites:

Site 37A1 of 143.01 ha for bottom mussel culture

Site 37A2 of 2.79 ha for suspended Pacific oyster culture

T12/37B as revised is now made up of 4 separate sites:

Site 37B1 of 85.01 ha for bottom mussel culture

Site 37B2 of 177.78 ha for bottom mussel culture

Site 37B3 of 23.76 ha for suspended Pacific oyster culture

Site 37B4 of 0.77 ha for suspended Pacific oyster culture

Site 37C is one site of 17.13 ha for bottom mussel and oyster culture

The reason for the proposed reduction is the requirement to rationalise bottom based aquaculture areas to reduce overlap to <15% with each of 5 individual habitats (Fine sand community complex, Intertidal mixed sediment with *Polychaetes*, Mud community complex, Muddy fine sand with *thysaira flexuosa* and Subtidal mixed sediment with *Polychaetes* and Bivalves).

In accordance with standard practice, a separate Aquaculture/Foreshore Licence will issue in respect of each of the 7 sites.

REASONS FOR DECISION

The Minister for Agriculture, Food and the Marine is required to give public notice of both the licensing determination and the reasons for it. To accommodate this, it is proposed to publish the following on the Department's website, subject to the Minister approving the above recommendation:

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

Lough Swilly ShellFish Growers Co-Operative Society Limited has applied for further authorisation (renewal) for the cultivation of oysters and mussels on the foreshore on sites (37A, 37B & 37C) consisting of a cumulative hectareage in the order of 2,000 ha, including 1,471.5 hectares of foreshore, in the area surrounding Inch Island in Lough Swilly, Co. Donegal.

The Minister for Agriculture, Food and the Marine has determined that it is in the public interest to grant a variation of the licences sought, i.e. reducing and reconfiguring the footprint of the sites to a cumulative total of 450.25 ha as follows:

T12/37A as revised is now made up of 2 sites:

Site 37A1 of 143.01 ha for bottom mussel culture

Site 37A2 of 2.79 ha for suspended Pacific oyster culture

T12/37B as revised is now made up of 4 separate sites:

Site 37B1 of 85.01 ha for bottom mussel culture

Site 37B2 of 177.78 ha for bottom mussel culture

Site 37B3 of 23.76 ha for suspended Pacific oyster culture

Site 37B4 of 0.77 ha for suspended Pacific oyster culture

Site 37C is one site of 17.13 ha for bottom culture of mussels and oysters

In making his determination, the Minister considered those matters which by virtue of the Fisheries (Amendment) Act 1997, and other relevant legislation, he was required to have regard. Such matters include any submissions and

observations received in accordance with statutory provisions. The following are the reasons and considerations for the Minister's determination to grant the licences sought:-

- Scientific advice is to the effect that the waters are suitable;
- Public access to recreational and other activities can be accommodated by this project;
- The sites are located within Lough Swilly Shellfish Designated Waters. Oysters and Mussels from this area currently have a "B" classification;
- This renewal should have positive effects on the local economy;
- An EIA screening assessment was carried out and it concluded that the environmental impacts from the proposed activity will not be significant. The reasons and considerations for the Minister's determination at EIA screening stage are available on the Department's website;
- There are no effects anticipated on the man-made environment heritage of value in the area. An archaeological study was carried out and it indicated that consultation of cartographic and archaeological sources did not identify any known archaeological sites within the site/s of the proposed aquaculture;
- All issues raised during Public and Statutory consultation phase;
- The site is located within Lough Swilly Special Area of Conservation (SAC) and Special Protected Area (SPA). An Article 6 Assessment has been carried out in relation to aquaculture activities in Lough Swilly SAC/ SPA. The Licensing Authority's Appropriate Assessment Conclusion Statement (available on the Department's website) outlines how aquaculture activities in this SAC/SPA, including these sites, are being licensed and managed so as not to significantly and adversely affect the integrity of Lough Swilly SAC and SPA. It also outlines the relevant mitigation measures:
 - The primary mitigation measure to ensure reduction in impact is the reduction of spatial extent of the aquaculture sites within Lough Swilly SAC/SPA, including no occupancy of *Ostrea Edulis* dominated community areas
 - Bottom based aquaculture areas are being rationalised to reduce overlap to <15% with each of 5 individual habitats (Fine sand community complex, Intertidal mixed sediment with *Polychaetes*, Mud community complex, Muddy fine sand with *thysaira flexuosa* and Subtidal mixed sediment with *Polychaetes* and *Bivalves*)
 - The footprint of T12/37 is being reduced from a cumulative hectarage in the order of 2,000 ha, including 1,471.5 hectares of foreshore in Lough Swilly to 450.25 ha of foreshore. This management action is being

taken to mitigate the risk of the deterioration of conservation status of habitats/bird species that is directly attributable to aquaculture operations.

- The cultivation of Pacific Oysters is conditional on the use of Triploid Seed.

- The updated and enhanced Aquaculture and Foreshore licences contain terms and conditions which reflect the environmental protection required under EU and National law."

Submitted please.

Karen Gill

Aquaculture & Foreshore Management Division

Recommendation to grant a Foreshore Licence for a reduced footprint (T12/37)

DECISION SOUGHT

The Minister's determination is requested please in relation to the application for a Foreshore Licence from Lough Swilly Shellfish Growers Co-Operative Society Limited (T12/37) for 3 sites in Lough Swilly, Co. Donegal in which it is proposed to conduct aquaculture. These sites essentially surround Inch Island in Lough Swilly (see maps attached **Tab A**).

BACKGROUND

Marine aquaculture operations require separate Aquaculture and Foreshore Licences and Ministerial approval is required in respect of this submission (Foreshore Submission) and submission above (Aquaculture Submission), which refer to the same site.

The Foreshore Licence allows for the occupation of the particular area of foreshore while the Aquaculture Licence defines the activity that is permitted in this area. The continuing validity of each licence is contingent on the other licence remaining in force.

APPLICATION FOR A FORESHORE LICENCE

An application for a Foreshore Licence has been received from the applicant referred to above (in conjunction with an Aquaculture Licence application), relating to the occupation of the foreshore associated with the Aquaculture Licence

application. The original licence was for the bottom cultivation of mussels and the cultivation of oysters in bags and trestles and the licensed area consists of three sites (37A, 37B & 37C) with a cumulative hectarage in the order of 2,000 ha including 1,471.5 hectares of foreshore.

In 1994 Lough Swilly Shellfish Co-Op was granted a 10 year foreshore licence for the cultivation of oysters and mussels under the Foreshore Act 1933 and was also granted a ten year fish culture licence for the deposit, propagation and harvesting of oysters and mussels under section 15 of the Fisheries Consolidation Act 1959 (1959 Act).

The effect of Section 75 of the Fisheries (Amendment) Act 1997 (1997 Act) and Section 3 of the Fisheries and Foreshore (Amendment) Act 1998 (1998 Act) is that a foreshore licence under the Foreshore Act 1933 for aquaculture purposes and a fish culture licence under Section 15 of the Fisheries (Consolidation) Act 1959 were deemed to the aquaculture licences granted under the 1997 Act. By virtue of Section 19A(4) of the 1997 Act the Co-Op is entitled to continue operating as if those licences, which were deemed by the 1997 and the 1998 Act to be aquaculture licences, were still in force, pending a Ministerial determination on the renewal application.

Section 7 of the Fisheries (Amendment) Act 1997 provides that the Licensing Authority (i.e. Minister, delegated officer or, on appeal, the Aquaculture Licences Appeals Board) may, if satisfied that it is in the public interest to do so, license a person to engage in aquaculture.

LEGISLATION

Section 3 of the Foreshore Act, 1933 gives power to the Minister to license the use of foreshore, if he is of the opinion that it is in the public interest to do so.

CONSULTATION AND PUBLIC COMMENT

The application was sent to the Department's technical experts, and was also publicly advertised in a composite public notice covering both aquaculture and foreshore elements.

This application was also sent to the Department of the Housing, Planning and Local Government (DHPLG) in accordance with subsection (1B) of Section 3 of the Foreshore Act, 1933, which requires consultation between the Minister for Agriculture, Food and the Marine and the Minister for the Housing, Planning and Local Government. Whilst aquaculture legislation requires certain statutory bodies to be notified of an aquaculture application, no other statutory bodies are prescribed consultees under Fisheries related foreshore legislation.

DHPLG: Had no objection on technical grounds.

Technical Consultation

Engineering Division: Stated that it would not be considered appropriate to further renew a licence of this size given the low productivity and excessive area licensed. The current proposals for licensing (i.e. significantly reduced

footprint) have been developed in consultation with Marine Engineering Division, taking into account habitat requirements.

Marine Survey Office: Stated no objection to this licence renewal.

Sea Fisheries Protection Authority: Stated no objection from a food safety and fishery control perspective.

Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in the Donegal Democrat on 28th January 2016. The application and supporting documentation were available for inspection at Buncrana and Carndonagh Garda Stations for a period of 4 weeks from the date of publication of the notice in the newspaper.

There were no objections received from the public consultation process.

CRITERIA IN MAKING LICENSING DECISIONS

The Minister, in considering an application for a Foreshore Licence, may, if satisfied that it is in the public interest to do so, grant such a licence.

Section 82 of the Fisheries (Amendment) Act, 1997 stipulates that the Minister, in considering an application for a licence under the Foreshore Acts, which is sought in connection with the carrying on of aquaculture pursuant to an Aquaculture Licence, shall have regard to any decision of the licensing authority in relation to the Aquaculture Licence.

The Minister is also obliged pursuant to Regulation 5 (2) of the Aquaculture (Licence application) Regulations, 1996 to consider on a case by case basis whether the proposed aquaculture is likely to have significant effect on the environment. An EIA Screening Assessment was carried out by the EIA Screening Group (comprising of technical experts and Department officials). The Minister has already determined that an Environmental Impact Statement is not required for this project (See Assessment in **TAB B**).

RECOMMENDATION

It is recommended that the Minister, having regard to the decision in relation to the associated Aquaculture Licence Renewal application:

approves the granting of Foreshore Licences (**TAB D**) to *Lough Swilly ShellFish Growers Co-Operative Society Ltd* for a reduced footprint, for a period of ten (10) years, for the occupation of the sites in Lough Swilly specified below:

Site 37A1 of 143.01 ha

Site 37A2 of 2.79 ha

Site 37B1 of 85.01 ha

Site 37B2 of 177.78 ha

Site 37B3 of 23.76 ha

Site 37B4 of 0.77 ha

Site 37C of 17.13 ha

The purpose of the Foreshore Licences is for the carrying out of aquaculture activities as defined in the associated Aquaculture Licences, and in accordance with the terms and conditions of the attached draft Foreshore Licences.

The reason for the proposed reduction in the overall footprint is the requirement to rationalise bottom based aquaculture areas to reduce overlap to <15% with each of 5 individual habitats (Fine sand community complex, Intertidal mixed sediment with *Polychaetes*, Mud community complex, Muddy fine sand with *thysaira flexuosa* and Subtidal mixed sediment with *Polychaetes* and Bivalves) (and to ensure no overlap with native oyster community).

Karen Gill

Aquaculture and Foreshore Management Division

Related Submissions

There are no related Submissions.

User Details

Users with access to Submission

- Gill, Karen
- Foley, Gerry
- Whelton, Batt
- Quinlan, John
- Beamish, Cecil
- Sub Sec Gens Office
- eSub Ministers Office

Read receipt list

- BTSSP-SC
- Gill, Karen
- Foley, Gerry
- Whelton, Batt
- Quinlan, John
- Beamish, Cecil
- Smith, Ann
- Lennox, Graham

Action Logs

- **Created:** 21/11/2017 10:36:31: Submission created by Karen Gill
 - **Sent For Review:** 21/11/2017 12:51:17: Submission sent to Gerry Foley for review by Karen Gill
 - **Sent For Review:** 23/11/2017 10:20:34: Submission sent to Batt Whelton for review by Gerry Foley
 - **Reverted to the Author:** 24/11/2017 10:03:51: Submission reverted to Karen Gill by Batt Whelton
 - **Reason:** Karen For amendment, as discussed. Batt
 - **Attachment removed:** 24/11/2017 12:14:49: Gill, Karen removed attachment TAB C 37C.pdf
 - **Attachment removed:** 24/11/2017 12:16:08: Gill, Karen removed attachment TAB D 37 A2.pdf
 - **Attachment removed:** 24/11/2017 12:16:58: Gill, Karen removed attachment TAC C 37 A2.pdf
 - **Attachment removed:** 24/11/2017 12:17:36: Gill, Karen removed attachment TAC C 37 B3.pdf
 - **Attachment removed:** 24/11/2017 12:17:55: Gill, Karen removed attachment TAC C 37 B4.pdf
 - **Sent For Review:** 24/11/2017 14:19:51: Submission sent to Batt Whelton for review by Karen Gill
 - **Sent For Review:** 24/11/2017 15:31:54: Submission sent to John Quinlan for review by Batt Whelton
 - **Sent For Review:** 24/11/2017 15:54:20: Submission sent to Cecil Beamish for review by John Quinlan
 - **Sent to the Secretary General:** 27/11/2017 11:46:53: Submission sent to Secretary General for review by Cecil Beamish
 - **Sent to the Minister:** 27/11/2017 12:27:00: Submission sent to Minister for review by Ann Smith on behalf of the Secretary General
 - **Reason:** Approved for Submission to Minister.
 - **Completed:** 30/11/2017 17:18:00: Submission completed by Graham Lennox on behalf of the Minister
 - **Reason:** Minister determines that a variation of the Aquaculture and Foreshore Licences applied for be granted for the reasons outlined.
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