

T12/498.



**AQUACULTURE - LICENSING UNDER**  
**FISHERIES (AMENDMENT) ACT 1997 as amended**  
**and**  
**FORESHORE ACT 1933 as amended**

*Application Form for an Aquaculture and Foreshore Licence for  
a single specific site.*

*If a Licence is required for more than one site a separate  
application form must be completed for each site.*

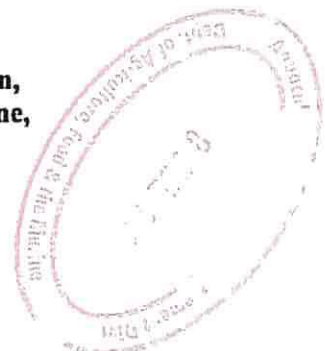
**Important Note**

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

A copy of an Environmental Impact Statement and Natura Impact Statement should be enclosed, if required, with all new, review and renewal applications. See Guidance Notes Section 3.

**Aquaculture & Foreshore Management Division,  
Department of Agriculture, Food and the Marine,  
National Seafood Centre,  
Clonakilty, Co. Cork  
Telephone: (023) 8859500  
Fax: (023) 8821782**

Revised 2014





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

**NB: The 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 Parts 3 and 4 and any other information supplied will not be released except as may be required by law, including the Freedom of Information Act 1997 as amended.

**USE BLOCK CAPITALS IN BLACK INK PLEASE**

**For Office Use**

Application Ref. No. T12/498

Date of Receipt (Dept. Stamp):



Type of Applicant (tick one)	
Sole Trader	<input checked="" type="checkbox"/>
Partnership	<input type="checkbox"/>
Company	<input type="checkbox"/>
Co-Operative	<input type="checkbox"/>
Other	Please specify- <input type="checkbox"/>

**PART 1: PRELIMINARY DETAILS**

Applicant's Name(s)
1. Barry Mc Guinness
Address: Largy, Killybegs, Co. Donegal.
2.
Address:
3.
Address:
4.
Address:





**PART 1: PRELIMINARY DETAILS**

<b>Contact in case of enquiries (if different from above)</b>	
Contact Name	
Organisation Name (if applicable)	
Address	

<b>TYPE OF APPLICATION</b> – please indicate relevant type of application This Application Form is valid for each type of application - <i>See Guidance Note 3.1</i>	
(i) Aquaculture Licence	<input checked="" type="checkbox"/>
(ii) Trial Licence	<input type="checkbox"/>
(iii) Foreshore Licence, if Marine Based	<input type="checkbox"/>
(iv) Review of Aquaculture Licence	<input type="checkbox"/>
(v) Renewal of Aquaculture Licence	<input type="checkbox"/>

**TYPE OF AQUACULTURE**

*See Guidance Note 3.2*

Indicate the relevant type of application with a tick.

**(i) MARINE-BASED**

- |  |                                     |                          |
|--|-------------------------------------|--------------------------|
| Finfish                                  | <input type="checkbox"/>            | Go to Parts 2.1 and 2.1A |
| Shellfish <i>Subtidal</i>                | <input checked="" type="checkbox"/> | Go to Parts 2.2 and 2.2A |
| <i>Intertidal</i>                        | <input type="checkbox"/>            | Go to Parts 2.2 and 2.2A |
| Seaweed/Aquatic Plants/Aquatic Fish Food | <input type="checkbox"/>            | Go to Parts 2.3 and 2.3A |

**(ii) LAND-BASED**

- |                |                          |                   |                          |                          |
|----------------|--------------------------|-------------------|--------------------------|--------------------------|
| Finfish        | <input type="checkbox"/> | Shellfish         | <input type="checkbox"/> | Go to Parts 2.4 and 2.4A |
| Aquatic Plants | <input type="checkbox"/> | Aquatic Fish Food | <input type="checkbox"/> | Go to Parts 2.4 and 2.4A |

**(iii) TRIAL LICENCE**

- |                          |   |
|--------------------------|---|
| <input type="checkbox"/> | Go to appropriate Parts as above and to Part 2.5. |
|--------------------------|---|



## 2.2 MARINE-BASED SHELLFISH AQUACULTURE

When filling out this section refer also to 2.2A and Guidance Note 3.3 for information on Conditions and Documents required with this application type

### Proposed Site Location

- (i) Bay: \_\_\_\_\_ Loughros beg \_\_\_\_\_
- (ii) County: \_\_\_\_\_ Donegal \_\_\_\_\_
- (iii) OS Map No: \_\_\_\_\_
- (iv) Co-ordinates of Site: (please specify coordinate reference system used e.g. Irish Grid (IG) or Irish Transverse Mercator (ITM) or Latitude/Longitude [in which case specify whether ETRS89 or WG84 etc.]  
 \_\_\_\_\_ 168902E 391262N  
 \_\_\_\_\_ 168795E 390909N  
 \_\_\_\_\_ 168188E 391234N, 168244E 391421N
- (v) Size of Site (hectares): \_\_\_\_\_ 21 \_\_\_\_\_

(vi) Species (common and scientific name) and whether native or non-native species: (see Guidance Notes 3.3.1)

Pacific oyster (*Crassostrea gigas*) and Manila clam (*Venerupis philippinarum*)

(vii) Whether production will be sub-tidal or inter-tidal?

Inter-tidal \_\_\_\_\_

(viii) Please supply details of (a) source of seed e.g. wild hatchery and location and (b) means of collection and introduction to culture. \_\_\_\_\_

Lissadell Shellfish \_\_\_\_\_

NB Importation of seed into the State or movement of seed within the State requires notification to the Marine Institute as per the Fish Health Authorisation Regulations – See Guidance Notes Section 6

(ix) Method of culture (rope, trestles – intensive; bottom – extensive; other) \_\_\_\_\_

\_ Bags and trestles \_\_\_\_\_

(x) Proposed number of lines/ropes/trestles as per site layout drawing

1500

-

(xi) Proposed Production Tonnage:

Year 1	0	Year 2	0	Year 3	50	Year 4	50	Year 5	30
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(xii) (a) Please outline the reasons for site selection:

Well service by both tide and fresh water, public road provides access to strand.



(b) If using trestles please outline the physical characteristics of the site which make it suitable for using trestles

Firm, compacted sand

(xiii) Is it intended that the product is for direct human consumption or half grown? Please specify

Human consumption

(xiv) How will the visual impact issues of the flotation devices for the proposed application be addressed?

N/A

(xv) Is the site located in Designated Shellfish Waters Area? (Refer to Guidance Note 3.3.2)

Yes

No

If yes give details.

Designated by the department of the environment which can be found at <http://www.environ.ie/en/Publications/Environment/Water/FileDownload,19518,en.pdf>

If no outline the reasons why you believe the site suitable for the proposed aquaculture, notwithstanding its location outside Designated Shellfish Waters Area?

N/A

(xvi) Has the area been classified under Food Safety Legislation? (For Bivalve Molluscs) What is the current classification of the area for the proposed species applied for?

?

YES - CLASS B.

(xvii) Is the site located in/adjacent to a sensitive area e.g. SPA (Special Protection Area) or SAC (Special Area of Conservation) i.e. a Natura 2000 site? (Refer to Guidance Note 3.3.1- Natura 2000 sites)

~~No~~

YES.

(xviii) Are there known sources of pollution in the vicinity e.g. sewage outfall? If yes please give full details.

No

NO

(xix) Methods used to harvest the shellfish and details of any subsequent processing of shellfish  
Oysters to be graded and sorted for harvest at trestles and harvest carried from trestles by quad to van located on road





(xx) Describe any proposed purification facilities to be used: N/A

(xxi) What are the main predators of the species to be cultivated?

birds

(xxii) Describe the method(s) which will be used to control them Oysters placed in protective bags

See Part 2.2A for details of documentation to be included with this application type

**2.2A DOCUMENTATION REQUIRED FOR MARINE-BASED SHELLFISH  
AQUACULTURE**

(to be included separately with a Licence Application for a new site or for a renewal or review of an existing Licence)

1. An appropriate Ordnance Survey Map (recommendation is a map to the Scale of 1:10,000/1:10,560, i.e. equivalent to a six inch map). Note: The proposed access route to the site from the public road across tidal foreshore must also be shown on the map.
2. Scale drawing of the structures to be used and the layout of the farm.  
The proposed site drawings must illustrate all site structures above and below the water including mooring blocks. (recommended scales normally 1:100 for structures and 1:200 for layout ) (See Guidance Note 3.3.2)
3. The prescribed application fee (See Guidance Note Section 4)
4. If the applicant is a limited Company within the meaning of the Companies Act 1963, as amended, the Certificate of Incorporation and Memorandum and Articles of Association
5. If the applicant is a Co-operative, the Certificate of Incorporation and Rules of the Co-operative Society
6. Environmental Impact Statement (if required) in certain cases- See Guidance Notes Section 3.3.1
7. Alien Species dossier ( where required) – See Guidance Notes Section 3.3.1

**NOW COMPLETE PARTS 2.6, 3, 4 AND 5 PLEASE**





**2.6 Employment, Qualifications, Experience, etc  
TO BE FILLED IN BY ALL AQUACULTURE APPLICANTS**

(i) Please provide details of experience/qualifications of the applicant and any key personnel which are relevant to the aquaculture now proposed:

Qualified design engineer and certified scuba diver with a strong passion for the environment and sustainable food sourcing

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(ii) If a new application please provide details of projected employment creation during first four years of the proposed aquaculture project:

(iii) In the case of a renewal please provide current and future details:

For first 3 years part timers only required but in 4<sup>th</sup> year with expansion it would be hoped another 1-2 full time positions would be created.

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**FULLTIME JOBS**

Year 1:	0	Year 2:	0	Year 3:	1	Year 4:	1-2
---------	---	---------	---	---------	---	---------	-----

**PART TIME JOBS**

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



**PART 5: DECLARATION AND SIGNING**

*NB: Refer to Guidance Note Section 3.5 and Section 4 - Guidance on Declaration and Signing and Annual Aquaculture and Foreshore Licence Fees*

If this is a renewal/review have you met all licence conditions of the existing aquaculture licence? If applicable, explain why you have not complied with all conditions:

N/A

I/We hereby declare the information provided in Parts 1, 2, 3 and 4 above to be true to the best of my/our knowledge. I/We enclose an application fee\* of € 95-23 with this application.

Signature(s) of Applicant(s):  
(Please state capacity of persons signing on behalf of a Company/Co-op)

Barry Mc Guinness

Date: 05-07-15

**NB All persons named on this licence application must sign and date this application form. Only the existing licence holder(s) can apply for the renewal/review of an Aquaculture Licence.**

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

*Refer to Guidance Note Section 4 - Guidance on Aquaculture and Foreshore Licence Fees*

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

**Aquaculture Licensing  
Aquaculture & Foreshore Management Division  
Department of Agriculture, Food and the Marine  
National Seafood Centre  
Clonakilty  
Co. Cork**



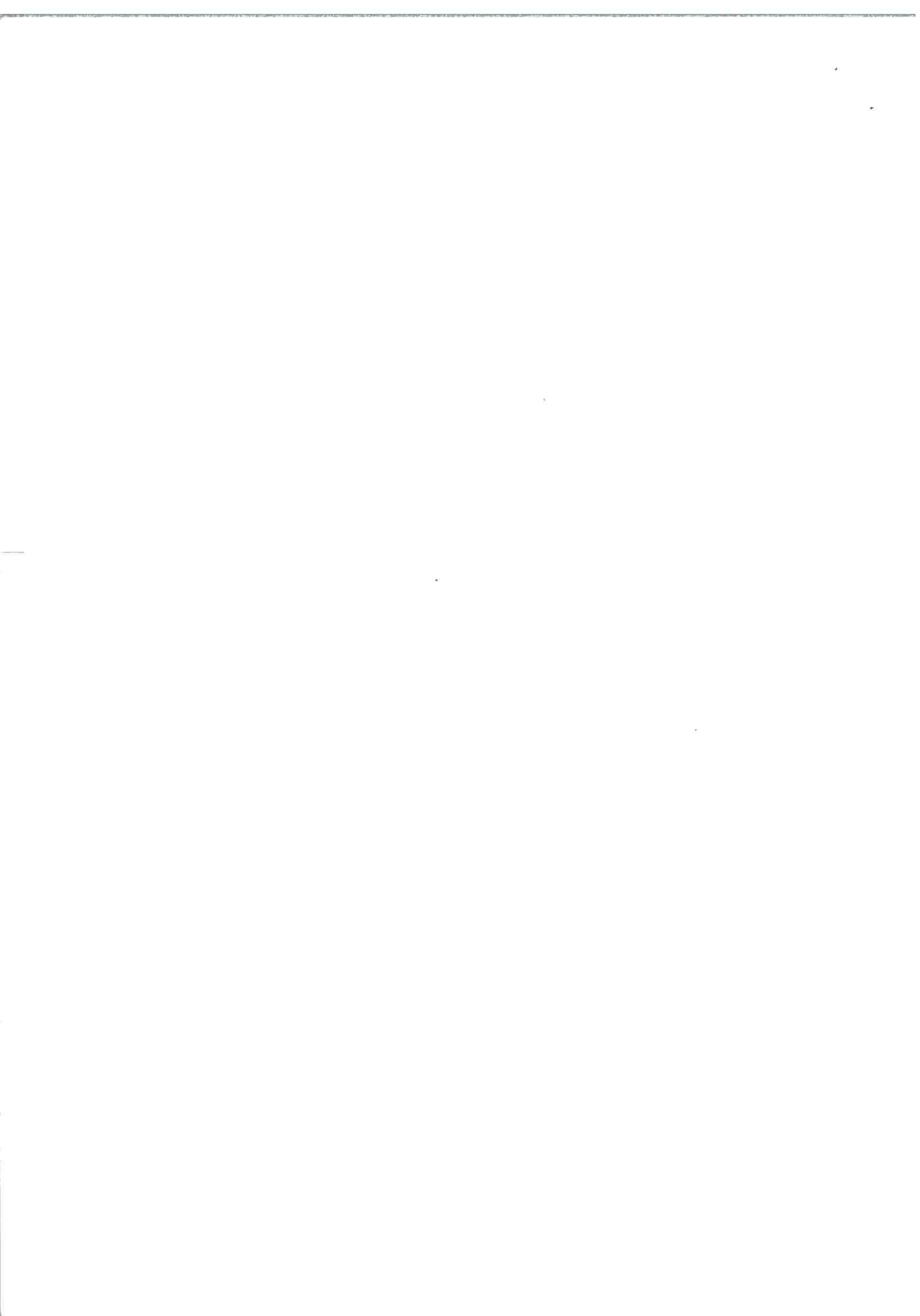
**1 NO. SITE AT LOUGHROS BEG CO.DONEGAL**

**Co-ordinates & Area**

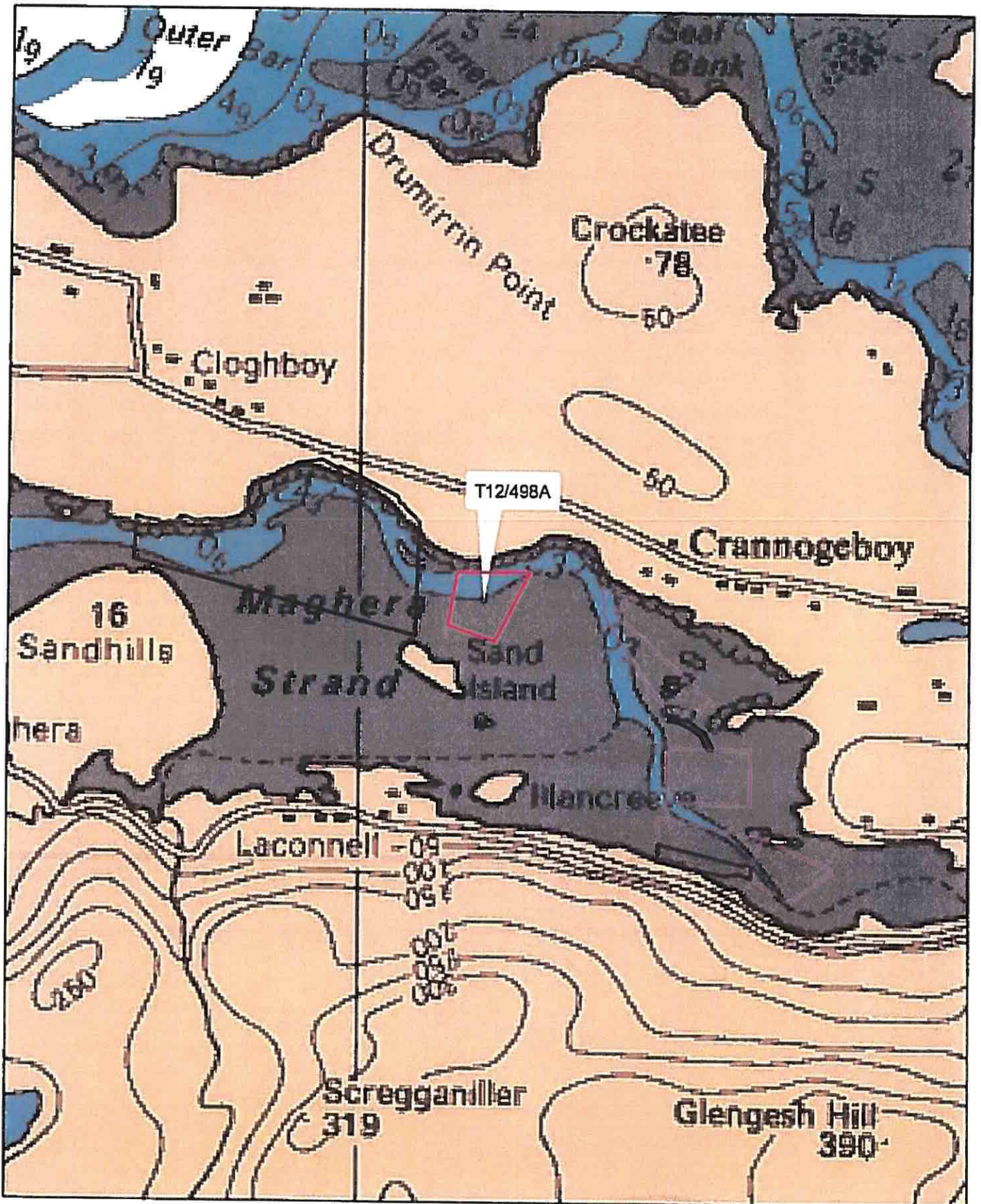
**Site T12/498A (8.839 Ha)**

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

168275, 391516 to Irish National Grid Reference point  
168627, 391520 to Irish National Grid Reference point  
168458, 391190 to Irish National Grid Reference point  
168229, 391263 to the first mentioned point.





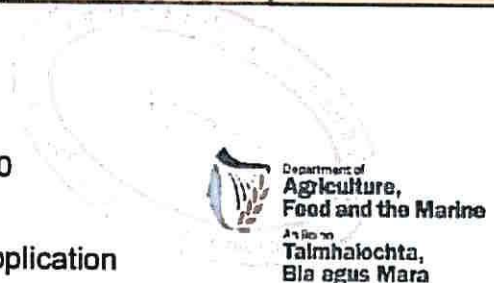


- Aqua Culture Sites**  
<all other values>
- Site Status**
-  Application
  -  Lapsed
  -  Licensed
  -  Refused
  -  Renewal
  -  Revoked
  -  Surrendered
  -  Withdrawn

1:24,000

Part of Admiralty Chart No 1879-0  
Not to be used for Navigation

Sites highlighted in red denotes Application







168000

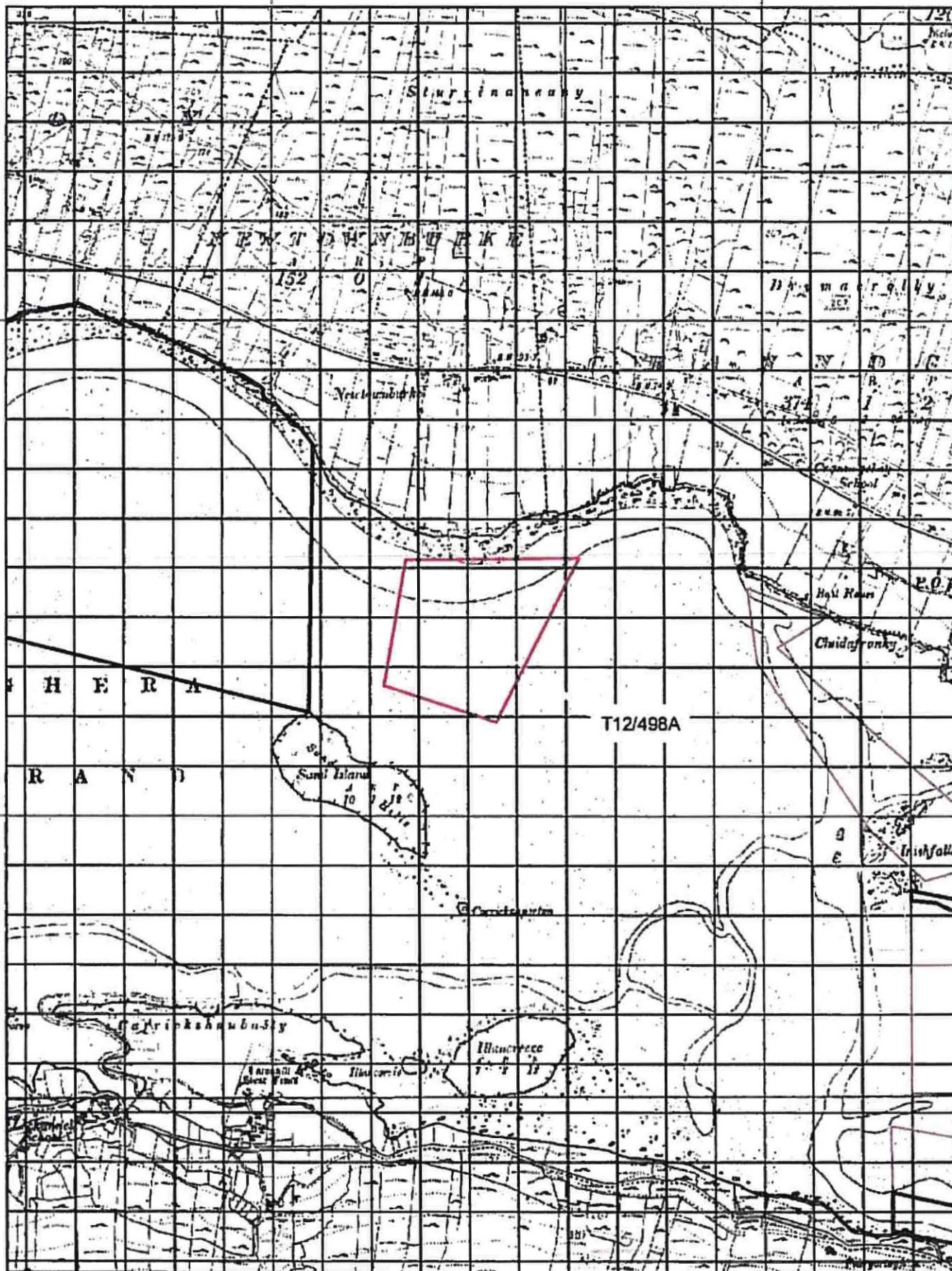
169000

392000

392000

391000

391000



168000

169000

**Aqua Culture Sites**  
<all other values>

**Site\_Status**

- Application
- Lapsed
- Licensed
- Refused
- Renewal
- Revoked
- Surrendered
- Withdrawn
- 100 Meter Reference Grid

1:10,560

Ordnance Survey Ireland Licence No. EN 0076413  
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Sites highlighted in red denotes Application



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



# Historic Map

1:10,560  
Lavelled

OSi

581227 570372

ITM CENTRE PT. COORDS  
569097.890780

DESCRIPTION

MAP SHEETS

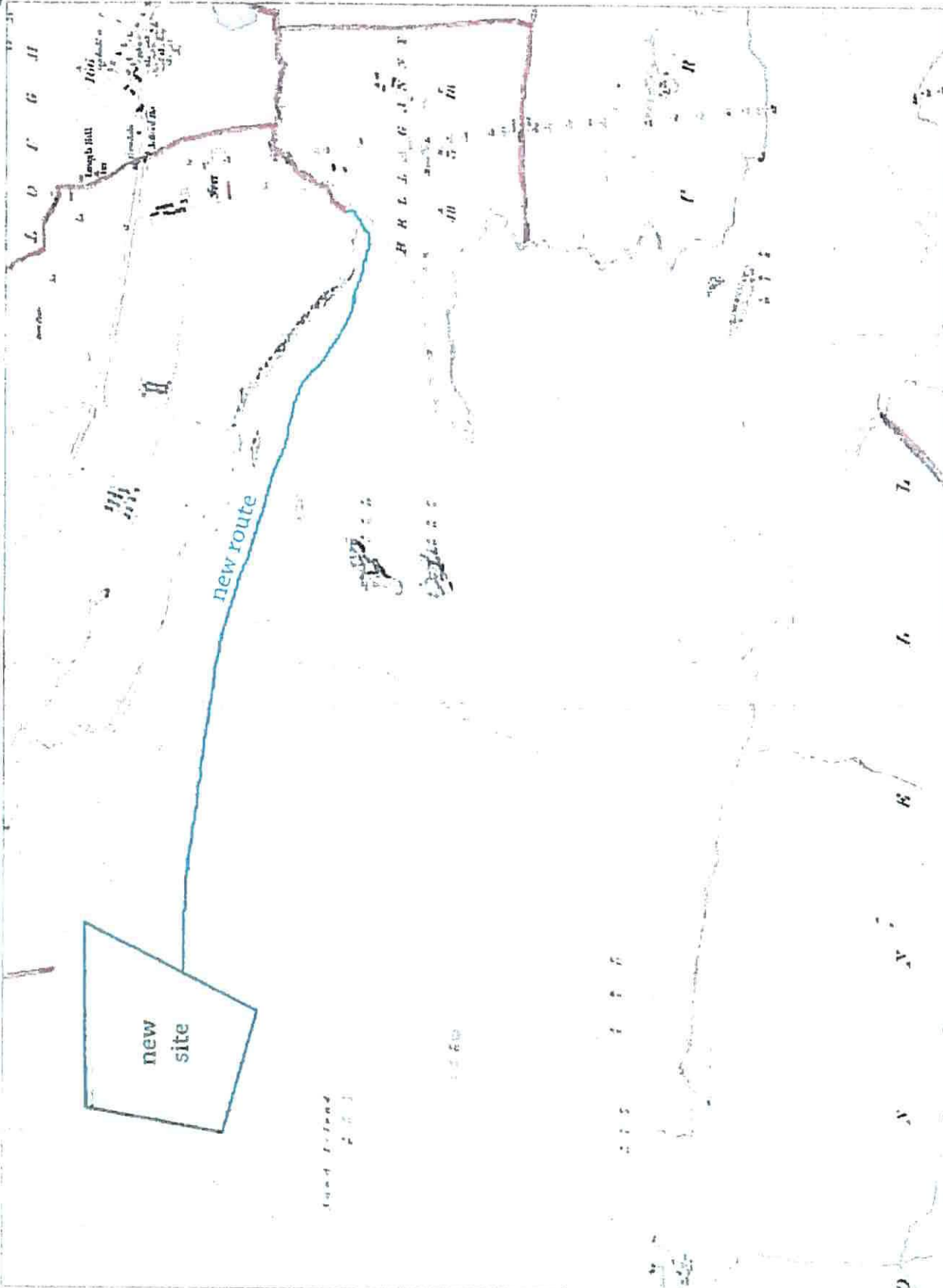
6 inchCE1  
DL073 DL082



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Plot Ref. No. 19691675\_1\_1  
Plot Date 05-AUG-2015



Scale:- 1:10,560  
Scale:- 1:10,560

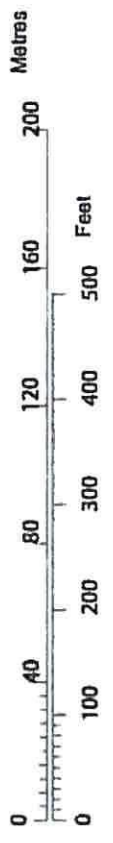
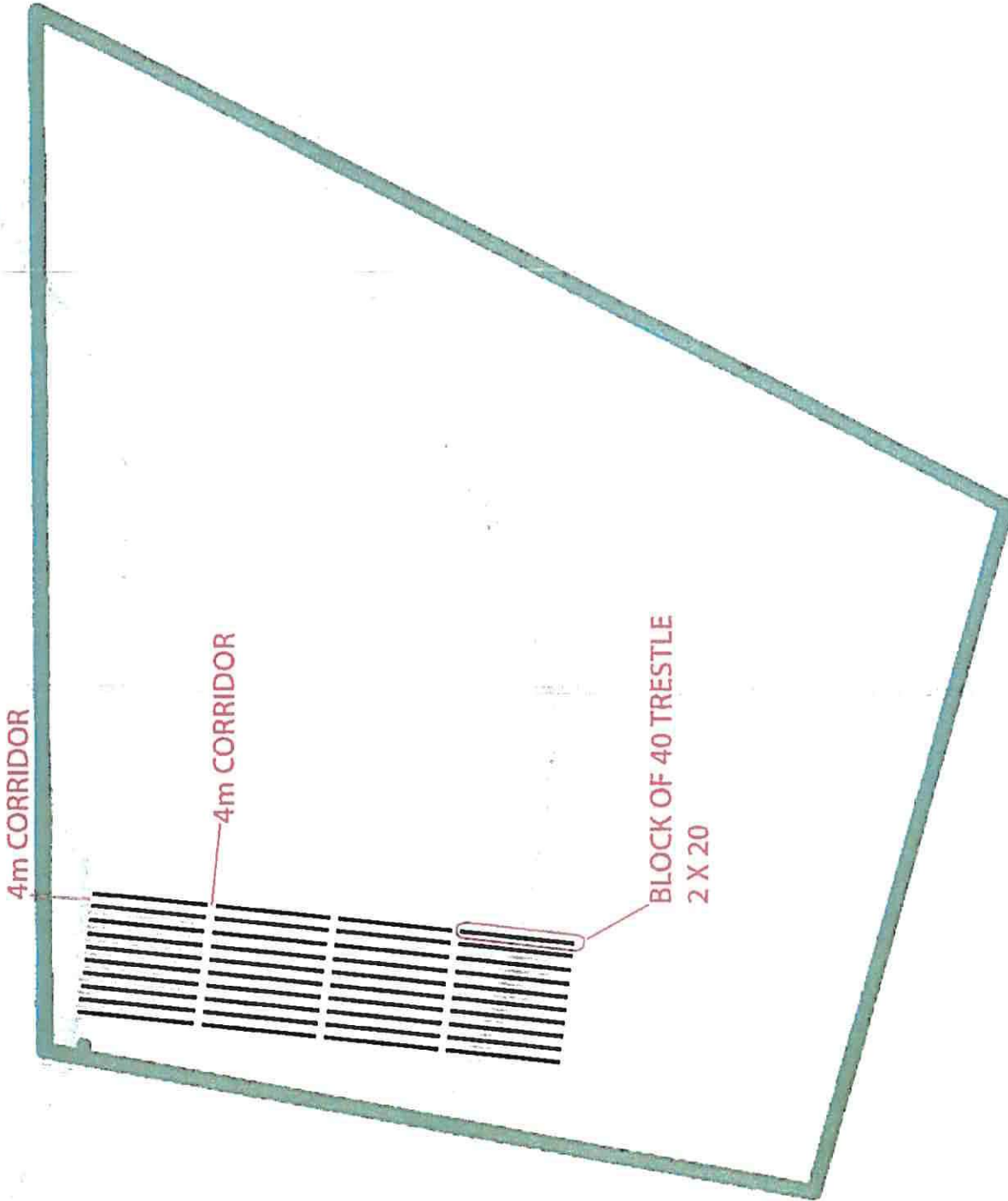


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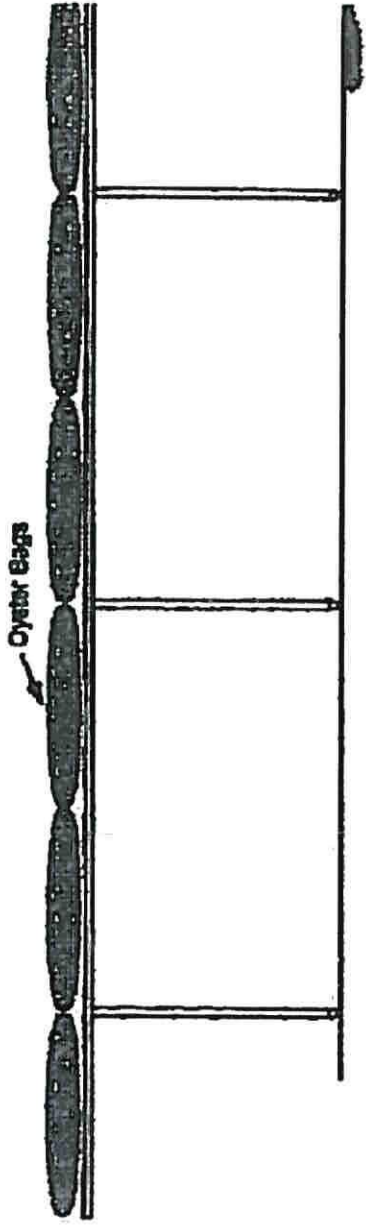
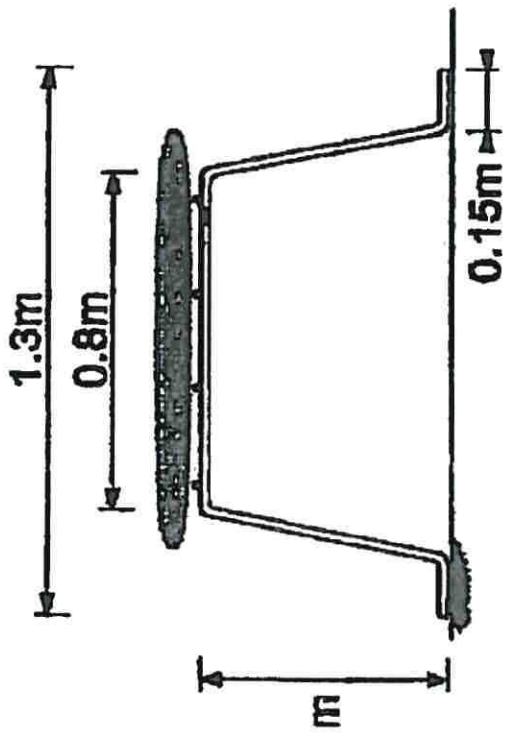
# Historic Map



Scale:- 1:200  
Scala:- 1:200



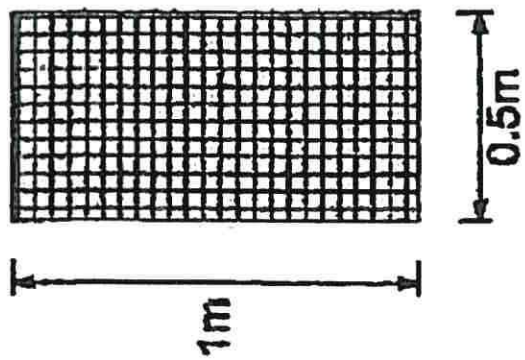
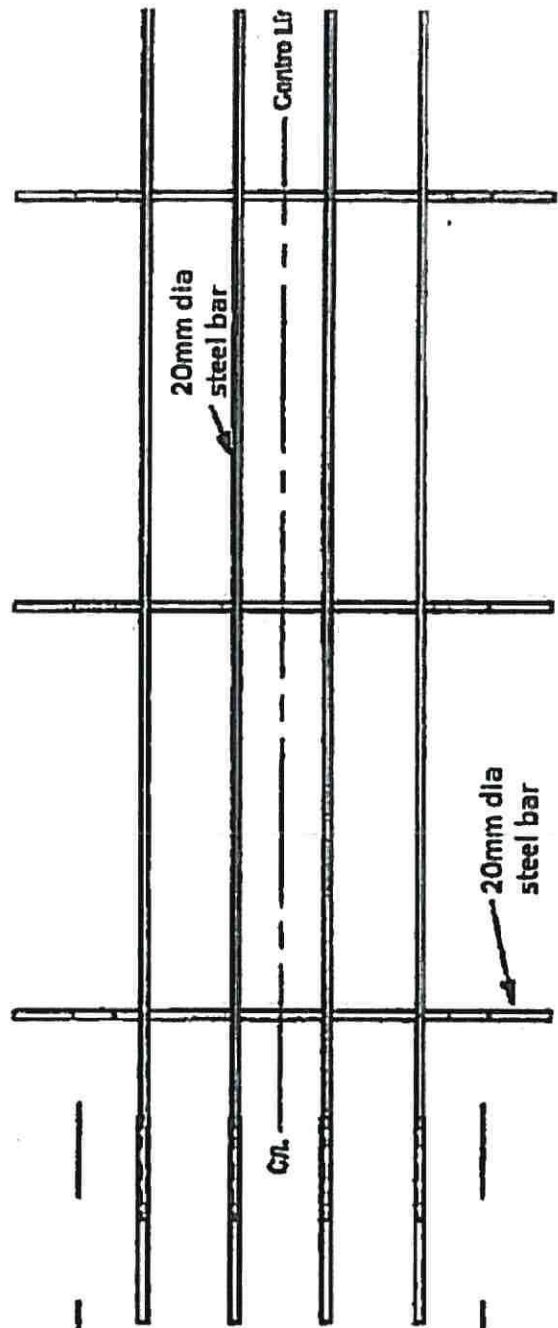
STRUCTURES TO BE USED



Elevation



End View



3m  
Plan





# Submission AGR 00484-18: Recommendation to Grant Aquaculture/Foreshore Licences for 1 site (T12/498A)

TO: Minister  
STATUS: Completed  
PURPOSE: For Decision

AUTHOR: OMahony, Jane  
OWNER: OMahony, Jane  
REVIEWERS: ODonovan, Geraldine  
Quinlan, John  
Beamish, Cecil

DIVISION: Coastal Zone Management  
DECISION BY:

## Final comment

Minister determines that the Aquaculture/Foreshore Licences be granted for the reasons outlined.

## Action required

Ministerial Determination on Aquaculture/Foreshore Licensing Application (T12/498A)

## Executive summary

The Minister's determination is requested in relation to a new application for an Aquaculture Licence from Mr. Barry McGuinness, Largy, Killybegs, Co. Donegal. The application is for the cultivation of Pacific Oysters using bags and trestles on Site T12/498A, totalling 8.839 hectares on the foreshore in the eastern portion of Loughros Beg Bay, Co. Donegal.

There is also a submission in respect of this application for a Foreshore Licence, for the Minister's consideration.

It is recommended that the Minister determines that the Aquaculture/Foreshore Licences be granted for the reasons outlined in the 'Detailed Information' section below.

## Detailed information

### **Recommendation to Grant an Aquaculture Licence for one site (ref: T12/498A)**

#### **DECISION SOUGHT**

The Minister's determination is requested please in relation to:

- the application for an Aquaculture Licence from Mr. Barry McGuinness, Largy, Killybegs, Co. Donegal, for a site numbered T12/498A in the eastern portion of Loughros Beg Bay, Co. Donegal.
- A submission in respect of the application for a Foreshore Licence is also set out below, for the Minister's consideration.

## **BACKGROUND**

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

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

## **APPLICATION FOR AN AQUACULTURE LICENCE**

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 in relation to one site - T12/498A, totalling 8.839 ha on the foreshore in the eastern portion of Loughros Beg Bay, Co. Donegal (see **Tab A**).

## **LEGISLATION**

Section 7 of the Fisheries (Amendment) Act 1997 provides that the Licensing Authority (i.e. the 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.

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 ..."*

## **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): MED had some reservations about site suitability and recommended that the original site area be reduced and varied. The applicant agreed to progress with the revised site area suggested by MED. The revised site co-ordinates, maps and chart went to public notice. MED noted that the mix of elevations on site may be helpful for managing differing growth requirements of oyster seed and half grown oysters. MED's inspection of the site, as revised, offers a better prospect for trestle based oyster farming and it is likely that some trial and error will be necessary in order to choose the most stable and best growth areas. MED were satisfied with the proposed layout provided showing trestle lines running north - south and focused on the north eastern corner of the site. While the proposal will further extend the oyster farmed area in the bay, MED have no objection to the application being licensed.



MED conducted a Landscape and Visual Impact Assessment (LVIA) of the aquaculture licence applications for Loughros Beg Bay, including Site T12/498A. This report was submitted to AFMD in May 2018 and concluded that the significance of visual and landscape impacts for the proposed development of site 498A would not be above moderate levels. MED are of the view that the development of this site would be acceptable provided good site management practices are followed. The schedules attached to the draft Aquaculture Licence specifically address special licensing conditions in this regard.

Marine Survey Office: The Marine Survey Office has no objection to this application from a navigational viewpoint.

Sea Fisheries Protection Authority (SFPA): The SFPA have no objection to this licence application. The current classification for Loughros Beg Bay is “B” which means that the oysters may only be placed onto the market for human consumption after treatment in a purification centre or relaying.

### **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:

DHPLG: The Department of Housing, Planning and Local Government had no objection to this application from a water quality perspective or from a technical foreshore perspective.

Marine Institute (MI): The MI had no objection to this application. They noted that Site T12/498A is located within the Loughros Beg designated Shellfish Growing Waters area and oysters in the bay currently have a “B” classification. The MI also noted that the site is located within the Slieve Tooey/Tormore Island/Loughros Beg Bay SAC and adjacent to the West Donegal Coast SPA and the findings of the Natura Screening report and the Licensing Authority’s Conclusion Statement. The MI recommend that proposed access routes over intertidal habitat should be strictly adhered to in order to minimise habitat disturbance. The MI recommended that the applicant be required to provide details of steps that will be taken to ensure that the risk of the introduction of any alien species into the site with seed stock or structures is minimised. These concerns can be dealt with by way of licence conditions to this effect.

The MI is of the view that given the location, nature and scale of the aquaculture activity, there will be no significant impacts on the marine environment and the quality status of the area will not be adversely impacted.

Commissioner of Irish Lights: No objection to this development.

Donegal County Council: Donegal County Council raised concerns about the cumulative impact of the proposed new licence applications which they considered to be excessive relative to the need to protect the amenities of the bay and therefore contrary to the objectives and policies of the County Development Plan 2012-2018. The County Council did not consider the new applications on an individual site impact basis.

MED has responded to these comments and produced a LVIA report which found that it would not be appropriate to licence all the proposed new sites on visual impact grounds. Using visualisation techniques and by a process of trials with various combinations of sites developed, the LVIA report concluded that the cumulative visual impact arising from the development of certain sites including 498A would be acceptable provided certain other sites were not developed.

The magnitude of visual impact will also be influenced by the layout and distribution of trestles on the developed site.

BIM: No objection to the application and stated that they are satisfied that the operation does not conflict with any other aquaculture or inshore fisheries interests in the area.

Inland Fisheries Ireland (IFI): The IFI made a number of recommendations should licences be granted for this site. These concerns can be dealt with by way of licensing conditions including that the migration of salmon and sea trout should not be hindered by this development.

An Taisce: An Taisce raised a number of issues regarding water quality, the designation of the area for otters and grey seals and scenic impacts from aquaculture activity. These observations were sent to MED and the MI for comment. It was concluded that water quality degradation is unlikely. The concerns raised about the impact of physical structures causing obstruction to otters and seals is dealt with in the Natura Screening report and the Licensing Authority's Conclusion Statement. The existing and proposed shellfish culture was found not to be disturbing to otters and grey seals. Waste management from aquaculture activity is covered under the standard terms and conditions of the licences. The scenic impact of this application was considered acceptable in MED's LVIA Report.

DCHG: The Department of Culture, Heritage and the Gaeltacht made no comments on this application from a nature conservation or ecological perspective.

Fáilte Ireland: No comments were received in relation to this application.

Údarás na Gaeltachta: No comments were received for this application.

## **Public Consultation**

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements in the Donegal Democrat on 10<sup>th</sup> May 2018. The application and supporting documentation were available for inspection at Ardara and Glenties Garda Stations for a period of 4 weeks from the date of publication of the notice in the newspaper.

There were **59 objections** received as part of the public consultation process. In broad terms, the concerns raised fell under the following headings:

Visual Impact – As the area is largely undeveloped, concerns were raised about the impacts of this project in conjunction with other new aquaculture development which could greatly impede on the area's unique rural



landscape and unblemished topography. The method of cultivation i.e. oyster trestles (steel structures) and the installation of navigation poles along the marine bed may also be considered unsightly. It is argued that such a method of cultivation would be considered visually intrusive.

Environmental Impact – concerns were raised about the potential negative influences associated with aquaculture development on the marine environment and possible changes to the benthic macro-fauna. The area in which the proposal is planned is a Special Area of Conservation (SAC) and any potential aquaculture activity must incorporate specific conditions so as to accommodate Natura 2000 requirements.

Economic Impact – economic concerns were raised in terms of potential negative impacts on the local tourism industry as a result of the proposed project. Recreational activities and amenities such as fishing, water sports, walking, equestrian beach trekking and ecotourism could be potentially affected by new aquaculture development.

A copy of all the observations received at the Public and Statutory consultation stage of this application were sent to the applicant for consideration. No comments were received from the applicant.

#### **LANDSCAPE and VISUAL IMPACT ASSESSMENT (LVIA)**

A Landscape and Visual Impact Assessment (LVIA) aims to ensure that all possible effects of change and development both on the landscape itself and on views and visual amenity are taken into account in decision-making.

Marine Engineering Division (MED) prepared a comprehensive LVIA for existing and proposed aquaculture sites in Loughros Beg Bay, including this site T12/498A (See **Tab B**). The report considered the landscape and visual impact of two renewal and five proposed licence applications for trestle based oyster aquaculture in the bay.

The assessment finds that the significance of visual and landscape impacts for the development of site 498A would not be above moderate levels. MED are of the view that the proposed development of this site would be acceptable provided good site management practices are followed, these can be operationalised by way of licensing conditions.

#### **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 Pacific Oysters.*

- other beneficial uses of the waters concerned

*Concerns were raised regarding the potential impact of this project on recreational activities in the area. In cases where there could be some degree of overlap - walking,*

*equestrian sport etc, the level of overlap should be of limited extent and has proved manageable elsewhere.*

*MED concluded in their LVIA report that the scenic and amenity impact of this application is considered to be acceptable in terms of licensing.*

- the particular statutory status of the waters

Natura 2000

*The site is located within the Slieve Tooley/Tormore Island/Loughros Beg Bay SAC. A Natura Screening report was carried out by the MI in relation to aquaculture activities in this SAC. The Screening report concluded that there are no direct impacts (spatial overlap) from the culture operations on any of the features of the SAC or on those in any Natura sites proximate to the culture sites. Consequently, the culture of shellfish in Loughros Beg Bay will not likely pose significant risk to the conservation features of the SAC and adjacent Natura 2000 sites and the MI considered that a full Appropriate Assessment was not required. The MI concluded that there will be no significant effects on the qualifying interests' of the Natura 2000 sites (see **Tab C**).*

*The Licensing Authority (i.e. the Minister) has prepared a Conclusion Statement outlining how it is proposed to license and manage aquaculture activities in the above Natura site in compliance with the EU Habitats Directive (see **Tab D**).*

Shellfish Waters

*The site is located within the Loughros Beg designated Shellfish Growing Waters area. The SFPA, the body responsible for the food safety aspect of seafood production, has no objection to this application. The current classification for Loughros Beg Bay is "B" which means that the oysters may only be placed onto the market for human consumption after treatment in a purification centre or relaying.*

- the likely effects on the economy of the area

*Concerns were raised regarding the potential impact of this project on the tourism industry. However, aquaculture has the potential to provide a range of benefits to the local community such as the attraction of investment capital, employment and development of support services etc.*

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

*No significant issues arose regarding wild fisheries. The potential ecological impacts of aquaculture activities on natural habitats, flora and fauna are addressed in the Natura Screening report for Loughros Beg Bay and in the Licensing Authority's Conclusion Statement.*

- the effect on the environment generally

*The Minister is 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 a significant effect on the environment.*

*The Department's scientific adviser, the Marine Institute, has considered the location, nature and scale of the proposed aquaculture activity, and in deference to their remit under the Marine Institute Act, and the considerations implicit to Sections 61(e) and (f) of the Fisheries (Amendment) Act, 1997, are of the view that there will be no significant impacts on the marine environment from this aquaculture activity and that the quality status of the area will not be adversely impacted.*

## **RECOMMENDATION**

This application for an Aquaculture Licence has been subject to a rigorous examination and a positive recommendation is based on the best advice available.

Accordingly, it is recommended that the Minister:

approves the granting of an Aquaculture Licence (**Tab E**) to Mr. Barry McGuinness, Largy, Killybegs, Co. Donegal for one site:

- Site T12/498A – 8.839 ha

on the foreshore in the eastern portion of Loughros Beg Bay, Co. Donegal, for a period of ten (10) years for the purpose of cultivating Pacific Oysters using bags and trestles in accordance with the terms and conditions of the attached draft Aquaculture Licence.

## **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 –T12/498*

*Mr. Barry McGuinness, Largy, Killybegs, Co. Donegal has applied for Aquaculture and Foreshore Licences for the cultivation of Pacific Oysters using bags and trestles on one site:*

- Site T12/498A – 8.839 ha

*on the foreshore in the eastern portion of Loughros Beg Bay, Co. Donegal.*

*The Minister for Agriculture, Food and the Marine has determined that it is in the public interest to grant the Aquaculture and Foreshore Licences for this site. 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: -

- a) *Scientific advice is to the effect that the waters are suitable for the cultivation of Pacific Oysters. The site is located within the Loughros Beg designated Shellfish Growing Waters area. Oysters in these waters currently have a "B" Classification;*
- b) *Given the location, nature and scale of the proposed aquaculture activity, there should be no significant impacts on the marine environment and the quality status of the area should not be adversely affected;*
- c) *No significant effects arose regarding wild fisheries;*
- d) *No effects anticipated on the man-made environment heritage of value in the area;*
- e) *No significant impacts anticipated on existing beneficial usages of the local shore area;*
- f) *The proposed aquaculture activity at this site should have a positive effect on the economy of the local area;*
- g) *The visual and landscape impacts of this site were deemed not to be above moderate levels and are at an acceptable range in terms of licensing;*
- h) *The site is located within the Slieve Tooley/Tormore Island/Loughros Beg Bay Special Area of Conservation (SAC). A Natura Screening report has been carried out in relation to aquaculture activities in the SAC (available on the Department's website). There are no direct impacts (spatial overlap) from the proposed culture operations at this site on any of the features of the SAC and therefore no significant effects arise for the qualifying interests' of the SAC or on those in any Natura sites proximate to the culture site.*
- i) *The Licensing Authority's conclusions in relation to the Natura Screening are contained in the Appropriate Assessment Screening Conclusion Statement for Loughros Beg Bay (available on the Department's website). This document outlines how aquaculture activities in this SAC, including this site, are being licensed and managed so as not to significantly and adversely affect the integrity of the Slieve Tooley/Tormore Island/Loughros Beg Bay Special Area of Conservation;*
- j) *The measures set out in the draft Marine Aquaculture Code of Practice prepared by Invasive Species Ireland will be fully implemented as required in licensing conditions;*
- k) *All issues raised during the public and statutory consultation phase;*
- l) *The updated and enhanced Aquaculture and Foreshore licences contain terms and conditions which reflect the environmental protection required under EU and National law."*



## **Recommendation to Grant a Foreshore Licence for one site (ref: T12/498A)**

### **DECISION SOUGHT**

The Minister's determination is requested please in relation to the application for a Foreshore Licence from Mr. Barry McGuinness, Largy, Killybegs, Co. Donegal for a site in Loughros Beg Bay, Co. Donegal in 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 which covers one site (T12/498A) totalling 8.839 hectares in the eastern portion of Loughros Beg Bay, Co. Donegal.

### **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 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 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: The Department of Housing, Planning and Local Government had no objection to this application and stated that there is no impingement to the foreshore from a technical perspective.

## Technical Consultation

Marine Engineering Division (MED): MED had some reservations about site suitability and recommended that the original site area be reduced and varied. The applicant agreed to progress with the revised site area suggested by MED. The revised site co-ordinates, maps and chart went to public notice. MED noted that the mix of elevations on site may be helpful for managing differing growth requirements of oyster seed and half grown oysters. MED's inspection of the site, as revised, offers a better prospect for trestle based oyster farming and it is likely that some trial and error will be necessary in order to choose the most stable and best growth areas. MED were satisfied with the proposed layout provided showing trestle lines running north - south and focused on the north eastern corner of the site. While the proposal will further extend the oyster farmed area in the bay, MED have no objection to the application being licensed.

Marine Survey Office: The Marine Survey Office has no objection to this application from a navigational viewpoint.

Sea Fisheries Protection Authority (SFPA): The SFPA have no objection to this licence application.

## Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements in the Donegal Democrat on 10<sup>th</sup> May 2018. The application and supporting documentation were available for inspection at Ardara and Glenties Garda Stations for a period of 4 weeks from the date of publication of the notice in the newspaper.

There were **59 objections** received as part of the public consultation process. In broad terms, concerns were raised in relation to the visual, environmental and economic impacts of this project in conjunction with other new aquaculture developments in the bay.

## 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 a significant effect on the environment.

The Department's scientific adviser, the Marine Institute, has considered the location, nature and scale of the proposed

aquaculture activity, and in deference to their remit under the Marine Institute Act, and the considerations implicit to Sections 61(e) and (f) of the Fisheries (Amendment) Act, 1997, are of the view that there will be no significant impacts on the marine environment from the aquaculture activity and that the quality status of the area will not be adversely impacted.

## **RECOMMENDATION**

It is recommended that the Minister, taking account of the decision on the related aquaculture licence application:

approves the granting of the Foreshore Licence (**Tab F**) to Mr. Barry McGuinness, Largy, Killybegs, Co. Donegal for the occupation of one site (T12/498A) totalling 8.839 hectares in the eastern portion of Loughros Beg Bay, Co. Donegal, for a period of ten (10) years 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.

Submitted for approval, please.

**Jane O'Mahony,**  
**Aquaculture and Foreshore Management Division**

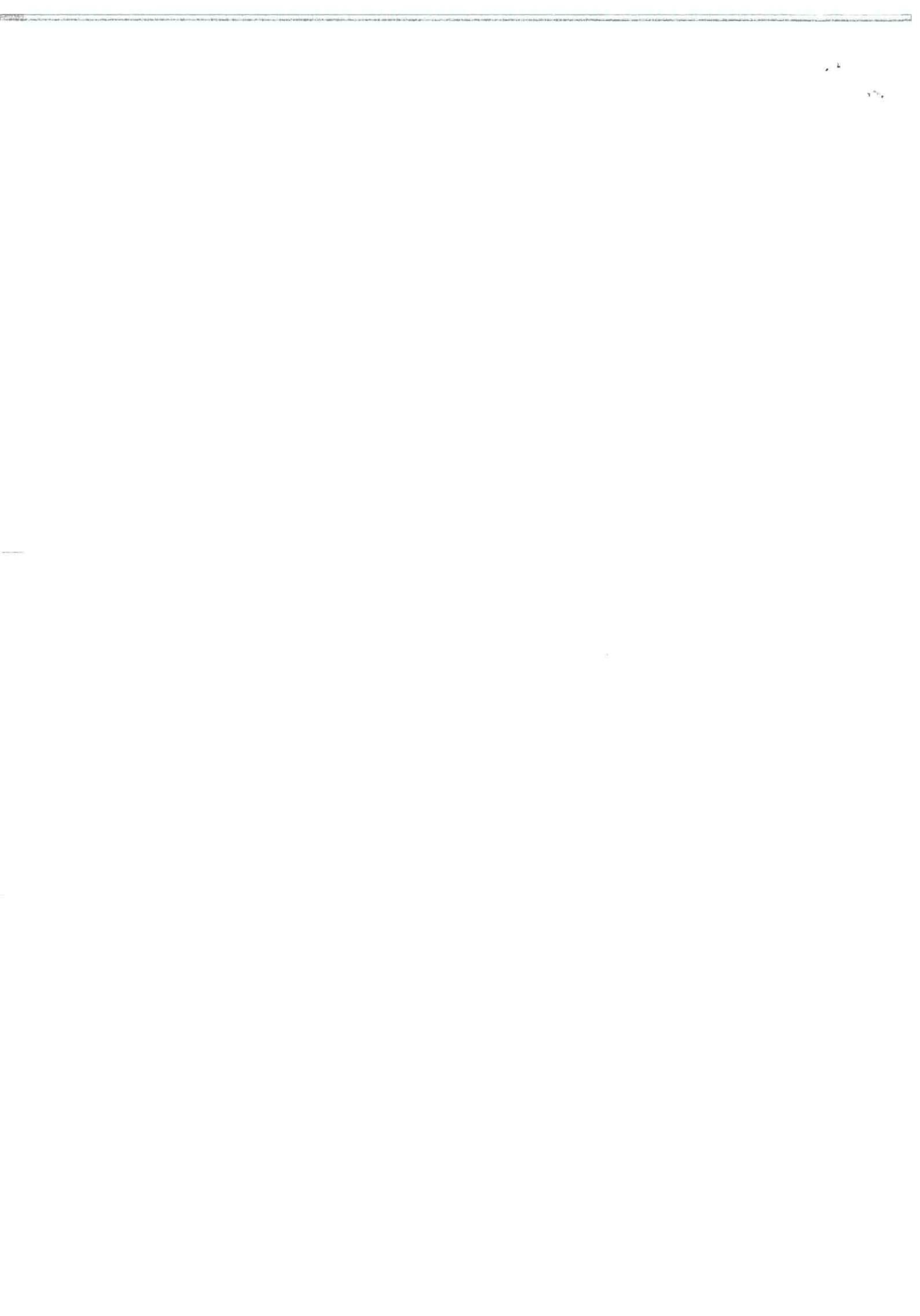
### Related submissions

There are no related submissions.

### User details

INVOLVED: OMahony, Jane  
ODonovan, Geraldine  
Quinlan, John  
Beamish, Cecil  
Sub Sec Gens Office  
eSub Ministers Office

READ RECEIPT: OMahony, Jane  
BTSSP-SC  
ODonovan, Geraldine  
Quinlan, John  
Beamish, Cecil  
Smith, Ann  
Lennox, Graham





### **Determination of Aquaculture/Foreshore Licensing application –T12/498**

Mr. Barry McGuinness, Largy, Killybegs, Co. Donegal has applied for Aquaculture and Foreshore Licences for the cultivation of Pacific Oysters using bags and trestles on one site:

- Site T12/498A – 8.839 ha

on the foreshore in the eastern portion of Loughros Beg Bay, Co. Donegal.

The Minister for Agriculture, Food and the Marine has determined that it is in the public interest to grant the Aquaculture and Foreshore Licences for this site. 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: -

- a) Scientific advice is to the effect that the waters are suitable for the cultivation of Pacific Oysters. The site is located within the Loughros Beg designated Shellfish Growing Waters area. Oysters in these waters currently have a "B" Classification;
- b) Given the location, nature and scale of the proposed aquaculture activity, there should be no significant impacts on the marine environment and the quality status of the area should not be adversely affected;
- c) No significant effects arose regarding wild fisheries;
- d) No effects anticipated on the man-made environment heritage of value in the area;
- e) No significant impacts anticipated on existing beneficial usages of the local shore area;
- f) The proposed aquaculture activity at this site should have a positive effect on the economy of the local area;
- g) The visual and landscape impacts of this site were deemed not to be above moderate levels and are at an acceptable range in terms of licensing;
- h) The site is located within the Slieve Tooley/Tormore Island/Loughros Beg Bay Special Area of Conservation (SAC). A Natura Screening report has been carried out in relation to aquaculture activities in the SAC (available on the Department's website). There are no direct impacts (spatial overlap) from the proposed culture operations at this site on any of the features of the SAC and therefore no significant effects arise for the qualifying interests' of the SAC or on those in any Natura sites proximate to the culture site;
- i) The Licensing Authority's conclusions in relation to the Natura Screening are contained in the Appropriate Assessment Screening Conclusion Statement for Loughros Beg Bay (available on the Department's website). This document outlines how aquaculture activities in this SAC, including this site, are being licensed and managed so as not to significantly and adversely affect the integrity of the Slieve Tooley/Tormore Island/Loughros Beg Bay Special Area of Conservation;





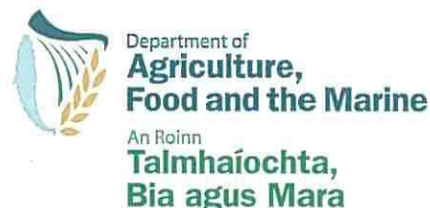
j) The measures set out in the draft Marine Aquaculture Code of Practice prepared by Invasive Species Ireland will be fully implemented as required in licensing conditions;

k) All issues raised during the public and statutory consultation phase;

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



3<sup>rd</sup> August, 2018



**Ref: T12/498**

Mr. Barry McGuinness,  
Largy,  
Killybegs,  
Co. Donegal

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

Dear Sir

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 Licence and accompanying Foreshore Licence, for the cultivation of Pacific Oysters using bags and trestles in Loughros Beg Bay on Site Reference **T12/498A** (see attached information note). I enclose a copy of the public notice of the decision which **the Department** has arranged to have published in the "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 is practically possible after the end of the period of one month from the date of publication of the notice in the "Donegal Democrat", if there is no appeal.

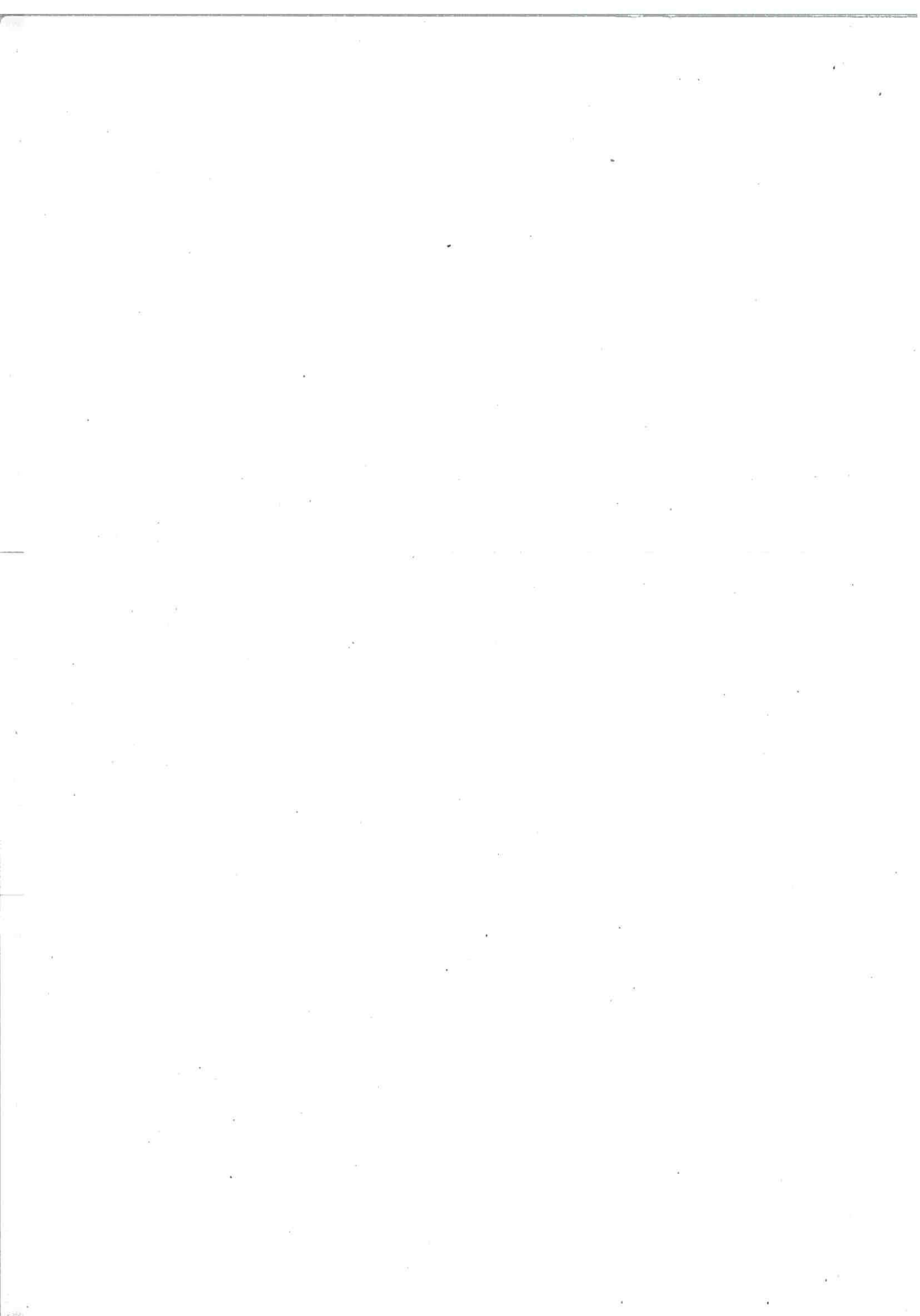
Please also find enclosed the conditions that will apply to the Aquaculture Licence that may be issued by the Minister.

Yours sincerely

---

Jane O'Mahony

Aquaculture & Foreshore Management Division  
National Seafood Centre  
Clonakilty  
Co. Cork  
P85 TX47  
Phone: 023-8859577  
Email: [jane.omahony@agriculture.gov.ie](mailto:jane.omahony@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:** T12/498

**APPLICANT:** Mr. Barry McGuinness,  
Largy,  
Killybegs,  
Co. Donegal

**AQUACULTURE TO WHICH  
DECISION RELATES:** Cultivation of Pacific Oysters using bags and trestles in  
Loughros Beg Bay on Site Reference **T12/498A**

**NATURE OF DECISION:** Grant of Aquaculture Licence

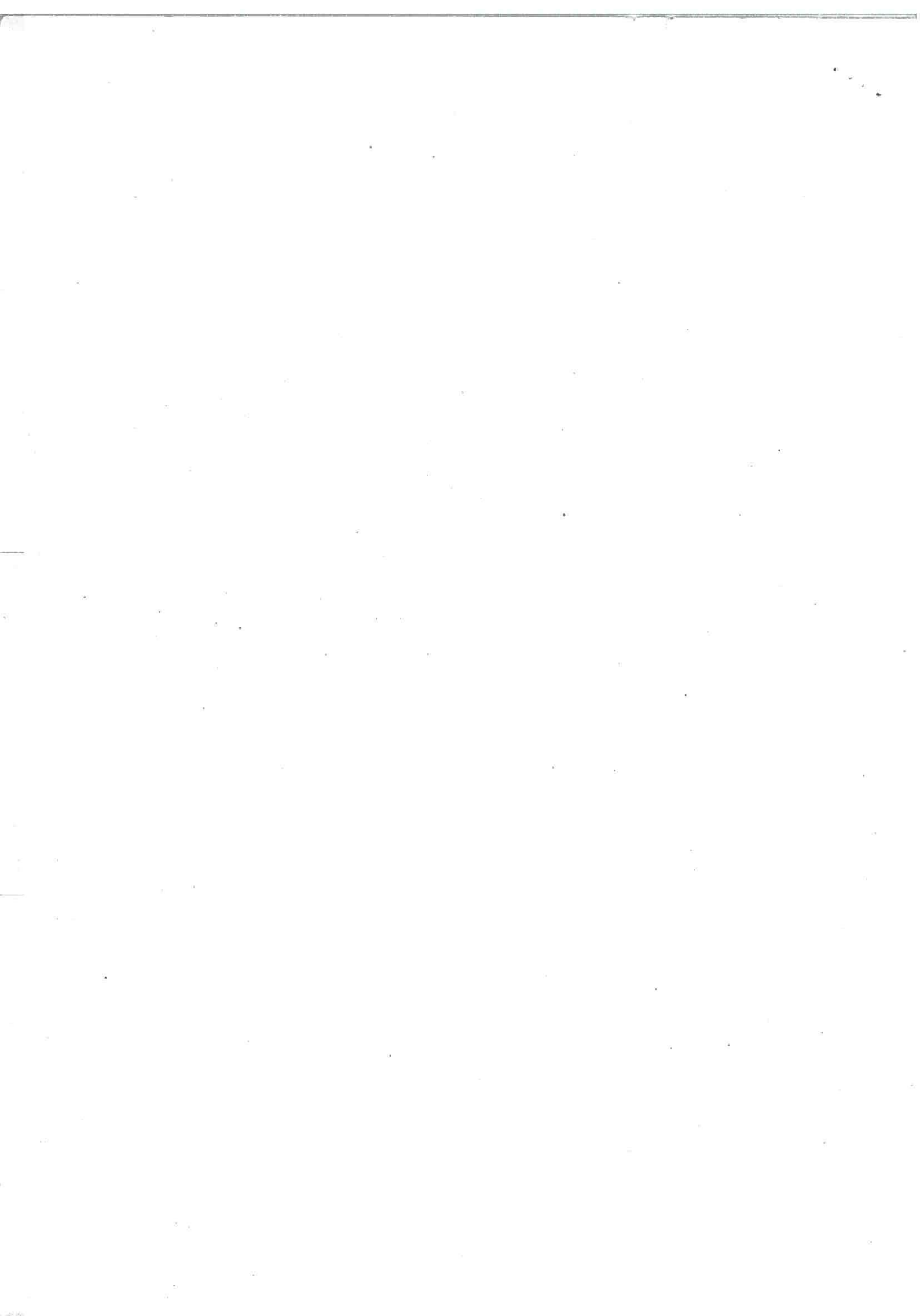
**DATE OF DECISION:** 02/08/2018

**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.







**T12/498A**

**AQUACULTURE LICENCE**

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

**Mr Barry McGuinness,**  
**Largy,**  
**Killybegs,**  
**Co. Donegal**



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T12/498A

**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:

**Mr Barry McGuinness**

**Largy**

**Killybegs**

**Co. Donegal**

(hereinafter referred to as the “Licensee”) for the cultivation of Pacific Oysters on a site in the eastern portion of Loughros Beg Bay, Co. Donegal as specified in Schedule 1 attached (numbered T12/498A) 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 XXXXXXXXXXXX 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 (8.839 hectares) (labelled T12/498A) 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 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*.
- 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@ukho.gov.uk](mailto:sdr@ukho.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 Regulations**

- 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 XXXXXXXXXXXX, 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 as 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 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. 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**



## SCHEDULE 2

**Schedule 2 contains:**

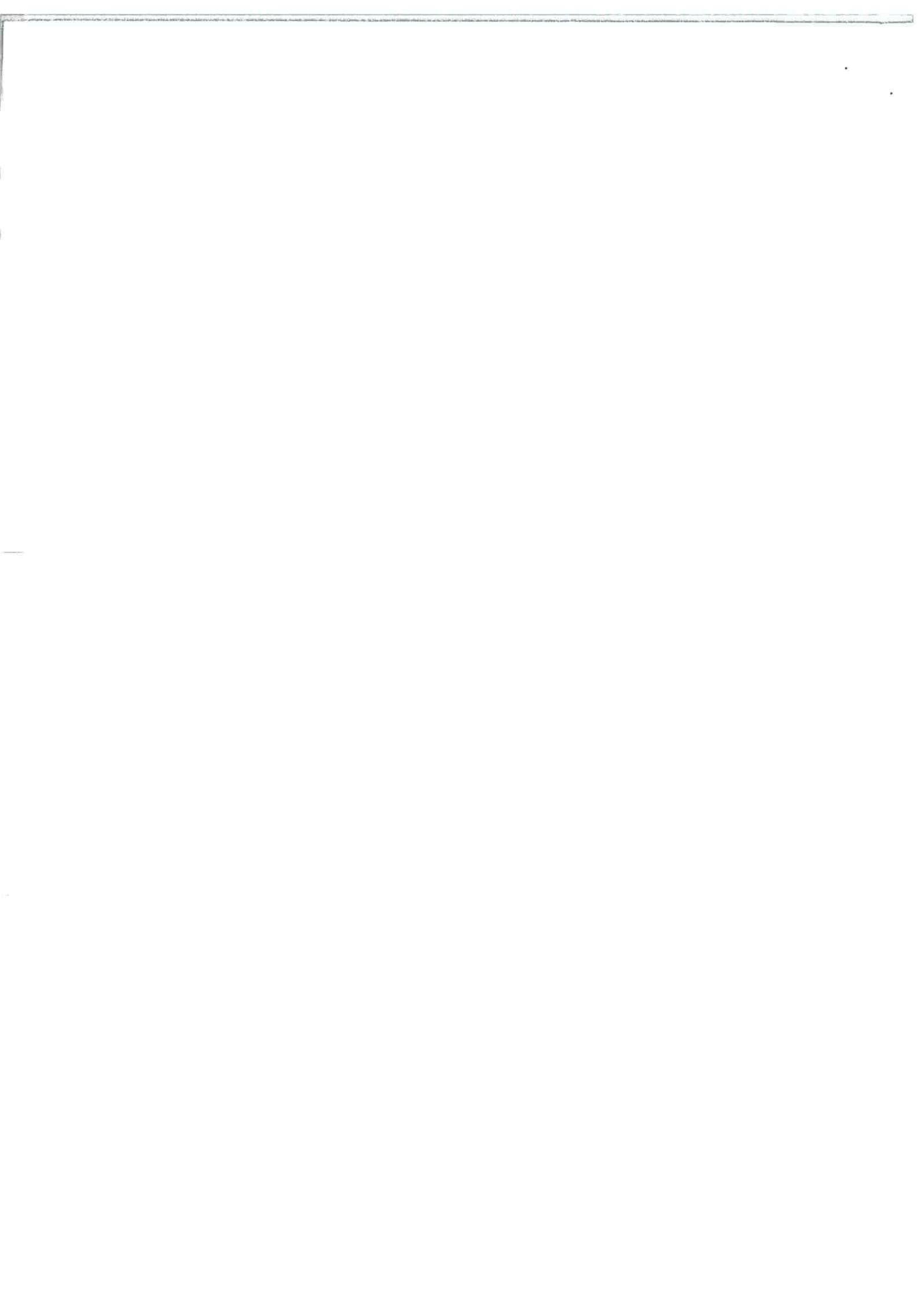
- **the approved plans and drawing(s)**

The site layout plan, boundaries and identified access route, as approved, must be strictly adhered to.

Good site management practices must be followed to ensure visual and landscape impacts are minimised including: -

- Spacing and height of trestle rows should be as uniform as possible and include frequent access gaps for vehicles so that density of trestle placement is not excessive.
- There should be no stacking of trestles or equipment on the foreshore and disused or unused equipment should be regularly removed.

DRAFT



## SCHEDULE 3

**Schedule 3 contains:**

- **requirements of the MSO and/or CIL**
  - The Licensee is required to establish the following marks: A yellow special mark pole on each of the four corners of the development. The top mark should be constructed in the pattern approved by the Commissioners of Irish Lights.
  - The Licensee shall participate in any proposed Special Unified Marking Scheme (SUMS) for Loughros Beg Bay.
  - Statutory Sanction must be secured from the Commissioner of Irish Lights for all aids to navigation.

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## **SCHEDULE 4**

**Schedule 4 contains:**

### **Special conditions applicable to this licence**

- The Licensee may only use Triploid Oysters at this site.
- The Source of Seed must be approved by the Department of Agriculture, Food and the Marine
- The Licensee is required to prepare a Contingency Plan for the approval of the Department of Agriculture, Food and the Marine which should identify, inter alia, methods for the removal from the environment of any non-target species introduced as a result of operation at this site.
- The access route over intertidal habitat should be strictly adhered to in order to minimise habitat disturbance.
- A central channel width of 15m minimum is to be maintained on the site in order not to obstruct migratory fish movement.

DRAFT





**T12/498A**

**FORESHORE LICENCE**

**Mr Barry McGuinness,  
Largy,  
Killybegs,  
Co. Donegal**





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**FORESHORE LICENCE IN RESPECT OF A SITE**  
**(NUMBERED T12/498A) AT LOUGHROS BEG BAY, CO. DONEGAL**

AGREEMENT made on the XX XXXXXXXX 20XX, between the Minister for Agriculture, Food and the Marine (hereinafter referred to as the “Minister” which expression shall include his Successors or Assigns where the contract so requires or admits), of the one part, and

**Mr Barry McGuinness.**

**Largy,**

**Killybegs,**

**Co. Donegal**

(hereinafter referred to as the “Licensee”) of the other part, whereby the Minister, in exercise of the powers conferred on him by Section 3 of the Foreshore Act, 1933 (No.12 of 1933) hereby grants to the Licensee licence to use and occupy that part of the foreshore in the eastern portion of Loughros Beg Bay, Co. Donegal (numbered T12/498A) and detailed in the attached schedule and more particularly delineated on the map annexed hereto and thereon coloured red for the purpose of the cultivation set out in Aquaculture Licence Number XXX on the terms and conditions set out in the attached pages.

This Foreshore Licence shall remain in force for a maximum period of ten (10) years commencing on XX XXXXXXXXXXXX 20XX, provided for so long as the Aquaculture Licence Number XXX granted on XX XXXXXXXX 20XX under the Fisheries (Amendment) Act 1997 (No. 23 of 1997) in respect of the same site for the purpose referred to is in force.



## TERMS AND CONDITIONS APPLICABLE TO FORESHORE LICENCE

1. The Licensee shall pay to the Minister the annual sum of € 63.49 (Sixty Three euro and Forty Nine cent), such payment to be made on the **XX** day of **XXXXXXXXXX** in every year during the continuance of this Licence, the first of such payments to be made on the signing hereof.
2. The Licensee shall use that part of the foreshore, the subject matter of this Licence, for the cultivation set out in Aquaculture Licence Number **XXX** only and for no other purpose whatsoever.
3. The Licensee shall comply fully with all terms and conditions of Aquaculture Licence Number **XXX**.
4. 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 however 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.
5. The duty of maintenance and responsibility for the upkeep and safety of the site rests with the Licensee.
6. The Minister shall be at liberty at any time to terminate this Licence by giving to the Licensee three months notice in writing ending on any day, and upon determination of such notice, the Licence and permission granted shall be deemed to be revoked and withdrawn without the liability for the payment of any compensation by the Minister to the Licensee.
7. 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.
8. The Licensee shall not carry out any operations authorised by the Licence in the licensed area in such a manner as to interfere unreasonably with fishing or navigation in the vicinity of the licensed area and shall comply with any direction given to the Licensee in that regard by the Minister.
9. In the event of the breach, non-performance or non-observance by the Licensee of any of the conditions herein contained, the Minister may forthwith terminate this Licence without prior notice to the Licensee.





**AND IT IS HEREBY CERTIFIED THAT:**

1. For the purpose of the stamping of this Instrument that this is an Instrument to which the provisions of Section 53 of the Stamp Duties Consolidation Act 1999 (No. 31 of 1999), do not apply for the reason that the entire of the property involved comprises Foreshore and contains no Buildings.
2. The Family Law Acts of 1976, 1981, 1989, 1995 and the Family Law (Divorce) Act 1996 do not affect the Property.

**SEAL OF OFFICE AND SIGNATURES**

**PRESENT when the Seal of Office of the MINISTER FOR AGRICULTURE, FOOD AND THE MARINE was affixed and was authenticated by the Signature of:**

**WITNESS:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

\_\_\_\_\_

**OCCUPATION: CIVIL SERVANT**

**SIGNED on behalf of Licensee**

**in the presence of:**

**WITNESS:** \_\_\_\_\_

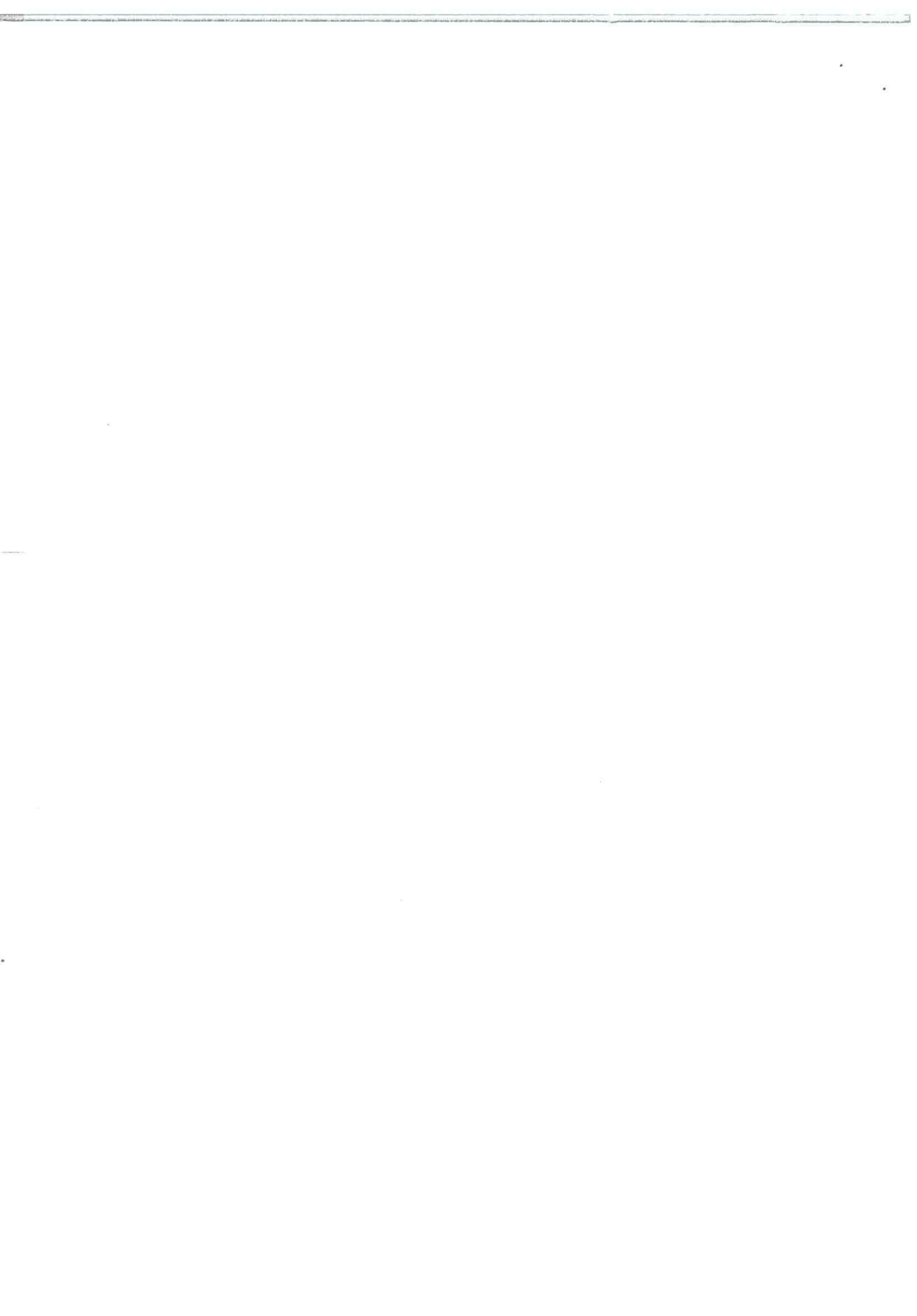
**ADDRESS:** \_\_\_\_\_

\_\_\_\_\_

**OCCUPATION:** \_\_\_\_\_

\_\_\_\_\_

**A person so authorised under Section 15(1) of the Ministers and Secretaries Act, 1924 to authenticate the seal of the Minister.**



## **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)**
- **a chart showing the location of the site in relation to the surrounding area.**

**DRAFT**

