

AP19/21/22 2019

Technical Advisors Report

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| Client: | Aquaculture Licence Appeals Board |
| Address: | Kilminchy Court, Dublin Road, Portlaoise, Co Laois. R32 DTW5 |

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June 2020



Appeal Ref No. AP 19/2019, AP 21/2019, AP22/2019

Aquaculture Licences Appeals Board

Technical Advisor's Report

Description: Assessment of the appeal against the Minister's decision to refuse the renewal of aquaculture and foreshore licenses for the cultivation of pacific and native oysters by Rosemary Purcell, the cultivation of Pacific oysters by John Harrington of Templenoe Oysters and Kush Seafarms Ltd. at sites in Dunkerron Harbour, Kenmare Bay, Co.Kerry.

Licence Application Department Ref No: T06/201, T06/295, T06/179,

Applicant(s): Rosemary Purcell, John Harrington of Templenoe Oysters and John Harrington of Kush Seafarms Ltd.

Minister's Decision: Refused renewal of licences T06/201, T06/295 and T06/179.

Appeal

Type of Appeal: Appeal against the decision of the Minister for Agriculture, Food and the Marine to refuse the renewal of aquaculture and foreshore Licences to Rosemary Purcell (AP19/2019), John Harrington of Templenoe Oysters (AP21/2019) and Kush Seafarms Ltd. (AP22/2019) for the cultivation of pacific and native oysters on the foreshore at sites in Dunkerron Harbour, Upper Kenmare Bay, Co. Kerry

Appellant(s): Rosemary Purcell, John Harrington of Templenoe Oysters and John Harrington of Kush Seafarms Ltd

Observers: Rosemary Purcell, John Harrington of Templenoe Oysters and John Harrington of Kush Seafarms Ltd.

Technical Advisor MERC Consultants Ltd.

Date of site Inspection: Tuesday 26th May 2020

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1.General Matters / Appeal Details

1.1 Appeal Details & Observer Comments / Submissions

Date Appeal Received: 01/11/2019

Locations of Sites Appealed: within Dunkerron Harbour, Upper Kenmare Bay, County Kerry.

1.2 Name of Appellant (s):

Rosemary Purcell, 8 Main Street, Kenmare, County Kerry.

John Harrington, Templenoe Oysters Ltd., 3 Templenoe Pier, Blackwater Bridge P.O., Killarney, County Kerry.

John Harrington, Kush Seafarms Ltd., O'Shea's Building, New Road, Kenmare, County Kerry.

1.3 Name of Observer (s)

Rosemary Purcell, 8 Main Street, Kenmare, County Kerry.

John Harrington, Templenoe Oysters Ltd., 3 Templenoe Pier, Blackwater Bridge P.O., Killarney, County Kerry.

John Harrington, Kush Seafarms Ltd., O'Sheas Building, New Road, Kenmare, County Kerry.

1.4 Grounds for Appeal

The Appellants in cases AP19, AP21 and AP22 for renewal of aquaculture and foreshore licences to cultivate oysters intertidally identified four key issues in relation to the advice of the Department to the Minister and the Minister's decision to refuse the renewal of licences, T06/201, T06/295, T06/179, these issues are as follows.

1.The Appellants maintain there was a breach of statutory duty and failure to follow fair procedure and adhere to natural and constitutional justice.

That the Department failed in two instances to comply with its obligations under SI number 236/1998 Aquaculture (Licence Obligation) Regulations 1998.

Regulation 14 of SI No.236/1998 Aquaculture (Licence Application) Regulations provides:

"The Minister shall supply the applicant a copy of any submissions or observations received under 9(1), 10(3). 11(2) or 12(4) concerning an application. "

Two letters of correspondence between the Aquaculture and Foreshore Management Division of the Department and the Sea Fisheries Protection Authority were not copied to the Appellants. The Appellants maintain they were denied an opportunity to review and make observations on these submissions in accordance with Regulation 14(2) The Appellants argue this is of particular importance to this case of appeal as the Appellants maintain it appears the Department based the decision to recommend refusal of the applications to renew the licences under review solely on comments made by SFPA in these submissions.

2.The Appellants maintain The Minister acted beyond the scope of his powers as provided for under the Fisheries (Amendment) Act 1997.

In short the Appellants state that the Minister in refusing renewal of their licences acted outside the scope of his powers under the 1997 Act and the Regulations. The Appellants maintain that this was outside the scope of his powers by taking into account impermissible matters, in this case food safety. They maintain food safety and the protection of consumers of shellfish is a matter specifically dealt with under separate legislation and that the Minister has exceeded his powers under the legislation in refusing the licences.

3.The Appellants state the decisions made by the Department to recommend refusal of the licence renewals and the Ministers decision to refuse the licences were made with no or inadequate evidence.

The Appellants maintain they have been producing oysters successfully at these sites for a number of years and they refer to the classification of the oyster produced at these sites. The oysters produced at these sites are tested monthly by the Sea Fisheries Protection Agency for the presence of E. Coli. The sites are generally classified as Class B, at times class A and rarely as Class C. The Appellants maintain these levels of E. Coli have always been regarded as acceptable for shellfish farming. The appellants maintain that these results do not indicate a particular problem with the Kenmare Waste Water Treatment Plant and that the river is tidal and subject to regular flushing; with both salt and fresh water.

The Appellants maintain there is no actual risk that contaminated shellfish will be produced from these sites and sold directly to consumers. When shellfish testing produces class B or C shellfish the said shellfish will be treated by depuration in fresh sea water until reaching the required status for consumption. When the shellfish tests class A at the sites they are allowed to go directly for human consumption.

4.The Appellants maintain that the decision of the Minister to refuse the licence renewals was unreasonable, irrational and dis-proportionate.

The Appellants maintain there is an obligation on the Minister to renew a licence and when renewed a licence may be subject to conditions addressing any concerns that were raised during the application process. The SFPA acknowledged that if the Licences were to be granted it would be subject to a condition that the existing statutory provisions and that SFPA would continue monitoring shellfish production of the sites.

1.5 Minister's submission

Section 44(2) of the Fisheries (Amendment) Act 1997 states that

“The Board shall, as soon as practicable after receiving a notice of appeal, give a copy to each other party to the appeal.”

Section 44(2) of the Fisheries (Amendment) Act 1997 states that

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

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

The *Notices of Appeal* for AP19, 21 and 22 were received by the Department of Agriculture, Food and Marine on the 01/11/19. While the Department responded within the required time frame and in so doing provided copies of relevant documentation relating to the application and internal process, no Ministerial submission in relation to the appeal was received by the Board within the specified timeframe. It is therefore determined that no Ministerial submission was made in response to the appeal which the Board is required to consider.

1.6 Applicant response

The applicants (as the appellants) may submit responses to appeal submissions under the provision set out in Section 44 (2) of the Fisheries (Amendment Act) 1997. Furthermore, Section 45 provides that any person who is not a party to the appeal may make submissions or observations in writing to the Board in relation to an appeal. The Board may also request a submission from any party to the appeal under Section 46 of the Act.

The applicants made submissions as appellants in this case. No submissions were received from third parties in relation to the appeal.

2.0 Consideration of Non-Substantive Issues

There were no non-substantive issues raised.

3.0 Oral Hearing Assessment

The appellants requested an oral hearing in the Notices of Appeal. Having reviewed the Ministers File, additional correspondence from the appellant/applicant and Department of Agriculture, Food and the Marine and having carried out a site visit, it is considered that there is sufficient information and documentation available to the technical review in order to make a clear recommendation in relation to the appeal. An oral hearing is therefore not considered necessary in the circumstances

4.0 Minister's file

Rosemary Purcell T06/201

| No | Date | Item |
|----|-----------------------------|--|
| 1 | 21 st March 2018 | Application for Aquaculture and foreshore licence renewal T06/201 |
| 2 | 18 th April 2018 | Marine Engineering Division DAFM report on Aquaculture licence renewal application T06/201. |
| 3 | 10 th June 2018 | Letter to Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/201 from the Sea-Fisheries Protection Authority. |
| 7 | 15 th June 2018 | Letter to the Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/201 from Irish Lights. |
| 4 | 16 th April 2019 | Letter to the Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/201 from the Marine Institute. |
| 5 | 8 th May 2019 | Email to the Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/201 from Department of Culture, Heritage and Gaeltacht, Development Applications Unit. |
| 6 | 09 th May 2019 | Email to the Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/201 from Bord Iascaigh Mhara. |
| | 19 th July 2019 | Email from the Aquaculture and Foreshore Management Division of DAFM regarding water quality issues in Kenmare Bay/Templenoe to Sea Fisheries Protection Authority. |
| 8 | 25 th July 2019 | Email response to Aquaculture and Foreshore Management Division of DAFM regarding water quality issues in Kenmare Bay/Templenoe from the Sea-Fisheries Protection Authority. |

John Harrington, Templenoe Oysters T06/295

| No | Date | Item |
|----|-----------------------------|---|
| 1 | 13 th March 2018 | Application for Aquaculture and foreshore licence renewal T06/295 |

| | | |
|----|-----------------------------|---|
| 3 | 17 th April 2018 | Letter to the Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/295 from Irish Lights . |
| 4 | 18 th April 2018 | Marine Engineering Division DAFM report on Aquaculture licence renewal application T06/295. |
| 5 | 29 th April 2018 | Email response to the Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/295 from the Marine Survey Office, Department of Trade, Tourism and Sport. |
| 6 | 24 th May 2018 | Email to Irish Lights from Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/295. |
| 7 | 10 th June 2018 | Letter to the Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/295 from the Sea-Fisheries Protection Authority |
| 8 | 15 th June 2018 | Email to the Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/295 from Irish Lights. |
| 9 | 16 th April 2019 | Letter to the Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/295 from the Marine Institute . |
| 10 | 8 th May 2019 | Email to the Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/295 from the Department of Culture, Heritage and Gaeltacht, Development Applications Unit. |
| 11 | 19 th July 2019 | Email from the Aquaculture and Foreshore Management Division of DAFM regarding water quality issues in Kenmare Bay/Templenoe and the renewal of aquaculture and foreshore licence T06/295 to Sea Fisheries Protection Authority |
| 12 | 25 th July 2019 | Email response to Aquaculture and Foreshore Management Division of DAFM regarding water quality issues in Kenmare Bay/Templenoe from the Sea-Fisheries Protection Authority |

John Harrington, Kush Seafarms Ltd T06/179

| No | Date | Item |
|----|-----------------------------|--|
| 1 | 14 th March 2018 | Application for Aquaculture and foreshore licence renewal T06/179. |
| | 18 th April 2018 | Marine Engineering Division DAFM report on Aquaculture licence renewal application T06/179. |
| | 22 nd May 2018 | Email to the Marine Survey Office at the Department of Transport, Tourism and Sport on the aquaculture and foreshore licence renewal application T06/179 from the Aquaculture and Foreshore Management Division of DAFM. |
| 2 | 24 th May 2018 | Letter to Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/179 from Irish Lights. |
| 3 | 30 th July 2018 | Email response to the Aquaculture and Foreshore Management Division of DAFM on the aquaculture and |

| | | |
|---|---------------------------------|--|
| | | foreshore licence renewal application T06/179 from the Marine Survey Office, Department of Transport, Tourism and Sport response to DAFM |
| 4 | 21 st September 2018 | Letter to the Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/179 stating Templenoe is unsuitable for the cultivation of oysters due to issues at Kenmare WWTP from Sea-Fisheries Protection Authority. |
| 5 | 16 th April 2019 | Letter to the Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/179 from the Marine Institute. |
| 5 | 8 th May 2019 | Email to Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/179 from the Development Applications Unit, Department of Culture, Heritage and Gaeltacht . |
| 7 | 10 th May 2019 | Email to Aquaculture and Foreshore Management Division of DAFM on the aquaculture and foreshore licence renewal application T06/179 from Bord Iascaigh Mhara |
| | 19 th July 2019 | Email from the Aquaculture and Foreshore Management Division of DAFM regarding water quality issues in Kenmare Bay/Templenoe and the renewal of aquaculture and foreshore licence T06/179 to Sea Fisheries Protection Authority. |
| | 25 July 2019 | Email response to Aquaculture and Foreshore Management Division of DAFM regarding water quality issues in Kenmare Bay/Templenoe from the Sea-Fisheries Protection Authority Sea-Fisheries Protection Authority. |

5.0 Context of the Area

5.1 Physical descriptions

The proposed sites are located intertidally off the coast of Kerry in Dunkerron Harbour , Upper Kenmare bay. Site T06/201 has an area of 2 hectares. Site T06/295 has a current area of 2 hectares though the DAFM Engineer recommended reduction to 1.4 hectares due to water depth and site T06/179 has a current area of 3.5 hectares to be reduced to 2.4 hectares on the advice of the DAFM Marine Engineer.

The sites are in most parts located over firm muddy gravel but there are areas of anoxic mud between sites. There is a small river draining over the beach to the north of the sites between T06/201 and T06/295 and two smaller freshwater inputs to the north of T06/295

The River Finnihy into which the Kenmare Waste Water Treatment plant discharges drains into Upper Kenmare Bay more than 4km to the east of the aquaculture sites.

The adjacent shoreline is a mixture of reef and rock armouring with a small beach line of cobbles and boulders.

The landscape in this area is characterised by improved amenity grassland with scattered rural housing and farmsteads. The nearest urban centre to the proposed aquaculture installation is Kenmare town, 5.5 km east of the sites under review.



Figure 1. The location of the sites under review in Kenmare Bay SAC.

5.2 Resource Users

Aquaculture Activity

Renewal of these licences will not impact any other aquaculture activities. The nearest licenced site T06/39A is approximately 9km west of the aquaculture sites.

Angling Activity

Dunkerron Harbour, Upper Kenmare Bay where all aquaculture sites under review are located is not a known angling area. There are no listed fishing marks in the area. Shore angling activity within Kenmare Bay is found in the outer Bay area around Lambs Head for pollack, mackerel, dogfish, dab and wrasse. A number of angling boats operate within Kenmare Bay with general reef fishing being the primary activity of these vessels.

The River Sheen, draining into the head of Kenmare Bay on the southern shore provides salmon fishing from March with grilse arriving in June. The Finnihy River 4km to the east of the sites under appeal has a small run of grilse from May. The Blackwater River (Kerry) SAC is located 3.5 km to the west of the aquaculture sites It is managed by IFI Macroom and gets a run of 1500 Salmon and Grilse approximately every year. It also has a reasonable run of Sea-Trout that head for lough Brin at the headwaters of the system.

Tourism

The southwest of Ireland is the most visited place in Ireland by tourists generating the largest tourism revenue in Ireland outside of Dublin. In 2015 1 million overseas visitors spent time in Kerry. Tourism generates €420 million per annum for the Kerry economy. The north shore of Kenmare Bay where the aquaculture sites under appeal are located is part of the Ring of Kerry and both shores of the bay are on the Wild Atlantic Way.

Agricultural Activity

It was estimated that 40% of the area of the Kenmare Bay catchment is farmed but that livestock stocking densities and fertiliser use are lower than national averages (Department of Environment, Community and Local Government 2006) The area directly to the north of the aquaculture sites at Dunkerron harbour is characterised by large areas of improved amenity grassland with small areas of improved agricultural grassland.

The soils are dominated by wet acid brown earths and gleys (Teagasc n.d.).

Inshore Fishing activity

Six vessels less than 8m in length fish for lobster and crab along the coast from Ballinskelligs into Kenmare River using 1500 pots and a further 8 vessels under 10m in length fish 2500 pots in inner Kenmare. A further 19 vessels fishing 9500 pots fish for shrimp (*Palaemon serratus*) in inner Kenmare. Potting for prawns (*Nephrops*) occurs at the edge of trawling ground in outer and mid Kenmare.

Scallops are fished with dredges on the south shore of inner Kenmare. Tangle netting for crayfish occurs at the outer edges of the SAC and in coastal waters to the north and south of the site.

Bottom trawl fisheries, targeting *Nephrops* and mixed demersal fish, occur on fine sedimentary habitats in outer Kenmare River. Pelagic trawling for sprat occurs in winter in inner Kenmare River. Inshore fishing vessels fish for Mackerel and Pollack in outer Kenmare River SAC in summer and autumn using hook and line techniques.

Leisure Users of the water body & surrounding area

Kenmare and Temploe piers are popular locally for swimming. There are a number of commercial operations offering water based activities including diving, kayaking and sailing

from Kenmare town and other towns and villages within the bay area. Water borne eco tours operate from Kenmare Town pier focusing primarily on seal and sea eagle watching.

5.3 Environmental Data

Water Quality

The aquaculture sites are within the Outer Kenmare River waterbody (IE-SW-190-0000). Water quality monitoring and assessments carried out on Irish coastal waters for the Reporting period 2010-2012 by the EPA has classified the water of this area as “unpolluted” and their ecological status “good”. (Source: [https://gis.epa.ie/EPAMaps/Water quality](https://gis.epa.ie/EPAMaps/Water%20quality)).

Wastewater is discharged from the Kenmare Wastewater Treatment Plant into the River Finnihy 4km to the east of the sites.

Water Framework Directive

The water quality status of transitional and coastal waterbodies assessed under the EU Water Framework Directive (2000/60/EC) is provided under section 5.4. Under the Water Framework Directive an approved risk is assigned to each feature by catchment scientists. The approved risk for IE-SW-190-0000 is currently “review” (Source [https://gis.epa.ie/EPAMaps/Water Framework Directive](https://gis.epa.ie/EPAMaps/Water%20Framework%20Directive)).

Shellfish Waters Directive

The Directive sets physical, chemical and microbiological requirements that designated shellfish waters must either comply with or endeavour to improve. The Sea Fisheries Protection Authority carry out monthly microbiological testing of oyster samples from the site and have done so since January 2007. Data for Templenoe were made available by the SFPA for the purposes of completing the present evaluation. The data for Templenoe monthly microbiological testing of oysters are provided in Appendix I.

5.4 Statutory Status

Nature Conservation Designations

Natura 2000 sites Special Areas of Conservation (SAC’s) established under the EU Habitats Directive (92/43/EEC) and Special Protection Areas (SPA’s) established under the EU Birds Directive (79/409/EEC).

The aquaculture sites under appeal are located within the Kenmare River Special Area of Conservation (Site Code: 002158).

Table 1. Features of interest within the Kenmare Bay SAC.

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|--------------------------------------|
| Kenmare Bay SAC (Site Code: 002158) |
| Large Shallow inlets and bays [1220] |

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|--|
| Reefs [1170] |
| Perennial vegetation of stony banks [1220] |
| Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] |
| Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] |
| Mediterranean salt meadows [<i>Juncetalia maritime</i>] [1410] |
| Shifting Dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] |
| Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] |
| European dry heaths [4030] |
| <i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130] |
| Calaminarian grasslands of the <i>Violtalia calaminariae</i> [6130] |
| Submerged or partially submerged sea caves [8330] |
| <i>Vertigo angustior</i> (Narrow-mouthed whorl snail. |
| <i>Rhinolophus hipposideros</i> (lesser Horseshoe Bat) [1303} |
| <i>Lutra lutra</i> (Otter) [135] |
| <i>Phoca vitulina</i> (Harbour seal) [1365] |

In addition, thirteen (13) SAC's and two (2) SPAs lie within a 15 km radius of the aquaculture sites under review.

Table 2. Additional Natura 2000 sites within a 15 km radius of the aquaculture sites under appeal.

| Site Code | Site Name | Distance from aquaculture sites (km) |
|-----------|--|--------------------------------------|
| 000090 | Glengariff and Harbour Woodland SAC | 10.7 |
| 000093 | Caha Mountains SAC | 9.4 |
| 000365 | Killarney National Park, Macguillicuddy's Reeks and Caragh River catchment SAC | 7.3 |
| 001342 | Cloonee and Inchiquin Lough's, Uragh Wood SAC | 5.5 |
| 001873 | Derryclogher (Knockboy) Bog SAC | 15 |
| 001881 | Maulagowna Bog SAC | 5 |
| 002173 | Blackwater River (Kerry) SAC | 3.5 |
| 000364 | Kilgarvan Ice House SAC | 13 |
| 002315 | Glanlough Woods SAC | 14 |
| 000353 | Old Domestic Building, Dromore Wood SAC | 1.7 |
| 001371 | Mucksna Wood SAC | 4.8 |
| 002187 | Drongawn Lough SAC | 12.8 |
| 004038 | Killarney National Park SPA | 10 |
| 004108 | Eric Bog SPA | 8.5 |

Table 3. Features of interest for all sites within a 15km radius of the aquaculture sites under appeal.**Glengariff and Harbour Woodland Sac (Site code: 000090)**

- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]
- *Geomalacus maculosus* (Kerry Slug) [1024]
- *Rhinolophus hipposideros* (Lesser Horseshoe Bat) [1303]
- *Lutra lutra* (Otter) [1355]
- *Phoca vitulina* (Harbour Seal) [1365]

Caha Mountains SAC

- Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*) [3110]
- Natural dystrophic lakes and ponds [3160]
- Northern Atlantic wet heaths with *Erica tetralix* [4010]
- European dry heaths [4030]
- Alpine and Boreal heaths [4060]
- Species-rich *Nardus* grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]
- Blanket bogs (* if active bog) [7130]
- Siliceous scree of the montane to snow levels (*Androsacetalia alpinae* and *Galeopsietalia ladani*) [8110]
- Calcareous rocky slopes with chasmophytic vegetation [8210]
- Siliceous rocky slopes with chasmophytic vegetation [8220]
- *Geomalacus maculosus* (Kerry Slug) [1024]
- *Trichomanes speciosum* (Killarney Fern) [1421]

Killarney National Park, Macguillycuddy's Reeks and Caragh River catchment SAC (Site Code: 000365)

- Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*) [3110]
- Oligotrophic to mesotrophic standing waters with vegetation of the *Littorelletea uniflorae* and /or *Isoeto-Nanojuncetea* [3130]
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation [3260]
- Northern Atlantic wet heaths with *Erica tetralix* [4010]
- European dry heaths [4030]
- Alpine and Boreal heaths [4060]
- *Juniperus communis* formations on heaths or calcareous grasslands [5130]
- Calaminarian grasslands of the *Violetalia calaminariae* [6130]
- *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) [6410]
- Blanket bogs (* if active bog) [7130]
- Depressions on peat substrates of the *Rhynchosporion* [7150]
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]
- *Taxus baccata* woods of the British Isles [91J0]
- *Geomalacus maculosus* (Kerry Slug) [1024]
- *Margaritifera margaritifera* (Freshwater Pearl Mussel) [1029]
- *Euphydrias aurinia* (Marsh Fritillary) [1065]
- *Petromyzon marinus* (Sea Lamprey) [1095]
- *Lampetra planeri* (Brook Lamprey) [1096]
- *Lampetra fluviatilis* (River Lamprey) [1099]
- *Salmo salar* (Salmon) [1106]
- *Rhinolophus hipposideros* (Lesser Horseshoe Bat) [1303]
- *Lutra lutra* (Otter) [1355]
- *Trichomanes speciosum* (Killarney Fern) [1421]
- *Najas flexilis* (Slender Naiad) [1833]
- *Alosa fallax killarnensis* (Killarney Shad) [5046]

Clonee and Inchiquin Loughs, Uragh Wood SAC (Site cod:)

- Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*) [3110]
- Northern Atlantic wet heaths with *Erica tetralix* [4010]
- European dry heaths [4030]
- Siliceous rocky slopes with chasmophytic vegetation [8220]
- *Geomalacus maculosus* (Kerry Slug) [1024]
- *Rhinolophus hipposideros* (Lesser Horseshoe Bat) [1303]
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]
- *Trichomanes speciosum* (Killarney Fern) [1421]
- *Najas flexilis* (Slender Naiad) [1833]

Derryclogher (Knockaboy) Bog SAC (Site code: 001873)

- Blanket bogs (*if active bog) [7130]

Maulagowna Bog SAC (Site code: 001881)

- Blanket bogs (*if active bog) [7130]

Blackwater River (Kerry) SAC

- European dry heaths [4030]
- *Geomalacus maculosus* (Kerry Slug) [1024]
- *Margaritifera margaritifera* (Freshwater Pearl Mussel) [1029]
- *Salmo salar* (Salmon) [1106]
- *Rhinolophus hipposideros* (Lesser Horseshoe Bat) [1303]
- *Lutra lutra* (Otter) [1355]

Kilgarvan Ice House SAC (Site code: 000364)

Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]

Glanlough Woods SAC (Site code 002315)

- *Rhinolophus hipposideros* (Lesser Horseshoe Bat) [1303]

Old Domestic Building, Dromore Wood SAC (Site code: 000353)

- *Rhinolophus hipposideros* (Lesser Horseshoe Bat) [1303]

Mucksna Wood SAC (Site code: 001371)

- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]

Drongawn Lough SAC (Site code: 002187)

- Coastal lagoons [1150]

Killarney National Park SPA (Site code: 004038)

- Merlin (*Falco columbarius*) [A098]
- Greenland White-fronted Goose (*Anser albifrons flavirostris*)[A385]

Natural Heritage Areas (NHA's) and Proposed Natural Heritage Areas (pNHA's)

There is one (1) NHA and twenty one (21) pNHA's within a 15km radius of the aquaculture sites under appeal.

Table 4. NHA and pNHA's within a 15km radius of the aquaculture sites under appeal.

| Designation | Site Code | Name |
|-------------|-----------|--|
| NHA | 001948 | Doughill Bog |
| pNHA | 000088 | Glengariff (Thatched Shooting Lodge in Forest Park) |
| pNHA | 000090 | Glengariff Harbour and Woodland |
| pNHA | 000093 | Caha Mountains |
| pNHA | 000352 | Dromlusk Bof |
| pNHA | 000353 | Old Domestic Building, Dromore Wood |
| pNHA | 000363 | Kenmare River Islands |
| pNHA | 000363 | Kilgarvan Ice House |
| pNHA | 000365 | Killsrney National Park, Macgillycudd's Reeks and Caragh River catchment |
| pNHA | 001069 | Lough Namaddra and Lough West |
| pNHA | 001342 | Cloonee and Inchiquin Loughs, Uragh Wood |
| pNHA | 001364 | Lehid Harbour |
| pNHA | 001369 | Lough Nagarivva |
| pNHA | 001371 | Mucksna wood |
| pNHA | 001537 | Rossnashunsoge |
| pNHA | 001787 | Kilgravan Wood |
| pNHA | 001826 | Currakeal |
| pNHA | 001873 | Maulagowna Bog |
| pNHA | 002040 | Old Domestic Building, Lettir |
| pNHA | 002042 | Old Domestic Building, Derreenafoyle |
| pNHA | 002092 | Roughy River Estuary |

Protected Species

Marine Mammals

The 1992 EC Habitats Directive as transposed by the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011) requires that both seal species (Common seal and Grey seal) and all cetaceans occurring in Irish waters are maintained at favourable conservation status. Under Article 12 of the Directive, all cetaceans should receive strict protection within the Exclusive Economic Zone. Under the Wildlife (Amendment) Act 1976-2005, all cetaceans and seals are protected species listed on the 5th Schedule. Under this Act, Natural Heritage Areas (NHAs) may be established to protect habitats or species. Whilst some terrestrial and coastal NHAs may encompass adjacent marine areas, no NHA's have been established for marine mammals to date.

Cetaceans

Twenty-four species of cetacean have been recorded in Ireland to date. Of these 10 are considered to be year-round residents. Those that have been recorded off the west coast include those listed below:

Humpback whales: have been seen off all Irish coasts, though less frequently in the Irish Sea.

Fin Whale: Although they prefer deeper waters along the Continental shelf edge, they can be seen from Irish headlands when inshore feeding opportunities occur. A high-number sightings have been reported along the southern Irish coast, extending from Slea Head, Co. Kerry east towards Hook Head, Co. Wexford.

Minke whale: This is the most frequently recorded baleen whale in Irish waters can be seen off most headlands throughout the year along the entire Irish coast, although most sightings are recorded from the south and west Coasts.

Harbour porpoise: This is the most frequently reported and widespread species in Ireland and can be seen around the entire coast, although they appear to be most abundant off the southwest coast.

Bottlenose Dolphin: This species can be seen inshore on all Irish coasts although they are most frequently recorded off the west coast.

Birds

Bird species of particular importance that have been recorded in Kenmare River SAC include Common/Arctic Tern (95+ pairs in 2008) an Amber listed species on the list of Birds of Conservation Concern in Ireland, meaning they are particularly vulnerable. This species has been recorded breeding on rocky islands in Derrynane Bay and on other islands within the site including Eyeries Island, Spanish Island and Brennel Island. In 1995 two pairs of the rare Little Tern bred within the SAC (NPWS 2016) The Little Tern is an Annex I listed species under the EU Birds Directive and has been amber listed under the Birds of Conservation Concern in Ireland. and Sandwich Tern occasionally breed in the SAC (NPWS 2016).

Otters

Kenmare River SAC is designated for otter, a species listed in Annex IV(a) of the habitats directive.

Seals

Kenmare River SAC holds a nationally important population of common seals (maximum count of 310 in the September 2009) an Annex II listed species under the Habitats Directive. The seals frequently haul out on rocky outcrops at Sneem, Templenoe and Castle Cove, as well as Brennel Island, Illaunsillagh, Kilmackilloge Harbour and Ballycrovane Harbour (NPWS 2010 and 2013).

The Greenane Islands are considered an important site for the overall welfare and health of the harbour seal population of Kenmare River SAC. Moulting, resting and pupping are known to occur on these islands (Marine Institute 2019). These islands are located approximately 0.5 km to the south of the aquaculture sites under appeal. The location of important harbour seal sites within the vicinity of the aquaculture sites is shown in **Figure 2**.



Figure 2. Harbour seal sites (pupping, moulting and resting) in the vicinity of the aquaculture sites under review.

Statutory Plans

Dunkerron harbour, Upper Kenmare Bay, the location of the aquaculture sites under review, is not the subject of a statutory plan in its own right but is covered under both the Kerry County Development Plan 2015-2021 and the Kenmare Functional Area Local Area Plan 2010.

Chapter 8 of the Kerry County Development Plan deals with Natural resources of the county and Section 8.4 with Fisheries and Aquaculture. Several statements within this section of the plan are of relevance:

- Ocean wealth is considered a key element for economic recovery and sustainable growth in the county.
- Aquaculture among other industries in this sector generates significant levels of employment and remains an important resource for the county which has the potential for further sustainable development.
- The Council will support the sustainable development of the operations of the fishing and aquaculture industry while protecting and preserving the biodiversity and ecosystems in our oceans, so they can continue to provide essential monetary and non-monetary goods and services.
- Aquaculture and food processing both have the potential to continue to expand in the County

Objectives of the Council in the county Plan related to aquaculture include:

NR 20 Support and promote the sustainable development of the aquaculture sector in order to maximise its contribution to employment and growth in coastal communities and the economic well-being of the County, while ensuring environmental protection through the implementation of the objectives and Development Management, Guidelines and Standards of this Plan

NR-26 Have regard to the need to maintain Blue Flag Beach status, recreational use and nature conservation interests in an area when assessing maritime development proposals on sites.

NR 27 Support the sustainable development of marine aquaculture and fishing industries and its diversification at appropriate locations having regard to the requirements of the EU Water Framework Directive, the relevant River Basin Management Plans, the Habitats Directive, the integrity of the Natura 2000 network and visual amenity.

Kenmare Functional Area Local Area Plan 2010 has no specific objectives related to the aquaculture industry however two objectives in the development and economic strategy of the Plan are relevant :

OO-7 Provide the infrastructure and support in a sustainable manner for the development and expansion of employment opportunities, including indigenous knowledge based industries.

OO-9 Facilitate local food production and promote a local food culture within the functional area.

Under Section 3 of this plan increasing levels of mariculture within the region was seen as an opportunity for the local area through SWOT analysis.

Water Quality Status

Bathing Waters

Annual bathing water quality following monitoring is carried out by Local Authorities over the bathing period. The assessments are carried out on designated Bathing water locations as part of the legislation governing the quality of bathing waters that is set out in the Quality of Bathing Waters Regulations, 1992 (S.I 155 of 1992) and amendments, which transposed the EC Directive 76/160/EEC concerning the quality of bathing water.

There are no identified bathing waters in Kenmare Bay.

5.5 Man-made heritage

There are a number of recorded national monuments in this area as shown on the map below (Figure 3).

1. Nation monument identifier: KE08808

Class: Shell Midden . Townland: Dunkerron Island West. This shell midden is located on the south shore of Dunkerron Island. Over 55m in length it survives as a large mass of oyster shells 7m wide and 0.75m deep overlaid with a thin sod layer.

2. National monument identifier: KE08807

Class: Children's Burial Ground. Townland: Greenane Islands. Illaunakilla is one of the islands near Templenoe collectively known as the Greenane Islands. The OSNB recorded an old burial ground here not used for more than 300 years here.

3. National monument identifier: KE11382

Class: Church Townland: Greenane

Templenoe Church stands in a graveyard on the north shore of Kenmare Bay overlooking the Greenane Islands.

4. National monument identifier: KE08788

Class: Graveyard Townland: Greenane

Templenoe Church stands in a graveyard on the north shore of Kenmare Bay overlooking the Greenane Islands.

There are no recorded shipwrecks or archaeological sites in the near vicinity of the aquaculture sites under appeal.



Figure 3. Recorded National Monuments in the vicinity of the aquaculture sites under review.

6.0 Section 61 Assessment

6.1 Site Suitability

The sites for which aquaculture and foreshore licences have been refused are suitable for the growing of oysters in bags on trestles for the following reasons:

- The waters of Dunkerron Harbour where all aquaculture sites under appeal are located are relatively sheltered
- There is reasonable access to the sites
- The majority of the sites are flat and relatively hard with a mixture of mud and gravel
- The tidal regime at the site is suitable for intertidal oyster growing
- The appellants have successfully grown oysters at these sites for a number of years
- The sites are located within designated shellfish waters in accordance with the Shellfish Waters Directive, as implemented in Ireland by the European Communities (Quality of Shellfish Waters) Regulations 2006 (SI No 268 of 2006).

- The oysters grown at these sites have been sampled and tested under the Sea Fishery Protection Authority monthly shellfish sampling program since 2013 and consistently achieve a class B
- Class B oysters are considered fit for human consumption after purification for forty eight hours in fresh sea water

The Marine Engineering Division of the Department of Agriculture Food and the Marine considers that the site is suitable for licencing for the intended purpose, provided their recommendations as listed below are adhered to.

- No storage of trestles or equipment to be permitted on site or in the vicinity of access to the sites
- Site boundaries are redrawn to exclude waters too deep for oyster cultivation

There are no reasons that indicate that the site is unsuitable for the intended activity.

6.2 Other uses

No other significant use of the site has been identified during the application process or during the Technical Review.

The renewing of aquaculture and foreshore licenses to those sites under appeal will not cause significant negative impacts on other users of the site.

6.3 Statutory Status

The aquaculture sites under appeal are located within the Kenmare River SAC, there are a number of other designated Natura 2000 sites in the locality, as detailed in section 5.4. The nearest Natura designated site (c 1.7 km) is a terrestrial site with no marine component. However, within the 15km radius of the sites under review there are two sites with marine components. Glengariff Harbour Woodland SAC which at its nearest point is 10.7 km to the south and Drongawn Lough SAC which at its nearest point is 12.8 km to the west. Atlantic

salmon is a qualifying interest at Blackwater River (Kerry) SAC located 3.5 km to the west at its nearest point. However, the mouth of the Blackwater River is located 6km to the west of the aquaculture sites. Therefore, it is opinion of the Technical Advisor that due to the distance from the aquaculture sites under review and type of aquaculture taking place at the sites that there is no potential for impact on the features of interest or conservation objectives of these Natura 2000 sites.

The Kerry County Development Plan 2015-2021 sets out the overall strategy for the proper planning and sustainable development of County Kerry for the plan period and beyond. The plan consists of a written statement and plans that indicate the development objectives for County Kerry.

There are a number of objectives in the County Development Plan of relevance to aquaculture licensing:

NR 20 Support and promote the sustainable development of the aquaculture sector in order to maximise its contribution to employment and growth in coastal communities and the economic well-being of the County, while ensuring environmental protection through the implementation of the objectives and Development Management, Guidelines and Standards of this Plan

NR-26 Have regard to the need to maintain Blue Flag Beach status, recreational use and nature conservation interests in an area when assessing maritime development proposals on sites.

NR 27 Support the sustainable development of marine aquaculture and fishing industries and its diversification at appropriate locations having regard to the requirements of the EU Water Framework Directive, the relevant River Basin Management Plans, the Habitats Directive, the integrity of the Natura 2000 network and visual amenity.

The Kenmare Functional Area Plan 2010-2016 (Kerry County Council 2010) identified increasing mariculture as a potential opportunity for the area. Two objectives detailed in the plan are considered of relevance to this review:

OO-7 Provide the infrastructure and support in a sustainable manner for the development and expansion of employment opportunities, including indigenous knowledge based industries.

OO-9 Facilitate local food production and promote a local food culture within the functional area.

The aquaculture sites under review are located in Kenmare River SAC. One intertidal oyster cultivation site was identified during the Appropriate Assessment conducted by the Marine Institute as not suitable for licensing due to its' overlap with *Zostera* habitat.

The concluding statement of the Appropriate Assessment of Aquaculture in Kenmare River SAC by the Aquaculture Licensing Authority stated: "The Licensing Authority is satisfied that, given the conclusions and recommendations of the Appropriate Assessment process, a decision can be taken in favour of licensing existing and proposed aquaculture operations in

Kenmare River SAC, subject to the implementation of the mitigation measures outlined and other licensing related considerations.”

The renewing of aquaculture and foreshore licenses will not cause significant negative impacts to statutory designations of the site, nearby designated sites or statutory plans including Kerry County Development Plan.

6.4 Economic effects

The appellants project that by year 4, a total of 10 part time positions will be created by renewing the licenses under appeal. Accordingly, the development is likely to have a positive impact on the local economy.

Though small it is the view of the Technical advisor that there will be benefits to seed oyster growers in other parts of the country if these licences are renewed as all appellants buy seed spat from Irish hatcheries.

The renewing of aquaculture and foreshore licences under appeal will have a positive economic impact on the local economy.

6.5 Ecological Effects

The technical review has considered the potential for the development to impact negatively on a range of ecological features including marine mammals, avi-fauna, wild fisheries and adjacent seabed and terrestrial/coastal habitats.

No significant ecological effects are predicted for the following reasons:

- The sites under appeal are located intertidally, over a mostly hard bottom
- The operations are relatively small producing 35 tonnes of oysters
- Any habitat impact from oyster trestle culture is typically localised to areas directly beneath the culture systems
- Overlap of the licensed aquaculture areas under appeal with qualifying interests in the SAC is very low. The Marine Institute estimated that all previously licensed intertidal oyster aquaculture operations in Kenmare Bay SAC overlapped with 0.22 % of intertidal reef community complex, 0.48% laminaria dominated community complex and 0.03 % of subtidal reef with echinoderms and faunal turf community complex.
- There is no potential for the sites under appeal to impact the conservation objectives of Kenmare River SAC
- The operations are not considered to impact harbour seals as the sites are approximately 500m distant from the known haul out sites in the area
- Peak seasonal levels of activity at these aquaculture sites related to seeding, grading, and harvesting. activities do not coincide with the more sensitive periods for seals (moulting and pupping)
- “The Appropriate Assessment conducted by the marine Institute (2019) concluded: “Aquaculture activities individually and in-combination do not pose a risk of significant disturbance to the conservation features for habitats (and community types) in Kenmare River based primarily upon the spatial overlap and sensitivity.”

There is the potential for the cultivation of pacific oysters in Kenmare Bay SAC to have a significant impact ecologically for the following reasons:

- Establishment of non-native Pacific oysters within the SAC. The risk of establishment of non-native oysters can be mitigated for by using nearly sterile triploid oyster seed as a condition of licensing the sites as stated by the Marine Institute in its recommendations.

The granting of renewal of aquaculture and foreshore licenses for the sites under review will not cause significant negative ecological impacts.

6.6 General Environmental Effects

No significant additional general environmental effects are considered likely to arise from the renewal of aquaculture licences under appeal.

The granting of aquaculture and foreshore licenses will not cause significant negative environmental impacts.

6.7 Effect on man-made heritage

All aquaculture sites have been using the licensed areas for a number of years with no recorded impact on known national monuments or archaeology in the vicinity. The nearest recorded national monument to any of the sites is Templenoe Church and graveyard which are located approximately fifty metres to the north. There are no recorded national monuments, archaeological sites or shipwrecks within the licenced aquaculture sites under appeal.

Licensing of the application site is unlikely to give rise to significant impacts on the man-made heritage of the area.

6.8 Section 61 Assessment Conclusions

Site Suitability

The site under appeal is suitable for the intended purpose for the following reasons;

- 1. The waters of Dunkerron Harbour where all aquaculture sites under appeal are located are relatively sheltered*
- 2. There is reasonable access to the sites.*
- 3. The majority of the site is flat and relatively hard with a mixture of mud and gravel*
- 4. The tidal regime at the site is suitable for intertidal oyster growing.*
- 5. The appellants have successfully grown oysters at these sites for a number of years*
- 6. The sites are located within designated shellfish waters*
- 7. The oysters grown at these sites have been regularly tested according to data from the Sea Fisheries Protection Authority monthly shellfish sampling program for a number of years and have been classified B*

9. Class B oysters are considered fit for human consumption after purification for forty eight hours

10. The Marine Engineering Division of the Department of Food Agriculture and Marine considers the sites suitable for oyster cultivation using bags and trestles as long as the recommendations detailed in 6.1 are adhered to.

Other Uses

The proposed development would have no significant effect on the possible other uses or users of the area for the following reasons:

1. No other significant uses of the sites were identified during the application or Technical Review.

Statutory Status

The proposed development would have no significant effect the statutory status of the area for the following reasons:

1. Overlap of the licensed aquaculture areas under appeal with qualifying interests in the SAC is very low. (Marine Institute 2019). The Marine Institute estimated that all previously licensed intertidal oyster aquaculture operations in Kenmare Bay SAC overlapped with 0.22 % of intertidal reef community complex, 0.48% laminaria dominated community complex and 0.03 % of subtidal reef with echinoderms and faunal turf community complex.
3. There is no potential for the sites under appeal to impact the conservation objectives of Kenmare River SAC.
4. The operations are not considered to impact harbour seals as the sites are approximately 500m distant from the known haul out sites in the area.
5. Other protected areas within a 15km radius of the sites are mostly terrestrial in nature. Those Natura sites identified within a 15 km radius of the sites are considered too distant to be impacted by these aquaculture sites due to the scale and nature of cultivation techniques at the sites under appeal.

Economic effects

The aquaculture sites under review are considered to have a **small positive effect** on the economy of the area for the following reasons:

1. The aquaculture sites will employ 10 people part time.
2. Spat seed will be purchased from Irish seed producers

Ecological Effects

There is a non-significant effect on the natural habitats, wild fisheries and fauna and flora of the area as a result of the operation of the aquaculture sites under review for the following reasons:

- 1. The sites under appeal are located intertidally, over a mostly hard bottom.*
- 2. The operations are relatively small producing 35 tonnes of oysters.*
- 3. Any habitat impact from oyster trestle culture is typically localised to areas directly beneath the culture systems*
- 4. Overlap of the licensed aquaculture areas under appeal with qualifying interests in the SAC is very low. (Marine Institute 2019). .The Marine Institute estimated that all previously licensed intertidal oyster aquaculture operations in Kenmare Bay SAC overlapped with 0.22 % of intertidal reef community complex, 0.48% laminaria dominated community complex and 0.03 % of subtidal reef with echinoderms and faunal turf community complex.*
- 5. There is no potential for the sites under review to impact the conservation objectives of Kenmare River SAC.*
- 6. The operations are not considered to impact harbour seals as the sites are approximately 500m distant from the known haul out sites in the area.*
- 7. Peak seasonal levels of activity at these aquaculture sites related to seeding, grading, and harvesting. activities do not coincide with the more sensitive periods for seals (moulting and pupping)*
- 8. "The Appropriate Assessment conducted by the marine Institute (2019) concluded: Aquaculture activities individually and in-combination do not pose a risk of significant disturbance to the conservation features for habitats (and community types) in Kenmare River based primarily upon the spatial overlap and sensitivity."*

There is the potential for the cultivation of pacific oysters in Kenmare Bay SAC to have a significant impact ecologically for the following reasons:

- Establishment of non-native Pacific oysters within the SAC.*

The risk of establishment of non-native oysters can be mitigated for by using nearly sterile triploid oyster seed as a condition of licensing the sites as stated by the Marine Institute in its recommendations.

General Environmental Effects

No significant additional general environmental effects are considered likely to arise as a result of the cultivation of oysters at these sites for the following reasons:

- 1. The small scale of the aquaculture licences under review.*
- 2. The conditions to be applied to the licences if renewed.*

Man-made Heritage

There is no effect on the man-made heritage of value in the area as a result of the proposed operation for the following reasons;

- 1. There are no recorded national monuments or archaeological sites within the licenced areas.*

2. The nearest recorded National monument is 30m to the north on the shore.

6.9 Confirmation re Section 50 Notices

There are no pertinent matters arising outside of Section 61 which the Board ought to consider that have not been raised in the appeal documents and it is not necessary to give notice in writing to any parties in accordance with Section 50(2) of the 1997 Act.

7.0 Screening for Environmental Impact Assessment.

Under S.I. No. 468/2012 - Aquaculture Appeals (Environmental Impact Assessment) Regulations 2012 an Environmental Impact Statement is required for aquaculture the Board determines would be likely to have significant effects on the environment. the EIA Screening process.

Environmental impact assessment means an assessment, to include an examination, analysis and evaluation to identify, describe and assess the effects of certain public and private projects on the environment including the direct and indirect effects of a proposed development on the following:

- (a) Human beings, flora and fauna
- (b) Soil, water, air, climate and the landscape,
- (c) Material assets and the cultural heritage, and
- (d) The interaction between the factors mentioned in paragraphs (a), (b) and (c) above.

Having reviewed the aquaculture taking place at the sites under review and their potential impacts on the elements listed above (a to d) it is the opinion of the Technical Advisor that the aquaculture sites and the operation of same are unlikely to have significant effects on the environment by virtue of *inter alia*, their nature, scale or location. We are of the view that in-combination effects are also unlikely. Therefore, an environmental impact assessment in accordance with S.I. 468 of 2012 is not required.

8.0 Screening for Appropriate Assessment.

An Appropriate Assessment AA has been carried out for the aquaculture sites in Kenmare Bay SAC by the Marine Institute on behalf of Department of Agriculture, Food and the Marine.

This assessment concluded that there is no potential for the sites under appeal to impact the conservation objectives of Kenmare River SAC given the overlap of the licensed aquaculture areas under appeal with qualifying interests in the SAC is very low. It is the opinion of the technical advisor that the AA carried out by DAFM is adequate and that the production of Pacific oysters at these sites, individually or in combination with other plans or projects, is not likely to have a significant effect on the conservation objectives Kenmare Bay SAC.

This Technical Advisor has also examined all Natura 2000 sites within a 15km radius of the proposed aquaculture site. As stated in section 5.4, twelve (12) SAC's and two SPA's lie within

a 15km radius of the aquaculture sites under appeal. Apart from Kenmare River SAC, two further sites have marine components. Glengariff Harbour Woodland SAC which at its nearest point is 10.7 km to the south and Drongawn Lough SAC which at its nearest point is 12.8 km to the west. At its nearest point the Blackwater River (Kerry) SAC, with Atlantic salmon as a qualifying interest, is 3.5 km to the west. However, the mouth of the Blackwater River is located 6km to the west of the sites under appeal.

It is also the opinion of the Technical Advisor that due to the distance between the aquaculture sites under review and the location of features of conservation interest as well as the type of aquaculture proposed for the sites, there is no potential for significant impact on the qualifying interests or conservation objectives of any Natura 2000 sites, alone or in combination with other projects or plans. Therefore, it is considered that further Appropriate Assessment is not required.

9.0 Technical Advisor’s Evaluation of the Substantive Issues and Submissions/Observations Received

- The Appellants are of the opinion that the Departments decision to advise refusal of the Licence(s) was in breach of fair procedures and natural constitutional justice. It failed in two instances to comply with its obligations under SI number 236/1998 Aquaculture (Licence Obligation) Regulations 1998. It is of the opinion of the Technical advisor that this is outside of the scope of this report.
- The Appellants maintains the Minister acted beyond the scope of his powers as provided for under the Fisheries (Amendment) Act 1997. It is of the opinion of the Technical advisor that this is outside of the scope of this report.
- The Appellants maintain that the decisions made by the Department to recommend refusal of the licence renewals and the Minister’s decision to refuse the renewal of the aquaculture and foreshore licences was made with no or inadequate evidence. The sites under appeal are in designated shell fish waters and the Appellants have been growing oysters successfully at these sites for a number of years. The shellfish grown at the sites under appeal have been part of the Sea Fisheries Protection Board’s shellfish monitoring program for a number of years and have been designated as B class and as such should undergo purification for 48 hours prior to sale for human consumption. The SFPA stated in their correspondence with the Department that licenced sites would continue to be tested through this program. Analysis of sampling data from the SFPA offers no evidence of the oyster cultivation at these sites being impacted by issues at the Kenmare Bay Waste Water Treatment Plant raised by the SFPA.

Correspondence between the SFPA and DAFM from the 19th and 25th July 2019 references an EPA document (2018) from 03/08/2018. This document details a site visit to the Kenmare Waste Water Treatment plant and concluded “The Kenmare waste water treatment plant was operating under significant pressure.” An article from Radio Kerry (2018a) on the same issue is also referred to in this correspondence. An article, not referred to in correspondence, from Radio Kerry (2018b) dated 28th August 2018 details a sewage discharge from Kenmare WWTP that resulted in the closure of Kenmare and Temploe to bathing.

The SFPA shellfish monitoring programme at the sites under appeal continued during this period in 2018. Under the programme the MPN (Most Probable Number) *E. coli* / gram of flesh is measured. This figure is multiplied by 100 to get the regulatory MPN *E. coli* for 100 grams of shellfish flesh. This regulatory MPN is then used to classify the shellfish and determines how produce will enter the market for human consumption as shown in **Table 5**.

Table 5. Shellfish classification based on *E. coli* monitoring.

| Category | Microbiological Standard (MPN 100g ⁻¹ shellfish flesh) | Treatment Required |
|----------|---|---|
| A | <230 <i>E.coli</i> | Direct for human consumption |
| B | <4,600 <i>E.coli</i> | Must be deperated, heat treated or relayed to meet Class A requirements |

| | | |
|---|-----------------------|--|
| C | <46,000 <i>E.coli</i> | Must be relayed for 2 months to meet Class A or B requirements or may be heat treated. |
|---|-----------------------|--|

The results of the SFPA sampling programme during the period referenced through SFPA and DAFM correspondence from July 2019 and during the closure to swimming of Kenmare and Templenoe are shown below in **Table 6**. At no point during the period was the shellfish produced at the sites under appeal classified as less than a B.

Table 6. SFPA shellfish monitoring programme data for the sites under appeal.

| Area | Sample Position | Sampling date | ECShell | MPN 110g ⁻¹ Shellfish Flesh | Shellfish Category |
|---------|-----------------|---------------------------------|---------|--|--------------------|
| Kenmare | Templenoe | 10 th July 2018 | 1.3 | 130 | A |
| Kenmare | Templenoe | 28 th August 2018 | 2.3 | 230 | B |
| Kenmare | Templenoe | 26 th September 2018 | 0.45 | 45 | A |
| Kenmare | Templenoe | 15 th October 2018 | 13 | 1300 | B |

- That the decision of the Minister to refuse the license renewals was unreasonable, irrational and dis-proportionate. The Appellants were already operating under the relevant conditions with regard to licensed oyster cultivation. Monthly shellfish testing under the SFPA shellfish monitoring program determines the process required for oysters to enter the consumer market dependant on the levels of *E.coli* in tissue samples taken at monthly intervals. Further conditions were advised by the Marine Institute, Irish Lights and The Marine Engineering Division of the Department of Agriculture, Fisheries and Marine with regard to renewal of the licences under appeal.

10.0 Recommendation of Technical Advisor with Reasons and Considerations.

The grounds for appeal (substantive issues) have been considered, evaluated and responded to in previous sections of the evaluation report. The reasoning and considerations of the Technical Advisor with respect to the appeal are provided below and a final recommendation to the Board follows.

The Appellants have successfully cultivated oysters at the sites under review for a number of years. Oysters produced at these sites undergo monthly testing for E.Coli under the SFPA monthly shellfish monitoring programme and are designated as B class shellfish. The oysters produced at these sites undergo purification as required prior to human consumption. There is no evidence from the monthly testing results provided by the SFPA that there is an issue with sewage discharges from Kenmare WWTP impacting shellfish at the sites under appeal.

It is the opinion of the technical advisor that aquaculture and foreshore licences **should** be granted for the sites T06/201, T06/295 and Y06/179 in Dunkerron Harbour, Upper Kenmare Bay, Co. Kerry.

All recommendations/conditions for the renewal of these licences given by the statutory bodies during the application phase should be conditional on the renewal of the licences.

The substantive issues raised by the appellant where within the scope of this review have been considered and reviewed in detail during the technical review process where they fell within the scope of this report.

11.0 Draft Determination Refusal /or Grant

It is recommended that the ministers decision to refuse the licences is overturned and that both aquaculture and foreshore licences be granted in respect of applications for T06/201, T06/295 and Y06/179.

Technical Advisor: MERC Consultants

Date: 30.5.2020

References

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Kerry County Council, 2010. Kenmare Functional Area Local Area Plan 2010, viewed 17th May,2020. <http://docstore.kerrycoco.ie/KCCWebsite/planning/lap/kenmare/fa.pdf>

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Radio Kerry 20118b. Sewage Discharge closed Kenmare and Temploe for swimming, viewed 8th May 2020. <https://www.radiokerry.ie/sewage-discharge-closed-kenmare-temploe-swimming/>

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Appendix I – Shellfish Waters Directive sampling data for Templenoe, Kenmare River 2007-2020.

Classification process explained (in brief)

In accordance with Food safety legislation outlined in Commission Implementing Regulation (EU) 2019/627 Title V Art 52, , the SFPA classifies shellfish production areas for the commercial harvesting of bivalve shellfish annually, based on data obtained from a microbiological sampling programme for Live Bivalve Mollusc production areas in Ireland. The annual classification process employed by Ireland entails the review of micro results from a 3 x year dataset of monthly micro results obtained from some 147 sample locations located around the coast.

Shellfish Classification based on *E. coli* monitoring

| Category | Microbiological Standard (MPN 100g ⁻¹ shellfish flesh) | Treatment required |
|----------------|--|--|
| Class A | <230 <i>E.coli</i> | May go direct for human consumption |
| Class B | <4,600 <i>E.coli</i> (90% compliance) | Must be depurated, heat treated or relayed to meet class A requirements |
| Class C | <46,000 <i>E.coli</i> | Must be relayed for 2 months to meet class A or B requirements or may also be heat treated |

Note that **Results** column, (**ECShell**), are expressed as Most Probable Number *E. coli* / Gram shellfish flesh. This data needs to be multiplied by 100 to get the regulatory MPN *E. coli* / 100grams shellfish flesh and intervalvular fluid. Under all previous LBM classifications, Templenoe is a B classified production area for the commercial harvesting of oysters. In the dataset shown below, 'B' class samples are indicated in bold, while 'C' class samples are in red.

| Area | Result Number | Sample Position | Sampling Date | Sample Type | ECShell |
|--------------------|---------------|------------------|------------------|-------------|------------|
| KENMARE BAY | 19398 | TEMPLENOE | 31-Jan-07 | POY | 0.2 |
| KENMARE BAY | 19549 | TEMPLENOE | 27-Feb-07 | POY | 2 |
| KENMARE BAY | 19661 | TEMPLENOE | 27-Mar-07 | POY | 0.2 |
| KENMARE BAY | 19799 | TEMPLENOE | 30-Apr-07 | POY | 2 |
| KENMARE BAY | 19926 | TEMPLENOE | 29-May-07 | POY | 9.5 |
| KENMARE BAY | 20005 | TEMPLENOE | 27-Jun-07 | POY | 1.1 |
| KENMARE BAY | 20127 | TEMPLENOE | 24-Jul-07 | POY | 2.2 |
| KENMARE BAY | 20240 | TEMPLENOE | 27-Aug-07 | POY | 1.1 |

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|--------------------|--------------|------------------|------------------|------------|------------|
| KENMARE BAY | 20361 | TEMPLENOE | 12-Sep-07 | POY | 1.6 |
| KENMARE BAY | 20544 | TEMPLENOE | 17-Oct-07 | POY | 2.2 |
| KENMARE BAY | 20663 | TEMPLENOE | 14-Nov-07 | POY | 0.9 |
| KENMARE BAY | 20791 | TEMPLENOE | 10-Dec-07 | POY | 5 |
| KENMARE BAY | 20952 | TEMPLENOE | 9-Jan-08 | POY | 2 |
| KENMARE BAY | 21067 | TEMPLENOE | 7-Feb-08 | POY | 3.1 |
| KENMARE BAY | 21268 | TEMPLENOE | 25-Mar-08 | POY | 0.2 |
| KENMARE BAY | 21320 | TEMPLENOE | 1-Apr-08 | POY | 3.1 |
| KENMARE BAY | 21584 | TEMPLENOE | 27-May-08 | POY | 3.1 |
| KENMARE BAY | 21692 | TEMPLENOE | 16-Jun-08 | POY | 0.2 |
| KENMARE BAY | 21921 | TEMPLENOE | 29-Jul-08 | POY | 1.6 |
| KENMARE BAY | 22043 | TEMPLENOE | 27-Aug-08 | POY | 3.1 |
| KENMARE BAY | 22199 | TEMPLENOE | 30-Sep-08 | POY | 0.9 |
| KENMARE BAY | 22366 | TEMPLENOE | 29-Oct-08 | POY | 2.2 |
| KENMARE BAY | 22507 | TEMPLENOE | 26-Nov-08 | POY | 0.5 |
| KENMARE BAY | 22535 | TEMPLENOE | 11-Dec-08 | POY | 3.1 |
| KENMARE BAY | 22817 | TEMPLENOE | 27-Jan-09 | POY | 0.9 |
| KENMARE BAY | 22910 | TEMPLENOE | 25-Feb-09 | POY | 0.5 |
| KENMARE BAY | 23096 | TEMPLENOE | 26-Mar-09 | POY | 0.2 |
| KENMARE BAY | 23186 | TEMPLENOE | 20-Apr-09 | POY | 0.5 |
| KENMARE BAY | 23380 | TEMPLENOE | 25-May-09 | POY | 22 |
| KENMARE BAY | 23516 | TEMPLENOE | 30-Jun-09 | POY | 0.5 |
| KENMARE BAY | 23572 | TEMPLENOE | 21-Jul-09 | POY | 4.9 |
| KENMARE BAY | 23699 | TEMPLENOE | 12-Aug-09 | POY | 4.6 |
| KENMARE BAY | 23853 | TEMPLENOE | 16-Sep-09 | POY | 1.3 |
| KENMARE BAY | 23950 | TEMPLENOE | 19-Oct-09 | POY | 2.2 |
| KENMARE BAY | 24150 | TEMPLENOE | 26-Nov-09 | POY | 1.3 |
| KENMARE BAY | 24269 | TEMPLENOE | 14-Dec-09 | POY | 0.5 |
| KENMARE BAY | 24399 | TEMPLENOE | 21-Jan-10 | POY | 4.9 |
| KENMARE BAY | 24605 | TEMPLENOE | 25-Feb-10 | POY | 0.2 |
| KENMARE BAY | 24700 | TEMPLENOE | 22-Mar-10 | POY | 0.8 |
| KENMARE BAY | 24822 | TEMPLENOE | 15-Apr-10 | POY | 0.8 |
| KENMARE BAY | 25005 | TEMPLENOE | 31-May-10 | POY | 0.8 |
| KENMARE BAY | 25075 | TEMPLENOE | 10-Jun-10 | POY | 2.3 |
| KENMARE BAY | 25171 | TEMPLENOE | 8-Jul-10 | POY | 0.5 |
| KENMARE BAY | 25398 | TEMPLENOE | 24-Aug-10 | POY | 0.5 |
| KENMARE BAY | 25519 | TEMPLENOE | 22-Sep-10 | POY | 0.4 |
| KENMARE BAY | 25708 | TEMPLENOE | 27-Oct-10 | POY | 2.3 |
| KENMARE BAY | 25847 | TEMPLENOE | 30-Nov-10 | POY | 0.8 |
| KENMARE BAY | 25961 | TEMPLENOE | 16-Dec-10 | POY | 0.8 |
| KENMARE BAY | 26101 | TEMPLENOE | 31-Jan-11 | POY | 0.5 |
| KENMARE BAY | 26212 | TEMPLENOE | 16-Feb-11 | POY | 2.3 |
| KENMARE BAY | 26384 | TEMPLENOE | 30-Mar-11 | POY | 0.2 |

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| KENMARE BAY | 26507 | TEMPLENOE | 27-Apr-11 | POY | 0.2 |
| KENMARE BAY | 26649 | TEMPLENOE | 30-May-11 | POY | 0.2 |
| KENMARE BAY | 26743 | TEMPLENOE | 27-Jun-11 | POY | 54 |
| KENMARE BAY | 26891 | TEMPLENOE | 27-Jul-11 | POY | 0.5 |
| KENMARE BAY | 27032 | TEMPLENOE | 30-Aug-11 | POY | 1.3 |
| KENMARE BAY | 27156 | TEMPLENOE | 26-Sep-11 | POY | 54 |
| KENMARE BAY | 27172 | TEMPLENOE | 11-Oct-11 | POY | 0.8 |
| KENMARE BAY | 27387 | TEMPLENOE | 24-Nov-11 | POY | 4.9 |
| KENMARE BAY | 27547 | TEMPLENOE | 20-Dec-11 | POY | 2.3 |
| KENMARE BAY | 27609 | TEMPLENOE | 18-Jan-12 | POY | 1.7 |
| KENMARE BAY | 27746 | TEMPLENOE | 21-Feb-12 | POY | 1.3 |
| KENMARE BAY | 27930 | TEMPLENOE | 22-Mar-12 | POY | 0.2 |
| KENMARE BAY | 28071 | TEMPLENOE | 26-Apr-12 | POY | 1.7 |
| KENMARE BAY | 28212 | TEMPLENOE | 31-May-12 | POY | 0.2 |
| KENMARE BAY | 28241 | TEMPLENOE | 14-Jun-12 | POY | 0.2 |
| KENMARE BAY | 28473 | TEMPLENOE | 19-Jul-12 | POY | 17 |
| KENMARE BAY | 28495 | TEMPLENOE | 15-Aug-12 | POY | 180 |
| KENMARE BAY | 28651 | TEMPLENOE | 27-Sep-12 | POY | 17 |
| KENMARE BAY | 28799 | TEMPLENOE | 8-Oct-12 | POY | 0.4 |
| KENMARE BAY | 29018 | TEMPLENOE | 26-Nov-12 | POY | 7.9 |
| KENMARE BAY | 29169 | TEMPLENOE | 17-Dec-12 | POY | 3.3 |
| KENMARE BAY | 29298 | TEMPLENOE | 30-Jan-13 | POY | 0.9 |
| KENMARE BAY | 29419 | TEMPLENOE | 27-Feb-13 | POY | 0.2 |
| KENMARE BAY | 29470 | TEMPLENOE | 13-Mar-13 | POY | 0.2 |
| KENMARE BAY | 29684 | TEMPLENOE | 10-Apr-13 | POY | 2.2 |
| KENMARE BAY | 29756 | TEMPLENOE | 28-May-13 | POY | 2.3 |
| KENMARE BAY | 29892 | TEMPLENOE | 25-Jun-13 | POY | 0.2 |
| KENMARE BAY | 30026 | TEMPLENOE | 23-Jul-13 | POY | 35 |
| KENMARE BAY | 30182 | TEMPLENOE | 21-Aug-13 | POY | 0.7 |
| KENMARE BAY | 30359 | TEMPLENOE | 25-Sep-13 | POY | 0.2 |
| KENMARE BAY | 30458 | TEMPLENOE | 17-Oct-13 | POY | 160 |
| KENMARE BAY | 30484 | TEMPLENOE | 31-Oct-13 | POY | 4.9 |
| KENMARE BAY | 30566 | TEMPLENOE | 14-Nov-13 | POY | 7.9 |
| KENMARE BAY | 30656 | TEMPLENOE | 3-Dec-13 | POY | 0.2 |
| KENMARE BAY | 30833 | TEMPLENOE | 21-Jan-14 | POY | 1.1 |
| KENMARE BAY | 30996 | TEMPLENOE | 26-Feb-14 | POY | 0.2 |
| KENMARE BAY | 31264 | TEMPLENOE | 29-Apr-14 | POY | 17 |
| KENMARE BAY | 31363 | TEMPLENOE | 27-May-14 | POY | 1.7 |
| KENMARE BAY | 31544 | TEMPLENOE | 26-Jun-14 | POY | 0.2 |
| KENMARE BAY | 31679 | TEMPLENOE | 28-Jul-14 | POY | 1.1 |
| KENMARE BAY | 31825 | TEMPLENOE | 28-Aug-14 | POY | 7.9 |
| KENMARE BAY | 31854 | TEMPLENOE | 9-Sep-14 | POY | 1.3 |
| KENMARE BAY | 32109 | TEMPLENOE | 10-Nov-14 | POY | 3.3 |

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| KENMARE BAY | 32326 | TEMPLENOE | 9-Dec-14 | POY | 2.3 |
| KENMARE BAY | 32424 | TEMPLENOE | 20-Jan-15 | POY | 0.78 |
| KENMARE BAY | 32540 | TEMPLENOE | 17-Feb-15 | POY | 0.2 |
| KENMARE BAY | 32732 | TEMPLENOE | 24-Mar-15 | POY | 0.18 |
| KENMARE BAY | 32881 | TEMPLENOE | 29-Apr-15 | POY | 0.2 |
| KENMARE BAY | 32964 | TEMPLENOE | 19-May-15 | POY | 3.3 |
| KENMARE BAY | 33037 | TEMPLENOE | 3-Jun-15 | POY | 92 |
| KENMARE BAY | 33256 | TEMPLENOE | 15-Jul-15 | POY | 13 |
| KENMARE BAY | 33411 | TEMPLENOE | 25-Aug-15 | POY | 24 |
| KENMARE BAY | 33567 | TEMPLENOE | 29-Sep-15 | POY | 1.3 |
| KENMARE BAY | 33623 | TEMPLENOE | 12-Oct-15 | POY | 0.68 |
| KENMARE BAY | 33802 | TEMPLENOE | 17-Nov-15 | POY | 3.3 |
| KENMARE BAY | 33978 | TEMPLENOE | 16-Dec-15 | POY | 7.9 |
| KENMARE BAY | 34097 | TEMPLENOE | 26-Jan-16 | POY | 1.7 |
| KENMARE BAY | 34172 | TEMPLENOE | 22-Feb-16 | POY | 0.68 |
| KENMARE BAY | 34370 | TEMPLENOE | 24-Mar-16 | POY | 1.1 |
| KENMARE BAY | 34517 | TEMPLENOE | 27-Apr-16 | POY | 0.18 |
| KENMARE BAY | 34597 | TEMPLENOE | 18-May-16 | POY | 0.18 |
| KENMARE BAY | 34756 | TEMPLENOE | 23-Jun-16 | POY | 4.9 |
| KENMARE BAY | 34846 | TEMPLENOE | 19-Jul-16 | POY | 13 |
| KENMARE BAY | 34975 | TEMPLENOE | 16-Aug-16 | POY | 1.4 |
| KENMARE BAY | 35170 | TEMPLENOE | 20-Sep-16 | POY | 14 |
| KENMARE BAY | 35268 | TEMPLENOE | 19-Oct-16 | POY | 35 |
| KENMARE BAY | 35474 | TEMPLENOE | 28-Nov-16 | POY | 0.18 |
| KENMARE BAY | 35565 | TEMPLENOE | 12-Dec-16 | POY | 0.45 |
| KENMARE BAY | 35746 | TEMPLENOE | 31-Jan-17 | POY | 3.1 |
| KENMARE BAY | 35863 | TEMPLENOE | 23-Feb-17 | POY | 0.78 |
| KENMARE BAY | 35982 | TEMPLENOE | 21-Mar-17 | POY | 1.3 |
| KENMARE BAY | 36135 | TEMPLENOE | 24-Apr-17 | POY | 0.18 |
| KENMARE BAY | 36263 | TEMPLENOE | 15-May-17 | POY | 0.2 |
| KENMARE BAY | 36395 | TEMPLENOE | 21-Jun-17 | POY | 13 |
| KENMARE BAY | 36602 | TEMPLENOE | 25-Jul-17 | POY | 2.3 |
| KENMARE BAY | 36747 | TEMPLENOE | 29-Aug-17 | POY | 1.3 |
| KENMARE BAY | 36784 | TEMPLENOE | 5-Sep-17 | POY | 180 |
| KENMARE BAY | 36914 | TEMPLENOE | 4-Oct-17 | POY | 7.9 |
| KENMARE BAY | 37173 | TEMPLENOE | 21-Nov-17 | POY | 4.6 |
| KENMARE BAY | 37288 | TEMPLENOE | 18-Dec-17 | POY | 2.3 |
| KENMARE BAY | 37393 | TEMPLENOE | 18-Jan-18 | POY | 2.3 |
| KENMARE BAY | 37565 | TEMPLENOE | 27-Feb-18 | POY | 0.2 |
| KENMARE BAY | 37732 | TEMPLENOE | 28-Mar-18 | POY | 0.78 |
| KENMARE BAY | 37873 | TEMPLENOE | 25-Apr-18 | POY | 13 |
| KENMARE BAY | 37887 | TEMPLENOE | 9-May-18 | POY | 0.2 |
| KENMARE BAY | 38144 | TEMPLENOE | 26-Jun-18 | POY | 0.2 |

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| KENMARE BAY | 38217 | TEMPLENOE | 10-Jul-18 | POY | 1.3 |
| KENMARE BAY | 38413 | TEMPLENOE | 28-Aug-18 | POY | 2.3 |
| KENMARE BAY | 38541 | TEMPLENOE | 26-Sep-18 | POY | 0.45 |
| KENMARE BAY | 38615 | TEMPLENOE | 15-Oct-18 | POY | 13 |
| KENMARE BAY | 38846 | TEMPLENOE | 6-Dec-18 | POY | 4.6 |
| KENMARE BAY | 38986 | TEMPLENOE | 8-Jan-19 | POY | 0.78 |
| KENMARE BAY | 39216 | TEMPLENOE | 25-Feb-19 | POY | 0.61 |
| KENMARE BAY | 39291 | TEMPLENOE | 19-Mar-19 | POY | 13 |
| KENMARE BAY | 39428 | TEMPLENOE | 9-Apr-19 | POY | 0.68 |
| KENMARE BAY | 39586 | TEMPLENOE | 16-May-19 | POY | 0.2 |
| KENMARE BAY | 39695 | TEMPLENOE | 19-Jun-19 | POY | 0.78 |
| KENMARE BAY | 39838 | TEMPLENOE | 16-Jul-19 | POY | 0.78 |
| KENMARE BAY | 40055 | TEMPLENOE | 29-Aug-19 | POY | 13 |
| KENMARE BAY | 40200 | TEMPLENOE | 30-Sep-19 | POY | 1.3 |
| KENMARE BAY | 40221 | TEMPLENOE | 14-Oct-19 | POY | 7.9 |
| KENMARE BAY | 40441 | TEMPLENOE | 26-Nov-19 | POY | 2.3 |
| KENMARE BAY | 40567 | TEMPLENOE | 18-Dec-19 | POY | 0.45 |
| KENMARE BAY | 40603 | TEMPLENOE | 15-Jan-20 | POY | 2.3 |
| KENMARE BAY | 40798 | TEMPLENOE | 26-Feb-20 | POY | 4.9 |
| KENMARE BAY | 40994 | TEMPLENOE | 25-Mar-20 | POY | 2.3 |

Data source: Sea Fisheries Protection Authority.