

Submission AGR 00490-19: Recommendation to Grant an Aquaculture and Foreshore Licence for 1 site (T06/356A).

TO: Minister
STATUS: Completed
PURPOSE: For Decision

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Quinlan, John
Beamish, Cecil
Smith, Ann

DIVISION: Coastal Zone Management
DECISION BY:

Final comment

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

Action required

Ministerial Determination on Aquaculture/Foreshore Licensing Application (T06/356A).

Executive summary

The Minister's determination is requested in relation to an application for an Aquaculture Licence from Sneem Fishermen's Co-operative Society Ltd., Ankail, Tahilla, Sneem, Co. Kerry. The application is for the cultivation of mussels using longlines on site T06/356A totalling 19.32 hectares along the southeast shoreline of Rossmore Island, Kenmare Bay, Co. Kerry.

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

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

Note: Tabs may contain additional information which is subject to redaction if transmitted to third parties.

Detailed information

DECISION SOUGHT

The Minister's determination is requested please in relation to an application for an Aquaculture Licence from Sneem Fishermen's Co-operative Society Ltd., Ankail, Tahilla, Sneem, Co. Kerry, for a site along the southeast shoreline of Rossmore Island, Kenmare Bay, Co. Kerry.

A submission in respect of the accompanying 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 requested in respect of this submission (Aquaculture Submission) and the submission underneath (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 mussels using longlines in relation to a 19.32 hectare site on the foreshore

along the southeast shoreline of Rossmore Island, Kenmare Bay, Co. Kerry, (numbered T06/356A – see documents at **TAB A**). This site has been re-configured by the Department's Marine Engineering Division and now incorporates site previously referenced T06/356B.

LEGISLATION

Section 7 of the Fisheries (Amendment) Act 1997 provides that the licensing authority (i.e. Minister, delegated officer or, on appeal, the Aquaculture Licences Appeals Board) may, if satisfied that it is in the public interest to do so, licence 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 – See documents at TAB B

Marine Engineering Division (MED): Stated no objection to the renewal application and did recommend the inclusion of conditions dealing with structures and site layout.

Marine Survey Office (MSO): No comments received.

It is proposed to insert a specific condition covering MSO matters in any licence/s which may issue as follows:

The Minister's determination in respect of this licence is conditional upon immediate full compliance by the Licensee in respect of all requirements and conditions which are imposed under the relevant legal provisions applicable to the Marine Survey Office.

Sea Fisheries Protection Authority (SFPA): Stated no objection to the application but stated that as the area is currently unclassified the site will require classification before any harvesting of shellfish can be undertaken. This will involve a sanitary survey assessment to be undertaken prior to the preparation of a sampling plan.

This issue will be addressed in Schedule 4 of the Draft Aquaculture Licence, if granted.

Statutory Consultation – See documents at TAB C

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:

Marine Institute (MI): No objection to the application.

The MI made the following recommendations:

- MI recommends that the initial source of seed and other sources which may be used at any point in the future should be approved by the Minister. This approval should be a specific condition of any licence that may issue.
- Prior to the commencement of operations at the site, the applicant be required to draw up a contingency plan, for the approval of DAFM, which shall identify, *inter alia*, methods for the removal from the environment of any invasive non-native species introduced as a result of operations at this site. If such an event occurs, the contingency plan shall be

implemented immediately.

Following considerations implicit to Sections 61 (e and f) of the Fisheries (Amendment) Act 1997, the Marine Institute is of the view that there will be no significant impacts on the marine environment and that the quality status of the area will not be adversely impacted.

Commissioner of Irish Light (CIL): Stated no objection to the development and recommended that all structures must be clearly marked.

Bord Iascaigh Mhara (BIM): Stated no objection to the application and are satisfied that the proposed operation does not conflict with any other aquaculture or inshore fisheries interests in the area.

Department of Culture, Heritage and the Gaeltacht (DCHG): Commented as follows;

1. The Harbour seal Qualifying Interest at the site, the terms "close proximity" and "immediate vicinity", by which the likelihood of man-made disturbance is concluded, are unclear. These could usefully be better defined within the assessment and its conclusions, in order to provide an appropriate level of confidence around this Attribute and its associated Target.
2. There are no recommendations made for the Marine Community Types "Muddy fine sands dominated by polychaetes and Amphiuira filliformis community complex" and the two subtidal reef communities given that the spatial overlap of aquaculture, when considered in-combination with fishing activity, is close to or exceeds the 15% threshold.
3. Overlap with maërl is only considered in Kilmakilloge and Ardgroom Harbours. Maërl also occurs subtidally between Glinisk, Sharky Island and Parknasilla which has sites licensed for mussel culture and scallops culture. These areas have not been considered.

The Department would also like to draw attention to the coastal habitats of Vegetated sea cliffs of the Atlantic and Baltic coasts (1230), Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) (1330) and Mediterranean salt meadows (*Juncetalia maritimi*) (1410) which occur within the Kenmare River SAC. In some cases they occur adjacent to the aquaculture activities however no access routes are given within the Appropriate Assessment document.

These habitats were screened out on the basis that there was no overlap with aquaculture activities. However it should be noted that storage of aquaculture materials and access routes for aquaculture can have negative impacts on these habitats. Therefore such activities should not be carried out either inside the Annex I habitat or in an area where it is likely to have an impact on the Annex I habitat (e.g. storing aquaculture frames on a cliff top, storage of equipment or establishing access paths in a saltmarsh). Disposal of waste from aquaculture activities should similarly take place well away from these Annex I coastal habitats.

These issues are addressed in the Appropriate Assessment Conclusion Statement. See **TAB D**.

The Department requires that an appropriate Underwater Archaeological Impact Assessment (UAIA) be carried out in advance to assess the totality of potential impact of the proposed applications on potential cultural heritage. The UAIA shall be carried out by a suitably qualified and suitably experienced maritime archaeologist and should be licenced by this Department. A detailed method statement should accompany the licence application.

In the first instance a detailed desktop study should be undertaken for the UAIA to inform the potential for UCH to be present in the harbour and resultant report should include recommendations for further archaeological mitigation in the way of underwater archaeological survey (either geophysical survey and/or underwater archaeological diver survey) of areas to be impacted by the anchors, if deemed necessary based on the results of the desktop study in the UAIA. The report should be forwarded to the Department for consideration and further comments.

Aquaculture Licence conditions required on foot of the Statutory Consultation process will be contained in Schedule 4 of the Draft Aquaculture Licence, if granted.

Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in The Kerryman on 03rd April, 2019. The application and supporting documentation were available for inspection at Killarney and Kenmare Garda Stations for a period of 4 weeks from the date of publication of the notice in the newspaper.

There were **no** objections received from the public consultation process.

A copy of all the observations/submissions received at the Statutory consultation stage was forwarded to the applicant.

CRITERIA IN MAKING LICENSING DECISIONS

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

a) the suitability of the place or waters

Scientific advice is to the effect that the waters are suitable for the cultivation of mussels.

b) other beneficial uses of the waters concerned

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

c) the particular statutory status of the waters

(i) Natura 2000

The site is located within the Kenmare River SAC. An Article 6 Appropriate Assessment has been carried out in relation to aquaculture activities in this SAC and/or SPA. This Assessment and its findings were examined by the Department and its scientific/technical advisors. This led to the Licensing Authority (i.e. the Minister) producing a Conclusion Statement outlining how it is proposed to licence and manage aquaculture activities in the above Natura sites in compliance with the EU Habitats and Birds Directives

(ii) Shellfish Waters

The site is located within the Kenmare River/ Sneem/ Ardgroom Shellfish Designated Waters.

d) the likely effects on the economy of the area

Aquaculture has the potential to provide a range of benefits to the local community, such as attraction of investment capital, development of support services, etc.

e) 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 Article 6 Appropriate Assessment for Kenmare River SAC and in the Licensing Authority's Conclusion Statement.

f) the effect on the environment generally

The Department's Scientific Advisors the Marine Institute, are of the view that there will be no significant impacts on the marine environment and that the quality status of the area will not be adversely impacted.

g) DCHG requires that an underwater archaeological impact assessment is carried out in advance of licensing.

RECOMMENDATION

It is recommended that the Minister:

approves the granting of an Aquaculture Licence (**TAB E**) to Sneem Fishermen's Co-operative Society Ltd., Ankail, Tahilla, Sneem, Co. Kerry, for a period of ten (10) years for the purpose of cultivating mussels using longlines 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:

Sneem Fishermen's Co-operative Society Ltd. has applied for an Aquaculture Licence for the cultivation of mussels using longlines on the sub-tidal foreshore on a 19.32 hectare site (T06/356A) along the southeast shoreline of Rossmore Island, Kenmare Bay, Co. Kerry.

The Minister for Agriculture, Food and the Marine has determined that it is in public interest to grant the licence sought. 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 the statutory provisions. The following are the reasons and considerations for the Minister's determination to grant the licence sought: -

- a. *Scientific advice is to the effect that the waters are suitable;*
- b. *Public access to recreational and other activities can be accommodated by this project;*
- c. *The proposed development should have a positive effect on the economy of the local area;*
- d. *All issues raised during Public and Statutory consultation phase were given consideration and addressed as necessary;*
- e. *The possible effects on the man-made environment heritage of value in the area have been taken into consideration;*
- f. *No significant effects arise regarding wild fisheries;*
- g. *The site is located within the Kenmare River Special Area of Conservation. An Article 6 Assessment has been carried out in relation to aquaculture activities in the SAC/SPA. The Licensing Authority's Conclusion Statement (available on the Department's website) outlines how aquaculture activities in this SAC/SPA, including this site, are being licensed and managed so as not to significantly and adversely affect the integrity of the Kenmare River SAC;*
- h. *Scientific observations related to the Appropriate Assessment received during the licensing consultation process are addressed in the Licensing Authority's Appropriate Assessment Conclusion Statement;*
- i. *Taking account of the recommendations of the Appropriate Assessment the aquaculture activity at this site is consistent with the Conservation Objectives for the SAC/SPA;*
- j. *There are no significant impacts on the marine environment and the quality status of the area will not be adversely impacted;*
- k. *The updated Aquaculture and Foreshore licences contain terms and conditions which reflect the environmental protection now required under EU and National law."*

Recommendation to grant a Foreshore Licence application (T06/356A)

DECISION SOUGHT

The Minister's determination is requested please in relation to the application for a Foreshore Licence from Sneem Fishermen's Co-operative Society Ltd, Ankail, Tahilla, Sneem, Co. Kerry, for a site along the southeast shoreline of Rossmore Island, Kenmare Bay, Co. Kerry, in which it is proposed to conduct aquaculture.

BACKGROUND

Marine aquaculture operations require separate Aquaculture and Foreshore Licences and Ministerial approval is requested in respect of this submission (Foreshore Submission) and the 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 a 19.32 hectare site (numbered **T06/356A** – See documents at **TAB A**).

LEGISLATION

Section 3 of the Foreshore Act, 1933 gives power to the Minister to licence 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: There were no comments received from a water quality or foreshore perspective.

Technical Consultation – See documents at TAB B

Marine Engineering Division (MED): Stated no objection to the renewal application and did recommend the inclusion of conditions dealing with structures and site layout.

Marine Survey Office (MSO): No comments received.

Sea Fisheries Protection Authority (SFPA): Stated no objection to the application but stated that as the area is currently unclassified the site will require classification before any harvesting of shellfish can be undertaken. This will involve a sanitary survey assessment to be undertaken prior to the preparation of a sampling plan.

This issue will be addressed in Schedule 4 of the Draft Aquaculture Licence, if granted.

Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in The Kerryman on 03rd April, 2019. The application and supporting documentation were available for inspection at Killarney and Kenmare Garda Stations for a period of 4 weeks from the date of publication of the notice in the newspaper.

There were **no** objections received from the public consultation process.

CRITERIA IN MAKING LICENSING DECISIONS

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

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

RECOMMENDATION

It is recommended that the Minister:

approves the granting of a Foreshore Licence (**TAB F**) to Sneem Fishermen's Co-operative Society Ltd, Ankail, Tahilla, Sneem, Co. Kerry, for a site along the southeast shoreline of Rossmore Island, Kenmare Bay, Co. Kerry, for a period of ten (10) years for occupation of the site for the carrying out of aquaculture activities as defined in the Aquaculture Licence, and in accordance with the terms and conditions of the attached draft Foreshore Licence.

Related submissions

There are no related submissions.

Comments

OKeeffe, Therese - 13/09/2019 15:16

Recommended that the Minister grants the Aquaculture and Foreshore licences for the reasons outlined in the submission.

Hodnett, Kevin - 17/09/2019 12:21

Recommended that the Minister determines that an Aquaculture and Foreshore Licence be granted to Sneem Fishermen's Co-Operative Society Ltd for the reasons set out in the detailed submission.

Quinlan, John - 18/09/2019 12:11

Recommended for approval please.

Beamish, Cecil - 18/09/2019 17:29

Recommended that the Minister determines that the Aquaculture and Foreshore Licences be granted for the reasons outlined in the submission.

Smith, Ann - 18/09/2019 17:30

Approved for submission to Minister. AS 18/09/2019

Lennox, Graham - 19/09/2019 17:12

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

User details

INVOLVED: Fitzpatrick, Deirdre
O'Keefe, Therese
Hodnett, Kevin
Quinlan, John
Beamish, Cecil
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eSub Sec Gen
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READ RECEIPT: Fitzpatrick, Deirdre
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Lennox, Graham