

Submission AGR 00718-19: Recommendation to refuse the renewal of an Aquaculture & Foreshore Licence T01/054B

TO: Minister
STATUS: Completed
PURPOSE: For Decision

AUTHOR: Kelleher, Sheila
OWNER: Kelleher, Sheila
REVIEWERS: OShea, Nicole
OCallaghan, Grace
Quinlan, John
Beamish, Cecil
Smith, Ann

DIVISION: Coastal Zone Management
DECISION BY:

Final comment

Minister determines that the Aquaculture and Foreshore Licences not be granted for the reasons outlined.

Action required

Ministerial Determination on Aquaculture/Foreshore Licensing Application T01/054B

Executive summary

The Minister's determination is requested in relation to a renewal application for an Aquaculture Licence from Cooley Oysters Limited, Muchgrange, Greenore, Co. Louth. The renewal application is for the culture of pacific oysters using bags & trestles on Site T01/054B totalling 5 hectares on the foreshore in Carlingford Lough, Co. Louth.

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 **not be granted** to Cooley Oysters Limited for the reasons outlined in the 'Detailed Information' section below.

Detailed information

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

DECISION SOUGHT

The Minister's determination is requested in relation to an application of an Aquaculture Licence from Cooley Oysters Limited, Muchgrange, Greenore, Co. Louth. The application is for the cultivation of pacific oysters using bags & trestles on Site T01/054B totalling 5 hectares on the foreshore in Carlingford Lough, Co. Louth.

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 not be granted for the reasons outlined in the 'Detailed Information' section below.

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

A renewal application (**TAB A**) for an Aquaculture Licence has been received from the applicant referred to above (in conjunction with an application for a Foreshore Licence), for the cultivation of pacific oysters using bags & trestles in relation to a 5 hectare site on the foreshore in Carlingford Lough, Co. Louth.

LICENCE FEES

There are no outstanding Section 19 A. (4) fees associated with this licence.

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 (TAB B)

Marine Engineering Division: This application is for the renewal of Aq 197. The site is located east of Greenore. This site is sub-tidal with most of the site having a depth in excess of 2m below chart datum. Spot depths of 4.5m and 4.6m within the site are noted. It is far in excess of recommended depths for trestle based oyster aquaculture. There is a small sub area at the northwest corner of less than 0.3 Ha however in area terms it covers just 6% of the site the rest being completely unsuitable due to depth and substrate reasons. The development proposal is for 1500 trestles with a mix of 0.6m and 1.0m high trestles over the entire area. The site is located in a designated Natura 2000 area – in Carlingford Lough SPA and the site is adjacent to the seaward boundary of Carlingford Shore SAC therefore appropriate assessment will be required. It is anticipated that there wouldn't be an issue with visual impact as almost all of the area in the site is too deep for the proposed trestles on the seabed to be visible above water surface even at low tidal stages. Navigation markings on the site would be necessary if licensed for structures as boat access to and into the site from the outer lough would be possible at all tidal stages. It is recommended that this licence not be renewed for the following reasons: site depth is too great and substrate is poor on west margins. There are issues of safety in terms of operating the site given proposed means of access, the poor quality ground and exposure/excessive depth of the site. No evidence was found of significant use of this site for trestle based culture in the past. It is clearly unsuited to trestle and bag oyster culture.

Marine Survey Office: This office has no objections from a navigational viewpoint to the above applications. In order for charts and nautical publications to be updated the British Admiralty Hydrographic Office at Taunton, UK, is to be informed of the location and nature of the site. The applicant is required to apply to the Commissioners of Irish Lights for sanction to establish the following lights and marks: as Carlingford Lough is a CLAMS bay the site is to be marked in line with the SUMS and conducive to safe navigation.

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: Cooley Oysters Limited operates this site in the area of Ballagan. This site is intertidal and no wild fisheries are present within the licensed site. Official control inspections can be carried out at low tide on both sites. The sites are not adjacent to any WWTP discharge point. Cooley Oysters Limited operate a purification tank system and along with routine sampling for microbial and viral contamination carried out in its shellfish. Direct consumption of shellfish harvested from this site currently does not pose an additional risk to human health.

Statutory Consultation (TAB C)

Regulation 2 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:

Bord Iascaigh Mhara: No comments received.

Marine Institute: Site T01/054B is located within the Carlingford designated Shellfish Growing Waters Area. Under Annex II of EU Regulation 854/2004 oysters in this area of Carlingford Lough currently have an "A" Classification. No chemicals or hazardous substances will be used during the production process. The cultivation of shellfish at this site will produce faeces and pseudofaeces. Any impact will be limited to the area of the sites. The build-up of excess organic matter beyond the footprint of the sites is not considered likely. Considering the location, nature and scale of the proposed aquaculture activity, and in deference to our remit under the Marine Institute Act, and the consideration 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.

This site is located within the Carlingford Lough SPA (Site Code 004078) and adjacent to the Carlingford Shore SAC (Site Code 002306). It is recommended that DAFM take full account of the conclusions and recommendations of the Appropriate Assessment report and the proposed mitigation measures set out in the Department's Draft Natura Conclusion Statement.

Specific information on the source of seed for the site has not been provided and the MI recommends that this information be sought from the applicant prior to any final licence determination. The 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.** The movement of stock in and out of the site should follow best practice guidelines as they relate to the risk of introduction of invasive non-native species (e.g. Invasive Species Ireland) and in this regard **it is recommended that, prior to the commencement of operations at the sites, the applicant be required to draw up a contingency plan, for the approval of the Department, 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.**

Cooley Oysters Limited. confirmed the source of seed for this site is from four hatcheries in France: Naissain, Satmar, Grainocean & Marinove, that all seed imports are registered with the Marine Institute and the import takes place after making an application and receiving approval from the Marine Institute.

Department of Culture, Heritage and the Gaeltacht: No comments received.

Louth County Council: No comments received.

Fáilte Ireland: No comments received.

Commissioner for Irish Lights (CIL): There appears to be no objection to the renewal of this licence; this applicant previously secured Statutory Sanction from the CIL for the Aids to Navigation that were required at the time. Prior to renewing the licence it should be verified that the Aids to Navigation as sanctioned are in position. It is recommended local fishing and leisure interests be consulted and if renewed the UK Hydrographic Office at Taunton be informed of the development's geographical position in order to update nautical charts and other publications.

Inland Fisheries Ireland: No comments received.

An Taisce: No comments received.

Department of Housing, Planning and Local Government: The Department's Water Service Advisor is of the opinion that there is likely to be no impingement to the foreshore from a technical perspective however DAFM would need to be satisfied that the relevant applicants are operating within the terms of their existing Aquaculture licence in terms of species and site location. This is without prejudice to any views that the NPWS (within Dept of Culture Heritage and the Gaeltacht) may have from a nature conservation/ecological perspective.

Irish Water: No comments received.

Loughs Agency: No comments received.

Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in the "Dundalk Democrat" on the 04th of June 2019. The application and supporting documentation were available for inspection at Carlingford Garda Station (restricted hours) and Dundalk Garda Station (24 hours) for a period of 4 weeks from the date of publication of the notice in the newspaper.

There were no submissions or observations received on foot of public notice procedures.

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

Cooley Oysters Limited submitted no response to the comments sent.

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 Pacific oysters, however the technical advice is that this site is not suitable for the cultivation of oysters using bags and trestles due to the site depth being too great;

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 adjacent to the Carlingford Shore SAC (Site Code: 002306) and within the Carlingford Lough SPA (Site Code: 004078). 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 (**TAB D**) 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 Carlingford Lough Shellfish Designated Waters. The oysters in these waters currently have an "A" classification

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 Carlingford Shore SAC and Carlingford Lough SPA and in the Licensing Authority's Conclusion Statement.

The Department of Department of Culture, Heritage and the Gaeltacht had no objection on nature conservation grounds.

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) the effect or likely effect on the man-made environment of heritage value in the vicinity of the place or waters

No comments were received from the Department of Culture Heritage and the Gaeltacht regarding the development from an underwater archaeological perspective.

RECOMMENDATION

It is recommended that the Minister:

refuses the granting of an Aquaculture Licence Cooley Oysters Limited, Muchgrange, Greenore, Co. Louth for a site in Carlingford Lough, Co. Louth having regard to the decision in relation to the Aquaculture Licence renewal application. The reasons for the decision are:

The Site depth is too great – most of the site area is subtidal and at too low elevation, depths are typically in excess of 2m below chart datum. The substrate is poor on west margins of the sites based on the inspections carried out. There is an issue of safety of attempting to operate on this site given proposed means of access, the poor quality ground and exposure/excessive depth of the sites. This site is unsuited to trestle and bag oyster culture and it would not be appropriate to licence it for this purpose.

REASONS FOR DECISION

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

"Determination of Aquaculture/ Foreshore Licensing application –T01/054B

Cooley Oysters Limited has applied for authorisation to cultivate pacific oysters using bags & trestles and on the sub-tidal foreshore on a 5 hectare site (T01/054B) in Carlingford Lough, Co. Louth.

The Minister for Agriculture, Food and the Marine has determined that it is not in the public interest to grant the licences 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. In particular, the Minister had regard to the Marine Engineering Report regarding the unsuitability of the site for the cultivation of oysters using bags and trestles. The following are the reasons and considerations for the Minister's determination to refuse the licences sought:

The Site depth is too great, most of the site area is subtidal and at too low an elevation, depths are typically in excess of 2m below chart datum. The substrate is poor on west margins of the sites based on the inspections carried out.

There is an issue of safety of attempting to operate on this site given proposed means of access, the poor quality ground and exposure/excessive depth of the sites.

This site is unsuited to trestle and bag oyster culture and it would not be appropriate to licence it for this purpose."

Recommendation to refuse a Foreshore Licence application (T01/054B)

DECISION SOUGHT

The Minister's determination is requested please in relation to the application for a Foreshore Licence from Cooley Oysters Limited, Muchgrange, Greenore, Co. Louth, for a site in Carlingford Lough, Co. Louth, 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 (**TAB A**) 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 5 hectare site (numbered **T01/054B**).

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.

Department of Housing, Planning and Local Government: These were the comments received from a water quality or foreshore perspective. The Department's Water Service Advisor is of the opinion that there is likely to be no impingement to the foreshore from a technical perspective however DAFM would need to be satisfied that the relevant applicants are operating within the terms of their existing Aquaculture licence in terms of species and site location. This is without prejudice to any views that the NPWS (within Dept of Culture Heritage and the Gaeltacht) may have from a nature conservation/ecological perspective.

Technical Consultation (TAB B)

Marine Engineering Division: This application is for the renewal of Aq 197. The site is located east of Greenore. This site is sub-tidal with most of the site having a depth in excess of 2m below chart datum. Spot depths of 4.5m and 4.6m within the site are noted. It is far in excess of recommended depths for trestle based oyster aquaculture. There is a small sub area at the northwest corner of less than 0.3 Ha however in area terms it covers just 6% of the site the rest being completely unsuitable due to depth and substrate reasons. The development proposal is for 1500 trestles with a mix of 0.6m and 1.0m high trestles over the entire area. The site is located in a designated Natura 2000 area – in Carlingford Lough SPA and the site is adjacent to the seaward boundary of Carlingford Shore SAC therefore appropriate assessment will be required. It is anticipated that there wouldn't be an issue with visual impact as almost all of the area in the site is too deep for the proposed trestles on the seabed to be visible above water surface even at low tidal stages. Navigation markings on the site would be necessary if licensed for structures as boat access to and into the site from the outer lough would be possible at all tidal stages. It is recommended that this licence not be renewed for the following reasons: site depth is too great and substrate is poor on west margins. There are issues of safety in terms of operating the site given proposed means of access, the poor quality ground and exposure/excessive depth of the site. No evidence was found of significant use of this site for trestle based culture in the past. It is clearly unsuited to trestle and bag oyster culture.

Marine Survey Office: This office has no objections from a navigational viewpoint to the above applications. In order for charts and nautical publications to be updated the British Admiralty Hydrographic Office at Taunton, UK, is to be informed of the location and nature of the site. The applicant is required to apply to the Commissioners of Irish Lights for sanction to establish the following lights and marks: as Carlingford Lough is a CLAMS bay the site is to be marked in line with the SUMS and conducive to safe navigation.

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: Cooley Oysters Limited operates this site in the area of Ballagan. This site is intertidal and no wild fisheries are present within the licensed site. Official control inspections can be carried out at low tide on both sites. The sites are not adjacent to any WWTP discharge point. Cooley Oysters Limited operate a purification tank system and along with routine sampling for microbial and viral contamination carried out in its shellfish. Direct consumption of shellfish harvested from this site currently does not pose an additional risk to human health.

Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in the "Dundalk Democrat" on the 04th of June 2019. The application and supporting documentation were available for inspection at Carlingford Garda Station (restricted hours) and Dundalk Garda Station (24 hours) for a period of 4 weeks from the date of publication of the notice in the newspaper.

There were no submissions or observations received on foot of public notice procedures.

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:

refuses the granting of a Foreshore to Cooley Oysters Limited, Muchgrange, Greenore, Co. Louth for a site in Carlingford Lough, Co. Louth having regard to the decision in relation to the Aquaculture Licence renewal application. The reasons for the decision are:

The Site depth is too great, most of the site area is subtidal and at too low an elevation, depths are typically in excess of 2m below chart datum. The substrate is poor on west margins of the sites based on the inspections carried out.

There is an issue of safety of attempting to operate on this site given proposed means of access, the poor quality ground and exposure/excessive depth of the sites.

This site is unsuited to trestle and bag oyster culture and it would not be appropriate to licence it for this purpose.

Related submissions

There are no related submissions.

Comments

OShea, Nicole - 14/11/2019 09:51

It is recommended to refuse this renewal application.

OCallaghan, Grace - 14/11/2019 11:42

I have reviewed the detailed Information set out in this submission and agree with the recommendation made that the Minister refuses the granting of an Aquaculture Licence application (T01/054B) to Cooley Oysters Limited for the reasons outlined in the submission below and in accordance with applicable legislation. GOC

Quinlan, John - 15/11/2019 14:24

Refusal is recommended in this case.

Beamish, Cecil - 15/11/2019 15:04

Recommended that the Minister determines that the Aquaculture and Foreshore Licences not be granted for the reasons outlined in the submission.

Smith, Ann - 15/11/2019 15:07

Approved for submission to Minister. AS 15/11/2019.

Lennox, Graham - 20/11/2019 16:33

Minister determines that the Aquaculture and Foreshore Licences not be granted for the reasons outlined.

User details

INVOLVED: Kelleher, Sheila
OShea, Nicole
OCallaghan, Grace
Quinlan, John
Beamish, Cecil
Sub Sec Gens Office
eSub Sec Gen
eSub Ministers Office
eSub Minister

READ RECEIPT: Kelleher, Sheila
OShea, Nicole
OCallaghan, Grace
Quinlan, John
Beamish, Cecil
Smith, Ann
Lennox, Graham



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

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

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

Important Note

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

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

Aquaculture & Foreshore Management Division
Department of Agriculture, Food and the Marine
National Seafood Centre
Clonakilty, Co. Cork
P85 TX47

Telephone: (023) 8859500
Fax: (023) 8821782

Revised May 2018



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

NB: The accompanying Guidance Notes should be read before completing this form.

Note: Details provided in Parts 1 and 2 will be made available for public inspection. Details provided in Parts 3 and 4 and any other information supplied will not be released except as may be required by law, including the Freedom of Information Act 1997 as amended.

USE BLOCK CAPITALS IN BLACK INK PLEASE

For Office Use

Application Ref. No. T01/054.

Date of Receipt (Dept. Stamp):

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

PART 1: PRELIMINARY DETAILS

Applicant's Name(s)	<u>COOLEY OYSTERS LTD</u>
1.	
Address:	<u>MUCHGRANGE,</u>
2.	
Address:	<u>GREENORE,</u>
3.	
Address:	<u>DUNDALK,</u>
4.	
Address:	<u>CO. WOUTH</u> <u>A99 FNSO</u>

Contact in case of enquiries (if different from above)	
Contact Name	DONAL FERGUSON
Organisation Name (if applicable)	
Address	MUCHGRANGE, GREENORE, DUNDALK, CO. LOUTH. A91 Y19R

PART 1: PRELIMINARY DETAILS

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

TYPE OF AQUACULTURE

See Guidance Note 3.2

Indicate the relevant type of application with a tick.

(i) **MARINE-BASED**

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

(ii) **LAND-BASED**

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

(iii) **TRIAL LICENCE**

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

2.2 MARINE-BASED SHELLFISH AQUACULTURE

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

Proposed Site Location 701 / 54 B

(i) Bay: CARLINGFORD LOUGH

(ii) County: LOUTH

(iii) OS Map No: PERMIT NO 4334, SHEET 9 & 9A

(iv) Co-ordinates of Site: (please specify coordinate reference system used e.g. Irish Grid (IG) or Irish Transverse Mercator (ITM) or Latitude/Longitude [in which case specify whether ETRS89 or WG84 etc.]

CO-ORDINATES FROM THE ORIGINAL AQUACULTURE LICENCE: 323 300, 309 250

323 400, 309 300

323 600, 308 900

(v) Size of Site (hectares): 5 Ha 323 500, 308 850

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

OYSTERS / CRASSOSTREA GIGAS / NON-NATIVE

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

INTER-TIDAL

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

FRANCE

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

(ix) Method of culture (rope, trestles - intensive; bottom - extensive; other) TRESTLE AND BAG SYSTEM

(x) Proposed number of lines/ropes/trestles as per site layout drawing
1,500 TRESTLES & 9,000 BAGS AT MAX PRODUCTION

(xi) Proposed Production Tonnage:

Year 1	30T	Year 2	35T	Year 3	40T	Year 4	40T	Year 5	45T
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(xii) (a) Please outline the reasons for site selection:

EXPERIENCE OVER THE LAST 35 YEARS ON THIS SITE SHOWS IT IS VITAL FOR PRODUCING MARKETABLE OYSTERS.

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

EASE OF ACCESS AS IT IS ADJACENT TO THE FACTORY,
SUBSTRATE IS LEVEL AND COMPACT. THE INDUSTRIAL LAND
AND PORT NEARBY PROTECTS THE SITE, CLASS A WATERS.

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

DIRECT HUMAN CONSUMPTION

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

N/A

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

Yes No

If yes give details.

CARLINGFORD LOUGH SPA AREA 004078

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

N/A

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

CLASS "A"

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

SITE ADJACENT TO NATURA 2000 SITE AND IN THE
CARLINGFORD LOUGH SPA AREA 004078

(xviii) Are there known sources of pollution in the vicinity e.g. sewage outfall? Yes No

If yes please give full details.

NO POLLUTION

(xix) Methods used to harvest the shellfish and details of any subsequent processing of shellfish

TRACTORS & TRAILERS

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

PURIFICATION FACILITIES IN PLACE.

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

N/A

(xxii) Describe the method(s) which will be used to control them

N/A

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

2.2A DOCUMENTATION REQUIRED FOR MARINE-BASED SHELLFISH AQUACULTURE

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

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

NOW COMPLETE PARTS 2.6, 3, 4 AND 5 PLEASE

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

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

THE DIRECTORS DONAL FERGUSON AND AMBROSE JNR. FERGUSON HAVE A WEALTH OF EXPERIENCE AND HERITAGE, AS THEY HAVE BEEN OYSTER FARMING ON THIS SITE FOR OVER 35 YEARS. THEY ARE CONFIDENT THAT THEY WILL SUCCESSFULLY CONTINUE TO MANAGE THEIR PROGRESSIVE BUSINESS IN THE FUTURE. THE KNOWLEDGE AND CONTACTS THAT HAVE BEEN BUILT UP OVER THE YEARS HAS BEEN INVALUABLE TO SUSTAINING THE BUSINESS FOR THE LAST 35 YEARS.

- (ii) If a new application please provide details of projected employment creation during first four years of the proposed aquaculture project:
- (iii) In the case of a renewal please provide current and future details:

N/A

FULLTIME JOBS

Year 1:	8	Year 2:	8	Year 3:	10	Year 4:	11
---------	---	---------	---	---------	----	---------	----

PART TIME JOBS

Year 1:	9	Year 2:	9	Year 3:	11	Year 4:	11
---------	---	---------	---	---------	----	---------	----

PART 5: APPLICATION DOCUMENTATION

The following documents are enclosed with this application:

NB: Refer to Guidance Note Section 3.3 – Guidance on Application Documentation

No.	DOCUMENTATION	YES	NO	N/A
1a	An appropriate Ordnance Survey Map (recommendation is a map to the scale of 1:10,000/10:10,560, i.e., equivalent to a six inch map)	✓		
1b	The proposed access route to the site from the public road across tidal foreshore must also be shown	✓		
2a	Scale drawing of the structures to be used (recommended scale normally 1:100 for structures).	✓		
2b	Scale drawing of farm layout (recommended scale normally 1:200 for layout)	✓		
3	The prescribed application fee	✓		✓
4	Environmental Impact Statement (EIS), if required			✓
4a	Natura Impact Statement (NIS), if required			✓
5	Water Quality Analysis Report, if appropriate			✓
6	Decision of Planning Authority under the Planning Acts, if required			✓
7	Copy of Licence under Section 4 of the Local Government (Water Pollution) Act, 1977 – Effluent Discharge, if required			✓
8	If the applicant is a limited Company within the meaning of the Companies Act 1963, as amended, a copy of the Certificate of Incorporation and Memorandum and Articles of Association.	✓		
9	If the applicant is a Co-operative, a copy of the Certificate of Incorporation and Rules of the Co-operative Society			✓
10	Integrated Pest Management Plan, if required			✓
11	Alien Species documentation, if required.			✓

SENT BY
ENGINEER
↓

PART 5: DECLARATION AND SIGNING

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

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

YES.

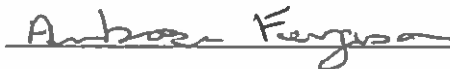
I/We hereby declare the information provided in Parts 1, 2, 3 and 4 above to be true to the best of my/our knowledge and that I am over 18 years of age. I/We enclose an application fee* of € _____ with this application.

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

1. DONAL FERGUSON



2. AMBROSE JUN. FERGUSON



Cooley Oysters Ltd

VAT No: IE 3384072CH
Approval No: IE LO 0012EC
Tel: +353 876486162

Date: 27/02/2019

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

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

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

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

**Aquaculture Licensing
Aquaculture & Foreshore Management Division
Department of Agriculture, Food and the Marine
National Seafood Centre
Clonakilty
Co. Cork
P85 TX47**

1 NO. SITE AT CARLINGFORD LOUGH CO.LOUTH

Co-ordinates & Area

Site T01/54B (5 Ha)

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

323300, 309250 to Irish National Grid Reference point

323400, 309300 to Irish National Grid Reference point

323600, 308900 to Irish National Grid Reference point

323500, 308850 to the first mentioned point.

323000

324000

310000

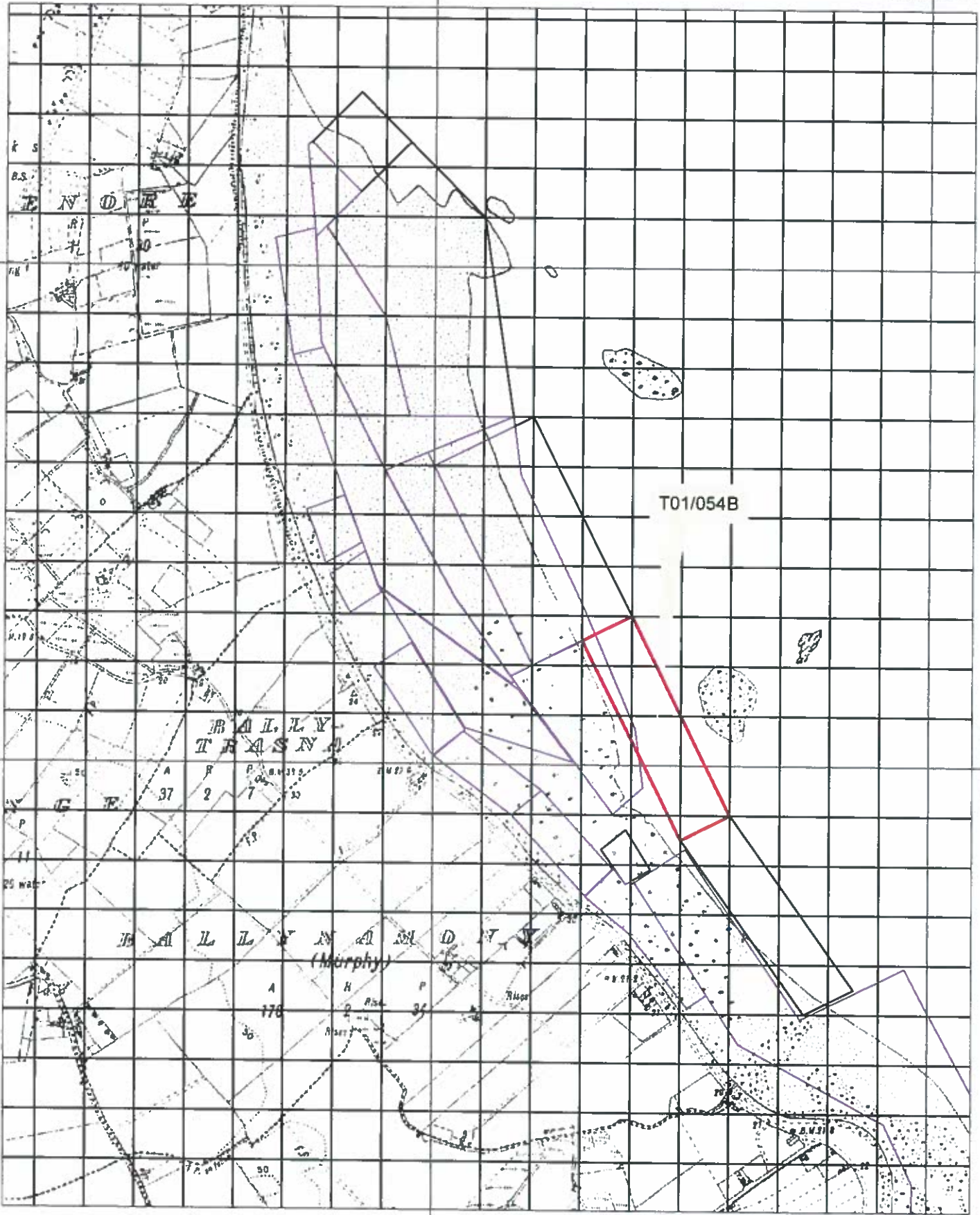
310000

309000

309000

323000

324000



Aqua Culture Sites
<all other values>

Site_Status

- Under Appeal
- Application
- Lapsed
- Licensed
- Revoked
- Surrendered
- Withdrawn
- (AN) Water Reference Code

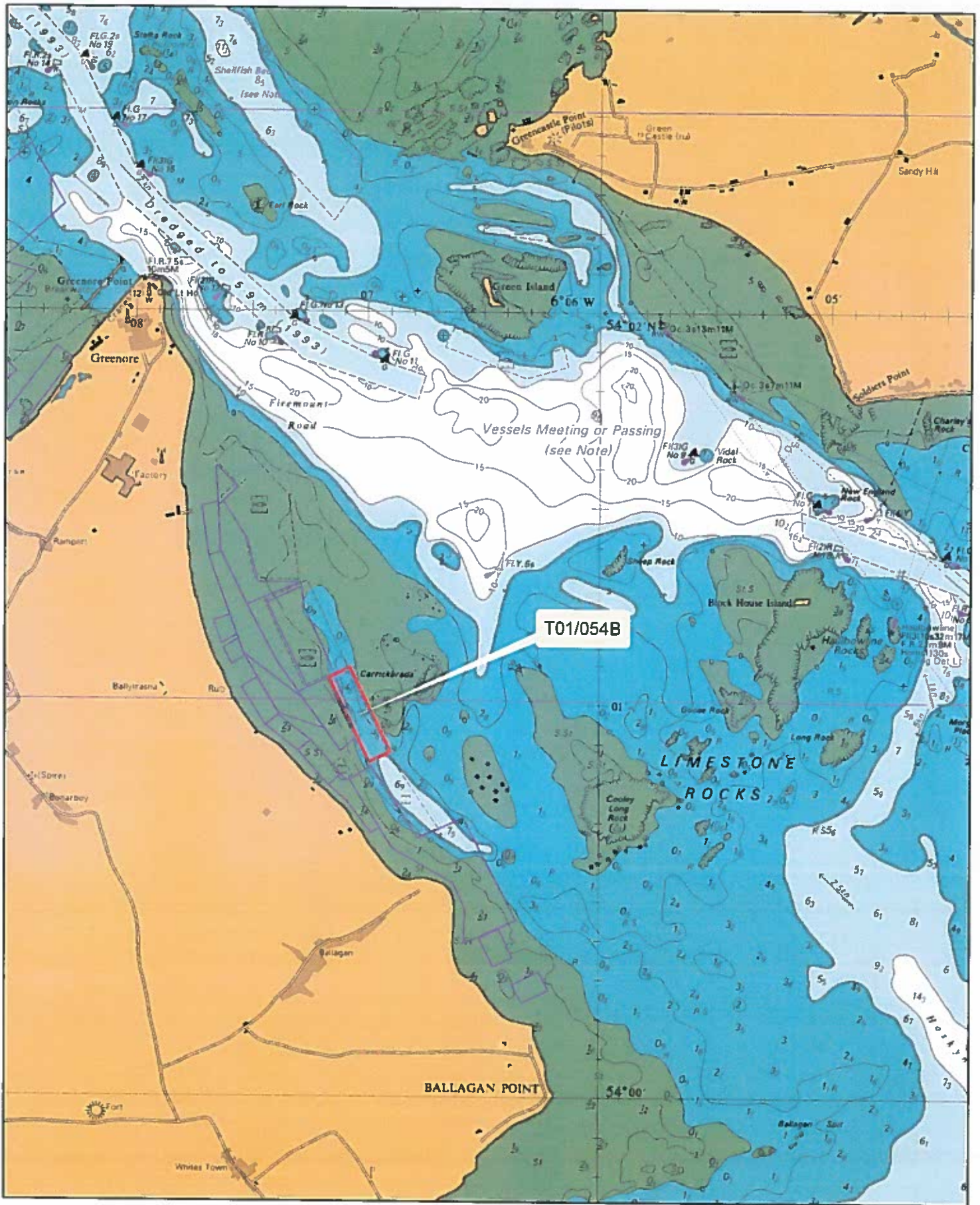
1:10,560

Sites highlighted in red denotes Application

Ordnance Survey Ireland Licence No. EN 0076418
 © Ordnance Survey Ireland/Government of Ireland



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



Aqua Culture Sites

- <all other values>
- Site_Status**
- Under Appeal
 - Application
 - Lapsed
 - Licensed
 - Refused
 - Revoked
 - Sumerged
 - Withdrawn

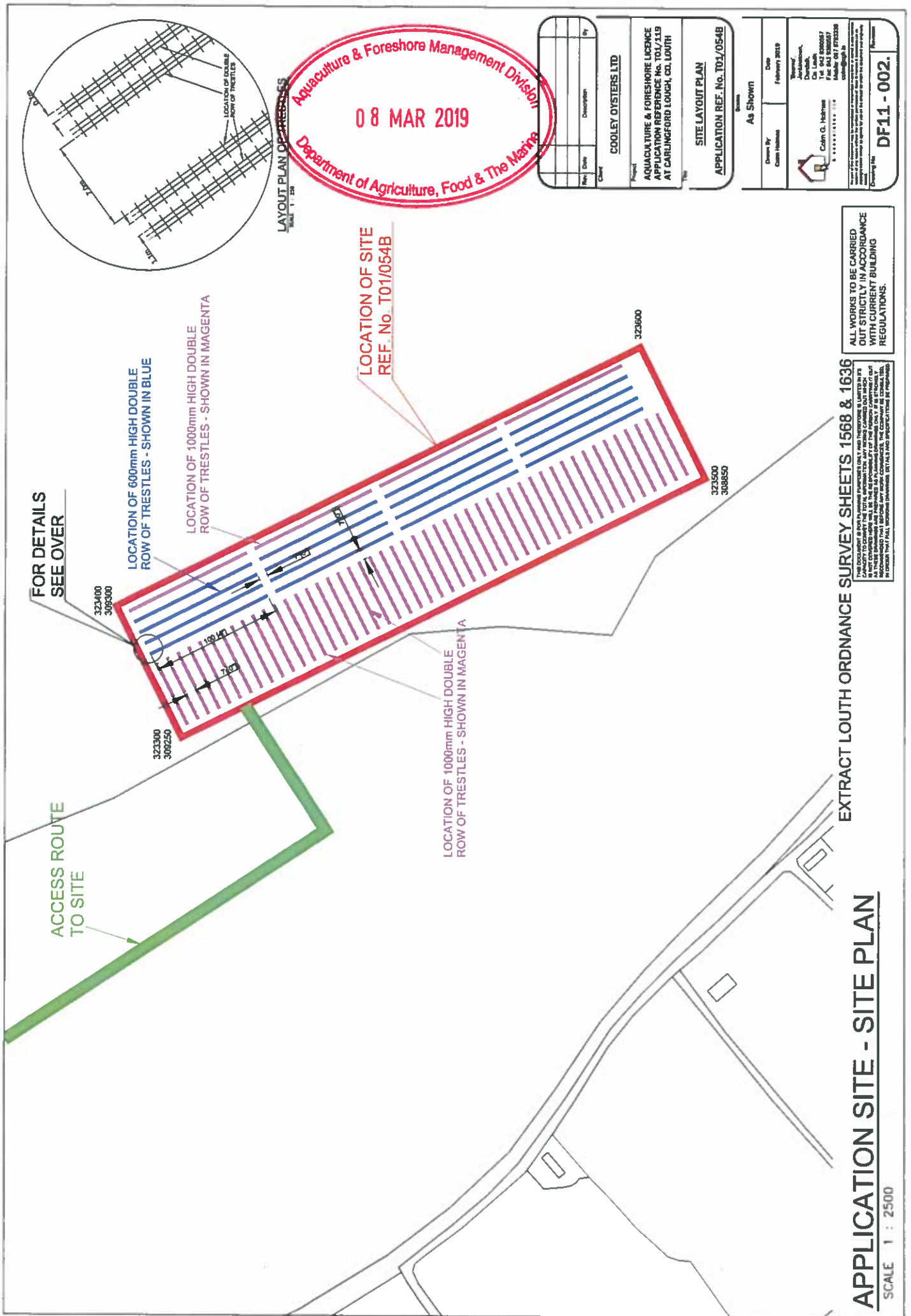
1:24,000

Sites highlighted in red denotes Application

Part of Admiralty Chart No =2800-0
Not to be used for Navigation



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



FOR DETAILS
SEE OVER

LOCATION OF 600mm HIGH DOUBLE
ROW OF TRESTLES - SHOWN IN BLUE

LOCATION OF 1000mm HIGH DOUBLE
ROW OF TRESTLES - SHOWN IN MAGENTA

LOCATION OF SITE
REF. No. T01/054B

LOCATION OF 1000mm HIGH DOUBLE
ROW OF TRESTLES - SHOWN IN MAGENTA

ACCESS ROUTE
TO SITE

LAYOUT PLAN OF TRESTLES
SCALE 1 : 250

08 MAR 2019

Aquaculture & Foreshore Management Division
Department of Agriculture, Food & The Marine

Project	Client
COOLEY OYSTERS LTD	
Project Description	
AQUACULTURE & FORESHORE LICENCE APPLICATION REFERENCE NO. T01/119 AT CARLINGFORD LOUGH, CO. DUBLIN	
Site	
SITE LAYOUT PLAN	
APPLICATION REF. No. T01/054B	

Drawn By	Date
Colin Healy	February 2019
Checked By	
Colin G. Healy	
Company	
Co. Louth	
Ph. 041 850027	
Mobile: 017 833338	
colg@ah.ie	
<p>As Shown</p>	
<p>DF1.1 - 002.</p>	

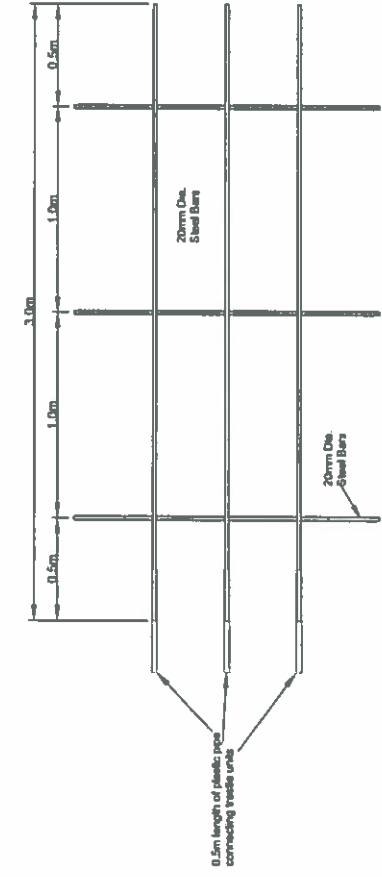
ALL WORKS TO BE CARRIED OUT STRICTLY IN ACCORDANCE WITH CURRENT BUILDING REGULATIONS.

EXTRACT LOUTH ORDNANCE SURVEY SHEETS 1568 & 1636

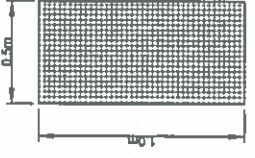
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APPLICATION SITE - SITE PLAN

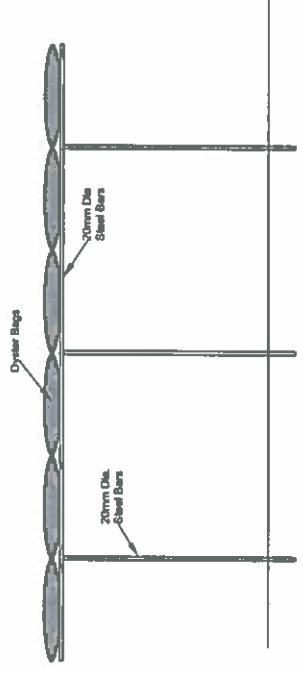
SCALE 1 : 2500



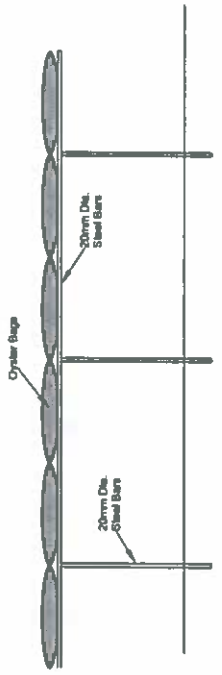
PLAN - bags not shown for clarity
SCALE 1 : 25



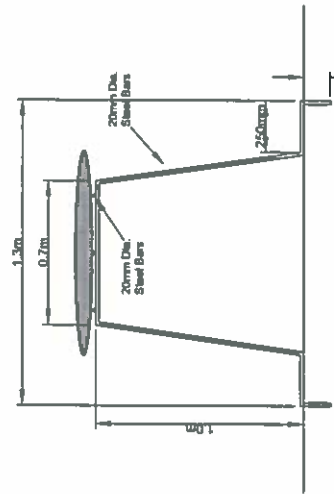
TYPICAL OYSTER BAG
SCALE 1 : 25



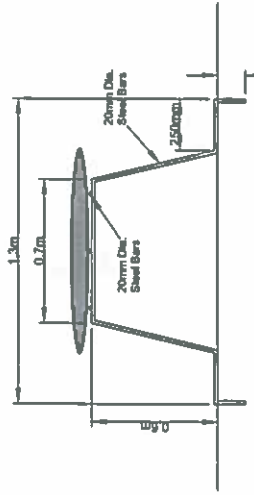
LONGITUDINAL SECTION
SCALE 1 : 25



LONGITUDINAL SECTION
SCALE 1 : 25



CROSS SECTION
SCALE 1 : 25



CROSS SECTION
SCALE 1 : 25

ALL WORKS TO BE CARRIED OUT STRICTLY IN ACCORDANCE WITH CURRENT BUILDING REGULATIONS.

No.	Date	Description	By

COOLEY OYSTERS LTD

Project: AQUACULTURE & FORESHORE LICENCE APPLICATION REFERENCE No. TO1/1919 AT CARLINGFORD LOUGH CO. LOUGH

Details: DETAILS OF TRESTLES

Application Ref. No. TO1/054B

Drawn By: Colin Holmes

Check: February 2019

As Shown

Client: Cooley Oysters Ltd

Address: 100, Lough Road, Carlingford, Co. Louth

Contact: Colin G. Holmes, 087 9332229

DF11-003



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LOCATION OF SITE
REF. No. T01/054B

Aquaculture & Foreshore Management Division
08 MAR 2019
Department of Agriculture, Food & The Marine

No.	Date	Description	By

COOLEY OYSTERS LTD

Project
AQUACULTURE & FORESHORE LICENCE
APPLICATION REFERENCE No. T01/219
AT CARLINGFORD LOUGH, CO. LOUTH

Site
SITE LOCATION MAP
APPLICATION REF. No. T01/054B

As Shown

Drawn by
Cathriona

Date
February 2019

Scale
1:1000

Client
Cooley Oysters Ltd
Cathriona G. Holmes
Tel: 047 8960517
Fax: 047 8960517
cooley@coo.ie

Drawing No.
DF11 - 001

ACCESS ROUTE
TO SITE

Carlingford
Lough

ALL WORKS TO BE CARRIED
OUT STRICTLY IN ACCORDANCE
WITH CURRENT BUILDING
REGULATIONS.

EXTRACT LOUTH ORDNANCE SURVEY SHEETS 1568 & 1636

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APPLICATION SITE - LOCATION MAP

SCALE 1 : 10560

Mr. Campbell, Divisional Engineer

BjE 3/4/19



Ms Sheila Kelleher, AFMD

RE: Aquaculture licence renewal application by Cooley Oysters Ltd. (formerly Ferguson Shellfish (Carlingford) Ltd. for two oyster sites at Carlingford Lough

File ref: T01/54

Site ref: 54A and 54B

Ms Sheila Kelleher's email (copy attached) of 20/3/19 refers. The applicant has submitted an updated application form dated 27/2/19 for renewal of aquaculture licence for sites 54A and 54B.

Background to this renewal application

The two sites 54A and 54B have been licensed for trestle based oyster culture for some time – the last licence expired in 2010 and they have been awaiting a renewal decision since. Their combined area is 9.75ha.

The two sites are located east of Greenore – they are at the southeast end of the foreshore area of interest to Cooley Oysters Ltd.

The cumulative area applied for by Cooley Oysters Ltd on east side of Greenore is shown outlined by green lines on map overleaf – it is 62.1 hectares in total of which 34 hectares is for licence renewals, the balance being composed of new area applications.

The areas of shore occupied by trestles of Cooley Oysters Ltd. (2015 -2019) are also shown on the same map overleaf – they are hatched in red. The combined area under trestles of Cooley Oysters Ltd. on this part of Carlingford Lough is approximately 20.85 hectares. It is worth noting that most of this area currently utilised for trestle culture by the company is new application ground rather than formerly licensed ground – in fact as can be seen on map overleaf the present oyster farm has virtually *no* overlap with either site 54A or site 54B. Navigation markers (St Andrews Cross top marks on metal poles) marking the seaward extent of the farm are inshore of the two sites – again indicating the sites in question are outside the active oyster farm area since at least 2014 when I first inspected this foreshore.

Historical usage of sites : I have checked aerial photographs for 2000 and 2005 on the Ordnance Survey website – they show no oyster farm presence on site 54A in those years. They show minor development only (perhaps 18m max width intrusion by trestles) at northwest corner of 54B and this may have been in part for shelter provision for trestles on sites further inshore.

Depths on sites

The Admiralty chart extracts attached to this report show that site 54A is subtidal with most of the site having depths of greater than 5m below chart datum. A spot depth of 6.9m is noted at centre of site on the chart.

Site 54B is also subtidal based on examination of admiralty chart. Site 54B is on average slightly higher in elevation than 54A. Most of site 54B has a depth in excess of 2m below chart datum. Spot depths of 4.5m and 4.6m within the site are noted on the chart.

These depths in both cases are far in excess of recommended depths for trestle based oyster aquaculture. These depths explain why the sites are not in use currently and why the sites have not been used to any significant extent in the past (apart from a small number of trestles on the west boundary of site 54B some years ago).

Site inspection

I inspected sites 54A and 54B on a very low spring tide (spring equinox) on 21/3/19 with a view to checking actual elevations on the sites.

I found the low water line on the day (lower than chart datum) runs along west boundary of site 54B (north end) and inshore of 54B (south) and 54A. See survey map overleaf. I found that shore profile fell rapidly seaward of the low water line – deep water lay a short distance west of the low water line. This was in line with profile shown on charts.

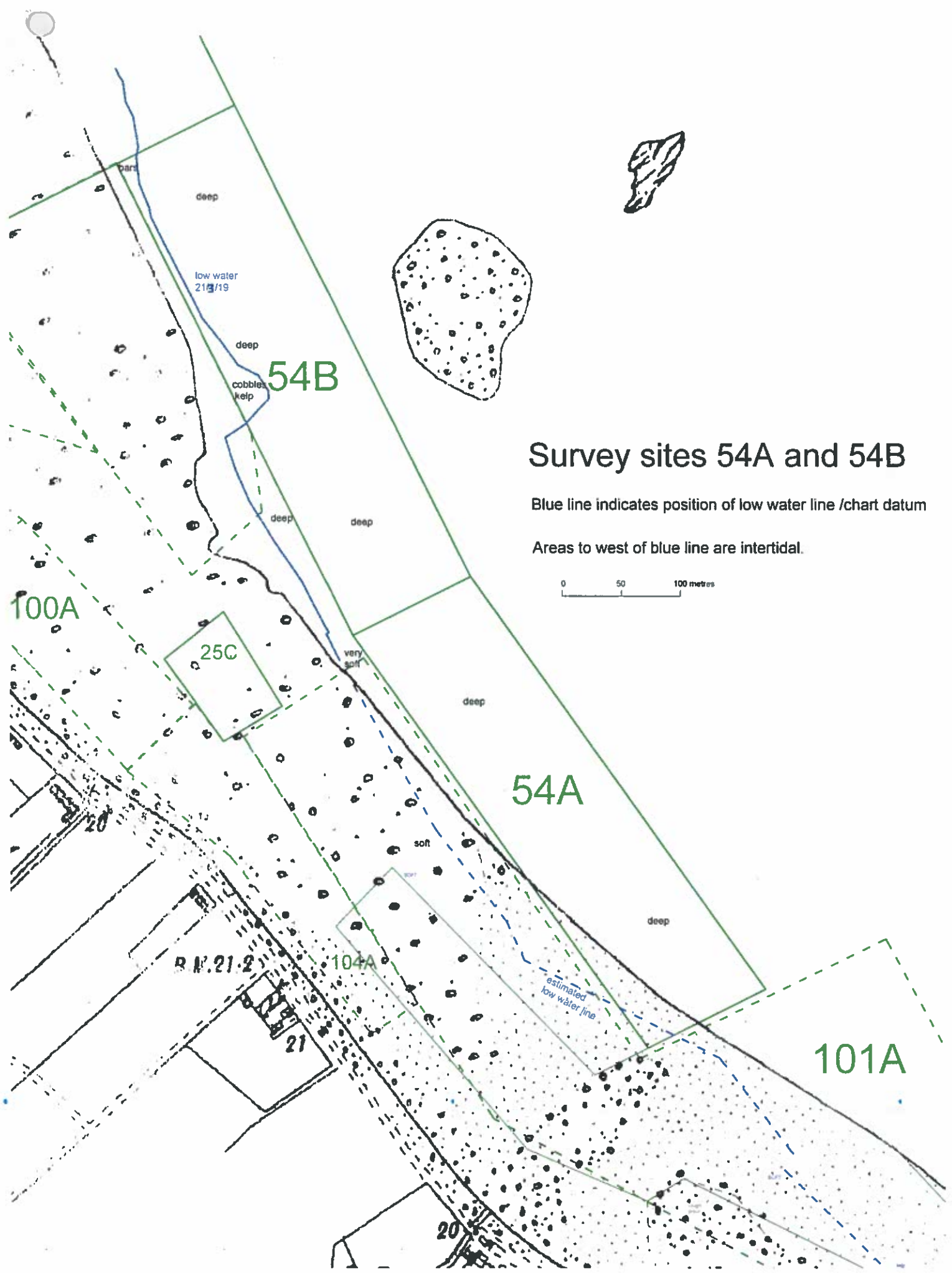
I found that site 54A was mostly sub-tidal. I found that ground on its western boundary was generally too soft for safe foot access or vehicle access.



View of site 54A from its northwest corner looking to southeast – soft substrate at low tide line

21/3/19

I found on site 54B that depths did increase quickly to west of low water line on the day. I found steel bar remnants at low water line along west boundary of site 54B



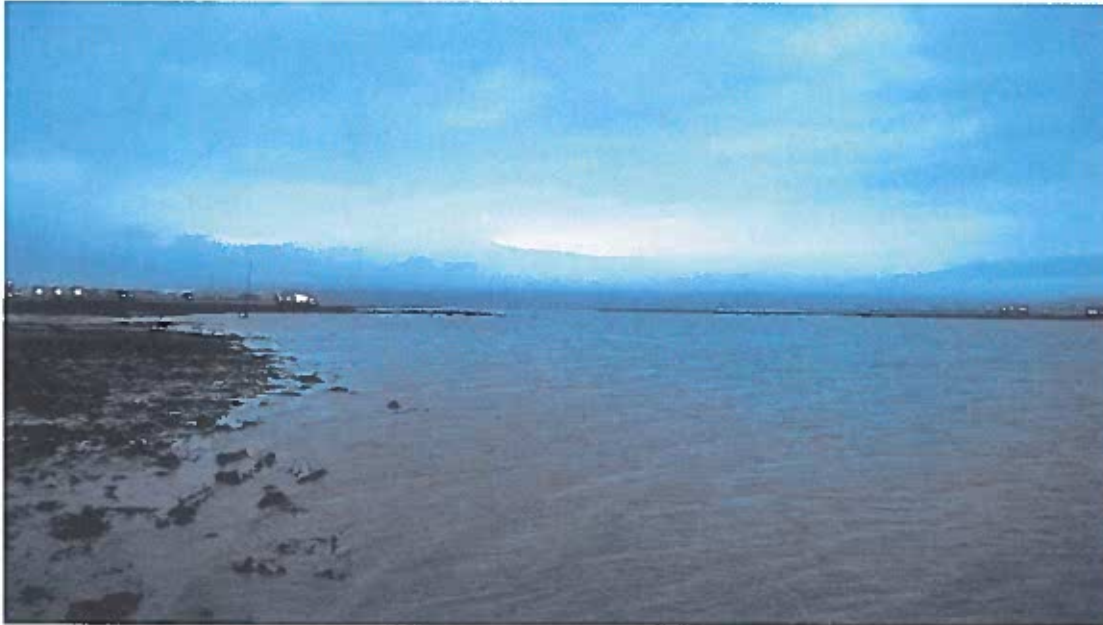
Survey sites 54A and 54B

Blue line indicates position of low water line /chart datum

Areas to west of blue line are intertidal.



(north end only) which presumably came from the lines of disused trestles that were used in the past as an artificial breakwater by the oyster farm to shelter stocked trestles further inshore. These disused trestles in “the breakwater” were removed at my request some years ago but remnant bars seem to remain here and there partly buried in the sand. There was a kelp covered area at midway point along west boundary of site 54B which was cobble covered substrate and was too rough for trestle based aquaculture.



View of site 54B (view to north from southwest corner) - site largely sub tidal ; kelp at low tide line 21/3/19

Physical suitability of sites

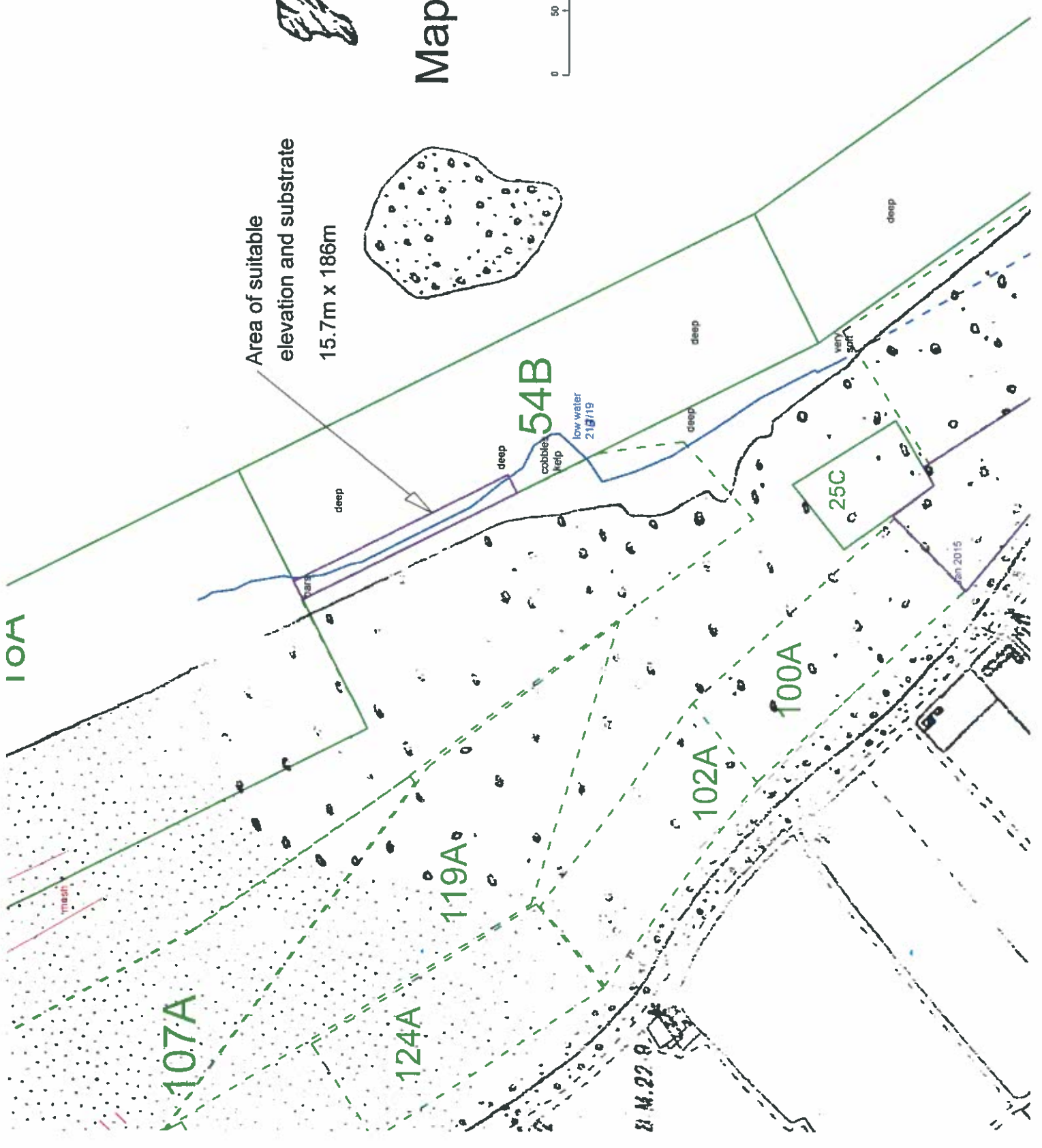
In general the sites are not suitable for trestle + bag system proposed due to excessive depth over most of the sites. It would not be possible to work trestles at such depth or for oysters to grow properly on them. There is a small subarea at northwest corner of site 54B (of less than 0.3 hectares) which is above chart datum and could in theory be used. This area is shown outlined in purple on MAP site 54B overleaf. Its coordinates are as follows :

323300	309250	
323314	309257	
323397	309091	
323383	309084	area 0.2905ha

In area terms I am not sure it is worth licensing – it being only 6% of the area of site 54B. Given that site as applied for is 94% unsuitable I think it may be best to not licence any of it. All of site 54A seems physically unsuited to trestle based aquaculture due to depth (mainly) and also (in places where surface inspection proved possible) substrate reasons.

Development proposal

The proposed development is for 950 trestles on site 54A and 1500 trestles on site 54B . The trestle layouts submitted with this renewal application show a mix of 600mm high and 1000mm high trestles covering the *entire* site areas of 54A and 54B



Map site 54B

Area of suitable elevation and substrate
15.7m x 186m



IOH

107A

124A

119A

102A

100A

25C

54B

deep

deep

cobbles

very soft

low water 21/9/19

deep

deep

deep

deep

mesh

Jan 2015

11 M. 27. 9

(copies attached to this report) . These layouts are improbable in my opinion. They are not based on an understanding of actual elevations on the sites.

Natura 2000 designation

The sites are located in a designated Natura 2000 area – in Carlingford Lough SPA site (004078). The sites are adjacent to the seaward boundary of Carlingford Shore SAC (site 002306) and the southwest corner of 54A overlaps the SAC. Appropriate assessment of the development will be required.

Visual impact

I don't anticipate an issue here as almost all of the area in both sites is too deep for the proposed trestles on the seabed to be visible above the water surface – even at low tidal stages

Navigation

Marking the sites would be necessary if licensed for structures as boat access to and into the site from the outer lough would be possible at all tidal stages.

Conclusions

Site depth is too great – most of the site area is subtidal and at too low elevation; depths are typically in excess of 2 m below chart datum. The substrate is poor on west margins of the sites based on inspections carried out.

There is an issue of safety of attempting to operate on either site given proposed means of access, the poor quality ground and exposure/ excessive depth of the sites.

I have found no evidence of significant use of these sites for trestle based oyster culture in the past.

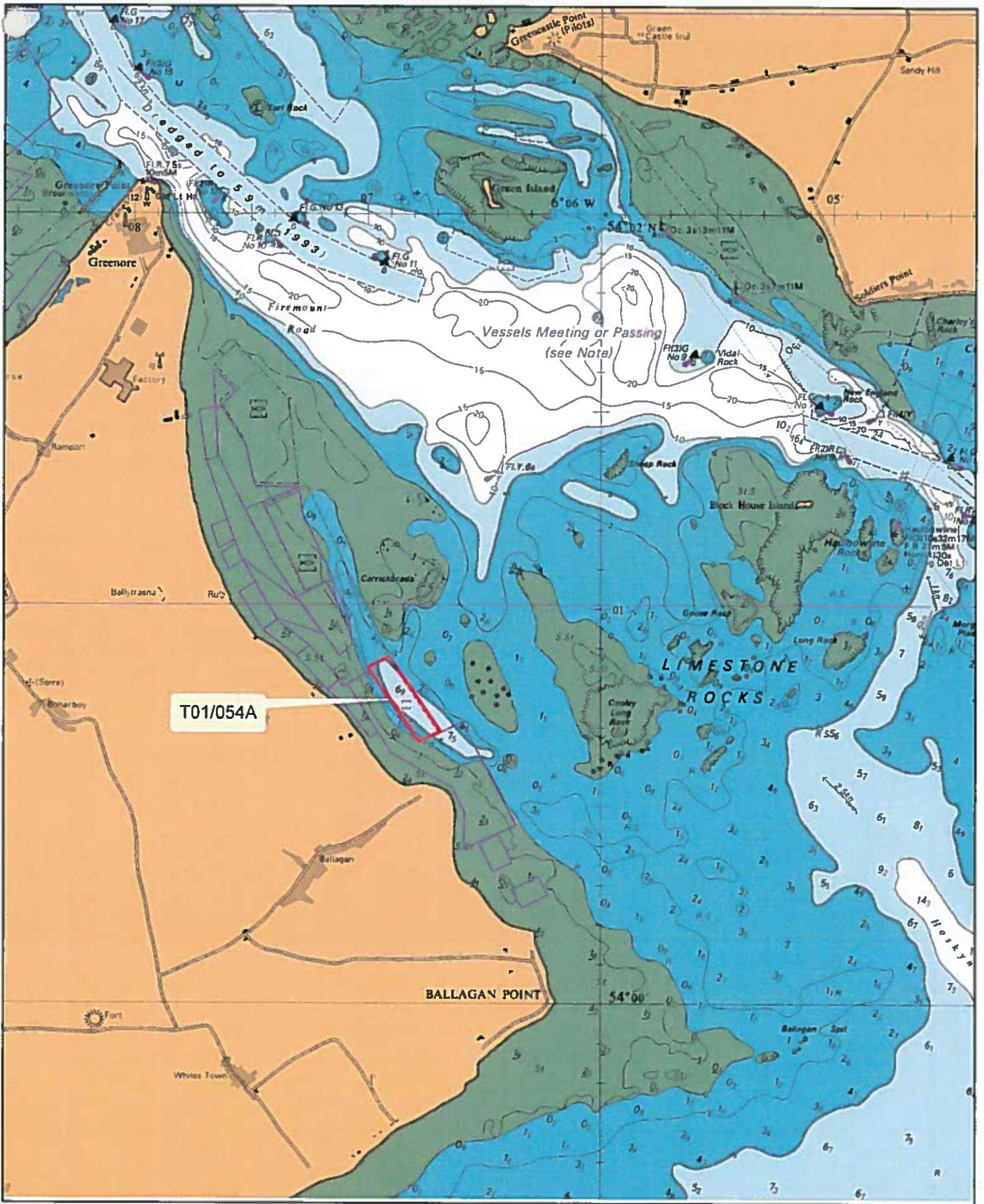
In my opinion both sites are clearly unsuited to trestle + bag oyster culture. It would not be appropriate to licence them for a purpose they cannot in reality be used for.

With the information collected at this point MED recommend refusal of this renewal application on the basis of unsuitable depth of both sites.

Paul O'Sullivan

Paul O'Sullivan

2/4/19



T01/054A

- Aqua Culture Sites**
 <all other values>
- Site_Status**
- Under Appeal
 - Application
 - Lapsed
 - Licensed
 - Refused
 - Revoked
 - Surrendered
 - Withdrawn

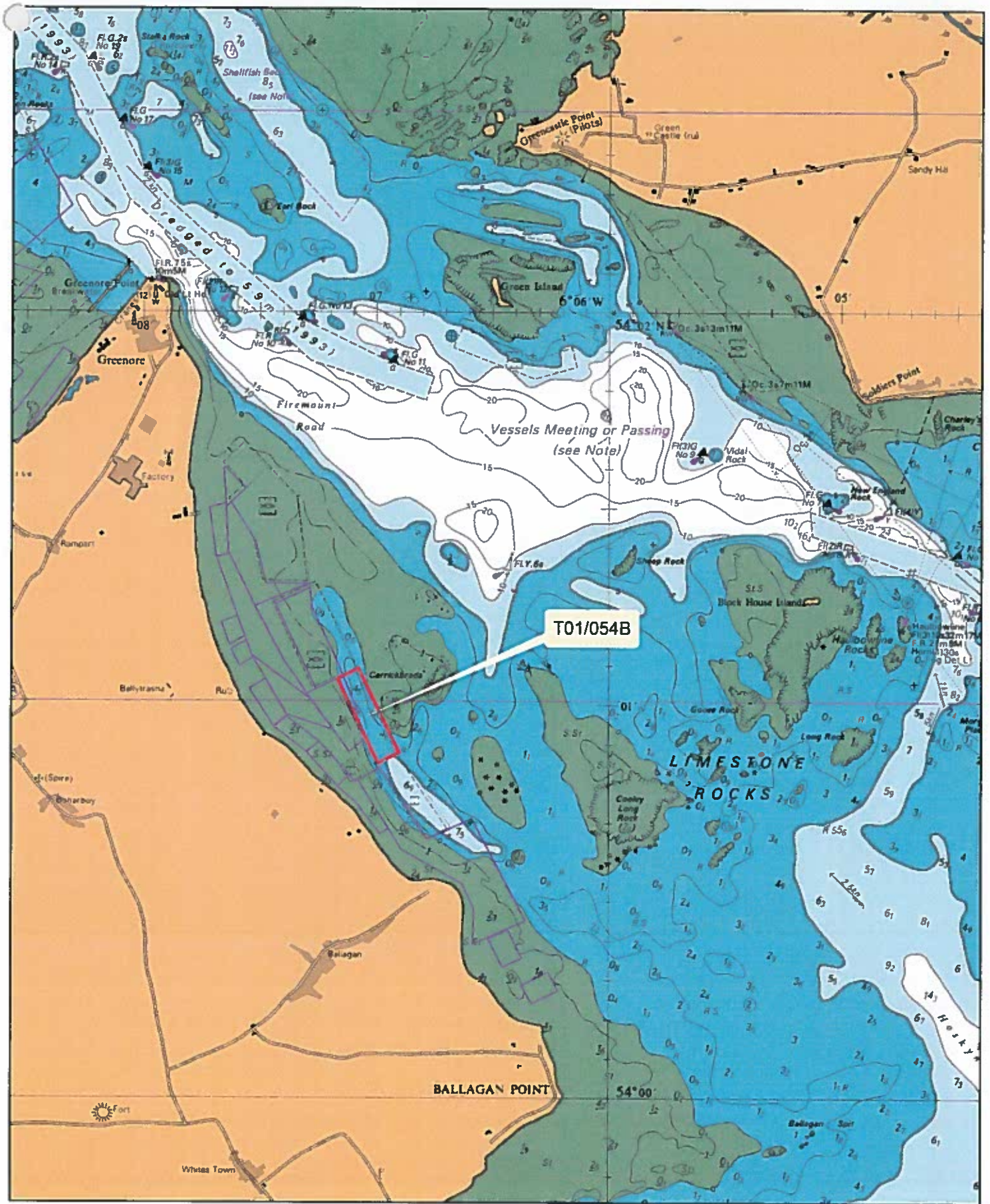
1:24,000

Sites highlighted in red denotes Application

Part of Admiralty Chart No = 2800-0
 Not to be used for Navigation



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



Aqua Culture Sites
 <all other values>

Site_Status

- Under Appeal
- Application
- Lapsed
- Licensed
- Refused
- Revoked
- Surrendered
- Withdrawn

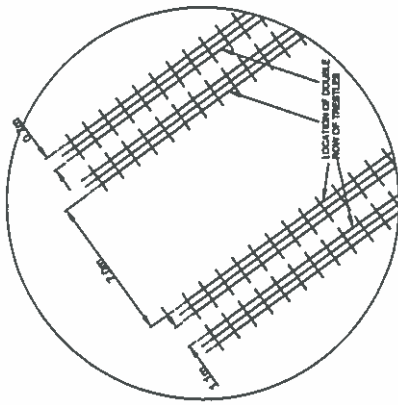
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Sites highlighted in red denotes Application

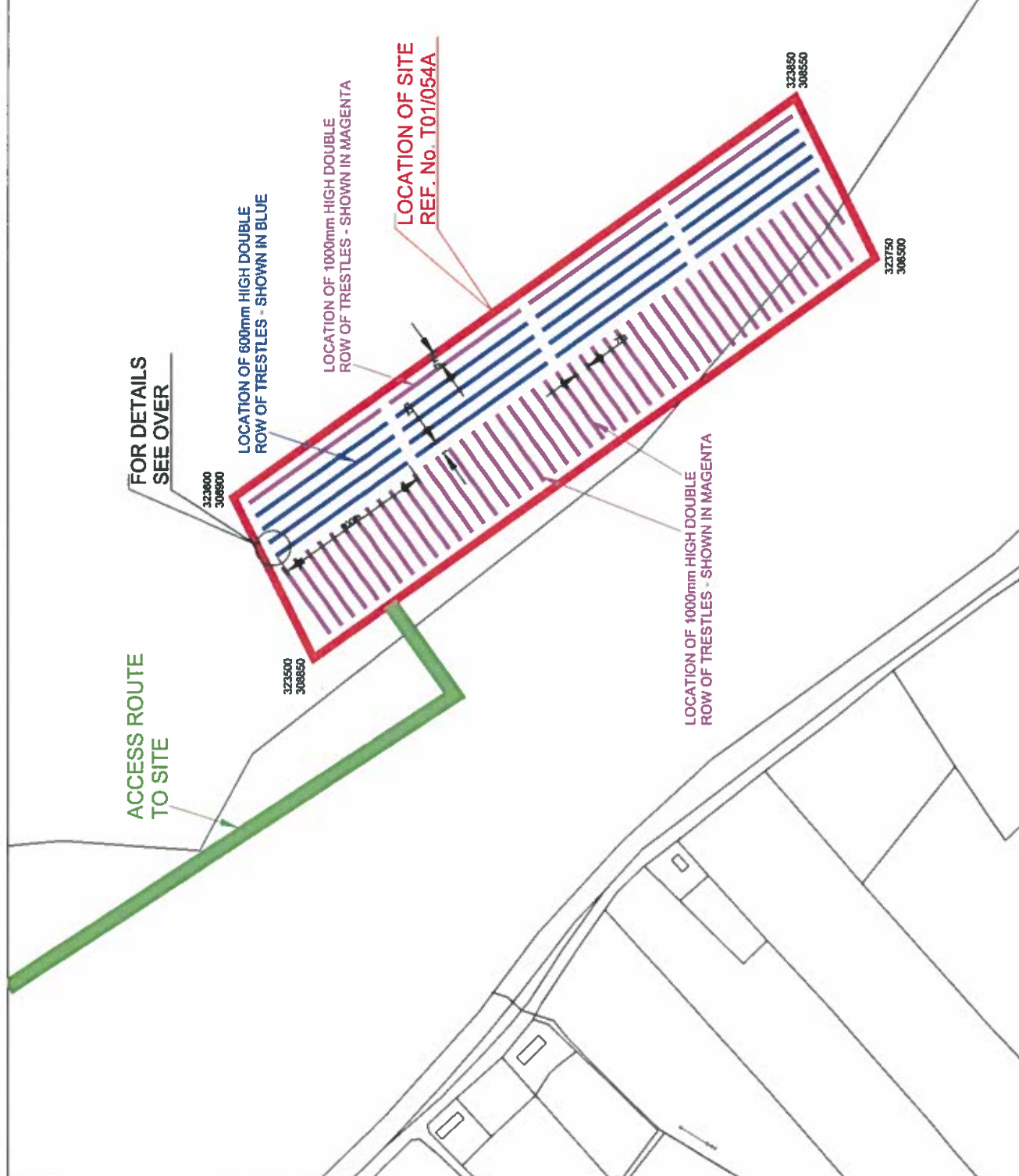
Part of Admiralty Chart No =2800-0
 Not to be used for Navigation



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



LAYOUT PLAN OF TRESTLES
SCALE 1:100



FOR DETAILS
SEE OVER

LOCATION OF 600mm HIGH DOUBLE
ROW OF TRESTLES - SHOWN IN BLUE

LOCATION OF 1000mm HIGH DOUBLE
ROW OF TRESTLES - SHOWN IN MAGENTA

LOCATION OF SITE
REF. No. T01/054A

LOCATION OF 1000mm HIGH DOUBLE
ROW OF TRESTLES - SHOWN IN MAGENTA

ACCESS ROUTE
TO SITE

EXTRACT LOUTH ORDNANCE SURVEY SHEETS 1568 & 1636

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APPLICATION SITE - SITE PLAN

SCALE 1 : 2500

Client	COOLEY OYSTERS LTD
Project	AQUACULTURE & FORESHORE LICENCE APPLICATION REFERENCE No. T01/119 AT CARLINGFORD LOUGH, CO. LOUTH
Site	SITE LAYOUT PLAN
Application Ref. No.	T01/054A
Scale	As Shown
Drawn By	Colin Horgan
Checked By	February 2019

As Shown

February 2019

Colin G. Horgan

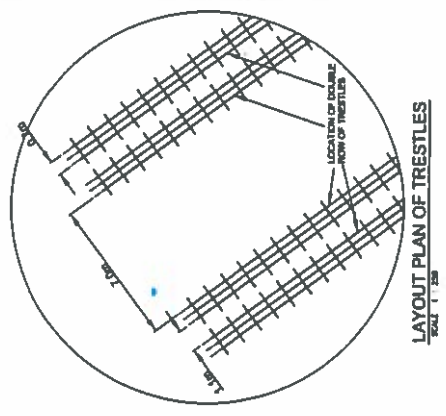
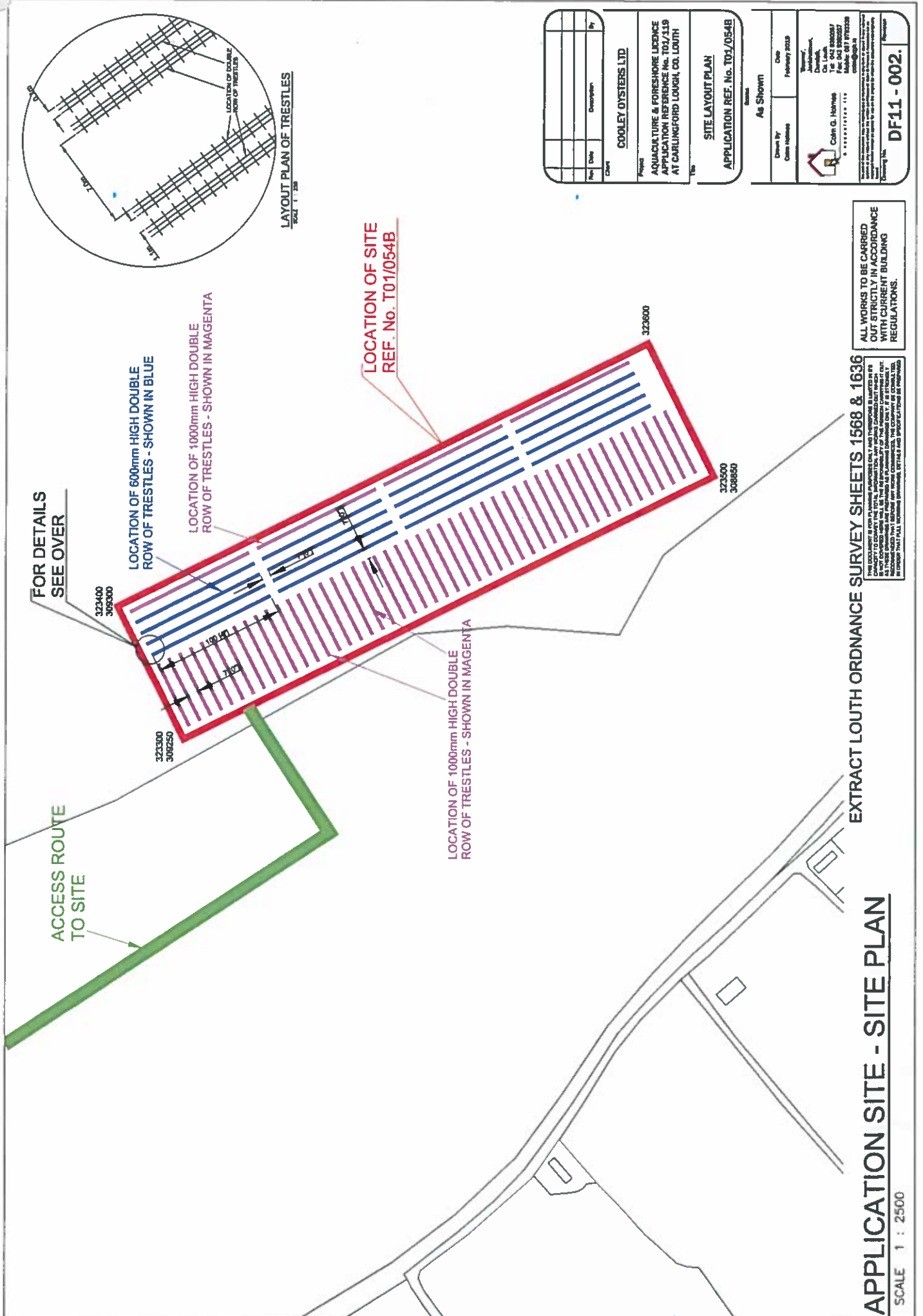
Co. Louth

Mobile: 087 8733338

087 8733338

DF10 - 002.

ALL WORKS TO BE CARRIED OUT STRICTLY IN ACCORDANCE WITH CURRENT BUILDING REGULATIONS.



LOCATION OF SITE
REF. No. T01/054B

ALL WORKS TO BE CARRIED
OUT STRICTLY IN ACCORDANCE
WITH CURRENT BUILDING
REGULATIONS.

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NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES.
IN EXCEPT THAT FULL INFORMATION IS PROVIDED BY THE USER.

APPLICATION SITE - SITE PLAN

SCALE 1 : 2500

Client	COOLEY OYSTERS LTD
Project	AQUACULTURE & FORESHORE LICENCE APPLICATION REFERENCE No. T01/119 AT CARLINGFORD LOUGH, CO. LOUTH
Drawn By	
Checked By	
Date	
Description	
By	

SITE LAYOUT PLAN
APPLICATION REF. No. T01/054B

As Shown

Drawn By: Colin Holmes
Date: February 2019

Client: Cooley Oysters Ltd
Address: Co. Louth
Tel: 047 982227
Mobile: 017 972229
Email: info@cooley.com

Drawing No. **DF11 - 002.**

OSullivan, Paul

From: Kelleher, Sheila
Sent: 20 March 2019 08:39
To: OSullivan, Paul
Subject: Ferguson Shellfish (Cooly Oysters Ltd) Updated Applications
Attachments: T01 018 Application Form Full.pdf; T01 019 Application Form Full.pdf; T01 20 and 21 Application Form Full.pdf; T01 054 Application Form Full.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Paul

I am attaching the updated renewal application forms forwarded for T01/018, T01/019, T01/020, T01/021 & T01/054 for your records. We are still awaiting updated application forms for T01/009 & T01/012 which I will forward as soon as they come in.

Any queries or comments please come back to me

Kind Regards

Sheila

Sheila Kelleher
Aquaculture and Foreshore Management Division
Department of Food Agriculture and the Marine
National Seafood Centre
Clonakilty
Co Cork

Tel: 023 8859427

Email: sheila.kelleher@agriculture.gov.ie



SFPA Howth response to the Aquaculture licence applications submitted by Cooley Oysters Ltd.

Owner/Operator Name: **Donal Ferguson**

Renewal Aquaculture Licence numbers 9

New Aquaculture Licence numbers 2

Cooley Oysters (formally Ferguson Shellfish) have been farming pacific oysters in excess of 30 years. They currently operate within there 9 sites totalling 65.7Ha. While the main market for their product has been the bulk sale market in Europe, Cooley Shellfish now supply live oysters into Asia on a weekly basis. All harvested product that is destined for the Asian market is purified before being placed on the market for direct consumption. Cooley Oysters Ltd, are inspected on a regular basis by officers of the SFPA for the export of harvested shellfish to Asia. All sites in production are classified A status (SFPA Classification June 2019) <https://www.sfpa.ie/What-We-Do/Molluscan-Shellfish/Classified-Areas>

Renewal Application File Numbers

[Redacted]

T01/054B BALLAGAN (SSE OF Greenore point) 5Ha

[Redacted]

[Redacted]

[REDACTED]

Ballagan

Cooley Oysters Ltd operates within 5 areas of the greater Carlingford Lough. 3 sites totalling 34Ha are situated in the area of Ballagan. All five sites are intertidal and no wild fisheries are present within the licenced sites. Official control inspections can be carried out at low tide on both sites. The sites are not adjacent to any WWTP discharge point. As stated previously, Cooley Oysters Ltd operate a purification tank system and along with routine sampling for microbial and viral contamination in its shellfish from these three sites currently do not pose an additional risk to human health from direct consumption of shellfish harvested from these sites.

New Application File Numbers

[REDACTED]

[REDACTED]

Declan McGabhann

Sea Fisheries Protection Officer

Sea Fisheries Protection Authority
Howth Fisheries Harbour Centre
West Pier
Howth
Co. Dublin

Kelleher, Sheila

From: KILBANE Lawrence [LawrenceKILBANE@dtas.gov.ie]
Sent: 10 October 2019 09:27
To: OCallaghan, Grace; OShea, Nicole; Kelleher, Sheila
Cc: O'CALLAGHAN Tom
Subject: Aquaculture Applications Carlingford Lough.

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Ref: Aquaculture License applications [REDACTED] 054B [REDACTED] Cooley
Mussels Ltd

Good morning all,

This office has no objections from a navigational viewpoint to the above applications.

- In order for charts and nautical publications to be updated the British Admiralty Hydrographic Office at Taunton, UK, is to be informed of the location and nature of the site.
(Fax: 0044 1823 284077, email: : sdr@ukho.gov.uk)
- The applicant is required to apply to the Commissioners of Irish Lights
(Fax: 01-2715566, email: info@irishlights.ie) for sanction to establish the following lights and marks:

As Carlingford Lough is a CLAMS bay the site is to be marked in line with the SUMS and conducive to safe navigation.

Rgds

Capt. Lawrence Kilbane
Nautical Surveyor

An Roinn Iompair, Turasóireachta agus Spóirt
Department of Transport, Tourism and Sport

Lána Liosain, Baile Átha Cliath, D02 TR60
Leeson Lane, Dublin, D02 TR60

T + (0) 1 604 1563 M +(0) 85 870 9456
Lawrencekilbane@dtas.gov.ie www.dttas.gov.ie



Tá eolas sa teachtaireacht leictreonach seo a d'fhéadfadh bheith príobháideach nó faoi rún agus b'fhéidir go mbeadh ábhar rúnda nó pribhléideach ann. Is le h-aghaidh an duine/na ndaoine nó le h-aghaidh an aonáin atá ainmnithe thuas agus le haghaidh an duine/na ndaoine sin amháin atá an t-eolas. Tá cosc ar rochtain don teachtaireacht leictreonach seo do aon duine eile. Murab ionann tusa agus an té a bhfuil an teachtaireacht ceaptha dó bíodh a fhios agat nach gceadaítear nochtadh, cóipeáil, scaipeadh nó úsáid an eolais agus/nó an chomhaid seo agus b'fhéidir d'fhéadfadh bheith mídhleathach.

Tá ár Ráiteas Príobháideachta le fáil ar www.dttas.gov.ie

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Commissioners of
IRISH LIGHTS | Navigation
and Maritime
Services

Commissioners of Irish Lights
Harbour Road, Dun Laoghaire
Co. Dublin, Ireland

T +353.1.271.5400
F +353.1.271.5566

E info@irishlights.ie
W www.irishlights.ie

Ms. Sheila Kelleher
Aquaculture and Foreshore Management Division
Dept. of Agriculture Food & the Marine
National Seafood Centre
Clonakilty
Co. Cork

Your Reference: T01/054B

Our Reference: LA0165.0059

Date: 31/05/2019

LL: LA0165.0059

Applicant: Cooley Oysters Ltd

Site: Carlingford Lough, Co. Louth

Dear Ms. Kelleher

Thank you for your letter advising us of this application for renewal of this Aquaculture Licence.

Based on the information supplied, there appears to be no objection to a renewal of this licence. This applicant has previously secured Statutory Sanction from the Commissioners of Irish Lights for the Aids to Navigation that were required at the time.

Before the Licence is renewed it should be verified that the Aids to Navigation as sanctioned are in position.

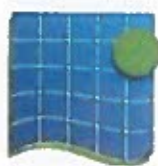
It is recommended that local fishing and leisure interests be consulted prior to a decision being made.

Furthermore, if a licence is renewed the UK Hydrographic Office at Taunton: sd@ukho.gov.uk must be informed of the development's geographical position in order to update nautical charts and other nautical publications.

Yours sincerely,

Neil Askew
for Director of eNavigation and Maritime Services

cc Capt. T. O'Callaghan, Dept. of Transport Tourism & Sport, Marine Survey Office



Marine Institute
Foras na Mara

Rinville,
Oranmore,
Co. Galway
Tel: 091 387200

Date: 01 July 2019

Sheila Kelleher
Aquaculture and Foreshore Management Division
Department of Agriculture, Food and the Marine
Clogheen,
Clonakilty
Co. Cork.

Advice on Aquaculture Licence Application

Applicant	Cooley Oysters Ltd
Application type	Renewal
Site Reference No	T01/054B
Species	Oysters (<i>C. gigas</i>) – bags and trestles
Site Status	Located within the Carlingford Lough SPA (Site Code 004078) and adjacent to the Carlingford Shore SAC (Site Code 002306) Located within the Carlingford designated Shellfish Growing Waters Area.

Dear Sheila

This is an application for the renewal of an aquaculture licence for the cultivation of oysters (*C. gigas*) using bags and trestles at Site T01/054B on the foreshore at Carlingford Lough, Co. Louth. The area of foreshore at Site T01/054B is 5.00Ha.

Site T01/054B is located within the Carlingford designated Shellfish Growing Waters Area.

Under Annex II of EU Regulation 854/2004 oysters in this area of Carlingford Lough currently have an “A” Classification.

No chemicals or hazardous substances will be used during the production process.

The cultivation of shellfish at this site will produce faeces and pseudofaeces. Any impact will be limited to the area of the sites. The build-up of excess organic matter beyond the footprint of the sites is not considered likely. On the basis of targeted research¹, the impact of intertidal oyster cultivation using bags and trestles on the majority of community types is considered not significant

Considering the location, nature and scale of the proposed aquaculture activity, and in deference to our remit under the Marine Institute Act, and the 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.

Site T01/054B is located within the Carlingford Lough SPA (Site Code 004078) and adjacent to the Carlingford Shore SAC (Site Code 002306). We note the findings of the Appropriate Assessment reports^{2,3} and the

¹ Forde, J., F. O’Beirn, J. O’Carroll, A. Patterson, R. Kennedy. 2015. Impact of intertidal oyster trestle cultivation on the Ecological Status of benthic habitats. Marine Pollution Bulletin 95, 223–233.

² <https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessments/louth/CarlingfordShoreSpecialAreaofConservationSAC21052019.pdf>

Department's draft Natura conclusion statement⁴ in regard to the impacts on the Conservation Objectives within the Carlingford Lough SPA and the Carlingford Shore SAC.

In making the final determination with respect to this application it is recommended that DAFM take full account of the conclusions and recommendations of the Appropriate Assessment report and the proposed mitigation measures set out in the Department's Draft Natura Conclusion Statement.

Specific information on the source of seed for the site has not been provided and the MI recommends that this information be sought from the applicant prior to any final licence determination being made.

In order to be able to assess and manage the potential risk of the introduction of invasive non-native species the 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. It should be noted that the control of alien species is a separate issue to the control of diseases in the context of the current Fish Health legislation.

Notwithstanding the recommendation outlined above, and in the event that an Aquaculture Licence is granted, the movement of stock in and out of the site should follow best practice guidelines as they relate to the risk of introduction of invasive non-native species (e.g. [Invasive Species Ireland](#)). In this regard it is recommended that, prior to the commencement of operations at the sites, 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 these sites. If such an event occurs, the contingency plan shall be implemented immediately.

In the event that invasive non-native species are introduced into a site as a result of aquaculture activity the impacts may be bay-wide and thus affect other aquaculture operators in the bay. In this regard, therefore, the Marine Institute considers that the CLAMS process may be a useful and appropriate vehicle for the development and implementation of alien species management and control plans.

It is statutory requirement that a Fish Health Authorisation as required under Council Directive 2006/88/EC be in place prior to the commencement of the aquaculture activities proposed.

Kind regards,



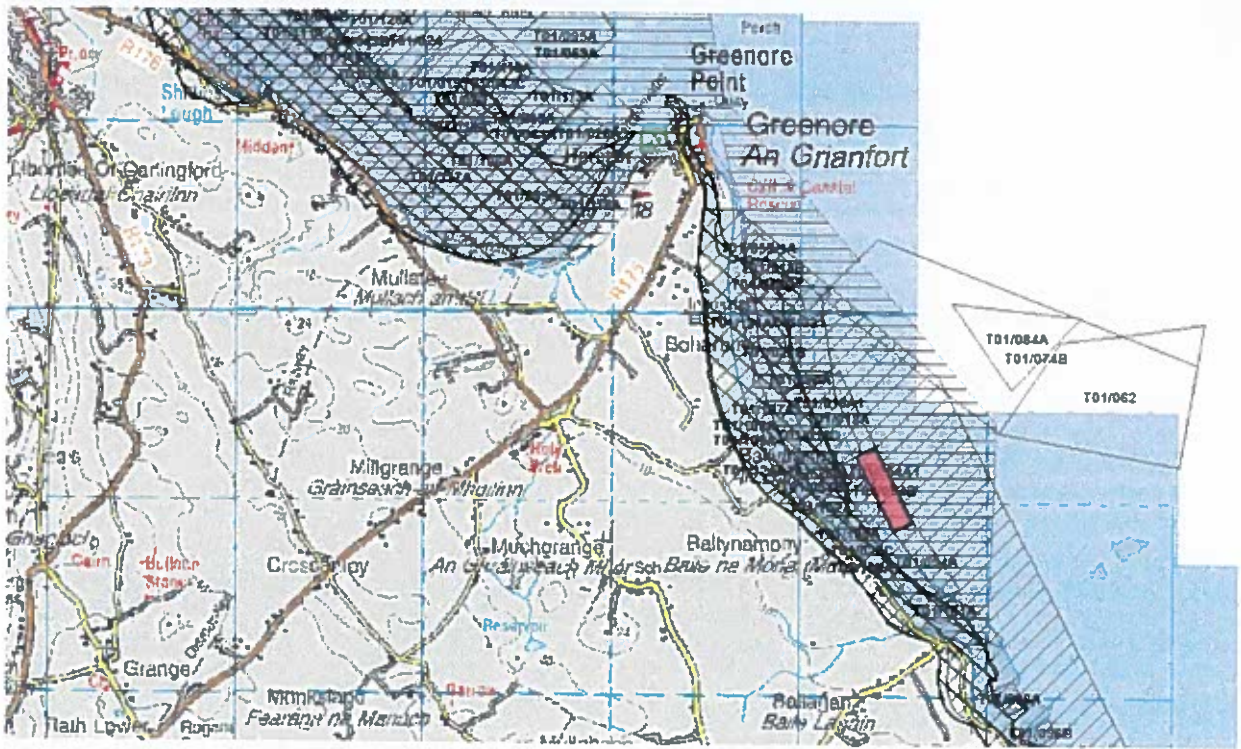
Dr. Terry McMahon
Section Manager, Marine Environment and Food Safety Services,
The Marine Institute.

3

<https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessments/louth/CarlingfordLoughSpecialProtectionAreaSPA21052019.pdf>

4

<https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessmentconclusionstatement/DraftConclusionStatementCarlingfordLough210519.pdf>



Shellfish Waters Directive Area



Aquaculture Site



Special Area of Conservation



Special Protection Areas



From: Donal Ferguson <fergfish@hotmail.com>
Sent: 05 July 2019 10:35
To: Kelleher, Sheila
Subject: Re: Source of Seed Request

Follow Up Flag: Follow up
Flag Status: Completed

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Dear Sheila,

We source our oyster seed from four different hatcheries in France:

**France Naissain,
Satmar,
Grainocean,
Marinove.**

All seed imports are registered with the Marine Institute and the import takes place after making an Application and receiving approval from the Marine Institute.
Our Reg Number for any movement is FHA-000297.

Please let me know if you need any further information.

Best regards,
Donal

Cooley Oysters Ltd
Muchgrange, Greenore, Co. Louth,
Tel: +353876486162
A91 FN50



**The world's first national
food sustainability programme**

From: Kelleher, Sheila
Sent: Thursday 4 July 2019 15:31
To: 'Donal Ferguson'
Subject: Source of Seed Request

Hi Donal

Could you please forward information with regard to the source of your seed for sites in Carlingford Lough.

I look forward to hearing from you

Kind Regards

Sheila

Sheila Kelleher

Aquaculture and Foreshore Management Division

Department of Food Agriculture and the Marine

National Seafood Centre

Clonakilty

Co Cork

Tel: 023 8859427

Email: sheila.kelleher@agriculture.gov.ie

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An Roinn Talmhaíochta, Bia agus Mara

Tá an t-eolais san ríomhphost seo, agus in aon ceangláin leis, faoi phribhléid agus faoi rún agus le h-aghaidh an seolaí amháin. D'fhéadfadh ábhar an seoladh seo bheith faoi phribhléid profisiúnta nó dlíthiúil. Mura tusa an seolaí a bhí beartaithe leis an ríomhphost seo a fháil, tá cosc air, nó aon chuid de, a úsáid, a chóipeál, nó a scaoileadh. Má tháinig sé chugat de bharr dearmad, téigh i dteagmháil leis an seoltóir agus scríos an t-ábhar ó do ríomhaire le do thoil.

Kelleher, Sheila

From: Liz M OBrien [LizM.OBrien@housing.gov.ie]
Sent: 18 June 2019 11:40
To: Kelleher, Sheila
Subject: Aquaculture licence applications and renewal in Carlingford Lough 25 Sites

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Sheila,

Re

[REDACTED] 054B
(Renewal) [REDACTED]

Aquaculture Licence and accompanying foreshore licence applications (renewal and new) for various sites within Carlingford Lough Co Louth.

-DAFM'S communications to Foreshore Section dated 28/5/2019 refers-

The Department's Water Service Adviser is of the opinion that there is likely to be no impingement to the foreshore from a technical perspective. He has no objection on technical grounds to the new Applications. In relation to the renewal applications DAFM would need to be satisfied that the relevant applicants are operating within the terms of their existing Aquaculture Licence in terms of species and site location.

This is however without prejudice to any views that the NPWS (within Dept. of Culture, Heritage & the Gaeltacht) may have from a nature conservation/ecological perspective.

Regards

Liz O'Brien,
Marine Environment and Foreshore

— —
An Roinn Tithíochta, Pleanála agus Rialtais Áitiúil
Department of Housing, Planning and Local Government

Bóthair an Bhaile Nua, Loch Garman, Y35 AP90
Newtown Road, Wexford, Y35 AP90

— —
T +353 (0)53 911 7465
www.tithiocht.gov.ie
www.housing.gov.ie



Is faoi rún agus chun úsáide an té nó an aonán atá luaithe leis, a sheoltar an ríomhphost seo agus aon comhad atá nasctha leis. Má bhfuair tú an ríomhphost seo trí earráid, déan teagmháil le bhainisteoir an chórais.

From: Francis X O Beirn <Francis.XOBeirn@Marine.ie>
Sent: 21 October 2019 16:22
To: OShea, Nicole
Cc: Kelleher, Sheila; Terry McMahon
Subject: RE: Carlingford Lough
Attachments: Carlingford - MI Response to DCHG SC submissions Oct 2019.pdf

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Hi Nicole,

Please see the observations from the MI on the submissions received in relation to Carlingford Lough aquaculture licence submissions.

DCHG – see attached

SFPA – no observations

Louth Co. Co. – no observations

DHPLG - no observations

BIM – We note the BIM comments and accept the premise proposed as regards the area of some sites likely to be used when calculating carrying capacity. This constraint was noted in the modelling report cited.

An Taisce – We note the subject field in the An Taisce communications which appear to be a reference to Scoping under the EIA Directive (2011/92/EU) – we suggest this may be a typographical error.

The reference to Carrying capacity and how it is dealt with in terms of licencing is a matter for DAFM to consider. In this regard, the MI note the comments of BIM. The MI suggest that BIM might be consulted to determine if advice can be provided on estimating ecological carrying capacity in Carlingford Lough with greater resolution.

Mussel dredging – the impacts of mussel dredging are noted. It is the view of the MI that information from published literature should be presented completely and not selectively. In Dolmer and Frandsen (2002) the reference to epifauna changing in communities following dredging in the Limfjorden may have been also attributed to the fact the area is considered eutrophic and subject to annual oxygen depletion, i.e., stressed and not just mussel dredging. An Taisce did not appear to consider this alternative observation in the submission.

Please do not hesitate to contact me if you have any other queries.

All the best,
Francis

Francis O'Beirn PhD
Team Leader Benthos Ecology
Marine Institute
Rinville, Oranmore
Galway, Ireland

H91R673

Landline: + 353 91 387250

Mobile: +353 87 9683094

Please note, from Thursday 17th October, the Marine Institute & Irish Maritime Development Office's new Dublin location is Three Park Place, Upper Hatch Street, Dublin 2, D02 FX65

From: OShea, Nicole [<mailto:Nicole.OShea@agriculture.gov.ie>]

Sent: Wednesday 9 October 2019 17:23

To: Francis X O Beirn <Francis.XOBeirn@Marine.ie>; Terry McMahon <Terry.McMahon@Marine.ie>

Subject: Carlingford Lough

Hi Francis & Terry,

Please see attached comments received as part of the Statutory Consultation for licence applications in Carlingford Lough. Can you please let us have any observations in relation to nature conservation and water quality in light of these comments in advance of finalising the conclusion statement. I have attached the draft conclusion statement also for reference. (Also please note any comments that are redacted in the above attachments were not accepted and cannot be considered as they were received outside of the statutory consultation period.)

Regards,

Nicole O'Shea

Higher Executive Officer, Aquaculture & Foreshore Management Division,

An Roinn Talmhaíochta, Bia agus Mara

Department of Agriculture, Food and the Marine

An Lárionad Bia Mara Náisiúnta, Cloich na Coillte, Corcaigh, P85 TX47

National Seafood Centre, Clonakilty, Co Cork P85 TX47

T +353 (0)2388 59507

www.agriculture.gov.ie

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Date: 17/10/2019

To: Nicole O'Shea, AFMD-DAFM

From: Francis O'Beirn, Marine Institute

CC: Sheila Kelleher – DAFM; Terry McMahon, Marine Institute

Re: DCHG Statutory consultation on Carlingford Lough aquaculture applications/renewals

Two communications from DCHG to DAFM as part of statutory consultation process for Carlingford Aquaculture licencing were forwarded to the Marine Institute by DAFM on October 9th, 2019. The submissions are dated July 30, 2019 and September 16th 2019. We will respond to the submissions in the order in which they are dated.

DCHG communication July 30th, 2019

The advice from DCHG is consistent with the advice in the AA report.

We note the offer from DCHG to input into the design of the monitoring programme. This is to be welcomed; however, receiving this communication at this time (October 2019) means that the MI are not in a position to take DCHG up on the offer, as the tender to carry out the monitoring work was advertised in July/August and a contract since offered. We note in the DCHG communication that a previous communication providing the same information was dated 10th July 2019. A summary of the monitoring programme is outlined below.

1. This programme will focus on systematic monitoring of Light-bellied brent Geese distribution in Carlingford Lough SPA.
2. The programme will monitor numbers and spatial distribution of Light-bellied brent geese in Carlingford Lough SPA. As part of this the use of trestles (i.e., structures used in aquaculture production) for foraging should be investigated; looking at frequency of use; numbers feeding; timing during the tidal cycle and seasonality. The objective will be to provide a quantitative understanding of the degree that trestles provide foraging opportunities for Light-bellied brent geese and to what degree this can compensate for habitat loss.
3. In addition, incidents of disturbance will also be recorded. This should consider issues such as response to tractors using the access lanes and response to workers. When workers are on site how close do geese forage on trestles. This would help to inform the decision on new applications and the degree to which infilling and extension towards the shore might negatively impact upon geese.
4. Monitoring will also consider patterns of use of eelgrass within the lough. There is an ongoing programme of colour ringing Light-bellied brent geese which would allow for the identification of individual birds. This can also assist with looking for patterns of turnover of individuals early in the season, which will in turn give a greater understanding of the numbers of birds using Carlingford Lough during autumn migration; over-winter and during spring migration.
5. Monitoring to encompass one 'winter' seasons 2019/2020 with final reporting due in May 2020.
6. The report will present a summary of site-use by the shorebird species while also providing a commentary on the likely interactions with aquaculture activities and any other prominent features on the shore, specifically as it relates to species distribution within the site.

Further comments from DCHG relate to use of habitats within the SPA. This monitoring programme is designed to capture this information. However, it is important to point out that habitats outside of the Carlingford Shore SPA are as important as they may be found within other SPAs (in Northern Ireland or Dundalk Bay) and are thus worthy of consideration.

In relation to access routes crossing the *Zostera* beds, it has been proposed to minimise the extent of routes actually crossing *Zostera* beds in order to protect the habitat. The revised routes have been agreed in conjunction with the operators, BIM, AFMD and MED

The reference to licence conditions which cover, among other things, any further actions that might be required in the event of deterioration of conservation status of habitats/species at site level that is directly attributable to shellfish culture operations is a matter for DAFM to consider.

DCHG communication September 16th, 2019

DCHG highlight that, in the applications considered in this communication, it is proposed to utilise an alternative culture methodology.

It is important to note that the profile provided to the MI and the text in the application forms (Section: 2.2-ix) clearly states that trestle and bag culture method will be utilised. Notwithstanding, it would appear that a diagram in some latter/revised applications included a floating bag system which is a variation on the bag and trestle method. If this system were to be used, it is the view of the MI that this would not result in any appreciable disturbance to the seabed beneath the trestles. This system would allow for good water flow beneath the trestles, thus avoiding build-up of fine sediment. Studies in Canada¹ comparing floating systems (all be they somewhat different than those proposed in Carlingford) demonstrated no appreciable difference in sediment biogeochemistry beneath the system and control locations. Furthermore, the purpose of the system is to ensure that oysters in the bags are turned using hydrodynamic forces rather than by operators. This would result in less handling necessary on the shore and thus less activity and potential to disturb bird species at the sites.

¹ Mallet, A.L. C.E. Carver, T. Landry. 2006. Impact of suspended and off-bottom Eastern oyster culture on the benthic environment in eastern Canada. *Aquaculture* 255 (2006) 362–373

From: OSullivan, Paul
Sent: 25 October 2019 12:34
To: OShea, Nicole
Subject: RE: Carlingford Lough

Hi Nicole

The only comment I have to make is regarding the suggestion in BIM submission that sites [REDACTED] 54 must be considered "realigned" in some way based on some submission in 2007. This is patently ridiculous. The sites are where they are mapped in the previous licences and again in the renewal application forms, maps and coordinates advertised and also as shown in AA.

Aquaculture development on unlicensed areas inshore of these sites or elsewhere in the Lough was to my knowledge never consented to by the Department and remains unauthorised to this day. In my opinion it is an obstacle to licensing 16 applications by various operators that are currently under consideration and I have raised this issue of unauthorised oyster farming development on these application sites in my reports - the following application sites in Carlingford Lough are relevant [REDACTED]

[REDACTED] Development in advance of a licensing decision has also taken place more recently on application sites [REDACTED]
Regards

Paul O'Sullivan

From: OShea, Nicole
Sent: 24 October 2019 15:16
To: OSullivan, Paul
Subject: FW: Carlingford Lough
Importance: High

Hi Paul,

Apologies, but I omitted to include you when I forwarded observations received during the Statutory Consultation phase for Carlingford Lough. Can you please let me know as soon as possible if you have any MED comments to make on these observations. We are currently trying to finalise the Conclusion Statement and therefore would greatly appreciate a quick response on this.

Regards,

Nicole

From: OShea, Nicole
Sent: 09 October 2019 17:23
To: (Francis.XOBeirn@Marine.ie); 'Terry.McMahon@marine.ie'
Subject: Carlingford Lough

Hi Francis & Terry,

Please see attached comments received as part of the Statutory Consultation for licence applications in Carlingford Lough. Can you please let us have any observations in relation to nature conservation and water quality in light of these comments in advance of finalising the conclusion statement. I have

attached the draft conclusion statement also for reference. (Also please note any comments that are redacted in the above attachments were not accepted and cannot be considered as they were received outside of the statutory consultation period.)

Regards,

Nicole O'Shea

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An Roinn Talmhaíochta, Bia agus Mara

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DEPARTMENT OF AGRICULTURE, FOOD AND THE MARINE

Appropriate Assessment –Conclusion Statement

Carlingford Lough

Carlingford Shore SAC (Site Code: 002306) & Carlingford Lough SPA (Site Code: 004078)

October 2019

Department of Agriculture, Food and the Marine

Appropriate Assessment Conclusion Statement by Licensing Authority in support of the Appropriate Assessment of Aquaculture in Carlingford Shore Special Area of Conservation (Site Code: 002306) & Carlingford Lough Special Protection Area (Site Code: 004078)

October 2019

This Conclusion Statement outlines how it is proposed to licence and manage aquaculture activities in the above Special Area of Conservation (SAC) and Special Protection Area (SPA) – Natura 2000 sites - in compliance with the EU Birds and Habitats Directives. Aquaculture in these Natura Sites will be licensed in accordance with the standard terms and conditions as set out in the aquaculture licence templates. These are available for inspection on the Department's website at:

<http://www.agriculture.gov.ie/seafood/aquacultureforeshoremanagement/aquaculturelicensing/>

Furthermore, the licences will also incorporate specific conditions so as to accommodate Natura requirements, as appropriate, in accordance with the principles set out in this document.

An Appropriate Assessment report relating to aquaculture in the Carlingford Shore SAC and Carlingford Lough SPA has been prepared by the Marine Institute in relation to marine habitats and Atkins Ecology/Marine Institute in relation to bird species on behalf of the Department of Agriculture, Food and the Marine (available on the Department's website). The Appropriate Assessment process considered the potential ecological impacts of aquaculture activities on Natura features in the SAC and SPA.

In addition to the Carlingford Shore SAC and Carlingford Lough SPA, there are a number of other SACs and SPAs proximate to the proposed aquaculture activities and a screening was carried out on their likely interaction with aquaculture.

The information upon which the Appropriate Assessment process is based is the definitive list of existing licences and applications for aquaculture available at the time of assessment.

The Appropriate Assessment Process

The function of an Appropriate Assessment is to determine if the ongoing and proposed aquaculture activities are consistent with the Conservation Objectives for the Natura 2000 sites, i.e. will aquaculture activities lead to deterioration in the attributes of the habitats and species over time and in relation to the scale, frequency and intensity of the activities. The National Parks and Wildlife Service (NPWS) provide guidance on interpretation of the Conservation Objectives which are, in effect, management targets for habitats and species in Natura 2000 sites. The assessment of activities was informed by this guidance, which is scaled relative to the anticipated sensitivity of the habitats and species to disturbance by the proposed activities. Some activities are deemed to be wholly inconsistent with long term maintenance of certain sensitive habitats while other habitats can tolerate a range of activities. For the practical purpose of management of sedimentary habitats a 15% threshold of overlap between disturbing activity and a habitat is given in the NPWS guidance. Below the threshold disturbance is deemed to be non-significant. Disturbance is defined as that which leads to a change in the characterizing species of the habitat (which may also indicate change in structure and function). Such disturbance may be temporary or persistent in the sense that change in characterizing species may recover to pre-disturbed state or may persist and accumulate over time.

The Appropriate Assessment process is divided into a number of stages consisting of a preliminary risk identification and subsequent assessment (allied with recommended mitigation measures, if necessary). The first stage of the process is an initial screening wherein activities are identified which are deemed not to have any impact on the conservation features because they do not spatially overlap with a given habitat or have a clear pathway for interaction. These activities are excluded from further consideration. The next phase is the preparation of a Natura Impact Statement (NIS) where interactions with conservation features are identified. Further to this, an assessment on the significance of the likely interactions between activities and conservation features is conducted. Mitigation measures (if necessary or possible) will be introduced in situations where the risk of significant disturbance is identified. In situations where there is no obvious mitigation to reduce the risk of significant impact, it is advised that caution should be applied in licensing decisions. Overall, the Appropriate Assessment is both the process and the assessment undertaken by the Competent Authority to effectively validate the Appropriate Assessment reports and/or the NIS. It is important to note that the screening process is considered conservative in that activities which may overlap with habitats but which may have very benign effects are retained for full assessment.

Special Area of Conservation (SAC)

Aquaculture Activities in the SAC

Aquaculture activities within and adjacent to the Carlingford Shore SAC focus on the subtidal culture (bottom culture) of the blue mussel, *Mytilus edulis*, and the intertidal (bags and trestle) cultivation of the Pacific oyster, *Crassostrea gigas*.

Aquaculture and Habitats/Species

In Carlingford Lough (ROI waters) there are 12 existing mussel licences for which an application for renewal has been received. There are a further 7 sites for which new mussel licence applications have been received (3 of which are already covered by an existing licence). There are 17 fully licensed oyster production sites, and an additional 5 sites licensed for oysters and clams, for which applications for renewal of licences have been received. There are 24 new oyster licence applications and 2 new licence applications for oysters and mussels. Of the currently licensed mussel sites, there is approximately a 1% overlap the Carlingford Shore SAC and 3.06% of the new mussel application sites overlap. Of the currently licensed oyster sites, 35.27% overlap the Carlingford Shore SAC and 77.6% of the new oyster applications overlap. The likely interaction between aquaculture activity and conservation features (habitats and species) of the site was considered.

An initial screening exercise resulted in all habitat features being excluded from further consideration. None of the aquaculture activities (existing and/or proposed) overlap or likely interact with the following features or species, and therefore the following habitats were excluded from further consideration in the assessment:

- Annual vegetation of drift lines [1210]
- Perennial vegetation of stony banks [1220]

Despite seals not being qualifying interests of the Carlingford Shore SAC, the likely interactions between the proposed aquaculture activities and seals were assessed as there are a number of haul out sites in Carlingford Lough.

Negative interactions with seals cannot be discounted at the haul out location entitled 'Seal Rock' on the southern shore of the Lough. Licensing at the relevant sites was considered and measures proposed to reduce the potential disturbance to seals to negligible levels, e.g. introduce a sufficient buffer around the seal site in order to avoid disturbance.

The other haul out locations within the bay are considered not to be at risk from aquaculture practices.

Other Considerations

Fishing activities in the Lough do not overlap annexed habitats for which the SAC is designated and as a result it is considered that fishing both along and in combination with aquaculture activities is not disturbing to the qualifying interests of the SAC.

On the basis of overlap of access routes with eel grass beds in the SAC, alternative access routes were identified that specifically avoid eel grass beds and provide some buffer against accidental intrusion.

The ecological carrying capacity in Carlingford Lough seems to be exceeded in all but two aquaculture sectors and therefore additional licensing is not recommended in these areas.

Special Protection Area (SPA)

Carlingford Lough SPA [004028] comprises two portions of the Lough extending from Carlingford Harbour to Ballagan Point, with Greenore in between. The predominant habitats within the SPA are intertidal sand and mud flats.

Currently there are 34 aquaculture sites operating off the southern shore of Carlingford Lough. The inner bay is used to produce mussels, while the outer bay is used to produce oysters and mussels. Oyster production is carried out within and throughout the majority of the SPA. No fisheries are currently operational within the Lough. There is a Fisheries Natura Declaration (under Regulation 9 of the European Union (Birds and Natural Habitats) (Sea-fisheries) Regulations 2013) in place overlapping with the SPA, prohibiting the production of mussels or harvest of seed stock from this area.

Status of species in Carlingford Lough SPA

Light-bellied brent Geese

In the *Conservation Objective Supporting Document*, NPWS indicate a long-term population trend (up to 25 years) of -1% or Intermediate (Unfavourable) status for Light-bellied brent geese in Carlingford Lough SPA; due to incomplete IWeBS data this is based on the UK Wetland Bird Survey 'Alerts System' which considers the entire lough. However, in contrast,

more recent targeted Light-bellied brent geese counts are significantly higher; they show a large increase in numbers of Light bellied brent geese in Carlingford Lough from the baseline population of 253 (1995/96-1999/00). The maximum recorded was 687 birds in December 2010 (a count of international importance). This is more in line with the observed national trend for Light-bellied brent geese which is positive.

Mussels

The area of current mussel aquaculture licences is 591.6 ha; while there are applications for a further 322.96ha. This gives a total of 914.56ha of current applications. Subtidal mussel cultivation is located entirely outside of Carlingford Lough SPA. Subtidal waters deeper than 0.5m are beyond the feeding range for Light-bellied brent geese and would not be used by geese for foraging. As noted, while birds may occasionally roost on such waters during daylight hours, Light-bellied brent geese using Carlingford Lough roost overnight in Dundalk Bay. Patterns of boat activity should not therefore negatively impact on brent geese use of the SPA.

Mussels are laid on the seabed; there are no physical structures on the shoreline or subtidally. Geese will continue to have access to the shore to feed on intertidal algae. Negative impacts on Light-bellied brent geese are not anticipated from the licensing of existing and new applications.

In conclusion, it is not anticipated that Light-bellied brent geese would be negatively impacted by the licensing of mussel cultivation in Carlingford Lough. This includes renewal of existing licences and new applications.

Oysters

With respect to oyster cultivation there are 112.7ha previously licensed and 117.47ha of new applications (230.13ha). These are largely located within the SPA. Carlingford Lough SPA is comprised of 304ha of subtidal habitat; 285ha of intertidal habitat and 9ha of supratidal habitat (NPWS, 2013a) (i.e. 598ha). In total the Lough is ca. 51km² in area (5,100ha). However, based on admiralty charts and NPWS mapping the amount of available intertidal/shallow subtidal waters (across the tidal range) can extend to as much as 475ha within the SPA (ca. 80% of available habitat, within the SPA). With respect to oyster cultivation the applications could result in trestle coverage of ca. 23.7% of available habitat for existing licences and ca. 24.7% for new applications; or 48.4% of available habitat within the SPA; this figure will increase on neap tides, but could decrease somewhat on spring tides.

As outlined in the *Methods* section of the Appropriate Assessment report the approach taken in the past has been to look at the relationship between the area proposed for aquaculture and areas of suitable habitat within the SPA/bay. However, in the case of Carlingford Lough only a small portion of the bay is designated as a SPA, while Light bellied brent geese are known to use extensive areas outside the SPA; along the north shore in Northern Ireland and within the SPA in UK waters. Therefore, to take the above percentages as representative of the level of displacement within Carlingford Lough as a whole would be misleading as there are extensive areas of shoreline and intertidal habitat used by Light-bellied brent geese throughout the Lough. Use of the wider Lough was therefore also considered. Also the loss of foraging habitat due to placement of trestles may also be offset in part by these structures acting as stable sites upon which green algae growth can grow; though it should be noted that maintenance of oyster bags will seek to remove excess algae growth to prevent negative impacts on oysters being cultivated.

Martin (2011) recorded peak counts of 438 birds in Zone 1 (Ballagan to Greenore; March 2011) and 412 in Zone 2 (Greenore to Carlingford; Dec 2010); both sites clearly can support large numbers of brent geese even with present levels of aquaculture. It is, therefore, not anticipated that Light-bellied brent geese would be negatively impacted by the renewal of existing licensing for oyster cultivation in Carlingford Lough.

With respect to south of Greenore the existing trestles on the lower shore do appear to have moved up the shore to follow the shoreline and avoid the deeper subtidal channel. Behind the trestles is an area of shore that can be utilised by Light-bellied brent geese. However, there are also new applications south of Greenore which propose to extend further up the shore as well as extend the area of trestle cover southwards towards Ballagan. While brent geese seem to have acclimated to present patterns of aquaculture activity it is not clear whether they could continue to use the site if the area between the existing trestles and the shoreline were infilled; or if loss of foraging opportunities would be adequately offset by growth of green algae on the trestles. During the Loughs Agency 2012 survey this area south of Greenore (S2) accounted for 23% of goose observations; displacement of birds to this extent would result in a significant level of displacement if geese were displaced by proposed activities.

Terns

Terns are a species for which Carlingford Lough SPA (UK9020161) has been designated. There is no spatial overlap between the proposed aquaculture sites and the nesting sites on islands at the mouth of Carlingford Lough. Access by boat and tractor will not result in disturbance of birds nesting on these islands. It is not anticipated that licensing of the

current proposals of mussel and oyster cultivation licences would negatively impact upon tern species for which Carlingford Lough SPA has been designated.

Recommendations

With respect to licensing of new oyster culture applications, there are a number of areas of uncertainty. For example, the potential for increased levels of activity and infilling to negatively impact on early season use of eelgrass beds north of Greenore is unclear. In particular the risk of increased usage of access tracks could result in displacement of birds and loss of foraging time. The importance of eelgrass to birds early in the season and potential use by birds using Carlingford Lough as a stopover before continuing to migrate to site further south is of note. Furthermore, as previously noted, the risk that infilling with trestles towards the shoreline might impact on foraging more generally cannot be fully discounted.

A programme of monitoring of numbers and spatial distribution of Light-bellied brent geese will be implemented in Carlingford Lough to consider the potential impact of new applications. As part of this the use of trestles for foraging will be investigated; looking at frequency of use; numbers feeding; timing during the tidal cycle and seasonality. The objective would be to provide a more quantitative understanding of the degree that trestles provide foraging opportunities for Light-bellied brent geese and to what degree this can compensate for any potential habitat loss.

Incidents of disturbance will also be recorded. This will consider issues such as response to tractors using the access lands and response to workers, as it was noted that geese at Carlingford seem to have acclimated to such activities. When workers are on site it will be assessed how close to trestles brent geese tend to forage. This would help to inform the decision on new applications and the degree to which infilling an extension towards the shore might negatively impact the geese.

ISSUES RAISED DURING THE AQUACULTURE LICENSING PROCESS FOR SITES IN CARLINGFORD SHORE (SITE CODE 002306) and CARLINGFORD LOUGH SPA (SITE CODE 004078)

A number of issues relevant to the Appropriate Assessment were raised during the aquaculture licensing consultation process. These issues have been considered by the Department and its scientific advisors and are addressed below:

1. Breach of Carrying Capacity

Comment: *'The impact of licensing should be seriously considered in terms of its potential to breach the carrying capacity'.*

Response: The carrying capacity of Carlingford Lough was addressed in the Appropriate Assessment. Aquaculture sites to be licensed will be brought within ecological carrying capacity thresholds and not result in a net increase in the carrying capacity.

2. Dredging of Mussels

Comment: *'The main concern is the use of dredging as a mean to harvest the mussels'.*

Response: The concerns of the impact of mussel dredging are noted along with reference to a publication on the topic by Dolmer and Frandsen (2002). However, an alternative observation to the impact of mussel dredging in the Limfjorden was also included in this publication but not referenced in the submission. Reference to changes in epifauna changing in communities following dredging in Limfjorden may also have been attributed to the fact the area is considered eutrophic and subject to annual oxygen depletion, that is stressed (therefore not just impacted by mussel dredging). Furthermore, it should be noted there is no other viable method to harvest bottom-grown mussels.

3. Calculation of Carrying Capacity

Comment: *'We are concerned that unused sites are preventing aquaculture expansion elsewhere in Carlingford Lough by adversely affecting the theoretical ecosystem carrying capacity which is referenced in the Appropriate Assessment'.*

Response: The Department accepts the premise proposed as regards the area of some sites likely to be unused when calculating carrying capacity. This constraint was noted in the modelling report cited.

4. Seal Haul out areas

Comment: *'Some modification is required to protect the seal haul out area at Perch/Black Rock'.*

Response: Aquaculture sites to be licensed will be redrawn to maintain a buffer of approximately 200 metres radius from the Seal Rock haul out site.

5. Light bellied Brent geese

Comment: *'A significant negative impact on the Light-bellied Brent geese within Carlingford Lough SPA by proposed new oyster cultivation cannot be ruled out. It is recommended that prior to the granting of licenses, the proposed monitoring programme as outlined in the Draft Conclusion Statement be carried out'.*

Response: The tender to carry out the monitoring work was advertised in July/August 2019 and a contract since offered. A summary of the monitoring programme is outlined below;

- This programme will focus on systematic monitoring of Light-bellied brent Geese distribution in Carlingford Lough SPA.
- The programme will monitor numbers and spatial distribution of Light-bellied brent geese in Carlingford Lough SPA. As part of this the use of trestles (i.e., structures used in aquaculture production) for foraging should be investigated; looking at frequency of use; numbers feeding; timing during the tidal cycle and seasonality. The objective will be to provide a quantitative understanding of the degree that trestles provide foraging opportunities for Light-bellied brent geese and to what degree this can compensate for habitat loss.
- In addition, incidents of disturbance will also be recorded. This should consider issues such as response to tractors using the access lanes and response to workers. When workers are on site how close do geese forage on trestles. This would help to inform the decision on new applications and the degree to which infilling and extension towards the shore might negatively impact upon geese.
- Monitoring to encompass one 'winter' seasons 2019/2020 with final reporting due in May 2020.
- The report will present a summary of site-use by the shorebird species while also providing a commentary on the likely interactions with aquaculture activities and any other prominent features on the shore, specifically as it relates to species distribution within the site.

6. Suitable habitat outside the SPA

Comment: *When assessing the potential impacts of aquaculture activities on the availability of suitable habitat for Light-bellied Brent Geese (an SCI for the SPA), the*

Appropriate Assessment for Carlingford Lough SPA considers the availability of suitable habitat outside the SPA. The assessment needs to take into account the availability of suitable habitat within the SPA, not outside it.'

Response: This monitoring programme is designed to capture this information. However, it is important to point out that habitats outside of the Carlingford Lough SPA are as important as they may be found within other SPAs (in Northern Ireland or Dundalk Bay) and are thus worthy of consideration.

7. Mitigation Measures and Management Actions

Comment: *'The buffer zone around the keystone community – Zostera be a minimum of 30m as agreed with DAFM in Cotbber 2013 should also be included'*

Response: In relation to access routes crossing the *Zostera* beds, it has been proposed to minimise the extent of routes actually crossing *Zostera* beds in order to protect the habitat. The revised routes have been agreed in conjunction with the operators, BIM, AFMD and MED.

8. New methodology culture of oysters

Comment: *'A new method is being employed for culture of oysters within the site. While scientific assurance has been provided on the impact of the traditional intertidal bag and trestle method, no such assurance has been provide for this new methodology'*

Response: The Department notes alternative culture methodology is proposed within the site but it is considered that the use of such technology would not result in any appreciable disturbance to the seabed beneath the trestles. This system would allow for good water flow beneath the trestles, thus avoiding build-up of fine sediment. Studies in Canada comparing floating systems (all be they somewhat different than those proposed in Carlingford) demonstrated no appreciable difference in sediment biogeochemistry beneath the system and control locations. Furthermore, the purpose of the system is to ensure that oysters in the bags are turned via hydrodynamic forcing rather than by operators. This would result in less handling necessary on the shore and thus less activity and potential to disturb bird species at the sites.

SUMMARY OF MITIGATION MEASURES AND MANAGEMENT ACTIONS THAT ARE BEING IMPLEMENTED AS A CONSEQUENCE OF THE FINDINGS IN THE APPROPRIATE ASSESSMENT REPORT

Taking account of the recommendations of the Appropriate Assessment, as well as additional technical/scientific observations, the following measures are being taken in relation to licensing aquaculture in this SAC and SPA:

- Sites to be licensed will be redrawn to maintain a buffer of approximately 200 metres radius from the Seal Rock haul out site.
- Where necessary, proposed access routes will be amended and a Licence condition will be inserted requiring strict adherence to the approved access routes over intertidal habitat in order to minimise species/habitat disturbances.
- Aquaculture sites will be brought within Ecological Carrying Capacity thresholds.
- A programme of monitoring numbers and spatial distribution of light-bellied brent geese will be implemented to consider the potential impact of new applications. An Adaptive Management Plan will be applied based on the results of this targeted monitoring programme of light-bellied brent geese. In the event of increased or significant levels of displacement of light-bellied brent geese being observed, specific management actions (with a view to reducing disturbance effects) will be implemented. These will be operationalised in licence conditions.
- All aquaculture licences are subject to standard licence conditions which cover, among other things, any further actions that might be required in the event of deterioration of conservation status of habitats/species at site level that is directly attributable to shellfish culture operations.
- A Licence condition will be inserted requiring full implementation of the measures set out in the draft Marine Aquaculture Code of Practice prepared by Invasive Species Ireland (e.g. <http://invasivespeciesireland.com/cops/aquaculture>).
- The movement of stock in and out of Carlingford Shore SAC and Carlingford Lough SPA should adhere to relevant fish health legislation.
- The use of updated and enhanced Aquaculture and Foreshore Licences containing terms and conditions which reflect the environmental protection required under EU and National law.

Conclusion

The Licensing Authority is satisfied that subject to adaptation of the above-listed mitigation measures, aquaculture licensing is not likely to significantly and adversely affect the integrity of the Carlingford Shore Special Area of Conservation and Carlingford Lough Special Protection Area.

October 2019