

Submission AGR 00784-19: Recommendation to grant an Aquaculture/Foreshore Licensing Application for 1 site (T12/523A)

TO: Minister
STATUS: Completed
PURPOSE: For Decision

AUTHOR: Maher, EileenM
OWNER: Maher, EileenM
REVIEWERS: Farrell, Geraldine
O'Callaghan, Grace
Quinlan, John
Beamish, Cecil
Smith, Ann

DIVISION: Coastal Zone Management
DECISION BY:

Final comment

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

Action required

Ministerial Determination on Aquaculture/Foreshore Licensing Application (T12/523)

Executive summary

The Minister's determination is requested in relation to an application of an Aquaculture Licence from Kearney Oysters Ltd, 43 Donagh Park, Carndonagh, Co. Donegal. The application is for the culture of Pacific Oysters using bags and trestles on Site T12/523A totalling 0.9077 hectares on the foreshore in Trawbreaga Bay, Co. Donegal.

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 the Aquaculture and Foreshore Licences sought be granted to Kearney Oysters Ltd for the reasons outlined in the 'Detailed Information' section below.

Detailed information

DECISION SOUGHT

The Minister's determination is requested in relation to an application of an Aquaculture Licence from Kearney Oysters Ltd, 43 Donagh Park, Carndonagh, Co. Donegal. The application is for the cultivation of Pacific Oysters using bags and trestles on Site T12/523A, totalling 0.9077 hectares on the foreshore in Trawbreaga Bay, Co. Donegal.

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

BACKGROUND

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

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

APPLICATION FOR AN AQUACULTURE LICENCE

An application (**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 and trestles in relation to a 0.9077 hectare site

on the foreshore in Trawbreaga Bay, Co. Donegal (numbered T 12/523A – see TAB A).

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 (MED): The substrate on this site is mostly firm underfoot and suitable for load bearing (aquaculture vehicle traffic and trestles). The site does not impinge on low water river channels and will not impact on migratory fish species using such rivers. The site has limited visibility due to distance away and partial screening by roadside vegetation. MED recommended licensing the site once the applicant removes all disused trestles in this area which once belonged to a previous farm in this area. We received confirmation from MED on the 08th of January 2019 that all disused trestles have been cleared from the area.

Marine Survey Office (MSO): No objection to this application. Any markers for the site must receive sanction in advance from CIL. It is also 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: No comments received in relation to this application.

Statutory Consultation – TAB C

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

Comments were received from the following statutory bodies:

Department of Culture, Heritage & the Gaeltacht (DCHG): The Dept acknowledge the consideration of previous observations may and offered comments in relation to the Code of Practice to be developed. This issue has been covered in the most recent AA Conclusion Statement **(TAB G)**.

Marine Institute: The MI noted the site is located within the Trawbreaga Bay Shellfish Growing waters and within the North Inishowen Coast SAC. They recommend the continued use of triploid stock in Trawbreaga. They recommended that the licensee is required to prepare a Contingency Plan for the approval of the Department of Agriculture, Food and the Marine which should identify, inter alia, methods for the removal from the environment of any non-target species introduced as a result of operation at this site. They also recommended that the source of seed be approved by the Department of Agriculture Food and the Marine and the access route over the intertidal habitat be strictly adhered to, in order to minimise habitat disturbance. The MI also suggest that the CLAMS process might be useful and appropriate vehicle for the development and implementation of alien species management and control plans. These issues can all be covered in the aquaculture licence if granted **(schedule 4)**.

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

Commissioner of Irish Lights (CIL): CIL had no objection to this application. No objection to this application provided that, if the licence is granted, all structures must be clearly marked as required by regulations.

Donegal County Council: No objection to the application. The development will not result in significant intensification It is considered that the development will not represent a visual intrusion into the scenery of the host area and is considered to be

acceptable.

Bord Iascaigh Mhara (BIM): Following consultation within BIM they are satisfied that the proposed operations do not conflict with any other aquaculture or inshore fisheries interest in the area and have no objection to the renewal application.

An Taisce: Have raised a number of issues in relation to discrepancies between application/licence count in the AA Reports, habitats, bird displacement and use of triploid oyster stock.

The Department and its scientific advisors note the discrepancies identified by An Taisce within and among the various documents in relation to habitats affected. This is a consequence of a very fluid assessment process wherein changes in number of sites and spatial extent of sites was occurring on a regular basis. This resulted in a final AA report for Trawbreaga Bay being prepared and submitted to the Department in July 2019 which updated all data. The noted discrepancies did not affect the overall Natura habitat conclusions as the activity in question is deemed to be non-disturbing to intertidal habitats. The remainder of the comments by An Taisce in relation to this application are the same as the comments to applications which went to consultation later in the year and therefore have all been covered in the most recent AA Conclusion Statement (TAB G).

Updated Appropriate Assessment Report and Appropriate Assessment Conclusion Statement

This application was circulated to the Statutory and Public consultation at a time when the AA Report of July 2018 and subsequent conclusion statement (TAB D) were the most up to date Natura data available. However the Appropriate Assessment Report and Appropriate Assessment Conclusion Statement were both updated in 2019. Following the updated assessment it was found that this application was still non-disturbing. For completion of available data the updated AA Conclusion Statement is also attached to this submission.

Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in the Donegal Democrat on 19th March 2019. The application and supporting documentation were available for inspection at Bunrana and Carndonagh Garda Stations for a period of 4 weeks from the date of publication of the notice in the newspaper.

There were no objections/comments received from the public consultation process.

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

CRITERIA IN MAKING LICENSING DECISIONS

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

a) the suitability of the place or waters

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

b) other beneficial uses of the waters concerned

Public access to recreational and other activities can be accommodated by this project. Aquaculture appropriately licensed can co-exist with other leisure activities.

c) the particular statutory status of the waters

(i) Natura 2000

The site is located within a Natura area (i.e. in a Special Area of Conservation or Special Protected Area). An Appropriate Assessment of Aquaculture in North Inishowen Coast SAC (Site Code: 2012) and Trawbreaga Bay SPA (site code: 4034) was carried out. This Assessment and its findings were examined by the Department and its scientific/technical advisors and a Conclusion Statement has been produced outlining how it is proposed to licence aquaculture in compliance with Habitats/Birds requirements. The Appropriate Assessment and Licensing Authority's Conclusion Statement are available on the Department's website. No particular issues in relation to birds / habitats arise in relation to this site.

(ii) Shellfish Waters

The site is located within Trawbreaga Bay Shellfish Designated Waters. Oysters from this area currently have a "B" 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 Trawbreaga Bay and in the Licensing Authority's Conclusion Statement.

f) the effect on the environment generally

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

g) DCHG raised no objection to the development from an underwater archaeological perspective

RECOMMENDATION

It is recommended that the Minister:

approves the granting of an Aquaculture Licence (**TAB E**) to Kearney Oysters Ltd, 43 Donagh Park, Carndonagh, Co. Donegal for a period of ten (10) years for the purpose of cultivating Pacific Oysters using bags and trestles in accordance with the terms and conditions of the attached draft Aquaculture Licence.

REASONS FOR DECISION

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

"Determination of Aquaculture/ Foreshore Licensing application –T12/523

Kearney Oysters Ltd has applied for authorisation to cultivate Pacific Oysters using bags and trestles on the inter-tidal and/or sub-tidal foreshore on a 0.9077 hectare site (T12/523A) in Trawbreaga Bay, Co. Donegal.

The Minister for Agriculture, Food and the Marine has determined that it is in 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. The following are the reasons and considerations for the Minister's determination to grant the licences sought:

-

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

Recommendation to grant a Foreshore Licence application (T12/523)

DECISION SOUGHT

The Minister's determination is requested please in relation to the application for a Foreshore Licence from Kearney Oysters Ltd, 43 Donagh Park, Carndonagh, Co. Donegal, for a site in Trawbreaga Bay, Co. Donegal, in which it is proposed to conduct aquaculture.

BACKGROUND

Marine aquaculture operations require separate Aquaculture and Foreshore Licences and Ministerial approval is 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 0.9077 hectare site (numbered T12/523A).

LEGISLATION

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

CONSULTATION AND PUBLIC COMMENT

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

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

DHPLG: There were no comments received from a water quality or foreshore perspective.

Technical Consultation – TAB B

Marine Engineering Division (MED): The substrate on this site is mostly firm underfoot and suitable for load bearing (aquaculture vehicle traffic and trestles). The site does not impinge on low water river channels and will not impact on migratory fish species using such rivers. The site has limited visibility due to distance away and partial screening by roadside vegetation. MED recommended licensing the site once the applicant removes all disused trestles in this area which once belonged to Peter Kearneys farm in this area. We received confirmation from MED on the 08th of January 2019 that all disused trestles have been cleared from the area.

Marine Survey Office (MSO): No objection to this application. Site Markings to be approved by CIL in advance.

Sea Fisheries Protection Authority: No comments received in relation to this application.

Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in the Donegal Democrat on 19th March 2019. The application and supporting documentation were available for inspection at Bunrana and Carndonagh Garda Stations for a period of 4 weeks from the date of publication of the notice in the newspaper.

There were no objections/comments received from the public consultation process.

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

CRITERIA IN MAKING LICENSING DECISIONS

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

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

regard to any decision of the licensing authority in relation to the Aquaculture Licence.

RECOMMENDATION

It is recommended that the Minister:

approves the granting of a Foreshore Licence (**TAB F**) Kearney Oysters Ltd, 43 Donagh Park, Carndonagh, Co. Donegal, for a site in Trawbreaga Bay for a period of ten (10) years for occupation of the site for the carrying out of aquaculture activities as defined in the Aquaculture Licence, and in accordance with the terms and conditions of the attached draft Foreshore Licence.

Related submissions

There are no related submissions.

Comments

Farrell, Geraldine - 20/11/2019 16:20

It is recommended that the Minister approves the granting of the Aquaculture / Foreshore Licences, as applied for, to Kearney Oysters Ltd for the reasons outlined in the submission and in accordance with the terms & conditions of the attached draft licence (s).

O'Callaghan, Grace - 21/11/2019 12:13

I have reviewed this submission and agree with the recommendation made that the Minister approves the granting of the Aquaculture / Foreshore Licences, as applied for, to Kearney's Oysters Ltd for the reasons outlined in the submission and in accordance with the terms & conditions of the attached draft licence(s). GOC

Quinlan, John - 25/11/2019 13:38

Recommended for approval please.

Beamish, Cecil - 27/11/2019 12:23

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

Smith, Ann - 27/11/2019 12:25

Approved for submission to Minister. AS 27/11/2019

Lennox, Graham - 29/11/2019 11:46

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

User details

INVOLVED: Maher, EileenM
Farrell, Geraldine
O'Callaghan, Grace
Quinlan, John
Beamish, Cecil
Sub Sec Gens Office
eSub Sec Gen
eSub Ministers Office
eSub Minister

READ RECEIPT: Maher, EileenM
Farrell, Geraldine
O'Callaghan, 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
Telephone: (023) 8859500
Fax: (023) 8821782



Revised June 2016

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. _____

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)	
1.	KEARNEY'S KEARNEY OYSTERS LTD.
Address:	43 DONAGH PARK, CARN DONAGH CO. DONEGAL
2.	
Address:	
3.	
Address:	
4.	
Address:	

Contact in case of enquiries (if different from above) KEARNEY OYSTERS LTD	
Contact Name	KEARNEY OYSTERS LTD.
Organisation Name (if applicable)	KEARNEY OYSTERS LTD.
Address	43 DONAGH PARK CARN DONAGH CO. DONEGAL

PART 1: PRELIMINARY DETAILS

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

TYPE OF AQUACULTURE

See Guidance Note 3.2

Indicate the relevant type of application with a tick.

(i) **MARINE-BASED**

- | | | |
|--|-------------------------------------|--------------------------|
| Finfish | <input type="checkbox"/> | Go to Parts 2.1 and 2.1A |
| Shellfish <i>Subtidal</i> | <input 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 checked="" type="checkbox"/> | Go to Parts 2.4 and 2.4A |
| Aquatic Plants | <input type="checkbox"/> | Aquatic Fish Food | <input checked="" 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. |
|--------------------------|---|

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

GOOD FIRM GROUND.

(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.

Please see attached map.

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

N/A.

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

Yes - Class B.

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

Yes

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

Yes No

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

By hand.

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

N/A

(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

2.2 MARINE-BASED SHELLFISH AQUACULTURE

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

Proposed Site Location

- (i) Bay: TRAWBREGA
- (ii) County: DUNEGAL
- (iii) OS Map No: 7
- (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.] IRISH GRID - EUNAN
(1) 24507 449078 (2) 245542 448836
(3) 246040 448674 (4) 448915
- (v) Size of Site (hectares): 9

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

GIGAS

(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.

(A) FRANCE NISSAN (B) Br Hand

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

(ix) Method of culture (rope, trestles – intensive; bottom – extensive; other) BAGS AND TRESTLES

(x) Proposed number of lines/ropes/trestles as per site layout drawing
1360 TRESTLES

(xi) Proposed Production Tonnage:

Year 1	100	Year 2	120	Year 3	150	Year 4	150	Year 5	150
--------	-----	--------	-----	--------	-----	--------	-----	--------	-----

(xii) (a) Please outline the reasons for site selection:

GOOD ACCESS + GOOD HARD GROUND

**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:

Oyster Farming for ten plus 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:	2	Year 2:	2	Year 3:	2	Year 4:	2
---------	---	---------	---	---------	---	---------	---

PART TIME JOBS

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

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.			✓

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:

MIA

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 € 95-23 with this application.

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

Peter Edward Kearney

Date:

24/5/17.

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

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

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

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

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

1 NO. SITE AT TRAWBREAGA BAY CO.DONEGAL

Co-ordinates & Area

Site T12/5223A (0.9077 Ha)

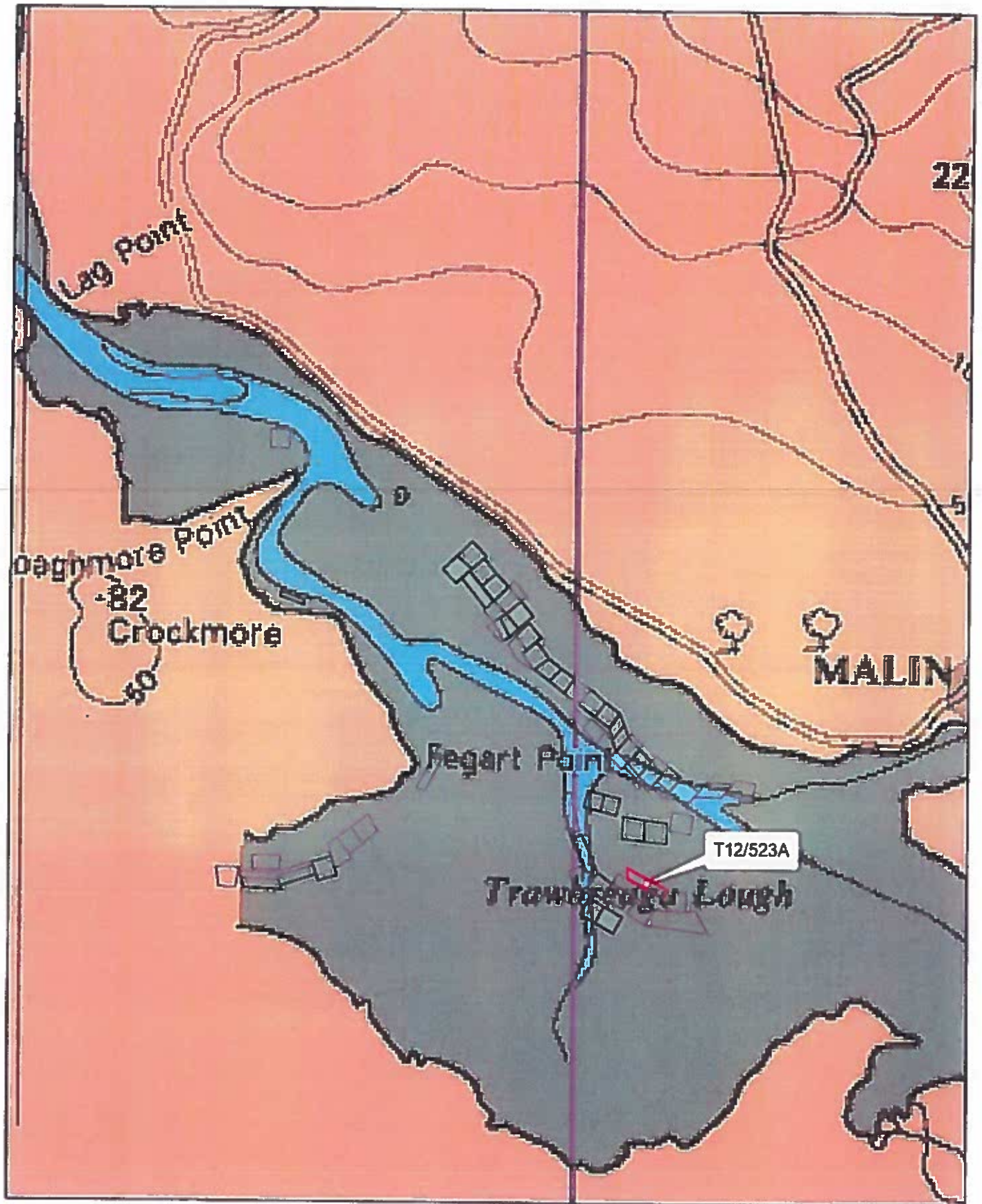
The area seaward of the high water mark and enclosed by a line drawn from Irish National Grid Reference point

245319, 449249 to Irish National Grid Reference point

245520, 449147 to Irish National Grid Reference point

245498, 449110 to Irish National Grid Reference point

245325, 449197 to Irish National Grid Reference point



Aqua Culture Sites

<all other values>

Site_Status	Application
[Red outline]	Application
[Black outline]	Lapsed
[Grey outline]	Licensed
[Dotted outline]	Refused
[Dashed outline]	Revised
[Thin black outline]	Surrendered
[No outline]	Withdrawn

1:24,000

Sites highlighted in red denotes Application
 Part of Admiralty Chart No =2811-0
 Not to be used for Navigation



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

245000

450000

449000

448000

245000

246000

449000

448000



Aqua Culture Sites

<table border="1"><tr><th>Site_Status</th><th>Application</th></tr><tr><td></td><td>Application</td></tr><tr><td></td><td>Licensed</td></tr><tr><td></td><td>Refused</td></tr><tr><td></td><td>Revoked</td></tr><tr><td></td><td>Surrendered</td></tr><tr><td></td><td>Withdrawn</td></tr></table>

- Application
- Licensed
- Refused
- Revoked
- Surrendered
- Withdrawn

100 Meter Distance Grid

1:10,560

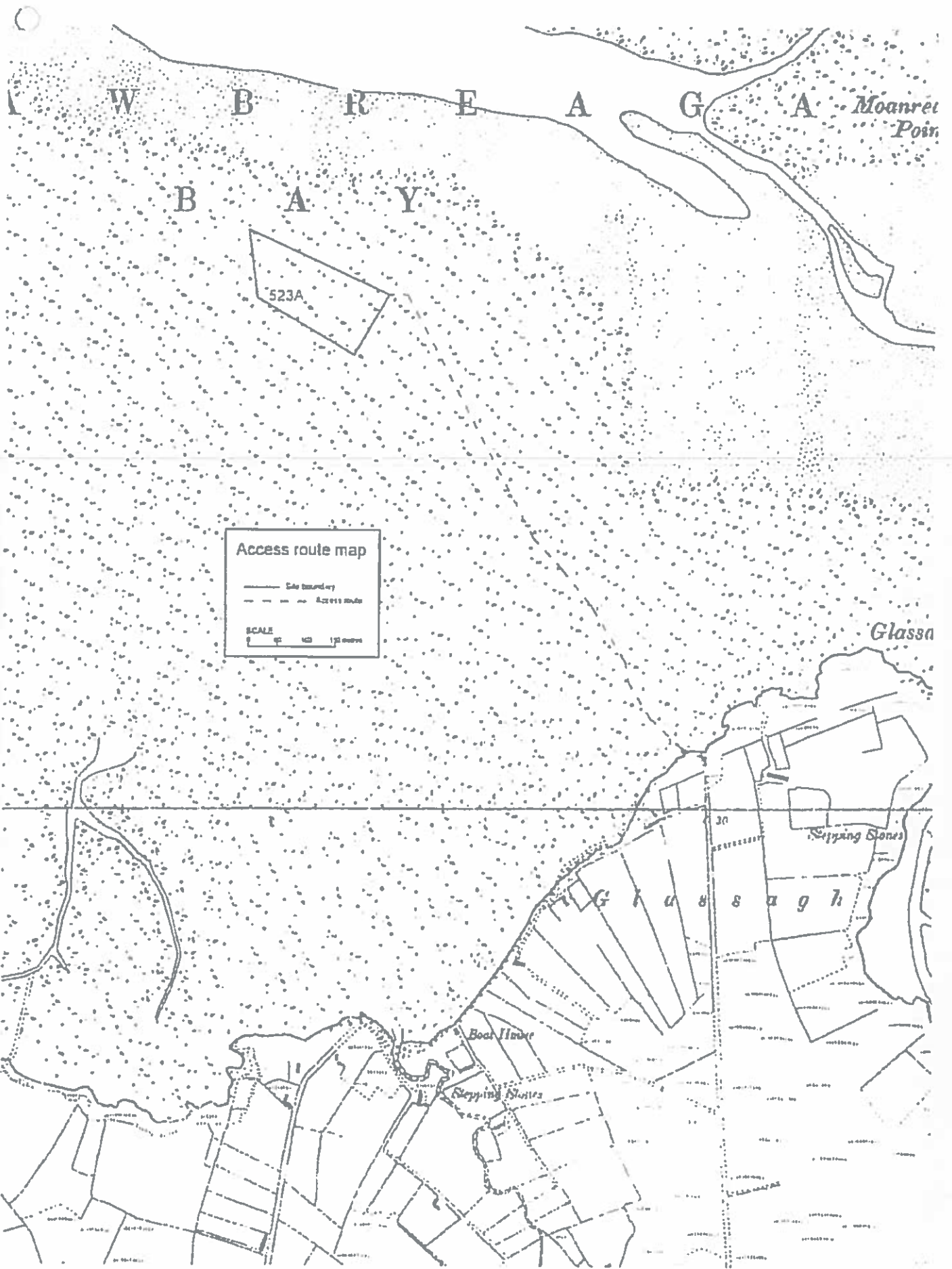
Sites highlighted in red denotes Application

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



Access route map




- Bay boundary
- - - Access route

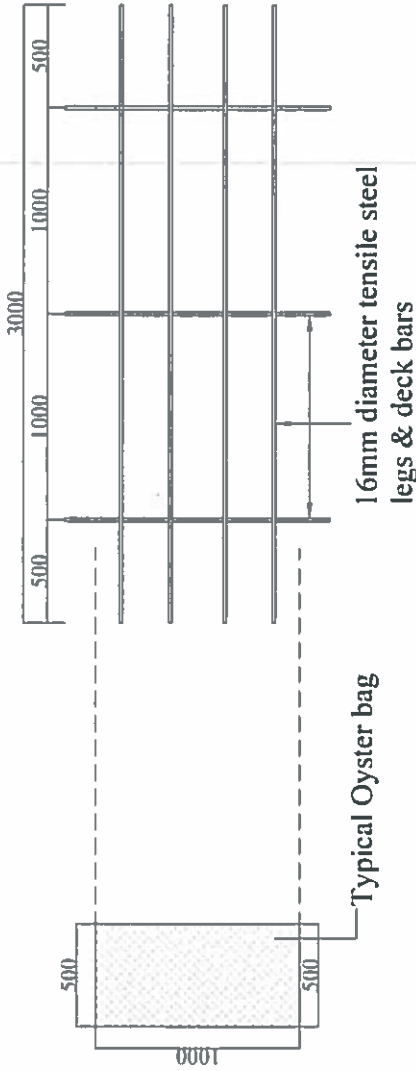
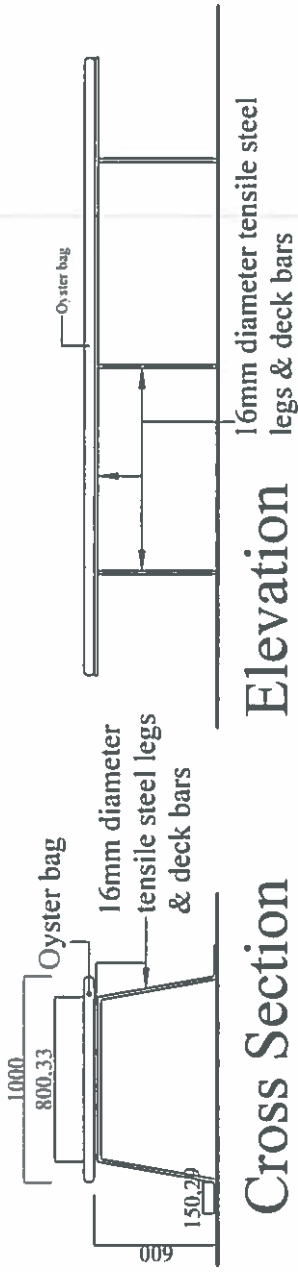
SCALE
0 50 100 meters



Proposed Trestle Layout

Scale: 1/1000

Aquaculture Licence Application	
Ordnance Survey Ireland Licence No. AR0016019 © Ordnance Survey Ireland, Government of Ireland	
DRAWN BY:	CHELEBY
DESIGNED BY:	October House Design Ltd.
	The Mullins Knader Rd Ballyshannon Co. Donegal
	11A Green Hill Road, Ballyshannon, Co. Donegal Tel: 071 91 22222 Email: info@octoberhouse.com www.octoberhouse.com
	  
TITLE	Trestle Layout For Site T12/523A on behalf of Kearney Oysters Ltd.
DRAWING	
Typical Block Layout	
SCALE	1/1000
DATE	Jun 2019
DWG NO	09
REV	



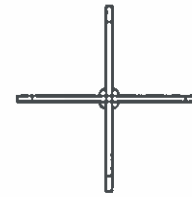
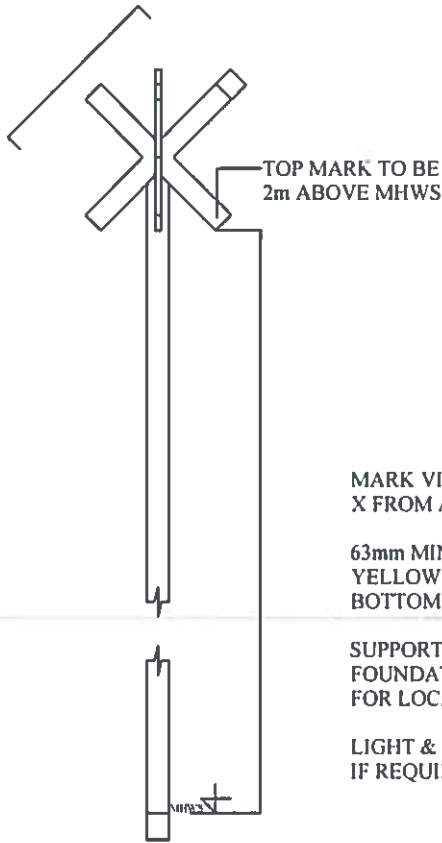
Plan (Oyster bags not shown for clarity)

Typical Trestle Detail

Fig. 1

Scale: 1/25

Aquaculture Licence Application Ordnance Survey Ireland Licence No. AR0016019 Ordnance Survey Ireland, Government of Ireland	
DRAWN BY: OVERTASKING October House Design Ltd. The Mullins Knader Rd Ballyshannon Co. Donegal 11 James Mill Road BENTHAMS, CEMENTHILL 11 James Mill Road BENTHAMS, CEMENTHILL 11 James Mill Road BENTHAMS, CEMENTHILL	CHECKED BY:
TITLE Trestle & Special Mark Beacon Detail For Site T12/523A on behalf of Kearney Oysters Ltd.	
DRAWING Trestle & Special Mark Beacon Detail	
SCALE 1:25	DATE Aug 2019
DRAWING NO. 01.d	SHEET NO. 10



Plan:
Special Mark Beacon

MARK VISIBLE AS YELLOW
X FROM ALL DIRECTIONS.

63mm MIN DIAMETER POLE -
YELLOW FOR 2 METERS BELOW
BOTTOM OF CROSS.

SUPPORT STRUCTURE &
FOUNDATION SUITABLE
FOR LOCATION.

LIGHT & RADAR REFLECTOR
IF REQUIRED.

Elevation:
Special Mark Beacon

Special Mark Beacon Detail

Fig. 2

Scale: 1/25

Aquaculture Licence Application			
Ordnance Survey Ireland License No. AR0016019 © Ordnance Survey Ireland, Government of Ireland			
DRAWN BY:		CHECKED BY:	
© COPYRIGHT OF October House Design Ltd. The Mullins Knader Rd Ballyshannon Co. Donegal J Martin McLaughlin B ENG(Hons), C ENG, M.I.E.I. Mobile: (086) 2217173 Email: info@octoberhouse.org <small>No dimensions to be scaled from this drawing all dimensions to be checked by the contractor on site. any errors or discrepancies to be reported to the engineer in charge.</small>			
			
TITLE Trestle & Special Mark Beacon Detail For Site T12/523A on behalf of Kearney Oysters Ltd.			
DRAWING Trestle & Special Mark Beacon Detail			
SCALE 1/25	o.s. ref.	DRG NO.	REV
DATE Jan 2019		12	

Mr Campbell, Divisional Engineer

SJE 14/5/18



Ms Kelleher, AFMD

RE: Aquaculture licence application at Trawbreaga Bay, Co Donegal by Peter Edward Kearney.

File refs: T12/523

Ms Gill's memo of 26/10/17 and attached application dated 24/5/17 refer.

Application background

The applicant Peter Edward Kearney

[REDACTED]

However not all structures were removed - some disused trestles from the old Trawbreaga farm were not cleared and remain in the Bay at various locations (approx. 200 in number by my estimate) to this day. [REDACTED] is gradually handing over the oyster farm operation to his sons Peter Edward and Oran, both of whom have submitted applications in 2017 for aquaculture licences in Trawbreaga Bay. One of the main reasons why their applications were long delayed were due to the unauthorised oyster farm overlapping with their application sites.

Peter Edward Kearney has applied for a large site of 13.8 hectares in the east part of the Bay. This site is located east of the oyster farms currently licensed/operating in the Bay.

[REDACTED]

Site applied for

On 19/2/18 I inspected site 523A at low spring tide in the company of the applicant and his brother Oran Kearney.

It became clear at an early stage in the inspection that the site as mapped based on coordinates submitted by the applicant was not the site intended. The applicant pointed out his intended boundaries for the site which turned out to be smaller in area and about 300m to the northwest. Based on this meeting the following are the revised site coordinates and this report will focus on the revised site :

245310, 449312

245553, 449203

245493, 449101

245325, 449197 area 2.4603 hectares

The revised area is shown outlined by continuous red line on map overleaf (MAP 1) with superceded site shown by broken red line .

I explained that if a positive licensing decision were to be result this site would probably have to have it's area reduced down further in line with uniform site area approach of around 0.9 hectare per application.



View of site 523A from east boundary (to west)

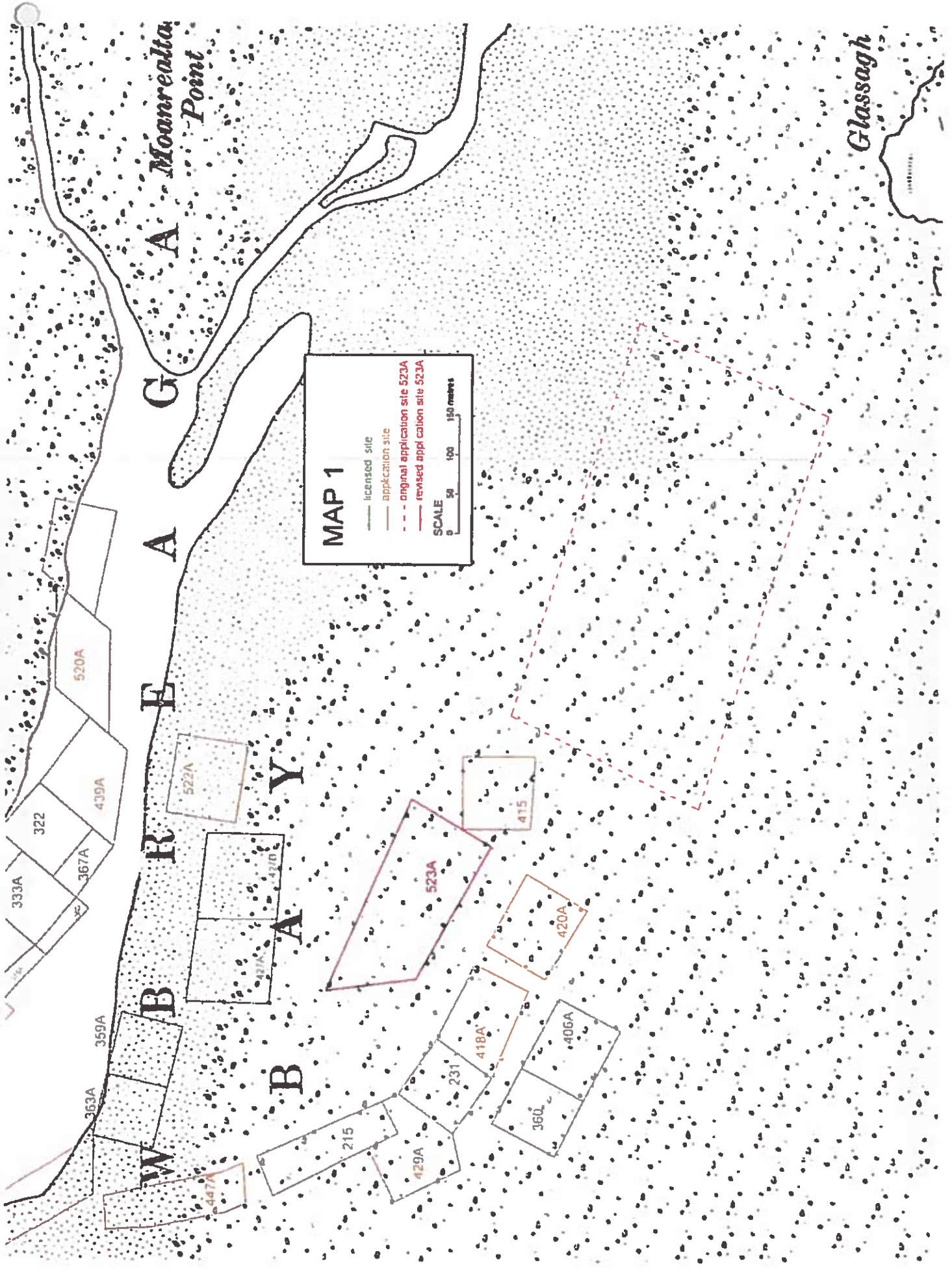
19/2/18

Site characteristics

The substrate was generally clean sand. It was mostly firm sand underfoot. The substrate seemed to be suitable for load bearing (aquaculture vehicle traffic and trestles). Note that there is a significant overlap between this site and the location of what was the oyster farm of Peter Kearney. Much of the southern portion of application site 523A (as revised) was occupied by oyster trestles in period 2000-2016 While no significant structures remain on site 523A there are approximately 100 disused trestles in the general area of the site which have yet to be moved off the shore and disposed of by the Kearney family.

The site is located close to centre of Bay and while Bay waters are sheltered, the site is open to limited fetch winds within the Bay.

I strongly recommend that in the event of a positive licensing decision no licence should actually issue from the Department in this case for site 523A until all remaining disused trestles in the area of



Monrealla Point

Glassagh

MAP 1

- licensed site
- application site
- - - original application site 523A
- revised application site 523A

SCALE
0 50 100 150 metres

333A

322

520A

367A

439A

W

B

A

Y

R

E

A

G

A

A

G

A

522A

427A 427B

215

523A

415

231

418A

420A

363A

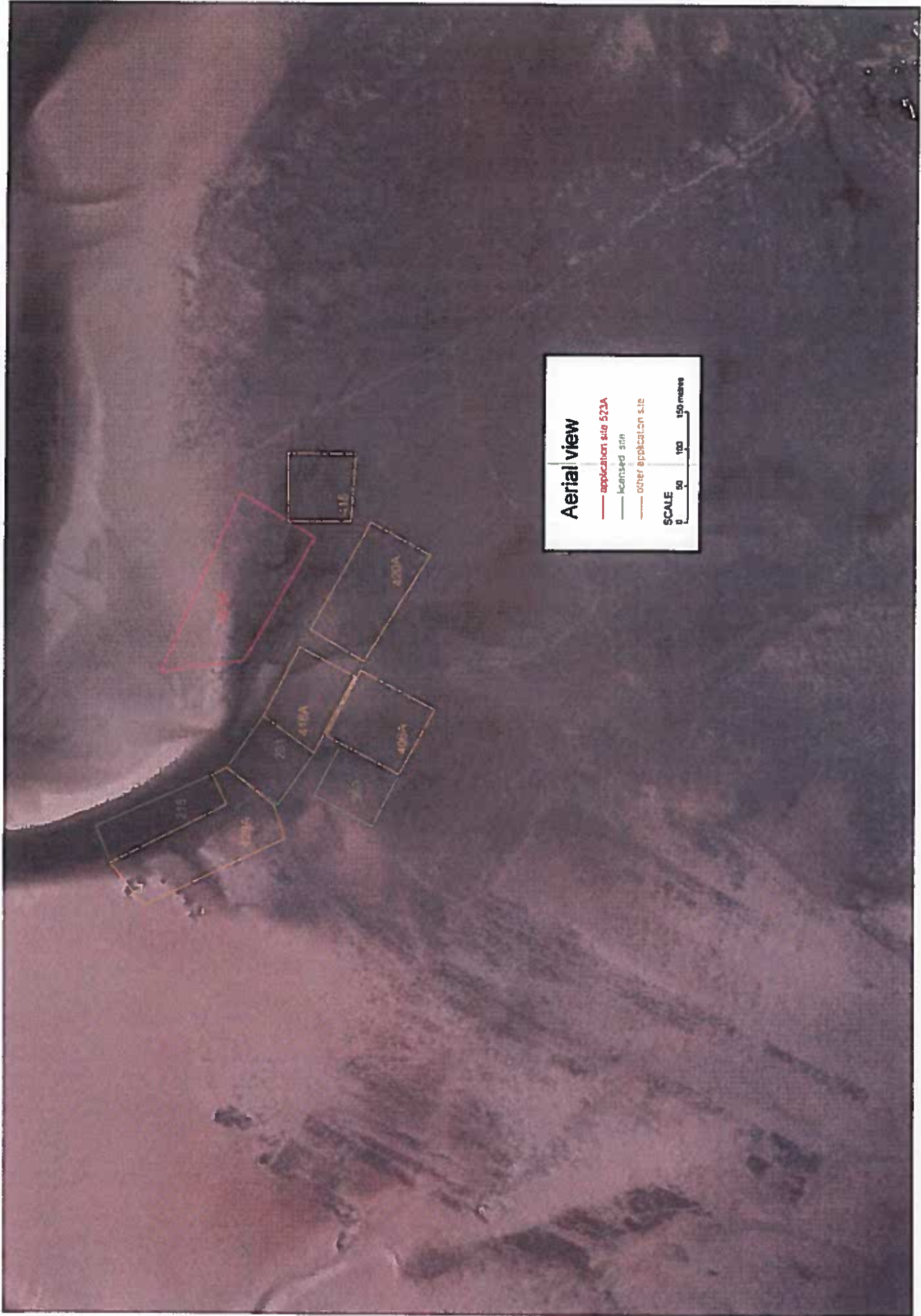
359A

447A

429A

360

406A



Aerial view

- application site 523A
- licensed site
- other application site

SCALE
0 50 100 150 metres

the site and its surroundings that belonged to [REDACTED] former farm are fully removed from the shore. The applicant and his brother took responsibility for clearance of the old oyster farm in 2016 but have not completed the work as yet. There is a public safety issue with such structures being left on the shore.

Development proposal

The applicant proposes to put 1360 trestles on the site and produce 150 tonnes by year 3 onwards. These figures are not compatible – 1360 trestles could produce approximately 70 tonnes of oysters with good seed survival rates. Much higher trestle numbers would be required to produce the production proposed in the application. The applicant may have had a combined site production in mind or use of the site as a seed only site with ongrowing in Lough Foyle. In any case clarification and revision of proposed trestle numbers and production quantities would be required in the context of the revised site area as the figures given relate to a large 9 hectare site.

Adequacy of application documents

Layout drawing – The layout drawing is not adequate in terms of drawing quality. For the revised site now proposed a different trestle layout drawing to that submitted will be required in any case due to different site dimensions and area.

Access map – The site access map provided shows a straight line access route on foreshore running from foreshore access point at Glasahagh Point in a northwest direction to the site. The access route would need to be shown to larger scale and follow closely the existing access route from Glasahagh Point which is used to access other nearby oyster farm sites. The access map provided with the application form is also inadequate in detail provided – scale is too small and foreshore/coastal features detail is lacking with a 1: 50000 scale base map.

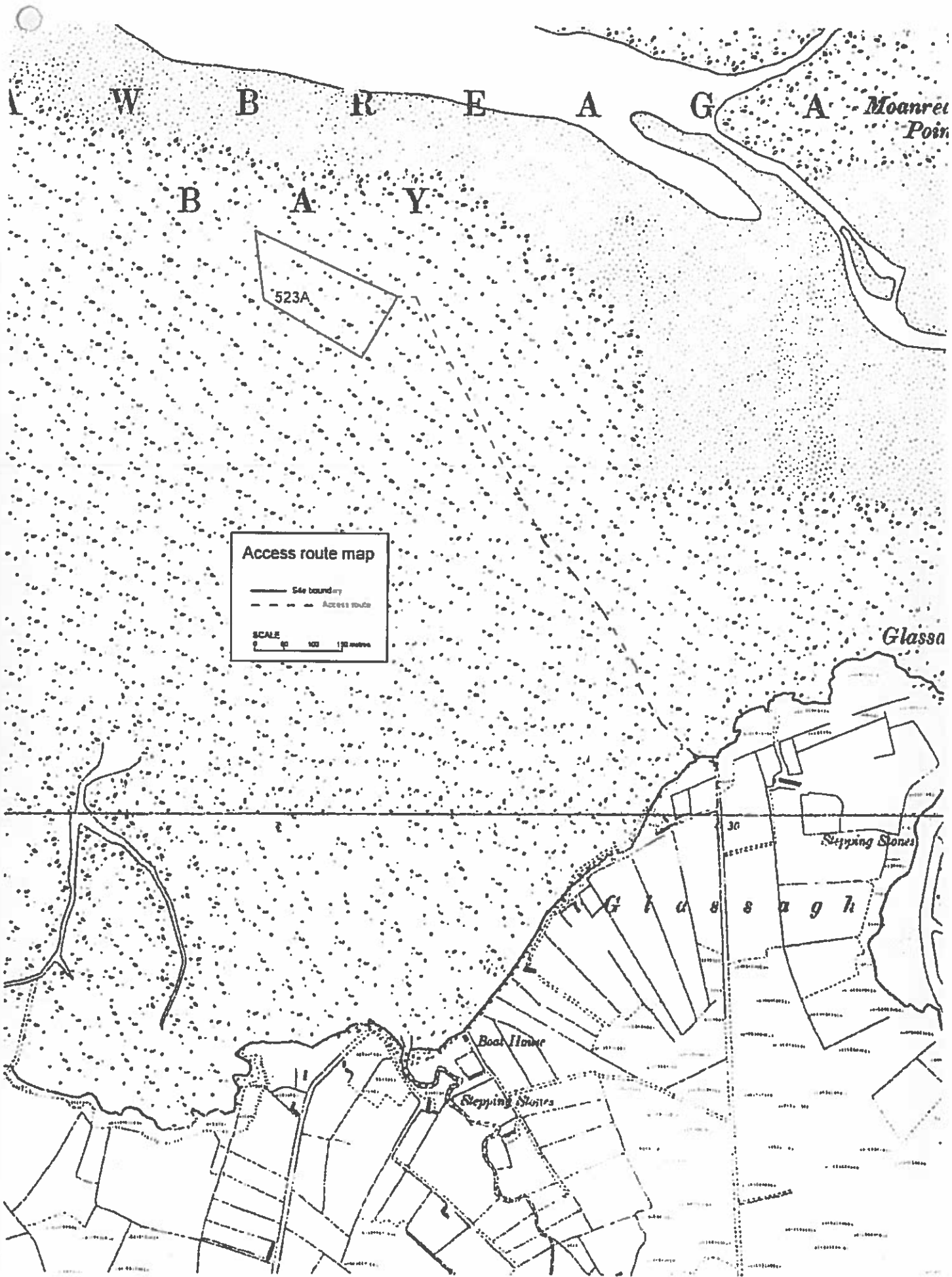
In order to remedy this I have prepared a better access route map (see overleaf) which shows the recommended access route and has suitable scale detail. I recommend this map be associated with the application (and replace that submitted by the applicant).

Oyster trestle + bag drawing provided is a standard DAFM produced drawing showing 0.6m high trestles with 6 bags per trestle . It is adequate.

Potential impacts on other beneficial usages

Natura 2000

Site 523A is located in a Natura 2000 area (North Inishowen Coast SAC and Trawbreaga Bay SPA) and appropriate assessment required under the Habitats Directive is necessary to assess potential impact on Conservation Objectives of the site. Site 523A as originally applied for was included in the " Report supporting Appropriate Assessment of Aquaculture in North Inishowen Coast SAC (Site code: 002012) Marine Institute Version: December 2017" – no significant issue was identified in regard to that version of the site in that report. The revised site area will need to be assessed by MI as it is quite different in location to that assessed in the December 2017 report.



Access route map

- Site boundary
- - - Access route

SCALE
0 50 100 meters

Amenity

The foreshore area in the vicinity of site 523A does not have significant amenity usage.

Fishing

The site does not impinge on low water river channels and will not impact on migratory fish species using such rivers.

The site will not significantly impact on crab potting activity in the area.

Visual impact

Site 523A has limited visibility from public roads due to distance away and partial screening by roadside vegetation. It will be visible in middle view from short sections of the R242 west of Malin Village and from land and foreshore areas near the Bay. My assessment of the significance of visual impact from public views is that it will not be significant – due to view distance, partial screening and low elevation of viewpoints.

In terms of cumulative visual impact I don't anticipate significance of impact higher than a moderate level.

The impact on landscape will not be substantial.

Navigation

There is little or no boat activity in this area of the Bay – occasional boat movements would occur at low water channel 250 m to north of this site. If the site (or group of sites) is marked for navigation the impact on navigation should not be an issue in this case.

Site area recommended (uniform site area approach for Trawbreaga Bay)

In accordance with uniform site area approach adopted by the Department in licensing shellfish aquaculture in this Bay to date I recommend that an area of approximately 0.9 hectares be licensed in this case – I would give priority to the southern part of site 523A which is slightly lower than northern half and was in production before. The sub area that I recommend is outlined by magenta line on MAP 2 overleaf and is defined by the following corner point coordinates:

245319, 449249

245520, 449147

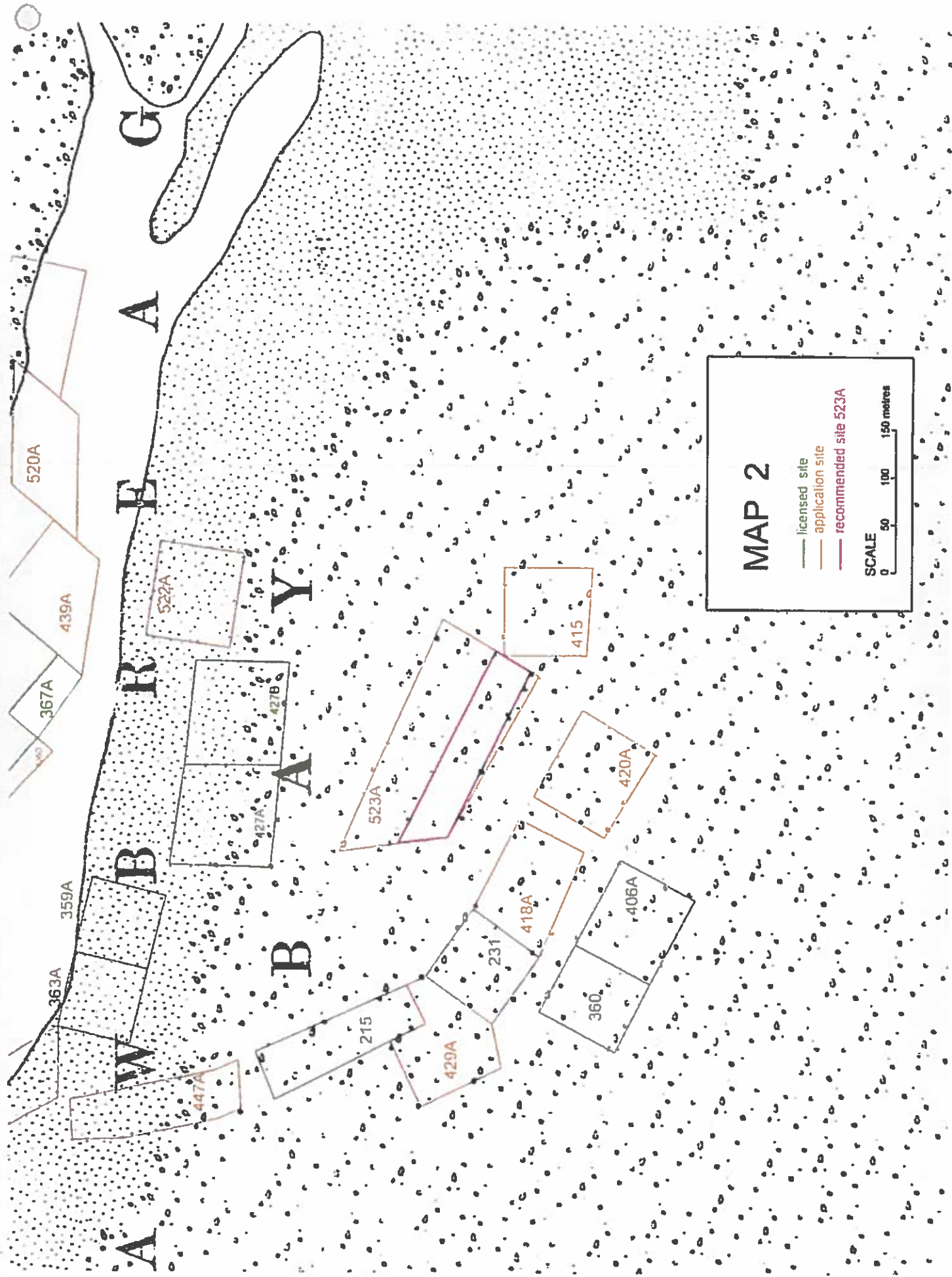
245498, 449110

245325, 449197 the site area is 0.9077 hectares.

Conclusions

The original site area applied for was not suitable for oyster aquaculture due to high site levels – the site as revised by the applicant on 19/2/18 is expected to be more suited for trestle based oyster aquaculture.

Appropriate assessment of revised site area is required.



If a positive licensing decision were to be taken the site area licensed should in my opinion be approximately 0.9 hectares in area – i.e. in line with site size typically applied in this Bay. Such an area is suggested in this report.

The applicant will need to supply a suitable trestle layout drawing and revised production plans for whatever site area is considered licensable.

I have provided a more suitable access route drawing for the application

I recommend in this case [REDACTED] that the applicant be required to remove all disused trestles that belonged to Peter Kearney's former farm in this area of the Bay. If this recommendation is accepted, removal from the shore of all such disused structures should be confirmed before a licence should issue in these 3 cases.

Paul O'Sullivan

Paul O'Sullivan

9/5/18



(1928)



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

26th October 2017

Mr John Campbell Eng.
Dept Of Agriculture, Food & the Marine,
Upper Main Street
Ballyshannon
Co Donegal

DEPT. OF AGRICULTURE
FOOD & THE MARINE
27 OCT 2017
ENGINEERING DIVISION
BALLYSHANNON

Our Ref: T12/523 Peter Edward Kearney

Please see attached application for an Aquaculture and Foreshore licence for the cultivation of pacific oysters on an area of foreshore in Trawbreaga Bay, Co Donegal for your examination. Please may I have your observations as soon as possible.

Yours sincerely

pp Karen Gill
Aquaculture and Foreshore Management Division
Dept. of Agriculture Food & the Marine
National Seafood Centre
Clonakilty
Co. Cork

Ph 023 8859586
Email: Karen.Gill@agriculture.gov.ie

Maher, EileenM

From: O'CALLAGHAN Tom [TomO'CALLAGHAN@dtas.gov.ie]
Sent: 01 May 2018 11:16
To: Gill, Karen
Cc: Coakley, John; OSullivan, Paul; 'info@irishlights.ie'; louise.collins@bim.ie
Subject: T12-523, Oysters, Trawbreaga Bay, Peter E. Kearney

Dear Ms Gill,

Application for an Aquaculture and Foreshore Licence

- This office has no objections from a navigational viewpoint to the above application.
- In order for charts and nautical publications to be updated the applicant is required to inform the British Admiralty Hydrographic Office at Taunton , UK, 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:

The site to be marked with eight yellow spar special marks with a yellow saint Andrews cross as topmark, the topmark to be visible at all stages of tide at a height of two metres above the water. The marks to be collated at the corners of the site and two each on the north and south boundary at even spacing.

The Department Engineer may wish to comment on this proposed marking in the context of the overall marking of the bay

regards

Tom O'Callaghan
Marine Survey Office

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

Centre Park House, Bóthar Na Páirce Láir, Co. Corcaigh, T12 RKON
Centre Park House, Centre Park Road, Co. Cork, T12 RKON

T +353 (0)21 602 6323
tomocallaghan@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.

The information in this email is confidential and may be legally privileged. It is intended solely for the addressee. Access to this email by anyone else is unauthorised. If you are not the intended recipient, any disclosure, copying, distribution or any action taken or omitted to be taken in reliance on it is prohibited and may be unlawful. *****



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. Karen Gill
Aquaculture and Foreshore Management Division
Dept. of Agriculture Food & the Marine
National Seafood Centre
Clonakilty
Co. Cork

Your Reference: T12/523

Our Reference: LA:0366.0530

Date: 06/12/2017

LL: LA0366.0530

Applicant: Peter Edward Kearney

Site: Trawbreaga Bay, Co. Donegal

Dear Ms. Gill,

Thank you for your letter advising us of this application.

Based on the information supplied, there appears to be no objection to the development. It is important to ensure that no navigable inter-tidal channels are impeded by the site.

If a licence is granted, all structures must be clearly marked as required by Regulations and Licensing Permit conditions and to the approval of the Nautical Surveyor with the Marine Survey Office.

We would request that you include the following terms in the licence—

- That the applicant secures Statutory Sanction from the Commissioners of Irish Lights for the aids to navigation that may be required by the Marine Survey Office. These aids should be in place before development on the site commences. Statutory sanction forms are available at <http://www.irishlights.ie/safety-navigation/statutory-sanction.aspx>
- The size and specification of aids to navigation should be of the design and specification approved by the Marine Survey Office and must be agreed in advance with the Commissioners of Irish Lights.

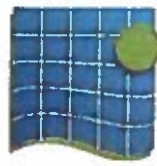
It is recommended that local fishing and leisure interests be consulted prior to a decision being made.

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

Yours sincerely,

Deirdre Lane
for Director of Operations and Navigation

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: 04 April 2019

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

Advice on Aquaculture Licence Application

Applicant	Kearney Oysters Ltd
Application type	New
Site Reference No	T12/523A
Species	Pacific Oysters- Bags and Trestles
Site Status	Located within the Trawbreaga Bay SPA (Site Code 004034) and the North Inishowen Coast SAC (Site Code 002012) Located within the Trawbreaga Bay Shellfish Growing Water Area.

Dear Eileen

This is an application for the renewal of an aquaculture licence for the cultivation of pacific oysters (*Crassostrea gigas*) using bags and trestles at Site T12/523A on the foreshore at Trawbreagea, Co. Donegal. The area of foreshore at Site T12/523A is 0.9007Ha.

Site T12/523A is located within the Trawbreaga Bay Shellfish Growing Water Area.

Under Annex II of EU Regulation 854/2004 oysters in Trawbreaga Bay currently have a "B" Classification .

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.

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

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 T12/522A is located within the Trawbreaga Bay SPA (Site Code 004034) and the North Inishowen Coast SAC (Site Code 002012). We note the findings of the Appropriate Assessments reports² and the Department's Natura

¹ Forde, J., F. O'Beim, 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/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessmentsscreeningcarriedout/donegalbayappropriateassessment/appropriateassessmentforaquacultureandfisheriesinnorthinishowencoastsacandtrawbreagabavspa/>

conclusion statement³ in regard to the impacts on the Conservation Objectives within the Trawbreaga Bay SPA and the North Inishowen Coast 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 reports and the mitigation measures set out in the Department's Natura Conclusion Statement.

Given the short residence time of the bay it is concluded that the risk of establishment of non-native oyster species is low in the Trawbreaga Bay portion of the North Inishowen Coast SAC and Trawbreaga Bay SPA. Notwithstanding this, the Marine Institute recommends the continued use of triploid oysters by operators in Trawbreaga.

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 site, the applicant be required to draw up a contingency plan, for the approval of DAFM, which shall identify, *inter alia*, methods for the removal from the environment of any invasive non-native species introduced as a result of operations at this site. If such an event occurs, the contingency plan shall be implemented immediately.

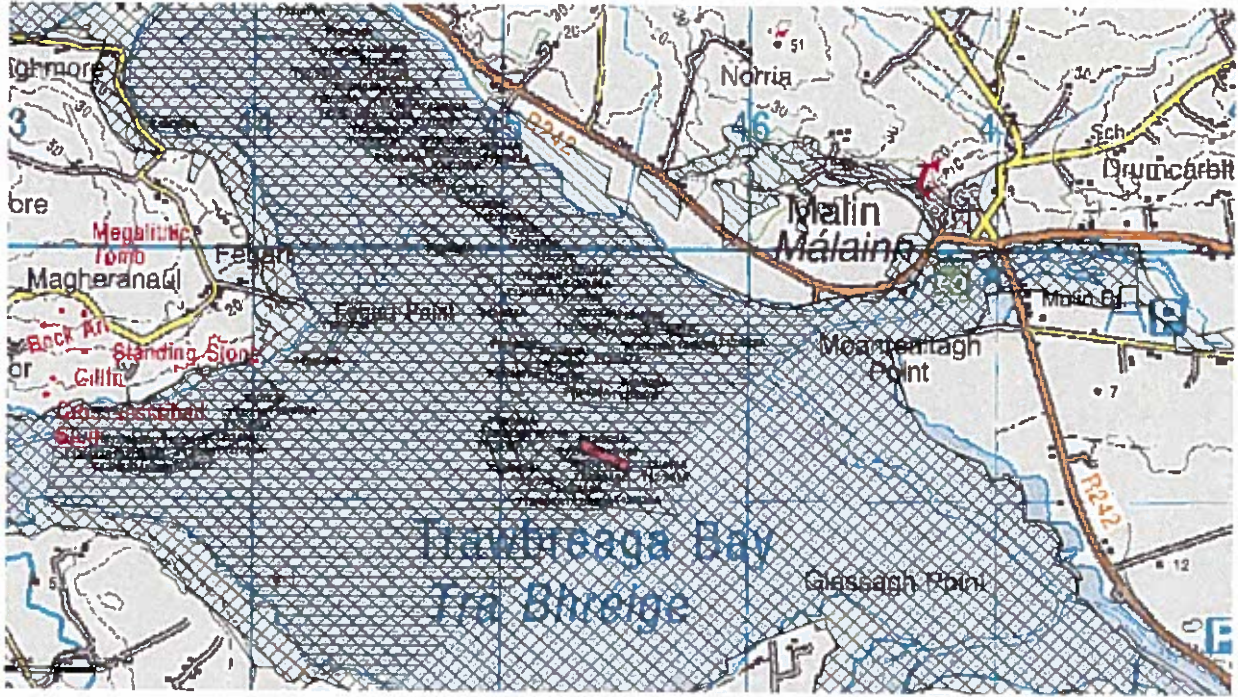
In the event that invasive non-native species are introduced into a site as a result of aquaculture activity the impacts may be bay-wide and thus affect other aquaculture operators in the bay. In this regard, therefore, the Marine Institute considers that the CLAMS process may be a useful and appropriate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



Shellfish Waters Directive Area


Aquaculture Site


Special Area of Conservation


Special Protection Areas


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

[18/04/2019]

Submission pursuant to the provisions of Article 5 (2) of Directive 2011/92/EU

To Whom It May Concern:

Thank you for referring this notification to An Taisce in accordance with Section 10 of the Aquaculture (Licence Application) Regulations, 1998 (SI No 236 of 1998).

An Taisce has reviewed the applications T12/367, T12/520, T12/522 and T12/523 in Trawbreaga Bay, County Donegal, and would like to make the following submission in relation to this application.

1. Percentage of Habitat Affected

NPWS guidance outlines that for the practical purpose of management of sedimentary habitats there is a 15% threshold of overlap between an activity (or a combination of activities) resulting in persistent disturbance to a habitat or community type. Disturbance is defined as that which leads to a change in the characterising species of the habitat or community type (which may also indicate change in structure and function). Such disturbance may be temporary or persistent in the sense that change in characterising species may recover to pre-disturbed state or may persist and accumulate over time. The NPWS guidance calls for the conservation target of 'maintain in a natural condition'.

An Taisce would highlight that the figures calculated for overlap change continuously throughout the document, and as such it is unclear which ones are correct. This is extremely concerning in a document as important as an NIS. The AA conclusion statement outlines the following:

*'While the existing and proposed cultivation sites extend over 17.54% and 2.75% of the constituent community types 'Muddy sand to coarse sediment with *Pygospio elegans*' community complex and 'Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger*' community complex'*

Whereas, in Table 7.1 of the Annex I NIS the overlap for the three species Muddy sand to coarse sediment with *Pygospio elegans* community complex, Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger* community complex and Fine to medium sand with *Eurydice*

An Taisce is a membership-based charity | Join at www.antaisce.org/membership

An Taisce – The National Trust for Ireland | Tailors' Hall, Back Lane, Dublin, D08 X2A3, Ireland |
www.antaisce.org +353 1 454 1786 | info@antaisce.org

pulchra community complex was outlined to be 5.02%, 33.31% and < 0.01%. Then, further down in the same document, on page 30, it is outlined that:

'While existing and proposed cultivation sites extend over 22.99%, 4.45% and <0.01% of the constituent community types Sand with Angulus tenuis and Scoloplos (Scoloplos) armiger community complex, Muddy sand to coarse sediment with Pygospio elegans community complex and Fine to medium sand with Eurydice pulchra community complex, respectively (Table 7.1)'

An Taisce submit that as such the impact cannot be confidently assessed, and the conclusions drawn from these numbers cannot be held up to scientific rigour. We would express no confidence in the scientific methodology underpinning the conclusions which have been reached, given that fundamental percentage overlap with the QI community is clearly uncertain, and as such we would call for an accurate NIS statement to be compiled before licencing be considered. Any conclusions drawn in the AA process are undermined by the inconsistent data provided, and as such cannot be considered robust or conclusive, and therefore the assessment cannot be considered appropriate, in contravention of the Habitats Directive.

2. Reasonable doubt

The Annex I NIS reaches the conclusion of no impact based on published literature:

'published literature (Forde et al 2015; Carroll et al, 2016) suggests that activities occurring at trestle culture sites are not considered disturbing.' [An Taisce emphasis]

However, An Taisce would highlight that the licensing authority need to be able to conclude beyond reasonable doubt that the QI communities will not be disturbed. , as outlined in the ECJ ruling for C-404/09¹ [Commission v Spain] which held that "*[a]n assessment made under Article 6(3) of the Habitats Directive cannot be regarded as appropriate if it contains gaps and lacks complete, precise and definitive findings and conclusions **capable of removing all reasonable scientific doubt** as to the effects of the works proposed on the SPA concerned.*" [An Taisce emphasis]

Similarly, the court held in the case of the Commission v Italy that "*assessment must be organised in such a manner that the competent national authorities can be certain that a plan or project will not have adverse effects on the integrity of the site concerned, given that, **where doubt remains as to the absence of such effects, the competent authority will have to refuse permission.***" (C304/05². Para 58) [An Taisce emphasis]

¹ <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-404/09>

² <http://curia.europa.eu/juris/liste.jsf?language=en&jur=C,T,F&num=C-304/05&td=ALL>

In this instance, The word 'suggest' does not indicate full confidence. It is our considered opinion that the precautionary principle must be applied, and that licensing should not proceed until the relevant authority can conclude beyond reasonable doubt that the proposed aquaculture will have no adverse effects on the integrity of the QI communities in the SAC.

3. Sensitivity of Constituent Communities

Table 8.2 indicates that *Angulus tenuis* has a high sensitivity to 'Smothering (addition of materials biological and non-biological to the surface)'. Given that the area of overlap would be covered with trestles growing oysters An Taisce submit that this would qualify as smothering. *Pygospio elegans* has a low to medium sensitivity to the same pressure. In addition, Table 8.1 indicates that the community types 'Muddy sand to coarse sediment with *Pygospio elegans* community complex' and 'Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger* community complex' have a low to medium sensitivity to both of the above pressures, and the former community type has a medium sensitivity to changes to 'sediment composition- increased fine sediment proportion'.

Table 8.4 states that the constituent communities are tolerant and have high recoverability, but it is outlined on page 29 that:

'For persistent pressures i.e. activities that occur frequently and throughout the year, recovery capacity may be of little relevance....if sensitivity is moderate or high then the species/habitats may be negatively affected and will exist in a modified state'
[An Taisce emphasis]

An Taisce would highlight that oyster trestles will be in place for several months, and as such must be classified as persistent, thus recoverability does not apply. Given that the constituent communities have low to medium sensitivity to the pressures outlined above, which would likely be caused by oyster cultivation, it must be concluded that in contrast to the findings in Table 8.4, the communities are neither tolerant or recoverable, as as such will be negatively affected and will exist in a modified state. An Taisce submit that the licencing authority should abide by the 15% NPWS threshold, as to licence more than the 15% threshold for these constituent communities will pose a risk to the constituent communities, as outlined above, and thus will be in contravention of the Habitats Directive.

Furthermore, the NPWS guidance outlines that disturbance is defined as that which leads to a change in the characterising 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. Yet on page 26 on the NIS it is outlined that:

*'Effects will be deemed to be significant when cumulatively they lead to long term change (**persistent disturbance**) in broad habitat/features (or constituent*

communities) resulting in an impact greater than 15% of the area.' [An Taisce emphasis].

And on page 29 it is outlined that:

*whereby activities with spatial overlap on habitat features are assessed further for their ability to cause **persistence disturbance** on the habitat. If persistent disturbance is likely then the spatial extent of the overlap is considered further'* [An Taisce emphasis]

As such, the definition of disturbance utilised in the NIS is not consistent with the guidance provided by the NPWS, as it only considers persistent disturbance as significant. Misinterpretation of the NPWS guidance in this instance will potentially lead to underestimation of the risks posed.

4. Bird Displacement

In the AA report, in the SPA conclusions and recommendations it is outlined that:

*'In reality displacement of birds is therefore likely to be much less than 8%. The risk of negative impacts **cannot**, however, **be** completely **discounted**.'*

And:

*'There is a risk that presence of additional people on the shore either harvesting seaweed or bait digging etc. Could increase the level of disturbance on Light-bellied Brent Geese above that arising from aquaculture activities. However, there is **insufficient information in the NIS** (Aquafact, 2013) to comment on the proposed timing, level and spatial distribution of activity associated with seaweed harvesting. '*

An Taisce would direct the licensing authority to Section 2 above outlining the reasonable doubt argument. These conclusions clearly indicates that doubt remains, and as such licencing would be in contravention of Article 6(3) of the Habitats Directive.

It is further outlined in the AA conclusion statement that:

*'While the estimated displacement of Light-bellied Brent Goose does exceed 5% (specific value 5.71%) it is important to note that this estimate is **extremely conservative**. As pointed out in the AA report the actual displacement is likely to be much less.'* [An Taisce emphasis]

An Taisce submit that this conservative, precautionary approach is implicit in the Habitats Directives, outlined in the Commission's COM (2000) 1 final 'Communication from the Commission on the precautionary principle,' which states that '*the use of the precautionary principle presupposes: ... a scientific evaluation of the risks which, because of the insufficiency of the data, their inconclusive or imprecise nature, makes it impossible to determine with sufficient certainty the risk in question (European Commission, 2000, p. 14).*' Thus, in our considered opinion, the findings must be assessed in light of this precautionary approach and not given less weight because of it.

5. Triploid Oysters

In the AA conclusion statement it is outlined that:

'Licences issued will contain a recommendation that triploid oysters continue to be used in North Inishowen Coast SAC in order to minimize any risks to Lough Swilly SAC'

Given the potential risk of naturalisation of the oysters in Lough Swilly SAC, this should be mandatory, not just a recommendation. A recommendation does not fulfil the requirements of Article 6 (3), where the risk posed to Lough Swilly has been identified, and as such must be mitigated for in full.

We should be grateful if you would take account of these concerns in considering this application. If approved, An Taisce maintains the right to appeal this application should we be dissatisfied with the approval and/or any conditions attached.

We should be grateful if you would provide to us in due course: an acknowledgement of this submission; the nature of the decision; the date of the decision; in the case of a decision to grant an approval, any conditions attached thereto, and the main reasons and considerations on which the decision is based; and, where conditions are imposed in relation to any grant of approval, the main reasons for the imposition of any such conditions.

Is mise le meas,



Elaine McGoff,
Natural Environment Office, An Taisce – The National Trust for Ireland.

Maher, EileenM

From: Murphy, Mike [murphym@bim.ie]
Sent: 18 April 2019 17:44
To: Maher, EileenM
Subject: RE: Applications for Aquaculture Licences in Trawbreaga Bay, Co.Donegal

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.

Dear Eileen,

Re: Licence Applications/Renewal in Trawbreaga Bay, Co. Donegal, T12/367; T12/520; T12/ 522; T12/523, to grow pacific oysters in bags on trestles.

Following internal consultation within the Seafood Technical Services Business Unit, BIM, which includes aquaculture and inshore fisheries, BIM are satisfied that the proposed operations do not conflict with any other aquaculture or inshore fisheries interests in the area.

We have no objection to the renewals/applications.

Regards

Mike Murphy

Michael Murphy

Resource Development Manager North,
Seafood Technical Services Business Unit,
BIM

T +353 7479732601

M +353 87 2476448

E mike.murphy@bim.ie

From: Maher, EileenM

Sent: Monday 11 March 2019 08:58

To: 'naturalenvironment@antaisce.org' ; O'Carroll, Terence ; Murphy, Mike ; 'harry.duggan@irishlights.ie' ; 'fem.dau@ahg.gov.ie' ; 'fem.Dau@chg.gov.ie.' ; 'foreshore@housing.gov.ie' ; 'planning@failteireland.ie' ; 'mary.larkin@fisheriesireland.ie' ; 'Terry McMahan' ; 'danny.obrien@housing.gov.ie' ; 'foh@udas.ie' ; 'planning@donegalcoco.ie' ; 'cathal.sweeney@donegalcoco.ie' ; Dallaghan, Ben

Subject: Applications for Aquaculture Licences in Trawbreaga Bay, Co.Donegal

Colleagues,

In accordance with Section 10 of the Aquaculture (Licence Application) Regulations, 1998 (SI No. 236 of 1998), you are hereby notified that this Department has received aquaculture licence applications from those on the attached table for permission to carry out aquaculture activities on 4 sites (see attached table for details) in Trawbreaga Bay, Co.Donegal.

Details of the applications and all other relevant documentation may be viewed on the Department's website at:

<https://www.agriculture.gov.ie/seafood/aquacultureforeshoremanagement/aquaculturelicensing/aquacultureforeshorelicenceapplications/donegal/>

I would be grateful for any observations you wish to make on the above proposal which must be submitted **within six weeks** from the date of notification. As this correspondence is being sent by e-mail, the date of the e-mail is treated as the date of notification. In the event that objections/comments are submitted by you, the applicant will be given an opportunity to comment thereon.

Kind Regards,

Eileen Maher

Aquaculture and Foreshore Management Division

An Roinn Talamhaíochta, Bia agus Mara

Department of Agriculture, Food and the Marine

Rannán Riaracháin an Iascaigh Mhara, An Cloichín, Cloch na Coillte, Co. Chorcaí. P85 TX47.

National Seafood Centre, Clogheen, Clonakilty, Cork, P85 TX47.

T +353 (0)23 885 9505

Disclaimer:

Department of Agriculture, Food and the Marine

The information contained in this email and in any attachments is confidential and is designated solely for the attention and use of the intended recipient(s). This information may be subject to legal and professional privilege. If you are not an intended recipient of this email, you must not use, disclose, copy, distribute or retain this message or any part of it. If you have received this email in error, please notify the sender immediately and delete all copies of this email from your computer system(s).

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-agmaigh 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.



Email response

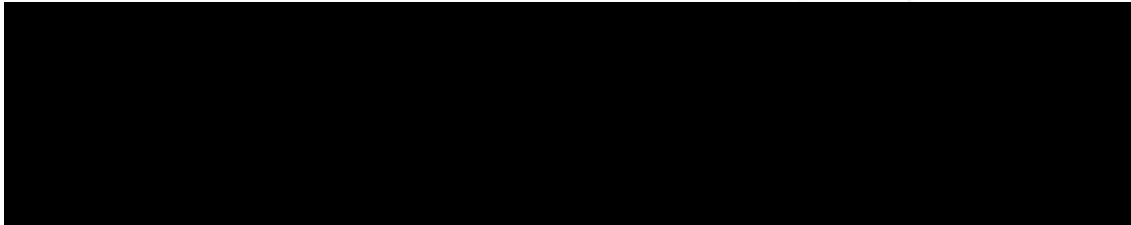
04/04/2019

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

Re: Applications for Aquaculture Licences in Trawbrega Bay

Dear Eileen

I wish to refer to the Aquaculture Licence applications received by this office on the 11th March, 2019 for consultation. You are advised as follows:-



██████████ and T.12/523

No objection arises to the proposal to grant new licence which relates to farming Pacific Oysters, in bags and trestles by hand, which equates to a total area of ██████████ of Trawbrega Bay, will not result in a significant intensification of the Oyster Farming activity in Trawbrega Bay. It is considered that the proposed development does not represent a visual intrusion into the scenery of the host area and is considered to be acceptable.

Yours sincerely


Anne Melley
Administrative Officer

Cuir freagra chuig: Áras an Chontae, Leifear, Contae Dhún na nGall, Éire F93 Y622
Please reply to: County House, Lifford, Co. Donegal, Ireland F93 Y622

Maher, EileenM

From: Foreshore EPA Marine [fem.dau@chg.gov.ie]
Sent: 23 April 2019 12:12
To: Aquaculturelicensing
Subject: Trawbreaga Bay, Co. Donegal T12/367, T12/520, T12/522 & T12/523

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.

A chara,

Please find the nature conservation recommendations of the Department of Culture, Heritage, and the Gaeltacht for the above mentioned aquaculture applications.

The Department of Culture, Heritage and the Gaeltacht welcomes the opportunity to provide observations concerning the recent aquaculture applications in Trawbreaga Bay, Co. Donegal [T12/367, T12/520, T12/522 & T12/523].

The Department acknowledges the consideration of previous observations made by this Department and offers the following observation for consideration by the Department of Agriculture, Food and the Marine in its decision-making process.

- The Appropriate Assessment report and conclusion statement identify the potential for significant displacement of Brent geese within Trawbreaga Bay SPA and that negative impacts upon the Brent population cannot be completely discounted. In response the AA proposes a clear Code of Practice (to be developed in close consultation with NPWS) to identify and mitigate against any disturbance issues that may arise. To reiterate this Department's previous comments, the development of this code of practice is welcomed, however, there is no detail provided within the assessment on the Code of Practice to be implemented. It is this Department view that this code should include, in full, the robust methods/protocols to be employed to assess the level of disturbance to Brent geese and also what response will be taken if significant disturbance/displacement is recorded. It is considered that this Code of Practice should be developed and agreed, in consultation with NPWS, prior to the issuing of any licences, and that without this detailed Code of Practice the AA is incomplete.

Mise le meas,

Connor Rooney
Executive Officer

An Roinn Cultúir, Oidhreachta agus Gaeltachta
Department of Culture, Heritage and the Gaeltacht

Aonad na nIarratas ar Fhorbairt
Development Applications Unit

Bóthar an Bhaile Nua, Loch Garman, Contae Loch Garman, Y35 AP90
Newtown Road, Wexford, County Wexford, Y35 AP90

T +353 (0)53 911 7464
manager.dau@chg.gov.ie
www.chg.gov.ie

Is faoi rún agus chun úsáide an té nó an aonán atá luaite 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.

Deimhnítear leis an bhfo-nóta seo freisin go bhfuil an teachtaireacht ríomhphoist seo scuabtha le bogearraí frithvíorais chun víorais ríomhaire a aimsiú.

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager.

This footnote also confirms that this email message has been swept by anti-virus software for the presence of computer viruses.

Date: October 18th, 2019

To: Eileen Maher - AFMD

From: Francis O'Beirn, Marine Institute

CC: Terry McMahon, Joe Silke - MI: Geraldine Farrell AFDM-DAFM

Re: An Taisce comments on aquaculture licence applications in Trawbreaga Bay (18th April 2019).

The Marine Institute have been asked to comment on the submission from An Taisce to the Department of Agriculture Food and the Marine (DAFM) in relation to a number of aquaculture licence applications (n=4) in Trawbreaga Bay (dated 18/04/2019). The text below include the relevant An Taisce comments with the MI response following. In places the MI response is similar to those provided in a previous communication to DAFM (6/11/2018 and 8/10/2019).

It should be noted that these comments were first forwarded to the MI from DAFM in April 2019. The MI responded (3rd May 2019) with a holding note to DAFM to the effect that a new AA report was in preparation which would deal with a number of the issues raised by An Taisce. The An Taisce submission of 12/9/2019, identified a number of these issues to which the MI responded specifically in the communication of 8/10/2019. It must be pointed out, however, that only one section is different, i.e., Percentage of Habitat Affected in this response.

In their submission, An Taisce cite a number of outputs of case law. This is beyond the remit of the MI. DAFM may wish to seek their own legal advice in relations to the legal interpretations provided by An Taisce.

While we acknowledge the nature of the observations and the concerns highlighted by An Taisce, the MI does not see any need to revise the outputs or conclusions in the AA reports underpinning the assessment process. However, it will be important to ensure that specific management actions/licence conditions are communicated in the DAFM final Conclusion Statement or report accompanying the Ministerial decision.

1. An Taisce Observations: Percentage of Habitat Affected

NPWS guidance outlines that for the practical purpose of management of sedimentary habitats there is a 15% threshold of overlap between an activity (or a combination of activities) resulting in persistent disturbance to a habitat or community type. Disturbance is defined as that which leads to a change in the characterising species of the habitat or community type (which may also indicate change in structure and function). Such disturbance may be temporary or persistent in the sense that change in characterising species may recover to pre-disturbed state or may persist and accumulate over time. The NPWS guidance calls for the conservation target of 'maintain in a natural condition'.

An Taisce would highlight that the figures calculated for overlap change continuously throughout the document, and as such it is unclear which ones are correct. This is extremely concerning in a document as important as an NIS. The AA conclusion statement outlines the following:

'While the existing and proposed cultivation sites extend over 17.54% and 2.75% of the constituent community types 'Muddy sand to coarse sediment with Pygospio elegans' community complex and 'Sand with Angulus tenuis and Scoloplos (Scoloplos) armiger' community complex'

Whereas, in Table 7.1 of the Annex I NIS the overlap for the three species Muddy sand to coarse sediment with *Pygospio elegans* community complex, Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger* community complex and Fine to medium sand with *Eurydice pulchra* community complex was outlined to be 5.02%, 33.31% and < 0.01%. Then, further down in the same document, on page 30, it is outlined that:

'While existing and proposed cultivation sites extend over 22.99%, 4.45% and <0.01% of the constituent community types Sand with Angulus tenuis and Scoloplos (Scoloplos) armiger community complex, Muddy sand to coarse sediment with Pygospio elegans community complex and Fine to medium sand with Eurydice pulchra community complex, respectively (Table 7.1)'

An Taisce submit that as such the impact cannot be confidently assessed, and the conclusions drawn from these numbers cannot be held up to scientific rigour. We would express no confidence in the scientific methodology underpinning the conclusions which have been reached, given that fundamental percentage overlap with the QI community is clearly uncertain, and as such we would call for an accurate NIS statement to be compiled before licencing be considered. Any conclusions drawn in the AA process are undermined by the inconsistent data provided, and as such cannot be considered robust or conclusive, and therefore the assessment cannot be considered appropriate, in contravention of the Habitats Directive.

MI Response: The Marine Institute note the discrepancies identified by An Taisce within and among the various documents. This, we believe, is a consequence of a very fluid assessment process wherein changes in number of sites and spatial extent of sites was occurring on a regular basis. This resulted in a final AA reports being prepared and submitted to DAFM in July 2019. As indicated above, the MI issued a holding e-mail to DAFM on May 3rd, 2019 indicating that the response would be forthcoming as soon as the final reports were submitted. Subsequent communications dealt with all issues, with the exception of No. 1, identified by An Taisce, which are repeated below.

2. An Taisce Observations: Reasonable doubt

The Annex 1 NIS reaches the conclusion of no impact based on published literature:

'published literature (Forde et al 2015; Carroll et al, 2016) suggests that activities occurring at trestle culture sites are not considered disturbing. '

However, An Taisce would highlight that the licensing authority need to be able to conclude beyond reasonable doubt that the QI communities will not be disturbed. , as outlined in the ECJ ruling for C-404/091 [Commission v Spain] which held that "[a]n assessment made under Article 6(3) of the Habitats Directive cannot be regarded as appropriate if it contains gaps and lacks complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the SPA concerned."

Similarly, the court held in the case of the Commission v Italy that "assessment must be organised in such a manner that the competent national authorities can be certain that a plan or project will not

have adverse effects on the integrity of the site concerned, given that, where doubt remains as to the absence of such effects, the competent authority will have to refuse permission.” (C304/052. Para 58)

In this instance, the word ‘suggest’ does not indicate full confidence. It is our considered opinion that the precautionary principle must be applied, and that licensing should not proceed until the relevant authority can conclude beyond reasonable doubt that the proposed aquaculture will have no adverse effects on the integrity of the QI communities in the SAC.

MI Response: The MI highlight that in this submission (and others more recently), An Taisce, appears to be focused on challenging commonly used and accepted scientific terminology (within the AA Reports) and using this to present An Taisce’s interpretation of case law. It should be pointed out that in natural systems, certainty can never be presented at 100%. We would suggest that scientific literatures cited does remove reasonable scientific doubt. Where this is not the case the MI will acknowledge this and communicate that there are no obvious measures possible that might mitigate or reduce the risk. We note in previous submissions (e.g., Shannon) An Taisce cite dated literature (e.g., Nugues et al. 1996) as opposed the more current and relevant literature ¹. These recent information sources do not appear to confirm An Taisce’s narrative.

3. An Taisce Observations: Percentage of Habitat Affected

Table 8.2 of the SAC report indicates that *Angulus tenuis* has a high sensitivity to ‘Smothering (addition of materials biological and non-biological to the surface)’, and Table 8.1 indicates that the community ‘Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger* community complex’ has a low to medium sensitivity to Siltation (addition of fine sediments, pseudofaeces, fish food)’. Given that over 30% of the community area would be covered with oyster trestles, An Taisce submit that this would qualify as smothering, and the presence of these trestles would undoubtedly increase pseudofaeces related siltation.

Table 8.4 states that the *Angulus tenuis* and *Scoloplos (Scoloplos) armiger* community complex are tolerant and have high recoverability, but it is outlined on page 29 that:

‘For persistent pressures i.e. activities that occur frequently and throughout the year, recovery capacity may be of little relevance....if sensitivity is moderate or high then the species/habitats may be negatively affected and will exist in a modified state’

An Taisce would highlight that oyster trestles will be in place for several months, and as such must be classified as persistent, thus recoverability does not apply. Given that the constituent community of interest has low to medium sensitivity to the pressures outlined above, which would likely be caused by oyster cultivation, it must be concluded that in contrast to the findings in Table 8.4, the community is neither tolerant or recoverable, and as such will be negatively affected and will exist in a modified state. An Taisce submit that the licencing authority should abide by the 15% NPWS threshold, as to licence more than the 15% threshold for this community type will pose a risk to the constituent communities, as outlined above, and thus will be in contravention of the Habitats Directive.

Furthermore, the NPWS guidance outlines that disturbance is defined as that which leads to a change in the characterising 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. Yet on page 26 on the SAC report it is outlined that:

'Effects will be deemed to be significant when cumulatively they lead to long term change (persistent disturbance) in broad habitat/features (or constituent communities) resulting in an impact greater than 15% of the area.'

And on page 29 it is outlined that:

'whereby activities with spatial overlap on habitat features are assessed further for their ability to cause persistence disturbance on the habitat. If persistent disturbance is likely then the spatial extent of the overlap is considered further'

As such, the definition of disturbance utilised in the SAC report is not consistent with the guidance provided by the NPWS, as it only considers persistent disturbance as significant. Misinterpretation of the NPWS guidance in this instance will potentially lead to underestimation of the risks posed.

MI Comments: It should be noted that the process of preparing the AA reports is to first identify any potential interactions between the activity under considerations and the constituent (habitat) features. If interactions are noted, then the activity is brought forward for more detailed analysis in the process. It should be noted that during more detailed analysis it was considered that the aquaculture sites under consideration in Trawbreaga Bay were unlikely to interact negatively with those habitat conservation features with which they overlapped, i.e., they were considered unlikely to be subject to the persistent pressure outlined above. This is likely due to tidal flushing of organic and fine sedimentary material from underneath the trestles. These conclusions are borne out by scientific investigation and published in peer reviewed journals¹. Finally, it should be noted that NPWS have never challenged the MI interpretation of the published guidance as it relates to activities likely to cause disturbance in Natura 2000 habitats.

4. An Taisce Observations: Bird Displacement

In the AA report, in the SPA conclusions and recommendations it is outlined that:

'In reality displacement of birds is therefore likely to be much less than 8%. The risk of negative impacts cannot, however, be completely discounted'

And:

'There is a risk that presence of additional people on the shore either harvesting seaweed or bait digging etc. Could increase the level of disturbance on Light-bellied Brent Geese above that arising from aquaculture activities. However, there is insufficient information in the NIS (Aquafact, 2013) to comment on the proposed timing, level and spatial distribution of activity associated with seaweed harvesting. '

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.

O'Carroll J, et al. 2016. Impact of prolonged storm activity on the Ecological Status of intertidal benthic habitats within oyster (*Crassostrea gigas*) trestle cultivation sites. *Marine Pollution Bulletin*. 110: 460-469

Mallet A.L. et al. 2006. Impact of suspended and off-bottom Eastern oyster culture on the benthic environment in eastern Canada. *Aquaculture* 255:362-373

An Taisce would direct the licensing authority to Section 3 above outlining the reasonable doubt argument. These conclusions clearly indicates that doubt remains, and as such licencing would be in contravention of Article 6(3) of the Habitats Directive.

It is further outlined in the AA conclusion statement that:

'While the estimated displacement of Light-bellied Brent Goose does exceed 5% (specific value 5.71%) it is important to note that this estimate is extremely conservative. As pointed out in the AA report the actual displacement is likely to be much less.'

An Taisce submit that this conservative, precautionary approach is implicit in the Habitats Directives, outlined in the Commission's COM (2000) 1 final 'Communication from the Commission on the precautionary principle,' which states that ' the use of the precautionary principle presupposes: ... a scientific evaluation of the risks which, because of the insufficiency of the data, their inconclusive or imprecise nature, makes it impossible to determine with sufficient certainty the risk in question (European Commission, 2000, p. 14). ' Thus, in our considered opinion, the findings must be assessed in light of this precautionary approach and not given less weight because of it.

MI Response: The statement that negative impacts are likely to be lower is informed by our growing understanding of the relationship between Light-bellied brent geese and oyster trestles. The assessment undertaken rely heavily on Gittings & O'Donoghue (2012), "The effects of intertidal oyster culture on the spatial distribution of waterbirds". This was based on low tide observations of shorebirds, including Light-bellied brent geese. However, activity patterns across the tidal cycle are relevant in the case of Light-bellied brent geese due in part to their ability to forage in shallow subtidal waters. Furthermore, it should be noted that as we have considered additional coastal SPAs since 2012 we have also had access to a greater number of observations of Light-bellied brent geese in the context of trestles.

When considering the potential for negative impacts on Light-bellied brent geese, issues to be considered include overlap of proposed trestles with known foraging habitat; disturbance from onsite activities; and the degree to which algae growing on the trestles provides a foraging resource to Light-bellied brent geese and how this can change seasonally. Thus, while the spatial displacement, which yields the above figure of 5.71%, is calculated as a 100% displacement of brent geese from the area of overlap, observations of brent geese feeding on algae growing on trestles on the flood tide show that 100% displacement is not likely to occur at all times. Furthermore, while birds can be disturbed and displaced by maintenance work on the foreshore; such works occur at low tide, while brent geese associate with trestles as the tide floods over them, allowing birds to float over the trestles and feed on associated algae. This therefore reduces the extent of disturbance and resultant displacement. It should be noted that Light-bellied brent geese numbers are growing both locally and nationally.

Finally, it is important to point out that the 5% threshold as used in the AA reports is a guide only and used in our assessments to identify the potential for negative impacts. It is a considered a conservative threshold above which further consideration is given to the likely interactions between the conservation feature and the proposed activities. As above, each case is considered on its merits and communicated as such.

5. Triploid Oysters

In the AA conclusion statement it is outlined that:

‘Licences issued will contain a recommendation that triploid oysters continue to be used in North Inishowen Coast SAC in order to minimize any risks to Lough Swilly SAC’

Given the potential risk of naturalisation of the oysters in Lough Swilly SAC, this should be mandatory, not just a recommendation. A recommendation does not fulfil the requirements of Article 6 (3), where the risk posed to Lough Swilly has been identified, and as such must be mitigated for in full.

Marine Institute Response: This observation and recommendation is consistent with the recommendations in the AA report.

Mr Campbell, Divisional Engineer

BJR 30/9/19

Ms Maher, AFMD

RE: Statutory consultation responses on Trawbreaga Bay aquaculture applications
[REDACTED] and T12/523.

Ms Maher's email of 2/8/19 refers. Submissions were received from Dept. of Culture, Heritage and the Gaeltacht (DCHG), Donegal County Council and An Taisce. I will comment on each in turn.

DCHG (Development Applications Unit) 23/4/19

I do not know whether the development of a Code of Practice (in consultation with NPWS) to identify/mitigate against disturbance issues for bird species has yet commenced. In the Trawbreaga Bay SPA (004034) Appropriate Assessment of Aquaculture of July 2019 the development of a Code of Practice is recommended specifically regarding Barnacle Goose and Light Bellied Brent Goose species in the Bay. The need for such a Code of Practice did not carry over to the conclusion statement version advertised with these applications. Nor is it referred to as something that is required in licences so far issued for the Bay. This may be an oversight?

In the most recent draft of the Conclusion Statement for North Inishowen Coast SAC July 2019 it states that "the Department, in conjunction with key stakeholders will aim to develop, as soon as practicable a code of practice to address issues that arise"

I suggest that it might be appropriate for DAFM to consider having a code document developed before further new aquaculture is licensed in the Bay – I expect that inclusion of a Code document into Annex 4 of new aquaculture licences in the Bay would be appropriate. To get the ball rolling AFMD might formally seek opinion from NPWS on what provisions (including monitoring) might be appropriate for inclusion in Code of Practice whose purpose would be to avoid/minimise disturbance of these two geese species and that aquaculture operation should observe in the Bay

Donegal Co Council 4/4/19

No objection arises. The sites are either existing development [REDACTED] or distant from public viewpoints (the 3 new applications at centre of Bay). The Council's position is that visual intrusion does not arise.

Point 1 – Percentage of Habitat Affected.

An Taisce submission includes criticisms about the figures used in the conclusion statement being inconsistent. Having looked into it I think An Taisce is correct.

My assessment is that the AA conclusion statement figures of 17.54% and 2.75% are given in incorrect order and are outdated in any case being based on earlier superceded version of AA dated December 2015 and May 2016 (neither of which would be relevant for the 3 new applications in question). [I note that in the same conclusion statement paragraph there were 2 other percentages given (2.86% and 3.04%)– these were incorrect as they are in fact hectare figures - and in any case were also outdated in the context of the 3 new applications in question (T12, [REDACTED] and 523)].

The figures quoted for Table 7.1 of 5.02%, 33.31% and <0.01% relate to the July 2018 version of the Annex 1 AA document and appear to be correct. They however do include an additional access route component in the totals. This July 2018 version is the correct AA version I think; it includes for applications in question that are being assessed. However as An Taisce points out the figures given on page 30 of the same AA do not coincide with the figures in Table 7.1. The discrepancies involved are too large to be accounted for by the inclusion of access route areas (as well as site areas) in the Table 7.1 totals. In fact the page 30 figures quoted of 22.99, 4.45 and <0.01% all seem to have come from the December 2017 version of the AA and were not updated as they ought to have been in the July 2018 version.

I think it is fair to say that the contrasting figures do cause confusion and it is hardly possible to know which are the more likely to be correct (unless you have access to earlier drafts of the AA).

The conclusion on page 29/30 of the July 2018 AA that the per cent overlap with qualifying interest 1140 is less than 15% may be expected to remain the case but the relevant overlap figure quoted in that sentence of the AA (8.14%) is not correct – it dates from an earlier AA (possibly the Dec 2017 version) .

I calculate that the per cent overlap based on the Table 7.1 values of the July 2018 AA is $(27.26 + 69.45 + 0.19) / 988 = 9.8\%$. Therefore the relevant section in section 8.3 should have read as follows: 'Existing and proposed cultivation and access route activity was shown to overlap with ~~8.1%~~ 9.8% of the qualifying interest Mudflats and sand flats not covered by seawater at low tide(1140). As this value is below the 15% threshold, adverse impact on the qualifying feature can be discounted (Table 7.1)'

Point 2 – reasonable doubt.

This relates to the first full paragraph on page 30 (the one with three outdated percentages) and comes down to the published literature referenced and the level of reliance that may be put on it. These same references to *Forde et al* and *Carroll et al* regarding trestles and bags being considered non –disturbing etc. have been referenced in many other AAs completed to date. The word 'suggest' has been used in this context in other AAs produced by the Marine Institute for DAFM. It's

a judgement call for Marine Institute as to whether there is other reliable technical literature out there that might conflict with these sources or whether they can be considered sufficiently authoritative at this time.

Point 3 - Sensitivity of Constituent Communities – best addressed by Marine Institute also

Point 4 Bird Displacement – these technical points are best addressed by Marine Institute

Point 5 Triploid oysters – I think a valid point is made by An Taisce about the need for a more definitive stance on triploid stock (only) to be cultivated in Trawbreaga Bay. Perhaps it should be considered a mandatory clear cut requirement rather than a preference or recommendation.

I also suggest that the same needs to apply in translating the restriction (to triploid oyster culture) into a licence issued for Trawbreaga Bay

(1) The restriction should be applied to oyster stock (rather than simply oyster seed) as imports to the Bay of part grown stock can occur (including this year from unregulated sites in Lough Foyle) ;

(2) The wording as used in recently issued Trawbreaga Bay aquaculture licence conditioning regarding seed type restriction is very poor and needs upgrading in my opinion . The wording used is "Triploid stock imported to the site should be sourced from hatcheries only and diploid should be utilised if triploid seed is unavailable and only after a letter of confirmation from BIM that triploid seed is unavailable"

- this wording seems to set a source restriction on triploid stock imported to the site but not on diploid (or other);;

- the hatchery source stipulation could be interpreted as effectively concerning only triploid seed brought into the bay and not necessarily applicable to imports of part grown oysters to the bay (be they of triploid or diploid type);

- It includes a derogation that use of diploid stock would be permissible that seems at odds with the AA recommendation for Trawbreaga Bay and with the very clear stipulation adopted in Lough Swilly licences that "Triploid stock to be used as standard". Surely seed supply issues should hardly be allowed to trump AA concerns about an identified risk?

(3) The restriction (as proposed in conclusion statement and as implemented by licence condition) should be clearer cut – and might better be stated simply as "Triploid oyster culture only is permitted in the Bay/on the site".

Conclusion

There are issues that arise from these submissions that are in need of addressing –

The development of a Code of Practice recommended specifically regarding Barnacle Goose and Light Bellied Brent Goose species in the Bay and as raised by DCHG needs to be progressed . Perhaps a suitable consultant should be engaged to develop same. Such a code of practice approach is recommended in AAs for other SPAs / Bays ?

The adequacy of the North Inishowen Coast AA version used as the basis for a finding of non-significant impact on Natura 2000 areas has been called into question by An Taisce on certain technical grounds. Certainly the AA includes some errors regarding overlap areas which detract from the document but in my opinion these errors are not of sufficient order to reverse the specific conclusions made on the basis of spatial overlap.

Opinion on all points raised by An Taisce require Marine institute feedback before AFMD should make a call adequacy of this July 2018 version of AA to support a licensing decision in these 4 cases.

Consideration may need to be given to the triploid restriction wording – both in conclusion statement and in licence conditioning for Trawbreaga Bay.

Note that another batch of [redacted] applications for Trawbreaga Bay have since gone to consultation along with an updated version of the conclusion statement and the AA. How adequate these are may also be questioned by DCHG and An Taisce on similar grounds to those they have raised in connection with these 4 applications in April 2019* .



Paul O'Sullivan

24/9/19

* Note for example that in Table 7.1 of current July 2019 version of this Annex 1 document that the 0.06% overlap in 4th column is incorrect – it should be 0.62 and the licensed oyster site area (>50.62 ha) does not correlate with that given in Table 5.1 (25.21Ha) etc.

OSullivan, Paul

From: Maher, EileenM
Sent: 02 August 2019 10:09
To: OSullivan, Paul; 'Francis X O Beirn'
Cc: Crowley, Raphael
Subject: FW: Trawbreaga Bay Stat Comments
Attachments: Trawbreaga Bay, Co. Donegal T12/367, T12/520, T12/522 & T12/523; Donegal CoCo Response.pdf; An Taisce Response.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Colleagues,

We received the attached comments in relation to Trawbreaga Bay. Can we please have your observations in relation to the issues addressed?

Kind Regards,

Eileen Maher
Aquaculture and Foreshore Management Division

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

Rannán Riaracháin an Iascaigh Mhara, An Cloichín, Cloch na Coillte, Co. Chorcaí. P85 TX47.
National Seafood Centre, Clogheen, Clonakilty, Cork, P85 TX47.

T +353 (0)23 885 9505
www.agriculture.gov.ie

OSullivan, Paul

From: Foreshore EPA Marine <fem.dau@chg.gov.ie>
Sent: 23 April 2019 12:12
To: Aquaculturelicensing
Subject: Trawbreaga Bay, Co. Donegal T12/367, T12/520, T12/522 & T12/523

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.

A chara,

Please find the nature conservation recommendations of the Department of Culture, Heritage, and the Gaeltacht for the above mentioned aquaculture applications.

The Department of Culture, Heritage and the Gaeltacht welcomes the opportunity to provide observations concerning the recent aquaculture applications in Trawbreaga Bay, Co. Donegal [T12/367, T12/520, T12/522 & T12/523].

The Department acknowledges the consideration of previous observations made by this Department and offers the following observation for consideration by the Department of Agriculture, Food and the Marine in its decision-making process.

- The Appropriate Assessment report and conclusion statement identify the potential for significant displacement of Brent geese within Trawbreaga Bay SPA and that negative impacts upon the Brent population cannot be completely discounted. In response the AA proposes a clear Code of Practice (to be developed in close consultation with NPWS) to identify and mitigate against any disturbance issues that may arise. To reiterate this Department's previous comments, the development of this code of practice is welcomed, however, there is no detail provided within the assessment on the Code of Practice to be implemented. It is this Department view that this code should include, in full, the robust methods/protocols to be employed to assess the level of disturbance to Brent geese and also what response will be taken if significant disturbance/displacement is recorded. It is considered that this Code of Practice should be developed and agreed, in consultation with NPWS, prior to the issuing of any licences, and that without this detailed Code of Practice the AA is incomplete.

Mise le meas,

Connor Rooney
Executive Officer

An Roinn Cultúir, Oidhreachta agus Gaeltachta
Department of Culture, Heritage and the Gaeltacht

Aonad na nIarratas ar Fhorbairt
Development Applications Unit

Bóthar an Bhaile Nua, Loch Garman, Contae Loch Garman, Y35 AP90
Newtown Road, Wexford, County Wexford, Y35 AP90

T +353 (0)53 911 7464
manager.dau@chg.gov.ie
www.chg.gov.ie



Email response

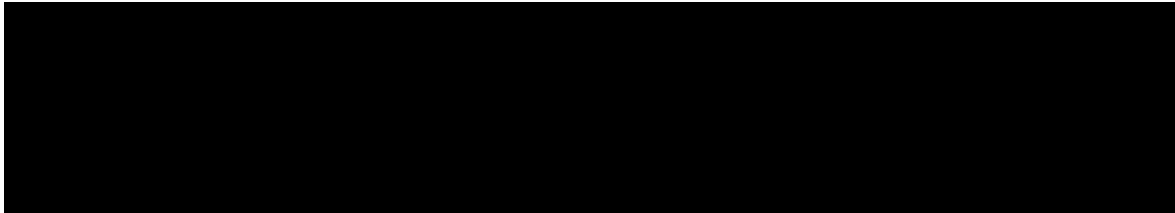
04/04/2019

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

Re: Applications for Aquaculture Licences in Trawbrega Bay

Dear Eileen

I wish to refer to the Aquaculture Licence applications received by this office on the 11th March, 2019 for consultation. You are advised as follows:-



and T.12/523

No objection arises to the proposal to grant new licence which relates to farming Pacific Oysters, in bags and trestles by hand, which equates to a total area of [redacted] of Trawbreaga Bay, will not result in a significant intensification of the Oyster Farming activity in Trawbreaga Bay. It is considered that the proposed development does not represent a visual intrusion into the scenery of the host area and is considered to be acceptable.

Yours sincerely


Anne Melley
Administrative Officer

Cultúir freagra chuig: Áras an Chontae, Leifear, Contae Dhun na nGall, Éire F93 Y622
Please reply to: County House, Lifford, Co. Donegal, Ireland F93 Y622

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

[18/04/2019]

Submission pursuant to the provisions of Article 5 (2) of Directive 2011/92/EU

To Whom It May Concern:

Thank you for referring this notification to An Taisce in accordance with Section 10 of the Aquaculture (Licence Application) Regulations, 1998 (SI No 236 of 1998).

An Taisce has reviewed the applications T12/367, T12/520, T12/522 and T12/523 in ~~Trawbreaga Bay~~, County Donegal, and would like to make the following submission in relation to this application.

1. Percentage of Habitat Affected

NPWS guidance outlines that for the practical purpose of management of sedimentary habitats there is a 15% threshold of overlap between an activity (or a combination of activities) resulting in persistent disturbance to a habitat or community type. Disturbance is defined as that which leads to a change in the characterising species of the habitat or community type (which may also indicate change in structure and function). Such disturbance may be temporary or persistent in the sense that change in characterising species may recover to pre-disturbed state or may persist and accumulate over time. The NPWS guidance calls for the conservation target of 'maintain in a natural condition'.

An Taisce would highlight that the figures calculated for overlap change continuously throughout the document, and as such it is unclear which ones are correct. This is extremely concerning in a document as important as an NIS. The AA conclusion statement outlines the following:

'While the existing and proposed cultivation sites extend over 17.54% and 2.75% of the constituent community types 'Muddy sand to coarse sediment with Pygospio elegans' community complex and 'Sand with Angulus tenuis and Scoloplos (Scoloplos) armiger' community complex'

Whereas, in Table 7.1 of the Annex I NIS the overlap for the three species Muddy sand to coarse sediment with *Pygospio elegans* community complex, Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger* community complex and Fine to medium sand with *Eurydice*

An Taisce is a membership-based charity | Join at www.antaisce.org/membership

An Taisce – The National Trust for Ireland | Tailors' Hall, Back Lane, Dublin, D08 X2A3, Ireland | www.antaisce.org +353 1 454 1786 | info@antaisce.org

In this instance, The word 'suggest' does not indicate full confidence. It is our considered opinion that the precautionary principle must be applied, and that licensing should not proceed until the relevant authority can conclude beyond reasonable doubt that the proposed aquaculture will have no adverse effects on the integrity of the QI communities in the SAC.

3. Sensitivity of Constituent Communities

Table 8.2 indicates that *Angulus tenuis* has a high sensitivity to 'Smothering (addition of materials biological and non-biological to the surface)'. Given that the area of overlap would be covered with trestles growing oysters An Taisce submit that this would qualify as smothering. *Pygospio elegans* has a low to medium sensitivity to the same pressure. In addition, Table 8.1 indicates that the community types 'Muddy sand to coarse sediment with *Pygospio elegans* community complex' and 'Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger* community complex' have a low to medium sensitivity to both of the above pressures, and the former community type has a medium sensitivity to changes to 'sediment composition- increased fine sediment proportion'.

Table 8.4 states that the constituent communities are tolerant and have high recoverability, but it is outlined on page 29 that:

'For persistent pressures i.e. activities that occur frequently and throughout the year, recovery capacity may be of little relevance...if sensitivity is moderate or high then the species/habitats may be negatively affected and will exist in a modified state'
[An Taisce emphasis]

An Taisce would highlight that oyster trestles will be in place for several months, and as such must be classified as persistent, thus recoverability does not apply. Given that the constituent communities have low to medium sensitivity to the pressures outlined above, which would likely be caused by oyster cultivation, it must be concluded that in contrast to the findings in Table 8.4, the communities are neither tolerant or recoverable, as as such will be negatively affected and will exist in a modified state. An Taisce submit that the licencing authority should abide by the 15% NPWS threshold, as to licence more than the 15% threshold for these constituent communities will pose a risk to the constituent communities, as outlined above, and thus will be in contravention of the Habitats Directive.

Furthermore, the NPWS guidance outlines that disturbance is defined as that which leads to a change in the characterising 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. Yet on page 26 on the NIS it is outlined that:

*'Effects will be deemed to be significant when cumulatively they lead to long term change (**persistent disturbance**) in broad habitat/features (or constituent*

An Taisce submit that this conservative, precautionary approach is implicit in the Habitats Directives, outlined in the Commission's COM (2000) 1 final 'Communication from the Commission on the precautionary principle,' which states that '*the use of the precautionary principle presupposes: ... a scientific evaluation of the risks which, because of the insufficiency of the data, their inconclusive or imprecise nature, makes it impossible to determine with sufficient certainty the risk in question (European Commission, 2000, p. 1-4).*' Thus, in our considered opinion, the findings must be assessed in light of this precautionary approach and not given less weight because of it.

5. Triploid Oysters

In the AA conclusion statement it is outlined that:


'Licences issued will contain a recommendation that triploid oysters continue to be used in North Inishowen Coast SAC in order to minimize any risks to Lough Swilly SAC'

Given the potential risk of naturalisation of the oysters in Lough Swilly SAC, this should be mandatory, not just a recommendation. A recommendation does not fulfil the requirements of Article 6 (3), where the risk posed to Lough Swilly has been identified, and as such must be mitigated for in full.

We should be grateful if you would take account of these concerns in considering this application. If approved, An Taisce maintains the right to appeal this application should we be dissatisfied with the approval and/or any conditions attached.

We should be grateful if you would provide to us in due course: an acknowledgement of this submission; the nature of the decision; the date of the decision; in the case of a decision to grant an approval, any conditions attached thereto, and the main reasons and considerations on which the decision is based; and, where conditions are imposed in relation to any grant of approval, the main reasons for the imposition of any such conditions.

Is mise le meas,



Elaine McGoff,
Natural Environment Office, An Taisce – The National Trust for Ireland.

the Greers Isle colony. In relation to the Black-headed Gull recent studies suggest that during the breeding season terrestrial habitat use and prey items dominate. Thus, it is very unlikely that Black-headed Gull from the Greers Isle colony would be affected by aquaculture activities at Trawbrea Bay. As for the Common Gull, recent studies of Irish breeding Common Gull colonies suggest that during the breeding season terrestrial habitat and prey items dominate. Overall, due to the proposed scale of oyster cultivation and the distance from Greers Isle it is unlikely that intertidal oyster culture would have a negative impact on the Common Gull from the Greers Isle colony.

- Lough Foyle (IE004087) & Lough Swilly (004075) are designated for a diverse range of wintering waders and wildfowl as well as breeding Sandwich Tern and Common Tern in the case of Lough Swilly. The former were screened out on the basis of distance, site usage etc; while the potential for impact on Sandwich Tern and Common Tern were screened out. Due to the proposed scale, distance from the Inch breeding colony in Lough Swilly and the possible influence of trestles as fish attracting devices – it is very unlikely that the intertidal oyster culture would have a negative impact on Sandwich Tern Breeding at Lough Swilly SPA. Common Tern tends to feed closer to their colony – it would seem very unlikely that Common Tern from the Inch colony at Lough Swilly feed in Trawbrea Bay.
- Horn Head to Fanad Head SPA (004194) - Barnacle Geese at this site were considered in full. This site is also designated for Chough. Chough favour coastal grassland and no impact from inter-tidal aquaculture is predicted. Other SCI species were screened out.

In-combination effects of aquaculture and other activities

The Appropriate Assessment considered the cumulative impacts of the combined effects of the aquaculture and other activities within the SPA, notably seaweed harvesting, a proposed onshore aquaculture shed, residential and recreational developments, hand collection of shellfish, bait digging and effluent discharge.

Findings and Recommendations of the Appropriate Assessment of Aquaculture

North Inishowen Coast SAC

- Existing and proposed cultivation and access route activity was shown to overlap with 5.88% of the qualifying interest 'Mudflats and sandflats not covered by seawater at low tide' (1140). As this value is below the 15% overlap threshold adverse impact on the qualifying feature can be discounted.
- While the existing and proposed cultivation sites extend over 17.54% and 2.75% of the constituent community types 'Muddy sand to coarse sediment with *Pygospio elegans*' community complex and 'Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger*' community complex, published literature suggests that aquaculture activities occurring at trestle culture sites are not considered disturbing. The total spatial overlap of the access routes on the above community types is 2.86% and 3.04% respectively (access routes used in inter-tidal areas are

July 2018 AA
Annex 1

ADVERTISED WITH
APPLICATIONS

qualifying habitat feature of Mudflats and sandflats not covered by seawater at low tide (1140) while Table 7.1 below provides an overview of overlap of aquaculture activities and specific marine community types (identified from Conservation Objectives (i.e. NPWS 2014a)) within the broad habitat feature 1140. A full assessment (see Section 8) was carried out on the likely interactions of aquaculture activities with the community types presented in (Table 7.1).

Given the wide spatial distribution of Otter (*Lutra lutra*) (1355) within the North Inishowen Coast SAC it is possible the species may interact with aquaculture activities. Consequently, a full assessment was carried out on the likely interactions (see Section 8).

Table 7.1 - Habitat utilisation i.e. spatial overlap in hectares and percentage (given in parentheses) of aquaculture activity over community types within the qualifying interest 1140 (i.e. Mudflats and sandflats not covered by seawater at low tide) in North Inishowen Coast SAC. Spatial data based on licence database provided by DAFM. Habitat data provided in NPWS 2014c.

			1140 - Mudflats and sandflats not covered by seawater at low tide; 588ha		
Culture Type	Method	Status	Muddy sand to coarse sediment with <i>Pygospio elegans</i> community complex - 542.76ha	Sand with <i>Angulus tenuis</i> and <i>Scoloplos armiger</i> community complex - 208.53ha	Fine to medium sand with <i>Eurydice pulchra</i> community complex - 235ha
Oysters	Intensive	Licensed	5.06 (0.93)	12.01 (5.76)	-
Oysters	Intensive	Application	19.34 (3.56)	54.3 (28.04)	0.19 (<0.01)
Access Routes			2.86 (0.53)	3.14 (1.51)	-
Grand total			27.26 (5.02)	69.45 (33.31)	0.19 (<0.01)

and exclude the sensitive community *Zostera*-dominated community. Of the three communities, one had no overlap with aquaculture activities (i.e. Fine to medium sand with *Eurydice pulchra* community complex). Therefore, the following two community types, found within the qualifying interest 1140 of the SAC have overlap with aquaculture activities:

- Fine to medium sand with *Eurydice pulchra* community complex
- Muddy sand to coarse sediment with *Pygospio elegans* community complex
- Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger* community complex

The community types listed above are predominantly sandy-muddy habitat types and given they are intertidal, will be exposed to a range of physical and hydrodynamic pressures. Table 8.1 lists the habitats (or surrogates) and Table 8.2 lists the constituent taxa and both provide a commentary of sensitivity to a range of pressures. The risk scores are derived from a range of sources identified above. The pressures are listed as those likely to result from intertidal oyster within the SAC (see Table 6.1).

Table 8.4 below identifies the likely interactions between the existing and proposed aquaculture activities and the broad habitat feature (1140) and the constituent community types, with a broad conclusion and justification on whether the activity is considered disturbing to the feature in question. It must be noted that the sequence of distinguishing disturbance is as highlighted above, whereby activities with spatial overlap on habitat features are assessed further for their ability to cause persistence disturbance on the habitat. If persistent disturbance is likely then the spatial extent of the overlap is considered further. If the proportion of the overlap exceeds a threshold of 15% disturbance of the habitat then any further licencing should be informed by interdepartmental review and consultation (NPWS 2014c).

Based on assessment of existing licenses current scale, frequency and intensity of the aquaculture activities The function of an appropriate assessment and risk assessment is to determine if the ongoing and proposed aquaculture and fisheries activities are consistent with the Conservation Objectives for the Natura site or if such activities will 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. NPWS (2014a) provide guidance on interpretation of the Conservation Objectives which are, in effect, management targets for habitats and species in the SAC. This guidance is scaled relative to the anticipated sensitivity of 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 a disturbing activity and a habitat is given in the NPWS guidance. Below this 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.

Existing and proposed cultivation and access route activity was shown to overlap with 8.14% of the qualifying interest Mudflats and sandflats not covered by seawater at low

JULY 2018
AA
Annex I

tide (1140). As this value is below the 15% threshold adverse impact on the qualifying feature can be discounted (Table 7.1).

While existing and proposed cultivation sites extend over 22.99%, 4.45% and <0.01% of the constituent community types Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger* community complex, Muddy sand to coarse sediment with *Pygospio elegans* community complex and Fine to medium sand with *Eurydice pulchra* community complex, respectively (Table 7.1), published literature (Forde et al 2015; Carroll et al, 2016) suggests that activities occurring at trestle culture sites are not considered disturbing. However, the access routes used in intertidal areas, presumably by virtue of persistent compaction of the sedimentary habitats, are considered disturbing (De-Grave et al 1998; Forde et al., 2015) and the total spatial overlap over which the access routes fall is 1.46% and 0.53% for Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger* community complex and Muddy sand to coarse sediment with *Pygospio elegans* community complex, respectively. Given that these values individually and combined are less than 15% threshold significant adverse impacts of activities on these community type can be discounted.

July 2018 AA
Annex I

3. **Zostera-dominated community Extent and Structure** – *Zostera*-dominated communities are considered highly diverse and sensitive habitat types which host a wide range of taxa. Given the highly sensitive natures of the community types and constituent taxa it is highly likely that aquaculture activities of any type which overlap the community type and the pressures may result in long-term or permanent change to the extent of these community types and impact upon their structure and function. In North Inishowen Coast SAC, however, existing or proposed aquaculture activity (individually or combined) does not overlap with *Zostera*-communities. Consequently, adverse impacts of existing and proposed aquaculture on the *Zostera* community complex can be discounted.

Introduction of non-native species: As already outlined, oyster culture may present a risk in terms of the introduction of non-native species as the Pacific oyster (*Crassostrea gigas*) itself is a non-native species. Recruitment of *C. gigas* has been documented in a number of Bays in Ireland and appears to have become naturalised (i.e. establishment of a breeding population) in two locations (Kochmann et al 2012; 2013) and may compete with the native species for space and food. In addition to having large number of oysters in culture, Kochmann et al (2013) identified long residence times (>21 days) and large intertidal areas as factors likely contributing to the successful recruitment of oysters in Irish bays. In addition, a recent study (Kochmann and Crowe, 2014) has identified heavy macroalgal cover as a potential factor governing recruitment, with higher cover resulting in lower recruitment. Oyster production in the North Inishowen Coast SAC does not fulfil these criteria in that, the residence time is approximately 10 days (Dabrowski 2011) and there is heavy cover of macroalgae in intertidal areas. Furthermore the use of triploid oysters reduces the risk of successful spawning and establishment of viable non-native oyster populations. Therefore the risk of successful establishment of the Pacific oyster in Trawbreaga Bay portion of North Inishowen Coast SAC is considered low. However, Trawbreaga Bay (oyster culture area within the SAC) effectively flows into the broader Lough Swilly this presents a risk to the Lough Swilly SAC (Code: 2287) and the factors identified by Kochmann et al (2013) facilitating the successful establishment of populations has been identified for Lough Swilly and indeed, non-native oysters have established in this bay. Therefore, it is important that triploid oysters continue to be used in North Inishowen Coast SAC (Code: 2012) in order to minimise any risk to Lough Swilly SAC (Code: 2237).

5.1 highlights the spatial overlap between (existing and proposed) aquaculture activities and qualifying habitat feature of Mudflats and sandflats not covered by seawater at low tide (1140) while Table 7.1 below provides an overview of overlap of aquaculture activities and specific marine community types (identified from Conservation Objectives (i.e. NPWS 2014a)) within the broad habitat feature 1140. A full assessment (see Section 8) was carried out on the likely interactions of aquaculture activities with the community types presented in (Table 7.1).

Given the wide spatial distribution of Otter (*Lutra lutra*) [1355] within the North Inishowen Coast SAC it is possible the species may interact with aquaculture activities. Consequently, a full assessment was carried out on the likely interactions (see Section 8).

Table 7.1 - Habitat utilisation i.e. spatial overlap in hectares and percentage (given in parentheses) of aquaculture activity over community types within the qualifying interest 1140 (i.e. Mudflats and sandflats not covered by seawater at low tide) in North Inishowen Coast SAC. Spatial data based on licence database provided by DAFM. Habitat data provided in NPWS 2014c.

			1140 - Mudflats and sandflats not covered by seawater at low tide; 987.89ha	
Culture Type	Method	Status	Muddy sand to coarse sediment with <i>Pygospio elegans</i> community complex; 542.76ha	Sand with <i>Angulus tenuis</i> and <i>Scoloplos (Scoloplos) armiger</i> community complex; 208.53 ha
Oysters	Intensive	Licensed	1.34 (0.25)	6.21 (2.98)
Sub-total			1.34 (0.25)	6.21 (2.98)
Oysters	Intensive	Application	13.55 (2.5)	30.37 (14.56)
Sub-total			13.55 (2.50)	30.37 (14.56)
Access Routes			2.86 (0.53)	3.04 (1.46)
Grand total			17.75 (3.28)	39.62 (19.00)

5.1 highlights the spatial overlap between (existing and proposed) aquaculture activities and qualifying habitat feature of Mudflats and sandflats not covered by seawater at low tide (1140) while Table 7.1 below provides an overview of overlap of aquaculture activities and specific marine community types (identified from Conservation Objectives (i.e. NPWS 2014a)) within the broad habitat feature 1140. A full assessment (see Section 8) was carried out on the likely interactions of aquaculture activities with the community types presented in (Table 7.1).

Given the wide spatial distribution of Otter (*Lutra lutra*) (1355) within the North Inishowen Coast SAC it is possible the species may interact with aquaculture activities. Consequently, a full assessment was carried out on the likely interactions (see Section 8).

Table 7.1 - Habitat utilisation i.e. spatial overlap in hectares and percentage (given in parentheses) of aquaculture activity over community types within the qualifying interest 1140 (i.e. Mudflats and sandflats not covered by seawater at low tide) in North Inishowen Coast SAC. Spatial data based on licence database provided by DAFM. Habitat data provided in NPWS 2014c.

			1140 - Mudflats and sandflats not covered by seawater at low tide; 987.89ha	
Culture Type	Method	Status	Muddy sand to coarse sediment with <i>Pygospio elegans</i> community complex; 542.76ha	Sand with <i>Angulus tenuis</i> and <i>Scoloplos (Scoloplos) armiger</i> community complex; 208.53 ha
Oysters	Intensive	Licensed	1.34 (0.25)	6.21 (2.98)
Oysters	Intensive	Application	13.55 (2.5)	30.37 (14.56)
Access Routes			2.86 (0.53)	3.04 (1.46)
Grand total			17.75 (3.28)	39.62 (19.00)

qualifying habitat feature of Mudflats and sandflats not covered by seawater at low tide (1140) while Table 7.1 below provides an overview of overlap of aquaculture activities and specific marine community types (identified from Conservation Objectives (i.e. NPWS 2014a)) within the broad habitat feature 1140. A full assessment (see Section 8) was carried out on the likely interactions of aquaculture activities with the community types presented in (Table 7.1).

Given the wide spatial distribution of Otter (*Lutra lutra*) [1355] within the North Inishowen Coast SAC it is possible the species may interact with aquaculture activities. Consequently, a full assessment was carried out on the likely interactions (see Section 8).

Table 7.1 - Habitat utilisation i.e. spatial overlap in hectares and percentage (given in parentheses) of aquaculture activity over community types within the qualifying interest 1140 (i.e. Mudflats and sandflats not covered by seawater at low tide) in North Inishowen Coast SAC. Spatial data based on licence database provided by DAFM. Habitat data provided in NPWS 2014c.

			1140 - Mudflats and sandflats not covered by seawater at low tide; 987.89ha		
Culture Type	Method	Status	Muddy sand to coarse sediment with <i>Pygospio elegans</i> community complex - 542.76ha	Sand with <i>Angulus tenuis</i> and <i>Scoloplos (Scoloplos) armiger</i> community complex - 208.53ha	Fine to medium sand with <i>Eurydice pulchra</i> community complex - 235ha
Oysters	Intensive	Licensed	1.34 (0.25)	6.21 (2.98)	-
Oysters	Intensive	Application	22.90 (4.2)	43.83 (20.01)	0.19 (<0.01)
Access Routes			2.86 (0.53)	3.14 (1.51)	-
Grand total			25.76 (4.98)	53.18 (24.5)	0.19 (<0.01)

0001
AA
Annex I

Table 5.1 - Spatial extent of aquaculture activities and access routes overlapping with the qualifying interest (1140 Mudflats and sandflats not covered by seawater at low tide) in North Inishowen Coast SAC. Aquaculture activities presented according to culture type, method and license status.

Culture Type	Method	Status	No of Licences	1140 - Mudflats and sandflats not covered by seawater at low tide (SACs)	
				Area (ha)	% Feature
Oysters	Intensive	Licensed	66	25.21	2.55
Oysters	Intensive	Application	20	18.95	1.92
Access Routes				8.9	0.9
Grand total				58.14	5.68

July 2019

AA

Annex I

Table 7.1 below provides an overview of overlap of aquaculture activities and specific marine community types (identified from Conservation Objectives (i.e. NPWS 2014a)) within the broad habitat feature 1140. A full assessment (see Section B) was carried out on the likely interactions of aquaculture activities with the community types presented in (Table 7.1).

Given the wide spatial distribution of Otter (*Lutra lutra*) (1355) within the North Inishowen Coast SAC it is possible the species may interact with aquaculture activities. Consequently, a full assessment was carried out on the likely interactions (see Section B).

Table 7.1 - Habitat utilisation i.e. spatial overlap in hectares and percentage (given in parentheses) of aquaculture activity over community types within the qualifying interest 1140 (i.e. Mudflats and sandflats not covered by seawater at low tide) in North Inishowen Coast SAC. Spatial data based on licence database provided by DAFM. Habitat data provided in NPWS 2014c.

			1140 - Mudflats and sandflats not covered by seawater at low tide: 988ha		
Culture Type	Method	Status	Muddy sand to coarse sediment with <i>Pygospio elegans</i> community complex - 542.76ha	Sand with <i>Anguilla tenuis</i> and <i>Scoloplos (Scoloplos) armiger</i> community complex - 208.53ha	Fine to medium sand with <i>Eurydora packera</i> community complex - 235ha
Oysters	Intensive	Licensed	9.35 (1.72)	41.27 (19.8)	-
Oysters	Intensive	Application	3.36 (0.06)	18.2 (8.7)	0.19 (<0.01)
Access Routes			4.88 (0.9)	4.01 (1.92)	-



T12/523

AQUACULTURE LICENCE

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

Kearney Oysters Ltd

43 Donagh Park

Carndonagh

Co.Donegal

TABLE OF CONTENTS

1. **LICENSED AREA**
 2. **SPECIES, CULTIVATION AND METHOD LICENSED**
 3. **INFRASTRUCTURE AND SITE MANAGEMENT**
 - Indemnity*
 - Design, Arrangement and Maintenance of Structures*
 - Operational Conduct*
 - Waste Management*
 - Inspection*
 4. **NAVIGATION AND SAFETY**
 5. **MONITORING**
 6. **FISH HEALTH / MORTALITY MANAGEMENT / MOVEMENT OF FISH**
 - Fish Health Regulations*
 - Disposal of Mortalities*
 - Movement of Fish*
 7. **DURATION, CESSATION, REVIEW, REVOCATION, AMENDMENT, ASSIGNMENT**
 - Duration, Cessation*
 - Review*
 - Revocation, Amendment*
 - Assignment*
 8. **FEEs**
 9. **GENERAL TERMS AND CONDITIONS**
 - Notification*
 - Tax Clearance Certificate*
 - Companies and Co-operatives*
 - Clearance of Site*
- SCHEDULE 1**
SCHEDULE 2
SCHEDULE 3
SCHEDULE 4

AQUACULTURE LICENCE NO. XXXX

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

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

Kearney Oysters Ltd

43 Donagh Park

Carndonagh

Co.Donegal

(hereinafter referred to as the “Licensee”) for the cultivation of Pacific Oysters on a site in Trawbreaga Bay, Co.Donegal as specified in Schedule 1 attached (numbered T12/523A) and indicated by a red line on the attached map in accordance with the plans and drawing(s) in Schedule 2 attached as approved of by the Minister, subject to the Act and Regulations made under the Act and to the terms and conditions set out in the attached pages.

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

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

TERMS AND CONDITIONS APPLYING TO THIS AQUACULTURE LICENCE

1. Licensed Area

- 1.1 The area specified in *Schedule 1* attached (0.9077 hectares) (labelled T12/523A) and outlined in red on the map(s) in *Schedule 1*.
- 1.2 The co-ordinates for the site are based on the Irish National Grid Co-ordinate System.

2. Species, Cultivation and Method Licensed

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

3. Infrastructure and Site Management

Indemnity

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

Design, Arrangement and Maintenance of Structures

- 3.3. The Licensee shall ensure that the equipment (including all flotation, mooring and anchoring devices) is placed within the licensed area only. Storage or placement of equipment or stock on the foreshore or seashore outside the licensed area is not permitted under any circumstances.
- 3.4. The Minister may direct as to the deployment of apparatus and flotation devices and their colour, within the site.
- 3.5. The Licensee shall obtain the prior approval of the Minister to any proposed material change to the plan/drawings or equipment as approved being used during the licensing period as specified in *Schedule 2* attached.
- 3.6. The Licensee shall at all times for the duration of the licence keep all equipment used for the purposes of the licensed operations in a good and proper state of repair and condition to the satisfaction of the Minister or other competent State authority.

- 3.7. The Licensee shall ensure that each trestle grouping/pole and all flotation and mooring devices in the licensed area legibly bear the Aquaculture Licence Number in an indelible weatherproof format.

Operational Conduct

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

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

Waste Management

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

Inspection

- 3.20. The licensed area and any equipment, structure, thing, or premises wherever situated used in connection with operations carried out in the licensed area shall be open for inspection at any time by an authorised person (within the meaning of Section 282 of the Fisheries (Consolidation) Act 1959) (No. 14 of 1959) (as amended by Fisheries Act 1980) (No. 1 of 1980), a Sea Fisheries Protection Officer (within the meaning of Sea Fisheries and Maritime Jurisdiction Act 2006) (No. 8 of 2006) or any other person appointed in that regard by the Minister or other competent State authority.
- 3.21. The Licensee shall give all reasonable assistance to an authorised officer or a Sea Fisheries Protection Officer or any person duly appointed by any competent State authority to enable the person or officer enter, inspect, examine, measure and test the licensed area and any equipment, structure, thing or premises used in connection with the operations carried out in the licensed area and to take whatever samples may be deemed appropriate by that person or officer.
- 3.22. The Licensee shall keep and maintain in the State for inspection on demand by the Minister or a competent State authority, at all times, records of all operations including compliance monitoring and any required follow up action. These records shall be produced by the Licensee on demand by the Minister or other competent State authority and in any event not later than 24 hours from the making of that demand.
- 3.23. The Licensee shall furnish to the Minister or other competent State authority in the form and at the intervals determined by the Minister or other competent State authority, such information relating to the licensed area as may be required to

determine compliance by the Licensee with the terms of this licence and applicable legislation.

4. **Navigation and Safety**

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

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

The navigation marking detail is as illustrated in Schedule 3.

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

4.4. 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.

4.5. Prior to commencement of operation the Licensee shall inform the UK Hydrographic Office at Taunton, of the location and nature of the site in order that charts and nautical publications can be updated. Tel: 00 44 1823337900 Fax: 00 44 1823 284877 Email: sdr@ukho.gov.uk the Licensee shall submit proof to the Department within 14 days of the date of this licence that the UK Hydrographic Office has been so informed.

5. **Monitoring**

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

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

Fish Health Regulations

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

Disposal of Mortalities

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

Movement of Fish

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

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

Duration, Cessation

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

Review

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

Revocation, Amendment

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

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

Assignment

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

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

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

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

8. **Fees**

- 8.1. The Licensee shall pay to the Minister an annual aquaculture licence fee in accordance with the Aquaculture (Licence Application and Licence Fees) Regulations 1998(S.I. No. 270/1998) as amended by the Aquaculture (Licence Fees) Regulations 2000 (S.I. No. 282 of 2000) or an amount payable under Regulations made under section 64 of the Act.
- 8.2. The Minister may revoke the licence where the Licensee fails to pay the aquaculture licence fees on demand.

9. **General Terms and Conditions**

- 9.1. The Licensee shall at all times comply with all laws and protocols applicable to aquaculture operations.
- 9.2. Any reference to a statute or an act of an institution of the European Union (whether specifically named or not) includes any amendments or re-enactments in force and all statutory instruments, orders, notices, regulations, directions, bye-laws, certificates, permissions and plans made, issued or given effect under such legislation shall remain valid.
- 9.3. If any condition or part of a condition in this licence is held to be illegal or unenforceable in whole or in part, such condition shall be deemed not to form part of this licence but the enforceability of the remainder of this licence is not affected.
- 9.4. The Licensee shall at all times hold all necessary licences, consents, permissions, permits or authorisations associated with any activities of the Licensee in connection with the licensed area.

Notification

- 9.5. Without prejudice to any other remedy under the licence or in law, if the Minister is of the view that the Licensee is in breach of any obligation under this licence, the Minister may, by notice in writing, require that the Licensee rectifies such breach, within such time as is specified by the Minister. The Licensee shall comply with any direction of the Minister within the time specified in the notice.
- 9.6. Any notice to be given by the Minister may be transmitted through the Post Office addressed to the Licensee at the last known address of the Licensee.
- 9.7. The Licensee shall notify the Minister within 7 days of any change in the Licensee's address, telephone, e-mail or facsimile number.

Tax Clearance Certificate

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

Companies and Co-operatives

- 9.9. In the event of the licence being granted to a company (within the meaning of the Companies Acts), control of the licensee company shall not change in any respect

from the control of the company as existed on the date that the licence was granted so long as this licence shall remain in force save with the prior written permission of the Minister.

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

Clearance of Site

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

SCHEDULE 1

Schedule 1 contains:

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

DRAFT

1 NO. SITE AT TRAWBREAGA BAY CO.DONEGAL

Co-ordinates & Area

Site T12/5223A (0.9077 Ha)

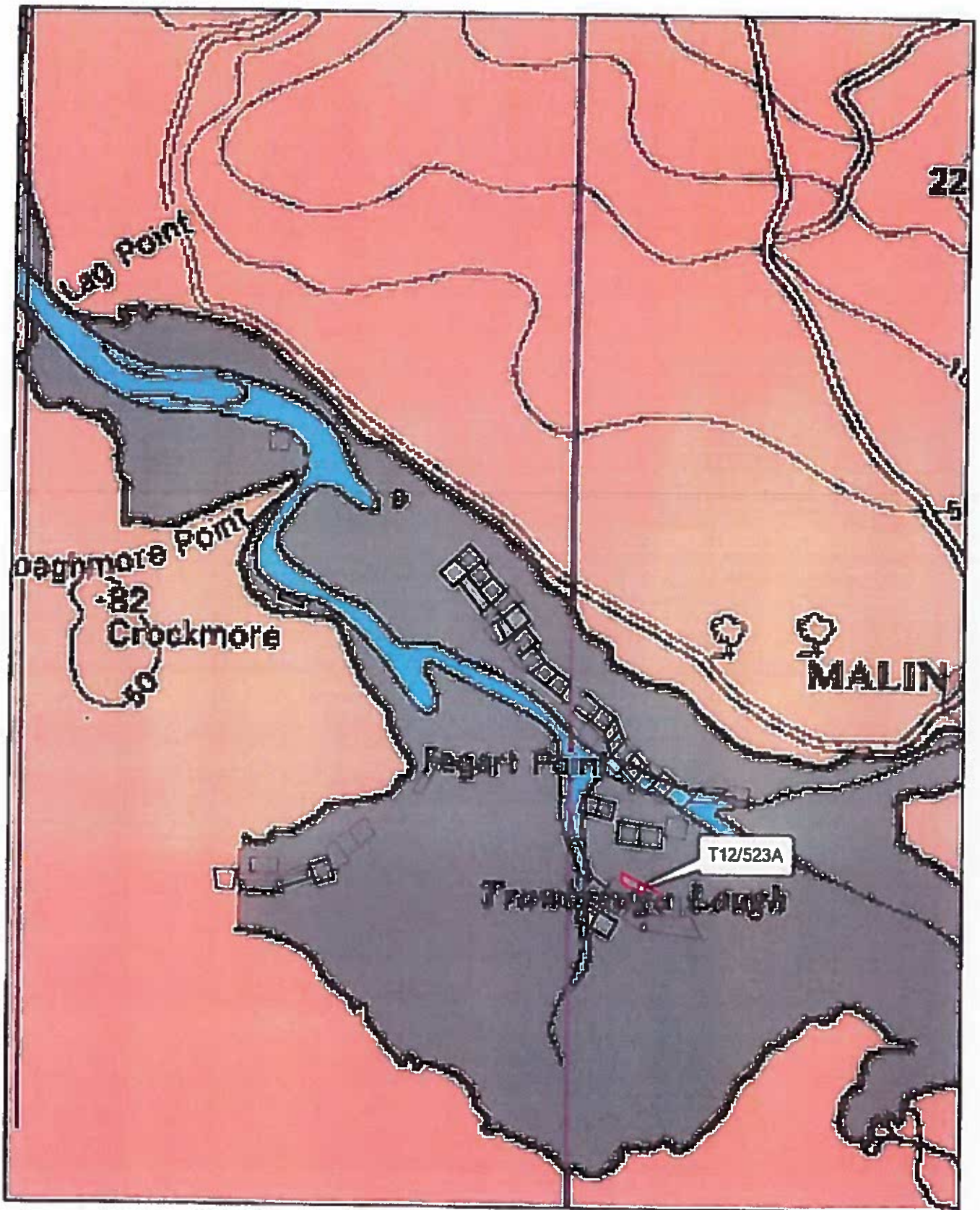
The area seaward of the high water mark and enclosed by a line drawn from Irish National Grid Reference point

245319, 449249 to Irish National Grid Reference point

245520, 449147 to Irish National Grid Reference point

245498, 449110 to Irish National Grid Reference point

245325, 449197 to Irish National Grid Reference point



Aqua Culture Sites
(not other vessels)

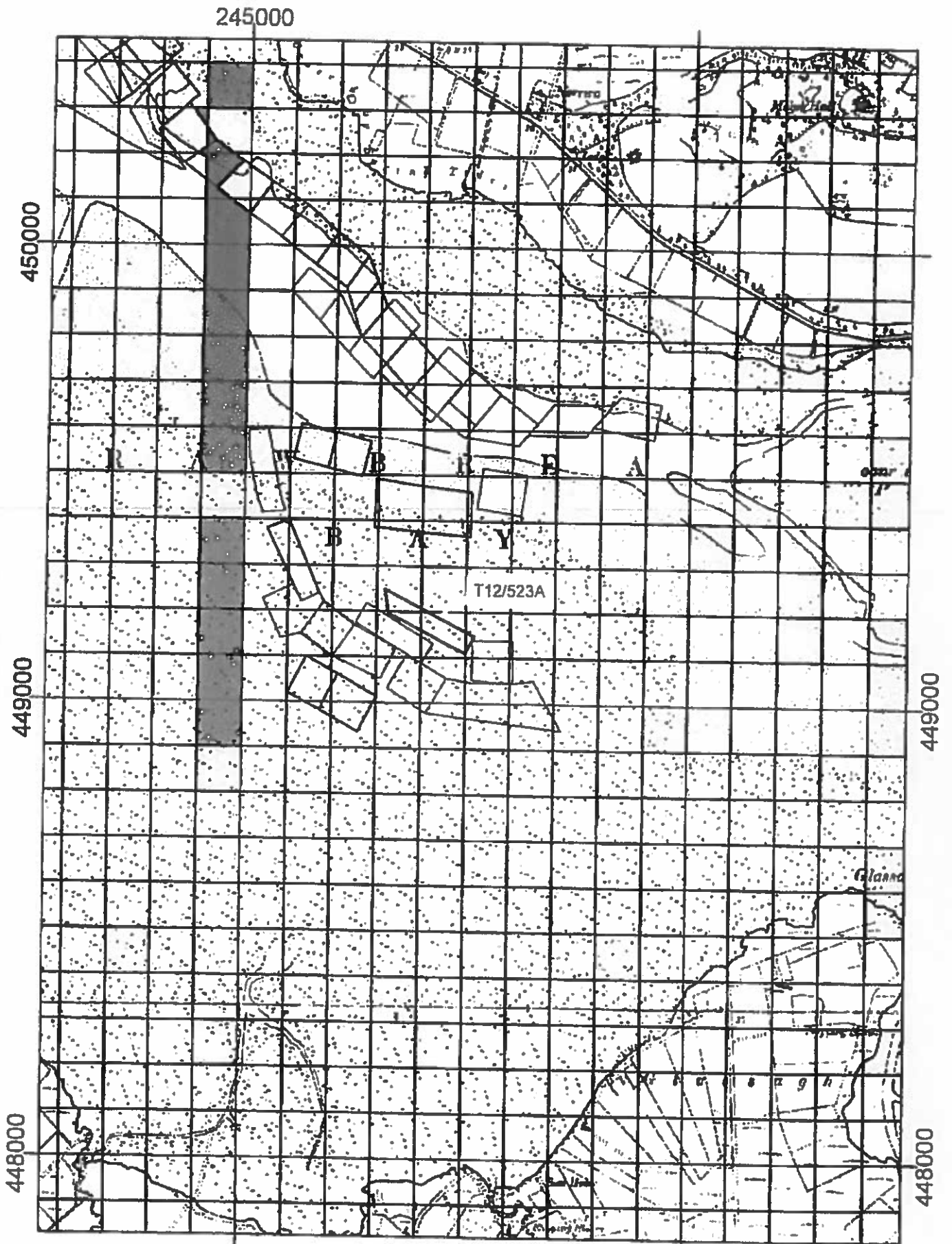
Site Status	Application
	Applied for
	Granted
	Refused
	Withdrawn
	Not applied for








1:24,000

Sites highlighted in red denotes Application
Part of Admiralty Chart No =2811-0
Not to be used for Navigation



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



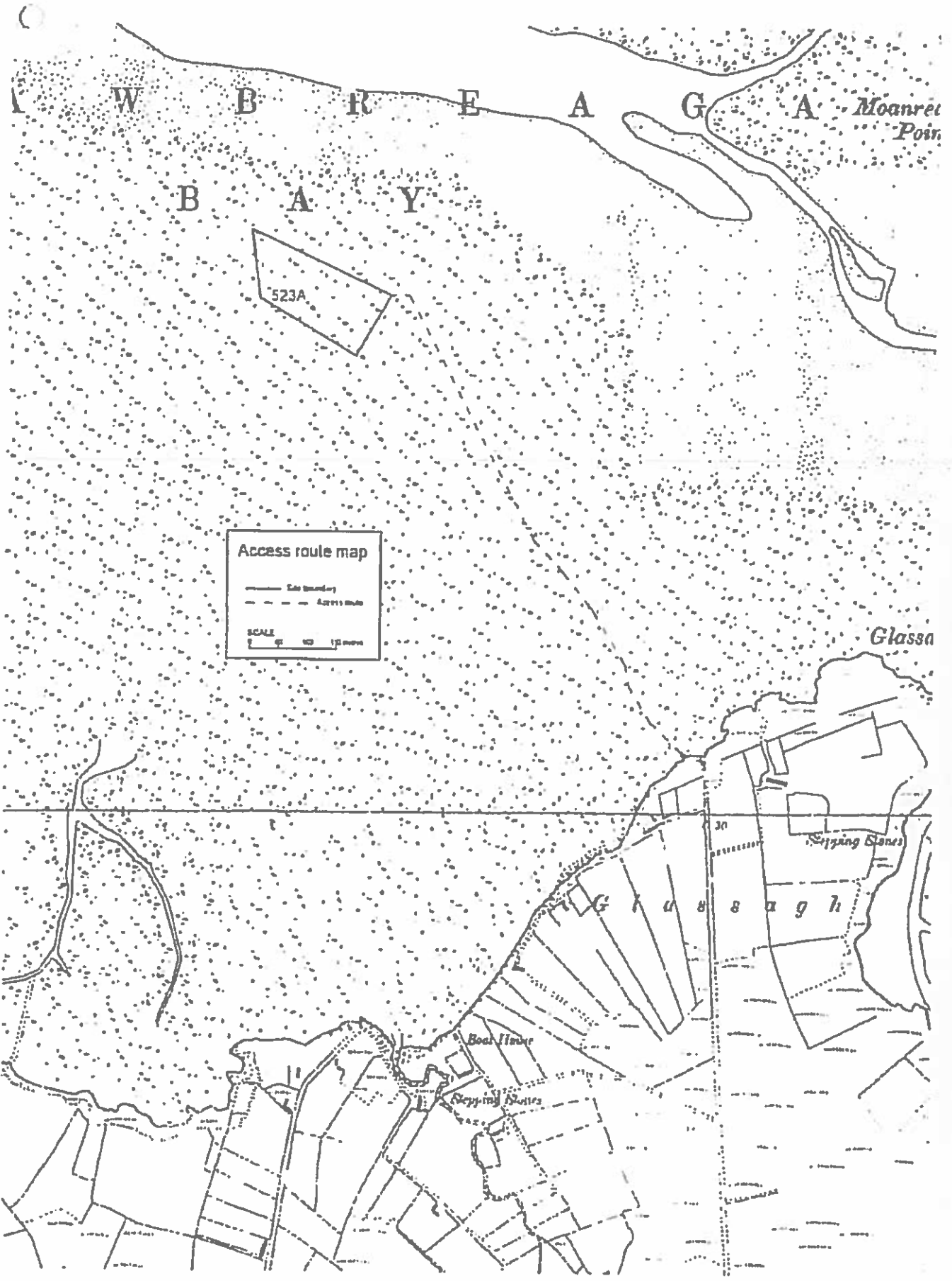
- Aqua Culture Sites**
(not other values)
- Site Status**
-  Application
 -  Licensed
 -  Licensed
 -  Revoked
 -  Surrendered
 -  Withdrawn
 -  100 Meter Reference Grid

245000 1.10,560 246000

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

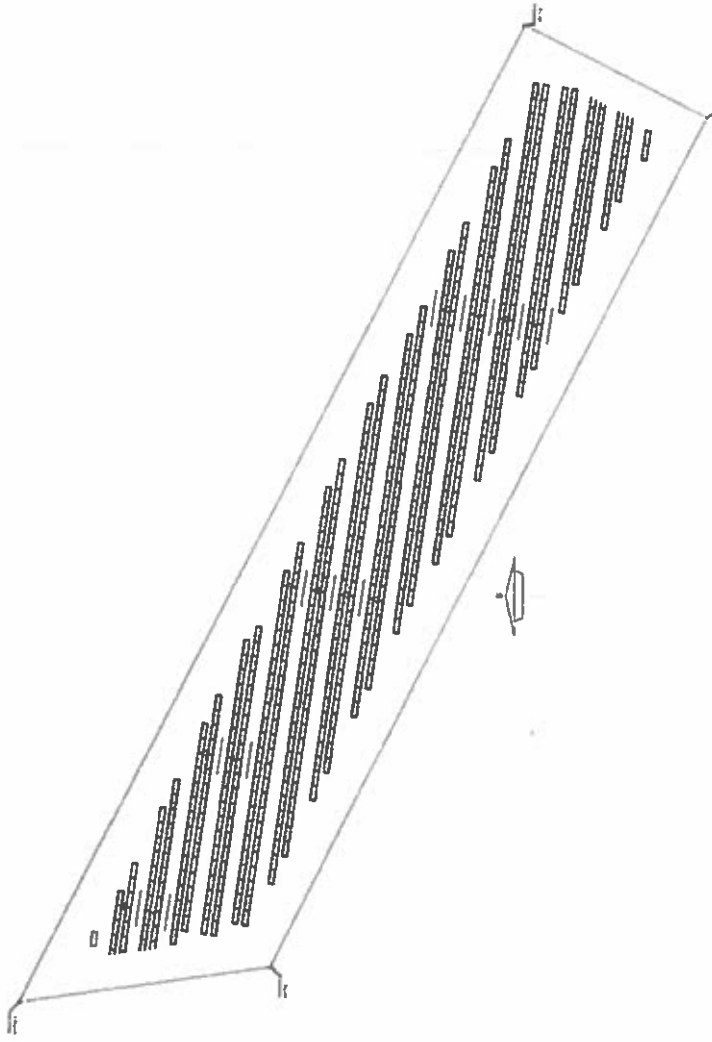


SCHEDULE 2

Schedule 2 contains:

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

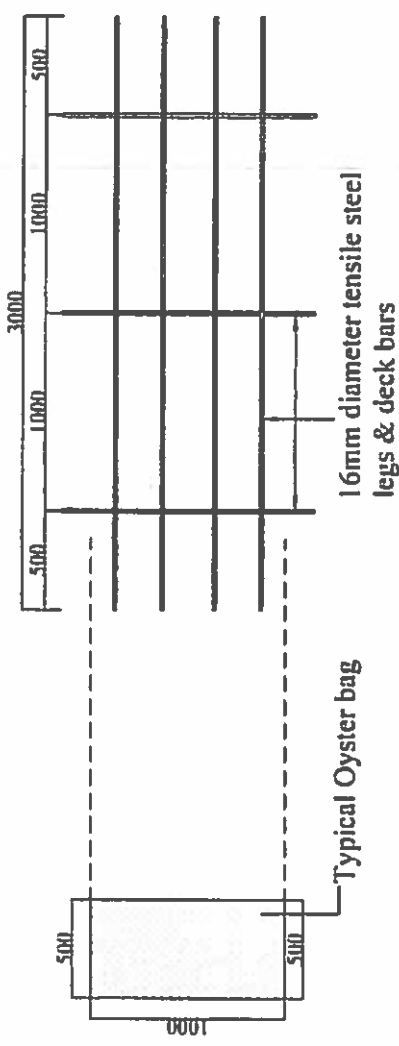
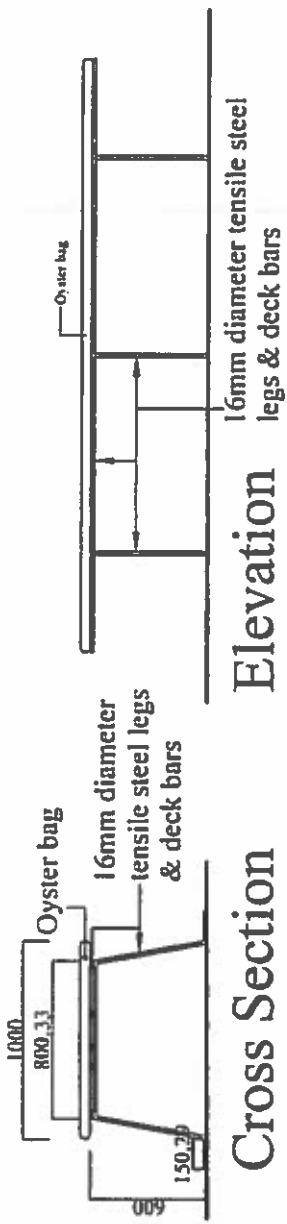
DRAFT



Proposed Trestle Layout

Scale: 1/1000

Aquaculture Licence Application Licence No. AR0016019 © Overseas Survey Ireland, Government of Ireland	
DRAWN:	DATE:
OCEAN HOUSE OF October House Design Ltd. The Mullins Knauler Rd Ballyshannon Co. Donegal Ireland. Tel: 071 912 1111 Email: info@oceanhouse.com www.oceanhouse.com	
TITLE Trestle Layout For Site T12/523A on behalf of Kearney Oysters Ltd.	
SCALE 1/1000	
FILE NO.	DATE
DRAWN	BY



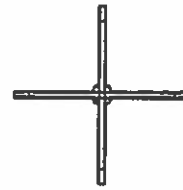
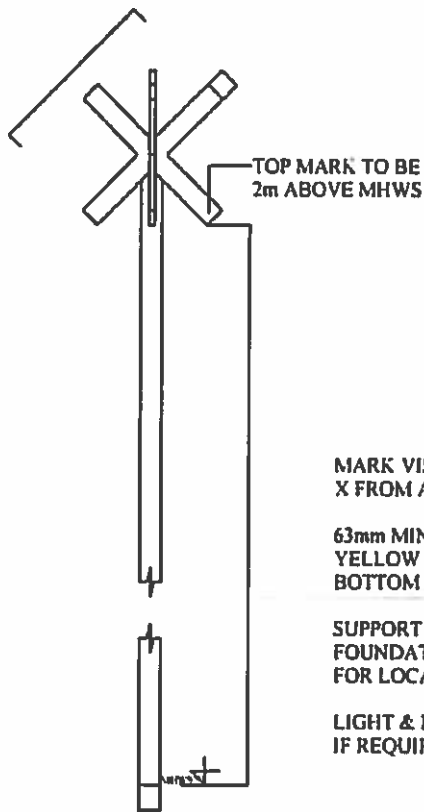
Plan (Oyster bags not shown for clarity)

Typical Trestle Detail

Fig. 1

Scale: 1/25

Aquaculture Licence Application Ombudsman Survey Licence No. AK0016019 Ombudsman Survey Ireland, Government of Ireland			
DRAWING Trestle & Special Mark Beacon Detail For Site T12523A on behalf of Kearney Oysters Ltd.		DATE: 24/01/25 DRAWN BY: [Signature] CHECKED BY: [Signature]	
PROJECT NO: 00010211 CLIENT: October House Design Ltd. ADDRESS: The Mullins Knauler Rd Ballyshannon Co. Donegal Ireland. Tel: +353 (0) 97 125 1111 Email: info@ohdesign.ie www.ohdesign.ie		SCALE: 1/25 SHEET NO: 01 OF 01	



Plan:
Special Mark Beacon

MARK VISIBLE AS YELLOW
X FROM ALL DIRECTIONS

63mm MIN DIAMETER POLE -
YELLOW FOR 2 METERS BELOW
BOTTOM OF CROSS

SUPPORT STRUCTURE &
FOUNDATION SUITABLE
FOR LOCATION.

LIGHT & RADAR REFLECTOR
IF REQUIRED

Elevation:
Special Mark Beacon

Special Mark Beacon Detail

Fig. 2

Scale: 1/25

Aquaculture Licence Application			
Ordnance Survey Ireland License No. AR0016019 © Ordnance Survey Ireland, Government of Ireland			
DRAWN BY:		CHECKED BY:	
© COPYRIGHT OF October House Design Ltd. The Mullins Knader Rd Ballyshannon Co. Donegal T Martin McLoughlin B ENG(Hons), C ENG, M I E I Mobile: (086) 2217173 Email: info@octoberhouse.org <small>No dimensions to be called from the drawing if dimensions to be called by the contractor or any other of designers to be referred to the register in charge</small>			
TITLE Trestle & Special Mark Beacon Detail For Site T12/523A on behalf of Kearney Oysters Ltd.			
DRAWING Trestle & Special Mark Beacon Detail			
SCALE	1/25	O.S. ref.	DRG NO.
DATE	Jan 2019		REV
		12	

SCHEDULE 3

Schedule 3 contains:

- **requirements of CIL**

- That the applicant secures Statutory Sanction from the Commissioner of Irish Lights for the aids to navigation that are required and approved by the Marine Survey Office. These aids should be in place before the development on the site commences.

- **requirements of the MSO / the navigation marking detail.**

- Site to be marked in accordance with the requirements of the Special Unified Marking Scheme (SUMS) for Trawbegga Bay. The agreed site marking should be in place before the development on the site commences.

DRAFT

SCHEDULE 4

Schedule 4 contains:

- Only Triploid stock to be used on this site.
- The source of seed, where applicable, must be approved by the Department of Agriculture Food and the Marine.
- Any change to the source of seed must be approved in advance by the Department of Agriculture Food and the Marine.
- Prior to the commencement of operations at the site the Licensee is required to prepare a Contingency Plan for the approval of the Department of Agriculture Food and the Marine 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.
- The Licensee must comply with any Code of Practice developed in agreement with NPWS.
- The access route over the intertidal habitat must be strictly adhered to, in order to minimise habitat disturbance.



T12/523

FORESHORE LICENCE

Kearney Oysters Ltd

43 Donagh Park

Carndonagh

Co. Donegal

TABLE OF CONTENTS

TERMS AND CONDITIONS APPLICABLE TO FORESHORE LICENCE

SEAL OF OFFICE AND SIGNATURES

SCHEDULE 1

DRAFT

FORESHORE LICENCE IN RESPECT OF A SITE
(NUMBERED T12/523A) AT Trawbreaga Bay, CO. Donegal

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

Kearney Oysters Ltd
43 Donagh Park
Carndonagh
Co. Donegal

(hereinafter referred to as the “Licensee”) of the other part, whereby the Minister, in exercise of the powers conferred on him by Section 3 of the Foreshore Act, 1933 (No.12 of 1933) hereby grants to the Licensee licence to use and occupy that part of the foreshore at **Trawbreaga Bay, Co. Donegal** (numbered **T12/523A**) detailed in the attached schedule and more particularly delineated on the map annexed hereto and thereon coloured red for the purpose of the cultivation set out in Aquaculture Licence Number **XXX** on the terms and conditions set out in the attached pages.

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

TERMS AND CONDITIONS APPLICABLE TO FORESHORE LICENCE

1. The Licensee shall pay to the Minister the annual sum of € XXXXX (XXXXX euro XXX cent), such payment to be made on the XX day of XXXXXXXXX in every year during the continuance of this Licence, the first of such payments to be made on the signing hereof.
2. The Licensee shall use that part of the foreshore, the subject matter of this Licence, for the cultivation set out in Aquaculture Licence Number XXX only and for no other purpose whatsoever.
3. The Licensee shall comply fully with all terms and conditions of Aquaculture Licence Number XXX.
4. The Licensee shall indemnify and keep indemnified the State, the Minister, his officers, servants or agents against all actions, loss, damage, costs, expenses and any demands or claims however arising in connection with the construction, maintenance or use of any structures, apparatus, equipment or any other thing used in connection with the licensed operation in the licensed area or in the exercise of the rights granted under the licence and the Licensee shall take such steps as the Minister may specify in order to ensure compliance with this condition.
5. The duty of maintenance and responsibility for the upkeep and safety of the site rests with the Licensee.
6. The Minister shall be at liberty at any time to terminate this Licence by giving to the Licensee three months notice in writing ending on any day, and upon determination of such notice, the Licence and permission granted shall be deemed to be revoked and withdrawn without the liability for the payment of any compensation by the Minister to the Licensee.
7. Any notice to be given by the Minister may be transmitted through the Post Office addressed to the Licensee at the last known address of the Licensee.
8. The Licensee shall not carry out any operations authorised by the Licence in the licensed area in such a manner as to interfere unreasonably with fishing or navigation in the vicinity of the licensed area and shall comply with any direction given to the Licensee in that regard by the Minister.
9. In the event of the breach, non-performance or non-observance by the Licensee of any of the conditions herein contained, the Minister may forthwith terminate this Licence without prior notice to the Licensee.

AND IT IS HEREBY CERTIFIED THAT:

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

SEAL OF OFFICE AND SIGNATURES

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

WITNESS: _____

ADDRESS: _____

OCCUPATION: CIVIL SERVANT

SIGNED on behalf of Licensee

in the presence of:

WITNESS: _____

ADDRESS: _____

OCCUPATION: _____

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

SCHEDULE 1

Schedule 1 contains:

- **the co-ordinates of the site based on the Irish National Grid Co-ordinate System and the area of the site**
- **site map(s)**
- **a chart showing the location of the site in relation to the surrounding area.**

DRAFT

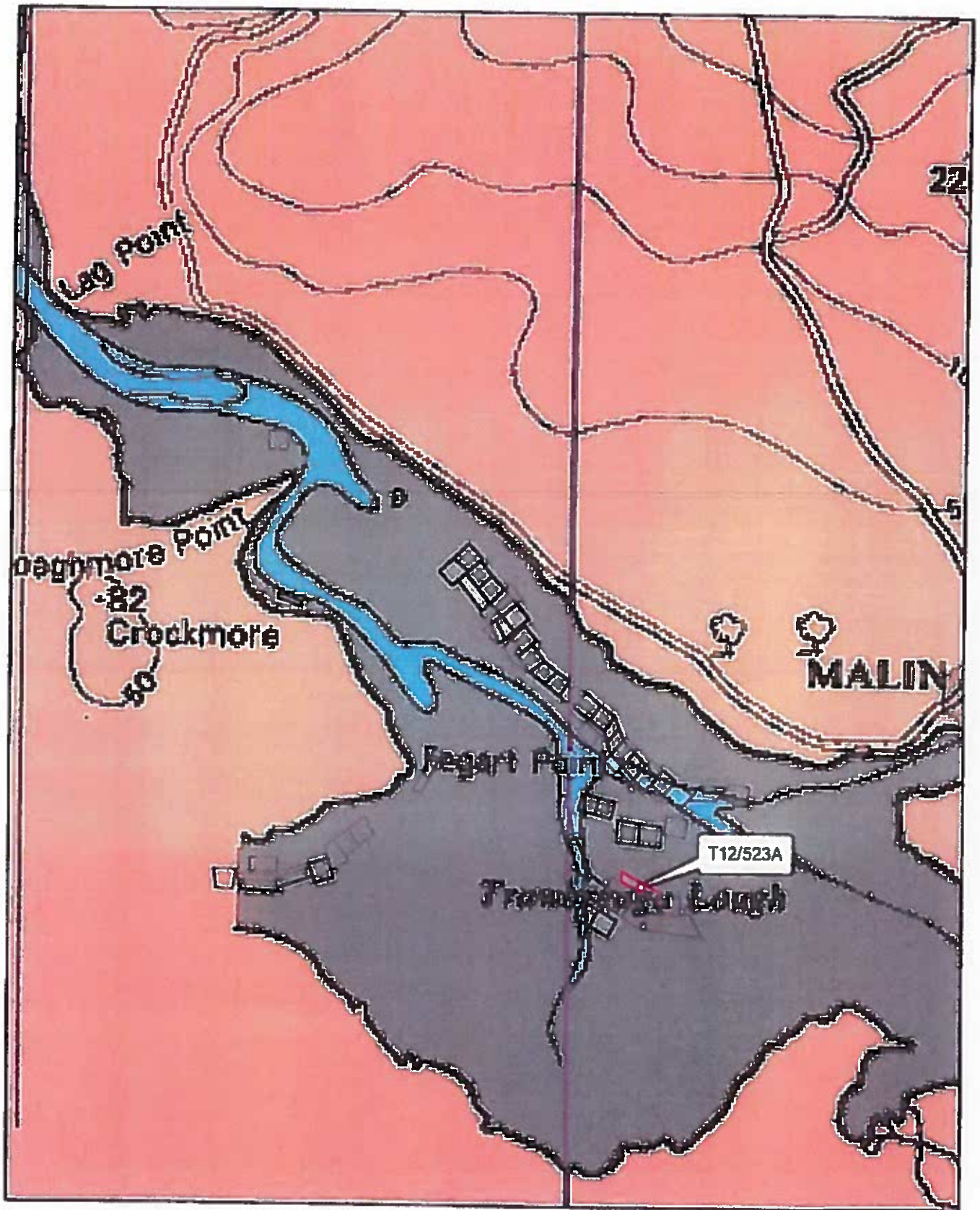
1 NO. SITE AT TRAWBREAGA BAY CO.DONEGAL

Co-ordinates & Area

Site T12/5223A (0.9077 Ha)

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

245319, 449249 to Irish National Grid Reference point
245520, 449147 to Irish National Grid Reference point
245498, 449110 to Irish National Grid Reference point
245325, 449197 to Irish National Grid Reference point



Aqua Culture Sites
(and other routes)

Site Status

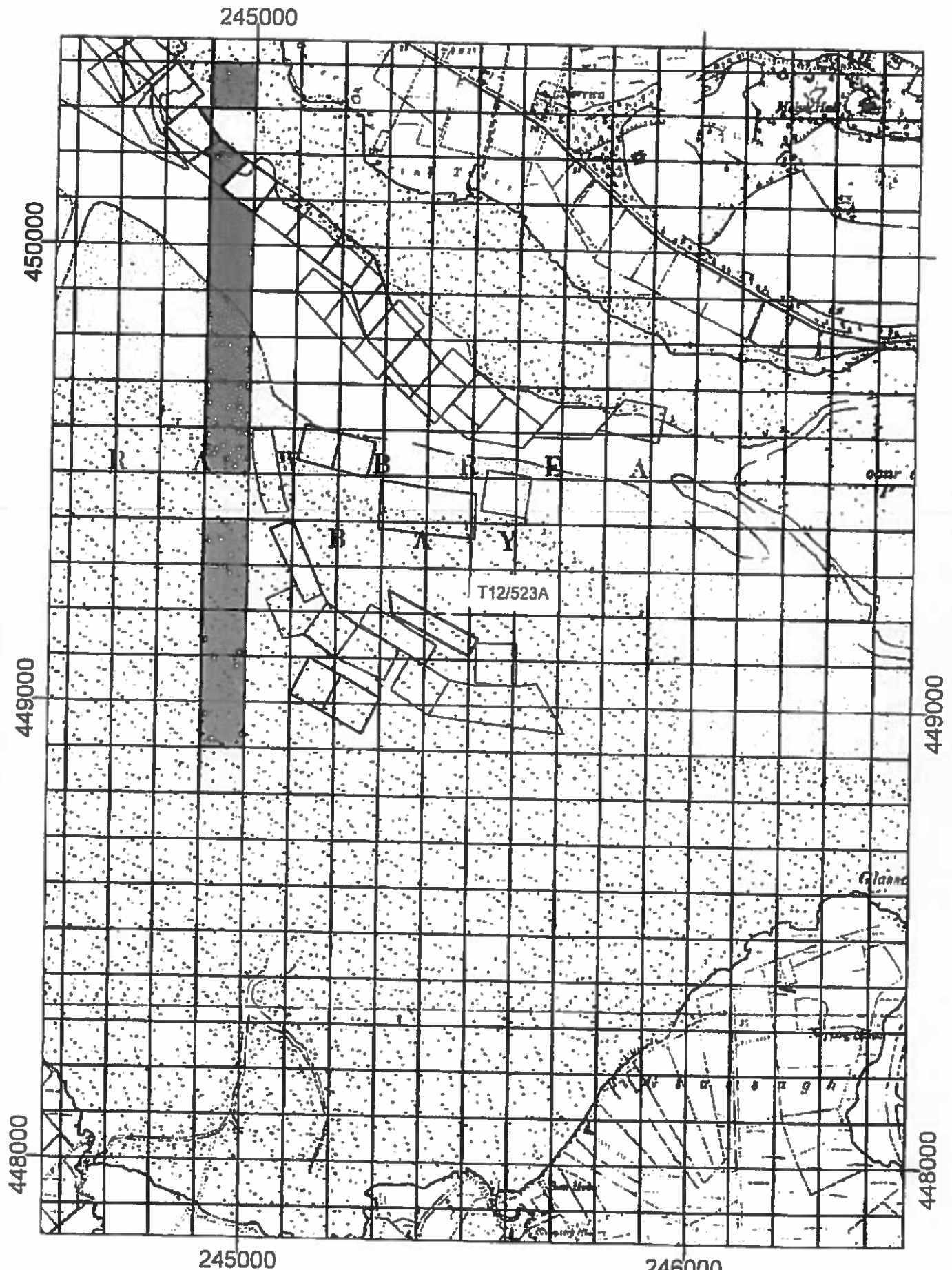
	Application
	Licensed
	Refused
	Withdrawn
	Withdrawn

1:24,000

Sites highlighted in red denotes Application
Part of Admiralty Chart No =2811-0
Not to be used for Navigation










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



Aqua Culture Sites
 not other values

Site Status

-  Application
-  Licensed
-  Refused
-  Revoked
-  Satisfactory
-  Withdrawn
-  100 M over Reference Dot

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

Appropriate Assessment Conclusion Statement by Licensing Authority for aquaculture activities in North Inishowen Coast Special Area of Conservation (SAC) (002012), and Trawbreaga Bay Special Protection Areas (SPA) (004034) (Natura 2000 sites)

This Conclusion Statement outlines how it is proposed to licence and manage aquaculture activities in the above 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 licence 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/fisheries/aquacultureforeshoremanagement/aquaculturelicensing/>.

The licences will also incorporate specific conditions 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 North Inishowen Coast SAC and Trawbreaga Bay SPA has been prepared by RPS/Atkins Ecology for the Marine Institute on behalf of the Department of Agriculture, Food and the Marine. This Appropriate Assessment assessed the potential ecological impacts of aquaculture activities on Natura features in both the SAC and the SPA.

In addition to the North Inishowen Coast SAC there are a number of other SACs proximate to the proposed aquaculture activities and a screening was carried out on their likely interaction with aquaculture.

There are also two other SPAs located within 15 kms of Trawbreaga Bay SPA, namely Malin Head SPA (004146) and Inishtrahull SPA (004100). These adjacent SPAs were also considered because of their proximity to Trawbreaga Bay and the potential use of aquaculture areas by birds for which these SPAs have been designated.

A further five SPAs Fanad Head SPA (004148); Greers Isle SPA (004082); Lough Foyle (IE004087) & Lough Swilly (004075); Horn Head to Fanad Head SPA (004194)) are located beyond the 15 km search area recommended by guidance, but are included due to potential interchange that may occur between the sites as a result of the mobile nature of birds.

The information upon which the Appropriate Assessment is based is the definitive list of applications and extant licences for aquaculture available at the time of assessment. This information was provided by the Department of Agriculture, Food and the Marine.

Aquaculture activity in the SAC and SPAs

Current aquaculture activities within the SAC/SPA occur at Trawbreaga Bay, focusing primarily on the cultivation of the Pacific oyster *C. gigas* in bags and trestles on the intertidal habitat.

North Inishowen Coast SAC (002012)

North Inishowen Coast SAC is a large site located on the north Donegal coast. The dominant habitats in the SAC are intertidal sand and mudflats. The site is also designated for Otter (*Lutra lutra*).

Qualifying Interests (SAC)

The SAC is designated for the following habitats and species (NPWS 2014a), as listed in Annex I and Annex II of the Habitats Directive:

- 1140 Mudflats and sandflats not covered by seawater at low tide
- 1220 Perennial vegetation of stony banks
- 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts
- 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)
- 21AO Machairs (*priority habitat in Ireland)
- 4030 European dry heaths
- 1014 Narrow-mouthed Whorl Snail *Vertigo angustior*
- 1355 Otter *Lutra lutra*

Conservation Objectives for North Inishowen Coast SAC

The conservation objectives for the qualifying interests (SAC) were identified by NPWS (2014a). The natural condition of the designated features should be preserved with respect to their area, distribution, extent and community distribution. Habitat availability should be maintained for designated species and human disturbance should not adversely affect such species.

Trawbreaga Bay SPA (004151)

Trawbreaga Bay SPA includes a very large area of intertidal habitat sheltered within the bay, with some narrow tidal creeks which develop into wider subtidal channels towards the mouth of the bay. Areas of terrestrial habitat include saltmarsh, coastal beach, dune, grassland, shingle banks and coastal cliffs. The SPA also includes Glashedy Island and the waters surrounding it, west of Doagh Isle. The SPA has a total area of 1,549 ha. Around 80 % of the bay area is exposed at each low tide with intertidal sediment composed mainly of a mix of mud and sand flats with some stony/rocky substrates. Green algae mats occur on open flats and *focus* ssp. Seaweeds grow on the stones.

Qualifying features

The Special Conservation Interests (SCIs) of the Trawbreaga Bay SPA include non-breeding populations of Barnacle Geese and Light-bellied Brent Geese. In addition, both breeding and non-breeding elements of the Chough population are also taken as Special Conservation interests.

Both Barnacle Geese and Chough are largely terrestrial (supratidal) with limited use of intertidal areas. Light-bellied Brent Geese utilize both intertidal and shallow subtidal habitats; with birds on occasion also roosting in deeper subtidal waters.

SCIs from other neighbouring SPAs were also considered. These include species which also have an SCI designation for Trawbreaga Bay; and species for which Trawbreaga Bay is not designated, but which could possibly occur within the bay.

The wetlands habitat contained within Trawbreaga Bay SPA and the waterbirds that utilize this resource are an additional Special Conservation Interest.

Conservation Objectives for Trawbreaga Bay SPA

The overall conservation objective for these SCI species (Barnacle Goose, Light-bellied Brent Goose and Chough) is to maintain or restore the favourable conservation status of the species (NPWS, 2014a). The favourable conservation conditions are defined by various attributes: (i) population trend, and (ii) distribution. In respect of population trend, the target is the long term, stable or increasing populations of the species specified. With regard to distribution, there should be no significant decrease in the range, timing or intensity of use of areas by the SCI species, other than that occurring from natural patterns of variation.

Wetlands and waterbirds

The conservation objective for wetlands and waterbirds is to “maintain the favourable conservation condition of the wetland habitat at Trawbreaga Bay SPA as a resource for the regularly-occurring migratory waterbirds that use it”. The favourable conservation condition of the wetland habitat is defined by a single attribute “habitat area” and target “the permanent area occupied by the wetland should be stable”.

None of the activities being assessed (aquaculture) will cause any change in the permanent area occupied by the wetlands habitat.

The Appropriate Assessment

The function of the Appropriate Assessment is to determine if the ongoing and proposed aquaculture activities are consistent with the Conservation Objectives set for these Natura sites. In the case of SPAs, also those neighbouring sites where there is the potential usage of aquaculture areas by birds for which these SPAs have been designated. The NPWS provides guidance on the interpretation of the Conservation Objectives which are, in effect, management targets for habitats and species in the sites. The assessment of aquaculture activities was informed by this guidance, which is scaled relative to the anticipated sensitivity of habitats and species to disturbance by the proposed activities.

Screening

North Inishowen Coast SAC

A screening exercise resulted in five habitat features and one species being excluded from further consideration by virtue of the fact that no spatial overlap of the culture activities was expected to occur. The habitats/species excluded from further consideration were (1220) Perennial vegetation of stony banks; (1230) Vegetated sea cliffs of the Atlantic and Baltic coasts; (2130) Fixed coastal dunes with herbaceous vegetation (grey dunes); (21A0) Machairs (*priority habitat in Ireland); (4030) European dry heaths; and (1014) Narrow-mouthed Whorl Snail *Vertigo angustior*.

Within the North Inishowen Coast SAC the qualifying habitats/species considered subject to potential disturbance and carried forward for further consideration in the Appropriate Assessment were:

- 1140 Mudflats and sandflats not covered by seawater at low tide
- 1355 Otter – *Lutra lutra*

Of the four constituent community types recorded within the qualifying interest of Mudflats and sandflats not covered by seawater at low tide (1140) two were shown to have no overlap with aquaculture activities and were excluded from further analysis – Fine to medium sand with *Eurydice pulchra* community complex and *Zostera*-dominated community.

The following community types were carried forward for further analysis:

- Muddy sand to coarse sediment with *Pygospio elegans* community complex
- Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger* community complex.

Screening of Adjacent SACs

In addition to the North Inishowen Coast SAC there are a number of other SAC sites proximate to the proposed activities. As it was deemed that there are no ex situ effects and no effects on features in adjacent SACs all qualifying features of the adjacent SAC sites were screened out.

Screening

Trawbreaga Bay SPA

A screening exercise was carried out to screen out SCI species that did not show any potential spatial overlap with effects from any of the proposed aquaculture activities being assessed. This was undertaken across all SPAs being assessed.

All of the SCI species for Trawbreaga Bay SPA were carried forward for full Appropriate Assessment. The remaining SPAs were addressed as follows:

- Inishtrahull SPA (004100) – this site is designated for the Barnacle Goose, Shag and Common Gull. The potential impacts on Shag and Common Gull were screened out on the basis of distance etc; the Barnacle Goose was considered in full.
- Malin Head SPA (004146) & Fanad Head SPA (004148) are designated for breeding populations of Corncrake; both were screened out (proposed aquaculture activities at Trawbreaga Bay will not negatively impact on Corncrake either directly or indirectly through loss of prey/habitat).
- The qualifying interests of Greers Isle SPA (004082) are Sandwich Tern, Black-headed Gull and Common Gull – potential impacts were screened out. Due to the proposed scale, distance from Greers Isle and the possible influence of trestles as fish attracting devices – it is very unlikely that the intertidal oyster culture would have a negative impact on Sandwich Tern from

the Greers Isle colony. In relation to the Black-headed Gull recent studies suggest that during the breeding season terrestrial habitat use and prey items dominate. Thus, it is very unlikely that Black-headed Gull from the Greers Isle colony would be affected by aquaculture activities at Trawbreaga Bay. As for the Common Gull, recent studies of Irish breeding Common Gull colonies suggest that during the breeding season terrestrial habitat and prey items dominate. Overall, due to the proposed scale of oyster cultivation and the distance from Greers Isle it is unlikely that intertidal oyster culture would have a negative impact on the Common Gull from the Greers Isle colony.

- Lough Foyle (IE004087) & Lough Swilly (004075) are designated for a diverse range of wintering waders and wildfowl as well as breeding Sandwich Tern and Common Tern in the case of Lough Swilly. The former were screened out on the basis of distance, site usage etc; while the potential for impact on Sandwich Tern and Common Tern were screened out. Due to the proposed scale, distance from the Inch breeding colony in Lough Swilly and the possible influence of trestles as fish attracting devices – it is very unlikely that the intertidal oyster culture would have a negative impact on Sandwich Tern Breeding at Lough Swilly SPA. Common Tern tends to feed closer to their colony – it would seem very unlikely that Common Tern from the Inch colony at Lough Swilly feed in Trawbreaga Bay.
- Horn Head to Fanad Head SPA (004194) - Barnacle Geese at this site were considered in full. This site is also designated for Chough. Chough favour coastal grassland and no impact from inter-tidal aquaculture is predicted. Other SCI species were screened out.

In-combination effects of aquaculture and other activities

The Appropriate Assessment considered the cumulative impacts of the combined effects of the aquaculture and other activities within the SPA, notably seaweed harvesting, a proposed onshore aquaculture shed, residential and recreational developments, hand collection of shellfish, bait digging and effluent discharge.

Findings and Recommendations of the Appropriate Assessment of Aquaculture

North Inishowen Coast SAC

- Existing and proposed cultivation and access route activity was shown to overlap with 5.88% of the qualifying interest ‘Mudflats and sandflats not covered by seawater at low tide’ (1140). As this value is below the 15% overlap threshold adverse impact on the qualifying feature can be discounted.
- While the existing and proposed cultivation sites extend over 17.54% and 2.75% of the constituent community types ‘Muddy sand to coarse sediment with *Pygospio elegans*’ community complex and ‘Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger*’ community complex, published literature suggests that aquaculture activities occurring at trestle culture sites are not considered disturbing. The total spatial overlap of the access routes on the above community types is 2.86% and 3.04% respectively (access routes used in inter-tidal areas are

considered disturbing). Given that these values (individually and combined) are less than the 15% overlap threshold significant adverse impacts of activities on these community types can be discounted.

- Accordingly, the current levels of aquaculture activities, including access routes, do not pose a risk of significant disturbance to the conservation of the habitat feature of Mudflats and Sandflats not covered by seawater at low tide (1140) or the constituent community and community complexes of ‘Muddy sand to coarse sediment with *Pygospio elegans*’ community complex, and ‘Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger*’ community complex.
- In one instance, the proposed aquaculture activity at site T12/492A, the risk of significant disturbance cannot be dismissed as the hydrodynamics of the inner part of the bay (and subsequently, the structure of the constituent community types) may be impacted by the scale of the proposed operation.
- The risk of establishment of non-native oyster species is considered low in Trawbreaga Bay. Long residence times (>21 days) and large intertidal areas are factors contributing to the successful recruitment of oysters in Irish bays. Heavy macroalgal cover is a potential factor governing recruitment, with higher cover resulting in lower recruitment. Oyster cover in the SAC does not fulfill these criteria in that residence time is approximately 10 days and there is heavy cover of macroalgae in intertidal areas. However, Trawbreaga Bay effectively flows into the broader Lough Swilly presenting a risk to the Lough Swilly SAC. Any licences issued will contain a recommendation that triploid oysters continue to be used in North Inishowen Coast SAC in order to minimize any risks to Lough Swilly SAC.
- The main aspect of the culture activities that could potentially impact Otter (*Lutra lutra*) is the physical presence of trestles that may restrict Otter access to certain habitats. Given the nature of the structures and the likely timing of activities the risk of disturbance to Otter features posed by aquaculture is considered low.

Trawbreaga Bay SPA

- Due to the proposed scale of oyster cultivation; the lack of any significant use of the intertidal habitat by the Chough; and the separation of known foraging, roosting or nesting sites, from the proposed oyster cultivation, negative impact on the Chough using Trawbreaga Bay is considered unlikely.
- Barnacle Geese are in favourable conservation status with a growing population in Trawbreaga/Malin (NPWS, 2014a). The Trawbreaga flock would appear to be closely linked with the wider Malin flock and should be considered as a single unit. Barnacle Geese are not a qualifying interest of the neighbouring Malin Head SPA. The species is primarily a land-based bird, foraging terrestrially while roosting can occur on sandbanks, saltmarsh and offshore islands. As Barnacle Geese do not feed in the inter-tidal area the placement of trestles would not result in any direct loss of foraging grounds. While there is evidence for

intertidal roosting, observed flocks have been small and ample alternate intertidal habitat exists to accommodate such day-time roosting

- Proposed aquaculture site T12/492 is larger in scale than others in the bay and located close to areas highlighted as being used by Barnacle Geese at Magheranaul/Strath. Disturbance of Barnacle Geese at this location cannot be discounted. There is a potential for conflict from access points where there may be increased activity close to feeding birds and/or from increased levels of activity on the shoreline.
- The site conservation condition for Light-bellied Brent Goose at Trawbreaga Bay SPA has been assessed as favourable based on increasing population. However, looking solely at area of subsites; areas of intertidal habitat/subsite; and area of intertidal habitat under aquaculture there is a potential for displacement of marginally more than 5% with reference to two subsites. The current and proposed location of trestles with respect Light-bellied Brent Geese behavior and feeding ecology were therefore considered further. The favourable conservation status of the species; large area of suitable habitat; foraging opportunities provided by green algae on trestles and displacement of birds feeding in and around trestles during the course of routine maintenance all combine to determine how Light-bellied Brent Geese would be impacted by oyster cultivation. In reality displacement of birds is therefore likely to be much less than 5%. Accordingly, aquaculture activities, existing and proposed are not considered disturbing to Light-bellied Brent Geese.

Birds/Habitats issues raised during the aquaculture licensing process for sites in this SAC/SPA

A number of scientific 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:

- (i) **The potential impact on Barnacle Goose and Light Bellied Brent Goose at Trawbreaga Bay cannot be discounted**

Response: The risk of disturbance on Barnacle Goose and Light Bellied Brent Goose is noted and a number of subsequent recommendations / mitigation measures are identified in the AA report. It is also addressed in the 'Mitigation' section of this document.

- (ii) **Intertidal access routes that may be required to service seaweed harvesting have not been quantified.**

Response: Intertidal seaweed harvesting generally occurs in fringing reef areas. The access is directly to the sites and on foot from land which considered non-disturbing. Given that that seaweed harvesting is confined to

reef areas there will not be any in-combination effects from inter-tidal shellfish aquaculture (which is confined to sedimentary habitats)

- (iii) Recommendation T12/492 aquaculture plot be reduced and that specific licence conditions on number of visits to site and number of persons involved to minimise disturbance by accessing the site.**

Response: This is addressed in the 'Mitigation' section

- (iv) Recommendation that licence conditions be inserted restricting dogs in the vicinity of aquaculture activities.**

Response: It is a standard condition of aquaculture licence that pets (dogs) are not permitted to accompany operators on the shore.

- (v) As cumulative displacement of Light-bellied Brent Goose population by the proposed aquaculture footprint exceeds 5% the development should be reconsidered.**

Response: While the estimated displacement of Light-bellied Brent Goose does exceed 5% (specific value 5.71%) it is important to note that this estimate is extremely conservative. As pointed out in the AA report the actual displacement is likely to be much less. In addition, the neutral or positive relationship (represented by birds foraging on algae on oysters bags) of Light-bellied Goose to oysters trestles is noted.

- (vi) In-combination effects of the waste water were not fully considered**

Response: Information relating to water quality and other pressures were presented in the AA report. The outcome of EPA WFD monitoring has been added to the Annex II report.

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/SPA:

- A Licence condition requiring strict adherence to the identified access routes over intertidal habitat in order to minimise habitat disturbance;

- A Licence condition requiring full implementation of the measures set out in the draft Marine Aquaculture Code of Practice prepared by Invasive Species Ireland;
- The use of updated Aquaculture and Foreshore Licences containing terms and conditions which reflect the enhanced environmental protection now required under EU and National law;
- Given the potential impacts of the proposed aquaculture site (T12/492) on Habitats and the potential disturbance on Barnacle Geese, it is not proposed to license the footprint and scale of activity that has been applied for. Further consideration is being given to the possibility of licensing a significantly reduced footprint with appropriate licence conditions;
- Licences issued will contain a recommendation that triploid oysters continue to be used in North Inishowen Coast SAC in order to minimize any risks to Lough Swilly SAC.

Conclusion

The Licensing Authority is satisfied that, given the conclusions and recommendations of the Appropriate Assessment process, a decision can be taken in favour of licensing existing and proposed aquaculture operations in North Inishowen Coast SAC and Trawbreaga Bay SPA, subject to other licensing considerations.

Accordingly, the Licensing Authority is satisfied that the proposed licensing is not likely to significantly and adversely affect the integrity of North Inishowen SAC and Trawbreaga Bay SPA.

Final Appropriate Assessment Conclusion Statement by Licensing Authority for aquaculture activities in the North Inishowen Coast Special Area of Conservation (SAC) (002012), and Trawbreaga Bay Special Protection Area (SPA) (004034) (Natura 2000 sites)

This Conclusion Statement outlines how it is proposed to licence and manage aquaculture activities in the above 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 licence 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/fisheries/aquacultureforeshoremanagement/aquaculturelicensing/>.

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

Appropriate Assessment reports relating to aquaculture in the North Inishowen Coast Special Area Conservation (SAC) (002012) and Trawbreaga Bay Special Protection Area (SPA) (004034) have been prepared to inform this process. The reports assessed the potential ecological impacts of aquaculture activities on Natura features in both the SAC and the SPA. In addition to the target Natura sites, there are a number of other SACs proximate to the proposed aquaculture activities and a screening was carried out on their likely interactions with aquaculture.

Aquaculture activity in the SAC and SPAs

Current aquaculture activities within the North Inishowen Coast SAC and Trawbreaga Bay SPA occur at Trawbreaga Bay and focus exclusively on the cultivation of the Pacific oyster *Crassostrea gigas* on trestles in intertidal areas. The profile of the aquaculture industry in the Bay, used in this assessment, was prepared by BIM and is derived from the list of existing licences and applications for aquaculture at the time which was provided to the MI in May 2019.

North Inishowen Coast SAC (002012)

The North Inishowen Coast situated on the north Donegal coast of is designated as a SAC under the Habitats Directive. The SAC stretches from Crummies Bay in the west up to Malin Head and back down to Inishowen Head to the East. The marine area is designated for Mudflats and sand flats not covered by seawater at low tide (1140) which support a variety of soft sedimentary communities and community complexes. The area is also designated for the otter (*Lutra lutra*).

Qualifying Interests (SAC)

The SAC is designated for the following habitats and species, as listed in Annex I and Annex II of the Habitats Directive:

- 1140 Mudflats and sandflats not covered by seawater at low tide
- 1220 Perennial vegetation of stony banks
- 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts
- 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)
- 21AO Machairs (*priority habitat in Ireland)
- 4030 European dry heaths
- 1014 Narrow-mouthed Whorl Snail *Vertigo angustior*
- 1355 Otter *Lutra lutra*

Conservation Objectives for North Inishowen Coast SAC

The conservation objectives for the qualifying interests (SAC) were defined by NPWS. The natural condition of the designated features should be preserved with respect to their area, distribution, extent and community distribution. Habitat availability should be maintained for designated species and human disturbance should not adversely affect such species.

Trawbreaga Bay SPA (004151)

Trawbreaga Bay SPA includes a very large area of intertidal habitat sheltered within the bay, with some narrow tidal creeks which develop into wider subtidal channels towards the mouth of the bay. Areas of terrestrial habitat include saltmarsh, coastal beach, dune, grassland, shingle banks and coastal cliffs. The SPA also includes Glashedy Island and the waters surrounding it, west of Doagh Isle.

The SPA has a total area of 1,549 ha. Around 80 % of the bay area is exposed at each low tide with intertidal sediment composed mainly of a mix of mud and sand flats with some stony/rocky substrates. Green algae mats occur on open flats and *fucoïd* seaweeds grow on the stones.

Qualifying features

The Special Conservation Interests (SCIs) of the Trawbreaga Bay SPA include non-breeding populations of Barnacle Geese and Light-bellied Brent Geese. In addition, both breeding and non-breeding elements of the Chough population are also SCIs. The wetlands habitat contained within Trawbreaga Bay SPA is an additional conservation feature.

Two further SPAs are located within 15 km of Trawbreaga Bay SPA; these are Malin Head SPA (004146) and Inishtrahull SPA (004100). The Special Conservation Interests (SCI) of the Inishtrahull SPA are non-breeding populations of Barnacle Goose and breeding populations of Shag and Common Gull, while the Special Conservation Interest (SCI) of Malin Head SPA is a breeding population of Corncrake. A further five Special Protection Areas are located beyond the 15 km search area recommended by guidance, but are included due to potential interchange that may occur between the sites due to the mobile nature of birds. Sites considered were: -

- Lough Foyle (both ROI and NI managed sites) (15.3 km to the southeast of Trawbreaga Bay SPA) (site codes 004087 & UK 9020031, respectively);
- Lough Swilly SPA (004075; 21 km to the southwest of Trawbreaga Bay SPA);
- Horn Head to Fanad Head SPA (004194; 16.8 km west of Trawbreaga Bay SPA);
- Fanad Head SPA (004148; 20.5 km to the west of Trawbreaga Bay SPA); and
- Greers Isle SPA (004082; 24.5 km west of Trawbreaga Bay SPA).

Conservation Objectives for Trawbreaga Bay SPA

The SCIs of the Trawbreaga Bay SPA include non-breeding populations of Barnacle Goose and Lightbellied Brent Goose. In addition, both breeding and non-breeding elements of the Chough population are taken as Special Conservation Interests. In addition the wetland habitat within Trawbreaga Bay SPA is an additional qualifying interest.

SCI species

The overall conservation objective for the non-breeding populations of Barnacle Goose and Lightbellied Brent Goose is to maintain or restore the favourable conservation status of the species. The favourable conservation conditions of these non-breeding species in Trawbreaga Bay SPA are defined by various attributes and targets, (i) population trend, and (ii) distribution.

Wetlands and waterbirds

The conservation objective for wetlands and waterbirds is to “maintain the favourable conservation condition of the wetland habitat at Trawbreaga Bay SPA as a resource for the regularly-occurring migratory waterbirds that use it”.

The Appropriate Assessment

The function of the Appropriate Assessment is to determine if the ongoing and proposed aquaculture activities are consistent with the Conservation Objectives set for these Natura sites. In

the case of SPAs, also those neighbouring sites where there is the potential usage of aquaculture areas by birds for which these SPAs have been designated. The NPWS provides guidance on the interpretation of the Conservation Objectives which are, in effect, management targets for habitats and species in the sites. The assessment of aquaculture activities was informed by this guidance, which is scaled relative to the anticipated sensitivity of habitats and species to disturbance by the proposed activities.

Screening of Adjacent SACs

In addition to the North Inishowen Coast SAC there are a number of other SAC sites proximate to the proposed activities. As it was deemed that there are no *ex-situ* effects and no effects on features in adjacent SACs, all qualifying features of the adjacent SAC sites were screened out.

North Inishowen Coast SAC

In the North Inishowen Coast SAC the likely interaction between aquaculture activity and conservation features (habitats and species) of the site was considered. An initial screening exercise resulted in a number of habitat features and species being excluded from further consideration. None of the aquaculture activities (existing and/or proposed) overlaps or likely interacts with the following features or species, and therefore these 5 habitats and 1 species were excluded from further consideration in the assessment:

- 1220 Perennial vegetation of stony banks
- 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts
- 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)
- 21A0 Machairs (*priority habitat in Ireland)
- 4030 European dry heaths
- 1014 Narrow-mouthed Whorl Snail *Vertigo angustior*

Of the four constituent community types recorded within the qualifying interest of Mudflats and sandflats not covered by seawater at low tide (1140) one was shown to have no overlap or likely interaction with aquaculture activities and was excluded from further consideration. This community type is:

- *Zostera*-dominated community

A full assessment was carried out on the likely interactions between current and proposed aquaculture operations and the feature Annex 1 habitat Mudflats and sandflats not covered by seawater at low tide (1140). The likely effects of existing and proposed aquaculture activities were considered in light of the sensitivity of the constituent communities of the Annex 1 habitat.

The appropriate assessment finds that existing and proposed aquaculture activities (in-combination with other non-aquaculture activities-see below) do not pose a risk of significant disturbance to the conservation of the designated habitat feature of Mudflats and sandflats not covered by seawater at low tide (1140) or constituent community of Muddy sand to coarse sediment with *Pygospio elegans* community complex, Fine to medium sand with *Eurydice pulchra* community complex and Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger* community complex.

The aquaculture activities do not present a barrier to movement or a risk to the attributes for the Otter (*Lutra lutra*) and therefore, was considered non-disturbing to Otter.

Trawbreaga Bay SPA

A screening exercise was carried out to screen out SCI species that did not show any potential spatial overlap with effects from any of the proposed aquaculture activities being assessed. This was undertaken across all SPAs being assessed.

All of the SCI species for Trawbreaga Bay SPA were carried forward for full Appropriate Assessment.

The remaining sites were addressed as follows: -

- Inishtrahull SPA (004100) – this site is designated for Barnacle Goose, Shag and Common Gull. Barnacle Goose at this site is considered in full in and the potential for impacts on Shag and Common Gull were screened out.
- Malin Head SPA (004146) & Fanad Head SPA (004148) are designated for breeding populations of Corncrake; both were screened out.
- The qualifying interests of Greers Isle SPA (004082) are Sandwich Tern, Black-headed Gull and Common Gull. Each was considered in detail and screened out.
- Lough Foyle (IE004087) & Lough Swilly (004075) are designated for a diverse range of wintering waders and wildfowl as well as breeding Sandwich Tern and Common Tern in the case of Lough Swilly. The former were screened out based on distance, site use etc.; while the potential for impacts on Sandwich Tern and Common Tern was considered in detail in and screened out.

- Horn Head to Fanad Head SPA (004194). As for Inistrahull, Barnacle Goose at this site is considered in full. This site is also designated for Chough. Horn Head to Fanad Head SPA supports an important population of breeding which favour grassland. No impact from intertidal aquaculture is predicted and accordingly Chough at this site was therefore not considered further.

Other SCI species, namely Peregrine and seabirds (i.e. Fulmar, Cormorant, Shag, Kittiwake, Guillemot and Razorbill) were considered and screened out.

In-combination effects of aquaculture and other activities

The Appropriate Assessment reports considered the cumulative impacts of the combined effects of the aquaculture and other activities within the SPA, notably fisheries, seaweed harvesting, residential and recreational developments, hand collection of shellfish, bait digging and effluent discharge.

Findings and Recommendations of the Appropriate Assessment of Aquaculture Trawbreaga Bay SPA

Chough

The proposed scale of oyster cultivation along with the lack of any significant use of intertidal habitat by Chough and the separation of proposed oyster cultivation from known foraging, roosting or nesting sites indicates it is unlikely that the intertidal oyster would have a negative impact on Chough using Trawbreaga Bay SPA.

Barnacle Geese

- The Barnacle Geese population at Trawbreaga bay would appear to be closely linked with the wider Malin flock and should be considered as a single unit. Unlike Light-bellied Brent Geese, Barnacle Geese do not feed on intertidal habitats, but favour terrestrial grassland or saltmarsh. Placement of trestles will not therefore result in direct habitat loss. While there is evidence for intertidal roosting, observed flocks have been small and ample alternate intertidal habitat exists to accommodate such day-time roosting. The main potential for conflict is from access points where there may be increased activity close to feeding birds and / or from increased levels of activity on the shoreline; key areas noted include risk of disturbance to Barnacle Geese at Magheranaul / Strath; close to Malin and close to the Glassagh access point. While the risk of negative impacts cannot be entirely discounted,

geese are likely to habituate to repeated patterns of work at trestles on the intertidal close to foraging fields. The Department, in conjunction with key stakeholders will aim to develop, as soon as practicable a code of practice to address issues that arise.

Light-bellied Brent Geese

- The site conservation condition for Light-bellied Brent Goose at Trawbreaga Bay SPA has been assessed as favourable based on the increasing population. The favourable conservation status of the species; large area of available suitable habitat; foraging opportunities provided by green algae on trestles and displacement of birds feeding in and around trestles during the course of routine maintenance all combine to determine how Light-bellied Brent Geese would be impacted by oyster cultivation. On this basis, it is not considered that the species will be significantly impacted by the existing or proposed culture activities.
- The Department, in conjunction with key stakeholders will aim to develop within six months a code of practice to address issues that may arise.

Cumulative impacts

This assessment considered the cumulative impacts of the combined effects of the aquaculture.

The presence of additional people on the shore either harvesting seaweed or bait digging etc. could increase the level of disturbance on Light-bellied Brent Geese above that arising from aquaculture activities. However, there is insufficient information in the Seaweed Harvesting to comment on the proposed timing, level and spatial distribution of activity associated with proposed seaweed harvesting. While the potential for management of *Ascophyllum* to provide feeding opportunities for Light-bellied Brent Geese by encouraging the growth of smaller green / purple algae in short-term cycles before *Ascophyllum* regrows and out-competes them cannot be discounted, the risk of increased patterns of disturbance could result in significant negative impacts

The risk of establishment of non-native oyster species is considered low in Trawbreaga Bay. However, Trawbreaga Bay effectively flows into the broader Lough Swilly presenting a risk to the Lough Swilly SAC. Any licences issued will contain a recommendation that triploid oysters continue to be used in North Inishowen Coast SAC in order to minimize any risks to Lough Swilly SAC.

There is unlikely to be in-combination impacts among fishery activities, seaweed harvesting, pollution pressures and aquaculture activities.

Issues Raised During the Aquaculture Licensing Process For Sites In North Inishowen Coast SAC and Trawbreaga Bay Special Protection Area

1. Department of Culture, Heritage and the Gaeltacht

Summary: This submission addresses a number of issues, including conservation of the *Zostera*-dominated community, build up of sediment, coastal erosion and a code of practice relating to the disturbance of Barnacle Geese and Light-bellied Brent Geese.

Response:

*In relation to the *Zostera* bed area in this Natura site has an area of 0.91 hectares as defined in the NPWS Conservation Objectives November 2014. The *Zostera* bed does not overlap with the aquaculture sites and does not overlap with the designated aquaculture traffic access route from Glashagh Point with a distance of >600m calculated as the closest likely interaction (with access route). The Department's Marine Engineering Division have been in contact with DCHG and are actively investigating this issue.*

In relation to the build-up of sediment, without providing specific details on the nature of the accumulation, i.e., duration, location and season, it is difficult to comment. Sediment has been noted to build up beneath the trestles and still not result in a change in constituent communities, this is particularly the case in areas where there may be highly mobile sediments which tend to be impoverished from a faunal (i.e., community constituent) perspective. In addition, during periods of calm weather, sediments can build up only to be dispersed with the arrival of more unsettled weather.

In relation to coastal erosion, reference is made to a coastal erosion study for the Trawbreaga Bay mouth area that Donegal County Council has carried out. The Department is conscious of the need to avoid sitting aquaculture structures in areas of mobile sand and strong hydrodynamics such as on soft sand bar areas in the main low water channel. However, it is not anticipated erosion will impinge significantly on the inner Bay sites. The potential negative impact that proposed development would have locally on hydrodynamic process has been considered in the assessment of aquaculture licence applications.

In relation to the disturbance of Barnacle Geese and Light-bellied Brent Geese, it should be noted that the assessment of interactions between Brent Geese and aquaculture activities in the SPA AA report is considered conservative, robust and the process is communicated in some detail. In relation

to a code of practice for interactions between geese species and aquaculture operations, the Department agrees with the value of creating this code of practice and in conjunction with key stakeholders has begun this process and will aim to develop this code of practice within six months to address issues that may arise. Adherence to any polices which arise from the code of practice will be a licence requirement of any new licence that issues.

2. An Taisce

Summary: This submission addresses a number of issues, including, percentage of habitat affected, reasonable doubt, bird displacement and triploid oysters.

Response:

In relation to percentage of habitat affected, it should be noted that the process of preparing the AA reports is to first identify any potential interactions between the activity under considerations and the constituent (habitat) features. If interactions are noted, then the activity is brought forward for more detailed analysis in the process. It should also be noted that during more detailed analysis it was considered that the aquaculture sites under consideration in Trawbreaga Bay were unlikely to interact negatively with those habitat conservation features with which they overlapped, i.e., they were considered unlikely to be subject to the persistent pressure outlined above. This is likely due to tidal flushing of organic and fine sedimentary material from underneath the trestles. These conclusions are borne out by scientific investigations published in peer reviewed journals.

In relation to reasonable doubt, this appears to be focused on challenging commonly used and accepted scientific terminology (within the AA Reports) and using this to present An Taisce's interpretation of case law. It should be pointed out that in natural systems, certainty can never be presented at 100%. We would suggest that the scientific literature cited does remove reasonable scientific doubt. Where this is not the case this is acknowledged and communicated that there are no obvious measures possible that might mitigate or reduce the risk.

In relation to bird displacement, the statement that negative impacts are likely to be lower is informed by our growing understanding of the relationship between Light-bellied Brent Geese and oyster trestles. The assessment undertaken relies heavily on Gittings & O'Donoghue (2012), "The effects of intertidal oyster culture on the spatial distribution of waterbirds". This was based on low tide observations of shorebirds, including Light-bellied Brent Geese. However, activity patterns across the tidal cycle are relevant in the case of Light-bellied Brent Geese due in part to their ability to forage in shallow subtidal waters. Furthermore, it should be noted that as we have considered

additional coastal SPAs since 2012 we have also had access to a greater number of observations of Light-bellied Brent Geese in the context of trestles. When considering the potential for negative impacts on Light-bellied Brent Geese, issues to be considered include overlap of proposed trestles with known foraging habitat; disturbance from onsite activities; and the degree to which algae growing on the trestles provides a foraging resource to Light-bellied Brent Geese and how this can change seasonally. Thus, while the spatial displacement, which yields the above figure of 5.71%, is calculated as a 100% displacement of Brent geese from the area of overlap, observations of Brent geese feeding on algae growing on trestles on the flood tide show that 100% displacement is not likely to occur at all times. Furthermore, while birds can be disturbed and displaced by maintenance work on the foreshore; such works occur at low tide, while Brent geese associate with trestles as the tide floods over them, allowing birds to float over the trestles and feed on associated algae. This therefore reduces the extent of disturbance and resultant displacement. It should be noted that Light-bellied Brent Geese numbers are growing both locally and nationally. Finally, it should be noted the 5% threshold as used in the AA reports is a guide only and used in our assessments to identify the potential for negative impacts. It is considered a conservative threshold above which further consideration is given to the likely interactions between the conservation feature and the proposed activities. As above, each case is considered on its merits and communicated as such.

In relation to use of triploid stock, this observation and recommendation is consistent with the recommendations in the AA report. All future licences in Trawbreaga Bay will be for Triploid oyster stock and this will be addressed in the terms and conditions of any licence that will issue.

3. Donegal County Council

Summary: This submission has no objection to grant of licenses as proposed activities will not result in significant intensification of the Oyster farming activity and does not represent a visual intrusion in to the scenery of the host sites. The submission notes location of sites should be clearly identified by buoys or other markers so not to obstruct other boat users of Trawbreaga Bay.

Response: *Identification of Aquaculture sites by navigational markers such as buoys will be addressed in terms and conditions of any licence that issues.*

4. IFI

Summary: This submission addresses a number of issues, including navigational markings, use of triploid stock, bio-security protocols, interference with the passage of migrating salmon and sea trout and visual amenity of the bay.

Response: *The Department notes the location of proposed sites in close proximity to the main channel, however the assessment of these Aquaculture licence applications considered the potential impact of proposed oyster farm developments on migratory salmon movement. Use of triploid oysters, navigational markings and compliance with bio-security protocols will be addressed in terms and conditions of any licence that issues.*

5. Irish Water

Summary: This submission addresses the coordinates of existing and secondary discharges operated by Irish Water discharging to this designated water, as well as those within 10km of the proposed development.

Response: *The locations of applications for aquaculture license proximate to discharge points as highlighted by Irish Water are noted and were considered as part of the assessment of the Aquaculture licence applications.*

Public Objections

Summary: Two objections were received relating to visual impact, accumulation of disused gear on the shoreline and orderly development of the bay.

Response: *In relation to visual impact, the impact on tourism and the visibility of the proposed development of aquaculture sites was considered as part of the assessment of the Aquaculture licence applications as was orderly development of the bay. In relation to accumulation of disused gear on the shoreline, general licence conditions are included which require that the licensed and adjoining areas shall be kept clear of all redundant structures (including apparatus, equipment and/or uncontained stock), waste products and operational litter or debris, with provisions for the prompt removal and proper disposal of such material will be required for all relevant 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:

- All future licences in Trawbreaga Bay will be for Triploid oyster stock in order to minimise any risk to Lough Swilly SAC.

- The density of culture structures within sites to be maintained at current levels.
- The source of seed and any changes to the source of seed are to be approved by the Department of Agriculture, Food and the Marine in advance.
- A Licence condition requiring strict adherence to the identified access routes in order to minimise species/ habitat disturbance will be in each licence issued.
- A Licence condition will require 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 Trawbreaga Bay should adhere to relevant fish health legislation.
- The Department in conjunction with key stakeholders have begun the process to create a code of practice for interactions between geese species and aquaculture operations to address any issues that may arise. Strict adherence to any policies which arise from this code of practice will be a requirement of any licence that issues.
- 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 appropriate assessment and risk assessment finds that the majority of activities, at the current and proposed or likely future scale and frequency of activity are consistent with the Conservation Objectives for North Inishowen Coast SAC and Trawbreaga Bay SPA.

The Licensing Authority is satisfied that from a Natura 2000 perspective, given the conclusions and recommendations of the Appropriate Assessment process, along with implementation of the above measures that will mitigate certain pressures on Natura features, the proposed licensed activities are not likely to have a significant effect on the integrity of North Inishowen Coast SAC and Trawbreaga Bay SPA.

November 2019

Classifieds

Call: 074 97 40160

PUBLIC NOTICE

FISHERIES (AMENDMENT) ACT, 1997 (NO. 23) FORESHORE ACT, 1933 (NO. 12) NOTICE OF DECISIONS IN RELATION TO AQUACULTURE AND FORESHORE LICENCES

The Minister for Agriculture, Food and the Marine has made determinations on the Aquaculture and Foreshore Licence applications as set out in the table below in Trawbreaga Bay, Co Donegal:-

Site Reference Number	Name	Species & Method	Decision
T12/367A	James Ball Middletown, Malin Head, Co Donegal	Pacific Oysters using bags and trestles	Grant Renewal Licence
T12/520A	Kearney Oyster Ltd 43 Donagh Park, Carndonagh, Co Donegal	Pacific Oysters using bags and trestles	Grant Licence
T12/522A	Kearney Oyster Ltd 43 Donagh Park, Carndonagh, Co Donegal	Pacific Oysters using bags and trestles	Grant Licence
T12/523A	Kearney Oyster Ltd 43 Donagh Park, Carndonagh, Co Donegal	Pacific Oysters using bags and trestles	Grant Licence
T12/511A	Daniel McGonigle Magheranual, Isle of Doagh, Clonmany, Co Donegal	Pacific Oysters using bags and trestles	Refuse to Grant Licence
T12/528A	Hurrikayn Oysters Ltd Bree, Malin Head, Co Donegal	Pacific Oysters using bags and trestles	Grant Licence
T12/530A	John Friel Roxtown, Clonmany, Co Donegal	Pacific Oysters using bags and trestles	Grant Variation Licence
T12/540A	Philip M Doherty Slievebawn, Malin Head, Co Donegal	Pacific Oysters using bags and trestles	Refuse to Grant Licence
T12/541A	Cathal McCorkell Cuan Na Mara, Carrowtrasna, Greencastle, Co Donegal	Pacific Oysters using bags and trestles	Refuse to Grant Licence
T12/542A	Cathal McCorkell Cuan Na Mara, Carrowtrasna, Greencastle, Co Donegal	Pacific Oysters using bags and trestles	Grant Variation Licence
T12/553A	William Coffey Sheskinn Bree, Malin Head, Co Donegal	Pacific Oysters using bags and trestles	Grant Variation Licence
T12/547A	Daniel McGonigle Magheranual, Isle of Doagh, Clonmany, Co Donegal	Pacific Oysters using bags and trestles	Grant Licence
T12/531A	Oceanic Organic Oysters Harbour View, Greencastle, Co Donegal	Pacific Oysters using bags and trestles	Refuse to Grant Licence
T12/532A	Oceanic Organic Oysters Harbour View, Greencastle, Co Donegal	Pacific Oysters using bags and trestles	Refuse to Grant Licence
T12/533A	Oceanic Organic Oysters Harbour View, Greencastle, Co Donegal	Pacific Oysters using bags and trestles	Refuse to Grant Licence
T12/534A	Oceanic Organic Oysters Harbour View, Greencastle, Co Donegal	Pacific Oysters using bags and trestles	Refuse to Grant Licence
T12/543A	Oceanic Organic Oysters Harbour View, Greencastle, Co Donegal	Pacific Oysters using bags and trestles	Grant Licence
T12/544A	Oceanic Organic Oysters Harbour View, Greencastle, Co Donegal	Pacific Oysters using bags and trestles	Grant Licence
T12/529A	Ask Oysters Ltd Leenan, Kiel, Co Donegal	Pacific Oysters using bags and trestles	Refuse to Grant Licence
T12/549A	Ask Oysters Ltd Leenan, Kiel, Co Donegal	Pacific Oysters using bags and trestles	Grant Variation Licence
T12/550A	Ask Oysters Ltd Leenan, Kiel, Co Donegal	Pacific Oysters using bags and trestles	Grant Variation Licence
T12/551A	Ask Oysters Ltd Leenan, Kiel, Co Donegal	Pacific Oysters using bags and trestles	Refuse to Grant Licence

The reasons for this decision are elaborated on the Department's website at:

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

An appeal against an Aquaculture Licence decision may be made in writing, within one month of the date of its publication, to THE AQUACULTURE LICENCES APPEALS BOARD, Kilminchy Court, Portlaoise, Co. Laois, by completing the Notice of Appeal Application Form available from the Board, phone 057 86 31912, e-mail info@alab.ie or website at <http://www.alab.ie/>

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

www.agriculture.gov.ie

[in](#) [t](#) [@agriculture_ie](#)



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

RECRUITMENT SERVICES



Comhairle Contae
Dhún na nGall
Donegal County Council

COMÓRTAIS EARCAÍOCHTA

Tá Comhairle Contae Dhún na nGall ar lorg iarratas ó iarratasóirí cáilithe do na poist seo a leanas:

AIRÍOCH CÚNTA UISCE/ FUÍOLLUISCE GHRÁD III

AIRÍOCH UISCE/FUÍOLLUISCE GRÁD V

OIBRÍ GINEARÁLTA - PÁIRCEANNA & SPÁSANNA ALLAMUIGH

Tá sé beartaithe ag an Chomhairle painéal d'iarratasóirí cáilithe a chruthú óna líonfaidh muid folúntais de réir mar a thiocfaidh siad aníos.

Is é an dáta deiridh fá choinne foirmeacha iarratais comhlánaithe a bheith linn ná 12 meán lae:

Dé Luain, 13 Eanáir 2020

Tá Foirmeacha Iarratais agus Tuilleadh Eolais ar fáil ag www.donegalcoco.ie

Ní ghlacfar le hiarratais a gheofar mall.

IS FOSTÓIR COMHIONANNAS DEISEANNA Í
COMHAIRLE CONTAE DHÚN NA NGALL

RECRUITMENT COMPETITIONS

Donegal County Council is seeking applications from qualified candidates for the following positions:

WATER/WASTEWATER ASSISTANT CARETAKER GRADE III

WATER/WASTEWATER CARETAKER GRADE V

GENERAL OPERATIVE - PARKS & OPEN SPACES

The Council proposes to form a panel of qualified candidates from which it will fill vacancies as they arise.

The closing date for receipt of completed application forms is 12 noon on:

Monday, 13 January 2020

Application Forms and Further Details are available at www.donegalcoco.ie

No late applications will be accepted

DONEGAL COUNTY COUNCIL IS AN EQUAL
OPPORTUNITIES EMPLOYER

LOOKING TO HIRE?

REACH OVER **34,877** POTENTIAL
APPLICANTS WITH A PRINT
ADVERT ON OUR **JOBS PAGE.**

For more details contact **074 9740160**

**DONEGAL
Democrat**

www.donegaldemocrat.ie

Visit our website www.donegaldemocrat.ie

BREAKING NEWS

**DONEGAL
Democrat**

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



Ref: [REDACTED] T12/523

Kearney Oyster Ltd
43 Donagh Park
Carndonagh
Co. Donegal

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

Dear Mr Kearney,

I would like to inform you of the Minister for Agriculture, Food and the Marine Decision on the following aquaculture and accompanying Foreshore Licence applications (see attached information notes and draft aquaculture licences):-

Site Reference Number	Ministerial Decision	Species & Method	Licence Term
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
T12/523A	Grant Licence	Pacific Oysters using bags and trestles only	10 year

I enclose an extract from the public notice of the decision which the Department has arranged to have published in "Donegal Democrat".

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

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

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

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

Yours sincerely

Aquaculture and Foreshore Management Division
05th December 2019



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

REFERENCE NO: [REDACTED] & T12/523

APPLICANT: **Kearney Oysters Ltd**

**AQUACULTURE TO WHICH
DECISION RELATES:** Cultivation of Pacific Oysters using bags and
trestles on sites [REDACTED] T12/523A
on the foreshore in Trawbreaga Bay, Co. Donegal.

NATURE OF DECISION: Grant of Aquaculture Licences.

DATE OF DECISION: **29th November 2019**

CONDITIONS OF LICENCE: See attached.

DURATION OF LICENCE: 10 years

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

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

**FISHERIES (AMENDMENT) ACT, 1997 (NO. 23) FORESHORE ACT, 1933 (NO. 12)
NOTICE OF DECISIONS IN RELATION TO AQUACULTURE AND FORESHORE
LICENCES**

The Minister for Agriculture, Food and the Marine has made determinations on the Aquaculture and Foreshore Licence applications as set out in the table below in Trawbreaga Bay, Co. Donegal:-

Site Reference Number	Name	Species & Method	Decision
T12/523A	Kearney Oyster Ltd 43 Donagh Park Carndonagh Co. Donegal	Pacific Oysters using bags and trestles	Grant Licence

The reasons for this decision are elaborated on the Department's website at:
<http://www.agriculture.gov.ie/seafood/aquacultureforeshoremanagement/aquaculturelicensing/aquaculturelicencedecisions/donegal>

An appeal against an Aquaculture Licence decision may be made in writing, within one month of the date of its publication, to THE AQUACULTURE LICENCES APPEALS BOARD, Kilminchy Court, Portlaoise, Co. Laois, by completing the Notice of Appeal Application Form available from the Board, phone 057 86 31912, e-mail info@alab.ie or website at <http://www.alab.ie/>

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



13th February 2020

Your Ref: **AP60/2020**

Our Ref: **T12/523**

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

Dear Mary

I wish to acknowledge receipt of your letter on 3rd February 2020 to Mr. Michael Creed T.D., Minister for Agriculture, Food and the Marine (and copied to Mr. John Quinlan) regarding the appeal against the decision to grant a new Aquaculture and Foreshore Licence in relation to the above file.

The following documentation refers:-

- Submission to Minister for Aquaculture Licence with draft licence(s) and reports received in relation to the application (**attached**).
- Notification of Minister's decision to the applicant, (**attached**).
- Map of sites in Trawbreaga Bay (**attached**)
- Publication Notice of the Minister's decision in the Donegal Democrat (**attached**).

Below is the hyperlink to the Department's website where the AA Report on which this application decision was made can be found:-

- Appropriate Assessment for Trawbreaga Bay:-

<https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessments/1NorthInishowenCoast%20SACandTrawbreagaSPAAADecember2017050618.pdf>

Please note this is 1 of 4 applications that went to Public/Statutory Consultation in April 2019 which were included in the AA Report completed in 2018.

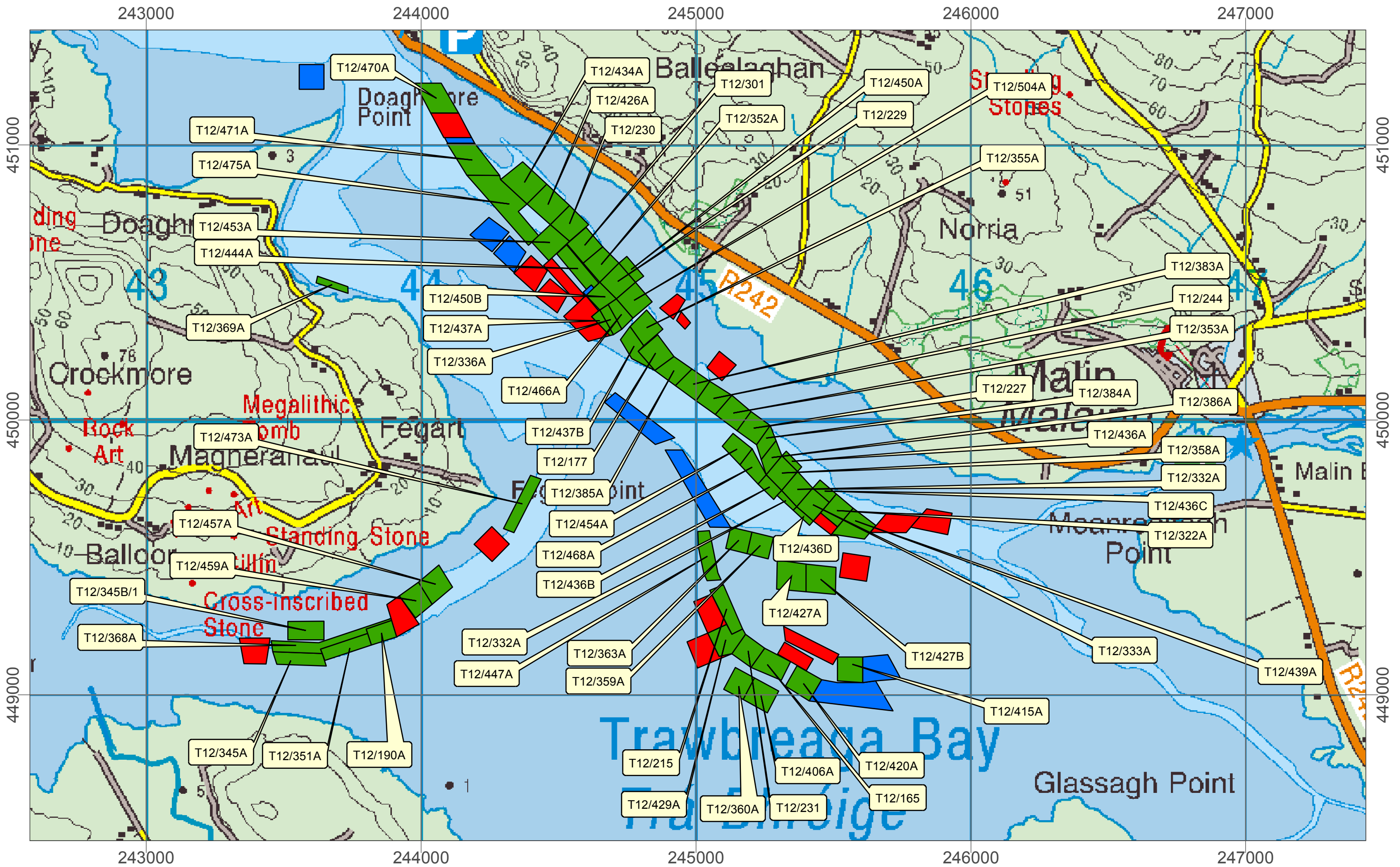
There is an updated Appropriate Assessment dated July 2019 which is linked in the relevant letters.

If you require anything further please do not hesitate to contact me.

Yours sincerely



Geraldine Farrell
Aquaculture & Foreshore Management Division
National Seafood Centre
Clogheen, Clonakilty, Co. Cork
Phone: 023 8859519
Email: Geraldine.Farrell@agriculture.gov.ie



Legend
Site_Status
█ Licensed
█ Refused
█ Under Appeal

Scale = 1:12,500

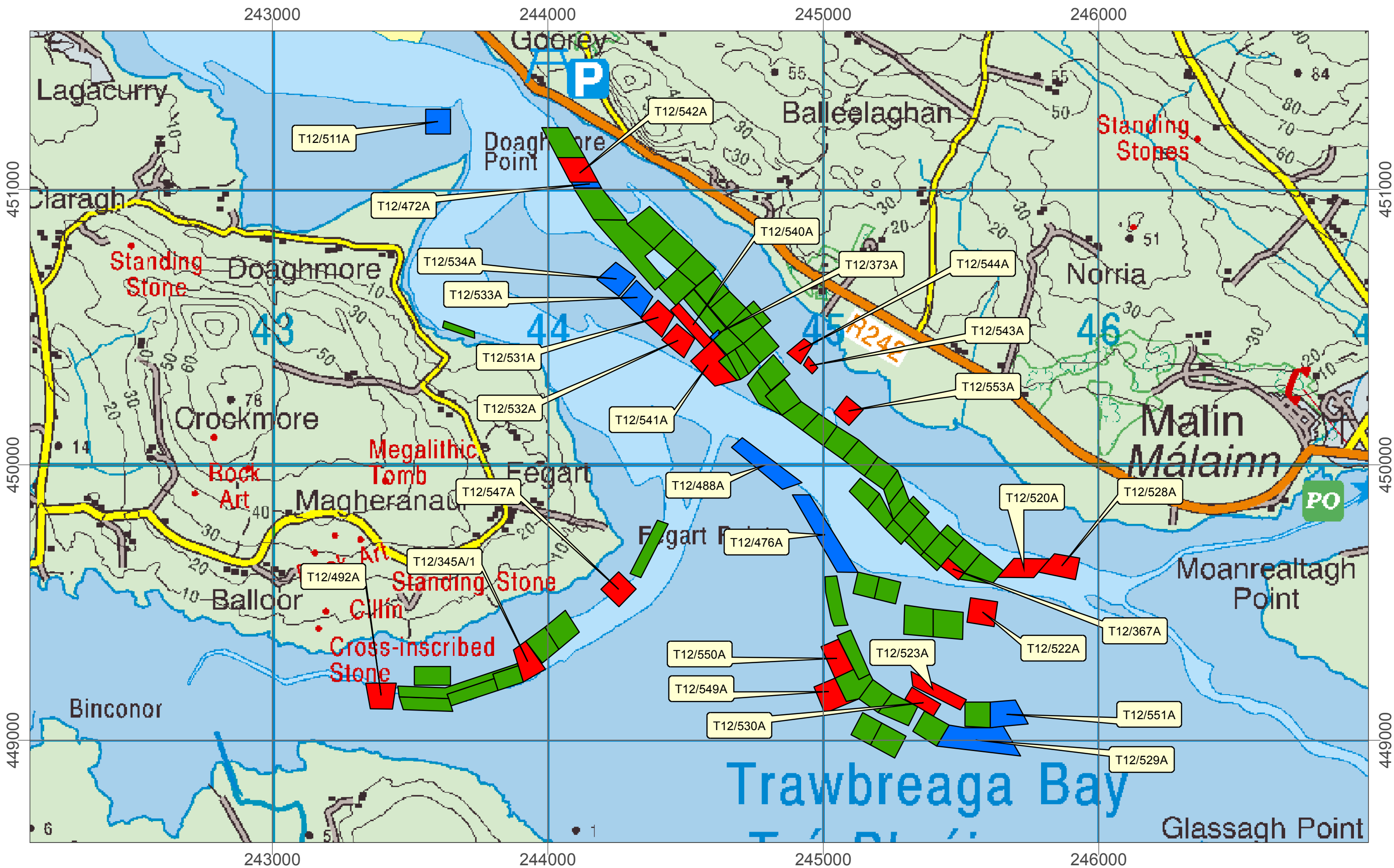
Drawn : 11-02-2020

**LICENSED AQUACULTURE SITES
 TRAWBREAGA BAY, CO. DONEGAL
 MAP FOR ALAB**

Ordnance Survey Ireland Licence No. EN 0076419
 © Ordnance Survey Ireland/Government of Ireland



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



Legend
 Site_Status
 Licensed
 Refused
 Under Appeal

Scale = 1:12,500

Drawn : 11-02-2020

**AQUACULTURE SITES UNDER APPEAL & REFUSED
 TRAWBREAGA BAY, CO. DONEGAL
 MAP FOR ALAB**

Ordnance Survey Ireland Licence No. EN 0076419
 © Ordnance Survey Ireland/Government of Ireland



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