

# Submission AGR 00780-19: Recommendation to Grant a variation Aquaculture and Foreshore Licence for 1 site (T12/530A)

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 grants a variation of the Aquaculture and Foreshore Licences, as applied for, for the reasons outlined.

## Action required

Ministerial Determination on Aquaculture/Foreshore Licensing Application (T12/530)

## Executive summary

The Minister's determination is requested in relation to an application of an Aquaculture Licence from John Friel, Roxtown, Clonmany, Co. Donegal. The application is for the culture of Pacific Oysters using bags and trestles on Site T12/530A totalling 0.86 hectares on the foreshore in Trawbreaga Bay Bay, Co. Donegal.

It is proposed to reduce the site to 0.6049ha on the foreshore in Trawbreaga Bay, Co. Donegal.

It is recommended that the Minister **grants a variation** of the Aquaculture and Foreshore Licences, as applied for, 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 John Friel, Roxtown, Clonmany, Co. Donegal. The application is for the cultivation of Pacific Oysters using bags and trestles on Site T12/530A, totalling 0.86 hectares (now proposed to be reduced to 0.6049ha) 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 required in respect of this submission (Aquaculture Submission) and submission underneath (Foreshore Submission), which refer to the same site.

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

### APPLICATION FOR AN AQUACULTURE LICENCE

An application for an Aquaculture Licence has been received from the applicant referred to above (in conjunction with an application for a Foreshore Licence), for the cultivation of Pacific Oysters using bags and trestles in relation to a 0.86 hectare site on

the foreshore in Trawbreaga Bay, Co. Donegal . It is now proposed that the site be reduced to 0.6049 hectare site on the foreshore in Trawbreaga Bay, Co. Donegal (numbered T12/530A – 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

Marine Engineering Division (MED): The substrate at the east and in the centre of the site is moderately firm and suitable for load bearing (aquaculture vehicle traffic and trestles). However the substrate close to the west end of site showed some soft area close to licensed site 418 this soft ground was sub tidal and appeared to have been modified by loaded vehicle tracks with ridges formed between soft mud pockets. Three low water channels meet on the west part of site T12/530A there is a drainage course from the south running beneath trestles on site 418A and a blind tidal to the north as well as the main low water tidal channel extending westwards. The foreshore profile on the west third of site 530A slopes off to the west and is uneven. MED confirmed through probe testing that the western part of the site is quite soft and would have poor load bearing capacity. Due to this soft substrate MED recommends licensing only a reduced site area of 0.6049 hectares. MED also recommends the inclusion of a special condition in the licence that the licensee ensure that vehicles working on site 530A do not travel beyond the west boundary of the site with entry and egress only from the east side of the site this is to avoid damaging substrate to the west of the site.

Marine Survey Office (MSO): No comments were received in relation to this application. It is proposed to insert a specific condition covering MSO matters in any licence/s which may issue as follows:

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

Sea Fisheries Protection Authority (SFPA): No objection to this application however they note that Trawbreaga is Class B for Pacific Oysters and as such any shellfish leaving this bay should be depurated or only sold to purification plants before being sold to the final customer. All consignments of Pacific Oysters should have a shellfish registration document accompanying the consignment completed fully and accurately. The Marine Institute HABS database should be checked prior to harvesting to verify that the bay is open. The onus is on the operator to verify the bay is open, classified and that the shellfish registration documents requirements are met.

### Statutory Consultation

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

Comments were received from the following statutory bodies:

Department of Culture, Heritage & the Gaeltacht (DCHG): 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. These matters have all been covered in the AA Conclusion Statement (**TAB D**).

Marine Institute (MI): 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 suggested 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 licence. Verification of the placement of the aids to navigation is advised and Statutory Sanction must be obtained.

Donegal County Council: No objection to the proposed application. It is considered that the development does not represent a visual intrusion into the scenery of the host area and is considered to be acceptable and that it will not result in a significant intensification of the Oyster Farming activity in Trawbreaga Bay.

An Taisce: Have raised a number of issues in relation to habitats, bird displacement and use of triploid oyster stock. These matters have all been covered in the AA Conclusion Statement (TAB D)

Inland Fisheries Ireland (IFI): This site is located in close proximity to the main channel and the applicant should take all necessary measures to ensure that the development will not interfere with the passage of migrating salmon and sea trout. This site should be clearly marked with navigational marks to prevent any navigational hazard. The applicant should confirm that only triploid oysters are intended for use on site. Should this application to cultivate Gigas Oysters using bags and trestles be sanctioned it would be essential that proper biosecurity protocols are followed during the operations of the farm to ensure no diseases or non-native species are introduced or spread elsewhere from the facility.

### **Public Consultation**

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in the Donegal Democrat on 08<sup>th</sup> August 2019. The application and supporting documentation were available for inspection at Carndonagh and Buncrana Garda Stations for a period of 30 days from the date of publication of the notice in the newspaper.

There was one objection received from the public consultation process. It is not possible to disaggregate the comments into aquaculture and foreshore elements. The objections can be summarised as follows:

A number of issues were raised in the comments submitted as part of the Public Consultation Process including impact on local tourism and the aesthetic of the Wild Atlantic Way along with the preservation of the environment and the impact on the enjoyment of local peoples using the bay for recreational purposes such as walking, kayaking and fishing.

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 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 John Friel, Roxtown, Clonmany, Co. Donegal with a variation, reducing the footprint of the site from 0.86 hectares to 0.6049 hectares, 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.

The reason for the recommendation to reduce the site footprint is the soft substrate to the west end of site which is unsuitable for load bearing aquaculture activities (vehicle traffic/trestles).

## **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 – T12/530

John Friel has applied for authorisation to cultivate Pacific Oysters using bags and trestles on the inter-tidal / sub-tidal foreshore on a 0.86 hectare site (T12/530A) in Trawbreaga Bay, Co. Donegal

The Minister for Agriculture, Food and the Marine has determined that it is in public interest to grant a variation of Aquaculture/Foreshore licences sought i.e. reducing the footprint of the site from 0.86 ha to 0.6049 ha. This is due to the soft substrate to the west of the site which is not suitable for load bearing aquaculture activities. 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 a variation of 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 Trawbreaga 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 (T12/530)**

### **DECISION SOUGHT**

The Minister's determination is requested please in relation to the application for a Foreshore Licence from John Friel, Roxtown, Clonmany, 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 required in respect of this submission (Foreshore Submission) and submission above (Aquaculture Submission), which refer to the same site.

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

### **APPLICATION FOR A FORESHORE LICENCE**

An application (TAB A) for a Foreshore Licence has been received from the applicant referred to above (in conjunction with an Aquaculture Licence application), for the cultivation of Pacific Oysters using bags and trestles in relation to a 0.86 hectare site on the foreshore in Trawbreaga Bay, Co. Donegal is now proposed to be reduced to a 0.6049 hectare site on the foreshore in Trawbreaga Bay, Co. Donegal (numbered T12/530A– see TAB A).

### **LEGISLATION**

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

### **CONSULTATION AND PUBLIC COMMENT**

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

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

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

### **Technical Consultation**

Marine Engineering Division (MED): The substrate at the east and in the centre of the site is moderately firm and suitable for load bearing (aquaculture vehicle traffic and trestles). However the substrate close to the west end of site showed some soft area close to licensed site 418 this soft ground was sub tidal and appeared to have been modified by loaded vehicle tracks with ridges formed between soft mud pockets. Three low water channels meet on the west part of site T12/530a there is a drainage course from the south running beneath trestles on site 418A and a blind tidal to the north as well as the main low water tidal channel extending westwards. The foreshore profile on the west third of site 530A slopes off to the west and is uneven. MED confirmed through probe testing that the western part of the site is quite soft and would have poor load bearing capacity. Due to this soft substrate MED recommends licensing only a reduced site area of 0.6049 hectares. MED also recommends the inclusion of a special condition in the licence that the licensee ensure that vehicles working on site 530A do not travel beyond the west boundary of the site with entry and egress only from the east side of the site this is to avoid damaging substrate to the west of the site.

Marine Survey Office (MSO): No comments received in relation to this application. If a licence was to be granted the applicant would need to contact the MSO in relation to aids to navigation in advance of commencement of activities on the site and receive statutory sanction from CIL.

Sea Fisheries Protection Authority (SFPA): No objection to this application however they note that Trawbreaga is Class B for Pacific Oysters and as such any shellfish leaving this bay should be depurated or only sold to purification plants before being sold to the final customer. All consignments of Pacific Oysters should have a shellfish registration document accompanying the consignment completed fully and accurately. The Marine Institute HABS database should be checked prior to harvesting to verify that the bay is

open. The onus is on the operator to verify the bay is open, classified and that the shellfish registration documents requirements are met.

### **Public Consultation**

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in the Donegal Democrat on 08<sup>th</sup> August 2019. The application and supporting documentation were available for inspection at Carndonagh and Buncrana Garda Stations for a period of 30 days from the date of publication of the notice in the newspaper.

There was one objection received from the public consultation process. It is not possible to disaggregate the comments into aquaculture and foreshore elements. The objections can be summarised as follows:

A number of issues were raised in the comments submitted as part of the Public Consultation Process including impact on local tourism and the aesthetic of the Wild Atlantic Way along with the preservation of the environment and the impact on the enjoyment of local peoples using the bay for recreational purposes such as walking, kayaking and fishing.

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

The applicant did not respond to the observations/submissions.

### **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 out of aquaculture pursuant to an Aquaculture Licence, shall have regard to any decision of the licensing authority in relation to the Aquaculture Licence.

### **RECOMMENDATION**

It is recommended that the Minister:

**approves** the granting of a Foreshore Licence (**TAB F**) to John Friel, Roxtown, Clonmany, Co. Donegal, for site T12/530A for a reduced footprint of 0.6049 ha in respect of 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 16:23

It is recommended that the Minister approves the granting (with variation) of the Aquaculture / Foreshore Licences, as applied for, to John Friel 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 15:03

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

**Quinlan, John** - 25/11/2019 14:00

Recommended for approval please.

**Beamish, Cecil** - 27/11/2019 12:29

Recommended that the Minister grants a variation of the Aquaculture and Foreshore Licences, as applied for, for the reasons outlined in the submission.

**Smith, Ann** - 27/11/2019 12:30

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

**Lennox, Graham** - 29/11/2019 11:48

Minister grants a variation of the Aquaculture and Foreshore Licences, as applied for, for the reasons outlined.

## User details

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

READ RECEIPT: Maher, EileenM  
Farrell, Geraldine  
OCallaghan, Grace  
Quinlan, John  
Beamish, Cecil  
Smith, Ann  
Lennox, Graham

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

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

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

**USE BLOCK CAPITALS IN BLACK INK PLEASE**

For Office Use

Application Ref. No.

T12/530

Date of Receipt (Dept. Stamp):



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

**PART 1: PRELIMINARY DETAILS**

Applicant's Name(s)	
1.	JOHN FRIEL (FRIEL AGRI MARINE)
Address:	ROXTOWN, CLOUNANY CO. DONEGAL
2.	
Address:	
3.	
Address:	
4.	
Address:	

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

**PART I: PRELIMINARY DETAILS**

**TYPE OF APPLICATION** – please indicate relevant type of application  
 This Application Form is valid for each type of application - *See Guidance Note 3.1*

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

(III) **TRIAL LICENCE**

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

## 2.2 MARINE-BASED SHELLFISH AQUACULTURE

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

### Proposed Site Location

- (i) Bay: TRAWBREAGA
- (ii) County: DONEGAL
- (iii) OS Map No: SEE ATTACHED
- (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.]  
245278, 449218;  
245427, 449131; 245401, 449088;  
245253, 449175
- (v) Size of Site (hectares): 0.86 hectares

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

GIGAS OYSTERS

(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) HATCHERY IN FRANCE (b) BY 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)

TRESTLES

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

(xi) Proposed Production Tonnage:

Year 1	0	Year 2	0	Year 3	10	Year 4	15	Year 5	25
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(xii) (a) Please outline the reasons for site selection:

EASILY ACCESSIBLE . HAVE WORKED

BESIDE AREA FOR PAST COUPLE OF YEARS  
GOOD FIRM GROUND

(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

FOR 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.

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?

(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)

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

Yes  No

NO

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

HARVESTING 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?

NONE

(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**



**PART 5: DECLARATION AND SIGNING**

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

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

N/A

I/We hereby declare the information provided in Parts 1, 2, 3 and 4 above to be true to the best of my/our knowledge and that I am over 18 years of age. I/We enclose an application fee\* of € 195.23 with this application.

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

*John Feil*

Date: 20/05/14

**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 T12/530A (0.86 Ha)**

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

245278, 449218 to Irish National Grid Reference point

245427, 449131 to Irish National Grid Reference point

245401, 449088 to Irish National Grid Reference point

245253, 449175 to Irish National Grid Reference point



245000

246000

450000

450000

449000

449000

448000

448000

245000

246000

**Aqua Culture Sites**

<all other values>

**Site\_Status**



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

100 Meter Reference Gnd

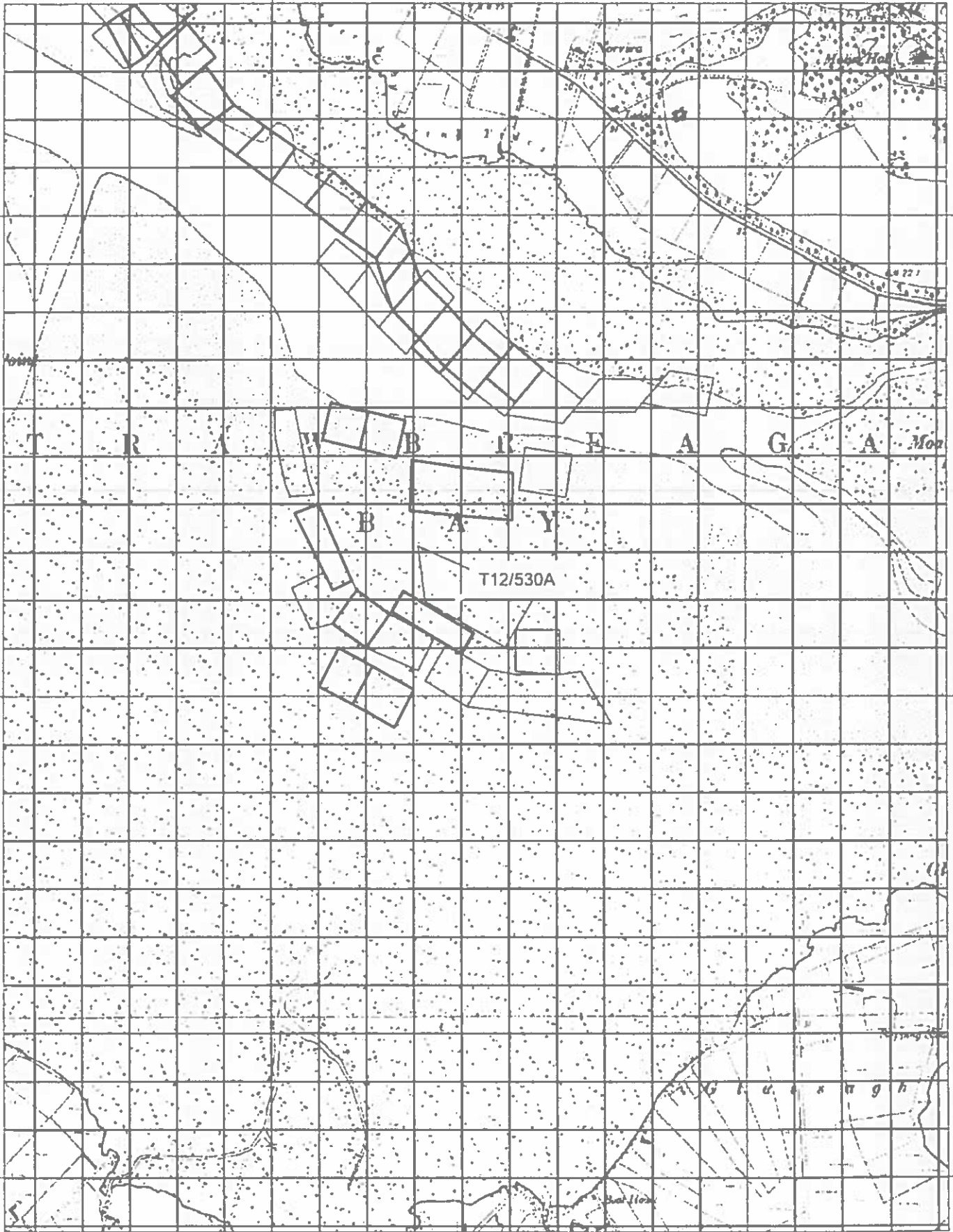
1:10,560

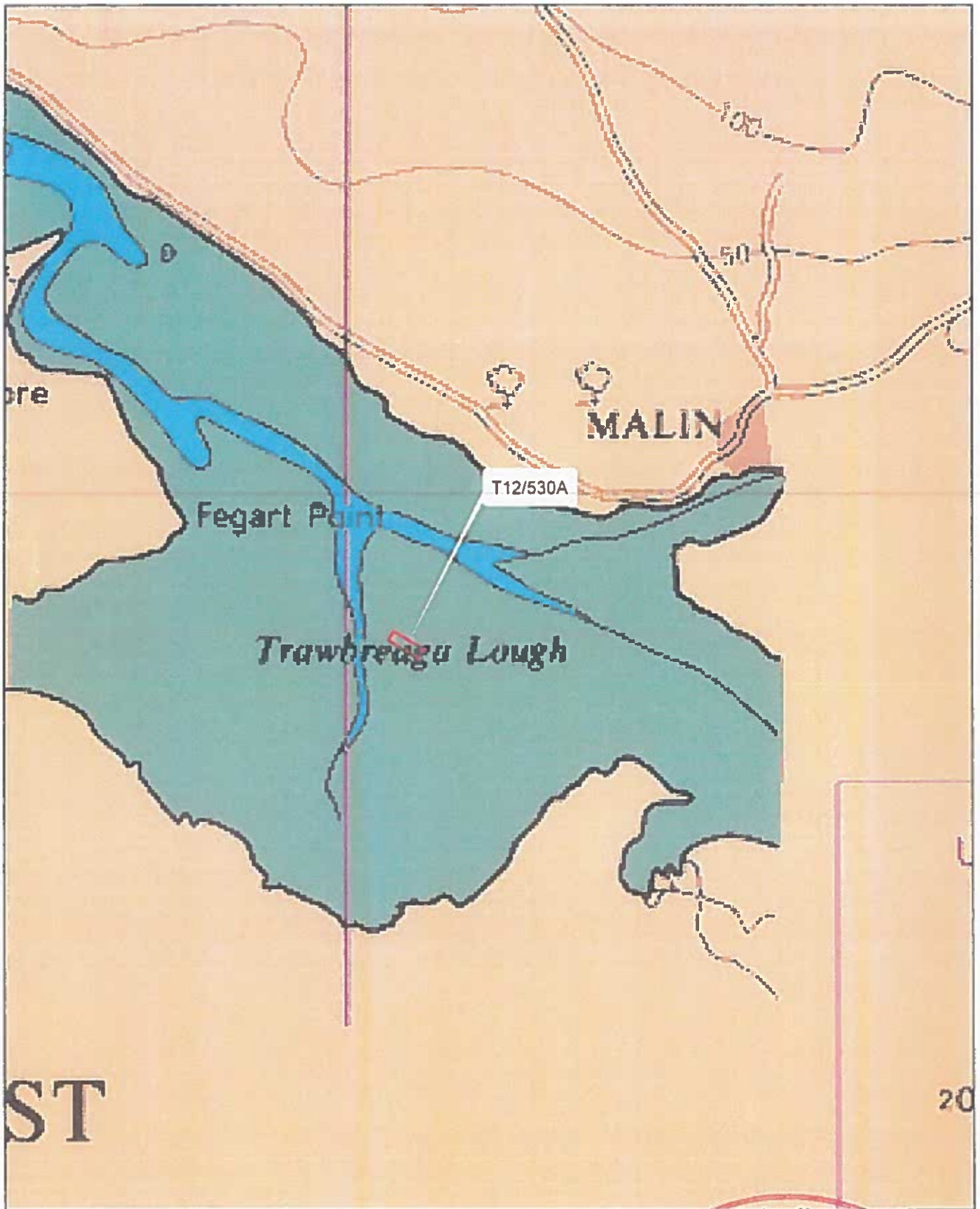
Sites highlighted in red denotes Application

Ordnance Survey Ireland Licence No: EN 0076413  
© Ordnance Survey Ireland/Government of Ireland



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

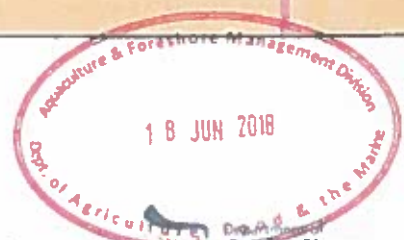




- Aqua Culture Sites**  
 <a1 other values>
- Site\_Status**
- Application
  - Lapsed
  - Licensed
  - Refused
  - Revoked
  - Surrendered
  - Withdrawn

1:24,000

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



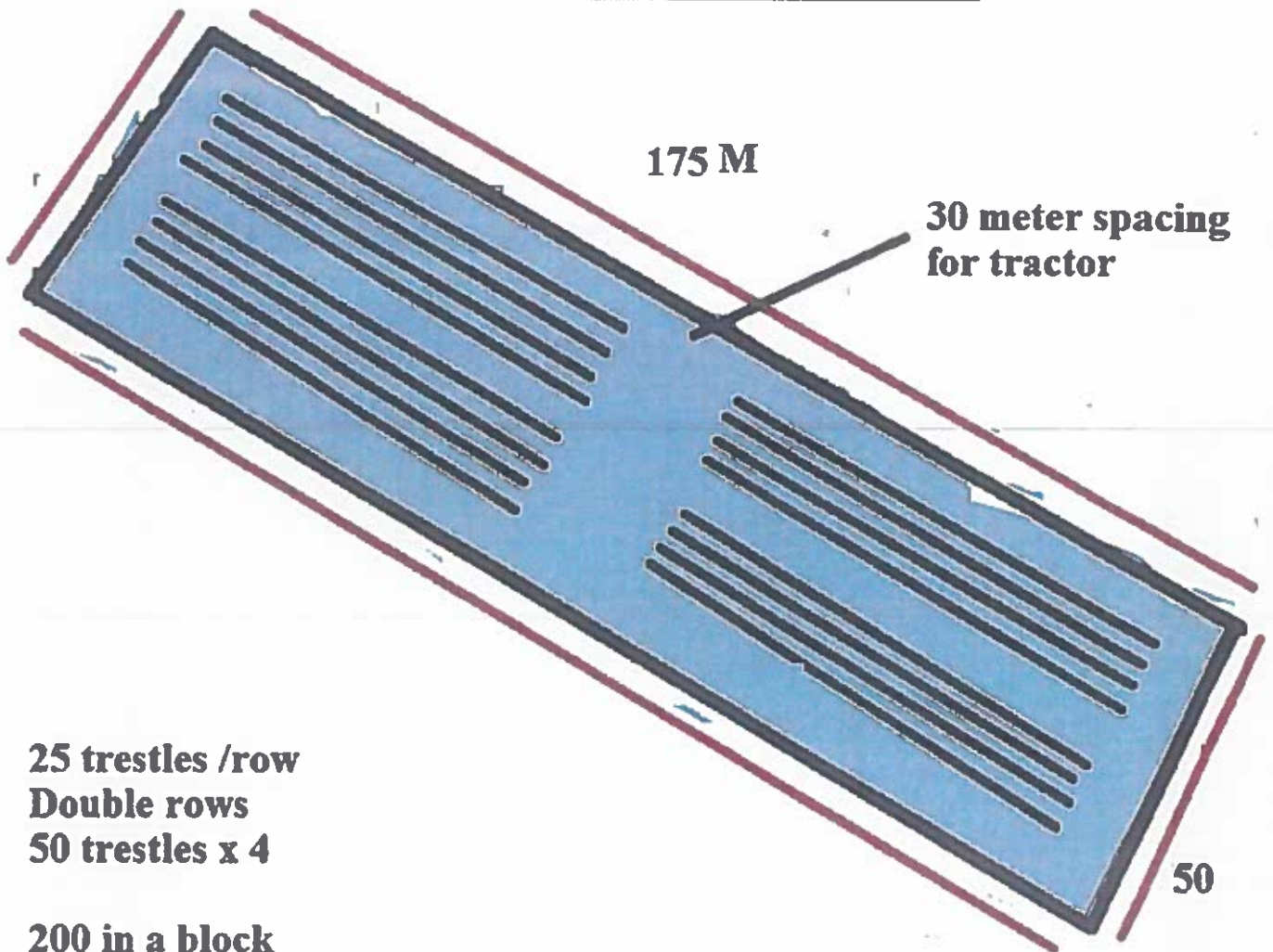
Department of  
**Agriculture,  
 Food and the Marine**  
 An Roinn  
 Talmhaíochta,  
 Bia agus Mara



T12/530

**Site Layout  
Trawbreaga Bay  
Co. Donegal  
John Friel**

**Scale: 1:1000**



**25 trestles /row  
Double rows  
50 trestles x 4**

**200 in a block**

**4 blocks**

**4 x 200 = 800 trestles**

**800 x 6 bag trestles = 4800 bags**



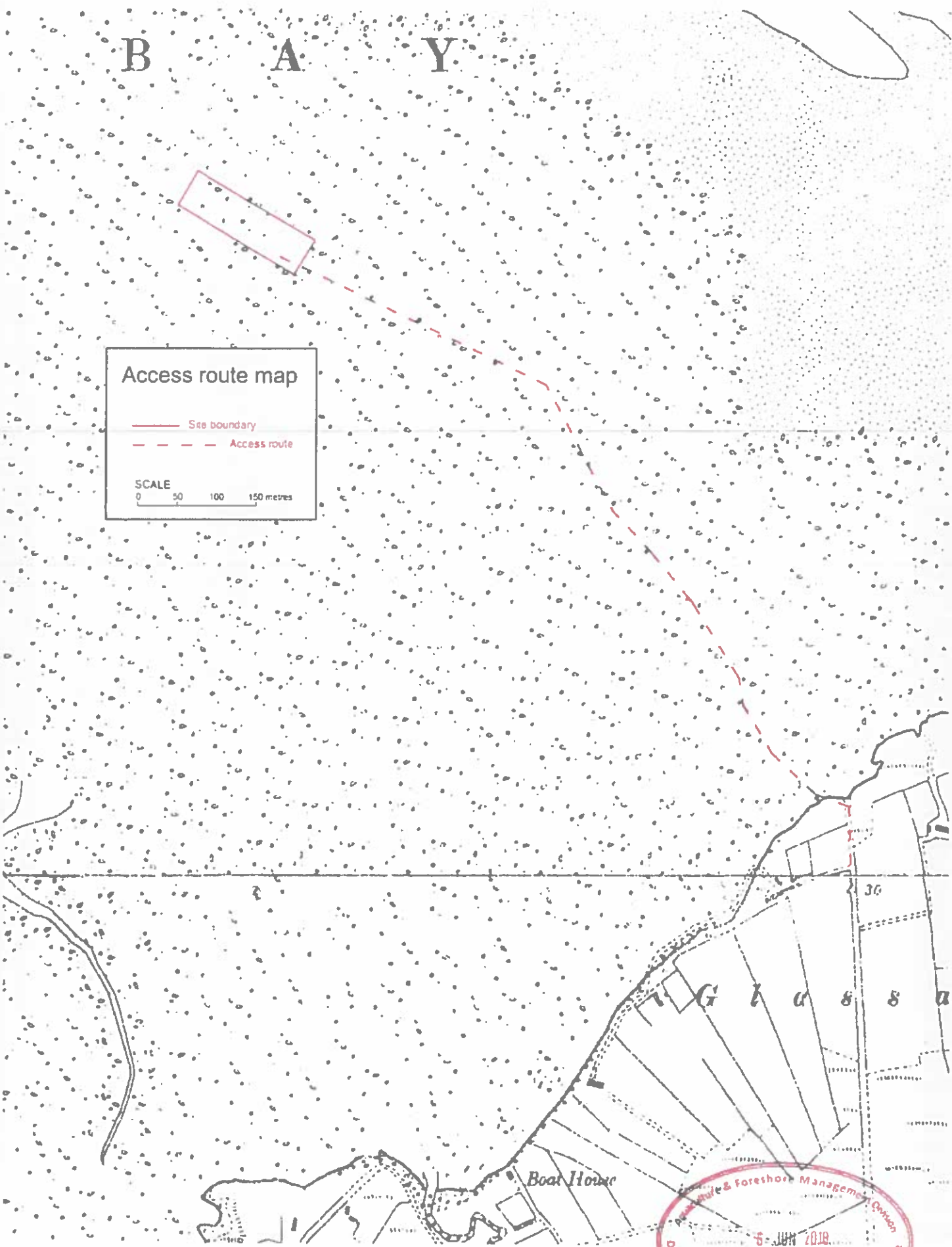
T12/530

B A Y

**Access route map**

— Sea boundary  
- - - Access route

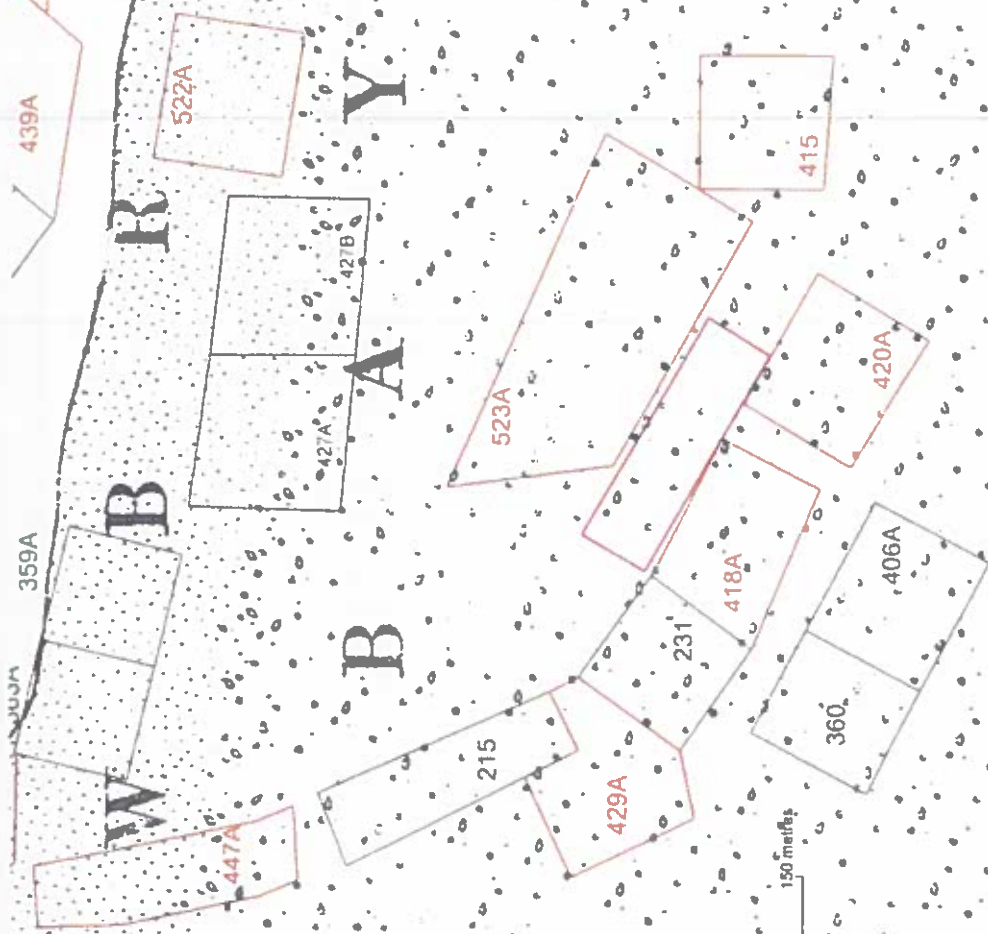
SCALE  
0 50 100 150 metres



Coastline & Foreshore Management, Condon  
5 JUN 2018  
Dept. of Agriculture, Food & the Marine

T12/530

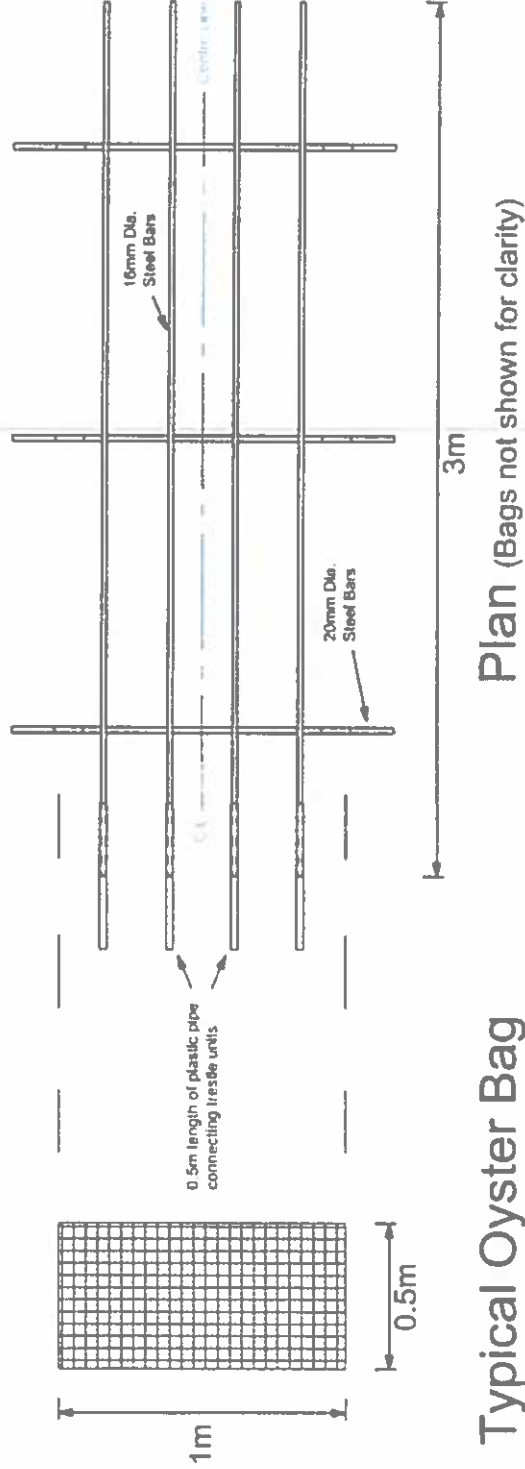
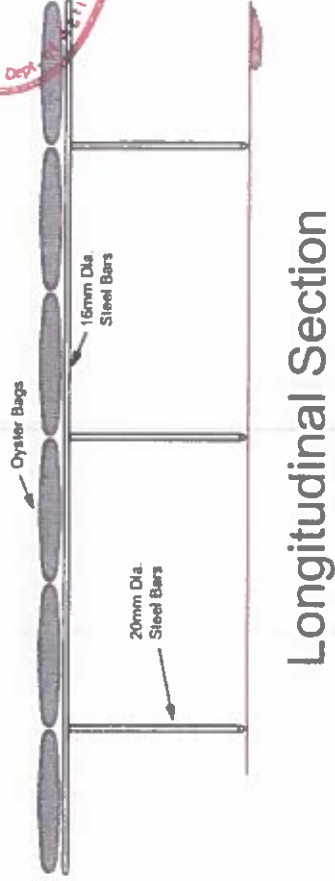
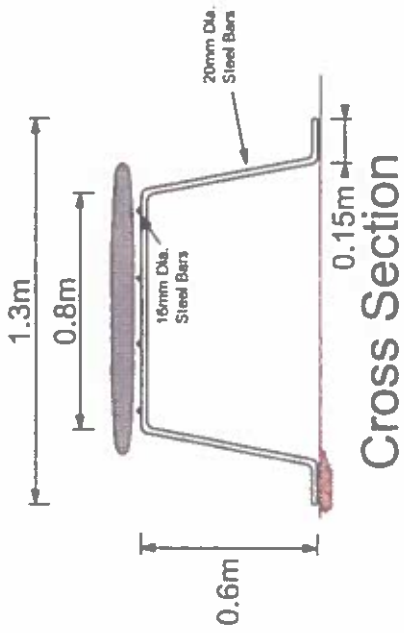
A W B R E A



Y A B

SCALE  
0 50 100 150 meters

112/550



### Typical Oyster Bag

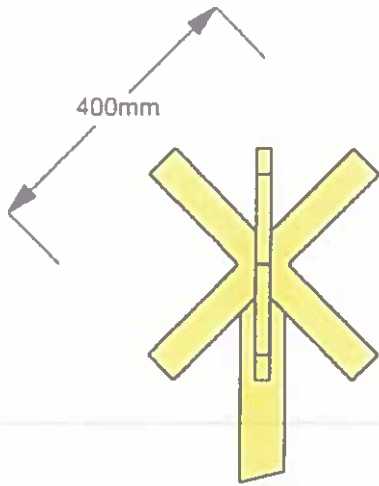
Note: Each oyster bag should be secured to trebble

Title: Oyster Trebble Detail

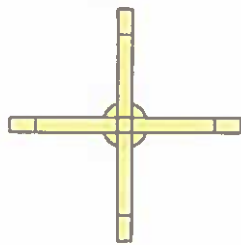
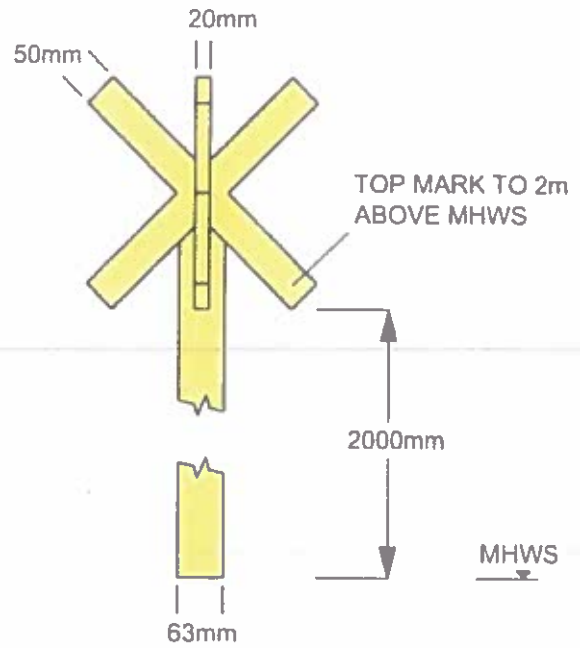
Scale: 1:25

Date: 01/01/2011





ELEVATION :  
SPECIAL MARK BEACON



PLAN :  
SPECIAL MARK BEACON

- MARK VISIBLE AS YELLOW X FROM ALL DIRECTIONS
- 63mm MIN DIA. POLE - YELLOW FOR 2 METRES BELOW BOTTOM OF CROSS
- SUPPORT STRUCTURE & FOUNDATION SUITABLE FOR LOCATION
- LIGHT & RADAR REFLECTOR IF REQUIRED



Title: Inshore Navigation Mark Detail

Scale: 1:10

Date: 01/01/2011



The substrate was generally clean sand. At the east and in the centre of site the substrate was moderately firm – see image above. This substrate seemed to be suitable for load bearing (aquaculture vehicle traffic and trestles).

However the substrate close to west end of site showed some soft area close to licensed site [REDACTED] this soft ground was sub tidal and appeared to have been modified by loaded vehicle wheel tracks with ridges formed between soft mud pockets - see image below.



View of soft ground at west end of site 530A – trestles in view are on site [REDACTED]

5/12/18

I discussed adequacy of the substrate at west end of site with the applicant on 22/5/19 by phone – his opinion was that it was solid enough – but I decided it was necessary to re-inspect the site in order to check in more detail whether there was an underlying issue with ground quality on the west part of site.

I checked the west end of the site in more detail on 3/6/19. I used DGPS to establish positions accurately. Three low water channels meet on the west part of site 530A (see MAP 1 overleaf) – there is a drainage course from the south running beneath trestles on site 418A and a blind tidal channel to the north as well as the main low water tidal channel extending westwards. The foreshore profile on the west third of site 530A slopes off to the west and is uneven. There is some current scouring of the bed caused by tidal flows on the site and because the area rarely dries out the sand there remains saturated and more mobile than higher ground to the east (which is intertidal and can dry out). I confirmed by probe testing on the site that this western part of site 530A (a portion some 50m in length) was indeed quite soft and would have poor load bearing capacity. The ridging caused by aquaculture vehicles in the past would almost certainly be repeated and worsened if further tractor + trailer traffic on this part of proposed site 530A took place. It will I think be necessary to exclude aquaculture operations and aquaculture related traffic from this area.

# MAP 1 AERIAL VIEW

SCALE

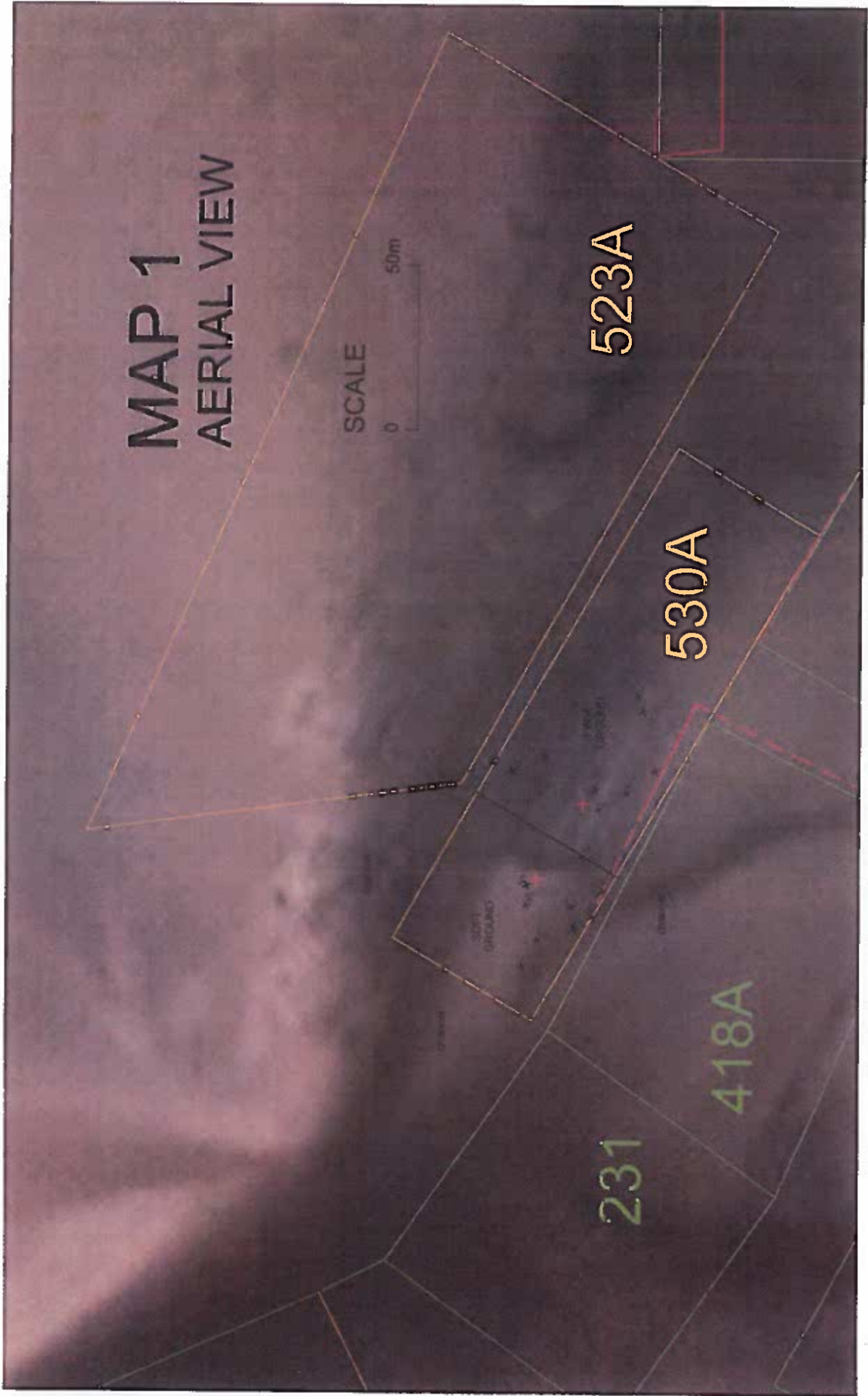
0 50m

523A

530A

231

418A



On that basis I recommend that the western 50m long section of the site (labelled as "SOFT GROUND" on MAP 1) not be licensed for trestle based oyster culture.

I recommend a reduced site area only be considered for licensing - composed of the centre and east part of site 530A – this reduced site would be defined by the following coordinates :

245322 449192  
245427 449131  
245401 449088  
245297 449149 area 0.6049 ha

Note that site 530A (as reduced in extent) would have a better alignment with the neighbouring application to the north [REDACTED] - which suggests to me that substrate suitability and tidal channel positions did influence the west end site boundary chosen by that applicant.

From a development control perspective there is an advantage in having a common alignment of the western site boundaries of these neighbouring applications.

I have informed the applicant that following detailed inspection I consider the 50m section at west end of site unsuitable.

#### Development proposal

The applicant proposes to put 800 trestles on the site and produce 10 tonnes by year 3 and 25 tonnes by year. These figures suggest growth to half-grown stage (say 15-30 g only) with fattening of oyster carried out elsewhere. (800 trestles could potentially produce 40 tonnes of oysters by year 3 in a three year cycle if grown to full size (100g)).

#### Adequacy of application documents

Layout drawing –The layout drawing is not adequate in terms of drawing quality. The site is either not correctly scaled or the scale bar is incorrect. The spacing between trestle rows, double rows and blocks would need to be better specified on the drawing to illustrate that the proposed layout and spacings could be accommodated on the site e.g. – as it stands the 30m spacing shown would not fit within the available space applied for.

Access map – The site access map shows access on common route from Glashagh Point foreshore access lane. The access map is satisfactory.

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

#### Potential impacts on other beneficial usages

##### *Natura 2000*

Site 530A 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.



#### *Amenity*

The foreshore area in the vicinity of site 530A does not have significant amenity usage.

#### *Fishing*

The site (as modified) does not impinge on low water river channels. The site will not impact on migratory salmonids. The site because of small size and location will not significantly impact on crab potting activity in the area in my opinion

#### *Visual impact*

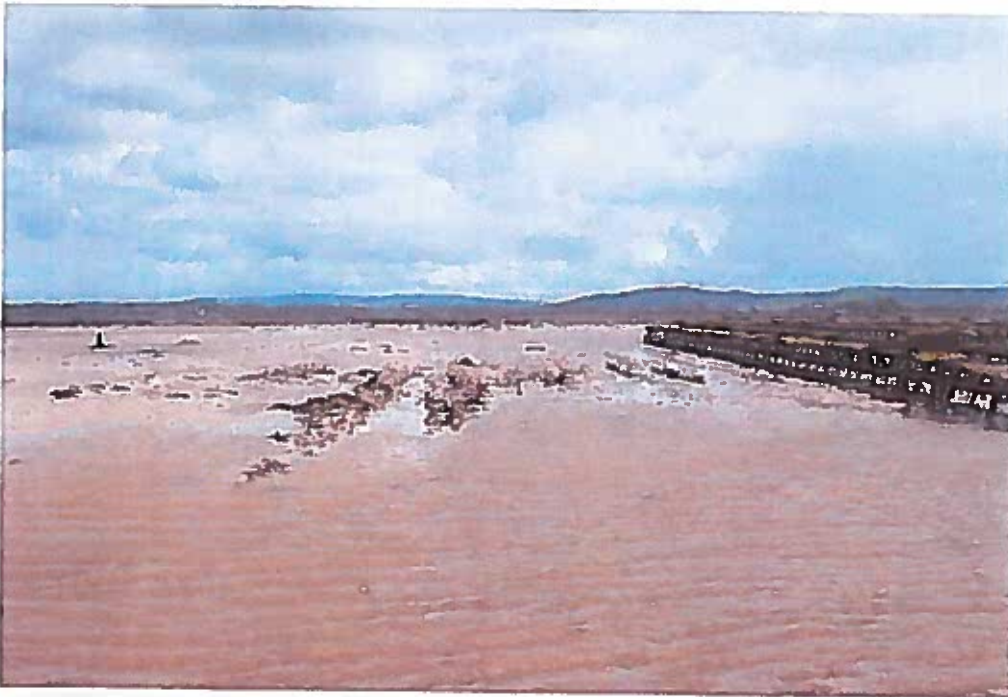
Site 530A has little potential to cause visual or landscape impact because of central location in Bay distant from public viewpoints.

#### *Navigation*

Occasional angling boat movements (punt) occur at low water channel 360 m to north of site 530A. If the site (or group of sites nearby in central part of Bay) is marked for navigation the impact on navigation should not be significant. At present there is little in the way of navigation marking present in this part of the Bay.

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

The site area applied for of 0.86 hectares is in line with the uniform site area approach adopted by the Department in licensing shellfish aquaculture in this Bay to date ( we recommend that an area of approximately 0.9 hectares be licensed to individual applicants ). However as noted earlier in this report the site in this case will need to be reduced further to an area of approximately 0.6 ha due to soft ground issues at its west end.



View to south east of west end of site 530A at low spring tide – sub tidal in foreground

3/6/19

Conclusion

Appropriate assessment of the application site area is required due to location in Natura 2000 area.

The applicant will need to supply a satisfactory quality trestle layout drawing that shows clearly layout and trestle spacings proposed.

I recommend that as applied for west end of site 530A not be licensed and a reduced part of site only could be licensed due to location of west part of site relative to local tidal channels and the soft /saturated substrate that occurs there. I also recommend inclusion of a special condition that the licensee ensure that vehicles working on site 530A do not travel beyond the west boundary of the site with entry and egress only from the east side of the site ( this to avoid damaging substrate to the west of the site)



Paul O'Sullivan

6/6/19



12<sup>th</sup> September 2018

Mr. Raphael Crowley – Engineer  
Dept. of Agriculture, Food and the Marine  
Reen Point  
Blennerville  
Tralee  
Co. Kerry

**Our Ref: T12/530 – John Friel**

Please see attached an application for Aquaculture and Foreshore licences for the cultivation of pacific oysters in Trawbreaga Bay, Co. Donegal for your examination.

Please may I have your observations as soon as possible.

Yours sincerely

  
Eileen Maher  
Aquaculture and Foreshore Management Division

Ph. 023 8859505

Email: [Eileen.Maher@agriculture.gov.ie](mailto:Eileen.Maher@agriculture.gov.ie)

2 10 15  
22  
32



## **Maher, EileenM**

---

**From:** OSullivan, Paul  
**Sent:** 09 July 2019 14:28  
**To:** Maher, EileenM  
**Subject:** RE: T12/530

Eileen

This trestle layout drawing is ok for consultation purposes. Note that if site is shortened in length at licensing decision stage, this layout drawing would then need to be modified.

( Note that I did suggest to the applicant that he consider relocating site to avoid soft ground at west end but he has decided that he will not modify site location or size – so that's fair enough.)

Regards

Paul O'Sullivan

---

**From:** Maher, EileenM  
**Sent:** 09 July 2019 09:57  
**To:** OSullivan, Paul  
**Cc:** Crowley, Raphael  
**Subject:** FW: T12/530

Hi Paul,

Please find attached site layout drawings for T12/530. Can you please confirm if this is okay?

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.

---

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[www.agriculture.gov.ie](http://www.agriculture.gov.ie)

---

**From:** [REDACTED]  
**Sent:** 08 July 2019 18:39  
**To:** Maher, EileenM  
**Subject:** T12/530

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

Hi Eileen,

I have attached a site layout for you.  
The dimensions of the site I was told was 180m x 51m.

Please let me know if it is suffice or if there is anything that I need to add.

Kind regards

Shaun



AN t-ÚDARÁS UM  
CHOSAINT  
IASCAIGH MHARA

SEA-FISHERIES  
PROTECTION  
AUTHORITY

Karen Gill  
Aquaculture and Foreshore Management Division  
Dep. Of Agriculture Food and the Marine  
National Seafood Centre  
Clonakilty  
Co. Cork

**RE T12/530 John Friel**

Dear Karen,

Below represents the views of the SFPA in relation to the above foreshore application

The SFPA has no objection to the above application

Trawbreaga is Class B for Pacific Oysters and as such any shellfish leaving this bay should be depurated or only sold to purification plants before being sold to the final customer.

All consignments of Pacific Oysters should have a shellfish registration document accompanying the consignment completed fully and accurately. Mr Friel needs to contact the undersigned to obtain a shellfish registration document book

The Marine Institute HABS database should be checked prior to harvesting to verify that the bay is open.

The onus is on the operator to verify the bay is open, classified and that the shellfish registration documents requirements are met.

If you have any queries, please don't hesitate to contact me.

Kind regards

Joan Hayes  
Sea Fisheries Protection Officer  
T +353 74 973 1264  
F +353 85 8772672  
E [Joan.Hayes@sfpa.ie](mailto:Joan.Hayes@sfpa.ie)  
Date: 18/09/2018

An t-Údarás um Chosaint Iascaigh Mhara,  
Lárionad Iascaigh Cuain na gCealla Beaga,  
Na Cealla Beaga,  
Co. Dún na nGall

Fishery Harbour Centre,  
The Pier,  
Killybegs,  
Co Donegal

T +353 74 9731264  
F +353 74 9731819  
E [killybegs@sfpa.ie](mailto:killybegs@sfpa.ie)

[www.sfpa.ie](http://www.sfpa.ie)

VAT No. IE 9655672K



Commissioners of  
**IRISH LIGHTS** | Navigation  
and Maritime  
Services

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

*Your Reference:* T12/ 530

*Our Reference:* LA:0398.6008

*Date:* 13/09/2018

LL: LA 0398.6008

Applicant: John Friel

Site: Trawbreaga Bay, Co. Donegal

Dear Ms. Maher,

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](mailto: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,

**Capt. Harry Duggan**  
for Director of Operations and Navigation

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

## **Maher, EileenM**

---

**From:** Terry McMahon [Terry.McMahon@Marine.ie]  
**Sent:** 26 August 2019 16:28  
**To:** Maher, EileenM  
**Subject:** RE: Applications for Aquaculture Licences in Trawbreaga Bay, Co.Donegal  
**Attachments:** Coffey T12\_553A MI Comments.pdf; Doherty T12\_540A MI Comments.pdf; Friel T12\_530A MI Comments.pdf; Hurikyan Osyters T12\_528A MI Comments.pdf; McCorkell T12\_541A MI Comments.pdf; McCorkell T12\_542A MI Comments.pdf; McGonigle T12\_511A MI Comments.pdf; McGonigle T12\_547A MI Comments.pdf; Oceanic Organic Oysters T12\_531A MI Comments.pdf; Oceanic Organic Oysters T12\_532A MI Comments.pdf; Oceanic Organic Oysters T12\_533A MI Comments.pdf; Oceanic Organic Oysters T12\_534A MI Comments.pdf; Oceanic Organic Oysters T12\_543A MI Comments.pdf; Oceanic Organic Oysters T12\_544A MI Comments.pdf

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Eileen

MI comments on the aquaculture licence applications in Trawbreaga Bay attached

Terry

---

**From:** Maher, EileenM [mailto:EileenM.Maher@agriculture.gov.ie]

**Sent:** 02 August 2019 13:53

**To:** 'naturalenvironment@antaisce.org'; ocarroll; 'murphym@bim.ie'; '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 McMahon; 'danny.obrien@housing.gov.ie'; 'foh@udas.ie'; 'planning@donegalcoco.ie'; 'cathal.sweeney@donegalcoco.ie'; 'dallaghan@bim.ie'

**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 14 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.

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**An Roinn Talmhaíochta, Bia agus Mara**

Tá an t-eolais san ríomhphost seo, agus in aon ceangláin leis, faoi phribhléid agus faoi rún agus le h-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.



*Marine Institute*  
Foras na Mara

Rinville,  
Oranmore,  
Co. Galway

Tel: 091 387200

Date: 26 August 2019

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

**Advice on Aquaculture Licence Application**

<b>Applicant</b>	John Friel
<b>Application type</b>	New
<b>Site Reference No</b>	T12/530A
<b>Species</b>	Pacific Oysters- Bags and Trestles
<b>Site Status</b>	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 an aquaculture licence for the cultivation of pacific oysters (*Crassostrea gigas*) using bags and trestles at Site T12/530A on the foreshore at Trawbreagea, Co. Donegal. The area of foreshore at Site T12/530A is 0.86Ha.

Site T12/530A 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 research<sup>1</sup>, 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(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 T12/530A 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 reports<sup>2,3</sup> and the Department's draft

<sup>1</sup> 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.

<sup>2</sup> <https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessments/donegal/1NorthInishowenSACandTrawbreagaSPAAAJuly2019Report300719.pdf>

<sup>3</sup>

<https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessments/donegal/2AnnexIITrawbreagaSPAAAJuly2019300719.pdf>

Natura conclusion statement<sup>4</sup> 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,

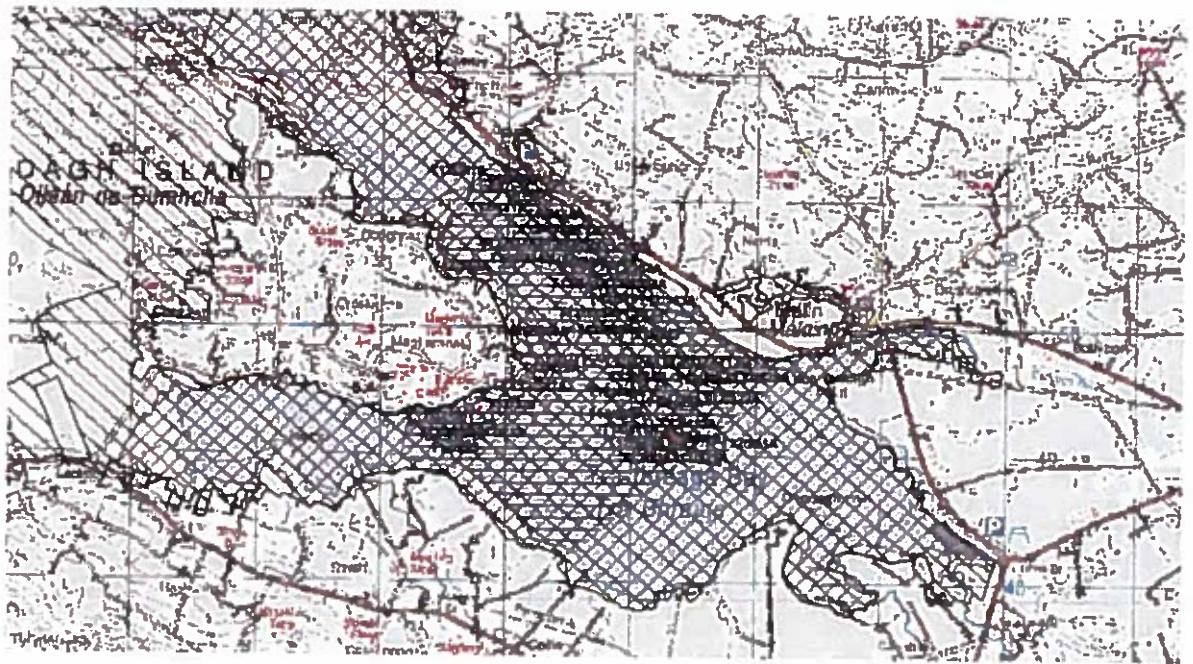


Dr. Terry McMahon  
Section Manager, Marine Environment and Food Safety Services,  
The Marine Institute.

4

<https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessmentconclusionstatement/2019new/DraftConclusionStatement310719.pdf>





- Shellfish Waters Directive Area 
- Aquaculture Site 
- Special Area of Conservation 
- Special Protection Areas 

## **Maher, EileenM**

---

**From:** Kelleher, Evan  
**Sent:** 19 August 2019 10:37  
**To:** Maher, EileenM  
**Cc:** Farrell, Geraldine  
**Subject:** FW: Trawbega Bay Aquaculture Applications  
**Attachments:** New Licence Cathal Mc Corkell T12\_541A.docx; New Licence Cathal Mc Corkell T12\_542A.docx; New Licence Daniel McGonigle T12\_511A.docx; New Licence Daniel McGonigle T12\_547A.docx; New Licence Hurrikayn OystersT12\_528A.docx; New Licence John FrieT12\_530A.docx; New Licence Oceanic Oysters T12\_531A.docx; New Licence Oceanic Oysters T12\_532A.docx; New Licence Oceanic Oysters T12\_533A.docx; New Licence Oceanic Oysters T12\_534A.docx; New Licence Oceanic Oysters T12\_543A.docx; New Licence Oceanic Oysters T12\_544A.docx; New Licence Philip Doherty T12\_540A.docx; New Licence Willian Coffey T12\_553A.docx

---

**From:** Milton Matthews [<mailto:milton.matthews@fisheriesireland.ie>]  
**Sent:** 19 August 2019 10:26  
**To:** Kelleher, Evan  
**Subject:** FW: Trawbega Bay Aquaculture Applications

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Hello Evan

Please see attached IFI inspectors reports concerning aquaculture foreshore applications for Trawbeaga Bay.

Rgds

Milton Matthews

Director

Inland Fisheries Ireland- Ballyshannon

-----  
**Iascach Intire Éireann**  
**Inland Fisheries Ireland**

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Email [milton.matthews@fisheriesireland.ie](mailto:milton.matthews@fisheriesireland.ie)

Web [www.fisheriesireland.ie](http://www.fisheriesireland.ie)

Station Road, Ballyshannon Co. Donegal, Ireland. F94 WV76

-----  
**From:** Owen Kelly  
**Sent:** 17 August 2019 16:33  
**To:** Milton Matthews  
**Cc:** Peter Kelly  
**Subject:** Trawbega Bay Aquaculture Applications

Milton

Attached Trawbega Bay aquaculture applications. Plenty of time on this as it was only received on the 8/8/19.

Regards

Owen Kelly

Assistant Inspector - Glenties

North Western River Basin District

-----  
**Iascach Intire Éireann**  
**Inland Fisheries Ireland**

Tele: 071 - 9851435

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Station Road, Ballyshannon, Co. Donegal. F94 WV76

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D'fhéadfaí go bhfuil an ríomhphost seo agus ceangaltáin ar bith atá in éineacht leis faoi rún agus iad beartaithe d'úsáid an duine a bhfuil a s(h)eoladh air amháin. Dearthaí nó tuairimí ar bith atá curtha in iúl ann, baineann siad leis an údar amháin, agus ní chaithfidh go n-aontaíonn Iascaigh Intíre Éireann leo. Mura tusa faighteoir beartaithe an ríomhphost seo, ná déan rud ar bith mar gheall ar an méid atá ann, ná é a chóipeáil ná é a thaispeáint do dhuine ar bith eile. Déan teagmháil leis an seoltóir, le do thoil, má chreideann tú go bhfuair tú an ríomhphost seo trí earráid.

---

**New Aquaculture and Foreshore Application for John Friel, Rostown,  
Clonmany, Co Donegal**

**Reference Number: T12/530A**

The North Inishowen Coast situated on the north Donegal coast is designated as a Special Area of Conservation (SAC) under the Habitat's Directive. The marine area is designated for mudflats and sand flats not covered by seawater at low tide which support a variety of soft sedimentary communities and community complexes.

Trawbega Bay is located to the west of the R242 and forms part of the Wild Atlantic Way which attracts large amounts of visitors annually.

A site visit was carried out at low water and the following was noted.

1. This area of Trawbega Bay is sandy in nature and of a gentle gradient. This area is a well-established route for adult salmon and sea trout returning to spawn and for the outward migration of salmon smolts. Salmon and sea trout populations migrate upstream of this point to two river catchments, the Glennagannon and the Donagh Rivers which flow into Trawbega Bay. At present both rivers are currently closed to salmon fishing because stocks do not meet their conservation limits. The conservation status of salmon in Ireland at present is listed as vulnerable (Red List No. 5, 2011).
2. This site is located in close proximity to the main channel and the applicant should take all necessary measures to ensure that the development will not interfere with the passage of migrating salmon and sea trout.
3. This site should be clearly marked with navigational marks to prevent any navigational hazard.
4. The applicant should confirm that only triploid oysters are intended for use on site.
5. Should this application to cultivate Gligas Oysters using bags and trestles be sanctioned it would be essential that proper biosecurity protocols are followed during the operations of the farm to ensure no diseases or non-native species are introduced or spread elsewhere from the facility.

As the proposed site is 0.86 hectares in size the visual impact is minimal. However as this is a very scenic location which attracts large numbers of visitors in the summer months, it may be more beneficial if used as an outdoor amenity. Going forward it may be useful for a cost benefit analysis to be undertaken into the benefits or otherwise of Trawbega Bay as an oyster production site or as a visual amenity.

Signed: Owen Kelly - Assistant Inspector (Letterkenny Glenties)

## **Maher, EileenM**

---

**From:** Fern Dau [Fem.Dau@chg.gov.ie]  
**Sent:** 11 September 2019 16:45  
**To:** Maher, EileenM  
**Subject:** Aquaculture Licences (Oysters). T12/511, 547, 528, 530,531,532, 533, 534, 543, 544, 540, 541,542, 553 Trawbreaga Bay, Co.Donegal.

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**14 sites for Aquaculture Licences (Oysters). T12/511, 547, 528, 530,531,532, 533, 534, 543, 544, 540, 541,542, 553**

The Department of Culture, Heritage and the Gaeltacht welcomes the opportunity to provide observations to DAFM concerning the proposed licensing of aquaculture activities in Trawbreaga Bay, Co. Donegal [T12/511, T12/547, T12/528, T12/530, T12/531, T12/532, T12/533, T12/534, T12/543, T12/544, T12/540, T12/541, T12/542 and T12/553].

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

The 2016<sup>[1]</sup> and 2019<sup>[2]</sup> Appropriate Assessment Reports screened out the keystone community *Zostera*-dominated community stating that there was no spatial overlap with aquaculture activities and this community. Among the measures to be taken in the Mitigation Measures and Management Actions of the draft Conclusion Statement<sup>[3]</sup> is "strict adherence to the access routes". However this Department's staff have noted that the *Zostera* bed in this site has been severely reduced by activities associated with aquaculture. This is contrary to the conservation objectives for this site<sup>[4]</sup> which have as their targets "Maintain the extent of the *Zostera*-dominated community" and "Conserve the high quality of the *Zostera*-dominated community".

The Department's staff have also been made aware that build-up of sediment beneath the trestles requires them to be moved regularly at this site. While the occurrence of trestles on the intertidal has been shown to be a benign activity (Forde *et al.*, 2015) it appears that at this site, this may not be the case. It also suggests that the hydrology of the bay may not be suitable for further aquaculture licences at this time.

The Department is aware of the considerable coastal erosion taking place at Five Fingers Strand and Lagg dune system to the north of the mouth of Trawbreaga Bay and that Donegal County Council have commissioned a report examining coastal erosion at this location; this is expected to be available by the year end (2019).

This Department therefore suggests that any consideration of aquaculture licences await the outcome of this report. It also recommends that a survey of Trawbreaga Bay be undertaken to assess the current status of the bay and its constituent communities and also its continuing suitability for the intertidal culture of oysters at the present and proposed levels. The findings of these two pieces of work should then be used to inform an updated AA, based on the best available scientific information.

In relation to Trawbreaga Bay SPA, this Department reiterates its comments of 11 April 2019 specifically that the development of a Code of Practice in relation to the disturbance of Barnacle Geese and Light-bellied Brent Geese. However, no detail is provided within the assessment on the Code of Practice to be implemented. It is this Department's view that the robust methods/protocols to be employed to assess the level of disturbance to Brent geese be detailed in the Appropriate Assessment. The AA should also include what response or mitigation measures will be taken if significant disturbance/displacement is recorded, as well as information on their likelihood of success or effectiveness.

It is considered that this Code of Practice should be developed and agreed, in consultation with NPWS, prior to the issuing of any future licences, and that without this detailed Code of Practice the AA is incomplete.

## Regards

Michael Murphy

An Roinn Cultúir, Oidhreacht 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

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[www.chg.gov.ie](http://www.chg.gov.ie)

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Tá an t-eolas sa ríomhphost seo faoi rún, chomh maith le gach comhad atá ceangailte leis, agus i gcomhair úsáid an duine nó an chórais a bhfuil sé dírithe air amháin. Má fhaigheann tú an ríomhphost seo trí bhotún, cuir scéal chugainn ag [webmaster@chg.gov.ie](mailto:webmaster@chg.gov.ie). Tá an ríomhphost seo arna sheiceáil ag scanóir víreas agus dealramh air go bhfuil sé glan.

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<sup>[1]</sup> Annex I Report supporting Appropriate Assessment of Aquaculture in North Inishowen Coast SAC (Site code: 002012) Version: May 2016

<sup>[2]</sup> Report supporting Appropriate Assessment of Aquaculture in North Inishowen Coast SAC (Site code: 002012) Version: July 2019

<sup>[3]</sup> Draft 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)

<sup>[4]</sup> [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO002012.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002012.pdf)

**Maher, EileenM**

---

**From:** JADE PEARSON [jpearson@Donegalcoco.ie]  
**Sent:** 11 September 2019 13:49  
**To:** Maher, EileenM  
**Subject:** Aquaculture Licence  
**Attachments:** 1100317B\_1\_1.pdf

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Eileen,

Please find attached response to aquaculture licence application received by this office on 2<sup>nd</sup> August.

Regards,

Jade

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Donegal County Council will be implementing EIRCODES in our communications. These are the codes for the Public Services Buildings: Lifford HQ F93 Y622, Letterkenny F92 TNY3, Milford F92 TDOP, Carndonagh F93 YV1N, Dungloe F94 H4CF & Donegal Town F94 DK6C.

Beidh an c?ras EIRCODE ? chur i bhfeidhm ag Comhairle Contae Dh?n na nGall in?r gcuid cumars?id?. Seo iad a leanas na c?id do na hIonaid Seirbh?se Poibl?: Leifear F93 Y622, Leitir Ceanainn F92 TNY3, Baile na nGall?glach F92 TDOP, Carn Domhnach F93 YV1N, An Cloch?n Liath F94 H4CF agus Baile Dh?n na nGall F94 DK6C.







Email response

11/09/2019

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 2<sup>nd</sup> August, 2019 for consultation. You are advised as follows:-

**T12/511, T12/547, T12/528, T12/530, T12/531, T12/532, T12/533, T12/534, T12/543, T12/544, T12/540, T12/541, T12/542 & T12/553**

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 11.4298ha of Trawbrega Bay. It is considered that the proposed development will not result in a significant intensification of the Oyster Farming activity in Trawbrega Bay and does not represent a visual intrusion into the scenery of the host area and is considered to be acceptable subject to the location of sites to be licenced being clearly identified by buoys or other markers so as not to obstruct other boat users of Trawbrega Bay.

Yours sincerely

  
\_\_\_\_\_  
Teresa Conway  
Staff Officer

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

[12/09/2019]

**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 T12/511, T12/547, T12/528, T12/530, T12/531, T12/532, T12/533, T12/534, T12/543, T12/544, T12/540, T12/541, T12/542, T12/553 in Trawbreaga Bay, County Donegal, and would like to make the following submission in relation to this application.

**1. Discrepancy among reports**

An Taisce would note that in the SAC AA report<sup>1</sup> accompanying this application it is outlined that:

*'In the North Inishowen Coast SAC there are 66 valid oyster production licences with a further 20 new applications.'*

Yet, in a previous report from July of 2018<sup>2</sup> it was outlined that:

*'In the North Inishowen Coast SAC there are 23 valid oyster production licences with a further 48 new applications.'*

Between July 2018 and July 2019, An Taisce have been notified of just 9 determinations in the Trawbreaga area. We would highlight that it is concerning given that the number of valid oyster production licences would appear to have increased by 43 licences in the space of a

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1

<https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessments/donegal/1NorthInishowenSACandTrawbreagaSPAAJuly2019Report300719.pdf>

2

<https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessments/1AnnexINorthInishowenCoastSACAAJuly2018010818.pdf>

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+353 1 454 1786 | [Info@antaisce.org](mailto:Info@antaisce.org)

year, yet only 9 of these determinations are advertised on the DAFM website<sup>3</sup>. It is unclear to An Taisce why there is such a discrepancy.

## 2. 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'.

There is a 30.4% overlap of oyster trestles with the community complex Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger* community complex (19.8% licenced, 8.7% application, 1.92% access route). While Section 8.3 of the SAC document outlines that:

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

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 emphasis]

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3

<https://www.agriculture.gov.ie/seafood/aquacultureforeshoremanagement/aquaculturelicensing/aquaculturelicencedecisions/donegal/> [Number 149-159]

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.'* [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 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.

### **3. Reasonable doubt**

The SAC report 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-404/09 [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.*" (C304/05, Para 58) [An Taisce emphasis]

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.

#### 4. Bird Displacement

In the SPA report, in the 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 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 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:

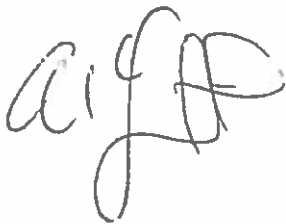
*'Licences issued will contain a recommendation that triploid oysters continue to be used in North Inishowen Coast SAC in order to minimize any risks to Lough Swilly SAC'*

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.



**Date:** October 8<sup>th</sup>, 2019

**To:** Eileen Maher - AFMD

**From:** Francis O'Beirn, Marine Institute

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

**Re:** IFI comments on 14 aquaculture licence applications in Trawbreaga Bay (August 2019).

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The Marine Institute have been asked to comment on the submissions from IFI to the Department of Agriculture Food and the Marine (DAFM) in relation 14 aquaculture licence applications in Trawbreaga Bay (dated 19/08/2019).

In summary, the issues considered in each submission are broadly similar. While some issues are beyond the remit of the MI (e.g., navigation and visual impact), the MI considers a number of the observations and recommendations (below) consistent with previously communicated views of the MI.

1. This site is located in close proximity to the main channel and the applicant should take all necessary measures to ensure that the development will not interfere with the passage of migrating salmon and sea trout.
2. The applicant should confirm that only triploid oysters are intended for use on site.
3. Should this application to cultivate *Gigas* Oysters using bags and trestles be sanctioned it would be essential that proper biosecurity protocols are followed during the operations of the farm to ensure no diseases or non-native species are introduced or spread elsewhere from the facility.



**Date:** October 8<sup>th</sup>, 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 (12<sup>th</sup> September 2019).

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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=14) in Trawbreaga Bay (dated 12/09/2019). 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).

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: Discrepancy among reports**

*An Taisce would note that in the SAC AA report<sup>1</sup> accompanying this application it is outlined that:*

*'In the North Inishowen Coast SAC there are 66 valid oyster production licences with a further 20 new applications.'*

*Yet, in a previous report from July of 2018<sup>2</sup> it was outlined that:*

*'In the North Inishowen Coast SAC there are 23 valid oyster production licences with a further 48 new applications.'*

*Between July 2018 and July 2019, An Taisce have been notified of just 9 determinations in the Trawbreaga area. We would highlight that it is concerning given that the number of valid oyster production licences would appear to have increased by 43 licences in the space of a year, yet only 9 of these determinations are advertised on the DAFM website. It is unclear to An Taisce why there is such a discrepancy.*

**MI Response:** This query is beyond the remit of the MI who prepares each Assessment Report on the basis of a list of sites (licenced and applications) provided by DAFM.

## 2. 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'.

There is a 30.4% overlap of oyster trestles with the community complex Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) armiger* community complex (19.8% licenced, 8.7% application, 1.92% access route). While Section 8.3 of the SAC document outlines that:

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

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 journals<sup>1</sup>. 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.

### 3. *An Taisce Observations: Reasonable doubt*

The SAC Report 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

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<sup>1</sup> 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

*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 <sup>1</sup>. These recent information sources do not appear to confirm An Taisce’s narrative.

#### **4. An Taisce Observations: Bird Displacement**

In the SPA 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 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 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 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.



**Date:** October 8<sup>th</sup>, 2019

**To:** Eileen Maher - AFMD

**From:** Francis O'Beirn, Marine Institute

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

**Re:** DCHG comments on aquaculture licence applications in Trawbreaga Bay (12<sup>th</sup> September 2019).

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The Marine Institute have been asked to comment on the submission from Department of Culture Heritage and the Gaeltacht (DCHG) to the Department of Agriculture Food and the Marine (DAFM) in relation to a number of aquaculture licence applications in Trawbreaga Bay (dated 12/09/2019).

The text below represent the relevant DCHG comments with the MI response following.

**DCHG Observation:** The 2016 and 2019 Appropriate Assessment Reports screened out the keystone community *Zostera*-dominated community stating that there was no spatial overlap with aquaculture activities and this community. Among the measures to be taken in the Mitigation Measures and Management Actions of the draft Conclusion Statement is "strict adherence to the access routes". However, this Department's staff have noted that the *Zostera* bed in this site has been severely reduced by activities associated with aquaculture. This is contrary to the conservation objectives for this site which have as their targets "Maintain the extent of the *Zostera*-dominated community" and "Conserve the high quality of the *Zostera*-dominated community".

**MI Response:** In both assessment reports previously prepared, the licenced and proposed activities (including access routes) did not coincide with *Zostera* habitat. A distance of >600m was calculated as the closest likely interaction (with access route). The MI is unaware of activities overlapping the *Zostera* habitat and suggest that DAFM investigate this further.

**DCHG Observation:** The Department's staff have also been made aware that build-up of sediment beneath the trestles requires them to be moved regularly at this site. While the occurrence of trestles on the intertidal has been shown to be a benign activity (Forde et al., 2015) it appears that at this site, this may not be the case. It also suggests that the hydrology of the bay may not be suitable for further aquaculture licences at this time.

**MI Response:** 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. Notwithstanding the observations provided by DCHG, it would be useful to identify the specific locations of concern and for Marine Engineering Division to carry out a site inspection to investigate this matter further.

**DCHG Observation:** The Department is aware of the considerable coastal erosion taking place at Five Fingers Strand and Lagg dune system to the north of the mouth of Trawbreaga Bay and that Donegal County Council have commissioned a report examining coastal erosion at this location; this is expected to be available by the year end (2019).

This Department therefore suggests that any consideration of aquaculture licences await the outcome of this report. It also recommends that a survey of Trawbreaga Bay be undertaken to assess the current status of the bay and its constituent communities and also its continuing suitability for the intertidal culture of oysters at the present and proposed levels. The findings of these two pieces of work should then be used to inform an updated AA, based on the best available scientific information.

**MI Response:** This is beyond the remit of the MI and suggest the views of Marine Engineering Division be sought.

**DCHG Observation:** In relation to Trawbreaga Bay SPA, this Department reiterates its comments of 11 April 2019 specifically that the development of a Code of Practice in relation to the disturbance of Barnacle Geese and Light-bellied Brent Geese. However, no detail is provided within the assessment on the Code of Practice to be implemented. It is this Department's view that the robust methods/protocols to be employed to assess the level of disturbance to Brent geese be detailed in the Appropriate Assessment. The AA should also include what response or mitigation measures will be taken if significant disturbance/displacement is recorded, as well as information on their likelihood of success or effectiveness.

It is considered that this Code of Practice should be developed and agreed, in consultation with NPWS, prior to the issuing of any future licences, and that without this detailed Code of Practice the AA is incomplete.

**MI Response:** It should be noted that the assessment of interactions between Brent Geese and aquaculture activities in the SPA AA report is considered conservative and robust and the process is communicated in some detail. The MI therefore, refutes the observation that these details are not provided in the AA report.

The observation in relation to the development of a code of practice, is consistent with our previous response in our communication to DAFM of 22/7/2019 wherein we noted the value in creating a code-of-practice in relation to ongoing interactions between geese species and aquaculture operations. This is consistent with the recommendations and advice previously provided for Drumcliff Bay in County Sligo.

1/0  
Mr Campbell, Divisional Engineer

BJL 12/10/19.

Ms Maher, AFMD

**RE: Statutory and public consultation responses on Trawbreaga Bay July /August aquaculture applications**

[REDACTED] 530, [REDACTED]

Ms Maher's email of 2/10/19 refers. Submissions were received from An Taisce, Dept. of Culture, Heritage and the Gaeltacht (DCHG) and IFI. Submissions from members of the public were received from [REDACTED] I will comment on each submission in turn as follows:

An Taisce 12/9/19

**Point 1 - Discrepancy among reports**

This might be a valid criticism – currently on the department website the list of issued licences for Trawbreaga Bay come to 46. Allowing for an additional 5 ALAB issued licences, the total appears to be in region of 51 and not 66 as in July 2019 AA report

**Point 2 – Percentage of Habitat Affected.**

These technical questions as to whether oyster trestles create temporary or persistent disturbance are best addressed by Marine Institute.

**Point 3 – Reasonable doubt.**

This relates to the published literature referenced and the level of reliance that may be put on it. These 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 the sources are considered sufficiently authoritative (by MI) at this time.

**Point 4 - Bird Displacement.**

These biological/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 recommendation.



I also suggest that the same needs to apply in translating the restriction (to triploid oyster culture) into licence conditions as issued for Trawbreaga Bay. The condition as given in recently issued licences for the Bay has not been as clearly stated as it should be in my opinion (see also the similar comments made in my report dated 24/9/19 on consultation responses for [REDACTED])

DCHG (Development Applications Unit) 11/9/19

Certainly of concern is the claim that Zostera bed area in this Natura site has been severely reduced by activities associated with aquaculture. The Zostera area of .91 hectares as defined in the NPWS Conservation Objectives November 2014 document (copy Map 4 attached) does not overlap with aquaculture sites and it does not overlap with the designated aquaculture traffic access route from Glashagh Point. I am therefore not clear what aquaculture activity could be impinging on that Zostera bed – perhaps some other such bed is in mind.

Reference is made to a coastal erosion study for the Trawbreaga Bay mouth area that Donegal County Council is now having carried out. While erosion is an issue I do not expect it to impinge significantly on the inner Bay sites such as 530A or [REDACTED]. We are conscious of the need to avoid siting aquaculture structures in areas of mobile sand and strong hydrodynamics such as on soft sand bar areas in the main low water channel. The potential negative impact that proposed development would have locally on hydrodynamic processes has been a factor in MED recommending that application sites [REDACTED] not be licensed. I consider therefore that it is not necessary that decisions on the current set of applications should await outcome of the coastal erosion study referred to.

A recommendation is made that a biological study be undertaken in the Bay to inform an updated AA. The AA is partly based on the November 2014 Conservation Objectives documents and is bound by those objectives. I don't think it is necessary to defer licensing decisions on the current round of applications until further updating assessments are carried out.

Code of Practice – The purpose of such a Code would be to describe the steps to be taken by operators in order to avoid/minimise disturbance of two geese species. I suggest that it would indeed be appropriate for DAFM to consider having a Code of Practice document developed before any sites from the current round of aquaculture licence applications are licensed in the Bay.

I expect that inclusion of such a Code of Practice document into Annex 4 of new aquaculture licences in the Bay would be appropriate.

AFMD will need to decide how to get such a Code developed - it will take some resources to do it.

Note that a Code of Practice for Drumcliff Bay drawn up in the late 1990s would not be transferrable to Trawbreaga Bay. A Bay specific document (and a more up to date set of conditions) is required. Note that the set of "Requirements for Aquaculture Operations Drumcliff Bay" 27/5/97 was drawn up by Department of Marine (Ballyshannon office) in consultation with the Drumcliff shellfish farmers and NPWS at the time – in its final form it included a list of 27 specific requirements and 2 Bay maps as well as a set of simplified operational rules for that location. BIM were not involved in

developing that code of practice . Engineering Division is unlikely to have the time to devote to a similar exercise for Trawbreaga Bay if it is to be done in a timely fashion. Engaging consultants or an agency such as BIM might be an option worth considering.

To get the ball rolling AFMD might formally seek opinion from NPWS on what provisions (including monitoring) might be appropriate for inclusion in a draft Code.

Inland Fisheries Ireland (IFI) 19/8/19

Comments made by IFI about each application are virtually identical (apart from site area). This list of issues has been considered in the DAFM assessment work done to date.

In our assessments of these applications we have considered the potential impact of the proposed oyster farm developments on migratory salmon movement.

In our assessments we have also considered visual impact and navigational marking.

Triploid oyster use only is likely to be stated as a requirement in any licences issued.

██████████ 26/8/19

I have commented on this submission in report dated 24/9/19 referring in particular to photographs of disused gear included in that submission.

Regarding the general point made about potential for impact on tourism I agree that the visibility of proposed development from the Lagg Road (R242) is an important consideration in assessing the impact of the proposed developments on users of the Wild Atlantic Way. This was an important factor in the Ministers decision to refuse certain aquaculture applications in 2017 -

██████████ which sites were in short distance view from that route. However ALAB have since overturned the decision on ████ of these sites. The 6<sup>th</sup> site ████ has now been applied for again by another applicant ████ in the current set of applications.

In my report on the current application for site ████ I have concluded that visual impact on public views would be substantial from a short section of the R242 only. The impact significance from elsewhere on the Lagg Road is however reduced to a generally moderate or slight level when the ALAB licensed development on either side of site ████ (yet to take place on the ground) is allowed for. It is now more difficult to identify a visual impact of significance arising from development of site ████ alone.

The operations of the existing oyster farm is called into question in the submission – existing and past shellfish farm operations causing accumulation of discarded /disused gear on various parts of the upper shore of the inner Bay.

20/8/19

Paul O'Sullivan

Paul O'Sullivan

11/10/19

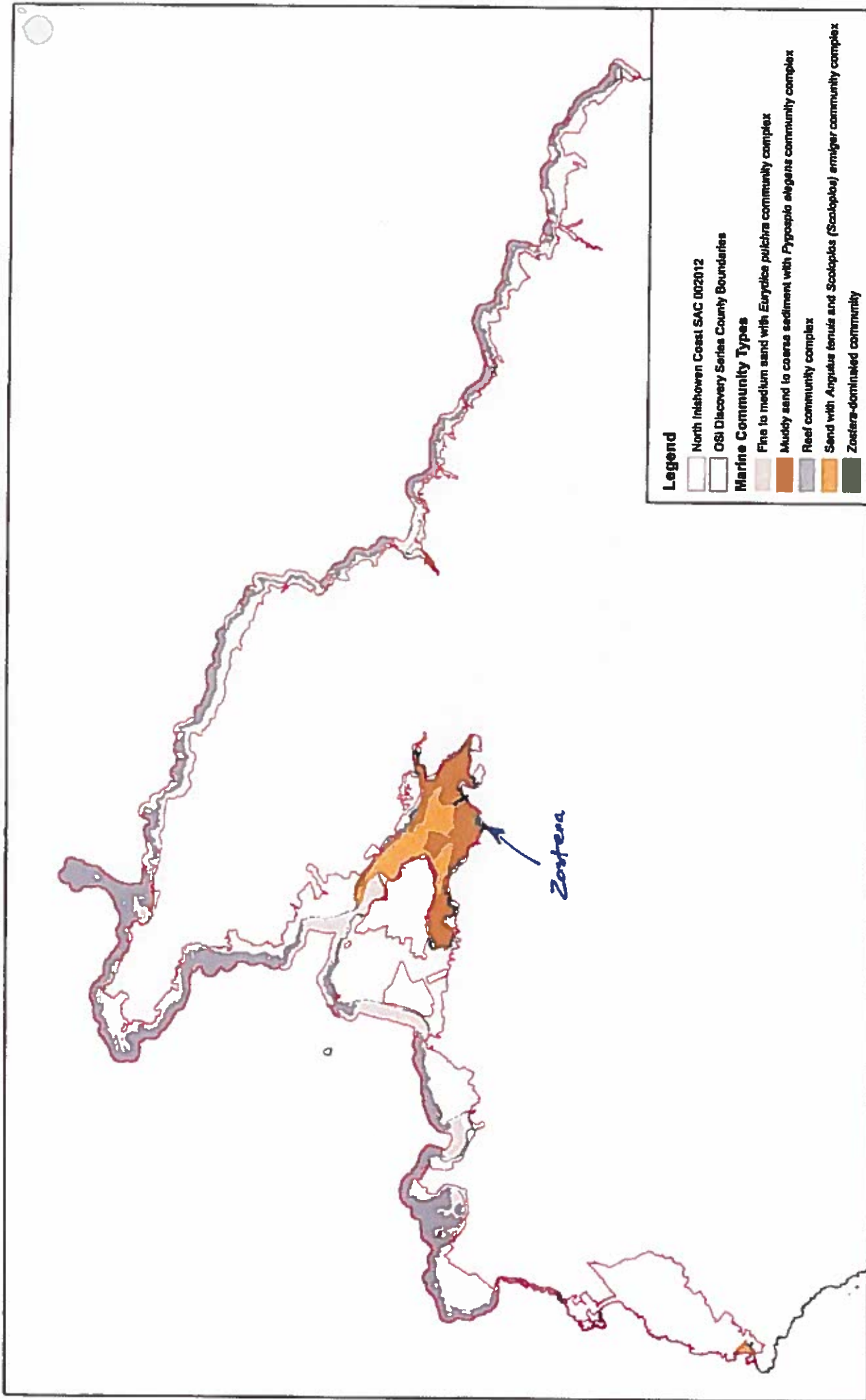
# National Parks and Wildlife Service

## Conservation Objectives Series

North Inishowen Coast SAC 002012



**An Roinn**  
**Ealaíon, Oidhreachta agus Gaeltachta**  
**Department of**  
**Arts, Heritage and the Gaeltacht**



**Legend**

- North Inishowen Coast SAC 002012
- OSI Discovery Series County Boundaries
- Marine Community Types**
- Fines to medium sand with *Eurydice pulchra* community complex
- Muddy sand to coarse sediment with *Pygospio elegans* community complex
- Reef community complex
- Sand with *Angulus tenuis* and *Scoloplos (Scoloplos) eriger* community complex
- Zostera*-dominated community

N  
Map Version 1  
Date: Nov 2014

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**SITE CODE:**  
SAC 002012; version 1, CD, DOMEDAL

0 1 2 3 4 5 6 km

**MAP 4:**  
**NORTH INISHOWEN COAST SAC**  
**CONSERVATION OBJECTIVES**  
**MARINE COMMUNITY TYPES**

Map to be read in conjunction with the NPWS Conservation Objectives Document.

An Bhoilín  
Fórsaíocht Chultúrtha agus Ceimiceacha  
Department of  
Arts, Heritage and the Gaeltacht

## **OSullivan, Paul**

---

**From:** Maher, EileenM  
**Sent:** 02 October 2019 13:05  
**To:** OSullivan, Paul  
**Cc:** Crowley, Raphael  
**Subject:** Trawbreaga Bay Comments  
**Attachments:** Re: Applications for Aquaculture Licences in Trawbreaga Bay, Co.Donegal; Aquaculture Licences (Oysters). T12/511, 547, 528, 530,531,532, 533, 534, 543, 544, 540, 541,542, 553 Trawbreaga Bay, Co.Donegal. ; FW: Trawbega Bay Aquaculture Applications

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Paul,

Please find attached comments received from An Taisce, DCHG and the IFI in relation to the following applications in Trawbreaga Bay:

T12/511,  
T12/547,  
T12/528,  
T12/530,  
T12/531,  
T12/532,  
T12/533,  
T12/534,  
T12/543,  
T12/544,  
T12/540,  
T12/541,  
T12/542,  
T12/553

Could we please get your comments in relation to them please.

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.

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**T12/530**

**AQUACULTURE LICENCE**

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

**John Friel**  
**Roxtown**  
**Clonmany**  
**Co.Donegal**

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- 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:

**John Friel**  
**Roxtown**  
**Clonmany**  
**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 T12/530A) and indicated by a red line on the attached map in accordance with the plans and drawing(s) in Schedule 2 attached as approved of by the Minister, subject to the Act and Regulations made under the Act and to the terms and conditions set out in the attached pages.

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

---

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

## TERMS AND CONDITIONS APPLYING TO THIS AQUACULTURE LICENCE

### 1. Licensed Area

- 1.1 The area specified in *Schedule 1* attached (0.6049 hectares) (labelled T12/530A) 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 such material. If the Licensee refuses or fails to do so, the Minister may cause the said structures, apparatus, equipment or other thing to be removed and the licensed area restored and shall be entitled to recover from the Licensee as a simple contract debt in any court of competent jurisdiction all costs and expenses incurred by him in connection with the removal and restoration.

#### Inspection

- 3.20. The licensed area and any equipment, structure, thing, or premises wherever situated used in connection with operations carried out in the licensed area shall be open for inspection at any time by an authorised person (within the meaning of Section 292 of the Fisheries (Consolidation) Act 1959) (No. 14 of 1959) (as amended by Fisheries Act 1980) (No. 1 of 1980), a Sea Fisheries Protection Officer (within the meaning of Sea Fisheries and Maritime Jurisdiction Act 2006) (No. 8 of 2006) or any other person appointed in that regard by the Minister or other competent State authority.
- 3.21. The Licensee shall give all reasonable assistance to an authorised officer or a Sea Fisheries Protection Officer or any person duly appointed by any competent State authority to enable the person or officer enter, inspect, examine, measure and test the licensed area and any equipment, structure, thing or premises used in connection with the operations carried out in the licensed area and to take whatever samples may be deemed appropriate by that person or officer.
- 3.22. The Licensee shall keep and maintain in the State for inspection on demand by the Minister or a competent State authority, at all times, records of all operations including compliance monitoring and any required follow up action. These records shall be produced by the Licensee on demand by the Minister or other competent State authority and in any event not later than 24 hours from the making of that demand.
- 3.23. The Licensee shall furnish to the Minister or other competent State authority in the form and at the intervals determined by the Minister or other competent State

authority, such information relating to the licensed area as may be required to determine compliance by the Licensee with the terms of this licence and applicable legislation.

4. **Navigation and Safety**

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

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

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 marking 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 284677 Email: [sdr@ukho.gov.uk](mailto:sdr@ukho.gov.uk) the Licensee shall submit proof to the Department within 14 days of the date of this licence that the UK Hydrographic Office has been so informed.

5. **Monitoring**

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

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

**Fish Health Regulations**

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

**Disposal of Mortalities**

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



### Movement of Fish

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

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

### Duration, Cessation

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

### Review

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

### Revocation, Amendment

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

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

### Assignment

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

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

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

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

8. **Fees**

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

9. **General Terms and Conditions**

- 9.1. The Licensee shall at all times comply with all laws 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**

Updated maps and drawings  
will need to be requested  
once Ministers Determination is made  
due to variation from original application.

**1 NO. SITE AT TRAWBREAGA BAY CO.DONEGAL**

**Co-ordinates & Area**

**Site T12/530A (0.6049 Ha)**

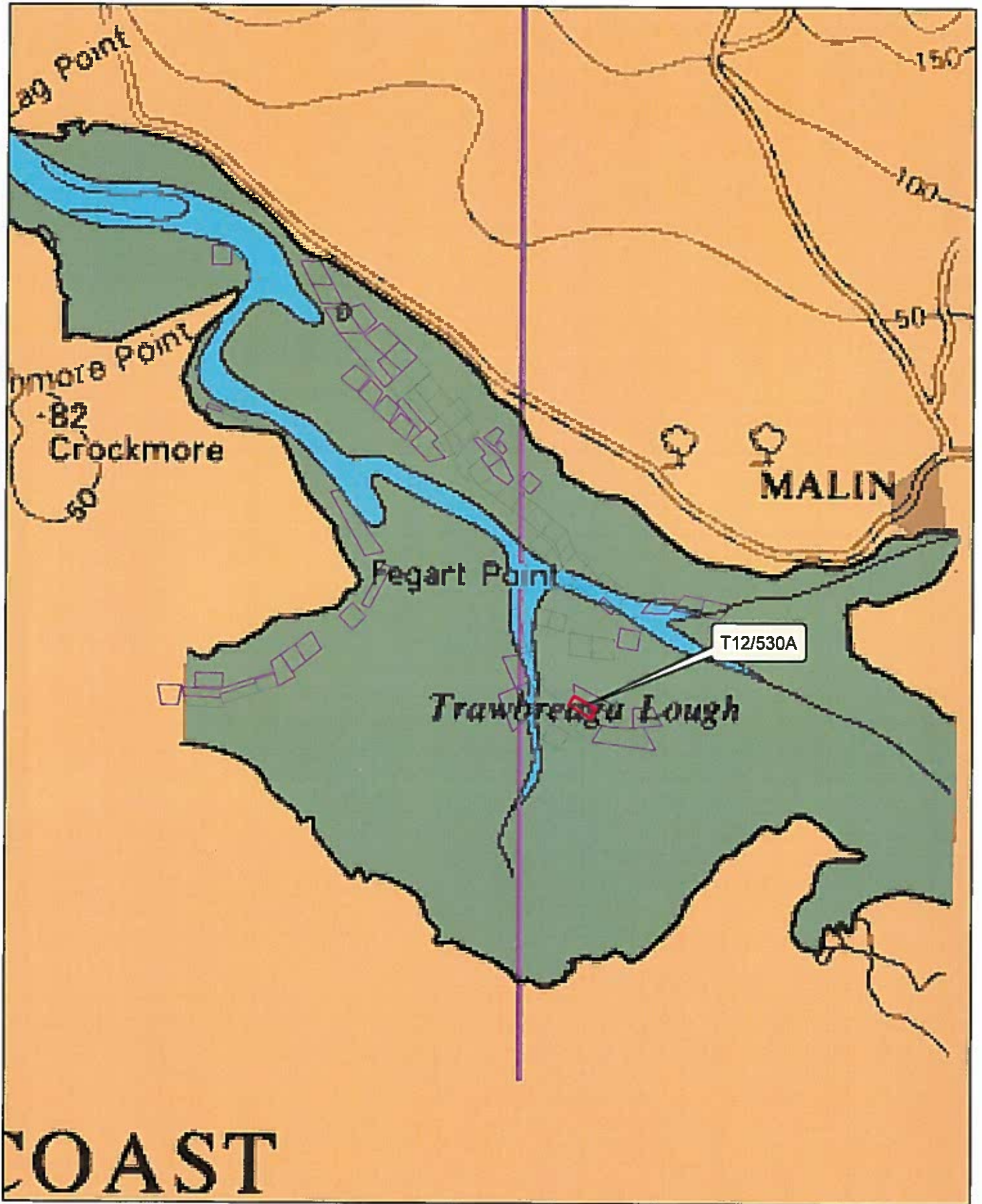
The area seaward of the high water mark and enclosed by a line drawn from Irish National Grid Reference point

245322, 449192 to Irish National Grid Reference point

245427, 449131 to Irish National Grid Reference point

245401, 449088 to Irish National Grid Reference point

245297, 449149 to Irish National Grid Reference point



1:24,000

Sites highlighted in red denotes Application

Part of Admiralty Chart No =2811-0  
Not to be used for Navigation

Aqua Culture Sites  
<all other values>  
Site\_Status  
Application  
Licensed



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



245000

246000

450000

450000

449000

449000

245000

246000

**Aqua Culture Sites**

<all other values>

**Site\_Status**



Application



Licensed



100 Meter Reference Grid

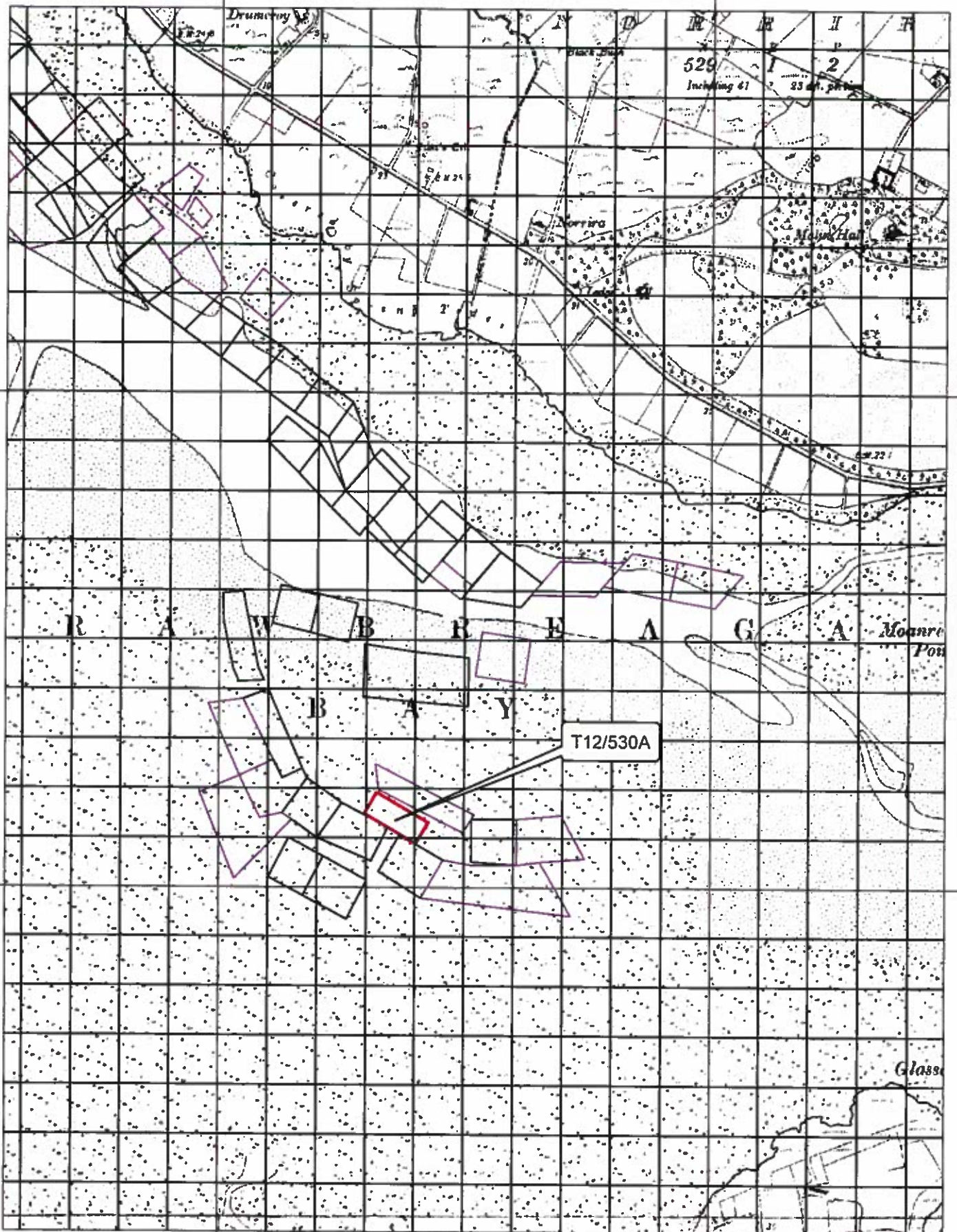
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Sites highlighted in red denotes Application

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



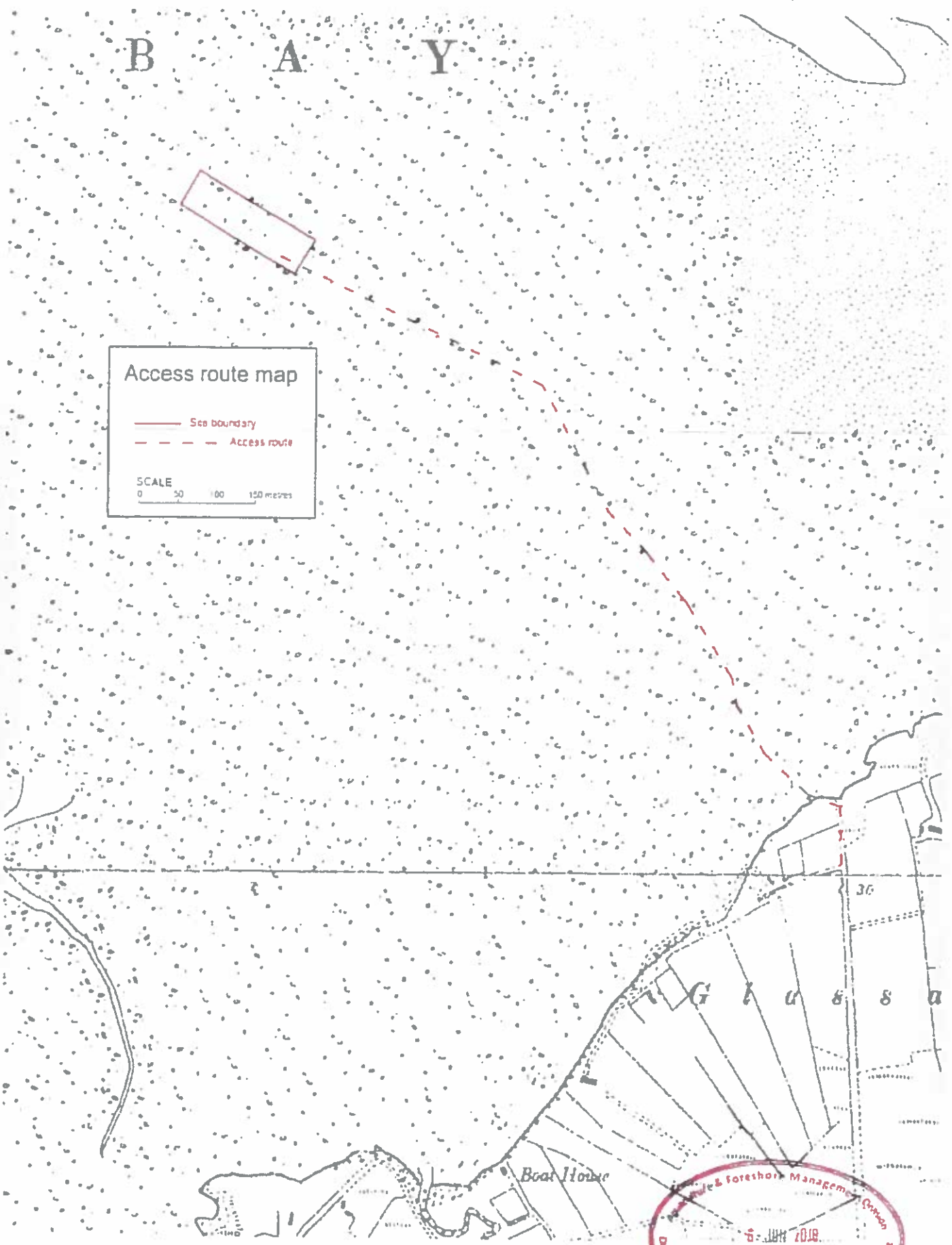
T12/530

B A Y

**Access route map**

— Sea boundary  
- - - Access route

SCALE  
0 50 100 150 metres



## **SCHEDULE 2**

**Schedule 2 contains:**

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

**DRAFT**

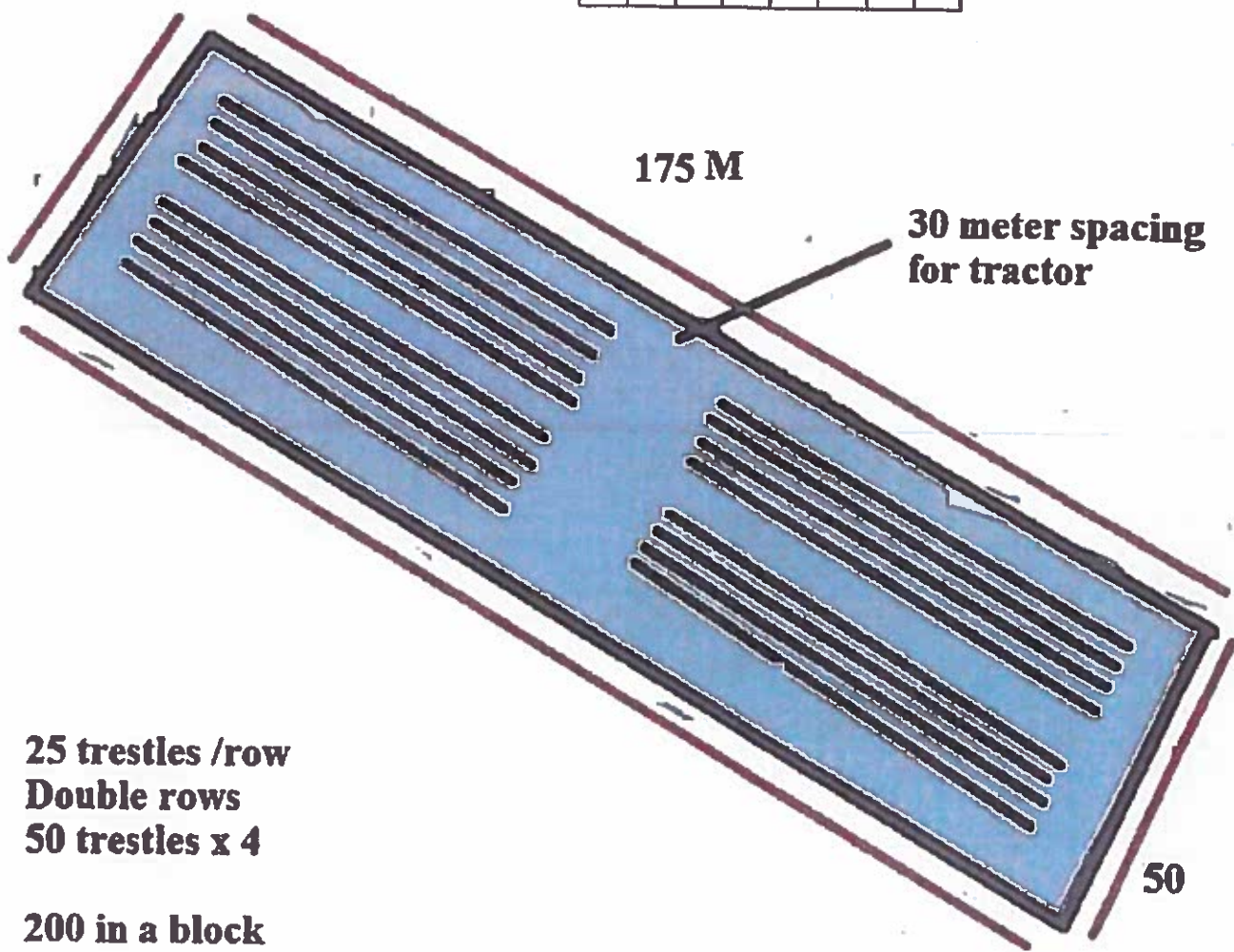
Updated maps and drawings  
will need to be requested  
once Ministers Determination is made  
due to variation from original application.



T12/530

**Site Layout  
Trawbreaga Bay  
Co. Donegal  
John Friel**

**Scale: 1:1000**



**25 trestles /row  
Double rows  
50 trestles x 4**

**200 in a block**

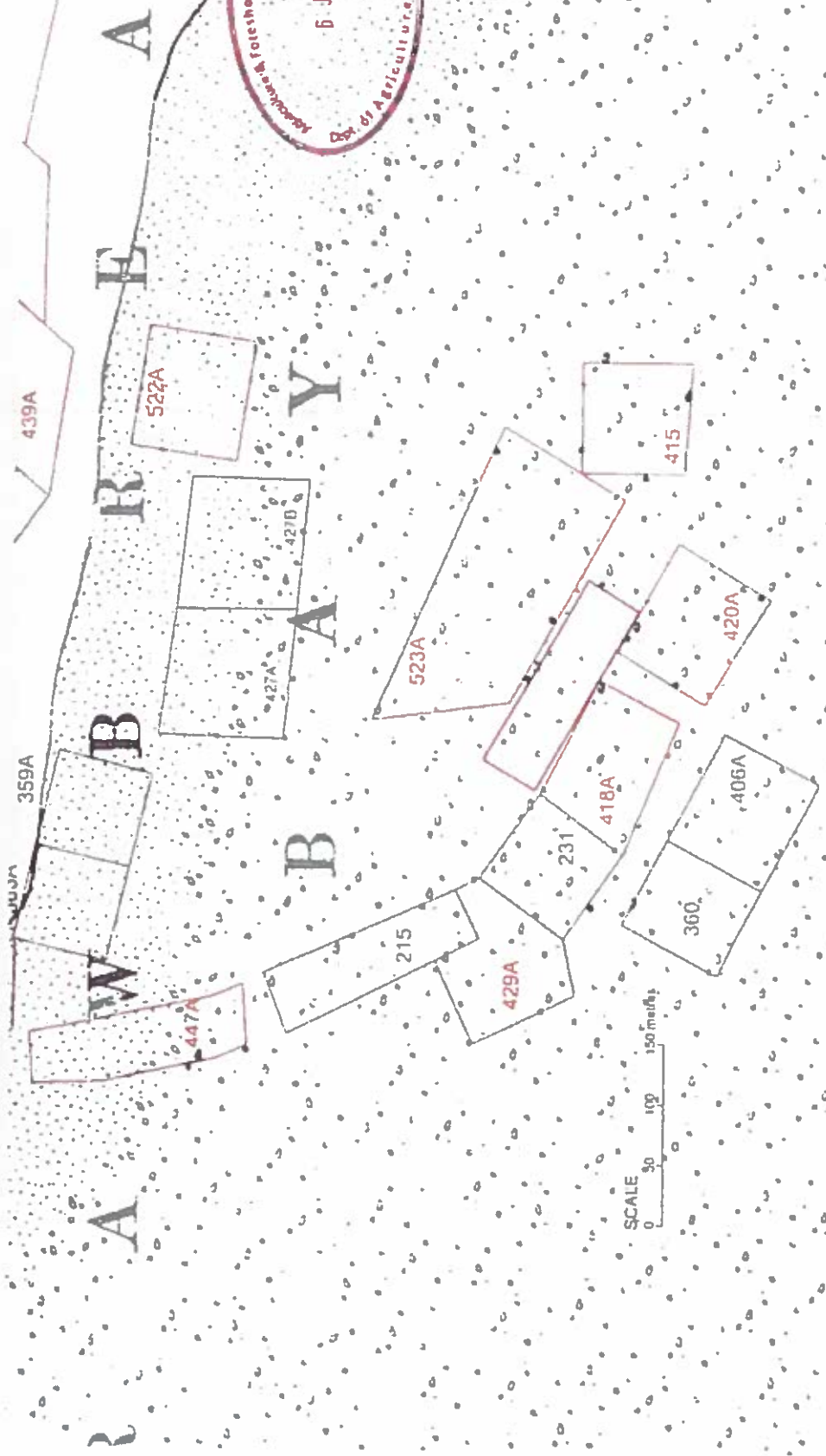
**4 blocks**

**4 x 200 = 800 trestles**

**800 x 6 bag trestles = 4800 bags**



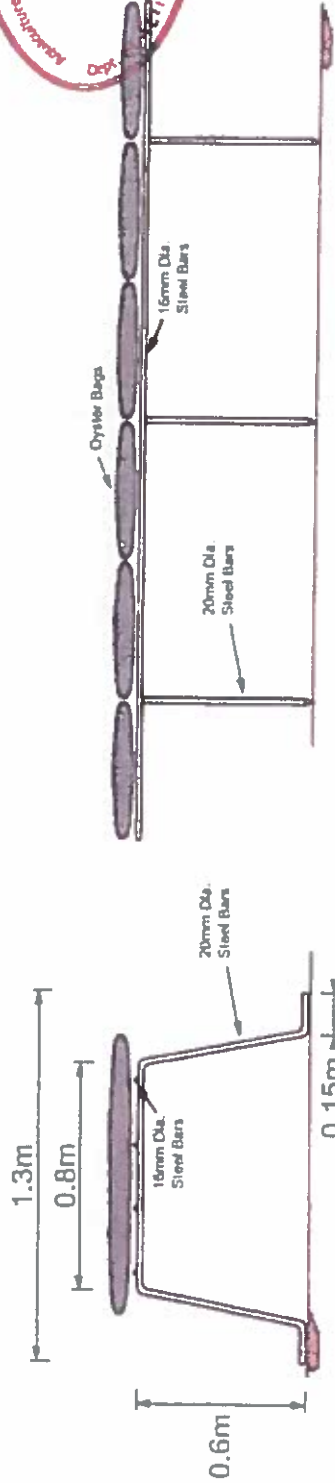
T12/530



6 JUN 2018  
 Ministry of Agriculture and Fisheries  
 Ministry of Agriculture and Fisheries

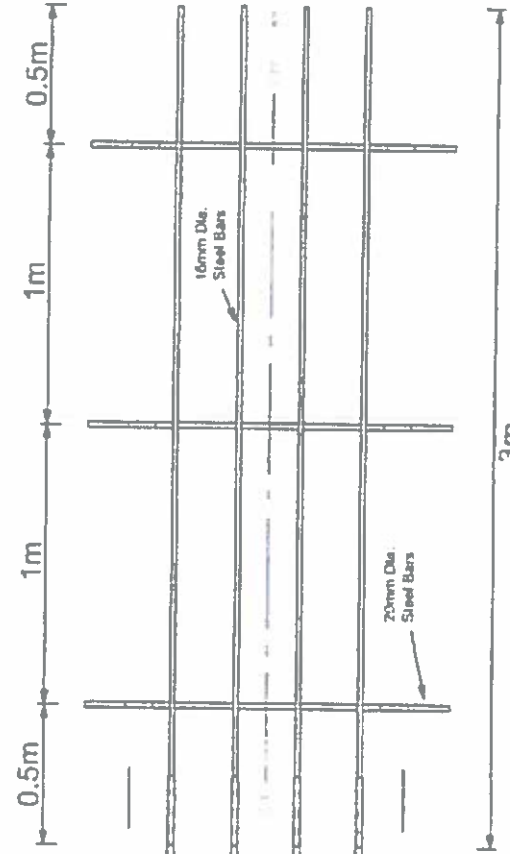
SCALE 0 50 100 150 meters

11d 550.

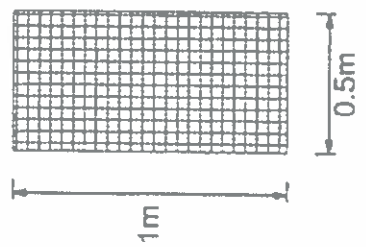


Cross Section

Longitudinal Section



Plan (Bags not shown for clarity)



Typical Oyster Bag

Note: Each oyster bag should be secured to trestle

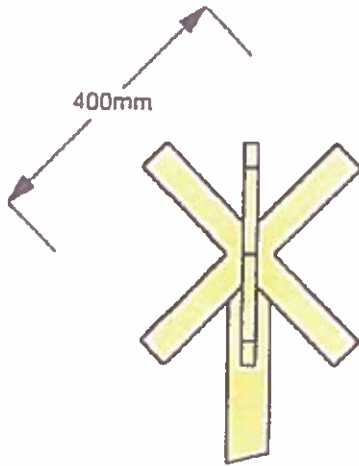
Title: Oyster Trestle Detail

Scale: 1:25

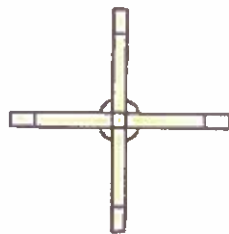
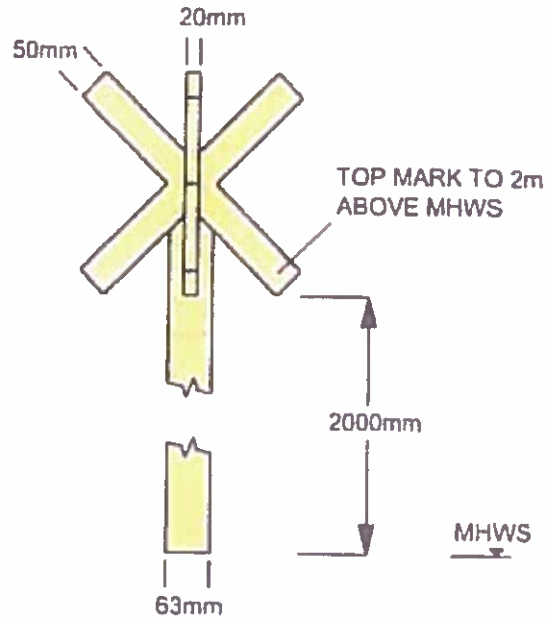
Date: 01/01/2011



T12/530



ELEVATION :  
SPECIAL MARK BEACON



PLAN :  
SPECIAL MARK BEACON

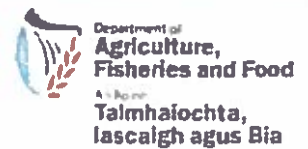
- MARK VISIBLE AS YELLOW X FROM ALL DIRECTIONS
- 63mm MIN DIA. POLE - YELLOW FOR 2 METRES BELOW BOTTOM OF CROSS
- SUPPORT STRUCTURE & FOUNDATION SUITABLE FOR LOCATION
- LIGHT & RADAR REFLECTOR IF REQUIRED



**Title: Inshore Navigation Mark Detail**

Scale 1:10

Date: 01/01/2011



## 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 Trawbreaga Bay. The agreed site marking should be in place before the development on the site commences.

DRAFT

## SCHEDULE 4

### Schedule 4 contains:

- The licensee must ensure that vehicles working on site T12/530A do not travel beyond the west boundary of the site with entry and egress only from the east side of the site this is to avoid damaging substrate to the west of the site.
- 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.



**T12/530**

**FORESHORE LICENCE**

**John Friel  
Roxtown  
Clonmany  
Co.Donegal**

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**TERMS AND CONDITIONS APPLICABLE TO FORESHORE LICENCE**

**SEAL OF OFFICE AND SIGNATURES**

***SCHEDULE 1***

**DRAFT**



**FORESHORE LICENCE IN RESPECT OF A SITE**  
**(NUMBERED T12/530A) 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

**John Friel**  
**Roxtown**  
**Clonmany**  
**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 **T12/530A**) 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**

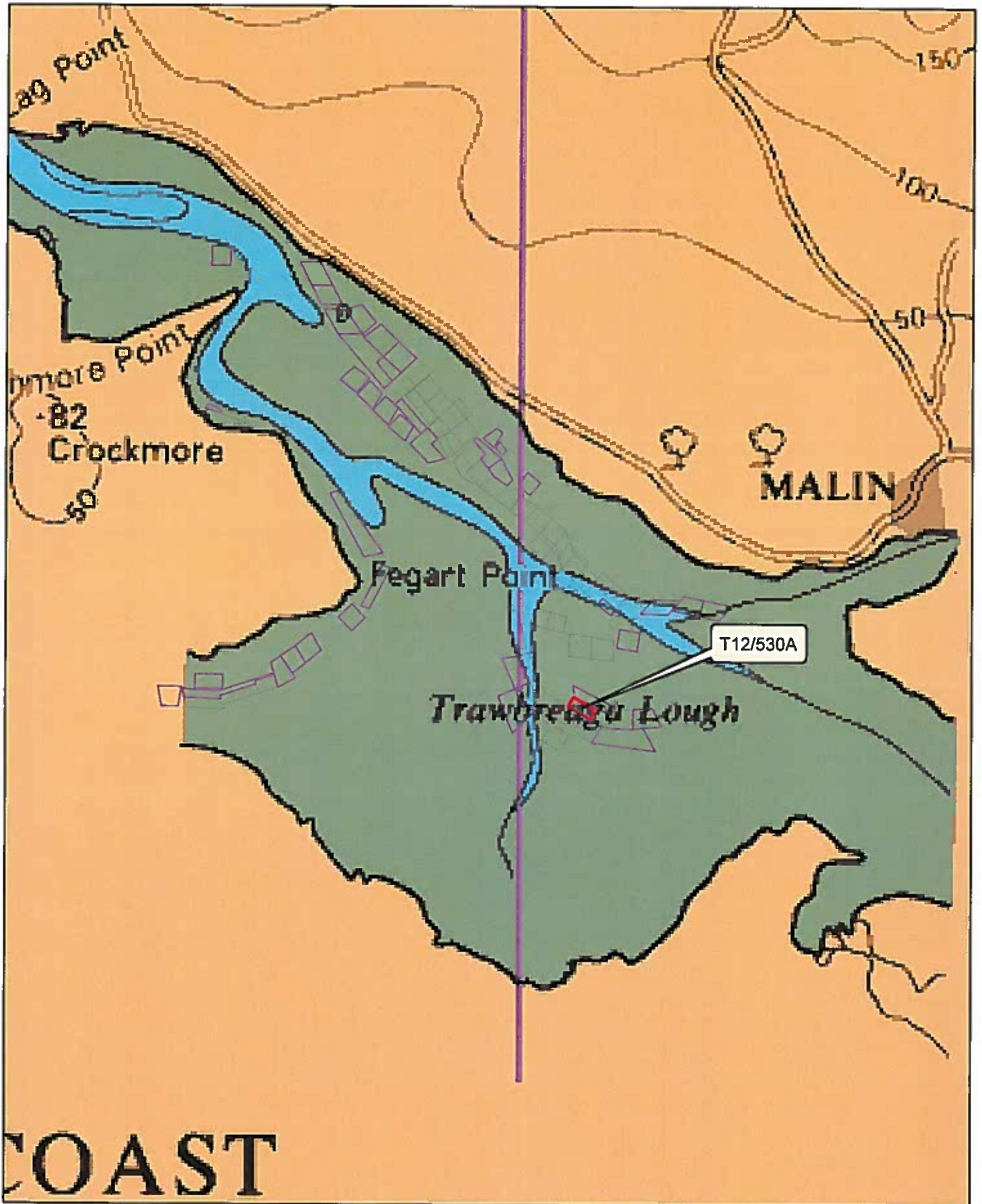
**1 NO. SITE AT TRAWBREAGA BAY CO.DONEGAL**

**Co-ordinates & Area**

**Site T12/530A (0.6049 Ha)**

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

245322, 449192 to Irish National Grid Reference point  
245427, 449131 to Irish National Grid Reference point  
245401, 449088 to Irish National Grid Reference point  
245297, 449149 to Irish National Grid Reference point



1:24,000

Sites highlighted in red denotes Application

Part of Admiralty Chart No =2811-0  
Not to be used for Navigation

Aqua Culture Sites

<all other values>

Site\_Status

- Application
- Licensed



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



245000

246000

450000

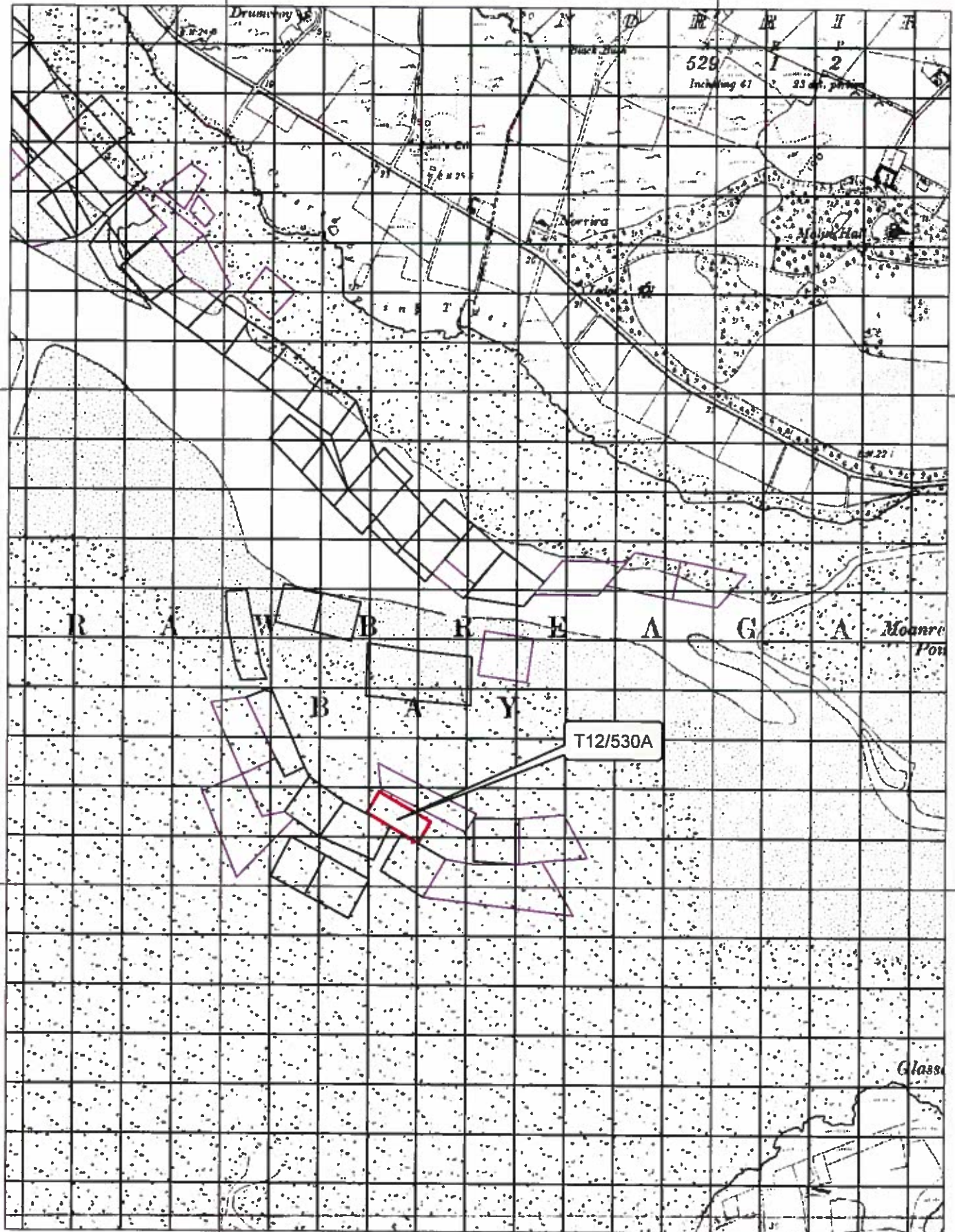
450000

449000

449000

245000

246000



**Aqua Culture Sites**

<all other values>

**Site\_Status**



Application



Licensed



100 Meter Reference Grid

**1:10,560**

Sites highlighted in red denotes Application

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

**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**

### 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](mailto: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](http://www.agriculture.gov.ie)

[in](https://www.facebook.com/agriculture_ie) [t](https://twitter.com/agriculture_ie) @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](http://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](http://www.donegalcoco.ie)

No late applications will be accepted

DONEGAL COUNTY COUNCIL IS AN EQUAL  
OPPORTUNITIES EMPLOYER

# LOOKING TO HIRE?

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APPLICANTS WITH A PRINT  
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# BREAKING NEWS

# DONEGAL Democrat



John Friel  
Roxtown  
Clonmany  
Co. Donegal

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

Dear Mr Friel,

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	Variation	Licence Term
T12/530A	Grant a Variation Licence	Pacific Oysters using bags and trestles	Reducing the footprint of the site from 0.86 ha to 0.6049 ha.	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  
05<sup>th</sup> 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:** T12/530

**APPLICANT:** John Friel

**AQUACULTURE TO WHICH  
DECISION RELATES:** Cultivation of Pacific Oysters using bags and  
trestles on site T12/530A on the foreshore in  
Trawbreaga Bay, Co. Donegal.

**NATURE OF DECISION:** Grant a Variation Aquaculture Licence.  
Reducing the footprint of the site from 0.86 ha to  
0.6049 ha. This is due to the soft substrate to the  
west of the applied for site which is not suitable for  
load bearing aquaculture activities.

**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
T12/530A	John Friel Roxtown Clonmany Co. Donegal	Pacific Oysters using bags and trestles	Grant Variation 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](mailto: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/>



13<sup>th</sup> February 2020

Your Ref: **AP62/2020**

Our Ref: **T12/530**

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 3<sup>rd</sup> 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 (**July 2019**) on which this application decision was made can be found:-

- the Appropriate Assessment for Trawbreaga Bay:-

<https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessments/donegal/1NorthInishowenSACandTrawbreagaSPAAJuly2019Report300719.pdf>



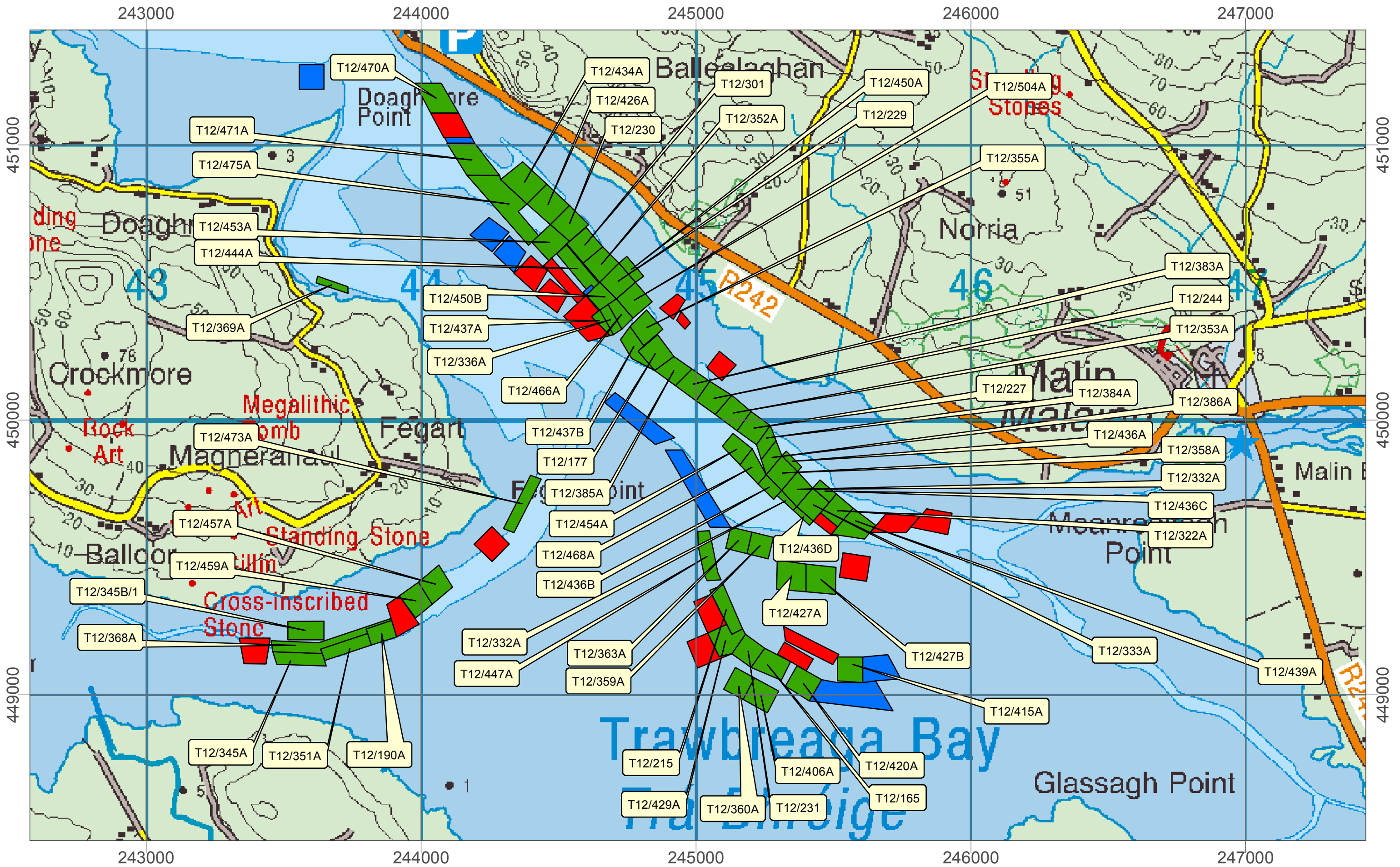
If you require anything further please do not hesitate to contact me.

Yours sincerely



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



**Legend**  
**Site\_Status**  
 Licensed  
 Refused  
 Under Appeal

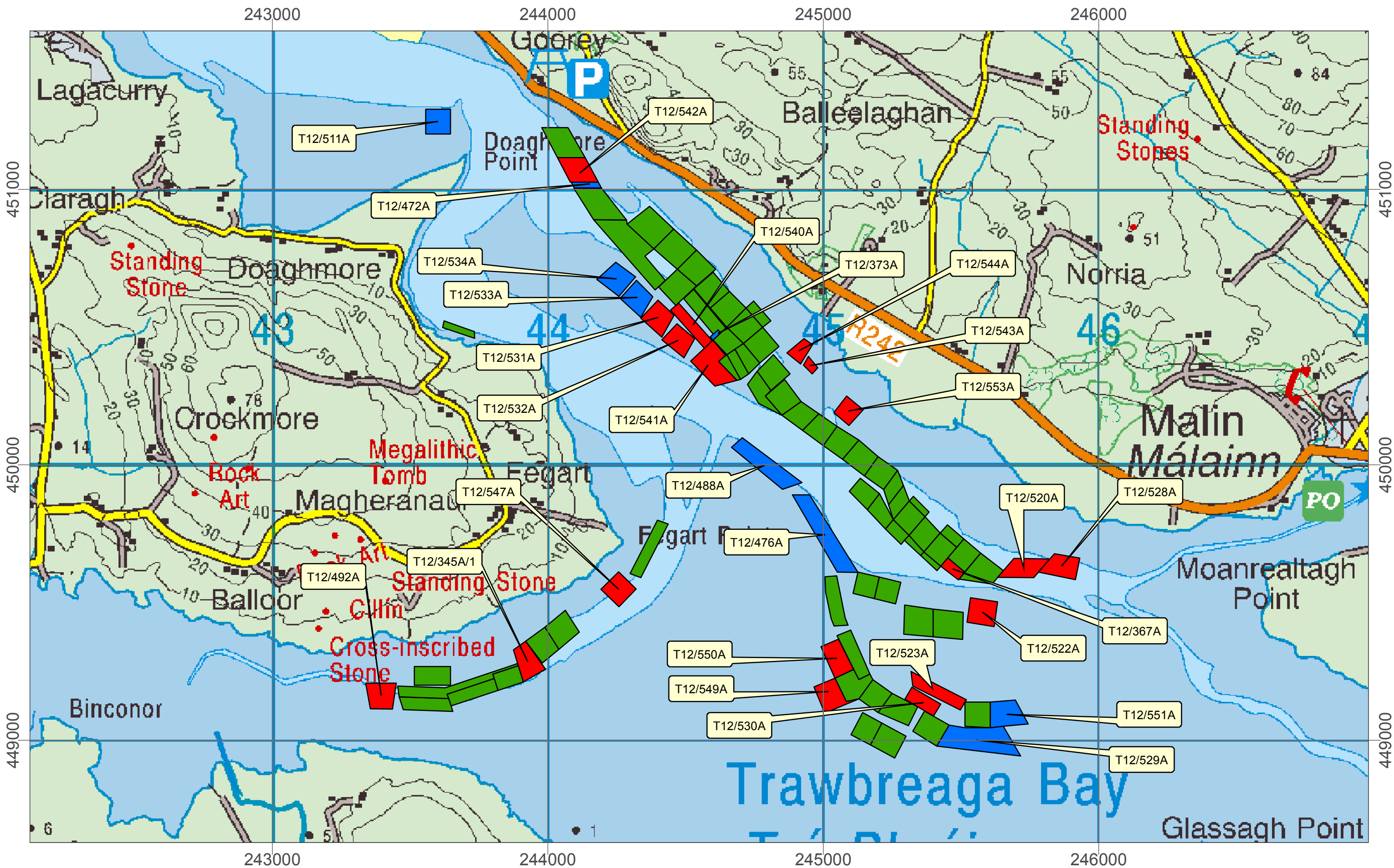
**Scale = 1:12,500**  
 Drawn : 11-02-2020

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

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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**

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