

# Submission AGR 00771 -19: Recommendation to refuse an Aquaculture and Foreshore Licence for 1 site (T12/540)

TO: Minister  
STATUS: Completed  
PURPOSE: For Decision

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

DIVISION: Coastal Zone Management  
DECISION BY:

## Final comment

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

## Action required

Ministerial Determination on Aquaculture/Foreshore Licensing Application (T12/540)

## Executive summary

The Ministers determination is requested in relation to an application for an Aquaculture Licence from Philip Doherty, Slievebawn, Malin Head, Co. Donegal. The application is for the cultivation of Pacific Oysters using bags and trestles on Site T12/540A, totalling 0.7165 hectares on the foreshore in Trawbreaga Bay, Co. Donegal.

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

It is recommended that the Minister determines that the Aquaculture and Foreshore Licences **not be granted** for the reasons outlined in the 'Detailed Information' section below.

## Detailed information

### DECISION SOUGHT

The Minister's determination is requested please in relation to an application for an Aquaculture Licence from Philip Doherty, Slievebawn, Malin Head, Co. Donegal, for a site in Trawbreaga Bay, Co. Donegal.

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

**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 0.7165 hectare site on the foreshore in Trawbreaga Bay, Co. Donegal (numbered T12/540A – 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, license 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): If this site is developed it would introduce oyster aquaculture into an area of potentially greater sediment mobility than existing sites and this will be a drawback and it could have negative impacts on the site itself and on the surrounding area. The site applied for is separated from the nearest licensed site by a gap of 18-24 metres. This separation from the band of already licensed sites on the north shore of the bay is an issue. The orderly development approach is to have extension site farms contiguous with the applicants current licensed and operating farms. That approach has been followed over the years on the north shore of the bay. For orderly development there should not be a gap between extension site sought and the current oyster farm unless there is a compelling reason that a gap should be left. The foreshore area in the vicinity does not have significant amenity usage. Development of 540A should not have major impact on ease of passage of migratory fish species in nearby channel.

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.

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

### 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:

Marine Institute (MI): The MI noted that the site is located within designated shellfish growing waters which currently has a ‘B’ classification for Oysters. 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): No objection to this application provided that if the licence is granted, all structures must be clearly marked as required by regulations.

Donegal County Council: No objection to the 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.

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.

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**).

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)

## **Public Consultation**

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in Donegal Democrat on the 20<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 statutory consultation stage was forwarded to the applicant.

The applicant raised the following points in response to the submissions:

- In relation to the impact on local tourism he referenced the ongoing initiative by Failte Ireland and BIM which is developing linkages between tourism and aquaculture in coastal areas under the name 'Taste the Atlantic: A Seafood Trail'
- In relation to the issues regarding Preservation of the Environment and Enjoyment of Local Peoples he feels these were all covered under the Appropriate Assessment

## **CRITERIA IN MAKING LICENSING DECISIONS**

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

a) the suitability of the place or waters

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

b) other beneficial uses of the waters concerned

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

c) the particular statutory status of the waters

(i) Natura 2000

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

(ii) Shellfish Waters

The site is not located within Trawbreaga Bay Shellfish Designated Waters.

*Oysters in these waters 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:

**Refuses** the granting of an Aquaculture Licence to Philip Doherty, Slievebawn, Malin Head, Co. Donegal. The reasons for the recommendation are:

- The separation of the proposed site by a gap of approximately 18-24 metres from the band already licensed on the north shore of the bay is an issue.
- There is limited space in Trawbreaga Bay for aquaculture and the orderly development of sites in the Bay is a necessary policy of the Department, which has been in operation over the last number of years. This means that new sites are licensed to run contiguous with current licensed and operating farms, in particular when the same operator.
- Licensing this site would be contrary to the orderly aquaculture development in the Bay as it would unnecessarily leave an unlicensed area surrounded by licensed sites.

## **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 –T12/540

Philip Doherty has applied for authorisation to cultivate Pacific Oysters using bags and trestles on the inter-tidal and/or sub-tidal foreshore on a 0.7165 hectare site ( T12/540A) in Trawbreaga Bay, Co. Donegal.

The Minister for Agriculture, Food and the Marine has determined that it is not in the public interest to grant the licences sought. In making his determination the Minister considered those matters which by virtue of the Fisheries (Amendment) Act 1997, and other relevant legislation, he was required to have regard. Such matters include any submissions and observations received in accordance with the statutory provisions. The following are the reasons and considerations for the Minister's determination to refuse the licences sought: -

- The separation of the proposed site by a gap of approximately 18-24 metres from the band already licensed on the north shore of the bay is not appropriate.
- Licensing this site would be contrary to the orderly aquaculture development in the Bay as it would unnecessarily leave an unlicensed area surrounded by licensed sites.
- Licensing this site would also introduce oyster aquaculture into an area of potentially greater sediment mobility than existing sites.

### **Recommendation to Refuse a Foreshore Licence application (T12/540)**

## **DECISION SOUGHT**

The Minister's determination is requested please in relation to the application for a Foreshore Licence from Philip Doherty, Slievebawn, Malin Head, 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 for a Foreshore Licence has been received from the applicant referred to above (in conjunction with an Aquaculture Licence application), relating to the occupation of the foreshore associated with the Aquaculture Licence application which covers a 0.7165 hectare site (numbered T12/540A – see TAB A).

### **LEGISLATION**

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

### **CONSULTATION AND PUBLIC COMMENT**

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

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

Department of Housing Planning and Local Government (DHPLG):

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

#### **Technical Consultation**

Marine Engineering Division (MED): If this site is developed it would introduce oyster aquaculture into an area of potentially greater sediment mobility than existing sites and this will be a drawback and it could have negative impacts on the site itself and on the surrounding area. The site applied for is separated from the nearest licensed site by a gap of 18-24 metres. This separation from the band of already licensed sites on the north shore of the bay is an issue. The orderly development approach is to have extension site farms contiguous with the applicants current licensed and operating farms. That approach has been followed over the years on the north shore of the bay. For orderly development there should not be a gap between extension site sought and the current oyster farm unless there is a compelling reason that a gap should be left. The foreshore area in the vicinity does not have significant amenity usage. Development of 540A should not have major impact on ease of passage of migratory fish species in nearby channel.

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.

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

#### **Public Consultation**

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in Donegal Democrat on the 20<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 Statutory consultation stage was forwarded to the applicant.

The applicant raised the following points in response to the submissions:

- In relation to the impact on local tourism he referenced the ongoing initiative by Failte Ireland and BIM which is developing linkages between tourism and aquaculture in coastal areas under the name 'Taste the Atlantic: A Seafood Trail'
- In relation to the issues regarding Preservation of the Environment and Enjoyment of Local Peoples he feels these were all covered under the Appropriate Assessment

## CRITERIA IN MAKING LICENSING DECISIONS

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

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

## RECOMMENDATION

It is recommended that the Minister:

**refuses** the granting of a Foreshore Licence to Philip Doherty, Slievebawn, Malin Head, Co. Donegal, for a site in Trawbreaga Bay, Co. Donegal having regard to the decision in relation to the Aquaculture Licence application. The reasons for the decision are

- The separation of the proposed site by a gap of approximately 18-24 metres from the band already licensed on the north shore of the bay is not appropriate.
- Licensing this site would be contrary to the orderly aquaculture development in the Bay as it would unnecessarily leave an unlicensed area surrounded by licensed sites.
- Licensing this site would also introduce oyster aquaculture into an area of potentially greater sediment mobility than existing sites.

## Related submissions

There are no related submissions.

## Comments

**Farrell, Geraldine** - 25/11/2019 11:11

It is recommended that the Minister refuses the granting of the Aquaculture / Foreshore Licences, as applied for, to Philip Doherty for the reasons outlined in the submission above.

**O'Callaghan, Grace** - 25/11/2019 11:54

I have reviewed the submission and agree with the recommendation made that the Minister refuses the granting of the Aquaculture / Foreshore Licences, as applied for, to Daniel McGonigle for the reasons outlined in the submission. GOC

**Quinlan, John** - 25/11/2019 14:21

Refusal is recommended in this case.

**Beamish, Cecil** - 27/11/2019 12:39

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

**Smith, Ann** - 27/11/2019 12:40

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

**Lennox, Graham** - 29/11/2019 11:57

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

## User details

INVOLVED: Maher, EileenM  
Farrell, Geraldine  
O'Callaghan, Grace  
Quinlan, John

READ RECEIPT: Maher, EileenM  
Farrell, Geraldine  
O'Callaghan, Grace  
Quinlan, John

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



**AQUACULTURE - LICENSING UNDER**  
**FISHERIES (AMENDMENT) ACT 1997 as amended**

**and**

T12/540

**FORESHORE ACT 1933 as amended**

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

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

**Important Note**

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

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

Aquaculture & Foreshore Management Division  
Department of Agriculture, Food and the Marine  
National Seafood Centre  
Clonakilty, Co. Cork  
P85 TX47  
Telephone: (023) 8859500  
Fax: (023) 8821782

Revised May 2018



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

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

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

**USE BLOCK CAPITALS IN BLACK INK PLEASE**

**For Office Use**

Application Ref. No. T12/540

Date of Receipt (Dept. Stamp):



Type of Applicant (tick one)	
Sole Trader	<input 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.	PHILLIP DOHERTY
Address:	SLIEVE BAWN MALIN HEAD C. DONEGAL.
2.	
Address:	
3.	
Address:	
4.	
Address:	



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

**PART 1: PRELIMINARY DETAILS**

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

**TYPE OF AQUACULTURE**

*See Guidance Note 3.2*

Indicate the relevant type of application with a tick.

**(i) MARINE-BASED**

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

**(ii) LAND-BASED**

- |                |                          |                   |                          |                          |
|----------------|--------------------------|-------------------|--------------------------|--------------------------|
| Finfish        | <input type="checkbox"/> | Shellfish         | <input 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: Traw Breaga
- (ii) County: Donegal
- (iii) OS Map No: 10
- (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 WGS84 etc.] ETM  
① 244446 450562 ② 244569 450424  
③ 244597 450451 ④ 244475 450578
- (v) Size of Site (hectares): 0.80 ha

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

Gillies

(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) Wild hatchery (b) Trawl Net - 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 (ropes, trestles - intensive; bottom - extensive, other) Trestles + bags

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

250 Trestles, 1500 bags

(xi) Proposed Production Tonnage

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

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

From Hard Substrate.

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

Direct Human Consumption.

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

N/A.

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

Yes  No

If yes give details.

CLASS B - TRAWBLEAGH Bay.

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

N/A.

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

Yes - class B.

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

Yes.

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

Yes  No

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

By hand.

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

N/A.

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

N/A

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

N/A

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

### **2.2A DOCUMENTATION REQUIRED FOR MARINE-BASED SHELLFISH AQUACULTURE**

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

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

**NOW COMPLETE PARTS 2.6, 3, 4 AND 5 PLEASE**

**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 € 94.23 with this application.

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

Philip J. O'Leary  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: 31/10/18

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

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

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

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

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



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

**Co-ordinates & Area**

**Site T12/540A (0.7165 Ha)**

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

244446, 450562 to Irish National Grid Reference point

244475, 450588 to Irish National Grid Reference point

244597, 450451 to Irish National Grid Reference point

244569, 450424 to Irish National Grid Reference point



244000

245000

451000

451000

450000

450000

244000

245000

1:10,560

Aqua Culture Sites

<all other values>

Site\_Status

-  Under Appeal
-  Application
-  Licensed
-  Refused
-  Revoked
-  Surrendered
-  Withdrawn
-  100 Meter Reference Grid

Sites highlighted in red denotes Application

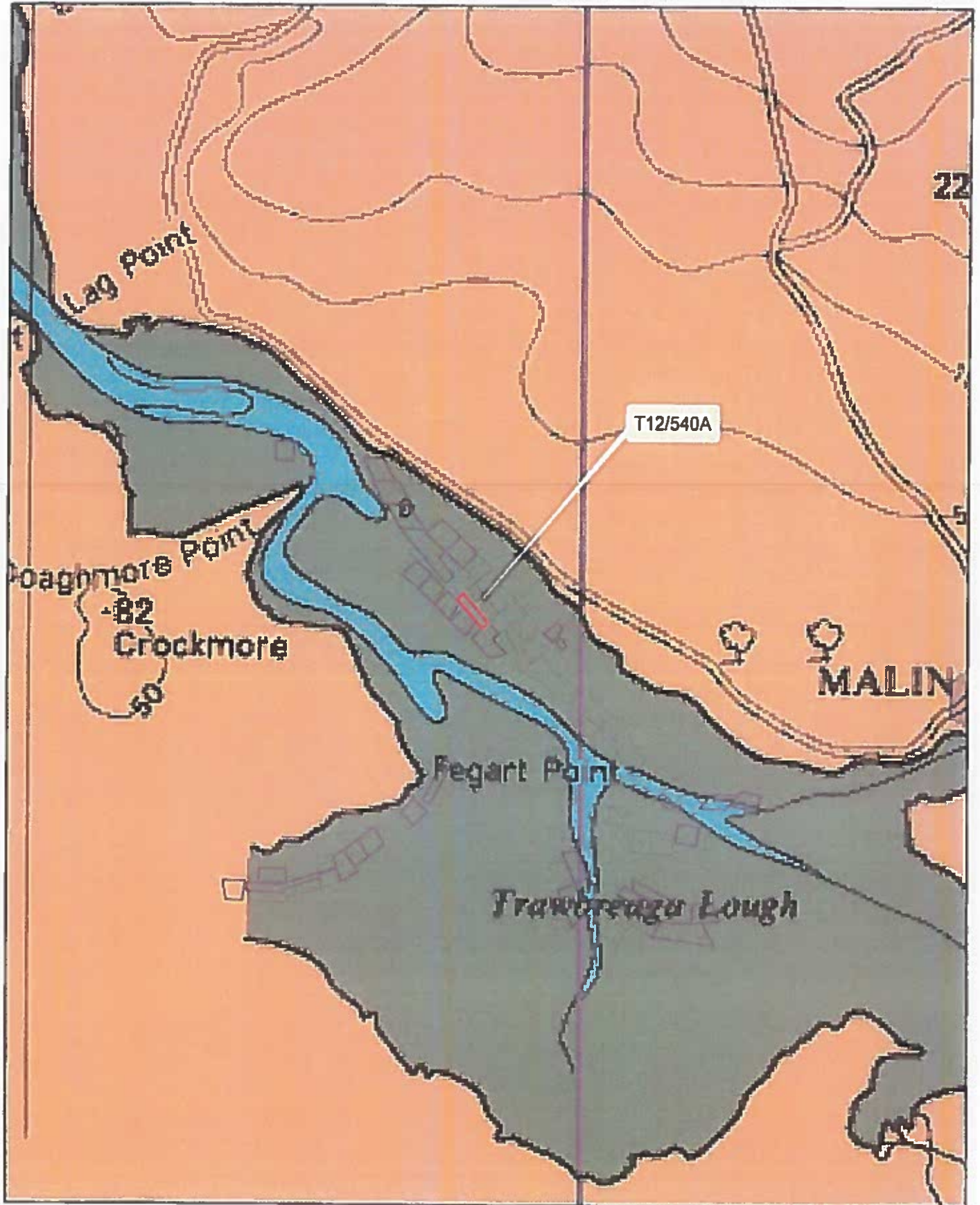
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Food and the Marine







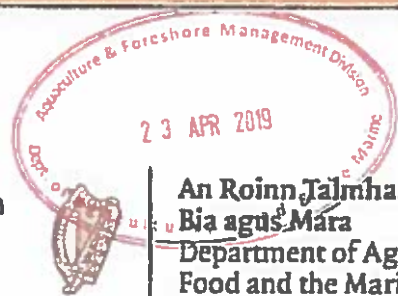
**Aqua Culture Sites**  
 <all other values>  
**Site\_Status**

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

**1:24,000**

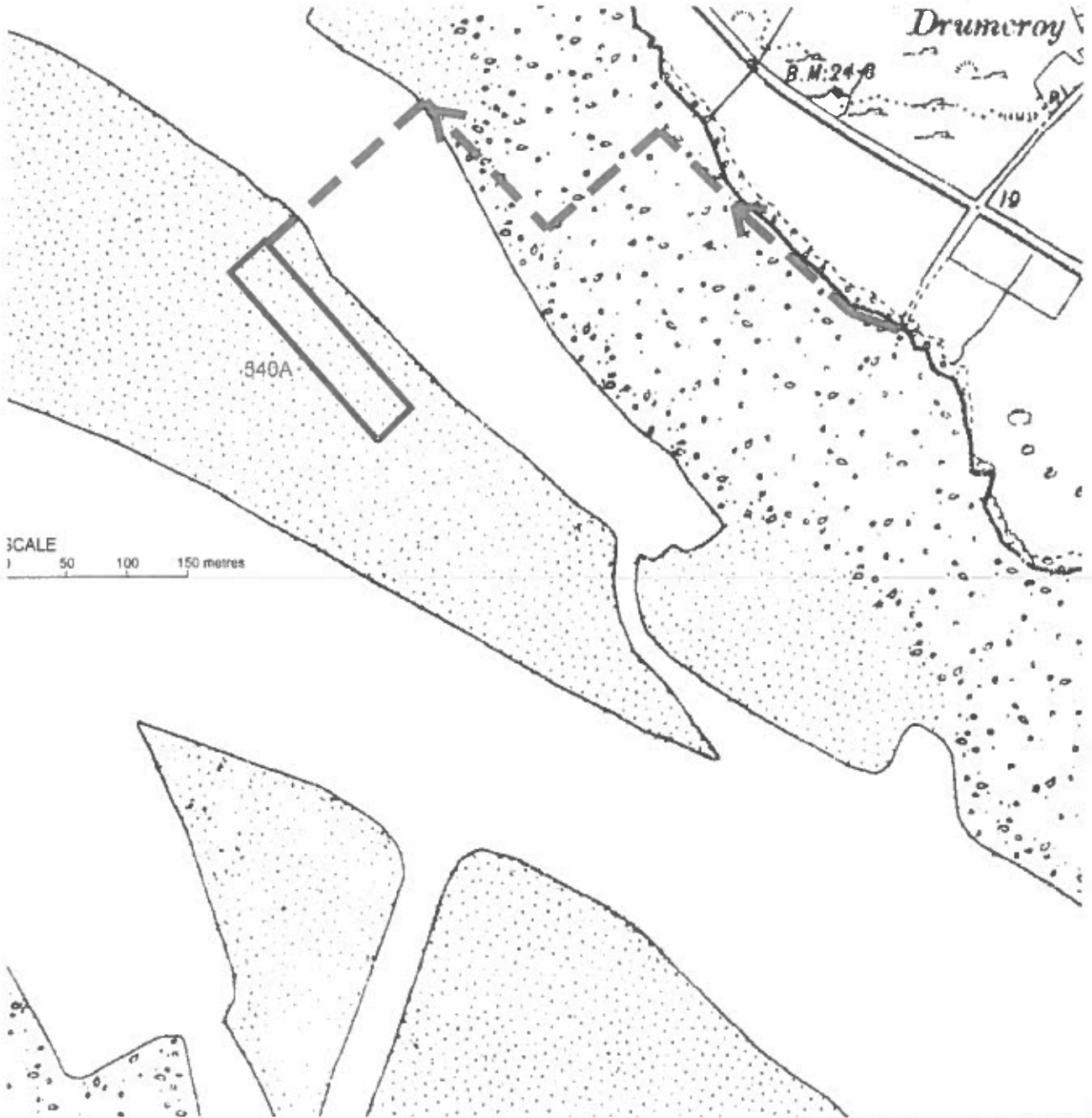
Sites highlighted in red denotes Application

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



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






# Access Route Map

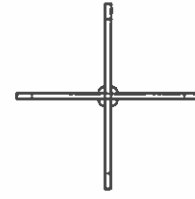
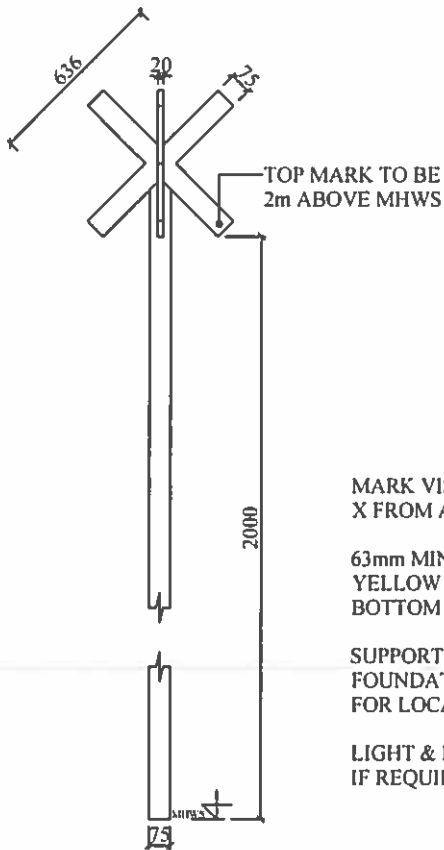
## Scale: 1/5000

(Original Page Size A4)

<b>Aquaculture Licence Application</b>			
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The Mullins Knader Rd Ballyshannon Co. Donegal			
<small>J Martin McLaughlin B ENG(Hons), C ENG, MTEI Mobile: (086) 2217173 Email: info@octoberhouse.org</small>			
<small>No dimensions to be scaled from this drawing all dimensions to be checked by the contractor on site. any errors or discrepancies to be reported to the engineer in charge.</small>			
<b>TITLE</b> Proposed Access Route to Site T12/540 on behalf of Philip Doherty.			
<b>DRAWING</b> Proposed Access Route			
SCALE	1/5000	O.S. REF.	DRG NO.
DATE	July 2019		03
			REV.







Plan:  
Special Mark Beacon

MARK VISIBLE AS YELLOW  
X FROM ALL DIRECTIONS.

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

SUPPORT STRUCTURE &  
FOUNDATION SUITABLE  
FOR LOCATION.

LIGHT & RADAR REFLECTOR  
IF REQUIRED.

Elevation:  
Special Mark Beacon

# Special Mark Beacon Detail

## Fig. 2

Scale: 1/25

(Original Page Size A4)

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J Martin McLaughlin B.ENG(Hons), C.ENG, M.T.E.I Mobile: (086) 2217172 Email: info@octoberhouse.org			
<small>No dimensions to be scaled from this drawing all dimensions to be checked by the contractor on site; any errors or discrepancies to be reported to the engineer in charge.</small>			
<b>TITLE</b> Trestle & Special Mark Beacon Detail For Site T12/540 on behalf of Philip Doherty.			
<b>DRAWING</b> Trestle & Special Mark Beacon Detail			
<b>SCALE</b> 1/25	<b>o.s. ref.</b>	<b>DRG NO.</b>	<b>REV.</b>
<b>DATE</b> July 2019		04	

Mr John Campbell, Divisional Engineer

BJE 9/8/19

Ms Colette Walsh, AFMD

**RE: Aquaculture licence application for suspended oyster culture on a site at Trawbreaga Bay, Co Donegal by Phillip M Doherty.**

File ref: T12/540

Ms Walsh's memo of 8/5/19 and attached application (dated 30/10/18) refers.

Application background

The applicant Philip M Doherty has many years of experience of shellfish aquaculture. He is also an active lobster fisherman. He has [redacted] licensed sites in Trawbreaga Bay that are used for trestle based oyster culture – sites [redacted] and [redacted]. He also has a substantial area under oyster trestles in Lough Foyle (which is not subject to regulation at this time).

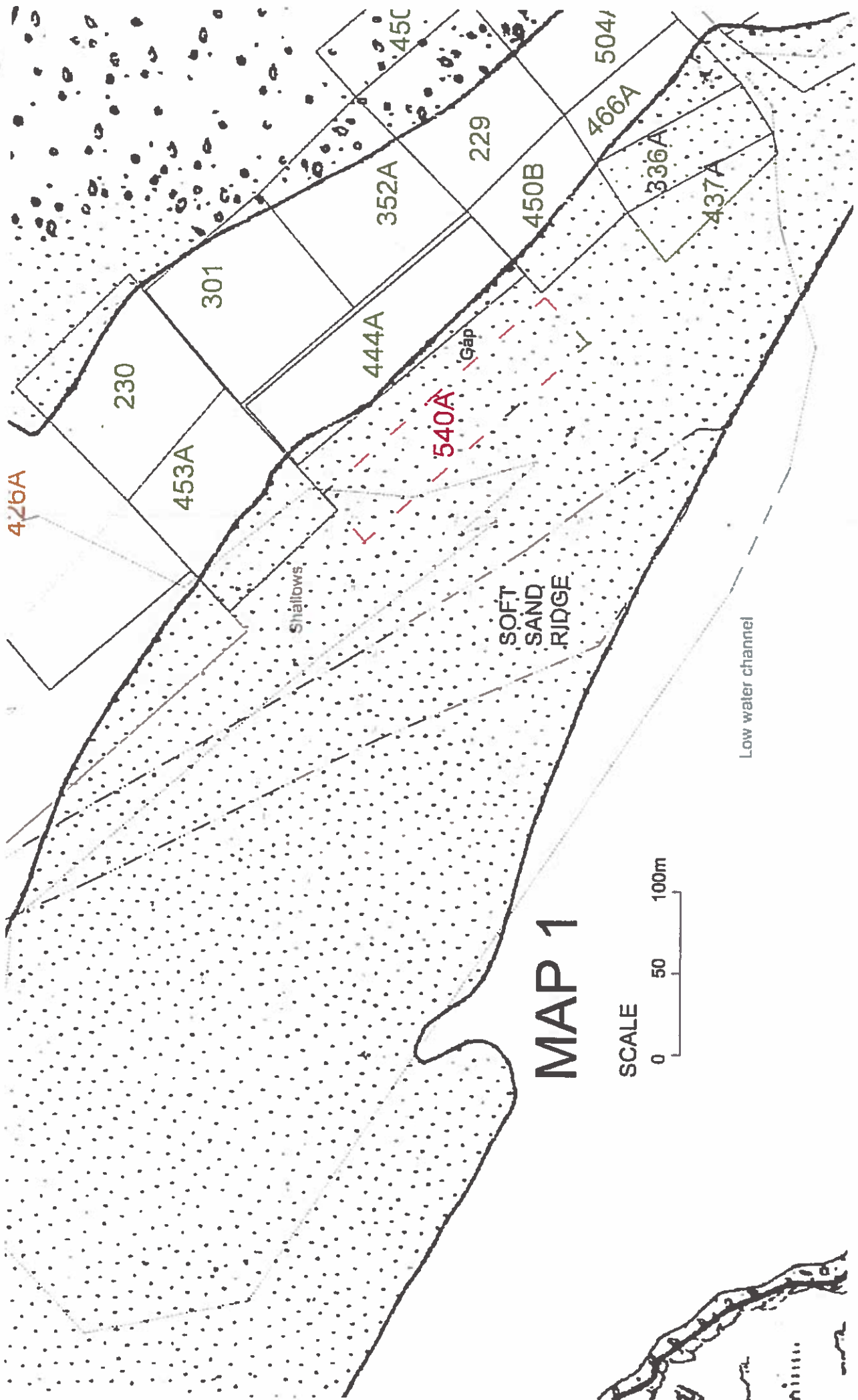
Mr Doherty originally used his licensed Trawbreaga sites for the full growth cycle of oysters from seed to market size. In more recent years he has used the Trawbreaga sites more for seed/juvenile oyster culture and usually transfers the half grown stock from there to Lough Foyle for fattening and on growing to market size. Trawbreaga is considered a good site for bringing on seed but later stage growth is slow compared to Lough Foyle.

Site applied for

The site applied for in this application 540A is a rectangular site measuring approximately 180m x 40 m. Its area is 0.7164 hectares. The site is shown outlined in red on MAP 1 overleaf. Note its position relative to licensed sites [redacted] and [redacted]. The position of the application site is curious because of the gap area left between the application site and the licensed sites of Mr Doherty. I understand from talking to the applicant that the application was intended to be an extension site for the existing licensed oyster farm area composed of his [redacted] licensed sites site [redacted] and [redacted] with no intervening gap. However the site as currently applied for is separated from the nearest licensed site [redacted] by a gap of 18-24 metres. I note that the original site area applied for (a larger site of 1.6 ha) left an even wider gap in excess of 40m) to the licensed areas. The site location was defined by the coordinates sent in with the application on both occasions. These coordinates were supplied by BIM on behalf of applicant.

Inspection

On 4/7/19 I inspected site 540A at low spring tide. The substrate was sand. The site was clear of obstructions – there was no existing development on the site.



# MAP 1

SCALE  
0 50 100m



View of site 540A from south of southern site corner looking to northwest. Site 444A trestles at centre of view 4/7/19

The sandy substrate on site 540A was generally firm and suitable for loadbearing – as was the gap area between the application site and licensed site [REDACTED]

Most of the site was exposed at low tide on 4/7/19. The west part of the site was sub tidal but depth was shallow (<0.2m). Gradients throughout site 540A were slight and elevations not dissimilar to those on nearby licensed site [REDACTED] – if somewhat lower.

There were small low mounds of sand in the shallows at west end of site 540A. There is a large loose sand area located further to west of site (less than 100m distant). These features suggest this foreshore area is exposed to occasionally strong wave action and sediment movement and that it may be more mobile than sites higher on the shore developed for oyster culture.

The applicant has explained to me on a number of occasions that there have been sediment movement and build up issues on his licensed sites nearby.

Site 540A is a more exposed location than existing oyster farm areas higher on the shore.

Based on inspection I think application site 540A if developed would introduce oyster aquaculture into an area of potentially greater sediment mobility than existing sites and this will be a drawback if siting/extending an oyster farm there.

In the case of site 540A I don't see hydrodynamic activity as grounds for outright refusal given the existing good substrate condition but it is a higher risk site that if developed could have negative

impacts on the site itself and also on surrounding area. It may be said that the closer site 540 is kept to the existing oyster farming sites the better.

#### Development proposal

The applicant proposes to put 800 trestles on the site and produce 10 tonnes by year 3 onwards according to the application form. This trestle number is more likely associated with the original larger site applied for. The revised layout drawing supplied for 540A shows a more realistic 400 trestles on the 0.71 ha site now being applied for. The proposed arrangement of trestles is in twin rows with rows aligned parallel to the tideline.

#### Adequacy of application documents

The layout drawing, access map and trestle structure drawing are adequate. A standard height trestle + bag system is proposed.

#### Potential impacts on other beneficial usages

##### *Natura 2000*

Site 540A 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 540A does not have significant amenity usage.

##### *Fishing*

The site is 150m distant from the north edge of the low water estuarine channel (combined Donagh and Glenagannon rivers) and separated by an intervening sand ridge. In my opinion development of site 540A should not have a major impact on ease of passage of migratory fish species in the nearby channel.

The site will reduce the current area available for crab potting activity in the Bay but given relatively small site size involved it should not make a significant change.

##### *Visual impact*

See table overleaf which summarises my assessment of viewpoint sensitivity, magnitude of visual change and impact significance.

Site 540A will be in middle view from short sections of the R242 west of Malin Village and from land and foreshore areas near the Bay. My assessment of the significance of visual impact from public views is that it will not be substantial— due to view distance, partial screening by other oyster farm development and low elevation of viewpoints.



Table of visual receptors and visual impact significance Site 540A

Viewpoint  (ING Coordinates)	Location	Type of View/Viewer	Sensitivity	Viewing Distance to nearest point of site (m)	Magnitude of visual change	Impact Significance
A  243989 451334	R242 Goorey	Visitors	High	890	Low	Moderate
		Local users of road	Moderate	890	Low	Slight
E  244505 451029	R242 Balleelaghan	Visitors	High	442	Low	Moderate
		Local users of road	Moderate	442	Low	Slight
B  243550 450259	Local road at Fegart (northeast)	Local road users/occasional visitors to area	Moderate	946	Low	Slight
S	Views from foreshore or boat	Foreshore users	Low / Moderate	varies	Moderate	Slight/ Moderate
P  243320 451849	R242 Ballycramsy	Visitors	High	1710	Low	Moderate
		Local users of road	Moderate	1710	Low	Slight

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

The impact on landscape will not be substantial.

*Navigation*

The site as proposed would extend oyster aquaculture closer to the main low water river channel which is regularly used by angling boats. Site 540A being some distance back would not intrude directly into the low water channel proper. It would however be important that outer boundary of trestle based aquaculture closest to channel (including the outer line of site 540A if licensed) be suitable marked as potentially hazardous to navigation. Poor alignment of site 540A with neighbouring site [REDACTED] and site [REDACTED] would be a disadvantage in this respect – a better approach would be to have a common offshore boundary line and that would be more readily marked and easier to recognise and use by mariners.

Uniform site area approach for Trawbreaga Bay

As applied for the area of site 540A at 0.71 ha is below the 0.9 hectare nominal maximum size that has been used for aquaculture licensing in Trawbreaga Bay since it began in the 1990s. No issue arises in regard to that policy.

Orderly development of aquaculture

The separation of site 540A from the band of already licensed sites on the north shore of Trawbreaga Bay is an issue.

The orderly development approach is to have extension site to farms contiguous with the applicant's current licensed and operating farms. That approach has been followed over the years on the north shore of the Bay – partly driven by scarcity of suitable shore width and high number of small oyster farms. Taking this approach (since the 1990s) to licensing aquaculture in Trawbreaga Bay has been very important.

There are many examples of orderly expansion of these farms in the past - [REDACTED]

For orderly development there should not be a gap left between the extension site sought and the current oyster farm - unless of course there is a compelling reason that a gap should be left – perhaps unsuitable depth or substrate . There is no such reason for a gap in this case of application T12/540 – this is based on my inspections of the foreshore involved. The cause of the gap is the coordinates sent in.

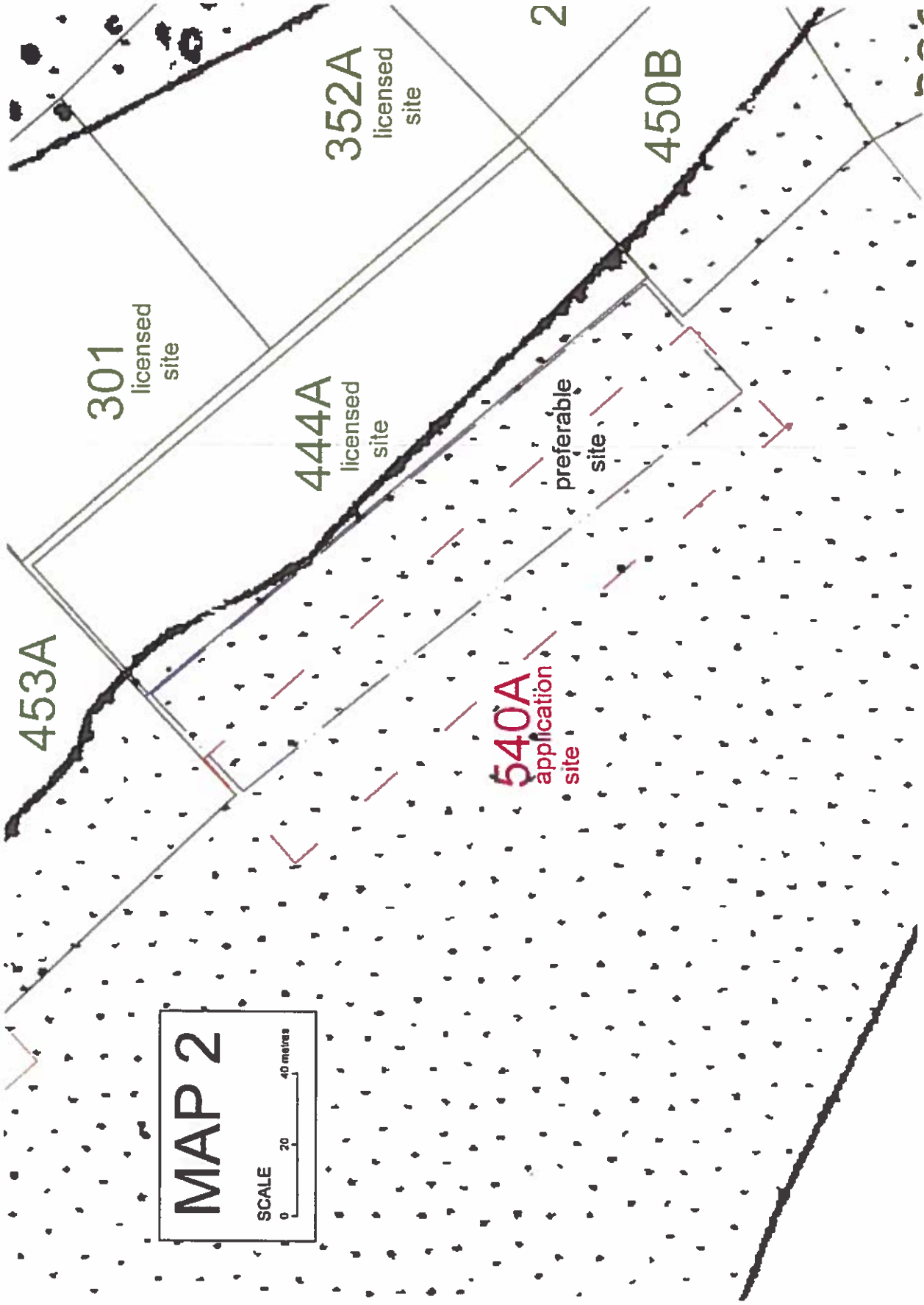
At the time of writing this report the application T12/450 has already gone to advertising so there is no longer the option of remapping the application site in consultation with the applicant to make the application site contiguous with foreshore already licensed to this applicant. If repositioning the site is not possible at this point it may prove necessary to refuse the application for reasons of ensuring orderly development even if the site appears to be suitable in other respects for oyster farm development.

On MAP 2 overleaf the application site is shown in broken red line

If site 540A as applied for were to be licensed there would be an 0.39 hectare area of shore s left unlicensed in the gap – this gap area is significant in Trawbreaga licensing terms – it is reasonably suitable for oyster culture but would be in “no man’s land” and completely surrounded on all sides by licensed oyster site. To license 540A would be contrary to orderly aquaculture development.

I recommend that the application site 540A not be licensed principally because of the gap area of 0.39 ha that would be left and also because of its poor alignment with other nearby sites.

The site that I could recommend for consideration is shown outlined in purple and labelled “preferable site” on MAP 2 overleaf. This recommended site is contiguous with the already licensed site area of the applicant; it is better aligned from a navigation perspective with its neighbouring sites ; it is further back from the more exposed area to the southwest that is prone to sediment movement and the plan area and dimensions are similar to those applied for. Its development by this applicant would be in accordance with orderly development because of location of his existing farm area on site [REDACTED] I suggest that such a modified site would be appropriate for licensing (in the future if not now) - It is defined by the following corner coordinates



**MAP 2**  
SCALE  
0 20 40 metres

244493 450603  
244609 450464  
244579 450436  
244466 450577 area 0.70815ha

AFMD might consider whether it would still be possible to adopt this modified area as a possible solution in the current application assessment process– or failing that perhaps it could be suggested as a site for a future application by this applicant in the event of this current application being refused.

I have discussed this with the applicant by phone on 9/8/19 and he would agree to have the site modified to join up with site [REDACTED] *if that were still possible* within the current application assessment process. However given that the applied for site has already gone to advertising he does not want to withdraw/delay his application at this stage.

#### Conclusions

Appropriate assessment of proposed development of site 540A would be required.

The site applied for is poorly positioned relative to sites already licensed to the applicant. It is poorly aligned with sites licensed to others in that area of the bay.

To licence this site would not be in accordance with orderly aquaculture development in Trawbreaga Bay. I recommend that it not be licensed.

I put forward for consideration a modified site of similar area that would in my opinion be more appropriate for licensing in the future.



Paul O'Sullivan

9/8/19

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



T12/540

8 May 2019

Raphael Crowley Eng  
Engineering Division  
Dept of Agriculture, Food & The Marine  
Reen Point  
Blennerville  
Tralee  
Co Kerry

Our Ref: T12-540A Phillip Doherty

Please see attached a new application for Aquaculture and Foreshore licence for the cultivation of oysters in Trawbreaga Bay, Co Donegal for your examination.

Please may I have your observations as soon as possible.

Yours sincerely

Colette Walsh  
Aquaculture and Foreshore Management Division

---



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

Commissioners of Irish Lights  
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Co. Dublin, Ireland

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W [www.irishlights.ie](http://www.irishlights.ie)

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

*Your Reference:* T12/540A  
*Our Reference:* LA:0366.0126  
*Date:* 08/05/2019

LL: LA 0366.0126  
Applicant: Phillip Doherty  
Site: Trawbreaga Bay, Co. Donegal

Dear Ms. Walsh,

Thank you for your letter advising us of this change of site location.

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,

**Neil Askew**  
for Director of eNavigation and Maritime Services

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 Oysters 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 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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Tá an t-eolas 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**

Applicant	Philip Doherty
Application type	New
Site Reference No	T12/540A
Species	Pacific Oysters- Bags and Trestles
Site Status	Located within the Trawbreaga Bay SPA (Site Code 004034) and the North Inishowen Coast SAC (Site Code 002012) Located within the Trawbreaga Bay Shellfish Growing Water Area.

Dear Eileen

This is an application for an aquaculture licence for the cultivation of pacific oysters (*Crassostrea gigas*) using bags and trestles at Site T12/540A on the foreshore at Trawbreagea, Co. Donegal. The area of foreshore at Site T12/540A is 0.7165Ha.

Site T12/540A 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(1) 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 T12/540A 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>

<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.

---

<sup>4</sup>

<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**

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**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 Oysters T12\_528A.docx; New Licence John Friel T12\_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

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**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

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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

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**Iascach Intíre Éireann**  
**Inland Fisheries Ireland**

Tele: 071 - 9851435

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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.**

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**New Aquaculture and Foreshore Application for Philip Doherty, Slieve Bawn, Malin Head, Co Donegal**

**Reference Number: T12/540A**

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 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.

As the proposed site is 0.7165 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**

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**From:** Fem 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

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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**

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**From:** JADE PEARSON [jpearson@Donegalcoco.ie]  
**Sent:** 11 September 2019 13:49  
**To:** Maher, EileenM  
**Subject:** Aquaculture Licence  
**Attachments:** 11003178\_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 TD0P, 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 TD0P, 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

<sup>1</sup>

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

<sup>2</sup>

<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:

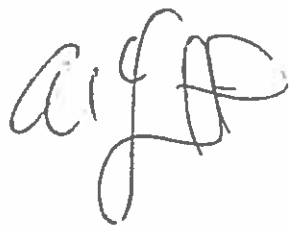
*'Licences issued will contain a recommendation that triploid oysters continue to be used in North Inishowen Coast SAC in order to minimize any risks to Lough Swilly SAC'*

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.

10  
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] 540 [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 [REDACTED] 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 [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 ██████████

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

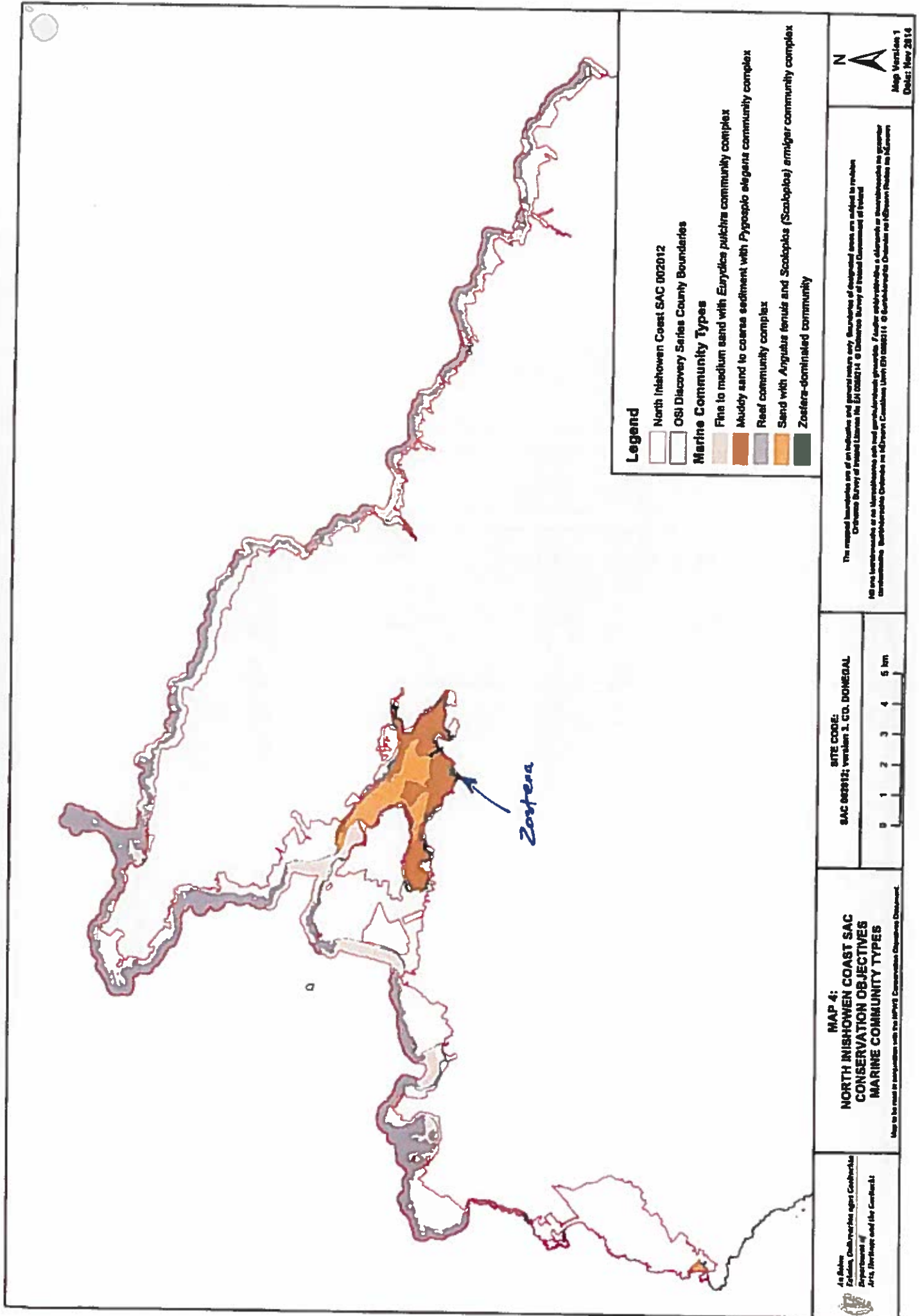
# National Parks and Wildlife Service

## 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**
- Fine to medium sand with *Erythraea pulchra* community complex
- Muddy sand to coarse sediment with *Pygospio elegans* community complex
- Reef community complex
- Sand with *Anguilla tenuis* and *Scalopsis (Scalopsis) emiger* community complex
- Zostera*-dominated community

The mapped boundaries are of an indicative and general nature only. Boundaries of designated areas are subject to revision. Ordnance Survey of Ireland Licence No. EI 0000214. © Ordnance Survey of Ireland. All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without the prior written permission of the Ordnance Survey of Ireland. Ordnance Survey of Ireland is a member of the Ordnance Survey Group. Ordnance Survey of Ireland is a member of the Ordnance Survey Group.

**SITE CODE:**  
SAC 002012; Version 3.0; DONEGAL



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

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

**As Ballyvaughan**  
**Fieldwork**  
**Department of**  
**Ag, Fisheries and the**  
**Coastal**

**N**  
Map Version 1  
Date: Nov 2014



## OSullivan, Paul

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**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 Coille, Co. Chorcaí. P85 TX47.  
**National Seafood Centre, Clogheen, Clonakilty, Cork, P85 TX47.**

T +353 (0)23 885 9505  
[www.agriculture.gov.ie](http://www.agriculture.gov.ie)

**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<sup>3</sup>. 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 access 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.

**Philip Doherty**  
**Slievebawn**  
**Malin Head**  
**Co. Donegal**



**7/10/19**

**Dear Eileen,**

Thank you for your letter on 19/9/19.

Please find attached my comments to the observations and objections.

**Yours Sincerely,**

**Philip Doherty**

**COMMENTS:**

**1. Impact on local tourism**

In Ireland, there is a huge ongoing initiative by Failte Ireland and Bord Iascaigh Mhara, which has grasped on the massive potential for developing linkages between tourism and aquaculture in coastal areas, especially for the smaller shellfish farms, all along the west coast of Ireland, under the initiative "Taste the Atlantic: A seafood Journey Trail". The success of Donegal's oyster industry, which is now valued at over €11 million, is currently being celebrated at a current oyster exhibition showcasing Oysters from Trawbreaga Bay, at Doah famine Village in Inishowen, and is part of this seafood trail whereby reports indicate that it has given a huge boost to tourism in the area.

**2. Preservation of environment**

Full assessment was done by the Marine Institute.

**3. Enjoyment of local peoples- This was all covered by the Appropriate Assessment.**

I am hoping all these points of clarification will be considered when application is being examined.

I am hoping for a fair and successful outcome so that I can expand my business and continue to live and work in rural Donegal.

**Yours Sincerely,**

**Philip Doherty**

**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**