

# Submission AGR 00755-19: Recommendation to refuse an Aquaculture and Foreshore Licence for 1 site (T12/531A)

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 (T12/531)

## Executive summary

The Minister's determination is requested in relation to an application for an Aquaculture Licence from Oceanic Organic Oysters, Harbour View, Greencastle, Co. Donegal. The application is for the cultivation of Pacific Oysters using bags and trestles on Site T12/531A, totalling 0.8717 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 Oceanic Organic Oysters, Harbour View, Greencastle, Co. Donegal, for a site in Trawbreaga Bay, Co. Donegal.

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

### BACKGROUND

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

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

### APPLICATION FOR AN AQUACULTURE LICENCE

An application (TAB A) for an Aquaculture Licence has been received from the applicant referred to above (in conjunction with an application for a Foreshore Licence), for the cultivation of Pacific Oysters using bags and trestles in relation to a 0.8717 hectare site

on the foreshore in Trawbreaga Bay, Co. Donegal (numbered T12/531A– 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): This site is located on a flat sand area that can be seen extending offshore by some 200m -250m from the current licensed growing areas in this part of the bay. The area is only exposed on very low springtides or periods of high atmospheric pressure. In the southern part of the site there is a large presence of undulating loose sand while northern parts of the site has areas of uneven profile. The loose sand material was banked up in a low lying ridge crossing this site, 3 other application sites and extending further to northwest and southeast. The undulating top surface indicated an area exposed to strong hydrodynamic action and an area that was subject to not infrequent sediment movements. The existence of large loose sand accumulations in the area fits with past reports of unpredictable and not infrequent sediment movements reported in the past by oyster farmers inshore of these application sites. Trestle placement on or close to this area of mobile sand would result in sinking or burial of trestles due to sand movement in the area and would be very likely to negatively affect hydrodynamics in the area.

Another critical issue with this proposed site is that it is directly “in front of” sites already licensed to other farmers. The inshore farm sites would be expected to be adversely impacted by this site on their offshore (waterline) boundaries in the following ways: -

- shading (reduction of access to phytoplankton food supply) causing reduced growth.
- Hydrodynamic impact (reduction in water exchange through the existing licensed sites, potential for sedimentation pattern change, and rerouting of currents).
- Limit their scope for future expansion seaward in the future (towards low water line).

MED recommend refusing this application due to unsuitable substrate, the potential for negative impact their development would have locally on hydrodynamic processes and the affect on existing licensed sites.

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

### Statutory Consultation

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

Comments were received from the following statutory bodies:

Marine Institute (MI): The MI noted the site is located within the Trawbreaga Bay Shellfish Growing waters and within the North Inishowen Coast SAC. They recommend the continued use of triploid stock in Trawbreaga. They recommended that the licensee is required to prepare a Contingency Plan for the approval of the Department of Agriculture, Food and the Marine which should identify, inter alia, methods for the removal from the environment of any non-target species introduced as a result of operation at this site. They also recommended that the source of seed be approved by the Department of Agriculture Food and the Marine and

the access route over the intertidal habitat be strictly adhered to, in order to minimise habitat disturbance. The MI also suggested that the CLAMS process might be useful and appropriate vehicle for the development and implementation of alien species management and control plans. These issues can all be covered in the aquaculture licence if granted (**schedule 4**).

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

Commissioner of Irish Lights (CIL): No objection to this application provided that, if the licence is granted, all structures must be clearly marked as required by regulations. CIL also recommend a condition be inserted in the licence that the applicant secures statutory sanction from CIL for the navigation aids that may be required by the MSO.

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 The Donegal Democrat on the 8<sup>th</sup> August 2019. The application and supporting documentation were available for inspection at Carndonagh and Buncrana Garda Stations for a period of 30 days from the date of publication of the notice in the newspaper.

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

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

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

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

- The objector provided no scientific evidence to back up their claims.
- Every tourist the applicant has spoken to is interested in what is going on in the area and are in no way offended by the oyster farms.
- In relation to the seals and the migrating geese the seals lie undisturbed on the sand in the Isle of Doagh side and in winter migrating geese visit the area and can be seen swimming near the oyster farms and they rest and feed on the marine growth that grows on the surface of the bags.
- They provided photographic evidence of the well kept state of their existing site and note any waste in the bay is not from them.

## **CRITERIA IN MAKING LICENSING DECISIONS**

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

a) the suitability of the place or waters

*Scientific advice is to the effect that the waters are suitable for the cultivation of Pacific Oysters. However the substrate is not suitable*

*for aquaculture development.*

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 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 Oceanic Organic Oysters, Harbour View, Greencastle, Co. Donegal. The reasons for the recommendation are:

The site substrate is unsuitable with areas of uneven profile and areas exposed to strong hydrodynamic action that would be subject to not infrequent sediment movements.

Trestle placement on or close to this area of mobile sand would result in sinking or burial of trestles placed and would also be very likely to negatively affect hydrodynamics in the area.

Development of this site would have negative impacts on the operations of existing oyster farms causing reduced growth and having a hydrodynamic impact with a potential for sedimentation pattern change, and rerouting of currents in the area.

## **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 –T12/531*

Oceanic Organic Oysters has applied for authorisation to cultivate Pacific Oysters using bags and trestles on the inter-tidal and/or sub-tidal foreshore on a 0.8717 hectare site ( T12/531A) 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 site substrate is unsuitable with areas of uneven profile and areas exposed to strong hydrodynamic action that would be subject to not infrequent sediment movements.
- Trestle placement on or close to this area of mobile sand would result in sinking or burial of trestles placed and would also be very likely to negatively affect hydrodynamics in the area.
- Development of this site would have negative impacts on the operations of existing oyster farms causing reduced growth and having a hydrodynamic impact with a potential for sedimentation pattern change, and rerouting of currents in the area."

### **Recommendation to Refuse a Foreshore Licence application (T12/531)**

#### **DECISION SOUGHT**

The Minister's determination is requested please in relation to the application for a Foreshore Licence from Oceanic Organic Oysters, Harbour View, Greencastle, Co. Donegal, for a site in Trawbreaga Bay, Co. Donegal, in which it is proposed to conduct aquaculture.

#### **BACKGROUND**

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

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

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

An application (**TAB A**) for a Foreshore Licence has been received from the applicant referred to above (in conjunction with an Aquaculture Licence application), relating to the occupation of the foreshore associated with the Aquaculture Licence application which covers a 0.8717 hectare site (numbered T12/531A – 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):** This site is located on a flat sand area that can be seen extending offshore by some 200m-250m from the current licensed growing areas in this part of the bay. The area is only exposed on very low springtides or periods of high atmospheric pressure. In the southern part of the site there is a large presence of undulating loose sand while northern parts of the site has areas of uneven profile. The loose sand material was banked up in a low lying ridge crossing this site, 3 other application sites and extending further to northwest and southeast. The undulating top surface indicated an area exposed to strong hydrodynamic action and an area that was subject to not infrequent sediment movements. The existence of large loose sand

accumulations in the area fits with past reports of unpredictable and not infrequent sediment movements reported in the past by oyster farmers inshore of these application sites. Trestle placement on or close to this area of mobile sand would result in sinking or burial of trestles due to sand movement in the area and would be very likely to negatively affect hydrodynamics in the area.

Another critical issue with this proposed site is that it is directly "in front of" sites already licensed to other farmers. The Inshore farm sites would be expected to be adversely impacted by this site on their offshore (waterline) boundaries in the following ways: -

- shading (reduction of access to phytoplankton food supply) causing reduced growth.
- Hydrodynamic impact (reduction in water exchange through the existing licensed sites, potential for sedimentation pattern change, and rerouting of currents)
- Limit their scope for future expansion seaward in the future (towards low water line).

MED recommend refusing this application due to unsuitable substrate, the potential for negative impact their development would have locally on hydrodynamic processes and the affect on existing licensed sites.

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

### **Public Consultation**

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in The Donegal Democrat on the 8<sup>th</sup> August 2019. The application and supporting documentation were available for inspection at Carndonagh and Buncrana Garda Stations for a period of 30 days from the date of publication of the notice in the newspaper.

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

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

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

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

- The objector provided no scientific evidence to back up their claims.
- Every tourist the applicant has spoken to is interested in what is going on in the area and are in no way offended by the oyster farms.
- In relation to the seals and the migrating geese the seals lie undisturbed on the sand in the Isle of Doagh side and in winter migrating geese visit the area and can be seen swimming near the oyster farms and they rest and feed on the marine growth that grows on the surface of the bags.
- They provided photographic evidence of the well kept state of their existing site and stated any waste in the bay is not from them.

### **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 Oceanic Organic Oysters, Harbour View, Greencastle, Co. Donegal, for a site in Trawbreaga Bay having regard to the decision in relation to the Aquaculture Licence application. The reasons for the decision are

- The site substrate is unsuitable with areas of uneven profile and areas exposed to strong hydrodynamic action that would be subject to not infrequent sediment movements.
- Trestle placement on or close to this area of mobile sand would result in sinking or burial of trestles placed and would also be very likely to negatively affect hydrodynamics in the area.
- Development of this site would have negative impacts on the operations of existing oyster farms causing reduced growth and having a hydrodynamic impact with a potential for sedimentation pattern change, and rerouting of currents in the area.

## Related submissions

There are no related submissions.

## Comments

**Farrell, Geraldine** - 25/11/2019 11:16

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

**O'Callaghan, Grace** - 25/11/2019 11:58

I have reviewed this submission and agree with the recommendation that the Minister refuses the granting of the Aquaculture / Foreshore Licences, as applied for, to Oceanic Organic Oysters for the reasons outlined in the submission.

**Quinlan, John** - 25/11/2019 14:31

Refusal is recommended in this case.

**Beamish, Cecil** - 27/11/2019 12:51

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 12:51

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

**Lennox, Graham** - 29/11/2019 12:07

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  
Beamish, Cecil  
Sub Sec Gens Office  
eSub Sec Gen  
eSub Ministers Office  
eSub Minister

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

3  
An Roinn Talmhaíochta,  
Bia agus Mara  
Department of Agriculture,  
Food and the Marine



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

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

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

**Important Note**

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

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

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

T12/531

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.**

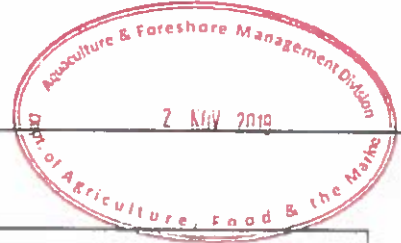
**Note:** Details provided in Parts 1 and 2 will be made available for public inspection. Details provided in Parts 3 and 4 and any other information supplied will not be released except as may be required by law, including the Freedom of Information Act 1997 as amended.

**USE BLOCK CAPITALS IN BLACK INK PLEASE**

**For Office Use**

Application Ref. No. T12/531

Date of Receipt (Dept. Stamp):



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

**PART 1: PRELIMINARY DETAILS**

Applicant's Name(s)	
1.	<u>Oceanic Organic Oysters .</u>
Address:	<u>Harbour View, Greencastle Co. Donegal .</u>
2.	
Address:	
3.	
Address:	
4.	
Address:	

<b>Contact in case of enquiries (if different from above)</b>	
Contact Name	Shawn M <sup>c</sup> Kenney
Organisation Name (if applicable)	Director
Address	Harbour View Greencastle, Co. Donegal.

**PART 1: PRELIMINARY DETAILS**

<b>TYPE OF APPLICATION</b> – please indicate relevant type of application	
This Application Form is valid for each type of application - <i>See Guidance Note 3.1</i>	
(i) Aquaculture Licence	<input checked="" type="checkbox"/>
(ii) Trial Licence	<input type="checkbox"/>
(iii) Foreshore Licence, if Marine Based	<input checked="" 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: TRABREAGA BAY MALIN
- (ii) County: Donegal
- (iii) OS Map No: \_\_\_\_\_
- (iv) Co-ordinates of Site: (please specify coordinate reference system used e.g. Irish Grid (IG) or Irish Transverse Mercator (ITM) or Latitude/Longitude [in which case specify whether ETRS89 or WG84 etc.]
- |               |               |               |               |
|---------------|---------------|---------------|---------------|
|               | 533           |               |               |
| <u>244400</u> | <u>450598</u> | <u>244338</u> | <u>450535</u> |
| <u>244414</u> | <u>450464</u> | <u>244459</u> | <u>450543</u> |
- (v) Size of Site (hectares): \_\_\_\_\_

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

Giant Oysters NON NATIVE

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

Intertidal

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

Seed NURSERY - FRANCE

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

(ix) Method of culture (rope, trestles - intensive; bottom - extensive; other)

TRESTLES

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

350 TRESTLES

(xi) Proposed Production Tonnage:

Year 1		Year 2		Year 3	<u>40T</u>	Year 4	<u>40T</u>	Year 5	<u>40T</u>
--------	--	--------	--	--------	------------	--------	------------	--------	------------

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

Site is unused, suitable and close to our existing sites.

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

HARD SAND.

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

Half grown.

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

No Flotation devices used.

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

Yes

No

If yes give details.

We are operating under shellfish licence.

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

(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)

(xviii) Are there known sources of pollution in the vicinity e.g. sewage outfall?

If yes please give full details.

Ys / No

No.

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

Oysters are bagged and sent by road to their destination.

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

NONE

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

NO PREDATORS.

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

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:

---

---

---

---

I/We hereby declare the information provided in Parts 1, 2, 3 and 4 above to be true to the best of my/our knowledge and that I am over 18 years of age. I/We enclose an application fee\* of € 95.23. with this application.

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

John McKinnay

Shawn McKinnay

Directors

Date: 31<sup>st</sup> October 2018

**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**

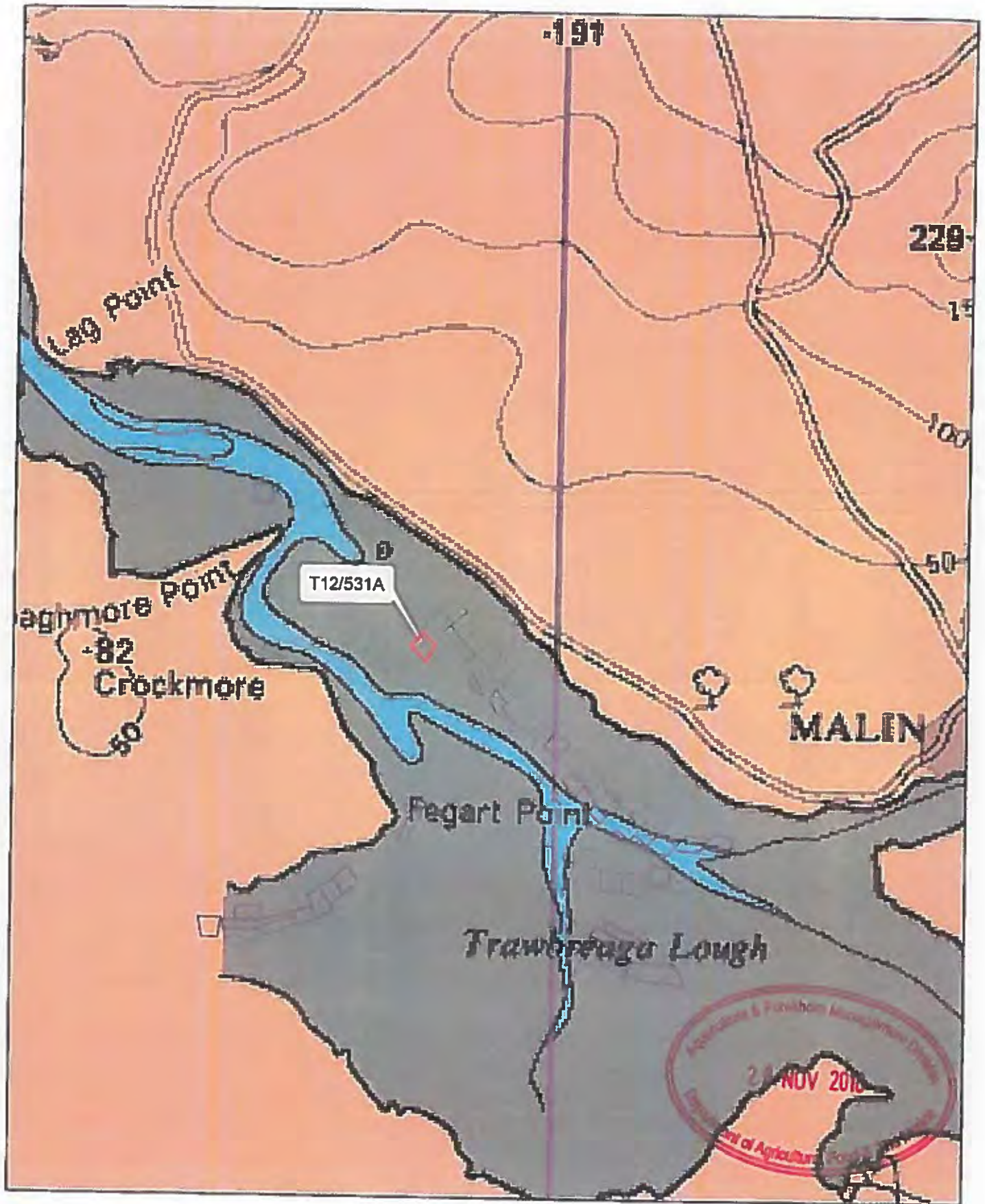
**Co-ordinates & Area**

**Site T12/531A (0.8717 Ha)**

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

244414, 450464 to Irish National Grid Reference point  
244338, 450533 to Irish National Grid Reference point  
244400, 450598 to Irish National Grid Reference point  
244459, 450543 to Irish National Grid Reference point





**Aqua Culture Sites**

- <all other values>*
- Site\_Status**
- Under Appeal
  - Application
  - Lapsed
  - Licensed
  - Revoked
  - Surrendered
  - Withdrawn
  - 100 Meter Reference Grid

1:24,000

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



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



244000

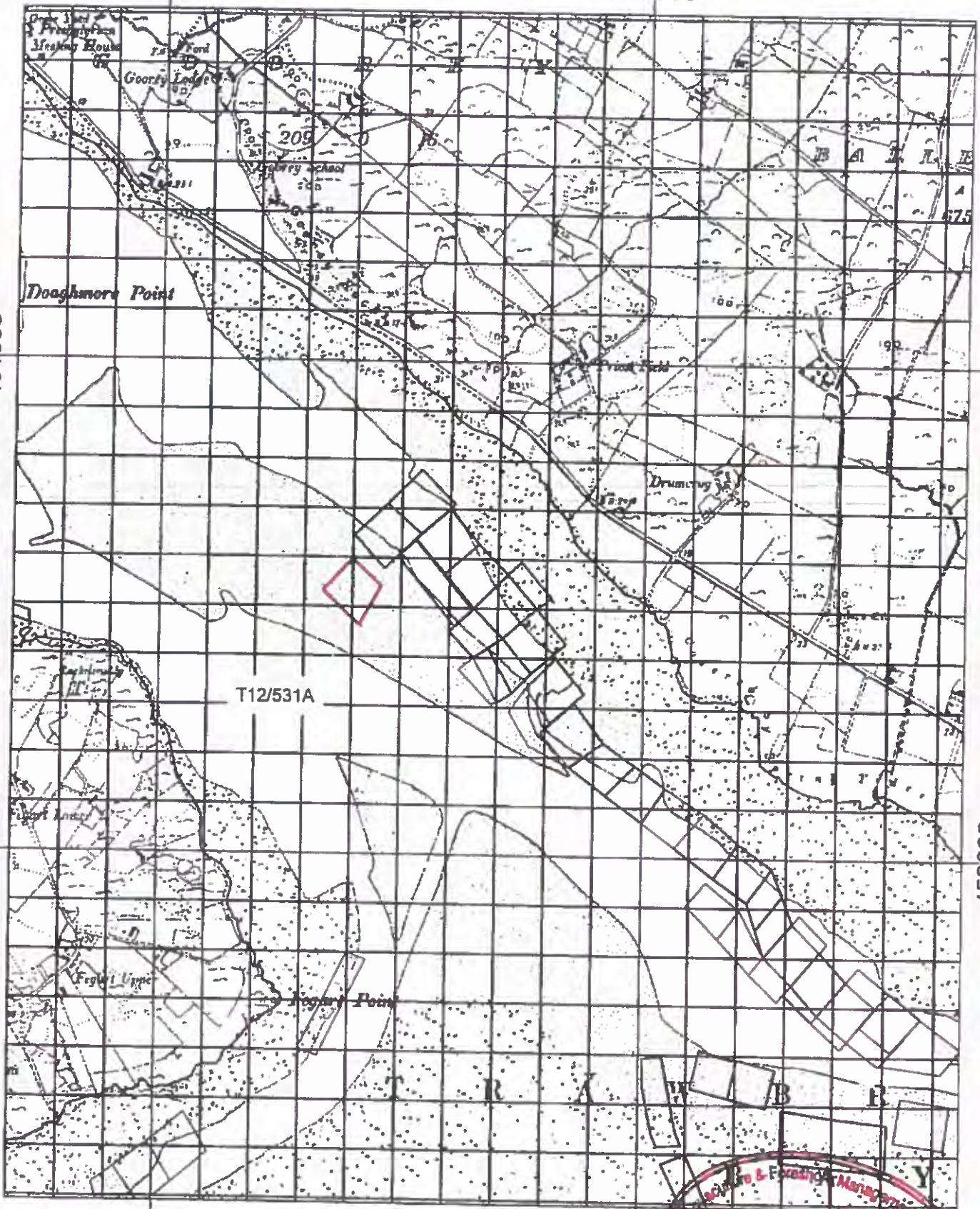
245000

451000

451000

450000










450000



244000

245000

Aqua Culture Sites  
<all other values>

- Site\_Status
-  Under Appeal
  -  Application
  -  Lapsed
  -  Licensed
  -  Refused
  -  Revoked
  -  Surrendered
  -  Withdrawn
  -  100 Meter Reference Grid

1:10,560

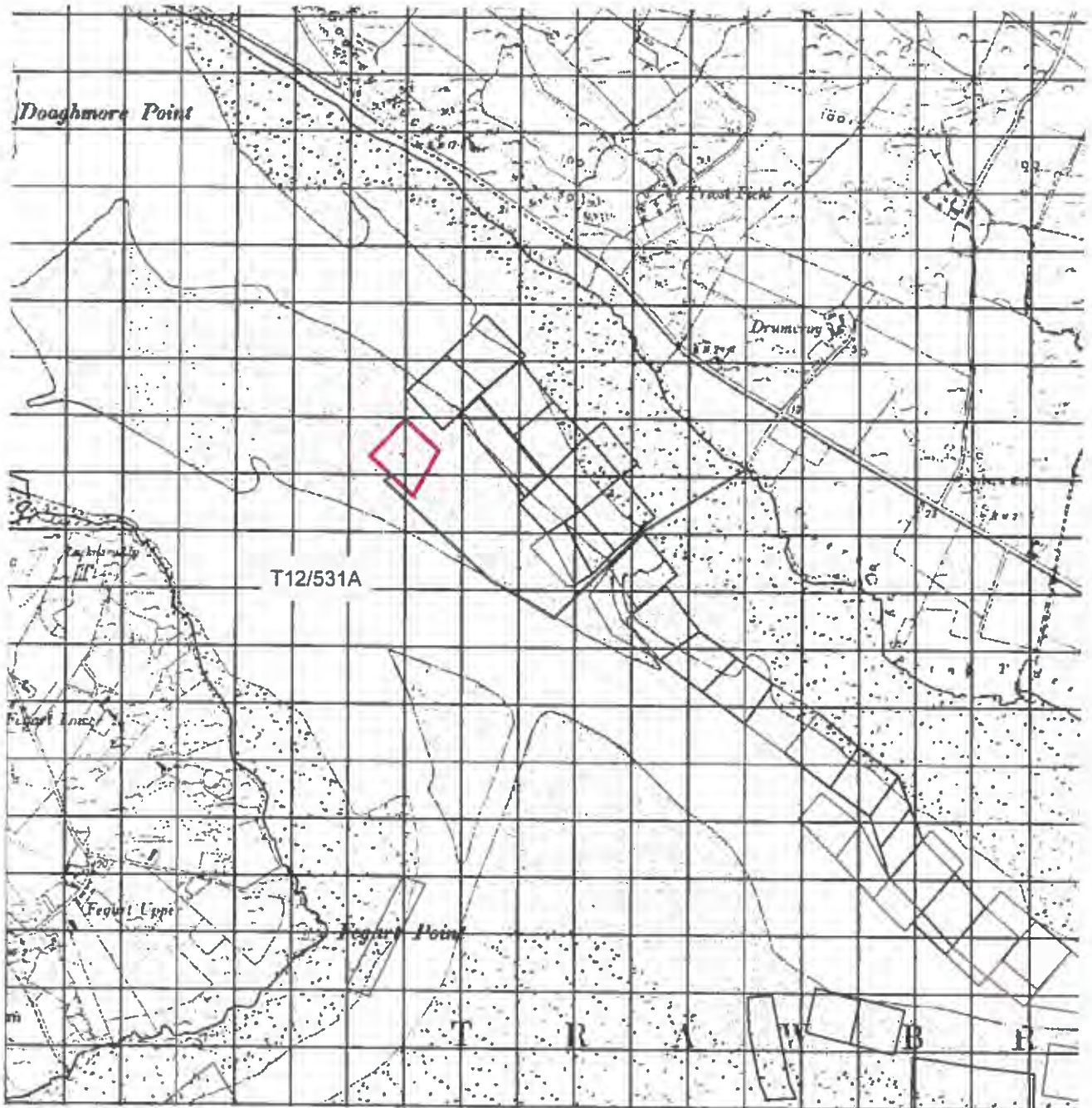
Sites highlighted in red denotes Application

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





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

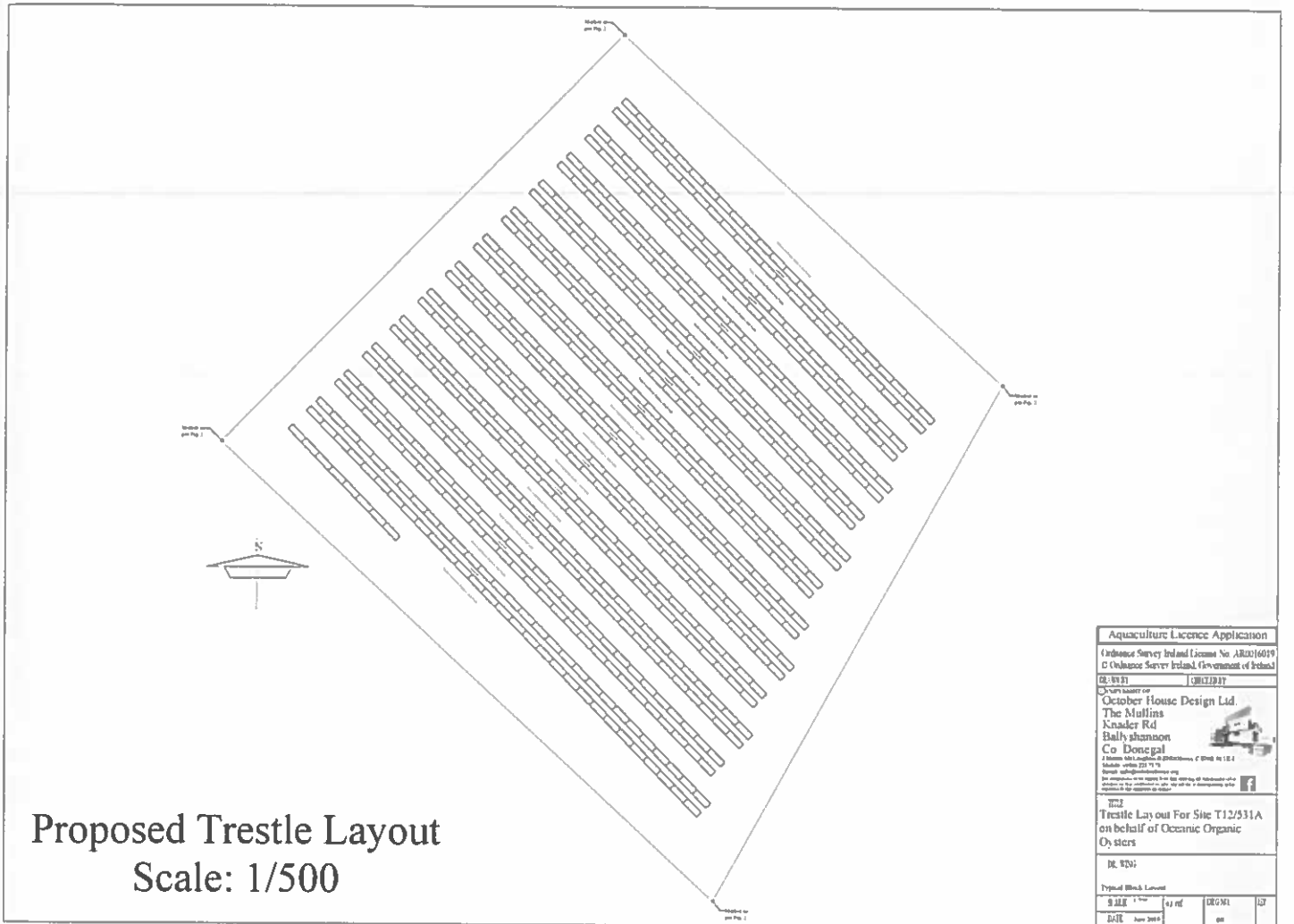




# Access Route Map

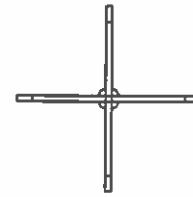
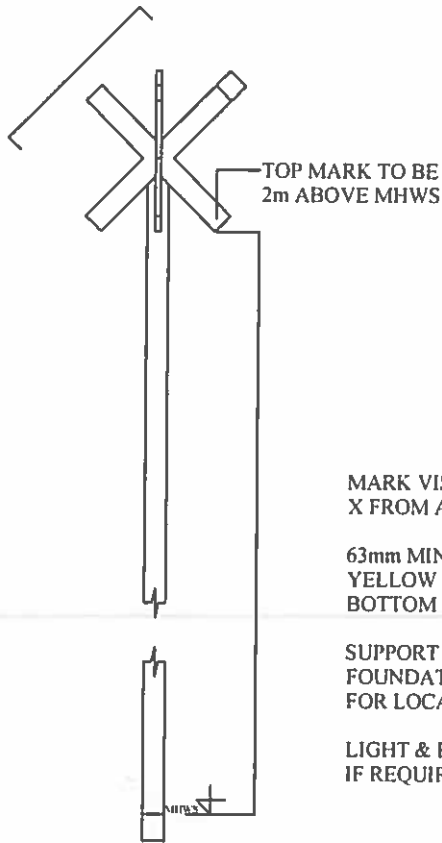
## Scale: 1/10,560

<b>Aquaculture Licence Application</b>			
Ordnance Survey Ireland License No. AR0016019			
© Ordnance Survey Ireland, Government of Ireland			
DRAWN BY		CHECKED BY	
© COPYRIGHT OF October House Design Ltd. The Mullins Knader Rd Ballyshannon Co. Donegal			
			
J Martin McLaughlin B ENG(Hon) C ENG, M I E I Mobile: (086) 2217173 Email: <a href="mailto:info@oceanhouse.org">info@oceanhouse.org</a>			
<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 T12/531A on behalf of Oceanic Organic Oysters.			
<b>DRAWING</b> Proposed Access Route			
SCALE	1/10,560	o.s. ref	DRG NO
DATE	June 2019		11



Proposed Trestle Layout  
Scale: 1/500

Aquaculture Licence Application			
Ordnance Survey Ireland Licence No. AR0216019 © Ordnance Survey Ireland, Government of Ireland			
DRAWN BY		CHECKED BY	
Client Name of October House Design Ltd. The Mullins Knader Rd Ballyshannon Co. Donegal 2 James Hill, Londonderry, D10W8H1 Mobile: 0876 222 777 Email: info@octoberhouse.com Our company is an equal opportunity employer and we are committed to diversity in the workplace. We are an equal opportunity employer.			
Title Trestle Lay out For Site T12/531A on behalf of Oceanic Organic Oysters			
DR. 2/20			
Typical Block Layout			
Scale	1:500	Sheet	1/3
Date	June 2014	Author	an



**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

<b>Aquaculture Licence Application</b>			
Ordnance Survey Ireland License No. AR0016019 © Ordnance Survey Ireland, Government of Ireland			
DRAWN BY:		CHECKED BY:	
© COPYRIGHT OF <b>October House Design Ltd.</b> The Mullins Knader Rd Ballyshannon Co. Donegal J Martin McLaughlin B ENG(Hons), C ENG, M I E I Mobile: (086) 2217173 Email: info@octoberhouse.org			
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.			
			
<b>TITLE</b> Trestle & Special Mark Beacon Detail For Site T12/531A on behalf of Oceanic Organic Oysters.			
<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> June 2019		12	

Mr Campbell, Divisional Engineer

BJC 9/8/19

Ms Farrell, AFMD

**RE: Aquaculture licence applications for suspended oyster culture using trestles on 4 sites at Trawbreaga Bay, Co. Donegal by Oceanic Organic Oysters Ltd.**

File ref: T12/531

Ms Walsh's memos of 6/2/19, 20/12/18, 12/12/18 and 19/12/18 refer to these 4 individual applications and request observations of Engineering Division on them. Because the applications are by the same applicant and are located close together in the same area of Trawbreaga Bay I will report on them as a group in this report.

Each application is for a single site – areas are in the range 0.75 to 0.88 hectare. The sites are located on foreshore some 50 to 100m southwest of the main oyster growing area in the north part of Trawbreaga Bay. The [redacted] sites are shown outlined in red on the 1: 5000 scale map (MAP 1) overleaf.

Each site is to be used as a growing site with 350 trestles placed on each. Proposed production is 40 tonnes per annum by year 3. The applicant wants to produce half-grown oysters on the 4 sites.

#### Application background

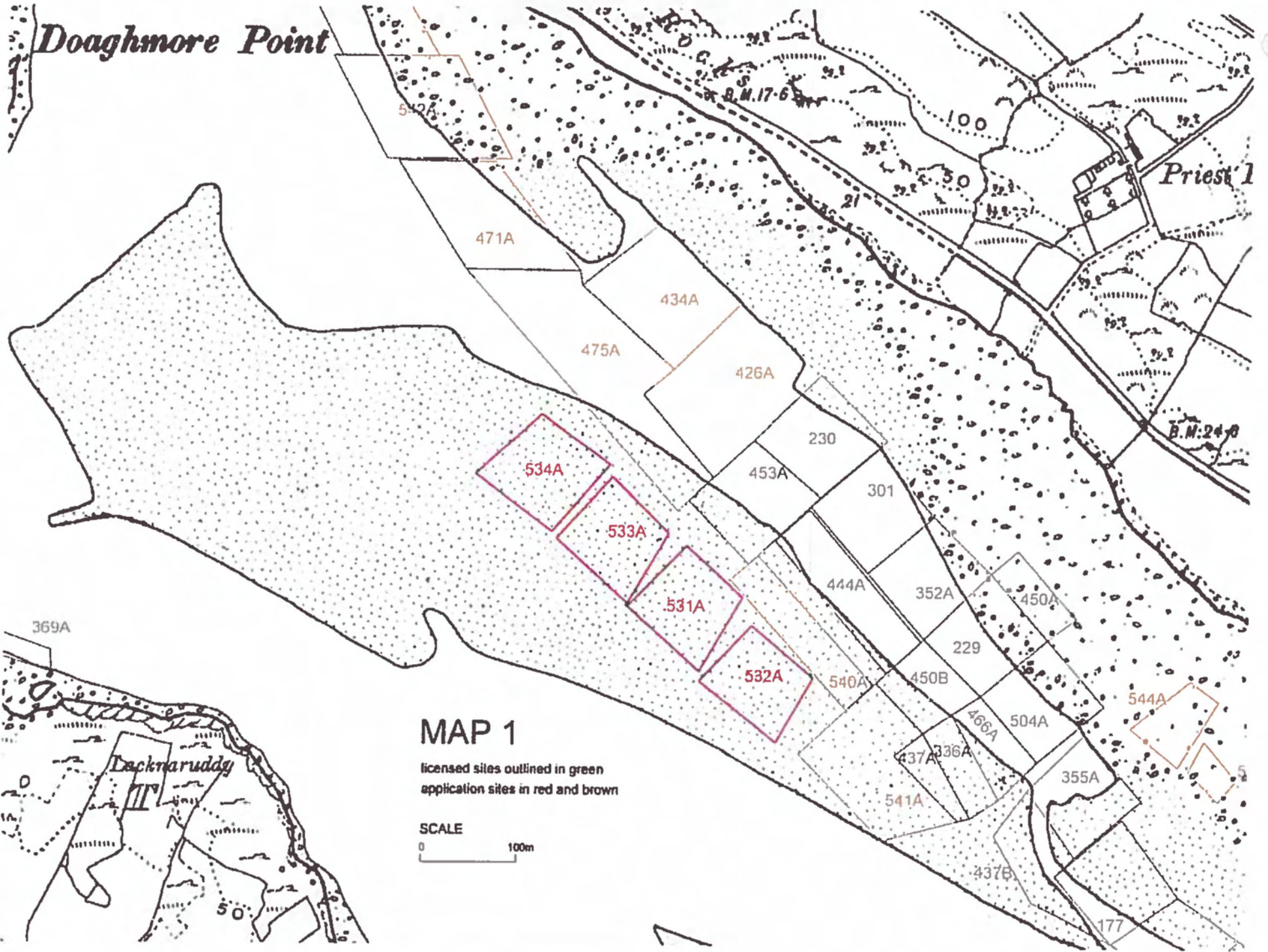
The applicant company directors are John McKinney and his son Shaun McKinney. John McKinney has been growing oysters in Trawbreaga Bay for more than 20 years. He and Shaun McKinney hold licences for [redacted]. They are making good use of their licensed sites and have recently shifted trestles to bring all their equipment fully within the boundaries of their licensed areas- this had been a problem for some years but is now resolved. They wish to expand their farm but suitable unlicensed site area in the Bay is now difficult to identify as the more favourable sites have already been licensed over the past 20+ years.

The applicant company also have submitted applications for [redacted] [redacted] (to be used as stock holding sites). I have already reported on those applications in my report to AFMD dated 20/5/19.

#### Site characteristics

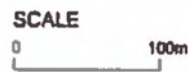
On 4/7/19 I inspected the 4 application sites on a low spring tide. The sites are located on a sand flat area that can be seen extending offshore by some 200m -250m at very low tides from the current licensed growing areas in this part of the Bay. This area is exposed only on very low spring





### MAP 1

licensed sites outlined in green  
application sites in red and brown



tides/periods of high atmospheric pressure. I used DGPS on 4/7/19 to survey position of features on the sites.

A significant finding was the presence of large area of undulating loose sand that overlapped with all [redacted] sites and rose above surrounding sand flat level by up to 0.5m – this low ridge of soft sand occupied significant portions of each of the [redacted] sites. The loose sand material was banked up in this low lying ridge crossing all [redacted] sites and extending further to northwest and southeast; the undulating top surface indicated an area exposed to strong hydrodynamic action and an area that was subject to not infrequent sediment movements. The existence of large loose sand accumulations in the area fits with past reports of unpredictable and not infrequent sediment movements reported in the past by oyster farmers inshore of these application sites.

My opinion is that trestle placement on or close to this area of mobile sand would result in sinking or burial of trestles placed on such sites due to sand movement in this area and would be very likely to negatively affect hydrodynamics in the area. If trestle placement on these application sites were permitted there is potential for disruption of existing shore profiles and patterns of change and knock on negative effects on the stability of current oyster growing ground inshore of these [redacted] sites. The location of the elevated soft sand bank area is highlighted in yellow on MAP 2 overleaf. It can be seen that it occupies large parts of the application sites.

The substrate on the [redacted] sites was generally clean sand. The sand bank area was soft underfoot. Surface sand was loose and generally coarse in size. Away from the loose sand areas the substrate was slightly or moderately firm but firm and flat ground was rare.

[redacted]  
[redacted]  
[redacted]

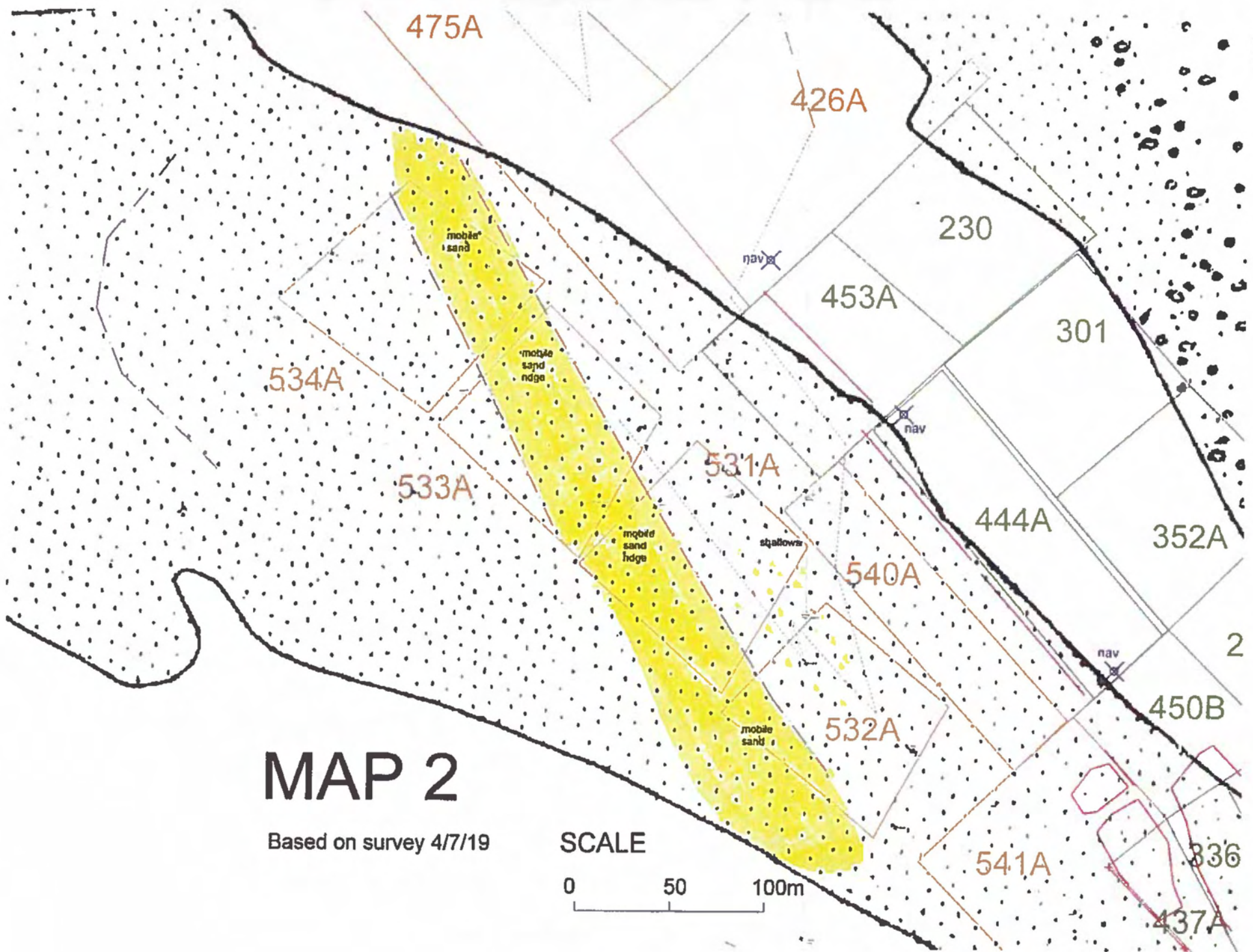
Site 531A- south half of site located on ridge area of loose soft sand; north half of site predominantly in shallows of uneven profile and proximate to unstable area

[redacted]

As summarised above sites [redacted] 531A have significant areas of unstable loose sand substrate at present and could not be considered suitable ground for development in my opinion. It would not be appropriate to licence any of the three sites for trestle based aquaculture based on July survey findings

[redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]









View of site [redacted] from southeast to northwest

4/7/19



View of site 531A centre (view from NW to SE) - note undulating sand pattern

4/7/19



View of site [redacted] A centre (view from NW to SE) - note undulating sand pattern -soft sand -some water retention 4/7/19



Site [redacted] (view from southeast to northwest); undulating slightly soft sand

4/7/19

### Application supporting documents

Layout drawings, access route maps and trestle structure drawings were provided by the applicant in early July to AFMD and are adequate for consultation purposes. The layouts provided show full coverage of each site by trestles. The trestle type proposed is a standard 6 bag trestle design of 0.6m leg height (made of 16mm dia. steel rebar)

### Potential impacts on other beneficial usages

#### *Natura 2000*

All [redacted] sites are located in Natura 2000 areas (they are in the North Inishowen Coast SAC and in Trawbreaga Bay SPA). Appropriate assessment as specified under the Habitats Directive will be required to assess potential for impact on Conservation Objectives of the site. On recent surveys I have noted there is a seal haul out 250m south of site [redacted].

#### *Amenity*

The foreshore area in the vicinity of these sites does not have significant amenity usage at present.

#### *Fishing*

The sites will not significantly impact on migratory salmonids because of their location 50-200m distant from the main low water channel ( of the Donagh and Glenagannon rivers).The sites will not significantly impact on crab potting activity in the area in my opinion.

#### *Visual impact*

The sites are seaward of existing trestle covered foreshore area. Views of the sites from the R242 public road will be partly screened by existing aquaculture development. I do not anticipate a substantial visual impact or a substantial landscape impact arising from these proposed oyster farm developments.

#### *Navigation*

The sites as proposed would extend oyster aquaculture closer to the main low water river channel which is used by angling boats. It would be important that outer boundary of trestle based aquaculture closest to channel is suitable marked as potentially hazardous to navigation.

### Orderly development considerations

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

The individual site areas applied for [redacted] 531A is 0.87Ha , [redacted] [redacted] are lower than the maximum site area adopted by the Department in licensing shellfish aquaculture in this Bay to date ( we recommend that an area of not more than approximately 0.9 hectares be licensed to individual applicants ).



However the submission of multiple applications at the same time (all applications are dated 31 October 2018) could circumvent that licensing strategy of the Department in this Bay. If all 4 sites were licensed to Oceanic Organic Oysters that company would have a larger cumulative site area allocated to it than other current applicants. The department could well take a view that it would not be in keeping with past licensing policy to licence four site areas to the same applicant when concurrently applied for in this manner

2) Potential impact on inshore licensed sites

Each of the [redacted] sites applied for is separated from the next by a short distance of 8m or less.

If all [redacted] sites were licensed a low water line width of 425m would be allocated for the use of a single applicant. While I think this would be an excessive width of waterline access to grant to a single applicant what is more problematical is that all of this width is on the channel side of oyster sites that are already licensed to others. The proposed development is not "in front of" sites already licensed to the applicant – it would be in front of sites licensed to other farmers. The inshore sites (already licensed to others) would I expect be adversely impacted on by new development close on their offshore (waterline) boundaries in the following ways – shading (reduction of access to phytoplankton food supply), hydrodynamic impact (reduction in water exchange through the site, high potential for sedimentation pattern change, and rerouting of currents). Furthermore the proposed new developments by Oceanic Organic Oysters would limit their scope for future expansion seaward in the future (towards low water line).

[redacted]  
[redacted]  
[redacted]

[redacted] In the interest of orderly development and in fairness to those licensed inshore it would not be appropriate in my opinion to licence these [redacted] application sites to Oceanic Organic Oysters.

Note that I have previously advised the applicant that orderly development control issues do arise when applications are made for sites on the offshore (or inshore) side of sites already licensed (and developed) by others. The applicant has decided to proceed in any case with these [redacted] applications - as he is entitled to do. If the Minister (or ALAB) decide to licence these application sites I think other similar applications will almost certainly follow where applicants will in similar fashion seek to be licensed on the offshore side of (in front of) sites that are licensed to others\*.

A policy of orderly development has been pursued in licensing shellfish aquaculture in this Bay since the 1990s. In continuing to pursue such an approach I think there are strong grounds for licence refusal in these [redacted] application cases.

Conclusion

I recommend that the applications be refused because of unsuitable substrate, the potential negative impact their development would have locally on hydrodynamic processes and the need for continuation of orderly aquaculture development control.

*Paul O'Sullivan*

Paul O'Sullivan

7/8/19

## **Maher, EileenM**

---

**From:** Foley, Tina  
**Sent:** 11 March 2019 11:04  
**To:** Walsh, ColetteM  
**Cc:** DAFM Queries  
**Subject:** Aquaculture Applications T12 531 - Trawbreaga Bay  
**Attachments:** T12-531 SFPA Response.pdf

Hi Colette,

Please find attached response received from Killybegs Port in respect of the above application as requested.

Kind regards

Tina

Tina Foley  
Clerical Officer  
Food & Fisheries Support Unit

T +353 238859313  
E [tina.foley@sfp.ie](mailto:tina.foley@sfp.ie)



AN t-ÚDARÁS UM  
CHOSAINT  
IASCAIGH MHARA

SEA-FISHERIES  
PROTECTION  
AUTHORITY

An t-Údarás um Chosaint Iascaigh Mhara, Clogheen, Cloich na Coillte, Co. Chorcaí  
Head Office, National Seafood Centre, Park Road, Clogheen, Clonakilty, Co. Cork  
Eircode: P85TX47  
[www.sfp.ie](http://www.sfp.ie)



Colette Walsh  
Foreshore Management Division  
Dep. Of Agriculture Food and the Marine  
National Seafood Centre  
Clonakilty  
Co. Cork

**Aquaculture & Foreshore Applications: T12 531 - Trawbreaga Bay**

Dear Colette,

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

1. Possible impacts, if any, on existing wild fisheries in the area, with an emphasis on the possible implications for the SFPA conducting official controls and possible non-compliance issues that could arise. **No possible impacts known.**
2. Impacts, if any, on shellfish growing areas adjacent to or within the area and the possible impact on the ability of the SFPA to conduct official controls and possible non-compliance issues that could arise. **No possible impacts known.**
3. Possible impacts, if any, on seafood safety. **Trawbreaga is Class B for Pacific Oysters and as such any shellfish leaving this bay should be depurated or only sold to purification plants before being sold to the final customer. All consignments of Pacific Oysters should have a shellfish registration document accompanying the consignment completed fully and accurately. The Marine Institute HABS database should be checked prior to harvesting to verify that the bay is open. The onus is on the operator to verify the bay is open, classified and that the shellfish registration documents requirements are met.**

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

Kind regards

Joan Hayes

Sea Fisheries Protection Officer

T +353 74 973 1264

F +353 85 8772672

E [joan.gilroy@sfpa.ie](mailto:joan.gilroy@sfpa.ie)

Date: 10.03.2019

**Maher, EileenM**

---

**From:** Neil Askew [Neil.Askew@irishlights.ie]  
**Sent:** 05 February 2019 14:12  
**To:** Walsh, ColetteM  
**Cc:** tomocallaghan@dtas.gov.ie  
**Subject:** Application T12-531 CIL Response  
**Attachments:** T12-531.pdf

Good afternoon Colette,

Find attached response for application T12/531

Capt. T. O'Callaghan in Cc

Kind regards,

Neil.

.....

**Neil Askew**  
Navigation & Maritime Services

**D: +353 1 271 5542 T: +353 1 271 5400**

.....

**Commissioners of Irish Lights**  
Harbour Road, Dun Laoghaire, Co. Dublin, Ireland  
A96 H500

<http://www.irishlights.ie>

.....



.....

For a breathtaking experience where land meets sea, visit  
<http://www.greatlighthouses.com>

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed.



T +353.1.271.5400  
F +353.1.271.5566

E [info@irishlights.ie](mailto:info@irishlights.ie)  
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:* T12/531  
*Our Reference:* LA:0398.6009  
*Date:* 05/02/2019

LL: LA 0398.6009

**Applicant:** Oceanic Organic Oysters

**Site:** Trawbreaga Bay, Co. Donegal

Dear Ms. Walsh,

Thank you for your letter advising us of this application.

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

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

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

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

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

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

Yours sincerely,



**Neil Askew**  
**for Director of Operations and Navigation**

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

## Maher, EileenM

---

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

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

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.

---

T +353 (0)23 885 9505

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

Disclaimer:

Department of Agriculture, Food and the Marine

The information contained in this email and in any attachments is confidential and is designated solely for the attention and use of the intended recipient(s). This information may be subject to legal and professional privilege. If

you are not an intended recipient of this email, you must not use, disclose, copy, distribute or retain this message or any part of it. If you have received this email in error, please notify the sender immediately and delete all copies of this email from your computer system(s).

**An Roinn Talmhaíochta, Bia agus Mara**

Tá an t-eolais san ríomhphost seo, agus in aon ceanglái leis, faoi phribhléid agus faoi rún agus le h-agmaigh an seolai amháin. D'fhéadfadh ábhar an seoladh seo bheith faoi phribhléid profisiúnta nó dlíthiúil. Mura tusa an seolai a bhí beartaithe leis an ríomhphost seo a fháil, tá cosc air, nó aon chuid de, a úsáid, a chóipeáil, 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	Oceanic Organic Oysters
Application type	New
Site Reference No	T12/531A
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 T12/531A on the foreshore at Trawbreaga, Co. Donegal. The area of foreshore at Site T12/531A is 0.8717Ha.

Site T12/531A is Located within the Trawbreaga Bay Shellfish Growing Water Area.

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

The cultivation of shellfish at this site will produce faeces and pseudofaeces. Any impact will be limited to the area of the sites. The build-up of excess organic matter beyond the footprint of the sites is not considered likely. On the basis of targeted research<sup>1</sup>, the impact of intertidal oyster cultivation using bags and trestles on the majority of community types is considered not significant.

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

Considering the location, nature and scale of the proposed aquaculture activity, and in deference to our remit under the Marine Institute Act, and the considerations implicit to Sections 61(f) of the Fisheries (Amendment) Act, 1997 the Marine Institute is of the view that there will be no significant impacts on the marine environment and that the quality status of the area will not be adversely impacted.

Site T12/531A is located within the Trawbreaga Bay SPA (Site Code 004034) and the North Inishowen Coast SAC (Site Code 002012). We note the findings of the Appropriate Assessments reports<sup>2,3</sup> and the Department's draft

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

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

<sup>3</sup>

<https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessments/donegal/2AnnexIIITrawbreagaSPAAAJuly2019300719.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.aquaculture.gov.ie/media/migration\\_seafood\\_aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessmentconclusionstatement/2019new/DraftConclusionStatement310719.pdf](https://www.aquaculture.gov.ie/media/migration_seafood_aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessmentconclusionstatement/2019new/DraftConclusionStatement310719.pdf)



## **Maher, EileenM**

---

**From:** Kelleher, Evan  
**Sent:** 19 August 2019 10:37  
**To:** Maher, EileenM  
**Cc:** Farrell, Geraldine  
**Subject:** FW: Trawbega Bay Aquaculture Applications  
**Attachments:** New Licence Cathal Mc Corkell T12\_541A.docx; New Licence Cathal Mc Corkell T12\_542A.docx; New Licence Daniel McGonigle T12\_511A.docx; New Licence Daniel McGonigle T12\_547A.docx; New Licence Hurrikayn 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

---

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

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

---

Hello Evan

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

Rgds

Milton Matthews

Director

Inland Fisheries Ireland- Ballyshannon

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

Tel +353 (0)7198 51435

Fax: +353 (0)7198 51816

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

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

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

---

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

Milton

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

Regards

Owen Kelly

Assistant Inspector - Glenties

North Western River Basin District

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

**Tele: 071 - 9851435**

**Mobile Tel +353 86 8182948**

**Email** [owen.kelly@fisheriesireland.ie](mailto:owen.kelly@fisheriesireland.ie)

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

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



---

This email and any attachments to it may be confidential and are intended solely for the use of the individual to whom it is addressed. Any views or opinions expressed are solely those of the author and do not necessarily represent those of Inland Fisheries Ireland. If you are not the intended recipient of this email, you must neither take any action based upon its contents, nor copy or show it to anyone. Please contact the sender if you believe you have received this email in error.

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. Dearcthaí 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 ríomhphoist seo, ná déan rud ar bith mar gheall ar an méid atá ann, ná é a chóipeáil ná é a thaispeáint do dhuine ar bith eile. Déan teagmháil leis an seoltóir, le do thoil, má chreideann tú go bhfuair tú an ríomhphost seo trí earráid.

---



## **New Aquaculture and Foreshore Application for Oceanic Organic Oysters, Harbour View, Greencastle, Co Donegal**

**Reference Number: T12/531A**

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 0.8717 hectares in size the visual impact is minimal. However as this is a very scenic location which attracts large numbers of visitors in the summer months, it may be more beneficial if used as an outdoor amenity. Going forward it may be useful for a cost benefit analysis to be undertaken into the benefits or otherwise of Trawbega Bay as an oyster production site or as a visual amenity.

Signed: Owen Kelly - Assistant Inspector (Letterkenny Glenties)

**Maher, EileenM**

---

**From:** 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.

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

---

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

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

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

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

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

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

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

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

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

## Regards

Michael Murphy

An Roinn Cultúir, Oidhreacht agus Gaeltachta

*Department of Culture, Heritage and the Gaeltacht*

Aonad na nIarratas ar Fhorbairt

*Development Applications Unit*

Bóthar an Bhaile Nua, Loch Garman, Contae Loch Garman, Y35 AP90

Newtown Road, Wexford, County Wexford, Y35 AP90

T +353 (0)53 911 7516

[manager.dau@chg.gov.ie](mailto:manager.dau@chg.gov.ie)

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

---

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 fhuigheann tú an ríomhphost seo trí bhotún, cuir seál 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.

The information in this email, and any attachments transmitted with it, are confidential and are for the intended recipient only. If you receive this message in error, please notify us via [webmaster@chg.gov.ie](mailto:webmaster@chg.gov.ie). This e-mail has been scanned by a virus scanner and appears to be clean.

---

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

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

<sup>[3]</sup> Draft Appropriate Assessment Conclusion Statement by Licensing Authority for aquaculture activities in North Inishowen Coast Special Area of Conservation (SAC) (002012), and Trawbreaga Bay Special Protection Areas (SPA) (004034) (Natura 2000 sites)

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

**Maher, EileenM**

---

**From:** JADE PEARSON [jpearson@Donegalcoco.ie]  
**Sent:** 11 September 2019 13:49  
**To:** Maher, EileenM  
**Subject:** Aquaculture Licence  
**Attachments:** 11003178\_1\_1.pdf

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

Eileen,

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

Regards,  
Jade

[Email Disclaimer](#)  [Císal S?anta R?omhphoist](#)

Follow us | [Lean linn](#)  [Twitter](#)  [Facebook](#)

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

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



Email response

11/09/2019

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

Re: Applications for Aquaculture Licences in Trawbrega Bay

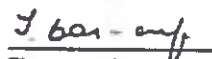
Dear Eileen

I wish to refer to the Aquaculture Licence applications received by this office on the 2<sup>nd</sup> August, 2019 for consultation. You are advised as follows:-

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

No objection arises to the proposal to grant new licence which relates to farming Pacific Oysters, in bags and trestles by hand, which equates to a total area of 11.4298ha of Trawbrega Bay. It is considered that the proposed development will not result in a significant intensification of the Oyster Farming activity in Trawbrega Bay and does not represent a visual intrusion into the scenery of the host area and is considered to be acceptable subject to the location of sites to be licenced being clearly identified by buoys or other markers so as not to obstruct other boat users of Trawbrega Bay.

Yours sincerely

  
Teresa Conway  
Staff Officer



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

[12/09/2019]

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

To Whom It May Concern:

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

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

**1. Discrepancy among reports**

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

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

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

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

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

---

1

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

2

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

**An Taisce is a membership-based charity | Join at [www.antaisce.org/membership](http://www.antaisce.org/membership)**

An Taisce – The National Trust for Ireland | Tailors' Hall, Back Lane, Dublin, D08 X2A3, Ireland | [www.antaisce.org](http://www.antaisce.org)  
+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]

---

<sup>3</sup>

<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:

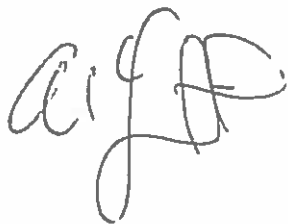
*'Licences issued will contain a recommendation that triploid oysters continue to be used in North Inishowen Coast SAC in order to minimize any risks to Lough Swilly SAC'*

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.





Mr Campbell, Divisional Engineer

BJL 12/10/19.

Ms Maher, AFMD

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

531, [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 -Tripliod oysters**

I think a valid point is made by An Taisce about the need for a more definitive stance on tripliod 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 T12/531 [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 ██████████ has now been applied for again by another applicant ██████████ in the current set of applications.

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

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

20/8/19



*Paul O'Sullivan*

Paul O'Sullivan  
11/10/19



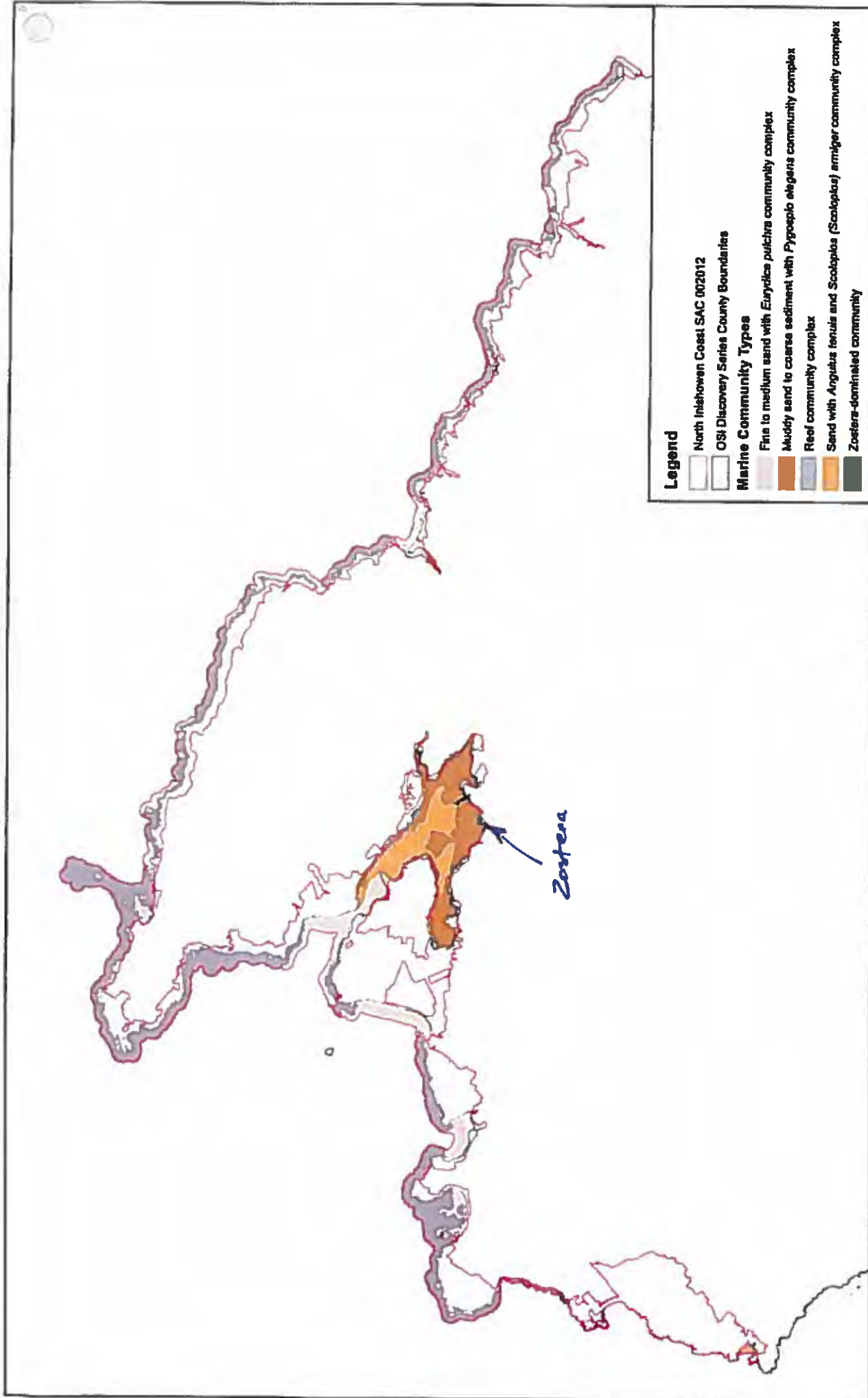
# National Parks and Wildlife Service

## Conservation Objectives Series








North Inishowen Coast SAC 002012



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



**Legend**

-  North Inishowen Coast SAC 002012
-  OSI Discovery Series County Boundaries
- Marine Community Types**
-  Fine to medium sand with *Eurydice pulchra* community complex
-  Muddy sand to coarse sediment with *Pygospio elegans* community complex
-  Reef community complex
-  Sand with *Argulus tenuis* and *Scoloplos (Scoloplos) armiger* 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 Government of Ireland. All rights reserved. No use, reproduction or distribution of this document is permitted without the prior written permission of the Ordnance Survey of Ireland. Ordnance Survey of Ireland is a registered trademark of the Ordnance Survey of Ireland.

**SITE CODE:**  
SAC 002012; version 3, CD, DONEGAL

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

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

## OSullivan, Paul

---

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

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

Paul,

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

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

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

Kind Regards,

Eileen Maher  
Aquaculture and Foreshore Management Division

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

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

T +353 (0)23 885 9505  
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).**

---

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 McMahan, Joe Silke - MI: Geraldine Farrell AFDM-DAFM

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

---

The Marine Institute have been asked to comment on the submission from An Taisce to the Department of Agriculture Food and the Marine (DAFM) in relation to a number of aquaculture licence applications (n=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 websites. 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

---

<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).

---

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

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

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

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

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

**MI Response:** Without providing specific details on the nature of the accumulation, i.e., duration, location and season, it is difficult to comment. Sediment has been noted to build up beneath the trestles and still not result in a change in constituent communities, this is particularly the case in areas where there may be highly mobile sediments which tend to be impoverished from a faunal (i.e., community constituent) perspective. In addition, during periods of calm weather, sediments can build up only to be dispersed with the arrival of more unsettled weather. Notwithstanding the observations provided by DCHG, it would be useful to identify the specific locations of concern and for Marine Engineering Division to carry out a site inspection to investigate this matter further.

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

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

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

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

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

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

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

Oceanic Organic Oysters,  
Harbour View,  
Greencastle,  
Co. Donegal.  
1<sup>st</sup> Oct. 2019.

To whom it may concern.

I am writing regarding objections to our applications for oyster sites in Trabreegh Bay, Malin Co. Donegal.

We have been farming oysters in the Bay since 1991.

I would like to point out that the objector has not provided any scientific evidence to back up any of their claims.

Every tourist that I have talked to is interested in what is



going on in the area and are in no way offended by our oysters farming.

Regarding the seals they lie undisturbed on the sand on the other side of the Bay, on the Isle of Doagh side.

In winter migrating geese visit the area and can be seen swimming a few feet from where we are some times working. They also rest on the ~~bags~~ oyster bags and feed on the marine growth that grows on the surface of the bags.

I must point out that any bags etc. left unattended on the shore do not belong to us.

Finally I would like to wish  
the objectors every good fortune  
in whatever enterprise they choose  
to become involved in in the  
area and can assure them that  
the continued activity on our  
farm will have no adverse impact  
on their future development.

We can all work together  
successfully.

Yours, Respectfully,  
John McKinney

for Oceanic Organic Oysters.

P.S. To-day I saw the first of the  
migrating Geese returning to the Bay  
for another winter. ~~P.T.O.~~

I have included some pictures taken on our farm to illustrate that the farm is run in a neat and tidy manner. There are no oysters bags lying on the ground and any other debris that was shown by the objector is not our property.

The bags are secured by a long rope passed over them so that they do not come off the trestles. When these ropes are taken off they are rolled cleaned and rolled up as you can see in one of the pictures.

We will continue to operate our farm in this manner.













**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**