

Submission AGR 00774-19: Recommendation to refuse an Aquaculture and Foreshore Licence for 1 site (T12/541A)

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 (T12/541)

Executive summary

The Minister's determination is requested in relation to an application for an Aquaculture Licence from Cathal McCorkell, Cuan na Mara, Carrowtrasna, Greencastle, Co. Donegal. The application is for the cultivation of Pacific Oysters using bags and trestles on Site T12/541A, totalling 1.3288 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 Cathal McCorkell, Cuan na Mara, Carrowtrasna, 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 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 1.3288 hectare site

on the foreshore in Trawbreaga Bay Co. Donegal (numbered T12/541A– 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): The site is at a low level on foreshore at a level close to or just under the MLWS. The site dries only at very low spring tides. The south-eastern end of the site was in the low water channel and sloped off to deep water. The site directly adjoins two licensed sites where oysters have grown successfully on those slightly higher sites for a number of years. Site 541A seems to be physically suited to oyster culture. However the site is not well aligned as it extends beyond the line of existing oyster farm development by 70 to 110m. If the site is licensed it would introduce oyster culture closer to low water channel and into a more hydrodynamic area that the Department has been reluctant to recommend in the past. The Department in the interests of orderly development tries to ensure a reasonably good degree of alignment of the offshore boundaries of adjacent oyster sites while also minimising intrusion into the channel area and into areas of more mobile sands. Most of this site extends well beyond nearby licensed sites and would extend oyster culture to the main low water river channel which is a path for migratory salmonids and regularly used by angling boats. The existing clearway would be reduced by 30% if the site was allowed. The site area of 1.3288 hectares exceeds the maximum site area adopted by the Department in licensing shellfish aquaculture in this Bay to date (a uniform site area policy has been pursued in this Bay since the commencement of licensing and the recommendation followed is that an area of not more than approximately 0.9). To date the largest site granted has been less than 1.1ha.

The most 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).
- These reasons relating to orderly development applied some years ago to a similar application in the same area being refused.

For all these reasons MED recommends this application be refused.

Marine Survey Office (MSO): No objections to this application. The proposed site is required to be marked in accordance with the CLAMS/SUMS in the bay and conducive to safe navigation.

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.

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 8th August 2019. The application and supporting documentation were available for inspection at Carndonagh & Buncrana Garda Stations for a period of 30 days from the date of publication of the notice in the newspaper.

There were two objections 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 and the future development potential of another licenceholder in the area.

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:

- He will fully co-operate and follow all bio-security protocols. Triploid oysters will only be used unless stipulated by the Department.
- In relation to the impact on local tourism the public roads contain a series of bends and hills with obstructing vegetation to block the view of the site. Oyster farming has been promoting tourism in the area by allowing locals and visitors a firsthand chance to visit working oyster farms.
- With regards the photos supplied he does not believe they are a true representation of the bay as a whole as most farmers are operating their farms with respect for the local environment.
- With regard to the claim of another licence holder that this site if granted would affect their future development. The applicant noted that less than 50% of the proposed site is adjacent to only one of the other licenceholders sites and he

cannot see how it would affect the existing business.

CRITERIA IN MAKING LICENSING DECISIONS

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

a) the suitability of the place or waters

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

b) other beneficial uses of the waters concerned

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

c) the particular statutory status of the waters

(i) Natura 2000

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

(ii) Shellfish Waters

The site is 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 Cathal McCorkell, Cuan na Mara, Carrowtrasna, Greencastle, Co. Donegal. The reasons for the recommendation are:

- 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.
- The site would have negative impact on the passage of migratory fish passage and boats in the low water channel.
- The application is excessive in size of respect of past licensing policy and licensing of the site would not be in accordance with orderly development policy in place.

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 –T12/541

Cathal McCorkell has applied for authorisation to cultivate Pacific Oysters using bags and trestles on the inter-tidal and/or sub-tidal foreshore on a 1.3288 hectare site (T12/541A) 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: -

- 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.
- The site would have negative impact on the passage of migratory fish passage and boats in the low water channel.
- The application is excessive in size of respect of past licensing policy and licensing of the site would not be in accordance with orderly development policy in the bay.

Recommendation to Refuse a Foreshore Licence application (T12/541)

DECISION SOUGHT

The Minister's determination is requested please in relation to the application for a Foreshore Licence from Cathal McCorkell, Cuan na Mara, Carrowtrasna, 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 1.3288 hectare site (numbered T12/541A – 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): The site is at a low level on foreshore at a level close to or just under the MLWS. The site dries only at very low spring tides. The south-eastern end of the site was in the low water channel and sloped off to deep water. The site directly adjoins two licensed sites where oysters have grown successfully on those slightly higher sites for a number of years. Site

541A seems to be physically suited to oyster culture. However the site is not well aligned as it extends beyond the line of existing oyster farm development by 70 to 110m. If the site is licensed it would introduce oyster culture closer to low water channel and into a more hydrodynamic area that the Department has been reluctant to recommend in the past. The Department in the interests of orderly development tries to ensure a reasonably good degree of alignment of the offshore boundaries of adjacent oyster sites while also minimising intrusion into the channel area and into areas of more mobile sands. Most of this site extends well beyond nearby licensed sites and would extend oyster culture to the main low water river channel which is a path for migratory salmonids and regularly used by angling boats. The existing clearway would be reduced by 30% if the site was allowed. The site area of 1.3288 hectares exceeds the maximum site area adopted by the

Department in licensing shellfish aquaculture in this Bay to date (a uniform site area policy has been pursued in this Bay since the commencement of licensing and the recommendation followed is that an area of not more than approximately 0.9). To date the largest site granted has been less than 1.1ha.

The most 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).
- These reasons relating to orderly development applied some years ago to a similar application in the same area being refused.

For all these reasons MED recommends this application be refused.

Marine Survey Office (MSO): No objections to this application. The proposed site is required to be marked in accordance with the CLAMS/SUMS in the bay and conducive to safe navigation.

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 8th August 2019. The application and supporting documentation were available for inspection at Carndonagh & Buncrana Garda Stations for a period of 30 days from the date of publication of the notice in the newspaper.

There were two objections 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 and the future development potential of another licenceholder in the area.

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:

- He will fully co-operate and follow all bio-security protocols. Triploid oysters will only be used unless stipulated by the Department.
- In relation to the impact on local tourism the public roads contain a series of bends and hills with obstructing vegetation to block the view of the site. Oyster farming has been promoting tourism in the area by allowing locals and visitors a firsthand chance to visit working oyster farms.
- With regards the photos supplied he does not believe they are a true representation of the bay as a whole as most farmers are operating their farms with respect for the local environment.
- With regard to the claim of another licence holder that this site if granted would affect their future development. The applicant noted that less than 50% of the proposed site is adjacent to only one of the other licenceholders sites and he cannot see how it would affect the existing business.

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 Cathal McCorkell, Cuan na Mara, Carrowtrasna, Greencastle, Co. Donegal, for a site in Trawbreaga Bay, Co. Donegal having regard to the decision in relation to the Aquaculture Licence application. The reasons for the decision are

- 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.
- The site would have negative impact on the passage of migratory fish passage and boats in the low water channel.
- The application is excessive in size of respect of past licensing policy and licensing of the site would not be in accordance with orderly development policy in place.

Related submissions

There are no related submissions.

Comments

Farrell, Geraldine - 25/11/2019 11:14

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

OCallaghan, Grace - 25/11/2019 11:55

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

Quinlan, John - 25/11/2019 14:24

Refusal is recommended in this case.

Beamish, Cecil - 27/11/2019 12:37

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 12:38

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

Lennox, Graham - 29/11/2019 11:56

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

User details

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

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

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

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

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

USE BLOCK CAPITALS IN BLACK INK PLEASE

For Office Use

Application Ref. No. T12/541

Date of Receipt (Dept. Stamp):



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

PART 1: PRELIMINARY DETAILS

Applicant's Name(s)	
1.	<u>CATHAL MC CORKELL</u>
Address:	<u>CUAN NA MARA CARROWTRASNA GREENCASTLE CO DONEGAL</u>
2.	
Address:	
3.	
Address:	
4.	
Address:	

Contact in case of enquiries (if different from above)	
Contact Name	
Organisation Name (if applicable)	
Address	

PART 1: PRELIMINARY DETAILS

TYPE OF APPLICATION – please indicate relevant type of application	
This Application Form is valid for each type of application - <i>See Guidance Note 3.1</i>	
(i) Aquaculture Licence	<input checked="" type="checkbox"/>
(ii) Trial Licence	<input type="checkbox"/>
(iii) Foreshore Licence, if Marine Based	<input 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: TRAWBREAGA BAY
- (ii) County: DONEGAL
- (iii) OS Map No: PLEASE SEE ATTACHED
- (iv) Co-ordinates of Site: (please specify coordinate reference system used e.g. Irish Grid (IG) or Irish Transverse Mercator (ITM) or Latitude/Longitude [in which case specify whether ETRS89 or WG84 etc.] IRISH NATIONAL GRID
244600 450453 244620 450376
244650 450400 244687 450307
244607 450286 244519 450377
- (v) Size of Site (hectares): 1.3288

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

Pacific oysters ((CRASSOSTREA GIGAS) ~~NON-NATIVE~~

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

Inter-tidal

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

THE SEED WILL BE BROUGHT IN FROM FRANCE, FROM A HATCHERY LOCATED IN POLDER DU DAIN, BOLLIN FRANCE, COLLECTED BY LORRY AND PUT IN GROW BAGS FOR PLACEMENT ON TRESTLES AT LOW TIDE BY HAND

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

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

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

~~100 TRESTLES + 600 BAGS~~
100 TRESTLES + 600 BAGS

(xi) Proposed Production Tonnage:

Year 1	10	Year 2	15	Year 3	20	Year 4	25	Year 5	30
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(xii) (a) Please outline the reasons for site selection:

THE SITE HAS A VERY STABLE TOP ON IT WHICH IS VERY IDEAL FOR PLACEMENT OF TRESTLES AND IS EASY ACCESSED FROM THE SHORE. (GOOD FIRM GROUND)

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

N/A NONE

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

N/A

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

2.2A DOCUMENTATION REQUIRED FOR MARINE-BASED SHELLFISH AQUACULTURE

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

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

NOW COMPLETE PARTS 2.6, 3, 4 AND 5 PLEASE

PART 5: DECLARATION AND SIGNING

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

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

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

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

Cathal MC CORKELL

Date: 18 / 12 / 18

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

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

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

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

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

1 NO. SITE AT TRAWBREAGA BAY CO.DONEGAL

Co-ordinates & Area

Site T12/541A (1.3288 Ha)

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

244600, 450453 to Irish National Grid Reference point
244650, 450400 to Irish National Grid Reference point
244620, 450376 to Irish National Grid Reference point
244687, 450307 to Irish National Grid Reference point
244607, 450286 to Irish National Grid Reference point
244519, 450377 to the first mentioned point.

244000

245000

451000

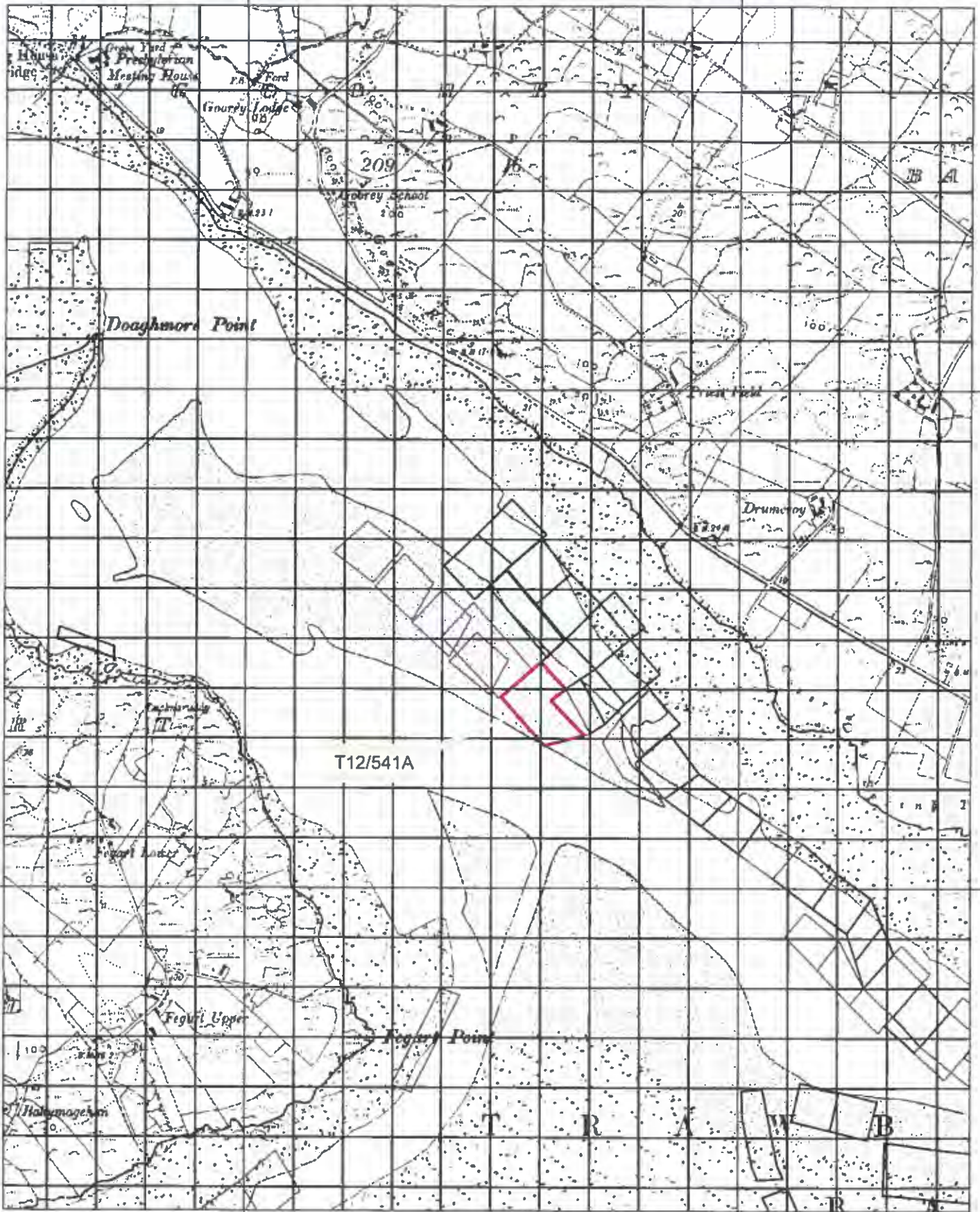
451000

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

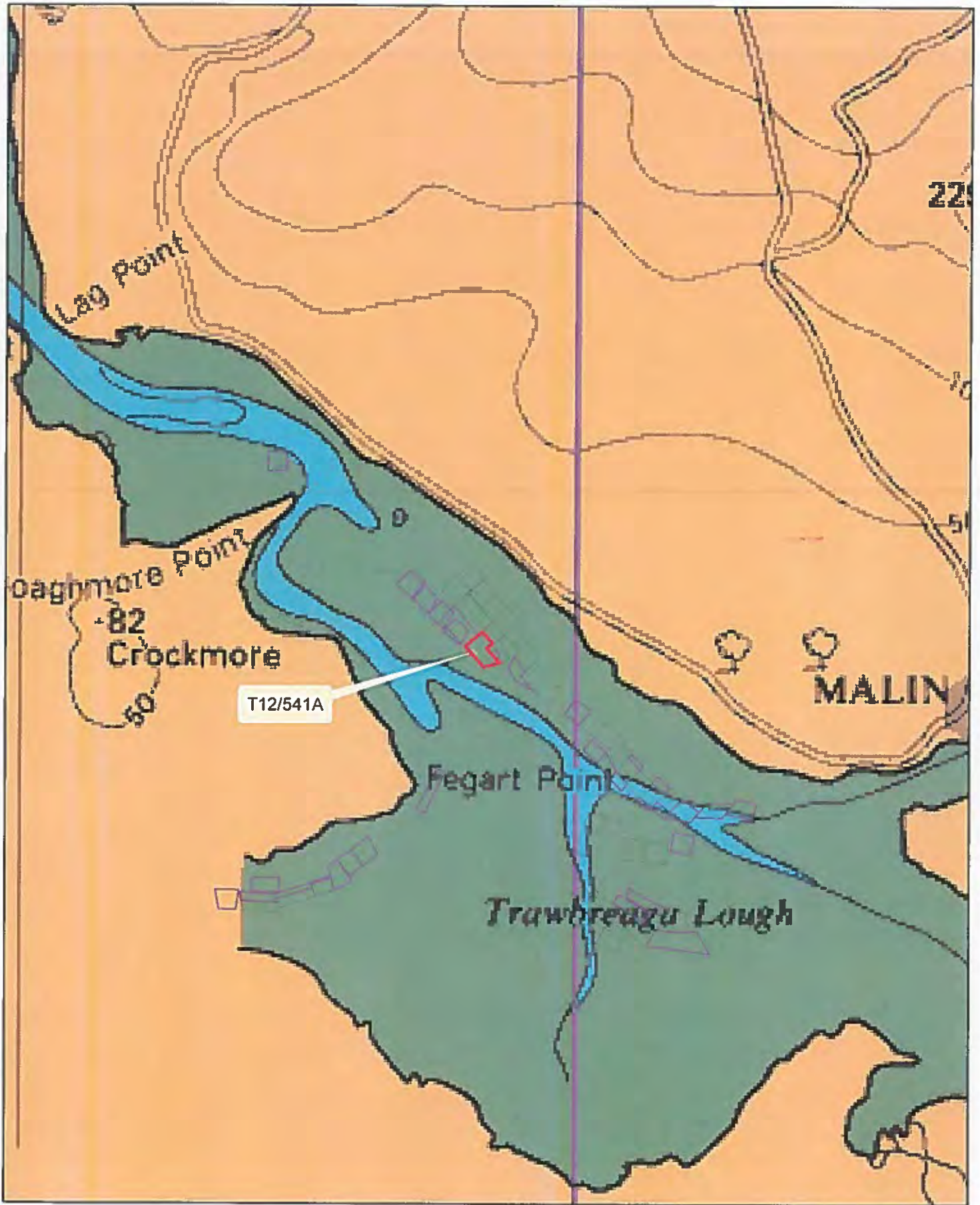
1:10,560

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



Aqua Culture Sites
<all other values>

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

1:24,000

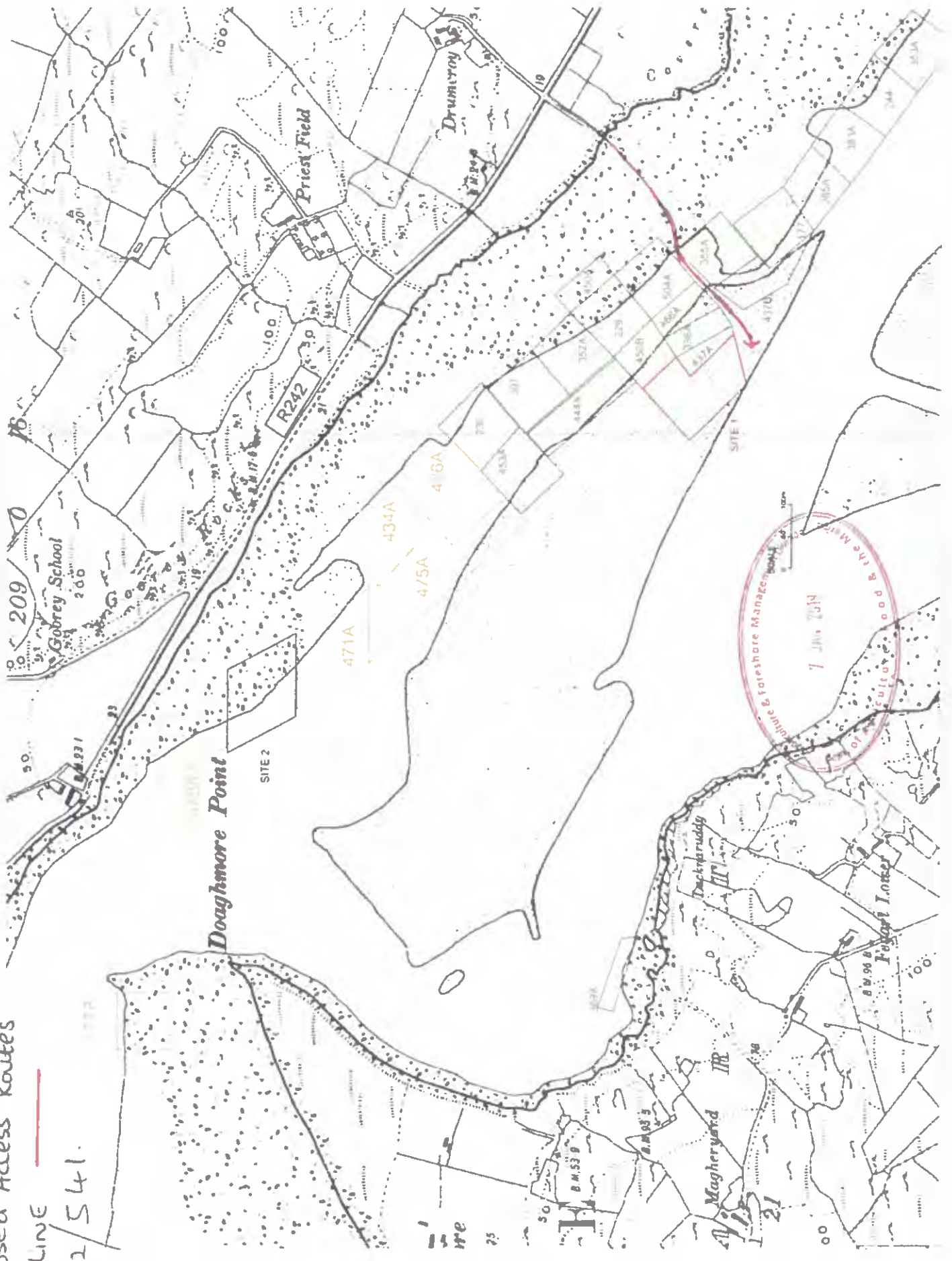
Sites highlighted in red denotes Application

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



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

2147
Proposed Access Routes
Red line
T12/S41.



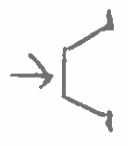
T12/541.

STRUCTURES TO BE USED

1:100



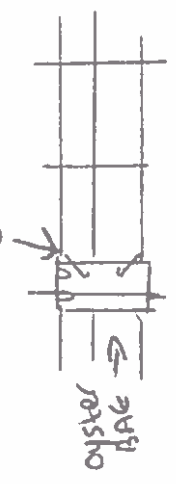
Top of basket



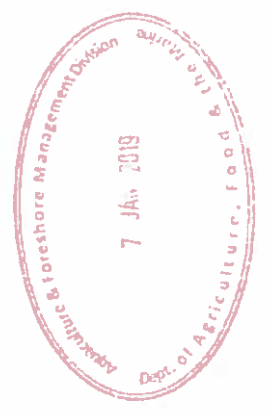
Side Elevation

END Elevation

Oyster hook + rubber



Bird's eye view plan



T12/541.



SCALE
 0 50 100m

SITE 1

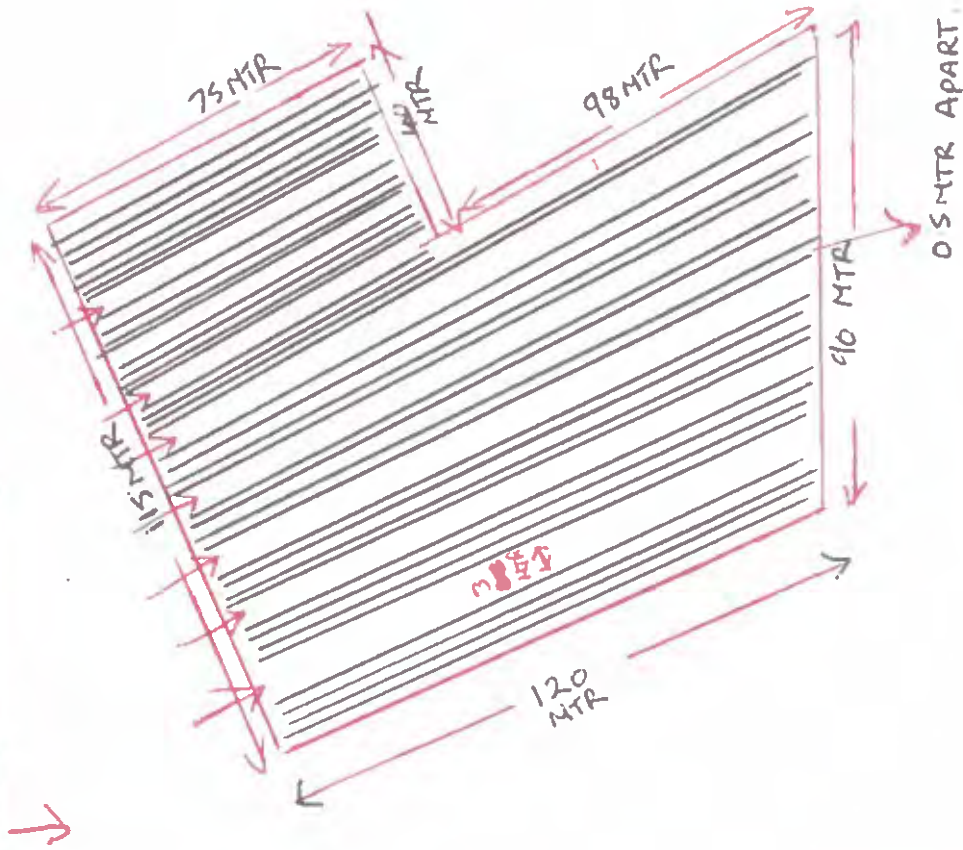


T12/541. FARM LAYOUT

SITE 1

SCALE 1:200

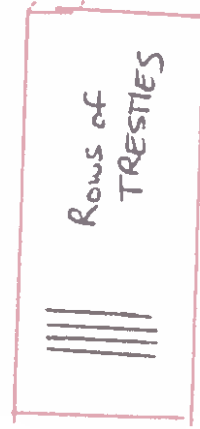
Access road for tractor.

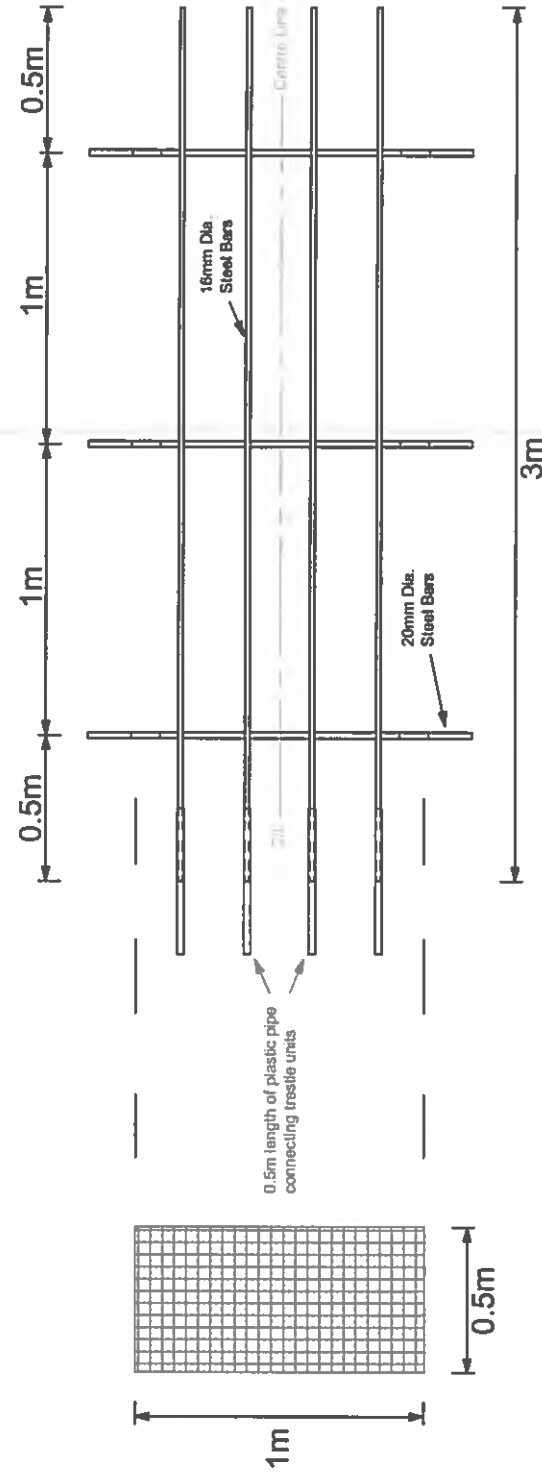
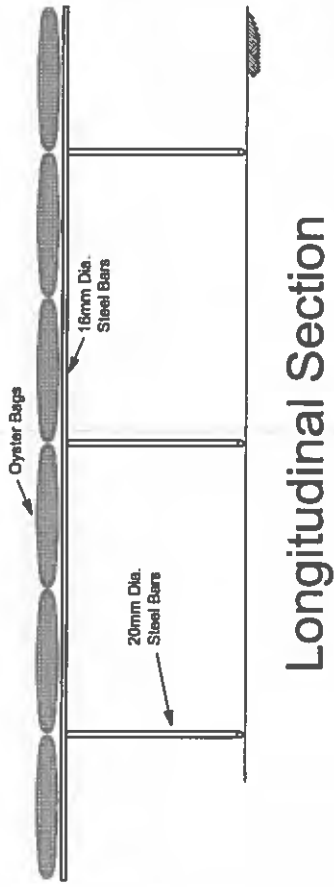
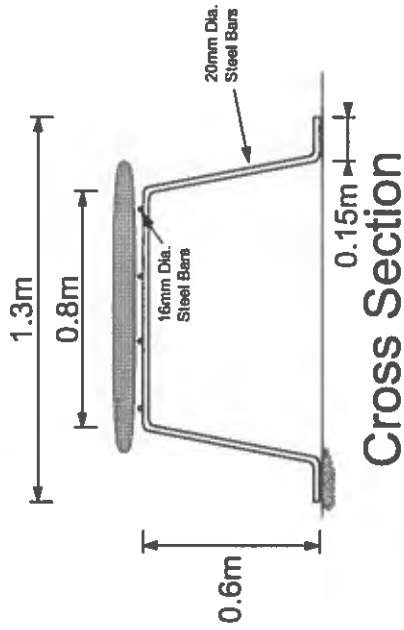


38 Rows of trees
All in blocks of 4

Each Row APPROXIMATELY
0.5 MTR APART.

Access Roads 3 MTR APART.





Typical Oyster Bag

Note: Each oyster bag should be secured to trestle

Title: Oyster Trestle Detail

Scale 1:25

Date: 01/01/2011

Mr Campbell, Divisional Engineer

BJE 9/8/19

Ms Farrell, AFMD

RE: Aquaculture licence application for suspended oyster culture using trestles on a site at Trawbreaga Bay, Co. Donegal by Cathal McCorkell.

File ref: T12/541

Ms Maher's memo of 22/1/19 refers

Application background

The applicant Mr Cathal McCorkell has oyster farm experience having worked on the oyster farm of John McKinney in Trawbreaga Bay for a few years. This application is for a single site 541A (area 1.3288 hectare) located in centre north of the Bay [REDACTED]

Site inspection

On 4/7/19 I inspected application site 541A on a low spring tide. The site is at a low level on foreshore at a level close to or just under MLWS. The site dries only on very low spring tides.



View of site 541A from northwest boundary -- looking to southeast

4/7/19

The site measures some 150m in length from northwest to south east (as aligned with the main low water channel alongside). Most of the site is intertidal or shallow sub tidal. The south-eastern end of the site (the final 9m length) was in the low water channel and sloped off to deep water.

Substrate on the main intertidal part of site 541A was firm sand. It was clear of obstructions and of mostly even profile. On the intertidal parts of the site there was a very shallow gradient to the southwest and to the southeast.

The site directly adjoins two licensed sites which are developed for trestle based oyster culture – sites [REDACTED]. Oysters have been grown successfully on those slightly higher sites for a number of years.

Application site 541A seems to be physically suited to oyster culture – in particular for seed and juvenile oyster culture (due to relatively low elevation of this site).

Site position relative to other oyster farm development

The site is not well aligned with existing oyster farm development on this shore. It extends beyond the line of existing oyster farm development by 70 to 110m. If site 541A is licensed it would introduce oyster culture closer to low water channel and into a more hydrodynamic area that the Department has been reluctant to recommend oyster farm development on in the past. The Department in the interests of orderly development has attempted to ensure a reasonably good degree of alignment of the offshore boundaries of adjacent oyster sites in the past. It sought in licensing decisions to minimise intrusion into the channel area (for fishing beneficial usage and hazard to navigation/ marking reasons) and into areas of more mobile sands (potential negative impacts on erosion and sediment movement patterns and on pre-existing inshore aquaculture development). Only the northern corner of site 541A would be in alignment with neighbouring licensed site area. Most of the site extends well beyond nearby licensed sites and this is a disadvantage with the proposal.

Application supporting documents

Layout drawings, access route maps and trestle structure drawings were provided by the applicant in support of the application and are adequate for consultation purposes. The layout provided shows trestle rows aligned NW to SE and full coverage of the site. The trestle type proposed is a 4m long 0.6m high trestle fitted with horizontally tied on oyster bags.

Potential impacts on other beneficial usages

Natura 2000

Site 451A is located in Natura 2000 areas (it is 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 sites. On inspections of the Bay area I have noted there is a seal haul located on south bank of main low water channel – less than 250m south of site 451A (see image overleaf).

Amenity

The foreshore area at this site does not have significant amenity usage at present.



Fishing

Trestles on this site could have some minor impact on ease of passage of migratory salmonids through the channel alongside. The clearway currently available at this point at low water would be narrowed from 230m to 160m (reduction of 30%) – this is the unobstructed width of the estuarine channel of the Donagh and Glenagannon rivers. In itself this narrowing of the clearway width is not grounds for application refusal but it is a disadvantage of the proposal.

The site development would reduce available ground for crab potting activity in the area to a small degree.

Visual impact

Trestles on site 541A would have only limited visibility from the R242 public road as they are partly screened from road viewpoints by roadside buildings and by the existing semi continuous development of oyster trestle rows parallel to the low water line alongside the site on its northern boundaries. Trestles on the site would be visible at low tidal stages from foreshore within the Bay but visual sensitivity from foreshore/marine viewpoints would be moderate rather than high. I do not anticipate a substantial visual impact or a substantial landscape impact arising from proposed oyster farm development on site 541A.

Navigation

The sites as proposed would extend oyster aquaculture closer to the main low water river channel which is regularly 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. Poor

alignment of site 541A with other aquaculture on this shore would be a disadvantage in this respect as the favoured approach is to have a common offshore boundary line marked for ease of recognition and use by mariners.

As noted in relation to migratory fish movement, the development of 541A with full coverage by trestles would result in a reduction in existing clearway width by some 30% - so disadvantageous to boat users if not critically so.

Orderly development considerations

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

The site area of 1.3288 hectares exceeds the maximum site area adopted by the Department in licensing shellfish aquaculture in this Bay to date (a uniform site area policy has been pursued in this Bay since the commencement of licensing and the recommendation followed is that an area of not more than approximately 0.9 hectares be licensed in response to an application by any individual or company). Applicants are encouraged to apply for areas of that size or less. In order to be consistent with the licensing policy for Trawbreaga Bay it would be important that not more than 0.9 ha is licensed in this case.

Note that the applicant has submitted two applications at the same time - T12/541 and [REDACTED]. It probably is not in keeping with the established licensing policy to licence two site areas exceeding a cumulative area of 0.9 hectare to the same applicant when multiple applications are submitted simultaneously in this manner. AFMD might consider whether it would be appropriate to licence a maximum area of 0.9 ha (combined) from both applications submitted.

2) Potential negative impact on inshore licensed sites

This is the main difficulty with the application.

Background note – application site 541A is similar in outline to original application site [REDACTED]. Application [REDACTED] by an established operator [REDACTED] was originally for a site area of 1.6 hectares – this had to be reduced to a licensed site of 0.4 hectares only – the main reason for the reduction was that most of application site [REDACTED] was located on the channel side of somebody else's licensed site [REDACTED] [REDACTED]). To avoid compromising the other oyster farm operations and potential for later development it was recommended (in 2012) that site [REDACTED] be reduced only to the part (0.4 ha) that adjoined [REDACTED] own licensed site [REDACTED].

This current application is similar to that previous application – not only is it similar in shape and location to application site [REDACTED] but also it shares with that application the fact that as applied for it is located on the channel side of oyster farm area already licensed to others – in this case being on the channel side of two oyster farm blocks - site [REDACTED] B licensed to Danny Porteous and site [REDACTED] licensed to [REDACTED].

That the proposed development site 451A is directly "in front of" sites already licensed to other farmers is a major problem. The inshore farm sites would I expect be adversely impacted by the proposed development 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). Furthermore the proposed development on their offshore boundary would limit their scope for future expansion seaward in the future (towards low water line). These reasons relating to orderly development applied some years ago to a similar application in the same area. This constitutes strong grounds for refusal of application T12/451 in my view.

Conclusion

Appropriate assessment would be required.

The site applied for if licensed would have some negative impact on ease of fish passage and boats in the low water channel adjoining the site.

The application is excessive in size in respect of past licensing policy.

Development of application site 451A would have negative impacts on the operations and further development potential of two existing licensed oyster farms adjoining the site. The licensing of the site would not be in accordance with orderly development control. The licensing of the site would not be in accordance with a previous licensing decision made on this same area of the Bay

Principally because licensing application site 451A for oyster culture would not be in keeping with orderly aquaculture development control in this Bay I recommend that the application be refused.

Paul O'Sullivan

Paul O'Sullivan

7/8/19



22nd January 2019

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

Our Ref: T12/541 – Cathal McCorkell

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

Please may I have your observations as soon as possible.

Yours sincerely

Eileen Maher
Eileen Maher
Aquaculture and Foreshore Management Division

Ph. 023 8859505

Email: Eileen.Maher@agriculture.gov.ie





AN t-ÚDARÁS UM
CHOSAINT
IASCAIGH MHARA

SEA-FISHERIES
PROTECTION
AUTHORITY

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

Aquaculture & Foreshore Applications: T12 541 [REDACTED] - Trawbreaga Bay

Dear Karen,

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

Date: 26.02.2019

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

Fishery Harbour Centre,
The Pier,
Killybegs,
Co. Donegal

T +353 74 9731264
F +353 74 9731819
E killybegs@sfpa.ie

www.sfpa.ie

VAT No. IE 9655672K

Maher, EileenM

From: O'CALLAGHAN Tom [TomOCallaghan@dtas.gov.ie]
Sent: 02 April 2019 13:22
To: Maher, EileenM
Cc: Coakley, John; neil.askew@irishlights.ie; louise.collins@bim.ie
Subject: T 12 541, Oysters for Cathal McCorkell in Trawbrega Bay. Our ref: 18826

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Dear Ms Maher,

This office has no objections to the above application.

The proposed site is required to be marked in accordance with the CLAMS/SUMS in the bay and conducive to safe navigation.

Kind regards

Tom O'Callaghan (Capt.)
Nautical Surveyor
Marine Survey Office

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

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

—
T +353 (0)21 602 6323 Mob +353 87 7427712
tomocallaghan@dtas.gov.ie www.dttas.gov.ie

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

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

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Commissioners of
IRISH LIGHTS | Navigation
and Maritime
Services

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

Your Reference: T12/541
Our Reference: LA:0398.6012
Date: 23/01/2019

LL: LA 0398.6012
Applicant: Cathal McCorkell
Site: Trawbreaga Bay, Co. Donegal

Dear Ms Maher,

Thank you for your letter advising us of this application.

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

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

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

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

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

Furthermore, if a licence is granted, the UK Hydrographic Office at Taunton: sdr@ukho.gov.uk 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

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Eileen

MI comments on the aquaculture licence applications in Trawbreaga Bay attached

Terry

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

Sent: 02 August 2019 13:53

To: 'naturalenvironment@antaisce.org'; ocarroll; 'murphym@bim.ie'; 'harry.duggan@irishlights.ie'; 'fem.dau@ahg.gov.ie'; 'fem.Dau@chg.gov.ie.'; 'foreshore@housing.gov.ie'; 'planning@failteireland.ie'; 'mary.larkin@fisheriesireland.ie'; Terry McMahon; 'danny.obrien@housing.gov.ie'; 'foh@udas.ie'; 'planning@donegalcoco.ie'; 'cathal.sweeney@donegalcoco.ie'; 'dallaghan@bim.ie'

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

Colleagues,

In accordance with Section 10 of the Aquaculture (Licence Application) Regulations, 1998 (SI No. 236 of 1998), you are hereby notified that this Department has received aquaculture licence applications from those on the attached table for permission to carry out aquaculture activities on 14 sites (see attached table for details) in Trawbreaga Bay, Co.Donegal. Details of the applications and all other relevant documentation may be viewed on the Department's website at:

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

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

Kind Regards,

Eileen Maher

Aquaculture and Foreshore Management Division

An Roinn Talamhaíochta, Bia agus Mara

Department of Agriculture, Food and the Marine

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

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

T +353 (0)23 885 9505

www.agriculture.gov.ie

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Department of Agriculture, Food and the Marine

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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	Cathal McCorkell
Application type	New
Site Reference No	T12/541A
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 T12/541A on the foreshore at Trawbreaga, Co. Donegal. The area of foreshore at Site T12/541A is 1.3288Ha.

Site T12/541A is Located within the Trawbreaga Bay Shellfish Growing Water Area.

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

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

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

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

Site T12/541A 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^{2,3} and the Department's draft

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

² <https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessments/donegal/1NorthInishowenSACandTrawbreagaSPA.AAJuly2019Report300719.pdf>

³

³ <https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessments/donegal/2AnnexIITrawbreagaSPA.AAJuly2019300719.pdf>

Natura conclusion statement⁴ in regard to the impacts on the Conservation Objectives within the Trawbreaga Bay SPA and the North Inishowen Coast SAC. In making the final determination with respect to this application it is recommended that DAFM take full account of the conclusions and recommendations of the Appropriate Assessment reports and the mitigation measures set out in the Department's Natura Conclusion Statement.

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

In order to be able to assess and manage the potential risk of the introduction of invasive non-native species the MI recommends that the initial source of seed and other sources which may be used at any point in the future should be approved by the Minister. This approval should be a specific condition of any licence that may issue. It should be noted that the control of alien species is a separate issue to the control of diseases in the context of the current Fish Health legislation.

Notwithstanding the recommendation outlined above, and in the event that an Aquaculture Licence is granted, the movement of stock in and out of the site should follow best practice guidelines as they relate to the risk of introduction of invasive non-native species (e.g. [Invasive Species Ireland](#)). In this regard it is recommended that, prior to the commencement of operations at the site, the applicant be required to draw up a contingency plan, for the approval of DAFM, which shall identify, *inter alia*, methods for the removal from the environment of any invasive non-native species introduced as a result of operations at this site. If such an event occurs, the contingency plan shall be implemented immediately.

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

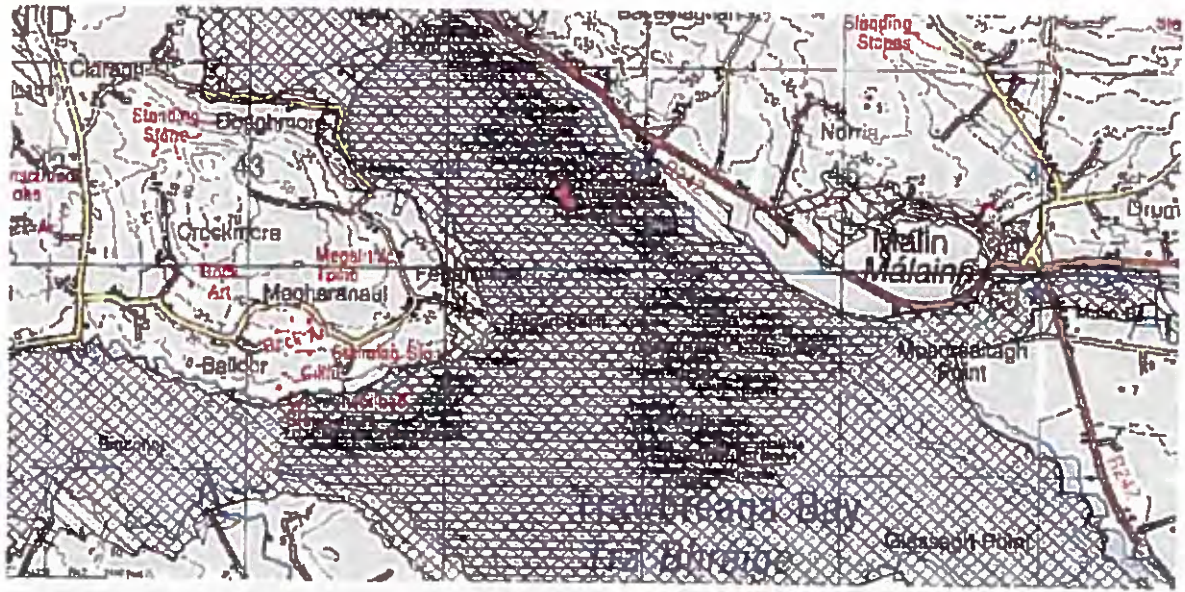
It is statutory requirement that a Fish Health Authorisation as required under Council Directive 2006/88/EC be in place prior to the commencement of the aquaculture activities proposed.

Kind regards,



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

⁴
<https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessmentconclusionstatement/2019new/DraftConclusionStatement310719.pdf>



Shellfish Waters Directive Area


Aquaculture Site


Special Area of Conservation


Special Protection Areas


Maher, EileenM

From: Kelleher, Evan
Sent: 19 August 2019 10:37
To: Maher, EileenM
Cc: Farrell, Geraldine
Subject: FW: Trawbega Bay Aquaculture Applications
Attachments: New Licence Cathal Mc Corkell T12_541A.docx; New Licence Cathal Mc Corkell T12_542A.docx; New Licence Daniel McGonigle T12_511A.docx; New Licence Daniel McGonigle T12_547A.docx; New Licence Hurrikayn 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

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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

Web 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

Web www.fisheriesireland.ie

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

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

New Aquaculture and Foreshore Application for Cathal Mc Corkell, Cuan Na Mara, Carrowtrasna, Greencastle, Co Donegal

Reference Number: T12/541A

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 1.3288 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.

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

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

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

The 2016^[1] and 2019^[2] 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^[3] 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^[4] 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, Oldhreachta agus Gaeltachta

Department of Culture, Heritage and the Gaeltacht

Aonad na nIarratas ar Fhorbairt

Development Applications Unit

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

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

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

^[3] 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)

^[4] 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

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Eileen,

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

Regards,
Jade

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Donegal County Council will be implementing EIRCODES in our communications. These are the codes for the Public Services Buildings: Lifford HQ F93 Y622, Letterkenny F92 TNY3, Milford F92 TD0P, Carndonagh F93 YV1N, Dungloe F94 H4CF & Donegal Town F94 DK6C.

Beidh an c?ras EIRCODE ? chur i bhfeidhm ag Comhairle Contae Dh?n na nGall in?r gcuid cumars?id?. Seo iad a leanas na c?id do na hIonaid Seirbh?se Poibl?: Leifear F93 Y622, Leitir Ceanainn F92 TNY3, Baile na nGall?glach F92 TD0P, Carn Domhnach F93 YV1N, An Cloch?n Liath F94 H4CF agus Baile Dh?n na nGall F94 DK6C.



Email response

11/09/2019

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

Re: Applications for Aquaculture Licences in Trawbrega Bay

Dear Eileen

I wish to refer to the Aquaculture Licence applications received by this office on the 2nd 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 report¹ 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 2018² 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>

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+353 1 454 1786 | info@antaisce.org

year, yet only 9 of these determinations are advertised on the DAFM website³. 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]

3

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

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

Furthermore, the NPWS guidance outlines that disturbance is defined as that which leads to a change in the characterising species of the habitat (which may also indicate change in structure and function). Such disturbance may be **temporary or persistent** in the sense that change in characterizing species may recover to pre-disturbed state or may persist and accumulate over time. Yet on page 26 on the SAC report it is outlined that:

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

And on page 29 it is outlined that:

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

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

3. Reasonable doubt

The SAC report reaches the conclusion of no impact based on published literature:

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

However, An Taisce would highlight that the licensing authority need to be able to conclude beyond reasonable doubt that the QI communities will not be disturbed. , as outlined in the ECJ ruling for C-404/09 [Commission v Spain] which held that "[a]n assessment made under Article 6(3) of the Habitats Directive cannot be regarded as appropriate if it contains gaps and

lacks complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the SPA concerned." [An Taisce emphasis]

Similarly, the court held in the case of the Commission v Italy that "*assessment must be organised in such a manner that the competent national authorities can be certain that a plan or project will not have adverse effects on the integrity of the site concerned, given that, where doubt remains as to the absence of such effects, the competent authority will have to refuse permission.*" (C304/05. Para 58) [An Taisce emphasis]

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

4. Bird Displacement

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

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

And:

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

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

It is further outlined in the AA conclusion statement that:

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

An Taisce submit that this conservative, precautionary approach is implicit in the Habitats Directives, outlined in the Commission's COM (2000) 1 final 'Communication from the

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

5. Triploid Oysters

In the AA conclusion statement it is outlined that:

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

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

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

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

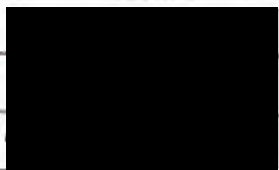
Is mise le meas,



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

Cuan na Mara
Carrowtrasna
GreenCastle
Co Donegal
23/9/19

To whom it May Concern,

RE. Application no T12/541 

With reference to your letter dated 19/9/19

I wish to make the following points in relation to comments received.

- I will fully Co-operate and follow all bio-Security protocols on the farm to ensure no disease's or non-native species are introduced
- I will mark all sites with navigational markers/buoys.
- I will use only Triploid oyster's unless otherwise specified by the department.
- I will take all necessary steps to not interfere with the passage of migrating Salmon / sea trout

In relation to the impact on local tourism and the aesthetic of the wild Atlantic Way the public road contains a series of bends and hills with obstructing vegetation along this road including a continuous white line in most parts which the road also does not have a hard shoulder or any area adjacent

to the proposed sites to pull in to view this particular part of the bay therefore would have no impact on the aesthetics.

In relation to the tourism aspect other areas for eg. Donegal bay, Sligo, Connemara and Carlingford Lough have promoted and enhanced tourism in the area in conjunction with the oyster farming industry by offering tourists and locals a first hand chance by experiencing a visit to a working oyster farm,

with reference to the wild atlantic way's promoting website they are using shellfish eg. oyster farming, Mussels as part of the experience to pull in visitors to the area which in turn would benefit local businesses and the community.

Also there is a number of oyster farming businesses listed on the wild atlantic way's promoting website therefore I see this as a positive towards tourism and not taking away from it in any way.

In relation to the photos that were supplied, I do not believe that these are a true representation of the bay as a whole. I would like to point out that most farmers in the bay are operating their farms with respect to the local environment.

As I am currently an employee on a well respected family run oyster farm for the last number of years

I now believe with the experience/skills and knowledge that I have obtained in this period to harvest the fine oysters that trawbeaga bay has produced over the years

The oysters that come from this bay are of the very finest quality and standard, having worked with the sea all my life this is an area that I have a real passion for and I am hoping to focus on.

I hope this clarifies any queries and if any additional information is required please do not hesitate to contact me.

Looking forward to hearing from you soon.
kind regards.

Cathal Mc Corkeell

CATHAL MC CORKEELL

Cuan na Mara
Carrowtrasna
Green Castle
Co Donegal

25/9/19

To whom it may Concern,

In relation to your email I received on the 24/9/19 regarding the objection from [REDACTED] concerning my application for site no T12/1541

I strongly disagree that this would impact the future development of [REDACTED] as $\leq 50\%$

of this proposed site is adjacent to only one of [REDACTED] smaller sites, therefore in my opinion I cannot see how it would affect his future development.

There is currently a proposal for [REDACTED] other sites adjacent to this proposed site which I did not feel any need to object to as I could not see that it would affect my future development therefore I struggle to understand how [REDACTED] feels that this proposal is going to have a negative affect on his future development.

p.t.o

I Strongly hope that the department
will Consider approval for this proposed
Site as I have a real passion for
the Job and would love to be given
the opportunity.

Looking forward to hearing from you Soon

yours respectfully

Cathal MC Corkell

Mr Campbell, Divisional Engineer

BJL 12/10/19.

Ms Maher, AFMD

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

541,

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

An Taisce 12/9/19

Point 1 - Discrepancy among reports

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

Point 2 – Percentage of Habitat Affected.

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

Point 3 – Reasonable doubt.

This relates to the published literature referenced and the level of reliance that may be put on it. These references to *Forde et al* and *Carroll et al* regarding trestles and bags being considered non-disturbing etc. have been referenced in many other AAs completed to date. The word 'suggest' has been used in this context in other AAs produced by the Marine Institute for DAFM. It's a judgement call for Marine Institute as to whether there is other reliable technical literature out there that might conflict with these sources or whether the sources are considered sufficiently authoritative (by MI) at this time.

Point 4 - Bird Displacement.

These biological/technical points are best addressed by Marine Institute.

Point 5 -Triploid oysters

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

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

DCHG (Development Applications Unit) 11/9/19

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

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

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

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

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

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

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

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

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

Inland Fisheries Ireland (IFI) 19/8/19

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

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

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

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

██████████ 26/8/19

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

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

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

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

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

20/8/19

██████████ is licensed to grow oysters inshore of application site 541A and has grown oysters in that area of the Bay for 20 years plus. His objection on basis of orderly development is valid in my opinion . I have referred to the potential negative impact on inshore licensed sites in my report dated 7/8/19 on application T12/541.

Paul O'Sullivan

Paul O'Sullivan

11/10/19

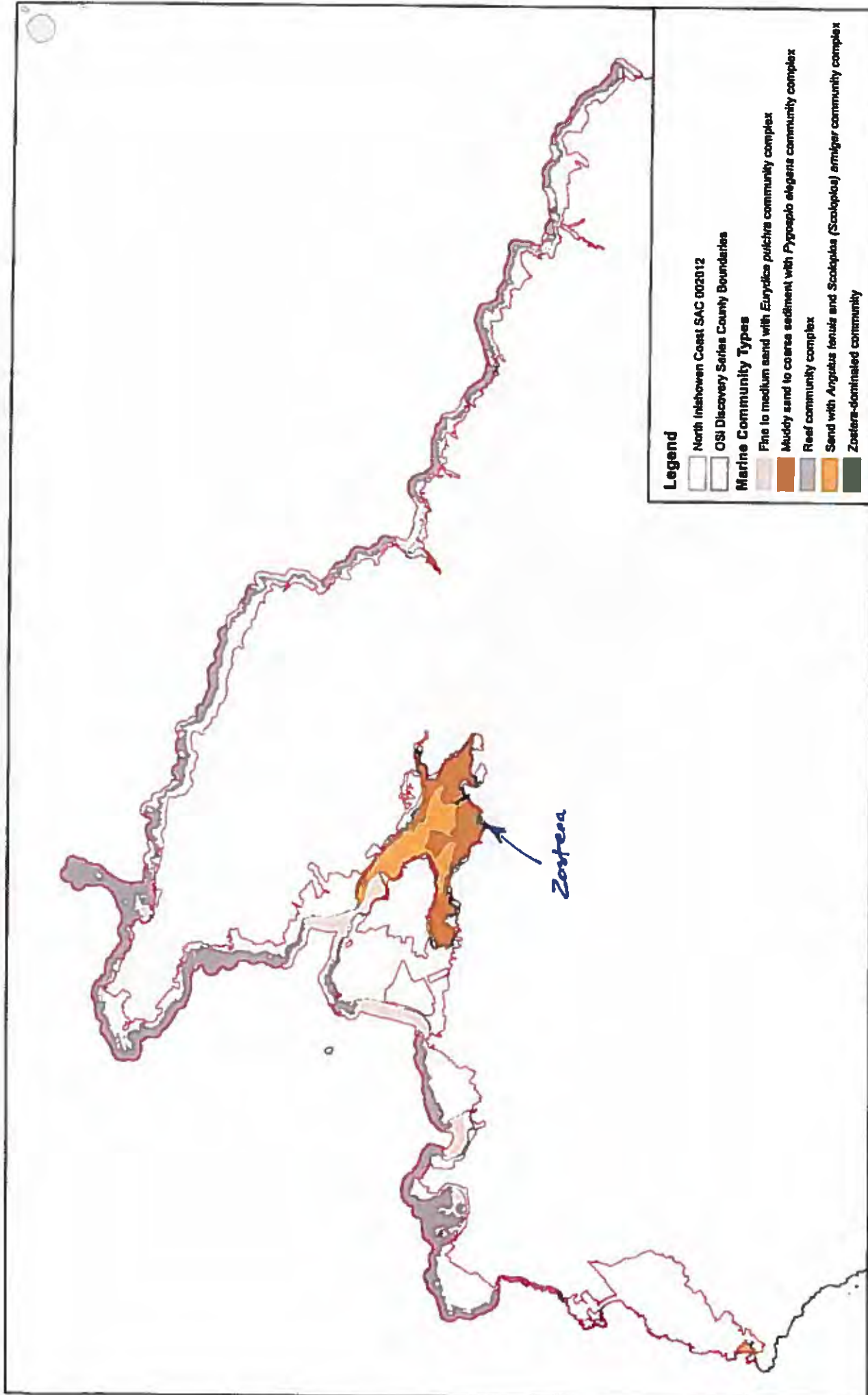
National Parks and Wildlife Service

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 *Euryclia plicata* 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 regional boundaries are of an indicative and general nature only. Boundaries of designated areas are subject to revision. Ordnance Survey of Ireland License No. ESI 0282714. © Ordnance Survey of Ireland. Commission of Ireland. All sea topographical and sea level data are derived from the Ordnance Survey of Ireland. All sea level data are derived from the Ordnance Survey of Ireland. All sea level data are derived from 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 SAC's Conservation Objectives Document.

As Made Available by the Department of the Environment, Heritage and Local Government

OSullivan, Paul

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

Follow Up Flag: Follow up
Flag Status: Flagged

Paul,

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

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

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

Kind Regards,

Eileen Maher
Aquaculture and Foreshore Management Division

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

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

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

Date: October 8th, 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 (12th 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 access the current status of the bay and its constituent communities and also its continuing suitability for the intertidal culture of oysters at the present and proposed levels. The findings of these two pieces of work should then be used to inform an updated AA, based on the best available scientific information.

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

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

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

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

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

Date: October 8th, 2019

To: Eileen Maher - AFMD

From: Francis O'Beirn, Marine Institute

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

Re: An Taisce comments on aquaculture licence applications in Trawbreaga Bay (12th 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 report¹ 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 2018² it was outlined that:

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

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

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

2. An Taisce Observations: Percentage of Habitat Affected

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

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

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

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

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

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

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

Furthermore, the NPWS guidance outlines that disturbance is defined as that which leads to a change in the characterising species of the habitat (which may also indicate change in structure and function). Such disturbance may be temporary or persistent in the sense that change in characterizing species may recover to pre-disturbed state or may persist and accumulate over time. Yet on page 26 on the SAC report it is outlined that:

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

And on page 29 it is outlined that:

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

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

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

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

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

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

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

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

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

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

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 8th, 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.

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