

Title

Recommendation to Grant an Aquaculture and Foreshore Licence for 1 site (T32/27)

Action Required

Ministerial Determination on Aquaculture/Foreshore Licensing Application (T32/27)

Executive Summary

The Minister's determination is requested in relation to an application of an Aquaculture Licence from Irish Mussel Seed Company Ltd., 22 Church View, Arklow, Co Wicklow. The application is for the collection of mussel spat using longlines on Site T32/27, totalling 65.996 ha. on the foreshore in an area between Clogga Bay and Kilmichael Point, Co. Wicklow.

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 be granted for the reasons outlined in the 'Detailed Information' section below.

Recommendation to grant an Aquaculture Licence (T32/27)

DECISION SOUGHT

The Minister's determination is requested please in relation to an application for an Aquaculture Licence from Irish Mussel Seed Company Ltd, 22 Church View, Arklow, Co Wicklow, for a site in an area between Clogga Bay and Kilmichael Point, off the coast of Co. Wicklow.

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

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 collection of mussel spat using longlines in relation to a 65.996 hectare site on the foreshore in an area between Clogga Bay and Kilmichael Point, off the coast of Co. Wicklow (numbered T32/27 – see **TAB A**).

LEGISLATION

Section 7 of the Fisheries (Amendment) Act 1997 provides that the licensing authority (i.e. Minister, delegated officer or, on appeal, the Aquaculture Licences Appeals Board) may, if satisfied that it is in the public interest to do so, licence a person to engage in aquaculture.

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: Marine Engineering Division has no objection to this application subject to the following recommendations.

- Due to the exposed nature of this location, the site must be operated and maintained as set out in the application documentation including the Code of Practice - see **TAB C**
- Records of operation and maintenance of the site should be provided on request to the Department.
- Any change to the management and operation of the site from that outlined in the application documentation must be approved by the Department prior to being implemented.

Marine Survey Office: Requested that additional buoyage at a focal point be required on the North, South and West perimeter of the site (one extra buoy at the mid-point north and south and two extra buoys on the west side).

Sea Fisheries Protection Authority:

- Wild fisheries and sea fishing operations may be restricted within the proposed area.
- Notes that the area is neither a designated shellfish growing area nor molluscan production area. Furthermore no information exists regarding the biotoxin or contaminant levels that are present in the area.

Irish Mussel Seed Company has worked with local fishermen and the Commissioner of Irish Lights to ensure the least impact on local fishing and navigation. As a result the site was moved further south than originally planned.

With regards to biotoxin issues, the mussel cultivated are seed mussel and not for direct human consumption. They will be fully grown on other sites around Ireland.

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: Considering the nature, scale and location of the proposed aquaculture activity, 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 T32/27 is not located in a Natura 2000 site but within 15km of Kilpatrick SAC and Buckroney-Brittias Dunes and Fen SAC. The Marine Institute is of the view that there will be no adverse impact on sensitive habitats or species in these Natura 2000 sites.

Commissioner of Irish Lights:

- Due to reservations concerning encroachment of this site onto navigable waters, all structures should be clearly marked to mitigate these concerns.
- The applicant to secure Statutory Sanction from CIL for the aids to navigation as requested by the Marine Survey Office and the size and specification of these be agreed in advance with CIL.
- Recommends local and fishing interests be consulted prior to a decision on the licence.
- UK Hydrographic Office to be informed on sites geographical position if licence is granted.

Inland Fisheries Ireland:

Requested clarification on the orientation of the site. Also the potential impacts upon the migration of juvenile / adult diadromous fish species to and from Wexford Harbour/Arklow Harbour/ rivers Slaney/Avoca and numerous other salmonoid systems along thre Wexford coastline should be fully addressed. This area may be used as spawning/nursery grounds for other species.

The applicant replied with drawing showing orientation of the site.

Regarding impacts on fish species, the system proposed is the continious New Zealand longline system. This system is very porous and is not believed to impact the migration of juvinile/adult diadromous fish species or salmonid systems in the area. Moreover, the equipment should provide protection to these fish species.

DCHG:

Made no response to the current application. However they stated that they had no objection to the original application from both a natura and an archaeological underwater perspective (see attached correspondence dated 11th October 2010).

Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in The Wicklow People on 27th June, 2018. The application and supporting documentation were available for inspection at Arklow Garda Station for a period of 4 weeks from the date of publication of the notice in the newspaper.

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

- Consideration be given to the fact that viable fishing grounds particularly whelk fishing should not be closed off to those fishing in the area.

After discussion with local whelk fishermen the site was moved further southwest.

- Insufficient information in the application into the presence of mussel larvae at the site, and on the physical composition of the sea bed at the site.

Irish Mussel Seed have been monitoring the larval presence for the past five years using already existing structures in the area and testing the water for the presence of D-larvae with positive results each year.

- The study on tides, currents and wind were recorded in summer and do not show a true reflection of conditions there, particularly in winter.

The equipment which will be utilised on this site has been designed considering 1/50-year worst storm events on the strongest tides of the year and over the whole year, including winter. Not all equipments will remain in the sea all year round. The droppers will be removed at the end of the season and then re-attached to the headropes in March of the following year.

- The lack of a sewage treatment plant in Arklow would have an effect on the quality of mussel harvested.

The mussel cultivated are seed mussel and not for direct human consumption. They will be fully grown on other sites around Ireland.

- The site may be a navigational hazard for both commercial and recreational users of the area.

The closest point of the site to the shoreline is 240 meters and 344 meters from Clogga Head thereby ensuring adequate access to any recreational users in and around the development. The width of the space between each line has been set to allow emergency traffic to easily pass through the development. It will be adequately highlighted by navigational buoys. Swimmers, canoes and sailboards cannot get tangled in lines.

- The impact of this development on the ecosystem of the area is also a concern.

Designed to impact sea bed habitats in a positive way, maintaining and enhancing biodiversity, protecting and improving natural resources, providing a basis for the sustainable development of a commercial fishery, increasing opportunity for growth in a traditional fishery area and attract investment thereby maintaining the wellbeing and cultural diversity of coastal communities and safeguarding and enhancing the quality of marine, coast and intertidal habitats and species.

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

*Available advice is to the effect that the waters are suitable for the cultivation of mussel seed (*Mytilus edulis*). The area between Clogga Bay and Kilmichael Point, Co. Wicklow is not a located within a designated Shellfish Growing water Area. Mussel spat harvested will be fully grown in other sites around Ireland.*

- 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 not located within a Natura area (i.e. in a Special Area of Conservation or Special Protection Area).

(ii) Shellfish Waters

The site is not located within Shellfish Designated Waters.

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. Granting this application would help sustain full-time, permanent employment in the company

e) the likely ecological effects on wild fisheries, natural habitats, flora and fauna

No significant issues arose regarding wild fisheries.

f) the effect on the environment generally

The Minister is obliged pursuant to Regulation 5 (2) of Licence Applications Regulations to consider on a case by case basis whether the proposed aquaculture is likely to have significant effect on the environment.

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

RECOMMENDATION

It is recommended that the Minister:

approves the granting of an Aquaculture Licence (**TAB B**) to Irish Mussel Seed Company Ltd., 22 Church View, Arklow, Co Wicklow a period of ten (10) years for the purpose of collecting mussel spat using longlines in accordance with the terms and conditions of the attached draft Aquaculture Licence.

REASONS FOR DECISION

The Minister for Agriculture, Food and the Marine is required to give public notice of both the licensing determination and the reasons for it. To accommodate this, it is proposed to publish the

following on the Department's website, subject to the Minister approving the above recommendation:

"Determination of Aquaculture/ Foreshore Licensing application – T32/27"

Irish Mussel Seed Company Ltd has applied for authorisation to collect mussel spat using longlines on the sub-tidal foreshore on a 65.996 ha site (T32/27) in an area between Clogga Bay and Kilmichael Point, off the coast of Co. Wicklow.

The Minister for Agriculture, Food and the Marine has determined that it is in public interest to grant the licences sought. In making his determination the Minister considered those matters which by virtue of the Fisheries (Amendment) Act 1997, and other relevant legislation, he was required to have regard. Such matters include any submissions and observations received in accordance with the statutory provisions. The following are the reasons and considerations for the Minister's determination to grant the licences sought: -

- a. Available advice is to the effect that the waters are suitable.*
- b. Public access to recreational and other activities can be accommodated by this project. The site is situated 240 meters from the shoreline and 344 meters from Clogga Head thus ensuring adequate access to any recreational users in or around the development. The width of space between each line ensures emergency traffic easy access through the development if necessary.*
- c. The proposed development should have a positive effect on the economy of the local area. Prospective employment by Year 4 of the development is estimated to be 8 full-time and 2 part-time jobs. The development of this type of mussel cultivation has the potential to give a sustainable and consistent supply of native grown mussel spat to the aquaculture industry at both a local and national level.*
- d. All issues raised during Public and Statutory consultation phase;*
- e. There are no effects anticipated on the man-made environment heritage of value in the area;*
- f. No significant effects arise regarding wild fisheries as the footprint of the site has been adjusted to ensure the least impact on local fishing and navigation.*

- g. *The updated and enhanced Aquaculture and Foreshore licences contain terms and conditions which reflect the environmental protection now required under EU and National law. This will include a Code of Practice."*

Submitted

James O'Connell

Aquaculture and Foreshore Management Division

Recommendation to grant a Foreshore Licence application (T32/27)

DECISION SOUGHT

The Minister's determination is requested please in relation to the application for a Foreshore Licence from Irish Mussel Seed Company Ltd., 22 Church View, Arklow, Co Wicklow, for a site in an area between Clogga Bay and Kilmichael Point, off the coast of Co. Wicklow, in which it is proposed to conduct aquaculture.

BACKGROUND

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

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

APPLICATION FOR A FORESHORE LICENCE

An application for a Foreshore Licence has been received from the applicant referred to above (in conjunction with an Aquaculture Licence application), relating to the occupation of the foreshore associated with the Aquaculture Licence application which covers a 65.996 hectare site (numbered **T32/27** – see TAB A).

LEGISLATION

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

CONSULTATION AND PUBLIC COMMENT

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

This application was also sent to the Department of the 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 the Environment, Community 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.

DAHG:

Made no response to the current application. However they stated that they had no objection to the original application from both a natura and an archaeological underwater perspective.

Technical Consultation

Marine Engineering Division:

Has no objection to this application subject to the following recommendations.

- Due to the exposed nature of this location, the site must be operated and maintained as set out in the application documentation including the Code of Practice –see TAB C
- Records of operation and maintenance of the site should be provided on request to the Department.
- Any change to the management and operation of the site from that outlined in the application documentation must be approved by the Department prior to being implemented.

Marine Survey Office:

Requested that additional buoyage at a focal point be required on the North, South and West perimeter of the site (one extra buoy at the mid-point north and south and two extra buoys on the west side).

Sea Fisheries Protection Authority:

- Wild fisheries and sea fishing operations may be restricted within the proposed area.

- Notes that the area is neither a designated shellfish growing area nor molluscan production area. Furthermore no information exists regarding the biotoxin or contaminant levels that are present in the area.

Irish Mussel Seed Company has worked with local fishermen and the Commissioner of Irish Lights to ensure the least impact on local fishing and navigation. As a result the site was moved further south than originally planned.

With regards to biotoxin issues, the mussel cultivated are seed mussel and not for direct human consumption. They will be fully grown on other sites around Ireland.

Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in The Wicklow People on 27th June, 2018. The application and supporting documentation were available for inspection at Arklow Garda Station for a period of 4 weeks from the date of publication of the notice in the newspaper.

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

- Consideration be given to the fact that viable fishing grounds particularly whelk fishing should not be closed off to those fishing in the area.

After discussion with local whelk fishermen the site was moved further southwest.

- Insufficient information in the application into the presence of mussel larvae at the site, and on the physical composition of the sea bed at the site.

Irish Mussel Seed have been monitoring the larval presence for the past five years using already existing structures in the area and testing the water for the presence of D-larvae with positive results each year.

- The study on tides, currents and wind were recorded in summer and do not show a true reflection of conditions there, particularly in winter.

The equipment which will be utilised on this site has been designed considering 1/50-year worst storm events on the strongest tides of the year and over the whole year, including winter. Not all equipments will remain in the sea all year round. The droppers will be removed at the end of the season and then re-attached to the head ropes in March of the following year.

- The lack of a sewage treatment plant in Arklow would have an effect on the quality of mussel harvested.

The mussel cultivated are seed mussel and not for direct human consumption. They will be fully grown on other sites around Ireland.

- The site may be a navigational hazard for both commercial and recreational users of the area.

The closest point of the site to the shoreline is 240 meters and 344 meters from Clogga Head thereby ensuring adequate access to any recreational users in and around the development. The width of the space between each line has been set to allow emergency traffic to easily pass through the development. It will be adequately highlighted by navigational buoys. Recreational users of the area such as swimmers, canoes and sailboards cannot get tangled in lines.

- The impact of this development on the ecosystem of the area is also a concern.

Designed to impact sea bed habitats in a positive way, maintaining and enhancing biodiversity, protecting and improving natural resources, providing a basis for the sustainable development of a commercial fishery, increasing opportunity for growth in a traditional fishery area and attract investment thereby maintaining the wellbeing and cultural diversity of coastal communities and safeguarding and enhancing the quality of marine, coast and intertidal habitats and species.

CRITERIA IN MAKING LICENSING DECISIONS

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

Section 82 of the Fisheries (Amendment) Act, 1997 stipulates that the Minister, in considering an application for a licence under the Foreshore Acts, which is sought in connection with the carrying

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

RECOMMENDATION

It is recommended that the Minister:

approves the granting of a Foreshore Licence (**TAB D**) to Irish Mussel Seed Company Ltd., 22 Church View, Arklow, Co Wicklow, for a site between Clogga Bay and Kilmichael Point, off the coast of Co. Wicklow, for a period of ten (10) years for occupation of the site for the carrying out of aquaculture activities as defined in the Aquaculture Licence, and in accordance with the terms and conditions of the attached draft Foreshore Licence.

Submitted

James O'Connell

Aquaculture and Foreshore Management Division