



Aquaculture Licences Appeals Board

Technical Advisor's Report

Appeal Ref No's:

AP2/1/2021, 2/2/2021, 2/3/2021, 2/4/2021 &
AP3/1/2021, 3/2/2021, 3/3/2021, 3/4/2021, 3/5/2021.

Appeal description:

Appeal of the Minister's decision to grant an application for two Aquaculture Licences to Michael J O'Driscoll and Laura O'Donovan T/A Ballinskelligs Sea Farms, Reen, Ballinskelligs, Killarney, Co. Kerry.

The application is for the cultivation of native red and brown seaweeds using longlines on Sites T06/519A and T06/520A on the foreshore in Ballinskelligs Bay, Co. Kerry.

Technical Advisor: Dr Ciar O'Toole

Date of site inspection: 4 February 2022

Version No: Final 10th October 2022

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1.0 General Matters / Appeal Details

1.1 Licence Applications

Our Ref: AP2/2021

Department Ref No: T06/520A

Applicant: Michael J O'Driscoll and Laura O'Donovan T/A Ballinskelligs Sea Farms, Reen, Ballinskelligs, Killarney, Co. Kerry.

Minister's Decision: The Minister granted an application for Aquaculture Licences for Michael J O'Driscoll and Laura O'Donovan T/A Ballinskelligs Sea Farms, Reen, Ballinskelligs, Killarney, Co. Kerry. The application is for the cultivation of native red and brown seaweeds including *Alaria esculenta*, *Laminaria digitata*, *Palmaria palmata*, *Porphyra spp.*, *Fucus vesiculosus*, *Saccharina latissimi*, *Laminaria hyperborean*, *Ascophyllum nodusum*, *Ulva lactuca* and *Himanthalia elongata* using longlines on Site T06/520A, a 14.7258 hectare site on the foreshore in Ballinskelligs Bay, Co. Kerry.

Our ref: AP3/2021

Department Ref No: T06/519A

Applicant: Michael J O'Driscoll and Laura O'Donovan T/A Ballinskelligs Sea Farms, Reen, Ballinskelligs, Killarney, Co. Kerry.

Minister's Decision: The Minister granted an application for Aquaculture Licences for Michael J O'Driscoll and Laura O'Donovan T/A Ballinskelligs Sea Farms, Reen, Ballinskelligs, Killarney, Co. Kerry. The application is for the cultivation of native red and brown seaweeds including *Alaria esculenta*, *Laminaria digitata*, *Palmaria palmata*, *Porphyra spp.*, *Fucus vesiculosus*, *Saccharina latissimi*, *Laminaria hyperborean*, *Ascophyllum nodusum*, *Ulva lactuca* and *Himanthalia elongata* using longlines on Site T06/519A, a 14.698 hectare site on the foreshore in Ballinskelligs Bay, Co. Kerry.

1.2 Appeal Details

Date Appeals Received: AP2/1/2021 - 4 November 2021,
AP2/2/2021 - 19 October 2021,
AP2/3/2021 – 4 November 2021,
AP2/4/2021 – 27 October 2021.

AP3/1/2021 - 4 November 2021,
AP3/2/2021 - 4 November 2021,
AP3/3/2021 - 27 October 2021,
AP3/4/2021 - 2 November 2021,
AP3/5/2021 - 27 October 2021.

Location of Sites Appealed: Foreshore in Ballinskelligs Bay, Co. Kerry.

Consolidation: The Board decided on the 10 February 2022 to exercise its discretion pursuant to section 42 of the Fisheries (Amendment) Act 1997 and treat all nine appeals for Ballinskelligs Bay as a single appeal.

1.3 Name of Appellants:

AP2/2021	
AP2/1/2021	Iveragh Fisherman's Co-op, the Pier, Cahirciveen, Co. Kerry.
AP2/2/2021	Lucey and Sons, Cliff Road, Waterville, Co. Kerry
AP2/3/2021	National Inshore Fishermen's Association CLF (NIFA), Cahirciveen, Co. Kerry.
AP2/4/2021	Terence Wharton, Woodview House, Lake Road, Waterville, Co. Kerry.
AP3/2021	
AP3/1/2021	Frank O'Connell, Killaboona, The Glen, Ballinskelligs, Co. Kerry.
AP3/2/2021	Iveragh Fisherman's Co-op, the Pier, Cahirciveen, Co. Kerry.
AP3/3/2021	Kieran Moran, Derrynane, Caherdaniel, Co. Kerry.
AP3/4/2021	National Inshore Fishermen's Association CLF (NIFA), Cahirciveen, Co. Kerry.
AP3/5/2021	Terence Wharton, Woodview House, Lake Road, Waterville, Co. Kerry.

1.4 Name of Observers

Not Applicable

1.5 Grounds for Appeals

Appeal AP2/2021

Appellant 1: AP2/1/2021 – Iveragh Fisherman’s Co-op, the Pier, Cahirciveen, Co. Kerry.

1. The Appellant disputes the Minister’s assertion that there will be no significant effects on wild fisheries and reference correspondence in the Minister’s file from the SFPA which they say concurs with their claim. Two of the groups’ members use this area regularly and apparently rely on it for the majority of their earnings. It is also traditionally used for shelter during times of unsettled weather.
2. They dispute the Minister’s assertion that the proposed development will have a positive impact on the local economy, as they fear it will negatively impact on an existing fishing ground used by some of their members.
3. They express concerns regarding the safety of the site for year-round use, especially during the wintertime when it does not provide shelter from the prevailing winds, although it is a suitable area for shelter for approx. nine months of the year.
4. The Appellant highlights the existence of a scallop bed in the area.

Appellant 2: AP2/2/2021 – Lucey and Sons, Cliff Road, Waterville, Co. Kerry

1. The Appellant hold a licence for culturing sea urchins close to the proposed site and hand harvest seaweed locally. They are concerned about the potential impact on both these activities of the proposed development.

Appellant 3: AP2/3/2021 – National Inshore Fishermen’s Association CLF (NIFA), Cahirciveen, Co. Kerry.

1. The Appellant disputes the Minister’s assertion that there will be no significant effects on wild fisheries and reference correspondence in the Minister’s file from the SFPA which they say concurs with their claim. Two of the groups’ members use this area regularly and apparently rely on it for the majority of their earnings. It is also traditionally used for shelter during times of unsettled weather.
2. They dispute the Minister’s assertion that the proposed development will have a positive impact on the local economy, as they fear it will negatively impact on an existing fishing ground used by some of their members.
3. They express concerns regarding the safety of the site for year-round use, especially during the wintertime when it does not provide shelter from the prevailing winds, although it is a suitable area for shelter for approx. nine months of the year.
4. The Appellant highlights the existence of a scallop bed in the area.

Appellant 4: AP2/4/2021 – Terence Wharton, Woodview House, Lake Road, Waterville, Co. Kerry.

1. The Appellant is a fisherman who has fished the area for the previous 17 years and owns two fishing vessels. He claims the proposed development will put an end to his fishing career.
2. The proposed development would prevent the appellant from using the area for sheltering his fishing gear during periods of rough weather and strong winds.
3. The Appellant was not notified or consulted regarding the proposed development before the Minister's decision was made.
4. The Appellant claims that the two jobs that would be created by the proposed development would be negated by the loss of two existing fishing jobs.

Appeal AP3/2021

Appellant 1: AP3/1/2021 – Frank O'Connell, Killaboona, The Glen, Ballinskelligs, Co. Kerry.

1. Local fisherman who has fished for 30 years and owns a fishing vessel. He fishes the area during winter and spring for pollack using gillnets and the proposed development would prevent his continued access to the area for fishing.
2. The Appellant was not notified or consulted regarding the proposed development before the Minister's decision was made and does not believe any other fishermen were notified either.

Appellant 2: AP3/2/2021 - Iveragh Fisherman's Co-op, the Pier, Cahirciveen, Co. Kerry.

1. The Appellant disputes the Minister's assertion that there will be no significant effects on wild fisheries and reference correspondence in the Minister's file from the SFPA which they say concurs with their claim. Two of the groups' members use this area regularly and apparently rely on it for the majority of their earnings. It is also traditionally used for shelter during times of unsettled weather.
2. They dispute the Minister's assertion that the proposed development will have a positive impact on the local economy, as they fear it will negatively impact on an existing fishing ground used by some of their members.
3. They express concerns regarding the safety of the site for year-round use, especially during the wintertime when it does not provide shelter from the prevailing winds, although it is a suitable area for shelter for approx. nine months of the year.
4. The Appellant highlights the existence of a scallop bed in the area.

Appellant 3: AP3/3/2021 – Kieran Moran, Derrynane, Caherdaniel, Co. Kerry.

1. The Appellant is a local fisherman who currently fishes the area using pots for various crustacean species.
2. The Appellant states the area provides the only scallop beds in the region.

3. The Appellant states he was not consulted before the Minister's decision was made, nor were other local fishermen.

Appellant 4: AP3/4/2021 - National Inshore Fishermen's Association CLF (NIFA), Cahirciveen, Co. Kerry.

1. The Appellant disputes the Minister's assertion that there will be no significant effects on wild fisheries and reference correspondence in the Minister's file from the SFPA which they say concurs with their claim. Two of the groups' members use this area regularly and apparently rely on it for the majority of their earnings. It is also traditionally used for shelter during times of unsettled weather.
2. They dispute the Minister's assertion that the proposed development will have a positive impact on the local economy, as they fear it will negatively impact on an existing fishing ground used by some of their members.
3. They express concerns regarding the safety of the sites for year-round use, especially during the wintertime when it does not provide shelter from the prevailing winds, although it is a suitable area for shelter for approx. nine months of the year.
4. The Appellant highlights the existence of a scallop bed in the area.

Appellant 5: AP3/5/2021 - Terence Wharton, Woodview House, Lake Road, Waterville, Co. Kerry.

1. The Appellant is a fisherman who has fished the area for the previous 17 years and owns two fishing vessels. He claims the proposed development will be detrimental to his fishing career.
2. The Appellant was not notified or consulted regarding the proposed development before the Minister's decision was made.
3. The Appellant states the area is a popular shore angling spot and is known to have a scallop bed.
4. The Appellant feels if the development goes ahead it would lead to an increased risk to his work as pots would have to be placed in a more dangerous location, or else the amount of gear lost by local fishermen would increase.

1.6 Minister's submission

Section 44 of the Fisheries (Amendment) Act 1997 states that:

"The Minister and each other party except the Appellant may make submissions or observations in writing to the Board in relation to the appeal within a period of one month beginning on the day on which a copy of the notice of appeal is sent to that party by the Board and any submissions or observations received by the Board after the expiration of that period shall not be considered by it."

No submission was made by the Minister in relation to these appeals.

1.7 Applicant response

The Applicants responded to the appeals with their observations on the 22nd December 2021 and disputed the grounds of the appeals using the following arguments:

- They dispute there was a lack of adequate consultation as licence application processes were followed and some local commercial fishermen were consulted by themselves (as they claim) and the SFPA.
- They claim that it has been determined that no significant effects arise regarding wild fisheries and that the impacts claimed in the appeals received are grossly exaggerated.
- They also state the economic impacts of two fishermen claiming to be impacted will be outweighed by the economic impact of their proposed developments and future plans to add a tourism/educational element.
- They argue that the areas in dispute makes up less than 1% of the overall area of Ballinskelligs Bay and were selected to avoid the main lobster and crab fishing grounds and in consultation with some local fishermen.
- It is claimed seaweed farms act as nursery grounds and shelter for juvenile and small fish and will actually improve fishing in the bay. They also claim they will improve water quality which will also have positive impacts on the bay.
- They dispute that the area is used for the storage of pots during bad weather, and if so, it would only be during summertime and very occasionally. They also state that there is sufficient space in the Hogs Head area outside of their licenced sites to store pots if necessary.
- They claim that two of the appellants are anti-aquaculture and are willing to support exaggerated claims from their members.
- They argue that the SFPA did not provide suitable detail regarding their negative submission or a possible mitigation when raising concerns regarding the proposed developments, which the applicants felt they should have done. The applicants question whether the SFPA was remiss in its duties as a statutory consultee.
- They restate the local connections of one of the applicants.
- They dispute that the area is unsuitable for the proposed developments in terms of exposure while also being a frequently used area to hold pots during poor weather, as claimed by the appellants.
- They question some of the appellants knowledge of modern aquaculture practices.
- They dispute concerns raised by an appellant with a nearby aquaculture licence for urchin aquaculture of potential impacts to his site from the proposed developments.
- They claim one of the appellants is making a veiled threat to continue fishing regardless of the licence decision made by ALAB.

- They question the same appellants right to appeal given his other employment and the area where he lives, as they claim and his potential economic impact in terms of fishing when compared to their proposed developments.
- They point out that one appellant is also chair of the Iveragh Inshore Fisherman’s Co-op which had entered a separate appeal and question his given address as Ballinskelligs given that he fishes from another port.
- They highlight that no shore anglers or other recreational users appealed the proposed developments.
- They suggest that some of the appellants may have wishes to apply for the sites under question themselves and are put out that someone else put in an application first.

1.8 Consolidation of Appeals

The Board decided on the 10 February 2022 to exercise its discretion pursuant to Section 42 of the Fisheries (Amendment) Act 1997 to treat all nine appeals for Ballinskelligs Bay as a single appeal. Therefore, the four appeals under AP2/2021 and the five appeals under AP3/2021 as listed and described in Sections 1.2-1.6 are considered together as is relevant for the technical advisor’s assessment and this report. However, the technical advisor’s opinion as given in the conclusion of this report deals with each appeal individually.

2.0 Minister’s file

Details of the files received by ALAB from the Minister requested under Section 43 are listed here. Copies of the following items were received:

- Application forms, maps, and drawings
- Submissions from Statutory and Technical consultations and applicant submissions in response to these
- Submissions from the Aquaculture and Foreshore Management Division to the Minister
- Screening matrix for Appropriate Assessment of Aquaculture Activities within Ballinskelligs Bay for Sites T06/519A and T06/520A
- Notification of Minister’s decision to the applicant
- Location map of the surrounding area including
 - Licenced sites
 - Sites currently under appeal

2.1 Minister’s Reasons for Decision

*“The Minister for Agriculture, Food and the Marine has determined that **it is in the public interest** to grant an Aquaculture/Foreshore Licences for this site. 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."

It was recommended that the Minister approve the aquaculture and foreshore licences for the following reasons:

- The SFPA provided no mitigation measures, as requested by AFMD, for their objections.
- Neither the MSO or CIL identified any safety or navigational issues.
- BIM indicated that the proposed sites would have no negative impact on Inshore fisheries. BIM stated, " Following internal consultation within the Seafood Technical Services Business Unit, BIM, which includes aquaculture and inshore fisheries, BIM are satisfied that the proposed operations do not conflict with any other aquaculture or inshore fisheries interests in the area."
- In the context of the wider bay the sites, as proposed, are of a reasonable size to enable multiuser types to co-exist.

3.0 Context of the Area

3.1 Physical descriptions

3.1.1 Site Location

The proposed developments are located in Ballinskelligs Bay, itself located on the Iveragh Peninsula in South Co. Kerry (see Figures 1 and 2).

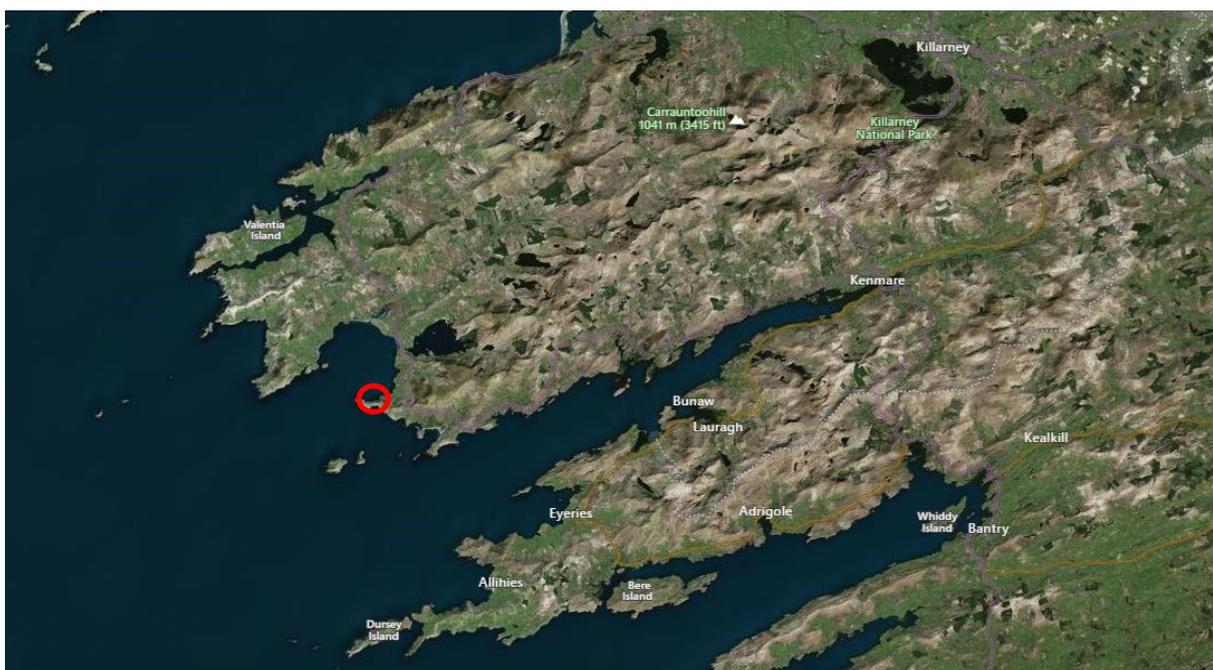




Figure 1a and b, showing approximate site locations, highlighted in red, in Ballinskelligs Bay, Co. Kerry. Map taken from Bing Maps.

The Bay is a large southwest facing bay located to the North of Scariff and Deenish Islands. The nearest village is Waterville, located at the mouth of Lough Currane. Ballinskelligs village is located at the north side of the Bay and Reen Pier is located next to Ballinskelligs village. The sites under appeal are located between Hog’s Head and Rineen Point, towards the south-western side of the Bay.

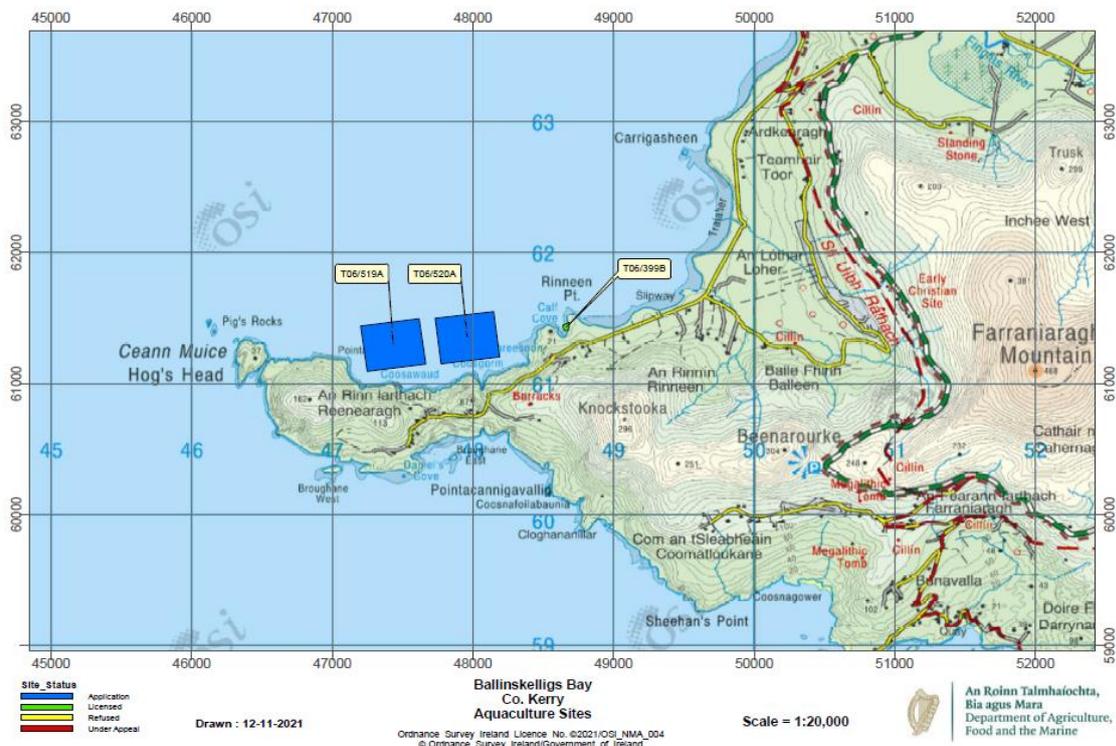


Figure 2 showing the location of the proposed sites. Map provided as part of AFMD file submission to ALAB.

3.1.2 Physical Characteristics

Ballinskelligs Bay has an overall size of approximately 4,000 hectares and faces south-westward to the Atlantic. The main freshwater influences in the Bay are the Inny River and Lough Currane which empties into the Bay at Waterville. The geology of the area is dominated by the Old Red Sandstone Formation, a group of rocks deposited between 393 and 360 million years ago, during the Devonian Period. The three regional formations of the Iveragh Old Red Sandstone, the Valentia Slate Formation, St. Finian's Sandstone Formation, and Ballinskelligs Sandstone Formation are all found in this area.

3.1.3 Meteorological Conditions

Valentia is the nearest weather station some 15km North west and the area has a mid-oceanic climate. Relatively speaking it is a wet part of Ireland with a Long-Term average (LTA) of 1557.4mm of rain on average a year. As can be seen from the charts below the temperature is mild throughout the year normally ranging between 7.2 and 15.3 degrees (www.met.ie).

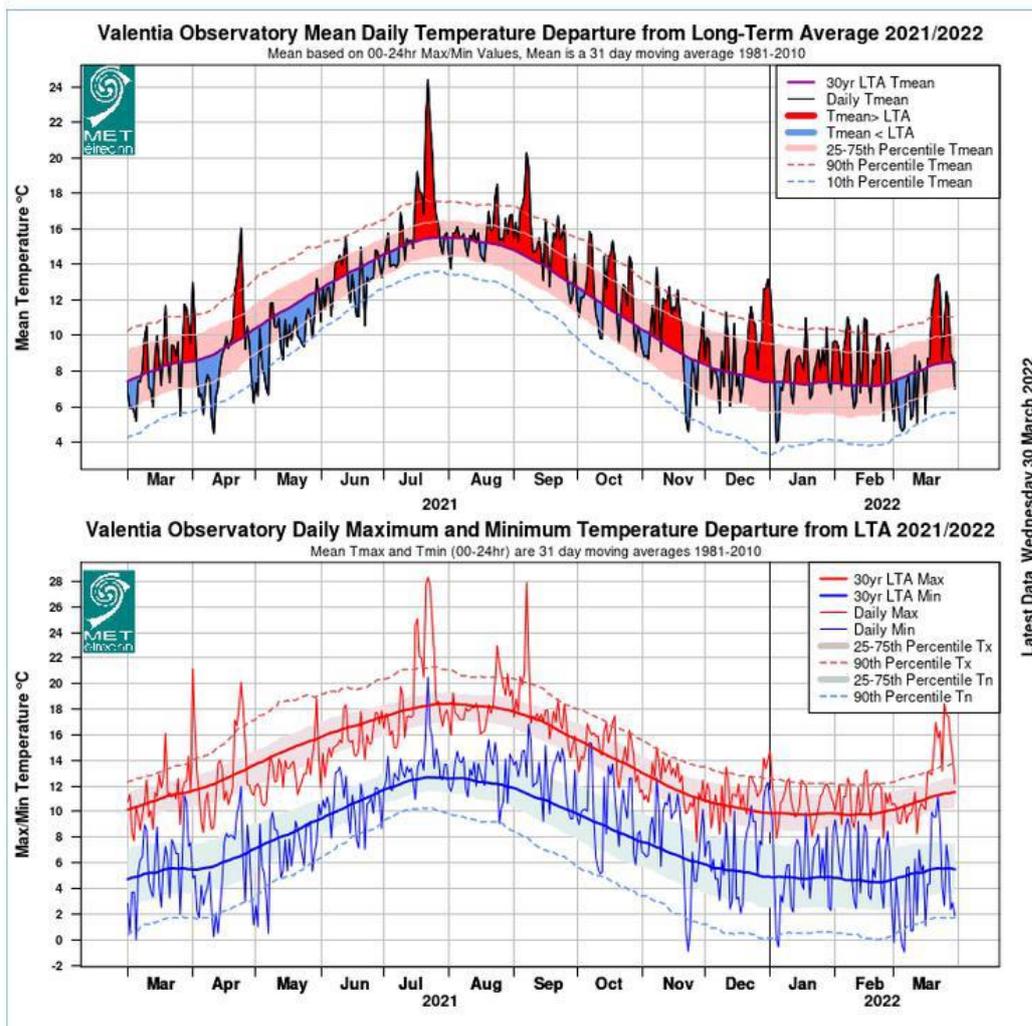


Figure 3 showing temperature T_{max} data for Valentia weather station (www.met.ie).

3.1.4 Local Population

The area immediately beside the proposed developments is sparsely populated and rural, with 85 people recorded as living in the relevant Statistical Small area in 2016 (www.cso.maps.arcgis.com). The main population centre in the area is Waterville, with a population of 462 recorded in 2016. Ballinskelligs village, across the bay from the proposed sites has a population of 113. The population of Waterville and the surrounding area expands during the summer with an influx of tourists.

3.1.5 Land Use

The area in the locality of the Sites is primarily agricultural. The electoral division of Darrynane, which the Sites are adjacent to had just over 1500 hectares being farmed as grassland in 2020, with an estimated 500 cattle and over 4,000 sheep.

3.1.6 Freshwater influence

Lough Currane and River Inny are the two main freshwater influences into Ballinskelligs Bay. The River Inny had a “Moderate” monitored status under the Water Framework Directive 2013-2018 cycle. Lough Currane had a “Moderate” trophic status and a “Good” ecological status for the same monitoring period. All streams and rivers emptying into Lough Currane had a “Good” monitored status under the Water Framework Directive 2013-2018 cycle.

3.1.7 Wastewater Treatment

There are two primary wastewater discharge locations within Ballinskelligs Bay, one at Ballinskelligs Village and one at Waterville. Both these sites are more than 5km away from the proposed developments and located within a large open bay.

3.2 Resource Users

3.2.1 Aquaculture Activity

Currently there is one other existing aquaculture development within Ballinskelligs Bay, a sea urchin aquaculture development, T06/399B, a site of approximately 0.2 hectares located less than half a kilometre from the proposed sites.

The proposed developments are for seaweed aquaculture at two neighbouring sites between Hog’s Head and Rineen Point (Figure 2). Seaweed is cultured using longlines supported by floating structures, similar in appearance on the surface to mussel lines. The culture of seaweed is reliant upon ambient nutrient levels in the water column and solar illumination. The production of seaweed does not require the additional input of feed or additives. Seaweed aquaculture in Ireland remains a minor component of National output with <40 tonnes in 2018 (BIM, 2019) and generally occurs in the winter months, but can continue year-round.

3.2.2 Angling Activity

Ballinskelligs Bay is known for its bass and wrasse fishing, mainly from small boats. The area to the inner side of Hog's Head, where the proposed sites are located, is a known shore angling site for codling, flounder, dab, pollack, conger eel, wrasse and mackerel. Lough Currane flows out into Ballinskelligs Bay, as does the River Inny, both of which are renowned salmon and trout fisheries which attract national and international anglers.

3.2.3 Tourism and Leisure users

The south west region (Cork/Kerry) was the most popular tourist and holiday destination outside of Dublin in 2019 (Fáilte Ireland, 2021). Approximately 19% of the total tourists visiting Ireland (from overseas and domestic) travelled to the south west region. Ballinskelligs Bay and the local area are popular with tourists during the summer months attracted to its scenery and Blue Flag beaches, the availability of water sports such as surfing, its location along the Wild Atlantic Way and Kerry Way, and its nearness to the Skelligs UNESCO World Heritage Site. The area also attracts anglers both nationally and internationally to fish the River Inny and Lough Currane, as well as being an inshore and shore angling location.

3.2.4 Commercial Inshore Fishing Activity

Inshore fishing takes place in Ballinskelligs Bay for a number of species, the main method used in the area is pots for lobster and crab species (Ireland's Marine Atlas, accessed on 12/04/22). Some trawling occurs for Nephrops, whiting and mackerel along with some localised periwinkle harvesting.

3.2.5 Industrial/Agricultural Activity

There is no heavy industry in the region. Agriculture consists predominately of grazing for sheep and cattle as described in 3.1.4 above.

3.3 Statutory Status

3.3.1 Nature Conservation Designations

Nature Conservation Designations (Natura 2000 sites) are sites designated under the Habitats and Birds Directives. There are two types; Special Areas of Conservation (SAC, habitats and species) and Special Protection Areas (SPA, birds).

Special Areas of Conservation are prime wildlife conservation areas in the country, considered to be important on a European as well as Irish level. The Habitats Directive lists certain habitats and species that must be protected within SACs. The proposed developments are adjacent to the Ballinskelligs Bay and River Inny SAC (Site Code: 000335) and is also adjacent to the Iveragh Peninsula SPA (Site Code: 004154). The Kenmare River SAC (Site Code 002158) is also nearby.

The Iveragh Peninsula SPA (Site Code: 004154) is a Special Protected Area and abuts the proposed Site area. This SPA is of ornithological importance as it supports an internationally important population of Chough and is the second most important site in the country for this species. The site also supports nationally important populations of Peregrine and three species of breeding seabirds Guillemot, Fulmar and Kittiwake.

The Marine Institute on the behalf of the Department of Agriculture, Food and the Marine (DAFM) produced an Appropriate Assessment Screening Report for aquaculture activity at Sites T06/519A and T06/520A in Ballinskelligs Bay along with a Finding of No Significant Effects Report in May 2020.

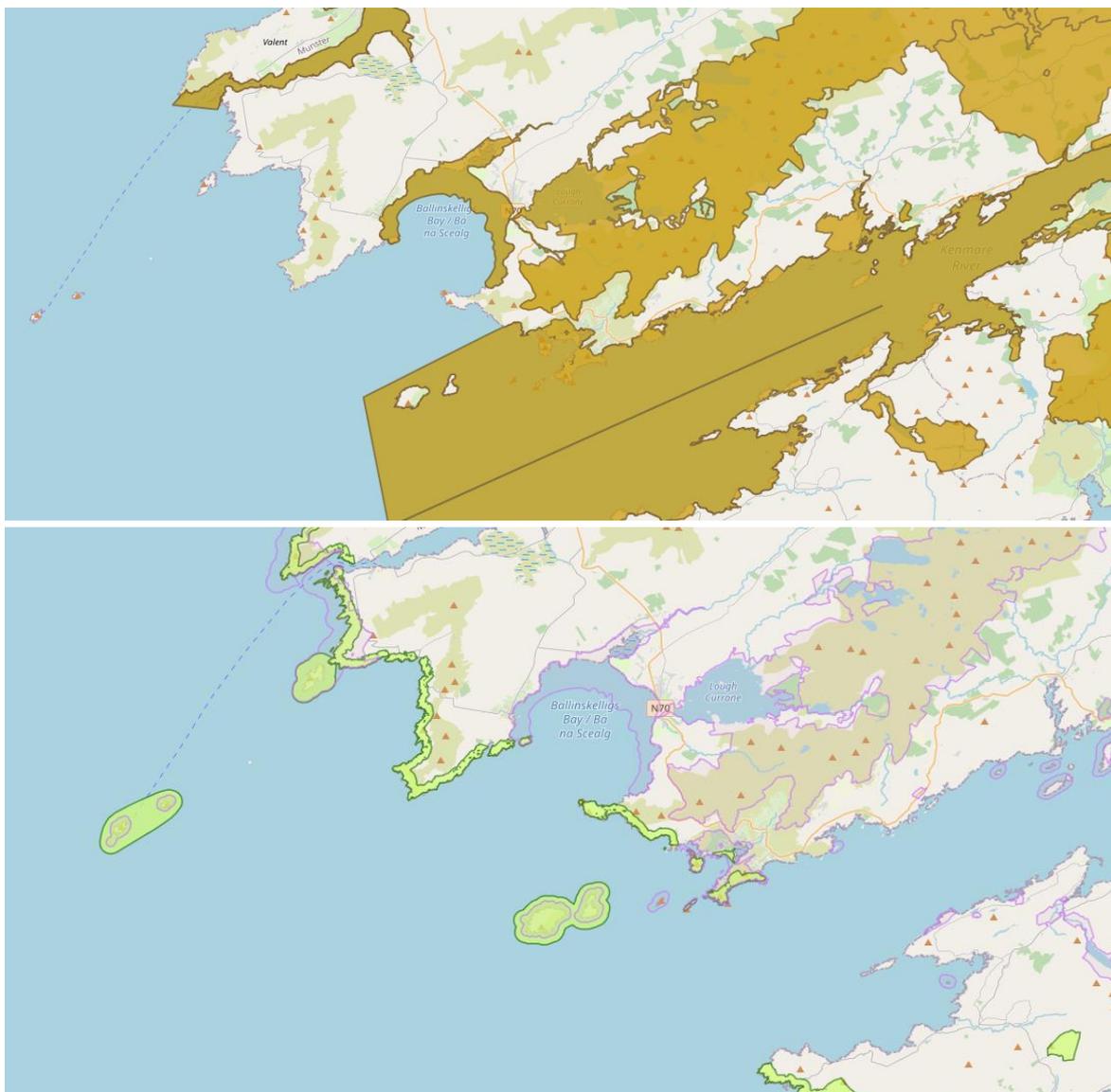


Figure 4 showing SACs (brown) and SPAs (green) in the area directly surrounding Ballinskelligs Bay, taken from EPA Maps.

3.3.2 Protected Species

There are a range of protected species recorded in the Ballinskelligs Bay, based on records from Biodiversity Ireland in the last ten years, including insects, birds, marine mammals, otters, flowering plants and the common lizard *Zootoca vivipara* (<https://maps.biodiversityireland.ie/Map> [Accessed on 22/08/2022]). Animals with a potential overlap with the marine environment, or a presence within the marine environment are listed in the following tables.

Table 1 Protected Bird Species Recorded within Ballinskelligs Bay in the last 10 Years

Species name	Count record	Date of last record	EU Birds Directive	Birds of Conservation Concern	Wildlife Act
Arctic Tern (<i>Sterna paradisaea</i>)	3	03/08/2016	Annex I	Amber List	Protected Species
Barn Swallow (<i>Hirundo rustica</i>)	15	02/08/2021		Amber List	Protected Species
Black-headed Gull (<i>Larus ridibundus</i>)	15	08/10/2017		Red List	Protected Species
Canada Goose (<i>Branta canadensis</i>)	1	31/01/2017	Annex II		
Common Greenshank (<i>Tringa nebularia</i>)	8	08/10/2017		Amber List	Protected Species
Common Kestrel (<i>Falco tinnunculus</i>)	16	10/10/2021		Amber List	Protected Species
Common Linnet (<i>Carduelis cannabina</i>)	13	08/10/2017		Amber List	Protected Species
Common Pheasant (<i>Phasianus colchicus</i>)	17	21/03/2021			Protected Species
Common Scoter (<i>Melanitta nigra</i>)	7	08/10/2017			Protected Species
Common Starling (<i>Sturnus vulgaris</i>)	17	08/10/2017			Protected Species
Eurasian Curlew (<i>Numenius arquata</i>)	35	02/08/2021	Annex II	Red List	Protected Species
Eurasian Oystercatcher (<i>Haematopus ostralegus</i>)	16	29/09/2021		Amber List	Protected Species
Eurasian Wigeon (<i>Anas penelope</i>)	7	10/10/2021	Annex II	Amber List	Protected Species
Great Black-backed Gull (<i>Larus marinus</i>)	17	08/10/2017		Amber List	Protected Species
Great Cormorant (<i>Phalacrocorax carbo</i>)	17	03/09/2021		Amber List	Protected Species
Herring Gull (<i>Larus argentatus</i>)	23	08/10/2017		Red List	Protected Species
Lesser Black-backed Gull (<i>Larus fuscus</i>)	16	04/08/2021		Amber List	Protected Species

Little Egret (<i>Egretta garzetta</i>)	7	08/12/2020	Annex I		Protected Species
Mew Gull (<i>Larus canus</i>)	10	29/09/2021		Amber List	Protected Species
Northern Gannet (<i>Morus bassanus</i>)	38	30/08/2021		Amber List	Protected Species
Red-billed Chough (<i>Pyrrhocorax pyrrhocorax</i>)	27	10/10/2021		Amber List	Protected Species
Ringed Plover (<i>Charadrius hiaticula</i>)	19	25/08/2021		Amber List	Protected Species

Table 2 Protected Marine mammal Species Recorded within *Ballinskelligs Bay* in the last 10 Years

Species name	Count record	Date of last record	EU Habitats Directive	Wildlife Act
Bottle-nosed Dolphin (<i>Tursiops truncatus</i>)	12	12/04/2015	Annex II and IV	Protected Species
Common Dolphin (<i>Delphinus delphis</i>)	22	18/11/2020	Annex IV	Protected Species
Common Porpoise (<i>Phocoena phocoena</i>)	11	06/09/2020	Annex II and IV	Protected Species
Common Seal (<i>Phoca vitulina</i>)	4	31/08/2019	Annex II and V	Protected Species
Cuvier's Beaked Whale (<i>Ziphius cavirostris</i>)	1	02/01/2020	Annex IV	Protected Species
Grey Seal (<i>Halichoerus grypus</i>)	13	29/09/2021	Annex II and V	Protected Species
Long-finned Pilot Whale (<i>Globicephala melas</i>)	5	19/08/2018	Annex IV	Protected Species
Minke Whale (<i>Balaenoptera acutorostrata</i>)	2	13/05/2020	Annex IV	Protected Species
Risso's Dolphin (<i>Grampus griseus</i>)	3	22/08/2020	Annex IV	Protected Species
Sowerby's Beaked Whale (<i>Mesoplodon bidens</i>)	1	04/09/2020	Annex IV	Protected Species
Striped Dolphin (<i>Stenella coeruleoalba</i>)	5	06/03/2018	Annex IV	Protected Species

3.3.3 Statutory Plans

Ballinskelligs Bay is not the subject of a statutory plan in its own right but is covered under the most recent County Development Plan for Kerry, the Kerry County Development Plan 2015 - 2021 Plean Forbartha Chiarraí 2015 – 2021 (Note the Kerry County Development Plan

2022 – 2028 is currently in preparation and will not come in to effect until late November 2022). The 2015-21 plan has the following relevant objectives:

Fishing/Aquaculture: It is essential that a balance is achieved between generating a sustainable and economically viable industry on the one hand and complying with EU policies and quota on the other hand. The Council will support the sustainable development of the operations of the fishing and aquaculture industry while protecting and preserving the biodiversity and ecosystems in our oceans, so they can continue to provide essential monetary and non-monetary goods and services.

Natural Resources: Support and promote the sustainable development of the aquaculture sector in order to maximise its contribution to employment and growth in coastal communities and the economic wellbeing of the County, while ensuring environmental protection through the implementation of the objectives and Development Management, Guidelines and Standards of this Plan. Support the sustainable development of marine aquaculture and fishing industries and its diversification at appropriate locations having regard to the requirements of the EU Water Framework Directive, the relevant River Basin Management Plans, the Habitats Directive, the integrity of the Natura 2000 network and visual amenity.

Tourism: Support and facilitate the sustainable development of Kerry as a world class destination for sports and recreation related tourism. To promote and facilitate the sustainable development of outdoor activities, in appropriate locations. To promote the sustainable development of water sports, surfing and water related events.

High value landscape: The terrestrial area beside the area where the proposed sites are located is considered Prime Special Amenity Value under the Kerry Development Plan 2015-2021, as is the majority of the land bordering Ballinskelligs Bay. The Wild Atlantic Way and the Kerry Way pass through Waterville and along part of the shore of Ballinskelligs Bay.

3.3.4 Water Quality Status

Ballinskelligs Bay is recorded as a High value Coastal Waterbody with an Unpolluted status under the 2013-2018 Water Framework Directive reporting cycle and is deemed not at risk of further deterioration during the current cycle. This designation is based on extrapolated data. Freshwater influences into the Bay are rated as either Moderate or Good under the current WFD cycle, see Section 3.1.5 for more details (www.gis.epa.ie).

3.3.5 Bathing Water Quality

Ballinskelligs Beach is a Blue Flag beach and bathing water quality is recorded at this site. Bathing water quality was recorded as excellent from 2018 to 2021 (beaches.ie, accessed on 12/04/22). Reenroe, Inny Strand and Waterville Town Beach are also located within

Ballinskelligs Bay and monitored for bathing quality. All three beaches recorded excellent bathing water quality in 2021.

3.3.6 Shellfish Designated Areas

The nearest Designated Shellfish Waters are Cromane to the north and Kenmare River to the south. Ballinskelligs Bay is not a Designated Shellfish Water under SI No 268 of 2006 and (Amendments), European Communities (Quality of Shellfish Waters) Regulations.

3.3.7 Shellfish Classified Areas

The nearest Shellfish Classified Production Areas managed by the SFPA are Valentia to the north and the Kenmare River to the south. Ballinskelligs Bay has no area designated as a Shellfish Classified Production Area.

3.4 Man-made heritage

The most famous example of man-made heritage in the area is the UNESCO World Heritage Site of Skellig Mhichil which is 12km off the coast from Ballinskelligs Bay. It is an Early Medieval island monastic site and tour boats doing day trips to and around the Skelligs depart from Portmagee and Ballinskelligs village during the summer season.

A search of the Historic Environment Viewer (Archaeological Survey of Ireland <https://webgis.archaeology.ie/historicenvironment/> [accessed on 22/08/2022]) identified some land-based features of historical importance in the immediate area of the proposed development including:

- The ruins of two ringforts, one site which was marked as a semicircular outline on the first edition of the OS map and is located at the SE end of Calf Cove. It is named 'Caher' on the OS Fair Plan and a second which was marked as a circular enclosure on the first edition of the OS map, and is named 'Caher' on the OS Fair Plan
- The ruins of a hut: Located on the S side of Hog's Head, in rough upland pasture. A partially rebuilt circular hut of corbelled drystone construction.
- A ruined barracks which is located in rough hill pasture, on the crest of an E-W ridge with extensive views over Ballinskelligs Bay to the N and Kenmare Bay to the S. Three bay, two-storey, gable-ended rectangular structure

In Ballinskelligs Bay itself, the only shipwreck noted on marineplan.ie is the wreck of the "Citizen Fred", a yacht lost off Waterville in 1975.

4.0 Screening for Environmental Impact Assessment.

There is no evidence from the Minister's file that these sites were assessed for the environmental impact of the proposed developments.

The Board's technical advisor considered the projects proposed in the Applications for Aquaculture Licences under the requirements of the Aquaculture Appeals (Environmental Impact Assessment) Regulations 2012 and the EIA Directive (2011/92/EU) and concluded that they were not likely to have significant effects on the environment by virtue of their size, nature or location and so do not require an environmental impact assessment report.

Therefore, the Technical Advisor is satisfied that the direct and indirect effects of the proposed activity at the Sites on the following factors:

- (a) population and human health;
- (b) biodiversity, with particular attention to species and habitats protected under the Habitats and Birds Directives;
- (c) land, soil, water, air and climate;
- (d) material assets, cultural heritage and the landscape; and
- (e) the interaction between the factors referred to in points (a) to (d)

will not have significant effects on the environment, including the factors listed in (a) to (d) by virtue of, inter alia, its nature, size or location.

5.0 Screening for Appropriate Assessment

The Marine Institute on the behalf of the Department of Agriculture, Food and the Marine (DAFM) produced an Appropriate Assessment Screening for aquaculture activity at Sites T06/519A and T06/520A in Ballinskelligs Bay and a Finding of No Significant Effects Report in May 2020. As the Screening Matrix only considered Special Protected Area (SPA) sites within 15km of the proposed developments and did not consider the foraging range of Special Conservation Interest (SCI) Species from SPA sites located at a greater distance from the sites, a follow up assessment was carried out by the ALAB technical advisor entitled "Appropriate Assessment Screening for aquaculture activity at Sites T06/519A and T06/520A in Ballinskelligs Bay – SPA sites" and is attached to this report (Appendix II).

There were no negative impacts highlighted in terms of the proposed sites and the nearby Special Areas of Conservation (SAC) sites or any of the SPA sites considered. Therefore, it is the opinion of the Technical Advisor that that the proposed activity at the proposed sites have no potential for significant effects and are not likely to have any significant deleterious effect, either individually, or in combination with other plans or projects, on SCI species or

conservation objectives for any SPA and SAC sites concerned and as such, will not adversely affect the integrity of any SPA and SAC sites concerned either individually or in combination with other plans or projects.

6. Section 46 and Section 47 Notices

Following on from the Technical Advisors site visit of 4 February 2022, a Section 47 notice was sent to the Sea Fisheries Protection Agency on the 21 February 2022 requesting clarification on the following points:

1. Confirmation that the point referred to by SFPA as “Rineen Point” in its submission to DAFM re these appeals (attached – DAFM/SFPA correspondence dated 5 November 2019 and 15 October 2020) is the same point as that marked as “Rinneen Pt” on the OSI maps attached to this letter (OSI maps for sites T06/520A & T06/519)
2. Confirmation that SFPA's opinion remains unchanged from that submitted to DAFM in relation to these appeals, as outlined in the email dated 15th October 2020); and
3. Clarification as to the time period during which potting occurs in the area of the proposed sites, and specifically, whether this activity is restricted to the summer months?

A response was received from the SFPA on the 15 March 2022 stating:

1. The point referred to by the SFPA as “Rineen Point” in its submission to DAFM is the same point as that marked as “Rinneen Pt” on the OSI maps for sites T06/520A & T06/519.
2. The SFPA’s opinion remains unchanged from that submitted to DAFM in relation to these appeals, as outlined in the email dated 15th of October 2020.
3. Fishing activity in this area is not restricted to the summer months and generally occurs over a nine-month period annually from March to November inclusive.

A copy of the notice that was sent and the response received is in Appendix III of this report.

7.0 Section 61 Assessment

Section 61 (a-e) of the Act outlines the matters which the licensing authority shall take account of when an application for or an appeal regarding an aquaculture licence is being considered. This section is used to assess the impact of the proposed aquaculture developments under these headings, which are listed in 6.1 – 6.7 below.

7.1 Site Suitability

Section 61 (a) considers the suitability of the site at or in which the aquaculture is proposed to take place. Ballinskelligs Bay is a large open bay on the Kerry coast in an area popular with tourists and anglers as well as local inshore fishermen. The proposed developments would be located in the southwestern corner, in an approx. 70-hectare area between Hogs Head and Rineen Point, close to the only other licenced aquaculture development within the Bay (Figure 2).



Figure 5 showing the location of the proposed sites. Map provided as part of AFMD file submission to ALAB.

The proposed deployment of longlines in this area for seaweed cultivation would be considered to be of low visual impact as assessed by the Marine Engineering Division. While two areas of road networks highlighted for their views and prospects pass within 4km of the proposed sites, the developments would not be visible from these areas. It would also not be visible from other areas highlighted as providing views and prospects from other points around Ballinskelligs Bay, for example, Ballinskelligs Village or Waterville.

There are no concerns regarding water quality given the proposed developments distance from any primary wastewater discharges and the status of Ballinskelligs Bay under the Water Framework Directive.

BIM indicated in their response to the Minister regarding these sites that the proposed developments would have no negative impact on Inshore fisheries. BIM stated, " Following internal consultation within the Seafood Technical Services Business Unit, BIM, which includes aquaculture and inshore fisheries, BIM are satisfied that the proposed operations do not conflict with any other aquaculture or inshore fisheries interests in the area.". However, concerns have been raised by the Sea Fisheries Protection Agency and a number of appellants regarding impacts of these developments on local commercial inshore fishing. Fishing operations in this area primarily involve potting for lobster and crab, with some trawling activity. This area is an important fishing ground for a number of inshore fishing vessels during the summer and autumn months, particularly between outer Hogs Head and Rineen Point.

The SFPA states in their submission to AFMD (confirmed in their S47 response to ALAB) that the size of the proposed sites (approx. 14.7ha x 2) would adversely affect the fishermen's ability to deploy their fishing gear in this area where they have operated for many years.

Furthermore, the SFPA go on to state that fishermen often move their fishing gear (>300 pots) to this location in storms/heavy swells during the potting season (March – November) as it provides a greater degree of shelter than other areas of Ballinskelligs Bay. A number of appellants to these appeals also submit similar

The SFPA are the independent statutory body responsible for the regulation of the sea-fisheries sector (established in 2007 under the provisions of the Sea-Fisheries and Maritime Jurisdiction Act 2006), and their remit includes over 2,000 Irish registered fishing vessels; they would be recognised as having a detailed knowledge of the fishing activities in coastal areas, due to their active role in monitoring fishing vessels and their activities. BIM is the development agency for the Irish Seafood industry (established under The Irish Sea Fisheries Act, 1952), and has a focus on developing both aquaculture and fisheries, across the supply chain. In the technical advisor's opinion, on balance, as the SFPA are the statutory body responsible and have an oversight role in fisheries activity along the Irish coast, it is recommended to accept the responses from the SFPA in this case as being representative of the level of fishing activity within Ballinskelligs Bay and thus, in terms of advice on site suitability.

The proposed developments would take up a large portion of the area between Hogs Head and Rineen Point, with a combined area of the two sites of over 29 hectares. This raises obvious health and safety issues if fishermen were to attempt to fish or place pots close to the proposed sites, given the potential for entanglement, as well as the issue of loss of fishing grounds directly.

The proposed developments plan to grow "all native brown and red seaweeds" and ten separate species are listed in the applications (including one green seaweed). Table 3 below

shows the list of species that were named in the application and their possible harvest times throughout the year (adapted from BIM,2001).

This would suggest it is possible for the seaweed installation to be in place and active year-round, leading to a clear conflict with existing users during the nine months of the year when pot-fishing occurs (generally March- November). Even if seaweed aquaculture was not active all year, the risk of entanglement with ropes and anchors still exists for existing users.

Table 3: Seaweed types and potential harvest periods:

Seaweed species	Type	Possible Harvest times
<i>Alaria esculenta</i>	Brown	Mid Spring to early Summer
<i>Himanthalia elongata</i>	Brown	Spring to Autumn
<i>Laminaria hyperborea</i>	Brown – Kelp	Spring and Autumn
<i>Laminaria digitata</i>	Brown- Kelp	Year round
<i>Saccharina latissima</i>	Brown- Kelp	Year round
<i>Fucus vesiculosus</i>	Brown – wrack	Summer to Autumn
<i>Ascophyllum nodosum</i>	Brown -wrack	Year round
<i>Palmaria palmata</i>	Red	Year round
<i>Porphyra</i> spp	Red	Spring-Summer
<i>Ulva lactuca</i>	Green	Spring-Summer

These sites are **suitable** for the proposed developments for the following reasons:

- The area is a relatively sheltered part of an exposed bay and none of the statutory consultees had any major concerns regarding navigation or maritime safety. However, the CIL did highlight the exposed nature of Ballinskelligs bay overall and the potential impact this may have on structures.
- The isolated location of the proposed developments and their low profile in the water means they would not be expected to be visually intrusive.
- The proposed site locations would not interfere with any current tourism activities in the area, including shore angling.

These sites are **not suitable** for proposed developments for the following reasons:

- It would appear the sites are regularly used by local fishermen for a mixture of potting and trawling, depending on the time of year, with the majority of activity during the potting season. Therefore, the sites are already in use by a number of other users.
- The time frame for both activities would appear to overlap for at least part of the year, given the wide range of seaweed species applied for and their growing periods, along with the timing of the potting and gill netting seasons.

- An attempt to carry out both seaweed aquaculture and potting/fishing in such a small area is likely to cause an unnecessary health and safety hazard and lead to a significant loss of fishing grounds.

The sites under appeal are therefore **considered not suitable** for the intended purpose.

7.2 Other uses

Section 61 (b) takes account of other beneficial uses, both in existence or future in the area and / or waters of the proposed sites. The other users identified of the Sites under appeal are shore anglers and inshore fishermen. As described in Section 7.1, the sites are likely to negatively impact on inshore fishermen as existing users of the sites and the two activities do not appear compatible. Inshore anglers are unlikely to be impacted given the distance between the shore and the location of the proposed developments.

The proposed developments would overall have a **significant adverse impact** on the possible other uses or users of the area.

7.3 Statutory Status

Section 61 (c) considers the statutory status of the area under consideration including the provisions of any development plan. There are no specific statutory or development plans for Ballinskelligs Bay. Aquaculture and fishing are however considered under the Kerry County Development Plan (KDP, 2015). This aims to find a balance between supporting the sustainable development of the operations of the fishing and aquaculture industry while protecting and preserving the biodiversity and ecosystems in our oceans.

Appropriate Assessment screenings have been carried out on the proposed aquaculture sites in relation to the surrounding Natura 2000 sites. These screening assessments determined that there were no Likely Significant Effects on the SCIs or Qualifying Interests of the adjacent Natura 2000 sites from the development of the proposed sites.

The proposed developments are within 3km of the N70, which forms part of the Wild Atlantic Way and the Kerry Way, but the proposed developments would not be visible from here. The low profile of the developments in a large bay means it is highly unlikely to have any visual impact in this area of High Scenic Value.

It is the considered opinion of the Technical Advisor that given the low levels of proposed aquaculture within the Harbour and the results of the AA screening process, that the proposed sites would have **no significant detrimental impact** on the statutory status of the Bay.

7.4 Economic effects

Section 61 (d) considers the likely effect a proposed aquaculture development (or its amendment / revocation) would have on the economy of the area in which the aquaculture is to be located. While the proposed developments would have a positive economic effect for the Appellant, there is the risk that the proposed developments would have a significant negative economic impact on the inshore fishermen currently using the area who are likely to be impacted by these developments.

Overall, these developments are likely to have a **negative economic impact** on existing users.

7.5 Ecological Effects

Section 61 (e) considers the likely effect that the proposed aquaculture operations would have on wild fisheries, natural habitats and the fauna and flora of the area. Seaweed aquaculture is considered extensive aquaculture, which does not require the addition of feed to the environment and the seaweed themselves do not excrete waste products, as would be seen with shellfish for example.

Seaweed aquaculture can potentially have an unquantified positive impact on an area in terms of removing excess nutrients from the water column and providing extra substrate and shelter for other marine creatures, for example, shelter for juvenile fish species. This, however, would be negated on the harvest of the seaweed from the area.

Potential impacts of protected species and habitats have been considered under Section 5 and Section 7.3 above.

The movement of stock and equipment in and out of the water can encourage the transport of non-native and / or invasive species either through the introduction via seed and /or from boats /vehicles moving between sites. The appealed sites propose to cultivate only native species (seaweeds on longlines). It is the considered opinion of the technical advisor that there is no significant impact posed by this application with regards to the introduction of the non-native species into Ballinskelligs Bay as the proposed species to be cultivated are all native species and will be sourced within Ireland.

Overall, **no significant impact on the ecology of the area** is predicted by the proposed developments.

7.6 General Environmental Effects

Section 61 (f) considers any other effects on the environment in general that could occur in the vicinity of the area where the proposed sites are to be located. The establishment of seaweed cultivation could potentially improve the water quality within the Bay by removing suspended particles and excess nutrient input from agricultural runoff and wastewater

discharges. However, Ballinskelligs bay is not regarded as an area with excess nutrient levels in the water column. The physical placement of mooring anchors and cages will potentially increase the local biodiversity of the sites by providing varied areas within the water column for marine species to settle and develop upon.

The physical placement of cages and mooring anchors on the seafloor can potentially alter the benthic habitats in terms of species disturbance and distribution, however at the scale proposed within these applications this is considered to be localised to the areas of the structures and considered not likely to affect the overall benthic habitats within the Bay.

It is considered that the proposed application will not pose significant environmental effects within the Harbour or in the wider area. There are no predicted impacts from pollution sources or changes to hydrological functioning of the sites as a whole. The proposed aquaculture activities are extensive in nature, in that they do not require the addition of feedstuffs or medicinal inputs and rely wholly on the natural resources within the Harbour.

Notwithstanding the outcome of Section 4 and Section 7.5 above, **no significant environmental effects** of the proposed developments on the sites or surrounding areas have been found during the technical review.

7.7 Effect on man-made heritage

There is no predicted impact on known terrestrial or marine man-made heritage sites located around Ballinskelligs Bay. There would be **no effect on the man-made heritage** of value in the area as a result of the proposed operations.

7.8 Section 61 Assessment Conclusions

In conclusion, the Section 61 assessment finds that **these sites are deemed unsuitable for the proposed developments** on the grounds of site suitability, impacts on other users and economic impact, as outlined in Sections 7.1, 7.2 and 7.4 above.

7.9 Confirmation re Section 50 Notices

Under Section 50 of the Fisheries (Amendment) Act the Board has the power to consider any issues other than those raised in the appeal documents if they are matters to which under section 61, the Board may have regard. However, the same section also obliges the Board, if it does intend to take into account such other issues apart from those raised in the appeal documents, to give notice in writing to the parties and to persons who made submissions and observations, in accordance with section 50 (2) of the 1997 Act.

The Technical Advisor is of the opinion that there are not matters which arise in Section 61 which the Board ought to take into account which have not been raised in the appeal

documents, and it is not necessary to give notice in writing to any parties in accordance with section 50 (2) of the 1997 Act.

8.0 Technical Advisor’s Evaluation of the Issues in Respect of Appeals and Submissions/Observations Received

8.1 Appeal issues

Appeal AP2/1-4/2021		
Issue	Appellant Comments	Technical Advisor’s Response
Impacts on Other Users	Disputes that there will be no significant effects on wild fisheries. A number of appellants claim to use this area regularly and apparently rely on it for the majority of their earnings. It is also traditionally used for shelter of pots during times of unsettled weather. (AP2/1,3,4/2021)	The submission of the SFPA upholds the opinions expressed in these appeals relating to impacts on existing wild fisheries and this issue is dealt with in detail in Section 7.1 above. The technical Advisor is of the opinion that the proposed developments will negatively impact on other users of the area.
Economic Impact	Disputes that the proposed developments will have a positive impact on the local economy, as they fear it will negatively impact on an existing fishing ground used by some of their members. The Appellant claims that the two jobs that would be created by the proposed development would be negated by the loss of two existing fishing jobs. (AP2/1,3, 4/2021)	The Technical Advisor is also of the opinion that the proposed developments will have a negative economic impact on existing users of the sites.
Health and Safety	They express concerns regarding the safety of the sites for year-round use, especially during the wintertime when it does not	The sites are sheltered from the prevailing winds but have the potential to be impacted by wintertime

	provide shelter from the prevailing winds, although it is a suitable area for shelter for approx. nine months of the year. (AP2/1,3/2021)	storms. It should be noted that local fishermen do not fish using pots between December and February inclusive. The technical advisor is of the opinion that the location may be negatively impacted by poor weather conditions during the months outlined. This concern was also raised by the CIL as part of their submission to AFMD.
Ecological Impacts/Other Users	The Appellant highlights the existence of a scallop bed in the area (AP2/1,3/2021).	This is not currently commercially exploited, so is not impacting on current users and is unlikely to be negatively impacted by the development of seaweed aquaculture in the area, as discussed in Section 7.5 above. The technical advisor is not of the opinion that any scallop bed in the area will be negatively impacted by the proposed developments.
Impacts on Other Users	The Appellant hold a licence for culturing sea urchins close to the proposed sites and hand harvest seaweed locally. They are concerned about the potential impact on both these activities of the proposed developments. (AP2/2/2021).	There has been no risk identified to either continued urchin aquaculture or the hand harvesting of wild seaweed locally due to the proposed developments. The technical advisor does not believe that the current activities of the appellant will be negatively impacted by the proposed developments.
Consultation	The Appellant was not notified or consulted regarding the proposed developments before	The AFMD followed procedure, as laid out by the legislation regarding public

	the Minister’s decision was made. (AP2/4/2021).	notice. It is not normal practice to individually consult all potential stakeholders during the assessment of a new aquaculture licence. The public has a one-month consultation period before the licence decision is made, which was not utilised by the appellants in this case. The technical advisor is of the opinion that correct procedure was followed regarding public consultation.
Appeal AP3/1-5/2021		
Issue	Appellant Comments	Technical Advisor response
Impacts on Other Users	Disputes that there will be no significant effects on wild fisheries. A number of appellants state they use this area regularly for pot and gillnet fishing throughout the year. It is also traditionally used for shelter during times of unsettled weather. (AP3/1,2,3,4,5/2021)	The submission of the SFPA upholds the opinions expressed in these appeals relating to impacts on existing wild fisheries and this issue is dealt with in detail in Section 7.1 above. The Technical Advisor is of the opinion that the proposed developments will negatively impact on other users of the area.
Economic Impacts	Disputes that the proposed developments will have a positive impact on the local economy, as they fear it will negatively impact on an existing fishing ground. the two jobs that would be created by the proposed developments would be negated by the loss of existing fishing jobs. (AP3/2, 4, 5/2021)	The Technical Advisor is also of the opinion that the proposed developments will have a negative economic impact on existing users of the sites.

<p>Health and Safety</p>	<p>Concerns regarding the safety of the sites for year-round use, especially during the wintertime when it does not provide shelter from the prevailing winds, although it is a suitable area for shelter for approx. nine months of the year. (AP3/2,4/2021)</p>	<p>The sites are sheltered from the prevailing winds but has the potential to be impacted by wintertime storms. It should be noted that local fishermen do not fish using pots between December and February inclusive. The technical advisor is of the opinion that the location may be negatively impacted by poor weather conditions during the months outlined. This concern was also raised by the CIL as part of their submission to AFMD.</p>
<p>Ecological Impact/Other Users</p>	<p>The existence of a scallop bed in the area. (AP3/2,3,4/2021)</p>	<p>This is not currently commercially exploited, so is not impacting on current users and is unlikely to be negatively impacted by the development of seaweed aquaculture in the area, as discussed in Section 7.5 above. The technical advisor is not of the opinion that any scallop bed that may be in the area will be negatively impacted by the proposed developments.</p>
<p>Consultation</p>	<p>Appellants not notified or consulted regarding the proposed developments (AP3/1,3,5/2021).</p>	<p>The AFMD followed procedure, as laid out by the legislation regarding public notice. It is not usual practice to individually consult all potential stakeholders during the assessment of a new aquaculture licence. The public has a one-month consultation period before</p>

		the licence decision is made, which was not utilized by the appellants in this case. The technical advisor is of the opinion that correct procedure was followed regarding public consultation.
Health and Safety	The Appellant feels if the developments go ahead, they would lead to an increased risk to his work as pots would have to be placed in a more dangerous location, or else the amount of gear lost by local fishermen would increase (AP3/5/2021).	The technical advisor agrees that the proposed developments would pose a health and safety risk to existing users of the area, as discussed in Section 7.1 above.
Other Users	The area is a popular shore angling spot (AP3/5/2021).	The technical advisor is of the opinion that the proposed developments would not negatively impact shore angling.

It should be noted that the consideration and determination of an appeal by the Board is considered to be “de novo”, which means that it is generally based on the facts and circumstances as they pertain at the time of the Board’s determination. The Technical Advisor has taken this under consideration when assessing this Appeal.

8.2 Submissions/Observations received

Applicant response to All Appeals		
Issue	Applicant Observations	Technical Advisor’s Response
Consultation	They dispute there was a lack of adequate consultation as licence application processes were followed and some local commercial fishermen were consulted by themselves (as they claim) and the SFPA.	The AFMD followed procedure, as laid out by the legislation, regarding public notice. It is not usual practice, nor is it required to individually consult all potential stakeholders during the assessment of a new aquaculture licence. The public has a one-month

		consultation period before the licence decision is made, which was not utilized by the appellants in this case. The technical advisor is of the opinion that correct procedure was followed regarding public consultation. Any informal consultation carried out by the applicants themselves is outside the scope of assessment of the technical advisor.
Significant Impacts on Other users	They claim that it has been determined that no significant effects arise regarding wild fisheries and that the impacts claimed in the appeals received are grossly exaggerated.	This claim, while reflecting the opinion of the Minister when granting the licence, is not upheld by the submissions of the SFPA to both AFMD and ALAB. The technical advisor is of the opinion that if the proposed developments proceed, they would negatively impact on existing fishing activities.
Economic Impacts	They also state the economic impacts of two fishermen claiming to be impacted will be outweighed by the economic impact of their proposed developments and future plans to add a tourism/educational element.	Potential job creation does not mean that existing users will not be negatively impacted.
Impact Zone Size	They argue that the area in dispute makes up less than 1% of the overall area of Ballinskelligs Bay and were selected to avoid the main lobster and crab fishing grounds and in consultation with some local fishermen.	While the area in dispute makes up less than 1% of Ballinskelligs Bay, it makes up close to half of the actual area under dispute – being the area between Hog’s Head and Rineen Point.
Positive Impacts of Development	It is claimed seaweed farms act as nursery grounds and shelter	This potentially has some scientific merit in some sites

	for juvenile and small fish and will actually improve fishing in the bay. They also claim they will improve water quality which will also have positive impacts on the bay.	but is unquantified at this point for the Sites in question.
Other users	They dispute that the area is used for the storage of pots during bad weather, and if so, it would only be during summertime and very occasionally. They also state that there is sufficient space in the Hogs Head area outside of their licenced sites to store pots if necessary.	Potting season in Ballinskelligs Bay is between March and November, so use of the area for shelter and pot storage during bad weather is unlikely to be restricted to summer months only. There is also a potential health and safety risk due to entanglement in storing a large number of pots in a smaller area and close to a seaweed farm installation.
Appellant Bias	They claim that two of the appellants are anti-aquaculture and are willing to support exaggerated claims from their members.	This is not supported by evidence and is outside of the scope of the technical advisor's report.
Suitability of Submissions from Statutory Bodies	They argue the SFPA did not provide suitable detail regarding their negative submission or a possible mitigation when raising concerns regarding the proposed developments, which the applicants felt they should have done. The applicants question whether the SFPA was remiss in its duties as a statutory consultee.	The SFPA was requested to supply mitigation ideas but is not under any legislative obligation to do so. It is only under an obligation to submit its observations, which it did to both the AFMD and ALAB. The technical advisor finds the SFPA was not remiss in its duties as a statutory consultee.
Local Connections	They restate the local connections of one of the applicants.	This is deemed outside the scope of the technical advisor's report.
Site suitability	They dispute that the area is unsuitable for the proposed developments in terms of	This comment appears to misunderstand the time of year under discussion, which

	exposure while also being a frequently used area to hold pots during poor weather, as claimed by the appellants.	is the winter months outside of potting season, when the seaweed installation would still be in operation. This is the time frame highlighted by the appellants as being of higher risk, as they do not cast their pots during these months. The technical advisor does not find a conflict here.
Appellant Bias	They question some of the appellants knowledge of modern aquaculture practices.	This is deemed to fall outside the scope of the technical advisor's report.
Rights of Appellants	They dispute concerns raised by an appellant with a nearby aquaculture licence for urchin aquaculture of potential impacts to his site from the proposed developments.	The technical advisor agrees there is no evidence the nearby aquaculture licence holder will be negatively impacted by the proposed developments.
Rights of Appellants	They claim one of the appellants is making a veiled threat to continue fishing regardless of the licence decision made by ALAB.	The technical advisor feels this claim is outside the scope of the technical report.
Rights of Appellants	They question the same appellants right to appeal given his other employment and the area where he lives, as they claim and his potential economic impact in terms of fishing when compared to their proposed developments.	The rights of existing users to a site are separate to any other activities they engage in and is something which is outside the scope of this report.
Appellant Bias	They point out that one appellant is also chair of the Iveragh Inshore Fisherman's Co-op which had entered a separate appeal and question his given address as Ballinskelligs given that he fishes from another port.	The technical advisor feels this claim is not relevant to the appeals at hand. The Appellant under discussion submitted a valid appeal to ALAB.
Other Users	They highlight that no shore anglers or other recreational	The technical advisor agrees with this statement.

	users appealed the proposed developments.	
Appellant Bias	They suggest that some of the appellants may have wishes to apply for the sites under question themselves and are put out that someone else put in an application first.	This is unsubstantiated and not relevant to the appeals at hand in the technical advisor's opinion.

9.0 Oral Hearing Assessment

In line with Section 49 of the Fisheries Amendment Act 1997 an oral hearing may be conducted by the ALAB regarding the licence appeals.

At this time an oral hearing has not been requested by any appellant.

It is considered, by the advisor, that an Oral Hearing is not required for this application as there is no outstanding conflicting technical information on relevant and significant aspects of the appeals which have not been resolved.

10.0 Recommendation of Technical Advisor with Reasons and Considerations

It is the recommendation of the Technical Advisor **to overturn the decisions of the Minister and refuse the granting of Licences** for Sites T06 /519 and T06/520 for the reasons below:

These sites are **not suitable** for the proposed developments for the following reasons:

- It would appear the sites are regularly used by local fishermen for a mixture of potting and trawling, depending on the time of year, with the majority of activity during the potting season. Therefore, the sites are already in use by a number of other users.
- The time frame for both activities would appear to overlap for at least part of the year, given the wide range of seaweed species applied for and their growing periods, along with the timing of the potting and trawling seasons.
- An attempt to carry out both seaweed aquaculture and potting/fishing in such a small area is likely to cause an unnecessary health and safety hazard and lead to a significant loss of fishing grounds for existing users.

Technical Advisor: Dr Ciar O'Toole
Date: 07 October 2022

References

Bord Iascaigh Mhara, 2019. BIM National Seafood Survey. Aquaculture Report 2019. BIM 2019.

EPA, 2022. Water Quality in Ireland 2018-2020. www.maps.epa.ie Accessed 30/03/2022

Failte Ireland (2021). Key Tourism Facts 2019. Report by Failte Ireland, March 2021.

Kerry County Council, 2015. Kerry County Development Plan 2015-2021.

Marine Institute, 2020. Appropriate Assessment Screening for aquaculture activity at Sites T06/519A and T06/520A in Ballinskelligs Bay and Finding of No Significant Effects report. May 2020.

Appendices

Appendix I - SPA AA Screening and Finding of No Significant Effects

Table 1: Appropriate Assessment of Aquaculture Activities in Ballinskelligs Bay for site applications T06/519A and T06/520A– further consideration of Special Protection Areas	
1.1 Brief description of Project or Plan	<p>Currently there is one licenced aquaculture activity in Ballinskelligs Bay, Co. Kerry. This is a 0.2 ha sub-tidal sea urchin site in the same portion of the bay where the new applications are proposed.</p> <p>Aquaculture licence applications have been submitted for the production of native seaweeds (<i>Alaria esculenta</i>, <i>Laminaria digitata</i>, <i>Laminaria hyperborea</i>, <i>Laminaria saccharina</i>, <i>Ascophyllum nodosum</i>, <i>Ulva lactuca</i>, <i>Porphrya spp</i>, <i>Fucus vesiculosus</i> <i>Palmaria palmata</i>, <i>Himanthalia elongata</i>) using longlines at Sites T06/519A and T06/520A in Ballinskelligs Bay. The location of the sites is shown in Figure 1. The area of foreshore at Site T06/519A is 14.69 Ha while the area of foreshore at Site T06/520A is 14.72 Ha.</p> <p>It is intended that the seaweeds are cultured using seeded strings on longlines supported by floating structures. It is intended that seeded strings will be sourced from within Ireland. It is anticipated that the maximum total annual production of seaweeds across the 2 proposed sites would be circa 400 tonnes.</p>
1.2 Brief description of Natura 2000 site	<p>Sites T06/519A and T06/520A are not located within a Natura 2000 site. The Marine Institute’s “Appropriate Assessment Screening for aquaculture activity at Sites T06/519A and T06/520A in Ballinskelligs Bay” of May 2020 dealt with adjacent SAC sites and SPA sites within 15km (Deenish and Scariff Island SPA, Iveragh Peninsula SPA and Puffin Island SPA). However, the proposed sites are also within the potential range of Special Conservation Interest Species from a number of SPA’s in the region which were not considered. These SPAs, along with the three sites considered in the Marine Institute report, are considered below.</p> <p>Deenish Island and Scariff Island SPA (Site Code: 004175) are small to medium sized uninhabited islands are situated between 5 and 7 km west of Lamb's Head off the Kerry coast and thus are very exposed to the forces of the Atlantic. The site supports an nationally important population of <i>Puffinus</i></p>

puffinus (5.2% of all-Ireland total). The site has long been known as a breeding site for *Hydrobates pelagicus* but there is no recent survey data. Other seabird species which occur in all-Ireland important numbers are *Sterna paradisaea*, *Fulmarus glacialis* and *Larus fuscus*. This site also has breeding *Phalacrocorax aristotelis*, *Larus argentatus* and *Cephus grille*. Deenish Island and Scariff Island provides excellent habitat for the seabirds. The islands also have a small breeding population of *Pyrhacorax pyrrhacorax*.

Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

Bird Code	Common Name	Scientific Name
A009	Fulmar	<i>Fulmarus glacialis</i>
A013	Manx Shearwater	<i>Puffinus puffinus</i>
A014	Storm Petrel	<i>Hydrobates pelagicus</i>
A183	Lesser Black-backed Gull	<i>Larus fuscus</i>
A194	Arctic Tern	<i>Sterna paradisaea</i>

Puffin Island SPA (Site Code: 004003): is one of the most important seabird colonies in Ireland with an assemblage of over 10,000 pairs of breeding seabirds. The site had the largest population of *Fratercula arctica* and the second largest *Puffinus puffinus* population recorded in the Seabird 2000 survey, plus a large population of *Hydrobates pelagicus* (populations of *Fratercula arctica* and *Hydrobates pelagicus* are both of international importance). It also supports nationally important populations of *Fulmarus glacialis*, *Larus fuscus*, *Larus marinus* and *Alca torda*. It is less important for *Rissa tridactyla* and *Uria aalge*. Several pairs of *Pyrhacorax pyrrhacorax* breed. The site is owned by BirdWatch Ireland and is a Statutory Nature Reserve.

Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

Bird Code	Common Name	Scientific Name
A009	Fulmar	<i>Fulmarus glacialis</i>
A013	Manx Shearwater	<i>Puffinus puffinus</i>
A014	Storm Petrel	<i>Hydrobates pelagicus</i>
A183	Lesser Black-backed Gull	<i>Larus fuscus</i>
A200	Razorbill	<i>Alca torda</i>
A204	Puffin	<i>Fratercula arctica</i>

Iveragh Peninsula SPA (Site Code: 004154) is a large site situated on the west coast of Co. Kerry. The site encompasses the high coast and sea cliff sections of the peninsula from just west of Rossbehy in the north, around to the end of the peninsula at Valencia Island and Bolus Head, and as far east as Lamb's Head in the south. The site supports a nationally important population of breeding Chough, a Red Data Book species that is listed on Annex I of the E.U. Birds Directive; 106 breeding pairs were recorded from the site in the 1992 survey and 86 in the 2002/03 survey. Flocks of up to 42 birds were recorded in the 2002 to 2004 period. The site also supports an Peregrine population (5 pairs in 2002); this species is listed on Annex I of the E. U. Birds Directive. The site also holds nationally important populations of Guillemot (2,860 pairs in 1999-2000), Fulmar (766 pairs in 1999- 2000), Kittiwake (1,150 pairs in 2000), Great Black-backed Gull (63 pairs in 1999-2000) and Black Guillemot (118 individuals in 1999), as well as smaller populations of other breeding seabirds: Razorbill (90 pairs in 1999-2000), Herring Gull (30 pairs in 1999-2000), Cormorant (33 pairs in 1999-2000) and Shag (11 pairs in 1999-2000).

Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

Bird Code	Common Name	Scientific Name
A009	Fulmar	Fulmarus glacialis
A103	Peregrine	Falco peregrinus
A188	Kittiwake	Rissa tridactyla
A199	Guillemot	Uria aalge
A346	Chough	Pyrrhocorax pyrrhocorax

Beara Peninsula SPA (Site Code: 004155) is a coastal site parts of which border the northern shore of Bantry Bay. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for Chough and Fulmar. The site includes the sea cliffs, the land adjacent to the cliff edge and several upland areas further inland of the coast about Eagle Hill, Knockgour, Allihies and Firkeel. The high water mark forms the seaward boundary.

Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

Bird Code	Common Name	Scientific Name
A009	Fulmar	Fulmarus glacialis
A346	Chough	Pyrrhocorax pyrrhocorax

Sheeps Head to Toe Head SPA (Site Code: 004156) is a large site situated on the south-west coast of Co. Cork, adjacent to Bantry Bay. The site includes sea cliffs, the land adjacent to the cliff edge an area further inland to the east of Dunlough Bay, and also areas of sand dunes at Barley Cove and Crookhaven. The high water mark forms the seaward boundary. It is one of the most important sites in the country for Chough. The presence of Peregrine falcon is of particular significance.

Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

Bird Code	Common Name	Scientific Name
A103	Peregrine	Falco peregrinus
A346	Chough	Pyrrhocorax pyrrhocorax

Skelligs SPA (Site Code: 004007) The site comprises Great Skellig and Little Skellig islands and the surrounding seas to a distance of 500 m from the shorelines. These highly exposed and isolated islands are located in the Atlantic ocean some 14 km and 11 km (respectively) off the County Kerry mainland. The site is one of the most important seabird colonies in the country for populations and species diversity. It has internationally important populations of *Hydrobates pelagicus* and *Sula bassana*. For *Sula bassana*, it is the largest colony in Ireland and one of the largest in the world. It also supports nationally important populations of *Fulmarus glacialis*, *Puffinus puffinus*, *Rissa tridactyla*, *Uria aalge* and *Fratercula arctica*. References to breeding seabirds date back to the 1700s. It is a traditional site for *Pyrrhocorax pyrrhocorax* and *Falco peregrinus*.

Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

Bird Code	Common Name	Scientific Name
A009	Fulmar	Fulmarus glacialis
A013	Manx Shearwater	Puffinus puffinus
A014	Storm Petrel	Hydrobates pelagicus
A016	Gannet	Morus bassanus
A188	Kittiwake	Rissa tridactyla
A199	Guillemot	Uria aalge
A204	Puffin	Fratercula arctica

The Bull and The Cow Rocks SPA (Site Code: 004066): comprises two very small rocky islands, the Cow and the Bull,

situated at respective distances of approximately 2.5 km and 4 km from Dursey Head in the extreme south-west of Ireland. The Bull and the Cow is one of the most important seabird colonies in the country, with nationally important populations of *Hydrobates pelagicus*, *Sula bassana* and *Fratercula arctica*. For *Sula bassana*, it is the third largest colony in Ireland. It also supports regionally important numbers of *Fulmarus glacialis*, *Rissa tridactyla*, *Uria aalge* and *Alca torda*. References to breeding seabirds date back to the 1800s. Both islands are Refuges for Fauna and the Cow is state-owned.

Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

Bird Code	Common Name	Scientific Name
A014	Storm Petrel	<i>Hydrobates pelagicus</i>
A016	Gannet	<i>Morus bassanus</i>
A204	Puffin	<i>Fratercula arctica</i>

Blasket Islands SPA (Site Code: 004008): The site comprises all of the main islands in the group, as well as the various islets and rocks, and also the seas which surround the islands to a distance of 500 m. There are six main islands, plus some smaller islands, islets and sea stacks. The Blasket Islands SPA is one of the most important seabird colonies in the country, with at least 11 species of seabird breeding regularly. It is the most important site in the country for Storm Petrel and Manx Shearwater, with internationally important populations of both. A nationally important population of breeding Chough also occur on the islands. Of note is the regularly occurrence of four species listed on Annex I of the E.U. Birds Directive - Storm Petrel, Arctic Tern Peregrine and Chough. Tearaght Island is a Statutory Nature Reserve.

Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

Bird Code	Common Name	Scientific Name
A009	Fulmar	<i>Fulmarus glacialis</i>
A013	Manx Shearwater	<i>Puffinus puffinus</i>
A014	Storm Petrel	<i>Hydrobates pelagicus</i>
A018	Shag	<i>Phalacrocorax aristotelis</i>
A183	Lesser Black-backed Gull	<i>Larus fuscus</i>
A184	Herring Gull	<i>Larus argentatus</i>
A188	Kittiwake	<i>Rissa tridactyla</i>

	<table border="0"> <tr> <td>A194</td> <td>Arctic Tern</td> <td><i>Sterna paradisaea</i></td> </tr> <tr> <td>A200</td> <td>Razorbill</td> <td><i>Alca torda</i></td> </tr> <tr> <td>A204</td> <td>Puffin</td> <td><i>Fratercula arctica</i></td> </tr> <tr> <td>A346</td> <td>Chough</td> <td><i>Pyrrhocorax pyrrhocorax</i></td> </tr> </table>	A194	Arctic Tern	<i>Sterna paradisaea</i>	A200	Razorbill	<i>Alca torda</i>	A204	Puffin	<i>Fratercula arctica</i>	A346	Chough	<i>Pyrrhocorax pyrrhocorax</i>
A194	Arctic Tern	<i>Sterna paradisaea</i>											
A200	Razorbill	<i>Alca torda</i>											
A204	Puffin	<i>Fratercula arctica</i>											
A346	Chough	<i>Pyrrhocorax pyrrhocorax</i>											
<p>1.3 Describe the individual elements of the project (either alone or in combination with other plans and projects) likely to give rise to impacts on the Natura 2000 site</p>	<p>Seaweed is cultured using longlines in a manner similar to mussel cultivation. A long-line is supported by a series of small floats joined by a cable or chain and anchored at the bottom on both ends. Juvenile plants are seeded onto ropes or strings (droppers) which are suspended on the line. From each of the lines there are a number of dropper lines (up to 5m in length). The depth of the droppers, which is directly related to the quantity of mussels being cultured, is dependent upon a number of factors including water depth, the floatation provided and the carrying capacity of the system.</p> <p>Sea urchin culture is occurring in Ballinskelligs Bay at a low density on a small site comprised of covered cement tanks in the sub tidal.</p> <p>For the majority of SCI species in the SPA's listed, there is no potential link in terms of either range or feeding habits to Ballinskelligs Bay</p> <p>SCI species from the listed SPA's that have the potential to range as far as Ballinskelligs bay and are known to feed in in-shore waters and bays are:</p> <p>Beara Peninsula SPA (approx. 20 km from proposed sites)</p> <ul style="list-style-type: none"> • Fulmar • <p>Deenish Island and Scariff Island SPA (approx. 6 km from proposed sites)</p> <ul style="list-style-type: none"> • Fulmar • Lesser black-backed gull • <p>Puffin Island SPA (approx. 15 km from proposed sites)</p> <ul style="list-style-type: none"> • Fulmar • Lesser Black-backed gull <p>Iveragh Peninsula SPA (approx. 1-5 km from proposed sites)</p> <ul style="list-style-type: none"> • Fulmar • Guillemot 												

	<p>The Bull and The Cow Rocks SPA (approx. 22 km from proposed sites)</p> <ul style="list-style-type: none"> • Gannet <p>Skelligs SPA (approx. 22 km from proposed sites)</p> <ul style="list-style-type: none"> • Gannet • Fulmar • Guillemot <p>Blasket Islands SPA (approx. 38 km from proposed sites)</p> <ul style="list-style-type: none"> • Fulmar • Lesser Black-backed Gull • Herring Gull
<p>1.4 Describe any likely direct, indirect, or secondary impacts of the project (either alone or in combination with other plans or projects) on the Natura 2000 site by virtue of:</p>	
<ul style="list-style-type: none"> • Size and scale 	<p>There are no direct or indirect impacts from the culture operations on the adjacent Natura 2000 sites.</p>
<ul style="list-style-type: none"> • Land-take 	<p>None</p>
<ul style="list-style-type: none"> • Distance from the Natura 2000 site or key features of the site 	<p>There is no spatial overlap between any of the aquaculture sites and the SPA's listed above.</p> <p>Distance to the various SPA sites under consideration that are more than 15km away from the proposed sites are given in Section 1.3 of this table</p>
<ul style="list-style-type: none"> • Resource requirements 	<p>The culture of seaweed is reliant upon ambient nutrient levels in the water column and solar illumination. The production of seaweed does not use any resources required by the qualifying features of adjacent Natura sites.</p>
<ul style="list-style-type: none"> • Emissions (disposal to land, water or air): 	<p>Activities associated with the seaweed culture would include regular boat trips to the lines to maintain lines and/or harvest the seaweed. These site visits would necessitate the use of a vessel which would increase the level of noise in the system. In addition the risk of pollution from exhaust or a spill would also be increased by virtue of the vessels operating in the system.</p>

	This same risk would apply to recreational boats and wild fishery interests operating in the bay. Any accidental oil spills / pollution events associated with seaweed production activities within Ballinskelligs Bay are likely to be minor in nature, have a localised impact only and will not have any direct or indirect impact on the qualifying interests of the SPA's under consideration.
<ul style="list-style-type: none"> • Excavation requirements 	There are no excavation or similar activities associated with the aquaculture activity
<ul style="list-style-type: none"> • Transportation requirements 	Access routes to the aquaculture sites do not spatially overlap with any of the nearby SPA's. The produced aquaculture products are transported offsite by lorry using the existing national road network with no impact on the nearby SPA's.
<ul style="list-style-type: none"> • Duration of construction, operation, decommissioning etc 	During set and decommissioning there will be some temporary non-significant disturbance.
<ul style="list-style-type: none"> • Other 	None
1.5 Describe any likely changes to the site arising as a result of:	
<ul style="list-style-type: none"> • reduction of habitat area 	There is no reduction in habitat area within the Natura 2000 sites arising from the seaweed production activities. Longlines used for mussel production have been shown in studies to provide extra perching sites for gulls, shags and cormorants, causing a potential positive impact. A similar result would be expected for seaweed longlines given their similarity.
<ul style="list-style-type: none"> • disturbance to key species 	There is no evidence in the literature to suggest that rope mussel culture or seaweed culture will negatively impact Fulmar, Storm Petrel, Lesser black-backed gull, Guillemot, Gannet or Puffin.
<ul style="list-style-type: none"> • habitat or species fragmentation 	There is no habitat or species fragmentation within the nearby SPA's arising from the proposed seaweed production activities.
<ul style="list-style-type: none"> • reduction in species density 	There is no reduction in species density within the nearby SPA's arising from the proposed seaweed production activities

<ul style="list-style-type: none"> • changes in key indicators of conservation value (water quality etc) 	There are no changes in key indicators of conservation value within the nearby SPA's arising from the proposed seaweed production activities.
<ul style="list-style-type: none"> • climate change 	Given the nature and scale of the proposed seaweed production activities the contribution to climate change is insignificant.
1.6 Describe any likely impacts on the Natura 2000 site as a whole in terms of:	
<ul style="list-style-type: none"> • interference with the key relationships that define the structure of the site 	None of the activities associated with the proposed seaweed production at Sites T06/519A and T06/520A in Ballinskelligs Bay will interfere with the key relationships that define the structure of the adjacent Natura 2000 sites.
<ul style="list-style-type: none"> • interference with key relationships that define the function of the site 	<p>None of the activities associated with the proposed seaweed production at Sites T06/519A and T06/520A in Ballinskelligs Bay will interfere with the key relationships that define the function of the adjacent Natura 2000 sites.</p> <p>Current knowledge indicates that these species have a positive/neutral reaction to mussel longlines (which are very similar in structure to seaweed longlines), using the floats as perches and feeding from the epibenthos growing on the ropes and floats.</p> <p>Consequently, it is concluded that the culture of seaweed using longlines in Ballinskelligs Bay does not pose significant risk to the SCI species and as such does not require a full appropriate assessment.</p>
1.7 Provide indicators of significance as a result of the identification of effects set out above in terms of:	
<ul style="list-style-type: none"> • loss 	None identified

<ul style="list-style-type: none"> • fragmentation 	None identified
<ul style="list-style-type: none"> • disruption 	None identified
<ul style="list-style-type: none"> • disturbance 	Increased boat traffic during set up and operation may cause disturbance, but the impacts on the species listed above are likely to be minimal.
<ul style="list-style-type: none"> • change to key elements of the site (e.g., water quality etc) 	None identified
1.8 Describe from the above those elements of the project or plan, or combination of elements, where the above impacts are likely to be significant or where the scale or magnitude of impacts is not known.	None identified

Table 2: Finding of No Significant Effects	
Details of project or plan	
2.1 Name of Project or Plan	Aquaculture production of seaweeds at Sites T06/519A and T06/520A in Ballinskelligs Bay– consideration of Special Protection Areas
2.2 Name and location of Natura 2000 site	Sites T06/519A and T06/520A are not located within a Natura 2000 site. The Marine Institute’s “Appropriate Assessment Screening for aquaculture activity at Sites T06/519A and T06/520A in Ballinskelligs Bay” of May 2020 dealt with adjacent SAC sites and SPA sites within 15km (Deenish and Scariff Island SPA, Iveragh Peninsula SPA and Puffin Island SPA). However, the proposed sites are also within the potential range of Special Conservation Interest Species from a number of SPA’s in the region which were not considered. These SPAs, along with the three sites considered in the Marine Institute report, are considered here.

	<p>The SPA's considered were:</p> <p>Sheep's Head to Toe Head SPA 004156</p> <p>Beara Peninsula SPA 004155</p> <p>Iveragh Peninsula SPA 004154</p> <p>Deenish Island and Scariff Island SPA 004175</p> <p>The Bull and The Cow Rocks SPA 004066</p> <p>Puffin Island SPA 004003</p> <p>Skelligs SPA 004007</p> <p>Blasket Islands SPA 004008</p>
2.3 Description of Project or Plan	Licence applications for seaweed culture in Ballinskelligs Bay.
2.4 Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
2.5 Are there other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	The only other aquaculture activity in Ballinskelligs Bay is a small scale sea urchin farm. This is not expected to impact any nearby Natura 2000 sites, either alone or in conjunction with the proposed developments.
Assessment of significant effects	
2.6 Describe how the project or plan (alone or in combination) is likely to affect the Natura 2000 site	No significant effects detected on nearby SPA sites and SCI species due to the planned cultivation of seaweed in Ballinskelligs Bay at sites T06/519A and T06/520A.
2.8 Explain why these effects are not considered significant	There is no spatial overlap of the proposed aquaculture activity with Natura sites. In addition, there would be no interference with key relationships that define the function of the sites. The culture activities will not result in habitat loss, there will not be significant disturbance to key species and there will be no habitat or species fragmentation. There will be no direct discharge of

	<p>pollutants into the environment and water quality will not be affected. Consequently, it is concluded that the proposed aquaculture activities, either individually or in combination, do not pose significant risk to the conservation features of the adjacent Natura 2000 sites listed above and as such do not require a full Appropriate Assessment.</p> <p>On the basis of the above it is considered that there will be no significant effects on the qualifying feature / interests' of the relevant Natura 2000 sites.</p>
Data collected to carry out the assessment	
2.9 Who carried out the assessment?	Dr Ciar O'Toole, Technical Advisor for the Aquaculture Licences Appeals Board, 03 October 2022.
2.10 Sources of data	<p>Gittings, T. (2018) Bird Impact Assessment. Report Submitted to the Aquaculture Licence Appeals Board February 2018.</p> <p>Marine Institute (2020) Appropriate Assessment Screening of Aquaculture activity at Sites T06/519A and T06/520A in Ballinskelligs Bay, Co. Kerry.</p> <p>NPWS (2022) Conservation objectives for Beara Peninsula SPA [004155]. Generic Version 9.0. Department of Housing, Local Government and Heritage</p> <p>NPWS (2022) Conservation objectives for Sheep's Head to Toe Head SPA [004156]. Generic Version 9.0. Department of Housing, Local Government and Heritage.</p> <p>NPWS (2022) Conservation objectives for Puffin Island SPA [004003]. Generic Version 9.0. Department of Housing, Local Government and Heritage.</p> <p>NPWS (2022) Conservation objectives for Skelligs SPA [004007]. Generic Version 9.0. Department of Housing, Local Government and Heritage.</p>

	<p>NPWS (2022) Conservation objectives for The Bull and The Cow Rocks SPA [004066]. Generic Version 9.0. Department of Housing, Local Government and Heritage.</p> <p>NPWS (2022) Conservation objectives for Iveragh Peninsula SPA [004154]. Generic Version 9.0. Department of Housing, Local Government and Heritage.</p> <p>NPWS (2022) Conservation objectives for Blasket Islands SPA [004008]. Generic Version 9.0. Department of Housing, Local Government and Heritage.</p> <p>NPWS (2022) Conservation objectives for Deenish Island and Scariff Island SPA [004175]. Generic Version 9.0. Department of Housing, Local Government and Heritage.</p> <p>Roycroft, Daphne; Kelly, Thomas; Lewis, Lesley (2006) Behavioural interactions of seabirds with suspended mussel longlines Aquaculture International, Volume 15 (1) – Nov 8, 200</p> <p>Thaxter, Chris B.; Lascelles, Ben; Sugar, Kate; Cook, Aonghais S.C.P.; Roos, Staffan; Bolton M., Langston R H W, Burton N H K. (2012) Seabird foraging ranges as a preliminary tool for identifying candidate Marine Protected Areas. Biological Conservation, Volume 156: 53-61 – Nov 1, 2012</p> <p>Special Protection Areas (SPA) National Parks & Wildlife Service (npws.ie)</p> <p>gov.ie - Aquaculture & Foreshore Management (www.gov.ie)</p>
<p>2.11 Level of assessment completed</p>	<p>Desk study</p>
<p>2.12 Where can the full results of the assessment be accessed and viewed?</p>	<p>See 2.10 for references</p>

Section 47 letter issued by ALAB to SFPA, 22nd February 2022:

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



Sea Fisheries Protection Authority
Park Road
Clogheen
Clonakilty
Co Cork
By Post & Email: sfpa_info@sfpa.ie

21 February 2022

Our Ref: **AP2&3/2021**

Site Ref: **T06/520A & T06/519**

Re: Appeal against the decisions by the Minister for Agriculture, Food and the Marine to grant Aquaculture Licences to Michael J O' Driscoll and Laura O'Donovan, T/A Ballinskelligs Sea Farms to cultivate seaweeds using longlines on areas of foreshore on sites ref T06/519 and T06/520A in Ballinskelligs Bay, Co. Kerry

Dear Sir/Madam

I refer to the above Appeals.

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board to determine the Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

Having considered the appeal and the information provided to it, the Board has determined that further documents are necessary for the purposes of enabling the Board to determine the Appeal.

The Board hereby requires you to provide the following:

1. Confirmation that the point referred to by SFPA as “Rineen Point” in its submission to DAFM re these appeals (attached – DAFM/SFPA correspondence dated 5 November 2019 and 15 October 2020) is the same point as that marked as “Rinneen Pt” on the OSI maps attached to this letter (OSI maps for sites T06/520A & T06/519)
2. Confirmation that SFPA's opinion remains unchanged from that submitted to DAFM in relation to these appeals, as outlined in the email dated 15th October 2020); and
3. Clarification as to the time period during which potting occurs in the area of the proposed sites, and specifically, whether this activity is restricted to the summer months?

Should you require any clarification in terms of this request for additional information, please contact Dr Ciar O'Toole, Technical Advisor to the ALAB Board on ciar.otoole@alab.ie or 087-4097160.

In accordance with section 47 (1) (a) of the Act, the Board requires this information within **30 days** of receipt of this letter. Please note that if the documents, particulars, or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further reference to you, determine the appeal.

Please also note that a person who refuses or fails to comply with a requirement under section 47 (1)(a) shall be guilty of an offence.

Yours sincerely



Antoinette Conroy
Secretary to the Board

Response received from SFPA to ALAB, 15th March 2022, via email:



Antoinette Conroy,
Aquaculture Licences Appeals Board,
Kilminchy Court,
Dublin Road,

Portlaoise,
Co. Laois,
R32 DTW5

1st March 2022

Your Ref: **AP2&3/2021**

Site Ref: **T06/520A & T06/519**

Re: Appeal against the decisions by the Minister for Agriculture, Food and the Marine to grant Aquaculture Licences to Michael J O'Driscoll and Laura O'Donovan, T/A Ballinskelligs Sea Farms to cultivate seaweeds using longlines on areas of foreshore on sites ref T06/519 and T06/520A in Ballinskelligs Bay, Co. Kerry.

Dear Ms Conroy,

I refer to your letter dated the 21st of February 2022 requesting further confirmation and clarification regarding information previously provided. Please note the following:

1. The point referred to by the SFPA as "Rineen Point" in its submission to DAFM is the same point as that marked as "Rinneen Pt" on the OSI maps for sites T06/520A & T06/519.
2. The SFPA's opinion remains unchanged from that submitted to DAFM in relation to these appeals, as outlined in the email dated 15th of October 2020.
3. Fishing activity in this area is not restricted to the summer months and generally occurs over a nine-month period annually from March to November inclusive.

Bryan Foran

Sea Fisheries Protection Officer

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An t-Údarás um Chosaint Iascaigh Mhara, Daingean Uí Chúis, Contae Chiarraí.

Sea Fisheries Protection Authority, Dingle, Co Kerry

Eircode: V92HOCV

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