

Leonard, Brona

From: Francis X O Beirn [REDACTED]
Sent: Wednesday 20 September 2023 11:31
To: Alab, Info
Cc: [REDACTED]
Subject: ALAB Appeals AP34-48/2019 Composite response
Attachments: MI Response to ALAB Wexford SAC observations Sept 2023.pdf; MI Response to ALAB Wexford SPA observations Sept 2023.pdf

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Dear Margaret,

In relation to the communications from ALAB to the Marine Institute (dated: 29, June, 2023 and 23 August, 2023) on licence deliberations in Wexford, I attached two responses. These composite responses are targeted as each communication, respectively.

Please do not hesitate to contact us if you have any other queries.

All the best

Francis

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Foras na Mara

Tá an t-eolas sa ríomhphost seo, agus in aon cheangaltáin leis, faoi rún agus tá sé dírithe ar an bhfaighteoir/na faighteoirí beartaithe amháin agus níor cheart ach dóibh siúd é a úsáid. D'fhéadfadh an t-eolas seo a bheith faoi réir pribhléid dhlíthiúil agus ghairmiúil. Mura tusa faighteoir beartaithe an ríomhphost seo, níor cheart duit an teachtaireacht seo, nó aon chuid di, a úsáid, a nochtadh, a chóipeáil, a dháileadh nó a choinneáil. Má fuair tú an ríomhphost seo go hearráideach, cuir an seoltóir ar an eolas láithreach agus scríos gach cóip den ríomhphost seo ó chóra(i)s do ríomhaire, le do thoil. [Ár bPolasáí Príobháideachta](#).

To: Margaret Carton, Secretary to the Board, Aquaculture License Appeals Board (ALAB)
From: Francis O’Beirn, Manager, Licensing and Policy Advice, Marine Environment and Food Safety Services Area
CC: Michael Gillooly, CEO - Marine Institute; Joe Silke - Director, Marine Environment Service Area, Marine Institute
Date: September 19, 2023
Re: Section 46 requests in relation to aquaculture appeals in Wexford Harbour and Slobs SPA – composite response to observations on SPA report.

Further to the communication (dated June 29, 2023) from ALAB to Dr. Paul Connolly (CEO Marine Institute), the MI has the following response. Please note the response is from the Marine Institute and is not intended to represent the views of any other body.

The observations in the ALAB letter and the accompanying KRC report are noted and welcomed. The MI agrees that access to information and data is critical to assessing risk. In relation to the request to provide additional information/data that the MI may hold so as to inform the ALAB deliberations, we have nothing on hand. There was no request of, or instruction to, the Marine Institute, to carry out specific bird investigations or monitoring in Wexford harbour on foot of the publication of the AA reports (in 2016¹) and original licensing decisions.

The Marine Institute has no observations on the additional reporting approach communicated by ALAB, except to offer some context which may inform the broad conclusions.

It is important to note that the original AA report for Wexford Harbour was prepared in 2014/2015 when, the data informing the report was acknowledged as limited. Furthermore, the nature of AA reporting was also quite different in terms of report structure, timing, terminology and in particular, the extent of features that might be considered and how conclusions might be communicated. Many of these changes have been dictated by subsequent outcomes of case law and Judicial Reviews.

In relation to the AA and subsequent management responses, it is important to note that the AA report, in the first instance, was prepared to identify risks (including lack of information/data). The implications of these risks were discussed further, as part of the overall AA process (including consideration of submissions during the consultation phase and preparation of conclusion statements). On foot of these, attempts were made to mitigate risk via management actions. Examples of such actions was the removal of licence boundaries over intertidal areas and within the QI Estuaries, restricting activities to daylight activities, engaging with NPWS to identify site use and sensitive times in the water body that may inform license conditions, among others.

The removal (of licence boundaries) over intertidal habitat (and hence, mussel seed beds among other important habitat) considered important to wader species, was an important management response and was expected to remove any risk to a number of wader species identified in the KRC report. Other

¹ Marine Institute 2016. Appropriate Assessment Summary Report of Aquaculture in the; Slaney River Valley SAC (Site Code: 000781), Raven Point Nature Reserve SAC (Site Code: 000710), Wexford Harbour and Slobs SPA (site code 004076) and Raven SPA (site code 004019) Version: August 2016

disturbance to wader species identified were primarily related to the intertidal culture of oysters. However, these sites were licenced and do not appear to be subject to any appeals.

The anecdotal disturbance to roosting species noted in the KRC report was unsurprising. These disturbance events are likely common, given the vessel was, like others, close to Wexford town where it was likely confined to the navigation channel. All vessels using Wexford will use this channel.

Furthermore, other mitigating factors address the issues surrounding the disturbance response of Red- Breasted Merganser (RBM) from vessels which was highlighted in the AA report and a subsequent peer-reviewed publication². In summary, a disturbance response has been shown by the species to vessel traffic in the harbour. More specifically, a greater proportion of disturbance appears to result from smaller vessels, although this is not considered significant by the authors. It might be considered, however, that the continuing presence of this species in the inner harbour suggests some attraction to this area, as identified in the AA report. The mosaic of habitats created by cultured mussels on the seafloor may be such attraction, which will result in increase of food items (small fishes^{3,4}) available for piscivorous bird species (Figure 1). It must be noted that there is unlikely to be any great increase in levels of aquaculture vessel activity in the inner harbour as there are no new licences proposed for this area where the majority of observations were made. Furthermore, the reduction in site boundaries in the inner harbour (QI Estuaries) was expected to mitigate, further, any risks of disturbance to diving species. It is important to note that bottom mussel culture and associated vessel activity is a long standing practice in the harbour which likely predates any RBM count estimates at the site.

Figure 1. Patchiness associated with mussel culture activity in Wexford Harbour (source: Bing maps - Accessed September 12th, 2023).



² Gittings, T and P O'Donoghue. 2016. Disturbance response of Red-breasted Mergansers *Mergus serrator* to boat traffic in Wexford Harbour Irish Birds 10: 329–334

³ Kritzer et al 2016. The Importance of Benthic Habitats for Coastal Fisheries. BioScience Vol. 66 No. 4

⁴ Benjamin et al 2022. Biodiversity associated with restored small-scale mussel habitats has restoration decision implications. Biodiversity and Conservation (2022) 31:2833–2855

One important issue that warrants further attention is the assumption made in the KRC report that the system and activities, and hence a number of the risks to avian features in Wexford Harbour are similar to those described for the mussel seed fishery in the Wadden Zee. The MI must point out that there is a marked distinction between the activities in the two systems. In the Wadden Zee, mussel seed (and cockles) were harvested from intertidal areas which put the activity in direct conflict with wading seabirds. These shellfish are considered an important food source for a number of bird species and oystercatcher, in particular. These seed were then relocated to the subtidal inshore grow-out areas. Wexford Harbour is akin to these grow-out areas. The seed is introduced to subtidal areas from subtidal seed beds in the Irish Sea or from other sources. These fisheries are subject to separate AA reporting⁵. The seed is not accessible to intertidal wader species. But may introduce subtidal habitat suitable to diving bird species. Finally, there is no estimate on the extent of intertidal mussel resource in Wexford Harbour, however, given the realignment of sites, it was intended that these intertidal areas and their seed stock, as indicated above, were inaccessible to fishing and therefore, left *in-situ*.

⁵ <http://www.fishingnet.ie/sea-fisheriesinnaturaareas/currentconsultation/irishseamusselseedfishery/>