



**Addendum to Interim Technical Advisors Report AP5-9/2019 submitted by Altemar to ALAB
on 27th April 2021**

Dr Ciar O'Toole, ALAB Technical Advisor

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Background

Following on from the Technical Advisors Report V2 received from Altemar on 27th April 2021, (and the finalised version received on 16th December 2021), the appeals AP5-9/2019 were reviewed by the ALAB Technical Advisor, along with the previous appeals relating to mussel farming in Killary Harbour and their related Technical Advisor report (appeal reference AP2/2013, dealing with 19 separate sites).

While the TA report from Altemar for AP5-9/2019 found that all five applications were to be considered as new sites and based their conclusions and recommendations on this basis, I did not feel this conclusion had been sufficiently proven within the report. It was decided by the Board at the Board Meeting on the 19th August 2021 to investigate further the claim of the appellants in appeals AP5-8/2019 that their applications were not new sites, which are advised against in the UISCE but were instead renewals of existing sites. It had been claimed that the appellants had been renting the sites from the licenced owners for many years before making these applications. Renewal of existing active sites, with certain conditions was within the recommendations of the UISCE report for Killary Harbour (UISCE, 2010), and ALAB had taken these recommendations into consideration previously when determining appeal AP2/2013, which dealt with 19 site renewals within Killary Harbour.

Table 1: showing appeal numbers, current codes, previous site codes and applicant/appellant names for the appealed sites in Killary Harbour.

Appeal Number	Current site code	Previous Site Code	Appellant
AP 5/2019	T09/508	T09/318A	Patrick Lydon
AP 6/2019	T09/509	T09/190C	Kevin and Michael Lydon
AP 7/2019	T09/510	T09/330	Kevin and Michael Lydon
AP 8/2019	T09/511	T09/318B	Kevin and Michael Lydon
AP 9/2019	T09/477	N/A (new site)	Kevin Lydon

Section 47 letters issued

A Section 47 letter was issued to the Department of Agriculture, Food and the Marine (DAFM) on 3rd September 2021 to request a copy of a survey carried out by the Marine Engineering Division on mussel farming in Killary Harbour during 2009. This report showed the location and levels of activity in terms of mussel lines present in each site area across the Harbour (MED,2009).

Table 2: showing licence holders at time of 2009 survey and number of mussel lines at each site. * refers to site T09/511 where lines are visible within the map on the site, but not counted in the accompanying table:

Appeal Number	Current site code	Previous Site Code	Licence holder according to 2009 survey	Number of mussel lines present on site at time of survey
AP 5/2019	T09/508	T09/318A	John Duane	6
AP 6/2019	T09/509	T09/190C	John Foyle	2.5 & 1 raft
AP 7/2019	T09/510	T09/330	Seosamh O'Laoi	1
AP 8/2019	T09/511	T09/318B	John Duane	1 (*see map)
AP 9/2019	T09/477	N/A	N/A	N/A

The MED report and map shows the four sites were active in 2009, which overlaps with the timing of the fieldwork undertaken by the UISCE report (2007-2010). Therefore, the mussel lines on these sites can be assumed to be included in the carrying capacity calculations provided in the UISCE report. However, it does not prove the appellants' claim that they were renting these sites from the licenced owners at this time.

The UISCE report in its recommendations stated that no new sites or fallow sites should be licenced or renewed. It does suggest continuing use of active sites with some changes to practises that were in use in the Harbour at the time the report was written being put forward, outlined in the conclusions section of this report (UISCE, 2010).

A second Section 47 letter was issued to the Sea Fisheries Protection Agency on the 3rd September 2021 looking for any information they may hold in relation to gather's dockets submitted to their agency relating to mussels harvested from sites in Killary Harbour. This response was received on the 18th October 2021 providing data from just two growers and only dating from 2015. This data shows that one of the appellants, Patrick Lydon, has harvested mussels in Killary Harbour in recent years. The lack of data relating to Michael and Kevin Lydon does not prove that they were not also growing and harvesting mussels in Killary harbour, due to the incomplete nature of the data kept on file by the SPPA.

While the information available does not conclusively prove who was producing mussels at the appealed sites at the time the UISCE carrying capacity study was being carried out, it does show that the sites were in use and would therefore have been included in the study. Therefore, the recommendation from the UISCE report that mussel sites active at that time could be renewed but with a number of conditions, would apply to the sites in question, AP5-8/2019. This would follow on also from the previous decision made by ALAB in determining the appeals relating to AP2/2013.

Technical Advisor's Conclusion and Recommendation

The MED survey report 2009 shows activity at the sites referred to in appeals AP 5-8/2019 inclusive and therefore, the biomass of mussels at these sites, was included in the calculations

for the USICE report. While this does not solve the ongoing issue with carrying capacity in Killary Harbour, detailed in the Technical Advisor report for AP5-9/2019, it does mean the recommendation from the USICE report to renew existing licences with several conditions (also discussed in the TA report for AP5-9/2019) apply here.

As such, if the conditions from the USICE report are taken into account in the licence conditions, I recommend that the Board overturns the Minister's decision and grants the licences for appeals AP5-8/2019. The conditions applied to the licences issued by ALAB in 2015 were used as a guide, with some amendments to ensure the practicality and enforceability of the conditions.

Therefore, the suggested conditions for appeals AP5-8/2019 are:

1. Taking into account the planned production and harvesting schedule for the Site, the following production and deployment conditions shall be implemented:
 - 1.1 Flotation is to be limited to a maximum of 18,000 litres per hectare;
 - 1.2 Droppers are to be limited to a maximum of 800 per hectare;
 - 1.3 Moorings must be positioned to secure surface equipment within the site boundaries in all conditions;
 - 1.4 All anchors and lines must be located entirely within the licensed boundary of the Site.
2. Consistent with best practice, the Applicant shall utilise uniform barrel/float size and colouration as directed by the Minister in order to minimise visual impact.
3. Site maps specifying the site layout and dimensions in accordance with conditions 1.1 to 1.4, listed above and including number of floats per line at final grow out are to be submitted by the applicants to ALAB for approval before a licence is issued.

However, the situation in Killary is complicated by the fact that all other sites are due for renewal in April 2022 and appeal AP2/2013 decided by ALAB granted short term licences to correspond with this timeline.

In relation to appeal AP9/2019 I would recommend to the Board that they uphold the Minister's decision and refuse this licence. AP9/2019 is a new site application, and while the applicant would appear to be attempting to put good mussel growing practise as recommended for Killary Harbour into practise, I would recommend to the Board that it would be more suitable to allow DAFM to consider the issue of new sites while looking at licence renewals in Killary Harbour due in 2022, due to the ongoing issues relating to carrying capacity and growth rate within Killary Harbour.