



Response of the  
Marine Institute  
dated 28 March 2018  
to the Section 47 Notice



**Date: March 28, 2018**

**To: Aquaculture Licences Appeals Board**

**From: Dr. Jeff Fisher, Director of Marine Environment, Marine Institute**

**CC: Dr. Francis O'Beirn & Dr. Terry McMahon, Marine Institute**

**Re: ALAB communication re: Celtic Kerber Ltd. Gweedore Bay Oyster Cultivation**

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On behalf of the Marine Institute I am responding to the Aquaculture Licences Appeals Board (ALAB) query to the Marine Institute regarding the Gweedore Bay oyster cultivation licencing decision, and the attached ALAB's Bird Expert's Briefing Note. In this note, it was asserted that the Appropriate Assessment screening was insufficient to address likely impacts from Aquaculture operations on Special Conservation Interests (SCI's) from certain Special Protection Areas (SPAs).

As recognized by ALAB, the Marine Institute acts as scientific advisors to the Department of Agriculture Food and the Marine (DAFM) in their capacity as the licensing authority for aquaculture sites in Irish waters. In this role, the MI prepares Appropriate Assessment reports to assess the likely interactions between proposed aquaculture operations and Natura 2000 sites. The purpose of these reports is to identify if the proposed activities represent any direct, indirect or in-combination risks to conservation features (including SCIs) of Natura 2000 sites. If appropriate, we may recommend to DAFM mitigation measures and/or management actions to address the risks presenting. We may recommend not licencing sites if significant impacts cannot be remedied—even with mitigation.

Response to specific comments raised regarding the Gweedore Bay Licensing Decision

Citing section 47(1) of the Fisheries Amendment Act, ALAB has requested input on four matters briefly summarized as follows:

- (1) AA screening of eight SPA's with Special Conservation Interests that, in the view of ALABs consultant, should have been evaluated.
- (2) Impacts to common gull SCI's of the West Donegal Islands, Inishbofin, Inishdooney, and Inishbeg SPAs, and the lesser black-backed gull SCI of the Inishbofin, Inishdooney and Inishbeg SPA.
- (3) Additional bird populations that use Gweedore Bay that, in the view of ALABs consultant, should have been considered in EIA screening; and
- (4) Consideration as to whether a Stage 2 appropriate assessment is required, in deference to the requests of (1) and (2) above.

Our response below addresses these requests collectively, rather than individually.

The MI concurs that connectivity with regard to Natura sites is an important issue and this was considered on the basis of conservation objectives set for all proximate Natura sites. It should be noted that the focus on the SPA site considered in the SAC assessment report was SCIs that would exclusively use the intertidal sandflat habitats. It was and remains our considered view that gull species will not rely to any great extent on the intertidal sandflats found in Gweedore Bay and nearby Islands, especially for those that are set at a distance from the SAC particularly if alternative feeding habitat is available, e.g., terrestrial or open water—as is the case in this instance.

More specifically, it should be noted that the West Donegal SPA was addressed in the AA report on the basis of immediate proximity. All sites were screened for species that might be considered as using the habitat found in the site where the aquaculture sites might be present. It was not considered likely that the species identified would be wholly reliant on such habitats. Furthermore, the inclusion in the screening assessment of sites up to 21km from the Natura site in question might



appear contrary to the 15km guidance provided by NPWS<sup>1</sup>. In addition, given the broad habitat requirements of gulls there are no particular sensitivities identified specifically relating to the species identified in the communication from ALAB.

Mud flat and sand flats from this area are not typical feeding areas for the SCIs in question as they are likely to feed in a range of habitats and are, therefore, not likely to be fully dependent on the benthic invertebrate fauna found in these areas (Gittings and O'Donoghue 2012<sup>2</sup>). This is particularly the case for the gull species identified as requiring full assessment in the Bird Impact Assessment<sup>3</sup> report.

The interaction with trestles by gull species was considered variable in the Gittings and O'Donoghue (2012) study, and at low abundance levels (up to 10) the predicted levels closely matched the observed levels (Gittings and O'Donoghue 2012), indicating little or no negative interaction. Given the low numbers of breeding pairs of Common Gulls from the SPAs in question, i.e., 75 and 20 from West Donegal Island SPA and Inishbofin, Inishdooney and Inishbeg SPA, respectively, and the extent of alternative habitat between these areas and the proposed culture sites, we consider it extremely unlikely that gulls that might attend the aquaculture areas will be adversely affected.

In relation to the questions as to whether a full (Stage 2) AA is required on the likely aquaculture impacts on two gull species from Natura 2000 sites proximate to Gweedore Bay and Islands SAC, the MI is of the view that:

1. Specific conservation objectives have not been provided for seabird species and this will introduce a certain level of precaution in terms of assessing likely interactions. Based upon the behaviour of these species and the proximity to the relevant SPAs, it is the view of the MI that it is unlikely that the presence of the trestles and associated activities will have a detrimental impact on the gull populations identified.
2. To consider detailed site usage by bird species for the proposed action as part of an AA for habitats is not justified based on a long-practiced approach to permitting actions in the foreshore. Such a significant level of precaution would be contrary to the approach (for the last 9 years) that has been taken in terms of assessing Natura 2000 sites with NPWS and as part of the agreed Roadmap with the Commission.
3. Under the statutory consultation response, the competent authority for Natura designation and management (NPWS) did not have any specific observations on the likely interactions with SCI conservation features identified.

In closing, the MI is of the view that the screening presented in the Bird impact assessment Report of 13 February is overly precautionary and that the likely interactions and risks do not present. On this basis and in consideration of the points above, the requirement to carry out a full Article 6.3 assessment on the likely interactions with two gull species or to assess the importance of the area for other bird populations is not warranted.

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<sup>1</sup> Appropriate Assessment of Plans and Projects in Ireland – Guidelines for Planning Authorities" Available on the Web at [https://www.npws.ie/sites/default/files/publications/pdf/NPWS\\_2009\\_AA\\_Guidance.pdf](https://www.npws.ie/sites/default/files/publications/pdf/NPWS_2009_AA_Guidance.pdf)

<sup>2</sup> Gittings, T. & O'Donoghue, P.D. (2012). *The effects of intertidal oyster culture on the spatial distribution of waterbirds*. Report prepared for the Marine Institute. Atkins, Cork.

<sup>3</sup> Appeal Ref No.s AP1-4/1/2017, AP1-4/2/2017, AP3/3/2017, AP6/1/2017, AP6/2/2017

Bird Expert's Report: Briefing Note Bird impact assessment 13 February, 2018 prepared by Tom Gittings