

Recommendation to grant Aquaculture Licences (ref: T12/419)

J'Donovan, Administrative Officer ✓ Recommend granting of Licences as outlined
in the Submissions. G.O'D. 30/11/16

B. Whelton, Asst. Principal ✓ I agree with recommendation to Aquaculture Licences
be granted for these 3 sites. BW 30/11/16

J. Quinlan, Principal Officer

JQ 1/12/16

Dr. Beamish
Recommended
for approval
please. *JQ 1/12/16*

Dr. Beamish, Asst. Secretary

Recommended for approval.
to Beamish
1/12.

Rúnaí Aire

Michael O'Connell



1.0 DECISION SOUGHT

The Minister's determination is requested please in relation to the granting of Aquaculture Licences to Celtic Kerber Ltd., 20 Radharc Na Mara, Strandhill, Co. Sligo, for 3 sites at Braade Strand, Gweedore Bay, Co. Donegal, to cultivate Pacific Oysters.

Also attached is a submission in respect of the accompanying Foreshore Licences, for the Minister's consideration.

BACKGROUND

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

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

3.0 APPLICATION FOR AQUACULTURE LICENCES

An application for Aquaculture Licences has been received from the applicant referred to at 1.0 above (in conjunction with an application for Foreshore Licences), for the cultivation of Pacific Oysters using bags and trestles in relation to three sites

- Site T12/419A - 7.3813ha
- Site T12/419B- 6.5214ha
- Site T12/419C -2.174ha

on the foreshore in Braade Strand, Gweedore Bay, Co. Donegal (see **Schedule 1**).

4.0 LEGISLATION

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

Article 6 (3) of the Habitats Directive provides that *"Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon ... shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives ... the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned ..."*

5.0 CONSULTATION AND PUBLIC COMMENT

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

Technical Consultation

Marine Engineering Division (MED): MED raised concerns about the three sites, having carried out an examination of the application. All three site areas were reduced as a result. The applicant agreed to progress with the revised site areas and the site co-ordinates, maps and chart went to public notice as amended. MED have no objection to the revised areas being licensed but recommend that a special condition be inserted in each of the three Aquaculture Licences stipulating that if the development were to have a negative impact on local erosion and deposition patterns, the Licensee would be required to remove structures from all or part of the site/s.

MED noted that the beach area is used for amenity/walking and that there is a tradition of seaweed collection near the high water mark on eastern shores. MED do not expect the suspended oyster culture proposed at these sites to impact negatively on other uses which generally take place at higher elevations on the shore.

Marine Survey Office: The Marine Survey Office has no objection to this application from a navigational viewpoint.

Sea Fisheries Protection Authority: The SFPA have no objection to this application. They also noted that the current classification for Gweedore – Carrickfin is 'B' which means that the oysters may only be placed onto the market for human consumption after treatment in a purification centre or relaying. The sites are approx. 1km from the official sampling point. They also noted that Gweedore/Carrickfin beach is an amenity and recreation area for locals and tourists.

Statutory Consultation

Regulation 10 of the Aquaculture (Licence Application) Regulations, 1998 requires certain statutory bodies to be notified of an Aquaculture Licence application.

Comments were received from the following statutory bodies:

DAHRRGA: The Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs agreed substantially with the conclusions of the Appropriate Assessment, but there were a number of points they wished to highlight. These issues are addressed in the Licensing Authority's Conclusion Statement for aquaculture activities in Gweedore Bay and Islands Special Area of Conservation (SAC)(Natura 2000 site) - See Conclusion Statement at **Annex 4**.

DHPCLG: The Department of Housing, Planning, Community and Local Government noted that T12/419B and T12/419C are located within Gweedore Bay designated Shellfish Water area however site T12/419A is partially within and partially outside the designated area.(See DAFM response under the MI comments below)

An Taisce: No comments received on this application.

Marine Institute (MI): Noted that sites T12/419A, T12/419B and T12/419C are located within the Gweedore Bay and Islands SAC, however an Appropriate Assessment has been carried out in relation to aquaculture activities in the SAC. The MI recommend that proposed access routes using vehicles over intertidal habitat should be strictly adhered to in order to minimise habitat disturbance. The MI also notes that T12/419B and T12/419C are located within Gweedore Bay designated Shellfish Water area however T12/419A is partially within and partially outside the designated area and advise that the implications of licensing shellfish aquaculture in an area not designated under the Shellfish Waters directive needs to be considered prior to a determination on this application being made.

DAFM notes the comments and point out that the SFPA, the body responsible for the food safety aspect of seafood production, has no objection to this application . The current classification for Gweedore – Carrickfin is 'B' which means that the oysters may only be placed onto the market for human consumption after treatment in a purification centre or relaying. The sites are approx 1km from the official sampling point. Results of monitoring

under the Shellfish Waters Directive do not indicate water quality issues in the vicinity of the proposed shellfish production area.

Commissioner of Irish Lights: No objection to this application.

Donegal County Council: No objection to this proposal subject to the provision that any related shore based activities or structures have the written consent of the Planning Authority.

Inland Fisheries Ireland: No comments received.

BIM: No comments received.

Fáilte Ireland: No comments received.

Údarás na Gaeltachta: No comments received.

Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements, in the Donegal Democrat on 8th September, 2016. The application and supporting documentation were available for inspection at Milford and Bunbeg Garda Stations for a period of 4 weeks from the date of publication of the notice in the newspaper.

There were no objections received from the public consultation process.

6.0 CRITERIA IN MAKING LICENSING DECISIONS

The Licensing Authority, in considering an application, is required by statute to take account, as appropriate, of the following points and also be satisfied that it is in the public interest to license a person to engage in aquaculture:

- (a) the suitability of the place or waters
T12/419B and T12/419C are located within the Gweedore Bay designated Shellfish Water area. Site T12/419A is partially within and partially outside the designated area. Results of monitoring under the Shellfish Waters Directive do not indicate water quality issues in the area. The current classification for Gweedore – Carrickfin is 'B' which means that the oysters may only be placed onto the market for human consumption after treatment in a purification centre or relaying.
- (b) other beneficial uses of the waters concerned
Public access to recreational and other activities can be accommodated by this project. It is not expected the suspended oyster culture proposed at these sites will impact negatively on other usages which generally take place at higher elevations on the shore;
- (c) the particular statutory status of the waters
 - (i) Natura 2000
The sites are located within the Gweedore Bay and Islands SAC. An Article 6 Appropriate Assessment has been carried out in relation to aquaculture activities in

this SAC. The Appropriate Assessment finds that the aquaculture activities, at the current and proposed or likely future scale and frequency of activity are consistent with the Conservation Objectives. This Assessment and its findings were examined by the Department and its scientific/technical advisors. The Licensing Authority (i.e. the Minister) has prepared a Conclusion Statement outlining how it is proposed to licence and manage aquaculture activities in the above Natura site in compliance with the EU Habitats Directive (see Annex 4.).

(ii) Shellfish Waters

Sites T12/419B and T12/419C are located within the Gweedore Bay designated Shellfish Water area. Site T12/419A is partially within and partially outside the designated area. Results of monitoring under the Shellfish Waters Directive do not indicate water quality issues in the area. The current classification for Gweedore – Carrickfin is 'B' which means that the oysters may only be placed onto the market for human consumption after treatment in a purification centre or relaying.

- (d) the likely effects on the economy of the area
Aquaculture has the potential to provide a range of benefits to the local community such as the attraction of investment capital, development of support services etc.
- (e) the likely ecological effects on wild fisheries, natural habitats, flora and fauna
No significant issues arose regarding wild fisheries. The potential ecological impacts of aquaculture activities on natural habitats, flora and fauna are addressed in the Article 6 Appropriate Assessment for Gweedore Bay and the Islands and in the Licensing Authority's Conclusion Statement.
- (f) the effect on the environment generally
- (i) *The Minister is obliged pursuant to Regulation 5 (2) of Licence Applications Regulations to consider on a case by case basis whether the proposed aquaculture is likely to have significant effect on the environment.*
- (ii) *The Minister has already determined that an Environmental Impact Statement is not required for this project (See Declaration in Annex 3).*
- (iii) *The DAHRRGA have raised no objection to the development from an underwater archaeological perspective.*

7.0 RECOMMENDATION

It is recommended that the Minister:

approves the granting of Aquaculture Licences (Annex 1) to Celtic Kerber Ltd., 20 Radharc Na Mara, Strandhill, Co. Sligo for 3 sites:

- Site T12/419A - 7.3813ha
- Site T12/419B- 6.5214ha
- Site T12/419C -2.174ha

on the foreshore in Braade Strand, Gweedore Bay, for a period of ten (10) years for the purpose of cultivating Pacific Oysters using bags and trestles in accordance with the terms and conditions of the attached draft Aquaculture Licences.

8.0 REASONS FOR DECISION

The Minister for Agriculture, Food and the Marine is required to give public notice of both the licensing determination and the reasons for it. To accommodate this it is proposed to publish the following determination on the Department's website in relation to each site, subject to the Minister approving the above recommendation:

Determination of Aquaculture/Foreshore Licensing application –T12/419

Celtic Kerber Ltd. has applied for Aquaculture and Foreshore licences for the cultivation of Pacific Oysters using bags and trestles on three sites:

- *Site T12/419A - 7.3813*
- *Site T12/419B- 6.5214*
- *Site T12/419C -2.174*

on the foreshore in Braade Strand, Gweedore Bay Co. Donegal.

The Minister for Agriculture, Food and the Marine has determined that it is in the public interest to grant the Aquaculture and Foreshore Licences sought. A separate Aquaculture / Foreshore Licence will issue for each site in accordance with standard practice. 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 statutory provisions. The following are the reasons and considerations for the Minister's determination to grant the licences sought:-

- a) T12/419B and T12/419C are located within the Gweedore Bay designated Shellfish Water area. Site T12/419A is partially within and partially outside the designated area. Results of monitoring under the Shellfish Waters Directive do not indicate water quality issues in the area. The current classification for Gweedore – Carrickfin is 'B' which means that the oysters may only be placed onto the market for human consumption after treatment in a purification centre or relaying;*
- b) Public access to recreational and other activities can be accommodated by this project; It is not expected that the suspended oyster culture proposed at these sites will impact negatively on other usages which generally take place at higher elevations on the shore;*
- c) The proposed aquaculture should have a positive effect on the economy of the local area;*
- d) An EIA screening assessment was carried out and it concluded that the environmental effects from the proposed activity will not be significant. The reasons and considerations for the Minister's determination at EIA screening stage are available on the Department's website;*

- e) *The sites are located within the Gweedore Bay and Islands Special Area of Conservation (SAC). An Article 6 Appropriate Assessment has been carried out in relation to aquaculture activities in this SAC (available on the Department's website);*
- f) *The Licensing Authority's (i.e. the Minister's) conclusions in relation to the Appropriate Assessment are contained in the Appropriate Assessment Conclusion Statement for Gweedore Bay and Islands (available on the Department's website). This document outlines how aquaculture activities in this SAC, including these sites, are being licensed and managed so as not to significantly and adversely affect the integrity of Gweedore Bay and Islands Special Area of Conservation;*
- g) *Scientific observations related to the Appropriate Assessment received during the consultation process as addressed in Section 4 of the Licensing Authority's Appropriate Assessment Conclusion Statement;*
- h) *Taking account of the recommendations of the Appropriate Assessment the proposed aquaculture activity at these sites is consistent with the Conservation Objectives for the SAC. Mitigation measures include licence conditions requiring strict adherence to proposed access routes using vehicles over intertidal habitat in order to minimise habitat disturbance. Further licence conditions require full implementation of the measures set out in the draft Marine Aquaculture Code of Practice prepared by Invasive Species Ireland;*
- i) *No significant effects arise regarding wild fisheries;*
- j) *No effects anticipated on the man-made environment heritage of value in the area;*
- k) *All issues raised during the public and statutory consultation phases;*
- l) *The updated Aquaculture and Foreshore licences contain terms and conditions which reflect the enhanced environmental protection now required under EU and National law."*

Submitted for approval, please.



Brendan Farr
Aquaculture and Foreshore Management Division
30th November, 2016