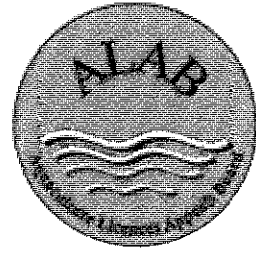


An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board



AP3/2018

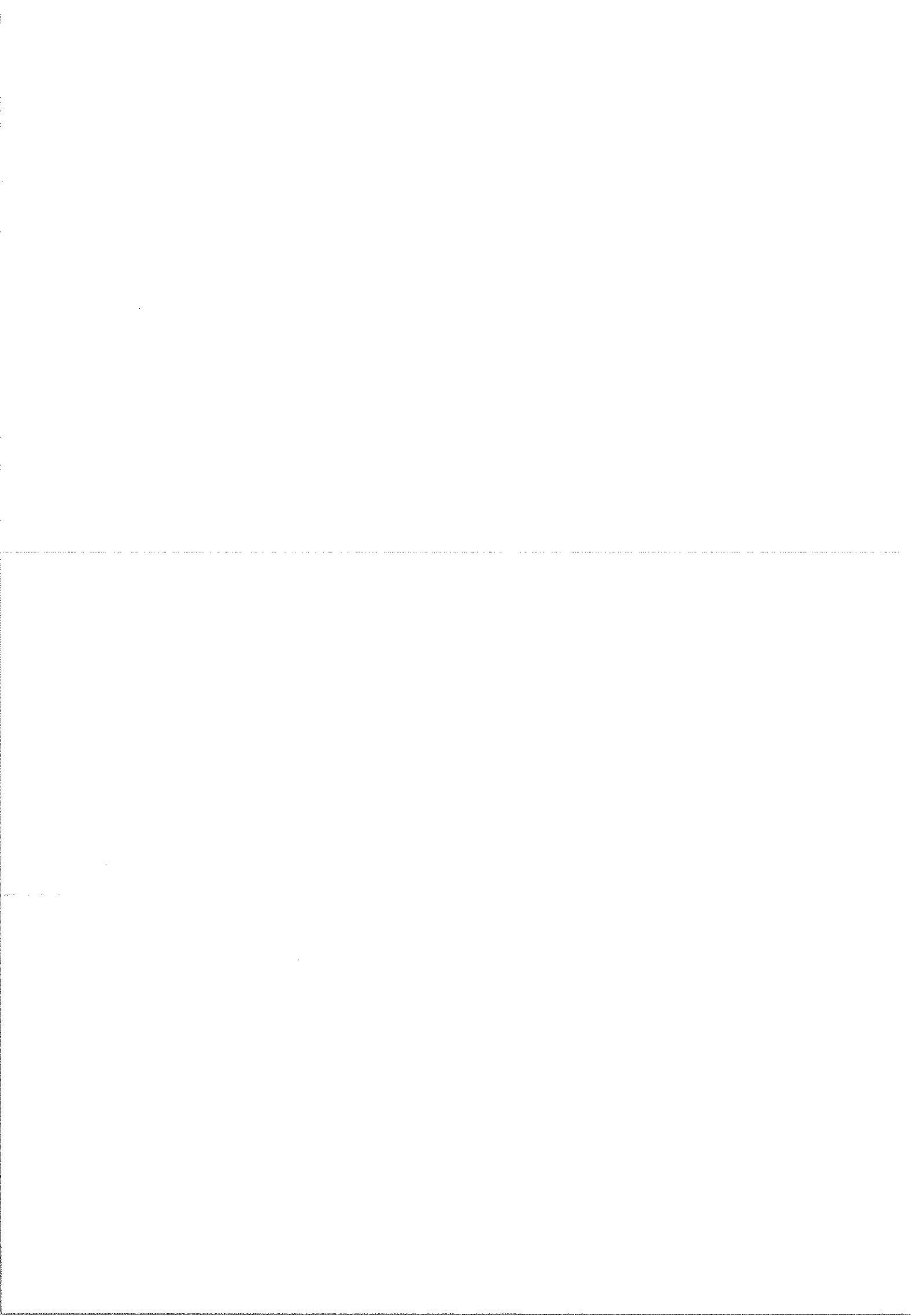
Coastwatch Ireland

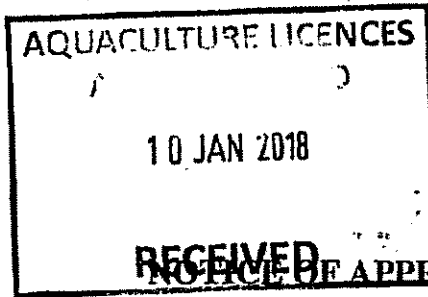
Appeal

Cúirt Chollí Mhínsí, Bóthar Bhalle Átha Cliath, Port Laoise, Contae Laoise, R32 DTW5
Kilminchy Court, Dublin Road, Portlaoise, County Laois, R32 DTW5

Guthán/Telephone: 057 8631912 R-phost/Email: info@alab.ie

Láithreán Gréasáin/Website: www.alab.ie





NOTICE OF APPEAL UNDER SECTION 40(1) OF FISHERIES (AMENDMENT) ACT 1997 (NO. 23)

Name and address of appellant:

Telephone:
Mobile Tel:

Fax:
E-mail address: *ed.josley@ceat.ie*

Subject matter of the appeal:

Lough Swilly Licence

Site Reference Number:-

(as allocated by the Department of Agriculture, Food and the Marine)

Appellant's particular interest in the outcome of the appeal:

Environmental

Outline the grounds of appeal (and, if necessary, on additional page(s) give full grounds of the appeal and the reasons, considerations and arguments on which they are based):

Fee enclosed:

e 152.37

(payable to the Aquaculture Licences Appeals Board in accordance with the Aquaculture Licensing Appeals (Fees) Regulations, 1998 (S.I. No. 449 of 1998))(See Note 2)

Signed by appellant:

Date: *10/1/18*

Note 1: This notice should be completed under each heading and duly signed by the appellant and be accompanied by such documents, particulars or information relating to the appeal as the appellant considers necessary or appropriate and specifies in the Notice.

Note 2: The fees payable are as follows:

Appeal by licence applicant	€380.92
Appeal by any other individual or organisation	€152.37
Request for an Oral Hearing (fee payable in addition to appeal fee)	€76.18

In the event that the Board decides not to hold an Oral Hearing the fee will not be refunded.



Re "Determination of Aquaculture/Foreshore Licensing Application (Renewal) – T12/37

Lough Swilly Shellfish Growers Co-Operative Society Limited has applied for further authorisation (renewal) for the cultivation of oysters and mussels on the foreshore on sites (37A, 37B & 37C) consisting of a cumulative hectareage in the order of 2,000 ha, including 1,471.5 hectares of foreshore, in the area surrounding Inch Island in Lough Swilly,

10th Jan 2018

Dear ALAB Board,

Coastwatch would like to herewith appeal the license granted to Lough Swilly Shellfish Growers Cooperative Society Ltd T12/37

While there are many site and license specific grounds to appeal this decision and conditions, we believe that there are two primary reasons to strike this license out:

1. Following a search of the Company Registration Office there appears to be no company registered with the name Lough Swilly Shellfish Growers Cooperative Society Ltd. Therefore it cannot be granted a license. (NB - A Lough Swilly Shellfish Ltd reg no 277602 has existed since 1997 with beneficial owner Daniel Gallagher, who has filed accounts for year ended 31st May 2016, indicating that this company has not traded the previous year and indeed several preceding years - see Vision-net.ie)
2. We do not see any evidence of screening to determine whether EIA applies under Article 4(2) of Directive 2011/92/EU for this specific application. We assume the Board would consider this an 'old' application under Circular letter PL 1/2017, so the full 2014 Directive would not apply, but even for an old application such screening would be required. This is the largest application in the country for 1,471.5 hectares of Gigas oyster and mussel bottom culture in an SPA and SAC, which already has a serious Gigas oyster IAS problem and is not at GES (Natura site and under the WFD). We are aware of the Minister's 2014 general EIS screening determination on Shellfish Aquaculture licensing in Lough Swilly ([Home](#) » [Seafood](#) » [Aquaculture & Foreshore Management](#) » [Aquaculture Licensing](#) » [Ministerial Consideration of Requirement for an Environmental Impact Statement](#) » Donegal) However we contend that this is inadequate to cover the present specific application.

In case of other licenses in the lough it is worth noting two extra problems:

- the AA screening does not take cumulative effects into account adequately
- and the L Swilly Natura plan has run out.

Oral Hearing: While normally we would request the holding of an Oral hearing as the facts in this case are more than unclear, we believe that it will not be necessary as the license should be struck out.

Yours Sincerely

Karin Dubsky
Coastwatch, Wood Walls, Ballymoney, Gorey , Co Wexford
Coastwatch Registered Charity Number (RCN) is 20154745

Background:

"Determination of Aquaculture/Foreshore Licensing Application (Renewal) –T12/37

Lough Swilly ShellFish Growers Co-Operative Society Limited has applied for further authorisation (renewal) for the cultivation of oysters and mussels on the foreshore on sites (37A, 37B & 37C) consisting of a cumulative hectarage in the order of 2,000 ha, including 1,471.5 hectares of foreshore, in the area surrounding Inch Island in Lough Swilly, Co. Donegal.

The Minister for Agriculture, Food and the Marine has determined that it is in the public interest to grant a variation of the licences sought, i.e. reducing and reconfiguring the footprint of the sites to a cumulative total of 450.25 ha as follows:

T12/37A as revised is now made up of 2 sites:

Site 37A1 of 143.01 ha for bottom mussel culture

Site 37A2 of 2.79 ha for suspended Pacific oyster culture T12/37B as revised is now made up of 4 separate sites: Site 37B1 of 85.01 ha for bottom mussel culture

Site 37B2 of 177.78 ha for bottom mussel culture

Site 37B3 of 23.76 ha for suspended Pacific oyster culture Site 37B4 of 0.77 ha for suspended Pacific oyster culture

Site 37C is one site of 17.13 ha for bottom culture of mussels and oysters

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:-

- Scientific advice is to the effect that the waters are suitable;
- Public access to recreational and other activities can be accommodated by this project;
- The sites are located within Lough Swilly Shellfish Designated Waters. Oysters and Mussels from this area currently have a "B" classification;
- This renewal should have positive effects on the local economy;

- An EIA screening assessment was carried out and it concluded that the environmental impacts 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;

- There are no effects anticipated on the man-made environment heritage of value in the area. An archaeological study was carried out and it indicated that consultation of cartographic and archaeological sources did not identify any known archaeological sites within the site/s of the proposed aquaculture;

- All issues raised during Public and Statutory consultation phase;

- The site is located within Lough Swilly Special Area of Conservation (SAC) and Special Protected Area (SPA). An Article 6 Assessment has been carried out in relation to aquaculture activities in Lough Swilly SAC/ SPA. The Licensing Authority's Appropriate Assessment Conclusion Statement (available on the Department's website) outlines how aquaculture activities in this SAC/SPA, including these sites, are being licensed and managed so as not to significantly and adversely affect the integrity of Lough Swilly SAC and SPA. It also outlines the relevant mitigation measures:

- The primary mitigation measure to ensure reduction in impact is the reduction of spatial extent of the aquaculture sites within Lough Swilly SAC/SPA, including no occupancy of *Ostrea Edulis* dominated community areas

- Bottom based aquaculture areas are being rationalised to reduce overlap to <15% with each of 5 individual habitats (Fine sand community complex, Intertidal mixed sediment with Polychaetes, Mud community complex, Muddy fine sand with *thysaira flexuosa* and Subtidal mixed sediment with Polychaetes and Bivalves)

- The footprint of T12/37 is being reduced from a cumulative hectareage in the order of 2,000 ha, including 1,471.5 hectares of foreshore in Lough Swilly to 450.25 ha of foreshore. This management action is being taken to mitigate the risk of the deterioration of conservation status of habitats/bird species that is directly attributable to aquaculture operations.

- The cultivation of Pacific Oysters is conditional on the use of Triploid Seed.

- The updated and enhanced Aquaculture and Foreshore licences contain terms and conditions which reflect the environmental protection required under EU and National law."

