



#### Background

#### SUBMISSION REGARDING REFUSAL TO GRANT LICENCE T12/405A

I Francis Gallagher intend to be a small family owned and run company located in Ardara looking to produce a high quality shellfish product which is in demand for a growing market. The company made applications in Loughras Mor in June 2009 before it was designated an Special Area of Conservation (SAC). It was subsequently included in an expansion of the Natura network and therefore required an Appropriate Assessment. This was the main factor in the delay of over a decade on application progress and determination . The sites are typical of Donegal estuaries with a 4-5m tidal range, exposed sandflats at low water and benefiting from pristine Atlantic seawater exchange. For this reason it is ideal for oyster production. It is crucial to the company to safeguard against increasing Harmful Algal Blooms which are becoming more frequent with Increasing sea temperature and nitrification of our estuarine waters. The target sites contain all the same natural characteristics of all other bays in Donegal where oyster farming is successfully being practiced. The company intends to invest in a new state of the art infrastructure to grade and dispatch oysters. The company has an access option being the largest land owner directly adjoining the site. The surrounding community is already familiar with the nature of oyster farming as it has been located in Loughras Beag for thirty years with no negative impact or any other activity displaced. Loughras Mor is geographically close to existing operations in the area and can be easily assimilated into well established routes to market.

The Department has refused the licence listing thirteen reasons. The reasons were very general in nature and did not identify specific areas of the applications where they may apply. In order to better inform this appeal, the applicant requested specific information regarding the reasons and in particular the Engineer's report but was informed by the Department that they would be unable to provide same. This refusal restricted our ability to submit a very detailed appeal and we respectfully request that ALAB provide us with same at the earliest opportunity so that we can adduce the required information to inform your deliberations. Fundamentally it remains that none of the reasons presented are supported by any of the findings of the Appropriate Assessment for West of Ardara Maas Road SAC (000197) or by many of the submissions by the relevant statutory consultees.

Nonetheless as much information as possible is provided below to demonstrate that oyster farming can exist harmoniously with all other users by targeting the most suitable sites within each application areas.

#### **1. Oyster Growth/Site Locations**

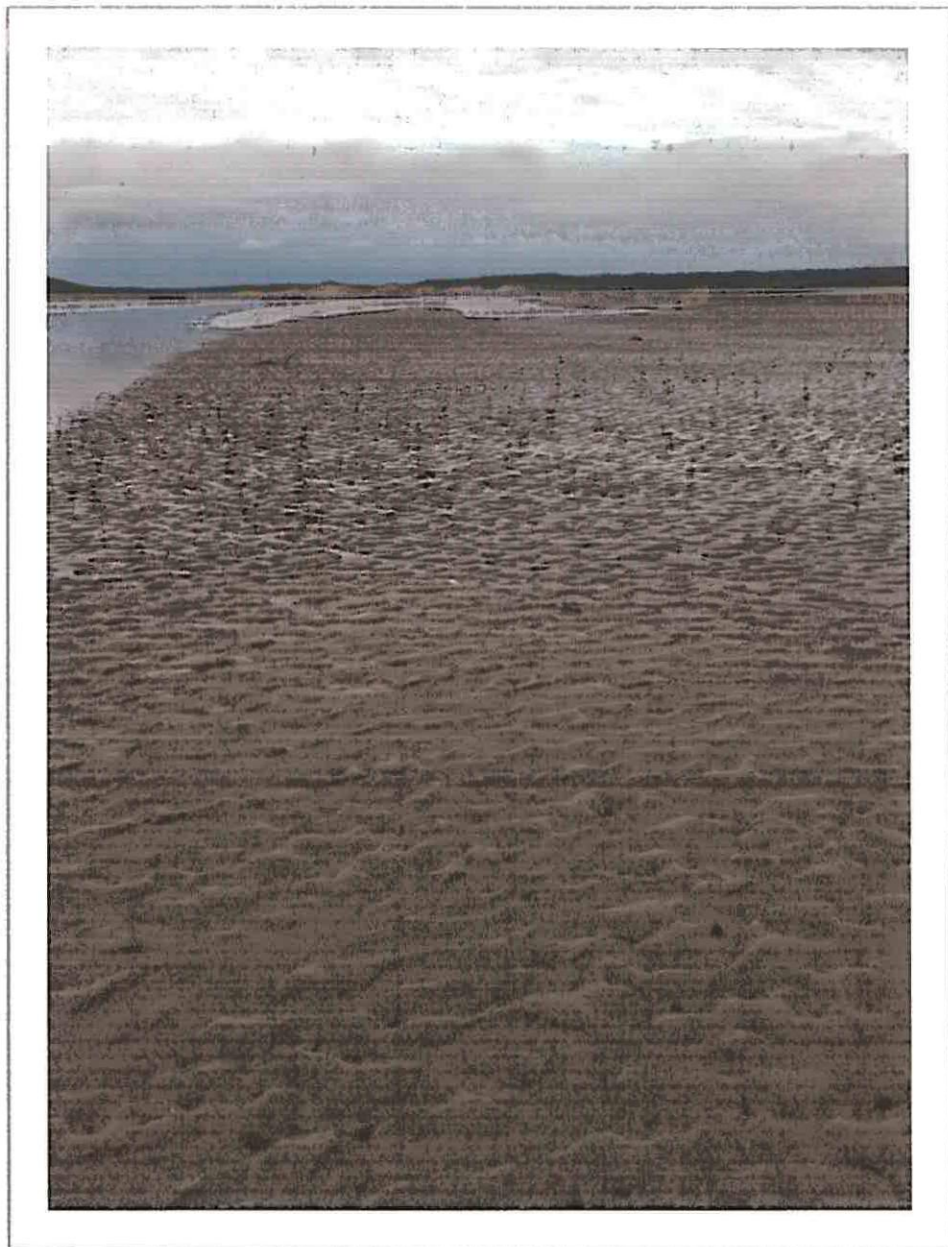
The proposed site T12/405A contain perfectly suitable areas for trestle and bag deployment especially on the lower parts beside the channel. There is stable, hard substrate here encompassing >50% of both blocks from Low Water Spring Tide upwards (see photo re substrate).



These areas have exactly the same exposure profile as all the farms in existence in Loughras Beag neighbouring bay to the south. In fact both Lougras Mor and Loughras Beag are two inlets of the same bay. Loughras Beag already utilises larger areas of foreshore pro rata for oyster farming than is being proposed in Loughras Mor with new licences granted last year (T12 498) . Google Maps provide excellent aerial imagery which shows existing trestle position in Loughras Beag relative to proposed Loughras Mor sites to support this position.

We acknowledge that T12/405A contains mostly higher ground with some parts unsuitable for oyster growth and it is assumed that these are the areas referred to in relation to oyster growth in the Department's refusal letter. It must be remembered that these sites were chosen over ten years ago in 2009. The applicant does not understand how the suitable areas of these sites were not identified given the direct similarity in height and composition of sites currently being farmed in Loughras Beag . Please see photo below containing hard, stable substrate typical of Sites 397 B and 397 C.





#### **Water Quality and Shellfish Monitory**

2. Shellfish are being farmed safely in many other bays the same distance from similarly designed treatment works and associated discharge pipes (Donegal Bay, Dunloe Bay, Lough Swilly, Westport, Cromane and Dungarvan to name but a few). The discharge pipe in question here is currently covered by a sand bank at south corner of T12/405A and therefore could not be discharging continuously at this point. The most recent EPA Discharge Audit report in May 2019 confirms stable water quality and compliance under the discharge licence conditions set out for the Ardara WWTP.

Shellfish farms are also monitored monthly for Faecal Coliform and weekly for biotoxin under the Classification Directive. The Minister should look solely at the facts at the granting of the licence within the constraints of the 1997 Act and Regulations and limited to the criteria contained therein. In the event that there was to be subsequent issues for whatever

reason relating to food safety from shellfish produced pursuant to the licence then this matter can be addressed by the SFPA, which is the appropriate body to determine at that stage whether or not there is a risk to the public. A profile of the site could be established quickly within 6 months by the SFPA. We further note that the SFPA and the FSAI who are the competent authorities in this regard to the microbiological status of shellfish destined for human consumption did not raise the issue as part of the statutory consultation process. In relation to 'close proximity' of sewage outfall and proximity of aquaculture sites this decision is made on the basis and on grounds for which there was no evidence or no adequate evidence. The most important scientific analysis of the site, the Appropriate Assessment did not consider the hydrology of the bay 'closed' in nature with significant flushing noted in relation to potential larval dispersion of shellfish.

Nitrification of our bays and providing perfect conditions for Harmful Algal Blooms (HABS) events which are becoming more frequent around our coast. These are devastating not just the shellfish populations but also many other benthic species which are key in maintaining a healthy estuary. It makes no sense to designate an area under the Natura 2000 framework for key species and habitat protection, invest significant resources to complete a detailed appropriate assessment and go against its conclusions by refusing a sustainable seafood production activity which will have no detrimental environmental impact if key recommendations are simply attached as part of any potential licence.

#### **Visual Impact**

3. There are conflicting statements regarding scenic impact which reflects the subjective nature of visual impact. It is considered low to moderate yet refers to views being potentially affected by the Wild Atlantic Way. In reality the "Wild Atlantic Way follows the route of the R251 and the N56 through this area and a 'discovery point' as Glengesh Valley offers dramatic views of the sea and coastline over this seascape unit" The applications under appeal are 1.2km from any point on the R251 or N56 and will not be visible from the discovery point at Glengesh which has elevated views over Loughras Beag Bay rather than Loughras Mor.

In line with the findings of your advisor in relation to the visual impact of oyster trestles in Traigh Beaga Bay it is unsustainable to assign equally high sensitivity to the entire Atlantic Way, which is 2,500km in length and gives access to a vast range of environments, working from landscapes and seascapes. This seascape unit already lists aquaculture as a key use and the overall experience of this area afforded by the Atlantic Way would not be significantly adversely affected by the development.

In reality it would be virtually impossible to see any trestles deployed on lower to mid parts of any applications from the Wild Atlantic Way even while exposed at low tide as they would be fully absorbed by the surrounding rocky foreshore. Oyster farms are fully covered by water for 80% of daylight time with no floating structures involved. This ensures the industry is entirely invisible to any potential tourist traversing the Wild Atlantic Way at most stages of the tide.



#### **4. Salmon Net Draft Fishery and Salmonid Migration**

All commercial draft net fisheries have ceased as the numbers of salmon returning to all our rivers are still in serious decline and are now at critical biological recovery levels. It is highly unlikely that this type of activity will ever be allowed to recommence especially in an SAC (000197) which has *Salmo Salar* listed as one of its qualifying species under Annex II. From an Environmental & Sustainability perspective, It makes far more sense to take this opportunity to replace this tradition with an entirely renewable and sustainable source of seafood. If this position was to change sometime in the future oyster farming can be removed with the area left exactly as it was found.

It is not possible to place trestles in moving water channels as they would bury and disappear very quickly. It is also interesting to note that Inland Fisheries made no negative submissions in this regard as they are aware after decades of experience that this industry does not seek to locate itself in channels. The same applies to the reason relating to potentially impeding the channel which gives access to St Johns Pier. Oyster farming does not exist anywhere in a channel that would impede access to a commercial pier.

Further, the findings of the appropriate assessment study in relation to the interactions of proposed aquaculture activity and Annex II species including *Salmo salar*, found that:

*'given the location of the structures and the low level of activity proposed it is concluded that the activities would be non-disturbing to the Annex II species found in the Ardara/Mass Road SAC (00197)'.*

Once again this begs the question why do we engage a statutory agency (Inland Fisheries) in a public process and the Marine Institute to complete a rigorous scientific process (AA) then set aside their input regarding *salmo salar* over, presumably references to potential salmon migration in the local Engineer's report.

#### **5. Access by Boat**

The applicants propose to use a specially designed oyster boat to access any potential sites especially T12/405A. They already have a suitable boat in place which will be shared with an experienced operator in this area who has several licences in Donegal Bay already operated in this manner (please see photograph). There is no need to use any local piers in the bay for this type activity as the boat has a 0.5m draft fully loaded.

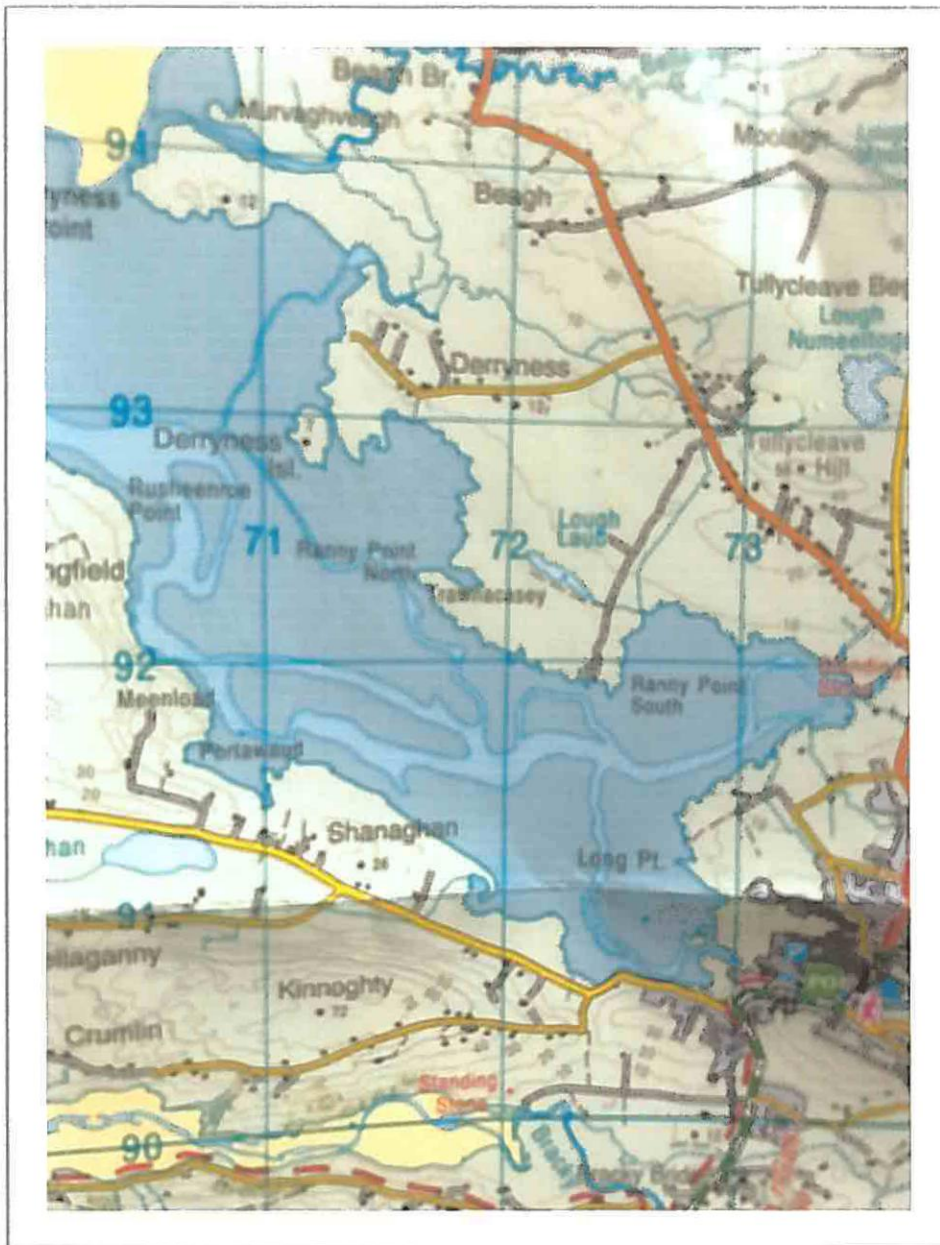


**6. Public Road Access**

Public access will not be hindered in any way . The public access route L7773 at Derryness via block 397A will **not** be required with an alternative access route on the Eastern side identified marked on the map below. This access already has the benefit of having agricultural infrastructure in situ where the road ends at the shore. It is owned solely by the applicant can be used in any way to accommodate access for oyster farming.



### Alternative Access Route at Ranny Point South



#### 7. Morphology

The Appropriate Assessment made no such findings even at the existing scale of applications. The applicant can reduce the scale of the site especially at block A – 405A.

#### 8. Recreation

There will be absolutely no impact on recreational activities or access to the shore by oyster farming activity in the application areas. The sites are located well to the East in the bay which has a total area 1500 hectares. Local recreational activity and some other commercial

activities (horse-riding school and cattle farming access to land) take place almost exclusively at the Western end of Loughras Mor using the public road L7773 as access. Tramore Strand and Rosbeg are the busiest tourist areas during the Summer and are located 6-7km to the North West at the mouth of Loughras Mor Bay.

## **9. Designation**

Shellfish Designation within Shellfish Growing Waters Area only occurred after shellfish farming was already established in bays throughout the country. It is not a pre-requisite for licencing with a proposed site classified under Annex II of Eu Regulation 854/2004. and therefore not a barrier to entry into the industry. Designation could occur in Loughras Mor with a straightforward inclusion of any site in the Classification sampling program by the SFPA and could be completed in a number of months. It takes three years to grow oysters to market size. The site is not surrounded by any intensive agriculture, has a fully compliant treatment plant in situ and therefore will most likely fluctuate between an A and B classification like all production areas in county Donegal.

## **Conclusion**

I do not know what issues are referred to in this statement:

*'taking account of the issues raised during the public and statutory consultation process'*

There are now many misconceptions in the public domain about oyster farming that trigger countless identical submissions which just seek to clog up the licencing process . These are sustained by well organised social media campaigns and have appeared in a number of recent objection campaigns around the county. A public process never attracts positive contributors therefore it is very easy to use misinformation to get signatures and give the impression an entire community is opposed to something. We cannot allow aggressive Nimbyism to masquerade as scientific fact or environmental concern stifling meaningful debate. Time and time again the content of these claims in public submissions have shown to be at complete variance with the experiences on the ground. At some point the process must reject such inaccurate and sensationalist views on oyster farming as completely unfounded and we cannot keep revisiting them perpetually with every application . In this regard, the generalisation of the above statement is worrying as this type of approach will never ensure a meaningful evolution in our public process or the industry it is obliged to serve.

After thirty year's of industry experience your Board now have the benefit of looking at the facts on shellfish farming which are clearly evident all around our coastline. It is a resounding economic success in our most rural locations. It is fully sustainable and environmentally important in meeting all our challenges ahead. Other countries are already actively incentivising their shellfish industries to expand their production immediately It is fully supported by scientific fact and has the benefit of a rigorous licencing system which is actively regulated to ensure full compliance by all users. It is subjected to a full public process again every ten years. When all this is considered, it is incomprehensible that a resource over 1,500 hectares cannot accommodate a vibrant shellfish industry for it's surrounding local communities in the future.