

Submission AGR 00566-19: Recommendation to Refuse Aquaculture/Foreshore Licences for 1 site (T12/405A)

TO: Minister
STATUS: Completed
PURPOSE: For Decision

AUTHOR: Kelleher, Evan
OWNER: Kelleher, Evan
REVIEWERS: Kelleher, Evan
ODonovan, Geraldine
Horan, Helena
Quinlan, John
Beamish, Cecil
Smith, Ann

DIVISION: Coastal Zone Management
DECISION BY:

Final comment

Minister determines that the Aquaculture/Foreshore Licences be refused for the reasons outlined.

Action required

Ministerial Determination on Aquaculture/Foreshore Licensing Application (T12/405A)

Executive summary

The Minister's determination is requested please in relation to an application for an Aquaculture Licence from Mr. Francis Gallagher, Derryness, Ardara, Co. Donegal. The application is for the cultivation of Pacific Oysters using bags and trestles in relation to a site numbered T12/405A (34.324 ha) on an area of the foreshore in Loughros Mór Bay, Ardara, Co. Donegal.

A submission in respect of this application for a Foreshore Licence is also set out for the Minister's consideration.

It is recommended that the Minister determines that the Aquaculture/Foreshore Licences **be refused** for the reasons outlined in the 'Detailed Information' section below.

Detailed information

Note: Tabs may contain additional information which is subject to redaction if transmitted to third parties.

Recommendation to Refuse an Aquaculture Licence for one site (ref: T12/405A)

DECISION SOUGHT

The Minister's determination is requested please in relation to an application for an Aquaculture Licence from Mr. Francis Gallagher, Derryness, Ardara, Co. Donegal for one site numbered T12/405A in Loughros Mór Bay, Ardara, Co. Donegal.

A submission in respect of the application for a Foreshore Licence is also set out below, 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 below (Foreshore Submission) which refer to the same site.

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.

APPLICATION FOR AN AQUACULTURE LICENCE

An application for an Aquaculture Licence has been received from the applicant referred to above (in conjunction with an application for a Foreshore Licence) for the cultivation of Pacific Oysters using bags and trestles in relation to one site - T12/405A, totalling 34.324 ha on the foreshore in Loughros Mór Bay, Ardara, Co. Donegal (see **Tab A**).

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 Licences 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 ..."

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

Observations/Comments were made by Technical Advisers as follows (see **Tab B**):

Marine Engineering Division (MED): MED does not recommend the licensing of this site for a number of reasons, primarily due to a combination of potential impacts on the environment, physical factors and water quality concerns. The main issues can be summarised as follows:

High elevation of area: The majority of the site is at a high elevation, meaning the oysters spend longer periods out of water and exposed to the air. The tide leaves the site for 4 hours per tide, a dangerous amount for the survival of the oyster stock.

Soft Substrate: There is soft ground in the area which can cause a number of problems. Firstly, the trestles can become buried and dislodge, and secondly, the terrain of the site can change almost on a tidal basis, meaning it can be difficult to anticipate usable parts of the site.

Access to site: The foreshore can be difficult to access where specified (from the applicant's own land) and would need to be addressed if the licence is granted.

Potential impact on Owenea River channel and outflow: The south end of the site extends into (without fully traversing) the low water channel of the Owenea River. There is a possibility this would impact on the navigation of small boats in the area. Clear navigation markings would be required to counteract this issue.

Visual Impact: Due to location and visibility at distance from local roads and viewing points from the Owenea Bridge area, there may be a moderate visual impact from trestles and aquaculture at this site.

Water quality concerns: There is a sewage discharge point very close to the site from nearby Ardara. The quality of the water in the bay has not yet been determined as this would be carried out by the SFPA post licensing, but there is cause for concern. The discharge is continuous, and outflow is not regulated to the tide, meaning waste sits in the region between tides without being washed out. Further, the tidal exchange is restricted by sediment at the mouth of the bay. An exclusion zone is suggested, but due to the confines of the bay, this may not be sufficient.

Marine Survey Office (MSO): The MSO have no objection to this application from a navigational viewpoint. They have recommended navigational site markings should the licence be granted.

Sea Fisheries Protection Authority (SFPA): The SFPA noted that there is no current E. coli classification or biotoxin monitoring programmes in place in Loughros Mór Bay. They stated that these programmes would need to be put in place and classification assigned prior to the commencement of operations. The SFPA reiterated that it is the producer's responsibility to supply safe food intended for human consumption.

Statutory Consultation

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

Observations/Comments were made by Statutory Consultees as follows (see **Tab C**):

Department of Housing, Planning and Local Government (DHPLG): The DHPLG noted that there is a wastewater outflow located in the vicinity and they are concerned about water quality as a result for shellfish consumption. They urge that this issue is carefully monitored to ensure food safety and health regulations are met.

Marine Institute (MI): The MI noted that the proposed site is not located within a designated Shellfish Growing Waters Area and oysters in the bay are not currently classified under Annex II of EU Regulation 854/2004. The MI stated that the site is located within the West of Ardara/Maas Road Special Area of Conservation (SAC) and noted the findings of the Appropriate Assessment report and the Licensing Authority's Natura Conclusion Statement with regards to the impacts of the proposed aquaculture activity on the Conservation Objectives of the West of Ardara/Maas Road SAC. The MI concluded that there should be no significant impacts on the marine environment and the quality status of the area should not be adversely affected by the proposed aquaculture at this site.

Commissioner of Irish Lights (CIL): CIL have no objection to the development of this site provided no navigable intertidal channels are impeded.

Donegal County Council (DCC): DCC comments were against the licensing of the site on the grounds of protecting tourism and archaeological monuments. The reasons cited relate to the Donegal County Development Plan 2018-2024, the objective being to protect natural heritage and areas zoned as 'especially High Scenic Amenity Area' especially by preserving 'the views between public roads and the sea, lakes and rivers'. They note the Wild Atlantic Way passes nearby, and 'it is a policy of the Council not to permit development which would materially detract from visual and scenic amenities along the route of the Wild Atlantic Way'.

The Council also aim to protect the 'character, settings of and views from National Monuments and Recorded Monuments and to manage development which would be considered to (visually or physically) intrude upon or inhibit the enjoyment of the amenities of this area'. There are three historical sites in particular in the region that are of concern for DCC - a ritual site, a graveyard and ecclesiastical remains.

DCC refers to access in terms of the infrastructural capacity of the routes identified in the area and consent for the use of any private access points to the proposed aquaculture site. Concerns were also raised about possible disease transmission from cultured oysters to other species.

Bord Iascaigh Mhara (BIM): BIM are satisfied that the application does not conflict with any aquaculture or inshore fisheries, and therefore have no objections.

Department of Culture, Heritage and the Gaeltacht (DCHG): The DCHG provided nature conservation observations on this application. They are concerned that further nearby Special Protection Areas (SPAs) need to be assessed for any interactions between the proposed aquaculture sites and Conservation Objectives for these SPAs.

The DCHG raises the question of possible changes to the hydrology of the bay. There is a concern that due to the small size of the bay, the trestles may have a larger overall effect. This possible change in hydrography could lead to water quality issues in the area.

The Department and its scientific advisers, the Marine Institute, considered the DCHG concerns. These issues are addressed in the updated Natura Conclusion Statement (see **Tab D**) along with a summary of mitigation measures and management actions that are to be implemented as a consequence of the findings in the Appropriate Assessment report. In the event of licensing, the footprint of the site would be reduced in order to prevent an impediment to water flow and avert barriers to seal movement from trestle-based aquaculture.

The Marine Institute have also provided comments on the DCHG observations at the Department's request (see **Tab E**).

Irish Water: Irish Water stated that the application T12/405 is not wholly within designated shellfish waters. They also noted that the proposed site is in the vicinity of the Ardara Wastewater Treatment Plant outfall and that consideration should be given to the proximity of wastewater discharges to the proposed aquaculture development when deciding on the licensing of this site.

Inland Fisheries Ireland (IFI): Inland Fisheries Ireland provided observations, but these were received outside the timeframe for statutory consultation, and as a result, cannot be taken into consideration.

An Taisce: No response received.

Fáilte Ireland: No response received.

Údarás na Gaeltachta: No response received.

Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements in the 'Donegal Democrat' on 28th August 2018. The application and supporting documentation were available for inspection at Ardara and Glenties Garda Stations for a period of 4 weeks from the date of publication of the notice in the newspaper.

There were **408** observations received as part of the public consultation process. The majority (384) of these objections came in the form of a single page outlining key concerns such as effects on the Special Area of Conservation (SAC), effects on the nearby Special Protection Areas (SPAs), recreational use of the bay and the aesthetics of the proposed development.

The remainder of the objections covered other topics, as well as reiterating the above concerns. In broad terms, the concerns raised fell under the following headings:

Road Access: The access to this site is via the L7773, a small, narrow 1.43km road. It is reported that the road is in disrepair, with subsidence and surface deterioration. The concern has been raised that this will be further compounded with the heavy traffic of tractors and congestion will be an issue for the homes on this stretch of road.

Recreational Use of the Bay: Pastimes like walking, swimming, horse riding, kayaking, rowing, leisure fishing and cycling were all cited as recreational uses that would be affected in the bay if the proposed aquaculture were to go ahead. All of the above are attractions to the area for both permanent residents and tourism. The objectors note 'the extent of the proposed oyster farm would render any such recreational activities impossible to undertake for health and safety reasons and would deprive the existing users of their enjoyment of the bay's amenities.'

Wild Fisheries: One fishing organisation noted there has been draft net fishing for Atlantic salmon in Loughros Mór as long as has been recorded. Six boats currently fish under a local licence using the draft net method. The objection raised concerns that aquaculture will both impede access and damage netting by being snagged on aquaculture equipment. It was stated that the central channel in the region moves regularly and it may in fact be blocked by the trestles for access at lower tides, which could impede boat access.

Suitability of Site: It is noted that the location proposed for the site is poor with the bay completely drying out with the tide. There is also the issue of sewage from Ardara running into the bay which is a further cause for concern. The discharge point for this sewage is in close proximity to the proposed aquaculture.

Grazing Land: An objector raised concerns about transporting his livestock to Derryness Island, where his cattle graze, on a route which goes across the foreshore through the proposed location of the site to this grazing area. The objector notes that an obstruction, by way of oyster trestles, would pose a risk to his livestock as they traverse this terrain. The objector stresses there is no other route to the island.

Historical Significance: It is noted in one submission that Loughros Mór is rich in history and archaeological evidence. This objector raised concerns that aquaculture may disturb some of the extant monuments and possible undiscovered relics in the area.

Visual Impact: As the area is largely undeveloped, concerns were raised about the impacts of this project in conjunction with other new aquaculture developments which could greatly impinge on the area's unique rural landscape and unblemished topography. The method of cultivation i.e. oyster trestles (steel structures) and the installation of navigation poles along the marine bed may also be considered unsightly. It is argued that such a method of cultivation would be considered visually intrusive especially in light of the proximity of the Wild Atlantic Way.

Environmental Impact: Concerns were raised about the potential negative influences associated with aquaculture development on the marine environment. The area in which the proposal is planned is a Special Area of Conservation (SAC) and concern is rife that the proposed aquaculture will damage the environs and local wildlife. Objectors were concerned that the proposed levels of aquaculture would damage the local flora and fauna and specific birds such as Brent Geese, Curlew, White Fronted Geese, Whooper Swans and Plovers.

Economic Impact: Economic concerns were raised in terms of potential negative impacts on the local tourism industry as a result of the proposed project. Recreational activities and amenities such as fishing, water sports, walking and equestrian beach trekking could be potentially affected by new aquaculture development. Further, concerns were raised that local property values could fall. The objections highlight nearby Ardara is on the Wild Atlantic Way and tourism is cited as the main source of income in the area. They stress the proposed aquaculture will heavily impact on the visual aesthetic of the area, being visible from many notable sites

around Loughros Mór Bay.

Response to Statutory and Public Consultation

In accordance with statutory requirements, a copy of all the observations received during the Statutory and Public consultation stage of the process were sent to the applicant for consideration.

The applicant submitted a response outside of the statutory timeframe and this cannot be considered as a result.

Marine Engineering Division (MED) Report on Aquaculture licence applications in Loughros Mór Bay, following Submissions made by Statutory Consultees and the General Public

The Department's MED were asked to comment on the observations which were received during the consultation process. A comprehensive report was compiled for all the sites in the bay, including Site T12/405A.

An important clarification was received from Irish Water on the location of the Ardara Wastewater Treatment Plant outfall. The outfall to site distances as provided by Irish Water during the consultation process were incorrect. MED site surveys in early 2019 identified the primary outfall discharge point for Ardara sewage scheme to be 525m further to the west than previously thought. MED contacted Irish Water seeking clarification on the coordinates of the discharge point. They have confirmed that the outfall is at or close to coordinates 171679, 391662 and discharges continuously into the bay.

MED recommended a number of approaches in order to deal with this situation. While not recommended by any of the Statutory Consultees, MED observed that an exclusion zone for licensing aquaculture in the vicinity of a town sewage outfall should be possible. This approach of not licensing within a zone around a main outfall could be justified on the grounds of expected low water quality in that zone. However, in putting a provisional exclusion zone in place and taking into account a combination of potential impacts on the environment, physical factors and water quality concerns that apply to the bay, it was concluded that no part of Site T12/405A should be licensed.

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:

- the suitability of the place or waters

Technical/Scientific advice is to the effect that the waters are not suitable for the cultivation of Pacific oysters. The site is at a high elevation and the tide leaves for approximately 4 hours per tide cycle, meaning the oysters are in less than favourable conditions for growth and survival.

The Ardara main sewage outfall is in proximity to the proposed site and may impact on the quality and safety of the produce in the bay.

Access to the foreshore is limited due to outcropping rock and a low water channel impeding paths between the east and west of the site.

Some areas of the site have a soft substrate, making it difficult to access, farm and may be prone to movement of sand.

- other beneficial uses of the waters concerned

Concerns were raised regarding the potential impact of this project on recreational activities in the area. The south-eastern portion of the site extends into a branch of the low water channel of the Owenea River. Trestles in this location may impede small boat navigation.

MED concluded in their assessment that the scenic and amenity impacts of this application are considered moderate.

- the particular statutory status of the waters

Natura 2000

The proposed site is located within the West of Ardara/Maas Road Special Area of Conservation (SAC). An Article 6 Appropriate Assessment has been carried out in relation to the proposed aquaculture activities in the SAC and the report is available on the

Department's website. The Licensing Authority's Natura Conclusion Statement (also available on the Department's website) outlines how it is proposed to manage/license proposed aquaculture activities in Loughros Mór Bay in compliance with the EU Habitats Directive. It concludes that consideration can be given to the proposed licensing of aquaculture activities from a Natura 2000 perspective in conjunction with a reduction in the footprint of a number of the sites and subject to other licensing criteria and considerations. It was concluded that the proposed licensing of certain aquaculture activities, along with specific management actions and mitigation measures, is not likely to have a significant effect on the integrity of the West of Ardara/Maas Road SAC.

Shellfish Waters

The proposed site is not located within a designated Shellfish Growing Waters Area. Oysters in this area are currently not classified under Annex II of EU Regulation 854/2004.

The SFPA, the body responsible for the food safety aspects of seafood production, note there are no shellsan E.coli classification or biotoxin monitoring programmes in place for this area. These programmes would need to be put in place and the area classified before any operations could occur.

- the likely effects on the economy of the area

Aquaculture has the potential to provide a range of benefits to the local community. However, note has also to be taken of the concerns which were raised regarding the potential impact of this project on the tourism industry. Factors such as the proximity of the site to the Wild Atlantic Way, historical monuments, quality of roads, and areas of Especially High Scenic Amenity were highlighted.

- the likely ecological effects on wild fisheries, natural habitats, flora and fauna

The south-eastern portion of the site extends into a branch of the low water channel of the Owenea River. This may affect salmonid migration into the River Owenea, which is also an attraction for angling tourism.

The potential ecological impacts of aquaculture activities on natural habitats, flora and fauna are addressed in the Appropriate Assessment report for the West of Ardara/Maas Road SAC and in the Licensing Authority's Natura Conclusion Statement (which are available on the Department's website).

- the effect on the environment generally

Following considerations implicit to Section 61 (e and f) of the Fisheries (Amendment) Act 1997, the Marine Institute advised that significant impacts on the general environment from this proposed development are not considered likely.

The DCHG raised no objection to the development from an underwater archaeological perspective.

RECOMMENDATION

It is recommended that the Minister:

refuses the granting of an Aquaculture Licence to Mr. Francis Gallagher, Derryness, Ardara, Co. Donegal for the cultivation of Pacific Oysters using bags and trestles in relation to one site – T12/405A, totalling 34.324 ha on the foreshore in Loughros Mór Bay, Ardara, Co. Donegal.

This recommendation is based primarily on the findings of Site Surveys and Engineering Reports which were carried out by the Department's Marine Engineering Division (MED). The comprehensive MED report (at **Tab E**) finds that the proposed aquaculture at Site T12/405A is not suitable for licensing due to a combination of potential impacts on the environment, physical factors and water quality concerns that apply to the area.

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 on the Department's website, subject to the Minister approving the above recommendation:

"Determination of Aquaculture/Foreshore Licensing Application – T12/405A

Mr Francis Gallagher, Derryness, Ardara, Co. Donegal has applied for Aquaculture and Foreshore Licences for the cultivation of Pacific Oysters using bags and trestles on one site numbered T12/405A totalling 34.324 ha on the intertidal foreshore in Loughros Mór Bay, Ardara, Co Donegal.

*The Minister for Agriculture, Food and the Marine has determined that it is **not in the public interest** to grant Aquaculture and Foreshore Licences for this site. 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 **refuse** the licences sought:-*

- The proposed site is unsuitable for aquaculture for reasons including the high elevation of the site, water quality concerns and long exposure times of oyster stock to the air;*
- The high elevation of the proposed site relative to the bay would result in poor growth and survival conditions for the oysters. This is due to long exposure times of oyster stock to the air when the tide goes out. The oysters would be uncovered for approximately four hours per tide cycle leading to food safety concerns and high mortality rates;*
- The primary outfall discharge point for the Ardara sewage scheme is proximate to the site (Coordinates 171679, 391662). The presence of a town sewage outfall in close proximity to the proposed aquaculture raises significant water quality and food safety concerns due to the enclosed nature of the bay and the continuous discharge from the outfall. The centre of Site T12/405A is within 450m of the outfall location. As the outflow is not restricted to high tides, effluence remains in the bay for longer periods;*
- Possible scenic impacts from the proposed aquaculture are considered moderate. Views may be affected from the Wild Atlantic Way;*
- Parts of the site extend into the low water branch of the Owenea River and would potentially impede salmonid migration upstream for spawning;*
- Public access to recreational and marine leisure activities may be hindered by this project;*
- The proposed site is not located within a designated Shellfish Growing Waters Area. Oysters in this area are currently not classified under Annex II of EU Regulation 854/2004;*
- Taking account of the issues raised during the public and statutory consultation phase."*

Recommendation to Refuse a Foreshore Licence for one site (ref: T12/405A)

DECISION SOUGHT

The Minister's determination is requested please in relation to an application for a Foreshore Licence from Mr. Francis Gallagher, Derryness, Ardara, Co. Donegal for a site numbered T12/405A in Loughros Mór Bay, Ardara, Co. Donegal in which it is proposed to conduct aquaculture.

BACKGROUND

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

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

APPLICATION FOR A FORESHORE LICENCE

An application for a Foreshore Licence has been received from the applicant referred to above (in conjunction with an Aquaculture Licence application), relating to the occupation of the foreshore associated with the Aquaculture Licence application which covers one site (T12/405A) totalling 34.324 ha on the foreshore in Loughros Mór Bay, Ardara, Co. Donegal (see **Tab A**).

LEGISLATION

Section 3 of the Foreshore Act, 1933 gives power to the Minister to license the use of foreshore, if he is of the opinion that it is in the public interest to do so.

CONSULTATION AND PUBLIC COMMENT

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

This application was also sent to the Department of Housing, Planning and Local Government (DHPLG) in accordance with subsection (1B) of Section 3 of the Foreshore Act, 1933, which requires consultation between the Minister for Agriculture, Food and the Marine and the Minister for Housing, Planning and Local Government. Whilst aquaculture legislation requires certain statutory bodies to be notified of an aquaculture application, no other statutory bodies are prescribed consultees under Fisheries related foreshore legislation.

Department of Housing, Planning and Local Government (DHPLG): The DHPLG noted that there is a wastewater outflow located in the vicinity and they are concerned about water quality as a result for shellfish consumption. They urge that this issue is carefully monitored to ensure food safety and health regulations are met.

Technical Consultation

Marine Engineering Division (MED): MED does not recommend the licensing of this site for a number of reasons, primarily due to a combination of potential impacts on the environment, physical factors and water quality concerns. The main issues can be summarised as follows:

High elevation of area: The majority of the site is at a high elevation, meaning the oysters spend longer periods out of water and exposed to the air. The tide leaves the site for 4 hours per tide, a dangerous amount for the survival of the oyster stock.

Soft Substrate: There is soft ground in the area which can cause a number of problems. Firstly, the trestles can become buried and dislodge, and secondly, the terrain of the site can change almost on a tidal basis, meaning it can be difficult to anticipate usable parts of the site.

Access to site: The foreshore can be difficult to access where specified (from the applicant's own land) and would need to be addressed if the licence is granted.

Potential impact on Owenea River channel and outflow: The south end of the site extends into (without fully traversing) the low water channel of the Owenea River. There is a possibility this would impact on the navigation of small boats in the area. Clear navigation markings would be required to counteract this issue.

Visual Impact: Due to location and visibility at distance from local roads and viewing points from the Owenea Bridge area, there may be a moderate visual impact from trestles and aquaculture at this site.

Water quality concerns: There is a sewage discharge point very close to the site from nearby Ardara. The quality of the water in the bay has not yet been determined as this would be carried out by the SFPA post licensing, but there is cause for concern. The discharge is continuous, and outflow is not regulated to the tide, meaning waste sits in the region between tides without being washed out. Further, the tidal exchange is restricted by sediment at the mouth of the bay. An exclusion zone is suggested, but due to the confines of the bay, this may not be sufficient.

Marine Survey Office (MSO): The MSO have no objection to this application from a navigational viewpoint. They have recommended navigational site markings should the licence be granted.

Sea Fisheries Protection Authority (SFPA): The SFPA noted that there is no current E. coli classification or biotoxin monitoring programmes in place in Loughros Mór Bay. They stated that these programmes would need to be put in place and classification assigned prior to the commencement of operations. The SFPA reiterated that it is the producer's responsibility to supply safe food intended for human consumption.

Public Consultation

The application was publicly advertised using a composite public notice covering both aquaculture and foreshore elements in the 'Donegal Democrat' on 28th August 2018. The application and supporting documentation were available for inspection at Ardara and Glenties Garda Stations for a period of 4 weeks from the date of publication of the notice in the newspaper.

There were **408** observations received as part of the public consultation process. The majority (384) of these objections came in the form of a single page outlining key concerns such as effects on the Special Area of Conservation (SAC), effects on the nearby Special Protection Areas (SPAs), recreational use of the bay and the aesthetics of the proposed development.

In accordance with statutory requirements, a copy of all the observations received during the Statutory and Public consultation stage of the process were sent to the applicant for consideration.

The applicant submitted a response outside of the statutory timeframe and this cannot be considered as a result.

CRITERIA IN MAKING LICENSING DECISIONS

The Minister, in considering an application for a Foreshore Licence, may, if satisfied that it is in the public interest to do so, grant such a licence.

Section 82 of the Fisheries (Amendment) Act, 1997 stipulates that the Minister, in considering an application for a licence under the Foreshore Acts, which is sought in connection with the carrying on of aquaculture pursuant to an Aquaculture Licence, shall have regard to any decision of the Licensing Authority in relation to the Aquaculture Licence.

RECOMMENDATION

It is recommended that the Minister, taking account of the decision on the related aquaculture licence application:

refuses the granting of a Foreshore Licence to Mr. Francis Gallagher, Derryness, Ardara, Co. Donegal for the occupation of a site, T12/405A, totalling 34.324 ha on the foreshore in Loughros Mór Bay, Ardara, Co. Donegal.

This recommendation is based primarily on the findings of Site Surveys and Engineering Reports which were carried out by the Department's Marine Engineering Division (MED). The comprehensive MED report (at **Tab E**) finds that the proposed aquaculture at Site T12/405A is not suitable for licensing due to a combination of potential impacts on the environment, physical factors and water quality concerns that apply to the area.

Submitted for approval, please.

Aquaculture and Foreshore Management Division.

Related submissions

There are no related submissions.

User details

INVOLVED: Kelleher, Evan
ODonovan, Geraldine
Horan, Helena
Quinlan, John
Beamish, Cecil
Sub Sec Gens Office
eSub Sec Gen
eSub Ministers Office
eSub Minister

READ RECEIPT: Kelleher, Evan
ODonovan, Geraldine
Horan, Helena
Quinlan, John
Beamish, Cecil
Smith, Ann
Lennox, Graham