

APPENDIX 1

Map showing proposed access routes as presented in Final Conclusion Statement.



Hand-drawn map
of the area
around the
river

APPENDIX 2

Combined map showing proposed aquaculture locations as shown on DAFM website map, proposed revised access routes as shown in Final Conclusion Statement, and seal haul out locations numbered.



Map 3

APPENDIX 3

Extract from “Historical Environmental and Cultural Atlas, Donegal.”

that have been gradually formed through mud and sand that accumulates close to high water, creating a flat surface near to the shoreline. Indeed, these can harbour a rich variety of vegetation. However, in coastal Donegal, as in other Irish counties, they have frequently been used for grazing for cattle, with the result that the biodiversity of salt marshes can be seriously reduced. In the case of Donegal, extensive salt marshes and tidal flats in the past, and intensive cattle grazing in recent years, has greatly reduced their size and threatens the size of the county's remaining salt marshes.

Stability

Along the coast of Donegal Bay, a series of wide sand and shingle dunes are present in small embayments such as Malinbeg and Murvagh. They are separated by cliffs composed chiefly of glacial sediment, and contribute at least a proportion of their sediment to the beaches. These beaches have been little studied, but recent studies show the shoreline to be retreating at about sixty centimetres per year. The erosion is due to the erosion of sediment that has closed Durness Bay, a connection to the sea. The shoreline along the coast of Donegal Bay and past Malinbeg is composed of hard rock, with small sandy beaches in small embayments along this coast. The elevation of the coast undulates considerably and the Slieve Donard cliffs stand in stark contrast to the low-lying shore of St John's Point. Along St John's Point, the small beaches made up of broken shells and glacial sediments, which provide them with a covering of rounded pebbles.

From St John's Point to the south shore of Sheephaven, the coast is predominantly rocky and has an extremely rugged profile, with several deep embayments and numerous offshore islands. In this environment, the waves have driven sand from the seabed into the small coves where it forms sand and gravel dunes and rock outcrops. Locally, the erosion of the glacial cliffs continues to add sediment to the coast, but very substantial volumes of sand, however, are not added in several large estuaries on this stretch of coastline. At the mouths of these estuaries, the beaches are typically backed by high and vegetated

land. Donegal, which comprises sizeable sand spit that encloses Ballyness Bay. In each of these estuaries, the sand is constantly changing under the influence of tides, waves and sea currents. Since no fresh sediment is being supplied to the beaches here, any adjustments in their configuration involve the movement of sand from one part of the system to another.

From Horn Head to Inishowen Head, the three large bays of Sheephaven, Mulroy Bay and Lough Swilly dominate the coastline. These bays contain less sand than the estuaries in the south of the county, although their shorelines comprise a mixture of rock outcrop, sandy beaches and occasional salt marsh, particularly toward their upper reaches. The ocean shorelines on Horn Head, Rosguill, Fanad and Inishowen are mainly rocky and contain examples of many high cliffs, but small sand and pebble beaches, derived from erosion of glacial sediments are present in the many small coves on this stretch of coast.⁹

People and the coast

The beauty of the Donegal coast lies mainly in its unspoiled nature. Located at latitude fifty-five degrees north, and having a wet and windy maritime climate, beaches here are mainly valued not for sunbathing or even swimming, but for the scenic value of the coastal landscape. For that reason, they are considered good places for coastal walking, and as places to be admired from a distance. The regular beach visitors quickly realise that, in their natural state, beaches are highly adaptable landforms. The loose sand and gravel can easily move and change the shape of beaches as they adjust to storms and fair weather in winter, or summer and in wet or dry conditions. The same is true where the coastal estuaries of Donegal meet the sea.¹⁰ Thus tidal channels here are constantly migrating through sandbars and sandy shoals that constantly change as a result of alterations in tides, winds and wave action.¹¹ Paradoxically, while humans appreciate these natural features of the coast, the sheer mobility of many beaches causes them to be regarded as a nuisance by some. Shifting sand can impede navigation and result in periodic or long-term land loss. This means that some beaches can be wide or narrow, and that some can have sandy surfaces while others may be stony or covered with pebbles. In attempting to control the dynamics of beaches and dunes, we can destroy the very attributes required for their survival, and contribute to a deterioration of the very qualities for which they are most admired.



Fig. 5 (top) Corncrake. Commonly heard but seldom seen in the small fields of Donegal up to the 1970s, these birds are now confined to a handful of protected sites in the county. In 2003, less than a hundred of these birds were recorded in the county. **Fig. 6** (bottom) Black-throated diver, a rare winter visitor which occasionally turns in bays and coastal inlets from Aran Island to Lough Foyle. (Photo: John Rafferty)

The bulk of those that winter in Donegal originate in Iceland. Significant numbers of barnacle geese, also from summer breeding stations in Greenland, frequent the remote islands off the west and north coast of Donegal from November to April. In 2003, Ireland hosted around 56,000 Greenland barnacle geese. There were an estimated 9,000 birds scattered across rocky headlands and remote islands all along the north and west coast of Ireland, and large flocks regularly winter around Malin Head, Bloody Foreland and Gweebarra Bay. The much smaller brent goose is found all around the Donegal coast, from the muddy shores of Lough Swilly to the shallow waters of Ballyness Bay. It is particularly common in coastal estuaries where *Zostera marina*, or eel grass, is locally abundant. More than 20,000 birds from Arctic Canada wintered in Ireland in 2002, and Waterford, Wexford, Dublin, Donegal, Antrim and Sligo regularly record large flocks. In Donegal, brent geese are a common sight at many muddy shores, and they

also feed along the tideline, on *machair* grassland, and on sports fields and low-lying coastal land. They upend when plucking seaweed and eel grass in shallower waters around the Donegal coast.

Each spring and autumn, coastal locations from Malin Head to Donegal Bay also function as important landfalls for scarce migrants and wintering wildfowl from all corners of the northern hemisphere. Wintering flocks of redwings, fieldfares and small numbers of extremely rare Lapland buntings from breeding grounds in Scandinavia, Iceland and Greenland arrive along the north coast of Donegal from October onwards. The county also plays host to small flocks of snow buntings, which arrive here in late autumn or early winter. With a circumpolar breeding range that includes Greenland, Arctic Canada and northern Siberia, this is the most northerly breeding bird on the planet. In Donegal, small flocks of five to thirty or more of these birds generally seek out the most windswept and exposed places in which to spend the winter months. In Orkney, snow buntings have been given the name 'snowflake' on account of their brown and white winter plumage, which helps to camouflage the bird on snow-capped mountains.

The chough, another comparatively rare cliff-dwelling bird that is locally common throughout the county, thrives in areas of low-intensity farming, undisturbed rough pasture and *machair* grassland. Chough numbers have been in decline since the end of the nineteenth century, and they were almost entirely gone from all inland sites in the county by the 1940s. Ireland now accounts for around three quarters of the northwest European population of this species, and today their greatest concentrations occur in the southwest of the country, especially at the outer edges of the long sea peninsulas of west Cork and Kerry.⁹ Donegal held over twenty-five per cent of the national breeding population in the early 1960s, and still harbours an estimated 100 breeding pairs. Cliff-top habitats around the Donegal coastline provide excellent breeding habitats for this attractive, red-billed member of the crow family. Recent studies have revealed that regular grazing on close-cropped pastureland near cliff tops, especially in areas where chemical fertilisers are absent, provides the birds with an abundance of leatherjackets, spiders and staphylinid beetles on which these long-billed birds feed.¹⁰ However, in recent years their numbers have declined in areas where fencing of coastal grassland has occurred. The largest concentrations of choughs in Donegal are still to be found in our ecologically important dune systems and high coastal hills, especially around Slieve League, Slieve Tooe, Sheskinmore, Portmoo, Gweebarra River, Dooley Island, Rutland Island, Dunfanaghy, Bloody Foreland, Bunbeg, Glencolumbkille and Lagg Beach near Malin town.

A great variety of pelagic seabirds also visit the coastal



Fig. 9 Goldfinch. Perhaps the most colourful of the county's finches, and once confined to open farmland and hedgerows, they now feed at bird tables in towns and villages throughout east Donegal in particular. (Photo: John Rafferty)

1978, an estimated 1,500 male birds could still be heard calling throughout Ireland. Ten years later that number was down to 903, and in 2003 there were only 132 male-bird records in the entire country. Together with the golden eagles of Glenveagh, the corncrake is an emblematic bird of nature conservation in Ireland today. Their numbers have been depleted drastically since the 1970s, and they now linger chiefly only on offshore islands, including Tory, and in remote coastal districts from Ballyness Bay to Malin Head. Tory Island and Inishbofin recorded 46 birds in 2004, which was almost half of the total of the estimated 90 corncrakes in the entire county. Here, as in a small number of other small offshore islands along the west coast of Donegal, well-managed conservation measures, especially when accompanied by low levels of human interference and the absence of mechanised farming, may yet save corncrakes from outright extinction in the county. It is now recognised that the preservation of the species will require more proactive habitat management, and the identification of suitable new breeding sites outside the core areas of Donegal, Connemara and the Shannon Callows. This is all the more urgent since the corncrake is a short-lived species that produces large numbers of young. As Corncrake Project officer Brian Caffrey has warned,

'proactive habitat management on these north and west coast islands is essential if numbers are to continue to increase, and the need for effective conservation work on adjacent mainland areas is also key if the range of this globally threatened species is to expand'.¹²

While localised conservation efforts for the protection of individual species like corncrakes, choughs and Lundy terns may appear insignificant when measured against much larger projects for preserving national biodiversity, they are of enormous local and regional importance. While species such as song thrushes, yellowhammers and cuckoos were common throughout the county, they are now much less common, and today yellowhammers in particular have a very localised distribution in Donegal. More frequent in western counties than in the east of Ireland, the cuckoo generally arrives in Donegal in the second half of April. Their numbers appear to be dependent on the number of meadow pipits, their main host in whose nests they commonly lay their eggs. An estimated 3,000–6,000 cuckoos visit Ireland each year, mostly from Africa, and parent birds usually depart in late June, to be followed by younger birds in July and August. The song thrush, a far more retiring bird than the blackbird, is widely distributed on farms and in gardens throughout Donegal. The national popula-

APPENDIX 4

Lough Swilly Wild Oyster Society Ltd. Appeal

and

“Into the Wild” : Kochmann 2012

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| APPENDIX 5 |
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AP2/2018

Lough Swilly Wild Oyster Society Ltd Appeal

Cuirt Choill Mhinsi, 136thar Bhalle Atha Cliath, Port Laoise, Contae Laoise, R32 DTW5
Kilminchy Court, Dublin Road, Portlaoise, County Laois, R32 DTW5
Guth3n/Telephone: 057 8631912 R-phost/Email: info@alab.ie LJOrOn Gr6as3in/Website: www.alab.ie

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

Name and address of Appellant: Lough Swilly Wild Oyster Society Limited

| | |
|-----------------------|----------|
| Telephone: | Fax: |
| Mobile Tel: | E-mail |
| Subject matter of the | address: |
| appeal: | |

1. The Minister for Agriculture, Food and the Marine ought to have refused the licences sought by the Applicant due to the illegal fishing carried out by the Applicant and was Statutorily obliged to cause the application of the Applicant to fail.
2. The invasion of natural oyster areas (containing *Ostrea Edulis*) by the Pacific Oysters affecting the natural fishing rights of the Appellant.
3. The loss of income to the Appellant due to the erosion of the natural oyster area due to the invasion on the said area by the Pacific oysters.

Site Reference Numbers:-

T12137 A 1
T12/37 A 2
T12/37 B 1
T12/37 B 2
T12/37 B 3
T12/37 B 4
T12/37 C
T12/343

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

Appellant is engaged in fishing in the neighbouring terrestrial waters to the Applicant
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):

The Applicant's original Fish Culture Licence was granted by the Minister for Marine on the 20th October 1994 for a ten-year period. The Applicant submitted an application to renew the aforementioned licence on the 23rd September 2004. As is made overtly clear by the cover sheet of the application for a licence for renewal it is strictly prohibited for a Licensee to continue his operations without a licence. In the present circumstances, the Applicant continued his licensed operations after the expiration of his licence and therefore was patently in breach of the Department's own guidelines in relation to foreshore licences. This may or not be controverted by the Applicant, but should this matter proceed to oral hearing we have witnesses available to attest to the Applicant continuing his operations in the licensed areas during the period when he held no licence. Therefore, pursuant to Section 4 of the Fisheries and Foreshore (Amendment) Act, 1998 the application of the Applicant for a licence should have failed. Despite any contention by the Applicant, or for that matter, the Minister for Agriculture, Food and the Marine, that the Sea Fisheries and Maritime Jurisdiction Act 2006 and the inclusion of any such representation in his application that the Act should be applied, it is submitted that at the time of the Applicant's renewal application the law applicable was that of the Fisheries and Foreshore Amendment Act, 1998. It is further submitted that a change of law in 2006 (commenced by Commencement Order dated the 4th April 2006), does not entitle the Department of Agriculture, Food and Marine to deviate from the law as it then was when this application for a renewal was made on the 23rd September 2004. In this regard, the Applicant submitted a letter dated 26th October 2006 in support of his application from Mr Deelan O'Rourke of the Coastal Zone Management Division, the first paragraph of which appears to have been materially doctored by the insertion of the digit 3 over the digit 6 in the final line of the first paragraph.

2. Following a epidemiological investigation which was carried out in Lough Swilly in Autumn 2006 carried out by the Marine Institute where there *Bonamia ostreae* disease was detected, in their report the Marine Institute stated that the disease may have been brought to Lough Swilly by the imports of the Pacific oysters (*Magallana gigas*) from France which is the oyster predominately fished by the applicants in this area. Further farming of the Pacific Oyster could result in further spread of the

Bonamia ostreae disease throughout Lough Swilly. Please refer to the Maria institute report attachment 1.

3. This area of Lough Swilly where the applications have been made are predominately native oyster areas. This is illustrated by attachment 2 and will be supported by written statements from experienced fishermen who have been fishing these areas for years. The fishing of the Pacific oyster would detrimentally effect the native oyster because of it being highly sensitive to smothering and sensitive to organic enrichment and to activities associated with suspended culture. The native oyster is also highly sensitive to the introduction of non-native species and also parasites which can be transferred by the Pacific oyster. The Environmental Protection Agency compiled a report on "Sectoral Impacts on Biodiversity and Ecosystem Services" in which they cited that invasive oysters may alter ecosystem functioning not only directly, but also indirectly by affecting microbial communities vital for the maintenance of ecosystem processes. The report also made a number of recommendations for decision makers one of which is that Pacific oysters can pose a considerable threat to native biodiversity and ecosystem functioning and that action should be taken at an early stage to restrict or eliminate the spread of Pacific oysters before dense reefs are formed and they are unable to be removed and are no longer commercially viable. The granting of an extensive area for Pacific oyster and Mussel bottom Culture would go against the recommendations of this report and the scientific findings of the report. This report can be found at attachment 3. This report is followed by a more up to date joint Oireachtas committee- Agriculture Food and Marine meeting in 2015 where the Inland Fisheries Ireland made a number of submissions to the committee one of which acknowledged that the Pacific Oyster had become feral in Lough Swilly and that provision should be made to remove the Pacific Oysters again this information was not taken into account when the decision to grant the licenses was being made.
4. We would also like to reference the Coastwatch article by Karin Dubsky in which it states that all Pacific oyster farmers should undertake a site audit and remove old pacific oysters before they spread any further and effect the native oyster further. This doesn't appear to have been a consideration when making the determination to grant a license. This article can be seen at attachment 4.
5. The Department is relying on an EIA screening assessment in the granting of the license yet-we are unable to find the -assessment-or-its findings and- we would be anxious to read the findings in the assessment.
6. The determination notice mentions that the areas in T12/343 is licensed and managed we have not seen any management plan and would be very concerned that none exists and for this reason the sprawl of the Pacific oyster has occurred having a detrimental effect of the native oyster population.

7. Site T12/37B1 will encroach on a natural mussel spat fall area. This area is essential for the regeneration of mussel stocks and spawning of mussels. To disturb this area would have a negative effect of the mussel population. This area is outlined in black in attachment 5.

8. Numerous areas including T12/37AI, T12/37132 and T12137C are least affected by Pacific Oysters and would make an ideal native oyster nursery and to introduce Pacific Oysters and mussel bottom culture would make this area unfeasible for the native oysters nursery and further diminish their stocks.

9. Site T12/37132 is encroaching on a native oysters area and the activities of dredging for these mussels will have a negative effect on the native oyster population with regard to dredging and propulsion from boats.

10. There is a serious risk that the native oyster could become extinct if immediate action is not taken to remove the Pacific oyster from the areas abovementioned, should the farming continue of Pacific oyster to the point that the Pacific oyster become the dominant species then it will almost certainly wipe out the native oyster which has been fished and sold in Lough Swilly for generations. The Lough Swilly Wild Oyster Society Limited have provided a Fishery Natura plan for native oysters in Lough Swilly in which it proposes a number of steps that can be taken to revive the native oyster population while containing the Pacific oyster population. Please note that changes to this plan were necessary because of the effect of the Pacific oyster has had on the ecosystem and spawning grounds of the native oysters this is most relevant in relation to p14 of the report where the spawning ground is no longer viable and has had to be moved to the north/east of Lough Swilly. This report can be seen in attachment 6.

11. As recently as 6th of December 2017 areas in Fahan Creek which have been granted the farming of the Pacific Oyster have tested positive for the Native Oyster. To allow the farming of the invasive Pacific Oyster would drastically effect the native oyster. The sample was taken by the Marine Institute and the results of these findings were published on 11th December 2017. This report can be seen in attachment 7.

12. T12137C is a predominantly Native Oyster area and this decision to allow Pacific Oyster farming and bottom culture mussels would appear to contradict the decision in T12/297 where it was determined that "Site T12/297 completely overlaps an 'Ostrea edulis (native oyster) dominated community' area. The impact of suspended oyster culture on the Ostrea edulis dominated community is considered disturbing and cannot be discounted for the following reasons:

- The dominant species *Ostrea edulis* is highly sensitive to smothering and sensitive to organic enrichment and to activities associated with suspended culture (e.g. compaction)

- Native oyster beds (*Ostrea edulis*) are considered scarce
- The community is highly sensitive to the introduction of non-native species and also parasites/pathogens"

We will be relying on the Marine Institutes own report in attachment and to signed statements by generational fishermen that this area is predominantly a native oyster area

Fee enclosed: @1218.96 plus E609.44 =£1829.03

(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)



Into the Wild

Documenting and Predicting the Spread of Pacific Oysters (*Crassostrea gigas*) in Ireland

Judith Kochmann
(B.Sc., M.Sc.)

The thesis is submitted to University College Dublin in fulfilment of the requirements
for the degree of

Doctor of Philosophy

School of Biology and Environmental Science

Head of School: Dr. Thomas Gallagher

Principal Supervisor: Dr. Tasman P. Crowe

Doctoral Studies Panel Membership:

Advisor: Dr. Mary Kelly-Quinn

Chair: Dr. Jan-Robert Baars

Dublin, August 2012

2.4 Results

2.4.1 Distribution, densities and sizes of feral Pacific oysters

Pacific oysters occurred at 18 of the 69 sites (Figure 2.1). No oysters were found at sites in the south. Most oysters were found in the large estuaries of Lough Swilly, Lough Foyle and the Shannon, with many sites scored Common or Frequent for the abundance of oysters. Oysters were Occasional or Rare at five sites in Galway Bay and single individuals of oysters were found at one site in Tralee Bay and another site in Ballynakill Harbour, which therefore scored Rare on the SACFOR scale.

Oyster densities in the different habitats varied from single individuals (ind.) to 8.5 ind./m² (Table 2.2). Sites in Lough Swilly and Lough Foyle had the highest densities whereas sites in the Shannon Estuary, Galway Bay, Tralee Bay and Ballynakill Harbour oysters were found in lower densities (Table 2.2). Pacific oysters were mostly found in the lower intertidal. During an exceptionally low spring tide, a subtidal mussel bed could be accessed at Rathmelton in Lough Swilly, where densities were estimated at 12.5 ind./m² (not listed in the Table 2.2).

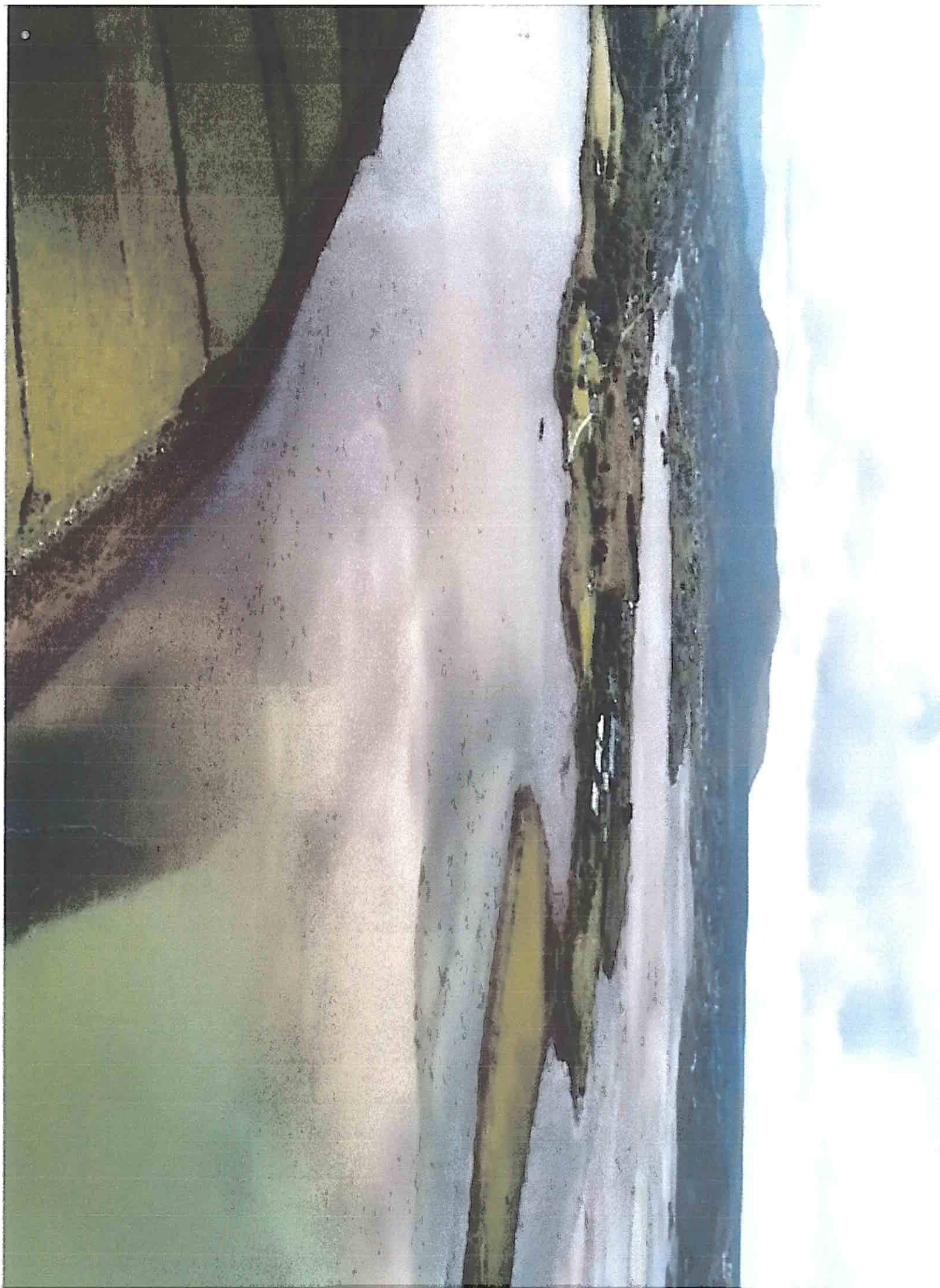
At all of the sites with oysters > 0.1 ind./m², the range of sizes of oysters found exceeded 120 mm (Figure 2.2). In Lough Swilly, oyster sizes ranged from 13.8 mm – 125.7 mm (n = 147) on a mussel bed and from 25.3 mm – 135.0 mm (n = 182) on a rocky shore. Similar sizes of oysters from 23.0 mm – 135.5 mm (n = 182) were also measured on a mussel bed in Lough Foyle. In the Shannon Estuary slightly larger oysters were found, with the smallest and largest oyster measuring 43.4 mm and 146.2 mm (n = 125) respectively at Loughill. At Glin, oyster sizes ranged from 40.4 mm – 123.0 mm (n = 101). Four, six and eight modes were found in the size distributions except on mussel beds in Lough Foyle and Lough Swilly where only one mode was identified (Figure 2.2).

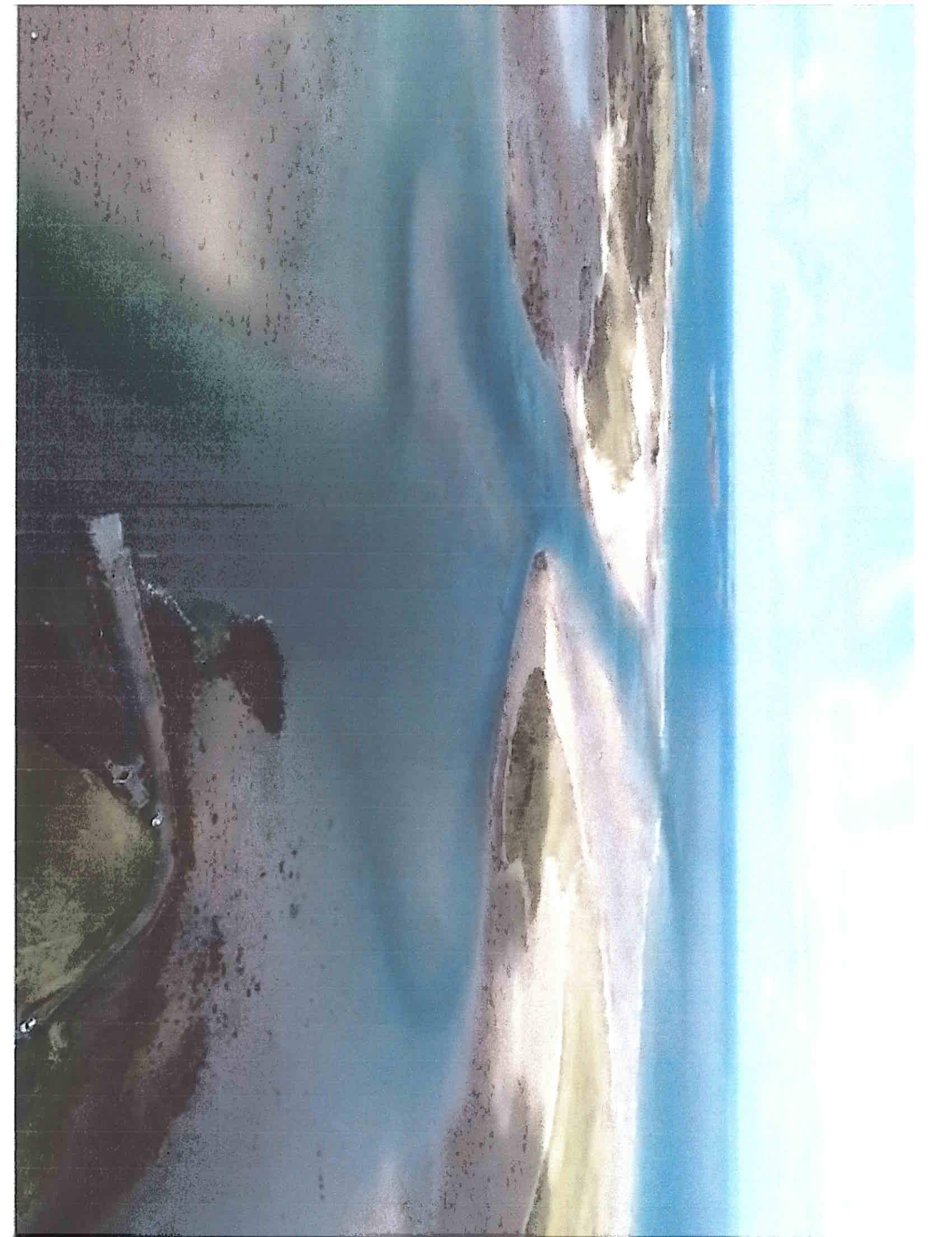
APPENDIX 5

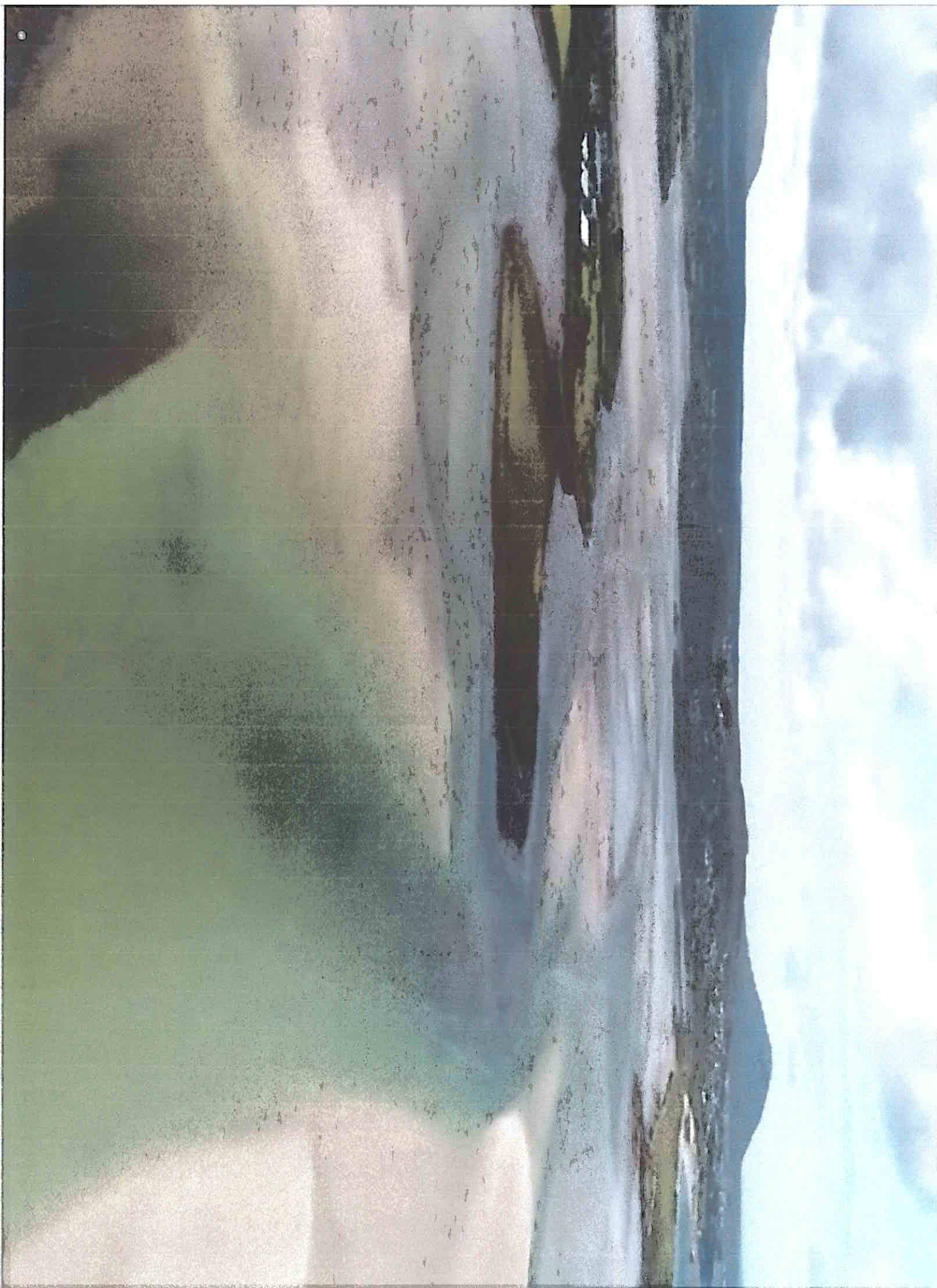
Views of Ballyness Bay











Sortahork

Killult pier

Killult Middle

Killult Lower

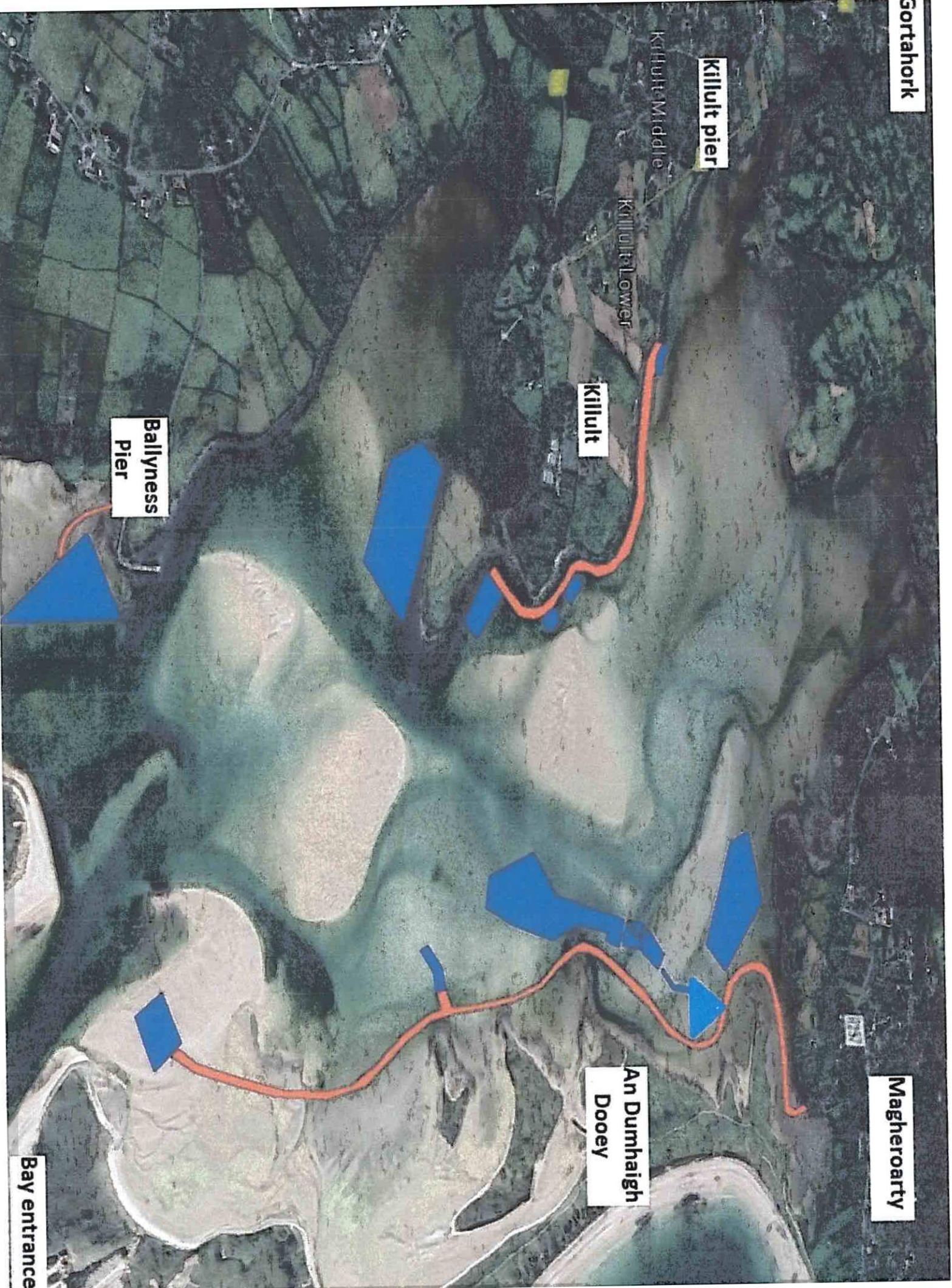
Killult

Ballyness
Pier

Magheroarty

An Dumhaigh
Dooey

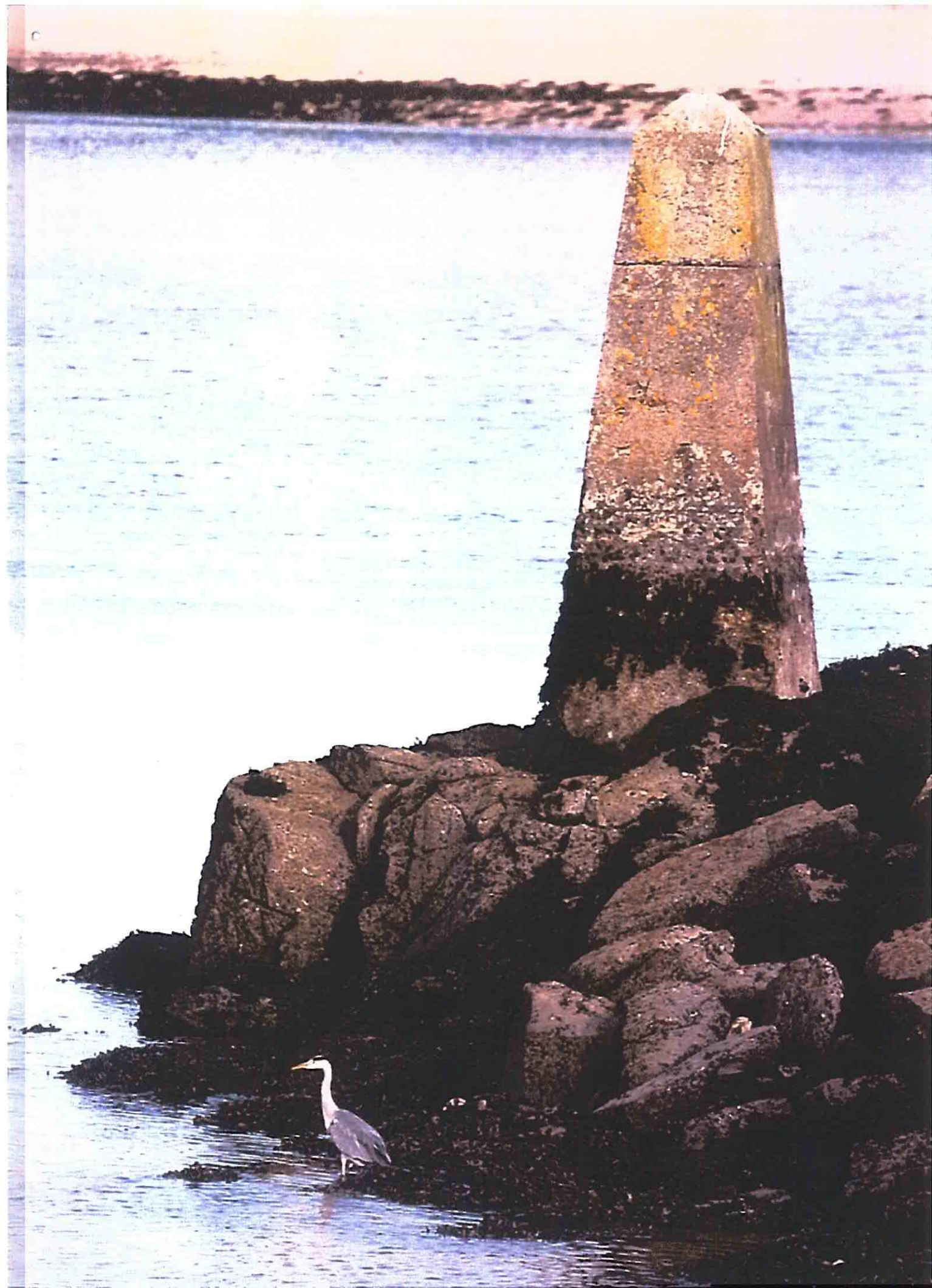
Bay entrance



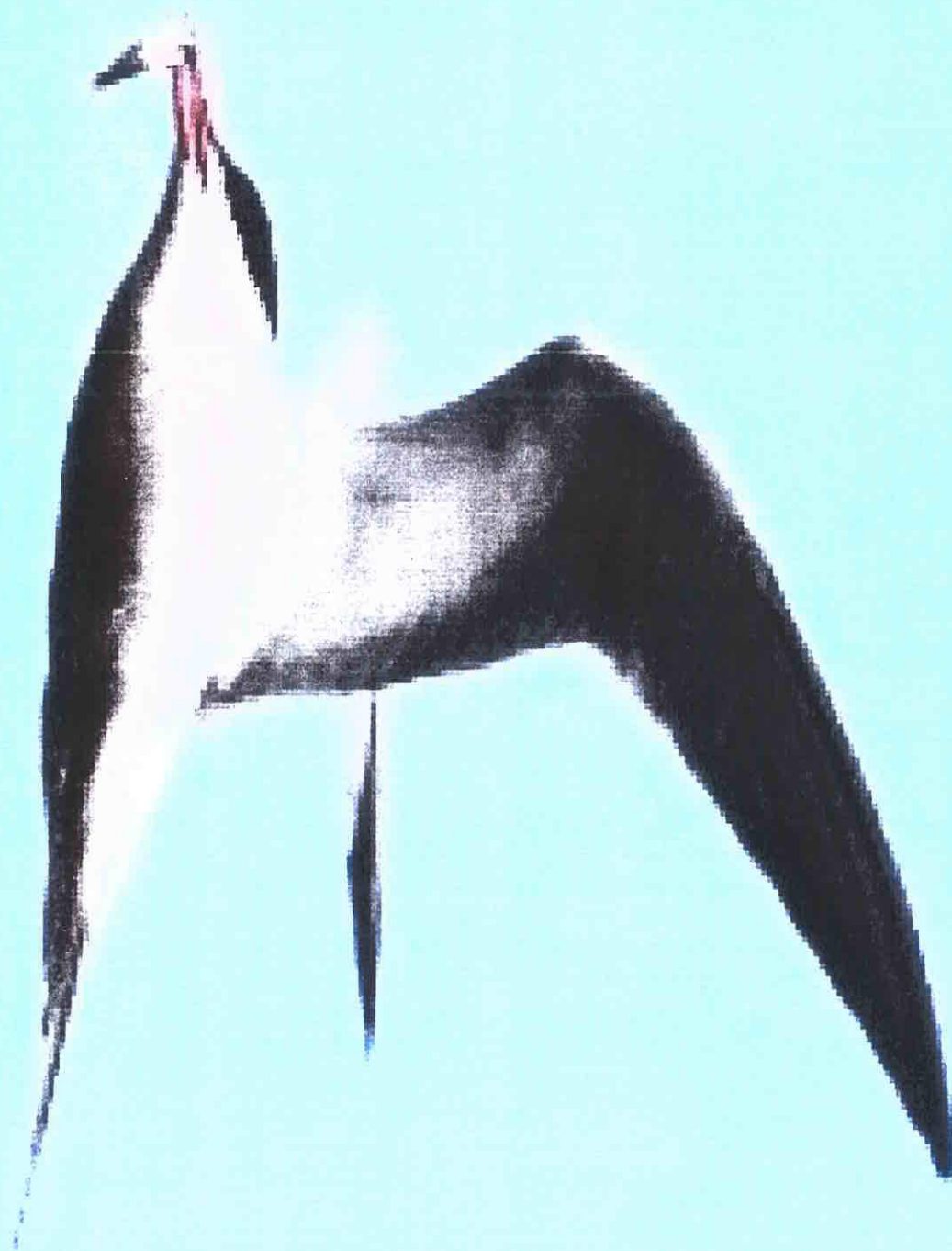
APPENDIX 6

Examples of wildlife found in Ballyness Bay.

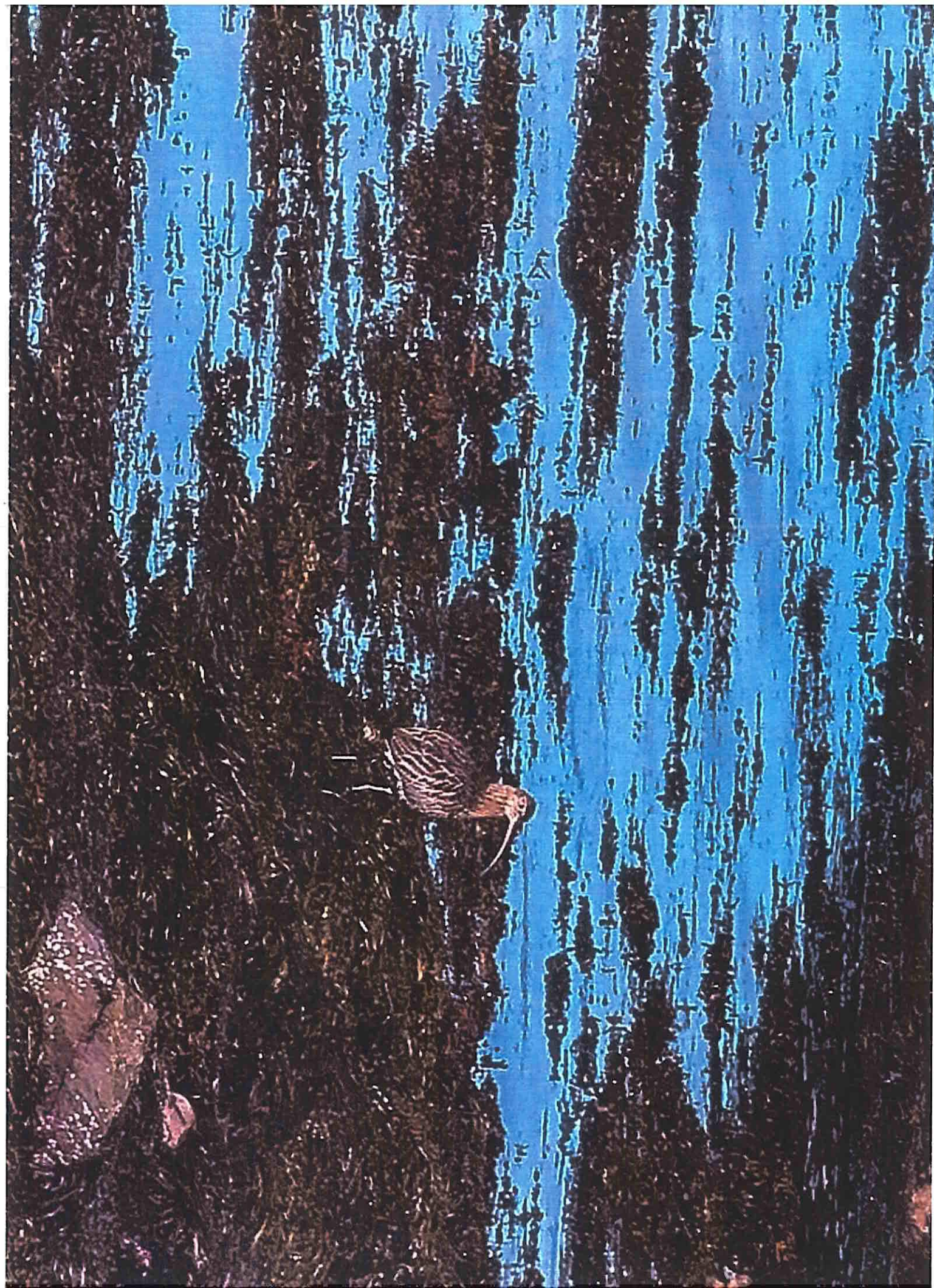










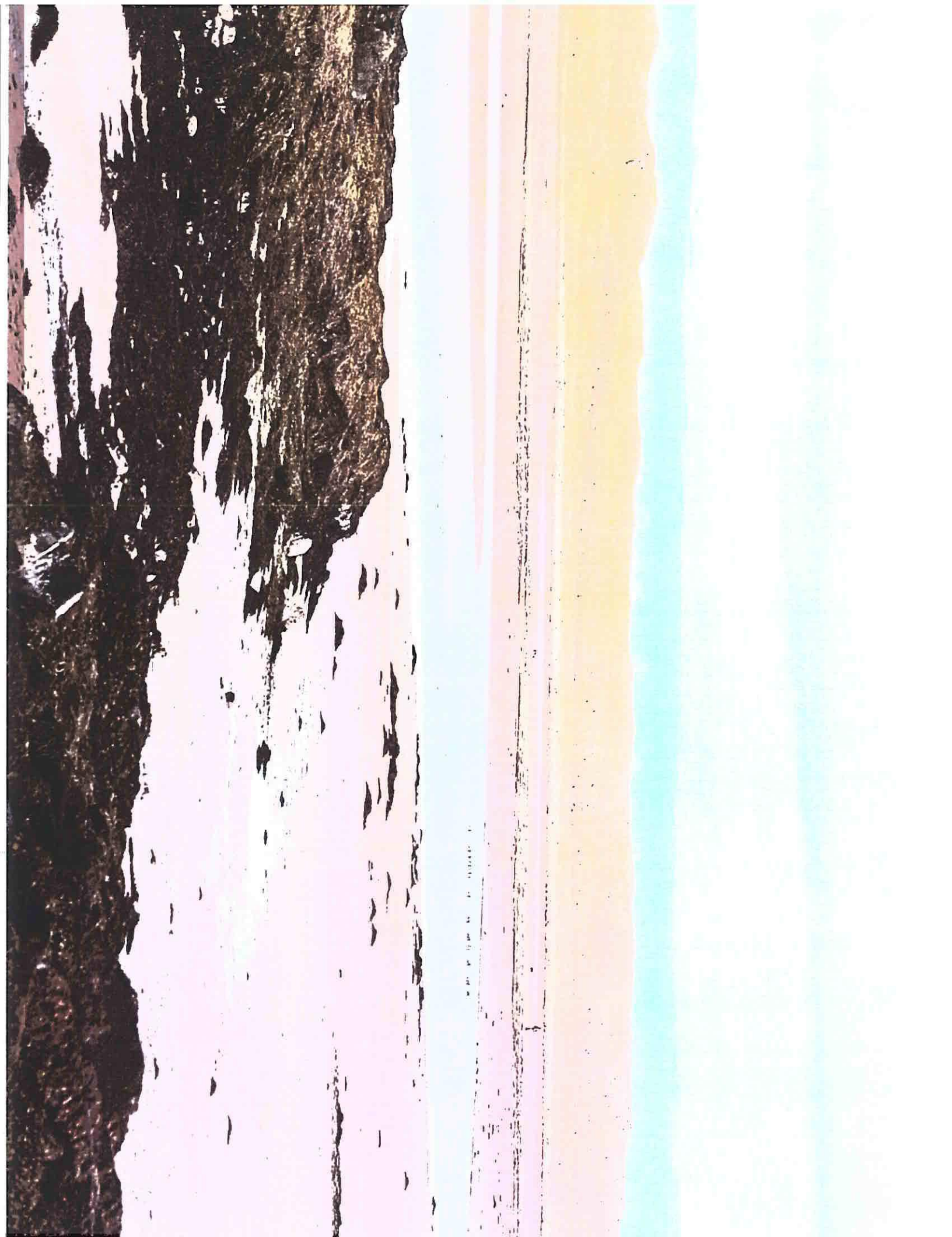




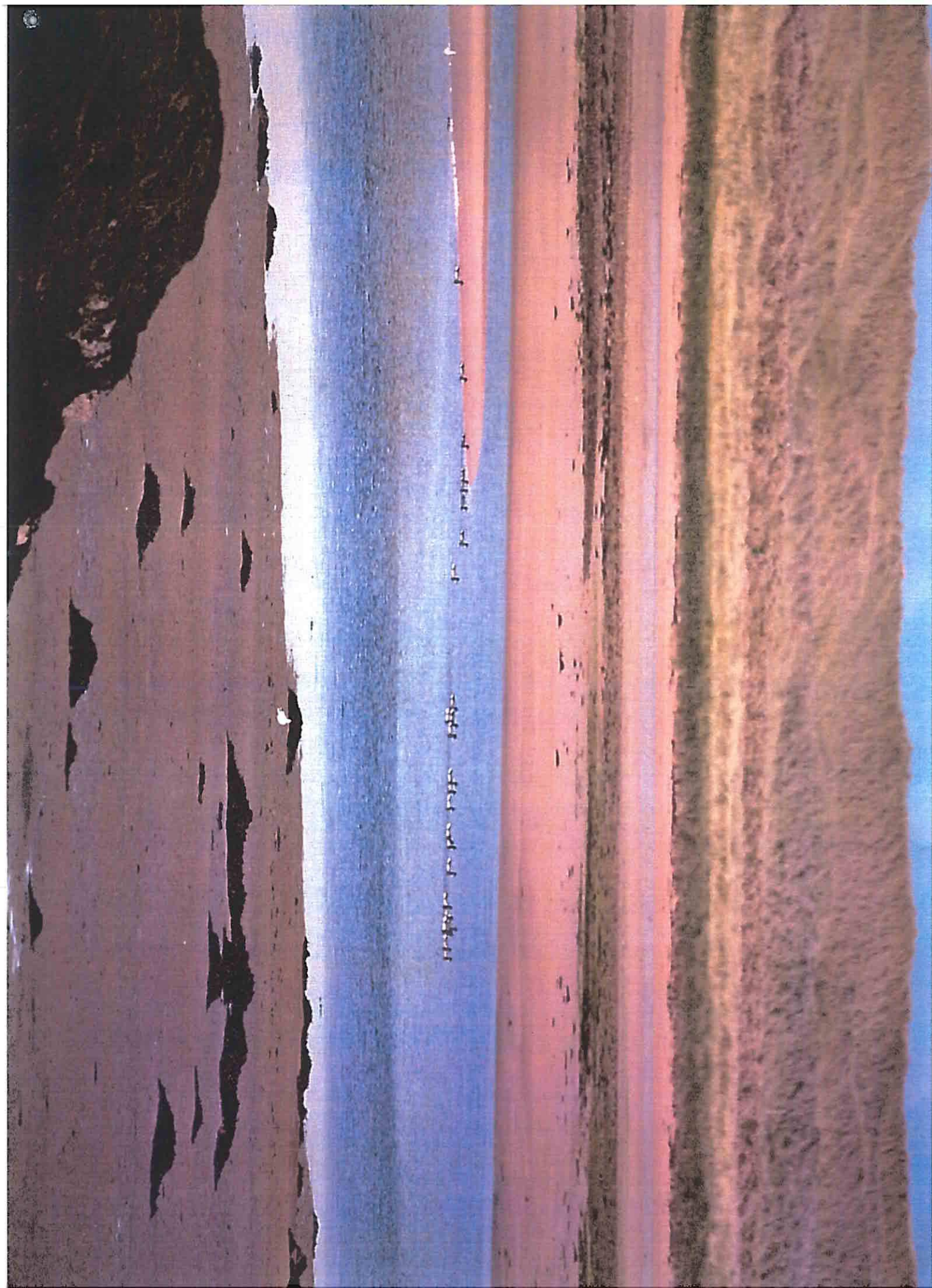












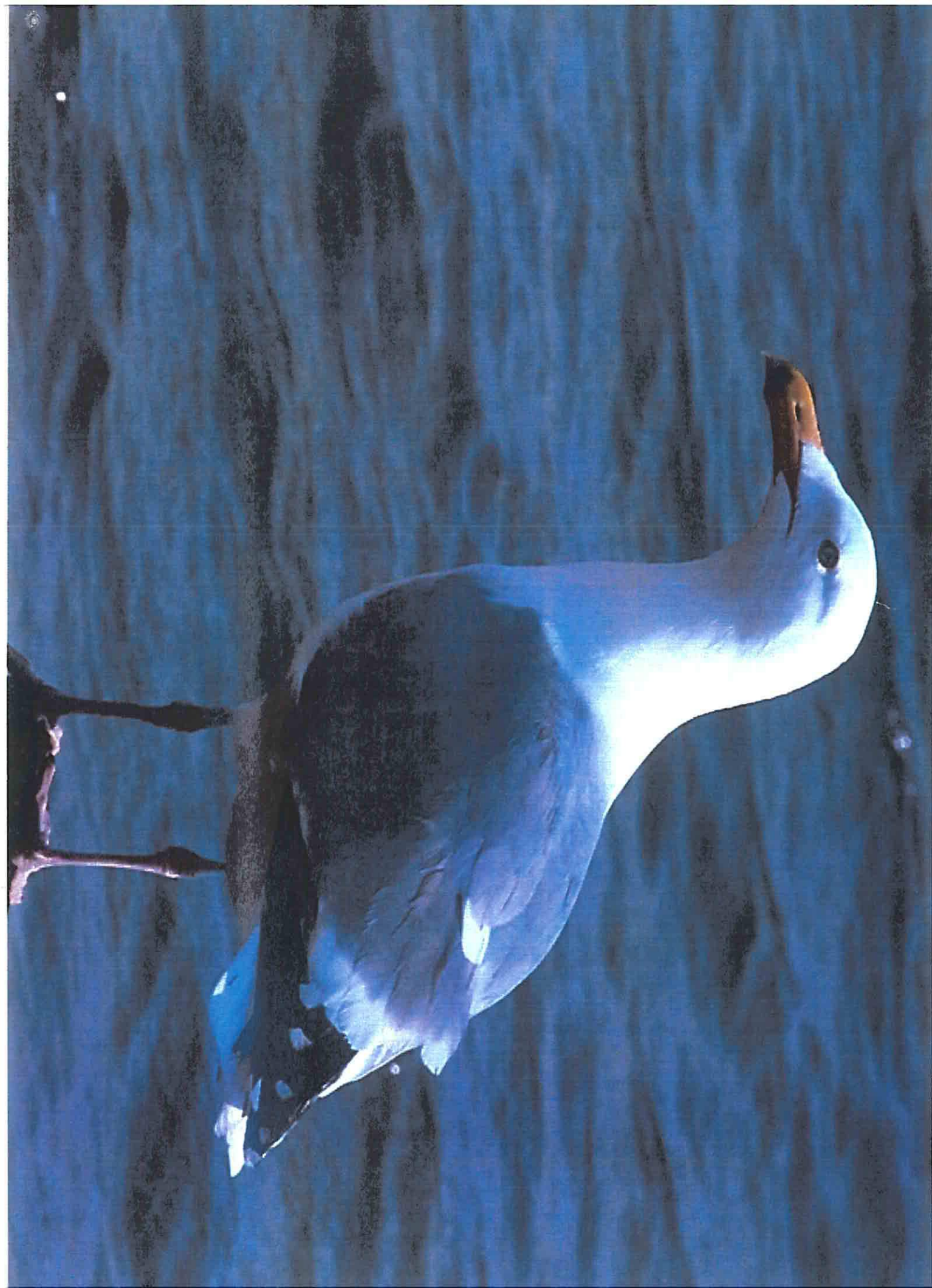












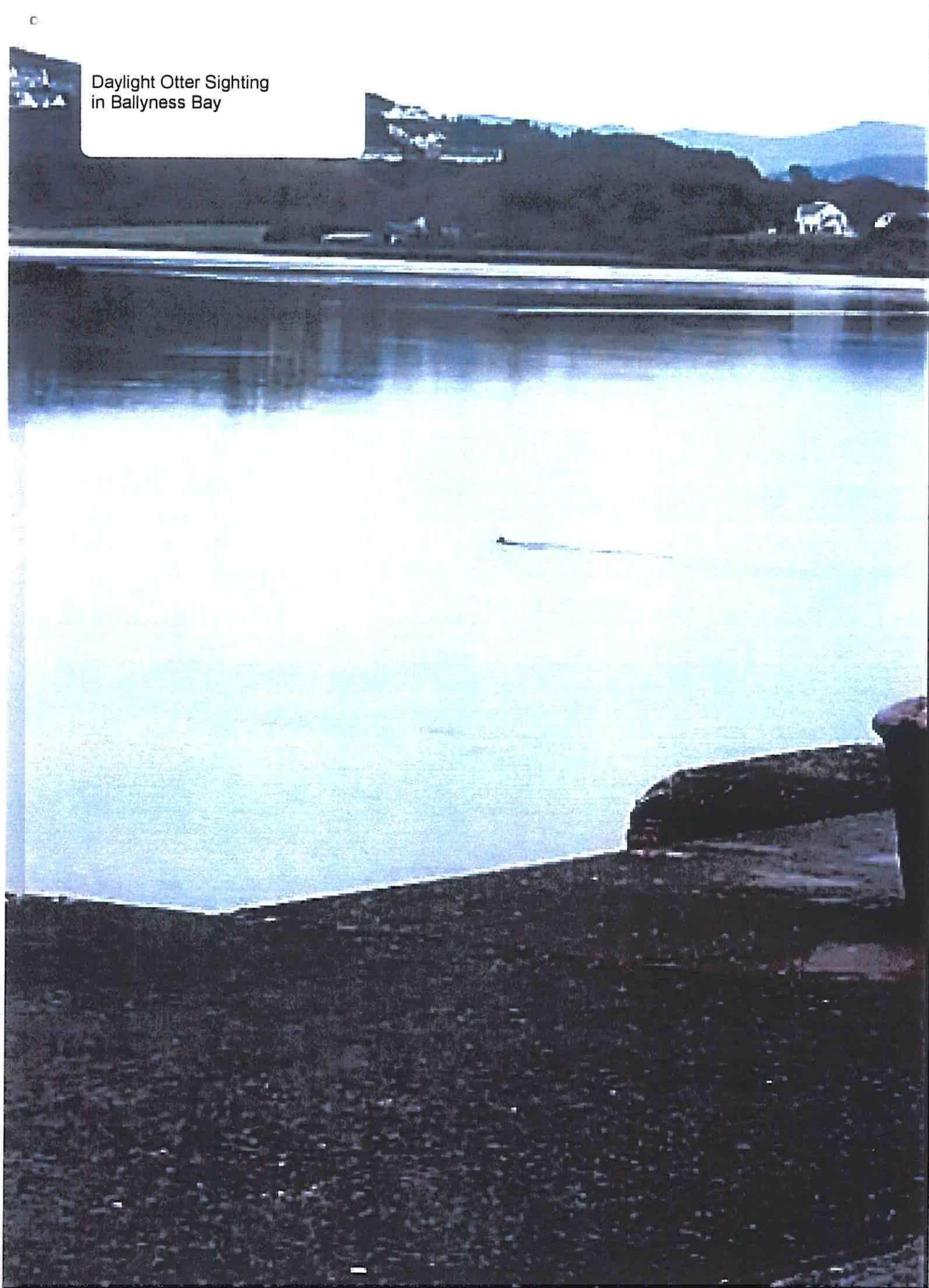
APPENDIX 7

Daylight observations of otter activity in Ballyness Bay.

Daylight Otter Sighting
in Ballyness Bay



Daylight Otter Sighting
in Ballyness Bay



Daylight Otter Sighting
in Ballyness Bay



APPENDIX 8

Maps and photographic evidence of seal haul out locations in Ballyness Bay.

Seal Haulout location

Map used in "Report" to support refusal of licence for

Map 1

- Oyster and Clam Applications
- Oyster Applications

Observed seal haul-out location.

508A

0 0.25

Kilometers



Seal Haulout location

Seal haul out sites not listed in
Appropriate Assessment.

Map Showing radial distances between
seal haul out points and approved sites

Map 2

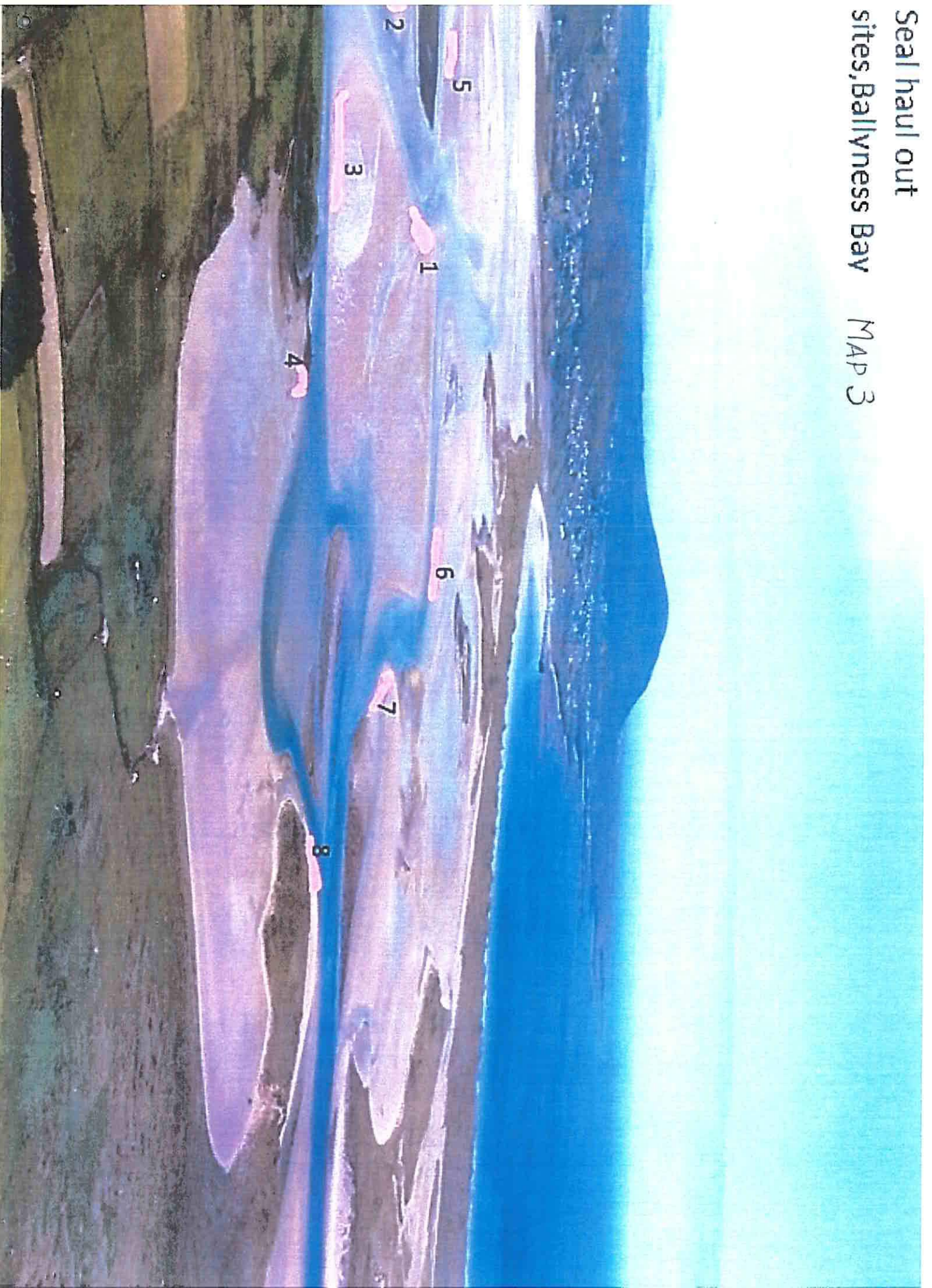
Observed seal
haul-out location.

— Oyster and Clam Applications
■ Oyster Applications

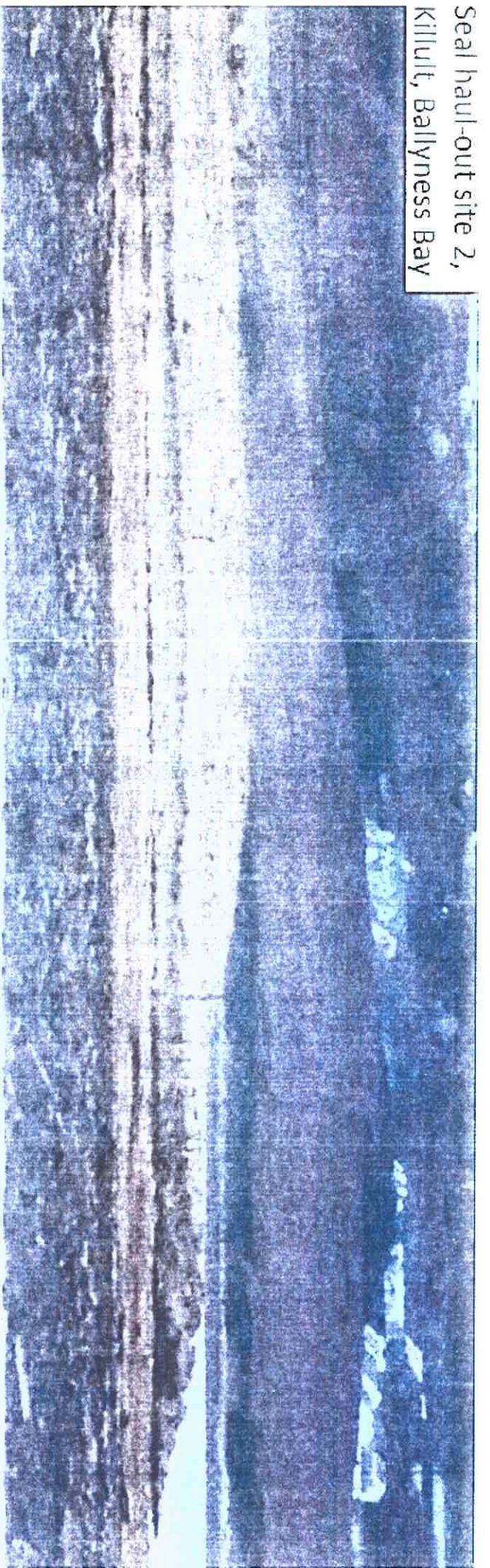
0 0.25
Kilometers



Seal haul out sites, Ballyness Bay Map 3

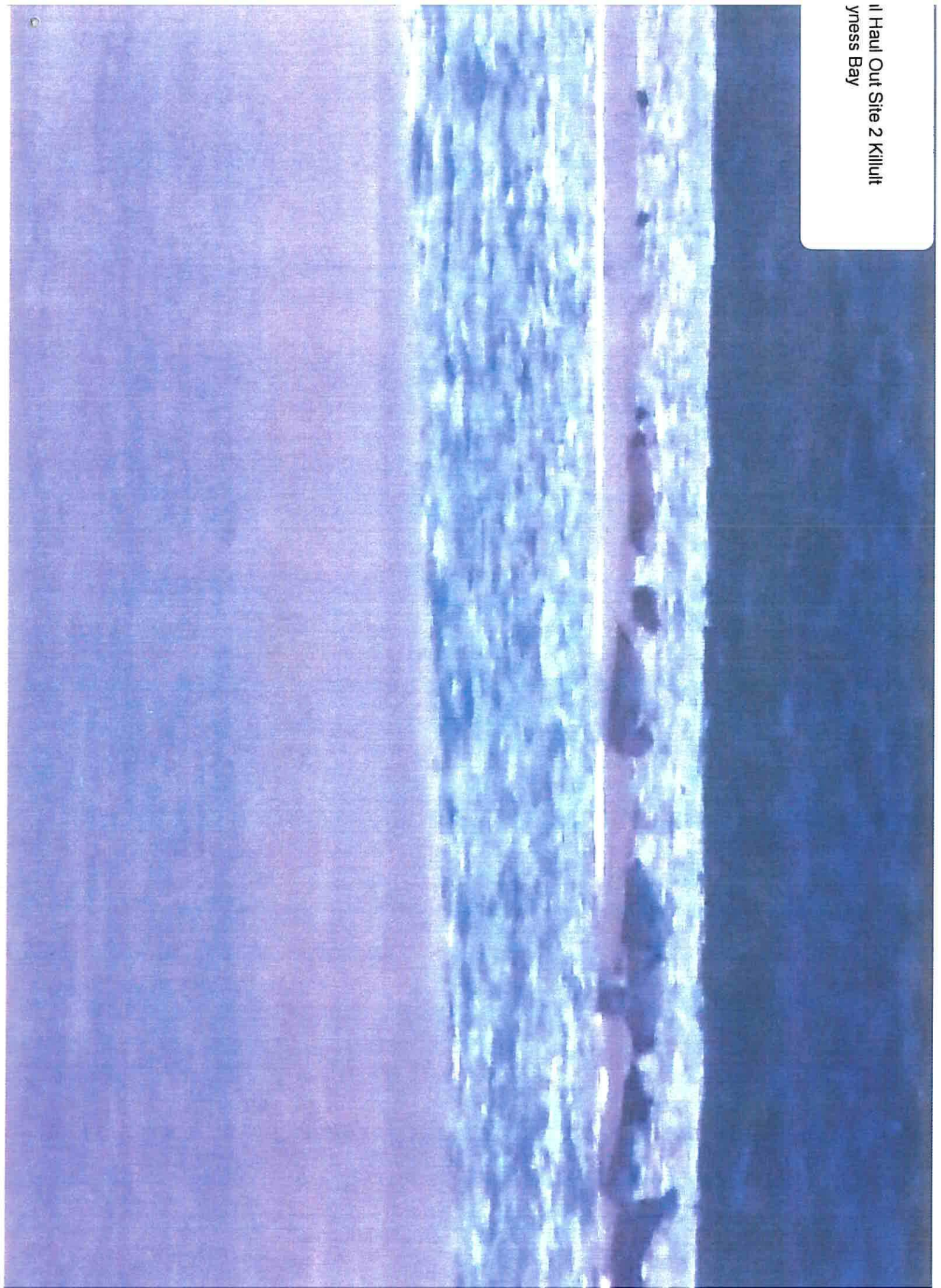


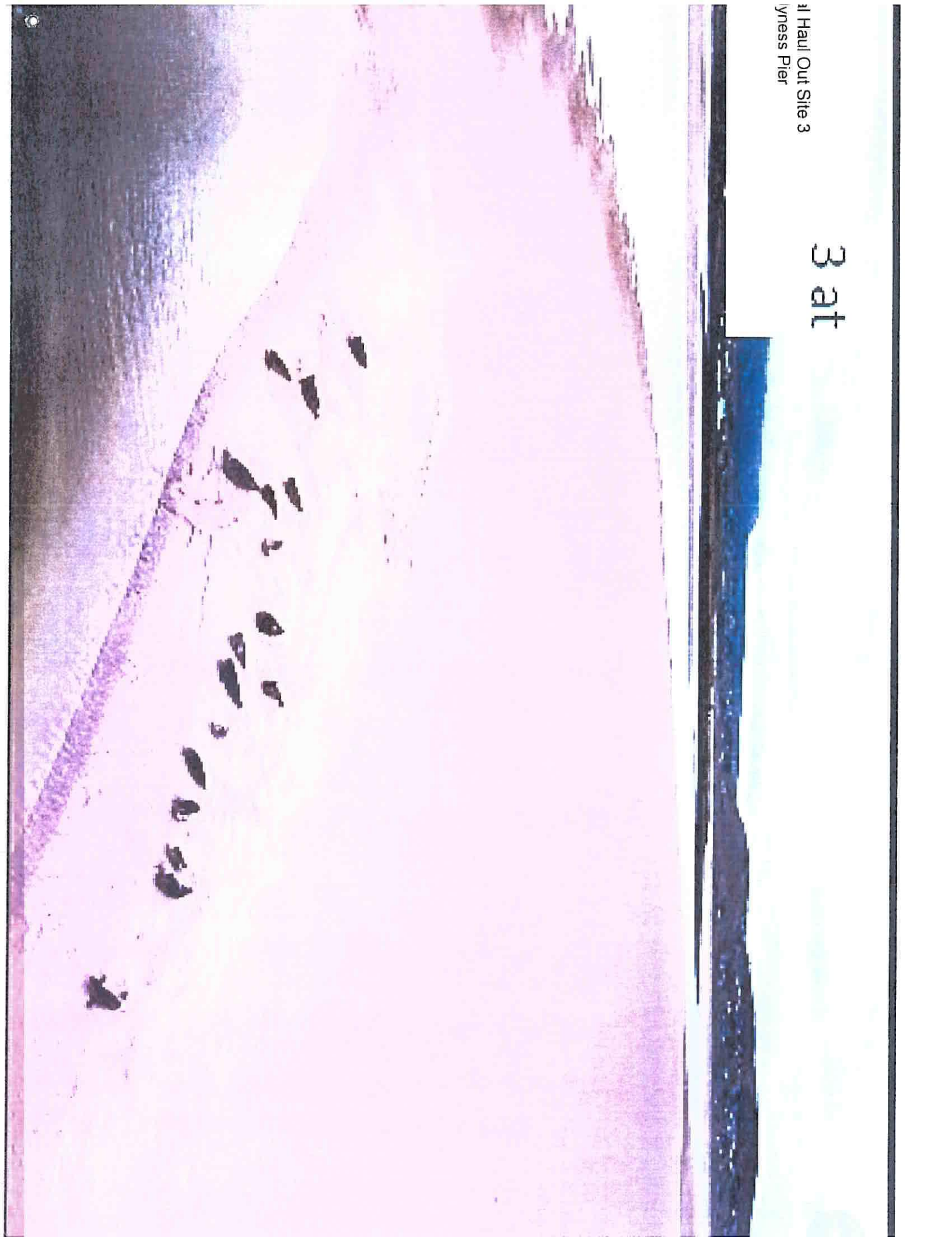
Seal haul-out site 2,
Kilult, Ballyness Bay



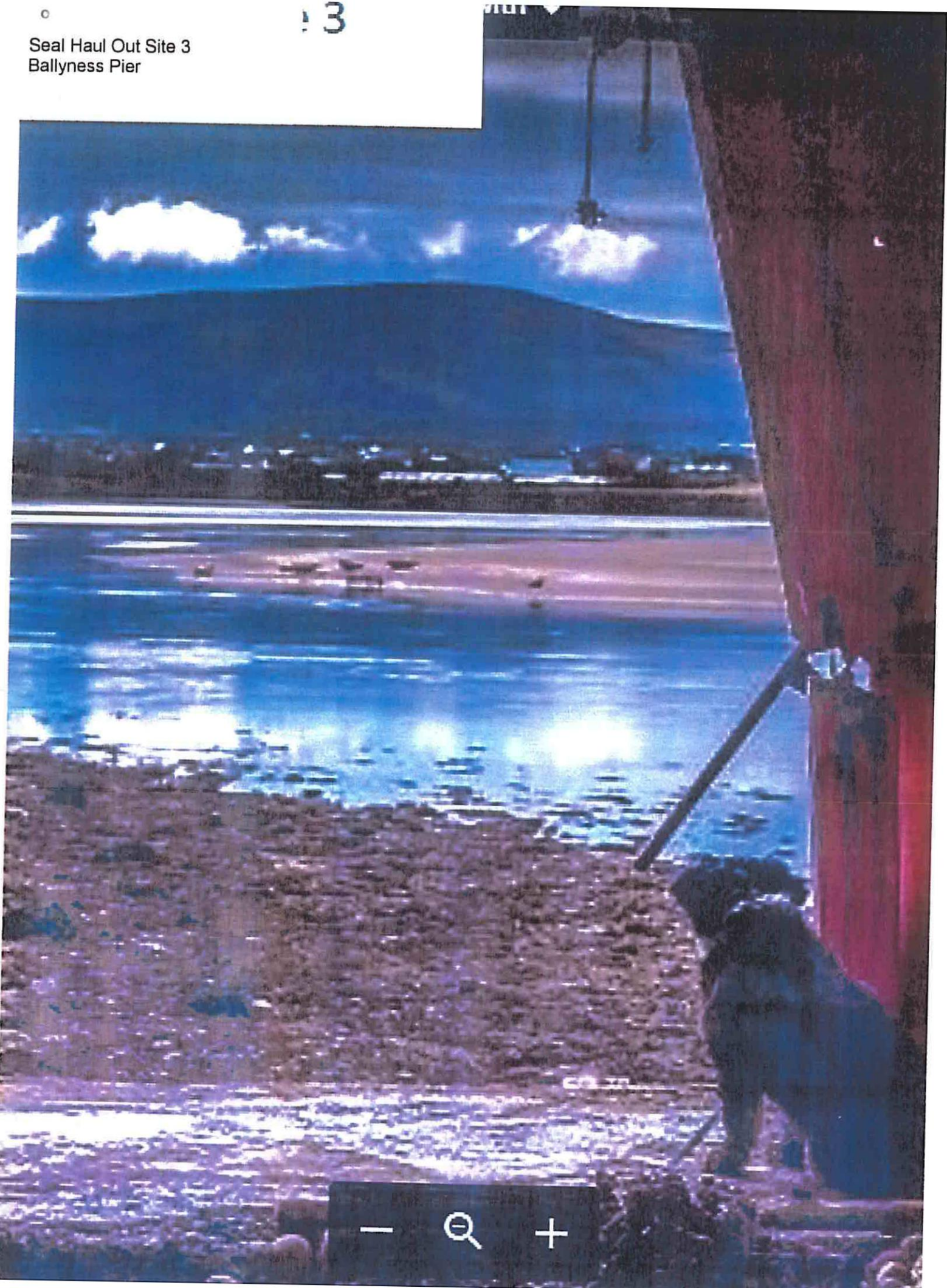
10/10/2010

il Haul Out Site 2 Killuit
yness Bay





Seal Haul Out Site 3
Ballyness Pier



Seal Haul Out 4
Black Rock

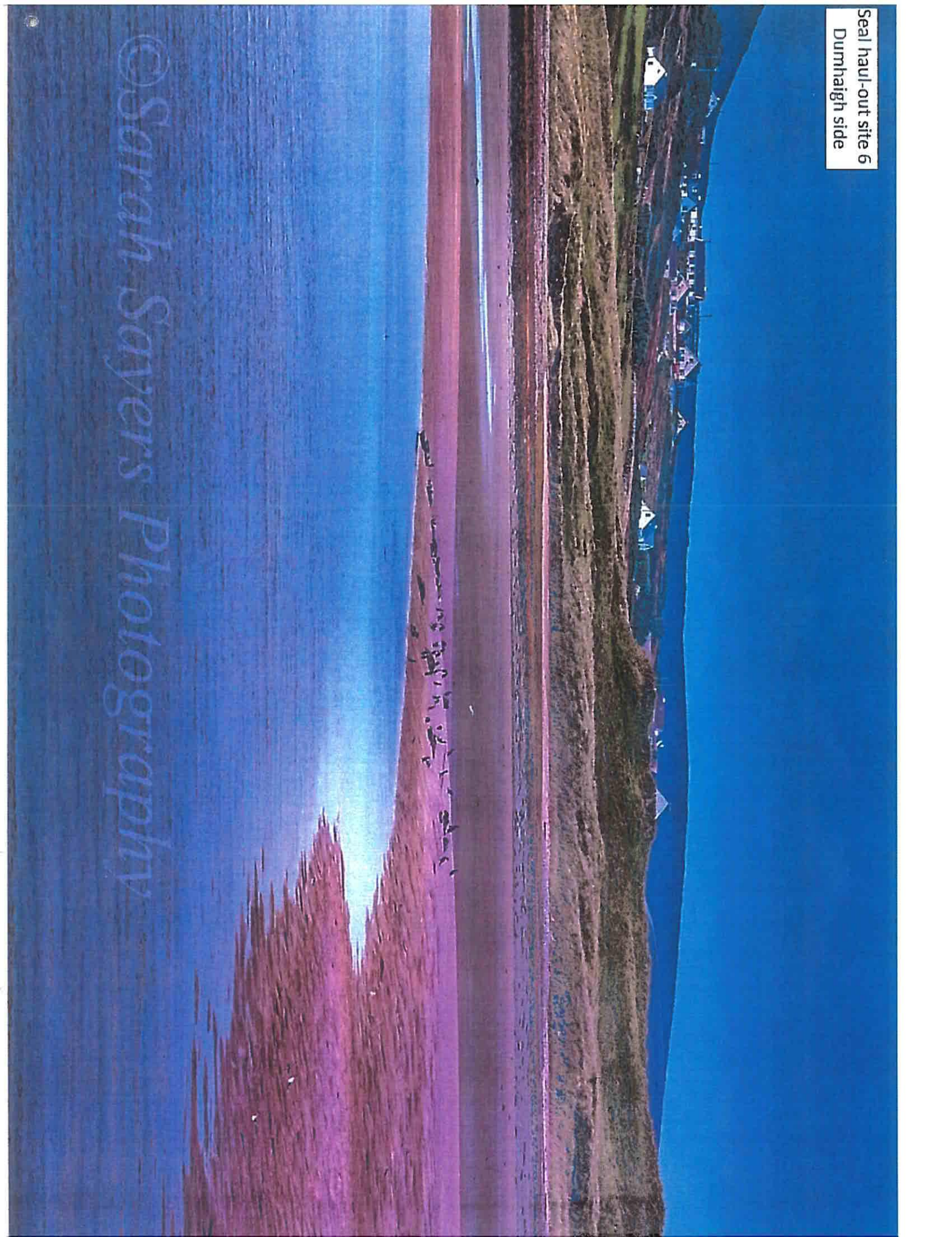
4 at

Rock, Ballyness Pier

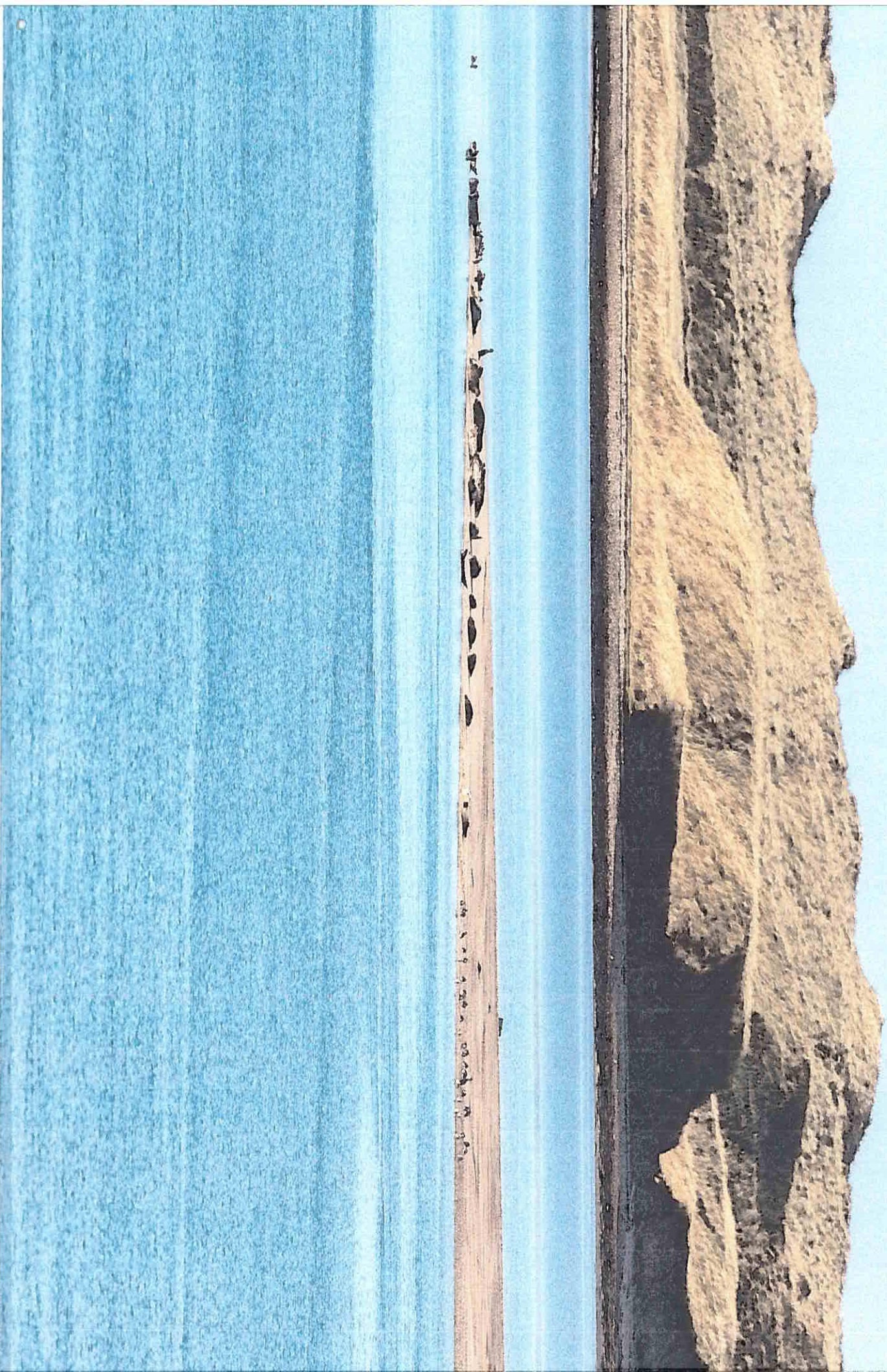


Seal haul-out site 6
Durnhaigh side

©Sarah Sayers Photography

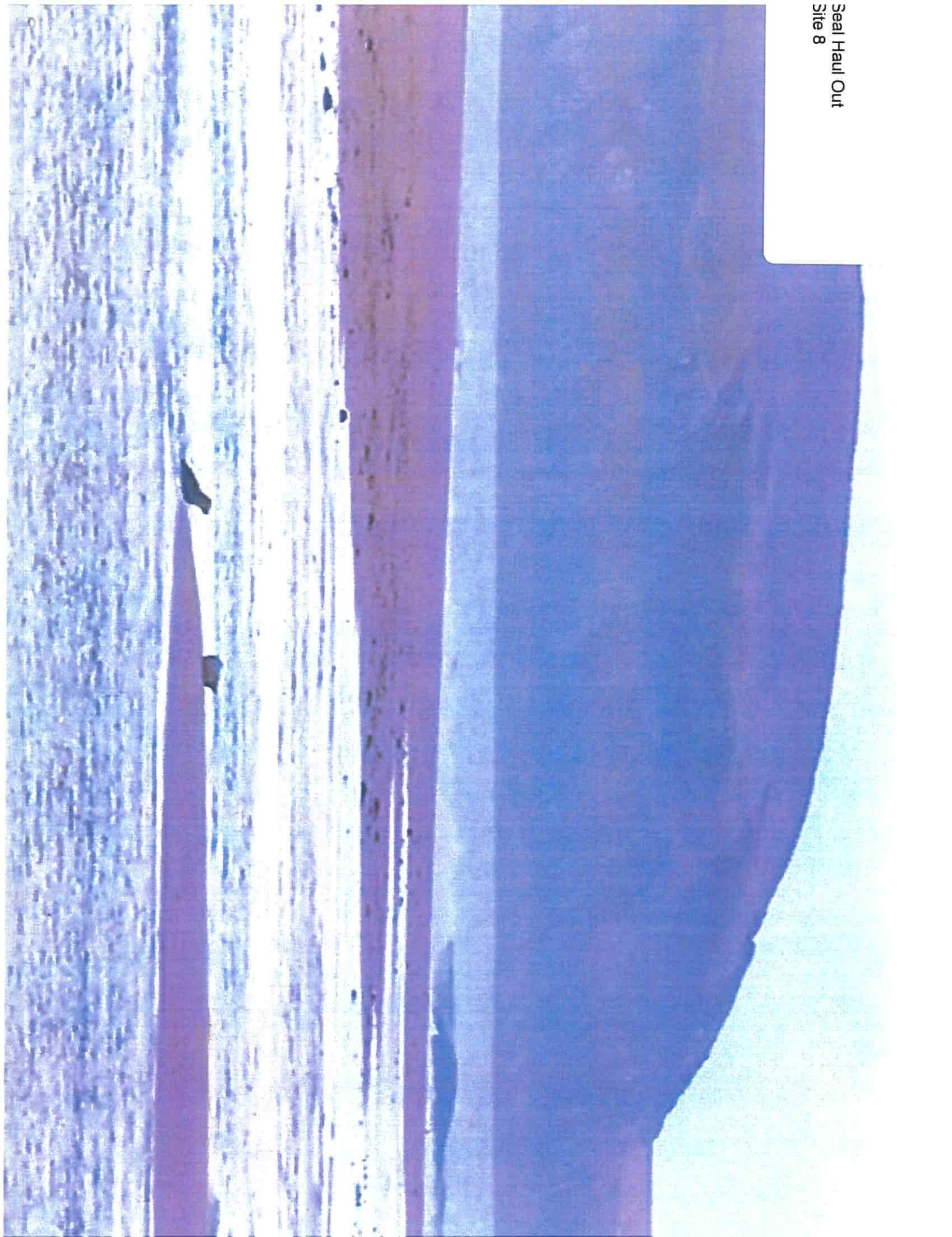


al haul-out site 7
agheroarty side



21

agheroarty side



WINDSURFERS
IN AREA OF SITE 510A



APPENDIX 9

Receipts of rates paid on Ballyness Several Fishery.

STATEMENT



Mr Francis Carr
c/o Peter Butler
Ballyconnell
Letterkenny
Co Donegal (Rate No.21)

PAGE 1
DATE 12 December 20

Station Road,
Ballyshannon,
Co. Donegal

A/C NO. 000863

TELEPHONE: 00353 71 9851435

Email:joan.kelly@fisheriesireland.ie

REMITTANCE ADVICE



ENQUIRIES AND PAYMENTS TO:-

Station Road,
Ballyshannon,
Co. Donegal

TELEPHONE: 00353 71 9851435

Email:joan.kelly@fisheriesireland.ie

PAGE 1

DATE 12 December 2017

A/C NO. 000863

**PLEASE DETACH AND RETURN
WITH YOUR PAYMENT
INDICATING ITEMS PAID BELOW**

| DATE | TRANSACTION NO. | TRANSACTION VALUE | TRANSACTION BALANCE | TRANSACTION NO. | TRANSACTION BALANCE | TICK ITEMS PAID |
|-----------|-----------------|-------------------|---------------------|-----------------|---------------------|-----------------|
| 31-May-10 | 9900001800 | 315.94 | 315.94 | 9900001800 | 315.94 | |
| 22-Sep-10 | 1100000348 | 316.24 | 316.24 | 1100000348 | 316.24 | |
| 1-May-11 | 1100001722 | 316.24 | 316.24 | 1100001722 | 316.24 | |
| 1-Sep-11 | 1100003107 | 315.94 | 315.94 | 1100003107 | 315.94 | |
| 1-May-12 | 1100004511 | 316.09 | 316.09 | 1100004511 | 316.09 | |
| 16-Sep-12 | 1100005789 | 316.09 | 316.09 | 1100005789 | 316.09 | |
| 1-May-13 | 1100007179 | 316.09 | 316.09 | 1100007179 | 316.09 | |
| 1-Sep-13 | 1100008436 | 316.09 | 316.09 | 1100008436 | 316.09 | |
| 1-May-14 | 1100009804 | 316.09 | 316.09 | 1100009804 | 316.09 | |
| 16-Sep-14 | 1100011046 | 316.09 | 316.09 | 1100011046 | 316.09 | |
| 1-May-15 | 1100012404 | 316.09 | 316.09 | 1100012404 | 316.09 | |
| 1-Sep-15 | 1100013678 | 316.09 | 316.09 | 1100013678 | 316.09 | |
| 1-May-16 | 1100015053 | 331.86 | 331.86 | 1100015053 | 331.86 | |
| 16-Sep-16 | 1100016302 | 331.86 | 331.86 | 1100016302 | 331.86 | |
| 1-May-17 | 1100017654 | 331.86 | 331.86 | 1100017654 | 331.86 | |
| 1-Sep-17 | 1100018915 | 331.86 | 331.86 | 1100018915 | 331.86 | |

AGED ANALYSIS euro

| | | |
|---------|------|-------------------------------|
| Current | 0.00 | TOTAL DUE euro 5,120.52 |
| 31-60 | 0.00 | |
| 61-90 | 0.00 | |

| TOTAL DUE | | TOTAL REMITTED | |
|-----------|----------|----------------|--|
| euro | 5,120.52 | euro | |

APPENDIX 10

Notes on the Precautionary Principle

THE PRECAUTIONARY PRINCIPLE:

From: EU Guidance Document on The Implementation of the Birds and Habitats Directives in estuaries and coastal zones

Pg 33: 3.4. Dealing with uncertainties: adaptive management

In carrying out appropriate assessments for plans or projects in the sense of Article 6(3) of the Habitats Directive, it may be necessary to take recourse to **the precautionary principle**. The focus of the assessment should be on **objectively demonstrating, with supporting evidence, including undertaking the necessary studies, and based on best available scientific knowledge, that there will be no adverse effects on the integrity of the Natura 2000 site**. However adaptive management also helps to address situations when, because of science limits or uncertainty about the functioning of complex and dynamic ecosystems, it is not possible for the competent authorities to fully ascertain the absence of adverse effects.

When the absence of significant adverse effects of a plan or a project on a Natura 2000 site cannot be ascertained, the derogation scheme under article 6.4 of the Habitats Directive foresees that the plan or project can only be authorised in the absence of alternative solutions, if the plan or project is justified by imperative reasons of overriding public interest and if the necessary compensatory measures are undertaken to protect the overall coherence of the Natura 2000 network.

Pg44: **Precautionary principle**: where scientific evidence is insufficient, inconclusive or uncertain and there are indications through preliminary objective scientific evaluation that there are reasonable grounds for concern that the potentially dangerous effects on the environment, human, animal or plant health may be inconsistent with the chosen level of protection, lack of scientific knowledge shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation (Rio Declaration, 1992 & EC, 2000).

MITIGATION

From: Dept of Environment, Heritage and Local Government's Appropriate Assessment of Plans and Projects in Ireland Guidance for Planning Authorities

Pg27: **Stage 1 - Screening for Appropriate Assessment**

Screening should be undertaken without the inclusion of mitigation, unless potential impacts clearly can be avoided through the modification or redesign of the plan or project, in which case the screening process is repeated on the altered plan. The greatest level of evidence and justification will be needed in circumstances when the process ends at screening stage on grounds of no impact.

Stage 2 - Appropriate Assessment

This stage considers whether the plan or project, **alone or in combination with other projects or plans**, will have adverse effects on the integrity of a Natura 2000 site, and includes any mitigation measures necessary to avoid, reduce or offset negative effects. **The proponent of the plan or project will be required to submit a Natura Impact Statement (*did they?*)**, i.e. the report of a targeted professional scientific examination of the plan or project and the relevant Natura 2000 sites, to identify and characterise any possible implications for the site in view of the site's conservation objectives, **taking account of in combination effects**. This should provide information to enable the competent authority to carry out the appropriate assessment. If the assessment is negative, i.e. adverse effects on the integrity of a site cannot be excluded,

then the process must proceed to Stage 4, or the plan or project should be abandoned. The AA is carried out by the competent authority, and is supported by the NIS.

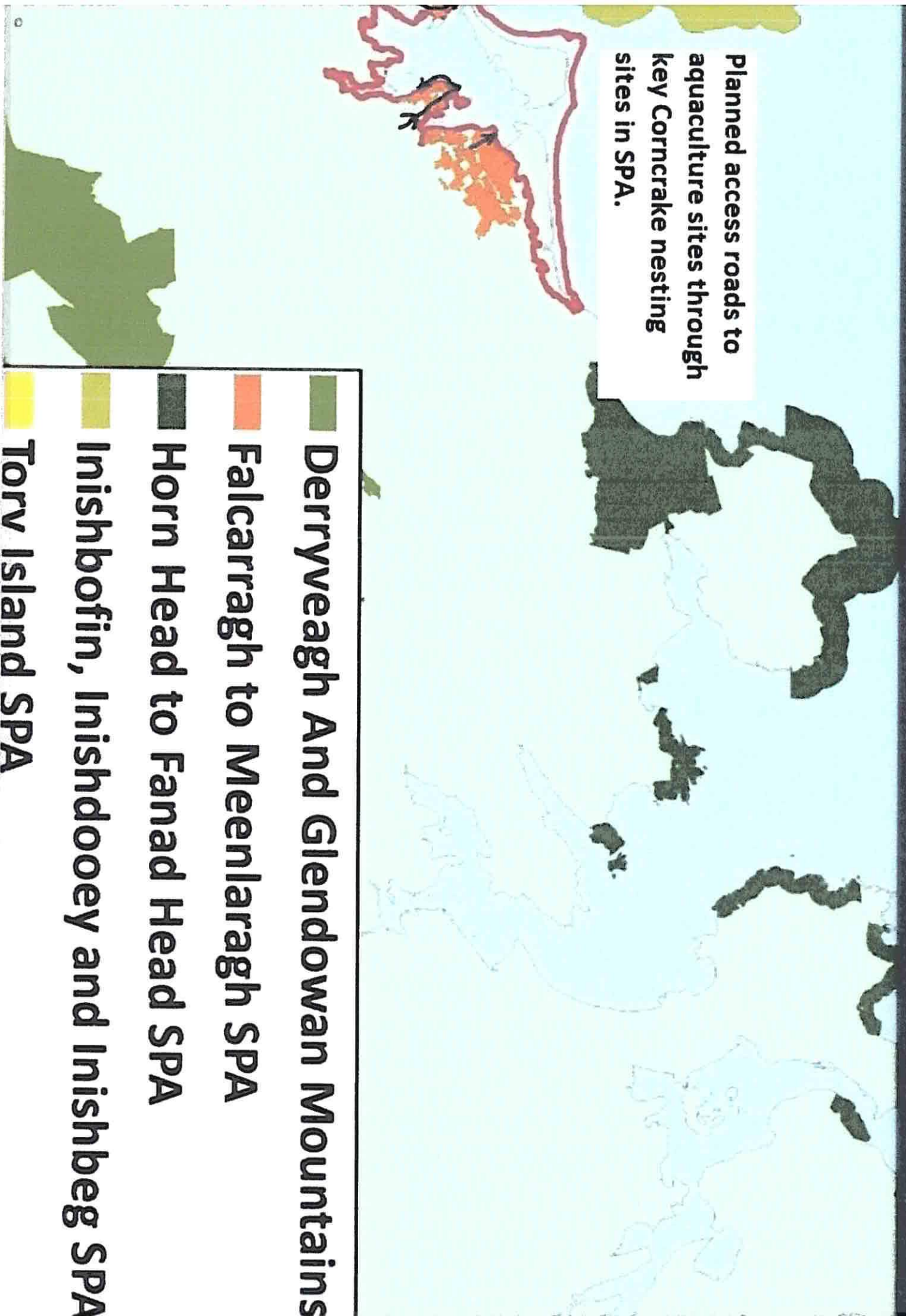
3.3.5 AA - Mitigation Measures

If mitigation is possible that enables a risk to be **avoided fully**, then, subject to other necessary approvals, the project or plan may proceed. If mitigation measures are insufficient, or are **not actually practicable and achievable to avoid the risk entirely, then, in the light of a negative assessment, the plan or project may not proceed. A wider search for alternative solutions may need to be considered – Stage 3.**

APPENDIX 11

Map showing proposed access roads to aquaculture locations through key
corncrake nesting sites in SPA.

Planned access roads to
aquaculture sites through
key Corncrake nesting
sites in SPA.



Derryveagh And Glendowan Mountains

Falcarragh to Meenlaragh SPA

Horn Head to Fanad Head SPA

Inishbofin, Inishdooley and Inishbeg SPA

Torv Island SPA

APPENDIX 12

Document submitted to the Aarhus Convention Compliance Office

An Appeal to the Aarhus Convention Compliance Office

On behalf of the “Save Ballyness Bay” group, Falcarragh, Co Donegal, Ireland

Explanatory notes:

To link incidents of alleged non-compliance in the text to the relevant Articles in the Convention we have used the follow method.

1. “Aarhus Article x.x.” written in red, indicates the article in the “*Aarhus Convention*” that we suggest has not been complied with.
eg. “Aarhus Article 6.4 (d) (i)”
2. “(MRPEPP) A40c.ii” written in blue, indicates an article in one of the two chapters,
 (a) ”General recommendations” e.g. “(MRPEPP) F16
 or
 (b) “Public Participation in decision-making on specific activities (article 6)”, e.g “(MRPEPP) D62c.
 in
 “*Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters prepared under the Aarhus Convention.*”

that we suggest has not been complied with.

3. Annex X, written in Green, refers to the corresponding numbered item in the Annex.

0

1.

Save Ballyness Bay Action Group

Killult, Falcarragh, Co. Donegal, Ireland. F92 N6X6

Contact person: John Connaghan, Chairman. Ph. 00 353 74 9135712

Email: muckishman@gmail.com

11. Minister Michael Creed, Minister for Agriculture, Food and the Marine, Ireland. (hereafter DAFM). Also Ms. Josepha Madigan, Minister for Culture, Heritage and the Gaeltacht and its sub department, National Parks and Wildlife. (NPWS)

111 13 Aquaculture Licence applications for licensing commercial Aquaculture production activities (Oysters and Clams) throughout Ballyness Bay, currently with the Minister of Agriculture Food and the Marine, Ireland, i.e. Nos T12/ 407,409,441,455,500,502,508,509,510,514,515,516 and 519

Background Information

Ballyness Bay, situated in North West Donegal, Ireland, is a scenic, largely sandy, tidal estuary to several rivers and streams. The entire bay area has been a designated Special Area of Conservation (SAC) 001090, since 2018. Within the bay some areas have also been designated as Special Protected Areas, (SPA)004149. The bay is an important over-wintering, feeding and breeding area for a wide variety of wildlife both resident and migratory. Of special note are the Corncrake, Curlew, Chough, Brent, Barnacle and Grey geese, Eider and many other varieties of duck and waders and Geyer's Whorl Snail. Some of these species are on the Protected and Redlisted Species lists.

One of the rivers discharging into the estuary, the Tullaghobegley, is a habitat of the endangered and EU protected Fresh Water Pearl Mussel

Not alone is the Bay of immense environmental importance but is also of great importance as a vital local amenity, much used by the surrounding community for healthy outdoor activities that have existed harmoniously with its wildlife for many years.

In a survey of employment in the area, carried out by the local Community, employers stated that 213 out of the 377 jobs in the surrounding area are primarily tourist related. Tourists visit the area mainly for its scenic beauty and unspoiled character. That will change drastically if the Aquaculture licences being applied for are granted and shellfish production takes over and changes the whole character of the Bay. That will be to the detriment of the local Community, Wildlife, the SAC and SPA.

There is real concern locally for the sustainability of jobs and for the economy of the area.

Under the Irish Government, Aquaculture and Foreshore licensing is handled by Minister Creed of the Department of Agriculture Food and the Marine. (DAFM). The protection of SAC and SPA areas is entrusted to the National Parks and Wildlife Service (NPWS) under the Minister for Culture, Heritage and the Gaeltacht.

We, the Committee of Save Ballyness Bay, contend that there have been several shortcomings in the way the Applications process is being handled by the Govt. Department.

We also contend that the spirit and regulations of the Aarhus Convention on Consultation with the Community have not been followed.

Foreword.

Of primary importance is the fact that Ballyness Bay is **NOT** listed as a “Designated Shellfish Area” by the Dept. of Housing, Planning and Local Government under Irish legislation. cf.

<https://www.housing.gov.ie/water/water-quality/shellfish-waters/donegal>

In its entirety it is a fully designated SAC (001090) and SPA (004149) site. It is entitled to the full range of protective legislation laid down for such by both EU and Irish law.

The various Departments should never have allowed it to reach the stage of considering these Applications for the use of Ballyness Bay SAC / SPA as a possible location for shellfish production.

The “zero option” should have been exercised by the Departments.

We offer a brief outline of the issues below:

1. The Consultation Process.

(a) In late 2017 / 2018 the DAFM notified by letter all those with older unresolved applications for Aquaculture licences to re-apply for licences.

When the applications were received by the DAFM, notifications to be inserted in newspapers alerting the public to such applications were prepared by the DAFM for the Applicants,

[Annex 1](#)

The DAFM.. specified which paper the notices were to be placed in.

As can be seen from the DAFM’s “Foreshore Acts 1933 to 2011- General guidance Notes”, this is the approach that they specify.

[Annex2](#)

*The DAFM.. took control of the notification process.
It effectively acted as an agent for the Applicants.*

2. Newspapers in which Notifications appeared.

(a) The Notifications were placed in the “Donegal Democrat” newspaper on March 14th and March 21st and 26th, 2019

This paper has a very low circulation in the Ballyness Bay area affected by the notifications.

Below are the results of a survey of Newspaper circulation figures for the whole area around Ballyness Bay, which includes Falcarragh town.

Circulation figures:

Donegal Democrat, specified by the DAFM.. versus the popular local newspaper, (Donegal News)

| Donegal Democrat (the DAFM.’s choice) | Donegal News (Popular local paper) |
|--|---|
| In Falcarragh 15 | 460 |
| Whole of local area 35 | 645 |

Aarhus Article 6.2 (d)(ii),
(MRPEPP) D. 63a, 64c, 64d, 64e, 66,
(MRPEPP) E.71b.

Annex 3

3 Content of Notifications

If, despite the small number of “Donegal Democrat” newspapers circulated in the area, some of the public had become aware of the notifications there were further obstacles to the public’s opportunity to partake in the consultation process.

The Notices stated that the Aquaculture and Foreshore licence applications and relevant documents “may be inspected” in the local Garda (ie.Police) station in Falcarragh, and in the Letterkenny Garda station which is 50 Km. distant.

Annex 1

(a) The local Garda station is open on a “restricted hours” basis only, and being a rural station those hours when the station is manned and open to the public are very unpredictable. Garda station staff are often out on call from the station during the displayed opening hours and then, no public access is possible to inspect the documents.

Aarhus Article 6.2
(MRPEPP) D62a, D63a, D63b

The opening hours for the Garda station were not listed on the notices. They are in fact 10am – 1pm, Monday to Saturday.

(b) During the four weeks following publication of the Notices there were four Sundays and a Public Holiday (17th March). Consequently the public had access to inspect the documents for only 24 days.

Taking into account the “restricted hours” of opening in the Garda station, and in the very best scenario where the Garda station could be found open during their full stated opening hours, (which is rarely the case), the public had a total of 72 hours to inspect the documents.

Aarhus Article 6.2. Aarhus Article 6.3 and Aarhus Article 6.4

(MRPEPP) D57, D59, D60, D63a,

(MRPEPP) E72.

(MRPEPP) E“Reasonable and unreasonable timeframes for public participation” p.31

(c) No credible effort was made by the DAFM.. to source alternative locations or methods whereby the documents could have been more easily available to the public.

(MRPEPP) D59, D63a, D64c, D64d, D67

(d) The suggestion that the documents could be inspected in Letterkenny Garda station, involving a round trip of c.100Km, is neither a practical nor a fair option for the public.

Aarhus Article 6.4

(MRPEPP). D64a, b, c, d, and e

4. Options not indicated to the Public.

At no point was the “zero option” as outlined in “(MRPEPP), General Recommendations,” F.16 and G.17 and G.19, indicated as being available as an option to the public.

Aarhus Article 6.4

(MRPEPP “General Recommendations”, F.16 and G.17 and G.19

(MRPEPP) F78c

5. The DAFM Minister’s stipulations regarding the preparation and placement of notices in newspapers.

(a) The DAFM stipulated that they “will prepare the notice and specify the newspapers in which it should be published” Annex 2

(b) They chose, in our case, the local newspaper with the lowest local circulation in areas affected by these applications
Ref. Par. 2 (a) above.

Aarhus Article 6.2 (d)(ii),

(MRPEPP) D63a, 64c, 64d, 64e, 66,

(MRPEPP) E71

Annex 3

This follows a pattern which has emerged with similar applications along the coast where habitually, notifications are placed in low-circulation papers in the areas that are affected.

(c) The DAFM. was well aware from protests to similar earlier applications along the Co Donegal coastline at eg. Linsfort, Braade, etc, where this same approach to publication was taken, that this approach disadvantaged and outraged the public Annex 4, 20, 21, 22

- (d) The DAFM's persistence with this approach ensures that the public interest is being undermined by:
- i. A remarkable lack of effort by the DAFM in establishing the best way to disseminate this information to the local community.
[Aarhus Article 6.2](#)
 - ii. A refusal to correct known shortcomings in the DAFM's handling of the public Consultation process
 - iii. An approach that ensures that while fulfilling their legal requirement of placing a Notice, at the same time allows a situation whereby that notice is seen by the least number of people possible in the communities affected.

Should the latter be the case it would indicate that the DAFM.. is deliberately adopting an approach which results in an unjust bias against the rights of the affected public to fair consultation.

[Aarhus Article 6.2 \(d\)\(ii\)](#), [Aarhus Article 6.3](#), [Aarhus Article 6.4](#).

[\(MRPEPP\) D63a](#).

[Annex 3. 4. 20.](#)

[\(MRPEPP\) Annex "Scoping"](#)

6. Duration of Notices.

Notices also stated that any person might make "written submissions or observation to the Minister.. etc" during a period of four weeks".

[Aarhus Article 6.3](#), [Aarhus Article 6.4](#)

[\(MRPEPP\) D60](#),

[\(MRPEPP\) E72a](#), [D72b](#)

7. The newspaper Notice to alert the public to each Application appeared in only one edition of the "Donegal Democrat" for each batch of applications. It was not published for the four week duration of the consultation process.

8. Language

The Ballyness Bay area is n Irish speaking (Gaeltacht) area. A large section of the local population would cite Irish as their first language and would not be confident in reading or understanding formal text, especially technical terms, in English.

The text of the Notices was all in English.

There was no Irish version supplied.

[\(MRPEPP\) D63c](#)

9. **The Department of Agriculture's response to queries and submissions**

- (a) The local community only became aware of these applications, from another source, in June 2019. This was unfortunately outside the four week window specified by the Minister as admissible for submissions.
- (b) Nevertheless, many queries and submissions were then forwarded to the Minister in the DAFM, etc. by members of the public and other local concerned bodies.
- (c) These submissions received a standard reply from the Minister's Department to the effect that "*the public and statutory consultation phase of the application is now closed and as the application is now currently under consideration by the Department as part of a statutory process it would not be appropriate to comment further on the matter at this time*"

Annex 9

- (d) So, effectively, The Minister is making no allowance for the inadequacies of the his own DAFM's Notification process.
Aarhus Articles 6.2(d)ii, Aarhus Articles 6.3, Aarhus Articles 6.4
(MRPEPP) D60, D62a

10. **The Department of Culture Heritage and the Gaeltacht's response re. the protection of the Ballyness SAC and SPA areas**

- (a) Queries to elicit information regarding that Dept's input into the Aquaculture Licence Application process as related to the SAC /SPA in Ballyness Bay were sent to Minister Josepha Madigan in the Dept. of the Culture Heritage and the Gaeltacht.

A short acknowledgement was received stating that it was the responsibility of the DAFM and that they were referring the query to that quarter.

This reply is difficult to understand considering the Dept. of Culture, Heritage and the Gaeltacht's statutory responsibilities for the care of the Environment, SACs and SPAs, through their sub department, the National Parks and Wildlife Service.

National Parks and Wildlife Service (hereafter NPWS), under control of Minister Madigan's Department of Culture Heritage and the Gaeltacht, have responsibility for the management and protection of SAC and SPA areas under the Irish Government.

- (b) A letter expressing concern was sent to NPWS on 29/5/2019.
No reply has been received to date.

The results of 10 (c) and (a) and (b) above, effectively mean that because the public missed out on the closing date of the notified consultation process there was no further opportunity given to them to access information or contribute their views.

Aarhus Articles 3.2, 3.7 and 3.9.

Aarhus Article 6.2(d)ii, Aarhus Articles 6.2(d)vi.

(MRPEPP) D63a.

(MRPEPP) Annex “Scoping”

11. Scientific Data as presented in the Appropriate Assessment

As part of the Licence Application process, the DAFM in Ireland requested the Marine Institute Ireland to carry out an Appropriate Assessment (AA) rather than a full Environmental Impact Study. Annex 7

- (a) The Marine Institute is funded by the DAFM.
This may constitute a conflict of interest and casts doubts on the independence of the report.

Many of the conclusions reached in the AA appear to be in conflict with various EU Directives, i.e. The Habitats Directive, Birds Directive, “Guidance on Aquaculture and Natura 2000 and EU Habitats”

Also, the Irish Government’s Dept. of Agriculture S.I.416 of 2018 “European Union Habitats (BALLYNESS BAY SPECIAL AREA OF CONSERVATION 001090) REGULATIONS 2018, Schedule 4.

Annex 18, 19,

- (b) Several important critiques of the Marine Institute’s AA by various environmental scientists and concerned bodies are available
Annex 11, 12, 13, 14, and 20 highlighted green)
- i. The DAFM., in holding to their interpretation that the Consultation period had ended, is not allowing this information to be considered.
(MRPEPP), D62c.
- ii. When a policy is being pursued that effectively prevents pertinent information being made available, it can not be accepted that the public have been “notified effectively”
MRPEPP D62a
- iii. Proceeding to making a decision, while not taking into consideration all the relevant and available information, cannot be accepted as being in the public interest.
Aarhus Article 6.2, Aarhus Article 6.3, Aarhus Article 6.4
(MRPEPP) D59, 62(c)
(MRPEPP) D74,
(MRPEPP) General recommendations F16.

- (c) References to mitigation measures to reduce or to prevent various damaging environmental effects are alluded to within the text of the AA.
 - (i). No details of the mitigation measures are supplied.
Aarhus Article 6.6(c)
 - (ii). No AA, as required, covering these mitigation measures is supplied for public inspection.
- (d) No non-technical summary of the above is supplied.
Aarhus Article 6.6(d)
- (e) *Crassostrea Gigas (Pacific Oysters)* are a non native species. It is stated in the applications that Triploid or genetically modified version of these Oysters are to be used if these Applications are granted.

Much information is now available to indicate that a certain percentage of these triploid Oysters revert to a breeding habit and have invaded and colonised bays in up to 17 separate locations in Ireland, England and elsewhere, causing huge environmental damage. Eg. "The Dynamics of Environmental Sustainability and Local Development: Aquaculture" A study for NESC, Patrick Bresnihan Assistant Professor of Environmental Geography No. 143 April 2016, Part 1, Ch 3, pps. 62-67
Annex 11, 12, 16, and 17.

This information has not been mentioned in the AA and therefore Sandy Legal points was not made available to the public during the consultation process..

- (f) No reference has been made to any measures being applied to protect Ballyness Bay from problems outlined in Par 11 (e) above.
Aarhus Article 6.6(c),
(MRPEPP) M145-150.

The scope of the information and of the critical analysis as supplied in the AA is unacceptably limited in its scope. It does not adequately examine the available information of environmental importance to Ballyness Bay SAC and SPA areas. Nor does it take due cognisance of the EU regulations and Directives that apply to such an area.
Annex 11, 12, 13, 14, 15, 16, 17, 18, 19.

Due to the outlined lack of information and proper scientific analysis in the AA report as detailed in Par. 11. (b),(c), (d), (e), and (f) above, the public was not supplied with sufficiently comprehensive Environmental Impact information in this AA to enable it to arrive at a measured decision, during or following, the consultation period offered.

Aarhus Article 6.1, 6.2,
(MRPEPP) B44,a,b. B45, B47,
(MRPEPP) D53, D61, D62c, D62d, D72a

Annex 11, 12, 13, 14

VI. Use of Domestic remedies.

We have taken all the steps available to us to engage with the relevant departments.
Annex 8, sample of letters to Minister.
The DAFM have replied to all letters with a standard reply format stating that

"the public and statutory consultation phase of the application is now closed and as the application is now currently under consideration by the Department as part of a statutory process it would not be appropriate to comment further on the matter at this time".

Annex 9

The results of attempts to communicate with the Dept of Culture, Heritage and the Gaeltacht and their sub department NPWS have been outlined in Par. 10 (a) and (b) above. No information was forthcoming from either source.

Aarhus Articles 3.2, 3.7, and 3.9.

Aarhus Article 6.2(d)ii

MRPEPP D62(c)

V11. Use of other international procedures

None used.

VIII. Confidentiality

I would request that my name be kept confidential.

I would request that my reasons for this request be kept confidential.

Even though there is overwhelming local support for our stance on this issue, (as demonstrated by crowded public meeting and huge online support), I make this request because there has been a certain amount of intimidation locally against members of our group by others. Being the only person being identified by name might expose me unduly.

We, the Save Ballyness Bay Committee, would contend that the administration of the Public Consultation process as carried out by the Department falls far short of acceptable and of being compliant with the letter or the spirit of the Aarhus Convention.

We ask you to investigate the matters outlined above. If your findings indicate that the Aarhus Convention conditions have not been complied with, we would ask that you take the necessary action to remedy the matter.

Hoping for your kind attention to this matter,

Yours sincerely,

John Connaghan
Chairman, "Save Ballyness Bay" Group

John Connaghan. Chairman, "Save Ballyness Bay Group".

ANNEX List.

- 1 Copy of Notices in Donegal Democrat
- 2 Foreshore Acts 1933 to 2011- General guidance Notes”.
- 3 Lithuania Verdict ACCC/2006/16; ECE/MP.PP/2008/5/Add 6.4 April 2008,
para. 67. (Extract)
- 4 Other Notifications in Donegal Newspapers Trawbreaga
- 4a Other Notifications in Donegal Newspapers Linsfort
- 5 SPA Falcarragh to Meenlaragh, (Site synopsis) (includes Ballyness Bay).
- 6 SAC Ballyness Bay (Synopsis)
- 7 Marine Institute (MI) Appropriate Assessment report.
- 8 Sample Public letter to Min Creed DAFM (1)
- 8a Sample Public letter to Min Creed DAFM (2)
- 9 Min. Creed, DAFM’s reply
- 10 S.I. 416 of 2018, “European Habitats (Ballyness Bay SAC 001090)
Reg. 2018, Schedule 4
- 11 Dr. Tony McNally.
- 12 Sandy Alcorn Ecologist. “
- 13 Birdwatch IRL. “
- 14 An Taisce submission “
- 15 Other Notifications in Donegal Newspapers Linsfort
- 16 “Dynamics of Environmental Sustainability” Oyster diseases in Ireland.
- 17 Journal of Fisheries and Livestock production
- 18 EU Habitats Directive
https://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm
- 19 EU Birds Directive
https://ec.europa.eu/environment/nature/legislation/birdsdirective/index_en.htm
- 20 Linsford Submission
- 21 DAFM website showing applications etc.
<https://www.agriculture.gov.ie/seafood/aquacultureforeshoremanagement/aquaculturelicensing/aquacultureforeshorelicenceapplications/donegal/>
- 22 Marine Institute (MI) Appropriate Assessment Ballyness Bay. (2298Kb)
<https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessments/donegal/PropAssessBallynessBayReport040319.pdf>
- 23 Draft Appropriate Assessment Conclusion (See also Annex 7)
<https://www.agriculture.gov.ie/media/migration/seafood/aquacultureforeshoremanagement/aquaculturelicensing/appropriateassessmentconclusionstatement/DraftConclusionStatementBallynessBay070319.pdf>

APPENDIX 13

Letter from Inland Fisheries Ireland to Minister Creed regarding fishing activities in Ballyness Bay.



26 November 2019

Michael Creed T.D.
Minister for Agriculture, Food and the Marine
Agriculture House
Kildare Street
Dublin
DO2 WK12

Dear Minister

I am writing to you in connection with the recent proposals for shellfish aquaculture development in Ballyness Bay Special Area of Conservation, Co. Donegal and in particular with aspects of the Final Appropriate Assessment of Aquaculture in Ballyness Bay SAC (Site Code 01090) as submitted by the Marine Institute (as attached).

Page 5 of the report (**Assessment of in-combination effects of aquaculture, fisheries and other activities**) states that 'There are no fishing activities with Ballyness Bay SAC and therefore are no likely combination effects'.

This statement is in fact inaccurate. Ballyness Bay contains a valuable, and highly scenic, wild sea trout fishery which forms an integral part of Ireland's recreational and tourism sea trout angling resource. Documentary evidence of this is provided (as enclosed) by the enclosed angling guide produced by Inland Fisheries Ireland- *Sea Trout Angling on Ireland's North West Coast*.

It should also be noted that a commercial salmon draft net fishery still remains in existence at the base of the Tullaghobegley River, which drains to Ballyness Bay. The draft net fishery hasn't operated in recent years due to conservation reasons, but may open again in the future depending on the annual available harvestable surplus. (The Tullaghobegley River had a modest salmon surplus in 2019 and was listed as open for angling).

Thank you for your consideration of the above. I would of course be happy to provide any additional information on the matter as may be required.

Yours sincerely

Dr. Milton Matthews
(Director- IFI Ballyshannon)

cc Brian McKean (Sec)., Cloughaneely Angling Association

APPENDIX 14

NPWS Ballyness Bay Site Synopsis 2013.



Site Name: Ballyness Bay SAC

Site Code: 001090

Ballyness Bay is situated in north-west Donegal adjacent to the towns of Gortahork and Falcarragh. The underlying geology is mostly pelites, with some smaller areas of limestone and quartzite. This is mostly covered by windblown sand and peat. Ballyness Bay is a large and very shallow estuarine complex, with extensive areas of sandflats which are exposed at low tide.

The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (* = priority; numbers in brackets are Natura 2000 codes):

- [1130] Estuaries
- [1140] Tidal Mudflats and Sandflats
- [2110] Embryonic Shifting Dunes
- [2120] Marram Dunes (White Dunes)
- [2130] Fixed Dunes (Grey Dunes)*
- [2190] Humid Dune Slacks
- [1013] Geyer's Whorl Snail (*Vertigo geyeri*)

The intertidal sandflats of Ballyness Bay often have a rich macro-invertebrate fauna, with notable populations of Lugworm (*Arenicola marina*) and Common Cockle (*Cardium edule*). Eelgrass (*Zostera* sp.) is also present. The bay is almost completely cut off from the open sea by two large sand dune covered spits. The Dooey sand dunes are highly dynamic and have grown to a considerable height near the tip of the spit - they contain what is probably the largest unvegetated sand dune in the country. The succession of vegetation types across the spit and the topographical features make this area of special interest.

Of particular importance are the fixed dunes which occur along the length of the Dooey sand spit. They are found east of a large band of mobile Marram (*Ammophila arenaria*) dunes. There are some good species-rich areas, which include Common Dog-violet (*Viola riviniana*), Wild Pansy (*Viola tricolor* subsp. *curtisii*), Thyme-leaved Sandwort (*Arenaria serpyllifolia*), Harebell (*Campanula rotundifolia*), Daisy (*Bellis perennis*), Wild Thyme (*Thymus praecox*), Common Bird's-foot-trefoil (*Lotus corniculatus*), Red Fescue (*Festuca rubra*) and Lady's Bedstraw (*Galium verum*). There is also a good variety of moss and lichen species, including *Tortula ruraliformis*, *Brachythecium albicans*, *Rhytidiadelphus squarrosus*, *Homalothecium lutescens* and *Peltigera canina*.

Dunes dominated by Marram are well developed. Also occurring are embryonic dunes, with species such as Lyme Grass (*Leymus arenarius*), Sea Couch (*Elymus farctus*) and Sea Rocket (*Cakile maritima*).

The dunes at Drumatinny, by contrast, are quite low but also have areas of fixed dune as well as sandy, machair-type grassland. Humid dune slacks, with species such as Creeping Willow (*Salix repens*) and Jointed Rush (*Juncus articulatus*), are scattered through the dunes at Drumatinny. Areas of saltmarsh, dry and wet grassland and heath add further diversity to the site.

The rare whorl snail *Vertigo geyeri*, a species listed on Annex II of the E.U. Habitats Directive, is found at this site.

This site is important for waterfowl. Species counts (all average peaks over 4 seasons, 1994/95 to 1996/97) include Ringed Plover (110), Brent Goose (85), Red-breasted Merganser (12), Wigeon (47), Oystercatcher (87), Curlew (55), Sanderling (47) and Greenshank (7). The populations of Ringed Plover and Sanderling are of national importance. Also occurring is Golden Plover (165, same count period), a species listed on Annex I of the E.U. Birds Directive. Large numbers of Lapwing have been noted sheltering during stormy weather in dune slacks near Drumatinny. Chough, another species listed on Annex I of the E.U. Birds Directive, have been noted feeding near Binavea Strand.

Land use within the bay comprises fishing and sailing on a small scale; the surrounding dunes and grassland are grazed by sheep and cattle.

Ballyness Bay contains several important coastal habitats listed on Annex I of the E.U. Habitats Directive, including the priority habitat fixed dunes. The site is also an important wildfowl site.