

**DEPARTMENT OF AGRICULTURE FOOD AND THE  
MARINE**

**Joint Committee on Agriculture, Food and the Marine**

**Meeting with Department of Agriculture, Food and the Marine on the  
Management of Aquaculture Licensing**

**7<sup>th</sup> February 2017**

**Opening Statement by the Department**

# **Joint Committee on Agriculture, Food and the Marine**

**07 February 2017**

## **Opening Statement by the Department**

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I would like to thank the members of the Committee for the invitation to meet with them today to discuss the management of aquaculture licensing. This Opening Statement is intended to provide the Committee members with a broad overview of the aquaculture licensing system and how it operates. I will be glad to take any questions from the Committee members afterwards.

### **Background**

An aquaculture licence is required by law for the cultivation of finfish, shellfish and certain marine plants such as seaweed. Some aquaculture takes place on land but the vast majority of aquaculture activity takes place in the marine environment on the foreshore. In Ireland almost all foreshore is in public ownership and aquaculture activity therefore requires both an aquaculture licence to conduct operations and a companion foreshore licence to lawfully occupy the area of foreshore in question. Even in the rare case of private foreshore an aquaculture licence is required to engage in aquaculture activity.

The Foreshore is measured from the high water mark out to 12 nautical miles and is approximately 39,000 square kilometres in overall size. It is roughly equal in size to just over 50% of the land area of the State. However, the areas suitable for aquaculture represent a small fraction of the foreshore and, in the case of finfish cultivation, are exclusively on the western seaboard.

### **Legislation**

The Department considers all applications for aquaculture licences in accordance with the following legislation:

- Fisheries (Amendment) Act 1997
- Foreshore Act 1933
- EU Habitats Directive of 92/43/EEC

- EU Birds Directive 79/409/EEC
- Consolidated Environmental Impact Assessment Directives 2011/92/EU
- Public Participation Directive (Aarhus Convention)

The licensing process involves consultation with a wide range of scientific and technical advisers as well as various Statutory Consultees. The legislation also provides for a period of public consultation. In addition to the above legislation the Department must adhere to a wide range of regulatory requirements and other legislation which impact on the licensing process.

The Public Participation Directive has emerged as a crucial factor in the roll out of the licensing system as it applies to individual cases. The key aim of this Directive is to grant the general public specific rights regarding access to information in governmental decision-making processes on matters concerning the local, national and trans-boundary environment.

### **Types of Aquaculture Licences**

There are 3 broad types of aquaculture licence applications. These are:

- applications for finfish or shellfish cultivation in the marine environment (approximately 94% of applications);
- applications for land based aquaculture activity (approximately 5% of applications);
- applications for aquatic plant cultivation – mainly seaweed (approximately 1% of applications). It is important to note that the harvesting of wild seaweed is licensed by the Department of Housing, Planning, Community and Local Government.

Within this typology there are a number of subsections including applications for the cultivation of multiple species in the one production area (multitrophic aquaculture). A small number of licences for research purposes are in place.

### **Appropriate Assessment**

A key component of the Aquaculture Licensing process is a series of measures designed to address the impact of aquaculture on the environment. This series of measures is known as “Appropriate Assessment” (AA). The Appropriate Assessment process arose from a European Court of Justice (ECJ) case against

Ireland in 2007. The ECJ declared in case C418/04 that, by failing to take all the measures necessary to comply with Article 6(3) of Directive 92/43 ( Habitats Directive) in respect of authorisation of aquaculture programmes, Ireland had failed to fulfil its obligations under that Directive.

The EU Habitats and the EU Birds Directive led to the designation of certain bays by the National Parks and Wildlife Service as ‘Special Areas of Conservation’ and/or ‘Special Protection Areas’ for birds. These are known as ‘NATURA’ sites and most aquaculture takes place within them, or adjacent to them. In the negotiations to address the ECJ judgement the Department agreed a process with the EU Commission and NPWS which would govern the State’s processing of aquaculture licence applications. This became known as ‘Appropriate Assessment’ and includes the following steps:

- Data collection in relevant bays
- Detailed analysis of the raw data collected
- Setting of ‘Conservation Objectives’ by NPWS in respect of each site
- Carrying out ‘Appropriate Assessments’ by the Marine Institute of aquaculture/fishery activities against the detailed conservation objectives set
- Determination of licences by the Minister on the basis of the ‘Appropriate Assessment’ and other relevant factors.

In broad descriptive terms it is possible to state that the “Appropriate Assessment” (AA) phase of the application process represents the first major environmental challenge or hurdle for any licence application. The AA process is therefore an essential precursor to the further consideration of most aquaculture licence applications. The AA process is managed in the main by the Marine Institute via environmental/scientific contractors commissioned by the Institute to carry out the necessary field work and desk analysis. To date the Marine Institute has submitted Appropriate Assessments in respect of twenty one bays to my Department as follows:-

- Bannow Bay,
- Ballycotton Bay,
- Castlemaine Harbour,
- Clew Bay,
- Donegal Bay,

- Drumcliff Bay/Cummeen Harbour,
- Dundalk Bay,
- Dungarvan Harbour,
- Galway Bay,
- Gweedore Bay,
- Kenmare Bay,
- Kilkieran Bay,
- Lough Swilly,
- River Barrow & River Nore,
- Roaringwater Bay,
- Sheephaven Bay,
- Slyne Head,
- Trawbreaga Bay,
- Valentia Harbour/Portmagee Channel,
- West of Ardara / Maas Road
- Wexford Harbour.

### **Licence Application Processing Procedures**

The licence consideration process, following completion of the AA for a given bay, has been estimated to take **43 to 81 weeks** in the case of shellfish aquaculture. It should be noted that the indicative timelines do not relate to finfish licence applications in respect of which an Environmental Impact Statement (EIS) is mandatory and can require a lengthy timeline for completion by the operator.

I do not propose to go through the table set out in the Opening Statement at this time but will be glad to take any questions you have on it at a later time.

### **Timeframe for Processing (Shellfish) Licence Applications**

<b>STEPS</b>	<b>DESCRIPTION OF PROCESS</b>	<b>INDICATIVE TIMELINES</b>
Step 1	Aquaculture licence application received and dated	
Step 2	The application form is checked in AFMD to determine if the proposed area is located within a 'Natura 2000' site - if so, an Appropriate Assessment (AA) needs to be carried out	
Step 3	Appropriate Assessment carried out, which involves:	

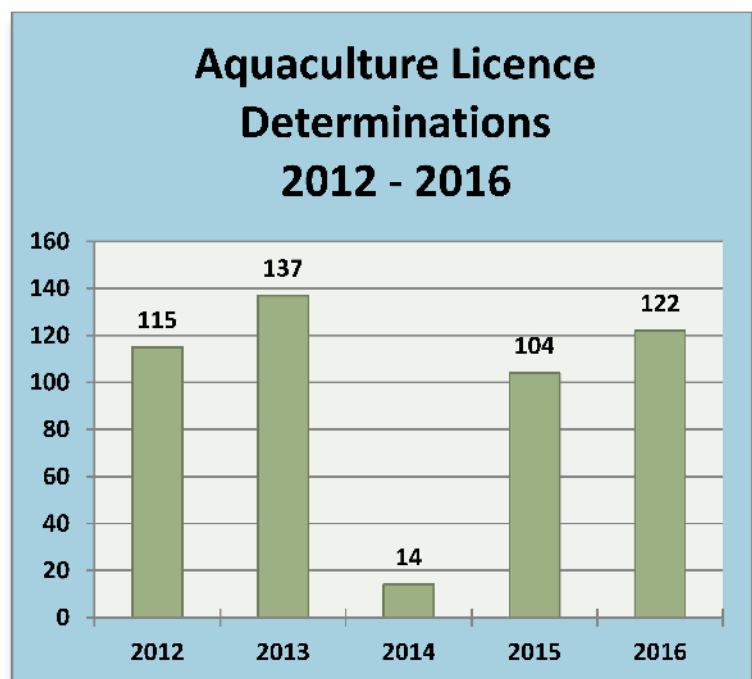
Step 3 (cont'd)	<ul style="list-style-type: none"> <li>Detailed analysis of raw data collected (this is substantially complete in all bays)</li> <li>The setting of Conservation Objectives by the National Parks and Wildlife Service (NPWS)</li> <li>Preparation of shape files by AFMD, in conjunction with Engineering Division and BIM (including profiling of aquaculture activity in the relevant Natura site) to allow the Marine Institute to spatially overlap the aquaculture activity over the protected habitats in the Natura site</li> <li>AA carried out by the Marine Institute</li> </ul>	
Step 4	The AA is circulated to NPWS for their views	6-12 weeks
Step 5	An Environmental Impact Assessment (EIA) screening is carried out by the EIA Screening Group (consisting of officials from AFMD, MED, MI and BIM) on all licence applications to ensure compliance with EU Environmental Directives	Timeframe depends on the no. of applications to be processed – 4-10 weeks
Step 6	Submission to Minister on requirement for Environmental Impact Statement (EIS) for each application	Timeframe depends on the no. of applications to be processed – 3-6 weeks
Step 7	Submission of set of policy recommendations for entire bay or Natura site for Ministerial approval	3-6 weeks
Step 8	All applications accompanied by the AA and EIA screening (or EIS) are sent to Statutory Consultees	10-13 weeks (includes 6 week statutory consultation period and forwarding of any comments received to the Applicant, who has 3 weeks to respond to any issues raised)
Step 9	All applications accompanied by the AA and EIA screening (or EIS) are sent to Public consultation - allowing members of the public to comment	Runs parallel to Step 8
Step 10	An AA Conclusion Statement is finalised, taking account of observations received, and indicating how the bay will be licensed in accordance with Natura requirements	3-8 weeks (further scientific advice may be required in the context of issues raised at Statutory/Public Consultation phase)
Step 11	All information received is evaluated by Department Officials and scientific and technical advisers as required. Individual recommendations are prepared and sent for Ministerial approval	3-8 weeks depending on the size of the bay. The process will be delayed further should archaeological issues emerge in the relevant bay
Step 12	Ministerial Decision to either grant or refuse the application	2-5 weeks
Step 13	Publication of Ministerial Decision and the reasons for such determinations are placed on the Department's website	1-2 weeks
Step 14	Decision may be appealed to the Aquaculture Licences Appeals Board (ALAB) - the independent appeals body	4 weeks
Step 15	If no appeal, issue of Foreshore Licence for signing by Applicant	2-5 weeks
Step 16	Preparation of Aquaculture Licence and forwarding with Foreshore Licence for signing and sealing in Minister's Office	2-6 weeks

## Some Key Figures

The Opening Statement also contains two further tables or graphs which Members may find helpful. The first sets out the number of aquaculture licences determined since 2012 and the second provides an overview of licence applications currently on hand.

### i) Aquaculture Licence Determinations since 2012

Year	No. of Licence Determinations
2012	115
2013	137
2014	14
2015	104
2016	122
<b>Total</b>	<b>492</b>



### ii) Overview of Licence Applications Currently on Hand

Licence Applications Currently on Hand		<b>612</b>
• Marine Finfish	33	
• Marine Shellfish (Including Aquatic Plants)	540	
• Landbased	39	

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It is important to note that approximately half of the applications on hand relate to licence renewals and aquaculture activity in respect of these remains ongoing under the provisions of Section 19(A)(4) of the 1997 Fisheries Amendment Act.

### **Aquaculture Licensing Review Group**

On the 20<sup>th</sup> December 2016 the Minister for Agriculture, Food and the Marine appointed a three person Independent Review Group to conduct an Independent Review of the Aquaculture Licensing Process and associated Legal Framework.

The Minister has set the terms of reference for the Review Group having regard to Government policy for the sustainable development of aquaculture, as outlined in Food Wise 2025 and the National Strategic Plan for Sustainable Aquaculture Development. The Review Group will aim to identify changes required to the aquaculture licence process and its associated legal framework that will:

1. Deliver licence determinations in a timely manner, having regard to international best practice;
2. Support achievement of the actions and priorities of Food Wise 2025 and the National Strategic Plan for Sustainable Aquaculture Development;
3. Facilitate enhanced transparency in the licensing process for all stakeholders;
4. Ensure legally robust licence determinations having regard to EU and national law.

The Independent Review Group is currently holding a Public Consultation to invite submissions on matters relevant to the Review, which will run until the 10<sup>th</sup> of February.

I hope this Statement is of assistance and I will be glad to respond to any questions the Committee members may have.

Thank you.

**ENDS**