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Department of Agriculture, Food & the Marine,
Aquaculture and Foreshore Management Division,
National Seafood Centre,
Clonakilty,
Co. Cork.

[24/05/2021]

Re: Submission on oyster aquaculture licences in Valencia Harbour/ Portmagee Channel SAC

To Whom It May Concern,

The Irish Wildlife Trust would like to make the following submission in relation to licence T06/461A Realt Na Mara Shellfish Ltd, Cromane lower, Killorglin, Co. Kerry.

Importance of the SAC

The proposed aquaculture site is situated within Valencia Harbour / Portmagee Channel Special Area of Conservation (SAC). The SAC is designated for its qualifying interests Mudflats and sandflats not covered by seawater at low tide [1140], Large shallow inlets and bays [1160], and Reefs [1170]. The aquaculture site overlaps will all of these habitats.

The habitat Large shallow inlet and bay was classed as unfavourable-bad in Valencia Harbour / Portmagee Channel SAC¹. The reason for the bad status at this location is loss of entire eelgrass beds and a loss of nearly one quarter of the total known national resource of the rare and vulnerable burrowing worm anemone *Edwardsia delapiae*. This loss is an indirect result of the impact of the construction of a floating breakwater directly above the anemone, which led to a negative change in the sediment which is a crucial requirement of this species². The reasons for eelgrass loss inside the SAC are not known at this time.

¹ NPWS (2019). The Status of EU Protected, Habitats and Species in Ireland. Volume 2: Habitat Assessments. Unpublished NPWS report. Edited by: Deirdre Lynn and Fionnuala O'Neill

² Scally, L., Pfeiffer, N. and Hewitt, E. (2020) The monitoring and assessment of six EU Habitats Directive Annex I Marine Habitats. Irish Wildlife Manuals, No. 118. National Parks and Wildlife Service, Department of Culture, Heritage and the Gaeltacht, Ireland.



Outdated conservation objectives

Article 6 (3) of the Habitats Directive requires that a project such as the one proposed must undergo an Appropriate Assessment (AA) of its implications for the site in view of the site's conservation objectives. The conservation objectives provided by the NPWS, however, are now outdated because the habitat 'large shallow inlet and bay' is no longer in favourable conservation status. The AA was written based on the objective to maintain a favourable conservation status even though the site has since deteriorated. The information about the deterioration of the site was already available at the time of the AA publication but it was not taken into account. Article 6 (3) requires that *'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'*. We would argue that site integrity has been severely damaged at this point in time and any potential additional pressures on the site's habitats will exacerbate the deterioration.

15% disturbance threshold

The AA is based on a 15% disturbance threshold which is derived from NPWS guidance. The policy from the NPWS was loosely based on an EU guidelines document (which is not legally binding) on applying thresholds to describe the conservation status of habitats. The 15% threshold used by the NPWS is not mentioned in the EU guidelines and it is our view that the NPWS has misinterpreted the guidance. The application of the 15% policy has previously led to licencing of aquaculture and fisheries in SACs and has directly led to habitat deterioration (e.g. Roaringwater Bay)³. Licencing activities based on the 15% threshold is in breach of Ireland's legal obligations under the Habitats Directive to:

- *"take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated"* (Habitats Directive Article 6 (2))
- Carry out "Appropriate Assessments" on plans or projects *"likely to have a significant effect"* on a protected site and to only authorise such a plan or project where it has been ascertained that it will not adversely affect the integrity of the site concerned (Habitats Directive Article 6(3)).

³ Classen, R (2020). Marine Protected Areas – Restoring Ireland's Ocean Wildlife II. Report on Ireland's Failure to Protect Marine Natura 2000 Sites. Irish Wildlife Trust.



- To generally take measures under the Habitats Directive that are “*designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest*” (Article 2 (2)).

By allowing significant and ongoing disturbance on up to 15% of a protected habitat, the state is admitting deterioration in direct breach of Habitats Directive requirements.

Cumulative pressures and scientific certainty

The AA rightly acknowledges the importance of three highly sensitive community types present in the site, namely Mearl- and Zostera-dominated habitat and *Edwardsia delapiae*-associated community. Two of these three communities have been substantially damaged in recent years which would warrant thorough investigation into how these communities may be impacted by the proposed project in conjunction with other plans or projects, e.g. fisheries. However, the AA report states that “where the overlap between an aquaculture activity and a feature is zero and there is no likely interaction, it is screened out and not considered further”. The three community types were therefore screened out.

According to Scally et. al, 2020⁴, “*The exact cause of decline in eelgrass beds at most sites is unknown. The major pressures and threats on the Large shallow inlets and bays habitat have been identified as agriculture, forestry, aquaculture, fisheries and wastewater treatment and disposal. It is likely that the cause of decline or loss of the eelgrass beds is site-specific and most likely due an in-combination effect of one or more of the main pressures.*” In light of such evidence, a more thorough site-specific assessment of the causes of seagrass decline and an investigation into how aquaculture may impact on it cumulatively would seem appropriate.

It has been suggested that one of the reasons for eelgrass loss around the Irish coast is due to nutrient enrichment. Extensive growth of microalgae has been found on top of seagrass blades which is an indicator of high nutrients⁴. If nutrient enrichment were to blame for the loss of eelgrass in Valencia Harbour / Portmagee Channel SAC, then the higher nutrients would also impact on sedimentary habitats on which the oyster trestles will be placed. As this has not been considered in addition to the known effects of oysters on the sediment underneath the trestles, the AA is clearly inadequate.

⁴ Scally, L., Pfeiffer, N. and Hewitt, E. (2020) The monitoring and assessment of six EU Habitats Directive Annex I Marine Habitats. Irish Wildlife Manuals, No. 118. National Parks and Wildlife Service, Department of Culture, Heritage and the Gaeltacht, Ireland.



The AA authors consider the community type 'intertidal sand with nematodes and polychaetes community complex' to be tolerant of culture activity based on a study by Forde et. al from 2015. Firstly, the study did not take place in Valencia Harbour / Portmagee Channel SAC and therefore should not be used to discount any significant effects of oyster aquaculture on the communities in this SAC, as the local environmental parameters will be different. The paper cites many other studies including from France and the UK where oyster trestle aquaculture did show significant effects, which shows that impacts are site-specific. Secondly, the study's results showed that species found in all samples (including 'control') were so-called opportunistic species that are characteristic of organic enrichment. This shows that the entire study area was already impacted in some form by existing human activities (salmon aquaculture takes place in Clew Bay and Donegal Bay, and all study areas are dredged for various shellfish species). This study should therefore not be used to discount effects of aquaculture on other areas around Ireland and instead site-specific surveys should be conducted.

Conclusion

The AA does not ascertain beyond reasonable scientific doubt that the proposed aquaculture activity in conjunction with existing fishing activity and nutrient enrichment from other plans or projects will not cause further deterioration of the site. We submit that in light of the AA's lack of scientific certainty and the reliance of the 15% disturbance threshold, to grant this licence would be in contravention of the Habitats Directive Article 6 (3), particularly in light of the poor conservation status of the habitats that will be impacted by this development. The Irish Wildlife Trust is therefore of the opinion that the aquaculture licence should not be granted.

Regards,

Regina Classen
Project Officer, Irish Wildlife Trust