



REVIEW OF THE AQUACULTURE LICENSING PROCESS

Report of the Independent Aquaculture
Licensing Review Group

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EXECUTIVE SUMMARY

The Irish aquaculture industry is largely concerned with the cultivation of salmon, oysters and mussels, which had an output in 2016 valued at €163 million, and employs 1,900 people mainly in peripheral coastal areas. Government policy proposes that the volume of aquaculture production be increased from 45,000 tonnes to 81,700 tonnes per annum by the year 2023. Many in the industry consider that development of the sector has been hampered by an inefficient licensing process. However, some aquaculture proposals have been very controversial. It has been suggested that delays in the licensing process and public notice provisions, in particular, are inadequate have added to the controversy.

Aquaculture is licensed under the Fisheries (Amendment) Act, 1997 and its associated Regulations which have been amended to give effect to various EU environment protection Directives. The licensing process is complex. Considerable information, much of it technical, has to be assessed. The public and various State Bodies must be consulted and the determination of a licence requires the balancing of many interests. Current EU policy on aquaculture urges Member States to simplify administrative procedures, including reducing timescales for processing applications. There are 740 aquaculture licences currently in operation, of which 444 are operating within their stated time period and 296 are operating under section 19A of the Fisheries (Amendment) Act, 1997. There are 612 licence applications currently awaiting determination by the Minister, of which 33 are finfish, 540 are shellfish and 39 are land based.

The Group received 385 submissions in response to its public consultation process and also met with stakeholders to understand the issues surrounding the licensing process. The consultations and submissions reflected a diverse range of views, the main themes of which were focused on

- the length of time for deciding licence application decisions,
- lack of transparency around the process,
- the period and conditions of licences,
- differing perspectives on enforcement of licence conditions and
- the multiplicity of public bodies which have a role in the licensing process.
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Views were expressed by some that the current legislation needs to be consolidated and by others that the current Act is unworkable and outdated. The lengthy period involved in the introduction of new legislation was also acknowledged. Other issues which were identified were the introduction of Maritime Spatial Planning, the need for more rigorous analysis of the business case for applications, and attracting young people to industry.

The Group considered comparative consenting systems within Ireland, specifically An Bord Pleanála and the Environmental Protection Agency, which operate under the same EU legislative code.

The operation of the 1997 Act over the years and changing circumstances have given rise to important issues raised with the group including a lack of clarity, conflicts in definitions and the application of a multiplicity of statutory instruments. The licensing process is subject to a number of EU Directives, principally in relation to Environmental Impact Assessments and the Protection of Habitats and Birds. The 2007 adverse ruling of the Court of Justice of the European Union against Ireland, on implementation of the Birds and Habitats Directive, effectively stalled the licensing of aquaculture in Ireland until such time as Appropriate Assessments could be carried out on aquaculture licence applications in Natura 2000 sites. The Aarhus Convention on public access to environmental information also applies to the process. In addition, companion foreshore licences are required for marine aquaculture.

The report contains a series of appendices that describe in detail the steps involved in consideration of applications for different categories of aquaculture, which are commented upon in the body of the report.

Persons aggrieved by decisions of the Minister on applications for aquaculture licences can appeal to the Aquaculture Licences Appeals Board (ALAB), which conducts its own process for dealing with appeals. The detailed

steps which ALAB follows in determining appeals are described in the appendices, with related comments in the body of the report.

The Group examined comparative consenting aquaculture licensing systems in Scotland, Norway and in the Faroe Islands. These examinations provided insight to processes, technology and other valuable information of relevance to the Review.

The Group agrees that the aquaculture licensing system is in urgent need of reform.

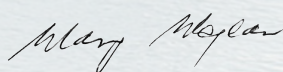
The legislation must be updated. This will take some time but an immediate start should be made by identifying the main issues and the options for addressing them.

While the preparation of legislation is underway, the Group believes that it is essential to implement reforms under the current legislation as soon as possible, benefitting all stakeholders. This would entail a comprehensive programme of measures including

- a formalised pre-application process,
- extensive use of information technology and web-based systems,
- additional technical expertise,
- making processes more timely and effective through streamlining,
- issuing procedural guidelines for applicants, the public and staff,
- better public notification procedures and
- use of Ministerial Regulations where necessary

A full list of the Group's recommendations is set out in Chapter 9.

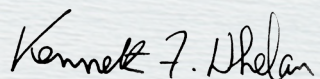
The Group would like to thank all who contributed to the review process. The Group is particularly grateful to the Scottish, Norwegian and Faroese Authorities for providing the benefit of their experiences and knowledge. The submissions and the discussions with stakeholders greatly assisted the Group in understanding the current process, the issues around it and options for reform. The staff of the Aquaculture and Foreshore Management Division, whom the Group met, were very helpful and committed to assisting in the reform of the process. We are very grateful for the assistance given to us by Paschal Hayes and Roni Hawe of the Marine Programmes Division which provided administrative support for the review. We couldn't have carried out our work without the unstinting support of our Secretary, Deirdre Morgan who arranged all our meetings, answered our queries, and carried out research and drafting at all times in a thoroughly professional manner. The Group finally wish to acknowledge the support of both the Department and the Marine Institute in providing facilities for the Group's work.



Mary Moylan
Chair



Lorcán Ó Cinnéide



Dr Ken Whelan

May 2017

1 BACKGROUND AND TERMS OF REFERENCE

1.1 Background

This independent review of the Aquaculture Licensing Process arises from a commitment in Food Wise 2025¹ to “Commission an independent review of the existing aquaculture licensing system involving all key stakeholders, to identify the current shortcomings and bottlenecks (legislative, resource and logistical)..”. The National Strategic Plan for Sustainable Aquaculture Development² has as a primary objective the sustainable development of the aquaculture sector and recognising the importance of environmental sustainability to the continuation and growth of the aquaculture industry. Chapter 8 of the National Strategic Plan analyses the present situation with regard to aquaculture licensing and the main challenges to overhaul the regulatory framework and procedures to deliver “A streamlined and efficient licensing system that provides greater business certainty to applicants and transparency to the general public”.

In light of these policy commitments, an independent group was tasked by the Minister for Agriculture, Food and Marine on the 20th of December 2016 to carry out an independent review of the aquaculture licence process and associated legal framework, the detailed terms of reference of which are set out below.

Aquaculture development in Ireland has been slow and uneven. There are strongly held and diametrically opposing views in relation to some types of aquaculture and the intensity of the debate has increased. This review is concerned solely with the licensing process. It is essential that all parties have confidence in the licensing system. Therefore it must be seen to consider all the issues, to be fair, open, timely and to deliver sound and reasoned decisions.

¹ Food Wise 2025 Local Roots Global Reach A 10 year vision for the Irish agri-food industry, 2015, available at:

<https://www.agriculture.gov.ie/media/migration/foodindustrydevelopmenttrademarkets/agri-foodandtheeconomy/foodwise2025/report/FoodWise2025.pdf>

² National Strategic Plan for Sustainable Aquaculture Development, December 2015 available at:

<http://www.agriculture.gov.ie/media/migration/seafood/marineagenciesandprogrammes/nspa/NationalStrategicPlanSusAquaDevel181215.pdf>

Review of Aquaculture Licensing Process

– Terms of Reference –

Independent Review Group

The Minister for Agriculture Food and the Marine appoints an independent three-person review group to conduct an independent review of the aquaculture licence process and associated legal framework, in line with the objectives described below. The Independent Review Group includes a Chair and two members and administrative support is provided by the Department.

Government Policy

Food Wise 2025 includes an action to “Commission an independent review of the existing aquaculture licensing system involving all key stakeholders, to identify the current shortcomings and bottlenecks (legislative, resource and logistical), to report by early 2016 and implement necessary changes to the aquaculture licensing system as a matter of priority”, while Ireland’s first National Strategic Plan for Sustainable Aquaculture Development proposes 24 actions to drive the sustainable development of the aquaculture sector. One of the actions proposed in the Plan is a “review and revision of the aquaculture licence process, including the applicable legal framework”.

Objectives of the Review

Having regard to Government policy, the Independent 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 and applicable EU and national law.
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.

Scope of the Review

The review will encompass the aquaculture licensing process from pre-application stage to the determination of a licence. It will encompass all applications for a licence under existing legislation, including an aquaculture licence, a trial licence, review of a licence or renewal of a licence. The Independent Review Group will consult with stakeholders and take their views into account in formulating its final report.

Duration of the Review

The Independent Review Group will report to the Minister within 4 months with a concise report containing recommended actions.”

2 AQUACULTURE PRODUCTION AND THE CURRENT STATE OF AQUACULTURE LICENSING; POLICY OBJECTIVES FOR AQUACULTURE IN IRELAND

2.1 Aquaculture Production in Ireland

The main aquaculture products in Ireland are Salmon, Oysters and Mussels (including Seabed Cultured Mussels and Rope Mussels). Other smaller product sectors include abalone, urchin, scallop, perch, trout and seaweed. The majority of these species are marine organisms cultivated in coastal or marine locations with some freshwater installations inland.

In Global and European terms, Ireland's aquaculture sector is small, contributing approximately 2% of EU production by volume and approximately 4% by value. The EU in turn represents just 1.7% of the world aquaculture production in volume and 3.2% in value.

The 2017 Bord Iascaigh Mhara (BIM) Annual Aquaculture Survey³ shows Irish aquaculture production in 2016 in Ireland at 44,000 tonnes with a value of €167 million. Salmon production was 16,300 tonnes with a value of €105 million. Gigas Oyster production was 9,681 tonnes with a value of €41.5 million and Mussel production was 16,121 tonnes with a value of €12.3 million. The remaining smaller scale aquaculture products include seaweed, sea urchins, abalone, scallop, perch and trout.

A 2016 EU Scientific, Technical and Economic Committee for Fisheries (STECF) Report⁴, referring to Ireland, notes that all sectors of aquaculture production face their own challenges ranging from the slow processing of licence applications, the impact of weather conditions, algal blooms, disease in certain species and the availability of raw material.

"Production expansion is limited by a number of factors; Availability of licensed ground, raw material cost against product value, distance to market (mainly export) and raw materials, potentially diseased input stock, Exposed and harsh environment, in comparison to some mainland competitors."⁵ The BIM survey shows employment in the sector at 1,949 in 2016, of which 1,300 were engaged in oyster production. The workforce is 92% male and 8 % female.

While overall production and the value of aquaculture products increased significantly on an annual basis from 2015 to 2016, the sector has experienced long term stagnation in production or, in some product areas, a significant actual decline in production levels from previous high-points.

³ 2017, BIM, Annual Aquaculture Survey, available at: <http://www.bim.ie/media/bim/content/publications/aquaculture/BIM-Annual-Aquaculture-Survey-2017.pdf>

⁴ JRC, Scientific and Policy Reports, STECF, Economic Report of EU Aquaculture Sector, (STECF 16-19) available at: https://stecf.jrc.ec.europa.eu/documents/43805/1491449/_2016-10_STECF+16-19+-+EU+Aquaculture_JRCxxx.pdf

⁵ Page 223, Ibid.

2.2 Current State of Aquaculture Licensing

Aquaculture licences fall within three broad types: marine finfish, shellfish and land-based. Marine finfish and shellfish licences account for approximately 94% of licences. Land-based aquaculture activity accounts for 5% of licences and aquatic plant cultivation (mostly seaweed) accounts for 1% of licences.⁶ Within these three categories there are a number of subsets including multi-trophic aquaculture (the cultivation of multiple species in one production area) and research licences (a small number issued).

Between the years 2005 and 2016 there were 740 aquaculture consents in circulation. These 740 consents consist of 444 licences operating within the period granted and 296 licences operating under Section 19A(4), Fisheries(Amendment) Act, 1997, which entitles a licence holder to continue aquaculture operations pending a decision on the renewal of their licence⁷.

The 444 licences in date can be broken down into the following categories:

Shellfish	407
Land-based	19
Multispecies(mainly shellfish and seaweed combined)	11
Marine finfish	4
Seaweed	3

A similar breakdown for the 296 licences operating under Section 19(A)4 was not available from the Aquaculture, Foreshore Monitoring Division (AFMD) of Department of Agriculture, Food and the Marine (DAFM) at the date of publication. The Group has been advised by DAFM that the Minister determined 492 licences since 2012.

There are 612 applications waiting determination by the Minister. This table provides a breakdown by category.

Licence Applications Currently on Hand		612
• Marine Finfish	33	
• Marine Shellfish including Aquatic Plants	540	
• Land-based	39	

In addition to the 612 pending determinations, AFMD expect that, of the 444 licences operating within the period for which these licences were granted, 10 licences will fall due for renewal in 2017, 0 licences in 2018, 2 licences in 2019 and 432 licences from the year 2020 onwards. The Group has not received a forecast for new applications into the future. AFMD have advised the Group that the Division, under its current structure and systems, had a capacity to process between 100 and 140 consents per annum.

⁶ The harvesting of wild seaweed is licensed by the Department of Housing, Planning, Community and Local Government.

⁷ Unless a specific distinction is made references to an aquaculture licence or consent will include licences operating under Section 19A(4).

2.2.2 Roles and Responsibilities of Participants in Aquaculture Licensing Processes

The Fisheries (Amendment) Act 1997 and its associated Regulations set out the framework for the processing of Aquaculture licensing operations.

The Minister for Agriculture, Food and the Marine, (MAFM) is the licensing authority under the Act. The Aquaculture and Foreshore Management Division, (AFMD) of the Department manages the processing of aquaculture licences on behalf of the Minister. The Marine Engineering Division (MED) of the Department undertakes site mapping and provides certain technical advice on applications as well as undertaking certain post-licensing inspection duties. The Marine Institute (MI) provides scientific advice on a range of marine environment and aquaculture matters and in the case of applications which require Appropriate Assessment (AA) under EU Birds and Habitats Directives⁸, the MI prepares scientific reports. Advice is also provided by Bord Iascaigh Mhara (BIM) and the Sea Fisheries Protection Authority (SFPA). The National Parks and Wildlife Services (NPWS) are consulted in relation to habitat protection. Inland Fisheries Ireland (IFI), An Taisce and the Commissioners of Irish Lights (CIL) are also consulted. Where relevant, the Local Authority and/or Harbour Authority are consulted. The table found at Appendix 1 sets out a range of roles and responsibilities, identifying the statutory basis where applicable.

In determining an application the Minister is required to consider a wide range of complex factors, involving consultation with applicants, statutory and non-statutory consultees, having regard to primary legislation, regulations and EU and international directives which are in force in Ireland.

Decisions of the Minister in respect of aquaculture licence applications, including licence conditions where applicable, may be appealed to the Aquaculture Licences Appeals Board (ALAB). ALAB can confirm, refuse or vary a decision made by the Minister or issue licences itself under its own authority.

2.3 Government and EU policy on Aquaculture

Government policy on aquaculture has evolved over the past thirty years, with the general aim of expanding production and employment in shellfish, finfish and seaweed aquaculture. Policy has been set out in statements from the lead government department and the key development agencies related to the sector, Bord Iascaigh Mhara (BIM) and Údarás na Gaeltachta (UnaG).

Government policy for the aquaculture sector is set out in two 'headline' documents, "Harnessing our Ocean Wealth"⁹ (2012) which has an overall marine development focus and "Food Wise 2025", the Report of the 2025 Agri-Food Strategy Committee, which focuses on the development of the food sector, including seafood.

Aquaculture policy has most recently been articulated in Ireland's Operational Programme for the European Maritime and Fisheries Fund 2014-2020¹⁰ (EMFF) which refers to targeted "growth of the aquaculture industry by 45,000 tonnes to 81,700 tonnes by 2023. This level of projected increase is based on a range of factors which have impinged on the output volume of the sector since 2000. The approach taken was to review the historic performance of each of the key species and production systems and to aim to restore each of those species to their previous peak production levels. It is intended that the future increase in production will be derived from a combination of increased and or restored productivity from the existing aquaculture licence portfolio and from a limited number of new licences. The makeup of this increased output will include shellfish, finfish, novel species and seaweed in a variety of different production systems, both intensive and extensive. This overall output increase will be largely dictated by market forces and site suitability for the cultivation of particular species"¹¹

⁸ Birds Directive: Directive 74/409/EEC amended to: [Directive 2009/147/EC](#) of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds. Habitats Directive: [Council Directive 92/43/EEC](#) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

⁹ Harnessing Our Ocean Wealth- An Integrated Plan for Ireland, 1 July 2012, available with review of progress reports at: <https://www.ouroceanwealth.ie/publications>

¹⁰ European Maritime and Fisheries Fund (EMFF) Operational Programme for Ireland 2014- 2020, 30 October 2015, available at: https://ec.europa.eu/fisheries/sites/fisheries/files/docs/body/op-ireland_en.pdf

¹¹ Page 16, Ibid

A notable feature of this policy is that while it sets overall production targets for aquaculture, it does not indicate specific targets for different types of product or specific species.

This latest iteration of EU policy on Aquaculture is set out in “Strategic Guidelines for the sustainable development of the EU Aquaculture” a Communication from the EU Commission to the European institutions COM(2013) 229¹².

The Communication states that *“Aquaculture can contribute to the overall objective of filling the gap between EU consumption and production of seafood in a way that is environmentally, socially and economically sustainable.”*¹³

A comparative study of licensing timescales across the EU and EEA was produced as part of the review. This study indicated that many States took between 2 to 3 years to make a determination, while Norway took only 6 months. Ireland ranked well below average in this comparison.

These 2013 Strategy Guidelines invited Member States to set out a national strategy to address the stagnation of EU aquaculture and reduce the licensing timescales.

The EU strategy mandated that national strategy was to focus on the following themes:

- (a) Simplify administrative procedures (reduce licensing timescale);
- (b) Marine Spatial Planning (identify suitable sites, reserve for aquaculture);
- (c) Enhance competitiveness (use European Maritime and Fisheries Fund (EMFF) to promote innovation, research, and growth);
- (d) Exploit EU competitive advantages (quality, traceability, organics, labelling)

In response to this EU policy Ireland published the National Strategic Plan for Sustainable Aquaculture in 2015.¹⁴ This Plan proposes 24 actions to drive the sustainable development of the aquaculture sector and sustainably grow production in the sector by 45,000 tonnes by 2023 – almost doubling production.

The Plan specifies its 2020 vision for aquaculture licensing as being: *“A streamlined and efficient licensing system that provides greater business certainty to applicants, and transparency to the general public.”*

Actions 21 to 24 relate to aquaculture licensing procedures and propose to:

- “21. Progressively remove the current aquaculture licensing backlog.*
- 22. Review and revision of the aquaculture licensing process, including the applicable legal framework.*
- 23. In the context of a reviewed process and revised legal framework, consider the phased introduction of appropriate timescales for licence determination.*
- 24. Develop a data management and information system with online aquaculture licence application and tracking functionality and spatial mapping of aquaculture sites and exclusion areas.”*¹⁵

The Group has undertaken its review having regard to the EU and national policy contexts referred to above.

¹² Communication From the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of Regions, Strategic Guidelines for the Sustainable Development of EU Aquaculture, 29 April 2013, COM(2013) 229 final, available at: https://ec.europa.eu/fisheries/sites/fisheries/files/docs/body/com_2013_229_en.pdf

¹³ Page 3, Ibid

¹⁴ The development of a National Strategic Plan for Sustainable Aquaculture is also a regulatory requirement of the Common Fisheries Policy (CFP). National Strategic Plan is available here: <http://www.agriculture.gov.ie/media/migration/seafood/marineagenciesandprogrammes/nspa/NationalStrategicPlanSusAquaDevel181215.pdf>

¹⁵ Chapter 8, page 91, Ibid

3 THE REVIEW PROCESS

The Group engaged in extensive information gathering to assist it in gaining an understanding of all the issues and perspectives around aquaculture licensing. Submissions from stakeholders and the public were invited and 385 submissions were received. The main themes of the submissions are outlined at paragraph 3.2. All submissions are published online: www.fishingnet.ie.

3.1 Consultations

The Group met with a wide range of stakeholders. These meetings gave stakeholders an opportunity to elaborate on issues raised in their submissions and enabled the Group to tease out issues and gain a greater understanding of the process. Appendix 2 lists those who met with the Group.

The Group also considered aquaculture licensing procedures adopted in other jurisdictions and met in Ireland with representatives from Norway, and the Faroe Islands. As part of review the Group travelled to Scotland to compare the aquaculture licensing processes. Marine Scotland (MS), (the Scottish equivalent of DAFM) met the Group and facilitated meetings with a number of different consenting authorities. A member of the Group met with the Acting Director General of the Norwegian Department of Fisheries and Aquaculture in Oslo and was briefed on details of the Norwegian aquaculture licensing system.

In order to explore the approach adopted in comparative national consenting procedures which share some characteristics with Aquaculture licensing, the Group met with representatives from the Environmental Protection Agency (EPA) as well as An Bord Pleanála (ABP), the Irish planning appeals board.

The Group invited submissions from interested parties and 385 submissions were received. The Review Group were encouraged by the level of interest in the review and are very grateful to all who wrote with their views. However, many submissions dealt with issues that were outside the scope of the Terms of Reference of the Review. A list of all the submissions received is at Appendix 3.

The relevant submissions reflected a diverse range of views. Many were generally supportive of the aquaculture industry in terms of its role in the production of high quality seafood, its contribution to exports, as an important source of employment in remote rural areas and assisting in sustaining rural communities. Other submissions were highly critical of the industry on grounds including their perception of adverse impact on the marine environment, wild salmon and wild birds, visual impact on the landscape and conflict with tourism development, and the introduction and farming of non-native species. There was common ground in a perception of the aquaculture licensing process lacking transparency, being inefficient and unduly slow in determining licences. Some also expressed a lack of confidence in the expertise of those administering the process and rigour of the process. Many who had concerns about the industry considered that there was a lack of enforcement in regard to breaches of licences or their conditions. On the other hand, many in the industry complained that licences contained inappropriate or outdated conditions that potentially negatively impacted on fish health and environmental conditions. The view was also expressed that the Department was over zealous in its enforcement of such conditions.

The submissions and recommendations directly related to the Terms of Reference of the Review can be summarised under a number of themes which are set out below and discussed.

3.2 Main Themes from the Consultation Process

3.2.1 Processes for dealing with applications

There was a general view that licence determination took far too long from application to Ministerial decision to a decision from ALAB, where a decision is appealed. A number of submissions considered that a definite time limit for decision-making be introduced to apply to the Department and ALAB and that only one extension of this be allowed. It was suggested that requests for additional information, should also be limited to one opportunity. The availability of relevant expertise in the Department was queried. It was suggested that a Case Officer be assigned responsibility for each application. Allied to this was an express need for an electronic tracking system to enable applicants and the public to monitor progress on applications. Many submissions stated that the current process lacked transparency and the public notice provisions were inadequate.

A number of submissions referred to the need to update the primary legislation regulating aquaculture. Others advocated making changes where possible through administrative means utilising the current primary legislation, Ministerial Guidelines and Statutory Instruments. It was argued that primary legislation would take a number of years to draft, enact and implement and that the issues are too urgent to await new legislation. There were submissions stating that the 1997 Act and its Statutory Instruments were not being properly applied. Other submissions considered that EU law in relation to EIA, Appropriate Assessment and Public Participation in Environmental Decision Making had not been correctly transposed into the Aquaculture legislative framework.

The processes for carrying out consultation with the public and statutory bodies were considered inadequate, in particular, the communication process for informing the public. It was suggested that public and statutory consultation should be carried out concurrently and not successively as seemed to be the case in relation to finfish licensing;

Where an Environmental Impact Assessment (EIA) and an Appropriate Assessment (AA) were required for an application, these should be carried out at the same time. Where a project required planning permission and/or Environmental licensing as well as an aquaculture licence, it was suggested that use be made of the EU provision that allowed one Regulator to carry out one AA/EIA for the entire project. In regard to land based aquaculture, EIA screening should be carried out jointly by the Local Authority and the Department.

The cost and complexity of Environmental Impact Statements (EIS) and Appropriate Assessment reports were also raised. There were suggestions for a greater sharing of the burden of the cost of EIA between the State and applicants with each side critical of the burdens on themselves.

The development of a risk based approach was advocated as a basis for an objective assessment of aquaculture licences and that full EISs and AAs be a component of this approach.

A number of submissions advocated a whole bay approach to licensing rather than dealing with individual licences, given in combination and cumulative impacts of operations on the marine environment and Natura sites. Natura sites are those which have been designated under the relevant EU habitats and birds directives.

3.2.2 Licence Periods, Terms and Conditions

Licences are typically issued for 10 years. The 1997 Act provides for licence duration of up to 20 years and submissions considered that 20 year licences should be the norm. Many submissions requested that the term be extended to the full permissible 20 years under current legislation in the interests of certainty, to provide greater security of tenure, and to allow individual businesses to grow and seek financial investment. It was suggested that any misgivings surrounding any time extension could be allayed by a structured monitoring system to ensure compliance with environmental and licence conditions. Foreshore leases and licences are companion consents to Aquaculture Licences,¹⁶ with Sections 2 and 3 of the Foreshore Acts allow for leases and licences to be granted for terms not exceeding ninety-nine years, respectively.

Submissions raised concerns regarding licence conditions which were inoperable and inflexible and which didn't take account of developments in Best Available Technologies (BAT). An application to amend a licence condition could lead to a review of the whole licence with significant cost and time implications. It was suggested that technical conditions relating to a licence could be included as appendices which could be amended to reflect BAT.

Submissions relating to finfish farms considered that the Maximum Allowable Biomass (MAB) was a more appropriate parameter than a specified number of smolts or weight.

Submissions also advocated that "use it or lose it" should be applied and that licences which had not been commenced and those that had ceased to be used, should be revoked in accordance with the 1997 Act. In relation to the sale of licences, it was submitted that a new owner must demonstrate the capacity to meet the provisions of the licence before the transfer could be approved. Reference was also made to the need for a resolution to be found for some currently unused finfish licences which could not be used or alternatively revoked due to their uncertain legal status.

The case for a more efficient streamlined process for research and trial licences was also put forward.

A number of submissions related to fees. These included the case for higher application fees to make a greater contribution to the costs of administering the licence determination system but with conditions requiring compliance with strict time frames for decision making. It was also stated that the cost of making an appeal was too expensive for affected members of the public.

A number of submissions highlighted the impact of the continued operation of aquaculture licences after their expiry under the provision of Section 19A(4) of the 1997 Act while awaiting renewal, and the highly negative impact this has had due to grant-aid being unavailable for such enterprises and reduced access to capital and business development opportunities.

¹⁶ Section 82, Fisheries Amendment Act 1997: "The Minister in considering an application for a lease or a licence under the Foreshore Acts, 1933 and 1992, 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."

3.2.3 Enforcement of Aquaculture Licence Conditions

There were a variety of views in relation to enforcement. Some considered there was no visible enforcement and operators were allowed continue operating while not complying with the conditions of their licences. Some argued that there was over-zealous enforcement of conditions which were out of date and unworkable.

Some submissions considered that the various agencies involved in enforcement and monitoring could cooperate better to share information and avoid need for separate sampling/ data collection.

Publication of monitoring results, for example online, would assist public understanding of aquaculture.

Incremental penalties, such as driving licence penalty point system, were proposed to reflect the relative seriousness of non-compliance up to revocation of a licence.

Recognition of need for contingency measures was required, for example where stock had to be moved because of disease threats due to Harmful Algal Blooms affecting shellfish.

3.2.4 Institutional Landscape

Many submissions referred to the large number of Departments, Agencies and Bodies involved in the Aquaculture Licensing process and the consequent difficulties in differentiating the roles of the different players, the potential for delays arising from the numbers to be consulted and the potential for conflicting views between the different bodies. There was a need for greater clarity regarding the role of these bodies in relation to advising on licence applications and monitoring and enforcement.

Some submissions saw potential conflict between the Minister's role in relation to setting national policy for aquaculture and subsequent licensing. Other submissions saw potential conflict between the Minister's role as licensing authority and enforcement authority. Others considered that the independence of bodies funded by the Minister was compromised by their reliance on such funding.

It was argued that the licensing determination functions should be transferred to a standalone independent body, either a newly established dedicated body or a transfer of the functions to existing specialist environmental licensing agencies, for example An Bord Pleanála or the Environmental Protection Agency. It was also suggested that aquaculture be brought within the planning system at Local Authority level.

Various parties made significant criticism of the approach and performance of AFMD and DAFM generally with respect to their handling of Aquaculture licensing. AFMD viewed the criticism it receives as essentially part and parcel of being a consenting and monitoring body dealing with a complex brief and the tension inherent in a regulatory process.

3.2.5 Legislation

A number of submissions referred to the legislative framework, the Fisheries (Amendment) Act 1997 and subsequent amendments and the Aquaculture (Licence Applications) Regulations 1998 and amendments. As a minimum, the Act and Regulations need to be consolidated for ease of reference.

It was also submitted that the Act was unworkable and inadequate for current circumstances and needed urgent amendment. Others argued that given the delay in preparing and enacting legislation, the immediate improvements which were required should be introduced through administrative means, Ministerial Guidelines and Secondary Legislation (Statutory Instruments).

Some submissions considered that EU legislation on EIA, Bird and Habitat Protection, Access to Information on the Environment and Public Participation in Environmental Decision Making had not been properly transposed into the Aquaculture Licensing legal framework.

3.2.6 General Issues

The need for the designation/licensing of new areas for aquaculture development was raised in the submissions; as was the need for the introduction of Marine Spatial Planning (MSP), which would include zoning for a wide range of marine activities.

Licence applicants are required to include certain business information in their applications including projected production output over a number of years and projected numbers employed. Some submissions suggested that better information was required under this heading and more rigorous analysis of the business case is needed to ensure a sustainable industry.

Issues were also raised regarding supporting new entrants to the industry including young people, education and certification.

A number of submissions considered that certain minor works on the foreshore should not require a licence or should be deemed to be licensed where included in an aquaculture licence.

4 LEGISLATIVE AND REGULATORY FRAMEWORK

4.1 1997 Act and Statutory Instruments

Aquaculture licensing operates within a complex legislative framework. The principal Act is the Fisheries (Amendment) Act 1997 which sets out the legislation in relation to the regulation and licensing of aquaculture, including appeals. This Act has been amended on a number of occasions. Regulations under the Act set out the procedures for the licensing process. The principal Regulations are the Aquaculture (Licence Application) Regulations 1998 and these have in turn been amended on a number of occasions. There is a clear need for consolidation of the Act and the Regulations to provide a clear, accessible statement of the current law.

The operation of the Act over the years and changing circumstances and developments in the aquaculture industry have given rise to important issues. Those raised with the Group include: a general lack of clarity, a conflict between definitions, a large number of statutory instruments and specifically a lack of clarity on such issues as how to treat reviews and renewals, and certain rights of appeal.

4.2 Relevant EU and UN Directives and Conventions

4.2.1 EU Directives and Statutory Instruments

The EU Directives on Environmental Impact Assessment (EIA) and on the Protection of Birds and Natural Habitats have direct implications for aquaculture licensing. EU requirements for Environmental Impact Assessment have been transposed into national aquaculture legislation under a number of Regulations made under the European Communities Act. An EIA is required for all finfish farming applications. All other aquaculture applications are subject to EIA screening to “ensure that before a decision is made aquaculture likely to have significant effects on the environment by virtue, inter alia, of its nature, size or location is subject to an environmental impact assessment.” Environmental Assessment is complex and must be carried out in a rigorous and effective manner. Submissions have expressed concerns about the cost of Environmental Impact Statements, about the scope and extent of the information required and access to the statements. Submissions have also queried the need for EIA for renewal of licences where there is no significant change in the operation.

The EU Directives on EIA have been amended by Directive 2014/52/EU . Among its key provisions are:

- The mandatory introduction of streamlining and joint procedures where a project requires an EIA and an Appropriate Assessment
- Strengthening of the screening procedure requiring the developer to provide relevant information which can draw on the results of environmental information collected under other EU Environmental Directives
- The determination on whether or not an EIA will be required must be made within 90 days of the developer submitting all the required information
- An option for Member States to set thresholds/ criteria to determine when projects need not undergo screening or EIA or must undergo EIA without prior screening
- An Environmental Impact Assessment Report must be prepared by competent experts
- A mandatory provision that all relevant information is available to the public electronically

The Group understands that the necessary transposition provisions have not as yet been made but are being prepared at present.

The EU Birds and Natural Habitats Directives have been transposed into Irish law under the European Communities (Birds and Natural Habitats) Regulations 2011 (477 of 2011). The Regulations require that a screening for Appropriate Assessment must be carried out for an application for an aquaculture licence “*which is not directly connected with or necessary to the management of a [Natura 2000] site..... to assess, in view of the best scientific knowledge and in view of the conservation objectives of the site, if the project, individually or in combination with other projects is likely to have a significant effect on the [Natura 2000] site.*”¹⁹ Where it cannot be excluded following this screening that the project will not have a significant effect on the European site, an Appropriate Assessment must be carried out. Regulation 477 of 2011 sets out the procedures to be followed in carrying out an Appropriate Assessment. The Regulations provide that consent can only be given for a project where the consenting authority has determined that the planned project shall not adversely affect the integrity of a European site. A majority of aquaculture activities occur on or adjacent to Natura 2000 sites which are designated under the EU Directives for the Protection of Birds and Natural Habitats and therefore require the carrying out of Appropriate Assessment. This has a major impact on the requirements to be met for determining aquaculture applications in Ireland. A map of the Natura 2000 sites in Ireland is presented in Appendix 4.

4.2.2 Aarhus Convention on Access to Information on the Environment, Public Participation in Decision-Making and Access to Justice in Environmental Matters

The United Nations Economic Commission for Europe Convention on Access to Information on the Environment, Public Participation in Decision-Making and Access to Justice in Environmental Matters (commonly referred to as the Aarhus Convention), is part of EU and national law and applies to the operation of the aquaculture licensing system. The Convention provides for the right of everyone to receive environmental information held by public authorities, to participate in environmental decision making for example by commenting on proposals for plans or programmes relating to the environment, to have these comments taken into account in decision making and for information to be provided on the final decision and the reasons for the decision. It also includes an access to justice provision giving people a right to have procedures reviewed that haven’t respected the right to access to environmental information or participate in decision making.

The Aquaculture licensing system must respect these provisions.

¹⁹ Regulation 42(1), European Communities (Birds and Natural Habitats) Regulations 2011, SI No. 477 of 2011, available at: <http://www.irishstatutebook.ie/eli/2011/si/477/made/en/print>

4.3 Case Law

Environmental decision-making is highly litigated in Ireland reflecting the complex interactions between socio-economic development and environmental protection within the very complicated legal framework as outlined above. Court decisions whether in relation to planning permissions or environmental licensing can establish precedents for the aquaculture licensing process and DAFM has to ensure that it remains up to date on such precedents and applies them as appropriate.

4.3.1 Court of Justice of the European Union (C-418/04) and obligations pursuant to the Birds²⁰ and Habitats Directive²¹.

The adverse judgment of the Court of Justice of European Union (CJEU) in (C-418/04)²² delivered on the 13th December 2007 in relation to the implementation of the Directives on the protection of Birds and Habitats in Ireland has major implications for aquaculture licensing in Ireland. The Court found, among other things, that aquaculture licensing was not fully compliant with the Directives in so far as Appropriate Assessments were not carried out during the licensing determination process on operations which could have an impact on Natura 2000 sites (Special Areas of Conservation and Special Protection Areas).

As a result of the CJEU's determination, the Irish Authorities including the National Parks and Wildlife Service and the Department of Agriculture, Food and Marine (DAFM), entered into negotiations with the EU Commission to agree a 'Roadmap' to facilitate compliance. These negotiations laid out steps that would move the State towards carrying out Appropriate Assessments as required under Article 6. These steps included:

- Data Collection in relevant bays
- Detailed analysis of the raw data collected
- Setting of 'Conservation Objectives' by NPWS in respect of each 'Natura' site
- Carrying out of 'Appropriate Assessment' reports by the Marine Institute (MI) 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

The practical effect of this decision was that new licence applications or any renewal applications could not be processed, in the majority of cases, without an Appropriate Assessment, which due to the time required to gather data, analyse data and set conservation objectives has contributed to the delays and the significant backlog that currently exists.

The Marine Institute collects data directly and from contractors, and analyses these data to complete the Appropriate Assessment reports for the Minister. As of the 31st December 2016, 21 Bay-wide Appropriate Assessment (AA) reports were submitted to the DAFM. Some 6 AA assessments remain to be completed. Of these 2 relate to sites of large geographical size and the others are for smaller sites. It is expected that these AA reports will be completed in 2017 enabling licence applications in these areas to be processed. A list of completed AA reports received by the Aquaculture and Foreshore and Management Division (AFMD) can be seen at Appendix 4.

²⁰ Birds Directive Directive 74/409/EEC amended to: [Directive 2009/147/EC](#) of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds.

²¹ Habitats Directive: [Council Directive 92/43/EEC](#) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

²² [Case C-418/04](#): Judgment of the Court (Second Chamber) of 13 December 2007 – Commission of the European Communities v Ireland (Failure of a Member State to fulfil obligations – Directive 79/409/EEC – Conservation of wild birds – Articles 4 and 10 – Transposition and application – IBA 2000 – Value- Quality of the data – Criteria – Margin of discretion – Directive 92/43/EEC – Conservation of natural habitats and of wild fauna and flora – Article 6- Transposition and application) OJ C 51, 23.2.2008, p. 3-4.

4.4 Foreshore licensing and leasing processes

Licences in the marine environment generally involve occupation of a part of State-owned foreshore, which in simple terms is the seabed and shore from the high water mark out to the limit of the territorial seas (c.12 nautical miles). Any activity, enterprise or structure on the foreshore requires consent from the relevant Minister. Consents are issued in the form of either a foreshore licence or foreshore lease. The procedures for Foreshore Licences and Leases are contained in primary legislation, the Foreshore Acts 1933 to 2014. For the purposes of aquaculture, the Minister for Agriculture, Food and the Marine is the relevant Minister to determine foreshore consents and applications are processed in parallel with aquaculture licence applications.

The Foreshore leases and consents are considered 'companion' licences to aquaculture licences. Section 82 of the Fisheries (Amendment) Act 1997 provides that when the Minister is considering an application for a foreshore lease or licence which is sought in connection to an aquaculture licence s/he *"shall have regard to any decision of the licensing authority in relation to the aquaculture licence"*.

In deciding whether to grant a Foreshore Lease the Minister for Agriculture, Food and the Marine (MAFM) is required to: a) consult with the Minister for Housing, Planning, Community & Local Government; b) charge for the lease in a way the Minister regards as proper, c) consider the covenants and conditions appropriate under Section 2(4) to (8) and have regard to the aquaculture licence determination under S.82 described above. Given this Section 82 requirement the processing of a Foreshore Lease runs concurrently to the aquaculture licensing process and does not in itself appear to cause any particular logjam in the licensing process.

5 CURRENT OPERATION OF THE LICENSING PROCESS

The Aquaculture licensing process is complex for a number of reasons including the number of issues covered in one licence including for example: structures, fish health, environmental considerations and food safety. The Group recognises the advantage of having one licence and a foreshore licence in contrast to the greater number of licences required in other jurisdictions.

Arising from new EU Directives and from precedents set by Court decisions, the legislative framework is evolving. The process must comply with all the statutory provisions regarding consultation with the public and with State Bodies such as the NPWS in relation to Natura 2000 sites.

The Group found the details of the licensing process opaque and it took considerable effort and time to gain an understanding of how the licensing process was carried out; the steps involved from initial receipt of an application to the making of a recommendation to the Minister for his determination; the parties involved at these different stages; the pinch points in the process and the timeframe for each stage. It was essential that the Group understood the existing processes before moving on to describe potential improvements. Describing the processes was challenging and the Group therefore prepared flow charts of the relevant steps in each of the licensing processes drawn from our consultations and analysis. AFMD commented on the Flowcharts. The attached flow charts provide a snapshot of the licensing processes, at this time.

The licensing procedures are set out in Flowcharts 1 to 4 (Appendix 6 to 9). The following procedures are described in the charts:

1. Appropriate Assessment of Natura 2000 sites within a Bay.
2. Shellfish and Aquatic Plant licensing process.
3. Marine Finfish licensing process.
4. Land-based freshwater and saltwater licensing process.

The first process describes the steps for an Appropriate Assessment of Natura 2000 sites within a Bay in accordance with the roadmap to achieve compliance with the Directive. This process is described first because it is a prerequisite to any aquaculture licence that requires an appropriate assessment. It is most relevant to the second process (Shellfish and aquatic plant licensing), as to date most Shellfish licences have required an AA but it could also apply to relevant Marine Finfish (third) and Land-based (fourth) processes.

The procedures involved in each of the licensing processes described are derived from regulations made under the Fisheries (Amendment) Act, 1997 and the relevant EU Directives.

5.1 Appropriate Assessment of Natura 2000 sites within a Bay: Flowchart 1 at appendix 6.

The process for conducting Appropriate Assessment is set out in Regulation 42 of the European Communities (Birds and Natural Habitats) Regulations 2011.

The grey box on the flow chart describes the steps set out in the 'roadmap' as agreed with the European Commission, which involved the designation of Natura 2000 sites and the setting of conservation objectives necessitating data collection. The first nationwide iteration of the setting of Conservation Objectives is complete. Following setting of the Conservation Objectives, the Marine Institute (MI) commences the AA process on behalf of the MAFM. This requires the Institute to prepare an AA report for the Natura sites within a bay in consultation with NPWS.

AFMD then prepare a Draft Conclusion Statement drawing on this report. This Draft Conclusion Statement determines how they will proceed with determination of licensing within the bay.

The completion of this process enables individual applications, which require an AA, to progress as described in Flowcharts 2, 3 and 4.

5.2 Shellfish and Aquatic Plant licensing process: reference Flowchart 2 at appendix 7

Most aquaculture licence applications in Ireland are for Shellfish licences and the majority of these are located in or adjacent to a Natura 2000 site. The process described above in flow chart 1 is carried out before an individual application for a shellfish or an aquatic plant licence can proceed. This part of the procedure is illustrated in Steps 2 and 3 of the Flowchart, following an informal pre-application discussion and validation of the application, Steps 0 and 1.

Each application is then screened to decide if an Environmental Impact Assessment (EIA) is required. The Group has been advised that this screening is carried out after the preceding AA screening. To date all shellfish applications have been deemed not to require an EIA. This part of the procedure is illustrated at Steps 4 to 6 of the Flowchart.

A key stage in the process is the consultation process carried out with the Public and Statutory Consultees. Steps 7 to 12 outline the steps surrounding the Consultation process. This encompasses the preparatory work carried out by AFMD, requirements on the applicant to advertise and subsequent collation of submissions including the applicant's response and if required, the seeking of further advice by AFMD from technical and scientific advisors. The Regulations provide for 4 to 8 week consultation periods depending on whether an EIS is included and 3 weeks for the applicant to reply to submissions made.

At Step 13 the individual applications are considered by reference to the Natura 2000 site process as indicated in Flowchart 1.

The Group has been advised that should an EIA be required, in addition to the AA, an additional 25 to 52 weeks is added to the timeframe.

All the information received in respect of the application comprising of the EIA screening, the AA process and the consultation process, is evaluated and a recommendation prepared and forwarded to the Minister for determination on whether to fully grant, grant with variations or refuse the licence, Step 14. Steps 15 to 19 describe the potential outcomes following this determination. These steps are mirrored in all aquaculture licence determinations.

Currently the processing of a Shellfish licence takes between 43 and 130 weeks depending on the complexity of the application. (This figure is exclusive of the potential 25 to 52 week period should an EIA be required and of the 9 month determination period as described in Flowchart 1.) This process is also followed for Aquatic Plant applications. Currently these account for just 1% of applications.

5.3 Marine Finfish Licensing Process: reference Flowchart 3 at appendix 8

Marine finfish applications account for approximately 5% of all applications in AFMD. But given their nature and size they are more complex and demanding than their Shellfish counterparts for applicants and the licensing authority. An Environmental Impact Assessment (EIA) is mandatory for marine finfish applications and applicants are required to submit an EIS with their initial applications.

The obligation to carry out an AA applies if the application is within a Natura 2000 site or likely to impact on a Natura 2000 site. While it has not been required for any Finfish applications to date the Flowchart describes the steps that would apply if an AA was required. Steps 0 to 6 describe an informal pre- application discussion, a validation of the application followed by a determination as to whether an AA will be required or not.

Step 7 describes an initial consultation process to collect the observations of technical and scientific advisors.

Steps 8 to 10 set out the Consultation process with the Statutory Consultees from forwarding documents to Statutory Consultees, assembling comments received from them, forwarding Consultees' comments to the applicant for comment and returning these in turn to Statutory Consultees for further comment. Step 11 describes the Public Consultation stage, where copies of all documentation including applications, EIS, AA (if required) and all submissions and comments from the Statutory Consultation are placed on the Department website. The applicant is instructed to place an advert on the Department's website. Step 12 and 13 describes the collation and processing of submissions received, which are then forwarded to the applicant for response.

All issues raised are sent for technical and scientific advice and full consideration is given to all information received, Step 14.

Potentially two repetitions of steps may occur: the first potential repetition is from Step 10 back to 8 should a Statutory Consultee seek further information. The second potential repetition is from Step 14 back to 8 should further environmental information that is considered significant be received.

The current process includes a separate step of making available to the public all the information received to this point in the process, Step 15.

The assessment of the potential environmental impact is prepared by AFMD with the support of their technical and scientific advisors along with the Draft AA Conclusion Statement (if required). These are then submitted to the Minister for determination. The Minister's determination on the EIA is published on the Department's website, Steps 16 and 17.

A submission with a recommendation in respect of a licence is prepared at Step 18 and submitted to the Minister, who, as the licensing authority, makes a decision on whether to fully grant, grant with variations or refuse the application, Step 19. Steps 20 to 23 describe the potential outcomes following this determination. These steps are mirrored in all aquaculture licence determinations.

Currently this processing of a Marine Finfish licence takes between 87 and 144 weeks depending on the complexity of the application.

5.4 Land-based freshwater and saltwater licensing process: reference Flowchart 4 at appendix 9

Land-based Freshwater and Saltwater applications account for 5% of applications. These applications differ from both Shellfish and Marine Finfish processes. To make a valid application for an aquaculture licence, the applicant must have been granted planning permission from the relevant local authority (including an appropriate assessment, if required) and any requisite effluent and discharge licences granted from the EPA.

An EIA screening process is required. Steps 0 to 6 describe an informal pre- application discussion, a validation of the application followed by the EIA screening. The applicant is then informed of the outcome of the screening process, or the full EIA process if required, and advised to place in a local newspaper adverts in relation to their licence application.

A key stage in the process is the consultation process carried out with the Public and Statutory Consultees, which is described at Step 8.

All the information received in respect of the application, the EIA screening, and the consultation process is then evaluated, following a consultation with MED, MI & BIM and sent to the Minister for determination, Step 10. The Minister as the Licensing Authority makes a decision and Steps 11 to 14 describe the potential outcomes following this determination. These steps are mirrored in all aquaculture licence determinations.

Currently this processing of a Marine Finfish licence takes between 36 and 55 weeks depending on the complexity of the application.

5.5 Comments on the current licence application process

The Minister is the licensing authority under the Fisheries Acts and all applications are submitted for his determination. All shellfish licence applications are subject to EIA screening and each of these screening decisions is submitted to the Minister for his determination. In addition, where an Appropriate Assessment has been carried out for a Natura 2000 site, the draft conclusion statement is submitted to the Minister. AFMD submissions to the Minister on licence applications are forwarded through the Assistant Secretary of the Marine Division and in some cases through the Secretary General of the Department.

The licensing processes as they exist at present have evolved over time and in response to new legislation and particularly in response to the CJEU judgment. It does not appear, however, that a strategic overview of the licensing process has taken place to see how emerging requirements could be accommodated while streamlining the processes. The need for a consolidated modern legislative code has been identified to the Group. New legislation necessarily takes a considerable length of time to prepare and enact but this must not detract from carrying out improvements in the interim under current legislation using all available means.

The Aquaculture licensing function was transferred to the Department of Agriculture, Food and the Marine and decentralised to Clonakilty. As was the case with other decentralised functions, this involved a large staff turnover, training of new staff and potential loss of institutional memory. Earlier changes involving the establishment of the Marine Institute included the transfer of some technical and scientific staff to the new Institute. AFMD has no technical/ scientific staff within its staffing cohort and this may arise from the various institutional changes referred to above. The Division is of course supported by the Marine Institute and the Marine Engineering Division as outlined in the flow charts.

It is clear from the description of the processes outlined above that an immediate improvement in processing times could be achieved by running the consultations concurrently and the regulations appear to permit this. The new 2014 EIA Directive, which is currently being transposed, offers potential efficiencies for the carrying out of processes and should be availed of immediately.

A major shortcoming of the system for the processing of aquaculture licence applications is the apparent absence of information-technology, of management information systems and web-based application and consultation procedures. The almost exclusively paper-based system doesn't facilitate speedy access to information and management of the application process. It also hinders easy access for the public and applicants to information on how applications are progressing through the system. The Group considers that this contributes to the low level of public confidence in the licensing process.

The Group found the staff to be very committed. However, the Group has been advised that there were no policy or procedural guidelines to assist them with the complex legal and administrative issues involved.

In meeting with the Marine Engineering Division (MED), the Group was given a presentation on the AQUAMIS (Aquaculture Management Information System) which is currently under development. The system is designed to deal with many of the existing bottlenecks in the licensing system and would provide for the streamlining of aquaculture applications and a reduction in the current administrative burden. As envisaged, the system is GIS-based and allows for the integration of both the administrative and engineering functions relating to aquaculture applications.

The Group was also impressed with the enormous strides which have been made by NPWS and MI since 2007 in developing an integrated assessment process for Natura 2000 sites and the compilation of Appropriate Assessment Reports.

6 Aquaculture Licences Appeals Board (ALAB)

6.1 Appeals Mechanism

An independent appeals process is provided for in Section 22 of the Fisheries (Amendment) Act 1997, which sets out that appeals will be determined by an independent seven-person Aquaculture Licence Appeals Board.

The Board is comprised of a number of appointees from a range of sectors including aquaculture, wild fisheries, planning & development, protection & preservation of the environment and amenities, economic development and community development.²³ The function of the Board is to provide an independent authority for the determination of appeals against decisions of the Minister for Agriculture, Food and the Marine on aquaculture licence applications. The Secretary to the Board is a civil servant seconded on either a part-time or full-time basis.

Any person aggrieved by a decision of the Minister on an aquaculture licence application, or by the revocation or amendment of an aquaculture licence, may make an appeal within one month of publication (in the case of a decision) or notification (in the case of revocation/amendment).

Under Section 40(4) of the Fisheries (Amendment) Act, 1997, the Board, in determining an appeal has the option of:

- (i) confirming the decision of the Minister to grant or refuse a licence, or
- (ii) refusing a licence, or
- (iii) determining and issuing its own aquaculture licence as if the application for the licence had been made to the Board in the first instance

Where the Board determines that it wishes to alter the terms or conditions of a licence decision granted by the Minister, it does so by issuing its own licence with additional or altered terms and conditions.

The environmental legislation outlined at paragraph 4.2 in relation to the licensing process applies also to the appeals process. The Board must carry out Environmental Impact Assessment and Appropriate Assessment as required in accordance with the relevant legislation. ALAB is also subject to the provisions of the Aarhus Convention set out in paragraph 4.2.2.

6.2 Current Appeals

The Aquaculture Licences Appeals Board (ALAB) has generally carried out its determinations within the statutory 4 month period, (122 days), between 2013 to 2016, except for complex cases which have taken between approximately 150 and 832 days. There are currently 6 appeals pending determination. One case, pending from 2015, has 14 parties.²⁴ There are 5 further cases pending determination in 2017. ALAB raised concerns about its capacity to process appeals due to limited technical and administrative resources and the part-time nature of ALAB board membership. ALAB's concerns are heightened by its perception of increased demands on the appeals process and the increasing complexity of appeals.

²³ Section 23, Fisheries (Amendment) Act 1997

²⁴ Section 42, Fisheries (Amendment) Act 1997, allows for the Joinder of Actions: the ability to treat two or more appellants as parties to a single appeal.

6.3 Appeals Mechanism: reference Flowchart 5 at appendix 10

The process for conducting an Aquaculture Licences Appeals is set out in Sections 40 to 61, Fisheries (Amendment) Act, 1997.

There is a 4 week period after the Minister publishes his decision in which an appellant may submit an appeal. Step 1 of Flowchart 5 describes the different types of appellant, who may be aggrieved by the Minister's decision, including: the applicant, any Statutory Consultee, a party who submitted through the public consultation or an interested party whose first input is here. Step 1a describes how any person who is not a part to the appeal may make a submission or observation within a month of receipt of the notification of the appeal and Step 1b provides that submissions/observations can be made by any EU Member State under Directive 85/337 EEC in relation to the effects on the environment.

The Appeal is then verified at Step 2 and the notification process is described at Steps 3 to 5, where ALAB notifies the Minister, who subsequently returns the relevant file to ALAB. ALAB then notifies each other party to the Appeal. Current practice is for ALAB to tender for a Technical Advisor to assist in considering each appeal. The Minister and all other parties to the appeal, except the appellant, then have a one month opportunity to make submissions or observations, Step 6.

If no observations are received then ALAB makes a determination under Section 40(4), Step 7a. If observations are submitted or if ALAB wishes to request further submissions, documents, particulars or information from any party, they may do so within a certain timeframe, Steps 7b and c. Once this timeframe has expired ALAB makes a determination under Section 40(4), Step 8.

Steps 9 and 10 are optional powers: where ALAB may choose to hold an oral hearing and/or Step 10, if ALAB takes matters other than those raised in the appeal into account they must notify all parties to allow for them to make replying submissions/observations.

A further step in the possibility of reconsidering a decision on a licence application is provided for in section 75 of the Fisheries (Amendment) Act 1997 which allows for judicial review of decisions on licence applications including decisions on appeals by the Board.

7.1 An Bord Pleanála (ABP) and the Environmental Protection Agency (EPA)

As outlined earlier, the aquaculture licensing system operates in a particularly complex legislative framework given the interaction with environmental and habitat protection legislation. Other Environmental Regulatory Bodies also operate under the same EU Legislative code. The Group looked at how these processes were carried out to provide a basis for comparison and identify any lessons which could be applied to aquaculture licences.

An Bord Pleanála (ABP) is the planning appeals body and also deals with Strategic Infrastructure applications. The Board has a statutory objective of deciding most cases within an 18 week time frame and other cases within 4 months. In 2016, the Board decided 83% of normal planning appeals and 80% of all cases within this targeted timeframe.²⁵ The Board received a total of 2163 new cases in 2016, of which 1827 were normal planning appeals. The Board's Annual Report for 2015²⁶ noted that the average number of weeks to decide all planning cases was 16.9 weeks. In 2015, the Board undertook an initiative to improve the efficiency of processing less complex cases and set an objective of deciding such cases 4 weeks ahead of the statutory period. In 2015, there were 218 less complex cases, 78% of which were decided within 14 weeks with no diminution in the quality of assessment.

As part of its functions for environmental protection and policing, the Environmental Protection Agency (EPA) is responsible for environmental licensing in areas such as general industry, extractive industry and discharges to water. The Agency issues an Annual Licensing Plan. The EPA has an 8 week statutory period to make a pre-determination and statutory and public consultation takes place within this period. Following notification of a pre-determination to the applicant, objections may be made within 28 days. If such objections are made, the Agency has a subsequent 4 months to make a final determination and public and statutory consultation is carried out within this time frame. The Licensing Plan for 2016²⁷ shows that 151 applications were awaiting assessment at the start of the year. By the end of 2016 165 licences were issued. Some 68% were issued within the EPA's target timescale of 12 months from receipt. New licensing functions have been assigned to the Agency from time to time for example historic landfill sites and dumping at sea. The Agency has adopted a campaign approach to dealing with application backlogs and bringing the licensing process up to date. In 2012, there was a backlog of 1000 applications and this now stands at 130. The EPA has developed an electronic licensing system and the three main industrial licences processes are e-enabled.

Both the EPA and ABP make all applications and decisions available on their web sites and they issue guidance on the application processes.

ABP and the EPA manage their determination processes in broadly similar ways. Cases are assigned to a Planning Inspector in ABP and to an Environment Inspector in the EPA. The Inspectors consider all of the information received from the appellant/ applicant, stakeholders, statutory consultees and public consultation and prepare a report recommending how the case should be determined and give reasons for their recommendation. The determination is a matter for the Board of the Agencies and they can accept the recommendation of the Inspector in whole or in part or reject the recommendation and where they depart from the Inspector's recommendation, they must give reasons for their decisions. This Inspector-led approach has many advantages including the experience and skill-sets of an Inspector and their capacity to analyse and assess information received by reference to the legislative codes under which they operate.

Staff training and up-skilling in relation to dealing with EIA and Appropriate Assessment is of key importance to both organisations.

The Group noted that organisational reviews of both agencies have taken place with a view to ensuring continuous development of their processes and procedures.

²⁵ <http://www.pleanala.ie/about/statistics.htm>

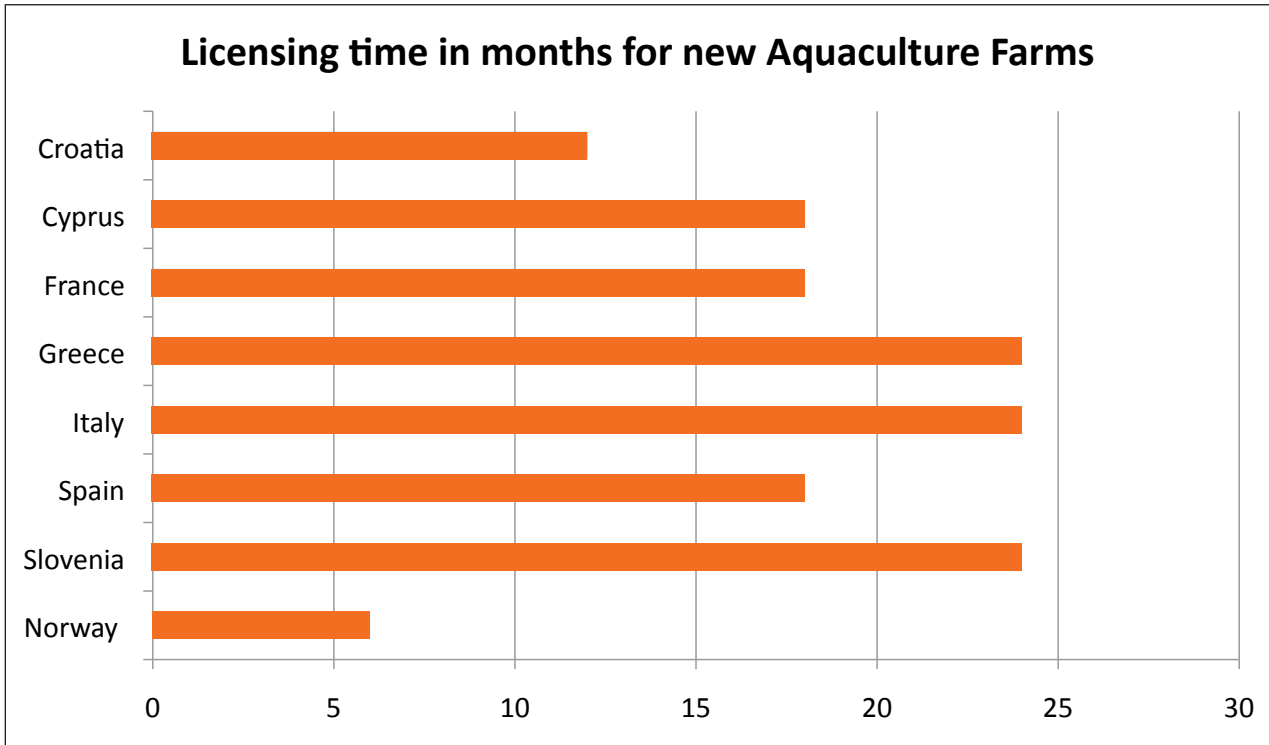
²⁶ <http://www.pleanala.ie/publications/2016/ar2015.pdf>

²⁷ <https://www.epa.ie/pubs/reports/other/corporate/Environmental%20Licensing%20Programme%20Licensing%20Plan%202016.pdf>

7.2 Comparative Consenting Timeframes in Europe

The European Commission's 'Strategic Guidelines for Sustainable development of EU Aquaculture', COM(2013) 229, compares timelines for aquaculture licensing for some EU countries and Norway. The report describes periods of between 2 to 3 years in some States and acknowledges that substantially longer timelines have also been recorded. The reduction of the standard licence application process from 12 months to 6 months in Norway by the introduction of a 'single contact point' is also mentioned.

The graphic shows the licensing timescale in months in various EU member States and in Norway.



Figures sourced from: The European Commission's 'Strategic Guidelines for Sustainable development of EU Aquaculture', COM(2013) 229.

The determination of a licence in Ireland is estimated to take between 36 and 144 weeks following the completion of an Appropriate Assessment of Natura 2000 sites within the bay concerned. The AA process for Natura 2000 sites within a bay has been estimated to take approximately 36 weeks, once commenced. However, as noted earlier, the AA process has been rolled out over a period of years as the designation of Natura 2000 sites was completed and conservation objectives established. The AA process will be completed this year. Until this process has been completed and individual licences determined, many aquaculture operations which applied to have their licences renewed will continue to operate under Section 19.4(A) of the 1997 legislation and have waited a considerable time to have their renewal applications determined.

7.3 Scottish Aquaculture Licensing System

The current organisational structure in Scotland requires between five and seven consents, depending on whether an EIA or AA are involved, from different bodies. The Scottish system is highly relevant to Ireland, as it is a Common-Law jurisdiction, part of the European Union and subject to the same EU environmental, directives and standards. It is therefore examined in detail here.

The aquaculture industry in Scotland is predominately Finfish and production in Scotland for 2013 was 165,256 tonnes.

The five to seven consents which may be required, depending on whether EIA or AA are involved, are as follows:

1. Seabed/Foreshore Lease issued by The Crown Estate/ Crown Estate Scotland, is the equivalent of the foreshore lease determined by MAFM and processed by AFMD in Ireland.
2. Planning Permission granted by the Local Authorities, is equivalent to permission granted as part of the aquaculture licence determined by MAFM and processed by AFMD in Ireland.
3. Environmental Impact Assessment (EIA), if required, assessed by the Local Authorities. The equivalent in Ireland is assessed as part of the aquaculture licence and is assessed by MAFM and processed by AFMD with the support of their technical and scientific advisors.
4. Marine Licence issued by Marine Scotland Licences Operations Team. The equivalent in Ireland is issued as part of the aquaculture licence and is assessed by MAFM and processed by AFMD.
5. Authorisation to operate an Aquaculture Production Business issued by Marine Scotland Science Fish Health Inspectorate. This is equivalent to the Fish Health Authorisations issued by the MI.
6. Controlled Activity Regulations (CAR) issued by Scottish Environmental Protection Agency, SEPA. This is the equivalent of EPA consent in the case of land-based saltwater and freshwater operations. In the case of marine finfish these considerations form part of the general aquaculture application determined by MAFM and processed by AFMD.
7. Habitats Regulation Appraisal (HRA), if required, issued by any of the following: the Local Authorities, Marine Scotland Licences Operation Team, The Crown Estate/Crown Estate Scotland, Marine Scotland, Science Fish Health Inspectorate. The equivalent process in Ireland is an AA. It is assessed by MAFM and processed by AFMD with the support of their technical and scientific advisors.

Procedurally two significant themes emerged in the Group's comparative analysis the Scottish system:

- Many of the Scottish consents involve a structured pre-application process. This ensures against delays in processing an application should a defect be found after it is formally submitted. These pre-application stages are not counted in most of the timeframes given for determining consents.
- Secondly, Scotland has available a more sophisticated technological support system. Including: the Scottish aquaculture website, which hosts databases and interactive maps; SEPA's modelling software 'Autodepmod' and a more seamless approach to 'data-sharing'. All of these supports contribute towards a more streamlined system.

The key elements of the Scottish system are the lease from the Crown Estate, the planning permission from local authorities and the CAR from the Scottish Environmental Protection Agency. The HRA is also an important process, as it is the equivalent of the AA process in Ireland.

7.3.1 Seabed/Foreshore Lease, The Crown Estate, Crown Estate Scotland²⁸

The Seabed/Foreshore licence is generally the first consent sought. The applicant is initially offered a licence in principle, as the Crown Estate requires all consents to be in place before granting a full lease. This licence in principle is known as a Lease Option Agreement and is provided subject to certain assessment criteria, for a term of three years. The applicant may then seek all the other consents within that period before returning to the Crown Estate to seek the full lease.

The criteria for a successful application include: a significant emphasis being placed on the provision of evidence of business ability by the applicants. A seabed/foreshore lease is granted for terms of 25 years. The development rights of the lease attach to the person and do not determine what can be undertaken and where. However, they do specify who can exercise the consent that has been granted. The Lease Operations Agreement process takes approximately 2 weeks with the determination of the full lease taking 8 weeks.

7.3.2 Planning permission, The Local Authorities²⁹

Marine finfish and shellfish farming are defined as developments under Scottish legislation³⁰ and thus require planning permission to operate. In consideration of whether to grant or refuse planning permission the Local Authorities are required to accord with marine plans. These plans are continuously updated and are expected to develop into spatial frameworks.³¹

The determining process falls into two stages: Stage 1 is a pre- application process which takes approximately 12 weeks. This stage consists a requisite formal pre- application consultation and of informal pre-application discussions which is to allow the applicant to better understand any obstacle that may result in delays or refusal and afford them the opportunity to adjust their applications in light of these discussions, reducing the risk of refusal or delay.

Stage 2 is the application determination and consists of: a validation process, advertising the application, a public and statutory consultation (adjusted times for EIA, if required), consideration, determination and an enhanced scrutiny notification process for major applications if required. This stage of the process takes between 8 and 16 weeks depending on whether an EIA is required. Planning permission for Marine finfish and shellfish farming in Scotland is granted in perpetuity.³²

²⁸ As of April, 1st 2017 the Scottish government have taken control of a portfolio of Crown Estate assets a new public body, Crown Estate Scotland (CES) established by the Scotland Act 2016 now has responsibility for the seabed areas. Crown Estate Scotland is a public corporation which manages the assets on an interim basis until new legislation sets out permanent arrangements

²⁹ The Scottish local authorities are the Highland Council, Argyll & Bute Council and North Ayrshire Council, and the three island councils of Shetland Islands Council, Orkney Islands Council and Comhairle nan Eilean Siar (Western Isles Council.)

³⁰ Section 26(6), The Town and Planning (Scotland) Act 1997.

³¹ Scotland's Marine Planning Circular 1/2015, The Relationship between the statutory land use planning system and marine planning and licensing.

³² Should an applicant wish to add or change equipment on a farm or to change the species farmed they may apply for Permitted Development Rights to the local authority without having to undergo a full planning permission application.

7.3.3 Controlled Activity Regulations, CAR issued by Scottish Environment Protection Agency, SEPA

Controlled Activity Regulations licences are concerned with water quality, specifically ensuring compliance with the Water Framework Directive and the effect the fish farming activity may potentially have. A CAR licence sets site-specific limits on the number of fish that can be held in cages and the type and amount of medicines and chemicals that can be used. CAR licences are a requirement only for finfish applications.

There are two stages, Stage 1 being a pre-application stage. This includes a pre-application discussion and requires the applicant to submit survey information which is then verified and modeled by SEPA using dedicated modeling software 'AutoDepomod' which is also made available to the applicant for modeling. The second stage is the application/determination stage includes the need to advertise the licence application to hold a consultation with non-statutory consultees including the public. This is followed by the determination.

As is the case with some of the other consents, the pre-application process has no indicative timeline whereas the second stage takes approximately 4 months. SEPA can withdraw or vary an authorization if operators fail to comply with conditions of their CAR licence or if sites are not meeting SEPA published standards on an ongoing basis.

7.3.4 Habitats Regulation Appraisal, Local Authority, Marine Scotland LOT, the Crown Estate, Marine Scotland S-FHI and SEPA.

The Habitats Regulation Appraisal is the Scottish process for carrying out appropriate assessments (AA), as required in the Birds and Habitats Directives.³³ All competent authorities are required to carry out an AA of a plan or project if that plan or project is likely to have a significant effect on a Natura Site. Scottish National Heritage is the equivalent of the Irish NPWS in relation to Natura 2000 sites and set the conservation objectives for the Natura 2000 sites.

A HRA may be carried out for the same site for each application sought, for example: the Local Authority may carry out a HRA for planning permission and SEPA may carry out a HRA for a CAR licence etc. One Local Authority confirmed that a HRA would take approximately 4 months. A HRA consists of 12+ stages including information gathering, screening, appraisal, setting of mitigation measures, consultations and final determination with conclusions. It is unclear how the streamlined approach taken for Scottish HRAs can inform the more elongated approach in Ireland; there does not appear to be any great divergence in procedural steps between the two jurisdictions. However, Scotland has dedicated web resources and data sets.

³³ Reference other footnote with reference to these Directives.

7.3.5 Scotland's Aquaculture Website³⁴

This aquaculture.scotland website has been developed through a partnership of The Crown Estate, Food Standards Scotland, SEPA and Marine Scotland. It provides an integrated database of resources relating to Scottish aquaculture including an environment library, a list of relevant organisations and access to datasets concerning fish escapes, emissions, biotoxin monitoring and operator transfers. It does not include sea lice data counts or other sea lice data.

There is an interactive map where information can be accessed on the location details of active and inactive sites; CAR licensed fish farms, shellfish growing water areas, classified shellfish harvesting areas, active Crown Estate lease areas, Marine Scotland disease management areas, location guideline areas, Natura sites and Local Authority boundaries.

7.3.6 Independent Review of Scottish Aquaculture Consenting

Marine Scotland and the Crown Estate commissioned an Independent Review of Scottish Aquaculture Consenting³⁵, which was published in July 2016. The review proposed 23 recommendations including some which would produce early benefits as well as some alternative consenting processes. In January 2017, Scottish Ministers published their response to the Independent Review. The response reflected the Scottish Governments support of the sustainable growth of the aquaculture industry by making improvements to the licensing systems. The response included the planned next steps, such as consideration of and progressing, the implementation of the recommendations proposed in the review.

7.4 Norwegian Aquaculture Licensing System

7.4.1 Norwegian Aquaculture

Norway is a country of 5.3 million people and has a land area, including mainland and thousands of islands, of 385,000 square kilometres.

Norwegian aquaculture has expanded enormously over forty years and is currently a world leader in Atlantic Salmon production. Norway reared 1.3 million tonnes of aquaculture products – almost exclusively salmon - in 2015. This production comes from 1067 licensed sites. The aquaculture industry has evolved from its small-scale inshore origins to a situation where it is largely controlled by a small number of large-scale seafood companies.

The pace of new licence grants has slowed considerably in recent years. This is partly due to the shortage of suitable sites. Developments in husbandry to counter disease and parasite issues have also tended towards the lowering of the number of aquaculture sites or densities in various areas. There is also a trend towards growing of smolts to larger size in freshwater prior to transfer to sea-sites, in order to make them more disease resistant and decrease the time they spend at sea, thus enabling better growth yields and productivity.

The Norwegian salmon farming industry has highly ambitious expansion plans which would entail production of a scale many times of that at present. These are, however, predicated on developments in containment technology and fish-growing techniques, which would be feasible in offshore locations or in closed systems.

³⁴ <http://aquaculture.scotland.gov.uk/>

³⁵ <http://www.gov.scot/Publications/2016/07/9269>

7.4.2 Licence Tranches

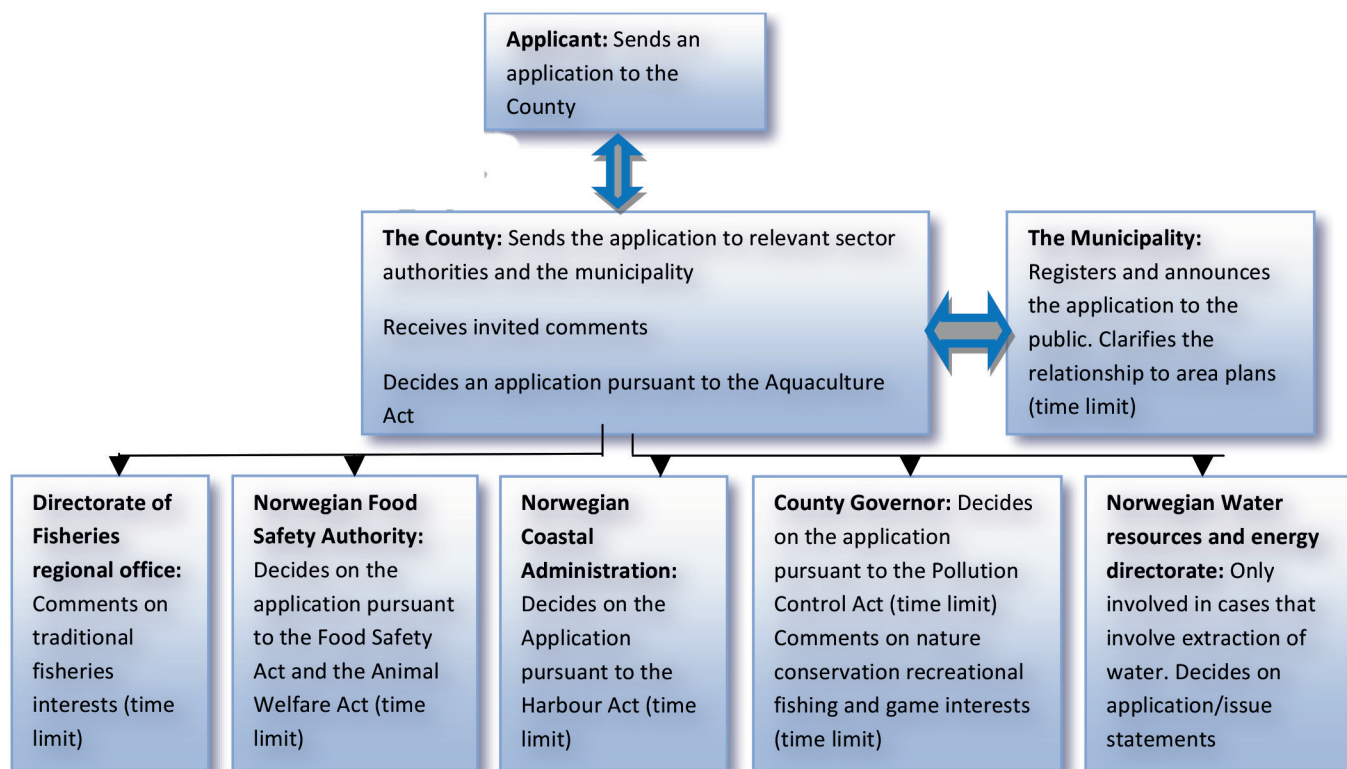
Licence tranches are released by the Government at its sole discretion from time to time. The Norwegian system differs fundamentally from the Irish system in that aquaculture licences for most commercial species are issued in perpetuity, and become property assets. As a result they can be mortgaged, bought or sold. Auctions of salmon licences earned multi-million euro once-off payments to the Norwegian Government. The commercial value of licences is currently at an all-time high due to scarcity of licences and the current profitability of the sector.

No additional commercial licences have been issued in the past two years, but a process of granting a limited number of development licences at no cost to operators for projects intended to advance specific research and development is currently underway.

7.4.3 Two-stage process

The Norwegian licensing system underpinning the sector is a two-stage process. Aquaculture operations need both an aquaculture licence, which is granted by the Norwegian government, and site-specific planning permission which is granted by local authorities. Local authorities manage the overall process for each application. The process is fully open, transparent and online.

The local authority function in respect of planning permission for a licensed site is underpinned by an established coastal zone management plan, which is integrated with the coastal terrestrial zoning and planning process.



Details of the system in operation are available from the official Norwegian fisheries ministry website³⁶.

³⁶ <http://fisheries.no/>

7.4.4 Timescale for Applications

The official maximum case-handling period for licence determinations is 22 weeks, but the Group is advised that while a half-yearly time horizon is normal in straightforward cases, more complex applications can take a number of years to be concluded. The case-handling period does not include pre-application processes or consultations.

7.4.5 Monitoring and Public Access to Information

Whereas Norway is not subject to the provisions of Natura directives relating to Birds and Habitat protection which are in force in the EU, the Norwegian government considers that the suite of environmental protection regulations in force in Norway are analogous to those in operation within the EU.

In Norway the operation of aquaculture licences are closely monitored, Parasite levels on the various sites and disease status and details of veterinary treatments are reported on a weekly basis. These are published online on a website³⁷, which gives full public and management access to information on a near real-time basis. Monitoring results determine whether licensed stocking densities are decreased, maintained or increased. They also determine management measures including transport of product in and out of identified areas.

The Norwegian Government is planning the imminent introduction of a further evolution in the monitoring process for salmon farming, whereby monitoring results determine specified "traffic-light" responses to monitoring results in terms of production and husbandry requirements.

The development of aquaculture has been a less contentious issue in Norway than in Ireland to date. The growing economic and employment importance of the sector over many years, the familiarity with aquaculture operations and lower levels of competing interests such as tourism may have had an impact on this. However, there is considerable and growing environmental and societal awareness of issues related to its current and future development. A great deal of importance is attached to a system of clear rules and a culture of openness related to applications. Well defined operating parameters and appropriate sanctions and incentives to good behaviour are seen as essential to secure a sustainable future for the sector in Norway.

7.5 Aquaculture Licensing in the Faroe Islands

7.5.1 Background

The Faroe Islands consists of 18 major islands about 650km off the coast of Northern Europe, lying about halfway between Iceland and Norway. Its closest neighbours are the Outer Hebrides in Scotland. The islands have a total land area of 1,400 km², with a population of 50,000 inhabitants. The Faroe Islands is an autonomous country within the Kingdom of Denmark.

³⁷ <https://www.barentswatch.no/en/>

7.5.2 Development of Aquaculture in the Faroes

The Group met in Dublin with the Advisor to the Chief Veterinary Officer of the Faroese Food & Veterinary Authority (HEILSUFRØÐILIGA STARVSSTOVAN). Faroese aquaculture commenced in the 50's with the production of sea-reared rainbow trout. Farmed salmon were first reared in the Faroes in the early 1970's. The aquaculture industry in the Faroe Islands is well consolidated, both horizontally and vertically. There are only 3 companies that currently produce and export farmed salmon from the Faroe Islands - *Bakkafrost, Hiddenfjord and Marine Harvest Faroes*. Initially the industry encountered serious problems relating to a poor and uncoordinated licensing regime and a poor fish health regime.

Due to the effects of Infectious salmon anaemia (ISA), which hit the Faroes in the early 2000's, the Faroe Islands developed and implemented what is now regarded as a very comprehensive and stringent aquaculture veterinarian regulatory regime.

7.5.3 The Faroes Licensing Regime

The Group were advised that a consolidation of the industry and a greater emphasis on training fish farm employees resulted in clearer and more coherent objectives for the industry and major improvements in fish health. There was an emphasis on decreasing stress and disease, lowering mortality and eliminating the use of antibiotics. The industry achieved a reduction in the production cycle at sea and reduced the risk of serious sea lice infestation. The authorities in the Faroes now review and approve all production & contingency plans. There is a one company / one fjord- bay policy and a major focus on controlling sea lice levels as the most important parameter of the overall fish health regime. There is a greater emphasis on the potential impacts on wild fauna and flora (e.g. lice from farms impacting on migrating wild salmon along the coast and reduced oxygen levels in the benthos). The density of salmon held in cages has been reduced and is now, on average, 9 kg/m³. There is mandatory monitoring of core environmental parameters and mandatory counting of lice by an external, non-aligned party.

The Licensing Process

The Group were provided with a comprehensive overview of the licensing process in the Faroes.

- The land / sea area concerned is zoned in advance of any application
- The Food and Veterinary Authority issue the licences in the Faroes. Currently there are 30 aquaculture licences, 20 Fjords have salmon farms and there are three companies licensed to farm. On average the Food and Veterinary Authority deals with ten renewals per annum.
- Applicants for a new licence must prove they have the ability to farm by presenting evidence of experience and scientific knowledge. They must be members of the Quality Insurance System, have signed an agreement with a processor and have developed a contingency plan for escapes and fish disease / parasite infestation.
- Once the application has been made and following a preliminary screening, a fish farming licence in principle is granted.
- The Faroese Environmental Authority must assess the site and the application both prior to commencement of operations and / or when a renewal is sought. Assessments are also carried out several times annually. Each farm is required to have an independent veterinary advisor.
- There is a statutory distance of 2.5km between farms to prevent the spread of disease and to minimize the risk from sea lice.
- The Faroe Islands have national environmental standards which they generally align to EU standards.
- Applicant pay for these services. Generally a private consultant does the required environmental work.
- It takes between 3 months and 6 months to issue an aquaculture licence in the Faroes.
- A Foreshore licence equivalent (lease) is issued for 10 years and an activity aquaculture licence for 5 years. Such licences can in legal terms be revoked but in practice are never revoked.
- In the future there may be a move towards auctioning fish farming quotas as in Norway.

7.5.4 Regulation and Enforcement

The Group were advised that the Faroese regulatory regime is based on the allocation of specific smolt numbers to each farm. It is not based on biomass as the authorities believe that regulating according to smolt number provides the farms with an incentive to stock out only healthy smolts into cages and ensures that survival rate is a high priority for the salmon farms. It also supports co-ordinated fallowing and co-ordinated de-lousing on all of the farms.

Practical enforcement of the above is done by means of a penalty point system, which tightly regulates the numbers of smolts put out to sea each year and the rate at which the farms can expand. Breaches of defined parasite loading and fish health protocols result in a reduction in the number of smolts permitted to go to sea. Alternatively compliant farms are allowed to increase the number of smolts stocked out, subject to the other best practice and holding capacity parameters.

8 ISSUES, ANALYSIS AND RECOMMENDATIONS

The Review Group has examined the operation of the aquaculture licensing system in all its aspects within the constraints of a limited time period. This has included hearing from the public, key stakeholders and those responsible for operating the system. It has examined comparative licensing systems in other countries as well as comparable consent-granting systems in Ireland. There is, at a basic level, widespread consensus that the system is in urgent need of reform, even if that consensus stems from different perspectives.

Conclusion

8.0 (1): As an overarching conclusion, the Group recommends that a root-and-branch reform of the aquaculture licence application processes is necessary. The reform needs to be comprehensive in scope and focus both on immediate actions which can produce results in the short term as well as initiatives which will bear fruit in the longer term.

In the interests of all stakeholders the Group takes the view that pragmatic practical measures should be adopted immediately and at the same time the policy and legislative review commenced.

8.1 A reasonable timescale for licence determinations

All participants in the system deserve to have determinations made in a realistic timeframe that enables a proper and rigorous examination of an application and all its impacts.

Under the current aquaculture licensing processes the timeframes within which a licence determination is made varies from 36 weeks to 144 weeks. This timeframe applies from the point at which an Appropriate Assessment report (where required) is available.

The Group noted that Section 13, Fisheries (Amendment) Act 1997, which has not yet commenced, provides that Minister shall endeavour to determine all licence, renewal and review applications, save for trial licence applications, within 4 months subject to the application fulfilling certain requirements. This section also gives the Minister discretion to vary this 4 month period by regulation, for different classes of applications.

These applications are by their nature complex. The Group has noted earlier the timeframe in which the EPA and ABP deliver their decisions. While a 4 month timeframe is considered to be too demanding to achieve, the Group believes that there should be an objective of deciding applications within 6 months of the application and that this can be achieved in line with the procedural changes set out in this report. As a first step, the Group believes this timeframe should apply to all new licence applications from 1 January 2018.

Recommendation:

8.1 (1): A six month time limit should be set in which to determine a licence and that this should apply to all new licence applications submitted after January 1 2018.

8.2 The Pre-Application Process

The Review Group noted that delays were encountered at times in the early stages of the application process, particularly in the case of shellfish applications because of inadequate applications for example which didn't supply sufficient information. The Group noted that many but not all prospective applicants liaised with their local BIM officer in planning an aquaculture development. The Group considers that a formal pre-application process should be introduced and this would produce better prepared applications and ultimately save time.

Pre-application consultations are provided for in the EPA and Planning legislative codes. They are designed to be of assistance to the applicant in understanding the information that will be required to determine an application. Pre-application consultations which are voluntary help reduce the risk of applications being declared invalid and also assist the developer in scoping out the information to be covered in EISs. The Group recommends that a pre-application process be introduced for aquaculture licence applications so that applicants can be aware of all necessary information that needs to be provided and so that they can submit an application that can be validated. To facilitate the preparatory work of the applicant, AFMD should ensure that a pre-application section, with links to all relevant guidance documents (AFMD, NPWS) and background information (MED, MI), is available on their website.

Recommendations:

8.2 (1): The establishment of a pre-application process to ensure that applications are complete and contain all of the material required to ensure an efficient processing of the application. As a first step, this should be introduced on an administrative basis.

8.2 (2): Formalise the existing liaison between BIM officers and potential applicants, and the relevant BIM staff should be assigned the role of Aquaculture Liaison Officers in this context.

8.3 Public Notice

A common theme in the submissions received during the public consultation process was inadequate public notification of applications. When the AFMD is commencing the process of examining an application, it directs the applicant to publish a notice in a newspaper circulating in the area and lodge a copy in a Garda Station. Two issues emerged in the submissions, one was that due to the roll out of AAs notice was being given of applications that may have been made a number of years previously and secondly the provisions for placing a notice in a newspaper and lodging the application in a Garda Barracks didn't reflect modern life. The Group considers that an e-licensing system will provide a more appropriate vehicle for public notification. The Minister should specify the appropriate media and format for the publication of notices. AFMD should also consider practical arrangements for the erection of site notices to provide information to the public on licences and tackle the perception that the licensing process is opaque. The Group notes that these recommendations could be addressed by means of regulations under the 1997 Act.

Recommendations:

8.3 (1): Public notification should form part of an e-licensing system to provide a more appropriate vehicle for public notification.

8.3 (2): The Minister should specify the appropriate media and format for the publication of notices.

8.3 (3): Applicants should be required to show evidence of public notice of the making of the application. This can be enabled by amending the existing application regulations.

8.3 (4): AFMD should also consider practical arrangements for the erection of site notices to provide information to the public on licences and tackle the perception that the licensing process is opaque

8.4 Consultation

National and EU legislation requires the licensing authority to consult with relevant public bodies and the public in relation to an application. As the flow charts for the licensing process demonstrate, the consultation phase can take a considerable period of time and is often repeated. This current process goes beyond current legal timeframes. The Group recommends that an effective consultation process should be carried out within a defined timeframe which at a minimum meets the current legal requirements. Consultation with public and the statutory bodies should be carried out concurrently. The recommendations on web-based licence application system are also relevant to the management of consultation.

Recommendation:

8.4 (1): Consultation with public and the statutory bodies should be carried out concurrently. This can be addressed in administrative procedures and guidelines.

8.5 Web-based Aquaculture Application and Monitoring System

As noted earlier, the system currently in place in AFMD to deal with the aquaculture licensing process is largely paper based. The Group noted the considerable volume of documents in paper format that is involved in individual applications for both shellfish and finfish licences.

The system currently in place in AFMD contrasts strongly with the web-based, modern management systems which are in place in countries such as Scotland and Norway and national licensing bodies such as the EPA, which are subject to the same environmental and access to public information legislation, have developed web-based systems which manage the licensing process in a very efficient and timely fashion. The Group has also noted aware the 2014 EIA Directive (2014/52/EU) requires Member States to make certain information on EIA available electronically.

The Group believes that a modern system should be capable of registering those with an interest in a particular application and keeping them informed of its on-going progress. This could, for example, be achieved by alerts emailed to interested parties, similar to the well regarded system used by the Government e-Tenders site.

The system should be capable of producing a publically accessible electronic licence. Current requirements to submit large materials such as British Admiralty Charts may not be readily electronic friendly. However, in the interests of providing a more modern efficient system, it is recommended that e-licensing be adopted with the capacity to incorporate relevant maps.

The Group recommends that a web-based application system is developed taking account of best practice around e-government and the information requirements for stakeholders in the system.

The Group strongly believes that the introduction of open-access, web based application and monitoring system would go a long way towards reducing the time scale involved in processing an aquaculture licence. It would facilitate matters such as concurrent consultation periods and opportunities for replying to submissions received in a timely fashion. In order to generate confidence in the system it must be: transparent, timely, accurate, comprehensive and pliable enough to meet a range of needs. It must also be designed so as to take account of the legislative requirements relating to the licensing process and designed to encourage and support engagement from all interested parties.

The following initiatives are seen as fundamental to shortening the current process:

- The introduction of a comprehensive pre-application process.
- To design and implement an open-access web-based, application and monitoring system.

- Ensure that all of the components of the revised licensing system are web-based and accessible to public review and scrutiny.
- The applicant should follow through on alerts relating to the stepwise progress of the application and the presence of any new material on the website.
- During the consultation phase, all information should be made available online and, as appropriate, all relevant bodies and the applicant have the right to comment or reply to observations within a defined period of time

Recommendations:

8.5 (1): The establishment of an open-access, web based aquaculture application and monitoring system.

8.5 (2): The proposed Aquaculture Management Information System should comprise a single portal to all relevant administrative, engineering and scientific material

8.5 (3): Scientific and technical data sets from both the NPWS and MI databases should be integrated with the proposed Aquaculture Management Information System.

8.6 Time-saving opportunities in the licensing process

The processing of an aquaculture licence is not simple. Different types of aquaculture raise different issues whether in terms of scale, structural requirements, fish health and marine habitat and environmental impacts. The public and other regulatory and statutory bodies must be consulted. In addition, the legislative framework both national and EU is complex and is evolving whether through new EU initiatives such as EIA amendment Directive 2014/52/EU which comes into force in May this year and new case law from Courts in relation to the interpretation and application of the environmental statutory framework. As mentioned earlier, the implementation of the 2014 EIA Directive offers substantial opportunities for improving the efficiency of the EIA process and these should be availed of, particularly amended Article 5, which allows the applicant to seek an opinion from the licensing authority as to what needs to be addressed in the EIA report. The mandatory streamlining of procedures where both an EIA and AA are required should help to address concerns expressed in some of the submissions regarding duplication of assessments.

The licensing system therefore must be adapted to these changing requirements. This has implications for staff training and resources. It is important that the process as a whole is reviewed regularly to ensure streamlining, effectiveness and efficiency while ensuring that evolving requirements are addressed.

Much of the commentary the Group received referred to the undue time taken to deliver licence determinations. In addition to the recommendations made in relation to reform of guidelines, it is essential that regard is had to the actual management of the licensing system to ensure that the efficiencies proposed are actually delivered.

The Division's annual work programme is a key component of the management of the licensing process and it should be ambitious, with clear actions and targets and at least quarterly review to ensure that the targets are being realised or if not, facilitating timely remedial action.

The Division's staff is, of course, the key to successful delivery and staff must be supported with appropriate training. Key skill sets should be identified and provided either through training and up-skilling or recruitment, secondment or other formal arrangements for example with the Department's Agencies. In particular, the Group considers it is essential that the Division has its own dedicated scientific resource. A scientific adviser or advisers could act as technical liaison with other Departments and Agencies to manage the provision of scientific information essential to licence determinations. Such advisers could also assist in the drafting in a timely manner of Conclusion Statements to the Appropriate Assessments, where a determination must be made on the basis

of scientific evidence that a project will not affect the integrity of a Natura 2000 site. It would be particularly important that the Department has this resource where there is an apparent conflict in the scientific evidence and a judgement must be made on the basis of the information available. The Department has of course benefitted and continues to benefit from the expertise and dedication of the staff of the Marine Institute without which the Appropriate Assessments could not have been brought to this successful stage. In preparing new legislation and considering the most appropriate licensing process, the Group recommends that consideration be given to the practice under the Planning Acts and the Environmental Protection Agency Acts where a professional “inspector” prepares a report and recommendation on applications for determination by the respective Boards.

As the flow charts of the licensing process show, there is a considerable time period involved in (ranging from 8 to 33 weeks) to collate all of the submissions, application information and views for consideration by the Minister. This process must be expedited and the Group considers that this can be achieved by the adoption of procedural guidelines and the provision of appropriate in-house scientific advice. Guidelines should address the steps to be taken along the process.

The National Parks and Wildlife Service is the key statutory consultee in regard to applications which require an Appropriate Assessment under the Birds and Habitat protection Directives. There are good working relationships between both organisations. The NPWS has a very wide ranging brief and must manage its resources as well as possible to deliver its statutory brief. It is important therefore that there is clarity around the role of the NPWS in relation to aquaculture licensing and that it is consulted at the appropriate times but also unnecessary repeated referrals are not made, thereby achieving time savings in the licensing process.

In implementing recommendations on these issues, the Group considers there would be merit in engagement between the Department, An Bord Pleanála and the EPA given their comparative experience and role in consent decision-making.

Recommendations:

8.6 (1): From the point of view of the efficiency of the determination process, the Group considers that a dedicated scientific resource in the Division itself is essential.

8.6 (2): Procedural guidelines should be available to the licensing authority and to ALAB.

8.6 (3): The components of an EIA Report should be listed on the AFMD website and comprehensive guidance provided as to the extent of the material which should be included.

8.6 (4): That a Memorandum of Understanding be drawn up between the NPWS and AFMD setting out clearly the roles and functions of each and the manner and timing of consultations.

8.7 Delegation of powers at key decision points

The 1997 Fisheries (Amendment) Act provides that the Minister may delegate the determination of licences to an official of the Department. Currently a licence application can be referred to the Minister at two or more stages in terms of screening for EIA, considering a draft conclusion statement for a Natura 2000 site and for determination of the licence. These can add a number of weeks to the determination period.

The Minister for AFM is the deciding authority for aquaculture licences. This is in contrast with other similar environment related licensing system where the licensing function is assigned to an independent Statutory Body. An Bord Pleanála was established under the Local Government (Planning and Development) Act 1976 to deal with planning appeals which had until then been a function of the Minister for the Environment. The Registrar of Fishing Vessels is an independent office and the function had previously been carried out by the Minister.

Recommendations:

8.7 (1): The Minister consider availing of the provisions of the 1997 Act and delegating the power to determine licences to an official

8.7 (2): That in preparing new legislation consideration be given to assigning the aquaculture licensing function to an independent body either a new body set up for the purpose or one of the existing environmental Regulatory Bodies.

8.8 Aquaculture Licences Appeals Board (ALAB)

A person aggrieved by a decision of the Minister on an aquaculture licence application can lodge an appeal with the Aquaculture Licences Appeals Board. In the context of ALAB's existing resources, its workload is, relative to its current resource level, substantial and is likely to increase.

ALAB faces the same demands in terms of legal complexity, environmental directives and the difficulties posed by the current legislation are identical to those faced by the Minister and the Department.

The same standard of technology, guidelines and access to expertise should be available to ALAB so that it too can deliver determinations on appeals in a timely and effective manner.

Recommendations:

8.8 (1): It is recommended that ALAB be sufficiently resourced to same standard of technology, guidelines and access to expertise so that it too can deliver determinations on appeals in a timely and effective manner.

8.8 (2): A Service Level Agreement should be agreed between the Minister and ALAB.

8.8 (3): In reviewing the legislation, it should be open to consideration to determine the appropriate structures for an independent appeals body with resources to execute its functions to the required standard and within an acceptable timeframe.

8.9 Backlog

The Group has made a range of recommendations which will result in improved process for new applications and applications for renewals. According to the figures supplied to the Group, there are 612 applications currently awaiting determination. The Department has the capacity to deal with between 100 and 140 determinations per year under its existing processes. At the current rate of processing applications, it would take 5 years to clear this backlog. The Appropriate Assessment process has been almost completed for all of the Natura 2000 sites and this has been cited as the main impediment to the timely determination of licence applications. Therefore the Group considers that AFMD should immediately devise and implement a work plan to clear this backlog in a much accelerated timeframe and by the end of 2019 at the latest.

In this context, AFMD should apply the recommendations elsewhere in this report regarding procedures, guidelines and systems.

Recommendation:

8.9 (1): The Group recommends that AFMD establish a task force to devise and implement a strategy to deal with the backlog within an achievable but ambitious, accelerated timeframe and not beyond the end of 2019.

8.10 Transparency of application processing.

A difficulty identified in the current process is the capacity to consider further applications in areas where appropriate assessments have identified difficulties with existing levels or scales of aquaculture. Furthermore it is unclear how future appropriate assessment processes will be undertaken which would enable decisions on new applications, or the availability of sites for licensing. In order to avoid the development of further backlogs the Department should provide guidance on how future appropriate assessments will be carried out. The Group has noted that the initiative for applications rests with individuals and up to now, the State has borne the cost of carrying out the assessment processes. In planning for the future of licensing, the Group recommends that the Department sets out how it will manage an orderly acceptance of applications.

Recommendation:

8.10 (1): In planning for the future of licensing, the Department sets out how it will manage the orderly acceptance of applications.

8.11 Terms of Licences

The appropriate duration of a licence is an issue raised in the Group's consultations. The duration of a licence has implications for investment decision and for the administration of the licensing process. The format of the existing licences has been criticised as being too rigid and incapable of being adapted during its period of validity. The Act provides for licence periods up to 20 years.

Recommendation:

8.11 (1): The Group recommends that a 20 year period should be adopted for new and renewed licences, subject to the following:

- that the format of licences be revised so that central terms are separated from technical annexes, the latter which can be amended in light of emerging best available technology or best environmental practice in the relevant activity
- that the licensing process include a comprehensive assessment of the financial and operational capability of the applicant to operate a licence in a manner compliant with the various terms of such a licence;

- appropriate and proportionate to the nature of the activity to which the licence applies;
- that licences should be capable of being reviewed, updated and amended without compensation to reflect the development of new requirements, standards and assessments as these may arise from national or EU legislation.

8.12 Scientific and Trial Licences

The details in relation to the operation and limitations of a trial licence are provided for in Section 9, Fisheries (Amendment) Act, 1997.³⁸ Trial licences cannot be granted for freshwater aquaculture. They can only be granted for a maximum duration of 3 years (one year in the case of Salmon) and are not capable of renewal.

Submissions received from academic institutions raised concerns about the difficulty in attaining a trial licence for research. The type of temporary licence needed to enable research, development or experimentation can be divided into two types. The first would be a 'commercial' research and development licence sought by a commercial entity to rear novel fish species or to test a new technological or scientific innovation. The second would be a 'non-commercial' research and experimental licence sought by an academic institution to carry out time-limited scientific research.

In the view of the Group, Government policy promoting the sustainable development of aquaculture would be enhanced by facilitating greater access to commercial and non-commercial research licences. Improvements in the time taken to process licence applications would address much of the difficulties encountered by research bodies at present (see section 7.1).

Recommendation:

8.12 (1): A dedicated procedure should be established for trial licences, by regulation, and if possible, a distinction should be drawn between commercial and non-commercial requirements. The time limit for decision on trial licence applications, as for other new licence applications, should be six months.

8.13 Monitoring of Licences

Aquaculture licences set out operational and monitoring requirements in the conditions attached to the licence. Generic conditions can be viewed in the licence templates posted on the Department's website. Licence holders must keep records of compliance monitoring which they can be required to produce within 24 hours to the Minister or a competent State Authority. In the case of marine finfish licences, compliance standards apply international standards set by organisations such as NASCO and industry agreed protocols. One of the issues raised by stakeholders was the multiplicity of bodies monitoring and the potential lack of communication/co-ordination between these.

Some stakeholders considered that there was insufficient monitoring, there was no readily available data on the results of any monitoring carried out and enforcement action did not seem to follow clear breaches of licence conditions.

However, there are also good examples of monitoring such as those for fish health and sea lice and where the monitoring results are publicly available.

³⁸ Section 3, Interpretation, Fisheries Amendment Act, 1997, provides 'Trial licence' means a licence granted under section 14 to carry out any operation, activity, trials or experiments referred to section 9(1).

Recommendations:

8.13 (1): It is essential that licence conditions are monitored and enforcement action taken for non-compliance.

8.13 (2): In the context of preparing a new Aquaculture Act, consideration should be given to type of penalties that should apply to various offences under the Act and on the possibility of graduated and implementable penalties where these would be appropriate.

8.14 Technical and Scientific Advisory Processes

The interactions of tide, wind and weather ensure that many areas of the ocean and the ocean bed are physically, chemically and biologically in a state of flux. Determining the potential impacts of planned aquaculture developments on the marine environment is challenging and often requires data in the form of a time series gathered over many months if not years.

It is the Group's view that a renewed effort should be made to reach a consensus between the various competent authorities with a responsibility in this area, so as to agree on a scientific assessment method and criteria for the development of appropriate conservation objectives for designated migratory fish populations. This would, in conjunction with other measures proposed, contribute to increasing confidence in the environmental sustainability of aquaculture and serve to reduce the degree of conflict related to aquaculture development.

The intensive monitoring and assessment work carried out jointly by NPWS and MI over the past decade, in combination with the extensive monitoring work carried by the fin fish industry and the third level institutions, should ensure that future screening and appropriate assessment processes are equally rigorous but less onerous than in the past. Climate change impacts are probably the greatest source of uncertainty but ongoing research which is underway both in MI and in the third level institutions should provide timely warnings as to the degree to which the critical issue of climate change is affecting aquaculture areas along the Irish coast.

As outlined above it is vitally important that the new web-based management system supports relevant scientific data and that this is regularly updated both from national surveys and from data collected by the industry. The availability of such relevant datasets should greatly assist in the streamlining and compilation of EIA Reports and ensure that the process as laid down in Directive 2014/52/EU is more focused and less onerous and time consuming than it was in the past.

Recommendation:

8.14 (1): A renewed effort should be made to reach a consensus on a scientific assessment method and criteria for the development of appropriate conservation objectives for populations of all relevant species with NPWS (Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs), Inland Fisheries Ireland and Marine Institute.

8.15 Towards an Integrated Policy Framework for Marine Spatial Planning and Coastal Zone Management in Ireland

Maritime spatial planning (MSP) is a process by which state authorities analyse and organise human activities in marine areas to achieve ecological, economic and social objectives. It is the subject to the Maritime Spatial Planning Directive (2014/EC/89). The Directive was transposed in September 2016 and maritime spatial plans have to be in place by April 2021. Arising from a review carried out on behalf of the EPA³⁹ there are a number of key advantages to adopting a more cohesive approach to MSP and Coastal Zone Management (CZM):

- promote the environmental, economic and social pillars of sustainable development
- apply an ecosystem-based approach
- address land-sea interactions
- ensure coherence between MSP and other processes
- promote the involvement of stakeholders
- ensure the best use of available data
- facilitate trans-boundary cooperation

The EPA further concluded that the use of Irish maritime space is increasing. As maritime activities intensify, there is increased competition for use of space and potential conflicts with other objectives such as the protection of the marine environment. Addressing governance issues and resolving conflicts between different stakeholders are increasingly important. There is a need for a holistic vision and management to allow for the balance of social, economic and environmental interests and to ensure that maritime space and resources are used in a planned and sustainable manner.

The Group believes that the timeframe for the implementation of the MSP Directive is timely and that the aquaculture management information system recommended above, should be developed in consort with preparations for the implementation of the Directive. The establishment of CZM management as an underlying policy objective for future sustainable development of our estuaries, bays and coastal margins is fundamental to the future development of aquaculture in Ireland. The Group notes the merits of such a process in relation to aquaculture where it has been established (e.g. Norway).

Recommendation:

8.15 (1): The Group considers developing a MSP framework will be essential for future development of a sustainable aquaculture sector.

8.15 (2): The recommended Aquaculture Management Information System should be designed so as to facilitate the implementation of national MSP and CZM initiatives.

8.16 Legislative Reform

The aquaculture legislation, both primary and secondary, has been amended many times, in particular to give effect to EU environmental legislation. It is difficult to follow and establish the current status of various provisions. The Law Reform Commission publishes a codified updated version of the Acts and Regulations on www.lawreform.ie.⁴⁰ It would be helpful if the Department's website listed the relevant Acts and Regulations with a link to the law reform website.

The Group's earlier recommendations have already identified significant changes that can be brought about to the licensing process. In addition to that the Group considers that there is a need to plan for

³⁹ Research 174 – Towards an Integrated Policy Framework for Maritime Spatial Planning in Ireland: Recommendations for Preparing Maritime Spatial Plans In Ireland, 2016. Available at: <http://www.epa.ie/researchandeducation/research/researchpublications/researchreports/researchreport174.html>

⁴⁰ <http://revisedacts.lawreform.ie/revacts/intro>

comprehensive legislative reform in this area. The preparation and enactment of legislation is a lengthy process. This is an urgent matter and the Group recommends that work commence immediately on the preparation of new Aquaculture legislation, having regard to best practice in other jurisdictions and in other relevant consenting systems here in Ireland.

Arising from the consultation process, the Group considers that the issues to be considered should include the following:

- Where should the licensing function reside? With the Minister as at present? With a new Regulatory Body? Be assigned to an existing Environmental Regulatory Body? Some submissions considered that the Minister for Agriculture, Food and the Marine would be the appropriate Regulatory authority. Others considered that there was a conflict with the Minister's other roles for example in relation to enforcement and also in relation to development of policy for the industry. In preparing new legislation the question must be analysed.
- Should there be a separate appeals body? Should the determination and appeals functions rest with the one body as is the case of the Environmental Protection Agency?
- Consideration of the appropriate body for monitoring and enforcement. Should it be the licensing body or a separate body? The EPA has a separate Office of Environmental Enforcement.
- Clarify definitions of new licence applications, review of licence and licence renewal. Can/should licence conditions be reviewed without triggering review of licence, for example to take account of Best Available Technology. These issues are addressed earlier and appear to need new legislation to satisfactorily resolve them.
- Duration of licence. The Group recommends that licences be issued for the 20 year period provided for in the current legislation. However, new legislation should introduce conditionality around that period to ensure compliance with environmental conditions.
- Consider the level of fees for applications and the degree of cost recovery; the appropriate annual fees for licences.
- Monitoring and Enforcement including sanctions which would be proportionate and dissuasive. The issue of penalties is complex legally but in context of new legislation should be examined with a view to putting in place a modern sanctions system that encourages compliance.
- Finfish and shellfish aquaculture: do the different nature of the two activities and the differing scale of operations merit different approaches to licensing? Different approaches to ensuring compliance with EU EIA and AA requirements? There appears to be a case for different approaches.
- Does the nature of the marine environment for example in bays require a bay-wide approach to licensing rather than determining individual applications as and when they arise?. Related to the previous question is the fact that the number of small operations in Natura 2000 sites raises issues regarding cumulative effects. A clear policy on how such applications are to be handled needs to be established.
- Remedy defects identified in existing legislation. These have been referred to earlier. They include issues around forfeiting licences which haven't commenced operation within 2 years and licences which have been inactive for 2 years. Also conditions under which licences can be transferred.
- Repealing s.19A – S19A (4) was enacted to provide for the continuation of licences pending determination on applications to be renewed. The Group considers that this provision should be reviewed in the context of legislative reform and an early clearance of the existing backlog.

Recommendation:

8.16 (1): The Group recommends that work commence immediately on the preparation of new Aquaculture legislation, having regard to best practice in other jurisdictions and in other relevant consenting systems here in Ireland.

9 List of Recommendations

The Group recommends:

8.0 Conclusion:

8.0 (1): As an overarching conclusion, that a root-and-branch reform of the aquaculture licence application processes is necessary. The reform needs to be comprehensive in scope and focus both on immediate actions which can produce results in the short term as well as initiatives which will bear fruit in the longer term.

8.1 A Reasonable timescale for licence determinations, Recommendation:

8.1 (1): A six month time limit should be set in which to determine a licence and that this should apply to all new licence applications submitted after January 1 2018.

8.2 The Pre-application process, Recommendations:

8.2 (1): The establishment of a pre-application process to ensure that applications and are complete and contain all of the material required to ensure an efficient processing of the application. As a first step, this should be introduced as soon as possible on an administrative basis.

8.2 (2): Formalise the existing liaison between BIM officers and potential applicants, and the relevant BIM staff should be assigned the role of Aquaculture Liaison Officers in this context.

8.3 Public Notice, Recommendations:

8.3 (1): Public notification should form part of an e-licensing system to provide a more appropriate vehicle for public notification.

8.3 (2): The Minister should specify the appropriate media and format for the publication of notices.

8.3 (3): Applicants should be required to show evidence of public notice of the making of the application; this can be enabled by amending the existing application regulations.

8.3 (4): AFMD should also consider practical arrangements for the erection of site notices to provide information to the public on licences and tackle the perception that the licensing process is opaque.

8.4 Consultations, Recommendation:

8.4 (1): Consultation with public and the statutory bodies should be carried out concurrently. This can be addressed in administrative procedures and guidelines.

8.5 Web –based Aquaculture Application and Monitoring Systems, Recommendations:

- 8.5 (1):** The establishment of an open-access, web based aquaculture application and monitoring system
- 8.5 (2):** The proposed Aquaculture Management Information System should comprise a single portal to all relevant administrative, engineering and scientific material
- 8.5 (3):** Scientific and technical data sets from both the NPWS and MI databases should be integrated with the proposed Aquaculture Management Information System.

8.6 Time- saving opportunities and the licensing process, Recommendations:

- 8.6 (1):** From the point of view of the efficiency of the determination process, the Group considers that a dedicated technical and scientific resource in the Division itself is essential.
- 8.6 (2):** Procedural guidelines should be available to the licensing authority and to ALAB.
- 8.6 (3):** The components of an EIA Report should be listed on the AFMD website and comprehensive guidance provided as to the extent of the material which should be included.
- 8.6 (4):** That a Memorandum of Understanding be drawn up between the NPWS and AFMD setting out clearly the roles and functions of each and the manner and timing of consultations.

8.7 Delegation of powers at key decision points, Recommendations:

- 8.7 (1):** The Minister consider availing of the provisions of the 1997 Act and delegating the power to determine licences to an official
- 8.7 (2):** That in preparing new legislation consideration be given to assigning the aquaculture licensing function to an independent body either a new body set up for the purpose or one of the existing environmental Regulatory Bodies.

8.8 Aquaculture Licences Appeals Board, Recommendations:

- 8.8 (1):** It is recommended that ALAB be sufficiently resourced to the same standard of technology, guidelines and access to expertise so that it too can deliver determinations on appeals in a timely and effective manner.
- 8.8 (2):** A Service Level Agreement should be agreed between the Minister and ALAB.
- 8.8 (3):** In reviewing the legislation, it should be open to consideration to determine the appropriate structures for an independent appeals body with resources to execute its functions to the required standard and within an acceptable timeframe.

8.9 Backlog, Recommendation:

- 8.9 (1):** The Group recommends that AFMD establish a task force to devise and implement a strategy to deal with the backlog within an achievable but ambitious, accelerated timeframe and not beyond the end of 2019

8.10 Transparency of Application Processing, Recommendation:

8.10 (1): In planning for the future of licensing, the Department sets out how it will manage the orderly acceptance of applications.

8.11 Terms of Licences, Recommendation:

8.11 (1): The Group recommends that a 20 year period should be adopted for new and renewed licences, subject to the following:

- that the format of licences be revised so that central terms are separated from technical annexes, the latter which can be amended in light of emerging best available technology or best environmental practice in the relevant activity;
- that the licensing process include a comprehensive assessment of the financial and operational capability of the applicant to operate a licence in a manner compliant with the various terms of such a licence; appropriate and proportionate to the nature of the activity to which the licence applies;
- that licences should be capable of being reviewed, updated and amended without compensation to reflect the development of new requirements, standards and assessments as these may arise from national or EU legislation.

8.12 Scientific and Trial Licences, Recommendation:

8.12 (1): A dedicated procedure should be established for trial licences, by regulation, and if possible, a distinction should be drawn between commercial and non-commercial requirements. The time limit for decision on trial licence applications, as for other new licence applications, should be six months.

8.13 Monitoring of Licences, Recommendations:

8.13 (1): It is essential that licence conditions are monitored and enforcement action taken for non-compliance.

8.13 (2): In the context of preparing a new Aquaculture Act, consideration should be given to the type of penalties that should apply to various offences under the Act and on the possibility of graduated and implementable penalties where these would be appropriate.

8.14 Technical and Scientific Advisory Process, Recommendation:

8.14 (1): A renewed effort should be made to reach a consensus on a scientific assessment method and criteria for the development of appropriate conservation objectives for populations of all relevant species with NPWS (Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs), Inland Fisheries Ireland and Marine Institute.

8.15 Towards and Integrated Policy Framework of Marine Spatial Planning and Coastal Zone Management, Recommendations:

8.15 (1): The Group considers developing a Marine Spatial Planning framework is essential for future development of a sustainable aquaculture sector.

8.15 (2): The recommended Aquaculture Management Information System should be designed so as to facilitate the implementation of national MSP and CZM initiatives.

8.16 Legislative Reform, Recommendation:

8.16 (1): The Group recommends that work commence immediately on the preparation of new Aquaculture legislation, having regard to best practice in other jurisdictions and in other relevant consenting systems here In Ireland.

10 Implementation of the Report

The Group undertook its review work in line with the Terms of Reference and acknowledges that implementation of the report is a matter for the Minister and the Department. Implementation of all of the recommendations in this report will be challenging. However the Group considers that it would be beneficial to set out an Implementation Strategy which would assign responsibility for recommendations, accountability and set milestones for delivery and identify the necessary resources to support the implementation process.

Acronyms

AA	Appropriate Assessment, under the European Communities (Birds and Natural Habitats) Regulations 2011
AFMD	Aquaculture and Foreshore Management Division, Department of Agriculture Food and Marine
ALAB	Aquaculture Licences Appeals Board
AnT	An Taisce (The National Trust for Ireland)
AQUAMIS	Aquaculture Management Information System
BIM	Bord Iascaigh Mhara (Sea Fisheries Board)
BFE, FI	Bord Failte Eireann, Failte Ireland - National Tourism Development Authority
CIL	Commissioner of Irish Lights
CJEU	Court of Justice of European Union
DAFM	Department of Agriculture, Food and Marine
DAHRRGA	Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs
DCCAE	Department of Communications, Climate Action and Environment
DHPLG	Department of Housing, Planning and Local Government
DTTS	Department of Transport, Tourism and Sport
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement
IFI	Inland Fisheries Ireland
IFA	Irish Farmers' Association
ISA	Irish Shellfish Association
ISGA	Irish Salmon Growers Association
MED	Marine Engineers Division, Department of Agriculture Food and Marine
MI	Marine Institute
MSO	Marine Survey Office, Department of Transport, Tourism and Sport
NPWS	National Parks and Wildlife Services, Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs
SAC	Special Areas Of Conservation (EU Habitats Directive)
SPA	Special Protection Areas (EU Birds Directive)
SFPA	Sea Fisheries Protection Authority
STECF	Scientific, Technical and Economic Committee for Fisheries (EU)
UnaG	Údarás na Gaeltachta (Gaeltacht Authority)

Acronyms

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CIL	Commissioner of Irish Lights
CJEU	Court of Justice of European Union
DAFM	Department of Agriculture, Food and Marine
DAHRRGA	Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs
DCCAE	Department of Communications, Climate Action and Environment
DHPLG	Department of Housing, Planning and Local Government
DTTS	Department of Transport, Tourism and Sport
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement
IFI	Inland Fisheries Ireland
IFA	Irish Farmers' Association
ISA	Irish Shellfish Association
ISGA	Irish Salmon Growers Association
MED	Marine Engineers Division, Department of Agriculture Food and Marine
MI	Marine Institute
MSO	Marine Survey Office, Department of Transport, Tourism and Sport
NPWS	National Parks and Wildlife Services, Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs
SAC	Special Areas Of Conservation (EU Habitats Directive)
SPA	Special Protection Areas (EU Birds Directive)
SFPA	Sea Fisheries Protection Authority
STECF	Scientific, Technical and Economic Committee for Fisheries (EU)
UnaG	Údarás na Gaeltachta (Gaeltacht Authority)

National Legislation:

Acts of the Oireachtas:

1. Fisheries (Amendment) Act of 1997 (No. 23 1997).

Consolidated Act, published by the Law Reform Commission, including amendments up to the 20th May 2015
Available at: with annotations. http://www.lawreform.ie/fileupload/RevisedActs/WithAnnotations/HTML/en_act_1997_0023.htm

Without annotations:

<http://revisedacts.lawreform.ie/eli/1997/act/23/revised/en/pdf?annotations=false>

2. Foreshore Acts 1933 to 2014: Foreshore Act 1933 (No. 12 1933).

Consolidated Act, published by the Law Reform Commission, including amendments up to the 11th December 2014
Available at with annotations:

http://www.lawreform.ie/fileupload/RevisedActs/WithAnnotations/HTML/EN_ACT_1933_0012.htm

Without annotations: <http://revisedacts.lawreform.ie/eli/1933/act/12/revised/en/pdf?annotations=false>

3. Foreshore Acts 1933 to 2014: Foreshore (Amendment) Act 1992 (17/1992).

Consolidated Act, published by the Law Reform Commission, including amendments up to the 18th March 2014
with annotations. Available at

http://www.lawreform.ie/fileupload/RevisedActs/WithAnnotations/HTML/EN_ACT_1992_0017.htm

Without annotations:

<http://revisedacts.lawreform.ie/eli/1992/act/17/revised/en/pdf?annotations=false>

4. Foreshore Acts 1933 to 2014: Fisheries and Foreshore (Amendment) Act 1998 (54/1998)

Consolidated Act, published by the Law Reform Commission, including amendments up to the 2nd July 2015
with annotations. Available at <http://revisedacts.lawreform.ie/eli/1998/act/54/revised/en/pdf?annotations=true>

Without annotations:

<http://revisedacts.lawreform.ie/eli/1998/act/54/revised/en/pdf?annotations=false>

Regulations and SIs:

Aquaculture Licensing Regulations: all available at <http://www.irishstatutebook.ie/>

1. Aquaculture (Licence Application) Regulations, 1998 [SI No.236 1998](#)

Amended by:

- Regs 10 + 11 of SI 236/1998 amended by Regs 2(4) + 2(5) of Aquaculture (Licence Application) (Amendment) Regulations, 2001 [SI No. 145/2001](#), respectively. ([REVOKED BY SI 301/2012](#)).
- Reg 5 + Schedule 1 of SI 236/1998 amended by Regs 2(a) + 2(b) of Aquaculture (Licence Application) (Amendment) Regulations 2006 SI [SI No.197/2006](#), respectively. ([REVOKED BY SI 301/2012](#)).
- 1(a). Reg 4 of SI 236/1998 amended by Reg 4(1) of European Communities (Control of Dangerous Substances in Aquaculture) Regulations 2008 [SI No. 466/2008](#).
- 1(b). Reg 5 of SI 236/1998 amended by Reg 2 of Aquaculture (Licence Application) (Amendment) Regulations 2010. [SI No. 280/2010](#)
- 1(c). Reg 19 of SI 236/1998 amended by Reg 2 of Aquaculture (Licence Application) (Amendment) (No. 2) Regulations 2010. [SI No. 369/2010](#)
- 1(d). Regs 8(1), 9(1), 10(3), 11, 12(3)(a), Schedule 2 and 3 of SI 236/1998 amended by Regs 2(a), 2(b), 2(c), 2(d), 2(e) and 2(f) of Aquaculture (Licence Application) (Amendment) Regulations 2012, [SI No. 301/2012](#), respectively.
- 1(e). Regs 3(1), 3(2), 4A, 5(1), 5(3), 5(4) of SI 236/1998 amended by Regs 3(a), 3(b), 3(c), 4, 5(a), 5(b) of European Union (Environmental Impact Assessment) (Aquaculture) Regulations 2012 [SI No. 410/2012](#)
- 1(f). Reg 5(1)(i) of SI 236/1998 amended by Reg 2 of Aquaculture (Licence Application)(Amendment) Regulations 2016. [SI No. 464/2016](#).

2. Aquaculture (Licence Application and Licence Fees) Regulations, 1998. [SI No. 270 1998](#)

Amended by:

- 2(a). Reg 5 of SI 270/1998 amended by Regs 1(2) + 2 of Aquaculture (Licence Fees) Regulations, 2000, [SI No. 282/2000](#).

3. Aquaculture (Licence Application and Licence Fees) (No. 2) Regulations, 1998. [SI No.324/1998](#)

Amended by:

- 3(a) Reg 5 of SI 324/1998 amended by Regs 1(2) + 2 Aquaculture (Licence Fees) Regulations, 2000 [SI No.282/2000](#)

4. Aquaculture Licensing Appeals (Fees) Regulations, 1998 [SI No. 449/1998](#)

Environmental Regulations: all available at <http://www.irishstatutebook.ie/>

1. European Union (Environmental Impact Assessment) (Aquaculture) Regulations 2012.

[SI No. 410/2012](#)

2. Aquaculture Appeals (Environmental Impact Assessment) Regulations 2012. [SI No. 468/2012](#)

3. Appropriate Assessment of the European Communities (Birds and Natural Habitats) Regulations 2011. [SI No. 477/2011](#) See in particular Part 4 (Regulations 26-41) and Part 5 (Regulations 42-48)

Amended by:

- 3(a). Reg 41(8) of SI 477/2011 is amended by Reg 32(1) of European Union (Birds and Natural Habitats) (Sea-fisheries) Regulations 2013, [SI No. 290/2013](#)
- 3(b). Reg 42(25) of SI 477/2011 is amended by Reg 1(4) 3 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2013, [SI No. 499/2013](#).
- 3(c). Regs 28(10), 32(1), 40(5), 42(26) of SI 477/2011 are amended by Regs 1(4) 8, 9, 10 & 11 of the European Communities (Birds and Natural Habitats) (Amendment) Regulations 2015, [SI No. 355/2015](#), respectively.

EU Directives:

1. Environmental Impact Assessment.

- (a) Directive 2011/92/EU of the European Parliament and of the Council, of the 13 December 2011, on the assessment of the effects of certain public and private projects on the environment.

Available at:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0092&from=EN>

- (b) Directive 2014/52/EU of the European Parliament and of the Council, of 16 April 2014, amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment. Available at:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0052&from=EN>

- (c) Consolidated EIA Directives, available at:

http://ec.europa.eu/environment/eia/pdf/EIA_Directive_informal.pdf

1. Birds and Habitats Directives

- (a) Directive 74/409/EEC amended to: Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, available at:

<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32009L0147&from=EN>

- (b) Habitats Directive: Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, available at:

<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:31992L0043&from=EN>

International Convention

1. The United Nations Economic Commission for Europe (UNECE), Aarhus Convention: Convention on Access to Information, Public Participation in Decision- Making and Access to Justice in Environmental Matters, 25 June 1998.

Available at: <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>

APPENDICES

Appendix 1

Table of Participants in Aquaculture Licensing Processes

Body	Role	Statutory Basis
Applicant	Application for licence Licence holder depending out on the outcome of the process	
Minister for Agriculture, Food and the Marine (MAFM)	Licensing Authority	Section 3, Fisheries (Amendment) Act 1997 & subsequent transfers of functions orders
Aquaculture & Foreshore Management Division, Department of Agriculture, Food and the Marine (AFMD)	Processing of aquaculture applications from receipt to issuing of licence decision. Administration of existing licences. Monitoring of licence compliance (Staff: Breakdown)	Internal to Licensing Authority
Marine Engineering Division, Department of Agriculture, Food and the Marine (MED)	Site mapping/GIS Technical advisors on structures Inspectorate services for licence compliance Pre-application advice	Internal to Licensing Authority
Marine Institute(MI)	Statutory consultation Scientific advisors on marine environment and marine economic development Competent authority for health of aquaculture animals	Regulation 10, Aquaculture (Licence Application) Regulations, 1998 Section 4, Marine Institute Act, 1991 European Communities (Health of Aquaculture Animals and Products) Regulations, 2008
Bord Iascaigh Mhara (BIM)	Statutory consultation Seafood development agency Pre-application advice	Regulation 10, Aquaculture (Licence Application) Regulations, 1998 Sea-fisheries Act, 1952
Sea Fisheries Protection Authority (SFPA)	Advisors on the suitability of the waters Competent authority for seafood safety	S.61 Fisheries (Amendment) Act 1997 EU Hygiene Package of Regulations Sea-Fisheries & Maritime Jurisdiction Act 2006

National Parks and Wildlife Service, Department(Minister) of Arts, Heritage, Regional, Rural and Gaeltacht Affairs (NPWS)	Statutory consultation Designation of SACs and SPAs, Data Collection and Setting of Conservation Objectives.	Regulation 10, Aquaculture (Licence Application) Regulations, 1998 European Communities (Habitats and Birds) Regulations 2011
Aquaculture Licences Appeals Board	Licensing authority in the case of licence decisions under appeal Appeals Board	Part III, Fisheries (Amendment) Act 1997
Minister for Housing, Planning, Community & Local Government	Statutory consultation	S.2(1A) and 3(1B) Foreshore Acts 1933 to 2014
As above plus: <ul style="list-style-type: none"> • Údaras na Gaeltachta, • Local Authorities • Failte Ireland, • Inland Fisheries Ireland, • Commissioners of Irish Lights • An Taisce • Harbour Authorities, Department of Transport, Tourism and Sport. 	Statutory consultation	Regulation 10, Aquaculture (Licence Application) Regulations, 1998
Public, Environmental NGOs	Public Consultation	Regulation 9, Aquaculture (Licence Application) Regulations, 1998

Appendix 2.

The table below lists the stakeholders that the Group met during the review.

The Group met with representatives from the following:
Aquaculture and Foreshore Management Division, AFMD, Department of Agriculture Food and Marine.
Aquaculture Licences Appeals Board, ALAB.
An Bord Pleanála.
An Taisce.
Bord Iascaigh Mhara, BIM.
Environmental Protection Agency, EPA.
Food and Veterinary Authority, Faroe Islands.
Inland Fisheries Ireland, IFI.
Irish Farmers' Association, Aquaculture, IFA Aquaculture.
Irish Salmon Growers Association.
Irish Shellfish Association.
Legal Services Division, Department of Agriculture Food and Marine.
Marine Engineers Division, MED, Department of Agriculture, Food and the Marine.
Marine Institute, MI.
Marine Scotland with representatives from The Crown Estate/Crown Estate Scotland, Scotland Environmental Protection Agency, Scottish Government, Landscape and Natural Habitats and Argyll and Bute Local Authority
National Parks and Wildlife Services, NPWS, Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs
Norwegian Embassy
Norwegian, Ministry of Trade, industry and Fisheries.
Sea Fisheries Protection Agency
Socio Economic Marine Research Unit (SEMURU), National University of Galway

Appendix 3.

Table of Submission Received:

A to D

A.D. Boyle	Aquaculture Foreshore Management Division	Bradán Beo Teoranta	Catherine McManus	Connemara Seafoods Frozen Ltd.
Achill Oysters	Aquaculture Licences Appeals Board	Breda Smith	Catriona O'Brien	Connemara Smokehouse
Agnes Curran	Aquafact International Services Ltd.	Brenda Mcateer	Celtic Kerber Ltd	Conor Ryan + James Ryan
Aidan Friel	AquaTT	Brendan Price	Charlie Crerand	Control Techniques, EIA UK Ltd.
Aidan McAteer	Ark Safety Equipment Ltd	Brenntag (UK + IrelandLtd)	Christian Pinder	Cormac Friel
Aidan Sweeney	Arklow Marine Services Ltd.	Brian E. Curran	Christopher Coyle	Corneilo D. O' Donovan Ltd.
Áine Boyle	Arko Podsially	Brian O' Donnell	Claire McFadden	Croaghcross National School
Allihes Seafood Ltd	Art Wilson	Brian Rodgers	Clann Uí Cheallacháin Family	Crochnagee Oysters Ltd
Altemar Ltd	Barry Carr	Brian West	Clare Island Community Co-op Ltd	Damien McDermott
An Taisce	Bartley McFadden	Brideen McKenzie	Cliabháin Cóna Teo(Coastal Cages Ltd)	Damien O Toole
Angela Lynch	Beara Oil	Burren Smokehouse Ltd.	Cliona Ní Cheallacháin	Damien Quinn
Anita O' Sullivan	Ben McGonagle	Callaghan Transport	Clive Long Electrical Ltd, Clive Long	Dan Gallagher,
Ann Marie Poole	Bernadette Coombes	Callum Barrett	CMAQUA	Danny (surname unclear)
Anne Martin	Bernie Friel	Canice McAndrew	Coiste Fostaíochta Iorras Aithneach	Danny and Marie O' Donnell
Annette Rogers	Bernie Gallagher	Carlingford Oyster Company Ltd	Coiste Timpeallachta an Ghaoith	Danny Doherty
Annette Sweeney	Bernie Mcelwaine	Carol Carr	Colette Greene	Danny Logue
Anthony Murphy	Bernie McFadden	Caroline Kuyper	Colin Duffy	Darren Carr
Anthony Ward	Bia Mara(Deise) Teoranta	Caroline McElwaine	Colm Friel	Darren Doherty
Aodh MacRuairí	Blackshell Farm Ltd, Michael Mulloy	Carr & Sons Seafood Ltd.	Commissioners of Irish Lights Submission	Darren Kilbane
Aqua Fresh Fish Ltd + Aqua Farm Systems Ltd	Bord Iascaigh Mhara, BIM	Castletownbere Development Association	Coney Island Shellfish Ltd	Daruisz Miraszewskiu

D to J

David Brennan	Eamonn Dougherty	Fiona McConigley	Hannah Ní Bhaoil	JJD Services
David Corrigan	Eamonn Mcgrenaghan	Fish Vet Group Scotland.	Harry Boyce	Joan Mcveigh
David Dunlop	Eany Fish Products Ltd	Fisheries Local Action Group, FLAG South	Hederman Smokehouse	Joe Carr
David Johnston	East Coast inshore Fishing Co. Ltd	FishVet Group Galway	Henry McKinley & Sons Ltd.	Joe McNea
David Mc gloin	Eddie Carr & Co. Ltd	FishVet Group, Hamish Rodger	Hensey Glan-Uisce Teo	Joe Rose
David Ward	Eddie Griffin	Fota Oyster Farm Ltd,	Holmes Plant Hire	John (surname unclear)
Declan Duffy	Edgar McCoach	Friends of the Environment	Hugh Heraghty	John A Spence
Declan McAteer	Ellen McGonigle	Gabhán Ó Gallachóir	Humphrey O' Leary	John Barrett
Declan McGettigan	Enda Conneely	Galeamber Ltd & Os Well Boats Ltd.	Ian Smith	John E. Friel +James McAteer
Delta Valves and Plastics Ltd.	Enda Martin	Galway Bay Against Salmon Cages	Ibec	John Gallagher
Derrylea Holdings Ltd.	Eoghan McDermott	Gary McHugh	IDAS Ltd	John J McElivee
Donagh Mcgonigle	Fáilte Ireland	Gearóid Ó Maonaigh	IFA, Aquaculture	John Johnston
Donald Friel	Fanad Active Group	Geraldine Weir Rodgers	Inland Fisheries Ireland, IFI	John Mcfadden
Donegal Electrical Rewinds	Fast Fish Ltd	Gerard McBride	Irish Premium Oysters	John Mcfadden
Donegal Save Our Strand, Kathleen Cannon	Fastnet Mussels Ltd	Gerard McFadden	Irish Sea Spray, Oileán Mara Teoranta.	John P Coyle
Donna McAteer	Felix Sproll	Goatsbridge Trout Farm	Irish Seafood Producers Group (ISPG)	John Sweeney
Dr. Colin Hannon	Fergal Friel	Group Submission (15 Individuals, signed Alan Doherty etc.)	Irish Seaweed Consultancy Ltd.	Joint Committee On Agriculture, Food and Marine
Drumfad National School	Fergal Guilfoyle	Gweebarra Conservation Group	James Gallagher	Jonathan Friel
Dungarvan Shellfish Ltd	Ferguson Shellfish (Carlingford) Ltd + Carlingford Lough Oysters Ltd.	H McGinley	James O Callaghan	Jordan International Ltd
Eamon Friel	Finlay Shiels	Hal Dawson	Jan Feenstra	Jordan Lamph

J to P

Joseph Gibbons	Local Government Management Agency, LGMA, Cork County Council	Marion Rose McFadden	Michael McDevitt	Niall Sweeney
Joseph Sheerin	Loughs Agency	Maritime Management	Michael McGee	Nigel Taepe
Julie Coyle	Lukas Sliwak	Mark Carr	Michael Muhr	Norwegian Ambassador to Ireland
Junior Achievement Ireland	Lurgan Green Shellfish Ltd	Mark Friel	Michael Murphy	O' Toole Transport
Kathleen Coll	Lynch's on the Pier	Martin Friel	Michael Nelis	Ocean Path, Quality Seafood.
Kathleen Gallagher	Maggie Green	Martin McBride	Michaela O' Hara	Oidhreacht Iorras Aitheach
Keembay Fish Products	Maire Callaghan	Martin McSherry	Michelle Hay	Oisin O'Doherty
Kelly Cleaning Equipment	Mairead Ni Mhaonaigh	Martina Kerr	Micky McGee	Paddy Martin
Keohane's of Bantry	Mannin Salmon Ltd.	Mary Carr	Mike Sammon	Padraig McLoughlin
KER Group	Marcus McNutt	Mary Dunlop	MNG Donegal Ltd	Pat Connors
Kevin Flannery	MaREI, Centre for Renewable Energy,	Mary Mcelwaine	Monika Kotulska	Pat The Cope Gallagher TD
Kevin Friel	Margaret McDonald	Maureen Dempsey	Mooney Boats Ltd,	Patricia Harper
Kevin Murphy	Margaret O' Donnell	Maurice Connolly	MOREFISH	Patrick & Andrew O'Leary
Kieran McHugh	Maria Griffin	Maurice Kelly	MoreNet Teoranta	Patrick and Martin Moran
Kingspan Aerobord.	Marie Pearson	May McLaughlin	Moulded Foam Ltd.	Patrick Carr
Krzysztof Miotk	Marine Design International Ltd.	Meenan Mechanical Business	Muintir Chill Damhnait	Patrick Friel
Kush Shellfish Ltd	Marine Harvest Ireland, Technical and Legal Submission	Mescal & Associates Ltd.	Mulroy Hoops Basketball Club	Patrick G Martin
Laura Hegarty	Marine Harvest Team South West, Cork and Kerry (63 signatures, signed Abdon Ryan etc.)	Michael Gibbons	Murphy Irish Seafood Ltd	Patrick G Shields
Leszek Klos	Marine Harvest, Norway.	Michael Heraghty	Natasha Mcelwaine	Patrick McElwaine
Liam Doherty	Marine Institute	Michael McBride	National Parks and Wildlife Services, NPWS	Patrick Mcelwee

P to Y

Patrick McGinley	Ray Fallon	Seamus O' Grady, Co. Mayo.	Susan Friel	
Patrick McGrenaghan	Ray McGrory	Sean Begley	Tardrum Fisheries Ltd & Fresco Seafoods Ltd	Wrights Of Marino
Patrick McNelis	Ray O' Sullivan	Sean Campbell	The Oystermens	Yawl Bay Seafood Ltd
Patrick Shovelin	Realt Na Meara Shellfish Ltd.	Sean Patton	Theresa Mcelwaine	Yvonne Scannell, Trinity Law School
Patrick Sweeney	Regional Inshore Fisheries Forum, RIFF North + Fisheries Local Action Group FLAG North	Seime Friel	Thomas Godlewski	
Patsy McGinley	Regional Inshore Fisheries Forum, RIFF South East	Shane Doherty	Thomas Pringle TD + Cllr Michéal MacGiollaEaspuig + Cllr John Campbell	
Paul McFadden	Rhona Reid	Shane Friel	Tine Verbeke	
Pauline Boyce	Richard Carr	Sharon Porter	TNS Shellfish	
Pauric McGettigan	Roaring Water Bay Rope Mussels	Shaun Coyle	Tom Pinder	
Pauric Rose	Roman Pawlowski	Shaun Friel	Tommy Patton	
Pearse Doherty,TD	Ryan Institute, NUIG	Shaun Martin	Tony Fox	
Peter Coyle	Ryan McAteer	Shaun Mcelwaine	Tony Mac Ruairí	
Peter Grant	Sally McLoughlin	Shaun Patton	Údarás Na Gaeltachta	
Peter Griffin	Salmon Watch Ireland	Shauna McGowan	Ummera Smokehouse Ltd.	
Peter MacDonagh	Sandra Schlittenhardt	Sheila Ann O' Donnell	Una McCotter	
Philip O'Scannell	Save Linsfort Beach	St. Davaddog's National School	Úna Ní Charra	
Phonsie McAteer	Save this beach group	St. Killians Harvest Ltd	United Fish Industries	
Pneumatics Ltd	School of Natural Sciences, NUIG	Stella Kavanagh	Voya Cosmetics	
Premiair Ltd.	Seamus McDaid & Co.	Sterner Aquatech	Watermark -aqua environmental	
Rafal Podsially	Seamus O' Grady	Steven Doherty	Westpoint Shellfish Ltd	

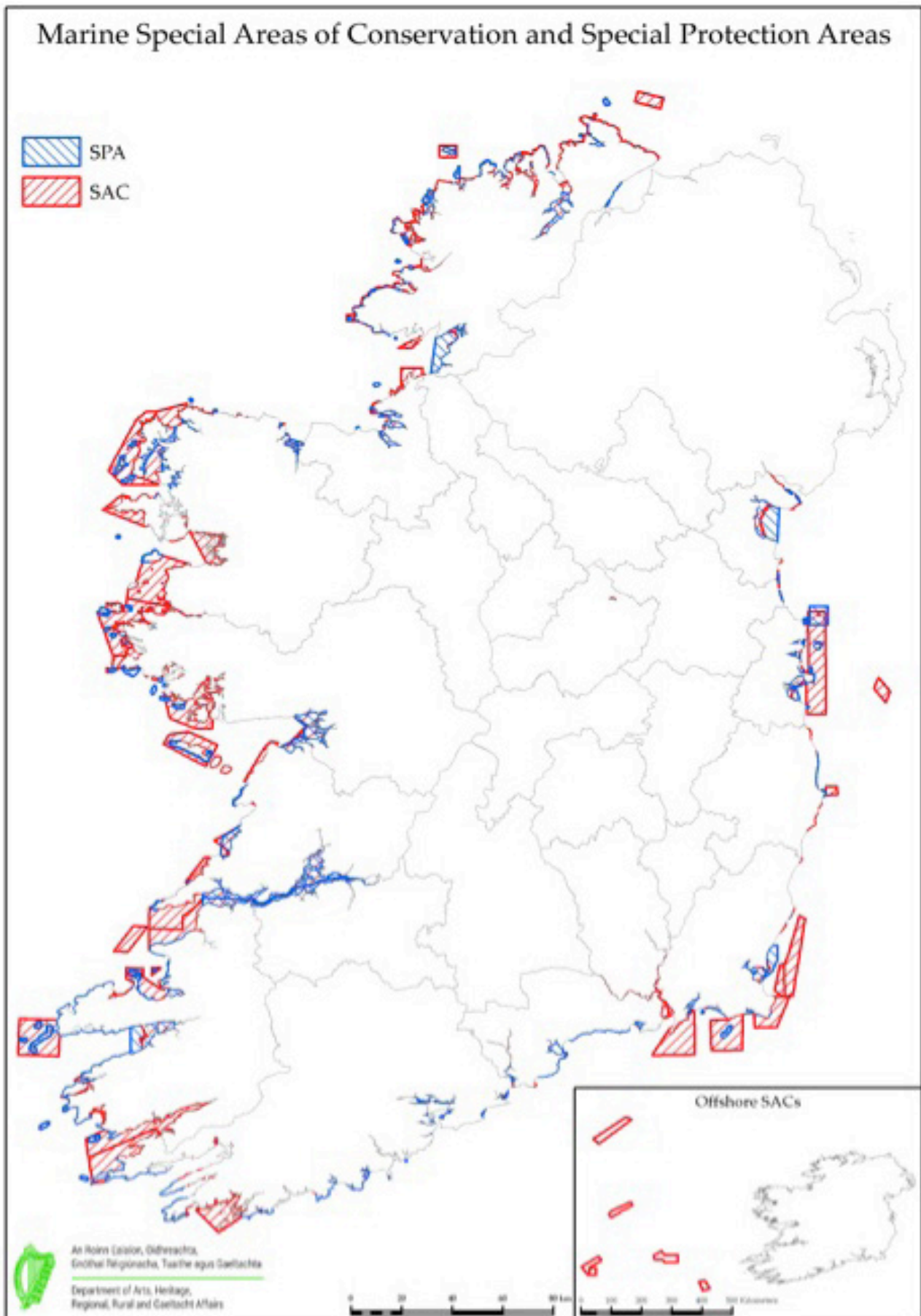
Appendix 4.

List of Appropriate Assessments received by Aquaculture Foreshore and Management Division (AFMD) from the Marine Institute to 31st December 2016

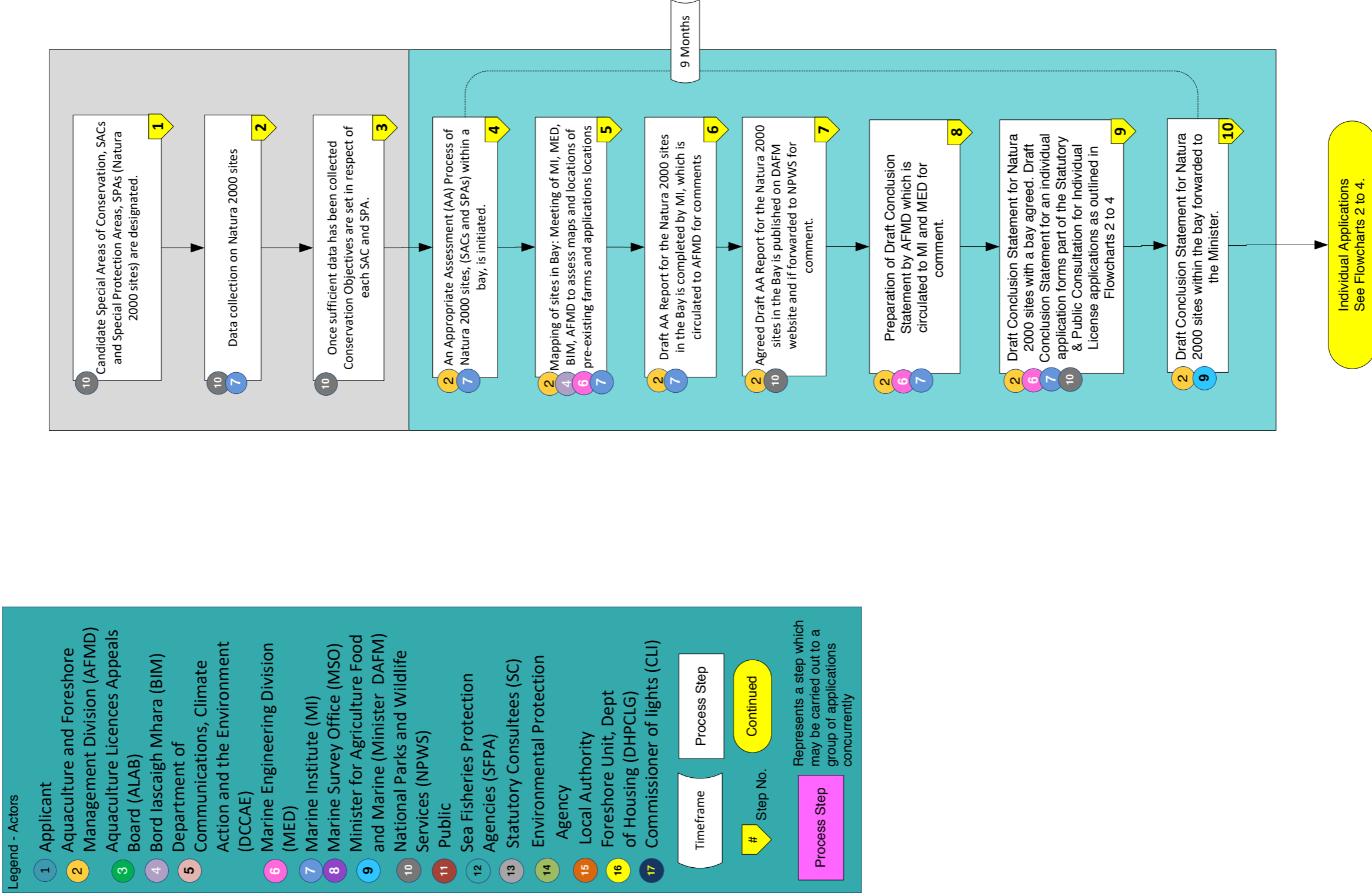
No.	Bay/Harbour
1	Castlemaine Harbour
2	Dundalk Bay
3	Lough Swilly
4	Roaringwater Bay
5	Dungarvan Harbour
6	Donegal Bay
7	Clew Bay
8	Valentia Harbour / Portmagee Channel
9	Galway Bay
10	Ballycotton Bay
11	Kenmare Bay
12	Drumcliff Bay / Cummeen Strand and Harbour (Sligo)
13	Kilkieran Bay
14	North Innishowen Coast / Trawbreaga Bay
15	Gweedore Bay
16	Sheephaven
17	West of Ardara/Maas Road
18	River Barrow & River Nore
19	Wexford Harbour
20	Bannow Bay
21	Slyne Head Peninsula (Mannin Bay)

Appendix 5

Map of Marine Natura 2000 sites SPAs and SACs in Ireland



1. Flowchart for Appropriate Assessment Process of Natura 2000 sites (SACs & SPAs) within a Bay



2. Flowchart for Processing Shellfish & Aquatic Plant Licence Application & Renewals

Legend - Actors

- 1 Applicant
- 2 Aquaculture and Foreshore Management Division (AFMD)
- 3 Aquaculture Licences Appeals Board (ALAB)
- 4 Bord Iascaigh Mhara (BIM)
- 5 Department of Communications, Climate Action and the Environment (DCCA/E)
- 6 Marine Engineering Division (MED)
- 7 Marine Institute (MI)
- 8 Marine Survey Office (MSO)
- 9 Minister for Agriculture Food and Marine (Minister DAFM)
- 10 National Parks and Wildlife Services (NPWS)
- 11 Public
- 12 Sea Fisheries Protection Agencies (SFPA)
- 13 Statutory Consultees (SC)
- 14 Environmental Protection Agency
- 15 Local Authority Foreshore Unit, Dept of Housing (DHPCLG)
- 16 Commissioner of lights (CL)

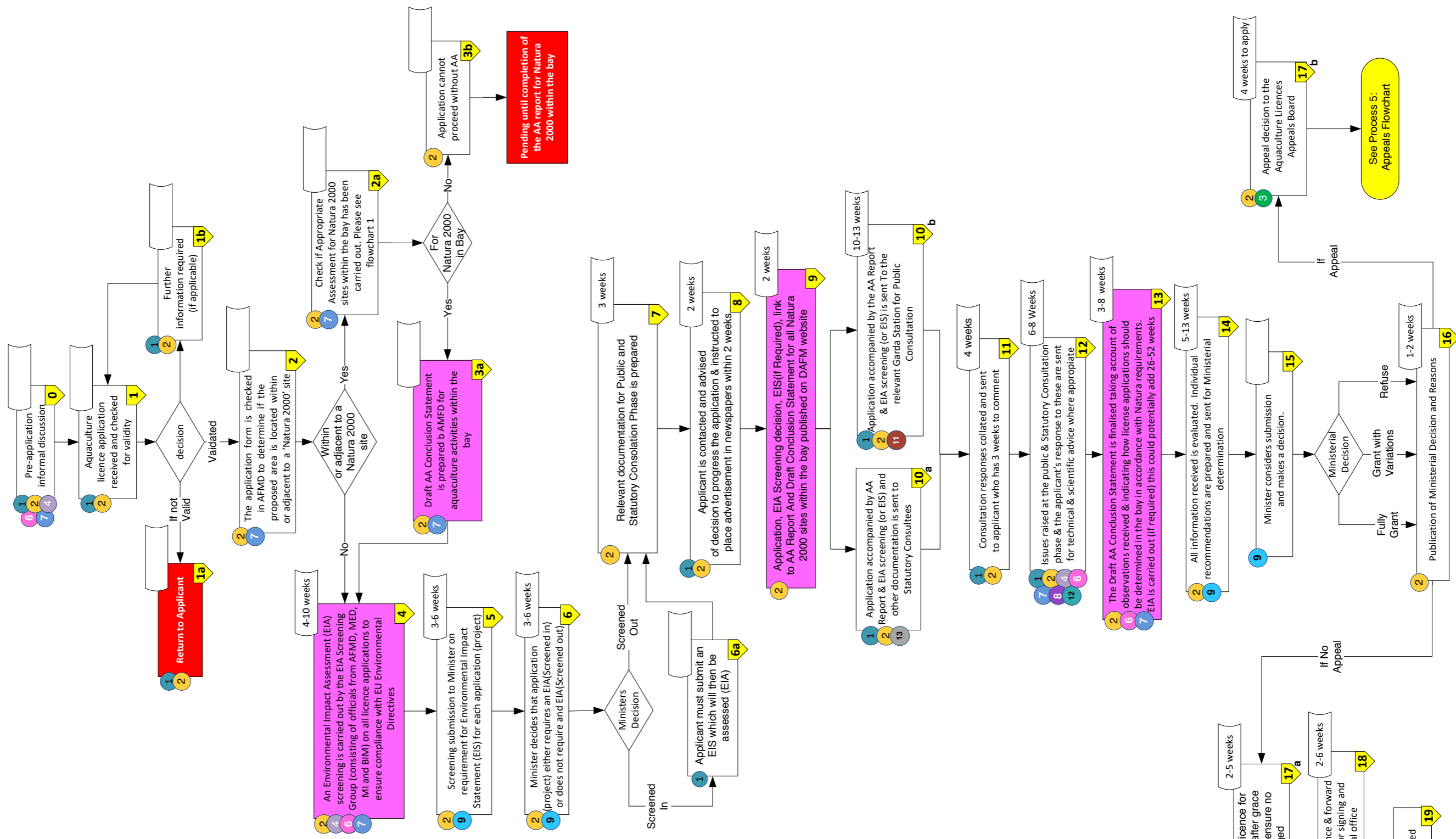
Timeframe

Step No.

Process Step

Continued

Represents a step which may be carried out to a group of applications concurrently



Appendix 8.
Marine Finfish licensing process.

3. Timeframe for Processing Marine Finfish Licence Applications & Renewals

Legend - Actors

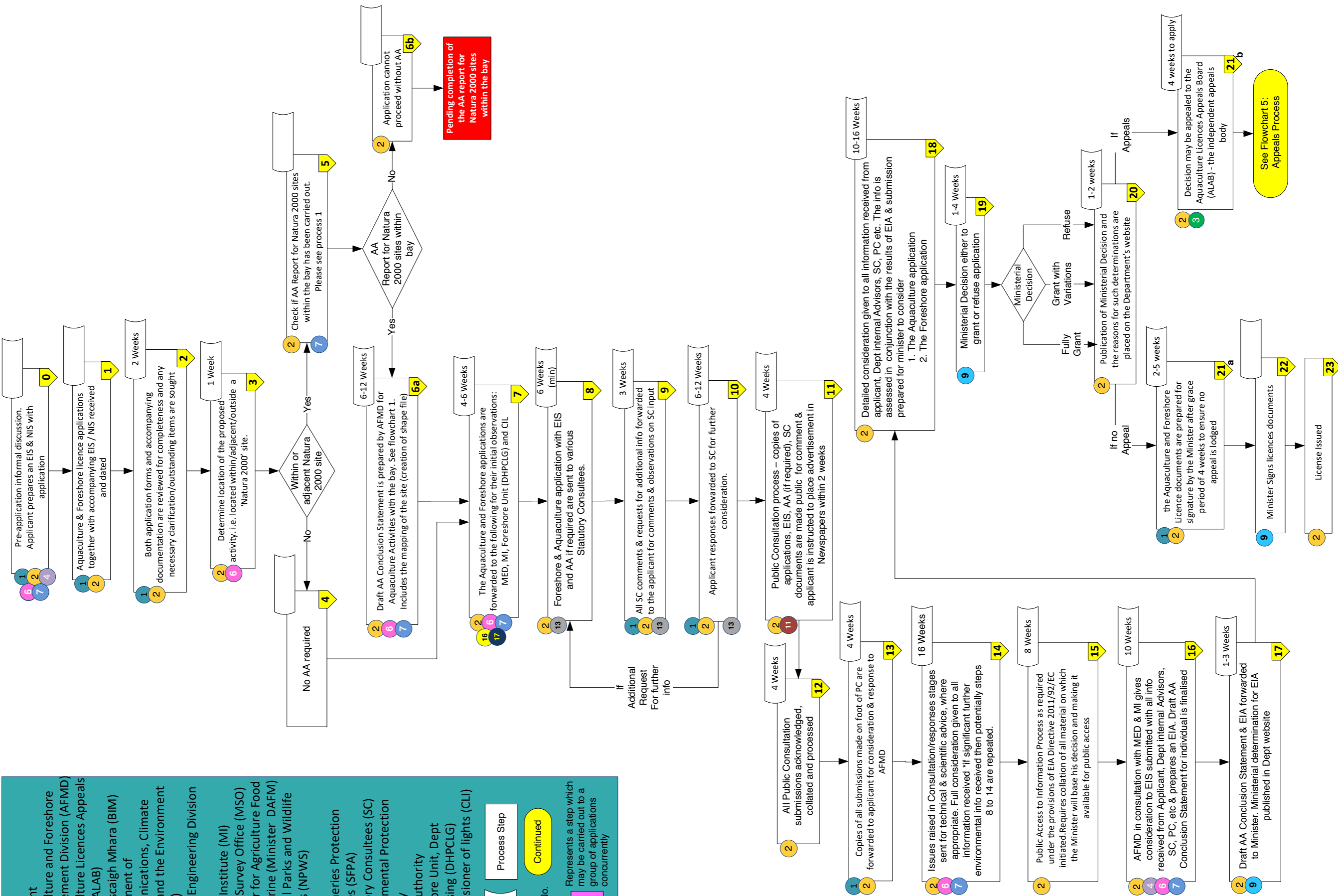
- 1 Applicant
- 2 Aquaculture and Foreshore Management Division (AFMD)
- 3 Aquaculture Licences Appeals Board (ALAB)
- 4 Bord Iascaigh Mhara (BIM)
- 5 Department of Communications, Climate Action and the Environment (DCCAE)
- 6 Marine Engineering Division (MED)
- 7 Marine Institute (MI)
- 8 Marine Survey Office (MSO)
- 9 Minister for Agriculture Food and Marine (Minister DAFM)
- 10 National Parks and Wildlife Services (NPWS)
- 11 Public
- 12 Sea Fisheries Protection Agencies (SFPA)
- 13 Statutory Consultees (SC)
- 14 Environmental Protection Agency
- 15 Local Authority
- 16 Foreshore Unit, Dept of Housing (DHPCLG)
- 17 Commissioner of lights (CLI)

Timeframe [Box with # and Step No.] **Process Step** [Box]

Step No. **Continued** [Yellow arrow]

Process Step [Pink box]

Represents a step which may be carried out to a group of applications concurrently



4. Flowchart for Processing Land-based (Freshwater & Saltwater) Aquaculture Licence Application and Renewals

Legend - Actors

- 1 - Applicant
- 2 - Aquaculture and Foreshore Management Division (AFMD)
- 3 - Aquaculture Licences Appeals Board (ALAB)
- 4 - Bord Iascaigh Mhara (BIM)
- 5 - Department of Communications, Climate Action and the Environment (DCCAE)
- 6 - Marine Engineering Division (MED)
- 7 - Marine Institute (MI)
- 8 - Marine Survey Office (MSO)
- 9 - Minister for Agriculture Food and Marine (Minister DAFM)
- 10 - National Parks and Wildlife Services (NPWS)
- 11 - Public
- 12 - Sea Fisheries Protection Agencies (SFPA)
- 13 - Statutory Consultees (SC)
- 14 - Environmental Protection Agency
- 15 - Local Authority
- 16 - Foreshore Unit, Dept Of Housing (DHPCLG)
- 17 - Commissioner of lights (CLI)

Timeframe [Box]

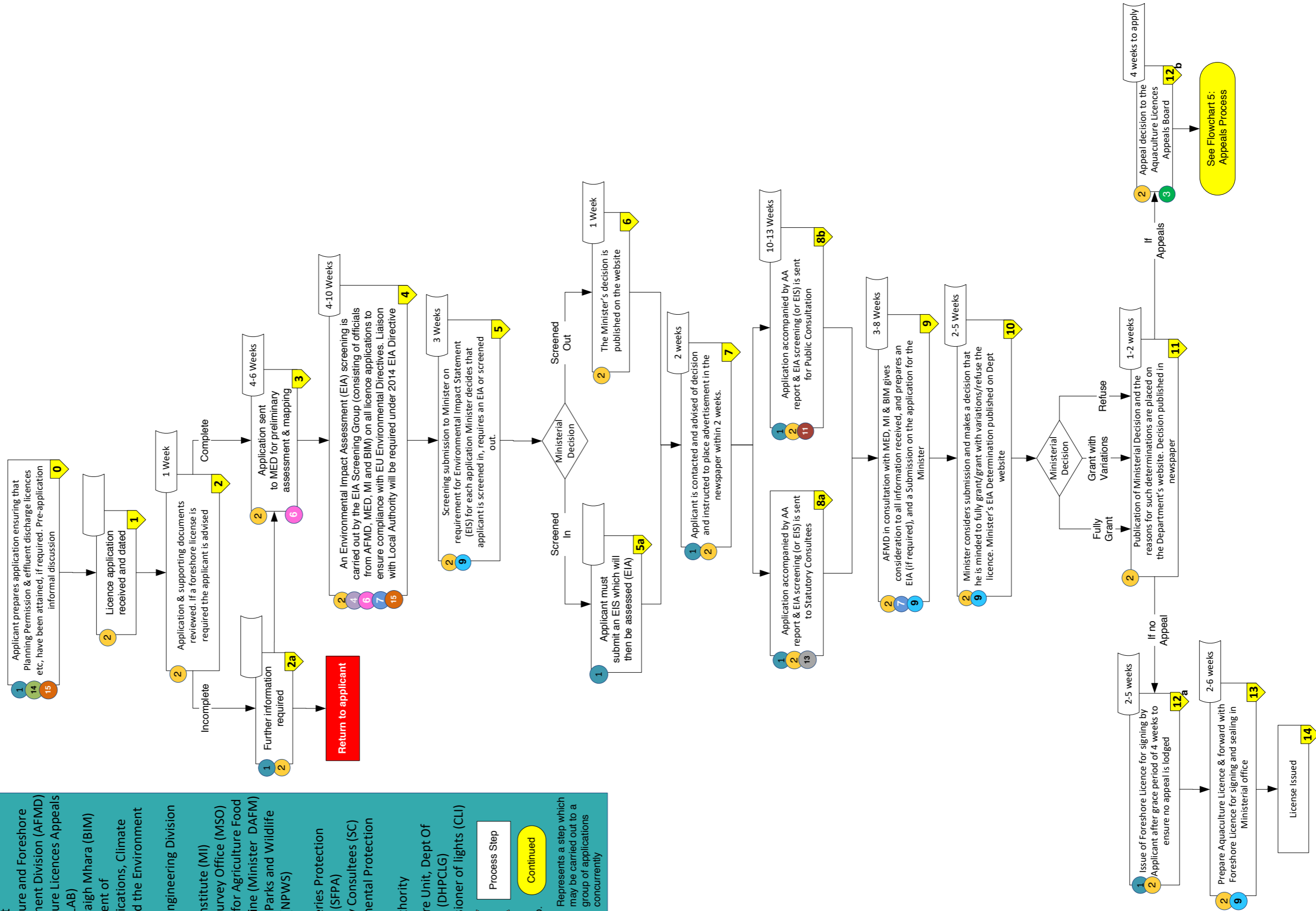
Process Step [Box]

Continued [Yellow Arrow]

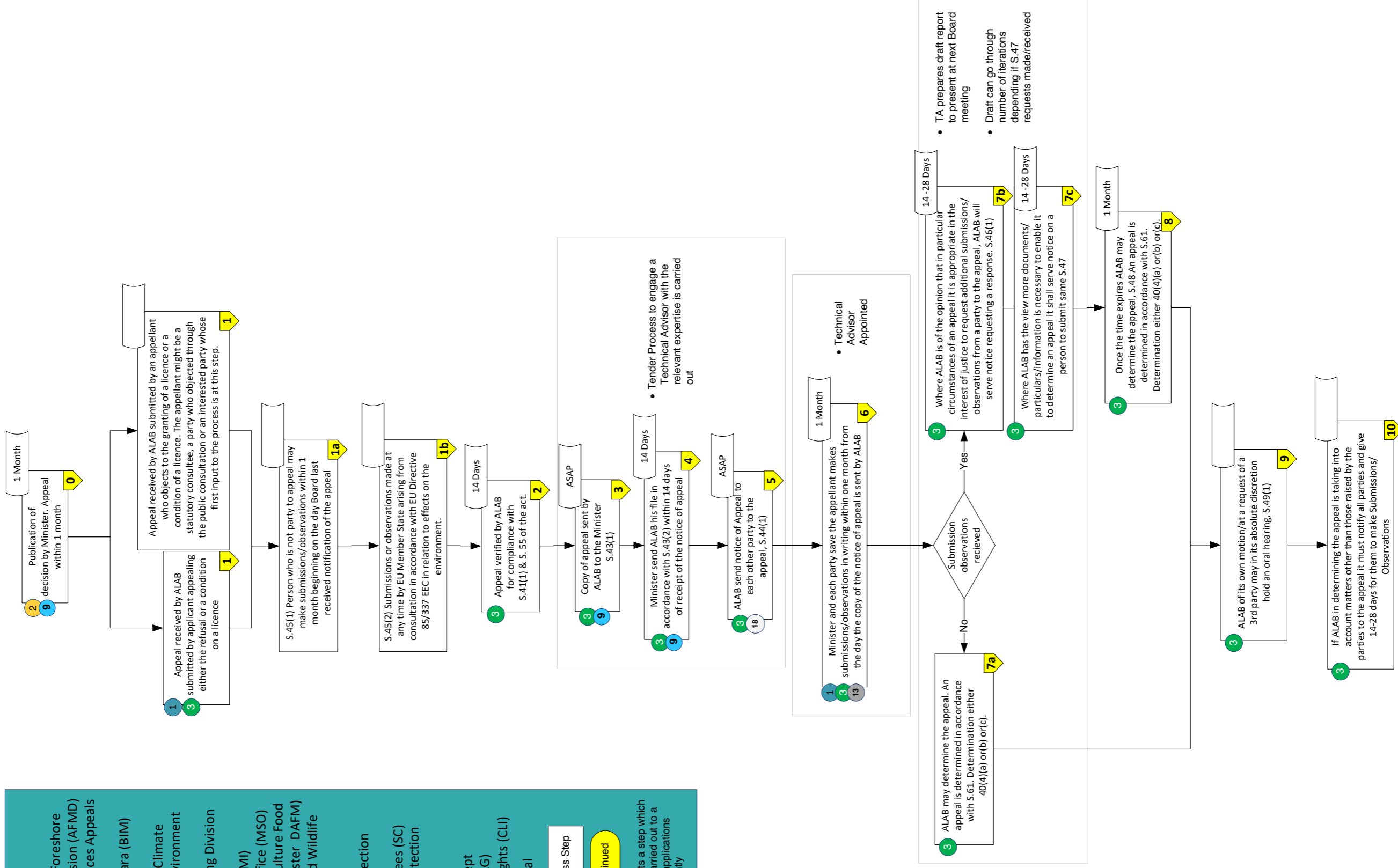
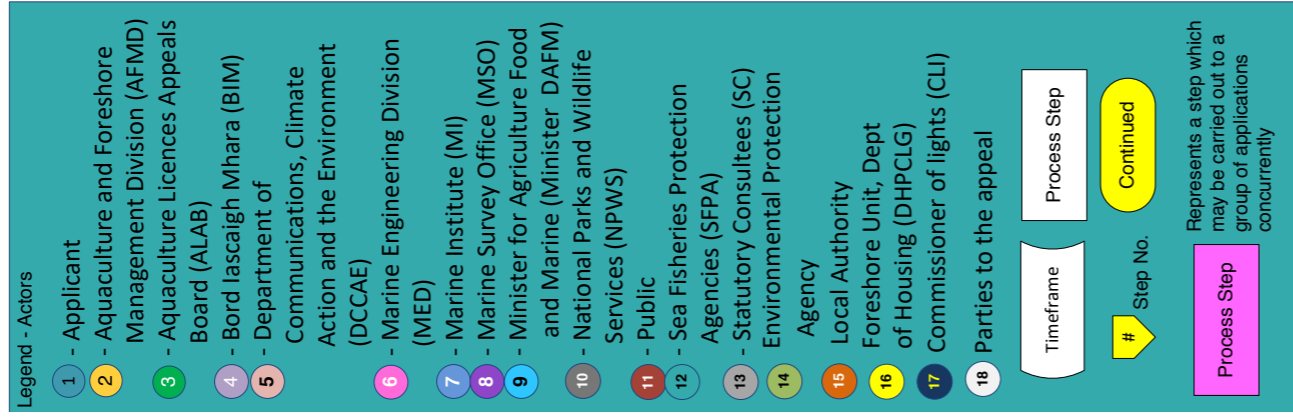
Step No. [Yellow Arrow]

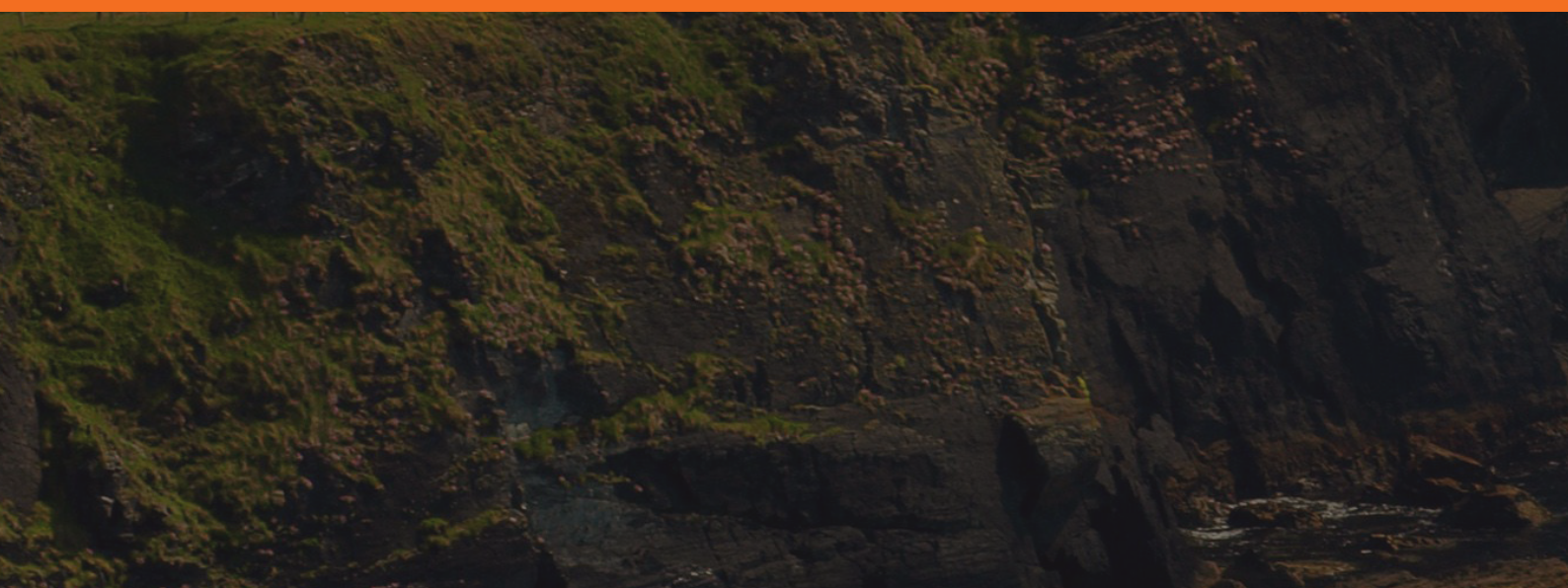
Process Step [Pink Box]

Represents a step which may be carried out to a group of applications concurrently



5. Flowchart for Conduct of Appeals under Fisheries (Amendment) Act 1997





Funded under the European Maritime and Fisheries Fund (EMFF)



Clár Chistí Eorpacha Struchtúrtha
agus Infheistíochta na hÉireann
2014–2020

Cómhaointhe ag Rialtas na hÉireann
agus ag an Aontas Eorpach

