

- Approved.
16/02/2011
1. Mr. Padraic Dempsey
2. Mr. George Burke
- 25

Approval of Foreshore Licence Application

Approval Sought

Approval is sought to grant a Licence under Section 3(3) of the Foreshore Act, 1933 to Francis Melvin, Rathlee, Easkey, Co Sligo for the purpose of harvesting seaweed as outlined below.

Consideration of the Application

Mr Melvin first applied for a licence to harvest seaweed in 1995 and applied for a renewal on an annual basis since. Licences were granted every year up to 2007 with the last license issued for year commencing 28th March 2007. Although applications were made licences were not granted for 2008 and 2009 due to concerns over potential conflicts should more than one person/group wish to harvest the same area. Although no formal policy is in place to govern such an eventuality we have included a specific clause in the contract to preclude potential claims for exclusive use of the foreshore area in question.

Mr Melvin's renewal application (Annexe I) for the hand-harvesting and removal of seaweed from an area of foreshore in Sligo as outlined on map (Annexe II) along with details of the species and quantities of the seaweed to be harvested (Annexe III), were considered by the Department's specialist advisors namely, PJ. Shaw, The Development Application Unit, The Marine Institute and Mr. Terry McMahon of The Marine Licence Vetting Committee. Mr. McMahon noted that in view of the nature and scale of the proposed activity, consideration should be given to the issuing of a multi-annual permit not exceeding 5 years.

There were no objections to the granting of the licence from the Foreshore Engineers, the Underwater Archaeological Unit and Nature Conservation of the DAU, or the Marine Institute

Draft Foreshore Licence

A draft foreshore Licence and cover letter is attached in the pouch opposite.

Licence Fee and duration.

A standard annual fee of _____ per annum applies. The total fee due for the Licence term, _____ for 5 years, must be paid prior to the Licence being issued. This licence will cover the period 28th March 2008 to 27th March 2013.

Basis for Recommendation

The hand harvesting of small quantities of seaweed in the area (expected to be 47 tonnes per annum) is unlikely to have any significant impact on either the ecology of the foreshore or on other legitimate users of the area in question. The legislation compliance checklist is attached (Annex IV). The issue of a Licence not exceeding a 5 year term is recommended by Mr. Terry McMahon, Chair, Marine Licence Vetting Committee (Annexe V). I recommend that a Licence be issued for a 5 year term in this instance.

I request sanction to issue a 3(3) licence with electronic signature attached upon receipt of the licence fee for a 5 year term.

Bernard Nolan

Bernard Nolan

Planning Policy & Legislation

15th February 2011

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Annex 1

Application



CARRAIG FHADA Seaweed

RATHLEE,
EASKEY,
CO. SLIGO,
IRELAND.

Tel. & Fax: 353-96-49042.

Received
2-1/3/10
[initials]

Foreshore Section,

Dept of Environment, Heritage and Local Government,

Johnstown Castle,

Co. Wexford.

22/02/10

Ref: MS 51/14/122

To whom it may concern,

I am applying for renewal of Foreshore Seaweed Extraction licence for 2010.

I have held a licence since 1995 but despite my applications for 2008 and 2009 I failed to receive them. I hope you will be able to look into this and hopefully be able to provide these also.

I am enclosing the necessary documents.

Thank you,

Yours sincerely,

Frank Melvin

Frank Melvin.

Ref. MS. 51/14/122

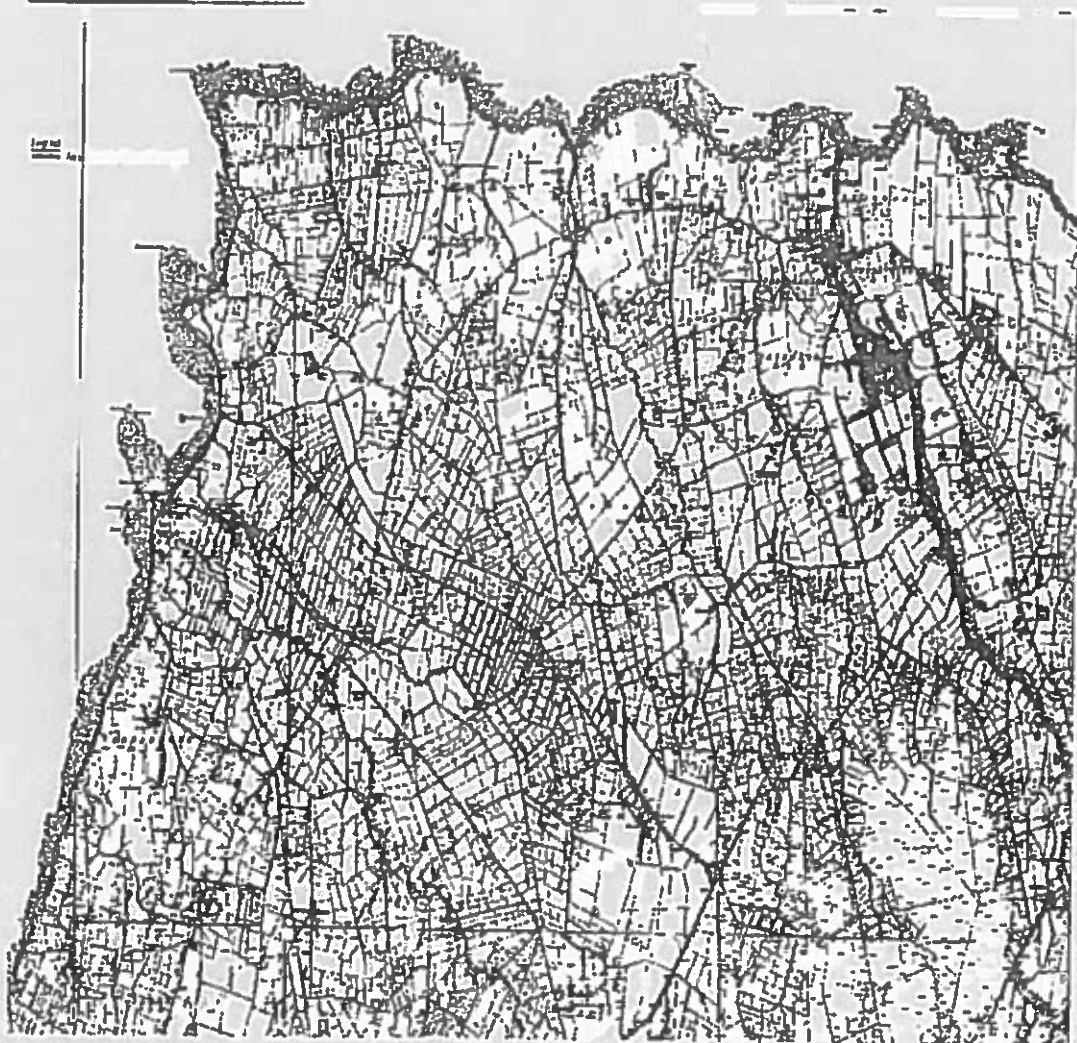
Questions	Answers
1) State the precise locality of the foreshore from which you propose to remove the material. The name of the townland adjoining that foreshore should be stated.	Kilglass / Esker.
2) State the quantity (in tons) and kinds of material required.	47.
3) (a) Is the material for your own use and if so, for what purpose? (b) Is it to be sold? If so to whom and what use is to be made of it?	Food / Cosmetic
4) Within which period do you propose to remove the material.	2010.
5) If you are a holder of land, give the name of the townland in which your holding is situated and the number of the Land Commissioners Receivable Order (if any) relating thereto.	CABRA. FOLIO 23091.

Signed Frank Nelson
Date 3/2/2010.

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Annex 2

Map



Map showing location within which hand harvesting of seaweed from the foreshore is permitted.

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Annex 3

Schedule of species and quantity of seaweed to be harvested

Ref. MS 51/14/122

SCHEDULE OF SPECIES AND QUANTITY OF SEAWEED
TO BE HARVESTED

<u>Species</u>	<u>Maximum Tonnage</u>
Laminaria Saccharina	4.0
Laminaria Digitata	4.0
Alaria Esculenta	2.0
Himanthalia Elongata	2.5
Fucus Serratus	25.0
Rhodomenia Palmata	3.0
Chondus Crispus	3.0
Gigartina Stellata	3.0
Ulva Lactuca	0.5

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Annex 4

Legislation Compliance Checklist

Legislation Compliance Checklist – Licence - Section 3(3)

Section of Foreshore Act	Criteria	Outcome
3(1)	Public Interest Is it in the public interest that the licence should be granted?	Yes
3(1B)	Consultation with DAFF Has the Minister for Agriculture, Fisheries and Food been consulted on the application?	Yes, Application was first considered by DAFF in 2008
3(3)	Licence of a trivial character Is the licence owing to its nature, duration, or otherwise, of a trivial character and should it be granted subject to a nominal payment only?	Yes. The proposed activity involves the hand harvesting of small quantities (maximum combined total of 47 tonnes annually) of a variety of different types of seaweed on the foreshore between Aughris Head and Kilglass, Co. Sligo.
13	EIS Requirements	
13A(1)	EIS Class Development Is the development of a class requiring the submission of an environmental impact statement?	The development is not of a class requiring the submission of an environmental impact statement
13A(2)	Sub-threshold EIS Development Is the development: (a) of a class that would require the submission of an environmental impact statement but for the fact that it is sub-threshold <u>and</u> (b) likely to have significant effects on the environment?	 (a) The development is not of a class that would require the submission of an environmental impact statement but for the fact that it is sub-threshold <u>and</u> (b) The development is not likely to have significant effects on the environment

Section of Foreshore Act	Criteria	Outcome
13A(2A)	<p>Sub-threshold EIS Development in a European Site</p> <p>Is the development:</p> <ul style="list-style-type: none"> (a) of a class that would require the submission of an environmental impact statement but for the fact that it is sub-threshold <u>and</u> (b) likely to have significant effects on the environment <u>and</u> (c) located in a European site? 	<p>MLVC has advised that:</p> <ul style="list-style-type: none"> (a) The development is not of a class that would require the submission of an environmental impact statement but for the fact that it is sub-threshold <u>and</u> (b) The development is not likely to have significant effects on the environment (c) The development is not located in a European site.
19	<p>Public Notice</p> <p>Was the application put out to public notice?</p>	NO

European Communities (Natural Habitats) Regulations, 1997 (SI No. 94 of 1997)	Criteria	Outcome
Reg. 31(1)	Appropriate Assessment Is the proposed development likely to have a significant effect on European sites?	The development is not located in a European site and is not likely to have a significant effect on European sites

DRAFT

Extracts from the Foreshore Act 1933, as amended

Section 3(1)

Power for Minister to grant licences of foreshore

If, in the opinion of the appropriate Minister, it is in the public interest that a licence should be granted to any person in respect of any foreshore belonging to the State authorising such person to place any material or to place or erect any articles, things, structures, or works in or on such foreshore, to remove any beach material from, or disturb any beach material in, such foreshore, to get and take any minerals in such foreshore and not more than thirty feet below the surface thereof, or to use or occupy such foreshore for any purpose, that Minister may, subject to the provisions of this Act, grant by deed under his official seal such licence to such person for such term not exceeding ninety-nine years commencing at or before the date of such licence, as that Minister shall think proper.

Section 3(1B)

Requirement to Consult with the Minister for Agriculture, Fisheries and Food

Where the Minister for Agriculture, Fisheries and Food or the Minister for the Environment, Heritage and Local Government is considering granting a licence under this section (being the appropriate Minister), then the Minister so considering shall consult with the other Minister on the matter before granting the licence.

Section 3(3)

Licence of a trivial character to be granted subject to a nominal payment only

Where, in the opinion of the appropriate Minister, a licence proposed to be granted under this section is, owing to its nature, duration, or otherwise, of a trivial character and should be granted without payment or subject to a nominal payment only, such licence may, notwithstanding anything contained in this section, be granted by way of permission in writing signed by that Minister or one of the principal officers of his Department.

Section 13A

Environmental impact assessment of certain proposals relating to the foreshore

(1) A relevant application to the appropriate Minister which proposes the undertaking of development of a class for the time being specified under Article 24 of the European Communities (Environmental Impact Assessment) Regulations, 1989, or under any provision amending or replacing the said Article 24, shall be accompanied by a statement of the likely effects on the environment (hereinafter in this Act referred to as an "environmental impact statement") of such proposed development.

(2) Where a relevant application would involve the undertaking of development which would be of a class referred to in subsection (1) of this section but for not exceeding a quantity, area or other limit for the time being specified in relation to that class, and where the appropriate Minister considers that the said development would be likely to have significant effects on the environment, he shall require the applicant to submit an environmental impact statement in respect of such development.

(2A) Where a relevant application would involve the undertaking of development which would—

(a) be of a class referred to in subsection (1) of this section but for not exceeding a quantity, area or other limit for the time being specified in relation to that class, and

(b) be located on—

(i) a special area of conservation,

- (ii) a site notified in accordance with Regulation 4 of the European Communities (Natural Habitats) Regulations, 1997 (S.I. No. 94 of 1997),
- (iii) an area classified pursuant to paragraph (1) or (2) of article 4 of Council Directive No. 79/409/EEC of 2 April, 1979, on the conservation of wild birds,
- (iv) a site where consultation has been initiated in accordance with article 5 of Council Directive 92/43/EEC of 21 May, 1992, on the conservation of natural habitats and of wild fauna and flora,
- (v) land established or recognised as a nature reserve within the meaning of section 15 or 16 of the Wildlife Act, 1976 (No. 39 of 1976),
- (vi) land designated as a refuge for fauna under section 17 of the Wildlife Act, 1976, (No. 39 of 1976).

the appropriate Minister shall decide whether the said development would or would not be likely to have significant effects on the environment.

(2B) The appropriate Minister shall, where he is deciding pursuant to this section whether a proposed development would or would not be likely to have significant effects on the environment, have regard to the criteria specified for the purposes of article 27 of the European Communities (Environmental Impact Assessment) Regulations, 1989.

(2C) Where the appropriate Minister makes a decision pursuant to subsection (2A) on whether a proposed development would or would not be likely to have significant effects on the environment, he shall make arrangements to make the said decision available for inspection by members of the public.

(3) An environmental impact statement shall contain the information for the time being specified under Article 25 of the European Communities (Environmental Impact Assessment) Regulations, 1989, or under any provision amending or replacing the said Article 25.

(3A) (a) If a person, before submitting an environmental impact statement in accordance with a requirement of or under this section, so requests, the appropriate Minister shall, after consulting the person who made the request and such bodies as may be prescribed for that purpose, give a written opinion on the information to be contained in such statement.

(b) The giving of a written opinion in accordance with paragraph (a) of this subsection shall not prejudice the exercise by the appropriate Minister of his powers under this Act to require the person who made the request to furnish further information in relation to the effects on the environment of development proposed in the relevant application concerned.

(4) (a) The appropriate Minister may—

- (i) where that Minister is satisfied that exceptional circumstances so warrant, and
- (ii) where the appropriate Minister is the Minister for Agriculture, Fisheries and Food, after consultation with the Minister for the Environment, Heritage and Local Government,

exempt a relevant application or a proposed relevant application from the requirement of subsection (1) of this section.

(b) The appropriate Minister shall, in granting an exemption under paragraph (a) of this subsection—

(i) consider whether the effects, if any, of the proposed development on the environment should be assessed in some other manner, and

(ii) make available to the public—

(I) the information obtained in any assessment carried out under subparagraph (i),

(II) the information relating to any decision to exempt a relevant application under paragraph (a), and

(III) the reasons for the decision referred to in clause (II).

(c) Notice of any exemption granted under paragraph (a) of this subsection, of the reasons for granting such exemption and of any requirements applied under paragraph (b) of this subsection shall, as soon as may be,—

(i) be published in the *Iris Oifigiúil* and in one or more newspapers circulating in the district in which is situated the foreshore to which the relevant application or the proposed relevant application relates, and

(ii) be given, together with a copy of the information, if any, made available to members of the public in accordance with the said paragraph (b), to the Commission of the European Communities.

(d) An exemption shall not be granted under paragraph (a) of this subsection in respect of a relevant application or a proposed relevant application if another Member State of the European Communities, having been informed pursuant to section 19C of this Act about the proposed development and its likely effects on the environment in that State, has indicated that it intends to furnish views on the said effects.

(5) In this section and in sections 19A, 19C and 21A "relevant application" means, as the case may be—

(a) an application to the appropriate Minister for a lease under section 2 of this Act,

(b) an application to the appropriate Minister for a licence under section 3 of this Act,

(c) an application to the appropriate Minister for his approval under section 10 of this Act for maps, plans, and specifications for erection of structures on the foreshore,

(d) an application to the Minister for the Environment, Heritage and Local Government for his consent under section 13 of this Act for the deposit of material on the foreshore.

(6) In this section 'relevant application' does not include an application for an aquaculture licence (within the meaning of the Fisheries (Amendment) Act 1997) that is accompanied by an environmental impact statement.

Section 19

Public Notice Procedure

Whenever the appropriate Minister proposes to make an order under this Act or an application is made to the that Minister for the making of a lease or an order or the granting of a licence under this Act, that Minister, if he so thinks fit, cause notice of such proposal or application to be published at such times and in such manner as he thinks proper, and may by such notice give to all persons interested an opportunity of making to that Minister objections, and representations in respect of such order, lease, or licence (as the case may be) and may include in such notice directions as to the time, manner, and place in and at which such objections and representations may be made.

European Communities (Natural Habitats) Regulations, 1997 (SI No. 94 of 1997)

Regulation 31(1)

Where an operation or activity to which any of the enactments set out in Part 1 of the Second Schedule applies is neither directly connected with nor necessary to the management of a European site but likely to have a significant effect thereon, either individually or in combination with other operations or activities, and such operation or activity is to be undertaken by, or requires the concurrence, consent or approval (however expressed in the enactment) of any Minister of the Government, then that Minister shall ensure that an appropriate assessment of the implications for the site in view of the site's conservation objectives is undertaken.

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Annex 5

MLVC Report

REPORT OF THE MARINE LICENCE VETTING COMMITTEE (MLVC)
ON
APPLICATION FOR RENEWAL OF FORESHORE LICENCE FOR HAND
HARVESTING OF SEAWEED ON THE FORESHORE BETWEEN
AUGHRIS HEAD AND KILGLASS, CO.SLIGO.

Dr. Terry McMahon
Chair, Marine Licence Vetting Committee
31 January 2011

Mr. Frank Melvin, Carraig Fhada Seaweed, Easkey Co. Sligo – Renewal of a Foreshore Licence for hand harvesting of seaweed between Aughris Head and Kilglass, Co. Sligo (MS51/14/122)

Background

In February 2010 Mr. Frank Melvin, Carraig Fhada Seaweed, Rathlee, Easkey Co. Sligo made an application to DEHLG for the renewal of a foreshore licence to facilitate the hand harvesting of small quantities of a variety of species of seaweed on the foreshore between Aughris Head and Kilglass, Co. Sligo. The area of foreshore in question is not located within a European Site. With the exception of 2008 and 2009 the applicant advised that such permits have been issued annually since 1995. It is estimated that the maximum combined quantity of material to be harvested annually would be approximately 47 tonnes, comprising of the following species:

Species	Maximum Tonnage
<i>Laminaria saccharina</i>	4.0
<i>Laminaria digitata</i>	4.0
<i>Alaria esculenta</i>	2.0
<i>Himanthalia elongata</i>	2.5
<i>Fucus serratus</i>	25.0
<i>Rhodomenia palmata</i>	3.0
<i>Chondus crispus</i>	3.0
<i>Gigartina stellata</i>	3.0
<i>Ulva lactuca</i>	0.5

MLVC Considerations

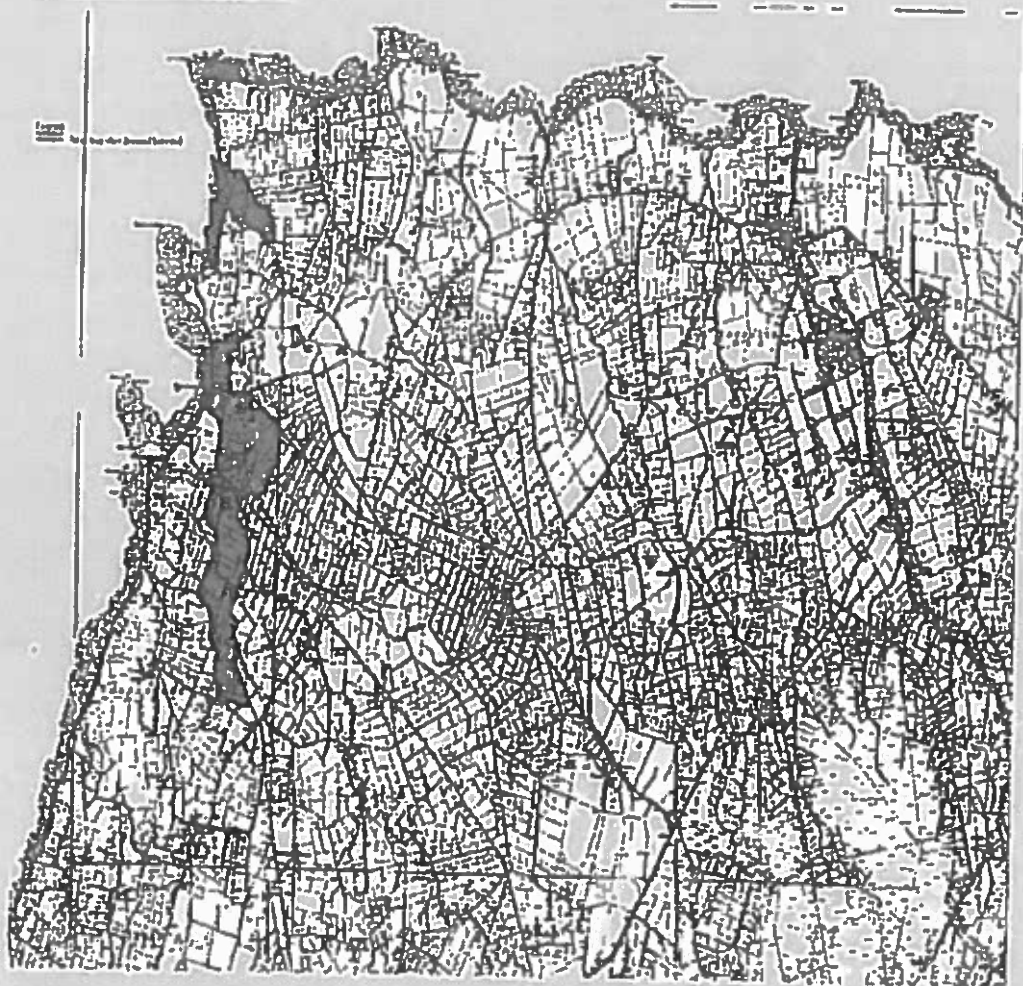
No objections to a permit being issued were raised. The MLVC is satisfied that, given the nature and scale of the proposed works, they will not have significant effects on the marine environment and will not interfere with other legitimate users of the area in question.

Conclusions and Recommendations

Given the nature and scale of the proposed works the MLVC considers that, subject to compliance with the specific conditions set out below, they would not have a significant negative impact on the environment and it is recommended that a permit be issued. In view of the recurring nature of the activity the MLVC is of the view that it is appropriate to issue a multi- annual permit for a period not exceeding 5-years.

Proposed Specific Conditions

1. This Licence shall remain valid until (5 years from receipt of fee).
2. Seaweed must only be harvested from within the areas marked in green on the attached map.
3. This Licence does not confer upon the Licensee exclusive entitlement to harvest seaweed in the area defined at Condition 2 and the Minister at all times reserves the right to License other seaweed harvesting operations and any other legitimate activity in the said area if it is in the public interest to do so.
4. The Licensee shall only harvest the species and quantities of seaweed as set out in the Schedule of species and quantity of seaweed to be harvested
5. The use of mechanical methods of harvesting is prohibited.
6. To facilitate regeneration of the seaweed at the areas harvested, the Licensee shall ensure that the bottom 10-15 cms of the plant is not harvested.
7. No structures shall be placed on the foreshore. No materials or harvested seaweed shall be stored on the foreshore, nor shall the foreshore or any beach material be interfered with in anyway.



Map showing location within which hand harvesting of seaweed from the foreshore is permitted.