

T06/284

CERTIFICATE OF ASSIGNMENT

OF

**AQUACULTURE LICENCE AQ NO. 412 GRANTED IN ACCORDANCE
WITH THE FISHERIES (AMENDMENT) ACT, 1997 (NO. 23)**

This is to certify that the Aquaculture Licence referred to has been assigned,
with the approval of the Minister for Agriculture, Food and the Marine, from:

Tralee Bay Hatchery Ltd,
C/o Gerard Bailey & Co Solicitors,
Church Place,
Tralee,
Co. Kerry

To

Brandon Bay Seafoods (Ireland) Ltd,
The Ponds,
Kilshannig,
Castlegregory,
Co. Kerry

with effect from 29th June 2022, subject to the terms and conditions thereof.

Signed:



An officer authorised in this behalf
by the said Minister



Department of
**Agriculture,
Food and the Marine**

An Roinn
**Talmhaíochta,
Bia agus Mara**

T6/284

AQUACULTURE LICENCE

AQUACULTURE LAND BASED SHELLFISH
(SEAWATER)

Tralee Bay Hatchery Ltd
C/O Gerard Baily & Co Solicitors
Church Place
Tralee
Co Kerry

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T6/284

AQUACULTURE LICENCE NO.412

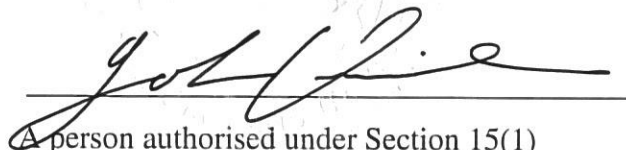
GRANTED UNDER THE FISHERIES (AMENDMENT) ACT, 1997 (NO. 23 of 1997)

The Minister for Agriculture, Food and the Marine (hereinafter referred to as the “Minister”), in exercise of the powers conferred on him by the Fisheries (Amendment) Act, 1997 (No. 23 of 1997) (hereinafter referred to as the “Act”), grants an Aquaculture Licence to:

Tralee Bay Hatchery Ltd
C/O Gerard Baily & Co Solicitors,
Church Place
Tralee
Co Kerry

(hereinafter referred to as the “Licensee”) for the cultivation of Abalone, Sea Urchins, Molluscan Bivalves, Crustaceans, Macro Algae and Micro Algae on a site at The Ponds, Kilshannig, Castlegregory, Co Kerry as specified in Schedule 1 attached, subject to the Act and Regulations made under the Act and to the terms and conditions set out in the attached pages.

This Aquaculture Licence shall remain in force for a maximum period of ten years commencing on 28 August 2014, and only so long as the fish farm complies with the planning permission granted by Kerry County Council on 25th April 2005 (ref 3603/04) and the retention permission granted by Kerry County Council on 6th January 2006 (ref 05/907) as specified in Schedule 1 attached, the Local Government (Water Pollution) Acts licence to discharge effluent granted by Kerry County Council on 12th October 2005 (ref W92) (or a further such licence granted by the said Council or by the Environmental Protection Agency).



A person authorised under Section 15(1)
of the Ministers and Secretaries Act 1924 to
authenticate the Seal of the Minister for
Agriculture, Food and the Marine.

TERMS AND CONDITIONS APPLYING TO THIS AQUACULTURE LICENCE

1. Licensed Area

1.1. The area specified in *Schedule 1* attached.

2. Species, Cultivation and Method Licensed

2.1. Species to be farmed: Abalone, Sea Urchins, Molluscan Bivalves, Crustaceans, Macro Algae and Micro Algae and no species other than Abalone, Sea Urchins, Molluscan Bivalves, Crustaceans, Macro Algae and Micro Algae shall be bred and handled at this site.

2.2. Method: Land Based subject to the stocking limits as specified in *Schedule 2* attached and in accordance with all other consents issued.

2.3. The introduction of species to the site shall comply with the legislation relating to fish health.

3. Infrastructure and Site Management

Indemnity

3.1. The Licensee shall indemnify and keep indemnified the State, the Minister, his officers, servants or agents against all actions, loss, damage, costs, expenses and any demands or claims howsoever arising in connection with the construction, maintenance or use of any structures, apparatus, equipment or any other thing used in connection with the licensed operation in the licensed area or in the exercise of the rights granted under the licence and the Licensee shall take such steps as the Minister may specify in order to ensure compliance with this condition.

3.2. The duty of maintenance and responsibility for the upkeep and safety of the site rests with the Licensee.

Design, Arrangement and Maintenance of Structures

3.3. The Licensee shall ensure that the equipment is placed within the licensed area only. Storage or placement of equipment or stock outside the licensed area is not permitted under any circumstances.

3.4. The Licensee shall at all times for the duration of the licence keep all equipment used for the purposes of the licensed operations in a good and proper state of repair and condition to the satisfaction of the Minister or other competent State authority.

Operational Conduct

3.5. The Licensee shall conduct its operations in a safe manner and with regard for other persons in the area and the environment and shall ensure that the operations are not injurious to adjacent lands or the public interest (including the environment) and do not interfere with lawful activity in the vicinity of the licensed area, and shall comply with any lawful directions issued by the Minister and any other competent State authority in that regard.

- 3.6. The Licensee shall ensure that any aquaculture or other activity conducted under this licence does not adversely affect the integrity of the Natura 2000 network (if applicable) through the deterioration of natural habitats and the habitats of species and/or through disturbance of the species for which the area has been designated in so far as such a disturbance may be significant in relation to the stated conservation objectives of the site concerned.

Waste Management

- 3.7. The Licensee shall ensure that the licensed and adjoining area shall be kept clear of all redundant structures (including apparatus, equipment), waste products and operational litter or debris and shall make provision for the prompt removal and proper disposal of such material. If the Licensee refuses or fails to do so, the Minister may cause the said structures, apparatus, equipment or other thing to be removed and the licensed area restored and shall be entitled to recover from the Licensee as a simple contract debt in any court of competent jurisdiction all costs and expenses incurred by him in connection with the removal and restoration.

Inspection

- 3.8. The licensed area and any equipment, structure, thing, or premises wherever situated used in connection with operations carried out in the licensed area shall be open for inspection at any time by an authorised person (within the meaning of Section 292 of the Fisheries (Consolidation) Act 1959) (No. 14 of 1959) (as amended by Fisheries Act 1980) (No. 1 of 1980), a Sea Fisheries Protection Officer (within the meaning of Sea Fisheries and Maritime Jurisdiction Act 2006) (No. 8 of 2006) or any other person appointed in that regard by the Minister or other competent State authority.
- 3.9. The Licensee shall give all reasonable assistance to an authorised officer or a Sea Fisheries Protection Officer or any person duly appointed by any competent State authority to enable the person or officer enter, inspect, examine, measure and test the licensed area and any equipment, structure, thing or premises used in connection with the operations carried out in the licensed area and to take whatever samples may be deemed appropriate by that person or officer.
- 3.10. The Licensee shall keep and maintain in the State for inspection on demand by the Minister or a competent State authority, at all times, records of all operations including compliance monitoring and any required follow up action. These records shall be produced by the Licensee on demand by the Minister or other competent State authority and in any event not later than 24 hours from the making of that demand.
- 3.11. The Licensee shall furnish to the Minister or other competent State authority in the form and at the intervals determined by the Minister or other competent State authority, such information relating to the licensed area as may be required to determine compliance by the Licensee with the terms of this licence and applicable legislation.

4. **Environmental Monitoring**

Monitoring

4.1. The Licensee shall undertake and/or partake in monitoring, in particular environmental monitoring, as directed by the Minister or other competent State authority.

5. **Fish Health / Mortality Management / Movement of Fish**

Fish Health Regulations

5.1. Before the site is stocked the Licensee shall ensure that a Fish Health Authorisation under statutory provisions giving effect to Council Directive No. 2006/88/EC, as amended, or any other legislative act that replaces that Directive on animal health requirements for aquaculture animals and their products, and on the prevention and control of certain diseases in aquatic animals, is in place.

Disposal of Mortalities

5.2. The Licensee shall dispose of dead species in accordance with the applicable statutory provisions and requirements.

Movement of Species

5.3. The Licensee shall comply with any regulations in force governing the movement of species.

6. **Animal Remedies and Dangerous Substances**

Authorised Remedies

6.1. The Licensee shall only use those animal remedies approved by the Department or other competent State authority for the purpose of maintaining the health of the fish stocked. The Licensee shall only use those chemicals and animal remedies in the licensed area in accordance with instructions issued by the Minister, the Marine Institute or other competent State authority from time to time and in accordance with the prescribing instructions set by the veterinarian.

Authorised Substances

6.2. The Licensee shall not use a "Priority Hazardous Substance" as may be defined from time to time in legislation concerning water quality.

6.3. The Licensee shall not use any substance or thing or do anything, which has a deleterious effect on the environment of the licensed area and shall make adequate arrangements for the hygienic and disease free operation of the licensed area and shall comply with any directions issued by the Minister, the Marine Institute or other competent State authority from time to time in that regard.

Records of Use and Withdrawal Periods

6.4. The Licensee shall keep full records, at the place of business, of all chemicals and animal remedies with which the fish have been treated, including quantities and times of use. All chemical and animal remedies used in the licensed area shall be used in accordance with instructions issued by the Minister, the Marine Institute or other competent State authority from time to time.

6.5. The Licensee shall maintain the following:-

- 6.5.1. Records of a receipt of a dangerous substance.
- 6.5.2. Each prescription issued in respect of an animal remedy which consists of or contains a dangerous substance.
- 6.5.3. Records of storage of a dangerous substance,
- 6.5.4. Records of use of a dangerous substance, and
- 6.5.5. Such other record as the Minister may specify.

Storage Requirements

6.6. The Licensee shall ensure that all dangerous substances within the meaning of List II of Annex I to Directive 2006/11/EC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community are stored in a manner so as to prevent any discharge, accidental or otherwise.

7. Emergency Plans

7.1 The Licensee shall regularly maintain and update its Comprehensive Emergency Plan, providing in particular for an appropriate response to, unexplained mortalities significantly above the level of what is considered to be normal for the farm area in question under prevailing conditions, fish escapes, fish disease, chemical spills and other significant matters arising in the course of its aquaculture operations.

8. Duration, Cessation, Review, Revocation, Amendment, Assignment

Duration, Cessation

8.1. This Aquaculture Licence shall remain in force until 27 August 2024 and only so long as the fish farm complies with the planning permission granted by Kerry County Council on 25th April 2005 (ref 3603/04) and the retention permission granted by Kerry County Council on 6th January 2006 (ref 05/907) as specified in Schedule 1 attached, the Local Government (Water Pollution) Acts licence to discharge effluent granted by Kerry County Council on 12th October 2005 (ref W92) (or a further such licence granted by the said Council or by the Environmental Protection Agency).

Review

8.2. The Licensee may apply for a review of the licence at any time after the expiration of three years since the granting of the licence or its last renewal in accordance with section 70 of the Act.

Revocation, Amendment

8.3. Subject to the Act, the Minister may revoke or amend the licence if:-

- (a) he considers that it is in the public interest to do so,

- (b) he is satisfied that there has been a breach of any condition specified in the licence,
- (c) the licensed area to which the licence relates is not being properly maintained,
- (d) water quality results or general performance in the licensed area do not meet the standards set by the Minister or the competent State authority.

Assignment

- 8.4. This Licence shall not be assigned without the prior written consent of the Minister and may not be assigned during the period of three years, dating from the commencement or renewal of this licence, unless the Minister determines that it may be assigned under condition 8(5) or the condition set out in 8(6) applies.
- 8.5. A Licensee, who considers that there are exceptional reasons for the assignment of the Licence during the first three years, may apply to the Minister, giving those reasons, for a determination that the Licence may be assigned. The Minister may, at his discretion, having considered the reasons given by the Licensee, determine whether or not the Licence may be assigned. The determination of the Minister in this regard is final.
- 8.6. Where the Licensee is a company (within the meaning of the Companies Acts) and goes into Liquidation (within the meaning of the Companies Acts) in the first three years dating from the commencement of the licence, the Liquidator shall, with the consent of the Minister, be entitled to assign the licence to enable him to discharge any debts of the liquidated company.
- 8.7. This licence is issued subject to any order that the High Court may make under section 218 of the Companies Act 1963 or otherwise with regard to the assignment of this licence.

9. Fees

- 9.1. The Licensee shall pay to the Minister an annual aquaculture licence fee in accordance with the Aquaculture (Licence Application and Licence Fees) Regulations 1998 (S.I. No. 270 of 1998) as amended by the Aquaculture (Licence Fees) Regulations 2000 (S.I. No. 282 of 2000) or an amount payable under Regulations made under section 64 of the Act. .
- 9.2. The Minister may revoke the licence where the Licensee fails to pay the aquaculture licence fees on demand.

10. General Terms and Conditions

- 10.1. The Licensee shall at all times comply with all laws and Departmental Protocols applicable to aquaculture operations.
- 10.2. Any reference to a statute or an act of an institution of the European Union (whether specifically named or not) includes any amendments or re-enactments in force and all statutory instruments, orders, notices, regulations, directions, bye-laws, certificates, permissions and plans made, issued or given effect under such legislation shall remain valid.

- 10.3. If any condition or part of a condition in this licence is held to be illegal or unenforceable in whole or in part, such condition shall be deemed not to form part of this licence but the enforceability of the remainder of this licence is not affected.
- 10.4. The Licensee shall at all times hold all necessary licences, consents, permissions, permits or authorisations associated with any activities of the Licensee in connection with the licensed area.

Notification

- 10.5. Without prejudice to any other remedy under the licence or in law, if the Minister is of the view that the Licensee is in breach of any obligation under this licence, the Minister may, by notice in writing, require that the Licensee rectifies such breach, within such time as is specified by the Minister. The Licensee shall comply with any direction of the Minister within the time specified in the notice.
- 10.6. Any notice to be given by the Minister may be transmitted through the Post Office addressed to the Licensee at the last known address of the Licensee.
- 10.7. The Licensee shall notify the Minister within 7 days of any change in the Licensee's address, telephone, e-mail or facsimile number.

Tax Clearance Certificate

- 10.8. During the term of this licence the Licensee shall provide to the Minister on demand a current tax clearance certificate.

Companies and Co-operatives

- 10.9. In the event of the licence being granted to a company (within the meaning of the Companies Acts), control of the licensee company shall not change in any respect from the control of the company as existed on the date that the licence was granted so long as this licence shall remain in force save with the prior written permission of the Minister.
- 10.10. In the event of a licence being granted to a company that has been incorporated outside this State, the licensee company shall register with the Companies Registration Office within one month of the establishment of a place of business in the State or alternatively, within one month of the establishment of a branch of the said company in the State and the licensee company shall submit proof to the Department within 14 days of the end of that month that it has been so registered.
- 10.11. Where the licensee is a company within the meaning of the Companies Acts, the licensee company shall ensure that it does not become dissolved within the meaning of the Companies Acts for so long as this licence shall remain in force.
- 10.12. In the event of the licence being granted to a society (within the meaning of section 2 of the Industrial and Provident Societies (Amendment) Act 1978 (No.23 of 1978) the following conditions shall apply:-
- 10.12.1. The rules relating to membership of the society shall enable any resident of the State to become a member of it where the resident fulfils all the

conditions laid down by the society for membership of it and the rules shall not lay down different conditions for different classes of people;

- 10.12.2. The rules relating to the society as submitted to the Minister before the grant of this licence shall not be amended subsequently other than with the written permission of the Minister; and
- 10.12.3. The Minister may, if he considers it necessary in the interests of good management of the licensed area, direct that an amendment may be made to the rules of the society, and the Licensee shall amend the rules in accordance with that direction.

SCHEDULE 1

Schedule 1 contains:

- **a copy of the planning permission granted for the premises**
- **a copy of the retention permission granted for the premises**
- **a map of the licensed site**



* 0 4 3 6 0 3 *

PLANNING AND DEVELOPMENT ACTS 2000 - 2004
NOTIFICATION OF DECISION TO GRANT PERMISSION (SUBJECT TO CONDITIONS)
UNDER SECTION 34 OF THE ACT

KERRY COUNTY COUNCIL

Ref. No. in
Planning Register: 3603/04

TO: **Brandon Bay Seafoods (IRL), Ltd., "The Ponds", Kilshannig, Castlegregory**
Per: **T. O' Donnell, Killiney, Castlegregory**

Documents Recd.: 01/10/04, 17/02/05 and 30/03/05

In pursuance of the powers, conferred upon them by the above named Acts, Kerry County Council have by Order dated **25th April, 2005** decided for the reasons set out in the first schedule to grant a permission for the development of land namely:-

In respect of permission to (a) extend a boiler house and workshop to existing fish farming structure and (b) the construction of 4 No. polythene tunnels and associated site works at "The Ponds", Kilshannig, Castlegregory as outlined in plans and particulars received on 01/10/04 and further information received on the 17/02/05 and 30/03/05

SUBJECT to the conditions set out in the Second Schedule hereto. (20 Conditions)

If there is no appeal against the said decision, a grant of permission in accordance with the decision will be issued as soon as possible after the expiration of the period of four weeks (see footnote).

It should be noted that until a Grant of Permission has been issued the development in question is **NOT AUTHORISED**.

SIGNED ON BEHALF OF
THE SAID COUNCIL:

A.O. Planning

DATE: 25th April, 2005

NOTE: An Appeal against a decision of a Planning Authority under Section 34 or Section 35 of the Act of 2000 may be made to An Bord Pleanala within *four weeks* beginning on the date of the making of the decision by the Planning Authority. *An Appeal to An Bord Pleanala will be invalid unless it is accompanied by the appropriate fee. (Please refer to the attached guide for fees payable to An Bord Pleanala).* Appeals should be addressed to: *An Bord Pleanala, 64 Marlborough Street, Dublin 1.* An appeal by the applicant for permission should be accompanied by this form. In the case of an appeal by any other person, the name of the applicant, particulars of the proposed development or structure proposed to be retained and the date of the decision of the Planning Authority should be stated. The acknowledgement of receipt of a valid submission/objection as issued by the Planning Authority should also be submitted with the appeal.

KERRY COUNTY COUNCIL

NOTIFICATION OF A GRANT OF RETENTION PERMISSION

Planning & Development Acts, 2000 to 2002



TO: BRANDON BAY SEAFOOD

**PER: T O'DONNELL
KILLINEY
CASTLEGREGORY**

Planning Register Number: 05/907

Application by **BRANDON BAY SEAFOOD, KILSHANNIG CASTLEGREGORY CO KERRY** for **RETENTION PERMISSION** to **DEVELOPMENT CONSISTS OF A SET OF FILTERS FIXED TO THE EXISTING RESERVOIR FOR THE DURATION THE RESERVOIR IS IN USE** at **THE PONDS KILSHANNIG CASTLEGREGORY**

A **RETENTION PERMISSION** has been granted for the development described above, subject to the conditions set out in the Notification of Decision of **RETENTION PERMISSION**, by Kerry County Council, dated 24/11/2005.

Signed on behalf of
KERRY COUNTY COUNCIL: _____

Date: 06/01/2006

Surveyed 1841-1842
Revised 1895-1897
Levelled

Rural PLACE Map



63812

120727

120727

ITM CENTRE PT COORDS

462562,619871

DESCRIPTION

MAP SHEETS

6 inch
KY019+01 KY027



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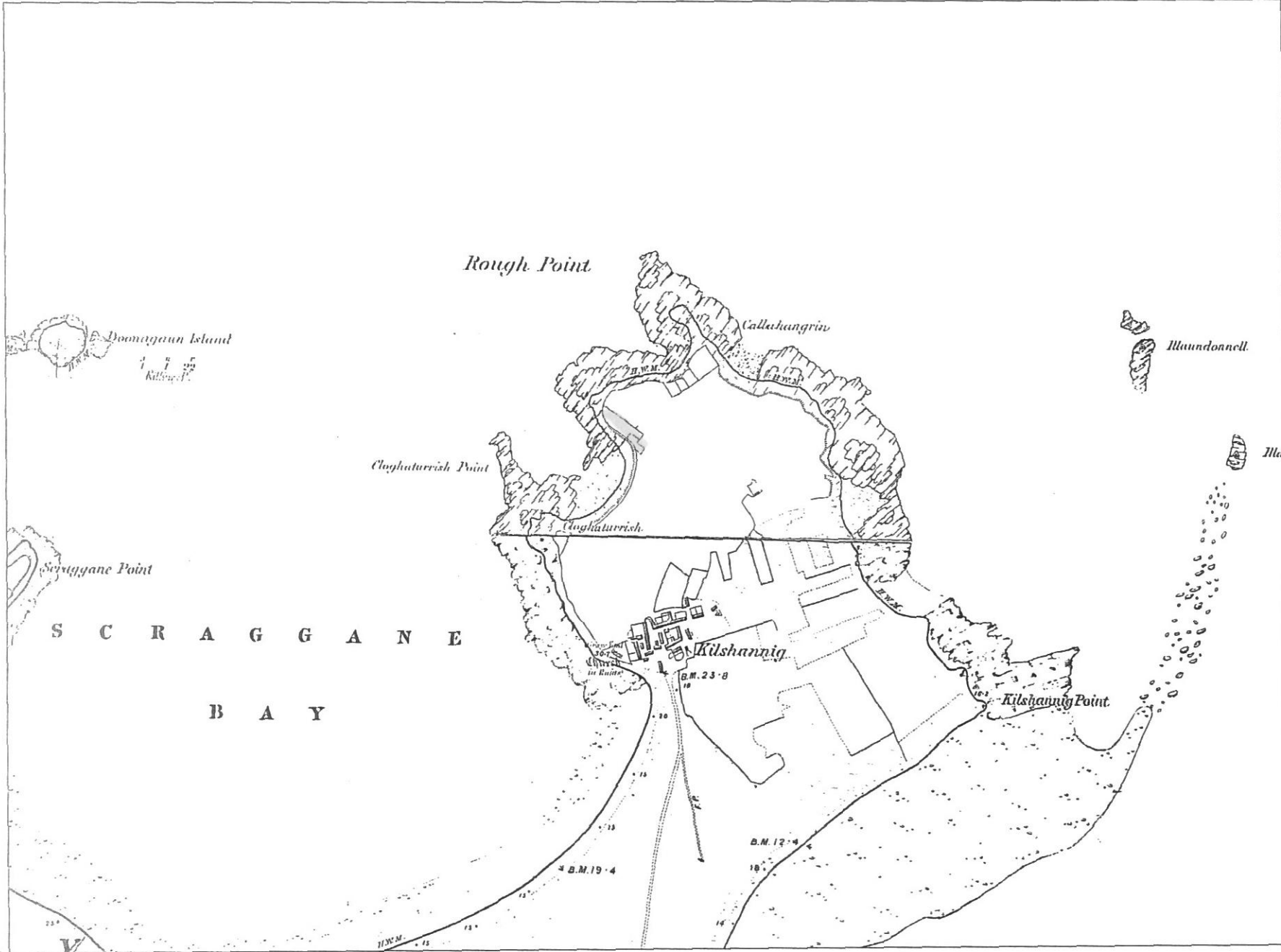
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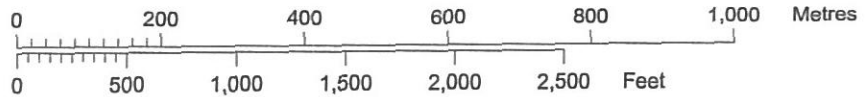
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Scale:- 1:10,560
Scála:- 1:10,560



Plot Ref. No. 25149226_1_1
Plot Date 24-JAN-2013

63812



SCHEDULE 2 – Stocking Biomass

The stock of species at the Hatchery shall not exceed such quantity as the Minister may specify in writing from time to time.