

TL Mussels Ltd.

C/O O'Callaghan O'Mahony, Clonard Business Park, Whitemill Industrial Estate, Wexford.

OUR REF: HOM/CM

YOUR REF: PL26.303726

An Bord Pleanála
64 Marlborough Street
Rotunda
Dublin
D01V902

AN BORD PLEANALA	
LDG- 014563-19	19
ASP-	
27 MAR 2019	
Fee: € 2750	Type: <i>degre</i>
Time: 9.00	By: P 207

25th March 2019

Re: An Bord Pleanála Planning Reference: PL26.303726
Our Client: TL Mussels Limited

Dear Sir/Madam,

THERE FOLLOWS AN EXTRACT OF THE BORD PLEANALA OBJECTION BY TL MUSSELS TO THE ABOVE PLANNING APPLICATION WHICH RELATES SPECIFICALLY TO THE LICENCING OF THE SEABED OFF THE PROPERTY THE SUBJECT MATTER OF THE PLANNING APPLICATION AND THIS NOT A COMPREHENSIVE PLANNING OBJECTION BUT MERELY DEALING WITH THIS SPECIFIC ASPECT

We enclose herewith:-

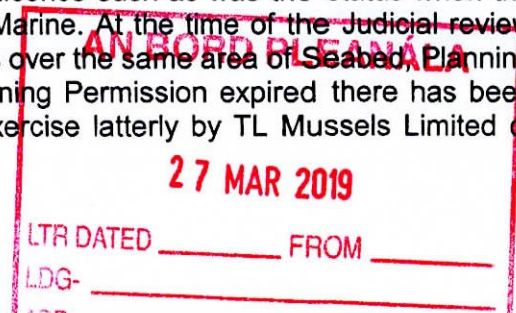
1. Details of the co-ordinates of the mussel beds in respect of which TL Mussels Limited either holds a current licence, has held a licence in the past and has applied for renewal thereof or in respect of which historic mussel cultivation was ongoing and an application for a licence has been made and has not yet been finalised.
2. Statutory Declaration by TL Mussels Limited predecessor in Title, Lett and Company Limited made by a Director of that company in connection with mussel beds acquired by TL Mussels Limited from Lett & Company Limited and which include the area abutting on the land the subject matter of Planning Reference PL26.303726 (*herein after called the Subject Property*)
3. Maps showing the mussel beds operated by TL Mussels Limited showing, inter alia, mussel bed application area T399.

As a preliminary to TL Mussels Limited objection to the Planning Application it is necessary to make the following points:-

1. TL Mussels Limited objection arises partially from the conflict and /or potential conflict between granting Planning Permission for a Marina and/ or any structure which would encroach upon or otherwise adversely affect the area shown on the map labelled TL Mussels Limited application for site T3 99 (*herein after called "Site T3 99"*).
2. Apart from the application for a mussel cultivation licence on Site T3 99 which is before the Department of the Marina at present there is a history to Site T3 99.

3. The history greatly abbreviated is as follows; TL Mussels Limited's predecessor in Title which cultivated Site T3 99 was Lett & Company Limited. Lett & Company Limited applied for and was granted a licence in respect of Site T3 99. However, objections had been made to the granting of the licence for Site T3 99 to Lett & Company Limited by Wexford County Council's predecessor in title to the Subject Property (*herein after called "the previous developer"*) but these were overridden by the Department of the Marine and the licence for Site T3 99 was granted to Lett & company Limited. The main objector to the licence being granted for Site T3 99 to Lett & Company Limited was the previous developer which had applied for Planning Permission for a development which also encroached upon Site T3 99 to the extent of also proposing a Marina and other structures which would affect access to the seabed of Site T3 99. The previous developer was dissatisfied with the decision of the Department of Marine and with the decision's apparent conflict with the Planning Permission which it had obtained for development of the Subject Property and it took judicial review proceedings to review the decision of the Department of the Marine. Judicial Review proceedings are taken to review how a decision was made by a particular body the subject matter of the Judicial Review proceedings, not to tell that body to change its decision but to review and see if the decision was made in accordance with appropriate procedures. In these particular Judicial Review proceedings brought by the previous developer the High Court decided that the Department of Marine had not considered all appropriate facts and evidence available to it fully or appropriately or within its power to procure further information upon and the High Court quashed the decision by the Department of Marine to grant a licence for Site T3 99 and left it to Lett & Company Limited to make a fresh application for an Aquaculture Licence and for the previous developer to make all its points to the Department of Marine and for the Depart of Marine to consider all relevant points and make a fresh decision upon whether to grant the licence or not having considered all the relevant information and not to make its decision without considering all the relevant information. Lett & Co Limited made an application and TL Mussels Limited has now made a fresh application without prejudice to its customary and historic rights to cultivate a mussel bed on the Site T3 99 which it acquired from Lett & Company Limited as well as any and all rights of renewal which Lett & Company Limited may have had in respect of its application for an Aquaculture Licence in respect of Site T3 99.
4. The current technical position therefore is that the rights which TL Mussels Limited acquired from Lett & Company Limited and the rights which Lett & Company Limited had in respect of Site T3 99, such as they may be, still exist and TL Mussels Limited, has in a manner requested by the Department of the Marine, made a fresh application for a new licence in respect of Site T3 99.

TL Mussels Limited's objections therefore to the Planning Application reference PL26.303726 are that if it is granted then it will have an enormous detrimental effect on Site T3 99 and that Site T3 99 and the areas which would be adversely affected by development of the Subject Property, as envisaged by this proposed development, comprise one of the best areas for mussel cultivation within the Wexford Harbour/ Slaney Estuary area. TL Mussels Limited paid a very substantial consideration to take over the rights of Lett & Company Limited in respect of Site T3 99. The Planning Application which was adversely affected and somewhat curtailed by the Department of the Marine's earlier decision to grant an Aquaculture Licence in respect of Site T3 99 has since expired and lapsed and thus there is no current Planning Permission adverse to the application by TL Mussels for a licence in respect of Site T3 99 and there is currently no conflict between an existing Planning Permission and a existing aquaculture licence such as was the status when the High Court reviewed the decision of the Department of Marine. At the time of the Judicial review Proceedings there were in existence two competing rights over the same area of Seabed, Planning Permission and an Aquaculture Licence, since that Panning Permission expired there has been only applications for an Aquaculture Licence and the exercise latterly by TL Mussels Limited of historic rights to mussel cultivation.



There is considerable historical evidence all over the world, very significantly, in the Gulf of Mexico, where land-based developments of Hotels, Apartments, Marinas, Breakwaters, Embankments, Sea Walls and so forth destroyed shell fishing industries and caused long term and that time unforeseeable damage to the marine environment. River flows were diverted, tidal flows re-directed and so on. In Wexford Harbour it is still possible to avoid these impacts by doing as little more as possible to adversely interfere with the natural flow of the River Slaney and the movements of the tides within the harbour and the current productive and environmentally healthy state of Wexford Harbour's Marine environment for shellfish cultivation.

Additionally, Wexford Harbour is a notoriously tricky Harbour to access into and egress from unless the tides are benign and the location of the sand banks has been verified up to date since the last movement thereof, sandbanks move continuously and therefore Wexford Harbour as a location of a Marina for boats in transit is extremely limited. There is also a limited local demand for a Marina and most of the boats operating in and around the Wexford Harbour and Slaney Estuary area are small boats some of which are moored within the Slaney Estuary and many of which are launched and recovered from Trailers and moved from place to place, as needed.

There is no need to locate services on the seabed; there is plenty of scope for access to Wexford Harbour and the Slaney Estuary for any boats which wish to access it. TL Mussels and the mussel cultivation and shellfish cultivation industries within Wexford Harbour would therefore submit that it would be short-sighted and flying in the face of experience in other areas, such as the Gulf of Mexico, which is a classic example but other areas as well, where development was permitted unnecessarily in environmentally sensitive areas where there is now a known and foreseeable adverse impact on the Marine Environment.

Yours Faithfully



Simon Dingemans
On Behalf of TL Mussels Ltd.



5 SITES IN WEXFORD HARBOUR, CO WEXFORD

Co-ordinates & Areas

<u>SITE NO.</u>				<u>HA</u>
T03/030A-2	306765	121369	To Irish National Grid Reference point	8.2
	307028	121341	To Irish National Grid Reference point	
	306996	121043	To Irish National Grid Reference point	
	306722	121061	To the first mentioned point	
T03/030B	306035	122966	To Irish National Grid Reference point	22.1
	306246	122779	To Irish National Grid Reference point	
	306270	122711	To Irish National Grid Reference point	
	305940	122222	To Irish National Grid Reference point	
	305650	122395	To the first mentioned point	
T03/030C	306692	119985	To Irish National Grid Reference point	12.9
	306925	119604	To Irish National Grid Reference point	
	306562	119515	To Irish National Grid Reference point	
	306459	119907	To the first mentioned point	
T03/030E	308542	122780	To Irish National Grid Reference point	40
	308812	122728	To Irish National Grid Reference point	
	308901	122487	To Irish National Grid Reference point	
	308452	122303	To Irish National Grid Reference point	
	308032	121667	To Irish National Grid Reference point	
	307884	122126	To the first mentioned point	
T03/030F	309720	122497	To Irish National Grid Reference point	21.5
	309821	122372	To Irish National Grid Reference point	
	309325	122053	To Irish National Grid Reference point	
	308964	122499	To the first mentioned point	

AN BORD PLEANÁLA

27 MAR 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

AN BORD PLEANÁLA

27 MAR 2019

STATUTORY DECLARATION OF
DESMOND LETT

LET DATED _____ FROM _____

LDG- _____

I Desmond Lett of Beg Erin, Belmont, Wexford in the County of Wexford, aged 18 years and upwards do solemnly declare as follows:-

1. I am a Director of Lett & Company Limited and am authorised by that Company to make this Declaration on its behalf.
2. I refer to mussel beds situated in Wexford Harbour and designated as 30A2, 30A3, 30B, 30C, 30D, 30E and 30F on the accompanying map. The area of 30A3 extends from above the Ballast Bank in Wexford Harbour to mussel bed marked as 30A2 on the licensing map dated 12th April 2002 and is bordered by the North and South Breakwater Walls and mussel bed 30D.
3. The Lett Family of Batt Street, Wexford have been involved in fishing and aquaculture in Wexford Harbour for many years. Their activities probably extend back over a number of centuries but are clearly documented since the late 19th century. In particular the Lett Family have been involved in the cultivation and harvesting of mussels in Wexford Harbour since at least the 19th century and exports of mussels from Wexford Harbour by John Lett to Bristol are recorded in that century. Reference to the harvesting of mussels in Wexford Harbour, which was principally carried on by the Lett Family, is contained in reports presented to the Houses of Parliament in England in 1904. That report identifies the location of some of the mussel beds developed and used by the Lett Family at the time and also confirms the export of the mussels from Wexford to Bristol. The cultivation and development of the mussel beds was at that time primarily due to the return of all seed or small mussels on to a marked area for on-growing and harvesting the following season.
4. The Lett Family were the pioneers of the bottom grown mussel culture in Ireland, gathering mussel seed for on-growing on their mussel beds in Wexford Harbour. The mussel beds cultivated by the Lett Family were cultivated exclusively by that Family and no other person ever attempted to cultivate or harvest mussels or any other form of shellfish on the beds developed by the Family. Some other families and individuals in Wexford also cultivated mussel beds and the location of each families mussel beds within the Harbour was identified and respected by all carrying on the fishing trade in the Harbour. Nobody else other than the families and individuals who cultivated their respective beds ever attempted to cultivate or harvest mussels in the Harbour.
5. My Grandfather Jack Lett continued to export live mussels to Great Britain during the early 20th century and the cultivation and export was carried on subsequently by his sons, John Lett my father and Laurence Lett my uncle. During that period the export trade extended from Bristol to London and during the 20th century tonnages of mussels were exported. The passing of Jack Lett and John Lett Snr resulted in my uncle Laurence Lett continuing the trade and expanding the business.
6. In or about fifty years ago or slightly more the business of the Lett Family in the cultivation of mussels was transferred to a Company which was incorporated and known as Lett & Company Limited in order to carry on the business and all the assets previously engaged in the business in Wexford Harbour by the Lett Family were transferred to that Company in consideration for the issuing of shares in the Company. Since then the business of cultivation of mussels in Wexford Harbour on the beds referred to at paragraph 2 above has been carried on by Lett & Company Limited and the rights and entitlements of the Lett Family developed over many years in Wexford Harbour have

remained in the ownership of that Company since then without any claim or interference by any party against it.

- 7. From the early 1960's onwards the cultivation and harvesting of mussels was intensified with improved quality dredging vessels and ultimately Lett & Company Limited commenced not only to cultivate and harvest mussels but also to process them at a factory which was built in Batt Street, Wexford. In expanding the business the Company was assisted by various State entities and was in receipt of grant aid and investment from State entities such as An Bord Iascaigh Mhara, the IDA, Enterprise Ireland and The Department of Fisheries. Assistance was also received from some of these bodies in identifying suitable locations for the sourcing of further mussel seed in the Irish Sea and for transportation of that seed to Wexford Harbour. In the initial phase to facilitate the development of the business a mussel landing pier was built on the North Bank of the Harbour near Ely Nursing Home and this development also involved State involvement.
- 8. At no time during the involvement of the Lett Family or Lett & Company Limited in the development of the mussel beds combined with their cultivation and the harvesting of mussels for sale in Wexford Harbour was any claim ever received from any third party to the right to cultivate or harvest mussels on Lett & Company's mussel beds. Neither has there ever been any attempt by any third party or member of the public to carry on any aquaculture activities on the beds referred to at paragraph 2 above.
- 9. I make this statutory declaration for the purposes of the Statutory Declarations Act 1938, conscientiously believing same to be true and for the benefit of T.L. MUSSELS LIMITED

DECLARED before me Cawa Doyle
a commissioner for oaths / practising solicitor / peace commissioner

by Desmond Lett

[Signature]

and

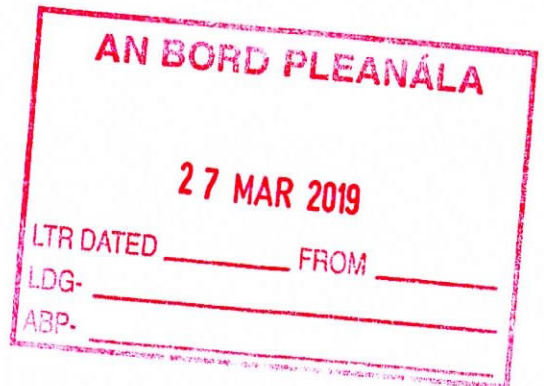
[Signature] [who are personally known to me]

[or: who are identified to me by Paul Ebyll
who is personally known to me]
at Cornmarket

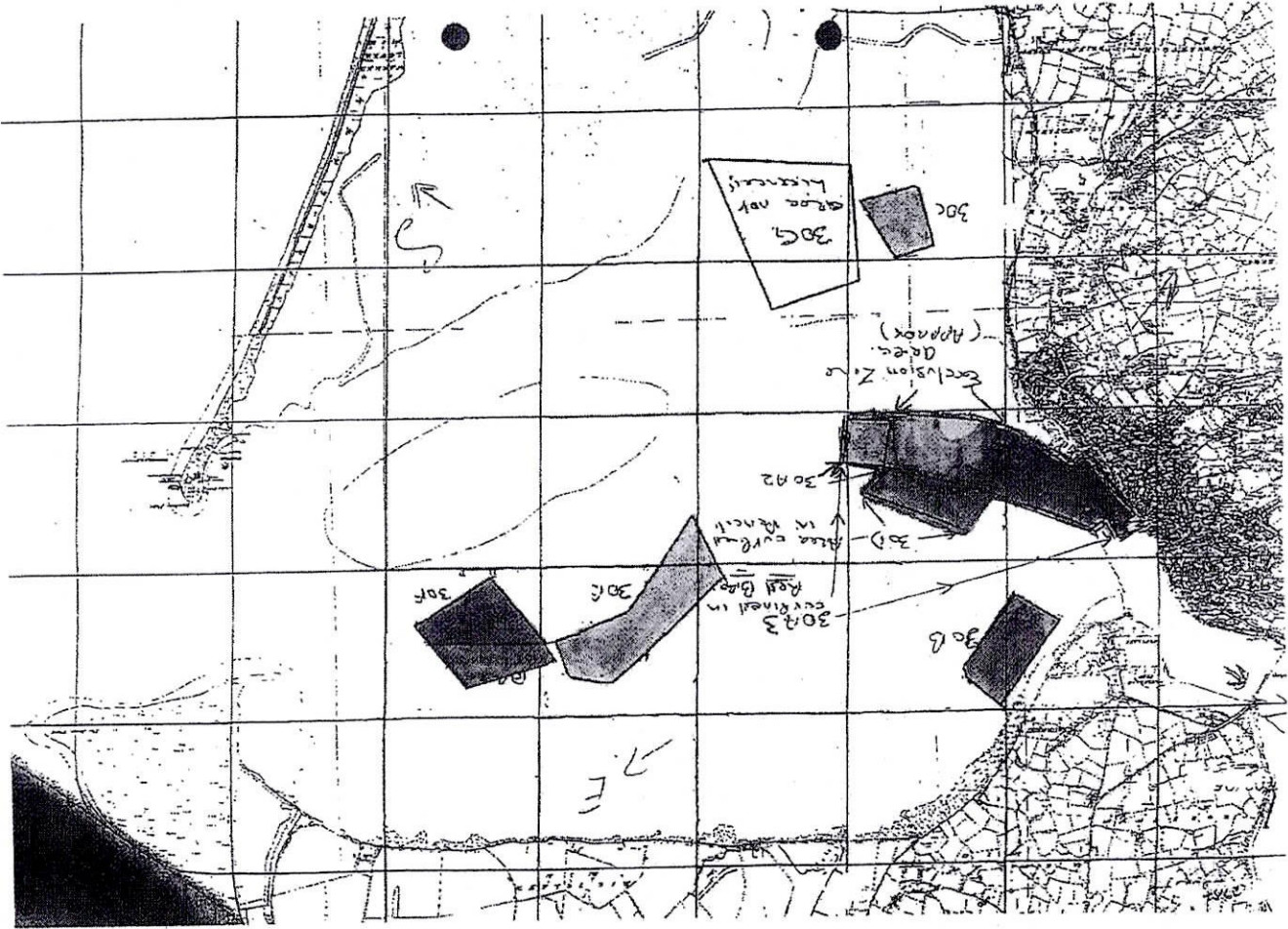
in the City/County of Wexford

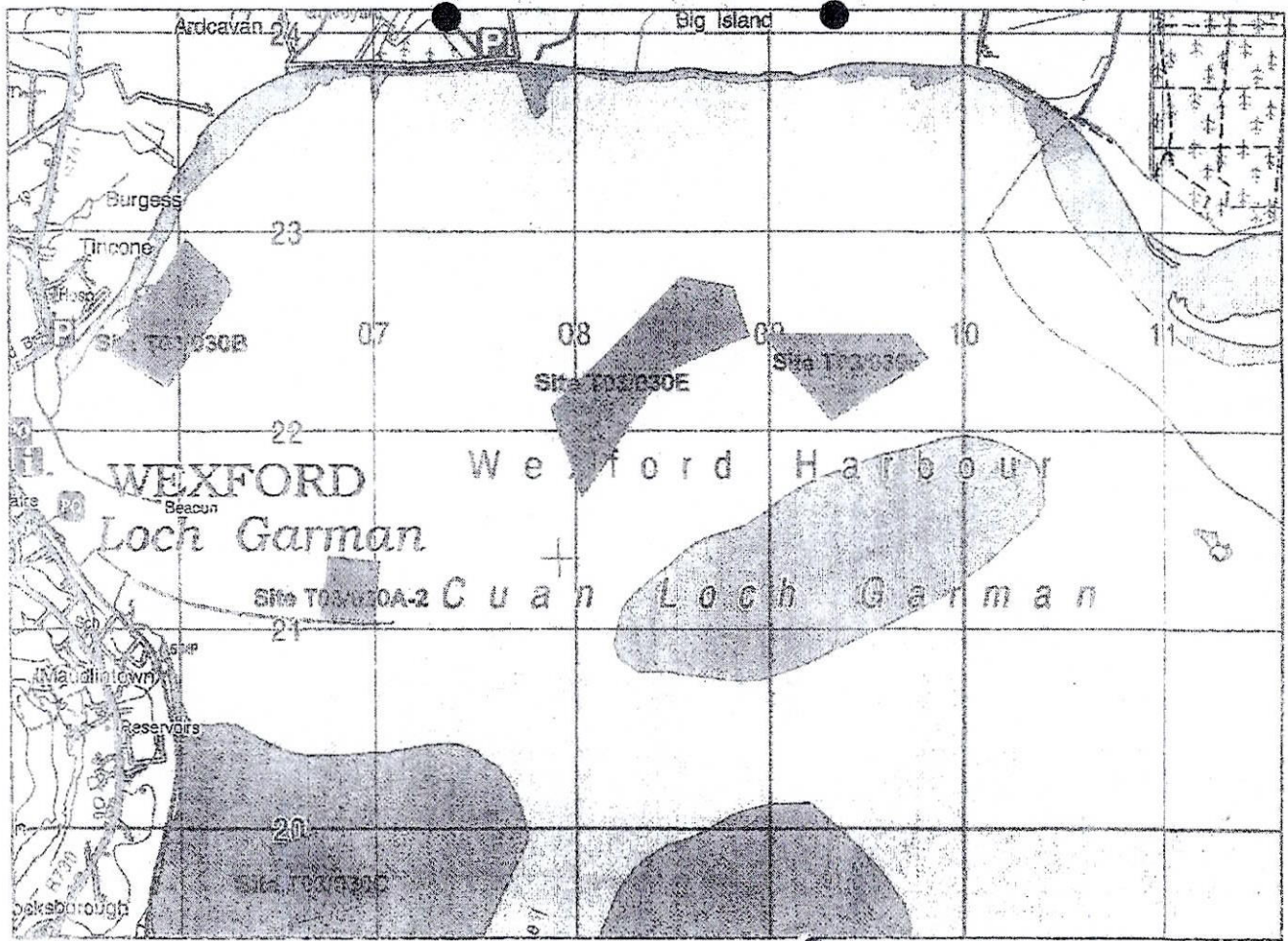
this 23rd day of March 2015

[Signature]
Commissioner for Oaths / Practising Solicitor / Peace Commissioner



AN BORD PLEANÁLA
27 MAR 2019
LTR DATED _____ FROM _____
LDG- _____
ABP- _____





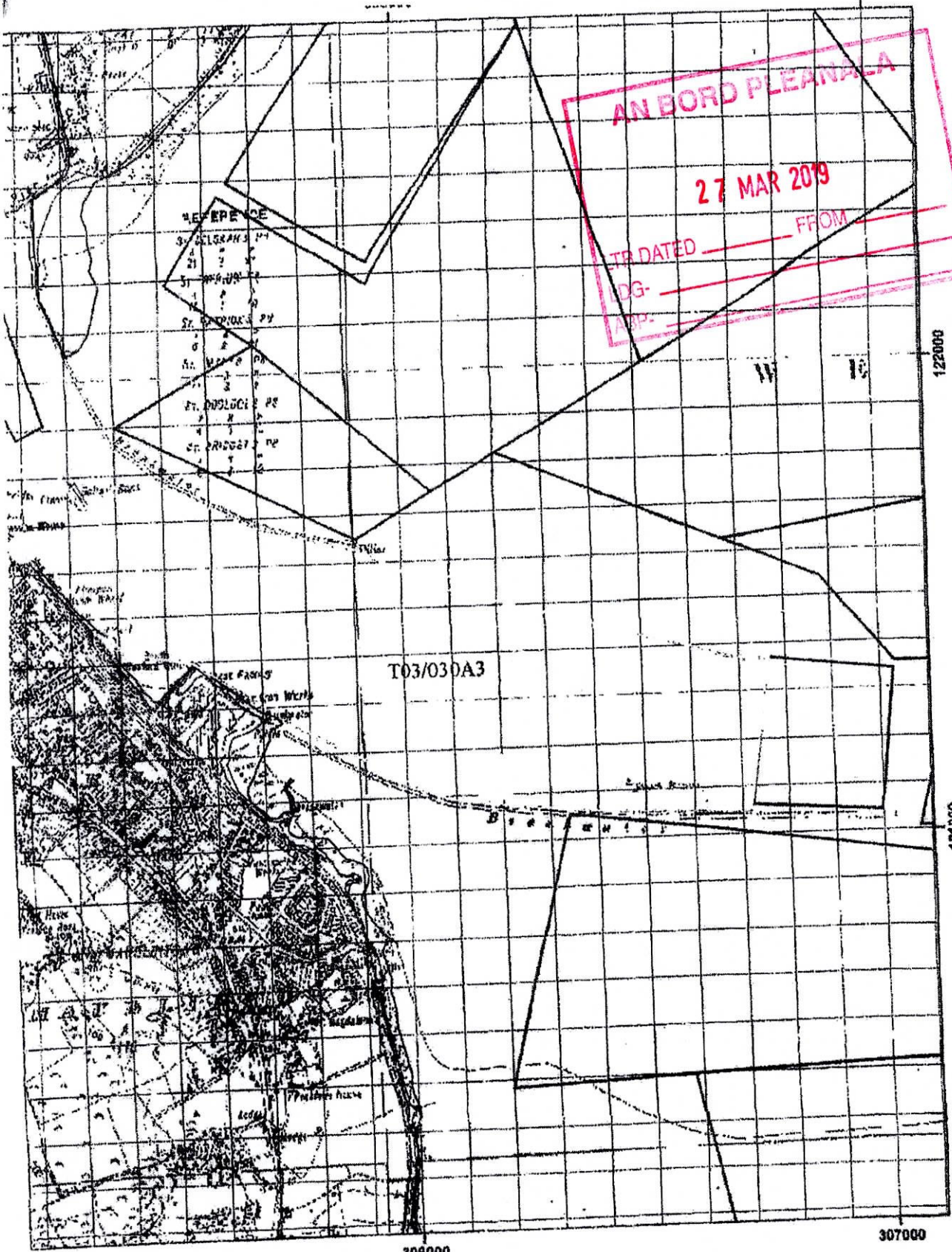
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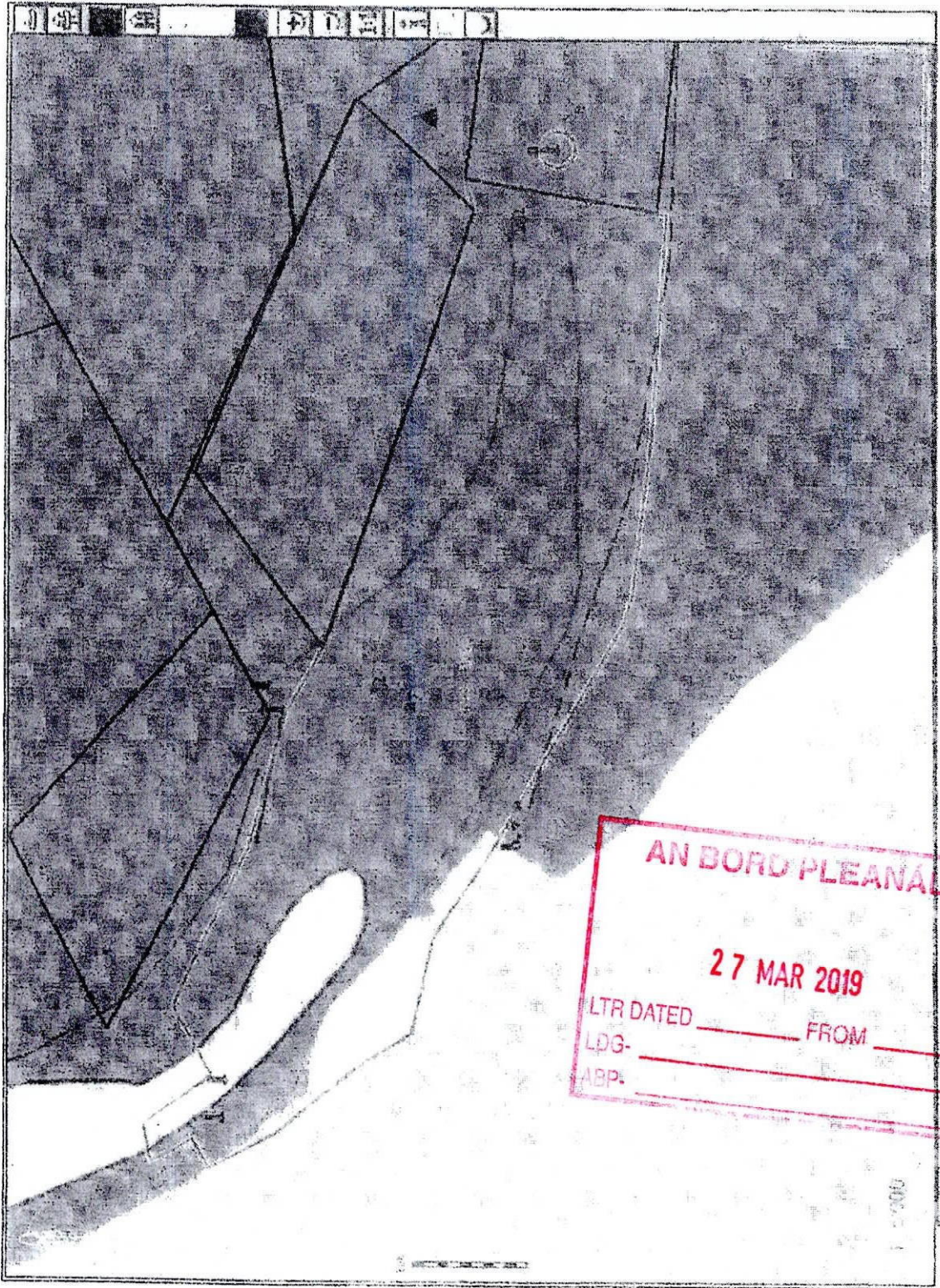
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 TR DATED _____ FROM _____
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T03/030A3

- Aqua Culture Sites
- Application
 - Application Lapsed
 - Application Refused
 - Application Renewed
 - Application Withdrawn
 - License Altered
 - License Renewed
 - License Surrendered

1:10,560

Site Highlighted in red denotes application



AN BORD PLEANÁLA
27 MAR 2019
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

Main UAM

TL_Mussels_Ltd_Application_for Site_T3_99
Scale 1in 10560

Site Co-ordinates
(Irish National Grid)

305435	121797
305697	121681
305901	121629
306079	121540
306711	121367
306765	121369
306717	121044
306355	121060
306215	121077
306105	121099
306060	121102
305731	121284
305555	121396
305407	121423
305348	121507
305242	121629
305182	121734
305229	121761
305191	121826
305250	121842
305332	121732

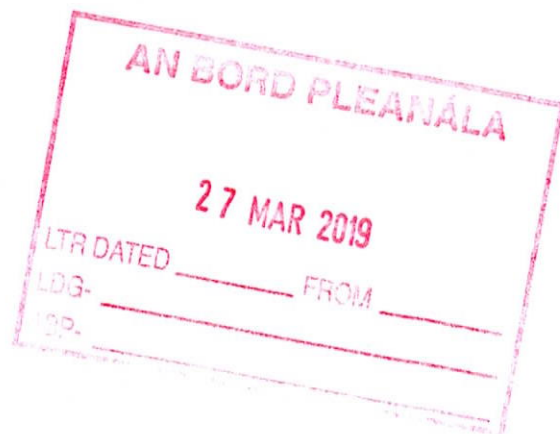
Legend

- TL_Mussels_Ltd_Access_1
- TL_Mussels_Ltd_1

1,000 500 0 1,000 Meters



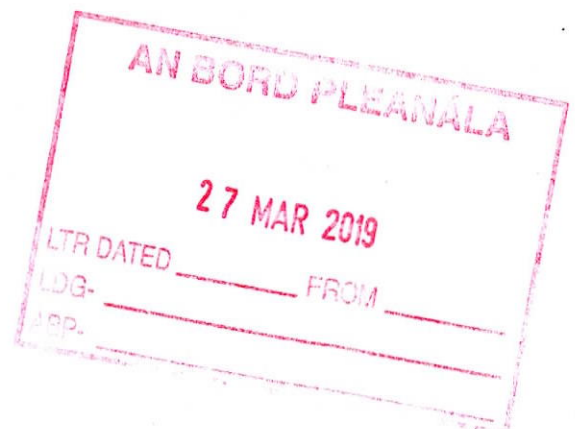
Map Prepared by Brian O' Loan BIM Under OSI Licence



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DECLARED before me Carina Day
a commissioner for oaths / practising solicitor / peace commissioner

by Desmond Lett

[Signature]

and

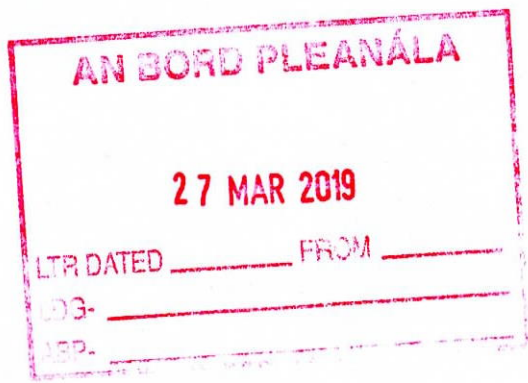
[Signature] [who are personally known to me]

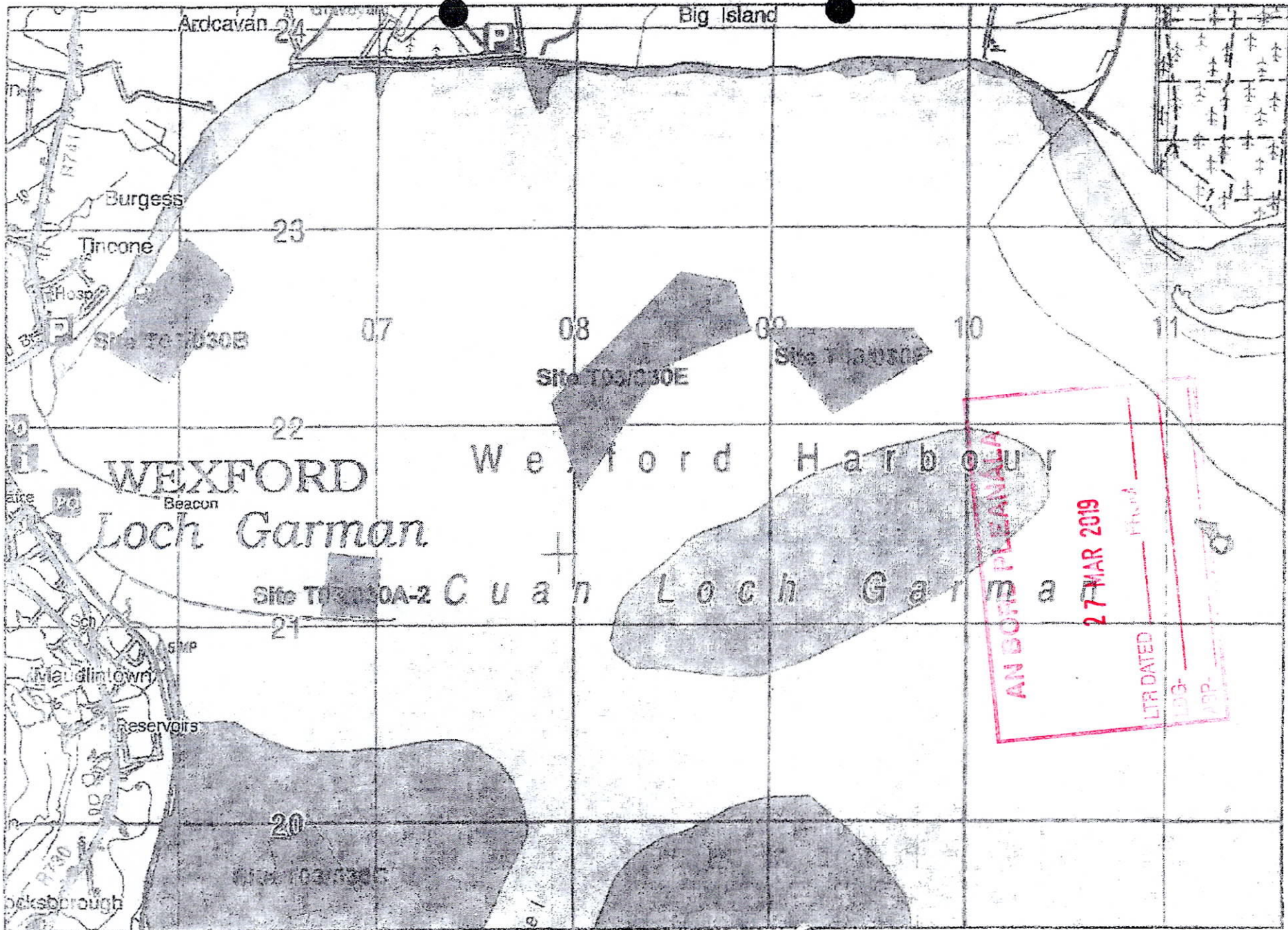
[or: who are identified to me by Paul Ebrill
who is personally known to me]
at Carnmarone

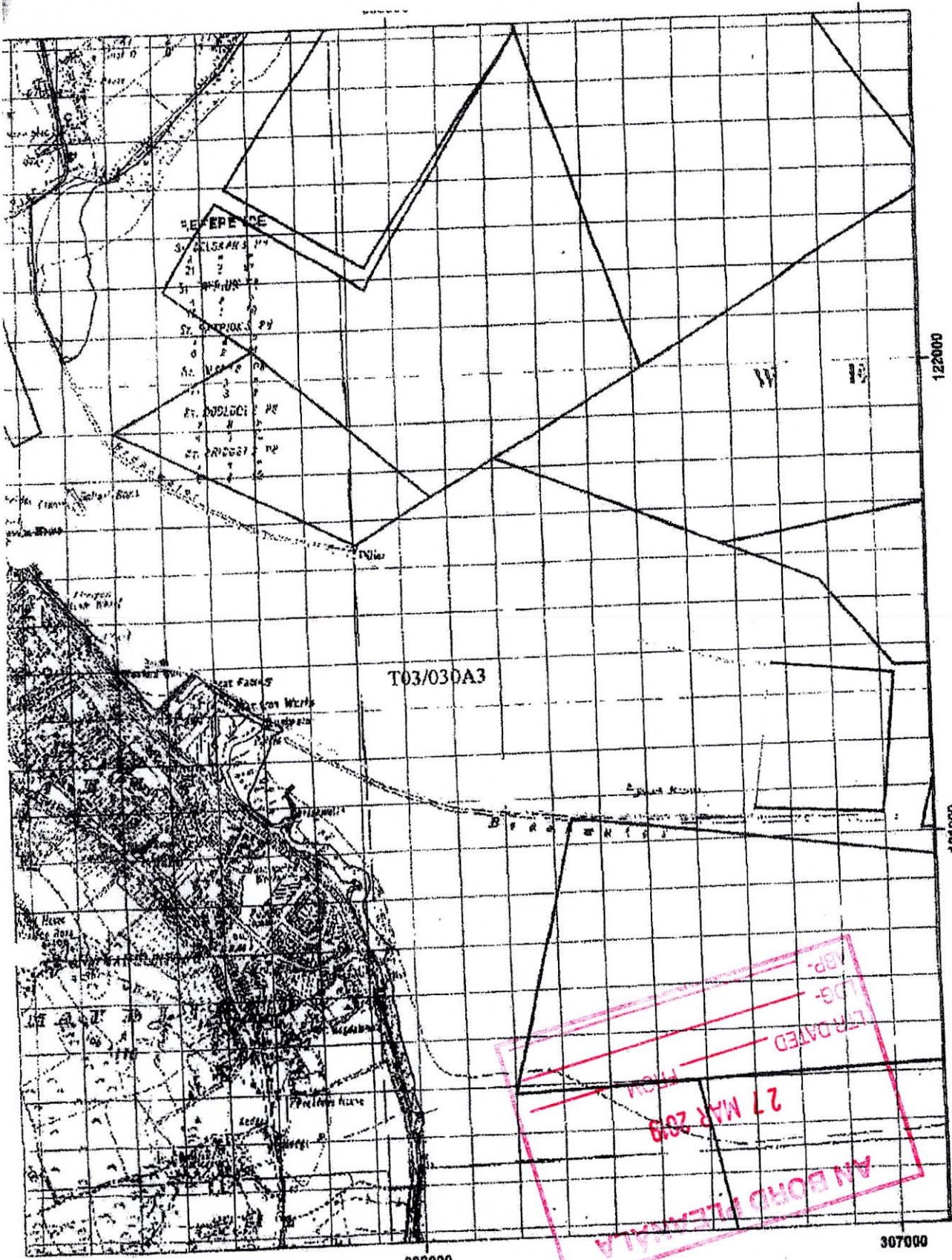
in the City/County of Wexford

this 23rd day of March 2015

[Signature]
Commissioner for Oaths / Practising Solicitor / Peace Commissioner





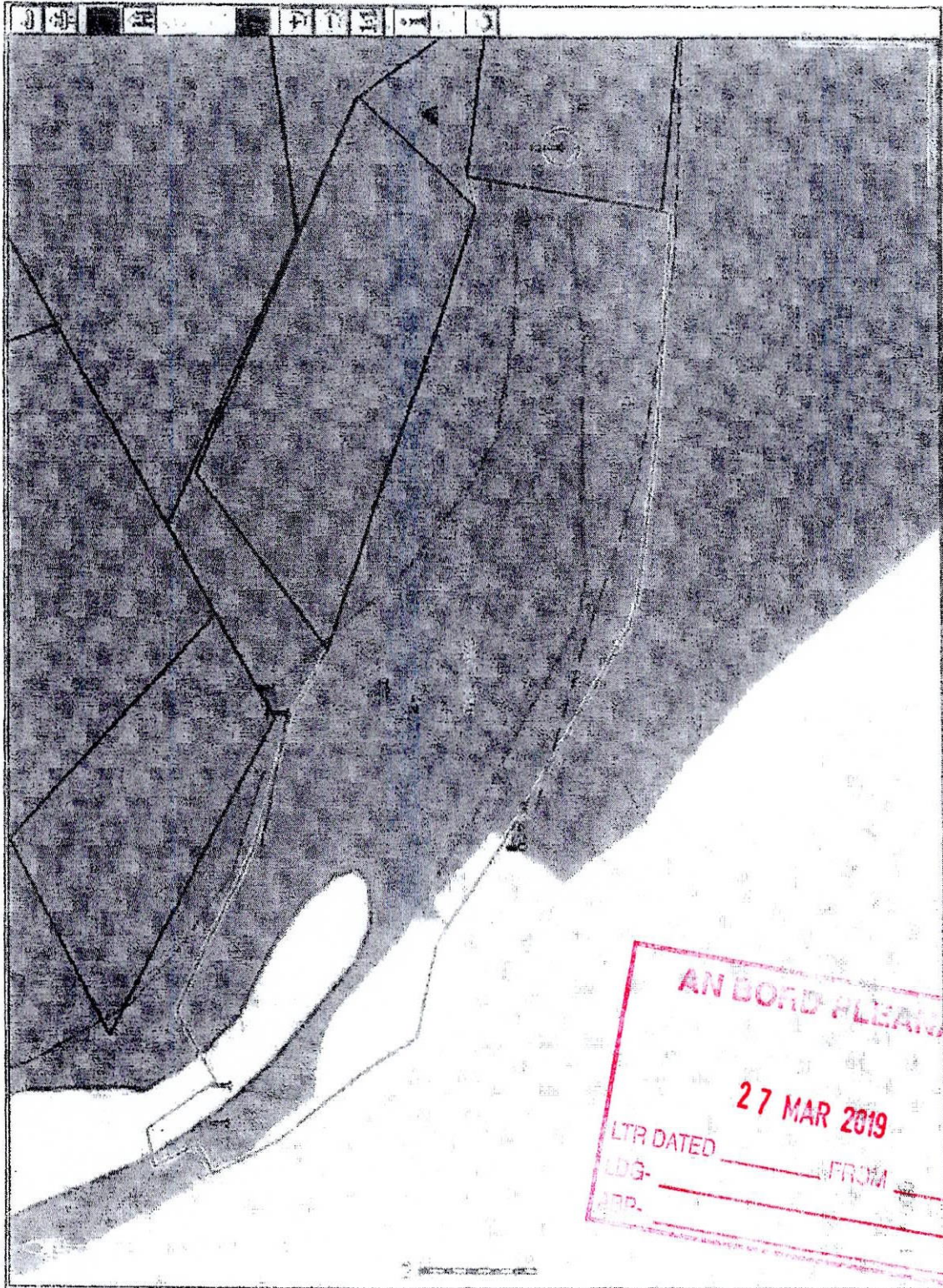


Aqua Culture Sites
 (with other values)
 Site Status
 Application
 Application Lapsed
 Application Expired
 Application Renewed
 Application Withdrawn
 License Shared
 License Placed
 License Suspended

1:10,560

Site Highlighted in red denotes application

Department of Conservation, Management and Natural Resources
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