

THE HIGHLAND COUNCIL

**NORTH PLANNING APPLICATIONS COMMITTEE
16 December 2014**

Agenda Item	6.1
Report No	PLN/085/14

**14/02874/FUL: Cowrie Associates Ltd
Foreshore About 500M Northwest of Keoldale Pier, Kyle Of Durness**

Report by Head of Planning and Building Standards

SUMMARY

Description: Marine Shellfish Farm - Native and Pacific Oysters - New Site consisting of up to 3800 steel trestles supporting plastic "Ortac" baskets in a site area of 1.98 ha. access by boat from Keoldale Jetty (AS AMENDED)

Recommendation: **GRANT** planning permission

Ward: 01 - North, West And Central Sutherland

Development Category: Local Development

Pre-determination hearing: None

Reason referred to Committee: More than 5 objections

1.0 PROPOSED DEVELOPMENT

- 1.1 The application seeks to develop an oyster farm in a single plot of 1.98 hectare on intertidal sand flats close to Keoldale, in the Kyle of Durness. The location of the site is shown in Figure 1.
- 1.2 The plot will be developed over a period of 4 years to reach a maximum installation of 3800 trestles each made of steel reinforcing bar 3m long by 0.6m high. Oysters will be contained in plastic baskets known as "Ortacs" suspended 5 per trestle. The proposed development is intended to allow for the annual production of 60 tonnes of native oysters. The layout of the oyster trestles within the site is shown in Figure 2.
- 1.3 The main site area is intended to be accessed by sea from Keoldale Pier. The application originally submitted included provision for occasional access to be taken by All Terrain Vehicle ATV across land to the site. The intended route to the site was depicted in the plans the application has now been amended to remove the requirement for any overland vehicular access.
- 1.4 The applicant has advised that at this stage there is no requirement for on shore storage or other facilities associated with the development.

2.0 SITE DESCRIPTION

- 2.1 The Kyle of Durness is the most westerly inlet on the North coast it is characterised by large areas of sand which are covered by the sea at high water. The main channel of the Kyle and extension of the River Dionard meanders through the sands at low water. The proposed site is on the eastern side of the Kyle just to the north of Keoldale and the site area extends to approximately 1.9 Ha.
- 2.2 The land adjacent to the proposed site comprises low cliffs rising from a narrow area of cobbles, and rocky ridges next to the sand. A well defined but un-waymarked track runs along the cliff top with the land continuing to rise to the landward side of the footpath. To the north of the site the cliff gives way to extensive sand dunes extending towards Balnakeil and Faraid Head.
- 2.3 Keoldale jetty provides the access point for visitors to Cape Wrath during those periods when the Cape Wrath Range is not active. The jetty also provides access to the Cape for military personnel and equipment during periods of military exercise.
- 2.4 The land adjacent to the site and the foreshore on which the development is proposed is owned by the Scottish Ministers. The land is used for the grazing of sheep by the Keoldale stock club. Land on the west side of the Kyle and extending towards Cape Wrath is owned by the Ministry of Defence.
- 2.5 The site is adjacent to the Durness Special Area of Conservation (SAC). This SAC is noted for its Otter, sand dunes and upland features. It is with the Durness Site of Special Scientific Interest (SSSI), which is noted for its geological and geomorphological interests,. It is also within the Oldshoremore, Cape Wrath and Durness Special Landscape Area (SLA) designated within the Highland Wide Local Development Plan. The SLA citation includes in its description 'isolated coast ... interspersed with fine sandy bays... [and] ...a distinctive green landscape... [with an] ... extensive, sheltered intertidal area at the Kyle of Durness'.

3.0 PLANNING HISTORY

- 3.1 There is no record of any historical Planning Applications on, or in the immediate vicinity of the proposed development.

4.0 PUBLIC PARTICIPATION

- 4.1 Advertised: Northern Times, 22 August 2014

Representation deadline: 05 September 2014

Timeous representations: 72

Late representations: 1

4.2 Material considerations raised are summarised as follows:

- Scale of development
- Visual impact of development including the designated area of wild land
- Water pollution resulting from development
- Positive and negative impacts on local employment / tourist industry
- Natural beauty/ unspoilt and tranquil nature of the area
- Scientific interest of the Area / Durness SAC
- Impact on wildlife including otters and wild salmonids
- Impact on navigation
- Disease risk implications from introduced shellfish
- Geomorphological impacts on the sand bars and SAC
- Lack of assurances with regard to removal of equipment
- Impact on common grazings
- Impact on Salmon fishings and ecology of the Kyle
- Impact on MOD activities

Names and addresses are set out within Annex 1. All letters of representation can be viewed on the Planning and Development Service ePlanning portal at <http://wam.highland.gov.uk/wam/> using reference number 14/02874/FUL

5.0 CONSULTATIONS

- 5.1 Durness Community Council - Supports the proposed development stating that it believed it will add value to the economy of Durness, as well as providing employment, and we do not think it will have a detrimental effect on other users of the Kyle. Support is subject to caveats related to Otters, repair and decommissioning and biosecurity.
- 5.2 Transport Planning – No comment.
- 5.3 Community Services, Environmental Health – Commented in relation to the requirements for shellfish sampling from the site prior to the sale of shellfish. No comment in relation to planning aspects of the development.
- 5.4 The Highland Council Historic Environment Team (HET) had no objection.
- 5.5 The Highland Council – Caithness and Sutherland Access Officer – submitted that the onshore access originally proposed interacted with two tracks that were part of the Highland Core Paths Network these are the Keoldale to Old Manse Track and the Kyle of Durness Walk. It was noted that the main point of interaction with the track and the proposed oyster farm land access is where the track crosses a ravine at the southern end of the site. Increased use of the access track will likely affect the core path by making it muddier. Proposals to ensure that the core path is retained and useable should be conditioned in any planning permission, and core paths should remain open at all times during the production works. Following the amendment of the application the access officer had no further comment

- 5.6 Marine Scotland Science (MSS) commented that in respect of its interests it had no objections to the proposal. It noted that the site does not sit within a shellfish water protected area and that prior to development additional information should be sought from the Food Standards Agency or Local Environmental Health Officer regarding classification and monitoring. MSS went on to comment that as Pacific oysters (*Crassostrea gigas*) are not native to Scotland they must be farmed in containment and that the equipment proposed and procedures described for achieving this were satisfactory. In summary MSS stated that there do not appear to be any negative implications on fish or shellfish health from the proposed development.
- 5.7 Scottish Natural Heritage(SNH) – Object to the proposal unless it is made subject to conditions so that works are done strictly in accordance with mitigation detailed in SNH appraisal.
- 5.8 SNH commented on the various designations present on the site which include the Durness Special Area of Conservation (SAC) which is protected for its coastal and upland habitats and otter, the Durness Site of Special Scientific Interest (SSSI) designated for sand dune and maritime cliff vegetation. It also advised the Council in relation to the wild land on the west side of the Kyle and the status of Pacific Oysters under the Wildlife and Natural Environment (Scotland) Act. SNH advised the Council in relation to appropriate mitigation measures for the site. These aspects are covered in more detail in section **** below.
- 5.9 Scottish Environment Protection Agency (SEPA) – commented on the designations stating that SNH would provide specific advise. It advised that the existing track crosses a flush wetland habitat and that this should be protected by the building of a simple wooden bridge which should be ensured by condition. SEPA advised that if the condition was not applied then its submission should be considered as an objection. SEPA went on to state that the proposed development was not within a Shellfish Water Protected Area and that in its opinion new sites should be located within such areas.

6.0 DEVELOPMENT PLAN POLICY

- 6.1 The following policies are relevant to the assessment.

The Highland wide Local Development Plan 2012

- 6.2 Policy 28 – Sustainable Design
Policy 30 – Physical Constraints
Policy 49 - Coastal Development
Policy 50 – Aquaculture
Policy 57 – Natural, Built and Cultural Heritage
Policy 58 – Protected Species
Policy 59 – Other Important Species
Policy 60 – Other Important Habitats
Policy 61 – Landscape

Sutherland Local Plan 2010 (as continued in force)

6.3 No policies relevant to this application remain in force.

7.0 OTHER MATERIAL POLICY CONSIDERATIONS

Scottish Planning Policy (SPP) 2014

7.1 Scottish Planning Policy (SPP) seeks to achieve a planning system that proactively supports development which contributes to sustainable economic growth and creates high quality sustainable places. SPP considers that achieving sustainable economic growth requires a planning system that enables the development of growth enhancing activities across Scotland and protects and enhances the quality of the natural and built environment as an asset for that growth. It requires planning authorities to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that could contribute to economic growth.

7.2 SPP sets out a number of subject policies. Those of most relevance to this proposal are:

- Landscape and Natural Heritage
- Coastal Development
- Fish Farming

8.0 PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan in this case comprises the Highland wide Local Development Plan and Scottish Planning Policy.

Determining Issues

8.2 The determining issues are:

- do the proposals accord with the development plan?;
- if they do accord, are there any compelling reasons for not approving them?
- if they do not accord, are there any compelling reasons for approving them?

8.3 In order to address the determining issues, the Committee must consider whether the proposals will have an unacceptable impact in terms of relevant planning considerations. The following issues have therefore been considered in preparing this report: a) development plan, b) other planning policy c) principle of development, d) natural heritage e) built and cultural heritage, f) landscape and visual amenity, g) Scotland River Basin Management Plan, h) wild fish populations, i) biological carrying capacity and water column impacts j) benthic impacts, k) commercial inshore fishing grounds, l) existing and consented aquaculture sites, m) established harbours, natural anchorages and

navigation including recreational use, n) location of pipelines, outfalls and discharge points, o) access, p) noise impacts q) transport infrastructure, r) economy, s) marine litter.

Development Plan Policy

- 8.4 In this case the key policy for consideration is Policy 50 – Aquaculture within the Highland Wide local Development Plan which also encompasses the other policy provisions listed above. Policy 50 establishes that the Council will support the sustainable development of fin-fish and shellfish farming. This support is however subject to there being no significant adverse effect, directly, indirectly or cumulatively on the natural, built and cultural heritage and existing activity then the proposal is likely to accord with the development plan.

Other Planning Policy

- 8.5 Scottish Planning Policy and documents such as the Strategic Framework for Scottish Aquaculture set out the need for shellfish farming to expand alongside other forms of aquaculture in order to aid the economic development of Scotland as a whole. The overarching policy provision is to allow the right development in the right place, not to allow for development at any cost.

Principle of Development

- 8.6 Oyster farming using a variety of equipment has historically taken place throughout Highland. Locally there is a long established oyster farm in the Kyle of Tongue, where the site currently extends to 17 Hectares. Production in Highland includes small quantities of native oysters but as is the case in much of northern Europe the Pacific Oyster is the main species farmed. As there is no record of oyster farming at the specific location of the proposed development it is noted that there is no precedent for the principle of development having been established in this location.

Natural Heritage

- 8.7 The access track originally applied for lies partly within the Durness SAC, designated for its coastal and upland habitats and otter. The foreshore section of the development lies adjacent to this designation. Concerns have been expressed regarding the possible impact of the access route originally proposed on the protected habitat and on SSSI covering the whole of the Kyle of Durness. The applicant has requested that the application be amended to remove the requirement for use of the access track. SNH has advised that this is acceptable in that the proposed amendments will reduce impacts to the sand dune feature of Durness Special Area of Conservation by removing the requirement for vehicle access. SNH had originally advised that the Council would not be required to carry out an Appropriate Assessment in relation to the SAC interest subject to access being in accordance with SNH specified conditions. These conditions are however no longer required following the amendment to the application.

- 8.8 SEPA had also expressed concerns with regard to the access track originally required crossing a freshwater flush. It also specified conditions in relation to the access track including a need for a low bridge to be built over the flush area. This is no longer required as a result of the amendment to the application.
- 8.9 The applicant intends to develop the site for the farming of Native Oysters (*Ostrea edulis*) which in their natural state are known to produce extensive beds. This species is recorded in the wild at several locations up the west coast of Scotland and as far north as Shetland. Its presence as an aquaculture species is not considered to present any significant concerns in terms of granting planning permission although objectors have postulated that there may be an impact on wild salmonids. This is discussed in section 8.23 below.
- 8.10 In this case the applicant has suggested that he may also need to culture Pacific Oysters in the event that there are not sufficient native oyster seed available. It is therefore intended that planning permission if granted covers the culture of both species.
- 8.11 The Pacific Oyster *Crassostrea gigas* is a non-native species, and it is an offence under the Wildlife Scotland Act (2011) to allow it to escape from the culture environment. This species has, however, been commercially farmed throughout northern Europe for many decades. In some areas of France, the Netherlands, Norway and the South Coast of England, feral and in some cases self-sustaining populations of Pacific oysters have developed. Current advice is that self-sustaining populations are very unlikely to occur in Scotland. Summer sea water temperatures are not likely to remain high enough for long enough for spawning to occur. Even if spawning was to occur sea water temperatures are unlikely to remain high enough for long enough for the larvae to develop to settlement.
- 8.12 In view of projections in relation to climate change and likely sea water temperature rise there is a possibility that during the lifetime of the planning permission, if granted, the required sea water temperatures could be reached. The applicant has submitted an environmental monitoring protocol in order to ensure that action can be taken in the event that sea water temperatures reach levels required for spawning. These protocols are acceptable to Marine Scotland Science although SNH has stipulated the following additional handling requirements for the Pacific Oysters requirements which it considers to be mandatory:
- a) When filling and emptying baskets, a secondary containment should be used to ensure no individuals are released.
 - b) Discarded shells, dead or alive, should not be deposited on the seabed or intertidal zone.
 - c) Any individuals, dead or alive, identified during the proposed monitoring should be either returned to the baskets or removed from site and disposed of in line with current official guidance.

- 8.13 There is also the possibility of unintended “hitchhiker” species being placed on site if transported with the oysters. Seed oysters brought to the site also have the potential to act as vectors for the transmission of diseases that may impact adversely on wild species in the area, for example native oysters if present. Concerns have been expressed by objectors in this regard. In permitting the farming of oysters elsewhere in Highland conditions have been included in planning permissions that any shellfish brought to the site must be from hatchery production and certified as disease free. It is considered that similar conditions would serve to mitigate the impacts in this case. It should also be noted that that it is a fish health requirement that animals brought to the site must come from an area of equal or better health status than the area to which shellfish are being transferred.
- 8.14 It has been suggested that the presence of the oyster trestles will result in changes in water movement within the Kyle. SNH advises that although sedimentation may be increased in the area of the proposed oyster farm this is unlikely to have a significant effect on the coastal geomorphology feature of the SSSI sand dunes.

Built / Cultural Heritage

- 8.15 The amended application will not impact on any features of Built or Cultural Heritage interest.

Landscape / Visual Amenity

- 8.16 The site lies within the Oldshoremore, Cape Wrath and Durness Special landscape Area (SLA) as identified in the Highland Wide Local Development Plan. The SLA extends from Oldshoremore on the west coast around the coastline of Cape Wrath to Durness and has an area of 12,340 hectares. It is valued for its remote and varied coastline which forms the far north-west extremity of the Scottish mainland. The rugged rocky coastline is interspersed with sandy bays and the overview in the SLA citation notes the extensive, sheltered, intertidal area of the Kyle of Durness. The area is largely distant from road access and is valued for its sense of remote isolation. Much of the SLA is only accessible by boat, on foot, or by ferry and track from the Kyle of Durness. The ferry crossing and the restrictions to public access to much of the area during military operations render the experience of this landscape as one dominated by the strong sense of remoteness. It is apparent therefore that views of the site from viewpoints within the SLA and the impact that the development will have on the experience of visitors to the SLA are key considerations in the determination of the application.
- 8.17 In support of the application the developer has submitted a plan depicting the zone of theoretical visibility of the site. This is shown in figure 3 and indicates that the site will be visible at a distance of approximately 2km from the main A838 as it approaches Durness. The site will be visible from the Kyle of Durness Coastal Path and also from the road on the western side of the Kyle.

The applicant has provided visualisations of the site from a number of viewpoints. Copies of the visualisations from the coastal footpath and from the west side of the Kyle are provided in figures 4 and 5.

- 8.18 In determining the visual impact of the proposed development it is noted that the Kyle of Durness Coastal Path is the main location from which the site is viewed at close quarters. The development will be visible on low tides for approximately 1km along the 5km length of the track. The track runs directly above the proposed development site and for around 300m metres of the route there is less than 80m separation between the two. The Access Officer and third party submissions have raised concerns in relation to the impact that the development will have on people's experience of the path. However it is noted that on the section of the path where the site is likely to be view there are already a number of man made features visible, these include the jetty and road on the west side of the Kyle and intermittent vessel movement across the Kyle.
- 8.19 Whilst it is accepted that an oyster farm would be a new element in views from the path on balance it is not considered that it will adversely impact on the features of the SLA. This is due to the fact that the site area, at 1.9 Ha is relatively small, is low profile, only 60cm high and will be covered by water for around 60% of spring tides, and will never be fully uncovered on neap tides. On low water spring tide the when site is fully exposed to view the other areas of sand bank within the Kyle will also be exposed. Calculations based on the Ordnance survey mapping indicate that the area of the Kyle of Durness is around 640 Ha when measured from Eilean Dubh on the east side of the mouth of the Kyle to Geodh Chreamha on the west. At Low Water Spring tide approximately 40% (250 hectares) of this area is exposed tidal sand and the the site area at 1.9 hectares makes up less than 0.7 % of the available sand.
- 8.20 In its response SNH highlighted that the area west of the Kyle is within an area identified as Cape Wrath Wild Land Area. Such areas are identified as important in Scottish Planning Policy, but are not a statutory designation. SNH advised that it does not consider that the development will have a significant impact on wild land area. In considering the application it is noted that the site will be visible at low tide from various locations on the west side of the Kyle. The site will be viewed at increased distance and in the context of the raising land immediately behind the site. It is not considered that the development, if maintained in good order and undertaken in the manner applied for will present a significant landscape or visual amenity impact from the wild land area. It is therefore also considered that the impact on the SLA will not be significant from this location for the reasons discussed in paragraph 8.19.
- 8.21 The site area as submitted is a rectangle with trestles placed right up to the edge of the site. It is considered that this is quite a stark outline and there is the potential for further mitigation of the visual impact of the development if the trestles were to be set out as a softer, more irregular form within the site area. It is noted that a number of layouts have already been proposed within the site

area. It is considered that development, if approved should be subject to a specified layout of trestles which would need to be submitted prior to development commencing.

Scotland River Basin Management Plan

- 8.22 The site is contained within a coastal water body known as “Kyle of Durness”, this is shown as being of “Good” status in the Scotland River Basin Management Plan with the target of remaining at “Good” status during subsequent RBMP cycles. There are no pressures noted on this water body. It is not anticipated that the proposed development would adversely impact on the status of this water body. Water quality within the water body will continue to be monitored by SEPA.

Wild Fish Populations

- 8.23 The proximity of the development to the River Dionard system is noted and numerous objections have been raised in relation to possible adverse impact that the development will have on wild salmon and sea trout and the lack of information presented for consideration in this regard.
- 8.24 Within the objections received there are few specific mechanisms suggested for possible adverse impacts on wild salmonids. These include alterations to the food chain resulting from the oysters feeding which is discussed in section 8.26 below. The West Sutherland Fisheries Trust note that “The potential impacts of a development of this size on the native fish populations are unknown....” It went on to recognise that it was probable that such impacts would be minimal and requested a monitoring programme. It is, however important to note that whilst much is being made of the size of the site it is not particularly large compared to oyster farm developments elsewhere.
- 8.25 In considering possible impacts on wild salmonids the responses from three of the statutory consultees are relevant. Neither Marine Scotland Science nor SNH raised concerns with regard to the possible impact on wild salmonids. The North and West District Salmon Fishery Board was consulted and chose not to comment on the proposals. It is also noted that historically native oyster have occurred throughout UK waters and that their wild distribution is coincident with that of wild salmon and sea trout. This suggests that any possible interactions are at worst benign as they are able to co-exist in the wild. In relation to Pacific oysters, if they are farmed on the site, there has been no suggestion that we are aware of, that wild salmonid populations have in any way suffered as a result of the farming of Pacific oyster elsewhere in Europe.

Biological Carrying Capacity / Water Column Impacts.

- 8.26 Oyster farming does not require the input of any additional feed or medicines and as a result can be considered to be a net user of nutrients. There are unlikely to be any significant water column impacts resulting from discharges from the proposed development. There are, however a number of instances

elsewhere in the world where intensively cultured shellfish have not shown the growth rates anticipated. Whilst this could be attributable to a number of factors, high stocking densities and the number of shellfish exceeding the naturally available food supply is a potential commercial risk. This may also present a risk to other, wild, filter feeding animals if food availability to them is reduced.

- 8.27 It is expected that the developer will monitor growth rates on the site as part of its operational / business plan and retain records of the number of shellfish stocked to the site, the number of mortalities and the growth rate (this is a legal requirement under fish health legislation). The applicant has submitted calculations that indicate that the volume of water from the Kyle filtered by the oysters on the site when fully stocked will be insignificant.

Benthic Impacts

- 8.28 It is unlikely that the development will result in any significant impacts on the seabed beneath the trestles. Any impact on the sedimentation beneath the trestles will be localised and SNH has advised that this will not impact on the sediment transport system that replenishes the sand dunes within the SSSI/SAC. No species of nature conservation significance have been noted as occurring within site area.

Commercial inshore fishing grounds

- 8.29 Given the intertidal nature of the site it is not likely to be targeted by any commercial fishing interests and is not considered to be commercial inshore fishing ground. There have been no submissions indicating commercial fishing activity in this area.

Existing and consented aquaculture sites

- 8.30 There are no existing, or consented aquaculture developments in the vicinity of the proposed development.

Established harbours, natural anchorages and navigation including recreational use

- 8.31 The site if granted planning permission would require to be the subject of an application to Marine Scotland for a Marine Licence. This would consider the navigational aspects of the development. At this stage the Northern Lighthouse Board has advised the applicant that no navigational marking of the site would be required. This indicates that the site is unlikely to pose a hazard to navigation of vessels within the Kyle of Durness.
- 8.32 The Jetty at Keoldale is in the ownership of The Highland Council and Highland Council Harbour Manager has been consulted but has not commented in relation to this application. The applicant has been in contact

with the Harbours Manager who advised that in principle there is no problem regarding the proposed use of the Jetty subject to further discussions regarding the proposed operation and how that may affect the other pier users.

- 8.33 An objection was originally submitted by the Defence Infrastructure Organisation on behalf of the Ministry of Defence. It stated that the location of the oyster farm would have an impact on its ferrying operations across the Kyle and would therefore affect its ability to use the Cape Wrath Bombing range. Clarifying information was sought with regard to the ferrying operations and the objection on this aspect of the development was subsequently removed.

Location of pipelines, outfalls and discharge points.

- 8.34 SEPA and Marine Scotland Science have advised that the site does not lie within an area which is currently designated as a Shellfish Water Protected Area. Whilst there is a presumption in favour of new developments taking place in existing designated areas the fact that there is not, at present a designation does not preclude development. SEPA highlighted that there are a number of small scale local discharges to the Kyle but were of the view that water quality and the ultimate marketability of any shellfish produced from the site were a matter of the operators' commercial risk.

Access

- 8.35 As noted above, routine access to the site will be by boat from Keoldale Jetty with all equipment being placed on the site by boat, and all harvesting taking place by boat. Use of the pier is not included as part of the planning application and would be subject to negotiations over the use of the Jetty with Highland Council Harbours.

Noise Impacts

- 8.36 The main source of noise during the installation and operation of the site will be the boat used to gain access to the site. No other equipment has been specified for use in the site. It is not therefore considered that there will be any significant adverse impacts as a result of noise.

Transport Infrastructure

- 8.43 Development of the site will involve steel trestles and "Ortacs" being brought to Keoldale over the course of three years and then transported to the site by boat. There is no provision within the planning application for on site storage of equipment or for the storage and dispatch of harvested oysters. The Access Officer has raised concerns regarding equipment storage at the pierhead and suggests that there should be conditions in place to prevent this from taking place. In terms of the wider transport infrastructure it is not anticipated that the small number of vehicle movements involved to install and service the development will be significant in relation to existing traffic to the area.

Economy

- 8.44 The applicant is of the view that the development had the potential to provide a part time job to a local resident with the possibility of additional jobs during periods of peak activity. Durness Community Council and some individual respondents highlighted the importance of such jobs to the rural economy.
- 8.45 Various submissions suggest that the development would impact adversely on the tourism industry which is a major source of income for the area. It is contended that it is the special qualities of the area including the sense of peace, remoteness and the unspoilt nature and wildlife which draw people to the area. It is not considered that these aspects will be significantly altered as a result of these proposals when operated, subject to appropriate mitigation measures. There is no suggestion that oyster farms elsewhere have had an adverse impact on tourist industry in areas where they are placed, this includes areas such as the South West of England, Brittany and Ireland all of which are also reliant on tourist income.

Marine litter

- 8.46 Concerns have been expressed that development will become a source of marine litter. It is considered that the main risk here would relate to the use of cable ties or clips to hold the "Ortacs" closed, in addition to the "Ortacs" themselves in the event that they become detached from the trestles. It is considered that such potential impacts can be mitigated through conditions in relation to the maintenance of the site, marine litter and decommissioning and these issues do not present reasons for the refusal of the development.

9.0 CONCLUSION

- 9.1 In reaching a view on this planning application all relevant planning policies and guidance, the application form and supporting information submitted by the applicant, consultees responses and public comments have been considered.
- 9.2 The amended scheme, which limits the development to 1.9 Ha of intertidal development seeks to address concerns in relation to the possible impact of the development on the features of interest of the Durness SAC.
- 9.3 Whilst the issues raised in submissions in relation to this application are relevant to the determination it is not considered that any of these issues present grounds for the application being refused.
- 9.4 It is concluded that the development should be granted planning permission for the amended scheme subject to conditions in relation to the containment of the oysters, storage of equipment, site maintenance and environmental monitoring requirements. In addition conditions should be imposed in relation to site decommissioning.

Recommendation

Action required before decision issued **N**

Subject to the above it is recommended that that planning permission be GRANTED subject to the following conditions and reasons:

1. Except as otherwise provided for and amended by the terms of this approval, the operator shall construct the development in accordance with the provisions of the application and the submitted plans. No other equipment shall be installed on site unless otherwise approved in writing by the Planning Authority.

Reason: To limit the installation of equipment to that for which details have been approved.

2. The oyster farm shall be stocked at all times only with oysters (either native oysters, *Ostrea edulis* or Pacific oyster, *Crassostrea gigas*) which have originated from a commercial hatchery unless otherwise agreed in writing by the Planning Authority. All oysters stocked on site shall be certified free of disease and other species.

Reason: In order to protect the biodiversity of the surrounding environment from impacts associated with the introduction of non-native species.

3. The operator of the site shall not allow any dead, or dying oysters, empty oyster shells, or parts thereof to be deposited within the site, the foreshore, or land adjacent to it, and shall ensure that all such shell waste is disposed of in accordance with a waste management plan to be submitted to and approved in writing by the Planning Authority prior to the commencement of development.

Reason: In order to prevent oyster shell debris impacting on the surrounding environment.

4. The site shall be serviced by sea from Keoldale Jetty. In accordance with the planning application as amended no vehicular access shall be taken across land to the site.

Reason: In order to limit the movement of vehicles impacting on the features of interest of the Durness SAC

5. "Ortacs" are to be retained in position on the trestles, and the trestles are to be positioned in a well ordered manner in tidy rows and maintained in such condition at all times. In the event that trestles and/or "Ortacs" become damaged they shall be repaired, or replaced as appropriate, in order to maintain the well ordered appearance.

Reason: To ensure that the development is maintained in working order and does not fall into disrepair.

6. For the avoidance of doubt, the operation and management of the oyster farm shall be undertaken remotely and no part of the land, or intertidal area within the Kyle of Durness shall be used as a shellfish farming shorebase, storage area for gear, equipment or materials, or for the construction of any buildings or structures related to the development or operation of the site as an oyster farm.

Reason: To limit the installation of equipment to that for which details have been approved.

7. Unless otherwise approved in writing with the Planning Authority, site stocking and monitoring shall be carried out in accordance with the biosecurity plan submitted with the application and subject to the following additional provision:
 - a) When filling and emptying baskets, a secondary containment should be used to ensure no individuals are released.

Reason: In order to protect the biodiversity of the surrounding environment from impacts associated with the introduction of non-native species.

8. At least three months prior to cessation of use of the site for oyster farming, a scheme for the decommissioning and removal of all equipment shall be submitted to and approved in writing by the Planning Authority. Upon cessation the approved scheme shall commence within three months and be completed within 6 months of the date of cessation.

Reason: To ensure that decommissioning of the site takes place in an orderly manner and to ensure the proper storage and disposal of redundant equipment in the interest of amenity.

Signature: Malcolm MacLeod

Designation: Head of Planning and Building Standards

Author: James Bromham, Aquaculture Development Officer (ext 2510)

Date:

Figure 1 – Location / Site Plan

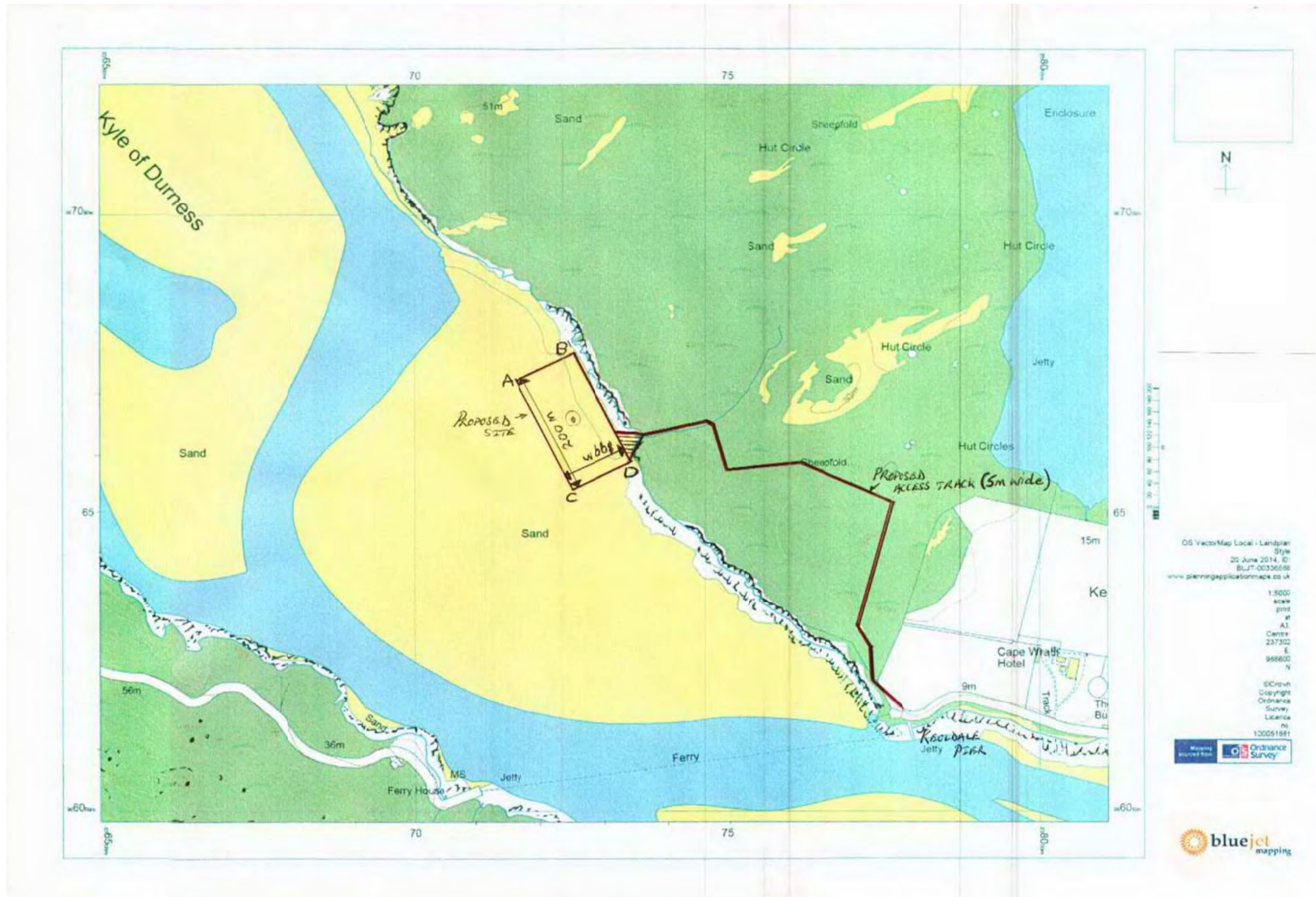


Figure 2 – Site Layout

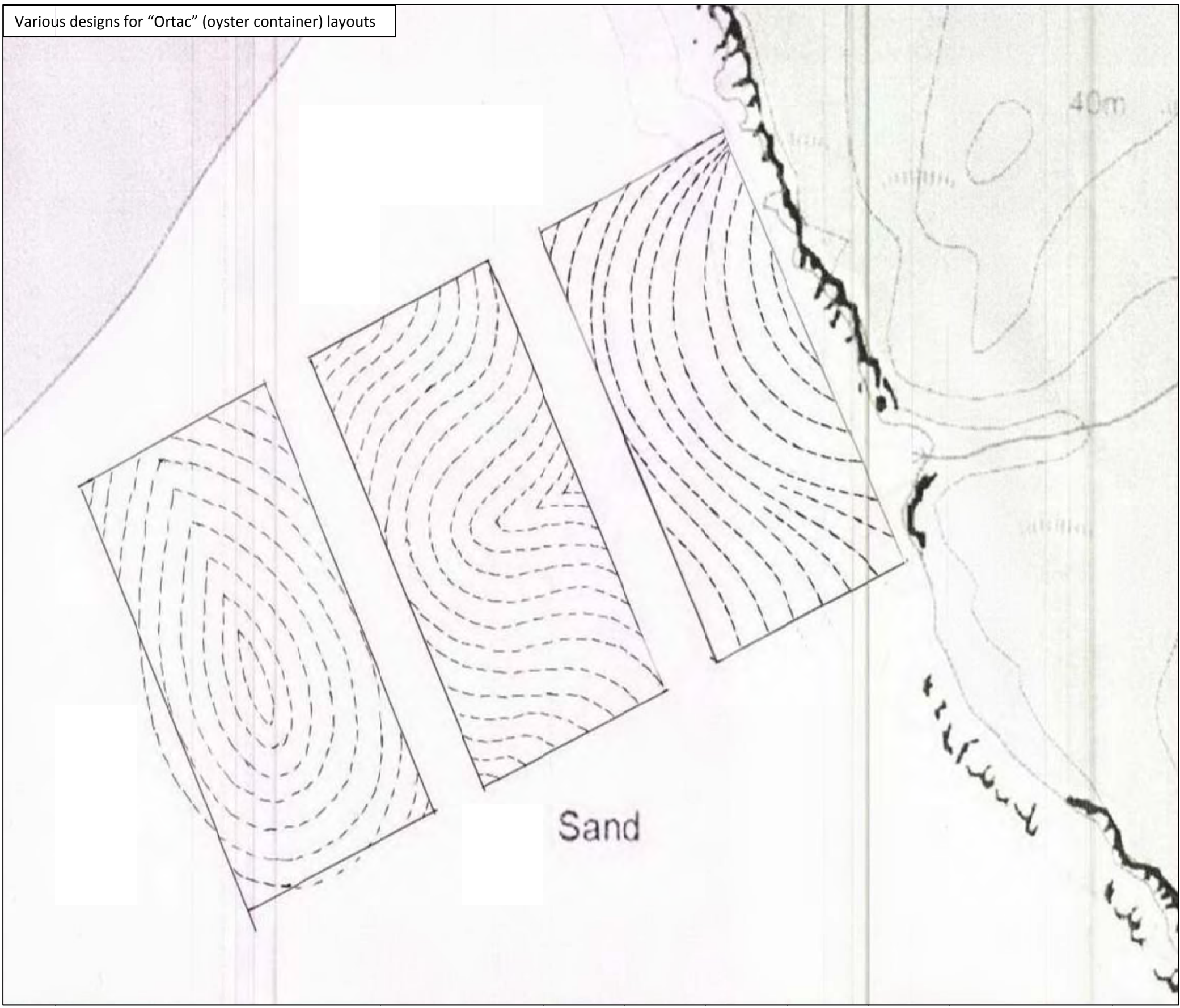
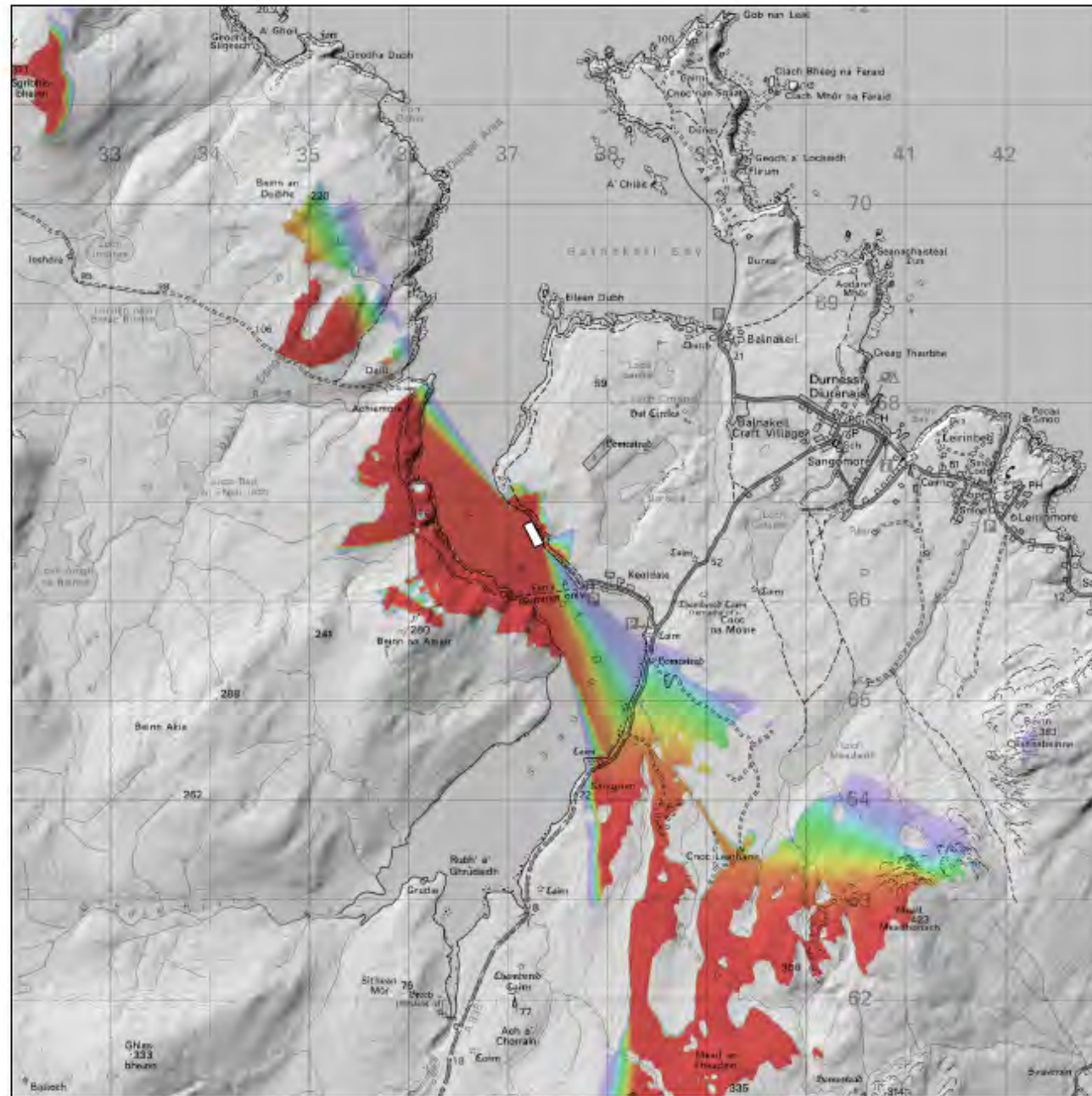
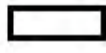




Figure 3 – Zone of Theoretical Visibility



Kyle of Durness Oyster Farm ZTV

Pen location 

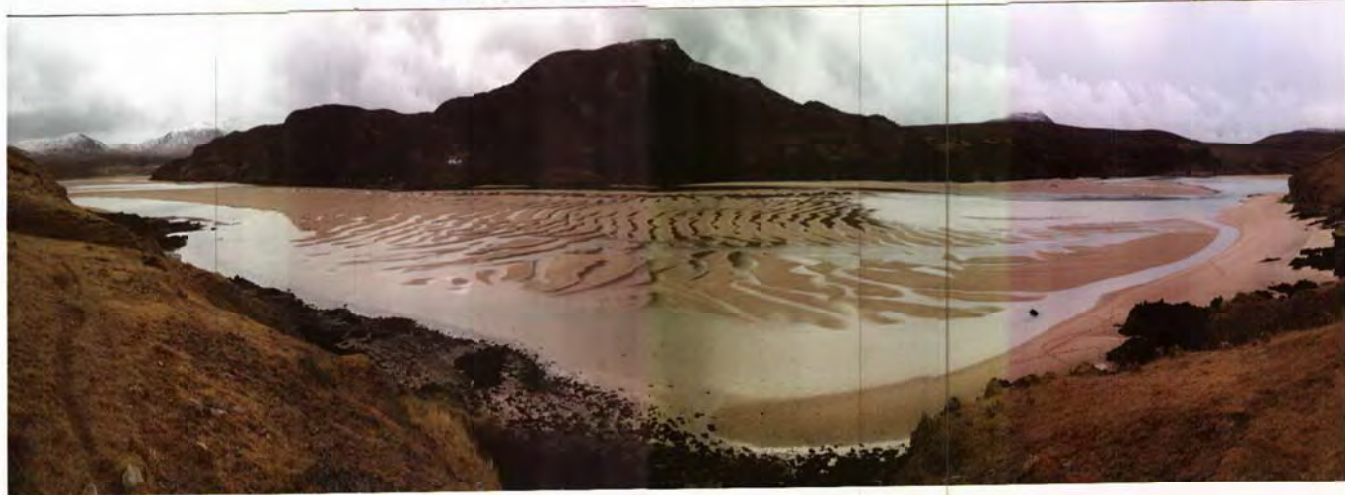
All of pen area visible 

Corner of pen area visible 

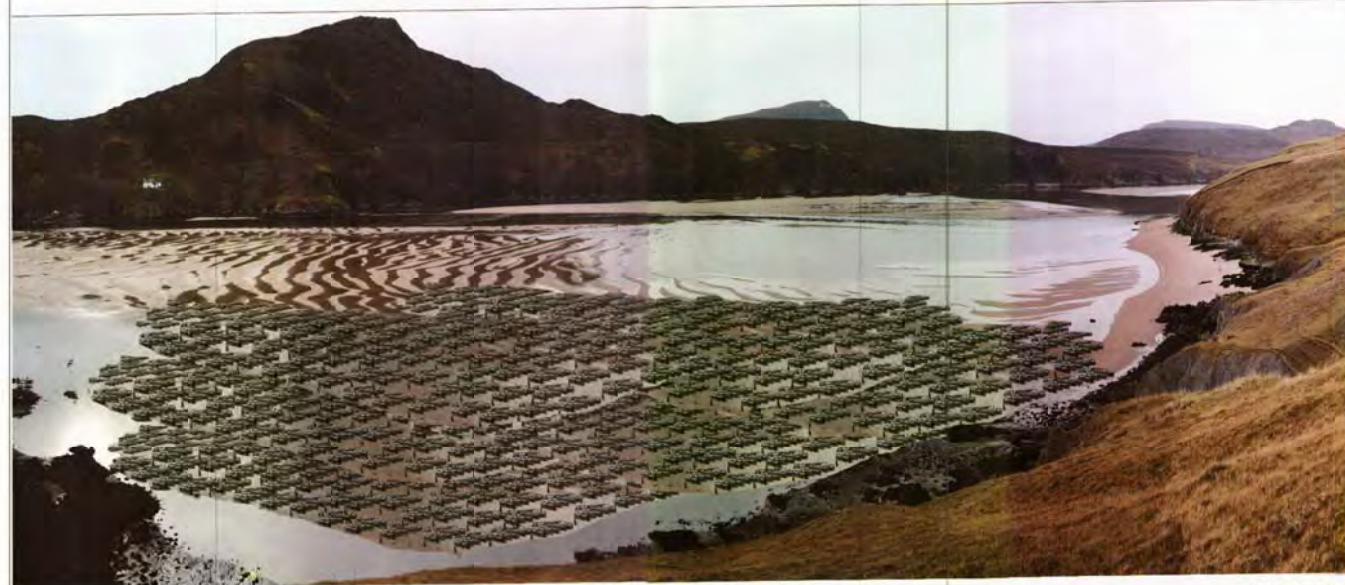
scale - 1:50000

Figure 4 – Visualisation of Site at Low Water from Coastal footpath

Looking down at the site from the coastal footpath at NC 37346 66669 Low tide

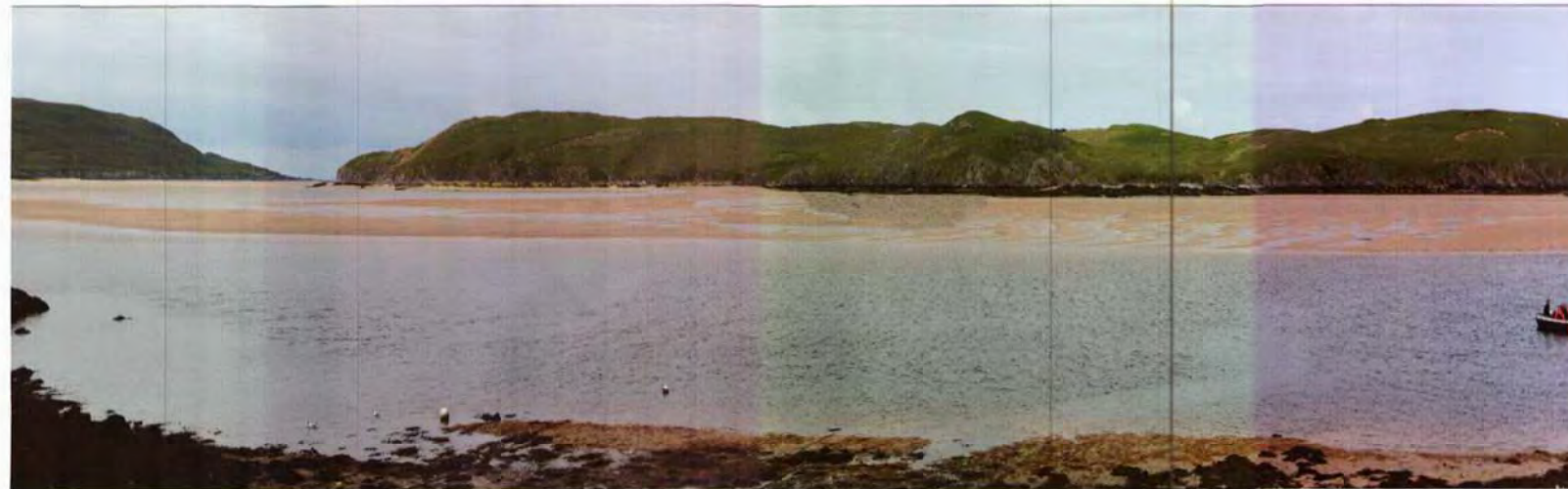
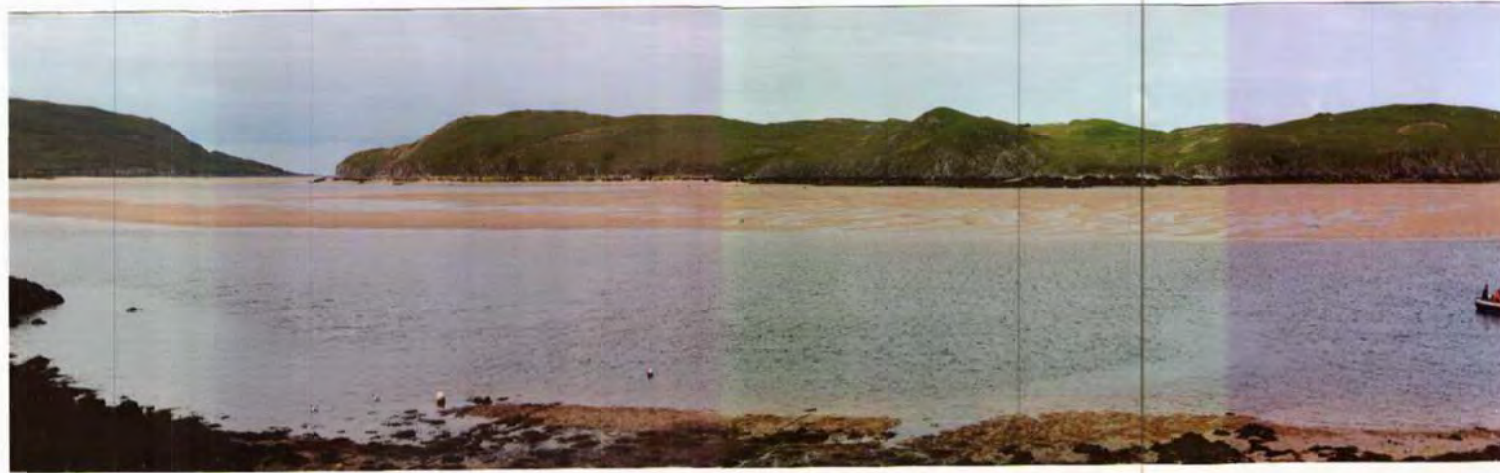


30 tons per annum



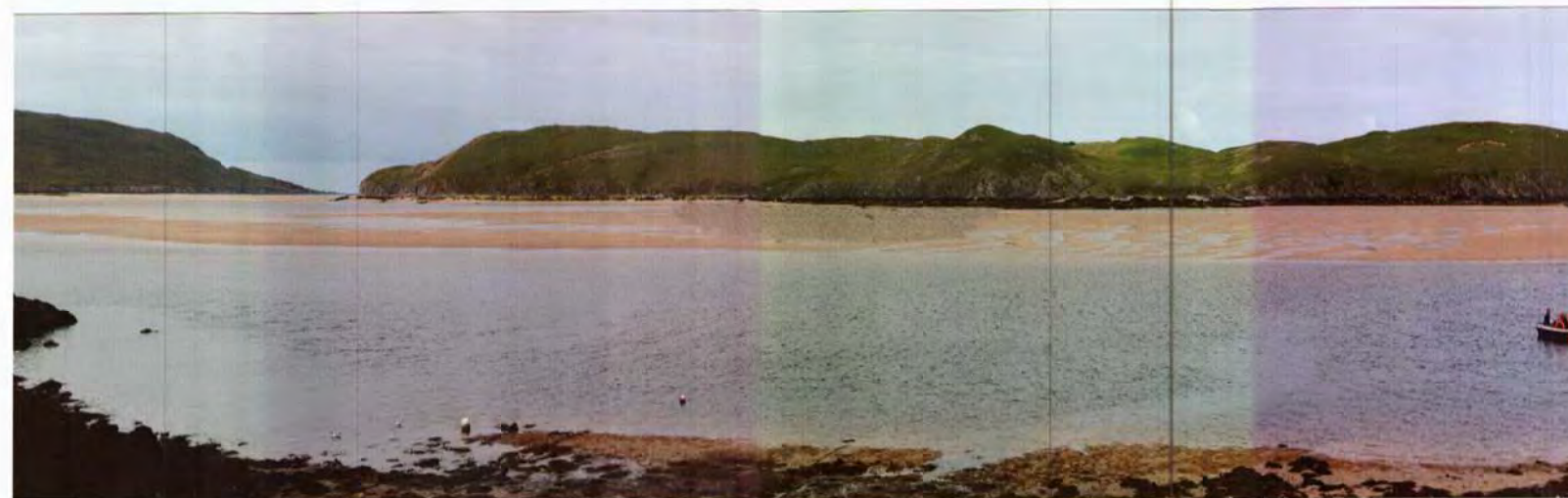
60 tons per annum

Figure 5 – Visualisation of Site from West Side of Kyle of Durness, above Ferry Slipway.



Cape Wrath side ferry
slipway
NC 37045 66025
Low tide

30 tons per annum



60 tons per annum