



APPLICATION GUIDE

MARINE AQUACULTURE (East Coast)

Department of Agriculture and Aquaculture
Province of New Brunswick
March 2008

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1. INTRODUCTION

This guide will assist you in completing an application for an aquaculture site (occupation permit and/or lease) and an aquaculture licence for a marine culture operation in Eastern New Brunswick.

Aquaculture in New Brunswick is regulated under the *Aquaculture Act* and its *Regulation 91-158*. Copies of both the Act and Regulation may be obtained for a nominal fee by contacting the Queen's Printer, P.O. Box 6000, Fredericton, N.B., E3B 5H1 or by calling (506) 453-2520. Anyone wishing to conduct aquaculture in New Brunswick should obtain copies of both the Act and Regulation.

Aquaculture is defined by the *Aquaculture Act* as "the cultivation of aquatic plants and animals, but does not include the cultivation of aquatic plants and animals in a laboratory for experimental purposes or in an aquarium". In order to conduct aquaculture in the province a licence is required. A lease or occupation permit authorizes the use of Crown land for the purpose of a marine aquaculture site.

Aquaculture in New Brunswick may also be subject to all applicable Federal and Provincial regulations. For those individuals applying for a lease, an occupation permit, and/or a licence this may include, but is not limited to, the *Navigable Waters Protection Act*, the *Fisheries Act*, the *Canadian Environmental Assessment Act*, the *Clean Environment Act*, the *Clean Water Act*, and the *Crown Lands and Forests Act*.

If assistance or more detailed information is required, please contact the Department of Agriculture and Aquaculture (DAA) Regional Offices in Shippagan, or

Bouctouche, or Head Office in Fredericton:

DAA Shippagan (Regional Office)

Dept. of Agriculture, Fisheries & Aquaculture
100, Aquarium Street
Shippagan, NB
E8S 1H9
Tel: (506) 336-3751
Fax: (506) 336-3057

DAA Bouctouche (Regional Office)

Dept. of Agriculture, Fisheries & Aquaculture
26, Acadie Street
Bouctouche, NB
E4S 2T2
Tel: (506) 743-7330
Fax: (506) 743-7229

DAA Fredericton (Head Office)

Dept. of Agriculture, Fisheries & Aquaculture
P.O. Box 6000
Fredericton, NB
E3B 5H1
Tel: (506) 453-5229
Fax: (506) 453-5210

Please note that a glossary of terms can be found in Appendix 1 to assist you in the perusal of this guide.

Before choosing a site, it is important to note that the *Aquaculture Act* requires that an aquaculture site meets certain minimum criteria or the application may be refused by the Minister. It is in the applicant's own interest to thoroughly investigate the area of a proposed site prior to application submission. Following are some of the criteria, which should be taken into account when selecting a site:

a) Conflicting Uses

It is important that each applicant is fully aware of the potential conflicting uses of their proposed site. Full knowledge of this will help in the selection of an appropriate site. Although there are no specific criteria about potential conflict, sites that compete for areas where there has been traditionally a significant fishery may not receive approval. An applicant should identify any potential conflicts, such as mooring sites for recreational boats, whether the location is in an environmental sensitive area, whether the area is in a special wildlife habitat, or whether the area is highly recreational, etc.

b) Separation Distances

A marine aquaculture site must not be within 300 meters of a wharf, breakwater, lobster pound, or any other marine structure.

c) Riparian Access

All adjacent landowners must be ensured the right of access to the mean low water mark, at some point on the shorefront of their property.

d) Application fees

All applications must be accompanied by the following, non-refundable, application fee(s), payable to the Minister of Finance:

- a) Applications for Leases \$10.00 (each);
- b) Applications for Occupation Permits \$10.00 (each);
- c) Applications for Licences \$10.00 (each).

Typically, marine aquaculture sites require a licence, and a lease (or an occupation

permit); therefore, a total of twenty dollars (\$20.00) in application fees is generally required for a new site.

2. THE APPLICATION FORM AND SCHEDULES

2.1 Purpose of the Application Form and Schedules

The application package consists of 2 items: a common application form and a group of schedules, each of which corresponds to a different application category. The application form must be filled out by all applicants along with the applicable schedules corresponding to the application category.

At the time of application submission to DAA, the application form along with the appropriate schedules, application fees and all requested documents must be submitted. Failure to provide any of these will result in the application package being returned to the applicant unprocessed.

Application for more than one action per application form (e.g. request for a boundary amendment plus a licence amendment on the same form) is permitted. Application fees must reflect any multiple requests per form. Only one aquaculture site may be applied for per application form.

2.2 The Application Form

The application form consists of 5 sections:

- Section 1.0: Applicant information
- Section 2.0: Required documents
- Section 3.0: Type of application
- Section 4.0: Class of licence
- Section 5.0: Applicant's signature

Section 1.0: Applicant Information

The applicant's name and mailing address along with home telephone number must be provided. If applicable, the appropriate work phone number, fax number, cellular phone number, and e-mail address should also be included. If the applicant is a business or partnership then the name of the contact person to whom all correspondence will be sent must be provided along with all of the above-mentioned information. If someone is acting on the applicant's behalf (i.e. an agent such as a lawyer, accountant, etc.) then the necessary details should also be provided. Once an agent or contact person has been identified all correspondence will be sent to that person unless directed otherwise in writing by the applicant.

Section 2.0: Required Documents

In the case where the application is presented by a company, copies of the following documents, issued under the Companies Act must be submitted:

- a) Certificate of Incorporation for the company;
- b) Form 1 – Articles of incorporation;
- c) Form 2 – Notice of Registered Office; and,
- d) Form 4 – Notice of Directors.

All applications must be accompanied with schedules corresponding to each type and category of application presented. These schedules are described in Section 3.0 below. DAA may modify the selection of required schedules in order to adjust to the particularity of the application submitted.

Section 3.0: Type of Application

The applicant specifies the DAA authorizations being applied for (i.e. a licence, lease or occupation permit) and gives the specifics for each. For example, if an applicant is applying for a new licence then he must indicate if it is for bottom, off-bottom or suspended culture. Upon completion of the application form the applicant must complete the schedules associated with his application category.

The categories for which the applicant may apply are the following:

- ▶ Licence
 - New Licence
 - Bottom culture
 - Off-bottom culture
 - Suspended culture
 - Modification to an existing licence
 - Species
 - Culture method
- ▶ Lease
 - New lease for a new site
 - New lease for a vacant lot
 - Alteration to boundaries of land under an existing aquaculture lease
- ▶ Occupation Permit
 - New Occupation Permit
 - Alteration to boundaries of land under an existing aquaculture Occupation Permit

IMPORTANT NOTE

Applications for transfers, renewals, or sublease applications are not to be made on this form but on a separate form provided by DAA. Please contact the Regional Aquaculture Development Officer at the DAA Regional Offices in Shippagan or Bouctouche for further information.

Section 4.0: Class of Licence

The applicant specifies the class of licence being applied for: commercial or institutional (see Glossary of terms in Appendix 1).

Section 5.0: Applicant's Signature

The applicant must sign and date the application form.

Schedules of the Application Form

The schedules appropriate to the application category being applied for must be completed and submitted as part of the application package. A schedule may require additional information to be affixed in the form of an attachment. Care must be taken to ensure that all information is submitted at the time of application or the application will be returned to the applicant unprocessed.

The schedules are:

- Schedule 1 - Site Location
- Schedule 2 - Site Development Plan
- Schedule 3 - Site Characteristics
- Schedule 4 - Activities in Surrounding Area and Resource Information
- Schedule 5 - Stock Identification
- Schedule 6 - Facility Design and Layout
- Schedule 7 - Operation
- Schedule 8 - Business Development Plan
- Schedule 9 - Research and Development Proposal

Schedule 1 – Site Location

Schedule 1 encompasses basic site location information such as the name of the body of water where the site is located, the nearest town/village to the site, the county where the

site is located, the DAA map number for the area of the site, and the number of hectares applied for. An attachment in the form of a map (topographic, nautical chart or other) is required outlining specific information on the location of the site and other characteristics in the area.

Schedule 2 – Site Development Plan

Schedule 2 deals with site development plan and adjacent landowner information. Attachments required include a site development plan of the site, a listing of the surrounding property owners within 100 meters of the site (including aquaculture lease / permit holders), their Property Identification Numbers and mailing addresses. In addition, a map showing the upland properties and the location of the proposed site in relation to these must also be included.

The site development plan is a plan or series of plans that have been drawn to scale showing the proposed aquaculture site and what you plan to place on the site. The general plan is used for information about the site and surrounding area. The general plan should show the proposed site layout and all site features up to the proposed site boundaries. In addition, the plan should contain the following information:

- the proposed site boundaries, dimensions and area;
- the location of existing and future structures on the proposed site;
- the location of existing/proposed access corridor(s);
- the water depth at lowest normal tide at each corner and/or angle of the site;
- the shortest distance of the site from the shore;
- the hydrographic features of the

proposed aquaculture site and the area extending 350 meters around the boundaries of the proposed aquaculture site; and,

- the coordinates of the site corners.

Please view Appendices 2 and 3 for sample Site Development Plans.

Schedule 3 – Site Characteristics

Schedule 3 deals with the chosen site's physical and oceanographic characteristics (e.g., bottom type, depth, currents, etc.). The extent to which this information is required is determined by the type of aquaculture activity to be carried out at the site, or may be site specific. If assistance or more detailed information is required, please contact one of DAA's regional offices.

Schedule 4 – Activities in surrounding area and resource information

Schedule 4 deals with activities located in the area of the site and other resource information. The applicant is required to provide information with respect to the presence of wildlife in the area of the site, the type of activities that take place near the site, facilities located near the site plus any areas of concerns. The applicant must also indicate any conflicting uses for the site and the mitigative measures that will be undertaken to minimize/resolve these conflicts. In addition, the applicant must provide any details with respect to any concerns expressed by individuals or organizations on the proposed site. A map showing the proposed site along with all other uses within a 2-kilometer radius must be submitted.

Schedule 5 – Stock Identification

Schedule 5 encompasses stock information. The applicant must provide information on the proposed species to be cultured including the species name, seed/juvenile source and estimated average size at introduction and at harvest. The applicant must also indicate if an Introductions and Transfer (I&T) permit will be required from the department of Fisheries and Oceans Canada (DFO) in order for the applicant to conduct aquaculture (in cases where the seed/juvenile source originates from another area). In addition, if culturing cocktail oysters, the applicant must also indicate if DFO's program on the harvesting and marketing of these oysters will be adhered to as part of the proposed operation.

Schedule 6 – Facility Design and Layout

Schedule 6 deals with the design of the proposed facility. The applicant must provide information on the gear to be used and its layout in relation to the site. This information must be provided in the form of two attachments: a dimensioned plan view and a dimensioned cross-sectional view of the proposed facility. In addition, information with respect to the development of the site and the over wintering of equipment must also be specified.

Please view Appendix 4 for a sample sketch for description of installations.

Schedule 7 – Operation

Schedule 7 deals with details on the operation of the proposed site, including routine operation information such as the time gear will be deployed, spat collection, time of harvest, harvesting methods to be

used, methods to control the fouling of gear, waste disposal plans, contingency plans, and site restoration plans. An attachment outlining the proposed calendar of activities at the site is required.

Schedule 8 – Business Development Plan

The purpose of the business plan is to give an in-depth view into the applicant's proposed business opportunity. In the case of a shellfish aquaculture operation, the applicant may refer to DAA's "Guide to Preparing a Business Plan for the Shellfish Sector". This guide is available at one of DAA's regional offices.

Schedule 9 – Research and Development Proposal

DAA has policies and strategies for the development of alternate marine species (i.e., species of aquaculture produce not currently under commercial production). Information on this topic should be obtained from a DAA Regional Office prior to application submission. If applying for Research and Development purposes, all applications must be accompanied by a comprehensive, scientifically based research and development proposal. The proposal should be prepared according to DAA's "Guidelines for the Preparation of Alternative Species Research and/or Development Proposals". This guide is available at one of DAA's regional offices.

3. THE REVIEW PROCESS

3.1 Receipt of application

Applications, application fees, and all associated schedules and accompanying documents may be received at any of the

DAA Regional Offices. Initiation of the review process will not be started until the application and all associated documents have been received at the appropriate Regional Office for due processing. A map showing the location of the Regional Offices can be found in Appendix 5.

Upon receipt of the application, a preliminary screening of the application package will be performed by DAA staff to ensure that all required documentation has been included. Applications that do not contain all required information in sufficient detail cannot be processed. In addition, the application will be checked to determine if the site identified in the application has been previously reviewed for aquaculture development.

3.2 Registration of application

On receipt of a complete application, a file and a site number will be assigned. If any additional information is needed, it may be requested from the applicant.

3.3 Public Notice for an Aquaculture Site

All applications to lease an aquaculture site, amend a site's boundaries and occupation permits are open for public comment.

DAA will advise the applicant to arrange to have notices advertised in both official languages to appear in two local newspapers. This is done at the applicant's own expense. Where landowner notification is required, DAA will send letters to landowners within 100 meters of the site in question. A specific period of time is given for the filing of comments.

The public advertisement process is generally as follows:

i) The Registrar of Aquaculture, or his designate, approves the Site Development Plan before advertising. A copy of the plan is then sent to the appropriate Regional Office. The plan is available for public viewing or for copy and distribution to the public as may be required.

ii) The applicant will be provided with a bilingual notice to be advertised at his own expense in the newspapers.

iii) Applicant arranges for advertising of the notice at least twice at one-week intervals in each of 2 newspapers which are circulated in the area of the proposed site.

iv) The applicant must return to the Registrar of Aquaculture the full page of each edition of each newspaper upon which the notice appeared.

v) The Registrar of Aquaculture acknowledges receipt of all written submissions and will advise those making a written submission of the final decision.

3.4 The Interagency Review

All applications are subject to an interagency review coordinated by DAA. The government agencies that review the applications are:

i) Provincial Departments

- a) Agriculture and Aquaculture
- b) Natural Resources
- c) Environment
- d) Fisheries

ii) Federal Departments

- a) Fisheries and Oceans Canada
(including but not limited to:

Fisheries Management, Conservation and Protection, Small Craft and Harbour, Habitat

- b) Transport Canada-Navigable Waters Protection Program
- c) Public Works Canada
- d) Environment Canada (including, Canadian Wildlife Service)

All applications are assessed against each agency's particular responsibility with comments and recommendations being returned to DAA. Depending on the circumstances, other government agencies and non-government organizations may be included in the application review.

3.5 Application Decision and Response

Based on the review process, DAA's Minister will render a decision on applications for new sites or boundary amendments. The applicant will then be advised by the Minister of the decision. If rejected, the applicant will be provided with reasons for the decision. If the site application is approved, an offer is forwarded to the applicant indicating the proposed Aquaculture site along with terms and condition of tenure. The applicant must indicate acceptance in writing.

The Registrar of Aquaculture will advise each applicant of the decision relative to a licensing decision.

3.6 Appeals

A decision of the Minister is final and conclusive subject to Section 28 of the *Aquaculture Act*.

A decision of the Registrar regarding an aquaculture licence is subject to appeal to

DAA's Minister within thirty days of receipt of the Registrar's written decision. The appeal must be submitted in writing, clearly indicating the reason for appeal together with a \$200.00 appeal fee payable to the Minister of Finance. This fee is refundable if the Registrar's decision is subsequently reversed; but, if the Registrar's decision is upheld the fee will not be refunded. An aquaculture licence may be issued by the Registrar following an appeal being upheld by the Minister.

4. SITE OPERATIONS

4.1 Plan of Aquaculture Survey

Prior to the issuance of a lease for a new site or boundary amendment, a Plan of Aquaculture Survey must be prepared at the grower's expense for filing with the Crown Lands Branch of the Department of Natural Resources (DNR). The grower must make arrangements to hire a registered New Brunswick land surveyor who in turn must obtain approval to undertake a legal boundary survey by way of the Aquaculture Survey Instructions. The plan must be prepared in accordance with the survey instructions issued by DAA and the "Standards for Marine and Submerged Lands Surveys for Aquaculture" of the Association of New Brunswick Land Surveyors. Prior to filing in DNR, the plan must be approved for filing by DAA's Regional Aquaculture Development Officer.

4.2 Site Demarcation and Occupation

Before anyone can begin an aquaculture operation they must be in possession of a valid aquaculture licence. If the operation is to be conducted on public property owned by the Province, the proponent also must be in possession of either a valid aquaculture

lease or an aquaculture occupation permit. A successful applicant will only be allowed to place aquaculture equipment on the site and commence operations after an aquaculture licence, occupation permit or lease have been issued and the site has been marked in accordance with provincial and federal requirements. Under no circumstances can equipment be placed on the site until the proper DAA authorizations have been issued and that the site corners have been demarcated by a New Brunswick Land Surveyor in accordance with the minimum marking requirements.

4.3 Aquaculture Fees

After the issuance of an Aquaculture Licence, an Aquaculture Lease or an Aquaculture Occupation Permit the proponent will be required to make payment to the Minister of Finance of the annual fee(s) which, for marine sites, are as follows:

a) Aquaculture Licences

- i) Commercial: \$50.00
- ii) Institutional: \$20.00

b) Aquaculture Leases

- i) Where a lease is being used for commercial purposes:
 - a) Finfish and Crustaceans \$250.00/ha
 - b) Shellfish \$20.00/ha or \$100.00, whichever is greater
- ii) Where a lease is being used for institutional purposes: \$100.00

c) Aquaculture Occupation Permits

All purposes: \$100.00

4.4 Violations

Anyone conducting aquaculture illegally without a valid Aquaculture Licence or anyone involved in aiding, abetting or

instigating an illegal activity, is liable on summary conviction to a fine pursuant to the *Provincial Offences Procedure Act*.

Anyone conducting aquaculture without a valid aquaculture licence on public land owned by the Province may be subject to legal action by the Department of Natural Resources and Energy under the *Crown Lands and Forests Act*. Illegal marine operations may be subject to action by the federal government under the *Navigable Waters Protection Act*. Anyone convicted of an offence under the *Aquaculture Act* or the Regulations is not eligible to apply for an Aquaculture Licence for a three-year period.

APPENDIX 1: GLOSSARY OF TERMS

DAA Permits:

“Aquaculture Licence”: Anyone who wishes to conduct aquaculture in the Province, regardless of where it is to be undertaken, requires an Aquaculture licence. An aquaculture licence provides an applicant with the authority to conduct aquaculture at a specific site. The licence controls the various activities that are allowed under the *Aquaculture Act* and *Regulation*.

“Commercial Aquaculture Licence”: A Commercial Aquaculture Licence is a class of aquaculture licence that permits a licensee to conduct aquaculture for commercial gain. Research and development projects may be classified as commercial projects depending on the measures contemplated for the end product. Anyone conducting commercial aquaculture in the Province, regardless of the location, must have a Commercial Aquaculture Licence.

“Institutional Aquaculture Licence”: An Institutional Aquaculture Licence is a class of aquaculture licence that permits a licensee to conduct aquaculture for research outside a laboratory or an aquarium, or for use in public fishery enhancement activities, and not for the purposes of commercial gain.

“Lease”: A lease is a legal document conveying the right to use a specific parcel of land for a specified period of time. A lease will be required where the operation is to be conducted on public lands owned by the Province of New Brunswick.

“Occupation Permit”: An Aquaculture Occupation Permit is similar to a lease in that it allows occupation and use of a specified area for a temporary period of up to three (3) years. In most cases an Occupation Permit will be issued prior to the issuance of a lease. An Occupation Permit is also issued for Research and Development projects.

Culture Methods:

“Bottom Culture”: Means a form of aquaculture conducted on or in the substrate of an aquaculture site:

- a) on the substrate: the aquacultural produce must be free and in direct contact with the substrate;
- b) in the substrate: the aquacultural produce may be free or held by or in a structure buried in the substrate, provided that structure does not protrude above the substrate.

“Off-Bottom Culture”: Means a form of aquaculture conducted in the water column, with the rearing structures

- a) placed directly on the substrate, or
- b) raised off the substrate.

In both cases, the structures are fixed in place (do not move with the tides).

“Suspended Culture”: Means a form of aquaculture conducted in the water column or at the surface, where the structures are anchored but float or move with the tides.

Other:

“Aquaculture”: the cultivation of aquatic plants and animals, but does not include the cultivation of aquatic plants and animals in a laboratory for experimental purposes or in an aquarium.

“Aquaculture Site”: a site, at which aquaculture is to be carried on, is carried on, or was carried on.

“Vacant lot”: designated aquaculture land under DAA’s administration and control and for which there is currently no occupant.

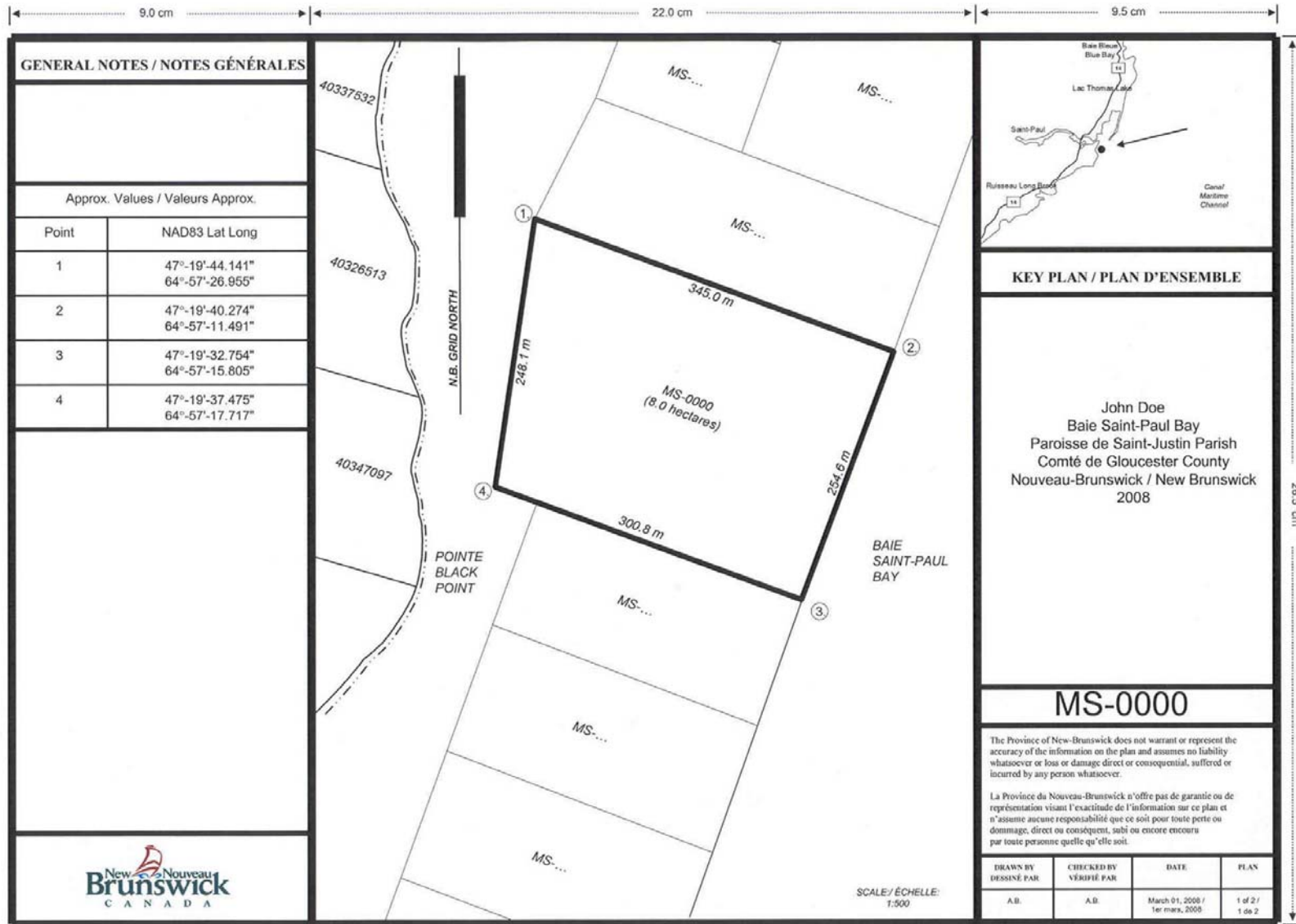
“Cocktail oyster”: an oyster destined for market consumption which is less than the legal size of 76 mm but for which a variation order may be obtained from Fisheries and Oceans Canada following specific criteria (typically, an oyster ranging between 62 mm – 75 mm).

“Alternate species”: marine species not currently under commercial production on the east coast of New Brunswick.

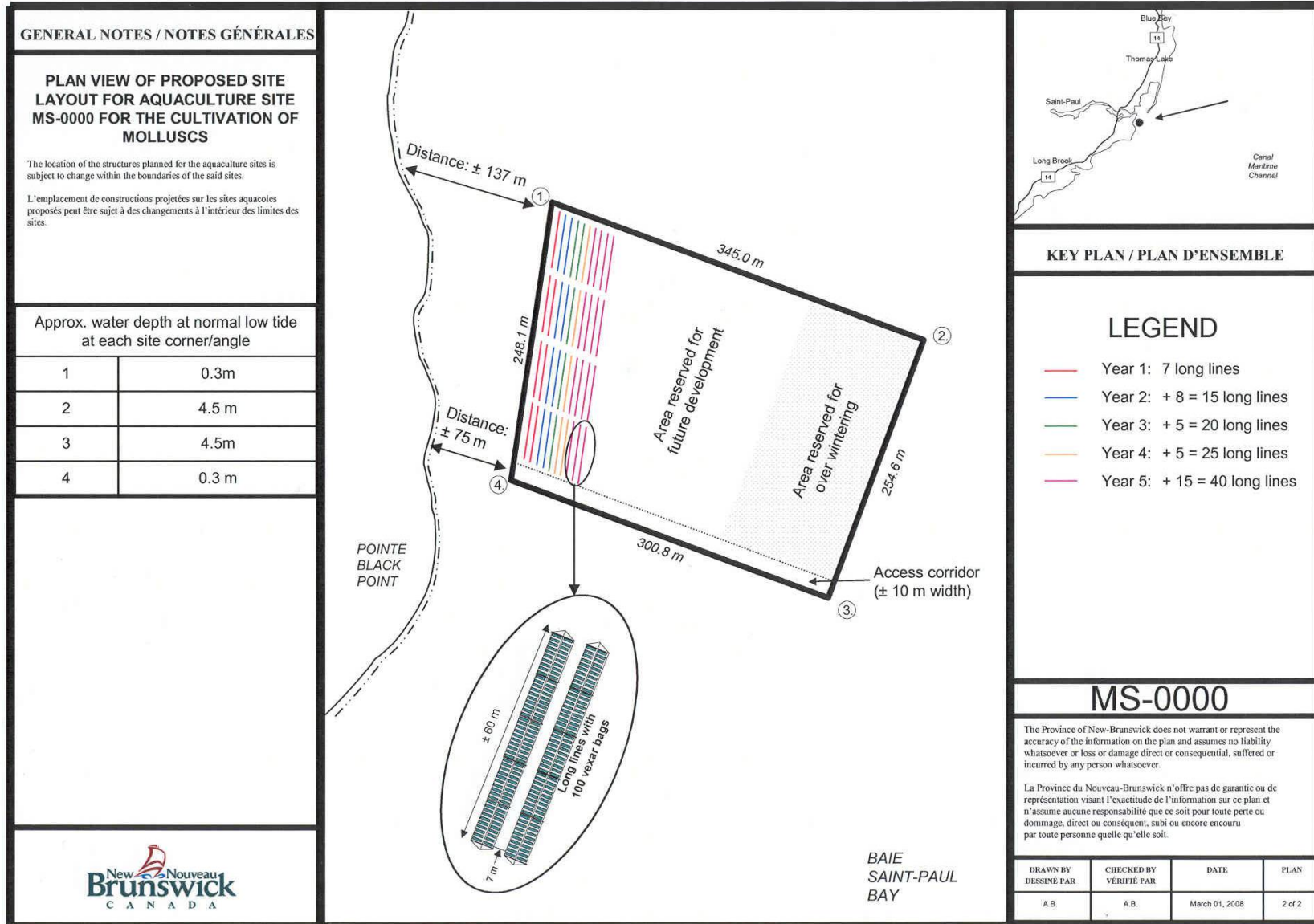
“Subtidal”: marine area located below the lowest tide level.

“Intertidal”: the part of the coast affected by the rise and fall of the tide. Refers to the area between the highest tide level and the lowest tide level.

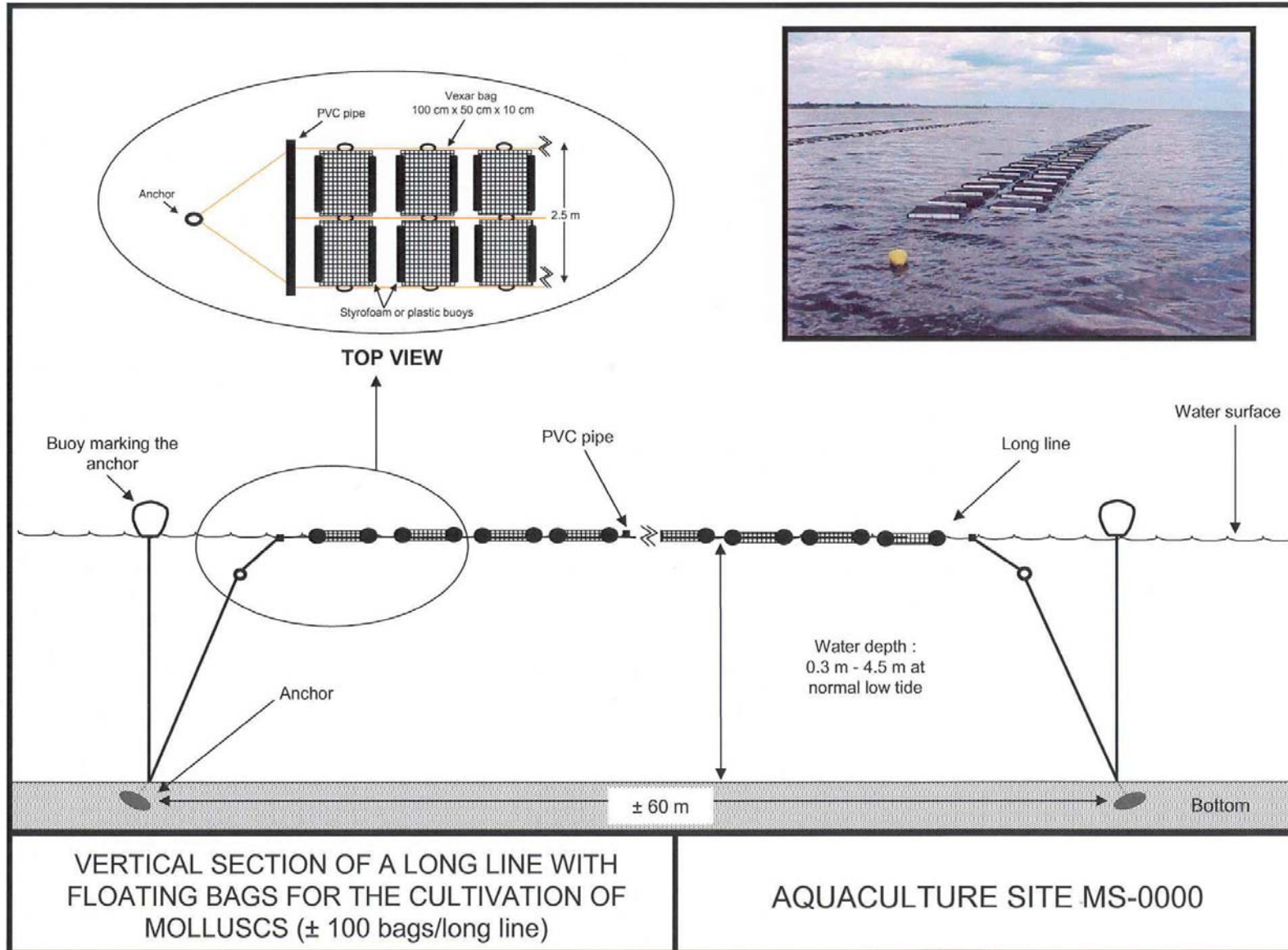
APPENDIX 2: SAMPLE SITE DEVELOPMENT PLAN



APPENDIX 3: SAMPLE SITE DEVELOPMENT PLAN (continued)



APPENDIX 4: SAMPLE SKETCH FOR DESCRIPTION OF INSTALLATIONS



APPENDIX 5 – REGIONAL DAA OFFICES

