

Fjord Fresh Mussels Limited
C/O William Fry

William Fry Solicitors
2 Grand Canal Square
Dublin 2
D02 A342

20 February 2024

Your Ref: 026535.0001.CL/GHJ
Our Refs: AP41/2019 (S46 01.2024)
Site Refs: T03/46A, B, C

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine in relation to an Aquaculture Licence to Fjord Fresh Mussels Limited for the bottom cultivation of mussels on Site T03/46A, B, C on the foreshore at Wexford Harbour (the “Appeal”).

Dear Sirs

We refer to your letter of 09 February 2024 requesting ALAB to confirm that:

1. It agrees to an extension of time from 1 March to 1 May 2024 for submissions in response to the Section 46 Notice dated 31 January 2024;
2. The Appeal will not be determined pending the final determination of the judicial review proceedings High Court Record No. 2022/365 JR (including any appeal).

As regards your request for an extension of time for submissions, ALAB does not accept that the deadline of 1 March 2024 is unreasonable and irrational.

The Section 46 Notice of 29 June 2023 stated that it appeared to the Board that it would not be possible to address the deficiencies in the scientific data *in the context of the appeals* given the timelines and nature and extent of the work required to address these deficiencies as identified in the main KRC Report of June 2023. It also provided a period of 3 months for submissions at that time.

However, with a view to progressing this matter and in the overall circumstances of the appeals, ALAB will agree to an extension of time to **1 May 2024** to respond to the second Section 46 Notice dated 31 January 2024. The same extension will be afforded to parties, observers and prescribed bodies to whom similar Section 46 Notices have issued in Appeal Refs 34-48 /2019 in the interests of fairness.

If submissions are not received on or before 1 May 2024, the Board will, after the expiration of that period and without further notice to you determine the Appeal.

Your letter also states that the Board confirmed to Mr. Justice Simons, at the conclusion of the hearing, that it would not determine the appeals pending the outcome of the proceedings.

The Board gave no such undertaking. On the second day of the hearing, Mr Justice Simons asked whether ALAB would issue a determination before 21 February 2024, when he initially anticipated he would deliver judgment, and if so was an order required to stay the processing of the appeals. Counsel for ALAB informed the Court that, having regard to the Section 46 Notices that were about to issue, it was at least 2 months from making its final determinations. Accordingly, the Court was satisfied that the potential that a determination of the appeals would render the proceedings moot prior to judgment did not arise and an order staying the determination of the appeals was not required.

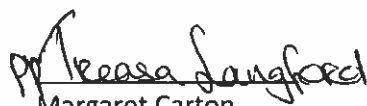
ALAB is also under a statutory duty to process the appeals. It has always made it clear that it was continuing to do so notwithstanding the existence of the proceedings and no stay was sought.

The Board is accordingly not prepared to agree that the Appeal will not be determined pending the final determination of the proceedings (including any appeal).

Please ensure to quote the following reference: **AP41/2019 (S46 01.2024)** in your reply.

If you require any further information, you can contact me in writing, by email or by phone - The Secretary, Aquaculture Licences Appeals Board, Kilminchy Court, Dublin Road, Portlaoise, Co Laois. R32 DTW5, Email: info@alab.ie. Phone: (057) 8631912.

Yours sincerely


Margaret Carton
Secretary to the Board