

Our Ref 026535.0001.CL/GHJ/RKE
Your Ref AP47/2019 (S46 01.2024)
Site Ref TO3/52A & B

9 February 2024

By post and email (info@alab.ie)

Secretary to the Board
Aquaculture Licences Appeals Board
Kilminchy Court
Dublin Road
Portlaoise
Co. Laois
R32 DTWS

Re: Appeals against decisions of the Minister for Agriculture, Food and the Marine to grant with variations an Aquaculture Licence to WD Shellfish Limited for the bottom cultivation of mussels on Sites TO3/52A & B on the foreshore at Wexford Harbour (the "Appeals")

Our client – WD Shellfish Limited

Dear Secretary

We refer to your letter dated 31 January 2024 notifying us, on behalf of our client, of the Board's provisional view that the Licence Applications, the subject of our client's appeal, should be refused. The explanation put forward for this provisional view is the alleged impossibility and/or inappropriateness to seek to address the deficiencies in the scientific data in the context of these appeals. The letter goes on to call upon our client to make any submissions or observations in response to this by 1 March 2024.

The contents of the letter and the position being put forward by the Board are matters of serious concern to our client who has to date, pro-actively engaged in the appeal process in the utmost of good faith.

While the Board clearly accepts the advice of its own expert KRC Ecological Limited ("**KRC**") that "further survey work" is required, the Board appears to be seeking to abdicate any obligation or responsibility to do so. Nor, does the Board appear to be calling upon any third parties to carry out such work, notwithstanding its powers to do pursuant to the Fisheries (Amendment) Act 1997 and/or Regulation 42 of SI 477/2011. We fully reserve our client's position in this regard.

In circumstances where the Board's position appears to be seeking to rely on the terms of the Supplemental KRD Report dated 5 December 2023, we fail to understand the delay on the part of Board in formally providing the report and thereafter requiring a comprehensive response from our client by 1 March 2024, given the consequences to our client of the Board's provisional position regarding our client's appeal. Given the material prejudice to our client should the Board proceed with its provisional finding, and also the longevity of the Appeals, the imposed deadline is both unreasonable and irrational.

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WILLIAM FRY

In order to take full instructions from our clients, we hereby request an extension to 1 May 2024 at the earliest for the delivery of our client's response. In circumstances where the Board will not suffer any prejudice from such an extension, we trust that you will agree to the requested extension.

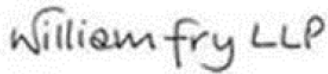
More generally, we note that at the conclusion of the recent judicial review proceedings bearing High Court record number 2022/365 JR (the "**Proceedings**"), the Board confirmed to Mr. Justice Simons that it would not determine the Appeals pending the outcome of the Proceedings. We trust that such undertaking will extend to the conclusion of any appeal from the Proceedings.

Given the time that has elapsed since these appeals were first issued, we are instructed to call upon you to confirm to us in writing by no later than 5pm on **Friday, 16 February 2024** that

- 1) The Board agrees to an extension of time for delivery of submissions to 1 May 2024 at the earliest; and
- 2) That the Appeals will not be determined pending the final determination of the Proceedings (including any appeal).

We await hearing from you.

Yours faithfully

A handwritten signature in dark ink that reads "William Fry LLP". The signature is written in a cursive, slightly stylized font.

William Fry LLP