

Edward & Paul O'Brien



**NOTICE THAT AN APPROPRIATE ASSESSMENT IS REQUIRED PURSUANT TO REGULATION
42(8) OF THE EUROPEAN COMMUNITIES (BIRDS AND NATURAL HABITATS) REGULATIONS
2011**

15 December 2025

Appeal Ref: AP4/2025

Site Ref: T12/409B2

Re : Appeal against the decision by the Minister for Agriculture, Food and the Marine to grant a variation Aquaculture Licence to Edward and Paul O'Brien for authorisation to cultivate clams on wooden trays under mesh and Pacific Oysters using bags and trestles & Clams on wooden trays under mesh on the inter-tidal/sub-tidal foreshore on site ref T12/409B2 in Ballyness Bay, Co. Donegal

Dear Sirs,

I refer to the above Appeal which has been remitted to the Board for further consideration together with Appeal Refs AP2/2025; AP3/1-2/2025; AP5/2025; AP6/2025; AP7/2025; AP8/2025; AP9/2025; AP10/2025; AP11/1-2/2025.

Following remittal of the Appeal, the Aquaculture Licences Appeals Board (the Board) carried out an updated Screening for Appropriate Assessment and determined that it cannot be excluded on the basis of objective scientific information that the proposed aquaculture activities the subject of the appeal, either individually or in combination with other plans or projects, will have a significant impact on European Sites. A copy of the Screening Report for site T12/409B2 prepared by the Board's Technical Advisor and adopted by the Board, is enclosed.

Therefore, in accordance with Regulation 42(6) of the European Communities (Birds and Natural Habitats Regulations 2011, as amended (2011 Regulations) the Board has determined that an Appropriate Assessment (AA) is required for the project for the reasons set out in the Screening Report. The reasons for the Board's determination are contained in the Screening Report.

In particular, the Board concluded that there is a possibility of significant effects on the Ballyness Bay SAC (Site code 001090), Gweedore Bay and Islands SAC (Site code 001141), Horn Head and Rinclevan SAC (Site code 000147), Cloghernagore Bog and Glenveagh National Park SAC (site code 02047), Inishbofin, Inishdooey and Inishbeg SPA (site code 004083), Derryveagh and Glendowan Mountains SPA (site code 4039), Horn Head to Fanad Head SPA (site code 09194), West Donegal SPA (site code 04150), the West Donegal Islands SPA (site code 04230) as well as Lough Swilly SPA (site code 004075), Roaninish SPA (Site code 004121) and Lough Foyle SPA (Site code 004087).

It is noted that Lough Swilly SPA, Roaninish SPA and Lough Foyle SPA were not considered for the purposes of Stage 2 AA in the Natura Impact Statement (NIS) dated September 2023.

Similar Screenings for AA have been undertaken in respect of the proposed aquaculture activities the subject of the other remitted appeals. These reports are all publicly available on ALAB's website at the following link: <https://www.alab.ie/activeappeals/>

In light of the additional European sites which have been screened in for AA and, having regard to the passage of time since the original Natura Impact Statement (NIS) was submitted, including the fact that activities were commenced on site ref T12/407B, T12/515A and T12/441A after the Board made its now quashed Determination in May 2024, the Board considers it appropriate to provide you with an opportunity to update the information submitted to the Board by way of an updated NIS - before the Board enables submissions to be made on the further information received including by way of public consultation under Regulation 42(13) of the 2011 Regulations.

The Board accordingly hereby provides notice, pursuant to Article 42(8) of the 2011 Regulations, that an Appropriate Assessment is required and directs, pursuant to Article 42(3), that you submit an updated NIS which includes:

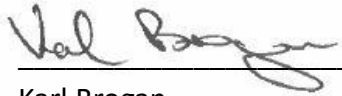
1. a stage 2 AA of the potential effects of the project on Lough Swilly SPA, Roaninish SPA and Lough Foyle SPA and;
2. any further information you wish to submit to update the NIS.

The Board is issuing similar Notices to the other licence applicants where the appeals have been remitted. For the purpose of complying with this Notice, the Board would again accept a single updated NIS as an alternative to each applicant preparing individual responses.

The information specified in this Notice is to be submitted to the Board within 5 months of the date of this notice and no later than 14 May 2026.

You are hereby given notice that, pursuant to Regulation 42(4) of the 2011 Regulations, unless the Board otherwise directs, where you fail to furnish an NIS within the period specified above, or any additional period that may be agreed by the Board, your application shall be deemed to be withdrawn.

Yours faithfully



Karl Brogan

Secretary to the Board