

NOTICE OF APPEAL UNDER SECTION 40(1) OF
FISHERIES (AMENDMENT) ACT 1997 (NO. 23)



Appeal Form

Please note that this form will only be accepted by REGISTERED POST
or handed in to the ALAB offices

Name of Appellant (block letters)	MOYASTA OYSTERS LTD
Address of Appellant	Moyasta Kilrush Co. Clare

Phone:		Email:	
Mobile:		Fax:	n/a

Fees

Fees must be received by the closing date for receipt of appeals	Amount	Tick
Appeal by licence applicant	€380.92	X
Appeal by any other individual or organisation	€152.37	
Request for an Oral Hearing * (fee payable in addition to appeal fee)	€76.18	
* In the event that the Board decides not to hold an Oral Hearing the fee will not be refunded.		
(Cheques Payable to the Aquaculture Licences Appeals Board in accordance with the Aquaculture Licensing Appeals (Fees) Regulations, 1998 (S.I. No. 449 of 1998))		
Electronic Funds Transfer Details	IBAN: IE89AIBK93104704051067	BIC: AIBKIE2D

Subject Matter of the Appeal

Appeal against the decision of the Minister for Agriculture, Food and the Marine to refuse to grant an Aquaculture and Foreshore Licence to Moyasta Oysters LTD. For the cultivation of Pacific Oysters and Native Oysters using bags and trestles/ hanging baskets and trestles in Poulmasherry Bay, Shannon Estuary, Co. Clare on site references T08/106B, C & D

AQUACULTURE LICENCES
APPEALS BOARD
- 8 NOV 2019
By Hand
RECEIVED

Site Reference Number:-
(as allocated by the Department of Agriculture, Food and the Marine)

T08/106 B,C & D

Appellant's particular interest in the outcome of the appeal:

Moyasta Oysters LTD is a family run business with three full time employees and two part time employees. We are based in a rural area with little alternative full-time employment. We are currently only operating from 5.64 hectares of licensed ground and the refusal of our application undermines the sustainability of our business and the opportunity to expand.

Outline the grounds of appeal (and, if necessary, on additional page(s) give full grounds of the appeal and the reasons, considerations and arguments on which they are based):

Please see attached document below

Signed by appellant:



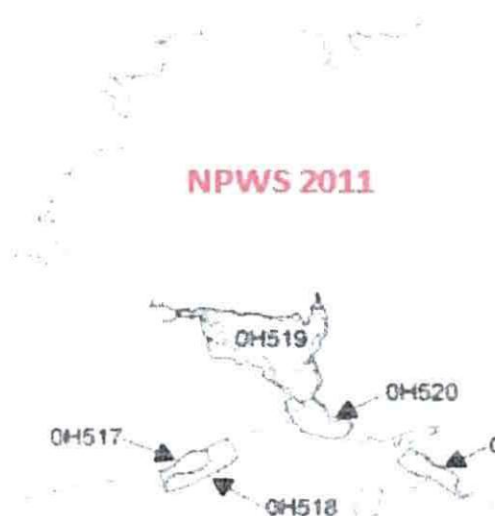
Date:

07 Nov 2019

Fees must be received by the closing date for receipt of appeals

1. Protected Shorebird Species

Following a detailed review of the appropriate assessment carried out on the lower River Shannon it was noted that in the findings of the National, Parks and Wildlife Survey 2011, in annex 1 recordings were made of the Grey Plover in area (map 520) outer Poulnasherry Bay. The Grey Plover was only located in area (map 519) with many other species which is the inner part of Poulnasherry bay and does not include sites T08/106 B & D so licensing of these sites would not have any impact on Grey Plover numbers. In annex 1 it states the potential to have licenced ground in Poulnasherry bay.



Please find attached the appropriate assessment conclusions for the lower Shannon estuary, dated July 2019. I would draw your attention to the last paragraph on page 12 in particular. By my reading of it, the bird survey is not yet complete and further bird survey work is currently being undertaken in the lower Shannon estuary. Following completion of further survey work in line with Birds and Habitats Directive for Natura 200 sites, sufficient data should then be available to allow for provision of further licensing once work has been completed. At the very least, it should be grounds for deferral of the decision not to grant extra licences in Poulnasherry until a complete Bird survey is available.

2. SAC and SPA Areas

Following the conclusions and recommendations of the appropriate assessment process it was noted that only the SPA area has been considered for determining licencing applications. The lower River Shannon has three oyster fishery orders (T08/004A, T08/004B and T08/008) and these three sites total 8103 Hectares. The full area of the SAC sites should be used to determine licence applications as it has a total area of 68,300 hectares. This therefore brings the threshold to under 12% compared to **24% threshold of the SPA area** (32,238.10 hectares) which therefore would allow for further licencing of proposed sites.

It has also been noted that three areas within the SAC area in the Carrigaholt Bay totalling 168.25 hectares have been included in the assessment and all three areas previously licenced areas have been either lapsed or surrendered, lowering the total area in use by aquaculture.

3.Poulnasherry Bay

Poulnasherry bay is considered a large shallow inlet and bay off the River Shannon. Oysters is the main species of cultivation in the bay. The farmers in the bay have set up a CLAMS group to monitor any issues or activities arising within the Poulnasherry Bay area that are of concern. Poulnasherry Bay also has its own designated testing point for oysters for Bio toxin testing and Water sampling. The Bay has its own designation separate from the River Shannon. (CE-PY-PY).

Marine Institute Version: April 2018 - Pg7 - Habits-

Conclusion 1: With one exception (Marine Community type – Anemone-dominated subtidal reef community (28.4%) which is above the threshold (15%) within the qualifying feature Large Shallow inlet and bay), aquaculture activities (intertidal oyster culture) do not pose a risk of significant disturbance to the qualifying interests (Habitats) of the Lower River Shannon SAC

Appropriate Assessment –

It is acknowledged that existing intertidal oyster trestle culture and limited proposed intertidal oyster activities may be licensed in the Poulnasherry/Kilrush area subject to the ongoing monitoring of bird use in the bay and other licensing criteria and considerations. The outputs and conclusions of monitoring efforts will provide the basis for any subsequent management actions and will inform continued/proposed licensing in this area.

4.Fishery Order Areas

The Order area located at the mouth of Poulnasherry Bay is 40 hectares in size with 28 of these hectares manageable using bag and trestles. Approx. 25% of this area is in use. T08/004A (3515Ha) and T08/004B (4548Ha) order areas are Europe's largest sites but surely a survey should be carried out on these sites to verify the actual site productivity instead of the sites being assumed at 100% occupancy. At the very least, it should be grounds for deferral of the decision not to grant extra licenses in Poulnasherry until a complete survey is carried out. The appropriate assessment acknowledges it has very little information on these two large order areas.

5.Green Algal Accumulations

Algal accumulations occur in the inner Poulnasherry Bay which has large flat mud/silt plains for this to occur. Sites T08/106B & T08/106D are not located in the inner bay but are on the exposed outer Poulnasherry bay west of The Fishery Order Area T08/008.

The fishery order area is at the mouth of Poulnasherry Bay. No Algal accumulations occur on the proposed licensed sites as the outer Poulnasherry Bay area is exposed to the River Shannon and Atlantic Ocean. Outer Poulnasherry Bay has a sand-based ground. Moyasta Oysters is occupying licensed site adjacent to the proposed sites where we can confirm algal accumulation does not occur. Further, oysters are filter feeders that remove excess nutrients from the water system, hence having the opposite effect on eutrophication of waters.

6. Economic

We believe that there is a clear economic benefit which is a core consideration under the licencing act. As stated above our farm is located in a rural area with little full-time employment opportunities. It was noted that in 2017 county Clare had three unemployment blackspots with unemployment rates of 28% or 29%. Kilkee and Kilrush have been named as two of these areas and Moyasta Oysters are located between them both. There is also the impending closure of Money Point Power station which will also have a further economic blow to our community. Oyster farming is one of the most labour-intensive method of producing seafood and an expansion within our production sites will lead to the creation of further employment on our farm. It will also offer job security to our current employees.

7. Public and Statutory consultation Phase

There were no public objections during this period.

Transaction Details - Domestic Third Party (IBAN)

Sender Details:

From Account Name: MOYASTA OYSTERS LTD
From BIC: AIBKIE2D
From IBAN: 
From Account Currency: EUR
Deb Narrative: AQUACULTURE LICENC

Beneficiary Details:

Beneficiary Name: AQUACULTURE LICENCES APPEALS BOARD
Beneficiary Address Line 1: Kilminchy Court
Beneficiary Address Line 2: Portlaoise
Beneficiary Address Line 3: Co Laois
Beneficiary IBAN: IE69AIBK93104704051067
Beneficiary Bank BIC: AIBKIE2D
Beneficiary Bank Name: ALLIED IRISH BANKS, P.L.C.
Beneficiary Bank Address Line 1: 100/101 GRAFTON STREET
Beneficiary Bank Address Line 2: DUBLIN 2
Beneficiary Country Code: IE
Additional Information Line 1: MOYASTA OYSTERS LTD APPEAL

Payment Details:

Payment Amount: 350.92
Payment Currency: EUR
Debit Currency: EUR
Requested Debit Date: 07/11/2019
AIB Reference No.: 06BDJRAE7F3FCX

“Determination of Aquaculture/Foreshore Licensing Application – T08/106 B, C & D

Moyasta Oysters Ltd., Moyasta, Kilrush, Co. Clare have applied for authorisation to cultivate Pacific Oysters and Native Oysters using bags and trestles / hanging baskets and trestles on three sites numbered T08/106B (1.42 ha), T08/106C (3.96 ha) and T08/106D (8.3 ha), totalling 13.68 ha on the intertidal foreshore at Querrin, Poulnasherry Bay and Cammoge South, Shannon Estuary, Co. Clare.

The Minister for Agriculture, Food and the Marine has determined that it is **not in the public interest to grant** Aquaculture and Foreshore Licences for these sites. In making his determination the Minister considered those matters which by virtue of the Fisheries (Amendment) Act 1997 and other relevant legislation he was required to have regard.

Such matters include any submissions and observations received in accordance with statutory provisions. The following are the reasons and considerations for the Minister’s determination to **refuse** the licences sought:-

- *The proposed sites are located within the Lower River Shannon Special Area of Conservation (SAC) and the River Shannon and River Fergus Estuaries Special Protection Area (SPA). An Article 6 Appropriate Assessment has been carried out in relation to aquaculture activities in the SAC and SPA and the reports are available on the Department’s website. The Licensing Authority’s Natura Conclusion Statement (also available on the Department’s website) outlines how certain proposed aquaculture activities, including Sites T08/106 B, C and D, shall not be permitted as the risk of disturbance to the integrity of the SAC and SPA cannot be discounted given the conclusions and recommendations of the Appropriate Assessment process;*
- *The precautionary principle must be evoked in relation to the licensing of certain areas in the Shannon Estuary given that the exact nature and level of existing and proposed activities within the Oyster Fishery Order areas is subject to change. The proposed aquaculture at these sites is not consistent with the Conservation Objectives for the SPA and could result in high levels of disturbance for protected shorebird species. Taking account of the recommendations from the Appropriate Assessment process, there is potential for the development of intertidal aquaculture sites in the Poulnasherry/Kilrush area to cause substantial displacement to the Grey Plover and for further significant cumulative impacts on bird species as a consequence of a combination of pressures including, among others, aquaculture (existing and proposed) and green algal accumulations (eutrophication) in intertidal areas, particularly when considered in combination with oyster trestle cultivation in the Fishery Order area, T08/008, which covers part of Poulnasherry Bay;*
- *The potential risks from licensing the proposed aquaculture activities at these sites on the integrity of the relevant Natura 2000 sites cannot be discounted given the locations, nature and scale of the development;*
- *Taking account of the issues raised during the public and statutory consultation phase.”*

