An Roinn Talmhaíochta, Bia agus Mara Department of Agriculture, Food and the Marine





## ent by registered post

Patrick T. O'Sullivan Cromane Lower Killorglin Co. Kerry

Ref: T06/376A, T06/377A, T06/393A, T06/395A, T06/431A and T06/432A

19th September 2018

FISHERIES (AMENDMENT) ACT, 1997 (NO.23)
NOTICE OF MINISTERIAL DECISION TO REFUSE TO GRANT AN AQUACULTURE
LICENCE AND FORESHORE LICENCE.

Dear Sirs,

I wish to inform you that the Minister For Agriculture, Food and the Marine has refused your application for Aquaculture Licences and Foreshore Licences, for the cultivation of Pacific Oysters using bags and trestles on sites no. T06/376A, T06/377A, T06/393A, T06/395A, T06/431A and T06/432A (see attached information note). I enclose a copy of the public notice of the decision which **the Department** has arranged to have published in "The Kerryman".

Any person aggrieved by the decision may, in accordance with Section 41 of the Fisheries (Amendment) Act 1997, appeal against it in writing to the Aquaculture Licences Appeals Board. This appeal must be lodged within one month beginning on the date of the publication of the decision.

In addition, a person may question the validity of the Foreshore Licence determination by way of an application for judicial review, under Order 84 of the Rules of the Superior Court (SI No. 15 of 1986). Practical information on the review mechanism can be obtained from the Citizens Information Board at: <a href="http://www.citizensinformation.ie/">http://www.citizensinformation.ie/</a>

Yours sincerely,

Bernie McDonald

Bono proposed

Aquaculture and Foreshore Management Division
S.12 (3) OF THE FISHERIES (AMENDMENT) ACT, 1997(NO.23)
INFORMATION NOTE TO APPLICANT FOR THE PURPOSE OF REGULATION 18 OF
THE AQUACULTURE (LICENCE APPLICATION) REGULATIONS 1998

REFERENCE NO:

T06/376A

APPLICANT:

Patrick T. O'Sullivan

AQUACULTURE TO WHICH

**DECISION RELATES:** 

Cultivation of Pacific Oysters using bags and trestles on site T06/376A on the foreshore in Castlemaine

Harbour, Co Kerry.

NATURE OF DECISION:

Refusal of Licence.

DATE OF DECISION:

18th September 2018

**REASON FOR REFUSAL:** 

The Minister for Agriculture, Food and the Marine has determined that it is not in the public interest to grant Aquaculture/Foreshore Licences for this site. 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 the statutory provisions. The following are the reasons and considerations for the Minister's determination to refuse the licences sought: -

- a) The site is located within the Castlemaine Harbour Special Area of Conservation (SAC) and Special Protection Area (SPA) Natura 2000 sites. A Natura Appropriate Assessment (AA) was carried out in 2011 in relation to existing aquaculture activity and new applications on hand at that time in the SAC and SPA. Licensing determinations were made in conformity with 'Natura' requirements. Recently, in 2018, a further Article 6 assessment has been carried out in relation to aquaculture applications received subsequent to the completion of the original AA (this includes this site). An Appropriate Assessment Conclusion Statement has been produced in relation to this recent AA (available on the Department's website). This document outlines how the proposed aquaculture activities in Castlemaine Harbour SAC and SPA, including this site, are being managed so as not to significantly or adversely affect the integrity of the SAC and SPA.
- b) Taking account of the recommendations from the Appropriate Assessment process, the proposed aquaculture activities are not consistent with the Conservation Objectives for the SPA and could result in significant disturbances to key bird species and reductions in their density and functional foraging habitat area.
- c) The potential increase in the spatial area arising from new aquaculture activities (including this site) could cause seston depletion and impact negatively on the carrying capacity of Castlemaine Harbour.
- d) The potential risks from licensing the proposed aquaculture activities, including this site, on the integrity of the Natura 2000 sites cannot be discounted."

To be inserted in "The Kerryman"

FISHERIES (AMENDMENT) ACT, 1997 (NO. 23) FORESHORE ACT, 1933 (NO. 12) NOTICE OF REFUSAL TO GRANT AQUACULTURE AND FORESHORE LICENCES.

The Minister for Agriculture, Food and the Marine has refused to grant Aquaculture and Foreshore Licences to:

Site Ref	Applicant	Location	Species & Cultivation
3.0	TENEZ SASTORY		
T06/376A	Patrick T. O'Sullivan	Castlemaine Harbour	Pacific Oysters – Bag & Trestle
T06/377A	Patrick T. O'Sullivan	Castlemaine Harbour	Pacific Oysters – Bag & Trestle
T06/393A	Patrick T. O'Sullivan	Castlemaine Harbour	Pacific Oysters – Bag & Trestle
T06/395A	Patrick T. O'Sullivan	Castlemaine Harbour	Pacific Oysters – Bag & Trestle
			DE VIEW
	A. Parkin		

			10 5
T06/431A	Patrick T. O'Sullivan	Castlemaine Harbour	Pacific Oysters – Bag & Trestle
T06/432A	Patrick T. O'Sullivan	Castlemaine Harbour	Pacific Oysters – Bag & Trestle
		REAL PROPERTY.	-
4 - 100 miles / 100 miles   1 1 1 1 1			
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The reasons for this decision are set out on the Department's website at: <a href="https://www.agriculture.gov.ie/seafood/aquacultureforeshoremanagement/aquaculturelicensing/aquaculturelicencedecisions/kerry/">https://www.agriculture.gov.ie/seafood/aquacultureforeshoremanagement/aquaculturelicensing/aquaculturelicencedecisions/kerry/</a>

An appeal against the Aquaculture Licence decision may be made in writing, within one month of the date of its publication, to THE AQUACULTURE LICENCES APPEALS BOARD, Kilminchy Court, Portlaoise, Co. Laois, by completing the Notice of Appeal Application Form available from the Board, phone 057 86 31912, e-mail <a href="mailto:info@alab.ie">info@alab.ie</a> or website at <a href="http://www.alab.ie/">http://www.alab.ie/</a>

A person may question the validity of the Foreshore Licence determination by way of an application for judicial review, under Order 84 of the Rules of the Superior Court (SI No. 15 of 1986). Practical information on the review mechanism can be obtained from the Citizens Information Board at: <a href="http://www.citizensinformation.ie/">http://www.citizensinformation.ie/</a>