

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



7th November 2019

Ref: T06/S05A

Tomás Hayes,
Tochar,
Cromane Upper,
Killorglin,
Co. Kerry

COPY

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

Dear Sir

I wish to inform you that the Minister for Agriculture, Food and the Marine has refused the granting to you of an Aquaculture Licence and accompanying Foreshore Licence for the cultivation of Pacific Oysters using bags and trestles at Site No. T06/S05A on the foreshore in Castlemaine Harbour, Co. Kerry (see attached information note). I enclose an extract from the copy of the public notice of the decision which the Department has arranged to have published in "The Kerryman".

Any person aggrieved by a licensing 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: <http://www.citizensinformation.ie/>

Yours sincerely

Brendan Farr

Aquaculture and Foreshore Management Division

Email: brendan.farr@agriculture.gov.ie

Ph. 023-8859514

**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: T06/505A

APPLICANT: Tomás Hayes

**AQUACULTURE TO WHICH
DECISION RELATES:**

Cultivation of Pacific Oysters using bags and trestles at Site T06/505A on the foreshore in Castlemaine Harbour, Co. Kerry

NATURE OF DECISION: Refusal of Aquaculture Licence

DATE OF DECISION: 7th November 2019

REASONS FOR REFUSAL: 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 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 statutory provisions. The following are the reasons and considerations for the Minister's determination to refuse the licences sought:-

- The proposed site is located within the Castlemaine Harbour Special Area of Conservation (SAC) and the Castlemaine Harbour Special Protection Area (SPA). An Article 6 Appropriate Assessment was carried out in relation to aquaculture activities in the SAC and SPA in 2019 and the reports are available on the Department's website. The Licensing Authority's 2019 Natura Conclusion Statement (also available on the Department's website) outlines how certain proposed aquaculture activities, including intertidal culture at Site T06/505A, 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;
- Given the potential significant effects identified in considering new licence applications, including T06/505A, alone and cumulatively, within the Castlemaine Harbour SAC and Castlemaine Harbour SPA such as noise/visual disturbance for all intertidal Special Conservation Interests (SCIs) and Cormorant and displacement for

all intertidal foraging SCIs except Greenshank and Redshank. In addition, it is predicted that new licence applications, including this proposed site, could cumulatively contribute to intertidal habitat loss in all I-WeBS subsites considered to be key areas for maintaining the long-term population trends of SCIs;

- There is insufficient evidence to suggest that the affected areas within Castlemaine Harbour would maintain a comparable level of ecological functionality if licensing were permitted. It was concluded that no further consenting of licence applications can take place within the Castlemaine Harbour SAC and Castlemaine Harbour SPA until such time as additional studies are completed and further mitigation approaches are considered;
- The proposed site is not located within a designated Shellfish Growing Waters Area;
- Taking account of the issues raised during the public and statutory consultation phase.

**Extract from Copy of Public Notice to be inserted
in 'The Kerryman'
by the Department**

FISHERIES (AMENDMENT) ACT, 1997 (NO. 23) AND FORESHORE ACT, 1933 (NO. 12)

NOTICE OF DECISION TO REFUSE AQUACULTURE AND FORESHORE LICENCES

The Minister for Agriculture, Food and the Marine has decided to refuse Aquaculture and Foreshore Licences to the Applicant listed in the Table below:

EXTRACT FROM TABLE

File Reference	Applicant	Minister's Decision	Species, Location, No. of Sites and Site Reference
T06/505A	Tomás Hayes, Tochar, Cromane Upper, Killorglin, Co. Kerry	Refuse	Pacific Oysters using bags and trestles, east of Cromane Lower in Castlemaine Harbour, Co. Kerry - 1 site: T06/505A

The reasons for this decision are elaborated on the Department's website at:
<https://www.agriculture.gov.ie/seafood/aquacultureforeshoremanagement/aquaculturelicensing/aquaculturelicencedecisions/kerry/>

An appeal against an 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 info@alab.ie or website at <http://www.alab.ie/>

A person may question the validity of a 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: <http://www.citizensinformation.ie/>