

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



FAO:

Dr. Paul Connolly, CEO
Marine Institute
Rinville
Oranmore
Co Galway

24 March 2023

Our Ref: AP3/2020
Site Ref: T12/407B

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to grant an Aquaculture and Foreshore Licence to Joseph M Coll for the cultivation of Pacific Oysters using bags and trestles on the inter-tidal foreshore on site ref T12/407B in Ballyness Bay, County Donegal.

Dear Dr Connolly,

I refer to the above Appeal received by the Aquaculture Licence Appeals Board ("the Board") and to the Appropriate Assessment Report prepared by the Marine Institute dated February 2019 ("the AA Report") in respect of Aquaculture Activities in Ballyness Bay including application site ref T12/407B the subject of the above Appeal (the "project").

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine an Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

The AA Report was considered by the Board and it was found that, following a full assessment of the legislation and relevant case law, additional information is required in a number of areas to enable the Board to determine the Appeal.

The Board considers that it is not possible, based on the available information, to rule out potential significant adverse impacts resulting from the proposed project on the Special Area of Conservation ("SAC") in which the application site is located, on protected species from nearby SACs and in respect of Special Protected Areas ("SPA") in the region and their associated bird species of conservation interest ("SCI"). The Board considered that:

1) Further information is needed in relation to the potential impacts on SCI of SPAs in the region. Two examples of this are that: i) No evidence was shown of an attempt to assess the potential impact on species listed as SCIs of SPAs whose feeding range overlaps with Ballyness Bay, as is required. ii) Disturbance of SCI species in SPAs adjoining the Sites or proposed access routes was also not assessed in the AA Report. In the interests of clarity, the Board has not determined that an Appropriate Assessment is necessarily required in respect of any SPA. However, further information and assessment is necessary to enable the Board to determine whether it can be excluded, on the basis of objective scientific information following screening, that the project, individually or in combination with other plans or projects, will not have a significant effect on any SPA in the region.

2) Further information and assessment is needed in respect of potential impacts of the project on Annex II species, grey seal *Halichoerus grypus* populations in the nearby Horn Head and Rinclevan SAC. No data was presented in the AA Report on the populations of seals using Ballyness Bay as a haul-out site, not even in terms of identifying animals to species level.

3) Further in-combination effects assessment is required, including, but not limited to potential impacts due to salmon and sea trout angling occurring in the Bay (along with potential impacts on the fish species themselves) and the other proposed aquaculture activities the subject of Appeals to ALAB Refs. AP3-16/2020.

In accordance with Section 47(1)(a) of the Act, the Board requests the Marine Institute to provide:

1) an assessment of potential impacts on those SCI species of SPAs in the region whose feeding range overlaps with Ballyness Bay or whose SPA area adjoins the proposed project and access routes,

2) an assessment of seal species using Ballyness Bay and potential for disturbance due to the proposed project on protected grey seal populations,

3) an assessment of in combination impacts, to include an assessment of the existing salmonid fishery and the other proposed aquaculture projects within the Bay.

4) an assessment of the implications of any changes in the area since 2019, and any further information, to ensure that the assessment of the potential impacts of the project is up to date.

The Board considers that this information is necessary to enable it to determine whether the project would adversely affect the integrity of the relevant European Sites.

The Board notes that the AA Report addressed the effects of a number of aquaculture activities within Ballyness Bay by way of a single report. The Minister decided to grant licences at 14 sites in Ballyness Bay, the subject of the AA Report, all of which have been

appealed to ALAB (Appeal Refs. AP3-16/2020) including the decision to grant a licence for the above project (T12/407B, AP3/2020).

The Board is issuing similar Notices to the Marine Institute in the other Appeals. For the purposes of responding to this Notice, ALAB would accept a single Supplementary AA report addressing the above matters in respect of all 14 sites.

In accordance with section 47 (1) (a) of the Act, the Board requests this information to be submitted within 4 (four) months of the date of this notice (24 July 2023). Please note that if the documents, particulars or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further notice to you, proceed to determine the Appeal.

Yours faithfully



Margaret Carton
Secretary to the Board

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



FAO:

Dr. Paul Connolly, CEO
Marine Institute
Rinville
Oranmore
Co Galway

24 March 2023

Our Ref: AP4/1-2/2020
Site Ref: T12/409A

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to grant a variation Aquaculture and Foreshore Licence to Edward & Paul O'Brien for the cultivation of Clams on wooden trays under mesh on site ref T12/409A in Ballyness Bay, County Donegal.

Dear Dr Connolly

I refer to the above Appeal received by the Aquaculture Licence Appeals Board ("the Board") and to the Appropriate Assessment Report prepared by the Marine Institute dated February 2019 ("the AA Report") in respect of Aquaculture Activities in Ballyness Bay including application site ref T12/409A the subject of the above Appeal (the "project").

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine an Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

The AA Report was considered by the Board and it was found that, following a full assessment of the legislation and relevant case law, additional information is required in a number of areas to enable the Board to determine the Appeal.

The Board considers that it is not possible, based on the available information, to rule out potential significant adverse impacts resulting from the proposed project on the Special Area of Conservation ("SAC") in which the application site is located, on protected species from nearby SACs and in respect of Special Protected Areas ("SPA") in the region and their associated bird species of conservation interest ("SCI"). The Board considered that:

1) Further information is needed in relation to the potential impacts on SCI of SPAs in the region. Two examples of this are that: i) No evidence was shown of an attempt to assess the potential impact on species listed as SCIs of SPAs whose feeding range overlaps with Ballyness Bay, as is required. ii) Disturbance of SCI species in SPAs adjoining the Sites or proposed access routes was also not assessed in the AA Report. In the interests of clarity, the Board has not determined that an Appropriate Assessment is necessarily required in respect of any SPA. However, further information and assessment is necessary to enable the Board to determine whether it can be excluded, on the basis of objective scientific information following screening, that the project, individually or in combination with other plans or projects, will not have a significant effect on any SPA in the region.

2) Further information and assessment is needed in respect of potential impacts of the project on Annex II species, grey seal *Halichoerus grypus* populations in the nearby Horn Head and Rinclevan SAC. No data was presented in the AA Report on the populations of seals using Ballyness Bay as a haul-out site, not even in terms of identifying animals to species level.

3) Further in-combination effects assessment is required, including, but not limited to potential impacts due to salmon and sea trout angling occurring in the Bay (along with potential impacts on the fish species themselves) and the other proposed aquaculture activities the subject of Appeals to ALAB Refs. AP3-16/2020.

In accordance with Section 47(1)(a) of the Act, the Board requests the Marine Institute to provide:

1) an assessment of potential impacts on those SCI species of SPAs in the region whose feeding range overlaps with Ballyness Bay or whose SPA area adjoins the proposed project and access routes,

2) an assessment of seal species using Ballyness Bay and potential for disturbance due to the proposed project on protected grey seal populations,

3) an assessment of in combination impacts, to include an assessment of the existing salmonid fishery and the other proposed aquaculture projects within the Bay.

4) an assessment of the implications of any changes in the area since 2019, and any further information, to ensure that the assessment of the potential impacts of the project is up to date.

The Board considers that this information is necessary to enable it to determine whether the project would adversely affect the integrity of the relevant European Sites.

The Board notes that the AA Report addressed the effects of a number of aquaculture activities within Ballyness Bay by way of a single report. The Minister decided to grant licences at 14 sites in Ballyness Bay, the subject of the AA Report, all of which have been

appealed to ALAB (Appeal Refs. AP3-16/2020) including the decision to grant a licence for the above project (T12/409A, AP4/1-2/2020).

The Board is issuing similar Notices to the Marine Institute in the other Appeals. For the purposes of responding to this Notice, ALAB would accept a single Supplementary AA report addressing the above matters in respect of all 14 sites.

In accordance with section 47 (1) (a) of the Act, the Board requests this information to be submitted within 4 (four) months of the date of this notice (24 July 2023). Please note that if the documents, particulars or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further notice to you, proceed to determine the Appeal.

Yours faithfully

Margaret Carton
Secretary to the Board

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



FAO:

Dr. Paul Connolly, CEO
Marine Institute
Rinville
Oranmore
Co Galway

24 March 2023

Our Ref: AP5/2020
Site Ref: T12/409B

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to grant a variation Aquaculture and Foreshore Licence to Edward & Paul O'Brien for the cultivation of Pacific Oysters using bags and trestles and Clams on wooden trays under mesh on site ref T12/409B in Ballyness Bay, County Donegal.

Dear Dr Connolly

I refer to the above Appeal received by the Aquaculture Licence Appeals Board ("the Board") and to the Appropriate Assessment Report prepared by the Marine Institute dated February 2019 ("the AA Report") in respect of Aquaculture Activities in Ballyness Bay including application site ref T12/409B the subject of the above Appeal (the "project").

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine an Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

The AA Report was considered by the Board and it was found that, following a full assessment of the legislation and relevant case law, additional information is required in a number of areas to enable the Board to determine the Appeal.

The Board considers that it is not possible, based on the available information, to rule out potential significant adverse impacts resulting from the proposed project on the Special Area of Conservation ("SAC") in which the application site is located, on protected species

from nearby SACs and in respect of Special Protected Areas (“SPA”) in the region and their associated bird species of conservation interest (“SCI”). The Board considered that:

1) Further information is needed in relation to the potential impacts on SCI of SPAs in the region. Two examples of this are that: i) No evidence was shown of an attempt to assess the potential impact on species listed as SCIs of SPAs whose feeding range overlaps with Ballyness Bay, as is required. ii) Disturbance of SCI species in SPAs adjoining the Sites or proposed access routes was also not assessed in the AA Report. In the interests of clarity, the Board has not determined that an Appropriate Assessment is necessarily required in respect of any SPA. However, further information and assessment is necessary to enable the Board to determine whether it can be excluded, on the basis of objective scientific information following screening, that the project, individually or in combination with other plans or projects, will not have a significant effect on any SPA in the region.

2) Further information and assessment is needed in respect of potential impacts of the project on Annex II species, grey seal *Halichoerus grypus* populations in the nearby Horn Head and Rinclevan SAC. No data was presented in the AA Report on the populations of seals using Ballyness Bay as a haul-out site, not even in terms of identifying animals to species level.

3) Further in-combination effects assessment is required, including, but not limited to potential impacts due to salmon and sea trout angling occurring in the Bay (along with potential impacts on the fish species themselves) and the other proposed aquaculture activities the subject of Appeals to ALAB Refs. AP3-16/2020.

In accordance with Section 47(1)(a) of the Act, the Board requests the Marine Institute to provide:

1) an assessment of potential impacts on those SCI species of SPAs in the region whose feeding range overlaps with Ballyness Bay or whose SPA area adjoins the proposed project and access routes,

2) an assessment of seal species using Ballyness Bay and potential for disturbance due to the proposed project on protected grey seal populations,

3) an assessment of in combination impacts, to include an assessment of the existing salmonid fishery and the other proposed aquaculture projects within the Bay.

4) an assessment of the implications of any changes in the area since 2019, and any further information, to ensure that the assessment of the potential impacts of the project is up to date.

The Board considers that this information is necessary to enable it to determine whether the project would adversely affect the integrity of the relevant European Sites.

The Board notes that the AA Report addressed the effects of a number of aquaculture activities within Ballyness Bay by way of a single report. The Minister decided to grant licences at 14 sites in Ballyness Bay, the subject of the AA Report, all of which have been appealed to ALAB (Appeal Refs. AP3-16/2020) including the decision to grant a licence for the above project (T12/409B, AP5/2020).

The Board is issuing similar Notices to the Marine Institute in the other Appeals. For the purposes of responding to this Notice, ALAB would accept a single Supplementary AA report addressing the above matters in respect of all 14 sites.

In accordance with section 47 (1) (a) of the Act, the Board requests this information to be submitted within 4 (four) months of the date of this notice (24 July 2023). Please note that if the documents, particulars or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further notice to you, proceed to determine the Appeal.

Yours faithfully



Margaret Carton
Secretary to the Board

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



FAO:

Dr. Paul Connolly, CEO
Marine Institute
Rinville
Oranmore
Co Galway

24 March 2023

Our Ref: AP6/2020
Site Ref: T12/441A

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to grant an Aquaculture and Foreshore Licence to Anthony McCafferty for the cultivation of Clams using trays under mesh and Pacific Oysters using bags and trestles on site ref T12/441A in Ballyness Bay, County Donegal.

Dear Dr Connolly,

I refer to the above Appeal received by the Aquaculture Licence Appeals Board ("the Board") and to the Appropriate Assessment Report prepared by the Marine Institute dated February 2019 ("the AA Report") in respect of Aquaculture Activities in Ballyness Bay including application site ref T12/441A the subject of the above Appeal (the "project").

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine an Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

The AA Report was considered by the Board and it was found that, following a full assessment of the legislation and relevant case law, additional information is required in a number of areas to enable the Board to determine the Appeal.

The Board considers that it is not possible, based on the available information, to rule out potential significant adverse impacts resulting from the proposed project on the Special Area of Conservation ("SAC") in which the application site is located, on protected species

from nearby SACs and in respect of Special Protected Areas (“SPA”) in the region and their associated bird species of conservation interest (“SCI”). The Board considered that:

1) Further information is needed in relation to the potential impacts on SCI of SPAs in the region. Two examples of this are that: i) No evidence was shown of an attempt to assess the potential impact on species listed as SCIs of SPAs whose feeding range overlaps with Ballyness Bay, as is required. ii) Disturbance of SCI species in SPAs adjoining the Sites or proposed access routes was also not assessed in the AA Report. In the interests of clarity, the Board has not determined that an Appropriate Assessment is necessarily required in respect of any SPA. However, further information and assessment is necessary to enable the Board to determine whether it can be excluded, on the basis of objective scientific information following screening, that the project, individually or in combination with other plans or projects, will not have a significant effect on any SPA in the region.

2) Further information and assessment is needed in respect of potential impacts of the project on Annex II species, grey seal *Halichoerus grypus* populations in the nearby Horn Head and Rinclevan SAC. No data was presented in the AA Report on the populations of seals using Ballyness Bay as a haul-out site, not even in terms of identifying animals to species level.

3) Further in-combination effects assessment is required, including, but not limited to potential impacts due to salmon and sea trout angling occurring in the Bay (along with potential impacts on the fish species themselves) and the other proposed aquaculture activities the subject of Appeals to ALAB Refs. AP3-16/2020.

In accordance with Section 47(1)(a) of the Act, the Board requests the Marine Institute to provide:

1) an assessment of potential impacts on those SCI species of SPAs in the region whose feeding range overlaps with Ballyness Bay or whose SPA area adjoins the proposed project and access routes,

2) an assessment of seal species using Ballyness Bay and potential for disturbance due to the proposed project on protected grey seal populations,

3) an assessment of in combination impacts, to include an assessment of the existing salmonid fishery and the other proposed aquaculture projects within the Bay.

4) an assessment of the implications of any changes in the area since 2019, and any further information, to ensure that the assessment of the potential impacts of the project is up to date.

The Board considers that this information is necessary to enable it to determine whether the project would adversely affect the integrity of the relevant European Sites.

The Board notes that the AA Report addressed the effects of a number of aquaculture activities within Ballyness Bay by way of a single report. The Minister decided to grant licences at 14 sites in Ballyness Bay, the subject of the AA Report, all of which have been appealed to ALAB (Appeal Refs. AP3-16/2020) including the decision to grant a licence for the above project (T12/441A, AP6/2020).

The Board is issuing similar Notices to the Marine Institute in the other Appeals. For the purposes of responding to this Notice, ALAB would accept a single Supplementary AA report addressing the above matters in respect of all 14 sites.

In accordance with section 47 (1) (a) of the Act, the Board requests this information to be submitted within 4 (four) months of the date of this notice (24 July 2023). Please note that if the documents, particulars or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further notice to you, proceed to determine the Appeal.

Yours faithfully



Margaret Carton
Secretary to the Board

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



FAO:

Dr. Paul Connolly, CEO
Marine Institute
Rinville
Oranmore
Co Galway

24 March 2023

Our Ref: AP7/2020
Site Ref: T12/441B

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to grant an Aquaculture Licence to Anthony McCafferty for the cultivation of Pacific Oysters using bags and trestles on a site ref T12/441B in Ballyness Bay, County Donegal

Dear Dr Connolly

I refer to the above Appeal received by the Aquaculture Licence Appeals Board ("the Board") and to the Appropriate Assessment Report prepared by the Marine Institute dated February 2019 ("the AA Report") in respect of Aquaculture Activities in Ballyness Bay including application site ref T12/441B the subject of the above Appeal (the "project").

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine an Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

The AA Report was considered by the Board and it was found that, following a full assessment of the legislation and relevant case law, additional information is required in a number of areas to enable the Board to determine the Appeal.

The Board considers that it is not possible, based on the available information, to rule out potential significant adverse impacts resulting from the proposed project on the Special Area of Conservation ("SAC") in which the application site is located, on protected species

from nearby SACs and in respect of Special Protected Areas (“SPA”) in the region and their associated bird species of conservation interest (“SCI”). The Board considered that:

1) Further information is needed in relation to the potential impacts on SCI of SPAs in the region. Two examples of this are that: i) No evidence was shown of an attempt to assess the potential impact on species listed as SCIs of SPAs whose feeding range overlaps with Ballyness Bay, as is required. ii) Disturbance of SCI species in SPAs adjoining the Sites or proposed access routes was also not assessed in the AA Report. In the interests of clarity, the Board has not determined that an Appropriate Assessment is necessarily required in respect of any SPA. However, further information and assessment is necessary to enable the Board to determine whether it can be excluded, on the basis of objective scientific information following screening, that the project, individually or in combination with other plans or projects, will not have a significant effect on any SPA in the region.

2) Further information and assessment is needed in respect of potential impacts of the project on Annex II species, grey seal *Halichoerus grypus* populations in the nearby Horn Head and Rinclevan SAC. No data was presented in the AA Report on the populations of seals using Ballyness Bay as a haul-out site, not even in terms of identifying animals to species level.

3) Further in-combination effects assessment is required, including, but not limited to potential impacts due to salmon and sea trout angling occurring in the Bay (along with potential impacts on the fish species themselves) and the other proposed aquaculture activities the subject of Appeals to ALAB Refs. AP3-16/2020.

In accordance with Section 47(1)(a) of the Act, the Board requests the Marine Institute to provide:

1) an assessment of potential impacts on those SCI species of SPAs in the region whose feeding range overlaps with Ballyness Bay or whose SPA area adjoins the proposed project and access routes,

2) an assessment of seal species using Ballyness Bay and potential for disturbance due to the proposed project on protected grey seal populations,

3) an assessment of in combination impacts, to include an assessment of the existing salmonid fishery and the other proposed aquaculture projects within the Bay.

4) an assessment of the implications of any changes in the area since 2019, and any further information, to ensure that the assessment of the potential impacts of the project is up to date.

The Board considers that this information is necessary to enable it to determine whether the project would adversely affect the integrity of the relevant European Sites.

The Board notes that the AA Report addressed the effects of a number of aquaculture activities within Ballyness Bay by way of a single report. The Minister decided to grant licences at 14 sites in Ballyness Bay, the subject of the AA Report, all of which have been appealed to ALAB (Appeal Refs. AP3-16/2020) including the decision to grant a licence for the above project (T12/441B, AP7/2020).

The Board is issuing similar Notices to the Marine Institute in the other Appeals. For the purposes of responding to this Notice, ALAB would accept a single Supplementary AA report addressing the above matters in respect of all 14 sites.

In accordance with section 47 (1) (a) of the Act, the Board requests this information to be submitted within 4 (four) months of the date of this notice (24 July 2023). Please note that if the documents, particulars or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further notice to you, proceed to determine the Appeal.

Yours faithfully



Margaret Carton
Secretary to the Board

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



FAO:

Dr. Paul Connolly, CEO
Marine Institute
Rinville
Oranmore
Co Galway

24 March 2023

Our Ref: AP8/2020
Site Ref: T12/441C

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to grant an Aquaculture and Foreshore Licence to Anthony McCafferty for the cultivation of Pacific Oysters using bags and trestles on site on T12/441C in Ballyness Bay, County Donegal

Dear Dr Connolly

I refer to the above Appeal received by the Aquaculture Licence Appeals Board ("the Board") and to the Appropriate Assessment Report prepared by the Marine Institute dated February 2019 ("the AA Report") in respect of Aquaculture Activities in Ballyness Bay including application site ref T12/441C the subject of the above Appeal (the "project").

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine an Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

The AA Report was considered by the Board and it was found that, following a full assessment of the legislation and relevant case law, additional information is required in a number of areas to enable the Board to determine the Appeal.

The Board considers that it is not possible, based on the available information, to rule out potential significant adverse impacts resulting from the proposed project on the Special Area of Conservation ("SAC") in which the application site is located, on protected species

from nearby SACs and in respect of Special Protected Areas (“SPA”) in the region and their associated bird species of conservation interest (“SCI”). The Board considered that:

1) Further information is needed in relation to the potential impacts on SCI of SPAs in the region. Two examples of this are that: i) No evidence was shown of an attempt to assess the potential impact on species listed as SCIs of SPAs whose feeding range overlaps with Ballyness Bay, as is required. ii) Disturbance of SCI species in SPAs adjoining the Sites or proposed access routes was also not assessed in the AA Report. In the interests of clarity, the Board has not determined that an Appropriate Assessment is necessarily required in respect of any SPA. However, further information and assessment is necessary to enable the Board to determine whether it can be excluded, on the basis of objective scientific information following screening, that the project, individually or in combination with other plans or projects, will not have a significant effect on any SPA in the region.

2) Further information and assessment is needed in respect of potential impacts of the project on Annex II species, grey seal *Halichoerus grypus* populations in the nearby Horn Head and Rinclevan SAC. No data was presented in the AA Report on the populations of seals using Ballyness Bay as a haul-out site, not even in terms of identifying animals to species level.

3) Further in-combination effects assessment is required, including, but not limited to potential impacts due to salmon and sea trout angling occurring in the Bay (along with potential impacts on the fish species themselves) and the other proposed aquaculture activities the subject of Appeals to ALAB Refs. AP3-16/2020.

In accordance with Section 47(1)(a) of the Act, the Board requests the Marine Institute to provide:

1) an assessment of potential impacts on those SCI species of SPAs in the region whose feeding range overlaps with Ballyness Bay or whose SPA area adjoins the proposed project and access routes,

2) an assessment of seal species using Ballyness Bay and potential for disturbance due to the proposed project on protected grey seal populations,

3) an assessment of in combination impacts, to include an assessment of the existing salmonid fishery and the other proposed aquaculture projects within the Bay.

4) an assessment of the implications of any changes in the area since 2019, and any further information, to ensure that the assessment of the potential impacts of the project is up to date.

The Board considers that this information is necessary to enable it to determine whether the project would adversely affect the integrity of the relevant European Sites.

The Board notes that the AA Report addressed the effects of a number of aquaculture activities within Ballyness Bay by way of a single report. The Minister decided to grant licences at 14 sites in Ballyness Bay, the subject of the AA Report, all of which have been appealed to ALAB (Appeal Refs. AP3-16/2020) including the decision to grant a licence for the above project (T12/441C, AP8/2020).

The Board is issuing similar Notices to the Marine Institute in the other Appeals. For the purposes of responding to this Notice, ALAB would accept a single Supplementary AA report addressing the above matters in respect of all 14 sites.

In accordance with section 47 (1) (a) of the Act, the Board requests this information to be submitted within 4 (four) months of the date of this notice (24 July 2023). Please note that if the documents, particulars or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further notice to you, proceed to determine the appeal.

Yours faithfully

Margaret Carton
Secretary to the Board

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



FAO:

Dr. Paul Connolly, CEO
Marine Institute
Rinville
Oranmore
Co Galway

24 March 2023

Our Ref: AP9/2020
Site Ref: T12/455A

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to grant a variation Aquaculture and Foreshore Licence to Seamus O'Donnell for the cultivation of Pacific Oysters using bags and trestles on a site T12/455A in Ballyness Bay, County Donegal

Dear Dr Connolly

I refer to the above Appeal received by the Aquaculture Licence Appeals Board ("the Board") and to the Appropriate Assessment Report prepared by the Marine Institute dated February 2019 ("the AA Report") in respect of Aquaculture Activities in Ballyness Bay including application site ref T12/455A the subject of the above Appeal (the "project").

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine an Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

The AA Report was considered by the Board and it was found that, following a full assessment of the legislation and relevant case law, additional information is required in a number of areas to enable the Board to determine the Appeal.

The Board considers that it is not possible, based on the available information, to rule out potential significant adverse impacts resulting from the proposed project on the Special Area of Conservation ("SAC") in which the application site is located, on protected species from nearby SACs and in respect of Special Protected Areas ("SPA") in the region and their associated bird species of conservation interest ("SCI"). The Board considered that:

1) Further information is needed in relation to the potential impacts on SCI of SPAs in the region. Two examples of this are that: i) No evidence was shown of an attempt to assess the potential impact on species listed as SCIs of SPAs whose feeding range overlaps with Ballyness Bay, as is required. ii) Disturbance of SCI species in SPAs adjoining the Sites or proposed access routes was also not assessed in the AA Report. In the interests of clarity, the Board has not determined that an Appropriate Assessment is necessarily required in respect of any SPA. However, further information and assessment is necessary to enable the Board to determine whether it can be excluded, on the basis of objective scientific information following screening, that the project, individually or in combination with other plans or projects, will not have a significant effect on any SPA in the region.

2) Further information and assessment is needed in respect of potential impacts of the project on Annex II species, grey seal *Halichoerus grypus* populations in the nearby Horn Head and Rinclevan SAC. No data was presented in the AA Report on the populations of seals using Ballyness Bay as a haul-out site, not even in terms of identifying animals to species level.

3) Further in-combination effects assessment is required, including, but not limited to potential impacts due to salmon and sea trout angling occurring in the Bay (along with potential impacts on the fish species themselves) and the other proposed aquaculture activities the subject of Appeals to ALAB Refs. AP3-16/2020.

In accordance with Section 47(1)(a) of the Act, the Board requests the Marine Institute to provide:

1) an assessment of potential impacts on those SCI species of SPAs in the region whose feeding range overlaps with Ballyness Bay or whose SPA area adjoins the proposed project and access routes,

2) an assessment of seal species using Ballyness Bay and potential for disturbance due to the proposed project on protected grey seal populations,

3) an assessment of in combination impacts, to include an assessment of the existing salmonid fishery and the other proposed aquaculture projects within the Bay.

4) an assessment of the implications of any changes in the area since 2019, and any further information, to ensure that the assessment of the potential impacts of the project is up to date.

The Board considers that this information is necessary to enable it to determine whether the project would adversely affect the integrity of the relevant European Sites.

The Board notes that the AA Report addressed the effects of a number of aquaculture activities within Ballyness Bay by way of a single report. The Minister decided to grant licences at 14 sites in Ballyness Bay, the subject of the AA Report, all of which have been

appealed to ALAB (Appeal Refs. AP3-16/2020) including the decision to grant a licence for the above project (T12/455A, AP9/2020).

The Board is issuing similar Notices to the Marine Institute in the other Appeals. For the purposes of responding to this Notice, ALAB would accept a single Supplementary AA report addressing the above matters in respect of all 14 sites.

In accordance with section 47 (1) (a) of the Act, the Board requests this information to be submitted within 4 (four) months of the date of this notice (24 July 2023). Please note that if the documents, particulars or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further notice to you, proceed to determine the appeal.

Yours faithfully



Margaret Carton
Secretary to the Board

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



FAO:

Dr. Paul Connolly, CEO
Marine Institute
Rinville
Oranmore
Co Galway

24 March 2023

Our Ref: AP10/2020
Site Ref: T12/455B

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to grant a variation Aquaculture Licence to Seamus O'Donnell for the cultivation of Pacific Oysters using bags and trestles on site T12/455B in Ballyness Bay, County Donegal.

Dear Dr Connolly

I refer to the above Appeal received by the Aquaculture Licence Appeals Board ("the Board") and to the Appropriate Assessment Report prepared by the Marine Institute dated February 2019 ("the AA Report") in respect of Aquaculture Activities in Ballyness Bay including application site ref T12/455B the subject of the above Appeal (the "project").

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine an Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

The AA Report was considered by the Board and it was found that, following a full assessment of the legislation and relevant case law, additional information is required in a number of areas to enable the Board to determine the Appeal.

The Board considers that it is not possible, based on the available information, to rule out potential significant adverse impacts resulting from the proposed project on the Special Area of Conservation ("SAC") in which the application site is located, on protected species from nearby SACs and in respect of Special Protected Areas ("SPA") in the region and their associated bird species of conservation interest ("SCI"). The Board considered that:

1) Further information is needed in relation to the potential impacts on SCI of SPAs in the region. Two examples of this are that: i) No evidence was shown of an attempt to assess the potential impact on species listed as SCIs of SPAs whose feeding range overlaps with Ballyness Bay, as is required. ii) Disturbance of SCI species in SPAs adjoining the Sites or proposed access routes was also not assessed in the AA Report. In the interests of clarity, the Board has not determined that an Appropriate Assessment is necessarily required in respect of any SPA. However, further information and assessment is necessary to enable the Board to determine whether it can be excluded, on the basis of objective scientific information following screening, that the project, individually or in combination with other plans or projects, will not have a significant effect on any SPA in the region.

2) Further information and assessment is needed in respect of potential impacts of the project on Annex II species, grey seal *Halichoerus grypus* populations in the nearby Horn Head and Rinclevan SAC. No data was presented in the AA Report on the populations of seals using Ballyness Bay as a haul-out site, not even in terms of identifying animals to species level.

3) Further in-combination effects assessment is required, including, but not limited to potential impacts due to salmon and sea trout angling occurring in the Bay (along with potential impacts on the fish species themselves) and the other proposed aquaculture activities the subject of Appeals to ALAB Refs. AP3-16/2020.

In accordance with Section 47(1)(a) of the Act, the Board requests the Marine Institute to provide:

1) an assessment of potential impacts on those SCI species of SPAs in the region whose feeding range overlaps with Ballyness Bay or whose SPA area adjoins the proposed project and access routes,

2) an assessment of seal species using Ballyness Bay and potential for disturbance due to the proposed project on protected grey seal populations,

3) an assessment of in combination impacts, to include an assessment of the existing salmonid fishery and the other proposed aquaculture projects within the Bay.

4) an assessment of the implications of any changes in the area since 2019, and any further information, to ensure that the assessment of the potential impacts of the project is up to date.

The Board considers that this information is necessary to enable it to determine whether the project would adversely affect the integrity of the relevant European Sites.

The Board notes that the AA Report addressed the effects of a number of aquaculture activities within Ballyness Bay by way of a single report. The Minister decided to grant licences at 14 sites in Ballyness Bay, the subject of the AA Report, all of which have been

appealed to ALAB (Appeal Refs. AP3-16/2020) including the decision to grant a licence for the above project (T12/455B, AP10/2020).

The Board is issuing similar Notices to the Marine Institute in the other Appeals. For the purposes of responding to this Notice, ALAB would accept a single Supplementary AA report addressing the above matters in respect of all 14 sites.

In accordance with section 47 (1) (a) of the Act, the Board requests this information to be submitted within 4 (four) months of the date of this notice (24 July 2023). Please note that if the documents, particulars or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further notice to you, proceed to determine the appeal.

Yours faithfully



Margaret Carton
Secretary to the Board

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



FAO:

Dr. Paul Connolly, CEO
Marine Institute
Rinville
Oranmore
Co Galway

24 March 2023

Our Ref: AP11/2020
Site Ref: T12/500A

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to grant an Aquaculture and Foreshore Licence to Joseph Coll for the cultivation of Pacific Oysters using bags and trestles on site ref T12/500A in Ballyness Bay, County Donegal.

Dear Dr Connolly

I refer to the above Appeal received by the Aquaculture Licence Appeals Board ("the Board") and to the Appropriate Assessment Report prepared by the Marine Institute dated February 2019 ("the AA Report") in respect of Aquaculture Activities in Ballyness Bay including application site ref T12/500A the subject of the above Appeal (the "project").

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine an Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

The AA Report was considered by the Board and it was found that, following a full assessment of the legislation and relevant case law, additional information is required in a number of areas to enable the Board to determine the Appeal.

The Board considers that it is not possible, based on the available information, to rule out potential significant adverse impacts resulting from the proposed project on the Special Area of Conservation ("SAC") in which the application site is located, on protected species from nearby SACs and in respect of Special Protected Areas ("SPA") in the region and their associated bird species of conservation interest ("SCI"). The Board considered that:

1) Further information is needed in relation to the potential impacts on SCI of SPAs in the region. Two examples of this are that: i) No evidence was shown of an attempt to assess the potential impact on species listed as SCIs of SPAs whose feeding range overlaps with Ballyness Bay, as is required. ii) Disturbance of SCI species in SPAs adjoining the Sites or proposed access routes was also not assessed in the AA Report. In the interests of clarity, the Board has not determined that an Appropriate Assessment is necessarily required in respect of any SPA. However, further information and assessment is necessary to enable the Board to determine whether it can be excluded, on the basis of objective scientific information following screening, that the project, individually or in combination with other plans or projects, will not have a significant effect on any SPA in the region.

2) Further information and assessment is needed in respect of potential impacts of the project on Annex II species, grey seal *Halichoerus grypus* populations in the nearby Horn Head and Rinclevan SAC. No data was presented in the AA Report on the populations of seals using Ballyness Bay as a haul-out site, not even in terms of identifying animals to species level.

3) Further in-combination effects assessment is required, including, but not limited to potential impacts due to salmon and sea trout angling occurring in the Bay (along with potential impacts on the fish species themselves) and the other proposed aquaculture activities the subject of Appeals to ALAB Refs. AP3-16/2020.

In accordance with Section 47(1)(a) of the Act, the Board requests the Marine Institute to provide:

1) an assessment of potential impacts on those SCI species of SPAs in the region whose feeding range overlaps with Ballyness Bay or whose SPA area adjoins the proposed project and access routes,

2) an assessment of seal species using Ballyness Bay and potential for disturbance due to the proposed project on protected grey seal populations,

3) an assessment of in combination impacts, to include an assessment of the existing salmonid fishery and the other proposed aquaculture projects within the Bay.

4) an assessment of the implications of any changes in the area since 2019, and any further information, to ensure that the assessment of the potential impacts of the project is up to date.

The Board considers that this information is necessary to enable it to determine whether the project would adversely affect the integrity of the relevant European Sites.

The Board notes that the AA Report addressed the effects of a number of aquaculture activities within Ballyness Bay by way of a single report. The Minister decided to grant licences at 14 sites in Ballyness Bay, the subject of the AA Report, all of which have been

appealed to ALAB (Appeal Refs. AP3-16/2020) including the decision to grant a licence for the above project (T12/500A, AP11/2020).

The Board is issuing similar Notices to the Marine Institute in the other Appeals. For the purposes of responding to this Notice, ALAB would accept a single Supplementary AA report addressing the above matters in respect of all 14 sites.

In accordance with section 47 (1) (a) of the Act, the Board requests this information to be submitted within 4 (four) months of the date of this notice (24 July 2023). Please note that if the documents, particulars or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further notice to you, proceed to determine the appeal.

Yours faithfully



Margaret Carton
Secretary to the Board

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



FAO:

Dr. Paul Connolly, CEO
Marine Institute
Rinville
Oranmore
Co Galway

24 March 2023

Our Ref: AP12/2020
Site Ref: T12/502A

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to grant an Aquaculture and Foreshore Licence to Joseph Coll for the cultivation of Pacific Oysters using bags and trestles on site ref on T12/502A in Ballyness Bay, County Donegal.

Dear Dr Connolly,

I refer to the above Appeal received by the Aquaculture Licence Appeals Board ("the Board") and to the Appropriate Assessment Report prepared by the Marine Institute dated February 2019 ("the AA Report") in respect of Aquaculture Activities in Ballyness Bay including application site ref T12/502A the subject of the above Appeal (the "project").

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine an Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

The AA Report was considered by the Board and it was found that, following a full assessment of the legislation and relevant case law, additional information is required in a number of areas to enable the Board to determine the Appeal.

The Board considers that it is not possible, based on the available information, to rule out potential significant adverse impacts resulting from the proposed project on the Special Area of Conservation ("SAC") in which the application site is located, on protected species from nearby SACs and in respect of Special Protected Areas ("SPA") in the region and their associated bird species of conservation interest ("SCI"). The Board considered that:

1) Further information is needed in relation to the potential impacts on SCI of SPAs in the region. Two examples of this are that: i) No evidence was shown of an attempt to assess the potential impact on species listed as SCIs of SPAs whose feeding range overlaps with Ballyness Bay, as is required. ii) Disturbance of SCI species in SPAs adjoining the Sites or proposed access routes was also not assessed in the AA Report. In the interests of clarity, the Board has not determined that an Appropriate Assessment is necessarily required in respect of any SPA. However, further information and assessment is necessary to enable the Board to determine whether it can be excluded, on the basis of objective scientific information following screening, that the project, individually or in combination with other plans or projects, will not have a significant effect on any SPA in the region.

2) Further information and assessment is needed in respect of potential impacts of the project on Annex II species, grey seal *Halichoerus grypus* populations in the nearby Horn Head and Rinclevan SAC. No data was presented in the AA Report on the populations of seals using Ballyness Bay as a haul-out site, not even in terms of identifying animals to species level.

3) Further in-combination effects assessment is required, including, but not limited to potential impacts due to salmon and sea trout angling occurring in the Bay (along with potential impacts on the fish species themselves) and the other proposed aquaculture activities the subject of Appeals to ALAB Refs. AP3-16/2020.

In accordance with Section 47(1)(a) of the Act, the Board requests the Marine Institute to provide:

1) an assessment of potential impacts on those SCI species of SPAs in the region whose feeding range overlaps with Ballyness Bay or whose SPA area adjoins the proposed project and access routes,

2) an assessment of seal species using Ballyness Bay and potential for disturbance due to the proposed project on protected grey seal populations,

3) an assessment of in combination impacts, to include an assessment of the existing salmonid fishery and the other proposed aquaculture projects within the Bay.

4) an assessment of the implications of any changes in the area since 2019, and any further information, to ensure that the assessment of the potential impacts of the project is up to date.

The Board considers that this information is necessary to enable it to determine whether the project would adversely affect the integrity of the relevant European Sites.

The Board notes that the AA Report addressed the effects of a number of aquaculture activities within Ballyness Bay by way of a single report. The Minister decided to grant licences at 14 sites in Ballyness Bay, the subject of the AA Report, all of which have been

appealed to ALAB (Appeal Refs. AP3-16/2020) including the decision to grant a licence for the above project (T12/502A, AP12/2020).

The Board is issuing similar Notices to the Marine Institute in the other Appeals. For the purposes of responding to this Notice, ALAB would accept a single Supplementary AA report addressing the above matters in respect of all 14 sites.

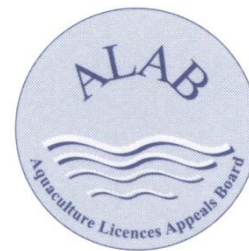
In accordance with section 47 (1) (a) of the Act, the Board requests this information to be submitted within 4 (four) months of the date of this notice (24 July 2023). Please note that if the documents, particulars or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further notice to you, proceed to determine the appeal.

Yours faithfully



Margaret Carton
Secretary to the Board

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



FAO:

Dr. Paul Connolly, CEO
Marine Institute
Rinville
Oranmore
Co Galway

24 March 2023

Our Ref: AP13/1-3/2020
Site Ref: T12/510A

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to grant an Aquaculture and Foreshore Licence to Tullyshellfish Ltd. for the cultivation of Pacific Oysters using bags and trestles on the inter-tidal foreshore on site ref T12/510A in Ballyness Bay, County Donegal.

Dear Dr Connolly,

I refer to the above Appeal received by the Aquaculture Licence Appeals Board ("the Board") and to the Appropriate Assessment Report prepared by the Marine Institute dated February 2019 ("the AA Report") in respect of Aquaculture Activities in Ballyness Bay including application site ref T12/510A the subject of the above Appeal (the "project").

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine an Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

The AA Report was considered by the Board and it was found that, following a full assessment of the legislation and relevant case law, additional information is required in a number of areas to enable the Board to determine the Appeal.

The Board considers that it is not possible, based on the available information, to rule out potential significant adverse impacts resulting from the proposed project on the Special Area of Conservation ("SAC") in which the application site is located, on protected species from nearby SACs and in respect of Special Protected Areas ("SPA") in the region and their associated bird species of conservation interest ("SCI"). The Board considered that:

1) Further information is needed in relation to the potential impacts on SCI of SPAs in the region. Two examples of this are that: i) No evidence was shown of an attempt to assess the potential impact on species listed as SCIs of SPAs whose feeding range overlaps with Ballyness Bay, as is required. ii) Disturbance of SCI species in SPAs adjoining the Sites or proposed access routes was also not assessed in the AA Report. In the interests of clarity, the Board has not determined that an Appropriate Assessment is necessarily required in respect of any SPA. However, further information and assessment is necessary to enable the Board to determine whether it can be excluded, on the basis of objective scientific information following screening, that the project, individually or in combination with other plans or projects, will not have a significant effect on any SPA in the region.

2) Further information and assessment is needed in respect of potential impacts of the project on Annex II species, grey seal *Halichoerus grypus* populations in the nearby Horn Head and Rinclevan SAC. No data was presented in the AA Report on the populations of seals using Ballyness Bay as a haul-out site, not even in terms of identifying animals to species level.

3) Further in-combination effects assessment is required, including, but not limited to potential impacts due to salmon and sea trout angling occurring in the Bay (along with potential impacts on the fish species themselves) and the other proposed aquaculture activities the subject of Appeals to ALAB Refs. AP3-16/2020.

In accordance with Section 47(1)(a) of the Act, the Board requests the Marine Institute to provide:

1) an assessment of potential impacts on those SCI species of SPAs in the region whose feeding range overlaps with Ballyness Bay or whose SPA area adjoins the proposed project and access routes,

2) an assessment of seal species using Ballyness Bay and potential for disturbance due to the proposed project on protected grey seal populations,

3) an assessment of in combination impacts, to include an assessment of the existing salmonid fishery and the other proposed aquaculture projects within the Bay.

4) an assessment of the implications of any changes in the area since 2019, and any further information, to ensure that the assessment of the potential impacts of the project is up to date.

The Board considers that this information is necessary to enable it to determine whether the project would adversely affect the integrity of the relevant European Sites.

The Board notes that the AA Report addressed the effects of a number of aquaculture activities within Ballyness Bay by way of a single report. The Minister decided to grant licences at 14 sites in Ballyness Bay, the subject of the AA Report, all of which have been

appealed to ALAB (Appeal Refs. AP3-16/2020) including the decision to grant a licence for the above project (T12/510A, AP13/1-3/2020).

The Board is issuing similar Notices to the Marine Institute in the other Appeals. For the purposes of responding to this Notice, ALAB would accept a single Supplementary AA report addressing the above matters in respect of all 14 sites.

In accordance with section 47 (1) (a) of the Act, the Board requests this information to be submitted within 4 (four) months of the date of this notice (24 July 2023). Please note that if the documents, particulars or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further notice to you, proceed to determine the appeal.

Yours faithfully



Margaret Carton
Secretary to the Board

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



FAO:

Dr. Paul Connolly, CEO
Marine Institute
Rinville
Oranmore
Co Galway

24 March 2023

Our Ref: AP14/2020
Site Ref: T12/514A

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to grant an Aquaculture and Foreshore Licence to Joseph Coll for the cultivation of Pacific Oysters using bags and trestles on site ref T12/514A in Ballyness Bay, County Donegal

Dear Dr Connolly

I refer to the above Appeal received by the Aquaculture Licence Appeals Board ("the Board") and to the Appropriate Assessment Report prepared by the Marine Institute dated February 2019 ("the AA Report") in respect of Aquaculture Activities in Ballyness Bay including application site ref T12/514A the subject of the above Appeal (the "project").

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine an Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

The AA Report was considered by the Board and it was found that, following a full assessment of the legislation and relevant case law, additional information is required in a number of areas to enable the Board to determine the Appeal.

The Board considers that it is not possible, based on the available information, to rule out potential significant adverse impacts resulting from the proposed project on the Special Area of Conservation ("SAC") in which the application site is located, on protected species

from nearby SACs and in respect of Special Protected Areas (“SPA”) in the region and their associated bird species of conservation interest (“SCI”). The Board considered that:

1) Further information is needed in relation to the potential impacts on SCI of SPAs in the region. Two examples of this are that: i) No evidence was shown of an attempt to assess the potential impact on species listed as SCIs of SPAs whose feeding range overlaps with Ballyness Bay, as is required. ii) Disturbance of SCI species in SPAs adjoining the Sites or proposed access routes was also not assessed in the AA Report. In the interests of clarity, the Board has not determined that an Appropriate Assessment is necessarily required in respect of any SPA. However, further information and assessment is necessary to enable the Board to determine whether it can be excluded, on the basis of objective scientific information following screening, that the project, individually or in combination with other plans or projects, will not have a significant effect on any SPA in the region.

2) Further information and assessment is needed in respect of potential impacts of the project on Annex II species, grey seal *Halichoerus grypus* populations in the nearby Horn Head and Rinclevan SAC. No data was presented in the AA Report on the populations of seals using Ballyness Bay as a haul-out site, not even in terms of identifying animals to species level.

3) Further in-combination effects assessment is required, including, but not limited to potential impacts due to salmon and sea trout angling occurring in the Bay (along with potential impacts on the fish species themselves) and the other proposed aquaculture activities the subject of Appeals to ALAB Refs. AP3-16/2020.

In accordance with Section 47(1)(a) of the Act, the Board requests the Marine Institute to provide:

1) an assessment of potential impacts on those SCI species of SPAs in the region whose feeding range overlaps with Ballyness Bay or whose SPA area adjoins the proposed project and access routes,

2) an assessment of seal species using Ballyness Bay and potential for disturbance due to the proposed project on protected grey seal populations,

3) an assessment of in combination impacts, to include an assessment of the existing salmonid fishery and the other proposed aquaculture projects within the Bay.

4) an assessment of the implications of any changes in the area since 2019, and any further information, to ensure that the assessment of the potential impacts of the project is up to date.

The Board considers that this information is necessary to enable it to determine whether the project would adversely affect the integrity of the relevant European Sites.

The Board notes that the AA Report addressed the effects of a number of aquaculture activities within Ballyness Bay by way of a single report. The Minister decided to grant licences at 14 sites in Ballyness Bay, the subject of the AA Report, all of which have been appealed to ALAB (Appeal Refs. AP3-16/2020) including the decision to grant a licence for the above project (T12/514A, AP14/2020).

The Board is issuing similar Notices to the Marine Institute in the other Appeals. For the purposes of responding to this Notice, ALAB would accept a single Supplementary AA report addressing the above matters in respect of all 14 sites.

In accordance with section 47 (1) (a) of the Act, the Board requests this information to be submitted within 4 (four) months of the date of this notice (24 July 2023). Please note that if the documents, particulars or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further notice to you, proceed to determine the appeal.

Yours faithfully



Margaret Carton
Secretary to the Board

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



FAO:

Dr. Paul Connolly, CEO
Marine Institute
Rinville
Oranmore
Co Galway

24 March 2023

Our Ref: AP15/2020
Site Ref: T12/515A

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to grant an Aquaculture and Foreshore Licence to Joseph Coll for the cultivation of Pacific Oysters using bags and trestles on the inter-tidal foreshore on site ref T12/515A in Ballyness Bay, County Donegal

Dear Dr Connolly

I refer to the above Appeal received by the Aquaculture Licence Appeals Board ("the Board") and to the Appropriate Assessment Report prepared by the Marine Institute dated February 2019 ("the AA Report") in respect of Aquaculture Activities in Ballyness Bay including application site ref T12/515A the subject of the above Appeal (the "project").

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine an Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

The AA Report was considered by the Board and it was found that, following a full assessment of the legislation and relevant case law, additional information is required in a number of areas to enable the Board to determine the Appeal.

The Board considers that it is not possible, based on the available information, to rule out potential significant adverse impacts resulting from the proposed project on the Special Area of Conservation ("SAC") in which the application site is located, on protected species from nearby SACs and in respect of Special Protected Areas ("SPA") in the region and their associated bird species of conservation interest ("SCI"). The Board considered that:

1) Further information is needed in relation to the potential impacts on SCI of SPAs in the region. Two examples of this are that: i) No evidence was shown of an attempt to assess the potential impact on species listed as SCIs of SPAs whose feeding range overlaps with Ballyness Bay, as is required. ii) Disturbance of SCI species in SPAs adjoining the Sites or proposed access routes was also not assessed in the AA Report. In the interests of clarity, the Board has not determined that an Appropriate Assessment is necessarily required in respect of any SPA. However, further information and assessment is necessary to enable the Board to determine whether it can be excluded, on the basis of objective scientific information following screening, that the project, individually or in combination with other plans or projects, will not have a significant effect on any SPA in the region.

2) Further information and assessment is needed in respect of potential impacts of the project on Annex II species, grey seal *Halichoerus grypus* populations in the nearby Horn Head and Rinclevan SAC. No data was presented in the AA Report on the populations of seals using Ballyness Bay as a haul-out site, not even in terms of identifying animals to species level.

3) Further in-combination effects assessment is required, including, but not limited to potential impacts due to salmon and sea trout angling occurring in the Bay (along with potential impacts on the fish species themselves) and the other proposed aquaculture activities the subject of Appeals to ALAB Refs. AP3-16/2020.

In accordance with Section 47(1)(a) of the Act, the Board requests the Marine Institute to provide:

1) an assessment of potential impacts on those SCI species of SPAs in the region whose feeding range overlaps with Ballyness Bay or whose SPA area adjoins the proposed project and access routes,

2) an assessment of seal species using Ballyness Bay and potential for disturbance due to the proposed project on protected grey seal populations,

3) an assessment of in combination impacts, to include an assessment of the existing salmonid fishery and the other proposed aquaculture projects within the Bay.

4) an assessment of the implications of any changes in the area since 2019, and any further information, to ensure that the assessment of the potential impacts of the project is up to date.

The Board considers that this information is necessary to enable it to determine whether the project would adversely affect the integrity of the relevant European Sites.

The Board notes that the AA Report addressed the effects of a number of aquaculture activities within Ballyness Bay by way of a single report. The Minister decided to grant licences at 14 sites in Ballyness Bay, the subject of the AA Report, all of which have been

appealed to ALAB (Appeal Refs. AP3-16/2020) including the decision to grant a licence for the above project (T12/515A, AP15/2020).

The Board is issuing similar Notices to the Marine Institute in the other Appeals. For the purposes of responding to this Notice, ALAB would accept a single Supplementary AA report addressing the above matters in respect of all 14 sites.

In accordance with section 47 (1) (a) of the Act, the Board requests this information to be submitted within 4 (four) months of the date of this notice (24 July 2023). Please note that if the documents, particulars or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further notice to you, proceed to determine the appeal.

Yours faithfully



Margaret Carton
Secretary to the Board

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



FAO:

Dr. Paul Connolly, CEO
Marine Institute
Rinville
Oranmore
Co Galway

24 March 2023

Our Ref: AP16/1-2/2020
Site Ref: T12/516A

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to grant an Aquaculture and Foreshore Licence to Joseph Coll for the cultivation of Pacific Oysters using bags and trestles on site ref T12/516A in Ballyness Bay, County Donegal

Dear Dr Connolly

I refer to the above Appeal received by the Aquaculture Licence Appeals Board ("the Board") and to the Appropriate Assessment Report prepared by the Marine Institute dated February 2019 ("the AA Report") in respect of Aquaculture Activities in Ballyness Bay including application site ref T12/516A the subject of the above Appeal (the "project").

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine an Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

The AA Report was considered by the Board and it was found that, following a full assessment of the legislation and relevant case law, additional information is required in a number of areas to enable the Board to determine the Appeal.

The Board considers that it is not possible, based on the available information, to rule out potential significant adverse impacts resulting from the proposed project on the Special Area of Conservation ("SAC") in which the application site is located, on protected species from nearby SACs and in respect of Special Protected Areas ("SPA") in the region and their associated bird species of conservation interest ("SCI"). The Board considered that:

1) Further information is needed in relation to the potential impacts on SCI of SPAs in the region. Two examples of this are that: i) No evidence was shown of an attempt to assess the potential impact on species listed as SCIs of SPAs whose feeding range overlaps with Ballyness Bay, as is required. ii) Disturbance of SCI species in SPAs adjoining the Sites or proposed access routes was also not assessed in the AA Report. In the interests of clarity, the Board has not determined that an Appropriate Assessment is necessarily required in respect of any SPA. However, further information and assessment is necessary to enable the Board to determine whether it can be excluded, on the basis of objective scientific information following screening, that the project, individually or in combination with other plans or projects, will not have a significant effect on any SPA in the region.

2) Further information and assessment is needed in respect of potential impacts of the project on Annex II species, grey seal *Halichoerus grypus* populations in the nearby Horn Head and Rinclevan SAC. No data was presented in the AA Report on the populations of seals using Ballyness Bay as a haul-out site, not even in terms of identifying animals to species level.

3) Further in-combination effects assessment is required, including, but not limited to potential impacts due to salmon and sea trout angling occurring in the Bay (along with potential impacts on the fish species themselves) and the other proposed aquaculture activities the subject of Appeals to ALAB Refs. AP3-16/2020.

In accordance with Section 47(1)(a) of the Act, the Board requests the Marine Institute to provide:

1) an assessment of potential impacts on those SCI species of SPAs in the region whose feeding range overlaps with Ballyness Bay or whose SPA area adjoins the proposed project and access routes,

2) an assessment of seal species using Ballyness Bay and potential for disturbance due to the proposed project on protected grey seal populations,

3) an assessment of in combination impacts, to include an assessment of the existing salmonid fishery and the other proposed aquaculture projects within the Bay.

4) an assessment of the implications of any changes in the area since 2019, and any further information, to ensure that the assessment of the potential impacts of the project is up to date.

The Board considers that this information is necessary to enable it to determine whether the project would adversely affect the integrity of the relevant European Sites.

The Board notes that the AA Report addressed the effects of a number of aquaculture activities within Ballyness Bay by way of a single report. The Minister decided to grant licences at 14 sites in Ballyness Bay, the subject of the AA Report, all of which have been

appealed to ALAB (Appeal Refs. AP3-16/2020) including the decision to grant a licence for the above project (T12/516A, AP16/1-2/2020).

The Board is issuing similar Notices to the Marine Institute in the other Appeals. For the purposes of responding to this Notice, ALAB would accept a single Supplementary AA report addressing the above matters in respect of all 14 sites.

In accordance with section 47 (1) (a) of the Act, the Board requests this information to be submitted within 4 (four) months of the date of this notice (24 July 2023). Please note that if the documents, particulars or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further notice to you, proceed to determine the Appeal.

Yours faithfully



Margaret Carton
Secretary to the Board