AN ARD-CHÚIRT
THE HIGH COURT

MONDAY THE 7TH DAY OF APRIL 2024
BEFORE MR JUSTICE HUMPHREYS
BETWEEN/

SAVE BALLYNESS BAY S.A.C. ACTION GROUP AND BRIAN FARRELL

APPLICANTS

-AND-

AQUACULTURE LICENCES APPEALS BOARD

-AND-

THE MINISTER FOR AGRICULTURE, FOOD AND THE MARINE

RESPONDENTS

-AND-

SEAMUS O'DONNELL

NOTICE PARTY

Upon motion of Counsel for the Applicants coming unto the Court this day for mention pursuant to the Notice of Motion filed on the 6th day of November 2024 and seeking the following reliefs

1. "An Order of Certiorari pursuant to Order 84 of the Rules of the Superior Courts 1986 as amended and Section 73 of the Fisheries (Amendment) Act 1997 as amended quashing the Determination of the First Respondent, the Aquaculture Licences Appeals Board (ALAB), dated 22 May 2024, Appeal reference AP9/2020, to confirm a licence determination of the Minister, and to reject an Appeal by the Applicant against a decision of the Minister for Agriculture, Food and the Marine ("the Minister") to GRANT a

Licence to Seamus O'Donnell for the cultivation of Pacific oysters using bags and trestles at Site T12/455A ("the Site") on the inter-tidal foreshore in Ballyness Bay, Co. Donegal.

2. An Order of Certiorari quashing any Licence that may have been granted by the Minister pursuant to that Determination and to S14(3) of the Fisheries (Amendment) Act 1997 as amended.

3. Such declaration(s) of the legal rights and/or legal position of the applicant and (if and insofar as legally permissible and appropriate) persons similarly situated and/or of the legal duties and/or legal position of the Respondents as the court considers appropriate.

4. Liberty to adduce additional evidence.

5. A Declaratory Order pursuant to Section 7 of the Environment (Miscellaneous Provisions) Act 2011 as amended, Order 99 of the Rules of the Superior Courts as amended, the inherent jurisdiction of the Court, Article 47 of the Charter on Fundamental Rights of the European Union, Articles 4(3) and 19(1) of the Treaty on European Union, and/ or Article 9 of the Convention on Access to Information, Public Participation In Decision-Making and Access to Justice In Environmental Matters done at Aarhus, Denmark, on 25 June 1998 (the Aarhus Convention), confirming that Section 50B of the Planning and Development Act 2000 as amended and/ or Sections 3 and 4 of the Environment (Miscellaneous Provisions) Act 2011 apply to the Grounds set out at Part E hereof.

6. Such further or other Order as may be appropriate to give effect to any finding of the Court herein.

7. If necessary, an extension of time pursuant to Order 84 Rule 21 for the service of this Motion.

8. Costs.

Whereupon and on reading the said Motion the Statement of Grounds herein filed on the 19th day of August 2024 the Affidavit of Brian Farrell filed on the 19th day of August 2024 grounding the said Statement the Affidavits of Service (2) of Eoin Heaney respectively filed on the 5th day of September 2024 and the 4th day of October 2024 and the exhibits referred to in said Affidavits

And the Court hearing that there is agreement between the parties as to the resolution of the within proceedings

BY CONSENT

The Court **DOTH GRANT** an Order of Certiorari quashing the determination of the First Named Respondent dated the 22nd day of May 2024 (Appeal Reference AP9/2020) to confirm the determination of the Second Named Respondent to grant the Notice Party an aquaculture licence for the cultivation of Pacific oysters using bags and trestles at Site T12/455A in Ballyness Bay Co Donegal

IT IS ORDERED that the First Named Respondent do pay to the Applicants the costs of the within proceedings to include reserved costs said costs to be adjudicated in default of agreement

JOHN SINCLAIR
REGISTRAR
Perfected 11/04/2025

AN ARD-CHÚIRT
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FP Logue LLP
Solicitor for the Applicants

Philip Lee LLP
Solicitor for the First Named Respondent

Chief State Solicitors Office
Solicitor for the Second Named Respondent

Seamus O'Donnell
Notice Party