

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



Michael Scannell  
Douglas  
Killorglin  
Co. Kerry

sent by registered post



**COPY**

Ref: T06/398A

5<sup>th</sup> October 2018

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

Dear Mr. Scannell,

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 site no. T06/398A. (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: <http://www.citizensinformation.ie/>

Yours Sincerely,

**Oisín O'Kelly**  
*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:** T06/398A

**APPLICANT:** Michael Scannell

**AQUACULTURE TO WHICH**

**DECISION RELATES:** Cultivation of Pacific Oysters using bags and trestles on site T06/398A on the foreshore in Castlemaine Harbour, Co Kerry.

**NATURE OF DECISION:** Refusal of Licence.

**DATE OF DECISION:** 5<sup>th</sup> October 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.



[illegible]



**To be inserted in Iris Oifigiúil**

**FORESHORE ACT, 1933**

## NOTICE OF DECISION TO REFUSE TO GRANT FORESHORE LICENCES

The Minister for Agriculture, Food and the Marine has decided to refuse to grant Foreshore Licences to:

[illegible]



