

# Cooley Oysters Ltd

REG IN IRELAND No. 564961

VAT No.

MUCHGRANGE, GREENORE, DUNDALK, CO LOUTH, IRELAND

Aquaculture Licences Appeals Board,  
Kilminchy Court,  
Dublin Road,  
Portlaoise,  
Co. Laois

Date: 09/12/2019

Dear Sir/Madam,

We are writing to request a 4-month extension to compile a comprehensive report in support of our appeal to the Ministerial Determination relating to Licence T01/119, notice of which we received on the 21st November.

Subsequent to receiving notice of the decision to refuse this licence, we requested access to the Marine Engineering Report referred to in the Determination. DAFM released the report on the 26th November and we note that the report though dated raises several issues not previously considered by us, as they did not arise during the public and statutory consultation process.

With the greatest respect 30 days is not enough time to fully examine all the issues raised and compile a report addressing the MED assertions. Indeed, it is currently impossible to provide an accurate visual assessment as all low tides which expose site T01/119 take place during the hours of darkness.

The convention on Access to information, public participation in decision-making and access to justice in environmental matters dictates "that public participation procedures shall include reasonable time-frames for different phases of consultation, allowing sufficient time for informing the public and for the public to prepare and participate effectively during the environmental decision-making."

We feel that a four-month period is not an excessive time for this phase of the decision-making process and given the current deadline 26th December (Date of publication in the paper 26<sup>th</sup> Nov) we would appreciate if you could examine this request and respond to us as a matter of urgency.

Yours faithfully,

  
Donal Ferguson

**NOTICE OF APPEAL UNDER SECTION 40(1) OF  
FISHERIES (AMENDMENT) ACT 1997 (NO. 23)**



## Appeal Form

**Please note that this form will only be accepted by REGISTERED POST  
or handed in to the ALAB offices**

Name of Appellant (block letters)	COOLEY OYSTERS LTD		
Address of Appellant	MUCHGRANGE,		
	GREENORE,		
	DUNDALK,		
	CO. LOUTH,		
	IRELAND, A91FN50		
Phone:		Email:	
Mobile:		Fax:	N/A

### Fees

Fees must be received by the closing date for receipt of appeals		Amount	Tick
Appeal by licence applicant		€380.92	V
Appeal by any other individual or organisation		€152.37	
Request for an Oral Hearing * (fee payable in addition to appeal fee)		€76.18	
* In the event that the Board decides not to hold an Oral Hearing the fee will not be refunded.			
(Cheques Payable to the Aquaculture Licences Appeals Board in accordance with the Aquaculture Licensing Appeals (Fees) Regulations, 1998 (S.I. No. 449 of 1998))			
Electronic Funds Transfer Details	IBAN:	BIC: AIBKIE2D	
	IE89AIBK93104704051067		

Subject Matter of the Appeal

Visual Impact and amenity usage of the site	<p><b>AQUACULTURE LICENCES</b></p> <p><b>APPEALS BOARD</b></p> <p><b>11 DEC 2019</b></p> <p><b>RECEIVED</b></p>
Site Reference Number:- (as allocated by the Department of Agriculture, Food and the Marine)	T01/119
Appellant's particular interest in the outcome of the appeal:	

Licence applicant





Outline the grounds of appeal (and, if necessary, on additional page(s) give full grounds of the appeal and the reasons, considerations and arguments on which they are based):

The Ministerial determination relating to licence T01/119 states that the "Minister had regard to the findings of the Marine Engineering Report regarding the visual impact assessment and amenity impact that the development of this site would have". Subsequent to receiving notice of the decision to refuse this licence, we requested access to the Marine Engineering Report referred to in the Determination. DAFM released the report on the 26th November and we note that the report raises several issues not previously considered by us, as they are not supported by any other of the public or statutory submissions. The report dates from 2016, appears to be preliminary in nature and many issues raised were resolved prior to Ministerial Determination.

The degree of any impact on the landscape or visual amenity of the surrounding areas will be based on several factors these include:

- Distance;
- Duration of viewing opportunities; and
- Amenity expectations.

We acknowledge that this site is partially adjacent to the end of a scenic route (SR 15 of the Louth County Development plan) but we wish to contend that the extension does not negatively impact on the nature of the view (Which already contains a portion of our oyster farm). Furthermore, as the site is below the level of the road it does not impinge on either the foreground or skyline from that route.

The substrate is dark in colour at this location and due to the sequence of tides on the east coast, which is completely different to other coasts in Ireland. Viewing opportunities are severely curtailed especially over the autumn/winter period when all low tides occur during the hours of darkness.

There are no conflicting statements regarding scenic impact apart from the engineer's report. The statutory consultees didn't raise as an issue or by any member of the public at any stage. This highlights the subjective nature of visual impact opinions.

Oysters are an integral part of the tourism offering of Carlingford Lough, and rather than detracting from the amenity value of the area, our business supports initiatives such as Origin Green and the national Food Board Bord Bia, community beach clean ups, the Carlingford Oyster Festival and the recently announced Louth Seafood trail.

My family have been producing oysters in Carlingford/Ballagan since the 1982 and there has never been any suggestion that our operations impinge on the amenity value of our environs, we contend that this is supported by the lack of objections from any of our neighbours or local leisure groups during the consultation process, and we never had any issues since 1982.

In fact many generations of my family are from these townlands, my grandmother reared three children on her own in the 1940s, supplementing her income by gathering winkles from the shore. I am very proud that in 2019, I and my brother and sister are working the same shore line as our predecessors and we hope our children can continue this business our father and mother created.

The location of the proposed site is close to our factory and it would be an important and integral part of our business going forward.

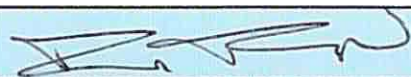
We are proud of the contribution we make to the local economy in what is a border coastal location. We regard this application as being an important part of the sustainable development not only of our business but that of the local community at a time when Brexit is creating great uncertainty in our community.

The appropriate assessment for Carlingford Lough SPA took into account the assessment of cumulative impacts such as recreational impacts – no potential impacts on recreational activity were noted for the SPA.

We would like to provide additional photos and a more detailed visual and amenity assessment but it is not possible to achieve this in the 30 days available to submit this appeal, particularly as the tides which expose this site currently occur during the hours of darkness.

We respectfully ask for a four month extension to compile a report in support of our appeal.

Signed by appellant:



Date: 09/12/2019

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or handed in to the ALAB offices**

**Fees must be received by the closing date for receipt of appeals**

This notice should be completed under each heading and duly signed by the appellant and be accompanied by such documents, particulars or information relating to the appeal as the appellant considers necessary or appropriate and specifies in the Notice.

DATA PROTECTION – the data collected for this purpose will be held by ALAB only as long as there is a business need to do so and may include publication on the ALAB website



### Extracts from Act

**40.—**(1) A person aggrieved by a decision of the Minister on an application for an aquaculture licence or by the revocation or amendment of an aquaculture licence may, before the expiration of a period of one month beginning on the date of publication in accordance with this Act of that decision, or the notification to the person of the revocation or amendment, appeal to the Board against the decision, revocation or amendment, by serving on the Board a notice of appeal.

(2) A notice of appeal shall be served—

(a) by sending it by **registered post** to the Board,

(b) **by leaving it at the office of the Board**, during normal office hours, with a person who is apparently an employee of the Board, or

(c) by such other means as may be prescribed.

(3) The Board shall not consider an appeal notice of which is received by it later than the expiration of the period referred to in subsection (1)

**41.—**(1) For an appeal under *section 40* to be valid, the notice of appeal shall—

(a) be in writing,

(b) state the name and address of the appellant,

(c) state the subject matter of the appeal,

(d) state the appellant's particular interest in the outcome of the appeal,

(e) state in full the grounds of the appeal and the reasons, considerations and arguments on which they are based, and

(f) **be accompanied by such fee**, if any, as may be payable in respect of such an appeal in accordance with regulations under *section 63*, and

shall be accompanied by such documents, particulars or other information relating to the appeal as the appellant considers necessary or appropriate.