

# Decision on Application to Amend a Marine Aquaculture Licence and Lease

## Application to the Administrator:

On December 20, 2022, the Nova Scotia Department of Fisheries and Aquaculture (the “Department”) received an application to amend Aquaculture Licence and Lease #1111 (AQ#1111), as described below:

## Application Summary:

<b>Type:</b> Marine Shellfish	<b>Size:</b> 6.20 HA
<b>Number:</b> AQ#1111	<b>Cultivation Method:</b> Bottom cultivation (without gear)
<b>Applicant:</b> Browns Emerald Oysters Ltd.	
<b>Location:</b> North Harbour, Victoria County	<b>Species:</b> American Oyster
<b>Proposed Amendment:</b> Change Site Boundaries (with no increase in size)	

## Site History:

The Licence and Lease for aquaculture site AQ#1111 were first issued on June 8, 1999 to Ronald Scott Brown, for a 10-year term for the bottom cultivation (without gear) of American oyster. The licence and lease have been consecutively renewed, with the most recent Licence issued on July 8, 2019 for a 10-year term (from June 7, 2019 to June 7, 2029) and the most recent Lease issued July 8, 2019 for a 20-year term (from June 7, 2019 to June 7, 2039). In June, 2014, the Licence and Lease were assigned to Ronald (Scott) Brown and Joyce Brown. In April, 2023, the Licence and Lease were amended to substitute the licence / lease holder names to the corporate name (under the same ownership), Browns Emerald Oysters Limited.

## Performance Reviews Conducted by Administrator:

A performance review was conducted on the aquacultural operation of site AQ#1111, pursuant to Sections 71-72 of the *Aquaculture Licence and Lease Regulations* (the “Regulations”). There were no concerns raised following the performance review.

## Consultations on Application to Administrator:

The application was sent for consultation to the following departments or agencies of the Government of Nova Scotia, pursuant to Clause 40(1)(a) of the Regulations: Environment & Climate Change, Agriculture, Communities Culture Tourism & Heritage (CCTH), Office of L'nu Affairs (OLA), Natural Resources & Renewables.

The application was sent for consultation to the following departments or agencies of the Government of Canada, pursuant to Clause 40(1)(b) of the Regulations: Fisheries & Oceans Canada (DFO), Canadian Food Inspection Agency (CFIA), Transport Canada (TC), Environment & Climate Change Canada (ECCC), Canadian Wildlife Services (CWS).

### **Public Submissions on Application to Administrator:**

Pursuant to Section 41 of the Regulations, notice of the application was published on the Department's website and in the Royal Gazette Part I inviting the public to submit written comments on the application to the Administrator within the 30 days following the date the notice was published. This notice was published on October 26, 2023.

Zero (0) submissions were received by the Department during the 30-day public comment period.

### **Factors to be Considered (as set out in Section 3 of the Regulations):**

#### *The optimum use of marine resources*

The amendment application for AQ#1111 was submitted to adjust the site boundaries, without increasing the size, to allow for the site to be located in optimum benthic conditions to allow for full site utilization. Review of the file indicates that the site has had production and employment in recent years. The information in support of the amendment application suggests continued production is planned for this site and continued employment. Department staff will continue to monitor that production plans are implemented as submitted and that the site is utilized for Aquaculture.

#### *The contribution of the proposed operation to community and Provincial economic development*

The proposed amendment did not involve any change to the operator's services and suppliers and did not involve any change to the operator's employment impact to the community.

#### *Fishery activities in the public waters surrounding the proposed aquacultural operation*

The amendment was assessed to consider any potential impact to fishery activities within and surrounding the new proposed boundaries of the site. There was no indication that this amendment would impact any specific fishery activities. Following consultation with the Government of Canada, the applicant has been advised to engage with fishing industry rights holders and stakeholders.

*The oceanographic and biophysical characteristics of the public waters surrounding the proposed aquacultural operation*

The applicant recognizes the changing environment and more extreme weather events since the site was first operated in 1999. The applicant is adapting to these changes through this amendment application to modify the site boundaries. The proposed boundary amendment will allow the applicant to farm oysters in a more suitable location. The site continues to be located in an open area, classified under the Canadian Shellfish Sanitation Program. The baseline video collected in support of the application provided evidence that the newly proposed boundaries would be a more suitable location than the current boundaries.

The presence of Eel grass (*Zostera marina*) within the newly proposed boundaries has been noted. Following consultation with the Government of Canada, the applicant has been advised of measure to take to mitigate any potential negative impact to Eel grass. These measures would be required to be documented in the applicant's Farm Management Plan and approved by the Department.

Both the current site boundaries and the newly proposed site boundaries are located in marine waters known to contain the *Haplosporidium nelson* parasite that causes the Multinucleate Sphere Unknown X (MSX) disease in American oyster. More information on MSX is available on the Government of Canada's website: <https://www.dfo-mpo.gc.ca/science/aah-saa/diseases-maladies/hapneloy-eng.html>

While there is no risk to human health, MSX negatively affects the life cycle of American oyster, resulting in low survival rates. As a result of being within the MSX positive area, the licence/lease holder is currently required to adhere to related permit requirements under the Canadian Food Inspection Agency for the movement of American oysters out of the area. Despite being within the MSX positive area, the impact on the applicant's ability to farm American oysters appears to be minimal.

*The other users of the public waters surrounding the proposed aquacultural operation*

The proposed amendment is not expected to have an unacceptable level of impact to wildlife or wildlife habitat, provided that appropriate precautions are taken to avoid disturbance of wildlife. The applicant has been provided with strategies to mitigate impact to sensitive species and other migratory birds. Recommendations were provided by several departments or agencies of the Government of Canada and the Government of Nova Scotia, to mitigate any potential impacts to other users including wildlife. These recommendations were shared with the operator.

*The public right of navigation*

Because there are no major or minor works to be installed by the operator, there are no requirements for approvals under the *Canadian Navigable Waters Act*. There are no anticipated impacts to the public right of navigation as a result of this amendment.

*The sustainability of wild salmon*

There is no indication that the proposed amendment will pose ecological concerns to, or have an impact on, the sustainability of wild salmon.

*The number and productivity of other aquaculture sites in the public waters surrounding the proposed aquacultural operation*

Aquaculture site AQ#1111 is located within Aspy Bay, surrounding the Southern shoreline of Donalds Island. The proposed amendment shifts the southern portion of the site to encompass the entirety of Donalds Island and extends Westward (refer to enclosed Schedule “A” for a map of the site and surrounding area). As of the date of this decision, there are four (4) issued aquaculture licenses and leases within Aspy Bay, all of which are authorized for shellfish cultivation. The nearest site, AQ#1062, is located approximately 200m Southwest of AQ#1111. In addition to the four (4) issued aquaculture sites, there are also two (2) aquaculture sites within Aspy Bay that are currently in the Registry of aquaculture sites eligible for reallocation (RE#9002, 9003). There is no evidence to suggest that the extent of the existing aquaculture in the Harbour has exceeded the carrying capacity.

**Decision:**

Based on the factors considered above, AQ#1111 shall be amended to modify the site boundaries in accordance with the applicant’s proposal, except for the **modifications** detailed below. Except as expressly amended, AQ#1111 shall remain unchanged in full force and effect, including any terms and conditions. Documents shall be prepared to effect the above-approved amendments respectively to the Licence and Lease, in accordance with the Department’s standard operating documents and shall be made publicly available subject to the provisions of the *Freedom of Information and Protection of Privacy Act*.

**Modifications:**

The site boundaries along the shoreline have been modified to ensure there was no overlap with the currently established property boundaries (PID Nos. 85060952, 85060960 and 85061083). This has resulted in a reduction of the overall size of the site from 6.20 hectares to 6.03 hectares (approximately 2.7%).



Robert Ceschiutti  
Aquaculture Administrator  
Nova Scotia Department of Fisheries and Aquaculture

January 19, 2024

Date