

INDEPENDENT MERIT ASSESSMENT

Municipality of the District of Argyle

Assessment of Potential Application of Section 12(1)(a) of the *Municipal Conflict of Interest Act*, S.N.S. 1998, c. 18

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1. OVERVIEW

a. Legal Issue – Interpretation of Section 12(1)(a)

This Independent Merit Assessment (“IMA”) addresses a predominantly legal question: whether there is a *prima facie* case warranting MoDA Council passing a resolution under section 12(1)(a) of the *Municipal Conflict of Interest Act*, S.N.S. 1998, c. 18 (“MCOI”), requesting the Attorney General to appoint a judge or other suitable person to conduct an inquiry.

I am not aware of any other s. 12(1)(a) inquiry involving a municipality conducted in Nova Scotia.¹ Nor have I located any report issued under s. 12(1)(a) or Nova Scotia jurisprudence interpreting it in depth. In the absence of Nova Scotia authority, I have drawn on jurisprudence from other Canadian jurisdictions, including the Supreme Court of Canada (“SCC”), to interpret the terms “malfeasance” “breach of trust” or “other misconduct” in s. 12(1)(a). That analysis is set out in Part 4.

Section 12(1)(a) provides:

12 (1) If the council or local board by resolution requests that inquiry be made into or concerning:

*(a) any matter mentioned in the resolution and relating to an **alleged malfeasance, breach of trust or other misconduct** on the part of a member, an officer or other official, an employee or agent of the municipality or local board, or any person having a contract therewith, in relation to the duties or obligations of such person to the municipality or local board;*

...

the Attorney General shall appoint a judge or some other suitable person to make the inquiry.

I made clear to the Complainants at the outset that this was a serious allegation with serious consequences, and I invited and encouraged them to provide submissions, with supporting jurisprudence, on their interpretation of s.12(1)(a). None was provided.

¹ The Nova Scotia Court of Appeal refers to s12(1)(a) in *O'Hara v. Nova Scotia (Education)*, 2008 NSCA 62 (CanLII), which involved a school board, but no analysis of this section is provided.

b. Complainants Have Legitimate Concerns

The Complainants are property owners with legitimate concerns about the location of aquaculture operations in their communities. They raise compelling public policy questions about the adequacy of public engagement, the transparency of the ADA process, and the responsiveness of their elected representatives. As this IMA explains, however, the key decisions the Complainants take issue with, including the designation of ADA sites, the evaluation criteria applied, and the issuance of aquaculture licences and leases, were made at the provincial level, not by MoDA. Their concerns, while legitimate, may therefore be more appropriately directed to the provincial authorities who hold that decision-making power.

That said, based upon the documentation provided to me by both the Complainants and the Respondents, I have concluded that the Allegations do not disclose a *prima facie* case of malfeasance, breach of trust, or other misconduct within the meaning of s. 12(1)(a).

Even where certain conduct fell short of the standard one would hope to see from elected officials and senior municipal staff, the threshold for a s. 12(1)(a) referral, which has criminal connotations and invokes the machinery of a public inquiry, is a high one. Imperfect process, poor communication, or regrettable tone does not, without more, meet it. Not all Allegations stand on equal footing: some raise more serious concerns about the conduct of municipal officials than others, but even the more compelling among them remain, in my assessment, well short of malfeasance, breach of trust, or other misconduct within the meaning of s. 12(1)(a), for the specific reasons set out in this Report.

c. IMA – Not A Public Policy Evaluation Exercise Nor a Mini-Inquiry

This IMA is not a public policy evaluation exercise, nor was it intended to be a mini-inquiry.

Although some limited policy commentary appears, I have attempted to keep it to a minimum. This Report provides a legal analysis, based on the documentation and written submissions of both the Complainants and the Respondents, applying the facts as presented to the interpretation of a provision carrying serious consequences.

The information provided to me was not subject to cross-examination, sworn testimony, or the evidentiary rigour that would attend a s. 12(1)(a) inquiry. This IMA should be understood accordingly: a legal analysis based on the materials provided, not a judicial or quasi-judicial inquiry.

d. Section 12(1)(a) Inquiry and Remedial Limits

It is important to understand what a s. 12(1)(a) inquiry would entail for those involved. It is an extraordinary measure, but for the reasons outlined in section immediately below, would have limited remedial effect: the appointed person would hold the powers of a commissioner under the *Public Inquiries Act*, including the power to summon witnesses, compel production of documents, and enforce attendance.

Any person whose conduct is called into question may be represented by counsel (s. 12(6)), and in practice both MoDA and the individuals concerned would be expected to retain independent legal representation. Under s. 12(4), the Attorney General fixes and pays the appointed person's fees, but the legal costs to MoDA and the individuals involved would be borne by them and could be substantial. For these reasons, a s. 12(1)(a) referral should be supported by evidence that meets the statutory threshold.

e. IMA Issued As A Result of Inquiry Does Not Undo Provincial Decisions

Separately, it is important to recognise what a s. 12(1)(a) inquiry could **not** accomplish, even if recommended. Neither the MCOI nor the *Public Inquiries Act* confers authority to set aside decisions, make binding orders, or direct any party to take corrective action.

The inquiry culminates in a report (see s. 12(2)), not in an order. The Report cannot undo, vary, or revisit the provincial decisions made under the *Fisheries and Coastal Resources Act*, SNS 1996, c. 25 (the "FCRA"), including the ADA site designations, the call for proposals, or the Aquaculture Administrator's Decision to grant Deon's a licence and lease for site 8012.

Those decisions were made by the Province, not by MoDA, and are reviewable only through the appeal mechanisms² provided by the FCRA. There is no question that MoDA supported aquaculture development, but that support is consistent with the policy choice reflected in the Memorandum of Understanding between MoDA and the Province ("MOU").

² There may also be a judicial review avenue in the absence of appeal, but I make no finding on the potentially complex legal issue as to whether judicial review is available.

f. IMA Should Be Read in A Nuanced and Complete Manner

This Report addresses each Allegation on the basis of the documentation provided by both sides. Individual sentences or paragraphs, read in isolation, may not accurately convey the analysis; I would ask that this Report be read in its entirety and in a nuanced manner. The Complainants' concerns about the conduct of MoDA officials deserve to be taken seriously. Equally, the Respondents are entitled to have the Allegations assessed against the applicable legal standard, not against the Complainants' dissatisfaction with policy outcomes.

I consider both sides to be proceeding in good faith, notwithstanding at times excessive rhetoric used by both sides, and to be engaged in a genuine and deep-seated disagreement over public policy.

I hope neither side treats this IMA as a basis to attack the other.

2. Brief Description of Process and Mandate

The 15 Allegations addressed in this IMA originate from a chart of 16 allegations prepared by Chris Thibedeau, a representative of the Argyle Residents Association (the “ARA,” referred to throughout this assessment as the “Complainants”), and provided to MoDA in connection with a request under s. 12(1)(a) of the MCOI. For each allegation, the chart set out a description of the alleged conflict of interest, a category of alleged conflict, the individuals said to be Respondents, and supporting evidentiary references (documentation released by MoDA in response to *Freedom of Information and Protection of Privacy Act* (“FOIPOP”) requests).

a. Scope and Limits of the Mandate

My mandate, as communicated to the Complainants and Respondents in my letter of October 10, 2025, is limited in the following material respects:

First, I have considered 15 of the 16 Allegations in Mr. Thibedeau's chart. Allegation #9, concerning conduct between Charlene LeBlanc and Colton Deon, is not assessed in this report, as neither LeBlanc nor Deon is a **current** member, officer, official, employee, or agent of MoDA, or a person having a contract with MoDA, so section 12(1)(a) does not apply to them.

Second, section 12(1)(a) applies only to **current** MoDA members, officers, officials, employees, or agents, or persons having a contract with MoDA, in relation to their duties or obligations to MoDA.

As I explained to the Complainants, s. 12(1)(a) does not use the word “former,” is written in the present tense, and is not among the provisions (sections 9 and 10) where the MCOI's definition of “member” is expressly extended to former members. I have therefore concluded that section 12(1)(a) does **not** apply to **former** members, officers, officials, employees, or agents of MoDA.

Accordingly, this IMA only addresses the Allegations against the following Respondents, who fall within s.12(1)(a), namely, Alain Muise (CAO), Alix d'Entremont (GIS Technician), and Nicole Albright (Warden).

Third, allegations that specific conduct contravenes section 47 of the federal *Competition Act* (bid-rigging) are not covered by the MCOI and cannot be assessed as part of this process.

Section 67(3) of the *Competition Act* provides that no court other than a superior court of criminal jurisdiction has the power to try an offence under sections 45, 46, 47, 48, or 49 of that Act.

Fourth, except with respect to Allegation #16, my mandate does not extend to allegations that could properly be addressed under section 9 of the MCOI, which provides a separate mechanism by which the Attorney General or an elector may apply to the Supreme Court for a determination of whether a member has contravened MCOI.

Fifth, my mandate was never intended to be a mini-inquiry with the evidentiary rigour of a s. 12(1)(a) inquiry itself.

Rather, the purpose is to give both the Complainants and the Respondents a structured opportunity to present their respective positions in summary fashion, and for me, based on the documentation and written submissions of both sides, to provide a legal analysis of whether there is a prima facie case for Council to pass a resolution under s.12(1)(a).

To the Complainants' credit (and particularly Mr. Thibedeau's credit), he submitted detailed briefing notes, PowerPoint presentations (which referred to supporting correspondence) for each of the 16 Allegations.

The Respondents who had access to the Complainants' materials were asked specific questions arising from those materials and provided written responses.

This IMA is based upon those materials.

3. Fisheries and Coastal Resources Act SNS 1996, c. 25 ("FCRA")

The legislative context is essential to a proper assessment of the Allegations, many of which appear to assume that MoDA held decision-making authority over ADA site designation and licensing, authority that, under the FCRA, rests exclusively with the Province³.

I appreciate that the distinction between municipal and provincial authority may appear, from the Complainants' perspective, to be one level of government deflecting responsibility to another. It is not. Municipalities are creatures of provincial legislation, and the Province has vested decision-making power over aquaculture in the Minister and the Aquaculture Administrator under the FCRA, not in MoDA. MoDA cannot be held responsible under the MCOI for exercising powers it does not hold.

a. FCRA's Purpose

Section 2 of the FCRA sets out the Act's purposes, which include the promotion and sustainable growth of the aquaculture industry:

*(b) encourage, promote and implement programs that will sustain and improve the fishery, **including aquaculture**;*

(c) service, develop and optimize the harvesting and processing segments of the fishing and aquaculture industries for the betterment of coastal communities and the Province as a whole;

*(ca) recognize that the fish harvesting, fish processing and **aquaculture industries are integral to the food system**;*

(d) support the sustainable growth of the aquaculture industry;

...

In *Brighton v. Nova Scotia (Minister of Agriculture & Fisheries)*⁴, a 2002 decision, Associate Chief Justice MacDonald (as he then was) considered an appeal under s. 119 by concerned citizens of the Minister's decision to grant Aquafish a licence and lease to operate a fin fish net cage aquaculture farm in Northwest Cove, Lunenburg County. In his

³ Please see Appendix "A" for a summary.

⁴ *Brighton v. Nova Scotia (Minister of Agriculture & Fisheries)* 2002 CarswellNS 271

decision, he characterised the FCRA as a statute whose purpose is to promote the aquaculture industry.⁵ He refused to interfere with the Minister's discretionary decision.

b. Section 56 – Minister Designates ADA

Section 56 vests the power to designate an Aquaculture Development Area ("ADA") in the Minister, with the approval of the Governor in Council; not in the municipality:

56 (1) The Minister may, with the approval of the Governor in Council,

(a) designate as an aquaculture development area sub-aquatic lands under marine or brackish waters and their water columns;

(b) impose conditions and restrictions on the conduct of aquaculture and other activities in an aquaculture development area;

...

(f) determine when aquaculture development areas may be designated.

Before making a designation, however, s.56(2) mandates that the Minister "shall" consult with relevant governmental bodies and any other persons the Minister considers necessary or advisable:

(2) Before designating an aquaculture development area or imposing conditions or restrictions to be applicable thereto, the Minister shall consult with

(a) other departments or agencies of the Government or the Government of Canada, as may be required by the laws of the Province or of Canada; and

(b) any person, group of persons or organization that the Minister considers necessary or advisable in the circumstances.

Section 56(2)(b) confers on the Minister broad discretion over the scope and extent of consultation that is "necessary or advisable in the circumstances." While the MOU required MoDA to "lead the engagement with those stakeholders and report to the Minister on the results of those

⁵ Ibid, para. 32 – "These purposes suggest inter alia an intention to promote the aquaculture industry while balancing other interests such as tourism and the environment. **As stated in Pushpanathan, where the purpose seems to be more political than legal, then the appropriateness of court supervision diminishes. This therefore suggests a high level of deference in the case at bar.**"

engagements," the statutory discretion over whom to consult and in what form remains with the Minister under s.56(2)(b).

c. Memorandum of Understanding Between Province and MoDA

On February 6, 2020, the Minister and MoDA entered into the MOU:

WHEREAS the Minister, by authority of the Fisheries and Coastal Resources Act (the "Act"), is responsible for the general supervision and management of the aquaculture industry in Nova Scotia;

AND WHEREAS the Municipality has expressed interest in promoting the development of the aquaculture industry in and around the waters adjacent to the Municipality, such as by supporting the establishment of an Aquaculture Development Area ("ADA") in accordance with the Act;

*AND WHEREAS the parties recognize the mutual benefit of **planned aquaculture development**.*

NOW THEREFORE in consideration of the covenants and agreements contained in this Memorandum of Understanding ("MOU"), the parties agree as follows:

- 1. The Minister and the Municipality agree to collaboratively **explore opportunities** for aquaculture development in the waters in and around the Municipality including working to establish an ADA.*
- 2. The Minister and Municipality agree to work collaboratively on the collection of social, economic and ecological information **that would support the establishment of an ADA**.*
- 3. The Minister and Municipality shall respect each other's authority and powers.*
- 4. While the Minister and Municipality agree to work collaboratively to create the conditions for meaningful engagement about aquaculture development with stakeholders from the communities that comprise the Municipality, the Municipality agrees to lead the engagement with those stakeholders and report to the Minister on the results of those engagements.*
- 5. This MOU shall expire three years after the date of signing unless renewed in writing by the parties.*

The following are significant components of the MOU:

First, both its recitals and its operative clauses are oriented toward the promotion and development of the aquaculture industry. The MOU is, in substance, a pro-aquaculture development instrument. Accordingly, MoDA's engagement with the aquaculture industry throughout the ADA process must be assessed in this context.

Second, clause 3, which provides that the Minister and Municipality "shall respect each other's authority and powers" is a mutual acknowledgement of each level of government's distinct jurisdiction. The Minister's authority and powers are those conferred by the FCRA, including the exclusive power to designate ADAs under s.56 and to appoint the Aquaculture Administrator under s.54A (see below). MoDA's authority and powers are those of a municipal government under the *Municipal Government Act*, S. N.S. 2017, c. 23 (the "MGA").

Third, while the MOU assigns MoDA the role of leading stakeholder engagement (see clause 4), it does **not**:

- prescribe the manner, form, frequency, or minimum threshold of that engagement;
- specify which stakeholders must be consulted,
- how many consultations must be held,
- what notice must be given, or
- what standard of public participation must be achieved.

Nor does the MOU require MoDA to obtain public consent before an ADA designation proceeds. The MOU does require MoDA to lead "meaningful engagement" and to report the results to the Minister (clause 4), but it does not prescribe what weight, if any, the Minister must give to those results in exercising the designation power under s. 56.

d. ADA Designation

On January 16, 2024, the Minister of Fisheries and Aquaculture issued the *Municipality of the District of Argyle Aquaculture Development Area Designation*, NS Reg 82/2024 ("Designation")⁶ which became effective April 12, 2024:

I, Kent Smith, Minister of Fisheries and Aquaculture for the Province of Nova Scotia, pursuant to Section 56 of Chapter 25 of the Acts of 1996, the Fisheries and Coastal Resources Act (the 'Act'), hereby designate 53 areas of subaquatic land under marine waters and their water columns, described in Appendix A and

⁶ The designation was approved by the Governor in Council as O.I.C. 2024-147, effective April 12, 2024, and published in the Royal Gazette Part II, May 3, 2024. NS Reg 82/2024.

identified in green as Individual ADA Marine Areas with corresponding respective ID numbers 8001 to 8053 on the map attached as Appendix B, as an aquaculture development area for shellfish aquaculture and marine plant aquaculture to be known as the Municipality of the District of Argyle Aquaculture Development Area.

This designation is effective on and after the later of the date it is approved by the Governor in Council and the date a copy of the plan and description is registered in the registry of deeds.

Dated and made January 16th, 2024, at Halifax, Province of Nova Scotia.

e. Section 57- Province's Authority to Issue Aquaculture Licenses and Leases

Section 57 of the FCRA vests the authority to issue aquaculture licences and leases in the Aquaculture Administrator, not in the municipality:

57 (1) Where the Minister has designated an area as an aquaculture development area, a person may apply to the Administrator for an aquaculture licence or an aquaculture lease and the Administrator may issue an aquaculture licence or aquaculture lease in the aquaculture development area on such terms and conditions as the Administrator considers necessary or advisable.

The Administrator is appointed by the Minister under s.54A:

54A (1) The Minister shall appoint an employee of the Department to act as Administrator and make decisions with respect to

(a) applications for aquaculture licences or aquaculture leases in designated aquaculture development areas;

...

(2) In making a decision under subsection (1), the Administrator shall follow the prescribed process.

MoDA has no statutory authority over the designation of an ADA, the issuance of aquaculture licences or leases, or the appointment of the Administrator who makes those decisions. Each function is vested exclusively in the Minister or the Administrator under the FCRA.

f. Issuance of License and Lease

i. 7 Factors – Regulations

Section 17(1) of the *Aquaculture Licence and Lease Regulations* (the "Regulations") prescribes the factors the Aquaculture Administrator must consider in making decisions on marine

aquaculture sites. These comprise the overarching consideration of the optimum use of marine resources and seven enumerated sub-factors (a) through (g) (collectively, the "**7 Factors**")⁷:

*In making decisions related to marine aquaculture sites, the Review Board or Administrator must take into consideration the optimum use of marine resources, as determined **by taking into consideration the following factors only**:*

(a) The contribution of the proposed operation to community and Provincial economic development;

(b) Fishery activities in the public waters surrounding the proposed aquacultural operation;

(c) The oceanographic and biophysical characteristics of the public waters surrounding the proposed aquacultural operation;

(d) The other users of the public waters surrounding the proposed aquacultural operation;

(e) The public right of navigation;

(f) For marine finfish applications, the sustainability of wild salmon;

(g) The number and productivity of other aquaculture sites in the public waters surrounding the proposed aquacultural operation.

The use of the word "only" is significant in that it limits the consideration to the 7 Factors.

ii. January 9, 2026 Decision

On January 9, 2026, the Aquaculture Administrator, Robert Ceschiutti, issued his decision granting Deon's Oyster Company ("Deon's") a licence and lease for ADA site 8012/AQ#1475, which considered objections lodged by some of the Complainants (the "**Aquaculture Administrator Decision**")⁸. The Administrator reasoned as follows with respect to each of the prescribed factors:

The optimum use of marine resources

The applicant's proposed development suggests an optimum use of marine resources, taking into account the amount of product proposed to be cultivated

⁷ If the opening sentence of s.17(1) is considered, it contemplates 8 Factors, but upon reflection I have considered it is more accurate to characterize it as establishing 7 Factors.

⁸ https://novascotia.ca/fish/aquaculture/public-information/public-notice/REF-533_Decision.pdf

and the size of the proposed site. Department staff will monitor that the proposed production plan is implemented and that the site is utilized for Aquaculture.

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

The species and method of cultivation for this site are suitable for this area and are expected to be a positive contribution to the local and provincial economy. The applicant uses equipment sourced locally where possible and has committed to use local suppliers where possible. The Department has noted that the applicant did not intend to increase the number of employees, should the application be approved, and this has been taken into account prior to issuing this decision. There were no conclusive adverse economic impacts associated with this application.

...

Fishery activities in the public waters surrounding the proposed aquacultural operation

This application was assessed to consider any potential impact to fishery activities within and surrounding the proposed site boundaries. There was no indication that this application would have any meaningful impact on any specific fishery activities, comparing the size of the proposed site with the size of the surrounding waterbody.

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

*The applicant's development plan has taken into account the oceanographic and biophysical characteristics of the public waters surrounding the proposed operation. These culture methods are common and successful within this region, which suggests suitable oceanographic environment for culture of shellfish such as Oysters. Assessment of the information available in the Site Report for ADA site no. 8012 previously determined that there was no indication of Eel grass (*Zostera marina*) meadows within the site, and it was rare to see freefloating strands of Eel grass.*

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

The proposed operation is not expected to have an unacceptable level of impact to wildlife or wildlife habitat, provided that waste material is disposed of properly.

The public right of navigation

Concerns were raised by the public regarding the ability to navigate commercial and recreational vessels safely around the proposed aquaculture site. Should an aquaculture licence and lease be granted, the operator will be required to obtain approval by Transport Canada under the Canadian Navigable Waters Act for the placement of works (i.e. aquaculture gear and navigation buoys).

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

There is no evidence to suggest that the proposed operation would negatively impact the productivity of other aquaculture sites.

Decision:

Based on the factors considered above, the application for a new aquaculture licence and lease within designated Aquaculture Development Area (ADA) No. 8012 is hereby approved. The associated aquaculture site is henceforth known as AQ#1475.

The Aquaculture Administrator Decision is significant for the following reasons.

First, it confirms that the decision to grant Deon's a licence and lease was made by a provincial official, the Aquaculture Administrator, by reference to the prescribed statutory factors, and not by MoDA, its CAO, or its Council.

Second, the Aquaculture Administrator explicitly addressed concerns raised by the public regarding real property values and views of surrounding waters, and concluded that such concerns fell outside the scope of the factors he was required to consider under Subsection 17(1) of the Regulations:

Concerns were raised by the public regarding the potential impact of the proposed aquaculture site on real property values within the surrounding area. Concerns were also raised by the public regarding the potential impact of the proposed aquaculture site on their view of the surrounding waters. In addition to involving subjective aspects and being speculative in nature, such concerns, it is noted, do not come within the scope of criteria that the Administrator must take into account with respect to this application, further to Subsection 17(1) of the Regulations. Having said this, of note in this context is Section 76 of the Regulations, which states that "A licensee must conduct their aquacultural operation so as not to deprive any owner of real property adjacent to a body of fresh, brackish or marine water from reasonable access to and from the water." (Section 76 of the Regulations is also relevant below, in the context of the public right to navigation.) In addition, it is noted that all aquaculture operators are required to have plans in place to mitigate any noise that may occur on site and have strategies for waste management and maintaining the site in good order as part of their Farm Management Plan.

The Regulations were passed by the Province, not MoDA.

Third, the decision record does not reference any of the categories of information the Complainants allege were improperly shared with Deon's: MoDA's water testing data, the preliminary ADA polygon maps, program timeline information, or the CHS Chart.

g. No Appeal and FCRA's Purpose

The FCRA provides the following appeal processes for the Province's decisions that the Complainants have impugned and appear to assign to MoDA:

i. Section 118

Section 118 provides for an appeal to the Minister by a person who is aggrieved by a decision or order of an NSDFA employee, which presumably would include the Aquaculture Administrator:

118 (1) A person who is aggrieved by a decision or order of an employee of the Department may, within thirty days of the date of the decision or order, appeal to the Minister by notice in writing, stating concisely the reasons for the appeal.

(2) A notice of appeal may be in a form prescribed by the Minister and shall be accompanied by the fee, if any, prescribed by the Minister.

(2A) Where more than one appeal of a decision or order is made pursuant to subsection (1), the Minister may, in the Minister's discretion, consolidate some or all of the appeals and render a single decision with respect to the consolidated appeals.

(3) The Minister shall notify the appellant, in writing, of the decision within sixty days of receipt of the notice of appeal.

(4) The Minister may dismiss the appeal, allow the appeal or make any decision or order the employee could have made.

(5) The employee and the appellant shall take such action as is necessary to implement the decision of the Minister disposing of the appeal.

(6) The initiation of an appeal made pursuant to this Section does not suspend the operation of any decision or order appealed from pending the disposition of the appeal.

ii. Section 119

Section 119 provides for an appeal by any person who is aggrieved by a decision of the Minister. In *Brighton*, this provision was used to appeal the Minister's decision to grant a licence and lease. Whether s. 119 would also extend to an ADA designation made pursuant to s. 56 raises an interpretive question, discussed below.

119 (1) A person aggrieved⁹ by a decision of the Minister may, within thirty days of the decision, appeal on a question of law or on a question of fact, or on a question of law and fact, to a judge of the Supreme Court of Nova Scotia and the decision of that court is final and binding on the Minister and the appellant, and the Minister and the appellant shall take such action as may be necessary to implement the decision.

(1A) The initiation of an appeal made pursuant to this Section does not suspend the operation of any decision or order appealed from pending the disposition of the appeal.

(2) The decision of the court pursuant to subsection (1) is final and there is no further appeal to the Nova Scotia Court of Appeal.

Section 119(1) provides for an appeal on a question of law, fact, or mixed law and fact. For the Aquaculture Administrator's decision to grant Deon's a licence and lease, s. 118 appears to provide a right of appeal to the Minister, and s. 119 a further right of appeal to the Supreme Court of Nova Scotia. While I express no view on whether such an appeal would have succeeded (which would depend, among other things, on the applicable standard of review), the statutory language appears broad enough to have given the Complainants a statutory appeal process for the licensing decision.

Whether s. 119 could also be used to appeal the ADA designation itself is more complex. Section 56(1) requires the Minister to obtain the Governor in Council's approval before designating an ADA. This dual decision-making structure raises the question of whether an ADA designation is truly "a decision of the Minister" within the meaning of s. 119, or is more properly characterised as a decision of the Governor in Council made on the Minister's recommendation. If the latter applies, s. 119 may not provide a direct avenue of appeal, though judicial review of an ADA designation may be available if the s.119 appeal process is not.

⁹ I have not performed an in depth analysis of the jurisprudence, but it appears that a court would be concerned with whether an individual "has an economic, commercial, legal, or personal interest in a decision that is sufficiently delineated from the concerns of the general public so as to make them a "person aggrieved"." see *Specter v. Nova Scotia (Minister of Fisheries & Aquaculture)* 2011 CarswellNS 598 at para. 62.

4. Section 12(1)(a) of MCOI

The Complainants are requesting that MoDA Council pass a resolution pursuant to s.12(1)(a) of the MCOI. Accordingly, the language of ss.12(1)(a) is particularly important:

12 (1) If the council or local board by resolution requests that inquiry be made into or concerning

*(a) any matter mentioned in the resolution and relating to **an alleged malfeasance, breach of trust or other misconduct** on the part of a member, an officer or other official, an employee or agent of the municipality or local board, or any person having a contract therewith, **in relation to the duties or obligations of such person to the municipality or local board**;*

...

the Attorney General shall appoint a judge or some other suitable person to make the inquiry.

Subsection 12(1)(a) must be interpreted in the context of the entire section, which makes clear that an inquiry under this provision is a significant and serious undertaking:

...

(2) The person so appointed shall, with all convenient promptitude, enter upon the inquiry and upon the conclusion thereof, shall report to the Attorney General and to the council or local board the result of the inquiry and the evidence taken thereon.

(3) The person appointed shall have, for the purpose of inquiry, all the powers of a commissioner under the Public Inquiries Act.

(4) Such person is entitled to receive and shall be paid such fees as may be fixed and paid by the Attorney General.

(5) The council or board may engage and pay counsel to represent the municipality or local board and may pay all proper witness fees to persons summoned to give evidence at the instance of the municipality or local board.

*(6) **Any person charged with malfeasance, breach of trust or other misconduct, or whose conduct is called in question, may be represented by counsel.***

a. Meaning of Malfeasance, Breach of Trust or Other Misconduct

Section 12(1)(a) does not define "malfeasance, breach of trust or other misconduct," and I can find no Nova Scotia example of s.12(1)(a) being applied in an inquiry. Legal authorities and decisions from other jurisdictions, however, confirm that these terms describe serious conduct and, although not criminal, carry criminal connotations:

- Malfeasance means "evil doing; ill conduct. The commission of some act which is positively unlawful; the doing of an act which **is wholly wrongful and unlawful**; the doing of an act which person ought not to do at all or the unjust performance of some act which the party had no right or which he had contracted not to do," and as "**a comprehensive term including any wrongful conduct that effects, interrupts or interferes with the performance of official duties.**"¹⁰
- Breach of trust is similarly very serious. In the context of s. 122 of the *Criminal Code*, the SCC has held that the following must be established:

I conclude that the offence of breach of trust by a public officer will be established where the Crown proves beyond a reasonable doubt the following elements:

- 1. The accused is an official;*
- 2. The accused was acting in connection with the duties of his or her office;*
- 3. The accused breached the standard of responsibility and conduct demanded of him or her by the nature of the office;*
- 4. The conduct of the accused represented a serious and marked departure from the standards expected of an individual in the accused's position of public trust; and*
- 5. The accused acted with the intention to use his or her public office for a purpose other than the public good, for example, for a dishonest, partial, corrupt, or oppressive purpose.*¹¹

I recognize that s.12(1)(a) is not a criminal statute, but the SCC's analysis of s.122 is instructive as to the seriousness attached to a breach of trust allegation:

55 In the early common law cases, the mental element of misfeasance in public office was imprecise and varied from case to

¹⁰ Black's Law Dictionary

¹¹ *R. v. Boulanger*, 2006 SCC 32 (CanLII) at para 58.

case. However, common law judges consistently insisted on the presence of some variant of nefarious or dishonest intent. This was described using different terms: dishonesty, corruption, partiality and oppression. All reflected a central concern: that public officials, entrusted with duties for the benefit of the public, carry out those duties honestly and for the benefit of the public, and that they not abuse their offices for corrupt or improper purposes.

56 Consistent with fundamental criminal law principles, the bar for mental culpability for the offence of public misfeasance was an elevated one. Mistakes did not suffice. Nor did errors of judgment. ...¹²

In *Boulanger*, the accused, director of public security for the municipality of Varennes, Quebec, asked the police officer investigating his daughter's traffic accident to prepare a supplementary report. That report concluded his daughter was not at fault, saving the accused a \$250 insurance deductible. The SCC concluded this did not constitute breach of trust.

Because section 12's reference to "breach of trust" arises outside the Criminal Code and concerns individuals in an employment-type relationship with the municipality (such as an officer or employee), the comment in *Rajput v. Menu Food Ltd.*¹³, an employment law case, is also instructive: a "breach of trust" is one "so destructive of the essential trust that [the] employer/employee relationship required" that it justifies termination without notice.

- Other misconduct. The phrase "other misconduct" must fall within a category of seriousness similar to "breach of trust." Black's Law Dictionary defines "misconduct" as "a transgression of some established and definite rule of action, a forbidden act, a dereliction from duty, unlawful behavior, willful in character, improper or wrong behavior," with synonyms including "misdemeanor, misdeed, misbehavior, delinquency, impropriety, mismanagement, offense," but expressly excluding "negligence or carelessness." Although arising under Quebec's *Act Respecting Municipal Fraud and Corruption*, R.S.Q. c. F-6, rather than under the MCOI, the Quebec Court of Appeal's interpretation of the phrase "malfeasance, breach of trust or other misconduct" is instructive because the statutory language shares similarities with the language used in s. 12(1)(a) of the MCOI. The Court interpreted "other misconduct" as requiring conduct "understood as another fraudulent and corrupt initiative or action in municipal affairs ... tainted with well-

¹² Ibid, paras. 55 and 56.

¹³ 1984 CarswellOnt 759 at para. 23.

characterised venality ... initiated knowingly, deliberately, with the intention, the desire, the mens rea to manifestly contravene the expressed intention of the Legislature." Justice Turgeon concluded that the purpose of the provision was to suppress municipal corruption, not poor administration or administrative irregularity, reasoning that "other misconduct" must be read as akin to malfeasance and breach of trust, drawing this conclusion from both the text of the provision itself and the overall context of the statute.¹⁴

Other authorities establish that:

- The terms malfeasance, breach of trust, and other misconduct refer to serious wrongdoing by municipal officials that goes beyond mere administrative errors or poor judgment, and require elements of dishonesty, venality, or corruption. **The purpose of provisions of this kind is to suppress municipal corruption, not to punish bad administration or administrative irregularities.**¹⁵
- The conduct in question must be tainted by well-characterized venality and must have been initiated knowingly and deliberately, **with the intention and desire to manifestly contravene the expressed intention of the Legislature**¹⁶

Ordinary errors of judgment, imperfect communication, or a process that could have been conducted more effectively do not, without more, meet the threshold of malfeasance, breach of trust, or other misconduct.

Two features of s.12 reinforce the seriousness of the threshold:

First, s.12(6) provides that "[a]ny person **charged** with malfeasance, breach of trust or other misconduct, or whose conduct is called in question, may be represented by counsel." The Legislature's use of "charged," a term ordinarily associated with criminal proceedings, signals that s.12(1)(a) is intended to address very serious misconduct.

Second, unlike the balance of the MCOI, which is predominantly concerned with pecuniary interests, s.12(1)(a) makes no reference to pecuniary interest at all. This distinction reinforces

¹⁴ *Labrosse c. Montréal-Est (Ville)*, 1986 CarswellQue 492 at para. 35, citing *Dizzazo c. Cité de St-Léonard*, 1978 C.A. 128 (Justice Turgeon at p. 131). The decisions are in French and the english translations are unofficial.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

that s.12(1)(a) is directed at a different and more serious category of wrongdoing, not a conflict of interest in the conventional sense, but malfeasance, breach of trust, or other misconduct.

b. Incongruity Between Remedy Sought and Substance of Allegations

There is an incongruity between the remedy the Complainants seek and the substance of what they assert. The Complainants ask that Council pass a resolution under s.12(1)(a) requesting the Attorney General to appoint a judge or other suitable person to inquire into alleged malfeasance, breach of trust, or other misconduct. Yet the framing of the Allegations suggests that the Complainants' principal concern may not be malfeasance, breach of trust, or other misconduct as those terms are understood in law, but rather whether conflicts of interest (perceived or real) existed. In each of their submissions underpinning each Allegation, the Complainants state:

*MoDA Investigator should review evidence and **confirm whether the conflict is perceived or real**. Then refer for a review/ investigation along with all 16 Conflict of Interest allegations to the NS Attorney General's Office who will determine what code, act, or regulation has been contravened.*

...

If evidence confirms no conflict exists, then no compliance action is required. If evidence confirms a real conflict exists, possible outcomes could include reprimand, written warning, voluntary or mandatory ethics training, sanction, suspension, demotion, dismissal, referral to the Competition Bureau, NS Attorney General, or the RCMP may be warranted.

The language of "perceived or real" conflict, and the request to determine "what code, act, or regulation has been contravened," is instructive. It suggests the Complainants' underlying concern is whether Messrs. d'Entremont and Muise (and Warden Albright) were in a position of conflict and, if so, what regulatory consequence should follow. That is a legitimate concern, but the Legislature drew a distinction in the MCOI between conflict of interest and the more serious conduct addressed by s. 12(1)(a). The conflict of interest provisions of the MCOI (sections 3, 4, 6, and 9) apply only to members of council, not to officers or employees such as d'Entremont and Muise. Subsection 12(1)(a), by contrast, extends to members, officers, employees, and agents, but addresses a different and more serious category of conduct, malfeasance, breach of trust, or other misconduct, carrying connotations of dishonesty, venality, or corruption, as set out above. I do not foreclose the possibility that a conflict of interest could, in certain circumstances, be so egregious as to constitute malfeasance, breach of trust, or other misconduct. But the Complainants' framing of their concerns in terms of "perceived or real" conflict of interest does

not, without more, engage the statutory language of s. 12(1)(a), and on the information before me, the conduct alleged does not cross that high threshold.

c. Council Must Be Satisfied

The practical significance of this section is as follows: before Council may pass a resolution under s. 12(1)(a), it must be satisfied there is a basis for the request. This IMA is intended to assist Council in making that determination. According to the Ontario jurisprudence, s.12(1)(a) likely demands that some alleged wrongdoing is known to Council before it may pass the resolution. As the Ontario Divisional Court held in *Mississauga Hydro-Electric Commission v. Mississauga (City)*¹⁷:

The wording of the section implies that at least some supposed wrongdoing is known to council. This would justify council's invocation of s. [12]. The supposed wrongdoing (by which term I include the references to malfeasance, breach of trust or other misconduct) is "the matter" referred to in the opening part of s. [12(1)]. Without the existence of such a matter, council is not justified in invoking the section; there is no foundation for it.

From another point of view it would be unfair to persons whose names and reputations might be drawn into an investigation into supposed wrongdoing not to have the subject-matter or matters of the inquiry at least reasonably specified in the resolution authorizing it.

Two requirements follow from this.

First, Council must have some basis for being satisfied that conduct amounting to malfeasance, breach of trust, or other misconduct has occurred before it may pass a resolution under s.12(1)(a). The threshold is not merely that a complaint has been made; Council must be satisfied that the alleged conduct, if established, would be capable of constituting malfeasance, breach of trust, or other misconduct as those terms are understood in law. As set out above, these terms carry serious connotations that go beyond mere administrative errors, poor judgment, or conflicts of interest.

Second, the resolution itself must reasonably specify the alleged wrongdoing. It must identify the particular conduct said to constitute malfeasance, breach of trust, or other misconduct, and the particular individual or individuals against whom the allegation is directed. A resolution that is

¹⁷ *Hydro Electric Commission of Mississauga v. City of Mississauga et al. Re Murray and City of Mississauga et al.*, 1975 CanLII 528 (ON HCJ)

vague, open-ended, or amounts to a roving commission to investigate general dissatisfaction with municipal administration would not, on the authority of *Mississauga*, satisfy the requirements of s.12(1)(a).

d. Limited Remedial Authority

Even if this IMA were to recommend an inquiry under s.12(1)(a), and even if a judge conducting it were to find that a current MoDA member, officer, or employee engaged in malfeasance, breach of trust, or other misconduct, the practical consequence for the provincial regulatory decisions at issue would be limited.

The decisions that the Complainants have impugned, namely, the designation of ADA sites, the conduct of the call for proposals, the evaluation of applications, and the granting of aquaculture licences and leases, were made by the Minister, the Governor in Council, and the Aquaculture Administrator under sections 54A, 56, and 57 of the FCRA.

A s.12(1)(a) inquiry does not allow for the setting aside, varying, or revisiting of a provincial decision made under the FCRA. Under s. 12(3), the appointed person has "all the powers of a commissioner under the *Public Inquiries Act*." Those powers are investigative, namely the power to summon witnesses, compel production of documents, and enforce attendance, but they are not remedial. The *Public Inquiries Act* confers no authority to set aside decisions, make binding orders, or direct any party to take corrective action. The inquiry culminates in a report to the Attorney General and to Council (s.12(2)), not in an order.

There is a further dimension to this. Section 12(1)(a) is confined to alleged misconduct "in relation to the duties or obligations of such person to the municipality or local board," anchoring the inquiry to the individual's municipal role. To a large extent, the Allegations are, in substance, complaints about decisions that were ultimately the Province's to make: the Minister's designation of ADA sites under s.56, the Aquaculture Administrator's assessment of applications under s.54A, or the conduct of the provincially administered call for proposals. Those decisions were not made in the discharge of any duty or obligation to MoDA and may fall outside the reach of s.12(1)(a) altogether.

I recognise that some Allegations do concern conduct squarely within the Respondents' municipal roles, such as MoDA's management of stakeholder engagement under the MOU. But a finding of

municipal misconduct, even if established, would not undo the ADA designation, revoke a licence or lease, or require the Province to reopen the call for proposals.

5. The Argyle Aquaculture Development Area (ADA) – Pilot Project Overview (“Overview”)

In July 2024, the Province issued the Overview, confirming the regulatory framework set out above. The Nova Scotia Department of Fisheries and Aquaculture (“NSDFA”) is the lead regulatory authority. The MOU assigned MoDA the role of local stakeholder engagement, while NSDFA retained responsibility for provincial and federal consultation and Mi’kmaq engagement. The 7 Factors govern decisions on applications within the ADA. The Overview defines an ADA as a predetermined marine area, pre-assessed within a larger area of analysis, identified as having aquaculture potential.

a. Phases of ADA Planning Process

There were 4 phases to the ADA Planning Process, which are summarized as:

Phase one (I) of the ADA work-plan sets clear goals, defined roles and responsibilities, and sets the study area. The initial Argyle ADA study area encompassed over 23,000 hectares (see Appendix 1 - Figure. 1). Selection of the study area was based on Municipal land boundaries, water depths, and exposure.

Phase two (II) involved consultation, engagement, exploration, and decision making. This included active engagement with stakeholders including federal and provincial regulators, consultation with the Mi’kmaq of Nova Scotia, the public and local stakeholders. The planning team dedicated significant effort to ensure thorough data collection and notification and stakeholder participation.

Phase I and II are complete and spanned four and a half years, concluding with a decision by Governor-in-Council to designate the Argyle ADA.

Phase three (III) and Phase four (IV) of the ADA pilot project are underway. Activity in both phases is described below and will be updated as the pilot project progresses.

b. Relevant Committees

There were three committees established:

The **Steering Committee** was comprised of individuals from the following organizations:

Organization	Name	Title
The Department	Bruce Hancock	Executive Director, Aquaculture
	Carla Buchan	Director of Aquaculture

	Nathaniel Feindel	Manager, Aquaculture Development
	Matthew King	Aquaculture Planning & GIS Officer
Centre for Marine Applied Research (CMAR)	Gregor Reid	Director
	Leah Lewis McCrea	Research Manager
	Margo Coughlin	Information Strategist
DFO	Jason Naug	Planner, Biologist
Municipality	Alain Muise	Chief Administrative Officer
	Charlene LeBlanc	Community Development Officer (stepped down in Spring 2022)
	Alix d'Entremont	GIS Technician

The **Data Committee** was comprised of:

Organization	Name	Title
The Department	Nathaniel Feindel	Manager of Aquaculture Development
	Matthew King	Aquaculture Planning & GIS Officer
	Dave Cook	Aquaculture Development Biologist
CMAR	Gregor Reid	Director
	Leah Lewis McCrea	Research Manager
	James Cunningham	Research Assistant
	Ryan Horricks	Research Scientist
	Danielle Dempsey	Coastal Monitoring Program, Principal Specialist
DFO	Jason Naug	Planner, Biologist

	Scott Coffen-Smout	Marine Planning & Conservation
Municipality	Charlene LeBlanc	Community Development Officer (stepped down in Spring 2022)
	Alix d'Entremont	GIS Technician
Dalhousie University	Ramon Filgueria	Associate Professor

The **Stakeholder Committee** was established by MoDA and according to the Overview:

Effective stakeholder engagement ensures comprehensive and inclusive participation to support planning success. The Municipality established a Stakeholder Committee, with members from marine industries, conservation, tourism, economic development groups, and local interested stakeholders. The objective of the Stakeholder Committee was to facilitate discussion and information exchange with stakeholder engagement and report findings to the Steering Committee. Results from engagements were compiled and reported and can be found on the Municipality's website.

c. Stakeholder Committee – Engagement Report

The Stakeholder Committee issued an Aquaculture Development Area Local Stakeholder Engagement Report on March 29, 2023, which contains the following high level points:

- Origin and mandate. The Report states: "In the interest of economic growth for the municipality, MoDA Council had identified further development of the aquaculture industry as a priority in 2015." In February 2020, "MoDA and the Province of Nova Scotia signed a Memorandum of Understanding (MOU) stating that they would collaboratively explore for an ADA within the Municipality in Lobster Bay and Pubnico Harbour and that MoDA shall lead local stakeholder engagements." The Report further states that "NSDFA is responsible for engaging with the various provincial and federal departments that require consultations regarding the pilot project" and is additionally "responsible for Consultation with the Mi'kmaq of Nova Scotia."
- Scope and duration of engagement. The Report states: "MoDA staff contributed an estimated 1,400 hours to the ADA pilot project and engaged directly with approximately 120 individuals." The engagement covered fishers, existing shellfish farmers, the tourism industry, environmental groups, and the general public.

- Engagement methods. The Report documents a multi-method approach comprising:
 - chance conversations at wharves and on the water; one-on-one sessions with approximately 20 lobster fishers (most met on two occasions);
 - formal presentations to six organised groups (including the Southwest Paddlers Association, Roseate Tern Working Group, TREPA, Nova Scotia Bird Society, YASTA, Acadian Seaplants, and Tidal Organics);
 - publications (a One-Pager distributed to 14 community organisations, print brochures, information cards, and two newsletters);
 - media (social media via a Facebook page with 3,949 followers, radio interviews on Y95 and CBC, and online informational videos);
 - three pop-up sessions at grocery stores on October 12, 2022;
 - a Stakeholder Committee with two formal meetings (April 28 and June 23, 2022) and a boat tour;
 - direct email correspondence;
 - and a dedicated website at www.aquacultureargyle.com with a feedback questionnaire.
 - The October 2022 public open houses. The Report states that two public open houses were held on October 19, 2022, "at Glenwood Hall from 1:00 - 3:00 pm and at the Argyle Municipal Office Building in Tusket from 6:00 - 8:00 pm." "Representatives from WSP, MoDA, NSDFA, and CMAR were in attendance at both engagement sessions and were available to interact and answer any questions that arose from members of the public." "The open houses received 39 participants representing MoDA Council, the media, commercial fishing, commercial aquaculture, organized community groups and members of the community." Advertising "included posts on the MoDA aquaculture webpage and

social media accounts, handouts ... given out at Pop-Up sessions, paper advertisements at local grocery stores, gas stations and post offices, and on radio."

- Feedback themes. Under the heading "What We Heard," the Report states: "Overall, most of the feedback received during the open houses was positive and in support of the project, however, there were some concerns raised by residents and by those interested in investing in the aquaculture industry." The Report identifies four key themes: (1) "Concerns on Call for Proposals and Applications for Leases and Licenses"; (2) "Impacts to the Fishing Industry"; (3) "Impacts to Residents and Environment"; and (4) "Potential Risks for Future Aquaculture Sites."
- All feedback forwarded to the Province. The Report states that all pertinent feedback received through the engagement process was forwarded to NSDFA, and that this feedback "have impacted the choices made related to potential marine areas and have steered policy discussions." The final ADA map (53 designated areas) contained fewer sites than the draft map presented to the public in October 2022 (62 sites), suggesting that public and stakeholder feedback contributed to the reduction in designated sites.
- External consultant. WSP was engaged by MoDA to assist with compiling the Stakeholder Engagement Report. The Report was submitted to NSDFA and accepted by the Province as meeting MoDA's obligations under the MOU.
- Community Liaison Committee. The Report states: "There have been preliminary discussions between MoDA and NSDFA to establish a community liaison committee" that would provide an ongoing mechanism for community feedback on aquaculture operations following the designation of an ADA. As at the date of this IMA, this committee has not been formed.
- Concluding remarks and recommendation. The Report states: "The Municipality of Argyle strongly believes that their work on informing and engaging with local stakeholders on the ADA project was thorough and very successful." "It is the recommendation of MoDA that

the NSDFA¹⁸ accept this comprehensive report as a critical component in the establishment of an ADA."

- The Report's concluding remarks are revealing. MoDA states it is "thrilled to see so much interest in investing in the aquaculture sector by locals" and acknowledges that **"the creation of new economic opportunities for the region must be balanced with concerns of those that could be affected."** Economic development was plainly the primary motivating factor behind the ADA initiative, but the Report does not explain how that balance was struck.

I observe that while the Report documents the concerns raised by participants (including impacts on residents, the environment, property values, and the fishing industry), it does not set out how those concerns were addressed, resolved, or responded to. There is no response-to-concerns section, issue-resolution table, or record of MoDA or the Province communicating back to individuals or groups about what action, if any, was taken. The Report's only reference to responsive action is the general statement that feedback "have impacted the choices made related to potential marine areas and have steered policy discussions," but it does not identify which concerns led to which changes, or how affected residents' interests were weighed against the economic development objectives the Report itself identifies as the project's driving purpose.

d. Phase II – Department-led Consultation and Engagement

The Overview outlines the engagement that the NSDFA led during Phase II:

Consultation with the Mi'kmaq was conducted by the Department, in coordination with the Office of L'nu Affairs, through emails, phone calls, official letters, virtual meetings, and face-to-face engagements from late 2020 through Spring 2024. Concurrently, the Department engaged Aquaculture Network Partners — federal and provincial government departments and agencies that provide input on aquaculture licence and lease applications — so that information normally assessed after application submission was assessed prior to the designation of the ADA.

The Overview describes the preliminary data collection process. The Data Committee initially identified more than 120 types of information, refined over nine months of engagement with local

¹⁸ Some parties and documents refer to NSDFA as "DFA." The abbreviation NSDFA is used throughout this assessment for consistency.

stakeholders and network partners. A decision support tool (the "**Decision Support Tool**" or "**DST**") assessed ecological, biological, oceanographic, and human activity data to identify potential ADA locations. The Committee ultimately refined the inputs to 20 critical data layers, detailed in Table 4:

Table 4. Information included in the DST

Decision Support Tool Inputs	Source
Wave height	Dynamic Systems Analysis Ltd.
Bathymetry	Canadian Hydrographic Service and Department Sonar
Lobster fishing activity	Eagleview
Special and significant wetlands	Nova Scotia Environment and Climate Change
Vessel track lines	exactEarth
Speed over ground	exactEarth
Rockweed	Department of Fisheries and Aquaculture
Eelgrass	Centre for Marine Applied Research
Existing aquaculture sites	Department of Fisheries and Aquaculture
Important Bird and Biodiversity Areas	IBA Canada
Gaspereau spawning habitat	Department of Fisheries and Oceans
Wharves	Nova Scotia Lands Inc.
Salt marsh	Nova Scotia Environment and Climate Change
Contaminated sites	Nova Scotia Environment and Climate Change
Canadian Shellfish Sanitation Program classification	Environment and Climate Change Canada
Property boundaries	Nova Scotia Property Online
Roads	Nova Scotia Geomatics Centre

Civic addresses	Nova Scotia Civic Address File
Aerial imagery	Maxar Technologies

The methodology employed by the Data Committee to identify potential ADA locations is explained as follows:

The Data Committee used the Environmental Systems Research Institute's (Esri) geospatial software packages to create the decision support tool using a weighted overlay method. In this approach, each data layer is weighted for relative importance (compared to other layers), with all weights totalling 100%. Within each layer, locations were ranked based on proximity to important features or activities. Subsequently, data layers are merged to create a colour map, with the colour scheme indicating suitable to least suitable locations for shellfish and marine plant aquaculture. See Appendix 4-Figure 3 for results of the decision support tool analysis.

Preliminary Identification of the ADA

Based on decision support tool outputs, the Data Committee identified 976 hectares of potential space for shellfish and marine plant aquaculture development within the study area. These areas consisted of 62 distinct locations, varying in size from 1.5 hectares to 90 hectares (Appendix 5-Figure 4). The Department and the Municipality undertook an additional two years of engagements with the public and stakeholders, with the goal to share findings and solicit additional feedback. This engagement described the use of a decision support tool, its advantages and limitations, the selection criteria (provided in part by the stakeholders themselves), and the rationale. Stakeholders were asked to provide feedback on the proposed areas based on their use of the marine space.

6. Analysis of the Allegations

The following is the analysis of each Allegation. The Analysis is generally divided into the following sections: Summary of Allegation that relies upon the PowerPoint Presentations and briefing notes; Summar(ies) of the Respondents (usually d'Entremont and Muise) written responses to the Allegations, followed by a Brief Analysis.¹⁹

- **Allegation #1 (Deon's Oysters Was Given Special and Privileged Access to Insider Data and Information)**

- a. **Summary of Allegation**

The Complainants allege that Deon's, through its principals Nolan Deon and Colton Deon, was given special and privileged access to the ADA program by MoDA staff, giving Deon's a significant and unfair advantage over other potential applicants and the general public.

The Background Portion of Allegation #1 in the PowerPoint says:

Email evidence shows that MoDA staff provided Deon's Oyster Company (Nolan Deon, and Colton Deon) privileged and special access to the ADA program (including insider knowledge, data, and key information).

This gave Deon's an advantage (over any public concerns, or other applicants) with undue influence over the ADA map location, and the ability to facilitate themselves as the sole bidder for their desired location in Salt Bay. This should have disqualified them as an applicant or bidder.

In addition to the obvious conflict, this may also contravene Canada's Competition Act section 47.

Under the Why this is a Conflict portion of Allegation #1, the Complainants allege:

In any modern tendering, procurement, or application process, the applicant or bidder cannot influence the target for the award.

The evidence shows MoDA staff and contractors facilitated the lease location desired by Deon's Oyster Company. The allegation will be confirmed when Deon's is awarded their application for site 1475/8012.

Who is Involved:

¹⁹ I note that because the Allegations often overlap from a thematic and documentation perspective, some documentation that is not specifically cited by the Complainants under a particular Allegation is cited under a different but related Allegation. I have attempted to note this cross-referencing and addressed that documentation in the Allegation under which it is relevant, even where it is not the Allegation under which the Complainants originally cited it.

Industry: Nolan Deon, Colton Deon,

Staff/Contractors: Charlene Leblanc, Alix Dentremon, Alain Muise

Perceived Conflicts

Ethics and code of conduct violations, pecuniary interests, collusion, and bid rigging.

The Complainants rely upon the following:

- May 1, 2018 email exchange

The Complainants assert on the basis of this May 1, 2018 email exchange:

*Bruce Hancock from DFA responds later that same day offering to help on all fronts. MoDA is telling NS DFA what they want to here. **NSDFA is not vetting the validity of the site locations and taking MoDA at its word when it reality it is laced with cheating, collusion, and fixing the outcome for Deon's Oyster Company.***

- MoDA Community Development Officer Charlene LeBlanc provided Deon's with detailed water testing data for Salt Bay and other locations, including seawater analysis results for pH, salinity, ammonia, nitrate, nitrite, phosphorus, silicon, and phytoplankton, on an ongoing and informal basis dating from at least December 2018 to November 2019.

This data was not made available to other potential applicants or to the public. The Complainants also point to at least one occasion where LeBlanc provided testing results to Deon's from home outside normal working hours, which they say evidences a special relationship between MoDA staff and Deon's.

- In June 2021, LeBlanc arranged meetings with Colton D'Eon to review ADA maps, and Alix d'Entremont provided Colton D'Eon with a CHS Chart containing location information.

The Complainants allege that Deon's used these meetings and communications to identify and select preferred ADA locations, including Salt Bay, approximately thirty months before applying for the very same location (Site 1475/8012). The Complainants assert that Deon's should have been disqualified as a bidder as a result.

- In April 2022, d'Entremont distributed detailed ADA polygon maps (including ESRI Shapefiles) to Stakeholder Committee members, including Deon's, via Dropbox, and instructed those members not to share the maps with others.

The Complainants allege that this restricted privileged information to Deon's and other committee members while withholding it from the public, giving Deon's an opportunity to influence the final ADA map locations before any public consultation occurred.

- In November 2023, d'Entremont continued to provide draft ADA maps, program updates, and timeline information to Deon's and other Stakeholder Committee members, including the anticipated call for proposals, well before the public was informed.

The Complainants assert that the public was not made aware of the proposed ADA locations until April 2024, approximately five months later, and further allege that the Community Liaison Committee referenced in the November 2023 communications was never established, demonstrating that fair and adequate public consultation was never intended.

The Complainants frame the conduct as giving Deon's "undue influence over the ADA map location, and the ability to facilitate themselves as the sole bidder for their desired location in Salt Bay," and assert that, beyond the conflict of interest concern, the conduct "may also contravene Canada's Competition Act section 47" (which addresses bid-rigging).

b. Summary of d'Entremont Response

d'Entremont responds as follows:

- The June 8, 2021 — CHS Chart

d'Entremont explains that the CHS Chart sent to Colton D'Eon contained three layers of information in addition to the base bathymetric data:

- the Canadian Shellfish Sanitation Program Shellfish Harvest Areas;
- existing marine aquaculture sites from NSDFA; and
- the preliminary ADA areas.

The chart was provided so that Nolan and Colton D'Eon could review the preliminary ADA areas and provide MoDA with comments and suggestions for other potential ADA sites.

He confirms he was acting at Charlene LeBlanc's direction, and says this was consistent with the agreed approach between MoDA and NSDFA of consulting existing aquaculture operators to help identify optimal potential ADA areas.

He describes NSDFA as being in constant communication with MoDA and as typically dictating what should and should not be shared with persons within or outside the project.

He characterises the request as infrequent at that early stage: the map was shared only with a limited number of parties, and NSDFA required that context accompany any sharing of the preliminary map. He had no concerns about sharing the chart with Colton D'Eon.

He acknowledges awareness that Colton D'Eon may have intended to become a future ADA applicant, but states that, in his view, the information shared would not have provided an advantage during the call for proposals or application phase.

The public, and all potential applicants, had access to the same potential ADA polygons from approximately October 2022 through multiple public channels, and that no prospective applicant, including Deon's, knew which ADA areas would be made available in the call for proposals until the April 15, 2024 announcement.

- April 28, 2022 — polygon map distribution

d'Entremont explains that after LeBlanc left MoDA in approximately March 2022, he assumed the lead role for the ADA Stakeholder Committee in cooperation with CAO Muise, who was kept generally aware of d'Entremont's activities and was included in committee correspondence.

He was aware that the polygon maps were not yet publicly available at the time of distribution to the committee. Within a few days of that distribution, MoDA began meeting with additional stakeholders (including fishers and all existing shellfish farmers in Argyle) showing them the same map, and the same potential ADA polygon map became publicly available from approximately October 2022 through multiple channels.

He had no concerns about the timing differential and did not raise any, understanding the maps would be made public later and relying on NSDFA's direction on what to share, with whom, and when.

- April 29, 2022 — restriction on sharing maps.

The rationale for the instruction not to share the maps is contained in the email itself, namely the importance of context accompanying the maps. He recalls being instructed by NSDFA staff (he does not recall the specific individual) to ask committee members to refrain from sharing them.

He acknowledges explicitly restricting broader dissemination but considered this appropriate given NSDFA's direction and the fact that public consultation would follow.

He confirms involvement in subsequent modifications to the ADA polygons over approximately two years, working collaboratively with Matthew King of NSDFA through video calls. The modifications were made in response to available information, including feedback from aquaculture operators and fishers, and bathymetry data.

- November 7, 2023 — Stakeholder Committee update

d'Entremont does not recall whether he was directed to send the November 7, 2023 email. He confirms he sent a draft to Matthew King of NSDFA for review earlier that day; King returned an amended version, which d'Entremont sent to the committee without further modification.

He disputes that the public had not been informed of proposed ADA locations prior to that communication because:

- the public was informed through pop-up sessions and open houses in October 2022 and through social media and the ADA website;
- after reviewing both the October 2022 public map and the November 2023 committee map (a review completed May 1, 2026), he concludes that no ADA polygons were expanded or added between October 2022 and November 2023, and that changes made in that period involved only the removal or shrinking of previously shown polygons. This means the public had all the information required to provide feedback on all proposed ADA areas.
- Regarding the Community Liaison Committee, d'Entremont advised CAO Muisé at some point in 2024 that he was not interested in leading it, and recalls that discussions about the committee focused on obtaining feedback from members once aquaculture farms were in place.

c. Summary of Muise Response

Muise's response to Allegation #1 is similar to his overarching position that none of the conduct alleged engages the MCOI because that Act addresses pecuniary interest, and he denies having any direct or indirect financial connection with Deon's or any other sea farmer.

Muise says the following with respect to the other issues raised by the Complainants:

- Pre-ADA water testing.

Muise acknowledges that LeBlanc conducted water testing at Salt Bay and other locations, and that some of that data was shared with Deon's.

He maintains, however, that this testing was not conducted for ADA purposes as it pre-dated the February 6, 2020 MOU, and was undertaken exclusively for promotional purposes, namely, to identify areas of potential interest and signal to investors that Argyle was "open for business."

The data was basic, non-scientific, and was not used in the provincial ADA site assessment, which NSDFA led independently using its own methodology and the seven regulated assessment factors. Muise contends that at the time of the pre-ADA testing there were no other sea farmers in the area with whom comparable data could have been shared, and that assisting Deon's as the sole existing sea farmer was consistent with MoDA's community development mandate.

- The June 8, 2021 map exchange.

Muise was not party to this exchange. He acknowledges that d'Entremont provided Colton D'Eon with a CHS Chart at LeBlanc's direction, but characterises it as a routine request consistent with MoDA's stakeholder engagement role. He denies that the exchange gave Deon's any influence over site selection, maintaining that NSDFA made all ADA site decisions through a rigorous scientific process.

- Stakeholder Committee access and map distribution.

Muise acknowledges that d'Entremont distributed ADA polygon maps to Stakeholder Committee members, including Deon's, and instructed members not to share them. This instruction came from the NSDFA, which owned the information and controlled its dissemination.

He submits that the maps were shared with a range of stakeholders, not only Deon's, that the same draft map was presented to the public at open houses in October 2022, and that the Ombudsperson found MoDA's public engagement process met or exceeded all applicable legislative requirements. He further notes that the final ADA map contained fewer sites than the 2022 draft, indicating that public feedback resulted in site removals rather than additions, and adds that by the time of the public open houses, Deon's did not possess any information not also available to the public.

- November 2023 Stakeholder Committee updates.

Muise acknowledges awareness that Stakeholder Committee members, including Deon's, received draft map and timeline updates in November 2023. He does not consider this timing differential problematic, since the public had already had the opportunity to view and comment on the same draft map at the October 2022 open houses, more than a year earlier.

- Absence of pecuniary interest.

Muise categorically denies any direct or indirect pecuniary interest in Deon's or any aquaculture enterprise. All beneficial ownership information is publicly available through the Joint Stock Registry, and all relevant staff would confirm the same.

He characterises the Complainants' allegations as resting on subjective inferences that conflict with the objective documentary record and that do not engage the statutory test under the MCOI.

Muise relies upon the following:

- His characterisation of the pre-ADA water testing as promotional is consistent with the January 2015 Aquaculture Position Paper in which Council was asked to endorse aquaculture as a priority industry and to request provincial biophysical survey assistance, and the May 2018 email exchange (Appendix 3) discussing early outreach to a potential investor.
- The MOU's terms is confirmed by the MOU itself, under which MoDA's role was limited to local stakeholder engagement.
- The January 2020 CBC report confirms that MoDA's pre-ADA site identification (the 19 candidate sites, later including Salt Bay) pre-dated the ADA MOU and was publicly framed as a promotional "business park on the sea" initiative.

- The Steering Committee minutes of April 28, 2020 confirm that MoDA's Charlene LeBlanc and Alix d'Entremont participated on the Steering Committee alongside NSDFA, CMAR, and Dalhousie representatives, and that site selection criteria were discussed collaboratively rather than dictated by MoDA.
- The February 26, 2025 email from Muise is consistent with his position in this response: he directly denies the conflict of interest allegations and states there is "zero credible evidence" of conflict on the part of municipal staff in a provincially led initiative.

d. Brief Analysis

Based upon the information provided, I do not consider that this gives rise to a *prima facie* case under s.12(1)(a) of the MCOI for the following reasons:

First, MoDA did not establish the criteria for determining ADA areas. The Data Committee used a Decision Support Tool to identify potential ADA locations, relying on 20 data layers from federal, provincial, and academic sources, none of which included MoDA's water testing data. The Data Committee comprised representatives from NSDFA, CMAR, the Department of Fisheries and Oceans Canada ("DFO"), Dalhousie University, and MoDA. MoDA was one participant among several; it did not control the process or the criteria. The Data Committee's recommendations informed the Minister's designation of ADA areas under s.56 of the FCRA. Stakeholder input, including from Deon's, was part of the intended process under the MOU, and the Data Committee independently validated every suggested location through the DST before including any polygon in its recommendations.

Second, Deon's was not on the Data Committee or the Steering Committee. Colton D'Eon sat on the Stakeholder Committee, an advisory body with no decision-making authority over site selection or evaluation criteria. The Complainants appear to conflate the two, which are separate bodies with different mandates.

Third, the Aquaculture Administrator, not MoDA, made the decision. While MoDA had an advisory seat on the ADA Proposal Assessment Panel (the "Panel"), which reviewed call for proposals responses and provided recommendations to the Administrator, the Panel held no formal decision-making authority; the Administrator alone assessed Deon's application for site 8012/AQ#1475 against the 7 Factors prescribed by section 17(1) of the Regulations and made

the final determination. None of those factors depends on, or is informed by, any of the categories of information the Complainants allege were improperly shared. MoDA had no statutory authority over the designation of ADA sites, the conduct of the call for proposals, or the granting of licences and leases. The Complainants had a potential, though not free from interpretive doubt, appeal avenue under sections 118 and 119 of the FCRA for the licensing decision and did not pursue it; whether s. 119 extends to an ADA designation itself, as opposed to a licensing decision, remains an unresolved question given the requirement for Governor in Council approval under s. 56.

Fourth, much of the information the Complainants rely upon pre-dates the ADA program. The water testing emails date from November 2018 through January 2020, before the MOU was formally signed on February 6, 2020. That said, correspondence from mid-January 2020 suggests the MOU's signing was, by that point, a formality, and that MoDA's site identification work was already being treated as preparatory to the ADA. Even the post-MOU water testing (November 2021) was not an input to the DST. It is difficult to characterise activity that pre-dates, or immediately precedes, the very program it is alleged to have corrupted as misconduct within that program.

Fifth, the information shared, while not yet public when provided, was made publicly available from approximately October 2022, well before the call for proposals opened in April 2024. The CHS Chart shared in June 2021 did contain a preliminary ADA areas layer that was not yet public. However, the same polygon map was made publicly available from October 2022, approximately 18 months before the call for proposals opened, through social media, the Aquaculture Argyle website, pop-up sessions, and open houses. All potential applicants had ample opportunity to review the same location information before applying. More fundamentally, knowing the location of a potential ADA polygon does not help an applicant satisfy the 7 Factors, which the Aquaculture Administrator assesses at the lease application stage based on the applicant's proposal, the data gathered through the provincial regulatory process, and the 30-day public comment period.

Sixth, even accepting the Complainants' factual assertions at their highest, the conduct alleged does not meet the threshold of malfeasance, breach of trust, or other misconduct under s.12(1)(a). MoDA's Council endorsed aquaculture as an economic development priority in 2015. The MOU expressly directed MoDA to lead local stakeholder engagement. Providing information and logistical support to local aquaculture operators, including but not limited to Deon's, was the very activity MoDA staff were directed by Council to perform. Assisting a local company in a manner consistent with a Council-approved mandate and a provincially sanctioned MOU is not conduct

undertaken "for a purpose other than the public benefit." On the documentation provided, promoting aquaculture development in Argyle was the public benefit Council was pursuing.

Accordingly, even accepting the Complainants' factual assertions, the materials provided to me do not demonstrate that the information allegedly shared with Deon's influenced the Aquaculture Administrator Decision, and that information was provided in the context of MoDA's Council-approved economic development mandate and the provincially sanctioned MOU. The Complainants have not made out a *prima facie* case under s.12(1)(a).

The Complainants' strongest argument is that the shared information influenced not the Aquaculture Administrator Decision on the merits, but the competitive field, i.e. who applied, how prepared they were, and whether other potential applicants were discouraged from competing. A potential competitor who did not learn of the ADA polygon locations until October 2022 (or April 2024) had less time to assess the opportunity, secure financing, develop a business plan, and prepare a proposal than Deon's, which had the information from June 2021, a head start of roughly two and a half years. Under this logic, the harm lies not in the decision but in the narrowing of the applicant pool. I do not discount this concern: the same polygon map was made publicly available from October 2022, roughly 18 months before the call for proposals opened in April 2024, and the call itself was open for two months (April 15 to June 15, 2024), giving a member of the public who learned of the polygons in October 2022 meaningful, though not equivalent, time to prepare. But even accepting that Deon's enjoyed a genuine head start over such a competitor, that head start is, at most, evidence of a process that could have been more even-handed. It does not, without more, establish that MoDA staff acted with the dishonest, partial, corrupt, or oppressive intent that malfeasance, breach of trust, or other misconduct under s.12(1)(a) requires.

I acknowledge, however, that the Complainants' concern extends beyond the maps alone: it encompasses the cumulative effect of years of preferential access, including water testing, meetings, site visits, and insider knowledge of timelines, that Deon's received and other potential applicants did not. Even accepting that characterisation, the question under s. 12(1)(a) is not whether MoDA staff could have managed the process more even-handedly, but whether their conduct amounts to malfeasance, breach of trust, or other misconduct as those terms are understood in law. For the following reasons, I conclude that it does not.

- Even accepting, for the sake of argument, the Complainants' characterisation of this as a procurement fairness concern, the MCOI is not a procurement integrity statute; it addresses pecuniary interest (sections 2 through 4) and misconduct by municipal officials

(section 12(1)(a)), not the fairness of a competitive application process. As noted above, allegations that specific conduct contravenes section 47 of the Competition Act (bid-rigging) are, in any event, not covered by the MCOI. The FCRA and its Regulations, by contrast, are the legislative scheme that actually governs the ADA call for proposals: they establish the call, prescribe the 7 Factors against which applications are assessed, and vest the Aquaculture Administrator with decision-making authority. That statutory scheme, not the MCOI, supplies the relevant process and criteria against which any procurement fairness concern must be measured. If there was a procurement fairness failure in the call for proposals, the appropriate remedy was a challenge to the provincial decision under the FCRA, not a finding of municipal misconduct under the MCOI. I address the Complainants' procurement framing, and why the ADA call for proposals is not a procurement in the conventional sense, more fully in the Allegation #2 analysis below.

- The Aquaculture Administrator, not MoDA, controlled the evaluation and decision-making process, administering the call for proposals and making the Aquaculture Administrator Decision by reference to the 7 Factors prescribed by the Regulations. The Panel on which MoDA sat held no formal decision-making authority. If there was a procurement fairness failure, it occurred in a process that MoDA did not own and had no statutory authority over.
- The jurisprudence suggests, among other things, evidence that the official acted with the intention to use their public office for a purpose other than the public good. On the materials before me, MoDA staff were carrying out a Council-approved economic development mandate in circumstances where Deon's was the sole established local operator. That the process could have been conducted more equitably does not, without more, establish the dishonest or corrupt intent that the legal standard requires.

- **Allegation #2 (Deon's Identified and Selected the Locations They Wanted, and MoDA Facilitated This)**

- a. Summary of Allegation**

The Complainants allege that Deon's identified and selected the specific ADA locations it desired, and that MoDA staff actively facilitated this process, ensuring those locations were recommended by MoDA and Council, approved by NSDFA, and later made available for Deon's to apply for in the call for proposals.

The Complainants characterise this as a fundamental procurement conflict on the basis that an entity cannot influence the identification and selection of target locations in phase one of a process and then bid on those same locations in phase two.

The Complainants describe the Allegations as follows:

Email evidence shows ADA Applicants identified and selected the locations they wanted, and MoDA Contractors and Staff facilitated this to ensure the location was recommended by MoDA, Council, and approved by DFA. This would then allow for Applicants to bid on the very same location. This "wires" the desired outcome for the applicant.,

Influencing the location in phase 1 and then bidding on it in phase 2 introduces a procurement conflict. In any modern tendering, procurement, or application process, the applicant or bidder cannot influence the target for the award.

The evidence shows MoDA staff and contractors facilitated the lease location desired by Deon's Oyster Company. The allegation is confirmed when Deon's is awarded their application for site 1475/8012.

The Complainants rely upon the following:

- The June 8, 2021 map exchange.

The Complainants allege that when Colton D'Eon requested a copy of the ADA map by email, stating "Might give us some time to see some potential other areas too", LeBlanc responded by directing d'Entremont to provide the map, and d'Entremont sent Colton D'Eon a CHS Chart.

The Complainants allege that the map at the time did not yet include Salt Bay as an identified ADA location, and that Deon's added it. Salt Bay subsequently emerged as an ADA location, and roughly thirty months later Deon's applied for Site 1475/8012 within Salt Bay. The Complainants assert that this sequence, identifying the desired location, having it added to the map, and then

applying for it, confirms that Deon's selected the location it wanted and MoDA facilitated the outcome, and contend that Deon's should have been disqualified as a bidder.

- Facilitation of Salt Bay through field work and recommendations.

Although not cited by the Complainants in their own Allegation #2 materials (it is relied upon under Allegation #4), a thematically related August 2020 email exchange is relevant context. In that exchange, d'Entremont reported to LeBlanc on underwater video findings at Pubnico Harbour, noting that "there are also many things in the water" and that visibility was limited. LeBlanc responded: "So we know the coordinates and will have to avoid those areas in the ADA. What were those things? Are they in salt bay? Will they do anything to oysters / gear?" The Complainants allege under that other allegation that this demonstrates a concerted effort by MoDA staff to protect Salt Bay's suitability as an ADA location for Deon's.

They further rely on d'Entremont's September 1, 2022 email to NSDFA's Matthew King, in which d'Entremont stated: "I think either Eel Lake or Salt Bay may be your best bets for finding the largest beds of oysters within Lobster Bay." The Complainants allege that this constitutes d'Entremont steering NSDFA toward Deon's preferred locations rather than presenting objective data.

Although also relied upon under Allegation #2, the January 15, 2020 email from LeBlanc to NSDFA's Matthew King listing 19 candidate sites with Salt Bay as number one, and King's response that "finalizing areas of interest is key to moving this project forward," is addressed in the Brief Analysis of Allegation #4 and Allegation #6 below, where the Respondents' answers on that specific email are set out in full.

- MoDA's selection of preliminary ADA sites.

The Complainants rely on d'Entremont's April 29, 2022 email to the Stakeholder Committee, in which he described the "Preliminary ADA Sites" shown as green dots as "tentatively identified as potential areas for the ADA by Charlene LeBlanc and myself prior to the engagement work."

This, according to the Complainants, confirms that MoDA staff, not NSDFA, selected the preliminary ADA locations, that the subsequent "Proposed ADA Polygons" identified by the "ADA team" following engagements were informed by Deon's participation on that team, and that Deon's thereby picked its desired location. They further allege that d'Entremont's instruction that

committee members not share the maps prevented the public from accessing the same information and providing meaningful feedback.

The Complainants say this collusion gave Deon's an advantage over all other farmers and applicants, and allege it allowed Deon's to negotiate with other farmers to avoid competition for its preferred locations. They characterise MoDA staff's conduct as ethics and code of conduct violations, pecuniary interests, collusion, and bid rigging, confirmed, they say, by Deon's subsequent award of site 1475/8012.

- The October 13, 2023 Argyle Sound map.

The Complainants also rely on an October 13, 2023 email from d'Entremont sharing an "Argyle Sound ADA Polygons" map, which they say was provided to Deon's roughly six months before the same map was released to the public. They allege this information was withheld from other oyster farmers and the public until the April 2024 press release, and is a further example of MoDA staff giving Deon's insider information and privileged access to influence outcomes in its own interest.

The Complainants' original briefing document on this allegation (Aquaculture Development Area (ADA) Conflict of Interest #2 of 16) asserts that this conduct "counters the UNCITRAL Model Law on procurement, and both provincial and federal government procurement law," and characterises the alleged coordination between Deon's and other farmers as bid-rigging, "a form of collusion" that is "a violation of the Competition Act" involving "competitors agreeing to limit competition in a procurement or bidding process."

The Complainants state that, in addition to the conflict of interest, the conduct "may also contravene Canada's Competition Act section 47."

b. Summary of d'Entremont Response

d'Entremont responds as follows:

- August 14, 2020 — underwater video work.

d'Entremont states the underwater video work in Pubnico Harbour was conducted to inspect old aquaculture gear that could pose problems for future aquaculture operations in that area, and that it was undertaken in connection with the ADA pilot project. He does not recall who specifically directed the work but believes it was a MoDA staff decision.

He disputes the Complainants' characterisation of LeBlanc's question about Salt Bay. In his view, the question was intended as a comparative reference point: Deon's oysters were already known to grow well in Salt Bay, so if the same "things in the water" were also present there without adverse effect, that would suggest the objects observed at Pubnico Harbour were unlikely to pose a problem for aquaculture either.

He notes that no MoDA staff were adequately trained in oceanography or biology to fully assess the impact of the objects found. The underwater video work was not related to Salt Bay's inclusion as a potential ADA location, and was part of the broader ADA pilot project, not work conducted for Deon's benefit specifically.

- June 8, 2021 — CHS Chart and Salt Bay

d'Entremont refers to his response under Allegation #1 for the purpose of the CHS Chart and the fact that he was acting at LeBlanc's direction.

On comparable treatment of other parties, all current shellfish aquaculture farmers in the area of interest were consulted in a similar manner to Deon's, including the sharing of the latest potential ADA areas. He specifically identifies Raymond d'Entremont of Grand Pass Oysters Ltd (met May 10, 2022) and Tyler Murphy of Maritime Oyster Company (met June 17, 2022), and notes that various other marine stakeholders (including lobster fishers, seaweed harvesters, gaspereau fishers, and waterfowl hunters) were engaged in a comparable way.

On the specific allegation that the map he sent did not yet include Salt Bay and that Deon's added it, d'Entremont confirms this is accurate: the early-stage map did not include any potential ADA polygons within Salt Bay. He explains that during engagements with farmers, fishers, and potential applicants, MoDA asked all parties to identify areas they thought would be appropriate for aquaculture, and that additions, deletions, and amendments to potential ADA polygons were an ongoing process throughout the project. The polygon mapping work was completed mostly by him during Teams video sessions with Matthew King of NSDFA, and his files indicate a potential ADA polygon in Salt Bay was added to the working file on January 18, 2022, at the same time as at least three other polygons.

On whether Salt Bay was identified internally before June 2021, d'Entremont states it was. Salt Bay fell within the area of analysis (waters in Argyle at 5 metres or less depth at mean low water) established at the start of the project, and appeared as a preliminary potential aquaculture site on a printed map displayed on the wall of the Tuskett office as early as June 28, 2018. He also notes

that a map scanned on February 25, 2021, based on conversations with lobster fishers, identified Salt Bay as a no-fishing area and therefore potentially suitable for aquaculture, predating the June 2021 email exchange.

- April 28–29, 2022 — "ADA team" and map-sharing restriction

d'Entremont explains that the preliminary ADA sites he and LeBlanc identified pre-dated the formal ADA pilot project and should be understood as pre-ADA potential aquaculture sites rather than ADA sites as such. The selection was not based on strict criteria but on MoDA staff knowledge of the area and lobster fishing patterns. All feedback from local engagement was considered in creating and modifying potential ADA areas.

On the composition of the "ADA team," he would understand this term in context to refer to members of the Data Committee, which did not include any owners or staff of Deon's. On the instruction not to share maps, he refers to his earlier response (NSDFA's direction that context accompany the maps, and the fact that public consultation would follow) and adds that he did not believe sharing the potential ADA polygons with Deon's would give them an advantage during the call for proposals.

- September 1, 2022 — Salt Bay and Eel Lake recommendation to NSDFA

d'Entremont explains that his recommendation of Salt Bay and Eel Lake to Matthew King was made to test the NSDFA sonar system's ability to detect wild oyster beds, and that these two locations were, based on his own knowledge of the area, where he was most confident the largest wild-growing oyster beds would be found. He states this was his own independent assessment and that no one directed him to make the recommendation.

The conversations relating to the NSDFA sonar testing focused on testing the equipment and were unrelated to potential ADA locations; he disputes the characterisation that he was steering NSDFA toward Deon's preferred locations.

He confirms he made comparable recommendations for locations not associated with Deon's: in the same September 1, 2022 email he also suggested Pubnico Harbour as the best location to test the NSDFA sonar on eelgrass, and states he was simply suggesting the best locations for eelgrass and wild oyster beds in the area, irrespective of any potential ADA areas.

c. Summary of Muise Response

Muise's response to Allegation #2 is consistent with his overarching position that he denies any direct or indirect pecuniary interest in Deon's or any other aquaculture enterprise, and submits that none of the conduct alleged is relevant to the MCOI.

He addresses the underlying factual allegations as follows.

- Pre-ADA water testing directed by Deon's.

Muise submits that the water testing program LeBlanc initiated was undertaken entirely for promotional purposes, namely to demonstrate that Argyle's waters were suitable for aquaculture and to attract new entrants to the industry, and that it pre-dated the ADA MOU by several years.

Deon's was the only operating sea farmer in Lobster Bay at the time, and assisting Deon's with testing at its existing sites was a normal service function for an existing industry participant, not a competitive advantage for any future ADA process. LeBlanc's direction came from Muise himself and was endorsed by Council, whose strategic priority was to diversify the industry and support new entrants, not to advance Deon's specifically.

- Site visits to Deon's barge and field work.

Muise confirms awareness of LeBlanc's coordinating a visit to Deon's barge in 2019, stating the purpose was educational, i.e. to see how an oyster farm operates, and that councillors and others were invited to attend. The visit was entirely pre-ADA and bore no relationship to any site selection process. (While not cited by the Complainants in their Allegation #2 materials, the same 2019 barge visit is raised elsewhere, under Allegation #8 (Charlene LeBlanc's Competing Interests) and Allegation #10 (AANS Infiltrated and Indoctrinated MoDA).)

He characterises the MOU, signed in 2020, as the moment the provincial process formally commenced, and submits that no ADA site decisions could have been influenced by visits or field work that preceded it. He categorically denies awareness that LeBlanc was accompanying Colton D'Eon on the water for ADA-related purposes, stating that on the one occasion referred to, the testing was at existing Deon sites to inform them about water temperatures for overwintering oysters, and that LeBlanc's comment about slipping out unnoticed was a joke directed at an insistent occupational health and safety officer, not evidence of concealment.

- LeBlanc's and d'Entremont's identification of 19 candidate sites.

Muise states that the 19 locations LeBlanc identified were for promotional purposes and were never used as ADA sites. He was not directly involved in identifying those locations and denies directing LeBlanc or d'Entremont to favour any particular area.

He submits that NSDFA conducted ADA site selection entirely using the regulated assessment factors, and that MoDA's pre-ADA work may have been reviewed by the Province as a starting point but was never a substitute for the Province's own scientific process. He notes that identifying Salt Bay as first on the list of 19 sites offers no evidence of insider information, as those areas were not relevant to the ADA sites. He further states that he was not party to the discussion between the Deon's and MoDA staff regarding the June 2021 map, that he sees no email correspondence suggesting Deon's selected that site, and that all existing and known potential farmers were asked to comment on early iterations of the map, with that input then shared with the Province.

- August 2020 email regarding underwater video at Pubnico Harbour.

Muise states that LeBlanc was not actively monitoring for potential obstacles in Salt Bay, and that her concern must have been in the interest of Deon's existing lease, as there was no ADA site in Salt Bay in 2020. He notes that LeBlanc received considerable assistance from the Deon organisation and would naturally be protective of the only sea farmer in the water, and that her focus on aquaculture was informed by Council's priorities.

- d'Entremont's September 2022 recommendation to NSDFA.

Muise states he was not a party to this email and did not pre-approve it. He accepts d'Entremont's explanation that the recommendation of Salt Bay and Eel Lake was made in the context of sonar testing for wild oyster beds, not ADA site selection, and that it was consistent with local knowledge, as both locations are known to be successful oyster cultivating areas. He further notes that no ADA sites were established in Eel Lake despite d'Entremont's reference to it, which he submits confirms that d'Entremont's comments carried no determinative weight in the provincial site selection process.

(In his response to Allegation #3, Muise also makes a related observation that is relevant here: if MoDA was part of a conspiracy to add sites specifically for Deon's, Deon's would not have needed to request consideration for a Salt Bay site two years after the MOU was signed.)

- Sharing of applicant information with Deon's.

Muise denies that questions or information from other prospective applicants were shared with Deon's. He was not aware that d'Entremont had provided polygon maps to Colton Deon in October 2023, and states he would not have directed this communication, as the information belonged to the Province and staff understood it required provincial authorisation before distribution. He disputes the Complainants' premise that the information was withheld from others for six months: the October 19, 2022 public open house pre-dated the October 13, 2023 email, and members of the public, including the lead Complainant, attended that open house, viewed the same underlying information, and submitted comments on the proposed Salt Bay sites that were subsequently forwarded to the Province and led to the elimination of one of the two Salt Bay sites under consideration.

- Absence of pecuniary interest.

Muise categorically denies any direct or indirect pecuniary interest in Deon's or any aquaculture enterprise. He characterises the Complainants' Allegation #2 case as resting on subjective inferences about causation that are contradicted by the objective evidence, and submits that the conduct alleged does not engage the statutory test under the MCOI.

d. Brief Analysis

Allegation #2 is comparable to Allegation #1. Allegation #1 focuses on the unequal sharing of information, namely that Deon's received privileged insider data that other applicants and the public did not. Allegation #2 goes further, asserting that Deon's did not merely receive information passively but actively selected the locations it wanted, and that MoDA staff then facilitated inserting those preferred locations into the ADA map so Deon's could later bid on the very sites it had identified. The focus shifts from what Deon's received to what Deon's directed.

Notwithstanding this theoretical distinction, similar analysis that applies to Allegation #1 applies to Allegation #2.

First, the decision to designate ADA areas rests with the Minister and the Governor in Council under section 56 of the FCRA. The separate decision to evaluate proposals and approve or reject lease applications rests with the Aquaculture Administrator under sections 54A and 57.

MoDA had no statutory authority to add, remove, or approve ADA sites.

Even accepting that MoDA staff suggested locations or provided advisory input, the Data Committee independently assessed every potential ADA polygon through the DST and its 20

critical data layers drawn from federal, provincial, and academic sources. The Data Committee's recommendations informed the Minister's designation, and the final ADA map of 53 designated areas was approved by the Governor in Council as O.I.C. 2024-147.

On the specific question of Salt Bay, the documentation establishes that its inclusion in the ADA was the product of independent provincial assessment, not MoDA's unilateral action. d'Entremont's account is that the Salt Bay polygon was added to the working file on January 18, 2022, along with at least three other polygons, and that all polygon amendments were completed collaboratively with Matthew King of NSDFA through video calls. The Province's own Pilot Project Overview confirms the DST incorporated 20 data layers from independent federal, provincial, and academic sources, and did not rely on MoDA's own water testing or advisory input as a basis for site designation.

The Hancock email confirms that "the Department established the process for identifying the ADA locations and was responsible for deciding which locations would be included in the ADA submission to the Minister and Governor and Council." Salt Bay's inclusion in the final ADA was a provincial decision, not a municipal one.

The Complainants' assertion that "MoDA facilitated" Deon's desired outcome conflates advisory input with decision-making authority. Even accepting that Deon's preferences were communicated to NSDFA through MoDA's advisory role, the Province independently assessed every suggested location through the DST and the regulated assessment factors, and had the authority to, and did, exclude proposed sites that did not meet those criteria, regardless of their source.

Second, the Complainants' most specific factual claim, that the June 8, 2021 map Deon's received did not yet include Salt Bay and that Deon's caused it to be added, does not withstand chronological scrutiny. The Salt Bay polygon was not added to the working file until January 18, 2022, over seven months after the June 2021 map exchange, and was added at the same time as at least three other polygons, collaboratively with NSDFA's Matthew King, rather than as an isolated response to Deon's request.

d'Entremont's information is that Salt Bay had already been informally identified as a potential aquaculture site well before that exchange: it appeared on a printed map on the wall of the Tuskett office as early as June 28, 2018, and a February 25, 2021 map based on conversations with lobster fishers identified Salt Bay as a no-fishing area, and therefore potentially suitable for

aquaculture, predating the June 2021 email by several months. On this basis, the addition of Salt Bay to the working map is better explained by MoDA's own pre-existing area-of-analysis work and the ordinary, ongoing process of adding and amending polygons based on engagement with all farmers and fishers, than by a direct causal link to Deon's June 2021 request.

This is not to suggest that MoDA's broader pre-MOU site-identification work was wholly disconnected from the eventual ADA program; as discussed in the Allegation #4 analysis, that work was, at least by early 2020, already being treated internally as preparatory to the ADA. The point here is narrower: the specific timeline of the January 18, 2022 polygon addition does not support the inference that Deon's June 2021 request was its proximate cause.

Third, (and related to the first point) the information alleged to have been shared does not bear on the criteria that the Aquaculture Administrator actually applied.

As set out in the Allegation #1 analysis, the Aquaculture Administrator assessed Deon's application for site 8012/AQ#1475 against the 7 Factors prescribed by section 17(1) of the Aquaculture Licence and Lease Regulations, namely: (a) community and provincial economic development; (b) fishery activities; (c) oceanographic and biophysical characteristics; (d) other users; (e) the public right of navigation; (f) sustainability of wild salmon; and (g) the number and productivity of other aquaculture sites. None of those factors depends on whether an applicant suggested a location to MoDA or received polygon maps before the public. The Aquaculture Administrator Decision does not reference any advantage derived from Deon's participation on the Stakeholder Committee or from MoDA's advisory input.

Fourth, the Complainants' characterisation of Deon's as the only stakeholder consulted or informed is also not supported by the documentation. d'Entremont's information is that all current shellfish aquaculture farmers in the area of analysis were consulted in the same manner as Deon's, including Raymond d'Entremont of Grand Pass Oysters (met May 10, 2022) and Tyler Murphy of Maritime Oyster Company (met June 17, 2022). Maritime Oyster Company expressed its own intention to pursue a site at Mikes Island in the Tusket River area, and that location also appeared in the final ADA polygons. The comparison is not exact: as set out above and in the Allegation #1 and Allegation #3 analyses, Deon's had the further benefit of standing membership on the Stakeholder Committee and a longer period of engagement than these other farmers. That distinction is addressed elsewhere and does not affect the narrower point made here, namely that Deon's was not the only stakeholder given early information.

Fifth, the Complainants frame Allegations #1 and #2 in procurement fairness terms, citing the UNCITRAL Model Law on Procurement, federal and provincial procurement standards, and section 47 of the *Competition Act* (bid-rigging).

I take the Complainants' concerns about the fairness of the competitive process seriously. However, procurement, in the conventional sense, is the process by which government acquires goods, works, or services from a contractor: the government is the buyer and the contractor supplies something to government.

The ADA call for proposals is not a procurement process in that sense. The Province is not acquiring a service from Deon's; it is granting a public resource, the right to use subaquatic Crown land for shellfish aquaculture through a licence and lease under the FCRA. This is a competitive resource allocation process, more closely analogous to the granting of mineral rights, fishing quotas, or Crown land leases, than to a procurement. While principles of fairness and equal opportunity apply to such processes, the procurement frameworks the Complainants invoke, which are designed for the government-as-buyer relationship, do not apply.

Furthermore, the MCOI is not a procurement integrity statute. The relevant s.12(1)(a) inquiry is whether the conduct of a current member, officer, or employee constitutes malfeasance, breach of trust, or other misconduct in relation to the duties or obligations of that person to the municipality.

The Complainants assert that the unfairness lies in MoDA's sharing of information, polygon maps, program timelines, and water testing data with Deon's before that information was available to the public and other potential applicants. As set out at length in the Allegation #1 analysis, Deon's did have a genuine head start of roughly two and a half years over a member of the public who only learned of the polygon locations when they were made publicly available from approximately October 2022. More fundamentally, knowing the location of a potential ADA polygon does not help an applicant satisfy the 7 Factors, which the Aquaculture Administrator assesses at the lease application stage based on the applicant's proposal, the data gathered through the provincial regulatory process, and the 30-day public comment period. The Complainants have not demonstrated a causal link between the information shared and the regulatory outcome, and even accepting that Deon's had a head start, that does not, without more, meet the threshold for malfeasance, breach of trust, or other misconduct as those terms are understood.

Sixth, as set out at length in the Allegation #1 analysis, assisting local aquaculture operators, including Deon's, in the context of a Council-approved economic development mandate and a provincially sanctioned MOU does not, on the information provided to me, meet the threshold for malfeasance, breach of trust, or other misconduct under s.12(1)(a). The MOU expressly assigned MoDA the role of leading local stakeholder engagement, and engaging with existing sea farmers was integral to that role. The Complainants have not established that any MoDA official exercised official authority for a purpose other than the public benefit Council was pursuing.

- **Allegation #3 (Deon's Was Included on the ADA Decision Committee in 2022 and Then Became an Applicant in 2024/2025)**

a. Summary of Allegation

The Complainants allege that Deon's was included on the ADA Steering or Decision Committee while the public had not been consulted on any proposed ADA locations, and that Deon's subsequently became an applicant for the very locations their committee participation had allowed them to influence and identify. The Complainants characterise this as a fundamental conflict of interest and a procurement integrity failure.

The Complainants' Briefing Note says:

- *Email evidence shows Deon's Oyster Company was included on a decision committee by MoDA in full bias over other farmers and the public who have still not been consulted on any preapproved ADA location.*
- *This gave Deon's an ability to influence how and what locations would be selected. This was done by facilitating a sole source award for themselves while disguising the procurement as a fully open tendering process. This will be further confirmed as few/no other bids were received, and when DOC is awarded site 1475/8012.*

Why is this a conflict?

1) *A person serving on a steering committee for procurement cannot be an applicant or bidder because of the inherent conflict of interest it creates. Steering committee members are typically involved in shaping the procurement strategy, defining requirements, approving evaluation criteria, or providing oversight throughout the process. If such an individual were allowed to apply or bid, they would have unfair access to insider information and the ability to influence decisions in their own favor. This violates the fundamental principles of fairness, transparency, and equal treatment that underpin ethical procurement practices.*

2) *Allowing a steering committee member to be a bidder undermines the credibility and integrity of the procurement process. Other bidders must trust that the process is impartial and that no participant has an undue advantage.*

a. *If a steering committee member is also competing, it creates a perception of bias even if no improper action occurs. This perception alone can discourage competition, lead to disputes or legal challenges, and damage the reputation of the organization conducting the procurement.*

3) *Finally, separating governance roles from participation as a bidder is essential for legal compliance and sound governance. Many procurement laws, regulations, and institutional policies explicitly prohibit individuals with inside influence and access to privileged information from benefiting personally from the outcomes of the process.*

a. This separation protects both the institution and the individual from allegations of misconduct, ensures accountability, and helps guarantee that public or organizational resources are used in a responsible and objective manner.

The Complainants also assert that Nolan Deon and Colton Deon were included on the Steering Committee:

Nolan Deon and Colton Deon included on the ADA Steering Committee

If they are on the Steering Committee, then Deon's cannot bid as an applicant for an ADA location. Doing so would present a complete conflict of interest.

The Complainants rely upon the following:

- Dual role: committee member and applicant.

The Complainants submit that a person serving on a steering or decision committee for a procurement process cannot also be an applicant or bidder, because committee members shape procurement strategy, define requirements, and approve evaluation criteria.

Allowing such a party to bid on the same program gives them unfair access to insider information and the ability to influence decisions in their own favour. The Complainants assert that no other oyster farmers or members of the public were included on the Steering or Decision Committee, and that ADA presentations listed "Members of the Public" as participants when in fact none were included.

- ADA polygon locations added specifically for Deon's.

The Complainants rely on an internal ADA update dated March 14, 2022, which states: "There have been conversations with D'Eon Oyster Company regarding adding ADA polygons within Salt Bay for them." The Complainants allege this confirms that ADA polygon locations were added specifically for Deon's benefit while Deon's was simultaneously serving on the Steering or Decision Committee, constituting a clear conflict of interest.

- Access to detailed polygon maps and program information.

The Complainants rely on d'Entremont's April 28, 2022 email distributing detailed ADA polygon maps (including ESRI Shapefiles) to Steering or Decision Committee members, including Deon's. They allege that Deon's, in its dual capacity as both a committee member and prospective applicant, received privileged access to the precise locations on which it would subsequently bid, with no comparable access afforded to the public or other potential applicants.

- Deon's enlisted to manage public engagement.

The Complainants rely on emails from CAO Muise to Deon's in April 2022 stating "We have selected you" as a stakeholder and asking Deon's to "take this information to the public." They allege that MoDA chose to include Deon's while excluding the general public, then effectively delegated public engagement to a party with a direct commercial interest in the outcome. They further rely on a subsequent Muise email proposing a meeting with Deon's and stating that minutes would be taken "as part of any public engagement documentation we need to submit to the Province," alleging that treating engagement with Deon's as "public engagement" for provincial documentation purposes was misleading and resulted in the ADA Stakeholder Report containing fabricated information.

- Advance access to program timeline and call for proposals information.

The Complainants rely on d'Entremont's November 7, 2023 Steering or Decision Committee update email, which attached a draft ADA map and advised that NSDFA's goal was to open the call for proposals in January 2024. They allege Deon's received privileged advance access to program timeline information as a committee member well before the public was informed in April 2024, giving it a significant competitive advantage in preparing its application.

- Involvement in LiDAR mapping.

The Complainants rely on an email (the content of which is largely redacted) in which Nolan and Colton Deon were copied on a discussion regarding the use of LiDAR to map "desired" locations within Argyle. The Complainants allege that Deon's continued to be consulted on all aspects of ADA development, including technical mapping work, while simultaneously being a prospective applicant.

- Disparate treatment of the public and other applicants.

The Complainants contrast Deon's treatment with that of other parties. They rely on d'Entremont's October 2022 email to a concerned resident declining to offer a virtual attendance option for the public open houses and directing the resident to promotional materials.

The Complainants allege the following disparity: while the public was denied meaningful access to proposed ADA location information and virtual participation, Deon's received in-person meetings, detailed polygon maps, ESRI Shapefiles, draft maps, timeline information, and the ability to influence location selection through the committee. They also allege that questions from

other prospective farmers were shared with Deon's, giving it a complete snapshot of competitors' business interests.

- September 2021 request for historical water testing data.

The Complainants rely on a September 15, 2021 email from Colton Deon to LeBlanc requesting "historical data" on water quality readings collected from Salt Bay, stating: "It used to be on the website, no?" They allege this shows Deon's, while serving on the Steering or Decision Committee, actively sought MoDA's historical data to support the Salt Bay location it had already identified as its preferred site, with no comparable access for other potential applicants or the public.

- April 15, 2024 public announcement.

The Complainants rely on d'Entremont's April 15, 2024 email to a broad distribution list announcing the approved ADA and the first call for proposals. Although this document does not appear in the Complainants' own Allegation #3 briefing note, it is included in the questions put to d'Entremont in connection with this allegation and is relevant to the Complainants' due role theory. They assert that while other interested parties learned of the approved locations for the first time through this announcement, Deon's had known the locations, timeline, and evaluation criteria since at least April 2022, a head start of approximately two years arising from its Steering or Decision Committee membership. This is narrower than, but not inconsistent with, the broader head start of roughly two and a half years described in the Allegation #1 and #2 analyses, which runs from Deon's earlier June 2021 access to the map rather than the later date of Stakeholder Committee membership.

The Complainants further note that the Aquaculture Association of Nova Scotia's ("AANS") offer to assist applicants raised concerns about equal and impartial support, given AANS's prior coordination with MoDA and Deon's throughout the development phase.

The Complainants characterise the overall pattern of conduct as anti-competitive, as a conflict of interest, and as a breach of procurement integrity, asserting that it is confirmed by Deon's subsequent application for Site 1475/8012 — the very location they had influenced from within the committee process.

- "Creating a Syndicate" — alleged coordination among applicants.

The Complainants allege that Deon's had full insight into all interested applicants through its committee access, and that this allowed Deon's to consolidate control over the process, negotiate with or discourage competing applicants, and secure its preferred locations using insider data and knowledge not available to others. They characterise this as, in effect, Deon's using its committee position to create a syndicate among applicants for its own benefit.

- Redacted committee correspondence.

The Complainants point to heavily redacted committee email correspondence and question what the redacted content might show, suggesting it could relate to discouraging other applicants or other undisclosed discussions. They assert that the extent of the redactions itself gives rise to a perception of conflict.

- MoDA's characterisation of Deon's role.

The Complainants allege that MoDA and CAO Muise incorrectly characterised Deon's as a mere "stakeholder" rather than as a "regulated party" whose commercial interest in the outcome created a distinct set of conflicting duties, and that this mischaracterisation was used to justify Deon's continued inclusion on the committee.

- Continued inclusion in technical mapping correspondence, including as to Salt Bay.

The Complainants rely on further correspondence in which Deon's continued to be copied on technical planning discussions, including LiDAR and topo-bathymetric mapping work, after the Stakeholder Committee was constituted. They ask why Deon's continued to be included in this correspondence and whether Salt Bay was among the locations discussed, and characterise continued inclusion of a prospective applicant in this technical work as inconsistent with modern procurement practice.

- Marc Currans as an example of an applicant overlooked.

The Complainants rely on correspondence involving Marc Currans, another prospective aquaculture applicant, which they contrast with MoDA's communications with Deon's. They allege this comparison illustrates biased treatment in Deon's favour, and that questions and information received from other prospective applicants, including Currans, were shared with or made known to Deon's.

b. Summary of d'Entremont Response

d'Entremont disputes a key factual premise of the Complainants' Allegation: Colton D'Eon sat on the ADA Stakeholder Committee, an advisory body, not the Steering Committee, the decision-coordinating body comprising only provincial, federal, academic, and municipal representatives. He relies on this distinction throughout his responses, as it bears directly on the nature of any alleged conflict of interest.

- March 14, 2022 — ADA update referencing Salt Bay polygons

d'Entremont confirms he was aware around March 2022 of conversations about adding an ADA polygon within Salt Bay. He contests the accuracy of the internal update's wording, stating that the Salt Bay polygon was not added for Deon's exclusive benefit but on the assumption that Deon's would respond to the call for proposals along with potentially other parties. The future call for proposals was a competitive process with no guarantee Deon's would be selected.

d'Entremont says all current shellfish aquaculture farmers in the area of analysis were consulted in the same manner as Deon's, including sharing of the latest potential ADA areas.

He identifies Raymond d'Entremont of Grand Pass Oysters (met May 10, 2022) and Tyler Murphy of Maritime Oyster Company (met June 17, 2022) as examples, noting that Maritime Oyster Company expressed its own intention to pursue a lease west of Mikes Island, a location that also appeared in the final ADA polygons. Lobster fishers were additionally given the opportunity to propose areas and provide feedback, and the potential ADA polygon map was made available to the public.

- April 28, 2022 — Stakeholder Committee composition and polygon map distribution.

d'Entremont sets out the full membership of the ADA Stakeholder Committee as of April 2022, comprising representatives from:

- CMAR,
- MoDA,
- NSDFA,
- Deon Oyster Company (Colton D'Eon as Operations Manager),
- Acadian Seaplants,
- Tidal Organics,

- the Tusket River Environmental Protection Association,
- the Western Regional Enterprise Network, a local lobster fisher, and
- an individual with an interest in the sector and environmental protection.

Committee members were selected by MoDA and NSDFA, and the committee was originally chaired by Charlene LeBlanc. A Terms of Reference template provided by NSDFA in November 2020 explicitly suggested including representation from the shellfish aquaculture industry as a committee category. He does not recall any discussion about whether Deon's membership would preclude it from subsequently responding to the call for proposals, understanding that NSDFA, as administrator of the lease and licence process, had no issue with Deon's representation on the Stakeholder Committee. Asked whether any conflict-of-interest protocols governed Stakeholder Committee members who might later become applicants, he does not recall any such protocols and states MoDA relied on NSDFA's experience administering similar stakeholder processes.

- April 29, 2022 — restriction on sharing and Deon's role in polygon identification

d'Entremont reiterates that Colton D'Eon was a member of the Stakeholder Committee, not the Steering Committee, and had no role in identifying, selecting, or approving the proposed ADA polygons. During Stakeholder Committee meetings, he does not recall any discussion of proposed ADA polygon locations from the perspective of potential applicants.

Colton D'Eon, like other stakeholders including other aquaculture farmers and fishers, did provide feedback on potentially suitable sites for shellfish aquaculture, but that this occurred outside of formal Stakeholder Committee meetings.

The restriction on map-sharing came from NSDFA, and the public was subsequently provided the same map with opportunities for feedback. He did not consider the information shared with the committee to give Deon's any advantage in the future call for proposals or application process, as the specific requirements were not known or shared at that time.

- April 2022 — Muise email selecting Deon's and requesting public engagement assistance).

d'Entremont states the email in question, sent by Muise on April 13, 2022, was directed to all ADA Stakeholder Committee members, not solely to Deon's. Muise did not select Deon's as a Stakeholder Committee member: Deon's was already on the committee when LeBlanc was chair.

He provides the full wording of the relevant passage in Muise's email, which sought help from the committee on "how to take this information to the public, either to the fishermen directly (as we have done before) or the general public," framing this as a request for advice on public engagement strategy, not a delegation of public engagement responsibilities to Deon's. It was d'Entremont's understanding that MoDA did not at any time ask Stakeholder Committee members to engage with the public about the ADA pilot project.

- May 5, 2022 — Muise email treating Deon's meeting as public engagement documentation.

d'Entremont agrees that MoDA's engagement with Deon's should not be characterised as "public engagement" and confirms it was not characterised as such in the Aquaculture Development Area Local Stakeholder Engagement Report.

The public engagement conducted by MoDA is described thoroughly in that Report and included a broad range of methods: chance conversations, publications, media (social media, radio, videos), pop-up sessions, direct emails, the Aquaculture Argyle website, and open houses.

- November 7, 2023 — Stakeholder Committee update with draft map and timeline.

d'Entremont again corrects the Complainants' reference to the Steering Committee, stating Deon's was on the Stakeholder Committee only.

He discloses that on November 8, 2023, the day after the Stakeholder Committee update, he sent a very similar email to a separate list of potential applicants who had previously expressed interest in applying for aquaculture sites, advising them of NSDFA's intention to submit the ADA report to Governor-in-Council and the anticipated January 2024 call for proposals timeline.

He does not recall any discussion about whether Stakeholder Committee members intending to apply should be removed or recused, and any committee member could potentially have decided to respond to the call for proposals.

He reiterates that MoDA relied on NSDFA's direction on what to share with whom and when, and that the specific call for proposals evaluation criteria were not shared with the committee or any potential applicants before April 15, 2024.

- LiDAR mapping email copying Nolan and Colton Deon

d'Entremont explains that the email in question was sent on May 31, 2022, by Timothy Webster of the Applied Geomatics Research Group at NSCC to various recipients, including himself, Nolan and Colton D'Eon, and Tyler Murphy of Maritime Oyster Company. Webster had initially included the Deons and Murphy on the chain, and d'Entremont's subsequent replies copied those already included. Webster was seeking partners for a LiDAR mapping project; nothing came of it, as NSDFA subsequently secured a sonar system that met the bathymetric data needs of the ADA pilot project. On the redacted content, d'Entremont states it related to communications about the proposed LiDAR project (not an ADA team initiative) and was redacted as "Non-Responsive" to the FOIPOP request as not relevant.

- Email from another prospective applicant

d'Entremont again clarifies that Deon's was on the Stakeholder Committee, not the Steering Committee. He was not part of the email exchange in question, which he understands (following his own inquiry to Mr. Dunlop) to be the March 8–10, 2021 exchanges between Marc Currans and LeBlanc. He observes that LeBlanc appeared responsive and open to sharing information, and does not recall any instance of Deon's being given questions or information from other farmers' enquiries that would reveal competitors' specific business interests.

- September 15, 2021 — Colton Deon's request for historical Salt Bay water data

d'Entremont notes again that Colton D'Eon was a Stakeholder Committee member, not a Steering Committee member.

He was not part of that email chain and does not recall being aware of the data request or why Colton D'Eon made it. On equal access to historical water testing data, d'Entremont believes MoDA would have provided its water testing results to anyone who requested them, noting that before the ADA work commenced, MoDA's plan had been to collect water testing data and make it available through a public website to anyone interested in aquaculture operations in the area.

- October 17, 2022 — virtual attendance request for October 2022 open houses.

d'Entremont explains that the open house format, informal sessions where people could mingle, view materials, and ask questions, would not have been conducive to virtual attendance. He does not recall whether declining virtual access was his own decision or made on direction, but states it was unreasonable to expect MoDA to redesign the event format with two days' notice.

He notes that after advising the resident that virtual attendance was not available, the resident asked for a phone call instead, which he agreed to; they spoke on October 28, 2022.

He was aware that Deon's had received in-person meetings and detailed ADA polygon maps, stating this was comparable to the treatment of other aquaculture farmers and lobster fishers. On the availability of ADA locations at the October 2022 open houses, he states the map of potential ADA polygons was made publicly available in October 2022 through social media, the Aquaculture Argyle website, pop-up sessions, and the open houses themselves.

- April 15, 2024 — public announcement of ADA and call for proposals

d'Entremont reiterates that Deon's was on the Stakeholder Committee, not the Steering Committee. The potential ADA locations and timelines shared with the Stakeholder Committee were never final, and the same information was shared at various times with other stakeholders, including fishers, potential applicants, and the public. MoDA itself only learned of the final ADA polygons and announcement date in early April 2024.

He maintains that the information shared with the Stakeholder Committee did not give Deon's an advantage in the call for proposals or application process compared to other potential applicants, because NSDFA's evaluation criteria were not shared with the committee or any potential applicant before April 15, 2024.

AANS was not part of the ADA pilot project, had no representation on any ADA committee, and was not coordinating with MoDA and Deon's throughout the development phase. MoDA had worked with AANS to produce an informational video during the local engagement phase. The involvement of AANS in assisting potential applicants was consistent with Council's direction to promote industry development, and he had no reason to believe AANS would not assist applicants on an equal and impartial basis.

c. Summary of Muise Response

Muise denies any direct or indirect pecuniary interest in Deon's or any other aquaculture enterprise, and submits that the conduct alleged does not engage the MCOI. He additionally addresses each of the underlying factual points as follows.

- Muise's Perspective

The following assertion contained in Muise's response demonstrates the different perspective that he has on aquaculture development:

I agree that the eventual ADA process was designed to improve industry access to sea farming. That was its intention. MODA Council and relevant staff do not agree that advancing this industry is contrary to public interest. It is the council's expressed view that it is entirely in the public interest to diversify employment and business opportunities locally, especially when done carefully in a transparent and well-established process; in an industry well known for its environmental benefits and one consistent with the skills of our fishers. The advancement of economic development opportunities is specifically in the mandate of the Council, and aquaculture specifically part of their strategic plan. The support of economic development is not in opposition to the other services to our residents. We pay for policing services; The investment is in the global interest of keeping our residents safe and protected. However, if someone is fined for speeding, they may not feel that investment was in their personal interest. This does not negate the intention of our investment in policing.

- Deon's role on a "decision committee".

Muise categorically denies the Complainants' characterisation of Deon's as a member of the ADA "Steering Committee" or "decision committee."

Deon's (through Colton D'Eon) was a member of the ADA Stakeholder Committee only, an advisory body with no decision-making role. The Steering Committee, responsible for the scientific process and site-selection tool, was an entirely separate body comprising provincial and federal representatives.

The ADA concept and process was provincially driven, not initiated or controlled by any industry participant, and that any representation of Deon's as embedded in the decision-making structure is factually incorrect.

- March 2022 internal update (Salt Bay polygons added "for them").

Muise was not directly party to conversations with Deon's regarding the addition of Salt Bay polygons, but was generally aware that all existing and potential sea farmers were asked to provide input on suitable and problematic locations for the Province to consider.

The wording in the internal update was inaccurate, and Salt Bay polygons were not added exclusively for Deon's benefit. He notes that all sea farmers, including Raymond d'Entremont (Grand Pass Oysters) and Tyler Murphy (Maritime Oyster Company), were consulted in the same

manner, and that Maritime Oyster Company's preferred location (Mikes Island in the Tusket River) also appeared in the final ADA map alongside Salt Bay.

He notes an internal inconsistency in the Complainants' position: if the process was rigged in advance for Deon's, Deon's would not have needed to request Salt Bay's addition approximately two years after the MOU was signed.

- April 2022 polygon map distribution to Stakeholder Committee.

Muise states he did not personally authorise the distribution of detailed polygon maps to Stakeholder Committee members. The maps belonged to the NSDFA, and the restriction on distribution came from the Province as the owner of the information, on whose instruction he relied.

He submits that the Stakeholder Committee's access to draft site locations gave committee members, including Deon's, no advantage in applying for a site, because the Province's specific call for proposals criteria and requirements were not known or shared until April 15, 2024, and the draft maps were not final or determinative of which sites would be opened for application.

- Composition of the Stakeholder Committee.

Muise states he was not directly responsible for selecting committee members, which was coordinated by MoDA and NSDFA guided by a Terms of Reference ("TOR") template the Province developed. He was aware of the TOR, which expressly called for representation from the shellfish aquaculture industry, and confirms Colton D'Eon was on the committee as a sea farmer, the only fully operational sea farmer in the area when the committee was formed. He was not involved in any internal discussion about whether Deon's participation on the Stakeholder Committee should preclude it from bidding in the call for proposals, and was satisfied with the separation between the advisory Stakeholder Committee and the regulatory decision-making process administered by NSDFA.

- Absence of formal conflict-of-interest protocols and statutory analysis of the Stakeholder Committee.

Asked whether any protocols or guidelines addressed conflicts of interest for Stakeholder Committee members, Muise states he was unaware of any specific protocols, explaining that the committee was advisory to the Province, not the municipality. He also sets out his own analysis

of the MCOI's definition of "local board," noting the absence of any Council resolution establishing the Stakeholder Committee as a municipal board, committee, or commission, and submits that, even accepting the Complainants' characterisation of the committee, it exercised no delegated municipal power or authority and required no municipal funding, such that it would fall outside the scope of the MCOI in any event.

- Muise's April 2022 email asking Deon's to "take information to the public".

Muise states this email was addressed to all Stakeholder Committee members, not Deon's alone. He clarifies the full wording, which sought committee members' advice on how to take information to the public, not a delegation of public engagement responsibilities to Deon's. MoDA at no time asked any Stakeholder Committee member to conduct public engagement on its behalf; all public engagement was conducted by MoDA staff or the external consultant WSP.

- May 2022 email characterising Deon's engagement as public engagement documentation.

Muise acknowledges that his May 2022 email to Deon's used the words "public engagement documentation," but this was a wording error, and the engagement with Deon's was not characterised as public engagement in the Stakeholder Engagement Report submitted to the Province. The Report, compiled with WSP's assistance and accepted by the Province, accurately reflected MoDA's extensive engagement activities with the broader public, including open houses, pop-up sessions, social media, radio, and direct outreach.

- November 2023 Stakeholder Committee update.

Muise was aware that d'Entremont was keeping the Stakeholder Committee informed of the ADA's progress in November 2023. This information gave Deon's no competitive advantage because the anticipated January 2024 call for proposals timeline was ultimately inaccurate (the call did not open until April 2024), demonstrating that MoDA was advisory only and had no decision-making authority. He also notes that information on proposed timelines was shared with other interested potential applicants by d'Entremont the following day (November 8, 2023), and that MoDA learned the final ADA polygons and announcement date only in early April 2024.

- LiDAR mapping email.

Muise was not involved in the LiDAR mapping discussions. The email in question was initiated by Timothy Webster of NSCC, who had included Nolan and Colton D'Eon. Muise was only made aware of the email through ARA commentary on the FOIPOPed materials, and states nothing came of the proposed LiDAR project, as the Province secured its own sonar equipment for the ADA pilot project.

- Competitors' information shared with Deon's.

Muise denies that questions or information from other prospective applicants were ever shared with Deon's. d'Entremont directed inquiries from other interested parties (such as Tyler Murphy) to the NSDFA, which he characterises as correct protocol given that the information belonged to the Province.

He was not aware that d'Entremont had shared a polygon map with Colton D'Eon in October 2023 and states he would not have directed that communication, as the information was not MoDA's to share without NSDFA authorisation. On the Marc Currans email exchanges, Muise was not aware of their details at the time, and states there is no objective evidence the Deons were ever provided competitors' business interests. He identifies Currans as the eventual successful leaseholder of one of the five sites ultimately issued, and states that neither he nor, to his knowledge, MoDA knew who the eventual call-for-proposals applicants would be until after the April 15, 2024 announcement.

- September 2021 historical Salt Bay data request.

Muise was not aware that Colton D'Eon had requested historical water testing data from LeBlanc in September 2021. He reiterates that all pre-ADA water testing was conducted for promotional purposes, not ADA scientific purposes, and that MoDA would have provided its water testing results to anyone who requested them.

He notes that the Deons were already operating at Salt Bay and had a legitimate interest in understanding water conditions at their existing site.

- April 15, 2024 public announcement.

Muise states the public announcement was a provincial event; MoDA's role was to host it in Council Chambers, and the Minister was responsible for the speaking points. The public had been informed of proposed ADA locations through the October 2022 open houses, well before the April

2024 announcement, and the draft maps shared with the Stakeholder Committee in October 2023 were substantively the same as those seen by the public in 2022.

AANS was not part of the ADA pilot project, had no committee representation, and its offer to assist applicants was consistent with its mandate and with Council's strategic direction to develop the industry.

- Absence of pecuniary interest.

Muise categorically denies any direct or indirect pecuniary interest in Deon's or any other aquaculture enterprise, and reiterates there is no demonstrable financial connection between any MoDA staff, Council member, or Deon's. He characterises the Complainants' Allegation #3 as a series of subjective inferences unsupported by the factual record, which do not engage the statutory test under the MCOI and conflate MoDA's advisory role in a provincially regulated program with decision-making authority it never held.

d. Brief Analysis

Allegation #3 overlaps substantially with Allegations #1 and #2 from an evidentiary and legal perspective:

- Allegation #1 alleges that Deon's passively received privileged information.
- Allegation #2 alleges that Deon's actively directed the selection of preferred locations.
- Allegation #3 alleges a structural issue, namely, Deon's very presence on the Stakeholder Committee created an inherent and irreconcilable conflict of interest, because a party that participates in shaping a program cannot then be an applicant within that program.

Based upon the information provided, I do not consider that this gives rise to a *prima facie* case under s.12(1)(a) of the MCOI for the following reasons.

First, Deon's was not a member of the Steering Committee.

- As already established, but which will be outlined again, the Steering Committee was comprised of representatives from:
 - NSDFA (Matthew King, Nathaniel Feindel, Carla Buchan, Bruce Hancock, David Cook, Lynn Winfield),

- CMAR (Leah Lewis-McCrae, Margo Coughlin, Gregor Reid),
 - DFO (Jason Naug),
 - Dalhousie University (Ramon Filgueira, James Cunningham — as guests), and
 - MoDA (Alain Muise, Charlene LeBlanc, Alix d'Entremont).
- The **Data Committee** was the scientific body.
 - NSDFA describes it as having been "responsible for collecting, receiving, and analyzing data for the area of analysis."
 - It met 12 times over an 18-month period beginning in Summer 2020 and included representatives from NSDFA, CMAR, DFO, Dalhousie University, and MoDA.
 - The **Stakeholder Committee** was the advisory body.
 - NSDFA describes it as follows: "The Stakeholder Committee's objective was to advise the Steering Committee on social, cultural, and economic matters relevant to the ADA planning approach."
 - It met twice formally (April 28 and June 23, 2022) and communicated by email.
 - Its membership included representatives from CMAR, MoDA, NSDFA, Deon Oyster Company (Colton D'Eon as Operations Manager), Acadian Seaplants, Tidal Organics, the Tusket River Environmental Protection Association, the Western Regional Enterprise Network, a local lobster fisher, and an individual with an interest in the sector and environmental protection.

Second, the composition of the Stakeholder Committee was not unusual or improper:

- The NSDFA's own Terms of Reference template, provided to MoDA in November 2020, expressly called for representation from the shellfish aquaculture industry as a

membership category, though NSDFA described the template as a suggested starting point that "by no means has to be used or followed."

- Industry representation on advisory stakeholder committees is a standard and provincially sanctioned feature of the aquaculture regulatory framework in Nova Scotia.
- Including Deon's on the Stakeholder Committee was consistent with the Province's own template and direction.
- The Complainants have not identified any provincial instruction, guideline, or protocol that would have required Deon's exclusion from the committee, or that would have precluded a Stakeholder Committee member from subsequently responding to the call for proposals.

Third, Muise submits that the Stakeholder Committee is not a "local board" under the MCOI, and that s.12(1)(a) therefore does not reach it. I accept that the Stakeholder Committee is not a local board (an example of one would be a school board that satisfies the definition), but that is not relevant to the analysis. Section 12(1)(a) is triggered by a resolution of the council or local board requesting an inquiry into the conduct of a member, officer, employee, or agent of the municipality; it says nothing about the status of any committee whose activities happen to be under examination. The question is not whether the Stakeholder Committee is itself a local board, but whether Muise's and d'Entremont's conduct, as current municipal officials, in relation to that committee amounts to malfeasance, breach of trust, or other misconduct. Muise's local board argument is not relevant to this inquiry.

Fourth, the decision-making authority over both the ADA designation and the lease application process **rested exclusively with the Province**, through separate decision-makers at each stage.

- With respect to the ADA designation, the Governor in Council approved the designation of ADA areas under section 56 of the FCRA, on the Minister's recommendation. The Data Committee independently assessed every potential ADA polygon through the DST and its 20 critical data layers. MoDA had no statutory authority to designate, add, or remove ADA sites.
- With respect to the call for proposals and lease applications, the Minister decided which designated locations would be included, and the Aquaculture Administrator made all

decisions on evaluation and approval or rejection of lease applications under sections 54A and 57 of the FCRA. MoDA's role was limited to an advisory seat on the Proposal Assessment Panel, which made recommendations but held no decision-making authority.

- The Stakeholder Committee's advisory input may have informed the Province's ADA designation process, but it did not determine it. This is confirmed by the outcome: the final ADA map contained fewer sites than the draft presented to the public in October 2022, meaning public and stakeholder feedback resulted in site removals, not additions dictated by any committee member.

As set out in the Allegation #2 analysis, the Salt Bay polygon was not added to the working file until January 18, 2022, together with at least three other polygons, as part of an ongoing collaborative process with NSDFA's Matthew King. That timeline is relevant here too: the March 14, 2022 internal update, which post-dates the polygon addition by nearly two months, does not establish that the addition was made as an isolated response to a Deon's request, notwithstanding its informal "for them" phrasing.

Fifth, the information shared with the Stakeholder Committee does not relate to the seven statutory factors the Administrator considered in assessing Deon's application for site 8012/AQ#1475. Those factors do not depend on whether an applicant participated on the Stakeholder Committee, received polygon maps before the public, or provided feedback on potential sites. The specific call for proposals evaluation criteria were not shared with the Stakeholder Committee or any potential applicant before April 15, 2024. d'Entremont's evidence that, on November 8, 2023, the day after the Stakeholder Committee update, he sent a substantially identical email to a separate list of interested potential applicants, further undermines the assertion that Deon's received information through the committee that was not otherwise available to other prospective applicants.

Sixth, the Complainants' characterisation of Deon's as having used its committee position to "create a syndicate" among applicants is not supported by the documentation. The assertion, framed in general terms (that Deon's had "insight," "control," and "power" over other applicants by virtue of its committee membership) does not identify a specific communication, meeting, or agreement in which Deon's coordinated with, or discouraged, any other applicant. In the absence of such evidence, this allegation does not advance the analysis beyond the information-sharing and site-selection concerns already addressed under Allegations #1 and #2.

Seventh, as set out in the Allegation #2 analysis, the ADA call for proposals is a competitive resource allocation process, not a procurement in the conventional sense, and the procurement frameworks the Complainants invoke do not apply. The MCOI is not a procurement integrity statute. Those frameworks may well prohibit the kind of dual role the Complainants describe, but this assessment proceeds under s.12(1)(a), and even if a procurement fairness concern were established, the alleged conduct does not meet that provision's elevated threshold.

Eighth, Muise's position is that advancing the aquaculture industry is entirely in the public interest, and that the ADA process was designed to improve industry access to sea farming consistently with Council's expressed strategic priority of diversifying local employment and business opportunities. This is a reasonable position:

- Council endorsed aquaculture as an economic development priority as early as 2015,
- and the MOU was a pro-aquaculture development instrument from its inception.
- I also accept that Deon's was a longtime, established local business, and MoDA faced a similar tension here to that discussed elsewhere in this Report: had MoDA declined to assist an existing local operator, it could equally have faced criticism for neglecting an established business in favour of a purely hands-off approach. That tension does not resolve the question of favouritism raised by this Allegation, but it provides relevant context for MoDA's conduct, particularly given that it was the Province's own Terms of Reference template that encouraged industry representation on the Stakeholder Committee in the first place.

I accept, however, that the Complainants may have a legitimate point that the process was not, from their perspective, as transparent or inclusive as Muise believes it to have been. Residents whose properties and communities are directly affected by ADA site designations could reasonably feel that they were not given adequate opportunity to participate in or influence a process that would affect their daily lives.

But even accepting that the process fell short of ideal transparency from the residents' perspective, the question under s.12(1)(a) remains whether the conduct of a current MoDA official constitutes malfeasance, breach of trust, or other misconduct. An imbalance in how competing stakeholder perspectives were weighted, or a process that could have been more inclusive, does

not meet the elevated threshold required by s.12(1)(a), particularly given that the Province was the governmental body that ultimately made the impugned decision.

As outlined above, s.12(1)(a) requires conduct that is positively unlawful, involves exercising official authority for a purpose other than the public benefit, or constitutes a wilful transgression of duty. A municipality pursuing a Council-approved economic development mandate, even where reasonable people would disagree about the balance struck between industry promotion (particularly of a local business) and resident consultation, is not engaged in the kind of conduct s.12(1)(a) is designed to address.

- **Allegation #4 (Confirmation Bias in Water Testing)**

- a. Summary of Allegation**

The Complainants allege that the water testing conducted by MoDA for the ADA program reflected confirmation bias: rather than objectively identifying scientifically suitable locations, MoDA's Community Development Officer Charlene LeBlanc tested only the locations Deon's had already identified as its desired sites, producing data that supported a predetermined outcome rather than an independent scientific assessment.

The Complainants describe the confirmation bias that occurred as follows:

Confirmation bias occurs when individuals form a conclusion first and then selectively seek or interpret evidence in a way that confirms that conclusion, rather than objectively evaluating all available information. In this case, the decision-maker becomes psychologically invested in the chosen location from the start. As a result, water quality data is no longer used as neutral criteria for site suitability but instead as a tool to justify an already-made choice.

The Complainants also assert:

Evidence shows Charlene Leblanc representing MoDA as an ADA Development officer only tested the water after Deons identified their desired locations in full confirmation bias (countering the scientific method).

Emails prove the Deon's had special access and insider knowledge and data to influence the ADA program via fellow industry colleague and partner Charlene Leblanc as she acted in the role of a development officer for the ADA program. (She is now an Aquaculture farmer and was appointed to the AANS board of directors with Colton Deon.

Email evidence shows she was in conflict representing industry and government at the same time. -She offered Deon's an advantage over others with privileged access, shared data, and facilitated their desired locations to the province, and only then tested the water in full confirmation bias to support their desired location, in reverse and in full conflict.

The Complainants characterise this conduct as a conflict of interest and an ethics and code of conduct violation on the part of Charlene LeBlanc and, to the extent he had supervisory responsibility over the process, CAO Muise. This allegation is directed at d'Entremont as a Respondent in his capacity as the MoDA GIS Technician involved in the technical aspects of the ADA pilot project, whom the Complainants allege had knowledge of and involvement in the water testing and site selection process.

The Complainants rely upon the following:

- Biased water testing to support Deon's location choices.

The Complainants cite November 2018 email exchanges between LeBlanc and Valérie Lalande of Université Sainte-Anne in which Lalande stated "I have to confirm with Colton" before scheduling testing, LeBlanc stated "I called Colton" and "I will go to Salt Bay and do a reading there ... and check it before I leave. Lol," and Lalande confirmed familiarity with "Nolan's site in Salt Bay."

They also cite a July 2019 email in which LeBlanc asked d'Entremont for high tide times to "visit the barge at Salt Bay," an October 2019 email noting "for Salt Bay we need high tide to get there," and a November 2019 email to CAO Muisse in which LeBlanc stated she would be "going in a boat ... with Colton d'Eon to take the water temperature at the bottom of their 3 sites" and was "not planning to tell [redacted]" and could "likely just slip out unnoticed."

The Complainants allege that these emails collectively demonstrate that water testing was coordinated directly with Deon's to support their preferred Salt Bay location, constituting confirmation bias.

- MoDA, not NSDFA, selected the ADA locations.

The Complainants rely on LeBlanc's January 15, 2020 email to NSDFA listing 19 candidate sites with Salt Bay as site number 1, and King's response that "finalizing areas of interest is key to moving this project forward." They allege this confirms MoDA identified and prioritised the candidate locations and that Deon's had insider access to pick their desired location.

- Conflicted relationships with Deon's as lease applicant.

The Complainants rely on an August 14, 2020 email exchange regarding underwater video at Pubnico Harbour, in which LeBlanc responded: "Are they in salt bay? Will they do anything to oysters / gear?" They also cite a November 5, 2021 email in which LeBlanc informed MoDA staff: "I am testing water in a few minutes at salt bay and eel lake." The Complainants allege that LeBlanc's immediate concern about Salt Bay obstacles and her continued water testing at Deon's preferred locations demonstrate a concerted effort to protect and advance those sites.

- Undesirable data corrected with bias and removal of the "Cats Pass" site.

The Complainants rely on a November 17–18, 2020 email exchange between King (DFA), d'Entremont, LeBlanc, and a Dalhousie University representative regarding the weighted overlay analysis. The Dalhousie representative stated the tool was "performing inaccurate calculations in

this region” and removed the affected region; King stated “I’d like to verify this dataset before sending out alarms” and characterised the tool as “not the be all end all.” The Complainants allege that when data did not support Deon’s preferred Salt Bay location it was corrected through bias, and that the “Cats Pass” site, a non-residential area identified by the tool as optimal, was conveniently removed to preserve Deon’s preferred locations.

b. Summary of d’Entremont Response

d’Entremont says that ADA pilot project did not commence until February 2020, when the MOU between MoDA and NSDFA was signed. All water testing and aquaculture-related work conducted by MoDA before that date was unconnected to the ADA program. It was a separate, pre-ADA initiative under which MoDA collected water quality data with the intention of making that information publicly available to anyone interested in shellfish aquaculture in the municipality. The Complainants’ characterisation of pre-2020 testing as “confirmation bias” in the ADA process therefore misidentifies both the timing and the purpose of the activity.

- November 2018 - Salt Bay water testing coordinated with Colton Deon.

d’Entremont was aware in or around November 2018 that water testing was taking place at Salt Bay, though he does not recall knowing who coordinated it. The testing was part of MoDA’s pre-ADA project of collecting and publicly sharing water quality data to assist potential aquaculture farmers; Salt Bay was a logical testing location because American oysters already grew well there, making it a useful benchmark against which other sites could be compared.

He confirms that at least 16 other locations throughout the Municipality of Argyle were also being tested at around the same time, which is inconsistent with the Complainants’ assertion that testing was focused exclusively on Deon’s preferred sites.

- July 2019 — request for high tide times at Salt Bay

d’Entremont confirms all work related to aquaculture and water testing before the February 2020 MOU was unrelated to the ADA. He does not recall whether he provided the high tide times LeBlanc requested and finds no evidence of this in his emails. The remaining questions on this document are irrelevant given that the activity predated the ADA pilot project.

- October 2019 — water testing email referencing Salt Bay tidal access

d'Entremont again confirms the pre-ADA testing was unrelated to the ADA program. He does not recall whether he was involved in the specific water testing referenced in the October 21, 2019 email, but notes that, on review, many locations were being targeted for water testing, not only Salt Bay.

- November 2019 — LeBlanc's email about testing at Deon's sites and concealing the activity.

d'Entremont confirms all pre-MOU water testing was not ADA-related. Before the ADA work began, LeBlanc was assisting all existing and known potential shellfish farmers in MoDA (including Deon's, Maritime Oyster Company, and Grand Pass Oysters), consistent with Council's direction to promote the aquaculture industry. He does not recall whether he was aware LeBlanc was conducting water testing at Deon's sites around November 2019, and does not know why LeBlanc intended to conceal her activities from a supervisor.

- January 2020 — LeBlanc's email to NSDFA listing 19 candidate sites with Salt Bay as site number 1.

d'Entremont confirms he was copied on this email and that the 19 sites were the locations MoDA had been water testing before the ADA pilot project commenced. He cooperated with LeBlanc in choosing those sites as locations that appeared potentially suitable for shellfish and marine plant aquaculture and where water testing data was being collected. He does not recall why Salt Bay was listed first and states nothing in the email suggests the ordering was significant. He confirms he was involved in data collection at many of the 19 sites, though less so at Salt Bay, and that, on reviewing the redacted CC line, no Deon's employees or other industry parties were copied on the communication.

- August 2020 — underwater video at Pubnico Harbour and LeBlanc's question about Salt Bay.

d'Entremont refers to his earlier responses under Allegation #2, Document 1. He adds that comparable field work was conducted at other potential ADA locations during the same period.

- November 2020 — bathymetry dataset concerns and weighted overlay analysis

d'Entremont explains that the bathymetry dataset problem he identified caused certain very shallow areas to appear more suitable than they actually were, because the dataset overstated

water depths there. The most appropriate long-term response was to find a replacement dataset, which eventually occurred. He does not recall being involved in the temporary decision to remove the inaccurate region from the analysis, but considers the temporary removal appropriate given the data quality issues. The temporary fix involved removing all shallow areas from the model, including Salt Bay; the correction therefore did not preserve Salt Bay, and if anything temporarily excluded it.

The Cats Pass area was ultimately removed from consideration because the improved bathymetry dataset correctly showed it lacked sufficient area at adequate water depth to accommodate both a navigational channel and aquaculture sites. He did not consider the response to the data quality issues to have had the effect of preserving Salt Bay, since Salt Bay was itself among the areas temporarily removed. He believes the spatial analysis was conducted objectively and with scientific rigour throughout, and raised no concerns because he had none.

- November 2021 — LeBlanc's email about water testing at Salt Bay and Eel Lake

d'Entremont confirms he was included in the November 5, 2021 email from LeBlanc and was therefore aware at the time that she was conducting water testing at Salt Bay and Eel Lake.

He was not personally involved in the testing at that point and does not know whether comparable testing was being conducted at other locations at the same time.

His fundamental point is that the ADA pilot project DST did not include any of the water testing results undertaken by MoDA or Université Sainte-Anne.

c. Brief Analysis

Based upon the information provided, I do not consider that this gives rise to a *prima facie* case under s.12(1)(a) of the MCOI for the following reasons.

First, the Province, not MoDA, made the ultimate decision on ADA site designation and licensing.

As set out in the analysis of Allegations #1 through #3, the authority to designate ADA areas rests exclusively with the Minister, with the approval of the Governor in Council, under section 56 of the FCRA. The separate authority to evaluate proposals and to issue aquaculture licences and leases rests with the Aquaculture Administrator under sections 54A and 57.

MoDA had no statutory authority to designate, approve, or reject ADA sites. Even accepting the Complainants' characterisation of the water testing as confirmation bias, the question remains whether any such bias was capable of influencing the provincial decision.

As d'Entremont confirms, and as the Province's own Pilot Project Overview corroborates, the ADA pilot project DST did not include any of the water testing results undertaken by MoDA or Université Sainte-Anne. The scientific conclusions that informed ADA area selection were the Data Committee's responsibility, addressed below. This means that even if the water testing were conducted with confirmation bias as the Complainants allege, they have not demonstrated that the testing had any bearing on which locations were ultimately designated as ADA sites. Moreover, the Complainants' assertion that the bathymetry corrections and the removal of the "Cats Pass" site were designed to preserve Salt Bay is contradicted by d'Entremont's evidence that the temporary fix removed all shallow areas from the model, including Salt Bay itself, and that Cats Pass was ultimately excluded because improved bathymetry data confirmed it lacked sufficient area at adequate water depth to accommodate both a navigational channel and aquaculture sites.

This is reinforced by the composition of the Data Committee itself.

The Complainants' confirmation bias theory rests on the premise that Deon's had the ability to direct or influence the scientific process by which ADA sites were identified. The documentary record does not support this.

The Data Committee, responsible for collecting, receiving, and analysing data for the area of analysis, and for refining the 20 critical data layers used in the DST, was comprised of representatives from the Department of Fisheries and Aquaculture, the Centre for Marine Applied Research, the Department of Fisheries and Oceans Canada, Dalhousie University, and MoDA. No owners or employees of Deon's sat on the Data Committee.

The scientific assessment of potential ADA locations was conducted by provincial, federal, and academic representatives through a structured process that was separate from the Stakeholder Committee on which Colton D'Eon participated in an advisory capacity, and the Complainants have not identified any mechanism by which Deon's could have directed or influenced the Data Committee's scientific work.

Second, most of the water testing relied upon by the Complainants pre-dates the ADA program. The emails the Complainants cite date from November 2018 through January 2020, before the MOU was signed on February 6, 2020 and the ADA pilot project formally commenced. d'Entremont confirms this testing was part of a separate, pre-ADA initiative under which MoDA collected water quality data with the intention of making it publicly available to anyone interested in shellfish aquaculture in the municipality. With respect to the November 2021 water testing at Salt Bay and Eel Lake, which post-dates the MOU, the critical point remains that the provincial DST did not include any of MoDA's water testing results; the site selection process was conducted independently using 20 data layers from federal, provincial, and academic sources.

I note that the pre-ADA/post-ADA line is not a clean one: the January 15, 2020 email, sent just three weeks before the MOU, in which King responded that "finalizing areas of interest is key to moving this project forward," suggests that by mid-January 2020 MoDA's site identification work was already being treated as preparatory to the ADA. Even so, this does not disturb the more fundamental point that the provincial DST did not include any of MoDA's water testing results, whenever that testing occurred.

Third, even if it is accepted that there was confirmation bias in water testing, such does not meet the threshold of malfeasance, breach of trust, or other misconduct under s.12(1)(a) of the MCOI.

Confirmation bias is unintentional in the sense that it is usually considered to be unconscious, namely, it is a "phenomenon that when a person is attracted to a particular outcome, there is a tendency to search for evidence that supports the desired conclusion or to interpret the evidence in a way that supports it..."²⁰

The very nature of confirmation bias is therefore at odds with the legal standard for misconduct under s.12(1)(a). Malfeasance, breach of trust, and other misconduct under s.12(1)(a) are inherently intentional. In *Boulanger*, the SCC confirmed that breach of trust required that an official "acted with the intention to use his or her public office for a purpose other than the public good, for example, for a dishonest, partial, corrupt, or oppressive purpose" (para 58), emphasising that "[m]istakes did not suffice. Nor did errors of judgment" (para 56), and that the central concern is whether the official abused their office "for corrupt or improper purposes" (para 55). An

²⁰ See for example discussion at *R. v. France* 2017 CarswellOnt 5547 at para. 17.

unconscious cognitive tendency, even if it influenced the water testing methodology, is fundamentally different from the deliberate, corrupt intent *Boulanger* demands.

Even if the water testing methodology could be characterised as methodologically imperfect, as lacking in scientific rigour, or as insufficiently broad in scope, those deficiencies would constitute, at most, an error of judgment or administrative shortcoming, not the serious and marked departure, undertaken for a corrupt or improper purpose, that *Boulanger* requires. I recognise that the Complainants point not to a single instance but to a pattern spanning several years, including the coordination of testing with Deon's, the sharing of water quality data, and the continued focus on Salt Bay. Even viewed cumulatively, the information provided does not cross the *Boulanger* threshold: I accept there may well have been confirmation bias in pursuit of this mandate, MoDA staff were enthusiastic proponents of aquaculture development, and that enthusiasm may have led them to focus disproportionately on locations and data that supported the outcome they were working toward. But confirmation bias in pursuit of a Council-directed public purpose is not the same as the deliberate exercise of official authority for a corrupt or improper purpose.

The Complainants have not identified any information suggesting MoDA staff conducted the water testing with the intention of using their public office for a purpose other than the public good, or for a dishonest, partial, corrupt, or oppressive purpose. On the documentation provided to me, MoDA staff conducted water testing as part of a Council-directed economic development initiative, the very public benefit Council was pursuing, and did so before the ADA program existed.

- **Allegation #5 (Public Consultation Minimized or Discouraged)**

- a. Summary of Allegation**

The Complainants allege that, through the influence of Deon's and the AANS, the aquaculture industry actively discouraged MoDA from performing meaningful public consultation on the ADA program, and that MoDA relented. They further allege the consultation that did occur was inadequate and that MoDA misrepresented its extent and quality to the Province.

The Complainants make the following assertions:

Email evidence shows Public consultation was not conducted fairly when residents would be directly affected by the aquaculture sites chosen and approved. Public Sessions on ADA only invited industry, farmers and their families. No affected residents were made aware or attended.

MoDA council admitted inadequate public consultation was performed at their June 2024 session.

AANS members regularly discouraged meaningful public consultation with MoDA and DFA who became indoctrinated (and incentivised with patronage appointments to AANS and NS DFA committees). Many emails establish prejudice and a negative sentiment around engaging the public and predetermined residents as adversaries.

Only 39 people attended 2 information sessions of 8000+ constituents. All those in attendance were representatives from industry. MoDA then declared this as public consensus from Argyle and recommended the province proceed with approving site locations and applications.

- Inadequate public consultation.

The Complainants assert that MoDA's public consultation on proposed ADA locations was limited in scope and reach. They allege that only 39 individuals attended the public open houses out of a constituency of more than 8,000 residents, and that attendees were predominantly aquaculture farmers and their family members rather than representative members of the general public. They further allege that MoDA declared this limited engagement a consensus from Argyle to proceed with the ADA, and submitted it to the Province as evidence of adequate public engagement.

- Industry-directed suppression of public consultation.

The Complainants allege that AANS members regularly communicated with MoDA and NSDFA staff in terms that discouraged meaningful public consultation. The email evidence reveals a negative sentiment toward public engagement within MoDA and NSDFA, with concerned residents characterised in advance as adversaries or obstacles. The Complainants assert that MoDA and NSDFA staff were "indoctrinated," and that this discouraged and minimised public access to proposed ADA location information.

- Consultation structured to occur too late to be meaningful.

The Complainants further assert that, even to the limited extent public consultation occurred, it was structurally confined to a point where it could no longer influence the outcome. They allege no consultation occurred before ADA locations were pre-approved or before the first six applicants were approved, and that public input was permitted only in writing, without any public meeting, during a 30-day window after an application had already been submitted and before an award was made. The Complainants characterise this sequencing as creating a perception of consultation without a genuine, timely opportunity for affected residents to influence site selection or approval decisions.

- Use of intimidation rhetoric to discourage attendance at industry-organised sessions.

The Complainants also rely on email correspondence in which AANS's Executive Director proposed engaging a professional facilitator for the June 4, 2024 open house "just in case a mob showed up in an attempt to take over the session," offered to cover the cost on the basis that "the anti- people may never show up ... but could be a good investment," and asked Muise for a local RCMP contact in case concerns needed to be raised with police. The Complainants assert that this framing of concerned residents as a security risk, and MoDA's apparent acquiescence in it, is further evidence that residents were characterised in advance as adversaries rather than stakeholders to be engaged.

- Deliberate avoidance of consultation due to proximity-to-homes concerns.

The Complainants further assert that MoDA and the ADA Steering Committee made a concerted effort to avoid consulting the public because they anticipated concerns about the proximity of proposed ADA sites to residential homes and communities, and allege that when proximity to homes was identified as an inconvenient factor it was removed from the ADA evaluation criteria

rather than addressed through public engagement. The Complainants cross-refer to their Allegation #4 documentation in support.

- Council's acknowledgement of consultation failures.

The Complainants rely on events at MoDA Council's June 2024 session, at which they assert Council acknowledged that adequate public consultation had not been performed in connection with the ADA program. The Complainants submit this Council admission supports their position that the consultation conducted by MoDA did not meet the standard required.

- Muise's Role

The Complainants assert that Muise's role in causing or permitting inadequate public consultation constitutes a conflict of interest and an ethics and code of conduct violation.

- Consequences of Inadequate Consultation

The alleged harm this had on nearby residents is described by the Complainants as:

2) Consultation also helps identify potential environmental and social risks that might otherwise be overlooked, especially those affecting residential quality of life. Homeowners and local communities can provide detailed knowledge about local species, water conditions, noise and light patterns, and how new facilities might influence traffic, odour, viewsheds, and property valuations. Their insights can highlight issues such as habitat disruption, pollution concerns, or conflicts with existing marine and shoreline activities, leading to better site selection and more robust management plans that respect both ecological and community needs.

b. Summary of Muise Response

Muise responds as follows:

- The Ombudsperson's findings²¹.

Muise relies heavily upon the Ombudsperson's assessment of a complaint made by some of the same Complainants regarding MoDA's public engagement process. The Ombudsperson's assessment measured MoDA's engagement against the requirements of the MOU, the MGA, and MoDA's own Municipal Planning Strategy (the "MPS"). The Ombudsperson concluded:

²¹ See Appendix "B" for the entirety of the Ombudsman's May 11, 2026 Email to Nicole Albright.

Based on the documents reviewed and the information provided through interviews, the Municipality met or exceeded the requirements of the MOU signed between the Department and Municipality, the MGA, as well as their own MPS.

The Ombudsperson's email further described the engagement activities undertaken by MoDA in the following terms:

Interviews with municipal and provincial staff as well as the Aquaculture Development Area Local Stakeholder Engagement Report reflected that the Municipality conducted stakeholder engagement, as required by the MOU referenced above. This consultation included discussions with residents at various wharves and throughout the community and information sharing with fishers and operators of licensed aquaculture farms in the area concerning the prospective ADA.

Information concerning the ADA was circulated on the municipality's social media accounts, the municipality's website, the Aquaculture Development Area website, and the radio. Also, various news media articles concerning the prospective ADA were published and information about the ADA was shared on local radio stations.

The local engagement also involved consultation with various community groups via stakeholder committees and emails, three pop up sessions at local stores, and two open houses. The open houses and the ADA were advertised at local grocery stores, the municipality's office, the Pubnico post office, local gas stations, played on a radio station, posted on social media, and on the ADA website. Direct emails were also accepted before the open house, which accepted commentary, questions, and concerns regarding the prospective ADA.

The Ombudsperson did, however, identify three areas of improvement for future reference:

- 1. Consider developing a public engagement policy or adding a formalised public engagement process within the MPS for activities that have an impact on the community.*
- 2. Consider defining 'significant community impact' and 'stakeholder' within a separate formalised public engagement policy or in the MPS, for clarity and transparency.*
- 3. Consider advertising future public information sessions by mail to ensure that individuals who do not have access to the internet and/or social media are aware of matters which are in close proximity to them and/or may significantly impact them.*

Muise states that these suggestions were accepted and that MoDA is drafting a public engagement policy to address them.

- Breadth of MoDA's engagement activities.

Muise claims that the open houses were only one element of a multi-faceted engagement process spanning approximately four years, which also included:

- chance conversations with residents;
- direct outreach to fishers and existing sea farmers (conducted socially distanced during COVID, with maps and sanitary wipes);
- publications including brochures, newsletters, and a one-pager; social media campaigns;
- radio broadcasts;
- pop-up information booths at local stores;
- direct emails accepting questions and comments;
- a dedicated Aquaculture Argyle website; and
- an external consultant (WSP) engaged to compile and lead the engagement.

He notes that the Province accepted and approved the Stakeholder Engagement Report, and that NSDFA's own position was that the public engagement was "comprehensive, thorough, and well documented."

- The October 2022 open houses.

Muise acknowledges attending the open houses and concedes he would not characterise the 39 attendees as representative of the broader public. He states that public attendance at municipal engagement events is generally a fraction of the population, and open houses are designed to give those curious or concerned an opportunity to attend. He notes the open houses achieved the highest public participation of any MoDA topic since a wind turbine hearing in 2015, with many outreach methods used to encourage attendance, and that a later NSDFA-led session in June 2025, following the ARA's own campaign to mobilise the public, drew fewer than 25 attendees, with some ADA supporters staying away due to online intimidation.

- The Local Stakeholder Engagement Report.

Muise confirms he critically reviewed the WSP-compiled report before it was submitted to the Province. The report accurately represented MoDA's multi-faceted engagement activities and did not characterise the 39 open house attendees as representing public consensus. He submits the report shared MoDA's work for the Province to assess and accept, and that the Province accepted it because it was satisfied with the contents, not because of MoDA's own satisfaction with it.

As noted earlier in this Report, however, the Stakeholder Engagement Report has notable deficiencies: it does not set out how the specific concerns raised by participants (including impacts on residents, the environment, property values, and the fishing industry) were addressed, resolved, or responded to. There is no response-to-concerns section, issue-resolution table, or record of MoDA or the Province communicating back to individuals or groups about what action, if any, was taken. The Report's only reference to responsive action is the general statement that feedback "have impacted the choices made related to potential marine areas and have steered policy discussions," without identifying which concerns led to which changes, or how affected residents' interests were weighed against the economic development objectives the Report identifies as its driving purpose.

- AANS membership and influence.

Muise acknowledges MoDA held a paid membership in AANS from 2020 to approximately 2022, initiated by Charlene LeBlanc with his approval. The membership cost less than \$400 per year and was intended to obtain industry knowledge and connections supporting MoDA's economic development mandate. He equates it to MoDA's memberships in the Yarmouth Chamber of Commerce and the Western Regional Enterprise Network.

He denies that AANS had any formal or informal role in MoDA's public engagement process, stating AANS's only open-house-related activity was an independent, post-announcement networking event for prospective investors, not a public consultation session, and that MoDA did not organise or take direction from that event.

- The June 4, 2024 AANS open house.

AANS asked MoDA to host the event, but Muise and d'Entremont declined on the basis that it would be confusing for MoDA to host an industry networking event while there was community opposition to the ADA process.

He advised AANS to lead the event itself. He submits the event was a business-to-business informational session for potential investors, open to the public, not a public consultation or engagement session, and confirms he discouraged AANS from engaging the RCMP or a facilitator, neither of whom was present.

- The "mob" and RCMP/facilitator email exchange.

Muise states he did not agree with AANS's Jeff Bishop's characterisation of concerned residents as a "mob," stating that "a coordinated effort to oppose a decision is not a mob" and that MoDA did not endorse that characterisation. He acknowledges Bishop raised the possibility of a facilitator and asked him for a local RCMP contact, but states he discouraged both, that neither was present at the event, and that MoDA neither paid for nor arranged either. He maintains the decision whether to engage a facilitator rested with AANS alone, for its own event, funded with its own money.

- Proximity to homes and the LeBlanc briefing note.

Muise recalls the 2018 briefing note and states its recommendations on proximity to homes and public engagement were prepared years before the ADA existed. When the ADA became a reality, he encouraged consideration of proximity to homes as a factor, and MoDA was "well accustomed and aware of the importance of balance" in land use. However, the Province informed MoDA that proximity to homes was not one of the factors it considers in assessing sites. Muise had several conversations with Bruce Hancock of NSDFA on balancing industry needs with proximity to residential homes, including discussions about setting a minimum distance requirement analogous to land use regulations, but these did not result in the addition of a further provincial factor.

- MoDA's internal proximity study.

Muise states that MoDA conducted its own assessment of proximity, independent of the Province. Of the 48 pre-assessed sites on the final ADA map, MoDA analysed the number of residents within 300 metres and 500 metres of each site. By visual count, 36 sites had no homes within those distances; of the remaining 12, none were in areas with a considerable residential cluster. He acknowledges some residents would be able to see cages from a distance, but notes the distance captured was from the closest point of the polygon to the home, and an actual lease could be considerably farther away.

- The WREN presentation.

Muise clarifies that the May 2024 email exchange in which Kate Collins stated "I see you taking the lead as AANS is not formally involved" was not about the June 4, 2024 AANS open house, as the Complainants assert, but about a joint presentation to the Western Regional Enterprise Network ("WREN"). Collins' comment meant she saw Muise leading the WREN presentation because AANS was not formally involved in the ADA process. The presentations were prepared separately and delivered to a group of economic development professionals, not to the public.

- The TIANs letter.

Muise describes his characterisation of the Tourism Industry Association of Nova Scotia ("TIANs") letter as "borderline irresponsible" because TIANs had not contacted MoDA, NSDFA, or AANS for context before writing it, there was no credible evidence shellfish farming conflicted with tourism, and the letter made broad, uninformed statements. He denies MoDA coordinated a response with AANS, stating AANS's response was its own, and maintains his opinion on the letter was irrelevant to the ADA process, which by that point had been completed by the Province.

- "Indoctrination" and negative sentiment toward the public.

Muise rejects the Complainants' characterisation of MoDA staff and councillors as having been "indoctrinated" by AANS. He describes characterising a councillor site tour as "indoctrination" as "frivolous and disrespectful of the role of municipal elected officials," stating councillors are capable of forming their own views and that Council had a pro-industry posture before any site tour, because supporting economic development is a core municipal mandate.

He states that through his lived experience and review of the FOIPOP emails, there were no negative sentiments towards public engagement on MoDA's part, and that MoDA intentionally sought input from many different sources over the course of the project.

Muise acknowledges Council did display negative sentiment, but states it was directed entirely toward the ARA group in response to what he characterises as accusations, inaccuracies, and an escalating communication style, not toward the general public or the concept of public engagement. He states Council "has rarely, if ever, displayed negative sentiment towards the people who elected them," and that any negative sentiment "developed towards the ARA group, as an eventual response to the ARA's own communication style and tactics."

c. Brief Analysis

Based upon the information provided, I do not consider that this gives rise to a *prima facie* case under s.12(1)(a) of the MCOI, for the following reasons. The correspondence underlying this Allegation reflects strongly held views on both sides, and neither side's characterisation of the other's conduct is entirely supported by the documentation. Both the Complainants and Muise raise valid substantive points, which I have endeavoured to assess on the merits:

First, the standard upon which I am assessing this Allegation is not whether the level of public consultation was ideal, but whether CAO Muise's conduct constitutes malfeasance, breach of trust, or other misconduct within the meaning of the MCOI. A *prima facie* case requires conduct that is positively unlawful, involves the exercise of official authority for a purpose other than the public benefit, or constitutes a wilful transgression of duty.

The Complainants' following assertion regarding the importance of public consultation under the PowerPoint slide "Why is this a Conflict?" is well-taken:

Public consultation is essential when governments consider new aquaculture sites because these projects directly affect shared coastal and freshwater environments as well as nearby homes and residential communities. Local residents often have deep connections to these areas—economically, culturally, and recreationally—and may be directly impacted by changes to their living environment. By involving the public early, governments ensure that decisions are informed not only by scientific and industry perspectives but also by the lived experiences and values of the people who reside near proposed sites.

It is difficult to disagree with these assertions, and I do not read the Complainants as having expressly conceded that inadequate consultation, even if established, falls short of malfeasance, breach of trust, or other misconduct. Whether or not that concession is intended, the more fundamental point is a legal one, addressed below.

I can find no jurisprudence which has found that a failure to engage in adequate consultation constitutes malfeasance, breach of trust or other misconduct.

Second, MoDA's engagement obligation under clause 4 of the MOU signed February 6, 2020 was to "lead the engagement with those stakeholders and report to the Minister on the results of those engagements." The MOU prescribed no particular form, frequency, or minimum threshold of engagement, and did not require MoDA to obtain public consent or ensure public input influenced

site selection. Accordingly, there is no precise standard against which to measure the engagement level.

Third, the Ombudsperson was satisfied that the public consultation was adequate. It would be difficult to conclude in the face of this satisfaction that there had been malfeasance, breach of trust or other misconduct.

That said, I accept, in part based on the Ombudsperson's suggestions, that there were deficiencies in the consultation process. As noted earlier in this Report, the Local Stakeholder Engagement Report itself has shortcomings: while it documents the concerns raised by participants (including impacts on residents, the environment, property values, and the fishing industry), it does not set out how those concerns were addressed, resolved, or responded to. There is no response-to-concerns section, issue-resolution table, or record of MoDA or the Province communicating back to individuals or groups about what action, if any, was taken. The Report acknowledges that "the creation of new economic opportunities for the region must be balanced with concerns of those that could be affected," but does not explain how that balance was struck. These are legitimate shortcomings, and the Complainants' concerns on this point are well-taken. I cannot conclude, however, that such deficiencies appear likely to meet the malfeasance, breach of trust, or other misconduct threshold.

Fourth, the Complainants assert consultation was structured to occur too late to influence the outcome, relying on the fact that public input in the ADA approval process was confined to a 30-day written comment period near the end of that process, after locations and applicants had already been approved. I do not find this persuasive as a basis for a finding against Muise. The ADA approval process, including the point at which public comment is invited and the 30-day period allotted for it, is designed and administered by the Province under the FCRA and its Aquaculture Licence and Lease Regulations, not by MoDA. MoDA had no role in establishing that process or its timeline, no authority to lengthen, shorten, or move the comment period, and no authority over when in the provincial approval process it was to occur. To the extent the placement of that period late in the process made public input less influential than the Complainants would have liked, that is a feature of a process over which the Province, not MoDA, exercises exclusive jurisdiction, and it cannot fairly be treated as evidence of malfeasance, breach of trust, or other misconduct on Muise's part.

Fifth, the logical implication of the Complainants' position is that had MoDA's consultation process been more inclusive, the ADA site selection decisions would have been different. I acknowledge

that MoDA's Stakeholder Engagement Report was a required input under the MOU, and that a more robust report reflecting genuine public concerns could, in theory, have influenced the Province's willingness to proceed or its choice of sites. Ultimately, however, I have difficulty accepting this implication for the following reasons:

- The criteria upon which the Province made decisions as to ADA areas and applications do not account for the quality of the public consultation.
- The Data Committee used 20 data layers in the DST to identify and recommend potential ADA areas for the Minister's designation under s.56 of the FCRA, drawn from federal, provincial, and independent technical sources (including wave height, bathymetry, lobster fishing activity, wetlands, vessel traffic, eelgrass and rockweed habitat, existing aquaculture sites, bird and biodiversity areas, wharves, contaminated sites, shellfish sanitation classifications, property boundaries, roads, civic addresses, and aerial and sonar imagery). None of these layers relates to public consultation.
- Separately, the Aquaculture Administrator assessed individual applications by reference to the 7 Factors prescribed by section 17(1) of the Aquaculture Licence and Lease Regulations. The Administrator must take into consideration the optimum use of marine resources as determined by taking into consideration "the following factors only":
 - (a) The contribution of the proposed operation to community and Provincial economic development;*
 - (b) Fishery activities in the public waters surrounding the proposed aquacultural operation;*
 - (c) The oceanographic and biophysical characteristics of the public waters surrounding the proposed aquacultural operation;*
 - (d) The other users of the public waters surrounding the proposed aquacultural operation;*
 - (e) The public right of navigation;*
 - (f) For marine finfish applications, the sustainability of wild salmon;*
 - (g) The number and productivity of other aquaculture sites in the public waters surrounding the proposed aquacultural operation.*

None of the 7 Factors includes public consultation or proximity to homes as a consideration that must be satisfied before the Province may designate an ADA or approve an application. On the specific question of proximity, the Aquaculture Administrator's Decision on site 8012/AQ#1475 expressly addressed public submissions raising concerns about the impact of the proposed site on real property values and views of the surrounding waters, and concluded that such concerns

"do not come within the scope of criteria that the Administrator must take into account with respect to this application, further to Subsection 17(1) of the Regulations."

Sixth, the allegation that AANS discouraged MoDA from performing meaningful public consultation is unpersuasive for the following reasons:

- AANS had no representation on the Steering Committee, Stakeholder Committee, or Data Committee.
- The AANS-organised June 2024 open house was an independent post-announcement industry event, not a substitute for the consultation process and not an event organised or directed by MoDA.
- The Complainants also rely on the AANS Executive Director's email referring to the possibility of a "mob" and proposing a facilitator and RCMP contact for the June 4, 2024 open house. I do not find this persuasive as evidence against Muise specifically. The email was sent by an AANS representative, not Muise or any MoDA official, and the characterisation of concerned residents it contains is not attributable to Muise merely because he was copied on it. Muise's evidence, which I accept, is that he disagreed with that characterisation, discouraged both the facilitator and the RCMP contact Bishop raised, and that neither was engaged or present at the event. The correspondence reflects AANS's own conduct and language, not MoDA's, and does not support a finding that Muise adopted or acted upon the sentiment expressed. I address my views on Bishop's language directly below under Allegation #11.
- The Complainants further assert that AANS caused MoDA and NSDFA staff and councillors to become "indoctrinated" and to adopt a negative sentiment toward public engagement, characterising concerned residents as adversaries in advance. I do not find this persuasive as a basis for a finding against Muise. Muise's explanation, which I accept, is that councillors are capable of forming their own views independent of any AANS influence, that Council's pro-industry posture predated any AANS site tour or other engagement, and that his own review of the correspondence disclosed no negative sentiment toward public engagement as such. He acknowledges Council did display negative sentiment at points, but attributes it specifically to an escalating pattern of accusations and communication from the ARA group, not to the public generally or to the

concept of public consultation. While some individual emails in the record reflect an unfavourable characterisation of engaged residents, characterising an organisation's staff and elected officials as "indoctrinated" by a third party is a serious claim requiring more, and the Complainants have not established a causal link between AANS's involvement and any diminished public engagement by MoDA.

- By all accounts, industry input was desired and consistent with MoDA's overarching strategy of creating a "Business Park by the Sea." The Complainants' concerns as to the extent of industry input on the process are well-taken and consistent with concerns often expressed in these situations. But it is difficult to conclude that such industry input amounts to malfeasance, breach of trust, or other misconduct on Muise's part. In reaching this conclusion, I do not wish to diminish the importance of meaningful public consultation in matters that directly affect the communities in which residents live and work. The Complainants' underlying concern, that affected residents' voices were not given sufficient weight in this process, is one I take seriously. I find, however, that the deficiencies in consultation identified above, while real, do not rise to the level of conduct contemplated by s.12(1)(a) of the MCOI.

- **Allegation #6 (MoDA and NS DFA Staff Fabricated and Changed Data)**

- a. Summary of Allegation**

The Complainants allege that email evidence shows the data analysis conducted for the ADA program did not present the outcome required to support Deon's preferred Salt Bay location, and that provincial and municipal staff employed data bias to achieve a desired outcome. They characterise this as a fixing of ADA locations, subsequently recommended and approved by the ADA Steering Committee, municipal staff and the CAO, Council, and ultimately NSDFA and the Minister.

The Complainants describe their Allegation as:

Email evidence shows the ADA steering committee represented by industry, the Aquaculture Association of NS (AANS), the municipality of Argyle (MoDA), and NS Department of Fisheries and Aquaculture (NS DFA) ignored or changed data to suit the locations desired by the industry, and in particular Deon's Oyster Company (DoC).

The data analysis did not present the desired outcome required to support locations desired by the industry.

Email evidence demonstrates that data bias was used to achieve a fixed/desired outcome. This fixing of ADA locations in this manner was then recommended and approved by the ADA steering committee, by Municipal staff and CAO, then council, and ultimately by NS DFA, and the minister.

The Complainants rely upon the following:

- November 17–18, 2020 email exchange concerning the weighted overlay DST.

In that exchange, a Dalhousie University representative stated:

In summary, the tool was performing inaccurate calculations in this region. So I removed the inaccurate region from the calculation.

Matthew King of NSDFA stated:

"I'd like to verify this dataset before sending out alarms" and "I don't think we discount this bathymetry dataset yet guys," and further noted that "the depth indicated for this area is 1 foot (not 1 metre)... We've all been to this site and there is more water here than 1 foot."

The Complainants allege this shows that when the underlying data did not support Deon's preferred Salt Bay location, NSDFA and MoDA staff ignored or changed the data to suit the

desired outcome, and that King's remark that "the decision support tool is not the be all end all" was intended to condition the audience to accept a predetermined outcome.

- Removal of the "Cats Pass" site.

The Complainants rely on references to a non-residential site referred to as "Cats Pass," which they allege was identified by the DST as optimal, with water depths comparable to Salt Bay, but that this site was not desired by Deon's and was subsequently removed from consideration.

The Complainants question why a site the public could support was removed, relying on King's statement that "there will be further verification required when the scope gets more narrowed and a potential ADA(s) determined" as evidence that the removal was manufactured rather than scientifically justified. They assert that Deon's selected its desired ADA location and later applied as the successful applicant, noting that the Salt Bay site was first on MoDA's candidate list and among the first six sites approved for the call for proposals.

- d'Entremont's recommendation to NSDFA.

The Complainants rely on d'Entremont's September 1, 2022 email to Matthew King of NSDFA, in which d'Entremont stated: "I think either Eel Lake or Salt Bay may be your best bets for finding the largest beds of oysters within Lobster Bay." The Complainants allege this demonstrates that d'Entremont was steering NSDFA toward Deon's preferred location to ensure it remained a top ADA candidate, rather than presenting objective, unbiased data.

- Biased water testing coordinated with Deon's.

The Complainants rely on November 2018 email exchanges between Charlene LeBlanc and Valérie Lalande of Université Sainte-Anne, in which:

- Lalande stated "I have to confirm with Colton,"
- LeBlanc stated "I called Colton" and "I will go to Salt Bay and do a reading there... and check it before I leave. Lol," and Lalande's familiarity with "Nolan's site in Salt Bay" is cited as establishing intent to support Deon's desired location.

The Complainants characterise this as confirmation bias that counters the scientific method in favour of a self-fulfilling prophecy, and as evidence of collusion and conflict of interest.

- Removal of "proximity to homes" as a site-selection factor.

The Complainants rely on a table of "Factors Considered for Tentative Sites" listing "Homes" as a criterion, and assert that Salt Bay does not appear in that table despite having homes on its shores, suggesting this factor was inconvenient to the desired outcome and was subsequently disregarded for Salt Bay. They further note that an early decision map identified certain areas as "Tentative No Fishing Areas (Mud Flats)" that nonetheless contain proposed ADA locations, and allege that Councillors Muise, Albright, and Danny Muise were never shown these maps before the April 2024 announcement, despite subsequently indicating they had not seen them when asked.

- AANS-facilitated presentation materials and unresolved public concerns.

The Complainants rely on May 2024 email exchanges between CAO Muise and Kate Collins of AANS regarding presentation slides listing "Proximity to Homes" and "Recreational Boaters" as factors considered for site selection, notwithstanding that these factors had allegedly already been removed from the evaluation criteria applied to Salt Bay.

The Complainants assert that residents raised these concerns following the April 2024 press release, that MoDA never substantively addressed them, and instead consulted with NSDFA and AANS to prepare rebuttals. They question why residential concerns were not given the same credence as AANS's input into the ADA's design.

- Privileged and special access to insider data.

The Complainants rely on a series of emails between 2018 and 2019 in which Charlene LeBlanc provided Colton D'Eon with detailed water testing readings for Salt Bay (including pH, salinity, temperature, and dissolved oxygen), asserting that this data was not offered to the public or other farmers and gave Deon's an advantage in influencing the site they desired.

- Selection of desired locations without scientific basis.

The Complainants rely on an August 2021 email in which Charlene LeBlanc reported to a prospective applicant that she and d'Entremont had asked existing farmers Nolan Deon and Raymond d'Entremont for their opinion on the suitability of the Argyle Sound as a lease area, and that "neither would choose that site."

The Complainants allege this demonstrates that MoDA staff consulted with Deon's on the suitability of specific locations rather than relying on objective data, and that Deon's preferences influenced which sites were advanced and which were not. They characterise this as evidence that data bias was used to achieve a fixed or desired outcome, constituting a conflict of interest.

- MoDA, not NSDFA, selected the ADA locations.

The Complainants rely on Charlene LeBlanc's January 15, 2020 email to NSDFA reporting 19 candidate sites with Salt Bay listed first, and Matthew King's response that "finalizing areas of interest is key to moving the project forward."

The Complainants allege that this shows MoDA, not NSDFA, identified and prioritised the candidate locations, that Deon's was given insider access to influence this selection, and that no adequate public consultation had occurred at that stage.

b. Summary of d'Entremont Response

d'Entremont's response to Allegation #6 relies substantially on answers he had already given in response to the overlapping documents relied upon under Allegation #4, which cover the same underlying emails (the November 2018 water testing coordination, the October 2019 and January 2020 water testing and site list emails, and the November 2020 bathymetry/"Cats Pass" exchange). He also cross-refers to his Allegation #2 answer for the September 2022 Salt Bay and Eel Lake recommendation to NSDFA.

He does, however, provide two responses specific to Allegation #6: his response regarding the August 2021 Argyle Sound consultation and his response regarding the ADA Polygons and Location Factors Table. His responses are as follows.

- Water testing coordination and bathymetry/Cats Pass (cross-referred to Allegation #4).

For the November 2018 Lalande/LeBlanc/Colton Deon water testing emails, d'Entremont cross-refers to his Allegation #4 answer, which explains that:

- all water testing before the February 2020 MOU was unrelated to the ADA pilot project,
- was conducted for promotional purposes, and

- included at least 16 other locations tested around the same period.

With respect to the October 2019 water testing email, he cross-refers to his Allegation #4 answer, confirming the same pre-MOU characterisation and noting that many locations, not only Salt Bay, were targeted for testing.

As for the January 2020 email listing 19 candidate sites with Salt Bay first, he cross-refers to his Allegation #4 answer, in which he states that:

- 19 sites were pre-ADA water testing locations,
- there is nothing indicating the list order was significant, and
- no Deon Oyster Company employees or other industry parties appeared on the redacted CC line.

As for the November 2020 bathymetry dataset and Cats Pass exchange:

- he cross-refers to his Allegation #4 answer, in which he explains that the appropriate response to the flawed bathymetry data was to find a replacement dataset;
 - that the temporary fix removed all shallow areas from the model, including Salt Bay itself (which is inconsistent with the Complainants' theory that the correction preserved Salt Bay while eliminating Cats Pass); and
 - Cats Pass was ultimately excluded once improved bathymetry confirmed it lacked sufficient depth for both a navigational channel and aquaculture sites. He maintains that the spatial analysis process was conducted in an objective and scientifically rigorous manner throughout.
- August 2021 — LeBlanc's consultation with Nolan Deon and Raymond d'Entremont on Argyle Sound.

d'Entremont directly disputes the Complainants' characterisation of this email as showing MoDA staff taking direction from Deon's on ADA site suitability. He confirms that MoDA staff had

discussions with all active shellfish farmers in the area of analysis about site suitability, on the basis that they possessed first-hand relevant experience.

The allegation that locations not desired by Deon's were "effectively vetoed" is inaccurate; many potential ADA locations not desired by Deon's (for various reasons) ultimately became final ADA areas.

He confirms he was aware that LeBlanc was consulting with all active shellfish farmers (not only Deon's) regarding site suitability, had no concerns about this because NSDFA was aware of and encouraged the practice, and was himself involved in most stakeholder conversations of this nature.

- September 2022 — Salt Bay and Eel Lake recommendation to NSDFA.

d'Entremont cross-refers to his Allegation #2 answer, reiterating that the recommendation was made specifically in the context of testing NSDFA's sonar equipment's ability to detect wild oyster beds, and was not related to ADA location selection.

- ADA Polygons and Location Factors Table.

d'Entremont says the following with respect to this table from March 2020:

- It was very early in the ADA pilot project's planning process, before the ADA team had fully defined the criteria for selecting potential ADA polygons.
- He was likely involved in developing the table with LeBlanc, but characterises it as very preliminary data based on MoDA staff experience rather than any rigorous or scientific analysis.
- He does not recall exactly why Salt Bay does not appear on the table, but notes Salt Bay was nonetheless an area of interest at that time.
- Later in the pilot project, the Data Committee determined which factors were important for the DST, and proximity to homes was not identified as one of them.
- He confirms he was a member of the Data Committee and, having reviewed the Committee's files from the early months of the pilot project, finds no mention of proximity

to homes at all, indicating in his view that the factor was likely never considered by the Data Committee because it was determined not to be relevant, rather than deliberately removed to accommodate Salt Bay.

c. Summary of Muise Response

Muise responds to Allegation #6 as follows:

- Water testing focus on Salt Bay.

The water testing work led by MoDA was for promotional purposes and separate from the ADA process. He identifies other waterways Charlene LeBlanc tested as part of her initial review, including Calf Island, Wedgeport, Robert's Island, Argyle, and Pubnico, confirming testing was not solely focused on Salt Bay. LeBlanc also tested at existing Eel Lake and Salt Bay farming sites at Colton D'Eon's request, characterising this as local information support to an existing operator rather than ADA-related activity.

- Sharing of detailed water quality data with Deon's.

Muise reiterates that the testing led by LeBlanc was not ADA-related. The Deon family are capable of assessing basic water quality data themselves, and LeBlanc's assistance was limited to helping with equipment failure or on their own sites. He acknowledges this data was not made available to the public but states he does not see the relevance of sharing that type of information, noting that under the traditional (non-ADA) lease application process in place at the time, site selection was undertaken by the sea farmer rather than the Province, with public consultation occurring only after a lease application was accepted.

- Continued water testing at Salt Bay in 2019.

Muise states he provided no oversight or direction on testing locations, and that LeBlanc did not test water locations for the ADA program. He characterises the 2019 sharing as "old information," not newly generated data.

- Casual and informal sharing of data.

Muise characterises the casual and responsive nature of MoDA's service delivery, including LeBlanc's informal communications with Colton D'Eon, as consistent with the culture he has

sought to instil at MoDA, one of service and kindness, rather than evidence of a special or improper relationship.

- The 19 candidate sites and data collection disparity.

The collection of data at that time was for promotional, not ADA, purposes. He submits that any disparity in data collection across the 19 sites is irrelevant to the ADA process because that process was owned and administered by the Province.

- The bathymetry dataset and “Cats Pass”.

Muise says he was not aware of the November 2020 correspondence or the underlying process at the time, noting the work in question was conducted with the Steering Committee, to which he had no input.

d'Entremont's intervention is characterized as questioning data based on his personal experience of the Cats Pass location, and states that the assessment of site information was the Province's responsibility, with Matthew King's response being consistent with that understanding.

Muise says Cats Pass is located in Pubnico, approximately 26 kilometres from Salt Bay, meaning there is no geographic connection between the two locations that could substantiate a theory that one was eliminated to benefit the other. He notes that d'Entremont, as an expert boater from Pubnico who “knows these waters like the back of his hand,” was well positioned to identify a data discrepancy, and that raising such a concern was the correct and expected course of action.

Muise states there is no element of the ADA process indicating the Province was working toward a fixed number of sites, and that the Complainants' theory rests on the unsupported assumption that the elimination of one site was connected to the selection of another.

He notes that sea farmers remain free to apply for a site outside the ADA process if it is not selected, and reiterates that the ADA is a planning tool that does not replace the Province's regulatory lease application process.

He exercised no oversight over the Province's spatial analysis work, as it was jurisdictionally the sole responsibility of the NSDFA; he was aware only that MoDA staff were providing advisory input at the Province's request, which may have informed, but did not determine, the Province's process. Muise states that any applicant or staff site preference would still need to be supported

by what he describes as the Province's "8 factors"²² before a site could be selected. Consultation with Nolan Deon and other farmers on site suitability.

Muise confirms he was aware that LeBlanc consulted with Nolan Deon and other sea farmers throughout the process.

Muise considered this normal and necessary, analogous to consulting a potato farmer when developing agricultural policy affecting potato farming.

This consultation was the express purpose of the Stakeholder Committee, intended to inform, not determine, the provincially led and regulated ADA process, and the Province's own site maps went through several iterations incorporating this advisory input. He emphasises that the process appropriately separated stakeholder advice from the Steering Committee's decision-making function, and expresses confidence that his staff's engagement with local sea farmers was conducted in good faith and consistent with the MOU.

- d'Entremont's September 2022 recommendation to NSDFA.

Muise was not aware of this email at the time it was sent and was not required to pre-approve it. He reiterates his view that the email concerned a sonar testing issue, not an ADA site selection issue. According to Muise, MoDA's lack of determinative influence, that no ADA sites were ultimately established in Eel Lake despite d'Entremont having referenced it in his recommendation demonstrates that MoDA had an advisory role and the Province exercised independent decision-making.

- The factors table and proximity to homes.

Muise was not involved in developing the factors referenced in the table, and provincial factors pre-date the ADA process. He states unequivocally that the Province never indicated proximity to residential homes was one of its statutory factors, and that any reference to proximity to homes in MoDA's own materials reflected a municipal concern, not a provincial evaluation criterion. He acknowledges this may have been misunderstood by the Complainants as a provincial factor that was later altered, calling this "an understandable error," but maintains there was no alteration of

²² The Regulations at s.17(1) prescribe 7 Factors, (a) through (g); consistent with my initial characterization, Muise appears to count the "optimum use of marine resources" preamble as an additional factor.

any provincial factor and that Deon's preferences could not have altered provincial factors in any way.

- Council's access to early decision maps.

Muise confirms the Complainants' factual assertion that early maps were not shared with Council is accurate, but disputes that this was improper. Council was not a decision-maker in the ADA process and did not request to be involved in the Province's process at that stage. Council would have had access to the map at the same time as the public, at the October 2022 open houses, rather than only at the April 2024 announcement; whether individual councillors chose to view the map earlier was their own option. He maintains the map information was owned by the Province and it was not within MoDA's authority to share it without provincial approval.

d. Brief Analysis

Based upon the information provided, I do not consider that this gives rise to a *prima facie* case under s.12(1)(a) of the MCOI for the following reasons:

First, the Province made the ultimate decision on ADA site designation and licensing. The Complainants' own PowerPoint presentation outlining Allegation #6 confirms this.

The authority to designate ADA areas rests exclusively with the Minister, with the approval of the Governor in Council, under section 56 of the FCRA. The separate authority to evaluate proposals and to issue aquaculture licences and leases rests with the Aquaculture Administrator under sections 54A and 57. MoDA had no statutory authority to designate, approve, or reject ADA sites, and no authority to grant or refuse a licence or lease.

Even accepting the Complainants' characterisation of the data as having been manipulated, the question remains whether any such manipulation was capable of influencing the provincial decision. As d'Entremont asserts, and as the Province's own Pilot Project Overview corroborates, the ADA pilot project DST did not include any of the water testing results undertaken by MoDA or Université Sainte-Anne. The scientific conclusions that informed ADA area selection were the responsibility of the Data Committee, and the Complainants have not demonstrated that MoDA's water testing data had any bearing on which locations were ultimately designated as ADA areas.

Second, Deon's was not a member of the Data Committee. The Complainants' data fabrication theory rests on the premise that Deon's had the ability to direct or influence the scientific process by which ADA sites were identified. The documentary record does not support this.

The Data Committee, the body responsible for collecting, receiving, and analysing data for the area of analysis, and for refining the 20 critical data layers used in the DST, was not comprised solely of MoDA, but rather representatives from the Department of Fisheries and Aquaculture, the Centre for Marine Applied Research, the Department of Fisheries and Oceans Canada, Dalhousie University, and MoDA.

No owners or employees of Deon's sat on the Data Committee. The scientific assessment of potential ADA locations was conducted by provincial, federal, and academic representatives through a structured process separate from the Stakeholder Committee on which Colton D'Eon participated in an advisory capacity.

I acknowledge that the closeness of the working relationship between LeBlanc and Deon's, including the sharing of detailed water testing data not made available to the public, and the August 2021 email in which LeBlanc consulted Nolan Deon and Raymond d'Entremont on the suitability of the Argyle Sound as a potential lease area, gives rise to understandable concerns about the appearance of favouritism.

The Complainants are right to ask why a prospective applicant was being consulted on which sites to advance. d'Entremont's response, namely that all active shellfish farmers in the area were consulted, not only Deon's, and that many locations not desired by Deon's ultimately became final ADA areas, provides relevant context but does not entirely dispel the concern.

Nonetheless, the question under s.12(1)(a) is not whether MoDA's engagement with Deon's was imprudent or gave rise to an appearance of favouritism, but whether it constituted malfeasance, breach of trust, or other misconduct. An appearance of favouritism and a finding of corrupt intent are analytically distinct: the former speaks to optics and prudence, the latter requires proof that a public official exercised authority for a purpose other than the public good. As noted elsewhere in this Report, Deon's is a local business operating in a sector that MoDA was expressly mandated by Council to support and develop, and industry consultation of the kind contemplated by the MOU and conducted through the Stakeholder Committee was a legitimate and expected part of the ADA process. The optics concern identified above lies not in consulting industry as such, but in the closer, less structured relationship between LeBlanc and Deon's specifically, including the

sharing of data not made available to other farmers or the public. Even accounting for that concern, the record does not show that Deon's preferences, as opposed to its input, determined which sites were ultimately advanced. On the information provided to me, I am unable to conclude that the conduct described was undertaken for a purpose other than the public good, or that it reflects the kind of deliberate, corrupt intent that *Boulanger* (discussed above) requires of a breach of trust.

Third, regardless of timing, the provincial DST did not incorporate any of MoDA's water testing results, and this significantly undercuts the Complainants' data fabrication theory. The water testing emails and site identification materials the Complainants characterise as evidence of data fabrication date from November 2018, July 2019, October 2019, November 2019, and January 2020, which the Complainants and d'Entremont agree pre-date the MOU signed on February 6, 2020 and the formal commencement of the ADA pilot project.

d'Entremont's overarching response is that this testing was part of a separate, pre-ADA initiative under which MoDA collected water quality data with the intention of making that information publicly available to anyone interested in shellfish aquaculture in the municipality. As noted in respect of Allegation #4, the pre-ADA/post-ADA distinction is somewhat blurred by the January 15, 2020 email, sent just three weeks before the MOU, in which King's response ("Finalizing areas of interest is key to moving this project forward") is plainly directed at the ADA process. That said, this does not alter the fundamental point made above: the provincial DST did not include any of MoDA's water testing results, so whether that testing is characterised as pre-ADA or ADA-adjacent, it was not capable of influencing which locations the Data Committee identified or the Province ultimately designated.

Fourth, the removal of "Cats Pass" does not support the Complainants' theory of manipulation. d'Entremont's explanation is that the November 2020 correction removed all areas affected by the flawed bathymetry dataset from the model, and that this temporary fix excluded Salt Bay itself along with Cats Pass; it did not selectively preserve Salt Bay while eliminating its competitor. Cats Pass was ultimately excluded once the improved bathymetry dataset confirmed the area lacked sufficient depth to accommodate both a navigational channel and aquaculture sites, a determination made by the Data Committee on updated technical data, not by MoDA. The Complainants have not identified any evidence that this correction was applied selectively or that its outcome was directed rather than technical.

Fifth, in reaching this conclusion, I do not dismiss the Complainants' underlying concerns. The pattern of conduct they describe, namely a close working relationship between MoDA staff and a specific industry participant, the sharing of data not made available to the public, and the consultation of a prospective applicant on site suitability, is a legitimate basis for concern from an optics perspective, and I take those concerns seriously.

The relationship between MoDA staff and Deon's, while closer than one might expect in a regulatory context, must be understood against the backdrop of a small rural municipality actively pursuing aquaculture as an economic development priority in which the Province was the ultimate regulator. That context does not excuse a failure to maintain appropriate boundaries, but it does make it difficult to characterise the relationship as evidence of corrupt purpose rather than enthusiastic pursuit of a Council-directed mandate. The Complainants have not demonstrated a mechanism by which Deon's interests could have overwhelmed the multi-layered decision-making structure described above, comprising the Data Committee, the Steering Committee, the Aquaculture Administrator, and ultimately the Minister and Governor in Council, within which MoDA's role was limited to advisory input.

- **Allegation #7 (ADA Steering Committee First Considered Proximity to Homes, but Removed it Due to Farmers' Preferred Location)**

a. Summary of Allegation

The Complainants allege that the ADA Steering Committee initially considered proximity to residential homes as a factor in site selection, but removed this factor because it conflicted with the specific locations preferred by local farmers, including Deon's. The Complainants' PowerPoint states:

Email evidence shows the ADA steering committee initially considered proximity to residential areas and homes as a factor and then removed this as it countered the specific locations desired by local farmers.

The Complainants characterise this as a fundamental conflict of interest. Their PowerPoint further states:

The right way to factor proximity to homes into aquaculture location decisions is to treat it as a balancing and risk-management criterion, not an automatic exclusion. Rather than simply allowing or banning sites near residential areas, planners should assess potential impacts and whether they can be effectively managed. This assessment was not performed by MoDA or the ADA steering committee.

This Allegation is substantially similar to Allegation #6 and relies on much of the same evidence. The additional points specific to this Allegation are as follows:

- January 19, 2018 Briefing note

The Complainants rely on a January 19, 2018 briefing note prepared by Charlene LeBlanc for the Warden, which described proposed ADA locations as "being away from existing housing." The Complainants say this does not reflect reality because the ADA polygons are in fact alongside residential homes. The same 2018 note recommended "more consistent contact with the applicant" (i.e., Deon's) and "more public engagement," the latter of which the Complainants say never occurred.

- Deons Members of Steering Committee and March 14, 2022 Briefing Notice

The Complainants assert that the ADA Steering Committee included members of AANS and Deon's, who would later emerge as a bidder and applicant. The Complainants say that Nolan Deon and Colton Deon were members of the Steering Committee, giving them a position to

influence site selection while also positioning themselves to become an applicant. They rely on a March 14, 2022 internal ADA update stating “there have been conversations with D'Eon Oyster Company regarding adding ADA polygons within Salt Bay for them,” which they characterise as “a clear conflict of interest in black and white.”

- Factors Considered for Tentative Sites

The Complainants rely on a table titled “Factors considered for tentative sites,” which ranks candidate sites against criteria including proximity to homes. Salt Bay does not appear in the table, which the Complainants say indicates it was not evaluated on the same footing as other sites.

- Tentative No Fishing Areas (Mud Flats) Map

The Complainants also rely on an early ADA decision map showing "Tentative No Fishing Areas (Mud Flats)" in areas that nonetheless contain proposed ADA locations. They further assert that Councillors were never shown any of these maps prior to the April 2024 announcement.

- Proximity to Homes

They also rely on AANS presentation slides from May 2024 that listed “Proximity to Homes” as a factor considered for site selection. The Complainants assert that the audience for the AANS open houses was recruited via email lists targeting farmers and fishermen, and that it was unclear to residents whether they should attend. The Complainants further assert that when residents raised concerns about proximity to homes following the April 2024 announcement, MoDA did not substantively address those concerns.

- Community Liaison Committee

The Complainants also assert that members of the public were not included on either the ADA Steering Committee or the Stakeholder Committee, and that a Community Liaison Committee was never created despite what the Complainants say was the need for meaningful residential input into the ADA process.

- August 2021 Email

The Complainants further rely on an August 2021 email in which Charlene LeBlanc reported that she and d'Entremont asked Nolan Deon and Raymond d'Entremont for their opinion on the Argyle Sound as a potential lease area, and that "neither would choose that site."

The Complainants allege this shows MoDA staff facilitating farmers in selecting the locations they wanted rather than applying independent criteria. They also rely on LeBlanc's January 15, 2020 email to NSDFA listing 19 candidate sites with Salt Bay as number one, which they say confirms MoDA, not NSDFA, identified and prioritised the candidate locations.

b. Summary of d'Entremont Response

d'Entremont's responses to Allegation #7 are substantially similar to his Allegation #6 response:

- The January 2018 briefing note and September 2018 transmittal email.

d'Entremont states he cannot find the January 2018 briefing note in the FOIPOP documents, does not have access to it, and cannot comment on it. He notes that January 2018 pre-dates the start of the ADA work in February 2020 by approximately two years, and he does not recall being involved in its creation. The significance of this is that the document the Complainants rely upon as evidence of a "removed" factor was prepared before the ADA program existed.

- The January 2020 email listing 19 candidate sites.

d'Entremont explains these were locations MoDA staff had identified as possibly suitable for aquaculture before the ADA pilot project began. There is no evidence the list was in any particular rank order. He confirms that the "proximity to homes" criterion was one MoDA staff had identified before the ADA process started, but that it was later assessed by the Data Committee and determined not to be significant enough to form part of the DST's evaluation layers. This is significant because the Data Committee, not MoDA alone, determined the evaluation criteria, and proximity to homes was considered and found unnecessary for the provincial process. d'Entremont acknowledges he knew Salt Bay was "near" homes, but states that the criterion of "being away from housing" was not one established through the Data Committee.

- Steering Committee composition.

d'Entremont says that Nolan and Colton D'Eon were not members of the Steering Committee. The Steering Committee was comprised of NSDFA, MoDA, CMAR, and DFO. No members of the public sat on the Steering Committee either, though he states the public were identified as

stakeholders and were engaged with on multiple occasions throughout the ADA pilot project. He further states that Nolan and Colton d'Eon "did not have any role in discussions regarding evaluation criteria for potential ADA locations including proximity to homes."

- The "Factors considered for tentative sites" table.

This table was not created by the ADA pilot project team, but by MoDA staff prior to the ADA project's commencement for pre-ADA water testing purposes. The proximity to homes factor reflected in that table was never adopted through the ADA pilot project, because the table itself was not part of the ADA pilot project; it was a pre-ADA internal MoDA document with no bearing on the provincial evaluation process. With respect to the "Tentative No Fishing Areas (Mud Flats)" map, d'Entremont confirms it was not shown to Councillors or the public at any time, though other maps were. He explains the map showed areas where fishers did not place lobster traps and where aquaculture could possibly be placed.

- The May 2024 AANS presentation referencing "Proximity to Homes."

d'Entremont clarifies that the open house was not to the Western Regional Enterprise Network but was mainly for potential applicants. He acknowledges that including "Proximity to Homes" in the presentation was an oversight and states plainly it should have been removed, since the Data Committee had not adopted this as a criterion in its own evaluation process. This weighs against an inference of deliberate manipulation: it was an error in reusing outdated presentation materials, not evidence of a removed factor.

c. Summary of Muise Response

Muise's response to Allegation #7 is consistent with his responses to Allegation #6:

- Proximity to Homes

The municipal concern (proximity to homes) and the Province's own statutory evaluation factors never included proximity to homes were never altered:

He says "it was never removed; it was never a factor in the ADA provincial decision-making process." MoDA played no role in ADA criteria selection, as those factors were set by the Province before MoDA's involvement in the industry began. However, Muise acknowledges that proximity to homes was "a concern of ours as part of our historical involvement with other industry development" and that it "was discussed as a municipal consideration several times." He states

that MoDA "sought to encourage locations in areas that are sparsely populated to avoid any unnecessary conflicts," but that the ADA provincial process did not include proximity to homes as one of its factors.

- The September 2018 transmittal email

This email made no reference to the ADA or provincial regulations and was a municipal consideration only, provided roughly two years before the ADA MOU was signed.

- Steering Committee composition

Muise confirms that Colton D'Eon was a member of the Stakeholder Committee, not the Steering Committee, and refers to Steering Committee minutes confirming this. He states no members of the public were on the Steering Committee, but public citizens, including environmental groups, boaters, and rockweeders, were included on the Stakeholder Committee. He was not involved in selecting Steering Committee members, stating "the selection of members was at the behest of the province."

- Factors table

This was generated internally by MoDA very shortly after the MOU was signed (around March 2020), before any ADA testing could realistically have occurred, and was not an ADA site-selection tool.

- Tentative No Fishing Area (Mud Flats)

Muise confirms that Council was not shown early ADA maps, including the "Tentative No Fishing Areas (Mud Flats)" map, prior to the October 2022 open houses. He explains that Council was not a decision maker in the provincial ADA process, and that the map information "was owned by the province, and it was not in our authority to share without their approval." The ADA site locations were never a decision for Council to make.

- Muise confirms that proximity to homes was not an ADA factor.

He states that the presentation in which the reference appeared was made to the Western Regional Enterprise Network, not to the public. He acknowledges that one of his own presentation slides included the reference, and states he likely reused a template originally prepared by Charlene LeBlanc. He states: "I disagree with the characterization that I was facilitating a false

statement. It was an effort on our part to advocate for this, both Charlene and I knew it wasn't an actual provincial factor. I don't believe the information misrepresented the provincial factors; it represented our advisory efforts to that end." Muise does not believe that any ADA site is located in a heavily residential area.

d. Brief Analysis

This Allegation shares similarities with Allegation #6, and several of the same considerations discussed there apply equally here. For the following reasons, the Complainants have not made out a *prima facie* case with respect to Allegation #7.

First, proximity to homes does not appear to have been a factor in the ADA site-identification process, a point relevant to the conclusion reached in Point Six below. The Data Committee used the DST to identify potential ADA locations, relying on 20 data layers from federal, provincial, and academic sources. Proximity to homes was not among them. Muise's evidence on this point is clear: "it was never removed; it was never a factor in the ADA provincial decision-making process." The "Factors considered for tentative sites" table relied upon by the Complainants was an internal MoDA document generated before the ADA pilot project commenced. It was not part of the Data Committee's process, and its contents did not determine which areas the Minister ultimately designated.

Second, Deon's was not on the Steering Committee. The Complainants repeatedly assert that Nolan and Colton D'Eon were members of the "Steering Committee." The Steering Committee was comprised of NSDFA, MoDA, CMAR, and DFO. Colton D'Eon was a member of the Stakeholder Committee, an advisory body with no decision-making authority.

Third, the key documentation relied upon pre-dates the MOU and the ADA program. The January 2018 briefing note and the September 2018 transmittal email were prepared roughly two years before the ADA pilot project commenced in February 2020. They reflect early municipal considerations, not the ADA's provincial evaluation criteria.

Fourth, both d'Entremont and Muise acknowledge that the inclusion of "Proximity to Homes" in the May 2024 AANS presentation materials was inaccurate and should have been corrected. This is problematic for MoDA's position, since it involves public-facing materials stating that a factor was being considered for ADA site selection when, as both d'Entremont and Muise confirm, it was not part of the Data Committee's evaluation criteria. Muise's explanation, that the presentation was made to the Western Regional Enterprise Network rather than to the general public, that the

slide was reused from an earlier template prepared by LeBlanc, and that the reference reflected MoDA's advisory efforts to have proximity to homes considered rather than an intent to misrepresent the provincial factors actually applied, is plausible.

I accept that this was an error in presentation materials rather than a deliberate attempt to mislead residents, particularly since the error overstated the protections in place rather than concealing a risk from those who might rely on it. It nonetheless reflects a genuine lapse in accuracy on an issue residents cared most about, and MoDA would have been better served by correcting the record once the error was identified.

Fifth, proximity to homes is similarly absent from the regulatory factors governing individual applications. The Aquaculture Administrator's Decision on site 8012/AQ#1475, a licence and lease assessment made under a process distinct from ADA designation, was itself made by reference to the 7 Factors prescribed by section 17(1) of the Regulations. Proximity to homes is not among those factors either. This confirms that proximity to homes does not appear in the applicable regulatory framework at any stage of the process, whether at ADA designation or at individual licence and lease assessment, reinforcing that its absence from MoDA's own evaluation materials reflects the provincial framework rather than a municipal choice to exclude it.

Sixth, and fundamentally, a decision made by the Province in the exercise of its own statutory authority cannot form the basis for a finding of malfeasance, breach of trust, or other misconduct against MoDA under s. 12(1)(a). The decision not to include proximity to homes as a factor in ADA site identification was a provincial decision, not a municipal one. The evaluation criteria for ADA areas were established by the Data Committee and applied through the DST using 20 data layers from federal, provincial, and academic sources.

The designation of ADA areas is a matter of Ministerial discretion under s.56 of the FCRA. Section 56(1) vests the power to designate ADA areas in the Minister, with the approval of the Governor in Council. The decision as to which factors to consider in exercising that discretion, including whether to consider proximity to homes, was the Minister's to make.

MoDA had no statutory authority to set, alter, or override the criteria the Minister applied, and the Complainants have not identified any obligation under the FCRA, the MOU, or the MCOI that required MoDA to insist on the inclusion of this factor. Section 12(1)(a) is concerned with the conduct of municipal officials in relation to their duties and obligations to the municipality; it does not extend to decisions made by provincial officials in the exercise of provincial powers.

Seventh, the Complainants assert that a Community Liaison Committee was never created and that the public was not included on either the Steering Committee or the Stakeholder Committee. The absence of a dedicated community liaison mechanism is understandable as a source of frustration for residents who feel their concerns were not adequately heard. However, the MOU did not prescribe the creation of any specific committee for this purpose. Nor did it require MoDA to establish any particular form of public participation beyond leading "meaningful engagement" and reporting the results to the Minister. The failure to create a Community Liaison Committee, without more, does not constitute malfeasance, breach of trust, or other misconduct within the meaning of s. 12(1)(a). It is, at most, a process concern that falls short of the statutory threshold.

It is important to note, however, that being heard in a decision-making process does not carry with it a guarantee that the outcome will accord with the views expressed; a process that results in a decision the Complainants disagree with is not, for that reason alone, tainted by malfeasance or bad faith. Equally, the fact that the Complainants disagree with the outcome and have expressed that disagreement forcefully does not diminish the legitimacy of their underlying concerns, and MoDA should not treat it as doing so. **I again encourage both sides to resist the urge to proceed on the basis that the other side is acting in bad faith, when the reality is that both sides have a fundamental disagreement on an important public policy decision.**

- **Allegation #8 (Charlene LeBlanc's Competing Interests)**

- a. Summary of Allegation**

The Complainants allege that Charlene LeBlanc, while serving as MoDA's Community Development Officer, simultaneously represented multiple competing interests that placed her in an irreconcilable conflict of interest. The Complainants' PowerPoint states:

Charlene Leblanc simultaneously represented multiple interests within the municipality of Argyle as: 1) ADA Development officer for MoDA, 2) Owner operator of Leblanc Seeded Lines (Aquaculture business), 3) Board of Directors for the Aquaculture Association of Nova Scotia (AANS, an industry lobbying group), and 4) Local Champion for Deon's Oysters, seeking to turn Lobster Bay into an Industrial Park on the Sea.

The Complainants' Briefing Note further states:

*Charlene Leblanc failed to manage and inoculate herself from the obvious conflicts between her multiple roles. She did not balance the needs of the constituents of Argyle with industry expansion. Her local business objective (Leblanc Seeded Lines) **was supercharged by the direct lobbying of AANS, who offered her a position on their board of directors in return for inside influence and indoctrination of aquaculture expansion in Argyle as the ADA Development Officer reporting to CAO, Alain Muise.** This allowed her to initialize a new program to be developed (ADA) with an industry mission that intends to turn Lobster Bay into an Industrial Park on the Sea.*

The Complainants rely upon the following:

- Water testing emails (November 2018 – September 2021).

The Complainants rely on a chain of emails between LeBlanc and Colton D'Eon in which LeBlanc offered on-demand water testing ("Let me know when you would like water testing, and what body of water. I can do it as frequent you desire"), and Colton D'Eon repeatedly requested specific readings and historical data for Salt Bay and Eel Lake. The Complainants allege that rather than testing broadly across the bay, LeBlanc allowed Deon's to select their preferred locations and build a supporting history of data at those specific sites. They assert this data was never made available to the public.

- LeBlanc's departure from MoDA.

The Complainants rely on an April 13, 2022 email from Deputy CAO Scott Surette confirming LeBlanc was no longer working for MoDA. They assert that by that date LeBlanc had accumulated

four roles, namely MoDA Development Officer, owner of LeBlanc Seeded Lines, AANS Board member (where the Complainants note she served alongside Colton Deon, and that Nolan Deon is a former president of AANS), and independent consultant assisting ADA applicants, without ever resolving the conflicts among them.

- AANS referral of LeBlanc as a consultant.

The Complainants rely on a May 2024 email exchange between Kate Collins of AANS and d'Entremont in which Collins listed LeBlanc Seeded Lines as a resource for ADA applicants seeking proposal support. The Complainants allege that this referral by AANS of a former MoDA employee who had developed the ADA program created an additional conflict of interest, and that a redacted name in a related email may be LeBlanc's, which, if confirmed, would in the Complainants' view further evidence the unresolved nature of her competing interests.

- The 2019 “Open House” events.

The Complainants rely on a series of 2019 emails in which LeBlanc invited councillors (including Nicole Albright and Danny Muisse) to an “Open House” event that in fact consisted of a site visit to Deon's Salt Bay barge, a website launch, an industry presentation, and a luncheon. The Complainants characterise these as industry-oriented sessions that were not genuine public consultations, and allege that LeBlanc used her MoDA position to advance the aquaculture industry's interests, including those of Deon's, before any meaningful public consultation had occurred.

- The “Business Park on the Sea” media launch.

The Complainants rely on a social media post announcing MoDA's “Business Park on the Sea” initiative, in which LeBlanc is quoted stating “We're open for business!” and CAO Muisse is quoted stating “it's an exciting day for (the Municipality of) Argyle.” The post features a photograph captioned “[Pictured here: Colton d'Eon, Kim d'Eon, Charlene LeBlanc, and Nolan d'Eon].” The Complainants allege that LeBlanc's public association with the Deons in the context of a MoDA programme launch further evidences the conflicted nature of her position, and that the launch was directed at advancing Deon's commercial interests rather than serving the broader municipal interest.

- Consequences.

The Complainants allege that this pattern of conduct gave Deon's full access to insider government data throughout the ADA's development, which Deon's used to target the locations for which it would later apply, thereby securing its award and discouraging competition from other prospective applicants.

They submit that even if no improper action is ultimately established, the mere appearance of divided loyalty is sufficient to erode public confidence in the ADA decision-making process.

b. Summary of Muisse's Response

Muisse responds as follows:

- Sequential, not simultaneous, roles.

Muisse's central response is a detailed chronology establishing that LeBlanc's four alleged roles never coexisted:

- in 2018–2019, MoDA staff (including LeBlanc) assisted Grand Passe Oysters and tested water for and assisted Deon's, who were "already in the water."
- On February 6, 2020, the MOU was signed.
- From 2020 to 2022, LeBlanc and d'Entremont participated in the Stakeholder and Steering Committees, one-on-one consultations, and promotional work.
- On March 11, 2022, LeBlanc submitted her resignation after a period of approved paid leave.
- On March 23, 2022, LeBlanc Seeded Lines was registered with LeBlanc as sole proprietor.
- On March 25, 2022, LeBlanc's employment officially ended.
- On October 19, 2022, LeBlanc attended the ADA Open Houses representing her own company, LeBlanc Seeded Lines.

- In January 2023, LeBlanc Seeded Lines received its own aquaculture licence (unrelated to the ADA).
- In February 2023, LeBlanc became an AANS board member, a position she held until February 2025.

Accordingly, LeBlanc was never simultaneously an MoDA employee, a business owner, and an AANS board member; each role began only after the prior one had concluded.

- The Complainants' public characterisation of LeBlanc's roles.

Muise states that the Complainants publicised the allegation that LeBlanc held all four roles simultaneously, that LeBlanc responded publicly with the actual chronology, and that the Complainants "ignored and dismissed" her clarification and repeated the allegation regardless. There was no contractual limitation on LeBlanc's post-employment activities beyond a confidentiality obligation.

- Water testing emails.

Muise states that any request for water testing on existing sites would have been accommodated regardless of who requested it, and that Deon's, as the only established sea farmer at the time, was assisted on that basis. He confirms this testing was conducted before the ADA process began and was not used in the ADA's own scientific assessment. He further states that LeBlanc "was not responsible for administering a public program, nor collecting data for the purposes of administering a lease. That was the responsibility of the DFA." With respect to the September 2021 data request from Colton D'Eon, Muise states he was not aware at the time that LeBlanc was sharing Salt Bay data in that period, and clarifies that Colton was requesting historical testing information LeBlanc had previously collected, not new testing.

- The 2019 open house/barge visit.

This event was organised by LeBlanc in her role as Community Development Officer and was entirely consistent with that role. He rejects the term "indoctrination" as implying councillors lacked independent judgment, noting that Council had unanimously identified aquaculture as a strategic priority as early as 2015, well before any AANS involvement. There is no credible evidence that LeBlanc acted as an internal AANS agent.

- LeBlanc's departure and disclosure obligations.

Muise confirms LeBlanc's departure was a voluntary resignation. Because LeBlanc did not have competing interests during her employment, there was nothing for her to disclose under MoDA's code of conduct. There was no pecuniary interest, direct or indirect, between LeBlanc and the Deons, and her advisory role in the ADA carried no decision-making authority capable of benefiting herself or an associated company. He states there was no reason to recommend recusal "as she was not a director, shareholder or financial beneficiary of either of those organizations during employment" and notes that "the Deons are not in her immediate family as defined in our policies." Muise acknowledges that boundary conversations with LeBlanc did occur, but states these "were to ensure that her work and passion did not escalate in her playing a lead communications role at the expense of the elected officials tasked with communications," rather than to address any conflict of interest.

- Post-departure consulting and AANS Board membership.

Muise was not aware that AANS was promoting LeBlanc as a consultant, and once she was no longer an MoDA employee she was free to use the knowledge and skills she gained during her employment. He disputes the factual premise that LeBlanc was an AANS board member during her MoDA employment, stating she did not join the AANS board until February 2023, nearly a year after her employment ended in March 2022.

- The "Business Park on the Sea" media launch.

This announcement pre-dated the ADA and concerned MoDA's general effort to reduce administrative barriers for lease applicants. The Deons were MoDA's only sea farmer at the time and a recognised industry ambassador. He states that "the picture was taken with all Argyle aquaculture sea farmers in the water at that time." He acknowledges, however, that "the picture should not have been with Charlene, it should have been with the Warden."

c. Brief Analysis

Based upon the information provided, I do not consider that this gives rise to a *prima facie* case under s.12(1)(a) of the MCOI for the following reasons:

As a preliminary matter, LeBlanc's own conduct is not itself the subject of this inquiry: s.12(1)(a) of the MCOI applies only to current members and employees of MoDA, and LeBlanc's

employment ended on March 25, 2022 (see Point Five below). The live question is therefore whether Muise's own conduct, including his personal involvement in and supervision of the matters the Complainants describe, meets the threshold of malfeasance, breach of trust, or other misconduct, which requires either a wilful transgression of duty on his part or a degree of knowing tolerance or complicity in LeBlanc's conduct beyond imperfect management of a subordinate.

First, the Complainants' central premise, namely that LeBlanc simultaneously held four competing roles, is not supported by the chronology of events, and this bears directly on what Muise can be said to have known or tolerated. The timeline establishes that each role began only after the prior one had concluded. LeBlanc's employment with MoDA ended on March 25, 2022. LeBlanc Seeded Lines was registered on March 23, 2022. She did not join the AANS board until February 2023, nearly a year after her departure from MoDA. If the roles did not in fact coexist, there was no ongoing conflict for Muise to have identified, tolerated, or failed to address during LeBlanc's employment.

I note that LeBlanc Seeded Lines was registered two days before LeBlanc's employment officially ended, but registering a business is not the same as operating one, and there is no evidence LeBlanc conducted any business through LeBlanc Seeded Lines while still employed by MoDA. Beyond that, the Complainants have not provided evidence that any two of these roles overlapped in a manner capable of giving rise to a conflict of interest.

I do note, however, that the Complainants rely on a September 2021 email in which Colton D'Eon requested historical Salt Bay data from LeBlanc while she was still employed by MoDA and while the ADA process was underway. Muise acknowledges he was not aware of this data sharing at the time. While this demonstrates a continued informal flow of information to Deon's during the ADA period, it does not establish the simultaneous competing roles central to the Complainants' premise, but is more properly addressed as an optics concern under the second point below.

Second, to the extent Muise permitted or was aware of LeBlanc's engagement with Deon's, that engagement was consistent with her role as Community Development Officer and with MoDA's mandate, and does not establish that Muise sanctioned or tolerated conduct rising to misconduct. Council unanimously identified aquaculture as a strategic economic priority as early as 2015, and LeBlanc's promotional work, including water testing, site visits, and engagement with existing operators, was in furtherance of that priority and of MoDA's obligations under the MOU.

Deon's was the only established sea farmer in Lobster Bay for much of this period, and this contextual reality is significant. Muise was the CAO of a small rural municipality in which professional relationships are inevitably also personal ones. Deon's was not merely one operator among several who received disproportionate attention; it was, as Muise observes, the sole sea farmer in the water and a recognised industry ambassador.

The informal tone of LeBlanc's communications with Colton D'Eon must be assessed against that context, and LeBlanc held no decision-making authority over ADA site designation or licensing. Engaging with the sole local operator to advance a Council-approved mandate does not, without more, constitute malfeasance, breach of trust, or other misconduct. I acknowledge that the line between that kind of engagement and affording preferential access is genuinely difficult to draw here: MoDA's mandate was to encourage local aquaculture, and Deon's was, for much of the relevant period, the only operator there was to encourage. The on-demand water testing arrangements and the absence of any public dissemination of the data collected nonetheless warrant acknowledgement as the aspect of this relationship closest to that line.

That perception is reinforced by the "Business Park on the Sea" media launch, which featured a photograph of LeBlanc alongside the Deons in the context of a MoDA program announcement. Muise himself concedes that "the picture should not have been with Charlene, it should have been with the Warden." He acknowledges that boundary conversations with LeBlanc did occur, but these were directed at ensuring she did not assume a lead communications role at the expense of elected officials; they were not directed at the conflict-of-interest concern the Complainants have identified. To the extent this Allegation is directed at Muise's own supervisory conduct as CAO, a more assertive approach to managing both the substance and the optics of LeBlanc's engagement with Deon's may have been warranted. That said, an imperfect approach to managing perceptions does not, without more, constitute malfeasance, breach of trust, or other misconduct within the meaning of s. 12(1)(a).

Third, LeBlanc's post-employment activities did not breach any contractual or policy restriction that Muise, as CAO, failed to enforce. Muise confirms that LeBlanc's employment was subject to a confidentiality obligation regarding information learned during her employment, but that no non-competition restriction existed. Her decision to enter the aquaculture industry after her resignation, and to subsequently join the AANS board, was not prohibited by any term of her employment or by MoDA's code of conduct, and there was accordingly no restriction for Muise to have enforced. I acknowledge, however, that AANS's subsequent promotion of LeBlanc as a consultant to assist

ADA applicants, effectively offering the programme's designer as a resource for navigating the very program she helped to create, raises a legitimate public confidence concern, even in the absence of any legal or contractual prohibition. This is the type of arrangement that, from the public's perspective, can reinforce the perception that the ADA process was developed with particular participants in mind. It is not, however, an arrangement over which Muisse had any control once LeBlanc's employment ended.

That concern does not, however, rise to the level of malfeasance, breach of trust, or other misconduct within the meaning of s. 12(1)(a), particularly where there is no indication that LeBlanc's post-employment consulting conferred any advantage on a specific applicant or influenced any decision within the ADA process.

Fourth, even accepting the Complainants' characterisation of LeBlanc's conduct in full, neither she nor Muisse had the authority to translate that conduct into a determinative outcome. The Minister designated ADA sites under section 56 of the FCRA, with the approval of the Governor in Council, and the Aquaculture Administrator, not MoDA and not LeBlanc, made the decision to grant aquaculture licences and leases under sections 54A and 57. LeBlanc held no decision-making authority within either process, and Muisse's supervision of her could not have conferred authority neither of them possessed. There is no evidence that her actions were capable of determining which sites were ultimately designated or which applicants were approved. The Aquaculture Administrator Decision on site 8012/AQ#1475 was made by reference to the 7 Factors prescribed by section 17(1) of the Regulations, a process entirely independent of LeBlanc's role at MoDA.

Fifth, to the extent Allegation #8 is directed at LeBlanc's own conduct, s.12(1)(a) of the MCOI does not apply to former employees of MoDA. LeBlanc was an employee, not a member. As set out in the Scope and Limits of the Mandate section of this assessment, s.12(1)(a) is written in the present tense and does not use the word "former." LeBlanc's employment with MoDA ended on March 25, 2022. She is not a current employee or agent of MoDA, and accordingly falls outside the scope of s.12(1)(a). The Complainants' reliance on AANS's subsequent referral of LeBlanc as a consultant to assist ADA applicants does not alter this conclusion. Whatever concerns may attach to AANS's promotion of a former MoDA employee in that capacity, LeBlanc's post-employment consulting activities are not conduct attributable to MoDA or its current officials.

- **Allegation #10 (AANS Infiltrated and Indoctrinated MoDA)**

- a. Summary of Allegation**

The Complainants allege that the AANS (also referred to as Seafarmers.ca), an industry lobbying organisation, successfully lobbied and "indoctrinated" MoDA staff, contractors, and some councillors with a self-serving and biased agenda. The Complainants' PowerPoint states:

*Email records show that the Aquaculture Association of Nova Scotia (AANS) a.k.a. Seafarmers.ca lobbied and **successfully indoctrinated the Municipality of the District of Argyle (MoDA) staff, contractors, and some councillors with a self serving and biased agenda that:** (1) Helped local members Deon's Oysters obtained desired ADA locations; (2) Discouraged and minimized public consultation; (3) Influenced a new friction free administrative approval process for aquaculture expansion as a replacement for the legacy Aquaculture Review Board (ARB); (4) Awarded Charlene Leblanc (the Municipality's ADA Development Officer) with an appointment to the AANS Board of Directors alongside Colton D'eon from Deon's Oyster Company.*

The Complainants' PowerPoint further states:

It's considered a conflict in government because those two roles — regulating or accommodating an industry and serving on that industry's lobbying organization — pull a public official in opposite directions. The core issues are conflict of interest, divided loyalty, and loss of public trust.

The Complainants rely upon the following:

- Nolan Deon's influence and the "Business Park on the Sea."

The Complainants rely on a March 2018 email exchange in which Vicki Swan of Perennia references having "spoke briefly with Nolan and your Warden at the Sea Farmers conference in January," leading to a meeting to explore the "business park of the sea" concept. The Complainants characterise this as showing that former Warden Danny Muise, together with Nolan Deon, was pitching the "industrial park on the sea" concept to NSDFA from as early as 2018, "gaining support by securing allies, and prompting lobbyists," and that this concept was subsequently pushed by the same individuals at MoDA, NSDFA, AANS, and Deon's who became the ADA's champions. They characterise MoDA, NSDFA, AANS, and Deon's as a "syndicate" that aggressively defended the ADA concept while discouraging or minimising public participation.

- LeBlanc's AANS board appointment.

The Complainants allege that by appointing LeBlanc to its Board of Directors alongside Colton D'Eon, AANS effectively rewarded her for helping to shape ADA policy in industry's favour.

- Biased water testing.

The Complainants rely on November 2018 emails between LeBlanc and Valérie Lalande of Université Sainte-Anne ("I have to confirm with Colton"; "I called Colton. I will go to Salt Bay and do a reading there... and check it before I leave. lol"), which they characterise as confirmation bias that counters the scientific method.

- Special access and insider data.

The Complainants rely on a series of 2019 emails in which Colton Deon requested and received detailed water quality readings from LeBlanc for Salt Bay and Eel Lake ("the more the merrier for parameters"). They assert this information was not offered to other farmers or to the public.

- AANS coordinating with MoDA leadership against TIANS.

The Complainants rely on a May 2024 email exchange in which CAO Muise described a Tourism Industry Association of Nova Scotia letter as "borderline irresponsible" and the AANS response as "brilliant," and Warden Danny Muise stated "There is so much misinformation out there and basically all coming from a group opposing the ADA." The Complainants characterise this as demonstrating MoDA's alignment with AANS against a competing provincial industry.

- "Indoctrination" of visitors through LeBlanc.

The Complainants rely on a September 2018 email in which LeBlanc stated "Of course I would like to take them out to see an oyster farm, meet the farmers," and a series of July 2019 emails organising an "Aquaculture Open House" event with the Deons involving a luncheon, a website reveal, an industry presentation, and a visit to the Salt Bay barge. The Complainants allege these events consistently directed favourable exposure toward Deon's specifically, rather than toward the aquaculture industry generally.

- LeBlanc's "concealment" of water testing.

The Complainants rely on a November 2019 email in which LeBlanc informed Muise that she planned to go out on a boat with Colton D'Eon to take water temperatures at Deon's sites, that she was "not planning to tell" a colleague "as he thinks I am done for the year," and that she could

“likely just slip out unnoticed.” The Complainants characterise this as evidence of concealment and of an inappropriately close working relationship between LeBlanc and Deon’s.

- Salt Bay obstacles.

The Complainants rely on an August 2020 email in which LeBlanc, upon learning of underwater obstacles discovered during survey work, asked “Are they in Salt Bay? Will they do anything to oysters / gear?” The Complainants characterise this as demonstrating LeBlanc’s preferential focus on protecting Deon’s desired expansion location to the exclusion of other ADA sites.

b. Summary of Muise Response

Muise responds as follows:

- The March 2018 "Business Park on the Sea" meeting.

Muise clarifies this phrase was coined by Argyle itself, and the meeting did not concern the ADA, which did not exist as a concept for MoDA at that time. He draws an analogy to municipalities investing in land-based business parks at the request of specific businesses, activity he says is not considered biased, stating that to characterise such activity as biased "would effectively eliminate all government efforts to reduce red tape, increase accessibility and growth in any industry." He emphasises that LeBlanc's earlier work identifying 19 sites was not ADA work, and that the ADA consultation regime represented a significant increase in public information compared to the traditional lease application model.

- LeBlanc directing visitors to Deon's.

Muise clarifies LeBlanc held the title of Community Development Officer, not "ADA Development Officer." Deon's was the only sea farmer in the water at the time, so inquiries were naturally routed there. This promotional work aimed to benefit the entire industry, not to single out Deon's.

- The November 2018 water testing.

Muise disputes any connection to AANS, noting Valérie Lalande is affiliated with Université Sainte-Anne, not AANS. He "completely disagree[s] with the assertion that we were somehow brainwashed by AANS."

- LeBlanc's coordination of events and site visits.

Muise states that at the time these events occurred, MoDA had no concept of the ADA. The purpose was to showcase local industry activity using the only sea farmer capable of hosting such an event. There is "no pattern of indoctrination, by any party including AANS."

- LeBlanc's "concealment" of water testing.

Muise explains LeBlanc's remark about avoiding detection was directed at MoDA's own Director of Public Works and was a joke about safety measures; not an attempt to hide activity from oversight. There is "zero credibility in involving AANS" in this episode.

- Salt Bay obstacles.

Muise states this was routine concern for obstacles that could affect any existing sea farm, with no factual connection to AANS.

- The AANS/TIANS correspondence.

Muise refers back to his earlier response under Allegation #5. MoDA's AANS membership was not coerced, AANS occupied no seat on either the Stakeholder or Steering Committee, and MoDA was guided by Council's own intentions, not by AANS.

- LeBlanc's post-departure AANS board appointment.

Muise confirms LeBlanc served on the AANS board from 2023 to 2025, more than a year after her departure from MoDA, and understands AANS board positions to be unpaid. LeBlanc's post-employment decisions are not MoDA's concern, and her involvement did not affect the ADA program, which remained a provincially regulated process throughout. He confirms that MoDA had no protocols or safeguards in place to prevent a former employee from participating in similar activities after departure, though he states that MoDA's processes would have precluded her employment and her AANS board membership from occurring simultaneously.

c. Brief Analysis

Based upon the information provided, I do not consider that this gives rise to a *prima facie* case under s.12(1)(a) of the MCOI for the following reasons:

First, the Province, not MoDA and not AANS, made the decisions that the Complainants attribute to AANS's alleged influence. The designation of ADA sites was made by the Minister under section 56 of the FCRA, with the approval of the Governor in Council.

The assessment and approval of aquaculture licences and leases was made by the Aquaculture Administrator by reference to the 7 Factors prescribed by section 17(1) of the Regulations. AANS had no decision-making authority within either process. The Complainants' theory is not that AANS itself designated sites or issued licences, but that it shaped MoDA's advisory input and internal posture in a way that fed into those provincial decisions. That is a more difficult theory to dismiss on "jurisdictional grounds" alone, and it is addressed in the points that follow. But it remains relevant at the threshold that the ultimate decisions were provincial, not MoDA's or AANS's, which limits the extent to which any influence over MoDA's advisory role could have been determinative of the outcome.

Second, MoDA's engagement with the aquaculture industry, including its interactions with AANS, was consistent with and in furtherance of a Council-approved mandate that pre-dated both the MOU and the ADA. Council unanimously identified aquaculture as a strategic economic development priority as early as 2015.

The MOU signed in February 2020 expressly directed MoDA to lead local stakeholder engagement for the ADA pilot project. The FCRA itself is designed to facilitate aquaculture development. The indoctrination allegation is overstated. It appears to be a situation where MoDA's Council-approved priorities and AANS's objectives aligned. I acknowledge, however, that where those objectives are closely aligned, the distinction between legitimate alignment and improper influence can be difficult to discern from the outside. It is the chronology and evidentiary record addressed in Points Three and Four below, rather than the alignment of interests alone, that resolves that ambiguity in MoDA's favour based upon the documentation.

Third, the chronology and structure of the engagement do not support the narrative of a coordinated infiltration. The evidence discloses an incremental and organic process of engagement that unfolded over several years, involving different individuals at different stages. AANS held no formal role in the ADA's regulatory or decision-making structure; it occupied no seat on the Steering Committee, the Data Committee, or the Stakeholder Committee. Its involvement was limited to providing sectoral information, hosting an informational session for potential applicants in June 2024 (which both AANS and MoDA took care to distinguish from a

public consultation), and engaging with MoDA leadership on industry matters in the ordinary course. Moreover:

- MoDA's AANS membership lasted from 2020 to 2022, at a cost of between \$172.50 and \$575.00 per year.
- AANS held no seat on either the Steering Committee or the Stakeholder Committee.
- LeBlanc did not join the AANS board until February 2023, nearly a year after her employment with MoDA ended.

These facts, namely, the modest cost, the absence of any committee role, and the post-employment timing of LeBlanc's board appointment, do not support an infiltration allegation.

Fourth, much of the conduct relied upon by the Complainants under this Allegation, particularly the water testing, site visits, and engagement with the Deons, has already been addressed in the analyses of Allegations #1, #6, #7, and #8. The connection to AANS in several of these instances is, as Muise observes, attenuated or non-existent. Valérie Lalande is affiliated with Université Sainte-Anne, not AANS.

LeBlanc's "slip out unnoticed" comment concerned an occupational health and safety officer, not AANS. The Salt Bay obstacle inquiry involved no AANS correspondence.

To the extent the Complainants frame LeBlanc's trajectory from MoDA to the AANS board as a "revolving door" concern, that concern would carry most weight, in my view, if the individual moving between government and industry held regulatory or decision-making authority capable of being exercised for the benefit of the industry participant, since it is that authority that creates the opportunity for the kind of self-dealing the concept is meant to capture. LeBlanc held no such authority; site designation rested with the Minister under section 56 of the FCRA, and licensing decisions were made by the Aquaculture Administrator. The "revolving door" framing, while understandable from a public perception standpoint, does not establish the type of misconduct contemplated by s. 12(1)(a).

That said, the tone of certain communications relied upon by the Complainants, in particular CAO Muise's description of the TIANs letter as "borderline irresponsible" while simultaneously describing the AANS response as "brilliant", warrants comment. TIANs's letter was directly

contrary to the economic development interest that Council had directed MoDA to pursue, and it is understandable that MoDA's CAO would be troubled by a letter from a competing industry association seeking to hinder that objective. Even so, the language used, describing one side's letter as "borderline irresponsible" while praising the other's response as "brilliant", was less than measured. The failure to use measured language falls well short of the malfeasance, breach of trust, or other misconduct threshold required under s.12(1)(a).

As a concluding observation, the language used by both sides in connection with this Allegation warrants brief comment. The Complainants have used terms such as "indoctrinated" and "infiltrated" to describe MoDA's relationship with AANS. For his part, Muise has characterised the Complainants' allegations as "entirely fabricated" and supported by "zero credible evidence," language that is itself forceful. I do not consider that such hyperbole advances the analysis. The documentation, when examined on its own terms, discloses a series of interactions between a municipality pursuing a Council-approved economic development mandate and an industry association whose objectives were broadly aligned with that mandate.

- **Allegation #11 (MoDA was a Paying Member of AANS, an Industry Lobby Group)**

- a. Summary of Allegation**

The Complainants allege that MoDA applied for and became a dues-paying member of AANS, an industry lobbying organisation whose mandate includes influencing government policy on aquaculture, using public taxpayer funds. The Complainants assert that this membership represents a serious conflict of interest that enabled direct and inappropriate industry influence over the design and implementation of the ADA program, and that rather than acting as a neutral and impartial public authority, MoDA aligned itself with the very industry seeking regulatory and policy advantages from it.

The Complainants' PowerPoint presentation frames this allegation as follows:

It is a conflict of interest for government to be a paying member of a lobbying association that lobbies government—especially if it lobbies that same government. If a municipal government pays dues to an association that lobbies the very same municipality, the local government is effectively funding advocacy aimed at itself, and permitting insider access to policy positions and influence on the same industry it regulates.

The Complainants rely upon the following:

- December 2022 email chain — AANS membership dues.

The Complainants submit that it is inherently a conflict of interest for a government body to pay dues to a lobbying association that lobbies that same government. The Complainants reason that doing so effectively funds advocacy directed at the municipality itself and provides insider access to policy positions and influence over the very industry the municipality is meant to regulate impartially.

The Complainants rely on a December 2022 email chain in which AANS's Kate Collins sought payment of 2022 membership dues (\$500 plus HST) from MoDA, and in which d'Entremont responded "I wasn't aware that the Municipality was a member. I will be speaking with our CAO regarding the continuation of our membership," ultimately confirming MoDA's membership was not renewed for 2023.

The Complainants characterise d'Entremont's surprise as evidence that a working-level officer recognised an obvious conflict that senior leadership had not addressed, and record that MoDA appears to have held AANS membership from at least 2020 to 2022.

- AANS Annual General Meeting minutes, February 27, 2020 — Nolan Deon's continuing role.

The Complainants rely on the minutes of the February 27, 2020 AANS Annual General Meeting. Those minutes record Nolan Deon in attendance as Past President, his nomination to the newly formed Oyster Committee, and the AANS Executive Director's report identifying "government regulations" and delays in lease approvals as a principal focus of AANS's advocacy for the year, including direct outreach to the Deputy Minister responsible for aquaculture.

The Complainants question why MoDA and NSDFA staff were attending and participating in AANS's own internal governance meetings at all, given that AANS's stated purpose there was to advance its lobbying agenda. The Complainants also ask why municipal and provincial staff would allow this influence on public programs at public expense when they are meant to serve Argyle constituents rather than a special interest group.

- AANS's role in shaping a replacement for the ARB.

The Complainants also rely on emails they say show that NSDFA and MoDA catered to AANS, which was consistently consulted to help shape a replacement program for the Aquaculture Review Board ("ARB"), an approval process AANS had found too slow and too friction-heavy for industry expansion. The Complainants assert that while MoDA and AANS provided funding and assistance to prospective ADA applicants, they did not offer any comparable, genuine public consultation sessions.

- AANS Board reception invitation.

The Complainants rely on a December 2021 email from AANS Executive Director Tom Smith to LeBlanc inviting her to attend an AANS Board reception at the Future Inn in Halifax. The Complainants present this as further evidence of the closeness of the relationship between AANS and MoDA staff, and question whether such social invitations from an industry lobbying organisation to a municipal employee responsible for aquaculture development were appropriate.

- April 2024 email chain — AANS assisting prospective ADA applicants.

The Complainants rely on an April 2024 email chain in which:

- d'Entremont asked Kate Collins of AANS whether AANS could assist prospective ADA applicants with completing their call for proposals submissions, and
- in which Collins responded that AANS had provincial funding to host an information session and proposed collaborating with MoDA, the Western Regional Enterprise Network ("WREN"), and the Aquaculture Financing Fund ("AFF") to put together a larger event.

The Complainants contrast the assistance and funding provided to industry applicants with the absence of any comparable, genuine public consultation session. They also note that Matthew King of NSDFA separately circulated a March 2024 agenda for the ADA Proposal Assessment Panel's discussion of call for proposals criteria and terms of reference to a distribution list that included Kate Collins of AANS.

- May 2024 email — handling visitors with negative comments.

The Complainants allege that AANS members regularly discouraged meaningful public consultation with MoDA and NSDFA staff, who they say became "indoctrinated" and adopted a similarly defensive posture toward the public.

They rely on a May 2024 email in which d'Entremont asked Muise, "Should we consider any actions/change our plan to handle visitors with negative comments," and note that heavy redactions throughout this chain suggest possible exposure of MoDA's bias, questioning why such redactions would be necessary.

- May 2024 and February 2025 emails — removal of the term "pre-approved."

The Complainants allege that after public backlash over MoDA and NSDFA's use of the term "pre-approved" to describe ADA sites, AANS, MoDA, and NSDFA collectively abandoned that terminology in favour of softer language, while the underlying substance of the sites' status did not change.

They rely on a May 2024 email in which Kate Collins offered to amend a MoDA PowerPoint presentation to remove the word "pre-approved," and a February 2025 email from Bruce Hancock of NSDFA to a third party stating: "The 53 ADA locations are not preapproved but they have been assessed as having potential for aquaculture... the locations were not chosen by the Municipality and industry."

The Complainants question why AANS, MoDA, and NSDFA were able to coordinate changes to ADA terminology and messaging in response to public pressure, while resident requests for changes to the substance of the ADA process itself were disregarded.

- May 24, 2024 email chain — June 2024 Open House, facilitator, and RCMP correspondence.

The Complainants' PowerPoint states:

Email discussion shows the full industry agenda and bias, seeking consensus from MoDA CAO Alain Muise over a paranoia of public protest. "Just in case a mob showed up in an attempt to take over the session." (Jeff Bishop, President AANS). "We would cover the costs for something like this ... The anti-people may never show up but could be a good investment." (Jeff Bishop, President AANS). "We also indicate they are NOT public consultation sessions to discuss opinions on the ADA or its creation." (Jeff Bishop, AANS).

The Complainants rely on a May 24, 2024 email from AANS Executive Director Jeff Bishop to Muise and Collins, following a call with NSDFA's Bruce Hancock, in which Bishop:

- Raised the idea of engaging a professional facilitator for the planned June 4, 2024 ADA Open House "just in case a mob showed up in an attempt to take over the session,"
- offered to have AANS cover the cost,
- and stated "the anti-people may never show up... but could be a good investment."

The Complainants further rely on a subsequent email in which Bishop asked Muise directly for a contact name or number for the local RCMP "so they are aware" of the meeting, and on Bishop's own description of the sessions to Deputy Minister Jason Hollett, Bruce Hancock, and Muise as being "business networking opportunities," expressly stating "we also indicate they are NOT public consultation sessions to discuss opinions on the ADA or its creation."

The Complainants characterise this correspondence as demonstrating that AANS treated the public as an adversarial threat to be managed rather than a stakeholder to be heard, that this was communicated to and adopted by MoDA and NSDFA leadership, and that framing the event as a networking opportunity while later citing it as evidence of public engagement was misleading.

b. Summary of Muise Response

Muise responds as follows:

- AANS Membership

Muise confirms MoDA paid AANS membership dues from 2020 to 2022, in escalating amounts of \$172.50, \$172.50, and \$575.00, and clarifies that this period spans both before and after the ADA program was initiated by the Province.

MoDA was not developing the ADA program, but was responsible only for stakeholder engagement within it, and the membership's purpose was to inform MoDA about the industry and build relationships and contacts, a natural and logical step for a municipality pursuing industry development.

MoDA was never in a decision-making capacity in relation to the ADA and that membership in AANS did not result in AANS "infiltrating" the ADA. He notes that the Complainants' suspicion of malfeasance was disclosed to him by phone in April 2024, before the ARA group had collected any of the evidence they now rely upon, and he directs the reader to the underlying FOIPOP release for the full correspondence.

On his review of that correspondence, there is little to no correspondence relating to the ADA in the period between the MOU and the April 2024 announcement, and that even assuming MoDA held decision-making authority, there is no evidence of any attempted indoctrination, which he says he did not experience personally.

AANS held no formal role in ADA regulatory decisions and had no agreement with the Province to act in that capacity, and in his experience AANS were valued educators and advocates for the industry before, during, and after the ADA project. The only "indoctrination" attempt he personally observed came from the ARA's own demands.

- Nolan Deon's AANS leadership role.

Muise was not aware Nolan Deon had been Past President of AANS until after the FOIPOP releases, did not know any AANS board members personally, and notes Nolan Deon was not president at the time MoDA secured its membership.

If Nolan Deon had any conflicts with AANS's own objectives, that is a matter between Nolan Deon and AANS, not MoDA, and membership does not equate to board membership.

He rejects the premise that AANS was "infiltrating" Argyle, noting that Argyle had been advancing the industry well before any AANS membership or the ADA project existed, and that MoDA engaged AANS for assistance, education, and industry connections, finding AANS accommodating and professional.

- MoDA staff attendance at AANS social events.

Muise states there was no financial consideration attached to reception invitations, which were available to all members as a matter of normal practice. He would likely have been aware of any such invitation at the time, describes cordial professional relationships with AANS's Tom Smith and Kate Collins, but denies any personal relationship.

He draws an analogy to his own recent invitation to a Chamber of Commerce address, characterising such invitations as directed at the CAO position, not the individual, and as commonplace. He searched his emails and found no evidence that LeBlanc ever accepted the particular invitation referenced by the Complainants.

- d'Entremont's December 2022 surprise at the membership and its non-renewal.

Muise refers back to his earlier response, addressing this point, and reiterates that neither AANS nor MoDA were developing or administering the ADA program, which he says can be independently verified through NSDFA and other sources. There is no fiscal connection between any staff or council member and AANS or its members, and no evidence of any fiduciary relationship.

The fact that AANS and Argyle share an intention to advance the sea farmer industry does not, without more, constitute a conflict of interest. He disagrees that AANS sought to undermine public consultation, noting AANS never led any ADA-related public consultation and never took a position against it, and that AANS's later comments about staff safety at its own open house were made well after the ADA process had already unfolded. AANS's pursuit of industry interests, being its purpose for existing, cannot fairly be characterised as being at residents' expense, and policy disagreement is not evidence of a conflict of interest.

- The June 2024 open house and AANS as host.

Muise states he does not recall a specific response to d'Entremont's question about handling visitors with negative comments, but recalls stating that an event supporting sea farmers would be best organised by an organisation with that specific mandate, namely AANS.

He confirms d'Entremont raised the concern that MoDA hosting the event could be mistaken for part of the ADA or an ongoing public consultation process, particularly given misinformed social media activity at the time, and states he agreed with that assessment; AANS was, in his view, the better host.

He was concerned residents might mistake the event for MoDA's own stakeholder engagement work, which it was not, and public negative comment was not itself a concern, as the event was open to any interested member of the public.

MoDA did not delegate responsibility to AANS, but rather, another group first suggested MoDA host the event, MoDA declined, and MoDA suggested AANS instead, who agreed. He personally discouraged the idea of engaging a facilitator or RCMP presence as neither productive nor necessary, and states MoDA did not operate an information booth at the event, though he and other councillors attended. In response to the Complainants' question about MoDA's own prior use of facilitators, Muise confirms that MoDA hired WSP to assist in delivering its public information sessions, including the open houses, to help determine appropriate public engagement initiatives and to prepare the resulting engagement report, and that this support was engaged with Council's endorsement because MoDA lacked the staff capacity to carry out that work itself.

- The June 2024 open house and AANS as host - the "mob"/"anti-people" characterisation and RCMP request.

Muise states that Bishop's characterisation of attendees as a potential "mob" or "anti-people" does not reflect his own characterisation of anyone involved in the ADA process, whether public or private, and refers to his earlier Response 36 on this point.

He did not provide Bishop a name or contact for local RCMP, considering it unnecessary, and instead discouraged Bishop from engaging a facilitator or RCMP presence. The event was not ADA-sponsored, but organised in response to the site announcement to educate and attract local investment; how AANS chose to spend its own money on the event was not MoDA's concern, and MoDA did not contribute financially.

- The "not public consultation" statement and MoDA's overall engagement approach.

Muise had no concerns about AANS's own declaration that its session was not a public consultation, because the statement was accurate: it was an informational session for potential investors, not a consultative process. For that reason, MoDA avoided involvement, to prevent conflating the event with its own ongoing consultation obligations, which had by that point concluded along with its MOU responsibilities.

He points to the Local Stakeholder Engagement Report, which he notes was accepted by the provincial government and endorsed by the Nova Scotia Ombudsperson in response to a separate complaint.

He disputes the Complainants' framing that MoDA's approach specifically targeted "affected" residents to the exclusion of others, noting MoDA never defined who was "affected," and that the event, while designed for potential industry operators, was publicly advertised and open to all, including residents who support the ADA.

He closes by stating that Council's decision to support the industry's advancement was not motivated by personal or corporate financial gain for MoDA or its staff, but by a broader view of community benefit, and that differing views on how that public interest is best served are a normal and expected feature of municipal governance. Addressing the recurring criticism of why Argyle would involve itself in the ADA process when there was nothing in it for the municipality, Muise agrees there was indeed nothing in it for MoDA, personally or organisationally, but states that municipal involvement is not undertaken for personal or corporate gain; it reflects MoDA's role in advancing community interests as it understands them, even where that approach does not achieve consensus.

c. Brief Analysis

Based upon the information provided, I do not consider that this gives rise to a *prima facie* case under s.12(1)(a) of the MCOI for the following reasons.

Allegation #11 shares substantial overlap with Allegations #5 and #10. The additional element specific to this Allegation is MoDA's paid membership in AANS.

First, a municipality's decision to hold a paid membership in an industry association is not, without more, unlawful, but I do consider that MoDA's decision to become a dues-paying member of AANS was ill-advised.

AANS is an industry lobbying organisation whose mandate includes influencing government policy on aquaculture. A municipality that pays dues to an association that lobbies the same level of government inevitably creates an appearance concern, even where the membership is modest in cost and administrative in character. The better course would have been to engage with AANS on a transactional basis (attending events, seeking information, building contacts) without formalising the relationship through paid membership.

That said, the membership must be assessed in its proper context. AANS's objectives, promoting and supporting the aquaculture industry in Nova Scotia, were broadly aligned with MoDA's own Council-approved economic development mandate, which identified aquaculture as a strategic priority as early as 2015, and with the MOU signed in February 2020, which expressly directed MoDA to lead local stakeholder engagement for the ADA pilot project.

Muise's explanation that the underlying purpose, namely to inform MoDA about the industry and build relationships and contacts, is credible and consistent with the modest scale of the expenditure (\$172.50 to \$575.00 per year, totalling approximately \$920 over three years). It is the choice of a formal, paid membership as the vehicle for that purpose, rather than the underlying purpose itself, that I consider ill-advised. The membership provided MoDA with access to industry information, educational resources, event invitations, and professional networking, the type of engagement a municipality pursuing an unfamiliar industry development mandate might reasonably seek, even if a less formal arrangement would have avoided the appearance concern. The membership was not renewed for 2023, and there is no evidence it resulted in any decision made for a purpose other than the public benefit.

d'Entremont's statement that he "wasn't aware that the Municipality was a member" may reflect either a legitimate concern about the appropriateness of the membership or simply a working-level officer's unfamiliarity with a budget line item; in either case, his decision to raise the matter with the CAO is consistent with proper internal oversight, and the membership was not renewed thereafter.

The Complainants have not identified any statutory provision, municipal by-law, or code of conduct that prohibits such a membership. This appearance concern, however legitimate, does

not cross the threshold into malfeasance, breach of trust, or other misconduct as those terms are understood under s.12(1)(a). The membership was a governance judgment misstep, not an act of corruption.

Second, the Province, not MoDA and not AANS, made the decisions the Complainants attribute to AANS's alleged influence. The Minister designated ADA sites under section 56 of the FCRA, with the approval of the Governor in Council. The Aquaculture Administrator assessed and approved aquaculture licences and leases by reference to the 7 Factors prescribed by section 17(1) of the Regulations. AANS had no decision-making authority within either process and held no seat on the Steering Committee, the Data Committee, or the Stakeholder Committee. Nolan Deon's role within AANS is a matter of AANS's own internal governance, and the Complainants have not established that his position gave him any influence over MoDA's conduct or the provincial site-selection process. As addressed under Allegations #8 and #10, LeBlanc's own AANS board membership did not begin until February 2023, nearly a year after her MoDA employment ended and after MoDA's own membership had lapsed, further undermining any suggestion of a coordinated or overlapping AANS presence within MoDA at the relevant time.

Third, the remaining assertions advanced under this Allegation also do not support malfeasance, breach of trust, or other misconduct. The assistance AANS offered to prospective applicants was funded by the Province, not MoDA, and was directed at all prospective applicants, not exclusively Deon's. Collins's inclusion on the Panel distribution list was a provincial decision, not a municipal one.

I acknowledge the inclusion of an industry lobbying organisation's representative on a distribution of assessment criteria does illustrate the type of proximity between industry and government the Complainants are concerned about, and it is, along with Bishop's language addressed in Point Four below, one of the two pieces of evidence in this Allegation that most directly support that concern. It is nonetheless attributable to the Province: the distribution list was compiled and circulated by NSDFA's Matthew King, not by any MoDA official, and there is no evidence MoDA requested or influenced Collins's inclusion. However illustrative the proximity it reveals, it cannot ground a s. 12(1)(a) finding against a municipal official.

The adequacy of MoDA's public consultation has been separately addressed under Allegation #5, and the Ombudsperson concluded that MoDA met or exceeded the requirements of the MOU, the MGA, and its own MPS. The change in terminology from "pre-approved" to "assessed as

having potential” is a correction of imprecise language, not evidence of misconduct; the underlying substance of the ADA designation did not change.

Fourth, I must address Bishop’s language directly. His characterisation of concerned residents as “anti-people” and a potential “mob,” his proposal to engage a facilitator “just in case a mob showed up in an attempt to take over the session,” and his request for a local RCMP contact are, in my view, unacceptable. Members of the public who attend a community event to express concerns about a program that affects their neighbourhood are exercising a democratic right, not constituting a “mob.” Language of this kind, from any source, is corrosive to public trust and has no place in the discourse surrounding a public program.

However, and this is the critical distinction under s.12(1)(a), these are the words of a private industry association executive, not of a MoDA official. The question under s.12(1)(a) is whether the conduct of a current member, officer, or employee of MoDA constitutes malfeasance, breach of trust, or other misconduct. Muise’s response to Bishop’s proposals was to decline them: he did not provide the RCMP contact, did not engage a facilitator, and did not adopt Bishop’s characterisation. The event proceeded without RCMP presence or a facilitator. Both AANS and MoDA took care to distinguish the event from a public consultation session, a distinction the Complainants themselves acknowledge by quoting Bishop’s statement that the sessions were “NOT public consultation sessions.” Muise declined Bishop’s proposals, and I do not consider that his decision to do so is capable of constituting misconduct under s.12(1)(a).

In summary, MoDA’s decision to hold a paid membership in AANS was, as I have explained under my first point above, unwise, and a municipality tasked with leading stakeholder engagement for a program affecting its constituents should be attentive to the appearance of alignment with any one stakeholder group. I would encourage MoDA to carefully reflect on this dynamic going forward. That appearance concern, however, does not on its own, or combined with the other matters addressed above, amount to malfeasance, breach of trust, or other misconduct under s.12(1)(a), because:

- The Province made the decisions the Complainants attribute to AANS’s influence.
- AANS held no decision-making authority within the ADA process.
- MoDA’s engagement with AANS was consistent with a Council-approved economic development mandate that pre-dated both the MOU and the ADA.

- The membership itself was modest in scale and duration.
- And Bishop's intemperate language, while unacceptable, was not the language of a MoDA official and was not adopted by Muise.

- **Allegation #12 (Perceived Conflict of Interest)**

- a. Summary of Allegation**

The Complainants allege that FOIPOP materials suggest undisclosed business relationships between MoDA staff, contractors, and councillors (or their family members) and local aquaculture industry participants, potentially including pecuniary interests. They submit that even the appearance of such a conflict is capable of eroding public confidence in municipal decision-making.

The Complainants' PowerPoint presentation frames this allegation as:

Evidence suggests a perceived conflict exists indicating the CAO, Councillors, and other Municipal Staff may have business interests with aquaculture ventures resulting in undisclosed pecuniary interests. A public official cannot simultaneously represent the public interest and a private commercial interest in the same industry without creating, at minimum, a perceived pecuniary conflict.

The Complainants rely upon the following:

- October 2016, April 2018, and December 2022 ROI and investor correspondence.

The Complainants rely on a chain of three emails:

- an October 14, 2016 email from Nolan Deon to Muise, subject "Return on Investment," attaching an ROI document and stating "Attached is the ROI from [name redacted]."

The Complainants question why Nolan Deon would share an ROI document with MoDA's CAO at all, unless MoDA staff or council members were themselves prospective investors, and ask whose name was redacted and whether it reflects a current or former MoDA employee or councillor.

- an April 25, 2018 email in which Muise forwards "Return on Investment Calculation Documents" (two attached spreadsheet files, one entitled "ROI Calculation -2014Rev sept 11.xls") to Charlene LeBlanc, then MoDA's Development Officer

The Complainants question why this document was forwarded to LeBlanc and in which of her several capacities (as MoDA employee, as owner of LeBlanc Seeded Lines, or as an AANS board member).

- a December 23, 2022 email from Muisse to Nolan Deon stating: “In the new year, I have been asked to connect both you and [redacted, apparently Colton] here about potential investment possibilities. I am happy to accommodate a meeting here for you both, and willing to provide any sort of support you may desire in the convo.”

The Complainants ask whether it is standard MoDA practice to connect prospective investors with any interested business, or whether this service was provided to Deon’s alone, submitting that if the latter, this constitutes preferential treatment in violation of section 14 of MoDA’s Ethics and Code of Conduct.

They characterise the cumulative effect of these three emails as raising unanswered questions as to whether silent partners, shareholders, or promised future dividends may exist in exchange for insider knowledge or influence over ADA decisions and locations.

- External funding secured by Deon’s — approximately \$514,000 in allocations.

The Complainants note that Deon’s has secured approximately \$514,000 in external funding allocations from bodies including the Western Regional Enterprise Network, the Atlantic Canada Opportunities Agency ("ACOA"), and the Atlantic Fisheries Fund, and rely on a compiled list of specific funding agreements to Eel Lake Oyster Farm Ltd. and Deon Oyster Company Ltd. (including a \$90,758 grant for an oyster grading system in Salt Bay, dated April 17, 2015, and further ACOA and Atlantic Fisheries Fund grants through 2023).

The Complainants allege that individuals connected to Deon’s, MoDA, and the Western Regional Enterprise Network assisted in securing this funding, providing an advantage over other local farmers, and submit that once such external funding is committed to a specific site, general accounting and funding-body practices make it very difficult to reverse or “undo” a site decision — meaning that early insider insight into likely ADA locations allowed Deon’s to secure funding in advance of formal approval, entrenching support for their preferred location as a fait accompli.

- November 2019 and September 2020 emails — redactions in sensitive internal correspondence.

The Complainants point to a November 2019 water testing email between LeBlanc and Colton D’Eon, and a September 2020 “Scouting & Stakeholder Meeting” email involving CAO Muisse,

Warden Danny Muise, LeBlanc, and Nolan and Colton D'Eon, both of which contain substantial redactions.

The Complainants ask what could be so sensitive about a stakeholder scouting meeting that it cannot be disclosed to the public, speculating that the redacted content could concern discouraging public or resident involvement, discussions of investment and ROI opportunities for MoDA staff or council, or premature identification and negotiation of specific lease locations before ADA sites were formally identified. They indicate an appeal to unredact this material will be pursued through the Office of the Nova Scotia Information and Privacy Commissioner.

- June 8, 2021 CHS Chart exchange.

The Complainants rely on the same email chain addressed under other allegations, in which Colton D'Eon asked Charlene LeBlanc to “send a pic via email” of the map so that he and his father could discuss “some potential other areas too,” LeBlanc responded she would “get Alix to help. He has the map,” and d'Entremont provided the CHS Chart. The Complainants reiterate their assertion that the map sent to Deon's at that time did not yet identify Salt Bay, that Deon's subsequently had it added, and that Deon's is now applying for that very location, while the public was not offered comparable access to provide feedback.

- August 2021 Lobster Bay stakeholder sail.

The Complainants rely on an August 5, 2021 email from LeBlanc inviting Colton D'Eon (copying Matthew King of NSDFA and CAO Muise) to a “stakeholder committee meeting on Lobster Bay,” described as a sail combining a “meet and greet” with water testing to showcase locations under consideration for the ADA.

The Complainants note that although the public was listed as a stakeholder under the MOU between MoDA and NSDFA, the public was not invited to this event, and question why so much of the correspondence surrounding it is redacted, suggesting the redactions may conceal discussions aimed at discouraging or minimising public involvement.

- April 2022 stakeholder communications from CAO Muise.

The Complainants rely on Muise's April 2022 emails to Stakeholder Committee members, including Colton D'Eon, in which he states “we have selected you” to participate as advisors, and “we need help from you on how to take this information to the public.” The Complainants submit

this confirms MoDA had full authority to choose whom it wished to designate as a stakeholder, that the public was never included in that designation, and that MoDA effectively delegated management of public communications to a party with a direct commercial interest in the ADA's outcome, reflecting what the Complainants describe as an ongoing two-way collusive dynamic between MoDA and industry that continued a broader pattern of favouring Deon's over Argyle residents.

- May 2022 LiDAR mapping discussions — Deon's inclusion.

The Complainants rely on a May 31, 2022 email from d'Entremont to Timothy Webster of the Applied Geomatics Research Group, copying representatives of Deon's, regarding a proposed topo-bathymetric LiDAR survey to map "desired" locations in Argyle. The Complainants question why Deon's was copied on this technical mapping discussion at all, whether Salt Bay was among the areas being mapped, and why the content is significantly redacted, asserting that modern procurement frameworks would disqualify an applicant who had this level of continuing involvement in the technical process underlying the very locations for which they would later apply.

- October and December 2022 — post-open-house reporting to the Deons.

The Complainants rely on an October 28, 2022 email exchange in which d'Entremont reported to Colton D'Eon that the October 19, 2022 open houses "went very well" and were "well attended," and a December 21, 2022 Stakeholder Committee update in which d'Entremont recorded 39 attendees across the two open houses, comprising councillors, commercial fishers, aquaculture sector representatives, media, and community members.

The Complainants contrast this internal characterisation with their own view that the sessions were not, in fact, well attended by residents, noting that d'Entremont did not take formal attendance to substantiate his characterisation, and ask why MoDA felt it necessary to specifically brief the Deons on how the sessions had gone, suggesting this reflects a broader pattern of MoDA serving Deon's interests ahead of the general public's.

- The alleged "syndicate" and asymmetric information control.

The Complainants' PowerPoint states:

Deon's held insight into likely ADA locations more than two years ahead of the public and other competing farmers. This asymmetry allowed Deon's to control the formal and informal dissemination of information, influence which farmers cooperated with or deferred to their interests, and generally outmanoeuvre competitors and the public alike.

The Complainants' overarching position is that Deon's had access to location decisions, water testing data, influence over where MoDA directed its testing efforts, and property identification information concerning land adjacent to desired sites. They assert that the assistance of LeBlanc, Muise, and d'Entremont in providing this access effectively allowed Deon's to lead and control what the Complainants describe as a "syndicate" of participating parties and supporters in Argyle.

b. Summary of Muise Response

Muise responds as follows.

- The October 2016 ROI email from Nolan Deon.

Muise personally requested this document from Nolan Deon, having learned of its existence through conversations with representatives of a third-party equipment supplier who had presented to Council. He states that Nolan Deon understood his purpose in seeking it: to understand how the aquaculture industry generates revenue and how long profitability typically takes to achieve, given that oysters require years to mature before sale.

He explains that the ROI document was a template originally created by a third-party equipment supplier from whom Nolan Deon purchases oyster cages. The redaction protected that company's proprietary investment in the template, which could offer it a competitive advantage if disclosed to competitors. MoDA's FOIPOP staff confirmed that municipal names and addresses are not subject to privacy protection and therefore could not have been redacted to conceal an investment by MoDA personnel. He states unequivocally that the ROI document contained no figures from Deon's own operations and that he has never seen Deon's financials. Requesting such information would be inappropriate and unrelated to his advisory role in the ADA.

He confirms he has no personal or professional connection to the supplier or its owner, and that the document informed his general understanding (as a Chartered Professional Accountant) that oyster operations typically take roughly five years for a lease to become viable and a further three years to generate revenue. This informs MoDA's public statement that the industry takes about eight years to become profitable. He provided no professional accounting advisory services in

connection with this information, has never provided such services in relation to aquaculture, and notes that the MGA prohibits MoDA from investing in private-sector ventures in any event.

- The April 2018 forwarding of ROI documents to LeBlanc.

These documents were forwarded to LeBlanc in her professional capacity as an MoDA staff person, and that he does not recall whether this was done at her request. LeBlanc did not become the registered owner of LeBlanc Seeded Lines until March 2023 (nearly five years after this April 2018 email) and at the time of the forwarding, there would have been no basis for any conversation about her personal interest or involvement in an aquaculture business, since she was never an oyster farmer during her MoDA employment.

When these allegations first surfaced publicly, LeBlanc herself posted that her company was established only after her employment with Argyle ended, and that she had no intention of applying, and has not applied, for an ADA site. He characterises the Complainants' continued conflation of these dates and business interests as persisting despite having received this clarifying information directly from LeBlanc.

- The September 2020 "Scouting & Stakeholder Meeting" email.

This email concerned a media company's interest in producing a video series for the Department of Fisheries and Aquaculture about Argyle's collective efforts to develop the aquaculture industry. He states plainly this was not an investment meeting or opportunity, but a promotional opportunity that LeBlanc was contacted about and facilitated.

- The December 2022 investor connection email.

Muise identifies the redacted individual as a person who told him he was already in the seafood business and had heard of Argyle's aquaculture efforts. He facilitated introductions between this individual and both Nolan Deon and Raymond d'Entremont, describing these as the two major sea farmers active in the water at that time, and characterises introducing the individual to both as an act of impartiality rather than favouritism.

He offered municipal office space for the meeting but was not present at it and has no knowledge of what was discussed, since investment negotiations are confidential and outside MoDA's purview. MoDA regularly receives and facilitates such introductory conversations for business people generally, as a normal part of his role in providing guidance, encouragement, and support

to any individual who asks. There was no municipal purpose served beyond accommodating a request, that he never entered into confidential business discussions, and reiterates that the MGA prohibits MoDA from private-sector investment, and that he has no personal pecuniary interest in the industry whatsoever.

- The \$514,000 in external funding secured by Deon's.

Muise was not aware of the total funding amount until it was later publicised by the ARA on social media, though he was generally aware the Deons had successfully obtained funding through pre-established, publicly available application programs, including an innovation grant for their solar-powered oyster grading houseboat.

He is unaware of any pressure the Province might have felt to secure ADA locations based on funding announcements. He observes that prior funding success is not among the Province's statutory site-selection factors, meaning this issue has no bearing on MoDA in any event.

Deons had internal resources enabling them to prepare their own applications, that LeBlanc would have routinely shared funding opportunities with all known sea farmers, and that some such opportunities may also have been promoted through AANS and shared with MoDA members generally. He is unaware of any exclusive assistance provided to Deon's by MoDA staff, and says that Deons secured their own funding through their own successful applications.

MoDA was not a party to those funding decisions and does not know the full basis on which they were assessed. He observes this allegation was communicated to him verbally by the ARA within two days of the April 2024 ADA announcement, before any FOIPOP evidence had been gathered, and attributes Deon's funding success to their own diligence and quality of applications rather than to any municipal assistance. He is unaware of any funding mechanism conditional on ADA approval, and says he does not understand what the Complainants mean by "premature decisions on ADA locations," reiterating that Deon's remain free to apply for any pre-assessed site of their choosing, or to expand elsewhere in Lobster Bay through the traditional application process at any time.

c. Brief Analysis

Based upon the information provided, I do not consider that this gives rise to a *prima facie* case under s.12(1)(a) of the MCOI for the following reasons.

First, I acknowledge at the outset that the Complainants' underlying concern is a fair one. The documentary record discloses a relationship between MoDA and the aquaculture industry (and Deon's in particular) that was close, familiar, and ongoing. The Complainants are entitled to ask whether that proximity gave rise to undisclosed pecuniary interests, preferential treatment, or divided loyalties. These are legitimate governance questions, and I do not dismiss them.

However, the closeness of the relationship must be assessed in its proper context. Council unanimously identified aquaculture as a strategic economic development priority as early as 2015. The concept of creating what MoDA described as a "business park on the sea" was a Council-driven initiative, not an industry imposition.

A municipality that resolves to develop a particular industry will inevitably build relationships with the existing participants in that industry. It will seek to understand the economics of the sector, including how revenue is generated, how long profitability takes to achieve, and what infrastructure and support services are required.

In a small, rural municipality with a limited number of active aquaculture operators, that engagement will, by necessity, be concentrated among a small number of participants. That the engagement was concentrated on Deon's reflects, at least in part, the fact that Deon's was the most established (and for a time, the only significant) shellfish aquaculture operator in Lobster Bay.

Second, while the Complainants' concern about the closeness of the relationship is understandable, the critical question under s.12(1)(a) is whether that relationship produced a decision or outcome that constitutes malfeasance, breach of trust, or other misconduct. On the basis of the information provided to me, I have difficulty identifying a direct causal connection between MoDA's engagement with Deon's and any MoDA decision that ultimately benefitted Deon's.

The designation of ADA sites was made by the Minister and the Governor in Council under section 56 of the FCRA. The assessment and approval of Deon's application for site 8012/AQ#1475 was made by the Aquaculture Administrator by reference to the 7 Factors prescribed by section 17(1) of the Regulations. MoDA had no statutory authority to designate, approve, or reject ADA sites, and no authority to grant or refuse a licence or lease.

Even though I accept that MoDA staff maintained a close working relationship with Deon's throughout the ADA development phase, the decisions the Complainants say were corrupted by that relationship were made by the Province, not by MoDA.

Third, the specific pieces of correspondence relied upon by the Complainants, when examined individually, do not establish a pecuniary conflict. The ROI document was a generic industry template requested by Muise to inform his understanding of the sector; it contained no Deon's-specific financials, and the MGA prohibits MoDA from private-sector investment. The forwarding of ROI materials to LeBlanc occurred in April 2018, nearly five years before she established LeBlanc Seeded Lines; at the time, she was an MoDA employee with no personal interest in aquaculture.

The December 2022 investor connection involved an introduction to both major sea farmers in the area, not exclusively to Deon's. The September 2020 "Scouting & Stakeholder Meeting" email, according to Muise's account, concerned a media company's interest in producing a promotional video series; not an investment opportunity. The external funding secured by Deon's was obtained through publicly available application programs administered by ACOA, the Atlantic Fisheries Fund, and the Western Regional Enterprise Network, not through MoDA. The Complainants have not identified any evidence that MoDA staff had a pecuniary interest in any of these transactions.

Fourth, I recognise that the Complainants' concern extends beyond specific documents to a broader pattern: that Deon's enjoyed a level of access to information, to MoDA staff, and to the ADA development process that was not extended to other farmers or to the public, and that this asymmetry effectively allowed Deon's to position itself as the leading applicant before the formal process began. There is some force to this concern.

I would observe, however, that there is nothing inherently improper about a municipality wanting a local business to succeed. Deon's is a longstanding Argyle enterprise, and MoDA's interest in supporting its growth was consistent with the economic development mandate Council had adopted. The question is not whether MoDA favoured local industry (it plainly did, consistent with Council's strategic priority) but whether that favouring crossed the line from lawful economic development activity into malfeasance, breach of trust, or other misconduct.

Fifth, the Complainants' concern appears, at its core, to be that industry interests were given more weight than resident interests, i.e. MoDA listened more attentively to the aquaculture sector than to the property owners and residents whose communities would be affected by the ADA. I

understand why this would be a source of frustration for residents who feel that their concerns about the impact of aquaculture operations on their properties and their quality of life were not given adequate consideration.

That frustration is legitimate. However, a municipality's decision to prioritise one policy objective over competing interests, even where reasonable people would disagree about the balance struck, is a matter of policy, not malfeasance, breach of public trust or other misconduct. The Complainants have not identified any information that MoDA's engagement with industry was motivated by a private pecuniary interest of any current MoDA member, officer, or employee, as distinct from the public interest in economic development that Council had expressly adopted.

Much of the information relied upon under this Allegation overlaps substantially with information already addressed under prior Allegations. Based upon the information provided to me, the correspondence discloses a municipality pursuing a Council-approved economic development mandate with energy and commitment, in close collaboration with local industry participants whose objectives aligned with that mandate. That collaboration may not have been perfectly balanced (as I have indicated in my analyses of Allegations #8, #10, and #11, where I identified concerns regarding preferential data access, the tone of MoDA's engagement with competing stakeholder voices, and the decision to hold a paid AANS membership), and it may not have given sufficient weight to the concerns of residents who disagreed with the policy direction. But an imbalance in stakeholder engagement is not the same as malfeasance, breach of trust, or other misconduct. Critically, the Complainants have not provided any information that any current MoDA member, officer, or employee holds or has held a pecuniary interest, direct or indirect, in Deon's or in any other aquaculture venture. In the absence of such evidence, Allegation #12 does not give rise to a *prima facie* case under s. 12(1)(a).

- **Allegation #13 (Prejudice Against the Public)**

- a. **Summary of Allegation**

The Complainants allege that emails obtained through FOIPOP requests reveal a troubling bias within Council and staff, who appear to view members of the public as opposition to be managed rather than constituents to be heard, while simultaneously reflecting a strong inclination to support an industry seeking to expand aquaculture operations into residential areas of Argyle.

The Complainants' reasoning (which in many respects appears to be their concern underlying all of their Complaints) is provided in the Briefing Note:

Why is this a conflict?

Municipal Council and staff aren't supposed to pick sides. They are supposed to serve the public interest as a whole.

- ***Duty of neutrality. Municipal officials have a responsibility to act fairly and impartially, especially when decisions affect residents' homes and quality of life. If internal emails show they're treating residents as adversaries while aligning with an industry applicant, that undermines trust.***
- *Unequal access or influence. If one group (the industry) appears to receive supportive treatment while another group (residents) is framed as a problem to overcome, it suggests the decision-making process may not be balanced.*
- *Public interest vs. private interest. Expanding aquaculture in residential areas affects property values, environmental conditions, and daily life. Council's role is to weigh all impacts objectively; not to advance one sector's goals at the expense of residents.*
- *Perception matters. Even if no rules were technically broken, the appearance of bias can itself be damaging. Public confidence depends on transparency and fairness.*

At its core, it becomes a conflict when the people elected or appointed to represent the community appear to be positioning that same community as the obstacle, while favoring a specific development interest.

What is the right way?

The way a conflict of interest is handled really matters. The goal isn't just to "win," it's to restore integrity and public trust. Council leadership seems unable to comprehend these principles.

Here's what proper management typically looks like:

1. Acknowledge the concern openly

Council should formally recognize that a perceived conflict exists. Even if no one believes they've done anything wrong, perception alone can undermine legitimacy. Transparency is step one.

2. Disclosure

Any relationships, communications, or prior commitments involving the industry should be publicly disclosed. That includes meetings, lobbying efforts, or informal discussions that could reasonably influence decision-making.

3. Recusal where appropriate

If a councillor or staff member has demonstrated bias or has a direct or indirect interest, they should step aside from deliberations and voting on the matter. This protects both the process and the individual.

4. Independent review

An external, neutral party — such as an ethics commissioner, municipal solicitor, or independent investigator — can assess whether procedural fairness has been compromised.

5. Reset the process

If bias is established (or strongly perceived), the decision-making process may need to restart:

- *Fresh hearings*
- *Equal opportunity for public input*
- *Clear criteria applied consistently*
- *A documented, evidence-based rationale for any decision*

6. Strengthen governance policies

Long-term, council can adopt clearer conflict-of-interest and communications protocols:

- *Rules around pre-decision communications*
- *Lobbyist registry requirements*
- *Mandatory ethics training*
- *Public reporting of meetings with industry*

The Complainants advance the following assertions under this Allegation, some of which rely on correspondence also addressed under Allegations #10 and #11:

- December 2023 — declining to share the ADA map with a competing applicant.

The Complainants rely on d'Entremont's December 2023 refusal to share the list of ADA areas included in the call for proposals with Tyler Murphy, a competing prospective applicant, contrasting this with the detailed polygon maps, ESRI Shapefiles, and timeline information shared with Deon's through the Stakeholder Committee, which they allege demonstrates disparate treatment of competing applicants.

- May 2024 — “visitors with negative comments” and AANS as Open House lead.

The Complainants rely on a May 2024 email in which d'Entremont asked Muise, "Should we consider any actions/change our plan to handle visitors with negative comments." The Complainants allege that this demonstrates MoDA staff viewed concerned residents as a threat to be managed rather than constituents to be heard. They further allege that MoDA effectively delegated public engagement responsibilities to AANS, an industry lobbying organisation, by arranging for AANS to host the June 2024 Open House rather than hosting the event itself.

- May 2024 — forwarding a prospective applicant's “sheepish” comment to AANS.

The Complainants rely on an email in which d'Entremont forwarded a comment from prospective applicant Marc Currans to Kate Collins of AANS. Currans had observed that attendees at the Open House were “a bit ‘sheepish’ to ask the questions they really want due to confidentiality.” The Complainants characterise this as evidence that MoDA was sharing prospective applicants' communications directly with AANS, further blurring the line between the industry lobby and municipal staff.

- May 2024 — distributing AANS resource materials to prospective applicants.

The Complainants rely on correspondence showing that d'Entremont distributed AANS-prepared resource materials to prospective ADA applicants. The Complainants allege that this demonstrates MoDA was acting as a conduit for industry materials rather than providing impartial public information, and that it further evidences the alignment between MoDA and the industry lobby.

- May 2024 — AANS President's “mob” characterisation, facilitator proposal, and RCMP request.

The Complainants rely on a May 24, 2024 email from AANS Executive Director Jeff Bishop to Muise and Collins in which Bishop proposed engaging a professional facilitator for the planned June 4, 2024 ADA Open House "just in case a mob showed up in an attempt to take over the session," offered to have AANS cover the cost, and stated "the anti-people may never show up... but could be a good investment."

In a subsequent email, Bishop asked Muise directly for a contact name or number for the local RCMP "so they are aware" of the meeting. Bishop also described the sessions to Deputy Minister Jason Hollett, Bruce Hancock, and Muise as "business networking opportunities," expressly stating "we also indicate they are NOT public consultation sessions to discuss opinions on the ADA or its creation." The Complainants characterise this correspondence as demonstrating that AANS treated the public as an adversarial threat to be managed rather than a stakeholder to be heard, and that this posture was communicated to and adopted by MoDA and NSDFA leadership.

- AANS coordinating with MoDA's CAO and Warden against TIANS.

The Complainants rely on the same May 2024 email exchange addressed under Allegation #10. In that exchange, AANS responded to a letter from TIANS raising concerns that aquaculture expansion could hinder Nova Scotia's tourism industry. The Complainants describe the tourism industry as a \$3.5 billion sector. CAO Muise described the TIANS letter as "borderline irresponsible." Warden Danny Muise stated "There is so much misinformation out there and basically all coming from a group opposing ADA." The Complainants submit that this exchange demonstrates MoDA's alignment with AANS against a competing provincial industry, and its inability to balance competing economic interests, the environment, and the public interest.

- March 20, 2025 — CAO Muise's derogatory slur against a local resident during Council session.

The Complainants rely on an internal email exchange between CAO Muise and Warden Albright on the evening of March 20, 2025, during or immediately following a Council session at which constituent Chris Thibedeau presented the Complainants' conflict of interest allegations. The exchange, which carried the subject line "je t'aime" ("I love you"), began at 7:43 PM with Muise's email to Albright, to which Albright replied "C'est une bonne chose" ("It's a good thing"). In a subsequent message in the same chain, Muise used the phrase "a little tism with Chris," which the Complainants characterise as a derogatory reference to autism directed at Thibedeau.

The Complainants allege that this remark reveals the CAO's underlying contempt for the constituent who was presenting the conflict of interest allegations to Council, and is reflective of a broader pattern in which MoDA's leadership viewed concerned residents with hostility rather than engaging with their concerns on the merits. The Complainants submit that a CAO who privately disparages a constituent using language that is capable of being read as mocking a disability, at the very moment that constituent is exercising his right to address Council, cannot credibly claim to have approached the ADA process, and the concerns raised about it, with the impartiality and good faith expected of a senior municipal official.

- March 21, 2025 — Warden Albright's "bully" characterisation and Muise's "brilliant" response.

The Complainants rely on Warden Albright's March 21, 2025 "Weekend thoughts" email to Council, sharing a third-party quotation: "You can tell a bully from a leader by how they treat people who disagree with them." They characterise its use, the day after the Council session at which they presented their conflict of interest allegations, as equating those residents with "bullies." CAO Muise responded "This is brilliant." The Complainants allege this exchange shows that both the Warden and the CAO viewed constituents who raised legitimate governance concerns as adversaries to be marginalised rather than stakeholders to be heard, and that Muise's endorsement of Albright's characterisation confirms a shared institutional posture of hostility toward the Complainants.

- January 2026 — Deputy Warden Saulnier's correspondence with NSDFA.

The Complainants rely on a January 4–5, 2026 email exchange between Deputy Warden Saulnier and Bruce Hancock of NSDFA. In that correspondence, Saulnier described the Complainants as "grasping at straws," stated "I will not contact" the constituent in question, and observed that "they are a determined bunch" and "we know they will persist in one form or another." The Complainants allege that this demonstrates a further instance of elected officials dismissing resident concerns rather than engaging with them substantively, and that Saulnier's referral of the matter to NSDFA was a deflection rather than a genuine effort to address the constituent's concern about the proximity of ADA sites to the Tuskett Wilderness Area.

b. Summary of d'Entremont Response

d'Entremont provided written responses to each of the documents relied upon in connection with Allegation #13. A recurring theme throughout his responses is that the June 2024 AANS-hosted Open House was not part of the ADA's local engagement process at all, but a separate, industry-focused networking event. On this basis, he disputes the premise underlying several of the Complainants' assertions. He also states he was not a recipient of, and had no knowledge of, several of the internal communications relied upon. His responses are as follows.

- December 2023 — declining to share ADA map information with Tyler Murphy.

d'Entremont clarifies that Murphy's request was specifically for the list of ADA areas to be included in the call for proposals, not the general ADA polygon map, and that the general potential ADA polygon map had already been publicly available since October 2022. The final list of ADA polygons for the call for proposals was not announced until April 15, 2024, and MoDA itself was not aware of that final list before that date. As of December 2023 he did not have the call for proposals list and therefore could not share information he did not possess.

- May 2024 — "visitors with negative comments" and AANS as Open House lead.

The 2024 Open House was not part of the ADA's local engagement process, but an event supporting potential applicants seeking connections with organisations such as AANS to assist with call for proposals responses. He explains that because the event was unrelated to ADA local engagement, MoDA had not initially anticipated attendance by concerned parties, but recognised by May 2024 that this had become a possibility. The event's organisers were not prepared to engage with people seeking feedback or raising questions about the ADA local engagement process specifically, which prompted his question about how to handle that scenario. He denies that MoDA delegated public engagement to an industry lobbying group, reiterating that this particular Open House was not public engagement in the first place.

- May 2024 — forwarding Marc Currans's "sheepish" comment to AANS.

d'Entremont explains the "sheepish" comment reflected potential applicants' hesitancy to ask questions about their prospective business plans in front of other potential competitors, not hesitancy linked to the presence of ADA opponents. Marc Currans gave express written permission to forward his comments to Kate Collins, and d'Entremont did so in the hope that

AANS might arrange one-on-one conversations for applicants who preferred not to discuss their plans in a group setting.

- May 2024 — distributing AANS resource materials to prospective applicants.

d'Entremont explains that Council identified further development of the aquaculture industry as a priority as early as 2015, and that leading the 2024 Open House through AANS and sharing AANS-prepared materials, his own initiative, was consistent with that long-standing Council direction.

- Jeff Bishop's "mob"/facilitator email.

d'Entremont states he did not receive this email and was therefore unaware of its contents and unable to comment on it.

With respect to the AANS/TIANS correspondence and the “networking opportunity” reframing, d'Entremont states he was not aware of the Muise/Warden email exchange and did not share the AANS rebuttal letter on any MoDA channel. He disputes the premise that Collins’s characterisation constituted a “reframing,” reiterating that the 2024 ADA Open House was never part of local engagement in the first place. He confirms MoDA did not share the event flyer for the 2024 Open House.

With respect to Bishop’s “NOT public consultation sessions” statement and RCMP request, d'Entremont states he did not receive this particular email from Bishop and was not directly aware of its contents, but confirms that the underlying statement — that the 2024 Open House was not part of ADA local engagement — is accurate.

- The March 2025 "tism" comment.

d'Entremont was not aware of the email exchange between CAO Muise and Warden Albright on the evening of March 20, 2025, including the comment in question.

- Albright's "bully" characterisation and Muise's "brilliant" response.

d'Entremont did not receive Warden Albright’s March 21, 2025 “Weekend thoughts” email.

With respect to the Saulnier/Hancock correspondence, d'Entremont states he did not receive the January 4-5, 2026 emails between Deputy Warden Saulnier and Bruce Hancock and was unaware of their contents.

c. Summary of Muise Response

Muise responds as follows:

- Declining to share the ADA map with Tyler Murphy.

Muise was not required to direct or approve d'Entremont's handling of this request, and expresses confidence in d'Entremont's integrity and judgment, noting he was in regular contact with NSDFA on these matters. All staff with access to ADA maps understood the information belonged to the Province, and he trusts information was shared consistent with provincial authorisation. There was no evidence of malfeasance or improper intent.

- "Visitors with negative comments" and AANS as Open House lead.

Muise's answer is not fully captured beyond his general confirmation of confidence in staff conduct; his fuller position is addressed through his responses to the AANS Open House, the "mob"/facilitator request, and the RCMP inquiry, discussed below, which together establish his consistent position that the 2024 AANS event was never part of ADA public engagement.

- The AANS-organised June 2024 Open House, the "mob"/facilitator request, and the RCMP inquiry.

Muise states unequivocally that he did not provide Jeff Bishop with RCMP contact information, and that in fact he did not consider this necessary. He notes that AANS did not follow through on the facilitator suggestion, as no RCMP presence eventuated. AANS never intended the event to be a public consultation or engagement session as he would define that term, and this was an AANS-organised, pro-industry event open to all, which he distinguishes conceptually from an "anti-public" posture. A pro-industry stance does not equate to an anti-public stance, and Council and he as CAO received considerable positive feedback from residents who were fully informed about and supportive of the ADA process — support he says was far more prevalent, if quieter, than the public complaints.

- The March 2025 "tism" comment.

He describes the comment, made in a moment of frustration and intended as a derogatory remark directed specifically and solely at the constituent in question, as “poorly chosen,” “unprofessional,” and “wrong,” while describing the reaction itself as “human.” He explains the context: the constituent’s presentation to Council, scheduled for five minutes, ran to approximately eighteen minutes without interruption from the chair. His comment was not intended as derogatory toward autistic people generally, but was an intemperate reaction to what he perceived as a presentation that had gone off the rails. Although lengthy, I am going to provide the entire excerpt:

The comment was stated with frustration. The comment was meant as derogatory directed at that constituent and that constituent only. They were my words and they were poorly chosen. It was a reaction to his presentation which was loaded with allegations and untrue statements. The presentation was to last 5 minutes, and the chairperson did not interrupt the presentation, which ended up being closer to 18 minutes.

About half the time was dedicated to his self-description of his education and honors. My words were an allergic reaction to nonsense. It was in no way designed to be derogatory to autistic people, rather an unprofessional description of a presentation that seemed to fall off the rails, listing allegations without evidence, citing breaches in a variety of areas by my staff, or council, and noting he had NASA security clearance ... I had been the recipient of many emails from this person, and made several attempts to explain or refer concerns, only to have that information twisted to suit his narrative in his usual argumentative and demeaning tone.

I was angry for my former and existing staff, that worked with good intentions always yet accused of wearing 3 conflicting hats. I lost my cool in that moment and said the remark. It was unprofessional and wrong, and also human.

Once this email was released under FOIPOP, I was made aware (by the Warden) that Mr. Thibedeau forwarded the email to a parent with autistic children. This parent was known by both the Warden and Thibedeau. The email was shared in a way that made it seem the Warden wrote it, and that was why the parent (smartly) reached out to Warden Albright for clarification. Albright never said or endorsed the comment and was chairing at the time I sent it. The parent was made to believe that it was her comment and questioned the appropriateness of this coming from the Warden and an educator. It appeared to me an attempt on behalf of Mr. Thibedeau to get Albright in trouble with her work in making believe those words were hers. This is far more disturbing to me than my side remark.

As CAO, the commitment to impartiality is important, but is not our only responsibility. We also have the obligation under Occupational Health and Safety to protect our staff from toxic workplace activity occurring. We commit to impartiality, but that commitment ends when someone acts violently or uses aggressive language, harasses, demeans or acts inappropriately toward staff.

This gentleman led an online campaign to discredit, embarrass, accuse and stress my staff to the point where one took sick leave for mental health purposes. We

have initiated more regular check ins with staff to talk things through when they are being mistreated; we debrief and see what we can do next to deescalate a situation. An online campaign to harass, discredit, lie, and accuse is not on our property. This is the new weapon of choice for those who choose incivility and the law hasn't caught up to this new tactic. If those words were uttered in our office, that person would be politely escorted. This is setting appropriate boundaries towards inappropriate behavior or statements. We are servants of the public, but that does not mean we tolerate inappropriate behavior.

- Albright's "bully" email and Muise's "brilliant" response.

Muise states he was not endorsing a factual determination of whether any specific individual was a bully; rather, he was responding to what he saw as Warden Albright's leadership in encouraging Council unity following an emotionally difficult meeting. He submits there is no evidentiary pattern of prejudice toward constituents generally, only frustration arising from a specific, sustained, and increasingly personal dispute with one complainant group.

- Saulnier's "grasping at straws" and "I will not contact" comments.

Muise explains the underlying factual context: the constituent had publicly alleged that certain ADA sites fell within the Tusket Wilderness Area ("TWA"), when in fact MoDA understood the TWA to be a land-based designation, not a marine one, meaning the ADA sites were near but not within it. Because the matter concerned provincial jurisdiction, Saulnier referred it to NSDFA and the Department of Environment and Climate Change rather than answering it himself. Councillors routinely intercede with provincial departments on matters of provincial jurisdiction as a normal part of their role.

d. Brief Analysis

Based upon the information provided, I do not consider that this gives rise to a *prima facie* case under s.12(1)(a) of the MCOI. However, Allegation #13 raises issues that warrant a more nuanced discussion than a simple application of the statutory threshold, and I set out my reasoning at some length below.

Allegation #13 shares some overlap with Allegations #5, #10, and #11, and relies on some of the same documents and communications. The additional element specific to this Allegation is the Complainants' assertion that the documentary record reveals a broader pattern of prejudice against the public, namely that MoDA's staff and elected officials viewed concerned residents as

opposition to be managed rather than constituents to be heard, a concern that appears to underlie all sixteen Allegations:

First, a preliminary observation on the Complainants' assertion that MoDA has a "duty of neutrality." The Complainants submit that municipal Council and staff "aren't supposed to pick sides" and that they are "supposed to serve the public interest as a whole." The assertion of a duty of neutrality is overstated. MoDA's council and its staff are permitted to make policy choices, and such policy choices do not demand neutrality. The extent of a municipal government's duty of neutrality is informed as to whether the decision in question is legislative or administrative in character. I have not conducted an exhaustive review of the relevant jurisprudence on this issue, but the Nova Scotia Court of Appeal's analysis in *Potter v. Halifax Regional School Board*, 2002 NSCA 88 at para. 39, in which Justice Oland provided a helpful explanation of the distinction, is instructive:

[...] I have found the following passage from S.A. De Smith's text, Judicial Review of Administrative Action, [3rd ed.], 1973 London: Stevens at p. 60 on the distinction between administrative and legislative acts helpful for my analysis: The distinction between legislative and administrative acts is usually expressed as being a distinction between the general and the particular. A legislative act is the creation and promulgation of a general rule of conduct without reference to particular cases; an administrative act cannot be exactly defined, but it includes the adoption of a policy, the making and issue of a specific direction, and the application of a general rule to a particular case in accordance with the requirements of policy or expediency or administrative practice.

In a later SCC decision, the majority explained that a municipality's assessment as to what is in the public interest is a matter of discretion:

6 The first factor — the nature of the decision and the process by which it is reached — merges administrative and political concerns. The decision to propose a draft by-law rezoning municipal territory is made by an elected council accountable to its constituents in a manner analogous to that in which Parliament and the provincial legislatures are accountable to their own: Godbout c. Longueuil (Ville), [1997] 3 S.C.R. 844 (S.C.C.), at para. 51. This decision is moreover tempered by the municipality's charge to act in the public interest: Toronto (City) Roman Catholic Separate School Board v. Toronto (City) (1925), [1926] A.C. 81 (Ontario P.C.), at p. 86. What is in the public interest is a matter of discretion to be determined solely by the municipality. Provided the municipality acts honestly and within the limits of its statutory powers, the

reviewing court is not to interfere with the municipal decision unless "good and sufficient reason be established":²³

The application and extent of any duty of fairness therefore depends on where a particular decision falls on the continuum between legislative and administrative acts. This distinction matters because a legislative choice is, by its nature, a policy choice reflecting the general direction a council wishes to pursue, and a policy choice of that kind does not demand neutrality between competing interests; it is only as a decision moves toward the administrative end of the spectrum, applying a general rule to a particular case, that considerations of fairness and even-handedness come more sharply into play. Council's decision to endorse aquaculture as an economic development priority and to enter into the MOU with the Province was, in my view, a policy decision of general application, that falls on the legislative end of the spectrum. The Complainants cannot expect their municipal government to be neutral on this type of policy choice.

Furthermore, the specific administrative decisions the Complainants impugn, namely the designation of specific ADA sites, the assessment of individual licence and lease applications, and the application of the 7 Factors to particular applicants, were made by the Province, not MoDA. Whatever duty of neutrality may attach to those decisions (and according to *Brighton* such decisions may be policy laden) falls on the provincial decision-maker, not a municipality that had adopted a legislative policy of supporting the industry's development. The Aquaculture Administrator assessed Deon's application against the 7 Factors prescribed by section 17(1) of the Regulations, none of which depends on the tone of MoDA's internal communications. Even accepting that MoDA's internal culture was more sympathetic to industry than to resident concerns, as certain communications suggest, the Complainants have not demonstrated that this imbalance was capable of influencing the provincial decisions they object to. Moreover, as indicated by *Brighton*, it appears that the Provincial decision-makers have a level of discretion as well.

Second, Council had made the definitive policy choice to support aquaculture development as early as 2015, when it endorsed aquaculture as a strategic economic development priority, later formalised in the February 2020 MOU with the Province, which was, in substance, a pro-aquaculture development instrument. MoDA was pursuing a Council-approved mandate with

²³ *Congrégation des témoins de Jéhovah de St-Jérôme-Lafontaine c. Lafontaine (Municipalité)* 2004 SCC 48 at para. 6.

energy and commitment, and that pursuit inevitably meant residents adversely affected by the policy direction would have concerns about impacts on their properties, communities, and quality of life that would not be resolved in their favour. A municipality that identifies a particular industry as a strategic priority will spend more time and energy engaging with that industry than with those who oppose the policy. The asymmetry the Complainants identify in MoDA's communications reflects, at least in part, the nature of the mandate MoDA was pursuing, not necessarily a prejudice against the public.

Third, I acknowledge that the Complainants' underlying concern has some merit. Certain communications in the documentary record do reflect a tone that is dismissive of, or impatient with, constituent concerns. CAO Mui's description of the TIAN's letter as "borderline irresponsible" while simultaneously describing the AANS response as "brilliant" discloses a receptiveness to industry perspectives that was not extended equally to competing stakeholder voices. Former Warden Danny Mui's characterisation of public opposition as being driven by "misinformation" and "a group opposing ADA" reflects a tendency to frame dissent as uninformed rather than to engage with the substance of the concerns raised. I note that CAO Mui states his "This is brilliant" response to Warden Albright's "Weekend thoughts" email was directed at her call for Council unity following a difficult meeting, not at the characterisation of any specific individual. The distinction is noted, but the optics of a CAO endorsing as "brilliant" a message that, in context, equated concerned residents with "bullies" are not helpful. I recognise that citizens have freedom of expression, and that some of the Complainants' public commentary may have been strongly worded. There does appear to have been rhetorical excess on both sides of this dispute. That context is relevant, but it does not excuse the tone of certain internal communications.

Fourth, nothing in the foregoing analysis should be read as excusing or minimising the "tism" comment. Whatever the level of frustration a CAO may experience, and whatever the tone of the correspondence he has received, a senior municipal official does not have licence to make personal attacks against a resident. The remark was, by Mui's own admission, "poorly chosen," "unprofessional," and "wrong," and I would go further than that characterisation: a constituent who addresses Council on governance concerns is exercising a fundamental right. **That the CAO privately mocked that constituent using language capable of being read as derogatory toward people with a disability, at the very moment the constituent was exercising that right, is a significant lapse that warrants unequivocal censure.** That said, the question under s.12(1)(a) remains whether this conduct constitutes malfeasance, breach of trust, or other

misconduct as those terms are understood in law, and an intemperate private remark, however offensive and however revealing of attitude, does not by itself meet that threshold.

Fifth, there may well be lessons to be learned from this process. The Complainants' frustration that their concerns were not given adequate weight is understandable, and some of the communications they rely upon suggest MoDA's leadership could have been more even-handed in engaging with competing interests. I would encourage MoDA to reflect on how it engages with all stakeholders in matters directly affecting residents' properties and quality of life, and to consider what governance mechanisms might ensure citizens feel heard, even when the policy outcome is one they oppose. At the same time, the same residents must recognise that even a precisely followed process may well have reached the same result: the Province made the policy choice that proximity to residential properties was not among the 7 Factors the Aquaculture Administrator was required to consider under section 17(1) of the Regulations, and a more inclusive engagement process would not have changed that statutory framework or, it appears, the provincial decision.

Sixth, I recognise that in the course of this analysis I have, at times, ventured into observations touching on public policy, and acknowledge that some of the preceding commentary may carry implicit public policy pronouncements. That said, as I made clear at the outset of this IMA, its primary mandate is not public policy evaluation; it is a legal exercise applying the facts, which I acknowledge have not been the subject of the in-depth fact-finding process the Complainants would have preferred, to the statutory threshold of s.12(1)(a) of the MCOI.

The question is whether the conduct of current MoDA members, officers, or employees constitutes malfeasance, breach of trust, or other misconduct in relation to their duties or obligations to the municipality. On the information before me, and notwithstanding the governance concerns I have identified, there is no indication of malfeasance, breach of trust, or other misconduct within the meaning of that provision, and the Complainants have not identified anything suggesting MoDA's engagement with industry was motivated by a private pecuniary interest, as distinct from the public interest in economic development Council had expressly adopted.

- **Allegation #14 (CAO Recuses Self, then Violates Recusal)**

- a. Summary of Allegation**

The Complainants allege that CAO Alain Muişe, in correspondence with constituents in February 2025, recused himself from discussions and deliberations concerning aquaculture expansion in Argyle, and then violated that recusal on several subsequent occasions.

The Complainants' PowerPoint presentation frames this allegation as follows:

For a Chief Administrative Officer (CAO) of a municipality, recusal is a formal step taken to avoid participating in a matter where there is a real, potential, or perceived conflict of interest. It is a governance safeguard that protects the integrity of the decision-making process and public trust in the institution.

The Complainants' PowerPoint further states:

This is in violation of his announcement to the public to recuse himself on Feb 26, 2025, and creates a new conflict of interest.

The Complainants rely upon the following:

- February 26, 2025 email — the alleged recusal.

The Complainants rely on CAO Muişe's February 26, 2025 email to constituent Chris Thibedeau (copied to Council and dozens of others), in which Muişe denied any conflict of interest, stated "I deny this allegation as entirely fabricated," but nonetheless stated: "I am happy to recuse myself from further conversations, as our communication is nowhere on the same page." The Complainants note that in the same email Muişe added the qualification, "My council will include me where required, on this and other matters of municipal interest," which the Complainants say undermines the completeness of the recusal from the outset.

- March 7, 2025 email — alleged violation of recusal.

The Complainants rely on a March 7, 2025 email in which Warden Albright forwarded correspondence to Muişe regarding the March 20, 2025 Council session, with the comment:

"Sorry! You were not added to this response. I assume it's intentional. THIS is why I didn't want to respond to him. I will think on this."

The Complainants allege that Albright's inclusion of Muise in this discussion, despite his declared recusal, shows that both Muise and the Warden intended him to remain involved in strategizing about how to manage the very constituents from whom he had recused himself.

- May 29, 2025 letter from the Minister of Fisheries and Aquaculture.

The Complainants allege that this letter is a "Recusal Violation – another documented example of the CAO ignoring his recusal to discuss, provide feedback, and influence the outcomes with the ADA program."

- The Complainants' "right way" framework.

The Complainants rely upon the following:

The Right Way	What did the CAO do?
Disclose Early and in Writing Formally declare the conflict to council (and legal counsel if needed). Document the nature and scope of the recusal.	CAO recuses himself by email on ADA matters on Feb 26, 2025, after email discussions with constituents and councillors.
Fully Recuse – No Partial Involvement Do not attend meetings, give advice, access files, or influence the matter in any way. Recusal must be complete.	CAO violates recusal a week later March 7, 2025, (documented) and May 29th, 2024 (Documented) during multiple sessions of council discussing ADA matters (video documented), ROI discussions with industry (documented), as well as accepting a position on an Aquaculture Development Committee with the province; which includes only pro industry aquaculture members (documented). Behaviours displayed full bias and support for industry prompts and expansion; and a prejudice against concerned constituents.
Delegate Authority Clearly Appoint an acting CAO or senior administrator in writing	CAO hires Kyle Boudreau for additional admin support. Kyle briefs CAO daily and takes instructions that ultimately prejudice residents and

so the matter proceeds without the conflicted officer.	constituents treated as obstacles to overcome.
Create Information Barriers Ensure staff do not brief, copy, or consult the CAO on the issue. Restrict file access where possible.	Email evidence shows ongoing strategy to counter, outmaneuver, or manage COI allegations with Warden Albright, Bruce Hancock, and municipal staff. CAO used staff as an extension of his influence to discourage, block, redact, FOIPOP requests and declare them as frivolous and vexatious.
Seek Legal/Ethics Advice Obtain independent guidance and follow it.	CAO hires Halifax lawyer Rick Dunlop through a subcontract with lawyer Colin Fraser to investigate 16 COI allegations. This now creates a new conflict as findings will be delivered back to the implicated CAO and Council who can declare themselves as not in violation. A municipality cannot investigate itself. It must be neutral and independent. This appears to be another CAO attempt to exhort control over the outcome.
Address Any Breach Immediately If the recusal is violated, disclose it promptly, stop involvement, and allow council or oversight bodies to determine next steps.	Many violations of this recusal have continued and are being documented. The CAO continues with intent to remain involved to shepherd the desired outcome of industry; and this is being supported by the Warden and Deputy Warden. This includes his acceptance of joining a provincial panel and committee on Aquaculture expansion. His bias and intent has been made clear. His acceptance of this position was not declared to council until it was exposed through FOIPOP requests.

b. Summary of Muise Response

Muise's central position is that he never declared a conflict of interest or recused himself from ADA matters. The February 26, 2025 email was a targeted response to a specific constituent, Mr. Thibedeau, which the Complainants have mischaracterised to manufacture an admission that does not exist. Muise responds as follows:

- The February 26, 2025 email.

Muise provides the full text of his email and quotes from the email and makes various assertions:

- “There is zero credible evidence of your accusations of conflict from municipal staff on a provincially led initiative,” and then:
- “That you say this doesn’t make it so. However, even if there is zero evidence of this and I deny this allegation as entirely fabricated, I am happy to recuse myself from further conversations, as our communication is nowhere on the same page, which is totally ok.”
- This was in no way a formal declaration of recusal from all ADA-related matters, and the Complainants’ reading of it is a deliberate twisting of his words to fit their narrative.
- He notes he had no further intention of communicating with the ARA group specifically, and that the constituent who received the email thanked him for his answer without seeking any clarification at the time.
- He would not have offered to keep Council informed on the issue (“my council will include me where required”) had he genuinely declared a conflict, and states unequivocally that he denies any conflict as defined under the MCOI, has no decision-making authority over the ADA program, and has no direct or indirect pecuniary interest in any sea farmer.
- When the email surfaced on social media, Council asked him directly whether the statements were true; he told Council they were not and that his words had been

intentionally mischaracterised, and Council discussed the matter and reached unanimous consent that he had not declared a conflict.

- The March 7, 2025 email.

Muise says he did not declare recusal from ADA matters, only from further correspondence with the ARA group specifically. He concedes "refusal" would have been a better word than "recusal" in that context, since recusal carries other meanings, but maintains that reading the email in full shows he denied any conflict of interest throughout. There was no reason to withhold the email, as no active investigation was underway at the time, and as an advisor to Council, it was not for constituents to determine what information he could receive to properly advise Council.

- May 2025 Meeting

Muise never declared recusal from ADA matters. He describes his role in the meeting as primarily listening, explaining that Council had already passed a 2024 motion, which the Province had agreed to, asking NSDFA to pause further site issuances pending deeper public consultation.

He would not have provided direction to the Minister on the ADA program, which had been announced a year earlier, and would not have commented on existing sites, as those decisions rest entirely with the Province.

His contribution was limited to identifying which sites had generated the most community concern and confirming that MoDA had received significant correspondence on the matter, to which the Minister responded that all such correspondence should be forwarded directly to NSDFA as a provincial project. He concludes there was no violation of any recusal from ADA matters, because no such recusal or conflict declaration was ever made, only a recusal, or more accurately a refusal, of further correspondence with the ARA group.

c. Brief Analysis

Based upon the information provided, I do not consider that this gives rise to a *prima facie* case under s.12(1)(a) of the MCOI for the following reasons.

First, the February 26, 2025 correspondence does not constitute a clear recusal.

Thibedeau wrote to Muise at 2:12 PM, stating:

Respectfully you are looking at this all wrong. This is not a moment to duel or be defensive. Council has an opportunity to seek a relief valve on a complex situation that is mired in conflicts of interest.

Unfortunately, your history, CAO position, and management oversight of key staff in many of these conflicts may require you to recuse yourself from receiving and coordinating any further review. As such we hereby request to deal directly with council and not with your position as CAO being an intermediary. If any other MoDA staff or councillors have familial or business linkages to any of the oyster farmers who have submitted an application or AANS, they would most likely have a conflict of interest and have to recuse themselves.

We would also formally request that you not share our content or correspondence if conversing with DFA, AANS, or Deon's Oysters as it will only solidify the conflicts at hand and demonstrate mens rea.

As Argyle constituents, we are comfortable this can all be resolved with a letter from MoDA to DFA requesting new and adequate public consultation be performed on all 53 locations. That's it.

Muise replied at 2:57 PM. The full text of his email is as follows:

Chris,

Thank you.

As you are fully aware, all emails entering the municipality are FOIPOP eligible, so I cannot promise that information, if requested by the parties you describe, won't be provided to them under that legislation. I can only provide you personal assurance that under no circumstances was this information forwarded to anyone mentioned below from my email account. I cannot speak for the others included here.

I have zero interest in dueling. I have every interest in representing my Council. Council can and does receive all sorts of communication that doesn't include me, my inclusion is definitely not necessary.

*Simply keep me out of your email trail if you prefer not to communicate with me. Better still, I strongly urge you, once again, to contact the province directly in any area where you believe there is a conflict of interest and have them address your concerns. The initiative is and always has been in their direct control and ownership. There is zero credible evidence of your accusations of conflict from municipal staff on a provincially led initiative. That you say this doesn't make it so. However, even if there is zero evidence of this and I deny this allegation as entirely fabricated, **I am happy to recuse myself from further conversations, as our communication is nowhere on the same page, which is totally ok.***

We have explained the process in the past many times, and indicated that the legislative regulations around this are provincial, including the acceptance of the public engagement efforts that we assisted the province with.

Your request of council remains, nonetheless. I will leave the request in the hands of Council. My council will include me where required, on this and other matters of municipal interest.

Good luck with your provincial discussions.

Alain

When I read the correspondence in its entirety, I do not consider the following statement to be a recusal from the ADA related discussion:

However, even if there is zero evidence of this and I deny this allegation as entirely fabricated, I am happy to recuse myself from further conversations, as our communication is nowhere on the same page, which is totally ok.

The recusal is from “further conversations.” This is then expressly qualified by:

- the framing that the offer relates to the communication exchange with the ARA group, not to ADA matters generally;
- the immediately following statement that “My council will include me where required, on this and other matters of municipal interest,” which is inconsistent with a complete withdrawal from ADA matters; and
- the overarching denial of any conflict, which is the dominant theme of the email.

I do, however, consider that recusal was a poor choice of words. I also do not accept Muise’s suggestion that “refusal” would have been a more apt word.

Second, the further problem with concluding that Muise recused himself is that there is no statutory basis for such recusal. The following is a brief explanation:

- Muise, as CAO, does not vote on any issues. The crux of his job is administrative and he is to, broadly speaking, administer and implement Council policy choices.
- The MCOI contemplates that only members of council (or councillors) will “recuse” themselves:
 - Section 2(f) defines a member as “a member, in whatever capacity, of a council or a local board and, for the purposes of Sections 9 and 10, includes a former member...”

- Section 6(1) of the MCOI clearly provides the circumstances in which a member must recuse themselves:

6 (1) Where a member, either on the members own behalf or while acting for, by, with or through another, has any direct or indirect pecuniary interest in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member shall

(a) as soon as practicable after the commencement of the meeting disclose the interest and the general nature thereof;

(b) withdraw from his place as member and

(i) in the case of a closed meeting, leave the room in which the meeting is held for the duration of the consideration of the matter, and

(ii) in the case of a meeting that is open to the public, either leave the room in which the meeting is held or remain in that part of the room set aside for the general public for the duration of the consideration of the matter;

(c) refrain from taking any part in the consideration or discussion of the matter and from voting on any question relating to the matter; and

(d) refrain from attempting in any way, whether before, during or after the meeting, to influence the decision of the council or local board with respect to the matter.

(2) Where the member was not present at a meeting at which a matter in which the member, either on the members own behalf or while acting for, by, with or through another, has any direct or indirect pecuniary interest was the subject of consideration, the member shall disclose the interest at the next meeting the member attends, and the provisions of subsection (1) shall apply to the member in respect of the matter.

(3) A member shall comply with this Section in respect of any matter in which the member intends to obtain a pecuniary interest, either on the members own behalf or while acting for, by, with or through another.

- Although relating in part to the first point, it is noteworthy that member “recusals” (as described in s.6(1)(c) and (d)) are recorded:

7 (1) Every declaration of interest and the general nature thereof disclosed pursuant to Section 6 shall be recorded in the minutes of the meeting by the clerk of the municipality or by the secretary of the local board, as the case may be.

(2) The person acting as secretary of any meeting, or the chairman of the meeting if there is no secretary, shall record every disclosure of interest and the general nature thereof in a central record of disclosure.

(3) Every municipality and local board shall keep a central record of disclosure, which shall be open to inspection by any elector without fee at all reasonable times.

Third, the CAO has no formal decision-making authority. The CAO has no vote on Council and does not deliberate on motions. The rationale for recusals under section 6 of the MCOI is that a member with a pecuniary interest in a matter before Council must not participate in its consideration or attempt to influence the outcome, a statutory mischief that does not arise in the same way for a CAO, whose role is administrative and advisory.

I recognise, however, that the distinction between formal authority and practical influence is not always straightforward. While the CAO has no vote, the role carries significant practical influence over the information Council receives and the options it considers. The question is not simply whether the CAO voted, but whether the CAO's involvement in a process that could benefit an entity connected to a Council member created an appearance of partiality that could undermine public confidence. On the information before me, the CAO's participation on the Panel and the Nova Scotia Aquaculture Regulatory Advisory Committee (the "NSARAC") was known to Council, consistent with Council's policy direction, and took place within a provincially controlled process. This is nonetheless an area where MoDA would benefit from reflection: a CAO who carries out Council's policy direction is not thereby conflicted, but neither is the CAO relieved of the obligation to manage situations where the appearance of partiality could undermine public confidence in the process. This issue is addressed under Allegation #15.

Fourth, the Province, not the CAO, made the relevant decisions. As established throughout this IMA, the ADA program was provincially designed, administered, and decided. While Muise participated on the Panel and the NSARAC, both were advisory bodies: the Panel provided recommendations to the Aquaculture Administrator, who alone assessed applications against the 7 Factors and made final determinations, and the NSARAC had no ADA-specific mandate. Muise did participate substantively in the Panel's review of applications, including Deon's application for site 8012, providing feedback and insight as part of a consensus-based group process, but the

final decision rested solely with the Aquaculture Administrator; the CAO held no authority over ADA site designations, the call for proposals, or the awarding of leases and licences. The Complainants' allegation presupposes that the CAO was a decision-maker whose continued involvement could taint the outcome, but the decisions were made by the Province. For the same reason, the May 2025 meeting with the Minister of Fisheries and Aquaculture cannot constitute a violation of a recusal that was never declared. Even if it could, Muise's account of the meeting, that his contribution was limited to identifying which sites had generated the most community concern, and that the Minister directed all such correspondence be forwarded to NSDFA, is consistent with a CAO performing his administrative role, not a decision-maker exercising authority over the ADA program.

- **Allegation #15 (Municipal Staff Appointed to Provincial ADA Panel)**

- a. Summary of Allegation**

The Complainants allege that CAO Alain Muisse and d'Entremont, having assisted Deon's in selecting its desired ADA locations during the program's development phase, subsequently accepted positions on the provincial ADA Proposal Assessment Panel responsible for evaluating that same Deon's application, thereby participating in the development, evaluation, and award phases of a single procurement process affecting the same applicant.

The Complainants characterise this as, at minimum, a reasonable apprehension of bias and an apparent conflict of interest incompatible with procedural fairness, impartial decision-making, and procurement integrity, and as conduct that is anti-competitive and supports an allegation of bid-rigging.

The Complainants rely upon the following:

- The December 21, 2023 NSARAC invitation.

The Complainants rely on a December 21, 2023 email from NSDFA Executive Director Bruce Hancock inviting CAO Muisse to join the NSARAC, with an attached Terms of Reference. Muisse accepted, writing: "I will be accepting this request from the Minister, with great thanks!" The Complainants allege that the committee is comprised entirely of industry representation and lobbying, and that this appointment further "indoctrinated" Muisse with industry bias and prejudice against concerned constituents. They rely on the committee's distribution list to assert that NSARAC members are "all industry reps, lobbying reps (AANS), + Alain Muisse."

- The February 23, 2024 Panel invitation and March 8, 2024 division-of-roles email.

The Complainants rely on a February 23, 2024 email from Matthew King of NSDFA inviting Muisse and d'Entremont to join the ADA Proposal Assessment Panel, followed by Muisse's March 8, 2024 reply proposing to "split our time and talent" between the evaluative committee (Muisse) and a separate committee responsible for "setting constraints or rules around the application" (d'Entremont). The Complainants allege that this confirms both Muisse and d'Entremont accepted positions on the Panel and that Muisse subsequently reviewed and influenced decisions on the same Deon's application he had assisted in advancing during the development phase. They

submit that this dual-role involvement “at the outset, throughout, and at the conclusion of the ADA award process” is “strictly prohibited in any modern tendering activity.”

- The Panel process — welcome email, meetings, scoring, and award decision.

The Complainants further rely on a March 11, 2024 welcome email attaching draft Terms of Reference and evaluation criteria, the March 25, 2024 first Panel meeting agenda, and the April 9, 2024 second Panel meeting materials, which included call for proposals documentation for site 8012, which the Complainants annotate as “Deon’s Desired Location.”

They also rely on a September 19, 2024 email distributing draft proposal reviews and scoring for six ADA sites (including site 8012), and a January 27, 2025 email from Matthew King informing Panel members that “a decision has been made by the Administrator regarding the ADA proposals under review.” The Complainants allege that Muise participated in each stage of this process from invitation through award.

- The May 6, 2024 removal of the D'Eon Oyster Company reference.

The Complainants rely on a May 6, 2024 email exchange in which d'Entremont states: “I’ve requested a bunch of changes. Here is the updated version. I’ve removed reference to the D'Eon Oyster Company entirely.” The Complainants allege that this removal was intended to conceal that site 8012 “was already attached to Deon’s Oyster Company before tendering” and characterise it as evidence the process was rigged.

- Travel stipends and use of municipal time.

The Complainants rely on emails showing travel expense reimbursement and stipend arrangements associated with Muise’s committee roles, including a March 18, 2024 email from Muise asking Hancock for a mileage reimbursement form, and a July 3, 2024 electronic fund transfer form for the NSARAC.

The Complainants characterise these as a potential incentive capable of creating perceived loyalty or alignment with industry objectives, and assert that time spent on these provincial committee roles was municipal work time paid for by local taxpayers.

- Inconsistent maps and the redacted Stakeholder Report.

The Complainants rely on a June 27, 2024 email exchange in which Muise requests from Hancock a copy of the original draft ADA map, and internal MoDA emails in which Kyle Boudreau notes he found “marked up maps” and a contrary provincial map.

The Complainants allege that more than one map was used and referred to for interpreting ADA locations, and that the discrepancies demonstrate that “MoDA and the province can’t keep their stories straight on locations and maps.”

They further rely on the May 2, 2024 exchange regarding posting the redacted Stakeholder Report on MoDA’s website, in which Muise states: “I read through the report and I see no additional redactions needed. Province did a really good job.” The Complainants question why a public stakeholder report required redaction before release.

- The April 2024 response to a concerned resident

The Complainants rely on the April 17, 2024 response from CAO Muise to a concerned resident, in which Muise writes: “The municipality’s role is not in the decision on the location of these leases, but we were actively involved in this project, especially in the public engagement process.”

The Complainants characterise this as a pivot to “absolve from blame and point concerned residents and complaints to the MLA and Bruce Hancock at NS DFA,” and allege that records show all local complaints were forwarded to NSDFA.

The Complainants further rely on a May 29, 2024 email introducing Dawn Delaney of IRIS Communications to Bruce Hancock, and on subsequent correspondence demonstrating that Muise engaged the PR firm to “catch us up on effective communication with the ADA.” The Complainants characterise this as a misappropriation of taxpayer funds to counter the same constituents who pay taxes in Argyle.

The Complainants also rely on email evidence showing the Province drafted or edited the Warden’s speaking notes and ADA announcement quotes, including an April 8–9, 2024 email chain in which Hancock provides “a suggested edit to Danny Muise’s quote.” They further rely on a May 13, 2024 email from Muise to Hancock in which Muise concedes that MoDA’s public engagement “did not reach certain people,” and on Warden Albright’s March 18, 2025 emails forwarding constituent complaints to Hancock in advance of a Council meeting, while simultaneously denying those same constituents the opportunity to present at Council.

The Complainants conclude that the integrity of a public award process requires not only actual impartiality, but the clear absence of circumstances giving rise to a reasonable perception of bias, and submit that where individuals assist in shaping an application or its supporting framework and then participate in evaluating or approving it, the independence of the process is fundamentally compromised.

b. Summary of d'Entremont Response

d'Entremont's central and consistently repeated position is that, although initially invited to join the Panel, he did not accept that invitation in its evaluative capacity, attended only the Panel's first introductory meeting, and played no role in scoring, reviewing, or evaluating any ADA proposal, including Deon's application for site 8012. His responses are as follows:

- CAO Mui-se's NSARAC appointment.

d'Entremont confirms he knew of Mui-se's position on the NSARAC around the relevant time, but states he knew very little about the committee and was not aware of any bearing it had on the direction Mui-se provided to him.

- The February 23, 2024 Panel invitation.

d'Entremont was invited to the Panel to provide local context in the assessment of call for proposals responses, but did not accept the invitation in the capacity of assessing those responses. He confirms he discussed the invitation with Mui-se beforehand and recalls Mui-se telling him he had already reviewed possible conflict of interest issues and found none regarding his own acceptance. d'Entremont did not accept the invitation for its main evaluative purpose and attended only one meeting before the assessment work began.

- The March 8, 2024 division-of-roles email.

d'Entremont clarifies that, notwithstanding Mui-se's email describing a split between two committees, his own recollection is that there were not in fact two separate committees or panels. He confirms scoring criteria were briefly discussed at the Panel's first meeting, but states unequivocally that he did not take part in evaluating responses to the ADA call for proposals.

- The March 11, 2024 welcome email and draft Terms of Reference.

d'Entremont confirms he received the draft Terms of Reference and evaluation criteria, but states Muise's March 8 email had already made clear he would not be reviewing call for proposals responses, which held true. He confirms the Terms of Reference did not specifically address conflicts of interest, recusal obligations, or the participation of individuals involved in the ADA's development phase.

- The March 25, 2024 first Panel meeting.

d'Entremont confirms he attended this meeting, his only Panel meeting, as the minutes of the following April 4, 2024 meeting record him as absent. The meeting discussed evaluation criteria already developed by NSDFA, and his own contribution was limited to offering to present on MoDA's prior local engagement work for the ADA. All Panel members were at least generally aware of MoDA's role in the pilot project, and since NSDFA had already developed the evaluation framework, his role was simply to comment on it.

- The April 9–10, 2024 Panel meeting reviewing site 8012.

d'Entremont states he attended the March 25 meeting but not the April 9 meeting, and did not participate in reviewing any ADA call for proposal materials, pointing to the April 9 meeting minutes recording his absence.

- The May 6, 2024 removal of "D'Eon Oyster Company" from a promotional post.

d'Entremont states he does not have access to the original content but recalls that Deon's had originally been mentioned in describing a specific ADA area, and that naming the company was unnecessary to make the area's location clear. He does not recall whose decision it was to remove the reference, but notes no other shellfish company was named either, and the intent was not to single out any specific company unnecessarily.

- The September 19, 2024 draft proposal reviews and scoring.

d'Entremont states plainly that he was not involved in scoring or reviewing any ADA proposals and did not receive the draft proposal reviews circulated on September 19, 2024. His understanding was that Muise had already done the work to ensure no conflict of interest issues arose from Muise's own participation in the Panel reviews.

- The January 27, 2025 award decision.

d'Entremont confirms he eventually learned that Deon's was selected to proceed to the application phase for ADA area 8012, though he does not recall precisely when he learned this. He reiterates that he did not participate in the evaluation of call for proposals responses, and states that the question of whether his participation in both development and evaluative phases was consistent with procedural fairness does not arise, since he did not in fact participate in the evaluative phase.

- Travel stipends and compensation.

d'Entremont states directly that he received no compensation of any kind from NSDFA or any other body for his participation on the Panel or any other ADA-related provincial committee. He confirms his participation in the March 25, 2024 Panel meeting was virtual, occurred during his regular MoDA working hours, and that he was compensated only by MoDA, not NSDFA.

- Posting the redacted Stakeholder Report.

d'Entremont confirms his role was limited to updating the Aquaculture Argyle website, to which he had backend access. He confirms he would have been aware redactions had been made but does not recall whether he personally reviewed them, and had no concerns about posting the redacted version, explaining that he relied on NSDFA's greater experience with privacy matters and that, on his review, the redactions appeared limited to private individuals' names, email addresses, and phone numbers.

- Multiple versions of the ADA map.

d'Entremont explains that numerous different maps showing potential ADA areas existed, some bearing hand-drawn annotations from the many stakeholder engagement sessions conducted over the pilot project's four-year duration, a natural consequence of the project's length rather than evidence of manipulation. The map Muise likely meant as being "in Alix's office" was the final ADA map showing the final polygons, presented at the April 15, 2024 announcement.

- The April 2024 response to a concerned resident.

d'Entremont does not recall being involved in preparing or reviewing Muise's response to the resident. He quotes Muise's exact wording, that MoDA's role was "not in the decision on the location of these leases, but we were actively involved in this project, especially in the public engagement process," and considers this characterisation accurate. He clarifies, however, that MoDA's role was predominantly local engagement, of which public engagement formed a part,

and that Muise simply used an imprecise term. He considered it entirely appropriate for constituent feedback to be forwarded to NSDFA following the April 15, 2024 announcement, as NSDFA was the proper channel for ADA feedback from that point forward.

c. Summary of Muise Response

- Participation on the ADA Proposal Assessment Panel.

Muise confirms that he did, in fact, participate substantively in the ADA Proposal Assessment Panel's review of applications, including Deon's application for site 8012, a position that differs materially from d'Entremont's account of his own, more limited, participation.

- The NSARAC appointment.

Muise confirms he accepted a position as an advisor on the NSARAC after reviewing its Terms of Reference and obtaining Council's approval, attaching the relevant correspondence. He provides a full meeting attendance record from January 2024 to April 2025.

The appointment came at the Minister's specific request, was unpaid, and included representatives from First Nations, business, ecological organisations, and tourism, with membership at the Minister's discretion. The committee was struck following the Doelle-Lahey panel's recommendations on aquaculture regulatory reform, had no ADA-specific mandate, included no discussion of ADA regulations, and the ADA is not referenced in its Terms of Reference. He disputes any characterisation of the committee as industry-led, had zero decision-making capacity in either the ADA process or the committee, and maintains there was no bias or conflict of interest.

- The Panel invitation and d'Entremont's refusal.

Muise confirms he discussed the Panel invitation with d'Entremont, who declined it. He explains that d'Entremont considered his own ADA work complete and did not wish further involvement.

Muise denies facilitating Deon's site selection, maintaining that ADA site decisions were made scientifically by NSDFA and that the Deons, as existing industry experts, provided input to MoDA rather than the reverse. He accepted the Panel role because it lacked local representation, and provides his full meeting attendance record, noting the first two meetings pre-dated any site announcements or applications. He raised his own ADA involvement transparently at the first

meeting and confirms he never sat on the Steering Committee, only the Stakeholder Committee, a separation he frames as consistent with the ADA's design of separating regulatory authority from advisory support. The Panel's role was to provide recommendations only, with final decisions resting solely with the Aquaculture Administrator, Robert Ceschiutti, and he conducted a self-assessment of conflict of interest at the outset and again after learning the identity of the fourteen applicants, confirming no pecuniary interest on both occasions.

- The nature and scope of Panel responsibilities.

Muise explains that the Panel's function was to provide advisory comments on applications and recommendations to the Province, with the winning applicant then required to submit a separate lease application to which no advisory panel applied. The Province maintained and applied its own rating scale, Panel discussions typically proceeded by consensus, and no individual scores or votes were recorded by Panel members. He confirms he had no coordinating or supervisory role over d'Entremont's separate advisory work, that MoDA staff did not facilitate any site selection for Deon's exclusive benefit, and that any sea farmer remains free to apply for a site outside the ADA process at any time.

- The Terms of Reference and conflict of interest self-assessment.

Muise confirms he reviewed the Terms of Reference, both at the time and again in preparing this response. He quotes the Terms of Reference describing the Panel's role as providing recommendations to "inform the final decisions made by the Aquaculture Administrator," and sets out the four elements of his own self-assessment:

- the committee was not a decision-making body;
- he had no pecuniary interest, direct or indirect, in Deon's or any organisation;
- members held no individual voting privileges and proceeded by consensus; and
- final authority rested with the Administrator alone.

He acknowledges the Terms of Reference did not themselves address recusal, but states he applied the municipal conflict of interest framework in his own assessment, and that his selection for the committee was recommended precisely because of his ADA experience, which was known to the Province.

- Attendance at the March 26 and April 9, 2024 meetings.

Muise confirms attending both meetings, but they pre-dated the ADA announcement, meaning no site applications existed for discussion; the meetings addressed only process and pre-set evaluation criteria.

He disclosed his advisory role and insisted throughout that he would not participate in a decision-making capacity.

He acknowledges his presence on the Panel was, in the Complainants' view, a conflict, but submits this is not the legal measure under the MCOI. He did not seek legal advice specifically but consulted informally with a former colleague and fellow CPA, relying on his professional ethics training and clean professional conduct record.

- The removal of the D'Eon Oyster Company reference.

Muise states he does not specifically recall this change, confirms he was copied on the relevant correspondence, and states he would not have directed the removal but did not disagree with it. His rationale: including a reference to the existing leaseholder in promotional material describing the six announced sites could have caused confusion during the expression-of-interest phase, and he observes that MoDA faced contradictory criticism either way, accused of favouritism if the reference remained and of concealment once removed. He maintains that the Province, not MoDA, controlled site decisions, and that a communications document does not equate to control over site selection.

- Scoring and review of ADA proposals, including site 8012.

This is Muise's most significant admission in this section. He confirms he was involved in the review of all ADA proposals, including Deon's application for site 8012, under an instruction of confidentiality. He did not provide individual scores, as scores were discussed as a group with consensus provided to staff, but confirms he provided feedback and insight on most applications in accordance with his mandate as an "expert" advisor. He exercised no supervisory or coordinating function, as that role rested with the Province, and would not have participated in discussion of any applicant had his own assessment uncovered a conflict of interest.

Muise admits:

I was involved in the review of all ADA proposals under instruction of confidence, including the Deon's Oysters application for site 8012. I did not provide individual scores. Scores were discussed as a group with consensus provided to staff. I

provided feedback and insight on most applications in accordance with my mandate.

- Consistency with procedural fairness.

Muise submits that his participation in both the development and evaluative phases was consistent with procedural fairness, achieved through the intentional separation of advisory functions from regulatory decision-making. He credits Charlene LeBlanc and d'Entremont with much of the substantive engagement work, describing his own role as supportive. He reiterates that Deon's preferences were not among the Province's seven statutory decision factors, and that any sea farmer remains free to apply for a non-ADA site at any time, undermining any motive for collusion.

- Compensation and use of municipal time.

Muise received no compensation beyond mileage and one hotel reimbursement for a Halifax meeting related to the NSARAC, consistent with that committee's Terms of Reference. He would have disclosed this reimbursement to Council to confirm the cost was borne by the Province rather than MoDA, and confirms Council's approval for his participation, for which he was paid only his ordinary CAO salary.

- The March 26, 2024 meeting and disclosure.

Muise reiterates that the evaluation criteria were preset by the Province and that he made no contribution to their content. He is familiar with the legal standard of reasonable apprehension of bias, which he describes as requiring that "a reasonable, fully informed observer would perceive that the decision maker might not act impartially," and submits he satisfies this test because he was not a decision-maker, and because the Complainants were neither reasonable nor fully informed in reaching their conclusion.

- Concurrent NSARAC and Panel membership.

Muise confirms both appointments were known to Council and states the two bodies' work was entirely distinct, with the NSARAC never discussing the ADA program. He disputes that the NSARAC was industry-aligned, noting its broad membership spanning industry, First Nations, and environmental interests, and submits that regulatory consultation with affected industry is a normal and expected feature of policy development, not evidence of bias.

- The May 28, 2024 NSARAC meeting.

Muise confirms attending this NSARAC meeting and states he was impressed with the calibre of its members. He reiterates that no conflict or reasonable apprehension of bias arises from an advisory role, and that the NSARAC's work remained entirely separate from the ADA process throughout.

- The June 2024 request for the original draft ADA map.

Muise explains that this request originated from resident Corey Clamp, forwarded through then-Councillor Guy Surette, whom Muise notes is now one of the Complainants, to Kyle Boudreau and then to Muise, who forwarded it to Bruce Hancock at NSDFA. The information was internal provincial material over which he had no control, the map was shared with him in unaltered form by the Province, and he considers ongoing informal communication with provincial colleagues on behalf of concerned residents a normal and appropriate part of his role, not a governance failure.

d. Brief Analysis

This allegation raises a legitimate concern about the appearance of impartiality in the ADA process. However, for the reasons set out below, I do not consider that the Complainants have made out a prima facie case of malfeasance, breach of trust, or other misconduct within the meaning of section 12(1)(a) of the MCOI.

First, it is important to distinguish between the various committees and bodies on which Muise and d'Entremont served. The Complainants' allegation treats these appointments as a single pattern of entrenchment, but the committees are materially different in function and relevance:

The *NSARAC* was a provincially constituted regulatory advisory committee struck following the Doelle-Lahey panel's recommendations. It had no ADA-specific mandate, did not discuss ADA regulations, and the ADA is not referenced in its Terms of Reference.

The *Panel* is the body that relates to this Allegation. Unlike the NSARAC, the Panel was directly involved in reviewing and providing recommendations on ADA call for proposals responses to the Aquaculture Administrator. Muise participated substantively in this work, including in the review of Deon's application for site 8012. d'Entremont, by contrast, attended only the Panel's first introductory meeting and did not participate in any evaluative work.

Second, the Province, not MoDA, extended the Panel invitation. Muise and d'Entremont were invited by Matthew King of NSDFA because the Panel lacked local representation. Muise's acceptance of a provincial appointment to an advisory body does not, without more, constitute malfeasance, breach of trust, or other misconduct under the MCOI.

MoDA is concerned with municipal affairs; the Panel was a provincial body administering a provincial process. Muise disclosed his acceptance to Council, obtained Council's approval, received no compensation beyond mileage reimbursement from the Province, and conducted a self-assessment of conflict of interest at the outset and again after learning the identity of applicants. There is no evidence Council objected to, or was unaware of, his participation.

Moreover, if the Province, as the entity running the process and bearing the decision-making responsibility, did not, on the information before me, consider Muise's prior involvement to be disqualifying, it is difficult to see how a municipal conflict of interest statute can impose a higher standard of procedural purity on the Province's own advisory process than the Province itself required.

Third, the Aquaculture Administrator made the final decision. The Panel's role was to provide advisory comments and recommendations against preset provincial evaluation criteria. The province maintained and applied its own rating scale, Panel discussions proceeded by consensus, and no individual scores or votes were recorded. The Administrator alone assessed proposals against the 7 Factors and rendered the final determination. Muise had no authority to approve, deny, or determine the outcome of any application.

Fourth, I do observe that Muise's participation on the Panel, having also been involved in the ADA's development phase, raises a legitimate question about the perception of impartiality. A reasonable observer, aware that the same individual who oversaw the municipality's advisory role during the ADA's development also sat on the body reviewing applications for sites his staff had helped identify, might reasonably question whether he could approach the evaluative task with complete objectivity. In my view, it would have been preferable for Muise to decline the Panel invitation, or to recuse himself from the review of Deon's application specifically, to avoid any perception of partiality.

The fact that Muise conducted a self-assessment and concluded there was no conflict does not fully address the perception concern, because the standard of reasonable apprehension of bias is assessed from the perspective of a reasonable observer, not the decision-maker's own self-

assessment. In fairness to Muise, however, the MOU committed MoDA to supporting the ADA, Council had unanimously endorsed aquaculture development as a strategic priority, the process was going to directly impact Argyle's communities, and the Province specifically invited Muise because the Panel lacked local representation. Had Muise declined, it is equally likely he would have been criticised for abdicating the municipality's role in a process of significant local consequence. This does not excuse the perception concern, but it places Muise's decision in its proper context: he was navigating a position in which either choice carried risk, and he chose the path consistent with MoDA's policy commitments and the Province's express request.

However, the question before me is not whether Muise's participation was unwise or imprudent, but whether it constitutes malfeasance, breach of trust, or other misconduct sufficient to warrant a referral to the Attorney General under section 12(1)(a), a high threshold. Malfeasance connotes dishonest or wrongful conduct in office; breach of trust connotes a violation of a duty owed to the public; and "other misconduct" must be read in light of those preceding terms as conduct of comparable gravity. A CAO's acceptance of a provincial appointment to an advisory panel, disclosed to and approved by Council, with no compensation and no decision-making authority, falls short of that threshold, even where, as here, the appointment gives rise to an appearance concern that ought to have been managed more carefully.

- **Allegation #16 (Pecuniary Interest and Potential Conflict of Interest – Warden Nicole Albright)**

- a. Summary of Allegation**

The Complainants allege that Warden Nicole Albright improperly managed a pecuniary interest arising from her son's employment with Deon's, and that she used her influence and voting position on Council to advance, facilitate, and support decisions benefiting Deon's through the ADA program. They further allege that she demonstrated sustained prejudice and bias against concerned constituents.

The Complainants' PowerPoint frames this Allegation as:

A pecuniary interest exists when a decision could result in financial gain or loss for the decision-maker or for someone closely connected to them, such as a spouse, child, or business partner. Albright's son stands to benefit financially — through salary, bonuses, job security, or promotion — from decisions Albright herself has influenced. Denial does not absolve this conflict.

The Complainants' PowerPoint further states:

The Warden is making and influencing policy decisions affecting the aquaculture industry. The Warden's son is employed by an aquaculture company operating within her jurisdiction. Recent ADA decisions will allow DoC to triple the size and scale of its operations.

The Complainants then made further allegations relating to various online posts. In a May 21, 2026 email to me, Mr. Thibedeau alleged that Warden Albright and Yarmouth Mayor Pam Mood were "continuing their promotion of Deon's...in an attempt to shape the court of public opinion. Their argument and effort takes the focus away from the cheating and manipulation that took place on ADA and focuses it on support and marketing of the business in question...Pam also continues to telegraph to the community that our COI complaints [i.e. these Allegations] are bullying and harassment..."

The Complainants rely upon the following:

- The underlying pecuniary interest.

The Complainants submit that under sections 2 and 4 of the MCOI, a pecuniary interest may exist where a direct family member is employed by, or receives income from, a business that may be affected by municipal policy or program decisions.

They assert that Albright's son's employment with Deon's, combined with her role in making and influencing aquaculture policy, gives rise to an indirect pecuniary interest, particularly where recent ADA decisions will allegedly allow Deon's to "triple the size and scale of its operations."

The Complainants note that Albright sought and obtained a legal opinion but chose not to recuse herself during the March 20, 2025 Council session, and that she only began recusing herself from some, not all, aquaculture-related discussions later in 2025, which they characterise as discretionary and inconsistently applied rather than a good-faith application of the MCOI.

- Prejudice and bias against constituents.

The Complainants allege that Albright prejudicially branded concerned constituents as opponents of the ADA generally, when in fact those constituents opposed only site locations within residential areas. They assert that MoDA never engaged residents as genuine stakeholders, and that all administrative effort was directed toward defending industry interests at residents' expense. They further allege that Albright regularly breached confidentiality and third-party disclosure norms by referring constituent complaints directly to the Province, and that concerned constituents were repeatedly stonewalled and denied meetings with Council, in contrast to Nolan Deon, who they allege could obtain a meeting whenever convenient to his own agenda.

- Online conduct and characterisation of residents

The Complainants rely on public statements in which Albright is alleged to have denied conflict allegations, characterised evidence against MoDA as "disinformation," and attacked concerned constituents online, at one point allegedly describing certain Argyle residents as driven by "hate, greed, and privilege."

They further rely on Albright's March 21, 2025 "Weekend thoughts" email to Council, in which she is alleged to have characterised residents who had presented conflict of interest allegations as "bullies," to which CAO Muise responded "This is brilliant." They also allege that Albright forwarded a complainant's email to CAO Muise notwithstanding his purported recusal, and that the March 20, 2025 internal email exchange between Albright and Muise, in which Muise is alleged to have used a derogatory reference to autism, "a little tism with Chris," reflects the same underlying prejudice.

- Denial of meetings and appeals.

The Complainants allege that a formal request by approximately 50 concerned constituents to meet with and present their concerns to Council was denied, that a subsequent appeal of that denial was also refused, and that this pattern of stonewalling continued both before and after the ADA award process. They assert that MoDA, having led all public consultation for the ADA, actively suppressed it, while continuing to accommodate ad hoc meetings with industry representatives, including Deon's, upon request.

- The Eel Brook public wharf.

The Complainants rely upon a 2016 incident and allege that Albright, together with CAO Muise and Charlene LeBlanc, arranged for public taxpayer funds to be used to repair the Eel Brook wharf for Nolan Deon's effective exclusive commercial use, notwithstanding that public funds cannot be granted directly to a private company.

They rely on internal emails in which Nolan Deon is alleged to have lobbied for funding and provided repair quotes, and note that the wharf was ultimately funded as a public asset while Deon's has since maintained the public perception that it owns the wharf.

They also rely on Albright's own recorded statement acknowledging that MoDA contributed public funds toward the wharf because "we were looking at growing aquaculture" and because "Mr. Deon put money in himself into that wharf because he knew he needed it for his business," while declining, in the same recording, to support installing public signage at the wharf on the stated basis that a particular group has "been known to disrupt."

- Referral to the Attorney General and characterisation of this assessment.

The Complainants assert that, having been denied meaningful recourse at the municipal level, residents sought to refer all 16 conflict of interest allegations directly to the Nova Scotia Attorney General under section 12 of the MCOI. They characterise this IMA as a "superfluous and unnecessary intermediary review" fabricated by MoDA to avoid a direct referral and retain control over the outcome, asserting the process is not independent, fair, or neutral, and that it affords Council and staff an opportunity to "catch and kill" compromising evidence before it reaches the Attorney General, at what they describe as considerable cost to Argyle taxpayers.

- Albright's own recorded statements.

The Complainants include, and rely upon, a recorded statement by Albright at a Council session in which she states she sought both independent legal counsel and municipal advice, that both independently confirmed she did not have a conflict of interest, and that “Had I had a conflict, I would have declared it.”

- Various Statements Made by Albright

The Complainants take issue with various public, including online, statements made by Albright. The Complainants’ PowerPoint reproduces a number of Albright’s social media posts, which they characterise as defending the ADA process while dismissing constituent concerns as fabricated or uninformed. In one post, Albright described evidence presented by the Complainants as “disinformation...intentional,” and referred to the cost to taxpayers of “dealing with all of these accusations.” In another, commenting on a post celebrating Deon’s, she wrote: “Thank you for being brave enough to post this. Hate, greed and privilege are terrible motivators and we have been subject to that here in Argyle for a couple of years.” The Complainants submit that these and similar statements demonstrate a pattern of publicly attacking and delegitimising the very constituents whose concerns Albright, as Warden, was obliged to take seriously.

b. Summary of Albright’s Response

Albright says that she “did not improperly manage a conflict of interest arising from my son’s employment with Deon Oyster Company.”

She responds as follows:

- The provincial nature of the ADA and MoDA’s limited role.

Albright emphasises that MoDA’s role under the MOU was limited to stakeholder engagement and water testing, and that NSDFA held sole legislative authority over the ADA: “[MoDA] has no authority to approve, deny, influence, or participate in those decisions.”

- The timing of her son’s employment.

Albright’s son began working for Deon’s on September 21, 2024, several months after the Province had already finalised and publicly announced the ADA sites on April 15, 2024. She states the six pre-determined sites were opened for proposals with the application period closing June 15, 2024, meaning the site selection and call for proposals process concluded before her

son was even employed by Deon's. Albright reasons that because MoDA had no decision-making role in the lease application process and Council had no authority over site or proponent selection, there was no matter before Council capable of creating a conflict of interest arising from her son's subsequent employment.

- The advice obtained and the March 20, 2025 Council meeting.

Albright confirms that following social media commentary alleging a conflict of interest, she sought advice from both the Municipal Solicitor (by telephone) and the Municipal Advisor (separately), and that both independently advised her that she was not in a conflict of interest because NSDFA was responsible for all decisions.

She confirms it is correct that she did not declare a conflict of interest at the March 20, 2025 Council meeting, explaining that Councillor Madden's motion, to send a letter to NSDFA asking it to pause awarding leases on the remaining sites, was not seconded and did not proceed to a vote, meaning there was no decision before Council on which she could have been called to vote or declare a conflict. She states: "Had I had a conflict, I would have declared it."

- Recusal practice from 2025 onward.

Albright states that later in 2025, following further social media commentary, she began recusing herself from certain aquaculture-related Council discussions as a precautionary measure, notwithstanding the advice she had received that no conflict existed. She explains that she recused from discussions that could directly affect Deon's commercial interests, but did not consider it necessary to recuse from all aquaculture-related matters, as many such discussions, including general policy, stakeholder engagement, and budget items, had no connection to Deon's or to her son's employment.

- The 2015 engagement with the D'Eon family.

Albright notes that in 2015 her son was 11 years old, in grade 6, with no employment or financial relationship with Deon's, meaning there was no direct or indirect pecuniary interest from which she or an immediate family member could have benefited at that time. She submits that the D'Eons operated the only oyster farm in the Municipality, in business since 1996, and that the decision to support wharf improvements was made unanimously by Council and directed toward a public, provincially owned asset rather than toward advancing a particular company's private interests.

- The Eel Brook public wharf.

Albright states that the wharf is a provincially owned public asset, that Council's decision to contribute to its repair was unanimous and directed toward maintaining public infrastructure rather than advancing a private company's interests, and that any community member is free to use it. She explains that her "disrupt" comment regarding public signage referred to a specific prior incident at the wharf, not to suppressing public access generally.

- Characterisation of constituents as opposing the ADA.

Albright defends her references to the Complainants as opponents of the ADA process by pointing to their own public statements, including a July 25, 2024 Council meeting at which Mr. Thibedeau stated he was "an advocate for not promoting and supporting the ADA program." She states her characterisation was based on the Complainants' own publicly stated positions and was not intended as prejudicial or pejorative.

- Denial of the request to present to Council.

Albright states that the request did not follow MoDA's presentation policy, that Council felt sufficiently informed of the Complainants' concerns through other channels, and that Council did not consider it necessary to depart from its policy to allow a repetition of information already received. She states that alternate accommodations were offered to Mr. Thibedeau.

- The Ombudsperson's investigation.

Albright states that she contacted the Nova Scotia Ombudsperson on April 1, 2026, who subsequently investigated and confirmed in a May 11, 2026 letter that MoDA met or exceeded its MOU obligations regarding stakeholder engagement, which she relies on as independent validation of MoDA's consultation process.

- The "tism" comment.

Albright states that at the time of the email exchange on March 20, 2025, she was chairing the Council meeting and focused on the presentation being delivered. She would not have been monitoring her phone, did not see the comment when sent, and did not endorse it, and states she was not aware of the comment until several weeks after it was released under FOIPOP, when the Complainants raised it on social media.

- The “Weekend thoughts” email and “bully” characterisation.

Albright states that she was sharing a quote she had read that resonated with her after a very difficult Council meeting, and was not referring to any specific individual as a bully. She characterises the email as an effort to encourage Council unity, not as commentary on any particular constituent.

- Forwarding the complainant’s email to CAO Muisse.

Albright states that as Warden, she regularly forwards correspondence to the CAO for administrative purposes as standard practice, and does not accept that doing so violated Muisse’s recusal.

- Response to allegations regarding tone and communications with constituents.

Response to allegations regarding tone and online conduct. Albright states that her public statements were responses to what she considered demonstrably false claims about the ADA process circulating on social media and in the community. She maintains she was exercising her right to political expression and defending Council’s policy decisions, and that her characterisation of certain claims as “disinformation” was directed at the substance of those claims, not the individuals making them. She acknowledges her use of terms such as “hate, greed, and privilege” was pointed, but submits these were her honest assessment of the motivations behind certain online attacks directed at Council, staff, and the aquaculture industry, and refers to several comments made by the Complainants that she considers equally problematic from her perspective.

c. Brief Analysis

I am not satisfied that there has been a breach of the MCOI and am not satisfied that there is a *prima facie* case of malfeasance, breach of trust or other misconduct for the following reasons:

First, I will not engage in an in-depth analysis of the various social media commentary made by either side in this matter. As a preliminary observation, however, both sides appear to proceed on the basis that the other is acting in bad faith. Based on the documentation I have reviewed, I do not consider that either side is proceeding in bad faith; both sides’ positions are, in my assessment, genuinely held, if at times intemperately expressed. They both, however, have a tendency at times to engage in hyperbolic negative statements towards the other side, which does

not further the public policy debate and fails to account for the legitimate points of view expressed by the other side.

I recognise that both sides enjoy rights under the *Charter of Rights and Freedoms*, and that much of the rhetoric on both sides carries Charter protection. Mr. Thibedeau's suggestion that "public officials are also expected to tolerate a higher level of criticism because they hold positions of public power...political speech...receives some of the highest legal protection in Canadian law" is, subject to some nuances, likely correct.

Some of the communications relied upon by the Complainants do reflect a tone that was dismissive of constituent concerns. The "Weekend thoughts" email characterising constituents as "bullies," and Muise's response of "This is brilliant," are addressed under Allegation #13. Albright's characterisation of constituents as opponents of the ADA is, as she notes, grounded in their own publicly stated positions. While a Warden may, upon reflection, decide to be more attentive to the distinction between opposing a policy and raising legitimate concerns about its implementation and how she communicates their disagreement, the tone of these communications does not rise to the level of malfeasance, breach of trust, or other misconduct under s.12(1)(a).

It should be remembered that:

- It should be remembered that the Complainants are property owners with legitimate concerns about ADA site locations in residential areas. However, they are, in my view, incorrect from a legal perspective: the conduct they impugn does not amount to malfeasance, breach of trust, or other misconduct under s. 12(1)(a), and the legal process they seek to invoke will not provide them with the remedy they ultimately want, a reversal of decisions made by the Province, not by MoDA.
- MoDA, for its part, adopted a policy of supporting aquaculture development, as reflected in the MOU, and took steps to further that policy. That the Province (not MoDA) made the decisions the Complainants impugn is a legal reality. Both sides would benefit from recognising that the other, although misguided from their respective vantage points, holds a legitimate point of view. In that spirit, I note that Warden Albright's own words, in a social media post, articulate a standard that, in my view, representatives from both sides, including Warden Albright, may at times have failed to live up to (without endorsing every characterisation in the passage, in particular the suggestion that the conduct described constitutes "a true attack on democracy"):

...

There is a significant difference between respectfully disagreeing with decisions and creating an environment that becomes toxic, personal, and relentless. Unfortunately, public discourse today can sometimes cross that line, and I understand why many elected officials feel exhausted, discouraged, or even unsafe and this is a true attack on democracy.

I also appreciate the point that councils make decisions collectively, not individually. Residents may disagree with outcomes, but it is important to remember that elected officials are still entitled to express opinions, have differing viewpoints, and make decisions based on the information they have and what they believe is best for the community as a whole.

Residents have the right to ask questions, seek information, and voice concerns — but those conversations must remain respectful and constructive....

To be clear, citing this passage should not be read as a finding that Albright and others on the MoDA side are without fault on this point. As set out in this Report (and in particular in the brief analysis of this Allegation), certain of the communications I have reviewed reflect a tone that was dismissive of constituent concerns and, at times, fell short of the standard expected of elected officials and senior municipal staff.

Second, the determination of whether Albright has contravened the conflict of interest provisions of the MCOI is not mine to make. That determination belongs to the Supreme Court of Nova Scotia under section 9 of the MCOI, which provides that the Attorney General or any elector may apply to a judge for a determination of whether a member has contravened the Act. I note this avenue remains available to the Complainants and would put them in a better position to obtain the remedies they seek; it is not the only legal avenue available to them.

As set out in Part 3 of this Report, the Complainants had a statutory right of appeal under section 118 of the FCRA to appeal the Aquaculture Administrator's decision to the Minister, and under section 119 to appeal the Minister's decision to the Supreme Court of Nova Scotia. Whether s.119 extends to the ADA designation itself is, as discussed in Part 3, an unresolved question given the requirement for Governor in Council approval under s.56. Neither avenue was exercised in respect of the licensing decision. I note these alternatives because they offer a better opportunity for relief than the s.12(1)(a) process the Complainants are seeking.

Third, recognizing that the ultimate decision on the conflict of interest issue is the Supreme Court of Nova Scotia should the Complainants exercise their s.9 rights, I do not consider there to be a

conflict of interest, for the following reasons. I address the pecuniary interest question by reference to the statutory language of the MCOI.

- The deemed pecuniary interest.

Section 4 of the MCOI provides that a member is deemed to have a pecuniary interest in a matter if a parent, spouse, or child of the member has a pecuniary interest in that matter. Albright's son is employed by Deon's, so if Deon's has a pecuniary interest in a matter before Council, Albright is deemed to have an indirect pecuniary interest in it by virtue of section 4. This is the statutory basis for the Complainants' allegation, and on its face the linkage is established for any period during which her son was employed by Deon's.

- The critical factual question is when the deemed interest arose.

Albright's son began working for Deon's on September 21, 2024. The Province finalised and publicly announced the ADA sites on April 15, 2024, and the call for proposals closed on June 15, 2024. The site selection and call for proposals process therefore concluded before the pecuniary interest arose. For the period prior to September 21, 2024, there was no deemed pecuniary interest capable of engaging the Act. For the period after September 21, 2024, the deemed interest exists as a factual matter, but whether it was engaged depends on the third question.

- Whether a "matter" was before Council.

Section 6(1) of the MCOI is engaged only where the member "has any direct or indirect pecuniary interest in any matter and is present at a meeting of the council...at which the matter is the subject of consideration." The key question is therefore whether there was a "matter" before Council in which Deon's had a pecuniary interest. The ADA site designations, the call for proposals, the evaluation of applications, and the Aquaculture Administrator's licensing decision were all provincial decisions under the FCRA, and MoDA had no decision-making authority over any of them. On this analysis, no "matter" relating to Deon's ADA interests was before Council, because the relevant decisions were not Council's to make.

There is, however, an important qualification. Albright declared a conflict of interest and recused herself at a January 29, 2026 Council meeting in connection with a vote on Deon's application for a development agreement for a land-based nursery, a municipal decision directly concerning Deon's, and her recusal was appropriate. This demonstrates that where a matter involving Deon's

is properly before Council, Albright is capable of identifying and managing the deemed pecuniary interest, and her willingness to do so is to her credit.

On balance, I do not consider that a *prima facie* case has been made out on the pecuniary interest question. The deemed interest did not exist during the ADA site selection and call for proposals process, and for the period after September 21, 2024, the relevant ADA decisions were provincial, not municipal, meaning no “matter” in which Deon’s had a pecuniary interest was before Council. The unsupported motion at the March 20, 2025 meeting was not seconded and did not proceed to a vote, and Albright obtained independent legal advice confirming no conflict.

I note, however, that the period between September 21, 2024, when the deemed interest arose, and January 29, 2026, when Albright first declared a conflict and recused herself, is a substantial gap. While no ADA-specific matter in which Deon’s had a pecuniary interest appears to have been before Council during this period, best practice would have been for Albright to proactively disclose the familial connection at the earliest opportunity, rather than waiting until a specific matter required recusal. Her willingness to recuse in January 2026, when a Deon’s matter was squarely before Council, is to her credit, but a more proactive approach would have been preferable.

Turning to the Eel Brook wharf specifically, the Complainants allege that public funds were used to repair the wharf for Deon’s effective exclusive commercial use, a serious allegation. Albright’s response, however, is persuasive: the wharf is a public, provincially owned asset; Council unanimously approved the decision to support improvements; and in 2015 her son was 11 years old with no connection to Deon’s. There was no pecuniary interest at the time of the funding decision, and Council’s unanimous approval confirms this was a collective policy decision, not an exercise of individual influence by Albright.

Fourth, regarding the denial of the Complainants’ request to present to Council, Albright’s explanation, that the request did not follow MoDA’s presentation policy, that Council felt sufficiently informed, and that alternate accommodations were offered, is a procedural justification that does not, on its face, constitute misconduct.

That said, denying a group of approximately 50 concerned constituents any opportunity to present directly to Council on a matter of significant community concern, while accommodating ad hoc meetings with industry representatives, creates an appearance of asymmetric treatment. This is consistent with the Ombudsperson’s findings under Allegation #5: while the Ombudsperson

concluded MoDA met or exceeded the requirements of the MOU, the MGA, and its own MPS, three areas for improvement were nonetheless identified, namely that MoDA should develop a formalised public engagement policy, define "significant community impact" and "stakeholder" for clarity and transparency, and advertise future public information sessions by mail to reach individuals without internet access.

I would encourage Council to reflect on this asymmetric treatment and to act on the Ombudsperson's suggestions as a matter of priority.

Fifth, the Complainants characterise this IMA as a "superfluous and unnecessary intermediary review" fabricated by MoDA to avoid a direct referral to the Attorney General and to retain control over the outcome. I recognize that the readers of this IMA will be inclined to make their own conclusions on this issue. I do, however, wish to make two concluding observations:

- An independent assessment such as this one serves a legitimate screening function: a section 12(1)(a) inquiry is a serious and expensive matter, and a council motion supporting one should not be taken lightly. Commissioning an independent review before deciding whether a referral is warranted is consistent with that seriousness, not a means of avoiding scrutiny.
- The Complainants are correct that this IMA does not carry the procedural safeguards of a s.12(1)(a) inquiry or the binding authority of a court proceeding under s.9. It is a legal analysis, not a determination. I note, however, that the Complainants had legal avenues available to them, including proceedings under section 9 of the MCOI and the appeal provisions of the FCRA, which they appear to have not pursued.

APPENDIX "A"

The Province's perspective on its exclusive jurisdiction to make the decisions that the Complainants are attacking was articulated in a July 7, 2026 email from Bruce Hancock, Executive Director of Aquaculture, Nova Scotia Department of Fisheries and Aquaculture:

The authority to establish an ADA and issue aquaculture licenses and leases is the exclusive jurisdiction of the Department through the Fisheries and Coastal Resources Act (FCRA), SNS 1996, c. 25. In accordance with the FCRA, the Minister, with approval of Governor and Council, has the power to designate an aquaculture development area and to set any conditions and restrictions on the conduct of aquaculture or of any other activities in the designated area. That power was accordingly exercised, resulting in the Municipality of the District of Argyle Aquaculture Development Area Designation, which, effective April 12, 2024, has the status of a regulation under the FCRA."

*The FCRA also provides the authority to issue the aquaculture licenses and leases within an ADA to the Aquaculture Administrator, an employee of the Department, appointed by the Minister. The regulations governing the process for administering competitive calls for proposals and applications for aquaculture licences and leases are found in the Aquaculture License and Lease Regulations. **Part of the licensing and leasing application process includes a 30-day public comment period. In addition, decisions made by the Aquaculture Administrator can be appealed to the Minister.***

*The Department established the process for identifying the ADA locations and was responsible for deciding which locations would be included in the ADA submission to the Minister and Governor and Council. ... **Furthermore, the decision on which locations would be included in the Call for Proposals was made by the Minister.***

*A representative from the Municipality was also invited to sit on an advisory committee to review the proposals **received through the competitive call for proposals process and, as part of the committee, provide recommendations to the Aquaculture Administrator, who ultimately made the decisions on which proposals were selected.***

The Municipality has no legislative authority with respect to the establishment of the ADA or the issuance of aquaculture licenses and leases within the ADA. Through a Memorandum of Understanding (MOU), signed in February 2020, the Department and the Municipality agreed to collaboratively explore opportunities for aquaculture development in the waters in and around the Municipality including working to establish an ADA. As part of the MOU, the Municipality agreed to lead the consultation with community stakeholders and to supply a report on those consultations to the Minister. The public engagement on this project, led by the Municipality and supported by the Department, was comprehensive, thorough, and well documented.

APPENDIX “B”

From: Jackson, Kyle <Kyle.Jackson@novascotia.ca>
Sent: May 11, 2026 10:31 AM
To: Nicole Albright <nalbright@munargyle.com>
Cc: Alain Muise <admuise@munargyle.com>; Kyle Boudreau <kboudreau@munargyle.com>
Subject: Office of the Ombudsman: Summary

Hello Nicole Albright,

I am writing in follow-up to our conversation on April 1, 2026, with respect to our review of the complaints involving the stakeholder/public engagement process in development of the Aquaculture Development Area (ADA) by the Municipality of the District of Argyle (the Municipality) and Department of Fisheries and Aquaculture (the Department).

In response to the complaints, I reviewed relevant provincial and municipal legislation, policy, guidelines, and other pertinent documents. In addition, documents provided by the Municipality, the Department, and complainants were considered. Representatives from the Municipality and the Department were interviewed.

Memorandum of Understanding:

I understand that the Municipality and the Department signed a Memorandum of Understanding (MOU) in 2020, which shifted local stakeholder consultation concerning the ADA project onto the Municipality, at least before the official aquaculture license and application process could be initiated.

This MOU outlined that the Municipality of the District of Argyle is responsible for local stakeholder engagement and the Municipality was required to write a report on the consultation undertaken. There were no further instructions beyond what was outlined within the MOU regarding this consultation and the term stakeholder was not defined within the MOU.

Municipal Government Act (MGA):

The MGA outlines the instances which require a public hearing, including when a public hearing is required to be listed or advertised and where public notice is to be posted. There is no requirement for the municipality to engage in stakeholder or public engagement for major projects or economic development in the MGA.

Municipal Planning Strategy (MPS):

Section 13 of the Municipality's MPS provides the purpose, requirements, and items for consideration in reference to public engagement. The only public engagement which is required under the MPS includes holding a public hearing when making amendments to the MPS, Land Use By-law, or the approval of a development agreement, which all aligns with the MGA.

“Significant community impact” and “stakeholder” are not defined within the MPS.

ADA Consultation:

Interviews with municipal and provincial staff as well as the Aquaculture Development Area Local Stakeholder Engagement Report reflected that the Municipality conducted stakeholder engagement, as required by the MOU referenced above. This consultation included discussions

with residents at various wharves and throughout the community and information sharing with fishers and operators of licensed aquaculture farms in the area concerning the prospective ADA.

Information concerning the ADA was circulated on the municipality's social media accounts, the municipality's website, the Aquaculture Development Area website, and the radio. Also, various news media articles concerning the prospective ADA were published and information about the ADA was shared on local radio stations.

The local engagement also involved consultation with various community groups via stakeholder committees and emails, three pop up sessions at local stores, and two open houses. The open houses and the ADA were advertised at local grocery stores, the municipality's office, the Pubnico post office, local gas stations, played on a radio station, posted on social media, and on the ADA website. Direct emails were also accepted before the open house, which accepted commentary, questions, and concerns regarding the prospective ADA.

Findings:

Based on the documents reviewed and the information provided through interviews, the Municipality met or exceeded the requirements of the MOU signed between the Department and Municipality, the MGA, as well as their own MPS.

Although the actions taken by the Department and Municipality were in keeping with relevant legislation and policy, there were areas of improvement identified with respect to the Municipality and the following was suggested in our April 1, 2026, conversation:

1. Consider developing a public engagement policy or adding a formalised public engagement process within the MPS for activities that have an impact on the community. This is in addition to the formalised public engagement requirements already included in the MPS, such as development agreements and amendments to the MPS.
2. Consider defining "significant community impact" and "stakeholder" within a separate formalised public engagement policy or in the MPS, for clarity and transparency.
3. Consider advertising future public information sessions by mail to ensure that individuals who do not have access to the internet and/or social media are aware of matters which are in close proximity to them and/or may significantly impact them.

I understand that these suggestions were accepted and the Municipality is drafting a policy specific to public engagement which will address these suggestions. I look forward to reviewing the draft policy, once completed.

Thank you again for your cooperation.

Respectfully,