

**AQUACULTURE LICENCES APPEALS BOARD**

FISHERIES (AMENDMENT) ACT 1997 (AS AMENDED AND SUBSTITUTED)

Appeal Reference Number: **AP 21/2020**

**DETERMINATION**

**WHEREAS** an appeal having been made to the Aquaculture Licences Appeals Board ("**the Board**") pursuant to Section 40 of the Fisheries (Amendment) Act, 1997 (as amended and substituted) ("**the Act**") by PJ Donnelly and Bryan Hyland on behalf of Carlingford Lough Shellfish Cooperative Society Limited, Muchgrange, Greenore, Co. Louth ("**the Appellant**" and "**the Applicant**") against the decision of the Minister for Agriculture, Food and the Marine ("**the Minister**") to grant a variation aquaculture licence to the Applicant for the cultivation of mussels using bottom culture on the sub-tidal foreshore on site reference T01/050A1 in Carlingford Lough, Co. Louth ("**the Site**")

**AND WHEREAS** the Board in considering the appeal took account of the appeal, the file provided to it by the Minister, the report of the Board's technical advisor and the matters set out at Section 61 of the Act, including the following:

- (a) the suitability of the place or waters at or in which the aquaculture is or is proposed to be carried on for the activity in question,
- (b) other beneficial uses, existing or potential, of the place or waters concerned,
- (c) the particular statutory status, if any, (including the provisions of any development plan, within the meaning of the Local Government (Planning and Development) Act, 1963 as amended) of the place or waters,

- (d) the likely effects of the proposed aquaculture, revocation or amendment on the economy of the area, in which the aquaculture is or is proposed to be carried on,
- (e) the likely ecological effects of the aquaculture or proposed aquaculture on wild fisheries, natural habitats and flora and fauna, and
- (f) the effect or likely effect on the environment generally in the vicinity of the place or water on or in which that aquaculture is or is proposed to be carried on-
  - (i) on the foreshore, or
  - (ii) at any other place, if there is or would be no discharge of trade or sewage effluent within the meaning of, and requiring a licence under section 4 of the Local Government (Water Pollution) Act, 1977, and
- (g) the effect or likely effect on the man-made environment of heritage value in the vicinity of the place or waters.

The Board considered the appeal at its meetings on the 31 January 2020, 26 February 2020, 22 April 2020, 15 May 2020, 11 June 2020, and 9 July 2020 and determined at its meeting on 09 July 2020 pursuant to Section 40(4)(a) of the Act, to CONFIRM the decision of the Minister to GRANT a variation aquaculture licence to the Applicant.

In reaching its determination on the appeal the Board noted and had regard to the following:

- The assessment of the Minister that significant impacts on the general environment are not considered likely. The Board considered this assessment in conjunction with its Technical Advisor and determined to accept the assessment;
- The Appropriate Assessment carried out by Atkins for the Marine Institute in respect of the Carlingford Lough SPA dated February 2019 and the Marine

Institute Report supporting Appropriate Assessment of Aquaculture in Carlingford Shore SAC dated April 2019;

- The conclusion of the Marine Institute Appropriate Assessment for Carlingford Shore SAC (2019) in respect of carrying capacity that all but one sector relative to then current licencing considerations exceeded or was close to the 30% threshold suggesting that all sectors inside Greenore could not accommodate any additional aquaculture activities and that in some sectors the level of existing activity might be reduced;
- That the model used by Marine Institute assumed all sites were being fully utilised and the Marine Institute acknowledgement that some of the sites are likely to be under utilised;
- That in relation to the Site, the previous licence was for an area 100.335 hectares;
- The Minister's determination was to grant the renewal licence with a variation reducing the site to 61.05 hectares due to underutilisation of the Site;
- The recommendation of the Board's Technical Advisor that the Marine Institute model assumes that the licensed sites (including the original of this Site's area at 100.335ha) was operational, and that the reduction of the site to 61.05 hectares would bring the phytoplankton usage on the Site to under 30% and thus back to sustainable levels.

Having considered the foregoing, the Board determined the appeal on the basis of the following:

- (a) The site is considered suitable for the cultivation of mussels;

- (b) There will be no significant impacts on other users as a result of the licence for a reduced area of 61.05 hectares being granted;
- (c) No impact on Carlingford Lough SPA is predicted and no identified direct/indirect impact on the qualifying interests of the Carlingford Shore SAC is identified if the area of the Site is reduced to 61.05 hectares.
- (d) There would be a positive effect on the economy of the area;
- (e) The proposed development would have no significant effect on the ecology of the area;
- (f) There are no significant general environmental effects predicted as a result of the proposed development provided the Site area is reduced to 61.05 hectares; and
- (g) The proposed licence would not significantly impact on known man-made heritage of the area.

Having considered all the foregoing, the Board determined at its meeting of 9 July 2020 pursuant to Section 40(4)(a) of the Act, to **CONFIRM** the decision of the Minister to grant a variation on the licence sought by reducing the footprint of the Site from 100.335 hectares to 61.05 hectares due to underutilisation of the Site.

Dated this 14 day of August 2020

The affixing of the Seal of the  
**AQUACULTURE LICENCES APPEALS BOARD**  
was authenticated by: -

*Imelda Reynolds*

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Imelda Reynolds  
Chair

*MS*

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Michael Sweeney  
Deputy Chair