

AQUACULTURE LICENCES APPEALS BOARD

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

Appeal Reference Number: **AP 22/2020**

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 Emerald Mussels Limited., Greencastle Road, Moville, Co. Donegal ("**the Appellant**" and "**the Applicant**") against the decision of the Minister for Agriculture, Food and the Marine ("**the Minister**") to refuse to grant an aquaculture licence to the Applicant for the cultivation of mussels using bottom culture on the sub-tidal foreshore on a 33.2443 hectare site on site reference T01/082A 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 REFUSE to grant an aquaculture licence to the Applicant.

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

- 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 bar 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;

- The finding of the Board's Technical Advisor that the Site is in an area already under severe stress in respect of its carrying capacity with the model indicating that licenced aquaculture in the section where the Site lies utilises 41.933% of the available phytoplankton, far exceeding the recommended threshold of 30% as indicated by the Marine Institute Appropriate Assessment, and that therefore additional mussel cultivation would not be sustainable.
- the recommendation of the Board's Technical Advisor concerning Site suitability;

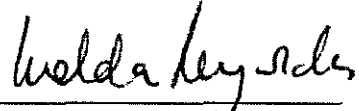
and having done so, the Board determined the appeal on the basis of the following:

- (a) The Site is unsuitable due to proximity to or interference with the Omeath wastewater treatment outfall and to navigation channels;
- (b) Due to the proximity of the Site to the navigation channel it will significantly impact on navigation in the area;
- (c) The Site is in an area already under severe stress in respect of its carrying capacity. The Marine Institute model indicates that licenced aquaculture in the section where the Site lies utilises 41.933% of the available phytoplankton, far exceeding the recommended threshold of 30% and so additional mussel cultivation would not be sustainable;

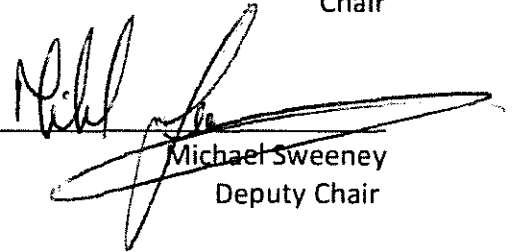
Having considered all the foregoing, the Board determined at its meeting of 9 July 2020 pursuant to Section 40(4)(a) of the Act, to **CONFIRM** the decision of the Minister to **REFUSE** to grant an aquaculture licence to the Applicant for the Site.

Dated this 14 day of August 2020

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



Imelda Reynolds
Chair



Michael Sweeney
Deputy Chair