



AQUACULTURE LICENCES APPEALS BOARD

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

Appeal Reference Number: **AP 6 /2019**

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) ("the Act") by Kevin and Michael Lydon, Cluggam, Maam, Co. Galway ("the Applicant") against the decision of the Minister for Agriculture, Food and the Marine ("the Minister") to refuse to grant a Licence for the cultivation of mussels using longlines at Site T09/509 ("the Site") on the foreshore in Killary Harbour.

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, the addendum to same and the matters set out at Section 61 of the Act (as amended and substituted), 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 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 14 November 2019, 10 December 2019, 31 January 2020, 26 February 2020, 19 March 2020, 22 April 2020, 10 September 2020, 8 October 2020, 12 January 2021, 26 April 2021, 28 May 2021, 19 August 2021, 21 September 2021, 21 October 2021, 25 November 2021 and 13 January 2022.

ENVIRONMENTAL IMPACT ASSESSMENT

The Board considered the proposed project and is satisfied that the direct and indirect effects of the proposed activity at the Site on the following factors:

- 1 human beings, fauna and flora;
- 2 soil, water, air, climate and the landscape;
- 3 material assets and the cultural heritage; and
- 4 the interaction between the factors referred to in 1- 3;

will not have significant effects on the environment, including the factors listed in 1-4, by virtue of, inter alia, its nature, size or location.

The Board has concluded that the proposed project is unlikely to have significant effects on the environment by virtue of its size, nature or location and so does not require an environmental impact assessment report.

APPROPRIATE ASSESSMENT

The Board noted that Killary Harbour is not in a Special Area of Conservation (“SAC”), although it is bordered by the Maumturk Complex SAC (002008) and the Twelve Bens/Garraun Complex SAC (002031) on its southern side in Co. Galway and the Mweelrea/Sheeffry/Erriff Complex SAC (001932) borders on its northern Mayo side. The West Connacht Coast SAC (002998) is also nearby, being located predominantly in marine waters adjacent to Killary Harbour. The Board noted the Report on Appropriate

Assessment Screening for Aquaculture activities in Killary Harbour, Co. Galway, Marine Institute, February 2019, which dealt with potential impacts on SACs.

The Board noted there was no equivalent Appropriate Assessment Screening available for Aquaculture Activities in Killary Harbour in relation to Special Areas of Conservation ("SPA"). The Board undertook a screening exercise which included Bills Rock SPA (004177), Clare Island SPA (004136), Owenduff/Nephin Complex SPA (004098), Cross Lough (Killadoon) SPA (004212), Illaunnanoon SPA (004221), High Island, Inishshark and Davillaun SPA (044144), Cruagh Island SPA (004170), Connemara Bog complex SPA (004181), Lough Carra SPA (004051), Lough Mask SPA (004062), Lough Corrib SPA (004042), Slyne Head to Ardmore Point SPA (004159), Inishbofin, Omey Island and Turbot island SPA (004231).

Having regard to all of the foregoing, the Board is satisfied that the proposed activity at the Site has no potential for significant effects and it is not likely to have any significant deleterious effect, either individually, or in combination with other plans or projects, on SCI species or conservation objectives for any SPA and SAC sites concerned and as such, will not adversely affect the integrity of any SPA and SAC sites concerned either individually or in combination with other plans or projects.

DETERMINATION

The Board has determined the appeal on the grounds that:

(a) The Site is deemed **suitable** for cultivation for the following reasons: the area is a long-established area for mussel farming and is in a designated shellfish waters area. The Site has previously been used for the cultivation of mussels. The Board noted that the Carrying Capacity Report 2010 on Killary Harbour, carried out by Bord Iascaigh Mhara for the Department of Agriculture, Fisheries and Food ("the **UISCE Report**") cautioned against the licencing of new sites in Killary Harbour on the basis of issues relating to stocking levels, lack of growth and seed availability. While the UISCE report cautioned against the licencing of new sites, the Board has been able to determine this Site was active at the time the UISCE report was carried out and therefore is not considered a new site.

(b) The Site is **not expected to have a negative impact** on other users of the area as the proposed aquaculture activity would not be expected to significantly impact on the

scenic landscape of the region and the Site is within a designated shellfish waters area with limited inshore fishing and harvesting. While angling is present throughout the Bay, the Site would not impact significantly on fishery users. Potential negative impact on other aquaculture licence holders has been considered and the Board is imposing additional licence conditions (outlined at the end of this determination) to offset that issue.

(c) The statutory status of the area **will not be negatively impacted** by the licencing of this site. Both the Galway and Mayo County Development Plans have objectives that support the development of the aquaculture sector in their respective counties, provided development adheres to environmental regulations and sustainable practices. Furthermore, as aquaculture activities have been undertaken in Killary Harbour for several decades, the inclusion of additional sites would not significantly impact landscape sensitivities. Consistent with best practice, the Applicant shall utilise uniform barrel/float size and colouration as directed by the Minister in order to minimise visual impact.

The Site does not have the potential to significantly negatively impact on the conservation objectives of Natura 2000 sites as outlined on the previous section titled "Appropriate Assessment"

(d) The Site is likely to have a positive economic effect. Given the conditions imposed, it is not expected that the Site will have a negative impact on the other mussel farmers in the area.

(e) The Site will not have a significant ecological effect on the Site itself or the surrounding area, given the conditions imposed.

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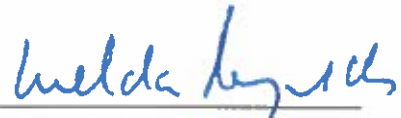
(g) The Site will not significantly impact on man-made heritage of the area.

Having considered all the foregoing, the Board determined at its meeting on 13 January 2022 pursuant to Section 40 (4) (b) of the Act, to **REJECT** the decision of the Minister and to **GRANT** an Aquaculture Licence to the Applicant for the Site with the following conditions:

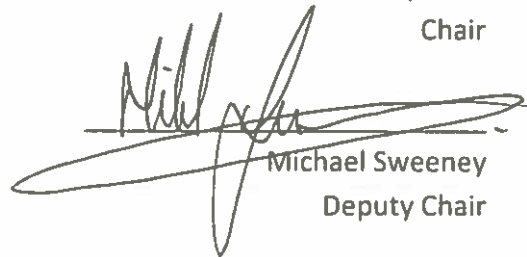
1. Taking into account the planned production and harvesting schedule for the Site, the following production and deployment conditions shall be implemented:
 - 1.1 Flotation is to be limited to a maximum of 18,000 litres per hectare;
 - 1.2 Droppers are to be limited to a maximum of 800 per hectare;
 - 1.3 Moorings must be positioned to secure surface equipment within the site boundaries in all conditions;
 - 1.4 All anchors and lines must be located entirely within the licensed boundary of the Site.
2. Consistent with best practice, the Applicant shall utilise uniform barrel/float size and colouration as directed by the Minister in order to minimise visual impact.
3. Site maps specifying the site layout and dimensions in accordance with conditions 1.1 to 1.4 listed above and including number of floats per line at final grow out are to be submitted by the applicants to ALAB for approval before a licence is issued.

Dated this 27 day of January 2022

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



Imelda Reynolds
Chair



Michael Sweeney
Deputy Chair

