



AQUACULTURE LICENCES APPEALS BOARD

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

Appeal Reference Number: AP 9 /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 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 T09/477 ("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 also 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 was 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 **not suitable** for cultivation for the following reasons: This site has not previously been licenced for the cultivation of mussels. While the Site is deemed suitable for cultivation in that the area is a long-established area for mussel farming and is in a designated shellfish waters area, the Site has not 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.

(b) The aquaculture site **has the potential to have a negative impact** on other users of the area as the proposed aquaculture activity could negatively impact on existing aquaculture holders in the Bay, being located in a position towards the mouth of Killary Harbour that could potentially reduce food availability, and therefore impact negatively

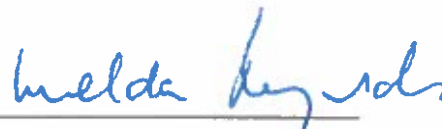
on growth rates in sites with existing licences. The Board noted in particular the opinion of The Marine Institute and Inland Fisheries Ireland in their responses to the statutory consultation carried out by the Minister on foot of the Applicant's application that at current stocking levels in Killary Harbour there is significant competition for food within the bay, which has resulted in a poor production yield of mussels, decreased growth rates, a lower product quality and longer growing time for some producers and that the licensing of additional production sites would compound this issue further. The Site is considered a new site and the Board has concluded it should not be licenced on the basis it would have a negative impact on other users of the area as the proposed aquaculture activity would exacerbate the issues in the bay concerning stocking levels, lack of growth and seed availability, therefore impacting significantly on other fishery users.

(c) The proposed site is likely to have a **negative economic effect** on the other mussel farmers in the area for reasons outlined in (b) above.

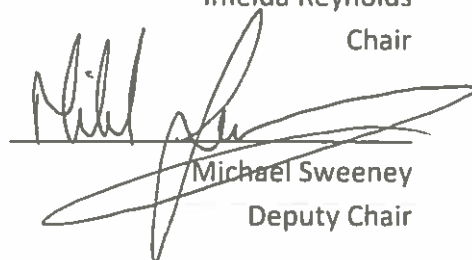
Having considered all the foregoing, the Board determined at its meeting on 13th January 2022 pursuant to Section 40 (4) (a) of the Act, to **UPHOLD** the decision of the Minister and to **NOT GRANT** an Aquaculture Licence to the Applicant for the Site.

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