

An Bord Achomharc Um Cheadúnais Dobharshaothraithe Aquaculture Licences Appeals Board



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

Appeal Reference Number: **AP 32/2019**

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 Ian Stretch (**"the Appellant"**) against the decision of the Minister for Agriculture, Food and the Marine (**"the Minister"**) to grant an Aquaculture Licence to West Cork Seafoods Limited (**"the Applicant"**) for the cultivation of mussels using long lines on site no. T05/430A (**"the Site"**) on the foreshore at Bantry Bay, Co Cork pursuant to an Application for an Aquaculture Licence made by the Applicant (**the "Application for an Aquaculture Licence"**).

AND WHEREAS the Board in considering the appeal took account of the appeal, the file provided to it by the Minister, the submissions received by the Board from third parties pursuant to section 45(1) of the Act, the submissions received by the Board pursuant to section 44(2) of the Act, the Notices issued by the Board pursuant to section 47(1) of the Act to the Minister and Cork County Council, and their respective responses; the report of the Board's technical advisor, 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 10 December 2019, 31 January 2020, 26 February 2020, 19 March 2020, 22 April 2020, 12 January 2021, 28 May 2021, 19 August 2021, 21 September 2021, 21 October 2021, 25 November 2021, 13 January 2022, 10 February 2022 and 16 March 2022.

ENVIRONMENTAL IMPACT ASSESSMENT

The Board considered the proposed project was not likely 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.

Therefore, the Board is satisfied that the direct and indirect effects of the proposed activity at the Site on the following factors:

- (a) population and human health;
- (b) biodiversity, with particular attention to species and habitats protected under the Habitats and Birds Directives;
- (c) land, soil, water, air and climate;
- (d) material assets, cultural heritage and the landscape; and
- (e) the interaction between the factors referred to in points (a) to (d)

will not have significant effects on the environment, including the factors listed in (a) to (d) by virtue of, inter alia, its nature, size or location.

APPROPRIATE ASSESSMENT

The Board noted that the Site is adjacent to two Special Areas of Conservation ("SAC"), Sheep's Head SAC (Site code: 000102) and the Glengarriff Harbour and Woodland SAC and two Special Protected Areas ("SPA"), Beara Peninsula SPA (Site Code: 004155) and Sheep's Head to Toe Head SPA (Site Code: 004156). It is also within the potential zone of influence of SCI species for a number of other SPA sites: Puffin Island SPA (Site code: 004003), Skelligs SPA (Site Code: 004007), The Bull and Cows Rock SPA (004066), Iveragh Peninsula SPA (Site Code: 004154), and Deenish island and Scariff Island SPA (Site Code: 004175). The Board noted the Marine Institute's Appropriate Assessment Screening Matrix for Aquaculture in outer Bantry Bay dated 03 September 2020 which focused primarily on SAC sites, and the Board's Technical Advisor's Appropriate Assessment Screening Matrix for Aquaculture at this Site and at adjacent sites T05/607A and T05/612A in Bantry Bay which gave consideration to Special Protection Areas and adopted same.

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:

The Site is deemed **suitable** for cultivation for the following reasons: The Site is in a designated shellfish waters area with additional aquaculture sites operating in Bantry Bay, the Site is within open water where there would be adequate dilution of outputs from the proposed activity, the Site is not located within a designated Natura 2000 site nor does it have the potential to significantly impact the surrounding environment. The Site is also deemed suitable in relation to potential weather impacts given the outcome of the Marine Engineering Division's assessment of the Site and its structures. The Board is satisfied that the local pier is in the ownership of the local authority.

- a. 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, as discussed in the Technical Advisor's Report. Furthermore, as aquaculture activities have been undertaken in Bantry Bay 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.
- b. The statutory status of the area **will not be negatively impacted** by the licencing of the Site. The Cork County Development Plan has objectives that support the development of the aquaculture sector.

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". It also is not likely to have significant effects on the environment, as outlined in the section "Environmental Assessment".

- c. The Site is **likely to have a positive economic effect**.
- d. The Site **will not have a significant ecological or environmental impact** on the Site itself or on the surrounding area. The Site is not within or proximate to a designated conservation site of National or international importance. It is located within an open unobstructed section of a large bay where good water circulation would be expected, minimising the likelihood of significant impact on the seabed below the Site and in the immediate vicinity. The Technical Advisor's Report for the Site discounts any significant impacts on carrying capacity, herring nurse grounds and threats to native shellfish.
- e. The Site **will not significantly impact** on man-made heritage of the area.

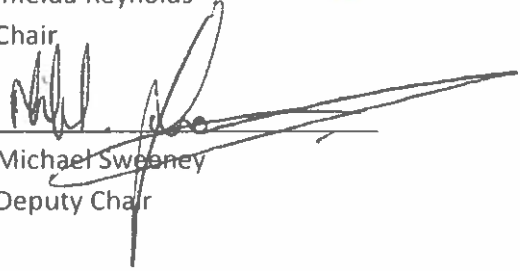
Having considered all the foregoing, the Board determined at its meeting on 16 March 2022 pursuant to Section 40 (4) (a) of the Act, to **CONFIRM** the decision of the Minister to **GRANT** an Aquaculture Licence to the Applicant for the Site.

Dated this 30th day of March 2022

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



Imelda Reynolds
Chair



Michael Sweeney
Deputy Chair