

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe  
Aquaculture Licences Appeals Board**



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

Appeal Reference Number: **AP 50/2019**

**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 Denis O'Shea ("**the Appellant**") against the decision of the Minister for Agriculture, Food and the Marine ("**the Minister**") to grant an Aquaculture Licence to Wild Atlantic Sea Products Limited ("**the Applicant**") for the cultivation of seaweed using long lines on site no. T05/612A ("**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 submission 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 Appellant, the Sea Fisheries Protection Authority and the Marine Institute, and their respective responses; the reports of the Board's technical advisors, 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 with regard to Special Protection Areas at the Site and at sites T05/430A and T05/607A in Bantry Bay 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:

- (a) The Site is deemed **not suitable** for cultivation for the following reasons: it will have a significant impact on existing users of the Site, namely those using the area of the Site for pot fishing of shrimp, lobster and crab.
- (b) The Site is **expected to have a negative impact** on other users of the area as the proposed aquaculture activity will negatively impact on existing fishing grounds.

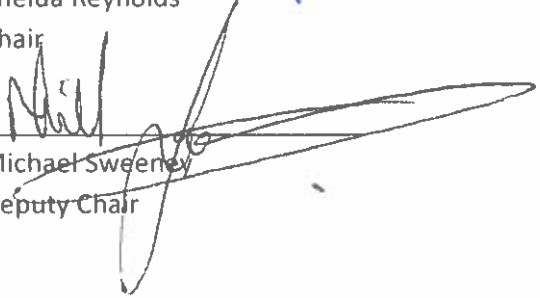
Having considered all the foregoing, the Board determined at its meeting on 16 March 2022 pursuant to Section 40 (4) (c) of the Act, to **REVOKE** the decision of the Minister and to **REFUSE** an Aquaculture Licence to the Applicant for the Site.

Dated this 30<sup>th</sup> 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