

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

Appeal Reference Number: **AP1/1-3/2022**

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 Paul and Kate Brooks on behalf of the Residents of Dooneen, Friends of Dooneen Pier and Fishermens Inshore Saltwater Heritage Ltd. (“**the Appellants**”) against the decision of the Minister for Agriculture, Food and the Marine (“**the Minister**”) to GRANT a Licence to Bantry Marine Research Station Ltd. to cultivate various aquatic plants using longlines on the sub-tidal foreshore at Site T05/640A (“**the Site**”) adjacent to Dooneen Pier, along the north shore of Dunmanus Bay, Co. Cork.

AND WHEREAS the Board in considering the appeal took account of the appeal, the file provided to it by the Minister, the report “Report Supporting Appropriate Assessment of Extensive Aquaculture in Dunmanus Bay, Co Cork” by the Marine Institute, dated June 2022 (“**the AA Screening**”), the “Technical Advisor’s Report” by the ALAB internal technical advisor dated 10 April 2024 (“**the TA Report**”), the “Supplemental Report - Appropriate Assessment of Aquaculture in Dunmanus Bay, Co Cork” of the Board’s external technical consultant, Treanbeg Marine Consulting, dated 14th September 2024 (“**the Supplemental AA Report**”), and the “Appropriate Assessment Concluding Statement” of the Board’s external technical consultant, Treanbeg Marine Consulting, dated 14th September 2024 (“**the Appropriate Assessment Conclusion Statement**”) and 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 **26 January 2023, 2 March 2023, 6 April 2023, 25 May 2023, 23 June 2023, 28 July 2023, 31 August 2023, 28 September 2023, 23 November 2023, 14 December 2023, 26 January 2024, 1 March 2024, 28 March 2024, 11 April 2024, 1 May 2024, 30 May 2024, 1 July 2024, 25 July 2024 and 6 September 2024.**

GROUNDINGS OF APPEALS

The grounds of the appeal are summarised as follows:

- Potential negative impact on existing fishing grounds.
- Failure by the Minister to carry out a suitable Appropriate Assessment under the Birds and Habitats Directive.
- The impact on public access to Dooneen pier.
- The potential for negative impacts on the economy of the area.
- Suitability of the proposed site and pier at Dooneen which is exposed to extreme weather conditions, especially from Easterly winds.
- Potential impacts on marine mammals and other bird species using the area.
- Concern regarding the suitability of the access road to Dooneen Pier from the main road as the lane is very narrow.
- Impact on other users of Dooneen pier, recreational and commercial.
- Impact on the recognition of the pier under the Green Coast Awards scheme.

ENVIRONMENTAL IMPACT ASSESSMENT

The Board considered the project proposed in the Application for an Aquaculture Licence under the requirements of the Aquaculture Appeals (Environmental Impact Assessment) Regulations 2012 and the EIA Directive (2011/92/EU) and concluded that, under the requirements of the legislation, as the project is extensive aquaculture, it is an exempt development. Therefore, the project was not likely to have significant effects on the environment by virtue of its size, nature or location and so does not require a screening report or an environmental impact assessment report.

The Board is satisfied that the project was not likely to have significant direct or indirect effects 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.

The Board has concluded that the proposed project falls outside the requirements for conducting an environmental impact assessment as this type of aquaculture is not deemed "intensive" so does not require an environmental impact assessment report under the Aquaculture Appeals (Environmental Impact Assessment) Regulations 2012.

APPROPRIATE ASSESSMENT

The Board considered the project proposed in the Application for an Aquaculture Licence under the requirements of the European Communities (Birds and Natural Habitats) Regulations 2011 and the Habitats and Birds Directives (2009/147/EC and 92/43/EEC) ("the Birds and Habitats Directives"). The Board noted the Appropriate Assessment Report (Marine Institute), the technical advisors report, the supplemental appropriate assessment report and the AA Conclusion Statement.

Following an assessment of the available reports and the conclusion statement, the Board found that the licensing of this site, and the establishment and operation of the site for the intended purpose of growing seaweed, will not result in any negative impact on the conservation objectives and qualifying interests of the SACs and SPAs (Natura 2000 sites) identified as being within the sphere of influence of the development.

DETERMINATION

The Board has determined the appeal on the grounds that:

- There are no objections from a technical perspective as the Site is suitable for sub-surface seaweed longline culture. The area is sheltered, the water quality is suitable and there is access to the site from nearby piers.
- The development and operation of the Site will not have a significant, negative impact on other beneficial users of the bay. The area of the proposed site is small (15.74ha), occupying 0.2% of the area of Dunmanus Bay.
- The Site will not have a significant negative impact on the statutory status, ecology or environment of the bay.
- The Site will have a positive impact on the local economy.
- The Site will not have any significant negative impact on the wild fisheries, natural habitats and flora and fauna of Dunmanus Bay and the surrounding area.
- The Site will not have a significant negative impact on the environment or water quality in the vicinity of the development. There will be no significant effluent discharged from the site.
- The Site will not have a negative impact on the man-made heritage of the area.
- Visual impact of the Site from nearby roads will be minimal due to distance and the low lying nature and colour of the structures onsite.
- The site will not result in any negative impact on the conservation objectives of Natura 2000 sites identified as being within the sphere of influence of the development.

Having considered all the foregoing and the information contained in the technical advisor's report of the 14 September 2024, the Board determined at its meeting on 6th September 2024, pursuant to Section 40 (4) (a) of the Act, to CONFIRM the decision of the Minister to GRANT an Aquaculture Licence to the Applicant at Site T05/640A.



ALAB

An Bord Achomhairc Um
Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board

Dated this *26* day of *April* 2024

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

Deputy Chairperson

Authorised Signatory