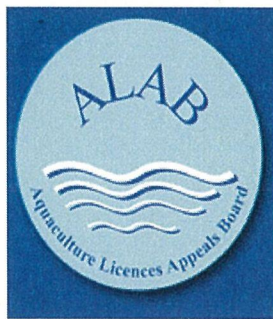


**AQUACULTURE
LICENCES
APPEALS BOARD**



**ANNUAL REPORT
2011**

AQUACULTURE LICENCES APPEALS BOARD

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**STATEMENT OF THE CHAIRPERSON
To The
MINISTER FOR AGRICULTURE FISHERIES AND FOOD**

I was honoured to be appointed Chairman of the Board on the 27th of November, 2008 and am pleased to include this Statement in the Board's fourteenth annual report.

The number of Board meetings held in 2011 was four:

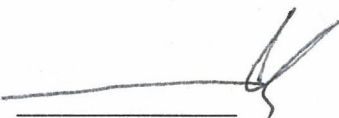
Board Member	Number of Meetings Attended
Mr Mark O'Connell	4/4
Mr Mario Minehane, Deputy Chairperson	4/4
Mr Lorcán Ó Cinnéide	4/4
Mr Sean Murphy	4/4
Mr Michael Sweeney	3/4
Karin Dubsky	1/1 (eligible to attend one only)
Brendan Brice	0/0 (no Board Meeting was held post 9 th November 2011)

There were three appeals received by the Board during the course of 2011. All three appeals related to the decision of the Minister for Agriculture, Food and the Marine to approve a temporary amendment of two years duration to Aquaculture Licence AQ199, for the cultivation of salmon at Deenish Island, Ballinskelligs Bay, Co Kerry.

In respect of the requirements of the Code of Practice for the Governance of State Bodies, I affirm that all appropriate procedures for financial reporting, internal audit, travel, procurement and asset disposals are being carried out. I acknowledge that the Board is responsible for the System of Internal Financial Control of ALAB as referred to in Paragraph 13 of the Code of Practice. Furthermore, as requested under Paragraph 12.1 of the Code of Practice, I can confirm that the Board is in compliance with all of its obligations under tax law.

There are two sub-committees to the Board: the Internal Audit Sub-Committee and the Remuneration Sub-Committee. Mr Mario Minehane and Mr Sean Murphy are members of both sub-committees and I wish to record my appreciation of their work in this regard.

I acknowledge the work of the Board members, the Secretary to the Board, the Technical Advisers to the Board and those who provided any other services to the Board. I thank all of them (past and present) for their service throughout the year and I look forward to working with them in the years ahead.



Mark O'Connell
Chairman

BOARD MEMBERS and GENERAL INFORMATION

CHAIRMAN:	Mr Mark O'Connell
DEPUTY CHAIRPERSON:	Mr Mario Minehane
ORDINARY MEMBERS:	Mr Sean Murphy
	Mr Lorcán O'Conneide
	Ms Karin Dubsy
	Mr Michael Sweeney
	Mr Brendan Brice
SECRETARY:	Ms Ann Marie Mahon Ms Lynda O'Regan
OFFICE ADDRESS:	Kilminchy Court Dublin Road Portlaoise Co Laois
AUDITORS:	Comptroller & Auditor General Treasury Building Dublin Castle Dublin 2.
TELEPHONE:	+353 (0) 57 866 7857
WEB ADDRESS:	www.alab.ie
E-MAIL ADDRESS:	info@alab.ie

AQUACULTURE LICENCES APPEALS BOARD

The following is some general information regarding the Aquaculture Licences Appeals Board. However, to obtain an overall picture as to how the appeal process, as well as the aquaculture licensing system operates, reference should be made *inter alia* to the Fisheries (Amendment) Act, 1997 (as amended), the Fisheries and Foreshore (Amendment) Act, 1998, Aquaculture (Licence Application) Regulations 1998, the Fisheries (Amendment) Act, 2001.

ESTABLISHMENT OF BOARD

The Aquaculture Licences Appeals Board was established on 17 June 1998 under *Section 22* of the Fisheries (Amendment) Act, 1997. All Board members are engaged on a part-time basis.

FUNCTION

The Board has operated under the aegis of the Department of Agriculture, Food and the Marine.

The function of the Board is to provide an independent authority for the determination of appeals against decisions of the relevant Minister on aquaculture licence applications. A person aggrieved by a decision of the Minister on an aquaculture licence application, or by the revocation or amendment of an aquaculture licence, may make an appeal within one month of publication (in the case of a decision) or notification (in the case of revocation/amendment).

STATUS

The Board is an independent body with its own funding provided for by the Oireachtas under *Section 36* of the Act.

MEMBERSHIP OF BOARD

As provided for under *Section 23* of the Fisheries (Amendment) Act, 1997, the Board consists of a Chairman and six other members. The Chairman, Mr. Mark O'Connell, a practising Barrister, was appointed by the Government for a term of 5 years, effective from 27 November 2008.

Mr Mario Minehane, Mr Sean Murphy and Mr Lorcán Ó Cinnéide have served on the Board since 4th December 2003. In December 2004 the Marine Minister announced their reappointment, for a period of three years effective from 1st January 2005. They were reappointed by the Minister for Agriculture Fisheries and Food with effect from 1 January 2008 for a further period of three years and were again reappointed on 1 January 2011 for a period of two years.

In December 2004 the Minister for the Marine announced the appointment of Ms Karin Dubsy for a period of two years effective from 1st January 2005. She was reappointed by Mr John Browne, T.D., Minister of State for Communications Marine and Natural Resources with effect from 5 April 2007 for a further period of two years and again for a further two year period from April 2009 to April 2011.

Mr Michael Sweeney was appointed by Mr Brendan Smith, T.D., Minister for Agriculture Fisheries and Food for a period of three years from 13 July 2009.

On 9 November 2011, Mr Brendan Brice was appointed for a period of three years by Mr Simon Coveney T.D., Minister for Agriculture, Food and the Marine.

COMPOSITION OF BOARD

In accordance with *Section 23(3)* of the Act, the Minister for the Marine and Natural Resources made regulations prescribing not less than two organisations, representative of the following groupings:

- (a) organisations concerned with the promotion of the development of aquaculture or representative of persons carrying on the business of developing aquaculture;
- (b) organisations concerned with the conservation, development and protection of wild fisheries;
- (c) organisations representative of persons whose professions or occupations relate to physical planning and development;
- (d) organisations representative of persons concerned with the protection and preservation of the environment and amenities;
- (e) organisations representative of persons concerned with the promotion of general economic development and
- (f) organisations representative of persons concerned with the promotion of community development.

RESPONSIBILITIES

The following is a summary only of the main responsibilities and powers of the Board. Please refer to the Fisheries (Amendment) Act 1997 as amended for the actual provisions of the sections.

Under *Section 40(4)* of the Act, on receipt of an appeal by the Board and provided it is not withdrawn, the Board can determine the appeal by

- (a) confirming the decision or action of the Minister
- (b) determining the application for the licence as if the application had been made to the Board in the first instance or
- (c) in relation to the revocation or amendment of a licence, substituting its decision on the matter for that of the Minister;

Under *Sections 43 and 44* of the Act, the Board must send a copy of the notice of appeal to the Minister and to each other party to the appeal;

Under *Section 46* of the Act, the Board can request submissions or observations from parties or other persons who have already made submissions or observations to the Board in relation to an appeal, if, in the opinion of the Board and in the circumstances, it is in the interests of justice to do so;

Under *Section 47* of the Act, the Board can request documents, particulars or other information it considers necessary for the purpose of enabling it to determine an appeal;

Under *Section 49* of the Act, the Board has the absolute discretion to hold an oral hearing of an appeal;

Under *Section 56* of the Act, the Board is required to ensure that appeals are dealt with and determined expeditiously and that all steps are taken to avoid unnecessary delay.

CONSULTANTS AND ADVISERS

Under *Section 35* of the Act, the Board may engage such consultants or advisers as it considers necessary for the performance of its functions. Fees due to either are paid by the Board out of moneys made available by the Oireachtas. With effect from the 2nd September 2008 the Board has hired and will continue to hire a consultant Technical Adviser when necessary.

During the course of 2011, the Board engaged the services of RPS Consulting Ltd to assist them in their consideration of appeals lodged in May 2011.

SECRETARIAT

Under *Section 32* of the Act, an officer of the Minister who is an established civil servant and who is seconded to the Board for that purpose, either on a whole-time or part-time basis, shall act as Secretary to the Board. A temporary part-time Secretary was appointed for the duration of 2011 as follows:

Ms Ann Marie Mahon (resigned 4th October 2011)

Ms. Lynda O'Regan (appointed 4th October 2011).

BOARD ACTIVITIES 2011

APPEALS RECEIVED

In 2011 the Board received three appeals against the decision of the Minister for Agriculture, Fisheries and Food to approve a temporary amendment of two years duration to Aquaculture Licence AQ199, for the cultivation of salmon at Deenish Island, Ballinskelligs Bay, Co Kerry.

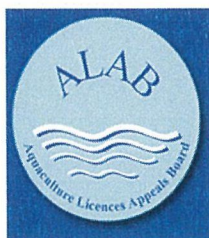
JUDICIAL REVIEW

In accordance with Section 73 of the Fisheries (Amendment) Act, 1997, a person can apply for judicial review of determinations of the Board by way of an application for judicial review, provided it is made within the period of three months commencing on the date on which the determination was made.

No Judicial Reviews commenced or were ongoing during 2011.

SUMMARY OF DETERMINATIONS

No determinations were made by the Board in 2011.



Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2011

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2011

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Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2011

Board Members and General Information

Board Members:	Mr. Mark O'Connell (Chairman) Ms. Mario Minehane (Deputy Chairman) Mr. Sean Murphy An t-Uasal Lorcán Ó Cinnéide Ms. Karen Dubsky (term of appointment ended 5/4/2011) Mr. Michael Sweeney Mr. Brendan Brice (appointed 9th November 2011)
Secretary:	Ms. Ann Marie Mahon (resigned 4th October 2011) Ms. Lynda O'Regan (appointed 4th October 2011 resigned 7th February 2012) Ms. Dymphna Keogh (appointed 7th February 2012)
Business Address:	Kilminchy Court Dublin Road Portlaoise Co. Laoise
Accountants:	Anne Brady McQuillans DFK Iveagh Court Harcourt Road Dublin 2
Bankers:	Allied Irish Bank 100 Grattan Street Dublin 2
Solicitors:	Arthur Cox Earlsfort Centre Earlsfort Terrace Dublin 2

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2011

Statement of Responsibilities of the Board

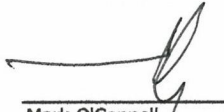
The Board is required by Section 37 (1) of the Fisheries (Amendment) Act, 1997 to keep all proper and usual accounts of all moneys received or expended by it including an income and expenditure account and a balance sheet.

In preparing those statements the Board is required to:


- select suitable accounting policies and apply them consistently
- make judgments and estimates that are reasonable and prudent
- disclose and explain any material departures from applicable accounting standards, and
- prepare the financial statements on a going concern basis unless it is inappropriate to presume that the Board will continue in existence.

The Board is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Board and which enable it to ensure that the financial statements comply with the Act and with accounting standards generally accepted in Ireland. The Board is also responsible for safeguarding the assets of the Board and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

On behalf of the Board



Mark O'Connell
Chairman



Lorcan Ó Cinnéide
Board Member

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2011

Statement on Internal Financial Control

On behalf of Aquaculture Licences Appeals Board, we acknowledge our responsibility for ensuring that an effective system of internal financial control is maintained and operated in the Office. The system can only provide reasonable, and not absolute assurance, that assets are safeguarded, transactions authorised and properly recorded, and that material errors or irregularities are either prevented or would be detected in a timely period.

Key Control Procedures

The Board has taken steps to ensure an appropriate control environment by:

- Clearly defining management responsibilities.
- Establishing formal procedures for monitoring the activities and safeguarding the assets of the organisation.
- Developing a culture of accountability across all levels of the organisation
- Appointing a firm of external accountants to document the systems of internal control and to make recommendations on enhancing the system.
- Apart from the legal and professional fees, the bulk of the Board expenditure is incurred on staff salaries, Board Member's remuneration and travel and subsistence. The salary of the seconded staff member is paid by the Department of Agriculture, Fisheries and Food and recouped by them from the Board's allocation. An external accountancy firm has been engaged by the Board to deal with Board Member's remuneration.

The system of internal financial control is based on a framework of regular management information, administrative procedures including segregation of duties, and a system of delegation and accountability. In particular it includes:

- Regular review by the Board of periodic and annual financial reports. If a problem arises, the Board can then decide on corrective action required.
- Regular Board meetings

Annual Review of Controls

The Board conducted a review of the effectiveness of the system of internal control in respect of the year 2011 in 2012.

On behalf of the Board



Mark O'Connell
Chairman



Lorcan Ó Cinnéide
Board Member



Comptroller and Auditor General

Report for presentation to the Houses of the Oireachtas

Aquaculture Licences Appeals Board

I have audited the financial statements of the Aquaculture Licences Appeals Board for the year ended 31 December 2011 under the Fisheries (Amendment) Act 1997. The financial statements, which have been prepared under the accounting policies set out therein, comprise the Statement of Accounting Policies, the Income and Expenditure Account, the Balance Sheet and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and generally accepted accounting practice in Ireland.

Responsibilities of the Members of the Board

The Board is responsible for the preparation of the financial statements, for ensuring that they give a true and fair view of the state of the Board's affairs and of its income and expenditure, and for ensuring the regularity of transactions.

Responsibilities of the Comptroller and Auditor General

My responsibility is to audit the financial statements and report on them in accordance with applicable law.

My audit is conducted by reference to the special considerations which attach to State bodies in relation to their management and operation.

My audit is carried out in accordance with the International Standards on Auditing (UK and Ireland) and in compliance with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of Audit of the Financial Statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements, sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of

- whether the accounting policies are appropriate to the Board's circumstances, and have been consistently applied and adequately disclosed
- the reasonableness of significant accounting estimates made in the preparation of the financial statements, and
- the overall presentation of the financial statements.

I also seek to obtain evidence about the regularity of financial transactions in the course of audit.

Opinion on the Financial Statements

In my opinion, the financial statements, which have been properly prepared in accordance with generally accepted accounting practice in Ireland, give a true and fair view of the state of the Board's affairs at 31 December 2011 and of its income and expenditure for the year then ended.

In my opinion, proper books of account have been kept by the Board. The financial statements are in agreement with the books of account.

Matters on which I report by exception

I report by exception if

- I have not received all the information and explanations I required for my audit, or
- my audit noted any material instance where moneys have not been applied for the purposes intended or where the transactions did not conform to the authorities governing them, or
- the Statement on Internal Financial Control does not reflect the Board's compliance with the Code of Practice for the Governance of State Bodies, or
- I find there are other material matters relating to the manner in which public business has been conducted.

I have nothing to report in regard to those matters upon which reporting is by exception.

Andrew Harkness

**For and on behalf of the
Comptroller and Auditor General**

17 December 2012

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2011

Statement of Accounting Policies

1 General

The Aquaculture Licences Appeals Board was established on 17 June 1998 under Section 22 of the Fisheries (Amendment) Act, 1997. The Board deals with appeals against decisions of the Minister relating to aquaculture licenses.

2 Basis of Preparation

The financial statements are prepared under the accruals method of accounting, except as indicated below, and in accordance with generally accepted accounting principles under the historical cost convention. Financial reporting standards recommended by the recognised accountancy bodies are adopted, as they become operative.

3 Income

Appeal Fees are recognised in the Financial Statements on a receipts basis.

Income from Oireachtas Grants represents actual cash receipts in the period from the Department of Agriculture, Fisheries and Food and payments in the year by the Department in respect of the Aquaculture Licences Appeals Board seconded staff.

4 Insurance

The current insurance policy covers the following:

- Commercial (employers liability, product liability and public liability)
- Travel (travel and injury)
- Directors and Officers liability

5 Employees and Superannuation

The Secretary of the Board is on secondment from the Department of Agriculture, Fisheries and Food. The Secretary's salary costs for the year are recouped from the relevant Department.

6 Judicial Review

Section 73 of the Fisheries (Amendment) Act, 1997, provides for applications for judicial review of decisions of the board. The Board accounts for those events under the generally accepted accounting practice.

7 Tangible Fixed Assets and Depreciation

Tangible fixed assets are stated at their historical cost or valuation less accumulated depreciation. Depreciation is charged to the income and expenditure account, on a straight line basis, at the rates set out below, so as to write off the assets, adjusted for estimated residual value, over their expected useful lives.

Computer Equipment: 33 1/3%
Office Equipment: 33 1/3%

8 Capital Account

The Capital Account represents the unamortised value of income used for capital purposes.

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2011

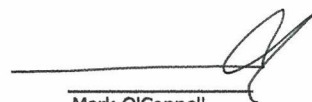
Income and Expenditure Account

	Notes	2011 €	2010 €
Income			
Oireachtas grants	1	62,912	416,633
Appeal Fees		<u>609</u>	<u>-</u>
		63,521	416,633
Transfer from capital account	9	-	203
Total Income		<u>63,521</u>	<u>416,836</u>
Expenditure			
Wages and salaries	2	49,552	98,911
Administration	3	34,294	70,723
Depreciation	4	-	203
Total Expenditure		<u>83,846</u>	<u>169,837</u>
(Deficit) / Surplus for period		<u>(20,325)</u>	<u>246,999</u>

The results for the period relate to continuing operations.

The notes on pages 8 to 10 form part of these financial statements.

On behalf of the Board



Mark O'Connell
Chairman



Lorcan Ó Cinnéide
Board Member

Aquaculture Licences Appeals Board

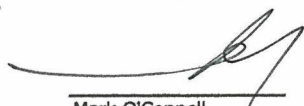
Financial Statements for the Year ending 31 December 2011


Balance Sheet as at 31 December 2011

	Notes	2011 €	2010 €
Fixed Assets			
Tangible Assets	4	-	-
Current Assets			
Debtors and Prepayments	5	3,913	3,722
Bank and Cash		-	13,974
		<u>3,913</u>	<u>17,696</u>
Current Liabilities			
Bank and Cash	6	52	-
Creditors and Accruals	7	<u>28,435</u>	<u>21,945</u>
Net Current Liabilities		(24,574)	(4,249)
Net Liabilities		<u>(24,574)</u>	<u>(4,249)</u>
Financed by:			
Capital Account	9	-	-
Income and Expenditure Account	8	<u>(24,574)</u>	<u>(4,249)</u>
		<u>(24,574)</u>	<u>(4,249)</u>

The notes on pages 8 to 10 form part of these financial statements.

On behalf of the Board


Mark O'Connell
Chairman


Lorcan Ó Cinnéide
Board Member

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2011

Notes to the Financial Statements

1 Oireachtas Grant Income Drawdown	2011	2010
	€	€
Oireachtas Grant Income drawdown	62,912	416,633
Appeal Fees	609	-
	<u>63,521</u>	<u>416,633</u>

The Department of Agriculture, Fisheries and Food paid the Secretary's salary directly and deducted the salary costs from the grant drawdown.

2 Wages and Salaries	2011	2010
	€	€
Secretary salary	12,912	54,133
Board members remuneration	34,414	41,428
Employers PRSI	2,226	3,350
	<u>49,552</u>	<u>98,911</u>

The Secretary of the Aquaculture Licences Appeals Board is on secondment from the Department of Agriculture, Fisheries and Food and was not in receipt of any extra remuneration, emoluments or expenses in respect of her role as Secretary for the Aquaculture Licences Appeals Board. The Department of Agriculture, Fisheries and Food paid all remuneration and emoluments and deducted all relevant expenses, including the pension levy, from her salary.

There was no pension levy deducted from board members in 2011 as their remuneration was below the relevant thresholds.

The board members received the following remuneration and travel and subsistence for the year ended 31 December 2011:

	Remuneration	Travel & Subsistence
	€	€
Ms. Karin Dubsky	1,496	-
Ms. Mario Minehane (Deputy Chairman)	5,985	2,609
Mr. Sean Murphy	5,985	1,720
An t-Uasal Lorcán Ó Cinnéide	5,985	113
Mr Mark O'Connell (Chairman)	8,978	113
Mr Michael Sweeney	5,985	1,200
Mr. Brendan Brice	-	-

3 Administration Costs	2011	2010
	€	€
Travel and subsistence	6,676	13,803
Technical and scientific support costs	0	35,787
Office supplies and computer equipment	44	365
Insurance	2,780	3,323
Rates	-	5,325
Cleaning	78	930
Repairs, maintenance and security	6,029	6,309
Courier and taxi costs	-	56
Telephone	2,079	2,427
Legal and professional fees	6,090	(4,909)
Other professional fees	831	(533)
Accountancy and payroll costs	5,158	7,371
Audit fees	4,136	3,872
Bank charges	96	236
Miscellaneous expenses	-	82
Publications	-	(3,632)
Light and heat	-	(1,600)
Advertising	-	1,169
Postage	297	342
	<u>34,294</u>	<u>70,723</u>

Aquaculture Licences Appeals Board

Financial Statements for the year ending 31 December 2011

Notes to the Financial Statements

4 Fixed Assets	Computer Equipment €	Office Equipment €	Total €
Cost at 1 January 2011	69,379	37,811	107,190
Additions	<u>-</u>	<u>-</u>	<u>-</u>
	<u>69,379</u>	<u>37,811</u>	<u>107,190</u>
Accumulated depreciation at 1 January 2010	69,379	37,811	107,190
Depreciation charge for year	<u>-</u>	<u>-</u>	<u>-</u>
	<u>69,379</u>	<u>37,811</u>	<u>107,190</u>
Net book value 31 December 2011	<u>-</u>	<u>-</u>	<u>-</u>
Net book value at 31 December 2010	<u>-</u>	<u>-</u>	<u>-</u>
 5 Debtors		2011 €	2010 €
Prepayments		<u>3,913</u>	<u>3,722</u>
		<u>3,913</u>	<u>3,722</u>
 6 Bank and cash		2011 €	2010 €
Current account		(63)	13,963
Petty cash		<u>11</u>	<u>11</u>
		<u>(52)</u>	<u>13,974</u>
 7 Creditors		2011 €	2010 €
Accruals		24,547	17,848
PAVE / PKB1 payable		<u>3,888</u>	<u>4,097</u>
		<u>28,435</u>	<u>21,945</u>

Aquaculture Licences Appeals Board

Financial Statements for the Year ending 31 December 2011

Notes to the Financial Statements

8 Income and Expenditure Account	2011	2010
	€	€
Balance brought forward at 1 January 2011	(4,249)	(251,248)
Surplus / (Deficit) for period	<u>(20,325)</u>	<u>246,999</u>
Balance at 31 December 2011	<u><u>(24,574)</u></u>	<u><u>(4,249)</u></u>

9 Capital Account

Transfer (to) / from Income & Expenditure:

Funds allocated to acquire fixed assets

Amount amortised in line with depreciation

Balance at 31 December 2011

	-	-
	<u>-</u>	<u>-</u>
	<u>-</u>	<u>-</u>

10 Premises Note

The Aquaculture Licences Appeals Board occupies a premises at Kilminchy Court, Dublin Road, Portlaoise, Co. Laois. The main tenant of the building is the Agriculture Appeals Office. The Aquaculture Licences Appeals Board were not liable to any rent, rates or related service charges in 2011.

11 Board Members Interests

The board entered into a one-off contract on the 26th September 2011 with RPS Consulting Engineers to provide technical advice in relation to a particular appeal. All costs relating to the contract were incurred in 2012.

On the 9th November 2011, the Minister for Agriculture, Food and Marine, appointed Mr. Brendan Brice, an employee of RPS Consulting Engineers, as a member of the Board of Aquaculture Licences Appeals Board.

The Board adopted procedures in accordance with the guidelines issued by the Department of Finance in relation to the disclosure of interests by Board Members and these procedures have been adhered to by the Board during the year.

12 Approval of Financial Statements

The financial statements were reviewed by the Board on 29.XI.2012