

## AQUACULTURE LICENCES APPEALS BOARD

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

Appeal Reference Number: **AP 3 /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 Derek Diver, Crocknagee, Rostown, Clonmany, Co. Donegal, ("**the Applicant**") against the decision of the Minister for Agriculture, Food and the Marine ("**the Minister**") to grant a Variation Aquaculture Licence for the cultivation of Pacific Oysters using bags and trestles at Site Ref: T12/492A on the foreshore in Trawbreaga Bay, Co. Donegal ("**the Site**")

**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 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 9 October 2019, 14 November 2019, 10 December 2019, 31 January 2020, 26 February 2020, 22 April 2020, 15 May 2020, 11 June 2020, 9 July 2020, 6 August 2020, 10 September 2020, 8 October 2020, 5 November 2020, 10 December 2020, 12 January 2021, and 5 February 2021.

### **ENVIRONMENTAL IMPACT ASSESSMENT**

The Board considered the proposed project was 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 Appropriate Assessment of Aquaculture in North Inishowen Coast SAC (Site code: 002012) July 2019 by the Marine Institute ("**the AA**") and adopted same. With reference to the Site, the AA noted that "*the risk of significant disturbance cannot be dismissed as the hydrodynamics of the inner part of the bay (and subsequently, the structure of the constituent community types) may be impacted by the scale of the proposed operation*" and that "*Proposed aquaculture site T12/492 is larger in the bay and located close to areas highlighted as being used by Barnacle Geese at Magheranaul/Strath. Disturbance of Barnacle Geese at this location cannot be discounted. There is a potential for conflict from access points where there may be increased activity close to feeding birds and/or from increased levels of activity on the shoreline*".

The AA further stated that the risk of negative impacts on Light-bellied Brent Geese cannot be completely discounted in the area referred to as OA438, which area was included in the original Licence application by the Applicant.

The Board noted the mitigation measures proposed in the AA of "*a clear Code of Practice, close consultation with NPWS and continuation of annual monitoring of Light-bellied Brent geese is recommended to identify and address any disturbance issues that*

may arise". The Board further noted that the Minister's decision was to reduce the footprint of the Site from the 8.21 hectares applied for by the Applicant to 0.902 hectares thereby excluding the areas identified to be of concern in the AA and that the Minister had also as part of his determination included a condition requiring the Licensee to comply with any Code of Practice developed in agreement with NPWS. The Board agreed that both elements of the Minister's determination would give effect to the mitigation measures proposed in the AA.

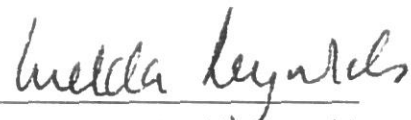
## DETERMINATION

The Board has determined the appeal on the basis that the Site, as varied by reducing the footprint of the Site from 8.21ha to 0.902 ha (in accordance with the decision of the Minister) is suitable for the proposed aquaculture development; would not significantly impact on other users; would have no significant impact on the statutory status of the place or waters; would have a non-significant positive effect impact on the economy of the area; would have no significant impact on designated sites nor significant ecological effect; would have no significant impact on the environment; and would have no impact on the man-made heritage of value in the area.

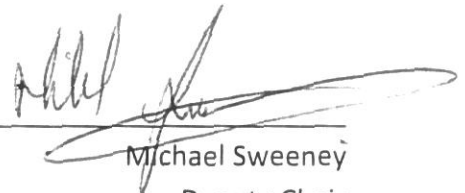
Having considered all the foregoing, the Board determined at its meeting on 5 February 2021 pursuant to Section 40 (4) (a) of the Act, to **CONFIRM** the decision of the Minister to **GRANT** a Variation Aquaculture Licence to the Applicant for the Site.

Dated this 19 day of February 2021

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



Imelda Reynolds  
Chair



Michael Sweeney  
Deputy Chair