

AQUACULTURE LICENCES APPEALS BOARD

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

Appeal Reference Number: **AP31/2019**

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 Nuala Bonner & family ("**the Appellant**") against the decision of the Minister for Agriculture, Food and the Marine ("**the Minister**") to grant a variation Aquaculture Licence to Ostre'an Teoranta, ("**the Applicant**") for the cultivation of Pacific Oysters using bags and trestles on the intertidal/subtidal foreshore on Site Ref: T12/205C within Dungloe 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 10 December 2019, 31 January 2020, 26 February 2020, 22 April 2020, 15 May 2020 and 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 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.

In reaching its determination on the Appeal the Board considered and determined as follows:

Environmental Impact Assessment

The Board considered the proposed aquaculture at the Site and its potential impact on human beings, flora and fauna; soil, water, air, climate and the landscape; material assets and the cultural heritage; and the interaction between these factors and having done so determined that the proposed aquaculture is unlikely to have significant effects on the environment by virtue of inter alia, its nature, size or location and as such an environmental impact assessment in accordance with S.I. 468 of 2012 was not required.

Appropriate Assessment

The Board adopted the Appropriate Assessment undertaken by the Marine Institute (AA) for the Rutland Island and Sound SAC (site code 002283) (the SAC) dated August 2019, which includes the Site.

The Board has determined the appeal on the basis of the following:

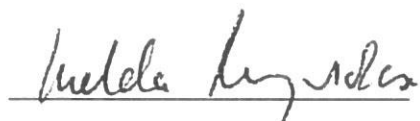
- (a) The site application under appeal is **suitable** for intertidal oyster culture for the following reasons:
 - 1. Dungloe Bay and the SAC has a well-established Pacific oyster aquaculture industry.
 - 2. The physical characteristics of the Site are suitable for the culture of oysters.
- (b) The granting of the aquaculture and foreshore licence to the site under appeal is unlikely to have any significant impact on other users due to its location;
- (c) The proposed aquaculture site would have a **non-significant adverse** impact on the statutory status of the area;
- (d) The granting of the aquaculture and foreshore licence under appeal will have a significant **positive economic impact** on the local economy;
- (e) The proposed development would have a **non-significant adverse** impact on the ecology of the area in that placement of additional trestles on the foreshore could lead to the creation of further juvenile fish refuge habitat. Further wetted surfaces may support algal growth and colonisation and therefore foraging opportunities for juvenile fish;
- (f) Licencing of the Site will have **non-significant** environmental impacts on the SAC;
- (g) Licencing of the application site would have **no significant impacts** on the man-made heritage of the area.

Having considered all the foregoing, the Board determined the Appeal pursuant to Section 40 (4)(a) of the Act, by determining to refuse to uphold the appeal and to

CONFIRM the decision of the Minister's decision to grant, with variation, a renewal aquaculture licence to the Applicant subject to the terms and conditions contained in the Minister's decision.

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