

An Bord Achomhairc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board



Messrs Conor and Damien Reid
Donegal Oceandeeep Oysters Ltd.
& Donegal Oysters Ltd.
Rossylongan,
Donegal Town
Co. Donegal

14 September 2020

Our Ref: AP4/2019
Site Ref: T12/396

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to refuse to grant an Aquaculture to Donegal Oceandeeep Oysters Ltd. & Donegal Oysters Ltd. for the cultivation of Pacific Oysters using bags and trestles on the foreshore in Mountcharles/Eddrim area of Donegal Bay, Co. Donegal Site ref T12/396

Dear Messrs Reid,

I refer to the Notice of Appeal regarding the above decision of the Minister for Agriculture, Food and the Marine.

The Aquaculture Licences Appeals Board ("the Board") has concluded its determination of the above appeals and has determined, pursuant to section 40(4)(b) of the Fisheries (Amendment) Act 1997, (as amended) to grant an Aquaculture Licence with variation for the cultivation of Pacific Oysters using bags and trestles on the Mount Charles Eddrim area of Donegal Bay, Co. Donegal.

The reasons for the Board's determination are set out in detail in the Determination dated 14 September 2020, a copy of which is enclosed with this letter.

A copy of the Board's Technical Advisor's report referred to in the Determination is available on the ALAB website.

Please provide the relevant maps, drawings and site layout for the amended site in order that the Aquaculture Licence can be issued.

Yours sincerely,

A handwritten signature in black ink that reads 'Mary O'Hara'.

Mary O'Hara
Secretary to the Board

AQUACULTURE LICENCES APPEALS BOARD

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

Appeal Reference Number: **AP 4/2019**

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 and substituted) ("**the Act**") by **Donegal Oceandeep Oysters Ltd. & Donegal Oysters Ltd.** ("**the Appellant**" and "**the Applicant**") against the decision of the Minister for Agriculture, Food and the Marine ("**the Minister**") to refuse to grant an aquaculture licence to the Applicant for the cultivation of Pacific Oysters using bags and trestles on the foreshore in Mountcharles/Eddrim area of Donegal Bay, Co. Donegal Site ref T12/396 ("**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, the response from Donegal County Council to a notice issued by the Board pursuant to section 47 of the Act, and the matters set out at Section 61 of the Act, 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 particular 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, and 9 July 2020 and determined at its meeting on 9 July 2020 pursuant to Section 40 (4) (a) of the Act, to **GRANT** an aquaculture licence with variation to the Applicant.

In reaching its determination on the appeal the Board noted and had regard to the following:

- the information and recommendations contained in the report of its Technical Advisor;
- Marine Institute Assessment of Aquaculture and Fisheries in Inner Donegal Bay SAC (Murvagh, 0133), SPA (Donegal Bay, 004151), SPA (Durnesh Lough, 004145) dated May 2014 ("the Appropriate Assessment"); and
- Marine Institute Report on monitoring sanderling populations within Donegal Bay SPA dated March 2016 ("the Sanderling Report").

The Board considered the decision of the Minister made on 9th July 2014 that the Site was not likely to have a significant effect on the environment and an Environmental Impact Statement (EIS) was not required to be carried out and having done so, agreed with the Minister's opinion.

The Board considered the Appropriate Assessment and the Sanderling Report and concluded both reports were adequate and provided the data required to enable the Board assess the significance of any impact posed by the Site on the SAC and SPA.

Having considered all the foregoing, the Board determined the appeal on the basis of the following:

- (a) The Site is considered suitable for the proposed development for the following reasons:
 - (1) It is in an area with existing productive aquaculture indicating the suitability of the hydrological condition to support the aquaculture proposed;
 - (2) It is located on hard sand banks considered suitable to support trestles;
 - (3) It lies within the Shellfish Designated waters for the Bay; and
 - (4) With a reduction in area from the Site applied for by the Applicant to avoid the areas of importance for Sanderling, the reduced Site area will have minimal displacement effects on Sanderling populations within the Mountcharles subsite.
- (b) Noting the response of Donegal County Council to the Notice issued by the Board pursuant to section 47 of the Act, the proposed development will not have any detrimental effect on other uses or users of the area and the reduction in area of the Site will reduce the potential for landscape and visual impact;
- (c) The proposed development is considered to have a non-significant impact on the Statutory Status of the site in terms of the SAC habitats;
- (d) The proposed development is considered to pose a positive effect on the local and regional economy of the area;
- (e) The Site as applied for by the Applicant is considered to pose a potential for adverse effects on the integrity of the Special Conservation Interest ("SCI") Sanderling within

Donegal Bay SPA, however the reduction in area of the Site will reduce the potential for displacement of the SCI Sanderling;

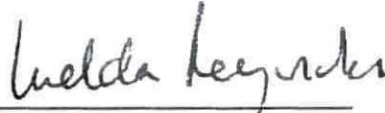
- (f) The proposed development will not pose a significant effect on the habitats of the Site within Donegal Bay and in the wider area; and
- (g) The proposed development is considered to have no effect on the man-made heritage of value in the area.


Having considered all the foregoing, the Board determined at its meeting of 9 July 2020 pursuant to Section 40(4)(b) of the Act, to **GRANT** an aquaculture licence with variation to the Applicant as follows:

- A. The Site area will be reduced to the area shown on the plan attached and thereon edged and hatched blue;
- B. The dimensions of the reduced Site as licenced shall be as follows:
Irish National Grid Reference point:
 - 188325, 376300 to Irish National Grid Reference point
 - 188650, 376300 to Irish National Grid Reference point
 - 188419, 376022 to Irish National Grid Reference point
 - 188112, 376021 to the first mentioned point

Dated this 14 day of September 2020

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


Imelda Reynolds
Chair


Michael Sweeney
Deputy Chair