



AQUACULTURE LICENCES APPEALS BOARD

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

Appeal Reference Number: **AP 2/2020**

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 Mr. Cathal McCorkell, Carrowtrasna, Greencastle, Co. Donegal, ("**the Applicant and Appellant**") against the decision of the Minister for Agriculture, Food and the Marine ("**the Minister**") to refuse to grant an Aquaculture Licence for the cultivation of Pacific Oysters using bags and trestles on the intertidal and or subtidal foreshore at Site T12/541A 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, 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 31 January 2020, 26 February 2020, 22 April 2020, 6 August 2020, 8 October 2020, 12 January 2021, 5 February 2021, 2 March 2021, 1 April 2021 and 22 July 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. Therefore, the Board is satisfied that the direct and indirect effects of the proposed activity at the Site on the following factors:

- 1 human beings, fauna and flora;

- 2 soil, water, air, climate and the landscape;
- 3 material assets and the cultural heritage; and
- 4 the interaction between the factors referred to in 1- 3

will not have significant effects on the environment, including the factors listed in 1-4, by virtue of, inter alia, its nature, size or location.

APPROPRIATE ASSESSMENT

The Board noted the Reports supporting Appropriate Assessment of Aquaculture in North Inishowen Coast Special Area of Conservation (**SAC**) (Site code: 002012) Marine Institute July 2019; and Atkins Marine Institute Trawbreaga Bay SPA (004034) - Appropriate Assessment of Aquaculture July 2019 ("**the AA**") and adopted same.

Having regard to all of the foregoing, the Board was satisfied that the proposed activity at the Site has no potential for significant effects and it is not likely to have any significant deleterious effect, either individually, or in combination with other plans or projects, on Species of Conservation Interest (**SCI**) species or conservation objectives for the Special Protection Areas (**SPA**) and SAC sites concerned and as such, will not adversely affect the integrity of the SPA and SAC sites concerned either individually or in combination with other plans or projects.

DETERMINATION

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

- the recommendations contained in the report of its Technical Advisor;
- the Appropriate Assessment Reports listed under the previous heading;
- the Appropriate Assessment Conclusion Statement by the Minister;

and having done so, the Board determined the appeal on the basis of 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:**

The Site is deemed not suitable for the intended purpose, primarily as the proposed Site is likely to have a significant impact on other aquaculture sites within the bay.

The Department of Agriculture, Food and the Marine has followed a policy of orderly aquaculture development in Trawbreaga Bay for a number of years, as discussed in the Marine Engineering Division Report for the Site. This policy involves following some recommendations, including granting a uniform site area of not more than approximately 0.9 hectares and not granting licences to sites that would impede the potential for growth of sites owned by other operators. In the application for the Site, neither of these recommendations can be fulfilled. The Site is of a size of just over 1.3 hectares and its location, directly to seaward of an existing site, has the potential to reduce phytoplankton access to and impact the water exchange of an existing site directly to landward of the Site. The Site is on the outer edge of an existing licenced aquaculture site and it would be expected that the placement of trestles on the Site would impact negatively on sites on the terrestrial side of the Site, through lower growth rates and increased sedimentation. The Board has therefore determined that the refusal of this licence is upheld as the Site will impact on the "orderly aquaculture development in the bay" and have "negative impacts on the operations of existing oyster farms causing reduced growth and having a hydrodynamic impact with a potential for sedimentation pattern change, and rerouting of currents in the area" as outlined in the Minister's refusal.

The Board has concluded there is potential negative impact on this Site due to the proposed aquaculture activity at the Site.

(b) other beneficial uses, existing or potential, of the place or waters concerned:

There would be no significant impact on the scenic landscape, fishing or harvesting for users of the area;

(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:

There are no predicted significant negative impacts on the statutory status of the area including Nature Conservation Designations, Protected Species and water quality status (as discussed in the Technical Advisor's Report).

There are predicted non-significant positive effects for the Applicant/Appellant and predicted significant negative effects for existing nearby aquaculture licence holders in relation to the Donegal County Development Plan 2018, Objective MRCM-O-1, to maximise the social and economic potential of Donegal's marine sector and Objective MRCM-O-3: to manage our coastal environment in a sustainable manner. There are no predicted significant impacts on other relevant sections of the Donegal County Development Plan 2018.

(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 out:

The Site is likely to initially have a non-significant positive effect on the local economy of the area (for the Applicant/Appellant) and has also the potential for long term negative effect on the economy due to impacts on other users within the bay;

(e) the likely ecological effects of the aquaculture or proposed aquaculture on wild fisheries, natural habitats and flora and fauna:

The Site is not likely to have a significant negative impact on the designated sites or significant ecological effects;

- (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**

Licensing of the Site will cause no significant environmental impacts, as discussed in the Technical Advisor's Report.

- (g) **the effect or likely effect on the man-made environment of heritage value in the vicinity of the place or waters:**

Licensing of the Site is unlikely to give rise to significant impacts on the man-made heritage of the area.

Having considered all the foregoing, the Board determined at its meeting on 22 July 2021 pursuant to Section 40(4)(a) of the Act, to **CONFIRM** the decision of the Minister to **REFUSE** an Aquaculture Licence to the Applicant for the Site.

Dated this *10th* day of *August* 2021



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

Imelda Reynolds
Chair

Michael Sweeney
Deputy Chair