

AQUACULTURE LICENCES APPEALS BOARD

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

Appeal Reference Number: **AP9/2017**

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 Ms. Marjorie Doherty against the decision of the Minister for Agriculture, Food and the Marine ("the Minister") to refuse to grant an Aquaculture Licence (and accompanying foreshore licence) to Ms. Marjorie Doherty, Slievebawn, Malin Head, Co Donegal for the cultivation of Pacific Oysters using bags and trestles on site reference T12/471 in Trawbreaga Bay, Co Donegal

AND WHEREAS the Board in considering the appeal took account of the appeal file provided to it by the Minister, the response of the Appellant to a Notice issued by the Board pursuant to Section 46 of the Act and the matters set out at Section 61 of the Act.

The Board considered the appeal at its meetings on the 13 December 2017, 19 February 2018, 1 May 2018, 12 June 2018, 28 August 2018, 9 October 2018 and on 14 November 2018 and determined at its meeting on 14 November 2018, pursuant to Section 40 (4) (b) of the Act, to **GRANT** an aquaculture licence to the Applicant.

This Determination is made for the following reasons and considerations:-

1. Having considered the Landscape and Visual Assessment Report dated 17 October 2017 included with the Minister's file and a Landscape and Visual Report of 17 July 2018 provided to the Board by the Appellant in response to the Notice issued by the Board pursuant to section 46 of the Act, the Board determined that:

- In terms of landscape and seascape impact, the character of the landscape and seascape would not be significantly altered by the proposed development. The proposed aquaculture would expand an existing use in the seascape, in an environment characterised by diversity in landscape and seascape, and the expansion would not result in an unsustainable accumulation of seascape change. Aquaculture would remain an element of the seascape locally but would not be the defining element;

- In terms of visual impact, the magnitude of visual change could be classified as “moderate” at worst. The visual envelope is relatively small, with only a small number of houses and the users of the R242 affected. The Board regarded the fact that aquaculture is already visible in the area as significant. It also regarded it as significant that the proposed trestles would not change the composition or character of views substantially even when fully exposed at low tide, and would be covered by the sea for the greater part of every day.

- The overall experience of the Inishowen Peninsula afforded by the Wild Atlantic Way would not be significantly adversely affected by the proposed aquaculture development.

In the opinion of the Board the landscape and visual impacts of the proposed development would be acceptable.

2. The Board in considering the appeal also took account of 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, or 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

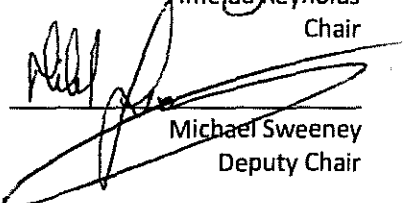
and having done so determined that:

- The site under appeal is suitable for the proposed aquaculture development;
- no other uses of the affected area would be adversely impacted to the extent that the developments should not be allowed to take place;
- the proposed licence area is not designated and the proposed development would not affect any landscape or seascape designation, nor any protected view or prospect, to the extent that it could be considered a material contravention of the Donegal County Development Plan 2018 – 2024;
- the proposed licences will have a non-significant positive effect on the economy of the area;
- the proposed licences will have no significant effects on wild fisheries, natural habitat and flora and fauna populations. In this respect the Board had regard to the Appropriate Assessment Conclusion Statement included with the Minister's file for aquaculture activities in North Inishowen Coast Special Area of Conservation (SAC) (002012) and Trawbreaga Bay Special Protection Areas (SPA) (004034) and agreed that with the Conclusion Statement that the proposed license is not likely to significantly and adversely affect the integrity of Trawbreaga Bay SPA;
- there are no significant general environmental effects expected as a result of the licence renewals, and in this respect the Board had regard to the EIA screening carried out by the Minister on 15 March 2017, included with the Minister's file, and determined it was adequate, and as such an Environmental Impact Statement was not required; and
- there are no effects anticipated on the man-made heritage of value in the area as a result of the grant of the licence.

Dated this 14 day of November 2018

PRESENT when the Common Seal of the
AQUACULTURE LICENCES APPEALS BOARD
was affixed hereto:-


Imelda Reynolds
Chair


Michael Sweeney
Deputy Chair