

AQUACULTURE LICENCES APPEALS BOARD

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

Appeal Reference Number: **AP47/2018**

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 North West Shellfish Ltd., ("**the Applicant**") against the decision of the Minister for Agriculture, Food and the Marine ("**the Minister**") to grant an Aquaculture Licence (and accompanying foreshore licence) to North West Shellfish Ltd., Upper Carrick, Carrigart, Letterkenny, Co Donegal for the cultivation of scallops on site references T12/203E in Mulroy Bay, Co Donegal.

AND WHEREAS the Board in considering the appeal took account of the appeal by the Applicant, 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 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 11 December 2018, 22 January 2019, 26 March 2019, 30 April 2019 and 15 May 2019.

The Board noted the assessment of the Minister that significant impacts on the general environment are not considered likely. The Board considered this assessment in conjunction with its technical advisor and determined to accept the assessment.

The Board noted the Appropriate Assessment of Aquaculture in Mulroy Bay SAC undertaken in April 2018 by the Marine Institute on behalf of the Minister and the conclusion of that assessment that the aquaculture site, individually or in combination with other plans or projects, is not likely to have a significant effect on Mulroy Bay SAC. The Board considered this assessment in conjunction with its technical advisor and determined to accept the assessment.

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


- (a) The site under appeal is suitable for the proposed aquaculture development for the following reasons:
 - There is sufficient space in this area of Mulroy Bay for the development and it is within an existing designated area with aquaculture.
 - It is likely that the proposed development (as granted with variation by the Minister) will not significantly impact on NATURA 2000 sites, man-made heritage, beneficial users, statutory status or the economy. It is felt that the proposed aquaculture licence (with variation) would not have a significant visual impact.
- (b) The proposed aquaculture licence, with the variation provided for in the Minister's draft licence, would not be expected to significantly impact on the scenic landscape.
 - The proposed aquaculture site will not significantly impact on fishing and harvesting users of the area.

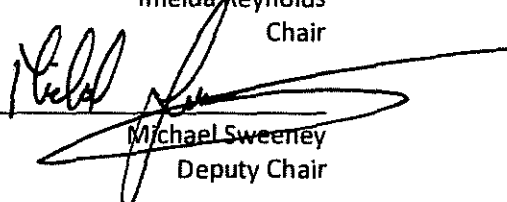
- (c) The proposed aquaculture site with variation will not have a significant impact on the statutory status of the area.
- (d) The proposed site is likely to have a non-significant positive effect on the local economy of the area and has the potential for long term non-significant positive effect on the Irish economy.
- (e) The proposed aquaculture site will not have a significant impact on the designated sites or significant ecological effects.
- (f) The proposed site will not have a significant impact on the environment.
- (g) The proposed aquaculture site will not significantly impact on man-made heritage of the area.

Having considered all the foregoing, the Board determined at its meeting on 15 May 2019, pursuant to Section 40 (4) (a) of the Act, to **CONFIRM** the decision of the Minister made on 5 October 2018 to grant an aquaculture licence to the Applicant for Site T12/203E being the area specified in Schedule 1 of the Minister's draft licence, comprising 22 hectares for the farming of scallops (*Pecten Maximus*) utilising intensive ropes, trays and lantern nets in accordance with the terms and conditions set out in the draft Aquaculture licence annexed to the Minister's decision.

Dated this 18 day of June 2019

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


Imelda Reynolds
Chair


Michael Sweeney
Deputy Chair

