

AQUACULTURE LICENCES APPEALS BOARD

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

Appeal Reference Number: **AP 25/2019**

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 Francis Gallagher, ("**the Appellant and Applicant**") 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 site T12/405A at Loughros Mór 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 submissions from Sarah Gildea received 11 December 2020, Owenea Angling Club received 12 December 2020 and from Paul Boyle on behalf of Loughros more SAC Conservation Group received 13 December 2020, 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 14 November 2019, 10 December 2019, 31 January 2020, 26 February 2020, 19 March 2020, 22 April 2020, 10 December 2020, 1 April 2021 and 29 April 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.

APPROPRIATE ASSESSMENT

The Board noted the report supporting Appropriate Assessment of Aquaculture in West of Ardara/Maas Road SAC (Site code: 000197) prepared by the Marine Institute ("the AA") in June 2019 and adopted same.

DETERMINATION

The Board has determined the appeal on the basis that:

1. The Site is not suitable for the intended purpose as it is located proximate to a primary effluent discharge point with the potential for negative water quality issues and risk in relation to human health; it is also located in or proximate to mobile estuarine channels of salmonid watercourses, and several portions of the Site are in areas where oysters would not survive;
2. The Site has the potential to obstruct and negatively impact on existing users of the bay, with the potential to cause obstruction and health and safety risks. Specifically the proposed aquaculture would limit the extent of horse-riding activity that could take place in the exposed sandy areas of the bay, depending on the condition of the tide and would significantly impact on the operation of the Owenea and Owentocker salmon fisheries through the obstruction of fishery areas. It is also likely that trestles would impede and obstruct sea trout fishing, through the obstruction of channels and causing obstructions to movement of fishermen and could pose a health and safety risk through snagging and restriction of movements, particularly in the vicinity of the intertidal watercourse channels;
3. As the coastal areas immediately adjacent to the shoreline of the Loughros Mór Bay are designated as 'Areas of Especially High Scenic Amenity' and those areas further from the coast are considered 'Areas of High Scenic Amenity', the

- proposed aquaculture activity would potentially significantly negatively impact on the statutory status and would be expected to significantly negatively impact on the scenic landscape;
4. The Site has the potential to significantly negatively impact on the conservation objectives of Natura 2000 sites and in particular those of West of Ardara Road/Mass Road SAC primarily through directly impacting salmonid migration on the low water channels of salmonid rivers. Based on an examination of historic aerial imagery, the intertidal sands in the area are highly mobile and the channels within the bay move across the intertidal sands;
 5. Given potential impacts on Atlantic salmon and pearl mussel within the upper catchments, the Site has the potential for a significant impact on the environment; and
 6. The Site is likely to have a non-significant positive effect on the local economy and will not significantly impact on the man-made heritage of the area.

Having considered all the foregoing, the Board determined at its meeting on 29 April 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 29th day of June 2021

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




Imelda Reynolds
Chair


Michael Sweeney
Deputy Chair