

AQUACULTURE LICENCES APPEALS BOARD

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

Appeal Reference Number: **AP 58/2019**

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 Derek Diver, Crocknagee, Rostown, Clonmany, Co. Donegal, ("**the Appellant**") against the decision of the Minister for Agriculture, Food and the Marine ("**the Minister**") to grant an Aquaculture Licence to Kearney Oysters Ltd., ("**the Applicant**") for the cultivation of Pacific Oysters using bags and trestles on the intertidal and or subtidal foreshore at Site T12/520 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, submissions under Section 44(2) of the Act received 26 and 27 February 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 31 January 2020, 26 February 2020, 22 April 2020, 6 August 2020, 8 October 2020, 12 January 2021, 5 February 2021, 2 March 2021 and 1 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 North Inishowen Coast 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.

With reference to the SPA, the AA stated that the risk of negative impacts on Light-bellied Brent Geese cannot be completely discounted. The Board noted the mitigation measures proposed *"a clear Code of Practice, close consultation with NPWS and continuation of annual monitoring of Light-bellied Brent geese is recommended to identify and address any disturbance issues that may arise"*. The Board noted that the Minister had as part of his determination included a condition requiring the Applicant to comply with any Code of Practice developed in agreement with NPWS. The Board agreed that this element of the Minister's determination would give practical effect to the mitigation measure proposed in the AA.

DETERMINATION

The Board has determined the appeal on the basis that the Site is suitable for the proposed aquaculture development; would not significantly impact on other users; would have no significant impact on the statutory status of the place or waters; would have a non-significant positive effect impact on the economy of the area; would have no significant impact on the environment; would have no significant impact on designated sites nor significant ecological effects; and would have no impact on the man-made heritage of value in the area.

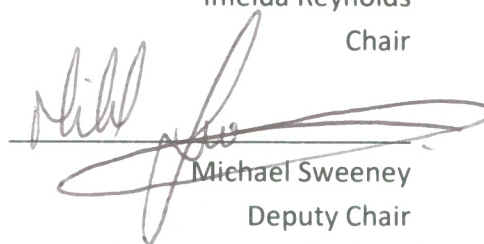
Having considered all the foregoing, the Board determined at its meeting on 1 April 2021 pursuant to Section 40 (4) (a) of the Act, to **CONFIRM** the decision of the Minister to **GRANT** an Aquaculture Licence to the Applicant for the Site.

Dated this 10 day of May 2021

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



Imelda Reynolds
Chair



Michael Sweeney
Deputy Chair