

AQUACULTURE LICENCES APPEALS BOARD

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

Appeal Reference Number: AP1-2012

DETERMINATION

WHEREAS appeals having been made to the Aquaculture Licences Appeals Board (hereinafter referred to as "the Board") pursuant to Section 40 of the Fisheries (Amendment) Act, 1997 (as amended) by **Friends of the Irish Environment**, Kilcatherine, Eyeries, Co Cork; **Victor and Lynda Morgan**, Kilcomane, Durrus, Co Cork; **Robert Pütz**, c/o Daniel Spring and Company Solicitors, 50 Fitzwilliam Square, Dublin 2; **The Association of Dunmanus Bay Fishermen**, Ahakista, West Cork and **The Dunmanus Bay Marine Association**, Goleen, West Cork against the decision of the Minister for Agriculture, Food and the Marine to grant an Aquaculture Licence (and companion Foreshore Licence) to **Dunmanus Bay Mussels Ltd**, (hereinafter also referred to as the Applicant), Dromdruff West, Bantry, Co Cork for the cultivation of mussels (using longlines) on site 503A on the foreshore in Dunmanus Bay, Co Cork.

AND WHEREAS the Board in considering the appeal took account of the appeal file and the report of the Board's technical adviser and the matters set out at Section 61 of the Fisheries (Amendment) Act, 1997 (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, 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,

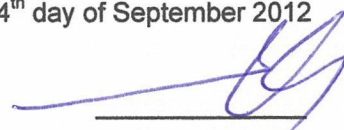
- (e) the likely ecological effects of the aquaculture or proposed aquaculture on wild fisheries, natural habitats and flora and fauna, and
- (f) the effect or likely effect on the environment generally in the vicinity of the place or water on or in which that aquaculture is or is proposed to be carried 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.

The **Board** considered the appeals at its meetings on the 9th July and 10th and 24th of September 2012 and determined to **REFUSE** to grant an aquaculture licence to the Applicant for the following reasons and considerations:-

1. The site is located in deep waters but appears to be in a sheltered location without sufficient flushing rate, an area likely to harbour large amounts of organic and inorganic waste material produced during production compromising the integrity of the marine habitat. The site may not be suitable for the intended purpose. The proposed development could have a significant impact on other users including wild fisheries, natural habitat and flora and fauna populations. The marine habitat could potentially be degraded.

It should be noted that the Board, by letter dated the 7th of August, 2012, made a request of the Applicant pursuant to Section 47 of the Fisheries (Amendment) Act 1997, for specific information on the issues relevant to the case. This information was not supplied before the statutory deadline of 28 days or at all. The Board, in accordance with its statutory obligation, proceeded to make a determination in the absence of the information sought.

Dated this 24th day of September 2012



Mark O'Connell

Chairperson

For and on behalf of the

AQUACULTURE LICENCES APPEALS BOARD