

AQUACULTURE LICENCES APPEALS BOARD

BOARD MEETING 17.01

Portlaoise

10 January 2017

Meeting commenced at 5pm and concluded at 20.00 hrs.

Minutes

Present: Imelda Reynolds (Chairperson), Sean Murphy, Jim Power, Brendan Brice (with exception of item 17.01.09) Michael Sweeney (attended by phone for item 17.01.09 to ensure Board was quorate for this issue),

Apologies: Dr Owen McIntyre

In attendance: Mary O'Hara, Board Secretary;
17.01.01 - Conflict of Interest

Subject to the matters below, all Board members confirmed that they had no conflict of interest in any of the matters before the Board for consideration at the meeting, including the new appeal API/2016 Drumcliff Bay, before the Board for consideration.

Brendan Brice confirmed he would depart the meeting when Appeal AP2/2015 is being considered so as to avoid any perception of bias arising.

It was confirmed by the Secretary that no papers had issued to Mr. Brice in relation to the Appeal AP2/2015 and the draft minutes in circulation and agenda had been redacted for Mr. Brice to remove reference to this Appeal. It was further confirmed that this would continue for the future in connection with all matters arising in connection with Appeal AP2/2015.

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17.01.09 -AP2 /2015 Shot Head Bantry Bay

Board member Michael Sweeney joined the meeting by phone for this item to ensure the Board was quorate.

The Board noted that since the last meeting a response had been received (on 12 December 2016) from the Marine Institute to the s. 47 Notice dated October 61 2016, where the Board sought details as to whether the Marine Institute held information that might indicate whether the proposed Shot Head site was within close proximity to an area in which commercial pot fishing for *Nephrops norvegicus* is undertaken. The response indicated that while high resolution VMS data on the extent and intensity of fishing relative to the footprint of the proposed farm was not available, the expert information available suggests that commercial inshore pot fishing areas overlap nominally with the southern boundary of the proposed site. The Institute could not make assertions supportive or otherwise regarding actual densities of *Nephrops* burrows in the direct vicinity of the proposed site that may or may not support commercial enterprise. It noted that areas directly occupied by the farm site would preclude future pot fishing, but stated that this disruption would appear limited and pot fishing could otherwise continue in very close proximity to the proposed salmon farm. The Board noted that this information corroborated the conclusions in the Board's Technical Advisor's draft reports in connection with this Appeal.

It was noted the Board had at its meeting on 22 November 2016 decided to hold an oral hearing and had decided to appoint member of the Board Owen McIntyre to conduct the oral hearing.

It was noted that the dates of 14 and 15 February had since then been agreed for the oral hearing.

The Board agreed a formal letter of engagement should issue to Mr McIntyre as Chair of the oral hearing.

The Secretary advised that following a request from ALAB, a quote had been received from an independent technical advisor Mr Sebastien Rider, proposing a cost of €1800 for attending the Oral Hearing as technical advisor to the Oral Hearing Chair plus €60 per additional hour thereafter. The Board agreed this fee proposal should be sent to Owen McIntyre for his approval and subject to that being forthcoming the proposal should be accepted. If accepted the Secretary will ensure that a declaration pursuant to section 33 of the Act is obtained from Mr Rider.

The Secretary advised that a venue of the Westlodge Hotel in Bantry has been booked for 14/15 February 2017.

The Secretary advised that two stenographers had been contacted and fee proposals were awaited.

The Board noted that preliminary letters had issued to all parties on or about 21 December 2016, advising all parties of the Board's intention to hold an oral hearing. However now that the actual date of the oral hearing had been ascertained, a formal notice was required to issue to all parties.

The Board noted that its own Guidelines provided for a minimum of 4 weeks' formal notice of the date of the Hearing, Draft letters of notification had been prepared by the Secretary and had been circulated to the Board and Graham Saunders for approval.

Having considered the matter and the detail to be focussed on at the Oral Hearing, the Board determined that the following parties should be required to attend the Oral Hearing pursuant to section 49 of the Act and that formal notices should issue to them in accordance with that section:

1. The Applicant, to give evidence to the oral hearing in relation to the Appeal and in particular in relation to (1) The nature of and the risks to salmonids in the Dromagowlane/Trafrask River; (2) the associated impact on the pearl water mussel; and (3) the robustness of the Applicant's Integrated Pest Management Plan /Single Bay Management Plan dated 26 October 2016 and to produce such books/deeds/contracts/accounts/vouchers/maps/plans or other documents connected with the above licence as is relevant to the Appeal; and
2. NPWS to give evidence to the oral hearing in relation to the Appeal and in particular in relation to the nature of and the risks to salmonids in the Dromagowlane/Trafrask River; and the associated impact on the pearl water mussel.

The Board further confirmed that further formal notification letters should issue to all Appellants, to the Minister and to Marine Harvest as soon as possible and that the Oral Hearing Guidelines be included with the formal notification letters.

The Secretary advised that a press query had been received from the Irish Examiner in relation to the Shot Head appeal. The Secretary had responded noting the Aquaculture Licences Appeals Board is an independent authority for determinations against appeals for decisions against the Minister for Agriculture, Food and the Marine on aquaculture licences; that 14 Appeals were received in relation to the granting of a licence at Shot Head, Bantry, Co Cork ; that details were available on the ALAB website ; that under s49(1) of the Fisheries (Amendment) Act, 1997, the Board may decide to hold an oral hearing; that preliminary notification had issued to all parties concerned of the Board's intention to carry out an oral hearing and that further formal notifications would issue in due course.

The Board noted and approved, subject to some minor amendments, the formal Interim Report of its Technical Advisors and directed that the Interim Report be made available on the ALAB website in advance of the oral hearing. The Board also agreed that as a formality, a formal requirement to attend under s.49 should issue to Mr Graham Saunders.

The Secretary advised the Board that 2 Access to Information on the Environment requests had been received in connection with AP2/2015. One is from Tony Lowes, Friends of the Environment (AP2/12/2105) and a second is from Alec O'Donovan, Save Bantry Bay (AP2/1/2015).

The Board noted the Oral Hearing guidelines in relation to the Oral Hearing matters and noted that they were satisfied that:

- the oral hearing is to be conducted by an authorised person on behalf of the Board; ● there will be no person from the Board in attendance at the oral hearing; ● the Board has notified in writing any persons to attend to give evidence and produce documents etc. which relate to the matter;
- it is clear what documentation should be considered at the oral hearing; ● the Board is clear what documents need to be made publically available; ● the Board had considered and agreed the reports to be published in advance of the oral hearing; ● the Board is satisfied that the person appointed to conduct the oral hearing and to prepare a report and recommendation on it will not also participate in ALAB's determination of the appeal, other than to give an account of the oral hearing to the other Board members and/or an explanation of his or her views in that regard.

Dated the 9 day of February :

Imelda Reynolds

2017

Imelda Reynolds

CHAIRPERSON