

**AQUACULTURE LICENCES APPEALS BOARD**

**BOARD MEETING 18.05~~4~~**

**Portlaoise**

**12 June 2018**

Meeting commenced at 8am and concluded at 12 noon .

**Minutes**

**Present:** Imelda Reynolds (Chairperson), Michael Sweeney, Brendan Brice, Jim Power, Prof Owen McIntyre, Michael Mulloy

**In attendance:** Mary O'Hara (Board Secretary of ALAB), Margaret Brennan (ALAB)

The Chairperson welcomed the new Board member Michael Mulloy and congratulated him on his appointment. Mr Mulloy confirmed that he was not conflicted for any of the appeals on hand.

**18.05.01 - Conflicts 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.

Brendan Brice confirmed he would depart the meeting when Items 7 (AP2/1-14/2015 Shot Head) and 8 (AP1-4/2017 and AP6/2017 Braade Strand) were being discussed, to avoid conflict of interest and any perception of bias.

Prof Owen McIntyre confirmed he would depart the meeting when Item 7 (AP2/2015 Shot Head) was being discussed, to avoid conflict of interest and any perception of bias.

The Secretary confirmed redacted papers in respect of these Appeals had issued to Brendan Brice and Prof Owen McIntyre.









#### **18.05.07 - AP2 /2015 Shot Head Bantry Bay**

Board members Brendan Brice and Owen McIntyre recused themselves for this item.

The Board noted the following correspondence:

- Letter to Appellant Mr O'Keeffe dated 9 May 2018 seeking extension of date for submissions to 31 July 2018
- Submission from Save Bantry Bay dated 28 April 2018 in response to s 46(1)(a) Notice dated 10 April 2018 from ALAB
- Submission from MHI received 30 April 2018 in response to s 46(1)(a) Notice dated 10 April 2018 from ALAB
- Submission from Salmon Watch received 30 April 2018 in response to s 46(1)(a) Notice dated 10 April 2018 from ALAB
- Submission from An Taisce 30 April 2018 in response to s 46(1)(a) Notice dated 10 April 2018 from ALAB
- Submission from Peter Sweetman received 30 April 2018 in response to s 46(1)(a) Notice dated 10 April 2018 from ALAB
- Submission from Billy Smyth Galway Bay Against Salmon Cages received 1 May 2018 in response to s 46(1)(a) Notice dated 10 April 2018 from ALAB
- Note from Graham Saunders/Tom Gittings re Marine Institute Sec 47 response dated 2 May 2018

The Board noted that as recommended in the Report of the Chair of the Oral Hearing in this case, the following reports recommended by the Chair had been received

(i) A Supplemental Environmental Impact Statement from the Applicant, which includes a further evaluation of the fish farm risks in respect of the Trafrask River system population of fresh water pearl mussel and its salmonid hosts;

(ii) A desk-top assessment of potential impacts of the proposed fish farm to otter by the Board's Technical Advisor (Dr. Graham Saunders);

(iii) A desk-top assessment of potential impacts of the proposed fish farm to the common seal populations of the Glengarriff Harbour and Woodland SAC, produced by Alex Coram (St. Andrews Marine Research), with an evaluation of the Appropriate Assessment screening undertaken by the Marine Institute ;

(iv) A desk-top assessment of the potential impact to the wild bird Species of Conservation Interest in nearby SPAs, Produced by Dr. Tom Gittings, with an evaluation of the Appropriate Assessment screening undertaken by the Marine Institute;

(v) The marine institute response to the conclusions of the desktop studies;

(vi) A consideration of the issues raised by Marine Institute response on birds, by Dr. Tom Gittings;

(vii) The appellant's responses to all of the above, solicited by Notice dated 10 April 2018 to all parties, being those listed above (save for any response from Mr JB O'Keeffe, for which time extensions has been requested).

Having considered the foregoing the Board agreed the Secretary should seek legal advice as to whether, in respect of the Supplemental EIS, it is ALAB or the Applicant who is required to publish the notification in the same newspaper that the original notice was published regarding the Environmental Impact Statement.

The Board agreed that Graham Saunders, as the Board's Technical Advisor on this appeal, should now be asked to evaluate all of the responses and prepare a revised updated draft of Technical Report for consideration by the Board, highlighting the changes from the last version.

It was also agreed that a Section 47 Notice should issue to NPWS in due course as the responsible authority for *Natura* site designation and species protection seeking further clarification on the following:

1. NPWS's current stance on the status of the freshwater pearl mussel (*Margaritifera margaritifera*) population in the Trafrask river system and, taking into consideration the more recent survey information, whether there any new concerns regarding population integrity and the impact of the proposed fish farm at Shot Head on the potential salmonid hosts migrating to- and from the Dromogowlane River;

2. NPWS's opinion on the cumulative aquaculture risk to the conservation status of the Gannet population of the Bull and the Cow Rocks SPA in the light of the Board's expert advisor's expressed concern over incidental entanglement mortality;

3. Noting the Stage 1 Appropriate Assessment screening was conducted using a spatial limitation of a 15 km radius for a zone of potential impact, justification for which constraint is the recommendation in Appropriate Assessment guidance document "*Environment, Heritage and Local Government (2010). Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities (2010 Revision)*", whether the applicability of this 'generic' distance to mobile species, such as some species of seabirds, is appropriate, observing that this appears to have no scientific basis, and in particular whether NPWS considers the 15 km limit an adequate distance for the evaluation of potential impacts to seabird Species of Conservation Interest such as gannet; and

4. NPWS's response to the finding that an independent evaluation of both the EIA and EIS has concluded that they do not contain an adequate assessment of potential impacts on bird populations and that further Appropriate Assessment screening is required.

However the Board agreed to defer issuing this Notice until such time as Graham Saunders had updated his report, in case additional information is required.

The Board noted it had not requested an assessment from its Technical Advisors of the Marine Institute responses concerning Birds received 2 May 2018 and that it did not propose to consider the

note circulated. It is required that Graham Saunders as the Board's Technical Advisor, incorporate the responses and his assessment of those responses in the consolidated updated draft Technical Advisor's report. Accordingly the note dated 2 May 2018 should be withdrawn.

A letter is to issue to Mr John Brendan O'Keeffe in relation to his email of 11 May 2018 received at 17.23 stating that it is not being considered by the Board.

It was noted that consideration in relation to whether a time extension is required is to be included in the agenda for the next Board meeting.

Dated the 28 day of August 2018

Imelda Reynolds

Imelda Reynolds

CHAIRPERSON