

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



**Submission from Save Bantry Bay
Received 28 April 2018**

Cúirt Choill Mhinsí, Bóthar Bhaile Átha Cliath, Port Laoise, Contae Laoise, R32 DTW5
Kilminchy Court, Dublin Road, Portlaoise, County Laois, R32 DTW5

Guthán/Telephone: 057 8631912 R-phost/Email: info@alab.ie

Láithreán Gréasáin/Website: www.alab.ie



OHara, Mary

From: Alec ODonovan [alecjodonovan@gmail.com]
Sent: 28 April 2018 10:59
To: Mary Ohara (Alab)
Subject: Response to letter of 10 April 2018
Attachments: ALAB 28 April 2018 Letter responding ALABs further information reports otters seals birds.docx

Dear Ms O'Hara

Please find attached reply to your letter of 10 April 2018 in relation to proposed salmon farm at Shot Head Bantry, Ref: T05/555.

Can you please acknowledge receipt of letter.

Your sincerely

Alec O'Donovan

Secretary Save Bantry Bay



SAVE BANTRY BAY

Aquaculture Licences Appeals Board
Kilminchy Court
Dublin Road
Portlaoise
Co. Laois R32 DTW5

28 April 2018

Dear Sir or Madam;

RE: Response to further information reports regarding potential impacts of salmon farming at Shot head on protected sea birds, otters and seals (Ref: T05/555)

We have already made several substantive and procedural submissions in respect of this application. These submissions remain relevant for the purpose of this reply, but in an attempt to deal specifically with the letter of the 10th April, we say the following:

Subsequent to the oral hearing regarding the salmon farming licence awarded at Shot Head, Bantry Bay, ALAB stated before *“making a determination pursuant to section 40(4) of the Fisheries (Amendment) Act 1997, the Board should conduct desk-top studies of the following matters, which may indicate the need for supplemental appropriate assessment (AA) screening for such matters:*

- *An assessment of the otter population of the Dromagowlane and Trafrask catchments, and (if necessary) assessment of potential impacts on otters, including the potential impact of declining wild salmon stocks;*
- *The potential impacts upon common seal populations in the Glengarriff Harbour and Woodland SAC; and*
- *The potential impacts upon wild birds within nearby SPAs.”*

These reports were received by us on 8 April 2018, and include:

1. Report dated 24th November, 2017 by Dr Graham Saunders, comprising a Supplementary Briefing Note assessing the potential impact of the proposed Aquaculture on otter, in particular in respect of its status as a species of interest in the nearby Glengarriff Harbour and Woodland Special Area of Conservation (SAC);
2. Report dated In February, 2016 by Alex Coram of St Andrews Marine Research comprising a Supplementary Briefing Note assessing the potential impact of the proposed Aquaculture on the common seal populations in particular in respect of its status as a species of interest in the nearby Glengarriff Harbour and Woodland SAC;
3. Report dated 5 February, 2018 by Dr Tom Gittings comprising a Supplementary Briefing Note assessing the potential impact of the proposed Aquaculture upon wild birds within nearby SPAS;
4. Notice to Marine institute dated 27 February 2018 issued by the ALAB Board pursuant to section 47(1) (a) of the Ad; and
5. Response of the Marine Institute dated March 28, 2018 to the section 47 Notice referred to at no 4 above.

We wish to raise a number of points in regard to these reports:

Sea Birds

ALAB's letter to Mr Jeremy Fisher, of the Marine Institute, dated 27 February 2018 states:

"A desk-top Bird Impact Assessment has since been undertaken by the Board's Technical Advisors and a copy of the Report dated 5-February 2018 is attached to this Notice. That Report concludes that the EIS and EIA conducted in connection with this Licence Application were flawed with respect to the assessment of the potential impact of the proposed Shot Head fish farms, either on its own or in combination with other aquaculture activities, on birds.

The following issues have been identified in respect of the adequacy of the EIA supplied in support of the Shot Head Licence Application:

- *The EIA contains no assessment of potential impacts on bird populations and does not make any reference to the possible interaction with the gannet colonies of Bull and the Cow Rocks SPA;*
- *The EIA conclusion that there is "no potential source-pathway-target vector" connecting the proposed fish farm site and the Beara Peninsula SPA is incorrect, as the site is within the foraging range of Fulmar, a species of Special Conservation Interest (SCI) of the Beara Peninsula SPA;*
- *The EIA does not consider important non-SPA bird populations which have the potential to interact with the proposed fish farm site.*

In addition, it therefore follows that further Appropriate Assessment screening is required, with the possibility of a Stage 2 Appropriate Assessment being necessary to evaluate the impact on SPA-associated gannet mortalities.

Pursuant to Section 47(1) (a) of the Act, where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine the Appeal it may serve a Notice on a party.

In accordance with the provisions of section 47(1) (a) of the Act, the Board requires the issues specified below be reviewed and addressed:

- 1. The EIA submitted with the Licence Application contains no assessment of potential impacts on bird populations and in particular does not make any reference to the possible interaction with the gannet colonies of Bull and the Cow Rocks SPA. Please assess the potential impacts of the proposed Aquaculture Licence on bird populations and in particular assess the possible interaction of the proposed Licence with the gannet colonies of Bull and the Cow Rocks SPA.*
- 2. The EIA conclusion that there is "no potential source-pathway-target vector" connecting the proposed Aquaculture Licence site and the Beara Peninsula SPA is incorrect, as the site is within the foraging range of Fulmar, a species of Special Conservation Interest (SCI) of the Beara Peninsula SPA. Please reconsider the EIA conclusion in this regard and either confirm the conclusion of the EIA, providing the scientific reasoning and evidence to support your conclusion, or if there is an alternative conclusion, assess the impact of that alternative conclusion and advise if other measures are required.*
- 3. The EIA does not consider important non-SPA bird populations which have the potential to interact with the proposed fish farm site. Please assess the potential impacts on important non-SPA bird populations which have the potential to interact with the proposed Aquaculture Licence.*
- 4. Having conducted further Appropriate Assessment screenings as outlined at 1 above, please consider whether a Stage 2 Appropriate Assessment is necessary to evaluate the impact on SPA-associated gannet mortalities."*

Only the Marine Institute were invited to respond to these potential impacts. The National Parks and Wildlife Service, the competent authority responsible for implementation of the Habitats Directive and nature conservation have not, at any point, been consulted. When determining potential impacts of an industrial scale development, this is a serious oversight. The Marine Institute lies under the remit of the Department of Agriculture, Food and the Marine, and thus cannot be considered neutral on the salmon farm development. DAFM's policy is to significantly increase salmon farming throughout Ireland. It is therefore no surprise their response tried to suggest there would be little impact. However, on careful reading, it become clear this is not necessarily the case. Rather a series of statements suggesting impacts are 'unlikely' are given. Evidence to support these assumptions is lacking in most instances.

Seals

It is clearly stated in Graham Saunders report *"The possibility of acoustic deterrents causing hearing damage to individuals [seals] from the Glengarriff Harbour and Woodland SAC cannot, however, be excluded"*.

Again, there is reasonable doubt as to whether a salmon farm at Shot Head would impact upon protected seals.

What is more, again the National Parks and Wildlife Service were not asked their opinion despite being the competent authority charged with the conservation of seals in Ireland.

Requirements of Habitats Directive

The European commission guidance on the Habitats Directive states *"The preliminary assessment of the impacts of a plan or project on the site, provided for in Article 6(3), enables the competent national authorities to arrive at conclusions regarding the consequences of the initiative envisaged in relation to the integrity of the site concerned... In case of doubt, or negative conclusions, the precautionary and preventive principles should be applied and procedures under art. 6(4) followed. Furthermore, taking into account the precautionary principle and applying a preventive approach might also lead to the decision not to proceed with the plan or project.* [Ref: Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC; January 2007.

http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/guidance_art6_4_en.pdf

This makes it quite clear if there is scientific doubt, the precautionary principle should prevail, and a preventative approach be taken.

As noted above, a negative impact on both seals and protected sea birds have not been absolutely ruled out. Thus there is a reasonable doubt as to whether or not a salmon farm at Shot Head will pose a disturbance to these Annex IV species. Appropriate Assessment, as required by the Habitats Directive, must therefore be completed prior to any licence being awarded.

Salmon escapes

A further item, raised previous but as of yet not addressed, relates to your request that pursuant to section 40(4) of the Fisheries (Amendment) Act 1997, the Board should make every effort to consider the potential impacts of large-scale farmed salmon escapes. How can this be possible, when the DAFM continue to withhold data on a recent large scale escape at Gearhies salmon farm in January 2014 – a location only a few kilometres from

the Shot Head site? For when examining the impacts of escapes, such as genetic dilution of wild stocks, it is vital the cumulative impacts are considered. Without access to the full reports on the escape of almost a quarter of a million salmon only a couple of kilometres away, it will be impossible to genuinely determine the impact of any further large-scale escapes. We continue to await a response on this matter.

Based on the scientific evidence before the Oral Hearing, the admissions of the Developer at the Oral Hearing, the flaws in the EIS, the Supplemental Reports dated: 24 November 2017 by Dr Graham Saunders, 01 February by Alec Coram, 05 February 2018 by Dr Tom Gittings, and the response by the Marine Institute to the Section 47 Notes, there can be no doubt in law that the proposed development is likely to have a significant effect on the Natura 2000 sites and species and as such an appropriate assessment is required under Articles 6.3 of EU Directive 1992/43/EEC, and having regard to recent ECJ jurisprudence, mandatory.

Yours sincerely,

Alec O'Donovan,
Secretary, Save Bantry Bay
Newton House,
Bantry, Co. Cork.

www.savebantrybay.com

savebantrybay2012@gmail.com

