



**Aquaculture Licence Appeals Board
Kilminchy Court
Dublin Road
Portlaoise
Co. Laoise
R32 DTW5**

13 November 2020

To whom it may concern,

RE: AP2/1-14/2015: Response to Supplementary EIS from Marine Harvest Ireland in relation to the foreshore licence application at Shot Head, Bantry Bay, Co.Cork.

Further to your email regarding the Natura Impact Statement (NIS) submitted to ALAB by Bradán Fanad Teoranta t/a Mowi Ireland (formerly trading as Marine Harvest Ireland), in July 2020; and the Appropriate Assessment (AA) commissioned by ALAB and completed by MERC Environmental Consultants in September 2020, we submit the following observations:

We agree with the conclusion and recommendations of the Appropriate Assessment completed by MERC: it is essential more information is gathered on the impacts of closed cage salmon farms on sea bird populations. As noted in both the NIS and AA, currently there is a distinct lack of information on this topic. We therefore concur with MERC's recommendations and request:

- A legal requirement for regular and effective maintenance of mitigations to prevent seabirds from predating on salmon smolts and becoming entangled in poorly maintained equipment. We would add, regular inspections by independent parties must be put in place to ensure this occurs. Should MOWI or other operators to be found in contravention of these requirements fines are required, significant enough to ensure future compliance. Currently, there is no graduated response to license infringements. Such a system is required with increasing severity of penalties, and ultimately license removal. Without such a system there is little or no real incentive for operators to comply with either voluntary or legal operating requirements.

- A single bay management must be required for the Bantry Bay aquaculture sector in order to manage overall impacts from aquaculture and ensure that development and production is managed and co-ordinated in order to mitigate against adverse effects. The requirement should be implemented, supported and enforced by relevant state agencies and responsible authorities with a role in managing aquaculture licensing. Again, should operators not comply it is essential measures, such as fines and ultimately removal of licences, are implemented to ensure future compliance.
- Reporting of interactions between cage aquaculture and wildlife (SCI and protected all species) through open-access publication (e.g via company websites) of data on wildlife interactions and mortality events should be a requirement of future licensing of aquaculture sites. Such systems cannot rely on self-policing alone, again measures with significant enough penalties are essential to ensure ongoing compliance.
- Lastly, given there are currently an additional 24 aquaculture licence applications in Bantry Bay, we request all are required to consider the cumulative impact on wildlife, water quality, local communities, culture and heritage of the area. It is vital the Bantry Bay Charter is considered when determining the outcome of these applications. Furthermore, the importance of a Single Bay Management becomes ever greater with the ongoing exploitation of the Bay.

We continue to have a number of concerns which have yet to be fully addressed:

Issue 1. The risk (i.e. posed by the proposed salmon farm installation) of sea-lice infestation of wild salmonids migrating from/to the Dromogowlane and Trafrask rivers and any implications for local freshwater pearl mussel (FPM) populations. For more details see our previous submission, a copy of which is attached (16 Jan 2019: Letter regarding: AP2/1-14/2015: Response to Supplementary EIS from Marine Harvest Ireland in relation to the foreshore licence application at Shot Head, Bantry Bay, Co.Cork).

Issue 2. The impact of salmon farm waste on water quality in Bantry Bay, having regard to the maintenance of 'good water status' as required under the Water Framework Directive. For more details see our previous submission, a copy of which is attached (16 Jan 2019: Letter regarding: AP2/1-14/2015: Response to Supplementary EIS from Marine Harvest Ireland in relation to the foreshore licence application at Shot Head, Bantry Bay, Co.Cork).

Issue 3. The development is likely to have a significant effect on Glengarriff SAC, as well as on Annex 2 Species including otters, pearl mussels, seals, salmon residing within National Heritage areas and SACs; and potentially Annex V species that visit Bantry Bay such as cetaceans. Yet no Appropriate Assessment was completed to address these species, as is required by the Habitats Directive for any project which may have an impact on Annex V species and Annex II species in protected areas. The EIS and other information submitted by the MOWI (formerly Marine Harvest) is inadequate, has omissions and therefore failed to allow DAFM to fully determine environmental impacts during their decision making. ALAB have confirmed this by requesting information from NPWS, and IFI on these matters, and have determined the presence of pearl mussels in the Dromogowlane River and their conservation significance. Yet this information is dated, and does not constitute an Appropriate Assessment.

What is more, the lack of this information in the application for a licence is a significant omission, meaning the application is defective. As outlined earlier Section 46, 47 and 50 of the 1997 Fisheries Act do not allow for a defective application to be fixed during an ALAB appeal. The appeal process is an administrative review of whether or not DAFM should or shouldn't have granted a licence based on the application submitted. Therefore, the licence was granted on inadequate information, and this information continues to be missing as this particular Appropriate Assessment still hasn't been completed.

We would add, this procedure has not been equitable or fair, as required by Article 6 of the EIA Directive, as the developer has been given repeated opportunities to amend its application, add information and address defects. For an appeal to be fair it must be conducted based on the information put before the original decision maker (Minister for Agriculture and his Dept) – this is how courts of appeal are conducted. Appeals are an administrative review of whether the licence determination has followed correct procedure and is based on substantive information, not an opportunity to correct a defective application. Where there is a defect, the license should be refused on that basis. We therefore request the due process is followed and our appeal upheld.

Yours sincerely,

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