

Public Document Pack

Argyll and Bute Council

Comhairle Earra-Ghàidheal Agus Bhòid

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21 November 2023

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held **ON A HYBRID BASIS IN THE COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD AND BY MICROSOFT TEAMS** on **TUESDAY, 28 NOVEMBER 2023** at **10:30 AM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **MOWI SCOTLAND LTD: FORMATION OF FISH FARM (ATLANTIC SALMON) INCORPORATING TWELVE 120M CIRCUMFERENCE CIRCULAR CAGES AND SITING OF FEED BARGE: NORTH KILBRANNAN FISH FARM, NORTH OF COUR BAY, KILBRANNAN SOUND, EAST KINTYRE (REF: 20/01345/MFF) (Pages 3 - 112)**

Report by Head of Development and Economic Growth

Planning, Protective Services and Licensing Committee

Councillor John Armour	Councillor Gordon Blair
Councillor Jan Brown	Councillor Audrey Forrest
Councillor Kieron Green (Chair)	Councillor Amanda Hampsey (Vice-Chair)
Councillor Daniel Hampsey	Councillor Graham Hardie
Councillor Mark Irvine	Councillor Andrew Kain
Councillor Paul Donald Kennedy	Councillor Liz McCabe
Councillor Luna Martin	Councillor Dougie Philand
Councillor Peter Wallace	

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**Argyll and Bute Council
Development and Economic Growth**

Delegated or Committee Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No:	20/01345/MFF
Planning Hierarchy:	Local Application
Applicant:	MOWI Scotland Ltd.
Proposal:	Formation of fish farm (Atlantic Salmon) incorporating twelve 120m circumference circular cages and siting of feed barge
Site Address:	North Kilbrannan Fish Farm, North of Cour Bay, Kilbrannan Sound, East Kintyre

SUPPLEMENTARY REPORT NO. 3

1.0 INTRODUCTION

The purpose of this report is to update Members of a late consultation response from NatureScot and the implications of this response. This report also updates on the Scottish Government's Vision for Sustainable Aquaculture. This report also provides advice on the latest policy position in relation to this planning application in light of the updated status of proposed Local Development Plan 2, and also to advise Members of late and withdrawn representations, consultee responses and supporting information from the applicant which have been received after the application was presented to PPSL committee on 24th May 2023.

2.0 CONSULTATION RESPONSE FROM NATURESCOT

NatureScot advise that within the last week they received two new documents that were not considered in their updated HRA (issued to the Council on the 23rd May 2023). These are as follows:

- Wild fish monitoring data (2021-2022) collected as part of the Carradale North and South Fish Farm Environmental Management Plan (EMP). This was issued by MOWI (the Applicant) and received by NatureScot and Argyll and Bute Council at noon on Wednesday 23rd August 2023.

Wild fish monitoring results carried out as part of the EMP for the operational Carradale North and South fish farms (approximately 8 km south of the Proposal). This data includes lice levels on wild caught sea trout in Carradale Bay, Kintyre. NatureScot consider that there could be a potential risk that requires further consideration.

- An unpublished summary of the second year (2022) of salmon smolt tracking data from the Firth of Clyde. This was received by NatureScot at 13:15 on Friday 25th August 2023.

The results of this indicate that of the 75 smolts which were detected at or beyond Cumbrae, six were recorded in the Kilbrannan Sound, which represents 8% of these smolts. NatureScot wish to highlight that in 2021 (the first year of this study), no tagged salmon smolts from the Endrick Water SAC were detected in the Kilbrannan Sound and that was the basis on which their original appraisal was made.

NatureScot consider that this new information is material to their appraisal of the implications of this Proposal on the Endrick Water SAC and therefore has the potential to influence their conclusions and subsequent advice to Argyll and Bute Council.

They have highlighted this urgent matter so that the Council has the opportunity to take account of this prior to the planning Hearing on Tuesday 29th August. NatureScot further note that if planning committee were minded to delay the determination of this Proposal, NatureScot would undertake a review of this new information and provide an updated HRA to Argyll and Bute Council accordingly.

Officer Comment: NatureScot have provided advice to Argyll and Bute Council to assist with the conclusions of an Appropriate Assessment (AA) relating to the Endrick Water SAC. The Council as competent authority are required to undertake AAs for European protected sites before planning permission can be approved in order to ensure that there is no reasonable scientific doubt as to the effects of the proposed development. This new information casts doubt on the advice provided by NatureScot on this issue and it is, therefore, considered that the Council would be unwise to proceed to determine this planning application until such time as NatureScot have had an opportunity to fully consider this new information and update their advice to the planning authority.

In these circumstances, it is now recommended to Members that the Hearing is adjourned to allow time for NatureScot to update their advice to the planning authority in the light of the new information received. A copy of NatureScot's letter dated 28th August 2023 is appended to this report.

3.0 VISION FOR SUSTAINABLE AQUACULTURE

Since the publication of the Report of Handling in May 2023, the Scottish Government has published its "Vision for Sustainable Aquaculture" in July 2023. This document sets out the vision for the aquaculture sector and states "The Scottish Government supports the development of a sustainable aquaculture sector, operating within environmental limits and recognises the considerable social and economic benefits the sector delivers today and can deliver in the future." It sets out a vision for Scotland's blue economy that recognises that economic prosperity and well-being are embedded within nature, and in order to harness blue opportunities, Scotland's economy and society must be transformed to thrive within the planet's sustainable limits. The blue economy includes the marine, coastal and the inter-linked freshwater environment of Scotland, the different marine and maritime sectors it supports, and the people connected to it. Whilst this document represents a material consideration in the determination of this planning application it does not change the recommendation on this proposal. The full document is published online: [Vision for Sustainable Aquaculture - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/consultations-petitions-and-statements/vision-for-sustainable-aquaculture-2023/)

4.0 IMPLICATIONS OF PLDP 2 AS RECOMMENDED TO BE MODIFIED BY THE EXAMINATION REPORT

The provisions of S.25 of the Town and Country Planning (Scotland) Act 1997 set out that when making a decision under the Planning Acts, the decision maker is required to have regard to the development plan, and that the determination should be in accordance with that plan unless material considerations indicate otherwise.

The current development plan remains National Planning Framework 4 and the Argyll and Bute Local Development Plan 2015.

However, the provisions of PLDP2 (as modified by Examination) now have enhanced status as the most recent expression of policy by the Council and having reached an advanced stage in the Development Plan preparation process. However, a limited element of uncertainty does remain because further process is required to firstly secure approval of the Council for the modifications, and then the subsequent approval of Scottish Ministers is required prior to formal adoption. Whilst it is by no means certain that PLDP2 will eventually be adopted the advanced stage of the Development Plan process would suggest that this is likely; as the plan preparation process has reached a point that has concluded its extensive public consultation and review by the DPEA no further modification of significance is permissible and as such it is appropriate to consider the implications of this proposed updated policy position when assessing current applications.

It is therefore important to identify if there is any significant difference between the aims and requirements of the current development plan and PLDP2 (as modified by Examination) and, in cases where such conflict arises, to identify whether the provisions of PLDP2 indicate that an alternative outcome might be justifiable as a departure to the provisions of the current development plan.

It is considered that the following policies from pLDP2 would apply to this proposal:

Policy 4 – Sustainable Development

Policy 14 – Bad Neighbour Development

Policy 15 – Supporting the Protection, Conservation and Enhancement of Our Historic Built Environment.

Policy 16 – Listed Buildings

Policy 19 – Scheduled Monuments

Policy 28 – Supporting Sustainable Aquatic and Coastal Development

Policy 63 – Waste Related Development and Waste Management

Policy 73 – Development Impact on Habitats, Species and Biodiversity

Policy 74 – Development Impact on Sites of International Importance

5.0 ASSESSMENT

The assessment of this proposal against PLDP2 as recommended to be modified by the Examination Report is as follows:

Policy 04: Sustainable Development: Promotes the principles of sustainable development and remains generally aligned with the requirements of ABC LDP STRAT 1 and NPF 4 Policies 1 and 2 which have already been applied to the assessment of this matter. No substantive change to previous assessment.

Policy 14: Bad Neighbour Development: Sets out that the Council will resist proposals that would have an unacceptable impact on the amenity of neighbouring land uses. The policy goes on to list the criteria that require to be considered. Policy 14 is aligned with Policy SG

LDP BAD 1 which has already been considered in the main report. No substantive change to previous assessment.

Policy 15: Supporting the Protection, Conservation and Enhancement of Our Historic Built Environment: Sets out that development will not be supported where it fails to protect, conserve or enhance the special characteristics and/or cultural significance of the historic built environment, or to avoid any cumulative effect upon the integrity or special qualities of heritage assets. Policy 15 is aligned with the aims of NPF4 Policy 7 and ABC LDP 2015 Policy LDP 3 which have already been applied to the assessment of this matter. No substantive change to previous assessment.

Policy 16: Listed Buildings: Sets out requirements for development which affects a listed building or its wider setting. The aims of Policy 16 are aligned with the aims of NPF4 Policy 7 and ABC LDP 2015 Policy LDP 3 which have already been applied to the assessment of this matter. No substantive change to previous assessment.

Policy 19 – Scheduled Monuments: Sets out that there is a presumption against development that does not retain, protect, conserve or enhance a Scheduled Monument. The aims of Policy 19 are aligned with the aims of NPF 4 Policy 7 and ABC Policies LDP3 and SG LDP ENV 19 which have already been applied to the assessment of this matter. No substantive change to previous assessment.

Policy 28 – Supporting Sustainable Aquatic and Coastal Development: This is the main policy for the assessment of new aquaculture developments within LDP2. It maintains a similar criteria based approach to NPF 4 Policy 32 and LDP Policies LDP 4 and SG LDP AQUA 1. No substantive change to previous assessment.

Policy 63 – Waste Related Development and Waste Management: Set out the requirements that developments need to make for the storage, separation, recycling, composting and collection of waste. The aims of Policy 63 are aligned with the aims of NPF 4 Policy 12 and LDP Policies LDP 10 and SG LDP SERV 5b.

Policy 73 – Development Impact on Habitats, Species and Biodiversity: This policy seeks to protect habitats, species and biodiversity in relation to legislation, policies and conservation objectives. The aims of Policy 73 are aligned with the aims of NPF 4 policies 3,4 and 32 and LDP Policies SG LDP ENV 1 and LDP AQUA 1.

Policy 74 – Development Impact on Sites of International Importance: This policy resists development which would have a significant adverse effect upon existing or proposed Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) or Ramsar Sites. Where there are likely significant effects Appropriate Assessment are required. The aims of Policy 74 is aligned with NPF 4 policies 3, 4 and 32 and LDP policies LDP 3, LDP 5 and SG LDP AQUA 1.

6.0 ADDITIONAL REPRESENTATIONS

Objections

The Planning Authority received a further representation from:

Friends of the Sound of Jura (FOSOJ) dated 26th May 2023.

Rachel Mulrenan, Wildfish dated 7th August 2023.

Harry Nickerson c/o Cour Ltd., Cour, Carradale, Campbeltown PA28 6QL dated 17th August 2023.

John Aitchison dated 18th August 2023 and 26th August 2023.

John Ford, Chairman, Lochranza & Catacol Community Association dated 24th August 2023.

FOSOJ contend that the Report of Handling unreasonably dismisses the third party modelling provided by MTS-CFD Ltd, which shows that the cumulative impact of sea lice from multiple farms in the Greater Clyde poses a significant risk of harm to wild salmon, including the salmon population of the Endrick Water SAC.

FOSOJ advise that the Council is obliged to protect the SAC's salmon population from harm, beyond reasonable scientific doubt and they content that the MTS-CFD Ltd's modelling results shows that such doubt exists. They feel that the report on handling for the proposed farm has dismissed the MTS-CFD Ltd modelling on the basis of the advice received from Marine Scotland Science, a statutory consultee.

FOSOJ further advise that "Mowi is correct that there is as yet no standard protocol for modelling sea lice dispersal in Scotland, and no standard method for presenting the results. This is why you must be extremely cautious in accepting the results of one source of modelling, particularly when that comes from the applicant. You have been presented with two credible and equally valid sources of sea lice modelling. There is clearly uncertainty about the risk to the Endrick Water SAC salmon population. This cannot be safeguarded beyond reasonable scientific doubt by consenting this farm. You should apply the precautionary principle."

EMPs do not provide the council with an effective means of monitoring and mitigating the adverse interactions between farm reared salmon and wild salmonids.

None of the EMPs imposed as planning conditions by any LPA has yet altered the management of a single salmon farm.

Lice density should be tested by sentinel cage experiments (counting sea lice on captive fish, caged at sea), as it is in Norway, but that has not been done in the Greater Clyde, so instead the Kilbrannan Sound EMP relies on catching wild sea trout to count their lice. Monitoring sea lice in this way is notoriously difficult. In addition, sea trout can return to freshwater to rid themselves of high lice burdens.

There is also no way to attribute sea lice found on wild sea trout to individual farms, so farm operators will no doubt refuse to take responsibility for lice numbers high enough to do harm. Only modelling can attribute sea lice in the sea to individual farms, but the council has no access to independent sea lice modelling for this purpose.

There is no mechanism for the EMP's monitoring plan of the status of the salmon population of the Endrick Water SAC to affect farm management at North Kilbrannan, Mowi's other farms or any of the other farms in the Greater Clyde. How can there be when there is no mechanism in the EMP to attribute the sea lice impacts on that population to individual farms or to all the farms?

"Given the above, the salmon population of the SAC cannot be adequately protected by only allowing the farm to be restocked until after an end of production cycle review, since Argyll and Bute Council lacks the necessary data and mechanisms for adaptive management techniques to be able to address the cumulative risk to wild fish.

In addition, most farms in the Greater Clyde do not have EMPs and they cannot be imposed retrospectively.

This is not an enforceable framework to ensure that any elevated risk to the Atlantic Salmon feature of the Endrick Water SAC can be mitigated before any adverse effect on site integrity can occur."

“In addition, it is categorically untrue, as NatureScot says in the European Site proforma it sent to you on 24th May 2023 that the operation of the proposed North Kilbrannan fish farm will not result in a change to the distribution of the species within the site of the Endrick Water due to the physical separation distance between the SAC and the fish farm.

The physical separation of the farm and the SAC has nothing to do with it as the harm will be done to the SAC's salmon as they migrate through the Firth of Clyde.

Please urgently clarify this with NatureScot.”

“It is not precautionary to consent this development in the hope that SEPA's new regulatory framework will be able to deal with it later. SEPA has not finished its consultation on the new framework but it has already said that its modelling method is intended for risk screening only. It does not include the vertical movement of sea lice for example, so it cannot fully model the risk from multiple farms.

Instead SEPA intends to require fish farm companies to provide their own detailed modelling for consenting purposes. Why would they do that after a farm is consented, except when they were confident that their own modelling would disprove that their farms were capable of doing harm.

This assessment must be made independently of the farm operators and SEPA seems unwilling to make itself capable of doing it.

There is reasonable scientific doubt about long-term harm occurring to the SAC's salmon population, and insufficient cause to believe that adaptive management can mitigate the cumulative risk.

Until SEPA's new framework is in place and proven to be capable of more than risk screening, the council should recommend refusal of the North Kilbrannan application and other fish farm expansion in the Greater Clyde.”

Officer Comment: Further input, summarised below, has been sought and received from the relevant consultees in respect of the issues raised by FOSJ.

Scottish Government's Marine Directorate (formerly Marine Scotland Science) (dated 30/6/22): Advice provided by SGMD should be considered in full and within the context presented. Comments taken out of context may lead to misinterpretation of SGMD advice.

Following the request for additional advice by Argyll and Bute Council, we can advise that the additional modelling information provided shows that both Mowi and FoSoJ's simulations generate elevated lice concentrations over considerable areas during the simulation period.

In the case of the Mowi model, this elevated concentration is in excess of 0.1 lice m² and stretches over a considerable distance from mid Loch Fyne to halfway down Arran. This model also shows the prevalence is close to 1. This value is assumed to be a lice concentration at which low level mortality on smolts can be being induced by sea lice.

In the case of the FoSoJ submission, this provided two figures of modelled distributions for the average sea lice density over a 24 day period (6/05- 30/5). There is no information on the prevalence, however the relative patterns of high and low density from FoSoJ model and Mowi model appear to be similar.

NatureScot (dated 2/8/23): In this instance, the Conservation Objective (CO) relating to the distribution of species within the site only applies for proposals for works within the SAC such as the installation of weirs etc. This CO is in place to ensure that salmon can continue

to access all parts of the SAC that they have done so historically for spawning and/or so that smolts can then migrate back to the sea. Please note that I have confirmed this position with one of our European Site advisors.

Wildfish wish to raise further concerns about the research cited in NatureScot's Habitats Regulations Appraisal (HRA). NatureScot claims that this HRA supports the assertion that the new farm at North Kilbrannan, if approved, would not beyond reasonable scientific doubt negatively impact on wild salmon from the Endrick Water Special Area of Conservation (SAC).

The HRA, submitted by NatureScot to Argyll & Bute Council on 23 May 2023, states:

"This proposal is likely to have a significant effect on the Atlantic salmon qualifying interest of the Endrick Water SAC. This is due to a) the risk posed as a result of the potential impacts of sea lice on Atlantic salmon smolts emigrating through the Firth of Clyde; and b) as a result of genetic introgression should farmed Atlantic salmon escape in to the wild."

In correspondence attached to the HRA, NatureScot stated the following:

"On the basis of the information available to us at this time we conclude that the proposed site at North Kilbrannan is unlikely to contribute significantly to cumulative risk for post-smolts migrating from the Endrick Water SAC. We have reached this conclusion on the basis of sea lice dispersal modelling and evidence relating to smolt migration routes in the Firth of Clyde. In reaching this conclusion we have taken into account recent smolt tracking studies that indicate that the primary migration route for smolts from the Endrick Water SAC passes through the outer Firth of Clyde to the east of Arran. The available sea lice modelling suggests that this area is less likely to be subject to high density accumulations of sea lice. On the basis of the available evidence we consider that the risk posed to smolts passing through this area from the Endrick Water is low."

The research referenced in the above correspondence is: Investigating the behaviour of Atlantic salmon (*Salmo salar* L.) post-smolts during their early marine migration through the Clyde Marine Region (November 2022; available here:

[Investigating the behaviour of Atlantic salmon \(*Salmo salar* L.\) post-smolts during their early marine migration through the Clyde Marine Region - PMC \(nih.gov\)](#)

The research states:

"Because few smolts were detected on line F, it is assumed that they migrate along the east coast of Arran to reach the Irish Sea. Future studies are required to determine the duration spent in this region and potential risk of fish farm exposure. It is important to note that although this study provides important baseline information on the loss rates and potential drivers of post-smolt migration through the Clyde Marine Region, results are limited to only 1 year. Therefore, temporal repeatability of this project over multiple years is required to determine whether migratory patterns and survival rates reported are consistent across time."

It has since come to our attention that there is further data available under this research project, which demonstrates that a) some salmon smolts from the Endrick Water SAC do migrate along the west coast of Arran and b) other fish have been detected on the west side of Arran, in the Kilbrannan Sound, most notably a small number from the Cumbrian Derwent Special Area of Conservation.

Considering the researchers themselves state that “future studies are required to determine the duration spent in this region and potential risk of fish farm exposure”, and with the knowledge that there is further data available to help determine this risk, we would urge Argyll & Bute Council to apply the precautionary principle and wait for the latest data to be analysed and published, so that the Habitats Regulations Appraisal can be updated if needed, before making a decision on this application.

We consider that, in the light of the above, an earlier decision that does not revisit the HRA could be unlawful.

Officer Comment: See point 2.0 above. New information has been received by NatureScot relating to this specific issue and it is being recommended that the Hearing be adjourned to allow NatureScot time to analyse this information and update their advice to the planning authority.

Cour Ltd

This objection questions the validity of the proposed planning condition 16 which relates to the requirement for a communications and monitoring plan in relation to the use of fish bath medications. It is contended by the objector that chemical treatments at a large fish farm can last for twelve days and modelling and physical observation has proved that pollution will be drawn into Cour Bay and may be out of bounds to other users for almost a fortnight which is not only illegal but clearly unreasonable.

It is considered by Cour Ltd that it will be difficult if not impossible for MOWI reliably to alert marine users. Cour Ltd advise that they will not permit any commercial activity by MOWI on their property. Cour Ltd are of the view that the condition would be unenforceable and ineffective.

This letter of objection has also been addressed to SEPA and Cour Ltd has asked SEPA to confirm that they are aware that the Veterinary Medicine Directorate (VMD) only considered the very potent risk to the users and never considered the risk to swimmers when licencing these aquaculture chemicals. Similarly Cour Ltd contend that SEPA should know that the Health and Safety Executive do not hold any information concerning the safety of swimming in aquaculture chemicals. Cour Ltd appealed to the Chief Medical Officer to review the threat from fish farms to public health, but he failed to answer, so they submitted FOI requests and discovered that no branch of NHS Scotland has ever studied the safety aspect near a fish farm. They advise that NHS Highland have declined to provide assurance on the safety of swimmers as they are not qualified to do so and the Chief Medical Officer eventually delegated his response to Marine Scotland. They infer that it is the Council's responsibility supported by SEPA to assess the merits (and legality) of a planning application. Cour Ltd. advise that they have seen the Council's internal correspondence recognising that the planning application should not be consented until NHS Highland have endorsed the industry report on the safety of swimmers. Cour Ltd advise that NHS endorsement has never been given and they failed to assess Cour's counter evidence. Their last word was that they were very unsure about the subject and recommended “a systematic independent review of the health effects and the health impact of fish farms and their chemicals in general and an independent review of the local position”. Cour Ltd has also called on SEPA to revoke the CAR licence they have awarded to this site.

Officer Comment: NHS Highland were consulted on this application and have been provided with both the supporting information submitted by applicant and the third party reports in relation to this issue. NHS Highland have not objected to this planning application. If there was significant concern or uncertainty in relation to a public health issue relating to this

proposal then it would have been expected that NHS Highland would have objected or clearly expressed such matters in their response. However, in the absence of a definitive response on the supporting report or third party reports, officers consider that the addition of a condition requiring the applicant to publicise and monitor bath treatments will allow interested marine users to make an informed decision on whether to access waters in proximity to the fish farm. Officers consider that this would be a competent and enforceable condition. Officers have sufficient comfort from the supporting information and consultation responses to conclude that the proposal would not have a significantly adverse impact on human health which would provide a sustainable reason to refuse this planning application.

John Aitchison

Wishes confirmation that the planning authority have sought and received the latest sea lice monitoring data (including field sampling of sea trout sampling) from the Argyll Fisheries Trust for the area about the existing fish farms at Carradale. The Trust has been sampling fish for the Carradale Farm EMP and for its own long term monitoring programme. It is contended that the planning authority should have access to this information before asking the planning committee to make a decision on any new farm which will add sea lice to the existing sea lice burden in the area.

Mr Aitchison also requests that we seek further clarification from NatureScot on FOSOJ's letter of 26th May 2023. There is concern that NS's argument rests on the presumed passage of these fish to the east of Arran, rather than through the Kilbrannan Sound. The evidence cited is a single tracking study, where several receivers in the Kilbrannan Sound produced no data, and with no comparable array of receivers to the east of Arran. Mr Aitchison wishes the Council to ask NatureScot to explain how this makes them sure beyond reasonable scientific doubt that the wild salmon population of the Endrick Water SAC will not be harmed by exposure to sea lice from this development, in addition to the sea lice from the many other farms in the Firth of Clyde.

Officer Comment: See point 2.0 above. New information has been received by NatureScot relating to this specific issue and it is being recommended that the Hearing be adjourned to allow NatureScot time to analyse this information and update their advice to the planning authority.

Lochranza & Catacol Community Association

Object to the Council passing the responsibility buck onto SEPA in this matter, as it does in various places. SEPA offices are located in North Lanarkshire and nowhere near the Kilbrannan Sound.

Catacol Bay and Loch Ranza on North Arran which are opposite Cour Bay in the marine sense, will become cesspools from this salmon farm proposal.

The SEPA car licence procedure is faulty and yields an unsafe estimate of likely pollution impact.

Note the objection made by the Clyde Fisherman's Association.

Salmon farming by open net aquaculture is an environmental disaster area in progress, as the various objection made in this area really highlight. Argyll and Bute Council should be taking the lead for the West Coast of Scotland in protecting their local environment and by rejecting this MOWI travesty plan today.

Officer Comment: Comments relating to SEPA's regulatory responsibility are not a planning matter. This objection does not raise any new material issues which have not already been considered.

Support

The Planning Authority has received a letter of support on 4th August 2023 from Tavish Scott CEO, Salmon Scotland, 3rd Floor, Venue Studios, 21 Calton Road, Edinburgh EH8 8DL.

This letter outlines the social and economic contribution that the proposal would make to the area.

Note: The full transcript of representations and consultation responses can be viewed on the Council's website www.argyll-bute.gov.uk

Withdrawn Objection

Mr Richard Salt has advised in an email dated 7th August 2023 that he wishes his objection to this proposal to be withdrawn.

7.0 FURTHER SUPPORTING INFORMATION FROM THE APPLICANT

Email (dated 23/8/23) from Stephen MacIntyre, Head of Environment, MOWI Scotland Ltd. in relation to human health and bath medications

MOWI have provided comment on the latest representation from Cour Ltd. on the risk to human health from the release of medicines that may be used at the North Kilbrannan fish farm.

MOWI advise that the wca_environment report, submitted in support of the application by the fish farm company, details a human health hazard assessment of 3 medicines used in fish farming, using well established and internationally accepted risk assessment approaches. For each treatment substance exposure levels have been derived where no health effects are assessed to occur. These levels have been developed following a highly precautionary approach, including the following assumptions:

- That the water concentration is constant irrespective of environmental conditions e.g. temperature, wind, water flow etc.;
- That the water concentration is constant irrespective of treatment frequency;
- That the swimmer is swimming through a static plume, with no adjustment for distance from the fish farm or distance travelled while swimming;
- No allowance for residue degradation or dilution of the substances in the water;
- 100% absorption by dermal and oral routes of exposure.

The wca_environment report concludes that the concentration of medicines azamethiphos and deltamethrin used in a pen bath treatment are lower than the no-effect levels and therefore there is no risk to wild swimmers, at any distance from the farm, from the release of medicine residues from a farm pen following completion of a treatment.

For hydrogen peroxide, the concentration used in the treatment pen is higher than the no effect level so the risk to open water swimmers depends on the dilution and dispersion of medicine residues in relation to the proximity of a wild swimmer, and the time for which the swimmer might be exposed to medicine residues. Dispersion modelling, taking into account

degradation of the compound and dispersion into the surrounding marine environment, demonstrates a rapid reduction in the concentration of hydrogen peroxide below the no effect levels in as little as 30 minutes and generally within a distance of 2-300 m from the treated pen centre point. Even with a worst-case scenario, a swimmer would have to be at the pen edge at the moment the treatment was released, and swim synchronously with the path of medicine dispersion (most likely parallel to the coastline) for a 2-hr period. This scenario seems highly unlikely to occur. If swimmers follow reasonable guidance and remain outside pen grid marker buoys, risk of exposure is reduced even further.

In summary, there is:

- no risk from azamethiphos and deltamethrin;
- minimal risk from hydrogen peroxide, only likely to occur if swimming at pen's edge immediately after and for an extended period thereafter.

To reiterate MOWI advise that, the above conclusions are based on a number of precautionary assumptions, including that water concentration is constant irrespective of treatment frequency. For added context, I would highlight that hydrogen peroxide treatments at the nearby Mowi sites at Carradale have not been frequent. It is not unreasonable to expect that fish health performance at North Kilbrannan might be similar to those at Carradale. Over the past 5 years (1825 days) there has only been 12 days on which hydrogen peroxide treatments have taken place at Carradale, which equates to 0.66% of the time.

Guidance for open water swimmers strongly advises that swimmers should always undertake a risk assessment of their proposed swim before entering the water; this should consider any potential risks related to water quality, weather conditions, temperature and risk of interactions with other marine users and activities. It is reasonable to expect that water users, including wild swimmers, stay a safe distance away from a salmon farm to avoid any risk of collision with workboats or entanglement in farm equipment (pens, ropes, moorings, nets). The same principle would equally apply to open water swimming in a working harbour or adjacent to sewage outfalls. Open water swimmers should therefore not be swimming within the planning/moorings boundary of a fish farm and to do so would be irresponsible. For locational context, the North Kilbrannan fish farm would be approximately 1300m distant from Cour bay.

In terms of the proposed planning condition, should consent be granted, Mowi will commit to implement the required communication plan including the required notification of treatments to local community groups and forums, marine leisure activity providers and landowners local to the site. Mowi highlight that they already operate a notification of treatments procedure as a requirement of ASC certification.

Finally in terms of the wca_environment report, the statement from Cour Ltd. that the report is flawed is false and MOWI refer to the review carried out by the report authors on each of the commissioned reviews by Cour Ltd. The report does fulfil the fundamental requirements for the risk assessment of the three substances under their stated conditions of use and based on the criteria and assumptions as applied (and as clearly stated in the report).

Email (dated 23/8/23) from Stephen MacIntyre, Head of Environment, MOWI Scotland Ltd. in relation to sea lice risk using the output of SEPA's preliminary screening model for the proposed Sea Lice Framework

MOWI have advised that as they consider the outputs of these models to be highly precautionary they have sought clarification from SEPA on their current status and correct

future application. An email from Peter Pollard, Head of Ecology at SEPA is attached to this supporting information. This advises that

“Under the current working arrangements between regulators regarding fish farm consenting, SEPA is not an advisor to local planning authorities on sea lice and wild salmonid interactions. Accordingly, we have not provided comments on sea lice to, or been asked to comment on sea lice by, Argyll and Bute Council with reference to its determination of the planning application for the proposed North Kilbrannan fish farm.

To support our current consultation on a proposed regulatory framework on sea lice, we developed draft sea lice screening models. One of these encompasses part of Kilbrannan Sound. We shared the files for this model with interested parties, including MOWI, on request as part of the consultation exercise.

All the screening models will be further developed before they are used within our regulatory framework. Once finalised, our intent is to use them during pre-application discussions to decide if further assessment of the risk to wild salmon is needed. Where further assessment is needed, the developer will be asked to provide suitable information, including modelling, with their permit application to help us carry out the assessment.

In respect of the planning application for North Kilbrannan, Argyll and Bute Council has not requested comment from us on the status of our screening models; their role once finalised or any reference to them by third parties. However, all aquaculture planning authorities, including Argyll and Bute Council, are aware of our proposed regulatory framework and the consultation document is available to them on our website. Consequently, we expect all authorities will have an understanding that the screening models have not yet been implemented; are subject to change through the consultation process; and will only be used to help decide if more detailed assessment is necessary.”

8.0 RECOMMENDATION

It is recommended that the Hearing is adjourned to allow time for NatureScot to update their advice to the planning authority in the light of the new information received.

Author of Report: Sandra Davies

Date: 28/8/2023

Reviewing Officer: Peter Bain

Date: 28/8/2023

Fergus Murray
Head of Development and Economic Growth



Sandra Davies
Team Leader – Major Applications Team
Development Management
Argyll and Bute Council

28 August 2023

By email only: Sandra.davies@argyll-bute.gov.uk

Our ref: CDM160335

Dear Sandra,

20/01345/MFF | Formation of fish farm (Atlantic Salmon) incorporating twelve 120m circumference circular cages and siting of feed barge, North Kilbrannan Fish Farm, North Of Cour Bay, Kilbrannan Sound, East Kintyre, Argyll And Bute.

Further to our phone call with yourself, Peter Bain and David Logan on Friday afternoon (25th August 2023), we are writing to advise you that we have recently received additional information which we believe has the potential to influence the conclusions reached in our previous appraisal of the above planning application (hereafter referred to as the 'Proposal') and any subsequent advice to Argyll and Bute Council. We consider that this information is relevant to our appraisal of the impacts of the Proposal on the Atlantic salmon feature of the Endrick Water Special Area of Conservation (SAC).

NatureScot's statutory role in the planning process is to focus upon impacts on Scotland's natural heritage that potentially raise issues of national interest, and this includes impacts on sites of European importance, such as Special Areas of Conservation (SAC). In any instance where a proposal could affect a European site, we will undertake our own Habitats Regulation Appraisal (HRA) of the potential impacts and advise the Determining Authority accordingly. To inform our HRA, we consider all supporting information that is available to us, including information submitted in support of the Proposal as well as relevant internal and external sources.

Within the last week we have received two new documents that were not considered in our updated HRA (issued to the Council on the 23rd May 2023). These are as follows:

- **Wild fish monitoring data (2021-2022) collected as part of the Carradale North and South Fish Farm Environmental Management Plan (EMP). This was issued by MOWI (the Applicant) and received by NatureScot and Argyll and Bute Council at noon on Wednesday 23rd August 2023.**

Wild fish monitoring results carried out as part of the EMP for the operational Carradale North and South fish farms (approximately 8 km south of the Proposal). This data includes lice levels on wild caught sea trout in Carradale Bay, Kintyre. We consider that there could be a potential risk that requires further consideration.

- **An unpublished summary of the second year (2022) of salmon smolt tracking data from the Firth of Clyde. This was received by NatureScot at 13:15 on Friday 25th August 2023.**

The results of this indicate that of the 75 smolts which were detected at or beyond Cumbrae, six were recorded in the Kilbrannan Sound, which represents 8% of these smolts. We wish to highlight that in 2021 (the first year of this study), no tagged salmon smolts from the Endrick Water SAC were detected in the Kilbrannan Sound and that was the basis on which our original appraisal was made.

Given the timing of when we received the above documents, we have been unable to consult with our technical advisors and update our HRA in time for the scheduled planning hearing on the 29th August 2023.

We consider that this new information is material to our appraisal of the implications of this Proposal on the Endrick Water SAC and therefore has the potential to influence our conclusions and subsequent advice to Argyll and Bute Council. We wish to highlight this urgent matter so that you have the opportunity to take account of this in your recommendations to the planning committee on Tuesday.

If the planning committee were minded to delay the determination of this Proposal, NatureScot would undertake a review of this new information and provide an updated HRA to Argyll and Bute Council accordingly.

Yours sincerely,

[by email]

Catriona Laird

Operations Officer - West
NatureScot

Delegated or Committee Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No:	20/01345/MFF
Planning Hierarchy:	Local Application
Applicant:	MOWI Scotland Ltd.
Proposal:	Formation of fish farm (Atlantic Salmon) incorporating twelve 120m circumference circular cages and siting of feed barge
Site Address:	North Kilbrannan Fish Farm, North of Cour Bay, Kilbrannan Sound, East Kintyre

SUPPLEMENTARY REPORT NO. 2

1.0 INTRODUCTION

The purpose of this report is to make Members aware of an additional letter received from the applicant dated 23/5/23 in response to late representations.

2.0 DETAIL

The letter dated 23/5/23 advises that Mowi would like to take the opportunity to respond to the three last minute objections to the North Kilbrannan Fish Farm, which have been submitted within two days prior to the Planning Committee meeting scheduled for 24/05/2023. They are surprised and disappointed by the nature of the last minute attempts to lobby the council planners and councillors with these objections which they consider are largely based on personal opinion, lack scientific evidence, and are indeed false. Additionally, they do not find the threatening undertones acceptable.

They contend that an example of the false statements made in these objections include the suggestion that a Google Maps Satellite image can display “large quantities of visible pollution flowing out of that [Carradale] site”. Having looked at the current Google Maps Satellite, which will not be updated to real-time, it is clear that this image displays natural water movement and eddying as a result of vessel movement and current displacement from the infrastructure. Mowi rigorously adheres to strict licence conditions relating to discharge into the marine environment and finds this potentially defamatory claim unacceptable.

With regards to comments made by Ms Burgess MSP on the cumulative impact of sea lice from the proposed North Kilbrannan Fish Farm with the existing farms in Loch Fyne and the Firth of Clyde, MOWI agree and recognise that this is an important assessment to make. They have already taken this into account and submitted cumulative modelling of existing sites within the Firth of Clyde and the proposed North Kilbrannan Fish Farm (dated 12 April 2021). As detailed in this cumulative assessment of all active fish farms in the Clyde area, modelling results show that levels of sea lice occur at low densities (less than 0.1 lice m⁻²) throughout most of the Firth of Clyde and Kilbrannan Sound. Technical details of this modelling can be

reviewed on Argyll and Bute's planning portal and MOWI would be happy to answer any further questions on our cumulative sea lice modelling if needed.

Additional comments made by Ms Burgess MSP refer to Sea Lice modelling carried out by SEPA. MOWI note that the comments do not quote a source document, and the applicant is not aware of finalised results or a published report by SEPA. They believe that this calls into question the source, accuracy, and reasonableness of the information stated as fact. They note that SEPA has engaged with the industry as part of the consultation process developing the Sea Lice Risk Framework and that SEPA's modelling is a screening tool and as a result is conservative. MOWI do not consider that it is appropriate to base the North Kilbrannan decision on a screening tool, particularly one which is not finalised, published, or accepted in regulation. Once a protocol is developed, finalised detailed modelling would be required in addition to the screening tool, which would take into account factors such as lice behaviour and would present more realistic results. Preliminary work by the industry and independent parties replicating SEPA's tool and comparisons with more realistic modelling outputs have shown lower lice burdens than the screening results. Considering the comments made by Ms Burgess, MOWI find it inappropriate for an MSP to intervene at such a late stage with comments that have previously been discussed. MOWI suggest a recourse to the parliamentary standards committee might be appropriate.

The applicant advises that a significant amount of work has been carried out to assess the suitability of the North Kilbrannan Fish Farm by both MOWI and the statutory consultees. They suspect that these objectors have not reviewed or chosen to ignore the scientific-led assessments before repeating opinions which are beyond scientific-based facts. MOWI find this late stage intervention an attempt to lobby against the application very concerning.

3.0 ASSESSMENT

This letter from the applicant does not raise any new material planning considerations over and above those set out, and fully assessed within the main report and supplementary report no.1.

4.0 RECOMMENDATION

It is recommended that planning permission be approved subject to a pre-determination hearing and the revised conditions listed in Appendix 1 supplementary report no. 1.

Author of Report: Sandra Davies

Date: 22/5/23

Reviewing Officer: Peter Bain

Date: 23/5/23

Fergus Murray
Head of Development and Economic Growth

Delegated or Committee Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No:	20/01345/MFF
Planning Hierarchy:	Local Application
Applicant:	MOWI Scotland Ltd.
Proposal:	Formation of fish farm (Atlantic Salmon) incorporating twelve 120m circumference circular cages and siting of feed barge
Site Address:	North Kilbrannan Fish Farm, North of Cour Bay, Kilbrannan Sound, East Kintyre

SUPPLEMENTARY REPORT NO. 1

1.0 INTRODUCTION

The purpose of this report is to make Members aware of additional representations that have been received since the Report of Handling was published for the May PPSL committee agenda and to highlight further submissions that have been received from the applicant and NatureScot.

2.0 REPRESENTATIONS

Richard Prickett, Managing Director of Dorset Cleanerfish Limited was previously a supporter of the application and has asked for his name to be removed from the application.

Members are advised that additional objections have been received subsequent to the publication of the Agenda.

The additional objections are set out below; -

- Ariane Burgess MSP, Highlands and Islands, Scottish Green Party
- Friends of the Sound of Jura c/o John Aitchison by email - objection;
- Jessica Gill, The Old Manse, Skipness, Tarbert PA29 6XT– objection.
- Harry Nickerson, Director, Cour Ltd by email – objection
- WildFish Scotland c/o Rachel Mulrenan, Director by email – objection

NB Full transcripts of all representations can be viewed on the Council's website www.argyll-bute.gov.uk

A summary of the issues raised is as follows:

Sea Lice and Concerns with Environmental Management Plan (EMP) Approach and Impacts on Special Area of Conservation (SAC)

Argyll and Bute Council should confirm that it is aware that SEPA is proposing to use essentially the same threshold for harm to wild salmon post-smolts by fish farm-derived sea lice as the Norwegian state does.

This is significant for the advice that you give the planning committee because MOWI's proposed EMP for Kilbrannan Sound includes the company's modelling of sea lice densities in the Firth of Clyde.

The EMP's analysis of this modelling concluded that the densities rarely exceed a threshold level of harm for wild fish, which it defined as an exposure to 2 copepodid sea lice per square metre of water surface for 24 hours.

The modelling commissioned by Friends of the Sound of Jura that we have sent you previously also referred to a threshold of 2 cop lice/m²/24 hours exposure.

In fact this is the Norwegian State's threshold between a medium and high level of harm. The lice densities in the sea for that threshold are approximately three times higher than the threshold exposure level for harm that SEPA has since proposed to use, which is essentially the same as the Norwegian state's boundary between low and medium harm, not medium and high.

This lower threshold is based on the best available science, which has been rigorously reviewed by the state regulators in Norway.

The Norwegian state uses 0.7 cop/m²/24 hours, an exposure that would result in 10%-30% of 20g salmon post smolts having enough sea lice on them to kill them. The salmon population those fish belong to would then face a medium risk of shrinking as a result of these extra deaths.

SEPA proposes to use the very similar figure of 0.75, based on the same Norwegian science, and confirmed by a separate analysis by Marine Scotland scientists.

SEPA's threshold is intended to keep the risk of increased mortality for individual fish below 10%, in order for the risk of the population shrinking to be low (although not zero).

This means that the conclusions in MOWI's proposed EMP are invalid.

You should reassess the company's modelling results and ours, in the light of the much tighter 0.75 copepod lice/m²/24 hours exposure threshold.

Our modelling shows that in alternate years, when all but one farm in the Greater Clyde are in their second year of production, there is already a significant risk of exceeding the threshold of harm caused by sea lice from the existing farms, when assessed against 0.75 cop/m²/24hours.

Adding a large new farm will increase this risk.

SEPA's preliminary modelling of lice from the area's existing farms shows the same thing - that in alternate years, a significant percentage of young salmon, migrating along different routes through the Firth of Clyde, would be exposed to unacceptably harmful levels of lice (>0.75 cop/m²/24 hours).

Argyll and Bute Council's LDP Policy AQUA 1 obliges it to consider the cumulative impacts of this proposed development and that of the existing farms. As you know, cumulative impact is defined in SPP 2014 as impact in combination with other development. This includes

existing development of the kind proposed, those which have permission and valid applications which have not been determined.

Your statutory advisors Marine Scotland and NatureScot seem to have advised you that this cumulative risk can be managed through an EMP that would only be able to affect the lice numbers on three of the 18 farms that would be operating if North Kilbrannan is consented.

Please ask them to tell you how such an EMP will manage the cumulative risk from the other farms.

Your predecessor Richard Kerr wrote about EMPs to the ECCLR Committee in 2018 (Supplementary written submission from Argyll and Bute to supplementary questions following ECCLR meeting of 6 February 2018). His comments are still valid.

"By the time we get to the point where an Environmental Management Plan has been required by condition, the extent to which that is able to address cumulative issues is likely to be influenced by whether farms in the same water body are in the control of the applicant, or whether there are multiple operators. It is clearly appropriate to ask an operator of a suite of farms to address their response to a condition in the light of those farms which they operate which could reasonably be expected to present cumulative issues, but it is less practical to ask them to address issues arising from farms in the control of others, where their access to information will not be the same.

As a general point about EMP's, whilst they provide some reassurance that wild fish interests are being addressed in the context of a particular application, they are not an appropriate means to provide an area wide response to the overall impact of sea lice. As it is there are many pre-existing sites operating without EMP's, and without any prospect of such unless an application should be made to alter a farm in the future. EMP's are resorted to by Planning Authorities given the lack of an overall area based approach to wild fish interests founded around cumulative impacts. They are only capable of providing a somewhat random and ad hoc response to an issue which is ongoing, regardless of the incidence of planning applications. Accordingly, we have situations where a loch with no applications holding many thousands of tonnes of biomass may not be subject to any ongoing consideration of wild fish interactions, whereas another loch with an application for an extension of a few hundred tonnes may prompt the requirement for an EMP and the potential need to address cumulation with other sites. They are in effect a sticking plaster, not a systematic means of assuring well-being in the wider environment.

Please note that the Planning Authorities responsible for aquaculture are agreed that EMP conditions afford the only means open to them to monitor the effectiveness of an operator's response to the incidence of sea lice arising from the operation of a particular site, and present the only opportunity to require monitoring data or to introduce sanctions in the event that lice numbers after mitigation become significantly more prevalent than envisaged at the application stage. That does not, however, mean that EMP's are the best means of monitoring the impact of sea lice from multiple sources upon a given water body. That would be best addressed routinely on an area wide basis (by Marine Scotland with input from SNH and the DSFB's?) taking into account all existing development, and operating experience gained from that development, without having to wait for a random catalyst presented by a planning application. The haphazard response to date via a small number of EMP's would suggest that responsibility for wild fish interactions has been inappropriately allocated to Planning Authorities, who given their reactive role, are not in my opinion the best placed regulator to address this issue on a comprehensive basis, taking into account cumulative effects."

WildFish Scotland challenge the assertions made in an email from NatureScot to the Planning Authority which concludes “*we are satisfied the LPA can conclude that appropriate measures are in place to ensure that the farm will not compromise the conservation objectives of the Endrick Water SAC and will not therefore result in an adverse effect on site integrity.*” We are adamant that this assurance is flawed for the following reasons (inter alia):

1) Neither NatureScot’s latest advice, nor the EMP, take any account of the cumulative impact of a large additional farm in this section of the Firth of Clyde and associated sea lochs, when it is combined with all the existing farms. The North Kilbrannan site is close to the mouth of Loch Fyne where there are up to ten active salmon farms at any one time operated by another company (Bakkafrost), which is not a party to the EMP. North Kilbrannan, if approved, would likely add to lice loads being produced in and washed out of Loch Fyne as well as lice emanating from all the other farms, such as Ardyne, in the Firth of Clyde area. In the event that monitoring shows elevated lice levels on wild salmonids, then Mowi may well dispute that its North Kilbrannan (and Carradale) farms are responsible and thus refuse to take remedial action; in such circumstances there is no mechanism for compelling the company to do so. Given the impossibility of determining the source of the lice causing elevated counts on the wild salmonids, the EMP will be ineffective. To rely on SEPA’s anticipated and untested sea lice framework at some unknown future date is contrary to the precautionary principle which the “competent authority” is obliged to pay heed to.

Whilst SEPA’s modelling method does enable them to see the percentage of lice contributed per farm in any sea area (inside its WSPZs) and in principle it would be possible to calculate the proportion of a fish’s exposure during its journey through the area that was due to each farm. However, SEPA does not seem to be proposing this.

SEPA is deliberately limiting its modelling to only do risk assessment (e.g., by not adding sea lice biological behaviour to its model), and intends then to ask applicants to do their own, more detailed modelling. This opens up a gap between SEPA’s approach to consenting new farms (assessing lice from all farms but in an incomplete way, with the applicants doing the detail, with implications for potential bias) and the need to do centralised detailed modelling of areas with multiple farms, regardless of whether new farms are proposed, in order to protect wild fish. This is especially necessary where there are SACs, due to NatureScot’s legal obligations. NatureScot has advised colleagues that they have asked SEPA to assess areas that have salmon SACs first, but that does not mitigate the issue that SEPA does not plan to improve its modelling, so any risk-screening it does of SAC areas will still have no detailed modelling, unless the industry volunteers to do it. What is there to stop the industry doing detailed modelling to rebut SEPA’s less good work in SAC areas?

The written submission from Argyll and Bute to supplementary questions following the Environment, Climate Change and Land Reform Committee meeting (part of the Parliamentary Inquiry into salmon farming) of 6 February 2018 noted: “It is clearly appropriate to ask an operator of a suite of farms to address their response to a condition in the light of those farms which they operate which could reasonably be expected to present cumulative issues, but it is less practical to ask them to address issues arising from farms in the control of others”.

In 2020 NatureScot (then SNH) advised Argyll and Bute Council to take note of their advice in relation to a scoping opinion for further proposed fish farms in the Clyde region (reference 19/00233/SCRSCO): “.....there are a number of existing fish farms in the Firth of Clyde area

which have the potential to result in cumulative impacts. The assessment will need to consider the potential cumulative risk from multiple new and existing developments to the SAC and therefore information on any coordinated activity/management should be included. It will be particularly important that any mitigation that is proposed in any subsequent planning application/EIA takes potential cumulative impacts into account and is robust and sufficient to protect the SAC from any adverse effect”.

2) The proposed EMP (and SEPA’s modelling) relies on Mowi performing and recording regular weekly sea lice counts. Salmon farms (including those operated by Mowi) routinely fail to carry out weekly sea lice counts (often for weeks, even months, at a time) for a variety of reasons including “weather”, “veterinary advice” (during disease and/or lice treatments), “harvesting” or “withdrawal period” before harvesting. Analysis of sea lice reported data shows that in 2022, Mowi Scotland failed to submit a sea lice count for 16.8% of its weekly submissions. On some farms, “no count” accounted for over a third (An Camas - 34.6%) of all weekly counts given in 2022. There is no mechanism for forcing companies to carry out lice counts. The absence of lice counts will render the EMP inoperative.

Argyll and Bute and NatureScot may argue that the EMP does not solely depend on sea lice counts on farms as it also depends on feeding back sea lice counts on wild sea trout and ‘monitoring’ the Endrick Water SAC’s and other salmon populations in freshwater. It is extremely hard to catch enough sea trout to get statistically valid sea lice counts – hence no EMPs in Scotland have thus far affected farm management – and there is no mechanism in the EMP to allow monitoring of the SAC’s salmon population to feed back into farm management.

Critically the Endrick Water SAC’s population is already falling. NatureScot has no way of knowing what proportion of that fall is due to each of the existing farms, so how much of any future fall will be due to North Kilbrannan? As emphasised above, the companies will challenge any conclusions drawn about this, during the end of cycle review.

Only modelling can allocate the degree of blame and the need to take action to each farm, but SEPA is planning to use modelling methods that the industry could refute, because they do not include sea lice behaviour. In addition, any assessment against SEPA’s threshold of harm relies on the sea lice dispersion modelling being able to accurately predict the actual lice density in the sea.

None of the Scottish models have been validated, including SEPA’s, so the absolute lice figures they predict can also be challenged by industry. NatureScot seems to have no expertise and little knowledge of how sea lice modelling works or its limitations.

3) NatureScot envisages the North Kilbrannan farm’s management of sea lice being subject in due course to the “the detailed modelling and risk assessment process required under SEPA’s framework”. As noted above, SEPA has said specifically that it will not do detailed modelling, only enough for risk screening.

Additionally, when SEPA’s sea lice framework (the details of which are still being consulted on) comes into force (perhaps in 2024 at the earliest) it will initially only be for new farms or farm expansions. The framework will only incorporate existing farms at some undetermined future date. If granted planning permission, North Kilbrannan will then by 2024 be an existing farm and accordingly not (until some undetermined future date) subject to the SEPA sea lice

framework regime. This will occur only when evidence of harm is presented to SEPA, which really means supplying SEPA with more detailed modelling than its own, for the reasons given above. The industry will not go out of its way to do this unless it is confident it can show that there is no risk of harm.

4) Councils (including Argyll and Bute) readily concede that they do not have the resources or the knowledge to enforce the terms of an EMP. The written submission from Argyll and Bute to supplementary questions following the Environment, Climate Change and Land Reform Committee meeting (part of the Parliamentary Inquiry into salmon farming) of 6 February 2018 acknowledged that EMPs are “somewhat random and ad hoc response to an issue which is ongoing” and “are in effect a sticking plaster, not a systematic means of assuring well-being in the wider environment”.

The EMP provides no reassurance, let alone certainty, that the integrity of the Endrick Water SAC will not be compromised by the proposed North Kilbrannan farm. NatureScot’s position is untenable because it is endorsing a regime under which only three farms are party to the EMP and there is no mechanism whatsoever for feedback from the monitoring of impacts on the SAC to farm management.

Given the uncertainties and the clear risk to wild fish, especially in the SAC with its high threshold of ‘beyond reasonable doubt’, NatureScot and Argyll and Bute should be applying the precautionary principle, rather than hoping to fix matters through limited adaptive management. Consequently, NatureScot’s advice does not stand up to scrutiny and accordingly it would be wrong for Argyll and Bute, as the competent authority, to rely on this advice. In the circumstances we maintain that it would be illegal for Argyll and Bute to approve the North Kilbrannan planning application.

SEPA has trialled that risk-assessment modelling by modelling post-smolts (young salmon) that swim through Loch Fyne and the Firth of Clyde – including the area where Mowi’s new fishfarm is proposed at North Kilbrannan - to reach the sea. Salmon migrating out of the Endrick Water Special Area of Conservation – salmon that are supposed to be protected – also swim through that area in the Firth of Clyde.

SEPA’s modelling did not include sea lice from the proposed North Kilbrannan farm. But it found that, from the existing 17 salmon farms in the Greater Clyde area - between 10 and 30% of migrating salmon would be at risk of death due to sea lice, and 15% of the smolt’s journeys would expose the young salmon to levels of harm above SEPA’s accepted threshold.

The Endrick Water salmon are already in decline. Allowing more finfish farms will expose the wild salmon to even more sea lice and even greater pressure on their populations.

Comment: This application is supported by an EMP which the Council has been advised by its statutory consultees is fit for purpose. It is accepted that in the future the sea lice issue will be more appropriately regulated by SEPA, however, there is no moratorium on marine fin fish applications until the SEPA system is in place, therefore, under the current system an EMP is considered an acceptable way to manage this issue. It should be noted that the EMP contains a requirement for adaptive management and in this respect the applicant has advised that they propose to revise the EMP and include a commitment that the outputs of the modelling and risk assessment process generated under the proposed sea lice risk framework will feed into and influence the first end of cycle review process.

Fish Farm Medications and Impacts on Human Health

You mention that 'Expert opinions have been submitted critiquing the conclusions of the SSPO (now Salmon Scotland) commissioned report on the impacts of fish farm medications on human health. These are from Professor Malcom Hooper, Emeritus Professor of Medicinal Chemistry and Mr Boetimann Isaack, Principal Advisor, Fish River Occupational Hygiene.' We consider it a critical omission that you have not made clear that both experts went beyond a critique and unequivocally stated that the chemical emissions from the fish farm present a risk to public health and safety. It is also a critical omission that you have not mentioned the corroboration of the third expert, Professor Galloway, nor the fact that she was an officially recognised expert member of the UK Government Hazardous Substances Advisory Committee. Decision makers need to know that three totally independent, unconnected and highly qualified experts have concluded that the salmon farm chemicals present a risk to human health and no Government expert has provided any counter-evidence. In spite of this, your recommendation relies on just one Industry sponsored report and the meaningless response of NHS Highland who have declared that they are not qualified to help you decide. The onus must be on the applicant and the Council to confirm that this application will not endanger the public. The balance of evidence (three to one) suggests that it will endanger the public, that no one has calculated how far the risk extends and that there is no legal method of excluding the public from this zone, but your report does not make Councillors aware of this.

You do not mention that there is physical effluent emitted by salmon farms, consisting of pink slime, froth and greasy scum which we have proved will flow into and stagnate within Cour Bay where people swim. We have submitted photographic evidence of this pollution and if you were to look on the Google Map Satellite view of Carradale fish farm right now, you will see evidence of large quantities of visible pollution flowing out of that site. This pollution impacts on the amenity of others in contravention of your bad neighbour policies LDP 8 and SG LDP BAD1 and we question why you are not briefing Councillors about it.

Comment: The planning authority does not have expertise in human health and therefore NHS Highland were consulted on this planning application. Whilst NHS Highland did not give definitive advice on the applicant's supporting report or the reports submitted by a third party, they did not object to the proposal. In order to further reduce risk associated with this proposal, a planning condition is recommended which will require the applicant to advise interested parties when they are conducting bath treatments on the farm.

Site History

You state that 'There have been not previous planning application at this site for a fin fish farm at this location. A Crown Estate licence was consulted in 2006 but this was withdrawn.' This statement is not true. It is true that prior to March 2007, fish farm planning applications were handled by the Crown Estate rather than the Council, but multiple applications were made from 1989 onwards and are a matter of public record. By denying their existence, Councillors are being mis-led, because relevant authorities have already considered and rejected this site for sound reasons. The previous applications include:

- a. 17 February 1989 - Crown Estate Notification of Application for Proposed Marine Fish Farms Sites – 707a Cour, East Kintyre NR831484 – Salmon and Cod.
- b. 12 June 1989 - Crown Estate Ref XX100/719a Which approved a shell fish farm at Eascairt while rejecting other sites that initially included one at Cour. Also XX100/720a and XX 100/778a.

- c. 1 September 2004 - 04/01749/MFF Application to Argyll and Bute Council Fish Farms At Rubha Riabhach. (Rubha Riabhach is at Cour). This was from Lakeland Marine who wanted to farm Cod and this company was absorbed into Marine Harvest (now MOWI).
- d. 27 April 2006 - Crown Estate Ref XX100/118b by Lakeland Marine for Salmon Farms at NR839495 and NR858535 (which are beside Cour).
- e. 25 April 2006 – 06/00873/MFF Application to Argyll and Bute Council for Marine Fish Farm at Rubha Riabhach. The Council Planning Portal shows that this application was only formally closed in 2012.

The Eilean Grianain (Carradale) site was consented in 2009 when Council officials reassured us that no further applications would be permitted further up the Kintyre Coast and there was recognition that sites such as Rubha Riabhach were not suitable. The current application for North Kilbrannan (Rubha Riabhach) commenced with SEPA in 2018. The fact that no approval has been granted previously at Cour or Rubha Riabhach after so many years of consideration between 1989 and now is highly significant, but your report ignores this.

Comment: Marine Fish Farms have only required planning permission since 2009, however, previously planning authorities would have been consultee in the process. The site history listed on the Report of Handling is that which is available on the Council's electronic planning application software. When a planning application is submitted to the Council it is assessed on its merits against the policies of the Development Plan.

Impacts on Listed Building

You state at page 50 that the fish farm is 'outwith sightlines of adjacent Crossaig and Cour.' This is factually incorrect, which can be proved by a site visit, and the entire fish farm will be visible from Cour House. A similarly incorrect statement about the headland of Rubha Riabhach screening the site from Cour House fails to take account of the elevation of Cour House which means that you can see over the top of the headland, leaving the whole fish farm in full view.

Comment: Officers' view on the impact of this proposal on the setting on the category A listed building has been formed through the consideration of the SLVIA submitted as part of the EIAR and a consultation response for Historic Environment Scotland who have not objected to this proposal.

General Concerns Regarding Fish Farms

When you read that MOWI were nominated for the Scottish Polluter of the Year award in 2019, it is very concerning an irresponsible to give them permission to open another farm. Salmon that industrially farmed in open net cages are crammed at incredible densities, which not only causes the fish a great deal of stress but also abets the spread of deadly sea and polluting local waters. Mortality rates on farms can be as high as 57%, high levels of sea lice infestations spread to wild populations, and pollutants used to control the infestations devastate the sea bed ecosystems. Allegedly between April and December 2019, MOWI Scotland applied 19.6 tonnes of formaldehyde used as a pesticide, into Scottish Lochs. Formaldehyde is classified as a human carcinogen and SEPA says that uncontrolled releases "have potential to cause significant harm to the environment".

You have not briefed Councillors on MOWI's poor record of fish farm structural failures and escapes. Allegedly, the new standard of fish farm design will withstand all storms, but critically you have not told Councillors that the design standards are based on a storm of 70 mph winds occurring only once in every 50 years. This area encounters stronger winds than that nearly every year, so the build standard is inadequate. Carradale fish farm catastrophically collapsed in 2020 allowing fish to escape and North Kilbrannan is much more exposed so the risk there is even higher, but Councillors are not being briefed about the facts nor the consequential legal risk.

Comment: Pollution issues are a matter for SEPA. With regard to the risk of escapes, the applicant has provided attestations for the proposed equipment and have introduced new more stringent procedures since the Carradale escape. These are considered to be acceptable.

3.0 FURTHER COMMENT FROM NATURE SCOT

In response to late representations received in relation to cumulative impact and Endrick Water SAC, NatureScot submitted a further response to the planning authority dated 23/5/23. NatureScot have stated that

"We note that the issue of cumulative impacts has been raised. We agree that the consideration of possible cumulative effects is important and we would highlight the need for any regulator to do so as part of the determination process. I would also like to clarify that NatureScot has further considered cumulative impacts based on new information that has emerged since our original response to the application submitted in 2020. On the basis of the information available to us at this time we conclude that the proposed site at North Kilbrannan is unlikely to contribute significantly to cumulative risk for post-smolts migrating from the Endrick Water SAC. We have reached this conclusion on the basis of sea lice dispersal modelling and evidence relating to smolt migration routes in the Firth of Clyde. In reaching this conclusion we have taken in to account recent smolt tracking studies that indicate that the primary migration route for smolts from the Endrick Water SAC passes through the outer Firth of Clyde to the east of Arran. The available sea lice modelling suggests that this area is less likely to be subject to high density accumulations of sea lice. On the basis of the available evidence we consider that the risk posed to smolts passing through this area from the Endrick Water is low.

From the information that is available to us it appears as though the Inner Clyde area (north of the Cumbrae Isles) may be a key area in terms of managing cumulative risk for smolts migrating south from the Endrick Water. A number of proposed new sites exist in this area and should these sites be consented, they could pose a significant cumulative risk to smolts migrating from the Endrick Water SAC. However, we acknowledge that these sites are not currently subject to planning applications and are beyond the consideration of the current application

Based on the above, we consider that North Kilbrannan fish farm will pose a limited risk to the majority of smolts migrating south from the Endrick Water SAC and is unlikely to contribute significantly to cumulative risk. However, we acknowledge that our understanding of sea lice modelling and migration routes in the Firth of Clyde is likely to continue to advance in the future. On this basis, we feel that it is important that the LPA maintain a mechanism to consider any new information that arises, ensuring that they can use the best available evidence as part of their ongoing consideration of potential risk to the Endrick Water SAC."

4.0 CORRESPONDENCE FROM THE APPLICANT

Request for In Person Hearing

In a letter dated 18th May 2023 has written to advise that In the event that a pre determination hearing is confirmed they would request that the format of that meeting includes the option for an in-person hearing local to the development site. They state that while they recognise the advantages provided by virtual hearings and their case for having a permanent role, they believe that full appropriate and balanced participation can be challenging especially for complex applications. If holding the meeting virtually is preferred they would ask that the ability to attend in person is available the applicant and other parties.

Comment on Report of Handling

The applicant has noted that in relation to the human health / wild swimming issue, in section F the report states:

“Expert opinions have been submitted critiquing the conclusions of the SSPO (now Salmon Scotland) commissioned report on the impacts of fish farm medications on human health. These are from Professor Malcom Hooper, Emeritus Professor of Medicinal Chemistry and Mr Boetimann Isaack, Principal Advisor, Fish River Occupational Hygiene.”

The applicant wishes to highlight that they submitted responses from the authors of the report (wca) which places some doubt on the validity of the expert opinions expressed by the above individuals. They wish Members to be made aware that wca have responded in detail to each opinion highlighting some of the comments are not a balanced critique of the assessment report and whilst raising valid scientific and technical issues there is a lack of understanding demonstrated of the regulatory risk assessment process. Wca restate their position that the report does fulfil the fundamental requirements for the risk assessment of the three substances under their stated conditions of use, based on the criteria and assumptions clearly stated in the report.

Comment on Further Consultee Reponses and Representations

NatureScot

The applicant agrees that the EMP framework should provide an iterative approach in respect of use of available and developing evidence and considerations of risk to wild salmonid populations, including the potential for adverse effects on the integrity of the Endrick Water SAC. As such the applicant proposes to revise the EMP and include a commitment that the outputs of the modelling and risk assessment process generated under the proposed sea lice risk framework will feed in to and influence the first end of cycle review process. The applicant would be content to submit a revised EMP, including such a commitment, to be approved in writing by the planning authority prior to commencement of development. In order to secure this commitment a further condition is proposed as follows:

“Prior to the commencement of development, a revised Environmental Management Plan (EMP) shall be submitted which includes a commitment that outputs of the modelling and risk assessment process generated under the SEPA’s proposed Sea Lice Risk Framework will feed into and influence the first end of cycle review.

Reason – In the interests of nature conservation.”

The applicant would also like to re-state that in terms of using best available science and evidence to inform the EMP review mechanism they have proactively implemented a 3-year wild fish monitoring programme in the Endrick Water catchment to develop a comprehensive pre-development baseline on wild salmon population status.

Friends of the Sound of Jura (FoSOJ)

After review the applicant considered that there are no new material considerations presented in this latest response. The applicant acknowledges that the previous modelling submissions submitted through the application consultation process have been well discussed, however they would highlight some key points as follows.

- FoSoJ point out the change in the proposed threshold for sea lice modelling; however, the sea lice risk framework is a proposal currently in development, a process in which Mowi are collaborating with SEPA.
- There is as yet no standard protocol for modelling sea lice dispersal in Scotland, and no standard method for presenting the results. Mowi has however used current established and recognised methods of modelling sea lice dispersal, as used in Norway; these methods have been demonstrated by scientific peer review to provide predictive capability of infection pressure risk on wild salmonids. The conclusions of the sea lice modelling carried out by Mowi, and submitted as an annex to the EMP, remain valid. This modelling which included an assessment of the proposed development and Mowi's existing sites at Carradale showed that lice from farm reared salmon posed a low risk to migrating salmonids.
- An additional modelling assessment was submitted as new information by Mowi (dated 12 April 2021) which included a cumulative assessment of sea lice risk from all active fish farms in the Clyde area. The findings showed low lice levels (less than 0.1 lice m⁻²) through most of the Firth of Clyde and Kilbrannan Sound.
- Mowi highlighted flaws in the structure and approach of the sea lice modelling commissioned by FoSoJ. A review by Marine Scotland found that Mowi had reasonable objections to the FoSoJ modelling.
- Neither Marine Scotland, nor any other consultee, has suggested that the risk to the wild salmonid population from the proposal is significant, individually or cumulatively.
- The EIA report acknowledges that there are uncertainties in the effects on wild salmonids from sea lice; however it is also recognised that EMPs presently provide the most effective means of monitoring and mitigating the potential for adverse interactions between farm reared salmon and wild salmonids. Mowi has developed its EMP framework on an area-based principle and the Kilbrannan Sound EMP includes current active Mowi sites at Carradale.

5.0 ASSESSMENT

The late objections and submissions do not raise any new material planning considerations over and above those set out, and fully assessed within the main report. It is, however, considered that the addition of a further condition requiring the EMP to take account of the Sea Lice Risk Framework as offered by the applicant should be included.

6.0 RECOMMENDATION

It is recommended that planning permission be approved subject to a pre-determination hearing and the revised conditions listed in Appendix 1 of supplementary report no. 1.

Author of Report: Sandra Davies

Date: 22/5/23

Reviewing Officer: Peter Bain

Date: 23/5/23

Fergus Murray

Head of Development and Economic Growth

Appendix 1

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 20/01345/MFF**Standard Time Limit Condition** (as defined by Regulation)**Additional Conditions**

1. The development shall be implemented in accordance with the details specified on the application form dated 29/7/20, the Environmental Impact Assessment Report dated 2020 (and subsequent addendum); and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

The developer and subsequent operator(s) shall at all times construct and operate the development hereby permitted in accordance with the provisions of the Environmental Statement accompanying the application with mitigation measures adhered to in full, and shall omit no part of the operations provided for by the permission except with the prior written approval of the Planning Authority.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	1 of 12	-	25/8/20
Supplementary Location Plan	2 of 12	-	25/8/20
Site Coordinates	3 of 12	-	12/8/20
Plans and Elevations Typical Pen Design Top Net Support	4 of 12	-	12/8/20
Feed Barge	5 of 12	-	25/8/20
Underwater Lighting Technical Sheet	6 of 12	-	25/8/20
Plans and Elevations Typical Net Design	7 of 12	-	12/8/20
Plans and Elevations Typical Mooring Design	8 of 12	-	12/8/20
Plans and Elevations -	9 of 12	-	12/8/20

Proposed Site Configuration			
Plans and Elevations Typical Pen Design	10 of 12		12/8/20
Admiralty Chart Extract	11 of 12		25/8/20
Site Plan	12 of 12		25/8/20

Reason: For the purpose of clarity, to ensure that the development is constructed and operated in the manner advanced in the Environmental Impact Assessment Report, upon which the environmental effects of the development have been assessed and determined to be acceptable.

- The development hereby approved shall not be operated other than with a biomass of 2475.54 tonnes or less.

Reason: The environmental effects of this proposal have been assessed against this maximum biomass.

- Notwithstanding the details given in the Predator Mitigation Plan, no Acoustic Deterrent Devices (ADDs) shall be deployed at the site hereby approved.

Reason: In the interests of nature conservation. This planning application has been determined on the basis that ADDs will not be used. The use of ADDs would be regarded as a material change to the proposal.

- The site shall not be stocked until the wild fish monitoring plan has been agreed which shall include a requirement to monitor the juvenile salmon population in coastal waters within a zone of 30km from the Management Area.

Reason: In the interests of nature conservation.

- As part of the end of cycle review, to be undertaken no later than 6 weeks prior to the end of the growth cycle, the site shall not be restocked until the review has been agreed by Argyll and Bute Council in consultation with NatureScot.

Reason: In the interests of nature conservation.

6. There shall be no use of drift nets, vertical static nets or gill nets to recapture escaped fish.

Reason: In order to avoid putting marine birds, including guillemots, shags, divers and others at risk.

7. The pole mounted top net system hereby approved shall be as noted below unless otherwise agreed in writing with the planning authority in consultation with NatureScot:

	Height (m)
Perimeter Pole Support	Maximum height of 5m above the water surface
	Mesh Size (mm)
Sidewall netting from the bottom to 2m height	25
Ceiling net panel and remaining sidewall netting	100
Colour	Dark grey to black

This shall be subject to review, underpinned by systematic monitoring. The Planning Authority shall be immediately notified in the event of emergence of patterns of entanglement or entrapment of marine birds.

Reason: To minimise the risk to all bird species and to ensure that there are no significant effects on the qualifying interests of the Ailsa Craig Special Protection Area.

8. The proposal shall be undertaken strictly in accordance with the following criteria:
- (a) Operators shall maintain daily records of wildlife entanglement / entrapment using a standardised proforma which shall be submitted to the planning authority and copied to NatureScot at 6 monthly intervals or other specified period to be agreed in writing with the planning authority in consultation with NatureScot. The first proforma shall be submitted 6 months after the development is brought into use unless otherwise agreed in writing with the planning authority in consultation with NatureScot.
- (b) In the event of any significant entrapment or entanglement of gannets, and any other SPA interests identified as relevant to a particular fish farm (e.g involving three or more birds of any named species in any one day and / or a total of ten or more birds in the space of any seven day period and / or repeat incidents involving one or more birds on four or more consecutive days), the operators shall immediately notify both the planning authority and NatureScot;
- (c) Adaptive management approaches should be agreed in writing with the planning authority in consultation with NatureScot in advance of these being implemented.

Reason: In order to ensure that there are no significant effects on the qualifying interests of the Ailsa Craig Special Protection Area. Gannet have an extensive range and would have the potential to become entangled in nets.

9. The site shall be operated, monitored and managed in accordance with the Kilbrannan Sound Environmental Management Plan (EMP) attached to the planning portal on 22 December 2022 and subsequent approved variation thereof. The EMP should be reviewed and updated if required following the adoption by Scottish Government of any new policy framework relevant to wild salmonid interactions. Any proposed amendments to the EMP shall be submitted to and approved in writing by the planning authority prior to the changes being implemented.

Reason: In the interests of nature conservation.

10. The site shall be operated in accordance with the North Kilbrannan Sea Lice Management and Efficacy Report dated 2020 or any subsequent updates of this document which shall be submitted to and approved in writing by the planning authority.

Reason: In the interests of nature conservation.

11. The site shall be operated in accordance with the North Kilbrannan Containment and Escapes Contingency Plan dated 2020 and the North Kilbrannan Inspection and Maintenance Schedule with the exception of any proposed actions contained within these documents limited by other conditions on this planning permission. Any subsequent updates of these documents shall be submitted to and approved in writing by the planning authority.

Reason: In order to minimise the risk of escapes in the interests of nature conservation.

12. In the event that the development or any associated equipment approved by this permission ceases to be in operational use for a period exceeding three years, the equipment shall be wholly removed from the site thereafter, unless otherwise agreed in writing by the Planning Authority.

Reason: In the interest of visual amenity and to ensure that redundant development does not sterilise capacity for future development within the same water body.

13. The finished surfaces of all equipment above the water surface, excluding the feed barge, but inclusive of the surface floats and buoys associated with the development hereby permitted (excluding those required to comply with navigational

requirements) shall be non-reflective and finished in a dark recessive colour in accordance with the details provided in the EIAR unless otherwise agreed in advance in writing by the planning authority.

Reason: In the interest of visual amenity.

14. All lighting above the water surface and not required for safe navigation purposes should be directed downwards by shielding and be extinguished when not required for the purpose for which it is installed on the site.

Reason: In the interest of visual amenity.

15. Prior to the commencement of development a further Waste Management Plan shall be submitted to and approved in writing by the planning authority. This shall include details of the arrangements for the storage, separation, and collection of waste from the site including proposals for uplift from areas where fish farm equipment has become detached from the site.

Reason: To ensure that waste is managed in an acceptable manner.

16. Prior to the commencement of development, a communications and monitoring plan in relation to the use of bath medications shall be submitted to and approved in writing by the Planning Authority. This shall detail the method by which other marine users shall be informed of general safety information that should be considered by water user when in the vicinity of the farm, including when bath medications are being actively use at the site. Thereafter the development shall be carried out wholly in accordance with the Communications and Monitoring Plan unless otherwise agreed, or varied, in writing with the Planning Authority.

The Communications and Monitoring Plan shall include:

- a. A Communications Plan detailing the method by which other marine users shall be informed of general safety information that should be considered by water users when in the vicinity of the fish farm, including when bath medications are being actively used at the site. The Communications Plan shall be informed by the conclusions of the supporting information "Assessment of Potential Risk to Human Health Following Use of Azamethiphos, Deltamethrin and Hydrogen Peroxide; WCA; Dec 2021",
- b. A Monitoring Plan to investigate the dispersal and dilution of Hydrogen Peroxide following its use in bath treatments on the site and the use of these findings to review and update the conclusions in the aforementioned supporting information, and the Communications Plan. The Monitoring Plan shall include provision for reporting the findings to the Planning Authority and securing its written approval for any resultant amendment that may be proposed to the Communications Plan.

Reason: In order to inform marine users of potential risks to human health in the vicinity of the fish farm.

17. No development shall commence until an appraisal of the wholesomeness and sufficiency of the intended water supply and system required to serve the development has been submitted to and approved by the Planning Authority.

Reason: In the interests of public health and in order to ensure that an adequate water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users.

18. The Noise Rating Level attributable to the operation of the approved fish farm operation shall not exceed background noise levels by more than 3dB(A) at any residential property measured and assessed in accordance with BS4142:2014.

Reason: In order to protect the amenities of the area from noise nuisance

19. Prior to the commencement of development, a revised Environmental Management Plan (EMP) shall be submitted which includes a commitment that outputs of the modelling and risk assessment process generated under the SEPA's proposed Sea Lice Risk Framework will feed into and influence the first end of cycle review.

Reason: In the interests of nature conservation.

Argyll and Bute Council
Development & Economic Growth

Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 20/01345/MFF
Planning Hierarchy: Local Application
Applicant: Mowi Scotland Ltd
Proposal: Formation of fish farm (Atlantic Salmon) incorporating twelve 120m circumference circular cages and siting of feed barge
Site Address: North Kilbrannan Fish Farm North of Cour Bay Kilbrannan Sound East Kintyre

DECISION ROUTE

- Delegated - Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997
 Committee - Local Government Scotland Act 1973
-

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Formation of fish farm (Atlantic Salmon) incorporating twelve 120m circumference circular cages

Siting of feed barge

(ii) Other specified operations

- Maximum biomass 2475.54t
-

(B) RECOMMENDATION:

It is recommended that planning permission be approved subject to a pre-determination hearing and conditions.

(C) CONSULTATIONS:

SEPA (dated 1/1/20, 15/4/21): No objections.

We have received and processed an application for this proposal under The Water Environment (Controlled Activities)(Scotland) Regulations 2011 (as amended) (CAR). The licence (CARL/1161821) has been issued.

SEPA consultation (dated 10/12/21) in response to the submission third party modelling and concerns over azamethiphos use and EQS exceedances.

Whilst the most recent report still implies that the Azamethiphos on the licence will not comply, SEPA believe that this is still unlikely, for the following reasons:

- There is evidence in the scientific literature that the “tracer” method used by MTSCFD can be less accurate than the more often used “particle tracking” approach. The tracer method can lead to larger areas shown to be above EQS. This is an issue with the method, not the turbulence model used. SEPA has compared both approaches in our model and found the tracer to give larger area predictions but similar peaks to the “particle tracking” method.
- The turbulence model used by MTS-CFD is likely to result in low levels of dispersion, by default. Normally, this would be checked against a dye/drogue release. Kilbrannan sound is dynamic and dispersion in this area is likely to be greater than a default turbulence model suggests.
- SEPA believe there may be other issues with the approach which would be revealed if their model was compared against suitable drogue/dye data or if we had access to the modelling files.
- All modelling used to derive a consent is conservative. Real world dispersion is often found to be greater due to the influence of meteorological and oceanographic processes which cannot be easily included in models. MTS-CFD modelling has been undertaken during a two-week period of zero wind or a two-week period of easterly winds. These conditions are not likely to occur often.

Marine Scotland Science (18/9/20, 15/2/21, 17/3/21,14/5/21 and 11/4/23): It is noted that a CAR licence already granted by SEPA covers the proposed cage size and arrangement and the proposed biomass.

The proposed site sits outwith any Location Guidelines categorised water body. The applicant’s submitted assessment shows that there will be no significant nutrient impacts either at the site level or cumulatively in the area as a result of this site.

It should be noted that there are several other marine fish farm sites proposed in the vicinity which may impact the disease management areas. The site proposed by the Scottish Salmon Company on the north coast of Arran which currently pending approval of planning permission would not directly influence the proposed site if it was the only other additional active site. However several other proposed sites which are at the screening and scoping stage of the planning process could further impact disease management areas in the vicinity if they were developed with the potential for significant changes to the disease management areas in the south west.

The location of the site lies outwith current farm management areas (FMAs) but is expected to be included within the nearest FMA M-47 which includes the applicant’s existing Eilean Grianain site (Carradale North and South). The applicant has stated

that these sites will be operated synchronously, being stocked at the same time with the same year class of fish and observing a synchronous fallow period.

Wild Fisheries

There is one other aquaculture site within 15km, as such, cumulative factors may come in to play. Kintyre and the Isle of Arran are known to have fisheries for salmon and trout. The development has the potential to cause risks to wild salmonids.

Environmental Management Plan

The supplied EMP meets the criteria required by Marine Scotland. It should be noted that no in feed treatments are licenced for use on the site.

MSS Comments (15/2/21)

The applicant has provided further details of the treatment of cleaner fish and the escapes contingency plan has been updated.

The applicant has submitted details of environmental site surveys undertaken at the site by Aquastructures in accordance with A Technical Standard for Scottish Finfish Aquaculture. Environmental parameters wind, wave and current have been assessed on 10 and 50 year storm periods. A detailed mooring line analysis has been conducted for the sub-surface grid and pen floating collars and the feed barge to specify the standard of equipment required for the predicted forces. Given that the equipment used for pen moorings match or exceeds the specification and is installed and maintained appropriately, the information provided is deemed satisfactory.

The applicant has detailed a series of remedial and improvement actions being implemented following the detailed root cause analysis on the containment breach at Carradale.

MSS Response (17/3/21)

Consultation response confirming acceptance of further information on revised procedures following escape.

MSS Response (14/5/21)

Comments in relation to third party sea lice hydrodynamic model submitted.

MSS Updated comment (11/4/23):

Aquaculture Animal Health

Disease Management Area

There are no further new developments proposed in nearby production areas. The new sites previously proposed in the surrounding areas have not been developed (see appended map). There have been no subsequent planning applications received for the sites proposed by Dawnfresh Fish Farming following the 2019 screening and scoping applications; and The Scottish Salmon Company site on the North coast of Arran was refused planning permission. Therefore, the extension of the existing E Kintyre 19c disease management area (DMA) northwards to encompass this proposed site will not currently be impacted by any other site developments.

Sea Lice History

In the most recent production cycle, numbers of the adult female sea louse *Lepeophtherius salmonis* at the applicant's nearby Eilean Grianain site have

remained below MS reporting levels to date since stocking in October 2021. Towards the end of the production cycle sea lice levels have risen above the CoGP suggested criteria intermittently.

Other comments previously provided on sea lice management measures proposed by the applicant for this application are still deemed relevant and satisfactory and there are no change to these.

Environmental Health (24/9/20): Water supply condition relating to feed barge recommended.

Royal Yachting Association (dated 17/2/20): No objections.

NatureScot (14/10/20 and 25/2/21): The proposal raises natural heritage issues of national interest we therefore object to this proposal until further information is obtained in relation to the Endrick Water SAC.

The proposal could affect the internationally important Ailsa Craig SPA and NS object to the proposal unless it is made subject to conditions so that works are done strictly in accordance with specified mitigation.

The proposal will not raise landscape or visual issues of national importance.

We are content that the proposal will not result in significant impacts upon any priority marine habitats or species.

Response dated 25/2/21 following the submission of additional information:

The proposal could be progressed with appropriate mitigation. However, because it could affect internationally important natural heritage interests, we object to this proposal unless it is made subject to conditions so that the works are done strictly in accordance with the mitigation detailed in our appraisal.

NatureScot (10/5/23): We acknowledge that the available information, both in terms of advancements in lice modelling capabilities and knowledge of post-smolt migration routes, has advanced significantly since this planning application was submitted in July 2020. On the basis of the new information available, some additional concerns arise regarding the potential risk that this development could pose to the Endrick Water SAC.

The Environmental Management Plan (EMP) approach was developed to address the complex issue of lice management through the planning process. The EMP is an iterative process that uses monitoring results gathered over the course of a production cycle to assess the level of risk posed to migrating post-smolts, and where relevant implement appropriate management to address any such risk. By ensuring that the EMP incorporates an end of production review and by requiring a condition that the site shall not be restocked until that review process is complete, the Local Planning Authority (LPA) is provided with an enforceable mechanism to address any elevated risk that is identified.

Concerns arise with regards to the consenting of additional biomass in areas identified as higher risk through screening modelling carried out by SEPA as part of the development of their sea lice risk framework. We acknowledge these concerns and agree that the best available information should be considered as part of the planning process.

Following further discussions with SEPA we are satisfied that provided the EMP incorporates a review process and a commitment not to restock until the review is complete, the LPA will have a mechanism to integrate the detailed modelling carried out by SEPA as part of their sea lice risk framework within the EMP review. This will

allow the LPA to take appropriate action for this site, should any elevated risk be identified through either the EMP monitoring or the modelling and assessment required as part of the forthcoming SEPA framework. Depending on the level of risk, this could include requiring enhanced sea lice management measures, reduced stocking or ultimately preventing the site from being restocked. As a result, we are satisfied that the LPA will have a mechanism to consider the best available information and take appropriate action, should it be required to address any risk in the future, therefore ensuring that this proposed site will not result in an adverse effect on the integrity of the Endrick Water SAC.

We would also highlight that should this site be granted planning permission, we expect that SEPA's sea lice risk framework will be fully implemented by the end of the first production cycle. We therefore anticipate that the detailed modelling and risk assessment process required under SEPA's framework will feed in to and influence the first end of cycle review process required as part of the EMP. On this basis, we are satisfied the LPA can conclude that appropriate measures are in place to ensure that the farm will not compromise the conservation objectives of the Endrick Water SAC and will not therefore result in an adverse effect on site integrity.

NatureScot (dated 10/5/23): We are not aware of freshwater pearl mussels (FWPM) in any watercourses within 1 km of the proposed North Kilbrannan Fish Farm, however please note that this does not mean that the species may not be present. NatureScot did commission a Kintyre wide FWPM survey of potentially suitable watercourses in 2015, however unfortunately access was not granted at the time to survey the Crossaig Burn.

West Highland Anchorages and Moorings Association (dated 31/8/20): This application is in the Clyde Area where WHAM is not competent to comment.

Argyll and District Salmon Fishery Board (dated 31/7/20): Object to the proposal.

The current planning and regulatory system does not sufficiently protect wild fish and a new regulatory system, as recommended by the Salmon Interactions Working Group, should be put in place prior to any growth in consented biomass. Recent history of escapes in high energy locations which offers no assurance of containment in the pens for the new proposal.

The conservation status of local salmon populations which may suffer permanent adverse damage from aquaculture related additional pressures.

This farm sits on a likely migratory path for wild salmon from numerous rivers in Loch Fyne, west Arran and East Kintyre and possibly the Kyles of Bute and the Clyde Estuary, increasing the potential for negative interactions. We previously issued a holding objection and requested that the EMP be revised to include details of how the plan will be protective of the freshwater salmon population of the Endrick Water SAC.

Marine and Coastal Development Policy Officer (dated 20/10/20): Comments made in relation to benthic impacts, water column impacts, interaction with predators

Biodiversity Officer (dated 9/1/21): The applicant has answered queries raised in relation to wild salmon interests by developing the EMP where partnership working and cooperation between the applicant and the stakeholders is embedded in the plan along with the overall aim and the elements to address issues relating to sea lice, I recommend that this working document is signed off by all parties prior to

determination by the Planning Authority. In relation to ADDs and other predator control, the applicant has agreed not to use these and is reliant on the design of the nets to manage this issue.

Northern Lighthouse Board (22/1/21): No objections subject to navigation conditions.

Clyde Fishermen's' Association (dated 18/3/21): Object to the application on the grounds of lack of cooperation with aquaculture companies, loss of fishing grounds, chemical pollution and sewage, loss of shelter / safe grounds and economic loss and mortality and lice.

Fisheries Management Scotland (9/10/20): Object to the proposal for the following reasons:

The current planning and regulatory system does not sufficiently protect wild fish and a new regulatory system, as recommended by the Salmon Interactions Working Group, should be put in place prior an any growth in consented biomass.

Recent history of escapes in high energy locations which offers no assurance of containment in the pens for the new proposal.

The conservation status of local salmon populations which may suffer permanent adverse damage from aquaculture related additional pressures.

This farms sits on a likely migratory path for wild salmon from numerous rivers in Loch Fyne, west Arran and East Kintyre and possibly the Kyles of Bute and the Clyde Estuary, increasing the potential for negative interactions.

West Coast Regional Inshore Fishery Group: No response to date.

Argyll Fisheries Trust: No response to date.

Historic Environment Scotland (dated 28/9/20): We do not object to the proposals. Although the North Kilbrannan, Carradale Fish Farm would be located outside of Cour Bay and would be of limited visibility in views to and from the Category A-listed Cour House (LB18360) itself, we consider that significant impacts on the setting of House are unlikely. Therefore, we wish to reiterate our previous advice (19/02422/SCRSCO, 22 January 2020) that we have no further comment to make regarding the above proposals.

East Kintyre Community Council: Support the application. Although the application falls within the Tarbert and Skipness Community Council area it also impacts directly upon Carradale and East Kintyre. Carradale has a very good working relationship with the local MOWI team and we are delighted that the company offers such good employment and career opportunities otherwise unavailable to local residents. Carradale Harbour is utilised by MOWI as the shore base for their operations and we are keen to encourage this to continue. East Kintyre Community Council and Carradale Community Trust are working in partnership with MOWI to improve harbour facilities. Dredging and pontoons are developments in the pipeline, both will greatly enhance the harbour area for locals and tourists alike,

Tarbert and Skipness Community Council (dated 2/10/20 and 18/2/21): Object to the proposal. This is a very exposed site and there is concern about escapes give the recent escapes from North Carradale Fish Farm. Concern about contamination of the sea bed. The Tarbert fishing fleet will lose yet another area of sea bed which will make profitable fishing even more difficult. Any issues which

affect the fishing fleet will undoubtedly have a direct effect on employment in the area. The fish farm will detract from wild seascapes and will have a negative impact on tourism. Waste (non-fish) management plans shown in the EIA do not leave one with a lot of confidence. Mostly stating that “Disposal must comply with regulations” without showing the operational method which will be utilised to achieve that end.

Concerned about the issues raised by the use of azamethipos in this setting.

NHS Highland (dated 18/7/22): NHS Highland is not able to give a definitive opinion on the safety of wild swimming in the vicinity of the fish farm simply based on this report. However, based on the available evidence. NHS Highland does not wish to object to the application.

NHS Highland Response to additional reports submitted by objector (dated 29/3/23): The documents that have been submitted and that you forwarded to me raise further issues about the potential risks from chemicals that would be used should the planning application be granted and should the development proceed. There are also further comments about the validity of the work that was commissioned from WCA as part of the application. As I noted in my previous response, we do not employ ecotoxicological or chemistry experts, so it was not possible to give fully informed comment on the report. Likewise, where specific issues have subsequently been raised about toxicology or modelling it is not possible for NHS Highland to give a fully informed view. The nature of the evidence in this area means that there remain many assumptions and a limitation in the amount of direct evidence. It would be helpful to have both a systematic independent review of the health effects and the health impact of fish farms and their chemicals in general and an independent review of the local position. In the absence of these the position of NHS Highland remains unchanged.

North Ayrshire Council (dated 21/3/22): No comments.

(D) HISTORY:

04/01749/MFF – consultation from Crown Estates on screening opinion

06/00873/MFF – Proposed fish farm sites at Rubha Riabhach and Port Fada. Application withdrawn.

19/02422/SCRSCO – Screening and scoping for proposed marine fish farm.

(E) PUBLICITY:

ADVERT TYPE:
Regulation 20 Advert Local Application
EXPIRY DATE: 19.02.2021

ADVERT TYPE:
ENVASA Addendum EA Advert
EXPIRY DATE: 14.02.2021

ADVERT TYPE:
Environmental Assessment Regs Adv (28)
EXPIRY DATE: 11.10.2020

ADVERT TYPE:
Regulation 20 Advert Local Application
EXPIRY DATE: 02.10.2020

(F) REPRESENTATIONS:

(i) Representations received from:

A list representations can be found in Appendix D

Representations are published in full on the planning application file and are available to view via the [Public Access](#) section of the Council's website.

(ii) Summary of issues raised:

Objections

Human Health / Immersion in Water and Wild Swimming

Concerned about the impact of fish farm medication accumulation in proximity to where people swim at Cour Bay and Grogport;

SEPA has advised that they do not assess the impact of organophosphates and other pollution on swimmers and other recreational users before they issue a car licence. I believe that SEPA has failed to comply with the Water Environment (Controlled Activities (Scotland) Regulations 2011 which requires them to assess the impact on other marine users before issuing a CAR licence.

Expert opinions have been submitted critiquing the conclusions of the SSPO (now Salmon Scotland) commissioned report on the impacts of fish farm medications on human health. These are from Professor Malcom Hooper, Emeritus Professor of Medicinal Chemistry and Mr Boetimann Isaack, Principal Advisor, Fish River Occupational Hygiene.

It has been requested that comments be sought from NHS Highland on the independent expert opinion papers.

The use of organophosphates in or around these waters is totally unacceptable and SEPA's licencing of azamethiphos here is a fault, as no assessment of its threat to human health has been made in spite of studies that implicate it.

Comment: NHS Highland has been consulted on the application supporting document on this issue and also the expert opinions submitted by a third party. NHS Highland has confirmed that they do not wish to object to the proposal. For further information see assessment.

Pollution

Kilbrannan Sound is an estuary which is not dispersive and therefore prone to stagnate.

SEPA has relied on their assessment that the Kilbrannan Sound is dispersive which contradicts multiple other official reports which state that it is stagnant. As SEPA has admitted to faults in their granting of the CAR licence, there is reason to doubt their credibility, so the Council needs to justify their decision if they decide to ignore other official documents which support our local observations.

Argyll and Bute Council cannot be sure that the accumulative pollution from multiple fish farms will not endanger public safety, so the precautionary principle must apply.

Comment: SEPA are the Council's expert advisor on these issues. They do not object to the proposal and have issued a car licence.

Impacts on Wild Salmonids

Concern that sea lice emanating from fish farms will decimated the stocks of wild salmon and sea trout.

Mass escapes and deaths at Carradale recently demonstrate that they are not well managed and that the operators cannot guarantee that there will not be more escapes.

Escaped MOWI farmed fish are being found in the river Garnock which threaten the wild salmon stocks. The escaped fish are attracting people to come and fish for them who have not bought permits.

The proposed site is a key migration route for salmonids spawning in Loch Fyne and the Clyde. It would be irresponsible to site the fish farm in the Kilbrannan Sound which has been recognised by both Marine Scotland Science and the River and Fisheries Trust of Scotland as one of the most sensitive areas for Atlantic salmon in Scotland.

This environmentally catastrophic industry will eventually be regarded with the same horror that we view rainforest deforestation for palm oil – it is simply a matter of time and I urge you not to be responsible for adding Cour Bay to the casualty list. The industry is completely self-regulated which entirely at odds with any other form of farming. As a result, it destroys the seabed, releases tonnes of chemicals into the marine environment and it is a complete disaster for wild salmon and sea trout due to the spread of disease, sea lice and the genetic threat posed by interbreeding with escapees.

EMPs are insufficient to enable the Council to meet the test in Article 6(3), and is inadequate mitigation for the impacts likely to occur on wild salmonids, including those protected under the designation of Endrick Water SAC.

While we wait for the revised regulatory system, the Council still has duties under the Nature Conservation (Scotland) Act 2004 in relation to the furthering of nature conservation and biodiversity, in this case in relation to wild salmon and sea trout. In this context the Council should seek to continue, as it has recognised in relation to other recent fish farm applications to seek to ensure that the goals of the inter-government North Atlantic Salmon Conservation Organisation (NASCO) are met. For sea lice, NASCO best practice is for "100% of farms to have effective sea lice management such that there is no increase in sea lice loads or lice-induced mortality of wild salmonids attributable to the farm. For escapes, NASCO best practice is to ensure that "100% of farmed fish are retained in both freshwater and marine production facilities. The Council should not only judge this application from MOWI as against NASCO objectives and, throughout its deliberations, place the strongest possible

emphasis on meeting the NASCO objectives, it also has strict legal duties specifically to protect the Atlantic salmon population of the Endrick Water SAC.

Given the history of escapes from fish farms, it will not be possible for the Council rationally to conclude that there will not be escapes from the site proposed at North Kibrannan that can have an impact on the site integrity of the Endrick Water SAC.

No mitigation is possible for an escape once it occurs. As such, it would be irrational of the Council to grant planning permission for this high energy site, which is a more exposed location than the Carradale North site.

Wild salmon smolts leaving the Endrick Water SAC must swim through the Firth of Clyde and / or Kilbrannan Sound to reach the open sea. As Appropriate Authority, Argyll and Bute Council must be certain beyond reasonable scientific doubt that these salmon will not be affected by lice or other effects from the new fish farm and such certainty is clearly impossible. Hydrodynamic modelling show that water often flows anti clockwise around Arran, so the wild smolts may well swim this way. The modelling shows that sea lice released by multiple fish farms are carried into Kilbrannan Sound, where they would overlap with lice from the North Kilbrannan farm and from Mowi's existing 5000 tonne farm at Carradale. The Council must declare on what basis it is certain that this cumulative impact will not harm the integrity of Endrick Water SAC, otherwise it invites a judicial review.

The applicant has failed to consider the existence of an autumn smolt run within the Endrick SAC for which there is growing evidence.

The development would also adversely affect sea trout.

There is no clear and robust enforcement mechanism in the EMP. There is insufficient regulatory capacity within the planning department to enable it to take a consistent and regular inspection and enforcement role here.

It is well established by scientific research that salmon are most vulnerable to lice infestation at the post smolt stage so they will definitely be impacted upon by this development.

The North West Angling Trust Fisheries Consultative Council (NWATFCC) represents the affiliated and collective interests of the five major NW game fisheries – Border Esk, Eden, Derwent, Lune and Ribble. The NW river fisheries comprise 30% of England's reported rod caught salmon and are in the immediate vicinity of Argyll salmon farm developments. The Kintyre peninsular and Northern Ireland coast forms the pinch point and pathway for our migrating salmon smolts. On 25th September NWATFCC received the first reported captures of farmed salmon in the Solway Firth rivers Border Esk, Eden, Derwent and Annan, followed by further reports from the West Cumbrian Ehen and the River Lune on the Morecambe Lancashire coast. MOWI are responsible for the following recent incidents of escapes:

16,000 salmon at Carradale in June 2015;

24,752 salmon from a holed net in Hellisay in November 2018;

23,970 due to net failure and equipment damage – Hellisay in October 2019;

73,600 pen failure on Colonsay in Jan 2020;

48,834 mooring failure and storm damage to Carradale North cages in August 2020.

The Council should take full account of MOWI's present record in failing to meet industry standards, its wider responsibility under the European Habitats Directive to protect the environment and noted species and further the international NASCO measures and targets designed to protect and restore North Atlantic salmon populations.

Crossaig Burn which is located less than 1km from the site has not been listed as a local salmonid river by the ADSFB. I suggest the reason that Crossaig Burn is not listed is because it has not been fished by angler in recent years and netting is not currently taking place but if the burn and its estuary were monitored effectively and independently, it would, I suspect, reveal the continued presence of a concentration of wild salmonids, that because of the proximity to this proposed fish farm will be affected adversely.

THE MOWI proposed Cour Bay site is located between 3 salmon rivers on east Kintyre (Carradale Water, Claonaig Water and Skipness River) and 2 rivers on west Arran (Machrie River and Iorsa River). This proposal to site an open net salmon farm equidistant from 5 wild salmon rivers demonstrates a complete indifference by MOWI to any form of sustainable protection of wild salmon stocks.

The current planning and regulatory system does not sufficiently protect wild fish and a new regulatory system, as recommended by the Salmon Interactions Working Group should be put in place prior to any growth in consented biomass.

The proposed site is on the likely migratory path that wild salmon take from numerous rivers in Loch Fyne, west Arran and east Kintyre and possibly the Kyles of Bute and the Clyde Estuary.

The proposed salmon farm also has the potential to impact salmon and sea trout populations across Ayrshire's 6 important salmon and sea trout rivers and their tributaries. There are numerous coastal burns that may also be potentially impacted both where there are no angling interests nor bodies to represent the ecological value of these watercourses.

The proposed development will have an adverse impact on juvenile sea trout. They tend to remain in local coastal waters and have a tendency to be strongly impacted by sea lice.

The Loch Lomond system (including the Endrick SAC) has perhaps one of the last notable runs of sea trout on the Scottish west coast mainland, with recent catches numbering up to 2,000 per annum. Unless the sea trout stocks remain close to the Leven mouth they will in all likelihood be impacted by this development.

The proposed salmon farm has the potential to impact salmon and sea trout populations in the River Doon Board Fishery district.

The proposed salmon farm has the potential to impact salmon and sea trout populations in the Stinchar district.

The MOWI sea lice dispersion modelling shown in the applicant's EMP shows dispersal and overlap with the proposed salmon farm at Millstone Point, North Arran. This clearly shows that attempting to assess and mitigate the risk from farms in isolation and without a cross LPA spatial planning framework is unacceptable and open to legal challenge. This approach needs to be cumulative and proven to be effective to mitigate risk and meet the legal requirements of SAC protection otherwise approval will be challenged and open to judicial review.

The Council cannot lawfully grant planning consent as it will have an adverse impact on wild salmonids through sea lice, disease and escapes.

There is a need to consider the cumulative impact of sea lice from all farms on the Greater Clyde on wild salmon and sea trout, rather than considering the impact of lice from new or expanded farms individually.

The Greater Clyde currently has 16 licenced farm sites (counting Carradale as one). Five new farms are proposed at North Kilbrannan, South Bute, Cumbrae, Little Cumbrae and Ardentinnny with a substantial expansion proposed at Ardyne. This would add more than 40% to the total farmed fish biomass and increase the number of fish hosts for sea lice by the same amount.

Friends of the Sound of Jura have been working with the hydrodynamic modelling company MTS-CFD to model the dispersion of infectious sea lice larvae from these farms which shows there is already a significant risk of harm.

The Friends of the Sound of Jura commissioned model conflicts with the applicant's hydrodynamic model. MOWI have made incorrect assumptions regarding the release of sea lice and should be asked to resubmit their modelling.

Argyll and Bute Council must be certain beyond reasonable scientific doubt that the cumulative effect of consenting new or expanded fish farms in the Greater Clyde will not add to the risk that the population of salmon in the SAC already faces.

In light of the modelling commissioned by FOTSJ which shows there is already a significant risk of harm, it is impossible to be certain beyond reasonable scientific doubt that the SAC's wild salmon population will not be harmed.

There should be no expansion of fish farming on the greater Clyde at least until SEPA's new system for assessing and regulating this risk is place.

Comment: Wild fish interactions are considered in full in the report. Until the new framework is introduced by SEPA, the planning authority will continue to require Environmental Management Plans to address this issue. No moratorium on marine fin fish applications has been announced.

Impacts on Tourism

It will not help the tourist industry and make people less likely to visit areas which have been ruined by salmon farms.

This proposal will ruin the existing tourist based business at Cour which provides more local employment than the fish farm would. The loss of holidaymakers and visitors would harm other local businesses.

Comment: There is no evidence to suggest that the proposal would have a detrimental impact on tourism.

Landscape and Visual Impacts

The area is relatively devoid of development and allows for exceptional panoramic views from the road toward Arran and the greater part of the slopes of Meall nan Damh and Bheinn Bharrain which are considered to be semi wilderness landscapes. The proposed fish farm would completely overshadow the panorama of Cour Bay. It is considered that the introduction of such a large scale, man-made feature (comprising straight geometric lines) into a very open landscape area would have an adverse impact on the landscape quality of this area which would be contrary to planning policy.

The proposal lies within the highly scenic narrows of the Sound separating Arran from Kintyre, introducing industrial elements in a landscape highly values for tourism.

The north east coast of Kintyre provides panoramic views of the North Arran National Scenic Area and views to and from it are spectacular. A large fish farm which can be seen from miles away, up the coast and across the water, compromises this.

Comment: A Seascape, Landscape and Visual Impact Assessment (SLVIA) has been submitted as part of the EIAR. Officers concur with the conclusions of this report and would find no reason to refuse the application on these grounds. Further analysis of landscape and visual issues are contained within the assessment.

Historic Environment

The proposal would have a detrimental impact on the setting of Cour House which straddles the development of architecture in Scotland between the Arts and Crafts Movement and Modernism, It responds to the untamed landscape with a palette of harmonious materials, the whole house is spread upon a natural ledge in the landscape, hunkering down over huge spreading roofs of stone slabs. However, this house also has structural defects which the owners hope to address. Cour will cost a great deal to restore and repurpose as a sustainable proposition. The current proposal potentially conflicts with the visual amenity demanded by high end tourism, and may also potentially impact on any future usage of Cour Bay.

The location of the proposed fish farm within clear, albeit partial, view of Cour House and its estate mars the very unique characteristics of this very special historic environment. We expect further visibility assessment to be carried out and reconsideration of the location of the pens.

Comment: The EIAR contains a chapter on Cultural Heritage which includes the consideration of Listed Buildings including the Category A listed Cour House. This concluded that there would only be a small proportion of the proposed site visible, at an oblique view, with only limited change to the overall view, leading to 'small' adverse effects and 'moderate' levels of significance. In addition, Historic Environment Scotland who give the planning authority advice on A listed buildings have not objected. See also assessment.

Waste

Storms have resulted in large amounts of plastic from fish farms washing up on the shore.

Comment: A condition is proposed in relation to this issue. See also assessment.

Economy and Employment

MOWI claim that they will create jobs in the local area but that seems to be minimal with people travelling a distance from outside the local area.

Our marine environment is being sacrificed for the short term profits of foreign multinationals who do not have the interests of Scotland at heart. The number of jobs created is minimal.

The proposal may impact on fishermen's livelihoods.

As salmon farming becomes increasingly intensive and automated it creates negligible local employment opportunities.

The Loch Lomond Angling Improvement Association employ two full time water bailiffs, when our fish stocks decline which they will do if this application was to go ahead, our membership and visiting anglers will drop and those employees' jobs will be in danger of being lost.

Concern that Norwegian owner fish farms are being allowed to operate in an area which will have minimal long term benefit to the Scottish Economy and to the detriment of the very local Cour economy.

Comment: See assessment.

Policy

The proposal would be contrary to Scotland's National Marine Plan which requires that concentrations of contaminants are at levels not giving rise to pollution.

The proposed fish farm does not comply with the Council's Bad Neighbour Policy.

If this planning application is granted it needs to go to a judicial review.

Comment: See Assessment.

Impacts on Wildlife

Concern that seals may be culled if they are attracted to the farm.

There is a large colony of seals at Eilean Cour, just south of Rubha Riabhach which has been omitted by the EIA.

The use of ADDs can cause hearing damage and stress in dolphins, porpoises and whales. The use of ADDs at the proposed site in the narrowest part of the Sound, would effectively block the Sound as a passageway of feeding ground.

Otters are known to be present in the area. The proposed development is extremely close to the shoreline and MOWI offer no actual figures regarding the numbers of otters which will perish in fish farm netting.

The application provides no meaningful data or assessment on harbour porpoise, a European Protected Species (EPS) and Priority Marine Feature (PMF) at the proposed North Kilbrannan site. There has been no attempt by the developer to address harbour porpoise or EPS occurrence other than to comment that they are present at another MOWI site at North Carradale. The purpose of an EIA is to assess sensitivity level or risk of impact to receptors like harbour porpoise. MOWI's planning submission is not fit for purpose and the development proposal should be rejected.

Clyde Porpoise CIC has acoustically surveyed all fish farms in the Clyde Sea Area and are appalled by the noise levels and indiscriminate use of ADDs. We are disappointed that the Marine Scotland consultation response does not attend to the fact that there is a legal requirement under protected species legislation for activities that have the potential to harm / disturb or harass EPS and require such applications to be processed through the EPS licensing system. We call on Argyll and Bute Council to reject this application on the grounds that the use of ADDs without EPS licence is illegal.

There are reputed to be freshwater mussels in a river discharging into the sea with 1000m of the proposed site. This species has not been mentioned by the Council's biodiversity

officer nor by NatureScot in their response, but granting planning consent without assessing the impact would not be lawful.

Fish farm medications would have an adverse impact on a primary breeding ground for lobsters on this stretch of coast.

The constant noise, light and regular activity on the fish farm would drive cetaceans and otters away.

The site is unsuitable due to the proximity of a large seal colony.

MOWI's environmental survey is inadequate and we have proved that it has only considered one quarter of the flora and fauna at the site. If the Council accept such obviously flawed evidence, they need to justify how their decision complies with the Nature Conservation (Scotland) Act 2004 and other relevant legislation. This may prove further grounds for a judicial review.

Comment: Since this application was submitted the applicant has confirmed that they will not be using Acoustic Deterrent Devices at the site and therefore a condition is proposed to ensure that they cannot be used as part of this planning permission. Officers in consultation with statutory consultees are content with the scope of the EIAR. With regard to fresh water pearl mussel, NatureScot have advised that they are not aware of fresh water pearl mussels in any watercourses within 1km of the proposal, however, this does not mean that they are not present. No evidence has been submitted to confirm this assertion.

Impacts on Commercial Fisheries

This site would sit on top of the primary lobster site, as Cour Bay is important as a lobster nursery and on this stretch of coast both local people and commercial fishermen put their creels.

The development would remove an area used by fishermen. A fishing area has already been removed from south of Cour and there is a vast area south of Carradale which is an MPA where no fishing can occur. Life is hard enough and taking away where we fish is not helping at all.

Comment: See assessment.

Amenity

Cour Farmhouse looks over Cour Bay and as a result all activity at the fish farm would be seen and heard day and night.

The proposal will result in unacceptable noise levels. Experience of living 2.5km from the Carradale farm that the noise comes from several different sources such as loudhailers used by employees, radio music apparently being transmitted through external speakers, engine noise and generator noise. The EIA completely neglects to assess the noise created by fish farm operations in the context of baseline background noise and this is an entirely unacceptable omission.

The residents in Pirnmill in Arran already suffer both light and noise pollution from the existing Carradale North fish farm.

The proposal will result in noise and light pollution at nearby residential properties (Sperasaig House, Cour)

The proposed development will result in increased traffic on the B842.

Comment: See assessment.

Salmon Fishing Rights

Salmon netting rights exist in the Sound and the legal rights accompanying these would almost certainly be compromised by the proposed development.

The heritable salmon and sea trout fishing rights on this stretch of coast will be rendered unusable by the intrusion of the development providing grounds for a legal challenge. It is not legally competent for the Crown Estate to grant a competing right.

Comment: This is a civil matter and not a material planning consideration.

Concern over proximity of electric cable

The proposed site is close to SSE's Hunterston/Crossaig sub-sea cables. Damage to the cables which could compromise the west coast of Scotland's electricity supply, is an unacceptable risk.

Scottish and Southern Electricity Networks are concerned that insufficient information has been provided to ensure the safe operation and maintenance of their Kintyre Hunterston High Voltage Electricity Cables that are located approximately 400 m north of the proposed fish farm.

Comment: This objection has subsequently been withdrawn (letter dated 24/11/20) following dialogue between the applicant and the electricity company. MOWI have made a series of commitments to the SSEN and subject to these being adhered to SSEN do not object.

Concern Over the Principle of Marine Fin Fish Farming

Salmon should be farmed on the land in closed containment.

Our inshore waters in Scotland need a radical re-think in terms of sustainable fisheries, a reduction in salmon aquaculture farms, control of dredging for scallops and bottom trawling, a strategic look at overall sustainable communities, environmentally, economically and socially for the long term.

Having largely removed battery farming for poultry we do not understand how a much worse agricultural regime is allowed for salmon. The pursuit of cheap food by mistreating birds, animals and fish must stop.

I find it astonishing that Norwegian companies are being permitted to apply for fish farms in Scottish waters, when Norway and other companies are in the process of banning open cage salmon farms due to the adverse impact on the fish and the environment.

Responsible governments in countries such as Norway, Denmark and Canada are in the process of banning all new open cage salmon fish farms in their seas.

Concerns over animal welfare due to overcrowding and the spread of disease.

Comment: There is no ban on marine fish farming in Scotland and the planning authority is required to consider these applications on their merits taking into account the advice of statutory consultee and other material considerations including third party representations.

Other

Arran does not get to hear about the planning applications in Carradale as these are in Argyll and Bute. I think salmon farm applications should be circulated by order to any potential affected local areas.

The Council's internal and external specialist advice looks like a dereliction of duty and so unreasonable as to merit a judicial review.

There has been no consultation with the nearest neighbour and owner of the shoreline.

There have been numerous previous applications to site a fish farm on this site. None were accepted, the continuing applications are vexatious and since the last application the evidence to refuse planning consent has increased.

There is almost unanimous local opposition from the Community Council, residents, businesses and commercial fishermen.

MOWI's official record of causing environmental damage is one of the worst in Scotland and is attracting international concern. They make promises to improve which they do not and cannot keep. With so much evidence against MOWI, the Council would be failing in their duty to protect the environment if they grant consent. The Council would not licence a bar or a taxi driver with a poor history like this.

The application conflicts with many of the recommendations of the Scottish Government's REC Committee report on Salmon Farming and the NASCO Treaty Guidance on Beat Management Practices.

The sea is too rough at the site and getting worse due to climate change which will inevitably cause escapes and other damage.

Comment: There have been not previous planning application at this site for a fin fish farm at this location. A Crown Estate licence was consulted in 2006 but this was withdrawn. See assessment. Neighbour notification has been carried out in accordance with the legislation and the application has been advertised in the local paper.

Representation

A critique of the Fisheries Management Scotland objection has been submitted. Within this it is stated that "What Fisheries Management Scotland does not say, is that under their management (as well as that of their former guise – Association of Salmon Fishery Boards) a total of 445,452 wild salmon and sea trout have been caught and killed from these local populations since Government records began. The impact of this mortality on local populations is significantly greater than any impacts from salmon farming.

Comment: Noted.

Support

As a supplier of feed to the company, BioMar, voice their support for the application. When completed it is estimated that the farm will contribute £1.1M annually to the local economy and a further £1.2M annual contribution to the Scottish economy from the operation of the farm.

The proposal is aligned with Argyll and Bute Council's economic growth plan by providing quality jobs in remote communities with a declining population.

Fish farming plays a massive part in rural areas of Scotland. Without the fish farming industry there would be little if any employment in some of these areas. I live and work in a rural area and employ 30 staff who would not be living in these area were it not for the fish farming industry.

The aquaculture industry provides quality hobs in remote rural areas and helps to sustain the population and keep schools open.

The proposed salmon farm follows the recommendation of the Scottish Government's 2018 Rural Economy Committee which suggests the salmon sector look towards offshore and exposed locations where there are higher energy water flows.

We are a globally operating market leading innovation-led fish farm technology business with a growing footprint in mid Argyll and Kintyre. Argyll has around 25% of Scottish production of farmed fish worth around &250million based on quarter share of contribution of fish farming to £1 billion GDP generated from fish farming in Scotland.

As a senior manager in Akvagroup, I live and work in mid-Argyll. In Scotland we employ 70 people and internationally 1500 people. We currently employ 5 staff based in Argyll. We anticipate of approved, the North Kilbrannan farm development will increase our local turnover significantly and allow us to secure and make further expansion of staff and premises in Argyll.

The farm and additional activity it brings will support local infrastructure improvements and community projects in the Argyll and Bute area.

MOWI have been the saviour of Carradale. They have provided many local jobs and will provide many more if the proposed construction is allowed to go ahead. MOWI has given a large sum of money to create the temporary village shop and other local ventures. The one thing MOWI could do is cover their equipment at the car park. Carradale needs MOWI and MOWI needs Carradale.

MOWI (previously Marine Harvest) have been the principal sponsor of shinty for nearly 35 years. The investment of a new fish farm in the area will bring a long term benefit to Shinty. Throughout the Highlands a high proportion of employees at the fish farm sites are local and also shinty players, thus ensuring the continuation of many of our shinty clubs which would otherwise have folded if these employees had to leave the area to find employment.

Comment: Noted

(G) SUPPORTING INFORMATION

Has the application been the subject of:

(i) **Environmental Impact Assessment Report:** Yes No (if Yes insert EIAR topics below)

THE EIAR covers the following topics:

- Benthic Environment;
- Water Column;
- Interaction with Predators
- Interaction with Wild Salmonids
- Species and Habitats of Conservation Importance
- Navigation, Anchorage, commercial Shipping and Other Uses
- Landscape and Visual Impact Assessment
- Noise
- Cultural Heritage
- Waste Management
- Socio Economic and Recreation
- An addendum to the EIAR was later submitted containing the following:
- Site Survey – North Kilbrannan, Aquastructures
- Mooring Analysis – TR -31256-6526-1 Rev 1
- Mooring Analysis of Barge TR -31256-6526-1 Rev 1
- Environmental Management Plan, Kilbrannan Sound Fish Farms
- North Kilbrannan Inspection and Maintenance Schedule
- On-site Emergency Response Plan, North Kilbrannan
- North Kilbrannan Containment and Escapes Contingency Plan.

Note: Given the length of time which has elapsed since this application was submitted in 2020, the applicant has reviewed the EIAR in a document dated 27th January 2023. This has confirmed that there have been no material changes affecting the assessment since the submission of the planning application.

- (ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes No (if Yes attach as an appendix)

Appropriate Assessments are attached in the Appendix in respect of Ailsa Craig SPA and Endrick Water SAC.

- (iii) **A Design or Design/Access statement:** Yes No (if Yes insert summary of key issues below)

- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes No (if Yes list supporting documents below)

Clarification in Response to the Friends of Sound of Jura Reply (document-22447522.pdf), dated 30 April 2021;

Response to the Objections to Application 20/01345/MFF by the Friends of the Sound of Jura and Cour Ltd, specifically the modelling studies by MTS-CFD Ltd, dated 12 April 2021;

LVIA VP4 Computer Model - (showing pen layout from viewpoint minus trees);

Appendix B – Drawings and Illustrations, North Kilbrannan Fish Farm SLVIA (resubmission with above amendment to VP4);
Applicant response to comments from statutory consultees and public comments in the second round of advertising/consultation;

Applicant response to Marine Scotland Science information request (further detail on mooring design for pens and feed barge and detail on inspection / maintenance frequencies);

Aquastructures technical note (TN-31256-6531-1) – further analysis of mooring lines belonging to the barge, and the mooring lines belonging to the pens (as requested by Marine Scotland Science);
Aquastructures technical report (TR-31256-6531-1)
Mooring analysis of feed barge as per requirements of the Technical Standard for Scottish Finfish Aquaculture;

Aquastructures technical report (TR-31256-6526-1)
Mooring analysis of fish pen equipment as per requirements of the Technical Standard for Scottish Finfish Aquaculture;

Aquastructures technical report (SS-30079-6503-1)
Environmental Site Survey as per requirements of the Technical Standard for Scottish Finfish Aquaculture;

Applicant response to public representations from first round of application advertising;

Applicant response to further information requested by Statutory consultees from first round of consultation;
Containment and Escapes Contingency Plan (for proposed North Kilbrannan fish farm);

On Site Emergency Response Plan (for proposed North Kilbrannan fish farm);

Inspection and Maintenance Schedule (for pen equipment and moorings infrastructure -proposed North Kilbrannan fish farm) ;

Kilbrannan Sound Environmental Management Plan (amendment to include commitments relating to wild fish monitoring in the Endrick SAC and use of data for adaptive site management).

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: Yes No

(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: Yes No (if Yes insert details of direction below)

(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

(i) List of all Development Plan Policy considerations taken into account in assessment of the application.

National Planning Framework 4 (Adopted 13th February 2023)

Part 2 – National Planning Policy

Sustainable Places

NPF4 Policy 1 – Tackling the Climate and Nature Crises
NPF4 Policy 2 – Climate Mitigation and Adaption
NPF4 Policy 3 – Biodiversity
NPF4 Policy 4 – Natural Places
NPF4 Policy 7 – Historic Assets and Places
NPF4 Policy 12 – Zero Waste

Liveable Places

NPF4 Policy 23 – Health and Safety

Productive Places

NPF4 Policy 25 – Community Wealth Building
NPF4 Policy 29 – Rural Development
NPF4 Policy 32 – Aquaculture

Argyll and Bute Local Development Plan adopted March 2015

LDP STRAT 1 – Sustainable Development
LDP DM1 – Development within the Development Management Zones
LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment
LDP 5 – Supporting the Sustainable Growth of Our Economy
LDP 9 – Development Setting, Layout and Design
LDP 10 – Maximising our Resources and Reducing Our Consumption

Supplementary Guidance

SG LDP ENV 1 – Development Impact of Habitats, Species and Our Biodiversity (i.e. biological diversity)
SG LDP ENV 2 – Development Impact on European Sites
SG LDP ENV 7 – Water Quality and the Environment
SG LDP ENV 12 – Development Impact on National Scenic Areas (NSAs)
SG LDP 14 – Landscape
SG LDP ENV 16(a) – Development Impact on Listed Buildings
SG LDP 19 – Development Impact on Scheduled Ancient Monuments
SG LDP ENV 20 – Development Impact on Sites of Archaeological Importance
SG LDP BAD 1 – Bad Neighbour Development
SG LDP SERV 5(b) Provision of Waste Storage and Collection Facilities within new development.
SG LDP CST 1 - Coastal Development
SG LDP AQUA 1 – Aquaculture Development

- Annex A – Planning Process for Aquaculture Development
- Annex B – Council Adopted Marine and Coastal Plans
- Annex C – Responsibilities of Statutory Authorities in Relation to Aquaculture Development
- Annex D – Marine Planning Area for Aquaculture Development

- (ii) **List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.**

Scotland's National Marine Plan (2015)
Scottish Planning Policy (2014)
Scottish Parliament Rural Economy and Connectivity Committee:
Salmon Farming in Scotland (November 2018)
Circular 1/2007 'Planning Controls for Marine Fish Farming'
'A Fresh Start – the Renewed Strategic Framework for Scottish Aquaculture' (Scottish Government 2009)
Scottish Executive – *'Locational Guidelines for the Authorisation of Marine Fish Farms in Scottish Waters'* (updated March 2018)
'Argyll and Bute Economic Strategy 2019 – 2023
Rural Growth Deal
Impacts of lice from fish farms on wild Scottish sea trout and salmon:
summary of science, Marine Scotland last updated 12 March 2021

[Argyll and Bute proposed Local Development Plan 2 \(November 2019\)](#) – The reporters have written to Argyll and Bute Council regarding the Proposed Local Development Plan 2, which is currently at Examination. Due to the status of the revised draft National Planning Framework 4 the reporters are currently determining what, if any, further processes are required as a consequence. Although PLDP2 remains a material consideration it is now subject to this further assessment [against NPF4 policies](#). Therefore, it is considered appropriate **not** to attach significant weight to PLDP2 [policies](#) during this time, i.e. until the consequences of NPF4 [policies](#) for the PLDP2 have been assessed by the reporters and the Examination report is issued. [Specific sites in PLDP2 that have not received objections and are not being dealt with at the Examination may continue as strong material considerations, e.g. allocations and potential development areas.](#)

-
- (K) **Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** Yes No

The proposal falls within Schedule 2 and is EIA Development.

-
- (L) **Has the application been the subject of statutory pre-application consultation (PAC):** Yes No (if Yes provide summary detail of PAC below)

No the proposal falls within Schedule 2 and is EIA Development.

(M) Has a Sustainability Checklist been submitted: Yes No

(N) Does the Council have an interest in the site: Yes No

(O) Requirement for a pre-determination hearing: Yes No

In deciding whether to exercise the Council's discretion to allow respondents to appear at a discretionary hearing, the following are of significance:

- How up to date the Development Plan is, the relevance of the policies to the proposed development and whether the representations are on development plan policy grounds which have recently been considered through the development plan process.
- The degree of local interest and controversy on material considerations together with the relative size of community affected set against the relative number of representations, and their provenance.

The current Local Development Plan was approved in 2015. NPF4 which was approved this year contains a similar criteria based approach in relation to aquaculture applications. It is considered that the development plan is up to date.

At the time of writing this application has attracted 232 objections, 2 representations and 45 expressions of support. Objection has been raised by the Argyll District Salmon Fishery Board and Tarbert and Skipness Community Council in their capacity as a statutory consultees. Fisheries Management Scotland and the Clyde Fishermen's Association were also consulted and have objected. Given the level of interest in the application and the complexity of the issues raised, it is considered that there would be merit in holding a pre-determination Hearing to allow Members consider the site, question participants and consider the arguments on both sides in more detail. It is the view of officers that this would add value to the decision-making process.

(P)(i) Key Constraints/Designations Affected by the Development:

- Ailsa Craig SPA
- Endrick Water SAC

(P)(ii) Soils

Agricultural Land Classification: N/A

Peatland/Carbon Rich Soils Classification: N/A

Peat Depth Classification: N/A

Does the development relate to croft land? N/A

Would the development restrict access to croft or better quality agricultural land? N/A

Would the development result in fragmentation of croft / better quality agricultural land? N/A

(P)(iii) Woodland

Will the proposal result in loss of trees/woodland? N/A

(If yes, detail in summary assessment)

Does the proposal include any replacement or compensatory planting? N/A

(P)(iv) Land Status / LDP Settlement Strategy

Status of Land within the Application N/A

(tick all relevant boxes)

ABC LDP 2015 Settlement Strategy N/A

LDP DM 1 *(tick all relevant boxes)*

ABC LDP 2015 Allocations/PDAs/AFAs etc: N/A

(P)(v) Summary assessment and summary of determining issues and material considerations

This planning application is for the siting and operation of a new salmon fish farm. The site is located within the Kilbrannan Sound 800m north of Cour Bay and 1km south of Crossaig. The fish farm would comprise of twelve, 120 metre circumference pens in a 2 x 6 grid. A feed barge is also proposed which would be located in the middle of the grid. The site would be service by sea from the existing shore base a Carradale Harbour.

This proposal is EIA Development and the determination of this application is also subject to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. There is a requirement to examine the environmental information submitted and reach a reasoned conclusion on the significant environmental effects of the proposal. In this respect the following have been taken into account when reaching a recommendation:

The EIAR (2020) report and appendices submitted on 29/7/20;
 The EIAR Addendum: Human Health, dated December 2021;
 The Environmental Management Plan dated December 2020;
 The consultation responses from Marine Scotland Science, NatureScot, SEPA, Argyll District Salmon Fishery Board, Historic Environment Scotland, Northern Lighthouse Board, West Highland Anchorages and Moorings Association, Clyde Fishermen's Association, Fisheries Management Scotland, Royal Yachting Association, North Ayrshire Council, NHS Highland, East Kintyre Community Council, Tarbert and Skipness Community Council, Argyll and Bute

Environmental Health, Argyll and Bute Local Biodiversity Officer and Argyll and Bute Marine and Coastal Development Policy Officer;
Representations received.

The recommendation on this application has been guided by the conclusions of the EIAR and the proposal has been assessed against the polies of the adopted Development Plan with particular regard to the policies of NPF4 and to the criteria based approach of the aquaculture supplementary guidance policy AQUA 1 as well as other material considerations and policies within the plan.

The main determining issues in the assessment of this application are seascape, landscape and visual issues, effects on the setting of Cour House, effects on priority habitats and species including internationally designated sites, wild fish interactions including sea lice and containment, implications for commercial and recreational marine activity, general amenity issues and economic impact.

The issues relating to this application have taken a long time to resolve, primarily due to delays incurred in relation to concerns raised associated with the impacts of fish farm bath medications and the effects on human health on those entering the water especially in relation to wild swimming.

The Scottish Salmon Producer's Organisation (now Salmond Scotland), a body that represents companies farming salmon in Scotland, commissioned a report to investigate this issue. A large part of the delay was incurred in relation to the time taken to produce this report and for the planning authority to receive a consultation response from NHS Highland.

A large number of representations have been received (at the time of writing 232 objections, 45 support and 2 representations) and there have also been objections from consultees.

(Q) Is the proposal consistent with the Development Plan: Yes No

(R) Reasons why Planning Permission or Planning Permission in Principle Should be Granted:

The proposal is considered to be consistent with the relevant provisions of the Development Plan and there are no other material considerations of sufficient significant to indicate that it would be appropriate to withhold planning permission having regard to s25 of the Act.

(S) Reasoned justification for a departure to the provisions of the Development Plan

N/A

(T) Need for notification to Scottish Ministers or Historic Environment Scotland:
 Yes No (If yes provide detail below)

Author of Report: Sandra Davies **Date:** 09/05/2023

Reviewing Officer: Peter Bain **Date:** 12/05/2023

Fergus Murray
Head of Development & Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 20/01345/MFF**Standard Time Limit Condition** (as defined by Regulation)**Additional Conditions**

- The development shall be implemented in accordance with the details specified on the application form dated 29/7/20, the Environmental Impact Assessment Report dated 2020 (and subsequent addendum); and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

The developer and subsequent operator(s) shall at all times construct and operate the development hereby permitted in accordance with the provisions of the Environmental Statement accompanying the application with mitigation measures adhered to in full, and shall omit no part of the operations provided for by the permission except with the prior written approval of the Planning Authority.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	1 of 12	-	25/8/20
Supplementary Location Plan	2 of 12	-	25/8/20
Site Coordinates	3 of 12	-	12/8/20
Plans and Elevations Typical Pen Design Top Net Support	4 of 12	-	12/8/20
Feed Barge	5 of 12	-	25/8/20
Underwater Lighting Technical Sheet	6 of 12	-	25/8/20
Plans and Elevations Typical Net Design	7 of 12	-	12/8/20
Plans and Elevations Typical Mooring Design	8 of 12	-	12/8/20
Plans and Elevations - Proposed Site Configuration	9 of 12	-	12/8/20
Plans and Elevations	10 of 12		12/8/20

Typical Pen Design			
Admiralty Chart Extract	11 of 12		25/8/20
Site Plan	12 of 12		25/8/20

Reason: For the purpose of clarity, to ensure that the development is constructed and operated in the manner advanced in the Environmental Impact Assessment Report, upon which the environmental effects of the development have been assessed and determined to be acceptable.

- The development hereby approved shall not be operated other than with a biomass of 2475.54 tonnes or less.

Reason: The environmental effects of this proposal have been assessed against this maximum biomass.

- Notwithstanding the details given in the Predator Mitigation Plan, no Acoustic Deterrent Devices (ADDs) shall be deployed at the site hereby approved.

Reason: In the interests of nature conservation. This planning application has been determined on the basis that ADDs will not be used. The use of ADDs would be regarded as a material change to the proposal.

- The site shall not be stocked until the wild fish monitoring plan has been agreed which shall include a requirement to monitor the juvenile salmon population in coastal waters within a zone of 30km from the Management Area.

Reason: In the interests of nature conservation.

- As part of the end of cycle review, to be undertaken no later than 6 weeks prior to the end of the growth cycle, the site shall not be restocked until the review has been agreed by Argyll and Bute Council in consultation with NatureScot.

Reason: In the interests of nature conservation.

- There shall be no use of drift nets, vertical static nets or gill nets to recapture escaped fish.

Reason: In order to avoid putting marine birds, including guillemots, shags, divers and others at risk.

- The pole mounted top net system hereby approved shall be as noted below unless otherwise agreed in writing with the planning authority in consultation with NatureScot:

	Height (m)
Perimeter Pole Support	Maximum height of 5m above the water surface
	Mesh Size (mm)
Sidewall netting from the bottom to 2m height	25

Ceiling net panel and remaining sidewall netting	100
Colour	Dark grey to black

This shall be subject to review, underpinned by systematic monitoring. The Planning Authority shall be immediately notified in the event of emergence of patterns of entanglement or entrapment of marine birds.

Reason: To minimise the risk to all bird species and to ensure that there are no significant effects on the qualifying interests of the Ailsa Craig Special Protection Area.

8. The proposal shall be undertaken strictly in accordance with the following criteria:
- (a) Operators shall maintain daily records of wildlife entanglement / entrapment using a standardised proforma which shall be submitted to the planning authority and copied to NatureScot at 6 monthly intervals or other specified period to be agreed in writing with the planning authority in consultation with NatureScot. The first proforma shall be submitted 6 months after the development is brought into use unless otherwise agreed in writing with the planning authority in consultation with NatureScot.
- (b) In the event of any significant entrapment or entanglement of gannets, and any other SPA interests identified as relevant to a particular fish farm (e.g involving three or more birds of any named species in any one day and / or a total of ten or more birds in the space of any seven day period and / or repeat incidents involving one or more birds on four or more consecutive days), the operators shall immediately notify both the planning authority and NatureScot;
- (c) Adaptive management approaches should be agreed in writing with the planning authority in consultation with NatureScot in advance of these being implemented.

Reason: In order to ensure that there are no significant effects on the qualifying interests of the Ailsa Craig Special Protection Area. Gannet have an extensive range and would have the potential to become entangled in nets.

9. The site shall be operated, monitored and managed in accordance with the Kilbrannan Sound Environmental Management Plan (EMP) attached to the planning portal on 22 December 2022 and subsequent approved variation thereof. The EMP should be reviewed and updated if required following the adoption by Scottish Government of any new policy framework relevant to wild salmonid interactions. Any proposed amendments to the EMP shall be submitted to and approved in writing by the planning authority prior to the changes being implemented.

Reason: In the interests of nature conservation.

10. The site shall be operated in accordance with the North Kilbrannan Sea Lice Management and Efficacy Report dated 2020 or any subsequent updates of this document which shall be submitted to and approved in writing by the planning authority.

Reason: In the interests of nature conservation.

11. The site shall be operated in accordance with the North Kilbrannan Containment and Escapes Contingency Plan dated 2020 and the North Kilbrannan Inspection and Maintenance Schedule with the exception of any proposed actions contained within these documents limited by other conditions on this planning permission. Any subsequent updates of these documents shall be submitted to and approved in writing by the planning authority.

Reason: In order to minimise the risk of escapes in the interests of nature conservation.

12. In the event that the development or any associated equipment approved by this permission ceases to be in operational use for a period exceeding three years, the equipment shall be wholly removed from the site thereafter, unless otherwise agreed in writing by the Planning Authority.

Reason: In the interest of visual amenity and to ensure that redundant development does not sterilise capacity for future development within the same water body.

13. The finished surfaces of all equipment above the water surface, excluding the feed barge, but inclusive of the surface floats and buoys associated with the development hereby permitted (excluding those required to comply with navigational requirements) shall be non-reflective and finished in a dark recessive colour in accordance with the details provided in the EIAR unless otherwise agreed in advance in writing by the planning authority.

Reason: In the interest of visual amenity.

14. All lighting above the water surface and not required for safe navigation purposes should be directed downwards by shielding and be extinguished when not required for the purpose for which it is installed on the site.

Reason: In the interest of visual amenity.

15. Prior to the commencement of development a further Waste Management Plan shall be submitted to and approved in writing by the planning authority. This shall include details of the arrangements for the storage, separation, and collection of waste from the site including proposals for uplift from areas where fish farm equipment has become detached from the site.

Reason: To ensure that waste is managed in an acceptable manner.

16. Prior to the commencement of development, a communications and monitoring plan in relation to the use of bath medications shall be submitted to and approved in writing by the Planning Authority. This shall detail the method by which other marine users shall be informed of general safety information that should be considered by water user when in the vicinity of the farm, including when bath medications are being actively use at the site. Thereafter the development shall be carried out wholly in accordance with the Communications and Monitoring Plan unless otherwise agreed, or varied, in writing with the Planning Authority.

The Communications and Monitoring Plan shall include:

- a. A Communications Plan detailing the method by which other marine users

shall be informed of general safety information that should be considered by water users when in the vicinity of the fish farm, including when bath medications are being actively used at the site. The Communications Plan shall be informed by the conclusions of the supporting information “Assessment of Potential Risk to Human Health Following Use of Azamethiphos, Deltamethrin and Hydrogen Peroxide; WCA; Dec 2021”,

b. A Monitoring Plan to investigate the dispersal and dilution of Hydrogen Peroxide following its use in bath treatments on the site and the use of these findings to review and update the conclusions in the aforementioned supporting information, and the Communications Plan. The Monitoring Plan shall include provision for reporting the findings to the Planning Authority and securing its written approval for any resultant amendment that may be proposed to the Communications Plan.

Reason: In order to inform marine users of potential risks to human health in the vicinity of the fish farm.

17. No development shall commence until an appraisal of the wholesomeness and sufficiency of the intended water supply and system required to serve the development has been submitted to and approved by the Planning Authority.

Reason: In the interests of public health and in order to ensure that an adequate water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users.

18. The Noise Rating Level attributable to the operation of the approved fish farm operation shall not exceed background noise levels by more than 3dB(A) at any residential property measured and assessed in accordance with BS4142:2014.

Reason: In order to protect the amenities of the area from noise nuisance

NOTE TO APPLICANT

- The use of sub-sea anti-predator nets requires consent from NatureScot.
- The applicant shall make the following commitments to SSEN as detailed in MOWI's letter of 12/11/20 Scottish Hydro Electric Transmission plc in relation to their sub sea cable.
- The Aquatic Animal Health (Scotland) Regulations 2009 requires the authorisation of all Aquaculture Production Businesses (APBs) in relation to animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals. The authorisation procedure is undertaken on behalf of the Scottish Ministers by the Fish Health Inspectorate (FHI) at Marine Scotland Marine Laboratory. To apply for authorisation for an APB or to amend details of an existing APB or any site that an APB is authorised to operate at, you are advised to contact the FHI as follows: Fish Health Inspectorate, Marine Scotland Marine Laboratory, 375 Victoria Road, Aberdeen AB11 9DB Tel: 0131 244 3498; Email: ms.fishhealth@gov.scot
- All marine farms, whether finfish, shellfish or algal, are required to apply for a marine licence under Part 4 of the Marine (Scotland) Act 2010. To apply for a marine licence,

or to amend details of an existing marine licence (formally Coast Protection Act 1949 – Section 34 consent), please visit the Scottish Government’s website at <http://www.gov.scot/Topics/marine/Licensing/marine/Applications> where application forms and guidance can be found. Alternatively you can contact the Marine Scotland Licensing Operations Team (MS-LOT) by emailing MS.MarineLicensing@gov.scot; or calling 0300 244 5046.

- The Northern Lighthouse Board has recommended the following:
The site should be marked with 2 lit yellow poles fitted with yellow “x” topmarks;
The lights should display a character of flash one yellow every five seconds (Fl Y 5s) with a nominal range of 2 nautical miles and be installed above the “x” topmark.
The poles should be positioned at the Northwestern and Northeastern seaward corners of the cage group.
Each light should be 1 metre above the site equipment handrails and installed to be clearly seen by vessels approaching from all navigable directions.
Poles should be greater than or equal to 75mm diameter, the “x” topmark should be greater than or equal to 75cm length by 15 cm width.
The feed barge should exhibit an all-round fixed white light with a nominal range of 2 nautical miles from a point at least 1 metre above any other obstruction.
A weekly check of the site’s marking equipment shall be performed, and records kept of its physical and working status for audit purposes.
outlying anchor points should not be marked with buoys, unless specifically requested by local users, and alternative means to locate anchors should be utilised.
Loose floating lines around site equipment are strongly discouraged as this can cause serious safety implications for other mariners.
Upon completion of the works, ‘as-built’ plans should be provided to the UK Hydrographic Office to enable the update of navigational publications.
- In the event of an escape, the company should liaise with Argyll and Bute Council’s Environmental Health service.

COMMITTEE REPORT	
APPENDIX A – RELATIVE TO APPLICATION NUMBER:	20/01345/MFF
PLANNING LAND USE AND POLICY ASSESSMENT	

1. Introduction

The proposed fish farm is located in the Kilbrannan Sound at a distance of c.175m from the shoreline, 11km to the north of Carradale, 800m north of Cour Bay and approximately 1km south of Crossaig. The proposal would comprise 12 no. 120m circumference pens arranged in a 2 x 6 grid supported by a 75m mooring matrix and a feed barge (450 tonnes). The feed barge would be located at the middle of the grid between the pens and the land. The submerged nets will be 12 metres deep and the pole supported top nets will be 5-5 metres high. The site would be serviced from the existing shore base at Carradale.

2. Planning Policy

The Development Plan for the determination of this planning application comprises National Planning Framework 4 (NPF4), adopted February 2023, and the Argyll and Bute Local Development Plan, adopted 2015. NPF4 is based around six overarching spatial principles which the proposed development should align with. These are:

- Just transition;
- Conserving and recycling assets;
- Local living;
- Compact urban growth;
- Rebalanced development;
- Rural revitalisation.

Not all of these principles will be relevant to every development and in relation to the current proposal it is considered that just transition, rural revitalisation, local living and rebalanced development would apply. In terms of rural revitalisation, NPF4 supports development that helps retain and increase the population of rural areas in Scotland.

The following NPF 4 policies are considered relevant to the proposal:

Policy 1 – Tackling the Climate and Nature Crises – This policy requires significant weight to be given to the global climate and nature crises.

Policy 2 – Climate Mitigation and Adaptation – This policy aims to promote and facilitate development that minimises emissions and adapts to climate change.

Policy 3 – Biodiversity – This policy seeks to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks through nature based solutions. NPF 4 explicitly advises that part (b) and (c) of this policy do not apply to aquaculture developments.

Policy 4 – Natural Places – This policy aims to protect, restore and enhance natural assets making best use of nature based solutions.

Policy 7 – Historic Assets and Places – This policy seeks to protect historic environment assets and places/

Policy 12 – Zero Waste – This policy encourages, promotes and facilitates development that is consistent with the waste hierarchy.

Policy 23 – Health and Safety – This policy seeks to protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing.

Policy 25 – Community Wealth Building – This policy seek to encourage, promote and facilitate a new strategic approach to economic development that also provides a practical model for building a wellbeing economy at local, regional and national levels.

Policy 29 – Rural Development – This policy encourages rural economic activity, innovation and diversification whilst ensuring that the distinctive character of the rural area and the service function of small towns, natural assets and cultural heritage are safeguarded and enhanced.

NPF4 also contains 33 policies a number of which will apply to marine fish farms, however, prime policy for aquaculture is Policy 32. This policy seeks to “encourage, promote and facilitate aquaculture development and minimise any adverse effects on the environment including adverse impacts”. This policy seeks to achieve new aquaculture development in locations that reflect industry needs and considers environmental impacts, producers who contribute to communities and local economies, prosperous finfish, shellfish and seaweed sectors while safeguarding migratory fish species.

In order to safeguard migratory fish species, this policy does not support further salmon and trout open pen fish farms on the north and east coasts of mainland Scotland. The policy also requires proposal to accord with the LDP, National Marine Plan and where relevant the Regional Marine Plan. The policy then goes on to define the operational impacts which require consideration along with potential impacts which need to be assessed and mitigated.

Policy 32 also clarifies that where open water farmed finfish are being considered the requirements of policy 3b and 3c are not required and instead the relevant provisions from the National and Regional Marine Plans should apply. Policy 32 requires the consideration of a set of criteria which are similar to those covered the LDP aquaculture policy. These criteria are considered in full below under the Council’s LDP aquaculture policy.

Policy 1 (Sustainable Places) of NPF4 requires that when considering development proposals significant weight is given to the global climate and nature crises. The EIA supporting this application considered the environmental consequences of this proposal and concludes that the proposed development at the scale proposed could operate with a minimal negative impact on the environment subject to the adoption of identified mitigation.

The proposal benefits from general support from the Scottish Government’s National Marine Plan and from NPF4 which together recognise the contribution of the aquaculture sector to the rural economy and which seek to support sustainable economic development. The National Marine Plan and NPF4 both support marine fish farming where it can take place in environmentally sustainable locations, where it does not exceed the carrying capacity of the water body within which it is to be located, and where it does not give rise to significant adverse effects upon nature conservation, wild fish, historic environment or other commercial or recreational water users.

LDP Supplementary guidance SG LDP AQUA 1 – Aquaculture Development provides a general framework against which fish farm applications should be considered, along with other relevant LDP policy and SG.

The following Local Development Plan provisions are applicable to this development:

Policy LDP STRAT 1 – Sustainable Development supports the presumption in favour of sustainable economic development established by Scottish Planning policy and lends weight to aquaculture developments unless there are environmental considerations which outweigh this presumption.

Policy LDP DM 1 – Development within the Development Management Zones – Land adjacent to the site is designated as ‘countryside’ zone.

Policy LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment – seeks to control development in a manner which protects, conserves or where possible enhances the built, human and natural environment.

Policy LDP 5 – Supporting the Sustainable Growth of Our Economy – requires regard to be had to economic benefit and the spatial needs and locational requirements of business sectors.

Policy LDP 9 – Development Setting, Layout and Design – requires that regard should be had to the setting of developments, the sensitivity of the receiving environment and the need to secure appropriate forms of scale, design and appearance.

Supplementary Guidance SG LDP AQUA 1 – Aquaculture Development stems from

Policy LDP 5 which identifies aquaculture as a key economic sector in Argyll & Bute. It sets out criteria against which the locational and operational characteristics of a development require to be assessed. Proposals are to be supported if direct, indirect or cumulative significant effects are avoided, or adverse effects can be minimised or mitigated by operational measures.

Whilst not part of the Development Plan, the Council as a public body is required to take authorisation decisions in accordance with the National Marine Plan (NMP) as the proposal extends into the marine environment, unless relevant considerations indicate otherwise. The proposal should be consistent with general policies of the NMP including:

GEN 1 – General planning principle;

GEN2 – Economic benefit;

GEN 3 – Social benefit;

GEN 4 – Co-existence – requires consideration that may occur and the likely effect of interaction between inshore commercial fisheries (loss of fishing ground) and marine and coastal recreational activities.

GEN 5 Climate change;

GEN7 – Landscape/seascape;

GEN 9 – Natural Heritage

GEN 10 – Invasive non-native species;

GEN 11 – Marine Litter;

GEN 12 – Water Quality and Resource;

GEN 13 – Noise.

NPF4 Policy 32 refers the National and Regional Marine Plan and notes that proposals will be supported where they comply with the relevant plans. The criteria noted within the NMP policies above are also covered within the Development Plan policies.

Beyond development plan considerations, in determining the application regard has to be had to the Council's Economic Development Action Plan which identifies aquaculture as an important contributor to the local economy, and to national government economic and sectoral policy, the stated intention of which is to seek to expand the finfish sector substantially to meet internal and export demands and to help sustain direct and indirect employment in rural areas. In addition, one of the proposals contained within the Rural Growth Deal for Argyll and Bute relates to a vision for Argyll and Bute to be the leading region for innovation in marine aquaculture in Scotland, UK and globally, by underpinning sustainable, inclusive business growth through investment in world class marine science and technology. This includes a commitment to a Marine Industry Needs Assessment. This study will provide the evidence base for industry needs to inform future investment outcomes and the potential options available to deliver these outcomes. This will assist in identifying the key priorities for Rural Growth Deal investment and where this should be targeted to support sustainable growth of this sector and set out in the business case for consideration and approval by SG.

3. Assessment Against Policy Criteria

Assessment of the proposal in this case will primarily be against the criteria set out in sector specific policies of NPF 4 Policy 32 and SG LDP AQUA1 and other relevant Development Plan policies. There is a requirement to consider the locational and operational characteristics of the development against each of the specified criteria with the presumption that proposals will be supported where:

- Direct, indirect or cumulative significant adverse effects on the criteria are avoided in relation to the locational characteristics of the development (this would be relevant in this case in terms of the impact of the development upon nature conservation designations, for example);
- The applicant can demonstrate that the level of risk of potential impacts on criteria relating to the operation of the site can be effectively minimised or mitigated by appropriate operational measures (this would be relevant in this case to the impact of the operation of the development upon wild fish interests);
- Proposals are consistent with other local and national policies and guidance

The eight development criteria set out in SG LDP AQUA 1 which align with the requirements of NPF4 Policy 32 are reviewed in the sections below along with the consideration of other relevant policies contained within the development plan.

1) Landscape / Seascape and Visual Amenity

An LVIA has been included within the EIAR. The proposal would introduce a new fish farm in a new location and the implementation of this development may have landscape and visual effects. The LVIA notes that the key issues which could arise from the development include:

- Potential effects on the landscape and seascape character of the Cour, Crossaig and Claonaig areas, as well as the landscape and seascape character of the Arran coastline opposite, from Pirmill to Lochranza;
- Potential effects on the North Arran NSA;
- Potential effects upon the Arran Northern Mountains SSSI;
- Potential effects on nearby settlements and views from habitation;
- Potential effects on views from passing craft within Kilbrannan Sound;
- Potential effects on existing recreation trails and routes passing alongside and in proximity to the coastline both on Kintyre and along the Arran coast;
- Potential compliance, in terms of Landscape and Visual impact, with national, regional and local planning policy as interpreted by the ABC Local Plan and Scotland's National Marine Plan;
- Potential for cumulative impacts with other development and land management in the area.

The development would be located off the east side of the Kintyre peninsula which in landscape terms is characterised within "Landscape Assessment of Argyll and Firth of Clyde" (SNH 1996) as being large scale mosaic of moorland and forestry plantation", with the character of the coastal fringe becoming more intricate and smaller scale with a variety of distinct character areas defined by undulating topography and crenulated coastline. To the east the narrowing of the Kilbrannan Sound and views towards Ailsa Craig are defining landscape features.

The proposed fish farm would be located off a small promontory named Rubha Riabhach which is located beyond a rocky shoreline. The site is theoretically visible to a wide extent from both the north and the south with the views to west curtailed by the promontory. There are clear views from the Kilbrannan Sound and distant views from the Isle of Arran. The EIAR notes that the location of Rubha Riabhach is remote from residential properties and outwith sightlines of adjacent Crossaig and Cour. It is further notes that the coastline of Arran is sufficiently far away to diminish views.

The B842 runs north from Campbeltown to Cloonaig. This is a single track road which moves in and out from the coastline due to topography. In places there are elevated views across the Kilbrannan Sound toward Arran and Ailsa Craig. The road is also designated as long distance cycle path (NCN 78) and core path. The closest dwellings to the proposed fish farm can be found at Cour and Crossaig at distances between 1km and 1.5km.

The site is not located close to or within any landscape designations on the Kintyre side, however, the site lies opposite the North Arran National Scenic Area designated for the scenic quality of the dramatic peaks and its contribution to the landscape setting of the Firth of Clyde and scenic enjoyment of Kintyre. In terms of the adopted Local Plan, the land which would run parallel to the fish farm is designated as countryside.

The EIAR notes that the land and shore in the vicinity of the fish farm does not lend itself to recreational access. There is not promoted access and the shoreline is rocky. The long distance cycle route and core path is set further back at this point with potential views from the north and south approaches.

In terms of landscape impact, five key Landscape, Coastal and Seascape Character Areas with intervisibility to the proposed site, and as identified within the Seascape / Landscape Character Assessment for the Firth of Clyde, the SNH Landscape Character Assessment and key SNH aquaculture guidance, have been used as landscape receptors.

The SLVIA notes that the key seascape and landscape characteristics of the area are the remote and indented coastline, the narrowing of the Kilbrannan Sound and proximity to Arran, where the low hills of Kintyre contrast with the drama of the rugged Arran skyline. The gentle landscape of the area and clustered settlement pattern, with strong links to the sound and rich historical influence, create a landscape with unique character and attraction. The section of coast within the locality contains relatively fewer landscape features than surrounding coastline, with existing industrial infrastructure which impacts upon the positive character of the area.

To aid the evaluation of visual effects, fourteen viewpoints were selected as part of the SLVIA. These are noted below along with their sensitivity and the level of significance:

Viewpoint	Sensitivity	Level of Significance
1. Grogport Old Manse Dun – Scheduled Ancient Monument (SAM)	High	Negligible
2. B842: south;	High	Moderate to Major
3. Cour House (category A listed);	Moderate to High	Moderate
4. B842: adjacent	Moderate to High	With woodland screening No Effect, Moderate to Major with woodland removed.
5. B842: north;	High	Moderate
6. Claonaig slipway;	High	Negligible
7. Claonaig to Lochranza ferry crossing;	High	Negligible
8. Kilbrannan Sound north;	Moderate to High	Moderate to Major
9. Kilbrannan Sound south;	Moderate to High	Moderate to Major
10. Pirnmill Former Free Church beachfront;	High	Negligible
11. Thundergay beach;	High	Moderate
12. Core Path AR81 Coirein Lochan;	High	Moderate
13. Catacol;	High	Negligible

14. Newton Point Viewpoint.	High	Negligible on clear and still days with potentially No Effect at other times.
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The visual effect of the proposal range between No Effect and Moderate to Major. The SLVIA concludes that the most significant visual effects were views from the B842 /NCN Cycle Route 78 / Core Path Campbeltown to Claonaig. Here there were Moderate to Major levels of significance due to the high sensitivity of the viewpoints and the scale of the proposal within the view albeit a passing view on a recreational route.

Viewpoint 4 was assessed as having No Effect prior to intervening forestry being felled. As this forestry has now been felled there will be clear views of the site from this viewpoint. As a result of the felling the applicant's landscape consultant has provided further clarification on this viewpoint. It is noted that this is not a promoted view and it would be experienced both as a passing view and somewhere where people will stop on an informal basis by car or as a rest point for cyclists and walkers. The view which would contain the fish farm cages would be part of a much larger panorama, the majority of which would remain unaffected. The applicant's landscape consultant considers that the removal of the conifer plantation would not change the character assessment or the overall determination of the SLVIA.

The SLVIA has also considered potential cumulative effects with the proposed High Constellation wind farm. This site boundary of the windfarm is located 0.8km to the east of the proposed wind farm and 3.2km to the nearest turbine. Limited intervisibility and presence of existing similar infrastructure between the two developments resulted in a determination of no cumulative seascape and landscape effects, but with potential for cumulative effects during construction phases.

Overall the SLVIA report concludes that

“the area of proposed development is within an attractive landscape and seascape area, but with detracting factors which lower sensitivity and enable the development of proposals to be undertaken without major adverse effects being encountered. There are key areas of recreational resource, and hotspots of high sensitivity along the Kintyre coast, and within these areas there are higher levels of impact determined, but this is well contained to minimise overall levels of significance. The siting of the proposed fish farm is appropriate to context, maintaining integrity of the key characteristics of the area to sufficient levels. The highly sensitive coastline of north Arran is protected from unduly high levels of adverse effects, with sufficient distance across the Sound and sufficient interest and engagement within the wider landscape and seascape.

This SLVIA concludes that, with adherence to mitigation, the proposals conform to the Argyll and Bute Local Development Plan and to wider marine planning guidance, with a good proportion of acceptable levels of impacts within the Cour area.”

Officers would concur with this view and consider that the seascape, landscape and visual impacts of the proposal would be acceptable in terms of NPF4 policies 4 and 32 and LDP policies AQUA 1, LDP 3, SG LDP ENV 12 and SG ENV 14.

2) Isolated Coast and Wild Land

There are no areas of wild land which would be impacted on the proposal. The proposed fish farm would be located adjacent to land designated as countryside and therefore not adjacent to isolated coast. The proposal does not conflict with the development plan on this issue including NPF policies 4 and 32.

3) Historic or Archaeological Sites and their settings

At the scoping stage of this development Historic Environment Scotland (HES) advised that there were no heritage assets within their remit located within the site area or its vicinity. It was therefore suggested that these issues could be scoped out of the EIAR. However, the Council identified that there may be impacts on the category A listed Cour House and that this should be considered within the EIAR. The assessment concluded that there were no features of cultural heritage importance within 2km of the site. The A listed Cour House is located approximately 1.6km from the proposed site and the EIAR has concluded that there will only be a small proportion of the site visible at an oblique view with only a limited change to the overall view. It was concluded that this would lead to small adverse effects and moderate levels of significance. Due to the location of the farm north of Cour Bay and the screening provided by the headland of Rubha Riabhach officers would concur with this view and are of the opinion that the proposal would not have an unacceptable effect on the listed building or its setting. This view is supported by the HES consultation response to this application which advises that due to the limited visibility in views from Cour House, significant impacts on the setting are unlikely.

In terms of Policy 7 of NPF4, the proposal would not affect any Historic Marine Protected Areas.

Taking account of the above, it is not considered that the expansion of the fish farm in this location would have an adverse impact on the setting cultural heritage assets and therefore the proposal would not conflict with NPF4 policies 7 and 32 and LDP policies LDP 3, LDP 5, SG LDP AQUA 1 and SG LDP ENV 16(a).

4) Priority Habitats and Species (including wild migratory salmonids) and designated sites for nature conservation

NatureScot has advised that the proposal is likely to have significant effect on the qualifying interests of the Ailsa Craig SPA and Endrick Mouth SAC. In these circumstances Argyll and Bute Council, as competent authority, is required to carry out an appropriate assessments in view of the sites' conservation objectives for their qualifying interests. The appropriate assessments are contained within the appendix of this report. The conclusions of this are that, subject to the specified mitigation which are included as proposed conditions, the proposal will not adversely affect the integrity of the sites.

With regard to NPF4 – policies 3 and 4 in relation to impacts upon species or habitats of conservation importance, including sensitive sites, the EIAR concluded that there were no relevant designations near North Kilbrannan, however, two distant protected areas were considered relevant, namely Endrick Water SAC and Ailsa Craig SPA. Both of these sites have been considered in Appropriate Assessments which are appended to this report. Both of these conclude that the proposal can proceed subject to identified mitigation.

The proposal would also be operated in accordance with an Environmental Management Plan (EMP). The aim of the EMP is to ensure that salmonid farming activity, within the Management Area does not result in negative impacts to local salmon and sea trout populations and fisheries. Part of this process commits to improving the understanding of the relationship between farmed salmon production and the health of wild salmonids. This will include the monitoring of lice burdens on wild fish and will include an adaptive management process which takes account of scientific evidence on negative impacts on wild salmonids arising from farming activity. In relation to impacts on the SAC, NatureScot have advised that they are satisfied the planning authority can conclude that appropriate measures are in place to ensure that the farm will not compromise the conservation objectives of the Endrick Water SAC and will not therefore result in an adverse effect on site integrity.

In addition, NatureScot advise that the proposal will not result in any significant impacts on Priority Marine Features.

Subject the requirement for mitigation these policies would not conflict with NP4 policies 3, 4 and 32 and LDP policies LDP 3, LDP 5 and SG LDP AQUA 1.

5) Wild Fish Interactions

The EIAR advises that there are four main local rivers that hold salmonid populations within about 15km of the site. These are Skipness River, Claonaig Water and Carradale Water on the Kintyre peninsula and Iorsa Water and Machrie Water on the Isle of Arran. Data shows there has been a general reduction in salmon and grise and sea trout catches with time in the Carradale Statistical District. In the Iorsa Statistical District any trends with time are less clear. It should be noted that the data is affected by a number of factors including the stocking of salmon in Iorsa Water. In 2020 Carradale Water, Iorsa Water and Machrie Water, for which conservation assessments were available, had a salmon conservation grading of 3 meaning that “exploitation is unsustainable therefore management actions required to reduce exploitation” requiring mandatory catch and release. The EIAR further cites the Argyll Fisheries Trust report, Isle of Arran Rivers Project, Phase 2 of 2: Survey of Fish Populations and Habitats 2008/2009 which noted that in western Arran catchment rivers (including Iorsa) salmon fry abundances were generally low. The conclusion of the report stated that “The patch distribution of juvenile salmon is likely to be primarily due to population shrinkage as consequence of low numbers of adult sea returns”. The EIAR therefore concludes that the vulnerability of the salmon and sea trout populations in the catchment area classify this receptor as high sensitivity.

a) Containment and risk of escapes

Containment following Carradale Escape

Following the mass fish farm escape in August 2020 during Storm Ellen, MOWI has advised that a detailed root cause analysis was carried out which identified and informed a series of remedial and improvement actions aimed at avoiding future similar events. The escape was caused by mooring line failure at the southern end of the pen group. This was due to abrasion when the feed barge mooring lines came into contact with pen grid mooring lines. The actions identified by MOWI are as follows:

- A review of moorings analysis procedure and the introduction of an independent third party verification process;
- Implementation of a programme to strengthen mooring lines at eight of MOWI's most exposed fish farms prior to winter 2020;
- Increase in the frequency and intensity of sub surface mooring inspections with the most exposed farms receiving one ROV survey every 12 months;
- In combination with sub-surface mooring inspections MOWI have, at their most exposed farming locations, increased the frequency and intensity of physical moorings inspection pre- and post-winter, carried out by specialist moorings support vessels and staff;
- Net and weighting system design at high energy farms has been improved and phased implementation has begun; and
- Development of a dedicated equipment management system allowing a full overview of technical equipment, site maintenance scheduling and servicing is progressing and will be rolled out in due course.

North Kilbrannan would be the first new MOWI fish farm to be subject to these procedures and supporting documents have been submitted covering these issues. A condition is proposed which requires the fish farm to adhere to these requirements.

Assessment of the Effects of the Escape on Wild Salmon Populations

Following the escape of salmon from Mowi Scotland's Carradale North fish farm, Fisheries Management Scotland, alongside Marine Scotland and funded by Mowi, established an investigation and monitoring study to assess the effects of the escape on wild salmon populations. The first phase confirmed that 277 Atlantic salmon of farmed origin (verified through scale reading) were caught in 17 rivers across Scotland and North-West England during the autumn of 2020. The second phase, outlined in a report published by Marine Scotland in December 2022, involved a genetic study of juvenile salmon obtained from rivers in areas of Scotland and England local to where escaped farm raised salmon were caught. The results indicated that hybridisation of farmed and wild salmon following the escape incident in August 2020 was limited to a single juvenile salmon from a total 5,281 wild fish sampled and analysed. Although the single salmon was found to contain aquaculture-derived ancestry, it could not be definitively traced to the escaped fish from the Carradale fish farm.

b) Sea Lice Management

Sea lice are ectoparasites belonging to the crustacean family. They have a complex life history involving a free swimming stage searching for a host. During subsequent growth phases, they can move around the host and swim unanchored from it. Two species can infect salmon; a salmon specific species (*Lepeophtheirus salmonis*) and to a lesser extent a more generalist species (*Caligus elongates*). The intensity of infection at which sea lice become damaging depends upon the size of fish, the species of sea louse and the residence time of lice to the host.

MSS advise that scientific evidence from Norway and Ireland indicates a detrimental effect of sea lice on wild salmonid populations. As fish farms result in elevated numbers of sea lice in open water and therefore in some circumstances they are likely to have an adverse effect on some populations of wild salmonids, however the magnitude of any such impact in relation to overall mortality is not known. Information from the west coast of Scotland suggests lice from fish farming can cause a risk to local salmon and sea trout. This information can be used to give an idea of the relative risk to salmon and sea trout which is governed, and can be mitigated by a number of factors, in particular the siting of the farm and its ability to effectively control sea lice.

This development has the potential to increase the risks to wild salmonids.

The applicant is aware of these risks and has provided information on the sea lice management strategy used by the company. The location lies outwith the current Farm Management Area (FMA) FMA M-47, but it is expected that this will be extended northwards. The applicant has advised that the three sites will be operated synchronously being stocked at the same time with the same year class of fish and observing a synchronous fallow period. The EIAR contains a chapter in Interactions with Wild Salmonids and Annex 11 contains a Sea Lice Management and Efficacy Statement. The company operates an intervention level of 0.5 adult female lice all year round where cleaner fish are stocked which is more stringent than the Code of Good Practice (CoGP) for fin fish aquaculture. A switch has also been made from average counts across the farm and treatment of the whole farm to a focus on cage by cage interventions at an earlier stage.

Non medicinal methods of controlling sea lice are now favoured with cleaner fish having been used at the Carradale sites since 2018. Physical removal methods using hydrolicers and

thermolicer are also available with several of each system being owned by the company. The company is also able to use freshwater treatments.

The company would also have access to medications for use as bath treatments.

In a consultation response in April 2023, Marine Scotland Science advised that in the most recent production cycle within the Farm Management Area, numbers of adult female sea lice at the applicant's nearby Carradale site had remained below Marine Scotland's reporting levels since stocking in October 2021. Towards the end of the production cycle sea lice levels have risen above the CoGP suggested criteria intermittently.

Wild salmon and trout are priority marine features, and having regard to the division of regulatory responsibilities acknowledged in the National Marine Plan, and as part of its biodiversity duty, the Council in its capacity as Planning Authority must assume responsibility for the consideration of the implications of aquaculture development for the conservation of these species. In considering aquaculture applications, the Council therefore has to satisfy itself that there is both an effective and a consentable sea lice strategy identified, and that there are controls in place to ensure that necessary steps are taken in the event that sea lice levels prove not to be capable of being controlled in a satisfactory manner using the measures identified at the application stage. SEPA are currently in the process of devising a framework which will regulate wild fish interactions but until such time as this is implemented, the planning authority will continue to have responsibility for this issue.

Marine Scotland's Fish Health Inspectorate have the responsibility for regulating the health of fish being produced on the farm, but this responsibility does not extend to the consideration of the effects of fish farming upon wild fish; although Marine Scotland does provide wild fish interaction advice to the Council to inform decision-making. SEPA are the regulatory body responsible for licensing biomass permitted to be held on farms and for the permitted use of chemicals, but the propagation of sea lice into the wider environment from within farms is not currently considered as part of their licensing process.

Marine Scotland's Impacts of lice from fish farms on wild Scottish sea trout and salmon: summary of science, last updated 12 March 2021 states that "In view of uncertainties in available information, it is not a straightforward task to ascribe impact from a single farm to a specific wild salmonid population. When mitigating the risk posed to wild salmon and sea trout from sea lice emanating from salmon farms, an approach is needed that relates control of lice numbers on farms within a specified area to measured lice levels in the environment and estimation of associated risk. Such adaptive management is a useful approach where sustainable development of aquaculture is required."

In addition to the operation of a Sea Lice Management and Efficacy Statement, the applicant will be required to operate the development in accordance with an Environmental Management Plan (EMP). Prior to SEPA taking over the responsibility for regulating this area, this is currently the method by which sea lice are monitored and controlled in the interests of wild salmonids. The aim of the EMP is to ensure that salmonid farming activity within the Management Area does not result in negative impacts to local salmon and sea trout populations and fisheries. The Kilbrannan Sound EMP which covers all of the MOWI fish farms in the FMA states that this will be achieved by:

- monitoring,
- co-operation; and
- adaptive management.

The EMP states that a key goal for the monitoring is to understand the relationship between lice on farms in the Management Area and lice infections (and related mortality) on wild salmonids and this will be achieved through the development of a science strategy that will in four key components. These are monitoring lice infection of wild salmonids, monitoring total lice emissions from farming activity, the production of a lice connectivity model and acoustic tracking studies to map smolt migration pathways.

Since this application was submitted, the applicant has advised that wild fish monitoring has commenced in relation to the Endrick Water SAC in advance of the determination of this planning application in order to establish a base line position pre-development. This will enhance the existing fish monitoring in the water catchment by adding 53 new monitoring locations (on the River Leven, Endrick Water and Blane Water). This is focused on locations where there is no information on wild fish population status. The baseline monitoring programme will extend over a 3-year period with 2023 being year 3. A report on data obtained for year 1 (2021) has already been submitted to NatureScot with the reporting for year 2 (2022) data presently under way. The full 3 years monitoring needs to be completed before conclusions can be drawn, but the monitoring will fill in any gaps in knowledge and provide a comprehensive, catchment wide assessment of the health of wild salmonid populations in the Endrick SAC catchment providing a baseline position to monitor future change against (from all pressures).

In terms of cooperation, the EMP states that the operator will facilitate access for stakeholders to observe farm lice counts. The EMP also commits to information sharing including a summary of lice counts at all stages. There is also a commitment to notify stakeholders should the sites in the Management Area breach CoGP level or the maximum sea lice load for the area exceeds that set out in the Statement of Operation Practice. The EMP also commits the applicant to meetings with stakeholders at least twice per complete production cycle this will also include provisions for discussion on the Endrick Water SAC.

The adaptive management element of the EMP requires the operator to be responsive to evidence of impacts on wild salmon populations from farming activity. Where data generated under this EMP suggests that farming activity in the Management Area is impacting on wild salmonids or leading to elevated risk on SAC salmon populations, the operator shall take all necessary management measures, including, if required, material changes to the operation of farms in order to mitigate those impacts to so far as reasonably possible.

The EMP also contains a requirement for an end of production cycle review meeting. Where monitoring evidence suggests a population regulating effect arising from sea lice, or impacts arising from an escape are identified, appropriate management measures will be agreed. The operator will identify and deploy outcome-focused alternative management actions designed to prevent any such impacts from occurring during the next production cycle. Farms in the area will not be re-stocked until the alternative management actions have been agreed by the parties. If impacts on wild fish are identified over consecutive production cycles, despite management action having been deployed to mitigate those impacts, then further management action will be required. Such management action may include early harvest, reduction in biomass at any appropriate sites or relocation of some production to a different location.

The EMP has been agreed between the applicant and the Argyll District Salmon Fishery Board. Marine Scotland Science has advised the planning authority that the EMP contains all the required components.

Taking account of the above, it is considered that the proposal would accord with NPF4 policies 3, 4 and 32 and LDP policies LDP 3, LDP 5, SG LDP ENV1, SG LDP ENV 2 and SG LDP AQUA 1.

6) Ecological Status of Water Bodies and Biological Carrying Capacity

The site is located within 'uncategorised' waters under Marine Scotland's Locational Guidelines, which indicates better prospects of fish farm developments being acceptable in environmental terms given the open situation, and the depth of water with unconstrained water exchange. SEPA are responsible for controlling water column impacts via its CAR licensing process and have confirmed that compliance with the CAR permit should ensure that the production of fish at this farm will not breach SEPA's environmental standards for protection of the surrounding seabed and water column.

With regard to NPF4 policy 3, policies 3b and 3c do not apply to open water fish farms. The requirements of policies 3a and 3d have been addressed within the EIAR. In particular, chapter 10 of the EIAR considers the impact on the benthic environment. This concludes that efficient operational practices will keep the organic load to the benthic environment to a minimum. No Priority Marine Features (PMFs) or habitats were identified by video analysis and there are no designations within the predicted area of benthic impact. The modelling undertaken indicated that the proposed development would be sustainable and within the requirements set by SEPA.

SEPA have advised that a CAR licence has been issued for this site, therefore, it is not considered that the proposal would conflict with policy SG LDP ENV 7 which resists development which would have a detrimental impact on the water environment. The proposal would also accord with policy SG LDP AQUA 1 and NPF 4 policies 3 and 32.

7) Commercial and Recreational Activity

The EIAR contains a chapter on navigation, anchorage, commercial fisheries and other non-recreational maritime uses. A fish farm uses up space on the sea that can obstruct or impede the activities of other maritime users. At the pre-application / scoping stage of this proposal MOWI sought the views of the Council, Clyde Fishermen's Association, the MOD and the Royal Yachting Association. The following non-recreational marine users and activities were identified near North Kilbrannan:

- Kilbrannan Sound is within a Military Exercise Area;
- The nearest port, harbour, marina or slipway is the Claonaig Ferry Terminal approximately 7.2km away;
- There are no ferry routes near North Kilbrannan.
- Fishing effort and relative value of fishing in the area around the proposed site are medium. Most of the fishing effort and value are concentrated over the other side of Arran in the Firth of Clyde.

The impacts on navigation, commercial shipping and fisheries were assessed in the EIAR by accessing publicly available data and through consultation. Commercial shipping was assessed as a low sensitivity receptor due to the low frequency of transits through the area. The location of the farm outwith the main route through the Kilbrannan Sound indicates that the magnitude of impact would also be low. Therefore the overall impact on commercial navigation is assessed as minor.

Recreational shipping has also been assessed as a low sensitivity receptor. Similar to commercial shipping, due to the farm being located outwith the main route through the Sound, the magnitude of impact would also be low. Therefore the overall impact on recreational navigation is assessed as minor.

In terms of commercial fisheries, the key impacts associated with the proposal are identified within the EIAR as being:

- The physical displacement of fishing activity from the area;
- Impacts arising from the depositional footprint of carbon and infeed residues;
- Impacts on navigation and safety arising from additional infrastructure.

Data from Marine Scotland NMPi indicates that most commercial fishing vessels in the area operate in the Firth of Clyde with an average of 14 to 20 vessels operating in the Kilbrannan Sound.

The EIAR concludes that commercial fisheries populations are classified as a low sensitivity receptor in terms of economic value due to the existing low commercially viable marine populations identified. The number of fishing vessels is also low, therefore the overall significance on commercial fisheries is assessed as minor.

The Clyde Fishermen's Association were consulted on this application and have objected on a number of grounds including the loss of fishing grounds to indigenous fishermen. They contend that this particular area will take away safe fishing grounds for prawn fishing.

The Council's Marine and Coastal Policy Officer has noted that ScotMAP data (Oct 2020) shows that the marine area of the farm is of low-medium value for nephrops / crab creel and trawl fishing. She has further noted that the moorings area which would extend to 30.6 ha might interact with fishing activity and could be considered significant, however it was concluded that no significant environmental effects were considered likely in relation to risk to navigation and anchorages and other marine users.

The MOD were consulted through the EIAR process and advised that there were no objections regarding this activity in the location specified.

Taking account of the above, it is considered that there may be some impacts on commercial fishing, taking account of the conclusions of the EIAR and consultation responses, it is not considered that these would be of a significance that would provide a sustainable reason for the refusal of the application.

It is therefore considered that the proposal would accord with the development plan on this issue, namely NPF4 policy 32 and LDP policies LDP 5 and AQUA 1.

8) Amenity issues arising from operational effects (waste, noise, light and colour)

The EIAR contains a chapter which considers noise. Potential receptors to noise impacts were identified within a 1km buffer from the proposed farm site. No high sensitivity receptors were identified and potential receptors included occasional walkers associated with the coastline, recreational users (boats/kayakers) and fishing boats. Other marine users include yachts and power boats. No stationary receptors were identified. The receptors were assessed to be of low sensitivity and the magnitude of the impact was assessed to be minor resulting in an overall minor impact.

The EIAR contains a Chapter on waste management (non-fish). This details the nature of waste generated at a fish farm and classifies how it is managed. It is noted that waste management processes are currently certified under ISO 14001 which is an environmental management certification. This chapter also states that MOWI is committed to reducing waste

and makes efforts to re-use and repair equipment where possible. Whilst a Waste Management Plan has been submitted as an Annex of the EIAR, a further condition is recommended in order to allow the planning authority to fully consider the applicant's proposals for the storage, separation and collection of waste including proposals for uplift where fish farm equipment has become detached from the site.

The Council's Public Protection service have requested that a condition be applied to require further details of the fresh water supply which will serve the proposed feed barge. The applicant has advised that they would be happy with such a condition and have advised that the proposed feed barge would be of a modern design which will ensure a safe working platform for staff. There will be no provision for overnight accommodation for staff. In terms of welfare facilities and water provision, the feed barge design will include integral water storage tanks which form the basis for freshwater supply needs. Water would be sourced from a land based mains supply and transferred to the barge by bulk container. Additional treatment in the form of appropriate filtration and treatment such as ultraviolet disinfection would also be fitted to ensure the water is wholesome for consumption.

The would not conflict with NPF4 policies 12 and 23 and LDP policies LDP 10, SG LDP SG BAD 1, SG LDP SERV 5b

9) Economic Impact

It is stated that the site would require 10 permanently employed members of staff and potentially seasonal workers during the summer and in the second year of the production cycle. The applicant has advised that the development would also support 68 supply chain jobs within Argyll and across Scotland. An economic impact assessment presented in support of the application assesses that the development will generate wider benefits including an operational annual GVA Impact of £1.2M to the Scottish economy. The assessment concludes that for every pound of investment in the project over a 20-year period, approximately four pounds are returned to the Scottish economy.

The development would be serviced from Carradale Harbour from a new, upgraded shore base facility that the applicant has committed to develop. This would incorporate community benefit elements including a new pontoon for small vessels which would operate on a shared community use basis. The proposed shore base would be in a prominent location within Carradale harbour with extensive works having been undertaken to remediate significant quantities of historic waste deposits from the land offering further opportunities for the renovation and use of historic harbour buildings as part of the shore-based development.

It is considered that the proposal would have a positive economic impact in the local and wider are in accordance with NPF4 policy 25 and LDP policies LDP 5 and SG LDP AQUA 1.

4. Effects of Fish Farm Medication on Human Health

A number of representations associated with this planning application have raised concerns about adverse effects of fish farm medications on wild swimmers. This issue arose after the submission of the planning application and did not form part of the EIAR. Human health is a specified criterion within the EIA process. The determination of this application has incurred a significant delay due to information being requested on this topic. A report was commissioned by the Scottish Salmon Producers Organisation (now Salmon Scotland) and submitted by the applicant. This report produced by WCA was advertised as supplementary information to the EIA. The objective of the report was to assess the potential health risks to open water swimmers in the vicinity of fish farms in Scotland in relation to medicinal treatments applied

for the control of sea lice on salmon. The report has considered three substances, namely azamethiphos, deltamethrin and hydrogen peroxide.

Medicinal sea lice treatments using known amounts of the substances are carried out in one of two ways:

- Bath treatments in-situ. By enclosing the pen in question fully with a large tarpaulin. The net is lifted to gently crowd the fish together in the smallest safe volume. The tarpaulin is passed underneath the net and pulled up around the pen above the water level. When the fish are totally enclosed in the tarpaulin, treatment can begin. Once the treatment is completed the tarpaulin is removed and the treatment water released into the sea.
- Fish may be treated in tanks on board specialist wellboats. Following treatment, the dislodged lice are collected and disposed of, then the treatment water is released into the sea.

With regard to azamethiphos and deltamethrin the report concludes that the concentrations used to treat fish are safe for open water swimmers, even before dilution and dispersion occurs in open waters. However, for hydrogen peroxide there is a risk associated with the concentrations of hydrogen peroxide used in the fish treatment paths, therefore, characterisation of dilution and dispersion are likely to be required to be taken into account to demonstrate that discharges of hydrogen peroxide are safe for open water swimmers.

NHS Highland were consulted on the WCA report and did not provide a definitive response however they confirmed that they did not object to the proposal. As an extra precautionary measure a condition is proposed requiring the company to provide a Communications Plan to advise water users when bath treatments are in use at the farm. This also requires the production of a Monitoring Plan to investigate the dispersal and dilution of Hydrogen Peroxide following its use in bath treatments on the site and the use of these findings to review and update the conclusions the Communications Plan.

Subject to the imposition of this condition it is considered that the proposal would comply with NPF4 Policy 23 which seeks to protect people and places from environmental harm and mitigate risks arising from safety hazards.

Appendix B

HABITATS REGULATIONS 'APPROPRIATE ASSESSMENT' HABITAT DIRECTIVE 92-43-EEC THE CONSERVATION (NATURAL HABITATS AND C.) REGULATIONS 1994 AS AMENDED

Endrick Water Special Area of Conservation

Purpose of the designation

The Habitats Directive aims to conserve biodiversity by maintaining or restoring species to favourable conservation status. The Endrick Water was classified as a Special Area of Conservation for three species of freshwater fish in 2005. The primary qualifiers for this site are brook lamprey (*Lampetra planeri*) and river Lamprey (*Lampetra fluviatilis*). Atlantic salmon (*Salmo salar*) are a secondary qualifier for this site. Neither brook nor river lamprey will be impacted by the proposal.

The purpose of the designation is to avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and to ensure for the qualifying species that the following are maintained in the long term:

- Population of the species, including range of genetic types for salmon, as a viable component of the site;
- Distribution of the species within site
- Distribution and extent of habitats supporting the species;
- Structure, function and supporting processes of habitats supporting the species;
- No significant disturbance of the species.

Consequences of the designation

In circumstances where European Protected Species could be subject to significant effects as a consequence of development proposals, the competent authority, in considering whether development should be consented, is required to undertake an 'appropriate assessment' to inform its decision-making process, on the basis that where unacceptable effects are identified, or in cases of 'reasonable scientific doubt', then permission ought not to be granted.

An 'appropriate assessment' is required to be undertaken in cases where any plan or project which:

- (a) Either alone or in combination with other plans or projects would be likely to have significant effect on a European site designated for nature conservation; and
- (b) Is not directly connected with the management of the site.

It is considered by NatureScot that the proposal is likely to have a significant effect on the Atlantic Salmon qualifying interest of the site. The proposed site lies approximately 70km to

the south-west of the boundary of the SAC as the crow flies. However, wild salmonids and Atlantic salmon smolts emigrate through the Firth of Clyde. As a consequence, Argyll and Bute Council has conducted an 'appropriate assessment', as per the Conservation (Habitats and C.) Regulations 1994 (as amended), having regard to the anticipated effects of development and the conservation objectives for the site's qualifying interests. This assessment is detailed below.

Characteristics of the development

The proposal is for the equipping and operation of a marine fish farm with farmed fish to be contained in 12 pens, comprising nets supported from flotation rings secured to a mooring grid with associated feed barge. The proposal is likely to have a significant effect on the Atlantic salmon feature of the Endrick Water SAC due to:

- The risk posed as a result of the potential impacts of sea lice on Atlantic salmon smolts emigrating through the Firth of Clyde; and
- Genetic introgression should farmed Atlantic salmon escape into the wild.

Assessment

It is not considered that there would be any impact on the brook or river lamprey interest of the SAC.

The assessment considers the impact of the proposals on Atlantic salmon and has regard to the applicant's submitted information in support of the planning application, and to consultation advice provided by NatureScot.

NatureScot has raised concerns about the submitted proposal on the basis that the operation of the farm, as envisaged by the applicants, could in their view affect the qualifying interests of the SAC. They object to the proposal due to the potential impact on the SAC unless it was subject to conditions requiring operation strictly in accordance with the proposed mitigation measures.

The site is some 70km from the SAC and will have no direct impact on the boundaries of the SAC. However, it could impact on the qualifying interest of the Atlantic salmon, including smolts, as they travel through the Firth of Clyde.

The site will generate sea lice which would disperse in the wider Firth of Clyde. The greater the level of lice, the greater the potential impact on the qualifying interests within the Firth of Clyde. An escape of farmed fish has the potential for interaction with wild salmonids within the Firth of Clyde.

NatureScot has advised that extensive literature exists which demonstrates the negative impacts of aquaculture derived sea lice on early marine survival of post smolt Atlantic salmon (and sea trout which may stay in the Clyde all year) and proximity of marine fin fish aquaculture units.

The Atlantic salmon qualifying interest of the Endrick Water SAC was in an unfavourable condition (both for juvenile and adult fish) in 2005 and 2011 as evidenced by Site Condition Monitoring. Assessments carried out by Marine Scotland Science determined that for 2019, the Endrick Water SAC met the criteria for inclusion in category 2 (where the population has a 60 to 80% probability of meeting its conservation limit and may require management action to reduce exploitation).

The rod catch for the whole of Scotland, which is frequently used as a proxy for population trends, showed that the 2018 rod catch was at its lowest levels since records began in 1952. Atlantic salmon both nationally and within the Endrick Water SAC, are therefore considered to be vulnerable.

Atlantic salmon are anadromous and undertake extensive migrations between freshwater and marine habitats. Smolt migration is associated with high mortality and is thus considered a critical life stage in the Atlantic salmon life history. Currently only about 5% of smolts who make the journey return to freshwater as adults.

Smolts originating from the Lomond catchment (which includes the Endrick Water SAC) and the Clyde catchment (which includes the rivers Clyde, Gryffe, Black Cart Water and White Cart Water) migrate to their oceanic feeding grounds in the Norwegian Sea and West Greenland via the Inner and Outer Clyde. This means that these fish will pass through the main channel and southward past the east coast of Bute and the island of Little and Great Cumbrae (possibly including the Fairlie Roads) as they pass into the Arran Basin and outer Firth of Clyde.

Nature Scot further advise that whilst they do not know the exact migration route of Atlantic salmon post smolts emigrating from the Endrick Water SAC, there is potential for them to pass through lice dispersion plumes emanating from the proposal.

NatureScot advise that the proposal would not adversely affect the integrity of the SAC as they consider that short term elevated lice levels would not compromise Conservation Objective 1: *'Population of the Species, including range of genetic types for salmon, as a viable component of the site'*. However, persistent elevated lice levels recurring during periods of the smolt run could, in the long term, compromise this conservation objective.

NatureScot has advised that MOWI's revised EMP (December 2020) in combination with suggested planning conditions would provide Argyll and Bute Council with an enforceable framework to ensure that any elevated risk to the Endrick Water SAC as a result of this proposal could be identified and mitigated thus ensuring that any adverse effect on the integrity of the site would be avoided. In addition to adherence to the EMP process, managing risk to the Endrick Water SAC qualifying feature can be further mitigated by full adoption of the current Scottish Technical Standards and embedded best practice to mitigate the risk of equipment failure and subsequent farmed salmon escapes.

Recommended mitigation to be secured by planning condition, should permission be granted.

NatureScot advise that on the basis of the appraisal carried out to date, if the proposal is carried out strictly in accordance with the revised EMP, it is concluded that the proposal would not adversely affect the integrity of the Endrick Water SAC:

1. Under the revised EMP, the applicant will undertake a programme of wild fish monitoring to measure levels of sea lice infestation pressure on wild salmonids in coastal waters within a zone of 30km from the Management Area (section 5.1 of the EMP). For the avoidance of doubt, NatureScot recommend that a planning condition is applied to any consent that states that the site is not stocked until the monitoring plan has been agreed, including a requirement to monitor the juvenile salmon population.

2. The applicant will keep a weekly record of estimated total lice emissions which will be used to calculate a 'lice load' in the Management Area (section 5.2 of the EMP).
3. The applicant will carry out sea lice dispersion modelling as part of the plan. This will be used to guide the monitoring strategy (section 5.3 of the EMP).
4. The applicant will work with the Argyll District Salmon Fishery Board to design an appropriate acoustic tracking study which aims to address information gaps associated with the migration of salmon smolts (section 5.4 of the EMP).
5. An additional monitoring programme will be designed and implemented to produce data on the health of wild salmonid populations in the Endrick Water SAC (section 5.6 of the EMP).
6. The EMP commits the applicant to meet with stakeholders at least twice per production cycle. Meeting will be scheduled to take place prior to the wild smolt migration periods and one meeting to be held at the end of the production cycle (section 6.3 of the EMP). In addition to this, we recommend that as part of the end of cycle review, the site will not be restocked until the review has been agreed by Argyll and Bute Council in consultation with NatureScot.
7. The applicant will adhere to the Scottish Technical Standard for aquaculture equipment to reduce the risk of equipment failure and the subsequent occurrence of any significant escape of farmed salmon escapes.

Conclusion

The potential impacts of the development in relation to the conservation objectives cited in the SAC designation have been considered in the light of the above and it has been concluded that with identified mitigation measures in place the impacts arising from the operation of the development as proposed, in combination with the operation of other farms nearby will not have a significant impact upon qualifying interests, and accordingly there is no reason to withhold permission on European nature conservation grounds.

Appendix C

HABITATS REGULATIONS ‘APPROPRIATE ASSESSMENT’ HABITAT DIRECTIVE 92-43-EEC THE CONSERVATION (NATURAL HABITATS AND C.) REGULATIONS 1994 AS AMENDED

Ailsa Craig Special Protection Area

Purpose of the designation

The Habitats Directive aims to conserve biodiversity by maintaining or restoring species to favourable conservation status. The Ailsa Craig Special Protection Area (SPA) was classified 25th April 1990 and extended 25th September 2009. It covers the Ailsa Craig Island and approximately 2km into the marine environment, including the seabed, water column and surface. It has a qualifying interest by regularly supporting populations of migratory species namely; northern gannet (*Morus bassanus*) and lesser black-backed gull (*Larus fuscus*). It also has a qualifying interest as it regularly supports in excess of 20,000 individual seabirds including common guillemot (*Uria aalge*), black-legged kittiwake (*Rissa tridactyla*) and herring gull (*Larus argentatus*).

The purpose of the designation is to avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained:

- Population of the species as a viable component of the site;
- Distribution of the species within site;
- Distribution and extent of habitats supporting the species;
- Structure, function and supporting processes of habitats supporting the species;
- No significant disturbance of the species.

Consequences of the designation

In circumstances where European Protected Species could be subject to significant effects as a consequence of development proposals, the competent authority, in considering whether development should be consented, is required to undertake an ‘appropriate assessment’ to inform its decision-making process, on the basis that where unacceptable effects are identified, or in cases of ‘reasonable scientific doubt’, then permission ought not to be granted.

An ‘appropriate assessment’ is required to be undertaken in cases where any plan or project which:

- (a) Either alone or in combination with other plans or projects would be likely to have a significant effect on a European site designated for nature conservation; and
- (b) Is not directly connected with the management of the site.

It is considered by NatureScot that the proposal could affect the qualifying interests, except for kittiwake, of Ailsa Craig SPA. The proposed site lies approximately 50km to the north west of the boundary of the SPA. However, this is within the mean maximum foraging range for birds identified as the qualifying interest of the SPA. As a consequence, Argyll Bute Council has conducted an 'appropriate assessment', as per the Conservation (Habitats and C.) Regulations 1994 (as amended), having regard to the anticipated effects of development and the conservation objectives for the site's qualifying interests. This assessment is detailed below.

Characteristics of the development

The proposal is for a new Atlantic salmon marine fish farm located in the Kilbrannan Sound off the east coast of Kintyre north of Cour Bay. The development comprises 12 no., 120 metre circumference pens arranged in a 2 x 6m regular grid with associated moorings to the sea bed.

NatureScot advise that the site is located within the mean maximum foraging range of the qualifying features of the Ailsa Craig SPA which are: breeding seabird assemblage, gannet (breeding), common guillemot (breeding), herring gull (breeding), kittiwake (breeding) and lesser black-backed gulls (breeding). Furthermore for gannets, kittiwakes, lesser black-backed gulls and guillemots, the proposal is within their mean foraging distance (plus one standard deviation) from Ailsa Craig SPA.

NatureScot advise that the potential pathways for marine birds in relation to finfish farms are:

- 1) Entanglement or entrapment in top, cage or antipredator netting or in any nets deployed to recapture stock in event of escape;
- 2) Disturbance in the vicinity of the farm and / or associated vessels;
- 3) Direct displacement from the farm footprint; and
- 4) Loss of or damage to prey-supporting habitats in the vicinity of the farm and / or as a consequence of export of organic materials or chemicals from the farm site.

Assessment

All of the qualifying features of the Ailsa Craig SPA are within their mean maximum foraging range of the proposal which sits approximately 50km from the SPA. Furthermore, for gannets, kittiwakes, lesser black-backed gulls and guillemots, the proposal is within their main foraging distance (plus one standard deviation) from Ailsa Craig SPA.

NatureScot's assessment focuses on those qualifying features which NatureScot identified as a likely significant effect (LSE) during the screening / scoping stage: northern gannet, herring gull, lesser black-backed gull and guillemot. No LSE is anticipated for kittiwake.

In the context of the overall foraging range available to the qualifying species, NatureScot advise that it is unlikely that disturbance (impact pathway 2), displacement (impact pathway 3), or loss of habitat (impact pathway 4) as a result of

the proposal would result in any likely significant effects for the qualifying features of the SPA. NatureScot's assessment therefore focuses on the potential for entanglement or entrapment in netting associated with the fish farm.

NatureScot have provided a summary table on their assessment on the qualifying features of the Ailsa Craig SPA which is shown below:

	Ailsa Craig SPA				
	Gannet	Herring gull	Lesser black-backed gull	Common guillemot	Kittiwake
Likely significant effect?	Yes (TP)	Yes (TP)	Yes (TP)	Yes (SSN)	No
Adverse effect on site integrity?	Possible	No	No	No	No
Need for immediate notification	Yes	Yes	Yes	Yes	Yes

Where TP = top net and SSN = sub-sea predator exclusion nets

NatureScot advises that there are also a number of other bird species which may use the Kilbrannan Sound for foraging or maintenance activities, including breeding road throated divers (an Annex 1 species), as red-throated diver nests have been recorded within 10km of the proposal. In addition to the species within the table above, should there be any other instances of other bird species being entrapped or entangled in netting at the site (e.g. shag, cormorants, sea eagles, diver species) NatureScot would also request to be notified.

In conjunction with the embedded mitigation already proposed by the applicant, NatureScot would recommend that further mitigation is added through adoption of a smaller mesh (ideally 50mm) panels at the base of side nets, as opposed to having 100mm in both ceiling and side panels, as is suggested by the application. This is to reduce the risks to large gull species being entrapped or entangled in netting.

Gannets

Bird Entrapment Incident

In 2019 there was a bird entrapment issue at Carradale Fish Farm. An operational error at the farm resulted in 200mm top nets being installed rather than 100mm. This resulted in the entrapment of a number of gannets and gull species. The fish farm log book was incomplete and contradictory. The incident notes state that there were no fatalities or injuries, however, this conflicted with an account from a member of the public. NatureScot have not been able to verify either account of the entrapment incident and feel that this highlights the need for robust and systematic recording and reporting on entanglement / entrapment events. Once the problem with the net size was identified, it took several weeks for this to be rectified during which more birds became entrapped.

NatureScot have advised that studies indicate that there is a high level of segregation among foraging areas used by gannets from different colonies during the breeding season. As such, it might be expected that the majority of breeding gannets foraging in the Kilbrannan Sound will derive from the Ailsa Craig SPA. Gannets are known to use the Kilbrannan Sound at particular times of year when their food sources are present.

NatureScot contend that there is some confusion within the shadow HRA submitted by the applicant. NatureScot advise that gannets use of the area should be considered as being 'moderate' and the connectivity as being 'high' for this proposal. This is especially the case considering the distance between the proposal and Ailsa Craig SPA is less than half the gannet mean foraging range. The applicant's report also states that "in a worse case scenario low numbers could occasionally be entrapped but experience at the nearby Carradale Fish Farm shows these can be quickly released unharmed". NatureScot have taken issue with this due to the poor record keeping and conflicting reports received by the member of the public.

NatureScot further advise that the influence of ceiling mesh net size on the potential risk to gannets associated with pole mounted top net systems is as yet unknown. The incident at Carradale Fish Farm demonstrates that gannets have attempted to plunge dive through 200mm mesh nets and consequently risked entrapment or entanglement. On theoretical grounds, there may be less risk associated with smaller (in particular 100mm or less) ceiling mesh sizes, assuming that gannets can clearly see the nets and accurately judge their potential to enter cages safely through the mesh. However, there is currently a lack of empirical data against which to assess this.

Given the connectivity with the Ailsa Craig SPA, potential attraction to fish farm cages and apparent entrapment / entanglement risks to gannets posed by pole mounted top net systems, **NatureScot advise a conclusion of likely significant effects (LSE) and possible adverse effect on site integrity (AESI).**

There is currently insufficient information available with respect to the following aspect to enable NatureScot to draw as robust conclusion as to whether there would be an AESI.

- Potential attraction of gannets to fish farms using pole mounted nets;
- Specific risks associated with different configurations of pole mounted nets, including mesh sizes;
- The number of gannets involved in entrapment incidents and the frequency of this occurrence;
- The outcome of entrapment and whether it could indeed / has already led to mortalities in gannets.

The conclusion is also reached because there could be a cumulative effect with the nearby Carradale Fish Farms.

NatureScot advise that any permissions for the use of pole mounted top net systems, irrespective of mesh sizes, should be subject to review, underpinned by systematic monitoring and by requirements for immediate notification in the event of emerging

patterns of entanglement or entrapment of marine birds that might ultimately result in AESI.

Herring and lesser black-backed gulls

The origins of herring and lesser black-backed gulls foraging within the Kilbranna Sound are not clear. It is possible that some will be from the Ailsa Craig SPA while some will be from the non-SPA population. There is potential for connectivity between Ailsa Craig SPA and the proposed site and therefore as a precautionary approach, and lacking further information on the gulls' origins, NatureScot assume that a least some of the birds will be from the SPA population.

Gulls' foraging methods include shallow diving from surface or from low altitudes in the air when at sea and searching for food when walking on to the shore or further inland. At fish farms, it is most likely that they would attempt to access food or fish food in cages by perching on cage infrastructure, such as handrails or nets and attempting to push through the mesh. With respect to the more familiar "hamster wheel" top net systems, NatureScot consider that mesh sizes of 100mm may pose relatively high entanglement risk to birds such as gulls and these systems have typically adopted 50mm mesh to reduce this risk. Some pole-mounted systems use smaller (e.g. 50mm) mesh in the lower parts of the side panels, nearest to the handrails, in an attempt to reduce risk of perching birds becoming entangled.

It is possible that some gulls from Ailsa Craig SPA may visit the proposal and therefore NatureScot conclude that there are likely significant effects on both herring gulls and lesser black-backed gulls with respect to the risk of entrapment and entanglement. However, in the context of there being non-SPA populations nearby for herring and lesser black-backed gulls, particularly those more northerly non-SPA populations, NatureScot conclude that it is unlikely that the proposal would have an adverse effect on site integrity. It is however noted that risks to gulls could be further reduced by adoption of a smaller mesh (ideally 50mm) panels at the base of side nets.

Guillemot

NatureScot advise that as a diving species, guillemots are potentially susceptible to entanglement from sub-surface nets. Guillemots commonly forage in the area around the proposal and some guillemots in the Kilbrannan Sound are likely to be from the Ailsa Craig SPA. NatureScot advise that there are likely significant effects on guillemots from Ailsa Craig SPA as a result of the potential for entanglement in sub-surface anti predator nets, should they be deployed. However there is unlikely to be an adverse effect on site integrity. It should be noted that the use of sub-sea anti-predator nets requires consent from NatureScot first.

Recommended mitigation to be secured by planning condition, should permission be granted.

- a) Operators to maintain daily records of wildlife entanglement / entrapment using a standardised proforma and to submit regular (typically six-monthly) returns to the Local Authority, copied to NatureScot.

- b) Immediate notification by operators to both the Local Authority and NatureScot in the event of any significant entrapment or entanglement of gannet, or any other SPA interests identified as relevant to a particular fish farm (e.g. involving three or more birds of any named species on any one day and / or a total of ten or more birds in the space of any seven day period and / or repeat incidents involving one or more birds on four or more consecutive days); and
- c) Adaptive management approaches should be agreed between the Local Authority and the applicant in consultation with NatureScot.

Conclusion

The potential impacts of the development in relation to the conservation objectives cited in the SPA designation have been considered in the light of the above and it has been concluded that with identified mitigation measures in place the impacts arising from the operation of the development as proposed, in combination with the operation of other farms nearby will not, with identified mitigation in place, have a significant impact upon qualifying interests, and accordingly there is no reason to withhold permission on European nature conservation grounds.

Appendix D

List of Contributors (as of 5th May 2023)

Representations in relation to 20/01345/MFF

Objection

1. Adrian Gooyers No Address Given
2. AHSS Strathclyde Group Tobacco Merchants House 42 Miller Street Glasgow G1 1DT
3. Alan Bell 18 Millburn Gardens Largs KA30 9NF
4. Alex MacCuish No Address Given
5. Alexander Tetley No Address Given
6. Alice Maxwell 29B McKelvie Road Isle Of Arran
7. Alice Mostyn No Address Given
8. Alice Sheepshanks No Address Given
9. Alison Farwell No Address Given
10. Alison Kilpatrick Upper Millhouse Pirnmill Isle Of Arran KA27 8HP
11. Alistair Eason No Address Given
12. Amy Jorgensen No Address Given
13. Andrew Binnie Marchfield Cordon Isle Of Arran KA27 8NQ
14. Andrew Griffiths No Address Given
15. Andrew Holman No Address Given
16. Andrew Rigby Burncliff Shiskine Isle Of Arran KA27 8HD
17. Andrew Wilkinson Kincardine Lodge Lochranza Isle Of Arran North Ayrshire
18. Anita Ford Homelea Newton Shore Lochranza Isle Of Arran
19. Ann Hume Stronach Cottage Douglas Place Brodick Isle Of Arran
20. Ann Turner-Swan 10 The Apostles Catacol KA27 8HN
21. Anna Owen No Address Given
22. Anne Archer Sealladh Breagha Gallanach Road Oban PA34 4PD
23. Anne Fraser No Address Given
24. Anthony Lowes 35A Pembroke Square London W8 6PD
25. Anton' De Piro Flat 3 217 Sussex Gardens London W2 2RJ
26. Archie Cumming No Address Given
27. Austin Thomson C/o Frazer Coogans Solicitors 163 Main Street Prestwick KA9 1 LB
28. Ayr And District Salmon Fishery Board No Address Given
29. Ayrshire Rivers Trust Braeside Burnbrae Lodge Mauchline KA5 5HE
30. Bill Rigby 25 Tentergate Road Knaresborough North Yorkshire HG5 9BG
31. Blue Marine Foundation 3rd Floor South Building Somerset House London WC2 R1LA
32. C L Littlewood No Address Given
33. C Shannon 38 Suffolk Street Helensburgh G84 9PD
34. Callum Stammers-Swan No Address Given
35. Calum Farwell No Address Given
36. Carol Dunn No Address Given
37. Caroline Byrne No Address Given
38. Caroline Younger No Address Given
39. Carrie Frank No Address Given
40. Carys Griffiths No Address Given
41. Caspar Hobbs No Address Given
42. Catherine Anholt Sunflower House Colyton Devon EX24 6HL
43. Catherine M Swan Bramleys Chappel Colchester CO6 2DN
44. Cathy Adkin Strathroy Ontario Canada

45. Cathy Burnett Ard Shonas Lochranza Isle Of Arran KA27 8JF
46. Chris Turner-Swan Craigard Catacol KA27 8HN
47. Christine McKerracher Shepherds Cottage Cour Carradale Argyll
48. Cicely Gill The Yellow Land Whiting Bay Isle Of Arran KA27 8PZ
49. Clare Mostyn No Address Given
50. Clive Meikle 15 Craig Na Gower Avenue Aviemore PH22 1RW
51. Clyde Porpoise CIC 1/1 Allanton Park Terrace Fairlie KA20 0AW
52. Clyde River Foundation No Address Given
53. Colin Burgess Carradale House Carradale Estate Carradale Argyll
54. Colin McKee Aranaigh Skipness Tarbert Argyll
55. Cour Ltd Cour Carradale Campbeltown PA28 6QL
56. D'Arcy Rice No Address Given
57. David Ainsley No Address Given
58. David Bridge Redesdale House Skipness Tarbert Argyll
59. David Burton No Address Given
60. David Maguire Navarre Lochranza Isle Of Arran KA27 8HL
61. David Penn Meadow Cottage Pirnmill Isle of Arran KA278HP
62. David Pilch 9 The Row Catacol Isle Of Arran KA27 8HN
63. David Platt The Craggs Catacol IOA KA27 8HN
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66. Dennis Archer Sealladh Briagha Gallanach Road Oban Argyll And Bute
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71. Doug Macpherson No Address Given
72. E McGrigor No Address Given
73. Edward Somerfield No Address Given
74. Elizabeth Nickerson No Address Given
75. Erica Kerr No Address Given
76. Eugene O'Connor No Address Given
77. Fiona Cameron No Address Given
78. Fiona Clarke Tel-El-Kebir Shiskine Isle of Arran KA27 8HD
79. Fiona Jeffery No Address Given
80. Fiona Oakes No Address Given
81. Freda Lewis Stempel 9 Bolingbroke Grove London SW11 6ER
82. Freddie Nickerson No Address Given
83. Friends Of Millstone Point Alba East Drive House Kinneil Lamlash Isle Of Arran
84. Friends Of The Sound Of Jura No Address Given
85. George Nickerson No Address Given
86. George Wilder No Address Given
87. George Young No Address Given
88. Giles Taylor No Address Given
89. Gill Bates No Address Given
90. Gord Macpherson No Address Given
91. Gordon Donaldson 52 Sweeney court Ardrossan KA22 8GY
92. Greg Attwood No Address Given
93. Grogport Residents No Address Given
94. Hamish Hunter No Address Given
95. Harry Nickerson Cour Ltd
96. Harry Walker Address Not Provided
97. Hazel Swan No Address Given
98. Hazel Yabsley 5 Wedmore Road Hitchin Herts SG4 9JH
99. Heather Allman Kilbrannan View Grogport Carradale Campbeltown

100. Helen Margaret Watson Cheyne No Address Given
101. Helen Mostyn No Address Given
102. Henrietta De Ritter Address Not Provided
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104. Hilary Swan No Address Given
105. Howard Litton St Columba's Church Isle of Arran Whiting Bay KA27 8PX
106. Hugh Nickerson No Address Given
107. Iain Sanders 30 Urquhart Place Portree IV51 9HJ
108. Isabella Cornwall No Address Given
109. Isobel Neilson No Address Given
110. J Johnstone No Address Given
111. J M Campbell Blairbeg House Lamlash KA27 8JT
112. Jackie Adams No Address Given
113. Jackie Lamond Sperasaig House Cour
114. Jacqueline M Lamond No Address Given
115. James Anderson No Address Given
116. James McEuen No Address Given
117. James Tamlyn No Address Given
118. Jamie Forlan No Address Given
119. Jane MacLean No Address Given
120. Janet Jardine 26 Kilmartin Lochgilphead Argyll And Bute PA31 8RN
121. Jean Platt The Crags Catacol IOA KA27 8HN
122. Jean Wilkinson Kincardine Lodge Lochranza Isle Of Arran North Ayrshire
123. Jenny Richmond Not Given
124. Jess James Skipness Estate
125. Jo Totty 8 Hillside Terrace Lamlash Isle of Arran KA27 8ND
126. Joanna De Ritter No Address Given
127. Joanna McKay Forbes Barmollach Grogport Carradale Campbeltown Argyll
And Bute
128. John C Adam Bayview House Pirnmill Isle Of Arran KA27 8HP
129. John Drinkell No Address Given
130. John Ford Homelea Newton Shore Lochranza Isle Of Arran
131. Jonathan Jarrett No Address Given
132. Jonathan Rigby 28 Butterfly Close Pontypridd Wales CF38 1AZ
133. Josh Barker No Address Given
134. Judith Jones Greenhill Torrisdale Campbeltown Argyll And Bute
135. Karen Dixon No Address Given
136. Katharine Mitchell No Address Given
137. Kathryn Wells Lagavullin Mill Whitehouse Tarbert Argyll
138. Katy Penn Meadow Cottage Pirnmill Arran KA27 8HP
139. Kenneth Borton No Address Given
140. Krystyna Gruszecka Windygowl Lochranza Isle Of Arran KA27 8JF
141. Lally Mostyn No Address Given
142. Laurence Anholt Sunflower House Colyton Devon EX24 6HL
143. Lavinia Gibbs Dougarie Lodge Dougarie Isle Of Arran KA27 8EB
144. Leah Battistel No Address Given
145. Lesley Griffiths No Address Given
146. Lizzie Adam Bayview House Pirnmill Isle Of Arran KA27 8HP
147. Loch Lomond Angling Improvement Association 4 Woodside Place Charing
Cross Glasgow G3 7QF
148. Loch Lomond Fisheries Trust C/o Bell Barr & Company Chartered
Accountants 2 Stewart Street Milngavie
149. Lucy Kay Elleray Whiting Bay KA27 8RQ
150. Lucy Mostyn No Address Given
151. M A Cape No Address Given

152. Maggie Richmond No Address Given
153. Malcolm Harle cour farmhouse carradale campbeltown PA28 6QL
154. Malcolm MacGregor No Address Given
155. Malcolm Ritchie No Address Given
156. Marcus Barnett 10-11 Glenthorne Mews London W6 0LJ
157. Margaret Somerfield No Address Given
158. Maria Jose Velazquez No Address Given
159. Mark Hudson Philipston House Winterborne Clenston Blandford DT11 0NR
160. Mark Whitaker Ard Shonas Lochranza Isle Of Arran KA27 8JF
161. Melissa James No Address Given
162. Michael Davis No Address Given
163. Michael Scott Trencrom Lundavra Road Fort William PH33 6JJ
164. Michal G D Giedroyc No Address Given
165. Mike Cobban North Thunderguy Pirnmill Isle Of Arran KA27 8HP
166. Mike Farwell No Address Given
167. Mike Heyworth Glenside East Skipness PA29 6XT
168. Naomi Morris No Address Given
169. Nathaniel Page Upper Leigh Farm Salisbury SP3 6AP
170. Neil Polley The Old Rectory PenSelwood WINCANTON BA9 8LS
171. Nelly Nickerson No Address Given
172. Nigel Jeffery No Address Given
173. Nigel Wells Lagavullin Mill Whitehouse Tarbert Argyll
174. North West Angling Trust Fisheries Consultative Council The Barn Skirwith
Penrith Cumbria
175. P W Yates No 2 The Row Catacol Isle Of Arran KA27 8HN
176. Paul Bates No Address Given
177. Paul Chandler Alba East Drive House Kinneil Lamlash KA27 8JT
178. Paul MacLean No Address Given
179. Peter Howland Lower Crossaig Skipness Tarbert PA29 6YQ
180. Peter McRae 2 North Mains Hill Bathgate EH48 4PF
181. Peter Watson 10 Henderson Road Inverness IV1 1SN
182. Philip A R James Skipness Farmhouse Tarbert Argyll PA29 6XU
183. Philip Mostyn No Address Given
184. Philip Turner No Address Given
185. R Crum No Address Given
186. Rachel Goulding No Address Given
187. Rete Macpherson No Address Given
188. Richard Salt 3 Brunenburg Way Axminster Devon EX13 5RD
189. Richard Stenning No Address Given
190. River Stinchar Fishery Board River Stinchar Fishery Board Minuntion Pinmore
Girvan
191. Robert Cowieson Benview Whiting Bay Isle Of Arran KA27 8QT
192. Robert L Cumming No Address Given
193. Robert Macpherson No Address Given
194. Robert Sutcliffe No Address Given
195. Robin Barnden No Address Given
196. Ronald Fraser 37 Fleurs Road Elgin Iv30 1ta
197. Rosie Mostyn No Address Given
198. Rosie Ranson No Address Given
199. Roy Jones Greenhill Torrisdale Campbeltown Argyll And Bute
200. Ruth Attwood No Address Given
201. Ruth McLaren Sannox Isle Of Arran
202. S A Campbell Blairbeg House Lamlash KA27 8JT
203. Sally A Campbell 5 Queen Elizabeth Cottages Furnace PA32 8XX
204. Sally Ford Homelea Newton Shore Lochranza Isle Of Arran

205. Salmon And Trout Conservation Scotland Second Floor Office 12 Castle Street Hereford HR1 2NL
206. Sarah Nicholas No Address Given
207. Sarah North Mid Thundergay Farm Pirnmill Isle of Arran KA27 8HP
208. Sarah Oldham No Address Given
209. Scottish And Souther Electricity Networks Per Peter Watson Lead Marine Consents Manager Scottish Hydro Electric Transmissions Plc 10 Henderson Road
210. Scottish Creel Fishermens Federation 5 Queen Elizabeth Cottages Furnace Argyll
211. Shan Oakes Knaresborough North Yorkshire
212. Shannon Clements No Address Given
213. Shenac Graham No Address Given
214. Sherry Gooyers No Address Given
215. Silvia Clements No Address Given
216. Simon J Miller Arnburn Arden Argyllshire G83 8RH
217. Sue Ash Alba East Drive House Kinneil Lamlash
218. Sue Tozer North Thunderguy Pirnmill Isle Of Arran KA27 8HP
219. Susan McMillan Manor Farm North Wootton Somerset BA4 4AG
220. Sylvie Howland Skipness Tarbert PA29 6YQ
221. Tarbert And Skipness Community Council Caol Na Mara Garval Road Tarbert
222. The River Doon Fishery Board 46 Dalblair Road Ayr KA7 1UQ
223. Tim James No Address Given
224. Tim Maxwell No Address Given
225. Tom De Ritter No Address Given
226. Valerie Wells Redesdale House Skipness Tarbert Argyll
227. Venetia De Ritter No Address Given
228. Will De Ritter No Address Given
229. William McHugh The Gardens Skipness Tarbert Argyll And Bute
230. William McKerracher Shepherds Cottage Cour Carradale Argyll
231. Wyllie Hume Stronach Cottage Douglas Place Brodick Isle Of Arran
232. Zabdi Keen No 2 Coastguard House Kildonan Isle Of Arran KA27 8SD

Support

1. A MacLennan No Address Given
2. Alastair Barge Otter Ferry Tighnabruaich Argyll PA21 2DH
3. Alistair Iain No Address Given
4. Ally Donaldson No Address Given
5. Billy Glen No Address Given
6. Campbell Mair No Address Given
7. Claire Lumley-Holmes No Address Given
8. Connor Mays Westlinwind 18 Coast Inverasdale Ross shire IV22 2LR
9. Cramanachd Association Alton House 4 Ballifeary Road Inverness IV3 5PJ
10. Dale Ferreira Mowi Blar Mhor Industrial Estate Fort William PH33 7PT
11. David Goodlad No Address Given
12. David Hutchens Mill Road Kilbirnie KA25 7DZ
13. David MacGillivray Mowi Fams Office Glen Nevis Business Park Fort William
14. Donald Fowler Unit 2 Site 23 Kilmory Industrial Estate Lochgilphead Argyll And Bute
15. Donald Waring Admiralty Park Admiralty Road Rosyth Fife
16. Ed Ley-Wilson 22 Drummond Road Inverness IV2 4NB
17. Eilidh Gray No Address Given
18. Eleanor Neilson Wester Inshes Farmhouse Inverness IV2 5BG

19. Finlay Oman 2 Burnside Way Largs KA30 9DL
20. Fiona Ferreira No Address Given
21. Geffrey Back Dorset Cleanerfish Ltd Unit 2 Inner Breakwater Portland Port
Castletown
22. Graham Smith No Address Given
23. Iain Angus Campbell No Address Given
24. Ian Brodie Caledonia Lodge Tormhor Carradale Campbeltown Argyll And
Bute
25. Ian Prendergast Unit 2 Inner Breakwater Portland Port Castletown DT5 1PA
26. Jack Comben Units 2 & 3 Inner Breakwater Castletown Portland Port
27. James Deverill EWOS/Cargill Aqua Nutrition Westfield Bathgate Scotland
28. Jayne Mackay Mowi Farms Office Glen Nevis Business Park Fort William
29. Justin Whitford No Address Given
30. Laura Tulip No Address Given
31. Neil Ferguson No Address Given
32. Paddy Campbell Northshore Road Grangemouth Docks Grangemouth FK3
8UL
33. Phil Nickells Hilton Seafood UK Estate Road 2 Grimsby North East
Lincolnshire
34. Rebecca Bashir Mowi Farms Office Glen Nevis Business Park Fort William
35. Richard Prickett Unit 1, Inner Breakwater, Portland Port, Dorset,
36. Robert Fairns No Address Given
37. Robert Neilson No Address Given
38. S Mckie No Address Given
39. Sam Clegg No Address Given
40. Sarah MacDonald No Address Given
41. Scott Campbell No Address Given
42. Stephen O'Neill MOWI
43. Stewart Graham 136 Anderson Street Inverness IV3 8DH
44. Warren Harvey The Red Shed Carradale Argyll PA28 6SB
45. Yvonne Booth 45 Camanachd Crescent Fort William PH33 6XZ

Representation

1. Harry Nickerson Cour Ltd
2. M R Jaffa

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Location Plan Relative to Planning Application:20/01345/MFF



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ARGYLL AND BUTE COUNCIL
PROCEDURE NOTE FOR USE AT
HYBRID DISCRETIONARY HEARING

HELD BY THE PLANNING, PROTECTIVE SERVICES & LICENSING COMMITTEE

1. Hybrid meetings are those that will involve a physical location and facilitate attendees joining virtually if they wish.
2. The Executive Director with responsibility for Legal and Regulatory Support will notify the applicant, all representees, supporters and objectors of the Council's decision to hold a Hearing and to indicate the date on which the hearing will take place. The hearing will proceed on that day, unless the Council otherwise decides, whether or not some or all of the parties are represented or not. Statutory consultees (including Community Councils) will be invited to attend the meeting to provide an oral presentation on their written submissions to the Committee, if they so wish. Details on how interested parties can access the meeting will be referenced within the same notification.
3. On receipt of the notification the applicant, all representees, including supporters and objectors will be encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them and to avoid repetition. Parties who wish to speak at the meeting shall notify Argyll and Bute Council no less than 2 working Days (excluding public holidays and weekends) prior to the start of the meeting. This is to facilitate remote access (see note 1) and the good conduct of the meeting.
4. The Executive Director with responsibility for Legal and Regulatory Support will give a minimum of 7 days' notice of the date and time for the proposed Hearing to all parties.
5. The hearing will proceed in the following order and as follows.
6. The Chair will introduce the Members of the Committee, confirm the parties present who have indicated their wish to speak and outline the procedure which will be followed. It is therefore imperative that those parties intending to speak join the meeting at its commencement.
7. The Executive Director with responsibility for Development and Economic Growth's representative will present their report and recommendations to the Committee.

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8. The applicant will be given an opportunity to present their case for approval of the proposal and may include in their submission any relevant points made by representees supporting the application or in relation to points contained in the written representations of objectors.
9. The consultees, supporters and objectors in that order (see note 1), will be given the opportunity to state their case to the Committee.
10. All parties to the proceedings will be given a period of time to state their case (see note 3). In exceptional circumstances and on good cause shown the Committee may extend the time for a presentation by any of the parties at their sole discretion.
11. Members of the Committee only will have the opportunity to put questions to the Executive Director with responsibility for Development and Economic Growth's representative, the applicant, the consultees, the supporters and the objectors.
12. At the conclusion of the question session the Executive Director with responsibility for Development and Economic Growth's representative, the applicant, any consultees present, the supporters and the objectors (in that order) will each be given an opportunity to comment on any particular information given by any other party after they had made their original submission and sum up their case.
13. If at any stage it appears to the Chair that any of the parties is speaking for an excessive length of time he/she will be entitled to invite them to conclude their presentation forthwith. (see note 3)
14. The Chair will ascertain from the parties present that they have had a reasonable opportunity to state their case.
15. The Committee will then debate the merits of the application and will reach a decision on it. No new information can be introduced after the Committee begins to debate.
16. The Chair or the Governance Officer on his/her behalf will announce the decision.
17. A summary of the proceedings will be recorded by the Committee Services Officer.

NOTE

- (1) If you wish to speak at the hearing you will require to notify the Committee Services Officer no less than 2 working Days (excluding public holidays and weekends) prior to the start of the meeting. This is to facilitate remote access if required and the good conduct of the meeting.

In the event that a party wishes to speak to a visual presentation, this requires to be sent to Committee Services no less than 2 working days (excluding public holidays and weekends) before the commencement of the Hearing; this will not be shared with other parties prior to the meeting but will ensure its availability for the commencement of the Hearing. The Committee Services Officer will control the slides under explicit instruction from the spokesperson(s), it would therefore be helpful if the slides were individually numbered. It would also be helpful if the file size of the presentations is kept to a minimum to mitigate against any potential IT issues – guidance can be provided if required.

If it is your intention to join the hearing to observe the proceedings, please advise the Committee Services Officer no less than 2 working Days (excluding public holidays and weekends) prior to the start of the meeting to facilitate remote access if required.

- (2) Councillors (other than those on the Committee) who have made written representations and who wish to speak at the hearing will do so under note 1 above according to their representations but will be heard by the Committee individually.
- (3) Recognising the level of representation the following time periods have been allocated to the parties involved in the Hearing. For the avoidance of doubt the time allocated will be per party and will include for example all supporters/objectors in the half hour slot except where additional time is agreed by the Chair.

The representative of the Executive Director with responsibility for Development and Economic Growth – not more than half an hour
The Applicant - not more than half an hour.
The Consultees - not more than half an hour.
The Supporters - not more than half an hour.
The Objectors - not more than half an hour.

- (4) The purpose of the meeting is to ensure that all relevant information is before the Committee and this is best achieved when people with similar views co-operate in making their submissions.
- (5) Everyone properly qualified as a representee recorded on the application report who wishes to be given an opportunity to speak will be given such opportunity subject to the requirements for notice herein.
- (6) Should, for any reason, Members of the Committee who are joining remotely lose connection or have any technical issues during the meeting, they will be asked to contact the Governance or Committee Support officer, if possible, by email or instant message. A short adjournment may be taken to try and resolve the connection. If the Members of the Committee are unable to re-join the meeting and a quorum still exists then the meeting will continue to proceed. If a

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quorum does not exist the meeting will require to be adjourned. For the avoidance of doubt Members of the Committee have to be present for the whole hearing in order to take part in the decision.

- (7) Should, for any reason, participants joining the hearing remotely lose connection or have any technical issues during the meeting, a short adjournment may be taken to try and resolve the connection. In the event the connection cannot be restored within a reasonable timeframe consideration will be given to the continuation of the meeting.
- (8) Members of the Committee joining remotely will use the hands up function to indicate to the Chair when they wish to speak to ask a question or make a comment. This function will be monitored by the Chair and by governance staff in attendance.
- (9) Where a Councillor who is a member of the PPSL has made or wishes to make a representation (on behalf of any party) during the meeting in relation to the application under consideration, they should make their position clear to the Chair and declare an interest. Having done so, they may, at the appropriate time, make the relevant representation and then must retire fully from the meeting room prior to deliberation of the matter commencing. A Councillor, not a member of the PPSL, may make a representation (on behalf of any party) during the meeting in relation to the application then must retire fully from the meeting room prior to deliberation of the matter commencing.
- (10) The Council has developed guidance for Councillors on the need to compose a competent motion if they consider that they do not support the recommendation from the Executive Director with responsibility for Development and Economic Growth which is attached hereto.

I:data/typing/virtual planning hearings/procedure note

COMPETENT MOTIONS

- Why is there a need for a competent motion?
 - Need to avoid challenge by “third party” to local authority decision which may result in award of expenses and/or decision being overturned.
 - Challenges may arise from: judicial review, planning appeal, ombudsman (maladministration) referral. Expenses may be awarded against unsuccessful parties, or on the basis of one party acting in an unreasonable manner, in appeal/review proceedings.
- Member/Officer protocol for agreeing competent motion:
 - The process that should be followed should Members be minded to go against an officer’s recommendation is set out below.
- The key elements involved in formulating a competent motion:
 - It is preferable to have discussed the component parts of a competent motion with the relevant Member in advance of the Committee (role of professional officers). This does not mean that a Member has prejudged the matter but rather will reflect discussions on whether opinions contrary to that of professional officers have a sound basis as material planning considerations.
 - A motion should relate to material considerations only.
 - A motion must address the issue as to whether proposals are considered consistent with Adopted Policy of justified as a departure to the Development Plan. Departure must be determined as being major or minor.
 - If a motion for approval is on the basis of being consistent with policy reasoned justification for considering why it is consistent with policy contrary to the Head of Development and Economic Growth’s recommendation must be clearly stated and minuted.
 - If a motion for approval is on the basis of a departure from policy, reasoned justification for that departure must be clearly stated and minuted. Consideration should be given to holding a PAN 41 Hearing (determined by policy grounds for objection, how up to date development plan policies are, volume and strength of representation/contention)
 - A motion should also address planning conditions and the need for a Section 75 Agreement.
 - Advice from the Scottish Government as contained within Planning Circular 3/2013: Development management procedures on the definition of a material planning consideration is attached herewith However, interested parties should always seek their own advice on matters relating to legal or

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planning considerations as the Council cannot be held liable for any error or omission in the said guidance.

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DEFINING A MATERIAL CONSIDERATION

1. Legislation requires decisions on planning applications to be made in accordance with the development plan (and, in the case of national developments, any statement in the National Planning Framework made under section 3A (5) of the 1997 Act) unless material considerations indicate otherwise. The House of Lord's judgement on *City of Edinburgh Council v the Secretary of State for Scotland* (1998) provided the following interpretation. If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.
2. The House of Lord's judgement also set out the following approach to deciding an application:
 - Identify any provisions of the development plan which are relevant to the decision,
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies,
 - Consider whether or not the proposal accords with the development plan.
 - Identify and consider relevant material considerations for and against the proposal, and
 - Assess whether these considerations warrant a departure from the development plan.
3. There are two main tests in deciding whether a consideration is material and relevant:
 - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land, and
 - It should fairly and reasonably relate to the particular application.
4. It is for the decision maker to decide if a consideration is material and to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.
5. The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
 - Scottish Government policy, and UK Government policy on reserved matters
 - The National Planning Framework
 - Scottish planning policy, advice and circulars
 - European policy
 - A proposed strategic development plan, a proposed local development plan, or proposed supplementary guidance

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- Guidance adopted by a Strategic Development Plan Authority or a planning authority that is not supplementary guidance adopted under section 22(1) of the 1997 Act
 - A National Park Plan
 - The National Waste Management Plan
 - Community plans
 - The Environmental impact of the proposal
 - The design of the proposed development and its relationship to its surroundings
 - Access, provision of infrastructure and planning history of the site
 - Views of statutory and other consultees
 - Legitimate public concern or support expressed on relevant planning matters
6. The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interest, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.