

**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**

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

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**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](http://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/m<sup>2</sup>/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/m<sup>2</sup>/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/m<sup>2</sup>/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/m<sup>2</sup>/24 hours.

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/m<sup>2</sup>/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 18<sup>th</sup> 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 Responses 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<sup>-2</sup>) 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.*

2. 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.*

3. 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.*

4. 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.*

5. 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:

	<b>Height (m)</b>
Perimeter Pole Support	Maximum height of 5m above the water surface
	<b>Mesh Size (mm)</b>
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.*