

Runai Aire,
G.L.



Agreed, 10 years

Submission in relation to a Foreshore Licence Application from
Marine Harvest for a Salmon Farm at Shot Head, Bantry Bay.

Marine Harvest applied in 2011 for a foreshore licence to farm salmon at a site at Shot Head on the North shore, Beara side, of Bantry Bay. A separate Submission has been forwarded in relation to the accompanying Aquaculture Licence for this site.

The proposed production is for 3,500 tonnes (worth, in company estimates, over €14m) every 22 months, followed by a two month fallow period. In effect a two year production cycle is envisaged for the site.

The area of the proposed site is 42.49 hectares and this would hold 12 cages each with a 41m diameter and 15 metre deep nets in a 6 x 2 arrangement. A feed barge would be moored on the side of the site.

There are two Submissions beneath, from Mr Hodnett and Mr Quinlan, which require consideration and which set out the history of the application and how it has been dealt with to meet the requirements of EU and National legislation. The necessary supporting documentation is attached.

The Environmental Impact Assessment carried out for the Department as part of the application assessment process and which the Minister has seen concluded that "*there are no substantial environmental grounds for refusing to approve this application*".

The application process was carried out in accordance with the available legal advice and was complex. There was a consultation process with Statutory consultees and three rounds of public consultation were required. The processes followed and the issues arising are set out in Mr Hodnett's Submission. The first round of public consultation elicited 77 valid submissions. The second round elicited 42 Submissions and the third round received no public submissions. The main issues arising are set out in Mr Hodnett's submission.

The Marine Institute considered the principal environmental issues raised in the EIS and by statutory and public consultees and in a report to the Department on 27 January 2014

concluded that there were no grounds for refusal based on environmental considerations in respect of, interactions with commercial fishing and other aquaculture, interactions with Natura 2000 sites and protected species, fish health, quality and safety of farmed fish, and interactions with wild salmonids. The Institute at that time required that additional information be provided on waste and discharges in relation to dangerous substance use in relation to use as sea lice treatments. The information requested was provided and the Institute concluded that the applicant was compliant with the relevant EU Regulations and adverse effects on the benthic fauna, commercial fish and shellfish are not considered likely.

A number of Licence conditions are recommended in relation to this application in response to EU and national legal requirements and to address issues which arose during the assessment process.

Recommendation

This is the first Foreshore Licence Application related to an Aquaculture Finfish Licence Application falling for determination by the Minister and is an application for a significant undertaking. This Licence was first applied for in June 2011.

Given the detailed application assessment/ consultation processes which has been gone through, the advices received from the Departments technical advisors and the outcome of the Environmental Impact Assessment, both Mr Hodnett and Mr Quinlan in their respective Submissions recommend the granting of a foreshore licence to the applicants for the site applied for. I support those recommendations.

Mr Hodnett in his submission makes no comment on the issue of the term of any such licence. Mr Quinlan's submission addresses the issue of the term of any such licence in detail. The national aquaculture licencing legislation permits the granting of an aquaculture licence for up to 20 years. In practice the norm has been to issue an aquaculture and accompanying foreshore licence for 10 years. Industry have lobbied for licences generally to be granted for 20 years. NGO's have in other cases sought to have licences reduced to three years. For reasons set out in his Submission hereunder Mr Quinlan recommends that the Licence in this Case be approved for a period of five years.

I accept that the Minister may determine the specific term of any Licence being granted. However, taking everything in the round and the fact that normal practice has been to issue aquaculture and accompanying foreshore Licences for a ten year period, I see no convincing reason to depart from that practice in this specific case. In coming to this view I have considered the outcome of the licencing assessment and consultation process, the duration and comprehensive nature of that assessment process, the Environmental Impact Assessment and the advice from the technical advisors. I do not see that anything in that combination would warrant moving on an exceptional basis to the granting of a licence for a period as short as five years.

For the foregoing reasons, taking the full file into account and in all the circumstances, I recommend that the Minister approve the granting of a 10 year foreshore Licence in this case, in the form of the draft Licence in the pouch opposite.

If the Minister were minded to grant such a Licence he is required to state publicly the reasons for such a determination. The reasons set out in Pages 20 and 21 of Mr Hodnett's Submission are recommended for approval in that respect.

Submitted for consideration and determination.

A handwritten signature in black ink, appearing to read "Cecil Beamish". The signature is written in a cursive style with a large initial 'C'.

Cecil Beamish

2 September 2015

cc Secretary General

**Recommendation to grant a foreshore licence to
Bradán Fanad Teoranta t/a Marine Harvest Ireland.
Shot Head, Bantry Bay.**

Dr. Beamish, Assistant Secretary

- 1) Please see the submission hereunder and supporting documentation. A foreshore licence is necessary to occupy the section of the foreshore sought for the purpose of conducting the aquaculture activity considered in the aquaculture licence submission which has been forwarded under separate cover. As will be seen, the application is for a 3,500 tonne salmon farm. The proposed production cycle is approximately 2 years. The application envisages eight direct employees by Year 3 but, as indicated in the Environmental Impact Assessment (EIA), account also needs to be taken of the indirect and ancillary employment that such a farm can be reasonably expected to generate in the locality.
- 2) There has been very extensive internal, public and statutory consultation in respect of this application, as set out hereunder, as well as the release of information to the public in accordance with applicable EU legislation. A total of 77 valid submissions were received from the general public. Of these, 16 were supportive of the project and 61 either objected to the project or expressed concerns about it. All the issues identified via the consultation process were assessed as part of the EIA which has concluded that there are no substantial environmental grounds for refusing to approve this application.
- 3) Extensive and detailed licence conditions are proposed which respond not only to the general requirements of national and EU legislation, but also to the specific issues that have arisen as part of the statutory and public consultation processes.
- 4) It is clear from the EIA and other aspects of the assessment process that the application meets the necessary environmental and technical requirements as provided for in the applicable legislation. All legislative requirements for the comprehensive evidence-based assessment of this application have been fully adhered to. However, it should also be noted that the application has been the subject of considerable public concern, and even hostility. The high level of public opposition to the project is evidenced in the submissions received as part of the public consultation process. Of course, State foreshore is a national asset in the ownership of the nation at large. The views of local objectors whether arising from the general public or statutory consultation processes must not only be assessed as per the EIA but must also be balanced with the broader public interest in the proper management of State foreshore.

5) There would seem to be at least three viable policy options in respect of this application. These are as follows:

- Refuse the application
- Approve the application for the tonnage sought, for a duration of ten years (current standard licence duration)
- Approve the application with a reduced production tonnage and/or a shorter licence duration

6) Refuse the Application

As indicated above and in the supporting documentation there are no environmental or technical reasons for refusing the application. To do so would be to contradict the evidence of the assessment process.

7) Approve the application for the tonnage sought for a period of ten years

The exercise of this option is likely to be viewed widely as technically in order but somewhat uncaring of the concerns expressed in the majority of the submissions received as part of the public consultation process. The fact that these concerns all received detailed consideration by a range of technical and scientific experts will do little to reassure many of these people.

8) Approve the application with a reduced production tonnage and/or a shorter licence duration

The EIS submitted with the licence application and the EIA conducted by the Department are based on a proposed production level of 3,500 tonnes. Any significant variation in relation to this would almost certainly require the production of a new EIS and EIA. At this stage of the assessment process such a determination would likely be seen by the applicant as harsh and possibly unfair treatment in view of the fact that the Department's EIA has recommended approval based on the proposed tonnage. Reducing the tonnage is unwarranted and is not recommended.

The production cycle anticipated by the applicant is two years which, if successfully completed, is expected to yield the full 3,500 tonnes of production. Under the provisions of Section 15(2) of the 1997 Fisheries (Amendment) Act a licence may be awarded for any period up to a maximum of 20 years. In practice, licences awarded have generally been for a period of ten years whether for shell fish or finfish cultivation. Industry representatives have sought to extend the duration of licences to the maximum twenty years permitted under the legislation. On the other hand, environment NGOs have in the past sought to have the duration reduced to as low as three years to take account of habitat changes in bays over time. In a recent licence case involving Killary Harbour ALAB awarded licences for less than ten years. In the draft National Strategic Plan for Aquaculture Development proposals have

been made to set limits to the production size of licences for certain marine fin fish farms. These two examples point to the appropriateness, in certain circumstances, of taking a non-standard approach to reflect the particular circumstances of a case while at all times acting in accordance with the provisions of the legislation. In this case awarding a five year licence will enable the applicant to achieve two full production cycles, with a year to spare for contingencies, and also facilitate the levels of employment envisaged. The shorter licence duration should also provide reassurance to those objecting to the project that the licence will come up for consideration again within a relatively short timeframe. Five years will clearly allow the applicant to achieve the production targets in full, and will also enable objectors to bring forward their concerns again within a reasonable time span unless, of course, the successful operation of the proposed licence causes the concerns to be allayed which is quite possible.

9) Recommendation

In all the circumstances, it is proposed that the Minister be asked to approve the foreshore licence application as set out in the submission hereunder with the duration of the licence to be for a period of five years.

Submitted please



13
11/11

John Quinlan

AFMD

Recommendation to Grant a Foreshore Licence.

J Quinlan, PO

Dr Beamish, Asst. Secretary.

A O'Driscoll, Secretary General.

Rúnaí Aire.

DECISION SOUGHT

The Minister's determination is requested in relation to the application for a Foreshore Licence from Bradán Fanad Teoranta t/a Marine Harvest Ireland (MHI) for one site numbered T5/555 at Shot Head, Bantry Bay, Co. Cork.

In support of this submission the following documents are attached:

- TAB 1 Application Form and Environmental Impact Statement (EIS).
- TAB 2 Email to applicant on 29th December 2011 re: Statutory and Public Consultation process
- TAB 3 Copy of public notice published in local and national papers
- TAB 4 77 submissions received from public in response to notice
- TAB 5 Applicant response to public submissions
- TAB 6 Responses received from Commissioners of Irish Lights, Department's Engineering Division and Marine Institute
- TAB 7 Copy of Environmental Impact Assessment (EIA).
- TAB 8 Copy of letter sent to applicant on 10th September 2014
- TAB 9A Submission from Department's Marine Engineering Division
- TAB 9B Submission from An Taisce
- TAB 9C Submission from the Commissioners of Irish Lights
- TAB 9D Submission from the Department of Arts, Heritage and the Gaeltacht
- TAB 9E Submission from Bantry Bay Harbour Commissioners
- TAB 9F Submission from Inland Fisheries Ireland
- TAB 10 Copy of public notice published in local and national papers, September 2014.
- TAB 11 42 submissions received from the public
- TAB 12 Applicant's response to 2nd public consultation.

- TAB 13 Responses received from the Marine Survey Office, the Department's Marine Engineering Division and the Marine Institute
- TAB 14 Copy of letter sent to the applicant on 20th November, 2014 re: additional consultation
- TAB 15 Copy of SI 466 of 2008 .
- TAB 16 Marine Institute's recommendation dated 3rd February 2014 to seek additional information.
- TAB 17 Additional information provided by the applicant in response to the Marine Institute
- TAB 18 Copy of public notice published in local and national papers in Nov/Dec 2014 for 3rd round of Public Consultation.
- TAB 19 Copy of letters issued by applicant to statutory consultees, 11th January 2012.
- TAB 20 Copy of letter sent to Applicant on 27th February 2012 inviting observations on Statutory Consultee submissions.
- TAB 21 Copy of applicant responses to Statutory Consultees
- TAB 22 Archaeological Report provided by the applicant.
- TAB 23 Marine Survey Office Report dated 14th March 2012.
- TAB 23A Bantry Bay Harbour Commissioners letter of 26th June 2012.
- TAB 24 Applicant's response to Inland Fisheries Ireland (IFI) observations.
- TAB 25 Page 40 of Marine Institute's report of 27th January 2014.
- TAB 26 Letters sent to Statutory Consultees for 2nd round of Statutory Consultation
- TAB 27 EIA Directive 2011/92/EC
- TAB 28 Letter dated 25th February, 2015 to applicant re Public Access to Information.
- TAB 29 Screenshot from Applicant web site
- TAB 30 A list of supplementary licence conditions
- TAB 31 DECLG Statutory Consultation process correspondence.

Note:

A submission in respect of the accompanying Aquaculture Licence for this site has also been submitted for the Minister's consideration.

BACKGROUND

Marine aquaculture operations require separate Aquaculture and Foreshore Licences. Ministerial approval is required in respect of this submission which deals with the Aquaculture Licence element of the application. A separate submission in respect of the ~~Foreshore~~ ^{aquaculture} element has also been submitted for Ministerial approval in tandem with this submission.

The Aquaculture Licence defines the activity that is permitted on a particular site and the Foreshore Licence allows for the occupation of that particular area of the foreshore. The continuing validity of each licence is contingent on the other licence remaining in force.

LEGISLATION

Section 3 of the Foreshore Act, 1933 provides for the granting of a license by the Minister for the use of the foreshore where he/she is of the opinion that it is in the public interest to do so.

APPLICATION DETAIL AND PROJECT DESCRIPTION

An application for an Aquaculture Licence together with an Environmental Impact Assessment has been received from MHI (in conjunction with an application for a Foreshore Licence). A copy of the application form and EIS is attached at TAB 1.

The application is for an Aquaculture and Foreshore Licence for a 3,500 tonne salmon farm in Bantry Bay.

The proposed farm would have one production site located near Shot Head on the north shore of Bantry Bay. The area of the proposed site is 42.49 hectares (850m x 500m).

The site would contain 12 No. 41m diameter cages with 15m deep nets and extend to 40 hectares. The cages would be held in position, in a 6 cage x 2 cage array, by a submerged mooring grid. A feed barge would also be deployed on the shoreward side of the site. The feed barge would be used to feed the stock automatically via a pipe distribution system using compressed air.

At the start of the production cycle the site would be stocked in October/November with a maximum of 836,000 smolts sourced from the applicant's hatcheries in Donegal. At the end of the production cycle, some 17-22 months later, harvesting of the fish would take place on site by pumping the fish into a well boat for subsequent transfer to chilled tanker transport at Castletownbere. It is anticipated that the fish would then be transported to the applicant's facilities in Donegal for slaughtering and subsequent processing and packing. The site would be left fallow for a minimum of 2 months post harvesting prior to restocking for the next production cycle. During the pre-harvest stage, in months 14-22, the number of cages at the site may be increased from 12 to 14 to accommodate groups of fish ready to be harvested.

The application proposes that the Shot Head site would undergo a 2-year production cycle, resulting in the harvest of circa 3,500 tonnes of fish by month 20-22. After this the site would be fallowed for 2-4 months, before restocking for the next cycle at the beginning of Year 3. The applicant has advised in its EIS that *"if the Roancurrig site is stocked one year after Shot Head, this will result in a similar harvest one year after the Shot Head harvest. With ongoing alternation, MHI will be able to take an annual harvest of 3,500 tonnes, from the two sites"*.

The operation of the Shot Head site will also involve the use of the applicant's existing shore-based facilities, including an office in Castletownbere and an operations yard on Dinish Island, within the Castletownbere Fishery Harbour Centre

The following is a brief summary of the applicants predicted outcomes in respect of employment generated, Tonnage and Production values if the licence application is successful:

	Employment Generated	Tonnage Produced	Value of production
Year 1	5 persons employed	0	€0
Year 2	7 persons employed	3,500	€14,234,500 *
Year 3	8 persons employed	0	€0
Year 4	8 persons employed	3,500	€15,088,040 *

**Profit is expected to be in the region of 10% to 15% of gross turnover*

INTERNAL CONSULTATION

The Division consulted extensively with its internal consultees both in the pre-application phase of the licence application process and in its assessment of the application. The Internal Consultees included the Department's Marine Engineering Division, the Department of Environment, Community and Local Government, the Marine Survey Office and the Sea Fisheries Protection Authority. Consultations subsequent to receipt of the licence application identified the need for information over and above what was already contained in the application and accompanying Environmental Impact Statement.

Legal advice was obtained by the Division in relation to how this additional information should be treated with regard to the Public Consultation process. This is dealt with more extensively under the relevant Public Consultation headings below.

THE STATUTORY & PUBLIC CONSULTATION PROCESS.

As stated previously this application is for both an Aquaculture Licence and a Foreshore Licence and whilst this submission is confined to the ~~Aquaculture~~ ^{Foreshore} element of the application it should be noted that the various Public and Statutory Consultations processes were carried out in tandem. This facilitated a more holistic consideration of the applications and eliminated the potential for duplication in the consultation processes.

In the management of the various Public and Statutory Consultations processes the Department referred to the Foreshore Act 1933 (As amended):

As outlined above the consultation processes involved both a Public Consultation and Statutory Consultation element. In addition, the Statutory Consultees were asked for their observations on submissions received on foot of the Public Consultation phases. Whilst the processes ran separately there was of necessity a chronological overlap in the various steps.

In the interests of clarity this submission will deal with the Public Consultation and Statutory Consultation elements separately below.

Public Consultation Process.

The extent of the Public Consultation Processes in this case reflected the scale of the application and the detailed nature of the accompanying Environmental Impact Statement (EIS).

The application and the accompanying EIS were made available for Public Consultation in the normal way. Additional relevant information received subsequent to the original application was also made available to the public for consultation. This included:

- Additional information received by the Department from the applicant on foot of requests for clarification or supplementary information.
- Copies of the various submissions made to the Department by the Statutory Consultees in relation to the application.

There were in fact three separate rounds of public consultation and in each case the following procedures were followed:

- Copies of all submissions were forwarded to the applicant for comment.
- Copies of the public submissions and the applicant's responses were sent to the relevant Internal Consultees as appropriate for comment:

1st Round of Public Consultation.

The applicant was advised on 29th December 2011 to initiate the 1st round of Public Consultation (see TAB 2). The information made available for public consultation consisted of:

- Copy of the application form and drawings.
- Copy of the accompanying EIS.

A public notice was placed in each of the following newspapers on the dates shown below and the public was afforded the 4 week period as provided for in the relevant legislation during which submissions could be made to the Minister on the documentation published:

11 th January 2012	The Kerryman.
12 th January 2012	The Irish Examiner.
14 th January 2012	The Southern Star.



(See TAB 3 for a copy of each public notice).

A total of 77 valid submissions were received within the specified timeframe.
(See TAB 4 for a copy of the submissions received).

The issues raised can be broadly categorised under the following headings:

- Impact on traditional fishing
- Safety & Quality of farmed fish
- Navigation
- Tourism
- Economic benefit
- Environmental issues including
 - Pollution
 - Habitats
 - Interaction with wild salmon species
 - Disease
 - Sea Lice
- Public Consultation Process.

Of the submissions received a total of 16 were supportive of the application, the remainder of the submissions either objected to the application or raised concerns in relation to the operation of a fish farm in the area.

Submissions received from the public were in the first instance sent to the applicant for its response to the issues raised. The submissions and applicant responses (TAB 5) were then referred to the following for their comments:


- Marine Institute
- Bord Iascaigh Mhara.
- Marine Survey Office
- Department of Transport, Tourism and Sport.
- Commissioners of Irish Lights
- The Department's Marine Engineering Division.

Responses were received from the Commissioners of Irish Lights, the Department's Engineering Division and the Marine Institute. (TAB 6)

All of the issues identified in the Public Consultation Process together with the applicant's comments, Statutory Consultee responses and Internal Consultees' considerations have been considered and addressed in the Environmental Impact Assessment (EIA) of the application. The EIA has been submitted for approval by the Minister under separate cover. (See TAB 7).

The EIA has concluded that:

"The proposed development was assessed in accordance with S.I. 401 of 2012. Based on the documentation associated with this application and having regard to the scientific,



engineering and other advice, it is considered that, subject to compliance with both Standard and the specific licence conditions set out in Appendix 2 below, the proposed development will not have a significant negative impact on the local environment.

The level of interaction between the factors, as outlined in Section 3 of the regulation, will be minimal and the cumulative effect of such interaction will not have a significant negative impact on the local environment. It is therefore concluded that there are no substantial environmental grounds for refusing to approve this application."

The following is a summary of where the various issues (with the exception of the Public Consultation issues which are addressed separately below) have been addressed in the Environmental Impact Assessment report:


Issue raised	Where addressed in EIA
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- | | |
|---|--------------|
| • Impact on traditional fishing | Section 14 |
| • Safety & Quality of farmed fish | Section 18 |
| • Navigation | Section 12 |
| • Tourism | Section 10.2 |
| • Economic benefit | Section 10 |
| • Environmental issues including | |
| ○ Pollution | Section 16 |
| ○ Habitats | Section 15 |
| ○ Interaction with wild salmon species | Section 19 |
| ○ Disease | Section 17 |
| ○ Sea Lice | Section 20 |
| • <u>Submissions received in relation to the Public Consultation Process.</u> | |

A number of submissions were received which requested further public information sessions/meetings. The Division is satisfied that it has fully complied with all statutory requirements in relation to public consultation. It has in fact engaged in three separate round of public consultation which is fully in compliance with all applicable legislation. In addition, the Department was fully cognisant of its obligations under the Access to Information on the Environment (AIE) Regulations and in accordance with the EIA Directive 2011/92/EC copies of documents relevant to the Minister's decision making process were made available to view on the official website of Bradán Fanad Teoranta t/a Marine Harvest Ireland in EC. Electronic copies of documents March 2015. This is dealt with in more detail under a separate heading below "Release of information relevant to the Minister's decision making process"

2nd round of Public Consultation.

A 2nd round of Public Consultation took place in September 2014. The purpose of this 2nd round of Public Consultation was to afford the public, in accordance with applicable



legislation, access to additional information received by the Department subsequent to the initial application together with copies of submissions received from the various Statutory Consultees on foot of the Statutory Consultation process.

The applicant was advised on 10th September 2014 to initiate the 2nd round of Public Consultation. (See TAB 8) The information made available for public consultation consisted of:

- Copies of all submissions received on foot of the Statutory Consultation process. (submissions received from, Environmental Protection Agency, Bantry Bay Harbour Commissioners, Commissioner of Irish Lights, An Taisce, Department of Arts, Heritage and Gaeltacht, Inland Fisheries Ireland, Department of Environment, Community and Local Government)
- Copies of correspondence from the Department's Marine Engineering Division in relation to the adequacy of maps and drawings submitted in support of the application.
- Copies of reports prepared by the Departments Marine Engineering Division.
(See TAB 9)

A public notice was placed in the following newspapers on the dates shown below and in accordance with applicable legislation the public was afforded an 8 week period in which submissions could be made to the Minister on the documentation published:

17th September 2014 The Kerryman.
17th September 2014 The Irish Examiner.
20th September 2014 The Southern Star.

(See TAB 10 for a copy of each public notice).

A total of 42 valid submissions were received within the specified timeframe.
See TAB 11 for a copy of the submissions received

The issues raised have been categorised into the following broad areas. It should be noted that some individual submissions raised a number of issues and that these cut across a number of different areas.

- Impact on traditional fishing
- Location of Site
- Impact on Tourism
- Lack of Economic Benefit
- Environmental Issues
 - Pollution
 - Wildlife Habitats
 - Natural Heritage
 - Interaction with wild salmon species
 - Disease
 - Sea Lice

o Fish Escapes

The submissions were sent to the applicant for its observations/response. The applicant responded on the 24 November 2104. (See TAB 12)

The applicant largely addressed the concerns raised by way of reference to the Environmental Impact Statement, which it produced to support the original application and also by reference to the Scoping Study carried out by the company, prior to application stage.

The submissions and the applicant's responses were sent to the following for observation and advice:

- The Marine Institute.
- Marine Survey Office.
- The Department's Marine Engineering Division.

Responses were received from the Marine Survey Office, the Marine Institute and the Department's Marine Engineering Division. In neither response did the consultees feel there were any new concerns raised. (See TAB 13) for responses received.

These submissions and responses were further considered in the preparation of the Environmental Impact Assessment document.

As for the 1st round of Public Consultation the issues identified in the Public consultation process together with the applicant's comments, Statutory Consultee responses and Internal Consultees considerations have been considered and addressed in the Environmental Impact Assessment of the application. The EIA has been submitted for approval by the Minister under separate cover. (See TAB 7).

AS has already been outlined in more detail in relation to the 1st round of Public Consultation (Page 7 above) the EIA has concluded that, *"there are no substantial environmental grounds for refusing to approve this application."*

The following is a summary of where the various issues have been addressed in the Environmental Impact Assessment report:

Issue raised	Where addressed in EIA
• Impact on traditional fishing	Section 14
• Location of Site	Section 12 + 13
• Impact on Tourism	Section 10.2
• Lack of Economic Benefit	Section 10
• Environmental Issues	
o Pollution	Section 16
o Wildlife Habitats	Section 15
o Natural Heritage	Section 10
o Interaction with wild salmon species	Section 19
o Disease	Section 17

- o Sea Lice
- o Fish Escapes

Section 20
Section 19.1

3rd round of Public Consultation.

The third and final round of Public Consultation commenced in November 2014. A copy of the letter dated 20th November 2014 that issued to the applicant is appended (See TAB 14).

The requirement for this final round of public consultation arose on foot of additional information sought by the Marine Institute in its report to the Department on the "Marine Harvest Ireland Application for a Salmon Farm Development in Bantry Bay, County Cork" dated 27th January 2014. In that report the Marine Institute had advised that on the matter of the use of chemicals, specifically Dangerous Substances:

"The applicant has not supplied sufficient information to comply with the requirements [of] SI 466 of 2008 (Regulation 4)1." (Copy of SI at TAB 15).

and that,

"It is the opinion of the Marine Institute that before a final determination can be made on this application the applicant should be required to provide additional information on the discharge, including quantity and frequency, of any dangerous substance intended for use as sea lice treatments – and to demonstrate that the requirements of Regulation 4 of SI 466 of 2008 are met."

The Marine Institute recommended that the Department request additional information from the applicant (See TAB 16). The information made available for public consultation consisted of:

- The request for additional information from the Marine Institute.
- The additional information provided by the applicant in response to this request. (See TAB 17)

A public notice was placed in the following newspapers on the dates shown below and the public was afforded a 3 week period in which submissions could be made to the Minister in relation to the documentation published:

27th November 2014 The Irish Examiner.

03rd December 2014 The Kerryman.

06th December 2014 The Southern Star.

(See TAB 18 for a copy of each public notice).

There were no public submissions received on foot of this round of Public Consultation.

Statutory Consultation Process

Section 19A (3) of the Foreshore Act 1933 (As amended) sets out the Statutory Bodies that must be notified of an Aquaculture Licence application. There were three separate Statutory Consultation phases in relation to the Foreshore License application. The first and third rounds of Statutory Consultation were run in conjunction with the Aquaculture Statutory Consultation process but the second round of Foreshore Statutory Consultation was run separately as the requirement to include the Department of Environment, Community and Local Government as a consultee was unique to the Foreshore process.

1st Round of Statutory Consultation.

The Department instructed the applicant on 29th December 2011 (See TAB 2) to commence the Statutory Consultation process and to write to the various Statutory Consultees (See TAB 19)

The applicant wrote to each of the Statutory Consultees on 11/01/2012 (See TAB 19) and furnished them with:

- A copy of the application.
- A copy of the EIS on DVD.
- Video records of ROV surveys of the proposed site area.
- A map of the site area.
- An information brochure.

Observations were received from:

- An Taisce.
- The Commissioners of Irish Lights.
- The Department of Arts Heritage and the Gaeltacht.
- Bantry Bay Harbour Commissioners.
- Inland Fisheries Ireland.

(See TAB 9)

Observations received on foot of the Statutory Consultation process (See TAB 20) were sent to the applicant for comment before consideration by the Department. See copy of applicant's response at TAB 21.

The following is a summary of the responses received on foot of the Statutory Consultation process:

An Taisce.

The full text of the An Taisce submission is available at TAB 9B.

Whilst An Taisce has not asked for the inclusion of any specific conditions in the licence (if granted) it did point to the need for:

- The adoption of "Single Bay Management / CLAMS protocols for all of the applicant's operations around Ireland.
- Sea Lice controls and the availability of Marine Harvest monitoring reports.

The Department has considered the issues raised by An Taisce and is satisfied that no additional licence specific conditions are required in relation to these issues for the following reasons:

- Single Bay Management arrangements for fin-fish farms are designed to co-ordinate husbandry practices to promote best practice on individual farms and to ensure that stocking; fallowing and treatment regimes on individual farms are compatible with the arrangements on neighbouring farms. These arrangements are well established and managed by the Marine Institute who together with BIM also manages the Co-ordinated Local Aquaculture Management Systems (CLAMS).
- Control Protocols for the management of sea lice in Ireland are more advanced than those operated in other jurisdictions for the following reasons:
 - the inspection regime is totally independent of the industry
 - data obtained as a result of inspections is published
 - treatment trigger levels are set at a low level.

The Department also keeps the Control Protocols under ongoing review to ensure their continued effectiveness.

Commissioners of Irish Lights (CIL)

The submission received from CIL related in the main to the provision of navigation lights and the specification and location of navigational buoys (Copy of submission at TAB 9C). The following conditions have been incorporated into the draft Aquaculture Licence on foot of the submission received from CIL (Note that condition No 3 of the Foreshore License requires the Licensee to "*comply fully with all the terms and conditions of the Aquaculture License*").

The licensee shall:

- Deploy two navigation buoys at the SW and SE corners; these are to be special mark buoys. South Cardinal buoys shall be installed. The buoys are to be a minimum of 1.5m diameter, with the appropriate day-marks and top-marks. The buoys should each include a white light displaying the appropriate south cardinal character with a

4 Nautical Mile range. These buoys shall ideally be installed circa 100m south of the extreme SW and SE cage mooring points.

- Apply to the Commissioners of Irish Lights for sanction to establish the following lights and marks: A yellow special mark buoy with light, characteristic flash yellow every five seconds, nominal range three nautical miles to be located at each of the extreme corners of the site. The top mark should be constructed in the pattern approved by the Commissioners for Irish Lights. The marks should not be placed on the structures but working lights are permitted on the cage structures but every attempt should be made to shield the lights so as not to interfere with the navigational marks.
The marks described above should be placed in position before any structures are erected on the site.
- Seek the approval of the Commissioners of Irish Lights for all navigation lights and buoys. The applicant shall comply with all the requirements of the Commissioners of Irish Lights in respect to Navigation Lights and Buoys.

CIL also expressed reservations in relation to the adequacy of the budget highlighted in the EIS for the provision of "navigation buoys, lights, and radar reflectors". This is however a matter for the applicant who will in any event be bound by the licence conditions.

Department of Arts Heritage and the Gaeltacht

The response from the Department of Arts Heritage and the Gaeltacht (DAHG) advised that in their view the EIS did not address the "*underwater archaeological potential of the area*" and they requested that an Archaeological Impact Assessment be carried out. (See TAB 9D) The Division requested the applicant to provide the necessary assessment and this was carried out on behalf of the company by Mr Donald Boland Archaeologist, to the specifications set by the DAHG. The Archaeological report (TAB 22) concluded that the proposed fish farm development at the Shot Head site should proceed but that a further sidescan survey should be conducted over the Shot Head site following the installation of the anchors to determine if their installation has revealed the existence of submerged archaeological material.

A copy of the report was furnished to DAHG and no further requests were received from that Department.

The following conditions were drafted by the Marine Institute and have been included in the draft Aquaculture Licence to address the archaeological concerns CIL (Note that condition No 3 of the Foreshore License requires the Licensee to "*comply fully with all the terms and conditions of the Aquaculture Licence*").:

- The Licensee shall engage the services of a suitably qualified Archaeologist, with underwater /maritime experience to monitor all seabed disturbance works, including anchor installation, associated with the development.

- The Archaeological monitoring shall be licensed under the National Monuments Acts 1930-2004 and a detailed method statement shall accompany the licence application. The methodology shall include a definite finds retrieval strategy that looks to assess the activity for artefactual bearing potential.
- Should archaeological remains be found during the course of the monitoring the monitoring archaeologist shall have the power to have the works stopped in that area pending a decision on how best to deal with the archaeology. In this event the National Monuments Service, of the Department of Arts, Heritage and the Gaeltacht, shall be contacted immediately.
- The Licensee shall ensure that secure temporary storage facilities are in place so as to immediately house any finds made during the monitoring
- The Licensee shall be advised by the Underwater Archaeology Unit of the Department of Arts, Heritage and the Gaeltacht with regard to any necessary mitigation actions e.g. preservation in situ, dive survey or excavation. The Licensee shall facilitate the Archaeologist, in recording any material found.
- The National Monuments Service, of the Department of Arts, Heritage and the Gaeltacht shall be furnished with a report describing the results of the monitoring once completed.

Bantry Bay Harbour Commissioners.

Bantry Bay Harbour Commissioners raised objections to the application for an aquaculture licence (TAB 9E). Their specific objections were as follows:

- *The proposed development lies close to the point where pilots board incoming vessels and would cause this area to be narrowed.*
- *The development lies close to an area where large tankers anchor awaiting a berth and in the event of a vessel dragging its anchor and in the subsequent manoeuvring of a stricken vessel the presence of the development will present a hazard.*

However, prior to the submission of the aquaculture licence application in June 2011 the Aquaculture and Foreshore Management Division of the Department had as part of the pre-application procedure requested the Marine Survey Office (MSO) to carry out an assessment of navigational issues arising from the proposed development. The MSO advised the Division that it had met with the Bantry Harbour Commissioners and that *"it was accepted by the attendees that there was no sustainable navigable grounds to object to the proposed development at Shot Head"*.

A copy of the submission received from Bantry Bay Harbour Commissioners as part of the Statutory Consultation process was forwarded to the MSO who provided a report on the matter for the Division. (See TAB 23). The advice of the MSO is that *"This office is still of the*

opinion that the development T5/555 would not present any navigational danger". The MSO did advise however that the points raised by Bantry Bay Harbour Commissioners were "pertinent in regard to overall developments within Bantry Bay" and recommended that the following:

- A Bantry Bay development plan be produced with regard to overall aquaculture development in the Bay.

(The Department is satisfied that the Single Bay Management Plan operated by the Marine Institute will adequately address this recommendation).

- The designation of a number of areas as anchor berths with swinging areas for deep draft vessels be produced. These may be accompanied with a warning on use of these areas in bad weather conditions and advised to the British Admiralty Hydrographic Office for inclusion in chart and sailing direction corrections for the area.

The draft licence contains a specific condition that the applicant must contact the MSO as the competent authority in relation to navigational matters and in relation to the designation of a number of areas as anchor berths with swinging areas for deep draft vessels in the bay.

The MSO has also advised that it is in agreement with the recommendation of the CIL in relation to navigation buoys. The CIL recommendations are referred to earlier in the text and are included as conditions in the licence.

Bantry Bay Harbour Commissioners wrote to the Department on 26th June 2012 and acknowledged their meeting with the MSO. They advised that their concerns were in fact in relation to *"the proximity of the proposed development to the pilot boarding and landing point for tankers and the anchorages used by tankers bound for the Whiddy Oil Terminal"*. The MSO had however confirmed that there was no evidence of established anchorages on the Admiralty Charts. Bantry Bay Harbour Commissioners advised that they would apply to the United Kingdom Hydrographic Office to rectify the position. (TAB 23A).

Notwithstanding the above the Department is happy to accept the MSO assurance that it *"is still of the opinion that the development T5/555 would not present any navigational danger"* and has included the appropriate conditions in relation to navigational safety in Schedule 3 of the draft Aquaculture License.

Inland Fisheries Ireland.

In their submission dated 1st February 2012 (See TAB 9F), Inland Fisheries Ireland (IFI) referred to the fact that *"five salmonid rivers discharge into Bantry Bay"* and the potential impact for the proposed development to *"impact negatively on the aforementioned rivers"*.

IFI stated that it considered the current EIS to be inadequate in that no serious assessment has been carried out to:

- quantify the impact of existing salmon farms in the bay on wild migratory salmonids to date or
- quantify the future impact of the proposed development in its own right and in combination with other existing farms bay on wild migratory salmonids or
- establish adequate baseline data for wild migratory salmonids in Bantry Bay”.

In the absence of this information IFI advised that they were of the view that the proposed development should not go ahead in Bantry Bay.

The applicant in its response to the IFI submission strongly rejected any suggestion of inadequacy in relation to the EIS and gave a detailed response to the issues raised (See TAB 24). Both the IFI submission and the applicant response were referred to the Marine Institute for consideration. The Marine Institute provided a detailed report on the application to the Department on 27th January 2014 and addressed the issues raised by IFI. The report advised that the Marine Institute *“considers that there are no grounds for refusal based on environmental considerations”* (See TAB 25).

The report did however recommend the inclusion of the following conditions if a licence was granted:

- Undertake monitoring in accordance with Monitoring Protocol No. 2 for Offshore Finfish Farms - Water Column Monitoring.
- Carry out a benthic survey at the site in order to generate a more up-to-date and scientifically robust baseline dataset prior to commencement of any operations on the site. Details of the sampling and analysis plan for the survey shall be submitted for the approval of the Minister.
- Undertake benthic monitoring in accordance with Monitoring Protocol No. 1 for Offshore Finfish Farms – Benthic Monitoring.
- Obtain a Fish Health Authorisation from the Competent Authority prior to commencement of any operations on the site.
- Ensure that the site is operated in full compliance with the Code of Practice on Fish Health and the Farmed Salmonid Health Handbook.
- Ensure that the site is only serviced by fish transporters registered with the Competent Authority.
- Update the Emergency Plan for Fish Escapes (SOP 25561) to incorporate specific actions to:
 - Monitor the incidence of farmed fish escapees in the rivers in the immediate vicinity of the farm following escape events; and
 - Where possible and practical, remove farmed fish in fresh water where these have been identified.

- Adhere to the sea lice monitoring and control protocols as set out in the Strategy for Improved Pest Control on Irish Salmon Farms (2008).

These conditions have been included in the draft Aquaculture License (Note that condition No 3 of the Foreshore License requires the Licensee to “comply fully with all the terms and conditions of the Aquaculture Licence”).

Statutory Consultation – Department of Environment, Community and Local Government

There was a requirement to conduct a separate Statutory Consultation with the Department of Environment, Community and Local Government specifically for the foreshore element of the application. On 19/06/2014 the Department instructed the applicant to commence a consultation process with DECLG. The applicant wrote to DECLG on 27/06/2014 and furnished them with: (see TAB 31)

- A copy of the application.
- A copy of the EIS on DVD.
- Video records of ROV surveys of the proposed site area.
- An information brochure.

The response from the Department of Environment, Community and Local Government (see TAB 31) advised that “in their determination of this Aquaculture Licence Application DAFM can be advised to take cognisance of the following”:

“STRUCTURAL INTEGRITY

It is noted that the site as proposed along the coast between Shot Head and Mehal Head is in an unsheltered and reasonably exposed location in Bantry Bay. The Applicants would need to demonstrate to DAFM’s satisfaction the structural integrity of the proposed anchor/mooring arrangements for the cages especially in relation to extreme wave/current and tidal situations linked to extreme weather conditions. They would need to demonstrate that the proposed structures are fit for purpose under all these extreme conditions. Cage and rope/net fatigue and wear and tear over time would also need to be factored into this assessment and the Applicants would need to satisfy DAFM in relation to their contingency plans for dealing with defective or loose structures should they arise.”

and

“NAVIGATION

While a proposed navigation marking and lighting system is put forward in the application it is noted that the “proposed navigational aids may be modified, consistent with the specification requirements for the site as set down in the terms of the Aquaculture Licence, as advised by MSO and CIL” this is acceptable.”

The Department has considered both of the above issues and has set out below how they have been included in the consideration of the Foreshore License application.

Structural Integrity.

In relation to the comments on Structural Integrity, the Department is satisfied that these concerns have been addressed by the inclusion of condition 3.4 in the Aquaculture License (Note that condition No 3 of the Foreshore License requires the Licensee to *"comply fully with all the terms and conditions of the Aquaculture License"*).

Condition 3.4 states as follows:

"The Licensee shall confirm to the Department of Agriculture, Food and the Marine (hereinafter referred to as "the Department"), by way of written confirmation by a Chartered Engineer that the marine finfish farm to be used in the licensed site has been designed with skill, care, diligence and professional conduct reasonable to be expected from a designer with the qualifications and experience suitable for the design work involved. Any proposed material change to the equipment to be used during the licensing period will require written confirmation by a Chartered Engineer that the proposed change to equipment to be used in the licensed site has been designed in the same manner as aforementioned. The Licensee shall retain detailed records for inspection to confirm that this condition is being complied with".

The Department is also currently finalising a Protocol for Structural design of Marine Fin Fish Farms which will further enhance a good design and maintenance regime in respect of Structural integrity of cage structures located on the foreshore.

Navigation.

This issue has been fully addressed above by way of insertion of specific conditions in the draft Aquaculture License recommended by the Commissioners of Irish Lights (Note that condition No 3 of the Foreshore License requires the Licensee to *"comply fully with all the terms and conditions of the Aquaculture Licence"*).

2nd Round of Statutory Consultation.

The requirement for 2nd round of Statutory Consultation arose on foot of additional information sought by the Marine Institute in its report to the Department on the "Marine Harvest Ireland Application for a Salmon Farm Development in Bantry Bay, County Cork" dated 27th January 2014. In that report the Marine Institute had advised that on the matter of the use of chemicals, specifically Dangerous Substances:

"The applicant has not supplied sufficient information to comply with the requirements [of] SI 466 of 2008 (Regulation 4)1." (Copy of SI at TAB 15).

and that,

"It is the opinion of the Marine Institute that before a final determination can be made on this application the applicant should be required to provide additional information on the discharge, including quantity and frequency, of any dangerous substance intended for use as sea lice treatments – and to demonstrate that the requirements of Regulation 4 of SI 466 of 2008 are met."

The Marine Institute recommended that the Department request additional information from the applicant (See TAB 16).

The 2nd round of Statutory Consultation commenced in November 2014. A copy of the letter dated 20th November 2014 that issued to the applicant is appended (See TAB 14). The applicant wrote to the various Statutory Consultees on 26th November 2014 (See TAB 26).

The information made provided to the Statutory Consultees for comment consisted of:

- The request for additional information from the Marine Institute.
- The additional information provided by the applicant in response to this request. (See TAB 17)

The Department received no observations or submissions from any of the Statutory Consultees.

Public Access to information relevant to the Minister's decision making process.

There is a requirement under the provisions of EIA Directive 2011/92/EC (See TAB 27) to make available to the public, information relevant to the Minister's decision making process on the licence application.

This is not a 'Consultation Process' but rather it affords the public access to information relevant to the Minister's decision making process on the licence application. The volume of information covered by the legislation was significant and in fact consisted of a total 1007 pages of documentation together with the EIS.

On 25th February 2015 the applicant was instructed to make all the relevant information available on its website and to arrange for the insertion of a public notice in the Irish Examiner, the Southern Star and the Kerryman. A copy of the letter of the 25th February 2015 and the public notices are available at TAB 28. The information was made available by the applicant on its website at the following location:

<http://www.marineharvestireland.com/about/marine-harvest-ireland/our-locations/>

See TAB 29 for Screenshot.

ENVIRONMENTAL IMPACT ASSESSMENT.

The provisions of Section 4A of SI 236/1998 state that the Minister *"shall, as part of his or her consideration of an application, in accordance with paragraph (2), ensure that before a*

decision is made aquaculture likely to have significant effects on the environment by virtue, inter alia, of its nature, size or location is subject to an environmental impact assessment". This application falls within the scope of that legislation.

The Department produced an Environmental Impact Assessment (EIA) which has been submitted for approval by the Minister under separate cover. (See TAB 7). The EIA has concluded that there are no substantial environmental grounds for refusing to approve this application.

Licence Conditions.

In addition to the standard licence conditions included in an aquaculture licence the Department has included all necessary conditions to take account of the views of its Statutory and Internal Consultees. These conditions reflect the full consideration of all public submissions within the statutory timeframes. A list of all supplementary conditions to the Aquaculture Licence is appended at TAB 30. Condition 3 of the Foreshore License obliges the licensee to comply fully with all terms and conditions of the Aquaculture Licence.

RECOMMENDATION

The application for an Aquaculture License together with the accompanying Foreshore License at Shot Head has attracted considerable controversy and been the subject of considerable comment both within the Public Consultation Process and subsequently. The site at Shot Head in Bantry Bay is located in an area of considerable scenic popularity and indeed visibility of the site will form part of the recently launched and highly successful 'Wild Atlantic Way'. The Minister's determination will no doubt be closely followed by a number of significant stakeholders including the Aquaculture Industry, the Environmental Lobby and the Tourist Industry. It is significant also that this will be the first Finfish License application determined by the Minister for a number of years and that the scale is not insignificant.

The legislation governing the aquaculture license process is both extensive and complex. The Department has made every effort to ensure full compliance with all relevant legislation and has engaged in extensive consultation with all stakeholders. The Environmental Impact Assessment carried out on behalf of the Minister concludes that "there are no substantial environmental grounds for refusing to approve this application" and in all the circumstances it is recommended that the Minister approves the granting of a Foreshore Licence to Bradán Fanad Teoranta t/a Marine Harvest Ireland (MHI) for one site numbered T5/555 at Shot Head, Bantry Bay, Co. Cork, subject to the detailed and extensive conditions included in the draft license (Copy of Draft License attached opposite on file).

REASONS FOR THE DECISION

The Minister for Agriculture, Food and the Marine is required to give public notice of both the licensing determination and the reasons for it. To accommodate this, it is proposed to publish the following on the Department's website, subject to the Minister approving the above recommendation:

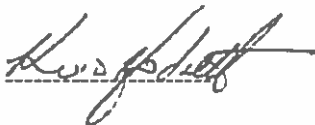
"Determination of Aquaculture/ Foreshore Licensing Application – 42.49 hectares

Bradán Fanad Teoranta t/a Marine Harvest Ireland (MHI) has applied for an aquaculture licence for the cultivation of salmon on one site totalling 42.49 hectares at Shot Head, Bantry Bay, Co. Cork.

The Minister for Agriculture, Food and the Marine has determined that it is in the public interest to grant an Aquaculture/Foreshore Licence for site numbered T5/555. This determination takes into consideration that the proposed aquaculture will be located in suitable waters, has potential economic benefits, will have no significant ecological effects on wild fisheries, natural habitats, flora and fauna or the environment generally."

Submitted for consideration and approval, please.

Kevin Hodnett



Assistant Principal,
Aquaculture & Foreshore Management Division.

Date. 31 July 2015

