



T: +44 (0)300 244 5046
E: MD.MarineLicensing@gov.scot

[Redacted]
Loch Duart Ltd
Badcall Salmon House
Scourie
Sutherland
IV27 4TH

Date: 08 January 2025

[Redacted]

Dear

The Conservation (Natural Habitats, &c.) Regulations 1994

Application to Disturb Marine Species, Loch Duart Ltd

I refer to your application dated 20th March 2024 for a licence to disturb European Protected Species (“EPS”) as a result of acoustic deterrent device (“ADD”) use at the Clashnessie Bay fish farm site operated by Loch Duart Ltd (“the Application”).

The Application covers a single site in Clashnessie Bay, Sutherland. The farm comprises 16 ring cages set out in two rows of eight. The Application proposes that six Ace Aquatec RT1 units would be spaced evenly around the cage grouping (three units on one row and three on the other). It is proposed that the ADDs would be activated when fish are present on site, seal presence is known to occur on site and seal activity is evident around the site. The ADDs proposed for use have asynchronous controls which prevent multiple units sounding simultaneously. The Application also describes circumstances that would result in the ADDs being deactivated including the site being fallow, no seal interaction evident, cetacean presence in immediate area of the farm and lack of efficacy in preventing seal interaction with the farm.

The Scottish Ministers cannot issue a licence to disturb EPS unless they are satisfied:

1. There is a licensable purpose;
2. There is no satisfactory alternative; and
3. The action authorised will not be detrimental to the maintenance of the population of the species concerned at favourable conservation status in their natural range.

As part of the determination process, the Scottish Ministers have consulted with NatureScot (operating name of Scottish Natural Heritage) (“NS”). They have also sought advice from the Marine Directorate – Science, Evidence, Data and Digital, specifically the Renewables and Ecology Team (“RET”) and the Fish Health Inspectorate (“FHI”). Advice was also sought from the Scottish Government Veterinary Head of Animal Welfare. An [opinion document, on the issues associated with the proximity of seals to farmed fish](#) (12 August



2022) provided by the Scottish Animal Welfare Council (“SAWC”) in response to a request from the Marine Directorate has also been considered. The advice provided and the consultation representations received, are attached in Appendix 1 for your attention.

Licensable Purpose

The Application has been made for the purpose of “*Preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.*” The Scottish Ministers consider that this is an appropriate licensable purpose.

The Application contains a number of documents with supporting information. These include “Evidence of seal impact at Clashnessie Bay farm site (FS0933) and efficacy of ADD use” and an MSc thesis, “Investigating seal depredation at Scottish salmon farms” (Whyte, 2015). Further detail was provided by Loch Duart Ltd on 26 June, 16 September and 24 October 2024 in response to issues raised by the consultee and advisors.

It is accepted that the evidence of seal damage provided can be considered as serious damage. The current evidence base for ADD efficacy is very limited, but both NS and RET acknowledge that the use of ADDs appeared to result in significantly lower rates of depredation at the Clashnessie Bay site.

In its correspondence dated 16 September, Loch Duart Ltd confirmed that the RT1 device produced by Ace Aquatec Ltd, is the most appropriate device to use at Clashnessie Bay due to its lower operating frequency and the fact that fewer devices would be required compared to other models, resulting in less noise generation overall. However, following review of all information provided by Loch Duart, including the most recent submission, it is apparent that the data provided to demonstrate ADD efficacy was gathered using two models of ADD – the RT1, as well as the US3 device also manufactured by Ace Aquatec Ltd. The US3 device appears to have been used predominantly as a standalone device with the RT1 used alongside the US3 device on occasion ‘to enable the escalation of predator deterrence’. It is unclear when the RT1 device was activated or the duration it was active for, but Loch Duart Ltd has confirmed that the RT1 device was never used in a standalone capacity during the production cycles when the ADD efficacy information was gathered. From the information provided, it is also not possible to determine when and for how long the US3 device was the only device active at the site. Furthermore, Loch Duart Ltd has confirmed that it is unable to provide a detailed timeline of which devices were deployed and active (either as standalone or in combination) during this period.

As it is not possible to determine when the RT1, US3 device or both were deployed at any point during the production cycles in question, it is not possible to reach a conclusion on the efficacy of either device individually when in use at Clashnessie Bay. In addition, as the RT1 device was never used in a standalone capacity, the Scottish Ministers consider that it will not be possible to determine the efficacy of the RT1 device from the information provided in support of the Application.

For the avoidance of doubt, it should also be noted that even if standalone data had been available for the US3 device, even though the duty cycle and source level of this device may be comparable with the RT1, there is a significant difference in frequency range which is likely to be perceived differently by seals. Due to these different acoustic properties, based on information provided to date, the efficacy of the RT1 device could not be predicted from evidence relating to the US3 device.

The data discussed in Whyte’s MSc thesis (2015) also relates to the US3 device and can therefore not be considered as evidence to demonstrate efficacy of the RT1 device.

The Scottish Ministers acknowledge the advice provided by the Scottish Government Veterinary Head of Animal Welfare in regard to the likelihood of serious harm and are also aware of fish farm operators responsibilities in regard to the health and welfare of farmed fish.

However, the Scottish Ministers cannot conclude that The Application demonstrates that use of the RT1 device will be effective in “*Preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.*” Further details can be found in Appendix 1.

No Satisfactory Alternative

A “Predator (seal) risk assessment” was submitted as part of The Application. This lists a number of control measures and the feasibility of their use at the site.

It includes a number of measures that Loch Duart Ltd state are always in use including low stocking density, removal of mortalities and high quality tensioned nets. Loch Duart Ltd also notes that it intends to investigate the efficacy of extending pen nets above the hand rail to attempt to further reduce the risk of seal access.

Loch Duart Ltd has also provided justification for not using certain potential alternatives including ineffectiveness and operational constraints. It also provided further detail in regard to anti-predator nets and their use at Clashnessie Bay on 26th June 2024. This further detail described potential health and safety implications that could result from deployment of anti-predator nets specifically at the Clashnessie Bay site. These potential issues are due to the pen size at the site and include compromised walkway stability and navigational hazards.

The conclusions of the SAWC document and advice provided by the Scottish Government Veterinary Head of Animal Welfare have also been considered.

It is considered that for the site configuration and pen size currently in place at Clashnessie Bay, The Application has satisfied the requirements of the no satisfactory alternative test. Further detail can be found in Appendix 1, with advice from RET and FHI particularly relevant in this regard.

Favourable Conservation Status

NS stated in its consultation response that based on the information provided and modelling undertaken, there would be no adverse impact on FCS for any EPS potentially present in the area. The Scottish Ministers agree and conclude that the action will not be detrimental to the maintenance of the population of the species concerned at favourable conservation status in their natural range.

Other considerations

The Scottish Ministers refer you to the full details provided in the consultation response and advice attached.

It is noted that knotted high density poly ethylene (“HDPE”) nets were installed at the Clashnessie Bay site in 2024. It is also noted that the Application states that knotted HDPE netting at other sites operated by Loch Duart Ltd ‘has been proven....for its seal deterrence attributes’. Supporting evidence for the Application appears to have been gathered prior to 2024 and therefore it has not been possible to consider the efficacy of this measure at the Clashnessie bay site. This is also applicable to any future information gathered following implementation of any further measures such as raising the level of the netting above the handrail etc.

The Scottish Ministers note Loch Duart’s comments in regard to circularity of argument in the application process. The Application relates to ADD use for commercial purposes. EPS licences can also be granted for ‘scientific, research or educational purposes’, for which NatureScot are the relevant authority. It is understood that Loch Duart has an EPS licence for this purpose at one of its other sites.

If you wish to submit any further application for a licence to disturb EPS as a result of ADD use at any of your sites the Scottish Ministers advise that you give full consideration to all the consultation responses and advice provided.

Conclusion

Having considered the Application and supporting information, the Scottish Ministers have concluded that this application for a licence to disturb EPS as a result of ADD use at the Clashnessie Bay site operated by Loch Duart Ltd will not be granted.

If you have any questions on the above please contact MD-LOT via MD.MarineLicensing@gov.scot

Licensing Operations Team
Marine Directorate