

PLANNING PERMISSION

Reference No: 21/02213/FUL

To:
Mowi Scotland Ltd
1st Floor
Admiralty Park
Admiralty Road
Rosyth
Fife
KY11 2YW

Per:
Mowi Scotland Ltd
Per: Stephen MacIntyre
Stob Ban House
Glen Nevis Business Park
Fort William
PH33 6RX

**Town and Country Planning (Scotland) Act 1997 (As Amended)
Planning Etc. (Scotland) Act 2006**

DECISION NOTICE

**Alterations at Marine Fish Farm - Atlantic Salmon
Site 1860M NE Of East Lodge, Ardgour**

The Highland Council in exercise of its powers under the above Acts **grants planning permission** for the above development in accordance with the particulars given in the application and the following documents:

Document Type	Document No.	Version No.	Date Received
Supporting Information	ANNEX 1.1 - ADMIRALTY CHART EXTRACT		06.05.2021
Supporting Information	ANNEX 1.2 - LOCATION PLAN		06.05.2021
Supporting Information	ANNEX 1.3 - SITE PLAN		06.05.2021
Supporting Information	ANNEX 1.4 - SUPPLEMENTARY PLAN		06.05.2021

CONDITIONS AND REASONS

This permission is granted subject to the following conditions and reasons:

1. All plant, machinery and equipment shall be so installed, maintained and operated such that any associated operating noise does not exceed NR 20 when measured or calculated within any noise-sensitive property with windows open for ventilation purposes.

If the above standard cannot be met, the applicant must undertake an assessment of the noise in terms of BS 4142:2014 Methods for rating and assessing industrial and commercial sound which demonstrates that noise will not have an adverse impact on noise sensitive properties. A report of the assessment must be submitted for the written approval of the Planning Authority.

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Reason: To minimise the impact of noise on the nearest residential properties

2. Operations, including vehicle movements, associated with this development, for which noise is audible at the curtilage of any noise sensitive property, shall only be permitted between 0800 hours and 1800 hours Monday to Sunday.

On occasions where no noise assessment has been carried out as per condition 1 and where a noise disturbance needs to occur outwith these periods, e.g. requirement for service vessel to work alongside the pens for emergency healthcare treatment, the operator must make the Highland Council and Environmental Health aware of the date, duration and reason. The Highland Council reserves the right to limit the number of out of hour vessel visits and other noise producing activities.

Reason: To ensure noise from vessels are not detrimental to the amenity of neighbouring properties

3. All surface equipment, with the exception of navigational markers, shall be finished in a dark, muted, neutral colours. The top-nets should be a muted grey colour unless otherwise first agreed with the planning authority.

Reason: To minimise the visual impact of the installation and to help safeguard the integrity of the Ardgour Special Landscape Area and public amenity.

4. In the event of equipment falling into disrepair or becoming damaged, adrift, stranded, abandoned or sunk in such a manner as to cause an obstruction or danger to navigation and marine wildlife, the site operator shall carry out or make suitable arrangements for the carrying out of all measures necessary for lighting, buoying, raising, repairing, moving or destroying, as appropriate, the whole or any part of the equipment so as to remove the obstruction or danger to navigation.

Reason: To ensure that the site does not become a navigational hazard or source of marine litter that could impact both biodiversity and visual amenity of the surrounding area.

5. At least three months prior to cessation of use of the site for fish farming, a scheme for the decommissioning and removal of all equipment shall be submitted to and agreed in writing with the Planning Authority. Upon cessation the approved scheme shall be implemented in full.

Reason: To ensure that decommissioning of the site takes place in an orderly manner and to ensure proper storage and disposal of redundant equipment in the interest of amenity and navigational safety.

6. The fish farm should be operated in accordance with the following wildlife entanglement/ entrapment monitoring and reporting requirements

- 1) Operators to maintain daily records of wildlife entanglement / entrapment using a standardised NatureScot proforma (which can be downloaded at <https://www.nature.scot/sites/default/files/2021-02/NatureScot%20-%20Entanglement%20and%20entrapment%20-%20Standardised%20Proforma.xlsx>) and to submit regular (typically six-monthly) returns of these records to The Highland Council, copied to NatureScot

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- 2) Immediate notification should be made by the site operator to both The Highland Council and NatureScot in event of any significant entrapment or entanglement of gannets (i.e. involving three or more birds on any one day and/or a total of ten or more birds in the space of any seven day period and/or or repeat incidents involving one or more birds on four or more consecutive days).
- 3) Should an event or events be notified in accordance with the notification requirement above, The Highland Council is to consult with NatureScot and the applicant to agree any mitigation measures required and any such mitigation measures are to be implemented within a timescale determined by The Highland Council and to be retained throughout the life of the top nets unless agreed otherwise in writing by The Highland Council.

Reason: To mitigate potential impacts of the top-nets on seabirds (particularly gannets) and ensure accordance with Habitats Regulations and the Planning Authority's biodiversity duty.

- 7. No fish shall be stocked or farmed on the site until an Environmental Management Plan (EMP) has been submitted to and approved in writing by the Planning Authority (in consultation with Lochaber Area Salmon Fishery Board).

The EMP shall be prepared as a single, stand-alone document, which shall include the following:

- (1) Sea Lice Management in relation to impact on wild fish, including cumulative effects:
 - a) A method statement for the regular monitoring of local wild fish populations based on available information and/or best practice approaches to sampling;
 - b) details of site-specific operational practices that will be carried out following the stocking of the site in order to manage sea lice and minimise the risks to the local wild fish population;
 - c) details of site-specific operational practices that will be carried out in order to manage the incidence of sea lice being shed to the wider environment through routine farming operations such as mort removal, harvesting, grading, sea lice bath treatments and well boat operations;
 - d) details of the specification and methodology of a programme for the monitoring, recording, and auditing of sea lice numbers on the farmed fish;
 - e) details of the person or persons responsible for all monitoring activities;
 - f) an undertaking to provide site specific summary trends from the above monitoring to the Planning Authority on a specified, regular basis;
 - g) details of the form in which such summary data will be provided;
 - h) details of how and where raw data obtained from such monitoring will be retained by whom and for how long, and in what form;
 - i) an undertaking to provide such raw data to the Planning Authority on request and to meet with the planning authority at agreed intervals to discuss the data and monitoring results;
 - j) details of the site-specific trigger levels for treatment with sea lice medicines. This shall include a specific threshold at which it will be considered necessary to treat on-farm lice during sensitive periods for wild fish;
 - k) details of the site-specific criteria that need to be met in order for the treatment to be considered successful;
 - l) details of who will be notified in the event that treatment is not successful;

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- m) details of what action will be taken during a production cycle in the event that a specified number of sea lice treatments are not successful;
- n) details of what action will be taken during the next and subsequent production cycles in the event that sea lice treatment is not successful.

(2) An Escape Management Plan to include:

- a) details of how escapes will be managed during each production cycle;
- b) details of the counting technology or counting method used for calculating stocking and harvest numbers;
- c) details of how unexplained losses or escapes of farmed salmon will be notified to the planning authority;
- d) details of an escape prevention plan. This shall include:
 - net strength testing;
 - details of net mesh size;
 - net traceability;
 - system robustness;
 - predator management; and
 - record-keeping methodologies for reporting of risk events. Risk events may include but are not limited to holes, infrastructure issues, handling errors and follow-up of escape events; and
 - details of worker training on escape prevention and counting technologies.

(3) Procedure in event of a breach or potential breach:

A statement of responsibility to "stop the job/activity" if a breach or potential breach of the mitigation / procedures set out in the EMP or legislation occurs. This should include a notification procedure with associated provision for the halt of activities in consultation with the relevant regulatory and consultation authorities in the event that monitoring demonstrates a significant and consequent impact on wild fish populations as a result, direct or otherwise of such a breach.

(4) Requirement for implementation, update and review

The development and operation of the site, shall be carried out in accordance with the approved EMP unless changes to the operation of the site dictate that the EMP requires amendment. In such an eventuality, a revised EMP will require to be submitted to, and approved in writing by the Planning Authority beforehand. In addition, a revised EMP shall be submitted to and approved in writing by the Planning Authority every 5 years, as a minimum, following the start date, to ensure it remains up to date and in line with good practice.

Reason: To ensure that good practice is followed to mitigate the potential impacts of sea lice loading in the marine environment in general and on wild salmonids in particular; in accordance with the Planning Authority's biodiversity duty.

- 8. In the event of equipment falling into disrepair or becoming damaged, adrift, stranded, abandoned or sunk in such a manner as to cause an obstruction or danger to navigation,

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the site operator shall carry out or make suitable arrangements for the carrying out of all measures necessary for lighting, buoying, raising, repairing, moving or destroying, as appropriate, the whole or any part of the equipment so as to remove the obstruction or danger to navigation.

Reason: In the interests of amenity, marine litter and navigational safety.

9. At least three months prior to cessation of use of the farm hereby approved, a scheme for the decommissioning and removal of all equipment shall be submitted to and agreed in writing with the Planning Authority. Upon cessation the approved scheme shall be implemented in full.

Reason: To ensure that decommissioning of the site takes place in an orderly manner and to ensure proper storage and disposal of redundant equipment in the interest of amenity and navigational safety.

Variations

During the processing of the application the following variations were made to the proposal:

1. At request of case officer, a draft Environmental Monitoring Plan (EMP) was submitted. Despite representation of MSS indicating an EMP was not required, the Highland Council's position is clear that an EMP is required when applications for farm modifications come in. This brings existing salmon farms in line with Scottish Governments endorsement that the risk sea lice pose to wild salmonids need to be adaptively managed.

Section 75 Obligation

None.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

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1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

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Protected Species - Halting of Work

You are advised that work on site must stop immediately, and NatureScot must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from NatureScot: <https://www.nature.scot/professional-advice/planning-and-development/planning-and-development-advice/planning-and-development-protected-species>

Building Regulations

Please note that Building Regulations and/or a Building Warrant may be applicable to some or all of the works described in this decision notice. You must check with the Council's Building Standards service prior to work commencing to establish what compliance or approval is necessary. If a warrant is required, you must not commence work until one has been applied for and issued. For more information, please contact Building Standards at eBuildingStandards@highland.gov.uk or on **01349 886608**.

Land Ownership/Planning Permission

For the avoidance of doubt, the existence of planning permission does not affect or supersede an individual's ownership or other legal rights. Please be advised that this permission does not entitle you to build on, under or over ground outwith your ownership or to enter private ground to demolish, construct or maintain your property.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action.

Utility checking on site

The <https://www.linsearchbeforeudig.co.uk/> website is a self-service website to allow you to check your proposal and site for utility assets before the commencement of any development on site.

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RIGHT OF APPEAL, REVIEW ETC

1. If the applicant is aggrieved by the decision of the planning authority: to refuse planning permission for the proposed development; to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission; to grant planning permission or any approval, consent or agreement subject to conditions; the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) **within three months** beginning with the date of this notice.

A Notice of Review Form can be downloaded at https://www.highland.gov.uk/downloads/file/6396/notice_of_review_form and any supporting documents can be submitted by email to Review.Body@highland.gov.uk or sent by post addressed to:

Highland Council Review Body
eProcessing Centre
Council Headquarters
Glenurquhart Road
Inverness
IV3 5NX

Notices of Review can also be lodged online via the ePlanning Portal at:
<https://www.eplanning.scot>

Please quote the relevant application reference number with any submission.

Please note that a completed Notice of Review Form (and any supporting documents) **MUST** be received by the Review Body **within three months** beginning with the date of this decision notice otherwise the decision cannot be reviewed.

2. If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

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