

**NOTICE OF APPEAL UNDER SECTION 40(1) OF
FISHERIES (AMENDMENT) ACT 1997 (NO. 23)**

Name and address of appellant:

**Marine Harvest Ireland
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Subject matter of the appeal:

Aquaculture licence granted to Bradan Fanad Teo. t/a Marine Harvest Ireland, Kindrum, Fanad, Letterkenny, Co. Donegal; Ref T5/555A for the cultivation of Atlantic salmon; *Salmo salar* on a site on the foreshore at SHOT HEAD, BANTRY BAY, CO. CORK.

Site Reference Number:- T5/555A

(as allocated by the Department of Agriculture, Food and the Marine)

Appellant's particular interest in the outcome of the appeal:

Marine Harvest Ireland (MHI) has been granted this licence reference T5/555A for a salmon farm at Shot Head, Bantry Bay Co. Cork. While we very much welcome this licence decision, there are a number of conditions in the accompanying licence schedules which we wish to appeal.

Outline the grounds of appeal (and, if necessary, on additional page(s) give full grounds of the appeal and the reasons, considerations and arguments on which they are based):

Conditions within Schedule 4 of licence reference T5/555A.

a) Production volume:

MHI did not apply for a biennial production of 3,500 tonnes of farmed salmon. Rather the company submitted an application for a Maximum Allowable Biomass (MAB) of 2,800 tonnes of salmon. Indeed the entire Environmental Impact Statement (EIS) which was submitted with this application was prepared using the MAB figure and not final harvest production.

The EIS and related documents may be found on the following web link.

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

The Minister for Agriculture, Food and the Marine, Simon Coveney TD issued a press release on December 5th 2011 to announce the new format for Aquaculture Licence templates. In this press release the Minister confirms that one of the core changes to Aquaculture licences is a *“Change from licensing by Annual Harvested Tonnage (i.e. the dead weight of fish harvested from a site in a calendar year measured in tonnes) to Standing Stock Biomass for Finfish (the weight of live fish on a site at any given time, measured in tonnes). Standing Stock Biomass is recognised internationally as the appropriate metric for assessing loading at an aquaculture production site and can be measured on a real time basis thus facilitating effective regulation and management of sites.”*

For your information I have appended the relevant press release to this appeal document.

Thus we request that the licence should state Maximum Allowable Biomass (MAB).

b) Harvest periods

Schedule 4 of the draft licence stipulates that harvesting should only take place between months 17 and 22 which is much too prescriptive. There is no precedent for this in any previously issued Aquaculture Licence to our knowledge.

Whilst the EIS utilises a "mean" growth model, based on company empirical data, where these harvesting (and fallowing) months are specified, the purpose in that case was to give a reasoned basis for the development of the main models on which the EIS is based, namely stocking schedules, waste production and dispersal models. However, depending on seawater temperatures over the production cycle, harvesting may be possible before this time, particularly where pens of fish are graded passively to remove the largest fish first and to allow even feeding for smaller fish. This is also an important consideration for the control of stocking densities within pens as we must maintain these within the upper limits of those specified by organic aquaculture regulations in the case of the proposed Shot Head unit, which will be operated as an organic farm. Equally, if at any time the farm is subject to jellyfish invasions or nuisance phytoplankton, the company must be free to harvest fish in order to avoid loss of fish.

Thus we request that the harvest period be removed from this licence.

c) Floating Facilities

The dimensions of floating facilities such as fish pens and the mooring grid should not be stated or specified in such detail.

Section 4 of the draft aquaculture licence regarding the containment of stock already states that the *“licensee shall comply with the most up to date guidelines on fish containment developed by the North Atlantic Salmon Farming Industry and the North Atlantic Salmon Conservation Organisation (NASCO) Liaison Group.”* Section 4.2 of

Annex 3 to the Williamsburg resolution (CNL (06) 48 of 2003 states that “*Salmon farming systems should be upgraded as improved, site-appropriate and cost effective systems of proven efficacy become available.*”

<http://www.nasco.int/pdf/agreements/williamsburg.pdf>

MHI should be free to purchase, install and upgrade to the best available pen and mooring technology which would secure the containment of fish and prevent loss of stock. Fish pen technology is constantly evolving and improving and as long as the site meets the requirements of the NASCO Liaison group and that the Department of Agriculture of Food and the Marine is notified of all such installations and upgrades with full confirmation by a chartered engineer, then we request that dimensional details of floating facilities is removed from the licence.

We also request that the design dimensions of the feeding barge are removed from the licence for the same reason. Feed barges are also continuously improving in design for the purpose of feeding and for the provision of staff facilities.

At time of application best salmon farming practice included mid-cycle grading and redistribution of fish by size amongst the pens, in which case a Maximum Allowable Biomass (MAB) of 2,800 tonnes could safely be held at $<10 \text{ kg/m}^3$ in $14 \times 20,000\text{m}^3$ pens which was addressed in the accompanying EIS.

However, best practice has moved on since that time, to the phasing out of in-cycle grading and the maintenance of stock in the same individual pens from input to harvest. Under these circumstances and at a MAB of 2,800 tonnes, $16 \times 20,000\text{m}^3$ pens must now be provided, in order that biomass in the fastest-growing pens remains at $<10 \text{ kg/m}^3$ prior to harvest.

In addition, Amoebic Gill Disease has emerged since the submission of the application, which requires treatments such as freshwater, where the availability of spare pens assists in the treatment and recovery process. Thus an ideal pen arrangement now would be 18 pens, in either a 2×9 or 3×6 formats which, in turn, changes the dimensions of the mooring grid and anchor layout but would be comfortably accommodated within the boundaries of the licenced site area outlined in the draft licence.

Thus MHI requests that the proposed layout and position of pens may be varied provided that the pen volumes do not exceed the space required to accommodate the MAB to a peak biomass of 10 kg/m^3 in any pen and provided that the pen, grid and mooring configuration is certified by way of written confirmation by a Chartered Engineer (see Clause 3.4 of the draft licence) which will be submitted to the Department of the Agriculture, Food and Marine.

Conditions within Schedule 5 of licence reference T5/555A.

Archaeological Monitoring:

Following publication of our Aquaculture licence application and accompanying EIS in January 2012 the Department of Arts, Heritage and the Gaeltacht requested MHI to commission an Archaeological Impact Assessment of the Shot Head site area. This Marine Geo-archaeological Assessment was duly commissioned and submitted in June 2012 to the Aquaculture and Foreshore Management Division of the Department of Agriculture, Food and Marine for circulation to the statutory consultee. I have attached a copy of the report to this appeal submission. I have also sought the opinion of the consultant archaeologist on these additional requirements in the draft licence and his comments are attached to this appeal.

Within this report there is a recommendation for the further protection of potential archaeology, taking into consideration the results of the assessment and the impact of the proposed development. In addition;

- The assessment did not reveal the presence of archaeological material at the site of the proposed development.
- The impact of the proposed development is the laying of anchors on and within the seabed.
- The laying of anchors on and within the seabed is a standard operational procedure conducted by most marine operators.

We are unaware of other marine operators being requested to conduct procedures for the protection of potential archaeology following the deployment of anchors, in Bantry Bay or elsewhere.

The laying of anchors on and within the seabed has taken place, is taking place and will continue to take place within Bantry Bay. This includes the unmonitored laying of anchors by oil tankers, bulk carriers and ocean going liners. The Bantry Bay terminal is licensed for tankers of up to 330,000 DWT which are a nominal length of 300m. Tankers frequently anchor in the main channel of Bantry Bay prior to offloading. Very large vessel traffic numbers in Bantry Bay are in the range of 40-60 vessels per annum. This is discussed in the accompanying EIS.

It is our belief (Marine Harvest Ireland) that since no archaeology has been revealed at the site;

- Further works for the protection of possible archaeology as required in Schedule 5 of the draft Aquaculture licence are unnecessary and are possibly precedent setting.

- The impact of anchoring is a standard, unmonitored, everyday operational procedure within the greater marine industry.

Thus as is proposed in the Marine Geo-archaeological Assessment already commissioned by MHI, a sidescan sonar visualisation of the seabed should be carried out following the placement of the anchors. The results of this sidescan seabed visualisation can then be inspected for indications of archaeological material and to determine the impact of the anchoring process on the site.

Other:

Marine Harvest Ireland submitted its application in June 2011 for this aquaculture licence and accompanying foreshore licence under the applicant name of **Bradan Fanad Teo trading as Marine Harvest Ireland**. However in the intervening 4 years, the applicant company has been consolidated into **Comhlucht Iascaireachta Fanad Teoranta (CIFT)** thus we request that the licences are issued under the following name;

Comhlucht Iascaireachta Fanad Teoranta, trading as Marine Harvest Ireland, Kindrum, Fanad, Letterkenny, Co. Donegal.

Fee enclosed: **€380.92**

(payable to the Aquaculture Licences Appeals Board in accordance with the Aquaculture Licensing Appeals (Fees) Regulations, 1998 (S.I. No. 449 of 1998))(See Note 2)

Signed by appellant:..... Date:

Note 1: This notice should be completed under each heading and duly signed by the appellant and be accompanied by such documents, particulars or information relating to the appeal as the appellant considers necessary or appropriate and specifies in the Notice.

Note 2: The fees payable are as follows:

Appeal by licence applicant.....	€380.92
Appeal by any other individual or organisation	€152.37
Request for an Oral Hearing (fee payable in addition to appeal fee)	€76.18

In the event that the Board decides not to hold an Oral Hearing the fee will not be refunded.