

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND) REGULATIONS 2013**

PLANNING PERMISSION

REFERENCE NUMBER: 20/01345/MFF

**Mowi Scotland Ltd
Mowi Scotland Ltd
Stob Ban House
Glen Nevis Business Park
Fort William
PH33 6RX**

I refer to your application dated 29th July 2020 for planning permission in respect of the following development:

Formation of fish farm (Atlantic Salmon) incorporating twelve 120m circumference circular cages and siting of feed barge


AT:

North Kilbrannan Fish Farm North Of Cour Bay Kilbrannan Sound East Kintyre Argyll And Bute

Argyll and Bute Council in exercise of their powers under the above mentioned Act and Regulations hereby grant planning permission for the above development in accordance with the particulars given in the application form and docketed plans subject however to the conditions and reasons detailed on the following page(s).

It should be understood that this permission does not carry with it any necessary consent or approval for the proposed development under other statutory enactments and is not a Building Warrant.

Dated: 1 December 2023

A handwritten signature in blue ink, appearing to read 'Fergus Murray', written over a horizontal line.

Fergus Murray
Head of Development and Economic Growth

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The planning permission as detailed above is subject to the following conditions:

Standard Time Limit Condition:

The development to which this permission relates must be begun not later than three years from the date of this permission.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

Additional Conditions:

1. The development shall be implemented in accordance with the details specified on the application form dated 29/7/20, the Environmental Impact Assessment Report dated 2020 (and subsequent addendum); and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

The developer and subsequent operator(s) shall at all times construct and operate the development hereby permitted in accordance with the provisions of the Environmental Statement accompanying the application with mitigation measures adhered to in full, and shall omit no part of the operations provided for by the permission except with the prior written approval of the Planning Authority.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	1 of 12	-	25/8/20
Supplementary Location Plan	2 of 12	-	25/8/20
Site Coordinates	3 of 12	-	12/8/20
Plans and Elevations Typical Pen Design Top Net Support	4 of 12	-	12/8/20
Feed Barge	5 of 12	-	25/8/20
Underwater Lighting Technical Sheet	6 of 12	-	25/8/20
Plans and Elevations Typical Net Design	7 of 12	-	12/8/20
Plans and Elevations Typical Mooring Design	8 of 12	-	12/8/20
Plans and Elevations - Proposed Site Configuration	9 of 12	-	12/8/20
Plans and Elevations Typical Pen Design	10 of 12		12/8/20
Admiralty Chart Extract	11 of 12		25/8/20
Site Plan	12 of 12		25/8/20

Reason: For the purpose of clarity, to ensure that the development is constructed and operated in the manner advanced in the Environmental Impact Assessment Report, upon which the environmental effects of the development have been assessed and determined to be acceptable.

2. Biomass

The development hereby approved shall not be operated other than with a biomass of 2475.54 tonnes or less.

Reason: The environmental effects of this proposal have been assessed against this maximum biomass.

3. Acoustic Deterrent Devices

Notwithstanding the details given in the Predator Mitigation Plan, no Acoustic Deterrent Devices (ADDs) shall be deployed at the site hereby approved.

Reason: In the interests of nature conservation. This planning application has been determined on the basis that ADDs will not be used. The use of ADDs would be regarded as a material change to the proposal.

4. Wild Fish Monitoring Plan

The site shall not be stocked until the wild fish monitoring plan has been agreed which shall include a requirement to monitor the juvenile salmon population in coastal waters within a zone of 30km from the Management Area.

Reason: In the interests of nature conservation.

5. End of Cycle Review

The site shall not be restocked until a review has been undertaken of relevant farming and wild fish monitoring data collected during the previous cycle, and the review has been agreed with Argyll and Bute Council, in consultation with NatureScot. The review must be completed and agreed sufficiently in advance of the following cycle, to allow timely restocking, and all relevant parties will agree on the review process in advance.

Reason: In the interests of nature conservation.

6. Drift Nets etc.

There shall be no use of drift nets, vertical static nets or gill nets to recapture escaped fish.

Reason: In order to avoid putting marine birds, including guillemots, shags, divers and others at risk.

7. Fallowing

The site hereby approved shall be fallowed between the 15th March and 1st June each alternate year coinciding with the second year of production. Any changes to the production strategy shall be agreed in writing with the Planning Authority in consultation with NatureScot prior to these changes being implemented.

Reason: In the interests of nature conservation.

8. Notification of Stocking and Fallowing

The operator shall notify the Planning Authority in writing within 14 days of the site being stocked and fallowed.

Reason: In the interests of nature conservation.

9. Specification of Nets

The pole mounted top net system hereby approved shall be as noted below unless otherwise agreed in writing with the planning authority in consultation with NatureScot:

	Height (m)
Perimeter Pole Support	Maximum height of 5m above the water surface
	Mesh Size (mm)
Sidewall netting from the bottom to 2m height	25
Ceiling net panel and remaining sidewall netting	100
Colour	Dark grey to black

This shall be subject to review, underpinned by systematic monitoring. The Planning Authority shall be immediately notified in the event of emergence of patterns of entanglement or entrapment of marine birds.

Reason: To minimise the risk to all bird species and to ensure that there are no significant effects on the qualifying interests of the Ailsa Craig Special Protection Area.

10. Wildlife Recording and Reporting

The proposal shall be undertaken strictly in accordance with the following criteria:

(a) Operators shall maintain daily records of wildlife entanglement / entrapment using a standardised proforma which shall be submitted to the planning authority and copied to NatureScot at 6 monthly intervals or other specified period to be agreed in writing with the planning authority in consultation with NatureScot. The first proforma shall be submitted 6 months after the development is brought into use unless otherwise agreed in writing with the planning authority in consultation with NatureScot.

(b) In the event of any significant entrapment or entanglement of gannets, and any other SPA interests identified as relevant to a particular fish farm (e.g involving three or more birds of any named species in any one day and / or a total of ten or more birds in the space of any seven day period and / or repeat incidents involving one or more birds on four or more consecutive days), the operators shall immediately notify both the planning authority and NatureScot;

(c) Adaptive management approaches should be agreed in writing with the planning authority in consultation with NatureScot in advance of these being implemented.

Reason: In order to ensure that there are no significant effects on the qualifying interests of the Ailsa Craig Special Protection Area. Gannet have an extensive range and would have the potential to become entangled in nets.

11. Environmental Management Plan

The site shall be operated, monitored and managed in accordance with the Kilbrannan Sound Environmental Management Plan (EMP) attached to the planning portal on 22 December 2022 and subsequent approved variation thereof. Prior to the commencement of development, a revised Environmental Management Plan (EMP) shall be submitted to and approved in writing by the Planning Authority which includes a commitment that outputs of the modelling and risk assessment process generated under the SEPA's proposed Sea Lice Risk Framework will feed into and influence the first end of cycle review.

Reason: In the interests of nature conservation.

12. Sea Lice Management and Efficacy Report

The site shall be operated in accordance with the North Kilbrannan Sea Lice Management and Efficacy Report dated 2020 or any subsequent updates of this document which shall be submitted to and approved in writing by the planning authority.

Reason: In the interests of nature conservation.

13. North Kilbrannan Containment and Escapes Contingency Plan

The site shall be operated in accordance with the North Kilbrannan Containment and Escapes Contingency Plan dated 2020 and the North Kilbrannan Inspection and Maintenance Schedule with the exception of any proposed actions contained within these documents limited by other conditions on this planning permission. Any subsequent updates of these documents shall be submitted to and approved in writing by the planning authority.

Reason: In order to minimise the risk of escapes in the interests of nature conservation.

14. Removal of Equipment

In the event that the development or any associated equipment approved by this permission ceases to be in operational use for a period exceeding three years, the equipment shall be wholly removed from the site thereafter, unless otherwise agreed in writing by the Planning Authority.

Reason: In the interest of visual amenity and to ensure that redundant development does not sterilise capacity for future development within the same water body.

15. Colour of Equipment

The finished surfaces of all equipment above the water surface, excluding the feed barge, but inclusive of the surface floats and buoys associated with the development hereby permitted (excluding those required to comply with navigational requirements) shall be non-reflective and finished in a dark recessive colour in accordance with the details provided in the EIAR unless otherwise agreed in advance in writing by the planning authority.

Reason: In the interest of visual amenity.

16. Lighting

All lighting above the water surface and not required for safe navigation purposes should be directed downwards by shielding and be extinguished when not required for the purpose for which it is installed on the site.

Reason: In the interest of visual amenity.

17. Waste Management Plan

Prior to the commencement of development a further Waste Management Plan shall be submitted to and approved in writing by the planning authority. This shall include details of the arrangements for the storage, separation, and collection of waste from the site including proposals for uplift from areas where fish farm equipment has become detached from the site.

Reason: To ensure that waste is managed in an acceptable manner.

18. Water Supply

No development shall commence until an appraisal of the wholesomeness and sufficiency of the intended water supply and system required to serve the development has been submitted to and approved by the Planning Authority.

Reason: In the interests of public health and in order to ensure that an adequate water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users.

19. Noise

The Noise Rating Level attributable to the operation of the approved fish farm operation shall not exceed background noise levels by more than 3dB(A) at any residential property measured and assessed in accordance with BS4142:2014.

Reason: In order to protect the amenities of the area from noise nuisance

NOTES TO APPLICANT (1) RELATIVE TO APPLICATION NUMBER 20/01345/MFF

STANDARD NOTES

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may appeal to the Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. Details of how to appeal are noted below.

ePlanning – By using the online appeal function through the ePlanning website www.eplanning.scotland.gov.uk.

Scottish Government Website – Appeal forms and guidance notes are available from the DPEA pages of the Scottish Government Website www.scotland.gov.uk/dpea The forms can then be completed electronically or printed and completed by hand.

Paper form - By telephone to 01324 696400 or in writing to DPEA, Planning and Environmental Appeals Division, Scottish Government, Ground Floor, Hadrian House, Callendar Business Park, Callendar Road, Falkirk FK1 1XR requesting paper copies of the form and guidance notes.

The notice of appeal should be addressed to the Directorate for Planning and Environmental Appeals, Planning and Environmental Appeals Division, Scottish Government, Ground Floor, Hadrian House, Callendar Business Park, Callendar Road, Falkirk FK1 1XR with a copy forwarded to the Council at the same time.

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 it cannot be rendered capable of reasonably beneficial use by the 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 landowner's interest in the land, in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997(as amended).
3. In order to comply with Sections 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the following ['Notice of Initiation of Development'](#) form to the Planning Authority specifying the date on which the development will start. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.
4. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the following ['Notice of Completion'](#) form to the Planning Authority specifying the date upon which the development was completed.

INFORMATIVE NOTES

- The use of sub-sea anti-predator nets requires consent from NatureScot.
- The applicant shall make the following commitments to SSEN as detailed in MOWI's letter of 12/11/20 Scottish Hydro Electric Transmission plc in relation to their sub sea cable.
- The Aquatic Animal Health (Scotland) Regulations 2009 requires the authorisation of all Aquaculture Production Businesses (APBs) in relation to animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals. The authorisation procedure is undertaken on behalf of the Scottish Ministers by the Fish Health Inspectorate (FHI) at Marine Scotland Marine Laboratory. To apply for authorisation for an APB or to amend details of an existing APB or any site that an APB is authorised to operate at, you are advised to contact the FHI as follows: Fish Health Inspectorate, Marine Scotland Marine Laboratory, 375 Victoria Road, Aberdeen AB11 9DB Tel: 0131 244 3498; Email: ms.fishhealth@gov.scot
- All marine farms, whether finfish, shellfish or algal, are required to apply for a marine licence under Part 4 of the Marine (Scotland) Act 2010. To apply for a marine licence, or to amend details of an existing marine licence (formally Coast Protection Act 1949 - Section 34 consent), please visit the Scottish Government's website at <http://www.gov.scot/Topics/marine/Licensing/marine/Applications> where application forms and guidance can be found. Alternatively you can contact the Marine Scotland Licensing Operations Team (MS-LOT) by emailing MS.MarineLicensing@gov.scot; or calling 0300 244 5046.
- The Northern Lighthouse Board has recommended the following:
the site should be marked with 2 lit yellow poles fitted with yellow "x" topmarks;
The lights should display a character of flash one yellow every five seconds (FI Y 5s) with a nominal range of 2 nautical miles and be installed above the "x" topmark.
The poles should be positioned at the Northwestern and Northeastern seaward corners of the cage group.
Each light should be 1 metre above the site equipment handrails and installed to be clearly seen by vessels approaching from all navigable directions.
Poles should be greater than or equal to 75mm diameter, the "x" topmark should be greater than or equal to 75cm length by 15 cm width.
The feed barge should exhibit an all-round fixed white light with a nominal range of 2 nautical miles from a point at least 1 metre above any other obstruction.
A weekly check of the site's marking equipment shall be performed, and records kept of its physical and working status for audit purposes.
outlying anchor points should not be marked with buoys, unless specifically requested by local users, and alternative means to locate anchors should be utilised.
Loose floating lines around site equipment are strongly discouraged as this can cause serious safety implications for other mariners.
Upon completion of the works, 'as-built' plans should be provided to the UK Hydrographic Office to enable the update of navigational publications.
- In the event of an escape, the company should liaise with Argyll and Bute Council's Environmental Health service.

2. ENVIRONMENTAL IMPACT ASSESSMENT

Regulation 3 of the Town and Country Planning (Environmental Impact Assessment)(Scotland) Regulations 2017, prohibits the granting of permission for EIA development unless an environmental impact assessment has been carried out and that information has been taken into account when undertaking an assessment of the proposal.

The applicant has submitted an Environmental Impact Assessment Report (EIA Report) which was received 2020 and Addendum received 14/12/21. The environmental information contained within this and the comments made on the application by consultees and representations made by members of the public following advertisement of the application in the Argyllshire Advertiser /Campbeltown Courier and Edinburgh Gazette on the 31st December 2020 and 29th January 2021 has been taken into account in coming to this decision.

The Council is satisfied that the requirements of the EIA Regulations have been met.

Reasoned Conclusion:

The Council's assessment of the information presented within the EIA Report and other environmental information in relation to the development is contained within the Report of Handling. Elements of the proposal with the potential to result in likely significant effects are marine benthos, water quality, wild fisheries, protected sites, protected species, navigation, shipping and commercial fisheries, landscape and visual impact, noise, socio economic and recreation, cultural heritage and human health. These issues are addressed in the Report on Handling and it is considered that subject to the mitigation measures which are set out in the EIAR and reflected in the planning conditions attached to this permission, no likely significant effects are anticipated as a result of the proposal.

The Council is satisfied that this reasoned conclusion is still up to date at the time of this decision.

An Environmental Management Plan (EMP) has been submitted in support of this application. A planning condition requires the development to be operated, monitored and managed in accordance with this EMP or any subsequently approved variation.

The planning permission is also subject to a condition which requires the site to be fallowed in the second year of production during the most sensitive period for smolt migration.

All documents can be viewed online at: <https://www.argyll-bute.gov.uk/planning-and-environment/find-and-comment-planning-applications> and searching using the case reference number.

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application: 20/01345/MFF

A. Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended):

Planning Obligation Not Required

B. Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

Yes/No? (if yes, list amendments below)

No amended plans received

Summary of amendments (if appropriate):

C. Is the proposal a departure from the Development Plan:

No

If yes, state level of departure:

No Departure

D. Summary justification statement for approval of planning permission

The proposal is considered to be consistent with the relevant provisions of the Development Plan, and there are no other material considerations of sufficient significance to indicate that it would be appropriate to withhold planning permission having regard to s25 of the Act.