

28 September 2023

Mr Jason Jacobi
Secretary
Department of Natural Resources and Environment Tasmania

By email only: Jason.Jacobi@nre.tas.gov.au

Dear Mr Jacobi,

Request for refusal to renew Marine Farming Licences and cancellation of Leases



1. We write in relation to ten Marine Farm Licences (**the Licences**) and their associated Leases (**the Leases**) issued in Macquarie Harbour for the purpose of finfish farming.
2. We understand that each of the Licences are due to expire on 30 November 2023.
3. We write to request that you:
 - (a) refuse to renew the Licences; and
 - (b) cancel the Leases.
4. We set out the reasons below.

Finfish farming in Macquarie Harbour

5. The Licences and Leases and their operators are set out in Annexure A.
6. There are three key groups who operate finfish farming in Macquarie Harbour.
7. Petuna Aquaculture Pty Ltd operates five licences. As of January 2020, Petuna was acquired by Sealord Group Ltd. References to **Petuna** throughout this correspondence is a reference to this group.
8. Tassal Operations Pty Ltd operates two licences (including one held by Aquatas Pty Ltd). Both are subsidiaries of Tassal Group Limited, which was acquired by Aquaculture Australia Company Pty Ltd, a wholly owned subsidiary of Cooke Inc., in November 2022. References to **Tassal** throughout this correspondence is a reference to this group.
9. Huon Aquaculture Company Pty Ltd operates three licences (including two held by Southern Ocean Trout Pty Ltd). Both are subsidiaries of Huon Aquaculture

Group Limited, which was acquired by JBS Australia Pty Ltd in November 2021, a subsidiary of the **JBS** Group headquartered in Brazil. References to **Huon** throughout this correspondence is a reference to this group.

Reasons for refusal

10. The *Marine Farming Planning Act 1995* (Tas) (**MFPA**) and *Living Marine Resources Management Act 1995* (Tas) (**LMRMA**) govern finfish farming operations in Macquarie Harbour.
11. Other instruments that manage marine farming activities include marine farming lease conditions (which are not publicly available), management controls contained within the *Macquarie Harbour Marine Farming Development Plan 2005* and subsequent amendments (collectively, **the MFDP**) and marine farming licence conditions.
12. Marine farming licences are subject to both the marine farming development plan to which the licence relates and any conditions specified in the licence.¹
13. The Secretary of Natural Resources and Environment may refuse to renew a licence if:
 - (a) the applicant has failed to comply with a condition of the licence in the five years prior;
 - (b) the applicant has been disqualified from holding the licence;
 - (c) there are environmental or resource constraints on renewing the licence;
 - (d) the applicant has not paid fees due; or
 - (e) on such other grounds that the Secretary considers reasonable for refusing the application.²
14. The Secretary may also investigate, at the time of renewal, whether the eligible person is a suitable person to hold a licence.³ In making such a determination, the Secretary may take into account the following relevant matters:
 - (a) whether the eligible person remains a fit and proper person to hold a licence of that category;

¹ LMRMA s 66.

² LMRMA s 81.

³ LMRMA s 76D(1)(b)(i).



- (b) whether the eligible person has been convicted of a relevant offence within the last 5 years; and
 - (c) anything else that the Secretary considers relevant.⁴
15. If the Secretary notifies a person that they are no longer eligible to hold a licence, they must cancel any licences of that category held by the person.⁵
16. Finally, the Secretary must make a decision to accept or refuse a renewal application in a manner which furthers the objectives of resource management.⁶
17. The objectives of resource management include:
- (a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
 - (b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
 - (c) to encourage public involvement in resource management and planning; and
 - (d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and
 - (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.⁷
18. We set out below contraventions of conditions of each operator, environmental and resource constraints, a relevant conviction of Huon, considerations of whether the operators remain 'fit and proper persons' and other grounds that go to the objectives of resource management. This letter provides ample evidence of why the Licences should not be renewed based on the statutory objectives and other reasons.

⁴ LMRMA s76B(2).

⁵ LMRMA s76E.

⁶ LMRMA s 7(2).

⁷ See definition of "objectives of resource management" in LMRMA s 3 and Schedule 1.

A. Failure to comply with conditions of licence

19. The Licence conditions (which are substantially identical) provide, relevantly, at
 1. that the licence holder shall not release any fish into State waters unless authorised.
20. The MFDP includes the following (relevant) conditions:
 - (a) At 3.1, there must be no significant visual, physio-chemical or biological impacts at or extending 35 metres from the boundary of the lease area;
 - (b) At 3.7.3, all salmonid fish species introduced must be vaccinated in accordance with any vaccination protocol program;
 - (c) At 3.10.1, odour generated from marine farming operations must not create an odour nuisance;
 - (d) At 3.12, the operator must comply with the MFPA and other relevant Acts or regulations and the *Environment Management and Pollution Control Act 1994* (Tas) (**EMPCA**) in relation to guidelines on noise emissions.
21. The LMRMA also provides, relevantly, that:
 - (a) a person must not contravene a condition of a licence;⁸ and
 - (b) a person must not carry out any activity which is likely to have a serious effect on the marine environment and involves or results in ... the interference with fish or marine or benthic flora or fauna in any State waters.⁹
22. In Table 1 below we have set out each of the Licences and known associated breaches of licence conditions and/or the MFDP in the last five years. The data is taken from the Tasmanian Salmon Farming Data (Salmon Portal) and the EPA.¹⁰

⁸ Section 86A.

⁹ Section 138.

¹⁰ See <https://salmonfarming.nre.tas.gov.au/> and <https://epa.tas.gov.au/Documents/RTI%20001%20-%20Complaints%20made%20about%20Tasmanian%20salmon%20producers%20-%201%20January%202022%20to%203%20July%202023.pdf>



Table 1 - Breaches

MF Licence	Operated by	Breaches of licence/MFDP conditions
133 213 215 217 266	Petuna	<ol style="list-style-type: none"> Petuna has been issued with nine infringement notices in the past five years in breach of MFDP condition 3.12. In the first quarter of 2023 alone, it has been issued with four infringement notices. Petuna reported a fish escape in Macquarie Harbour in 2019, a breach of clause 1 of the licence. Petuna has reported non compliance with condition 3.1 of the MFDP, being that there must be no significant impacts at or extending beyond 35m from the boundary of the lease, in 2018, 2019, 2020 and 2021. Petuna has a complaint made against it for odour in 2022 in (potential) breach of MFDP condition 3.10.1.
214 219	Tassal	<ol style="list-style-type: none"> Tassal has been issued with three infringement notices in the past five years in breach of MFDP condition 3.12. Tassal has reported non compliance with condition 3.1 of the MFDPs, being that there must be no significant impacts at or extending beyond 35m from the boundary of the lease in 2018, 2019, 2020, 2021, 2022 and 2023. Tassal has a complaint made against it for odour in 2022 in (potential) breach of MFDP condition 3.10.1. Tassal has a long history of use of antibiotics in contravention of Aquaculture Stewardship Council salmon standards, and attempted to prevent the EPA from publicly releasing information about its antibiotic use in 2022.¹¹ 600kgs of antibiotics were used to treat the bacterial vibrio disease in January 2022. We understand that since 2016, fish farmers have

¹¹ <https://www.abc.net.au/news/2023-02-27/epa-tassal-salmon-farmer-antibiotic-report-release/102026738>

		<p>treated bacterial outbreaks with antibiotics nine times, but we do not know where. Antibiotics would not be needed if the fish were vaccinated in accordance with a vaccination protocol program and this suggests Tassal may be in breach of MFDP condition 3.7.3.</p> <p>5. Tassal has had 12 complaints made against it in 2022 and 4 in 2023 about noise in (potential) breach of MFDP condition 3.12.</p>
216 220 267	Huon	<ol style="list-style-type: none"> 1. Huon has been issued with five infringement notices in the past five years in breach of MFDP condition 3.12. 2. Huon was prosecuted for breaches of the EMPCA in 2018 in breach of MFDP condition 3.12. 3. Huon has had complaints made against it for odour in 2022 and 2023 in (potential) breach of MFDP condition 3.10.1. 4. Huon has had a number of recorded fish escapes, including two events of 50,000 salmon in November 2020 and 130,000 salmon in December 2020.¹² 6. Huon has a history of using excessive antibiotics, which conflicts with Aquaculture Stewardship Council salmon standards, with subsequent testing on one occasion finding that three out of four wildfish samples collected after the treatment contained antibiotics.¹³ We understand that since 2016, fish farmers have treated bacterial outbreaks with antibiotics nine times, but we do not know where. Antibiotics would not be needed if the fish were vaccinated in accordance with a vaccination protocol program and this suggests Huon may be in breach of MFDP condition 3.7.3. 5. Huon has had 3 complaints made against it in 2022 and 4 in 2023 about noise in (potential) breach of MFDP condition 3.12.

¹² <https://www.abc.net.au/news/2020-12-03/suspicion-around-second-mass-salmon-escape-tasmanian-fish-farm/12947734> - however we note that these were not in Macquarie Harbour.

¹³ <https://www.theguardian.com/australia-news/2022/nov/14/tasmanian-salmon-farms-used-more-than-a-tonne-of-antibiotics-in-2022-disease-outbreaks>



B. Environmental or resource constraints

23. There are significant environmental and resource constraints on renewing the licences, given the environmental harm associated with finfish farming in Macquarie Harbour as outlined below. Consideration of the objective of sustainable development of natural resources and maintenance of ecological processes and genetic diversity is particularly important here.
24. About one third of Macquarie Harbour sits within the Tasmanian Wilderness World Heritage Area (**TWWHA**), a declared World Heritage property under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBCA**). Another third sits within the South-West Conservation Area. The Maugean skate is one of the World Heritage Area's values.
25. Recent conservation advice on the Maugean skate from the Federal Government (the **Advice**) stated that, for the species to be afforded the best possible chance of survival, impacts from salmonid aquaculture on dissolved oxygen concentrations in Macquarie Harbour must be "eliminated or significantly reduced".¹⁴ The Advice noted that the simplest and fastest way to achieve this is to significantly reduce fish biomass. The reduction of fish biomass is described by the Advice as an urgent priority that should be actioned before the summer of 2023/2024.
26. Despite this, we understand that you are of the opinion that it is premature to make any decision about reducing fish stocks in Macquarie Harbour.¹⁵ Contrary to the Advice, you have said that a reduction in salmon aquaculture is an option but not a fast solution. Your focus, we understand, is instead on a project to deliver an insurance population of the skate and on technological options to increase oxygenation.
27. Those factors give rise to concerns that you may not intend to consider the full circumstances in deciding whether or not to renew the licences.

¹⁴ <http://www.environment.gov.au/biodiversity/threatened/species/pubs/83504-conservation-advice-06092023.pdf>

¹⁵ ABC Radio Hobart, Broadcast 8 September 2023, see:

<https://www.abc.net.au/listen/programs/hobart-mornings/--salmon/102831580>

28. The Maugean skate is an endangered species,¹⁶ now restricted to Macquarie Harbour.¹⁷ Environmental conditions in the harbour, largely brought about as a result of finfish farming, have led to a decline in the skate population.¹⁸
29. Its situation is such that the federal government's Threatened Species Scientific Committee has recently recommended the skate be upgraded from endangered to critically endangered.¹⁹
30. The Maugean skate is vulnerable to degraded and variable environmental conditions in Macquarie Harbour, and has little ability to tolerate low DO.²⁰
31. Although we understand that efforts have been undertaken in recent years to improve the conditions of the Harbour, including a determination limiting Total Permissible Dissolved Nitrogen Output, a recent interim report (**the IMAS Report**) was presented by the Institute for Marine & Antarctic Studies to highlight the "magnitude of the observed decline in relative abundance".²¹
32. The IMAS Report was based on sampling undertaken in 2021 at three sites including one site within the TWWHA. It found a 47% decline from 2014 to 2021 in Maugean skate numbers in the harbour and attributed the decline to DO levels caused by salmonid aquaculture. Of particular concern is that the study found that very few juveniles were coming through to keep the population viable.
33. Ross & Macleod, in 2017, also concluded that the production of organic waste from finfish farming activities increase biological oxygen demand and hence

¹⁶ <https://www.iucnredlist.org/species/64442/68650404>, see also: <https://www.legislation.tas.gov.au/view/html/asmade/act-1995-083>; https://www.environment.gov.au/cgi-bin/sprat/public/publicthreatenedlist.pl#fishes_endangered

¹⁷ David Moreno and Jayson Semmens, 'Interim report - Macquarie Harbour Maugean skate population status and monitoring', Institute for Marine & Antarctic Studies (2 May 2023), accessed via: <https://imas.utas.edu.au/data/assets/pdf_file/0007/1655611/Maugean-skate-2021-interim-report-FINAL.pdf>. These findings are mirrored in other research, see for example Moreno et al., "[Vulnerability of the endangered Maugean Skate population to degraded environmental conditions in Macquarie Harbour](#)" (2020); Ross et al., "[Understanding the Ecology of Dorvilleid Polychaetes in Macquarie Harbour](#)" (2016); Wild-Allen et al., "[Macquarie Harbour Oxygen Process model \(FRDC 2016-067\)](#)" (2020); and Ross & MacLeod, "[Environmental Research in Macquarie Harbour Interim Synopsis of Benthic and Water Column Conditions](#)" (2017).

¹⁸ Ibid.

¹⁹ The Guardian, '[Five species face immediate concern of extinction, scientific committee warns Labor](#)', 17 August 2023.

²⁰ Moreno et al., "[Vulnerability of the endangered Maugean Skate population to degraded environmental conditions in Macquarie Harbour](#)" (2020).

²¹ Moreno and Semmens at [10].



- decrease dissolved oxygen (**DO**).²² They found that very small changes in DO can have a “major effect on the ecological response”.
34. Absent salmonid aquaculture, there would be a dramatically higher volume of healthy DO water in the harbour, and (correspondingly) a dramatically lower volume of hypoxic water.
 35. The IMAS Report warns of the “ongoing risk of further large-scale declines” of the population which are “likely to have a considerable impact on the viability of the species, increasing their risk of extinction”.²³
 36. It is also widely known that the forthcoming summer is very likely to be characterised by *El Niño* weather conditions, with warmer-than-average temperatures.²⁴ Increasing temperatures result in higher oxygen consumption rates in elasmobranchs (such as the Maugean skate).²⁵
 37. The forthcoming summer is thus likely to be extremely damaging for the Maugean skate. Therefore, actions to protect the skate are of the highest urgency.
 38. Other conservation methods are not progressing the conservation of Macquarie Harbour quickly enough. For example, a Maugean Skate Recovery Team (**MSRT**) was convened and met for the first time in July 2023. To date they have only had one meeting, where the role of members was decided, but where they failed to agree on an action plan to protect the skate.
 39. Key stakeholders who have expressed interest in conservation methods are being left out of the decision making process. Twelve Tasmanian environmental Non-Government Organisations (NGOs), including the Bob Brown Foundation, have recently criticised the makeup of the MSRT,²⁶ which claims to cover all key stakeholders and includes a salmon industry lobby group.²⁷ There are also no Tasmanian Aboriginal communities represented on the MSRT.

²² Ross & MacLeod, *Environmental Research in Macquarie Harbour - Interim Synopsis of Benthic and Water Column Conditions* (2017).

²³ Ibid.

²⁴ <https://www.theguardian.com/australia-news/2023/aug/27/south-east-australia-marine-heatwave-forecast-to-be-literally-off-the-scale>

²⁵ Moreno (2020), 48.

²⁶ <https://www.abc.net.au/news/2023-09-07/plibersek-millions-pledged-to-help-save-endangered-maugean-skate/102820536>

²⁷ https://nre.tas.gov.au/Documents/National%20Recovery%20Team%20for%20the%20Maugean%20Skate%20Meeting%201_27%20July%202023_Public%20Communique.pdf

40. The financial benefit of the salmon farming industry to the Tasmanian government and community has been significantly overstated. The salmon industry employs about 0.7% of the Tasmanian population (about 1,700 people). On the other hand, 19,400 people are employed in tourism, which in Tasmania is heavily reliant on the natural environment. A fact check of the salmon industry shows that it makes up about 6-7% of the Tasmanian agriculture, forestry and fishing industry, not the one-fifth it claims.²⁸ To that end, we note that the objective of economic development at Schedule 1 of the LMRMA is subject to the first three objectives of sustainable development, fair orderly and sustainable use and public involvement in decision making.
41. There are no environmental bonds for finfish operators in Macquarie Harbour and accordingly any future rehabilitation of the Harbour, once operations are shut down, will be the responsibility of the government. Finfish farming is responsible for about 70% of marine debris in Macquarie Harbour.²⁹

C. Fit and proper person

42. The LMRMA does not elaborate on how the Secretary is to determine the eligible person remains a fit and proper person to hold a licence. However, the expression “fit and proper” takes its meaning from the context, and may include whether improper conduct has occurred, whether it is likely to occur and whether the general community have confidence that it will not occur.³⁰ Consideration should be given here to the objective of providing for the fair, orderly and sustainable use and development of water and the shared responsibility of resource management.
43. The Secretary also has the power to take all steps and make all inquiries that are reasonable and appropriate in determining whether an eligible person is a suitable person to hold a licence.³¹
44. The EMPCA does provide guidance on considering the fit and proper person test for the purposes of granting a new licence. Those considerations are set out at s 42L(3), and include (relevantly):

²⁸ <http://site-bp79amrv.dotezcdn.com/uploads/eb128e5f273942d2bbd4d3da5d5fd16e.pdf?v=231506055846>

²⁹ <https://salmonfarming.nre.tas.gov.au/macquarie-harbour>

³⁰ *Australian Broadcasting Tribunal v Bond* (1990) 170 CLR 321 at 380.

³¹ LMRMA s 76B(3).



- (a) commission of an offence relating to the protection of the environment;
 - (b) failing to comply with a duty imposed in relation to protection of the environment; and
 - (c) causing environmental harm.
45. Additional statutory considerations to determine who is fit and proper in the NSW context may assist here in Tasmania. Those considerations are set out in s 83 of the *Protection of the Environment Operations Act 1997* (NSW) (**POEO Act**), and include:
- (a) contraventions of relevant legislation or revocations of licences;
 - (b) record of compliance with environmental protection legislation;
 - (c) whether the person is of good repute, having regard to character, honesty and integrity;
 - (d) whether the person has been convicted of an offence involving fraud or dishonesty;
 - (e) whether the person is a bankrupt;
 - (f) whether the person has been concerned in the management of a body corporate that is the subject of a winding up order or for which a controller or administrator has been appointed;
 - (g) whether the person has the financial capacity to comply with their obligations under the licence.
46. A recent decision of the NSW Land and Environment Court has discussed the criteria for determining whether a person is a “fit and proper person”. **Crush and Haul Pty Ltd v Environment Protection Authority**³² examined those criteria for an applicant seeking to carry out scheduled activities under a Development Consent for extractive activities (an extension of a quarry).
47. In *Crush*, Judge Targett considered the objective seriousness of prior offending, the length of time since the relevant conduct and whether any environmental harm was caused. His Honour considered whether conduct was carried out recklessly and whether there were elements of dishonesty. His Honour considered the

³² *Crush and Haul Pty Ltd v Environment Protection Authority* [2023] NSWLEC 1367.

individual directors (including former directors), along with the body corporate and related bodies in relation to compliance issues and whether there were patterns of non-compliance.

48. Based on these criteria, evidence that Huon is not a fit and proper person to hold a licence includes:

- (a) Huon was prosecuted for breaches of the EMPCA in 2020, with the offending occurring between January and May 2018. It was fined \$40,000 for one charge of depositing a pollutant in a place where it could cause material environmental harm, and five charges of contravening conditions of an Environment Protection Notice. It pleaded guilty to the charges.³³ The prosecutor reportedly submitted to the Hobart Magistrates Court that the company admitted repeated breaches despite assurances to the EPA that they would not occur again, that it had failed to take its environmental obligations into account, and that environmental management was not a priority in the company.³⁴ She also submitted that the offences indicated a “systemic failure”, that the appropriate staff were not aware of the environmental conditions imposed on them and that the company had not trained and educated its personnel. According to the agreed facts:
- (i) Huon’s “salmon net cleaning operations had released pollutants, including nitrogen, ammonia, copper, lead and zinc on to land close to the Huon River on several occasions, including four occasions in which a total of 80,000 litres was spilled from company pipes”;
 - (ii) “despite Huon undertaking not to allow a repeat spillage, EPA inspectors had later returned to find contaminated water spilling from storm water containers”;
 - (iii) “contaminate-laden” water was found flowing downhill towards salt marsh on the edge of the Huon River. Analysis showed it contained elements toxic to marine organisms including juvenile fish, fish eggs and worms”; and

³³ <https://www.huonaqua.com.au/magistrates-court-may-2020/>

³⁴ <https://tasmaniantimes.com/2020/03/industrial-fish-farmer-huon-aquaculture-guilty-on-pollution-charges/>



(iv) “EPA inspectors also found nets from salmon pens uncovered, in breach of protection notices because of their poisonous antifouling paint”;³⁵

(b) JBS, the ultimate owner of Huon, has been described as having “an almost awe-inspiring attraction to corporate and political scandal”, and it “couldn’t have a worse reputation if it tried”.³⁶ In 2017 it paid a \$4.5bn fine after its leaders were found to have bribed 1,829 Brazilian politicians. Those bribes allowed JBS to expand into Australia, including paying for its \$425m takeover of Huon. Henry Batista, brought in to oversee the Australian aquaculture operations, has already criticised Tasmania’s new salmon farming regulations, threatening that if they aren’t weakened JBS would move their investment elsewhere.³⁷

49. Evidence that Tassal is not a fit and proper person to hold a licence includes:

- (a) in 2016, Four Corners revealed that Tassal attempted to influence a Senate inquiry witness;³⁸
- (b) in 2017, a report by auditors for the Aquaculture Stewardship Council found that Tassal had failed to comply with 19 requirements for certification at two sites in Macquarie Harbour.³⁹ Four of the breaches were classified as ‘major’, including a breach in compliance with state and national laws;
- (c) in 2020, Tassal allowed 20 seals to be kept in a salmon pen with no availability to food, in breach of the Seal Management Framework 2014 and seal trapping permits issued.⁴⁰

50. Evidence that Petuna is not a fit and proper person to hold a licence includes:

- (a) **Petuna Aquaculture** Pty Ltd disclosed \$104 million in related party transactions with **Sealord** Australia Pty Ltd in its financial statements for

³⁵ Ibid.

³⁶ Australian Financial Review, *‘JBS Australia prepares for 1500 Brazilians’*, 4 July 2023; and Australian Financial Review, *‘The Kendall Roy of salmon learns from the father’*, 31 May 2023.

³⁷ Ibid.

³⁸ <https://www.theguardian.com/australia-news/2016/nov/03/salmon-farmer-tassal-referred-to-senate-over-alleged-attempt-to-influence-witness>

³⁹ <https://www.abc.net.au/news/2017-05-19/tassal-given-three-months-to-clean-up-macquarie-harbour-leases/8542900>

⁴⁰ <https://www.abc.net.au/news/2020-10-20/dpipwe-consulted-tassal-about-media-questions-trapped-seals/12776358>

the year ending 30 September 2022.⁴¹ In contrast, Sealord's financial statements recorded only \$1.9 million in related party transactions with Petuna Aquaculture for the same financial year.⁴² The disparity of \$102.1 million raises questions about Petuna's compliance with accounting standards;

- (b) Petuna Aquaculture's cash and cash equivalents at the end of September 2022 was \$147,000.⁴³ This is a relatively small amount that risks servicing short term liabilities. Sealord Group Ltd provided a temporary \$195,000 loan to Petuna in September 2022. This is concerning given Petuna doesn't have the cash to service that loan.⁴⁴ The company may also lack the capacity to comply with obligations imposed under the LMRMA. Given that there is no requirement for salmon farming operators to provide the Government with environmental bonds, we are concerned that Petuna will not have the financial ability to adequately rehabilitate any further environmental damage caused by their operations;
- (c) Similarly, Sealord has reported that it has negative shareholder equity and risks whether the company is a going concern in the future.⁴⁵

E. Other grounds

- 51. The Secretary may also refuse to renew a licence on such other grounds as are reasonable.⁴⁶ Other grounds that we say should be considered, and that go to the objectives of resource management, are set out below.

Community opinion

- 52. The opinion of the community and community concerns about finfish farming in Macquarie Harbour should be considered and go to the objective of encouraging public involvement in resource management and the fair, orderly and sustainable use of water.

⁴¹ Petuna Aquaculture Pty Ltd financial statement for year ending 30 September 2022, at p 19.

⁴² Sealord Australia Pty Ltd financial statement for year ending 30 September 2022, at p 28.

⁴³ Petuna Aquaculture Pty Ltd financial statement for year ending 30 September 2022, at p 5.

⁴⁴ Petuna Aquaculture Pty Ltd financial statement for year ending 30 September 2022, at p 19.

⁴⁵ Sealord Australia Pty Ltd financial statement for year ending 30 September 2022, at p 28.

⁴⁶ LMRMA s 7(2)(f).



53. A recent Inquiry into finfish farming in Tasmania found that “community confidence in the regulation of the industry is reducing”.⁴⁷ It reported that significant concern was held in the community in relation to environmental harm caused by the industry, the proposed expansion of finfish farming and the adequacy of regulation.
54. Other concerns raised during the Inquiry included about:
- (a) a lack of opportunity for public involvement in licensing decisions, lack of appeal rights and a lack of transparent criteria for decision-making;
 - (b) the industry purchasing social licence through local contributions;
 - (c) competing claims about the value of the industry to the economy and employment, and that the returns to the Government and community are insufficient relative to social and environment impact;
 - (d) the adequacy and transparency of monitoring and reporting;
 - (e) marine debris, including safety risks and environmental impact;
 - (f) seal management, including the efficacy and safety of seal management devices; and
 - (g) noise and light pollution.⁴⁸
55. These concerns are long held. For example, another Inquiry in 2015 revealed that there is an ‘ongoing perception that the industry is not sustainable and that a steady degradation of the waterways is occurring’, that approval processes are predetermined and the industry is monitoring itself.⁴⁹
56. A recent study that we commissioned, carried out by uComms, surveyed 811 residents across the electorate of Franklin.⁵⁰ 55% of respondents said they would

⁴⁷ Legislative Council Government Administration Committee “A”, ‘Sub-Committee Report on Fin Fish Farming in Tasmania’, Parliament of Tasmania (19 May 2022) at p 2, accessed via: <https://www.parliament.tas.gov.au/_data/assets/pdf_file/0024/56607/inq.finfish.rep.20220519.finalreport.jm.001.pdf>

⁴⁸ Ibid, pp 5-9.

⁴⁹ Environment and Communications References Committee, ‘Regulation of the fin-fish aquaculture industry in Tasmania’, The Senate (August 2015) at p 18, accessed via: <https://www.aph.gov.au/parliamentary_business/committees/senate/environment_and_communications/fin-fish>

⁵⁰ See <https://australiainstitute.org.au/wp-content/uploads/2023/09/uComms-Franklin-August-2023.pdf>

support (20.6%) or strongly support (35.5%) stopping finfish farming in areas where it is putting the endangered Maugean skate at risk of extinction. Similarly, 34.2% of respondents (the highest score of the categories) said that salmon farming impacts is the most urgent priority that needs action to protect Tasmania's marine life.⁵¹

57. All three operators are also the subject of regular complaints. For example, during the period between 1 January 2022 and 3 July 2023:
- (a) Huon had 19 complaints made against it for reasons including dead fish on land, noise, light trespass and glare, odour and gas;
 - (b) Tassal had 23 complaints made against it for reasons including noise, odour, dead birds, light trespass, pollution of oil/fuel, a very large algae event and pollution of waste;
 - (c) Petuna had 4 complaints made against it for reasons including noise, odour and a mass fish death.⁵²

Cancellation of leases

58. Section 68(1)(b) of the MFPA provides that the Minister may cancel a lease if the lessee fails to obtain a marine farming licence or ceases to hold a marine farming licence in respect of a lease area or part of a lease area.
59. Accordingly, should you refuse to renew the leases for any of the reasons set out above, it is appropriate in our view that you commence the process of cancelling the corresponding marine farm leases, as outlined in s 68(2).

Request

60. Based on the information set out above, there are ample reasons for you to refuse to renew the Licences. Accordingly, we request that you do so. We reserve our rights in this connection.
61. We have written to the Hon. Tanya Plibersek to request that she reconsider decision EPBC 2012/6406 in accordance with section 78 of the EPBCA based on

⁵¹ With the alternative options being "Climate change impacts" at 21.8%, "Overfishing" at 15.3%, "Increasing marine sanctuaries" at 11.2% and "Don't know/unsure" at 17.5%.

⁵² See <https://epa.tas.gov.au/Documents/RTI%20001%20-%20Complaints%20made%20about%20Tasmanian%20salmon%20producers%20-%20201%20January%202022%20to%203%20July%202023.pdf>



the emerging evidence regarding DO levels in Macquarie Harbour. We await a substantive response. Copies of our letters dated 26 May, 8 June and 31 July 2023 are annexed.

62. We also note Minister Plibersek has raised concerns about the skate with Roger Jaensch, Tasmanian Environment Minister, in correspondence, noting that issues with the species are caused by aquaculture and that it is considered at high risk of extinction.⁵³ She asked that “all possible avenues to protect extinction of this species are vigorously pursued”.
63. We have also written to Mr Wes Ford, Director of the EPA Tasmania, to request that he refuse to renew the ten Environmental Licences that allow finfish farming operations in Macquarie harbour. A copy of that letter is annexed.
64. In addition, we seek the following information:
 - (a) The date that each Licence renewal application was lodged; and
 - (b) A copy of each Licence renewal application.

We look forward to hearing from you.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'Eloise Carr', written over a horizontal line.

Eloise Carr

Tasmanian Director
The Australia Institute

⁵³ Hobart Mercury, ‘Federal concern for state of skate’, 22 June 2023.

Annexure A - Marine Farming Licences in Macquarie Harbour

	MF Licence/ Lease No.	Issued to	Location	Licence Validity
1.	133	Petuna Aquaculture Pty Ltd	North Liberty Point - Table Head Central	Commenced: 1 December 2022 Expires: 30 November 2023
2.	213	Petuna Aquaculture Pty Ltd	Bryans Bay	Commenced: 1 December 2022 Expires: 30 November 2023
3.	214	Russfal Pty Ltd (Operated by Tassal Operations Pty Ltd)	Liberty Point	Commenced: 1 December 2022 Expires: 30 November 2023
4.	215	Petuna Aquaculture Pty Ltd	Table Head	Commenced: 1 December 2022 Expires: 30 November 2023
5.	216	Russfal Pty Ltd (Operated by Huon Aquaculture Company Pty Ltd)	North East Pelias Cove	Commenced: 1 December 2022 Expires: 30 November 2023
6.	217	Petuna Aquaculture Pty Ltd	Liberty Point	Commenced: 1 December 2022 Expires: 30 November 2023
7.	219	Aquatas Pty Ltd (Operated by Tassal Operations Pty Ltd)	South Central Harbour	Commenced: 1 December 2022 Expires: 30 November 2023
8.	220	Southern Ocean Trout	North East Double Cove	Commenced: 1 December 2022



		Pty Ltd (Operated by Huon Aquaculture Company Pty Ltd)		Expires: 30 November 2023
9.	266	Tassal Operations Pty Ltd (Operated by Petuna Aquaculture Pty Ltd)	North East of Bryans Bay / Franklin	Commenced: 1 December 2022 Expires: 30 November 2023
10	267	Southern Ocean Trout Pty Ltd (Operated by Huon Aquaculture Company Pty Ltd)	East of Butt of Liberty	Commenced: 1 December 2022 Expires: 30 November 2023

Annexure B - Letters to the Hon. Tanya Plibersek – attached separately.

Annexure C - Letter to Mr Wes Ford – attached separately.