



15 September 2023

Mr Wes Ford
Director and Chief Executive Officer
Environmental Protection Agency Tasmania

By email only: enquiries@epa.tas.gov.au

Dear Mr Ford,

Request for refusal to renew Environmental Licences

1. We write in relation to ten Environmental Licences (**the Licences**) 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 refuse to renew the Licences and set out the reasons for refusal below.

Finfish farming in Macquarie Harbour

4. The Licences and their operators are set out in Annexure A.
 5. There are three key groups who operate finfish farming in Macquarie Harbour.
 6. Petuna Aquaculture Pty Ltd operates four licences. As of January 2020, Petuna was acquired by Sealord Group Ltd. References to **Petuna** throughout this correspondence is a reference to this group.
 7. Tassal Operations Pty Ltd operates two licences. Aquatas Pty Ltd operates one licence. 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.
 8. Huon Aquaculture Company Pty Ltd operates one licence. Southern Ocean Trout Pty Ltd operates two licences. 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.
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Reasons for refusal

9. We understand that it is currently your intention to renew the Licences on the same conditions for a further 12 months.¹ You have stated that “the licence renewal process does not have a component associated with environmental performance”.² Those two factors in combination give rise to concerns you may not intend to consider the full circumstances in deciding whether or not to renew the licences.
10. The *Environmental Management and Pollution Control Act 1994* (Tas) (**EMPCA**) governs the issuance and renewal of Environmental Licences. The Director of the EPA may refuse to renew a licence if satisfied that:
 - (a) The applicant has contravened the conditions of the licence in the five years prior;
 - (b) The applicant has been convicted of any relevant offence in the five years prior;
 - (c) If the applicant is not a fit and proper person to hold the licence;
 - (d) The applicant has not paid fees due.³
11. Contraventions of licence conditions, convictions of relevant offences and considerations of whether the applicant is a fit and proper person all necessarily involve considerations of environmental performance. We set out below contraventions of conditions of each operator, a relevant conviction of Huon and considerations of whether each operator is a fit and proper person.
12. There is no limit on the circumstances in which the Director may refuse to renew a licence.⁴

¹ Legislative Council Estimates Committee B, 8 June 2023, at p 155. Accessed via: <https://www.parliament.tas.gov.au/_data/assets/pdf_file/0024/70656/LC-Est-B-230608-Jaensch-Full-Text.pdf>

² Legislative Council Estimates Committee B, 8 June 2023, at p 155. Accessed via: <[parliament.tas.gov.au/_data/assets/pdf_file/0024/70656/LC-Est-B-230608-Jaensch-Full-Text.pdf](https://www.parliament.tas.gov.au/_data/assets/pdf_file/0024/70656/LC-Est-B-230608-Jaensch-Full-Text.pdf)>

³ EMPCA, section 42T(4).

⁴ EMPCA, s 42T(5)



13. Further, in making a decision to accept or refuse the renewal application, the Director must seek to further the objectives of the Act.⁵
14. Those objectives include, relevantly:
 - (a) to **protect and enhance** the quality of the Tasmanian environment;
 - (b) to **prevent environmental degradation** and adverse risks to human and ecosystem health by promoting pollution prevention, clean production technology, reuse and recycling of materials and waste minimization programmes; and
 - (c) to adopt a **precautionary approach** when assessing environmental risk to ensure that all aspects of environmental quality, including ecosystem sustainability and integrity and beneficial uses of the environment, are considered in assessing, and making decisions in relation to, the environment.
15. This letter provides ample evidence of why the licences should not be renewed based on the statutory objectives and other reasons.

Contravention of conditions of licence

16. The Licence conditions (which are substantially identical) provide, relevantly:
 - (a) at **G1-1.1**, that the licence holder must comply with listed environmental standards including that there be no significant visual, physico-chemical or biological impacts at or extending beyond 35 metres from the boundary of the Lease area;
 - (b) at **G1-1.11**, that the Licensee must take all reasonable steps to ensure that no fish, dead or alive of the species authorised by this licence are found outside cages on the lease Area; and
 - (c) at **LO1**, that the “activity must be conducted in accordance with the requirements of the *Environmental Management and Pollution Control Act 1994* and Regulations thereunder”.

⁵ See section 8 and schedule 1, pt2 of the EMPCA.

17. In Table 1 below we have set out each of the Licences and known associated breaches of licence conditions in the last five years. The data is taken from the Tasmanian Salmon Farming Data (Salmon Portal).⁶

Table 1 - Breach of licence conditions

EPA Licence	Issued to	Breaches of licence conditions
9888/2 9890/2 9891/2 9892/2	Petuna Aquaculture Pty Ltd	<ol style="list-style-type: none"> 1. Petuna has been issued with nine infringement notices in the past five years in breach of LO1. In the first quarter of 2023 alone, it has been issued with four infringement notices. 2. Petuna has reported a significant mortality event in the last five years (in 2018) in breach of LO1. 3. Petuna has reported seal mortalities in 2018 and 2019 in breach of LO1. 4. Petuna reported a fish escape in 2019, a potential breach of clause G1.11. 5. Petuna has reported non compliance with clause G1.1 of the licence conditions, 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.
9893/2 9912/2 9930/2	Tassal Operations Pty Ltd and Aquatlas Pty Ltd	<ol style="list-style-type: none"> 1. Tassal has been issued with three infringement notices in the past five years in breach of LO1. 2. Tassal has reported a significant mortality event in the last five years (in 2018) in breach of LO1. 3. Tassal has reported mortality within a cage of >0.25% for three consecutive days in every year since 2018 in breach of LO1. 4. Tassal has reported non compliance with clause G1.1 of the licence conditions, 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

⁶ <https://salmonfarming.nre.tas.gov.au/>



		and 2023.
9894/2 9895/2 9896/2	Huon Aquaculture Company Pty Ltd and Southern Ocean Trout Pty Ltd	<ol style="list-style-type: none"> 1. Huon has been issued with five infringement notices in the past five years in breach of LO1. 2. Huon has reported mortality within a cage of >0.25% for three consecutive days in every year since 2019 in breach of LO1. 3. Huon was prosecuted for breaches of the EMPCA in 2018 in breach of LO1.

Conviction of a relevant offence

18. 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.⁷ 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.⁸ She also submitted that the offences indicated a “systemic failure”, that the appropriate staff were not aware of the environmental conditions imposed on them, that the company had not trained and educated its personnel and that it had had failed to take its environmental obligations into account.

19. According to the agreed facts:

- (a) 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”;

⁷ <https://www.huonaqua.com.au/magistrates-court-may-2020/>

⁸ <https://tasmaniantimes.com/2020/03/industrial-fish-farmer-huon-aquaculture-guilty-on-pollution-charges/>

- (b) “despite Huon undertaking not to allow a repeat spillage, EPA inspectors had later returned to find contaminated water spilling from storm water containers”;
- (c) “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
- (d) “EPA inspectors also found nets from salmon pens uncovered, in breach of protection notices because of their poisonous antifouling paint”.⁹

Fit and proper person

- 20. The EMPCA does not elaborate on how the Director is to determine the licence holder is a fit and proper person for the purposes of a renewal. 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.¹⁰
- 21. 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):
 - (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.
- 22. 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;

⁹ Ibid.

¹⁰ *Australian Broadcasting Tribunal v Bond* (1990) 170 CLR 321 at 380.



- (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.

23. 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**¹¹ examined those criteria for an applicant seeking to carry out scheduled activities under a Development Consent for extractive activities (an extension of a quarry).
24. 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 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.
25. Based on these criteria, evidence that Huon is not a fit and proper person to hold a licence includes:
- (a) 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”.¹² 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

¹¹ *Crush and Haul Pty Ltd v Environment Protection Authority* [2023] NSWLEC 1367.

¹² 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.

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;¹³

- (b) 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;¹⁴
- (c) between 1 January 2022 and 3 July 2023, Huon had 19 complaints made against it for reasons including dead fish on land, noise, light trespass and glare, odour and gas.¹⁵

26. 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;¹⁶
- (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.¹⁷ 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;¹⁸
- (d) Tassal has a long history of use of antibiotics in contravention of Aquaculture Stewardship Council salmon standards, and attempted to

¹³ Ibid.

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

¹⁵ See <https://epa.tas.gov.au/Documents/RTI%20001%20-%20Complaints%20made%20about%20Tasmanian%20salmon%20producers%20-%202019%20January%202022%20to%2023%20July%202023.pdf>

¹⁶ <https://www.theguardian.com/australia-news/2016/nov/03/salmon-farmer-tassal-referred-to-senate-over-alleged-attempt-to-influence-witness>

¹⁷ <https://www.abc.net.au/news/2017-05-19/tassal-given-three-months-to-clean-up-macquarie-harbour-leases/8542900>

¹⁸ <https://www.abc.net.au/news/2020-10-20/dpipwe-consulted-tassal-about-media-questions-trapped-seals/12776358>



prevent the EPA from publicly releasing information about its antibiotic use in 2022;¹⁹

- (e) between 1 January 2022 and 3 July 2023, 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.²⁰

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

- (a) Petuna has a history of antibiotic use in contravention of Aquaculture Stewardship Council salmon standards;
- (b) **Petuna Aquaculture** Pty Ltd disclosed \$104 million in related party transactions with **Sealord** Australia Pty Ltd in its financial statements for the year ending 30 September 2022.²¹ In contrast, Sealord's financial statements recorded only \$1.9 million in related party transactions with Petuna Aquaculture for the same financial year.²² The disparity of \$102.1 million raises questions about Petuna's compliance with accounting standards;
- (c) Petuna Aquaculture's cash and cash equivalents at the end of September 2022 was \$147,000.²³ 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.²⁴ The company may also lack the capacity to comply with obligations imposed under the EMPCA. 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;

¹⁹ <https://www.abc.net.au/news/2023-02-27/epa-tassal-salmon-farmer-antibiotic-report-release/102026738>

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

²¹ Petuna Aquaculture Pty Ltd financial statement for year ending 30 September 2022, at p 19.

²² Sealord Australia Pty Ltd financial statement for year ending 30 September 2022, at p 28.

²³ Petuna Aquaculture Pty Ltd financial statement for year ending 30 September 2022, at p 5.

²⁴ Petuna Aquaculture Pty Ltd financial statement for year ending 30 September 2022, at p 19.

- (d) Similarly, Sealord has reported that it has negative shareholder equity and risks being a going concern;²⁵
- (e) between 1 January 2022 and 3 July 2023, Petuna has had 4 complaints made against it for reasons including noise, odour and a mass fish death.²⁶

Other reasons

28. The Director may also consider other reasons in determining whether to renew a licence.²⁷ Other reasons that we say should be considered, and that go to the objectives of the EMPCA, include:

- (a) The fact that 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;
- (b) 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,²⁸ which claims to cover all key stakeholders and includes a salmon industry lobby group.²⁹ There are also no Tasmanian Aboriginal communities represented on the MSRT;
- (c) 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

²⁵ Sealord Australia Pty Ltd financial statement for year ending 30 September 2022, at p 28.

²⁶ See <https://epa.tas.gov.au/Documents/RTI%20001%20-%20Complaints%20made%20about%20Tasmanian%20salmon%20producers%20-%201%20January%202022%20to%203%20July%202023.pdf>

²⁷ EMPCA, section 42T(5).

²⁸ <https://www.abc.net.au/news/2023-09-07/plibersek-millions-pledged-to-help-save-endangered-maugean-skate/102820536>

²⁹ https://nre.tas.gov.au/Documents/National%20Recovery%20Team%20for%20the%20Maugean%20Skate%20Meeting%201_27%20July%202023_Public%20Communique.pdf

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;³⁰

- (d) 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.

General Environmental Duty

29. The Licence conditions provide, at LO1, that the “activity must be conducted in accordance with the requirements of the *Environmental Management and Pollution Control Act 1994* and Regulations thereunder”.
30. Section 23A of the EMPCA sets out a general environmental duty for those conducting activities to take such steps as are practicable or reasonable to prevent or minimise environmental harm or nuisance.
31. The numerous and long-stemming breaches of licence conditions set out at Table 1 above are evidence that the licence holders are not taking such steps as are practicable or reasonable and are thus in breach of the general environmental duty.
32. Further, the link between finfish farming in Macquarie Harbour and environmental harm is well known and well documented.
33. Finfish farming is responsible for about 70% of marine debris in Macquarie Harbour.³¹
34. Ross & Macleod, in 2017, concluded that the production of organic waste from the farming activities increase biological oxygen demand and hence decrease dissolved oxygen (**DO**).³² They found that very small changes in DO can have a “major effect on the ecological response”.



³⁰ <http://site-bp79amrv.dotezcdn.com/uploads/eb128e5f273942d2bbd4d3da5d5fd16e.pdf?v=231506055846>

³¹ <https://salmonfarming.nre.tas.gov.au/macquarie-harbour>

³² Ross & MacLeod, '*Environmental Research in Macquarie Harbour - Interim Synopsis of Benthic and Water Column Conditions*' (2017).

35. 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.
36. Further, about one third of Macquarie Harbour sits within the Tasmanian Wilderness World Heritage Area (**TWWHA**), a declared World Heritage property under the EPBC Act. Another third sits within the South-West Conservation Area. The Maugean skate, discussed further below, is one of the World Heritage Area's values.
37. In our view, the failures to avoid environmental harm as outlined should be considered as a reason to refuse renewal of the Licences, particularly given that the objectives require a precautionary approach.

The Maugean skate

38. The Maugean skate (**the skate**) is an endangered species,³³ now restricted to Macquarie Harbour.³⁴ Environmental conditions in the harbour, largely brought about as a result of finfish farming, have led to a decline in the skate population.³⁵
39. The federal government's Threatened Species Scientific Committee has recently recommended the skate be upgraded from endangered to critically endangered.³⁶
40. The skate is vulnerable to degraded and variable environmental conditions in Macquarie Harbour, and has little ability to tolerate low DO.³⁷

³³ <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

³⁴ 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).

³⁵ Ibid.

³⁶ The Guardian, '[Five species face immediate concern of extinction, scientific committee warns Labor](#)', 17 August 2023.

³⁷ Moreno et al., "[Vulnerability of the endangered Maugean Skate population to degraded environmental conditions in Macquarie Harbour](#)" (2020).



41. Although we understand that efforts have been undertaken in recent years to improve the conditions of the Harbour, including a reduction in permissible biomass, 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” of the skate.³⁸
42. The IMAS Report was based on sampling undertaken in 2021 at three sites including one site within the TWWHA.
43. The IMAS Report found a 47% decline from 2014 to 2021 in 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.
44. 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”.³⁹
45. 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.⁴⁰ Increasing temperatures result in higher oxygen consumption rates in elasmobranchs (such as the Maugean skate).⁴¹
46. 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.
47. On 6 September 2023, the Australian Government released a Conservation Advice for the Maugean skate.⁴² The advice states that for the Maugean skate 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”. It noted that the simplest and fastest way to achieve this is to significantly reduce fish biomass. The reduction of fish biomass

³⁸ Moreno and Semmens at [10].

³⁹ Ibid.

⁴⁰ <https://www.theguardian.com/australia-news/2023/aug/27/south-east-australia-marine-heatwave-forecast-to-be-literally-off-the-scale>

⁴¹ Moreno (2020), 48.

⁴² <http://www.environment.gov.au/biodiversity/threatened/species/pubs/83504-conservation-advice-06092023.pdf>

is described by the advice as an urgent priority that should be actioned before the summer of 2023/2024.

48. We have written to the Hon. Tanya Plibersek to request that she reconsider decision EPBC 2012/6406 in accordance with section 78 of the *Environmental Protection and Biodiversity Conservation Act* (Cth), based on the emerging evidence regarding DO levels in Macquarie Harbour. We await a response. Copies of our letters dated 26 May, 8 June and 31 July 2023 are annexed.
49. 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.⁴³ She asked that “all possible avenues to protect extinction of this species are vigorously pursued”.

Request

50. 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.
51. 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 faithfully,



Eloise Carr
Director
The Australia Institute Tasmania

⁴³ Hobart Mercury, *'Federal concern for state of skate'*, 22 June 2023.

Annexure A - Environmental Licences in Macquarie Harbour

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Hobart TAS 7000

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australiainstitute.org.au

ABN 90 061 969 284
ACN 061 969 284



	EPA Licence	Issued to	Location	Dates
1.	9888/2	Petuna Aquaculture Pty Ltd	North Liberty Point - Table Head Central	Commenced: 1 December 2018 Expires: 30 November 2023
2.	9890/2	Petuna Aquaculture Pty Ltd	Bryans Bay	Commenced: 1 December 2018 Expires: 30 November 2023
3.	9893/2	Tassal Operations Pty Ltd	Liberty Point	Commenced: 1 December 2018 Expires: 30 November 2023
4.	9891/2	Petuna Aquaculture Pty Ltd	Table Head	Commenced: 1 December 2018 Expires: 30 November 2023
5.	9894/2	Huon Aquaculture Company Pty Ltd	North East Pelias Cove	Commenced: 1 December 2018 Expires: 30 November 2023
6.	9892/2	Petuna Aquaculture Pty Ltd	Liberty Point	Commenced: 1 December 2018 Expires: 30 November 2023
7.	9930/2	Aquatas Pty Ltd	South Central Harbour	Commenced: 1 December 2018 Expires: 30 November 2023
8.	9895/2	Southern Ocean Trout Pty Ltd	North East Double Cove	Commenced: 1 December 2018 Expires: 30 November 2023
9.	9912/2	Tassal Operations Pty Ltd	North East of Bryans Bay / Franklin	Commenced: 1 December 2018 Expires: 30 November 2023
10	9896/2	Southern Ocean Trout Pty Ltd	East of Butt of Liberty	Commenced: 1 December 2018 Expires: 30 November 2023

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

The Australia Institute Mail

From: Eloise Carr
Sent: Friday, 15 September 2023 1:21 PM
To: Ford, Wes <Wes.Ford@epa.tas.gov.au>
Cc: Ebony Bennett <ebony@australiainstitute.org.au>
Subject: RE: Request for refusal to renew Environmental Licences

Dear Mr Ford

Thank you for your email.

In our view, regardless of whether the reference to "vary" rather than "renew" at 42T(5) is a legal drafting error, you can have regard to the matters listed at paragraph [28] of our letter.

According to 42T(2), you may only renew a licence if you are satisfied it is appropriate to do so.

Further, and as referred to at paragraph [13] of our letter, you must seek to further the objectives of the Act, and we say the matters set out at paragraph [28] go directly to the protection of the Tasmanian environment, the prevention of degradation and the application of the precautionary approach when considering environmental risk.

Finally, the criteria of "fit and proper person" has been broadly interpreted and can include considerations such as the financial ability to comply with obligations and character. We say that, for example, Petuna may not have the financial ability to comply with obligations to avoid environmental harm under the EMPCA, and accordingly the fact that there are no environmental bonds should be considered when determining whether to renew Petuna's licences. Further, the operators themselves have been complicit in overstating the significance of their industry in Tasmania, which we say is a matter that goes to their character and integrity.

Even if you disagree with this view, there is ample other evidence going to the factors at 42T(4) that, in our view, cannot leave you satisfied that it is appropriate to renew the Licences.

We look forward to hearing from you.

Regards,
Eloise

Eloise Carr (she/her)
Director
The Australia Institute Tasmania
[E \[eloise@australiainstitute.org.au\]\(mailto:eloise@australiainstitute.org.au\)](mailto:eloise@australiainstitute.org.au)
Level 10, 65 Murray St
nipaluna/Hobart TAS 7000
Muwinina Country



From: Ford, Wes <Wes.Ford@epa.tas.gov.au>
Sent: Friday, 15 September 2023 11:48 AM
To: Eloise Carr <Eloise@australiainstitute.org.au>
Subject: RE: Request for refusal to renew Environmental Licences

Dear Ms Carr

I acknowledge your letter and will respond in due course.

I note your reference to section 42T(5) and advise that it does not make reference to “renew” as you suggest. To the extent that there may be a legal drafting error in (5) is not a matter I can deal with.

42T. Renewal of licences on application

....
(5) [Subsection \(4\)](#) does not limit the circumstances in which the Director may refuse to vary an environmental licence.

Regards

Wes

Wes Ford (he/him) | **Director and Chief Executive Officer**
Environment Protection Authority
GPO BOX 1550, HOBART, TAS, 7001
T: (03) 61654523 | M: 0400 036 914
E: Wes.Ford@epa.tas.gov.au
W: www.epa.tas.gov.au



From: Eloise Carr <Eloise@australiainstitute.org.au>
Sent: Friday, September 15, 2023 11:36 AM
To: Ford, Wes <Wes.Ford@epa.tas.gov.au>
Cc: Ebony Bennett <ebony@australiainstitute.org.au>
Subject: Request for refusal to renew Environmental Licences

Dear Mr Ford,

Please find attached correspondence requesting refusal to renew Environmental Licences for fish farming in Macquarie Harbour.

Kind regards,
Eloise Carr

Eloise Carr (she/her)
Director
The Australia Institute Tasmania
[E eloise@australiainstitute.org.au](mailto:Eloise@australiainstitute.org.au)
Level 10, 65 Murray St
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Muwinina Country

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