

Summary of Huon Aquaculture court proceedings regarding Macquarie Harbour

Huon Aquaculture (**Huon**) has filed proceedings in both the Federal Court and the Supreme Court of Tasmania seeking stronger regulation and enforcement, at both the Federal and State level, of marine farming of Macquarie Harbour to ensure the sustainable future of salmon farming in the region.

Huon believes that it has exhausted all other avenues prior to launching these court proceedings and is determined to ensure the long term future and sustainability of Macquarie Harbour is protected.

Federal Court proceedings

As Macquarie Harbour is both World Heritage listed and home to a threatened species (the Maugean Skate), the 2012 expansion of marine farming activities was the subject of a decision by the Federal Minister for the Environment, who determined that further assessment was not required provided certain conditions were complied with. The conditions imposed by the Federal Minister require the Tasmanian State Government take measures to ensure that marine farming does not cause negative impacts on the World Heritage listed part of the Harbour or the habitat of the Maugean Skate.

Huon has taken the action in the Federal Court on the following grounds;

- That the Tasmanian Department of Primary Industries, Parks, Water and Environment (**DPIPWE**) and/or the Environment Protection Authority (**EPA**) are committing offences under the *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC**) by;
 - not complying with the Federal Minister’s conditions that require that they implement and enforce targeted management responses to ensure that the Harbour’s environmental values are protected; and
 - approving salmon stock levels (biomass) at much greater levels than the Harbour can sustain which is causing or is likely to cause, environmental harm to the Harbour.
- To seek the Federal Court’s determination on the validity of the Federal Minister’s decision on the basis that, whilst Huon has reduced its stock levels, and will continue to ensure it is limiting its salmon biomass to levels that are sustainable, in the absence of effective regulation and enforcement by DPIPWE and the EPA with respect to all marine farmers in the Harbour – which necessarily includes the imposition of appropriate biomass limits- the conditions imposed by the Federal Minister are ineffective.

Supreme Court proceedings

By delegation from DPIPWE in 2016, the EPA is responsible for setting a cap on the stock levels (biomass) in Macquarie Harbour and for allocating the allowable biomass between marine farmers who have leases in the Harbour. Huon has been requesting since 2014 that the total biomass level in the Harbour be reduced in order to ensure the sustainable future of marine farming in the Harbour.

In January 2017 the EPA made a determination that allowed a biomass cap of 14,000 tonnes for the whole Harbour and changed the allocation method between the three marine farmers, Huon, Tassal and Petuna from the previous “tonnes per hectare” methodology, to an allocation based on a “percentage of current stock” that the marine farmers each have in the Harbour.

Huon’s position is that the 14,000 tonne limit, which is approximately equivalent to the level of stock currently in the Harbour, is well in excess of what the Harbour can sustainably maintain and that this

level of farming will jeopardise both the environmental health of the Harbour and the future of marine farming.

Huon has initiated proceedings in the Supreme Court of Tasmania seeking review of the EPA's determination on the following grounds;

- The determination is directly contrary to the environmental monitoring results and expert reports, including the recent draft IMAS report, which all indicate that the environmental conditions in the Harbour are deteriorating and that a reduction in the level of stock significantly below 14,000 tonnes is required;
- The determination is based on the preservation of the current stock levels and one operator's planned harvest schedule and the elevation of these short term economic interests will defeat what should have been the primary consideration in the context of the medium and long term economic objective – including the protection of jobs – of planning for a sustainable future for marine farming in the Harbour;
- The EPA method of allocation has rewarded the marine farmers that have the highest current stock levels by giving one operator the highest allocation – which fails to take into consideration the following facts;
 - that the recent draft IMAS report shows that the same operator has the highest number of non-compliances (breaches) with environmental conditions and;
 - the operator's lease site is closest to the World Heritage area;
- In addition, the EPA method of allocation fails to provide a fair allocation that will provide a safe operating biomass and submits the total biomass should be reduced to a level at or below 10,000 tonnes across all operators.