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Chairperson, Marine Farming Planning Review Panel  
Marine Farming Branch  
Department of Primary Industries, Parks, Water and Environment  
GPO Box 44  
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### ***Uploaded online***

Dear Mr Midgley,

### **Submission on Draft amendment no. 3 to the Storm Bay off Trumpeter Bay North Bruny Island Marine Farming Development Plan**

The Environmental Defenders Office (Tasmania) Inc (***EDO Tasmania***) is a non-profit, community-based legal service specialising in environmental and planning law. We have a long-standing interest in best practice assessment and regulation of aquaculture.

On Saturday 18 November 2017, the Department of Primary Industries, Parks, Water and Environment (***DPIPWE***) invited submissions addressing Huon Aquaculture's *Draft Amendment no. 3* (the ***Draft Amendment***) to the *Storm Bay off Trumpeter Bay North Bruny Island Marine Farming Development Plan* (the ***MFDP***). The Draft Amendment was advertised together with Tassal's *Draft amendment no. 5* to the *Tasman Peninsula and Norfolk Bay Marine Farming Development Plan*; and Petuna's *Draft Storm Bay North Marine Farming Development Plan*. All three plans comprise the industry's proposed expansion into oceanic waters of Storm Bay (the ***Storm Bay expansion***).

In response to the Government's Draft Sustainable Industry Growth Plan, EDO Tasmania expressed general support for moving Tasmanian salmon farms from estuarine into oceanic environments. However, that support is predicated on there being adequate regulatory controls in place to protect the environment, as well as sufficient environmental baseline studies and modelling to demonstrate that the oceanic marine farming activities will not have significant or irreversible environmental consequences.

EDO Tasmania also considers that any expansion of marine farming to oceanic areas should be balanced by the appropriate protection of important marine areas. We note that between 2006 and 2008 the then-Resource Planning and Development Commission undertook a comprehensive review of the proposed Bruny Bioregion and made a series of recommendations about marine protected areas (***MPA***).<sup>1</sup> The Government is yet to implement all of the Commission's MPA recommendations.

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<sup>1</sup> Resource Planning and Development Commission (2008) *Inquiry into the establishment of marine protected areas within the Bruny Bioregion: Final Recommendations Report*

We understand that the creation of MPA is not within the jurisdiction of the Marine Farming Planning Review Panel (the **Panel**). However, we urge the Panel to note the outstanding MPA recommendations in its report on the Draft Amendment, particularly in light of the other areas in Storm Bay that Government has earmarked for potential salmon farming expansion.<sup>2</sup>

In the context of these general remarks, we make the **following** detailed comments on the Draft Amendment and associated environmental impact statement (the **EIS**).

### **Expansion of lease boundaries for south of Trumpeter Bay zones**

Management Control 3.1 in Amendment No.1 to the MFDP requires that:

There must be no significant visual, physio-chemical or biological impacts at or extending 35 metres from the boundary of the lease area, as specified in the relevant marine farming licence.

The EIS states (at p.25) that the proposed 25 ha expansion of each of zones 1-4 is required to ensure "that all infrastructure and effects from farming can be better maintained within the lease boundary".

The EPA has indicated that on 4 July 2017, it issued a direction requiring that an 8 pen-bay within the lease (MF261) in one of these MFDP zones not be restocked unless approved.<sup>3</sup> We understand that this direction was issued in response to a breach (or breaches) of the *Marine Farming Planning Act 1995* and/or *Living Marine Resources Management Act 1995* (the **LMRM Act**).

While we do not have any specific information as to the nature of the breach (or breaches) which caused the EPA to issue this direction, we question whether simply expanding the boundaries of a marine farming lease area is the best method to ensure compliance with Management Control 3.1. This question is particularly relevant if there have previously been significant physio-chemical or biological impacts at or extending 35 metres from the boundary of the MF261 lease area, as these may suggest that there are problems with the current lease location or management methods.<sup>4</sup>

If compliance with the traditional 35 metre from lease boundary limit on significant visual, physio-chemical or biological impacts is not possible in exposed oceanic locations due to the increased dispersion of feed and waste, then we suggest that the Panel identify and impose a better, more transparent measure of environmental performance on each of the MFDPs considered in the Storm Bay expansion.

One way this may be achieved is by regulating significant visual, physio-chemical or biological impacts at a particular distance from pen location. This would ensure that each of the different operators within Storm Bay are being held to the same standard and would remove the imperative to simply increase the size of MFDP lease areas to avoid breaching Management Control 3.1.

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<sup>2</sup> DPIPWE (2017) *Sustainable Industry Growth Plan for the Salmon Industry* at pp.12-13.

<sup>3</sup> EPA Active Disclosure Statement dated 20 August 2017, accessed at the EPA website at <http://epa.tas.gov.au/Documents/Active%20Disclosure%20Statement%20-%202021082017%20-%20Salmon%20Farming.pdf> on 16 January 2018.

<sup>4</sup> We note that the EIS does not discuss any non-compliance issues at MF261, however it does state at p.9 that increasing the distance from the pen to the lease boundary would decrease "the risk of any significant environmental effects occurring at the compliance sites that may arise due to the increased dispersion of waste products encountered at such exposed sites."

## **TPDNO cap and staged approach to expansion**

In providing an overview of the proposed Storm Bay Developments, the Department of Primary Industries, Parks, Water and Environment (**DPIPWE**) states:

The companies have aspirations for a total production from Storm Bay of 80,000 tonnes per annum. In recognition that robust scientific information is not currently available to predict the environmental effects of this level of production, the potential environmental effects of a combined level of production of approximately 40,000 tonnes per annum are being considered in the environmental impact statements that support these planning processes.<sup>5</sup>

In the absence of sufficient scientific information to support the full extent of the industry's proposed expansion of marine farming into Storm Bay, EDO Tasmania is supportive of the proposed staged approach to expansion. The imposition of a Total Permissible Dissolved Nitrogen Output (**TPDNO**) cap on all finfish marine farming in Storm Bay is a sensible mechanism to limit the environmental effects and rates of expansion.

As the Draft Amendment and associated EIS addresses the proposed expansion of marine farming in Storm Bay up to a total biomass production of 40,000 tonnes per year, we submit that a TPDNO cap to reflect this limit should be included as a specific amendment to the Management Controls found in Section 3.2 of Amendment no.2 to the MFDP. Otherwise, we consider it inappropriate for the Panel to approve the Draft Amendment as the underlying MFDP currently sets no limits on total biomass and/or TPDNO.

While it may be the usual practice to impose TPDNO limits as conditions of marine farming licences under the LMRM Act, we consider that it is more logical for the cap to be imposed in the MFDP. This is because many planning issues arise from the intensification of marine farming which will not necessarily be addressed statutory decision-makers through separate legislative assessment processes.

If the Panel considers that no TPDNO cap should be imposed in the MFDP, then we seek clarification as to:

- the "separate assessment process"<sup>6</sup> that will apply to the industry expansion beyond 40,000 tonnes up to 80,000 tonnes total production; and
- the level of public consultation that will be required to be undertaken in relation to the expansion;<sup>7</sup> and
- how all the related planning issues will be taken into account by the relevant decision-maker.

## **Stocking density**

The EIS states that final harvest stocking density in the pens in the MFDP zones will be the lowest in the world, with a density of 8-10kg/m<sup>3</sup>. However, Management Control 3.3.1 in Amendment no.1 to the MFDP allows for a maximum permissible stocking density of 25kg/m<sup>3</sup>.<sup>8</sup> If all the EIS data and modelling has been based upon a much lower stocking density, we submit that the Panel should recommend that Management Control 3.3.1 be

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<sup>5</sup> Accessed on the DPIPWE website at <http://dPIPWE.tas.gov.au/sea-fishing-aquaculture/marine-farming-aquaculture/marine-farming-development-plans/marine-farm-planning-proposals> on 16 January 2018.

<sup>6</sup> Ibid.

<sup>7</sup> We note that there is no requirement that applications for or amendments to marine farming licences under the LMRM Act be publically notified, and that it is presently unclear in what circumstances amendments to environmental licences issued for finfish farms under the *Environmental Management and Pollution Control Act 1994 (EMPCA)* will be required to be publically notified.

<sup>8</sup> In contrast to maximum permissible stocking density of 15kg/m<sup>3</sup> in Tassal's *Tasman Peninsula and Norfolk Bay Marine Farming Development Plan*.

amended to better reflect what is being proposed by Huon Aquaculture, particularly as some of the pens proposed to be used and the lease areas will increase in size as a result of the Draft Amendment.

### **Marine debris**

The Government has committed to enforcing a “zero tolerance” approach to marine debris arising from salmon farms in its *Sustainable Industry Growth Plan for the Salmon Industry* (the **Growth Plan**). The Growth Plan indicates that this zero tolerance approach will be facilitated through the establishment of deadlines for adoption of best practice tracking technologies and other “simple identification” techniques.

In the EIS (at p.331), Huon Aquaculture has committed to a range of measures it says will ensure that marine debris from the farming will be mitigated, including the use of identifiable ropes, and the naming and GPS tracking of large equipment in the leases.

In order to implement the aspirations in the Growth Plan and Huon Aquaculture’s commitments in its EIS, we submit that the Panel should impose specific Management Controls in section 3.6 in Amendment no. 1 to the MFDP that require the Huon Aquaculture to:

- Use rope that can be clearly identified as originating from leases within the MFDP zones;
- Ensure that its name has been stamped or otherwise marked on equipment used within the zones;
- Install GPS trackers on substantial pieces of equipment that have the potential to break free from the lease, such as mambas.

### **Noise**

In its EIS (from p.308), Huon Aquaculture has considered the impacts of noise it generates on onshore residents in the vicinity of its proposed zones and transport routes, and states that it must comply with regulatory limits imposed by the EPA.

We note that in the absence of noise limits imposed as specific conditions on the proponent’s environmental licence, there are no legally enforceable limits or guidelines on noise emitted by marine farming operations.<sup>9</sup> This has the potential to render Management Control 3.12.2 of the Amendment no. 1 to the MFDP meaningless.

We therefore urge the Panel to confirm that the EPA intends to impose noise limits on the environmental licence for this MFDP area and that those limits will extend to vessels travelling to and from the MFDP area. The Panel should then either delete Management Control 3.13.2 or, if no noise limits are to be imposed on the environmental licence, amend it to reflect the limits that were modelled by Huon Aquaculture in the EIS.

We note that industrial marine noise can also significantly impact on a variety of marine fauna (particularly marine mammals that rely on echolocation for migration and feeding). Given the intensity of marine farming activities proposed at the MFDP area, and the fact that it is located within the migratory routes of a number of threatened marine mammals, we recommend that the Panel consider imposing a requirement that an environmental baseline be established for aquatic noise at locations within the MFDP area, and at suitable compliance locations. These studies may then be used to inform the development of

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<sup>9</sup> The *Environmental and Pollution Control (Miscellaneous Noise) Regulations 2004* referred to in the EIS have been repealed, and the *Environmental and Pollution Control (Miscellaneous Noise) Regulations 2016* set no limits for marine farming noise.

appropriate mitigation measures to protect these marine fauna from significant impacts from salmon farming activities

### **Wildlife interactions**

We commend Huon Aquaculture for committing to the minimisation of seal and bird interactions with all its salmon farming operations through the use of its “Fortress Pens” and for making available information on wildlife interactions and deaths on its “Sustainability Dashboard” and on its website.

Consistent with the Government’s commitment that operators should halt all long-distance seal relocations from salmon farms,<sup>10</sup> we recommend that the Panel consider imposing the following Management Controls on all the Storm Bay MFDPs:

- no seal relocations from MFDP areas are permitted;
- Lessees must implement best practice environmental management techniques to ensure that wildlife interactions with marine farming equipment and operations are minimised.

### **Climate Change**

Experts agree that the waters of south-eastern Australia, and particularly eastern Tasmania, are experiencing warmer temperatures induced by climate change.<sup>11</sup> These warmer waters may have a variety of impacts on marine farming operations,<sup>12</sup> for example, necessitating the increased use of fresh water for bathing, therapeutants and/or antibiotics to combat the increased incidence of disease.<sup>13</sup>

Climate change is also likely to affect some of the variables (such as the current, temperature and biological productivity of waters) in the hydrodynamic and DEPOMOD modelling used to forecast the environmental impacts of marine farming within the MFDP area and the greater Storm Bay.

In deciding whether to approve the Draft Amendment, we ask the Panel to consider whether the modelling referred to in the EIS demonstrates that marine farming in the MFDP area is sustainable in forecast climate change scenarios. If the modelling referred to in the EIS does not address likely climate change scenarios, then we suggest that the Panel impose a Management Control requiring Huon Aquaculture to engage a suitably qualified expert to undertake this modelling before the commencement of salmon farming in the MFDP area.

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<sup>10</sup> DPIIWE (2017) *Sustainable Industry Growth Plan for the Salmon Industry* at p.2.

<sup>11</sup> Hobday, A. J., Hartog, J., Middleton, J. F., Teixeira, C. E. Luick, J. Matear, R., Condie, S. (2011). Understanding the biophysical implications of climate change in the southeast: Modelling of physical drivers and future changes. FRDC report 2009/056; and Fisheries Research and Development Corporation. *El Nemo South East Australia Fact Sheet: Climate Change. Impact on SE Australian Atlantic Salmon Aquaculture.* (2012). Accessed at: <http://www.frdc.com.au/knowledge/Factsheets/FisheriesVic.Salmon4.pdf> on 15 September 2016.

<sup>12</sup> Some of these climate change impacts have been addressed by Huon Aquaculture in its EIS.

<sup>13</sup> Stephen Battaglione, Pheroze Jungalwalla, Barbara Nowak, Zoe Doubleday (2011). “Atlantic Salmon, individual species assessment”, In: Pecl GT, Doubleday Z, Ward T, Clarke S, Day J, Dixon C, Frusher S, Gibbs P, Hobday A, Hutchinson N, Jennings S, Jones K, Li X, Spooner D, and Stoklosa R. *Risk Assessment of Impacts of Climate Change for Key Marine Species in South Eastern Australia.* Fisheries Research and Development Corporation, Project 2009/070.

## General comments

- EDO Tasmania is supportive of the establishment of a Broadscale Environmental Monitoring Program (BEMP) in Storm Bay to ensure that the cumulative effects of the expansion of marine farming in the Bay are monitored, and to validate the biogeochemical and hydrodynamic modelling being undertaken to inform the proposed Storm Bay expansion. We note that the IMAS evaluation of BEMP data for the Huon Estuary and D'Entrecasteaux Channel was hampered by a lack of baseline data for key parameters in certain locations. We therefore recommend that the Panel impose a Management Control that requires that salmon farming not commence until environmental baseline data for all the key parameters identified by EPA/IMAS/CSIRO for the BEMP has been obtained.
- In the EIS there is no mention of the source or the quantity of the freshwater required to treat the fish in the MFDP area for amoebic gill disease. Given the scale of the marine farming activities that Huon Aquaculture aspires to for the MFDP area, we consider that the omission of this information from the EIS is a noteworthy oversight.
- The Government has committed to the establishment of an independent web portal, hosted by IMAS, to provide access to relevant salmon farming environmental and production data.<sup>14</sup> We encourage the Panel to consider whether there are any amendments that should be made to the Management Controls in Section 3.4 of Amendment no.1 to the MFDP in order to facilitate the provision of environmental monitoring data to IMAS.
- Finally, to allow for ease of reference for the community, operators, and regulators, we request that the Panel direct the planning authority compile all the relevant the management controls for this MFDP into a single document.

Thank you for the opportunity to provide these comments. We would welcome the opportunity to respond to any questions the Panel may have in relation to the issues raised in this submission.

Yours sincerely,

**Environmental Defenders Office**

Per:



Claire Bookless  
Lawyer

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<sup>14</sup> DPIPWE (2017) *Sustainable Industry Growth Plan for the Salmon Industry* at p.21.