

## STATEMENT OF DECISION

### APPLICATION FOR THE GRANT OF AN AQUACULTURE LICENCE

**File Number:** L13/18  
**Applicant:** Abrolhos Island Oysters Pty Ltd  
**Application Date:** 1 March 2018  
**Application Type:** Grant of an Authorisation

## 1 INTRODUCTION

### Background facts

On 1 March 2018, Abrolhos Island Oysters Pty Ltd ("AIO") (ACN 616 079 059) made an application to the CEO of the Department of Primary Industries and Regional Development ("Department") under s.92 of the *Fish Resources Management Act 1994* ("the Act"), for the grant of an aquaculture licence to culture western rock oyster (*Saccostrea scyphophilla*) within the Pelsaert Island Group of the Abrolhos Islands. AIO was previously issued Exemption number 3105 to conduct an oyster aquaculture trial in the Abrolhos Islands and now propose to expand their operation. The proposed areas are the same as the trial sites under the Exemption. AIO has also made an application for an aquaculture lease for the same areas.

### Details of the licence application

The application was dated 1 March 2018 and received by the Department on that day.

The site applied for is located at two areas within Pelsaert Group at the Abrolhos Islands. The areas of the proposed sites are 95.38 and 20.418 hectares. **Attachment 1** provides a site map.

The application seeks to culture western rock oyster (*S. scyphophilla*).

## 2 COMPETENCE OF THE APPLICATION

The application has been made under s.92 of the Act, which provides that –

*If a person applies to the CEO for the grant of an aquaculture licence and the CEO is satisfied of all of the following –*

- (a) *the person is a fit and proper person to hold such a licence;*

- (ba) the person has, or will have, appropriate tenure over the land or waters on or in which the activities under the licence are to be conducted;*
- (b) it is in the better interests of the State and the community to grant the licence;*
- (c) the activities to be conducted under the licence are unlikely to adversely affect other fish or the aquatic environment;*
- (d) the activities to be conducted under the licence have been approved by other relevant authorities;*
- (e) any other matters prescribed for the purposes of this subsection, the CEO may grant to the person an aquaculture licence.*

Accordingly, in deciding the application I will first consider the issues above; I will then consider s.92A of the Act – *Applicant for licence to have management and environmental monitoring plan.*

Subject to those issues being satisfied, I will proceed to decide the application on its merits.

### **3 RELEVANT ISSUES TO BE SATISFIED**

On the basis of the above, the matters in s.92 and s.92A of the Act require consideration.

In connection with this consideration, reference is made to s.246 of the Act and Administrative Guideline No. 1 *Assessment of Applications for Authorisations for Aquaculture and Pearling in Coastal Waters of Western Australia* (“AG 1”).

AG 1 outlines a process that involves consultation with relevant Government agencies and representative community and industry groups and includes the opportunity for public comment. The application was referred to all relevant stakeholders and to any other groups, which in the opinion of the CEO, may have an interest in the proposal.

Where relevant, those matters arising out of the consultation process that are of greater significance are referred to in the analysis of significant matters below.

The matters arising by reason of s.92 and s.92A of the Act are twofold:

1. The criteria specified in s.92(1); and
2. The Management and Environmental Monitoring Plan (“MEMP”).

I will now consider each of these matters.

#### **3.1 Criteria in s.92(1)**

Under s.92(1) of the Act, the CEO may grant an aquaculture licence to a person if satisfied of all of the following:

- the person is fit and proper to hold an aquaculture licence;



- the person has, or will have, appropriate tenure over the land or waters on or in which the activities under the licence are to be conducted;
- it is in the better interests of the State and the community to grant the licence;
- the proposed activities are unlikely to adversely affect other fish or the aquatic environment;
- the proposed activities have been approved by other relevant authorities; and
- any other matters prescribed for the purposes of this subsection.

**(a) “Fit and proper person”**

S.92(1)(a) of the Act requires the CEO to be satisfied that a person who has applied for an aquaculture licence is a “fit and proper person” to hold an aquaculture licence.

Ministerial Policy Guideline No. 19 titled *Matters Of Importance In Respect Of The “Fit And Proper Person” Criterion For Authorisations Under The Fish Resources Management Act 1994* (“MPG 19”) provides a discussion of the types of considerations relevant to the “fit and proper person” consideration by reference to the key concepts of honesty, knowledge and ability.

I will now consider each of these matters in turn.

1. Knowledge

The concept of “knowledge” refers to relevant qualifications; knowledge of relevant legislation; relevant training, business and technical skills; and previous relevant experience.

From the application submitted by AIO, I have noted that the directors of the company have a broad understanding of large project management, small business ownership and management with 15 years’ experience in these fields. They have also both completed a certificate in aquaculture techniques and will liaise with the Albany Shellfish Hatchery to secure spat for growout. Based on the information provided, I am of the view that AIO has the knowledge required to undertake the proposed aquaculture activity.

2. Honesty

The concept of “honesty” generally refers to matters such as history of compliance with fishery legislation, offences and convictions for falsifying returns. I have no reason to believe AIO or its directors do not meet this concept of honesty.

3. Ability

The concept of “ability” refers to the person’s financial situation and capacity to access finance; history of business success; possession of or access to relevant equipment or infrastructure; ability to keep records and ability to pay relevant fees.

Based on the business plan, I have no reason to believe that AIO would not have the capacity to raise the finance needed for the establishment and operation of the project.

From the information provided, it appears AIO has a clear understanding of the level of infrastructure and aquaculture equipment needed for the successful implementation of the project. The directors have a history of keeping records and paying relevant fees; therefore, I have no reason to doubt the ability of the company in this regard.

MPG 19 sets out two additional matters of importance: firstly, consideration of the extent to which persons may act on behalf of the licence holder; secondly, the importance of accurate, complete and timely records.

With respect to the matter of persons acting on behalf of the licence holder, AIO is a company and accordingly must act through natural person agents. These persons are the officers (such as directors) and employees of the company. The Licence does not authorise persons to act "on behalf of" AIO, so AIO cannot authorise independent contractors or "lessees" to carry out aquaculture.

The discussion in MPG 19 about the importance of accurate, complete and timely records refers to commercial fisheries and fishing boat operators. The activity authorised by the Licence does not relate to fishing and is therefore not relevant. What is important, however, is the requirement under regulation 64 of the *Fish Resources Management Regulations 1995* ("FRMR") for the licence holder to keep records and submit returns in respect of the sale of fish and the accurate and timely communication of information relating to disease and biosecurity. Having regard to the content of the MEMP written by AIO and the information provided in the application, I consider the Company properly understands the significance of accurate, complete and timely provision of relevant information.

I am satisfied that AIO is fit and proper to hold a licence to conduct aquaculture of the proposed species at the proposed area.

### **(b) Tenure**

S.92(1)(ba) requires the CEO to be satisfied that a person who has applied for an aquaculture licence has, or will have, appropriate tenure over the land or waters on, or in which, the activities under the licence are to be conducted.

AIO has made an application for an aquaculture lease under s.97 of the Act to the Minister for Fisheries in respect of the hatchery operation. That application has been assessed by the Department concurrently with assessment of the licence application.

I am satisfied that AIO will have appropriate tenure over the site.



**(c) Better interests**

S.92(1)(b) requires the CEO to be satisfied that the granting of an aquaculture licence to the applicant would be in the better interests of the State and the community.

I consider that the assessment of the “better interests of the State and the community” requires a broad balancing of the benefits against the detriments of the intended aquaculture activities.

This consideration proceeds in the context of the objects of the Act under s.3, which include developing and managing aquaculture in a sustainable way.

The means of achieving this object include:

- ensuring that the impact of aquaculture on the aquatic fauna and their habitats is ecologically sustainable: s.3(2)(b);
- fostering the sustainable development of aquaculture: s.3(2)(d); and
- achieving the optimum economic, social and other benefits from the use of fish resources: s.3(2)(e).

In my view, the issues to consider in respect of the “better interests of the State” relate primarily to positive economic impacts, but also the extent of the regulatory burden that the State will need to carry.

The issues to consider in respect of the “better interests of the community” are more localised although not necessarily limited to the geographically adjacent area. The community will include wild-stock licensed fishers and licence holders.

In relation to ‘benefits’, aquaculture of western rock oyster comprises a potentially significant and sustainable sector of Western Australia’s aquaculture industry and has the potential to expand. The proposed aquaculture activity will contribute to this expansion. Aquaculture activities provide a significant contribution to economies and food production throughout the world. Aquaculture activities also provide potential growth areas of food production compared to the traditional “fishing of wild stock” activities which are directly extractive of a natural resource.

Sustainable aquaculture projects therefore have the potential to make a significant contribution to the State’s economy and provide community benefits such as employment opportunities and economic diversification in regional areas.

Another benefit is that the proposed activities will provide further experience and scientific information that can assist with future aquaculture proposals. The development of science depends upon ongoing activities to provide information for analysis.

With respect to detriments such as disease and impact on the aquatic environment, I consider that these are sufficiently considered below in relation to whether the proposed activities “are unlikely to adversely affect other fish or the environment”. To the extent that fish health certificates and other disease testing are required,

being a major element of the biosecurity controls, these are generally to be paid for by AIO.

A consideration that may be seen as a “detriment” is if the Department assumes an unduly onerous regulatory burden. The Department performs a compliance function, to ensure that people, in particular licence holders, comply with the law.

Due to the low risk and because the Department must support activities consistent with the objects of the Act, I do not consider that the regulatory burden constitutes a persuasive factor against concluding that the proposed activities are in the better interests of the State.

On balance, by reason of the above considerations I am of the view that the grant of the application would be in the better interests of the State and community.

***(d) Whether the proposed activities are unlikely to adversely affect other fish or the aquatic environment***

S.92(1)(c) requires the CEO to be satisfied that the proposed aquaculture activities are unlikely to adversely affect other fish or the aquatic environment.

The main considerations for this criterion are –

1. Genetics, diseases and pests
2. Aquaculture gear
3. Environmental impact
4. Visual amenity and noise pollution.

*1. Genetics, diseases and pests*

Oyster spat will be obtained from within the Abrolhos Islands using spat collectors, or acquired from the Albany Shellfish Hatchery or other hatchery operating under an aquaculture licence granted under s.92 of the Act. The movement of spat obtained from any hatchery, including the Albany Shellfish Hatchery, will require translocation approval and a health certificate from the Department, or as specified in the licence conditions.

The Department has undertaken considerable work to guide a sensible and practical policy position for the developing rock oyster aquaculture sector. Only oyster species native to an area will be authorised for aquaculture in that area. The introduction of non-native species (that is, species that do not occur naturally in the area) will not be approved; consequently, new genetic combinations will not be introduced to the local gene pool.

Due to a lack of knowledge on the genetics and taxonomy of rock oysters in WA, the Department undertook a study in collaboration with WA Museum and other authorities, to identify the species proposed for aquaculture across the State. This work determined there are two main species native to WA; namely, *Saccostrea*



*scyphophilla* and *Saccostrea cucullata* (commonly known as milky and black-lip rock oysters, respectively). The only rock oyster population known to occur on the south-western coast of WA is cultured *Saccostrea glomerata*, which was apparently transported to WA from south-east Australia and is maintained for the purposes of spawning and spat rearing in artificially heated water.

The milky oyster, *S. scyphophilla*, is the only species that has been found at the Abrolhos Islands. Based on the science, milky oysters from the Pilbara and the Abrolhos Islands are essentially genetically indistinguishable. I am therefore of the view that milky oyster spat reared from broodstock originating from within the natural distribution of the species are suitable for translocation within that same natural range.

I have also noted that the advantages of a single genetic line through genetic selection for the developing industry are significant for reasons that include economy of scale for production (multiple operators can share a single batch); a variety of locations and conditions from which broodstock may be obtained (allowing multiple conditionings and spawning opportunities per year); and the ability to optimise production through comparative growth trials.

In respect of diseases and pests, AIO's aquaculture operation will operate under controls imposed through licence conditions and a MEMP, which includes biosecurity protocols and procedures. These controls are based on the requirement to demonstrate low risk of disease and pest introduction and spread.

To minimise the risk of introducing diseases, sensitive molecular methods are used to detect the pathogens that cause significant notifiable diseases (*Marteilia* sp. and *Bonamia* sp.) before translocation approval of hatchery spat is granted. Spat are reared under highly controlled conditions and neither disease is vertically transmitted so there is a minimal risk of disease spread from the hatchery process. The pathogen *Perkinsus* sp. has been shown to be widespread in natural populations including in the Abrolhos. The risk of translocation of new disease through spat produced from broodstock originating from outside the Abrolhos Islands to that area (or *vice versa*) is therefore low. In respect of disease development *in situ*, the Department recognises there is potential for aquaculture to provide opportunity for increased levels of existing naturally occurring pathogens (as is the case for all shellfish aquaculture) and plans to monitor for a variety of diseases during the planned controlled growout of spat at several locations, including the Abrolhos Islands.

I consider the threat of disease and pests being introduced to the Abrolhos Islands and the surrounding areas generally to be low, given the biosecurity protocols in place and the controls imposed, or that may be imposed, over the movement of shellfish to and from the site.

## 2. Aquaculture Gear

There are two aspects to the consideration of the effect of aquaculture gear on other fish or the environment: its physical and spatial impact on benthic habitats (that is, its "footprint"); and failure to remove the aquaculture gear if the aquaculture

operation ceases. The environmental impact of the aquaculture activity on benthic habitats and water quality is a separate issue that is dealt with below.

*a. Impact of the aquaculture gear*

AIO proposes to grow oysters held in cages, baskets and similar gear suspended from floating longlines, which are held in place by anchors. The anchorage of the aquaculture gear will be implemented without damaging sensitive benthic habitats or live coral.

In respect of potential entanglement and interaction with marine fauna, in its MEMP AIO has committed to complying with the mitigation and management strategies specified in the Marine Fauna Interaction Management Plan developed by the Department for the Mid West Aquaculture Development Zone. I note that the Environmental Protection Authority has approved that document.

In particular, AIO will minimise risk by:

- training its staff to identify any potential interaction with marine fauna;
- maintaining an incident response procedure in accordance with the Aquaculture Council of Western Australia Mussel and Oyster Environmental Code of Practice;
- implementing rigorous maintenance programs for all aquaculture gear, particularly ropes and lines, to minimise risk of entanglements with marine fauna;

Further, all collision or entanglement incidents will be reported to the Department of Biodiversity, Conservation and Attractions (DBCA) Wildcare Hotline on +61 (0) 89474 9055 and the Geraldton DBCA office within 24 hours of the incident occurring and the details of the incident, including the actions taken, documented; and if marine fauna are discovered distressed due to entanglement or entrapment in aquaculture gear, then reasonable efforts will be made by staff to free the animal if safe to do so.

Therefore, I consider that potential entanglement and interaction with marine fauna arising from the deployment and use of the aquaculture gear would be minimal.

*b. Removal of the aquaculture gear*

The proposed aquaculture gear will include cages, baskets and similar culture units hanging from longlines, which are suspended between floating buoys and held in place by anchors. A condition will be imposed on the licence stating that the licence holder must remove all aquaculture gear from the area upon termination or non-renewal of the licence.

If a lease is terminated or expires, s.101 of the Act provides for the CEO to direct the former lease holder to clean up and rehabilitate the site. If the former lease holder contravenes that direction, the CEO may then clean up and rehabilitate the site and the cost of doing so is recoverable as a debt due to the State from the former lease holder.



Therefore, I consider that there is a low risk of the aquaculture gear being left on the site if the aquaculture operation ceases.

### *3. Environmental impact*

I note at the outset that it would be in the best commercial interest of AIO to maintain a healthy environment and ensure any ongoing environmental impact is properly measured and evaluated. The monitoring and management of environmental factors are separate issues dealt with in the MEMP section below.

I have noted that the cultured rock oysters will not be offered supplementary feeds; they will only consume naturally-occurring phytoplankton. Because no feed and hence no nutrients will be added, the culture of oysters will therefore have minimal environmental impact ensuing from an increase in nutrient concentrations. AIO will also undertake quarterly sediment quality testing to identify potential environmental impacts from oyster farming activities. The risk of the proposed aquaculture activity having any significant impact on the environment arising from an increase in nutrient concentrations is considered low and can be managed through the requirements of the MEMP.

In respect of environmental impact, I have also noted comments from existing aquaculture licence holders that the proposed aquaculture activities would reduce nutrient levels in the aquatic environment to the extent that there may be an adverse impact on their production. This matter is dealt with in section 4.1(e) below.

Therefore, I consider that the matter of environmental impact has been fully addressed and sufficient environmental monitoring and management controls have been provided for in the MEMP and through conditions of the Licence.

### *4. Visual amenity and noise pollution*

The proposed project will not have any negative impact on visual amenity and will not result in any noise pollution.

After considering the relevant issues regarding s.92(1)(c), I am satisfied the proposed activities are unlikely to affect other fish or the aquatic environment and can be managed through the MEMP and conditions imposed on the licence under s.95 of the Act.

### ***(e) Whether the proposed activities have been approved by other relevant authorities***

S.92(1)(d) requires the CEO to be satisfied that the proposed activities have been approved by relevant authorities. I have not identified any other relevant authority that needs to provide approval.

**(f) Other matters prescribed**

S.92(1)(e) requires the CEO to be satisfied of any other matters prescribed for the purposes of s.92(1). There are no other prescribed matters.

Therefore, I am satisfied of all of the criteria in s.92(1) of the Act, in respect of the application.

**3.2 The MEMP**

Section 92A of the Act requires an applicant to lodge a MEMP when making an application for an aquaculture licence.

A MEMP forms part of an integrated management framework for aquaculture activities, which also includes relevant legislative requirements (including the FRMR and the *Biosecurity and Agriculture Management Act 2007*) as well as conditions on licences and leases.

The purpose of a MEMP is to satisfy the CEO that any risks to the environment and public safety will be managed per s.92A(1) of the Act. A MEMP provides information on the background and purpose of the aquaculture activity, including its objectives, other information such as the species of fish to be farmed, the location of the site and the farming method, and details of environmental monitoring and management and biosecurity.

With reference to the provisions of s.92A of the Act and the Guidance Statement, I note that MEMPs generally contain requirements in respect of the following.

1. An overview of the aquaculture operation, including information on species and quantity of fish; location and areas of land or waters; and farming methods and aquaculture gear.
2. Environmental Management and Monitoring, including information on and details of baseline information; environmental monitoring parameters; the environmental monitoring program; and response thresholds and response protocols.
3. Impact on protected species and other aquatic fauna.
4. Biosecurity, including information on and details of general facility information; administrative biosecurity procedures; operational biosecurity procedures; and biosecurity incident and emergency procedures.

AIO has submitted a MEMP in respect of its application for an aquaculture licence. I have considered the contents of the MEMP and am satisfied that AIO will manage environmental and biosecurity issues according to the standards contained in the relevant documents set out above.

As such, I approve the MEMP provided by AIO (**Attachment 2**).



In respect of the public availability of the MEMP, I note that under s.250(1)(c) of the Act, a MEMP lodged under the Act is “confidential information” and cannot be divulged by the Department.

#### **4 DISCRETION TO GRANT – MERITS OF THE APPLICATION**

Section 92 of the Act provides that an aquaculture licence may be granted where the applicant has satisfied the criteria in that section.

I am satisfied that the power to grant AIO an aquaculture licence exists in this case.

S.56 of the *Interpretation Act 1984* provides that where the word “may” is used in conferring a power, then the word shall, unless the contrary intention appears in the Act, be interpreted to imply that the power may be exercised or not, at discretion.

I do not consider a “contrary intention” exists in the Act; accordingly, I am required to consider whether to exercise the power or not, at discretion.

In considering the exercise of discretion I give regard to the merits of the application. That requires balancing the opposing considerations against the supporting considerations. For any detrimental factors, I give regard to how detriments may be minimised and controlled.

##### **4.1 Potential disadvantages of a new licence**

The potential disadvantages of the proposed new licence are:

- (a) Environmental impact
- (b) Impact on compliance and resourcing
- (c) Impact on navigation
- (d) Limitation on access to the proposed waters
- (e) Impact on existing aquaculture licence holders
- (f) Impact on recreational fishing
- (g) Impact on commercial fishing and other commercial activities including tourism

##### **(a) Environmental impact**

The MEMP provides an environmental monitoring program developed to ensure the proposed aquaculture activity will be unlikely to have any significant impact on the environment and that any impacts that may occur will be managed effectively.

Given the information provided in the MEMP, I am of the view that the proposed aquaculture activity could be implemented without significant deleterious impacts on the environment. Existing aquaculture legislation and adaptive management mechanisms provide further endorsement that the aquaculture industry can be developed sustainably.

Given the information set out above, I am of the view there are sufficient controls in place to manage any environmental impact.

***(b) Impact on compliance and resourcing***

I note that licence conditions are generally designed to facilitate efficient and effective enforcement activities and that disease testing of cultured stock is generally the financial responsibility of the operators. Therefore, I do not consider that compliance activities undertaken to enforce the licence conditions in this case will be unduly onerous, as they should fall within the usual activities of the Department.

***(c) Impact on Navigation***

The Department referred the proposal to the Department of Transport (Marine Safety), which recommended the site be subject to marking and lighting in accordance with Category 3 as set out in the document *Guidance Statement for Evaluating and Determining Categories of Marking and Lighting for Aquaculture and Pearling Leases/Licences (2010)*. This can be dealt with under a standard licence condition.

***(d) Whether the proposal involves limitation on access to the proposed waters.***

An aquaculture licence does not provide the licence holder with exclusive access to the site; therefore, granting the Licence to authorise aquaculture at the site will not limit access to waters.

***(e) Impact on existing aquaculture licence holders***

I have noted comments from existing aquaculture licence holders that the proposed aquaculture activities would reduce nutrient concentrations (and consequently phytoplankton levels) in the water to the extent that there may be an adverse impact on the production of shellfish on their farms.

AIO has acknowledged that water quality, water column nutrient levels and water flow will need to be studied and monitored closely. The company will be working with DPIRD to complete various monitoring programs, consisting of phytoplankton enumeration sampling, salinity testing, water flow logging, temperature logging and fouling survey of the culture equipment along with growth studies of the oysters to gain more data on the suitability of the sites as grow out locations.

I have noted that existing aquaculture licences for shellfish species (principally pearl oysters) in the southern group of the Abrolhos Islands occupy sites with a total area of approximately 980 hectares and the site that is the subject of the AIO application 115 hectares. To provide some perspective, a circle with a radius of approximately 10 kilometres, drawn over the Southern Group, encompasses all these sites. The



existing authorised sites collectively occupy 3.1 per cent of that total area; that proportion increases marginally to only 3.5 per cent if the site that is the subject of the AIO application is included.

For the reasons set out above, I am of that view that the proposed aquaculture activity is unlikely to have any significant impact on existing licence holders. I also note that if there is a demonstrable impact then that can be managed by imposing licence conditions.

***(f) The possible impact on recreational fishing***

The granting of an aquaculture licence to conduct aquaculture activities at a certain area does not of itself confer any exclusive access to the area. Recreational fishing may still be carried out in the general area, noting that it is an offence for a person to remove fish from or interfere with aquaculture gear unless authorised by the owner.

***(g) The possible impact on commercial fishing and other commercial activities including tourism***

As with recreational fishing, the granting of an aquaculture licence to conduct aquaculture activities at a certain area does not of itself confer any exclusive access to the area. Commercial fishing and other commercial activities including tourism may still be carried out in the general area, noting that it is an offence for a person to remove fish from or interfere with aquaculture gear unless authorised by the owner.

## **4.2 Potential advantages of a new licence**

The potential advantages of the new licence are:

- (a) Suitability of the location for aquaculture
- (b) Low impact on other users of the resource
- (c) Potential economic benefits for the State
- (d) Contribution to ongoing development of science and knowledge of aquaculture
- (e) No impact on native title

***(a) Suitability of the location for aquaculture***

Correct site selection is the single most important factor that determines the success of aquaculture ventures.

There are numerous reasons why the site provides a good location for the proposed activity and specifically, I have noted the following factors in this regard:

- the natural features of the site satisfy the biological and physical requirements for edible oyster aquaculture;

- although located some distance offshore, in the Abrolhos Islands, the site has reasonable access to infrastructure in the city of Geraldton;
- the area applied for appears suitable for the establishment of an aquaculture business; and
- waters inside the area are clean, well-mixed and flushed.

I am of the view the reasons set out above show the location is suitable for the aquaculture of shellfish.

***(b) Low impact on other users of the resource (providing disease issues are dealt with)***

For the reasons set out above, the granting of the Licence would not have any impact on other users of the resource.

I have noted that the proposal was developed in consultation with a range of stakeholders.

Providing that disease issues are dealt with, I have formed the view that the proposal will have little to no impact on other users of the resource.

***(c) Potential economic benefits for the State***

The establishment of aquaculture operations in regional areas has the potential to add to the economic growth of the region and increase local employment. Existing aquaculture farms around the State are already providing employment opportunities.

I have considered the issue of economic benefits for the State earlier at part 3.1(c) of this decision.

***(d) Contribution to ongoing development of science and knowledge of aquaculture***

Information generated from the expansion of aquaculture activities at the site would contribute to the ongoing development of the science and knowledge about aquaculture, in part by providing data pertaining to environmental impact of activities of this nature on the key identified environmental factors at this type of site; namely, benthic communities and habitat, marine environmental quality and marine fauna.

The science developed from the proposal would not only increase the efficiency of the commercial activity, but also provide a basis for adaptive management by the Department.



**(e) No impact on native title**

There is no impact on Native Title.

In respect of the various issues opposing and in favour of the proposal, I am satisfied the benefits outweigh the disadvantages and that the risks, possible detriments and other issues associated with the proposed new licence can be managed by licence conditions and the MEMP.

## **5 LICENCE CONDITIONS**

My reasoning thus far has noted that certain matters can be satisfied if they are able to be dealt with by licence conditions. Accordingly, I now turn my mind to conditions I consider ought to be imposed on the licence.

The matters for which conditions may be considered are as follows.

- Requirement for a lease

A lease will be required before aquaculture is conducted at the site to ensure relevant issues have been complied with.

- Health management and certification

Conditions dealing with health management and certification will minimise the risk of introduction of disease, by ensuring each group of shellfish moved to the site will be tested and certified free of signs of clinical disease.

A general condition will also be imposed requiring information on mortalities to be provided at the request of the Principal Research Scientist Aquaculture and Fish Health.

- Biosecurity (including disease and genetics)

Conditions in respect of biosecurity include controls over record keeping, the source of broodstock, health management and certification, procedures to be followed in the event of suspicion of disease and controls over the disposal of biological waste materials.

As AIO would not have exclusive possession of the site, an officer of the Fish Health Section of the Department or a Fisheries and Marine Officer can enter the site at any time to inspect stocks.

I note that with disease testing a balance needs to be struck between the benefit derived from testing against the cost of undertaking the testing. Repeated testing of healthy stock is likely to be of low value, yet would require the licence holder to incur significant costs. On the other hand, targeted testing of dead or moribund species will be likely to identify the presence of any disease-causing organisms.

A level of routine testing should be undertaken on the recommendation of the Principal Research Scientist Aquaculture and Fish Health or the equivalent office.

As with any condition, if circumstances change then the requirement for testing can be changed.

- Marking and Lighting

A condition will be imposed as set out in 4.1(c) above.

- Aquaculture Gear

Conditions in respect of aquaculture gear provide controls over the materials used in their manufacture, restrictions over their maximum number and size and their placement and location to avoid sensitive benthic habitats

- Environmental monitoring

Conditions in respect of environmental monitoring and reporting are set out in the MEMP.

- Compliance issues

Conditions in respect of compliance issues provide controls over or requirements for making and keeping of records.

The power to delete and add new conditions is provided for in s.95 of the Act.

The Department has liaised with the Applicant over the licence conditions. The indicative (intended) substance of the licence conditions is as follows.

## 1. Interpretation

a) In the conditions on this licence –

**Pathologist** means an employee of a laboratory facility that is accredited by the National Association of Testing Authorities, Australia;

**Principal Research Scientist Aquaculture and Fish Health** means the officer occupying that position in the Department, or any officer occupying a comparable position in the Department that the CEO advises the licence holder by notice in writing will be performing the duties of the Principal Research Scientist Aquaculture and Fish Health;

**DPIRD** means the Department of Primary Industries and Regional Development.

**site** means the area specified in Schedule 2 of this licence.



- b) The following terms used in the conditions on this licence have the same meaning as in the *Fish Resources Management Act 1994* –
- aquaculture lease;
  - CEO; and
  - record.

## **2. Requirement for aquaculture lease to authorise activity**

The holder of this licence must maintain in force at all times, the legal right to use the site. No aquaculture is to be carried on at the site without the legal right to use the site for aquaculture having first been granted. The legal right to use the site must be a lease, sub-lease or licence granted in accordance with the power conferred under the *Land Administration Act 1997*, or under section 97 of the *Fish Resources Management Act 1994*.

## **3. Marking and Lighting**

- a) Marking and lighting of the site must be installed and maintained in accordance with Category 3 as set out in the document “Guidance Statement for Evaluating and Determining Categories of Marking and Lighting for Aquaculture and Pearling Leases/ Licences (2010)”.
- b) The marking and lighting required under paragraph (a) must be installed before any aquaculture activity is undertaken at the site.

## **4. Aquaculture gear and infrastructure**

- a) Aquaculture gear must be used in such a way so as to not damage any reef, coral or seagrass bed.
- b) Upon termination or non-renewal of this licence, the licence holder must remove from the area all property, equipment, structures, refuse and debris of the licence holder and restore the area to a condition approved by the CEO of DPIRD.

## **5. Source of stock**

Fish must not be stocked at the site unless -

- a) they have been collected from the Abrolhos Islands area using spat collectors; or
- b) they have been sourced from the Albany Shellfish Hatchery or other hatchery authorised to culture the species.

## **6. Movement of fish with approval**

The licence holder must ensure that no fish are moved from the site without prior written approval of the CEO, except where the fish are moved for the purpose of processing or sale for consumption.

## 7. Health Management and Certification

- a) The licence holder must not move fish from the site unless –
  - i. the licence holder has submitted the request form provided by the Principal Research Scientist Aquaculture and Fish Health to a Pathologist for the provision of a health certificate; and
  - ii. the licence holder has received a health certificate from a Pathologist in respect of all fish being moved from the site; and
  - iii. where the licence holder has made a request under subparagraph (a) to a Pathologist that is not a DPIRD Officer, the licence holder has received confirmation from the Principal Research Scientist Aquaculture and Fish Health that a copy of a health certificate for those fish is in the possession of the Principal Research Scientist Aquaculture and Fish Health.
- b) The licence holder must ensure that any fish moved from the site is accompanied at all times by a copy of the health certificate received under paragraph a).

## 8. Disease Testing

- a) The licence holder must ensure that disease testing of fish is carried out –
  - i. prior to transport to or from the site; or
  - ii. while the fish is situated at the site,as required by notice in writing from the Principal Research Scientist Aquaculture and Fish Health.
- b) The testing carried out under paragraph a) will be at the cost of the licence holder.

## 9. Biosecurity Measures

Where the licence holder -

- a) suspects that any fish at the site are affected by disease; or
- b) becomes aware of any significant or unusually high levels of fish mortality, caused by disease or otherwise, the licence holder must -
  - i. immediately notify DPIRD on 1300 278 292 (all hours) of the level of mortality or signs of disease; and
  - ii. follow the directions of the Principal Research Scientist Aquaculture and Fish Health in relation to providing reports, samples of fish, or any other relevant item, at such a time as required.

## 10. Record Keeping

The licence holder must –

- a) make and keep in safe place a record of all identifiable mortalities, both in total and as a percentage of total stock, as and when they occur, where possible; and



- b) upon request from time to time, provide the data to the Principal Research Scientist Aquaculture and Fish Health in a form approved by the Principal Research Scientist Aquaculture and Fish Health.
- c) make and keep in a safe place records of all health certificates issued to it by any laboratory.
- d) At all times records made and kept must be maintained in a secure place within the premises at the site, for a period of seven years.
- e) The licence holder must provide records to a Fisheries and Marine Officer on demand.
- f) Records must be made immediately after inspection, or upon receipt of the health certificate, as the case requires.

### **11. MEMP Compliance Audit**

An independent audit of compliance with the MEMP must be commissioned and carried out by the licence holder, at the expense of the licence holder, within four months of being directed in writing by the CEO to commission the audit. A copy of any interim and final audit report must be delivered to the CEO within seven days of being received by the licence holder.

### **12. MEMP Report**

The holder of the licence must:

- i. at all times comply with and implement the latest Management and Environmental Monitoring Plan (“MEMP”) prepared by the holder of the licence, and delivered to DPIRD; and
- ii. before 31 July each year, submit to the CEO at the head office of DPIRD at Perth, a written annual report on its activities conducted under the MEMP during the year, which must include all results of management and monitoring activities to 1 July.

The conditions will be imposed by providing the Applicant with notice in writing, noting there is a requirement for a review period before giving effect to the decision. I note that the aquaculture venture is a dynamic operation, not a static event, and in the event that varied or additional conditions become appropriate then those can be imposed in the future in accordance with the process in the Act.

**DECISION**

On the basis of the above, I have decided to grant an aquaculture licence to Abrolhos Island Oysters Pty Ltd, under s.92 of the Act, to conduct a hatchery operation at a 95.38 and 20.418 - hectare site within the Pelsaert Group at the Abrolhos Islands.

I have also decided to approve the MEMP and impose conditions on the Licence under s.95 of the Act. The conditions to be imposed are as set out above at part 5 of this statement of decision.



Heather Brayford  
**DEPUTY DIRECTOR GENERAL, Sustainability and Biosecurity**  
As delegate of the CEO

Dated this 7<sup>th</sup> day of August 2018

I hereby give instruction for notice of the decision to grant the Licence under s.92 of the Act and impose conditions under s.95 of the Act to be advertised in the West Australian newspaper in accordance with s.148 of the *Fish Resources Management Act 1994*.



# HOUTMAN ABROLHOS - PELSAERT GROUP

## ABROLHOS ISLAND OYSTERS PTY LTD

### AQUACULTURE LICENCE APPLICATION - SITE PLAN

ALL THAT PORTION OF TERRITORIAL WATER WITHIN THE BOUNDARY DESCRIBED AND COLOURED GREEN ON THE PLAN BELOW COMPRISING A TOTAL AREA OF 95.380 AND 20.418 HECTARES RESPECTIVELY

113°54'0"E

113°57'0"E

28°51'0"S

28°51'0"S

Boundary Coordinates: Datum GDA94

Point	Latitude	Longitude
1	28° 54.550' S	113° 58.683' E
2	28° 54.567' S	113° 58.867' E
3	28° 54.883' S	113° 58.867' E
4	28° 54.883' S	113° 58.633' E
5	28° 53.833' S	113° 54.100' E
6	28° 53.583' S	113° 53.841' E
7	28° 53.633' S	113° 53.350' E
8	28° 53.233' S	113° 53.500' E
9	28° 53.417' S	113° 54.417' E

#### Legend

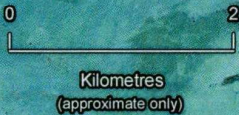
- Aquaculture Licence Application Site
- Existing Aquaculture Licence Site

28°54'0"S

28°54'0"S

28°57'0"S

28°57'0"S



Pelsaert Group

Pelsaert Island

#### PLAN AA-0025

SOURCE DATA  
Aquaculture Licences: DPIRD  
Aerial Imagery (2015), Coastline, Towns, Roads, Geographic Names: Landgate

Drawn by: A. Zabolotny  
Date: 09/04/2018  
Datum: GDA94

Project: I20602505\0029\  
File: AA-0025\_20180409.mxd

Disclaimer: This map is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



Department of  
Primary Industries and  
Regional Development

113°54'0"E

113°57'0"E