

STATEMENT OF DECISION
APPLICATION TO VARY AN AQUACULTURE LICENCE

File Number: L91/19 & L92/19
Applicant: Harvest Road Oceans Pty Ltd
Application Date: 3 July 2020
Application Type: Variation of an Authorisation

This Statement of Decision should be read in conjunction with the document entitled *Assessment Criteria for the Grant or Variation of an Aquaculture Licence – Explanatory Notes*, which provides explanations, comments and additional information relating to Statements of Decision made in respect of applications for grant or variation to aquaculture licences. The document is available at:

http://www.fish.wa.gov.au/Documents/Aquaculture/sod_assessment_criteria_explanatory_notes.pdf

1. DETAILS OF THE APPLICATION

Background facts

Harvest Road Oceans Pty Ltd (“Harvest Road”) (ACN 165 170 445) is the holder of Aquaculture Licence No. 1660 and Aquaculture Licence No. 1661 (“the Licences”)

The Licences authorise the culture of the following species:

- Akoya pearl oyster (*Pinctada fucata*)
- blue mussels (*Mytilus galloprovincialis*)
- flat oyster (*Ostrea angasi*)
- rock oyster (*Saccostrea* spp.)

Under the Licences the authorised sites comprise an area of water of 49.792 hectares (**Attachment 1**) located in Southern Flats, Cockburn Sound and two areas of water of 30.530 and 26.924 hectares (**Attachment 2**) located at Kwinana Grain Terminal, Cockburn Sound.

Details of the Licence variation application

On 3 July 2020, Harvest Road made two applications to the CEO of the Department of Primary Industries and Regional Development (“Department”) under s.92 of the Act, for the variation of an aquaculture licence. The application fee, an updated Management and Environmental Monitoring Plan (“MEMP”) and additional information were submitted with the applications.

In its applications, Harvest Road seeks to vary the list of species authorised to be cultured (in Schedule 1 of the Licences) to include the following species:

- doughboy scallop (*Mimachlamys asperrima*)

- red seaweed (*Asparagopsis* sp.)

2. RELEVANT CRITERIA TO BE SATISFIED

Consultation was undertaken according to the process set out in AG1; that is, with relevant Government agencies and representative community and industry groups and included the opportunity for public comment. **Attachments 3** and **4** provide summaries of the consultation process that was undertaken.

I have read and considered **Attachments 3** and **4**. Where relevant, those matters arising out of the consultation process that are of greater significance are referred to below.

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

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

2.1 Criteria in s.92(1)

(a) *"Fit and proper person"*

Considerations relevant to the "fit and proper person" criterion by reference to the key concepts of knowledge, honesty and ability are set out below.

- Knowledge

From the information submitted with the applications, I have noted that employees of Harvest Road have a proven history of success within the aquaculture industry. Harvest Road has sufficient capital to ensure the project's operational and environmental practices are conducted to the highest standard. Based on the information provided I am of the view that Harvest Road has the knowledge required to undertake the proposed aquaculture activity.

- Honesty

I have no reason to believe Harvest Road does not meet the concept of honesty.

- Ability

The business plan, which Harvest Road was required to produce as part of its application, provided financial information on assets and liabilities and cash flows based upon future production. Based on the information provided, I have no reason to believe that Harvest Road would not have the capacity to raise the finance needed for the establishment and operation of the project.

From the information provided, it is evident that Harvest Road has a clear understanding of the level of infrastructure and aquaculture equipment needed for

the successful implementation of the proposed project. Harvest Road has a history of keeping records and paying relevant fees; I have therefore no reason to doubt the ability of the company in this regard.

With respect to the matter of persons acting on behalf of the licence holder, Harvest Road 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" Harvest Road, so Harvest Road cannot authorise independent contractors or "lessees" to carry out aquaculture. Harvest Road has been an established company for some years, so can be assumed to understand relevant principles of agency.

Based on my consideration of the matters set out above and the information that is before me, on balance, I consider Harvest Road is "fit and proper" to hold a licence to conduct aquaculture of the proposed species at the authorised site.

(b) Tenure

Harvest Road currently holds an aquaculture lease under s.97 of the Act in respect of the existing areas of operation.

Accordingly, I consider that Harvest Road will have appropriate tenure over the authorised sites.

(c) Better interests

Aquaculture in Cockburn Sound comprises a significant and sustainable sector of Western Australia's aquaculture industry and has the potential to expand. Aquaculture of the proposed species will facilitate this expansion. Adding the proposed species to Harvest Road's licences will further contribute to the State's economy and provide increased community benefits such as employment opportunities and economic diversification.

Another benefit is that the proposed activities will provide further experience and scientific information that can assist with future aquaculture proposals.

By reason of the above considerations I am of the view that the grant of the applications 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

1. The main considerations in respect of whether the proposed activities will adversely affect other fish or the aquatic environment are discussed below.
Genetics, disease and pests

Genetics is not an issue because the proposal does not contemplate introducing new genetic combinations.

In respect of diseases and pests, Harvest Road's aquaculture operation operates 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.

a. Disease introduction

I have a high level of confidence in the ability of Harvest Road to detect known disease agents.

I am not aware of any reported introduction of disease pathogens caused by movement of fish to the sites.. I note that from time to time the DPIRD's Diagnostics and Laboratory Services may wish to undertake disease testing in the absence of a reported disease event and that these requirements may change from time to time, taking into account the diseases of interest, the characteristics of the tests available and the required confidence in the result as determined by a risk assessment. A licence condition will be imposed to enable DPIRD's Diagnostics and Laboratory Services to determine these requirements for disease testing.

Given the biosecurity protocols in place for the existing site and the controls imposed, or that may be imposed, over the movement of the proposed species, I consider the threat of disease being introduced into Cockburn Sound low.

I note that any movements to the site will require health certification, which would deal with disease.

Harvest Road will be sourcing broodstock from genetically similar populations from the wild and spat from the Albany Shellfish Hatchery or other authorised hatchery. Harvest Road will operate under biosecurity controls imposed through licence conditions and a MEMP. These controls are based on the requirement to demonstrate low risk of disease introduction and spread through conducting comprehensive health testing prior to movements being permitted.

I consider the threat of disease being introduced to Cockburn Sound 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 the fish to the site.

b. Disease development in situ

I have noted that aquaculture has been carried out at the existing site in Cockburn Sound for a number of years. I am not aware of any reports of significant disease outbreaks during that period.

I am also mindful of the conditions to be imposed on the Licences in respect of disease reporting requirements and the biosecurity provisions set out in the MEMP.

Therefore, I consider the risk of disease outbreak at the site and the spreading of disease from the site to be generally low, given the biosecurity protocols in place and the controls imposed, or that may be imposed, over the species being grown at the site.

2. *Aquaculture gear*

a. *Impact of the aquaculture gear*

Harvest Road will be using longlines with dropper ropes and baskets attached for the culture of the proposed species. The longlines will be attached to helix, screw or disc anchors with no chains attached to minimise the footprint and impact on sensitive environments such as seagrass. The proposed mooring system will not have any parts above the seabed surface, which will minimise the risk of scouring the seabed.

Therefore, I consider that there would be minimal environmental impact arising from the use of the described aquaculture gear.

b. *Removal of the aquaculture gear*

In the event of aquaculture ceasing, any issues concerning the clean-up and rehabilitation of the sites would be covered by the relevant provisions of the Act.

3. *Environmental impact*

I note that it is in the best commercial interest of Harvest Road to maintain a healthy environment and to ensure any ongoing environmental impact is adequately measured and evaluated. The monitoring and management of environmental factors is a separate issue that is dealt with in the MEMP section below.

I have noted that the proposed species will not require supplementary feeding; consequently, there will be no increase in nutrient levels arising from the introduction of manufactured feeds. I therefore consider the proposed species will have minimal impact on the surrounding environment. Harvest Road will be conducting chlorophyll-a monitoring, to assess any potential impacts on primary productivity caused by the aquaculture venture.

Therefore, I consider that the matter of environmental impact has been fully addressed and sufficient environmental monitoring and management controls provided in the MEMP and 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 variation application.

2.2 The MEMP

Harvest Road has an approved, existing MEMP in respect of its Licences. That MEMP has been amended to apply to the activities proposed under the variation to the Licences.

As such, I approve the MEMP provided by Harvest Road (**Attachment 5**).

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.

3. DISCRETION TO VARY – MERITS OF THE APPLICATION

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.

Potential disadvantages of variation

(a) Genetics, diseases and pests

I have considered the issue of genetics earlier at part 2.1(d)(1) of this decision, including interbreeding, and concluded genetic issues will be unlikely to have any detrimental impact.

I have considered the issue of disease introduction earlier at part 2.1(d)(1) of this decision and concluded sufficient controls will be in place and that this issue will be unlikely to have any detrimental impact.

To address the risk of disease development *in situ*, additional testing of the proposed species at the farm sites in Cockburn Sound can be required through licence conditions.

I have noted the issue cannot be about eliminating all risk; otherwise, aquaculture operations in the marine environment would not be able to proceed. That is contrary to the object and operation of the Act. The task, therefore, is to reduce the risk of disease outbreak to an appropriately low level by identifying and assessing biosecurity, environmental and other risks and implementing management strategies and controls to reduce the risks. This is addressed primarily through biosecurity controls implemented in the MEMP and licence conditions.

(b) 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 confidence 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

(c) Impact on compliance and resourcing

I do not consider that compliance activities undertaken to enforce the varied licence conditions in this case will be unduly onerous, as they should fall within the usual activities of the Department.

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

The variation to the Licences is for the addition of species, so the variation will not limit access to waters.

(e) The possible impact on navigation

The Department referred the proposal to the Fremantle Port Authority, which considered the sites to be a Category 1 as defined in the document "Guidance Statement for Evaluating & Determining Categories of Marking and Lighting for Aquaculture and Pearling Leases/Licences 2019".

(f) The possible impact on recreational fishing

The variation to the Licences is for the addition of species, so the variation will not have any impact on recreational fishing.

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

The variation to the Licences is for the addition of species, so, as with recreational fishing, the variation will not have any impact on commercial fishing.

Potential advantages of variation

(a) Suitability of the location for aquaculture and proximity to existing operation

The history of successful aquaculture at the proposed site indicates its suitability for that purpose.

There are numerous reasons why the site locations are suitable for the proposed activity and, specifically, I have noted the following factors:

- the natural features of the sites satisfy the biological requirements for the production of the proposed species; and
- current aquaculture operations in Cockburn Sound have proven feasible.

I am of the view that, for the reasons set out above, the location is suitable for the aquaculture of the proposed species.

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

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

The proposal has no impact on visual amenity and noise pollution.

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 2.1(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 licence variations can be managed by licence conditions and the MEMP.

4. LICENCE CONDITIONS

The conditions on the Licences being varied are outdated and will be replaced as set out below.

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

1. Interpretation

(1) 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;

DPIRD means the Department of Primary Industries and Regional Development.

DPIRD Diagnostics and Laboratory Services means the officer(s) 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 a pathologist of DPIRD's Diagnostics and Laboratory Services;

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

(2) 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. Marking and Lighting

- (1) Marking and lighting of the site must be installed and maintained in accordance with Category 1 as set out in the document "Guidance Statement for Evaluating and Determining Categories of Marking and Lighting for Aquaculture and Pearling Leases/ Licences (2019)".
- (2) The marking and lighting required under paragraph (a) must be installed before any aquaculture activity is undertaken at the site.

3. 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, navigational aids, refuse and debris of the licensee and restore the area to a condition approved by the CEO of DPIRD.
- c) The holder of the licence must ensure that all aquaculture gear is located within the boundaries of the site, and maintained in a safe, secure and seaworthy condition; and all floating aquaculture gear, including ropes and buoys, must be fastened securely.

4. Source of stock

Fish must not be stocked at the site unless –

- (1) They have been collected from naturally occurring spat fall in the Cockburn Sound area; or
- (2) they have been sourced from the Albany Shellfish Hatchery or other hatchery authorised to culture the species.

5. Health management and certification

- (1) The licence holder must not move fish onto or from the site unless –
 - (a) the licence holder has submitted the request form provided by DPIRD's Diagnostics and Laboratory Services – Aquatic Diagnostics Lab, to a Pathologist employed by DPIRD for the provision of a health certificate; and
 - (b) the licence holder has received a health certificate from a DPIRD Pathologist in respect of all fish being moved onto or from the site; or
 - (c) where the licence holder has made a request for the provision of a health certificate to a Pathologist who is not an officer of DPIRD, the licence holder has received confirmation that a copy of a health certificate for those fish is in the possession of DPIRD's Aquatic Diagnostics Labs.

- (2) The licence holder must ensure that any fish moved to or from the site is accompanied at all times by a copy of the health certificate received under paragraph (b).
- (3) Paragraphs (1) and (2) do not apply if the fish are moved for the purpose of processing, sale for consumption or under a sampling plan conducted for the purpose of seafood quality testing or environmental monitoring.

6. Disease testing

- (1) The licence holder must ensure that disease testing of fish is carried out –
 - (a) during movement to or from the site; or
 - (b) while the fish is situated at the site,as required by notice in writing from DPIRD's Diagnostics and Laboratory Services.
- (2) The testing carried out under paragraph (1) will be at the cost of the licence holder.

7. Biosecurity measures

Where the licence holder -

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

8. Record keeping

- (1) The licence holder must make accurate and timely records of –
 - (a) the aquaculture gear used at the site;
 - (b) the movement of fish to each type of aquaculture gear, including –
 - i. the estimated average weight and numbers of the fish moved;
 - ii. the time and date the movement took place; and
 - iii. any mortalities of fish that occurred during the movement;
 - (c) the estimated weight and numbers of fish being kept on each type of gear at the site;
 - (d) the estimated weight and numbers of fish harvested from each type of aquaculture gear at the site;
 - (e) all mortalities at the site, both in total and as a percentage of total stock held at the site at the time; and
 - (f) all health certificates issued to the licence holder by a Pathologist.

(g) breeding carried out in all hatchery tanks by reference to the following

—

- i. the number of broodstock;
- ii. the batch number of the larvae or juveniles;
- iii. water temperatures;
- iv. water quality test results;
- v. the loss of larvae, juveniles and broodstock and cause of loss;
- vi. any symptoms of disease; and
- vii. estimated numbers of post larvae when sampling for health certificates.

(2) The licence holder must keep the records made under paragraph (1) in a secure place at the licence holder's registered place of business for a period of seven years.

(3) Records under paragraph (1) must be available to an authorised DPIRD Officer at any time

(4) The licence holder must, upon request from time to time, provide the data under paragraph (1) to DPIRD's Diagnostics and Laboratory Services – Aquatic Diagnostics Lab.

(5) Records must be made immediately after inspection, or upon receipt of the health certificate, as the case requires.

9. 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.

10. 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

In view of the above considerations, I have decided to vary the Aquaculture Licences on the basis that conditions are imposed on the Licences.

Aquaculture Licence No. 1660 and Aquaculture Licence No. 1661, held by Harvest Road Oceans Pty Ltd are to be varied to include doughboy scallop (*Mimachlamys asperima*) and red seaweed (*Asparagopsis* sp.).

Existing conditions on the Licences are to be removed and replaced with new conditions pursuant to section 95 of the Act and which are set out above at part 4 (conditions 1-10) of this statement of decision.

I have also decided to approve the MEMP.



Heather Brayford

DEPUTY DIRECTOR GENERAL, Sustainability and Biosecurity

As delegate of the CEO

Dated this 28 day of June 2021

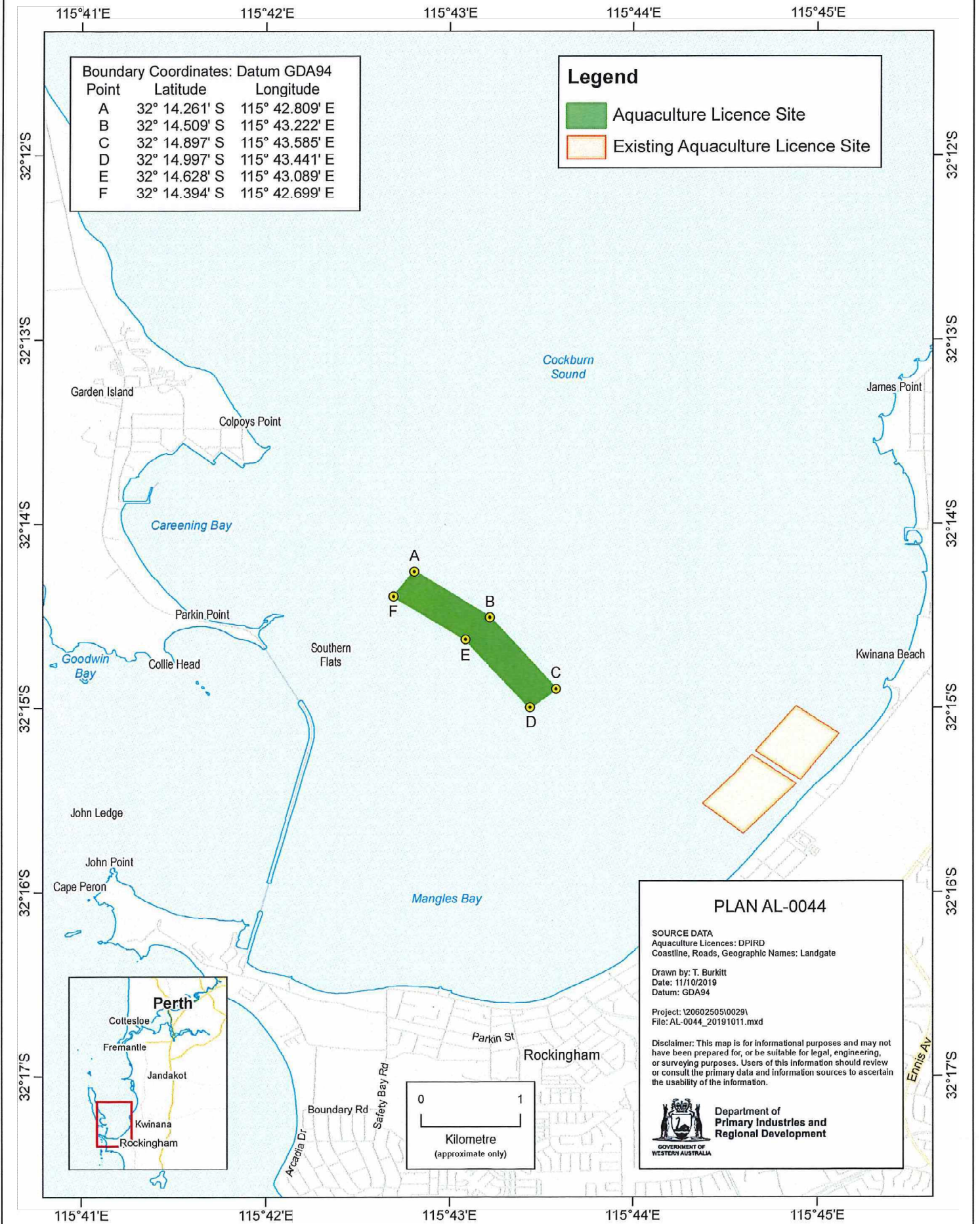
I hereby give instruction for notice of the decision to vary the Licences under s.142 of the Act and impose conditions under s.95 of the Act to be advertised in the West Australian newspaper in accordance with s.148 of the *Fish Resources Management Act 1994*

COCKBURN SOUND

HARVEST ROAD OCEANS PTY LTD

AQUACULTURE LICENCE - SITE PLAN

ALL THAT PORTION OF WATER WITHIN THE BOUNDARY DESCRIBED AND COLOURED GREEN ON THE PLAN BELOW COMPRISING A TOTAL AREA OF 49.792 HECTARES



COCKBURN SOUND

HARVEST ROAD OCEANS PTY LTD

AQUACULTURE LICENCE - SITE PLAN

ALL THAT PORTION OF WATER WITHIN THE BOUNDARY DESCRIBED AND COLOURED GREEN ON THE PLAN BELOW COMPRISING A TOTAL AREA OF 30.530 and 26.924 HECTARES RESPECTIVELY

115°43'E

115°44'E

115°45'E

32°13'S

32°13'S

32°14'S

32°14'S

32°15'S

32°15'S

32°16'S

32°16'S

32°17'S

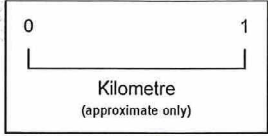
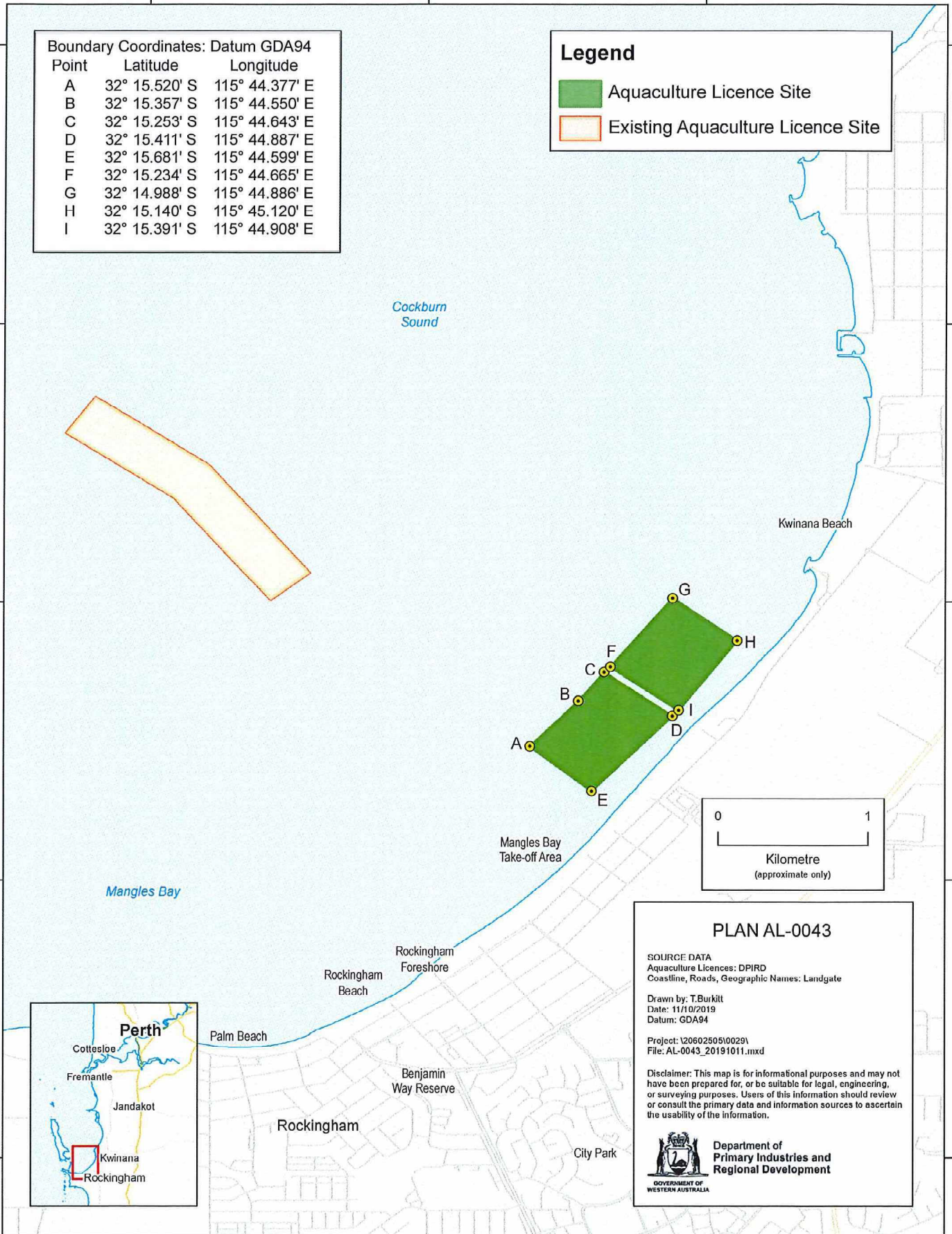
32°17'S

Boundary Coordinates: Datum GDA94

Point	Latitude	Longitude
A	32° 15.520' S	115° 44.377' E
B	32° 15.357' S	115° 44.550' E
C	32° 15.253' S	115° 44.643' E
D	32° 15.411' S	115° 44.887' E
E	32° 15.681' S	115° 44.599' E
F	32° 15.234' S	115° 44.665' E
G	32° 14.988' S	115° 44.886' E
H	32° 15.140' S	115° 45.120' E
I	32° 15.391' S	115° 44.908' E

Legend

- Aquaculture Licence Site
- Existing Aquaculture Licence Site



PLAN AL-0043

SOURCE DATA
 Aquaculture Licences: DPIRD
 Coastline, Roads, Geographic Names: Landgate

Drawn by: T.Burkitt
 Date: 11/10/2019
 Datum: GDA94

Project: \20602505\0029\
 File: AL-0043_20191011.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.



115°43'E

115°44'E

115°45'E