STATEMENT OF DECISION

APPLICATION FOR THE GRANT OF AN AQUACULTURE LICENCE

Information contained in this Statement of Decision that may be considered commercial-in-confidence has been redacted.

File Number: **L82/16**
Applicant: **Aarli Mayi Aquaculture Project Pty Ltd**
Application Date: **18 December 2015**
Application Type: **Grant of an Authorisation**

1 INTRODUCTION

Background facts

On 18 December 2015, Aarli Mayi Aquaculture Project Pty Ltd ("Aarli Mayi") (ACN 610 855 297) made an application to the CEO of the Department of Fisheries ("Department") under s.92 of the *Fish Resources Management Act 1994* ("the Act"), for the grant of an aquaculture licence to culture marine finfish at a site in Cone Bay.

The site applied for is located within the Kimberley Aquaculture Development Zone ("KADZ").

Attachment 1 provides a site map, which shows the KADZ and the area for which Aarli Mayi has made an application.

The KADZ was declared by the Minister for Fisheries in August 2014. Occupying a total area of approximately 2,000 hectares, the KADZ is located within Cone Bay at the northern end of King Sound.

On 30 October 2015, the Department invited interested persons to make applications for aquaculture licences and leases within the KADZ, stating that it intended to begin considering applications received on or before 18 December 2015, with a view to decisions being made as soon as practicable after that date.

Details of the licence application

The application was dated 18 December 2015 and received by the Department on that date.

The application seeks to culture the following species of finfish:
- barramundi (*Lates calcarifer*);
- cobia (*Rachycentron canadum*);
- barramundi cod (*Cromileptes altivelis*);
- saddletail snapper (*Lutjanus malabaricus*);

- coral trout (*Plectropomus leopardus*);
- flowery rock cod (*Epinephelus fuscoguttatus*);
- camouflage grouper (*Epinephelus polyphekadion*);
- giant grouper (*Epinephelus lanceolatus*).

Based on correspondence and discussion between the Department and Aarli Mayi, the consideration of the application is on the basis that the area applied for is approximately 400 hectares.

2 COMPETENCE OF THE APPLICATION

The objects of the Act enable the allocation of resources to achieve the optimum benefits to the State and community. To ensure the sites within the zone are allocated properly, the process to assess applications received requires consideration of individual applications according to the relevant provisions of the Act, according to merit, and may also require consideration of applications competing for the same or overlapping areas.

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, consideration of the application will first give consideration to the issues above that need to be satisfied. Consideration will then be given to section 92A – "*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 Ministerial Policy Guideline No. 8 *Assessment of applications for authorisations for Aquaculture and Pearling in coastal waters of Western Australia* ("MPG 8").

Where an application is made for an aquaculture licence, MPG 8 provides for a consultation process to be undertaken with relevant Government agencies and representative community and industry groups and including the opportunity for public comment.

In this case, the Strategic Environmental Assessment ("SEA") process to establish the KADZ included a comprehensive consultation process. This consultation process was a requirement of the scoping guidelines that the Environmental Protection Authority ("EPA") provided to the Department.

The consultation process undertaken as part of the Strategic Assessment for the KADZ exceeds the consultation that would normally be required under MPG 8. I am therefore of the view that the consultation undertaken for the establishment of the KADZ is taken as consultation on the application, so additional consultation on the application is not required.

Described in the Assessment on Proponent Information document ("the API document"), the consultation process for the KADZ comprised the following three phases.

1. May – June 2012. Initial written notification to stakeholders advising the scope and timing of the project, including an invitation to register to receive newsletters and additional information on identified key issues. Stage 1 included personal meetings in Derby, Broome and Perth.
2. July 2012 – November 2013. Meetings with commercial fishing associations and mail-outs to all commercial fishing licence holders (through the WA Fishing Industry Council) and periodic newsletters being sent out as well as made available on the Department's website. Phase 2 also provided website updates, afforded opportunities for comment and encompassed key stakeholder comment periods for the API Document, the *Kimberley Aquaculture Development Zone Management Policy 2015* ("the Management Policy") and the KADZ Environmental Monitoring and Management Plan ("the EMMP").
3. March – April 2014. Declaration of the KADZ and calls for expressions of interest.

The consultation provided project updates and invited input and guidance from other Government agencies, regional stakeholders, local Government, Industry, indigenous communities and native title claimants throughout the development process. Section 6 of the API document provides detailed information about the consultation process, including the submissions made by the various stakeholders and the Department's response to those submissions.

The API document is available at:
http://www.epa.wa.gov.au/EIA/EPAReports/Documents/1504-Assessment%20on%20Proponent%20Information%20Document%20FINAL.pdf

I have read and considered the summary of key stakeholder consultation, any issues identified and how they were addressed. 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.

In my consideration of the requirements of s.92(1) of the Act, I have taken into account that Aarli Mayi is a start-up Company and that the proposed project is in the preliminary feasibility stage of development.

(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.

I have noted that the current team assembled for the project has the qualifications and business skills needed to progress it through the next stage of development; that is, to develop the bankable feasibility study needed to secure the capital investment required to implement the project. I have noted that individual members of the current team do have experience of project development in a range of industries in the region, in addition to being involved in the development of a pearl farm and a fish farm, both within Cone Bay.

Currently, Aarli Mayi has limited technical skills and experience in respect of the operation of a large-scale fish farm in a remote location; however, the application recognises the importance of having experienced people to build and operate a large-scale aquaculture venture and Aarli Mayi has indicated it will be in a position to employ suitably qualified and experienced senior technical staff before the project implementation stage.

Aarli Mayi also recognises the importance of workforce development and training and, to that end, has entered into an arrangement with the Kimberley Training Institute to provide the training needs of the workforce needed for a successful commercial aquaculture project.

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 the Aarli Mayi Company 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.

I have noted Aarli Mayi’s advice that it is a start-up Company, that the proposed project is in the preliminary feasibility stage of development, and that Aarli Mayi’s structure and its directors reflect the current objectives and needs of the Company.

The Aarli Mayi Company was only recently incorporated and so has no history of business success. In this situation it is appropriate to consider the business success of the Company directors within the context of the requirements of the project and its development. The collective skills and experience of the initial project team include financial management of primary industries such as mining and aquaculture in the Kimberley region; seafood marketing and advertising; and regional community education.

From the information provided, it is clear that Aarli Mayi has a clear understanding of the level of infrastructure and aquaculture equipment needed

for the successful implementation of the project. [redacted].

Subject to the development of a bankable feasibility study (that is, a feasibility study prepared with sufficient detail and objectivity that the company could submit it to investors or lenders when seeking financing for the project) and based on the information before me, I have no reason to believe that Aarli Mayi would not have the capacity to raise the finance needed for the establishment and operation of the project.

Aarli Mayi has no history of keeping records and paying relevant fees; however, 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, Aarli Mayi 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" Aarli Mayi, so Aarli Mayi cannot authorise independent contractors or "lessees" to carry out aquaculture. The Aarli Mayi Company has been incorporated for approximately four months; however, the directors have experience in other areas and businesses and can be assumed to understand relevant principles of agency.

For completeness, I intend to write to Aarli Mayi as part of the decision-making process, highlighting key aspects of ss.202, 203 and 204 of the Act.

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 Aarli Mayi 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 Aarli Mayi is fit and proper to hold a licence to conduct aquaculture of barramundi and the additional marine finfish 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.

It will be a condition of the licence that the licence holder applies for and is granted an aquaculture lease.

I note that Aarli Mayi has submitted to the Minister for Fisheries an application for an aquaculture lease under s.97 of the Act in respect of the intended area of operation.

(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).

Consistently with the objects of the Act, the WA Government's support for aquaculture development is elaborated in its August 2015 Statement of Commitment, available at:
http://www.fish.wa.gov.au/Documents/Aquaculture/aquaculture_statement_of_commitment.pdf

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.

The culture of barramundi and other marine finfish species comprises a potentially significant and sustainable sector of Western Australia's aquaculture industry and has the potential to expand. 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.

In respect of economic development, I have also noted that the Kimberley Development Commission has expressed support for aquaculture development in the region through its Regional Development Blueprint: *2036 and beyond: a regional blueprint for the Kimberley*, which identifies aquaculture as a priority and:

- in respect of infrastructure, proposes to "accelerate the expansion of regional aquaculture" and "facilitate development of aquaculture precincts where land and water resources are available in commercial proximity"; and
- in respect of services, proposes to develop the regional core aquaculture skills base to supply labour.

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 economic 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 Aarli Mayi.

A consideration which may be seen as a "detriment" is if the Department assumes an unduly onerous regulatory burden. The Department's regulatory burden is driven by statutory obligations to monitor and regulate activity.

In this case, due to the low risk posed by the proposed activities, and noting that the Department must not support activities inconsistent with the objects of the Act, I do not consider that a regulatory burden detracts from the conclusion that the grant of the application is in the better interests of the State.

Another relevant consideration would be whether the proposed waters of operation would be better applied to another use, thereby serving the "better interests" of the State and the community to a greater extent. For example, if an alternative use of the proposed area delivered far greater economic benefits then that may be a reason supporting a conclusion that it is not in the better interests to authorise aquaculture of barramundi. These matters are not relevant in this case because the waters that are the subject of the variation are within the KADZ and the purpose of the KADZ is specifically marine finfish aquaculture.

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. Disease and pests
2. Genetics and interbreeding
3. Aquaculture gear
4. Environmental impact
5. Visual amenity and noise pollution.

1. Disease and pests

I do not consider the introduction of "pests" to be an issue because the proposed operations do not involve introducing untreated seawater from exotic locations to the area or the introduction of any species other than barramundi and other native finfish species to the water; therefore, the main consideration is the risk of disease.

With respect to disease, there are two scenarios to consider: firstly, that disease may be introduced into the natural environment through barramundi that may be carrying the disease; secondly, that a disease outbreak may occur in the barramundi at the aquaculture site, caused by the conditions at the site.

a. Disease introduction

The accidental introduction of disease pathogens into Western Australia through the translocation of fishes can be a major concern, particularly in view of the State's relative freedom from disease. Adequate health testing and certification are consequently an essential element of any translocation policy.

Aarli Mayi will source its barramundi for this site at the larval or early juvenile stage from a licensed hatchery within Australia, possibly from the Kimberley Training Institute in Broome ("KTI"). These hatchery-reared fish may then be transported to a separate licensed nursery for on-growing to a size of 50 grams before being transferred to the grow-out farm within the site in the KADZ. [redacted] These hatchery and nursery facilities will be required to operate under biosecurity controls imposed through licence conditions and a MEMP, which includes a biosecurity plan. 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 am aware that hatchery-reared barramundi have been moved to a separate licensed aquaculture facility in Cone Bay for at least the past seven years, generally according to methods similar to those outlined above, and over that period there have been no records of disease outbreaks or of disease being introduced from farmed animals into natural populations.

Therefore, I consider the risk of disease being introduced to Cone Bay 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 and from the site.

b. Disease development in situ

I am aware that barramundi aquaculture has been carried out at a separate, licensed site in Cone Bay for over seven years and that over that time there have been no reported disease incidents.

I am also mindful of the disease management requirements set out in the Management Policy, which include disease incident reporting requirements. The Management Policy forms part of the MEMP, compliance with which is a requirement under the Act.

I have also noted the requirement under the Management Policy for a one-kilometre spatial separation distance between leases owned by different companies or other legal entities. This requirement is principally aimed at reducing any potential biosecurity risks for operators within the KADZ.

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

2. Genetics and interbreeding

FMP 159 considers matters related to genetics and interbreeding for barramundi aquaculture and stock enhancement and notes that barramundi translocated for aquaculture purposes will usually be genetically different from natural populations; however, farmed fish are normally contained within sea cages where the chances of escape can be controlled and minimised. Methods for preventing or minimizing escapes include the use or a separate predator net and, or, the use of mesh resistant to predators.

FMP 159 acknowledges there may be a minimal degree of risk in allowing the translocation of what may be a different genetic stock; however, this risk must be balanced against the significant economic and social benefits that would ensue from the establishment of a barramundi farming sector in regional Western Australia.

Therefore, I consider the likelihood of escapes can be prevented or minimised through the imposition of licence conditions requiring maintenance of aquaculture gear. The risk of interbreeding of hatchery-reared barramundi and wild stocks is acceptable and unlikely to have any detrimental impact.

3. 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

The production system proposed to be used at the site will comprise floating sea cages deployed in a grid suspended above the sea bed. The only component of the aquaculture gear on or in the sea bed will be the anchoring system, which will be positioned to avoid any contact with reefs or identified sensitive benthic habitats.

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

The proposed aquaculture activity involves introducing a series of sea cages and associated infrastructure. Generally, a financial security in the form of a bond or bank guarantee is provided by a licence or lease holder to provide for clean-up and rehabilitation of aquaculture sites in the event of a cessation of aquaculture activity.

In this case, the matter of a financial security is addressed in the lease.

If a lease is terminated or expires, s.101 of the Act also 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 the site and seek to recover the cost of doing so from the former lease holder (assuming the former lease holder is solvent).

One option to provide for the possible removal of aquaculture gear is to require Aarli Mayi to provide a financial security through a bond or bank guarantee for an amount sufficient to cover the entire estimated cost of cleaning up and rehabilitating the site if the business ceases to operate. I consider it unreasonable to require such a bond or bank guarantee to cover the entire area at the outset, since the requirement for such a guarantee may significantly impact upon the development of the business.

The intended security for the removal of the aquaculture gear therefore should be a bank guarantee, which would be given effect through the lease deed and with the quantum increasing over time and generally in line with Aarli Mayi's aquaculture development plan.

I have also noted that Section 6 of the KADZ Environmental Monitoring and Management Plan ("EMMP") provides a decommissioning plan in the event the operation is discontinued.

Therefore, I consider that there is minimal risk of the aquaculture gear being left on the site if the aquaculture operation ceases, as long as the lease deed requires the provision of a bank guarantee. I intend to advise the Minister of this as part of the Minister's consideration of the application for a lease over the relevant area.

4. Environmental impact

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

The Strategic Proposal to create the KADZ identified three key environmental factors:

- benthic communities and habitat;
- marine environmental quality; and
- marine fauna.

The assessment of these factors, including their potential impact, proposed mitigation and management measures and predicted outcomes, is provided in detail in the API Document, which the Department developed through the strategic assessment process for the KADZ.

I have read the API Document and, in respect of benthic habitats and water quality factors, noted the conclusion that the establishment of marine finfish aquaculture in the KADZ is not expected to cause any significant environmental impact, due to:

- the physical features of the area and the high rates of tidal water exchange that are sufficient to dilute and disperse nutrients before they are assimilated by the ecosystem; and
- the adaptive management controls the Department has developed for the KADZ and the aquaculture operations that may be located within it.

In respect of marine fauna, I have noted that Cone Bay is not recognised for a particular ecological value for significant marine fauna and it is not used by migrating or nursing whales and does not have any known turtle rookeries; consequently, the diversity, distribution and viability of fauna is not predicted to have any significant impact as a result of aquaculture activity.

Therefore, I consider that the matter of environmental impact has been fully addressed in the API document and sufficient environmental monitoring and management controls provided in the EMMP.

5. Visual amenity and noise pollution

I have noted the position in the API Document that, due in part to the remote location of the site, 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. Among other information such as the species of fish to be farmed,

the location of the site and the farming method, the MEMP provides details of environmental monitoring and management and biosecurity.

The MEMP Guidance Statement is at:
http://www.fish.wa.gov.au/Documents/Aquaculture/memp_guidance_statement.pdf

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.

In respect of aquaculture activity within an aquaculture development zone, the MEMP expressly includes the:
- MEMP document;
- Ministerial Statement or Notice issued by the Minister for Environment;
- Department of Fisheries EMMP for the zone; and
- Department of Fisheries Management Policy for the zone.

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

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 Aarli Mayi an aquaculture licence exists in this case.

I have noted that the Aarli Mayi application, which requests the grant of access to approximately 400 hectares (and an annual production limit of 5,000 tonnes), was not the only application made for a site in the KADZ. An application was made by a separate company to vary its existing aquaculture licence. The areas applied for do not overlap and hence the applications are not considered competitive.

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) Biosecurity (genetics and disease risk)
(b) Environmental impact
(c) Impact on compliance and resourcing
(d) Limitation on access to the proposed waters
(e) Impact on navigation
(f) Impact on recreational fishing
(g) Impact on commercial fishing and other commercial activities including tourism

(a) Biosecurity

I have considered the issue of genetics earlier at part 3.1(d)(1) of this decision, including interbreeding, and concluded genetics issues will be unlikely to have any detrimental impact.

The potential consequences of a disease outbreak include possibly serious economic impacts on the wild-stock and recreational fishers, as well as a consequential impact on the aquatic ecosystem generally; there is unlikely to be any potential impact on the pearling sector or other aquaculture licence holders.

Once present in the water column and under suitable conditions, disease-causing organisms have the ability to spread; therefore, if a disease outbreak occurs and pathogens are released into the water, it is generally difficult to control or treat the disease, which generally has to run its natural course. Biosecurity controls are therefore needed to prevent the introduction of pathogens into the environment and to minimise the risk of diseases developing at the site by not permitting

operations to be conducted so as to predispose organisms on the site to develop disease (so preventing or minimising predisposing factors).

I have considered the issue of disease introduction earlier at part 3.1(d)(2) of this decision and concluded sufficient controls will be in place and so that this issue will be unlikely to have any detrimental impact.

There can also be a requirement for disease testing on stock held in the marine farm. This approach ensures a high level of confidence in the ability to detect known disease agents.

I am aware that there have been no reported disease events in the barramundi grown under a separate licence in Cone Bay. I note that from time to time the Principal Research Scientist Fish Health 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 risk assessment. A licence condition will be imposed to enable the Principal Research Scientist Fish Health to determine these requirements for disease testing.

Given the biosecurity protocols in place and the controls imposed, or that may be imposed, over the movement of the barramundi and other fish species, I consider the threat of disease being introduced to Cone Bay is low.

In respect of the other marine finfish species to be added to the Licence, I note that any movements to the site will require a translocation authorisation, which would deal with matters including disease. I consider the threat of disease being introduced to Cone Bay by the marine finfish species added to the Licence is low.

I have noted that, in respect of disease developing at the marine farm, the key mitigation and management strategies preventing disease outbreak are set out in the “Zone Biosecurity” section of the Management Policy. These biosecurity procedures must include (but are not limited to):

- record keeping (such as translocation approvals, health certificates, disease management records, fish escape reports, unusual mortality reports, internal and external stock transfers, facility and stock inspections, facility access records for staff and visitors);
- routine maintenance, disinfection and inspections of aquaculture gear and vessels;
- biosecurity emergency procedures;
- disposal of waste (such as dead, diseased, contaminated or infected fish);
- disease testing protocols and quarantine; and
- management of fish escapes.

The Management Policy outlines disease management strategies that will be implemented to minimise the risk of a fish disease outbreak. The Management Policy provides that, in addition to the procedures and protocols outlined in individual MEMPs, licence holders must comply with minimum requirements that include:

- fish stocked being of a species that occurs naturally within the Pilbara and Kimberley regions (a condition of the Ministerial Statement);
- the requirement for all stock to be certified disease-free and accompanied by a health certificate issued by the Department before being moved into the zone;
- a stock health surveillance program and quarantine procedures being implemented; and
- a biosecurity manager being appointed to ensure biosecurity measures are implemented.

I have also noted the Management Policy sets out actions the licence holder must take in the event of a disease outbreak, in addition to the disease reporting requirements that are stipulated in the FRMR; namely, r.69(d), (e), (f), (g) and (h).

I have given consideration to the disease management strategies outlined in the Management Policy, in addition to the other controls that are in place, and concluded that the risk of introduction of disease to the site, and the risk of disease outbreak at the site, is low.

Finally, in respect of biosecurity, I have noted that any suspected escape of a significant number of fish (more than 100) from aquaculture gear, or circumstances that may give rise to a significant risk of escape, must be reported to the Department within 24 hours. This will be imposed as a condition on the licence.

To address the risk of disease development *in situ*, additional testing of barramundi at the farm site in Cone Bay can be required through a licence condition.

In summary, 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 through the Management Policy and licence conditions.

(b) Environmental impact

The strategic environmental impact assessment process for the KADZ involved a comprehensive analysis of baseline environmental data, extensive field studies and environmental modelling. In addition to significantly enhancing the scientific understanding of the Kimberley marine environment, these studies concluded that the proposed aquaculture activity in the KADZ will not have any significant impact on the environment.

The baseline data obtained from the studies, together with the EMMP and the Management Policy, will ensure any impacts that may occur will be managed effectively.

Given the range of production scenarios modelled across the KADZ, I am of the view that any future aquaculture proposals 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

(c) Impact on compliance and resourcing

I note that licence conditions are generally imposed 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.

(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) The possible 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 4 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.

(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 could still be carried out in the area where aquaculture is carried out.

(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 could still be carried out in the area where aquaculture is carried out.

4.2 Potential advantages of a new licence

The potential advantages of the new licence are:
(a) Suitability of the location for aquaculture
(b) Very 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. The history of successful barramundi aquaculture undertaken by a separate company in Cone Bay suggests the site is suitable for that purpose. In its application, Aarli Mayi has provided justification for the area applied for.

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

- the physical features of the site satisfy the biological requirements for barramundi aquaculture;
- [redacted]
- the anchoring system used to deploy the sea cages used for grow-out would be located on muddy and sandy sea bed, not on sensitive benthic habitats;
- the sea cages would only occupy an area equivalent to approximately one per cent of the proposed lease area and the Moderate Ecological Protection Area ("MEPA") that surrounds each group of sea cages will occupy a maximum of one third of the lease area at any time;
- the area applied for is large enough for the establishment of a significant aquaculture business, with a production limit of 5,000 tonnes per year;
- the location of the area granted under the licence is such that, subject to securing the necessary environmental approval, the area may be increased to support future production growth;
- the area is remote from major rivers and hence not prone to impacts from flood events, reducing the potential for stress and ensuing mortalities; and

- the site is reasonably well sheltered from prevailing winds, offers some protection from open ocean swell and, importantly, is one of the few sites in the Kimberley Region that affords some degree of protection from tropical storms.

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

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

The granting of an aquaculture licence over an area of water does not confer any exclusivity over that area to the licence holder. Other users, including commercial and recreational fishers, may still have unimpeded access to the area.

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

I have read the API Document and noted that the proposal was developed in consultation with a range of stakeholders including indigenous groups, environmental and conservation organisations and Local and State Government authorities. In particular, consideration was given to the WA Government's "Kimberley Science and Conservation Strategy", which was developed to ensure the region's natural and cultural values are protected as the region fulfils its economic potential.

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 noted the education and training strategy outlined by Aarli Mayi in its application and that the aquaculture business will provide substantial employment opportunities for local people.

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

The KADZ is located within the boundaries of two Native Title claims: the Dambimangari and the Mayala. The Dambimangari Native Title claim was determined by the Federal Court of Australia on 26 May 2011, while the Mayala claim was registered with the National Native Title Tribunal on 15 June 1999. The Mayala Native Title claim has yet to be determined by the Federal Court.

Representatives of both these Native Title claimants were consulted and involved in the development of the KADZ. To date, no significant issues relating to the implementation or on-going management of the zone have been raised by these Native Title claimants with the Department of Fisheries.

The Dambimangari and the Mayala Native Title claims respect the validly granted rights and interests of the holders of aquaculture licences and leases granted under the Act and are not in conflict with those rights and interests. Consequently, this application to vary an aquaculture licence has 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.

4.3 Other matters the CEO has the discretion to consider

I will now address four other matters aspects relating to the application; namely:

(a) the principles the Department will use to assess applications for licence and leases within the KADZ, with reference to the creation of the KADZ under the *Environmental Protection Act 1986* (“EP Act”);
(b) the reduction in area available for lease as a consequence of the requirement for spatial separation between sites and a buffer between the lease and zone boundaries for biosecurity and environmental purposes;
(c) the commercial viability of the proposed activity; and
(d) productive use of the site.

(a) The principles the Department will use to assess applications for sites

The creation of the KADZ involved environmental assessment of the whole zone as a Strategic Proposal under Part IV of the EP Act. Approval of the Strategic Proposal enables existing and future aquaculture operators to refer project proposals to the Environmental Protection Authority as a Derived Proposal, thereby simplifying an otherwise protracted and costly process. This process greatly reduces the investment risk and cost of large-scale aquaculture in WA.

The Government does not propose to recover the cost of establishing the KADZ from current or future operators within it; however, the Government does recognise the KADZ as a valuable resource established with public funding and consequently that the allocation of licences and leases within the KADZ must be made in accordance with the Act, subordinate legislation, and the Fisheries Occasional Publication 127 – *Aquaculture Zones in Western Australia – Policy Principles Relating to Considerations for Aquaculture Licence and Leases* ("FOP 127").

FOP 127 identifies the matters and principles the Department will consider when assessing applications for licences and leases in a declared aquaculture development zone, including in the KADZ, and the process it will use to do so. The key principles are to ensure a transparent and equitable assessment process for applications; and that licences and leases are granted to persons who demonstrate they have the capacity and ability to achieve the optimum economic and social benefit from the resource in an environmentally sustainable manner. FOP 127 states that applications that meet the criteria set out in s.92(1) will then be further assessed on merit, and consideration will likely be given to matters such as business viability, business capability and biosecurity issues.

(b) The reduction in the area available for lease

Within the KADZ, under the Management Policy:

- to ensure acceptable levels of ecological protection are met, new leases must have a buffer of 50 metres between the lease boundary and the zone boundary; and
- to reduce any potential biosecurity risks, the minimum spatial separation distance between leases owned by different companies or other legal entities is one kilometre.

The above requirements have the effect of reducing the overall area available for lease within the KADZ to less than 1,300 hectares, particularly where there is more than one operator and hence a requirement for a one-kilometre-wide spatial separation area in which no aquaculture will be permitted. The Department received two separate applications for sites in the KADZ. In total, the applications sought the full area available; these areas do not overlap but are adjoining. In this case, it is therefore reasonable for the one-kilometre-wide area required for spatial separation to be divided equally between the two areas.

Aarli Mayi has applied for an area of 400 hectares. The application is therefore being assessed on the basis that the area available for use in the KADZ will be reduced, to accommodate half the spatial separation area required and the 50-metre buffer. The area being considered for the application is therefore 367 hectares. The boundaries of the site are provided in the map at Attachment 1.

The Ministerial Statement issued by the Minister for Environment approves the 2,000-hectare KADZ for a maximum production of 20,000 tonnes of fish per annum. There is no requirement for production to be distributed evenly across the entire area; in fact, production is restricted to a “floating” (i.e. moveable) Moderate Ecological Protection Area (“MEPA”) that occupies one-third of the lease area at any one time.

Further, environmental monitoring will ensure compliance with the environmental guidelines and standards applicable to the KADZ strategic approval; consequently, there is no reason why the approved production limit for the zone should be reduced as a result of a reasonably small reduction in the area of the zone actually available for lease.

Using this rationale, the lease area of 367 hectares may still be approved for the production of the quantity of fish applicable to a larger lease, had the area not been reduced for biosecurity and ecological protection requirements.

As a result, subject to it meeting the relevant environmental guidelines and standards, the 367 hectare lease area will enable the production of 5,000 tonnes per year.

(c) The commercial viability of the proposed activity

In part 3.1(a) above, I noted that Aarli Mayi’s aquaculture project is currently at the preliminary feasibility stage and that, subject to the licence being granted, the project will then proceed through a bankable feasibility to securing funding and subsequently to full implementation. I therefore recognise that Aarli Mayi is not yet in a position where it can provide a detailed analysis of investment feasibility that is based on past performance. Instead, the Company has provided a preliminary, projected cash flow, profit and loss statement and balance sheet.

The figures provided by Aarli Mayi appear to be based on realistic assumptions in respect of the key parameters of survival, growth rate and food conversion efficiency.

I have noted that the projected growth rate of the project may be optimistic in assuming that the full production of 5,000 tonnes per year will be achieved by the sixth year of operations; however, I am prepared to accommodate the possibility that inherent risk and uncertainties associated with the start-up project may result in delays, including a requirement for slower, incremental production growth rate than that proposed in the application.

I have also noted that Aarli Mayi's future financial viability and ability to implement its aquaculture project will be dependent on its ability to raise significant finance.

(d) Productive use of the site

It is in the interests of the State for aquaculture sites to be productively used by the relevant licence or lease holder; this is particularly true for sites in aquaculture development zones established as a result of significant investment by the State. As State waters are a community resource, it is also in the best interests of the community for aquaculture activities conducted in those waters to be used productively. This reflects the aim to achieve the optimum economic, social and other benefits from the use of fish resources under s.3(2)(e) of the Act.

As such, I have assessed the capability of the applicant, to ensure the most productive use of the site that will be authorised under the licence.

In respect of productive use of the site, I have considered the information Aarli Mayi provided in its application and the summary of commercial viability set out in part 4.3(c) above.

I consider the productive use of the site for aquaculture activities to be a significant factor in my decision to grant the licence.

On the basis of the representations from Aarli Mayi, I am satisfied that the Company's use of the site will be productive.

It is my intention to introduce reasonable performance criteria for this operation, based on:
1. the representations made by Aarli Mayi in its application; and
2. the State and community interest in ensuring the productive use of State waters.

The minimum level of performance for a lease will be 70% of the predetermined and agreed levels of development and agreed timeframes.

It is my intention to advise the Minister that any associated aquaculture lease for the site includes performance criteria as conditions on the lease to ensure productive use of the site occurs. I intend to recommend to the Minister that any such aquaculture lease provides for termination of the lease if the specified performance criteria are not met by the licence holder.

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 issues such as the provision of a bank guarantee have been complied with.

- Aquaculture method and gear

Conditions in respect of aquaculture method and gear provide controls over the deployment of sea cages, the materials used in their manufacture and anchoring systems. These controls are set out in the Management Policy, compliance with which is a requirement of the MEMP.

- Health management and certification

Conditions dealing with health management and certification will minimise the risk of introduction of disease, by ensuring each group of fish 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 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, controls over the disposal of biological waste materials and the management of fish escapes.

As Aarli Mayi would not have exclusive possession of the site and waters, an officer of the Fish Health Section of the Department or a Fisheries Management 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 and routine 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 barramundi 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 Fish Health.

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 part 4.1(e) above.

- Environmental monitoring

Conditions in respect of environmental monitoring and reporting are set out in the EMMP. Compliance with the EMMP is a requirement of 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

(1) In the conditions on this licence –

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

Principal Research Scientist 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 Fish Health;

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;
- Department;
- record.

2. Requirement for aquaculture lease to authorise activity

(1) The licence holder must make every reasonable endeavour to obtain an aquaculture lease from the Minister for Fisheries in respect of the site before 31 December 2016.

(2) The licence holder must ensure that fish are not stocked or cultured at any area of the site unless the licence holder is authorised under an aquaculture lease to occupy or use that area of the site for aquaculture.

3. Use of sea cages

The licence holder must ensure that fish are cultured in floating sea cages either anchored to the sea bed or secured within a grid system anchored to the sea bed.

4. Aquaculture gear

The licence holder must ensure that all aquaculture gear used at the site, including sea cages, nets and grids, are maintained to meet the operational requirements set out in section 7.2 of the Department's *Kimberley Aquaculture Development Zone Management Policy* dated August 2015.

5. Source of stock

The licence holder must not source fish seed stocks from any hatchery facility unless that facility –

(a) is located in Australia; and
(b) is licensed in the relevant jurisdiction.

6. Inter-breeding and escapes

Where more than 100 fish escape from a sea cage within a 24 hour period, the licence holder must inform the Translocation Officer of the Department of the escape event within 24 hours of becoming aware of the escape event.

7. Movement of fish with approval

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

8. Health management and certification

(1) The licence holder must not move fish onto the site unless –

(a) the licence holder has submitted the request form provided by the Principal Research Scientist Fish Health to a Fish Heath Pathologist for the provision of a health certificate; and
(b) the licence holder has received a health certificate from a Fish Health Pathologist in respect of all fish being moved to the site; and
(c) where the licence holder has made a request under subparagraph (a) to a Fish Health Pathologist that is not an officer of the Department, the licence holder has received confirmation from the Principal Research Scientist Fish Health that a copy of a health certificate for those fish is in the possession of the Principal Research Scientist Fish Health.

(2) The licence holder must ensure that any fish moved to the site is accompanied at all times by a copy of the health certificate received under paragraph (1).

9. Disease testing

(1) The licence holder must ensure that disease testing of fish is carried out –

(a) during transport to or from the site; or
(b) while the fish is situated at the site,

as required by notice in writing from the Principal Research Scientist Fish Health.

(2) The testing carried out under paragraph (1) will be at the cost of the licence holder.

10. Biosecurity measures

(1) In addition to the requirements under regulation 69 of the *Fish Resources Management Regulations 1995*, the licence holder must undertake the actions required at paragraph (2) where the licence holder –

(a) suspects that any fish at the site are affected by disease; or
(b) becomes aware of any mortalities of fish at the site caused by, or potentially caused by, disease; or
(c) becomes aware of any signs of disease in fish at any part of the site.

(2) Where any of the circumstances in paragraph (1) arise, the licence holder must –

(a) immediately notify an officer of the Fish Health Section of the Department by telephone of the level of mortality or signs of disease; and
(b) confirm the notification given under subparagraph (a) by email to the officer of the Fish Health Section of the Department immediately after making the notification; and
(c) provide a written report detailing the facts and circumstances of the mortalities or signs of disease to the Principal Research Scientist Fish Health within 24 hours of giving a notification under subparagraph (a); and
(d) provide a written report detailing the facts and circumstances of the mortalities or signs of disease to the Translocation Officer of the Department within 24 hours of giving a notification under subparagraph (a).

(3) The licence holder must provide –

(a) samples of fish and other things in accordance with any directions and requirements of the Principal Research Scientist Fish Health; and

(b) a completed mortality declaration form provided by the Principal Research Scientist Fish Health,

to the Principal Research Scientist Fish Health at such times as the Principal Research Scientist Fish Health requires.

11. Record keeping

(1) The licence holder must make accurate and timely records of –
- (a) the individual numbers of each of the sea cages used at the site;
- (b) the movement of fish to each sea cage, including –
  - i. the number and average weight 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 number and weight of fish being kept in each sea cage at the site;
- (d) the number and weight of fish harvested from each sea cage 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 Fish Health Pathologist.

(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.

12. Providing information to Principal Research Scientist Fish Health

(1) The licence holder must provide the data recorded under condition 12(1) to the Principal Research Scientist Fish Health in response to a request from the Principal Research Scientist Fish Health for such information.

(2) The licence holder must provide the data requested under paragraph (1) in a form approved by the Principal Research Scientist Fish Health.

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, subject to the grant of a new aquaculture lease by the Minister discussed in part 3(1)(b) of this statement and subject to the grant of a Derived Proposal by the Minister for Environment under s.45A of the EP Act, I have decided to grant a new aquaculture licence to Aarli Mayi Aquaculture Project Pty Ltd, under s.92 of the Act, for an area of 367 hectares within the KADZ in Cone Bay authorising the aquaculture at the site of the marine finfish species listed in part 1 of this Statement. I have also decided the Licence will authorise the production of not more than 5,000 tonnes (whole weight) of the authorised marine finfish species over any 12-month period.

I have also decided to 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
DIRECTOR GENERAL
As Chief Executive Officer

Dated this 29TH day of June 2016

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.*

CONE BAY
AARLI MAYI AQUACULTURE PROJECT PTY LTD
AQUACULTURE LICENCE APPLICATION - SITE PLAN

ALL THAT PORTION OF TERRITORIAL LAND & WATER WITHIN THE BOUNDARY DESCRIBED AND COLOURED GREEN ON THE PLAN BELOW COMPRISING A TOTAL AREA OF 367 HECTARES