

STATEMENT OF DECISION

APPLICATION FOR THE GRANT OF AN AQUACULTURE LICENCE

File Number: L34/20
Applicant: Abrolhos Grown Pty Ltd
Application Date: 2 February 2020
Application Type: Grant of an Authorisation

1 INTRODUCTION

Background facts

On 2 February 2020, Abrolhos Grown Pty Ltd ("Abrolhos Grown") (ACN 639 048 669) made an application to the CEO of the Department of Primary Industries and Regional Development ("Department") under s.92 of the *Fish Resources Management Act 1994* ("the Act"), for the grant of an aquaculture licence to culture various species of seaweed at three sites in the Abrolhos Islands. Abrolhos Grown has also made an application for an aquaculture lease for the same areas.

Details of the licence application

The application fee, a Management and Environmental Monitoring Plan ("MEMP") and additional information were submitted with the application.

In its application, Abrolhos Grown seeks to establish an aquaculture operation at three sites in the Pelsaert Island Group of the Abrolhos Islands. In the initial application, Abrolhos Grown sought three sites comprising areas of 1.345, 44.083 and 64.913 hectares, to grow the following species of seaweed (**Attachment 1**):

- *Caulerpa lentillifera*;
- *Caulerpa racemosa*;
- *Eucheuma denticulatum*;
- *Eucheuma gelatinum*/*Betaphycus gelatinus*;
- *Eucheuma speciosum*/*Betaphycus speciosus*;
- *Gracilaria canaliculata*;
- *Gracilaria preissiana*;
- *Gracilaria textorii*;
- *Ulva lactuca*;
- *Sargassum boryi*;
- *Sargassum decurrens*;
- *Sargassum distichum*;
- *Sargassum fallax*;

- *Sargassum ligulatum*;
- *Sargassum linearifolium*;
- *Sargassum podacanthum*;
- *Sargassum spinuligerum*; and
- *Sargassum tristichum*.

After considering feedback from industry and internal officers of the Department during the consultation phase, and to minimise any possible impact on nearby aquaculture operations, Abrolhos Grown significantly reduced the size of the proposed sites. The revised three sites comprise areas of 0.048 (previously 1.345), 4.252 (previously 44.083) and 9.946 (previously 64.913) hectares, respectively. **Attachment 2** provides a map of the revised sites.

2 COMPETENCE OF THE APPLICATION

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

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

- (a) the person is a fit and proper person to hold such a licence;*
 - (b) 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;*
 - (c) it is in the better interests of the State and the community to grant the licence;*
 - (d) the activities to be conducted under the licence are unlikely to adversely affect other fish or the aquatic environment;*
 - (e) the activities to be conducted under the licence have been approved by other relevant authorities;*
- the CEO may grant to the person an aquaculture licence.*

Accordingly, in deciding the application I will first consider the issues above; I will then consider s.92A of the Act – *Applicant for licence to have a MEMP*.

Subject to those issues being satisfied, I will then 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 Administrative Guideline No. 1 *Assessment of Applications for Authorisations for Aquaculture and Pearling in Coastal Waters of Western Australia* (“AG 1”).

AG 1 outlines a process that involves consultation with relevant Government agencies and representative community and industry groups and includes the

opportunity for public comment. The application was referred to all stakeholders and to any other groups that, in the opinion of the CEO, may have an interest in the proposal.

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

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

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

I will now consider each of these matters.

3.1 Criteria in s.92(1)

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

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

(a) "Fit and proper person"

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

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

I will now consider each of these matters in turn.

1. Knowledge

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

From the information submitted with the application, the directors of Abrolhos Grown have experience in the commercial fishing industry where they have worked in the west coast rock lobster managed

fishery. For the past 10 years, the proponents have been servicing the Abrolhos Islands as a building company where they have performed maintenance work and extensions on existing infrastructure and have built new dwellings, camps and jetties across the island groups. This has given them an understanding of the geography of the Abrolhos Islands and allowed them to develop relationships with other aquaculture operators in the area. Based on the information provided, I am of the view that Abrolhos Grown has the knowledge required to undertake the proposed aquaculture activity.

2. Honesty

The concept of "honesty" generally refers to matters such as history of compliance with fishery legislation, offences and convictions for falsifying returns. I have no reason to believe Abrolhos Grown does 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.

Abrolhos Grown provided a business plan based on future production as part of the application. The importance of business planning is critical because it offers a comprehensive plan of the overall project and provides the model or mechanism the applicant will use to direct resources to achieve the objectives. Importantly, for a project of this nature and level of complexity, the Department requires a business plan to enable it to evaluate the financial viability of the proposal, particularly in an environment that is not fully predictable.

The business plan, which Abrolhos Grown was required to produce as part of the 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 Abrolhos Grown 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 Abrolhos Grown has a clear understanding of the level of infrastructure and aquaculture equipment needed for the successful implementation of the proposed project. Abrolhos Grown 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, Abrolhos Grown 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” Abrolhos Grown, so Abrolhos Grown cannot authorise independent contractors or “lessees” to carry out aquaculture.

Based on my consideration of the matters set out above and the information that is before me, I consider Abrolhos Grown is “fit and proper” to hold a licence to conduct aquaculture of the proposed species at the proposed site in the Abrolhos Islands.

(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.

Abrolhos Grown has made an application for an aquaculture lease under s.97 of the Act. The lease application is being assessed simultaneously to the application.

Accordingly, I consider that Abrolhos Grown will have appropriate tenure over the proposed site.

(c) Better interests

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

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

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

The means of achieving this object include:

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

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

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

In relation to “benefits”, aquaculture in the Abrolhos Islands comprises a potentially significant and sustainable sector of Western Australia's aquaculture industry and

has the potential to expand. The proposed aquaculture activity will contribute to this expansion. Aquaculture activities provide a significant contribution to economies and food production throughout the world. Aquaculture activities also provide potential growth areas of food production compared to the traditional “fishing of wild stock” activities which are directly extractive of a natural resource.

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

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

With respect to detriments such as disease and impact on the aquatic environment, I consider that these are sufficiently considered below in relation to whether the proposed activities “are unlikely to adversely affect other fish or the environment”. To the extent that fish health certificates and other disease testing are required, being a major element of the biosecurity controls, these are generally to be paid for by Abrolhos Grown.

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

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

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

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

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

The main considerations for this criterion are –

1. Disease and pests
2. Environmental impact
3. Aquaculture Gear
4. 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 seaweed; 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 seaweed that may be carrying the disease; secondly, that a disease outbreak may occur in the seaweed 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.

The collection of broodstock may be authorised under exemption, which will be subject to conditions that deal with biosecurity and environmental risks. Biosecurity controls will also be 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 consider the threat of disease being introduced to the Abrolhos Islands generally to be low, given the biosecurity protocols in place under the MEMP and the controls imposed, or that may be imposed, over the movement of seaweed to and from the site.

b. Disease development in situ

I am aware that the site for the proposed operation is within an area considered unique and that includes habitats for wildlife that may be at risk from potential diseases. I note that Abrolhos Grown seeks to culture only species that are endemic to the Abrolhos Islands and produced from local broodstock. Therefore, any disease incident will most likely be caused by a pathogen that occurs naturally within the Abrolhos Islands.

In this regard, I am mindful of the biosecurity provisions set out in the MEMP and conditions to be imposed on the licence in respect of disease reporting requirements.

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 seaweed being grown at the site.

2. Environmental impact

I note that it is in the best commercial interests of Abrolhos Grown 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.

Seaweed broodstock will originate from within the Abrolhos Islands, thereby ensuring no exotic pathogens will be introduced to the area. I have also noted that seaweed produce no faecal matter and require no supplementary feed. Because no feed and hence no nutrients will be added, the culture of seaweed will therefore have minimal environmental impact ensuing from an increase in nutrient concentrations.

Visual underwater surveys will be conducted at the sites prior to and after the deployment of aquaculture gear, to assess any changes to the benthic environment.

Abrolhos Grown advised that all waste will be disposed of on the mainland. Waste management is covered in the MEMP.

During the consultation process, comments were raised in regards to depletion of natural stocks. To minimize impacts on the local environment, Abrolhos Grown will take cuttings from dense areas of the identified species. In order to reduce stress on local populations, less than a quarter of each plant will be harvested. Abrolhos Grown will also implement a rotational collection plan.

In respect of environmental impact, I have also noted comments from existing aquaculture licence holders that the proposed aquaculture activities would reduce nutrient levels in the aquatic environment and contribute to biofouling and weed build up on suspended culture at their site, potentially impacting on production. This matter is dealt with in section 4.1(e) below.

I consider that the risk of the proposed aquaculture activity having any significant impact on the environment is low and can be managed through the requirements of the MEMP and Licence conditions.

3. Aquaculture Gear

There are two aspects related 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

Abrolhos Grown will be trialling various types of culture methods such as benthic plots, fixed off-bottom systems, floating rafts and the "Vertikular" method.

During the consultation process, comments were raised in relation to the placement of aquaculture gear and coral reef shading at sites 1 and 2.

After consultation, Abrolhos Grown reduced the proposed area for sites 1 and 2. Site 1 has been reduced from 1.345 to 0.048 hectares and Site 2 from 44.083 to 4.252 hectares. The proposed sites were selected due to their benign benthos, which mainly consist of sand and rubble. Anchoring devices utilized by Abrolhos Grown will be placed on sandy substrate to avoid any damage to sensitive benthic habitats. As such, the risk of coral reef shading or damage to any sensitive benthic communities is considered low.

I have noted the risk of entanglement to cetacean or other large marine mammals is considered low due to the shallow depth of the proposed aquaculture operation. Nonetheless, Abrolhos Grown will implement management strategies to protect marine fauna from potential interactions including entanglement. Staff will be trained to identify any potential interactions with marine fauna and will adhere to the Department of Biodiversity, Conservation and Attractions 'Marine Mammal Entanglement Plan' and the Western Rock Lobster Council's Code of Practice for reducing whale entanglements.

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

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

Therefore, I consider the removal of aquaculture gear can be managed through a licence condition and that there is a low risk of the aquaculture gear being left on the site if the aquaculture operation ceases.

4. Visual amenity and noise pollution

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

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

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

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

(f) Other matters prescribed

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

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

3.2 The MEMP

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

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

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

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

1. An overview of the aquaculture operation, including information on species and quantity of fish; location and areas of land or waters; and farming methods and aquaculture gear.
2. Environmental Management and Monitoring, including information on and details of baseline information; environmental monitoring parameters; the environmental monitoring program; and response thresholds and response protocols.

3. Impact on protected species and other aquatic fauna.
4. Biosecurity, including information on and details of general facility information; administrative biosecurity procedures; operational biosecurity procedures; and biosecurity incident and emergency procedures.

Abrolhos Grown has submitted a MEMP in respect of its application for an aquaculture licence (**Attachment 3**). I have considered the contents of the MEMP and am satisfied that Abrolhos Grown will manage environmental and biosecurity issues according to the standards contained in the relevant documents set out above.

As such, I approve the MEMP provided by Abrolhos Grown.

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 Abrolhos Grown an aquaculture licence exists in this case.

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

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

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

4.1 Potential disadvantages of a new licence

The potential disadvantages of the proposed new licence are:

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

(a) Environmental impact

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

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

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

(b) Impact on compliance and resourcing

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

(c) 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.

(d) Impact on navigation

The Department referred the proposal to the Department of Transport (Marine Safety), which recommended the sites be subject to marking and lighting in accordance with Category 2 for site 1 and 2 and Category 1 for site 3 as set out in the document *Guidance Statement for Evaluating and Determining Categories of Marking and Lighting for Aquaculture and Pearling Leases/Licences (2019)*. This can be dealt with under a standard licence condition.

(e) Impact on existing aquaculture licence holders

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

Abrolhos Grown has considered concerns in relation to impacts on existing aquaculture operations and reduced the size of their sites as follows:

- Site 1 has been reduced from 1.345 to 0.048 hectares;
- Site 2 has been reduced from 44.083 to 4.252 hectares; and
- Site 3 has been reduced from 64.913 to 9.946 hectares.

Abrolhos Grown has reviewed studies of the removal of inorganic nutrients from seawater by seaweed farms and noted that these deal with large-scale farming operations where farms can cover hundreds of hectares. Due to the small scale nature of Abrolhos Grown's proposal it is considered unlikely that existing aquaculture facilities will be significantly impacted by a reduction in nutrient concentrations.

I have also noted comments from existing licence holders in regard to Abrolhos Grown's aquaculture operation contributing to biofouling and weed build-up on aquaculture gear at their aquaculture facilities.

Abrolhos Grown will be cultivating species endemic to the area where they are already present in the water column. One of the growout systems being trialled will involve seaweed being contained in fine mesh bags or tubes to minimise any detachments. As such, the risk of biofouling and weed build-up, any greater than that which occurs naturally, at existing aquaculture sites is considered low.

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

(f) Impact on recreational fishing

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

(g) Impact on commercial fishing and other commercial activities including tourism

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

4.2 Potential advantages of a new licence

The potential advantages of the new licence are:

- (a) Suitability of the location for aquaculture
- (b) Low impact on other users of the resource

- (c) Potential economic benefits for the State
- (d) Contribution to ongoing development of science and knowledge of aquaculture
- (e) No impact on native title

(a) Suitability of the location for aquaculture

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

There are several 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 natural features of the site satisfy the biological and physical requirements for the aquaculture of seaweed;
- the sea bed at the site includes sandy areas where anchoring systems used to hold aquaculture gear in place will be located, thus avoiding any damage to more sensitive benthic habitats;
- the shallow nature of the site will minimise interactions with aquatic fauna;

I am of the view the reasons set out above suggest the location is suitable for the aquaculture of seaweed.

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

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

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

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

(c) Potential economic benefits for the State

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

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

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

Information generated from the expansion of aquaculture activities at the site would contribute to the ongoing development of the science and knowledge of 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 add to the information required by the Department for adaptive management.

(e) No impact on native title

The proposal was referred to the Department of Planning Lands and Heritage, which advised there is no impact on Native Title.

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

4.3 Other matters the CEO has the discretion to consider

I will now address one other matter relating to the application; namely, the 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. Because 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 productive. These principles reflect the aim under s.3(2)(e) of the Act to achieve the optimum economic, social and other benefits from the use of fish resources.

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 provided in the application.

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 Abrolhos Grown, I am satisfied that the 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 Abrolhos Grown 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. 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 relevant issues have been complied with.

- Marking and Lighting

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

- 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 Aquaculture and Fish Health.

- Biosecurity (including disease and pests)

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

As Abrolhos Grown would not have exclusive possession of the site, an officer of the Diagnostic Laboratory Services of the Department or a Fisheries and Marine Officer can enter the site at any time to inspect stocks.

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

stock will be likely to identify the presence of any disease-causing organisms. A level of routine testing should be undertaken on the recommendation of the Principal Research Scientist Aquaculture and Fish Health or the equivalent office.

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

- Environmental monitoring

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

- Compliance issues

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

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

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

1. Interpretation

- a) In the conditions on this licence –

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

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

DPIRD means the Department of Primary Industries and Regional Development.

Site means the area specified in Schedule 2 of the licence.

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

2. Requirement for appropriate tenure to authorise activity

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

3. Marking and Lighting

- a) Marking and lighting of the site must be installed and maintained in accordance with Category 2 for Site 1 and 2 and Category 1 for Site 3 as set out in the document "Guidance Statement for Evaluating and Determining Categories of Marking and Lighting for Aquaculture and Pearling Leases/ Licences (2019)".
- b) The marking and lighting required under paragraph (a) must be installed before any aquaculture activity is undertaken at the site.

4. Broodstock

The licence holder must:

- a) immediately upon bringing onto, or receiving at, the site any fish for the purpose of breeding for each species of fish, make a clear written record in duplicate of:
 - i. the date of bringing fish onto, or receiving fish at, the site;
 - ii. the specific geographic location where the fish came from
 - iii. for each species, the number of fish;
 - iv. the name and address of the person who took the fish; and
 - v. the specific authority by which the fish were taken (licence or exemption);
 - vi. the size of the fish (as determined by measuring the shell from edge to edge across the longest diameter);
 - vii. the sex of the fish (where possible); and
 - viii. any mortalities of breeding stock.
- b) within 48 hours of bringing onto, or receiving at, the site any fish, forward to the DPIRD Geraldton District Office the original written record made for the purposes of (a);
- c) keep broodstock originating from different locations in separate rooms at all times;
- d) keep broodstock of different species in separate tanks at all times; and
- e) keep clear and legible written records in respect of where all stock is placed; and
- f) notify a DPIRD Fisheries and Marine Officer at the DPIRD Geraldton District Office at least 48 hours prior to moving any broodstock to the site.

5. Health Management and Certification

- a) The licence holder must not move fish from the site unless –

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

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

6. Inspection

All fish are to be visually inspected for any sign of clinical disease or any material, significant or unusually high levels of mortalities. An inspection must be undertaken not more than one week after the previous inspection.

7. Disease Testing

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

8. Biosecurity Measures

Where the licence holder –

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

9. Record Keeping

The licence holder must –

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

10. 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.

11. MEMP Report

The holder of the licence must:

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

The conditions will be imposed by providing the Applicant with notice in writing, noting there is a requirement for a review period before giving effect to the decision.

I note that the aquaculture venture is a dynamic operation, not a static event, and in the event that varied or additional conditions become appropriate then those can be imposed in the future in accordance with the process in the Act.

DECISION

On the basis of the above, I have decided to grant an aquaculture licence to Abrolhos Grown Pty Ltd, under s.92 of the Act, for the aquaculture of various seaweed species at three sites within the Pelsaert Island Group of the Abrolhos Islands, comprising areas of 0.048, 4.252 and 9.946 hectares.

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



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

Dated this 16th day of November 2020

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*.