

## STATEMENT OF DECISION

### APPLICATION TO VARY AN AQUACULTURE LICENCE

**File Number:****Applicant:** Harvest Road Oceans Pty Ltd**Application Date:** 11 March 2022**Application Type:** Variation of an Authorisation

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

[http://www.fish.wa.gov.au/Documents/Aquaculture/sod\\_assessment\\_criteria\\_explanatory\\_notes.pdf](http://www.fish.wa.gov.au/Documents/Aquaculture/sod_assessment_criteria_explanatory_notes.pdf)

#### 1. DETAILS OF THE APPLICATION

##### Background facts

The Western Australian (“WA”) Government has invested in resources and infrastructure, including aquaculture development zones, as a means to grow and attract investment in the State’s aquaculture industry. The purpose of an aquaculture development zone is to provide an investment-ready platform that has all the requisite approvals already in place and therefore:

- reduces the length of time it will take to secure approvals and consequently realise the commercial benefits of an investment;
- significantly reduces the costs associated with obtaining the approvals; and
- provides clarity in respect of the terms and conditions of an investment.

Section 101A(2A) of the *Fish Resources Management Act 1994* (“Act”) provides for the Minister for Fisheries to declare an area of WA waters to be an aquaculture development zone.

A project undertaken by the Department of Primary Industries and Regional Development (“Department”) has identified areas in the Albany region suitable for establishment of a south coast aquaculture development zone.

The Albany Aquaculture Development Zone (“Zone”) has been declared in two stages:

- Stage One: an area in Oyster Harbour comprising approximately 500 hectares – declared in August 2020;
- Stage Two: areas in Shoal Bay (in Princess Royal Harbour) and Mistaken Island and Misery Beach (in King George Sound) comprising a total of approximately 300 hectares – declared in December 2021.

Following the declaration of Stage One of the Zone, the Department invited interested persons to make applications for aquaculture licences and leases within the Oyster Harbour area.

The Department received three applications for overlapping areas of waters within the Zone; these applications were considered competitive and assessed according to the relevant provisions of the Act and administrative guidelines including *Fisheries Occasional Publication No. 127, 2015 – Aquaculture Development Zones in Western Australia; Policy principles relating to considerations for aquaculture licences and leases*.

The assessment of each of the competing proposals included an independent review and appraisal of their respective technical and financial feasibilities

Following assessment of the applications, the Department held further discussions with each of the applicants in respect of possible variation of the boundaries of the areas applied for, to reach a reasonable outcome in respect of each application. In December 2021 the three applicants, including Harvest Road, the subject of this Statement of Decision, confirmed written acceptance of alternative areas.

#### Details of the Licence variation application

Harvest Road Oceans Pty Ltd (“Harvest Road”) (ACN 165 170 445) is the holder of Aquaculture Licence No. 1425 (“the Licence”), which authorises an area of 174 hectares in Oyster Harbour, within the Zone area. The licence authorising the use of that area pre-dates the declaration of the Zone.

The Licence authorises the culture of the following species:

- blue mussels (*Mytilus galloprovincialis*)
- flat oyster (*Ostrea angasi*)
- Western rock oyster (*Saccostrea* spp.)

On 23 September 2020, Harvest Road made an application to the CEO of the Department under s.142 of the *Fish Resources Management Act 1994* (“the Act”), for the variation of its Licence. As described above, the area applied for was subsequently amended following discussion with Harvest Road.

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

Harvest Road already holds a Licence in the area; therefore, the application will be processed as a variation of its Licence.

In its application as amended, Harvest Road seeks additional area in the Oyster Harbour portion of the Zone. The application to vary the Licence seeks an additional area of 148.45 hectares. Subject to the grant of the variation, the site authorised under the Licence will comprise a total of area of 322.45 hectares in the Oyster Harbour area of the Zone.



**Attachment 1** provides a site map, which shows the Zone, the existing sites occupying 174 hectares and the additional 148.45 hectares accepted by Harvest Road, to comprise a total area of 322.45 hectares.

## 2. RELEVANT CRITERIA TO BE SATISFIED

The operations of aquaculture licence holders in the Zone will be directed by the Albany Aquaculture Development Zone Management Framework ("Management Framework"). The Management Framework is an operational document, which the Department developed principally to identify, manage, and mitigate risks of environmental impact that may be associated with aquaculture to safeguard environmental values.

The Management Framework also provides the opportunity to take advantage of new knowledge as it becomes available. The aim is to reduce the level of uncertainty over time through a continuous cycle of monitoring, reporting, evaluating and implementing any necessary changes. In this way, the decision-making process meets current resource management objectives while providing for continuous improvement within an adaptive management structure.

The process to establish the Zone included a comprehensive consultation process, which was undertaken with regard for the process set out in Administrative Guideline No. 1 *Assessment of Applications for Aquaculture and Pearling in Coastal Waters of Western Australia* ("AG1"); that is, with relevant Government agencies and representative community and industry groups and included the opportunity for public comment. **Attachment 2** provides a summary of the consultation process.

Once all licences have been granted within the Zone, the Department will establish a forum for community stakeholders and aquaculture industry members to provide a communication channel to the Department throughout the implementation and operational phases of aquaculture projects in the Zone.

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

The scope and extent of the consultation process undertaken for the Zone exceeded that which would normally be required under AG 1. I am therefore of the view that the consultation undertaken for the establishment of the Zone is taken as consultation on the application, so additional consultation is not required.

On the basis of the Explanatory Notes, s.142(1)(a) of the Act provides for an authorisation to be varied and that the matters in s.92 and s.92A of the Act require consideration.

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").

## 2.1 Criteria in s.92(1)

### (a) *“Fit and proper person”*

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

- Knowledge

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

- Honesty

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

- Ability

The business plan, which Harvest Road was required to produce as part of its application, provided financial information on assets and liabilities and cash flows based upon future production.

The Department appointed an independent financial consultant with experience in aquaculture to assess Harvest Road’s business case supporting its application. The consultant concluded that, among other matters, the Harvest Road proposal:

- presents reasonable and defensible financial projections, including estimates of start-up costs, asset acquisition and maintenance, liabilities and cash-flow;
- demonstrates awareness of business start-up requirements, and that the applicant is an experienced aquaculture operator; and
- evidence that the applicant is an established aquaculture business and considered suitably qualified to carry out the proposed business, having demonstrated success in other aquaculture ventures.

Based on the information provided, I have no reason to believe that Harvest Road would not have the capacity to raise the finance needed to the establishment and operation of the project.

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

The proposal demonstrates good knowledge of the biology and culture of the species selected and adequately considers the production efficiencies.



With respect to the matter of persons acting on behalf of the licence holder, Harvest Road is a company and accordingly must act through natural person agents. These persons are the officers (such as directors) and employees of the company. The Licence does not expressly authorise persons to act "on behalf of" Harvest Road, so Harvest Road cannot authorise independent contractors or "lessees" to carry out aquaculture. Harvest Road has been an established company for some years, so can be assumed to understand relevant principles of agency.

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

***(b) Tenure***

Harvest Road has made an application for an aquaculture lease under s.97 of the Act in respect of the total area authorised under the Licence and the added area that is the subject of this variation to the Licence.

The area applied for is within the Oyster Harbour area of Zone, which was declared for the purpose of aquaculture; the intent of the Minister in declaring the Zone was clearly to issue leases for that purpose. There is no reason why a lease would not be granted.

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

***(c) Better interests***

Aquaculture in Oyster Harbour and the broader Albany Aquaculture Zone comprises a significant and sustainable sector of Western Australia's aquaculture industry and has the potential to expand. Further investment and growth of this industry sector in the Zone will facilitate this expansion. Adding the proposed area to Harvest Road's Licence will further contribute to the State's economy and provide increased community benefits such as employment opportunities and economic diversification.

Economic benefits to the region are largely attributed to the appointment of local suppliers, service providers and employees.

The proposal indicates engagement with a broad range of community stakeholders and Harvest Road has appointed a Community Engagement Manager who is based in Albany.

The proposal demonstrates consideration of the interests of Traditional Owners by virtue of developing employment opportunities for Aboriginal people. Harvest Road has a clearly stated strategy to employ local workers, including opportunities for Aboriginal employees.

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

By reason of the above considerations, I am of the view that the grant of the application to vary the Licence 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***

The main considerations in respect of whether the proposed activities will adversely affect other fish or the aquatic environment are discussed below.

*1. Genetics, disease and pests*

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

In respect of diseases and pests, Harvest Road's aquaculture business operates under controls imposed through Licence conditions and a MEMP, which includes biosecurity protocols and procedures. These controls are based on the requirement to demonstrate low risk of disease and pest introduction and spread.

*a. Disease introduction*

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

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

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

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

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

*b. Disease development in situ*

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



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

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

## *2. Aquaculture gear*

### *a. Impact of the aquaculture gear*

In its MEMP, Harvest Road provides information on the proposed aquaculture gear in intertidal and subtidal areas. The MEMP notes that information regarding farming methods and equipment is indicative and may change following advancement in technique and technology; as would be expected in a developing and innovative industry. The proposed aquaculture gear would have limited impact on the benthic habitats.

I note that Harvest Road and other licence holders in the Zone would be required to operate according to requirements set out in a Management Framework, which include specific provisions in respect of aquaculture gear. In particular, I note the requirement for all aquaculture gear to be used in such a way that it does not cause significant and permanent damage to any reef, coral or seagrass bed.

To afford a “soft start” and assist in the sustainable management of bivalve stock in the Oyster Harbour area of the Albany Zone, I have noted that in new culture areas Harvest Road (and other licence holders) will be required to deploy lines with a minimum 20-metre spacing between each sub-tidal floating line and minimum 10-metre spacing between each inter-tidal row. For clarity, this spatial restriction will only be applied to licences granted following the declaration of the Albany Zone; it will not be applied to sites for which licences were granted before the declaration of the Albany Zone.

In addition, before installing any new aquaculture gear at the approved site, Harvest Road will be required to obtain the Department’s approval of the proposed site development plans.

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 Management Framework for the Zone requires Harvest Road to develop a rehabilitation plan, to outline actions that will be taken if decommissioning is required.

In the event of a major storm that results in damage to aquaculture gear, Harvest Road will be responsible for retrieving any infrastructure and equipment damaged or adrift.

If its lease is terminated or expires, Section 101 (1) of the FRMA allows the CEO to direct Harvest Road to clean up and rehabilitate the former leased area and s.101(2) allows the CEO to complete clean up and rehabilitation works and recover reasonable costs from those works.

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

### *3. Environmental impact*

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

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

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

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

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

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

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

S.92(1)(d) requires the CEO to be satisfied that the proposed activities have been approved by relevant authorities.

Following consultation with the Department of Water and Environmental Regulation, the Department determined to not refer the project to the Environmental Protection Authority for formal assessment, on the basis that the aquaculture projects would not lead to significant environmental impact and Department has sufficient statutory powers to manage and mitigate any likely impacts of aquaculture activities.



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 the criteria in s.92(1) of the Act, in respect of the variation application.

## **2.2 The MEMP**

Harvest Road has an approved, existing MEMP in respect of its Licence. That MEMP has been amended to apply to the activities proposed under the variation to the Licence and to comply with the relevant requirements of the Management Framework.

As such, I approve the MEMP provided by Harvest Road (**Attachment 3**).

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

## **3. DISCRETION TO VARY – MERITS OF THE APPLICATION**

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

### **Potential disadvantages of variation**

**(a) Genetics, diseases and pests**

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

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

To address the risk of disease development *in situ*, additional testing of the proposed species at the farm sites in the Oyster Harbour area of the Albany Zone can be required through licence conditions.

I have noted the issue cannot be about eliminating all risk; otherwise, aquaculture operations in the marine environment would not be able to proceed. That is contrary

to the object and operation of the Act. The task, therefore, is to reduce the risk of disease outbreak to an appropriately low level by identifying and assessing biosecurity, environmental and other risks and implementing management strategies and controls to reduce the risks. This is addressed primarily through biosecurity controls imposed through the MEMP and licence conditions.

***(b) Environmental impact***

The MEMP provides an environmental monitoring program consistent with the Management Framework, 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.

Guided by the Management Framework, Harvest Road's MEMP provides information on information on environmental monitoring and management and how environmental impact will be dealt with.

Among other things, the MEMP focuses on matters such as measurement and analysis of environmental factors, including:

- water quality, including chlorophyll-a;
- sediments;
- benthic habitats and communities including seagrasses; and
- impacts on seabirds and marine mammals.

The MEMP also provides information on environmental monitoring parameters and response protocols.

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

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

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

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

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

The variation to the Licence is for increasing the area of the site. However, as set out in section 2a above, access to the proposed waters will not be limited due to the requirement to deploy aquaculture gear to maintain a minimum 20-metre spacing between each sub-tidal floating line and minimum 10-metre spacing between each inter-tidal row.



***(e) The possible impact on navigation***

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

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

The variation to the Licence will not have any negative impact on recreational fishing, which is permitted within the Zone, provided it does not interfere with any aquaculture gear or farm operations. Based on experience in other shellfish farming areas, it is possible the recreational fishing opportunities will be improved because of the aquaculture activity and additional habitat it provides.

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

I am aware of comments raised through the consultation process in respect of the possible impact of aquaculture on commercial fishing in Oyster Harbour. Early consultation with marine user groups including commercial fishers led to modifications in the areas proposed initially.

As an outcome of the consultation, aquaculture activity was excluded from an area identified within Oyster Harbour that is important to net fishing; outside that area, crab pots and fish traps could still operate between aquaculture longlines.

The variation to the Licence is unlikely to have any negative impact on other commercial activities including tourism, noting that a tourism boat operator in Oyster Harbour includes visits to aquaculture farms.

Given the above, I am of the view that the current outer boundaries of the Oyster Harbour area of the Zone and the internal area from which the deployment of aquaculture gear will be excluded represents an appropriate balance in use of the aquatic resource and addresses the requirements of the commercial fishers and aquaculture proponents.

**Potential advantages of variation*****(a) Suitability of the location for aquaculture and proximity to existing operation***

The geographic location of the site is considered suitable for shellfish aquaculture for reasons that include its natural features, which satisfy the biological requirements for growing the proposed species, its proximity to land-based infrastructure and services essential for conducting a commercially viable aquaculture business and proximity to the Albany Shellfish Hatchery.

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

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

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

The proposal has minimal impact on visual amenity and operations have insignificant noise pollution.

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

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

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

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

I have considered the issue of economic benefits for the State earlier at part 2.1(c) of this decision.

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

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

Matters in respect of Native Title were addressed through the process to establish the Zone as a Reserve.

Further, through the process for declaring the Zone, the Minister for Lands provided concurrence for the declaration conditional upon consent being sought from the South West Aboriginal Land and Sea Council. Advice from the Department of Planning, Lands and Heritage has confirmed the area does not intersect with any Aboriginal heritage boundaries and consequently that conditional concurrence concerning



necessary approvals obtained under the *Aboriginal Heritage Act 1972* is considered satisfied.

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

#### 4. LICENCE CONDITIONS

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

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

#### LICENCE CONDITIONS

##### 1. Interpretation

(a) In the conditions on this licence –

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

**Pathologist** means an employee of, or contractor to, a laboratory facility that is accredited for Anatomical Pathology testing by the National Association of Testing Authorities, Australia, and who is a registered veterinarian with relevant post graduate qualifications in diagnostic procedures;

**DPIRD Pathologist** means the officer(s) occupying a Veterinary Pathologist or Aquatic Veterinary Pathologist position in the DPIRD's Diagnostics and Laboratory Services (DDLs); and

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

(b) The following terms used in the conditions on this licence have the same meaning as in the *Fish Resources Management Act 1994* –

- aquaculture lease;
- CEO;
- Department;
- record.

##### 2. Requirement for legal right to authorise activity.

The holder of this licence must always maintain in force, the legal right to use the site. The legal right to use the site must be a lease or licence granted in accordance with the power conferred under the *Land Administration Act 1997*, or under section 92 or 97 of the *Fish Resources Management Act 1994*.

### 3. Movement of fish to and from the site – Disease Testing

- (1) The licence holder must not move fish to and from the site unless –
  - (a) the licence holder has received a health certificate from a Pathologist in respect of all fish being moved from the site; and
  - (b) where the health certificate has been provided by a Pathologist that is not a DPIRD Pathologist, the licence holder has received written confirmation from a DPIRD Pathologist that the health certificate is satisfactory.
- (2) The licence holder must ensure:
  - (a) that any fish moved to and from the site are only moved during the period for which the health certificate received under condition (1) (a) and (b) is valid and always accompanied by a copy of the health certificate; and
  - (b) Advance notification of the movements is given to DPIRD by calling 1300 278 292 (all hours).
- (3) The cost of testing carried out under condition (1) (a) and (b) will be borne by the licence holder.
- (4) Conditions (1) (a) and (b) do not apply to fish being moved to the aquaculture licensed site if originating from the same location as defined in Schedule 2 of this licence.
- (5) Condition (1) does not apply to fish being moved from the site -
  - (a) for the purposes of processing or sale for consumption; or
  - (b) for the purpose of research if the fish are being moved to a licenced land-based aquaculture facility; or
  - (c) if they are broodstock being moved to a licensed land-based aquaculture facility; or
  - (d) if they are mortalities or fish waste that are being removed for the purposes of disposal;
  - (e) if the fish are being moved from one licenced site to another in and around the Houtman Abrolhos Islands; or
  - (f) if the movement of fish has the prior written approval of the CEO; or
  - (g) for the purpose of testing for quality assurance programs.
- (6) In addition to condition (1) (a) and (b), the licence holder must ensure that additional samples of fish are submitted to the DPIRD Diagnostics and Laboratory Services for disease testing, if required in writing by a DPIRD Pathologist. The cost of the testing undertaken will be borne by the licence holder that produced the fish.

### 4. Disease, mortality and pest reporting

Where the licence holder –

- (1) suspects that any fish at the site are affected by disease, including any suspicion or detection of a declared pest (as defined under the *Biosecurity and Agriculture Management Act 2007*) or suspicion or knowledge that fish are infected with a noxious species (as defined under the *Fisheries Resources Management Act 1994*); or



- (2) becomes aware of any significant or unusually high levels of fish mortality, caused by disease or otherwise, the licence holder must -
  - (a) Report to DPIRD as soon as practicable (and within 24 hours) by calling 1300 278 292 (all hours) the level of mortality, signs of disease or reason for suspecting the presence of a disease or declared pest; and
  - (b) follow the directions of the DPIRD's Diagnostics and Laboratory Services in relation to providing reports, samples of fish, or any other relevant item; and
  - (c) Collect, retain, and provide suitable samples of the fish for confirmatory testing as instructed by the DPIRD Diagnostics and Laboratory Services.

## 5. Management and Environmental Monitoring Plan (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.

## 6. MEMP Report

The licence holder must:

- (1) at all times comply with and implement the latest MEMP prepared by the licence holder, and delivered to the Department; and
- (2) before 31 July each year, submit to the CEO, 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.
- (3) ensure that the MEMP is updated every two years at the time the licence is renewed and submitted to the CEO for approval.
- (4) ensure that a species listed in Schedule 1 of this licence is not present at the location listed in Schedule 2 unless:
  - (a) A risk assessment for that species has been included in the current MEMP; or
  - (b) The MEMP is updated with a risk assessment for that species and has been submitted to the CEO for approval.

## 7. Marking and Lighting

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

- (3) No marking is required if the site is only used for bottom culture where to top of the aquaculture gear is at least five metres below the surface at lowest tide.

## **8. Use of aquaculture gear for the collection of seed stock**

The licence holder must ensure that:

- (a) any aquaculture gear placed on the site for the purpose of the collection of seed stock is only be placed within the boundary of the site as set down in Schedule 2 of this licence; and
- (b) accurate records are made and kept of the estimated weight and numbers of seed stock harvested from the aquaculture gear and make those records available to an authorised DPIRD Fisheries Officer at any time.

## **9. Aquaculture gear**

- (1) Aquaculture gear must be used in such a way that it does not damage any reef, coral or seagrass bed.
- (2) The holder of the licence must ensure that all aquaculture gear is located within the boundaries of the site, and maintained in a safe, secure and seaworthy condition; and all floating aquaculture gear, including ropes and buoys, must be fastened securely.
- (3) Upon termination, non-renewal of the licence or cessation of the aquaculture activity, the licence holder must remove from the area all property, aquaculture gear, refuse and debris belonging to the licence holder and restore the area to a condition approved by the CEO.
- (4) Aquaculture gear that is to be moved from one location to another must be cleaned and completely air dried and biological waste disposed of on land prior to being installed in its new location. The licence holder can contact Aquatic Pest Biosecurity ([aquatic.biosecurity@dpird.wa.gov.au](mailto:aquatic.biosecurity@dpird.wa.gov.au)) for guidance.

## **10. Record keeping**

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



- (2) The licence holder must keep the records made under paragraph (1) in a secure place at the licence holder's registered place of business for a period of seven years.
- (3) Records under paragraph (1) must be available to an authorised DPIRD Fisheries Officer at any time.

### 11. Interaction with protected species

Any interactions between any aquaculture gear at the site and any protected species, including entangles or stranded animals must be immediately reported to the Department of Biodiversity, Conservation and Attraction's (DBCA) Wildcare Hotline on (08) 94749055 (24hr emergency number), the DBCA's Nature Protection Branch on (08) 9219 9837 and the local DBCA District Office.

## 5. DECISION

On the basis of the above and subject to the amendment of the licence by imposing conditions referred to above, I have decided to grant the application made by Harvest Road Oceans Pty Ltd to vary its Aquaculture Licence No. 1425, to include the additional site area identified in Attachment 1.

I have also decided to delete the existing conditions on the Licence and impose new conditions on the Licence under s.95 of the Act. The new conditions to be imposed are as set out above at part 4 of this statement of decision.



Heather Brayford  
**DEPUTY DIRECTOR GENERAL  
SUSTAINABILITY AND BIOSECURITY**

As delegate of the CEO, Department of Primary Industries and Regional Development

Dated this 26<sup>th</sup> day of August 2022

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