

## STATEMENT OF DECISION

### APPLICATION FOR THE GRANT OF AN AQUACULTURE LICENCE

**File Number:** L91/19  
**Applicant:** Harvest Road Oceans Pty Ltd  
**Application Date:** 6 May 2019  
**Application Type:** Grant of an Authorisation

This Statement of Decision should be read in conjunction with the document *Assessment Criteria for the Grant or Variation of an Aquaculture Licence*, which is available on the Department's website.

#### 1 DETAILS OF THE APPLICATION

##### Background facts

Harvest Road Oceans Pty Ltd (“Harvest Road”) is seeking to acquire Aquaculture Licence No. 1644 (“the Licence”) and Aquaculture Lease No. 0024 (“the Lease”) in Cockburn Sound that is held by Blue Mussel Holdings Pty Ltd (“BMH”). However, because there is no provision in the Legislation to allow for the transfer of a Lease, Harvest Road is required to make an application for an aquaculture licence and lease, grant of which is subject to BMH surrendering its Licence and Lease.

##### Details of the Licence application

On 6 May 2019, Harvest Road 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.

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

In its application, Harvest Road seeks to culture the following shellfish species:

- Blue mussel (*Mytilus edulis*);
- Akoya pearl oyster (*Pinctada fucata*);
- Western rock oyster (*Saccostrea* spp.); and
- Flat oyster (*Ostrea angasi*).

The proposed species are the same as under the Licence, noting the scientific name for Blue mussel *M. edulis* is now *Mytilus galloprovincialis*.

The site applied for is an existing aquaculture site located in Southern Flats, Cockburn Sound (**Attachment 1**), which is specified under the Licence.

## 2. RELEVANT CRITERIA TO BE SATISFIED

### 2.1 Criteria in s.92(1)

#### (a) *“Fit and proper person”*

Prior to granting it an aquaculture licence, Harvest Road was assessed against the relevant criteria and considered a “fit and proper person” to hold an aquaculture licence.

#### (b) *Tenure*

BMH holds Aquaculture Lease No. 0024 over the area proposed by Harvest Road in Southern Flats, Cockburn Sound.

On 8 May 2019, Harvest Road made an application to the Minister for Fisheries for an aquaculture lease under s.97 of the Act. The lease and licence applications are being assessed simultaneously.

To enable grant of a lease to Harvest Road, BMH must surrender Aquaculture Lease No. 0024.

Under an agreement between BMH and Harvest Road, BMH has agreed to surrender the lease.

Accordingly, subject to BMH surrendering Aquaculture Lease No. 0024, I consider that Harvest Road will have appropriate tenure over the proposed area through the grant of a new lease.

#### (c) *Better interests*

Aquaculture in Cockburn Sound comprises a potentially significant and sustainable sector of Western Australia’s aquaculture industry and has the potential to expand. Aquaculture of the proposed species will facilitate and contribute to this expansion.

By reason of the above, I consider 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**

The main considerations for this criterion are –

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

*1. Genetics, disease and pests*

Genetics and pests are not an issue because the proposal does not contemplate introducing new genetic combinations. Harvest Road will only culture species that occur naturally in the Cockburn Sound area.

*a. Disease introduction*

Harvest Road will be sourcing broodstock from genetically similar populations from the wild and spat from the Albany Shellfish Hatchery or other authorised hatchery. Spat may also be reared from oyster broodstock from genetically-improved lines sourced from a hatchery in New South Wales. Harvest Road will operate under biosecurity controls imposed through licence conditions and a MEMP.

I consider the threat of disease being introduced to Cockburn Sound and the surrounding areas generally to be low, given the biosecurity protocols in place and the requirement for disease testing and a health certificate for spat being moved to the site.

*b. Disease development in situ*

I have noted that aquaculture has been carried out at the existing site in the Cockburn Sound for five years. In that time, there have been no reported disease incidents.

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 over the species being grown at the site.

*2. Aquaculture gear*

There are two aspects to the consideration of the effect of aquaculture gear on other fish or the environment: its physical and spatial impact on benthic habitats (that is, its “footprint”); and failure to remove the aquaculture gear if the aquaculture operation ceases. The environmental impact of the aquaculture activity on benthic habitats and water quality is a separate issue that is dealt with below.

*a. Impact of the aquaculture gear*

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

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

*b. Removal of the aquaculture gear*

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

*3. Environmental impact*

It is in the best commercial interests of Harvest Road to maintain a healthy environment and ensure any ongoing environmental impact is adequately measured and evaluated. The MEMP deals with environmental monitoring and management (section 2.2).

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

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.

*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**

I have not identified any other relevant authority.

**(f) Other matters prescribed**

There are no other prescribed matters.

Therefore, I am satisfied that all of the criteria in s.92(1) of the Act have been met in respect of the variation application.

**2.2 The MEMP**

Harvest Road has submitted a MEMP in respect of its application for an aquaculture licence. I have considered the contents of the MEMP and am satisfied that Harvest Road will manage environmental and biosecurity issues according to the standards contained in the document.

I approve the MEMP provided by Harvest Road (**Attachment 2**).

**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.

**3.1 Potential disadvantages of variation**

The potential disadvantages of the proposed variation are:

- (a) Genetics, diseases and pests (refer to 2.1(d)(1))
- (b) Environmental impact (refer to 2.1(d)(3))
- (c) Impact on compliance and resourcing
- (d) Limitation on access to the proposed waters
- (e) Impact on navigation
- (f) Impact on recreational fishing, commercial fishing and other commercial activities including tourism

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

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

**(b) Environmental impact**

I have considered the issue of Environmental Impact earlier at part 2.1(d)(3) of this decision, and concluded that there are sufficient controls in place to manage any environmental impact.

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

I note that aquaculture activities are managed through licence conditions and regular disease testing which results in a low impact on compliance and resourcing.

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

The application is for the same area and species as under BMH's Aquaculture Licence No. 1644. The proposal will not limit access to waters.

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

The Department referred the proposal to the Department of Transport (Navigational Safety), 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 2010".

**(f) Impact on recreational fishing, commercial fishing and other commercial activities including tourism**

The application is for the same area and species as under BMH's Aquaculture Licence No. 1644. The proposal will not have any impact on recreational fishing, commercial fishing or other commercial activities such as tourism.

### **3.2 Potential advantages of variation**

The potential advantages of the proposed variation are:

- (a) Suitability of the location for aquaculture and proximity to existing operations
- (b) Very low impact on other users of the resource
- (c) Potential economic benefits for the State (refer to 2.1(c))
- (d) Contribution to ongoing development of science and knowledge of aquaculture
- (e) No impact on native title.

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

Correct site selection is one of the most important factors that determines the success of aquaculture ventures. The history of successful mussel and oyster aquaculture at the proposed site indicates its suitability for that purpose.

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

- the natural features of the site satisfy the biological requirements for the production of the proposed species; and
- oyster and mussel aquaculture has proven feasible at Cockburn Sound.

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)**

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

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**

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 science and knowledge in relation to aquaculture. This would be facilitated by the provision of 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 may increase the efficiency of the commercial activity, but would also provide a basis for adaptive management by the Department, through continual monitoring to evaluate and improve the management processes to ensure implementation of best-practice environmental management as technologies develop over time.

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

There is no impact on Native Title.

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

#### **4. LICENCE CONDITIONS**

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

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

## 1. Interpretation

(1) In the conditions on this licence –

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

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

**DPIRD Diagnostics and Laboratory Services** means the officer(s) occupying that position in the Department, or any officer occupying a comparable position in the Department that the CEO advises the licence holder by notice in writing will be performing the duties of a pathologist of DPIRD's Diagnostics and Laboratory Services;

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

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

- aquaculture lease;
- CEO; and
- record.

## 2. Marking and Lighting

(1) Marking and lighting of the site must be installed and maintained in accordance with Category 1 as set out in the document "Guidance Statement for Evaluating and Determining Categories of Marking and Lighting for Aquaculture and Pearling Leases/ Licences (2010)".

(2) The marking and lighting required under paragraph (a) must be installed before any aquaculture activity is undertaken at the site.

## 3. Aquaculture gear and infrastructure

- a) Aquaculture gear must be used in such a way so as to not damage any reef, coral or seagrass bed.
- b) Upon termination or non-renewal of this licence, the licence holder must remove from the area all property, equipment, structures, navigational aids, refuse and debris of the licensee and restore the area to a condition approved by the CEO of DPIRD.
- c) The holder of the licence must ensure that all aquaculture gear is located within the boundaries of the site, and maintained in a safe, secure and seaworthy condition; and all floating aquaculture gear, including ropes and buoys, must be fastened securely.

#### **4. Source of stock**

Fish must not be stocked at the site unless –

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

#### **5. Health management and certification**

- (1) The licence holder must not move fish onto or from the site unless –
  - (a) the licence holder has submitted the request form provided by DPIRD's Diagnostics and Laboratory Services – Aquatic Diagnostics Lab, to a Pathologist employed by DPIRD for the provision of a health certificate; and
  - (b) the licence holder has received a health certificate from a DPIRD Pathologist in respect of all fish being moved onto or from the site; or
  - (c) where the licence holder has made a request for the provision of a health certificate to a Pathologist who is not an officer of DPIRD, the licence holder has received confirmation that a copy of a health certificate for those fish is in the possession of DPIRD's Aquatic Diagnostics Labs.
- (2) The licence holder must ensure that any fish moved to or from the site is accompanied at all times by a copy of the health certificate received under paragraph (b).
- (3) Paragraphs (1) and (2) do not apply if the fish are moved for the purpose of processing, sale for consumption or under a sampling plan conducted for the purpose of seafood quality testing or environmental monitoring.

#### **6. Disease testing**

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

#### **7. Biosecurity measures**

Where the licence holder -

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

## 8. Record keeping

- (1) The licence holder must make accurate and timely records of –
  - (a) the aquaculture gear used at the site;
  - (b) the movement of fish to each type of aquaculture gear, including –
    - i. the estimated average weight and numbers of the fish moved;
    - ii. the time and date the movement took place; and
    - iii. any mortalities of fish that occurred during the movement;
  - (c) the estimated weight and numbers of fish being kept on each type of gear at the site;
  - (d) the estimated weight and numbers of fish harvested from each type of aquaculture gear at the site;
  - (e) all mortalities at the site, both in total and as a percentage of total stock held at the site at the time; and
  - (f) all health certificates issued to the licence holder by a Pathologist.
  - (g) breeding carried out in all hatchery tanks by reference to the following –
    - i. the number of broodstock;
    - ii. the batch number of the larvae or juveniles;
    - iii. water temperatures;
    - iv. water quality test results;
    - v. the loss of larvae, juveniles and broodstock and cause of loss;
    - vi. any symptoms of disease; and
    - vii. estimated numbers of post larvae when sampling for health certificates.
- (2) The licence holder must keep the records made under paragraph (1) in a secure place at the licence holder's registered place of business for a period of seven years.
- (3) Records under paragraph (1) must be available to an authorised DPIRD Officer at any time
- (4) The licence holder must, upon request from time to time, provide the data under paragraph (1) to DPIRD's Diagnostics and Laboratory Services – Aquatic Diagnostics Lab.
- (5) Records must be made immediately after inspection, or upon receipt of the health certificate, as the case requires.

## **9. Interaction with protected species**

Any interactions between any aquaculture gear at the site and any protected species, including entangled or stranded animals, must be immediately reported to the Department of Biodiversity, Conservation and Attraction's Wildcare Hotline on (08) 9474 9055 (24-hour emergency number), the DBCA's Nature Protection Branch on (08) 9219 9837 and the local DBCA District Office.

## **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.

In accordance with section 147(1)(b) of the Act, 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 as per section 147(1)(g).

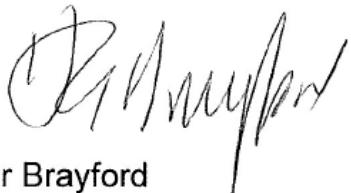
I note that the aquaculture venture is a dynamic operation, not a static event, and in the event that varied or additional conditions become appropriate then those can be imposed in the future in accordance with the process in the Act.

**DECISION**

In view of the above considerations, I have decided to grant an aquaculture licence to Harvest Road, under s.92 of the Act, to conduct aquaculture at a site within Cockburn Sound, subject to Blue Mussel Holdings Pty Ltd surrendering Aquaculture Licence No. 1644.

Existing conditions on the licence are to be removed and replaced with new conditions pursuant to section 95 of the Act and which are set out above at part 4 (conditions 1-11) of this statement of decision.

I have also decided to approve the MEMP.



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

Dated this 7<sup>th</sup> day of August 2019

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*

Attachments –

- (1) Application Site Plan
- (2) Management and Environmental Monitoring Plan

# COCKBURN SOUND

## HARVEST ROAD EXPORT PTY LTD

### AQUACULTURE LICENCE APPLICATION - SITE PLAN

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

