

STATEMENT OF DECISION

APPLICATION FOR THE GRANT OF AN AQUACULTURE LICENCE

File Number: L37/18
Applicant: Nathan Boothman
Application Date: 19 February 2018
Application Type: Grant of an Authorisation

1 INTRODUCTION

Background facts

On 19 February 2018, Nathan Boothman ("Boothman") 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 coral and live rock at a site in the Easter Island Group of the Abrolhos Islands. Boothman has also made an application for an aquaculture lease for the same areas.

Details of the licence application

The application was dated 19 February 2018 and received by the Department on that day.

Boothman is applying for a site that comprises two separate areas of 2.067 and 3.41 hectares. **Attachment 1** provides a map of the proposed site. Boothman is seeking to establish a coral and live rock operation to supply cultured coral and live rock to the aquarium trade. The following table identifies the genera of coral sought in the application.

Small polyp	Large polyp
<i>Acropora</i>	<i>Cycloseris</i>
<i>Montipora</i>	<i>Polyphyllia</i>
<i>Porites</i>	<i>Scolymia</i>
<i>Pocillopora</i>	<i>Lobopohyllia</i>
<i>Stylophora</i>	<i>Favia</i>
<i>Seriatopora</i>	<i>Favites</i>
<i>Goniopora</i>	<i>Fungia</i>
<i>Alveopora</i>	<i>Heliofungia</i>
<i>Pavona</i>	<i>Goniastrea</i>
Coralomorphs	<i>Platygyra</i>

<i>Dicosoma</i>	<i>Trachyphyllia</i>
<i>Ricordia</i>	<i>Euphyllia</i>
	<i>Catalaphyllia</i>
	<i>Plerogyra</i>
	<i>Diaseris</i>
Soft Corals/coral anemones	
<i>Cladiella</i>	<i>Clavularia</i>
<i>Lobophyton</i>	<i>Sarcophyton</i>
<i>Sinularia</i>	<i>Stolonifera</i>
Zoanthids	
<i>Zoanthus</i>	<i>Protopalythoa</i>

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;*
 - (b) it is in the better interests of the State and the community to grant the licence;*
 - (c) the activities to be conducted under the licence are unlikely to adversely affect other fish or the aquatic environment;*
 - (d) the activities to be conducted under the licence have been approved by other relevant authorities;*
 - (e) any other matters prescribed for the purposes of this subsection,*
- the CEO may grant to the person an aquaculture licence.*

Accordingly, 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 management and environmental monitoring plan.*

Subject to those issues being satisfied, I will proceed to decide the application on its merits.

3 RELEVANT ISSUES TO BE SATISFIED

On the basis of the above, the matters in s.92 and s.92A of the Act require consideration.

In connection with this consideration, reference is made to s.246 of the Act and 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 relevant stakeholders and to any other groups, which 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 application submitted, I have noted that Boothman has attained the technical knowledge required to culture corals and live rock [REDACTED]. Based on the information provided, I am of the view that Boothman 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 Boothman 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.

From the information provided, it is evident that Boothman has a clear understanding of the level of infrastructure and aquaculture equipment needed for the successful implementation of the project. Boothman has a history of keeping records and paying relevant fees; therefore, I have no reason to doubt his ability 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, only Boothman and anyone employed by Boothman can act under the Licence. The Licence does not authorise persons to act “on behalf of” Boothman, so Boothman cannot authorise independent contractors or “lessees” to carry out aquaculture.

The discussion in MPG 19 about the importance of accurate, complete and timely records refers to commercial fisheries and fishing boat operators. The activity authorised by the Licence does not relate to fishing and is therefore not relevant. What is important, however, is the requirement under regulation 64 of the *Fish Resources Management Regulations 1995* (“FRMR”) for the licence holder to keep records and submit returns in respect of the sale of fish and the accurate and timely communication of information relating to disease and biosecurity. Having regard to the content of the MEMP written by Boothman and the information provided in the application, I consider he properly understands the significance of accurate, complete and timely provision of relevant information.

I am satisfied that Boothman is fit and proper to hold a licence to conduct aquaculture of the proposed species at the proposed area.

(b) Tenure

S.92(1)(ba) requires the CEO to be satisfied that a person who has applied for an aquaculture licence has, or will have, appropriate tenure over the land or waters on, or in which, the activities under the licence are to be conducted.

Boothman has submitted an application for an aquaculture lease under s.97 of the Act to the Minister for Fisheries. That application has been assessed by the Department concurrently with assessment of the licence application.

I am satisfied that Boothman will have appropriate tenure over the 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. [REDACTED]

Aquaculture activities provide a significant contribution to economies throughout the world.

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 Boothman.

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. 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 coral and live rock; 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 coral and live rock that may be carrying the disease; secondly, that a disease outbreak may occur in the coral and live rock 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.

Boothman will source stock from within the Abrolhos Islands. The collection of broodstock will be authorised under exemption and subject to biosecurity controls imposed through licence conditions and a MEMP, which includes a biosecurity plan. These controls are based on the requirement to demonstrate low risk of disease introduction and spread through conducting comprehensive health testing prior to movements being permitted.

I 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 the coral and live rock to and from the site.

b. Disease development in situ

I am aware that the site for the proposed operation is unique and includes habitats for wildlife that may be at risk from potential diseases. I note that Boothman 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 coral and live rock being grown at the site.

2. Environmental impact

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

In respect of water quality factors and benthic habitats, I have noted that coral and live rock are reliant on natural feed and will not require any supplementary feeding;

as such no substantial changes to sediment quality and nutrient levels are expected. The sea floor in which the live rock and coral racks will be positioned upon has been observed to consist mainly of sand and shell grit. Regular fallowing of the ground and careful gear placement will minimize any impact on benthic habitats. Therefore, I have concluded that the proposed aquaculture operation is unlikely to have any detrimental impact on sediment quality or benthic habitats.

With regard to marine fauna, the Arolhos Islands provide habitats for a variety of marine mammals and wild fish populations. I have noted that the seabed upon which the live rock and coral racks will be deployed, consists of mainly transient species, so has lower levels of diversity and abundance in comparison to other areas within the Arolhos Islands. The proposed site is located within a lagoon surrounded by shallow reef making interactions with larger marine fauna unlikely, nonetheless, Boothman will take active measures to mitigate any risk of potential entanglements or entrapments by ensuring all gear is adequately positioned and securely anchored and any unused gear is removed from the site. Boothman will also familiarise himself and any staff with The Department's Mid West Aquaculture Development Zone Marine Fauna Interaction Management Plan and the Department of Parks and Wildlife's Marine Mammal Entanglement Plan. Considering the above, the proposed aquaculture operation is not predicted to have any significant impact on the diversity, distribution and viability of marine fauna, such as marine mammals, turtles, seabirds and wild fish populations.

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

3. 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 FRMR and the *Biosecurity and Agriculture Management Act 2007*) as well as conditions on licences and leases.

The purpose of a MEMP is to satisfy the CEO that any risks to the environment and public safety will be managed per s.92A(1) of the Act. A MEMP provides information on the background and purpose of the aquaculture activity, including its objectives, 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.

Boothman 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 Boothman 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 Boothman (**Attachment 2**).

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 Boothman 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 recreational fishing
- (f) 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) Whether the proposal involves limitation on access to the proposed waters.

An aquaculture licence does not provide the licence holder with exclusive access to the site; therefore, granting the Licence to authorise aquaculture at the site will not limit access to waters.

(d) The possible impact on navigation

The Department referred the proposal to the Department of Transport (Marine Safety), which recommended the site be subject to marking and lighting in accordance with Category 4 as set out in the document *Guidance Statement for Evaluating and Determining Categories of Marking and Lighting for Aquaculture and Pearling Leases/Licences (2010)*. This can be dealt with under a standard licence condition.

(e) The possible impact on recreational fishing

The granting of an aquaculture licence to conduct aquaculture activities at a certain area does not of itself confer any exclusive access to the area. Recreational fishing 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.

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

As with recreational fishing, the granting of an aquaculture licence to conduct aquaculture activities at a certain area does not of itself confer any exclusive access to the area. Commercial fishing and other commercial activities including tourism 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. I have noted that the deployment of aquaculture gear such as anchors and lines may affect some commercial activities such as trawling.

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

- the natural features of the site satisfy the biological and physical requirements for coral and live rock aquaculture, so it appears suitable for the establishment of an aquaculture business;
- although located some distance offshore, in the Abrolhos Islands, the site has reasonable access to infrastructure in the city of Geraldton;
- coral and live rock aquaculture has proven to be feasible at the Abrolhos Islands; and
- the site is located within a lagoon surrounded by shallow reef; therefore, the risk of interactions with larger marine fauna will be minimal.

I am of the view the reasons set out above show the location is suitable for the aquaculture of coral and live rock.

(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 about aquaculture, in part by providing data pertaining to environmental impact of activities of this nature on the key identified environmental factors at this type of site; namely, benthic communities and habitat, marine environmental quality and marine fauna.

The science developed from the proposal would not only increase the efficiency of the commercial activity, but also provide a basis for adaptive management by the Department.

(e) No impact on native title

There is no impact on Native Title.

In respect of the various issues opposing and in favour of the proposal, I am satisfied the benefits outweigh the disadvantages and that the risks, possible detriments and other issues associated with the proposed 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 Boothman, 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 Boothman 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.

- Aquaculture Gear

Conditions in respect of aquaculture gear provide controls over the materials used in their manufacture, restrictions over their maximum number and size and their placement and location to avoid sensitive benthic habitats.

- Health management and certification

The risk of introduction of disease will be minimised through the use of local broodstock.

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 genetics)

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

As Boothman would not have exclusive possession of the site, an officer of the Fish Health Section 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 species 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 –

DPIRD means the Department of Primary Industries and Regional Development.

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;

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* –
- CEO;
 - fish; and
 - record.

2. Requirement for appropriate tenure to authorise activity

The holder of this licence must make every reasonable endeavour to obtain, and 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

- (1) Marking and lighting of the site must be installed and maintained in accordance with Category 4 as set out in the document "Guidance Statement for Evaluating and Determining Categories of Marking and Lighting for Aquaculture and Pearling Leases/ Licences (2010)".
- (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 at a depth greater than five metres below the lowest tide.

4. Aquaculture gear

- (1) Aquaculture gear must be used in such a way that it is not in contact with and 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.

5. Possession of fish and translocation

- (1) Any coral or live rock that is not native to the Abrolhos Islands must not be brought onto or kept on the site
- (2) No natural reef coral or rock is to be brought onto or kept on the site for use in live rock culture. No natural reef coral or rock is to be taken or removed from the site.

6. Coral and live rock culture

Any material that is not manufactured substrate must not be used for the aquaculture of coral and live rock.

7. Tagging of coral

Any coral being cultured, or the substrate to which the coral is attached, that is brought onto or kept on the site or being transported to the mainland must be securely and clearly tagged or marked. Each tag or marking must specify the licence holder's name, the licence number and a distinguishing reference number or code that corresponds to a written record. A written record must be maintained of all numbers and codes of tags used.

The record is to specify –

- (1) Date of propagation or fragmentation;
- (2) Genus or species;
- (3) Source of colony; and
- (4) Batch number.

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 on 1300 278 292 (all hours) of the level of mortality or signs of disease; and

- ii. follow the directions of the Principal Research Scientist (Fish Health) in relation to providing reports, samples of fish, or any other relevant item, at such a time as required.

9. 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 (1) will be at the cost of the licence holder.

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 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 average weight of fish being kept on each type of gear at the site;
 - d) the estimated weight 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 Fish Health Pathologist.
- (2) The licence holder must keep the records made under paragraph (1) in a secure place at the licence holder's registered place of business for a period of seven years.
- (3) Records under paragraph (1) must be available to an authorised Fisheries Officer at any time

11. 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 Attractions' 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.

12. MEMP Compliance Audit

An independent audit of compliance with the MEMP and licence conditions 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.

13. MEMP Report

The holder of the licence must:

- (1) 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 Fisheries; and
- (2) before 31 July each year, submit to the CEO at the head office of Fisheries 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 Nathan Boothman, under s.92 of the Act, to conduct a coral and live rock operation at a 2.067 and 3.410 - hectare site at the Easter Group of the Abrolhos Islands.

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



Heather Brayford

DEPUTY DIRECTOR GENERAL, Sustainability and Biosecurity

As delegate of the CEO

Dated this 7th day of August 2018

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*.

HOUTMAN ABROLHOS - EASTER GROUP

NATHAN BOOTHMAN

AQUACULTURE LICENCE APPLICATION - SITE PLAN

ALL THAT PORTION OF TERRITORIAL WATER WITHIN THE BOUNDARY DESCRIBED AND COLOURED GREEN ON THE PLAN BELOW COMPRISING A TOTAL AREA OF 2.067 (A) and 3.410 (B) HECTARES

