

Statement of Reasons

Statement of Reasons for the Renewal of the Environmental Licence Issued to Tassal Operations Pty Ltd for Finfish Farming Activities Long Bay MF55 Port Arthur, Tasman Peninsula.

I, Wes Ford, Director, Environment Protection Authority (EPA), provide this statement of reasons in the decision to renew the environmental licence in Long Bay-Port Arthur (No. 9959/3) under section 42T(1)(a) of the *Environmental Management and Pollution Control Act 1994* (EMPCA) and issue Environmental Licence No. 9959/4 to Tassal Operations Pty Ltd in accordance with section 42ZB(1) of EMPCA.

The environmental licence has been renewed for a period of two years, to take effect on 30 November 2023, and will remain valid until 30 November 2025, unless otherwise cancelled or varied.

The purpose of this statement is to state the reasons to renew the environmental licence and the reasons for my decision.

Statutory Requirements for Renewal

I have considered the validity of the application to renew Environmental Licence No. 9959/3. In accordance with section 42S(1) and section 42S(2) of EMPCA, in order for me to consider an application to renew an environmental licence, a valid application must be submitted to my office, in an approved form, 60 days before the environmental licence is due to expire. In this case, the requirements for a valid application have been met.

In accordance with section 42T(3) I have reviewed the current conditions of the environmental licence and I confirm that it does not contain conditions that would prevent me from renewing the licence.

Having been satisfied that I had a valid power to renew or refuse to renew the application I have proceeded to review the available information and advice and to make my decision.

Decisions

1. In accordance with section 42T(1)(a) I have renewed the environmental licence for finfish farming activities within Long Bay-Port Arthur held by Tassal Operations Pty Ltd (No. 9959/3), having been satisfied that it was appropriate to do so and having considered the matters referred to in section 42T of EMPCA.

Basis for Decision-making

In making my decision to renew the environmental licence I have:

- a) Reviewed and considered all information submitted by the applicant, submissions provided by stakeholders, the results of prior conviction and interstate and Commonwealth records checks, and records collated by the EPA in order to determine whether the renewal ought to be refused

because of a relevant contravention of the licence, conviction, or because the applicant is not a fit and proper person to hold an environmental licence.

- b) Reviewed and considered advice from scientific research organisations (e.g. IMAS), Non-Governmental Organisations (NGO's), State Government as to whether there are any environmental concerns that would cause me to not be satisfied that is appropriate to renew the licence.
- c) Reviewed and considered a) and b) above whilst seeking to further the objectives outlined in Schedule 1 of EMPCA.

A summary of the information and advice supporting the basis for my decision to renew the environmental licence is provided below.

Summary of Information and Advice

Compliance history and character of applicants

In making my decision to renew the environmental licence, I have considered the matters referred to in section 42T(4)(a-d) of EMPCA:

- (4) The Director may refuse to renew an environmental licence under [subsection \(1\)](#) if he or she is satisfied that the applicant for renewal of the licence –

- (a) has contravened the conditions and restrictions of the licence in the 5-year period immediately before the application for renewal of the licence is made; or

- (b) has, within the 5-year period before the day on which the licence is renewed, been convicted of an offence against –

- (i) this Act; or

- (ii) any other Act; or

- (iii) a law of another State, a Territory, or the Commonwealth, that relates to the protection of the environment –

which the Director considers to be an offence relevant to the holding of the licence; or

- (c) is not a fit and proper person to hold an environmental licence; or

- (d) has not paid any fees that are due and payable under this Act, in relation to the licence, by the person.

Tassal Operations Pty Ltd – Environmental Licence No. 9959/3

Tassal Operations Pty Ltd has no relevant contraventions for Environmental Licence No. 9959/3.

Relevantly, 42 compliance sites and 42 pen bay sites were surveyed over the 5-year period prior to the renewal application and all sites were found to be compliant with licence conditions.

Tassal Operations Pty Ltd has four relevant convictions under EMPCA. Two Infringement notices were issued in 2021 for contraventions of an environmental licence in relation to *Beggiatoa spp.* mats, and excess feed dumping at Tassal Operations Pty Ltd's Soldiers Point lease. Two infringement notices were issued in relation to a diesel spill at Margate in 2022 for causing a nuisance and failure to notify the Director (of the environmental nuisance). Four formal warning notices were also issued to the applicant in the previous 5-year period (not in relation to this licence).

Tassal Operations Pty Ltd have twenty-one prior convictions arising from infringement notices recorded under other state legislation relating to marine debris (x18), a missing International Association of Lighthouse Authorities¹ (IALA) mark, revocation of a mooring permit, and identification of a mooring buoy. I am satisfied that convictions recorded against Tassal Operations Pty Ltd as they relate to EMPCA have been appropriately managed. I am further satisfied that convictions against other legislation have been appropriately managed by the regulators responsible for the administration of the relevant legislation and laws, and the licence holder has not been excluded from the activity authorised. I consider that the convictions recorded against Tassal Operations Pty Ltd over the previous five years do not sufficiently demonstrate that it is appropriate to refuse to renew the licence.

I also reviewed the notifications of complaints made to the EPA against Tassal Operations Pty Ltd. There have been numerous complaints made about marine farming activities conducted in Long Bay in the previous 5-year period. A number of these complaints, commencing in 2019, concerned diminished water quality and increased algal growth in the Port Arthur region.

To address these complaints, I commissioned further research, introduced new water quality monitoring. The culmination of these monitoring and research initiatives resulted in my 7 July 2023 decision to impose a Total Permissible Dissolved Nutrient (TPDNO) determination on Marine Farming Lease No. 55 (MF55) at Long Bay that reduces the scale of feed inputs by 20% compared to recent years. Furthermore, I imposed additional monitoring requirements for MF55 to assess the effectiveness, of the TPDNO determination. The direction will be reviewed biennially by the EPA.

There have been complaints raised at other leases the licence holder uses for finfish farming and for the hatcheries they operate, the majority relating to noise. Mitigation measures have been implemented and no further enforcement action has been required.

I conclude there is no basis to determine that the applicant is not a fit and proper person to hold an environmental licence.

In respect of section 42T(4)(d), there are no fees due payable under EMPCA by Tassal Operations Pty Ltd.

Other relevant circumstances

Apart from considering the compliance history and character of the applicants, I have reviewed and considered whether there are any environmental concerns raised on the information available to me that would cause me to not be satisfied it was appropriate to renew this licence.

A detailed summary of the relevant scientific knowledge and research I have considered can be found in **Attachment I Additional Circumstances for Consideration** and reports referred to therein, which is accessible via the website at www.epa.tas.gov.au, or directly via the hyperlinks in this document.

I had particular regard to the following information and advice:

Water Quality

1. Water quality monitoring information available within Port Arthur since 2013 and associated reports. This includes monitoring undertaken by the EPA, industry as part of their requirement to conduct broadscale monitoring, and scientific research organisations (e.g. CSIRO and Institute for Marine and Antarctic Studies (IMAS)).
2. The establishment of the EPA's Port Arthur Monitoring Program in December 2019 to:

¹ Now known as International Association of Marine Aids to Navigation and Lighthouse Authorities

- Collect data on key indicators for comparison against Default Guideline Values (DGVs) for aquatic ecosystems developed for the Port Arthur area.
 - Investigate if any departures from background conditions (DGVs) are attributable to anthropogenic or natural sources and, if possible, show attribution.
 - Provide a summer snapshot for the extent of epiphytic growth on seagrass habitat.
 - Provide water quality information to assist nutrient dispersion modelling and biogeochemical model development and validation.
 - Independently validate the water quality information collected on a monthly basis by Tassal as required under the conditions of Environmental Licence No. 9959/3.
3. The production of the [Nutrient Investigation for Port Arthur](#) –An assessment of nitrogen and phosphorus compounds and chlorophyll a levels in Long Bay and the Port Arthur area.
 4. [Fluorometry as a Tool for Assessing Impacts of Finfish Aquaculture – Long Bay and Boomer Bay Study](#) – An ongoing assessment of Dissolved Oxygen (DO) and Chlorophyll a (CHLa) by fluorescence levels in Long Bay in Port Arthur and Boomer Bay at Dunalley.
 5. The recent reduction in the scale of finfish farming through the setting of [Total Permissible Dissolved Nitrogen Output \(TPDNO\) in Port Arthur](#) on 7 July 2023 to 48 tonnes.
 6. The power I have under EMPCA to further reduce the Total Permissible Dissolved Nitrogen Output (TPDNO) in Port Arthur. Such action would further reduce the amount of nitrogen in feed that is discharged into Long Bay-Port Arthur, thereby reducing salmon production and its associated nutrient outputs.

Condition of the seabed and habitats

1. The IMAS [report](#), Rapid visual assessment of rocky reef assemblages in Port Arthur (2022).
2. Monitoring conducted by the marine consultancy Aquenal Pty Ltd on the interactions of nutrients, dissolved oxygen concentrations, management of salmon farming, oceanographic processes and benthic condition. This information was reviewed in reports made available to me:
 - i. [Aquenal 2022](#)
 - ii. [Aquenal 2021](#)
 - iii. [Aquenal 2020](#)
 - iv. [Aquenal 2019](#)
 - v. [Aquenal 2018](#)
3. EPA compiled benthic compliance history of salmon farming in Long Bay-Port Arthur (nil contraventions in past 5 years).
4. The [Direction to Monitor Reefs](#) implemented on 7 July 2023 to impose additional monitoring requirements to assess the effectiveness of the TPDNO determination in reducing the organic enrichment effects on the inshore reef habitats.

Submissions

1. Submissions from members of parliament and Non-Governmental Organisations (NGO's).
 - a. The Hon. Meg Webb (dated 12 September 2023)
 - b. The Tasmanian Independent Science Council (TISC) (dated 20 October 2023).
 - c. The Tasman Peninsula Marine Protection Inc (TPMP) - an affiliate of the Tasmanian Alliance for Marine Protection Inc. (TAMP) (dated 20 October 2023)
 - d. Equity Generation Lawyers – acting for Neighbours of Fish Farming Inc. (dated 14 November 2023).

Regulatory framework going forward

1. [Environmental Standards for Tasmanian Marine Finfish Farming 2023](#)
2. [Biosecurity Program: Tasmanian Salmonid Industry](#)
3. [Standardised Marine Farming Management Controls](#)

Conclusion Regarding Renewal

I have reviewed and considered the compliance history and character of the applicant as well as the advice and concerns provided to me by scientific research organisations and non-governmental organisations in making my decision to renew the Long Bay-Port Arthur environmental licence.

The power under section 42T for the Director to renew, or to refuse to renew an environmental licence must be exercised in such a manner as to further the objectives in [Schedule 1](#) of EMPCA. The objectives that I consider are particularly relevant to these renewal applications are:

Under Part 1

- a) To promote the sustainable development² of natural and physical resources and the maintenance of ecological processes and genetic diversity; and

Under Part 2

- a) To protect and enhance the quality of the Tasmanian environment; and
- b) To prevent environmental degradation and adverse risks to human and ecosystem health by promoting pollution prevention, clean production technology, reuse and recycling of materials and waste minimization programmes; and
- c) To regulate, reduce or eliminate the discharge of pollutants and hazardous substances to air, land or water consistent with maintaining environmental quality; and
- h) To adopt a precautionary approach when assessing environmental risk to ensure that all aspects of environmental quality, including ecosystem sustainability and integrity and beneficial uses of the environment, are considered in assessing, and making decisions in relation to the environment.

My decision to renew the Long Bay environmental licence has been a significant an exercise in balancing the objectives of EMPCA, which are often conflicting and pull in different directions.

I have also considered the unintended consequences and subsequent environmental impacts that could occur if I had made the decision to not renew the Long Bay environmental licence. If this licence is not renewed, all fish would be required to be removed from the water immediately. Cessation of fish farming would also likely lead to removal of infrastructure (pens and moorings). This action would result in the production of a significant volume of amount of biological and physical waste, that would not only pose a health and biosecurity risk, but it would also pose a risk to the environment. EPA's recent experience has demonstrated that Tasmania does not currently have the capacity to adequately manage the volume of Controlled Waste (such as dead fish) that such an action would produce.

I have also considered that the next year class of finfish are already being held within the freshwater hatcheries and are scheduled to be input into the leases during 2024. These production schedules are determined several years in advance and although it is likely that some of these smolt could be accommodated on marine farming leases located within other regions of Tasmania, it is also likely that the

² 'Sustainable development' means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while –

- (a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and
- (b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
- (c) avoiding, remedying or mitigating any adverse effects of activities on the environment.

regional TPDNO caps that I have determined would limit the number of fish that could be redirected. This would result in additional volumes of Controlled Waste requiring management and disposal.

In addition, I have also considered that any increases in lease and regional biomass, beyond what is typically farmed in these locations could result in adverse environmental impacts being observed. In conclusion, I believe that environmental impacts which may occur as a result of fish farming activities in Long Bay-Port Arthur can be appropriately managed utilising the existing licence conditions and other regulatory tools, such as TPDNO Determinations, that are available to me.

Renewal Period

In consideration of the information available to me I have decided that the renewal period for this environmental licence is to be shorter than most other ELs granted so that the EPA may assess the impact of the monitoring direction requiring the licence holder to monitor the effectiveness of the current 48 tonne Total Permissible Dissolved Nitrogen Output (TPDNO) for Long Bay-Port Arthur to improve benthic conditions and reef habitats.