

Statement of Reasons

Statement of Reasons for the Renewal of the Environmental Licences Issued to Aquatas Pty Ltd for Finfish Farming Activities in D'Entrecasteaux Channel

I, Wes Ford, Director, Environment Protection Authority (EPA), provide this statement of reasons in support of each separate decision to renew two environmental licences (Nos. 9869/3 and 9873/3) in the D'Entrecasteaux Channel under section 42T(1)(a) of the *Environmental Management and Pollution Control Act 1994* (EMPCA) and issue Environmental Licence Nos. 9869/4 and 9873/4 to Aquatas Pty Ltd in accordance with section 42ZB(1) of EMPCA.

Aquatas Pty Ltd and Tassal Operations Pty Ltd are subsidiaries of Tassal Group Limited. The conduct of each licence holder reflects on the other and is relevant to a decision to renew their licences.

Each environmental licence has been renewed for a period of five years, to take effect on 30 November 2023, and will remain valid until 30 November 2028, unless otherwise revoked or varied.

The purpose of this statement is to outline the reasons for each decision to renew these environmental licences.

Statutory Requirements for Renewal

I have considered the validity of the applications to renew Environmental Licence Nos. 9869/3 and 9873/3. 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 each case, the requirements for a valid application have been met.

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

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

Decisions

1. In accordance with section 42T(1)(a) of EMPCA, I have renewed these two environmental licences relating to finfish farming activities within the D'Entrecasteaux Channel held by Aquatas Pty Ltd, 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 each 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 (i.e. Institute for Marine and Antarctic Studies (IMAS)), Non-Governmental Organisations (NGOs), as to whether there are any environmental concerns that would cause me to not be satisfied that it is appropriate to renew the environmental licence.
- c) Reviewed and considered a) and b) above whilst seeking to further the objectives outlined in Schedule I of EMPCA.

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

Summary of Information and Advice

Compliance history and character of applicants

In making my decision to renew each of the two environmental licences, 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.

Aquatas Pty Ltd – Environmental Licence No. 9869/3- The Sheppards

Aquatas Pty Ltd has no relevant contraventions of Environmental Licence No. 9869/3 in the five years immediately before the renewal application.

Aquatas Pty Ltd has no relevant convictions under EMPCA. Two convictions arising from infringement notices have been recorded under other state legislation relating to marine debris and keeping of records, and one more serious Commonwealth matter relating to a barge turn-over incident at The Sheppards lease, (Environmental Licence No. 9869/3). Please note this is contrary to the convictions list that Aquatas Pty Ltd submitted in the renewal application – this is because the same convictions list was submitted for both Aquatas Pty Ltd and Tassal Operations Pty Ltd renewal applications (representing a consolidation). EPA records and information supplied by the Aquaculture Branch (Department of Natural Resources and Environment Tasmania) were used to identify which convictions applied to each company. I consider that the convictions recorded against the licence holder over the previous five years do not demonstrate that it is appropriate to refuse to renew the licence.

I also reviewed the notifications of complaints made to the EPA against Aquatas Pty Ltd. There were several complaints made about marine farming activities conducted in D'Entrecasteaux Channel in the previous 5-year period at this lease. Complaints have been made regarding noise, in particular the vessel Aqua Spa, and lights from the same vessel and nuisance algae along the adjacent coastline. In September 2021, I varied this environmental licence to incorporate noise conditions. No contraventions of these conditions have been detected since this variation was issued.

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 Aquatas Pty Ltd.

Aquatas Pty Ltd – Environmental Licence No. 9873/3 -Simmonds Point

Aquatas Pty Ltd has no relevant contraventions of Environmental Licence No. 9873/3 in the five years immediately before the renewal application.

Aquatas Pty Ltd has no relevant convictions under EMPCA. Two convictions arising from infringement notices have been recorded under other state legislation relating to marine debris and keeping of records, and one more serious Commonwealth matter relating to a barge turn-over incident at a separate marine farming lease. I consider that the convictions recorded against the licence holder 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 Aquatas Pty Ltd. There were several complaints made about marine farming activities conducted in D'Entrecasteaux Channel in the previous 5-year period at this lease. Complaints have been made regarding noise, in particular the vessel Aqua Spa, and lights from the same vessel and nuisance algae along the adjacent coastline. In September 2021, I varied this environmental licence to incorporate noise conditions. No contraventions of these conditions have occurred since this variation was issued.

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 Aquatas 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 these licences.

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.

I had particular regard to the following information and advice:

Water Quality

1. Water quality monitoring information available within the Huon Estuary and the D'Entrecasteaux Channel since 2009 and associated reports. This includes monitoring undertaken by the EPA, industry as part of their requirement to conduct broadscale environmental monitoring, and the Institute for Marine and Antarctic Studies (IMAS).
2. Default Guidelines Values developed by EPA for managing water quality in D'Entrecasteaux Channel.
3. The determination of a Total Permissible Dissolved Nitrogen Output (TPDNO) on 2 December 2022.
4. The power I have under EMPCA to reduce the [Total Permissible Dissolved Nitrogen Output \(TPDNO\) in D'Entrecasteaux Channel](#). This would reduce the amount of nitrogen in feed that is discharged into D'Entrecasteaux Channel.
5. The new powers I have under the [Environmental Standards for Marine Finfish Farming](#) currently before Parliament to require preparation and implementation of a Light Attenuation Management Plan and to require assessment and mitigation of noise arising from vessels in transit, should future complaints warrant the exercise of such powers.

Submissions

1. Submissions from Non-Governmental Organisations.

- a. Killora Community Association (dated 12 November 2023).
- b. Equity Generation Lawyers on behalf of the Neighbours of Fish Farming Inc (dated 14 November 2023).

Regulatory framework

1. [Environmental Standards 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 provided to me by scientific research organisations, non-governmental organisations and the State Government in making my decision to renew these two D'Entrecasteaux Channel environmental licences.

The power under section 42T of EMPCA 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 of EMPCA, set out in [Schedule 1](#). The objectives that I consider are particularly relevant to these renewal applications are:

Under Part 1

- a) To promote the sustainable development¹ 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 these environmental licences has been a significant exercise in balancing the objectives of EMPCA, which are often conflicting and pull in different directions.

While I am confident in the ability of the current regulatory framework for Tasmanian finfish aquaculture to ensure that the licence holders minimise or eliminate the environmental impacts of their activities, I have also considered the unintended consequences and subsequent environmental impacts that could occur if I had made the decision to not renew these environmental licences. If these licences were not renewed, all farmed 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 amount of biological and physical waste, that would not only pose a health and biosecurity risk but 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.

¹ '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.

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 various regions 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 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 D'Entrecasteaux Channel can be appropriately managed utilising the existing licence conditions and other regulatory tools, such as TPDNO Determinations, that are available to me.