

AQUACULTURE LEASE / LICENCE TRANSACTION PROCEDURES

Overview

There are a variety of applications or transactions submitted to PIRSA Aquaculture for Aquaculture leases, marine or landbased licences. This includes applications for new sites, amendments to existing leases or licences, transfer applications, species additions and movement of sites.

The following descriptions of each transaction process have been provided to give a greater understanding of what they are and what is involved. A flow chart of each process and a glossary of terms have also been provided to assist you.

Within the PIRSA Aquaculture Division case managers for each transaction are required to ensure each step in the flowchart has been completed before approval by the Minister. This minimises any potential error or omission in the assessment process that may invalidate the approval. In addition, the case manager is also required to liaise with the applicant to obtain any further information required for the determination of the application and to assist with any queries that maybe raised.

Flowcharts

PIRSA has put on view flowcharts for each application process.

Flowchart Legend – meaning of symbols

- Starts or Stops the Process
- Action or Process
- Predefined Process
- Document
- Decision Point

Lease Flowcharts

- New Development Lease Application
- New Pilot Lease Application
- Lease Movement Application
- Division of Lease Area Application
- Lease Conversion Application
- Lease Renewal Application
- Vary Lease Conditions Application (non – spatial)
- Lease Surrender Application
- Lease Transfer Application

Marine Licence Flowcharts

- New Marine Licence Application
- Vary Marine Licence Application
- Division of Marine Licence Area Application
- Marine Licence Transfer Application
- Marine Licence Surrender Application

Landbased Licence Flowcharts

- New Landbased Licence Application
- Landbased Licence Renewal Application
- Vary Landbased Licence Application
- Landbased Licence Surrender Application
- Landbased Licence Transfer Application

Explanation of Flowcharts

The following information provides an overview of the types of activities undertaken for each step in the process of the lease/licence transaction. Please note that not all steps apply to all transactions. Please refer to the specific flowchart to determine which steps apply to the process you are reviewing.

ATAB	Aquaculture Tenure Allocation Board
BP	Business Program area of the Aquaculture Division
DAC	Development Assessment Commission
EPA	Environmental Protection Authority
ESD	Ecologically Sustainable Development Risk Assessment
ED	Executive Director
GM	General Manager
MT	Management Team
PIRSA	Primary Industry Research South Australia
SIS	Spatial Information Services

ATAB

The Aquaculture Tenure Allocation Board (ATAB) was established under Division 3 of the *Aquaculture Act 2001*. Applications within aquaculture zones must be allocated through a competitive allocation process, following a public call for applications (instigated by the Minister). Applications received are reviewed by the ATAB against pre-determined criteria. The ATAB will make a recommendation to the Minister as to how the available tenure should be allocated.

B P Endorsement

Approval from the Business Programs (BP) Manager of the Aquaculture Division is required at a number of stages throughout the process of the application.

B P Notification

The Business Programs (BP) Manager of the Aquaculture Division is notified of intentions of holder.

Case Management

The case management step is required for licence assessments only. During this phase the case manager is to gather all required information that will be required for the licence assessment to take place. At this stage the case manager introduction letter is generally drafted as any further or omitted requirements to support the application can be identified and requested at this point.

Conviction Check

A conviction check of the proposed licence holders (including directors of applicant companies) is required for applications for new Marine and Landbased licences and the transfer of Marine and Landbased licences. In determining whether a person is a suitable person to be granted an aquaculture licence, the Minister may take into account any offences committed against the *Aquaculture Act 2001* or any other law of this State or another State or Territory of the Commonwealth relating to aquaculture, fishing or environmental protection.

Council Assessment

Referral to local government of new or varying landbased licence applications. The Council is provided two weeks to make comment or raise concerns. If no response is received, it is assumed their planning department has no issue with the application.

DAC Assessment

Aquaculture is generally considered development under the *Development Act 1993* and as such applicants are required to apply for development approval from the appropriate authority. Within the marine environment this authority is the Development Assessment Commission (DAC) or in some cases the local council.

However, where an aquaculture site is located within the aquaculture zone reflected in the Land Not Within Council Area (Coastal Waters) Development Plan, development approval is not required (clause 16, schedule 3 *Development Regulations 2008*)

PIRSA Aquaculture will not finalise the application until development approval (where required) has been granted.

Debt Recovery

PIRSA Aquaculture is committed to the recovery of all fees associated with administering aquaculture leases and licences. PIRSA aquaculture fee invoices are raised to lease and licence holders on an annual basis which aligns to the anniversary of the grant of their original licence / lease (also known as rolling renewals).

The terms of all invoices are strictly 30 days from date of issue unless the Minister has agreed to provide instalment options for payment (as detailed below).

Four instalment options are given for annual lease / licence fee if it covers a 12 month period. Payment for each installment are due

- 1st 30 days from date of invoice
- 2nd 120 days from date of invoice
- 3rd 210 days from date of invoice
- 4th 300 days after date of invoice

Other installment options are given for annual fees covering less than 12 months.

Early Notification

Prior to assessing an application for a new lease/licence public notification is required to occur in the form of a public notice in relevant newspapers. Details of the application are also posted on the PIRSA Aquaculture Public Register at www.pir.sa.gov.au/aquaculture/public_register and notification of public consultation will be published in the Advertiser and relevant Regional Newspaper. Notification is also sent to relevant industry and associated bodies and some Government Departments. This occurs for both new applications and transactions such as those for the movement of a lease site. The notification includes sufficient details of the application to identify any potential conflicts or concerns regarding the proposal.

EPA Referral

Before a licence application can be approved, PIRSA Aquaculture must seek approval from the Environmental Protection Authority (EPA). The EPA is sent a copy of the application form, the Ecologically Sustainable Development assessment report prepared by PIRSA Aquaculture, draft licence and any additional documentation as required. Section 59 (1) of the *Aquaculture Act 2001* requires the EPA to make its response to the Minister within the prescribed period. If the EPA does not approve the granting of the licence (or lease in the case of a lease conversion application) the EPA must give the Minister a written statement of the EPA's reasons for its decision. This

process may take up to 6 weeks. Once approval is received from the EPA, PIRSA Aquaculture can then proceed with the application.

ESD Assessment

Once the Minister has determined that the proposed activity as described in the lease application is appropriate, the applicant is required to submit a licence application containing details on the farming activity to be undertaken on the site. Some of the information required is a Biogeographical report and video, farm management and development details and a survey of the site by a licensed surveyor. This information is used to complete an Ecologically Sustainable Development (ESD) risk assessment which addresses all environmental concerns raised by the licence application, giving each a risk rating and justification. Additional licence conditions will be recommended for the licence to mitigate risks as required.

Executive Director Endorsement

Approval from the Executive Director (ED) of the Aquaculture Division is required at a number of stages throughout the process of the application.

Final Checks

The case manager ensures all steps for the lease and/or licence application process have been fully completed.

Final Spatial

Site ID number is end-dated reflecting a “surrender” status on the public register.

Finalisation Notification

The case manager notifies relevant industry and government parties of the finalised application, where appropriate.

Gazette Lease

The grant of all aquaculture leases is published in the South Australian Government Gazette.

GM Endorsement

Approval from the General Manager (GM) of the Aquaculture Division is required at a number of stages throughout the process of the application. The General Manager will review and discuss relevant information and either endorse or reject the application with supporting comments.

Guarantee / Indemnity

In accordance with a condition of the lease, a Lessee must provide the Minister with a bank guarantee in the amount of \$10,000. The Bank Guarantee must be held by the leaseholder and include the Minister for Agriculture, Food and Fisheries as an interested party and identify the relevant site by lease number. If the lessee is a member of an indemnity scheme approved by the Minister, this can replace the need to hold a Bank Guarantee.

Initial Setup

The case manager will check the application form to ensure all information has been supplied and will liaise or contact the applicant should any further information be required.

Initial Spatial

PIRSA Spatial Information Services (SIS) group prepares all spatial representations for aquaculture sites, which then appear on the public register (www.pir.sa.gov.au/aquaculture/public_register). The case manager will consult with the SIS group at various stages throughout the application process to ensure the spatial representation is correct and updated as required.

Insurance

In accordance with a condition on their lease, the Lessee must provide a copy of public liability insurance to the Minister within 5 business days of receipt of the lease.

Invoicing Stage 1

The application fees for aquaculture are set out in Schedule 1 of the *Aquaculture Regulations 2005*. The application fee must accompany the submitted application form. The case manager will raise an invoice for the application fee and process accordingly.

Invoicing Stage 2

The annual aquaculture licence fees are set out in Schedule 1 of the *Aquaculture Regulations 2005*. Where required, the annual fee for the registration will be raised and an invoice sent to the lease / licence holder.

Invoicing Stage 3

Refund any unspent monies i.e. where advertising costs are less than expected. Or the refund of any lease/licence annual fees paid in advance in relation to a surrender.

Lease / Licence Standard Check

A brief history check of activities on the lease / licence is undertaken to ensure there are no outstanding matters that need to be resolved before the application is progressed.

Lease Assessment

Refers the case manager to the relevant licence application flowchart to be completed.

Licence Standard Check

A brief history check of activities on the lease / licence is undertaken to ensure there are no outstanding matters that need to be resolved before the application is progressed.

Licence Assessment

Refers the case manager to the relevant lease application flowchart to be completed.

Ministers Decision

Following the receipt of ATAB recommendations, the Minister will make a decision as to how the available tenure will be allocated. PIRSA Aquaculture will advise the successful applicants who are then required to submit further information in the form of a licence application. Unsuccessful applicants will also be notified of the Minister's decision.

MT Endorsement

Approval from the Management Team (MT) of the Aquaculture Division is required at a number of stages throughout the process of the application. The Management Team review and discuss relevant information and either endorse or reject the application with supporting comments.

Native Title Notification

The *Native Title Act 1993* requires that notice be given to relevant Aboriginal organisations and Native Title claimants before leases are granted, that relate to the management of regulation of surface or subterranean water or living aquatic resources (see Section 24HA of the *Native Title Act 1993*). The referral period for Native Title notifications is 8 weeks, providing no further information is required.

Notification of Endorsement

A letter is generated for the applicant notifying that provisional tenure has been granted by the Minister. The grant of a lease will be subject to the granting of a corresponding aquaculture licence and development approval for the site (if required). The tenure will be reserved for a period of 2 months.

Prepare & Issue Documents

The case manager will check the lease and/or licence documents to ensure all conditions and other details are correct for the lease / licence. A document package including lease and/or licence documents, copies of any EPA responses and ESD assessment details will be posted by registered mail with delivery confirmation.

Receive Application

The application is entered into the PIRSA Aquaculture database.

Rehabilitation Inspection

Approximately 30 days after a lease holder has been given notification, to clean up an aquaculture site Fisheries Compliance Services officers will inspect the lease area to ensure it has been rehabilitated to the condition existing prior to the commencement of the lease. This includes ensuring that the removal of all goods, equipment and waste has occurred. PIRSA Fisheries Compliance Services will report back to PIRSA Aquaculture to advise if rehabilitation has occurred.

Rehabilitation Notification

It is a condition of all leases that upon expiry or sooner determination of the term of the Lease, such as in the case of a surrender application, that the lease area be rehabilitated to the condition existing prior to the commencement of the Lease. This must be carried out at the cost of the Lessee to the satisfaction of the Minister. Upon receiving a surrender application, PIRSA Aquaculture will advise the holder that site rehabilitation must be under taken and that a Fisheries Compliance Services Officer will inspect the site to confirm this has occurred after a 30 day period. The surrender application will not be finalised until rehabilitation has satisfactorily taken place.

Risk Assessment

Initial review of any risks associated with the application. This information is used to determine whether the application can proceed as originally proposed.

Spatial Update

PIRSA Spatial Information Services (SIS) group prepares all spatial maps that are created. The case manager will consult with the SIS group at various stages throughout the application process to ensure the spatial representation is correct and updated as required. Once an application is ready to finalise, the Spatial Information Service group must update the spatial representation from draft to active status on the public register or Aquaculture database.

Transport Concurrence

It is a legislative requirement per Section 20 of the *Aquaculture Act 2001* that the Minister for Transport concur to the granting of an aquaculture lease. This process may take up to 8 weeks.