

Modification of Minister's Approval

Section 115ZI of the *Environmental Planning and Assessment Act 1979*

As delegate for the Minister for Planning under delegation executed on 16 February 2015, I, the Executive Director, Key Sites and Industry Assessments, modify the State significant infrastructure approval referred to in Schedule A, subject to the conditions outlined in Schedule B.



Anthea Sargeant
Executive Director
Key Sites and Industry Assessments

Sydney 4 August 2016

SCHEDULE A

- Application No.:** SSI-5118 granted by the then Executive Director, Development Assessment Systems and Approvals on 31 May 2013
- For the following:** Marine Finfish Research Lease Trial
- On land comprising:** The 62 hectare site of a finfish research lease in Providence Bay, around 9.1 km offshore of Hawks Nest. The site is shown in Figure 1 in Appendix 1.
Note: The site will be defined by a Class B Aquaculture Permit and an Aquaculture Lease
- Modification Number:** SSI-5118 MOD 1
- Modification:** The modification relates to the:
- relocation of the research lease further offshore;
 - installation of a permanent feed barge and Fortress Pens;
 - increasing production subject to monitoring; and
 - amendment of conditions of approval to reflect current best practice.
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SCHEDULE B

This approval is modified as follows:

- In Schedule A, deleting the rows starting with "Consent Authority:" and "Land:" and replacing with the new rows as follows:

Approval Authority: Minister for Planning and Infrastructure

Land: The 62 hectare site of a fish farm in Providence Bay, around 9.1 km offshore of Hawks Nest. The site is shown in Figure 1 in Appendix 1.
Note: The site will be defined by a Class B Aquaculture Permit and an Aquaculture Lease

- Deleting the table of contents.
- In the definitions table, delete the definitions for the Council(s), Department, Development, Director-General, DPI, Minister, MP Act, NOW, Pisces, Proponent, Sea cages and Site and replace with, in alphabetical order:

Councils	Mid Coast Council and Port Stephens Council
Department	Department of Planning and Environment or its successors in title
Development	The development as described in Schedule 1, the documents listed in condition B2 and as modified by the conditions of this approval
Minister	Minister for Planning, or successor
Proponent	NSW Department of Primary Industries (NSW DPI)
Sea pens	Twelve (12) fish farm pens with circumferences between 120 and 168 m, referred to as Fortress Pens (see Figures 2 and 4 in Appendix 2)
Site	Land referred to in Schedule A

- In the definitions table insert the following new definitions:

Feed Barge	The feed barge proposed under MOD 1 and pictured in Appendix 2
Huon	The neighbouring 'Huon' commercial finfish farm (DA 81-04-01, as modified, refer to Figure 1 in Appendix 1)
Incident	A set of circumstances that: <ul style="list-style-type: none"> • causes or threatens to cause material harm to the environment; and or • breaches or exceeds the limits or performance measures/criteria in this approval
Key seabird species	Gould's Petrel (<i>Pterodroma leucoptera leucoptera</i>), Wedge-tailed Shearwater (<i>Ardenna pacifica</i>) and Short-tailed Shearwater (<i>Ardenna tenuirostris</i>)
MEM Act	<i>Marine Estate Management Act 2014</i>
MOD 1	Modification request SSI-5118 and accompanying Environmental Assessment titled " <i>Application to modify the consents approving finfish aquaculture for Pisces Aquaculture Holding Pty Ltd and NSW Department of Primary Industries (NSW DPI)</i> " prepared by NSW DPI and Huon Aquaculture Group Limited and as modified by the Response to Submissions report for MOD 1 titled " <i>Application to modify the consents approving finfish aquaculture for Pisces Aquaculture Holding Pty Ltd and NSW Department of Primary Industries Providence Bay, Port Stephens, NSW Submissions Report</i> " prepared by NSW DPI and Huon Aquaculture Group Limited, dated May 2016
NPW	<i>National Parks and Wildlife Regulation 2009</i>

Regulation

Secretary

TOC

Secretary of the Department or nominee

Total Organic Carbon

5. Deleting all references to the words "Director-General", "Pisces" and "sea cages" and replacing with the words "Secretary", "Huon" and "sea pens", respectively, wherever occurring.
6. Deleting conditions B2(d) and B2(e).
7. Inserting the word "and" after condition B2(c) and inserting the following condition B2(d):
(d) MOD 1.
8. Deleting condition B8(a) and replacing with the following condition B8(a):
 - (a) a maximum standing stock of 998 tonnes, with the option to increase to 1,200 tonnes subject to:
 - (i) the results of benthic fauna, water quality and substrate monitoring (see conditions D18, D20 and D20B);
 - (ii) the management response to the results of monitoring;
 - (iii) written approval from the Secretary; and
9. deleting all words after "Snapper" in condition B9(d) and deleting condition B9(e) and replacing with the following words and conditions:
(*Pagrus auratus*);
 - (e) Yellowfin bream (*Acanthopagrus australis*); and
 - (f) other species approved by the Secretary for culture or bioremediation research.
10. Deleting all the words in the sentence after "impact of light on" in condition B12(b) and replacing with the words as follows:
key seabird species.
11. Inserting new condition C2A. immediately after condition C2., as follows:
C2A. The Proponent is permitted to deploy a maximum of 12 sea pens of between 120 metres and 168 metres in circumference, in accordance with the plans in Appendix 2.
12. Inserting new condition C5A. immediately after condition C5., as follows:
C5A. The Proponent shall prepare a **Traffic Management Plan** to detail how the infrastructure will be deployed to the site. The Plan shall include but not be limited to:
 - (a) consideration of any RMS requirements;
 - (b) details of the specifications of the navigation aids and their anchoring systems;
 - (c) towage plan for deployment of sea pens;
 - (d) procedures in the event of a break-away;
 - (e) measures to inform the public about the deployment activities and maritime safety issues; and
 - (f) complaints handling procedure.
13. After the heading "Marine Fauna", delete the sub-heading "Entanglement" and replace with the sub-heading "Interaction".

14. Deleting condition D12. and replacing with new conditions D12. and D12A. as follows:

D12. The Proponent shall take all reasonable action to remedy, alleviate, or reduce the incidence of entanglement, or to assist fauna which have been entangled or adversely impacted by the operation of the development through implementation of the measures described in the EIS, RTS and MOD 1, including:

- (a) ensuring that any lines (including nets) associated with the sea pen grid system are kept taut at all times (except for during maintenance);
- (b) use of sea pens detailed in MOD 1 (Fortress Pens); and
- (c) prompt removal of stock mortalities.

These measures shall be incorporated into a **Marine Fauna Interaction Protocol**.

D12A. To minimise the risk of vessel strike and/ or interactions with cetaceans, deployment activities associated with MOD 1 shall:

- (a) occur when an observer is present on vessels;
- (b) not occur unless an observer approved by the OEH is present on the vessels during any deployment activities undertaken between September and November. The Proponent is to comply with the directions of the OEH approved observer where it is safe to do so and following discussions with the vessel master; and
- (c) if cetaceans are present within legislative approach distances, operate the vessels in the manner prescribed in the NPW Regulation.

Note: The approach distances are prescribed in the NPW Regulation.

15. Replacing the words "Entanglement Committee" and "Marine Fauna Entanglement Protocol" in condition D13., wherever occurring, and replacing with the words "Marine Fauna Interaction Committee" and "Marine Fauna Interaction Protocol", respectively.

16. Deleting the sentence starting with "The Marine Fauna Monitoring Program to be implemented..." in condition D16. and replacing with the sentence as follows:

The program shall record all observations of marine fauna interactions with the development including sea pens and vessels.

17. Deleting the words "to follow shark movements in Providence Bay" in condition D16(a) and replacing with the words as follows:

in the lease area

18. Inserting new condition D16A. immediately after condition D16. as follows:

D16A. The Marine Fauna Monitoring Program is to be implemented at least one month prior to the commencement of operation and until one year after decommissioning, unless the Secretary directs otherwise.

19. Deleting condition D18. and replacing with new condition D18. as follows:

D18. The Proponent is to prepare a **Macrobenthic Invertebrate Monitoring Program** to monitor and assess the impact of the development on the structure of the benthic fauna under and in the vicinity of the site. The monitoring program shall:

- (a) be prepared in consultation with Huon, should the Huon fish farm be operating and have an appropriate aquaculture permit and lease;
- (b) be submitted to the satisfaction of the Secretary prior to commencement of deployment under MOD 1;
- (c) include, but not necessarily be limited to:

- (i) details of the locations at which monitoring of the benthic fauna will be undertaken (factoring in site characteristics such as water currents and including, the substrate directly below the sea pens and reference sites and that are consistent with the locations for monitoring of the substrate required under condition D20B);
- (ii) details of the parameters to be measured that can be used to identify an effect on the benthic fauna from the operation of the development (including species richness and diversity and functional groups);
- (iii) procedures and protocols for sampling and analyses methodology (including univariate and multivariate analyses);
- (iv) a periodic schedule for the sampling of benthic fauna including justification for the frequency. Sampling must occur at least once prior to the commencement of operation of MOD 1 and timed to coincide with the monitoring of the substrate as required under condition D20B.);
- (v) a periodic schedule for the reporting of monitoring results; and
- (vi) description of how the locations, parameters, sampling and analyses methodology and frequency of sampling and reporting may be adapted over time in order to interpret and address the effects of the development.

20. After condition D18., deleting the heading "WATER QUALITY" and replacing with the new heading "WATER AND SUBSTRATE QUALITY".

21. Deleting condition D20. and replacing with new conditions D20. and D20A. as follows:

D20. The Proponent shall prepare a co-ordinated **Water Quality Monitoring Program** for the development, unless the Secretary directs otherwise. The plan shall:

- (a) be prepared in consultation with Huon, should the Huon fish farm be operating and have an appropriate aquaculture permit and lease;
- (b) be submitted to the satisfaction of the Secretary prior to commencement of deployment under MOD 1. A copy of the Program shall also be submitted to the EPA prior to its implementation;
- (c) include but not necessarily be limited to:
 - (i) identification of activities during the deployment and operation of the development, including fish feeding and chemical use, that may have the potential to impact on water quality of potentially affected waters;
 - (ii) locations at which monitoring of water quality will be undertaken (factoring in site characteristics such as water currents and including, the water column directly below the sea pens and reference sites);
 - (iii) details of the parameters to be measured (including, ammonia, nitrate, total Nitrogen, total Phosphorus, chlorophyll a) and standards against which any changes to water quality will be assessed, having regard to the principles of ANZECC guidelines, and identification of 'trigger points' for further investigation or action to be taken;
 - (iv) identification of the frequency of water sampling or the quantitative thresholds to be used to determine monitoring events (e.g. standing stock of 25, 50, 100 tonnes). As a minimum, sampling shall occur at least annually after MOD 1 is approved, irrespective of whether the farm is stocked with fish and before deployment activities commence and for a period of at least one year following the completion of deployment of the development;
 - (v) a periodic schedule for the reporting of monitoring results; and
 - (vi) description of how the locations, parameters, sampling and analyses methodology and frequency of sampling and reporting may be adapted over time in order to interpret and address the effects of the development.

D20A. The Water Quality Monitoring Program is to be implemented at least one month prior to the commencement of operation, unless the Secretary directs otherwise.

22. Inserting a new heading and new conditions D20B. and D20C. immediately after condition D20A. as follows:

Substrate Monitoring

D20B. The Proponent shall prepare a **Substrate Monitoring Program** to monitor and assess the impact of the development on the substrate (physical and chemical) under and in the vicinity of the site. The monitoring program shall:

- (a) be prepared in consultation with the Huon lease operator, should the Huon fish farm be operating and have an appropriate aquaculture permit and lease;
- (b) be submitted to the satisfaction of the Secretary prior to commencement of deployment under MOD 1;
- (c) include but not necessarily be limited to:
 - (i) details of the locations at which monitoring of the substrate will be undertaken (factoring in site characteristics such as water currents and including, the substrate directly below the sea pens and reference sites and that are consistent with the locations for monitoring of the benthic fauna);
 - (ii) details of the parameters to be measured to determine whether the development is impacting upon the sediment chemistry (including, TOC, redox, visual assessment of cores, particle size);
 - (iii) procedures and protocols for sampling and analyses methodology;
 - (iv) a periodic schedule for the sampling of sediment chemistry including justification for the frequency. Sampling must occur at least once prior to the commencement of operation of MOD 1 and timed to coincide with the monitoring of the benthic fauna required under condition D18);
 - (v) a periodic schedule for the reporting of monitoring results; and
 - (vi) description of how the locations, parameters, sampling and analyses methodology and frequency of sampling and reporting may be adapted over time in order to interpret and address the effects of the development.

D20C. The Substrate Monitoring Program is to be implemented at least one month prior to the commencement of operations and until one year after decommissioning, unless the Secretary directs otherwise.

23. Replacing the words "Gould's Petrel" in condition D21., wherever occurring, and replacing with the words "key seabird species".
24. Deleting condition D22 and D23 and their headings and replacing with new conditions D22., D22A. and D23. and heading as follows:

WASTE MANAGEMENT

D22. The Proponent may bleed fish (pre-processing) on board a vessel provided waste is stored on-board the vessel or vessels in sealed tanks/ containers and disposed of onshore to an appropriately licensed waste disposal contractor for disposal.

D22A. The Proponent shall ensure:

- (a) waste generated outside the development shall not be received at the site for storage, treatment, processing, reprocessing, or disposal, except as expressly permitted by a licence under the POEO Act, if such a licence is required in relation to that waste; and
- (b) all dead and culled fish and any other waste material shall be disposed of on land at an approved disposal facility. Dead and culled fish shall be transported in enclosed containers.

- D23. The Proponent shall prepare a **Waste Management Plan** to outline measures to manage and minimise waste generation and resource consumption during operation of the development. The Plan shall:
- (a) be approved by the Secretary prior to the commencement of operation under MOD 1;
 - (b) identify the types and quantities of waste generated during operation;
 - (c) detail procedures to collect and dispose of waste;
 - (d) details the measures that will be implemented to minimise waste generation associated with the development (such as dead fish and packaging waste), ensuring all reasonable and feasible measures are implemented; and
 - (e) include a program for monitoring the effectiveness of these measures.

25. Deleting the heading and conditions E1. and E2. and replacing with a new heading and conditions E1. and E2. as follows:

Operational Environmental Management Plan

- E1. The Proponent shall revise and update the draft Operational Environmental Management Plan (OEMP) included with the RTS, to the satisfaction of the Secretary. The revised OEMP shall:
- (a) be approved by the Secretary prior to the commencement of operation;
 - (b) detail the strategic framework for environmental management of the development including how the results of monitoring will be used to inform and adapt the operational regime;
 - (c) detail the statutory requirements that apply to the development;
 - (d) detail the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the development;
 - (e) outline the operational regime for the management of all stock including protocols and general timeframes, where relevant, for:
 - (i) stock handling and transference regimes;
 - (ii) feeding and other treatment regimes involving chemicals (their use and storage);
 - (iii) purging prior to harvest;
 - (iv) harvesting of stock; and
 - (v) fish pen maintenance to ensure the equipment is maintained to manufacturer's specifications and to prevent possible breakaways;
 - (f) include copies of the various strategies and plans that are required under the approval including:
 - (i) marine fauna interaction protocol (see condition D12A);
 - (ii) light spill (see condition B21);
 - (iii) waste management (see condition D23);
 - (iv) emergency protocol (see condition E8);
 - (g) include a monitoring program for disease and mortalities;
 - (h) include copies of any other monitoring program required under this approval, including:
 - (i) marine fauna;
 - (ii) water quality; and
 - (iii) substrate chemistry;
 - (i) details of contingency measures and/ or adaptive management response to be implemented should the results of monitoring indicate the development has had, or is having an adverse effect on fish health and/ or the surrounding environment;
 - (j) complaints management; and
 - (k) a program for the periodic review of the plan.

E2. The Proponent shall operate the development in accordance with the OEMP approved by the Secretary (and as revised from time to time), unless otherwise agreed by the Secretary.

26. Deleting condition E3. and replacing with new condition E3. as follows:

E3. Within three months of an:

- (a) incident report submitted under condition E9.;
- (b) AEMR submitted under condition E7.; and/or
- (c) approval of a modification to this approval.

The Proponent shall review, and if necessary revise, the strategies, plans, and programs required under this approval to the satisfaction of the Secretary.

Note: This is to ensure the strategies, plans and programs are updated on a regular basis, and incorporate any recommended measures to improve the environmental performance of the development.

27. Deleting conditions E7. and E8. and their headings and replacing with the following conditions E7., E7A., E8. and E8A. and headings, as follows:

Annual Environmental Management Report

E7. Within twelve months of the commencement of operations under MOD 1, and annually thereafter, unless otherwise agreed with the Secretary, the Proponent shall submit an **Annual Environmental Management Report (AEMR)** to the Secretary and OEH. As a minimum, this report shall:

- (a) identify the standards and performance measures that apply to the development;
- (b) describe the operations that have been carried out during the reporting period;
- (c) include a summary of the complaints received during the reporting period, and compare this to the complaints received in previous years;
- (d) include records of maintenance activities;
- (e) provide details of monitoring results with commentary on any effects of the farm compared to relevant guidelines, pre-lease sampling or control sites and an analysis of any trends over time or key findings, including:
 - (i) incidents involving threatened species and/or marine mammals;
 - (ii) impacts on marine habitats - water quality, nutrient concentrations and sediments;
 - (iii) impacts on behavioural changes and predatory interactions;
 - (iv) marine fauna entanglement;
 - (v) benthic fauna assemblages;
- (f) identify any non-compliance including where the environmental performance goals for the development have not been achieved during the previous reporting period, indicating the reason for failure and the action taken to rectify and prevent any reoccurrence;
- (g) include details of any navigational incident related to the operation of the development;
- (h) include details on chemical use, disease and/or introduced pests;
- (i) describe what actions were, or are being, taken to ensure compliance; and
- (j) environmental management targets and strategies for the following reporting period taking into account identified trends in monitoring results.

The Secretary may require the Proponent to address certain matters in relation to the environmental performance of the development, in response to review of the AEMR and any comments received from relevant authorities. Any action required to be undertaken shall be completed within such period as the Secretary may agree.

- E7A. Within three months of the conclusion of operation of the development (being up to five years), or as otherwise agreed with the Secretary, the Proponent shall submit a final report summarising the findings of all AEMRs to the Secretary, OEH and EPA. As a minimum, the report shall:
- (a) provide an analysis of trends in the monitoring data over the operating life of the development;
 - (b) provide an analysis of matters reported on within the AEMRs, including complaints, non-compliances, responses to emergency incidents and the like; and
 - (c) provide an analysis on 'lessons learnt' with respect to farm management practices such as feeding regimes.

Incident and Emergency Response

- E8. Prior to the commencement of deployment activities under MOD 1, the Proponent shall develop an **Emergency Protocol**, in consultation with RMS, to the satisfaction of the Secretary. The Protocol is to outline contingency measures and procedures to be implemented to respond to emergencies, such as:
- (a) oil/ fuel/ chemical spillage;
 - (b) feed spillage;
 - (c) disease outbreak, fish kill, net rupture; and
 - (d) pen break-away/ mooring breach/ aids to navigation break-away.
- E8A. The Proponent shall notify the Secretary and other relevant authorities:
- (a) immediately where there is any vessel-related incident within the site; and
 - (b) within 24 hours of detecting a serious incident such as marine fauna entanglement or suspected disease outbreak and/or significant unexplained mortality of fish.

Note: The relevant authority for vessel-related incidents is RMS.

28. Deleting the figures in Appendices 1 and 2 and replacing with new figures as follows:

APPENDIX 1: LOCATION PLAN

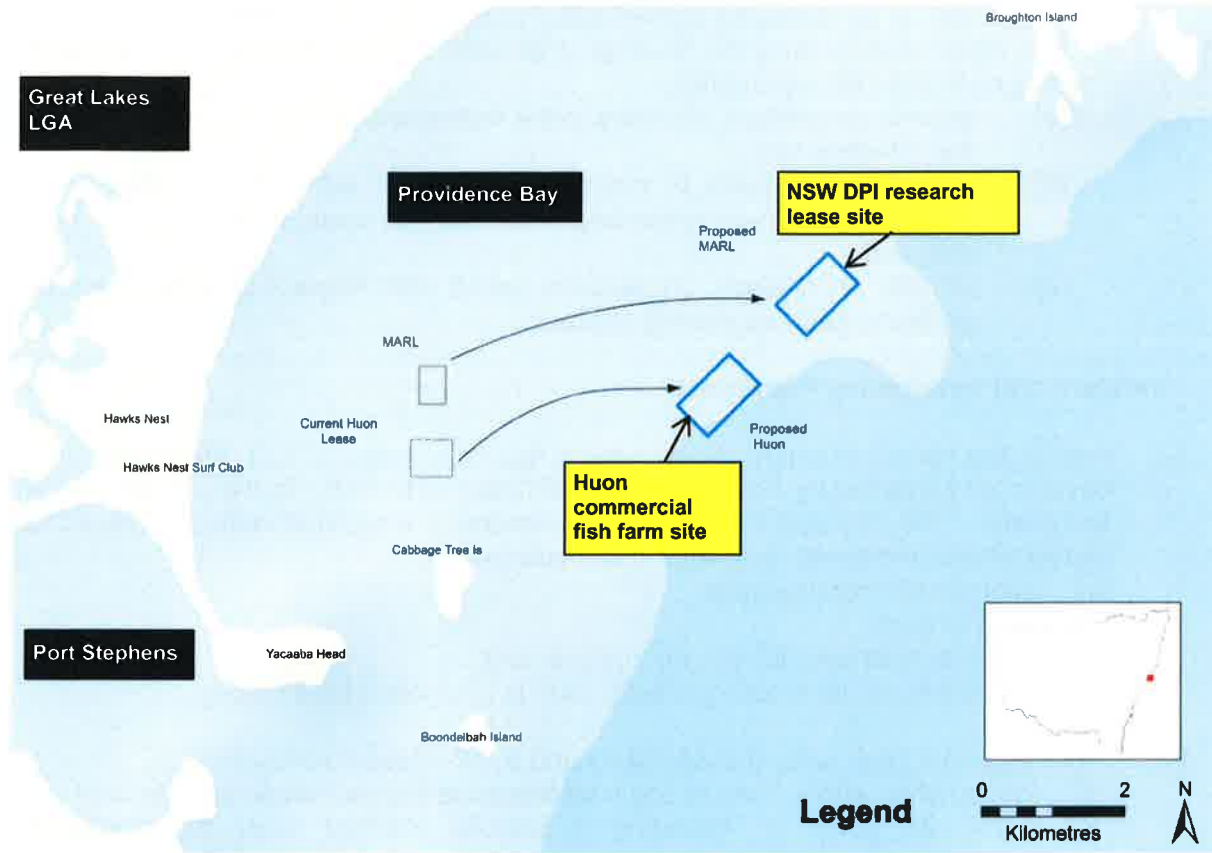


Figure 1: Approximate location of the Huon fish farm site and neighbouring NSW DPI research lease site

APPENDIX 2: DEVELOPMENT LAYOUT AND EQUIPMENT

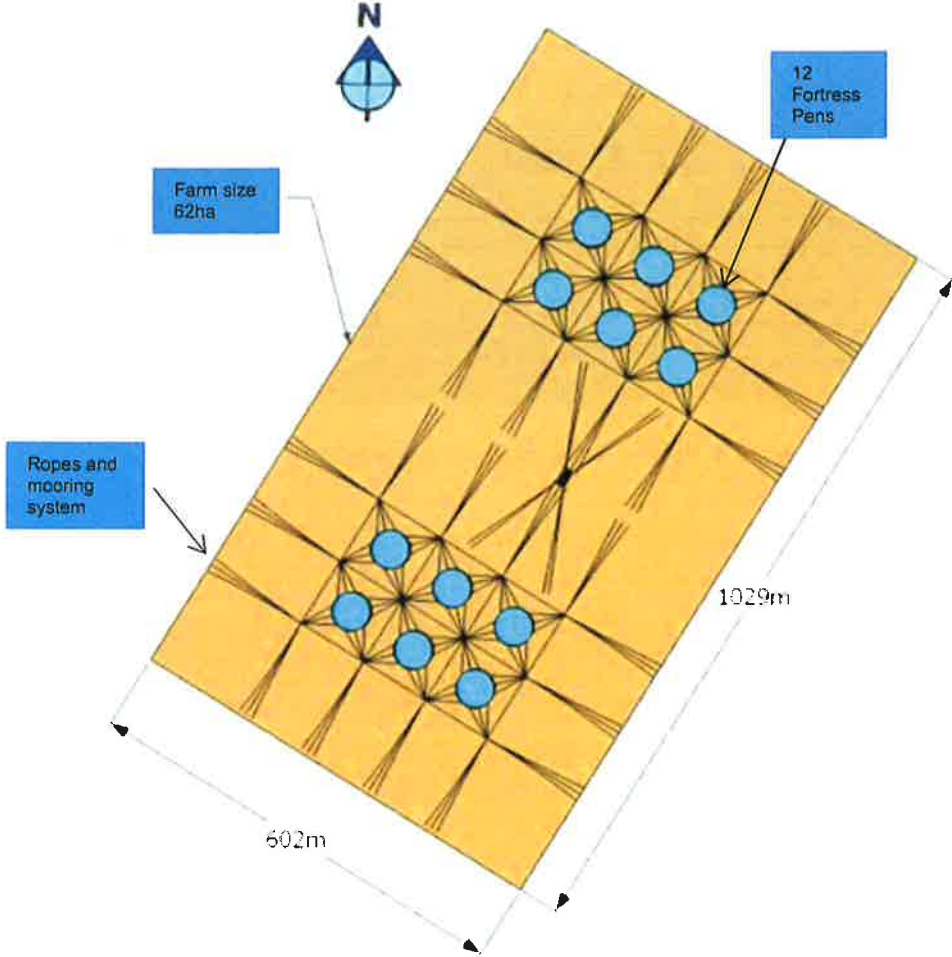


Figure 2: Sea pen layout approved under MOD 1

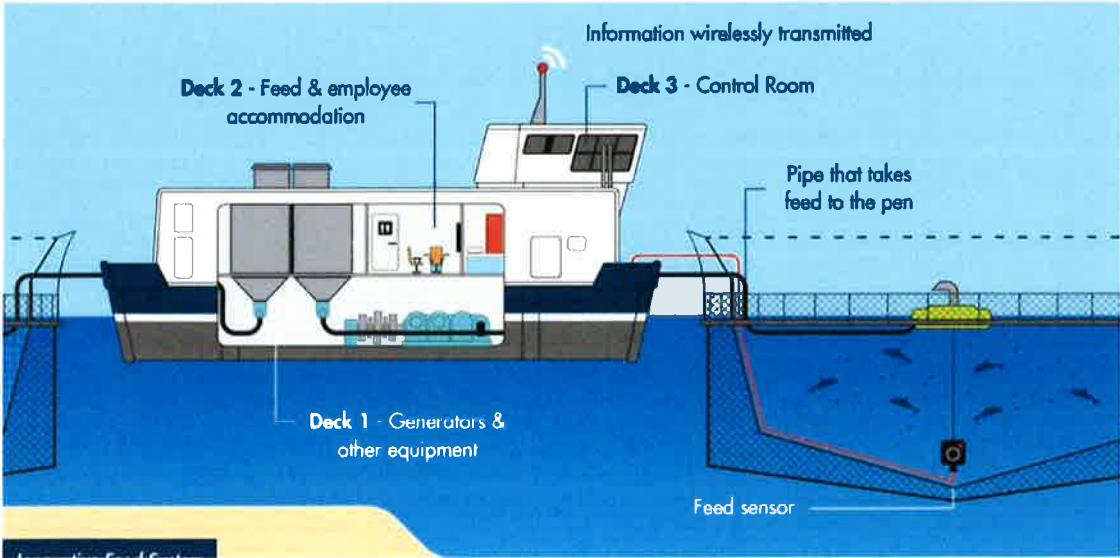


Figure 3: Feed barge approved under MOD 1



Figure 4: Fortress Pens approved under MOD 1