

APPLICATION FOR AUTHORISATION: SOUTH AUSTRALIAN OYSTER GROWERS' ASSOCIATION INC AA1000531

SAOGA Response to Questions from ACCC dated 30 October 2020

1. **Please confirm the number of SAOGA members and the percentage of licensed oyster growers in South Australia that they represent.**

1.1 **The application states that SAOGA has 80 members (para 3.2.3), which represents 80% of oyster licence holders (para 1.3.1.2).**

1.2 **We noticed SAOGA's website states that SAOGA has around 100 members, or approximately 98% of South Australian oyster licence holders.**

The website is out of date and accordingly the figures on the website are not correct. We apologise for the inconsistency.

The Board has approved a major upgrade of the website. SAOGA/SAORC went through a period where our then Executive Officer was absent for health reasons for extended periods and it was hard to keep information up to date. The Board have for some months been committed to get the website fixed and numbers corrected.

We have previously tried to ascertain the number of individual growers from SA Government but it is confidential. There are 340 licence holders but many hold multiple licences. Our best calculation last year on the number of oyster farming businesses was 92. With currently 80 members we estimate that would give us 86 %.

2. **Please clarify the process by which oyster hatcheries pay the levy on the spat which they choose to cultivate themselves.**

2.1 **We understand growers pay the levy at the point of sale and this is documented as a separate item on invoices.**

Yes, the levy is documented as a separate item on the spat sale invoices from the hatcheries.

2.2 **Is there a process for hatcheries to pay the levy where they do not purchase spat, that is, where they cultivate oysters using their own spat?**

None of the hatcheries enter the market with mature oysters, so this issue does not arise.

You will note that at paragraph 4.3.1.1 of the Application, the SAOGA and SAORC request that the authorisation extend to the imposition of the levy on hatcheries. This conduct was previously authorised.

This request is included to ensure that in the instance a hatchery elects to enter the growing market, other market participants are not disadvantaged by this conduct.

3. **Please provide more details on what research and development the levies have been spent on and how they benefit oyster growers and consumers. Para 10.2 of the application provides five examples, please provide more details.**

During the peak of the Pacific Oyster Mortality Syndrome (“**POMS**”) problems, the SA Government waived lease and licence fee collections. This provided significant support to the industry, but as no fees were collected, the Fisheries Research and Development Corporation (“**FRDC**”) (which normally receives funding through these fees) received no funds to support its activities.

The FRDC has been very supportive, and in each of those years (being where the SA Government waived all relevant fees - 2018-19 and 2019-2020) SAORC contributed \$30,000 to ensure we accessed FRDC research and assistance.

Another issue facing growers was tide anomalies and weather variability. Accordingly a project to better understand these issues was also initiated. When this information is added to an App called Willyweather, it will benefit boaters in general and be of great benefit to Oyster Growers.

In 2013, SAORC funded and coordinated a South Australia Oyster Mortality Workshop by Ben Madin and Rachel Gordon from Ausvet with assistance from Charles Caraguel from the University of Adelaide to find a way forward for the South Australian oyster industry to deal with mortalities.

SAORC funded Lexie Walker from the University of Sydney (operating from the Australian Museum) to identify the SA mudworms and describe their lifecycle. Lexie presented her work to the Oyster Growers Annual Seminar in 2012. The work done for the SA oyster industry formed part of her PhD thesis.

In 2016 SAORC gave funding assistance for a PhD Thesis “Reproductive strategy and sperm cryopreservation of a spermcasting bivalve – the Australian flat oyster *Ostrea angasi*” by Md Mahbul Hassan, B.Sc. M.Sc. This increased our understanding of the breeding of the Australian Native Flat Oyster, helping pave the way for an increase in production benefitting growers and consumers.

A credentialling project was intended to make growers more compliant with the rules and regulations that govern our industry.

The Oyster Hub project was to provide growers with better stock management and sales tracking systems. It was funded by the SA Government but administered by the SAORC. It has resulted in the development of a program called MiShell. It will improve traceability in the event of problems and oyster lease management.

A probes project was also established for the development of remote environmental sensors to provide growers with real time measurements to assist them with management decisions. Unfortunately, the probes eventually failed, proving not to be up to the task. SAORC still has intentions of trying again in the future to provide growers with real time environmental data.

4. **In the period 2010 to 2020, the levy raised \$1.48m (para 10.1). Does SAORC receive other funding and if so where from and how much?**

Yes SAORC received other funding, being:

SAORC received funding of \$400,000 from the South Australian Government for the oyster hub project resulting in the development of a program called MiShell (as referred to in 3 above).

SAORC received \$27,000 from PIRSA for the credentialling project.

SAORC received \$26,000 from Natural Resource management for the probes project.

5. **How has the public benefited from the imposition of the levy? Can SAOGA/SAORC point to examples of how, as a result of the levy, consumers have benefited as a result of the levy.**

Many of the programs set out in response to Question 3 above have the capacity to directly benefit the public through research and development activities and creating efficiencies in the market.

The levy has allowed SAORC to co-fund a project with FRDC and Australian Seafood Industries called "South Australian Mortality Trials" (FRDC number: 2020-064). This research has involved investigating the survival of the oyster family lines in South Australia to assist selection for a better surviving oyster.

Research funded by the levy is part of a big research effort to improve the survivability of oysters in farms. We had feared that we would lose many oyster farms when POMS resulted in closed borders to spat. We have been able to ensure survivability to the extent that we have kept most businesses viable. This is vital to many small bay communities where oysters are the major or one of the major employers. Also, whilst not in full supply, it did help to keep hospitality outlets and their customers to enjoy oysters.

6. **What is the survival rate for spat? Where 1000 spat are supplied, how many would grow to maturity and be marketable?**

Survival rates vary enormously within the 0-90% range. This was particularly so when restricted hatchery space meant smaller spat needed to be released. There are many variables to survival rates.

7. **We understand that the levy is charged as a separate item on all invoices for spat (para 4.3.2). If an oyster grower decides that they do not want to pay the levy, they can seek a refund for levies paid during the financial year and in these circumstances, the grower will not have access to research published or generated by the levy (para 4.3.3). Hatcheries have also agreed not to supply spat where the levy has not been paid (para 11.1)**

7.1 **Is there a written document underlying the agreement from hatcheries not to supply spat where the levy has not been paid?**

7.1.1 *If so, please provide a copy of this agreement.*

7.1.2 *If not, please outline the process whereby hatcheries have agreed not to supply spat to growers that have not paid the levy.*

There is no written agreement or similar formal document in place and we are not aware of any instances of any instances where spat supply has been refused because of the SAORC levy.

The current arrangement between the SAOGA, SAORC and the hatcheries is an informal understanding on the terms of the existing authorisations.

7.2 **Are the four hatcheries listed in Table 1 of para 3.1 the only oyster hatcheries in South Australia?**

If so, it seems that a decision by a South Australian oyster grower not to pay the levy, would mean the oyster grower would be unable to source spat,

noting that growers cannot source spat from hatcheries outside South Australia. Is this correct?

The four hatcheries listed are the only hatcheries in South Australia.

Growers cannot source spat from outside the state. Not paying the levy does not affect spat supply.

7.3 If an oyster farmer seeks a refund of levies how are they prevented from receiving the benefit of the research generated from the levy during that year (para 11.2)?

SAORC enjoys high compliance with its' voluntary levy and does not seek to exclude non-levy paying growers from the benefits of SAORC.

In the instance that the SAORC elects to enforce the terms of the authorisation more prescriptively, the SAORC would remove the specific oyster grower from its direct research distribution channels as described in response to question 7.4.

7.4 Where is SAORC research published and how would SAORC/SAOGA prevent growers from accessing it (para 4.3.3)?

The research is communicated by a combination of newsletters, emails, information days and seminars.

8. To what extent has the South Australian oyster growing market recovered from the outbreak of the Pacific Oyster Mortality Syndrome in 2016?

After the market fell to less than half normal turnover, we are now seeing some good revival. After 2-3 years of low production due to lack of spat (due to the ban on importing into South Australia), recovery started early 2020, then COVID closures killed demand, but with the lifting of COVID restrictions most growers are experiencing strong sales.

9. As you would be aware, during our assessment of an application for re-authorisation, we compare the future with the Proposed Conduct to the future without the Proposed Conduct. Please outline what the future without the Proposed Conduct might look like.

Without the levy there is no leveraging to attract or pay for research specific to South Australian oyster industry. Problems with growing oysters are generally localised to specific regions or localities.

The last few years have placed significant burdens on the oyster industry in South Australia. This has involved the local industry moving into a 'crisis management mode' in many respects.

Removal of the levy would remove the predominant and near-sole source of South Australian oyster growing research and development. Without the levy, it is unlikely any participant in the South Australian oyster industry would have the capacity to actively and independent fund research and development activities, resulting in industry stagnation and a lack of innovation. As a consequence, potential efficiencies and improvements in oyster growing in South Australia may never be realised.

We have also enclosed a copy of the SAORC Strategic Plan. Without the levy, these activities are unlikely to occur.