



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

The Minister of Agriculture Forestry and Fisheries
Minister S. Zokwana, MP

Reference: AP/Overberg Commercial Abalone Divers Ltd

REPORT IN TERMS OF REGULATION 5(3) OF THE REGULATIONS PROMULGATED UNDER THE MARINE LIVING RESOURCES ACT, 1998 (ACT No. 18 OF 1998): APPEAL IN TERMS OF SECTION 80 OF THE MARINE LIVING RESOURCES ACT, 1998 (ACT No. 18 OF 1998) ON THE APPEAL LODGED BY -

OVERBERG COMMERCIAL ABALONE DIVERS LTD

SECTOR: SHARK DEMERSAL

APPLICATION NUMBER: DMS 130228

1. Purpose

To submit a report as provided for in terms of Regulation 5(3) of the Regulations promulgated under the Marine Living Resources Act, 1998 (Act No. 18 of 1998) ("the MLRA"), with regard to an appeal by Overberg Commercial Abalone Divers Ltd ("the Appellant").

2. Introduction

- 2.1 The appellant is a right holder applicant whose application was refused on the basis that its application was "too weak" to justify the allocation of a shark demersal fishing right.
- 2.2 The appellant was scored a total of 30.33%. It requires 50% or more to qualify for a shark demersal fishing right.

3. Grounds of Appeal

3.1 The appellant raises the following grounds of appeal:

- a) That it was incorrectly scored with regard to the criterion "Equity and HDI". Appellant claims it ought to have been scored 15% and not 8.3%;
- b) That it was incorrectly scored with regard to the criterion "catch utilization". Appellant claims that it ought to have been scored a maximum of 15% and not zero;
- c) That it was incorrectly scored with regard to the criterion "procurement". Appellant claims that it ought to have been "the full 12%" for this criterion. The total maximum score available for this criterion is 10% and the appellant was scored 2.5%.

Catching performance

3.2 The appellant was scored **0%** points under the criterion "catch utilization".

3.3 The appellant objects to this score noting that it had uplifted its annual fishing permits in the shark demersal fishery for the years 2007, 2008, 2009, 2010, 2011 and 2012. The appellant has provided proof that it had uplifted a permit in 2008;

3.4 The appellant's score should therefore be increased by **15%** as it had uplifted 6 shark demersal fishing permits between 2007 and 2012.

Equity & HDI

3.5 The Appellant claims that it ought to be scored 15% for black management and woman management but fails to state why.

3.6 The Appellant was correctly scored on the criterion of black management and female management having been allocated the maximum possible score.

3.7 Appellant's score should therefore not be amended on this criterion.

Procurement

- 3.8 It is unclear on what basis the appellant claims an additional 12% points for procuring services from a black-owned business. In response to section 6.4 in the Application Form, the appellant elected to not provide any response.
- 3.9 On appeal, the appellant states that it procures unspecified services from "Relmar Investments" which is "100% black". No proof of this is provided either on appeal or in the application form.
- 3.10 The maximum score attainable for affirmative procurement (ie procurement from a black-owned company) is 0.63%.

4. Recommendation

Having had regard to the Appellant's grounds of appeal, it is recommended that the Minister **refuses** the Appellant's appeal as the maximum possible score that the appellant can attain is 45.96%.




Siphokazi Ndudane
Deputy Director-General (Acting)
Fisheries Management

DATE:

9/9/15

Decision by Minister: Recommendation Accepted / Recommendation Rejected



Senzeni Zokwana, MP

MINISTER OF AGRICULTURE, FORESTRY AND FISHERIES

DATE: 10-09-2015