



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

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

Reference: KHOI GROEP 13 SERVICES CO-OPERATIVE

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 –

KHOI GROEP 13 SERVICES CO-OPERATIVE

SECTOR: DEMERSAL SHARK

APPLICATION NUMBER: DMS 130 322

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 **KHOI GROEP 13 SERVICES CO-OPERATIVE** (“the Appellant”).

2. Introduction

2.1 The appellant is a new entrant applicant whose application was refused on the basis that its application was “too weak” to justify the allocation of a DEMERSAL SHARK fishing right.

2.2 The appellant was scored a total of 58.13%. The Acting DDG had decided that new entrant applicants that had scored 50% and more would be granted a fishing right in this fishery. The reason for the refusal of the Appellant’s application was ostensibly because its application was comparatively too weak

to justify the allocation of a right. Having scored above the stated minimum score to warrant a right to be allocated in this fishery, the Appellant's application could not be said to have been comparatively "too weak".

2.3 However, the Appellant had failed to demonstrate access to a suitable vessel to Demersal Shark, nominated vessel is a wreck. Such a failure to satisfy an essential requirement at the date of application cannot be cured on appeal.

2.4 There is no record of the appellant's appeal, nonetheless application was reviewed by the appeal team.

3. Grounds of Appeal

3.1 The Appellant was scored at 58.13% which is above the minimum score to qualify for a fishing right. Regardless of the qualifying score the appellant cannot succeed in that, *in terms of section 1 of the MLRA co-operatives are precluded from holding a fishing right*'.

3.2 The Appellant's total score notwithstanding, it failed to demonstrate access to a suitable Demersal Shark fishing vessel. Although it refers to the Nella as the nominated vessel, the vessel's is deemed to be unsuitable.

3.3 The requirement to demonstrate a right of access to a suitable vessel for this fishery is an exclusionary requirement where failure to satisfy this essential requirement results in the application being excluded. Such a failure to satisfy compliance with an essential requirement cannot be rectified on appeal and the reason that the appellant is a co operative.

4. Recommendation

Having had regard to the Appellant's appeal, it is recommended that the Minister **rejects** the Appellant's appeal.




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