



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/MBOTHO FISHING

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 –

MBOTHO FISHING

SECTOR: DEMERSAL SHARK

APPLICATION NUMBER: DMS 130574

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 Mbotho Fishing (Pty) Ltd (“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 right.
- 2.2 The appellant was scored a total of 25%. 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

because its application was comparatively too weak to justify the allocation of a right.

2.3 The Appellant had failed to demonstrate access to any vessel in its application form, let alone a suitable Demersal Shark vessel. Appellant claims Fishermen Fresh will provide it with vessel. However, there is no recorded agreement to this effect either in its application or appeal submission.

2.4 The appellant duly filed its appeal on 21 February 2014. The Appellant had not elected to file a supplementary appeal by 31 July 2015.

3. Grounds of Appeal


3.1 The Appellant's does not raise any substantive grounds of appeal such as possible errors concerning its scoring or the manner in which any aspect of its application was evaluated or interpreted.

3.2 The Appellant does not raise any grounds motivating why its score should be reviewed and increased. In addition, the Appellant failed to demonstrate access to or even nominate a suitable Demersal Shark fishing vessel.

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.

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