



**MINISTER
ENVIRONMENTAL AFFAIRS
REPUBLIC OF SOUTH AFRICA**

Private Bag X447, Pretoria, 0001, Environment House, 473 Steve Biko Road, Tel: (012) 399 8743
Private Bag X9052, Cape Town, 8000, Tel: (021) 464 1500, Fax: (021) 465 3362

Dear White Shark Cage Diving Applicants

APPEAL DECISION IN TERMS OF SECTION 43 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998): WHITE SHARK CAGE DIVING (WSCD)

Applicants applied in 2017 to the Delegated Authority in terms of regulation 68 of the Threatened or Protected Marine Species Regulations (TOPS) (*Government Gazette* 40876 GNR 477 of 30 May 2017), published in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) (NEMBA), for a permit to operate a White Shark Cage Diving business (WSCD).

The Delegated Authority considered and scored the applications and granted permits in the sector for the reasons as set out in the decision letters circulated to each applicant. Following these decisions, 24 applicants have filed appeals against the decision of the Delegated Authority in terms of section 43 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA), which appeals were received during November/December and January 2017/2018.

As the Appeal Authority, I have considered all the appeals in this sector against the scoring and decisions of the Delegated Authority when awarding permits in terms of regulation 68 of the Threatened or Protected Marine Species Regulations (*Government Gazette* 40876 GNR 477 of 30 May 2017), published in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), to operate a White Shark Cage Diving business.

After considering each appeal, it became apparent that there were significant generic scoring errors in the sector. After investigation, it appears that in the case of all existing operators their scores were calculated on the incorrect weightings for the 3 main criteria, namely Transformation, Compliance and Investment. When the

rescoring was done in terms of the correct weightings, 75%, 10% and 15% respectively, the outcome of the Delegated Authority's decision changed significantly in terms of who would have and would not have been granted a permit., particularly in the Gansbaai area. As such in the interests of procedural fairness and administrative justice, I have decided to refer this matter back to the Delegated Authority for a complete reassessment of all applications to ensure that the correct scores are now recorded. For those applicants who were not scored as a result of not complying with exclusionary or compulsory criteria and who on appeal have now submitted the relevant documents and information to fulfill these requirements, I have also requested the Delegated Authority to score these applications as these scores could also change the results of the initial decisions taken.

In the interest of fairness all applications will be re-assessed. The Delegated Authority shall complete this process within 30 days.

Once this has been completed, WSCD applicants will receive their new corrected scores together with new decisions as to who are provisionally granted permits in each area. Applicants will then be given an opportunity to file an internal appeal based on the corrected scores.

Kind regards,



BOMO EDNA EDITH MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

DATE: 2018/3/13