



**DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT**

**BRANCH FISHERIES MANAGEMENT**

**GENERAL PUBLISHED REASONS FOR THE DECISIONS ON THE ALLOCATION OF 2021/22 FISHING  
RIGHTS AND EFFORT IN THE DEMERSAL SHARK FISHERY**

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## 1. Introduction

This document is titled the *"General Published Reasons for the Decisions on the Allocation of Rights and Effort in the Demersal Shark Fishery: 2021/22"* and will be referred to as the *"GPR"*. The GPR sets out the criteria and weighting, the process and methodology and the policy reasons for the decisions on the allocation of rights and effort in this sector. Applicants are therefore advised to carefully study the GPR before considering the assessment of their applications and the specific reasons for decisions taken. This GPR should be read in conjunction with the General Policy on the Allocation of Fishing Rights: 2021 as well as the Policy on the Allocation and Management of Fishing Rights in the Demersal Shark Fishery: 2021.

### 1.1. Background and Context

During 2005/2006, the then Department of Environmental Affairs and Tourism (DEAT) embarked on the Long-Term Rights Allocation Management Process (LTRAMP). In preparation for LTRAMP, the DEAT published a General Policy on the Allocation and Management of Fishing Rights: 2005 as well as Sector-specific policies for twenty commercial fishing sectors. At the conclusion of the LTRAMP process, fishing rights were granted in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998) ("the MLRA") for periods ranging from two (2) to fifteen (15) years in twenty commercial fishing sectors.

Some fishing sectors rights expired on 31 December 2013 and were subsequently reallocated for a period of 7 years, expiring on 31 December 2020. Prior to this allocation process, the General Policy on the Allocation and Management of Fishing Rights: 2005 was revised to align the allocation objective of the Department with the broader objectives of government and the new General Policy on the Allocation and Management of Fishing Rights: 2013 was published and gazetted.

The sectors that were allocated 15-year rights during LTRAMP 2005 and 7-year rights during FRAP 2013 expired at various periods during 2020. The Deputy Director-General exempted the current Right Holders from Section 18 of the Marine Living Resources Act, 1998 (Act no 18 of 1998), by granting them extensions of their current fishing rights until 31 December 2021. This extension was granted while the Department of Forestry, Fisheries and Environment ("the Department" / "DFFE") would conclude a Fishing Rights Allocations Process ("FRAP") in terms of Section 18 of the MLRA.

This necessitated the current allocations process, which is known as FRAP 2021. The nine sectors currently undergoing a Rights Allocation Process are:

- Hake Deep-Sea Trawl
- Hake Longline
- KZN Crustacean Trawl
- Small Pelagic (Sardine and Anchovy)
- South Coast Rock Lobster
- Demersal Shark Longline
- Squid
- Tuna Pole-Line
- Traditional Linefish.

The Department undertook several preparatory steps for FRAP 2021; these are summarized below:

- Appointment of Service Providers to facilitate, assist and observe the FRAP process.
- Conduct SEIAS Phase 1 of General Policy and Sector specific policies.
- Review of General Policy and Sector specific policies.
- Conduct public consultations and receive policy comments.
- Conduct SEIAS Phase 2 of General Policy and Sector specific policies.
- Incorporate comments and recommendations into final policies.
- Enhancement of FRAP Management System to allow for online registrations and applications.
- Appointment of Delegated Authorities and Assessment Teams for assessing and adjudicating online applications.

## 2. FRAP 2021 /22: Preparation for Allocation Process

### 2.1. Appointment of Service Providers

The Department appointed the following service providers to provide support and to ensure a procedurally fair and transparent process.

- **FRAP Implementer:** Stowie M Trading – RB Africa Consortium
  - Role and Responsibility: To assist the Department with the implementation and administration of the rights allocations during FRAP 2021.
- **FRAP Observer:** Rain Chartered Accountants
  - Role and Responsibility: Process observers and audit services, to obtain sufficient appropriate audit evidence to support the MLRF, the DFFE and the Minister on FRAP 2021 and post rights allocations.
- **FRAP IT Solution:** Navayuga InfoTech SA (Pty) Ltd
  - Role and Responsibility: To design, implement and manage an IT solution and render IT support for the Delegated Authorities and the Minister during FRAP 2021 for a period of 3 years.
- **FRAP Legal Support:** State Attorney Office: Cape Town
  - Role and Responsibility: Provision of legal services to provide legal advice for FRAP 2021.
- **FRAP Tip Off-Line:** KPMG
  - Role and Responsibility: Set up and monitor toll free tip off-line for the purposes of reporting unethical behaviour, theft, fraud, or related activities.
- **FRAP Forensic Investigations and Audits:** Morar Inc.
  - Role and Responsibility: Provision of forensic audit services for FRAP2015/16 and ad hoc forensic investigation services for FRAP2021 as required.

### 2.2. SEIAS Phase 1

The Socio-Economic Impact Assessment System (SEIAS) is a uniquely designed methodology for assessing the social and economic impact of policies, legislation, regulations and other subordinate legislation in line

with our national priorities. SEIAS is aimed at improving the legislative environment to ensure that assessments help departments to analyse risks and propose ways to mitigate them.

The Department conducted SEIAS Phase 1 studies on the General Policy and nine Sector-specific policies. The initial impact assessment aimed to understand problems, root causes and causative behaviours by different groups.

The SEIAS Phase 1 reports were published on the Department's website in May 2021 for all sectors except for Traditional Linefish which was published in August 2021 and stakeholder's comments were invited. The Presidency issued the Department with the necessary initial sign-off certificates for each of the SEIAS Phase 1 report.

### **2.3. Review of Policies**

The Department published the draft General Policy on the Allocation of Commercial Fishing Rights: 2021 in the Government Gazette No. 45154 of 13 September 2021. The nine draft Sector-specific policies on the Allocation and Management of Fishing Rights were published in the Government Gazette No. 45180 of 20 September 2021 for public comment.

Comments from stakeholders were invited by post, by hand and by email. The deadline for submission of comments was 25 October 2021 and comments submitted via email were to be sent to [FRAPpolicycomments@environment.gov.za](mailto:FRAPpolicycomments@environment.gov.za).

### **2.4. Public Consultations and Policy Comments**

Public meetings were held at 38 venues in all the coastal Provinces and 1 venue inland. In addition, 6 virtual sessions were held over Zoom. These meetings covered the geographical area from Port Nolloth to Richards Bay and were held from 13 – 21 October 2021. The schedule of the 44 consultations were published in a media statement which was published on the Department's website as well as emailed to industry stakeholders and displayed in all Fisheries Compliance Offices.

The public consultations were chaired by DFFE officials and comprised an overview of the draft policies and the FRAP 2021 process. During the consultations, the Department solicited the views of members of the fishing industry and interested parties in respect of the proposed policies and processes that guided the Minister in deciding on the final policies and fees. All sessions were attended by the FRAP Implementer and FRAP Observer. Sessions were video recorded and minutes were taken to capture all concerns raised. Covid-19 Protocol was strictly observed at all sessions that were held in person.

The schedule of public consultations is set out in Table 1 below.

**Table 1:** Schedule of FRAP 2021 public consultation sessions

Date	Day	Time	Area	Venue	Address
<b>Region 1: Cape Town &amp; Surrounds)</b>					
13-Oct-21	Wednesday	09h00 - 12h00	Cape Town	Kirstenbosch Old Mutual Conference Centre	Kirstenbosch, Rhodes Drive, Visitors Gate 1
14-Oct-21	Thursday	09h00 - 12h00	Cape Town	Kirstenbosch Old Mutual Conference Centre	Kirstenbosch, Rhodes Drive, Visitors Gate 1
15-Oct-21	Friday	10h00 - 13h00	Hout Bay	Hout Bay Sport & Recreation Centre	Karbonkel Road, Hout Bay
16-Oct-21	Saturday	09h00 - 12h00	Khayelitsha	Site B Hall	Sulani Drive, Khayelitsha 9795
18-Oct-21	Monday	09h00 - 12h00	Kleinmond	Community Hall / Stadsaal	End of Main Road
19-Oct-21	Tuesday	09h00 - 12h00	Hermanus	Sandbaai saal	Corner of Piet Retief and Jimmy Smit
19-Oct-21	Tuesday	14h00 - 17h00	Hermanus	Abalone Hall, Hawston	1 Marine Drive
20-Oct-21	Wednesday	09h00 - 12h00	Gansbaai	Blom Park Gemeenskap saal	33 Viooltjie St, Blom Park
21-Oct-21	Thursday	09h00 - 12h00	Arniston	Arniston Community Hall	Kampstraat , next to Kliniek
21-Oct-21	Thursday	14h00 - 17h00	Struisbaai	Dienssentrum / Service centrum	5th Avenue, Struisbaai North



Date	Day	Time	Area	Venue	Address
<b>Region 2: West Coast</b>					
14-Oct-21	Thursday	09h00 - 12h00	Yzerfontein	Yzerfontein community hall	25 Dolfyn street
15-Oct-21	Friday	09h00 - 12h00	Langebaan	Seebries Caravan Park	157 Hoof street
15-Oct-21	Friday	14h00 - 17h00	Saldanha	Hoedjiesbaai Hotel	38 Main Road
16-Oct-21	Saturday	09h00 - 12h00	Veldrif	Riviera Hotel	127 Margaret Mncadi Ave, Esplanade
17-Oct-21	Sunday	09h00 - 12h00	Elands Bay	Elandsbay community Hall	36 Hoof Street, Elands Bay
17-Oct-21	Sunday	14h00 - 17h00	Lamberts Bay	Eureka	5 Seekant St 8130
18-Oct-21	Monday	09h00 - 12h00	Strandfontein	VCSV Uitsig Hall	Louis Rood Strandfontein
19-Oct-21	Tuesday	09h00 - 12h00	Hondeklip bay	Hondeklipbaai Hall	Dolfyn street
20-Oct-21	Wednesday	09h00 - 12h00	Springbok	Springbok community center	17 Freddie Carstens st
21-Oct-21	Thursday	09h00 - 12h00	Port Nolloth	Scotia Inn Hotel	Beach Road, Port Nolloth
Date	Day	Time	Area	Venue	Address
<b>Region 3: Southern Coast (EC/WC)</b>					
15-Oct-21	Friday	09h00 - 12h00	Gqeberha (P.E)	PE Deep Sea Angling Club	Port Elizabeth Harbour, Humewood Extension
15-Oct-21	Friday	14h00 - 17h00	Gqeberha (P.E)	PE Deep Sea Angling Club	Port Elizabeth Harbour, Humewood Extension
17-Oct-21	Sunday	09h00 - 12h00	Knysna	Loerie Park Clubhouse	Fisher Haven, Knysna, 6571
18-Oct-21	Monday	09h00 - 12h00	Mossel bay	Diaz Museum	1 Market Street, Mossel Bay
19-Oct-21	Tuesday	09h00 - 12h00	Stillbay	Palinggat	Main Rd, Still Bay West

Date	Day	Time	Area	Venue	Address
<b>Region 4: Eastern Cape</b>					
14-Oct-21	Thursday	09h00 - 12h00	East London	Elba Rowing Club	Pontoon Road, Harbour, East London
15-Oct-21	Friday	09h00 - 12h00	Port Alfred	My Pond Hotel	33 Van Der Riet Street
16-Oct-21	Saturday	09h00 - 12h00	Centane	Trennery's Hotel	Trennery's Hotel, Qolorha
17-Oct-21	Sunday	09h00 - 12h00	Dwesa	Dwesa Conference Room	Dwesa Nature Reserve
18-Oct-21	Monday	09h00 - 12h00	Coffee Bay	Ocean View Hotel	Ocean View Hotel, Coffee Bay
19-Oct-21	Tuesday	09h00 - 12h00	Mthata	Tnnas Quest House, 3rd Avenue	3rd Avenue, Mthatha
20-Oct-21	Wednesday	09h00 - 12h00	Port St Johns	Eluxolweni Hall	Main Str, Port St Johns
21-Oct-21	Thursday	09h00 - 12h00	Lusikisiki	College of Education Lecture Hall 40	R61 Lusikisiki

Date	Day	Time	Area	Venue	Address
<b>Region 5: KZN</b>					
16-Oct-21	Saturday	09h00 - 12h00	Port Shepstone	Uvongo Town Hall, Crescent road	Crescent Rd, Uvongo, Margate
17-Oct-21	Sunday	09h00 - 12h00	Durban	Point Yacht Club	3 Maritime Place
18-Oct-21	Monday	09h00 - 12h00	Kwadukuza	Kwadukuza Town Hall, King Shaka street,	King Shaka street
19-Oct-21	Tuesday	09h00 - 12h00	Richards Bay	Richards Bay Library, Krugerrand st	Krugerrand street

Date	Day	Time	Area	Venue	Address
<b>Region 6: Interior</b>					
18-Oct-21	Monday	09h00 - 12h00	Pretoria	NG Villieria	571 24th Ave, Pretoria

Date	Day	Time	Area	Link	Meeting ID
<b>Virtual Team</b>					
13-Oct-21	Wednesday	09h00 - 12h00	Hamburg, Port Alfred, Bisho, Queenstown (Border Kei)	<a href="https://us02web.zoom.us/j/89027578069">https://us02web.zoom.us/j/89027578069</a>	Meeting ID: 890 2757 8069 Dial in: +27 87 551 7702
13-Oct-21	Wednesday	14h00 - 17h00	Jeffreys Bay, Tsitsikamma, Plettenberg Bay, Humansdorp	<a href="https://us02web.zoom.us/j/88535737534">https://us02web.zoom.us/j/88535737534</a>	Meeting ID: 885 3573 7534 Dial in: +27 87 550 3946
14-Oct-21	Thursday	09h00 - 12h00	Mahikeng Kimberley Bloemfontein Mbombela Polokwane	<a href="https://us02web.zoom.us/j/86970872089">https://us02web.zoom.us/j/86970872089</a>	Meeting ID: 869 7087 2089 Dial in: +27 87 551 7702
14-Oct-21	Thursday	14h00 - 17h00	Paternoster St Helena Veldrif	<a href="https://us02web.zoom.us/j/81083859444">https://us02web.zoom.us/j/81083859444</a>	Meeting ID: 810 8385 9444 Dial in: +27 21 426 8190
15-Oct-21	Friday	09h00 - 12h00	Pietermaritzburg Port Edward Mzamba	<a href="https://us02web.zoom.us/j/83213399431">https://us02web.zoom.us/j/83213399431</a>	Meeting ID: 832 1339 9431 Dial in: +27 21 426 8191
15-Oct-21	Friday	14h00 - 17h00	Sodwana Bay Manguzi	<a href="https://us02web.zoom.us/j/84656897757">https://us02web.zoom.us/j/84656897757</a>	Meeting ID: 846 5689 7757 Dial in: +27 87 551 7702

## 2.5. SEIAS Phase 2

The Final Impact Assessment provides a more detailed assessment of the ultimate policy or legislative proposal. It also considers the intended outcomes, costs, benefits, a system for managing appeals that could emerge around the implementation process, consultations with stakeholders, impact assessment to different groups, risks, monitoring and evaluation and impact to the National priorities.

The SEAIS Phase 2 process was conducted on the General Policy and the nine sector specific policies. Sign off certificates were issued by the Presidency and the final SEIAS reports were published on the DFFE website in December 2021.

## **2.6. Finalisation and Gazetting of Final Policies**

After consideration of all the comments received via email, post and by hand by the due date of 25 October 2021, the policies were subjected to a final review. The Minister published the final General Policy and sector specific policies in the Government Gazette No. 45504 of 19 November 2021. The ten policies were also translated from English into Afrikaans, isiXhosa and isiZulu.

## **3. Application Process**

In order to facilitate and streamline the FRAP 2021 application and assessment process, the Department appointed Navayuga InfoTech to develop an online IT solution.

The application process launched on 1 November 2021, when applicants were invited to log on to the online system and create a User Profile. The draft application form was made available for applicants to download in order to familiarise themselves with the information and supporting documentation required.

Support centres were set up at the venues listed in Table 2 below, in order to provide technological equipment (laptop, Wi-Fi, and printer) and support for applicants with limited access to resources. The FRAP Observer was present at all centres. Covid-19 Protocol was strictly observed at all centres.

**Table 2:** Support Centres for FRAP 2021 applications

No	Area & Centre
1.	Fishery Compliance Office, Port Nolloth
2.	Monitoring & Surveillance Office, Saldanha
3.	Customer Service Centre, Cape Town
4.	Fishery Compliance Office, Hermanus
5.	Fishery Compliance Office, Arniston

6.	Research Office, Mossel Bay
7.	Marine Resource Management and MCS Office, East London
8.	Fishery Compliance Office, Port Elizabeth
9.	Fishery Compliance Office, Mzamba, Port Edward
10.	Midmar Environmental Programmes Office, Howick, KZN

The FRAP 2021/22 system opened for applications on 22 November 2021. The closing date for submission of applications was extended from 7 December 2021 until midnight 10 December 2021, as per Government Notice 1566 in Government Gazette No 45573 of 2 December 2021.

Following calls from various industry representatives and fishing associations, on 28 December 2021, Susan Clare Middleton, the Deputy Director-General of the Fisheries Management Branch, by virtue of the delegated powers conferred to her by the Minister of Forestry, Fisheries and the Environment, in terms of Section 79(1) read with Section 18(2) of the Marine Living Resources Act 18 of 1998, re-opened the FRAP online system. The reopening of the Frap online system afforded only registered users and current applicants a further opportunity to resubmit fresh applications and/or to supplement their current applications with outstanding information and/or supporting documentation between 28 December 2021 and 28 January 2022. A Public Notice communicating the reopening of the FRAP online system was released on 27 December 2021.

### **3.1. Interactive application process**

Applicants were able to raise queries during the week (Monday to Friday) between 08h00 and 16h00 by calling the FRAP Call Centre Helpline at (021) 402 FRAP (3727).

Technical queries relating to the completion of the online application form were directed to Navayuga Information Technology on the tollfree helpline +27 10 500 2323 or by email to [frapitsupport@navayugainfotech.com](mailto:frapitsupport@navayugainfotech.com). An additional helpline was opened and an IT specialist was placed at the Branch: Fisheries Management, Foretrust Building, Cape Town to provide assistance and support to applicants.

An independent toll free FRAP Tip-Off Line was established and was available 24/7 from 8 November 2021 for the purposes of reporting unethical behaviour, theft, fraud, or related activities. The FRAP Tip-Off Line number is 0800 203 589 and it will remain operational until all the appeals have been finalised.

## 4. Assessment and Evaluation

In assessing and allocating commercial fishing rights to applicants in the nine sectors, the Department had to evaluate and assess all applications received. Each application contained detailed information on the applicants' identification and contact details, current and previous involvement in the fishing sector, investment in the fishing sector, performance and compliance history as well as their transformation profile and contribution to the fishery. The required information was to be used to identify the most deserving applicants to be granted fishing rights.

The Minister appointed eight (8) Delegated Authorities with six (6) Assessment Teams comprising of technical and subject experts in fisheries research, fisheries resource management and fisheries monitoring, control and surveillance as well as legal and information technology to assist the Delegated Authority in evaluating the applications. The FRAP Implementer was responsible to provide administrative and secretariat support to each Assessment session and the FRAP Observer was present to observe all the sessions.

A detailed Covid-19 risk mitigation strategy was developed prior to the commencement of the sessions in order to ensure Assessments could continue to run seamlessly in the context of the emergence of a new Covid-19 variant and fourth wave of infections. The preferred option from an efficiency and effectiveness point of view was to hold all sessions in person, however the Department made the necessary contingency plans to shift sessions to virtual or hybrid should the need arise.

### 4.1. Appointment of the Delegated Authority

The Minister of the Department of Forestry, Fisheries and the Environment, in terms of Section 79 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), appointed Dr Ashley Naidoo; Chief Directorate: Oceans and Coast Research ("the Delegated Authority") responsible for the allocation of fishing rights in the Demersal Shark Sector.

## 4.2. Applicants

A total of 3430 users were registered on the online system. A total of 3125 applications were initiated and 2473 complete applications were submitted.

**Table 3:** Summary of Applications received during FRAP 2021

Sector	Number of Applications Initiated/ Generated	Number of Applications Received/ Submitted
Demersal Shark Longline	23	6
Hake Deep-Sea Trawl	233	175
Hake Longline	536	446
KZN Crustacean Trawl	35	16
Small Pelagic (Anchovy)	416	346
Small Pelagic (Sardine)	325	244
South Coast Rock Lobster	122	68
Squid	236	162
Traditional Linefish	941	806
Tuna Pole-Line	258	204

## 5. Application and Grant of Right Fee

In terms of section 25(1) and (2) of the Marine Living Resources Act, 18 of 1998, the amount for the Application Fee was consulted during the Consultation Period and was determined by the Minister with the concurrence of the Minister of Finance.

The draft schedule of Fees was published with the General Policy on 13 September 2021. After consideration of stakeholder comments and taking into account the prevailing economic environment and the impact of the Covid-19 pandemic on the economy and the livelihoods of South Africans, the Minister decided not to apply the fee increase for applications and the quota (grant of right) fee for the Fishing Rights Allocation Process of 2021. The fees published in Government Notice No. 1170 in Government Gazette 39451 of 25 November 2015 were applied for the Fishing Rights Allocation Process of 2021/22. Applicants in the Traditional Linefish



sector were exempted from paying both the application fee and the Grant of Right fee. The public notice in this regard was released on 18 November 2021.

The application fee for this sector thus remained at R 6 326 and the Grant of Right Fee remained at R 474 per vessel. The Grant of Right Fee is payable within 60 days from the date that the right is granted to the successful applicant.

## **6. Access to Information and Reasons**

Every Applicant will receive the following information:

- a. A Notification Letter, informing the applicant of the Delegated Authority's decision, together with the reason for that decision and the manner in which Appeals must be submitted;
- b. Scoresheet indicating the Applicant's Score;
- c. Access to an electronic copy of the General Published Reasons

Individual Scoresheets pertaining to other Applicants may be requested in terms of the procedures and provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) set out below.

The specific reasons contained in the notification letter to unsuccessful applicants, the scoresheets and the GPR constitute the reasons for the decisions to decline a right in a fishery. Applicants were evaluated and assessed against the balancing criteria and scoresheets for all applicants were generated.

Access to other information, including information pertaining to other applicants will be dealt with in terms of the procedures and provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000). The prescribed Access to Information Form must be completed and submitted to the Department's Customer Service Centre, Ground Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town or via email at [CSCapplications@dffe.gov.za](mailto:CSCapplications@dffe.gov.za) (attention: Deputy Director: Administration (FRAP)). The application will be assessed in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000). The prescribed request fee of R 100.00 must be submitted together with the application. Applicants requesting other applicant's information will be charged an access fee in accordance with Fees in respect of Public Bodies published in August 2021. In processing the Requests for Information, the Department will take into consideration the Protection of Personal Information Act, 2013 (Act No. 4 of 2013).

Access will not be granted to any private and confidential information of the applicant in line with PAIA. Access will be granted on request to all other parts of an application (including the annexures) unless the third-party objects, in writing, to the release of specific parts of an application. Objections must be lodged to the Department's Customer Service Centre, Ground Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town or via email at [CSCapplications@dffe.gov.za](mailto:CSCapplications@dffe.gov.za). No information will be released before the date specified in the third-party notification. If access is sought to a part of the form in respect of which an objection was submitted, the request will be determined in accordance with the provisions of PAIA.

Applicants may view the scoresheets used to record the assessment of every application in the fishery at the Department's Offices, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town on the Departments FRAP online system. The viewing appointments will be conducted in line with Covid 19 protocols and regulations. Applicants are thus required to liaise with Natasha Philander via email [NPhilander@dffe.gov.za](mailto:NPhilander@dffe.gov.za) to make an appointment for viewing. Viewing will take place during the period between 04 April 2022 and 22 April 2022 between the hours of 09h00 to 13h00 and 13h30 to 15h30 Monday to Friday excluding public holidays. These documents may be inspected free of charge, but prescribed rates in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (the "PAIA") would apply if copies of documents are requested.

## **7. Decision Making Process**

The Delegated Authority was assisted by the Assessment Team to evaluate all the applications. In summary, the FRAP 2021 assessment involved the following steps:

- 7.1. System Enhancement:** The Department appointed Navayuga InfoTech to redesign the FRAP Management System to enable applicants to capture their data and submit applications online and to facilitate the analysis of applicants' data across a range of fields, including the form of the applicant, compliance, catch utilization, equity, transformation, job creation and procurement, safe working conditions and vessels. The functionality of the IT system was enhanced to consistently apply the scoring and weighting of detailed criteria and to identify aspects which required special verification and consideration. The Department approved the amendments to the design and development of the system.

**7.2. Data Validation/Verification:** The Delegated Authority was assisted by the Assessment Team to validate/verify data that was provided by each of the applicants. The primary purposes of the validation/verification was to ensure that the data captured by the applicant corresponds with the data in the possession of the Department.

**7.3. Criteria and weighting design:** The Delegated Authority, with the assistance of the Assessment Team, developed detailed criteria and weightings for the purpose of assessing and scoring the applications in each sector.

**7.4. Assessment:** The Assessment Team assisted the Delegated Authority by assessing whether the applications were properly lodged and whether they were materially defective or not and made recommendations for the consideration of the Delegated Authority. The Assessment Team also assessed the information provided in each application and provided comments to the Delegated Authority.

**7.5. Decision-making:** After all applications were evaluated, the Delegated Authority together with the Assessment Team considered the results in respect of each applicant, having regard to the application. If there was any uncertainty regarding the score or the assessment, the Delegated Authority, together with the Assessment Team, re-assessed the application. The Delegated Authority together with the Assessment Team also considered whether the selected criteria and weighting achieved the objectives set for the fishery and, if necessary, adjusted weighting or criteria in order to better achieve the objectives.

## **8. Applicants for fishing rights in 2021**

A total of **06** applications were received for the Demersal Shark Fishery.

### **8.1. Criteria**

#### **8.1.1.Exclusionary criteria**

The following exclusionary criteria were employed:

- (a) Each application was initially screened to determine whether it was properly lodged. An application was considered to be improperly lodged and was excluded if:
- i. it was submitted without using the prescribed application form and lodged contrary to the instructions of the Department;
  - ii. the applicant is not a South African person;
  - iii. the application was submitted by a deregistered juristic person;
  - iv. the applicant is not Tax Compliant;
  - v. the application was not submitted by the applicant or its authorized representative;
  - vi. the application was submitted after the set date due date and time;
  - vii. the applicant did not pay the prescribed application fee in full and on time;
- (b) The next step was to determine whether the application was materially defective. An application was considered to be materially defective if:
- i. the declaration was not signed by the applicant's authorized representative; or
  - ii. more than one application was received from the same applicant for a fishing right in the same sector; or
  - iii. the applicant provided false information and/or misleading information or false documentation; or
  - iv. the applicant failed to disclose material information for the purposes of evaluating the application.
- (c) The next step was to determine whether the application was non-compliant. An application is non-compliant if:
- i. the applicant or any of its authorized personnel / representative(s) attempted to improperly influence the Minister or the delegated authority.
  - ii. the applicant or any of its Directors, Trustees, Senior Management, Shareholders or Members (where such shareholding or members interest exceeds 10%) or Skippers has entered into a plea bargain in terms of section 105A of the Criminal Procedure Act, Act 51 of 1977, for a contravention of the MLRA, the regulations, or permit conditions and subjected to sentencing of imprisonment without the option of a fine;

- iii. the applicant or any of its Directors, Trustees, Senior Management, Shareholders or Members (where such shareholding or members interest exceeds 10%) or Skippers has been convicted in terms of the MLRA or its regulations or permit conditions since the period determined in the Fishery Sector Specific Policies (e.g. an applicant or any of its Directors, Trustees, Senior Management, Shareholders or Members (where such shareholding or members interest exceeds 10%) or Skippers has been convicted with more than two contraventions and subjected to sentencing exceeding R5000 or imprisonment without an option of the fine);
  - iv. the applicant had an asset forfeited to the State for a violation of a provision of the MLRA;
  - v. the applicant had a fishing right or permit cancelled or revoked for a period defined in the Fishery Sector Specific Policies. In the event a fishing right or permit has been cancelled or revoked, the decision of the Minister or the Delegated Authority is suspended pending the outcome of the appeal.
- (d) Applicants were then evaluated to determine if they pose a “paper quota risk” as defined in the General Policy on the Allocation of Fishing Rights: 2021. Applicants who failed to present the documentation required, or who were not directly involved in the catching, processing or marketing of their fish or who did not apply for a catch permit or land any fish during the period which they held a right were considered to have no serious intention of fully participating in the sector. The Delegated Authority excluded all those applicants that pose a “paper quota risk” as paper quotas undermine and circumvent the objectives of the policy. Access to suitable vessel or a business plan setting out catch, processing and marketing arrangements was considered in evaluating paper quota risks.
- (e) Applicants were excluded if they failed to utilize any of their fishing right, during the duration of the commercial fishing right which was granted in FRAP 2013.

### 8.1.2. Balancing Criteria: Previous Right Holders and New Applicants

All applications submitted were scored in terms of a set of balancing criteria ("the balancing criteria") as set out in the General and Sector-Specific policies. The balancing criteria were weighted for purposes of ranking the applicants.

The following criteria were used to score and rank applicants in the Demersal Shark Fishery, namely the Applicant Details, Form of Applicant, Compliance, Access to a suitable vessel, Submission of catch information, Fishing Performance, Transformation, Job creation, Additional Societal Benefit, Payment of Dividends, and Investment.

**Table 4:** Percentage weights allocated to questions posed to applicants.

Section	Heading	% Weights (Category A Applicants)	% Weights (Category B Applicants)	% Weights (Category C Applicants)
Section 1	Applicant Details	10	5	5
Section 2	Form of Applicant	7	10	7
Section 3	Compliance	10	15	15
Section 4	Access to a suitable vessel	15	22	22
Section 5	Fishing Performance	18		
Section 6	Transformation	15	21	21
Section 7	Job creation	15	15	15
Section 8	Dividends and Additional Societal Benefit	5	12	15
Section 9	Investment	5		
Section 10	Applicant declaration			

## 8.2. Assessment

### 8.2.1. Section 1: Applicant Details

Applicants were assessed against the number of years they have been involved in the fishing industry.

### 8.2.2. Section 2: Form of Applicant

Three Categories of Applicants were identified:

- i. **Category A Applicants** - Applicants who held a right in the Demersal Shark sector between 2005/06 and 2020/21. Applicants who received Demersal Shark fishing rights as a result of transfers under Section 21 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998) at any stage during the period 2006 – 2021 were also considered under this category.
- ii. **Category B Applicants** - Applicants who did not hold rights in the Demersal Shark sector between 2005/06 and 2020/21 but who did hold rights in other fishing sector/s during this period and
- ii. **Category C Applicants** - Applicants who did not hold a right in any fishing sector between 2005/06 and 2020/21.

### 8.2.3. Section 3: Compliance

The Department's Transgression Register and the South African Police Services register were used to identify, where possible, if Directors, Trustees, Senior Management, Shareholders or Members (where such shareholding or members interest exceeds 10%) or Skippers of any applying entities had contravened the Marine Living Resources Act, Act 18 of 1998. Cases that were not finalized were not taken into consideration. The Delegated Authority also gave consideration to whether the applicant complied fully with other relevant legislation as indicated in the Application Form.

Where applicants answered questions under Section 3 with a N/A, the system scored them zero points. The Delegated Authority reviewed the scores and the transgression register and awarded points accordingly and where appropriate.

### 8.2.4. Section 4: Access to a suitable vessel

Consideration was given to the level of access to a suitable vessel indicated by each applicant. The suitability of nominated vessels was evaluated according to the specifications stipulated in the Policy on the Allocation and Management of Fishing Rights in the Demersal Shark Sector: 2021. Where applicants had nominated a

vessel that was deemed not to be suitable or was still to be built, the successful applicants will be afforded the opportunity to nominate a suitable vessel.

#### **8.2.5. Section 5: Fishing Performance**

Category A applicants were screened and evaluated on whether they had utilized their rights allocated during the previous rights allocation (between 2014 and 2020) period in the Demersal Shark sector.

#### **8.2.6. Section 6: Transformation**

Transformation was regarded as a key criterion and a number of indices were used to evaluate the various levels of transformation achieved by each applicant. Applicants were rewarded for maintaining and/or improving their ownership profile and employment of black people (as defined in terms of the B-BBEE 53 of 2003 and Codes of Good Practice) women, youth and people living with disabilities between 2005/06 and 2020/21. Points were awarded for employee share schemes, expenditure on corporate social investment, compliance with Employment Equity, affirmative procurement, skills development and enterprise development.

Section 6.3 - Given this policy directive, all Category A, B and C Applicants were scored according to the level of entity transformation. Annual transformation scores (ATS) were calculated for each Applicant. Records of calculation are available.

#### **8.2.7. Section 7: Job creation**

Applicants were rewarded for affording their employees substantive benefits in addition to stable basic employment, such as Medical Aid, Pension Funds and Safe working Conditions.

#### **Section 7.1**

All Category A, B and C Applicants were scored according to the number of permanent employees in the sector being applied for in the following way. The total number of permanent employees provided by each Applicant was scored as a percentage of the highest number of permanent employees provided by an Applicant in each Category (A, B or C) and the following scores were applied:

<b>% of the highest number of permanent employees</b>	<b>Points</b>
0	1



1-3	2
4-6	3
7-10	4
11-20	5
21-30	6
31-40	7
41-60	8
61-80	9
81-100	10

## **Section 7.2**

All Category A, B and C Applicants were scored according to the number of part time/contract employees in the sector being applied for in the following way. The total number of part time/contract employees provided by each Applicant was scored as a percentage of the highest number of part time/contract employees provided by an Applicant in each Category (A, B or C) and the following scores were applied:

<b>% of the highest number of part time/contract employees</b>	<b>Points</b>
0-5	1
6-20	2
21-50	3
51-80	4
81-100	5

**Section 7.3** was scored as 5 points for “Yes” and 0 points for “No”.

**Section 7.4** was scored as 5 points for “Yes” and 0 points for “No”.

**Section 7.5** was scored as 5 points for “Yes” and 0 points for “No”.

## **8.2.8. Section 8: Dividends and Additional Societal Benefits**

Consideration was given to the amount of income tax paid by applicants as well as the annual payment of dividends to shareholders and the percentage of black shareholding. Local economic development and value adding activities were also taken into consideration.

## **8.2.9. Section 9: Investment**

Consideration was given to the amount applicants have invested in vessels, marketing and fish processing.

### **Section 9.1**

All Category A Applicants were scored according to the investment made in the sector being applied for in the following way. The annual average for the Applicants Rand value of total fixed assets (in sector being applied for) was scored as a percentage of the highest annual average Rand value of total fixed assets in Category A, and the following scores were applied:

<b>% of the highest average Rand value of total fixed assets</b>	<b>Points</b>
0	1
1-3	2
4-6	3
7-10	4
11-20	5
21-30	6
31-40	7
41-60	8
61-80	9
81-100	10

### **8.3. Applicants involvement and relationship with other applicants**

Where a company and its subsidiary/ies or brother-sister corporations applied, rights were allocated to the holding/umbrella/parent company in the case of applicants that had subsidiaries, and to one of the qualifying entities in the case of brother-sister corporations. These relationships were established by examination of information provided on applicants' directors and shareholders.

## **9. Allocation of Effort**

### **9.1. Total Applied Effort (TAE)**

The Approved Total Applied Effort in the Demersal Shark Longline sector is a maximum of 4 vessels according to the Sector Specific Policy.

### **9.2. Method for the Allocation of Effort in the Demersal Shark Sector**

Effort was allocated as a right per single vessel of the Demersal Shark TAE.

The following process was followed for allocation of the Demersal Shark TAE to successful applicants: successful applicants were awarded a fishing right to be utilized on a single vessel.

The reasons for exclusionary criteria (improper lodgment, material defects and non-utilization) have been dealt with in the General Policy: 2021 and the Sector-specific policy and will not be repeated here. As far as the decisions on the applications in terms of the comparative balancing criteria are concerned, the Delegated Authority did not determine an arbitrary cut-off in terms of the applicant's score. This was not required as the number of successful applicants was less than the effort (4 vessels) available for allocation.

## 10. Decisions on the allocation of fishing rights

It is important to clarify at the outset that while this GPR is final, the allocation of fishing rights is subject to the correctness of the assessments made and information submitted by the applicants and performance reviews. In the light of the lengthy process of finalising the verification process, the Delegated Authority has decided to make the following decisions on allocation of fishing rights. The right and/or quantum and/or effort allocated may be reduced or increased, in the manner and circumstances set out in this GPR and after reserved decisions, appeals and reviews have been finalised.

- 50% (1/2) of the Category A Applicants are successful sharing 25 % of the TAE.
- 0% of the Category B Applicants are successful sharing 0 % of the TAE.
- 0 new entrants (Category C applicants) are granted rights in this sector with a combined TAE of 0 %.

### 10.1. Transformation

Transformation of the sector was measured as a percentage of the TAE that is owned by Historically Disadvantaged Individuals (HDI's).

**Table 5:** Transformation profile: Previous vs current allocations

	2005/06	2009	2013	2021
Shareholding	LTRAMP	Performance Reviews	FRAP	FRAP
Black <sup>1</sup>			81 %	100%

<sup>1</sup> The term "Black persons" is defined in terms of the B-BBEE 53 of 2003 and Codes of Good Practice, in which means "Black" means Africans, Coloureds, Chinese and Indians who are citizens of the Republic of South Africa by birth or descent or who became citizens of the Republic of South Africa by naturalisation – a) before 27 April 1994; or b) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date but were precluded from doing so by Apartheid policies.

<b>Female</b>			<b>60 %</b>	<b>100%</b>
<b>Youth</b>	<b>N/A</b>			
<b>People with disabilities</b>	<b>N/A</b>			
<b>% TAE owned by Blacks*</b>			<b>77 %</b>	<b>100%</b>

## **10.2. Appeals**

Three (3) of the four (4) possible vessel rights according to the Sector Specific Policy of the TAE are available for appeals.

The appeals process will open on Monday, 29 March 2022 and close on Friday, 29 April 2022 at midnight.

Appeals must be submitted on the FRAP online system (<https://www.frap2021.co.za>) and shall set out all the relevant facts as well as the grounds of appeal and shall be accompanied by any relevant documents. All appellants are required to retain a copy of their original appeals submitted to the Department with proof of submission until the decision of appeals is made. Appeals submitted after the closing date, ie. Friday 29 April 2022 at midnight, shall not be considered.

## **10.3. Grant of Right Letters**

Applicants will receive their scoresheets and Grant of Right letters via the FRAP IT system through email addresses supplied by all Applicants.

## **10.4. Duration of Fishing Rights**

As far as the allocation of effort is concerned, the Delegated Authority's decisions were informed by the General and sector-specific policy considerations, with particular regard for the need:

- to improve the transformation profile of the sector;
- to safeguard the Demersal Shark resources against substantial reduction in the future; and
- to ensure that determined effort levels are not be exceeded as it will pose a serious risk of longer term reductions in catch and loss incomes and of jobs.

The Demersal Shark commercial fishing rights are allocated for a **fourteen year and ten month** period, starting 1 March 2022 and ending 31 December 2037.

## **11. Auditing**

Rain Chartered Accountants were appointed as process observers for the entire FRAP 2021 process.

## **12. Forensic investigations**

Morar Inc were appointed to conduct ad hoc forensic investigations in the case of a tip off, or a specific request from a Delegated Authority. The independent forensic company will investigate the accuracy of information submitted by the applicants. Such verification will take place during and post the fishing rights allocation process. The forensic company will carry out investigations as and when required by the Department. If the applicant is found to have provided false information or false documents or failed to disclose material information or attempted to influence the Minister or the Delegated Authority, proceedings in terms of Section 28 of the MLRA will be undertaken which may result in the revocation, suspension, cancellation, alteration or reduction of the right held by such an applicant.

## **13. Communication**

Applicants are invited to contact the FRAP Call Centre Helpline during the week (Monday to Friday) between 08h00 and 16h00 at (021) 402 FRAP (3727) or via email at [FRAPenq2020@dffe.gov.za](mailto:FRAPenq2020@dffe.gov.za) should they require assistance in understanding the General Published Reasons.



**Name: Dr Ashley D. Naidoo**

**Delegated Authority: Demersal Shark**

**Date: 28 February 2022**

#### 14. Annexure A - List of all applicants in the sector – successful, unsuccessful, excluded, reserved

Fishing Rights Allocation Process 2021: Final list for Demersal Shark Category A applicants						
No	Application number	Applicant name	Allocated vessel	Score	Number of vessels	Final decision
1	DSL21005	Fisherman Fresh CC	Fred Marie	85,52	1	Successful
2	DSL21012	Hacky Fishing (Pty) Ltd	-	68,32	-	Excluded

Fishing Rights Allocation Process 2021: Final list for Demersal Shark Category B applicants						
No	Application number	Applicant name	Allocated vessel	Score	Number of vessels	Final decision
1	DSL21004	Finecorp Trading 113 CC	-	38,73	-	Excluded

Fishing Rights Allocation Process 2021: Final list for Demersal Shark Category C applicants						
No	Application number	Applicant name	Allocated vessel	Score	Number of vessels	Final decision
1	DSL21013	Umuziwenkosi Fishing (Pty) Ltd	-	16,34	-	Excluded
2	DSL21017	Ngoza Fishing (Pty) Ltd	-	16,99	-	Excluded
3	DSL21018	Lufra Traders (Pty) Ltd	-	21,33	-	Excluded