



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

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

Reference: NEW HORIZON PRIMARY 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 –

**NEW HORIZON PRIMARY FISHING
SECTOR: DEMERSAL SHARK
APPLICATION NUMBER: DMS 130 360**

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 **NEW HORIZON PRIMARY FISHING** (“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 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 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. Such a failure to satisfy an essential requirement at the date of application cannot be cured on appeal.

2.4 According to the date, the appellant duly filed its supplementary appeal on 26 August 2015.

3. Grounds of Appeal

3.1 The Appellant 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 Secondly, the appellant failed to demonstrate access to a suitable Demersal Shark fishing vessel.

3.2 Lastly, *in terms of section 1 of the MLRA co-operatives are precluded from holding a fishing right*".

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