



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

Reference: West Coast Rock Lobster Nearshore Zone C Appeals

THE MINISTER

REPORT IN TERMS OF REGULATION 5(3) OF THE REGULATIONS PROMULGATED UNDER THE MARINE LIVING RESOURCES ACT, 1998 (ACT No. 18 OF 1998) ("THE MLRA"): APPEAL IN TERMS OF SECTION 80 OF THE MLRA: WEST COAST ROCK LOBSTER NEARSHORE FISHERY (ZONE C) FOR:

EMILY MURIAL CONSTANT	WCNC15684
LENA VAN WYK	WCNC15518
MAVIS BAILEY	WCNC15515
SYLVIA MARGARET ENGELBRECHT	WCNC15811
CATHARINA FARAO	WCNC16198
DIRK COETZEE	WCNC15696

1. PURPOSE

- 1.1 To submit a report as provided for in terms of Regulation 5(3) of the Regulations promulgated under the MLRA, with regard to appeals by 6 Appellants in the West Coast Rock Lobster Nearshore Fishery (Zone C) ("the Appellants").

2. GROUNDS OF APPEAL

- 2.1 The grounds of appeal by 6 Appellants relates to the decision by the Delegated Authority not to allow applicants older than 65 years of age to become successful in the fishery.

3. DELIBERATIONS

- 3.1 In line with the sector-specific policy objectives of promoting access to youth, women and people with disabilities, and further to promote meaningful participation in the fishery through active involvement of rights holders (i.e. to

reduce the risk of paper quota holders), while also being mindful that rights are being allocated for a 15 year period, the Delegated Authority decided that applicants older than 65 years of age and/or who have been classified as being medically unfit (excluding persons with permanent disabilities) would become unsuccessful in order to prevent paper quota holders.

3.2 In terms of the Employment Equity Act, 1998 (Act No 55 of 1998) as amended defines people with disabilities as people who have a long-term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment.

3.3 The applications of the 6 Appellants were unsuccessful in the West Coast Rock Lobster Nearshore fishery due to being older than 65 years are as follows:

3.3.1 Emily Murial Constant (WCNC15684) who indicated that her final score should have been 86.75 as opposed to 75.08. The Appellant's claim that her ownership in the vessel was not considered, is incorrect. The Appellant ownership in the vessel was considered and correctly scored. The Appellant concedes that she is not personal harvesting the resource as her grandson is the one harvesting on her behalf. The Appellant was unfit to go to sea during the 2011/2012, 2013/2014 and 2014/2015. During the 2015/2016, the Appellant was unfit to go to sea due to high blood pressure. The Appellant is not physically disabled. Notwithstanding the Appellant's claim in relation to the final score and vessel ownership, the Appellant was 74 years old at the time of application.

3.3.2 Lena Van Wyk (WCNC15518) who indicated that since allocation of her long-term right, she has been able to harvest all her allocations except for 1 fishing season due to ill-health. The Appellant has indicated that she is active and capable of going to sea and is reliant on fishing. Notwithstanding the claim of the Appellant that she did not harvest her allocation for 1 fishing season, it has been discovered that the Appellant was unfit to go to sea during the 2014/2015 and 2015/2016 fishing seasons due to hypertension and diabetes. The Appellant was 68 years old at the time of application.

3.3.3 Mavis Bailey (WCNC15515) who indicated that she has been onboard the nominated vessel since she was allocated a right and has managed to

land her full allocation for the past six fishing seasons during the tenure of her long-term right. The Appellant has indicated that she is active and capable of going to sea and is reliant on fishing. The Appellant was 70 years old at the time of application.

- 3.3.4 Sylvia Margaret Engelbrecht (WCNC15811) was unfit to go to sea during the 2008/2009, 2010/2011 and 2013/2014 fishing seasons due to hypertension. During the 2012/2013 fishing season, the Appellant was unfit to go to sea. During the 2014/2015 and 2015/2016 fishing seasons, the Appellant was unfit to go to sea due to arthritis and knee replacement, respectively. The Appellant was 63 years old at the time of the application. The Appellant **may be regarded to be physically disabled due to recurring physical impairment**. The Appellant scored above threshold of 40 as she attained a score of 42.25.
- 3.3.5 Catharina Farao (WCNC16198) was unfit to go to sea during the 2010/2011, 2011/2012 and 2015/2016 fishing seasons due to poor vision. The Appellant was 73 years old at the time of the application. Notwithstanding the age, the Appellant **may be regarded to be physically disabled due to recurring physical impairment**. The Appellant scored above threshold of 40 as she attained a score of 69.08.
- 3.3.6 Dirk Coetzee (WCNC15696) was unfit to go to sea during the 2012/2013, 2013/2014 and 2014/2015 fishing seasons. The Appellant is not physically disabled. The Appellant was 81 years old at the time of the application.

- 3.4 It is recommended that the decision of the Delegated Authority not to allow applicants older than 65 years of age to become successful in the fishery be upheld save for Catharina Farao (WCNC16198) and Sylvia Margaret Engelbrecht (WCNC15811).



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