



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

Reference: Inkosi Keta Marine (Pty) Ltd CC – WCOM153512

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: INKOSI KETA MARINE (PTY) LTD: WEST COAST ROCK LOBSTER (OFFSHORE) FISHERY

1. PURPOSE

- 1.1 To submit a report as provided for in terms of Regulation 5(3) of the Regulations promulgated under MLRA, with regard to an appeal by Inkosi Keta Marine (Pty) Ltd (“the Appellant”).

2. GROUNDS OF APPEAL

- 2.1 The Appellant’s first ground of appeal relates to section 1.27 of the 2015/16 Fishing Rights Allocation Process (“FRAP 2015/16”) application form (“the application form”). The Appellant argues that this question was confusing as it understood the question to refer to business operations outside the fishing industry. The Appellant argues that it is a vessel owner and is involved in fish processing so should have been awarded two (2) out a maximum of five (5) points.
- 2.2 The Appellant’s second ground of appeal relates to section 4 of the application form. The Appellant argues that it has a number of catching vessels through its ownership of shares in the WCRL Vessel Company (Pty) Ltd. The WCRL Vessel Company (Pty) Ltd is a dedicated vessel owning company owning 4 vessels which were utilised by its shareholders to harvest their WCRL allocations. The

Appellant argues that it should have scored 12% for this section and not the allocated percentage score of 8%. The Appellant also makes a claim that the Delegated Authority changed the scoring breakdown and maximum score for this section from what had been stated in the Provisional GPR.

- 2.3 The Appellant's third ground of appeal relates to its scoring in section 5 of the application form. The Appellant argues that it was scored 0% out of the maximum possible score of 20%. The Appellant argues that utilised its right in all ten seasons and accordingly, should have been awarded 6 out of 6 points. The Appellant further argues that the statement by the DA that it "caught 100% allocation for 3 of 10 years and average catch of 63.5% and 1 year with more than 10% over catch" cannot apply to the Appellant.
- 2.4 The Appellant's fourth ground of appeal relates to its scoring under section 6.4 of the application form. The Appellant argues that it erred in not referring to an annexure for this question and only annexed its salary/employee information under annexure 7 A-1. It states that if it had annexed this information within section 6.4 it would have shown that 100% of its wage bill is spent on historically disadvantaged individuals and should thus have scored 6 (six) points for this question.
- 2.5 The Appellant's fifth ground of appeal relates to its scoring under section 6.15 of the application form. The Appellant states that it again misunderstood the question and answered "no" instead of "yes" as it does comply with the Skills Development Act 97 of 1998 as it does not have to be registered as its wage bill is below R500.00. This was annexed with 6F-6, and the score should thus be amended to 5 points for this question.
- 2.6 The Appellant argues that if the scores, as indicated above, are adjusted, it should thus score an amended score of 74.43%.

3. DELIBERATIONS

- 3.1 The Appellant was a Category A applicant. Category A applicants were classified as applicants who previously held rights in the West Coast Rock Lobster

- (Offshore) sector during the period 2006 to 2015. The Appellant scored 56.93% which was below the 60% threshold for Category A Applicants. It should be noted that when the provisional lists were published on 31 July 2017, the decision regarding the Appellant was reserved as it was requested to provide additional information.
- 3.2 When the final lists were published on 23 October 2017, the Appellant was deemed to be unsuccessful as it scored below the 60% threshold for Category A applicants. The Appellant is therefore contesting the score allocated under various sections of the Application form.
- 3.3 In terms of section 1.27, the Appellant answered N/A and was accordingly scored (0) zero points. However, if the information provided in annexures 4A1 and 6G2 are taken into account, it could have scored 3 (three) points catching, processing, and marketing. It is therefore recommended that the score for section 1.27 be adjusted to three points.
- 3.4 In terms of section 3.11 of the application form, the Appellant answered "N" and was accordingly not awarded any points for this section.
- 3.5 In terms of section 4 of the Application form, the Appellant indicated that it owns less than 50% of a vessel but did not attach a catch agreement entered into with the majority shareholder and could therefore not be awarded any point for section 4.3.
- 3.6 In terms of section 6.4, the Appellant did not answer the question at all and therefore could not be awarded any points for this section. Furthermore, the information provided in annexure 7A-1 does not provide indicate what percentage of the total wage bill is spent on historically disadvantaged individuals but merely provides a list of HDI employees. It was therefore not possible to award any points for this question.

3.7 In terms of section 6.15 the Appellant answered “N” and was scored accordingly.
The Appellant is attempting to change its answer on appeal.



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