



10 March 2006

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## GENERAL REASONS FOR THE DECISIONS ON THE ALLOCATION OF RIGHTS AND EFFORT IN THE TRADITIONAL LINEFISH FISHERY : ALL AREAS

### 1. Introduction

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After the allocation of medium-term rights in 2001/2002 and the finalisation of the appeals processes in 2002/2003 the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management ("the Department") commenced with preparations for the allocation of long-term commercial fishing rights.

In January 2004, the Minister of Environmental Affairs and Tourism ("the Minister") announced the commencement of the planning phase. The Minister called on the fishing industry and all other interested and affected parties to submit comment to the Department. A comment box was opened at MCM in which comments could be placed. In order to facilitate communication with the public and fishing communities, the Department developed a dedicated fisheries website ([www.mcm-deat.gov.za](http://www.mcm-deat.gov.za)); it established a customer services centre (0861 123 626) at its Cape Town head office and it further resourced each of the 29 fishery control offices along the coast.

In 2004, the Department also procured the services of project management specialists, specialist legal advisers, IT specialists, and a forensic auditing consortium to advise it on the long term commercial fishing rights process. A Rights Allocation Unit was established in 2005 to co-ordinate and manage the long-term rights allocation process.

Earlier, during the latter half of 2003, rights were allocated to abalone divers for a period of ten years. In December 2004, another set of "long-term" commercial fishing rights were allocated in the large pelagic (tunas and swordfish) fisheries. Long-term fishing rights for the remaining 20 commercial sectors were scheduled for the last quarter of 2005. The Traditional Linefish sector is one of these sectors.

The title of this document is "General Reasons for the Decisions on the Allocation of Rights and Effort in the Traditional Linefish fishery: All Areas" but it will be referred to as the GPR.

The GPR contains a summary of the background to the allocation process and sets out the criteria and weightings, the process and method of assessment and the policy reasons for the decisions on the allocation of rights and effort in the Traditional Linefish sector. Applicants are therefore advised to carefully study the GPR before considering the assessment of their applications and the specific reasons for decisions taken. Every applicant for a Traditional Linefish right will receive a copy of this GPR and a notification letter, informing the applicant of the delegated authority's decision. In addition to these documents, every applicant will receive:

- A copy of the assessment sheet used to record the evaluation of the application by the Advisory Committee;
- A copy of the spreadsheet containing the delegated authority's summary of all the assessments and scores in the relevant area and relevant category of applicant (Medium Term Right Holder or New Entrant);
- An appeal form, which must be submitted together with the appeal (if the applicant chooses to appeal against the decision on the allocation of a right or the allocation of effort).

It is important to note that the assessment sheet was used to record the advisory committee's assessment of the application. The final evaluation by the delegated authority was captured in the spreadsheet.

Applicants will be granted access to the assessment sheets recording the evaluations of other applications. Requests must be directed to Mr Raymond Scott, 2<sup>nd</sup> Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town. Copies of these assessment sheets will be provided at the prescribed tariff. The process set out in the notification letters will be followed in respect of requests for access to the application forms and annexures of other applicants.

The specific reason contained in the notification letter to unsuccessful applicants, together with the GPR, the applicant's assessment sheet and the spreadsheet, constitute the reasons for the decisions on the allocations of rights and effort in this fishery.

## **2. Policy and Application Form Development for Long Term Rights Allocation**

A detailed report entitled "*Public Participation in the Development of Policy and Application Forms for the Allocation of Long Term Commercial Fishing Rights*" will be made available on the Department's website ([www.mcm-deat.gov.za](http://www.mcm-deat.gov.za)).

A Committee was established to co-ordinate and manage the drafting of a "*general*" fisheries policy, "*sector specific*" fishing policies and a separate traditional linefish policy. The traditional linefish sector was dealt with separately. While the General policy does not apply to the allocation of rights and effort in the

traditional linefish sector, many of the principles and policy objectives contained in the General policy have been incorporated into the traditional linefish policy.

The draft policies were finalized after the Minister held a series of Ministerial *Izimbizo* with coastal communities along the west, south east and east coasts between June and November 2004 and after all registered industrial bodies and interest groups were consulted on sector management issues. On 1 March 2005, the Minister issued for public comment 19 draft fishery specific policies and the draft general policy on the allocation and management of long term fishing rights. On 11 April the Minister issued for public comment the draft traditional linefish policy.

A key feature of the draft policies was to divide the different commercial fisheries into four clusters. The clusters were determined having regard to the level of formal organisation within the various fisheries, the capital required for participation and the make-up of the participants in a fishery. A different allocation process (method of consultation, registration, distribution, receipting, communication and evaluation) was proposed for each cluster. As stated above, the traditional linefish sector was dealt with separately, but the allocation process followed was similar to the one adopted for the Cluster C fisheries (Hake Handline and West Coast Rock Lobster Nearshore). Many of the right holders in these fisheries operate small commercial businesses and are personally involved with the harvesting of the resource.

The draft traditional linefish policy were published in isiXhosa, Afrikaans, isiZulu and English in the Government Gazette and on the Department's website and copies were distributed along the coastline. For purposes of public consultation, the notice and comment process set out in the Promotion of Administrative Justice Act 3 of 2000 and its regulations were adopted. As part of the notice and comment process, a series of public meetings were held in order to assist interested and affected parties who cannot read or write or who otherwise needed special assistance. In April 2005, consultations with communities took place in 15 venues along the coast regarding the draft traditional line fish policy. At each consultation, every comment was recorded and documented by the Rights Verification Unit ("RVU"), an independent team of auditors. At the end of the consultation process, more than 1700 fishers between Port Nolloth and Durban had been heard orally. Apart from the hundreds of oral comments which were recorded, the Department also received more than 330 written comments on the policy. Significant changes were made to the policy after the comments were considered. In May 2005, Cabinet approved the 19 "*sector specific policies*" and the "*General policy*". In July 2005, Cabinet approved the Traditional Linefish policy.

Stakeholders and affected parties were also given the opportunity to comment on the application forms before they were adopted. An abbreviated notice and comment process was followed in Cluster C and for Traditional Linefish. Draft application forms for Traditional Linefish were published on the website and comments were invited. Changes were made to the application forms after the comments were considered.

### 3. Appointing the Delegated Authority

Acting in terms of section 79 of the Marine Living Resources Act, 18 of 1998 (*the MLRA*), the Minister appointed Dr Johann Augustyn of the Department as the delegated authority responsible for the allocation of long term fishing rights in the Traditional Linefish fishery.

### 4. Registration, Distribution and Receipting of Applications

A detailed report entitled "*Registration, Distribution and Receipting in the Long-term Rights Allocation Process*" will be made available on the Department's website ([www.mcm-deat.gov.za](http://www.mcm-deat.gov.za)).

The application form distribution process for Traditional Line Fish commenced on Wednesday 5 October 2005 and lasted until Friday, 7 October 2005. During this period the Department, together with the RVU, were running 18 distribution centres along the coast, each day from 08h30 until 16h30. The distribution centres were at Port Nolloth, Lamberts Bay, Saldanha Bay, Hout Bay, Kalk Bay, Kommetjie, Hermanus, Gansbaai, Stuisbaai, Mosselbay, Knysna, Jeffrey's Bay, Port Elizabeth, East London, Port St Johns, Mzamba, Durban and Richards Bay. Additional distribution venues were opened in Doorn Bay and Elands Bay on Friday, 7 October 2005. A total of 1073 applicants registered for the Traditional Linefish sector, paid their application fees of R 300.00 and collected their application forms during the distribution period.

The application form receipting process for Traditional Line Fish commenced on Wednesday 2 November 2005 and lasted until Friday, 4 November 2005. During this period the Department, together with the RVU, were running 20 receipting centres along the coast, on Wednesday and Thursday from 08h00 until 19h00 and on Friday from 08h00 to 17h00. The distribution centres were at Port Nolloth, Doorn Bay, Lamberts Bay, Elands Bay, Saldanha Bay, Hout Bay, Kalk Bay, Kommetjie, Hermanus, Gansbaai, Stuisbaai, Mosselbay, Knysna, Jeffrey's Bay, Port Elizabeth, East London, Port St Johns, Mzamba, Durban and Richards Bay. Of the 1074 persons that registered, a total of 928 lodged their applications timeously. Broken down per area, the following applicants lodged their applications timeously:

Total Traditional Linefish registrations per Area	
Area	Qty
Port Nolloth to Cape Infanta	617
Cape Infanta to Port St Johns	228
Kwa-Zulu Natal	83

## 5. An interactive Application Process

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During the period between registration and lodgement, applicants in Traditional Linefish were able to obtain assistance with the completion of the application form by phoning a helpline (0861 10 20 78). Applicants were also assisted at the distribution and the receipting points by trained members of the Department.

A report entitled “*The Interactive Application Process for the Allocation of Long Term Rights*” will be made available on the Department’s website ([www.mcm-deat.gov.za](http://www.mcm-deat.gov.za)). All the Queries and Responses (Q & Rs) dealt with by the helpline operators in the Traditional Linefish sector will be published as part of this report.

## 6. The Decision-making Process

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The delegated authority was assisted by an Advisory Committee; legal advisors; the RVU and auditors; IT specialists; communication consultants; and administrative and project management specialists.

A report entitled “*The Decision-making Processes for the Allocation of Long Term Rights*” will be made available on the Department’s website ([www.mcm-deat.gov.za](http://www.mcm-deat.gov.za)). In short, the process of allocating commercial fishing rights in the Traditional Linefish sector involved the following steps:

☞ Database Development: After the applications were receipted by the RVU, the delegated authority instructed the IT specialists to design a database to facilitate the analysis of applicant data across a range of fields, including: whether they were crew members/skippers in the Traditional Linefish sector or other fisheries, the investments made by the applicants in the Traditional Linefish sector, the numbers of jobs created by the applicants, the compliance data, the number of historically disadvantaged persons that applied, and other transformation criteria, such as whether the applicants employed black persons and whether the applicants made donations. The main purpose of the database was to assist with the development of detailed criteria and weightings.

☞ Criteria and weighting design: After the database for the fishery had been constructed, the delegated authority, together with legal advisors, developed detailed criteria and weightings. These criteria and weightings are listed below.

☞ Constitution of the Advisory Committees: The delegated authority constituted an Advisory Committee.

The following persons served on the Advisory Committee for the Traditional Linefish fishery –

☞ Mr Horst Kleinschmidt (Chairperson)

☞ Adv Reshma Inderjeeth

- ☞ Adv Carlo Carolissen
- ☞ Adv Anneke Els
- ☞ Adv Sharon Johnson
- ☞ Adv Nobahle Mangcu
- ☞ Ms Castalia Dikotsi
- ☞ Mr Cheslyn Liebenberg
- ☞ Mr Mbulelo Ruda
- ☞ Mr Almo Lubowski

The primary role of the Advisory Committee in the Traditional Linefish fishery was to assist the delegated authority by assess the applications. The Advisory Committee assessed whether the applications were properly lodged, not materially defective and the information provided in the application forms in order to determine whether the applicants met the essential requirements of the fishery and how they should be scored in terms of the comparative balancing criteria.

☞ Instructing the Advisory Committees: Each advisory committee was briefed and instructed by the delegated authority, members of the Rights Allocation Unit and legal advisors on, *inter alia*, the following:

- The applicable statutory provisions and case law;
- The general policy and the sector specific policy adopted by the Minister and Cabinet for the Traditional Linefish fishery;
- The current biological, economic and transformation profiles of the fishery;
- The detailed criteria and weightings to be applied; and
- The purpose of each question asked in the application form applicable to the Traditional Linefish fishery.

☞ Guiding the Advisory Committees: Over the duration of the verification and scoring process, the delegated authority and his legal advisors met with the advisory committee and if necessary, instructed them on the manner in which to assess the information provided by the applicants.

☞ Recording the assessment: The Advisory Committee captured their assessment of each application in an assessment sheet designed for this purpose. In their assessments, the advisory committee focused on the exclusionary and comparative balancing criteria, designed by the delegated authority. In many instances, applicants claimed in their application forms to meet certain of the criteria, but on a proper assessment of the information provided by them, they failed to do so. In such instances the Advisory Committee indicated on the assessment sheet that the applicant should be excluded (in the case of the exclusionary

criteria) or should not be scored positively (in the case of the comparative balancing criteria). The main task of the Advisory Committee was therefore to verify whether the claims made by the applicants in their applications forms should be accepted or not. In many instances the assessment resulted in a change of the score awarded to an applicant. The reasons for the assessment are recorded on the assessment sheets. It should however be kept in mind that the final assessment of all the applications by the delegated authority was captured separately in spreadsheet form. The assessments contained in the spreadsheet formed the basis for the decisions of the delegated authority.

☞ Capturing the Information in spreadsheet form: After all applications were evaluated, the project management team used the database compiled by the IT specialists and the assessments of the Advisory Committee to compile a spreadsheet. The assessments on the spreadsheet were carefully considered by the delegated authority, having regard to the assessment sheets and the applications. In some instances the delegated authority did not agree with the assessment of the Advisory Committee and instructed the spreadsheet to be corrected. The Department's performance records and compliance records were then used by the delegated authority to determine whether any applicants should be excluded or penalised for serious non-compliance or non-performance. These records are available at the Department's Customer Service Centre (2<sup>nd</sup> Floor, Martin Hammerschlag Way, Foreshore, Cape Town) and were also published for comment at the time of the publication of the provisionally successful lists.

☞ Publication of provisional lists, investigation and consideration of comments: The delegated authority consulted broadly with applicants and interested and affected parties before making his final decision.

The delegated authority published a list containing the details of all provisionally successful applicants and the key claims made by these applicants. The list contained the applicant's name and surname, application number, name of the vessel nominated by the applicant, SAMSA/MCM number of the vessel, whether the applicant had worked as crew member or skipper in the sector during the medium term period, whether the applicant owned more than a 50% share in the nominated vessel and whether the applicant earned more than 50% of his or her income from the Traditional Linefish sector. Applicants and other interested and affected parties were invited to comment on the contents of the list.

☞ Decision making: The delegated authority considered the spreadsheet (containing the final assessments on the exclusionary criteria and the scores achieved by each applicant) and the comments received in response to the publication of the lists, and then made a decision in respect of each application. In some instances, comments received needed to be investigated before a final decision could be made. In order not to delay the finalisation of the rest of the applications, the delegated authority reserved his decisions on such applications and announced his decisions in respect of the rest of the applications.

## 7. Medium-term Allocations

During the medium term rights allocation process a total of 346 vessels with a total effort of 2048 line fish crew were granted rights. The Minister subsequently accommodated a further 448 crew. Ultimately, 2496 commercial line fishers were accommodated. This meant that given the available TAE, 954 crew remained unallocated. In 2004, after an extensive consultation process, the balance of the crew TAE was allocated by way of exemptions under section 81 of the MLRA. Of the rights allocated in the full and limited commercial fisheries, 28% were granted to black persons and black-owned entities.

## 9. Applicants for Long-term Rights

A total of 966 applications were received for long-term commercial fishing rights in the Traditional Linefish sector.

### 9.1 Profile of the Medium-term Right Holder (“MTRH”) Applicants

A summary of some of the information submitted by MTRH applicants in their application forms is set out directly below. It should be kept in mind that the information provided by applicants was assessed and in some instances claims made were rejected or corrected.

MEDIUM TERM RIGHT HOLDERS	
Sector Indicators	Sector Values
Number of applicants	453
Number of HDP applicants	189
Number of female applicants	19
Number of HDP female applicants	12
Mean number of years involvement in the fishing industry	19.09
Minimum number of years involvement in the fishing industry	1
Maximum number of years involvement in the fishing industry	63
Number of applicants that have applied in other sectors	174
Number of applicants that are members, shareholders or directors of entities that have applied for other long term commercial fishing rights	24
Number of applicants that have family members that have also applied for long term rights	77
Number of applicants that admitted non-compliance	28
Number of applicants that worked as skippers or crew members in the Traditional Linefish fishery	391
Number of applicants that worked as skippers or crew members in another fishery	107

Mean annual income claimed in the sector	<b>146, 233.81</b>
Mean percentage of annual income generated through working in the Traditional Linefish sector	<b>76.21%</b>
Number of applicants that have entered into catching agreements	<b>543</b>

## 9.2 Profile of the New Entrant (“NE”) Applicants

A summary of some of the information submitted by NE applicants in their application forms is set out directly below. It should be kept in mind that the information provided by applicants was assessed and in some instances claims made were rejected or corrected.

<b>NEW ENTRANTS</b>	
<b>Sector Indicators</b>	<b>Sector Values</b>
Number of applicants	<b>513</b>
Number of HDP applicants	<b>336</b>
Number of female applicants	<b>51</b>
Number of HDP female applicants	<b>43</b>
Mean number of years involvement in the fishing industry	<b>15.34</b>
Minimum number of years involvement in the fishing industry	<b>0</b>
Maximum number of years involvement in the fishing industry	<b>50</b>
Number of applicants that have applied in other sectors	<b>221</b>
Number of applicants that are members, shareholders or directors of entities that have applied for other long term rights	<b>43</b>
Number of applicants that have family members that have also applied for long term rights	<b>69</b>
Number of applicants that admitted non-compliance	<b>10</b>
Number of applicants that have indicated that they will not be personally involved in harvesting the resource	<b>32</b>
Number of applicants that have made investment into the fishing industry	<b>298</b>
Number of applicants that worked as skippers or crew members in the Traditional Linefish sector	<b>216</b>
Number of applicants that worked as skippers or crew members in another fishery	<b>218</b>
Mean annual claimed income in the sector	<b>68, 997.85</b>
Mean percentage of annual income generated through working in the Traditional Linefish sector	<b>40.65</b>
Number of applicants that held an “A” or “B” handline permit	<b>103</b>

## 10. Criteria

### 10.1 Exclusionary Criteria

All the applications were initially scrutinised to determine whether they were properly lodged, whether they were not materially defective and whether they fulfilled the essential requirements of the sector, including whether they presented a paper quota risk.

An application was **improperly lodged** if:

- ☞ The application was not lodged at the prescribed place within the prescribed time;
- ☞ The correct application fee was not paid within the required timeframes; or
- ☞ The application was not lodged on the official prescribed application form.

An application was **materially defective** if:

- ☞ The declaration was not signed and attested by the applicant (i.e the declaration was not commissioned);
- ☞ More than one application was received from the same applicant in the same sector;
- ☞ The applicant provided false information or false documents or the applicant failed to disclose material information, or
- ☞ The applicant attempted, during the application period, to influence the Minister or the delegated authority in a manner not provided for in the General policy.

An applicant failed to meet the **essential requirements** of the sector if:

- ☞ The applicant was not a natural person;
- ☞ The applicant was not a South African person;
- ☞ The applicant was a controlling member or shareholder or a director of an applicant that has been awarded a right in a Cluster A or B fishery;
- ☞ The applicant was found guilty of serious non compliance, as defined in section 9.1(b) of the Traditional Linefish policy;
- ☞ The applicant will not be personally involved in harvesting the resource; and
- ☞ The applicant did not demonstrate access to a suitable vessel. Paragraph 8 of the Traditional Linefish policy provides that the following vessels are considered to be suitable:
  - either a skiboat or traditional wooden deck boat of approximately 10m or less (this criterion should be flexibly applied by the delegated authority) that is currently operating in the fishery. The vessel must be certified by SAMSA as being safe for fishing; and
  - the vessel is geared for hand line fishing.

The delegated authority decided not to exclude applicants that did not have a valid SAMSA Health Certificate because it appeared that certain SAMSA officials informed some applicants that they were not required to have such a certificate in order to be personally involved with the harvesting of the resource. Applicants should bear in mind that the Department, in future, may require SAMSA health certificates to be presented as a condition for the issuance of a permit to a right holder.

## 10.2 Comparative Balancing Criteria: Medium-term Right Holder Applicants: All Areas

The delegated authority adopted the following criteria and weighting for medium-term right holder applicants:

Criteria	Breakdown	Weighting	Section Weighting	Major Section Weighting	Section Percentage
<b>Investment</b>			<b>40</b>		<b>35%</b>
Vessel Ownership percentage	>80%	20			
	50% - 80%	15			
	40% - 50%	10			
	>30%	5			
Value of Vessel Ownership (in Rands)	>200 000	10			
	100 000 – 200 000	8			
	50 000 – 100 000	6			
	20 000 – 50 000	4			
	10 000 – 20 000	2			
Nominated vessel is a deckboat/chuckie		10			
<b>Involvement</b>			<b>40</b>		<b>35%</b>
Crew member/skipper in the Traditional Linefish sector		40			
<b>Transformation</b>			<b>35</b>		<b>30%</b>
Race: Applicant is a black person		30			
Gender: Applicant is female		5			
<b>Catch Data Submission</b>					
Applicant submitted less than 6 catch returns during 2004 <sup>1</sup>		-10			
<b>Reliance</b>					
Applicant reliance on Traditional Linefish	100%	-0			

<sup>1</sup> The Delegated Authority decided to use January 2004 to December 2004 as the mid-point in the medium term rights period as the relevant period for assessing whether an applicant submitted sufficient catch returns. The reason for choosing this period was twofold. Firstly, medium term rights were only allocated in July 2003. The 2003 statistics could accordingly not be used. Secondly, the delegated authority could not use the 2005 data submitted by right holders as data for 2005 was still being received by the Department at the time of evaluation of the applications.

Criteria	Breakdown	Weighting	Section Weighting	Major Section Weighting	Section Percentage
	90%	- 0			
	80%	- 0			
	70%	- 0			
	60%	-0			
	50%	-0			
	40%	-60			
	30%	-70			
	20%	-80			
	<10%	-90			
<b>Compliance</b>					
Applicant (or if the medium term right holder was a close corporation or company, this entity or its members, directors or shareholders) have entered into a plea bargain in respect of a contravention of the MLRA, its regulations or permit conditions. <sup>2</sup>		-10			
The Applicant, (or if the medium term right holder was a close corporation or company, this entity or its members, directors or shareholders) have paid an admission of guilt fine for contraventions of the MLRA, its regulations or permit conditions		-5			
<b>Total Possible Score</b>			<b>115</b>		<b>115.0%</b>

### 10.3 Comparative Balancing Criteria: New Entrant Applicants : All Areas

The delegated authority adopted the following criteria and weighting for new entrant applicants:

Criteria	Breakdown	Weighting	Section Weighting	Major Section Weighting	Section Percentage
<b>Historical Involvement</b>			<b>60</b>		<b>44%</b>
Crew member/skipper in Linefishery during medium term period		40			
"A" or "B" Permit Holder		20			
<b>Transformation</b>			<b>35</b>		<b>26%</b>
Race: Applicant is Black		30			
Gender: Applicant is female		5			
<b>Investments</b>			<b>40</b>		<b>30%</b>
Investment in a vessel	>50%	30			
Vessel is a deckboat/chuckie		10			
<b>Reliance</b>					
Applicant reliance on Traditional Linefish	100%	-0			

<sup>2</sup> Points were deducted for plea bargains entered into in respect of non serious offences. Applicants were excluded for serious offences as set out in in section 10.1(b) of the Traditional Linefish policy.

Criteria	Breakdown	Weighting	Section Weighting	Major Section Weighting	Section Percentage
	90%	- 0			
	80%	- 0			
	70%	- 0			
	60%	-0			
	50%	-0			
	40%	-60			
	30%	-70			
	20%	-80			
	<10%	-90			
<b>Compliance</b>					
Applicant (or if the applicant was a member, director or shareholder of a medium term right holder in another sector, also this entity and its members, directors or shareholders) have entered into a plea bargain in respect of a contravention of the MLRA, its regulations or permit conditions <sup>3</sup>		-10			
The Applicant (or if the applicant was a member, director or shareholder of a medium term right holder in another sector, also this entity and its members, directors or shareholders) applicant's members, directors or controlling shareholders have paid an admission of guilt fine for contraventions of the MLRA, its regulations or permit conditions		-5			
<b>Total Score</b>			<b>135</b>		<b>100.0%</b>

## 11. The Decisions on Applications for Long-term Rights

A spreadsheet of the medium-term right holder applicants, containing a summary of the assessments and scores allocated to each applicant, and the delegated authority's decisions and the reasons therefore is attached as **Annexure A**.

A spreadsheet of the new entrant applicants, containing a summary of the assessments and scores allocated to each applicant, and the delegated authority's decision and the reasons therefore is attached as **Annexure B**.

As during the medium term right period, the TAE for the traditional linefish sector has been divided between three Regional Management Areas, namely Port Nolloth to Cape Infanta, Cape Infanta to Port St Johns and Kwa-Zulu Natal. A separate allocation was made in each area, as set out below.

### 11.1 Port Nolloth to Cape Infanta:

There were 617 applicants (307 medium term right holder applicants and 310 new entrant applicants) in the Port Nolloth to Cape Infanta area. The delegated authority allocated 226 rights to harvest traditional linefish in

<sup>3</sup> Points were deducted for plea bargains entered into in respect of non serious offences. Applicants were excluded for serious offences as set out in in section 10.1(b) of the Traditional Linefish policy.

this area. The successful applicants have been allocated to 226 vessels (one vessel per right holder). The vessels can accommodate 1902 crew. Of these, 167 rights (1537 crew) were allocated to medium term right holder applicants and 59 rights (365 crew) were allocated to new entrant applicants. This leaves 69 vessels to be allocated on appeal to successful medium term and new entrant applicant appellants.

The delegated authority reserved his decisions on 58 (43 medium term and 15 new entrant) applications. This was done in order to afford the RVU sufficient time to properly investigate the comments received on these applications.

### *11.2 Cape Infanta to Port St Johns*

There were 228 applicants (80 medium term right holder applicants and 148 new entrant applicants) in the Cape Infanta to Port Nolloth area. The delegated authority allocated 80 rights to harvest traditional linefish in this area. The successful applicants have been allocated to 80 vessels (one vessel per right holder). The vessels can accommodate 492 crew. Of these, 63 rights (387 crew) were allocated to medium term right holder applicants and 17 rights (105 crew) were allocated to new entrant applicants. This leaves 23 vessels to be allocated on appeal to successful medium term and new entrant applicant appellants.

The delegated authority reserved his decisions on 30 (23 medium term and 7 new entrant) applications. This was done in order to afford the RVU sufficient time to properly investigate the comments received on these applications.

### *11.3 Kwa-Zulu Natal:*

There were 83 applicants (54 medium term right holder applicants and 29 new entrant applicants) in the Kwa-Zulu Natal area. The delegated authority allocated 46 rights to harvest traditional linefish in this area. The successful applicants have been allocated to 46 vessels (one vessel per right holder). The vessels can accommodate 323 crew. Of these, 44 rights (305 crew) were allocated to medium term right holder applicants and 2 rights (2 crew) were allocated to new entrant applicants. This leaves 6 vessels to be allocated on appeal to successful medium term and new entrant applicant appellants.

The delegated authority reserved his decisions on 16 medium term applications. This was done in order to afford the RVU sufficient time to properly investigate the comments received on these applications.

## 12. Policy reasons for the decisions on rights and effort

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The reasons for excluding the applications that were materially defective or failed to meet the essential requirements for participating in the fishery have been dealt with in the General policy and the Traditional Linefish sector policy and will not be repeated here.

As far as the decisions on the applications in terms of the comparative balancing criteria is concerned, the delegated authority decided to allocate commercial rights to all the MTRH applicants that scored 50 points or more and to all the NE applicants that scored 50 points and more, in terms of the criteria and weightings set out above. This decision was informed by the following considerations:

- 12.1 Medium term right holder applicants that were not excluded in terms of the exclusionary criteria and that achieved a score of 50 or more were granted long term Traditional Linefish commercial fishing rights. The delegated authority regarded applicants with a score below 50 as not strong enough to justify the allocation of a right. Applicants with a score below 50 did not make significant investments in the sector or were not personally involved, in the sense that they did not work as crew in the Traditional Linefish sector, or these applicants were penalised for low reliance on the linefish resource for their annual income or for insufficient data submission during 2004.
- 12.2 New entrant applicants that were not excluded in terms of the exclusionary criteria and that achieved a score of 50 or above were granted long term Traditional Linefish commercial fishing rights. The delegated authority regarded new entrant applicants with a score below 50 as too weak to justify the allocation of a right. Most of the applicants with a score below 50 did not work as a crewmember or skipper in the traditional linefish sector, or did work as crew, but had no recognisable investment, was not a HDP applicant or did not hold a "A" or "B" permit prior to July 2003. The remaining unsuccessful applicants were not more than 50% reliant on the traditional linefish resource for their annual income.
- 12.3 Of the successful medium term right holder applicants in the Port Nolloth to Cape Infanta area, 38% of rights overall have been allocated to HDP applicants (68% HDP new entrant and 30% HDP medium term right holder applicants). In the Cape Infanta to Port St Johns area 44% of rights were allocated to HDP applicants (70% HDP new entrant and 38% HDP medium term right holder applicants). In Kwa-Zulu Natal 25% of rights were allocated to HDP medium term right holder applicants.

## 13. Permit Conditions for this Fishery

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The Traditional Linefish sector policy stipulates that prior to the finalisation of permit conditions for this fishery, the Department will consult with the right holders. The Chief Director: Resource Management (“the CD:RM”) is authorised to determine the conditions in terms of which a permit issued under section 13 may be issued. There was not sufficient time to consult with right holders regarding the permit conditions for the 2005/2006 season. Consultations will however take place during the course of the 2005/2006 fishing season. In order to sustainably manage this fishery the CD: RM, after consultation with the delegated authority, and having regard to the policy objectives of this fishery, will determine permit conditions that give effect to, *inter alia*, the following:

- 2.1 Performance Measuring:** Right holders in this fishery will be measured against criteria such as catch utilisation, personal involvement, reliance, investment and compliance and sustainable fishing practices. Failure without good reason to comply with these permit conditions may result in the commencement of proceedings under section 28 of the Act.
- 2.2 Reporting:** All right holders in this fishery will have to adhere to strict reporting measures to ensure that the Department is provided with up-to-date correct catch data to ensure effective management of the fishery.

**Dr Johann Augustyn**

**Delegated Authority: Traditional Linefish**

**10 March 2006**