Onslaught against fishers continues

SINCE the end of apartheid and the dawn of democracy, fishing communities have benefitted very little from the raft of new laws aimed at correcting the injustices of the past 300 years of colonialism and apartheid rule.

When the new Marine Living Resources Act (MLRA) was implemented in 1998, fishers all over the country found themselves stranded. They could not legally put their boats out to sea or harvest resources to sustain their livelihoods. The MLRA only made provision for commercial, recreational and subsistence fishers, did not make provision for small-scale fishers and the majority were left destitute. The MLRA allowed new entrants into the fisheries sector if they applied through the commercial sector. This exclusion of the small-scale sector was corrected through the Equality Court Order of 2007 when the government was ordered to develop a policy for small-scale fishers within two years, and to grant the fishers in the Western Cape an Interim Relief measure.

The new Policy for Small-scale Fisheries (SSFPC) was supposed to bring new hope for a better future for fishing communities. An inclusive and progressive policy was developed that included fishers and other stakeholders. The MLRA was amended in 2014, and at last recognised small-scale fishers as a sector within the fisheries industry.

However, the SSFP that was supposed to take two years has still not been implemented after more than ten years. The situation impacting SSF livelihoods has deteriorated further due to the following developments amongst other issues:

- In 2016 Small-scale Fisheries Regulations were published by DAFF. These regulations were in contradiction to the policy in many respects, and took away some of the gains that was achieved through the policy.
- Fishers in the Eastern Cape (EC) and KwaZulu/Natal (KZN) were never brought into the IR system. Many of them still have to fish with recreational fishing permits, which do not allow them to earn a living through their fishing activities.
- Fishers living in and adjacent to Marine Protected Areas (MPAs) have experienced very restrictive fishing conditions which have impacted their livelihoods negatively.
- Fishers in and adjacent to Marine Protected Areas (MPAs) have experienced very restrictive fishing conditions which have impacted their livelihoods negatively.
- In many instances the customary rights of fishing communities, who have been fishing and harvesting marine resources in what are now MPAs, are not respected and recognised.
- Another big onslaught against the livelihoods of fishing communities is Operation Phakisa, the government’s Oceans Economy Programme, which is fast tracking large-scale extraction of oil and gas from the ocean, the promotion of the tourism industry and the declaration of more MPAs.
- Twenty two MPAs already exist, and under Operation Phakisa, the government intends to declare a further 22 MPAs all along our coastline, which will further erode the access of fishing communities to the fishing grounds that sustain their livelihoods.
- The Marine Spatial Planning Bill was introduced in 2016. This Bill appears to remove red tape and enable government to issue permits, permissions, licences and authorisations for mining, aquaculture and other developments faster than ever, to fast-track activities that are regarded as being part of Operation Phakisa. There are already examples of the environmental regulation and protection measures being ignored by companies in the drilling and exploration for oil that has already happened off the KZN coast.

They could not legally put their boats out to sea or harvest resources to sustain their livelihoods.

Continued on page 3
Operation Phakisa destroys small-scale fishers livelihoods

In the past two years Operation Phakisa has become the new buzz-word in local coastal and small-scale fisher communities, with government arranging imbizos and launches of Operation Phakisa, and keeping Phakisa related developments in the media.

In 2016 through Operation Phakisa, the government proposed 22 more Marine Protected Areas (MPAs) with draft regulations that are not in line with the new Small-scale Fisheries Policy (SSFP), and without consulting local communities around these MPAs.

In 2017 parliamentarians and government officials hosted brief hearings on Operation Phakisa and the Marine Spatial Planning Bill in selected towns along the coast where they promised socio-economic benefits to coastal communities from oil and gas mining, aquaculture and related infrastructure developments such as harbours and highways.

Yet despite these promises, coastal communities have not been given information about the details of how they will benefit and how their customary rights and livelihoods will be protected and promoted in Phakisa-related projects.

The experience of the Xolobeni community in Pondoland, who have not been adequately consulted about the mining of titanium on their communally-owned coastal lands, is a clear indication that benefits to local communities, are but hollow promises.

On the contrary, many in the Xolobeni Community are today facing forced relocation of their households, ancestral graves, grazing areas and fields where they grow their food to make way for the N2 highway.

This has clearly alerted coastal communities to the dangers of some of the developments proposed under Operation Phakisa and the promises of prosperity in the future will only materialise for a few and the rich and powerful.

In addition, small-scale fishers are asking when they will start to enjoy the jobs and new opportunities that the DAFF Minister promised them in 2012 when the Policy on Small-scale Fisheries was officially gazetted.

Oil and Gas Mining under Operation Phakisa

Ntsindiso Nonqcavu, Coastal Links leader from Port St John’s is very worried about the potential negative impacts of the Oil and Gas Mining component of Phakisa on his community.

“Our community depends on the coastal lands, forests and the sea for food security and our livelihoods. If the government goes ahead with Operation Phakisa oil mining without consulting us, the coastal communities, there will be a great deal of conflict as we really depend on these areas for our food. We have to protect this for our next generations. If government mines these resources our children will be impacted. We protect nature because we depend on the valleys and hills here next to the coast and we cannot let them destroy this environment.”

Aquaculture

THE Hamburg Aquaculture project is one of DAFF’s flagship aquaculture projects. Although started prior to Operation Phakisa, it is now part of the Phakisa projects and is now often referred to as a key Operation Phakisa Ocean Economy achievement.

Ayanda Yekani of Coastal Links says that the community have mixed feelings about the project. “It was promised as a ‘community project’ that would have many benefits for the community, but only 26 individuals benefit from the project through job creation. They are paid approximately R2000.00 per month. The aquaculture farm is now a partnership with business, and community members feel business derives the most benefits from the project. We have been promised that the community will eventually they will be able to take over the project and own it.”
FACE2FACE

with Christina Kopana from Mendwana near Willowvale in the Eastern Cape, near to Dwesa Cwebe Nature Reserve, which is an MPA

Q: What was it like growing up in your community?
A: Mendwana is a rural area, it takes more than an hour to get to the nearest to the nearest town, which is in Willowvale. In Mendwana nothing has changed over the years, and there is no development in terms of clinics, roads, jobs. Youth leave the area to go and find work in mainly Cape Town.

Q: Have you ever heard about Operation Phakisa?
A: Yes, I attended the Parliamentary Portfolio Committee Hearing in Idutywa on Operation Phakisa.

Q: What do you understand about Operation Phakisa?
A: I can only say what we were told at the hearing. They told us there are going to be roads built, mineral mining of gas and oil will happen along the coast. They also said that they will build more small harbours, and they promised lots of jobs in the EC, especially where we stay. They said that a lot of tourists will come to our places.

Q: Do you think all these benefits they talk about will come to your community?
A: My biggest problem was that it was unfair that we were late, and then could not ask questions on Dwesa Cwebe and the MPA. Only ten people were allowed to ask questions, who were mainly chiefs from the surrounding communities. I feel there were some things they were not telling us. Why did we have to travel so far, why could they not come to the different communities? I get the impression the chiefs were briefed beforehand, and they will do things in our land, but are not telling us. I feel the chiefs know something the communities do not know.

Q: What impact will Operation Phakisa have on your community?
A: I think they are lying about the lots of jobs that will be created, and I don't think we will qualify to work in the mining, and they will get people from overseas to come and do that work. I and my people from my community will not benefit. We will not get the important jobs. They said fish farming will be for the community, but feedback from East London is that it needs a lot of funding, in the end only rich people will benefit from it.

Q: What changes will it bring, and how will it be different from the community you grew up in?
A: It will bring changes like odd jobs. It will have a great impact on our fishing. Fish will be killed and fish will move away because of the blasting, and it will affect our livelihoods. It will bring about global warming; will cause more trouble with changing weather patterns. I don't think they have thought about the environment.

Onslaught against fishers continues

- Large-scale diamond mining in the Northern Cape is decimating the livelihoods of the fishing communities of Port Nolloth and Hondeklipbaai.
- When the Department of Agriculture Forestry and Fisheries (DAFF) started to register fishers as the first phase in the implementation of the SSFP, many people were discouraged from applying, especially women and youth.
- When DAFF published the Provisional list of Fishers, the vast majority of those who applied were excluded, resulting in some fishing communities having as little as four fishers on the provisional list.
- Many fishers, especially women and youth refused to appeal against their exclusions because of the attitudes of the officials from DAFF who told them at the time of registration that they do not qualify, because the regulations do not regard them as fishers.
- Now, we sit with only a fraction of the 30 000 South African small-scale fishers being part of the SSFP.
- After a long lapse since the start of the implementation of the policy, DAFF finally started with implementation again in late 2017, releasing the final lists in the Northern Cape in November, and in early 2018, started to release the lists for the EC and KZN.
- The final lists were also a major disappointed for most fishing communities, as the pool of fishers announced by DAFF are much smaller than the actual fishers that exist within fishing communities.
- DAFF has now started a training programme for co-operatives with the fishers they recognised as fishers in communities in the Northern Cape and KZN, and in most instances, fishing communities have major problems with how this is unfolding.

ONE of the key challenges experienced by small-scale fishers in South Africa is that although the SSFP promises restitution and redress for past injustices, a human rights-based approach and the need for development, DAFF fisheries department is only focusing narrowly on managing the fishing industry, monitoring and enforcing fishing laws and regulations, instead of bringing development and justice to a sector within the industry that has been negatively impacted upon by 300 years of colonial and apartheid rule.
What is Operation Phakisa and the Ocean Economy?

OPERATION Phakisa, or the Oceans Economy, as it is sometimes referred to, is a programme aimed at reducing poverty and creating jobs, by unlocking the potential of the oceans and promote multiple socio-economic benefits, by fast-tracking the exploitation of what is referred to as the oceans economy, according to ex-president Jacob Zuma, who launched Operation Phakisa in 2014.

Phakisa means ‘hurry up’ in Sesotho and is linked to the National Development Plan’s goals of creating jobs and reducing poverty for the country.

This goal of exploiting the ocean and coasts to seek new resources and opportunities for development is not unique to South Africa.

It is in line with the global neo-liberal and capitalist policies known collectively as ‘the blue economy’.

Operation Phakisa aims to fast-track the exploitation of the ocean economy in the region through multi-sectoral cooperation and public-private partnerships.

All over the world small-scale fishing communities report that they are facing destructive developments impacting the marine ecosystems due to the mining of the ocean.

In many countries local, small-scale communities are being displaced by large, industrial developments such as oil and gas mining, power stations, industrial aquaculture projects, hotels and luxury tourist resort accommodation.

This displacement from traditional coastal lands and waters is known as ‘ocean grabbing’ and the benefits are flowing upwards to elites and small-scale communities are in no way benefitting equitably.

What is the possible impact of oil and gas mining on the ocean and fishers’ livelihoods?

COASTAL Links members at the Roundtable raised critical questions about the projects, and asked the departmental officials what the impact of oil and gas mining will be on the ocean and fisheries resources that they depend on for their livelihoods.

They are concerned about the fact that the South African government has already given the green light for the drilling of oil off the KZN coastline, and that 98% of the Exclusive Economic Zone has already been leased out for oil and gas exploration.

Two non-governmental organisations based in KZN have been analysing Operation Phakisa and conducting research into the potential impacts of oil and gas mining on the ocean and fish resources. Groundworks and the South Durban Community Environmental Alliance warned that experience in other parts of Africa has demonstrated that oil and gas mining in the ocean can impact the health of the ocean and marine resources.

The dangers of oil and gas spills as well as the land-based pollution from oil refineries along the coast all present a significant threat to fishers’ livelihoods.

Reports from the first set of tests conducted off the coast of Kwa Zulu Natal (KZN) just north of Durban suggest that these tests have had a devastating impact on marine mammals such as dolphins and whales.

The exploration and production of oil and gas is a major industrial development. Policy researcher Samuel Chadema from Groundwork indicated that “... although this is regarded by some as the solution for our economy, research shows that these industries will not create a large number of jobs and the type of jobs they do create are usually reserved for highly skilled people.”

Aquaculture development

THE Department of Agriculture, Forestry and Fisheries (DAFF) is the lead department for the Oceans Economy Aquaculture. Operation Phakisa believes that due to the growing population and the decline in fish that are caught in the oceans, the demand for aquaculture or the farming of fish and other marine resources will grow and has the potential to create jobs and provide an important source of food.

DAFF has released draft legislation for the management of the aquaculture sector in South Africa to facilitate its development.

The department states that it intends using this sector to benefit coastal communities. Yet despite this, the new Aquaculture Development Zone in Saldanha Bay on the West Coast of South Africa has failed to adequately consult and include small-scale, traditional fishers who depend on these waters for their livelihoods.

Coastal Links leader Solene Smith said: “I am worried that the approach taken by the DAFF is one of large scale industrial aquaculture that will once again benefit the big companies who have access to capital and resources to invest in these projects.”

The experience of the Hamburg community in the Eastern Cape confirms this fear. Very few lasting jobs have been created for the local community and it is largely the private business sector that is benefitting from the aquaculture project.

In Hamburg in the Eastern Cape an Aquaculture project was started prior to Operation Phakisa, and lots of promises of community benefits were also made.

Ayanda Yekani, a Coastal Links leader from Hamburg points out that the number of community beneficiaries has steadily declined since the project was first launched.

Fishers at the Roundtable in November 2017 raised their concerns about the extent to which poor, rural communities along the coast will benefit from the proposed aquaculture projects.

They pointed out that the proposed draft Aquaculture legislation includes extensive red-tape and requirements that will make it even more difficult for community-based projects to get established and remain community-owned and managed.

The fishers also expressed their worry that like the oil and gas mining industries, both industrial aquaculture and the marine transport sector with its huge container ships might present a danger to the marine ecosystems as they pose a pollution risk and have a heavy carbon footprint.
IN 2017 communities were alerted to the fact that they have to give input into the discussions around the Marine Spatial Planning Bill that will be discussed and adopted in parliament at a later stage.

The DEA developed the Marine Spatial Planning Bill and public hearings have been held and submissions made on this bill.

The Marine Spatial Planning Bill has been adopted by the National Assembly and it will now go to the National Council of Provinces for further consultation and debate this year.

According to the Department of Environmental Affairs (DEA), South Africa’s ocean include a range of different human activities such as fishing, maritime transportation, oil and gas development, aquaculture and waste disposal.

DEA states that “… the current problem in SA ocean space is that these activities are done on a sector by sector basis without much consideration to impacts on either human activities or the marine environment. This has a potential to create major conflicts, both user to user conflict and user and environment conflicts.”

It further states that “… the current uncoordinated, overlapping (multiple) and increased use of ocean resources negatively impacts on the sustainability and realisation of the benefits of ocean goods and services to South African economy”, (DEA 2017).

DEA has proposed that, “Marine Spatial Planning (MSP) will be used as a governance and planning tool that will advance integration and a process that will allocate the spatial and temporal distribution of human activities in our ocean space. MSP will improve decision making and enable the co-existence of different human activities while protecting the environment”.

MSP is becoming popular the word all over for the process that governments and other stakeholders develop in order to plan who can do what, where and how in the oceans and along the coast. The Convention on Biological Diversity (CBD) Conference of Parties has developed Guidelines for MSP which highlight the importance of including indigenous peoples and local communities fully and effectively in MSP.

The Marine Spatial Planning Bill outlines the vision, objectives, principles and processes whereby this integrated planning for Operation Phakisa and other activities in the ocean will take place.

Several CBOs and NGOs have raised their concerns about this Marine Spatial Planning Bill, because it has been watered down from when the DEA first started drafting the Bill.

In the first draft there was a compliance clause (clause 1) to force government departments and companies to comply with certain environmental protections but this was later removed.

There are now no punitive clauses and no means of enforcing compliance. Groundwork, an NGO working on environmental issues, believes that this is to remove red tape and enable government to issue permits, permissions, licences and authorisations for mining, aquaculture and other developments faster than ever, to fast-track projects under Operation Phakisa.

There are already examples of environmental regulations and protection measures being ignored by companies in the drilling and exploration for oil that has happened off the KZN coast.

The Marine Spatial Planning Bill tabled in Parliament fails to provide a mechanism that will enable civil society to participate fully and effectively in decision-making about the implementation of Operation Phakisa and other marine and coastal developments.

Coastal Links leader Mr Randall Bentley has pointed out that the Bill places all the power in the hand of a few high level Director Generals and said that “… the proposed stakeholder consultation is not fair and will discriminate against us as small fishers and coastal communities”.

One key way in which the DEA proposes to protect the ocean is through the extension of the network of Marine Protected Areas (MPAs).

The DEA proposed to remove red tape and enable government to fast-track projects under Operation Phakisa.

The DEA proposed 22 new MPAs along the coastline and offshore and released draft regulations for comment on these MPAs in 2016.

Although 11 of these would not impact the small-scale fishing communities directly, another 11 of them will have significant impacts and yet these communities were not consulted in most cases.

Several of the proposed MPAs completely failed to make any provision for compliance with the small-scale fisheries policy and the Amended Marine Living Resources Act (MLRA).

At the Roundtable held in September 2017, several fishers questioned the DEA, DAFF and the Eastern Cape Parks and Tourism Agency (ECPTA) on the issue of the imposition of MPAs and the failure of these departments to consult them adequately and effectively, and the way in which the customary rights of communities were ignored in the past.

Siya Dlulisa from the DEA introduced the Marine Spatial Planning (MSP) process, and said that it aims to ensure that the ocean will be protected by facilitating the integrated planning of different sectors and layers.

He also emphasised the multi-sectoral nature of the planning involved, and that MSP is a tool aimed at facilitating the interactions of the different ‘investors of the ocean’.

The imposition of the MSP must be challenged by fishing and other communities, and how it will negatively impact the ability of fishing communities to earn sustainable livelihoods must be made publicly known.
OPERATION PHAKISA

Fishers in the Eastern Cape engage government on Operation Phakisa

BY OCTOBER 2017, fishers in the Eastern Cape started to become frustrated at the many issues negatively impacting their livelihoods, and making earning a living through their fishing activities a real hard struggle, they decided to take action in the form of a march and arranging a round table discussion with government departments and other stakeholders that impact both positively and negatively on their livelihoods.

More than 100 people, mostly Coastal Links members from towns and villages along the Eastern Cape coast took part in the march and the Round Table that followed on November 21 last year, in East London.

The Roundtable aimed to enable fishers and coastal communities to engage government and other key stakeholders on issues related to Operation Phakisa, the proposed exploitation of the ocean economy and the benefits that have been promised.

Officials from key national and provincial government departments were present, and included the Department of Environmental Affairs (DEA), Department of Agriculture, Forestry and Fisheries (DAFF), the Provincial Department of Economic Development and Environmental Affairs (DEDDEA), the Department of Public Works, the Eastern Cape Parks and Tourism Agency (ECPTA).

Also present were traditional authorities including Prince Tyali from the King Sigcawu Royal House, together with a host of civil society allies from the social movements and NGOs that have a presence in the province.

These organisations included the Legal Resources Centre, Ntinga Ntaba ka Ndoda, Inyanda, the Trust for Community Outreach and Education (TCOE), the Border Rural Committee, (BRC), DELTA, ZINGISA, CALUSA and TRALSO.

The DEA and DAFF were requested to make presentations at the Roundtable, focusing on how Operation Phakisa would impact the implementation of the Policy on Small Scale Fisheries (SSF) in the province. The DEA was also specifically requested to indicate how the rights of communities living in and around Marine Protected Areas would be secured.

How will Operation Phakisa protect the ocean and coast?

COASTAL Links leaders are extremely worried about how the Operation Phakisa plans will impact the ocean and coast, and therefore, the health of their fisheries and coastal resources that they depend on for their food security and livelihoods.

One of the most worrying aspects of the Phakisa programme is the hurried rate of Phakisa and that at this stage there are no sound environmental protection and management provision underpinning the programme as it is being rolled out.

For example, there are no appropriate mechanisms and checks and balances to manage the risks that several of the oil and gas testing projects pose to the marine environment.

In order to balance the impact of the extractive industrial developments proposed to exploit the ocean and mine its resources, Operation Phakisa includes a fourth pillar called ‘Marine protection services and ocean governance’.

This pillar aims to develop an overarching, integrated ocean governance framework to ensure sustainable growth of the ocean economy although this is still a work in progress, even though oil and gas testing and other projects have already started.

Siyah Dlulisa from the DEA presented an overview of this programme, and said that Phakisa aimed to be an initiative that will develop the ocean economy, but one in which the government and the people will “own and protect” the sea.

The Department of Environment is also the department that has the responsibility to lead South Africa’s efforts to address climate change and to reduce the country’s carbon emissions in line with its international commitments.

Groundwork researcher Samuel Chadema has pointed out that there are a lot of contradictions in Operation Phakisa if you factor in the environmental costs to the country. “Phakisa aims to drill 9 billion barrels of oil from the ocean, enough for 40 years of fuel for the country but that this will have a huge impact on South Africa’s carbon emissions, causing us to expose ourselves to further climate change.

“Under the offshore oil and gas stream, the DEA boasts that we will get approximately 9 billion barrels of oil … equivalent to 40 years of South African oil consumption … [and] 11 billion barrels oil equivalent of natural gas.”

He said that Phakisa has set “an ambitious target” for drilling 30 exploration wells and hopes this will lead to production of 370 000 barrels a day.

“The DEA does not mention that this makes around 117 500 tons a day of CO2 or 43 Mt a year.”
What can small-scale fishing communities do to ensure that Operation Phakisa consults coastal communities, protects fishers’ livelihoods, respects their customary rights and does not harm the ocean?

LEGAL Resources Centre attorney Wilmien Wicomb responded to the debate on consultation at the Roundtable in the final input for the meeting.

She reminded the participants that the Constitution of South Africa, as it has been interpreted through several key Constitutional Court judgements, is very clear about the rights of communities to fair and effective consultation.

“The Constitution helps us to understand and has given us principles about good consultation. Number one, government must assess the impact of its laws and decisions on people’s lives. If it’s a decision that will impact people’s lives such as to open or close an MPA that will affect food security that is a very important decision,” said Wicomb.

She noted that the Constitutional Court says the more important the decision, the higher the standard of consultation, so when the government decides about an MPA they must first consider who will be impacted by the decision.

They must speak to other departments and find out who will be impacted and how, and they must find out if their customary rights will be impacted.

She reminded the participants about their customary rights, as customary law has been recognised by the Constitution now.

“One of the most radical things our constitution did was to say that customary law is the same as common law, is the same as statutory law”.

The MLRA does not take these away, customary rights continue, and when government develops a law that impacts on customary rights, government must consider this.

Wicomb said the Constitutional Court gives guidance on what will be considered adequate consultation.

Also, the Food and Agriculture Organisation (FAO) Voluntary Guidelines for Tenure and Food Security, and the African Charter on Human Rights that South Africa has ratified says that if communities with customary rights find that a proposed development will stop fishing, or impact their land tenure, resources or their minerals, they have the right to free, prior, informed consent.

It’s not just about hearing them it is about giving them the right to discuss and negotiate and say no, when they disagree, that is the kind of consultation that the courts require.

It’s not about ticking the boxes of how many meetings you have had, but the outcome of the consultation to assess if it was good enough.

Wicomb encouraged the small-scale fishers and other community representatives present to demand their right to adequate consultation from any Operation Phakisa development: whether it’s a proposed mining development, the role out of the SSF policy or the establishment of an MPA.

Langebaan fishing community raises concerns regarding aquaculture farm

THE Langebaan traditional fishing community who have been fishing for a long time in the Langebaan Lagoon, was recently confronted with the possibility of the establishment of an aquaculture farm in their community, and decided as a fishing community under the leadership of Coastal Links, that they will raise objections to the setting up of the aquaculture farm.

Below is their submission they have made, giving a clear indication of what dangers the aquaculture brings to their livelihoods and the surrounding lagoon and ocean.

Public submission on the sea based Aquaculture Development Zone in Saldanha Bay Report Number 499020 / 1

Please find the comments and submission from the Langebaan Coastal Links below. We are a recognised small-scale fishing community association that represents the traditional, small-scale fishers of Langebaan who depend on the lagoon for our basic food security and livelihoods. This includes the rights holders who have rights to fish in the Langebaan Lagoon and surrounds in Saldanha Bay. This is our historical traditional fishing grounds. We wish to be considered as key rights holders who need to be consulted in this Aquaculture Development proposal going forward.

Continued on page 8
Langebaan fishing community raises concerns regarding aquaculture farm

Introduction
WE, the traditional, historical residents and rights holders and small-scale fishing community of Langebaan welcome the initiative to consider development in our region that will promote socio-economic development in an equitable and sustainable manner. We would like to be part of these planning processes. Our forebears are the historical owners and users of these waters of the Saldanha Bay and Langebaan Lagoon. We wish to ensure the sustainable development of our waters upon which we depend for our basic food security and livelihoods.

Whilst we acknowledge that aquaculture can contribute to development, food security and job creation if carefully planned we wish to raise several concerns about the current proposal and request further research and consultation before this project is approved.

1. Constitutional and statutory obligations impacting this EIA linked to our historical rights

WE would like to point out that we represent the historical, traditional small-scale fishing community that is the longest standing small-scale commercial net fishery. Our culture is closely tied to the lagoon and the Bay and we have well established customary practices associated with our fishery. In October 2013 in the court case of Langebaan Coastal Links versus the Minister of DEA, Minister of DAFF and SANParks, the High Court ruled that our traditional, historical rights to fish in the lagoon must be considered when any zonation is considered by the various authorities. The High Court judgement stated that fishers’ “historical claim to traditional fishing rights, the imperatives of transformation and the need for ecological conservation whilst also allowing for sustainable utilisation and development of the resources concerned” must be considered (Langebaan Coastal Links versus the Minister and others 2016).

Recommendation: We feel that the EIA for this project in Saldanha Bay must therefore include a specific report investigating how the proposed project will impact our traditional fishery and to make appropriate recommendations around the proposed sites in order to mitigate any such impacts.

2. Need to consider the risk of exotic species and adopt a holistic, integrated approach

WE are also worried that the introduction of exotic, alien species into the Bay is against the principles of the Marine Protected Area and may endanger the RAMSAR site in the Lagoon, our fisheries and the ecosystem of the Bay as a whole. It is out of line with the integrated planning approach to marine and coastal management. We therefore feel this requires an expert report in addition to the BAR Report in order that the EIA be undertaken in a way that complies with the appropriate legislation. In particular, the proposal related to Big Bay South will impact our fishing grounds and lies adjacent to the MPA. For this reason we request that a precautionary approach be adopted. Recommendation: Undertake a specialist report into the potential impact of introducing alien, exotic species into the Bay and the risks and need for a precautionary approach.


3. Need to commit to ensuring that local rights holders and communities are the primary beneficiaries and partners in any such Aquaculture Zone developments

WE the traditional disadvantaged coloured and African fishing community of Langebaan have been negatively impacted by the development of the Bay and the Lagoon over the past four decades. We have not enjoyed the benefits of the various developments and remain the poorest section of the community. We demand that any such Aquaculture development Zone recognise us and ensure that we are the primary direct partners and beneficiaries of any projects of this nature. We would like to see how the DEA intends ensuring that we are the primary beneficiaries. Currently this is not clear to us and we wish to request further engagements and clarity on this issue before we are able to lend our support to this proposed development.

Recommendation: further information required regarding primary project partners and beneficiaries

Yours sincerely
Mrs Solene Smith and Mr Norton Dowries on behalf of Langebaan Coastal Links