

Postnet Suite 7
Private Bag X6
Langebaan
7357

19th June 2017

SRK Consulting
Postnet Suite #206
Private Bag X18
Rondebosch
7701

Attention: Jessica du Toit

LETTER OF OBJECTION

RE: FINAL BASIC ASSESSMENT REPORT - PROPOSED SEA-BASED AQUACULTURE DEVELOPMENT ZONE IN SALDANHA BAY - SRK Project Number: 499020 DEA Project Number: 14/12/16/3/3/1/1728

This Letter of Objection is submitted without prejudice.

We, the membership of the Save Langebaan Lagoon Action Group (SLL), representing over 1000 Langebaan residents, hereby lodge our outright objection to the proposal for an aquaculture development zone in the areas as demarcated and explicated in the Final Basic Assessment Report (FBAR), SRK Project Number 499020.

We wish to state that we are not opposed to aquaculture developments *per se* and recognise the industry's potential to contribute to food security, job creation and BBBEE. However, we are opposed to the development, in the sites proposed.

This Letter of Objection is to be read in conjunction with and in addition to the SLL's Letter of Objection and addenda submitted 31st March 2017, as well as objections already submitted by stakeholders / I&APs and incorporated by SRK Consultants under "Comments", with particular reference to the SBWQFT comments on the proposed ADZ.

Please note:

1. EIA Regulations referred to throughout the commentary below are the Environmental Impact Assessment (EIA) Regulations, 2014 (promulgated in terms of the National Environmental Management Act 107 of 1998 – NEMA), as amended by GN R326 of 2017.
2. For convenience, the Final Basic Assessment Report long title has been shortened to the FBAR.
3. The FBAR references the 2015-2016 Integrated Development Plan (IDP) for the Saldanha Bay Municipality. The 2017 – 2022 IDP is currently in force. (Refer pg 22 of the FBAR).

1. Socio-economic considerations

The FBAR fails to provide a comprehensive cost-benefit analysis of the proposed ADZ vis-à-vis the current and future socio-economic landscape of Langebaan, thereby avoiding an objective evaluation of the “need and desirability” of the project, in support of the legal requirement. (Section 3 (1) (f) EIA Regulations). The DEA's 2017 Integrated Environmental Management Guideline on Need and Desirability (IEM Guideline) requires a development to be *simultaneously* “ecologically sustainable and socially and economically justifiable” (Pg 7 IEM Guideline).

Aquaculture has been identified in the FBAR as a “[k]ey priority of Operation Phakisa, as it is considered a sustainable strategy to contribute to job creation”. And further that it will “provide skills development and employment for coastal communities”. (Pg i FBAR Executive Summary). The SLL contends that the number of direct and indirect employment opportunities forecast for the proposed ADZ is highly speculative and could be misleading in the authorisation process, given that the FBAR recommends a phased-in approach to the project. (Pg 54 FBAR). Further, due to the raft of unknown/untested ecological impacts and risks posed by the project, the ecological monitoring processes recommended in the FBAR may well result in a further scaling back of the full project scope, which will reduce the potential for job creation. Whilst the FBAR recommends that local goods and services are sourced for the ADZ, there is no procurement plan in place to enforce this ideal, making its eventuation unlikely. (Pg vii Executive Summary – Optimisation Measures table).

In addition, the FBAR recommends the utilisation of local labour “as far as possible”. (Pg vii Executive Summary - Optimisation Measures table). It is likely that the labour pool for the ADZ (which will be weighted to unskilled and semi skilled labour) will come from the town of Saldanha Bay due to transport cost constraints for those who live in outlying towns like Langebaan i.e. in reality, employment opportunities in the ADZ for those from the Langebaan community are highly unlikely.

Page 47 of the FBAR refers regarding the number of new jobs forecast for the ADZ project: “However, farms will be developed in phases, based on ongoing monitoring, and might not reach full potential – as such, investment may be substantially lower”. This assessment should be considered in the context of the recommendation in the CapMarine report that the project be phased in over 10 years. At best, the number of predominantly semi and un-skilled positions will take a decade to be realised. Further, it is likely that only a small % of these jobs will come from Langebaan. What needs to be analysed is the number of new employment opportunities that will be generated from the tourism and related sectors during this time in the positive economic growth climate of Langebaan.

The urgent need for this analysis is further strengthened by the acknowledgment in the FBAR that “Langebaan fulfils an important role as a recognized holiday and tourist destination. A larger number of permanent residents also settle in Langebaan, increasing the need for the provision of a greater variety of economic opportunities for the local residents (Saldanha Bay SDF 2011). Adequate provision should thus be made to consolidate and expand its important local and regional tourism role and in so doing provide an increased range of economic opportunities”. (Pg 48).

In contrast to the speculative employment predictions for the proposed ADZ, the contribution to current job creation by Langebaan's hospitality and tourism sectors can be substantiated. Tourism in Langebaan is a lucrative, job-intensive industry. Perhaps ironically, the FBAR recognises that

“[t]ourism is an important income source in the area”, yet fails to support this statement in the mitigation/optimisation measures suggested. (Pg ii Executive Summary). In addition, there is healthy employment growth in Langebaan from the indirect support of the tourism and hospitality industries i.e. construction, service and supply. These sectors offer considerable opportunities for the up-skilling and advancement of employees, critical to sustainable poverty alleviation.

There is overwhelming evidence that Langebaan's economic fortunes are inextricably tied into the ease of access by the public to unpolluted waters for multiple water sport activities and events, as well as the intrinsic value of its undisturbed natural seascapes that attracts holiday makers, home-buyers and business investment.

The SLL therefore contends that the proposed ADZ threatens to materially compromise a vibrant economy with high growth potential. “While the financial viability considerations...might indicate if a development is "do-able", the "need and desirability" will be determined by considering the broader community's needs and interests as reflected in an IDP, SDF and EMF for the area, and as determined by the EIA” (Refer pg 8 of the National Framework for Sustainable Development 2008). The Integrated Development Plan (IDP) for Saldanha Bay Municipality (2017 – 2022) indicates that the commercial services sector (which includes, inter alia, hospitality services in which Langebaan is heavily invested) has shown consistent growth over the past decade and is growing at a faster rate than the overall Municipality's average rate (Pg 43 of IDP). The SLL therefore argues that there is far greater potential for job creation within Langebaan's current economic structure than within that of the proposed ADZ.

NEMA requires that the “best practicable environmental option” is considered i.e. “the option that provides the most benefit and causes the least damage to the environment as a whole, at a cost that is acceptable to society, in the long as well as in the short term”. (Section 2 (4) (b) of the NEMA). In this context then, how does the proposed ADZ promote the protection of the current ecological capital of Langebaan's waters in a manner that sustains the local community, without compromising the ability of the current and future generations to meet their own needs? (Refer to the National Framework for Sustainable Development).

Sea-based aquaculture of the scope and scale proposed cannot co-exist with Langebaan's current socio-economic status quo without a significant cost to Langebaan. Nothing in the FBAR indicates that the benefits of the ADZ as promoted therein can in any way compensate for the socio-economic losses that will be experienced by the Langebaan community. The FBAR fails to consider the impact of job losses from the likely down-turn in tourism in Langebaan.

Further, the post-mitigation measures recommend a 1 kilometre buffer between the aquaculture structures and the popular residential and tourist areas of Club Mykonos and Paradise Beach. This narrow margin fails to support the recognition in the FBAR that these visible structures are likely to “alter the sense of place and present a visual intrusion”. (Pg viii Executive Summary). The consequence being that the current high demand for these properties, which rely on their expansive natural seascape vistas, will taper off, with adverse impacts for the owners and their services and goods suppliers.

“...SRK does not anticipate a significant reduction in water sports opportunities, visitors and associated businesses as a result of the project”. (Pg 58 FBAR). It is clear to the SLL that very little feedback from I&APs has been seriously considered by the EAP. This unsubstantiated statement is, at best, an uninformed perspective; at worst, a cynical disregard for the representations from

numerous sporting and tourism organisations and individuals who have expert knowledge and insight regarding the source of and the influences on their revenue flow and who hold a contrary view to that of SRK.

We note with interest a reference in the CapMarine Report (Pg 50) that Ross et. al (*Carrying capacities and site selection within the ecosystem approach to aquaculture*. 2010) consider that social carrying capacity is one of the criteria to consider when evaluating carrying capacity and site selection. Social carrying capacity is defined as the amount of aquaculture that can be developed without adverse social impacts. The FBAR does not include a comparative cost-benefit analysis regarding the impact of the proposed ADZ on Langebaan, thus preventing a comprehensive evaluation of the site selection.

DAFF's 2011 Strategic Environmental Assessment recommends that user conflict “due to exclusion from mariculture zones for security reasons or negative impacts on tourism and coastal real estate value due to negative aesthetic impacts of fish farms” can be ameliorated by site selection. (Pg 4 Strategic Environmental Assessment (SEA): Identification of potential marine aquaculture development zones for fin fish cage culture. 2011). The SEA goes further in addressing user conflict by recommending that “[m]ariculture development should not unduly impact existing economic activities”. (Pg 46). Nor should the development “...unduly impact existing ecotourism and recreational activities”. (Pg. 48).

The SLL strongly recommends that the applicant apply its own rationale with regard to the siting criteria for the proposed ADZ!

2. Environmental Considerations

The points raised by SLL in our Letter of Objection to the BAR, submitted 31st March 2017, with regard to ecological considerations refers and must be read together with the following commentary. (Letter of Objection pgs 7 - 9).

Attention is drawn to a statement by DAFF that “[t]he 2011 National Biodiversity assessment indicated that Langebaan, South Africa’s only lagoon ecosystem is vulnerable and recommended that this habitat should not be placed under any additional anthropogenic pressure.” (Pg51. 2011 SEA). What comprehensive scientific research has been conducted since this publication that indicates that the health of the lagoon ecosystem is now robust enough to accommodate the known and unknown pressures associated with an aquaculture development of the proposed scale and type?

“The relatively high fouling rate on the netting of the cages in Saldanha Bay is considered potential problem and will result in the need to exchange cages regularly...” (FBAR CapMarine Environmental Concept for a Proposed Sea-Based Aquaculture Development Zone in Saldanha Bay, South Africa. (CapMarine) Appendix 3. Pg 28) How will this be monitored and enforced, with which best practice clean-up standards and with what penalties for the lease-holders? SLL questions the probability of regular exchange of cages occurring, particularly with the cost implications thereof. We therefore contend that too much about the measures to prevent and contain adverse impact are left up to chance.

Of particular concern is CapMarine's statement that “[t]he trials on salmon in Big Bay were also based on the granting by DAFF of a permit requiring specific monitoring. Information on the monitoring was not provided to CapMarine or SRK other than that the MOM methodology had not been effective as the currents in Big Bay had resulted in difficulties in following this approach (net traps under the cages

could not be kept in place due to the current). Similarly, the information from other aquaculture activities in South Africa e.g. Algoa Bay, Mossel Bay and Richards Bay, provided no direct information that could inform the carrying capacity and ramp up of fish farming in Saldanha Bay”. (Pg 49. CapMarine). SLL therefore strongly urges that a more rigorous, independent, site-specific scientific evaluation is conducted and submitted for public scrutiny before this application is considered by the competent authority.

It is still unclear from the FBAR the composition and origin of the feed planned for the fin-fish production. Will the feed be imported? If so, at what cost? Who will carry the cost thereof i.e. will it be subsidised by government and has this been accounted for in the project cost analysis? Is the feed type standardised for all lease-holders? If so, how will this be monitored and enforced? What impact will the type and origin of feed have on the ecology of the specific site selections?

The CapMarine report recommends that the “slow strategy” is adopted with regard to the project ramping up rates. (Point 5 (b). Pg 52 *ibid*). However, the report then states that this approach will have economic implications. Does this mean that ramping up at 10% per annum (the slow strategy) will require government to subsidise the aquaculture farmers?

The FBAR references the 2015 Environmental Management Framework (EMF) for Saldanha Bay Municipality and recognises the incongruity /lack of clarity contained therein with regard to use of the various zones of the bay's waters. (Pg 25 FBAR). This absence of clarity of what is meant by “be careful” in the EMF's text demands the application of the precautionary principle with regard to any activities in these waters.

Further, “Saldanha Bay is a dynamic oceanographic system – there are many factors that remain uncertain (with respect to the expansion of aquaculture in the Bay)”. (CapMarine. Pg 55). With the myriad high risks identified, the porous monitoring measures recommended, how then does this proposal meet the principles of sustainable development in support of the National Development Plan and NEMA? The 2011 National Strategy for Sustainable Development for South Africa describes the concept of sustainability as composing of three overlapping developmental spheres namely, the natural environment, social context and economic activity. These spheres are fully interdependent on the extent and functionality of the others. A trade-off in one sphere will compromise the functionality of another with significant and untenable knock-on effects.

3. Public Participation

The points raised by SLL in our Letter of Objection to the BAR, submitted 31st March 2017, with regard to the public participation process refers and must be read together with the following commentary. (Letter of Objection pgs 1 - 3).

The SLL continues to strongly dispute that the public participation process was conducted in a “thorough” manner, taking into account the interests and needs of stakeholders. (Pg 29 FBAR). We re-iterate that the EAP failed to implement the process to full extent and intention envisaged by the EIA Regulations (sections 40 and 4). Numerous members of the Langebaan community were excluded from participating in the process due to language barriers, lack of education (possible illiteracy), lack of access to the notification sites and the limited distribution and readership of the local newspaper selected for the advertisement, as well as lack of critical understanding of the specialist reports. “Reasonable alternative methods” should have been employed to engage with the Langebaan

community more widely, as directed in section 41 (2) (e) of the EIA Regulations.

Whether SRK acted reasonably in discharging their duty to facilitate the public participation process as regulated is testable. Reasonableness requires a case to case analysis of the measures taken to facilitate public participation in the specific context. (Refer the judgment in *Doctors for Life International v The Speaker of the National Assembly* 2005 (6) SA 123 (E)). The *Doctors for Life* case confirms the need for a tailor-made approach that fits each set of circumstances. Thus the narrow “tick box” approach by SRK cannot be said to have enabled all potential I&APs' right to participate in and contribute to the application process.

Further, the judgment emphasised that in order for the public to fully participate they must be capacitated to do so with the requisite degree of knowledge of the proposed activity. SRK's exclusion of many potential I&APs, the poorly executed consideration of alternatives and the absence of a socio-economic cost to benefit analysis are examples that I&APs could not have been fully capacitated.

Further, the DEA Sector Guidelines set out recommendations for the public participation process and include that the process “...must make provision for different languages of I&APs. In addition, appropriate communication tools must also be employed. In communities where literacy is an issue, a means to obtain or record verbal submissions should be implemented”. (Pg 66). The Guidelines also recommend that the EAP enable I&APs to access skills to assist them to understand highly technical matters relating to environmental risks. (Pg 67). And further, that “translators and interpreters must be used where necessary”, as well as “involving community leaders and community associations to facilitate more effective participation”. (Pg 66). Whilst these Guidelines are not mandatory, section 41(2) of the EIA Regulations (2017) requires that the EAP *must* take into account any relevant guidelines applicable to public participation.

How then is the Langebaan community's voice to be heard by the competent authority in the decision-making process if public participation in the current context has been inadequate and exclusionary by its very nature? The requirements under section 41 of the EIA Regulations therefore cannot be said to have been reasonably discharged by SRK.

4. Consideration of Alternatives

The points raised by SLL in our Letter of Objection to the BAR, submitted 31st March 2017, with regard to the inadequacy of the interrogation of alternative sites refers. (Letter of Objection pg 3 to 4). In addition, we wish the following to be considered in the decision-making process:

The FBAR continues to obfuscate the aquaculture development zone (ADZ) site selection with the use of the catch-all term “Saldanha Bay”, thereby conflating the already industrialised/commercialised nature of Saldanha Bay (in and around the harbour) with the undisturbed, recreational waters of Langebaan. The objection by Save Langebaan Lagoon Action Group (SLL) to the proposed ADZ centres largely on the threat posed by the development to the quality, access and use of the waters of Langebaan i.e. the area that *de facto* falls outside of the industrialised area of the Saldanha Bay harbour (also known as Small Bay).

The amended post-mitigation ADZ precincts, as tabled in the FBAR Summary (Table 5 pg 11), concentrate the proposed aquaculture activity in Big Bay North, just off-shore from an established

holiday /lifestyle destination that irrefutably attracts visitors and investors because of its uncontaminated waters and expansive, visually unpolluted vistas. The proposed development in Big Bay will have a highly visible footprint from the shoreline, residential and resort areas. This development footprint will fundamentally constrict the usage of Big Bay North and alter the sense of place, currently an undisputed tourism and investment draw-card and a significant contributor to the Saldanha Bay Municipality's economy. The reliance on the term “Saldanha Bay” with regard to the consideration of alternatives (FBAR pg 17) appears to be a deliberate attempt to encourage the DEA to view the site proposed for the ADZ as simply an extension of an industrialised area that has supported aquaculture activity for a number of years. In this way, the applicant avoids the need to consider that the socio-economic and environmental character of Langebaan is materially different from that of Saldanha Bay.

The Saldanha Bay Municipality recognises the critical distinction between the two towns. It is notable that distinctly different descriptions have been used for the two towns in the Saldanha Bay Municipality's 4th Generation Integrated Development Plan 2017 – 2022 (IDP), pages 30, 33 and 34. The town of Langebaan is described as a “picture perfect little village”, situated “...next to the scenic Langebaan Lagoon”. The focus is on its natural and recreational attributes. (Refer pg 34 of the IDP). In contrast, the IDP highlights Saldanha Bay's Sishen-Saldanha iron ore project and its fishing industry as attributes of the town. (Refer pg 33 of the IDP). This clear distinction is also made at 3.1.4. of page 30 of the IDP.

For an unbiased consideration of site suitability in the context of sustainability principles, it is critical that Small Bay, situated in the visually and ecologically degraded waters of Saldanha Bay harbour, is not viewed in the same context as the Big Bay and Outer Bay areas. It would render any assessment of the feasibility of the site selection nonsensical. We contend therefore that the FBAR does not “contain the information that is necessary for the competent authority to consider and come to a decision on the application”. (Refer Appendix 1. Section 3(1) of the EIA Regulations.

In addition, we contend that the stated motivation (refer pg 17 of the FBAR) of assessing no alternatives to siting the ADZ in the Saldanha Bay area (inclusive of the Big Bay and Outer Bay precincts), as the preferred location, cannot be said to meet the definition of a “motivation” as envisaged in Appendix 1, section 3 (1)(h)(x) of the EIA Regulations.

Further, the failure to submit a “full description of the process followed to reach the proposed preferred alternative...”, (as required in Appendix 1, section 3(1)(h) of the EIA Regulations), renders the FBAR procedurally flawed. The applicant's highly selective and expedient consideration falls far short of the detailed requirements in section 3 (1) (h) and (i). (Refer pgs 21 to 24 of the FBAR).

The DEA's 2010 Sector Guidelines for Environmental Impact Assessment Regulations recommend that “[f]rom an EIA best-practice point of view, the purpose of considering alternatives is to identify the most appropriate option from an environmental perspective (i.e. considering biophysical and socio-economic factors)”. Further, the Sector Guidelines recommend that the applicant takes cognisance of “[a]ll reasonable options across all categories and types of alternatives.” (Pg 62 Sector Guidelines). This guideline supports the legal requirement that numerous categories and types of alternatives must be explored in order for the applicant to fulfill the imperative to consider alternatives. (Appendix 1 Section 2 (b) to (e) of the EIA Regulations). The SLL contends that the applicant would have met the requirement of reasonableness if they had conducted a comprehensive assessment of shore-based aquaculture in the vicinity of Saldanha Bay, especially as the applicant has acknowledged that the “marine environment is sensitive” (pg iii of FBAR Executive Summary) and that “[t]ourism is an

important income source in the area” (pg ii *ibid*).

The assertion that “[a] feasibility study conducted for DAFF in 2016 identified Saldanha Bay as the primary site available for mussel and oyster culture in South Africa. When read together, a financial feasibility study commissioned by DAFF (2016) and a national Strategic Environmental Assessment (SEA) for fin-fish culture (2012) identified Saldanha Bay as the only area suitable for cage-based salmon production in South Africa...” (pg v FBAR Executive Summary) is a convenient avoidance of the full extent of the applicant's mandatory duty to also consider alternatives that are reasonable under the EIA regulations. The Sector Guidelines advise that “[e]xtreme care must be exercised when excluding alternatives solely on the basis of financial feasibility. Feasibility needs to be more holistically considered and take account of environmental and social constraints as well” (pg 60 of Sector Guidelines). SLL contends that the poorly executed assessment of alternatives is indicative that a cautionary approach was not followed by the applicant.

5. Ecological Considerations

The National Development Plan 2030 (NDP) (2012) stresses that “the threat to the environment and the challenge of poverty alleviation are closely intertwined and as such environmental policies should not be framed as a choice between the environment and economic growth”. (Pg.5 IEM Guidelines 2017). SLL asserts that the number of threats to the ecosystem identified in the FBAR in the post-mitigation scenarios are unambiguously indicative that the proposed ADZ has placed economic consideration ahead of ecological consideration. The number of measures proposed in order to ameliorate irrefutable threats to the ecology are overwhelming, subject to interpretation of the site developers and lacking in enforceable application.

There is considerable scientific uncertainty regarding the impacts of the scale and type of aquaculture proposed, in the unique ecosystem conditions of the identified sites. Extrapolating data from a very limited aquaculture trial is an unreliable and risky base from which to accurately assess the impacts of the scaled up project. A more risk-averse approach would have been to engage attentively and openly with experts who have credible long-term data for the local environmental conditions e.g. the Saldanha Bay Water Quality Forum Trust (SBWQFT). The FBAR conveniently omits consideration of the merits of the scientific evidence in the SBWQFT report, (as attached), regarding the health of the waters sited for the proposed ADZ. As such, the information regarding this critical component of the application is incomplete/ lacking.

SLL contends that the legion of mitigation measures recommended are unrealistic, and do not support Section 24O(1)(b)(iii) of NEMA and the National Development Plan. Further, that insufficient measures have been recommended to ensure that the costs of remedying pollution, environmental degradation and consequent job losses in Langebaan and of preventing, controlling or minimising further pollution, environmental damage or job losses will be paid for by those responsible for harming the environment. (Section 2(4)(p) of NEMA refers). Nor does the FBAR contain a well-researched scientifically based, enforceable decommissioning plan, which should be a pre-condition to any lease allocation. The paucity of these critically important post facto measures makes the ADZ proposal additionally high risk and untenable.

In conclusion, we trust that the applicant /proponent will apply its mind to our Letter of Objection in full compliance with and in support of the tenets of administrative justice.

Please note that all current members of Save the Langebaan Action Group (SLL) are registered I&APs and

further, that all current members have given SLL proxy to represent them in this objection (proof of letters of proxy on request).

Please ensure that all correspondence with regard to the above is emailed to savelangebaanlagoon@gmail.com.

Yours sincerely

Jennifer Kamerman
On behalf of Save the Langebaan Lagoon Action Group