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25<sup>th</sup> August 2017

Ecosense  
PO Box 12697  
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Attention: Kozette Myburgh

**Re: Letter of Objection – Basic Assessment Report - Molapong Aquaculture project Saldanha Bay (DEADP) REF # 16/3/3/1/F4/17/3014/17**

This Letter of Objection is submitted without prejudice.

We, the membership of the Save Langebaan Lagoon Action Group (SLL), representing over 2 000 (two thousand) Langebaan residents, hereby lodge our outright objection to the proposal for an aquaculture development zone in the areas as demarcated and explicated in the Basic Assessment Report (BAR), Molapong Aquaculture project Saldanha Bay (DEADP) REF # 16/3/3/1/F4/17/3014/17.

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 current development, in the sites proposed.

This Letter of Objection is to be read in conjunction with and in addition to the Letter of Objection already submitted by SLL and incorporated by Ecosense Consultants in the "Comments and Responses" report in Appendix F of the BAR, pgs 74 – 89.

Further, this Letter of Objection is to be read in conjunction with and in addition to the following submissions in Appendix F of the BAR:

- Birdlife South Africa – pgs 90 - 96
- DEA – pgs 96 – 100
- Saldanha Bay Water Quality Trust Forum (SBWQTF) – pgs 110 – 113

In addition, this Letter of Objection is to be read in conjunction with and in addition to the submission by Organic Aqua attached hereto as Appendix 1.

Please note that there are 7 supporting appendices as separate attachments to this Letter of Objection.

Further, please note that to date we have received 3175 responses to our online petition re aquaculture in Langebaan's waters. The petition responses and commentary can be viewed at <https://www.change.org/p/daff-save-langebaan-lagoon-from-a-potential-aquaculture-disaster>

Due to the significant volume of technical and scientific detail contained in the BAR and its supporting documents, and the narrow regulatory timeframes for thorough assessment thereof, this Letter of Objection focuses on only our key areas of concern.

## **Our objections are as follows:**

### **1. Public Participation**

SLL continues to strongly contend that the public participation process conducted by Ecosense Consultants (Ecosense) falls short of the legal requirements and intentions as set out in the National Environmental Management Act (107 of 1998) as amended (NEMA) and the EIA Regulations GNR 982 of 2014. We hold that the approach to engaging with I&AP's, as envisaged by the legislation, the courts and the regulatory guidelines, is procedurally deficient and as such, the incompleteness of a material process cannot be used as part of the competent authority's assessment of the merits of the BAR.

Sections 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. The BAR failed to "[d]evelop targeted outreach programmes and campaigns, making provision for those persons who are unemployed, illiterate, may have low levels of formal education and speak languages that are seldom used in scientific documents". (Refer Pg 54 of the DEA's *Environmental Impact Assessment and Management Strategy (EIAMS) – 2014*)

It should be noted that "[t]o sincerely include – and not merely apply tokenism – takes time, planning and adaptation of processes. By way of example, adaptation might include translating key documents, guidelines and application forms into a variety of languages. In the public participation process, adjustments will be needed. Marginalised groups may not use the same methods of communication as the general public or the rest of the community. They may be apprehensive about formal procedures, and the practitioner will need to establish their needs and adapt stakeholder engagement processes to accommodate their situation. The degree to which the practitioner is willing and able to adapt will generally determine the inclusivity of the process – or the degree of tokenism". (pg 198 EIAMS – 2014)

And further: "Public participation processes cannot be approached as 'one size fits all'. The extent of public participation should correspond to the threat posed to the natural environment, the significance of potential impacts on the wellbeing and health of people, and the magnitude and lifespan of a plan, programme or project. The extent of public participation will also be influenced by the locality of the project, the nature of the activity, the sensitivity of the biophysical environment, the cultural or historic value of the setting, and particular socio-economic conditions". (pg 211 EIAMS – 2014).

Whether Ecosense acted reasonably in discharging their duty to facilitate the public participation process as regulated and within the specific context of Langebaan, 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 Ecosense cannot be said to have reasonably enabled potential I&APs' right to participate in and contribute to the application process within the

context of Langebaan's demographics.

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. As such, Ecosense should have facilitated a broader, more imaginative and inclusive approach to public participation, to ensure that I&APs were able make informed appraisals about and fully participate in the project proposal.

It is clear from the Comments and Responses report (Appendix F of the BAR) that the responses are heavily weighted towards those I&APs and stakeholders who are socially and economically capacitated. Ecosense's approach to the Public Participation process has resulted in a significant exclusion of members of the socio-economically marginalised community, who nevertheless have a material interest in proposed developments that are likely to impact the town of Langebaan and value to add in the decision-making process.

In support of the above:

1. Tourism is a critically important economic contributor to the town of Langebaan. This fact is unambiguously recognised and strategized in the Saldanha Bay Municipality's Integrated Development Plan (IDP) 2012 to 2017 and the Draft IDP 2017 to 2022. There is no evidence in the BAR, nor in their selection of print media for notification, which Ecosense attempted to research the demographics of the town of Langebaan. This enquiry would have made it clear that as a popular tourist and holiday destination, a high percentage of Langebaan's home owners do not live permanently in Langebaan and therefore would have been excluded in the stakeholder and I&APs engagement process (advertisement placement, notification sites,) as detailed in pgs 8 and 10 of Appendix F of the BAR,.
2. What credible information did Ecosense use to determine that the Weslander was the most appropriate newspaper in which to notify residents of Langebaan? Did Ecosense request the Weslander's demographics and compare these with Langebaan's demographic profile to establish a suitable fit.

Refer Appendix 2 Weslander Newspaper Demographics: 78% the target readership fall into the Living Standards Measure (LSM) of 6 to 8, with an average monthly income of R7 495. Did Ecosense establish that this average income is congruent with that of the community of Langebaan? Further, approximately 55% of Langebaan's community is classified white (Refer Appendix 3 Langebaan Demographics), but 87% of the Weslander's readership is classified coloured. SLL therefore argues that the Weslander newspaper was not an "appropriate newspaper in terms of accessibility" for Langebaan's potential I&APs. (Section 41.1 (c) Public Participation Guidelines (2012) GNR 807).

As such, the legal requirement contained in section 40 (2) (d) of the EIA Regulations (2014), (hereinafter referred to as the EIA Regulations), that the public participation process "must provide access to all information...and must include consultation with all potential, or, where relevant interested and affected parties" has not been fulfilled to its logical extent. If indeed Ecosense had intended to elicit de facto engagement with a broad spectrum of Langebaan's residents, as envisaged under law, they would have also placed notification in a regional or national newspaper.

3. Pg 9 Appendix F of the BAR refers: It is clear that notification placement was biased towards those having access to the Saldanha Bay area. From the photographs depicted, it appears that the only notification placement in Langebaan was at the Langebaan Yacht Club (Figure 5). Other notification placements in more accessible public sites in Langebaan that would have attracted a broader, more representative group of the Langebaan community.
4. What “reasonable alternative methods”, as required by section 41 (2) (e) (iii) of the EIA Regulations, were used to ensure that those home owners who do not live permanently in Langebaan, and are therefore disadvantaged in their ability to participate, were informed?

What “reasonable alternative methods” were used for those potential I&APs who may be illiterate, or who have “any other disadvantage” in being able to participate in the public participation process as per section 41 (2) (e) (i) – (iii)? The Public Participation process explicitly requires that I&APs are not only given access to relevant information with regard to a proposed activity, but are able to comprehend such information. I&APs must have both access to the information and the opportunity to interrogate the meaning to ensure that all aspects, and therefore impacts, of a proposed development can be critically evaluated. What attempts then were made by Ecosense to engage those from the socio-economically marginalised community, to test for understanding of the intention of the proposal as advertised, so that those I&APs could adequately and meaningfully engage and contribute? The language used in the notification of the proposal is inherently alienating, especially for those who are poorly educated.

Consultation is clearly contemplated in the preamble to NEMA and in section 4(f)). The guidelines for interpretation of the wording of the Act require that interpretation “is consistent with the purpose of this Act” (section 1 (3)). Measured against this requirement, Ecosense failed to facilitate an inclusionary process, by removing all barriers to full involvement by potential I&APs, so as to engender understanding and thereby promote active participation and contribution by the potential I&APs. As a result thereof, small scale and artisanal fishers, who live in Langebaan and have made a livelihood from the Langebaan waters for generations, were not consulted with regard to the site location and impact of the project proposal. If this had been done, it would have been clear to Ecosense that during the summer months, the areas traditionally fished by this community include the area proposed as a site locality. (Refer the marked map of Appendix 4 Summer Fishing Area of Small Scale Fishers).

Section 41 (6) (b) of the EIA Regulations refers. Given the socio-economic diversity of the area, the material fluctuations of the Langebaan population during weekends and holidays, and the complexity and volume of the technical and scientific aspects of the proposal under consideration, additional, more accessible public participation measures should have been implemented e.g. advertisement placed in a regional newspaper; use of radio in local languages; public open day held in a venue within the economically marginalised community; engaging with recognised community leaders.

Of specific relevance: 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* (author's emphasis) 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 Ecosense.

In addition and relevant to our position on the Public Participation process conducted by Ecosense:

1. Despite a request for access to a report of the assessment of monitoring data from the trial cages, to date we have not received any such report. (Refer Appendix 5 Email Request to Ecosense). How selective was the process with regard to the type of monitoring conducted and with regard to the submission of data to DAFF? What does the full assessment of the full data show? Has this data been independently assessed? The findings of the trial cage monitoring must be regarded as essential information for assessment of the project proposal, without which the I&APs cannot fully participate in, or contribute to, assessment of the merits of the proposal.
2. Pg 2 Appendix F of BAR "*Public participation after application submission*" refers. It is opportunistic and disingenuous of Ecosense to use the television coverage of the proposed ADZ (Fokus and Carte Blanche) to attempt to augment the extent of their exposure of Molapong's aquaculture proposal. The referral in the BAR could well engender the sense that Ecosense was in some part involved in securing this media exposure and in the programme content. The programme coverage was initiated by SLL to bring awareness of the viewership of said programmes to the application for the ADZ, as proposed by DAFF. Ecosense did not play a part in the process at any stage. Further, said television exposure occurred far along the application pipeline for both the ADZ as well as Molapong's proposal, effectively inhibiting the involvement and contribution by new I&APs.

3. Allegation of an attempt to unduly influence I&APs:

SLL notes with concern the following possible impropriety in the stakeholder engagement process, as it may have bearing on the transparency, influence and fairness thereof. Langebaan resident Solene Smit, a well-known community leader and Chairperson of Coastal Links (Langebaan), a national small-scale fishers association, alleges that a representative of Viking Aquaculture contacted her telephonically, post her interview with Carte Blanche in which she expressed her opposition to aquaculture development in Langebaan's waters. Solene alleges that the Viking representative, one "Sharon", offered (unsubstantiated) shares in Viking Aquaculture to Solene and requested that she extend this offer to an additional 70 women from the community, which Solene declined. Solene is prepared to attest to this incident in a sworn affidavit.

SLL would like to know if Molapong/Ecosense had knowledge of, or involvement in, the alleged offer from Viking Aquaculture, their parent company and if so, what such offer was intended to achieve.

## **2. The Precautionary Principle**

Refer pg 3 BAR Process Overview. SLL challenges the assertion by the Applicant that a conservative approach has been taken and that the precautionary principle has been applied with regard to this proposal.

The application of the precautionary principle is critically relevant in considering this proposal, as the development is scaled over a narrow 5 year period in conditions as yet untested with regard to the impacts of commercial scale aquaculture and in a site locality acknowledged as having a threatened ecosystem. SLL contends that a comprehensive socio-economic and ecological long-term prediction to assess the probability and extent (cumulative) of identified risks occurring should be a pre-authorisation condition, as the scope and scale of the proposal will have a significant bearing on sustainable development for the town of Langebaan and the ecosystem support services of the Langebaan lagoon and bays.

The applicant proposes an expansive range of largely reactive mitigation measures (refer the EMPr Appendix H of the BAR). SLL strongly contends that the number, complexity and associated costs of mitigations identified to reduce and preferably prevent impact are impracticable, unrealisable and rely too heavily on self-regulation. Further that the technical skills and competencies in order to effectively comply with the monitoring of operations of mitigations proposed, are lacking.

The NEMA principle relating to sustainable development requires that “*a risk-averse and cautious approach must be applied which takes into account the limits of current knowledge about the consequences of decisions and actions (the “precautionary principle”)*” (Sections 2(3) and 2(4)(a) 2.1.4.)

The precautionary principle therefore cannot be said to have been applied if there clearly are gaps in scientific knowledge critical to the ability to assess the merits of the application. An apposite example of such scientific uncertainty is the current disparity in the views of scientists regarding the cause-and-effect relationship between the waters of the bay and the lagoon and the potential for organic waste to be dispersed to the eco-sensitive lagoon system. At the 22<sup>nd</sup> May Focus Group meeting, (pg 22 Appendix F of the BAR), Grant Pitcher, scientist on behalf of DAFF, stated that “none of the bottom water body should mix with the Langebaan Lagoon water”

This assessment is contradicted in the findings in the long-view assessment of the bay’s waters by the Saldanha Bay Water Quality Forum Trust (SBWQFT). (Refer *The State of Saldanha Bay and Langebaan Lagoon (SOB) 2014-2015 and 2016, Technical Reports*). Dr Barry Clark, scientist at SBWQFT and one of the authors of the SOB holds that “ [o]ur temperature monitoring data and that which has been collected historically (see SOB report) shows very clearly that the Bay is not stratified at all in Winter (May-Sep – big yellow circle on the graph below) as evidenced by the lack of separation between the temperature at different depths (different coloured lines – blue is surface, green mid water, red is bottom) on the graph below. Stratification (evident where there is a big separation between the various coloured lines on the graph below) also breaks down completely at intervals during spring/summer/autumn (once or twice per month – small yellow circles on the graph below – where red and blue lines are close together). These are the “overturning events” that Pedro refers too. Furthermore, much of the detritus that accumulates on the substratum below the cages will be mobilised (re-suspended into the water column) in winter when waves are typically larger when there is no stratification in the water column which means this material can easily be transported directly into the lagoon by tidal currents!” (Appendix 6 Email Correspondence re Stratification of Water.)

In this context, compliance with the preventive and precautionary principles means that, at the very least, this project should not be permitted, as it poses a risk of irreparable harm to the lagoon ecosystem, and the socio-economic environment.

Further, there is nothing in the BAR to assure the I&APs that climate change adaptations and mitigations have been built into the assessment of impact of the project proposal in support of the overwhelming scientific evidence of climate change impacts. “There is also evidence that the sea level is rising around the South African coast. With the rise in sea level and a possible increase in the frequency and intensity of sea storms, the South African coastline is expected to experience more intense and more frequent extreme weather events; increased saltwater intrusion and groundwater tables; greater tidal influence; increased flooding, with greater extent and frequency...” (*Oceans facts and futures: Valuing South Africa’s ocean economy – WWF Report 2016*)

### **3. Socio-economic considerations**

The BAR fails to provide a comprehensive cost-benefit analysis of the proposed development in relation to the current and future socio-economic landscape of Langebaan, thereby preventing 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).

Appendix F pg 80 point 31.2.1: We strongly dispute the assertion by Ecosense that a “comprehensive feedback” regarding the socio-economic aspects of the Molapong project was given at the Focus Group meeting held on May 22<sup>nd</sup> 2017. The report of such meeting refers – Appendix F pg Section 4.1. The feedback from Ecosense fails to comprehensively address the distinct character of Langebaan, its major source of job creation, its demographics, the state of its current and planned economy and how these will be impacted by the proposed development. The long discourse on the company’s human capital management strategies fails to add any value to the consideration of Langebaan’s future (refer Appendix F point 31.2.2 pgs 80 - 81). This red herring attempts to draw the competent authority’s attention from an important fact: That at the originally proposed full production of 5000 tonnes, the number of jobs estimated would be an insubstantial 70, weighted towards unskilled labour. As the tonnage has been revised down to 2000 tonnes since the said Focus Group meeting, are we to assume that the estimated job creation has been further reduced? In stark contrast, the proposed development threatens to collapse a de facto viable, high growth tourism industry, creator of 1000s of multi-skilled jobs, with robust employment creation opportunities in indirect industries and services. The unindustrialised lagoon and its vistas are the indisputable primary tourism drawcard for Langebaan.

Pg 29 of BAR Section D Need and Desirability – 2 (a): The BAR fails to weight job creation potential and the socio-economic opportunity of a development in the greater context of the socio-economic environment impacted by such development i.e. Langebaan. It appears from the BAR that Ecosense has been highly selective in their socio-economic impact consideration in order to persuade the decision-maker that the development will meet the stated objectives of Operation Phakisa. The fact that the proposed aquaculture enterprise is likely to precipitate considerable job losses in the tourism and hospitality industries and constrict the booming property development and investment sector, has not been considered by the applicant. Further, selective extraction of information from the regional and municipal IDPs is deliberately misleading as it cannot be assessed in the broader strategic

plan/framework for the town of Langebaan. Although Ecosense does “not dispute the distinguishing characters of the two towns” (Appendix F pg 80 point 31.2.1), they nevertheless avoid conducting separate socio-economic impact assessments of the two towns. Both Saldanha Bay and Langebaan will be impacted by the proposed aquaculture development, but likely with different outcomes. Albeit that both Langebaan and Saldanha Bay fall under the Saldanha Bay Municipality, the two towns are materially distinct in their character, their economy, their social diversity, population size and their physical settings. Saldanha Bay has a well-developed industrialised footprint, whereas Langebaan has negligible industry, but a mature, vigorous and regionally important tourism sector.

We contend that Ecosense pays lip service to its declared “appreciation of Langebaan’s sports and tourist value”. (Appendix Pg 81 point 31.2.2.). By persistently conflating the two towns’ socio-economic landscape under the municipal description “Saldanha Bay” throughout the BAR, a more thorough scrutiny of the unique distinguishing features and attributes of Langebaan and therefore, the scale of the potential impact of the development on the town, is conveniently avoided by Ecosense. Ecosense’s “one size fits all” approach to the socio-economic aspect will prevent an objective assessment by the competent authority in the decision-making process.

BAR Pg 30 point 5 refers: We refute that Langebaan “needs” the development. It is not a societal priority in the context of Langebaan. Indeed, the project proposal is a material threat to the current robust, high growth tourism economy of the town. Therefore, we assert that in the specific local context the development is indeed inappropriate, and further, it will not achieve the Operation Phakisa national goals, as stated, of food security and job creation.

Whilst food security is a critical national priority, in the context of the Langebaan community, it is a fallacy that should be discredited. Of concern is that the proposed aquaculture development will in fact reduce food security for the local subsistence and small-scale fishers. (Refer Section 1 Public Participation above and Appendix 2 that shows the map of small-scale fishers area of operation).

Further, wide-scale job losses from the likely collapse of the current flourishing Tourism sector of Langebaan will further reduce food security. The trade-off is nonsensical and unsustainable. (Refer *FAO Sustainable fisheries and aquaculture for food security and nutrition. A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security, Rome 2014*).

The SLL therefore contends that the proposed project 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 project 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 in the bay waters of Langebaan cannot co-exist with Langebaan's current socio-economic environment without a significant cost to Langebaan. Nothing in the BAR indicates that the benefits of the project as promoted therein can in any way compensate for the socio-economic losses that will be experienced by the Langebaan community.

The BAR fails to consider that Langebaan's residents, business owners, sporting associations, the Hospitality and Tourism sectors and visitors regard the entire body of water along the shoreline as the Langebaan Lagoon. The lagoon shares the waters of the bays as one unbroken system – coordinates and different names do not change this irrefutable fact. And whilst the site locality of the proposed aquaculture development falls outside of the coordinates of the MPA and RAMSAR site, as an unbroken body of water, the assessment of the proposed development must take into account that the entire area is likely to be impacted on a socio-economic and ecological basis. An attempt to compartmentalise the waters of the lagoon and connected bays suggests a deliberate avoidance of the EAP's responsibility to undertake a full interrogation of impact.

Services and Tourism are high growth sectors, outperforming manufacturing sectors in terms of job creation (Refer Saldanha Bay Municipality IDP 2012 to 2017). Langebaan Tourism has provided the following top-line employment figures for the sector for 2016: Approximately 2000 permanent jobs and 750 part-time (seasonal) jobs in 2 hotels, 2 resorts, 95 guest-houses, 1150 holiday home rentals – a total of 9500 beds – and 55 eateries. Further, it is estimated that the various water-sport clubs and businesses currently support 161 permanent jobs. (Source: Langebaan Tourism)

A thorough socio-economic assessment, to enable an objective evaluation of the project proposal, should also interrogate the employment figures for Langebaan's construction industry which is experiencing high growth levels due to the desirability of the town, both as a residential and holiday destination. This has not been done by the EAP.

We note with interest the findings by the Minister of Environmental Affairs in the (successful) appeal against the EA issued to DAFF for the Algoa Fish Farm development (Reference: LSA138222 – 18 August 2015), that required the applicant to submit “[a] detailed analysis of the projected revenue and employment opportunities likely to be created by the proposed project, measured against the perceived loss in revenue and employment opportunities as a result of the proposed project...” (Pg.4, clause 4.2.2).

It is also relevant to our objection that the guideline for EIAs from the Department of Environmental Affairs (DEA) states that “[w]hen considering how the development may affect or promote justifiable economic and social development, the relevant spatial plans must be considered, including Municipal Integrated Development Plans (IDP), Spatial Development Frameworks (SDF) and Environmental Management Frameworks (EMF)”. (Pg. 4 DEA (2017), Guideline on Need and Desirability). And further, “[w]hat is needed and desired for a specific area should primarily be strategically and democratically determined beyond the spatial extent of individual EIAs (Pg 7.). We contend the project proposal fails to adequately account for these plans and that the BAR is highly selective in its use of information provided in such plans.

It would be counter-productive and misleading to deny or down-play that the economic contribution of the tourism and related service industries in Langebaan is inextricably linked to the natural, non-industrialised lagoon, largely unrestrained lagoon and bay access for water-sports and activities and the surrounding ecological integrity i.e. Langebaan has a high value natural sense of place. The Molapong proposal threatens these key attractions and attributes which is likely to precipitate a significant erosion of a currently healthy, growing, sustainable economy.

#### 4. Visual Impact Assessment

It is an unsubstantiated over-reach for Ecosense to suggest that “residents and visitors to the area may consider the project to be congruent with the marine environment” (Pg 82 point 31.2.2. Appendix F of the BAR), particularly as no interrogation of Langebaan’s Tourism and Hospitality industries has been conducted by the EAP.

In support of our objection thereto and germane to a visual impact assessment of Langebaan “[i]f there is an existing strong nature sense of place, ... an ocean activity in close proximity to the coastline within foreground views would impact and dominate the sense of place. As the area is an important beachfront tourist destination and lagoon and wilderness vista, the sense of place is a vital component of the local tourism economy and as such the current landscape context needs to remain the same.” (Refer VRM AFRICA - *Draft Visual Impact Assessment: Proposed Eastern Cape SEA-Based Marine Aquaculture Development* - May 2013)

We contend therefore that the EAP’s visual impact assessment is both linear and superficial in its consideration and fails to account for the disparate “character” and visual distinction of the two Saldanha Bay Municipality’s towns, as argued above.

Further, the BAR fails to consider the visual impact of the project proposal within the broader Western Cape Provincial spatial development framework. Of particular note: “If not appropriately managed, coastal development pressures, especially around sensitive estuarine habitats, present a real threat to the ecological integrity, landscape quality and tourism value of the Province’s coastal assets. (pg 45 *Western Cape Provincial Spatial Development Framework Final Report* (PSDF) - March 2014).

In addition, “[a] strong sense of place and quality environments within settlements at all scales is increasingly recognized as an essential dimension of sustainable settlement. This relates to the economic potential associated with tourism, attracting skills into the service and knowledge economy, as well as the wellbeing and dignity of communities of all income groups”. (pg 74 PSDF 2014).

It is clear from the Molapong locality sites and the type of fish farm structures proposed that this development will be highly visible to many residents and visitors on land as well as those who use the lagoon and bays for recreation. Nevertheless, the scope of the BAR conveniently side-steps this responsibility to fully interrogate the visual impact of the proposed development. This material gap indicates a lack of appreciation of the unique topography of Langebaan and the value of this appeal to investors and tourists.

Currently there are few and immaterial visual disturbances experienced by Langebaan residents from the existing aquaculture operations, as most are hidden from view in the Saldanha Bay harbour. The importance of the Cape West Coast Biosphere Reserve and the three Marine Protected Areas in the Langebaan Lagoon are internationally recognised and regulated as areas of high conservation value. The Langebaan lagoon is rated nationally as a “biodiversity hotspot”. The undisturbed natural

integrity of these areas is a major contributor to sense of place and visual quality. Hence, the visual resource value of the residential areas in close proximity to the proposed development is rated as being high. In contrast, much of the town of Saldanha Bay has an industrialised landscape.

Whilst the proposed development in Big Bay will be less visible to residents and holidaymakers in the Langebaan town itself, the uninterrupted long-range views that many such residents currently enjoy (e.g. Myburg Park), and the very same lagoon and bay view aesthetics that have attracted them to invest and settle in the area, will be irrevocably impaired by the industrialisation of their outlook.

“To maintain and protect the natural character values of the coastal environment fish farming activities should avoid high visual audience areas where close views are gained” (Pg. iii. Natural Character and Visual Impact Assessment of Potential Finfish Farming Development (for the Waikato Regional Council). Bernard Brown Associates Ltd. May 2008)

This specialist assessment is supported by the Minister of Environmental Affairs in the Algoa Bay Fish Farm authorisation appeal. The Directorate: Appeals and Legal Review conducted a site visit in 2015 to an existing aquaculture farm in Saldanha and found that “... this facility was situated a long distance from tourist facilities and outside of public scrutiny. In many ways, it is an ideal location for a floating fish farm”. (Pg. 7. Clause 4.6.6). The finding clearly recognises the negative visual impact of fish farms and the need to avoid same.

## **5. Ecological Impacts**

We are gravely concerned that the mitigation measures recommended in the BAR do not adequately address the myriad site specific risk potential, especially with regard to (but not limited to) carrying capacity, water contamination, site specific hydrography over time, tide movements and variations of the lagoon and bay system over time, post production rehabilitation, the independence and frequency of oversight management, the bias of experts, scientific uncertainty, lack of quality impact data, biofouling, impacts on local fauna and flora habitats, breeding and migratory paths. However, the timeframes for submission of our objection do not permit a thorough assessment of these important influencers.

“The 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.” (Pg. 51 DAFF Strategic Environmental Assessment – Identification of Potential Marine ADZ for Fin Fish Cage Culture. October 2011)

The Saldanha Bay Municipality’s EMF clearly supports our concerns with regard to foreseeable ecological threats: “Big Bay and Outer Bay form part of “Zone 2 – Be Careful” identified in the EMF, as Big Bay is deemed important from a marine ecological perspective, which is deemed likely to increase in importance. Aquaculture is listed as an activity that could be considered for public interest reasons but are likely to have significant negative impacts (scale dependent) in Zone 2”.

With this in mind, the scale and type of mitigation factors contained in the BAR to address the identified ecological impact risks of the proposed aquaculture project, are of grave concern. We contend that the probability of proactive and successful implementation of such mitigation measures is unlikely and unfeasible.

Further, sea-based aquaculture is a high risk activity in terms of its potential for irreversible negative impact on the environment in which it is based. How serious must an incident or problem be before the operation is suspended, or closed down? We assert that the Molapong project sites, the scale of proposed farms, the proposed type of farming and type of species farmed will have an untenable deleterious impact on the lagoon and bay systems with minimal potential for ecological rehabilitation. The current mitigation measures recommended in the BAR require a rigorous interrogation as to their site-specific feasibility, and especially in the context of the high ecological value of the lagoon and bay.

### **Specific ecological impact concerns**

Interaction between farmed animals and wild fish:

The mitigation measures recommended in the BAR cannot guarantee that there will be no or insignificant fish escapes and therefore that there will be no impact on wild populations.

“The probability of fish escaping from traditional aquaculture systems is so large that the FAO (1995) stated that a new species introduced to aquaculture will be seen as a new species introduced to the wild, no matter how secure the system is. There is convincing evidence from literature that farmed fish can have a significant influence on the genetic profile of associated wild populations. Given the paucity of data regarding actual population consequences of escaped farmed fish on wild populations...it seems prudent to treat farmed fish as exotic species with potentially negative consequences for wild populations, particularly when the latter are of conservation concern. (Pg. 10. Marine Fish Farming Environmental Impact Information. Marine Finfish Farmer’s Association of South Africa (MFFASA) 28 July 2011).

Fish Feed:

We require a full explanation as to the composition of the feed to be used for the fin fish and the fish-in-fish-out ratio. Does the proposed project plan to use wild stocks of pelagic fish for feed of the caged stocks? If so, are these wild stocks currently under stress, and/or are they currently harvested by subsistence / small scale fishers? How then does this support a key aim of the proposed project which is to support food security needs?

Compliance Monitoring and Enforcement:

Appendix H, EMP of the BAR refers. SLL contends that the success of the monitoring, compliance and enforcement plan is deeply invested in self-regulation by the applicant and as such is likely to experience non-compliance, or selective, or part application of mitigation measures. The current mitigation measures provide an extensive tick-box list, but fail to set out an actionable, proactive plan, independently managed and enforced. DAFF cannot be such independent assessor, as they are the declared promoters of the aquaculture development zone.

“Aquaculture as an emerging sector has almost no dedicated and specialised extension officers, state vets specialised in aquaculture and research officers at a provincial level and at the national level within the DAFF”. (Refer pg 10 Department of Agriculture, Forestry & Fisheries *Aquaculture Year One Review October 2014 – October 2015*). SLL contends that this paucity of skills, especially for marine based aquaculture, extends to the private aquaculture sector. As such, there is inadequate capacity to ensure compliance and enforcement and this will negatively impact on the quality and consistency of the application of mitigation measures, timeous and appropriate remediation and reporting and follow up.

There is a robust body of scientific literature and a raft of cases of recent sea-based aquaculture disasters that indicate that monitoring is weak in many countries engaged in aquaculture, including those countries that have had considerable experience and long-term site-specific performance data – both at farm level and for the wider environment. Where it is applied, there is often limited analysis and feedback into farm or sector level management.

It is relevant to note that “[g]eneric mitigation measures are increasingly promoted through codes of practice or standard regulations. It is important therefore that any mitigation measures identified in an EIA do not simply replicate these standard provisions, but rather focus on much more specific site-related issues”. (Refer Pg 14 FAO. Environmental impact assessment and monitoring in aquaculture. FAO Fisheries and Aquaculture Technical Paper. No. 527. Rome, FAO. 2009).

Of particular concern is the current absence of enforceable, clearly elucidated, site and species specific norms and standards for aquaculture farming in South Africa. The sector is governed by various regulatory regimes and various organs of state making the monitoring, compliance and enforcement mechanisms weak. Poor coordination of frameworks poses a high risk of ecological degradation where aquaculture developments are situated. Guidelines exist, but are broad-based, lacking in detail and are not enforceable.

The BAR and EMPr are silent on whether the certification standard (ASC) requires the consideration of socio-economic issues as a qualifying condition. Nor is any information provide that the ASC expressly disallows members to use toxic chemicals, antibiotics, unsustainable and GM feed. Further, does the standard address protocols regarding escapes, non-native species, GM feed and the killing of marine mammals.

Further, the proposed rapid scaling up of the project in a narrow 5 year timespan that will put the application of mitigation measures under considerable (and probably fatal) strain. (pg 10 Appendix H, EMPr of the BAR refers). 5 years will not provide enough of a window for rigorous evaluation of data and appropriate response. (Refer to Appendix 7 Year on Year Tonnage Escalation – 5 year phase-in).

The EMPr does not provide water-tight answers to critical questions, inter alia: How often will monitoring be done? Is this enforceable? How often will monitoring data be sent to DAFF? Is this enforceable? How long does DAFF take to analyse the data and produce a report of the findings? Is there a plan to suspend operations until results are known and remedial action taken? How long after data assessment indicates that there is a threat will the extent and impact of such threat be discerned and remediated? What about cumulative problems? The EMPr provides a legion of mitigation measures but is significantly light on the “how” and the “how soon” of the response.

Additional concerns – EMPr Appendix H of the BAR:

Pg 11 – point 1.2.4. Fauna – Ecosense asserts that infrastructure (netting, ropes etc.) being deposited on land has never been recorded during the trial phase. SLL argues that it is unlikely that the applicant was unaware that wide-scale pollution occurred along the shoreline of Big Bay, caused by a storm in June 2017. Infrastructure from a mussel farm (unconnected to Molapong), situated in the water 4 kilometres from the shore, fouled the beaches. On the 14<sup>th</sup> August 2017, the pollution was still evident, despite residents’ clean-up efforts. (Refer Appendix 8 Photographs of Paradise Beach and Big Bay Pollution August 2017). The potential for negative impact will be considerably increased if mussel long-line infrastructure is situated closer to the shoreline, as proposed in this application.

Pg 16 point 2.2.5 - DEO’s responsibilities. Who designates or appoints such an officer? What is the minimum qualifications and experience for said officer, considering that the DEO will need to

respond to a vast variety of ecological threats? Who pays the DEO? How many DEOs will there be, especially as the number of cages and the tonnage escalates? Who reports incidents to the DEO? How often will the DEO be on site to check for non-compliance?

Pg 40: Point 1 of the Table refers. There is an unacceptable risk of mortality of marine mammals and the altering of marine mammal behaviours, as well as the probably knock on effect on other organisms in the food chain as a result. Nothing in the mitigation measures assures a proactive amelioration of this risk. Further, Pg 99 – Actions and procedures to be taken w.r.t. marine animal management: There is no requirement that mortalities need to be reported to the relevant authority, nor is there a structure of penalties in place for such mortalities. Will acoustic deterrents be used for piscivorous marine mammals?

Pg 39, Point 4 - Procedures re Benthic Environment: Cage rotation is proposed if “significant change in the benthic environment”. What are the characteristics of a “significant change”? What steps need to be taken, and by whom, to remediate the change and with what prospect of success?

Pg 45, 5.6.1.3 Enforcement point 2. Why will only “serious and persistent repeat non-compliance with specifications of the OEMP shall be reported by the DEO to the DEA case officer...” Who determines what is “serious”?

Pg 45, Point 5: Maximum penalties for repeat non-compliance are nothing more than a light rebuke for what could be a devastating environmental impact and does not disincentivise poor or reckless operational procedures, nor does it encourage greater vigilance. Further, penalties are to be recommended by the DEO or the Project Manager. This suggests that ecological threats may be left unresolved and unreported, due to the financial costs of redress. The severity of an incident and the costs of effective remediation should be assessed by an independent expert.

Pgs 83 and 102 - Decommissioning Requirements. The BAR is extremely economical on detail as regards remediation of the ecology during and post decommissioning. At decommissioning phase, what financial provision is made for an independent assessment of the impact on the ecology as a result of both the operational phase as well as the decommissioning phase? Further, what financial provision is made for a rehabilitation programme with enforceable time-frames and outcomes? At what stage of the project life cycle is the financial provision made for the removal of infrastructure (as detailed on pg 83)? What are the parameters for assessing the appropriateness of the value of the provision for the specific farm? Is this amount inflation-linked? Who assesses whether it is a realistic provision for a potential future event? Will this financial provision be managed by an accounting practice separate from the applicant company or holding company? If decommissioning is required for a liquidated company, what then? The EMPr fails to provide a comprehensive, life-cycle plan for the implementation of the “polluter pays” principle.

In conclusion: As a result of noted unacceptably high risks of irreversible ecological damage, associated with “limits of current knowledge” and too many gaps and inconsistencies in the scientific data, the precautionary principle must apply, as mandated in section 24 of the Constitution and Section 2(4)(a)(vii) NEMA, which requires a risk-averse and cautious approach. This legal requirement therefore demands further wider and far more rigorous enquiry into the risks acknowledged in the BAR, and the effective enforceable management thereof, without which any decision-making process that favours the granting of an environmental authorisation will be procedurally and substantively flawed.

We trust that Ecosense will apply its mind to our Letter of Objection in full compliance with the principles and the intention of the NEMA, its supporting environmental legislation and the EIA Regulatory regime.

Please note that all 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 Molapong aquaculture project is emailed to [savelangebaanlagoon@gmail.com](mailto:savelangebaanlagoon@gmail.com)

Yours sincerely

Jennifer Kamerman  
On behalf of Save Langebaan Lagoon Action Group

## **APPENDIX 1: ORGANIC AQUA SUBMISSION**



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**31 March 2017**

Re: Pollution due to aquaculture projects in a lagoon or harbour - current state of the Macquarie harbour in Tasmania & the Swedish Supreme Environmental Court banning open water aquaculture

To Whom It May Concern

This letter is to confirm that Organic Aqua PTY LTD 2016/179161/07 is a registered manufacturing and wholesaling business specialising in organic water cleaning products for the aquaculture and ornamental fish keeping industries. The products are made from carefully selected 100% natural plant extracts, essences & minerals in South Africa. We provide environmental rehabilitation engineering services with the focus on rehabilitating polluted water due to the harmful impact of aquaculture industries.

The most recent project includes the rehabilitation of Tasmania Macquarie Harbour, due to aquaculture pollution. (Salmon farming)

- This is a historic site with endangered species
- The impact of aquaculture in this bay resulted in a dead zone polluted area
- All fish were removed out of the Franklin lease during Feb / March 2017 and environmental rehabilitation is currently in progress.

Impact of the Aquaculture projects on the Macquarie harbour:

- Low levels of dissolved oxygen due to a build-up of fish waste (droppings, food and artificial food colouring in order to dye the fish meat pink)
- Sulphur build up in the sedimentary layer of the ocean floor
- Increase of toxic gas levels and toxins
- Increased Eutrophication which results in severe “red tide” & algal blooms
- Breakout of harmful pathogens and bacteria – in this case of Macquarie harbour, the bacteria “*beggiatoa*”

All of the above resulted in:

- Dead zone pollution
- Increased fish mortality
- Destroying the immediate sea ecology, including the fragile sea bed, marine protozoa, reefs, other forms of fragile marine life
- 85000 instant fish deaths when a storm surge hit the Macquarie harbour and the oxygen levels plummeted

<http://www.abc.net.au/news/2015-05-22/petuna-salmon-deaths-storms/6490138>

<http://www.abc.net.au/news/2017-03-15/huon-aquaculture-not-happy-with-epas-macquarie-harbour-limits/8355020>

Recently the Swedish Supreme Environmental Court has decided to ban and stop fish farming in cages in open water. This is taken from their website: “The court questioned whether cages in open water are the best technique and they also question the possibility for the affected waters to break down the amounts of nutrients delivered by the farming without being eutrophicated. This judgement will probably bring to an end all fish farming in open water cages affecting waters not having reached good ecological status.”

<http://sverigesradio.se/embed/publication/6652477>

<http://sverigesradio.se/embed/publication/6651508>

<http://sverigesradio.se/sida/artikel.aspx?programid=110&artikel=6652202>

With all the facts taken into consideration as well as the fragility of the Langebaan lagoon’s endangered fish species, the aquaculture projects will definitely hold a risk of dead zone pollution in the Langebaan lagoon within due time. This area relies mainly on its tourism industry for water sports and recreational purposes and it will be highly affected if dead zone pollution occurs in the Langebaan lagoon. Its fragile sea life and endangered fish species will be negatively impacted (if not killed off) due to aquaculture pollution - especially if taken into consideration the current situation of the Tasmania Macquarie harbour.

Kind Regards

Lemanja Mears  
CEO of Organic Aqua