

Save Langebaan Lagoon
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Re Appeal Dismissal - Saldanha Bay Aquaculture Development Zone (ADZ)

Herewith a summation of Save Langebaan Lagoon's key grounds as requested. A more detailed account of the substantive and procedural grounds is contained in our full appeal submission.

CONTEXT

An environmental authorisation was granted to the Department of Agriculture, Forestry and Fisheries (DAFF) for the development of a sea-based aquaculture development zone (ADZ), in which to farm alien fin-fish and bi-valves, spanning 884 hectares of the Saldanha Bay waters, on the 8th January 2018. At the same time, environmental authorisations were granted to two private aquaculture enterprises viz. Molapong Aquaculture and Southern Cross Salmon Farm, for fish farming projects within the ADZ. The waters sited for the ADZ intermingle with the Langebaan Lagoon, a Marine Protected Area (MPA) and a Ramsar accredited wetland of international importance.

Situated in the Cape West Coast Biosphere Reserve, Langebaan is a world renowned birding destination. The extensive intertidal area of the lagoon supports approximately 55 000 water birds in summer, most of which are waders. The five islands to the north of the lagoon provide a home for nearly a quarter of a million sea birds, and include important breeding sites for endemic populations. 12% of the global population of black oystercatchers are found in the Langebaan area. Fish farming operations and infrastructure in close proximity will adversely impact habitats, breeding patterns, flight paths and access to food and will place these sensitive avian colonies at risk.

The town of Langebaan is situated on the shoreline of both the lagoon and the bay. These easy to access, largely unrestricted waters attract international water sport events, and nature-based and adventure Tourism, throughout the year. The town is popular as a desirable lifestyle, as well as a premier holiday destination.

As such, the high-growth tourism and hospitality industries are significant employment creators. Floating fish factories are incongruent with the socio-economic profile of Langebaan which is irrefutably predicated on the health, accessibility and unspoilt seascapes of the lagoon and bay waters.

Aquaculture is promoted by DAFF as an opportunity for job creation. However, the number of new jobs forecast for the ADZ, to be phased in over a period of 5 to 10 years, is negligible in comparison with the current employment statistics in the hospitality and tourism sectors of Langebaan. In addition, Langebaan's robust tourism industry has precipitated a growth spike in the job-intensive construction, services and retail sectors.

The proposed development overlaps significantly with the area traditionally fished by Langebaan's small-scale fishers. The development will prevent this community from accessing the waters that have produced their livelihood and food for generations.

Sea-based, industrial-scale aquaculture activity is widely acknowledged by proponents and critics alike, as posing numerous risks to the receiving environment. The well-documented global experience shows that many of these risks cannot be mitigated despite assurances to the contrary, resulting in irreversible ecological degradation and sterilisation. The Langebaan Lagoon is a shallow, sensitive marine ecosystem making it particularly vulnerable to the impact of alien fish species, un-natural infrastructure and nutrient over-load from fish feed, faecal and chemical waste.

In February 2017 a group of concerned Langebaan residents, home and business-owners founded Save Langebaan Lagoon Action Group (SLL) to respond formally to the above threats. Currently, we represent approximately 1500 interested and affected parties.

Save Langebaan Lagoon is not against aquaculture per se – we recognise the role that aquaculture could potentially play in contributing to employment creation, food security and addressing the overexploitation of wild marine resources. We therefore would welcome an on-shore aquaculture development in the vicinity of Langebaan, appropriately sited in an industrial zone.

Our opposition centres on the scale of the ADZ, the poorly executed public participation process, the significant gaps in scientific data, the absence of a comprehensive socio-economic study of Langebaan and a cost to benefit analysis of the project. An ongoing scientific study of the marine area sited for the ADZ and that of the interconnected Lagoon system, now in its 20th year, confirms that the ADZ will compromise the numerous ecosystem services that this unique bay-lagoon provides, with irreplaceable losses in ecological capital. (Saldanha Bay Water Quality Forum Trust). The Applicants have failed to consider this rigorous, long-term data.

KEY GROUNDS

1. *Procedurally flawed public participation process*

- A material percentage of home owners do not live permanently in Langebaan and therefore were excluded in the stakeholder engagement process (advertisement placement, site notices, public open day siting), by a narrow approach to the application of the EIA Regulations. “Reasonable alternative methods” should have been employed to engage with the Langebaan community more widely, as directed in the EIA Regulations.
- No attempt was made by Applicants to engage with the small-scale fishers of Langebaan and Saldanha Bay and their industry association, Coastal Links, in the initial planning phase of the development.
- No attempt was made to engage the Saldanha Bay Tourism Organisation, despite the importance of tourism to the region.
- Notification placement was biased towards those having access to the town of Saldanha Bay, as the only notification placement in Langebaan was at the Langebaan Yacht Club, thereby excluding access by a more diverse and accurate representation of the Langebaan community.
- Applicants failed to apply “reasonable alternative methods” for those I&APs who may be illiterate, or who have “any other disadvantage” (language, lack of access to public forum and focus meeting venues) in being able to participate in the public participation process, as directed in the EIA Regulations.

2. *Failure to disclose relevant information and/or misrepresentation of material facts and/or absence of material information*

- Failure by applicants to assess the impact of the ADZ on Langebaan’s Tourism and Hospitality industries and therefore, Langebaan’s economy.
- Failure to disclose the key socio-economic distinctions between Langebaan and Saldanha Bay.
- Failure by the Applicants to conduct a comprehensive cost-to-benefit analysis of the ADZ. It is relevant that the absence of such an analysis was one of the key reasons that Minister Molewa suspended the authorization for DAFF’s proposed sea-based ADZ in Port Elizabeth in 2015 (Appeal Decision - Algoa Fish Farm Reference: LSA 138222). The Minister directed DAFF to conduct a detailed analysis of the projected revenue and employment opportunities likely to be

created by the ADZ, measured against the perceived loss in revenue and employment opportunities as a result of the proposed project.

3. *Failure to adequately regard relevant guidelines and bio-physical planning instruments*

- The current spatial plans for the region and the Saldanha Bay Municipality are aligned and mutually supportive. These planning instruments emphasise the importance of tourism (specifically nature-based tourism) to Langebaan's and the region's economy and prioritise the growth of the industry as a key strategy. Refer: Saldanha Bay EMF (2015), Saldanha Bay SDF (2011), West Coast National Park Management Plan (2013) and West Coast DM SDF (2014).
- Although the development is located adjacent to the West Coast National Park and affects a number of Marine Protected Areas (MPAs), the key planning documents viz. the West Coast National Park Management Plan (2013) and the West Coast DM SDF (2014) were not regarded as relevant to the assessment of the impact of the ADZ.
- The Saldanha Bay Municipality SDF's planning principles for Langebaan are not supportive of the ADZ, viz:
 - i) Conserve the lagoon and beaches that provide a major tourism attraction for the area;
 - ii) Promote tourism development based on unique eco-tourism opportunities of the area;
 - iii) Restrict developments which sever public access to the lagoon.

4. *Failure to assess Alternatives*

- The Applicants failed to submit detailed identification, description, evaluation and comparison of alternatives as required under the EIA Regulations.
- The Algoa Bay ADZ Appeal Decision refers. Of relevance is the finding by the Minister of Environmental Affairs that the lack of a detailed assessment of the feasibility of the preferred alternative was a material aspect in the suspension of the authorisation.¹
- Applicants failed to identify and investigate any alternative to the preferred open cage method for rearing fin-fish e.g. closed system cages, in keeping with global aquaculture trends.

¹ LSA138222 – 18 August 2015. Appeal Decision. 4 at 4.2.1. and at 4.5

- Currently, the externality costs of the impact from feed and faecal matter degradation of the ADZ receiving environment from the open cages will place an unfair burden of cost on the affected community for generations. ²
- The Applicants failed to consider and assess the alternative of a land-based ADZ, despite successful Southern African examples thereof, including the proposal by Coega Development Corporation (CDC) to develop a 440 ha land-based aquaculture zone in the Nelson Mandela Bay Municipality, for which an Environmental Authorisation was granted in February 2018.

5. *Failure to accurately describe and investigate the receiving environment*

- The Applicants failed to consider that the receiving environment of the ADZ spatial area must include the Langebaan Lagoon wetland ecosystem and the Marine Protected Areas in proximity to the site selection as these critical areas of biodiversity are irrefutably and inextricably connected to the areas of Saldanha Bay demarcated for aquaculture. ³
- The Applicants' based their findings on selective and localised studies of the site-specific area. The criteria used to determine the scale and significance of impact and therefore the type of monitoring and mitigation measures required were therefore materially deficient.
- The Applicants thus failed to consider the development in the context of the Ramsar status of the Langebaan Lagoon, which South Africa is duty-bound to conserve under the international treaty.⁴ By scaling up aquaculture activities in the area, without thorough and independent peer-reviewed investigation of long term influences on the Lagoon, the ADZ, as scoped, will place the integrity of the Langebaan Lagoon under threat. Any degradation of this ecosystem is likely to eventuate in a suspension of the Ramsar status and lead to South Africa being listed on the Montreux Record. ⁵

² Closed system cages are fish pens through which water cannot pass, thereby closing the farmed fish and limiting effluents and discharges into the open environment. Provides a far more controlled interface between the cultured fish and the natural environment. Due to these advantages, as well as advances in the technology itself over the last several years, closed containment has become widely regarded by scientists, conservationists, some salmon farming companies and the public as a more responsible alternative to net-cage aquaculture. Closed containment culture is a proven, viable technology and is currently used to raise species such as tilapia, trout and salmon in Canada, the US and China.

³ "Saldanha Bay is directly linked to the shallow, tidal Langebaan Lagoon." Clark BM et al 2017. *The State of Saldanha Bay and Langebaan Lagoon 2017, Technical Report*. Report No. AEC 1741/1 prepared by Anchor Environmental Consultants (Pty) Ltd for the Saldanha Bay Water Quality Forum Trust, October 2017.

⁴ The Langebaan Lagoon Wetland System is accredited as a wetland of international importance under the Ramsar Convention on Wetlands (Ramsar), to which South Africa is a signatory. It provides for national action and international cooperation regarding the conservation of wetlands and the wise sustainable use of their resources. www.ramsar.org

⁵ The Montreux Record is a register of Ramsar wetland sites where changes in ecological character have occurred, or occurring, or are likely to occur due to anthropogenic pressures. www.ramsar.org

6. *Mitigation measures are unfeasible*

- The scale, complexity and associated costs of mitigations proposed to reduce and prevent identified impacts are impracticable, unrealisable and rely too heavily on self-regulation of the individual farmers.
- Further, that the technical skills and competencies in order to effectively apply the mitigations proposed, are lacking. It is likely that aquaculture activities will commence prior to adequate capacity building in these skills, thereby putting the receiving environment at additional risk.
- The Applicants' exclusion of consideration of the full receiving environment, ensures that the impact measures proposed will only address a selective and disconnected set of impacts. The mitigation measures are predicated on a set of risk assessments that are highly selective and conveniently side-step interrogating the larger ecosystem of which the ADZ spatial area is part.
- Maintaining the integrity of the waters sited for the ADZ will critically depend on protecting the much larger ecosystem to which it is inextricably linked. The absence of making this vital connection renders the Applicants' assessment of impacts and the type of mitigation measures required to address same, nothing more than an exercise in futility.
- The mitigation measures fail to account for the impact of climate change. There is considerable evidence to show that the sea level is rising around the South African coast. "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..."⁶
- The absence of comparative global experience with regard to the efficacy of mitigation measures is a fundamental shortcoming of the Applicants' submissions. There is considerable peer-reviewed evidence to show wide-scale, irreversible ecological destruction from aquaculture activities in countries that have mature aquaculture industries, with appropriate policy and regulatory arrangements, and where authorities and operators are well capacitated and financed for the implementation of monitoring systems and mitigation measures.

The Swedish Supreme Environmental Court recently stopped several salmon fish farming operations that use cages in open water. "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.

⁶ WWF Report 2016 *Oceans facts and futures: Valuing South Africa's ocean economy*

This judgment will probably bring to an end all fish farming in open water cages affecting waters not having reached good ecological status.”⁷

In March 2018, the Washington State senate approved a bill to ban sea-based Atlantic salmon farming. Maine, Alaska and parts of Tasmania have moratoria in place with regard to sea-based fin-fish farming, due to ecological “dead zones” from aquaculture activity.

Save Langebaan Lagoon therefore contends that the ADZ project does not meet the sustainable development objectives of the National Development Plan: Vision for 2030, nor the pertinent regulatory requirements of the South African environmental management regime, nor associated MEAs to which South Africa is signatory. As such, the environmental authorisations are unlawful and should be withdrawn.

In appreciation and with kind regards

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⁷ North Atlantic Salmon Fund (NASF) *Swedish Supreme Environmental Court imposes bans on cages in open water* (March 2017) at www.nasfworldwide.com