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DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

NO. 8084 **23 October 2026**

MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998)

DRAFT POLICY FOR THE DEVELOPMENT OF NEW WILD MARINE FISHERIES AND THE EXPANSION OF REGULATED WILD MARINE FISHERIES IN SOUTH AFRICA: 2026

I, David John Maynier, the Minister of Forestry, Fisheries and the Environment, hereby publish the draft Policy for the development of new wild marine fisheries and the expansion of regulated wild marine fisheries in South Africa: 2026 for public comment. The draft Policy is set out in the schedule to this notice.

Any person may submit written representations or comments on the draft Policy and is invited to do so within 30 calendar days of the date of publication of this notice in the *Gazette*, or newspaper, whichever the later date is. Comments received after this time may be disregarded. All representations and comments must be submitted in writing to the following addresses:

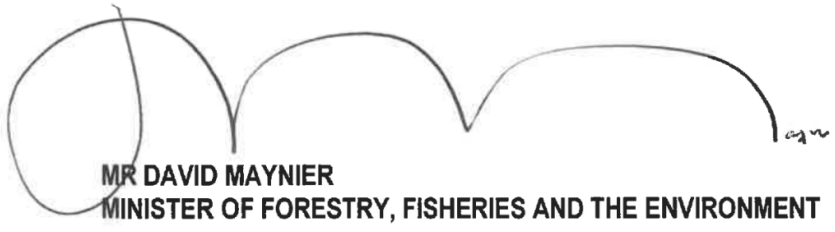
By post to: Department of Forestry, Fisheries and the Environment
Attention: Fisheries Research and Development
Private Bag X 2,
Vlaeberg,
8018

By hand at: Department of Forestry, Fisheries and the Environment
Customer Service Centre, Ground Floor
Foretrust Building, Martin Hammerschlag Way
Foreshore
Cape Town
Attention: Fisheries Research and Development

By email: MRothman@dffe.gov.za and QMketsu@dffe.gov.za

Enquiries: Dr Mark Rothman via email: MRothman@dffe.gov.za / 083 564 3440

The Department of Forestry, Fisheries and the Environment complies with the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). Comments received and responses to those comments are collated into a comments and response report, which will be made available to the public as part of the consultation process. If you have any objection to your name being made publicly available in the comments and responses report, please indicate this in your written comment and highlight that objection in **bold**.



MR DAVID MAYNIER
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

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SCHEDULE

DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

DRAFT POLICY FOR THE DEVELOPMENT OF NEW WILD MARINE FISHERIES AND THE EXPANSION OF REGULATED WILD MARINE FISHERIES IN SOUTH AFRICA: 2026

This document is also available in Afrikaans, isiXhosa and isiZulu

Hierdie dokument is ook in Afrikaans, isiXhosa, en isiZulu beskikbaar

Lencwadi iyafumeneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

Lencwadi iyatholakala nangolwimi lwesiBhunu, lwesiXhosa nolwesiZulu

(In case of any inconsistency, the English text prevails)

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I. DEFINITIONS

"Aquaculture" means the farming of an aquatic organism, including a crocodile, in a controlled aquatic environment including marine, brackish or freshwater involving—

(a) a degree of human intervention in the rearing process to enhance production which include propagation, breeding, regular stocking, feeding, protection from predators and harvesting of cultured aquatic organisms; or

(b) individual or corporate ownership of the stock being farmed, and includes ranching;

"Exploratory fishery" means a fishery pertaining to a wild marine fish resource that is not caught as part of a regulated fishery or is under-fished as a target or by catch species, the potential for which will be determined through a process of exploratory fishing to determine the viability and suitability of converting the exploratory fishery into a new fishery;

"Exploratory fishing" means a scientific investigation or practical experiment conducted under section 83 of the MLRA to explore the potential of a wild marine fish resource that is not caught as part of a regulated fishery or is under-fished as a target or by-catch species in a regulated fishery;

"Fish" means the marine living resources of the sea and the seashore, including any aquatic plant or animal whether piscine or not, and any mollusc, crustacean, coral, sponge, holothurian or other echinoderm, reptile, and includes their eggs, larvae and all juvenile stages, but does not include marine mammals, sea birds and seals;

"Geographical exploration" means to explore, in terms of section 83 of the MLRA, the fishery potential of a regulated fishery in a new geographical area where the wild marine fish resource was previously unfished or under-fished as a target or by-catch species;

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"Method exploration"	means a practical experiment conducted under section 83 of the MLRA to explore the viability or suitability of a previously unutilized fishing method, technique, gear or technology, regardless of whether the wild marine fish resource was previously unfished or under-fished as a target or by-catch species in a regulated fishery.
"New fishery"	means an exploratory fishery that has been determined as suitable to be managed as a regulated fishery after the implementation of this Policy.
"Ranching"	means the intentional release of a live aquaculture organism into an aquatic environment (marine, brackish or freshwater) which is not controlled or confined, with the intention of harvesting them for sale by the ranching licence holder;
"Regulated fishery"	means a wild marine fishery for which rights can be granted under section 18(1) of the MLRA as a commercial or small-scale fishery.
"Sample collection"	means the limited, controlled collection of relatively small quantities of wild marine organisms, or parts thereof, that are not harvested in a regulated fishery, for purposes of undertaking scientific research, monitoring, market, product development or food-related investigations, and not for purposes of sale.

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II. **ACRONYMS**

FAO	Food and Agriculture Organization
FMP	Fishery Management Plan
MLRA	Marine Living Resources Act, 1998 (Act No. 18 of 1998)
NDP	National Development Plan
TAC	Total Allowable Catch
TAE	Total Applied Effort
SAMSA	South African Maritime Safety Authority

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1. **INTRODUCTION**

1.1. The National Development Plan (NDP) recognizes the necessity of expanding existing fisheries and developing new fisheries while stating that "*Expanded or new fisheries must be sought where ecologically possible*" (NDP, Ch. 6, pg 229). The development of new fisheries presents an opportunity to expand South Africa's fisheries sector in a sustainable and responsible manner. Exploring the fishery potential of a marine wild fish resource that is unfished or under-fished as a target or a by-catch species in a regulated fishery can contribute to economic growth, food security, and job creation while ensuring the long-term viability of marine resources. However, such exploration and development must be carefully managed to prevent over-exploitation and to align with national and international sustainability commitments.

1.2. The MLRA provides the overarching legal framework for the conservation and sustainable utilisation of South Africa's marine living resources. Section 2 of the MLRA requires the Minister responsible for Fisheries (the Minister) and any organ of state to exercise any power under this Act while having regard to the following objectives and principles:

"(a) The need to achieve optimum utilisation and ecologically sustainable development of marine living resources;

(b) the need to conserve marine living resources for both present and future generations;

(c) the need to apply precautionary approaches in respect of the management and development of marine living resources;

(d) the need to utilise marine living resources to achieve economic growth, human resource development, capacity building within fisheries and mariculture branches, employment creation and a sound ecological balance consistent with the development objectives of the national government;

(e) the need to protect the ecosystem as a whole, including species which are not targeted for exploitation;

(f) the need to preserve marine biodiversity;

(g) the need to minimise marine pollution;

(h) the need to achieve to the extent practicable a broad and accountable participation in the decision-making processes provided for in this Act;

(i) any relevant obligation of the national government or the Republic in terms of any international agreement or applicable rule of international law;

(j) the need to restructure the fishing industry to address historical imbalances and to achieve equity within all branches of the fishing industry;

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(k) the need to promote equitable access to and involvement in all aspects of the fishing industry and, in particular, to rectify past prejudice against women, the youth and persons living with disabilities;

(l) the need to recognise approaches to fisheries management which contribute to food security, socio-economic development and the alleviation of poverty; and

(m) the need to recognise that fish may be allocated through a multi-species approach."

1.3. New fisheries, or the expansion of regulated fisheries are developed/ effected through the processes of scientific investigation and practical experiments; more specifically, through exploratory fishing, geographical exploration, method exploration and sample collection. Section 83 of the MLRA allows the Minister to permit such scientific investigation or practical experiments.

1.4. This Policy for the Development of New Wild Marine Fisheries and the Expansion of Regulated Wild Marine Fisheries in South Africa: 2026 (the New Fisheries Policy) seeks to give effect to the development of new fisheries and the expansion of regulated fisheries in an orderly and structured manner, consistent with the objectives and principles of the MLRA, the NDP, the Code of Conduct for Responsible Fisheries (Food and Agriculture Organisation (FAO) 1995) and the Precautionary Principle (FAO 1996) as elaborated in FAO Fisheries Technical Paper 350/1 titled "Precautionary Approach to Fisheries". The implementation of this principle requires the avoidance of irreversible harm to ecosystems and the application of conservative harvest strategies when data are limited, whilst ensuring that the burden of proof lies with those proposing potentially harmful activities.

2. PURPOSE AND OBJECTIVES

2.1. The purpose of this Policy is to provide guidance on the processes to be followed to ensure that the development of new fisheries, any geographical expansion of a regulated fishery, as well as any change in fishing methods, techniques, gear or technologies and sample collection are scientifically informed, ecologically sustainable and legally compliant with both national and international legal frameworks.

2.2. The objectives of this Policy are to –

2.2.1. Structure new and expanded regulated fisheries in such a manner that addresses historical imbalances and achieves equity within all branches of the fishing industry;

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2.2.2. Establish a structured framework for the exploration and development of new fisheries and the expansion of regulated fisheries in South Africa;

2.2.3. Ensure that the development of new fisheries and the expansion of regulated fisheries are effected in an ecologically sustainable manner, in line with the principles of the MLRA;

2.2.4. Promote the responsible economic utilisation of marine resources while safeguarding biodiversity and ecosystem health;

2.2.5. Provide scientific advice for evidence-based decision-making during the development of new fisheries and the expansion of regulated fisheries;

2.2.6. Align the development of new fisheries and the expansion of regulated fisheries with national and international legal frameworks and best practices;

2.2.7. Support equitable access to marine resources, ensuring fair participation by historically disadvantaged communities;

2.2.8. Use the most up to date and sustainable fishing methods according to international frameworks and best practises;

2.2.9. Explore new and unharvested areas to determine the feasibility of new fishing grounds; and

2.2.10. Promote the use of unharvested species through scientific exploration by means of sample collection.

3. SCOPE AND APPLICATION OF THE POLICY

3.1. This Policy must be read in conjunction with the MLRA and the Regulations in terms of the MLRA, 1998 (published in Government Notice No. R1111 in Government *Gazette* 19205 of 2 September 1998) (the MLRA Regulations).

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3.2. Furthermore, it is important to note that this Policy is applicable to fish, as defined in this Policy. The definition of fish is aligned with the definition contained in section 1 of the MLRA, but excludes marine mammals.

3.3. The effect of this definition is that this Policy applies to the development of new fisheries and the expansion of regulated fisheries pertaining to any marine living resources of the sea and the seashore excluding marine mammals, sea birds and seals.

3.4. Note however that the scope of this Policy is limited to wild marine fish resources and excludes aquaculture and the ranching of fish resources. This Policy applies to the development of new fisheries, the exploration of the viability of expansion of a regulated fishery in relation to geographical location, the exploration of the viability of a change in approved fishing methods, techniques, gear or technologies and sample collection. Each of these activities are now briefly explained.

3.5. Development of New Fisheries

3.5.1. This Policy applies, firstly, to the development of new fisheries. After completion of exploratory fishing, and if the fishery potential is found viable or suitable, an exploratory fishery can be determined suitable to be managed as a new regulated fishery. The conversion of an exploratory fishery into a new fishery may be considered by the Minister or his/ her delegated authority. The completion of exploratory fishing does not, however, guarantee that an exploratory fishery will be converted into a new regulated fishery.

3.6. Exploration of the viability of the geographical expansion of a regulated fishery

3.6.1. This Policy further applies to the exploration of the viability of expansion of a regulated fishery in relation to geographical location. Geographical exploration is used for this purpose. The implementation of geographical exploration does not, however, guarantee that a regulated fishery will be expanded.

3.7. Exploration of the viability of a change in approved fishing methods, techniques, gear or technologies

3.7.1. This Policy also applies to the exploration of the viability of a change in approved fishing methods, techniques, gear or technologies. Method exploration is used for this purpose. Method exploration may only be conducted by permit holders, right holders or exemption holders already operating within the relevant regulated fishery. The implementation of method

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exploration does not, however, guarantee that a new method, technique, gear or technology will be approved.

3.8. Sample collection

3.8.1. This Policy is, lastly, applicable to sample collection. Sample collection is conducted for the purpose of generating biological, ecological, socio-economic, or market information to inform management decisions, and will be subject to permit conditions, prescribed quantities, approved methods, and applicable legal and ethical requirements. Sample collection permits are intended for the limited, non-commercial collection of marine fish that are not harvested in an existing fishery. Sample size will be determined when permits are processed, and such determination will be made whilst considering sustainability and current available knowledge of each species.

4. FISHERY MANAGEMENT PLAN (FMP)

4.1. New fisheries as well as regulated fisheries must be managed in accordance with a Fishery Management Plan (FMP) specifically designed for each fishery. Any changes in fishing methods or expansion into new geographical areas must be reflected through updates to the respective FMP.

4.2. An FMP must be finalised within six months following the Minister's declaration of a fishery as a new fishery. An FMP will be developed by the Department in consultation with relevant stakeholders and will be amended as required by the progression of each fishery.

5. PROCESSES FOR OBTAINING PERMITS FOR PARTICIPATION IN EXPLORATORY FISHING, CONDUCTING GEOGRAPHICAL EXPLORATION, METHOD EXPLORATION AND SAMPLE COLLECTION

5.1. Section 83 of the MLRA provides that "*The Minister may, notwithstanding the provisions of this Act, permit any scientific investigation or practical experiment*". As exploratory fishing, geographical exploration, method exploration and sample collection all fall within the ambit of "scientific investigation or practical experiment", any person or organization wanting to conduct these actions must apply for and obtain a permit in terms of section 83 read with section 13(1) of the MLRA, prior to commencing activities.

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5.2. Only South African persons may apply for such a permit. "South African person" is defined in section 1 of the MLRA to mean -

"(a) a South African citizen in terms of the South African Citizenship Act, 1995 (Act No. 88 of 1995);

(b) a company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973), of which the majority of shareholders, as prescribed by the Minister, are South African persons;

(c) a close corporation in terms of the Close Corporations Act, 1984 (Act No. 69 of 1984), of which the majority of members are South African persons; or

(d) a trust in which—

(i) the majority of trustees having the controlling power at any given time are South African Citizens; or

(ii) a majority of the beneficial interests are held by South African Citizens.; or

(e) a co-operative registered in terms of the Co-operatives Act, 2005 (Act No. 14 of 2005), of which all the members are South African citizens but, where any member is a juristic person, such person's principal place of business must be in the Republic".

5.3. Application process for participation in exploratory fishing in an exploratory fishery

5.3.1. The approval process for conducting exploratory fishing in an exploratory fishery can be initiated by the Department or through proposals submitted by individuals or entities expressing interest in the sustainable fishing of a wild marine fish resource that is not caught as part of a regulated fishery or is under-fished as a target or by catch species.

5.3.1.1. Expression of Interest

5.3.1.1.1. The Department will publish in the Government *Gazette*, mainstream print media and on the Departmental website an invitation for interested parties to apply for and to participate in exploratory fishing in terms of section 83 of the MLRA. To support applicants, a comprehensive template and detailed submission guidelines will be made available on the Department's website and through relevant stakeholder communication.

5.3.1.1.2. It is also possible for individuals or entities to express their interest in participating in exploratory fishing. Such an expression of interest must be posted or hand delivered or emailed to the Department via the Customer Services Centre, addressed to the New Fisheries Scientific Working Group at Customer Services Centre, Ground Floor, Foretrust Building, Martin

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Hammerschlag Way, Foreshore, Cape Town or Private Bag X2, Vlaeberg, 8018 or CSCapplications@dffe.gov.za. When such notification is received, the Department must timeously provide the relevant individual or entity with the template (downloadable application form) and detailed submission guidelines.

5.3.1.2. Submission of applications

5.3.1.2.1. The application criteria will align with the overarching principles of the Policy. Applicants must meet the minimum requirements and demonstrate operational readiness. The minimum requirements include:

(a) verifiable experience in the fishing sector,
(b) knowledge of fishing grounds,
(c) ability to procure or manufacture appropriate gear; and
(d) proof of vessel access.

5.3.1.3. Desktop study and operational plan

5.3.1.3.1. Prior to the submission of the application, each applicant must complete a desktop study to identify key data or information gaps. This process involves the synthesis of existing knowledge and the identification of critical data or information gaps in relation to the target species and associated ecosystems. It includes biological, ecological, socio-economic and fisheries related data. The objective is to evaluate the feasibility of initiating exploratory fishing and to ensure that such exploration is underpinned by science.

5.3.1.3.2. The desktop review must collate all available literature on the species of interest, including its biology, distribution, past or present exploitation (if any), fishing gear options, post-harvest value chains, and global market trends. In addition, information on similar species harvested previously elsewhere in South Africa and other countries must be included in the study. Particular attention must be given to data or information gaps, risks to vulnerable species or habitats, and broader ecosystem implications. The results of the desktop study must be submitted as part of the application.

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5.3.1.3.3. Applicants are also required to submit a detailed two-year operational plan as part of the application. See Appendix A in this regard for guidance on the contents of such plan.

5.3.1.4. Evaluation of applications

5.3.1.4.1. The evaluation of applications involves an assessment to determine eligibility, technical feasibility, and alignment with the objectives of the Policy. The evaluation process will focus on the following criteria:

5.3.1.4.1.1. Exclusionary criteria

Applicants who do not meet these requirements will be excluded. The following exclusionary criteria will be used:

(a) The applicant is not a South African person as defined in the MLRA.

(b) The application is improperly lodged. An application is improperly lodged if it was received late, if the applicant made no payment or short payment or late payment of the application fee, if there is any outstanding information, if it was lodged in a manner contrary to the instructions or on a form other than the official application form provided as part of the invitation to apply.

(c) The application is submitted by a deregistered (from CIPC) juristic person or the applicant is not tax compliant.

(d) The applicant is under the age of 18.

(e) The applicant submits more than one application for the same exploratory fishery.

(f) The applicant submits false and/or misleading information or false documentation.

(g) An applicant or any of their members and shareholders or directors has been convicted of an offence in terms of the MLRA or its regulations or permit conditions and sentenced to direct imprisonment or a fine other than an admission of guilt fine;

(h) An applicant that has entered into a plea agreement in terms of section 105A of the Criminal Procedure Act, 1997 (Act No. 51 of 1977), for a contravention of the MLRA, the regulations, or permit conditions.

(i) An applicant had an asset forfeited to the State for a violation of a provision in the MLRA.

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(j) The applicant had a fishing right, exemption or permit cancelled, withdrawn or revoked in terms of section 28 or 81 of the MLRA.

5.3.1.4.1.2. Assessment of applications

The Department will assess all applications in relation to the criteria detailed below. These criteria will be weighted in order to evaluate and assess applications. The assessment panel may request further information from the applicant to assist in its assessment and allocation. Information contained in the application may be subject to validation.

(a) Fishing experience

The application will be examined to determine if the applicant has more than five (5) years of relevant experience in fishing operations.

(b) Access to a suitable vessel, where applicable

An applicant will be required to demonstrate a right of access to a suitable vessel. Access may be in the form of ownership, part-ownership, catch agreement, charter agreement, or bank guarantee in the case of a purchase of a vessel or to build a vessel. If an applicant intends purchasing a vessel proof of a purchase agreement must be provided. In the case of a newly built vessel, then the vessel plans and cost of the vessel must be provided. Suitable vessels will be defined in the FMP. Existing local vessel capacity must be used unless such is not available. The use of foreign vessels may be considered depending on the kind of exploratory fishing and the availability of local vessels. All vessels used must adhere to relevant safety standards and comply with all vessel licensing requirements under sections 23 and 39 of the MLRA and be certified by SAMSA as being safe for fishing.

(c) Suitable fishing gear

An applicant must provide proof of being in possession of the necessary gear to undertake the relevant exploratory fishing. A comprehensive description of the method and gear that an applicant wishes to employ must be submitted. All gear types and technologies proposed must be

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approved by the Department. This approval will consider catch efficiency, socio-economic benefits, ecosystem risks, potential for inter- or cross-sectoral conflict, and enforceability. Gear types for each project will be specified in the FMP.

5.3.1.5. Issuance of a permit to undertake exploratory fishing

5.3.1.5.1. Participation in an exploratory fishery will be authorised for a predetermined period and permits will be issued annually.

5.3.1.5.2. Catch volumes and/or fishing effort will be allocated to allow feasibility testing, including assessment of ecological impact and market viability.

5.4. Application process for participation in geographical exploration

5.4.1. Expression of Interest

5.4.1.1. The process of expressing interest is similar to that of exploratory fishing. Please see above paragraph 5.3.1.1.

5.4.2. Submission of applications

5.4.2.1. Save for the desktop study discussed below, the process of submitting applications and the application criteria are similar to that of exploratory fishing. Please see above paragraph 5.3.1.2.

5.4.3. Desktop study and operational plan

5.4.3.1. In relation to the desktop study to be conducted prior to submitting the application, such must include information on bathymetry, ecological sensitive areas, GPS coordinates of the area and shipping routes and other fishing operations in the area. Essentially, such desktop study must collate available literature on the suitability of the area to expand the fishing operation into.

5.4.3.2. Applicants are also required to submit a detailed two-year operational plan as part of the application. See Appendix A in this regard for guidance on the contents of such plan.

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5.4.4. Evaluation of applications

5.4.4.1. The evaluation process of applications for geographical exploration is similar to that of applications for exploratory fishing set out above in paragraph 5.3.1.4. First, the exclusionary criteria must be applied, after which the assessment will evaluate the applicant's fishing experience, access to a suitable vessel (where applicable) and suitable fishing gear.

5.4.5. Issuance of a permit to undertake geographical exploration

5.4.5.1. Participation in geographical exploration will be authorised for a predetermined period and permits will be issued annually.

5.4.5.2. Catch volumes and/or fishing effort will be allocated to allow feasibility testing, including assessment of ecological impact and market viability. Should a TAC/TAE allocation for this resource be apportioned from a regulated fishery for geographical exploration, all applicable laws including regulations applicable to that regulated fishery must be strictly adhered to (with the exception of any restrictions relating to fishing in specified areas).

5.5. Application process for participation in method exploration

5.5.1. Expression of Interest

5.5.1.1. The process of expressing interest is similar to that of exploratory fishing and geographical exploration. Please see above paragraph 5.3.1.1.

5.5.2. Submission of applications

5.5.2.1. Same for the desktop study discussed below, the process of submitting applications is similar to that of exploratory fishing and geographical exploration. Please see above paragraph 5.3.1.2.

5.5.3. Desktop study and operational plan

5.5.3.1. In relation to the desktop study to be conducted prior to submitting the application, such must collate all available literature on the suitability of the gear type, technology or techniques (i.e deployment methods) proposed; including in relation to the effects on the marine environment i.e. the increase of catch efficiency and reduction of by-

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catch. Furthermore, critical data and information gaps in relation to the use and effect of the proposed gear, technology or techniques must be included.

5.5.3.2. Applicants are also required to submit a detailed two-year operational plan as part of the application. See Appendix A in this regard for guidance on the contents of such plan.

5.5.4. Evaluation of applications

5.5.4.1. First, the exclusionary criteria similar to that of exploratory fishing and geographical exploration applications must be applied, after which the assessment will evaluate the applicant's access to a suitable vessel (where applicable) and suitable fishing gear. In relation to suitable fishing gear, the applicant must provide proof of being in possession of the necessary gear to undertake the method exploration. A comprehensive description on the method and gear that an applicant wishes to deploy must be submitted.

5.5.5. Issuance of a permit to undertake method exploration

5.5.5.1. Participation in method exploration will be authorised for a predetermined period and permits will be issued annually. The permit will specify which gear types and technologies are approved. This approval will consider catch efficiency, socio-economic benefits, ecosystem risks, potential for inter- or cross-sectoral conflict, and enforceability. Gear types for each project will be specified in the FMP.

5.5.5.2. Catch volumes and/or fishing effort will be allocated to allow feasibility testing, including assessment of ecological impact and market viability. Should a TAC/TAE allocation for this resource be apportioned from a regulated fishery for method exploration, all applicable laws including regulations applicable to that regulated fishery must be strictly adhered to.

5.6. Application process for sample collection

5.6.1. Submission of applications and operational plan

5.6.1.1. To support applicants, a comprehensive application form template and detailed submission guidelines will be made available on the Department's website.

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5.6.1.2. Applications must be submitted to the Department via the Customer Services Centre, addressed to the New Fisheries Scientific Working Group at Customer Services Centre, Ground Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town or Private Bag X2, Vlaeberg, 8018 or CSCapplications@dffe.gov.za. addressed to the New Fisheries Scientific Working Group and must contain details on the objectives of the sample collection, sample quantities and collection areas.

5.6.1.3. All applicable laws and international obligations, including those contained in the Nagoya Protocol (2010) and the Convention on Biological Diversity (1993), must strictly be adhered to.

5.6.1.4. The application criteria are similar to that of exploratory fishing, geographical exploration and method exploration. Please see above paragraph 5.3.1.2.

5.6.1.5. Applicants are also required to submit a detailed two-year operational plan as part of the application. See Appendix A in this regard for guidance on the contents of such plan.

5.6.2. Evaluation of applications

5.6.2.1. The evaluation process of applications for sample collection requires the same exclusionary criteria as set out above to be applied. Thereafter, the Department will assess all applications in relation to the criteria detailed below, which will be weighted. Similarly, the assessment panel may request further information from the applicant to assist in its assessment and allocation; and information contained in the application may be subject to validation.

(a) Small sample collection experience

Applicants should collaborate with an independent researcher/s or research institution/s in South Africa.

(b) Ethics clearance

Applicants must have the appropriate and valid ethics clearance certificate from the National Health Research Ethics Council (NHREC).

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(c) Access to a suitable vessel, where applicable

Similar to applications for exploratory fishing, geographical exploration and method exploration, an applicant will be required to demonstrate a right of access to a suitable vessel. See above.

(d) Suitable collecting gear

An applicant must provide proof of being in possession of the necessary collecting gear to undertake the relevant sampling. A comprehensive description on the method and gear that an applicant wishes to deploy must be submitted.

5.6.3. Issuance of a permit to undertake sample collection

5.6.3.1. Sample collection will be authorised for a predetermined period and permits will be issued annually.

5.6.3.2. The permit will specify which gear types and technologies are approved. This approval will consider catch efficiency, socio-economic benefits, ecosystem risks, potential for inter- or cross-sectoral conflict, and enforceability. Gear types for each project will be specified in the FMP.

6. ASSESSMENT OF THE WAY FORWARD PERTAINING TO THE PARTICULAR PROJECT

6.1. Exploratory fishing, geographical exploration, method exploration and sample collection may be permitted to continue until such time that the Department is of the view that a sufficient amount of information has been obtained to make an informed decision regarding the way forward.

6.2. At the end of the relevant period, a structured assessment process will be undertaken to evaluate the viability of an exploratory fishery to become a new fishery, the introduction of additional methods, an expansion to a regulated fishery or the implications based on the results of a sample collection project, as the case may be. Assessments will be conducted by the Department or by the permit holders through a formal agreement with independent researchers or research institutions in South Africa. The use of independent researchers or research institutions must be approved by the Department. Where permit holders conduct assessments, the findings must be submitted to the Department for review.

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6.3. The Department will then review all information submitted and develop recommendations regarding the future of an exploratory fishery, the proposed expansion of a regulated fishery, the use of new proposed methods or the way forward based on the conclusions drawn from sample collection conducted, as the case may be. These recommendations will be submitted to the Minister or his or her delegate for approval.

6.4. To safeguard the integrity of the data, a Code of Conduct between analysts and participants, will be developed. Data confidentiality and compliance with the Protection of Personal Information Act, 2013 (Act No. 4 of 2013) will be ensured, with the Department remaining the custodian of all submitted data.

7. **FINAL DECISIONS**

7.1. Determination of a new fishery

7.1.1. Conversion from an exploratory fishery to a new fishery will be conducted by the Department through the allocation of long term commercial or small-scale fishing rights in terms of section 18(1) of the MLRA through the established rights allocation process.

7.1.2. As previously mentioned, a FMP must be finalised within six months following the Minister's declaration of the fishery as a new fishery.

7.1.3. In the event of an exploratory fishery being converted to a new fishery, preference may be given to previous participation, performance and investment in that fishery.

7.2. Geographical expansion of a regulated fishery

7.2.1. All data collected during geographical exploration will be used to determine if the additional geographical area should be incorporated in the regulated fishery. After expansion, the Department is able to grant permits to fishers in terms of section 13(1) of the MLRA to allow them to fish in the expanded area. The Department will also be required to amend the Fisheries Management Plan of the regulated fishery.

7.3. Approval of new methods

7.3.1. All data collected during method exploration will be used to determine if the use of the new additional method(s), technique(s), gear or technology should be permitted in a particular

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regulated fishery. After approval, the Department is required to amend the Fisheries Management Plan of the regulated fishery, as well as incorporate the changes into permit conditions.

7.3.2. The use of new additional method(s), technique(s), gear or technology may be adopted in a phased approach, depending on the nature of the particular fishery.

7.4. Way forward based on sample collection results

7.4.1. The way forward based on the conclusions drawn from sample collection will depend on the nature of the project, as well as the purpose thereof.

8. **GENERAL PROVISONS**

8.1. Announcement of decisions

8.1.1. Applicants will be formally notified of the Department's decision regarding their application within 60 days from formal acknowledgement of receipt of the application. In the case of a refusal, the Department will provide written reasons, and applicants will retain the right to appeal the decision in terms of section 80 of the MLRA. Records of all assessment outcomes will be systematically maintained for accountability and future reference for a minimum period of 60 months.

8.2. Duration and termination of permits and operations

8.2.1. Permits cannot be issued for a period longer than one (1) year (section 13(2)(a) of the MLRA). The duration of a permit for exploratory fishing, geographical exploration, method exploration or sample collection will be dependent on the particular resource and type of exploration. To provide operational stability and foster investment, successful applicants will be allowed to participate for the duration of the relevant project and subject to compliance with permit conditions and the MLRA.

8.2.2. The duration of a project involving exploratory fishing, geographical exploration, method exploration or sample collection will be determined by the New Fisheries Scientific Working Group, and will also be specified in the FMP. Such a project will terminate automatically at the end of the duration determined by the New Fisheries Scientific Working Group and as specified in the FMP, where applicable.

8.3. Commencement

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8.3.1. Successful applicants will be required, through permit conditions, to commence with the relevant activities within the timeframe prescribed in the FMP. Failure to do so may result in the initiation of proceedings in terms of section 28 of the MLRA.

8.4. Data collection, submission and research

8.4.1. Permits issued for exploratory fishing, geographical exploration, method exploration and sample collection must contain conditions to require permit holders to collect and submit reliable, high-quality data relating to catches, by-catches, fishing effort, economics and markets.

8.4.2. Permit holders must also be required to collect environmental and biological data and samples for research. Data requirements will vary across resources and align with objectives identified in the initial feasibility assessment. Data requirements can also be detailed in the FMP. The Department will provide standardised templates to guide data reporting.

8.4.3. The Department may also require additional research to be conducted as outlined in the FMP. Such research may either be conducted by the Department or by permit holders through a formal agreement with independent researchers or research institutions in South Africa. The use of independent researchers or research institutions must be approved by the Department.

8.5. Monitoring and Control

8.5.1. Compliance monitoring will be conducted by the Department through a verification of compliance with permit conditions, harvesting performance, and economic feasibility, including market access and profitability as defined in the FMP. Furthermore, compliance will be verified against control measures stipulated in the MLRA and the MLRA Regulations pertaining to, for example, gear restrictions, species size limits, bycatch limits, designated areas, designated landing points or harbours, fishing seasons, closed areas, catch limits (by area if appropriate), and effort limitation.

8.5.2. Non-compliant permit holders may be subject to proceedings in terms of section 28 of the MLRA or criminal prosecution.

8.5.3. Compliance monitoring will be undertaken by, firstly, observers. The design and funding model for observer programmes will be determined on a project specific basis and detailed in the FMP. In general, funding of the observer programme should be managed in accordance with the user pays principle.

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8.5.4. Secondly, compliance monitoring can be conducted through the use of Electronic Monitoring Systems as stipulated in the FMP. Information collected may include economic, biological, and catch and effort data, discards, as set out in the exploratory design as well as observed compliance breaches, among others.

8.5.5. Thirdly, compliance monitoring will be conducted by designated Fishery Control Officers and/or appointed Honorary Marine Conservation Officers, where applicable and if required by the Department. Designated landing points/harbours will be identified in the FMP and listed in the permit conditions.

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9. **APPENDIX A**

The Operational Plan must include the following details, applicable over a period of two years from commencement of the activities:

1. Overview and Objectives

- Purpose of the proposed activity
- Specific objectives aligned with the Policy and MLRA principles
- Description of the resource, species, or area to be explored
- Expected outcomes and decision points (e.g. feasibility, sustainability thresholds)

2. Scope and Duration

- Type of activity (exploratory fishing, geographical exploration, method exploration, or sample collection)
- Geographic area(s) of operation (with maps and coordinates where applicable)
- Proposed start date, end date, and phased timelines
- Seasonal considerations (e.g. spawning periods, weather constraints)

3. Target Species and Ecosystem Context

- Target species (scientific and common names)
- Associated by-catch species likely to be encountered
- Description of relevant habitats and sensitive ecosystems
- Known conservation status or vulnerability considerations

4. Methods and Operational Approach

- Fishing, collection, or sampling methods to be used
- Gear types, technologies, and deployment methods
- Effort levels (e.g. trips, sets, soak times, hauls)
- Sample sizes or catch limits proposed
- Justification for chosen methods, including comparison with alternatives

5. Vessels, Equipment and Personnel

- Details of vessels to be used (type, size, registration, SAMSA compliance)

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- Ownership or access arrangements
- Fishing or sampling gear specifications
- Crew composition and qualifications
- Roles and responsibilities of key personnel

6. Data Collection and Research Plan

- Types of data to be collected (biological, ecological, catch, effort, economic, market)
- Sampling protocols and frequency
- Data quality assurance and verification measures
- Collaboration with researchers or institutions (if applicable)
- Data submission formats and reporting schedules

7. Environmental and Ecosystem Risk Management

- Identification of potential ecological risks and impacts
- Measures to minimise by-catch, habitat damage, and ecosystem disturbance
- Avoidance or mitigation of impacts on protected or vulnerable species
- Adaptive management triggers and corrective actions

8. Compliance, Monitoring and Control

- Compliance with permit conditions and legal requirements
- Observer coverage and/or electronic monitoring arrangements
- Logbook and reporting systems
- Landing points and traceability measures
- Internal compliance procedures

9. Health, Safety and Operational Risk Management

- Safety protocols for vessels and crew
- Emergency response procedures
- Insurance and liability considerations
- Risk assessment for operational hazards

10. Socio-Economic and Market Considerations

- Intended use of samples or catches (e.g. research, testing, market trials)
- Preliminary market assessment or value-chain considerations

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- Local employment and skills development contributions
- Alignment with transformation and equity objectives

11. Stakeholder Engagement

- Identification of affected or interested stakeholders
- Consultation undertaken or planned
- Measures to manage conflict with other sectors or users

12. Budget and Financial Planning

- Estimated operational costs
- Funding sources
- Cost recovery or user-pays elements (where applicable)
- Financial viability over the operational period

13. Evaluation and Reporting

- Performance indicators and success criteria
- Interim and final reporting requirements
- Decision-making thresholds for continuation, modification, or termination
- Contribution to future management or policy decisions

14. Exit Strategy

- Conditions under which the activity will cease
- Post-operation rehabilitation or closure measures (if applicable)
- Data handover and final reporting obligations