



APPEAL AUTHORITY

ATTENTION: FRESH AIR FOR HOUT BAY
C/O: KIARA WORTH

Per e-mail: Kiara.worth@gmail.com

NOTICE OF DECISION

APPEAL IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 32 OF 2000 – RELATING TO RENEWAL AND VARIATION OF ATMOSPHERIC EMISSIONS LICENCE FOR LUCKY STAR LIMITED, HOUT BAY

BACKGROUND

The Appellant is **Fresh Air for Hout Bay**, represented by Kiara Worth.

Lucky Star Limited ("Oceana") applied to the City of Cape Town ("the City") for the renewal and variation of its Atmospheric Emission Licence ("AEL"). The Appellant lodged an objection to such application during the public participation process preceding the decision. The City's Air Quality Officer took a decision to "vary and renew the Atmospheric Emission Licence ("AEL") of Lucky Star Limited...("Oceana") in terms of the National Environmental Management: Air Quality Act 39 of 2004 ("NEMAQA")".

Dissatisfied with the decision of the SCMBAC, the Appellant lodged an appeal in terms of section 62 of the Local Government: Municipal Systems Act 32 of 2000 ('the Systems Act').

GROUND OFS OF APPEAL

The grounds of appeal are attached hereto as annexure "A".

The Appellant's submissions and allegations tend to overlap between the grounds of appeal listed in annexure "A". For purposes of clarity, I will discuss the allegations under the following main issues ("the main issues") raised by the Appellant:

1. The chosen public participation process was not appropriate for lack of procedural fairness; and
2. The City failed to consider the objections received through the public participation process before coming to a decision.

I have attempted to respond fully to each allegation raised by the Appellant. Many of the allegations relate to the same main issue and the responses will thus overlap. All allegations have been considered and a failure to mention a specific allegation should accordingly not be construed as a failure to consider same.

ANALYSIS OF FACTS

Legislative Framework:

PAJA

As alleged by the Appellant, the decision to vary and renew the AEL constitutes administrative action as defined by the Promotion of Administrative Justice Act¹ ("PAJA") and must accordingly comply with the requirements of that Act.

Section 3 of PAJA sets out that any administrative action which "*materially and adversely affects the rights...of any person must be procedurally fair*", and that a "*fair administrative procedure depends on the facts of each case*". Section 3(2)(b) of PAJA sets out the peremptory requirements for procedural fairness, and provides that an administrator must give a person whose rights may be materially and adversely affected by administrative action:

- (i) "*adequate notice of the nature and purpose of the proposed administrative action;*
- (ii) *a reasonable opportunity to make representations;*
- (iii) *a clear statement of the administrative action;*
- (iv) *adequate notice of any right of review or internal appeal, where applicable; and*
- (v) *adequate notice of the right to request reasons...*".

Section 4 of PAJA sets out certain procedures that an administrator may follow to give effect to the above. Sections 4(1)(d) and 3(5) both state that in a situation where "*an administrator is empowered by any empowering provision to follow a procedure which is fair but different*", they may elect to follow that procedure.

¹ 3 of 2000.

Chapter 4 of the Systems Act

Section 17(2) of the Systems Act provides that a "municipality must establish appropriate...procedures to enable the community to participate in the affairs of the municipality, and must for this purpose provide for—

- (a) the receipt, processing and consideration of petitions and complaints lodged by members of the local community;
- (b) notification and public comment procedures, when appropriate".

NEMAQA

Section 36 of NEMAQA sets out that "Metropolitan and district municipalities are charged with implementing the atmospheric emission licensing system", including the granting and renewing of AELs. Applicants are required to submit their applications with the licensing authority in the area where the activity is to be carried out.²

Section 46 of NEMAQA sets out the procedure to be followed when applying for the variation of an AEL. Section 46(3) states that where an applicant applies for a variation of their licence and the proposed variation will "authorise an increase in the environmental impact regulated by the licence", "will authorise an increase in atmospheric emissions" and "has not, for any reason, been the subject of an authorisation in terms of any other legislation and public consultation", there are certain additional steps which will need to be undertaken by the applicant "to bring the request to the attention of relevant organs of state, interested persons and the public".

The variation requested by Oceana related to the addition of Formalin to their processes and thus required the additional steps referred to above. Section 46(4) requires that these steps:

"must include the publication of a notice in at least two newspapers circulating in the area in which the listed activity authorised by the licence is, or will be, carried out—

- (a) describing the nature and purpose of the request;*
- (b) giving particulars of the listed activity, including the place where it is or will be carried out;*
- (c) stating a reasonable period within which written representations on or objections to the request may be submitted, and the address or place where representations or objections must be submitted; and*
- (d) containing such other particulars as the licensing authority may require".*

² See s37(1) of NEMAQA.

The renewal of an AEL is governed by section 47 of NEMAQA, which also sets out the relevant application procedure. Sections 46 and 47 state that "[s]ections 38, 40 and 43, read with the necessary changes as the context may require" apply to applications for both variation and renewal of an AEL.

Section 38 adds an extra requirement to those set out in section 46(4), namely that the mentioned notices must indicate "where a copy of the application can be obtained". Section 40 relates to the decision to renew or vary a licence and sets out that once a decision has been reached, the licencing authority must within 30 days *"in a manner determined by the licensing authority, notify any persons who have objected to the application...and...at the request of any person [who has objected], give written reasons for its decision or make public its reasons"*. Section 43 relates to the content of an AEL and is not relevant for purposes of this appeal.

In this decision, reference to "the NEMAQA procedure" means the "notice and comment" procedure set out in section 46(4) above, read with the extra requirements from sections 38 and 40.

In this instance, the City followed the NEMAQA procedure as described above.

Application of Legislative Framework to the Facts:

Each main issue raised by the Appellant will be discussed below.

Public Participation Process

The Appellant makes the following arguments relating to the particular public participation process followed in this instance:

1. That the public participation process was chosen and conducted *"without applying the procedural fairness provisions specified in PAJA and other legislation"*; and
2. The *"administrator failed to apply its mind to the public participation process"* and *"should have employed a more engaging and thorough public participation process"*.

The Appellant submits that the procedural fairness requirements referred to above are found in sections 3 and 4 of PAJA. The Appellant's argument is based on the submission that the City

used section 3(5) of PAJA and the NEMAQA procedure to circumvent its responsibilities as set out in sections 3 and 4 of PAJA and Chapter 4 of the Systems Act.

At the outset, it must be noted that the procedures set out in sections 46 and 47 of NEMAQA are the prescribed procedures for the City to follow after receipt of the relevant applications. The City was legally required to follow these procedures.

Having regard to PAJA's procedural fairness requirements as set out in section 3(2)(b) in comparison to the NEMAQA procedure, the following can be noted:

1. Both require giving notice to the affected public of the "*nature and purpose*" of the application or anticipated administrative action;
2. Section 46(4) gives more detailed instructions as to the content of the notice mentioned above;
3. Both require the receipt of representations from the affected public;
4. Both require notifying the affected public of their right to request reasons for the administrative action once taken;
5. The NEMAQA procedure does not specifically mention the requirement found in section 3(2)(b)(v) of PAJA, namely that the public must be informed of "*any right of review or internal appeal, where applicable*".

A copy of the notice inviting comments from the public is attached hereto as annexure "B". This notice was published in the Cape Argus and Cape Times on 17 July 2017 and in the Sentinel on 26 August 2017. The notice complies with the requirements of section 46(4).

Once the licencing authority had made the decision to grant the applications, further notices were published in the same newspapers on 7 February 2018. Notices were also sent via e-mail and posted to parties who objected to the granting of the licence, in line with section 40 of NEMAQA. A copy of this notice is attached hereto as annexure "C". The notice advises the public of the decision as well as their right of appeal in terms of section 62 of the Systems Act, as required by section 3(2)(b)(iv) of PAJA. The notice does not refer to the right to request reasons, as required by section 3(2)(b)(v) of PAJA. However, in line with section 40, the City made the reasons for the decision public by including annexure "D" in the notifications referred to above. The City thus complied with the purpose of section 3(2)(b)(v).

The Appellant has failed to prove that any of the requirements listed in section 3 of PAJA or in Chapter 4 of the Systems Act were not met through the City following the NEMAQA procedure.

In light of the above discussion, it can be concluded that the City acted correctly and complied with its administrative law duties (specifically those relating to procedural fairness) while following the NEMAQA procedure.

Consideration of Objections

The Appellant also argues that the City did not apply its mind to the objections received in response to the public participation procedure. This is argued repeatedly in the notice of appeal, on the following grounds:

1. That *"the administrator's duties in respect of public participation were not discharged upon just advertising the AEL notice and subsequently receiving public comments without having any further consideration for such comments. The administrator was actually obliged to consider any objections received and then decide whether or not to take the administrative action in light of such comments"*;
2. That *"the decision was not rationally connected to the information before [the administrator], namely the numerous objections submitted to PBPS"*;
3. That the licencing authority *"failed to substantively consider (and therefore apply its mind to) relevant information in the form of objections from IAPs"*; and
4. That the licencing authority *"failed to give reasons for not considering certain factors in NEMAQA"*.

In this instance, the comments received from the public were compiled into a report by external service providers, who were contracted to handle the administrative aspect of the public participation process. The licencing authority confirmed that this report was considered before deciding to grant the AEL. This is supported by paragraph 2.1 of annexure "D", wherein the licencing authority sets out the number of comments received and how they were categorised. Paragraph 2.8 also deals with the comments received regarding the factory's impact on the Hout Bay economy.

The Appellant also alleges that the external consultants *"generic and repetitive responses to objections"* indicate that the PPP *"would never have been able to influence the outcome of the decision"*. It must be noted that the listed responses to the objections are those of Oceana, which the licencing authority is obliged to consider in terms of section 38(1)(d) of NEMAQA. The commentary was divided into categories based on the nature of the comment, for which

certain similar responses were appropriately given. This is not sufficient to indicate a failure to engage with the objections, as alleged by the Appellant.

The Appellant then argues that the lack of explanation in annexure "D" regarding "*why the IAPs objections would not affect the outcome of its decision or...how the IAPs objections were considered*" means that the administrator failed to apply its mind to the objections. In this regard it must be emphasised that NEMAQA requires the licencing authority to give reasons for its decision, not a response to the objections received. PAJA also places no such duty on an administrator. The Appellant's argument that the failure to provide a response to the objections indicates a lack of engagement with the objections is accordingly unfounded. So too is the statement that the objections would not affect the final decision; it has already been explained that the commentary was indeed considered before coming to a final decision. An administrator is still able to make a decision that has been objected against, as long as the substance of the objections has been properly considered.

The Appellant states that annexure "D" "*does not address requirements in 4.5.1.1 and 4.5.1.2 [of the notice of appeal]*" (the NEMAQA factors referred to in point 4 above) and that the "*absence of any reasons given referencing the IAPs objections in respect of these is sufficient to categorize the decision...as irrational in terms of PAJA and the Common Law*". This is not correct for the same reasons as set out in the preceding paragraph: the fact that annexure "D" does not contain the specific information to which the Appellant refers cannot be taken to mean that such information was not considered by the licencing authority. For instance, the explanation relating to the chemical scrubber is a clear indication that the licencing authority has indeed taken the factors in paragraph 4.5.1.2 into account. Moreover, paragraphs 2.2, 2.4, 2.6, 2.7 and 2.8 all refer to measures or considerations relating to "*the pollution...likely to be caused*" and the "*best practicable environmental options available*", in line with the requirements highlighted by the Appellant.

Finally, the Appellant refers to paragraph 2.8 of annexure "D" where the City states that no "*proven statistical evidence*" was provided to support the allegations of negative economic impact of the emissions. The Appellant alleges that this is an admission by the City that it did not consider these submissions in coming to its decision. It is unclear how the Appellant makes this logical jump. From the contents of paragraph 2.8, it is clear that the City weighed up the relevant interests and effects (as expressed through the public commentary) and made a decision based on this proportionality exercise, along with the other factors mentioned under paragraph 2 generally.

It is thus apparent that the public commentary was an integral part of the decision making process, i.e. that the public had the opportunity to materially influence the outcome of the decision.

CONCLUSION

The City has complied with its administrative law duties in this instance. There is no merit in the grounds of appeal raised and the appeal must accordingly fail.

DECISION

Sections 59 to 65 of the Systems Act deal with the delegation of powers. Section 62(3) empowers the delegated authority to:

"...consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision."

Based on the facts and reasons stated above, the Appellant's appeal is **dismissed** and the decision of the Delegated Authority is **confirmed**.



NAME: Lungelo Mbandazayo

APPEAL AUTHORITY (in terms of section 62 of the Local Government: Municipal Systems Act, 32 of 2000)

DATE: 2018-06-01



Fresh Air for Hout Bay
*Working together for a cleaner,
fresher Hout Bay*

20 February 2018

City Manager
PO Box 298
Cape Town
8000
lungelo.mbandazayo@capetown.gov.za
For Attention: Mr Lungelo Mbandazayo

Dear Sir,

**RE: APPEAL OF DECISION TO GRANT RENEWAL AND VARIATION OF
ATMOSPHERIC EMISSIONS LICENCE: LUCKY STAR LIMITED, HOUT BAY**

1 INTRODUCTION

1.1 This is a notice of intention to appeal, in terms of Section 62 of the Municipal Systems Act No. 32 of 2000 ("Municipal Systems Act"), against the decision of the City of Cape Town ("COCT") ("the administrator") to vary and renew the Atmospheric Emission Licence ("AEL") of Lucky Star Limited (trading as Lucky Star Hout Bay) ("Oceana") in terms of the National Environmental Management: Air Quality Act 39 of 2004 ("NEMAQA").

1.2 The basis of this appeal against the renewal of Lucky Star's AEL is as follows:

1.2.1 The decision was procedurally unfair for lack of substantive public participation; and

1.2.2 The decision taken constitutes an unreasonable decision taken irrationally in terms of the applicable Administrative Law principles.

2 THE RIGHT TO JUST ADMINISTRATIVE ACTION

The decision of the COCT, to renew Oceana's AEL pursuant to a public participation process contracted to Pieter Badenhorst Professional Services CC ("PBPS")

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constitutes an Administrative Action under Section 1 of the Promotion of Administrative Justice Act No. 3 of 2000 ("PAJA"). This was confirmed in the letter addressed by PBPS to affected parties dated 25 January 2018, attached hereto as Annexure A. Such decision must therefore be taken in compliance with the requirements laid out in PAJA and the Common Law.

3 PROCEDURAL FAIRNESS

3.1 The decision to renew and vary Oceana's AEL was not made in a procedurally fair manner due to deficiencies in the public participation process, specifically –

3.1.1 the administrator made a decision without applying the procedural fairness provisions specified in PAJA and other legislation; and

3.1.2 the administrator failed to apply its mind to the public participation process.

3.2 FAILURE TO APPLY THE CORRECT PROCEDURAL FAIRNESS PROVISIONS

3.2.1 Sections 3 and 4 of PAJA list the requirements for procedurally fair administrative action which affects individuals and the public in general. Section 3(5) of PAJA, permits an administrator, acting in terms of any empowering legislation to follow a public participation procedure different to that of PAJA (which procedure must be substantially fair).

3.2.2 The administrator utilised Section 3(5) of PAJA and purported to follow the procedural fairness requirements in terms of Section 38(3) of NEMAQA in terms of which the administrator is only obliged to notify the public of the application brought to renew the AEL and invite any objections to the application. This was confirmed in a letter addressed by the COCT to Ms. Suleiman Salie dated 24 January 2017 and attached hereto as Annexure B.

3.2.3

Representations made by the public ought to be meaningful as per Chapter 4 of the Municipal Systems Act, which prescribes that a Municipality must establish appropriate procedures for the receipt of

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Representations made by the public ought to be meaningful as per Chapter 4 of the Municipal Systems Act, which prescribes that a Municipality must establish appropriate procedures for the receipt of

3.3.3 The administrator should have employed a proportionality test to determine the nature and extent of procedural fairness required, by considering⁵ –

3.3.3.1 the nature of the decision;

3.3.3.2 the rights of the IAPs; and

3.3.3.3 the consequences arising from making such decision.

3.3.4 The nature of the decision involves the continued air pollution by Oceana. The rights affected by the decision involves the health and well-being of Hout Bay Residents in terms of several documented reports which the COCT is aware of.

3.3.5 In the 2016 Health Risk Assessment conducted by Infotox⁶ ("the **Infotox report**") it was confirmed that Oceana's emissions adversely affects the quality of life of Hout Bay residents. The Infotox report states that there is a high probability that the odour annoyance emanating from the processing plant would be rated as unacceptable for most of the time. Whilst we made several requests to the COCT under the Promotion of Access to Information Act 2 of 2000 for a copy of the report, our requests were denied and only a redacted copy of the report, containing the quoted findings at paragraph 6, is attached hereto as Annexure C.

3.3.6 Fresh Air for Hout Bay ("FAHB") has submitted reports to the COCT giving the results of its air pollution surveys which indicated that –

3.3.6.1 2374 Hout Bay residents are affected by the emissions;

3.3.6.2 90% of respondents considered their health to be negatively impacted by the emissions; and

⁵ Minister of Public Works and others v Kyalami Ridge Environmental Association and another [2001] JOL 8289 (CC) at para 102.

⁶ Report No: 071-2016, Rev 2.0

3.3.6.3 82% of businesses stated that the emissions negatively impacted their operations and caused them to suffer a direct financial loss,

copies of the FAHB reports are attached hereto as Annexures D, E and F.⁷

3.3.7 Furthermore, thousands of complaints have been logged by residents in respect of this issue as is documented in the C3 Register. A petition has also been made, calling for a change in Oceana's practices and has been signed by more than 2500 signatories.

3.3.8 PBPS considered the compilation of a list of IAP objectors and providing generic and repetitive responses to objections, as discharging its duties in terms of public participation. Thus the public participation process would never have been able to influence the outcome of the decision and was therefore meaningless and contrary to PAJA, the Municipal Systems Act and the case law in respect of public participation.

3.3.9 It is clear in terms of the principles in 3.3.6, and in light of 3.3.7 and 3.3.8 that the administrator ought to have employed a more engaging and thorough public participation process which would have allowed all stakeholders, FAHB and the disgruntled Hout Bay residents to engage the COCT meaningfully in order to influence the outcome of the decision by the COCT to renew Oceana's AEL. Failure to do so constitutes a failure by the administrator to apply its mind to the public participation process.

3.3.10 Additionally, the administrator failed to properly engage with the objections received by PBPS from the IAPs as more fully described in 4.4.1 and 4.4.3 below.

⁷ Further correspondence between FAHB, Oceana and the COCT can be found at <http://smelistsy.co.za/resources/>

4 THE DECISION TO RENEW THE AEL WAS UNREASONABLE

- 4.1 An administrator's decision must be reasonable with such reasonableness comprising of two elements, namely rationality and proportionality.⁸
- 4.2 In respect of rationality, there must be a rational objective basis that justifies the decision of the administrator given the evidence before them.⁹ PAJA permits judicial review of an administrator's decision where the action is not rationally connected to the information before the administrator and the reasons given for it by the administrator.¹⁰ PAJA further states that an action is irrational if it was taken where relevant considerations were not considered.¹¹
- 4.3 The administrator's decision to renew the AEL was irrational because –
 - 4.3.1 the decision was not rationally connected to the information before it, namely the numerous objections submitted to PBPS;
 - 4.3.2 it failed to substantively consider (and therefore apply its mind to) relevant information in the form of objections from IAPs; and
 - 4.3.3 it failed to give reasons for not considering certain factors in NEMAQA.
- 4.4 THE DECISION WAS NOT RATIONALLY CONNECTED TO THE INFORMATION BEFORE THE ADMINISTRATOR AND THE ADMINISTRATOR DID NOT APPLY ITS MIND TO THE RELEVANT INFORMATION

- 4.4.1 The comments and response table compiled by PBPS attached hereto as Annexure G was merely a compilation of all the objections and Oceana's generic responses to those objections. There was no engagement or thorough and substantive response from the COCT in respect of those

⁸ Cora Hoexter 'Administrative Law in South Africa' (2nd Ed.) 2013 340 - 350

⁹ Carephone (Pty) Ltd v Marcus NO 1999 (3) SA304 (LAC) at para 37.

¹⁰ Section 6(2)(f)(i) of PAJA

¹¹ Section 6(2)(c)(iii) of PAJA

objections, and Oceana's responses were taken as the final input in respect of the objections.

- 4.4.2 The responses to the objections as received from IAPs were a set of standard responses which were repeatedly copied and pasted for almost every objection received by PBPS. It is clear from the contents of Annexure G that PBPS had no intention of going beyond merely recording (as opposed to considering) the IAPs objections.
- 4.4.3 The administrator therefore failed to apply its mind to the objecting IAPs concerns, sufficiently indicate why the IAPs objections would not affect the outcome of its decision or indicate how the IAPs objections were considered.
- 4.5 THE ADMINISTRATOR FAILED TO CONSIDER RELEVANT INFORMATION
- 4.5.1 The administrator was also obliged, in terms of Section 39(b) and (c) of NEMAQA, to take into account the following when making a decision to renew Oceana's AEL –
 - 4.5.1.1 "the pollution being or likely to be caused by the carrying out of the listed activity applied for and the effect or likely effect of that pollution on the environment, including health, social conditions, economic conditions, cultural heritage and ambient air quality";¹² and
 - 4.5.1.2 "the best practicable environmental options available that could be taken – (i) to prevent, control, abate or mitigate that pollution; and (ii) to protect the environment including health, social conditions, economic conditions, cultural heritage and ambient air quality, from harm as a result of that pollution".
- 4.5.2 The COCT report giving reasons for their decision to renew Oceana's AEL previously referred to as Annexure B attached, does not address the

¹² Section 39(b) of NEMAQA

requirements in 4.5.1.1 and 4.5.1.2, save for the mention in paragraph 2.5 of the letter, of Oceana's efforts in installing a 'Chemical scrubber' which is described in the report as one of "the best odour abatement technologies available", without any further substantiation. The absence of any reasons given referencing the IAPs objections in respect of the aforementioned paragraphs is sufficient to categorize the decision made to renew the AEL as irrational in terms of PAJA and the Common Law.

4.5.3

In paragraph 2.8 of Annexure B, the COCT in response to IAPs objections that the air pollution caused by Oceana negatively impacts the Hout Bay economy, the COCT alleges that it is the duty of IAPs to gather and provide statistical evidence proving such negative impact. This request is wholly unreasonable given that it is the Government, not citizens' duty to conduct empirical socio-economic research. This response is also an admission by the COCT that it did not have the relevant information pertaining to the objections to adequately address such objections. The COCT thus admit that they took a decision without considering relevant information and without conducting the necessary research to obtain relevant information pertaining to the IAPs concerns in respect of the Hout Bay economy.

4.5.4

Additionally, the COCT failed to recognise that the submissions made by FAHB during the public participation process reflected the concerns of 627 of its members, yet it was considered a single stakeholder, thus justifying the marginalisation of the concerns raised by FAHB to the COCT during the notice and comment procedure.

4.5.5

In conclusion, the COCT failed to have plausible answers for serious objections from IAPs nor did it have plausible reasons for disregarding serious alternatives to the final decision made.¹³

¹³ Etienne Murenik 'Reconsidering Review: Participation and Accountability' in TW Bennet et al (eds) *Administrative Law Reform* (1993) 35 at 41.

5 CONCLUSION

5.1 FAHB is aware of the various interests that need to be balanced in determining whether Oceana's AEL license be renewed. Our concern however, is that the decision to renew the AEL was taken in absence of an adequate and fair public participation process which should have thoroughly engaged all IAPs and stakeholders.

5.2 The decision to renew the AEL was irrational and therefore unreasonable because the COCT failed to apply its mind to the information before it, namely objections received via the notice and comment procedure. Additionally the COCT failed to take into account relevant considerations and information before making the decision.

5.3 On the grounds that Oceana's AEL was renewed in the absence of an adequate and fair public participation process, and that the decision to renew was unreasonable under PAJA, such decision to renew is void.

5.4 FAHB defines an adequate and fair public participation process as encompassing -

5.4.1 the opportunity by IAPs to make written representations that are fully engaged with by both the COCT and Oceana;

5.4.2 the holding of community meetings, pursuant to the published notices, involving IAPs, Oceana and the COCT.

5.4.3 the publication of a written report from the COCT 30 days prior to making a decision to renew Oceana's AEL, detailing its findings from written submissions and community meetings.

5.5 The crux of the tensions between IAPs, Oceana and the COCT is a lack of engagement between these three stakeholders during the ordinary course of business. FAHB expects that the outcome of an adequate and fair public participation process will result in the renewal of Oceana's AEL subject to more stringent conditions, including but not limited to -

5.5.1 the appointment of an Emission Controls Officer at Oceana, as described in Section 48 of NEM:AQA;

5.5.2 the establishment of a 24 hour internet based, online complaints mechanism, whereby IAPs can submit complaints to Oceana who will be obligated to address, provide substantive feedback to the complainant and if required rectify the cause of complaint; and provide proof thereof, and an online notification system that notifies IAPs of when Oceana will be in production;

5.5.3 the compilation by Oceana of an Atmospheric Impact Report as described in Section 30 of NEM:AQA and the Regulations prescribing the format of the Atmospheric Impact Reports (Government Gazette No. 36904), twice annually. Such Atmospheric Impact Report should be publicly available in various forums, electronically and as a hard copy.

5.5.4 COCT to undertake quarterly inspections of Oceana and produces a publicly available report recording Oceana's emissions and condition of Oceana's abatement infrastructure.

5.6 Wherefore we pray for an order in the following terms:

5.6.1 That the decision by the COCT to renew Oceana's AEL be revoked; and

5.6.2 That Oceana's AEL licence renewal application be restarted, with an adequate and fair public participation process.

Please do not hesitate to contact us should you require further information.

Kiara Worth

Kiara Worth

Facilitator: Fresh Air for Hout Bay
www.smellsfishy.co.za
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072-283-7590

Mbete mum on decision

'Speaker will decide before the debate on the motion of confidence on August 8'

Siyabonga Mkhwanazi

SPEAKER Baleka Mbete has told parties in Parliament they will know of her decision on whether or not to allow a secret or open ballot before August 8. This will be the day when Parliament votes on the motion of no confidence in President Jacob Zuma.

The motion was postponed on April 18 after opposition parties won in the Constitutional Court to establish whether Mbete

had the power to order a secret ballot.

Yesterday, Mbete confirmed that nine of the 12 parties in Parliament provided reasons for the secret ballot.

This followed calls by Mbete that parties must supply her with reasons why they wanted a secret ballot.

Parliament's spokesperson, Moloto Moshale said: "The Speaker has expressed her appreciation to the parties for their submissions which, considered together with a host of other factors, will assist her towards making her decision on the appropriate voting procedure." The Speaker will

To comment on this story email argus@inl.co.za or send a SMS to 32 027 (SMS costs R1) Provide your physical address and phone number (not for publication).

make her decision before the scheduled debate on the motion of no confidence in the president on August 8, he said.

The UDM took Mbete and Zuma to the Constitutional Court on the issue of allowing a secret ballot.

This came after opposition parties said there were ANC MPs who were willing to back them on the motion of no confidence.

This was provided that the voting was conducted through a secret ballot.

ANC MP and chairperson of the portfolio committee on public service and administration Makhosi Khoza has written to the Speaker calling for a secret ballot.

At the weekend Khoza said she had received death threats and had reported the matter to the police, but no action has been taken. She was one of the first ANC MPs to come out against Zuma.

During the ANC's policy conference at the beginning of the month she also spoke out in support of the secret ballot.

This was despite the ANC warning that it would discipline its MPs who do not toe the party line. Opposition parties have said there are many ANC MPs who would back them if the vote was done secretly. This would protect them from any political consequences from the ANC including losing their seats in the National Assembly.

But the ANC has said its MPs are not representing their personal interests in Parliament, but the party. It said also that opposition parties demanded a secret ballot from the ANC but did not allow this in their own constitutions.

City's underground concourse gets a facelift

Staff Reporter

THE city-owned Strand Street Concourse, a pedestrian link between Cape Town Station, St George's Mall and the Golden Acre is being given a facelift that will include a municipal hub.

During the feasibility stage, the city found that about 62 000 pedestrians a day use the underground concourse instead of crossing the busy Strand and Adderley streets.

Assets and facilities management mayor committee member Stuart Diamond said the space being used as a municipal hub of offices and pay points will not affect the pedestrian walkway.

The refit of the 1 752 m² space, which began in September and is nearing completion, will provide an overflow of office space from the Civic Centre.

The refit will include two community courts, municipal pay points, a centre management office and offices to accommodate the city's departments of social development, building development management and environmental management. For security reasons, the concourse will be closed between 10pm and 6am daily.

"Thousands of residents make their way to the city centre on a daily basis and many previously made use of the concourse as a thoroughfare."

"It therefore makes perfect sense to have municipal services available within easy reach by taking services closer to our residents," said Diamond.

"I am sure that once the revamp has been completed the pedestrians will be back in their numbers to make use of this public space again, which will be a lot more comfortable than it was before."

The six escalators have been replaced and new street-level escalator landings to provide easy access for pedestrians have been constructed, floors have been re-tiled, new shop fronts, lighting and an electrical reticulation system have been fitted, and health and safety requirements have been met.

Besides maximising commercial and office space, construction took place on a banking court to cater for ATMs of all the major banks; a municipal court with holding cells and new ablution facilities.

Pillars have been clad, building control systems and new roller shutter doors at all the entrances have been installed and the heating, ventilation and air-conditioning system have all been upgraded, said Diamond.



UNDER CONSTRUCTION: The Strand Street Concourse is being revamped.

PICTURES: CITY OF CAPE TOWN



BEFORE: How the concourse looked a few years ago. Sixty-two thousand pedestrians make use of the underground walkway every day.

SACP warns against accepting Gupta donations

THE SACP's 14th congress resolution to contest elections has cautioned members not to accept donations from the controversial, politically-connected Gupta family.

SACP general secretary Blade Nzimande said members should take responsibility for their resolutions and become fund-raisers for the party.

"Let us not come here, sing about state power, take resolutions, and then go sit back and not fund-raise for the SACP."

"Every party cadre is a fund-raiser... we have been poor for too long, there is no reason why we should continue to be poor," Nzimande told delegates during his closing remarks at the congress in Boksburg.

"But please, cadres, do not take money from the Guptas... we do not want it."

"It will bring us bad luck. Do not take dirty money... go and fund-raise legitimately from our country's workers, especially, and many other people who are sympathetic to us," he said.

Nzimande said a "roadmap" would be developed and consultations done widely, including within the tripartite alliance, on how to proceed on the elections decision.

The party had been mulling contesting elections on the socialism ticket, but its congress could not come up with a timeline on how to plan for elections. The SACP has been vocal in criticising the ANC and President Jacob Zuma's leadership. - ANA

NOTICE OF RENEWAL AND VARIATION OF ATMOSPHERIC EMISSION LICENCE FOR LUCKY STAR LIMITED IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 2004 (ACT 39 OF 2004)

CoCT AEL Reference Number: WGGT059

Application: Renewal and Variation of Lucky Star Limited Atmospheric Emissions Licence in terms of Section 47 of the National Environmental Management Act, 2004 (Act 39 of 2004)

Applicant: LUCKY STAR LIMITED

Location: Lot 14, Lucky Star Hout Bay Fisheries Factory, Hout Bay Harbour

This Renewal and Variation (to permit the use of biomass in the production process) application relates to the following Listed Activities as published in terms of Section 21 of the National Environmental Management Act, 2004 (Act 39 of 2004):

Listed Activity	Category of Listed Activity	Sub-category of Listed Activity
10	Animal Matter Processing	10

Public registration and commenting period:

The public is hereby notified that an application, in terms of Section 45 & 47 of the National Environmental Management Act, 2004 (Act 39 of 2004), has been submitted to the City of Cape Town: Air Quality Management for the renewal and variation of the Atmospheric Emission Licence for LUCKY STAR LIMITED.

All persons who wish to register as an Interested and / or Affected Party (IAP) in order to comment on the renewal and variation of the Atmospheric Emission Licence for LUCKY STAR LIMITED must contact the EAP Mische Mofe to log their views with the above reference number, name and contact details, preferred method of contact and an indication of any direct business, financial, personal or any other interest they may have regarding the application. A digital copy of the application form for renewal and variation will be available for review on the website, as indicated below. The commenting period will commence on 16 July 2017 and close on 17 August 2017.

Please submit any issues of concern or interest in the matter on or before Thursday 17 August 2017 by 17:00 by contacting the EAP as listed below:

Mische Mofe
Project Coordinator Professional Services
Tel: 081 571 9269
Email: mische@pmps.co.za
Website: www.pmps.co.za

Plumbing and Electrical

Showcase Leading Plumbers and Electricians in the Weekend Argus on 29/30 July 2017

All plumbing specialists offering general plumbing work, drain cleaning, repairs to burst pipes and taps, geyser repairs, thermostat replacements etc. are invited to participate.

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Call: 083 946 0428
Email: irma.debique@inl.co.za

ANC top 6 in W Cape to 'reclaim' it

Rusana Philander

THE TOP six officials of the ANC national working committee and President Jacob Zuma were in the province over the weekend, to look at the building of the party's branches and reclaim the Western Cape.

National ANC spokesperson Zizi Kodesa said yesterday: "The ANC's national working committee's top officials are in the Western Cape as part of building the organisation."

"The policy conference has resolved we must build the party's structures. And reclaim the Western Cape. Our presence will help to strengthen the ANC."

The ANC in Western Cape has been embroiled in infighting.

Recently the leadership of the Dullah Omar region, which includes Cape Town metropole, was disbanded.

This was followed by a press conference, held by the leadership structure, during which they opposed the dissolution. Later the ANC's PEC announced the disbandment, citing as reasons the results of the last local government elections.

A new regional task team was then appointed to deal with the party's administration.

ANC provincial secretary Faiz Jacobs said last night that the meetings were still happening with the national working committee.

He said a press conference would be held today or tomorrow on the outcome of the meetings.

DA wants SAA forensic reports

DEPUTY Finance Minister Sifiso Buthelezi has five days to fulfil his promise to hand over the SAA forensic reports, the DA said.

Revelations in the media that SAA renewed R4.5 billion in tenders without following proper procedure were

only the tip of the iceberg, DA spokesperson Aif Lee said. The DA had submitted a Promotion of Access to Information Act request to the Treasury, which was rejected.

"It is only when we know the full extent of the rot that we fix it," - ANA

It's EnviroQuiz time

ANDREW BENNETT

It's that time of year when the Thrive Sustainable Schools programme gives us an opportunity to think about our environment with the annual EnviroQuiz competition.

Founded in 2007, Thrive is a Hout Bay organisation uniting communities through awareness events and action projects that encourages everyone to see waste as a valuable resource, grow local food and vegetables, take care of water and biodiversity, and use energy solutions that work in harmony with nature.

Aimed at both primary and high schools, the programme has an exciting curriculum including eco clubs, membership, audits, food gardening and, of course, the EnviroQuiz and EnviroArt competition.

Since 2009 Thrive has partnered with Sentinel News to organise the competition, helping to energise Hout Bay schools and the whole community to be more environmentally aware and

responsible.

Year on year the competition has been growing with invitations now also extended to schools outside of Hout Bay. Twenty-five schools from across the peninsula have entered the 2017 competition so far – a record number. They will compete for prizes valued at R16 000.

Each year the Thrive EnviroQuiz takes a different theme. In 2016 the focus was water – a good thing considering the water supply crisis Cape Town is currently experiencing – and this year the theme is energy and transport.

Look out for five EnviroQuiz articles to be published in the Sentinel News over the coming weeks exploring energy use for a more sustainable planet. Each article will include a fun Q&A from which, importantly, competition questions for the EnviroQuiz will be drawn.

If you miss or don't get a copy of Sentinel News, the full articles with study material will be made available on the Thrive website at www.thrive.org.za.



School teams participating in the 2016 Thrive EnviroQuiz eagerly await quiz master Andy Le May's next question.

The author of this year's articles is Andy Le May, a local clean transport and clean energy expert, and founder of Ekizz.

The 2017 Thrive EnviroQuiz competition takes place on Friday September 8 at Kronendal Primary School and all schools in the Cape Peninsula are invited to participate. Entry is free and teams can register by emailing

enviroquizart@thrive.org.za by Monday August 7. Places are limited and schools may enter no more than two teams (four pupils a team).

For the EnviroArt competition, schools are invited to create a three-dimensional educational wall piece made from recycled materials only. This wall piece should promote awareness of issues around energy and trans-

portation. The judges, artists Lisa Glassens and Mambakwedra Mutasa, would like to see learners thinking deeply on these issues and explore creative ways to share their findings with their fellow learners.

Look out for the first of five Thrive EnviroQuiz Energy and Transport articles next week.

NOTICE OF RENEWAL AND VARIATION OF ATMOSPHERIC EMISSIONS LICENCE FOR LUCKY STAR LIMITED IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004 (ACT 39 OF 2004)

CoCT AEL Reference Number: WUCT059

Application: Renewal and Variation of Lucky Star Limited Atmospheric Emissions Licence in terms of Section 47 of the National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004)

Applicant: LUCKY STAR LIMITED

Location: Lot 14, Lucky Star Hout Bay Fishmeal Factory, Hout Bay Harbour

This Renewal and Variation (to permit the use of formalin in the production process) application relates to the following Listed Activities as published in terms of Section 21 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004).

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10	Animal matter Processing	10

Public registration and commenting period:

The public is hereby notified that an application, in terms Section 46 & 47 of the National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004), has been submitted to the City of Cape Town: Air Quality Management for the renewal and variation of the Atmospheric Emissions Licence for LUCKY STAR LIMITED.

All persons who wish to register as an interested and / or Affected Party (I/AAP) in order to comment on the renewal and variation of the Atmospheric Emissions Licence for LUCKY STAR LIMITED must contact the EAP Mische Molife together with the above reference number, name and contact details, preferred method of contact and an indication of any direct business, financial, personal or any other interest you may have regarding the application. A digital copy of the application form for renewal and variation will be available for review on the website, as indicated below. The commenting period commenced on 18 July 2017 and close on 17 August 2017.

Please submit any issues of concern or interest in the matter on or before Wednesday 17 August 2017 by 17:00 by contacting the EAP as listed below:

Mische Molife

Pieter Badenhorst Professional Services

Tel: 081 371 9259

Email: mische@pbps.co.za

Website: www.pbps.co.za

Hearty and healthy



Sally Strawberry and Benny Banana from The Goodness Gang came to visit First Friends Playschool in Hout Bay last week. The children were treated to a fun morning and were taught about the healthy fruit and vegetables.

"There have been improvements: Houses were built and there were more job opportunities for our youth. A lot of changes took place in the community."

— Elaine Bruiners, Scottsdene



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More people have hope of finding a job here than anywhere else in the country. Job-seekers will soon be able to ride for free on MyCiti buses (between 18h00 & 15h30 on weekdays).

Whilst only the national government controls the SAPS, our local Metro Police are doing what they can to keep us safe. They confiscate ten times more drugs and make six times more arrests than the last ANC-led government.

MAKING IT EASIER

Set your sights on university

Francesca Villette

THE Department of Basic Education plans to enable more pupils to make it to university by 2019, and beyond.

This is according to Basic Education Minister Angie Motshekga.

She was delivering the keynote address at a roundtable discussion under the banner "Schools that Work II - Lessons from the Ground".

Motshekga said the National Education Evaluation and Development Unit (Nedud) had studied top-performing schools based on criteria including that the schools had a pass rate of 85% or above in the past four years, and 100 or more candidates participated in the 2016 National Senior Certificate examinations.

Their operations would be used as a yardstick for struggling schools, increase the number of Grade 12s who become eligible for a bachelor's programme at university, increase the number of matriculants who pass mathematics, and increase the number of Grade 12 pupils who pass physical science, said Motshekga.

The discussion was attended by education MECs, and provincial heads of department.

"In the educational marathon South Africa is making progress," she said.

This can be seen by the results of such international studies as the Trends in International Mathematics and Science Study (TIMSS).

and the Southern and East African Consortium for Monitoring Educational Quality (SACMEQ) which show that the performance of South African learners is on an upward trajectory.

"Another indicator of the progress in the educational marathon is the fact that in the past two years quintile 1, 2 and 3 schools are now producing more bachelor degrees than ever before, although statistically more bachelor degrees are produced in quintile 4 and 5 schools," Motshekga said.

In January, she announced that the pass rate increased from 70.7% in 2015 to 72.5% in 2016.

A total of 8 676 pupils got distinctions for maths, and 7 646 obtained distinctions in physical science.

The Western Cape achieved the highest percentage - at 40.5% - of passes in the country with access to bachelor degree studies.

Provincial education spokesperson Paddy Attwell said the province was implementing a comprehensive strategy to support teaching and learning in physical sciences in all grades. "Special support for matrics this year includes Winter Schools during the July holidays."

Passes with access to bachelor degree studies were 18 251 (28.8%) in 2015; 22 328 (31.7%) in 2016; and 20 891 (30.9%) in 2016. In the province 77% of matrics passed maths last year, and 74% passed physical science.

francesca.villette@inl.co.za



CHAMPION CANOEISTS: Following four days of hard racing, the men's winners, from left, Petr Mojžiš, placed 3rd, Adrian Boros, 1st, and SA's Graeme Solomon, 2nd, congratulate each other while still on the water. The Berg River Canoe Marathon finished in Veldrif on Saturday. Picture: JOHN HISHIN

Hungary's Boros makes Marathon history

Sarah Andersen

SOUTH AFRICAN woman paddler Ilana Beavitt clinched her third consecutive title at the Berg River Canoe Marathon while, in the men's race, Hungarian champion Adrian Boros made history by becoming the first international star to win the four-day event.

The ladies race was marked by the performance of Century City Pink Lady's Beavitt who was in the lead in front of Kirsten Penderis and Robyn Henderson from the start in Paarl last Wednesday until the

finish on Saturday.

Along with her third consecutive Berg River Canoe Marathon title, Beavitt was awarded her 12th consecutive stage win.

"I don't think the win has quite sunk in yet, but it is always a pleasure to get to the end. If you had asked me if I would do one Berg five years ago I would have said 'never'."

"But I am here; I don't think I have learned my lesson," she said.

The famous four-day race was critically affected by the current water shortages and

was confirmed to be the lowest-level Berg River Canoe Marathon since 1973.

The competitors had to contend with shallow water, making the 24km of the chase difficult for all the paddlers.

In the men's category, the Hungarian champion Boros became the first international star to win the four-day marathon.

Making the most of a 3-minute, 20-second advantage in the final stage, Boros won an enthralling end sprint win over South African paddler Graeme Solomon to claim the

overall victory.

"When Solomon made that one mistake on the second day, I was able to capitalise and I managed to keep that advantage all the way to the end," said Boros.

The European star also took advantage of his opponent's weight that made Solomon less powerful in shallow water.

Although Solomon's persistence paid off with a second-place finish, the paddler remained positive.

"I finished fifth in the last two Bergs so I thought my

podium days might be over, but it's great to be sharing the podium with guys like Adrian and Petr," said the 41-year-old paddler.

"I feel good that I was able to compete with guys that are nearly half my age!" he added.

The Czech Petr Molisek ended up third on the podium.

Taking third in the Under-23 age category was Mpilo Zondi after four days of solid paddling. The Under-18 age category was a one-sided affair with the young Mvelo Ngidi finishing 10th overall.

Learning through natural habitat

Ngawodwa Bomela
Nozizigile Ndebele
Lena Perenchio
Rock Girls

MONDAY, July 16 marked the start of Rock Girls holiday camp with Cape Leopard Trust. Throughout the course of the week, we rock girls immersed ourselves in nature by hiking and visiting conservation sites.

Each day we learnt about the importance of nature and the environment we live in, as well as about ourselves.

On the first day we explored a set of small caves that had a stunning view of Maitsheng beach. Here, we learnt about fynbos, which is an indigenous plant that makes up 80% of the floral kingdom in the Western Cape. This plant species is known for its exceptional degree of biodiversity and endemism.

On the second day, we hiked to a waterfall where we learnt about plant and animal species which reside in river environments. After our hike we visited the beach to understand how fresh water runs into salt water.

On our third day, we visited Intaka Island, which is a 10ha wetlands and bird sanctuary. The focus of Intaka is to conserve a rare and threatened type of vegetation as well as provide a healthy habitat for birds.

As rock girls, we want to do anything we can to help conserve the environment as we need it more than it needs us and hope to encourage everyone else to do the same.

Stepping out to put a stop to abuse

Quinton Mtyala

HE HAS set off on a month-long journey of 1 267km from Cape Town to his native Makheng (in North West Province) by foot to raise awareness and educate men about taking responsibility to stop the abuse of women and children.

Bar his participation some years ago in the Two Oceans Marathon, Thabo Molosankwe says he has never undertaken such an arduous physical task.

"I would like to talk to as many men as I can and tell them that they should be a part of their sons' lives. The main focus is to raise your sons properly so that they don't end up being drug users, jailbirds or (physical) abusers," said Molosankwe.

A community activist, he

said most abusers were bitter and often expressed their bitterness by abusing the weakest people close to them, which were often women and children.

Molosankwe said apart from education, another aspect of his walk was to raise funds towards the construction of a multipurpose centre in his home village of Lemanyaneng. "We're trying to raise R5 million so we can build a centre where we can look after the children, we can advance their education. We can direct their lives. Unfortunately, the government in the North West is not supportive at all," said Molosankwe.

He said the walk is a practice run of sorts for a walk next year that he wants to undertake from Cape Town to Cairo.



KEEN: Thabo Molosankwe's walking from Cape Town to Makheng to raise funds for the fight against women and child abuse.

"Before you do Cape to Cairo you have to see your ability by doing small walks, like Makheng to Joburg. Because of the increased statistics

of women and child abuse, I decided to do Cape Town to Makheng to gauge my ability," said Molosankwe.

While he had no itinerary of events planned along the route of his walk, he said his team in Makheng, who were also activists, were busy preparing for his arrival expected some time in mid-August.

"In Kimberley we have Father Kabelo Mahemo, who is organising my arrival there," said Molosankwe.

His old friend Advice Lelwani, who arranged logistics in Cape Town, said a non-profit organisation, Bagagahle, had similar initiatives to deal with women and child abuse.

Readers can follow Molosankwe's progress on Thabo Molosankwe Charity Foundation's Facebook page.

Kudos for student film on rape culture

Byron Lukas

A DOCUMENTARY highlighting the efforts of a group of Rhodes University students to stand up against rape culture on their campus has received international recognition.

"DISRUPT" a self-made student documentary produced by the students of the news organisation Active, based at Rhodes University, has been invited to the International Images Film Festival (IIF) for Women in Harare, Zimbabwe.

Active, a student-run organisation, has championed various different types of media to entertain and to inform the student body.

"It is a good opportunity for Journalism, English, or other students to practise their writing, filming, or storytelling skills," said Michael Dordane, director of the documentary who is a former student at Rhodes University.

The film documents a protest on the university campus in April last year against rape culture and features interviews of the students and staff body, footage from the two weeks of protest.

The International Images Film Festival takes place from August 25 to September 2 and has been running for the past 16 years.

In 2016 the documentary won the Silver Award for Best Documentary at the Rhodes University International Human Rights Film Festival in Arkansas, US. It has also been screened at various international film festivals around the world.

"I am thrilled that the film has been invited to the IIF. The protests ended a year ago yet rape culture is unrelenting and a problem all over the world and thus still relevant," Dordane said.

NOTICE OF RENEWAL AND VARIATION OF ATMOSPHERIC EMISSION LICENCE FOR LUCKY STAR LIMITED IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004 (ACT 39 OF 2004)

CECT AEL Reference Number: WCT0266

Application: Renewal and Variation of Lucky Star Limited Atmospheric Emissions Licence in terms of Section 47 of the National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004)

Applicant: LUCKY STAR LIMITED

Location: Lot 14, Lucky Star Hout Bay Fishmeal Factory, Hout Bay Harbour

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10	Animal matter Processing	10

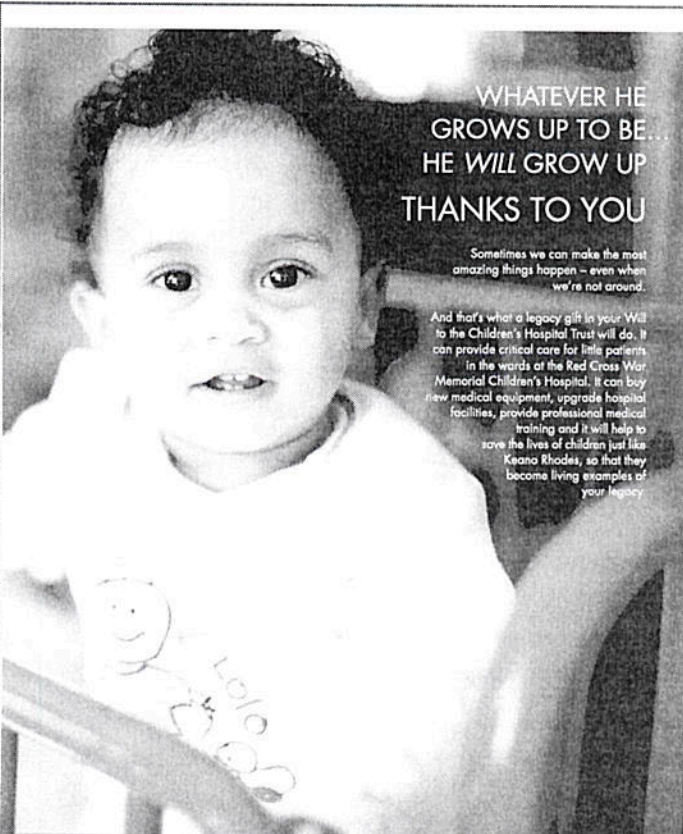
Public registration and commenting period:

The public is hereby notified that an application, in terms of Section 46 & 47 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), has been submitted to the City of Cape Town, Air Quality Management for the renewal and variation of the Atmospheric Emission Licence for LUCKY STAR LIMITED.

At persons who wish to register as an interested and / or affected party (IAP) in order to comment on the renewal and variation of the Atmospheric Emission Licence for LUCKY STAR LIMITED must contact the EAP Mische Mofe together with the above reference number, name and contact details, preferred method of contact and an indication of any direct business, financial, personal or any other interest you may have regarding the application. A digital copy of the application form for renewal and variation will be available for comment on the website, as indicated below. The commenting period will commence on 18 July 2017 and close on 17 August 2017.

Flaxie: submit any issues of concern or interest in the matter on or before Thursday 18 August 2017 by 17:00 by contacting the EAP as listed below.

Mische Mofe
Public Relations Professional Services
Tel: 081 371 8289
Email: mische@pops.co.za
Website: www.pops.co.za



WHATEVER HE GROWS UP TO BE... HE WILL GROW UP THANKS TO YOU

Sometimes we can make the most amazing things happen - even when we're not around.

And that's what a legacy gift is your Will to the Children's Hospital Trust will do. It can provide critical care for little patients in the words of the Red Cross War Memorial Children's Hospital. It can buy new medical equipment, upgrade hospital facilities, provide professional medical training and it will help to save the lives of children just like Keano Rhodes, so that they become living examples of your legacy.



Join our Circle of Life. Leave a legacy for the children at the Red Cross War Memorial Children's Hospital by making the Children's Hospital Trust a beneficiary in your Will. Call +27 21 686 7800 or visit www.childrenshospitaltrust.org.za

Member of the Red Cross War Memorial Children's Hospital Trust. No fee payable. The Children's Hospital Trust is a registered charity, 100% not-for-profit.





DATE:

25 January 2018

REF:

AEL Reference Number: WCCT059

Dear Interested and Affected Party:

THE RENEWAL AND VARIATION OF ATMOSPHERIC EMISSION LICENCE FOR LUCKY STAR LIMITED IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004 (ACT 39 OF 2004)

This letter serves to inform you that the Atmospheric Emission Licence (AEL) for this project was issued on 24 January 2018 [see **Appendix A for the letter granting the decision**]. The **Atmospheric Emission Licence was granted**.

Page 4 (Legal Implication) of the AEL requests as follows:

In line with the Promotion of Administrative Justice Act, 2000 (Act NO.3 of 2000), the decision to grant the Variation and Renewal of the AEL to Lucky star Ltd, to operate in terms of Section 40(4) (b) of NEM:AQA, the applicant, through the appointed Environmental Assessment Practitioner, must notify any persons who have objected to the application. In order to ensure that all interested and affected parties (I&AP's) are informed of the decision, the notification must be placed in the same newspapers that were used during the public participation process.

In addition, the applicant must also notify I&AP's in writing of the appeal provisions contained in Section 62 of the Municipal Systems Act. **[This letter serves as notice]-**

Section 62 of the Municipal Systems Act states the following:

62 Appeals

- (1) A person whose rights are affected by a decision taken by a political structure, political office bearer, councillor or staff member of a municipality in terms of a power or duty delegated or sub-delegated by a delegating authority to the political structure, political office bearer, councillor or staff member, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (4) When the appeal is against a decision taken by
 - (a) a staff member other than the municipal manager, the municipal manager is the appeal authority;
 - (b) the municipal manager, the executive committee or executive mayor is the appeal authority, or, if the municipality does not have an executive committee or executive mayor, the council of the municipality is the appeal authority; or
 - (c) a political structure or political office bearer, or a councillor
 - (i) the municipal council is the appeal authority where the council comprises less than 15 councillors; or
 - (ii) a committee of councillors who were not involved in the decision and appointed by the municipal council for this purpose is the appeal authority where the council comprises more than 14 councillors.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.
- (6) The provisions of this section do not detract from any appropriate appeal procedure provided for in any other applicable law.

Should you wish to appeal any aspect of the decision to grant the Atmospheric Emission Licence, a written notice of intention to appeal with reasons, must be lodged in terms of Section 62 of the Municipal Systems Act (Act No. 32 of 2000) to the City Manager within 21 days from the date of receipt of notice of the issuing of this licence.

Post: The City Manager
P.O. Box 298
Cape Town
8000

Should you have any queries please do not hesitate to contact me.
Yours sincerely,



Mische Molife
Environmental Assessment Practitioner
Pieter Badenhorst Professional Services
Cell: 081 371 9289
Fax: 086 672 1916
Email: mische@pbps.co.za
P. O. Box 1058
Wellington
7654
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Appendix A: Letter from CoCT granting the AEL



CITY OF CAPE TOWN
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STAD KAAPSTAD

CITY HEALTH
SPECIALISED ENVIRONMENTAL HEALTH
AIR QUALITY MANAGEMENT UNIT

Phumela Hoza
Senior Air Quality Practitioner

T: 021 – 590 5214 F: 021 – 590 5215
E: PhumelaHoza@capetown.gov.za
Ref: WCCT 059

24 January 2017

Lucky Star Limited
9th Floor, Oceana House
25 Jan Smuts Avenue, Foreshore
CAPE TOWN
8000

For Attention: Mr Suleiman Salie

Dear Sir,

Re: DECISION TO GRANT RENEWAL AND VARIATION OF ATMOSPHERIC EMISSION LICENCE AS CONTEMPLATED IN SECTIONS 46 AND 47, READ WITH SECTION 40 (1) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, (ACT NO. 39 OF 2004): LUCKY STAR LIMITED, HOUT BAY

The application for renewal and variation of your Atmospheric Emission Licence in terms of Sections 46 and 47 of the National Environmental Management: Air Quality Act, 2004, (Act No. 39 of 2004) ("the Act") dated 31 October 2017 refers:

1. DECISION

As the delegated Licencing Authority Air Quality Officer, I have considered your application form submission; public participation report and supporting documents, which included a Formalin Atmospheric Impact Report for the introduction of Formalin (Formaldehyde) to the fish rendering process; annual reports; compliance history, as well as your previously submitted Health Risk Assessment report, that was submitted as part of the review of your Atmospheric Emission Licence during 2017. Accordingly I have decided to grant your application for renewal and variation, to LUCKY STAR LIMITED, in terms of sections 46 and 47, read with Section 40 (1) of the National Environmental Management: Air Quality Act, (Act No. 39 of 2004), in respect of Listed Activity:

Category 10:	Animal Matter Processing
Sub-category:	N/A
Description:	Processes for the rendering cooking, drying, dehydrating, digesting, evaporating or protein concentrating of any animal matter not intended for human consumption.
Application:	All installations handling more than 1 ton of raw materials per day.

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2. REASONS FOR DECISION

This decision to grant the application for renewal and variation of the Atmospheric Emission Licence was influenced by the following:

2.1 The Public Participation Process:

The Public Participation Process was conducted in terms of Section 38 of NEM: AQA, as amended and comprised of the following:

The placement of adverts in the Cape Times and Cape Argus on Monday 17 July 2017 and in the Sentinel on Friday 28 July 2017, notifying interested and affected parties (I&AP's) of the proposed renewal and variation of the AEL for Lucky Star Limited and of the opportunity to register for the public participation process as well as to provide comment.

The PPP report indicated that comments were received from 105 respondents that were divided as follows:

- 1) The number of respondents who objected to the application was 44 in total.
- 2) Respondents in favour or in acceptance of the application were 50 in total.
- 3) The outcome of a Petition that was submitted contained a total of 665 signatures that were in full support of the facility.
- 4) Previous Petitions were undertaken on the 25th August 2015 which contained a total of 1204 signatures which were received that were against the closure of the facility.

The comments were categorised into those in support of the application; those against the application; and those whose comments were considered to be neutral by the Environmental Assessment Practitioner (EAP).

2.2 The Formalin Atmospheric Impact Report conducted by DDA Environmental Engineers dated October 2017, Ref No OHBF1710R01:

Detailed information contained in the Specialist Atmospheric Impact Study on the impact and risk of the introduction of Formalin (Formaldehyde), as conducted by DDA Environmental Engineers. The report demonstrated that the generally accepted carcinogen risk to the community for the introduction of Formalin (Formaldehyde) to the process, as a result of a worst case scenario, lifetime exposure to Formalin, was less than the ratio of 1:1000 000, in that the risk was calculated at 0.4 : 1000 000, which was described as insignificant; this is coupled with fact that the beneficial impact of the use of formalin will potentially result in a reduction in odour emissions and the improved recovery of fish solids from the rendering process as a direct result of its use.

It is further noted that Formalin was previously used on site up until 2011 without incident or any known health impacts.

It was further noted that a Health Risk Assessment conducted of the West Coast Fishing Industry, by Infotox (Pty) Ltd. – Environmental Toxicologists, on behalf of the National Department of Environmental Affairs back in 2011, where the use of formalin was assessed, found that the carcinogen risk from the use of formalin was in the "De Minimis" range, further supporting the approval of its reintroduction to the process.

2.3 The Annual Report dated 30 November 2017.

2.4 The compliance history of the facility:

A full compliance inspection conducted by Environmental Management Inspectors from the City of Cape Town of the Lucky Star Hout Bay factory held on the 2nd of November 2017, showed that the premises is in compliance with the Atmospheric Emission Licence.

2.5 The installation of a new, large capacity Chemical scrubber:

- Lucky Star commissioned at great cost, a new, high capacity chemical scrubber on the 7th of July 2017.
- Lucky Star has demonstrated and proven the efficiency of the scrubber in reducing H₂S from 5mg/NM³ at the scrubber inlet to 2mg/NM³ at the scrubber outlet to atmosphere.

The odour abatement technologies installed at the factory constitute best available technology.

2.6 National Environmental Management Air Quality Act, Act 39 of 2005. Listing Notice 893 of 2013: Category 10 Animal Matter Processing - Minimum Emission Standards:

It was further considered that the National Minister of Environmental Affairs has not deemed it necessary to identify specific pollutants, or prescribe minimum emission standards for pollutants from Animal Matter Processing facilities in the said Listing Notice.

2.7 Submission of annual stack emissions testing report also conducted by DDA Environmental Engineers:

- Compliance with the Minimum Emission Standards for the Declared Controlled Emitter Small Boilers on-site as demonstrated in the annual stack emission monitoring report Reference No LSEM 191017-R01 dated October 2017.
- Compliance with the recommended Hydrogen Sulphide (H₂S) emission rate at the Chemical Scrubber stack outlet of below 5mg/NM³ in that 2mg/NM³ was achieved at the scrubber outlet to atmosphere.

2.8 Socio-Economic impact of the facility:

Positive Impacts: Lucky Star plays a significant role in the local economy of Hout Bay through the direct jobs created for the employees of the factory and indirectly through the benefits to the dependants of each of the 91 employees and; local contractors and suppliers; to the local community and schools in the area through their Corporate Social Investment Programmes; and on the economy of the Region through its product exports.

Negative Impacts: Some stakeholders have alleged that Lucky Star is impacting negatively on the economy of Hout Bay through the impacts on the Tourism, the Hospitality and Restaurant trade, as a result of the malodorous emissions. No proven statistical evidence was submitted in this regard.

In assessing these impacts, it is however also necessary to weigh up the potential impacts on the poorest section of the Hout Bay area if it was decided to refuse this application.

This section of the community does not have the same level of resilience as the broader more affluent community, who have more resources and options at their disposal to address their living circumstances.

The fact that this factory has been in existence at its present location since the mid 1960's is also taken into consideration. In spite of the nuisance odour it potentially generates, Hout Bay's more affluent areas continue to develop in all the more closer proximity to the Factory.

LEGAL IMPLICATIONS

The Atmospheric Emission Licence is to be issued subject to the conditions of authorisation and requirements to be set out in the Atmospheric Emission Licence and which will be binding on the holder of the Atmospheric Emission Licence, namely Lucky Star Limited ("the holder").

In line with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), the decision to grant the Variation and Renewal of the AEL to Lucky Star Ltd, to operate in terms of Section 40(4) (b) of NEM:AQA, the applicant, through the appointed Environmental Assessment Practitioner, must notify any persons who have objected to the application. In order to ensure that all interested and affected parties (I&AP's) are informed of the decision, the notification must be placed in the same newspapers that were used during the public participation process.

In addition, the applicant must also notify I&AP's in writing of the appeal provisions contained in Section 62 of the Municipal Systems Act.

APPEALS

Should the applicant or an I&AP wish to appeal any aspect of the decision to grant the Atmospheric Emission Licence, a written notice of intention to appeal with reasons, must be lodged in terms of Section 62 of the Municipal Systems Act (Act No. 32 of 2000) to the City Manager within 21 days from the date of receipt of notice of the issuing of this licence.

Post: The City Manager
P.O. Box 298
Cape Town
8000

Yours faithfully,



CITY OF CAPE TOWN: AIR QUALITY OFFICER



CITY OF CAPE TOWN
ISIXEKO SASAKAPA
STAD KAAPSTAD

CITY HEALTH
SPECIALISED ENVIRONMENTAL HEALTH
AIR QUALITY MANAGEMENT UNIT

Phumela Haza
Senior Air Quality Practitioner

T 021 - 593 5214 F 021 - 350 5215
E Phumela.Haza@capetown.gov.za
Ref: WCC039

24 January 2017

Lucky Star Limited
9th Floor, Ocean House
25 Jan Smuts Avenue, Foreshore
CAPE TOWN
8000

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CONTAINED IN SECTIONS 46 AND 47, READ WITH SECTION 40 (1) OF THE NATIONAL
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