

No. 1013

14 October 2005

MARINE LIVING RESOURCES ACT NO. 18 OF 1998**PROPOSED DECLARATION OF THREE MARINE PROTECTED AREAS IN
THE BORDER REGION UNDER SECTION 43 OF THE MARINE LIVING
RESOURCES ACT, 18 OF 1998**

I, Marthinus van Schalkwyk, the Minister of Environmental Affairs and ~~Tourism~~, hereby give notice of my intention to declare three Marine Protected Areas in the Border region in terms of section 43 of the Marine Living Resources Act, 18 of 1998 ("the Act") and to prescribe management and protection measures for these in terms of section 77(2)(x)(i) of the Act as set out in the Regulations in the Schedule, **below**.

Members of the public are hereby invited to submit written comment on the proposed Marine Protected Areas. The draft documents are also available at www.deat.gov.za. Hard copies can be obtained at no cost at the –

- Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management, 7th Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore Cape Town; and
- At the Fishery Control Office at East London.

Members of the public must submit written comment by no later than 16h00 on Friday **20** January 2006. Comments should be titled as follows:

Comments: Declaration of Marine Protected Areas in the Border Region (Gxulu / Gonubie / Kei)

The Chief Director: Resource Management

Comments may be submitted in one of the following ways–

- * By Hand to the offices of Marine and Coastal Management at the above address;
- **By** Post to Private Bag **X2**, Roggebaai, 8012
- **By Fax** to (021) 421 3670.

Should you have any telephonic enquiries, you may contact the Department at (021) 402-3911. Your enquiries should be directed to the Acting Chief Director Resource Management Mr. A Share.

Schedule

To protect the marine environment and the marine living resources in the Border region; to provide a sanctuary for over-exploited species of fish; to enhance the breeding success of commercially important species; to provide undisturbed areas for resource monitoring and scientific research; and to prescribe penalties for contraventions.

Definitions

1. In these regulations any word or expression given a meaning in the Act has that meaning, unless such word or expression is defined in these regulations for the purposes of these regulations, and unless, the context indicates otherwise -

Act means the Marine Living Resources Act, 18 of 1998, inclusive of amendments and regulations promulgated thereunder;

Alpha Flag means the “diver down” flag used to indicate that diving operations are in progress and other vessels must keep clear;

Demarcation buoy means a buoy installed to mark the boundaries of the Marine Protected Area and its zones;

Manager means the Manager of the Marine Protected Area;

Marine Protected Area means the Gxulu, Gonubie or Kei Marine Protected Area as described in regulation 4;

SCUBA Diving means swimming below the surface of the water, with the aid of compressed or pumped air or other gasses;

Scientific research means a research carried out by a recognized institute established for purposes of research, or research carried on by a recognized institute of higher learning, provided that to undertake such scientific research, the recognized institute requires its staff, students or contractors to enter the Marine Protected Area;

Spearfisher means a person who undertakes fishing with the use of a speargun;

and, as north-eastern boundary, a line drawn **145"** from the mouth of the Kei River (**32° 40',948 S; 028" 22',970 E**). The south-eastern offshore boundary is a straight line running **045°**, which joins the southern corner (**32° 49',455 S; 028" 12',985 E**) and the eastern corner (**32" 43',397 S; 028" 24',983 E**) of the Marine Protected Area.

Restrictions on activities

7. Except on the authority of a scientific research permit, no person shall:
- (1) fish, or attempt to fish, in the Marine Protected Area from a vessel of any description;
 - (2) enter the Marine Protected Area in a vessel that has fishing gear on board.
8. Fishing from the shore of the Marine Protected Area by holders of recreational and subsistence permits is permitted.

SCUBA Diving

9. (1) No person may SCUBA dive or attempt to SCUBA dive in the Marine Protected Area except on the authority of a SCUBA diving permit.
- (2) The Minister shall determine the maximum number ~~of~~ SCUBA diving permits that may be issued for use in the Marine Protected Area.
 - (3) Applications for a SCUBA diving permit shall be made to the Manager on an application form and subject to an application fee determined by the Minister in terms of the Act.
 - (4) SCUBA diving permits shall be valid for maximum period of twelve months **and** shall be capable of being renewed at a fee determined by the Minister in terms of the Act.
 - (5) SCUBA diving permits may be issued subject to conditions.

Scientific research permit

10. (1) No person may undertake any scientific research within the Marine Protected Area except on the authority of a scientific research permit.

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- (2) Applications for a scientific research permit shall be made to the Minister on an application form and subject to criteria and ~~an~~ application fee determined by the Minister in terms of the Act.
 - (3) Scientific research permits shall be valid for a maximum period of twelve months and shall be capable of being renewed by the Minister.
 - (4) Scientific research permits may be issued subject to conditions.

Offences and penalties

11. *Any* person who contravenes a provision of these regulations shall be guilty of an offence and liable on conviction **to a** maximum fine of one million rand or to imprisonment for a period not exceeding two years.

Management Plan

12. The Department shall, after consulting with the Manager, commence with the implementation of a management plan for the Marine Protected Area within **six** months of the date of commencement of these regulations.

Commencement

13. These regulations shall commence immediately upon promulgation.

Repeal of laws

14. Regulation 10(b)(i) (ii) and **(iii)**, of the regulations in terms of the Act (2 September 1998) is repealed.
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