#### 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 <u>www.deat.gov.za</u>. Hard copies can be obtained at no cost at the –

- Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management, 7<sup>th</sup> 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;

Murine 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;

Spearfishing means fishing with the use of a speargun;

*Speargun* means a device by which a spear is projected by mechanical or pneumatic means;

**WGS 84** means the World Geodetic System of 1984 (G730), which is a geographic **co**-ordinate system.

## **Objectives**

- 2. The objectives of declaring this Marine Protected Area are to:
  - (1) Protect marine fish populations in Border region, and thereby ensure that a substantial fraction of fish will escape capture and contribute to the reproduction of their populations;
  - (2) To provide undisturbed sites for monitoring of fish resources and for research into their biology and ecology.

#### Interpretation

3. All geographic co-ordinates are determined in accordance with the WGS **84** datum, and all bearings are true bearings.

## **Boundaries of the Marine Protected Area**

- 4. The Gxulu Marine Protected Area lies between the high water mark and a distance of three nautical miles seaward, and between, **as** southem-western boundary, a line drawn 145" from Christmas Rock (33" 11'.603 S; 027" 38'.387 E), and, as northeastern boundary, a line drawn 145" from the Gxulu River mouth (33" 07'.145 S; 027" 43'.893 E). The south-eastern offshore boundary is a straight line running 045°, which joins the southern comer (33" 14'.018 S; 027" 40'.422 E) and the eastern corner (33" 09'.513 S; 027" 45'.913 E) of the Marine Protected Area.
- 5. The Gonubie Marine Protected Area lies between the high water mark and a distance of three nautical miles seaward, and between, as southem-westem boundary, a line drawn 145" from Nahoon Point (32" 59'.769 S; 027" 57'.088 E), and, as north-eastem boundary, a line drawn 145" from Gonubie Point (32" 56'.508 S; 028" 02'.095 E). The south-eastern offshore boundary is a straight line running 045°, which joins the southem comer (33" 02'.213 S; 027" 59'.119 E) and the eastern corner (32" 58'.955 S; 028" 04'.125 E) of the Marine Protected Area.
- 6. The Kei Marine Protected Area lies between the high water mark and a distance of three nautical miles seaward, and between, as southem-western boundary, a line drawn 145" from the mouth of the Nyara River (32" 47'.031 S; 028" 10'.988 E),

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 **d** 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.

- (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.