

NOTICE 949 OF 2014**DEPARTMENT OF ENVIRONMENTAL AFFAIRS****NATIONAL ENVIRONMENTAL MANAGEMENT PROTECTED AREAS ACT, 2003
(ACT NO. 57 OF 2003)****DRAFT REGULATIONS FOR THE DWESA-CWEBE MARINE PROTECTED AREA**

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby publishes for public comment, the draft Dwesa-Cwebe Marine Protected Area regulations published in terms of sections 48A(2) and 86(1)(a), (b), (c) and (d) of the National Environmental Management Protected Areas Act, 2003 (Act No. 57 of 2003), as set out in the Schedule hereto.

Any person who wishes to submit representations or comments in connection with the draft regulations are invited to do so within 30 days from the date of publication in the *Government Gazette* and by no later than 16h00 on that day.

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BOMO EDITH EDNA MOLEWA

MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

1. Definitions

- (1) In these regulations any word or expression to which a meaning has been assigned in the Act bears that meaning and, unless the context otherwise indicates-

"abalone" means any species of the genus *Haliotis*;

"Act" means the National Environmental Management Protected Areas Act, 2003 (Act No. 57 of 2003);

"alpha flag" means the "diver down" flag used to indicate that diving operations are in progress and other vessels must keep clear;

"catch and release fishing" means the capturing and immediate release of a fish alive in the same area where it was caught without causing injury;

"Controlled Zone" means an area within a Marine Protected Area where fishing or any other activity in terms of section 48A(1) of the Act may take place if authorised in terms of these regulations as contemplated in terms of section 48A(2);

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

"designated fish monitor" means a person appointed by the organ of state responsible for managing the Marine Protected Area;

"estuary" has the meaning assigned to it in section 1 of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

"fish" means 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 sea birds, seals or any marine mammal;

"fishing" means—

- (a) searching for, catching, taking or harvesting fish or an attempt to any such activity;
- (b) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish;
- (c) placing, searching for or recovering any fish aggregating device or associated gear, including radio beacons;
- (d) any operation in support or in preparation of any activity described in this definition; or
- (e) the use of an aircraft in relation to any activity described in this definition;

"hovercraft" means a craft that floats on a cushion of air and is capable of traversing water or land,

"Marine Protected Area" means the Dwesa-Cwebe Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

"personal watercraft" means a power driven vessel that has a fully or partially enclosed hull and that is designed to be operated by a person standing, crouching or kneeling on it or sitting astride it;

"recreational fishing" means, fishing done for leisure or sport and not for sale, barter, earnings or gain and for the purposes of these regulations means only catch and release fishing;

"Restricted Zone" means an area within the Marine Protected Area where no fishing may take place, but where any other activity in terms of section 48A(1) of the Act may take place if authorised in terms of these regulations as contemplated in terms of section 48A(2);

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

"small scale fishing" has the meaning ascribed to it in the Small Scale Fishing Policy published in *Government Gazette* 35455 GN 474 of 20 June 2012 and small scale fisher shall have the same meaning;

"spearfishing" means fishing with the use of a speargun;

"vessel" includes any canoe, lighter, floating platform, decked boat, hovercraft, personal watercraft, carrier vessel, vessel equipped with an inboard or outboard motor or any other craft, whether a surface craft or submarine; and

"WGS 84" means the World Geodetic System of 1984 (G730), which is a geographic co-ordinate system used for the co-ordinates in these regulations.

2. Restricted and controlled zones within the marine protected area

- (1) There are three Restricted Zones and three Controlled Zones within the Dwesa-Cwebe Marine Protected Area determined using WGS 84 as detailed in Annexure 1 as follows:
 - (a) The Northern Restricted Zone consists of the area which stretches from but not including the Mpenzu estuary (point A2) to and including the Mendu estuary (point A3) extending seaward to 500 meters from the high water mark. This area includes the tidal portion of the Mbashe River upstream as far as a line drawn from the point where the northwestern boundary of the Dwesa Forest Reserve reaches the high-water mark of the river (point D1), to the point where the south-western boundary of the Cwebe Forest Reserve reaches the high-water mark of the river (point D2).
 - (b) The Southern Restricted Zone consists of the area which stretches from the northern border of the Dwesa cliffs (point A4) to the southern border of the Dwesa cliffs (point A5) extending seaward to 500 meters from the high water mark.
 - (c) The offshore Restricted Zone starts from 500 meters from the high-water mark and extends up to 12 nautical miles offshore with the offshore boundary determined by a straight line from point B1 to point B2.
 - (d) The northern Controlled Zone extends from the tidal influence of the Ntlongwe estuary (point A1) to the tidal influence of the Mpenzu estuary (point A2) and in a straight line out to 500 meters seaward from the high water mark.

- (e) The Central Controlled Zone extends from the tidal influence of the Mendu estuary (point A3) to the northern border of the Dwesa Cliffs (point A4) in a straight line out to 500 meters seaward from the high water mark. .
- (f) The Southern Controlled Zone extends from the southern border of the Dwesa Cliffs (point A5) to the coastal southern boundary of the Marine Protected Area (point A6) in a straight line out to 500 meters seaward from the high water mark.
- (g) The tidal portion of all estuaries excluding the Mendu estuary and the lower reaches of the Mbashe estuary form part of the Controlled Zone.

3. Control of activities in restricted zone

- (1) No person may fish, or attempt to fish, in a Restricted Zone within the Marine Protected Area.

4. Control of activities in Controlled Zone

- (1) No person may fish or attempt to fish in a Controlled Zone of the Marine Protected Area unless they are in possession of a recreational or small scale fishing permit or authorisation issued by the Minister responsible for Fisheries.
- (2) Spearfishing is prohibited.
- (3) No person may fish or attempt to fish from a vessel in a Controlled Zone

5. Small scale fishing in Controlled Zone

- (1) Any small scale fisher authorised in terms of regulation 4(1) may only engage in fishing from the shore in a Controlled Zone.
- (2) A small scale fisher authorised in terms of regulation 4(1) may only fish for the fish species, the quantity, size of fish and using the method as specified in these regulations and in Annexure 2 to these regulations.
- (3) A maximum of 39 small scale fishers in total per day may fish across all the Controlled Zones as a whole and only during the day between 07h00 and 16h00.
- (4) All linefish excluding fish from the family *Mugillidae* (Harder/Mullet) and *Pomadasys olivaceum* (Piggy) may only be caught with a rod and reel. No other method or gear may be used.
- (5) A cast net, which is a circular net weighted at the circumference for the purpose of casting, not exceeding 6 meters in diameter, may be used to collect fish from the family *Mugillidae* (Harder/Mullet) and *Pomadasys olivaceum* (Piggy) within a Controlled Zone.
- (6) A cumulative daily bag limit of ten linefish per day shall apply to those species listed as having a bag limit of ten or less in Part A of Table 1 of Annexure 2.
- (7) A small scale fisher may fish for any invertebrate species in a Controlled Zone as detailed in Table 2 of Annexure 2, except for abalone.

- (8) A small scale fisher may only fish for sand prawns, mud prawns, mud crabs and fish from the family *Mugillidae* and *Pomadasys olivaceum*, in any estuary inside a Controlled Zone. Fishing for any other fish species is prohibited in an estuary.

6. Monitoring and reporting of catch

- (1) A list of the names of the 39 small scale fishers contemplated in regulation 5(3) and who are authorised to fish on a particular day, must be provided by 12h00 on the previous day to the organ of state responsible for managing the Marine Protected Area.
- (2) Each small scale fisher must declare their total daily catch to a designated fish monitor.

7. Recreational fishing in controlled zone

- (1) Any person in possession of a recreational fishing permit may only fish in a Controlled Zone in the following areas:
- (a) From the shore within the southern Controlled Zone;
 - (b) Within the northern Controlled Zone, from point A2 to the western bank of the mouth of the Mbayana Estuary; and
 - (c) Within the northern Controlled Zone, from the mouth of the Suku Estuary (Point C1) to Point A1 (on the north-eastern inshore boundary of the Marine Protected Area).
- (2) Any person in possession of a recreational fishing permit may only engage in catch and release fishing from the shore in the areas specified in sub-regulation (1) above.
- (3) A maximum of 12 persons per day in total may engage in recreational fishing in the areas specified in sub-regulation (1) above, with a maximum of 6 persons per area per day.
- (4) A recreational fisher may not fish for or attempt to fish for or collect bait organisms within the Marine Protected Area.
- (5) Any person undertaking recreational fishing must by 16h00 on the previous day, provide their name and any other requested details to the organ of state responsible for managing the Marine Protected Area.
- (6) Recreational fishing may only take place between 07h00 and 16h00 each day and only for a maximum of four hours per day.
- (7) The Minister may authorise one recreational catch and release fishing competition per calendar year in the areas specified in sub-regulation (1), which authorisation may be issued subject to conditions and may authorise a maximum number of recreational fishers, which exceeds the maximum number specified in sub-regulation (3).

8. SCUBA diving

- (1) No person may –
- (a) SCUBA dive or attempt to SCUBA dive in the Marine Protected Area; or

- (b) operate or attempt to operate a SCUBA diving business in the Marine Protected Area; without a permit.
- (2) Individual SCUBA diving permits may be obtained from an office authorised by the Minister, or a SCUBA diving business operator, subject to the payment of a fee if prescribed.
- (3) Application for a permit referred to in sub-regulation (1)(b) must be made to the Minister.
- (4) SCUBA diving is only permitted from the shore to 500 meters seaward from the high water mark within the southern Controlled Zone and within the portion of the northern Controlled Zone from point A2 to the western bank of the mouth of the Mbayana Estuary (Point C2) and may only take place between 08h00 and 16h00.
- (5) No SCUBA diving may take place from a vessel.
- (6) Any person SCUBA diving in the Marine Protected Area shall prior to and at the end of each dive, report to the organ of state responsible for managing the Marine Protected Area.

9. Restriction of activities

No person may undertake any activity in the Marine Protected Area, listed in section 48A(1) of the Act, unless specifically authorised in terms of these regulations.

10. Use of vessels

- (1) Fishing gear on board a vessel that enters or traverses the Marine Protected Area must be stowed, with all hooks disconnected and un-baited; and such vessel may not stop or move at less than 5 knots at any time while in the Marine Protected Area.
- (2) A vessel entering or traversing the Marine Protected Area with fishing gear on board must have a Global Positioning System (GPS) Mapping Device with an active trail operational on the vessel, prior to entering and while traversing the Marine Protected Area and such GPS data may not be deleted from this device for forty eight hours after passing through the Marine Protected Area.
- (3) A vessel required by law to have a Vessel Monitoring System; must when entering or traversing the Marine Protected Area with fishing gear on board, ensure that the Vessel Monitoring System is active.
- (4) No person may use or attempt to use any type of personal watercraft or hovercraft within the Marine Protected Area.

11. Offences and penalties

- (1) In addition to any offence contained in section 89 of the Act, any person who contravenes or fails to comply with—
 - (a) a provision of these regulations;
 - (b) a condition mentioned in a permit issued in terms of these regulations; or

(c) a prohibition, instruction, rule or order imposed, given or issued under these regulations;

is guilty of an offence and liable in the case of a first conviction to a fine not exceeding R5 million or to imprisonment for a period not exceeding five years and in the case of a second or subsequent conviction to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years or in both instances to both a fine and such imprisonment.

12. Withdrawal and repeal

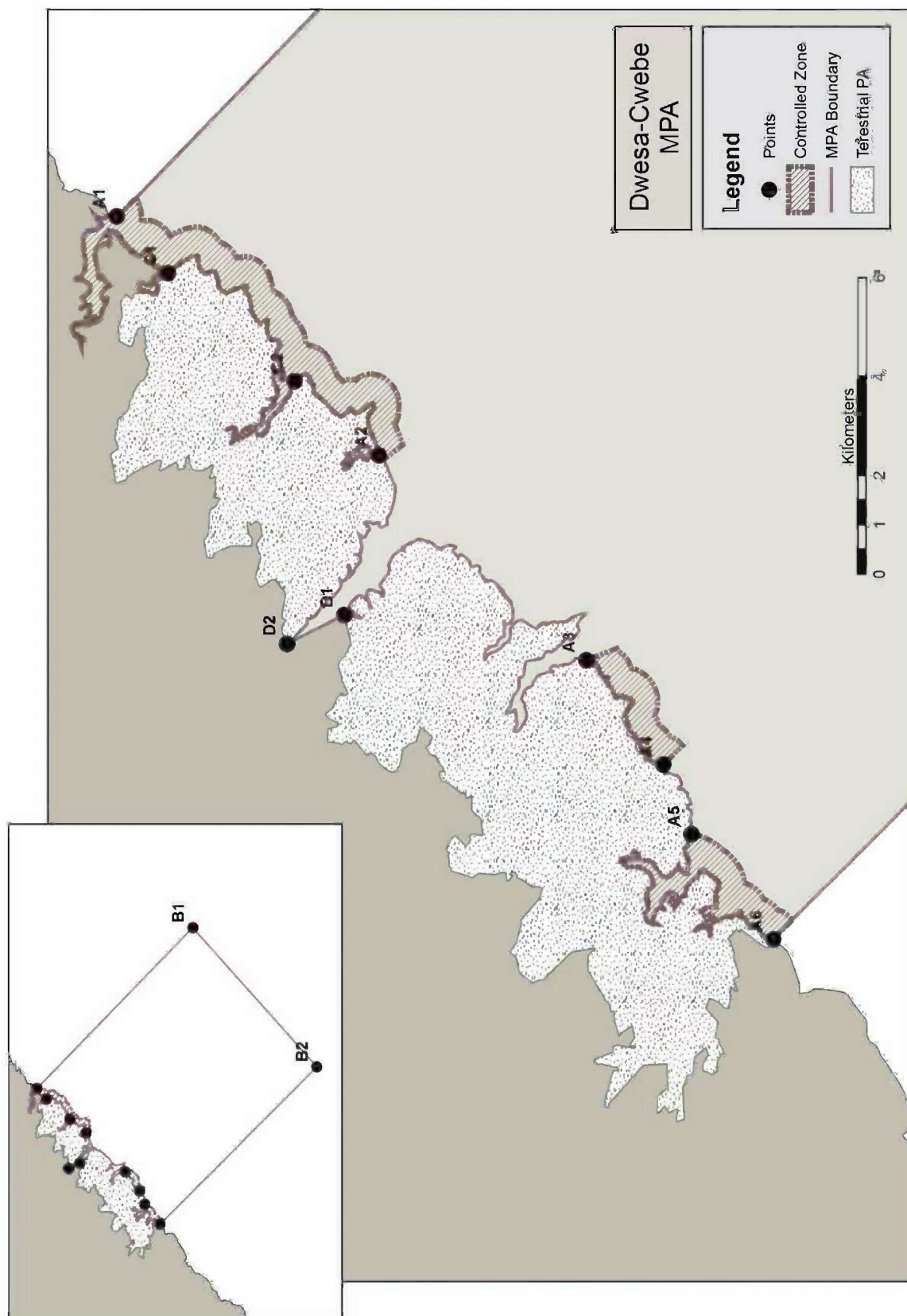
The declaration of the Dwesa-Cwebe marine protected area as contained in stipulation 2(7) of the declaration notice named Declaration of Areas as Marine Protected Areas in *Government Gazette* 219487, Notice No. 1429 of 29 December 2000 is hereby withdrawn and repealed.

13. Short title and commencement

These regulations are called the Dwesa-Cwebe Marine Protected Area Regulations and commence upon date of its publication in the *Gazette*.

Annexure 1

Code	Point X	Point Y
B2	28.978085	-32.467491
A6	28.825813	-32.315574
A5	28.844888	-32.300685
A3	28.878202	-32.280496
A4	28.857563	-32.295541
A2	28.913837	-32.243745
A1	28.957258	-32.196071
B1	29.112835	-32.347179
D1	28.890255	-32.237468
D2	28.861283	-32.228217
C1	28.947000	-32.205000
C2	28.927000	-32.228000



Annexure 2

Table 1

LINEFISH SPECIES						
PART A: INDIVIDUAL BAG LIMIT SPECIES						
Species	Common name	Min (mmTL)	Max (mmTL)	Daily Bag limit	Sale species (Yes/No)	Closed season
<i>Argyrosomus japonicus</i>	Dusky kob	600	1000	1	Yes	
<i>Diplodus capensis</i>	Blacktail	200	470	5	No	-
<i>Pachymetopon grande</i>	Bronze bream	300	500	2	No	-
<i>Pomatomus saltatrix</i>	Shad/Elf	300		4	Yes	1 October – 30 November
Family: Mugilidae	Harder/mullet	-	-	50	Yes	-
<i>Neoscarpis lithophilus</i>	Stonebream	-	-	5	Yes	-
<i>Sarpa salpa</i>	Strepie	150	-	10	Yes	-
<i>Pomadasys commersonni</i>	Spotted grunter	400	-	5	No	-
<i>Coracinus multifasciatus</i>	Banded galjoen	-	-	5	No	-
<i>Pomadasys</i>	Piggy	70.5	-	10	Yes	-

<i>olivaceum</i>										
<i>Rhabdosargus holubi</i>	Cape stumpnose	200	-	5	No					-
<i>Dichistius capensis</i>	Galjoen	350	-	2	No					15 October – last day of February the following year
<i>Acanthopagrus berda</i>	Riverbream	250	-	5	No					-
<i>Lichia amia</i>	Garrick	700	-	2	No					-
<i>Sparodon durbanensis</i>	White musselcracker	600	-	2	Yes					-
<i>Dasyatis chrysonota</i>	Blue stingray	-	-	1	Yes					-
<i>Elops machnata</i>	Ladyfish/ kingspringer	-	-	5	No					-
<i>Polysteganus praeorbitalis</i>	Scotsman	400	-	1	No					-
<i>Diplodus cervinus</i>	Zebra	300	-	5	No					-
<i>Rhabdosargus sarba</i>	Natal stumpnose	250	-	5	No					-
PART B: CUMULATIVE BAG LIMIT OF 10										
<i>Rhinobatos annulatus</i>	Lesser sandshark	-	1000	1	Yes					-
<i>Plotosus nkunga</i>	Eeltail barbel	-	-		Yes					-
<i>Galeichthys feliceps</i>	White barbel	-	-		Yes					-

<i>Chirodactylus brachydactylus</i>	Butterfish	-	-	-	Yes	-
<i>Plectorhinchus flavomaculatus</i>	Lemon fish	-	-	-	Yes	-
<i>Dinopercia petersii</i>	Cavebass	-	-	-	Yes	-
<i>Platycephalus indicus</i>	Bartailed flathead	-	-	-	Yes	-

Table2

INVERTEBRATE SPECIES		Closed	Closed Season	Daily bag limit	Collection method
East Coast Rock Lobster (<i>Panulirus Homarus</i>)			1 Nov to 28 Feb	8	Collection of lobsters in berry is prohibited irrespective of season
Crabs (<i>hermit crabs, mud crabs, mole crabs</i>)		None	None	15	Only collection by hand, rod and/or line
Limpets (Family: <i>Patellidae</i>)		None	None	15	
Octopus (Family: <i>Octopodinae</i>)		None	None	2	Only collection by hand, rod and/or line
Periwinkle/topshell/tubanshell (<i>Littorina, Oxytele, Turbo</i>)		None	None	50	
Seaworms (Phylum: <i>Platyhelminthes, Nemertea, Sipunculida and Annelida</i>)		None	None	10 individuals or 25 ml container	Only collection by hand or suction pump
Read bait (<i>Pyura spp.</i>)		None	None	2kg without the	Only collection by hand or by an implement with a

				blade or flat edge not exceeding 12 mm in width
Mussels (<i>Aulacomya</i> spp., <i>Mytilus</i> spp., <i>Choromytilus</i> spp., <i>Perna</i> spp.)	None		shell 30	Only collection by hand or by an implement with a blade or flat edge not exceeding 12 mm in width
Prawns (sand prawns, swimming prawns and mud prawns)	None		50	Only collection by hand or suction pump or hand-held scoop net or trap not measuring more than 50 cm by 50 cm
Oyster (<i>Pinctada</i> spp., <i>Stiostrea</i> spp., <i>Ostrea</i> spp., <i>Saccostrea</i> spp.)	None		25	Only collection by hand or by an implement with a blade or flat edge not exceeding 40 mm and not less than 1m in length
Other invertebrates (Alikreukel, chitons and armidillos)	None		6	Collection only by hand