
GOVERNMENT NOTICES

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

No. 205

13 February 2004

NOTICE OF INTENTION TO DECLARE THE NAMAQUALAND MARINE PROTECTED AREA UNDER SECTION 43 OF THE MARINE LIVING RESOURCES ACT, 18 OF 1998

I, Mohammed Valli Moosa, the Minister of Environmental Affairs and Tourism, hereby publish for notice and comment, my intention to declare the Namaqualand Marine Protected Area in terms of section 43, and to regulate the management and protection of the Namaqualand Marine Protected Area in terms of section 77(2)(x)(i), of the Marine Living Resources Act, 18 of 1998 ("the Act") as set out in the Regulations in the Schedule, below.

Interested and affected parties may submit written comment to the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management ("the Department"), Private Bag X2, Roggebaai, 8012. Written comments can be hand delivered to the Department's offices located at 7th Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town. The Department must receive all written comment by no later than 16h00 on 18 May 2004.

Schedule

To protect the marine environment and the marine biodiversity within the Namaqualand Marine Protected Area; to protect representative examples of marine habitats along South Africa's cool-temperate west coast; to provide a reference site for marine research; to promote and regulate tourist-related activities in a way that does not adversely affect the marine environment and biodiversity of the Namaqualand Marine Protected Area; 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;

the Manager means the Park Manager of the Namaqualand National Park;

Demarcation buoy means a buoy installed to mark the boundaries of the marine protected area and its zones;

Marine Protected Area means the Namaqualand Marine Protected Area as declared by the Minister in terms of section 43 of the Act;

the Minister means the Minister of Environmental Affairs and Tourism;

SCUBA diving means swimming below the surface of the sea with the aid of compressed or pumped air or other gases;

Spearfishing means fishing with the use of a speargun; and

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

Objectives

2. The objectives of declaring the Marine Protected Area are to:
 - (1) Protect marine habitats and ecosystems that are representative of South Africa's cool-temperate west coast;
 - (2) Serve as a reference area against which the effects of demersal trawling can be assessed; and
 - (3) Promote ecotourism along a coastline that has been elsewhere heavily impacted by diamond mining.

Interpretation

3. (1) All geographic co-ordinates refer to the *WGS 84* datum.

Boundaries

4. The Namaqualand Marine Protected Area shall include the water, the seabed and the airspace to 1000 m above sea-level in the area bounded by:
 - (1) The high water mark between positions 30° 28'.532 S; 017° 21'.362 E, near the mouth of the Spoeg River, and 30° 51'.919 S; 017° 34'.673 E near the mouth of the Groen River;

- (2) A line drawn east-west between positions 30° 28'.532 S; 017° 21'.362 E and 30° 28'.532 S; 015° 04'.547 E;
- (3) A line drawn north-south between positions 30° 28'.532 S; 015° 04'.547 E and 30° 52'.020 S; 015° 04'.547 E; and
- (4) A line drawn east-west between positions 30° 52'.020 S; 015° 04'.547 E and 30° 51'.919 S; 017° 34'.673 E.

Protection measures

5. (1) No person shall fish within the Marine Protected Area.
- (2) All forms of fishing shall be prohibited within the Marine Protected Area.
- (3) When a fishing vessel is in the Marine Protected Area all fishing gear aboard that vessel must be stowed.
- (4) Spearfishers shall under no circumstances be permitted to enter the water in the Marine Protected Area.

SCUBA diving permit

6. (1) No person shall SCUBA dive in the Marine Protected Area unless such person has been granted a SCUBA diving permit applied for and issued in terms of this regulation.
- (2) The Manager shall not grant any SCUBA diving permits until the Minister has authorised the number of SCUBA diving permits that may be issued by the Manager.
- (3) Applications for a SCUBA diving permit shall be made to the Manager on an application form and subject to an application fee stipulated by the Manager in consultation with the Minister.
- (4) SCUBA diving permits shall only be valid for maximum period of twelve months and shall be capable of being renewed.
- (5) SCUBA diving permits shall be issued subject to conditions.

Presumptions

7. If in the course of any proceedings in connection with an offence under these regulations it is proved that –

- (1) A person was found to be in the Marine Protected Area with gear or equipment used for the purposes of spearfishing, it shall be presumed that such a person was spearfishing;
- (2) A fishing vessel was found to be in the Marine Protected Area and its fishing gear was not stowed, it shall be presumed that the persons on board the vessel were fishing, and that all fish on board the vessel were caught in the Marine Protected Area.

General Prohibitions

8. (1) No person may remove, move, be in possession of, damage or in any way interfere with a demarcation buoy or sign in the Marine Protected Area.
- (2) No person may establish, carry on or operate a mariculture operation in the Marine Protected Area, unless authorised to do so in writing by the Minister.
- (3) No person may erect any permanent mooring, buoy or sign in the Marine Protected Area unless authorised to do so in writing by the Minister.
- (4) No person may directly discharge or cause to be discharged any untreated human waste, biodegradable waste, or industrial waste or effluent into the Marine Protected Area.
- (5) No person may deposit or cause to be deposited any form of filling, including rocks, gravel or sand or other such material in the Marine Protected Area.

Offences and penalties

9. Any person who contravenes a provision of these Regulations shall be guilty of an offence and liable on conviction to minimum fine of R2000 but not exceeding R100000, or to imprisonment for a minimum period of six months but not exceeding two years, or to both such fine and imprisonment.