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GOVERNMENT NOTICES**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM**

No. 1012

14 October 2005

MARINE LIVING RESOURCES ACT NO. 18 OF 1998**PROPOSED DECLARATION OF STILBAAI MARINE PROTECTED AREA 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 the Stilbaai Marine Protected Area in terms of section 43 of the Marine Living Resources Act, 18 of 1998 (“the Act”) and to prescribe management and protection measures for this 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 Stilbaai Marine Protected Area. 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, ~~Matin~~ Hammerschlag Way, Foreshore Cape Town; and
- At the Fishery Control Office at Stilbaai harbour.

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 Area as Marine protected Area (Stilbaai)
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 at Stilbaai; to extend the Geelkrantz Reserve to include a Marine Protected Area; to protect the fish nursery function of the Goukou estuary, to allow over-exploited species of fish a sanctuary in which to recover and breed; to protect historical fish vywers, to provide undisturbed areas for education, 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;

Controlled *Zone* means an area within a Marine Protected Area where fishing is permitted;

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

Estuary means a partially or fully enclosed body of water through which a river or fresh water source is open to the sea permanently or periodically, and in which the water level rises and falls as a result of the action of the tides whenever it is open to the sea, or within which sea water can be diluted to an extent that is measurable with fresh water drained from the land;

Hovercraft means a craft that floats on a cushion of air and is capable of traversing water;

Manager means the Manager of the Stilbaai Marine Protected Area;

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

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

Restricted Zone means an area within a Marine Protected Area where no fishing is permitted;

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;

Vywers means fish traps constructed with boulders in pre-colonial times;

* **Water** means, with reference to the Marine Protected Area, the tidal waters located within the boundaries of the Marine Protected Area, as defined in regulation 4;

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 is to:

- (1) Protect and conserve the coastal environment and marine living resources that are found in and around Stilbaai;
- (2) Protect the reproductive capacity of exploited species of fish, including shellfish, to allow their populations to recover and to contribute to the replenishment of adjacent areas;
- (3) Protect the nursery function of the Goukou estuary and the recruitment of estuarine-dependent fish into marine fisheries;

- (4) Control other activities in the Marine Protected Area to reduce the risks of habitat degradation and to preserve vywers, which have archeological and cultural value;
- (5) To provide undisturbed sites for field-education, monitoring of resources and research into exploited species and their ecosystems

Interpretation

3. All geographic co-ordinates are determined in accordance with the *WGS 84* datum.

Boundaries of the Marine Protected Area

4. The Stilbaai Marine Protected Area is the area between Noordkapperspunt and Rietvleivywers, and includes the estuary of the Goukou River to a point 15 km upstream. The seaward boundaries are defined by two straight lines joining the following three points:

(A) 34" 23'.964 S; 021" 24'.800 E (Noordkapperspunt);

(B) 34" 23'.964 S; 021" 30'.976 E (A position 4.2 km offshore of Rietvleivywers);

(C) 34" 21'.676 S; 021" 30'.976 E (Rietvleivywers).

The landward boundary is defined by the high water mark as it runs from Noordkapperspunt (34" 23'.964 S; 021" 24'.800 E), along Skulpiesbaai, around Morris Point, through the harbour, along the western shore of the estuary to 34" 17'.810 S; 021 18'.608 E, approximately 15 km upstream, and then back along the eastern shore of the estuary to the mouth and from there to Rietvleivywers (34" 21'.676 S; 021" 30'.976 E).

Restricted Zones within the Marine Protected Area

5. There are three Restricted Zones and one Controlled Zone within the Stilbaai Marine Protected Area:

- (1) The Geelkrans Restricted Zone is the eastern part of the Stilbaai Marine Protected Area, adjacent to the Geelkrans Nature Reserve and Rietvleivywers, east of longitude 021" 27'.737 E.

- ~~(2) The Skulpiesbaai Restricted Zone includes the shoreline in Skulpiesbaai between Noordkapperspunt, position 34" 23'.964 S; 021" 24'.800 E, and position 34" 23'.582 S; 021" 24'.887 E and between the high water mark and a distance of 300 m seawards of the high water mark.~~

- (3) The Goukou Estuarine Restricted Zone runs from the road bridge where the R323 crosses the estuary to the boundary of ERF 414/33 Riversdale at position 34° 17'.810 S; 021 18'.608 E, approximately 15 km upstream from the mouth.
- (4) The remainder of the Marine Protected Area is a Controlled Zone.

Control of activities

6. Except on the authority of a permit, no person shall -
 - (1) fish, or attempt to fish, in any of the three Restricted Zones within the Marine Protected Area.
 - (2) collect bait or any invertebrate species in the Goukou estuary except in the lower 1 km of the estuary, which is that part of the Goukou estuary that lies south of the latitude 34° 22.100'S.
 - (3) enter the Geelkrans Restricted Zone in a vessel that has fishing equipment on board.
 - (4) Spearfish, or attempt to spearfish, in the Marine Protected Area or be in possession of a speargun in the Marine Protected Area.

Scuba Diving

7. (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

8. (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.

Use of vessels

9. (1) Motorised vessels may only launch from registered launch sites
- (2) All vessels that have deployed divers within the Marine Protected Area must display **an** alpha flag.
- (3) **No** vessel may be attached to a demarcation buoy.
- (4) **No** person may use or attempt to use any type of personal watercraft or hovercraft within the Marine Protected Area.

Offences and penalties

10. 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

11. 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

12. These regulations shall commence immediately upon promulgation.