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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 777

23 MAY 2019

NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT, 2003 (ACT NO. 57 OF 2003)**REGULATIONS FOR THE MANAGEMENT OF THE ADDO ELEPHANT NATIONAL PARK MARINE PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the Addo Elephant National Park Marine Protected Area 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.



NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

“**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;

“**authorised official**” means—

- (a) any person appointed as a fishery control officer in terms of the Marine Living Resources Act;
- (b) an environmental management inspector appointed in terms of the National Environmental Management Act; and
- (c) all peace officers as defined in the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

“**BIORZ**” means the Bird Island Offshore Restricted Zone;

“**bottom trawl net**” means any net designed to be dragged along the bed of the sea by a fishing vessel;

“**certificate of competence**” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“**certificate of fitness**” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“**commercial fishing**” shall have the meaning assigned to it in section 1 of the Marine Living Resources Act;

“**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);

“**CRICZ**” means the Cannon Rocks Inshore Controlled Zone;

“**CROCZ**” means the Cannon Rocks Offshore Controlled Zone;

“**CPICZ**” means Cape Padrone Inshore Controlled Zone;

“demarcation buoy” means a buoy installed to mark the boundaries of or the zones within the Marine Protected Area;

“demarcation marker” means a marker installed to mark the boundaries of or the zones within the Marine Protected Area;

“dive or diving” means to swim below the surface of the water, or to enter the water with the aid of, or use of prohibited gear;

“environmental management inspector” has the meaning assigned to it in the National Environmental Management Act;

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“fishing permit” means a commercial, small scale or recreational fishing permit issued in terms of the Marine Living Resources Act, which authorises fishing in the area where the Marine Protected Area is located;

“high-water mark” has the meaning assigned to it in the Integrated Coastal Management Act;

“hovercraft” means a craft that floats on a cushion of air and is capable of traversing water;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“islands” means the St Croix Island group, including St Croix, Jahleel and Brenton islands; and the Bird Island group including Bird, Seal, Stag and Black Rocks islands forming part of the Addo Elephant National Park as defined in *Government Gazette* No. 36295 of 27 March 2013;

“management authority” means South African National Parks as designated in regulation 15;

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Addo Elephant National Park Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“Marine Traffic Act” means the Marine Traffic Act, 1981 (Act No. 2 of 1981);

“National Ports Authority of South Africa” shall have the meaning assigned to it in the National Ports Act, 2005 (Act No. 12 of 2005);

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“no-wake speed” means the speed that a vessel travels with its engine just in gear and moving at the slowest possible speed necessary to maintain steerage, without causing a wake or a wave in the water;

“no-wake zone” means that part of the Marine Protected Area that is zoned, where a vessel may only travel at “no-wake speed”;

“operate” in respect of a vessel, includes mooring in the water, moving or drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel—

- (a) that uses an inboard motor powering a water jet pump as its primary source of propulsion;
- (b) is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull; and
- (c) is less than three meters in length;

“port” shall have the meaning assigned to it in the Integrated Coastal Management Act;

“power-driven” means propelled by reciprocating or rotary machinery using fuel, chemicals, electricity or heat as an energy source, but does not include a water jet pump;

“privately used launch site” has the meaning assigned to it in regulation 1 of the Public Launch Site Regulations GNR 497 of 27 June 2014, published in terms of the Integrated Coastal Management Act;

“prohibited gear” means goggles, diving masks, dive torches, snorkels, dive fins or flippers, wet suits or diving suits, artificial breathing apparatus, weight belts or weights,

bags used for underwater collection of fish, shucking tools or any tool that could be used for the collection of fish;

“recreational fishing” has the meaning assigned to it in the Marine Living Resources Act;

“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;

“SCUBA diving vessel” means any vessel that carries SCUBA divers and has no fishing gear on board;

“SECZ” means the Sunday’s River Estuary Controlled Zone;

“SERZ” means the Sunday’s River Estuary Restricted Zone;

“SICZ” means the Sundays Inshore Controlled Zone;

“SIRZ” means the Sundays Inshore Restricted Zone;

“small-scale fishing or fisher” has the meaning ascribed to it in section 1 of the Marine Living Resources Act;

“SOCZ” means the Sundays Offshore Controlled Zone;

“spearfishing” means fishing with the use of a speargun;

“speargun” means a device by which a spear is projected by mechanical or pneumatic means;

“StCORZ” means the St. Croix Island Offshore Restricted Zone;

“Sundays River Estuary Zones” means the SERZ and the SECZ;

“Threatened or Protected Marine Species Lists” means the lists published in *Government Gazette* 40875 GN 476 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“Threatened or Protected Marine Species Regulations” means the regulations published in *Government Gazette* 10722 GNR 477 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water, and includes a personal watercraft, or hovercraft;

“vessel providing living accommodation” means any vessel including a “house boat” or a “caravan boat” or any other type of vessel equipped for overnight residence thereon;

“water-ski” means a person on dual skies, slalom ski, aqua boards, tube or any other device other than on another vessel, being towed by a vessel through, over or on the water and “water-skiing and “water-skier” shall have the same meaning;

“water ski-zone” means that part of the Marine Protected Area that is zoned for water skiing activities; and

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

2. Zonation within the Marine Protected Area

The Marine Protected Area consists of four (4) coastal zones: three (3) inshore controlled and one (1) inshore restricted zones; four (4) offshore zones: two (2) offshore controlled and two (2) offshore restricted zones; and two (2) estuarine zones: one (1) estuarine controlled and one (1) estuarine restricted zone, which are determined by using WGS 84 as detailed in Annexure 1 hereto as follows:

- (a) three (3) Inshore Controlled Zones, indicated as SICZ, CPICZ and CRICZ;
- (b) one (1) Inshore Restricted Zone, indicated as SIRZ;
- (c) two (2) offshore Restricted Zones, indicated as StCORZ and BIORZ;
- (d) two (2) offshore Controlled Zones, indicated as SOCZ and CROCZ;
- (e) one (1) Sunday’s River Estuary Restricted Zone, indicated as SERZ;
- (f) one (1) Sunday’s River Estuary Controlled Zone, indicated as SECZ;

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except—
 - (a) on the authority of a scientific research permit issued by the Minister; and
 - (b) a scientific research permit issued by the management authority.
- (2) Application for a scientific research permit to the Minister, in terms of sub-regulation (1)(a), must be made in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.
- (3) Application for a scientific research permit to the management authority in terms of sub-regulation (1)(b), must be made on an application form provided by the management authority.

4. General restrictions within the Marine Protected Area

- (1) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.
- (2) No person may place any shark protection, exclusion or repelling device, equipment or infrastructure, including nets, within the Marine Protected Area without a permit from the Minister, which permit may be issued subject to conditions.
- (3) The management authority may in the management plan for the Marine Protected Area, an internal rule or Protected Area Notice, identify activities, except for those activities listed in section 48A(1) of the Act; which may be restricted, controlled, limited or prohibited and such areas must be indicated by demarcation buoys, demarcation markers or notice boards.
- (4) No person shall conduct or carry out any activity that is restricted, controlled, limited or prohibited in terms of sub-regulation (3).
- (5) No person shall except on the authority of the management authority, move, deface or otherwise interfere with any demarcation buoy, demarcation marker or notice-board within the Marine Protected Area.
- (6) No person shall moor, anchor or attach any vessel, to any demarcation buoy or demarcation marker within the Marine Protected Area.
- (7) No person shall within the Marine Protected Area be in possession of or have onboard a vessel, any fire-arm, air-gun, explosives or poison.
- (8) Sub-regulations (6) and (7) shall not apply to, an authorised officer, including an official of any organ of state while performing official duties within the Marine Protected Area.
- (9) For purposes of these regulations, explosives or fire-arms do not include the following devices:
 - (a) a flare gun;
 - (b) an illuminating rocket flare;
 - (c) a Department of Transport approved projectile distress flare;
 - (d) a Department of Transport approved hand-held distress flare;
 - (e) a Department of Transport approved rocket parachute distress flare;
 - (f) a Department of Transport approved floating orange smoke distress marker; and
 - (g) a Department of Transport approved hand-held smoke distress marker.

- (10) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (11) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.
- (12) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (13) No person may undertake white shark cage diving within the Marine Protected Area unless they are in possession of a valid permit in terms of the Threatened or Protected Marine Species Regulations.
- (14) Subject to any other authorisation required in terms of any other law, the management authority may issue a permit, or in any other way authorise, a person to undertake any activity listed in section 48A(1) of the Act, which is not specifically provided for in these regulations.
- (15) The permit or authorisation contemplated in sub-regulation (14) may only be issued if it does not conflict with the objects of the Act, these regulations, or a purpose for which the Marine Protected Area was declared.
- (16) No person shall arrange, organise, or participate in any fishing competition, swimming, rowing, yachting, motorised vessel event, race, or regattas, or any other event, unless authorised to do so in writing by the management authority.
- (17) No person or vessel, shall be in possession of or have on board, SCUBA diving gear and a speargun.

5. Use of vessels

- (1) No person may use or attempt to use any personal watercraft or hovercraft within the Marine Protected Area.
- (2) A motorised vessel may only launch within the Marine Protected Area, from a launch site authorised in terms of the Management of Public Launch Site Regulations GNR 497 of 27 June 2014 published in terms of the Integrated Coastal Management Act.
- (3) No person may launch any non-motorised vessel from a privately used launch site within a restricted zone of the Marine Protected Area, unless such site is registered with the management authority.

- (4) Subject to sub-regulations (6) and (7), no person may moor or anchor any vessel in a Restricted Zone of the Marine Protected Area except—
 - (a) under conditions of *force majeure*; or
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (5) Subject to sub-regulations (6) and (7), no person may moor or anchor any vessel over 100 tons in a Controlled Zone of the Marine Protected Area.
- (6) Sub-regulations (4) and (5) shall not apply to a vessel moored or anchored in a recognised and approved mooring or anchoring site in terms of the Marine Traffic Act, for a vessel that is waiting to berth in a port, and authorisation has been granted by the National Ports Authority of South Africa for such vessel to moor and anchor at such site.
- (7) Despite sub-regulation (4) or (5), the management authority may, on application and on such conditions as it may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances:
 - (a) in an emergency; or
 - (b) where the management authority may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (8) The management authority may verbally authorise a vessel to moor or anchor within the Marine Protected Area as contemplated in sub-regulation (7), which verbal authorisation must be confirmed in writing within 3 working days.
- (9) No person shall water ski or operate, use, attempt to use or operate a vessel or occupy the driver's seat of such vessel, within the Marine Protected Area, while his or her blood contains more than 0.05 grams of alcohol per 100 millilitres of blood or while under the influence of illegal narcotic substances.
- (10) No person shall operate or attempt to operate a vessel closer than three-hundred meters (300m) to any African Penguin or Cape Gannet on an island within the Marine Protected Area, unless authorised to do so by the management authority.
- (11) Any motorised vessel that enters or traverses a Restricted Zone within the Marine Protected Area may not stop for more than 3 minutes or move at less than 5 knots at any time while in a Restricted Zone unless authorised in terms of these regulations.
- (12) Sub-regulation (11), does not apply to a SCUBA diving vessel.

- (13) A motorised vessel entering or traversing a Restricted Zone within 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 a Restricted Zone within the Marine Protected Area and such GPS data may not be deleted from this device for 7 calendar days after passing through a Restricted Zone or Sanctuary Zone.
- (14) A motorised 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.

6. 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 to do so in terms of these regulations.

7. Control of activities in Restricted Zones

- (1) No person may fish, or attempt to fish, in a Restricted Zone of the Marine Protected Area.
- (2) Fishing gear onboard a vessel or in possession of any person that enters or is present in a Restricted Zone must be stowed in accordance with sub-regulation (4).
- (3) No fishing gear including lines, hooks, lures, nets, trawl doors, warps, spearguns, buoys, traps or any other gear or equipment used for fishing, may be deployed overboard from any vessel within a Restricted Zone of the Marine Protected Area.
- (4) Fishing gear must be stowed in the following manner:
 - (a) In the case of line fishing—
 - (i) from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (ii) from the shore, all hooks, lures, and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait, weights and any spear gun or spearfishing equipment are placed away in a bag or container;
 - (b) in the case of purse-seine fishing, no gear may be in the water;

- (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
 - (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
 - (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
 - (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other suitable container;
 - (g) in the case of pole fishing, all poles will be secured above deck;
 - (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
 - (i) in respect of all types of fishing where bait is used, such bait must remain packed away or placed into a bait well, where available.
- (5) No person shall be in possession of a speargun in the BIORZ and SIRZ.
- (6) Subject to sub-regulation (8), no person shall engage in diving, in the BIORZ and SIRZ.
- (7) Subject to sub-regulation (8), no person shall be in possession of or have on board any vessel, prohibited gear in the BIORZ and SIRZ.
- (8) Any person who undertakes—
- (a) scientific research and monitoring;
 - (b) white shark-cage diving;
 - (c) salvage operations;
 - (d) maintenance of legal underwater infrastructure;
 - (e) underwater photography; or
 - (f) any other activity authorized in terms of legislation,
- must apply to the management authority for a permit to engage in diving or be in possession of prohibited gear in the BIORZ and SIRZ.
- (9) No person shall operate a vessel above a no-wake speed inside the SERZ.
- (10) No person shall water-ski inside the SERZ.

- (11) No person or vessel shall enter, attempt to enter or be present in the SIRZ, without a permit from the management authority, which permit may be issued subject to conditions.
- (12) No person shall, allow any dog, cat or any other domesticated animal or pet belonging to, or under the care or control of such person, to enter or remain in the SIRZ, without a permit from the management authority, which permit may be issued subject to conditions.

8 SCUBA diving

- (1) No person may SCUBA dive or attempt to SCUBA dive in the Marine Protected Area, except in the CRICZ, CROCZ and SOCZ.
- (2) No person may operate a SCUBA diving business in the StCORZ, without a permit, issued by the management authority, which permit may be issued subject to conditions.
- (3) Any vessel that deploys divers must display an alpha flag.

9. Control of activities in Controlled Zones

- (1) No person shall in any Controlled Zone, fish or attempt to fish, from a vessel or the shore unless they are in possession of a valid fishing permit, and such fishing is subject to the species, quantity, fish size limits, allowable effort, closed seasons or bag limits authorised by such fishing permit.
- (2) No person shall fish, or attempt to fish, from a vessel in the SICZ and CPICZ
- (3) Subject to sub-regulation (5), no person shall engage in diving, in the CPICZ.
- (4) Subject to sub-regulation (5), no person shall be in possession of or have onboard any vessel, prohibited gear in the CPICZ.
- (5) Any person who undertakes—
 - (a) scientific research and monitoring;
 - (b) white shark-cage diving;
 - (c) salvage operations;
 - (d) maintenance of legal underwater infrastructure;
 - (e) underwater photography; or
 - (f) any other activity authorised in terms of legislation,

must apply to the management authority for a permit to engage in diving or be in possession of prohibited gear in the CPICZ.

- (6) No person shall allow any dog, cat, pet or any other domesticated animal belonging to, or under the care or control of such person, to enter or remain in the CRICZ, and SICZ, unless such dog is on a leash, cat, pet or any other domesticated animal is under such person's physical control.
- (7) No person shall allow any dog, cat or any other domesticated animal or pet belonging to, or under the care or control of such person, to enter or remain in the CPICZ, without a permit from the management authority, which permit may be issued subject to conditions.
- (8) No person shall fish from a bridge over the SECZ.
- (9) No person shall leave a fishing line unattended in or near a navigation channel in the SECZ.
- (10) Fishing gear onboard a vessel or in possession of any person that enters or is present in a Controlled Zone and who is not authorised to fish in terms of sub-regulation (1), must be stowed in accordance with regulation 7(2) and 7(3).
- (11) No person may collect broodstock in a Controlled Zone for aquaculture, without a permit from the management authority.
- (12) When considering a permit in terms of sub-regulation (11), the management authority must take into account the following factors:
 - (a) whether the species is listed as a threatened or protected species in terms of the Threatened or Protected Marine Species Lists and any prohibitions or restrictions therein;
 - (b) whether the species has been listed on an International Union for the Conservation of Nature Red list, including an international, regional, or national Red List;
 - (c) the objectives of this Marine Protected Area; and
 - (d) whether the species can be collected outside the Marine Protected Area.
- (13) No person may undertake bottom trawlnet fishing within the Marine Protected Area.

10. Dumping at sea and discharge into Marine Protected Area

- (1) Any existing dump site located within the Marine Protected Area, which exists at the date of commencement of these regulations, is hereby authorised to continue to be utilised as a designated dumping site, provided any dumping at such site is authorised in terms of section 70, 71 or 72 of the Integrated Coastal Management Act.
- (2) Any existing discharge of effluent occurring at the date of commencement of these regulations, and any new discharge of effluent, which commences after the date of commencement of these regulations, as contemplated in section 69 of the Integrated Coastal Management Act, is hereby authorised to continue and commence, within the Marine Protected Area, provided such

discharge is authorised in terms of section 69 of the Integrated Coastal Management Act.

Control of vessels and other activities in the Sunday's River Estuary Zones

11. Registration permits for vessels

- (1) No person may, in the Sunday's River Estuary Zones of the Marine Protected Area, operate—

- (a) a power-driven vessel,
- (b) a sailing vessel; or
- (c) any other vessel with an overall length of 4 meters or more, excluding sailboards, canoes and paddle-ski's,

without a vessel registration permit issued by the management authority and must visibly display the identification number allocated by the management authority on such vessel.

- (2) No vessel registration permit may be issued for—

- (a) a vessel providing living accommodation;
- (b) any vessel used for commercial purposes; or
- (c) a vessel exceeding six point six (6.6) meters in overall length,

in the Sunday's River Estuary Zones, unless a vessel accommodation permit has been issued in terms of sub-regulation (3).

- (3) No person may operate or keep, moor or anchor any vessel providing living accommodation, any vessel used for commercial purposes, or a vessel exceeding six point six (6.6) meters in overall length in the Sunday's River Estuary Zones, without a vessel accommodation permit issued by the management authority.
- (4) Application for a vessel registration permit or vessel accommodation permit must be made on an application form provided by the management authority and subject to a fee determined by the management authority from time to time.
- (5) A vessel registration permit or vessel accommodation permit may be issued subject to conditions.
- (6) The management authority may limit the number of vessel registration permits issued per person.

- (7) The management authority may limit the total number of vessel registration permits issued in the Sunday's River Estuary Zones.

12. Rules of travel

- (1) The skipper of a power-driven vessel shall adhere to a general safety rule of "keep right" while under way.
- (2) The skipper of a power-driven vessel shall keep out of the way of, and give right of way to a sailing vessel and any vessel propelled by oars or paddles.
- (3) When two sailing vessels approach each other they shall operate in accordance with the International Regulations for the Prevention of Collisions at Sea, 1972 published by the International Maritime Organisation.
- (4) The skipper of a power-driven vessel shall maintain a direct course when passing a sailing vessel.
- (5) When two power-driven vessels are approaching head on, the operator of each vessel shall alter course to starboard (right) so that each vessel shall pass on the port (left) side of the other.
- (6) The skipper of a vessel overtaking another vessel shall overtake the vessel on the port (left) side and shall keep the vessel out of the way of the vessel being overtaken.
- (7) The skipper of a vessel approaching a jetty or slipway shall give right of way to any departing vessel.
- (8) The skipper of a vessel shall not change course without first determining that it is safe to do so without risk of collision with another vessel or person in the water.

13. Operation of vessels

- (1) The owner of a power-driven vessel shall not allow any person under the age of sixteen (16) years of age to operate or control such vessel.
- (2) No person shall operate a vessel, unless his or her vision both ahead and astern is not obstructed either by passengers or any other object.
- (3) No person shall operate a power-driven vessel in the Sunday's River Estuary Zones above a no-wake speed, when:
 - (a) operating a vessel in a no-wake zone;
 - (b) passing closer than ten (10) meters from a person in the water;
 - (c) passing closer than ten (10) meters to any stationary or moving vessel, jetty, mooring or slipway;

- (d) closer than ten (10) meters to the boundary of a swimming or bathing area;
 - (e) closer than ten (10) meters from the shore; or
 - (f) operating a vessel after sunset and before sunrise.
- (4) No person may—
 - (a) operate a vessel in the Sunday's River Estuary Zones without a forward facing red port light, forward facing green starboard light and white navigation light being switched on; or
 - (b) anchor a vessel in the Sunday's River Estuary Zones without at least having a single white light switched on and which is visible for 360 degrees,after sunset and before sunrise.
- (5) The skipper and owner of a vessel must ensure that children under five (5) years of age and anyone on the vessel who cannot swim wears a life jacket at all times while on board such vessel.
- (6) The skipper of a vessel shall not leave or enter the Sunday's river mouth without the occupants of the vessel wearing the suitable life jackets bearing the mark of the South African Bureau of Standards.

14. Water-skiing

- (1) No person may water-ski after sunset and before sunrise.
- (2) No vessel towing a water skier may pass closer than 10 meters to—
 - (a) any other vessel which is stationary or moving; or
 - (b) a jetty or slipway except when dropping off a water-skier.
- (3) The skipper of a vessel shall not follow closer than one hundred (100) meters in the wake of another vessel towing a water-skier.
- (4) No person shall use a metal cable or steel wire to tow a water-ski behind a vessel.
- (5) No water-skier shall drop or kick out a water ski, unless it is safe to do so and it does not constitute a danger to any other vessel or person.
- (6) If a water-skier falls into the water, the skipper of the vessel shall raise a red flag 300 mm x 300 mm until the water skier boards the vessel, or continues to water ski.

- (7) No person shall pull a water-ski rope behind a vessel when such vessel is not being used for water skiing activities.
- (8) The skipper of the vessel shall not allow any person to water-ski unless such person is wearing suitable personal buoyancy.
- (9) The skipper of a vessel shall not allow any person to water-ski outside the demarcated water-ski zone.

General provisions

15. Management authority

South African National Parks is hereby formally designated as the management authority for the Marine Protected Area in terms of section 38(1)(aB) of the Act.

16. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulation (2) or (3), a permit issued under these regulations may at any time be suspended, cancelled or amended.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) the management authority is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
 - (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;

- (c) for the proper management and implementation of these regulations; or
- (d) where the conditions or circumstances have changed since the original permit was issued.

17. Offences and penalties

- (1) In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—
 - (a) regulations 3(1), 3(3), 4(1), 4(2), 4(4) to 4(7), 4(10) to 4(13), 5(1) to 5(5), 5(9) to 5(14), 6, 7, 8(1), 8(3), 9(1) to 9(11), 10, 11(1), 11(3), 12, 13 or 14;
 - (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.

18 Withdrawal and repeal

The Regulations for the Management of the Bird Island Marine Protected Area as published in *Government Gazette* 26433 Notice No. 696 of 4 June 2004 are hereby repealed.

19. Short title and commencement

These regulations are called the Addo Elephant National Park Marine Protected Area Regulations and shall commence on 1 August 2019.

Annexure 1

(Zonation for the Addo Elephant National Park Marine Protected Area)

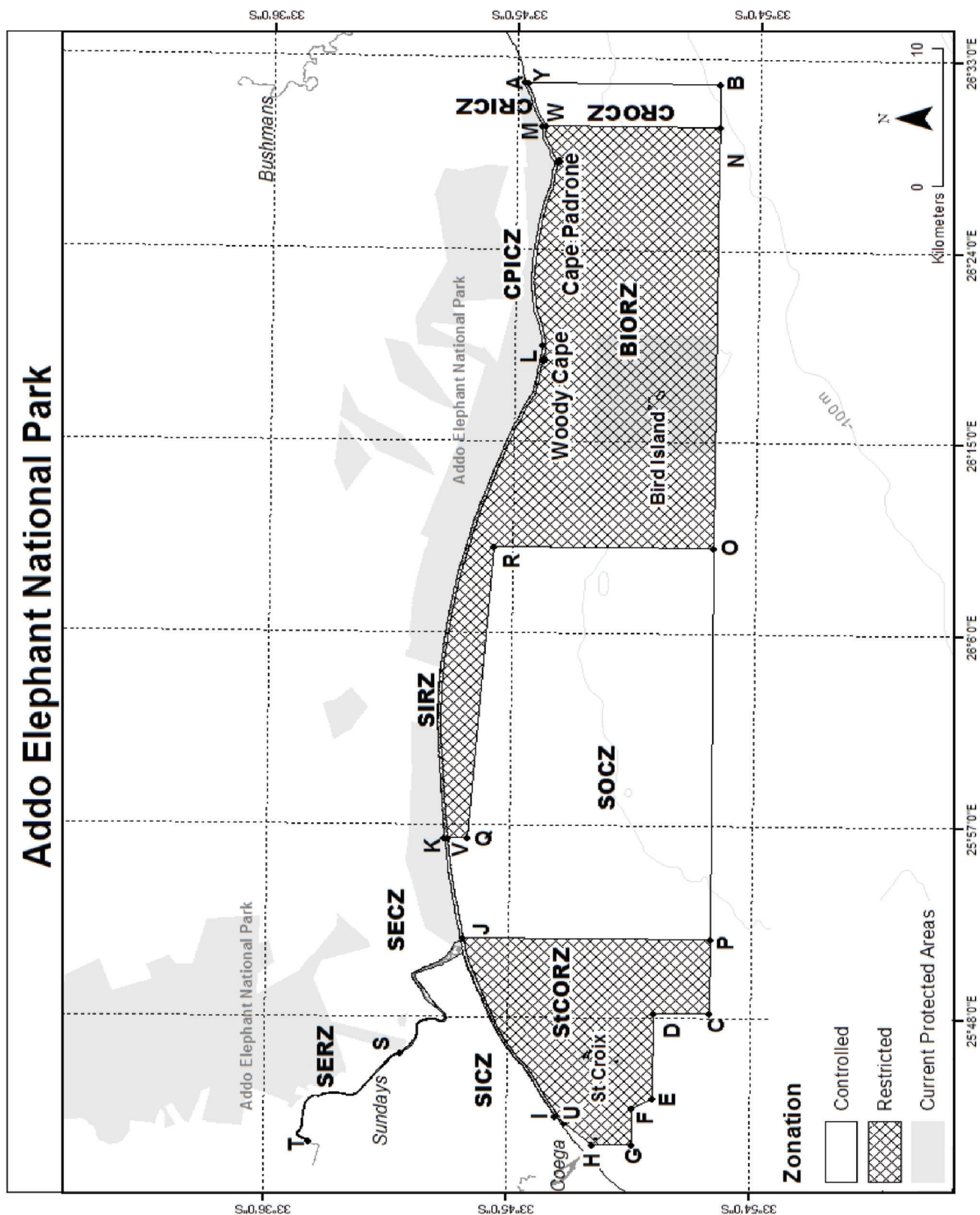
(1) **Addo Elephant National Park Marine Protected Area Offshore Zones:**

- (a) **St. Croix Island Offshore Restricted Zone (StCORZ)** is defined, as the area from point J located on the line 200 m seawards from the high water mark, along the line 200 m seawards from the high-water mark to point U, and includes the area seawards within the following sequential straight line coordinates, U, H, G, F, E, D, C, P to J.
- (b) **Sundays Offshore Controlled Zone (SOCZ)** is defined, as the area from point J located on the line 200 m seawards from the high water mark along the line 200 m seawards from the high-water mark to point V, and includes the area seawards within the following sequential straight line coordinates, V, Q, R, O, P to J.
- (c) **Bird Island Offshore Restricted Zone (BIORZ)** is defined, as the area, from point V located on the line 200 m from the high-water mark, along the line 200m from the high-water mark to point W and includes the area seawards within the following sequential straight line coordinates, W, N, O, R, Q to V.
- (d) **Cannon Rocks Offshore Controlled Zone (CROCZ)** is defined, as the area from point W, located on the line 200m seawards of the high-water mark along the line 200m seawards of the high-water mark to Y and includes the area seawards within the following sequential straight line coordinates, Y, B, N, to W.

(2) **Addo Elephant National Park Marine Protected Area Inshore Zones:**

- (e) **Sundays inshore Controlled Zone (SICZ)** includes the area from the high-water mark to 200m seawards of the high-water mark between point I at Hougam Park in the west, to point K east of the Sundays river mouth.
- (f) **Sundays inshore Restricted Zone (SIRZ)** includes the area from the high-water mark to 200m seawards of the high water mark from point K east of the Sundays river mouth to point L at the rope ladder at Woody Cape.
- (g) **Cape Padrone inshore Controlled Zone (CPICZ)** includes the area from the high-water mark to 200m seawards of the high water mark from point L at the rope ladder at Woody Cape in the West, to point M at Cape Padrone.
- (h) **Cannon Rocks inshore Controlled Zone (CRICZ)** includes the area from the high-water mark to 200 m seawards of the high-water mark between points M and A at the west end of Cannon Rocks.

- (3) **Addo Elephant National Park Marine Protected Area Estuary Zones:**
- (i) **Sunday's River Estuary Controlled Zone (SECZ)** is defined, as that part of the Estuary up until the high water mark, from the mouth of the estuary upstream to the north western boundary of Ingleside town, at the Koppies, at point S
 - (j) **Sunday's River Estuary Restricted Zone (SERZ)** is defined, as that part of the Estuary up until the high water mark that starts at the north western boundary of Ingleside town, at the Koppies, at point S and runs upstream to point T at the Barkley Bridge.



Zonation of the Addo Elephant National Park Marine Protected Area

Table of co-ordinates for Addo MPA

Name	Point Label	X	Y
Addo Elephant National Park MPA	A	26.5298	-33.754122
Addo Elephant National Park MPA	B	26.5298	-33.875
Addo Elephant National Park MPA	C	25.8025	-33.875
Addo Elephant National Park MPA	D	25.8025	-33.84
Addo Elephant National Park MPA	E	25.7362	-33.84
Addo Elephant National Park MPA	F	25.728	-33.827333
Addo Elephant National Park MPA	G	25.7	-33.827333
Addo Elephant National Park MPA	H	25.7	-33.802983
Addo Elephant National Park MPA	I	25.721457	-33.779949
Addo Elephant National Park MPA	J	25.8609	-33.722156
Addo Elephant National Park MPA	K	25.9387	-33.710295
Addo Elephant National Park MPA	L	26.3243	-33.7672
Addo Elephant National Park MPA	M	26.496	-33.765595
Addo Elephant National Park MPA	N	26.496	-33.875
Addo Elephant National Park MPA	O	26.1667	-33.875
Addo Elephant National Park MPA	P	25.8609	-33.875
Addo Elephant National Park MPA	Q	25.9387	-33.72457
Addo Elephant National Park MPA	R	26.1667	-33.738807
Addo Elephant National Park MPA	S	25.771214	-33.683683
Addo Elephant National Park MPA	T	25.701352	-33.627685
Addo Elephant National Park MPA	U	25.716363	-33.785417
Addo Elephant National Park MPA	V	25.9387	-33.712187
Addo Elephant National Park MPA	W	26.495994	-33.767403
Addo Elephant National Park MPA	Y	26.5298	-33.756081

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 778

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE AMATHOLE OFFSHORE
MARINE PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make, the Regulations for the Management of the Amathole Offshore Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

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

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“commercial fishing” shall have the meaning assigned to it in section 1 of the Marine Living Resources Act;

“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) of the Act;

“Controlled-Pelagic Linefish Zone” means a Controlled Zone within a marine protected area where only pelagic linefishing may occur as detailed in a fish list attached to these regulations as Annexure 2 and includes the GOCPLZ;

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“fishing permit” means a commercial, small scale or recreational fishing permit issued in terms of the Marine Living Resources Act, which authorises fishing in the area where the Marine Protected Area is located;

“GOCZ” means the Gxulu Offshore Controlled Zone;

“GOCPLZ” means the Gxulu Offshore Controlled Pelagic Linefish Zone;

“GORZ” means the Gxulu Offshore Restricted Zone;

“hovercraft” means a craft that floats on a cushion of air and is capable of traversing water;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“KORZ” means the Kei Offshore Restricted Zone;

“KOCZ” means the Kei Offshore Controlled Zone;

“linefishing” means fishing by handline or manually operating a rod, reel and line or one or more separate lines to which no more than ten hooks are attached per line;

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Amathole Offshore Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on, rather than within the confines of a hull;

“recreational fishing” has the meaning assigned to it in the Marine Living Resources Act;

“Restricted Zone” means an area within a 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) of the Act:

“small-scale fishing or fisher” has the meaning ascribed to it in section 1 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“specific environmental management Act” has the meaning assigned to it in the National Environmental Management Act;

“Threatened or Protected Marine Species Lists” means the lists published in *Government Gazette* 40875 GN 476 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

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

“SCUBA diving vessel” means any vessel that carries SCUBA divers and has no fishing gear on board;

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a personal watercraft and hovercraft; and

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

2. Zonation within the Marine Protected Area

The Marine Protected Area consists of two (2) offshore Restricted Zones and three (3) offshore Controlled Zones, which are determined by using WGS 84 as detailed in Annexure 1 hereto as follows:

- (a) one (1) off shore Restricted Zone in the Gxulu Offshore Area, indicated as GORZ;
- (b) one (1) off shore Restricted Zone in the Kei Offshore Area, indicated as KORZ;
- (c) one (1) off shore Controlled Zone in the Gxulu Offshore Area, indicated as GOCZ.
- (d) one (1) off shore Controlled Pelagic Linefish Zone in the Gxulu Offshore Area, indicated as GOCPLZ; and
- (e) one (1) off shore Controlled Zone in the Kei Offshore Area, indicated as KOCZ.

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.
- (2) Application for a scientific research permit in terms of sub-regulation (1) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.
- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with

the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.

- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.
- (5) No person or vessel may be in possession of or have on board, SCUBA diving gear and a speargun.

5. Use of vessels

- (1) No person may moor or anchor any vessel in a Restricted Zone or Controlled Pelagic Linefish Zone of the Marine Protected Area except—
 - (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the Minister may on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances—
 - (a) in an emergency; or
 - (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The Minister may verbally authorise a vessel to moor or anchor within a Restricted Zone or Controlled Pelagic Linefish Zone of the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) Any motorized vessel that enters or traverses a Restricted Zone within the Marine Protected Area may not stop for more than 3 minutes, or move at less than—

- (a) 5 knots if such vessel is 10 meters or more in length; or
 - (b) 3 knots if such vessel is less than 10 meters in length,
- unless authorised in terms of these regulations.
- (5) Sub-regulation (4) does not apply to a SCUBA diving vessel.
- (6) A motorised vessel entering or traversing a Restricted Zone within 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 a Restricted Zone within the Marine Protected Area and such GPS data may not be deleted from this device for 7 calendar days after passing through a Restricted Zone.
- (7) A vessel required by law to have a Vessel Monitoring System; must, when entering or traversing the Marine Protected Area with fishing gear onboard, ensure that the Vessel Monitoring System is active.

6. Restriction of activities

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

7. Control of activities in Restricted Zone

- (1) No person shall fish, or attempt to fish, in the GORZ and KORZ.
- (2) No fishing gear including lines, hooks, lures, nets, trawl doors, warps, spearguns, buoys, traps or any other gear or equipment used for fishing, may be deployed overboard from any vessel within a Restricted Zone of the Marine Protected Area.
- (3) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Restricted Zone of the Marine Protected Area must be stowed in the following manner:
 - (a) In the case of line fishing from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the

vessel, or where that is not possible, place such gear on the deck of the vessel;

- (b) in the case of purse-seine fishing, no gear may be in the water;
- (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
- (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
- (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
- (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container;
- (g) in the case of pole fishing, all poles will be secured above deck;
- (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
- (i) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.

8. Control of activities in Controlled Zones and Controlled-Pelagic Linefish Zone

- (1) No person shall fish, or attempt to fish in a Controlled Zone or Controlled-Pelagic Linefish Zone, unless they are in possession of a valid fishing permit, which authorises such person to fish for any of the species in sub-regulation (2).
- (2) Notwithstanding anything to the contrary, a person in possession of a fishing permit as contemplated in sub-regulation (1), may-
 - (a) only undertake linefishing in the KOCZ;

- (b) only undertake linefishing and South Coast Rock Lobster fishing in the GOCZ; and
 - (c) only undertake linefishing for the pelagic species specified in Annexure 2 to these regulations when fishing in the GOCPLZ,
subject to the species restrictions, quantity, fish size limits, allowable effort, closed seasons and bag limits authorised by such fishing permit.
- (3) No person shall undertake fishing in a Controlled Zone or Controlled-Pelagic Linefish Zone in the period between sunset in the evening and sunrise of the following day, except for South Coast Rock Lobster in the GOCZ .
- (4) Fishing gear onboard a vessel or in possession of any person that enters or is present in a Controlled or Controlled-Pelagic Linefish Zone, and who is not authorised to fish in terms of sub-regulation (1), must be stowed in accordance with regulation 7(2) and 7(3).
- (5) No person may collect broodstock in a Controlled or Controlled-Pelagic Zone for undertaking aquaculture, without a permit from the Minister.
- (6) When considering a permit in terms of sub-regulation (5) the Minister must take into account the following factors-
 - (a) whether the species is listed as a threatened or protected species in terms of the Threatened or Protected Marine Species Lists and any prohibitions or restrictions therein;
 - (b) whether the species has been listed on an International Union for the Conservation of Nature Red list, including an international, regional, or national Red List;
 - (c) the objectives of this Marine Protected Area;
 - (d) whether the species can be collected outside the Marine Protected Area; and
 - (e) any other relevant criteria.

9. SCUBA diving

- (1) No person may SCUBA dive or operate or attempt to operate a SCUBA diving business in the Marine Protected Area, without a permit.
- (2) Application for a permit referred to in sub-regulation (1) must be made to the Minister and may be issued subject to conditions.
- (3) Any vessel that has deployed divers in the Marine Protected Area must display an alpha flag.

10. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may at any time be suspended, cancelled or amended.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit-holder is in breach of a condition contained in the permit;
 - (d) the permit-holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—

- (a) if an error needs to be corrected or rectified;
- (b) at the request of the applicant;
- (c) for the proper management and implementation of these regulations; or
- (d) where the conditions or circumstances have changed since the original permit was issued.

11. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4, 5(1), 5(4) to 5(7), 6, 7, 8(1) to 8(5), 9(1) or 9(3);
- (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.

11. Short title and commencement

These regulations are called the Amathole Offshore Marine Protected Area Regulations and commences on 1 August 2019.

Annexure 1

(Zonation for the Amathole Offshore Marine Protected Area)

Kei Offshore Restricted Zone (KORZ) The KORZ is bounded by a series of straight lines sequentially joining the following coordinates, with the last line joining the last co-ordinate to the first: A, S, C, D, E, F, G, H, I, J, K.

Kei Offshore Controlled Zone (KOCZ) is bounded by a series of straight lines sequentially joining the following coordinates, with the last line joining the last co-ordinate to the first: A, B, S and S to A.

Gxulu Offshore Restricted Zone (GORZ) is bounded by a series of straight lines sequentially joining the following coordinates, with the last line joining the last co-ordinate to the first: R, L, T, O, P, U, V, W, X.

Gxulu Offshore Controlled Zone (GOCZ) is bounded by a series of straight lines sequentially joining the following coordinates, with the last line joining the last co-ordinate to the first: R, X, W, V, U, Q.

Gxulu Offshore Controlled Pelagic Linefish Zone (GOCPLZ) is bounded by a series of straight lines sequentially joining the following coordinates with the last line joining the last co-ordinate to the first: L, M, N, T.

Fig. 1. The zonation for the Amathole Offshore Marine Protected Area.

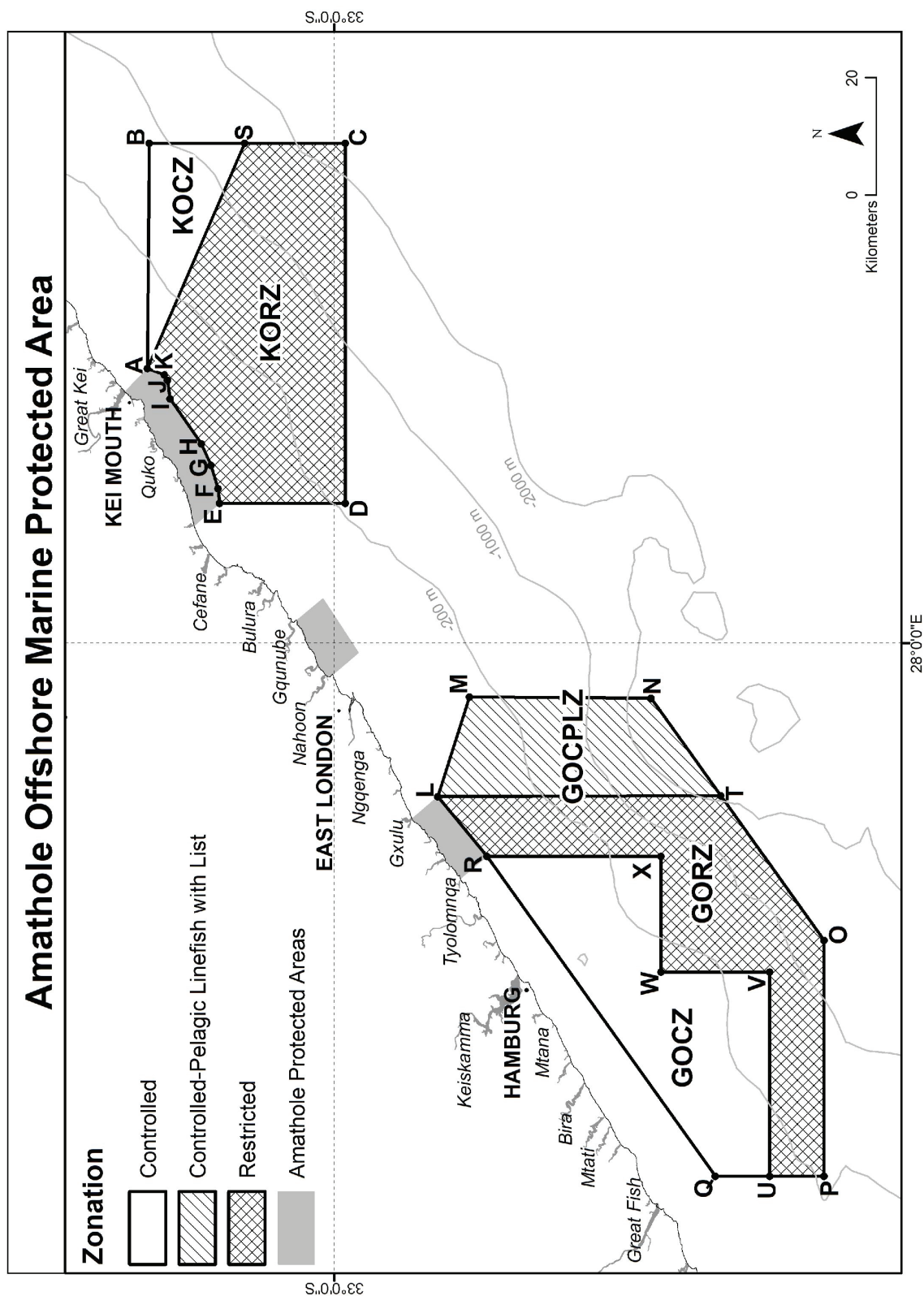


Table 1: Table of co-ordinates for the Amathole Offshore Marine Protected Area

	POINT	X	Y
Amathole Offshore Gxulu	L	27.7652	-33.15855
Amathole Offshore Gxulu	M	27.918	-33.207081
Amathole Offshore Gxulu	N	27.918	-33.484873
Amathole Offshore Gxulu	O	27.545	-33.75
Amathole Offshore Gxulu	P	27.1833	-33.75
Amathole Offshore Gxulu	Q	27.1833	-33.583333
Amathole Offshore Gxulu	R	27.6737	-33.233633
Amathole Offshore Gxulu	T	27.7652	-33.59174
Amathole Offshore Gxulu	U	27.1833	-33.666741
Amathole Offshore Gxulu	V	27.4967	-33.666741
Amathole Offshore Gxulu	W	27.4967	-33.5
Amathole Offshore Gxulu	X	27.6737	-33.5
Amathole Offshore Kei	A	28.4211	-32.713883
Amathole Offshore Kei	B	28.7667	-32.713883
Amathole Offshore Kei	C	28.7667	-33.016667
Amathole Offshore Kei	D	28.2146	-33.016667
Amathole Offshore Kei	E	28.2146	-32.8244
Amathole Offshore Kei	F	28.237417	-32.8222
Amathole Offshore Kei	G	28.272817	-32.811317
Amathole Offshore Kei	H	28.305583	-32.796783
Amathole Offshore Kei	I	28.374783	-32.74875
Amathole Offshore Kei	J	28.403333	-32.744917
Amathole Offshore Kei	K	28.411517	-32.739667
Amathole Offshore Kei	S	28.7667	-32.862554

Annexure 2

Gxulu Offshore Controlled Pelagic Linefish Zone List

Family names are given as all species in these families may be caught or used as bait.

Atherinidae – silversides
Belonidae – garfish
Carangidae – kingfish, garrick, yellowtail, queenfish, etc.
Chirocentridae – wolf herring/slimy
Clupeidae – red-eyes, sardines, etc.
Coryphaenidae – Dorado
Engraulidae – anchovies, glass-noses/bonies, etc.
Exocoetidae - flyingfishes
Hemiramphidae – halfbeaks
Istiophoridae – Sailfish and marlin
Pomatomidae – Shad/elf
Rachycentridae – Prodigal son/Cobia
Scomberesocidae - sauries
Scombridae – Tunas, mackerels, wahoo, etc.
Sphyrnidae – Barracudas

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 779

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE AGULHAS FRONT
MARINE PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the Agulhas Front Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

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

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Agulhas Front Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“Restricted Zone” means an area within a 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) of the Act;

“specific environmental management Act” has the meaning assigned to it in the National Environmental Management Act;

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a personal watercraft and hovercraft; and

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

2. Zonation within the Marine Protected Area

The entire Agulhas Front Marine Protected Area is zoned as a single Restricted Zone which is determined by using WGS 84 as detailed in Annexure 1.

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.
- (2) Application for a scientific research permit in terms of sub-regulation (1) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.
- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.

5. Use of vessels

- (1) No person may moor or anchor any vessel in the Marine Protected Area except—
 - (a) under conditions of *force majeure*;

- (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the Minister may, on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances:
 - (a) in an emergency; or
 - (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The Minister may verbally authorise a vessel to moor or anchor within the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) Any motorised vessel that enters or traverses the Marine Protected Area may not stop for more than 3 minutes or move at less than 5 knots at any time while in the Marine Protected Area, unless authorised in terms of these regulations.
- (5) A motorised vessel, prior to entering or while 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, and such GPS data may not be deleted from this device for 7 calendar days after passing through a Restricted Zone.
- (6) A motorised 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.

6. Restriction of activities

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

7. Control of activities in the Marine Protected Area

- (1) No person may fish, or attempt to fish, in the Marine Protected Area.
- (2) No fishing gear including lines, hooks, lures, nets, trawl doors, warps, spearguns, buoys, traps or any other gear or equipment used for fishing, may be deployed overboard from any vessel within the Marine Protected Area.
- (3) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Marine Protected Area must be stowed in the following manner:
 - (a) In the case of line fishing from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (b) in the case of purse-seine fishing, no gear may be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
 - (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
 - (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
 - (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container.
 - (g) in the case of pole fishing, all poles will be secured above deck;

- (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
- (i) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.

8. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may be suspended, cancelled or amended at any time.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
 - (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;

- (c) for the proper management and implementation of these regulations; or
- (d) where the conditions or circumstances have changed since the original permit was issued.

9. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4, 5(1), 5(4) to 5(6), 6 or 7;
- (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 is 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.

10. Short title and commencement

These regulations are called the Agulhas Front Marine Protected Area Regulations and shall commence on 1 August 2019.

Annexure 1**(Zonation of Agulhas Front Marine Protected Area)**

The Agulhas Front Marine Protected Area is zoned as a single Restricted Zone, bounded by a series of straight lines sequentially joining the following coordinates E, A, B, C, D and D joining E following the outer boundary of South Africa's Exclusive Economic Zone.

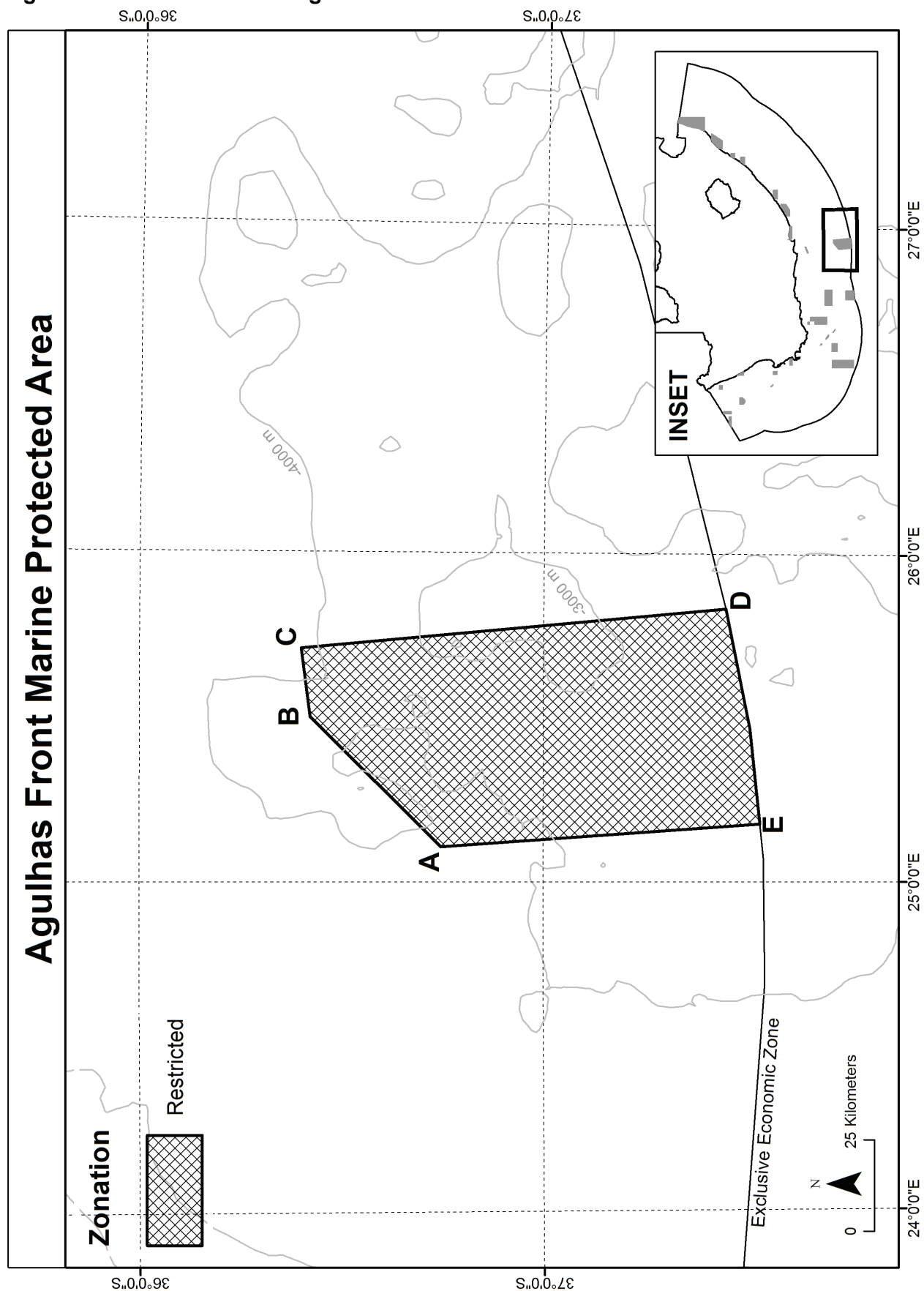
Fig. 1. The zonation for the Agulhas Front Marine Protected Area

Table 1: The table of co-ordinates for the Agulhas Front MPA

	POINT	X	Y
Agulhas Front MPA	A	25.107586	-36.747359
Agulhas Front MPA	B	25.499392	-36.42263
Agulhas Front MPA	C	25.708	-36.4
Agulhas Front MPA	D	25.833496	-37.45163
Agulhas Front MPA	E	25.176663	-37.537372

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 780

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT, 2003
(ACT NO. 57 OF 2003)****REGULATIONS FOR THE MANAGEMENT OF THE AGULHAS BANK COMPLEX
MARINE PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the Agulhas Bank Complex Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

“**Act**” means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

“**ABRZ**” means the Agulhas Bank Complex Restricted Zone;

“**ABCZ**” means the Agulhas Bank Complex Controlled Zone;

“**ABCPLZ**” means the Alphard Banks Controlled-Pelagic Linefish Zone;

“**certificate of competence**” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“**certificate of fitness**” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“**commercial fishing**” shall have the meaning assigned to it in section 1 of the Marine Living Resources Act;

“**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) of the Act;

“**Controlled-Pelagic Linefish Zone**” means a Controlled Zone within a marine protected area where only pelagic linefishing may occur as detailed in a fish list attached to these regulations as Annexure 2 and includes the Alphard Banks Controlled-Pelagic Linefish Zone ;

“**environment**” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“**fish**” means any aquatic plant or animal whether piscine or not, and any mollusc, crustacean, coral, sponge, holothurian or other echinoderm or reptile and includes their eggs, larvae and all juvenile stages, but does not include sea birds, seals or any marine mammal;

“fishing” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“fishing permit” means a commercial, small scale or recreational fishing permit issued in terms of the Marine Living Resources Act, which authorises fishing in the area where the Marine Protected Area is located;

“hovercraft” means a craft that floats on a cushion of air and is capable of traversing water;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“linefishing” means fishing by handline or manually operating a rod, reel and line or one or more separate lines to which no more than ten hooks are attached per line;

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Agulhas Bank Complex Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and which is designed to be operated by a person or persons sitting, standing, or kneeling on, rather than within the confines of a hull;

“**recreational fishing**” has the meaning assigned to it in the Marine Living Resources Act;

“**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) of the Act;

“**small-scale fishing or fisher**” has the meaning ascribed to it in section 1 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

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

“**SCUBA diving vessel**” means any vessel that carries SCUBA divers and has no fishing gear on board;

“**specific environmental management Act**” has the mean assigned to it in the National Environmental Management Act;

“**Threatened or Protected Marine Species Lists**” means the lists published in *Government Gazette* 40875 GN 476 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“**vessel**” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a personal watercraft and hovercraft; and

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

2. Zonation within the Marine Protected Area

The Marine Protected Area consists of one (1) Restricted Zone, one (1) Controlled Zone and one Controlled-Pelagic Linefish Zone, which are determined by using WGS 84 as detailed in Annexure 1 hereto as follows:

- (a) Restricted Zone, indicated as the Agulhas Bank Complex Restricted Zone (ABRZ); and
- (b) Controlled Zone, indicated as the Agulhas Bank Complex Controlled Zone (ABCZ); and

- (c) Controlled-Pelagic Linefish Zone, indicated as the Alphard Banks Controlled-Pelagic Linefish Zone (ABCPLZ).

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.
- (2) Application for a scientific research permit in terms of sub-regulation (1) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.
- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.
- (5) No person or vessel, shall be in possession of or have on board, SCUBA diving gear and a speargun.

5. Use of vessels

- (1) No person may moor or anchor any vessel in the Restricted Zone or Controlled-Pelagic Linefish Zone of the Marine Protected Area except—

- (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the Minister may on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances:
 - (a) in an emergency; or
 - (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The Minister may verbally authorise a vessel to moor or anchor within the Restricted Zone or Controlled-Pelagic Linefish Zone of the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) Any motorised vessel that enters or traverses a Restricted Zone within the Marine Protected Area may not stop for more than 3 minutes or move at less than 5 knots at any time while in a Restricted Zone of the Marine Protected Area, unless authorised in terms of these regulations.
- (5) Sub-regulation (4) does not apply to a SCUBA diving vessel.
- (6) A motorised vessel, prior to entering or while traversing a Restricted Zone within 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, and such GPS data may not be deleted from this device for 7 calendar days after passing through a Restricted Zone.
- (7) A motorised 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.

6. Restriction of activities

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

7. Control of activities in Restricted Zone

- (1) No person may fish, or attempt to fish, in the Agulhas Bank Complex Restricted Zone .
- (2) No fishing gear including lines, hooks, lures, nets, trawl doors, warps, spearguns, buoys, traps or any other gear or equipment used for fishing, may be deployed overboard from any vessel within a Restricted Zone of the Marine Protected Area.
- (3) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Restricted Zone of the Marine Protected Area must be stowed in the following manner:
 - (a) In the case of line fishing from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (b) in the case of purse-seine fishing, no gear may be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
 - (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
 - (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
 - (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or other container;

- (g) in the case of pole fishing, all poles will be secured above deck;
- (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
- (i) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.

8. Control of activities in Controlled-Pelagic Linefish and Controlled Zones

- (1) No person may fish, or attempt to fish in the Controlled zone or Controlled Pelagic Linefish Zone unless they are in possession of a valid fishing permit which authorises such person to fish for any of the species specified in sub-regulation (2).
- (2) Notwithstanding anything to the contrary, a person in possession of a fishing permit contemplated in sub-regulation (1)—
 - (a) may only undertake linefishing and South Coast Rock Lobster fishing in the Agulhas Bank Complex Controlled Zone; and
 - (b) may only undertake linefishing for the species specified in Annexure 2 to these regulations, when fishing in the Alphen Banks Controlled-Pelagic Linefish Zone, subject to species restrictions, quantity, fish size limits, allowable effort, closed seasons or bag limits authorised by such fishing permit.
- (3) Where a person or vessel who enters or is present in the ABCZ is in possession of, or has fishing gear, on board, respectively, and that person or vessel is not authorised to fish in terms of sub-regulation (1), that fishing gear must be stowed in accordance with regulations 7(2) and 7(3).
- (4) No person may, in the Controlled Zone or Controlled-Pelagic Linefish Zone, fish in the period between sunset in the evening and sunrise in the morning, except for South Coast Rock Lobster.
- (5) No person may in a Controlled-Pelagic Linefish Zone, be in possession of or have on board a vessel, any fish, except for the species listed in Annexure 2 to these regulations.
- (6) No person may collect broodstock in a Controlled or Controlled-Pelagic Linefish Zone for undertaking aquaculture without a permit from the Minister, which permit may be issued subject to conditions.
- (7) When considering a permit in terms of sub-regulation (6), the Minister must take into account the following factors:

- (a) whether the species is listed as a threatened or protected species in terms of the Threatened or Protected Marine Species Lists and any prohibitions or restrictions therein;
- (b) whether the species has been listed on an International Union for the Conservation of Nature Red list, including an international, regional, or national Red List;
- (c) the objectives of this Marine Protected Area;
- (d) whether the species can be collected outside the Marine Protected Area; and
- (e) any other relevant criteria.

9. SCUBA diving

- (1) No person may SCUBA dive or operate or attempt to operate a SCUBA diving business in the Marine Protected Area without a permit.
- (2) Application for a permit referred to in sub-regulation (1) must be made to the Minister and may be issued subject to conditions.
- (3) Any vessel that has deployed divers in the Marine Protected Area must display an alpha flag.

10. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may be suspended, cancelled or amended at any time.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended if—
 - (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit-holder is in breach of a condition contained in the permit;
 - (d) the permit-holder provided incorrect or false information in the application for the permit;

- (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
 - (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;
 - (c) for the proper management and implementation of these regulations; or
 - (d) where the conditions or circumstances have changed since the original permit was issued.

11. Offences and penalties

- (1) In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—
 - (a) regulations 3(1), 4, 5(1), 5(4) to 5(7), 6, 7, 8(1) to 8(6), 9(1) or 9(3);
 - (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.

11. Short title and commencement

These regulations are called the Agulhas Bank Complex Marine Protected Area Regulations and shall commence on 1 August 2019.

Annexure 1**(Zonation of Agulhas Bank Complex Marine Protected Area)**

- (a) **Agulhas Bank Complex Restricted Zone (ABRZ)** is bounded by a series of straight lines sequentially joining the following coordinates F, G, C and H; and a straight line joining the first and last co-ordinate.
- (b) **Agulhas Bank Complex Controlled Zone (ABCZ)** is bounded by a series of straight lines sequentially joining the following coordinates E, F, H and D; and a straight line joining the first and last co-ordinate.
- (c) **Alphard Banks Controlled-Pelagic Linefish Zone (ABCPLZ)** is bounded by a series of straight lines sequentially joining the following coordinates A, B, G and F; and a straight line joining the first and last co-ordinate.

Fig. 1. The zonation for the Agulhas Bank Complex Marine Protected Area

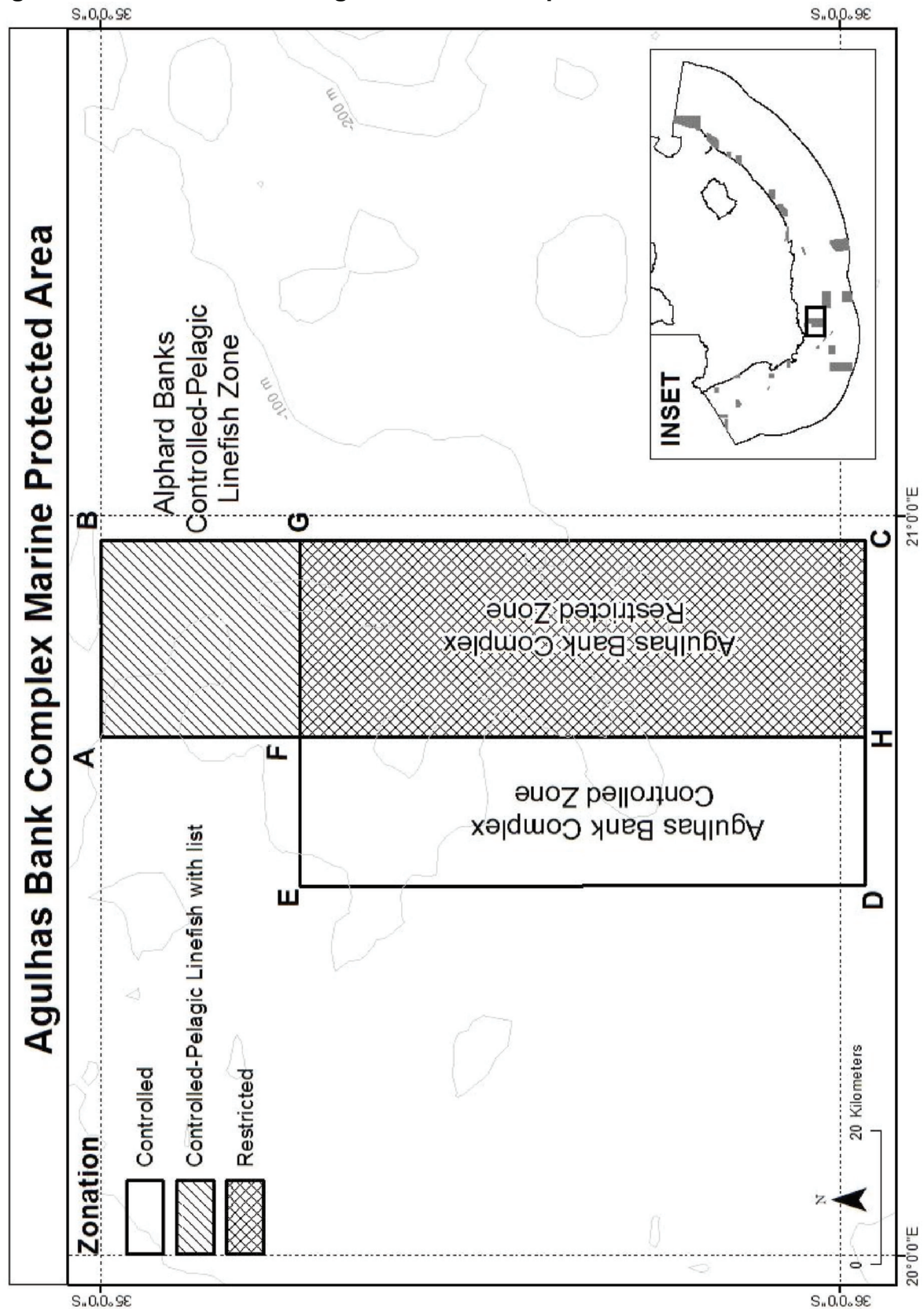


Table 1: The co-ordinates of the Agulhas Bank Complex Marine Protected Area

	POINT	X	Y
Agulhas Bank Complex MPA	A	20.7	-35
Agulhas Bank Complex MPA	B	20.966667	-35.00003
Agulhas Bank Complex MPA	C	20.966667	-36.033409
Agulhas Bank Complex MPA	D	20.5	-36.033333
Agulhas Bank Complex MPA	E	20.498833	-35.269333
Agulhas Bank Complex MPA	F	20.7	-35.269296
Agulhas Bank Complex MPA	G	20.966667	-35.268399
Agulhas Bank Complex MPA	H	20.700299	-36.033366

Annexure 2

Family names are given where all species in these families may be caught or used as bait in this zone.

Permitted families and species:

Argyrozona argyrozona - carpenter / silverfish

Atherinidae – silversides

Belonidae – garfish

Carangidae – kingfish, garrick, yellowtail, queenfish, etc.

Chirocentridae – wolf herring/slimy

Clupeidae – red-eyes, sardines, etc.

Coryphaenidae – Dorado

Engraulidae – anchovies, glass-noses/bonies, etc.

Exocoetidae - flyingfishes

Hemiramphidae – halfbeaks

Istiophoridae – Sailfish and marlin

Rachycentridae – Prodigal son/Cobia

Scomberesocidae – sauries

Scombridae – Tunas, mackerels, wahoo, etc. Sphyraenidae – Barracudas

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 781

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE ALIWAL SHOAL MARINE
PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the Aliwal Shoal Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

“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;

“ASOCPLZ” means Aliwal Shoal Offshore Controlled-Pelagic Linefish Zone;

“ASORZ” means Aliwal Shoal Offshore Restricted Zone;

“attract” means to feed, chum or bait, or to use any other means, method or device to lure a live specimen of a shark species (Elasmobranchii);

“beach-seine net” means any net, used for fishing with or without a cod-end or bag, deployed from the shore whether by hand or from a vessel, and then hauled onto the shore or vessel;

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“chum or chumming” means scenting or using pieces of an animal weighing less than 10 grams, in the water to lure a live specimen of any shark species (Elasmobranchii);

“commercial fishing” shall have the meaning assigned to it in section 1 of the Marine Living Resources Act;

“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) of the Act;

“CORZ” means the Crown Offshore Restricted Zone

“Controlled-Pelagic Linefish Zone” means a Controlled Zone within the Marine Protected Area where only pelagic linefishing and spearfishing may occur as detailed in a fish list attached to these regulations as Annexure 2 and includes the ASOCPLZ;

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or any attempt to undertake 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 or tracking 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;

“fishing permit” means a commercial, small scale or recreational fishing permit issued in terms of the Marine Living Resources Act, which authorises fishing in the area where the Marine Protected Area is located;

“GPIRZ” means Green Point Inshore Restricted Zone;

“high-water mark” has the meaning assigned to it in section 1 of the Integrated Coastal Management Act;

“hovercraft” means a craft that floats on a cushion of air and is capable of traversing water;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“IOCZ” means the Illovo Offshore Controlled Zone;

“linefishing” means fishing by handline or manually operating a rod, reel and line or one or more separate lines to which no more than ten hooks are attached per line;

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Aliwal Shoal Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“NORZ” means the Ngane Offshore Restricted Zone;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull;

“PORZ” means the Produce Offshore Restricted Zone;

“PROCZ” means the Park Rynie Offshore Controlled Zone;

“purse-seine” or **“purse-net”** means an encircling net of any size which is supported on the surface of the sea by floats along the head-line and weighted by weights along the footrope under the surface of the sea, and of which the bottom portion is drawn together by means of a purseline shackled either at an intermediate point or points or knot, which runs through and is attached to the footrope and includes any net of which the bottom portion is drawn together in a similar manner;

“RBIRZ” means Rocky Bay Inshore Restricted Zone;

“recreational fishing” has the meaning assigned to it in the Marine Living Resources Act;

“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) of the Act;

“SICZ” means Scottburgh Inshore controlled zone;

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

“SCUBA diving vessel” means any vessel that carries SCUBA divers and has no fishing gear on board;

“small-scale fishing or fisher” has the meaning ascribed to it in section 1 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“snorkeling” means to swim with a diving mask, a snorkel or fins;

“spearfishing” means fishing with the use of a speargun;

“speargun” means a device by which a spear is projected by mechanical or pneumatic means;

“specific environmental management Act” has the meaning assigned to it in the National Environmental Management Act;

“Threatened or Protected Marine Species Lists” means the lists published in *Government Gazette* 40875 GN 476 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“UICZ” means Umkomaas Inshore Controlled Zone;

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water, including a personal watercraft or hovercraft; and

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

2. Zonation within the Marine Protected Area

The Marine Protected Area consists of an inshore and offshore area. The inshore area consists of two (2) inshore Restricted Zones and two (2) Inshore Controlled Zones. The offshore area consists of one (1) offshore Controlled-Pelagic Linefish zone, two (2) offshore Controlled Zones and four (4) offshore Restricted Zones, which are determined by using WGS 84 as detailed in Annexure 1 hereto as follows:

- (a) two (2) inshore Controlled Zones, indicated as the Umkomaas Inshore Controlled Zone (UICZ) and the Scottburgh Inshore Controlled Zone (SICZ);
- (b) two (2) offshore Controlled Zones, indicated as the Illovo Offshore Controlled Zone (IOCZ) and the Park Rynie Offshore Controlled Zone (PROCZ);
- (c) two (2) inshore Restricted Zones, indicated as Green Point Inshore Restricted Zone (GPIRZ) and Rocky Bay Inshore Restricted Zone (RBIRZ);
- (d) one (1) offshore Controlled-Pelagic Linefish zone indicated as the Aliwal Shoal Offshore Controlled-Pelagic Linefish Zone (ASOCPLZ); and
- (e) four (4) off shore Restricted Zones, indicated as the Aliwal Shoal Offshore Restricted Zone (ASORZ), the Crown Offshore Restricted Zone (CORZ), the Ngane Offshore Restricted Zone (NORZ) and the Produce Offshore Restricted Zone (PORZ).

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.
- (2) Application for a scientific research permit in terms of sub-regulation (1) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is

displayed on the vessel at all times while the vessel is inside the Marine Protected Area.

- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.
- (5) No person may place any shark protection, exclusion or repelling device, equipment or infrastructure, including nets, within the Marine Protected Area without a permit from the Minister, which permit may be issued subject to conditions.
- (6) Subject to regulation 3, no person may undertake marine aquarium fishing, including fishing for or collecting invertebrates, or live rock within the Marine Protected Area.
- (7) No person or vessel, shall be in possession of or have on board, SCUBA diving gear and a speargun.

5. Use of vessels

- (1) No person may moor or anchor any vessel in a, Restricted or Controlled-Pelagic Linefish zone of the Marine Protected Area except—
 - (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the Minister may, on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances:
 - (a) in an emergency; or

- (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The Minister may verbally authorise a vessel to moor or anchor within a Restricted or Controlled-Pelagic Linefish zone of the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) Any motorised vessel that enters or traverses a Restricted Zone within the Marine Protected Area may not stop for more than 3 minutes, or move at less than—
 - (a) 5 knots if such vessel is 10 meters or more in length; or
 - (b) 3 knots if such vessel is less than 10 meters in length,unless authorised in terms of these regulations.
- (5) Sub-regulation (4) does not apply to a SCUBA diving vessel, or in the CORZ and PORZ.
- (6) A motorised vessel entering or traversing a Restricted Zone within 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 a Restricted Zone within the Marine Protected Area and such GPS data may not be deleted from this device for 7 calendar days after passing through a Restricted Zone.
- (7) A motorised 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.

6. Restriction of activities

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

7. Control of activities in the Restricted Zone

- (1) No person may fish, or attempt to fish, in any Restricted Zone, including spearfishing and fishing for invertebrates or collecting or harvesting of intertidal organisms including any bait species.

- (2) No fishing gear including lines, hooks, lures, nets, trawl doors, warps, spearguns, buoys, traps or any other gear or equipment used for fishing, may be deployed overboard from any vessel within a Restricted Zone of the Marine Protected Area.
- (3) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Restricted Zone of the Marine Protected Area must be stowed in the following manner—
 - (a) In the case of line fishing—
 - (i) from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (ii) from the shore, all hooks, lures, and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait, weights and any spear gun or spearfishing equipment are placed away in a bag or container;
 - (b) in the case of purse-seine fishing, no gear may be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
 - (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
 - (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
 - (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container;
 - (g) in the case of pole fishing, all poles will be secured above deck;

- (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
 - (i) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.
- (4) No person may land any fish in a Restricted Zone of the Marine Protected Area.

8. Control of activities in Controlled and Controlled-Pelagic Linefish Zones

- (1) No person may fish, or attempt to fish in a Controlled-Pelagic Linefish or Controlled zone, unless they are in possession of a valid fishing permit, which authorises such person to fish for the species specified in sub-regulation (2).
- (2) Notwithstanding anything to the contrary, a person in possession of a fishing permit contemplated in sub-regulation (1)—
 - (a) may only undertake linefishing and spearfishing for the species specified in Annexure 2 to these regulations, when fishing in the Controlled-Pelagic Linefish Zone; and
 - (b) may only undertake—
 - (i) linefishing and spearfishing in a Controlled Zone; or
 - (ii) beach seine net fishing for small pelagic fish during the sardine run season from 1 May to 30 September each year in a Controlled Zone,

subject to species restrictions, quantity, fish size limits, allowable effort, closed seasons and bag limits authorised by such fishing permit.
- (3) Subject to sub-regulation (4), no person may fish for any shark, or skate or ray species (Subclass Elasmobranchii) within the Marine Protected Area.
- (4) Catch and release fishing of any shark species (Elasmobranchii), may only take place from the shore within any Controlled Zone.
- (5) Notwithstanding anything to the contrary, any person in possession of a fishing permit contemplated in sub-regulation (1), in respect of fishing in the Illovo Offshore Controlled Zone (IOCZ), may not fish for or be in possession of any species other than those on the list in

Annexure 2 to these regulations, during the period 1 August to 31 October of any year.

- (6) No person may undertake fishing from a vessel in a Controlled or the Controlled-Pelagic Linefish Zones in the period between sunset in the evening and sunrise of the following day.
- (7) Fishing gear onboard a vessel or in possession of any person that enters or is present in a Controlled or Controlled-Pelagic Linefish Zone and who is not authorised to fish in terms of sub-regulation (1), must be stowed in accordance with regulation 7(2) and 7(3).
- (8) No person may collect broodstock in a Controlled or Controlled-Pelagic Linefish Zone for undertaking aquaculture, without a permit from the Minister.
- (9) When considering a permit in terms of sub-regulation (8) the Minister must take into account the following factors:
 - (a) whether the species is listed as a threatened or protected species in terms of the Threatened or Protected Marine Species Lists and any prohibitions or restrictions therein;
 - (b) whether the species has been listed on an International Union for the Conservation of Nature Red list, including an international, regional, or national Red List;
 - (c) the objectives of this Marine Protected Area;
 - (d) whether the species can be collected outside the Marine Protected Area; and
 - (e) any other relevant criteria.
- (10) No person may, in a Controlled-Pelagic Linefish Zone, be in possession of or have on board a vessel, any fish, except for the species listed in Annexure 2 to these regulations.
- (11) No person may undertake purse-seine and purse-net fishing within the Marine Protected Area.
- (12) No person may, in any Controlled or Controlled-Pelagic Linefish Zone, chum for or in any other manner, attract any shark species (Elasmobranchii) for the purpose of snorkeling or SCUBA diving with such species, without a permit.

- (13) Application for a permit referred to in sub-regulation (11) must be made to the Minister and may be issued subject to conditions.
- (14) No person may arrange, organise, or participate in any fishing competition in the Marine Protected Area, unless authorised by the Minister in writing.

9. SCUBA diving

- (1) No person may operate or attempt to operate a SCUBA diving business in the Marine Protected Area, without a permit.
- (2) Application for a permit referred to in sub-regulation (1) must be made to the Minister and may be issued subject to conditions.
- (3) Any vessel that has deployed divers in the Marine Protected Area must display an alpha flag.

10. Discharge into Marine Protected Area

- (1) Any existing discharge of effluent occurring at the date of commencement of these regulations, as contemplated in section 69 of the Integrated Coastal Management Act, is hereby authorised to continue within the Marine Protected Area, provided such discharge is authorised in terms of section 69 of the Integrated Coastal Management Act.
- (2) No new discharges of effluent occurring after the date of commencement of these regulations, as contemplated in terms of section 69 of the Integrated Coastal Management Act may be authorised and are prohibited in accordance with section 48A of the Act.
- (3) The volume, quantity or constituents of an existing discharge as contemplated in sub-regulation (1), may not increase by more than 5%, from what is authorised in terms of section 69 of the Integrated Coastal Management Act, at the time of commencement of these regulations.

11. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may be suspended, cancelled or amended at any time.

- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
- (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
- (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;
 - (c) for the proper management and implementation of these regulations; or
 - (d) where the conditions or circumstances have changed since the original permit was issued.

12. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4, 5(1), 5(4) to 5(7), 6, 7, 8(1) to 8(8), 8(10), 8(11), 8(12), 8(14), 9(1), 9(3), or 10;
- (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.

13. Withdrawal and repeal

The Regulations for the Management of the Aliwal Shoal Marine Protected Area as published in *Government Gazette* 26433 Notice No. 697 of 4 June 2004 are hereby repealed.

14. Short title and commencement

These regulations are called the Aliwal Shoal Marine Protected Area Regulations and shall commence on 1 August 2019.

Annexure 1
(Zonation of Aliwal Shoal Marine Protected Area)

INSHORE

- (1) **Umkomaas Inshore Controlled Zone (UICZ)** comprises the northern inshore portion of the Aliwal Shoal Marine Protected Area located north of the Green Point Inshore Restricted Zone and is defined as the area stretching 200 m seawards from the high water mark and along the high-water mark, between point A, which lies on the northern boundary of the Aliwal Shoal Marine Protected Area, near the south bank of the Lovu Estuary to point S, which lies at the southern end of the rocky point just north of the Mahlongwana Estuary and includes the Mgababa and Umkomaas beach areas.
- (2) **Green Point Inshore Restricted Zone (GPIRZ)** comprises an inshore portion of the Aliwal Shoal Marine Protected Area between Greenpoint and the Mahlongwana Estuary (including Clansthal Beach and Hayes Rock) and is defined as the section 200 m seawards from the high water mark and along the high-water mark, between point S, which lies at the southern end of the rocky point just north of the Mahlongwana Estuary and points T, which lies at the white beacon on the Green Point Rocks.
- (3) **Scottburgh Inshore Controlled Zone (SICZ)** comprises the southern inshore portion of the Aliwal Shoal Marine Protected Area located between the two Inshore Restricted Zones, and stretching 200 m seawards from the high water mark and along the high-water mark, between point T, which lies at the white beacon on the Green Point Rocks, and point U, which lies at the start of the rocky point at the southern end of the Rocky Bay Caravan Park.
- (4) **Rocky Bay Inshore Restricted Zone (RBIRZ)** comprises an inshore portion of the Aliwal Shoal Marine Protected Area and stretches 200 m seawards from the high water mark and along the high-water mark, between point U, which lies at the start of the rocky point at the southern end of the Rocky Bay Caravan Park and point E, which lies on the north bank of the Mzimayi Estuary at the southern boundary of the Aliwal Shoal Marine Protected Area.

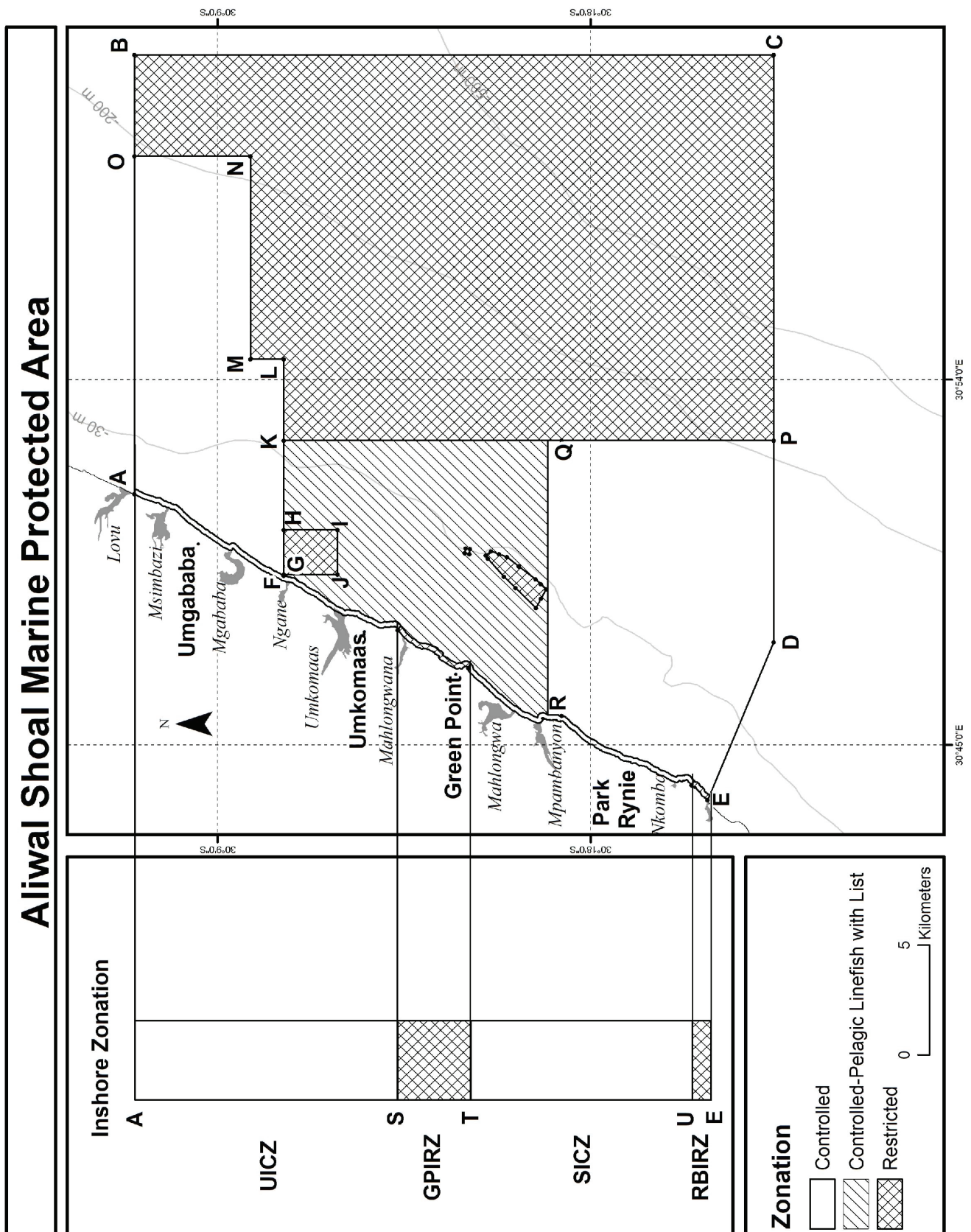


Figure 1: Aliwal Shoal MPA Inshore zonation

OFFSHORE

- (1) **Aliwal Shoal Offshore Restricted Zone (ASORZ)** comprises an offshore portion of the Aliwal Shoal Marine Protected Area and is defined as the area within straight lines sequentially joining the points; K, L, M, N, O, B, C, P, Q and joining the first co-ordinate to the last.
- (2) **Ngane Offshore Restricted Zone (NORZ)** comprises of an offshore block within the Aliwal Shoal Marine Protected Area and is defined as the area within straight lines sequentially joining the points G, H, I, J and joining the first co-ordinate to the last.
- (3) **Produce Offshore Restricted Zone (PORZ)** is defined as the area including the wreck of the Produce vessel within straight lines sequentially joining the following four points: a, b, c, d and joining the first co-ordinate to the last.
- (4) **Crown Offshore Restricted Zone (CORZ)** comprises the Crown Area of Aliwal Shoal defined by the area enclosed by the following points, which lie approximately on the 25 meter isobath. The demarcation points are within straight lines sequentially joining the following: e, f, g, h, i, j, k, l, m, n, o, p, q and joining the first co-ordinate to the last.
- (5) **Aliwal Shoal Offshore Controlled-Pelagic Linefish Zone (ASOCPLZ)** comprises a central offshore portion of the Aliwal Shoal Marine Protected Area and is defined as the area seawards within straight lines sequentially joining the following points: F, K, Q, R and joining the first co-ordinate to the last, along the line 200 m from the high-water mark. This area starts beyond the inshore zones (which extend to 200 m offshore of the high water mark) and extends between the Ngane and Mpambanyoni Estuaries.
- (6) **Illovo Offshore Controlled Zone (IOCZ)** comprises the northern offshore portion of the Aliwal Shoal Marine Protected Area and is defined as the area within straight lines sequentially joining the following points: W, O, N, M, L, F and joining the first co-ordinate to the last along the line 200 m from the high-water mark. This area starts beyond the inshore zones (which extend to 200 m offshore of the high water mark).
- (7) **Park Rynie Offshore Controlled Zone (PROCZ)** comprises the southern offshore portion of the Aliwal Shoal Marine Protected Area and is defined as the area within straight lines sequentially joining the following points: R, Q, P, D, V and joining the first co-ordinate to the last along the line 200 m from the high-water mark. This area starts beyond the inshore zones (which extend to 200 m offshore of the high water mark).



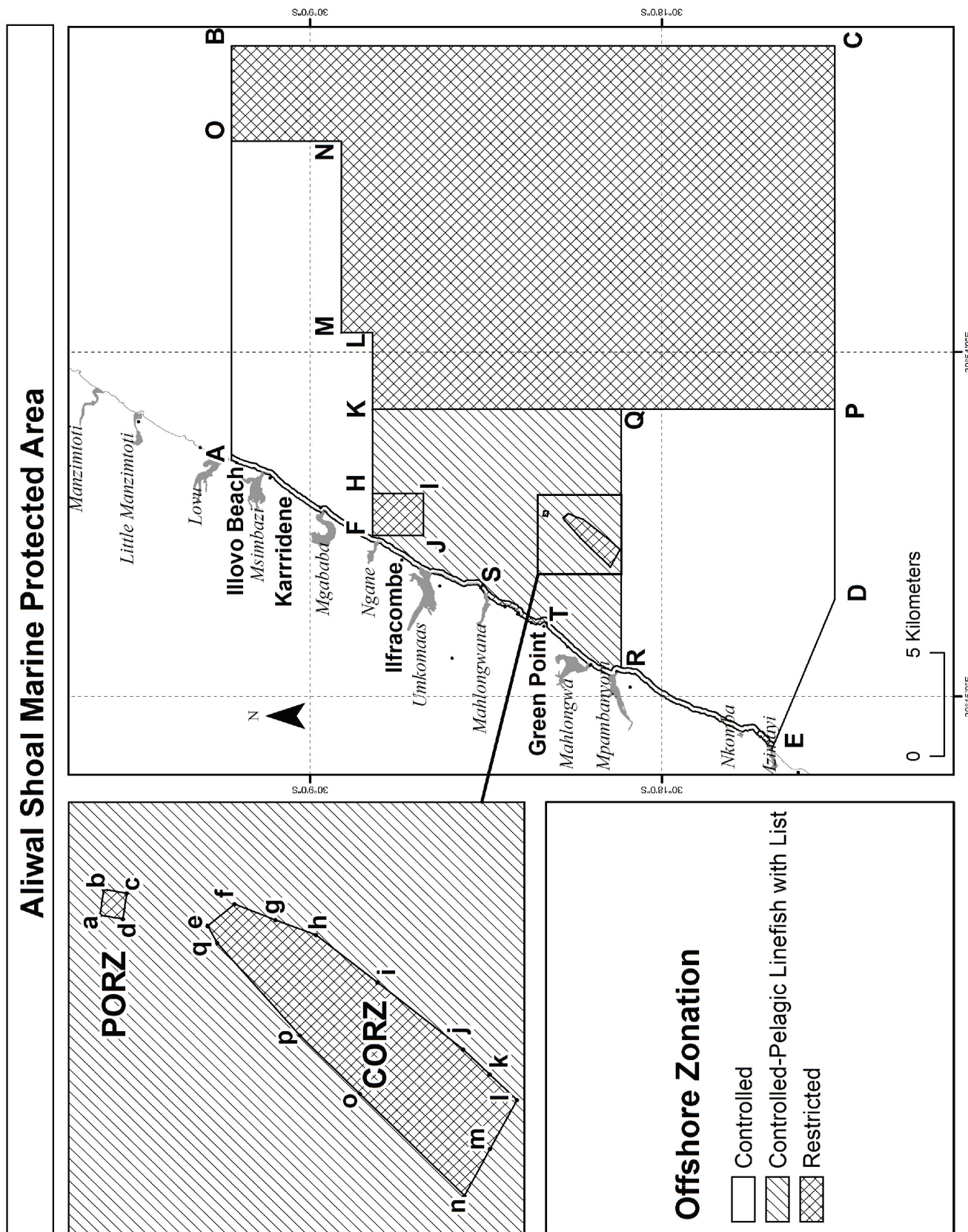


Figure 2: Aliwal Shoal Offshore Restricted Zones

Table 1: Table of co-ordinates for the Aliwal Shoal Marine Protected Area

	POINT	X	Y
Aliwal Shoal MPA	A	30.853	-30.116663
Aliwal Shoal MPA	B	31.0333	-30.116663
Aliwal Shoal MPA	C	31.0333	-30.3735
Aliwal Shoal MPA	D	30.7922	-30.3735
Aliwal Shoal MPA	E	30.727334	-30.34694
Aliwal Shoal MPA	F	30.8195	-30.176677
Aliwal Shoal MPA	G	30.82	-30.176677
Aliwal Shoal MPA	H	30.8383	-30.176677
Aliwal Shoal MPA	I	30.8383	-30.198333
Aliwal Shoal MPA	J	30.82	-30.198333
Aliwal Shoal MPA	K	30.875	-30.176677
Aliwal Shoal MPA	L	30.9083	-30.176677
Aliwal Shoal MPA	M	30.9083	-30.163333
Aliwal Shoal MPA	N	30.9917	-30.163333
Aliwal Shoal MPA	O	30.9917	-30.116663
Aliwal Shoal MPA	P	30.875	-30.3735
Aliwal Shoal MPA	Q	30.875	-30.282667
Aliwal Shoal MPA	R	30.7625	-30.282667
Aliwal Shoal MPA	S	30.797104	-30.222544
Aliwal Shoal MPA	T	30.781543	-30.250856
Aliwal Shoal MPA	U	30.733517	-30.340509
Aliwal Shoal MPA	V	30.729295	-30.347744
Aliwal Shoal MPA	W	30.8551	-30.116663
Aliwal Shoal MPA	a	30.828708	-30.24947
Aliwal Shoal MPA	b	30.830768	-30.249757
Aliwal Shoal MPA	c	30.830445	-30.251547
Aliwal Shoal MPA	d	30.828383	-30.251265
Aliwal Shoal MPA	e	30.827843	-30.257905
Aliwal Shoal MPA	f	30.829592	-30.260003
Aliwal Shoal MPA	g	30.828297	-30.26319
Aliwal Shoal MPA	h	30.827115	-30.266367
Aliwal Shoal MPA	i	30.823323	-30.271167
Aliwal Shoal MPA	j	30.817967	-30.277883
Aliwal Shoal MPA	k	30.815973	-30.279955
Aliwal Shoal MPA	l	30.81391	-30.282097
Aliwal Shoal MPA	m	30.81	-30.280002
Aliwal Shoal MPA	n	30.806273	-30.277995
Aliwal Shoal MPA	o	30.814397	-30.26981
Aliwal Shoal MPA	p	30.819042	-30.265128
Aliwal Shoal MPA	q	30.82649	-30.258627

Annexure 2

Pelagic fish species list for the Aliwal Shoal Controlled-Pelagic Linefish Zone.

Family names are given as all species in these families may be caught or used as bait.

Atherinidae – silversides
Belonidae – garfish
Carangidae – kingfish, garrick, yellowtail, queenfish, etc.
Chirocentridae – wolf herring/slimy
Clupeidae – red-eyes, sardines, etc.
Coryphaenidae – Dorado
Engraulidae – anchovies, glass-noses/bonies, etc.
Exocoetidae - flyingfishes
Hemiramphidae – halfbeaks
Istiophoridae – Sailfish and marlin
Pomatomidae – Shad/elf
Rachycentridae – Prodigal son/Cobia
Scomberesocidae - sauries
Scombridae – Tunas, mackerels, wahoo, etc.
Sphyraenidae – Barracudas

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 782

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE BENGUELA MUDS
MARINE PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the Benguela Muds Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

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

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“commercial fishing” shall have the meaning assigned to it in section 1 of the Marine Living Resources Act;

“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) of the Act;

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“fishing permit” means a commercial or small scale fishing permit issued in terms of the Marine Living Resources Act, which authorises fishing in the area where the Marine Protected Area is located;

“hovercraft” means a craft that floats on a cushion of air and is capable of traversing water;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“longline” means any line or connected lines or fishing gear to which a total of more than 10 fishing hooks is attached;

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Benguela Muds Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull;

“small-scale fishing or fisher” has the meaning ascribed to it in section 1 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“specific environmental management Act” has the meaning assigned to it in the National Environmental Management Act;

“Threatened or Protected Marine Species Lists” means the lists published in *Government Gazette* 40875 GN 476 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“tuna pole fishing” means linefishing for tuna by manually operating a rod, reel and line or one or more separate lines to which no more than ten hooks are attached per line;

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a personal watercraft and hovercraft; and

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

2. Zonation within the Marine Protected Area

The entire Benguela Muds Marine Protected Area is zoned as a single Controlled Zone which is determined by using WGS 84 as detailed in Annexure 1 hereto.

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.
- (2) Application for a scientific research permit in terms of sub-regulation (1) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.

- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.

5. Use of vessels

- (1) No person may moor or anchor any vessel in the Marine Protected Area except—
 - (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the Minister may on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances:
 - (a) in an emergency; or
 - (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The Minister may verbally authorise a vessel to moor or anchor within the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) A vessel required by law to have a Vessel Monitoring System; must, when entering or traversing the Marine Protected Area with fishing gear onboard, ensure that the Vessel Monitoring System is active.

6. Restriction of activities

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

7. Control of activities in Marine Protected Area

- (1) No person shall fish, or attempt to fish in the Marine Protected Area unless they are in possession of a valid fishing permit which authorises such person to fish for the species specified in sub-regulation (2).
- (2) Notwithstanding anything to the contrary, a person in possession of a fishing permit as contemplated in sub-regulation (1), may only fish for large pelagic species by longline and tuna pole within the Marine Protected Area, subject to the quantity, fish size limits, allowable effort, closed seasons or bag limits authorised by such fishing permit.
- (3) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Marine Protected Area and who is not authorised to fish in terms of sub-regulation (1) must be stowed in the following manner:
 - (a) In the case of line fishing from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (b) in the case of purse-seine fishing, no gear may be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
 - (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;

- (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
 - (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container.
 - (g) in the case of pole fishing, all poles will be secured above deck;
 - (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
 - (i) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.
- (4) No person may collect broodstock in the Controlled Zone for undertaking aquaculture, without a permit from the Minister, which permit may be issued subject to conditions.
- (5) When considering a permit in terms of sub-regulation (4) the Minister must take into account the following factors-
- (a) whether the species is listed as a threatened or protected species in terms of the Threatened or Protected Marine Species Lists and any prohibitions or restrictions therein;
 - (b) whether the species has been listed on an International Union for the Conservation of Nature Red list, including an international, regional, or national Red List;
 - (c) the objectives of this Marine Protected Area;
 - (d) whether the species can be collected outside the Marine Protected Area; and
 - (e) any other relevant criteria.

8. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may be suspended, cancelled or amended at any time.

- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
- (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) permit holder is in breach of a condition contained in the permit;
 - (d) permit holder provided incorrect or false information in the application for the permit;
 - (e) holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
- (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;
 - (c) for the proper management and implementation of these regulations; or
 - (d) where the conditions or circumstances have changed since the original permit was issued.

9. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4, 5(1), 5(4), 6 or 7(1) to 7(4);

- (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.

10. Short title and commencement

These regulations are called the Benguela Muds Marine Protected Area Regulations and commences on 1 August 2019.

Annexure 1
(Zonation of Benguela Muds Marine Protected Area)

The Benguela Muds Marine Protected Area is zoned as a single Controlled Zone. And is bounded by a series of straight lines sequentially joining the following offshore coordinates: A, B, C, and D; and a straight line joining the first and last co-ordinate.

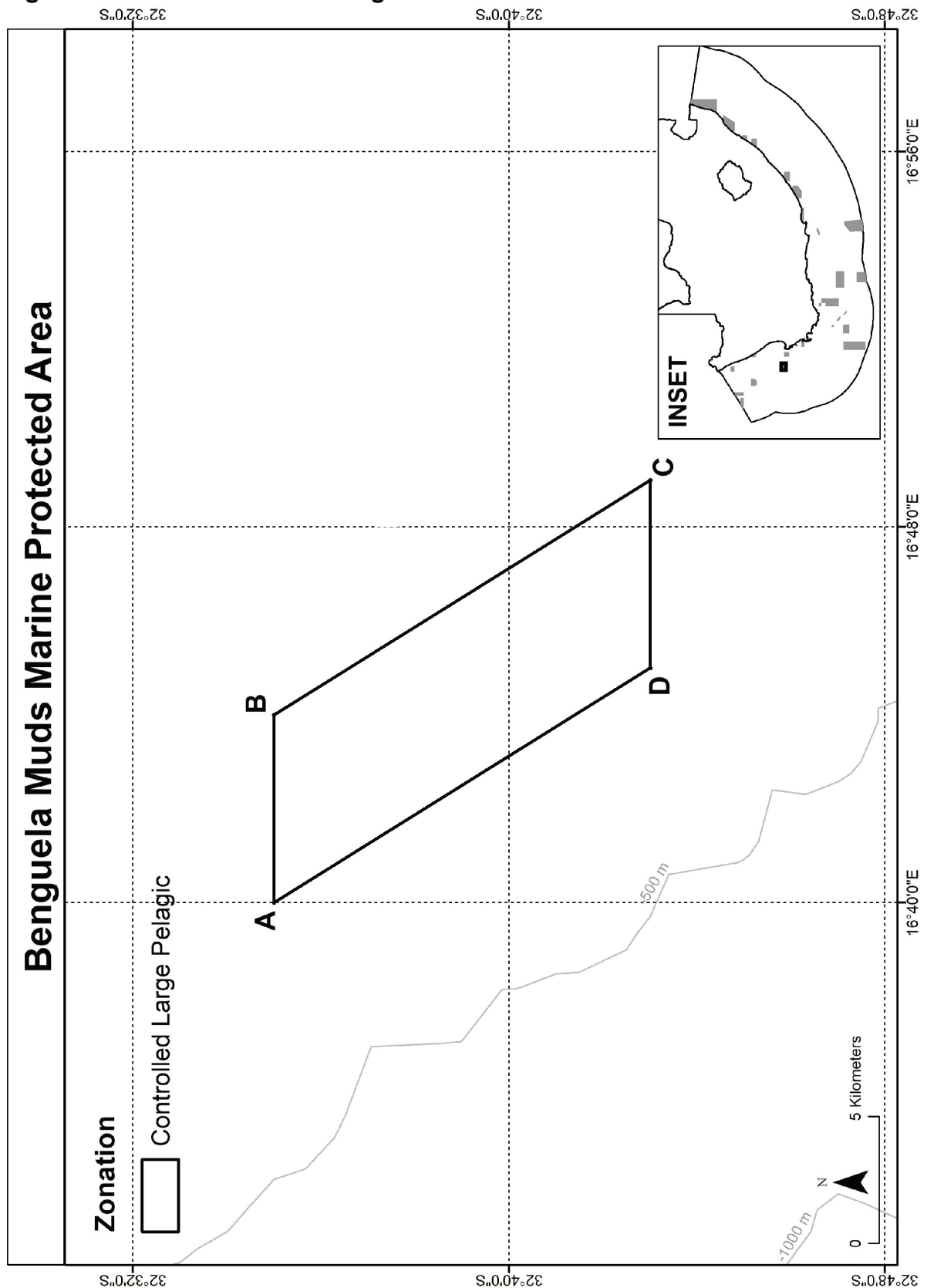
Fig. 1. The zonation for the Benguela Muds Marine Protected Area

Table 1: The table of co-ordinates for the Benguela Muds Marine Protected Area

	POINT	X	Y
Benguela Muds MPA	A	16.666664	-32.583336
Benguela Muds MPA	B	16.733333	-32.583333
Benguela Muds MPA	C	16.816667	-32.716667
Benguela Muds MPAF	D	16.75	-32.716667

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 783

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE BROWNS BANK CORALS
MARINE PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the Browns Bank Corals Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

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

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“commercial fishing” shall have the meaning assigned to it in section 1 of the Marine Living Resources Act;

“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) of the Act;

“coral” means Phylum *Cnidaria* Classes *Anthozoa* and *Hydrozoa*;

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“fishing permit” means a commercial or small scale fishing permit issued in terms of the Marine Living Resources Act, which authorises fishing in the area where the Marine Protected Area is located;

“hovercraft” means a craft that floats on a cushion of air and is capable of traversing water;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“longline” means any line or connected lines or fishing gear to which a total of more than 10 fishing hooks is attached;

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Browns Bank Corals Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull;

“small-scale fishing or fisher” has the meaning ascribed to it in section 1 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“specific environmental management Act” has the meaning assigned to it in the National Environmental Management Act;

“Threatened or Protected Marine Species Lists” means the lists published in *Government Gazette* 40875 GN 476 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“tuna pole fishing” means linefishing for tuna by manually operating a rod, reel and line or one or more separate lines to which no more than ten hooks are attached per line;

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a personal watercraft and hovercraft; and

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

2. Zonation within the Marine Protected Area

The entire Browns Bank Corals Marine Protected Area is zoned as a Controlled Zone with three offshore areas determined using WGS 84 as detailed in Annexure 1 hereto.

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.
- (2) Application for a scientific research permit in terms of sub-regulation (1) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.

- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.

5. Use of vessels

- (1) No person may moor or anchor any vessel in the Marine Protected Area except—
 - (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the Minister may on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances
 - (a) in an emergency; or
 - (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The Minister may verbally authorise a vessel to moor or anchor within the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) 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.

6. Restriction of activities

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

7. Control of activities in Marine Protected Area

- (1) No person shall fish, or attempt to fish in the Marine Protected Area unless they are in possession of a valid fishing permit, which authorises such person to fish for the species specified in sub-regulation (2).
- (2) Notwithstanding anything to the contrary, a person in possession of a fishing permit as contemplated in sub-regulation (1), may only fish for large pelagic species by longline or tuna pole in the Marine Protected Area, subject to the quantity, fish size limits, allowable effort, closed seasons or bag limits authorised by such fishing permit.
- (3) Subject to regulation 3, no person may fish for, collect, harvest or disturb any corals within the Marine Protected Area.
- (4) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Marine Protected Area and who is not authorised to fish in terms of sub-regulation (1) must be stowed in the following manner:
 - (a) In the case of line fishing from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (b) in the case of purse-seine fishing, no gear may be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;

- (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
 - (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
 - (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container.
 - (g) in the case of pole fishing, all poles will be secured above deck;
 - (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
 - (i) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.
- (5) No person may collect broodstock in the Controlled Zone for undertaking aquaculture, without a permit from the Minister, which permit may be issued subject to conditions.
- (6) When considering a permit in terms of sub-regulation (5), the Minister must take into account the following factors:
- (a) whether the species is listed as a threatened or protected species in terms of the Threatened or Protected Marine Species Lists and any prohibitions or restrictions therein;
 - (b) whether the species has been listed on an International Union for the Conservation of Nature Red list, including an international, regional, or national Red List;
 - (c) the objectives of this Marine Protected Area;
 - (d) whether the species can be collected outside the Marine Protected Area; and
 - (e) any other relevant criteria.

8. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulation (2) and (3), a permit issued under these regulations may be suspended, cancelled or amended at any time.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
 - (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;
 - (c) for the proper management and implementation of these regulations: or
 - (d) where the conditions or circumstances have changed since the original permit was issued.

9. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4, 5(1), 5(4), 6 or 7(1) to 7(5);
- (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.

10. Short title and commencement

These regulations are called the Browns Bank Corals Marine Protected Area Regulations and shall commence on 1 August 2019.

Annexure 1
(Zonation of Browns Bank Corals Marine Protected Area)

The Browns Bank Corals Marine Protected Area is zoned as a Controlled Zone which is comprised of three separate offshore areas, indicated as:

- (a) Browns Bank North which is bounded by a series of straight lines sequentially joining the following coordinates: A, B, C and D; and a straight line joining the first and last co-ordinate.
- (b) Browns Bank Central which is bounded by a series of straight lines sequentially joining the following coordinates E, F, G and H; and a straight line joining the first and last co-ordinate.
- (c) Browns Bank South which is bounded by a series of straight lines sequentially joining the following coordinates I, J, K, L and M; and a straight line joining the first and last co-ordinate.

Fig. 1. The zonation for the Browns Bank Corals Marine Protected Area

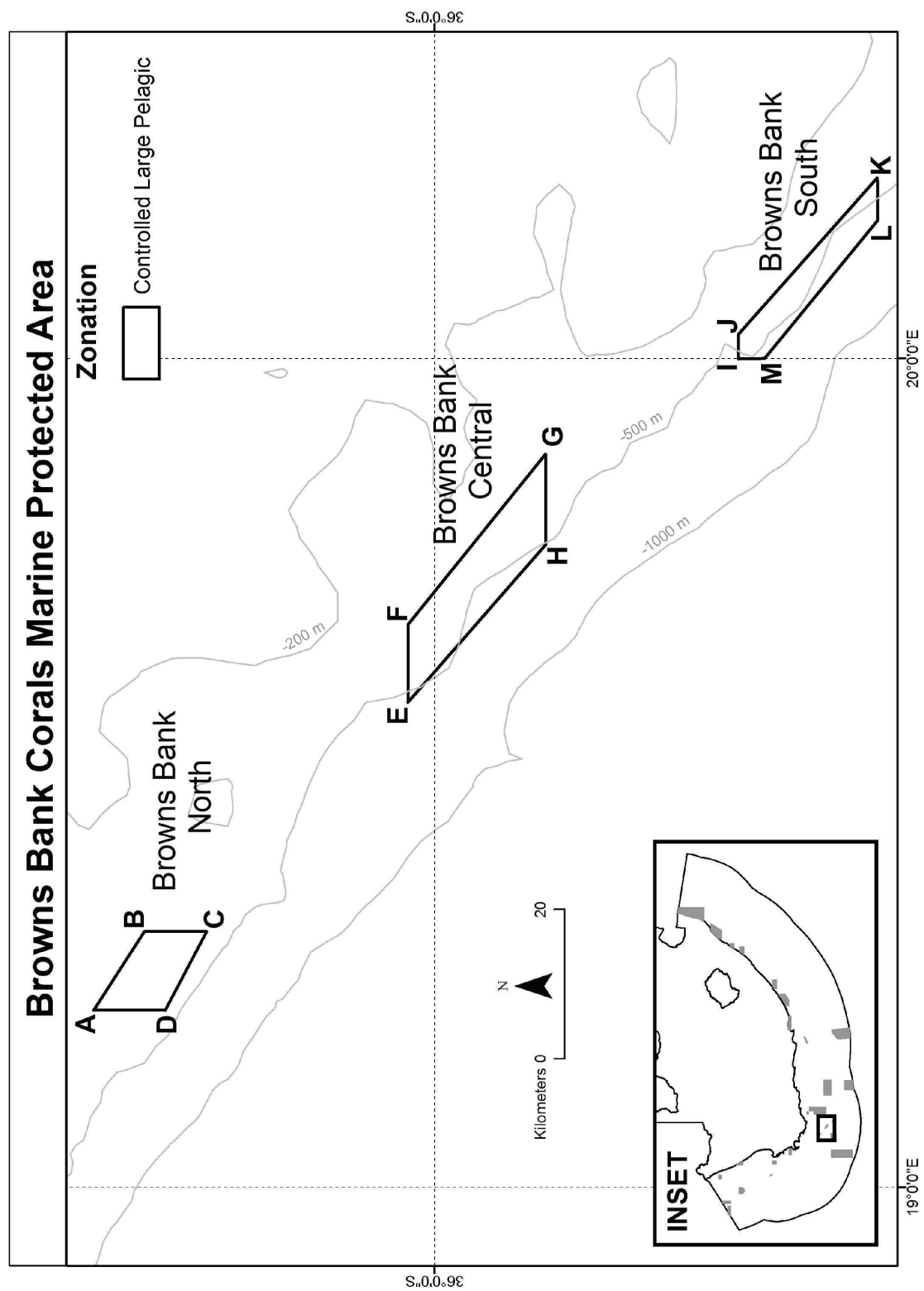


Table 1. The exact geographic coordinates (WGS 84) of points in Fig 1.

	POINT	X	Y
Brown Bank Corals 1	A	19.213333	-35.588333
Brown Bank Corals 1	B	19.308333	-35.65
Brown Bank Corals 1	C	19.308333	-35.725
Brown Bank Corals 1	D	19.213333	-35.675
Brown Bank Corals 2	E	19.585305	-35.967537
Brown Bank Corals 2	F	19.679504	-35.968
Brown Bank Corals 2	G	19.884831	-36.133726
Brown Bank Corals 2	H	19.775649	-36.134
Brown Bank Corals 3	I	19.999536	-36.366434
Brown Bank Corals 3	J	20.029585	-36.366434
Brown Bank Corals 3	K	20.218256	-36.533923
Brown Bank Corals 3	L	20.167024	-36.534
Brown Bank Corals 3	M	20.000029	-36.397962

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 784

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE CAPE CANYON MARINE
PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the Cape Canyon Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

“**Act**” means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);

“**certificate of competence**” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“**certificate of fitness**” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“**environment**” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“**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**” or to “**fish**” means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“**Integrated Coastal Management Act**” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Cape Canyon Offshore Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull;

“Restricted Zone” means an area within a 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) of the Act;

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a personal watercraft and hovercraft; and

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

2. Zonation within the Marine Protected Area

The entire Cape Canyon Marine Protected Area is zoned as a single Restricted Zone which is determined by using WGS 84 as detailed in Annexure 1.

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.

- (2) Application for a scientific research permit in terms of sub-regulation (1); must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.
- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.

5. Use of vessels

- (1) No person may moor or anchor any vessel in the Marine Protected Area except—
 - (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or

- (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the Minister may on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances-
 - (a) in an emergency; or
 - (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The Minister may verbally authorise a vessel to moor or anchor within the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) Any motorized vessel that enters or traverses the Marine Protected Area may not stop for more than 3 minutes or move at less than 5 knots at any time while in the Marine Protected Area, unless authorised in terms of these regulations.
- (5) A motorized 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 7 calendar days after passing through.
- (6) A vessel required by law to have a Vessel Monitoring System; must, when entering or traversing the Marine Protected Area with fishing gear onboard, ensure that the Vessel Monitoring System is active.

6. Restriction of activities

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

7. Control of activities in Marine Protected Area

- (1) No person shall fish, or attempt to fish, in the Marine Protected Area.

- (2) No fishing gear including lines, hooks, lures, nets, trawl doors, warps, spearguns, buoys, traps or any other gear or equipment used for fishing, may be deployed overboard from any vessel within the Marine Protected Area.
- (3) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Marine Protected Area must be stowed in the following manner:
 - (a) In the case of line fishing from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (b) in the case of purse-seine fishing, no gear may be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
 - (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
 - (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
 - (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container.
 - (g) in the case of pole fishing, all poles will be secured above deck;
 - (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
 - (i) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.

8. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may be suspended, cancelled or amended at any time.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
 - (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;
 - (c) for the proper management and implementation of these regulations; or
 - (d) where the conditions or circumstances have changed since the original permit was issued.

9. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4, 5(1), 5(4) to 5(6), 6 or 7;
- (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.

10. Short title and commencement

These regulations are called the Cape Canyon Marine Protected Area Regulations and shall commence on 1 August 2019.

Annexure 1
(Zonation of Cape Canyon Marine Protected Area)

The Cape Canyon Marine Protected Area is zoned as a single Restricted Zone, bounded by a series of straight lines sequentially joining the following coordinates: A, B, C, and D; and a line joining the first and last co-ordinate.

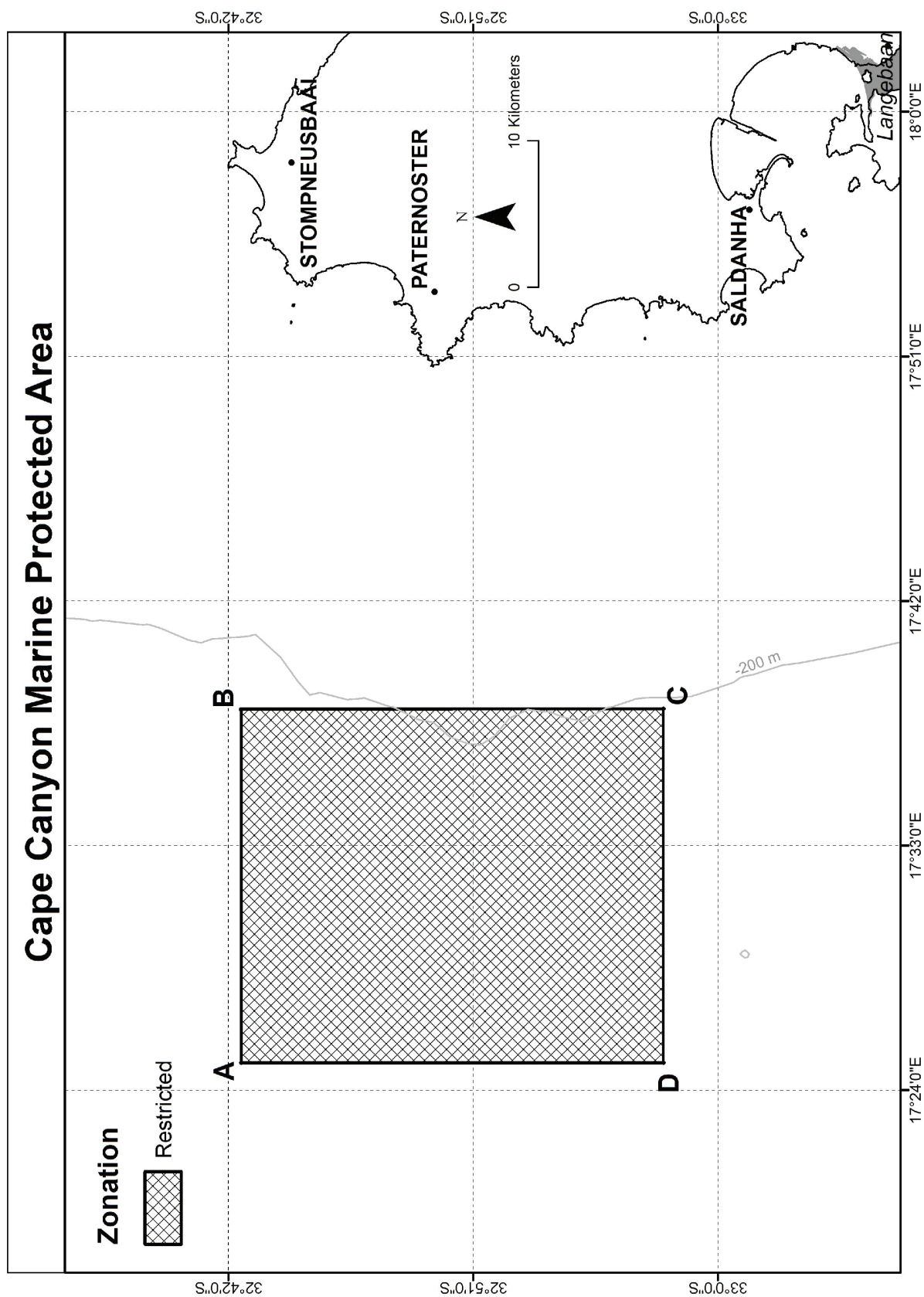


Fig 1. The Cape Canyon Marine Protected Area

Table 1. The exact geographic coordinates (WGS 84) of points in Fig 1.

	POINT	X	Y
Cape Canyon	A	17.416687	-32.708
Cape Canyon	B	17.633558	-32.70774
Cape Canyon	C	17.633949	-32.96669
Cape Canyon	D	17.416687	-32.966679

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 785

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE CHILDS BANK MARINE
PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the Childs Bank Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

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

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“commercial fishing” shall have the meaning assigned to it in section 1 of the Marine Living Resources Act;

“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) of the Act;

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“fishing permit” means a commercial or small scale fishing permit issued in terms of the Marine Living Resources Act, which authorises fishing in the area where the Marine Protected Area is located;

“hovercraft” means a craft that floats on a cushion of air and is capable of traversing water;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“longline” means any line or connected lines or fishing gear to which a total of more than 10 fishing hooks is attached;

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Childs Bank Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull;

“small-scale fishing or fisher” has the meaning ascribed to it in section 1 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“specific environmental management Act” has the meaning assigned to it in the National Environmental Management Act;

“Threatened or Protected Marine Species Lists” means the lists published in *Government Gazette* 40875 GN 476 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“tuna pole fishing” means linefishing for tuna by manually operating a rod, reel and line or one or more separate lines to which no more than ten hooks are attached per line;

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a personal watercraft and hovercraft; and

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

2. Zonation within the Marine Protected Area

The entire Childs Bank Marine Protected Area is zoned as a single Controlled Zone which is determined by using WGS 84 as detailed in Annexure 1 hereto.

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.
- (2) Application for a scientific research permit in terms of sub-regulation (1) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.

- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.

5. Use of vessels

- (1) No person may moor or anchor any vessel in the Marine Protected Area except—
 - (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the Minister may on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances:
 - (a) in an emergency; or
 - (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The Minister may verbally authorise a vessel to moor or anchor within the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) A vessel required by law to have a Vessel Monitoring System; must, when entering or traversing the Marine Protected Area with fishing gear onboard, ensure that the Vessel Monitoring System is active.

6. Restriction of activities

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

7. Control of activities in Marine Protected Area

- (1) No person may fish, or attempt to fish in the Marine Protected Area unless they are in possession of a valid fishing permit which authorises such person to fish for the species specified in sub-regulation (2).
- (2) Notwithstanding anything to the contrary, a person in possession of a fishing permit as contemplated in sub-regulation (1), may only fish for large pelagic species by longline or tuna pole within the Marine Protected Area and subject to the quantity, fish size limits, allowable effort, closed seasons or bag limits authorised by such fishing permit. .
- (3) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Marine Protected Area and who is not authorised to fish in terms of sub-regulation (1) must be stowed in the following manner -
 - (a) In the case of line fishing from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (b) in the case of purse-seine fishing, no gear may be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
 - (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;

CONTINUES ON PAGE 130 - PART 2



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PART 2 OF 3

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- (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
 - (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container.
 - (g) in the case of pole fishing, all poles must be secured above deck;
 - (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
 - (i) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.
- (4) No person may collect broodstock in the Controlled Zone for undertaking aquaculture, without a permit from the Minister, which permit may be issued subject to conditions.
- (5) When considering a permit in terms of sub-regulation (4) the Minister must take into account the following factors-
- (a) whether the species is listed as a threatened or protected species in terms of the Threatened or Protected Marine Species Lists and any prohibitions or restrictions therein;
 - (b) whether the species has been listed on an International Union for the Conservation of Nature Red List, including an international, regional, or national Red List;
 - (c) the objectives of this Marine Protected Area;
 - (d) whether the species can be collected outside the Marine Protected Area; and
 - (e) any other relevant criteria.

8. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may be suspended, cancelled or amended at any time.

- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
- (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
- (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;
 - (c) for the proper management and implementation of these regulations; or
 - (d) where the conditions or circumstances have changed since the original permit was issued.

9. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4, 5(1), 5(4), 6 or 7(1) to 7(4);
- (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.

10. Short title and commencement

These regulations are called the Childs Bank Marine Protected Area Regulations and commences on 1 August 2019.

Annexure 1
(Zonation of Childs Bank Marine Protected Area)

The Childs Bank Marine Protected Area is zoned as a single Controlled Zone, and is bounded by a series of straight lines sequentially joining the following coordinates: A, B, C, D, E and F; and a straight line joining the first and last co-ordinate

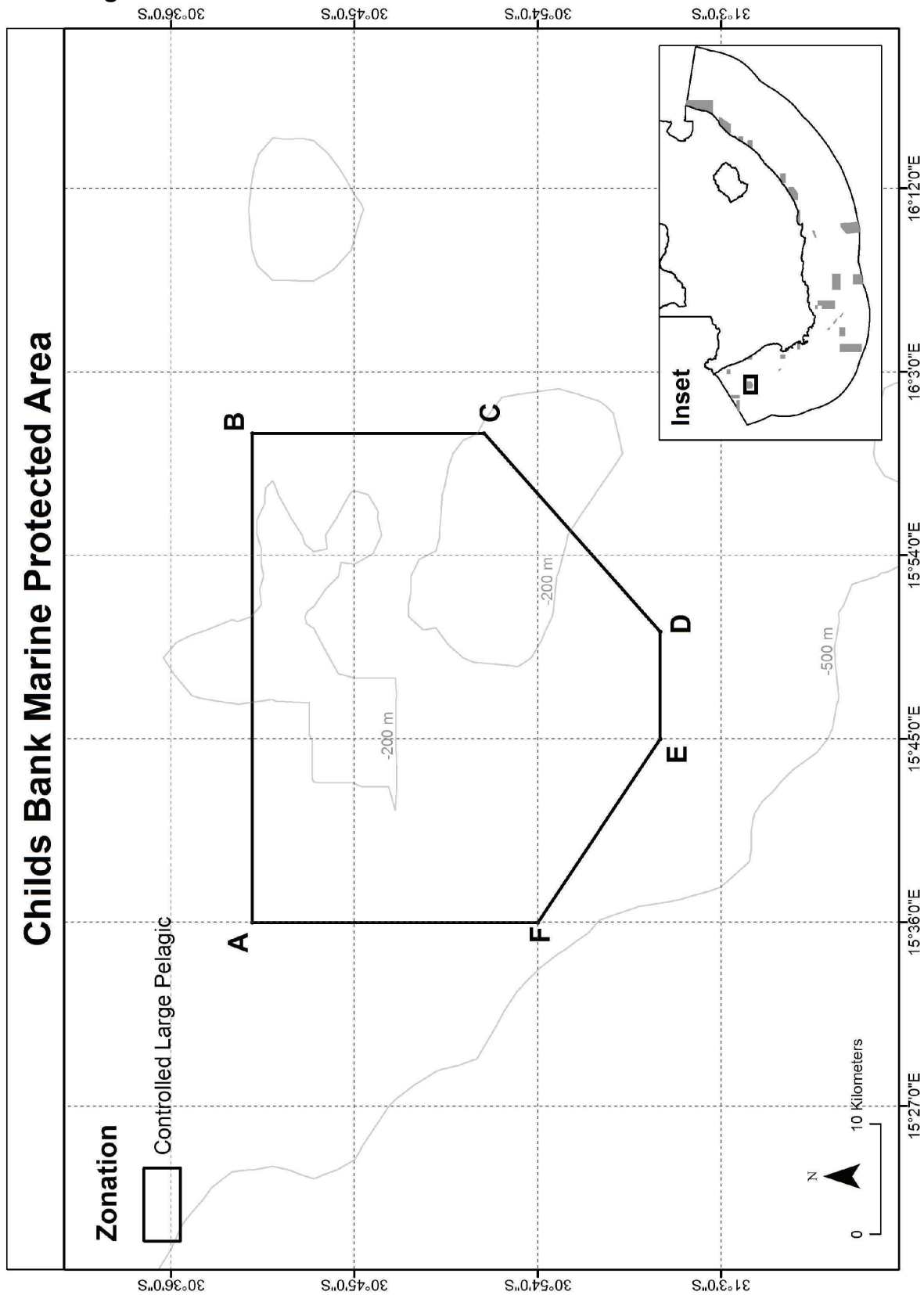
Fig. 1. The zonation for the Childs Bank Marine Protected Area

Table 1: Co-ordinates for the Childs Bank Marine Protected Area

	POINT	X	Y
Childs Bank	A	15.6	-30.666667
Childs Bank	B	16	-30.666667
Childs Bank	C	16	-30.855985
Childs Bank	D	15.837719	-31.000003
Childs Bank	E	15.749998	-31.000004
Childs Bank	F	15.6	-30.9

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 786

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE NAMAQUA FOSSIL
FOREST MARINE PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the Namaqua Fossil Forest Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition-

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

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“commercial fishing” shall have the meaning assigned to it in section 1 of the Marine Living Resources Act;

“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) of the Act;

“coral” means Phylum Cnidaria Classes Anthozoa and Hydrozoa;

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“fishing permit” means a commercial, small scale or recreational fishing permit issued in terms of the Marine Living Resources Act, which authorises fishing in the area where the Marine Protected Area is located;

“hovercraft” means a craft that floats on a cushion of air and is capable of traversing water;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“linefishing” means fishing by handline or manually operating a rod, reel and line or one or more separate lines to which no more than ten hooks are attached per line;

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Namaqua Fossil Forest Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull;

“recreational fishing” has the meaning assigned to it in the Marine Living Resources Act;

“small-scale fishing or fisher” has the meaning ascribed to it in section 1 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“specific environmental management Act” has the meaning ascribed to it in the National Environmental Management Act;

“Threatened or Protected Marine Species Lists” means the lists published in *Government Gazette* 40875 GN 476 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a personal watercraft and hovercraft; and

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

2. Zonation within the Marine Protected Area

The entire Namaqua Fossil Forest Marine Protected Area is zoned as a single Controlled Zone which is determined by using WGS 84 and detailed in Annexure 1 hereto.

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.
- (2) Application for a scientific research permit in terms of sub-regulation (1) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.

- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.

5. Use of vessels

- (1) No person may moor or anchor any vessel in the Marine Protected Area except—
 - (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the Minister may on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances -
 - (a) in an emergency;
 - (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The Minister may verbally authorise a vessel to moor or anchor within the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) A vessel required by law to have a Vessel Monitoring System; must, when entering or traversing the Marine Protected Area with fishing gear onboard, ensure that the Vessel Monitoring System is active.

6. Restriction of activities

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

7. Control of activities in Marine Protected Area

- (1) No person shall fish, or attempt to fish in the Marine Protected Area unless they are in possession of a valid fishing permit which authorizes such person to undertake linefishing.
- (2) Notwithstanding anything to the contrary, a person in possession of a fishing permit as contemplated in sub-regulation (1), may only undertake linefishing, subject to the quantity, fish size limits, allowable effort, closed seasons or bag limits authorised by such fishing permit.
- (3) No person shall undertake fishing in the Marine Protected Area in the period between sunset in the evening and sunrise of the following day.
- (4) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Marine Protected Area, and is not authorised to fish within the Marine Protected Area, must be stowed in the following manner:
 - (a) In the case of line fishing from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (b) in the case of purse-seine fishing, no gear may be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;

- (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
 - (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
 - (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container.
 - (g) in the case of pole fishing, all poles will be secured above deck;
 - (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
 - (i) in respect of all types of fishing where bait is used, such bait must remain packed away, or be placed into a bait well, where available.
- (5) Subject to regulation 3, no person may fish for, collect, harvest or disturb any corals within the Marine Protected Area.
- (6) No person may collect broodstock in a Controlled Zone for undertaking aquaculture, without a permit from the Minister, which permit may be issued subject to conditions.
- (7) When considering a permit in terms of sub-regulation (6) the Minister must take into account the following factors:
- (a) whether the species is listed as a threatened or protected species in terms of the Threatened or Protected Marine Species Lists and any prohibitions or restrictions therein;
 - (b) whether the species has been listed on an International Union for the Conservation of Nature Red list, including an international, regional, or national Red List;
 - (c) the objectives of this Marine Protected Area;
 - (d) whether the species can be collected outside the Marine Protected Area; and
 - (e) any other relevant criteria.

8. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may be suspended, cancelled or amended at any time.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
 - (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;
 - (c) for the proper management and implementation of these regulations; or
 - (d) where the conditions or circumstances have changed since the original permit was issued.

9. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4, 5(1), 5(4), 6 or 7(1) to 7(6);
- (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.

10. Short title and commencement

These regulations are called the Namaqua Fossil Forest Marine Protected Area Regulations and shall commence on 1 August 2019.

Annexure 1**(Zonation of Namaqua Fossil Forest Marine Protected Area)**

The Namaqua Fossil Forest Marine Protected Area is zoned as a single Controlled Zone, bounded by a series of straight lines sequentially joining the following four coordinates A, B, C, and D; and a straight line joining the first and last co-ordinate.

Fig. 1. The zonation for the Namaqua Fossil Forest Marine Protected Area

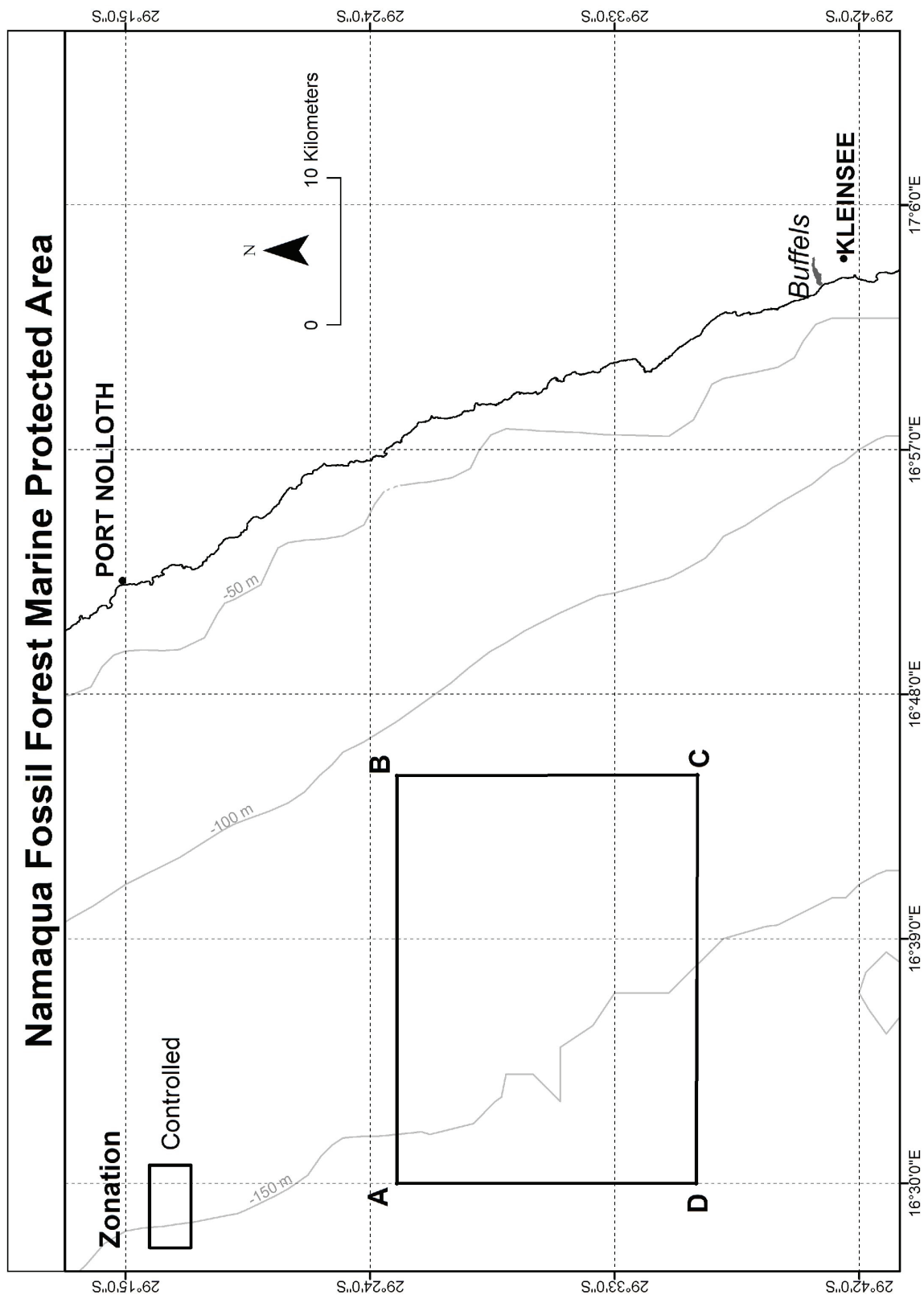


Table 1. The exact geographic coordinates (WGS 84) of points in Fig 1.

	POINT	X	Y
Namaqua Fossil Forest	A	16.5	-29.416667
Namaqua Fossil Forest	B	16.75	-29.416667
Namaqua Fossil Forest	C	16.7504	-29.600933
Namaqua Fossil Forest	D	16.5	-29.6

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 787

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE NAMAQUA NATIONAL
PARK MARINE PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the Namaqua National Park Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

Schedule

1. Definitions

In these Regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these Regulations, and in addition—

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

“AICZ” means Abjoel Inshore Controlled Zone;

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

“authorised official” means -

- (a) any person appointed as a fishery control officer in terms of the Marine Living Resources Act;
- (b) an environmental management inspector appointed in terms of the National Environmental Management Act; and
- (c) all peace officers as defined in the Criminal Procedure Act.

“BbICZ” means Bamboeskamp Inshore Controlled zone;

“BICZ” means Boulderbaai Inshore Controlled Zone;

“BIRZ” means Boulderbaai Inshore Restricted Zone;

“BrIRZ” means Bitterrivier Inshore Restricted Zone;

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“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) of the Act;

“Criminal Procedure Act” means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

“demarcation buoy” means a buoy installed to mark the boundaries of or the zones within the Marine Protected Area;

“DICZ” means Delwerskamp Inshore Controlled Zone;

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“EPICZ” means Eiland Punt Inshore Controlled Zone;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“GIRZ” means Groenrivier Inshore Restricted Zone;

“high-water mark” shall have the meaning assigned to it in section 1 of the Integrated Coastal Management Act;

“hovercraft” means a craft that floats on a cushion of air and is capable of traversing water;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“**JIRZ**” means Jaar se Baai Inshore Restricted Zone;

“**KIRZ**” Kwas se Baai Inshore Restricted Zone;

“**linefishing**” means fishing by handline or manually operating a rod, reel and line or one or more separate lines to which no more than ten hooks are attached per line;

“**management authority**” means South African National Parks as designated in regulation 10;

“**Marine Living Resources Act**” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“**Marine Protected Area**” means the Namaqua National Park Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“**National Small Vessel Safety Regulations**” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“**NORZ**” means Namaqua National Park Offshore Restricted Zone;

“**operate**” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“**personal watercraft**” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull;

“**PICZ**” means Policeman’s helmet Inshore Controlled Zone;

“**recreational fishing**” has the meaning assigned to it in the Marine Living Resources Act;

“**Restricted Zone**” means an area within a 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) of the Act.

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

“SCUBA diving vessel” means any vessel that carries SCUBA divers and has no fishing gear on board;

“specific environmental management Act” has the meaning assigned to it in the National Environmental Management Act;

“Threatened or Protected Marine Species Lists” means the lists published in *Government Gazette* 40875 GN 476 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a personal watercraft and hovercraft; and

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

2. Zonation within the Marine Protected Area

The Marine Protected Area consists of one (1) offshore Restricted Zone, six (6) Inshore Controlled Zones, and five (5) Inshore Restricted Zones which are determined by using WGS 84 as detailed in Annexure 1 hereto as follows:

- (a) one (1) Offshore Restricted Zone, indicated as NORZ;
- (b) six (6) Inshore Controlled Zones, indicated as EPICZ, DICZ, AICZ, BbICZ, BICZ, PICZ; and
- (c) five (5) Inshore Restricted Zones, indicated as GIRZ, JIRZ, KIRZ, BrIRZ, BIRZ.

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except—
 - (a) on the authority of a scientific research permit issued by the Minister; and
 - (b) a scientific research permit issued by the management authority.

- (2) Application for a scientific research permit in terms of sub-regulation (1)(a) must be made in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.
- (3) Application for a scientific research permit in terms of sub-regulation (1)(b) must be made on an application form provided by the management authority.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.
- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) The management authority may in the management plan for the Marine Protected Area or in an internal rule, identify activities, except for those activities listed in section 48A(1) of the Act; which may be restricted, controlled, limited or prohibited and such areas must be indicated by demarcation buoys, demarcation markers or notice boards.
- (5) No person may conduct or carry out any activity that is prohibited, or undertake any activity in contravention of any restriction, control, or limitation provided for in terms of sub-regulation (4).
- (6) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.
- (7) No person may place any shark protection, exclusion or repelling device, equipment or infrastructure, including nets, within the

Marine Protected Area without a permit from the Minister, which permit may be issued subject to conditions.

- (8) No person may except on the authority of the management authority, move, deface or otherwise interfere with any demarcation buoy, demarcation marker or notice-board within the Marine Protected Area.
- (9) No person may within the Marine Protected Area be in possession of or have onboard a vessel, any fire-arm, air-gun, explosives or poison.
- (10) Sub-regulation (9) shall not apply to, an authorised officer, including an official of any organ of state while performing official duties within the Marine Protected Area.
- (11) For purposes of these regulations, explosives or fire-arms do not include the following devices:
 - (a) a flare gun;
 - (b) an illuminating rocket flare;
 - (c) a Department of Transport approved projectile distress flare;
 - (d) a Department of Transport approved hand-held distress flare;
 - (e) a Department of Transport approved rocket parachute distress flare;
 - (f) a Department of Transport approved floating orange smoke distress marker; and
 - (g) a Department of Transport approved hand-held smoke distress marker.

5. Use of vessels

- (1) No person may moor or anchor any vessel in a Restricted Zone of the Marine Protected Area except—
 - (a) under conditions of *force majeure*;

- (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the management authority may on application and on such conditions as it may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances:
 - (a) in an emergency; or
 - (b) where the management authority may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The management authority may verbally authorise a vessel to moor or anchor within a Restricted Zone of the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) Any motorised vessel that enters or traverses a Restricted Zone within the Marine Protected Area may not stop for more than 3 minutes, or move at less than 5 knots at any time while in a Restricted Zone, unless authorised in terms of these regulations.
- (5) Sub-regulation (4) does not apply to a SCUBA diving vessel.
- (6) A motorized vessel entering or traversing a Restricted Zone within 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 a Restricted Zone within the Marine Protected Area and such GPS data may not be deleted from this device for 7 calendar days after passing through a Restricted Zone.
- (7) A vessel required by law to have a Vessel Monitoring System must, when entering or traversing the Marine Protected Area with fishing gear onboard, ensure that the Vessel Monitoring System is active.
- (8) A motorised vessel may only launch within the Marine Protected Area, from a launch site authorised in terms of the Management of

Public Launch Site Regulations GNR 497 of 27 June 2014
published in terms of the Integrated Coastal Management Act.

6. Restriction of activities

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

7. Control of activities in Restricted Zones

- (1) No person may fish, or attempt to fish, in a Restricted Zone of the Marine Protected Area.
- (2) No fishing gear including lines, hooks, lures, nets, trawl doors, warps, spearguns, buoys, traps or any other gear or equipment used for fishing, may be deployed overboard from any vessel within a Restricted Zone of the Marine Protected Area.
- (3) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Restricted Zone of the Marine Protected Area must be stowed in the following manner:
 - (a) In the case of line fishing—
 - (i) from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (ii) from the shore, all hooks, lures, and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait, weights and any spear gun or spearfishing equipment are placed away in a bag or container;
 - (b) in the case of purse-seine fishing, no gear may be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;

- (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
- (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
- (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container
- (g) in the case of pole fishing, all poles will be secured above deck;
- (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
- (i) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.

8. Control of activities in Controlled Zones

- (1) No person may fish, or attempt to fish in a Controlled zone, unless they are in possession of a valid permit for recreational fishing.
- (2) Notwithstanding anything to the contrary, a person in possession of a recreational fishing permit contemplated in sub-regulation (1) may only—
 - (a) fish for west coast rock lobster in the EPICZ (south of the Lighthouse); and
 - (b) undertake linefishing, west coast rock lobster fishing and bait collection in the DICZ, AICZ, BbICZ, BICZ or PICZ,

subject to the species restrictions, quantity, fish size limits, allowable effort, closed seasons or bag limits authorised by such fishing permit.

- (3) No person may undertake fishing in a Controlled Zone in the period between sunset in the evening and sunrise of the following day.

- (4) Fishing gear onboard a vessel or in possession of any person that enters or is present in a Controlled Zone and who is not authorised to fish in terms of sub-regulation (1), must be stowed in accordance with regulation 7(2) and 7(3).
- (5) No person may collect broodstock in a Controlled Zone for undertaking aquaculture, without a permit from the management authority.
- (6) When considering a permit in terms of sub-regulation (5) the management authority must take into account the following factors-
 - (a) whether the species is listed as a threatened or protected species in terms of the Threatened or Protected Marine Species Lists and any prohibitions or restrictions therein;
 - (b) whether the species has been listed on an International Union for the Conservation of Nature Red list, including an international, regional, or national Red List;
 - (c) the objectives of this Marine Protected Area;
 - (d) whether the species can be collected outside the Marine Protected Area; and
 - (e) any other relevant criteria.
- (7) No person may arrange, organize, or participate in any fishing competition in the Marine Protected Area.

9. SCUBA diving

- (1) No person may operate or attempt to operate a SCUBA diving business in the Marine Protected Area without a permit.
- (2) Application for a permit referred to in sub-regulation (1) must be made to the management authority and may be issued subject to conditions.
- (3) Any vessel that has deployed divers in the Marine Protected Area must display an alpha flag.
- (4) No person may SCUBA dive in a Restricted Zone, except with a SCUBA diving business authorised in terms of sub-regulation (1).

10. Management authority

South African National Parks is hereby formally designated as the management authority for the Marine Protected Area in terms of section 38(1)(aB) of the Act.

11. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulation (2) and (3), a permit issued under these regulations may at any time be suspended, cancelled or amended.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) the Minister or management authority is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
 - (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;

- (c) for the proper management and implementation of these regulations; or
- (d) where the conditions or circumstances have changed since the original permit was issued.

12. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4(1) to 4(3), 4(5) to 4(9), 5(1), 5(4) to 5(8), 6, 7, 8(1) to 8(5), 8(7), 9(1), 9(3) or 9(4);
- (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.

13. Short title and commencement

These regulations are called the Namaqua National Park Marine Protected Area Regulations and commences on 1 August 2019.

Annexure 1

(Zonation for the Namaqua National Park Marine Protected Area)

- (1) **Namaqua National Park Offshore Restricted Zone (NORZ)** comprises the area from the line 200m seawards from the high-water mark from point Q, south of the Spoeg River, to offshore point A, south to point E, southwest to point D and east to the line 200m seawards from the high-water mark at point P at Eiland Punt. The last line links point P northwards to the first point Q along the coast at the line 200 m seawards from the high-water mark.
- (2) **Namaqua National Park Inshore Restricted Zones:**
 - (a) **Groenrivier Inshore Restricted Zone (GIRZ)**, stretches from point O south of the lighthouse along the high-water mark to point N north of the Groenriver mouth and 200m seawards from the high-water mark.
 - (b) **Jaar se baai Inshore Restricted Zone (JIRZ)**, stretches from point M north of Delwerskamp along the high-water mark to point L and 200m seawards from the high-water mark.
 - (c) **Kwas se baai Inshore Restricted Zone (KIRZ)**, stretches from points K to J along the high-water mark and 200m seawards from the high-water mark.
 - (d) **Bitterrivier Inshore Restricted Zone (BrIRZ)**, stretches from points I to H along the high-water mark and 200m seawards from the high-water mark.
 - (e) **Boulderbaai Inshore Restricted Zone (BIRZ)**, stretches from points G to F along the high-water mark and 200m seawards from the high-water mark.
- (3) **Namaqua National Park Inshore Controlled Zones :**
 - (a) **Eiland Punt Inshore Controlled Zone (EPICZ)**, stretches from point C at Eiland Punt along the high-water mark to point O south of the lighthouse and 200m seawards from the high-water mark.
 - (b) **Delwerskamp Inshore Controlled Zone (DICZ)**, stretches from point N north of Groenrivier mouth along the high-water mark to M and 200m seawards from the high-water mark.

- (c) **Abjoel Inshore Controlled Zone (AICZ)**, stretches from point L to K along the high-water mark and 200m seawards from the high-water mark.
- (d) **Bamboeskamp Inshore Controlled Zone (BbICZ)**, stretches from point J to I along the high-water mark and 200m seawards from the high-water mark.
- (e) **Boulderbaai Inshore Controlled Zone (BICZ)**, stretches from point H to G along the high-water mark and 200m seawards from the high-water mark.
- (f) **Policemans helmit Inshore Controlled Zone (PICZ)**, stretches from point F to B along the high-water mark and 200m seawards from the high-water mark.

Fig. 1. The zonation for the Namaqua National Park Marine Protected Area

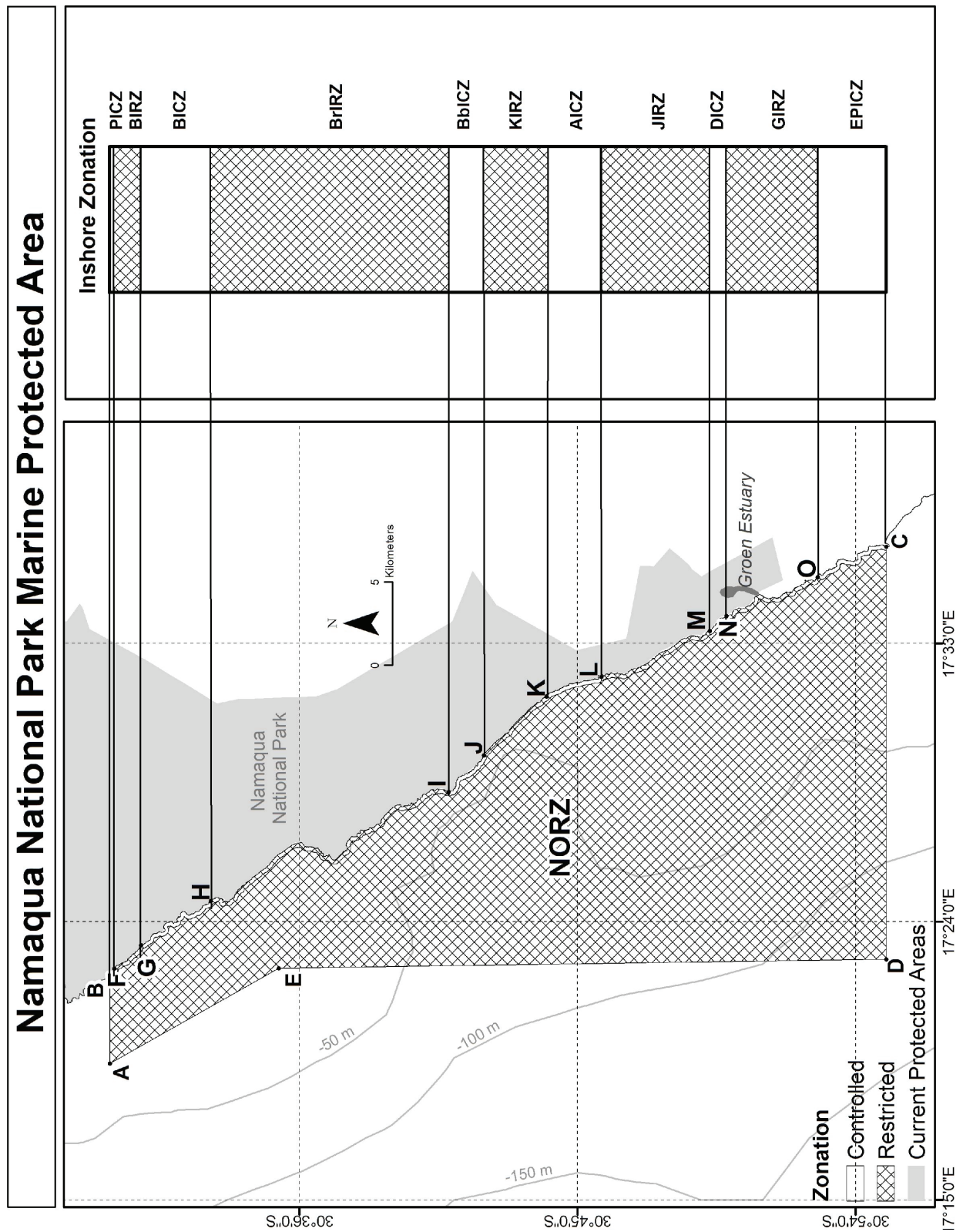


Table 1: Co-ordinates for the Namaqua National Park Marine Protected Area

	POINT	X	Y
Namaqua National Park MPA	A	17.3236	-30.498001
Namaqua National Park MPA	B	17.3698	-30.498001
Namaqua National Park MPA	C	17.6022	-30.9167
Namaqua National Park MPA	D	17.3798	-30.9167
Namaqua National Park MPA	E	17.374906	-30.589061
Namaqua National Park MPA	F	17.374771	-30.500319
Namaqua National Park MPA	G	17.387361	-30.51464
Namaqua National Park MPA	H	17.411269	-30.55234
Namaqua National Park MPA	I	17.469995	-30.68057
Namaqua National Park MPA	J	17.489818	-30.699567
Namaqua National Park MPA	K	17.521537	-30.73343
Namaqua National Park MPA	L	17.532154	-30.76305
Namaqua National Park MPA	M	17.556867	-30.82153
Namaqua National Park MPA	N	17.564877	-30.830356
Namaqua National Park MPA	O	17.585867	-30.879667
Namaqua National Park MPA	P	17.600063	-30.916701
Namaqua National Park MPA	Q	17.367514	-30.498001

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 788

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS
ACT, 2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE iSIMANGALISO
MARINE PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the iSimangaliso Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

Schedule

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

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

“ACCRZ” means the Adlams Controlled Catch and Release Zone;

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

“BNCZ” means the Bhanga Nek Controlled Zone;

“BRCZ” means the Black Rock Controlled Zone;

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“commercial fishing” has the meaning assigned to it in section 1 of the Marine Living Resources Act;

“Controlled Zone” means an area within the Marine Protected Area where limited 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) of the Act or if authorised in terms of regulation 4(7);

“Controlled Pelagic Linefish Zone” means a Controlled Zone within a marine protected area where only pelagic linefishing may occur as detailed in a fish list attached to these regulations as Annexure 2;

“CVCZ” means the Cape Vidal Controlled Zone;

“CVCCRZ” means the Cape Vidal Controlled Catch and Release Zone;

“DPRZ” means the Dog Point Restricted Zone;

“disturbing or harassing” as contemplated in regulation 4(4) shall include—
(a) any vessel or aircraft, approaching a whale shark closer than 20 meters;
or

- (b) any person approaching a whale shark closer than 3 meters from the head and body, and 4 meters from the tail;

"environment" has the meaning assigned to it in section 1 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);

"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" or to **"fish"** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

"fishing permit" means a commercial, small scale or recreational fishing permit issued in terms of the Marine Living Resources Act, which authorises fishing in the area where the Marine Protected Area is located;

"FRCCRZ" means the First Rocks Controlled Catch and Release Zone;

"high-water mark" has the meaning assigned to it in section 1 of the Integrated Coastal Management Act;

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

"Integrated Coastal Management Act" means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

"Integrated Management Plan" means the plan for the iSimangaliso Wetland Park World Heritage Site, including the Integrated Management Plan Zonation prepared and approved in terms of section 42 of the World Heritage Convention Act;

"IOCPLZN" means the iSimangaliso Offshore Controlled Pelagic Linefish Zone North;

“IOCPLZS” means the iSimangaliso Offshore Controlled Pelagic Linefish Zone South;

“IORZN” means the iSimangaliso Offshore Restricted Zone North;

“IORZS” means the iSimangaliso Offshore Restricted Zone South;

“IIWZ” means the iSimangaliso Inshore Wilderness Zone;

“IOWZ” means the iSimangaliso Offshore Wilderness Zone;

“iSimangaliso” means that part of the proclaimed iSimangaliso Wetland Park World Heritage Site, which also falls within the iSimangaliso Marine Protected Area declared in terms of section 22A of the Act;

“KCZ” means the Kosi Controlled Zone

“KRZ” means the Kosi Restricted Zone

“LCCRZ” means the Leven Controlled Catch and Release Zone

“LCZ” means the Lighthouse Controlled Zone

“LNRZ” means the Lala Nek Restricted Zone

“linefishing” means fishing by handline or manually operating a rod, reel and line or one or more separate lines to which no more than ten hooks are attached per line;

“management authority” means the body designated in regulation 12;

“marine aquarium fishing” means fishing for the purposes of obtaining fish for live display;

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the iSimangaliso Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“MCZ” means the Mabibi Controlled Zone;

“MRCCRZ” means the Mission Rocks Controlled Catch and Release Zone

“MRZ” means the Msiki Restricted Zone

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of

section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“NMRZ” means the Nine Mile Restricted Zone

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel—

- (a) that uses an inboard motor powering a water jet pump as its primary source of propulsion;
- (b) is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull; and
- (c) is less than three meters in length;

“Protected Area Notice” has the meaning assigned to it in the Regulations for the Proper Administration of Special Nature Reserves, National Parks and World Heritage Sites, (*Government Gazette* 28181 GNR 1061 of 28 October 2005) published under the Act;

“PRZ” means the Perriers Restricted Zone;

“recreational fishing” has the meaning assigned to it in the Marine Living Resources Act;

“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) of the Act, or if authorised in terms of regulation 4(7);

“RLRZ” means the Railway Ledge Restricted Zone

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

“SCUBA diving vessel” means any vessel that carries SCUBA divers and has no fishing gear on board;

“SCZ” means the Sodwana Controlled Zone;

“SDRZ” means the Sodwana Diving Restricted Zone;

“SLCZ” means the St Lucia Controlled Zone;

“small-scale fishing” has the meaning ascribed to it in section 1 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“spearfishing” means fishing with the use of a speargun;

“speargun” means a device by which a spear is projected by mechanical or pneumatic means;

“specific environmental management Act” has the meaning assigned to it in the National Environmental Management Act;

“SRZ” means the Saxon Restricted Zone;

“Threatened or Protected Marine Species Lists” means the lists published in *Government Gazette* 40875 GN 476 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a personal watercraft and hovercraft;

“Wilderness Zone” means an area within the Marine Protected Area where no fishing may take place, but where ecotourism activities that maintain wilderness characteristics and attributes may take place if authorised by these regulations as contemplated in terms of section 48A(2) of the Act, or if authorised in terms of regulation 4(7);

“World Heritage Convention Act” means the World Heritage Convention Act, 1999 (Act No. 49 of 1999); and

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

2. Zonation within the Marine Protected Area

The iSimangaliso Marine Protected Area consists of an inshore and offshore area. The inshore area consists of eight (8) Inshore Controlled Zones, five (5) Inshore Controlled Catch and Release Zones, eight (8) Inshore Restricted Zones and one (1) Inshore Wilderness Zone. The offshore area consists of two (2) Offshore Controlled Pelagic Linefish Zones, three (3) Offshore Restricted Zones, and one (1) Offshore Wilderness Zone. The zones were determined by using WGS 84 as detailed in Annexure 1 and outlined hereunder:

- (a) Eight (8) Inshore Controlled Zones indicated as the Kosi Controlled Zone (KCZ), Bhanga Nek Controlled Zone (BNCZ), Black Rock Controlled Zone (BRCZ), Mabibi Controlled Zone (MCZ), Sodwana Controlled Zone (SCZ), Cape Vidal Controlled

Zone (CVCZ), St Lucia Controlled Zone (SLCZ), Lighthouse Controlled Zone (LZC).

- (b) Five (5) Inshore Controlled Catch and Release Zone indicated as the Adlams Controlled Catch and Release Zone (ACCRZ), the Leven Controlled Catch and Release Zone (LCCRZ), the Cape Vidal Controlled Catch and Release Zone (CVCCRZ), the Mission Rocks Controlled Catch and Release Zone (MRCCRZ) and the First Rocks Controlled Catch and Release Zone (FRCCRZ).
- (c) Eight (8) Inshore Restricted Zones indicated as the Kosi Restricted Zone (KRZ), the Saxon Restricted Zone (SRZ), Dog Point Restricted Zone (DPRZ), the Lala Nek Restricted zone (LNRZ), the Nine Mile Restricted Zone (NMRZ), the Msiki Restricted Zone (MRZ), the Perriers Restricted Zone (PRZ) and the the Railway Ledge Restricted Zone (RLRZ).
- (d) One (1) Inshore Wilderness Zone indicated as the iSimangaliso Inshore Wilderness Zone (IIWZ)
- (e) Two (2) Offshore Controlled Pelagic Linefish Zones indicated as the iSimangaliso Offshore Controlled Pelagic Linefishing Zone North (IOCPLZN) and the iSimangaliso Offshore Controlled Pelagic Linefishing Zone South (IOCPLZS).
- (f) Three (3) Offshore Restricted Zones indicated as the iSimangaliso Offshore Restricted Zone North (IORZN), the iSimangaliso Offshore Restricted Zone South (IORZS) and the Sodwana Diving Restricted Zone (SDRZ).
- (g) One (1) Offshore Wilderness Zone indicated as iSimangaliso Offshore Wilderness Zone (IOWZ).

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by—
 - (a) the Minister, for research to be undertaken within the Marine Protected Area; and
 - (b) the management authority where such research will also be undertaken in the iSimangaliso Marine Protected Area.
- (2) Application for a scientific research permit in terms of sub-regulation (1)(a) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or

any regulations published under the Integrated Coastal Management Act.

- (3) Application for a scientific research permit in terms of sub-regulation (1)(b) must be made to the management authority in accordance with the provisions of regulation 34 of the Regulations for the Proper Administration of Special Nature Reserves, National Parks and World Heritage Sites, (*Government Gazette* 28181 GNR 1061 of 28 October 2005) published under the Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), or equivalent international marking requirements, is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.
- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951), for such vessel.
- (4) No person shall, except on the authority of a scientific research permit, engage in killing, fishing, collecting, capturing, disturbing, controlling or harassing, or attempting to, kill, fish, collect, capture, disturb, control or harass a whale shark (*Rhincodon typus*), within the Marine Protected Area.
- (5) Any approach to a whale shark must be made from the sides or tail of the animal.
- (6) If a whale shark approaches any person or vessel closer than 3 meters or 20 meters respectively; such person or vessel shall immediately proceed to a distance at least 3 meters or 20 meters respectively from such whale shark.
- (7) Except for those activities listed in section 48A(1) of the Act; the management authority may in the Integrated Management Plan for the Marine Protected Area, in an internal rule or in a

Protected Area Notice, identify activities, which may be restricted, controlled, limited or prohibited, and such areas must be indicated by demarcation buoys, demarcation markers or notice boards.

- (8) No person shall conduct or carry out any activity that is restricted, controlled, limited or prohibited in terms of sub-regulation (7).
- (9) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.
- (10) No person may place any shark protection, exclusion or repelling device, equipment or infrastructure, including nets, within the Marine Protected Area without a permit from the management authority which permit may be issued subject to conditions.
- (11) Subject to regulation 3, no person may undertake marine aquarium fishing, including fishing for or collecting invertebrates, or live rock within the Marine Protected Area.
- (12) No person or vessel may be in possession of or have on board, SCUBA diving gear and a speargun.
- (13) No person may collect broodstock in a Controlled, Controlled-Pelagic Linefish Zone or Controlled Catch and Release Zone for undertaking aquaculture, without a permit from the management authority.
- (14) When considering a permit in terms of sub-regulation (13) the management authority must take into account the following factors:
 - (a) whether the species is listed as a threatened or protected species in terms of the Threatened or Protected Marine Species Lists and any prohibitions or restrictions therein;
 - (b) whether the species has been listed on an International Union for the Conservation of Nature Red list, including an international, regional, or national Red List;
 - (c) the objectives of this Marine Protected Area;
 - (d) whether the species can be collected outside the Marine Protected Area; and
 - (e) any other relevant criteria.
- (15) No person may participate in or arrange any fishing competition within the Marine Protected Area, without a permit from the

management authority; which permit may be issued subject to conditions.

5. Use of vessels

- (1) No person may moor or anchor any vessel in the Marine Protected Area except—
 - (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the management authority may on application and on such conditions as it may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances—
 - (a) in an emergency; or
 - (b) where the management authority may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The management authority may verbally authorise a vessel to moor or anchor as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) Vessels may only be launched within the Marine Protected Area at launch sites designated by the management authority in the Integrated Management Plan of the Marine Protected Area. No vessel may be launched into a Restricted or Wilderness Zones of the Marine Protected Area.
- (5) Subject to regulation 3, any motorized vessel that enters or traverses a Wilderness or Restricted Zone within the Marine Protected Area may not stop for more than 3 minutes, or move at less than—
 - (a) 5 knots if such vessel is 10 meters or more in length; or

(b) 3 knots if such vessel is less than 10 meters in length,

unless authorised in terms of these regulations.

- (6) Sub-regulation (5), does not apply to a SCUBA diving vessel or in the SDRZ.
- (7) A motorised vessel entering or traversing Restricted Zone or Offshore Wilderness Zone of 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 7 calendar days after passing through these zones.
- (8) 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.
- (9) Any vessel that enters iSimangaliso is hereby deemed to have permission from the management authority as contemplated in terms of section 46(1) of the Act.

6. Restriction of activities

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

7. Control of activities in Restricted and Wilderness Zones

- (1) No person shall fish, or attempt to fish, in a Restricted or Wilderness zone, including spearfishing and fishing for or collecting invertebrates.
- (2) No fishing gear including lines, hooks, lures, nets, trawl doors, warps, spearguns, buoys, traps or any other gear or equipment used for fishing, may be deployed overboard from any vessel within a Restricted or Wilderness Zone of the Marine Protected Area.
- (3) Fishing gear onboard a vessel or in possession of any person that enters or is present in a Restricted or Wilderness Zone of the Marine Protected Area must be stowed in the following manner:

- (a) In the case of line fishing-
 - (i) from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (ii) from the shore, all hooks, lures, and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait, weights and any spear gun or spearfishing equipment are placed away in a bag or container;
 - (b) in the case of purse-seine fishing, no gear may be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
 - (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
 - (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
 - (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or other suitable container;
 - (g) in the case of pole fishing, all poles will be secured above deck;
 - (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
 - (i) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.
- (4) No person may in a Restricted or Wilderness Zone, be in possession of any fish or have any fish on board a vessel.
 - (5) No person may in an inshore Restricted or inshore Wilderness Zone, land any fish.

8. Control of activities in Inshore Controlled and Inshore Controlled Catch and Release Zones

- (1) No person may fish, or attempt to fish in an Inshore Controlled Zone or Inshore Controlled Catch and Release Zone, unless they are in possession of a valid fishing permit, subject to the species restrictions, quantity, fish size limits, allowable effort, closed seasons and bag limits authorised by such fishing permit.
- (2) No person may undertake fishing in any Inshore Controlled or Inshore Controlled Catch and Release Zones between sunset in the evening and sunrise of the following day, except with the permission of the management authority.
- (3) No person may undertake fishing in any Offshore Controlled or Offshore Controlled Catch and Release Zones between sunset in the evening and sunrise of the following day.
- (4) Any person in possession of a small-scale fishing permit and fishing in an Inshore Controlled Zone, may only undertake rock and surf linefishing and harvesting of intertidal organisms.
- (5) Any person in possession of a recreational fishing permit—
 - (a) may only undertake spearfishing for pelagic species listed in annexure 2, to these regulations, or rock and surf linefishing, in an Inshore Controlled Zone; and
 - (b) may only fish for or collect invertebrates or bait, in the Cape Vida, St Lucia and Lighthouse Controlled Zones south of Cape Vidal.
- (6) Only barbless hooks may be used in an Inshore Controlled Catch and Release Zone of the Marine Protected Area.
- (7) All fish in a Controlled Catch and Release Zone must be carefully handled and released alive and unharmed back into the water from which it was caught.
- (8) No spearfishing is prohibited in any Controlled Catch and Release Zone.
- (9) Fishing gear onboard a vessel or in possession of any person that enters or is present in any Controlled or Controlled Catch and Release Zone and who is not authorised to fish in terms of sub-regulation (1), must be stowed in accordance with regulation 7(2) and 7(3).

- (10) No person may fish for any shark or ray species (Elasmobranchii) within the Marine Protected Area, except from the shore within an Inshore Controlled Zone or Inshore Controlled Catch and Release Zone and must be returned unharmed to the water from where they were caught.

9. Control of activities in Offshore Controlled-Pelagic Linefish Zones

- (1) No person shall fish, or attempt to fish in an Offshore Controlled-Pelagic Linefishing Zone, unless they are in possession of a valid fishing permit, which authorises such person to fish for the species specified in sub-regulation (2).
- (2) Notwithstanding anything to the contrary, a person in possession of a fishing permit as contemplated in sub-regulation (1), may only undertake linefishing or spearfishing for, or be in possession of the species specified in Annexure 2 to these regulations, when in an Offshore Controlled-Pelagic Linefish Zone.
- (3) No person shall fish in any Controlled Pelagic Linefish Zone between sunset in the evening and sunrise of the following day.
- (4) Fishing gear onboard a vessel or in possession of any person that enters or is present in any Controlled Pelagic Linefish Zone and who is not authorised to fish in terms of sub-regulation (1), must be stowed in accordance with regulation 7(2) and 7(3).
- (5) No person may operate a personal water craft in an Offshore Controlled Pelagic Linefish Zone.

10. SCUBA Diving

- (1) No person may operate or attempt to operate a SCUBA diving business in the Marine Protected Area without a permit.
- (2) Application for a permit referred to in sub-regulation (1) must be made to the management authority and may be issued subject to conditions.
- (3) Any vessel that has deployed divers in the Marine Protected Area must display an alpha flag.
- (4) Subject to regulation 3, only a SCUBA diving business contemplated in sub-regulation (1) may operate within a Wilderness zone.

11. Management authority

The iSimangaliso Wetland Park Authority established in terms of section 9 of the World Heritage Convention Act, is hereby formally designated as the management authority for the iSimangaliso Marine Protected Area in terms of section 38(1)(aB) of the Act.

12. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may at any time be suspended, cancelled or amended.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) the management authority or the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the iSimangaliso Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
 - (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;

- (c) for the proper management and implementation of these regulations; or
- (d) where the conditions or circumstances have changed since the original permit was issued.

13. Demarcation of the Marine Protected Area

The management authority may mark one or more of the boundaries, of the Marine Protected Area by beacons, notice boards, buoys, or any other method. The management authority shall mark any boundaries of the Marine Protected Area in accordance with any relevant laws and requirements.

14. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4(1) to 4(6), 4(8) to 4(13), 4(15), 5(1), 5(4) to 5(9), 6, 7, 8, 9, 10(1), 10(3), or 10(4);
- (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.

15. Withdrawal and repeal

- (1) The declaration of the St Lucia and Maputaland Marine Protected Areas as contained in stipulation 2(11) and 2(12) 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.

- (2) The provisions of stipulation 3(1)(g) insofar as it relates to the St Lucia and Maputaland Marine Protected Areas and stipulations 3(2), 3(3), 3(4) and 3(5), as contemplated in the notice named Declaration of Areas as Marine Protected Areas in Government Gazette 219487, Notice No. 1429 of 29 December 2000 is hereby repealed.

17. Short title and commencement

These regulations are called the iSimangaliso Marine Protected Area Regulations and shall commence on 1 August 2019.

Annexure 1

Zonation of the iSimangaliso Marine Protected Area

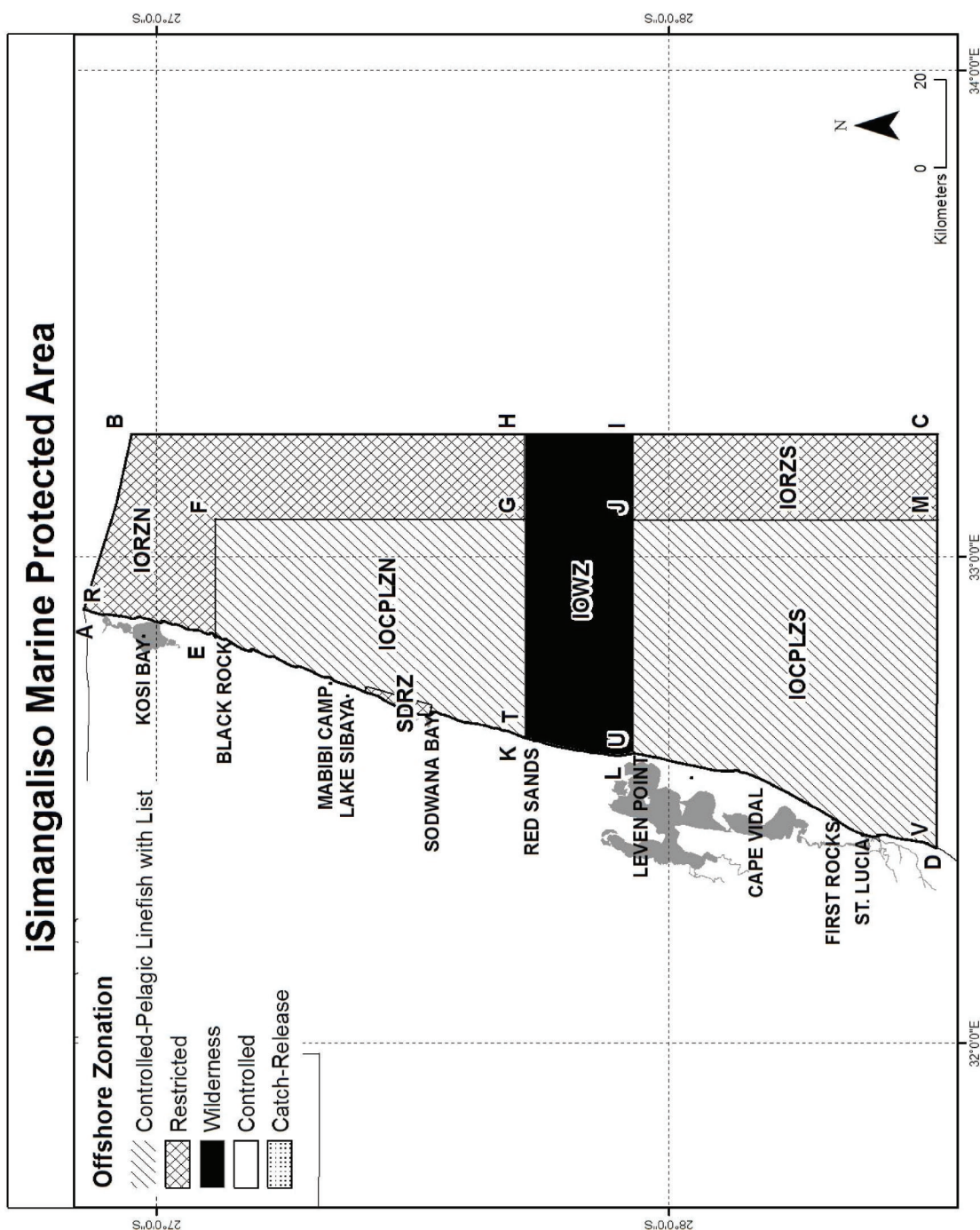
1 Offshore iSimangaliso Marine Protected Area Zonation

- (1) **iSimangaliso Offshore Restricted Zone North (IORZN)** comprises the northern offshore section of the iSimangaliso Marine Protected Area and is defined as the area within straight lines sequentially joining the following points; R, B, H, G, F, S and a line joining the first co-ordinate to the last along the line 200m offshore of the high water mark; Note that this includes the entire outer 10 nautical miles of this MPA between the southern Wilderness zone boundary at Red Sands (Liefeldt's Rocks) and the northern MPA boundary at the Mozambican border.
- (2) **iSimangaliso Offshore Restricted Zone South (IORZS)** comprises the southern offshore section of the iSimangaliso Marine Protected Area and is defined as the area within straight lines sequentially joining the following offshore points; J, I, C, M and a straight line joining the first co-ordinate to the last; Note that this includes the outer approximately 10 nautical miles of this MPA between the southern Wilderness zone boundary at Leven Point and the southern MPA boundary south of the Cape St. Lucia lighthouse.
- (3) **iSimangaliso Offshore Controlled-Pelagic Linefishing Zone North (IOCPLZN)** comprises a northern offshore section of the iSimangaliso Marine Protected Area and is defined as the area within straight lines sequentially joining the following points; S, F, G, T and a line joining T to Q along the line 200m offshore of the high water mark, followed by straight lines joining the offshore points P, O, N and a line joining N to S, along the line 200m from the high water mark, and excludes the Sodwana Diving Restricted Zone (N-O-P-Q-N); This includes the offshore area between the northern Wilderness Zone boundary at Red Sands (Liefeldt's Rocks) to the offshore area north of Black Rock (offshore of turtle beacon 30N) and inshore of the iSimangaliso Offshore Restricted Zone North (IORZN), including Diepgat Canyon and offshore of Mabibi, offshore of and including Island Rock, offshore of the area between Lala Nek and Rocktail Bay and offshore of the area between Black Rock and turtle beacon 30N;
- (4) **iSimangaliso Offshore Controlled-Pelagic Linefishing Zone South (IOCPLZS)** comprises the southern offshore section of the iSimangaliso Marine Protected Area and is defined as the area within straight lines sequentially joining the following points; U, J, M, V and a line joining the first co-ordinate to the last along the line 200m offshore

of the high water mark; This includes the offshore area between the southern Wilderness zone boundary at Leven Point and the southern Park Boundary south of the Cape St. Lucia lighthouse and inshore of the iSimangaliso Offshore Restricted Zone South (IORZS), including Oscar Reef;

- (5) **iSimangaliso Offshore Wilderness Zone (IOWZ)** comprises an offshore section of the iSimangaliso Marine Protected Area and is defined as the area within straight lines sequentially joining the following points; T, H, I, U and a line joining the first co-ordinate to the last along the line 200m from the high water mark; This includes the offshore area between the northern Wilderness Zone boundary at Red Sands (Liefeldt's Rocks) and the southern Wilderness Zone boundary at Leven Point including Leadsman's Shoal.
- (6) **Sodwana Diving Restricted Zone (SDRZ)** comprises an offshore section of the iSimangaliso Marine Protected Area and is defined as the area within straight lines sequentially joining the following points; N, O, P, Q and a line joining the first co-ordinate to the last along the line 200m offshore of the high water mark. This includes two-mile reef to a depth of approximately 35m and the full extent of four-mile reef northwards to and including the five-, six-, seven- and nine-mile reef complexes;

Figure 1: Offshore iSimangaliso Marine Protected Area Zonation



2 Inshore iSimangaliso Marine Protected Area Zonation

Zones are described with increasing latitude from north to south.

a) Kosi Restricted Zone (KRZ)

This Restricted Zone is situated between, as a northern limit, point A at the South African-Mozambique border and, as a southern limit, point a just north of the Kosi Estuary mouth along the high water mark and extends 200m seawards of the high water mark.

b) Kosi Controlled Zone (KCZ)

This Controlled Zone is situated between, as a northern limit, point a just north of Kosi Estuary mouth and, as a southern limit, point b approximately 0.5km south of the Kosi Estuary mouth at the beacon marked N30 along the high water mark and extends 200m seawards of the high water mark.

c) Saxon Restricted Zone (SRZ)

This Restricted Zone is situated between, as a northern limit, point b at the beacon marked N30 and, as a southern limit, point c at the beacon marked N17 along the high water mark and extends 200m seawards of the high water mark.

d) Bhanga Nek Controlled Zone (BNCZ)

This Controlled Zone is situated between, as a northern limit, point c at the beacon marked N17 and, as a southern limit, point d at Stop Rock just south of Boteler Point along the high water mark and extends 200m seawards of the high water mark.

e) Dog Point Restricted Zone (DPRZ)

This Restricted Zone is situated between, as a northern limit, point d at Stop Rock just south of Boteler Point and, as a southern limit, point E at the beacon marked S30 situated just south of Dog Point along the high water mark and extends 200m seawards of the high water mark. This includes Rabbit Rock, Castle Rock and Dog Point.

f) Black Rock Controlled Zone (BRCZ)

This Controlled Zone is situated between, as a northern limit, point E at the beacon marked S30 just south of Dog Point and, as a southern limit, point f just south of Lala Nek along the high water mark and extends 200m seawards of the high water mark.

g) Lala Nek Restricted Zone (LNRZ)

This Restricted Zone is situated between, as a northern limit, point f just south of Lala Nek and, as a southern limit, point g north of Manzengwenya (just north of turtle beacon S72) along the high water mark and extends 200m seawards of the high water mark.

h) Mabibi Controlled Zone (MCZ)

This Controlled Zone is situated between, as a northern limit, point g north of Manzengwenya (just north of turtle beacon S72) and, as a southern limit, point h south of Mabibi along the high water mark and extends 200m seawards of the high water mark. This excludes the feature known as Island Rock which lies offshore in the IOCPLZN and where intertidal harvesting and shore angling is prohibited.

i) Nine Mile Restricted Zone (NMRZ)

This Restricted Zone is situated between, as a northern limit, point h south of Mabibi and, as a southern limit, point i inshore of Nine-Mile Reef (near turtle beacon S124) along the high water mark and extends 200m seawards of the high water mark.

j) Sodwana Controlled Zone (SCZ)

This Controlled Zone is situated between, as a northern limit, point i inshore of Nine-mile Reef (near turtle beacon S124) and, as a southern limit, point j at Adlam's Rocks along the high water mark and extends 200m seawards of the high water mark.

k) Adlams Controlled Catch and Release Zone (ACCRZ)

This Controlled Catch and Release Zone is situated between, as a northern limit, point j at Adlam's Rocks and, as a southern limit, point K at the beacon at Red Sands marked N5 along the high water mark and extends 200m seawards of the high water mark.

l) iSimangaliso Inshore Wilderness Zone (IIWZ)

This Wilderness Zone is situated between, as a northern limit, point K at the beacon at Red Sands marked N5 and, as a southern limit, point L at the beacon at Leven Point marked N6 along the high water mark and extends 200m seawards of the high water mark.

m) Leven Controlled Catch and Release Zone (LCCRZ)

This Controlled Catch and Release Zone is situated between, as a northern limit, point L at the beacon at Leven Point marked N6 and, as a southern limit, point m approximately 4.5 km north of Cape Vidal

along the high water mark and extends 200m seawards of the high water mark.

n) Cape Vidal Controlled Zone (CVCZ)

This Controlled Zone is situated between, as a northern limit, point m approximately 4.5 km north of Cape Vidal and, as a southern limit, point n approximately 2.5km south of Cape Vidal Lighthouse along the high water mark and extends 200m seawards of the high water mark.

o) Cape Vidal Controlled Catch and Release Zone (CVCCRZ)

This Controlled Catch and Release Zone is situated between, as a northern limit, point n approximately 2.5km south of the Cape Vidal Lighthouse and, as a southern limit, point o at Cape Vidal South Ledges along the high water mark and extends 200m seawards of the high water mark.

p) Msiki Restricted Zone (MRZ)

This Restricted Zone is situated between, as a northern limit, point o at Cape Vidal South Ledges and, as a southern limit, point p at Msiki path along the high water mark and extends 200m seawards of the high water mark.

q) Mission Rocks Controlled Catch and Release Zone (MRCCRZ)

This Controlled Catch and Release Zone is situated between, as a northern limit, point p at Msiki path and, as a southern limit, point q south of Mission Rocks along the high water mark and extends 200m seawards of the high water mark.

r) Perriers Restricted Zone (PRZ)

This Restricted Zone is situated between, as a northern limit, point q south of Mission Rocks and, as a southern limit, point r south of Perrier's Rocks along the high water mark and extends 200m seawards of the high water mark.

s) First Rocks Controlled Catch and Release Zone (FRCCRZ)

This Controlled Catch and Release Zone is situated between, as a northern limit, point r south of Perrier's Rocks and, as a southern limit, point s near First Rocks along the high water mark and extends 200m seawards of the high water mark.

t) St Lucia Controlled Zone (SLCZ)

This Controlled Zone is situated between, as a northern limit, point s near First Rocks and, as a southern limit, point t south of Crayfish Point along the high water mark and extends 200m seawards of the high water mark.

u) Railway Ledges Restricted Zone (RLRZ)

This Restricted Zone is situated between, as a northern limit, point t south of Crayfish Point and, as a southern limit, point u approximately

2.5km north of the wreck of the Jolly Rubino along the high water mark and extends 200m seawards of the high water mark.

v) Lighthouse Controlled Zone (LCZ)

This Controlled Zone is situated between, as a northern limit, point u approximately 2.5km north of the wreck of the Jolly Rubino and, as a southern limit, point D approximately 700m south of the Cape St Lucia Lighthouse along the high water mark and extends 200m seawards of the high water mark.

Figure 2: Inshore iSimangaliso Marine Protected Area Zonation

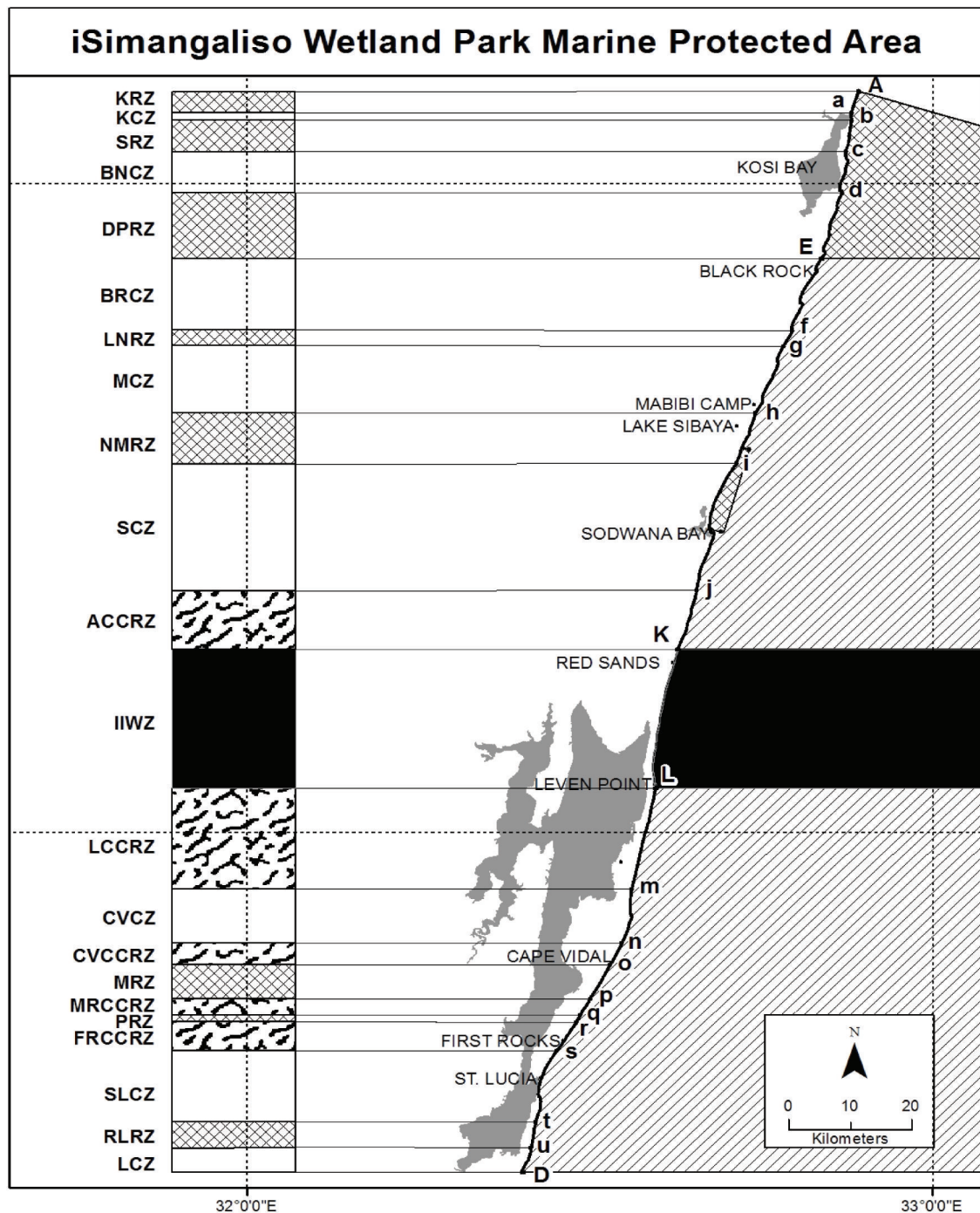


Figure 3: iSimangaliso Marine Protected Area Zonation: SDRZ

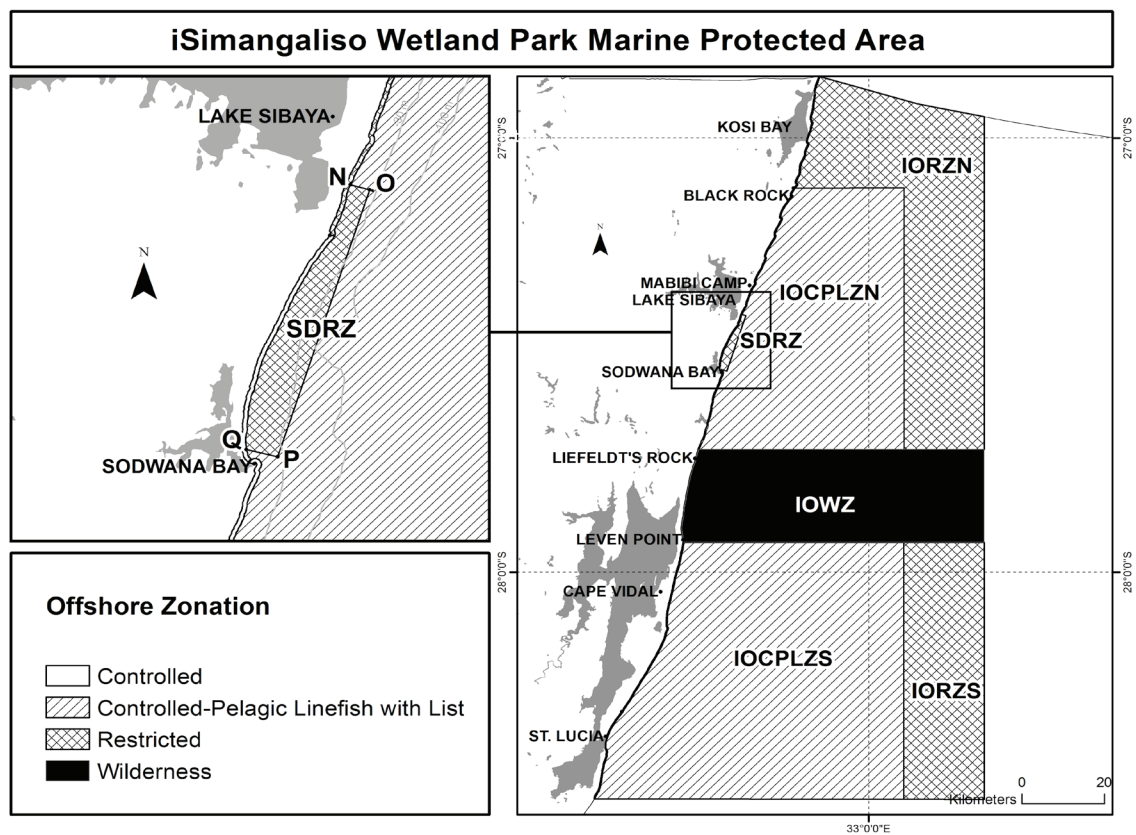


Table of coordinates

	Point Label	X	Y
iSimangaliso MPA	A	32.891339	-26.857862
iSimangaliso MPA	B	33.2523	-26.950877
iSimangaliso MPA	C	33.2523	-28.522365
iSimangaliso MPA	D	32.4008	-28.522365
iSimangaliso MPA	E	32.8368	-27.115517
iSimangaliso MPA	F	33.0771	-27.115517
iSimangaliso MPA	G	33.0771	-27.717469
iSimangaliso MPA	H	33.2523	-27.717469
iSimangaliso MPA	I	33.2523	-27.931073
iSimangaliso MPA	J	33.0766	-27.931073
iSimangaliso MPA	K	32.6273	-27.717469
iSimangaliso MPA	L	32.5948	-27.931073
iSimangaliso MPA	M	33.0766	-28.522365
iSimangaliso MPA	N	32.723086	-27.406646
iSimangaliso MPA	O	32.731802	-27.40905
iSimangaliso MPA	P	32.690254	-27.53637
iSimangaliso MPA	Q	32.676065	-27.532814
iSimangaliso MPA	R	32.893405	-26.858281
iSimangaliso MPA	S	32.839094	-27.115517
iSimangaliso MPA	T	32.629476	-27.717469
iSimangaliso MPA	U	32.596852	-27.931077
iSimangaliso MPA	V	32.40292	-28.522365
iSimangaliso MPA	W	33.105626	-26.921173
iSimangaliso MPA	a	32.881168	-26.89009
iSimangaliso MPA	b	32.881197	-26.902594
iSimangaliso MPA	c	32.872872	-26.949683
iSimangaliso MPA	d	32.867235	-27.013868
iSimangaliso MPA	f	32.794897	-27.226467
iSimangaliso MPA	g	32.782051	-27.25021
iSimangaliso MPA	h	32.741442	-27.35321
iSimangaliso MPA	i	32.713808	-27.430822
iSimangaliso MPA	j	32.655787	-27.626285
iSimangaliso MPA	m	32.560628	-28.086382
iSimangaliso MPA	n	32.546143	-28.169372
iSimangaliso MPA	o	32.529085	-28.202747
iSimangaliso MPA	p	32.499434	-28.255492
iSimangaliso MPA	q	32.485317	-28.280186
iSimangaliso MPA	r	32.478985	-28.291914
iSimangaliso MPA	s	32.451103	-28.335135
iSimangaliso MPA	t	32.420313	-28.445017
iSimangaliso MPA	u	32.413652	-28.485483

Annexure 2

Pelagic fish species list for the Controlled-Pelagic Linefish Zones

Family names are given as all species in these families may be caught or used as bait.

Scombridae – Tunas, mackerels, wahoo
Carangidae – kingfish, garrick, yellowtail, queenfish
Pomatomidae – Shad/elf
Coryphaenidae – Dorado
Rachycentridae – Prodigal son/Cobia
Istiophoridae – Sailfish and marlin
Sphyraenidae – Barracudas
Atherinidae – silversides
Belonidae – garfish
Chirocentridae – wolf herring/slimy
Clupeidae – red-eyes, sardines
Engraulidae – anchovies, glass-noses/bonies
Exocoetidae - flyingfishes
Hemiramphidae – halfbeaks
Scomberesocidae - sauries

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 789

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE PORT ELIZABETH
CORALS MARINE PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the Port Elizabeth Corals Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

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

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“commercial fishing” shall have the meaning assigned to it in section 1 of the Marine Living Resources Act;

“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) of the Act;

“coral” means Phylum Cnidaria Classes Anthozoa and Hydrozoa;

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“fishing permit” means a commercial, small scale or recreational fishing permit issued in terms of the Marine Living Resources Act, which authorises fishing in the area where the Marine Protected Area is located;

“hovercraft” means a craft that floats on a cushion of air and is capable of traversing water;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“linefishing” means fishing by handline or manually operating a rod, reel and line or one or more separate lines to which no more than ten hooks are attached per line;

“longline” means any line or connected lines or fishing gear to which a total of more than 10 fishing hooks is attached;

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Port Elizabeth Corals Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull;

“recreational fishing” has the meaning assigned to it in the Marine Living Resources Act;

“small-scale fishing or fisher” has the meaning ascribed to it in section 1 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“specific environmental management Act” has the meaning assigned to it in the National Environmental Management Act;

“Threatened or Protected Marine Species Lists” means the lists published in *Government Gazette* 40875 GN 476 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a personal watercraft and hovercraft; and

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

2. Zonation within the Marine Protected Area

The entire Port Elizabeth Corals Marine Protected Area is zoned as a single Controlled Large Pelagic Zone which is determined by using WGS 84 and detailed in Annexure 1 hereto.

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.
- (2) Application for a scientific research permit in terms of sub-regulation (1) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is

displayed on the vessel at all times while the vessel is inside the Marine Protected Area.

- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.

5. Use of vessels

- (1) No person may moor or anchor any vessel in the Marine Protected Area except—
 - (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the Minister may on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances—
 - (a) in an emergency; or
 - (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The Minister may verbally authorise a vessel to moor or anchor within the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.

- (4) A vessel required by law to have a Vessel Monitoring System; must, when entering or traversing the Marine Protected Area with fishing gear onboard, ensure that the Vessel Monitoring System is active.

6. Restriction of activities

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

7. Control of activities in Marine Protected Area

- (1) No person may fish, or attempt to fish in the Marine Protected Area unless they are in possession of a valid fishing permit which authorises fishing for the species specified in sub-regulation (2).
- (2) Notwithstanding anything to the contrary, a person in possession of a fishing permit as contemplated in sub-regulation (1), may only—
 - (a) fish for large pelagic species by longline; or
 - (b) undertake pelagic linefishing for the species listed in Annexure 2 to these regulations,subject to the species restrictions, quantity, fish size limits, allowable effort, closed seasons or bag limits authorised by such fishing permit.
- (3) Subject to regulation 3, no person may fish for, collect, harvest or disturb any corals within the Marine Protected Area.
- (4) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Marine Protected Area and who is not authorised to fish in terms of sub-regulation (1), must be stowed in the following manner:
 - (a) In the case of line fishing from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;

- (b) in the case of purse-seine fishing, no gear should be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
 - (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
 - (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
 - (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container.
 - (g) in the case of pole fishing, all poles will be secured above deck;
 - (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
 - (i) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.
- (5) No person may collect broodstock in the Marine Protected Area for undertaking aquaculture, without a permit from the Minister, which permit may be issued subject to conditions.
- (6) When considering a permit in terms of sub-regulation (5) the Minister must take into account the following factors—
- (a) whether the species is listed as a threatened or protected species in terms of the Threatened or Protected Marine Species Lists and any prohibitions or restrictions therein;
 - (b) whether the species has been listed on an International Union for the Conservation of Nature Red list, including an international, regional, or national Red List;
 - (c) the objectives of this Marine Protected Area;

- (d) whether the species can be collected outside the Marine Protected Area; and
- (e) any other relevant criteria.

8. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may be suspended, cancelled or amended at any time.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
 - (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;
 - (c) for the proper management and implementation of these regulations; or

- (d) where the conditions or circumstances have changed since the original permit was issued.

9. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4, 5(1), 5(4), 6 or 7(1), 7(2), 7(3), 7(4) and 7(5);
- (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.

10. Short title and commencement

These regulations are called the Port Elizabeth Corals Marine Protected Area Regulations and commences on 1 August 2019.

Annexure 1

(Zonation for the Port Elizabeth Corals Marine Protected Area)

The entire Port Elizabeth Corals Marine Protected Area is zoned as a single Controlled Zone and is bounded by a series of straight lines sequentially joining the following four coordinates A, B, C and D; and a straight line joining the first and last co-ordinate

Fig. 1. Zonation for the Port Elizabeth Corals Marine Protected Area

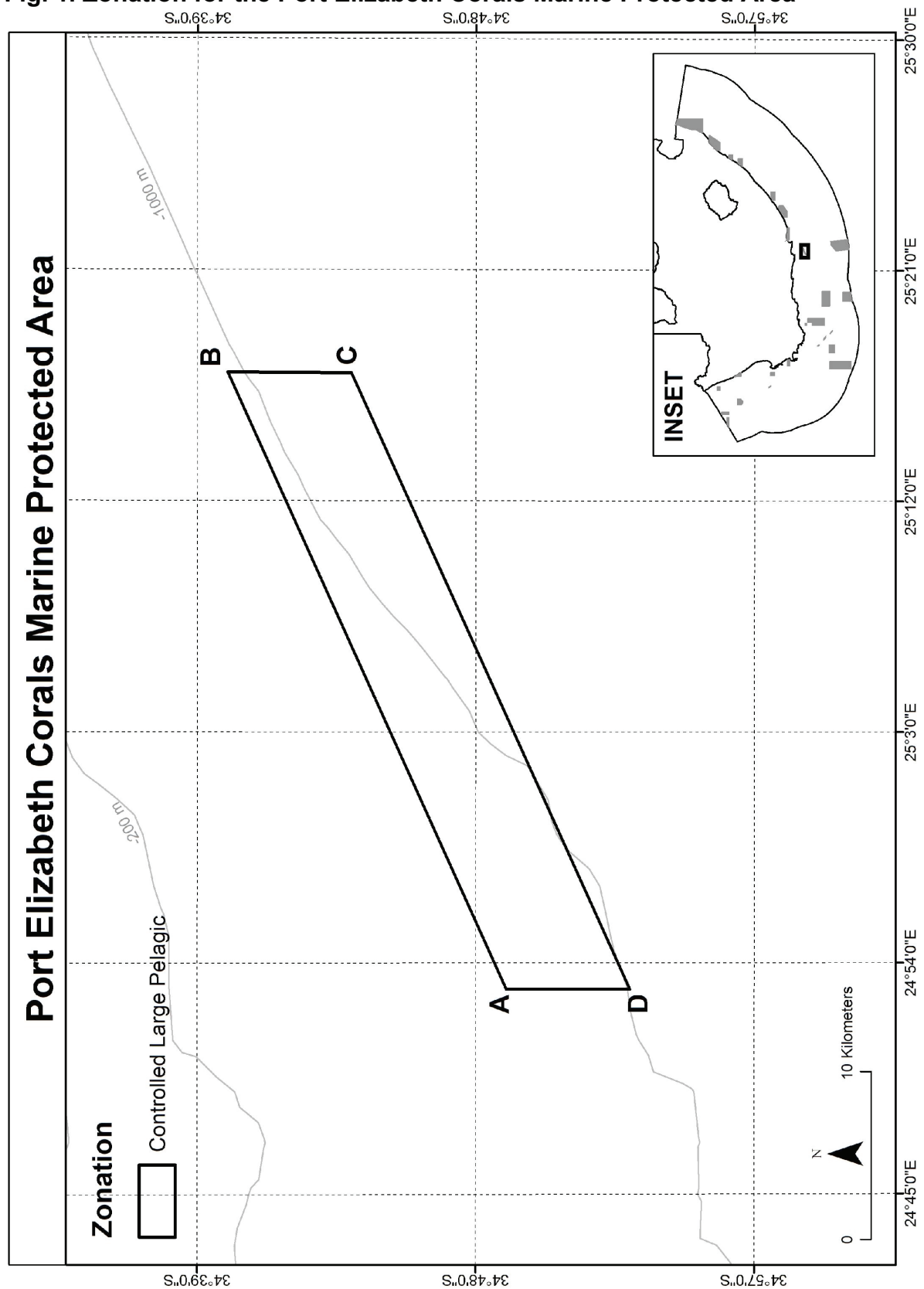


Table 1: Table of co-ordinates for the Port Elizabeth Corals Marine Protected Area

	POINT	X	Y
Port Elizabeth Corals	A	24.883	-34.8167
Port Elizabeth Corals	B	25.2833	-34.6667
Port Elizabeth Corals	C	25.283	-34.7333
Port Elizabeth Corals	D	24.883	-34.8833

Annexure 2

Pelagic fish linefishing species list for the Marine Protected Area

Family names are given as all species in these families may be caught or used as bait.

Permitted species:

Atherinidae – silversides

Belonidae – garfish

Carangidae – kingfish, garrick, yellowtail, queenfish, etc.

Chirocentridae – wolf herring/slimy

Clupeidae – red-eyes, sardines, etc.

Coryphaenidae – Dorado

Engraulidae – anchovies, glass-noses/bonies, etc.

Exocoetidae - flyingfishes

Hemiramphidae – halfbeaks

Istiophoridae – Sailfish and marlin

Rachycentridae – Prodigal son/Cobia

Scomberesocidae – sauries

Scombridae – Tunas, mackerels, wahoo, etc.

Sphyraenidae – Barracudas

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 790

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE UTHUKELA MARINE
PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby publish the Regulations for the Management of the UThukela Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

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

“AIRZ” means Amatikulu Inshore Restricted Zone;

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

“attract” means to feed, chum or bait, or to use any other means, method or device to lure a live specimen of a shark species (Elasmobranchii);

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“chum or chumming” means scenting or using pieces of an animal weighing less than 10 grams, in the water to lure a live specimen of any shark species (Elasmobranchii);

“commercial fishing” shall have the meaning assigned to it in section 1 of the Marine Living Resources Act;

“commercial linefish right” means a right issued in terms of the Marine Living Resources Act, that is valid at the time of commencement of these regulations, for commercial fishing in the linefish sector;

“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) of the Act;

“Controlled-Pelagic Linefish Zone” means a Controlled Zone within a marine protected area where only pelagic linefishing and spearfishing may occur as

detailed in a fish list attached to these regulations as Annexure 2 and includes the TOCPLZ;

"environment" has the meaning assigned to it in section 1 of the National Environmental Management Act;

"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" or to **"fish"** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

"fishing permit" means a valid commercial, small scale or recreational fishing permit issued in terms of the Marine Living Resources Act, which authorises fishing in the area where the Marine Protected Area is located;

"high-water mark" has the meaning assigned to it in section 1 of the Integrated Coastal Management Act;

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

"Integrated Coastal Management Act" means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

"linefishing" means fishing by handline or manually operating a rod, reel and line or one or more separate lines to which no more than ten hooks are attached per line;

"marine aquarium fishing" means fishing for the purposes of obtaining fish for live display;s

"Marine Living Resources Act" means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the uThukela Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“MICZ” means the Mtunzini Inshore Controlled Zone;

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull;

“recreational fishing” has the meaning assigned to it in the Marine Living Resources Act;

“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) of the Act;

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

“SCUBA diving vessel” means any vessel that carries SCUBA divers and has no fishing gear on board;

“SIRZ” means uSetheni Inshore Restricted Zone;

“small-scale fishing or fisher” has the meaning ascribed to it in section 1 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“spearfishing” means fishing with the use of a speargun;

“speargun” means a device by which a spear is projected by mechanical or pneumatic means;

“specific environmental management Act” has the meaning assigned to it in the National Environmental Management Act;

“Threatened or Protected Marine Species Lists” means the lists published in *Government Gazette* 40875 GN 476 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“TICZ” means uThukela Inshore Controlled Zone;

“TOCZN” means uThukela Offshore Controlled Zone North;

“TOCZS” means uThukela Offshore Controlled Zone South;

“TOCCZ” means uThukela Offshore Controlled Commercial Zone;

“TOCPLZ” means uThukela Offshore Controlled-Pelagic Linefish Zone;

“TORZ” means uThukela Offshore Restricted Zone;

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a hovercraft and personal watercraft; and

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

2. Zonation within the Marine Protected Area

The Marine Protected Area consists of an inshore and offshore area. The inshore area consists of two (2) Inshore Restricted Zones and two (2) Inshore Controlled Zones. The offshore area consists of three (3) Offshore Controlled Zones, one (1) Offshore Controlled-Pelagic Linefish Zone and one Offshore Restricted Zone, which are determined by using WGS 84 as detailed in Annexure 1 hereto as follows:

- (a) two (2) inshore Restricted Zones, indicated as the Amatikulu Inshore Restricted Zone (AIRZ) and the uSetheni Inshore Restricted Zone (SIRZ).
- (b) two (2) inshore Controlled Zones indicated as the uThukela Inshore Controlled Zone (TICZ) and the Mtunzini Inshore Controlled Zone (MICZ);
- (c) three (3) offshore Controlled Zones, indicated as the Thukela Offshore Controlled Zone North (TOCZN), the uThukela Offshore

Controlled Zone South (TOCZS) and the uThukela Offshore Controlled Commercial Zone (TOCCZ);

- (d) one (1) offshore Controlled-Pelagic Linefish Zone, indicated as the uThukela Offshore Controlled-Pelagic Linefish Zone (TOCPLZ); and
- (e) one (1) offshore Restricted Zone, indicated as uThukela Offshore Restricted Zone (TORZ).

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.
- (2) Application for a scientific research permit in terms of sub-regulation (1) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.
- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.

- (5) No person may place any shark protection, exclusion or repelling device, equipment or infrastructure, including nets, within the Marine Protected Area without a permit from the Minister, which permit may be issued subject to conditions.
- (6) No person or vessel may be in possession of or have on board, SCUBA diving gear and a speargun.
- (7) Subject to regulation 3, no person may undertake marine aquarium fishing, including fishing for or collecting invertebrates, or live rock within the Marine Protected Area.

5. Use of vessels

- (1) No person may moor or anchor any vessel in a Restricted or Controlled-Pelagic Linefish zone, except—
 - (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate;
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring; or
 - (d) for any vessel which is anchored within a designated port anchorage area for a national port, declared in terms of the National Ports Act, 2005 (Act No. 12 of 2005).
- (2) Despite sub-regulation (1), the Minister may on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances:
 - (a) in an emergency; or
 - (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The Minister may verbally authorise a vessel to moor or anchor within a Restricted or Controlled-Pelagic Linefish Zone, as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.

- (4) Any motorised vessel that enters or traverses a Restricted Zone within the Marine Protected Area may not stop for more than three minutes or move at less than—
 - (a) 5 knots if such vessel is 10 meters or more in length; or
 - (b) 3 knots if such vessel is less than 10 meters in length,unless authorised in terms of these regulations.
- (5) Sub-regulation (4) does not apply to a SCUBA diving vessel.
- (6) A motorised vessel, prior to entering or while traversing a Restricted Zone within 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, and such GPS data may not be deleted from this device for 7 calendar days after passing through a Restricted Zone.
- (7) A motorized 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.

6. Restriction of activities

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

7. Control of activities in Restricted Zone

- (1) No person shall fish, or attempt to fish, in a Restricted Zone of the Marine Protected Area, including collecting or harvesting of invertebrates or intertidal organisms.
- (2) No fishing gear including lines, hooks, lures, nets, trawl doors, warps, spearguns, buoys, traps or any other gear or equipment used for fishing, may be deployed overboard from any vessel within a Restricted Zone of the Marine Protected Area.
- (3) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Restricted Zone of the Marine Protected Area must be stowed in the following manner:

- (a) In the case of line fishing—
 - (i) from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (ii) from the shore, all hooks, lures, and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait, weights and any spear gun or spearfishing equipment are placed away in a bag or container;
- (b) in the case of purse-seine fishing, no gear may be in the water;
- (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
- (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
- (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
- (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container;
- (g) in the case of pole fishing, all poles will be secured above deck;
- (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
- (i) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.

8. Control of activities in Controlled and Controlled-Pelagic Linefish Zones

- (1) No person shall fish, or attempt to fish in a Controlled-Pelagic Linefish or Controlled zone, unless they are in possession of a fishing permit, which authorises such person to fish for the species specified in sub-regulation (2).
- (2) Notwithstanding anything to the contrary, a person in possession of a fishing permit contemplated in sub-regulation (1)—
 - (a) may only undertake linefishing and spearfishing for the species specified in Annexure 2 to these regulations, when fishing in a Controlled-Pelagic Linefish Zone; and
 - (b) may only undertake linefishing, spearfishing and collect invertebrate species in the uThukela Inshore Controlled Zone (TICZ), Mtunzini Inshore Controlled Zone (MICZ);
 - (c) may only undertake linefishing and spearfishing in the uThukela Offshore Controlled Zone North (TOCZN) and uThukela Offshore Controlled Zone South (TOCZS),

subject to the species restrictions, quantity, fish size limits, allowable effort, closed seasons or bag limits authorised by such fishing permit.
- (3) Subject to sub-regulations (4) and (5), no person may fish for any shark species (Elasmobranchii) within the Marine Protected Area.
- (4) Catch and release fishing of any shark species (Elasmobranchii), may only take place from the shore within any Controlled Zone.
- (5) No person may participate in or arrange any fishing competition within the Marine Protected Area without a permit from the Minister, which permit may be issued subject to conditions.
- (6) No person may undertake fishing from a vessel in the Marine Protected Area in the period between sunset in the evening and sunrise of the following day.
- (7) Fishing gear onboard a vessel or in possession of any person that enters or is present in a Controlled-Pelagic Linefish Zone or Controlled Zone and who is not authorised to fish in terms of sub-regulation (1), must be stowed in accordance with regulations 7(2) and 7(3).

- (8) No person may collect broodstock in a Controlled or Controlled-Pelagic Linefish Zone for undertaking aquaculture, without a permit from the Minister.
- (9) When considering a permit in terms of sub-regulation (8) the Minister must take into account the following factors:
 - (a) whether the species is listed as a threatened or protected species in terms of the Threatened or Protected Marine Species Lists and any prohibitions or restrictions therein;
 - (b) whether the species has been listed on an International Union for the Conservation of Nature Red list, including an international, regional, or national Red List;
 - (c) the objectives of this Marine Protected Area;
 - (d) whether the species can be collected outside the Marine Protected Area; and
 - (e) any other relevant criteria.
- (10) No person may, in a Controlled-Pelagic Linefish Zone, be in possession of or have on board a vessel, any fish, except for the species listed in Annexure 2 to these regulations.
- (11) No person may, in any Controlled or Controlled-Pelagic Linefish Zone, chum for or in any other manner attract any shark species (Elasmobranchii) for the purpose of snorkeling or SCUBA diving with such species, without a permit.
- (12) Application for a permit referred to in sub-regulation (11) must be made to the Minister and may be issued subject to conditions.
- (13) No fish may be landed in a Restricted Zone of the Marine Protected Area.

9. Control of activities in the uThukela Offshore Controlled Commercial Zone (TOCCZ)

- (1) No person may fish, or attempt to fish in the TOCCZ, unless they are in possession of a commercial linefish right, and a valid permit for commercial fishing for linefish, issued in terms of the Marine Living Resources Act.

- (2) No person contemplated in sub-regulation (1), may undertake fishing in the period between sunset in the evening and sunrise of the following day in the TOCCZ, except on the authority of a permit issued by the Minister, which permit may be issued subject to conditions.
- (3) No person contemplated in sub-regulation (1) may fish within the TOCCZ after the expiry of their commercial linefish right.
- (4) Any person in possession of an additional or new commercial linefish right, which is allocated or renewed after the expiry of any commercial linefish right allocated in the 2020 commercial linefish rights allocation process, is prohibited from fishing within the TOCCZ.

10. SCUBA diving

- (1) No person may operate or attempt to operate a SCUBA diving business in the Marine Protected Area without a permit.
- (2) Application for a permit referred to in sub-regulation (1) must be made to the Minister and may be issued subject to conditions.
- (3) Any vessel that has deployed divers in the Marine Protected Area must display an alpha flag.

11. Discharge into Marine Protected Area

- (1) Any existing discharge of effluent occurring at the date of commencement of these regulations, as contemplated in section 69 of the Integrated Coastal Management Act, is hereby authorised to continue within the Marine Protected Area, provided such discharge is authorised in terms of section 69 of the Integrated Coastal Management Act.
- (2) No new discharges of effluent occurring after the date of commencement of these regulations, as contemplated in terms of section 69 of the Integrated Coastal Management Act may be authorised and are prohibited in accordance with section 48A of the Act.
- (3) The volume, quantity or constituents of an existing discharge as contemplated in sub-regulation (1), may not increase by more than

5%, from what is authorised in terms of section 69 of the Integrated Coastal Management Act, at the time of commencement of these regulations.

12. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may be suspended, cancelled or amended at any time.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
 - (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;
 - (c) for the proper management and implementation of these regulations; or

- (d) where the conditions or circumstances have changed since the original permit was issued.

13. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4, 5(1), 5(4) to 5(7), 7, 8(1) to 8(8), 8(10), 8(11), 8(13), 9, 10(1), 10(3) or 11;
- (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.

14. Short title and commencement

These regulations are called the uThukela Marine Protected Area Regulations and commences on 1 August 2019.

Annexure 1

INSHORE:

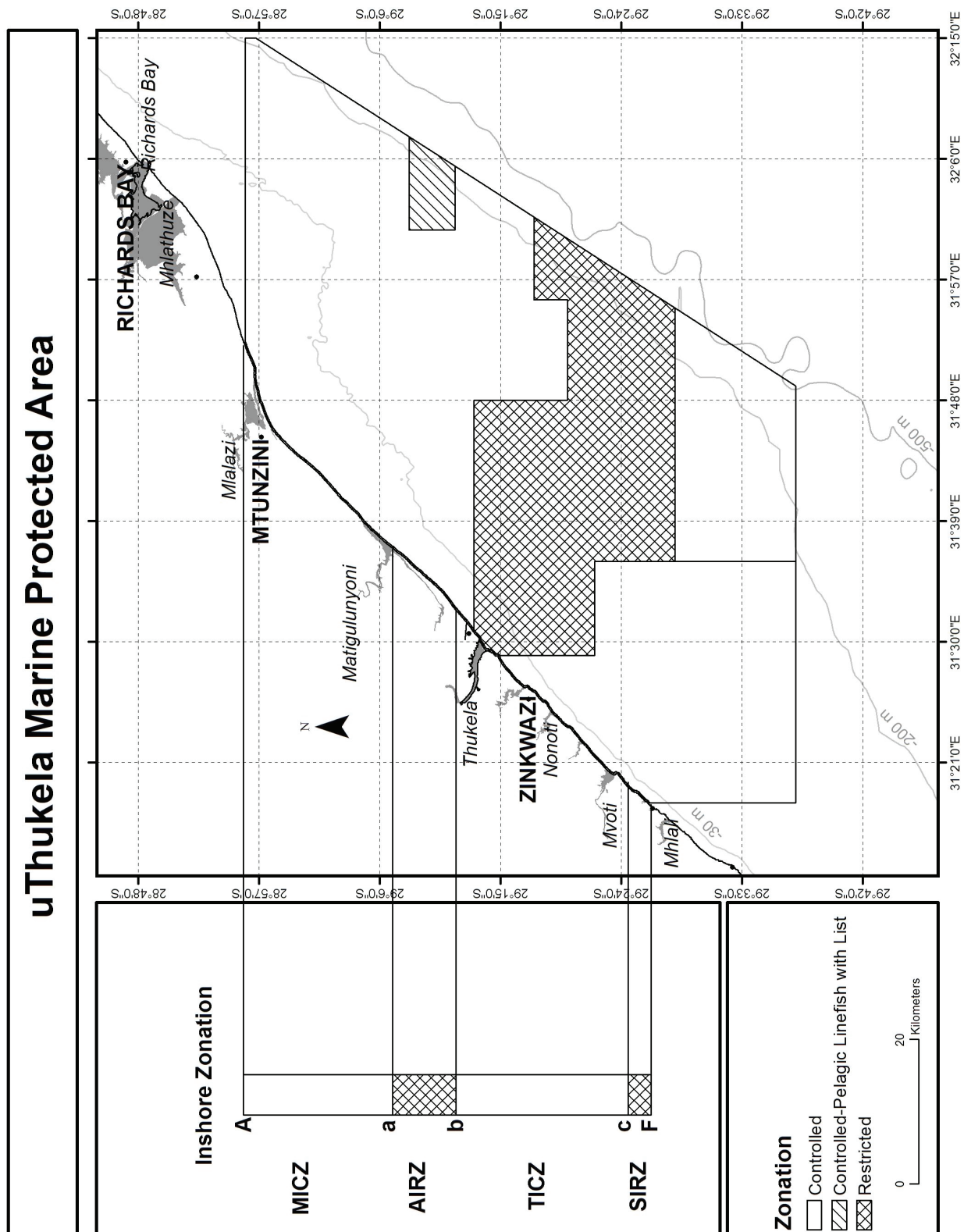
Mtunzini Inshore Controlled Zone (MICZ) comprises the northern inshore portion of the uThukela Marine Protected Area and is defined as the area between points A, which lies at the northern boundary of the uThukela Marine Protected Area, about 4km north of the uMlalazi estuary at Port Durnford, then southwest along the high-water mark to point a, which lies near the southern end of the aMatigulu/iNyoni estuary and includes the beach area from Mtunzini and Umlalazi to Amatikulu, and extending 200m seawards of the high-water mark.

Amatikulu Inshore Restricted Zone (AIRZ) comprises an inshore portion of the uThukela Marine Protected Area and is defined as the area adjacent to the Amatikulu Nature Reserve between points a, which lies near the southern end of the aMatigulu/iNyoni estuary, then southwest along the high-water mark to point b, which lies just south of the southern boundary of the Amatikulu Nature Reserve and extending 200m seawards of the high-water mark.

uThukela Inshore Controlled Zone (TICZ) comprises an inshore portion of the uThukela Marine Protected Area, between point b, which lies just south of the Amatikulu Nature Reserve, then along the high-water mark to point c, which lies approximately 3km to the north of the uSetheni Estuary and includes the Thukela Estuary up to point d and includes Zinkwazi and Blythedale beach areas and extending 200m seawards of the high-water mark.

uSetheni Inshore Restricted Zone (SIRZ) comprises an inshore portion of the uThukela Marine Protected Area and is defined as the area between point c, which lies approximately 3km to the north of the uSetheni Estuary, then along the high-water mark to point F, approximately 2km north of the Tinley Manor Rocks which lies at the southern boundary of the uThukela Marine Protected Area, and extending 200m seawards of the high-water mark.

Figure 1: uThukela MPA inshore zonation



OFFSHORE:

uThukela Offshore Restricted Zone (TORZ) comprises the central offshore portion of the uThukela Marine Protected Area and is defined as the area within straight lines sequentially joining the following points K, L, M, N, O, P, Q, R, S, T, U, and a line joining the first co-ordinate to the last along the line 200m from the high water mark. This includes the reefs known as Kob and Carpenter Reef.

uThukela Offshore Controlled Zone North (TOCZN) comprises the northern offshore portion of the uThukela Marine Protected Area and is defined as the area within straight lines sequentially joining the following points Y, B, C,, H, G, J, I, P, O, N, M, L, K and a line joining the first co-ordinate to the last along the line 200m from the high water mark.

uThukela Offshore Controlled Zone South (TOCZS) comprises the southwestern offshore portion of the uThukela Marine Protected Area and is defined as the area within straight lines sequentially joining the following points U, T, S, V, E, W and a line joining the first co-ordinate to the last along the line 200m from the high water mark.

uThukela Offshore Controlled Commercial Zone (TOCCZ) comprises the southeastern offshore portion of the uThukela Marine Protected Area and is defined as the area within straight lines sequentially joining the following points R, Q, D, V and a straight line joining the first co-ordinate to the last.

uThukela Offshore Controlled-Pelagic Linefish Zone (TOCPLZ) comprises an offshore portion of the uThukela Marine Protected Area and is defined as the area within straight lines sequentially joining the following points G, H, I, J and a straight line joining the first co-ordinate to the last.

Figure 2: uThukela MPA offshore zonation

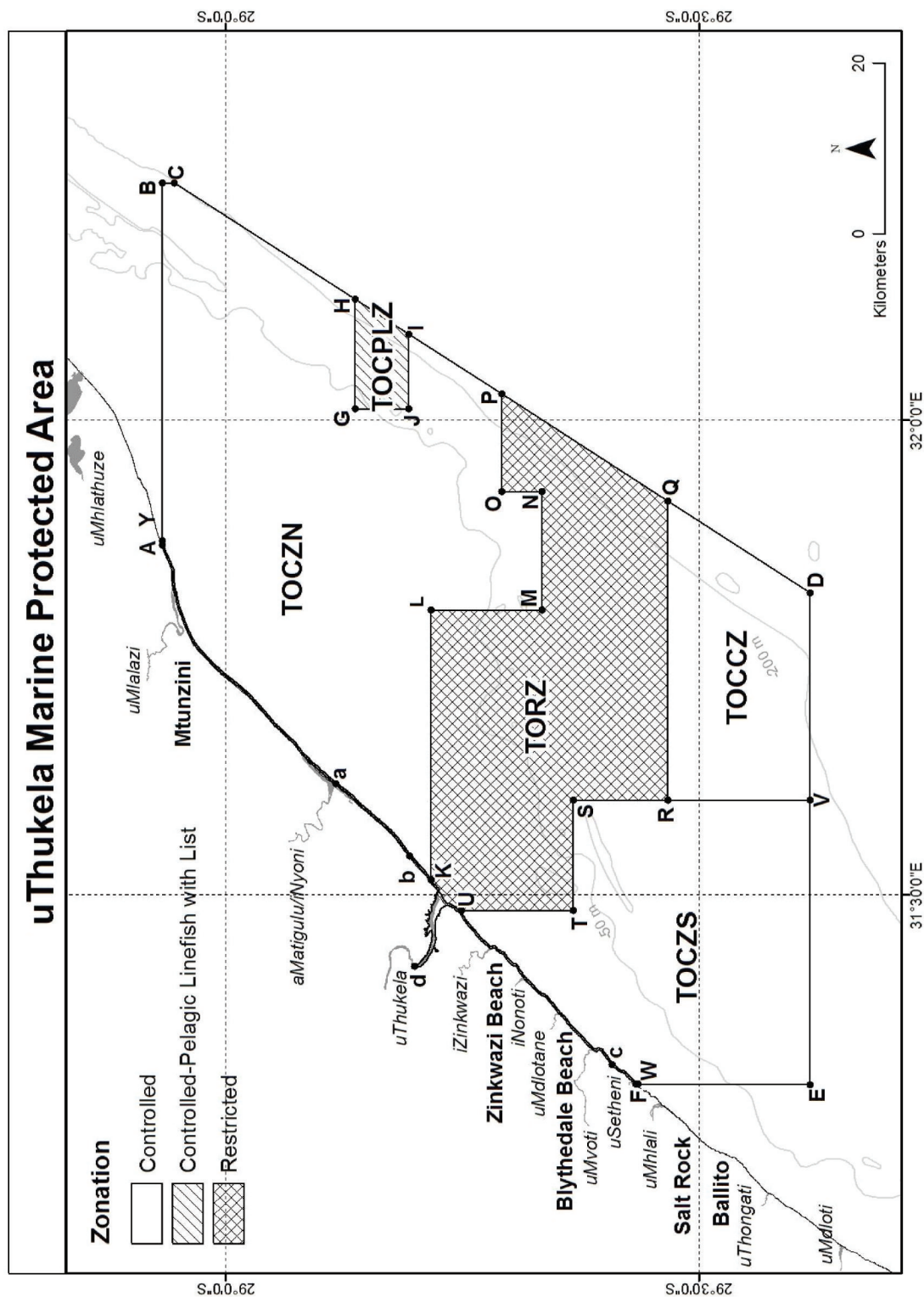


Table 1: uThukela MPA table of co-ordinates.

	POINT LABEL	X	Y
uThukela MPA	A	31.868507	-28.932813
uThukela MPA	B	32.25	-28.932813
uThukela MPA	C	32.25	-28.946117
uThukela MPA	D	31.8178	-29.616667
uThukela MPA	E	31.3003	-29.616667
uThukela MPA	F	31.3003	-29.43282
uThukela MPA	G	32.011667	-29.136667
uThukela MPA	H	32.127167	-29.136667
uThukela MPA	I	32.0906	-29.193333
uThukela MPA	J	32.011667	-29.193333
uThukela MPA	K	31.515435	-29.216668
uThukela MPA	L	31.8	-29.216668
uThukela MPA	M	31.8	-29.333333
uThukela MPA	N	31.925	-29.333333
uThukela MPA	O	31.925	-29.291667
uThukela MPA	P	32.0273	-29.291667
uThukela MPA	Q	31.9144	-29.466667
uThukela MPA	R	31.6	-29.466667
uThukela MPA	S	31.6	-29.366667
uThukela MPA	T	31.4833	-29.366667
uThukela MPA	U	31.4833	-29.249182
uThukela MPA	V	31.6	-29.616667
uThukela MPA	W	31.3003	-29.435212
uThukela MPA	Y	31.873157	-28.932813
uThukela MPA	a	31.616712	-29.116158
uThukela MPA	b	31.540599	-29.193789
uThukela MPA	c	31.320539	-29.407562
uThukela MPA	d	31.424198	-29.199736

Annexure 2

Pelagic fish species list for the uThukela Marine Protected Area Controlled-Pelagic Lineifsh Zone

Family names are given as all species in these families may be caught or used as bait species.

Atherinidae – silversides
Belonidae – garfish
Carangidae – kingfish, garrick, yellowtail, queenfish, etc.
Chirocentridae – wolf herring/slimy
Clupeidae – red-eyes, sardines, etc.
Coryphaenidae – Dorado
Engraulidae – anchovies, glass-noses/bonies, etc.
Exocoetidae – flying fishes
Hemiramphidae – halfbeaks
Istiophoridae – Sailfish and marlin
Pomatomidae – Shad/elf
Rachycentridae – Prodigal son/Cobia
Scomberesocidae - sauries
Scombridae – Tunas, mackerels, wahoo, etc.
Sphyraenidae – Barracudas

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 791

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE ORANGE SHELF EDGE
MARINE PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the Orange Shelf Edge Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

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

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 and tracking 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;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Orange Shelf Edge Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

"National Small Vessel Safety Regulations" means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on, rather than within the confines of a hull;

"Sanctuary Area" means an area within a marine protected area where no fishing or any other activity contemplated in terms of section 48A(1) of the Act may take place, except for scientific research purposes as provided for in these regulations;

“specific environmental management Act” has the meaning assigned to it in the National Environmental Management Act;

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a personal watercraft and hovercraft; and

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

2. Zonation within the Marine Protected Area

The entire Orange Shelf Edge Marine Protected Area is zoned as a Sanctuary Area with two areas which are determined by using WGS 84 as detailed in Annexure 1 hereto.

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.

- (2) Application for a scientific research permit in terms of sub-regulation (1) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.
- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.

5. Use of vessels

- (1) No person may moor or anchor any vessel in the Marine Protected Area except—
 - (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.

- (2) Despite sub-regulation (1), the Minister may, on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances:
 - (a) in an emergency; or
 - (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The Minister may verbally authorise a vessel to moor or anchor within the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) Any motorised vessel that enters or traverses the Marine Protected Area may not stop for more than 3 minutes or move at less than 5 knots at any time while in the Marine Protected Area unless authorised in terms of these regulations.
- (5) A motorised 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 7 calendar days after passing through.
- (6) A vessel required by law to have a Vessel Monitoring System; must, when entering or traversing the Marine Protected Area with fishing gear onboard, ensure that the Vessel Monitoring System is active.

6. Restriction of activities

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

7. Control of activities in Marine Protected Area

- (1) No person may fish, or attempt to fish, in the Marine Protected Area.
- (2) No fishing gear including lines, hooks, lures, nets, trawl doors, warps, spearguns, buoys, traps or any other gear or equipment

used for fishing, may be deployed overboard from any vessel within the Marine Protected Area.

- (3) Fishing gear onboard a vessel or in the possession of any person that enters or is present in the Marine Protected Area, must be stowed in the following manner:
- (a) In the case of line fishing from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (b) in the case of purse-seine fishing, no gear may be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
 - (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
 - (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
 - (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container.
 - (g) in the case of pole fishing, all poles will be secured above deck;
 - (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
 - (i) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.

8. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may be suspended, cancelled or amended at any time.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) The Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (2) A permit issued in terms of these regulations may be amended—
 - (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;
 - (c) for the proper management and implementation of these regulations; or
 - (d) where the conditions or circumstances have changed since the original permit was issued.

9. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4, 5(1), 5(4) to 5(6), 6 or 7;
- (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.

10. Short title and commencement

These regulations are called the Orange Shelf Edge Marine Protected Area Regulations and commences on 1 August 2019.

Annexure 1**(Zonation for the Orange Shelf Edge Marine Protected Area)**

The Orange Shelf Edge Marine Protected Area is comprised of two separate Sanctuary Areas, indicated as:

1. Orange Shelf Edge West which is bounded by a series of straight lines sequentially joining the following coordinates: A, B, C, and D; and a straight line joining the first and last co-ordinate. The line between A and D runs along the Exclusive Economic Zone border between South Africa and Namibia.
2. Orange Shelf Edge East which is bounded by a series of straight lines sequentially joining the following coordinates: E, F, G, and H; and a straight line joining the first and last co-ordinate.

Fig 1. The zonation for the Orange Shelf Edge Marine Protected Area.

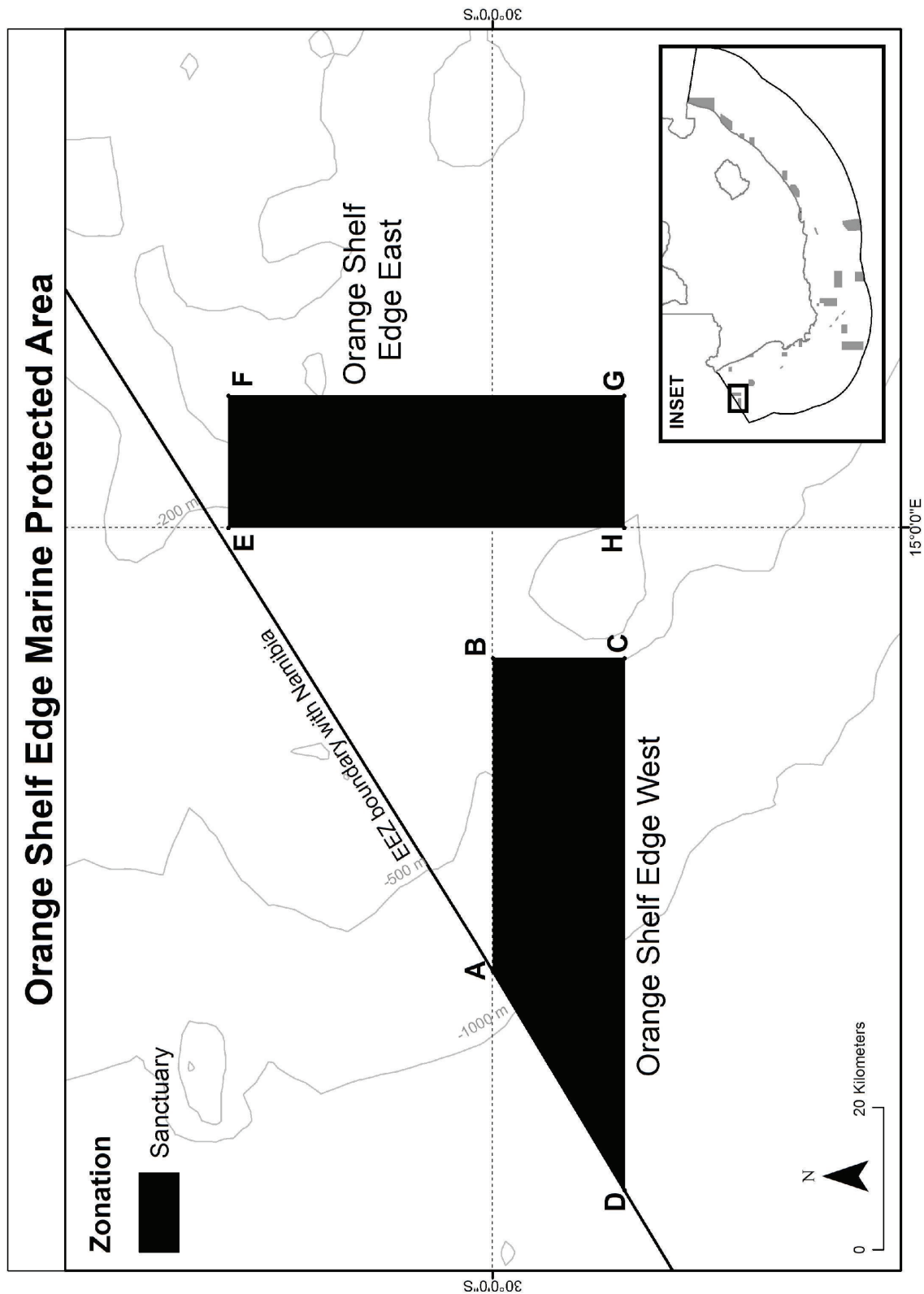


Table 1: Table of co-ordinates for the Orange Shelf Edge Marine Protected Area

	POINT	X	Y
Orange Shelf Edge East	E	15	-29.666667
Orange Shelf Edge East	F	15.166667	-29.666667
Orange Shelf Edge East	G	15.166667	-30.166667
Orange Shelf Edge East	H	15	-30.166667
Orange Shelf Edge West	A	14.438447	-30.000972
Orange Shelf Edge West	B	14.835	-30.001
Orange Shelf Edge West	C	14.835	-30.167
Orange Shelf Edge West	D	14.161812	-30.166993

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 792

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE SOUTHEAST ATLANTIC
SEAMOUNTS MARINE PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the Southeast Atlantic Seamounts Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

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

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“commercial fishing” shall have the meaning assigned to it in section 1 of the Marine Living Resources Act;

“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) of the Act;

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“fishing permit” means a commercial, small scale or recreational fishing permit issued in terms of the Marine Living Resources Act, which authorises fishing in the area where the Marine Protected Area is located;

“hovercraft” means a craft that floats on a cushion of air and is capable of traversing water;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Southeast Atlantic Seamounts Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull;

“recreational fishing” has the meaning assigned to it in the Marine Living Resources Act;

“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) of the Act;

“small-scale fishing or fisher” has the meaning ascribed to it in section 1 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“specific environmental management Act” has the meaning assigned to it in the National Environmental Management Act;

“Threatened or Protected Marine Species Lists” means the lists published in *Government Gazette* 40875 GN 476 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a personal watercraft and hovercraft; and

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

2. Zonation within the Marine Protected Area

The Marine Protected Area consists of one (1) Restricted Zone and two (2) Controlled Zones, which are determined by using WGS 84 as detailed in Annexure 1 hereto as follows:

- (a) Restricted Zone, indicated as the Argentina Seamount Restricted Zone;
- (b) Controlled Zone, indicated as the Protea Seamount Controlled Zone; and
- (c) Controlled Zone, indicated as the Slope Seamount Controlled Zone.

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.
- (2) Application for a scientific research permit in terms of sub-regulation (1) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid

certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.

- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.
- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.

5. Use of vessels

- (1) No person may moor or anchor any vessel in the Restricted Zone of the Marine Protected Area except—
 - (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the Minister may on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances—
 - (a) in an emergency; or
 - (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.

- (3) The Minister may verbally authorise a vessel to moor or anchor within the Restricted Zone of the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) Any motorised vessel that enters or traverses a Restricted Zone within the Marine Protected Area may not stop for more than 3 minutes or move at less than 5 knots at any time while in a Restricted Zone, unless authorised in terms of these regulations.
- (5) A motorised vessel entering or traversing a Restricted Zone within 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 a Restricted Zone within the Marine Protected Area and such GPS data may not be deleted from this device for 7 calendar days after passing through a Restricted Zone.
- (6) A vessel required by law to have a Vessel Monitoring System; must, when entering or traversing the Marine Protected Area with fishing gear onboard, ensure that the Vessel Monitoring System is active.

6. Restriction of activities

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

7. Control of activities in Restricted Zones

- (1) No person shall fish, or attempt to fish, in the Restricted Zone.
- (2) No fishing gear including lines, hooks, lures, nets, trawl doors, warps, spearguns, buoys, traps or any other gear or equipment used for fishing, may be deployed overboard from any vessel within a Restricted Zone of the Marine Protected Area.
- (3) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Restricted Zone of the Marine Protected Area must be stowed in the following manner:
 - (a) In the case of line fishing from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line,

hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;

- (b) in the case of purse-seine fishing, no gear may be in the water;
- (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
- (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
- (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
- (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container;
- (g) in the case of pole fishing, all poles will be secured above deck;
- (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
- (i) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.

8. Control of activities in Controlled Zone

- (1) No person shall fish, or attempt to fish in a Controlled Zone, unless they are in possession of a valid fishing permit, which authorises such person to fish for the species specified in sub-regulation (2).
- (2) Notwithstanding anything to the contrary, a person in possession of a fishing permit contemplated in sub-regulation (1), may only fish for large pelagic species within the Marine Protected Area, subject to the quantity, fish size limits, allowable effort, closed seasons or bag limits authorised by such fishing permit.

- (3) Fishing gear onboard a vessel or in possession of any person that enters or is present in a Controlled Zone, and who is not authorised to fish in terms of sub-regulation (2), must be stowed in accordance with regulations 7(2) and 7(3).
- (4) No person may collect broodstock in a Controlled Zone for undertaking aquaculture, without a permit from the Minister, which permit may be issued subject to conditions.
- (5) When considering a permit in terms of sub-regulation (4) the Minister must take into account the following factors:
 - (a) whether the species is listed as a threatened or protected species in terms of the Threatened or Protected Marine Species Lists and any prohibitions or restrictions therein;
 - (b) whether the species has been listed on an International Union for the Conservation of Nature Red list, including an international, regional, or national Red List;
 - (c) the objectives of this Marine Protected Area;
 - (d) whether the species can be collected outside the Marine Protected Area; and
 - (e) any other relevant criteria.

9. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulation (2) and (3), a permit issued under these regulations may at any time be suspended, cancelled or amended.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment

does not unfairly discriminate against the holder in relation to other holders of similar permits;

- (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
- (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;
 - (c) for the proper management and implementation of these regulations; or
 - (d) where the conditions or circumstances have changed since the original permit was issued.

10. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4, 5(1), 5(4) to 5(6), 6, 7 or 8(1) to 8(4);
- (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.

11. Short title and commencement

These regulations are called the Southeast Atlantic Seamounts Marine Protected Area Regulations and commences on 1 August 2019.

Annexure 1

(Zonation for the Southeast Atlantic Seamounts Marine Protected Area)

- (1) **Argentina Seamount Restricted Zone** is bounded by a series of straight lines sequentially joining the following offshore coordinates: J, I, C, D and joining the first and last co-ordinate.
- (2) **Protea Seamount Controlled Zone** is bounded by a series of straight lines sequentially joining the following coordinates: A, B, I and J; and a joining the first and last co-ordinate.
- (3) **Slope Seamount Controlled Zone** is bounded by a series of straight lines sequentially joining the following coordinates: E, F, G and H; and a joining the first and last co-ordinates.

Fig. 1. The zonation for the Southeast Atlantic Seamounts Marine Protected Area.

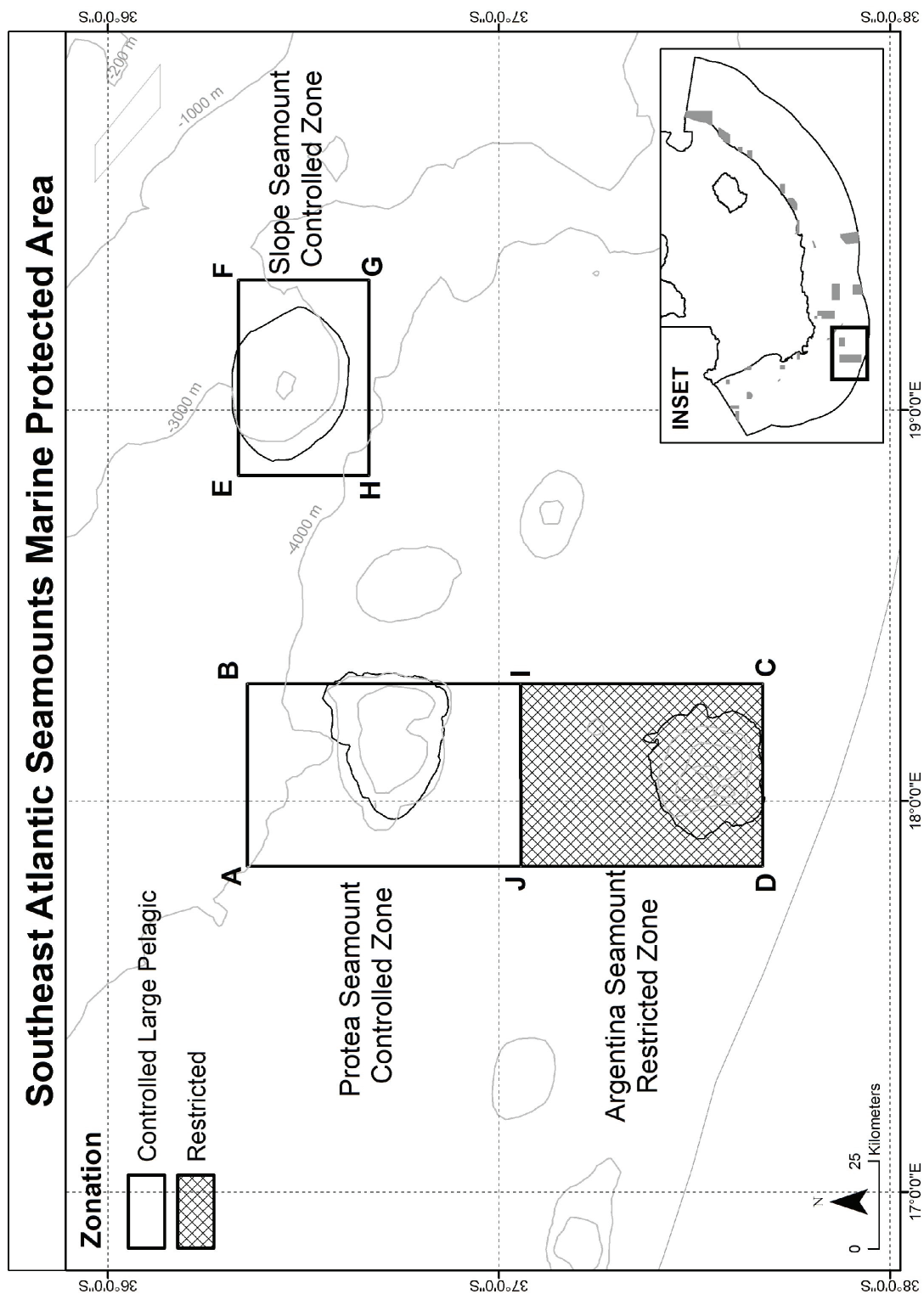


Table 1: Co-ordinates for the Southeast Atlantic Seamounts MPA

	POINT	X	Y
Southeast Atlantic Seamounts East	E	18.833313	-36.333313
Southeast Atlantic Seamounts East	F	19.333313	-36.333313
Southeast Atlantic Seamounts East	G	19.333313	-36.666687
Southeast Atlantic Seamounts East	H	18.833313	-36.666687
Southeast Atlantic Seamounts West	A	17.833333	-36.356843
Southeast Atlantic Seamounts West	B	18.3	-36.356954
Southeast Atlantic Seamounts West	C	18.3	-37.673537
Southeast Atlantic Seamounts West	D	17.833333	-37.673447
Southeast Atlantic Seamounts West	I	18.3	-37.05515
Southeast Atlantic Seamounts West	J	17.833333	-37.055689

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 793

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE PROTEA MARINE
PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make, the Regulations for the Management of the Protea Banks Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these Regulations, and in addition—

“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;

“attract” means to feed, chum or bait, or to use any other means, method or device to lure a live specimen of a shark species (Elasmobranchii);

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“chum or chumming” means scenting or using pieces of an animal weighing less than 10 grams, in the water to lure a live specimen of any shark species (Elasmobranchii);

“commercial fishing” shall have the meaning assigned to it in section 1 of the Marine Living Resources Act;

“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) of the Act;

“Controlled-Pelagic Linefish Zone” means a Controlled Zone within the Marine Protected Area where only pelagic linefishing may occur as detailed in a fish list attached to these regulations as Annexure 2 and includes the PCPLZ,

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“fishing permit” means a commercial, small scale or recreational fishing permit issued in terms of the Marine Living Resources Act, which authorises fishing in the area where the Marine Protected Area is located;

“hovercraft” means a craft that floats on a cushion of air and is capable of traversing water;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“linefishing” means fishing by handline or manually operating a rod, reel and line or one or more separate lines to which no more than ten hooks are attached per line;

“marine aquarium fishing” means fishing for the purposes of obtaining fish for live display;

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Protea Banks Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull;

“**PCZ**” means the Protea Banks Controlled Zone;

“**PCPLZ**” means the Protea Banks Controlled-Pelagic Linefish Zone;

“**PRZ**” means the Protea Banks Restricted Zone;

“**recreational fishing**” has the meaning assigned to it in the Marine Living Resources Act;

“**Restricted Zone**” means an area within a 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) of the Act;

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

“**SCUBA diving vessel**” means any vessel that carries SCUBA divers and has no fishing gear on board;

“**small-scale fishing or fisher**” has the meaning ascribed to it in section 1 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“**spearfishing**” means fishing with the use of a speargun;

“**speargun**” means a device by which a spear is projected by mechanical or pneumatic means;

“**specific environmental management Act**” has the meaning assigned to it in the National Environmental Management Act;

“**Threatened or Protected Marine Species Lists**” means the lists published in *Government Gazette* 40875 GN 476 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“**vessel**” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a hovercraft and personal watercraft; and

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

2. Zonation within the Marine Protected Area

The Marine Protected Area consists of one (1) offshore Controlled Zone, one (1) offshore Controlled-Pelagic Linefish Zone and one (1) offshore Restricted Zone, which are determined by using WGS 84 as detailed in Annexure 1 hereto as follows:

- (a) one (1) off shore Controlled Zone, indicated as the Protea Banks Controlled Zone (PCZ);
- (b) one (1) off shore Controlled-Pelagic Linefish Zone, indicated as the Protea Banks Controlled-Pelagic Linefish Zone (PCPLZ); and
- (c) one (1) off shore Restricted Zone, indicated as the Protea Banks Restricted Zone (PRZ).

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.
- (2) Application for a scientific research permit in terms of sub-regulation (1) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.
- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.
- (5) No person or vessel, shall be in possession of or have on board, SCUBA diving gear and a speargun.

- (6) Subject to regulation 3, no person may undertake marine aquarium fishing, including fishing for or collecting invertebrates, or live rock within the Marine Protected Area.

5. Use of vessels

- (1) No person may moor or anchor any vessel in a Restricted or Controlled-Pelagic Linefish zone of the Marine Protected Area except—
 - (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the Minister may on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances:
 - (a) in an emergency; or
 - (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The Minister may verbally authorise a vessel to moor or anchor within a Restricted or Controlled-Pelagic Linefish zone of the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) Any motorised vessel that enters or traverses a Restricted Zone within the Marine Protected Area may not stop for more than three minutes or move at less than—
 - (a) 5 knots if such vessel is 10 meters or more in length; or
 - (b) 3 knots if such vessel is less than 10 meters in length,unless authorised in terms of these regulations.
- (5) Sub-regulation (4), does not apply to a SCUBA diving vessel or to any vessel in the Protea Controlled-Pelagic Linefish Zone.
- (6) A motorised vessel required by law to have a Vessel Monitoring System must, when entering or traversing the Marine Protected Area

CONTINUES ON PAGE 258 - PART 3



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with fishing gear on board, ensure that the Vessel Monitoring System is active.

- (7) A motorised vessel entering or traversing a Restricted Zone within the Marine Protected Area, must have a Global Positioning System (GPS) Mapping Device with an active trail operational on the vessel, prior to entering and while traversing a Restricted Zone within the Marine Protected Area and such GPS data may not be deleted from this device for 7 calendar days after passing through a Restricted Zone.

6. Restriction of activities

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

7. Control of activities in the Restricted Zone

- (1) No person shall fish, or attempt to fish, in the PRZ.
- (2) No fishing gear including lines, hooks, lures, nets, trawl doors, warps, spearguns, buoys, traps or any other gear or equipment used for fishing, may be deployed overboard from any vessel within a Restricted Zone of the Marine Protected Area
- (3) Fishing gear and fish onboard a vessel or in possession of any person that enters or is present in the PRZ must be stowed in the following manner:
 - (a) In the case of line fishing from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (b) in the case of purse-seine fishing, no gear may be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
 - (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
 - (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;

- (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container.
- (g) in the case of pole fishing, all poles will be secured above deck;
- (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
- (i) in respect of all types of fishing where bait is used, such bait must remain packed away, or be placed into a bait well, where available.

8. Control of activities in the Controlled-Pelagic Linefish and Controlled Zones

- (1) No person shall fish, or attempt to fish in the Controlled-Pelagic Linefish or Controlled zone unless they are in possession of a valid fishing permit, which authorises them to fish for the species specified in sub-regulation (2).
- (2) Notwithstanding anything to the contrary, a person in possession of a fishing permit contemplated in sub-regulation (1)—
 - (a) may only undertake linefishing and spearfishing for the species specified in Annexure 2 to these regulations, when fishing in the Controlled-Pelagic Linefish Zone; and
 - (b) may only undertake linefishing and spearfishing in a Controlled Zone,subject to species restrictions, quantity, fish size limits, allowable effort, closed seasons or bag limits authorised by such fishing permit.
- (3) No person may fish for or be in possession of any shark or ray species (Elasmobranchii) within the Marine Protected Area.
- (4) No person shall fish in the Controlled-Pelagic Linefish or Controlled Zone in the period between sunset in the evening and sunrise of the following day.
- (5) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Controlled-Pelagic Linefish or Controlled Zone and who is not authorised to fish in terms of sub-regulation (1), must be stowed in accordance with regulation 7(2) and 7(3).

- (6) No person shall in the Controlled-Pelagic Linefish Zone, be in possession of or have on board a vessel, any fish, except for the species listed in Annexure 2 to these regulations.
- (7) No person shall in any Controlled or Controlled-Pelagic Linefish Zone, chum for or in any other manner attract any shark species (Elasmobranchii), for the purpose of snorkeling or SCUBA diving with such species, without a permit.
- (8) Application for a permit referred to in sub-regulation (7) must be made to the Minister and may be issued subject to conditions.
- (9) No person may collect broodstock in a Controlled or Controlled-Pelagic Linefish Zone for undertaking aquaculture, without a permit from the Minister, which permit may be issued subject to conditions.
- (10) When considering a permit in terms of sub-regulation (9) the Minister must take into account the following factors-
 - (a) whether the species is listed as a threatened or protected species in terms of the Threatened or Protected Marine Species Lists and any prohibitions or restrictions therein;
 - (b) whether the species has been listed on an International Union for the Conservation of Nature Red list, including an international, regional, or national Red List;
 - (c) the objectives of this Marine Protected Area;
 - (d) whether the species can be collected outside the Marine Protected Area; and
 - (e) any other relevant criteria.

9. SCUBA diving

- (1) No person may operate or attempt to operate a SCUBA diving business in the Marine Protected Area without a permit.
- (2) Application for a permit referred to in sub-regulation (1) must be made to the Minister and may be issued subject to conditions.
- (3) Any vessel that has deployed divers in the Marine Protected Area must display an alpha flag.

10. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3) a permit issued under these regulations may be suspended, cancelled or amended at any time.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
 - (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;
 - (c) for the proper management and implementation of these regulations; or
 - (d) where the conditions or circumstances have changed since the original permit was issued.

11. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4, 5(1), 5(4) to 5(7), 6, 7, 8(1) to 8(7), 8(9), 9(1) or 9(3);
- (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. Short title and commencement

These regulations are called the Protea Banks Marine Protected Area Regulations and commences on 1 August 2019.

Annexure 1

- (1) **Protea Banks Restricted Zone (PRZ)** comprises the offshore portion of the Protea Banks Marine Protected Area and is defined as the area within straight lines sequentially joining the following points; E, L, M, B, C, D with the line linking D and E lying adjacent to the offshore boundary of the existing Trafalgar marine protected area, following a line one nautical mile from the high water mark, and joining the first co-ordinate to the last. This includes Mzimkhulu Canyon north of Protea Banks.
- (2) **Protea Banks Controlled-Pelagic Linefish Zone (PCPLZ)** comprises the central portion of the Protea Banks Marine Protected Area and is defined as the area within straight lines sequentially joining the following points; G, H, I, J, K, L and joining the last co-ordinate to the first. This includes the Vungu Canyon and a large portion of Protea Banks.
- (3) **Protea Banks Controlled Zone (PCZ)** comprises the remaining section of the Protea Banks Marine Protected Area and is defined as the area within straight lines joining the following points; F, A, M, K, J, I, H, G and (a straight line) joining the last co-ordinate to the first.

Figure 1: The Offshore Zonation of the Protea Banks MPA

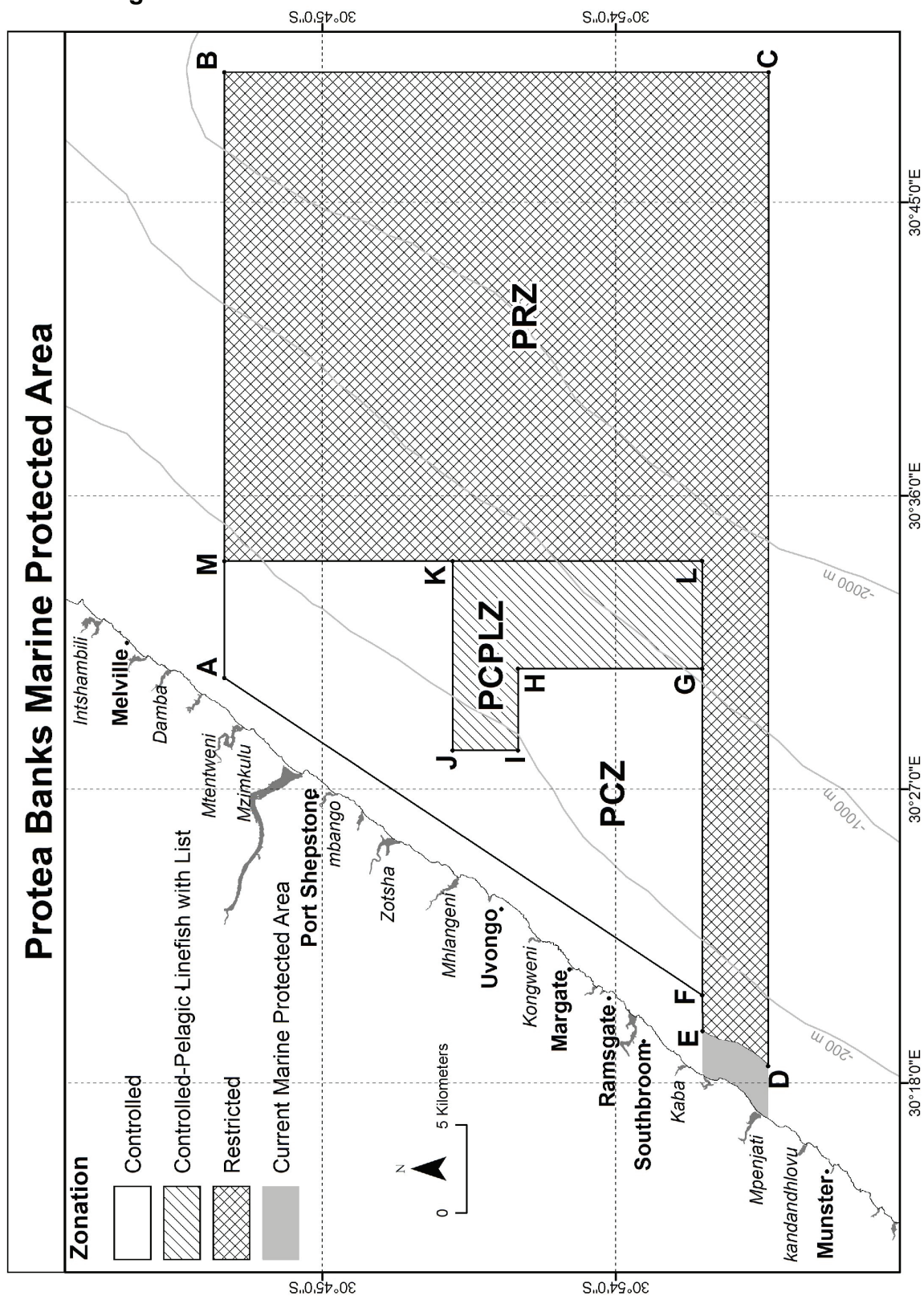


Table 1: Table of co-ordinates of the Protea Banks MPA

	POINT	X	Y
Protea Banks MPA	A	30.507	-30.7
Protea Banks MPA	B	30.8167	-30.7
Protea Banks MPA	C	30.8167	-30.977867
Protea Banks MPA	D	30.3085	-30.977867
Protea Banks MPA	E	30.3264	-30.944317
Protea Banks MPA	F	30.3448	-30.944317
Protea Banks MPA	G	30.5117	-30.944317
Protea Banks MPA	H	30.5117	-30.85
Protea Banks MPA	I	30.47	-30.85
Protea Banks MPA	J	30.47	-30.816667
Protea Banks MPA	K	30.5667	-30.816667
Protea Banks MPA	L	30.5667	-30.944317
Protea Banks MPA	M	30.5667	-30.7

Annexure 2

Pelagic fish species list for the Controlled-Pelagic Linefish Zone of the Protea Banks Marine Protected Area.

Family names are given as all species in these families may be caught, or used as bait.

Atherinidae – silversides
Belonidae – garfish
Carangidae – kingfish, garrick, yellowtail, queenfish, etc.
Chirocentridae – wolf herring/slimy
Clupeidae – red-eyes, sardines, etc.
Coryphaenidae – Dorado
Engraulidae – anchovies, glass-noses/bonies, etc.
Exocoetidae - flyingfishes
Hemiramphidae – halfbeaks
Istiophoridae – Sailfish and marlin
Pomatomidae – Shad/elf
Rachycentridae – Prodigal son/Cobia
Scomberesocidae - sauries
Scombridae – Tunas, mackerels, wahoo, etc.
Sphyraenidae – Barracudas

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 794

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE ROBBEN ISLAND
MARINE PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the regulations for the Management of the Robben Island Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

“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;

“authorised official” means—

- (a) any person appointed as a fishery control officer in terms of the Marine Living Resources Act;
- (b) an environmental management inspector appointed in terms of the National Environmental Management Act; and
- (c) all peace officers as defined in the Criminal Procedure Act.

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“commercial fishing” shall have the meaning assigned to it in section 1 of the Marine Living Resources Act;

“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) of the Act.

“Criminal Procedure Act” means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

“demarcation marker” means a marker installed to mark the boundaries of or the zones within the Marine Protected Area;

“dive or diving” means to swim below the surface of the water, or to enter the water with the aid of, or use of prohibited gear;

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“environmental management inspector” has the meaning assigned to it in the National Environmental Management Act;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“fishing permit” means a commercial, small scale or recreational fishing permit issued in terms of the Marine Living Resources Act, which authorises fishing in the area where the Marine Protected Area is located;

“high-water mark” has the meaning assigned to it in the Integrated Coastal Management Act;

“hovercraft” means a craft that floats on a cushion of air and is capable of traversing water;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“linefishing” means fishing by handline or manually operating a rod, reel and line or one or more separate lines to which no more than ten hooks are attached per line;

“management authority” means South African National Parks as designated in regulation 10;

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Robben Island Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“Marine Traffic Act” means the Marine Traffic Act, 1981 (Act No. 2 of 1981);

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel-

- (a) that uses an inboard motor powering a water jet pump as its primary source of propulsion;
- (b) is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull; and
- (c) is less than three meters in length;

“port” shall have the meaning assigned to it in the Integrated Coastal Management Act;

“prohibited gear” means dive torches, artificial breathing apparatus, weight belts or weights, bags used for underwater collection of fish, shucking tools or any tool that could be used for the collection of fish;

“recreational fishing” has the meaning assigned to it in the Marine Living Resources Act;

“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);

“RIO CZ” means the Robben Island Offshore Controlled Zone;

“RIM CZ” means the Robben Island Middle Controlled Zone;

“RIICZ” means the Robben Island Inner Controlled Zone;

“RIRZ” means the Robben Island Restricted Zone;

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

“small-scale fishing or fisher” has the meaning ascribed to it in section 1 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“specific environmental management Act” has the meaning assigned to it in the National Environmental Management Act;

“Threatened or Protected Marine Species Lists” means the lists published in *Government Gazette* 40875 GN 476 of 30 May 2017, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a hovercraft and personal watercraft; and

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

2. Zonation within the Marine Protected Area

The Marine Protected Area consists of three (3) Controlled Zones and one (1) Restricted Zone which are determined by using WGS 84 as detailed in Annexure 1 hereto as follows:

- (a) one (1) Restricted Zone, indicated as the Robben Island Restricted Zone (RIRZ);
- (b) two (2) Offshore Controlled Zones, indicated as the Robben Island Offshore Controlled Zone (RIO CZ) and the Robben Island Middle Controlled Zone (RIM CZ); and
- (c) one (1) Inshore Controlled Zone, indicated as the Robben Island Inner Controlled Zone (RIICZ).

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except—

- (a) on the authority of a scientific research permit issued by the Minister; and
 - (b) a scientific research permit issued by the management authority.
- (2) Application for a scientific research permit in terms of sub-regulation (1)(a) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.
- (3) Application for a scientific research permit in terms of sub-regulation (1)(b) must be made on an application form provided by the management authority.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.
- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) The management authority may in the management plan for the Marine Protected Area or in an internal rule, identify activities, except for those activities listed in section 48A(1) of the Act; which may be restricted, controlled, limited or prohibited and such areas must be indicated by demarcation buoys, demarcation markers or notice boards.
- (5) No person may conduct or carry out any activity that is prohibited, or undertake any activity in contravention of any restriction, control, or limitation provided for in terms of sub-regulation (4).

- (6) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.
- (7) No person may place any shark protection, exclusion or repelling device, equipment or infrastructure, including nets, within the Marine Protected Area without a permit from the Minister, which permit may be issued subject to conditions.
- (8) No person may except on the authority of the management authority, move, deface or otherwise interfere with any demarcation buoy, demarcation marker or notice-board within the Marine Protected Area.
- (9) No person may moor, anchor or attach any vessel, to any demarcation buoy or demarcation marker within the Marine Protected Area.
- (10) No person may within the Marine Protected Area be in possession of or have onboard a vessel, any fire-arm, air-gun, explosives or poison.
- (11) Sub-regulations (9) and (10) shall not apply to, an authorised officer, including an official of any organ of state while performing official duties within the Marine Protected Area.
- (12) For purposes of these regulations, explosives or fire-arms do not include the following devices:
 - (a) a flare gun;
 - (b) an illuminating rocket flare;
 - (c) a Department of Transport approved projectile distress flare;
 - (d) a Department of Transport approved hand-held distress flare;
 - (e) a Department of Transport approved rocket parachute distress flare;
 - (f) a Department of Transport approved floating orange smoke distress marker; and

- (g) a Department of Transport approved hand-held smoke distress marker.
- (13) No person may arrange, organize, or participate in any fishing competition, swimming, rowing, yachting, motorised vessel event, race, or regattas; or any other event, unless authorized by the management authority in writing.
- (14) No person or vessel may be in possession of or have on board, SCUBA diving gear and a speargun.

5. Use of vessels

- (1) No person may moor or anchor any vessel in the Restricted Zone of the Marine Protected Area except—
 - (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the management authority may on such conditions as it may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances:
 - (a) in an emergency; or
 - (b) where *the* management authority may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The management authority may verbally authorise a vessel to moor or anchor within the Restricted Zone of the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) Sub-regulations (1) and (2) shall not apply to a vessel moored or anchored in a recognized and approved mooring or anchoring site in terms of the Marine Traffic Act, for a vessel that is waiting to berth in a port, and authorisation has been granted by the National

Ports Authority of South Africa for such vessel to moor and anchor at such site.

- (5) No person may use a personal watercraft in the RIRZ.
- (6) Any motorised vessel that enters or traverses a Restricted Zone within the Marine Protected Area may not stop for more than 3 minutes, or move at less than 5 knots unless authorised in terms of these regulations.
- (7) A motorised vessel entering or traversing a Restricted Zone within 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 a Restricted Zone within the Marine Protected Area and such GPS data may not be deleted from this device for 7 calendar days after passing through a Restricted Zone.
- (8) 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.

6. Restriction of activities

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

7. Control of activities in the RIRZ

- (1) No person may fish, or attempt to fish, in the RIRZ.
- (2) No fishing gear including lines, hooks, lures, nets, trawl doors, warps, spearguns, buoys, traps or any other gear or equipment used for fishing, may be deployed overboard from any vessel within a Restricted Zone of the Marine Protected Area.
- (3) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Restricted Zone of the Marine Protected Area must be stowed in the following manner—
 - (a) in the case of line fishing from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line,

hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;

- (b) in the case of purse-seine fishing, no gear may be in the water;
- (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
- (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
- (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
- (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container
- (g) in the case of pole fishing, all poles will be secured above deck;
- (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool;
- (i) in the case of abalone fishing, all gear on the vessel is placed away in the cabin, wheel house or console of the vessel; and
- (j) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.

8. Control of activities in Controlled Zones

- (1) No person may fish, or attempt to fish in a Controlled Zone unless they are in possession of a valid fishing permit, which authorises such person to fish for the species in sub-regulation (2).

- (2) Notwithstanding anything to the contrary, a person in possession of a fishing permit as contemplated in sub-regulation (1), may only fish from a vessel—
- (a) in the RIOCZ for small pelagic species, yellowtail or snoek;
 - (b) in the RIMCZ, by undertaking linefishing for yellow-tail and snoek; or
 - (c) in the RIICZ, between sunrise and sunset, for abalone, and by linefishing for snoek, yellowtail or hottentot,
- subject to species restrictions, quantity, fish size limits, allowable effort, closed seasons or bag limits authorised by such fishing permit.
- (3) Fishing gear onboard a vessel or in possession of any person that enters or is present in a Controlled Zone and who is not authorised to fish in terms of sub-regulations (1) or (2), must be stowed in accordance with regulations 7(2) and 7(3).
- (4) No person may collect broodstock in a Controlled Zone for undertaking aquaculture, without a permit from the management authority, which permit may be issued subject to conditions.
- (5) When considering a permit in terms of sub-regulation (4) the management authority must take into account the following factors—
- (a) whether the species is listed as a threatened or protected species in terms of the Threatened or Protected Marine Species Lists and any prohibitions or restrictions therein;
 - (b) whether the species has been listed on an International Union for the Conservation of Nature Red list, including an international, regional, or national Red List;
 - (c) the objectives of this Marine Protected Area;
 - (d) whether the species can be collected outside the Marine Protected Area; and
 - (e) any other relevant criteria.

9. SCUBA diving

- (1) Subject to sub-regulation (2), no person shall engage in SCUBA diving, diving or be in possession of prohibited gear in the RIRZ of the Marine Protected Area.
- (2) Any person who undertakes—
 - (a) scientific research and monitoring;
 - (b) salvage operations;
 - (c) maintenance of legal underwater infrastructure;
 - (d) underwater photography; or
 - (e) any other activity authorised in terms of legislation, except for commercial or small-scale fishing for abalone,must apply to the management authority for a permit to engage in diving, SCUBA diving or be in possession of prohibited gear in the zones contemplated in sub-regulation (1).
- (3) No person may operate or attempt to operate a SCUBA diving business in a Controlled Zone of the Marine Protected Area without a permit.
- (4) Application for a permit referred to in sub-regulation (1) must be made to the management authority and may be issued subject to conditions.
- (5) Any vessel that has deployed divers in the Marine Protected Area must display an alpha flag.
- (6) No person may SCUBA dive in a Controlled Zone, except with a SCUBA diving business authorised in terms of sub-regulation (3).

10. Management authority

South African National Parks is hereby formally designated as the management authority for the Marine Protected Area in terms of section 38(1)(aB) of the Act.

11. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may be suspended, cancelled or amended at any time.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) the Minister or management authority is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
 - (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;
 - (c) for the proper management and implementation of these regulations; or
 - (d) where the conditions or circumstances have changed since the original permit was issued.

12. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4(1) to 4(3), 4(10), 4(13), 5(1), 5(5) to 5(8), 6, 7, 8(1) to 8(4), 9(1) to 9(3), 9(5) or 9(6);
- (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.

13. Short title and commencement

These regulations are called the Robben Island Marine Protected Area Regulations and commences on 1 August 2019.

Annexure 1**(Zonation of Robben Island Marine Protected Area)**

- 1) **Robben Island Restricted Zone (RIRZ)** is bounded by a series of straight lines sequentially joining the following coordinates, N, G, P, O, M; with the first and last co-ordinates being joined by a line along the high water mark along the western coastline of the Robben Island.
- 2) **Robben Island Offshore Controlled Zone (RIO CZ)** is bounded by a series of straight lines sequentially joining the following coordinates, A, E, F, D; and a straight line joining the first and last co-ordinates:
- 3) **Robben Island Middle Controlled Zone (RIM CZ)** is the area inside the polygon formed by sequentially joining the following co-ordinates, E, B, J, I, H, G, P, O, L, K C, F; and a straight line joining the first and last co-ordinate.
- 4) **Robben Island Inner Controlled Zone (RIICZ)** is bounded by a series of straight lines sequentially joining the following coordinates, N, H, I, J, K, L, M; with the first and last co-ordinates joined by a line along the high water mark along the northern, eastern and southern coastline of Robben Island.

Fig. 1. The zonation for the Robben Island Marine Protected Area

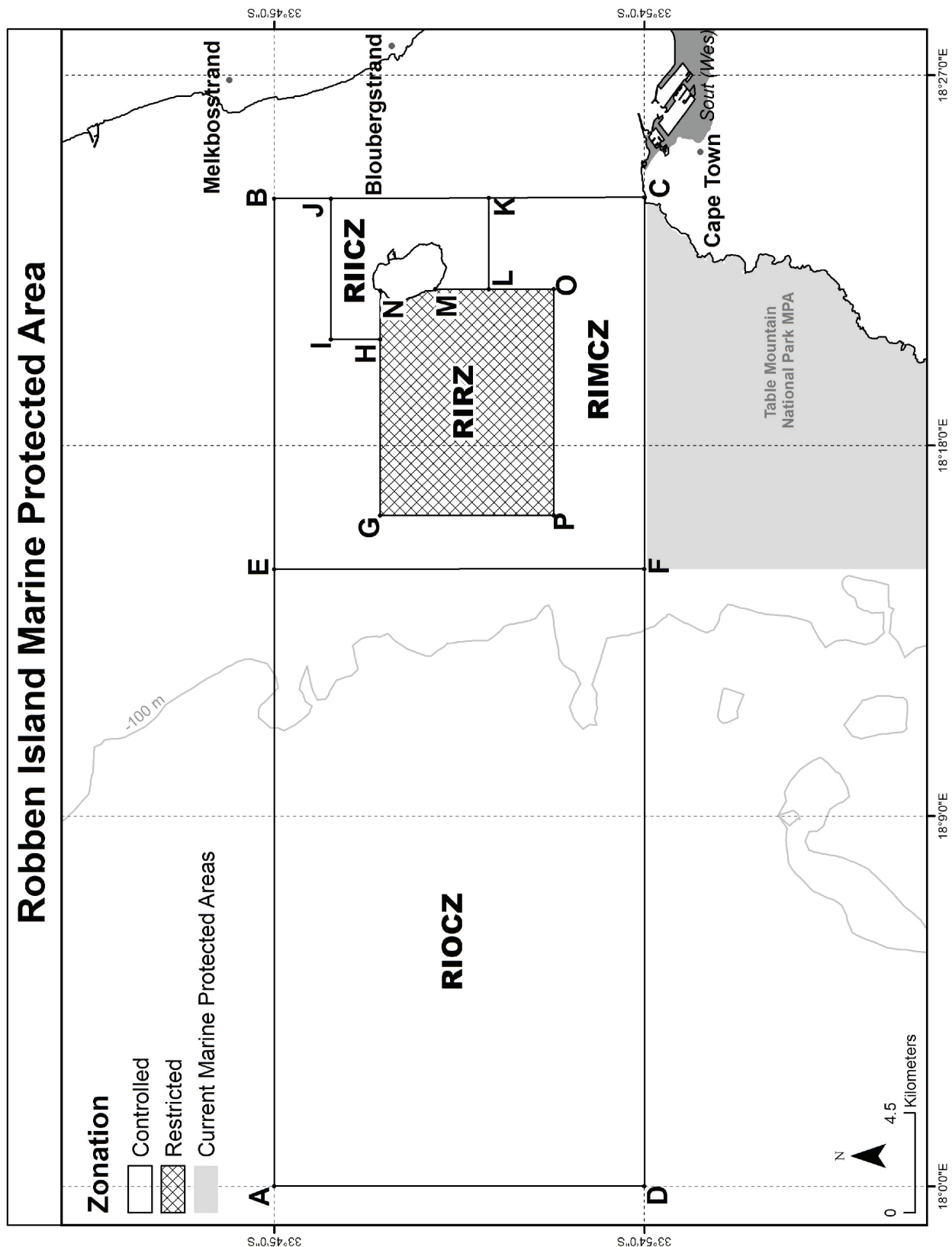


Table 1: Co-ordinates for the Robben Island Marine Protected Area

	POINT	X	Y
Robben Island MPA	A	18	-33.75
Robben Island MPA	B	18.4006	-33.75
Robben Island MPA	C	18.4006	-33.9
Robben Island MPA	D	18	-33.9
Robben Island MPA	E	18.25	-33.75
Robben Island MPA	F	18.25	-33.9
Robben Island MPA	G	18.2717	-33.793056
Robben Island MPA	H	18.343	-33.793056
Robben Island MPA	I	18.343	-33.773
Robben Island MPA	J	18.4006	-33.773
Robben Island MPA	K	18.4006	-33.837
Robben Island MPA	L	18.3633	-33.837
Robben Island MPA	M	18.3633	-33.815252
Robben Island MPA	N	18.3627	-33.793056
Robben Island MPA	O	18.3633	-33.863333
Robben Island MPA	P	18.2717	-33.863333

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 795

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE SOUTHWEST INDIAN
SEAMOUNT MARINE PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the Southwest Indian Seamount Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

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

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Southwest Indian Seamount Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on rather than within the confines of a hull;

“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) of the Act;

“specific environmental management Act” has the meaning assigned to it in the National Environmental Management Act;

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a personal watercraft and hovercraft; and

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

2. Zonation within the Marine Protected Area

The Marine Protected Area consists of two (2) offshore Restricted Zones, which are determined by using WGS 84 as detailed in Annexure 1 hereto as follows:

- (a) Restricted Zone, indicated as the North Restricted Zone (NRZ); and
- (b) Restricted Zone, indicated as the Natal Seamount Restricted Zone

(NSRZ).

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.
- (2) Application for a scientific research permit in terms of sub-regulation (1); must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.
- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.

5. Use of vessels

- (1) No person may moor or anchor any vessel in the Marine Protected Area except—
 - (a) under conditions of *force majeure*;

- (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.
- (2) Despite sub-regulation (1), the Minister may on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances-
 - (a) in an emergency; or
 - (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The Minister may verbally authorise a vessel to moor or anchor within the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) Any motorized vessel that enters or traverses the Marine Protected Area may not stop for more than 3 minutes or move at less than 5 knots at any time while in a Restricted Zone, unless authorised in terms of these regulations.
- (5) A motorised 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 7 calendar days after passing through a Restricted Zone.
- (6) A vessel required by law to have a Vessel Monitoring System; must, when entering or traversing the Marine Protected Area with fishing gear onboard, ensure that the Vessel Monitoring System is active.

6. Restriction of activities

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

7. Control of activities in Restricted Zone

- (1) No person shall fish, or attempt to fish, in the Northern Restricted Zone and Natal Seamount Restricted Zone.
- (2) No fishing gear including lines, hooks, lures, nets, trawl doors, warps, spearguns, buoys, traps or any other gear or equipment used for fishing, may be deployed overboard from any vessel within the Marine Protected Area.
- (3) Fishing gear onboard a vessel or in possession of any person that enters or is present in the Marine Protected Area must be stowed in the following manner:
 - (a) In the case of line fishing from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (b) in the case of purse-seine fishing, no gear may be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
 - (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
 - (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
 - (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker, or any other container.
 - (g) in the case of pole fishing, all poles will be secured above deck;

- (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and

in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.

8. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may be suspended, cancelled or amended at any time.
- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
 - (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
 - (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;

- (c) for the proper management and implementation of these regulations; or
- (d) where the conditions or circumstances have changed since the original permit was issued.

9. Offences and penalties

In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—

- (a) regulations 3(1), 4, 5(1), 5(4) to 5(6), 6, or 7;
- (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.

10. Short title and commencement

These regulations are called the Southwest Indian Seamount Marine Protected Area Regulations and commences on 1 August 2019.

Annexure 1

(Zonation for the Southwest Indian Seamount Marine Protected Area)

- (1) **North Restricted Zone** is bounded by a series of straight lines sequentially joining the following coordinates: A, B, C, and D and D to A..
- (2) **Natal Seamount Restricted Zone** is bounded by a series of straight lines sequentially joining the following coordinates: H, E, F, G, and joining G to H following the outer boundary of South Africa's Exclusive Economic Zone.

Fig 1. The zonation for the Southwest Indian Seamount Marine Protected Area

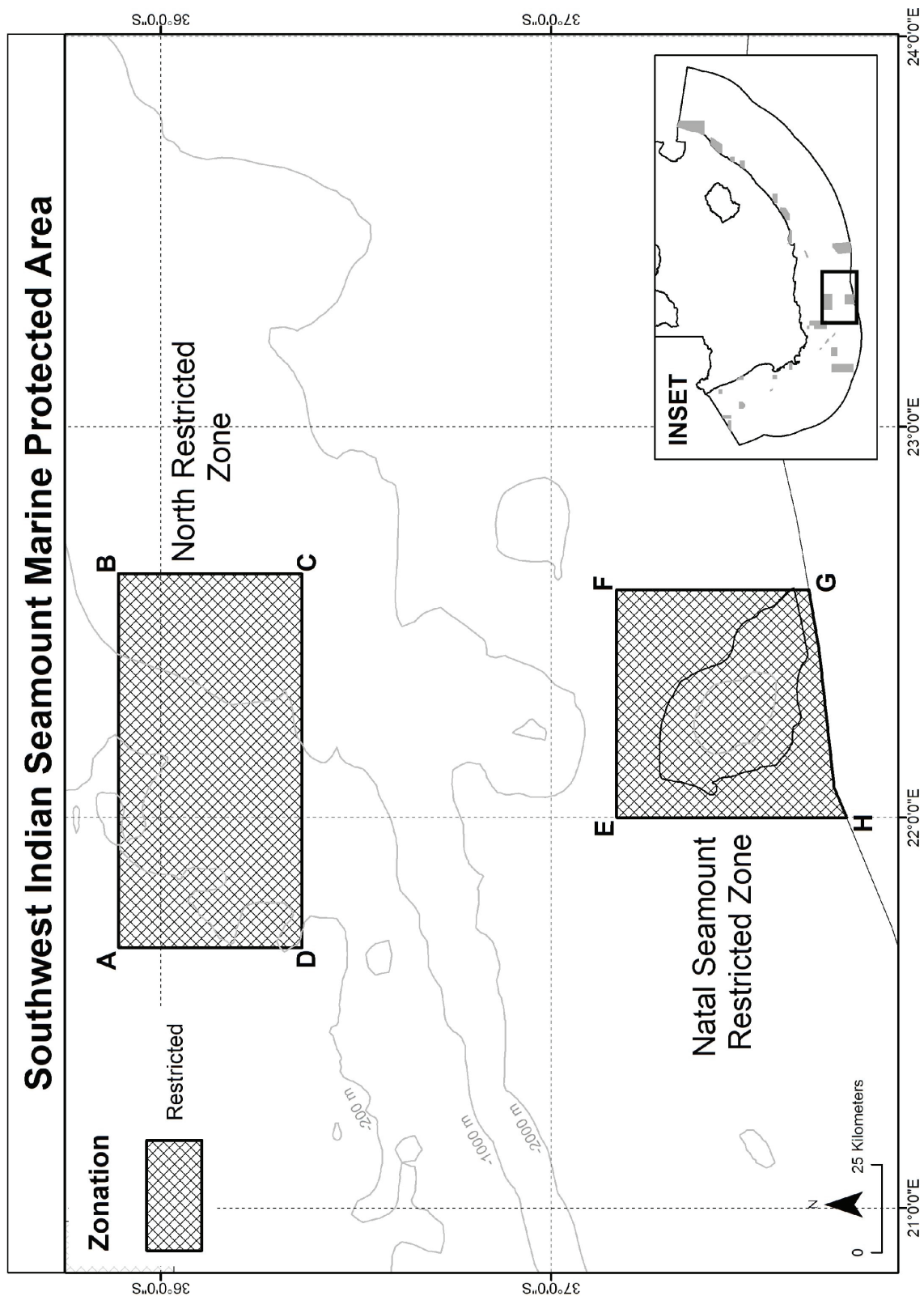


Table 1: Table of co-ordinates for the Southwest Indian Seamount Marine Protected Area

	POINT	X	Y
Southwest Indian Seamount North	A	21.667058	-35.891718
Southwest Indian Seamount North	B	22.624	-35.891
Southwest Indian Seamount North	C	22.623859	-36.362
Southwest Indian Seamount North	D	21.666667	-36.361938
Southwest Indian Seamount South	E	22.000122	-37.166687
Southwest Indian Seamount South	F	22.583313	-37.166687
Southwest Indian Seamount South	G	22.583329	-37.658854
Southwest Indian Seamount South	H	22.000055	-37.756076

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 796

23 MAY 2019

**NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT,
2003
(ACT NO. 57 OF 2003)**

**REGULATIONS FOR THE MANAGEMENT OF THE AGULHAS MUDS
MARINE PROTECTED AREA**

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby make the Regulations for the Management of the Agulhas Muds Marine Protected Area 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.



**NOMVULA PAULA MOKONYANE
MINISTER OF ENVIRONMENTAL AFFAIRS**

SCHEDULE

1. Definitions

In these regulations, unless the context indicates otherwise, a word or expression that is defined in the Act bears the same meaning in these regulations, and in addition—

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

“certificate of competence” means a certificate of competence as defined in the National Small Vessel Safety Regulations, 2007;

“certificate of fitness” means a certificate of fitness as defined in the National Small Vessel Safety Regulations, 2007;

“environment” has the meaning assigned to it in section 1 of the National Environmental Management Act;

“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” or to **“fish”** means—

- (a) searching for, catching, taking or harvesting fish or an attempt to undertake 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 or tracking 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;

“Integrated Coastal Management Act” means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“Marine Living Resources Act” means the Marine Living Resources Act, 1998 (Act No. 18 of 1998);

“Marine Protected Area” means the Agulhas Muds Marine Protected Area as declared by the Minister in terms of section 22A of the Act;

“National Small Vessel Safety Regulations” means the Merchant Shipping (National Small Vessel Safety) Regulations, 2007, published in terms of section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) and promulgated in Government Notice No. R. 705 of 8 August 2007;

“operate” in respect of a vessel, includes mooring in the water, drifting in the water and ascending or descending from its mooring, the shore, launch site, a buoy or a jetty;

“personal watercraft” means a vessel that uses an inboard motor powering a water jet pump as its primary source of propulsion, and is designed to be operated by a person or persons sitting, standing or kneeling on, rather than within, the confines of a hull;

“Sanctuary Area” means an area within a marine protected area where no fishing or any other activity contemplated in terms of section 48A(1) of the Act may take place, except for scientific research purposes as provided for in these regulations;

“specific environmental management Act” has the meaning assigned to it in the National Environmental Management Act;

“vessel” means a waterborne craft of any kind whether a surface craft or submarine, and whether self-propelled or not, and includes any moored floating structure that can be used as a means of transport by water and includes a personal watercraft and hovercraft; and

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

2. Zonation within the Marine Protected Area

The entire Agulhas Muds Marine Protected Area is zoned as a single Sanctuary Zone which is determined by using WGS 84 as detailed in Annexure 1 hereto.

3. Scientific research permit

- (1) No person may undertake any scientific research within the Marine Protected Area, except on the authority of a scientific research permit issued by the Minister.

- (2) Application for a scientific research permit in terms of sub-regulation (1) must be made to the Minister in accordance with the provisions of section 83 of the Marine Living Resources Act or any regulations published under the Integrated Coastal Management Act.

4. General restrictions within the Marine Protected Area

- (1) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area without a valid certificate of competence and a certificate of fitness issued in respect of such vessel, and such original certificates must be available for inspection at all times.
- (2) A vessel shall not enter the Marine Protected Area unless the marking approved for that vessel in accordance with the provisions of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), is displayed on the vessel at all times while the vessel is inside the Marine Protected Area.
- (3) The owner, skipper or operator of a vessel shall not enter or operate a vessel in the Marine Protected Area unless such vessel and any other equipment or contents of such vessel, comply with the safety and other requirements specified in the Merchant Shipping Act, 1951 (Act No. 57 of 1951) for such vessel.
- (4) No person may litter or leave any waste including fishing gear, hooks, bait packaging and fishing line within the Marine Protected Area.

5. Use of vessels

- (1) No person may moor or anchor any vessel in the Marine Protected Area except—
 - (a) under conditions of *force majeure*;
 - (b) for the use of a vessel by an employee of the Department or any other organ of state acting in the course and scope of their employment or mandate; or
 - (c) for any vessel which has a permit in terms of these regulations for any activity which requires anchoring or mooring.

- (2) Despite sub-regulation (1), the Minister may, on application and on such conditions as he or she may deem appropriate, authorise the anchoring or mooring of a vessel in the following circumstances—
 - (a) in an emergency; or
 - (b) where the Minister may deem it to be necessary in order to ensure the proper management of the Marine Protected Area.
- (3) The Minister may verbally authorise a vessel to moor or anchor within the Marine Protected Area as contemplated in sub-regulation (2), which verbal authorisation must be confirmed in writing within 3 working days.
- (4) A motorised 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 7 calendar days after passing through.
- (5) A motorised 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.
- (6) Any motorised vessel that enters or traverses the Marine Protected Area may not stop for more than 3 minutes or move at less than 5 knots at any time while in the Marine Protected Area unless authorised in terms of these regulations.

6. Restriction of activities

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

7. Control of activities in the Agulhas Muds Marine Protected Area

- (1) No person shall fish, or attempt to fish in the Marine Protected Area.
- (2) No fishing gear including lines, hooks, lures, nets, trawl doors, warps, spearguns, buoys, traps or any other gear or equipment used for fishing, may be deployed overboard from any vessel within the Marine Protected Area.

- (3) Fishing gear on board a vessel or in the possession of any person that enters or is present in the Marine Protected Area, must be stowed in the following manner:
- (a) In the case of line fishing from a vessel, all hooks, lures, sinkers and weights are disconnected from the line, all the line is reeled onto the reel or rolled up, and that rolled up line, hooks, lures, bait and weights on the vessel are packed away in a cabin, locker, hatch, wheel house or console of the vessel, or where that is not possible, place such gear on the deck of the vessel;
 - (b) in the case of purse-seine fishing, no gear may be in the water;
 - (c) in the case of trawl fishing, all nets, trawl boards and weights shall be stowed below deck or securely lashed to some part of the superstructure of the fishing vessel;
 - (d) in the case of rock lobster fishing, all traps, nets and ropes shall be on board and tied down; and all dinghies shall be on board and lashed to the fishing vessel;
 - (e) in the case of fishing with traps, other than rock lobster traps, all traps shall be on board and tied down;
 - (f) in the case of any other nets including gillnets, cast nets and throw nets, nets shall be on board and packed away in a console, locker or any other container.
 - (g) in the case of pole fishing, all poles will be secured above deck;
 - (h) in the case of longline fishing, no branchline may be attached to the mainline and the entire mainline shall remain on the spool; and
 - (i) in respect of all types of fishing where bait is used, such bait must remain packed away or be placed into a bait well, where available.

8. Suspension, amendment and cancellation of permits

- (1) Subject to sub-regulations (2) and (3), a permit issued under these regulations may be suspended, cancelled or amended at any time.

- (2) A permit issued in terms of these regulations may be suspended, cancelled or amended, if—
- (a) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment within the Marine Protected Area;
 - (b) other similar permits held by other persons have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits;
 - (c) the permit holder is in breach of a condition contained in the permit;
 - (d) the permit holder provided incorrect or false information in the application for the permit;
 - (e) the holder of a permit has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder; or
 - (f) the reason for the issuing of the permit no longer exists.
- (3) A permit issued in terms of these regulations may be amended—
- (a) if an error needs to be corrected or rectified;
 - (b) at the request of the applicant;
 - (c) for the proper management and implementation of these regulations; or
 - (d) where the conditions or circumstances have changed since the original permit was issued.

9. Offences and penalties

- (1) In addition to any offence in terms of section 89 of the Act, any person who contravenes or fails to comply with—
- (a) regulations 3(1), 4, 5, 6 or 7;

- (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.

10. Short title and commencement

These regulations are called the Agulhas Muds Marine Protected Area Regulations and shall commence on 1 August 2019.

Annexure 1**(Zonation of Agulhas Muds Marine Protected Area)**

The Agulhas Muds Marine Protected Area is zoned as a single Sanctuary Zone, bounded by a series of straight lines sequentially joining the following four offshore coordinates; A, B, C, and D; and a straight line joining the first and last co-ordinate.

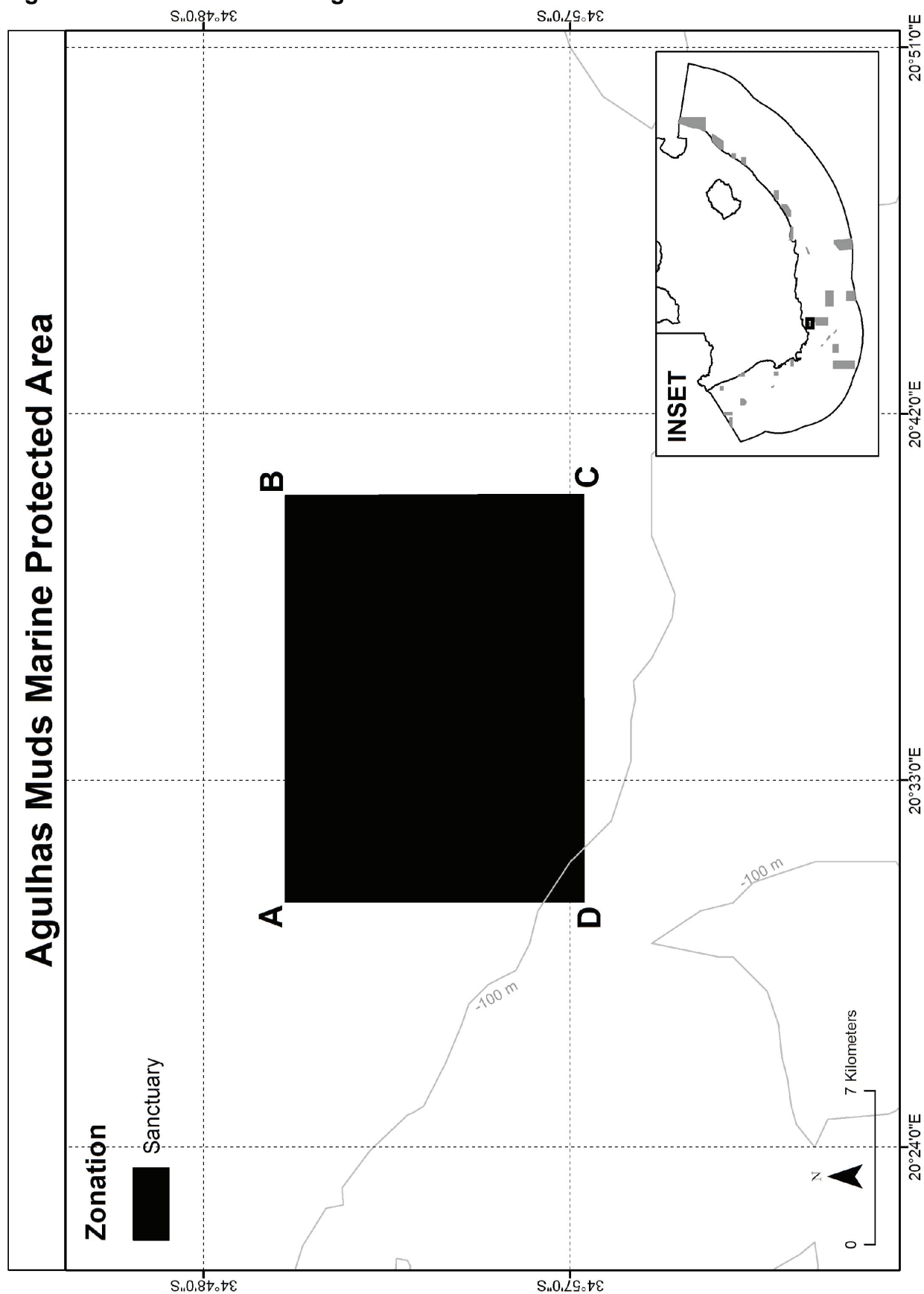
Fig. 1. The zonation for the Agulhas Muds Marine Protected Area

Table 1: Co-ordinates for the Agulhas Muds MPA

	POINT	X	Y
Agulhas Muds MPA	A	20.500122	-34.833313
Agulhas Muds MPA	B	20.666687	-34.833313
Agulhas Muds MPA	C	20.667114	-34.955505
Agulhas Muds MPA	D	20.500122	-34.955811

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