

(4 June 2004 – to date)

MARINE LIVING RESOURCES ACT 18 OF 1998

(Gazette No. 18930, Notice No. 747. Commencement date: 1 September 1998 [Proc. No. 80, Gazette No. 19148])

NOTICE DECLARING THE ALIWAL SHOAL MARINE PROTECTED AREA UNDER SECTION 43 OF THE MARINE LIVING RESOURCES ACT, 18 OF 1998

Published under Government Notice 697 in Government Gazette 26433 dated 4 June 2004.

Commencement date: 4 June 2004

I, Marthinus van Schalkwyk, the Minister of Environmental Affairs and Tourism, hereby declare the Aliwal Shoal Marine Protected Area in terms of section 43, and prescribe the management and protection measures for the Aliwal Shoal Marine Protected Area in terms of section 77(2)(x)(i), of the Marine Living Resources Act, 18 of 1998 ("the Act") as set out in the Regulations in the Schedule, below.

Schedule

To protect the marine environment and the marine biodiversity within the Aliwal Shoal Marine Protected Area; to specifically protect and conserve the Aliwal Shoal and the fish stocks associated with it; to promote and regulate eco-tourism activities and scientific research in a way that does not adversely affect the marine environment and the biodiversity of the Aliwal Shoal Marine Protected Area and to prescribe penalties for contraventions.

1. Definitions

In these regulations any word or expression given a meaning in the Act has that meaning, unless such word or expression is defined in these regulations for the purposes of these regulations, and unless, the context indicates otherwise—

Act means the Marine Living Resources Act, 18 of 1998, inclusive of amendments and regulations promulgated thereunder;

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

Controlled zone means the Controlled zone described in regulation 5(5);

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

Prepared by:

In partnership with:

Department means the Department of Environmental Affairs and Tourism;

Electro-acoustic discharging device means any device that emits electrical or sonic pulses intended to stun, paralyse, disorientate, repel or kill any form of marine life;

Hovercraft means a vehicle that travels on a cushion of air;

the Manager means the manager of the Aliwal Shoal Marine Protected Area as appointed by Ezemvelo KwaZulu-Natal Wildlife;

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

the Minister means the Minister of Environmental Affairs and Tourism;

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

Powerhead means a device by means of which a fish may be taken and may be attached to a spear or speargun and that consists of or contains an explosive charge;

Restricted zones means those Restricted zones described in regulations 5(3) and 5(4);

Scientific research means research carried out by a recognised institute established for the purposes of research, or research carried on by a recognised institute of higher learning, provided that to undertake such scientific research the recognised institute requires its staff, students or contractors to enter the Marine Protected Area;

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

SCUBA diving business means a commercial enterprise which involves transporting by vessel, guiding or providing SCUBA gear to SCUBA divers;

Spearfisher means a person who undertakes fishing with the use of a speargun;

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

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

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

2. Objectives

The objectives of declaring the Marine Protected Area are to:

- (1) Protect and conserve the marine ecosystem and populations of marine species on and around the Aliwal Shoal;
- (2) To reduce user-conflicts over the use of the Aliwal Shoal;
- (3) Promote eco-tourism within the Marine Protected Area.

3. Interpretation

- (1) All geographic co-ordinates are determined in accordance with the WGS 84 datum.
- (2) All bearings are true bearings, and not compass or magnetic bearings.

4. Boundaries

The Marine Protected Area shall include the water, the seabed and the airspace to 500 metres above sea level in the area bounded by:

- (1) the high water mark between the mouth of the Mkomazi River at position 30°11'.92S; 030°48'.29 E and the mouth of the Mzimayi River at position 30°20'.80S;030°43'.60E;
- (2) a line drawn south-east (115° true bearing) from the north bank of the mouth of the Mkomazi River to a point 7 km off-shore at position 30°13'.478S; 030°52.246'E;
- (3) a line drawn south-east (115° true bearing) from the mouth of the Mzimayi River to a position 7 km off-shore at 30°22'.41S; 030°47'.53E; and
- (4) a straight line running parallel to the shore joining the two offshore positions.

5. Zonation

- (1) The Aliwal Shoal Marine Protected Area is zoned into (2) two Restricted zones and (1) one Controlled zone.
- (2) The Restricted zones comprise the *Crown Area Restricted zone* and the *Produce Restricted zone*.

(3) The *Crown Area Restricted zone* is enclosed by twelve points, which lie on the 25 metre isobath. The twelve points have the following coordinates:

- (a) 30°15',600S;30°49',776E
- (b) 30°15',791S;30°49',714E
- (c) 30°15',982S;30°49',627E
- (d) 30°16',270S;30°49',409E
- (e) 30°16',673S;30°49',078E
- (f) 30°16',926S;30°48',835E
- (g) 30°16',800S;30°48',600E
- (h) 30°16',680S;30°48',376E
- (i) 30°16',189S;30°48',834E
- (j) 30°15',908S;30°49',143E
- (k) 30°15',518S;30°49',589E
- (l) 30°15',474S;30°49',671E

(4) The *Produce Restricted Zone* is enclosed by four points, defined by the following coordinates:

- (a) 30°14',968S;30°49',723E
- (b) 30°14',985S;30°49',846E
- (c) 30°15',093S;30°49',827E
- (d) 30°15',076S;30°49',703E

(5) The Controlled Zone forms the remainder of the Marine Protected Area.

6. Control of activities in Restricted zones

- (1) No person may fish or attempt to fish within a Restricted zone.
- (2) Fishing gear on board fishing vessels that enter a Restricted zone for the purpose of passage must be stowed.
- (3) No person may undertake or attempt to undertake spearfishing in a Restricted zone or be in possession of an armed speargun in a Restricted zone.

7. Control of activities in the Controlled zone

- (1) No person may fish or attempt to fish in the Controlled zone, unless authorised to do so by the Minister in terms of the Act.
- (2) No person shall be entitled to fish or attempt to fish from a fishing vessel before 04h00 and after 18h00.

- (3) The Minister may permit the use of beach seine nets within the Controlled zone, subject to conditions.
- (4) No person may catch, transport or be in possession of any fish listed in Annexure A while in the Marine Protected Area.

8 SCUBA diving permit

- (1) No person may SCUBA dive or attempt to SCUBA dive in the Marine Protected Area except on the authority of a SCUBA diving permit.
- (2) The Minister shall determine the maximum number of SCUBA diving permits that may be issued for use in the Marine Protected Area.
- (3) Applications for a SCUBA diving permit shall be made to the Manager on an application form and subject to an application fee determined by the Minister in terms of the Act.
- (4) SCUBA diving permits shall be valid for maximum period of twelve months and shall be capable of being renewed at a fee determined by the Minister in terms of the Act.
- (5) SCUBA diving permits may be issued subject to conditions.

(Section 8 commencement date: 31 December 2004 [see section 14])

9. SCUBA diving business permit

- (1) No person may operate or attempt to operate a SCUBA diving business in the Marine Protected Area except on the authority of a SCUBA diving business permit.
- (2) The Minister shall determine the maximum number of SCUBA diving business permits that may be issued for use in the Marine Protected Area.
- (3) Applications for a SCUBA diving business permit shall be made to the Manager on an application form and subject to criteria and an application fee determined by the Minister in terms of the Act.
- (4) SCUBA diving business permits shall be valid for a maximum period of sixty months and shall be capable of being renewed at a fee determined by the Minister in terms of the Act.
- (5) SCUBA diving business permits may be issued subject to conditions.

(Section 9 commencement date: 31 December 2004 [see section 14])

10. 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.
- (2) Applications for a scientific research permit shall be made to the Minister on an application form and subject to criteria and an application fee determined by the Minister in terms of the Act.
- (3) Scientific research permits shall be valid for a maximum period of twelve months and shall be capable of being renewed by the Minister.
- (4) Scientific research permits may be issued subject to conditions.

(Section 10 commencement date: 31 December 2004 [see section 14])

11. Use of vessels

- (1) All vessels that have deployed divers within the Marine Protected Area must display an alpha flag.
- (2) No vessel may be attached to a demarcation buoy.
- (3) No person may use or attempt to use any type of personal watercraft or hovercraft within the marine protected area.
- (4) No person may moor or anchor any vessel within the Marine Protected Area.

12. Offences and penalties

Any person who contravenes a provision of these regulations shall be guilty of an offence and liable on conviction to a maximum fine of one hundred thousand rand or to imprisonment for a period not exceeding two years.

13. Management Plan

The Department shall, after consulting with the Manager, commence with the implementation of a management plan for the Marine Protected Area within six months of the date of commencement of these regulations.

14. Transitional Provision

Notwithstanding the provisions of regulation 15, regulations 8, 9 and 10 shall commence on 31 December 2004.

15. Commencement

These regulations shall commence immediately upon promulgation.

Annexure A

<u>Family or species name</u>	<u>Common name</u>
Acanthuridae	Surgeon fishes
Antennariidae	Angler fishes
Anthiinae	Goldies
Apogonidae	Cardinal fishes
Aulostomidae	Trumpet fishes
Balistidae	Trigger fishes
Blenniidae	Blennies
Caesionidae	Fusiliers
Carcharodon carcharias	White shark
Carcharhinus leucas	Zambezi shark
Carcharias Taurus	Spotted ragged-tooth shark
Centriscidae	Shrimp fishes
Chaetodontidae	Butterfly fishes
Cirrhitidae	Hawk fishes
Diodontidae	Porcupine fishes
Epinephelus lanceolatus	Brindle bass
Epinephelus tukula	Potato bass
Fistulariidae	Flutemouths
Galeocerdo cuvier	Tiger shark
Gobiidae	Gobies
Grammistidae	Soap fishes
Holocentridae	Squirrel fishes
Labridae	Wrasses
Latimeria chalumnae	Coelacanth
Malacanthidae	Tile fishes
Mobulidae	Manta rays
Molidae	Sun fishes
Monacanthidae	Filefishes
Monocentridae	Pineapple fish
Muraenidae	Moray eels
Myliobatidae	Eagle rays
Ostraciidae	Box fishes
Pempheridae	Sweepers

Polysteganus undulosus	Seventy-four
Pomacanthidae	Angel fishes
Pomacentridae	Damsel fishes (incl. anemone fishes)
Priacanthidae	Big eyes
Pristidae	Saw fishes
Pseudochromidae	Dottybacks
Rajidae	Skates
Rhincodon typus	Whale shark
Scaridae	Parrot fishes
Scorpaenidae	Scorpion fishes
Syngnathidae	Seahorses and pipefish
Tetraodontidae	Puffer fishes
Torpedinidae	Electric rays
Tripterygiidae	Triple fins
Zanclidae	Moorish idol