

(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 TABLE MOUNTAIN NATIONAL PARK MARINE PROTECTED AREA UNDER SECTION 43 OF THE MARINE LIVING RESOURCES ACT, 18 OF 1998

*Published under Government Notice 695 in Government Gazette 26431 dated 4 June 2004.
Commencement date: 4 June 2004 (Regulations 8, 9 and 10 shall commence on 31 December 2004)*

I, Marthinus van Schalkwyk, the Minister of Environmental Affairs and Tourism, hereby declare the Table Mountain National Park Marine Protected Area in terms of section 43, and prescribe the management and protection measures for the 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 Table Mountain National Park Marine Protected Area; to allow over-exploited and commercially collapsed species of fish a sanctuary in which to recover and breed; to promote and regulate eco-tourism activities and scientific research in a way that does not adversely affect the marine environment and biodiversity of the 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 under regulation 5(8);

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;

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

the Manager means the Park Manager of the Table Mountain National Park;

Marine Protected Area means the Table Mountain National Park 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;

Restricted zones means those zones described in regulations 5(2), 5(3), 5(4), 5(5), 5(6) and 5(7);

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, 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 marine ecosystems and populations of marine species;

- (2) Protect the reproductive capacity of commercially important species of fish, including abalone, rock lobster and traditional linefish and to allow their populations to recover;
- (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 1000 metres above sea level in the area bounded by:

- (1) the high-water mark between Green Point at position 33°54'.075S; 018°24'.037E and Bailey's Cottage, Muizenberg at position 34°06'.590S; 018°28M25E;
- (2) a line drawn east (090°) from the beacon at Bailey's Cottage to position 34°06'.590S;018°33'.413E;
- (3) a line drawn south (180°) in False Bay from position 34°06'.590S; 018°33'.413E to position 34°24'.444S; 018°33'.413E;
- (4) a line drawn west (270°) from position 34°24'.444S; 018°33'.413E to a position 34°24'.444S; 018°15'.000E;
- (5) a line drawn north (000°) from position 34°24'.444S; 018°15'.000E to position 33°54'.075S; 018°15'.000E; and
- (6) a line drawn east (090°) from position 33°54'.075S; 018°15'.000E to Green Point.

5. Zonation

- (1) The Marine Protected Area shall be divided into six Restricted zones and one Controlled zone,
- (2) The Karbonkelberg Restricted zone shall include the area bounded by:
 - (a) the high-water mark between Hout Bay at position 34°03'.660S; 018°20'.252E and Oudekraal at position 33°58'.757S; 018°21'.847E;

- (b) a line drawn west (270°) from Hout Bay to position $34^\circ 03'.660\text{S}$; $018^\circ 17'.797\text{E}$,
 - (c) a line drawn west (270°) from Oudekraal to a position $33^\circ 58'.757\text{S}$; $018^\circ 17'.797\text{E}$; and
 - (d) a line drawn north-south joining positions $34^\circ 03'.660\text{S}$; $018^\circ 17'.797\text{E}$ and $33^\circ 58'.757\text{S}$; $018^\circ 17'.797\text{E}$.
- (3) The Cape of Good Hope Restricted zone shall include the area bounded by:
- (a) the high-water mark between Schusters Bay Point, Scarborough, at position $34^\circ 12'.271\text{S}$; $018^\circ 22'.194\text{E}$, and Hoek van die Bobbejaan at position $34^\circ 18'.393\text{S}$; $018^\circ 24'.258\text{E}$;
 - (b) a line drawn south (180°) from Schuster's Bay point to position $34^\circ 16'.490\text{S}$; $018^\circ 22\text{M}94\text{E}$;
 - (c) a line drawn south (180°) from position $34^\circ 16'.490\text{S}$; $018^\circ 22'.194\text{E}$ to position $34^\circ 18'.393\text{S}$; $018^\circ 23'.500\text{E}$; and
 - (d) a line drawn east (090°) from position $34^\circ 18'.393\text{S}$; $018^\circ 23'.500\text{E}$ to Hoek van die Bobbejaan.
- (4) The Paulsberg Restricted zone shall include the area bounded by:
- (a) the high-water mark between Venus Pool at position $34^\circ 17'.744\text{S}$; $018^\circ 28'.020\text{E}$ and Smitswinkel Point at position $34^\circ 16'.549\text{S}$; $018^\circ 28'.464\text{E}$;
 - (b) a line drawn east (090°) from Smitswinkel Point to position $34^\circ 16'.549\text{S}$; $018^\circ 29'.000\text{E}$;
 - (c) a line drawn east (090°) from Venus Pool to position $34^\circ 17'.744\text{S}$; $018^\circ 29'.000\text{E}$; and
 - (d) a line drawn north-south joining positions $34^\circ 16'.549\text{S}$; $018^\circ 29'.000\text{E}$ and $34^\circ 17'.744\text{S}$; $018^\circ 29'.000\text{E}$.
- (5) The Castle Rock Restricted zone shall include the area bounded by:
- (a) the high-water mark between Partridge Point at position $34^\circ 15'.480\text{S}$; $018^\circ 28'.344\text{E}$ and Millers Point at position $34^\circ 14'.100\text{S}$; $018^\circ 28'.508\text{E}$;
 - (b) a line drawn east (090°) from Millers Point to position $34^\circ 14'.100\text{S}$; $018^\circ 29'.300\text{E}$;
 - (c) a line drawn east (090°) from Partridge Point to position $34^\circ 15'.480\text{S}$; $018^\circ 29'.300\text{E}$; and

- (d) a line drawn north-south joining positions 34°14'.100S; 018°29'.300E and 34°15'.480S; 018°29'.300E.
- (6) The Boulders Restricted zone shall include the area bounded by:
- (a) the high-water mark between Seafourth, Simonstown at position 34°11'.567S; 018°26'.762E and Rocklands, at position 34°12'.705S; 018°27'.781E;
- (b) a line drawn from Seafourth at position 34°11'.567S; 018°26'.762E to position 34°10'.581S; 018°27'.196E;
- (c) a line drawn east (090°) from position 34°10'.581 S; 018°27'.196E to position 34°10'.581S; 018°27'.781E; and
- (d) a line drawn south (180°) from position 34°10'.581S; 018°27'.781E to Rocklands at position 34°12'.705S; 018°27'.781E.
- (7) The St James Restricted zone shall include the area bounded by:
- (a) the high-water mark between the St James Tidal Pool at position 34°07'.123S; 018°27'.568E and the Kalk Bay Tidal Pool at position 34°07'.567S; 018°27'.050E;
- (b) a line drawn east (090°) from the St. James Tidal Pool to position 34°07'.567S; 018°27'.568E; and
- (c) a line drawn south from position 34°07'.567S;018°27'.568E to the Kalk Bay Tidal Pool at position 34°07'.567S; 018°27'.050E.
- (8) The remaining extent of the Marine Protected Area shall be a *Controlled Zone*.

6. Control of activities in Restricted zones

- (1) No person may fish within any Restricted zone.
- (2) Notwithstanding the provisions of sub-regulation (1), persons authorised in terms of the Act to fish for snoek may do so in the Karbonkelberg Restricted zone, provided that the fishing of snoek takes place at depths in excess of thirty five metres.
- (3) No person may spearfish in a Restricted zone.
- (4) Subject to sub-regulation (2), fishing gear on board fishing vessels that enter a Restricted zone for the purpose of passage must be stowed.

7. Control of fishing in the Controlled zone

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.

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.

(According to regulation 14, regulation 8 shall commence on 31 December 2004)

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.

(According to regulation 14, regulation 9 shall commence on 31 December 2004)

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.

(According to regulation 14, regulation 10 shall commence on 31 December 2004)

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 Restricted zones for a continuous period in excess of twenty four hours, except on the written authority of the Minister.

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.