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## GOVERNMENT NOTICE

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### DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

No. R. 1108

17 October 2008

### DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

#### MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998) REGULATIONS ON THE STILBAAI MARINE PROTECTED AREA

Marthinus Christoffel Johannes van Schalkwyk, the Minister of Environmental Affairs and Tourism has under Section 77(2)(x)(i) of the Marine Living Resources Act, 1998 (Act No. 18 of 1998), made the regulations in the Schedule hereto.

#### SCHEDULE

##### Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act bears that meaning and, unless the context otherwise indicates—

“**Act**” means the Marine Living Resources Act, (Act No.18 of 1998), inclusive of amendments, regulations and notices promulgated thereunder;

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

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

“**demarcation buoy**” means a buoy installed to mark the boundaries of the Marine Protected Area and its zones;

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

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

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

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

**“Restricted Zone”** means an area within a Marine Protected Area where no fishing may take place;

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

**“spearfisher”** means a person who undertakes fishing with the use of a speargun;

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

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

**“vywers”** means fish traps constructed with boulders in pre-colonial times; and

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

### **Purpose of these Regulations**

2. The purpose of these regulations is to:

- (a) protect and conserve the coastal environment and marine living resources that are found in and around the Marine Protected Area;
- (b) protect the reproductive capacity of exploited species of fish, including shellfish, to allow their populations to recover and to contribute to the replenishment of adjacent areas;
- (c) protect the nursery function of the Goukou estuary and the recruitment of estuarine-dependent fish into marine fisheries; and
- (d) control other activities in the Marine Protected Area to reduce the risks of habitat degradation and to preserve the vywers, which have archaeological and cultural value.

**Restricted and Controlled Areas within the Marine Protected Area**

3. There are three Restricted Zones and one Controlled Zone within the Stilbaai Marine Protected Area determined using WGS 84:
- (a) The Geelkrans Restricted Zone includes the eastern part of the Stilbaai Marine Protected Area, adjacent to the Geelkrans Nature Reserve and Rietvlei vywers, east of the longitude  $021^{\circ} 27'.735$  S;
  - (b) The Skulpiesbaai Restricted Zone includes the area bounded by a line running from Noordkapperspunt at position  $34^{\circ} 23'.963$  S;  $021^{\circ} 24'.788$  E to position  $34^{\circ} 23'.963$  S;  $021^{\circ} 24'.970$  E and to position  $34^{\circ} 23'.527$  S;  $021^{\circ} 24'.970$  E and along the high water mark to the point of beginning at Noordkapperspunt;
  - (c) The Goukou Estuarine Restricted Zone includes part of the estuary that lies between position  $34^{\circ} 20'.463$  S;  $021^{\circ} 24'.187$  E (approximately 2.3 km upstream of the R323 road bridge) and position  $34^{\circ} 17'.792$  S;  $021^{\circ} 18'.592$  E (approximately 15 km upstream from the mouth); and
  - (d) The remainder of the Marine Protected Area is a Controlled Zone.

**Control of activities in restricted zones**

4. (1) No person may fish, or attempt to fish, in any Restricted Zones within the Marine Protected Area.
- (2) No person may enter the Geelkrans Restricted Zone in a vessel that has fishing gear on board.
- (3) Fishing gear on vessels that are in, or enter the Goukou Estuarine Restricted Zone and the Skulpiesbaai Restricted Zone for the purposes of passage, must be stowed.

**Bait collection within the Estuary**

5. Shellfish and bait organisms or any invertebrate species may only be collected in the controlled zone of the Goukou estuary downstream of position  $34^{\circ} 20'.463$  S;  $021^{\circ} 24'.187$  E and only along the eastern bank.

**SCUBA Diving**

6. (1) No person may without a permit –
- (a) SCUBA dive or attempt to SCUBA dive in the Marine Protected Area; or

- (b) operate or attempt to operate a SCUBA diving business in the Marine Protected Area.
- (2) Individual SCUBA diving permits may be obtained from an office authorised by the Minister, or an authorised SCUBA diving business operator, subject to the payment of the prescribed fee. Such permits will only be required from 1 February 2009.
- (3) Application for a permit referred to in sub-regulation (1)(b) must be made to the Minister.
- (4) A Person scuba diving from a vessel must deploy an alpha flag.

### **Spearfishing**

- 7. A Person undertaking spearfishing, or attempting to spearfish from a vessel, in the Marine Protected Area must deploy an alpha flag.

### **Use of vessels**

- 8. (1) A motorised vessel may only launch from a legally registered launch site.
- (2) A vessel with deployed divers within the Marine Protected Area must display an alpha flag.
- (3) No vessel may be attached to a demarcation buoy.
- (4) No person may use or attempt to use any type of personal watercraft or hovercraft within the Marine Protected Area.

### **Offences and penalties**

- 9. A person is guilty of an offence if that person contravenes a provision of these regulations and is liable on conviction to a fine or to imprisonment for a period not exceeding two years.

### **Short title and commencement**

- 10. These regulations are called the Stilbaai Marine Protected Area Regulations and commence upon date of publication.
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