

(1 August 2019 – to date)

NATIONAL ENVIRONMENTAL MANAGEMENT: PROTECTED AREAS ACT 57 OF 2003

(Gazette No. 26025, Notice No. 181. Commencement date: 1 November 2004)

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

Government Notice R787 in Government Gazette 42479 dated 23 May 2019. Commencement date:

1 August 2019.

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.

(Signed)

NOMVULA PAULA MOKONYANE

MINISTER OF ENVIRONMENTAL AFFAIRS

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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 subregulation (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

Prepared by:

- (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

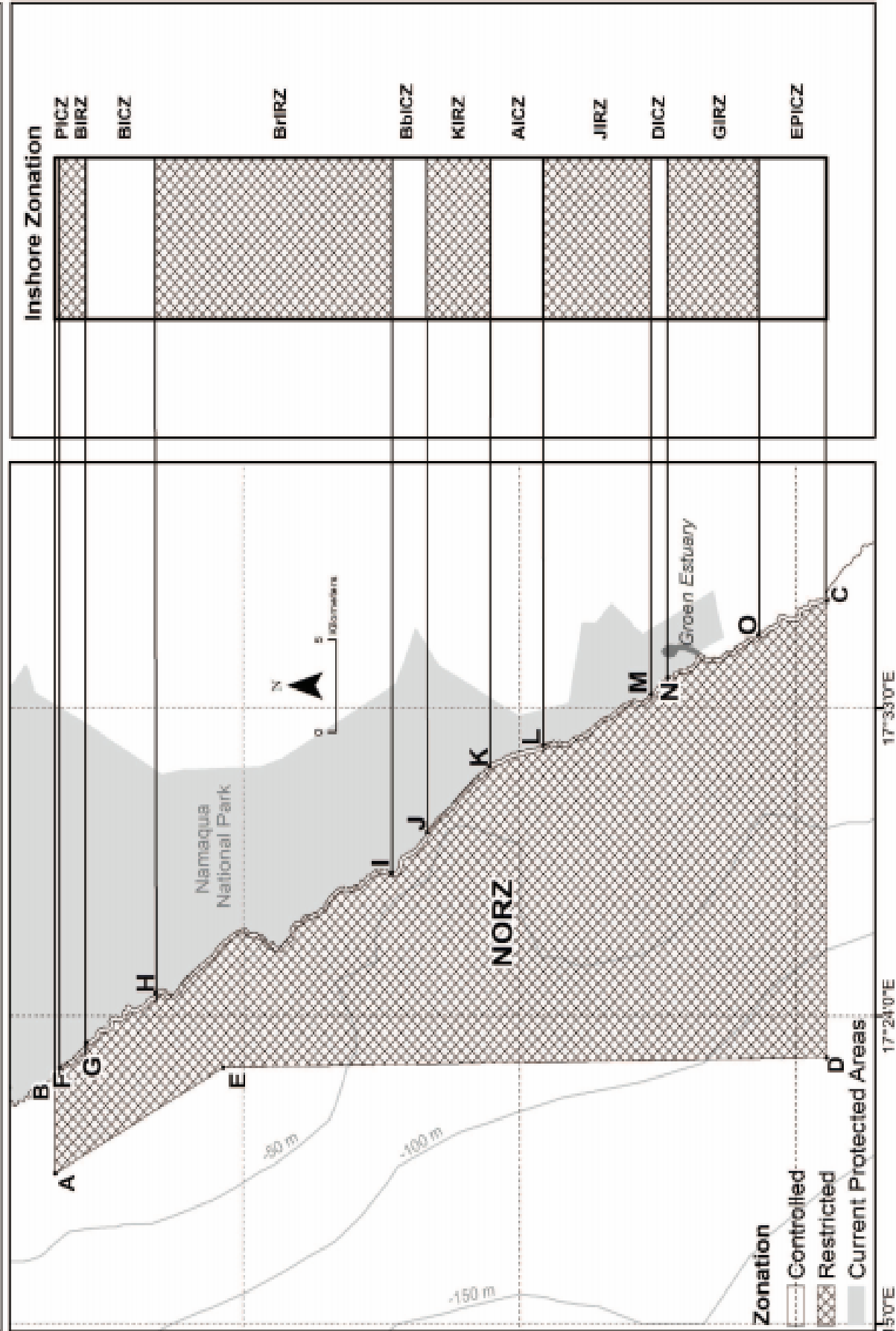
(Zonation for the Namaqua National Park Marine Protected Area)

- (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:**

Prepared by:

- (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.

Namaqua National Park Marine Protected Area



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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