

APPENDIX F – ORV Licence and Operational Management Plan

OPERATIONAL MANAGEMENT PLAN FOR WITSANDS SLIPWAY

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FOR:
The City of Cape Town

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1. BACKGROUND

1.1 Legal Context

This General Policy for off-road vehicles in the coastal zone was published in Government Notice 858, in Government Gazette No.15655, dated 29 April 1994 and introduced general control measures, on a national basis, to protect the coastal environment from damage caused by the use of vehicles in the coastal zone and to ensure the safety of other beach users. The policy makes provision for zoning the coastal zone, for the protection of ecologically sensitive areas, and for various recreational activities, and also allows for a permit system to facilitate the control of vehicles in specifically demarcated areas. According to the General Policy, the use of vehicles in any beach area may be reserved for specific purposes, such as angling or boat-launching.

The Control of Vehicles in the Coastal Zone Regulations (“Beach Regulations”) published under NEMA (Government Notice No. 1399 of 21 December 2001) provide for a general prohibition on the recreational use of vehicles in the coastal zone and procedures for approving the use of vehicles in the coastal zone under specific circumstances. They also provide measures for the enforcement of these regulations and prescribe penalties in respect of contraventions.

The Beach Regulations (Regulation 7) require operators of boat launching sites to apply to the relevant authority to grant a license to use vehicles, or allow their use by third parties, to facilitate boat launching.

An application for a licence must:

- Be made in the format stipulated by the relevant authority.
- Be accompanied by payment or proof of payment of the application fee stipulated by the relevant authority.
- Clearly indicate:
 - The boundaries of the proposed boat-launching site and all access roads.
 - The types of vehicles that will be used at the site.
 - Set out fully the reasons why the boat-launching site is required.
 - Include a plan for managing activities at the site in a manner that avoids or minimises damage to the environment.
 - Subject to Regulation 22, be accompanied by evidence that the requirements of Section 24(7) of the Act relating to the investigation, assessment and communication of the potential impact of the activities associated with boat-launching at the site have been complied with.

To comply with these regulations, the City of Cape Town (CoCT) has completed the required application form for the licensing of the Witsand launching site. Below please find the proposed Operational Management Plan for the Witsand launching site.

Based on this generic OMP, the OMP for the Witsand Boat Launch Site includes a general description of the boat launch site (including slipways, parking, roads, and other service facilities), a general description of the types of uses of the boat launch site and a detailed description of the activities required to minimise and mitigate the environmental impacts of the use of the boat launch site. The OMP will however only describe the minimum operational management requirements for each site and it is anticipated that each site will, over time, exceed these minimum requirements.

1.2 Environmental Management in the City of Cape Town

The City of Cape Town's Integrated Metropolitan Environmental Policy (IMEP) was formally adopted in October 2001. IMEP sets the broad framework and a number of core principles for guiding the City towards a sustainable future. IMEP recognises the economic, social and environmental value of the City's coastal asset, and as such identified the Coast as a priority theme for the development of a detailed implementation strategy. In October 2003, the City formally adopted the Coastal Zone Management Strategy giving effect to the principles of IMEP and setting coastal management practise and standards in place.

1.3 Responsible Authority

All reference to the licensed operator within this OMP refers to the City of Cape Town. The City through a lease agreement, may delegate the authority and responsibility for the management of the boat launch site to any competent club or organisation (see 2.20).

1.4 Function of the OMP

The OMP has been drafted to ensure compliance with the regulations in terms of the national environmental management act, 1998: control of vehicles in the coastal zone, specifically *"7(4)(f) subject to regulation 22, be accompanied by evidence that the requirements of section 24(7) of the act relating to the investigation, assessment and communication of the potential impact of the activities associated with boat-launching at the site have been complied with"*. The function of the OMP is thus to ensure that the licensed operator utilises the boat launching site in an environmentally sensitive manner. The OMP explicitly identifies the mitigating actions required to control the impacts of the boat launch site and associated activities on the bio-physical attributes of the site, the surrounding residents and the safety of the users of the site. The OMP further provides a framework to ensure that all activities occurring within the boat launch site comply with the relevant enabling legislation.

1.5 Site description

The Witsand Boat Launch Site is owned by the City of Cape Town, situated 600m from Lighthouse Road, which is approximately 1.7km from the Main Road (M65), Soetwater.

The boat launching facilities at Witsand include the following:

- ❑ 5 condemned storage garages.
- ❑ One operational storage garage.

- ❑ A concrete slipway/slab.
- ❑ A tarred non-demarcated parking area (large enough to accommodate 50 vehicles-and-trailers).

Map 1 shows the location of the boat launching facilities at the Witsand. The Witsand Boat Launch Site falls within Soetwater (CF 978), but currently no lease agreement exists. The CoCT is responsible for managing the launching of all boats from the launching areas, for ensuring the facility is open to public use and for the ongoing maintenance and development of the facilities.

1.6 Site usage

As the boat launch site is one of the most accessible launching facilities on the western coast of the Peninsula, to which the public has free and unrestricted access, it has assumed a significant role for many users. This site is approximately 4km from Ocean View and 5km from Kommetjie. The peak usage is during the commercial season (i.e. November to June).

The following uses have been recorded at the boat launch site:

- ❑ Most of the users of the slipway are recreational and commercial fishermen.
- ❑ Rescue personal intermittently use the site (NSRI, Metro Rescue etc).

Accurate user counts do not exist for the site. The users and associated levels of usage are seasonal and weather dependent. It is estimated that up to 8400 launches may take place per annum. There have been records of up to 40 boats being launched per day between November to April, and again during the snoek season between June and July, weather permitting.

2. OPERATIONAL MANAGEMENT REQUIREMENTS OF BOAT LAUNCH SITES

2.1 Access management

- 2.1.1** The site is accessed off Lighthouse Road, 1.7km from the Main Road (M65) and some 4km south of Ocean View. The layout of the access to the parking area and launch site is shown in Map 2. The roads and parking areas must be tarred, adequately marked to meet municipal and provincial road standards and free of potholes.
- 2.1.2** All access roads, parking areas and slipways are to be properly bollarded or fenced to ensure that all vehicles remain on the hardened road surface, and only park in designated parking areas. All areas outside the hardened road surfaces are designated no-go areas (see Map 2 for the extent of the hardened road surfaces at the site).
- 2.1.3** Vehicles, their trailers and the drivers or operators using the boat launch site shall comply with the requirements of the Road Traffic Act and the General Policy on Control of Vehicles in the Coastal Zone (Government Gazette, Notice 858 of 29 April 1994).
- 2.1.4** Trailers may be brought onto the seashore by a motor vehicle only for the purposes of launching or retrieving a vessel. Upon launching (or retrieving if appropriate) a vessel, these trailers and vehicles are to be parked in a clearly demarcated parking area (shown in Map 2).
- 2.1.5** Only the designated launch area may be used to launch boats. Erosion of the launch area must be monitored and remedial/rehabilitation action instituted if necessary. Where the remedial/rehabilitation measure constitutes a listed activity in terms of the Environmental Conservation Act, and as directed by the relevant authorities, an Environmental Impact Assessment (EIA) will be implemented for the remedial/rehabilitation action.
- 2.1.6** The minimum signage requirements to facilitate vehicular and pedestrian flows, and for demarcating parking areas, are shown in Map 3. Map 3 further indicates the location for the posting of the safety requirements for the site.
- 2.1.7** A fee is to be charged and a permit issued to all persons launching from the site. Key provisions of this OMP and code of conduct are to be described on the permit (or an attached brochure). A chain/boom is to be placed across the access route of the slipway enabling the licensed operator to control access. Users can pay an annual instalment, entitling them to free access to the launch site for a year. On payment of the instalment, the user must be issued with and be made aware of the conditions of the OMP. They will furthermore be issued with a key to the chain/boom at the entrance to enable them to access the launching site.

The launching site is to be kept locked when no boats are at sea to avoid unauthorized entry. Only persons who are in possession of a valid permit (and key) may make use of this slipway. The boom is to be closed between sunset and sunrise, unless by special arrangement for night launches.

- 2.1.8** A strict limit of 50 vehicles-and-trailers may use the site at any one time. This limit includes boats in the process of being launched or retrieved and vehicles-and-trailers parked in the designated parking area.
- 2.1.9** Due to the nature of the boat launch site (facilities, services, parking, access, bio-physical characteristics), vehicles under 1400cc engine capacity shall not be permitted to launch a boat at the site.
- 2.1.10** Due to the nature of the boat launch site (facilities, services, parking, access, bio-physical characteristics) boats longer than 6 meters and boat engines with a combined engine capacity greater than 300 HP engine capacity shall not be permitted to launch from the site.
- 2.1.11** Pedestrians traversing through sensitive dunes and bird nesting areas, adjacent to the site, will be managed to minimise environmental impacts. Access routes through such areas will be clearly defined, supported by appropriate signage.

2.2 Parking management

- 2.2.1** A limit of 20 vehicles-and-trailers will be allowed in the designated parking area. During peak periods (November to June), 30 overflow vehicles-and-trailers may park legally along the access roads, provided that they do not hinder or obstruct traffic flows.
- 2.2.2** The parking area for vehicles and vehicles-and-trailers will be properly demarcated and vehicle flows clearly indicated.
- 2.2.3** Launching and parking areas must be separated. Parked vehicles should not obstruct access to the boat launch site by any user or visitor, nor interfere with reasonable use of that beach by any user or visitor.

2.3 Boat Launch area

- 2.3.1** The launch area shall not be used as an access to other parts of the beach by vehicles and trailers.
- 2.3.2** Kelp washed up onto the launch site may not be completely removed from the area. If kelp builds up directly on the launch site, kelp may be spread out manually, along another adjacent section of the coastline that will not impact on other users. If kelp build up has reached the extent that mechanical means is necessary, prior authorisation and consent must be obtained from the relevant authorities.

2.4 Launching and beaching control and safety

- 2.4.1** The licensed operator must be in control of all launches and boat retrievals at all times.
- 2.4.2** Users of the launch site must be made aware of the 5 condemned storage garages, supported by appropriate signage.
- 2.4.3** No alcohol or any other intoxicating substance shall be allowed on the CoCT premises. Any person suspected of being under the influence of alcohol or any other intoxicating substance shall not be permitted access to, or allowed to remain on, the premises.
- 2.4.4** All club, SADSA, SAMSA and CoCT safety regulations shall be adhered to at all times. A comprehensive first-aid box capable of handling normal domestic emergencies shall be maintained at the Soetwater ticket office. Weatherproof lists of relevant emergency contact numbers shall be displayed near the launch site.
- 2.4.5** Where feasible, designated launch positions at launch sites on beaches shall be clearly demarcated. The area demarcated for boat launching will be demarcated by adequate signage and positioned as indicated on Map 3.
- 2.4.6** Boats and vehicles may not be left unattended and shall be retrieved from the landing site.
- 2.4.7** Boats in the process of landing or being retrieved shall have priority over boats wishing to launch.
- 2.4.8** The CoCT shall temporarily close the launch site (in consultation with the fisherman and NSRI) under exceptional circumstances such as extremely inclement weather conditions, damage to the launching area, or any other emergency that will prevent the safe launching or retrieval of boats from the beach. If the launch site is to be closed to users, the chain-gate/boom will be locked by the licensed operator and a notice posted to notify users of the reason for closure and anticipated time of re-opening.
- 2.4.9** The launch area will be kept clear of all other users when in use. Signage will be posted, at the slipway informing other users (e.g. surfers, kayaks) to remain outside of the demarcated launching/landing areas.
- 2.4.10** The licensed operator shall ensure that only persons who are suitably licensed (e.g. relevant code driving license) shall operate vehicles for launching or retrieval on the site.
- 2.4.11** The provisions of section 68 of the Merchant Shipping Act No 57 of 1951 and all applicable regulations made under Section 356 of the same act shall be strictly adhered to. No boat will be able to launch from the site unless it is properly marked and registered (or licensed as the case may be) according to the Merchant Shipping Act No 57 of 1951 and it's associated regulations.

2.5 Vessel safety

- 2.5.1** No boat will be able to launch unless the skipper is in possession of a valid Certificate of Competency issued by the South African Maritime Safety Authority (SAMSA), an Agency recognised by it or a IRB (Inflatable Rubber Duck) skippers Certificate issued by Lifesaving South Africa.
- 2.5.2** Everyone on the boat in the immediate launch and landing zone must wear life jackets or buoyancy aids.
- 2.5.3** All boats launching from the site are to carry a functional form of communication. (i.e. in the case of an emergency the boat can make contact with emergency services and can be contacted by emergency services).

2.6 Jet skis/Personal watercraft (PWC)

- 2.6.1** Jet ski wave riding may only take place in areas designated for such activity by the licensed operator of the launch site.
- 2.6.2** No jet ski may be navigated in a dangerous manner or be driven at excessively high speeds within the surf zone of the launching area. No jet ski shall be navigated across the front of any bather or bathers in the designated recreational areas.

2.7 Night launching and beaching

- 2.7.1** Use of the launch site for night operations is to be strictly controlled by the boat launch operator. Relevant safety and statutory requirements as stipulated by SADS and SAMSA, must be met and enforced by the boat launch operator. The boat launch operator is to provide controlled access for night boat launches and landings.

2.8 Managing conflict between different user groups

- 2.8.1** No other users may use the designated launch areas. Map 3 indicates the extent of the launch area and the other adjacent areas designated for recreational use.
- 2.8.2** During launching and landing, boats and jet skis under power in the in-shore area are not to approach within 200m of other users (anglers, divers, swimmers, surfers, body-boarders, or any other non-powered craft). Provided that the skipper is qualified in surf rescue operations (e.g. rescue operations or patrols) this 200m distance is not compulsory. Rescue rubber ducks that are used within 200m of other users must have a propeller guard fitted.
- 2.8.3** Boats may not enter an area set aside specifically for bathers or other water sports and vice versa. It is the skipper's responsibility to keep a proper lookout for bathers and divers.

Other users are to stay clear of the launch and landing channel (see Map 3). Adequate signage is to be posted, informing other users (e.g. swimmers, kayaks) to remain outside of these demarcated launching/ landing areas (see Map 3).

2.9 Special events and peak periods (November to June)

2.9.1 In terms of the Merchant Shipping Act, the relevant authority may grant permission for the total number of allowable launches to be increased during exceptional cases (e.g. fish runs), but should do so with discretion and within the resource limits available.

2.9.2 In order to cater for special events and fish runs, the licensed operator is to ensure that sufficient staff are available to cater for, and mitigate, the impacts resulting from an increase in users.

During the commercial season (November to June), the licensed operator is to aggressively manage and enforce the conditions of the OMP. The following areas will require intensive management during periods of high usage:

- Control and management of vehicle flows and parking
- Control of alcohol consumption, anti-social activities, littering and vandalism
- Prevention of overnighting at the boat launch site
- Prevention of fish hawking on site
- Ensuring control over the cleaning of boats
- Ensuring control over the disposal of offal
- Monitoring of, and compliance with, the Marine Living Resources Act
- Prevention of conflicts between different user groups
- Ensuring compliance with minimum safety standards
- Provision of temporary toilets

2.10 Toilet facilities and waste water treatment

2.10.1 Additional chemical toilets must be provided by the licensed operator and placed as indicated in Map 1 and 2. The Licensed operator shall ensure that all toilet facilities used by persons launching boats from the site are properly maintained and in a clean and hygienic condition at all times. During busy periods (November to June), toilets shall be cleaned and serviced at least twice daily, while during quiet periods toilets shall be cleaned and serviced at least every second day.

2.10.2 Wastewater must be discharged into a recognised drainage system. All wastewater is to be directed into the Municipal Waste Water drains. Where there is no municipal sewer available at the site, an adequately designed and maintained septic tank or any other acceptable wastewater treatment system is to be provided.

2.10.3 No washing of boats will be permitted at the launch site or in the parking area.

2.11 Pollution and litter management

- 2.11.1** All litter and refuse is to be cleaned from the site by the licensed operator at least twice a week. In peak season (November to June), and during special events, the cleaning schedule is to take place at least once a day.
- 2.11.2** Plastic (or any other non-corroding material) refuse bins are to be provided at the site. In peak season, and during special events and crayfish season, the bins are to be emptied daily. Outside peak season, bins are to be cleaned at least twice a week. Refuse bins are to be discreetly placed in areas of high usage (e.g. at the parking area). The bins will be clearly visible and be a short distance from the users. The bins are to be placed in an area where they can be easily serviced.
- 2.11.3** Dustbins at the site are to be “baboon-proofed”.
- 2.11.4** Refuelling supplies held at the launch sites will be in sealed containers, which are only to be opened once in place within the boat.
- 2.11.5** Spillages of fuel or oil at the launch site are to be avoided. The licensed operator will keep Spill Sorb (or similar product) at the Soetwater ticket office. Should a fuel or oil spill take place, the material containing the spill shall be properly disposed of at an approved facility.
- 2.11.6** No scaling, cleaning of fish or disposal of bait may take place on the site.
- 2.11.7** No cleaning of boats bodywork is permitted at the launch site or in the parking area.

2.12 Noise mitigation

- 2.12.1** The licensed operator is to ensure that the premises is operated in accordance with the requirements of the Noise Control Regulations PN 627/1998.
- 2.12.2** Where the licensed operator cannot control rowdy and noisy activity, they are to contact municipal law enforcement officials or the SAPS for assistance.
- 2.12.3** Motors are to be started and warmed up in such a way as not to cause undue nuisance to other beach users, visitors and residents. The licensed operator is responsible for ensuring that management measures are put in place to address reasonable complaints from users, visitors and residents.

2.13 New developments

- 2.13.1** No listed (in terms of Schedule 1 1(e) of the Regulations under section 21 of the Environmental Conservation Act 73 of 1989) activity may take place within the site, unless approved by the responsible authority after an Environmental Impact Assessment (EIA) has been undertaken.

This assessment must meet the requirements of the provincial planning and environmental authorities and may only take place with permission of the landowner.

- 2.13.2** If there is a need to remove or clear rocks and sand from the launching/landing channel, then Schedule 1 1(e) of the Regulations under section 21 of the Environmental Conservation Act 73 of 1989 is applicable (i.e. an Environmental Impact Assessment will have to be undertaken).

2.14 Helicopters

- 2.14.1** There are no demarcated helicopter-landing sites.

2.15 Archaeological sites

- 2.15.1** Any area of archaeological significance found on the site is to be reported immediately by the licensed operator of the launch site to the South African Heritage Resource Agency (SAHRA) (or its nominated representative) and access to the archaeological site should be prevented, pending appropriate investigation and decision.

2.16 Consumptive use of marine resources

- 2.16.1** All consumptive use of marine resources on the site will be subject to the national regulations (bag limits, closed seasons etc). The licensed operator will inform MCM and SANParks officials of any illegal marine resource use activities occurring on the site. MCM, Municipal Police and SANParks are to be notified of special events to ensure that enforcement staff are available to monitor the consumptive use of marine resources.

- 2.16.2** Fish (or any other marine resources) may not be sold/bartered on the site.

2.17 Communication and compliance

- 2.17.1** The licensed operator shall draw the attention of all users of the site to the key provisions of this OMP by providing an information board at each slipway.

- 2.17.2** Adequate complementary signage must be provided to inform all users and visitors to the site with regards to the conditions of the OMP. Map 3 shows the minimum signage requirements.

- 2.17.3** The licensed operator shall be responsible for monitoring compliance with this OMP.

- 2.17.4** Appropriate records of compliance monitoring and any audit will be maintained and may be used in support of subsequent applications for re-licensing of the site.
- 2.17.5** Any user of the site who disregards the provisions of this OMP shall be reported, by the licensed operator, to the relevant authority that has the legal jurisdiction to impose penalties. MCM, CoCT and SANParks officials will be contacted to monitor and enforce all marine resource use activities. All social and traffic related activities will be enforced by the City Police, Traffic Officials and/or SAPS.
- 2.17.6** Disregard for the provisions of this OMP, may result in the relevant authority's withdrawal of the licence.

2.18 Safety, emergency preparedness and responses

- 2.18.1** The site shall form part of, and conform to, local and regional emergency response plans and procedures (e.g. fire, oil spills).
- 2.18.2** Emergency procedures will take precedence over all activities at the launch site.

2.19 Records

- 2.19.1** Adequate launch records, in the prescribed format, will be maintained by the licensed operator. The minimum information for the boat launch record is to include boat registration, boat name, time of launch, time of landing, number of crew and purpose of trip.
- 2.19.2** The licensed operator shall keep a detailed register of all accidents and casualties involving boats, craft and/or crew (using the prescribed SAMSA form as required by section 259 of the Merchant Shipping Act No 57 of 1951). This register should then be forwarded to the nearest SAMSA office at the end of each month.

2.20 Operators other than the licensed operator

- 2.20.1** The licensed operator may delegate the authority for the management of the boat launch site to any competent club or organisation. The licensed operator shall ensure that any club or institution to which operation of the site may be delegated is properly constituted, has the capacity to observe the conditions of this OMP and re-invests income generated from the site to the effective management of that site.
- 2.20.2** The prescriptions in this OMP shall be incorporated into any lease agreement entered into between the licensed operator and a club or institution to which the management authority is delegated.

- 2.20.3** The club or organisation will ensure that a suitable Code of Conduct is in place, and that its members comply with the conditions of the Code.
- 2.20.4** This club or organisation shall ensure that the site is open to all users, on condition that they comply with the legal requirements of the site. The Club or organisation shall ensure that a transparent, equitable and fair process is followed in determining its membership.

3. ACRONYMS USED IN THIS DOCUMENT

CoCT	City of Cape Town
DEA&DP	Department of Environmental Affairs and Development Planning
ECA	Environmental Conservation Act
EIA	Environmental Impact Assessment
OMP	Operational Management Plan
MCM	Marine and Coastal Management
MLRA	Marine Living Resources Act, Act No. 18 of 1998
NEMA	National Environmental Management Act, Act No. 107 of 1998
PWC	Personal Watercraft
SAHRA	South African Heritage Resources Agency
SAMSA	South African Maritime Safety Authority
SANParks	South African National Parks
SAPS	South African Police Services

4. OVERVIEW OF OTHER LEGISLATION REFERRED TO IN THIS DOCUMENT

Environment Conservation Act (73 of 1989)

The primary objective of the ECA is to provide for the effective protection and controlled utilisation of the environment (Henderson, 1996). The Act makes provision for the declaration of protected natural environments and for the identification of activities that may have a detrimental effect on the environment.

Regulations to control potentially harmful activities on a permit system within demarcated sensitive coastal areas were promulgated in terms of the ECA. The prohibited activities are the disturbance of vegetation, earthworks, dredging and dune stabilisation.

Subsequent to the promulgation of the Act in 1989, a number of key regulations governing EIAs and identified activities that may be detrimental to the environment have also been promulgated. Of importance to proposed developments in the coastal zone are Government Notices R1182, R1183, R1184 and R448 and amendments of May 2002. While beach driving and boat launching are not listed activities in terms of these regulations, proposed developments, such as structures below the high water mark of the sea and certain access infrastructure which may provide for such activities, must undergo environmental impact assessments before environmental authorisation can be granted by DEAT.

The Act was originally passed to provide a basis for environmental conservation in South Africa. Many of its provisions have since been repealed by NEMA. Provision is also made in NEMA for the repeal of sections of Part V and Part VI of the Environmental Conservation Act, which provide for the "Control of Activities which may have a Detrimental Effect on the Environment" and associated EIA regulations. However, these remain in force until they are replaced with new regulations promulgated under NEMA.

National Environmental Management Act (107 of 1998)

NEMA is South Africa's overarching environmental legislation and has, as its primary objective, to provide for co-operative environmental governance by establishing principles for decision-making on matters affecting the environment, institutions that will promote co-operative governance and procedures for co-ordinating environmental functions exercised by organs of state and to provide for matters connected therewith (Government Gazette, 1998).

The Act provides for the right to an environment that is not harmful to the health and well-being of South African citizens; the equitable distribution of natural resources; sustainable development; environmental protection and the formulation of environmental management frameworks (Government Gazette, 1998). These principles and provisions in Chapter 5 (Integrated Environmental Management) govern the way in which environmental management should be practiced. Provision is also made for the issuing of various Regulations in order to carry out the purposes and the provisions of NEMA.

Marine Living Resources Act (18 of 1998)

This MLRA repeals most of the Sea Fishery Act (12 of 1988). Its preamble reads as follows:

“To provide for the conservation of the marine ecosystem, the long-term sustainable utilisation of marine living resources and the orderly access to exploitation, utilisation and protection of certain marine living resources; and for these purposes to provide for the exercise of control over marine living resources in a fair and equitable manner to the benefit of all the citizens of South Africa; and to provide for matters connected therewith.”

The Act and Regulations published thereunder provide for the conservation of South Africa’s marine ecosystems and the sustainable utilisation of marine living resources. This includes the protection of every species of sea animal, whether vertebrate or invertebrate, including the spawn or larvae of such sea animal, but excluding any seal or sea bird. Fish and marine organisms were protected by means of prohibitions against their catching, disturbance or possession. There is an emphasis on the broadening of fair and equitable access to resources, the gradual transformation of fishing methods, the development of fees for utilisation and a favourable business environment in fisheries. The Act provides for a principle of national control and co-ordination and places responsibility for resource-allocation decisions with the Minister: Environmental Affairs and Tourism. The Act makes provision for the granting of commercial, recreational and subsistence fishing rights.

The Minister may establish areas or zones where subsistence fishers may fish and, after consultation, may declare a specified community to be a fishing community, any person to be a subsistence fisher or any fishing or related activity or the exercise of any other right in that area or zone to be prohibited. No subsistence fishing permit shall be transferable except with the approval of and subject to the conditions determined by the Minister.

Merchant Shipping Act (57 of 1951)

All vessels, of whatever size, that proceed to sea from anywhere in South Africa fall under the Merchant Shipping Act. Small vessels (3 m to < 25 tonnes) are divided into two classes, viz. small vessels used solely for sport and recreation, and all other small vessels, e.g. fishing boats, diving boats and sailing training yachts (i.e. commercial boats).

The Merchant Shipping Act:

- Sets out various categories of vessel, applicable to each class, and their operational limits.
- Makes provision for the inspection of seaworthiness and the competency of skippers.
- Sets out the various safety measures.
- Requires that skippers submit voyage details.

- Makes provision for authorised agencies to exercise or perform powers or duties as required by the Act.

Has certain Regulations namely:

- Government Notice R2799 that applies to ships or small vessels used for sport or recreation.
- Government Notice R1044 that makes provision for vessels of less than 3 m in length. Vessels falling into this category may not proceed to sea further than 500 m from the low water mark. 7

The Act also has relevance with respect to control of marine pollution and to that extent applies to all ships in South African waters.

Road Traffic Act (29 of 1989)

This Act outlines the various requirements and Regulations for vehicles and drivers. In terms of the Act, if a vehicle is able to gain access to, and be driven on, the seashore, this Act and its Regulations are deemed to apply.

There are a number of High Court cases which have established the breadth of application of the definition of a road and, although no cases involving the Admiralty Reserve or that part of the beach between the high and low water marks are known of, the Provincial Road Traffic Inspectorate is certain that the Act applies.

In this, it is important to note that a person does not have to have a right of vehicular access to the beach: right of access by the person is sufficient. The responsible erection of booms, etc., in providing and simultaneously limiting vehicular access to the beach, will thus not affect the applicability of this legislation to what can generally be described as "the beach".

All vehicles (powered vehicles and trailers) using the beach must be roadworthy and licensed, and be driven by persons who themselves are licensed drivers of that category of vehicle. The body that controls vehicular access to the beach must know that the provisions of this Act apply. This Act has been replaced by the new National Road Traffic Act (93 of 1996). However, the 1996 Act provides that any relevant provision of the 1989 Act will remain in force until such time as the corresponding provision of the 1996 Act has been put into operation.