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**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA**

*Before Ledwaba DJP  
Court 8E*

**Case No: 2024-029857**

In the matter between:

**BIRDLIFE SOUTH AFRICA**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION  
PRETORIA

First Applicant

**SOUTH AFRICAN FOUNDATION FOR THE  
CONSERVATION OF COASTAL BIRDS**

Private Bag X67, Pretoria 0001

Second Applicant

and



2025 -03- 18



GD-PRETORIA-021

**THE MINISTER OF FORESTRY, FISHERIES AND  
THE ENVIRONMENT**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION  
PRETORIA

First Respondent

**THE DEPUTY DIRECTOR-GENERAL: FISHERIES  
MANAGEMENT, DEPARTMENT OF FORESTRY,  
FISHERIES AND THE ENVIRONMENT**

Second Respondent

**THE DEPUTY DIRECTOR-GENERAL: OCEANS  
AND COASTS, DEPARTMENT OF FORESTRY,  
FISHERIES AND THE ENVIRONMENT**

Third Respondent

**THE SOUTH AFRICAN PELAGIC FISHING  
INDUSTRY ASSOCIATION**

Fourth Respondent

**EASTERN CAPE PELAGIC ASSOCIATION**

Fifth Respondent

and

**ANIMAL LAW REFORM SOUTH AFRICA (NPC)**

*Amicus Curiae*

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~~DRAFT ORDER~~

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**BY AGREEMENT BETWEEN THE PARTIES, THE FOLLOWING ORDER IS MADE:**

1. Without any admission by the first respondent that the decision of 23 July 2023 as announced on 4 August 2023, to put in place the Interim Closures (as defined in the founding affidavit) around the African Penguin breeding colonies at Dassen Island, Robben Island, Stony Point, Dyer Island, St Croix Island and Bird Island (**the breeding colonies**) for a ten-year period, subject to review after six years ("**the decision**") is unlawful, the decision is reviewed and set aside.

2. The decision is substituted by the following:

2.1. Closures according to figures 1 to 6 below (**the substituted closures**) will be instituted around the breeding colonies for a period of 10 (ten) years from the date of this order, subject to a review after 6 (six) years to be initiated by the Department of Forestry, Fisheries and the Environment (**DFFE**) (or, in the event that DFFE is restructured or no longer performs this function, any other government department responsible for conservation of marine species).

2.2. The substituted closures will remain in place year-round and will apply to small-pelagic (sardine/pilchard, anchovy and red-eye) purse-seine fishing at all times.

2.3. In respect of Dassen Island, the substituted closure is the area depicted and described in Figure 1 which is the closure reflected in permit conditions issued in January 2025:

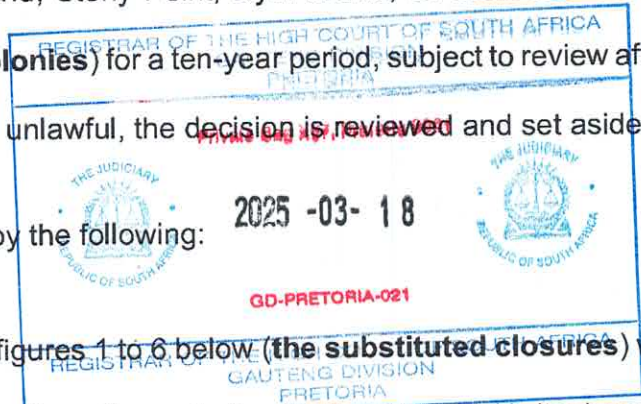
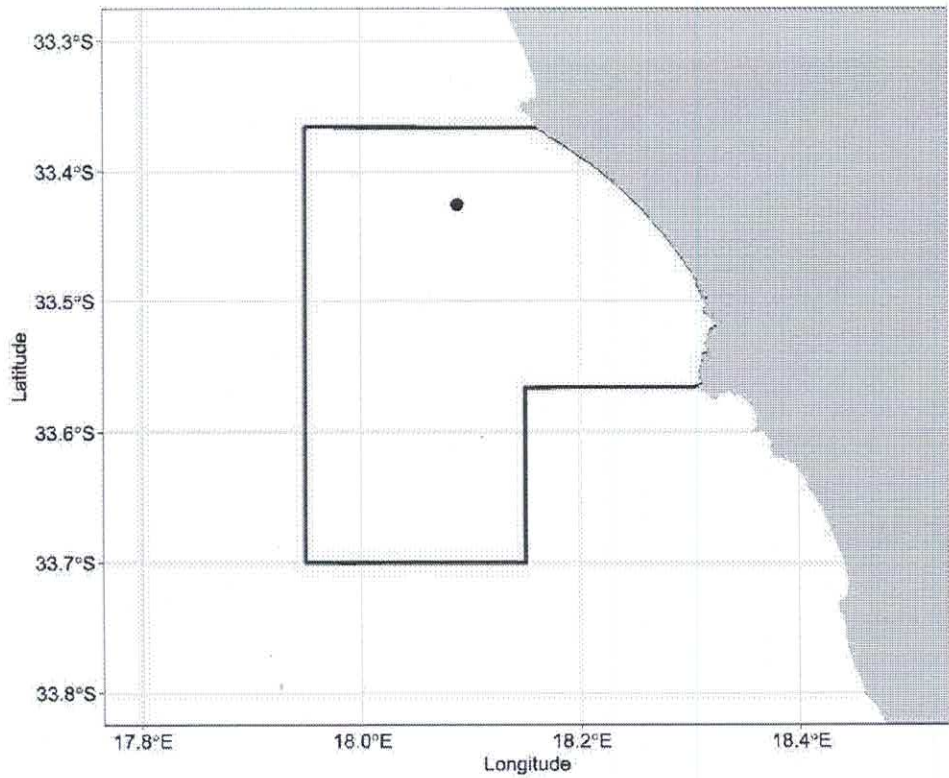


Figure 1



The extent of this closure is bound by the following descriptors/coordinates:

- a) Northern border:  $-33^{\circ} 22'S$
- b) Western border:  $17^{\circ} 57'E$
- c) Southern border: along  $-33^{\circ} 42'S$  from  $17^{\circ} 57'E$  to  $18^{\circ} 09'E$
- d) Southern inside corner: from  $18^{\circ} 09'E$  along  $-33^{\circ} 34'S$  up to the coastline.

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REPUBLIC OF SOUTH AFRICA

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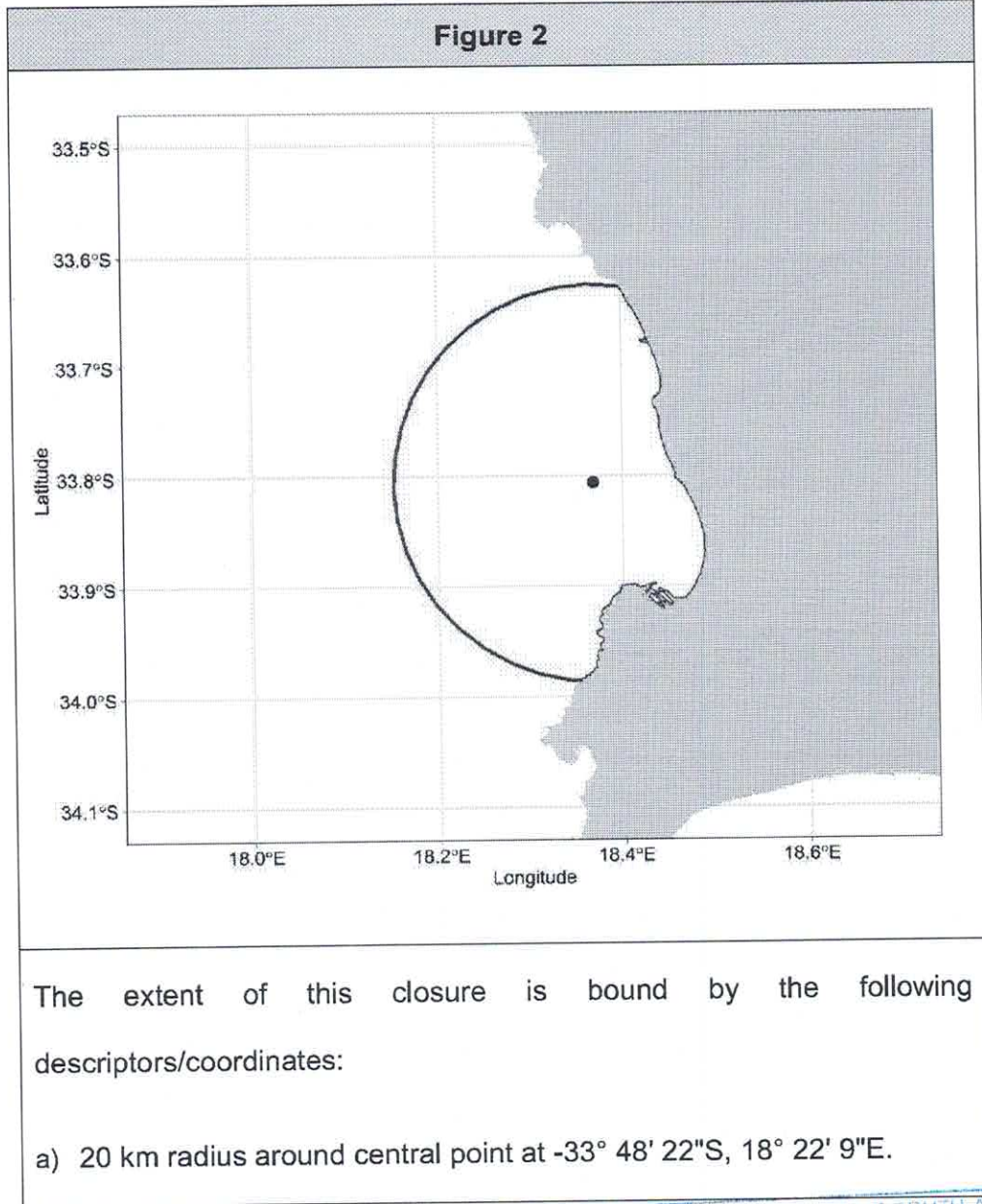
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2.4. In respect of Robben Island, the substituted closure is the area depicted and described in Figure 2, as per the 20 km radius in place during the Island Closure Experiment:



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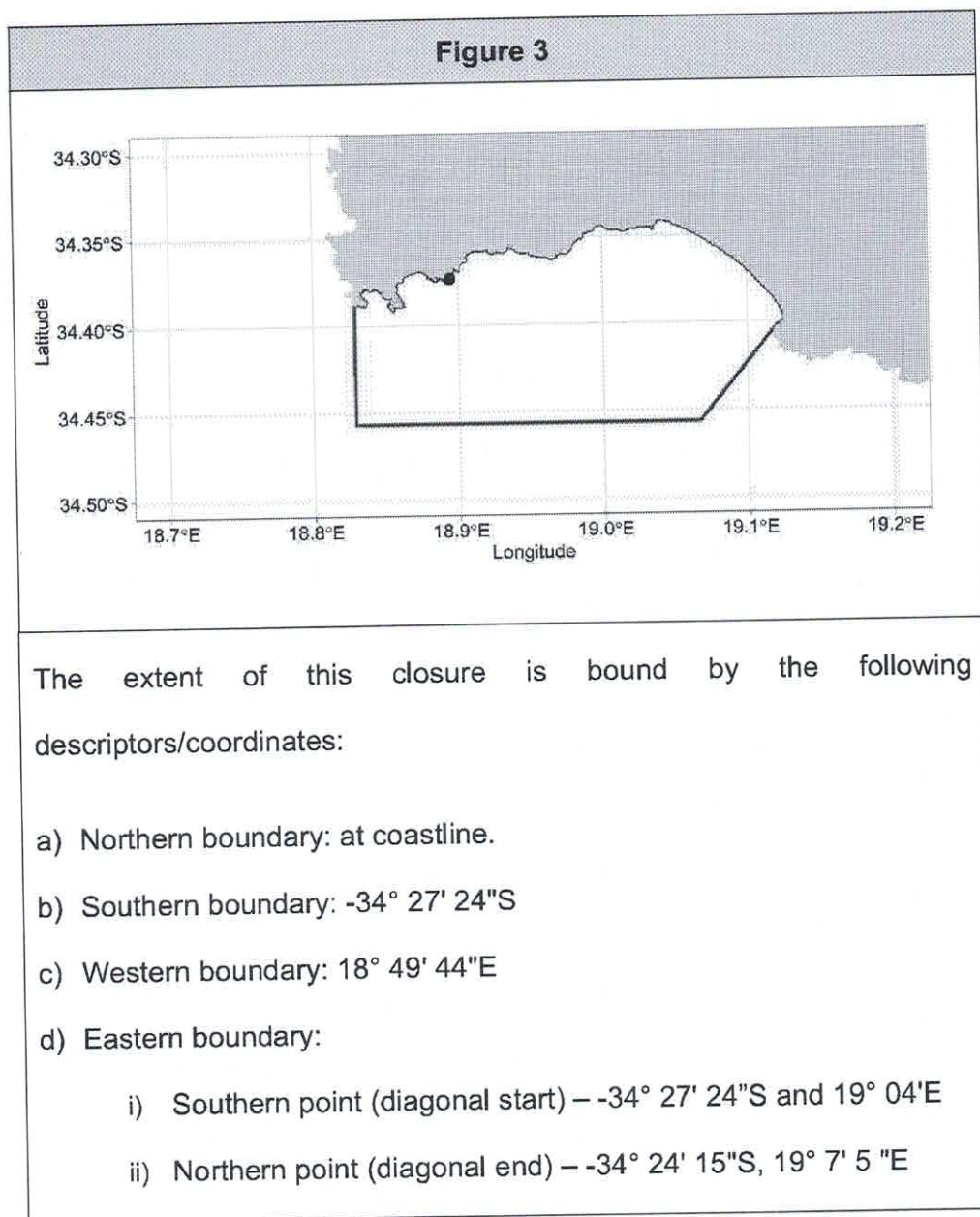
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2.5. In respect of Stony Point, the substituted closure is the area depicted and described in Figure 3:



2.6. In respect of Dyer Island, the substituted closure is the area depicted and described in Figure 4 is the closure reflected in permit conditions issued in January 2025:

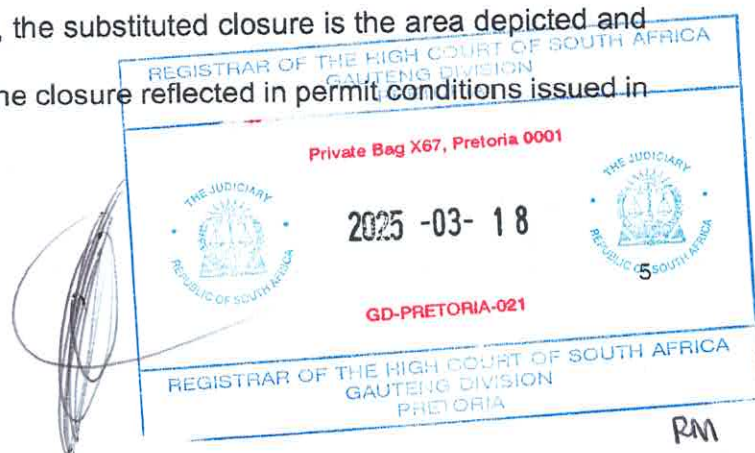
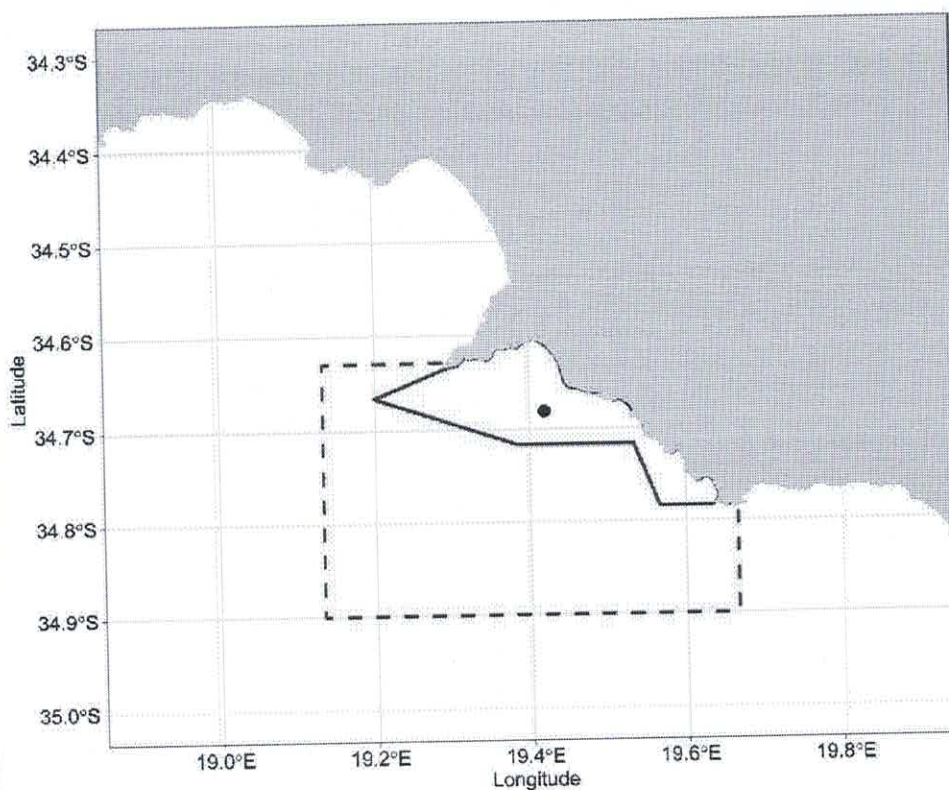




Figure 4



The extent of this closure is bound by the following descriptors/coordinates:

a) All purse-seine vessels are prohibited from fishing in the area bounded by the solid line:

- i)  $-34^{\circ} 40' 04''\text{S}$ ,  $19^{\circ} 12'\text{E}$
- ii)  $-34^{\circ} 43'\text{S}$ ,  $19^{\circ} 23'\text{E}$
- iii)  $-34^{\circ} 43'\text{S}$ ,  $19^{\circ} 32'\text{E}$
- iv)  $-34^{\circ} 47'\text{S}$ ,  $19^{\circ} 34' 04''\text{E}$

b) Purse-seine vessels which are less than 26 metres in length may fish in the area between the fully-restricted zone and the area bounded by

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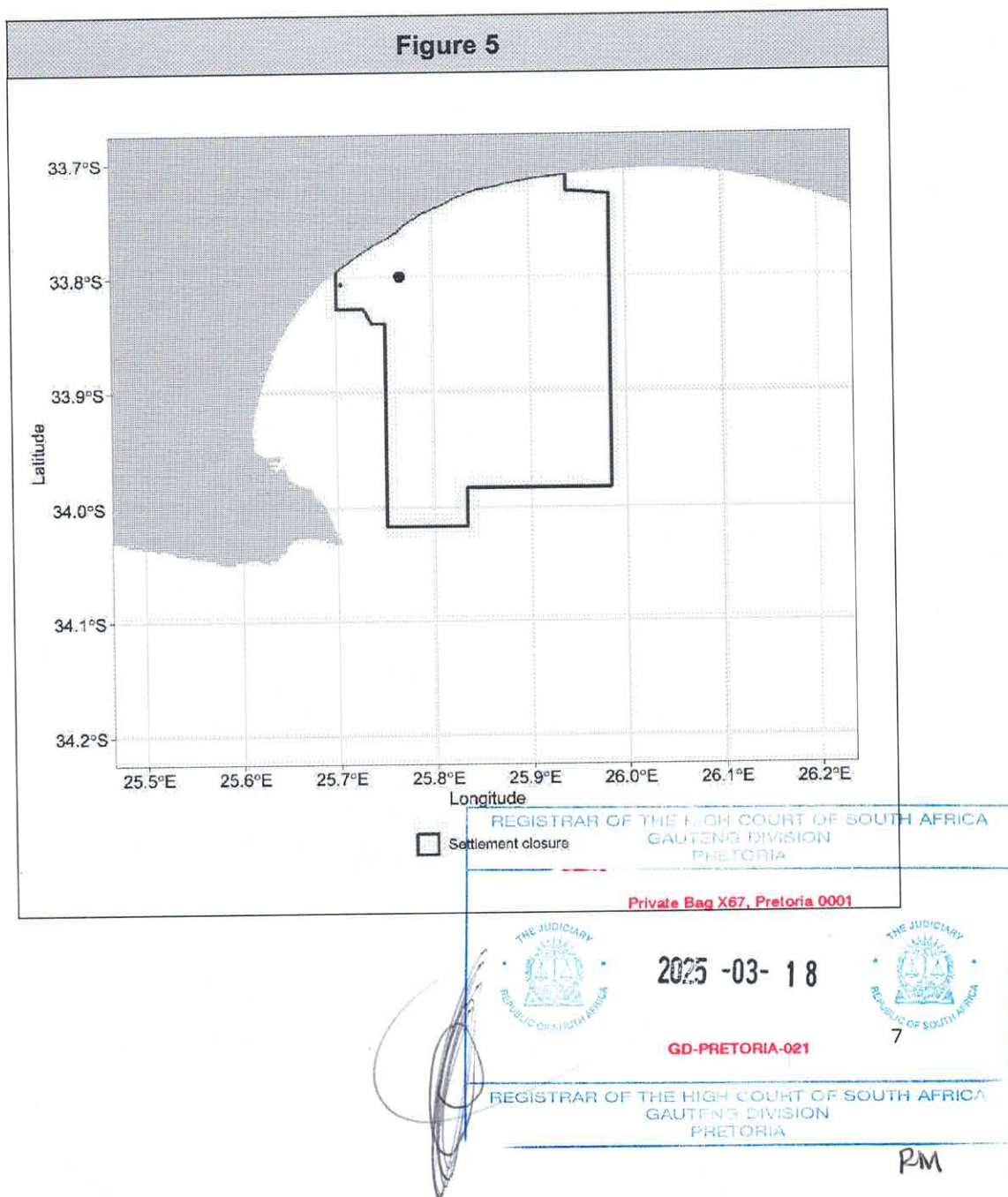
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the dashed line. This area remains closed to vessels which are equal to or greater than 26 metres in length.

- i) Northern border:  $-34^{\circ} 37' 47''\text{S}$
- ii) Western border:  $19^{\circ} 08'\text{E}$
- iii) Southern border:  $-34^{\circ} 54'\text{S}$
- iv) Eastern border:  $19^{\circ} 40'\text{E}$

2.7. In respect of St Croix Island, the substituted closure is the area depicted and described in Figure 5:



The extent of this closure is bound by the following descriptors/coordinates:

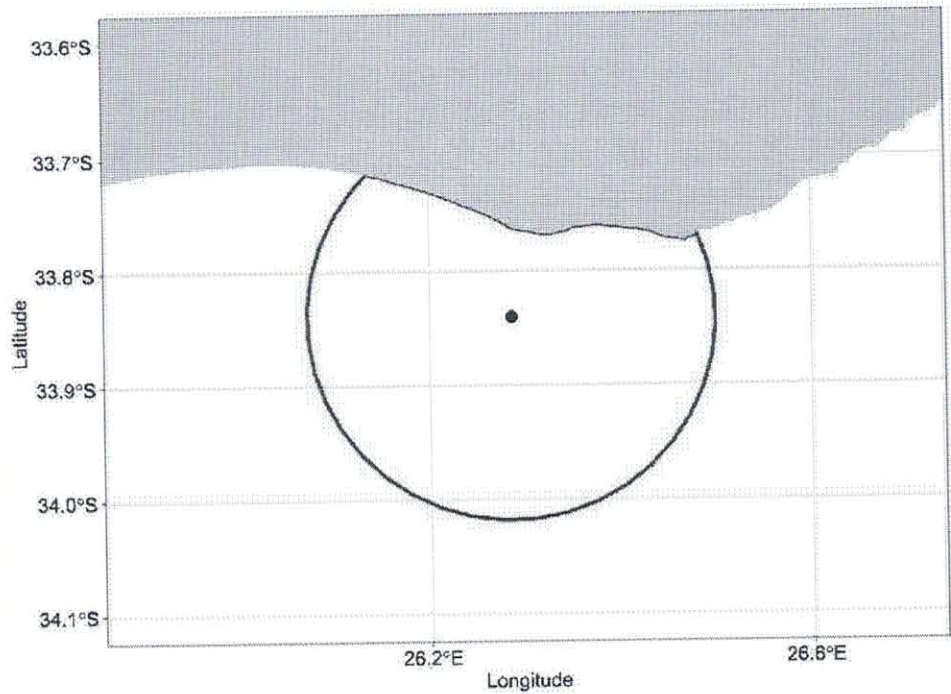
- a) Northern boundary: at the coastline in the western portion up until 25° 56' 19"E from where it follows the southern boundary of the MPA.
- b) Western boundary: from the coastline south along 25° 42' E up till (-33° 49' 38"S, 25° 42' E), east to (-33° 49' 38"S, 25° 43' 41"E), southeast to (-33° 50' 24"S, 25° 44' 10"E), east till (-33° 50' 24"S, 25° 45'E) then south to (-34° 1' S, 25° 45'E).
- c) Southern boundary:
  - a) Eastern portion – from (-33° 59'S, 25° 50'E) to (-33° 59'S, 25° 59'E)
  - b) Western portion – from (-34° 1'S, 25° 45'E) to (-34° 1'S, 25° 50'E)
- d) Eastern boundary: from -33° 59'S, 25° 59'E north to the MPA

2.8. In respect of Bird Island, the substituted closure is the area depicted and described in Figure 6 as per the 20 km radius in place during the Island Closure Experiment:





Figure 6



The extent of this closure is bound by the following descriptors/coordinates:

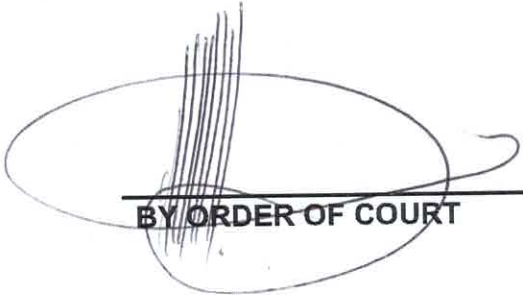
- a) 20 km radius around central point at 26° 17' 9" E, -33° 50' 26" S.

3. The substituted closures shall be implemented by imposition of annual permit conditions in terms of section 13 of the Marine Living Resources Act, 18 of 1998 in the permits issued to the holders of small-pelagic purse-seine fishing rights (i.e. for

the pelagic fish: anchovy fishery and the pelagic fish: sardine/pilchard fishery as well as those relevant to redeye and associated bycatch).



4. The permits for the 2025 fishing season of the rights holders referred to in paragraph 3 will be amended by the Department of Forestry, Fisheries and the Environment (or its successor tasked with implementation of permits) within fourteen calendar days of the date of this order, or such extended date as the parties may agree in writing, to reflect the substituted closures.
  
5. Each party to pay its own costs.

  
**BY ORDER OF COURT**

**THE REGISTRAR**

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