

Access restriction decree Verklikkerplaat and Slikken van Voorne

May, 13 2008

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Minister of Agriculture, Nature and Food Quality

Restriction of access to natural areas under Section 20 of the Nature Conservation Act 1998 for the 'Voordelta' Natura 2000 area.

Introduction

Section 20, Subsection 1 of the Nature Conservation Act 1998¹ stipulates that provincial executives may restrict access to protected nature reserves as defined under Section 10, Subsection 1; designated areas as defined under Section 10a, Subsection 1; other areas for which such a designation is under consideration as defined under Section 12 or parts of such areas insofar as is necessary for the conservation of the ecological value of said area.

Section 20, Subsection 2 of the Nature Conservation Act 1998 stipulates that the authority as defined in Subsection 1 rests with the Minister of Agriculture, Nature and Food Quality in agreement with another Minister in the event that the area as defined under Subsection 1, or a part thereof, is managed by or falls under the jurisdiction of this Minister or other Ministers.

The following decree is to be enacted in agreement with the Minister of Transport, Public Works and Water Management. The Regional Affairs mandate² in force at the Ministry of Agriculture, Nature and Food Quality stipulates that the Southern Regional Director for this ministry be authorized to take this decision on behalf of the Minister of Agriculture, Nature and Food Quality.

It is necessary to restrict access to a number of areas within the Voordelta Natura 2000 area (hereinafter 'Voordelta') in order to protect the existing and future ecological value of the area. The basis for imposing such access restrictions can be found in the Voordelta Designation Decree (19 February 2008, ref DRZO/2008-113) with regard to fulfilling Voordelta Natura 2000 objectives, as well as compensation obligations as incorporated into the Nature Conservation Act licence (17 April 2008, ref DRZW/2008-1670) issued for construction and presence of Maasvlakte 2. This is described in more detail in the general explanatory note accompanying this decree.

This decree specifically regulates restricted access to the areas detailed below. Specific exceptions to access restrictions detract in no way from any licensing requirements as defined under Section 19d of the Nature Conservation Act 1998, unless exceptions as defined under Section 19d, Paragraph 2 of the Nature Conservation Act 1998 (projects or activities in accordance with the management plan) are applicable.

Decree

Section 1

Access to the 'Verklikkerplaat' is to be restricted.

Restricted access to Verklikkerplaat applies throughout the whole of the year.

Restricted access applies to all types of activities with the exception of the activities listed below:

¹ Effective as of *Staatsblad 2005* [Bulletin of Acts, Orders and Decrees 2005], 473

² *Staatscourant 2006* [Government Gazette 2006], No. 91

General Aviation:

General aviation including helicopter, glider and inspection, survey or surveillance flights are permitted over this area above an altitude of 1,000 ft (approx 300 m) as opposed to regular altitudes of 500 ft (approx 150 m) above undeveloped areas and open sea. Paragliding and hang gliding are expressly prohibited above this area.

For all other forms of leisure aviation (motorised or unmotorised), this area has been designated a 'nature Conservation area' in accordance with the code of conduct for general aviation, *Verantwoord Vliegen*³ ['Responsible Flying'].

The code of conduct stipulates that these areas should be avoided wherever possible. If flying over these areas is unavoidable, then an altitude of at least 1,000 ft (approx 300 m) must be maintained, except in situations where this is unfeasible due to safety considerations.

Section 2

Access to 'Slikken van Voorne', located within the Voordelta as shown on the map accompanying this decree, is to be restricted.

Restricted access to Slikken van Voorne applies throughout the whole of the year.

Restricted access does not apply to the activities listed below:

Seine Net Fishing:

Seine net fishing is permitted throughout the whole of the year under the following conditions. This concerns one enterprise, namely vessel Tholen 5:

- A distance of at least 250 m must be kept from high water refuge areas on mud flats. The fishing vessel must be equipped with serviceable tracking equipment for enforcement purposes.

General Aviation:

General aviation including helicopter, glider and inspection, survey or surveillance flights are permitted over this area above an altitude of 1,000 ft (approx 300 m) as opposed to regular altitudes of 500 ft (approx 150 m) above undeveloped areas and open sea.

Paragliding and hang gliding are expressly prohibited above this area. For all other forms of leisure aviation (motorised or unmotorised), this area has been designated a 'nature Conservation area' in accordance with the code of conduct for general aviation, *Verantwoord Vliegen* ['Responsible Flying'].

The code of conduct stipulates that these areas should be avoided wherever possible. If flying over these areas is unavoidable, then an altitude of at least 1,000 ft (approx 300 m) must be maintained, except in situations where this is unfeasible due to safety considerations.

Section 3

Access restrictions described above in Section 1 do not apply to the following activities on grounds of Section 20, Subsection 4 of the Nature Conservation Act 1998:

Performing Necessary Government Tasks:

Presence throughout the whole of the year for tasks performed by the government or on behalf of the government, with or without the use of a vessel or vehicle, insofar as is necessary for purposes of conservation, maintenance, demarcation, monitoring, inspection or tracking and military activities.

³ Code of Conduct *Verantwoord Vliegen* ['Responsible Flying'], Royal Netherlands Aeronautical Association (RNAA), 2004

Cable and Pipeline Maintenance:

Maintenance work carried out on cables and pipelines between 01 September and 01 May. Access outside of this period is only permitted as a matter of urgent necessity subject to the discretion of the competent authority.

Section 4

1. Areas to which access has been restricted by virtue of this decree are shown on the associated map titled 'Access Restrictions in the Verklikkerplaat en Slikken van Voorne Resting Areas (separate map)' and defined in detail by means of coordinates.
2. In the field and on the water, restricted area boundaries can be identified by means of signposts and buoys.

Section 5

This decree is to be announced in the *Staatscourant* [Government Gazette]. An explanatory note accompanying this decree must be read in conjunction with the order.

MINISTER OF AGRICULTURE, NATURE AND FOOD QUALITY
per pro

Southern Regional Director

Objections

It is possible for stakeholders to lodge an objection to this decree in writing under provisions set out in the General Administrative Law Act. Any such notices of objection should be lodged within six weeks of the order's publication in the *Staatscourant* [Government Gazette] at the following address:

Minister of Agriculture, Nature and Food Quality
Dienst Regelingen
Afdeling Recht & Rechtsbescherming
PO Box 20401
2500 EK The Hague
The Netherlands

Notices of objection should be signed and should include a minimum of the following items:

- a. name and address of the party lodging the objection
- b. date
- c. description of the decree against which an objection is being lodged
- d. grounds for objection

Explanatory note

Natura 2000 Areas

The Voordelta is home to flora and fauna of special ecological value. This is why this area has been designated a Natura 2000 area under the auspices of the EU Birds and Habitats Directive. The Netherlands is obliged to establish and maintain a 'favourable conservation status' for certain species and their habitats. Wildlife conservation is legally regulated under the Flora and Fauna Act, and conservation areas are legally regulated under the Nature Conservation

Act 1998. The Nature Conservation Act 1998 requires that a management plan be drafted for all Natura 2000 areas.

Flora and fauna of special ecological value can be found throughout the whole of the Voordelta; however, the greatest diversity is located in the northern half of the area. Conservation measures are therefore most effective when applied to these northern areas.

Maasvlakte 2 Compensation Report

Development of Maasvlakte 2 in the Voordelta Natura 2000 area will result in the loss of flora and fauna of ecological value partly due to a reduction of the Natura 2000 area's size by 2,455 hectares. The key spatial planning decision (hereinafter KSPD), *Main Port Rotterdam Development 2006*, stipulated that this loss be compensated by establishing a conservation area elsewhere in the Voordelta, where usage restrictions could be imposed. The KSPD also stated that usage restrictions and other measures would help improve the ecological value of the conservation area. Ecological demands were taken into consideration and weighed against the extent to which restrictions should be imposed on human activity, particularly in light of existing usage, human or otherwise.

The Nature Conservation Act licence issued for the construction and presence of Maasvlakte 2 includes a compensation obligation concerning Habitat Type 1110 and a number of species of bird. By means of the restricted access decree under consideration, compensatory measures are to be taken in addition to objectives set by Natura 2000.

Measures

In the short term, it is important to limit access to certain areas of the Voordelta in order to be able to compensate in a timely fashion for the effects of the construction and presence of Maasvlakte 2, and in order to maintain a watch on the conservation and preservation of flora and fauna of ecological value as incorporated in the Voordelta Designation Decree.

Applicable measures for the Voordelta will also be incorporated into the Voordelta Management Plan. Until this management plan comes into effect, provisions of Section 19d of the Nature Conservation Act 1998 remain fully applicable. This decree is only aimed at regulating access and restriction of access to certain areas, but does not provide for any dispensations for licensing requirements in cases where these stem from any applicable legislation.

The Environmental Impact Assessment document and the appropriate evaluation (made for the preparation of the Managementplan Voordelta) are the foundations for the access restriction decrees. They will also be incorporated in the Managementplan Voordelta. The goal of the management plan and of the access restriction decree is: to conserve the protected natural values, to compensate the loss of protected natural values in the construction of Maasvlakte 2 and within the bounds of nature conservation take into account the interests of recreational users, tourism and fisheries.

Explanatory Notes on Access Restrictions

Slikken van Voorne is important for the protection of various species of bird inhabiting the area (approximately twenty species, principally ducks and waders) for which conservation targets have been set in the Voordelta Designation Decree.

Verklikkerplaat is of special importance for the protection of the common seal.

Natura 2000 Objectives

Waders and Ducks

Various species of wader and duck such as the oystercatcher and the gadwall use Slikken van Voorne in the Voordelta as a resting and foraging area. The Voordelta is becoming increasingly important for their continued existence as a result of diminishing habitats

elsewhere, such as the sandbanks of the Oosterschelde where these migrant birds rest and feed.

Recreational activities in their direct vicinity, both on beaches and on the water, disturb these birds, which are particularly sensitive to noise and sudden movement. This problem is growing, as the recreational season is becoming ever longer. Measures restricting access to Slikken van Voorne are designed to achieve conservation targets set out in the Voordelta Designation Decree for ducks and waders.

Common Seal

At the beginning of the last century, around ten thousand common seals inhabited the Delta. Pollution, hunting and encroachment into their habitat due to the Delta Works had reduced their numbers to just a few dozen individuals up until fifty years ago. Over recent years, their numbers have grown to more than a hundred in the Delta area, 50% living in the Voordelta area.

They use tidal plains such as those at Hinderplaat, Bollen van de Ooster (Aardappelenbult) and Verklikkerplaat to rest. However, they do not breed well in the Voordelta. The plains provide insufficient peace and quiet for them to give birth to, suckle and raise their pups. Year-round peace and quiet is essential; the most critical period being before, during and after the pups' suckling period from 01 May to 01 September.

Measures restricting access to their resting places in Hinderplaat, Bollen van de Ooster and Verklikkerplaat situated in the Voordelta are designed to allow at least two hundred common seals to inhabit the entire Delta. Here, they will be able raise their pups, thus meeting objectives set out in the Voordelta Designation Decree.

<p>For technical reasons the map belonging to this decree has been incorporated in the Annex map appendices</p>
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