

# KwaDukuza CMP Coastal Development Planning Tool Coastal Management Overlay



Phase 1 Report  
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# 1 INTRODUCTION

## 1.1 Project Background

### 1.1.1 KwaDukuza Coastal Management Programme

The KwaDukuza Coastal Management Programme (CMP) was developed in 2009/10 as prescribed by the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008), as amended by Act No. 36 of 2014 (ICM Act), and consisted of three parallel phases, all of which were included in the final CP:

- the preparation of a situational analysis;
- a public participation and consultation process; and
- the compilation of coastal management objectives, priorities, strategies and responsibilities for coastal management.

In general terms, the KwaDukuza CMP is a policy directive on integrated coastal management, but is also context-specific and contains detailed strategies to achieve the identified coastal management objectives as part of the programme component. The CMP was adopted by KwaDukuza Local Municipality in 2011, thereby entrenching it as the legal and policy framework for coastal management within the jurisdiction of the municipality.

By way of summary, the vision for KwaDukuza's coast represents the desired state for the municipality's coastal zone and a précis of the strategies or actions that are aimed at achieving the identified coastal management objectives. These two important components are shown in the following section.

The KwaDukuza CMP vision for the KwaDukuza coast is as follows:

#### Vision for KwaDukuza's Coast

*To **sustainably manage** the KwaDukuza coast, in so doing ensuring a **safe home for residents** and a **regionally prominent and world-class destination** for visitors where the **free benefits and services** that the coast provides are **equally accessible to all**.*

*This will be achieved through **sharing the responsibility** of management of all coastal activities including recreation and development, thereby **uniting all stakeholders** in a spirit of **stewardship**.*

*Furthermore, the philosophy which informs coastal management in KwaDukuza must promote a **balance between conservation and the sustainable use** of coastal resources, as well as acknowledge the **dynamic and interconnected nature** of the KwaDukuza coast and its hinterland while fostering a growing **awareness and understanding** of the important relationship that we have with our coast.*

A summary of implementation strategies included in the CMP is provided in Table 1-1 below.

**Table 1-1 : Implementation Strategies Summary from KwaDukuza CMP**

THEME A: GOVERNANCE AND CAPACITY BUILDING	Priority
A1. Coastal public participation and partnerships	
A1.1. Attendance at meetings and cooperation with the iLembe District Coastal Committee	1
A1.2. Establishment of a KwaDukuza MCC	1
A1.3. Establishment and implementation of operational guidelines (applicable to the MCC)	1
A2. Coastal management education and training	
A2.1. Municipal Training Programme	1

A2.2. Design and Implement KwaDukuza Education and Awareness Campaign	2
<i>A3 Dedicated coastal responsibility</i>	
A3.1. Specific ICM activities and key performance indicators built into performance agreements	1
A3.2. Required integration between sectors in respect to implementation	1
A3.3. Development of a Development Planning tool(s)	1
<i>A4. Review of products and processes (cycle of coastal management)</i>	
A4.1. KwaDukuza CMP	1
A4.2. Inception of CMP review cycle	1
<b>THEME B: OUR COASTAL ASSETS</b>	<b>Priority</b>
<i>B1. Coastal infrastructure</i>	
B1.1. Apply for Blue Flag status	3
B1.2. Identify and develop additional beach recreational nodes	1
B1.3. Identify and develop additional parking facilities	1
B1.4. Identification of potential tidal pools	1
B1.5. Long-term collection of coastal tourism and recreational statistics	3
<i>B2. Coastal access (physical and equitable)</i>	
B2.1. Assessment of physical access	1
B2.2. Management and facilitation of public access servitudes (ICM Act)	1
B2.3. Maintain Ballito promenade	1
B2.4. Resolve conflicting and/or historically granted rights	3
B2.5. Reinstatement and protection of coastal public property	3
B2.6. Capitalise on historical and cultural resources	2
<i>B3. Coastal safety and security</i>	
B3.1. Public Private Partnerships for security	1

B3.2. Maintenance of access points	1
<b>THEME C: COASTAL PLANNING</b>	<b>Priority</b>
<i>C1. Coastal planning</i>	
C1.1. Formal adoption of the Development Planning Tool (DPT) component of the KwaDukuza CMP and integration thereof with the municipal IDP and LUMS (see also C1.4)	1
C1.2. Implement of the KwaDukuza Coastal Management Programme	1
C1.3. Links to IDP	1
C1.4. Appropriate coastal development to be promoted (Nodal development (or precincts), and the balance between developed and undeveloped, conservation, agriculture)	2
C1.5. Identification of dynamic coastal processes and provision of services in harmony	2
<i>C2. Coastal economic development</i>	
C2.1. Promote long term economic potential and coast specific economic development activities that are dependent on a coastal location	2
C2.2. Adequate and accessible public facilities	1
C2.3. Promotion of appropriate tourism and recreational activities	2
C2.4. Management of municipal and other boat launch sites	1
C2.5. Investigation into potential accommodation co-operation scheme (Links with on-going tourism strategy)	3
C2.6. Investigation into projects to capitalise on the new airport and Ballito's status as an "edge city"	2
<i>C3. Coastal poverty alleviation</i>	
C3.1. Support for the Working for the Coast programme	1
C3.2. Sustainable Livelihoods projects – diversify opportunities for poor coastal communities	2



<b>THEME D: NATURAL RESOURCE MANAGEMENT</b>	<b>Priority</b>
<i>D1. Coastal conservation and protection</i>	
D1.1. Development of estuary management plans	2
D1.2. Identification of potential coastal protected areas	3
D1.3. Protection of coastal corridor and links to an open space system and EKZNW systematic conservation plan	1
D1.4. Ecosystems services assessment	2
D1.5. Marine Protected Area for Umvoti-Umhlali	2
<i>D2. Coastal setback</i>	
D2.1. Climate change preparedness strategy and risk assessment	1
D2.2. Confirmation of sea-level rise projection, coastal erosion line and contribution to KZN coastal development setback determination	1
D2.3. Establishment of the coastal zone boundary	3
<b>THEME E: POLLUTION CONTROL AND WASTE MANAGEMENT</b>	<b>Priority</b>
<i>E1. Coastal pollution control and waste management</i>	
E1.1. Beach clean-up and PPPs	1
E1.2. Support the Working for the Coast programme	1
E1.3. Assessment of discharge into KwaDukuza Coastal environment, recommendations and plan of action for management	1
E1.4. Storm water management strategy	1
<i>E2. Coastal disaster management</i>	
E2.1. Coastal risk assessment	1
E2.2. Integration with other management tools	1

### 1.1.2 KwaDukuza Development Planning Tool

The KwaDukuza Development Planning Tool (DPT) was initially prepared in draft form in 2009 as an integral part of the KwaDukuza CMP, to facilitate

the establishment of an integrated coastal and estuarine management system that would promote:

- Conservation and rehabilitation of natural attributes;
- Sustainable use of natural resources;
- Ensure appropriate development and redevelopment in the coastal zone; and
- Access to the coast and its social, economic and environmental benefits that it offers.

The DPT was intended to inform the preparation of the KwaDukuza Land Use Management System (LUMS) in so far as the zonation of activities in each area of the coastline, the development setback lines and development controls appropriate for the coastal location were concerned.

During the development of the CMP and specifically the draft DPT, the implementation of a by-law to implement the DPT was identified as the most appropriate coastal management tool to be applied as an interim measure prior to the updated LUMS becoming operational. The DPT was updated in 2011 and a DPT Implementation Report was prepared in 2012 incorporating the proposed By-Law.

### 1.1.3 KwaDukuza Coastal Management Overlay

In 2014, KwaDukuza Municipality initiated a revised process to implement the CMP to take cognisance of changes in relevant legislation, policy and plans, including:

- Amendments to the NEMA: EIA Regulations and accompanying Listed Activities;

- Spatial Planning and Land Use Management Act, 2013;
- National Coastal Management Programme of South Africa, 2014;
- National Estuarine Management Protocol, 2013;
- National Strategy for the Facilitation of Coastal Access in South Africa, 2014;
- Step by Step Guide for the Designation and Management of Coastal Access in South Africa;
- KwaDukuza Biodiversity and Open Space Management Plan, 2013;
- KwaDukuza Spatial Development Framework;
- KwaDukuza Land Use Scheme, 2015; and
- iLembe Environmental Management Framework, 2013.

This review was also initiated in response to current thinking with respect to linking environmental legislation requirements and spatial planning through the inclusion of so-called 'overlay' zones into the respective LUMS and SDFs rather than what was proposed in the initial and follow-up appointment for a coastal DPT and By-Law. Additional assessment and the development of a new product is therefore required.

## 1.2 Purpose of Report

This report sets out Phase 1 of the scope of work agreed with KwaDukuza Municipality as part of the Inception Report dated August 2015:

### **Phase 1**

- Review and inclusion of amendments to legislation, relevant national policy and strategy documents; updated KwaDukuza policy documents as well as the draft KwaDukuza LUMS and SDF; and
- Adaptation of the draft KwaDukuza DPT into the KwaDukuza Coastal Management Overlay.

## 1.3 Study Area

The study area for the project is the Coastal Protection Zone (CPZ), which has been proposed for KwaDukuza in accordance with the Integrated Coastal Management Act, 2008 as part of the CMP and associated DPT processes. As set out under the KwaDukuza DPT Implementation Report, 2012, the proposed CPZ has been proposed and delineated as follows:

- The most recently available aerial photography (2009) was used as the base layer on which to delineate the proposed CPZ;
- Local knowledge and existing spatial data was used to identify environmental and cultural assets which have coastal attributes;
- Estuarine boundaries (as defined in the National Freshwater Ecosystem Priority Areas dataset – SANBI, 2011) were included as part of the definition of the proposed CPZ;
- The proposed CPZ (i.e. the landward boundary of the coastal zone) was delineated based on the basis of practicality (i.e. using existing, easily-identifiable features such as roads and cadastral boundaries for delineation purposes) as identified in the Coastal Development Management Tool;
- Existing spatial data and local knowledge were combined to identify proposed coastal access land which was added as an additional layer; and
- The results of the above process were collated and a single spatial layer and overlaid onto aerial photography with cadastral boundaries in order to allow stakeholders to identify individual properties in relation to the proposed CPZ.



Figure 1-1 shows the proposed CPZ for KwaDukuza at the municipal scale.



Figure 1-1 : Proposed KwaDukuza Coastal Protection Zone

## 2 REVIEW OF UPDATED LEGISLATION, POLICY AND PLANS

### 2.1 Spatial Planning and Land Use Management

The following key legislation, policy and plans have been reviewed with respect to spatial planning and land use management:

- Spatial Planning and Land Use Management Act, 2013;
- KwaZulu Natal Planning and Development Act, 2008;
- KwaZulu Natal Land Use Management Guidelines for the Preparation of Schemes for Municipalities, 2011;
- KwaDukuza Integrated Development Plan, 2015;
- KwaDukuza Spatial Development Framework;
- KwaDukuza Land Use Management System, 2015;
- KwaDukuza Spatial Planning and Land Use Management By-Law, 2015;
- D'MOSS Overlay Zone and Le Seur Case; and
- Western Cape Planning Legislation and Overlay Zones.

#### 2.1.1 Spatial Planning and Land Use Management Act, 2013

The Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013; SPLUMA) was published in August 2013 but only came into effect on 1 July 2015. The SPLUMA provides a framework for spatial planning and land use management in South Africa (SA). Key provisions and features of the SPLUMA with relevance for the KDM Coastal Overlay Zone include the following:

- The SPLUMA is framework legislation and lists matters that must be dealt with through more detailed legislation, including provincial legislation and municipal by-laws;

- The SPLUMA reinforces the role of the municipal (i.e. local government) level as the main sphere of government responsible for land use planning, as provided for under the Constitution;
- Under the SPLUMA, a municipality must adopt and approve a single land use scheme for its entire municipal area within 5 years from the commencement of SPLUMA, i.e. 1 July 2020;
- The SPLUMA sets out the key requirements that a land use scheme must incorporate. This includes, *inter alia*, land use zoning and regulations however SPLUMA does not specifically identify the term 'overlay zone';
- The SPLUMA provides for the establishment of Municipal Planning Tribunals (MPT) to consider and determine land use and development applications within the Municipal area;
- Under the SPLUMA, a land use scheme must give effect to the Municipal Spatial Development Framework (MSDF);
- The SPLUMA repealed a number of National Acts, including the Development Facilitation Act, 1995, the Less Formal Township Establishment Act, 1991, the Physical Planning Act, 1991, the Physical Planning Act, 1967 and the Removal of Restrictions Act, 1967; and
- The SPLUMA does not repeal or replace Provincial Acts or Municipal By-Laws (both remain valid until the Constitutional Court decides otherwise). In KwaZulu-Natal (KZN), the provisions of the KZN Planning and Development Act still need to be complied with in conjunction with those set out under the SPLUMA.

The Spatial Planning and Land Use Management (SPLUM) Regulations: Land Use Management and General Matters, 2015 were gazetted on 23 March 2015. The SPLUM Regulations include provisions with respect to

Municipal Planning Tribunals, land development, land use applications and appeal procedures.

### **2.1.2 KZN Planning and Development Act, 2008**

The KZN Planning and Development Act, 2008 (Act No. 6 of 2008; PDA) (as amended) provides the Provincial legislation for regulating spatial planning and land use management within KZN. Chapter 2 of the PDA deals with planning schemes. Chapter 2 does not specifically identify a Management Overlay as part of the planning scheme but does include provisions for the identification of land use zones and development controls.

Schedule 1 of the PDA provides the procedures that must be followed for the amendment of a scheme, including procedures for applicants (Part 1) and for the Municipality (Part 2). The procedure for the Municipality includes the following:

- Public notice of the proposed amendment, including displaying a notice on the frontage of the erf or other easily accessible place on the land, serving notice on all parties who may have an interest in the matter and giving notice in a newspaper distributed in the area concerned;
- If the application is for a general amendment of the municipality's scheme or if it is otherwise impractical to serve notice on all parties who in the opinion of a municipality may have an interest in the matter or to display a notice on the land concerned, the municipality may convene a meeting for the purpose of informing the public of the matter;

- A period of at least 30 days to be provided from the date the notice was served for the public to make comments on the proposed amendment;
- The municipality may amend its proposed amendment at any time after notice has been given provided it gives notice of the amendment to all persons who commented (for at least 14 days) and must again give public notice if the amendment is material;
- The municipality may, within 28 days from the closing date for public comments, lodge a written reply thereto with the person/s who made comments;
- The municipality must decide whether to conduct a hearing, within 21 days of the expiry of the period for lodging comments; and
- The municipality must come to a decision on the proposed amendment within 90 days of the closing date for comments if it did not hold an enquiry or of the conclusion of the hearing if it did hold an enquiry.

### **2.1.3 KZN Spatial Planning and Land Use Management Bill, 2015**

The KZN Spatial Planning and Land Use Management Bill, 2015 (SPLUMB) has been proposed to:

- improve alignment between provincial planning legislation (including the PDA) and SPLUMA;
- align with recent judgements of the Constitutional Court;
- address defects of the current provincial planning legislation;
- expedite development; and
- simplify provincial planning legislation.

Chapter 4 of the SPLUMB deals with municipal planning, including a land use scheme (under Part 2). Chapter 4 does not specifically identify a Management Overlay as part of the land use scheme but does include provisions for the identification of land use zones and development controls.

Chapter 5 deals with municipal planning approval, including the adoption or amendment of a land use scheme. An application for municipal planning approval must follow the process in Schedule 8 of the SPLUMB read with Schedule 9.

Schedule 9 requires notice for the amendment of a scheme to be in an approved newspaper, served on adjacent property owners, residents and bodies and attached to the property. The display of a notice on the property is not required if an application for municipal planning approval is an application for a general amendment of a land use scheme and it is impractical to display notices on all the affected properties.

An applicant may request a municipality to convene a public meeting to inform the public of an application for municipal planning approval instead of giving personal notice:

- if an application is an application for a general amendment of a land use scheme and it is impractical to serve notice on all the parties who in the opinion of a municipality may have an interest in the matter; or
- if due to the size or shape of a property, or the nature of a condition of title registered against a property, personal notice must be given to more than 100 persons.

#### **2.1.4 KZN Land Use Management Guidelines for the Preparation of Schemes for Municipalities, 2011**

The KZN Land Use Management Guidelines for the Preparation of Schemes for Municipalities, 2011 (the Guideline) provides guidelines for the preparation of land use schemes as part of a broader land use management system. The Guideline includes guidance with regard to the inclusion of Management Overlays, where required, to augment the base land use controls and regulations within a land use scheme. The Guideline states that a Management Overlay can be used to:

- elaborate the visions or policy statements for a particular area to differentiate them from surrounding areas;
- provide general and/or specific guidelines for particular types of development;
- provide area specific schematic plans for particular areas or developments;
- demarcate an environmental or conservation management plan for an area; and
- manage detailed area specific development plans.

According to the Guideline, a Management Overlay applies in addition to the underlying zone or base zone of the properties to which it relates, and may vary the development rules relating to a particular area or land unit, or may set new development rules. The Guideline states, however, that the Management Overlay may not conflict the provisions applicable to the base zoning and may set specific development rules for a particular area or land unit. If the provisions of the Management Overlay are different to, or in conflict with, the provisions of a base zone, the more restrictive provisions shall apply.

According to the Guideline, there are essentially two types of Management Overlays:

- Overlays which refer to the area where a plan that has been formally adopted by the Municipality applies. These may include Policy Plans, Housing Plans, Urban Design Precinct Plans, Environmental Management Plans and Coastal Management Programmes / Coastal Planning Schemes (which in terms of the National Environmental Management: Integrated Coastal Management Act, 2008 contain elements of schemes), etc.; and/or
- Informant Overlays which require practitioners/administrators to consider additional criteria and to negotiate between different requirements usually require a level of adjudication/trade-off. Informant Overlays include: Ecosystem Goods and Services Maps, Historical/Cultural Maps, etc.

According to the Guideline, in most instances the Management Overlays are referred to in the Scheme and the details are not specified in order to permit these plans to be amended from time to time without the necessity to amend the Scheme itself.

Key requirements for incorporating a Management Overlay into a Scheme include the following:

- Each Management Overlay should have a distinctive name and number;
- The area of the Management Overlay should be indicated on the zoning map;

- A record of Management Overlays should be included in a table in the Scheme or in an annexure at the back of but still part of the Scheme; and
- The table should record the detailed provisions of each management Overlay with reference to the relevant name and number.

#### **2.1.5 KwaDukuza Integrated Development Plan, 2015**

The KwaDukuza Integrated Development Plan (IDP) sets out the vision, objectives and programmes for the sustainable development of KwaDukuza. The IDP vision for KwaDukuza is as follows:

*“By 2030, KwaDukuza shall be a vibrant city competing in the global village economically, socially, politically and in a sustainable manner.”*

The IDP identifies the following as the key development objectives to address the development challenges facing KwaDukuza:

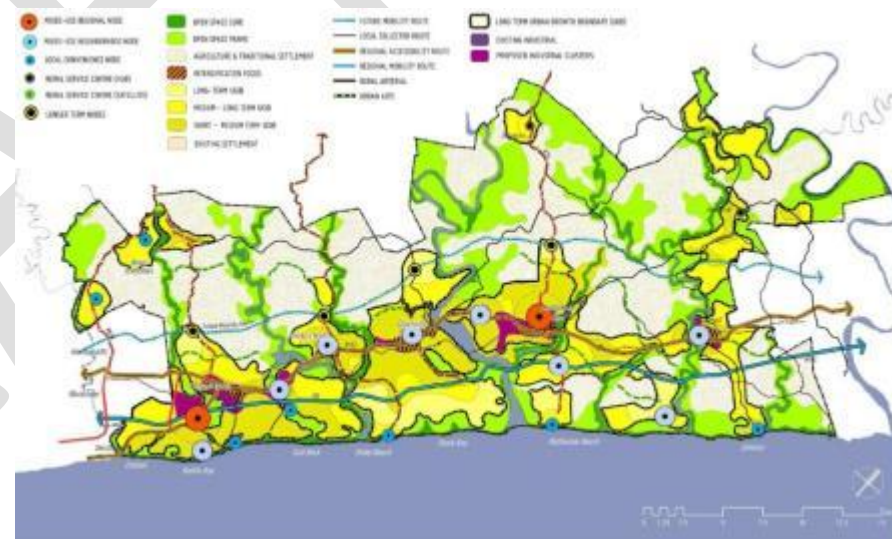
- Municipal institutional development and transformation;
- Basic service delivery;
- Municipal financial viability;
- Economic development job creation;
- Good spatial development framework;
- Governance and public participation;
- Environmental management and climate change;
- Integrated human settlement;
- Provision of municipal service;
- Sport and youth development; and
- Integrated development planning.



The KwaDukuza Spatial Development Framework (SDF) provides a broad land use management framework and strategic spatial guidelines to manage the use and development of land. The SDF provides a spatial translation of the vision statement and IDP of the municipality. The KwaDukuza SDF provides strategic direction for the future physical/spatial development of the Municipal area that addresses environmental, social and economic development issues. The SDF identifies the following key spatial concepts for KwaDukuza:

- **Accommodate a Range of Development** – including residential, industrial, tourism and other uses in appropriate locations and typologies.

The KwaDukuza SDF proposes a mix of spatial approaches of linear growth and clustered town development. A number of growth opportunities have been identified within KwaDukuza for urban expansion. These include Compensation and Driefontein, KwaDukuza town, Darnall and Zinkwazi and Groutville and Shakaskraal. Figure 2-1 indicates the SDF for KwaDukuza.



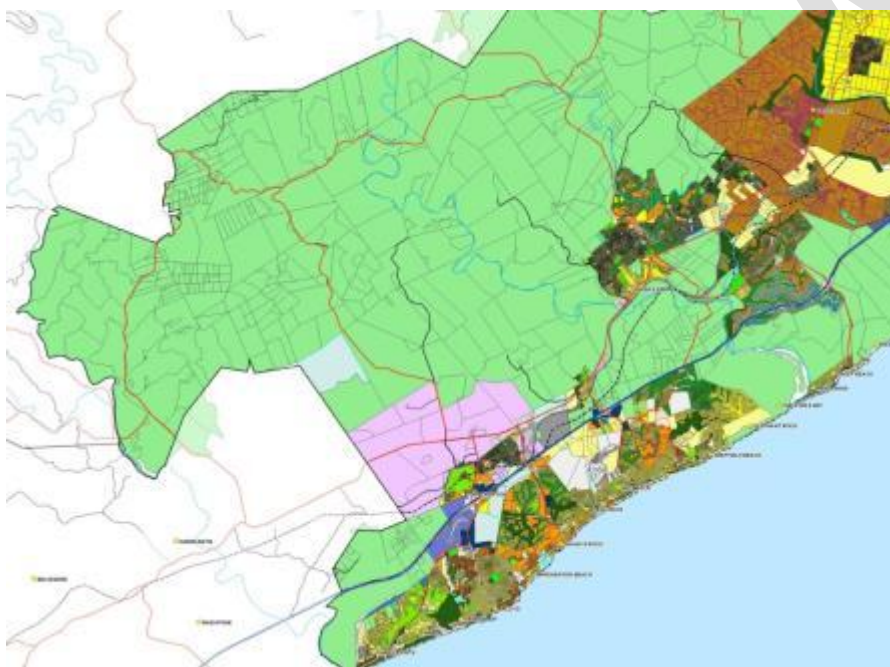
**Figure 2-1 : KwaDukuza Spatial Development Framework**

The KwaDukuza Scheme was prepared in 2014 and 2015 in terms of Chapter 2 of the KZN PDA and adopted by the Council of KwaDukuza Municipality in September 2015. The Scheme provides a single land use



scheme for the entire Municipal area and includes the Traditional Council Areas formerly administered in terms of the KwaZulu Land Affairs Land Act, 1992 and areas formerly administered in terms of the Natal Town Planning Ordinance, 1949. The Scheme replaces all previous Town Planning Schemes prepared in terms of Section 47 (bis) of the Natal Town Planning Ordinance, 1949 and any approved Schemes and/or Layout Plans approved for areas governed under the KwaZulu Land Affairs Act, 1992.

Figure 2-2 provides an extract from the KwaDukuza Scheme. This shows a range of land use zoning types within the coastal zone in the southern part of the Municipal Area, including agricultural, residential and environmental zonings.



#### **Figure 2-2 : Extract from KwaDukuza Planning Scheme**

Section 4 of the Scheme deals with procedures to prepare, adopt, replace, amend, or recommend Management Overlays and gives legal status to them. The preparation of a Management Overlay must take into consideration the following requirements, where applicable:

- the principles contained in planning law;
- the Municipality's IDP;
- the desired spatial form, including the, infrastructure investment, spatial reconstruction, location and nature of development, urban edge, scenic routes, areas of strategic intervention, mitigation of development impacts;
- the principles as set out in a SDF or policy plan;
- the conservation and protection of environmental and heritage aspects in accordance with national "norms and standards"; and
- the principles of co-operative governance and the duties and objectives of local government as set out in the Municipal Systems Act and the National Constitution, 1996.

The Scheme requires a distinctive name and number for each Management Overlay, a register recording each Management Overlay in an annexure at the back of the zoning scheme and a record of the detailed provisions of each Management Overlay. The Management Overlay may also be indicated on the zoning map. According to the Scheme:

- A Management Overlay applies, in addition to the underlying zone or base zone of the properties to which it relates, and may vary the development rules relating to a particular area or land unit, or may set new development rules;

- The provisions of a Management Overlay may be more restrictive or more permissive than the provisions applicable to the base zone of the property concerned, or may set specific development rules for a particular area or land unit;
- If the provisions of a Management Overlay are different to, or in conflict with, the provisions of a base zone, the more restrictive provisions shall apply;
- The provisions of a Management Overlay do not in any way detract from any obligations in terms of national and provincial legislation;
- The provisions of a Management Overlay may apply to a land unit or land units, identified within a specific area or to the city as a whole, as may be stipulated in the adoption of such a Management Overlay; and
- The provisions of more than one Management Overlay may apply to a land unit or area.

Appendix 7 of the Scheme provides a template for the Register of Management Overlays for the KwaDukuza Scheme (refer to Table 2). This register is to be filled in in terms of adopted Management Overlay Informants or Management Overlay Plans.

**Table 2 : Register of Management Overlays for the KwaDukuza Scheme**

REGISTER OF MANAGEMENT OVERLAYS				
APPLICATION REFERENCE NUMBER	FILE NUMBER	DETAILS OF OVERLAY	FILE NUMBER	REMARKS
XXX	TP----			

The Scheme provides for the amendment of the Scheme by following the prescribed procedure set out in the relevant chapter of the KZN PDA. A

Management Overlay, however, is included in the Scheme through its identification in a Schedule to the Scheme and may be incorporated by adoption of the Council resolving to include the Management Overlay in the Schedule to the Scheme (Khan *pers. comm.*, 2015). A plan or policy based Management Overlay would already have undergone a public consultation process as part of the preparation of the plan or policy and its adoption by Council prior to being put forward for inclusion in the Scheme.

The Scheme is accompanied by a Companion Document dealing with Management Overlays. The Companion Document includes the following indicative Management Overlays for KwaDukuza:

- Management Overlay 1 – Biodiversity Overlay;
- Management Overlay 2 – Cultural Heritage Overlay; and
- Management Overlay 3 – Forestry Overlay.

The format used for these Management Overlays in the Companion Document is as follows:

**Table 2: KwaDukuza Management Overlay Template**

Management Overlay No. Name of Overlay
Location (see Management Overlay Plan):
Introduction:
Statement of Intent:
Decision/Policy Guidelines:

In the case of the Biodiversity Overlay, the Companion Document states that it is to be read together with the iLembe EMF (see Section 2.2.1) and the Biodiversity and Open Space Management Plan (see Section 2.2.4) prepared as part of the GIS data for the Scheme. The Companion Document includes a table that details the species and habitats depicted in the Biodiversity Overlay and addressed in the decision guidelines. Explanatory notes are also included defining key terms and concepts for the Biodiversity Overlay.

#### **2.1.8 KwaDukuza Spatial Planning and Land Use Management By-Laws, 2015**

The KwaDukuza Spatial Planning and Land Use Management (SPLUM) By-Laws were gazetted on 13 August 2015. The SPLUM By-Laws provide for:

- the establishment of the Municipal Planning Approval Authority, Municipal Planning Appeal Authority and the Municipal Planning Enforcement Authority;
- the adoption and amendment of the Municipality's land use scheme, to provide for applications for municipal planning approval;
- appeals against decisions of the Municipal Planning Approval Authority;
- offences and penalties; and
- compensation and matters incidental thereto.

Chapter 3 of the SPLUM By-Laws deal with the Land Use Scheme, including the purpose, contents, legal effect, existing schemes and adoption of the scheme. The SPLUM By-Laws provide broad provisions with respect to land use zoning and do not specifically mention Management Overlays.

#### **2.1.9 D'MOSS Overlay Zone and Le Seur Case**

The Durban Metropolitan Open Space System (D'MOSS) is an environmental plan that aims to protect the interconnected network of open space areas of high biodiversity value within eThekweni Municipality.

In 2009, the Environmental Management Department of the Municipality proposed to convert the D'MOSS from a policy of the Council to a component of the various town planning schemes through the amendment of these schemes in terms of Section 47 bis A of the Town Planning Ordinance, 1949. The definition and scheme controls applicable to the D'MOSS controlled area are as follows:

##### ***Clause 1 – Interpretation Of Terms***

***“D'MOSS Controlled area”*** means any area demarcated upon the map by the overprinting of a green hatched pattern (or by a green layer on the GIS), where, by reasons of the natural biodiversity, flora and fauna, topography, or the environmental goods and services provided or other like reasons, development or building may be prohibited, restricted, or permitted upon such conditions as may be specified having regard to the nature of the said area.

##### ***Clause 10 – Limitations Upon Development Due to Lack Of Services, Unsuitability of Land, Environmental and Other Causes***

- (3) (a) *No person shall within a D'MOSS controlled area (as defined in clause 1) develop any land, or excavate or level any site, or remove any natural vegetation from, or erect any structure of any nature whatsoever, dump on or in or carry out any work upon such site*

*without having first obtained the prior approval of the Council in terms of this sub-clause.*

*(b) No such approval shall be given unless the Head: Development Planning Environment and Management, after due examination, and subject to such conditions as he/she may specify, is satisfied that any such development, erection or other work referred to in paragraph (a) hereof can be carried out without degrading, destroying, or negatively impacting on the integrity of the biodiversity and/or environmental goods and services found or generated within the said D'MOSS controlled area.*

*(c) For the purpose of any examination referred to in paragraph (b), the applicant shall, where required by the Head: Development Planning Environment and Management submit such plans or other supporting documentation as the Head: Development Planning Environment and Management may require. Without affecting the generality of the foregoing, such plans and supporting documentation may be required by the Head: Development Planning Environment and Management to be certified as being correct by an appropriately recognised/registered Environmental Consultant.*

*(d) The conditions referred to in paragraph (b) hereof may be such as to: -*

- (i) restrict the form or nature of the building or structure;*
- (ii) limit the size and/or shape of the building or structure;*
- (iii) prescribe or restrict the materials of which the building or structure is to be constructed;*
- (iv) determine the siting of any building or structure and of any soakpits or other drainage works;*

*(vi) prohibit or control any excavation on the site, the construction of any roadways, paths and other garden features;*

*(vii) prohibit or control the removal of any natural vegetation;*

*(viii) control any other aspects which the Head: Development Planning Environment and Management considers to be desirable.*

eThekweni Municipality undertook a number of steps to integrate the D'MOSS into the various town planning schemes by:

- publishing advertisement of a general scheme amendment in the press on a number of occasions in 2009;
- holding a number of public meetings throughout the city;
- serving notices by post on some 18,000 land owners; and
- careful analysis and consideration of all comments received.

Following the above, the Council formally adopted to integrate the D'MOSS into the various schemes as a control area or overlay on 9 December 2010. This was subsequently challenged in court by La Seur and others on the grounds that it was unconstitutional for municipalities to regulate on environmental matters. In the judgement in *La Seur vs eThekweni Municipality*, the court found that:

- national and provincial environmental law acknowledge and provide for the role of local government in environmental regulation;
- D'MOSS amendments in no way transgress upon constitutional or other environmental powers of national and provincial authorities;

- D'MOSS amendments are not unconstitutional and invalid and accordingly dismissed the application with costs; and
- municipalities have the authority to pass legislation dealing with environmental matters as a part of their power to pass legislation dealing with municipal planning.

#### **2.1.10 Western Cape Planning Legislation and Overlay Zones**

The Western Cape Land Use Planning Act, 2014 (Act. No. 3 of 2014) (LUPA) provides the provincial legislation for regulating planning within the Western Cape Province. Chapter IV of the LUPA sets out the provisions for Zoning Schemes, including the purpose, contents and procedures applicable. The LUPA does not specifically identify Management Overlays as part of these provisions.

The Overstrand Zoning Scheme Regulations gazetted on 29 November 2013 includes provision for Overlay Zones as part of the Zoning Scheme under Chapter 15. The Status of Overlay Zones in the Overstrand Zoning Scheme Regulations are as follows:

- *An overlay zone applies in addition to the base zone (or underlying zoning) of the properties to which it relates, and may vary the development rules relating to these properties;*
- *The provisions of an overlay zone may be more restrictive or more permissive than the provisions applicable to the base zone of the property concerned;*
- *If the provisions of an overlay zone are different to, or in conflict with the provisions of a base zone, the more restrictive provisions shall apply, unless stated otherwise in the overlay zone concerned; and*

- *The provisions of an overlay zone do not in any way detract from any obligations in terms of national and provincial legislation.*

The Knysna Municipality Zoning Scheme Bylaw, 2014 also makes provision for Overlay Areas as part of the Zoning Scheme, under Chapter 8. The Status of Overlay Areas in the Knysna Zoning Scheme are as follows:

- *Notwithstanding the fact that a particular zoning is attached to a property or area in terms of this Scheme, Council may designate an overlay area to effect the implementation of a special category or directives, development parameters and land use parameters in addition to the existing use rights that apply to the property;*
- *Council may determine the development management provisions for Overlay Areas according to the package of plans approach as prescribed in this Scheme or Council may require the submission of a Site Development Plan; and*
- *The provisions of an overlay area do not in any way detract from any obligations in terms of national and provincial legislation.*

## **2.2 Environmental Planning and Management**

### **2.2.1 iLembe Environmental Management Framework**

The KZN Department of Agriculture and Environmental Affairs (DAEA – now the Department of Economic Development, Tourism and Environmental Affairs – DEDTEA) identified the need for a tool to guide development initiatives in the iLembe District from an environmental perspective, i.e. the development of an Environmental Management Framework (EMF). The main driver behind the development of the EMF was the need to provide environmental support for decision makers in the



municipality. Therefore, the purpose of the EMF was to provide a framework which will inform the Integrated Development Planning (IDP) process and Spatial Development Frameworks within the District, as well as to provide a framework for environmental decision making by:

- Providing definite criteria for decision making;
- Providing an objective environmental sensitivity overview;
- Defining and categorisation of environmental, social and heritage resources, economic and institutional aspects;
- Identifying sensitive areas spatially; and
- Formulating management guidelines.

The focus of the EMF is to identify areas of natural resource importance, ecological sensitivity, as well as transformation pressures in order to formulate a spatial environmental plan to guide decision making and relevant spatial development plans.

The EMF is also a tool to guide development, focusing on the major backlogs in housing, and infrastructure and service provision without compromising environmental resilience.

Of particular relevance to this project is the identification of a coastal management zone as part of the EMF process. This spatial area has development guidelines associated with it in terms of the iLembe EMF. These are summarised as follows:

#### **Compatible Activities**

- Tourism activities, conservation, protected areas and private nature reserves (although new infrastructure needs careful consideration);

- Infrastructure associated with public access to coastal resources;
- Small scale fishing and fishing industry facilities at established small craft harbours; and
- Residential and supportive commercial development outside designated sensitive areas (natural vegetation, watercourses, coastal management lines, etc.) and within designated development nodes.

#### **Incompatible Activities**

- Development outside designated nodes;
- Industrial development;
- Infrastructure or development within coastal hazard zones, seaward of coastal management lines or within sensitive natural areas;
- Any development that prevents public access to coastal resources;
- Any development that prevents the free movement of beach sand or interferes with primary dunes; and
- Activities that pose a pollution risk to estuaries.

#### **2.2.2 Integrated Coastal Management Act**

The use of ICM as the legislated instrument in the context of the South African Coastal Zone originally began with the formulation of South Africa's pre-eminent environmental legislation, the National Environmental Management Act (NEMA) in 1998. This Act's primary objective includes the promotion of co-operative governance, as well as ensuring the priority development of co-ordinating mechanisms and institutions (Department of Environmental Affairs, 2014). Shortly thereafter South Africa's first ICM policies emerged in the form of the Coastal Policy Green Paper in 1998 and the White Paper for Sustainable Coastal Development in 2000. After some delay this policy was enacted via a specific environmental management act (SEMA) under the umbrella



of the NEMA, namely National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008; ICM Act).

The principles contained in the ICM Act mirror the principles contained in the Green and White Papers, and provide a coastal specific interpretation of the NEMA principles. These coastal specific principles must be applied in a balanced manner in order to complement the application of the NEMA environmental management principles. Implementation should attempt to promote the conservation, protection or sustainable development of the coastal environment. The complexity of decision making in the coastal environment does need to be acknowledged and therefore, only those principles or objectives relevant to the particular decision or action contemplated must be applied. Objectives of the ICM Act are detailed as follows:

- Determine the coastal zone of South Africa;
- Provide within the framework of the NEMA, for the coordinated and integrated management of the coastal zone by all spheres of government in accordance with the principles of co-operative governance;
- Preserve, protect, extend and enhance the status of coastal public property as being held in trust by the State on behalf of all South Africans, including future generations;
- Secure equitable access to the opportunities and benefits of coastal public property; and
- Give effect to South Africa's obligations in terms of international law regarding coastal management and the marine environment.

An amendment to the ICM Act was recently published and came into effect in April 2015 (Act No. 36 of 2014). Some of these amendments are

more significant than others, and include amendments relating to coastal public property, the coastal protection zone, the National Coastal Committee, coastal access and coastal use permits – which replaces coastal leases and concessions.

The ICM Act also defines the coastal zone by providing uniform national definitions to support effective and practical implementation. The coastal zone is made up of coastal waters, coastal public property, the coastal protection zone; coastal access land; coastal protected areas, special management areas and estuaries.

The ICM Act assigns roles and responsibilities in respect to the management of the coastal zone to all three spheres of government. These are unpacked in the National CMP with assigned municipal roles and responsibilities detailed below as:

- Ensuring public access to coastal public property;
- Delineate coastal management lines on zoning maps;
- Determining and adjusting coastal boundaries of coastal access land;
- Marking coastal boundaries on zoning maps;
- Preparing and adopting Municipal CMPs;
- Ensuring consistency and alignment between Municipal CMPs and other statutory plans;
- Undertaking adequate consultation and public participation; and
- Implementation of land use legislation in coastal protection zone.

It should be noted that while the ICM Act defines a municipality as a metropolitan, district or local municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) in respect to implementation if an area which falls within both a local

municipality and a district municipality, responsibilities are assigned to the district municipality; or the local municipality, if the district municipality, by agreement with the local municipality, has assigned the implementation of that provision in that area to the local municipality.

### 2.2.3 Environmental Impact Assessment Regulations, 2014

The National Environmental Management Act, 1998 (Act No. 24 of 1998; NEMA) is the fundamental and overarching legal instrument for environmental management in South Africa. The NEMA is underpinned by the Constitutional right of all South Africans to an environment that is not harmful to their health or well-being; and to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation; promote conservation; and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development (section 24 of the Constitution of the Republic of South Africa).

Assessment of environmental impact is governed by the recently updated NEMA Environmental Impact Assessment Regulations, 2014, and accompanying listing notices 1, 2 and 3. Listing notice 2 identifies activities requiring scoping and environmental impact assessment prior to authorisation being issued with listing notices 1 and 3 identifying activities requiring basic assessment only. Listing notice 3 applies to listed activities in specific geographical areas only. An overview of relevant coastal activities is detailed in Section 8.3. In summary, activities requiring prior environmental authorisation from the KZN Department of Economic Development, Tourism and Environmental Affairs (DEDTEA) in respect to listing notices 1 and 2 relate to:

- Aquaculture;
- Development near or within watercourses (exceeding prescribed thresholds)\*;
- Development of structures in Coastal Public Property;
- Desalination of water;
- Development within the sea, estuary, littoral active zone or 100m inland from the high water mark (exceeding prescribed thresholds)\*;
- The prevention of the free movement of sand in the littoral active zone;
- The movement of material greater than 5m<sup>3</sup>;
- Marine telecommunication facilities and/or infrastructure;
- The development and relation operation of islands, anchored platforms or other structures below or along the sea bed; and
- The expansion of the above activities.

*It should be noted that activities indicated with a \* are excluded in ports or harbours, urban areas as well as existing roads or road reserves.*

Activities included in Listing Notice 3, relating to specific geographical areas and within specified thresholds, are in respect to:

- Billboards;
- Reservoirs;
- Masts or towers;
- Roads;
- Resorts, Lodges, Hotels and tourism/hospitality facilities;
- Aircraft Landing strips and runways;
- Above ground cableways and funiculars;
- Zip-lines or foefie-slides;
- Tracks or routes for outdoor motor racing;

- Facilities or infrastructure for the storage and handling of a dangerous good;
- The clearance of indigenous vegetation;
- Aquaculture;
- Development near or within watercourses in specified areas; and
- The transformation of >1000m<sup>2</sup> of land.

Any municipal spatial development tools will need to conform to the above and require approval from the relevant competent authority in respect to activities included in the listing notices. More stringent provisions and additional assessment by the Municipality can, however, be included.

#### 2.2.4 KwaDukuza Biodiversity and Open Space Management Plan, 2013

The KwaDukuza Biodiversity and Open Space Management Plan (BOSMaP) is a systematic conservation plan that identifies important areas in the municipality for the conservation of biodiversity. 'Area for conservation' targets (in hectares) were assigned to each feature (species/vegetation type) based on their conservation status, the proportional occurrence of the feature in the study area relative to its overall range and on established national and provincial targets for the feature (KwaDukuza BOSMaP, 2013). The relative importance of each untransformed habitat patch was determined based on this. Important natural vegetation remnants within the KwaDukuza Local Municipality with respect to ecosystem services have also been identified as part of BOSMaP.

Figure 2-3 shows the spatial distribution of biodiversity assets and their irreplaceability within KwaDukuza.

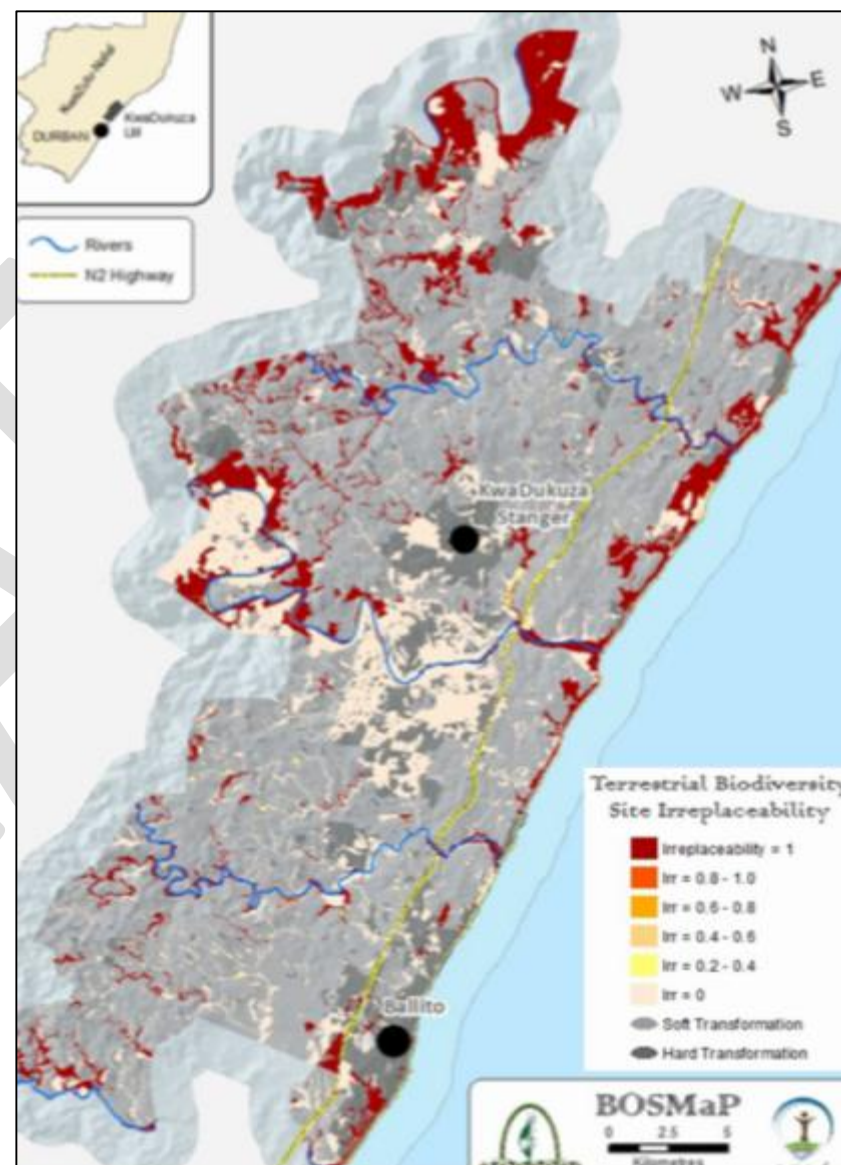


Figure 2-3: KwaDukuza BOSMaP indicating the Irreplaceability Index

The important biodiversity role of the coastal area is noted, particularly between the Umhlali and uThukela rivers.

## 2.3 Key Coastal Management Issues

The key coastal management issues identified through the above review is as follows:

### 2.3.1 Municipal Planning

- Municipalities have the constitutional and legislative authority to legislate on environmental matters as part of their responsibility for municipal planning.
- This authority needs to be undertaken with due recognition and co-operation with the role and authority of national and provincial legislation and powers.

### 2.3.2 Management Overlays/Overlay Zones

- Overlay Zones, or Management Overlays as they are referred to in the KwaDukuza Scheme, are not specifically identified in the national SPLUMA legislation. Overlay Zones are not specifically identified in the planning by-laws for KwaDukuza Municipality. Future amendments of the KwaDukuza SPLUM By-Laws should consider the introduction of provisions dealing with Management Overlays to provide additional clarity, certainty and legislative basis in addition to the land use scheme.
- Management Overlays have been specifically identified as a zoning instrument as part of the KwaDukuza Planning Scheme and the Scheme sets out the status and requirements for Management Overlays.

- The proposed Coastal Management Overlay can be incorporated into the KwaDukuza Planning Scheme through a resolution to adopt the Coastal Management Overlay as Management Overlay within the scheme, subject to the procedures and requirements set out under the SPLUMA, KZN PDA (and any amended/replacement provincial legislation), the KwaDukuza SPLUM By-Laws and the Scheme itself.

### 2.3.3 Scheme Amendment

- The amendment of the KwaDukuza Planning Scheme would need to follow the procedures as set out in the KZN PDA and also with due consideration for the relevant requirements in the SPLUMA.
- The KZN PDA provides for a newspaper notice, individual notices and a property notice or alternatively a public meeting in the event of a general scheme amendment or where it is impractical to provide individual notices or a property notice.
- Once the KZN SPLUMA is enacted, the amendment process would need to follow the procedures as set out under this new Act.
- An adopted plan or policy may be included within the Scheme as a Management Overlay once the Council has adopted a resolution to include the Management Overlay in the Schedule to the Scheme. The preparation of the plan or policy would have involved a public consultation process leading up to the adoption of the plan or policy.
- It may be advisable that the public consultation process leading to the adoption of the plan or policy include the public consultation elements as set out under the scheme and PDA, i.e. newspaper notice, general public meeting, etc.

### 2.3.4 Environmental Impact Assessment

- Activities requiring prior assessment and environmental authorisation are included in the 3 listing notices of the Environmental Impact Assessment Regulations, 2014.
- Listing notices 1 and 3 require completion of a basic assessment while listing notice 2 requires the completing of a scoping process as well as full environmental impact assessment process both by an independent Environmental Impact Assessment Practitioner.
- Generally development, or expansion of development, within ports or harbours, urban areas as well as existing roads or road reserves, is excluded.
- Activities undertaken for maintenance purposes do not require assessment but are required to be undertaken in terms of a maintenance management plan.
- Temporary structures are generally excluded but must be removed within 6 weeks.
- The clearance of between 1ha and 5ha of indigenous vegetation requires a basic assessment while the clearance of greater than 5ha requires scoping and full environmental impact assessment.
- Municipal environmental controls may be more stringent than the requirements of the Environmental Impact Assessment Regulations but never less stringent.

### 3 STUDY AREA CONTEXT AND DELINEATION

#### 3.1 Study Area Context

KwaDukuza Municipality, in the province of KwaZulu-Natal, forms part of the iLembe District Municipality and abuts eThekweni Municipality to the south, Mandeni Municipality to the north and Maphumulo and Ndwedwe municipalities to the west. The Indian Ocean forms the eastern boundary of the municipality.

KwaDukuza's biodiversity is threatened by human activities, mainly in the form of urban and tourism developments on the coast and in the south of the municipality. There are major coastal development opportunities but also requirements for appropriate conservation of sensitive coastal environments. The potential for increased development pressures and opportunities emanating from the south are already visible in terms of pressure for additional coastal accommodation and various forms of economic development (KwaDukuza CMP, 2010).

The important role that tourism plays towards the generation of revenue on a national, provincial and regional scale is well known within KwaZulu-Natal (KZN). Beach tourism is particularly popular in KZN, and thus the maintenance of beaches which are attractive to tourists, is of utmost importance in KwaDukuza. This includes the maintenance of natural beach function; sense of place; natural attraction and the provision of adequate tourist amenities and infrastructure.

The characteristics of the 7 estuaries of the KwaDukuza LM are given in Table 3-1. Contextualisation of each estuary is largely extracted from the KwaDukuza Strategic Environmental Assessment (Sivest, 2007) and SSI (2010) unless otherwise stated.

Figure 3-1 shows the spatial location and regional context of the estuaries described in Table 3-1.



**Table 3-1: Summary of Estuaries within KwaDukuza**

	TONGATI	MHLALI	SETENI	MVOTI	MDLOTANE	NONOTI	ZINKWASI
Estuary Type	TOCE	TOCE	TOCE	RM	TOCE	TOCE	TOCE
Environmental Condition	Poor	Fair	Fair	Fair	Good	Poor	Fair
Estuary area (ha) (5m contour)	150.8	128.8	4.7	273.1	42.3	138.1	205.5
Estuary length (km) (5m contour)	13.0	13.9	1.8	28.2	9.1	18.8	21.9
Catchment area (km <sup>2</sup> )	412	294	16	2651	43	251	73
Fish fauna	ns	Good	ns	Poor	Good	ns	Moderate
Water Quality	Poor	Good	Fair	Poor	Good	Fair	Fair
Aesthetics	ns	Good	ns	Moderate	Good	ns	Moderate
Ecosystem threat status	CR END	EN	LT	CR END	LT	EN	LT
Ecological category	E	C	C	D	B	B	C
IMPORTANCE SCORE	62.6	67.5	34.4	58.6	63.8	58.6	75.5
National Rank	83	71	184	95	80	96	48

Source: iLembe EMF 2012



Figure 3-1 : Spatial Location of Estuaries within KwaDukuza

## 3.2 Study Area Delineation

The Study Area has been defined to ensure compliance with the requirements in the ICM Act, 2008 to identify the **Coastal Zone**.

### 3.2.1 Coastal Zone

The ICM Act defines the components of the Coastal Zone in South Africa and proposes to regulate human activities within, or that affect, the Coastal Zone. The Coastal Zone is comprised of the following:

- **Coastal Public Property** – mainly Admiralty Reserve, land below the High-Water Mark (HWM), coastal waters and coastal protected areas;
- **Coastal Protection Zone** – an area along the inland edge of coastal public property;
- **Coastal Access Land** – land that the public may use to gain access to Coastal Public Property;
- **Special Management Areas** – an area where measures are needed to more effectively manage the coastal area/resources;
- **Estuarine Functional Zone** – area below the 5m amsl contour adjacent to all estuarine areas – including protected, urban or those in rural areas;
- **Coastal Risk Zones (High, Medium and Low Risk)** – overlay zones as per the proposed **Coastal Management Line** (to be designated by provincial government) where land use is proposed to be managed/controlled.

The Coastal Protection Zone (CPZ) is established for enabling the use of land that is adjacent to coastal public property or that plays a significant role in a coastal ecosystem to be managed, regulated or restricted for

purposes as set out in Section 17 of the ICM Act, 2008. Equally important is the directive given to all Coastal Municipalities whose area includes Coastal Public Property to make a by-law that designates strips of land as Coastal Access Land in order to secure public access to that coastal property.

The CPZ consists of a continuous strip of land, starting from the HWM and is most commonly, and incorrectly, defined as extending either 100m inland in developed urban areas zoned as residential, commercial, or public open space, or 1000m inland in areas that remain undeveloped or that are commonly referred to as rural areas. In terms of the ICM Act, the CPZ legally consists of the following:

**Table 3-2 : Composition of Coastal Protection Zone**

Composition of Coastal Protection Zone
<p>16. (1) <i>Subject to subsection (2). The coastal protection zone consists of–</i></p> <ul style="list-style-type: none"><li>(a) <i>land falling within an area declared in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989), as a sensitive coastal area within which activities identified in terms of section 21(1) of that Act may not be undertaken without an authorisation;</i></li><li>(b) <i>any part of the littoral active zone that is not coastal public property;</i></li><li>(c) <i>any coastal protection area, or part of such area, which is not coastal public property;</i></li><li>(d) <i>any land unit <b>situated wholly or partially within one kilometer of the high-watermark</b> which, when this Act came into force–</i><ul style="list-style-type: none"><li>(i) <i>was zoned for <b>agricultural or undetermined</b> use; or</i></li><li>(ii) <i>was not zoned and was not part of a lawfully established</i></li></ul></li></ul>

township, **urban area** or other human settlement;

- (e) any land unit not referred to in paragraph (d) that **is situated wholly or partially within 100m** of the high-water mark;
- (f) any coastal wetland, lake, lagoon or dam which is situated wholly or partially within a land unit referred to in paragraph (d)(i) or (e);
- (g) any part of the seashore which is not coastal public property, including all privately owned land below the high-water mark;
- (h) any admiralty reserve which is not coastal public property; or
- (i) any land that would be inundated by a 1:50 year flood or storm event.

(2) An area forming part of the coastal protection zone, except an area referred to in subsection (1)(g) or (h) may be excised from the coastal protection zone in terms of section 26.

Source: Section 16 of the ICM Act, 2008

The CPZ is established to manage, regulate and restrict the use of land that is adjacent to coastal public property, or that plays a significant role in the coastal ecosystem. More specifically, the aims of the CPZ are as follows:

**Table 3-3 : Purpose of Coastal Protection Zone**

#### Purpose of Coastal Protection Zone

17. The coastal protection zone is established for enabling the use of land that is adjacent to coastal public property or that plays a significant role in a coastal ecosystem to be managed, regulated or restricted in order to—

- (a) Protect the ecological integrity, natural character and the economic, social and aesthetic value of coastal public property;

- (b) Avoid increasing the effect or severity of natural hazards in the coastal zone;
- (c) Protect people, property and economic activities from risks arising from dynamic coastal processes, including the risk of sea-level rise;
- (d) Maintain the natural functioning of the littoral active zone;
- (e) Maintain the productive capacity of the coastal zone by protecting the ecological integrity of the coastal environment; and
- (f) Make land near the seashore available to organs of state and other authorised persons for:
  - (i) Performing rescue operations; or
  - (ii) Temporarily depositing objects and materials washed up by the sea or tidal waters.

Source: Section 17 of the ICM Act, 2008

#### 3.2.2 KwaDukuza Coastal Zone

The study area for the KwaDukuza CMP consists of three boundaries. These are reflected by their terrestrial outer limit and all include coastal waters as it applies to coastal planning and the Municipal jurisdiction<sup>1</sup>:

- **Coastal Protection Zone** – as defined according to the ICM Act of 2008<sup>2</sup>;

<sup>1</sup> It is noted that the determination of the boundary of the coastal protection zone is a Municipal competency.

<sup>2</sup> Refer to Section 16 of the ICM Act, 2008.

- **Coastal Sensitivities** – a buffer surrounding these areas incorporating specific coastal sensitivities (this will be used to confirm the appropriateness of the above boundary); and

The KwaDukuza Coastal Zone is an area comprised of various zones, including *inter alia*:

1. Coastal Protection Zone<sup>3</sup>;
2. Coastal Public Property;
3. Areas incorporating specific Coastal Sensitivities; and
4. Coastal Access Land.

The KDM CMP Coastal Zone is shown on the accompanying map as an irregularly shaped polygon which is a spatial representation of the various zones set out under 1. to 5. here above. It follows from the directives in the ICM Act, 2008, as set out above, that the “default” coastal zone is not necessarily 100m wide in urban and 1000m wide in agricultural zoned or undetermined zoned areas. The Act states that any LAND UNIT that intercepts the 100m/1000m lines is included in the coastal protection zone. This makes the Coastal Protection Zone much wider because it also includes the cadastral units intercepting the 100m and 1000m “default” zone. The Coastal Management Overlay and possible later actions of the KwaDukuza Municipality to declare a Coastal Planning Scheme has to take cognisance of this fact.

Refer to Figure 3-2, which depicts the Sheffield Beach North case study and clearly illustrates the different setback line delineation between the default and the adjusted setback.

<sup>3</sup> Refer to Section 16 of the ICM Act, 2008.

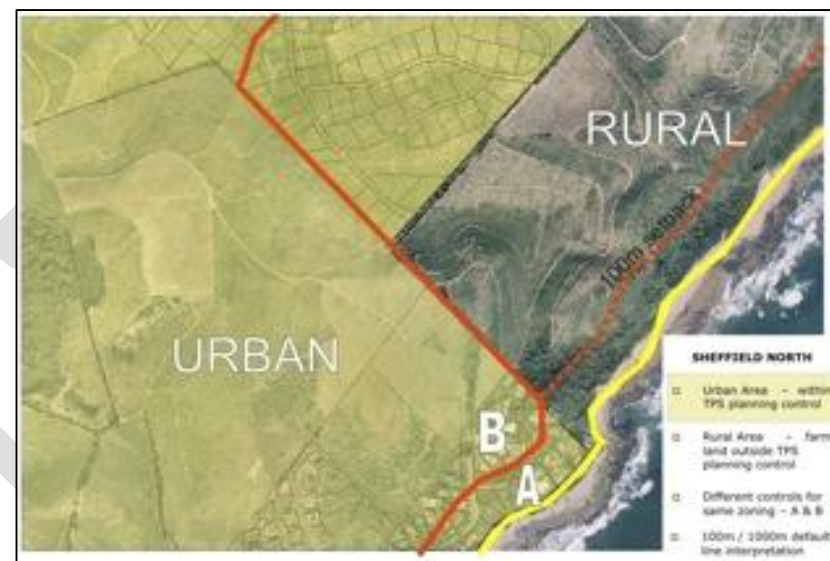
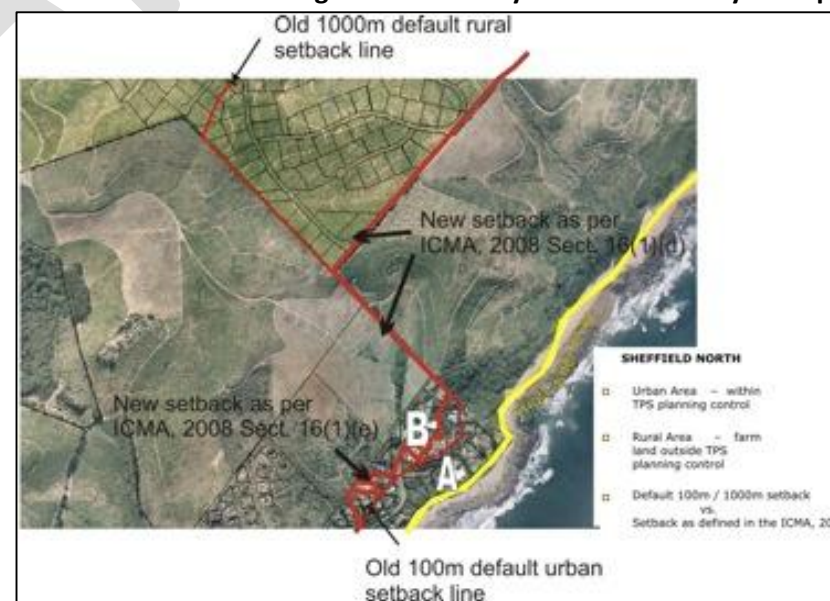


Figure 3-2 : Sheffield Beach Case Study Example



In terms of Section 28 of the ICM Act, 2008 the responsibility for determination and adjustment of the CPZ vests with the relevant MEC of a coastal province. KwaDukuza Municipality, in consultation with relevant Provincial and National spheres of Government, has been proactive in determining a draft CPZ in accordance with the provisions contemplated in the ICM Act, 2008 for its coastal zone.

The draft CPZ, once presented to and adopted by the KwaDukuza Municipal Council, iLembe District Council, the general public, and other stakeholders such as relevant National and Provincial spheres of Government, will be presented to the relevant Member of the Executive Council, KwaZulu-Natal, for determination, followed by giving notice of such determination in the Gazette.

On determination of the KwaDukuza CPZ as one of the Coastal Boundaries contemplated under Section 26 of the ICM Act, 2008, the KwaDukuza Municipality will delineate the CPZ on the relevant scheme maps to enable the public to determine the position of the CPZ Coastal Boundary in relation to existing cadastral boundaries.

It is important to note that the KDM CPZ IS NOT the 'Coastal Management Line' as contemplated in Section 25 of the ICM Act, 2008.

Refer to Figure 1-1 depicting the proposed KwaDukuza CMP.



## 4 COASTAL LAND USE TYPOLOGIES

In order to give effect to the KwaDukuza Coastal Management Programme and integrate effectively with the LUMS as per the ICM Act, four coastal landuse typologies have been developed. This has been undertaken in recognition of the different roles played by different land uses in the coastal zone, as well as recognizing the varying pressures faced by different land uses.

Four core coastal land use typologies have been developed that are directly linked to existing zoning categories within the KwaDukuza LUMS. These were categorised according to the dominant land use and character of the areas, and for the most part conform to property boundaries and/or other definable features. The core coastal typologies are:

- Coastal urban typology;
- Coastal rural typology;
- Coastal conservation typology; and
- Coastal infrastructure and amenity typology.

**Table 4-1: Comparison of Zoning and Core Coastal Typologies**

ZONING	COASTAL TYPOLOGY APPLIED
Active Open Space	Coastal Conservation
Conservation Area	Coastal Conservation
Private Open Space	Coastal Conservation
Beach Front Facility	Coastal Infrastructure & Amenity
Caravan Park 1	Coastal Infrastructure & Amenity
Public Parking	Coastal Infrastructure & Amenity
Road	Coastal Infrastructure & Amenity
Road Reserve	Coastal Infrastructure & Amenity

Substation	Coastal Infrastructure & Amenity
Water Works	Coastal Infrastructure & Amenity
Agriculture 1	Coastal Rural
Core Mixed Use 1	Coastal Urban
DFA	Coastal Urban
DFA Blythedale Coastal Resort	Coastal Urban
DFA Simbithi	Coastal Urban
DFA Zululami	Coastal Urban
Future Residential	Coastal Urban
Hotel 1	Coastal Urban
Hotel 2	Coastal Urban
Hotel 4	Coastal Urban
Multi-Purpose Retail and Office 1	Coastal Urban
Multi-Purpose Retail and Office 2	Coastal Urban
Multi-Purpose Retail and Office 5	Coastal Urban
Municipal and Government	Coastal Urban
Office 1	Coastal Urban
Residential Medium Impact	Coastal Urban
Residential Medium Impact 2	Coastal Urban
Residential Only Detached 3	Coastal Urban
Residential Only Detached 4	Coastal Urban
Residential Only Detached 5	Coastal Urban
Residential Only Detached 6	Coastal Urban
Residential Only High Density 1	Coastal Urban
Residential Only High Density 2	Coastal Urban
Residential Only High Density 3	Coastal Urban
Residential Only High Density 5	Coastal Urban
Residential Only Medium Density 2	Coastal Urban
Residential Only Medium Density 3	Coastal Urban

Residential Only Medium Density 4	Coastal Urban
Resort 1	Coastal Urban
Resort 2	Coastal Urban
Resort 3	Coastal Urban
Resort 4	Coastal Urban
Worship	Coastal Urban

In addition to the core typologies, additional informants were identified which provide important information related to biodiversity assets; environmental risk and coastal access. These have been incorporated as coastal informant layers, and generally do not conform to property or administrative boundaries. The coastal informant layers consist of:

- Critical biodiversity areas (CBAs) which are considered completely irreplaceable within the jurisdiction of KwaDukuza Local Municipality as identified by the BOSMaP process;
- High risk areas in terms of the KZN Coastal Vulnerability Index (CVI); and
- Coastal access land proposed as part of the KwaDukuza CMP and Development Management Tool.

The coastal typologies and coastal informant layers are described in more detail in the following section.

#### 4.1 Coastal Urban Typology

This typology consists of areas that are zoned residential, commercial, mixed use and resort, among other urban zoning categories. In addition,

where the CVI indicates that a high risk to coastal erosion is present, these areas are further specified as coastal urban high risk<sup>4</sup>.

#### 4.2 Coastal Rural Typology

The coastal rural typology consists of areas that are zoned agricultural in terms of the KwaDukuza LUMS.

#### 4.3 Coastal Conservation Typology

This typology is comprised of areas that are zoned as open space and conservation areas in terms of the LUMS, as well as including the estuarine functional zone.

#### 4.4 Coastal Infrastructure and Amenity Typology

Areas that are zoned for beach front facilities, public parking, roads and road reserves (among other similar zonings) have been categorised as coastal infrastructure and amenity.

#### 4.5 Biodiversity Informant

Areas that are considered completely irreplaceable within the jurisdiction of KwaDukuza Local Municipality as identified by the BOSMaP process form the basis of the biodiversity informant layer.

#### 4.6 Risk Informant

In the absence of the Coastal Management Line and associated risk zones for KZN, the CVI is considered the best available information on coastal risk. As such, areas that are categorised as high risk in terms of the CVI

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<sup>4</sup> The categorisation of risk has implications in terms of the NEMA: EIA Regulations listed activities (see Section 2.2.3)

have been used as the coastal risk informant layer. These areas will be replaced by the risk zones established by the Coastal Management Line process when this occurs.

#### 4.7 Coastal Access Informant

Coastal municipalities are required to delineate and report on coastal access land in terms of the ICM Act. As a first step towards this process, coastal access land was identified as part of the KwaDukuza CMP and Development Management Tool processes in 2012.

#### 4.8 Zoning and Coastal Typology Hierarchy

The relationship between the KwaDukuza Planning Scheme (zoning scheme) and the core coastal and informant typologies is shown in Figure 4-1. The zoning scheme forms the 'base layer' with the core coastal typologies re-categorising the different zonings as per Table 4-1. The informant layers of Coastal Access Land, High Risk CVI areas and completely irreplaceable CBAs are shown as the final layer. Figure 4-2 uses the example of a portion of Salt Rock to illustrate the core coastal typologies and the informant layers.



# Informants



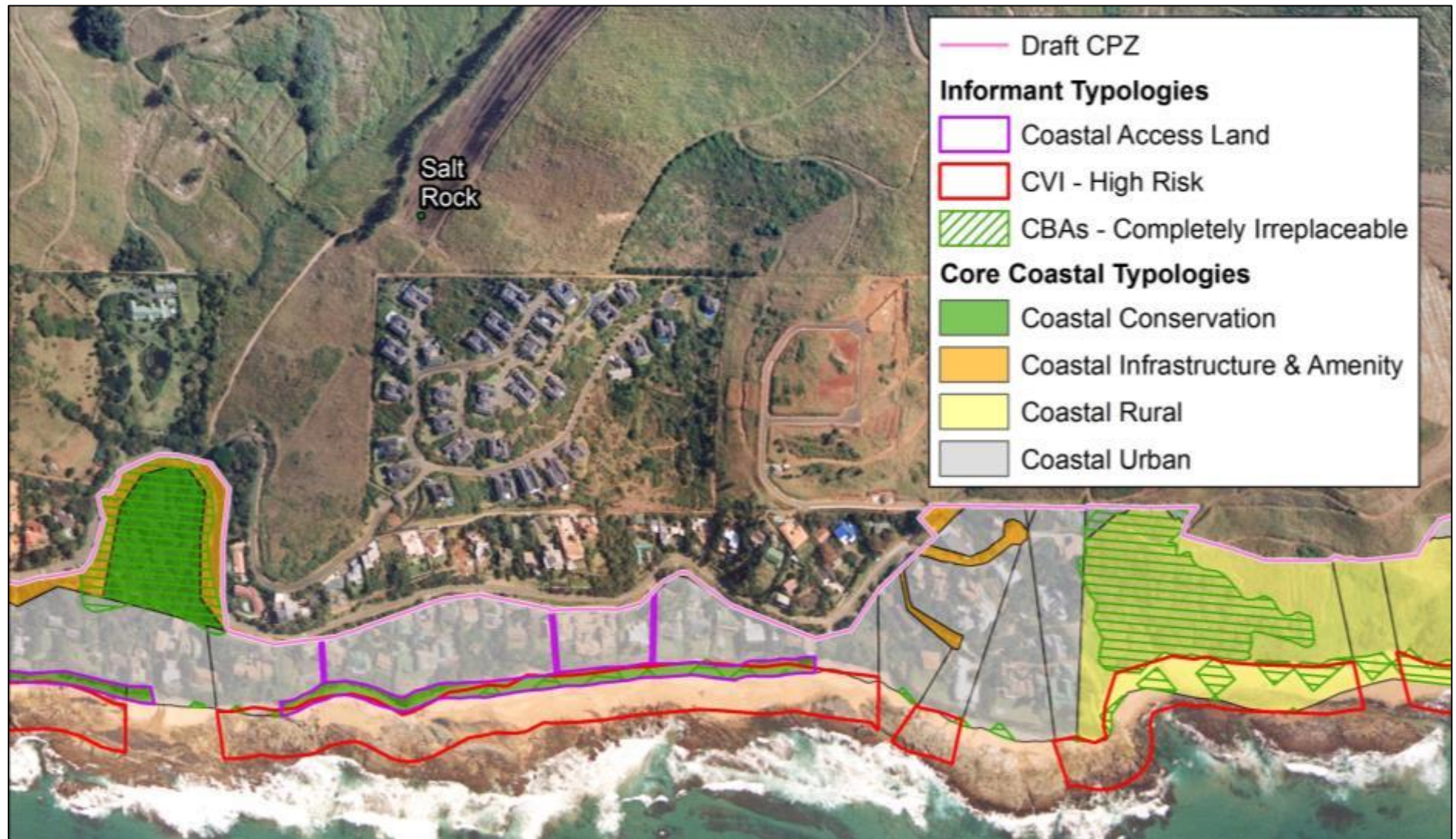
# Coastal Typologies



# Zoning Scheme

Figure 4-1: Zoning scheme, coastal typology and informant typology hierarchy





**Figure 4-2: Example of Core Coastal Typologies and Informant Typologies**

## 5 COASTAL LAND USE TYPOLOGY CONTROLS

The following sections provide detail on the controls that are proposed for the core coastal typologies described in previous sections.

### 5.1 Coastal Conservation

COASTAL TYPOLOGY	INTENTION	LISTED ACTIVITIES
<b>Coastal Conservation</b>	<ul style="list-style-type: none"> <li>Protect Critical Biodiversity areas</li> <li>Limit construction in the estuarine functional zone</li> <li>Protect sensitive coastal ecosystems</li> </ul>	<p><u>Listing notice 1:</u> 6,7,15 to 19, 41, 42, 49, 52 – 55, and 62</p> <p><u>Listing notice 2:</u> 10 and 25</p> <p><u>Listing notice 3:</u> all</p>
<b>Primary Use</b>	<b>With special consent</b>	<b>Not supported</b>
As per base land use controls, except where BOSMaP CBAs, High Risk CVI areas or Coastal Access Land are present	<ul style="list-style-type: none"> <li>Temporary infrastructure or structures proposed to be removed within 6 weeks</li> </ul>	<ul style="list-style-type: none"> <li>Transformation of natural habitats</li> </ul>
<b>Additional Controls</b>		
<ul style="list-style-type: none"> <li>All structures constructed, if approval is granted by the DEDTEA, require approval from a professionally registered engineer.</li> <li>All structures, if approval is granted by the DEDTEA, must preferably be elevated on pilings, posts, piers-and-joists, column or similar foundations.</li> <li>All structures constructed, if approval is granted by the DEDTEA, must be designed to allow for the entry and exit of flood waters with necessary design arrangements to ensure that coastal risk is addressed and reduced by implementing responsible mitigation measures to the satisfaction of the Municipality.</li> <li>Any new development, if approval is granted by the DEDTEA, must be designed and positioned within reason to limit potential flood damage and risk to human life, including but not limited to positioning buildings in suitably acceptable elevated portions of properties.</li> <li>Any new development, if approval is granted by the DEDTEA, must demonstrate reasonable risk reduction measures and should include innovative solutions (adaptable buildings, re-locatable buildings, flood-proofed buildings, flood resistant and resilient construction, etc.).</li> <li>Storm water management plans must be submitted along with building plans.</li> <li>Hardened surfaces must be minimised and suitable permeable alternative utilised to maximise natural infiltration and reduce overland flow and associated velocities with concomitant risk of erosion and damage.</li> <li>Only fully enclosed / self-contained effluent storage and treatment systems will be permitted if links to sewer mains are not possible. These must be located either on the landward side of structures or either side of structures, and recommended by a Registered Engineer to ensure suitable sealing and</li> </ul>		



safety.

- Development should be sited to minimise the removal of trees and endemic vegetation.
- Existing coastal processes, including dune migration and littoral drift, should not be impeded and indigenous vegetation must be maintained.
- Fencing or other barriers must be permeable to accommodate storm events and limit structural damage and associated negative impacts on the environment.

## 5.2 Coastal Urban

COASTAL TYPOLOGY	INTENTION	LISTED ACTIVITIES
<b>Coastal Urban</b>	<ul style="list-style-type: none"> <li>• Limit public and private liability</li> <li>• Increase public awareness of the potential risks to property and human life</li> <li>• Maintain coastal quality</li> <li>• Prevent encroachment that will impact on the integrity of the shoreline ecology and exacerbate negative impacts</li> <li>• Enable safe evacuation in an emergency</li> </ul>	<p><u>Listing notice 1:</u> 6,7,15 to 19, 41, 42, 49, 52 – 55, and 62</p> <p><u>Listing notice 2:</u> 10 and 25</p> <p><u>Listing notice 3:</u> all</p>
<b>Primary Use</b>	<b>With special consent</b>	<b>Not supported</b>
As per base land use controls, except where BOSMaP CBAs, High Risk CVI areas or Coastal Access Land are present	<ul style="list-style-type: none"> <li>• Temporary infrastructure or structures proposed to be removed within 6 weeks</li> </ul>	Transformation of BOSMaP Priority 1 areas
<b>Additional Controls</b>		
<ul style="list-style-type: none"> <li>• All structures constructed, if approval is granted by the DEDTEA, require approval from a professionally registered engineer.</li> <li>• All structures constructed, if approval is granted by the DEDTEA, must preferably be elevated on pilings, posts, piers-and-joists, column or similar foundations with the lowest floor of habitable structures/buildings constructed above a pre-determined risk level.</li> <li>• Lower inhabitable floors (i.e. garages, basements) of structures/buildings must be permeable – i.e. have openings to allow for the entry and exist of flood waters – to allow effective interior and exterior hydrostatic pressure equalisation during and post inundation.</li> <li>• Habitable basements or rooms will only be permitted if an engineer has made the necessary design arrangements to ensure that coastal risk is addressed and reduced by implementing responsible mitigation measures to the satisfaction of the Municipality.</li> <li>• Consideration during conceptual building design must be given to issues of privacy, overshadowing and visual impact and the apportionment and</li> </ul>		

positioning of higher risk site areas for parking, open space and recreational areas.

- Any new development must be designed and positioned within reason to limit potential flood damage and risk to human life, including but not limited to positioning buildings in suitably acceptable elevated portions of properties.
- Development must be designed and constructed, within the framework of applicable building controls, in such a way that buildings and structures are positioned furthest from the foreshore whether limited by rear space, side space or the building line (up to the maximum allowed in the applicable scheme).
- Building design must demonstrate reasonable risk reduction measures and should include innovative solutions (adaptable buildings, re-locatable buildings, flood-proofed buildings, flood resistant and resilient construction, etc.) without increasing and transferring risks to adjacent properties.
- Key mechanical and electrical services/structures (e.g. substations, transformers, generators, geysers and DB boards) must be located above a pre-determined risk level.
- After construction, any exposed ground area must be stabilised by the use of ground covering plants or mulches to minimise the risk of erosion.
- On request from the municipality, a storm water management plan might be required to be submitted along with building plans.
- Hardened surfaces to be minimised and suitable permeable alternative utilised to maximise natural infiltration and reduce overland flow and associated velocities with concomitant risk of erosion and damage.
- Only fully enclosed / self-contained effluent storage and treatment systems will be permitted if links to sewer mains are not possible. These must be located either on the landward side of structures or either side of structures, and recommended by a Registered Engineer to ensure suitable sealing and safety.
- Development should be sited to minimise the removal of trees and endemic vegetation.
- Existing coastal processes, including dune migration and littoral drift should not be impeded and indigenous vegetation must be maintained.
- Dunes must be protected and rehabilitated where necessary to reinforce and strengthen natural barriers
- Exotic species of vegetation should be limited to feature trees or shrubs within an indigenous setting.
- Fencing or other barriers must be permeable to accommodate storm events and limit structural damage and associated negative impacts on the environment.

### 5.3 Coastal Rural

COASTAL TYPOLOGY	INTENTION	LISTED ACTIVITIES
Coastal Rural	<ul style="list-style-type: none"> <li>• To maintain a balance between the rural and urban environment</li> <li>• Protect indigenous fauna and flora</li> <li>• Limit ribbon development and control sprawling urban development</li> </ul>	<p><u>Listing notice 1:</u> 6,7,15 to 19, 41, 42, 49, 52 – 55, and 62</p> <p><u>Listing notice 2:</u> 10 and 25</p> <p><u>Listing notice 3:</u> all</p>

	<ul style="list-style-type: none"> <li>• Address uncontrolled subdivision</li> <li>• Avoid hazards</li> <li>• Retain aesthetic values</li> </ul>	
<b>Primary Use</b>	<b>With special consent</b>	<b>Not supported</b>
As per base land use controls except where BOSMaP CBAs, High Risk CVI areas or Coastal Access Land are present	<ul style="list-style-type: none"> <li>• Temporary infrastructure or structures proposed to be removed within 6 weeks</li> </ul>	<ul style="list-style-type: none"> <li>• Transformation of natural areas</li> <li>• Disruption of natural processes</li> <li>• Development of more than a single dwelling on properties zoned as agriculture</li> </ul>
<b>Additional Controls</b>		
<ul style="list-style-type: none"> <li>• All structures constructed, if approval is granted by the DEDTEA, should be outside any high risk areas and set-back from the coast and littoral active zone.</li> <li>• Storm water management plans must be submitted along with building plans.</li> <li>• Hardened surfaces must be minimised and suitable permeable alternative utilised to maximise natural infiltration and reduce overland flow and associated velocities with concomitant risk of erosion and damage.</li> <li>• Only fully enclosed / self-contained effluent storage and treatment systems will be permitted if links to sewer mains are not possible. These must be located either on the landward side of structures or either side of structures, and recommended by a Registered Engineer to ensure suitable sealing and safety.</li> <li>• Development should be sited to minimise the removal of trees and endemic vegetation.</li> <li>• Existing coastal processes, including dune migration and littoral drift, should not be impeded and indigenous vegetation must be maintained.</li> <li>• After construction, any exposed ground area must be stabilised by the use of ground covering plants or mulches to minimise the risk of erosion.</li> <li>• Dunes must be protected and rehabilitated where necessary to reinforce and strengthen natural barriers</li> <li>• Exotic species of vegetation should be limited to feature trees or shrubs within an indigenous setting.</li> <li>• Fencing or other barriers must be permeable to accommodate storm events and limit structural damage and associated negative impacts on the environment.</li> </ul>		

## 5.4 Coastal Infrastructure and Amenity

COASTAL TYPOLOGY	INTENTION	LISTED ACTIVITIES
<b>Coastal Infrastructure/ Amenity</b>	<ul style="list-style-type: none"> <li>• To manage the environmental impacts of government related infrastructure development and maintenance (sewage, roads,</li> </ul>	<u>Listing notice 1:</u> 6,7,15 to 19, 41, 42, 49, 52 – 55, and 62 <u>Listing notice 2:</u> 10 and 25

	<p>stormwater, coastal access, reservoirs, erosion control, etc.)</p> <ul style="list-style-type: none"> <li>To appropriately locate public amenity (parking, pools, life-saving facilities, ablutions, boardwalks, etc.)</li> </ul>	<u>Listing notice 3: 1 to 15</u>
<b>Primary Use</b>	<b>With special consent</b>	<b>Not supported</b>
As per base land use controls except where BOSMaP CBAs, High Risk CVI areas or Coastal Access Land are present	<ul style="list-style-type: none"> <li>Temporary infrastructure or structures proposed to be removed within 6 weeks</li> </ul>	Transformation of BOSMaP Priority 1 areas
<b>Additional Controls</b>		
<ul style="list-style-type: none"> <li>All structures constructed, if approval is granted by the DEDTEA, should be outside any high risk areas and set-back from the coast and littoral active zone.</li> <li>Hardened surfaces must be minimised and suitable permeable alternative utilised to maximise natural infiltration and reduce overland flow and associated velocities with concomitant risk of erosion and damage.</li> <li>Only fully enclosed / self-contained effluent storage and treatment systems will be permitted if links to sewer mains are not possible. These must be located either on the landward side of structures or either side of structures, and recommended by a Registered Engineer to ensure suitable sealing and safety.</li> <li>Development should be sited to minimise the removal of trees and endemic vegetation.</li> <li>Existing coastal processes, including dune migration and littoral drift, should not be impeded and indigenous vegetation must be maintained.</li> <li>After construction, any exposed ground area must be stabilised by the use of ground covering plants or mulches to minimise the risk of erosion.</li> <li>Dunes must be protected and rehabilitated where necessary to reinforce and strengthen natural barriers</li> <li>Exotic species of vegetation should be limited to feature trees or shrubs within an indigenous setting.</li> <li>Fencing or other barriers must be permeable to accommodate storm events and limit structural damage and associated negative impacts on the environment.</li> </ul>		

## 6 KWADUKUZA COASTAL MANAGEMENT OVERLAY

### 6.1 KwaDukuza Coastal Management Overlay

Table 6-1 sets out the KwaDukuza Coastal Management Overlay proposed to be incorporated into the register and as a schedule to the KwaDukuza Planning Scheme.

**Table 6-1 : KwaDukuza Coastal Management Overlay**

Management Overlay 1 Coastal Management Overlay
<p><b>Location (see Management Overlay Plan):</b></p> <p>The area of application for the Coastal Management Overlay (CMO) is the KwaDukuza Coastal Protection Zone (CPZ), as contemplated in Section 17 of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008; ICM Act) and as delineated on the Scheme Maps within the KwaDukuza Planning Scheme.</p>
<p><b>Introduction:</b></p> <p>The Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) and the National Environmental Management Act's EIA Regulations refer to various lines or boundaries proposed to be 'drawn' in the coastal zone. These boundaries and/or lines are intended to fulfil various purposes that range from:</p> <ul style="list-style-type: none"> <li>Defining the terrestrial boundary of the coastal zone, commonly referred to as the 'Coastal Protection Zone' which may be determined in accordance with the provisions of Section 28 of the ICM Act, 2008;</li> <li>Establishing the 'Coastal Management Line' also commonly referred</li> </ul>

to as the 'Coastal Hazard Line' or the 'Limited Development Line' in accordance with the provisions of Section 25 of the ICM Act, 2008;

- 'Coastal Public Property' which may be determined in accordance with the provisions of Section 27 of the ICM Act, 2008;
- 'Special Management Areas' which may be determined in accordance with the provisions of Section 23 of the ICM Act, 2008; and
- 'Coastal Access Land' which may be determined in accordance with the provisions of Section 29 of the ICM Act, 2008.

KwaDukuza Municipality has determined a 'Coastal Protection Zone' in accordance with the provisions contemplated in Section 26(1)(b) of the ICM Act, 2008. This boundary has been delineated and is shown on a series of maps that will form part of KwaDukuza Planning Scheme, which applies within KwaDukuza's Jurisdiction. This approach is consistent with the provisions of Section 31 of the ICM Act, 2008 and it enables the public to determine the position of the KDM Coastal Protection Zone boundary in relation to existing cadastral boundaries.

#### Statement of Intent:

The KwaDukuza Municipality has resolved to give effect to the Development Management aspect of the KwaDukuza Coastal Management Programme (CMP), as it applies to the KwaDukuza Coastal Protection Zone proposed during the CMP process (as mapped on **Plan 1.2 and 1.2A**), through the application of this dedicated KwaDukuza Coastal Management Overlay.

In terms of the Integrated Coastal Management Act, 2008, the KZN Planning and Development Act, 2008 (as amended), the Spatial Planning and Land Use Management Act, 2013, the KwaDukuza Spatial Planning and Land Use Management By-Laws, 2015 and the KwaDukuza Planning Scheme, the KDM Coastal Management Overlay is established to manage, regulate and, where applicable, restrict the use of land that is

adjacent to Coastal Public Property, or that plays a significant role in the coastal ecosystem, as set out in Section 16 of the ICM Act, 2008. Land use and land use management within the Coastal Protection Zone must take account of the particular coastal resources, features, sensitivities and zones that have been identified through the KwaDukuza Coastal Management Programme and KwaDukuza Coastal Management Overlay processes.

#### **Decision/Policy Guidelines**

1. At any time after the effective date, and subject to the provisions of the KwaDukuza Planning Scheme in respect of non-conforming existing uses, no person shall, within the KwaDukuza Coastal Protection Zone (CPZ), develop any land, or excavate or level any site, or remove any natural vegetation from, or erect any structure of any nature whatsoever, dump on or in or carry out any work upon such site without having first obtained the prior approval, in terms of the Coastal Management Overlay, of the KwaDukuza Municipality and any other relevant authority as may be required by law.
2. No such approval shall be given unless KwaDukuza Municipality, after due examination, and subject to such conditions as the Council may specify, is satisfied that any such development, erection or other work referred to in paragraph 1 hereof can be carried out without degrading, destroying, or negatively impacting on the integrity of the coastal resources, biodiversity and/or environmental goods and services found or generated within the said KwaDukuza CPZ.
3. For the purpose of any examination referred to in paragraph 2, the applicant shall, where required by KwaDukuza Municipality, submit such plans or other supporting documentation as the Council may require. Without affecting the generality of the foregoing, such plans and supporting documentation may be required by the Council to be certified as being correct by an appropriately recognised/

registered independent Environmental Assessment Practitioner.

4. Any proposed change of land use within the areas depicted on **Plan 1.2 and 1.2A** must be submitted to the Municipality, the Department of Economic Development, Tourism and Environment Affairs and KZN Ezemvelo Wildlife for comment and may require the preparation of an Environmental Impact Assessment in terms of addressing the additional environmental scoping of the National Environmental Management Act Regulations for the change and development of land use.
5. The conditions referred to in paragraph 2 hereof may be such as to:
  - restrict the form or nature of the building or structure;
  - limit the size and/or shape of the building or structure;
  - prescribe or restrict the materials of which the building or structure is to be constructed;
  - determine the siting of any building or structure and of any soakpits or other drainage works;
  - prohibit or control any excavation on the site, the construction of any roadways, paths and other garden features;
  - prohibit or control the removal of any natural vegetation;
  - control any other aspects which the Council considers to be desirable.
6. Any person who fails to obtain the approval of KwaDukuza Municipality prior to initiating or commencing with any development within the KwaDukuza CPZ shall be guilty of an offence, and if found guilty of such an offence, may incur penalties as provided for under the KwaDukuza Planning Scheme.
7. It should be noted that the inclusion of the Coastal Management Overlay as part of the Planning Scheme does not exempt landowners or developers from addressing the additional environmental scoping or EIA requirements of the National Environmental Management Act



and its Regulations for the change and development of land use.

8. The Coastal Land Use Typologies identified within the Coastal Management Overlay Report shall be managed in accordance with the Controls contained in Section 5 of the Coastal Management Overlay Report, in association with any additional detailed environmental plans adopted by the Municipality and any requirements set out by Ezemvelo KZN Wildlife in the adoption of any Local or District Biodiversity Plans.
9. The coastal resources within the KwaDukuza CPZ, including *inter alia* the littoral active zone, functional estuarine zone, wetlands, coastal dunes, coastal forest, sandy beaches and rocky shores, shall be protected from damage, destruction or degradation.
10. Nothing in this Management Overlay shall be construed as enabling any person to develop or use land or buildings which is in conflict with any condition of title, any condition of the Planning Scheme or any condition of environmental authorisation.
11. The Coastal Management Overlay comprises the KwaDukuza CPZ Map Set and associated Text as contained in the KwaDukuza Coastal Management Overlay Report.
12. The Coastal Management Overlay Report is a statutory document and is binding on all persons and authorities and applies to the entire KwaDukuza CPZ as shown on the KDM CPZ Map Set and Coastal Land Use Typology Controls in Section 5 of the Coastal Management Overlay Report.
13. This Coastal Management Overlay shall apply until such time as the Municipality resolves to amend, replace or remove it from the KwaDukuza Planning Scheme.

The Coastal Management Overlay is to be read together with the KwaDukuza Coastal Management Programme, the KwaDukuza

Development Planning Tool Coastal Management Overlay and the KwaDukuza Biodiversity and Open Space Management Plan.

## 6.2 Definitions

The following definitions shall apply with respect to the KwaDukuza Coastal Management Overlay:

**Table 6-2 : Definitions**

CATEGORY	DEFINITION
Coastal Access Land	Means land that the public may use to gain access to Coastal Public Property.
Coastal Management	Includes: <ol style="list-style-type: none"> <li>a. The regulation, management, protection, conservation and rehabilitation of the coastal environment;</li> <li>b. The regulation and management of the use and development of the coastal zone and coastal resources;</li> <li>c. Monitoring and enforcing compliance with laws and policies that regulate human activities within the coastal zone; and</li> <li>d. Planning in connection with the activities referred to in paragraphs (a), (b) and (c) above.</li> </ol>
Coastal Management Overlay Area	Means any area demarcated upon the Scheme Map/s by the overprinting of a blue outlined/hatched pattern (or by a blue layer on the GIS), where, by reasons of the coastal resources, natural biodiversity, environmental goods and services provided or other like reasons, development or building may be prohibited, restricted, or permitted upon such conditions as may be specified having regard to the nature of the said area.

Coastal Management Programme	Means the municipal coastal management programme established in terms of Chapter 6 of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008).
Coastal Protection Zone	Means the coastal protection zone contemplated in Section 17 of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008).
Coastal Public Property	Means the Admiralty Reserve, land below the High-Water Mark (HWM), coastal waters and coastal protected areas.
Coastal Zone	Means the area comprising coastal public property, the coastal protection zone, coastal access land and coastal protected areas, the seashore, coastal waters and the exclusive economic zone and includes any aspect of the environment on, in, under and above such area.
Council	Means the Council of the Municipality of KwaDukuza.
Development	<p>In the context of the Coastal Management Overlay, means any process initiated by a person to change the use, physical nature or appearance of a place within the Coastal Protection Zone, and includes:</p> <ol style="list-style-type: none"> <li>The construction, erection, alteration, demolition or removal of services and infrastructure, a structure or building;</li> <li>A process to obtain special consent, rezone, alter or amend conditions of title relating to use of land and buildings, subdivide or consolidate land, and include the registration of servitudes intended for purposes of installation of services, infrastructure and or access;</li> <li>Changes to the existing or natural topography of</li> </ol>

	the coastal zone; and d. The destruction or removal of indigenous or protected vegetation.
Effective Date	In relation to this Management Overlay shall mean the effective date specified in the Gazette Notice, which is the date of first publication by KwaDukuza Municipality of the Management Overlay in the Gazette.
Estuarine Functional Zone	Means the area below the 5m amsl contour adjacent to all estuarine areas – including protected, urban or those in rural areas.
Gazette	When used in relation to the Municipality means the Provincial Gazette of the Province of KwaZulu-Natal.
Municipality	Means the Municipality of KwaDukuza.
Planning Scheme	Means the KwaDukuza Scheme prepared in terms of Chapter 2 of the KwaZulu-Natal Planning and Development Act, 2008 (Act No. 6 of 2008).
Responsible Officer	Means the employee of the Council appointed by it to administer these bylaws and includes any other employee authorized in law to act in his name and on his behalf.
Special Management Areas	Means an area where measures are needed to more effectively manage the coastal area/resources.

Insert map

**Figure 6-1 : KwaDukuza Coastal Management Overlay**

## 7 CONCLUSIONS AND RECOMMENDATIONS

### 7.1 Conclusions

The KwaDukuza Coastal Management Overlay has been prepared to facilitate the inclusion of relevant aspects of the KwaDukuza Coastal Management Programme into the statutory land use management framework provided by the KwaDukuza Planning Scheme. This is considered a critical step in implementing the CMP and providing a statutory basis for the protection of KwaDukuza's coastal resources and Coastal Protection Zone.

### 7.2 Recommendations

The key recommendations of the KwaDukuza Coastal Management Overlay Report are to:

1. Undertake stakeholder engagement process for the KwaDukuza Coastal Management Overlay project, to include public notice, public comments period and public meeting/s.
2. Consider comments received during the public consultation process and make any changes and refinements considered appropriate to the KwaDukuza Coastal Management Overlay Report.
3. Present the finalised KwaDukuza Coastal Management Overlay Report to Council for approval and adoption.
4. Following the adoption of the KwaDukuza Coastal Management Overlay Report by Council, incorporate the Coastal Management Overlay into the KwaDukuza Planning Scheme as a Management Overlay by resolution and adoption of the Council.
5. Incorporate the definitions contained in Table 6-2 into the definitions contained within the KwaDukuza Planning Scheme.
6. At the next amendment to the KwaDukuza SPLUM By-Laws, consider the inclusion of provisions with respect to Management Overlays to provide additional clarity, certainty and consistency with the KwaDukuza Planning Scheme.
7. As part of the next major general amendment of the KwaDukuza Planning Scheme, review the land use zoning provisions as they apply to estuaries within the Coastal Protection Zone with a view to ensuring consistency with the Coastal Management Overlay and associated guidelines to protect the estuaries in accordance with the NEM Act and ICM Act.
8. Given the importance of the biodiversity areas inland of the Coastal Protection Zone and their relationship with coastal assets, it is recommended that the KwaDukuza BOSMaP be considered for inclusion within the KwaDukuza Scheme as a Biodiversity Management Overlay.

## 8 APPENDICES

### 8.1 References

The following key references have informed the preparation of this report:

#### 8.1.1 National

- Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)
- National Coastal Management Programme of South Africa, 2014
- National Environmental Management Act, 1998 (Act No. 107 of 1998), and associated Acts and Regulations, 1998-2009
- NEMA: Environmental Impact Assessment Regulations, 2010 (and amendments)
- NEMA: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (and 2014 amendment)
- National Estuarine Management Protocol, 2013
- National Strategy for the Facilitation of Coastal Access in South Africa, 2014
- Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013)
- Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015
- Step by Step Guide for the Designation and Management of Coastal Access in South Africa

#### 8.1.2 Provincial

- KZN Land Use Management Guidelines for the Preparation of Schemes for Municipalities, 2011 (Update)

- KZN Planning and Development Act, 2008 (Act No. 6 of 2008) (as amended)
- KZN Spatial Planning and Land Use Management Bill, 2015

#### 8.1.3 District

- iLembe District Spatial Economic Development Strategy, 2012
- iLembe Environmental Management Framework and Strategic Environmental Management Plan, 2013, including Coastal Specialist Report
- iLembe Integrated Development Plan 2015, including iLembe Spatial Development Framework
- iLembe Regional Spatial Development Plan, 2014

#### 8.1.4 KwaDukuza

- Greater Compensation Framework Plan, 2015
- KwaDukuza Biodiversity and Open Space Management Plan, 2013
- KwaDukuza Climate Change Response Strategy, 2013
- KwaDukuza Coastal Management Programme Coastal Development Planning Tool: Implementation Report, March 2012
- KwaDukuza Coastal Management Programme: Development Management Tool, September 2011
- KwaDukuza Draft Inaugural Coastal Management Programme, January 2010
- KwaDukuza Spatial Planning and Land Use Management By-Laws, May 2015
- KwaDukuza Greenhouse Gas Inventory 2012 Report, 2013
- KwaDukuza Integrated Development Plan 2015, including Spatial Development Framework
- KwaDukuza Land Use Management System, 2015
- KwaDukuza Low Emission Action Plan

- KwaDukuza Final Draft Scheme, August 2015
- KwaDukuza Scheme Companion Document 2: Management Overlays, March 2015
- KwaDukuza Strategic Environmental Assessment, 2007
- The KwaZulu-Natal Scheme System: Zoning Companion Document, October 2014

#### 8.1.5 eThekweni

- Durban Metropolitan Open Space System
- D'MOSS FAQ's (eThekweni Website)
- eThekweni Environmental Services Management Plan
- Freedman W (2013) The Legislative Authority of the Local Sphere of Government to Conserve and Protect the Environment: A Critical Analysis of Le Seur v eThekweni Municipality
- High Court Judgement in Le Seur v eThekweni Municipality, 2011 (Case No. 9714/11)
- Humby T (2014) Localising Environmental Governance: The La Seur Case
- Proposed Conversion of D'MOSS from a Policy of Council to a Component of the Various Town Planning Schemes found throughout the eThekweni Municipality Area by the Amendment of Various Town Planning Schemes in terms of Section 47bis A of the Town Planning Ordinance No. 27 of 1949, 2009

#### 8.1.6 Western Cape

- Appendix to the City of Cape Town Zoning Scheme: Overlay Zones, September 2012
- Coastal Management/Set-back Lines for the West Coast District, Final Project Report, June 2014

- Coastal Management Lines for the West Coast District: Determination of Coastal Management Zone(s), Draft for Public Review, December 2013
- Coastal Management (Set-back) Lines for the Overberg District, Draft Project Report, February 2015
- Knysna Zoning Scheme By-Law, 2014
- Overstrand Zoning Scheme Regulations, June 2013
- Western Cape Land Use Planning Act, 2014 (Act No. 3 of 2014)

## 8.2 Acronyms

The following acronyms have been used in this report:

<b>amsl</b>	Above Mean Sea Level
<b>BOSMaP</b>	Biodiversity and Open Space Management Plan
<b>CBA</b>	Critical Biodiversity Area
<b>CCRS</b>	Climate Change Response Strategy
<b>CIBE</b>	Compensation Industrial and Business Estate
<b>CPZ</b>	Coastal Protection Zone
<b>CVI</b>	Coastal Vulnerability Index
<b>DM</b>	District Municipality
<b>DAEA</b>	Department of Agriculture and Environmental Affairs
<b>DEDTEA</b>	Department of Economic Development, Tourism and Environmental Affairs
<b>D'MOSS</b>	Durban Metropolitan Open Space System
<b>DoHS</b>	Department of Human Settlements
<b>DoT</b>	Department of Transport
<b>DPT</b>	Development Planning Tool
<b>DSEDS</b>	District Spatial Economic Development Strategy
<b>DTP</b>	Dube TradePort
<b>du</b>	Dwelling Unit/s

<b>du/ha</b>	Dwelling Unit/s per Hectare
<b>EIA</b>	Environmental Impact Assessment
<b>EKZNW</b>	Ezemvelo KZN Wildlife
<b>EMM</b>	eThekweni Metropolitan Municipality
<b>EMF</b>	Environmental Management Framework
<b>FAQ</b>	Frequently Asked Question
<b>GCA</b>	Greater Compensation Area
<b>GD</b>	Gross Density
<b>ha</b>	Hectare/s
<b>ICMA</b>	Integrated Coastal Management Act
<b>IDM</b>	iLembe District Municipality
<b>IDP</b>	Integrated Development Plan
<b>IDS</b>	Industrial Development Strategy
<b>KDM</b>	KwaDukuza Local Municipality
<b>KMA</b>	KwaDukuza Municipal Area
<b>KSIA</b>	King Shaka International Airport
<b>KZN</b>	KwaZulu-Natal
<b>LAP</b>	Local Area Plan
<b>LEAP</b>	Low-Emission Action Plan
<b>LM</b>	Local Municipality
<b>LUMS</b>	Land Use Management System
<b>LUPA</b>	Land Use Planning Act
<b>LUS</b>	Land Use Scheme
<b>m</b>	Meter/s
<b>MM</b>	Metropolitan Municipality
<b>MPT</b>	Municipal Planning Tribunals
<b>MSDF</b>	Municipal Spatial Development Framework
<b>ND</b>	Net Density
<b>NEMA</b>	National Environmental Management Act
<b>OSS</b>	Open Space System
<b>PDA</b>	Planning and Development Act

<b>PPP</b>	Public Private Partnership
<b>SA</b>	South Africa
<b>SANBI</b>	South African National Biodiversity Institute
<b>SDF</b>	Spatial Development Framework
<b>SDP</b>	Spatial Development Plan
<b>SEA</b>	Strategic Environmental Assessment
<b>SEMA</b>	Specific Environmental Management Act
<b>SEMP</b>	Strategic Environmental Management Plan
<b>SMP</b>	Stormwater Management Plan
<b>SPLUM</b>	Spatial Planning and Land Use Management
<b>SPLUMA</b>	Spatial Planning and Land Use Management Act
<b>SPLUMB</b>	Spatial Planning and Land Use Management Bill
<b>SuDS</b>	Sustainable Drainage System
<b>TBD</b>	To Be Determined
<b>TPS</b>	Town Planning Scheme
<b>UDL</b>	Urban Development Line
<b>UGB</b>	Urban Growth Boundary

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## 8.3 Environmental Impact Assessment Regulations 2014, Coastal Specific Activities included in Listing Notices

**Table 8-1: Coastal Specific Activities included in Listing Notice 1**

Listing Notice Number	Activity Number	Activity Description
1	6	<p>The development and related operation of facilities, infrastructure or structures for aquaculture of:</p> <ul style="list-style-type: none"> <li>i. finfish, crustaceans, reptiles or amphibians, where such facility, infrastructure or; structures will have a production output exceeding 20 000kg per annum (wet weight); and</li> <li>ii. molluscs and echinoderms, where such facility, infrastructure or structures will have a production output exceeding 30 000 g per annum (wet weight); or</li> <li>iii. aquatic plants, where such facility, infrastructure or structures will have a production output exceeding 60 000kg per annum (wet weight);</li> </ul> <p>excluding where the development of such facilities, infrastructure or structures is for purposes of sea-based cage culture in which case activity 7 in this Notice applies.</p>
1	7	<p>The development and related operation of facilities, infrastructure or structures for aquaculture of sea-based cage culture of finfish, crustaceans, reptiles, amphibians, molluscs, echinoderms and aquatic plants, where the facility, infrastructure or structures will have a production output exceeding 50 000kg per annum (wet weight).</p>
1	12	<p>The development of:</p> <ul style="list-style-type: none"> <li>i. canals exceeding 100m<sup>2</sup> in size;</li> <li>ii. channels exceeding 100m<sup>2</sup> in size;</li> <li>iii. bridges exceeding 100m<sup>2</sup> in size;</li> <li>iv. dams, where the dam, including infrastructure and water surface area, exceeds 100m<sup>2</sup> in size;</li> <li>v. weirs, where the weir, including infrastructure and water surface area, exceeds 100m<sup>2</sup> in size;</li> <li>vi. bulk storm water outlet structures exceeding 100m<sup>2</sup> in size;</li> <li>vii. marinas exceeding 100m<sup>2</sup> in size;</li> <li>viii. jetties exceeding 100m<sup>2</sup> in size;</li> <li>ix. slipways exceeding 100m<sup>2</sup> in size;</li> <li>x. <u>buildings exceeding 100m<sup>2</sup> in size;</u></li> <li>xi. <u>boardwalks exceeding 100m<sup>2</sup> in size;</u> or</li> <li>xii. <u>infrastructure or structures with a physical footprint of 100m<sup>2</sup> or more;</u></li> </ul> <p>where such development occurs:</p> <ul style="list-style-type: none"> <li>a. within a watercourse;</li> <li>b. in front of a development setback; or</li> <li>c. if no development setback exists, within 32m of a watercourse, measured from the edge of a watercourse;</li> </ul> <p>excluding:</p> <ul style="list-style-type: none"> <li>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</li> </ul>

Listing Notice Number	Activity Number	Activity Description
		(bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies; (cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies; (dd) <u>where such development occurs within an urban area</u> ; or (ee) where such development occurs within existing roads or road reserves.
1	15	The development of structures in the coastal public property where the development footprint is bigger than 50m <sup>2</sup> , excluding: <ul style="list-style-type: none"> <li>i. the development of structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</li> <li>ii. the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</li> <li>iii. the development of temporary structures within the beach zone where such structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared; or</li> <li>iv. activities listed in activity 14 in Listing Notice 2 of 2014, in which case that activity applies.</li> </ul>
1	16	The development and related operation of facilities for the desalination of water with a design capacity to produce more than 100m <sup>3</sup> of treated water per day.
1	17	Development: <ul style="list-style-type: none"> <li>i. in the sea;</li> <li>ii. in an estuary;</li> <li>iii. within the littoral active zone;</li> <li>iv. in front of a development setback; or</li> <li>v. if no development setback exists, within a distance of <u>100m inland of the high-water mark</u> of the sea or an estuary, whichever is the greater;</li> </ul> in respect of: <ul style="list-style-type: none"> <li>a. fixed or floating jetties and slipways;</li> <li>b. tidal pools;</li> <li>c. embankments;</li> <li>d. rock revetments or stabilising structures including stabilising walls;</li> <li>e. buildings of 50m<sup>2</sup> or more; or</li> <li>f. infrastructure with a development footprint of 50m<sup>2</sup> or more -</li> </ul> but excluding: <ul style="list-style-type: none"> <li>(aa) the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</li> <li>(bb) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</li> <li>(cc) the development of <u>temporary infrastructure or structures</u> where such structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared; or</li> <li>(dd) <u>where such development occurs within an urban area</u>.</li> </ul>
1	18	The planting of vegetation or placing of any material on dunes or exposed sand surfaces of more than 10m <sup>2</sup> , within the littoral active zone, for the purpose of preventing the free movement of sand, erosion or accretion, excluding where: <ul style="list-style-type: none"> <li>i. the planting of vegetation or placement of material relates to restoration and maintenance of indigenous coastal vegetation undertaken in accordance with a maintenance management plan; or</li> <li>ii. such planting of vegetation or placing of material will occur behind a development setback.</li> </ul>

Listing Notice Number	Activity Number	Activity Description
1	19	<p>The infilling or depositing of any material of more than 5 m<sup>3</sup> into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5m<sup>3</sup> from:</p> <ul style="list-style-type: none"> <li>i. a watercourse;</li> <li>ii. the seashore; or</li> <li>iii. the littoral active zone, an estuary or a distance of 100m inland of the high-water mark of the sea or an estuary, whichever distance is the greater-</li> </ul> <p>but excluding where such infilling, depositing , dredging, excavation, removal or moving:</p> <ul style="list-style-type: none"> <li>a. will occur behind a development setback;</li> <li>b. is for maintenance purposes undertaken in accordance with a maintenance management plan; or</li> <li>c. falls within the ambit of activity 21 in this Notice, in which case that activity applies.</li> </ul>
1	41	<p>The expansion and related operation of facilities, infrastructure or structures for aquaculture of:</p> <ul style="list-style-type: none"> <li>i. finfish, crustaceans, reptiles or amphibians, where the annual production output of such facility, infrastructure or structures will be increased by 20 000kg (wet weight) or more;</li> <li>ii. molluscs and echinoderms where the annual production output of such facility, infrastructure or structures will be increased by 30 000kg (wet weight) or more; or</li> <li>iii. aquatic plants where the annual production output of such facility, infrastructure or structures will be increased by 60 000kg (wet weight) or more;</li> </ul> <p>excluding where the expansion of facilities, infrastructure or structures is for purposes of sea-based cage culture in which case activity 42 in this Notice will applies.</p>
1	42	<p>The expansion and related operation of facilities, infrastructure or structures for aquaculture of sea-based cage culture of finfish, crustaceans, reptiles, amphibians, molluscs, echinoderms and aquatic plants where the annual production output of such facility, infrastructure or structures will be increased by 50 000kg (wet weight) or more.</p>
1	48	<p>The expansion of:</p> <ul style="list-style-type: none"> <li>i. canals where the canal is expanded by 100m<sup>2</sup> or more in size;</li> <li>ii. channels where the channel is expanded by 100m<sup>2</sup> or more in size;</li> <li>iii. bridges where the bridge is expanded by 100m<sup>2</sup> or more in size;</li> <li>iv. dams, where the dam, including infrastructure and water surface area, is expanded by 100m<sup>2</sup> or more in size;</li> <li>v. weirs, where the weir, including infrastructure and water surface area, is expanded by 100m<sup>2</sup> or more in size;</li> <li>vi. bulk storm water outlet structures where the bulk storm water outlet structure is expanded by 100m<sup>2</sup> or more in size; or</li> <li>vii. marinas where the marina is expanded by 100m<sup>2</sup> or more in size;</li> </ul> <p>where such expansion or expansion and related operation occurs:</p> <ul style="list-style-type: none"> <li>a. within a watercourse;</li> <li>b. in front of a development setback; or</li> <li>c. if no development setback exists, within 32m of a watercourse, measured from the edge of a watercourse;</li> </ul> <p>excluding:</p> <ul style="list-style-type: none"> <li>(aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</li> <li>(bb) where such expansion activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</li> </ul>

Listing Notice Number	Activity Number	Activity Description
		(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies; (dd) where such expansion occurs within an urban area; or (ee) where such expansion occurs within existing roads or road reserves.
1	49	<p>The expansion of:</p> <ul style="list-style-type: none"> <li>i. jetties by more than 100m<sup>2</sup>;</li> <li>ii. slipways by more than 100m<sup>2</sup>;</li> <li>iii. buildings by more than 100m<sup>2</sup>;</li> <li>iv. boardwalks by more than 100m<sup>2</sup>; or</li> <li>v. infrastructure or structures where the physical footprint is expanded by 100m<sup>2</sup> or more;</li> </ul> <p>where such expansion or expansion and related operation occurs:</p> <ul style="list-style-type: none"> <li>a. within a watercourse;</li> <li>b. in front of a development setback; or</li> <li>c. if no development setback exists, within 32m of a watercourse, measured from the edge of a watercourse;</li> </ul> <p>excluding:</p> <ul style="list-style-type: none"> <li>(aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</li> <li>(bb) where such expansion activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</li> <li>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</li> <li>(dd) where such expansion occurs within an urban area; or</li> <li>(ee) where such expansion occurs within existing roads or road reserves.</li> </ul>
1	52	The expansion of structures in the coastal public property where the development footprint will be increased by more than 50m <sup>2</sup> , excluding such expansions within existing ports or harbours where there will be no increase in the development footprint of the port or harbour and excluding activities listed in activity 23 in Listing Notice 3 of 2014, in which case that activity applies.
1	53	The expansion and related operation of facilities for the desalination of water where the design capacity will be expanded to produce an additional 100m <sup>3</sup> or more of treated water per day.
1	54	<p>The expansion of facilities:</p> <ul style="list-style-type: none"> <li>i. in the sea;</li> <li>ii. in an estuary;</li> <li>iii. within the littoral active zone;</li> <li>iv. in front of a development setback; or</li> <li>v. if no development setback exists, within a distance of 100m inland of the high-water mark of the sea or an estuary, whichever is the greater;</li> </ul> <p>in respect of:</p> <ul style="list-style-type: none"> <li>a. fixed or floating jetties and slipways;</li> <li>b. tidal pools;</li> <li>c. embankments;</li> </ul>

Listing Notice Number	Activity Number	Activity Description
		<ul style="list-style-type: none"> <li>d. rock revetments or stabilising structures including stabilising walls;</li> <li>e. buildings where the building is expanded by 50m<sup>2</sup> or more; or</li> <li>f. infrastructure where the development footprint is expanded by 50m<sup>2</sup> or more,</li> </ul> <p>but excluding:</p> <ul style="list-style-type: none"> <li>(aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; or</li> <li>(bb) where such expansion occurs within an urban area.</li> </ul>
1	55	<p>Expansion:</p> <ul style="list-style-type: none"> <li>i. in the sea;</li> <li>ii. in an estuary;</li> <li>iii. within the littoral active zone;</li> <li>iv. in front of a development setback; or</li> <li>v. if no development setback exists, within a distance of 100m inland of the high-water mark of the sea or an estuary, whichever is the greater;</li> </ul> <p>in respect of:</p> <ul style="list-style-type: none"> <li>a. facilities associated with the arrival and departure of vessels and the handling of cargo;</li> <li>b. piers;</li> <li>c. inter- and sub-tidal structures for entrapment of sand;</li> <li>d. breakwater structures;</li> <li>e. coastal marinas;</li> <li>f. coastal harbours or ports;</li> <li>g. tunnels; or</li> <li>h. underwater channels;</li> </ul> <p>but excluding the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</p>
1	62	The expansion of facilities or infrastructure for marine telecommunication where there will be an increased development footprint.
1	65	The expansion and related operation of an island, anchored platform or any other permanent structure on or along the sea bed, where the expansion will constitute an increased development footprint, excluding expansion of facilities, infrastructure or structures for aquaculture purposes;

**Table 8-2: Coastal Specific Listed Activities in Listing Notice 2**

Listing Notice Number	Activity Number	Activity Description
2	10	The development of facilities or infrastructure for marine telecommunication.
2	14	<p>The development and related operation of:</p> <ul style="list-style-type: none"> <li>i. an island;</li> <li>ii. anchored platform; or</li> </ul>

		<ul style="list-style-type: none"> <li>iii. any other structure or infrastructure on, below or along the sea bed;</li> </ul> <p>excluding:</p> <ul style="list-style-type: none"> <li>a. development of facilities, infrastructure or structures for aquaculture purposes; or</li> <li>b. the development of temporary structures or infrastructure where such structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.</li> </ul>
2	23	The reclamation of an island or parts of the sea.
2	26	<p>Development:</p> <ul style="list-style-type: none"> <li>i. in the sea;</li> <li>ii. in an estuary;</li> <li>iii. within the littoral active zone;</li> <li>iv. in front of a development setback; or</li> <li>v. if no development setback exists, within a distance of 100m inland of the high-water mark of the sea or an estuary, whichever is the greater;</li> <li>vi.</li> </ul> <p>in respect of:</p> <ul style="list-style-type: none"> <li>a. facilities associated with the arrival and departure of vessels and the handling of cargo;</li> <li>b. piers;</li> <li>c. inter- and sub-tidal structures for entrapment of sand;</li> <li>d. breakwater structures;</li> <li>e. coastal marinas;</li> <li>f. coastal harbours or ports;</li> <li>g. tunnels; or</li> <li>h. underwater channels;</li> </ul> <p>but excluding the development of structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</p>

**Table 8-3: Coastal Specific Activities Included in Listing Notice 3**

Listing Notice Number	Activity Number	Activity Description	
3	1	The development of billboards exceeding 18m <sup>2</sup> in size outside urban areas, mining areas or industrial complexes.	<p>In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>v. World Heritage Sites;</li> <li>vi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>vii. Sites or areas identified in terms of an International Convention;</li> </ul>



			<ul style="list-style-type: none"> <li>viii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional Core areas in biosphere reserves;</li> <li>ix. In an estuarine functional zone;</li> <li>x. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose;</li> <li>xi. Areas within 10km from national parks or world heritage sites or 5km from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> <li>xii. Areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined.</li> </ul>
3	2	The development of reservoirs for bulk water supply with a capacity of more than 250m <sup>3</sup> .	<p>(d) In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. World Heritage Sites;</li> <li>v. In an estuarine functional zone;</li> <li>vi. In a protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>vii. Sites or areas identified in terms of an International Convention;</li> <li>viii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>ix. Core areas in biosphere reserves;</li> <li>x. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose;</li> <li>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> </ul> <p>Outside urban areas:</p> <ul style="list-style-type: none"> <li>a) Areas within 10km from national parks or world heritage sites or 5km from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> <li>b) Areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined; or</li> </ul> <p>In urban areas:</p> <ul style="list-style-type: none"> <li>a) Areas zoned for use as public open space;</li> <li>b) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined; or</li> <li>c) Within urban protected areas.</li> </ul>
3	3	The development of masts or towers of any material or type used for telecommunication broadcasting or radio transmission purposes	<p>(d) In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. World Heritage Sites;</li> <li>v. In an estuarine functional zone;</li> </ul>

		<p>where the mast or tower:</p> <ul style="list-style-type: none"> <li>a. is to be placed on a site not previously used for this purpose; and</li> <li>b. will exceed 15m in height- but excluding attachments to existing buildings and masts on rooftops.</li> </ul>	<ul style="list-style-type: none"> <li>vi. In a protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>vii. Sites or areas identified in terms of an International Convention;</li> <li>viii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>ix. Core areas in biosphere reserves;</li> <li>x. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose;</li> <li>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xii. Outside urban areas: <ul style="list-style-type: none"> <li>a) Areas within 10km from national parks or world heritage sites or 5km from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> <li>b) Areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined; or</li> </ul> </li> <li>xiii. In urban areas: <ul style="list-style-type: none"> <li>a) Areas zoned for use as public open space;</li> <li>b) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined; or</li> <li>c) Within urban protected areas.</li> </ul> </li> </ul>
3	4	<p>The development of a road wider than 4m with a reserve less than 13.5m.</p>	<p>(d) In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Trans-frontier protected areas managed under international conventions;</li> <li>iii. Community Conservation Areas;</li> <li>iv. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>v. In a protected area identified in terms of NEMPAA;</li> <li>vi. Sites or areas identified in terms of an International Convention;</li> <li>vii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>viii. Core areas in biosphere reserves;</li> <li>ix. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose;</li> <li>x. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xi. Outside urban areas: <ul style="list-style-type: none"> <li>a) Areas within 10km from national parks or world heritage sites or 5km from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> <li>b) Areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined; or</li> </ul> </li> <li>xii. In urban areas: <ul style="list-style-type: none"> <li>a) Areas zoned for use as public open space;</li> <li>b) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined; or</li> <li>c) Within urban protected areas.</li> </ul> </li> </ul>

3	5	The development of resorts, lodges, hotels and tourism or hospitality facilities that sleep less than 15 people.	<ul style="list-style-type: none"> <li>a) A protected area identified in terms of the NEMPAA;</li> <li>b) Outside urban areas within 10km from national parks or world heritage sites or 5km from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</li> <li>c) KwaZulu-Natal: <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. Provincial Protected Area Expansion Strategy Focus areas;</li> <li>v. In an estuarine functional zone;</li> <li>vi. World Heritage Sites;</li> <li>vii. A protected area identified in terms of NEMPAA;</li> <li>viii. Sites or areas identified in terms of an International Convention;</li> <li>ix. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>x. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>xi. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>xii. Outside urban areas: <ul style="list-style-type: none"> <li>a) Areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined; or</li> <li>b) Areas within 100m of a watercourse or wetland; or</li> </ul> </li> <li>xiii. In urban areas: <ul style="list-style-type: none"> <li>a) Areas zoned for use as public open space; or</li> <li>b) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined.</li> </ul> </li> </ul> </li> </ul>
3	6	The development of resorts, lodges, hotels and tourism or hospitality facilities that sleeps 15 people or more.	<ul style="list-style-type: none"> <li>(d) In KwaZulu-Natal: <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Trans-frontier protected areas managed under international conventions;</li> <li>iii. Community Conservation Areas;</li> <li>iv. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>v. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>vi. Sites or areas identified in terms of an International Convention;</li> <li>vii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>viii. Core areas in biosphere reserves;</li> <li>ix. World Heritage Sites;</li> <li>x. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xii. Outside urban areas: <ul style="list-style-type: none"> <li>a) Areas within 10km from national parks or world heritage sites or 5km from any other protected area identified in terms of</li> </ul> </li> </ul> </li> </ul>

			<p>NEMPAA or from the core area of a biosphere reserve;</p> <p>b) Areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined; or</p> <p>c) Areas within 100m from the edge of a watercourse; or</p> <p>xiii. In urban areas:</p> <p>a) Areas zoned for use as public open space;</p> <p>b) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined; or</p> <p>c) Areas within 500m from protected areas identified in terms of NEMPAA.</p>
3	7	The development of aircraft landing strips and runways 1.4km and shorter.	<p>(d) KwaZulu-Natal:</p> <p>i. In an estuarine functional zone;</p> <p>ii. Community Conservation Areas;</p> <p>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</p> <p>iv. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>v. World Heritage Sites;</p> <p>vi. Sites or areas identified in terms of an International Convention;</p> <p>vii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>viii. Core areas in biosphere reserves;</p> <p>ix. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</p> <p>x. Areas within 10km from national parks or world heritage sites or 5km from any other protected area identified in terms of NEMPAA or from the core of a biosphere reserve;</p> <p>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>xii. Outside urban areas:</p> <p>a) Areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined; or</p> <p>b) Areas within 100m from the edge of a watercourse; or</p> <p>xiii. In urban areas:</p> <p>a) Areas zoned for use as public open space; or</p> <p>b) Areas seawards of the development setback line or within 100m high-water mark of the sea if no such development setback line is determined.</p>

3	8	The development and related operation of above ground cableways and funiculars.	<p>(c) In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. All areas outside urban areas; or</li> <li>ii. In urban areas:</li> </ul> <p>In an estuarine functional zone;</p> <ul style="list-style-type: none"> <li>a) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>b) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>c) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>d) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>e) Areas zoned for use as public open space;</li> <li>f) Areas on the watercourse side of the development setback line or within 100m from the edge of a watercourse where no such setback line has been determined.;</li> <li>g) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined; or Areas within 500m from protected areas identified in terms of NEMPAA.</li> </ul>
3	9	The development and related operation of zip-lines or foefie-slides exceeding 100m in length.	<p>(c) In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. All areas outside urban areas; or</li> <li>ii. In urban areas:</li> </ul> <ul style="list-style-type: none"> <li>a) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>b) In an estuarine functional zone;</li> <li>c) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>d) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>e) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>f) Areas zoned for use as public open space;</li> <li>g) Areas on the watercourse side of the development setback line or within 100m from the edge of a watercourse where no such setback line has been determined;</li> <li>h) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined; or</li> <li>i) Areas within 500m from protected areas identified in terms of NEMPAA.</li> </ul>
3	10	The development of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of	<p>(d) In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Trans-frontier protected areas managed under international conventions;</li> <li>iii. Community Conservation Areas;</li> <li>iv. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>v. World Heritage Sites;</li> <li>vi. Within 500m of an estuarine functional zone;</li> <li>vii. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>viii. Sites or areas identified in terms of an International Convention;</li> </ul>

		30m <sup>3</sup> excluding conservancies; but not exceeding 80m <sup>3</sup> .	<ul style="list-style-type: none"> <li>ix. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>x. Core areas in biosphere reserves;</li> <li>xi. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>xii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xiii. Outside urban areas: <ul style="list-style-type: none"> <li>a) Areas within 10km from national parks or world heritage sites or 5km from any other protected area identified in terms of NEMPAA or from the core areas of a biosphere reserve;</li> <li>b) Areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined; or</li> <li>c) Areas within 100m from the edge of a watercourse; or</li> </ul> </li> <li>xiv. In urban areas: <ul style="list-style-type: none"> <li>a) Areas zoned for use as public open space; or</li> <li>b) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined;</li> </ul> </li> </ul>
3	11	The development of tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles excluding conversion of existing tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles.	<p>(d) In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>iii. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>iv. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>v. Outside urban areas: <ul style="list-style-type: none"> <li>a) Within areas of indigenous vegetation; or</li> <li>b) In areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined; or</li> </ul> </li> <li>vi. In urban areas: <ul style="list-style-type: none"> <li>a) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined;</li> <li>b) Areas within 32m from the edge of a watercourse; or</li> <li>c) Areas zoned for use as public open space.</li> </ul> </li> </ul>
3	12	The clearance of an area of 300m <sup>2</sup> or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in	<p>In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</li> <li>v. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>vi. Within the littoral active zone or 100m inland from high water mark of the sea or an estuarine functional zone, whichever distance</li> </ul>



		accordance with a maintenance management plan.	<p>vii. is the greater, excluding where such removal will occur behind the development setback line on even in urban areas;</p> <p>viii. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning;</p> <p>ix. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>x. World Heritage Sites;</p> <p>xi. Sites or areas identified in terms of an International Convention;</p> <p>xii. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</p> <p>xiii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority; or</p> <p>xiv. In an estuarine functional zone.</p>
	13	The development and related operation of facilities of any size for any form of aquaculture.	<p>(c) In KwaZulu-Natal:</p> <p>i. Trans-frontier protected areas managed under international conventions;</p> <p>ii. Community Conservation Areas;</p> <p>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</p> <p>iv. In an estuarine functional zone;</p> <p>v. In a Protected Area identified in the NEMPAA;</p> <p>vi. World Heritage Sites;</p> <p>vii. Areas on the watercourse side of the development setback line or within 100m from the edge of a watercourse where no such setback line has been determined;</p> <p>viii. Sites or areas identified in terms of an International Convention;</p> <p>ix. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>x. Core areas in biosphere reserves;</p> <p>xi. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose; or</p> <p>xii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority.</p>
	14	<p>The development of-</p> <p>i. canals exceeding 10m<sup>2</sup> in size;</p> <p>ii. channels exceeding 10m<sup>2</sup> in size;</p> <p>iii. bridges exceeding 10m<sup>2</sup> in size;</p> <p>iv. dams, where the dam, including infrastructure and water surface area exceeds 10m<sup>2</sup> in size;</p> <p>v. weirs, where the weir, including infrastructure and water surface area exceeds 10m<sup>2</sup> in size;</p> <p>vi. bulk storm water outlet structures exceeding 10m<sup>2</sup> in size;</p> <p>vii. marinas exceeding 10m<sup>2</sup> in size;</p> <p>viii. jetties exceeding 10m<sup>2</sup> in size;</p> <p>ix. slipways exceeding 10m<sup>2</sup> in size;</p> <p>x. buildings exceeding 10m<sup>2</sup> in size;</p> <p>xi. boardwalks exceeding 10m<sup>2</sup> in size; or</p>	<p>(d) In KwaZulu-Natal:</p> <p>i. In an estuarine functional zone;</p> <p>ii. Community Conservation Areas;</p> <p>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</p> <p>iv. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>v. World Heritage Sites;</p> <p>vi. Sites or areas identified in terms of an International Convention;</p> <p>vii. Critical biodiversity areas or ecological support areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>viii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>ix. Core areas in biosphere reserves;</p> <p>x. Outside urban areas:</p>

		<p>xii. infrastructure or structures with a physical footprint of 10m<sup>2</sup> or more;</p> <p>where such development occurs:</p> <p>a. within a watercourse;</p> <p>b. in front of a development setback; or</p> <p>c. if no development setback has been adopted, within 32m of a watercourse, measured from the edge of a watercourse;</p> <p>excluding the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</p>	<p>a) Areas within 10km from national parks or world heritage sites or 5km from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</p> <p>b) Areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined; or</p> <p>xi. In urban areas:</p> <p>a) Areas zoned for use as public open space;</p> <p>b) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, zoned for a conservation purpose; or</p> <p>c) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined.</p>
	15	The transformation of land bigger than 1000m <sup>2</sup> in size, to residential, retail, commercial, industrial or institutional use, where, such land was zoned open space, conservation or had an equivalent zoning, on or after 2 August 2010.	
	16	The expansion of reservoirs for bulk water supply where the capacity will be increased by more than 250m <sup>3</sup> .	<p>(c) In KwaZulu-Natal:</p> <p>i. Trans-frontier protected areas managed under international conventions;</p> <p>ii. Community Conservation Areas;</p> <p>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</p> <p>iv. World Heritage Sites;</p> <p>v. In an estuarine functional zone;</p> <p>vi. In a protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>vii. Sites or areas identified in terms of an International Convention;</p> <p>viii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>ix. Core areas in biosphere reserves;</p> <p>x. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose;</p> <p>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>xii. Outside urban areas:</p> <p>a) Areas within 10 km from national parks or world heritage sites or 5km from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</p> <p>b) Areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined; or</p> <p>xiii. In urban areas:</p> <p>a) Areas zoned for use as public open space;</p> <p>b) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined; or</p> <p>c) Within urban protected areas.</p>

17	The expansion of a resort, lodge, hotel and tourism or hospitality facilities where the development footprint will be expanded.	<p>(d) In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. In an estuarine functional zone;</li> <li>v. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>vi. Sites or areas identified in terms of an International Convention;</li> <li>vii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>viii. Core areas in biosphere reserves;</li> <li>ix. World Heritage Sites;</li> <li>x. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xii. Outside urban areas: <ul style="list-style-type: none"> <li>a) Areas within 10km from national parks or world heritage sites or 5km from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;</li> <li>b) Areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined; or</li> <li>c) Areas within 100m from the edge of a watercourse; or</li> </ul> </li> <li>xiii. In urban areas: <ul style="list-style-type: none"> <li>a) Areas zoned for use as public open space;</li> <li>b) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined; or</li> <li>c) Areas within 500m from protected areas identified in terms of NEMPAA.</li> </ul> </li> </ul>
18	The widening of a road by more than 4m, or the lengthening of a road by more than 1km.	<p>(d) In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. World Heritage Sites;</li> <li>v. In an estuarine functional zone;</li> <li>vi. A protected area identified in terms of NEMPAA;</li> <li>vii. Sites or areas identified in terms of an International Convention;</li> <li>viii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>ix. Core areas in biosphere reserves;</li> <li>x. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>xii. Outside urban areas: <ul style="list-style-type: none"> <li>a) Areas within 10km from national parks or world heritage sites or 5km from any other protected area identified in terms of</li> </ul> </li> </ul>

			<p>NEMPAA or from the core areas of a biosphere reserve; or</p> <p>b) Areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined; or</p> <p>xiii. In urban areas:</p> <p>a) Areas zoned for use as public open space;</p> <p>b) Seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined; or</p> <p>c) Within urban protected areas.</p>
	19	The expansion of runways or aircraft landing strips where the expanded runways or aircraft landing strips will be longer than 1,4 km in length.	<p>(d) In KwaZulu-Natal:</p> <p>i. Community Conservation Areas;</p> <p>ii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</p> <p>iii. In an estuarine functional zone;</p> <p>iv. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>v. World Heritage Sites;</p> <p>vi. Sites or areas identified in terms of an International Convention;</p> <p>vii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>viii. Core areas in biosphere reserves;</p> <p>ix. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</p> <p>x. Areas within 10km from national parks or world heritage sites or 5km from any other protected area identified in terms of NEMPAA or from the core of a biosphere reserve;</p> <p>xi. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>xii. Outside urban areas:</p> <p>a) Areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined; or</p> <p>b) Areas within 100m from the edge of a watercourse; or</p> <p>xiii. In urban areas:</p> <p>a) Areas zoned for use as public open space; or</p> <p>b) Areas seawards of the development setback line or within 100m high-water mark of the sea if no such development setback line is determined.</p>
	20	The expansion and related operation of above ground cableways and funiculars where the development footprint will be increased.	<p>(d) In KwaZulu-Natal:</p> <p>i. All areas outside urban areas; or</p> <p>ii. In urban areas:</p> <p>a) In an estuarine functional zone;</p> <p>b) A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>c) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</p> <p>d) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</p> <p>e) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a</p>

			<p>conservation purpose;</p> <p>f) Areas zoned for use as public open space;</p> <p>g) Areas on the watercourse side of the development setback line or within 100m from the edge of a watercourse where no such setback line has been determined;</p> <p>h) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined; or</p> <p>i) Areas within 500m from protected areas identified in terms of NEMPAA.</p>
	21	The expansion of tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles excluding conversion of existing tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles, where the development footprint will be expanded.	<p>(d) In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. In an estuarine functional zone;</li> <li>ii. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>iii. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>iv. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>v. Outside urban areas: <ul style="list-style-type: none"> <li>a) Within areas of indigenous vegetation; or</li> <li>b) In areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined; or</li> </ul> </li> <li>vi. In urban areas: <ul style="list-style-type: none"> <li>a) In areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined;</li> <li>b) Areas within 32m from the edge of a watercourse; or</li> <li>c) Areas zoned for use as public open space.</li> </ul> </li> </ul>
	22	The expansion of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage facilities or infrastructure will be expanded by 30m <sup>3</sup> or more but no more than 80m <sup>3</sup> .	<p>(d) In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. World Heritage Sites;</li> <li>v. In an estuarine functional zone;</li> <li>vi. Within 500m of an estuarine functional zone;</li> <li>vii. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>viii. Sites or areas identified in terms of an International Convention;</li> <li>ix. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; or within 100m from the high-water mark of the sea if no such development setback line is determined.</li> </ul>
	23	<p>The expansion of-</p> <ul style="list-style-type: none"> <li>i. canals where the canal is expanded by 10m<sup>2</sup> or more in size;</li> <li>ii. channels where the channel is expanded by 10m<sup>2</sup> or more in size;</li> <li>iii. bridges where the bridge is expanded by 10m<sup>2</sup> or more in size;</li> <li>iv. dams, where the dam, is expanded by 10m<sup>2</sup> or more in size;</li> </ul>	<p>(e) In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. Community Conservation Areas;</li> <li>ii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iii. In an estuarine functional zone;</li> <li>iv. A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>v. World Heritage Sites;</li> <li>vi. Sites or areas identified in terms of an International Convention;</li> </ul>

		<ul style="list-style-type: none"> <li>v. weirs, where the weir is expanded by 10m<sup>2</sup> or more in size;</li> <li>vi. bulk storm water outlet structures expanded by 10m<sup>2</sup> or more in size;</li> <li>vii. marinas expanded by 10m<sup>2</sup> or more in size;</li> <li>viii. jetties expanded by 10m<sup>2</sup> or more in size;</li> <li>ix. slipways expanded by 10m<sup>2</sup> or more in size;</li> <li>x. buildings expanded by 10m<sup>2</sup> or more in size;</li> <li>xi. boardwalks expanded by 10m<sup>2</sup> or more in size; or</li> <li>xii. infrastructure or structures where the physical footprint expanded by 10m<sup>2</sup> or more in size</li> </ul> <p>where such development occurs:</p> <ul style="list-style-type: none"> <li>a. within a watercourse;</li> <li>b. in front of a development setback; or</li> <li>c. if no development setback has been adopted, within 32m of a watercourse, measured from the edge of a watercourse;</li> </ul> <p>excluding the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</p>	<ul style="list-style-type: none"> <li>vii. Critical biodiversity areas or ecological support areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>viii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>ix. Core areas in biosphere reserves;</li> <li>x. Outside urban areas: <ul style="list-style-type: none"> <li>a) Areas within 10km from national parks or world heritage sites or 5km from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve; or</li> <li>b) Areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined; or</li> </ul> </li> <li>xi. In urban areas: <ul style="list-style-type: none"> <li>a) Areas zoned for use as public open space;</li> <li>b) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, zoned for a conservation purpose; or</li> <li>c) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined.</li> </ul> </li> </ul>
	24	The expansion and related operation of facilities of any size for any form of aquaculture.	<p>(c) In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. Trans-frontier protected areas managed under international conventions;</li> <li>ii. Community Conservation Areas;</li> <li>iii. Biodiversity Stewardship Programme Biodiversity Agreement areas;</li> <li>iv. In an estuarine functional zone;</li> <li>v. In a Protected Area identified in the NEMPAA;</li> <li>vi. World Heritage Sites;</li> <li>vii. Areas on the watercourse side of the development setback line or within 100m from the edge of a watercourse where no such setback line has been determined;</li> <li>viii. Sites or areas identified in terms of an International Convention;</li> <li>ix. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>x. Core areas in biosphere reserves;</li> <li>xi. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose; or</li> <li>xii. Sensitive areas as identified in an environmental management as contemplated in chapter 5 of the Act and as adopted by the competent authority.</li> </ul>
	25	The expansion and related operation of zip-lines or foefie-slides, where the zip-line or foefie-slide is expanded	<p>(c) In KwaZulu-Natal:</p> <ul style="list-style-type: none"> <li>i. All areas outside urban areas; or</li> <li>ii. In urban areas: <ul style="list-style-type: none"> <li>a) A protected area identified in terms of NEMPAA, excluding conservancies;</li> <li>b) In an estuarine functional zone;</li> </ul> </li> </ul>



		by 100m in length or more.	<ul style="list-style-type: none"> <li>c) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</li> <li>d) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</li> <li>e) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</li> <li>f) Areas zoned for use as public open space;</li> <li>g) Areas on the watercourse side of the development setback line or within 100m from the edge of a watercourse where no such setback line has been determined;</li> <li>h) Areas seawards of the development setback line or within 100m from the high-water mark of the sea if no such development setback line is determined; or</li> <li>i) Areas within 500m from protected areas identified in terms of NEMPAA.</li> </ul>
	26	<p>Phased activities for all activities-</p> <ul style="list-style-type: none"> <li>i. listed in this Notice and as it applies to a specific geographical area, which commenced on or after the effective date of this Notice; or</li> <li>ii. similarly listed in in any of the previous NEMA notices, and as it applies to a specific geographical area, which commenced on or after the effective date of such previous NEMA Notices- where any phase of the activity may be below a threshold but where a combination of the phases, including expansions or extensions, will exceed a specified threshold; -</li> </ul> <p>excluding the following activities listed in this Notice-7; (8; 11; 13; 17; 20; 21; and 24)</p>	All the areas as identified for the specific activities listed in this Notice.