



**environmental affairs**  
Department:  
Environmental Affairs  
REPUBLIC OF SOUTH AFRICA

**19 November 2013**

**ENVIRONMENTAL AFFAIRS**

**SELECT COMMITTEE ON LAND AND**

**AMENDMENT BILL**

**INTEGRATED COASTAL MANAGEMENT**

**NATIONAL ENVIRONMENTAL MANAGEMENT:**

**environmental affairs**

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# TALK OUTLINE

- Over-view of amendments to Act
  - Definitions
  - Coastal public property
  - Use of coastal public property
  - Reclamation
  - National Coastal Committee
  - Powers of MECs
  - Transitional provisions
  - Offences and penalties



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- Clearly state what forms part of coastal public property and what does not and also:
  - insert definitions which were previously omitted
  - broaden terms; or
  - clarify language;
- A number of definitions are amended to:
  - flexible less burdensome coastal use permit system
  - Simplify and replace coastal leases with a more
  - Ensure sustainable use
  - Safeguard assets of organs of state
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## OVERVIEW OF AMENDMENTS (1 of 2)

# OVERVIEW OF AMENDMENTS (2 of 2)

- Alignment with NEMA
- Extend the powers, including delegation powers, of MECs
- Clarify and expand provisions on reclamation
- Simplify the administration of coastal access fee approvals
- Streamline the functions and powers of the National Coastal Committee
- Revise offences and penalties
- Textual / editorial amendments



Definition of "high water mark (HWM)"

# DEFINITIONS

- Improved these definitions
  - adverse effect; coastal activities; coastal waters; coastal zone; estuary; high watermark; Minister; coastal authorisation; coastal setback/ management line; harbour; sea
- Added these definitions
  - access fee; land unit; port; reclamation



- Coastal Public Property (1/2)
  - CPP cannot be owned – S 11 vests ownership in the citizens to be held in trust by the state
  - Definition does not directly exclude buildings and structures below the HWM
  - Lead to panic on the part of Transnet – believed that all building etc within ports now became part of CPP and therefore they are disowned by s11
  - Section 11 not commenced pending an amendment to clarify CPP and ownership in Transnet

CI 4, 5, 6, 36, 38

# Coastal Public Property (2/2)

- Solution
  - Make it clear what forms part of CPP and what does not – cl 5 (s7)
  - Clearly exclude infrastructure which form part of assets of organs of state – e.g. Transnet Portfolio Committee added an interpretational clause cl 4(s6) to make it even more clear
  - Retain the principle that the sea and sea-bed cannot be owned but allow and regulate use of those natural assets



# Use of coastal public property

- Simplify and replace coastal leases with a more flexible less burdensome coastal use permit system - cl 36 (s65) (except admiralty reserves)
- Establish criteria for management of leases in admiralty reserves by organs state Cl 38 (s66A)

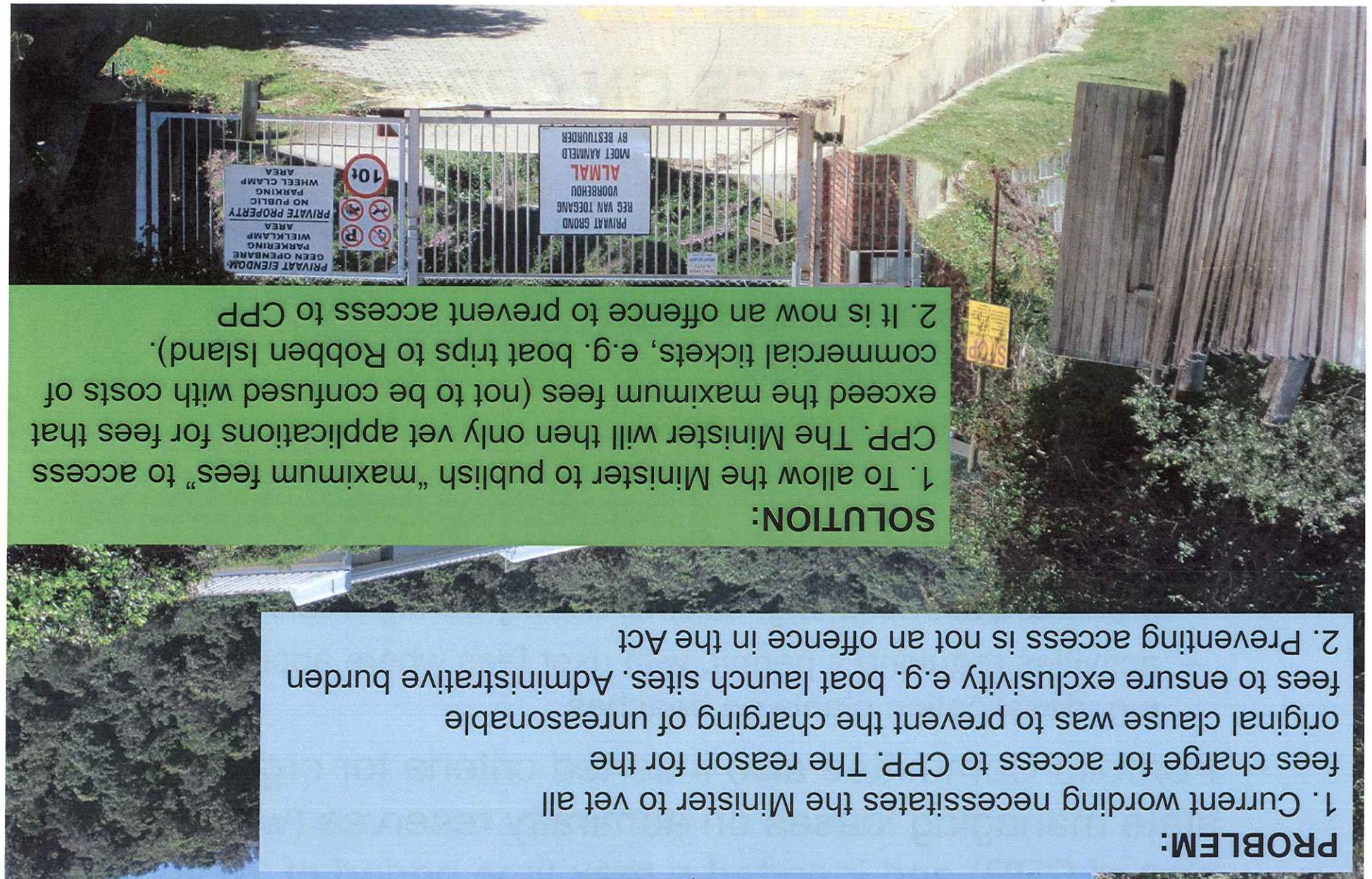
# LEASES ON CPP

## PROBLEM:

- Currently any activity on CPP requires a lease or concession - organs of state and anyone present in the sea or sea-shore needs lease or concession from the Minister
- Administratively cumbersome
- Environmental value questionable

## SOLUTION:

- Minister publishes a list of:
  - prohibited activities, e.g. seismic activity during whale season;
  - activities requiring a permit, with user fees where appropriate, e.g. desalination plants on beaches
- Portfolio Committee also inserted criteria for organs of state managing leases on admiralty reserves (which is part of CPP) and inserted a max time period of 20 yrs for CUPs



CI 9, S13

# ACCESS TO COASTAL PUBLIC PROPERTY

## PROBLEM:

1. Current wording necessitates the Minister to vet all fees charge for access to CPP. The reason for the original clause was to prevent the charging of unreasonable fees to ensure exclusivity e.g. boat launch sites. Administrative burden 2. Preventing access is not an offence in the Act

## SOLUTION:

1. To allow the Minister to publish "maximum fees" to access CPP. The Minister will then only vet applications for fees that exceed the maximum fees (not to be confused with costs of commercial tickets, e.g. boat trips to Robben Island).
2. It is now an offence to prevent access to CPP

# DESIGNATION OF COASTAL ACCESS LAND

- Clarified that designation subject to automatic public servitude
- Provided for intervention by MEC and Minister for failure to designate



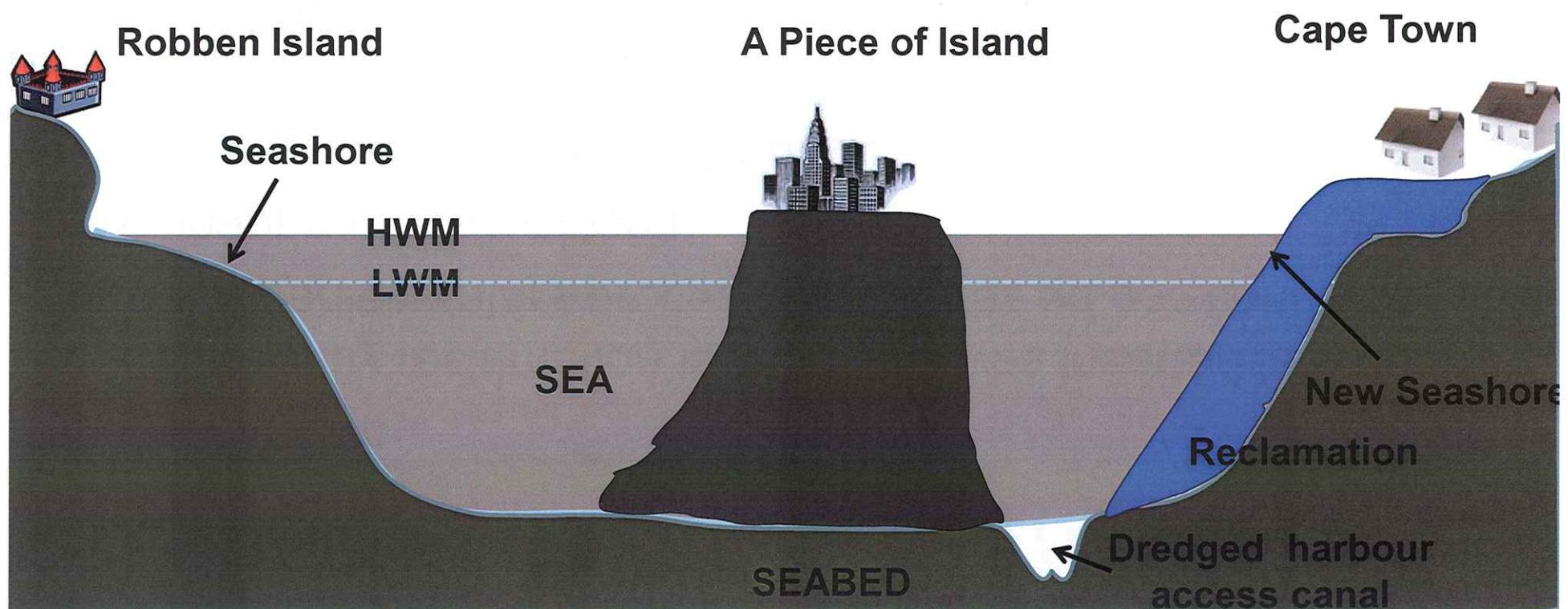


# RECLAMATION - CI 5 STA



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- 2 new clauses drafted and more appropriately placed
- Portfolio Committee revised the original clauses considerably
- Separate processes for govt. and private reclamations
- Close scrutiny of Parliament

## **SOLUTION:**

- Current sc 27(6) is inadequate.
- Inappropriately placed
- the parliamentary process to address ad hoc concerns
- Currently reclamation is in sc 27 - was inserted late during

## **PROBLEM:**

# **RECLAMATION - Cl 6 - S7B and 7C**

# **NATIONAL COASTAL COMMITTEE cl 24-26 (s35-37)**

## **PROBLEM:**

- Bill as introduced – proposed deletion of the NCC - History of failure with inter-governmental statutory bodies – e.g. CEC Use existing functioning inter-governmental fora

## **SOLUTION:**

- Portfolio Committee disagreed – instead simplified structure which still allows the option of using existing fora



- Powers of MECs
  - Section 59 (cl 30) coastal access and protection notices – powers extended to MECs
  - Verbal directives extended to MECs (cl 55)
  - Powers across provincial boundaries/ trans-frontier boundaries and national protected areas – exercised by Minister (cl 18, 19, 21, 48 - s25, 26, 28 and 84)

## Powers of MECs

# Transitional provisions

- Previous exclusion of ports – unintended consequences
  - Repeal exclusion (cl 61 – s97A)
  - Removed the power to exclude from coastal public property (cl 20 s27)
- Existing leases clear up ambiguity and clearly set out consequences and obligations (cl 58 – s95)
- Clarifies transitional provisions for unlawful structures on CPP (cl 59 s 96)



- Streamlined criteria for coastal EIAs (cl 33 s63) provincial information (cl 56 s93)
- Increased accountability and reporting - NEMP (cl 22-23 s33-34); state of the coast report incl.
- Objectives of the Act and with consultation – (cl 57 -s94A)
- Make provision for exemptions in line with the objectives of the Act and with consultation – (cl 57 -s94A)
- Dumping permits – time frames changed 2yrs renewable to 5yrs non-renewable (cl 42 s 71)
- Make provision for exemptions in line with the objectives of the Act and with consultation – (cl 57 -s94A)

## GENERAL ISSUES

# **OFFENCES AND PENALTIES**

## **CI 44 - 46, S 79 -81**

### **PROBLEM:**

- Complaints that sentencing is inadequate and there are gaps in the law (penalties for subsequent offences inconsistent)

### **SOLUTION:**

- Offences and penalties tightened up:
  - Now only two categories of offences instead of 3
  - Sentences for category two offences have been increased (R500 000 to R2 million)





THANK YOU