



ISISHAYAMTHETHO SAKWAZULU-NATAL

KWAZULU-NATAL WETGEWER

KWAZULU-NATAL PROVINCIAL LEGISLATURE

**TO: THE CHAIRPERSON,
NATIONAL COUNCIL OF PROVINCES**

NEGOTIATING MANDATE

PROVINCE : KWAZULU-NATAL

**BILL : NATIONAL ENVIRONMENTAL
MANAGEMENT: INTEGRATED COASTAL
MANAGEMENT BILL
[B40B – 2007]**

PROVINCIAL PROCESS :

Provincial Portfolio Committee/s : Agriculture & Environmental Affairs
Portfolio Committee
Portfolio Committee meeting date/s : Thursday, the 5th of JUNE 2008
Provincial NCOP meeting date/s : Thursday, the 5th of JUNE 2008
Consultation : Parliamentary Legal Advisors, Special & Permanent Delegates

VOTE OF THE KWAZULU-NATAL PROVINCIAL LEGISLATURE:

The Provincial Standing Committee on National Council of Provinces Matters met today, Thursday, the 5th of JUNE 2008, to consider the **National Environmental Management: Integrated Coastal Management Bill [B40B-2007]**.

The following comments and amendments were proposed and considered on the Bill:

GENERAL COMMENTS ON THE BILL

- The Province of KwaZulu-Natal welcomes and supports in principle the introduction of this legislation;
- The legislation in its current form maintains a healthy balance between the three spheres of sustainable development, viz. promotion of ecological integrity, the opportunity for societal improvement and economic growth;
- However, it is submitted that the following omissions from the Bill weaken its ability to operate optimally:

1. **Statement of principles of coastal zone development:**

Whereas the Draft White Paper for Sustainable Coastal Development in South Africa contained a number of principles of coastal zone development, these have been omitted from the Bill. It is suspected that this is due to the fact that this Bill falls under the National Environmental Management Act and therefore the principles set out therein are equally applicable to this Bill. However, it is submitted that a set of principles specifically related to coastal zone development would greatly strengthen the Bill.

2. **Funding:**

Provincial and local government in KwaZulu-Natal express concern at their ability to effectively implement the provisions of and achieve the goals of the Bill due to financial constraints.

The Bill also makes reference to various income generating opportunities, however, the Bill does not specify or attempt to allocate this funding to local, provincial or national government.

3. **"Public interest" / "benefit the whole community"**

These terms are not defined. Due to the diverse and competing interests coastal management creates, the terms ought to be defined to prevent complicated trade-offs.

Similarly, it is necessary to specify whether "community", "person" and "human user" refers to South African citizens only as the fisheries legislation, for example makes specific reference to South African citizens. Where coastal developments/hotels are owned by International Investors, the benefits potentially accrue or return to that International country and South Africans do not enjoy the benefits.

4. **Driving of 4x4 vehicles on beaches and boat launch sites**

These regulations should be incorporated into or cross-referenced to this Bill

5. **Definition of the "high water mark" and "low water mark"**
To define these critically important boundaries by simply referring to the highest and lowest line to which coastal waters reach or recede is problematic and there should be some reference to this being determined in conjunction with the Department of Land Affairs and endorsed on affected properties.

6. **Determination of the "litoral active zone"**
Must cross reference this so that it is clear who has the authority to determine this zone.

7. **Reference to functions of local government and MEC's**
Whereas all the other chapters in the Bill refer specifically to the functions of municipalities and province (the MEC), chapter 8 is the only chapter that makes no reference to same. Marine and coastal pollution control is critical and functions should rest with province as well as national.
Whilst it is acknowledged that there is provision for the Minister to make delegations in terms of section 89, this still entails a process which often takes a considerable amount of time to effect.

8. **Communication of contents of Bill**
When the Bill is enacted, the province encourages a strong communication drive on its contents. It is particularly important that Traditional Authorities who allocate land to persons, sometimes in areas prone to flooding/erosion by the sea understand the importance of set back lines etc.

9. **Conflict with Land Survey Act**
Section 30(d) of the Land Survey Act states that "...if any land has an imaginary or curvilinear boundary at a stated distance from an ambulatory feature, that boundary shall not be subject to any positional change after registration of that land has taken place".

However, section 14 of the Bill suggests otherwise, stating that the boundaries may indeed be affected by the movement of the high water mark.

It is suggested that this discrepancy be dealt with and further suggested that in particular the issue of a pro-grading coastline be dealt with so as to promote conservation of the coastal environment as opposed to private property owners potentially obtaining land in the event of a pro-grading coastline.

SPECIFIC AMENDMENTS PROPOSED

1. On page 10, the definition of "effluent" should be amended at line 25 to include before the word "any", the words "any storm water into which sewerage has been discharged,..."
2. On page 15, line 19, the insertion of the words: "Except as provided for in sections 65 and 66" before the words "coastal public property".
3. On page 15, line 47, the substitution of the word "may" for "must".
4. On page 16, line 44, the substitution of the words "The owner or occupier" with the words "No person..."
5. On page 16, line 51, the deletion of the words "except as provided for in this Act".
6. On page 19, line 12, the words "land unit" to be substituted with the word "erf"
7. On page 19, line 17, the words "land unit" to be substituted with the word "erf".
8. On page 19, line 24, the word "any" should be removed and the words "within the coastal protection zone" after "land".
9. On page 19, after line 26, the insertion of: "provide for rehabilitation or mitigation purposes"
10. On page 20, line 24, the substitution of the word "may" with the word "must".
11. On page 20, line 34, the substitution of the word "may" to be substituted with the word "must".
12. On page 23, line 32, the word "may" to be substituted with the word "must".
13. On page 23, line 15, the substitution of "person" with "body".
14. On page 25, line 45, the insertion after "coastal resources" of "including representatives of government who play a significant role in undertaking or regulating activities that may have an adverse affect on the coastal environment".

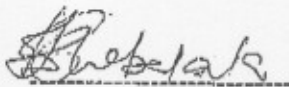
15. On page 25, line 52, the deletion of "and"
On page 25, after line 53, the addition of:
"(iii) one or more members representing community based and non government organizations; and
(iv) one or more members representing scientific or coastal research Institutes."
16. On page 29, line 47, the deletion of the word "and" after "dwellings;"
On page 29, after line 50, the insertion of
"(v) to address coastal erosion and accretion; and
(vi) to deal with access issues".
17. On page 36, it is submitted that section 63 is unnecessary in that it purports to set out or reiterate what is already contained in Chapter 5 of NEMA. A simple cross reference to the provisions of Chapter 5 of NEMA and the regulations promulgated in terms therewith applying *mutatis mutandi* would suffice.
18. On page 38, line 5, the deletion of "and"
On page 38, after line 7, the addition of:
"(d) must provide for the rehabilitation of the leased property, where, at the discretion of the Minister same has become unduly degraded during the duration of the lease."
19. On page 38, after line 20, insert the following
"provided that this is done in a manner that does not adversely affect the environment".
20. On page 41, line 36, the deletion of "and"
On page 41, after line 36, the addition of:
"f) transboundary impacts and international obligations and standards;
and"
On page 41, line 37, the substitution of "f" for "g".
21. On page 42, line 44 and 45, the substitution of the words "to whom a protection notice or coastal access notice in terms of section 59 or a repair and removal notice in terms of section 60, has been issued" with "who is aggrieved by any decision taken in terms of this Act".
22. On page 42, line 47, the substitution of the words "notice was issued" with the words "decision was taken".
23. On page 42, line 50, the substitution of the words "notice was issued" with the words "decision was taken".
24. On page 42 and page 43, the deletion of subsection 74(2) and the

renumbering of the subsequent subsections.

- 25. On page 45, line 27, the removal of the words "to a fine of up to R5 000 000 or " and the insertion of the words "or to an equivalent fine" after the words "ten years" in line 28.
- 26. On page 45, line 30, the removal of the words ":to a fine of up to R500 000 or" and the insertion of the words "or to an equivalent fine" after the words "five years" in line 31.
- 27. On page 45, line 34, the removal of the words "to a fine of up to R50 000 or" and the insertion of the words "or to an equivalent fine" after the words "six months": in line 35.
- 28. On page 46, after line 52, the insertion of "(xlii) or any activity which has an adverse effect on the coastal environment".

The Committee unanimously agreed to mandate the KwaZulu-Natal delegation to the National Council of Provinces to support the Bill provided that the above comments and proposed amendments are considered and consolidated in the Bill.

PROVINCIAL ENDORSEMENT



Ms L F Shabalala
CHAIRPERSON :
KWAZULU-NATAL STANDING COMMITTEE ON
NATIONAL COUNCIL OF PROVINCES MATTERS

Thursday, the 5th June 2008

DATE



Committee Services

FREE STATE LEGISLATURE

Our reference:
Ons verwysing:
Табірца ўра гона:

TOURISM, ENVIRONMENTAL AND ECONOMIC AFFAIRS COMMITTEE

Report on the provincial inputs regarding National Environmental Management: Integrated Coastal Management Bill [B40B-2007]

1. Terms of Reference

The **National Environment Management: Integrated Coastal Management Bill [B40B – 2007]** has been referred to the **Tourism, Environmental and Economic Affairs Committee** by the **Speaker**.

2. Briefing

(1) On the 15 May 2008, Mr. N. Van Rooyen, NCOP Permanent delegate of the Free State briefed the Committee on the content of the Bill.

(2) Advocate Malakoane, Assistant Legal Advisor of the Free State Legislature briefed the Committee on the legal substance and effects of the Bill.

(3) The Committee held the Public Hearings on 23 and 24 May 2008 in three districts.

5. Resolutions

The Committee resolved that:

1. Authority be conferred to the Free State delegation to vote in favor of the Bill.

Mr. P. Maloka: ACTING CHAIRPERSON
TOURISM, ENVIRONMENTAL AND ECONOMIC AFFAIRS COMMITTEE
Free State Legislature
29 May 2008

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GAUTENG
LEGISLATURE

AGRICULTURE, CONSERVATION AND ENVIRONMENT PORTFOLIO COMMITTEE
NEGOTIATING MANDATE
OF THE NATIONAL ENVIRONMENT MANAGEMENT: INTERGRATED COASTAL
MANAGEMENT BILL
[B40B-2007]
(Section 76)

02 June 2008

1. INTRODUCTION

The Chairperson of the Agriculture, Conservation and Environment Portfolio Committee, Ms N Nkomo-Ralehoko, tables the Committee's Negotiating Mandate on National Environment Management: Integrated Coastal Management Bill [B40B-2007], a Section 76 Bill as follows:

2. PROCESS FOLLOWED

The Speaker formally referred the National Environment Management Integrated Coastal Management Bill [B40B-2007], a Section 76 Bill to the Agriculture, Conservation and Environment Portfolio Committee for consideration and report in terms of Rule 232 (1) on Tuesday 13 May 2008. The Chairperson, Ms N Nkomo-Ralehoko, tables the negotiating mandate on the above-mentioned Bill as follows:

The NCOP Permanent Delegate, Member Abram Mzizi briefed the Committee on the content of the Bill on Friday 02nd May 2008.

The Committee did not conduct Public Hearings on the Bill, as the Bill does not affect the Gauteng Province. The Committee deliberated on the Bill and adopted the negotiating mandate on National Environment Management: Integrated Coastal Management Bill [B40B-2007], Section 76 Bill on Monday, 02 June 2008.

3. OBJECTS OF THE BILL

- The Bill sets out a new and integrated approach to managing the nation's coastal resources in order to promote social equity and to make best economic use of coastal resources, whilst protecting the natural environment. Specifically, the Bill seeks to:
 - Provide a legal and administrative framework that will promote cooperative, coordinated and integrated coastal management

- Preserve, protect and enhance the status of the coastal environment as the heritage of all;
- Ensure that coastal resources are managed in the interest of the whole community;
- Ensure that there is equitable access to the opportunities and benefits derived from the coast; and
- Give effect to South Africa's international law obligations

4. OVERVIEW OF PUBLIC HEARING & WRITTEN SUBMISSIONS

The Committee did not receive verbal or written submissions on the Bill.

5. IMPLICATIONS OF THE BILL FOR THE IN PROVINCE

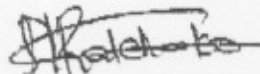
There are no Environment, Financial Economic and Social Implication on the Province as the Bill does not affect the Gauteng Province, but the coastal Provinces.

6. COMMITTEE RECOMMENDATIONS

The Portfolio Committee supports, with no proposed amendments, the Bill as passed by the National Assembly and transmitted to the NCOP for concurrence.

7. NEGOTIATING POSITION ADOPTED BY COMMITTEE

The Agriculture, Conservation and Environment Portfolio Committee support the principle and details of the National Environment Management Integrated Coastal Management Bill [B40B-2007].



Nomantu Nkomo-Ralehoko
Chairperson: Agriculture, Conservation and Environment Portfolio Committee