

**‘One Environmental System’:
alignment with National
Environmental Management:
Integrated Coastal Management
Act 24 of 2008 as amended**

Jeannie van Wyk



Purpose of NEM:ICMA

A specific environmental management Act under umbrella of NEMA, that aims to establish a system of integrated coastal and estuarine management in the Republic ... to ensure that development and the use of natural resources within the coastal zone is socially and economically justifiable and ecologically sustainable; to control dumping at sea, pollution in the coastal zone, inappropriate development of the coastal environment and other adverse effects on the coastal environment...

Invariably there are links to other legislation...



**NEM:ICMA (Act 10 of 2008 and amendment
Act 36 of 2014 in operation 1 May 2015):
NEMA (and 2014 EIA regulations)
NEM: PPA
NEM: WA
NWA
SPLUMA**



Competent authority (Constitution Sch 4 concurrent powers)

National: Environmental Affairs

**Provincial: Environmental affairs &
Development planning (names differ)**

Municipal:



Coastal zone

Definition:

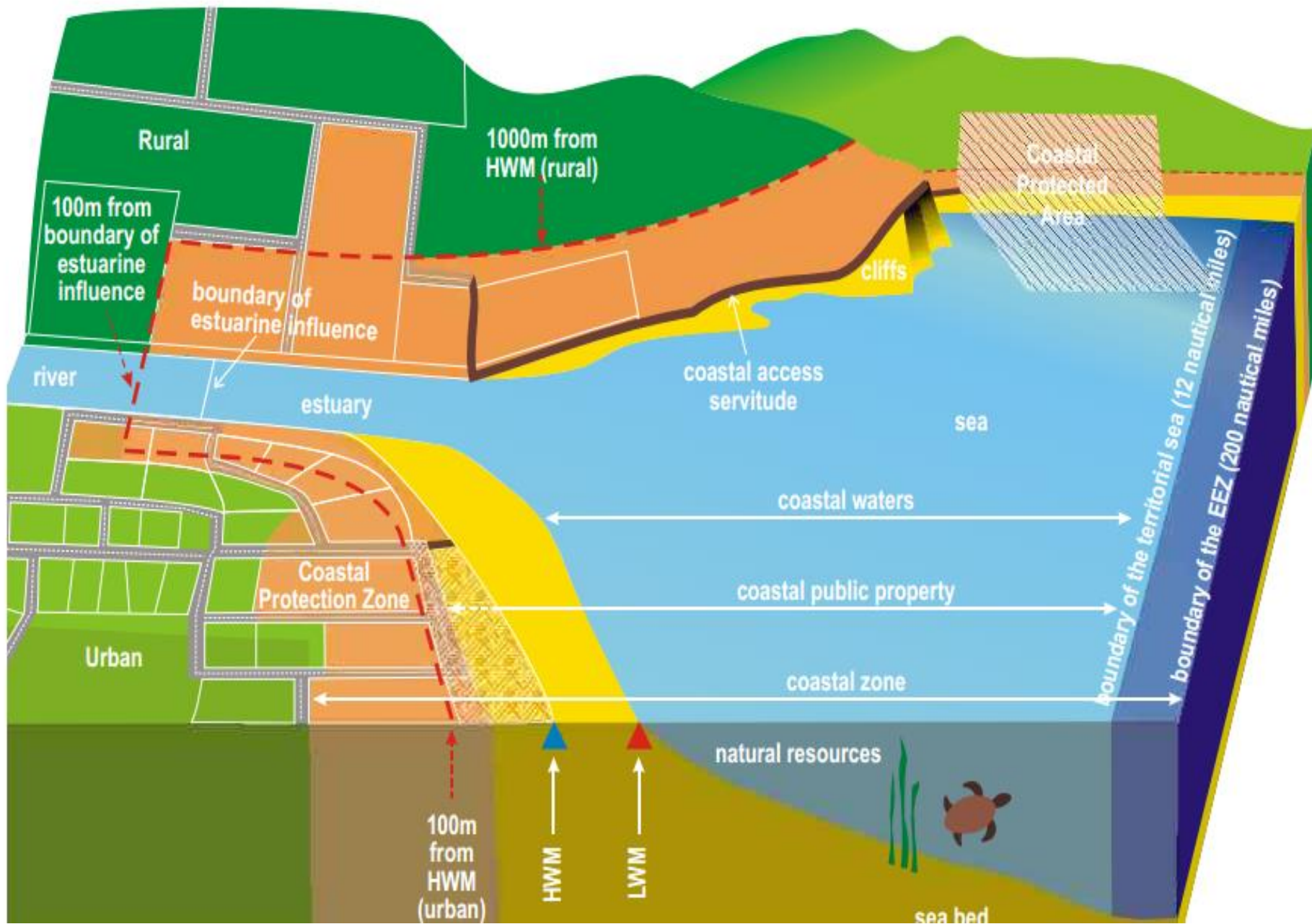
‘coastal zone’ means the area comprising coastal public property, the coastal protection zone, coastal access land, coastal protected areas, the seashore and coastal waters, and includes any aspect of the environment on, in under or above such area...



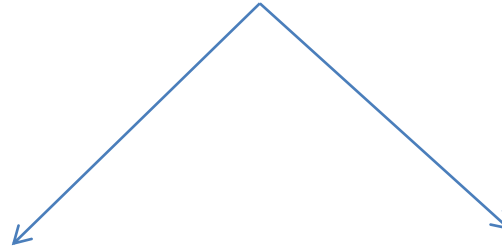
Unpacking definition:

1. coastal public property,
2. the coastal protection zone,
3. coastal access land,
4. coastal protected areas,
5. the seashore and coastal waters





NEM:ICMA Tools



Plans/programmes

Applications
(Authorisations
for)

Coastal management
programmes

Coastal planning schemes



Coastal activities

‘coastal activities’ means activities listed or specified in terms of Chapter 5 of the National Environmental Management Act which take place—

(a) in the coastal zone; or

(b) outside the coastal zone but have or are likely to have a direct impact on the coastal zone.



Authorisations for coastal activities

- 1.Environmental authorisations
- 2.Coastal authorisations



Environmental authorisations

NEMA

EIA REGS 2014

NEM:ICMA s 63



2014 EIA Regs

Listing Notice 1: Basic assessment report

12: marinas, jetties, slipways...

And their expansion: (55)

(i) in the sea; (ii) in an estuary; (iii) within the littoral active zone; (iv) in front of a development setback; or

(v) if no development setback exists, within a distance of 100 metres inland of the high- water mark of the sea or an estuary, whichever is the greater;

in respect of-

(a) facilities associated with the arrival and departure of vessels and the handling of cargo; (b) piers; (c) inter- and sub-tidal structures for entrapment of sand; (d) breakwater structures; (e) coastal marinas; (f) coastal harbours or ports;



2014 EIA Regs

Listing Notice 2 Scoping

14: The development and related operation of-

(i) an island;

(ii) anchored platform; or

(iii) any other structure or infrastructure on, below or along the sea bed...



Environmental authorisations NEM:ICMA s 63 Factors

Where an environmental authorisation is required under NEMA for coastal activities, the following (additional) factors must be taken into account:



- (1)(a) the representations made by the applicant and by interested and affected parties;
- (b) the extent to which the applicant has in the past complied with similar authorisations;
- (c) whether coastal public property, the coastal protection zone or coastal access land will be affected, and if so, the extent to which the proposed development or activity is consistent with the purpose for establishing and protecting those areas;
- (d) the estuarine management plans, coastal management programmes, coastal management lines and coastal management objectives applicable in the area;
- (e) the socio-economic impact if the activity is / is not authorised;
- (g) the likely impact of coastal environmental processes on the proposed activity;



(h) whether the development or activity—

(i) is situated within coastal public property and is inconsistent with the objective of conserving and enhancing coastal public property for the benefit of current and future generations;

(ii) is situated within the coastal protection zone and is inconsistent with the purpose for which a coastal protection zone is established...;

(iii) is situated within coastal access land and is inconsistent with the purpose for which coastal access land is designated ...;

(iv) is likely to cause irreversible/long-lasting adverse effects to the coastal environment that cannot satisfactorily be mitigated;

(v) is likely to be significantly damaged or prejudiced by dynamic coastal processes;

(vi) would substantially prejudice the achievement of any coastal management objective; or

(vii) would be contrary to the interests of the whole community.



- (i) whether the very nature of the proposed activity or development requires it to be located within coastal public property, the coastal protection zone or coastal access land;
- (j) whether the proposed activity or development will provide important services to the public when using coastal public property, the coastal protection zone, coastal access land or a coastal protected area; and
- (k) the objects of this Act, where applicable.



Environmental authorisation may not be issued if activity ...

- (2) is situated within coastal public property and is inconsistent with the objective of conserving and enhancing coastal public property for the benefit of current and future generations;
- (b)-(c) is situated within (i) the coastal protection zone or (ii) coastal access land and is inconsistent with the purpose for which these are established;
- (d) is likely to cause irreversible or long-lasting adverse effects to any aspect of the coastal environment that cannot satisfactorily be mitigated;
- (e) is likely to be significantly damaged or prejudiced by dynamic coastal processes;
- (f) would substantially prejudice the achievement of any coastal management objective; or
- (g) would be contrary to the interests of the whole community.



Coastal authorisations

Includes:

1. an authorisation to reclaim land (S 7B and 7C);
2. a coastal waters discharge permit (s 69);
3. a general discharge authorisation (s 69);
4. a dumping permit (s 71);
5. a coastal use permit (s 65)
6. any other authorisation under the Act, but excludes an environmental authorisation...



NEM:ICMA s 7B and 7C – Authorisation to reclaim land

S 7B: for state infrastructure

S 7C: for purposes other than for state
infrastructure



Procedure – authorisation to reclaim land

Application for reclamation submitted to Minister for pre-approval prior to application for environmental authorisation;

Public participation/notice before pre-approval;

Submit pre-approval to Parliament for ratification (s7C) and if ratified application made for environmental authorisation (under NEMA);

If environmental authorisation is granted resubmit to Minister, who makes decision (authorisation to reclaim land);

Decision tabled in Parliament



A coastal waters discharge permit (s 69)

If a person has no general discharge authorisation issued by Minister, by notice in *Gazette*, a coastal waters discharge permit is required to discharge effluent that emanates from a source on land into coastal waters.



A coastal waters discharge permit (s 69)

A person who wishes to discharge effluent into coastal waters where this is not authorised under a general discharge authorisation must apply to the Department for a coastal waters discharge permit.

Any person who, at commencement of Act, is discharging effluent into coastal waters and is not authorised to do so under a general discharge authorisation must apply to the Department for a coastal waters discharge permit – within 24 or 36 months if discharge is in terms of a licence / authorisation under the National Water Act



Factors taken into account in decision to issue s 69 authorisations

- (a) the interests of the whole community;
- (b) the socio-economic impact if the disposal is/is not authorised;
- (c) the coastal management programmes and estuarine management plans applicable in the area;
- (d) the likely impact of the proposed disposal on the coastal environment, including, the cumulative effect of its impact together with those of existing point and non-point discharges.
- (e) the Republic's obligations under international law;
- (f) the factors listed in section 27 of the National Water Act; and
- (g) any other factors that may be prescribed.



Dumping permit (s 71)

A person wishing to dump at sea any waste or other material must apply to Minister for a dumping permit that authorises the waste or other material to be loaded aboard a vessel, aircraft, platform or other structure and to be dumped at sea



Factors taken into account in deciding an application

- (a) the Waste Assessment Guidelines set out in Schedule 2;
- (b) any coastal management programme applicable in the area;
- (c) the likely environmental impact of the proposed activity;
- (d) national legislation dealing with waste;
- (e) the interests of the whole community;
- (f) transboundary impacts and international obligations and standards; and
- (g) any other factors...



Coastal use permit (s 65)

- (1) The Minister may by notice in the Gazette—
- (a) list activities that—
 - (i) are prohibited within coastal public property; or
 - (ii) require a coastal use permit from the Minister; and
 - (b) set different user charges for coastal use permits ... provided that such activities do not require environmental authorisation in terms of NEMA.



Coastal use permit (s 65)

No person may undertake an activity prohibited or without a coastal use permit.

A coastal use permit is issued by Minister on application or through prescribed process.

A coastal use permit awarded does not relieve the holder from the obligation to obtain any other authorisation.



Coastal planning schemes (Definition)

“**coastal planning scheme**” means a scheme that—
(a) reserves defined areas within the coastal zone to be used exclusively or mainly for specified purposes; and
(b) prohibits or restricts any use of these areas in conflict with the terms of the scheme



Coastal planning schemes (s 56)

A coastal planning scheme facilitates the attainment of coastal management objectives by -

(a) defining areas within the coastal zone or coastal management area which may -

(i) be used exclusively or mainly for specified purposes or activities; or

(ii) not be used for specified purposes or activities; and

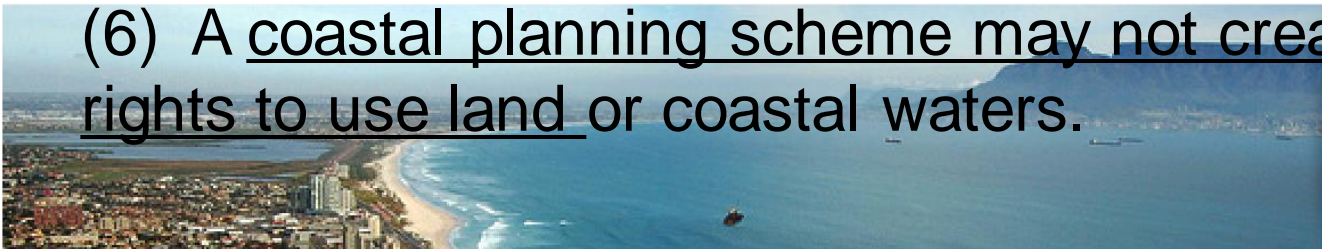
(b) prohibiting or restricting activities or uses of areas that do not comply with the rules of the scheme.



Coastal planning schemes (s 56)

- 56 (2) A coastal planning scheme must—
- (a) be established by notice in the *Gazette*;
 - (b) be consistent with—
 - (i) this Act;
 - (ii) the national coastal management programme;
 - (iii) the applicable provincial coastal management programme; and
 - (iv) any estuarine management plan applicable in the area; and
 - (c) take into account any other applicable coastal management programmes. ...

(6) A coastal planning scheme may not create any rights to use land or coastal waters.



Coastal planning schemes and land use schemes (s 57)

(1) A coastal planning scheme of a municipality may form, and be enforced as part of, any land use scheme adopted by the municipality.

(2) (a) A municipality may not adopt a land use scheme that is inconsistent with a coastal planning scheme.

(b) If there is a conflict between a municipal land use scheme established after the commencement of the Act and a coastal planning scheme made in terms of this Act, the coastal planning prevails.



Questions?

Thank you...

