

Date: 2 May 2025

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Dear Madam

**RE: Representations on the Draft National Coastal Management Programme of South Africa: 2025-2030**

**1. Introduction**

2. The Biodiversity Law Centre (**BLC**) hereby submits its comments on the Draft National Coastal Management Programme of South Africa: 2025-2030 (**Draft NCMP**) published on 28 March 2025.<sup>1</sup> These representations are submitted within the 30-day period stipulated in the Government Gazette.
3. The BLC is a legal non-profit organisation that seeks to use the law to protect and restore indigenous species and ecosystems that support sustainable livelihoods in Southern Africa. The BLC's mission is to use the law to protect, restore and preserve indigenous ecosystems and species in Southern Africa. The BLC is particularly interested in law and policy that give effect to section 24 of the Constitution, and specifically the State's obligations to ensure the environment is protected for present and future generations, by

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<sup>1</sup> In Government Gazette No 52388, Government Notice 6049 (**Draft NCMP Gazette Notice**).

preventing pollution and ecological degradation, promoting conservation, and securing ecologically sustainable development.

4. The National Environmental Management: Integrated Coastal Management Act 24 of 2008 (**NEM:ICMA**) gives effect to section 24 within the coastal zone, which it defines as “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 and above such area”.<sup>2</sup>
5. The impact of section 24 of the Constitution is clear from NEM:ICMA’s objects, which include:
  - 5.1. providing for the coordinated and integrated management of the coastal zone by all spheres of government within the framework of the National Environmental Management Act 107 of 1998 (**NEMA**);<sup>3</sup>
  - 5.2. preserving, protecting, extending and enhancing the status of coastal public property as being held in trust by the State on behalf of all South Africans, including future generations;<sup>4</sup>
  - 5.3. securing equitable access to the opportunities and benefits of coastal public property;<sup>5</sup> and
  - 5.4. providing for the establishment, use and management of the coastal protection zone.<sup>6</sup>
6. NEM:ICMA further emphasises the importance of section 24 of the Constitution through the obligation it imposes on the State to take reasonable measures to achieve the progressive realisation of the section 24 rights in the interests of every person in implementing NEM:ICMA.<sup>7</sup>
7. The centrality of section 24 of the Constitution to coastal management must also be reflected in the NCMP, which, as stated by the Minister of Forestry, Fisheries and the Environment (**Minister**) in his foreword to the Draft NCMP, functions as NEM:ICMA’s “principal implementation tool”, and “serves as both compass and catalyst for coastal governance in South Africa”.<sup>8</sup>
8. Section 45 of NEM:ICMA requires that the NCMP –

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<sup>2</sup> Section 1 of NEM:ICMA definition of “coastal zone”.

<sup>3</sup> Section 2(b) of NEM:ICMA.

<sup>4</sup> Section 2(c) of NEM:ICMA.

<sup>5</sup> Section 2(d) of NEM:ICMA.

<sup>6</sup> Section 2(dA) of NEM:ICMA.

<sup>7</sup> Section 3(b) of NEM:ICMA.

<sup>8</sup> Draft NCMP at page vi.

- 8.1. be a policy directive on integrated coastal management;<sup>9</sup>
- 8.2. provide for an integrated, coordinated and uniform approach to coastal management by organs of state in all spheres of government, non-governmental organisations, the private sector and local communities;<sup>10</sup> and
- 8.3. include the following components:
  - 8.3.1. a national vision for coastal management in the Republic, including the sustainable use of coastal resources;<sup>11</sup>
  - 8.3.2. national coastal management objectives;<sup>12</sup>
  - 8.3.3. priorities and strategies to achieve those objectives;<sup>13</sup>
  - 8.3.4. performance indicators to measure progress with the achievement of those objectives;<sup>14</sup>
  - 8.3.5. norms and standards for the management of the coastal zone generally and its specific components;<sup>15</sup> and
  - 8.3.6. a framework for cooperative governance to implement measures concerning coastal management that identifies the responsibilities of different organs of state, including their responsibilities in relation to marginalised or previously disadvantaged communities that are dependent on coastal resources for their livelihood; and facilitates coordinated and integrated coastal management.<sup>16</sup>
9. NEM:ICMA further requires a range of policies and plans made under NEM:ICMA and other legislation to align with and give effect to the NCMP – including provincial and municipal coastal management programmes (**PCMPs** and **MCMPs** respectively),<sup>17</sup> estuarine management plans,<sup>18</sup> coastal planning schemes,<sup>19</sup> and “any programme or plan in terms of NEMA, any specific environmental management Act, an integrated development plan in terms of the Municipal Systems Act and a provincial or municipal land

<sup>9</sup> Section 45(1)(a) of NEM:ICMA.

<sup>10</sup> Section 45(1)(b) of NEM:ICMA.

<sup>11</sup> Section 45(2)(a) of NEM:ICMA.

<sup>12</sup> Section 45(2)(b) of NEM:ICMA.

<sup>13</sup> Section 45(2)(c) of NEM:ICMA.

<sup>14</sup> Section 45(2)(d) of NEM:ICMA.

<sup>15</sup> Section 45(2)(e) of NEM:ICMA.

<sup>16</sup> Section 45(2)(f) of NEM:ICMA.

<sup>17</sup> Sections 47(c)(i) and 49(b)(i) of NEM:ICMA.

<sup>18</sup> Section 34(1)(b)(ii) of NEM:ICMA.

<sup>19</sup> Section 56(2)(b)(ii) of NEM:ICMA.

development plan”.<sup>20</sup> As a result, the work of national, provincial and municipal coastal committees provided for in NEM:ICMA is also informed by the NCMP.<sup>21</sup>

10. To date, the first and (as far as we have been able to confirm) only NCMP adopted in terms of NEM:ICMA is the NCMP for the period of 2015 to 2019 (**2015 – 2019 NCMP**).<sup>22</sup> While we will return to specific components of the 2015-2019 NCMP, in brief, the 2015 – 2019 NCMP’s 323 pages cover all components required by section 45 of NEM:ICMA, with the exception of norms and standards for the management of the coastal zone and its components. The Draft NCMP characterises itself as an “update” of the 2015 – 2019 NCMP,<sup>23</sup> but it is unclear whether the (comparatively much shorter) Draft NCMP is a “necessary” amendment to the 2015 – 2019 NCMP in terms of section 44(1)(c) of NEM:ICMA which is meant to be read with the 2015 – 2019 NCMP, or whether the Draft NCMP is a standalone NCMP and the provisions of the 2015 – 2019 NCMP no longer apply. It is further unclear whether the five-year review of the 2015 – 2019 NCMP required by section 44(1)(b) of NEM:ICMA was performed. We request clarity on this aspect.

11. As it stands, rather than being an update, the Draft NCMP is in certain respects a regression from the 2015-2019 NCMP. It falls short of what NEM:ICMA requires, and even what the Draft NCMP itself states that it sets out to do. The Draft NCMP is vague in many respects, but particularly in relation to its Implementation Plan and identified priorities, to the point of being unusable. Our view is that major changes are required for the Draft NCMP to serve its critical functions.

## 12. The Draft NCMP’s interpretation of sustainable development and section 24(b)

13. The Draft NCMP’s has set out a somewhat erroneous construction of the environmental rights in section 24 of the Constitution, and, perhaps resultingly, its conception of sustainable coastal development is misguided. We say this for the following reasons:

- 13.1. Firstly, it does not reflect that, like the right to an environment that is not harmful to our health or wellbeing (which the Draft NCMP correctly recognises is a right), the protection of the environment for the benefit of present and future generations is a right under section 24(b) of the Constitution, not merely a “foundational principle for environmental management”.<sup>24</sup>
- 13.2. Secondly, the Draft NCMP does not reflect that the Constitution prescribes that the prevention of pollution and ecological degradation; the promotion of conservation; and the “securing of ecologically sustainable development and use of natural resources

<sup>20</sup> Section 51 of NEM:ICMA.

<sup>21</sup> Sections 35(3), 39(2)(a) and 42(4)(a), (c), and (e) of NEM:ICMA respectively.

<sup>22</sup> Department of Environmental Affairs (2014) The National Coastal Management Programme of South Africa. Cape Town.

<sup>23</sup> Draft NCMP at page xi.

<sup>24</sup> Draft NCMP at page 11.

while promoting justifiable economic and social development” (importantly not merely “sustainable development” as the Draft NCMP states)<sup>25</sup> are each measures contributing to the overall section 24(b) environmental protection right, rather than separate “foundational principles for environmental management” that are on equal footing with the section 24(b) environmental protection right.<sup>26</sup> In other words, the Draft NCMP fails to be premised on the constitutional role of “ecologically sustainable use of natural resources” as part of the broader obligation on the State to ensure that the environment is protected for the benefit of present and future generations;<sup>27</sup> and ignores the self-standing obligations of conservation promotion<sup>28</sup> and prevention of ecological degradation and pollution<sup>29</sup> in section 24(b). This erroneous construction of the section 24(b) right permeates the Draft NCMP and means that protection of biodiversity, on which all life and livelihoods depends, is not foregrounded.

14. As a result of the above failure of the Draft NCMP to adopt this approach to management of the coastal zone, there are certain elements of the Draft NCMP that are not aligned with constitutional imperatives, for example:

- 14.1. The Draft NCMP provides that it “advocates for sustainable coastal development – a delicate balance between material prosperity, social development, cultural values, spiritual fulfilment, and ecological integrity, serving the interests of all South Africans.”<sup>30</sup> This construction of sustainable coastal development also forms part of the Draft NCMP’s National Vision.<sup>31</sup> While ecologically sustainable development is supported, this is not a “permission” to use natural resources for economic purposes. Rather, it is a requirement that any use of natural resources – whether living or non-living – is always tested against the requirement of long-term ecological integrity.<sup>32</sup>
- 14.2. The Draft NCMP further repeats similar conceptions of sustainable development and the balancing it requires, stating at various instances that “integrated coastal management strives to strike a balance between the demands of development and the needs of the environment, economy, and society”,<sup>33</sup> and that “through dedicated implementation [of the Draft NCMP], South Africa can achieve its vision of sustainable coastal development that balances ecological integrity with social and economic development”.<sup>34</sup> Again, this conception of sustainable coastal development ignores the fact that a healthy ocean ecosystem underpins all development. Section 24(b)

<sup>25</sup> Draft NCMP at page 11.

<sup>26</sup> Draft NCMP at page 11.

<sup>27</sup> Constitution, s 24(b).

<sup>28</sup> Constitution, s 24(b)(i).

<sup>29</sup> Constitution, s 24(b)(ii).

<sup>30</sup> Draft NCMP at page 5.

<sup>31</sup> Draft NCMP at page iv.

<sup>32</sup> See *Kloof Conservancy v Government of the Republic of South Africa* 2015 JDR 0078 (KZD) (**Kloof Conservancy**) para 109 for a useful summary of the legal position.

<sup>33</sup> Draft NCMP at page 22.

<sup>34</sup> Draft NCMP at page 79.

thus requires protection of the environment, first and foremost. In this regard, the words of the Constitutional Court in *Fuel Retailers*<sup>35</sup> are apt –

- 14.3. “[D]evelopment cannot subsist upon a deteriorating environmental base. Unlimited development is detrimental to the environment and the destruction of the environment is detrimental to development. Promotion of development requires the protection of the environment. Yet the environment cannot be protected if development does not pay attention to the costs of environmental destruction. The environment and development are thus inexorably linked .... Sustainable development and sustainable use and exploitation of natural resources are at the core of the protection of the environment.”<sup>36</sup>
15. Moreover, NEM:ICMA itself does not support a construction of sustainable coastal development that makes development and environmental protection competing causes. NEM:ICMA’s long title states that it is to “ensure that development and the use of natural resources within the coastal zone is socially and economically justifiable and ecologically sustainable”.
16. We note that the Draft NCMP’s misguided conception of sustainable coastal development may originate from the National Coastal Vision in the 2015 – 2019 NCMP,<sup>37</sup> and the 2000 White Paper for Sustainable Coastal Development in South Africa. However, we are of the view that the Draft NCMP offers the opportunity to amend the National Vision to better reflect section 24 of the Constitution. This amendment is especially important because of the future trickle-down effect of the Draft NCMP’s conception of sustainable coastal development on other plans, programmes and organs of state regulating the coastal zone as set out above.
17. The effect of the Draft NCMP’s misconstruction of section 24 rights and sustainable coastal development is also shown by the Draft NCMP’s lack of consideration of coastal communities, particularly marginalised or previously disadvantaged communities that are dependent on coastal resources for their livelihood, but we deal with this below.
- 18. The Draft NCMP does not include norms and standards**
19. Contrary to section 45(2)(e) of NEM:ICMA, the Draft NCMP contains no norms and standards for the management of the coastal zone generally or for its specific components.
20. We note that the 2015 – 2019 NCMP did not contain these NEM:ICMA required norms and standards either. It identified existing relevant norms and standards promulgated

<sup>35</sup> *Fuel Retailers Association of Southern Africa v Director-General: Environmental Management, Department of Agriculture, Conservation and Environment, Mpumalanga Province and Others* 2007 (6) SA 4 (CC) (***Fuel Retailers***).

<sup>36</sup> *Fuel Retailers* at paras 44 - 45.

<sup>37</sup> 2015 – 2019 NCMP at pages xiii and 157

under other legislation affecting the coastal zone, such as the National Norms and Standards for Disposal of Waste to Land Fill,<sup>38</sup> and put them in the context of coastal management under NEM:ICMA.<sup>39</sup> The 2015 – 2019 NCMP further identified specific “still to be developed”<sup>40</sup> national norms and standards, including–

- 20.1. on dredging/mouth breaching for estuaries (the 2015 – 2019 NCMP provides in the alternative for guidelines to be made on this);<sup>41</sup>
- 20.2. on dune rehabilitation and stabilisation” (the 2015 – 2019 NCMP provides in the alternative for guidelines to be made on this);<sup>42</sup>
- 20.3. on an Effluent Discharge Fee System for South Africa” (the 2015 – 2019 NCMP provides in the alternative for regulations to be made on this);<sup>43</sup>
- 20.4. on mining in the coastal zone (the 2015 – 2019 NCMP provides in the alternative for guidelines to be made on this);<sup>44</sup>
- 20.5. on infrastructure development in the coastal zone, (the 2015 – 2019 NCMP provides in the alternative for guidelines to be made on this);<sup>45</sup>
- 20.6. on the roles and responsibilities of different spheres of government and other role players in long-term monitoring for coastal management;<sup>46</sup>
- 20.7. on performance reporting on coastal management in DFFE and other departments’ key performance assessments;<sup>47</sup>
- 20.8. setting out the content to be included in State of Coast Reporting;<sup>48</sup>
- 20.9. on the inclusion of civil society in coastal committees, especially the national coastal committees (the 2015 – 2019 NCMP provides in the alternative for a strategy to be made on this);<sup>49</sup>

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<sup>38</sup> 2015 – 2019 NCMP at page 96.

<sup>39</sup> 2015 – 2019 NCMP at page 74.

<sup>40</sup> 2015 – 2019 NCMP at page 28.

<sup>41</sup> 2015 – 2019 NCMP at page 73.

<sup>42</sup> 2015 – 2019 NCMP at page 73.

<sup>43</sup> 2015 – 2019 NCMP at page 85.

<sup>44</sup> 2015 – 2019 NCMP at page 109.

<sup>45</sup> 2015 – 2019 NCMP at page 111.

<sup>46</sup> 2015 – 2019 NCMP at page 116.

<sup>47</sup> 2015 – 2019 NCMP at page 118.

<sup>48</sup> 2015 – 2019 NCMP at page 118.

<sup>49</sup> 2015 – 2019 NCMP at page 122.

- 20.10. on the recognition, involvement and empowerment of marginalised or previously disadvantaged communities, across all spheres of government (the 2015 – 2019 NCMP provides in the alternative for a strategy to be made on this);<sup>50</sup>
- 20.11. on the management of state assets in the coastal zone, including roles and responsibilities of various departments and authorities.” (the 2015 – 2019 NCMP provides in the alternative for guidelines to be made on this);<sup>51</sup>
- 20.12. to assist municipalities in fulfilling their responsibilities regarding coastal access;<sup>52</sup> and
- 20.13. to facilitate a uniform approach to assess coastal vulnerability and to establish conditions of use in the coastal zone<sup>53</sup>
21. The 2015 – 2019 NCMP further provides dates by which several of the norms and standards must be completed by, for example the norms and standards to assist municipalities in fulfilling their responsibilities regarding coastal access and setting out the content to be included in State of Coast Reporting were both to be completed by March 2016.<sup>54</sup>
22. The Draft NCMP recognises that one of the NCMP’s strategic functions is its development of national norms and standards for coastal management.<sup>55</sup> It also “acknowledges that certain elements require ongoing development, including...[u]pdated norms and standards”.<sup>56</sup>
23. However, the Draft NCMP does not reflect on whether any of the norms and standards that the 2015 –2019 NCMP provides for have been developed, and despite best efforts, we have not been able to locate them. Assuming that the norms and standards have not been made, the Draft NCMP does not reflect on why this is the case, or even assuming that these norms and standards have been made, it does not reflect on their efficacy and implementation. Instead, the Draft NCMP simply refers to the need for “updated norms and standards”, without clarifying whether any norms and standards exist to begin with.
24. We note here that the lack of clarity from the Draft NCMP as to whether any norms and standards have been made, and our resulting uncertainty on same, is inconsistent with section 93(1) of NEM:ICMA, which requires the Minister to progressively, and within the available resources, make sufficient information available and accessible to the public concerning the protection and management of the coastal zone to enable the public to

<sup>50</sup> 2015 – 2019 NCMP at page 123.

<sup>51</sup> 2015 – 2019 NCMP at page 99.

<sup>52</sup> 2015 – 2019 NCMP at page 170.

<sup>53</sup> 2015 – 2019 NCMP at page xiv.

<sup>54</sup> 2015 – 2019 NCMP at pages 170 and 173

<sup>55</sup> Draft NCMP at page 19.

<sup>56</sup> Draft NCMP at page 20.

make an informed decision of the extent to which the State is fulfilling its duty in terms of section 3.

25. Section 45(2)(e) requires the Draft NCMP to include norms and standards for the management of the coastal zone and its components, and the 2015–2019 NCMP provided for specific norms and standards to be developed. The Draft NCMP must be amended to include these norms and standards, as it itself recognises it should. Further, in order to effect the NEM:ICMA preamble’s recognition that “integrated coastal management should be an evolving process that learns from past experiences”, the Draft NCMP should justify any changes from the 2015–2019 NCMP regarding the norms and standards required for coastal management in its chapter headed “the NCMP’s review of complexities, successes and lessons learned”.<sup>57</sup> To not do so undermines the 2015–2019 NCMP and the reflective and evolving coastal management sought by NEM:ICMA. The Draft NCMP cannot answer the norms and standards requirement by seemingly putting it off for future promulgation through stating that the Draft NCMP is a “living document [that] will continue to evolve”.<sup>58</sup>

## 26. The Draft NCMP narrowly construes the relevant international context

27. The Draft NCMP frames the relevant targets under the Kunming-Montreal Global Biodiversity Framework (**KMGBF**) narrowly, and as a result the Draft NCMP does not fully consider or address the targets.

28. The only KMGBF target which the Draft NCMP engages with, through setting out the progress of achieving same and the complexities in doing so, is target 3, which the Draft NCMP notably frames as a target of “30% ocean protection by 2030”.<sup>59</sup> This is a missed opportunity in two respects. Firstly, it does not reflect that KMGBF target 3 requires conservation of critical ecological systems including beaches, dunes, rocky shores, wetlands and estuaries, rather than just the ocean. Secondly, almost all of the KMGBF targets are relevant to coastal management namely –

28.1. Target 1: Plan and Manage all Areas to Reduce Biodiversity Loss;

28.2. Target 2: Restore 30% of all Degraded Ecosystems;

28.3. Target 4: Halt Species Extinction, Protect Genetic Diversity, and Manage Human-Wildlife Conflicts;

28.4. Target 5: Ensure Sustainable, Safe and Legal Harvesting and Trade of Wild Species;

<sup>57</sup> See the Draft NCMP at pages 35 – 37.

<sup>58</sup> Draft NCMP at page 21.

<sup>59</sup> Draft NCMP at page 10

- 28.5. Target 7: Reduce Pollution to Levels that are not Harmful to Biodiversity;
  - 28.6. Target 8: Minimize the Impacts of Climate Change on Biodiversity and Build Resilience;
  - 28.7. Target 9: Manage Wild Species Sustainably to Benefit People;
  - 28.8. Target 10: Enhance Biodiversity and Sustainability in Agriculture, Aquaculture, Fisheries, and Forestry;
  - 28.9. Target 11: Restore, Maintain and Enhance Nature's Contributions to People;
  - 28.10. Target 13: Increase the Sharing of Benefits from Genetic Resources, Digital Sequence Information and Traditional Knowledge;
  - 28.11. Target 14: Integrate Biodiversity in Decision-Making at Every Level;
  - 28.12. Target 20: Strengthen Capacity-Building, Technology Transfer, and Scientific and Technical Cooperation for Biodiversity;
  - 28.13. Target 21: Ensure That Knowledge Is Available and Accessible to Guide Biodiversity Action; and
  - 28.14. Target 22: Ensure Participation in Decision-Making and Access to Justice and Information Related to Biodiversity for all.
29. The Draft NCMP should not only reflect all of these KMGBF targets, but it should also meaningfully consider them, including in its Implementation Plan. This is particularly important given what we have stated above in relation to section 24 of the Constitution, and the requirement that biodiversity be protected, first and foremost. In this regard, South Africa is a signatory to the Convention on Biological Diversity, and a part to the KMGBF. It is bound to demonstrate how the Targets under the KMGBF will be implemented, and this requires far more than superficial mention of Target 3. These Targets guide and inform domestic biodiversity conservation mechanisms and standards, and should thus be integral to the development and construction of the Implementation Plan and priorities. This is simply absent from the current framing of the Draft NCMP.

### **30. The Draft NCMP's 2025-2030 Implementation Plan is vague and deficient**

31. The Draft NCMP states that one of its revisions is its "update of the Implementation Plan: 2025-2030".<sup>60</sup> It states that the 2015 – 2019 NCMP had a "5-year implementation plan to ensure tangible delivery of actions for the implementation of national coastal management functions as mandated in [NEM:ICMA]." <sup>61</sup>

<sup>60</sup> Draft NCMP Gazette Notice at page 40.

<sup>61</sup> Draft NCMP at page 35.

32. In our view it is important to flag that the 2015 – 2019 NCMP construed the notion of Implementation Plan differently. The 2015 – 2019 NCMP set out priorities, specific management objectives and listed actions to address these priorities, and completion dates and performance indicators for each of its actions.<sup>62</sup> It further provided that each listed action required the development of a “detailed” implementation plan, typically including information such as methods and best practice-guides to assist with implementation, work plans, schedules of tasks, human resource plans and financial resource plans.<sup>63</sup> The 2015 – 2019 NCMP provided that “The [Implementation Plans] will be developed and embedded in the business plan of the [DFFE]: Oceans and Coasts over the next five years (2015 to 2020) to enable committed and effective execution of the listed actions over the next five years following the gazetting of the NCMP.”<sup>64</sup> It is not clear whether this was done.
33. So, unlike the Draft NCMP says, the 2015 – 2019 NCMP therefore does not include an implementation plan *per se*. Rather, it lays the strategic groundwork for implementation planning going forward. This is important because it demonstrates that the 2015 – 2019 NCMP’s approach implicitly recognises that effective implementation planning of objectives must be preceded by a clear and detailed strategy.
34. The Draft NCMP abandons the 2015 – 2019 NCMP’s conception of implementation planning for individual objectives, instead its chapter headed “The NCMP Implementation Plan: 2025-2030” consists of seven priorities and their respective goals, objectives, actions, “potential indicators” and completion dates.
35. We flag the Draft NCMP’s change in conception of Implementation Plan from the detailed, objective-specific conception in the 2015 – 2019 NCMP for two reasons. Firstly, as it is inaccurate to characterise the Draft NCMP as including an updated Implementation Plan, because it construes Implementation Plan differently to the 2015 – 2019 NCMP, and further offers no reflection on the development and implementation of the Implementation Plans as conceived of in the 2015 – 2019 NCMP. Secondly, because this change is indicative of the Draft NCMP’s 2025 – 2030 Implementation Plan’s vague and broad-strokes approach to coastal management, which we now turn to.
36. While we are concerned with the objectives and actions of specific priorities in the Draft NCMP’s Implementation Plan, we flag the following general issues which apply across priorities –
- 36.1. Despite the substantial overlap between the priorities, goals, objectives and actions of the 2015 – 2019 NCMP and the Draft NCMP, the Draft NCMP does not meaningfully report back on the progress made on these.

<sup>62</sup> See 2015 – 2019 NCMP at pages 168 – 176.

<sup>63</sup> 2015 – 2019 NCMP at page 179.

<sup>64</sup> 2015 – 2019 NCMP at page 180.

- 36.2. Contrary to section 45(2)(f)(i), the Draft NCMP does not identify which organs of state are responsible for implementing its objectives and actions;
  - 36.3. Despite section 45(1)(b) of NEM:ICMA requiring provision for an integrated, coordinated and uniform approach to coastal management including by non-governmental organisations, the private sector and local communities, the Implementation Plan does not explicitly provide for involvement by these stakeholders;
  - 36.4. Despite section 45(2)(b) requiring the inclusion of national coastal management objectives, in our view, the objectives contained in the Implementation Plan are often either vague (for example, “municipal support to implement coastal access priority interventions” listed under Priority 1) or too limited to encompass the complexities of coastal zone management (for example, the consideration of climate change under Priority 3 only states as its objective the development of a Climate Change Adaptation Plan for the coastal zone).
  - 36.5. Contrary to section 45(2)(d), it does not include clear, measurable performance indicators to measure progress with the achievement of those objectives – instead it uses the ambiguous term of “potential indicators” with no indication of when these indicators will be finalised; and
  - 36.6. Little provision is made for funding the Implementation Plan’s objectives and actions (with the exception of Priority 3: Coastal Spatial Planning and Climate Change). By comparison, the 2015 – 2019 NCMP recognised that because of limited budgets for coastal management “it is important that coastal management programmes in South Africa address the issue of funding”.<sup>65</sup>
37. These general issues of vagueness and lack of clarity apply across the Implementation Plan, and severely undermine its implementation. We now deal with the specific issues with each of the Implementation Plan’s priorities.

### **38. Priority 1: Equitable Public Access**

- 38.1. This is an important priority, but its single objective and action suffer from a lack of clarity. The objective of “Municipal Support to implement coastal access priority interventions” is not clear on whether coastal municipalities will be providing implementation support, or whether they will receive support, and does not set out which stakeholder will be providing or receiving this support.
- 38.2. Further, although the Priority 1 goal refers to coastal access land being cognisant of “the sensitivity of coastal ecosystems, the needs and livelihoods of coastal communities”,<sup>66</sup> the objective, action and “potential indicators” do not reflect this cognisance, nor do they set out how the aspects of this objective – beyond financing “infrastructure development” – will be funded.

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<sup>65</sup> 2015 – 2019 NCMP at page 132.

<sup>66</sup> Draft NCMP at page 58.

- 38.3. It is also unclear whether the four priority sites for piloting this objective is a reference to four coastal access sites across South Africa, or four sites within each coastal municipality – which is relevant for the project’s budgeting – or whether these four priority sites have even been identified yet. Priority 1 also prescribes completion dates that have passed, it is unclear whether these tasks are completed or whether the completion dates need to be updated.

### 39. Priority 2: Estuary Management

- 39.1. This is another crucial priority, noting estuaries’ status as “the most threatened and least protected ecosystems in South Africa”<sup>67</sup> despite their ecological importance.
- 39.2. The priority’s actions of developing and implementing estuarine management plans and rehabilitating degraded estuarine habitat are necessary. However, any future implementation of, and accountability for, this priority and its actions are undermined by the meaninglessly vague potential indicators provided in the Implementation Plan and the “ongoing” completion dates.<sup>68</sup> Explicit indicators and deadlines are needed.
- 39.3. Further, it is not clear to us what Priority 2’s final listed action – of aligning “EIA regulations and the National Estuarine Management Protocol” through amending EIA Listing Notice 3 for the estuarine functional zone – means, the action is in need of clarity for its future implementation and transparency and accountability purposes.

### 40. Priority 3: Coastal Spatial Planning and Climate Change

- 40.1. While Priority 3 includes an action providing for the funding of its projects, there is a misalignment between its goal of ensuring that planning and decision-making tools consider sensitive coastal environments, health and safety, community resilience, illegal structures within coastal public property, coastal ecosystems rehabilitation, and its objectives and actions, which primarily concern Climate Change Adaptation planning. We are of the view that to be effective, the Implementation Plan should reflect its priorities in the actions giving effect to them.
- 40.2. It is further both concerning and curious that Priority 3 does not engage with or even mention Marine Spatial Planning (**MSP**) in terms of the Marine Spatial Planning Act 16 of 2018 (**MSA**). Earlier in the Draft NCMP it states that “coastal management should be integrated with marine spatial planning...[to]...ensure that various uses of the coastal and marine environment... are considered together rather than in isolation”.<sup>69</sup> Integration between Priority 3 and MSP is critical given the potential impact of competing ocean uses on climate change impacts, and the mitigation

<sup>67</sup> South African National Biodiversity Institute (SANBI). 2019. National Biodiversity Assessment 2018: The status of South Africa’s ecosystems and biodiversity. Synthesis Report at page 12.

<sup>68</sup> Draft NCMP at page 59.

<sup>69</sup> Draft NCMP at page 40.

thereof and adaptation to them. Yet the Implementation Plan does not even acknowledge this overlap between MSP scope and NEM:ICMA in Priority 3, let alone grapple with its effects for implementing Priority 3. This is particularly relevant given Priority 3's action of developing and finalising the Coastal Marine Atlas.

- 40.3. Finally regarding Priority 3, we are concerned that the objectives, action, and indicators are vague and simply do not go far enough in addressing the severity and immediacy of climate change impacts already being experienced in the coastal zone. In effect, what has been put forward under Priority 3 is a “plan to plan”, and thus an absence of clear, measurable objectives and implementable actions that will drive an appropriate climate change response. The Climate Adaptation Response Plan requirement is extremely vague, failing to include details regarding the indicators this plan will address, and the indicators under the second objective (Exploring Regional and International Donor Funding Agencies) are so vague it's not possible to make meaningful comment. For example, “Coastal climate change resilience project proposal developed and submitted” does not include: details on where this project is contemplated; the risk and vulnerability assessment; adaptation actions such as restoration of natural buffers and blue carbon initiatives; infrastructure adaptation (including nature-based solutions and hard engineering solution); involvement of local communities in adaptation planning; and so on.

#### 41. Priority 4: Coastal Pollution

- 41.1. Regarding Priority 4, we struggle to understand its first objective<sup>70</sup> and action, and request clarity on this.
- 41.2. We note further that the section of the Draft NCMP setting out the international context fails to mention certain pertinent multilateral agreements which bind South Africa in relation to marine pollution prevention. As a result, the objectives, actions and indicators identified under Priority 4 fall far short of meeting these requirements, which include:
- 41.2.1. South Africa's obligations under the United Nations Convention on the Law of the Sea, which obligates states to prevent, reduce, and control pollution of the marine environment (Articles 192–237) and includes pollution from land-based sources, vessels, dumping, and atmospheric sources.
- 41.2.2. MARPOL (International Convention for the Prevention of Pollution from Ships): South Africa has ratified this, including key annexes covering oil, chemicals, sewage, garbage, and air pollution from ships.
- 41.3. We commend the specific inclusion of actions and objectives related to the regular upgrade and revision of local oil spill contingency plans in alignment with the National

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<sup>70</sup> We flag that for some reason it is headed “description” rather than “objective”.

Oil Spill Contingency Plan. However, Priority 4's other actions of merely identifying plastic pollution hotspots and fishing gear discarding practices, rather than actually addressing these pollution sources, do not meet the Priority 4 goal of ensuring effective management of waste and wastewater.

41.4. Insofar as the Draft NCMP makes provision for the development of bunkering regulations, we refer to our specific comments on the draft regulations under NEM:ICMA submitted on 24 March 2025, and available on request. In summary, we highlighted the following in our comments:

41.4.1. The Minister is not empowered by section 83(1) read with section 85 of NEM:ICMA to issue regulations pertaining to bunkering.

41.4.2. Bunkering, an activity which has significant impacts on the marine environment, and poses a particular threat to critically endangered African Penguin populations on St Croix island in Algoa Bay, should be prohibited by the Minister using his powers under section 57(2) of the National Environmental Management: Biodiversity Act (**NEM:BA**) alternatively, by the Minister exercising his section 59 of NEM:ICMA powers to issue a coastal protection notice for an activity having an adverse effect on the coastal environment.

41.5. In the circumstances, it would be more appropriate for the Draft NCMP to make provision for the prohibition of bunkering as an activity posing a significant threat to the coastal zone, and where it is entirely unclear whether this economic activity is justified within the context of section 24(b)(iii) of the Constitution.

## 42. Priority 5: Awareness, Education and Information

42.1. Priority 5 is fundamentally flawed as it does not identify who the awareness, education and information that it seeks is targeted at – its first action simply refers to “different stakeholders”.<sup>71</sup> In our view, the Implementation Plan for Priority 5 is a regression from the 2015 – 2019 NCMP, which included a detailed 40 page National Strategy for Coastal Awareness, Education & Training in South Africa (**CAET Strategy**), including an outline of the challenges of dealing with each relevant stakeholder, and potential solutions therefor,<sup>72</sup> as well as references to named potential partners and service providers for the CAET Strategy's implementation.<sup>73</sup> We note here that this is another reason that it is important to know if parts of the 2015 – 2019 NCMP, including the CAET Strategy is intended to apply and be read with the Draft NCMP.

42.2. While we commend the objective of greater transparency, it is unclear again in relation to whom this transparency relates. The objective states “the promotion of

<sup>71</sup> Draft NCMP at page 63.

<sup>72</sup> 2015 – 2019 NCMP at page 296.

<sup>73</sup> 2015 – 2019 NCMP at page 304.

transparency for earnest discussions around the critical complexities for the implementation of effective coastal management in South Africa through a collaborative approach.” This statement is vague to the extent that it is incomprehensible. We endorse an objective which contemplates increased transparency and accountability in relation to coastal management by government, particularly in relation to communities, NGOs, private sector stakeholders, and so on. But it is not clear from this objective how transparency is to be affected, and how the ICM Lekgotla conference will facilitate transparency. Much more detail is required to be able to meaningfully comment on this objective and its concomitant actions and indicators.

- 42.3. Similarly, in relation to promotion and capacity building for NEM:ICMA and implementation, it is unclear who the recipients of such capacity building are intended to be, and as such, it is impossible to comment meaningfully on this objective.

#### 43. Priority 7:<sup>74</sup> Coastal Research

- 43.1. While Priority 7 includes the important objective of increasing the protected areas for nature conservation, it sets no clear target of how much of the coastal zone should receive this protection, and coupled with the fact that Priority 7 provides a 2030 completion date for this objective, even a miniscule increase in protection of the coastal zone in the next five years would meet this target.
- 43.2. Further, while we welcome Priority 7’s objective to develop management plans for coastal and marine endangered and endemic species, its “potential” indicator significantly narrows the scope of this objective by only requiring such plans for African Penguin and “sharks”<sup>75</sup> (Priority 7 does not specify which shark species). Collectively, the Priority 7 objectives do not meet the Priority 7 goal of having a management approach that is “accessible to all stakeholders”.<sup>76</sup>
- 43.3. Further, there are words missing from the final “potential” indicator regarding rocky shores, preventing us from being able to engage with same.<sup>77</sup>
- 43.4. On the whole, the objectives under Priority 7, “Coastal Research,” contain a confusing mix of research objectives (e.g. report on annual status and trends of biodiversity and habitat loss; report on rocky shores status and trends; and report on marine mammal strandings) and what could more appropriately be classified as biodiversity management objectives (e.g. increased area protected and develop management plans for coastal and marine endangered / endemic species).

<sup>74</sup> This appears to be a typographical error, as it should be Priority 6.

<sup>75</sup> Draft NCMP at page 64.

<sup>76</sup> Draft NCMP at page 64.

<sup>77</sup> Draft NCMP at page 64.

- 43.5. In this regard, and following from our initial comments about the scope and import of giving effect to section 24(b) of the Constitution, we deem it appropriate to include a standalone Priority for **Biodiversity Conservation**, separate from the Research Priority 7. Biodiversity underpins all development, and the lives and livelihoods of South Africans in general, and coastal communities in particular. This is recognised explicitly in the South African National Biodiversity Assessment, 2018, which notes that “estuarine and marine ecosystems provide South Africans with food and livelihoods by providing a basis for fishing – whether commercial, subsistence or recreational. Yet many fish stocks are overexploited and many fish species are threatened (well established).”<sup>78</sup> We are all dependent on a thriving marine ecosystem, and the importance of its protection cannot be understated. For this reason, Biodiversity Conservation should be a separate Priority, with appropriate objectives, actions and indicators. This is necessary in order to give effect to Draft NCMP’s vision for South Africa’s coast of “Diversity: Celebrating the variety of life and culture along the coast”<sup>79</sup> and of “Sustainability: Promoting long-term ecological and economic health.”<sup>80</sup> We include below a proposed table in relation to a Biodiversity Conservation Priority, with objectives, actions and indicators:

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<sup>78</sup> National Biodiversity Assessment Synthesis Report at page 9.

<sup>79</sup> Draft NCMP at page iv.

<sup>80</sup> Draft NCMP at page iv.

<b>Priority 9: Biodiversity Conservation</b>		
<b>Goal: thriving coastal and marine ecosystems that support ecologically sustainable livelihoods</b>		
<b>OBJECTIVE</b>	<b>ACTION</b>	<b>INDICATORS</b>
Coastal and marine species abundance	Measure the variety of species (fish, invertebrates, seabirds, marine mammals, etc.) in coastal ecosystems.  Monitor fish stocks and bycatch levels.	Variety of species and population of species meets biodiversity targets for those species taking ecological integrity and sustainability into account
Improvement in status of threatened species	Monitor populations of threatened species (e.g. critically endangered African Penguins) – include focus on population trends and conservation status of IUCN Red List or SANBI's threatened species list  Develop management plans for threatened coastal and marine species.	Increase in populations of threatened species  Increase in number of management plans for threatened species
Increased area protected for nature conservation includes marine protected areas (MPAs) under 30x30 objectives	Based on research, identify and declare new MPAs  Based on research, identify and designate OECMs and EBSAs  National Coastal and Marine Biodiversity Spatial Plan consulted in biodiversity conservation planning and management	Increase in number of new MPAs declared  Increase in number of OECMs and EBSAs designated  Increase in number of OECMs, MPAs co-managed by coastal communities

	Management plans for MPAs and OECMs developed in consultation with coastal communities	
Spatial extent and condition of key coastal and marine habitats representative of biodiversity targets	Track spatial extent and condition of key habitats including dunes, estuaries, seagrass beds, kelp forests, mangroves, and rocky shores  National Coastal and Marine Biodiversity Spatial Plan consulted	Spatial extent of key coastal and marine habitats representative of biodiverse targets for that ecosystem
Prevention of introduction and spread of alien and invasive species ( <b>IAS</b> )	Monitor the occurrence and spread of invasive marine and coastal species (e.g., <i>Mytilus galloprovincialis</i> – Mediterranean mussel).  IAS control plans incorporated into management plans for MPAs	Number and population of IAS reduced  Number of IAS control plans developed
Respect and protected traditional, cultural and spiritual practices tied to coastal biodiversity	Local communities consulted when conducting species and ecosystem assessments  Traditional, cultural and spiritual stewardship practices documented and included in species and ecosystem management plans  Conclude co-management agreements with communities	Number of testimonies regarding spiritual, cultural and traditional practices collected and documented  Number of management plans incorporating traditional and indigenous knowledge  Co-management agreements concluded with communities in respect of MPAs, OECMs

#### 44. Priority 8:<sup>81</sup> Mechanisms for Effective Compliance and Enforcement

- 44.1. It is concerning that the first action of Priority 8 is to “develop a standardized template for reporting to [Integrated Coastal Management]”<sup>82</sup> when this was an action in the 2015 – 2019 NCMP, which gave a completion date for this action of March 2017.<sup>83</sup> There must be clarification on whether there has been any movement on this action since the 2015 – 2019 NCMP, and if not, an explanation for this failure must be provided.
- 44.2. The Priority 8 reference to the involvement of non-governmental organisations in meeting its goal is not reflected in any of its objectives, actions or indicators.
- 44.3. Finally, regarding Priority 8, we welcome the inclusion of specific objectives to address coastal mining and illegal development. However, the coastal mining objective refers to reducing all coastal mining activities, whereas its action and “potential” indicator only refer to illegal mining.<sup>84</sup> There must be clarity on whether the objective is reduce all mining in the coastal zone, or to reduce only illegal mining. Performance indicators for both coastal mining and illegal development should be more ambitious than a mere “reduction”, as the Implementation Plan provides for.<sup>85</sup> Further, litigation concerning illegal sand mining and development along the Wild Coast suggests that contributors to both practices are failures by the South African Police Service (**SAPS**) and the National Prosecuting Authority (**NPA**) to arrest, charge and prosecute these illegal activities.<sup>86</sup> Yet Priority 8 does not have any action or indicator aimed at involving SAPS or the NPA.
45. We address State of the Coast Reporting (**SOC Reporting**) in the next section, but we note with concern that while “Coastal Livelihoods and Poverty Alleviation” is a priority under SOC Reporting, this prioritisation is not reflected in the Draft NCMP’s Implementation Plan. This is indicative of the Draft NCMP’s failure to provide a framework

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<sup>81</sup> This appears to be a typographical error, as it should be Priority 7.

<sup>82</sup> Draft NCMP at page 65.

<sup>83</sup> 2015 – 2019 NCMP at page 174.

<sup>84</sup> Draft NCMP at page 67.

<sup>85</sup> Draft NCMP at page 67 and 68.

<sup>86</sup> See in this regard ‘Government faces court action over claims of ‘environmental anarchy’ on Wild Coast’ in *Daily Maverick*. 3 April 2025. <https://www.dailymaverick.co.za/article/2025-04-03-government-faces-court-action-over-claims-of-environmental-anarchy-on-wild-coast/>

to implement measures concerning coastal management that identifies the responsibilities of different organs of state in relation to marginalised or previously disadvantaged communities that are dependent on coastal resources for their livelihood, as required by section 45(2)(f) of NEM:ICMA. This failure is especially egregious considering the groundwork laid in this regard in the 2015 – 2019 NCMP.

46. The 2015 – 2019 NCMP does not make “Coastal Livelihoods and Poverty Alleviation” a separate coastal management priority, but it does recognise that “empowerment...of marginalised or previously disadvantaged communities is a cross-cutting element that must be address[ed] in the vision, through zoning of uses in the coastal zone, and in the cooperative governance framework for coastal management”.<sup>87</sup> Further, as shown above, the 2015 – 2019 NCMP provided for the development of norms and standards or a strategy on the recognition, involvement and empowerment of marginalised or previously disadvantaged communities, and provided that its implementation, including of its Compliance and Enforcement strategy<sup>88</sup> and CAET Strategy, would respond to and involve “the most vulnerable coastal communities”.<sup>89</sup> The Draft NCMP’s Implementation Plan does little to progress, or even take stock of, the 2015 – 2019 NCMP’s strategies regarding marginalised coastal communities, thereby undermining the 2015 – 2019 NCMP.
47. To address the Draft NCMP’s Implementation Plan lack of mention of coastal communities – marginalised and not – despite its obligation to do so under section 45(2)(f) of NEM:ICMA, the Draft NCMP could provide for a priority dedicated to “Coastal Livelihoods and Poverty Alleviation”, as already provided for in the Draft NCMP’s SOC Reporting section, coupled with a considered set of objectives, actions, performance indicators, completion dates and a list of responsible parties and relevant stakeholders. Our proposal, however, is that marginalised coastal communities are considered and included in the objectives, actions, performance indicators of the Implementation Plan’s other priorities, rather than only being considered in a separate priority, as this would greatly assist in meeting NEM:ICMA’s section 45(2)(f) requirement, as well as its section 45(1)(b) requirement that the NCMP “provide for an integrated, coordinated and uniform approach to coastal management by ... local communities”, thereby working to ensure that coastal management not only serves marginalised coastal communities, but involves them in doing so. This approach is also consistent with the Draft NCMP’s aim of “streamlining”<sup>90</sup> the NCMP’s priorities.
48. Finally regarding the Draft NCMP’s Implementation Plan, the Draft NCMP’s vision for South Africa’s coast includes “stewardship encouraging shared responsibility for coastal ecosystems”.<sup>91</sup> The Draft NCMP further reflects that the complexities faced so far with

<sup>87</sup> 2015 – 2019 NCMP at page 123.

<sup>88</sup> 2015 – 2019 NCMP at page 123.

<sup>89</sup> 2015 – 2019 NCMP at page 289.

<sup>90</sup> Draft NCMP Gazette Notice at page 40.

<sup>91</sup> Draft NCMP at page iv.

integrated coastal management include “complex coordination among multiple stakeholders, including government agencies, municipalities, NGOs, and local communities” resulting in “fragmented efforts and overlapping mandates, leading to inefficiencies in the NCMP’s implementation.”<sup>92</sup> Yet, as stated above, the Implementation Plans lacks provision for the involvement of non-governmental organisations, the private sector and coastal communities. In this context we note with concern the Implementation Plan’s removal of the 2015 – 2019 NCMP priority of “Strengthening Partnerships for Integrated Coastal Management” altogether, which priority sought to improve coastal management thorough collaboration among organs of state and “business, the private sector and civil society”,<sup>93</sup> including traditional councils.<sup>94</sup> As the Draft NCMP does not substitute the removed priority with the inclusion of strengthening partnerships in its remaining priorities, our view is that the Draft NCMP’s purported “streamlining” of priorities effectively overlooks, and thus fails to give effect to, the Draft NCMP’s vision of coastal stewardship.

#### 49. The Draft NCMP’s State of the Coasts Reporting is long-overdue and yet still incomplete

50. The Draft NCMP states that one of its key revisions to the NCMP include “the inclusion of State of the Coast Indicators for future reporting”.<sup>95</sup>

51. NEM:ICMA requires the Minister to prepare and regularly update a national report on the state of the coastal environment (**SOC Report**) which must include information from provincial SOC reports and “a review on the status of each pipeline that discharges effluent into coastal waters in terms of section 69 and its impact on the coastal environment”, as well as a review on progress on any other national responsibilities imposed by NEM:ICMA.<sup>96</sup>

52. As we understand, NEM:ICMA does not require SOC Reporting – or SOC Reporting Indicators – to be included in the NCMP. However, the 2015 – 2019 Draft NCMP provided that going forward, “an official suite of state of the coast indicators is required to evaluate and report on progress and effectiveness of coastal management in South Africa.”<sup>97</sup> We therefore welcome the Draft NCMP’s inclusion of the long-awaited SOC Reporting Indicators (although we note that these indicators are still inexplicably not described in the Draft NCMP as final indicators but as “potential”<sup>98</sup> indicators).

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<sup>92</sup> Draft NCMP at page 36.

<sup>93</sup> 2015 – 2019 NCMP at page 166.

<sup>94</sup> 2015 – 2019 NCMP at page 176.

<sup>95</sup> Draft NCMP Gazette Notice at page 40.

<sup>96</sup> Section 93 of NEM:ICMA.

<sup>97</sup> 2015 – 2019 NCMP at page 117.

<sup>98</sup> Draft NCMP at pages 48 – 56.

53. However, we note that – while not strictly required – the Draft NCMP is not clear on whether the Minister has fulfilled the NEM:ICMA obligation to prepare and update SOC Reports, and we have been unable to find any such reports in our research. The Draft NCMP’s lack of clarity on this is concerning, as the Draft NCMP itself recognises SOC Reporting’s role in “provid[ing] insights for policy-making and management actions”<sup>99</sup> and as “crucial for the sustainable management of South Africa’s coastal and marine resources.”<sup>100</sup> As the Draft NCMP dedicates a chapter to SOC Reporting, it should clearly state whether any SOC Reporting has happened since NEM:ICMA came into effect, and if not, it should explain these failures.

54. We now turn to considering the SOC Reporting Indicators provided by the Draft NCMP themselves.

54.1. First, we note that contrary to section 93(3)(b) of NEM:ICMA’s express provision that SOC Reporting must review “the status of each pipeline that discharges effluent into coastal waters in terms of section 69 [of NEM:ICMA]”, this is not included in the Draft NCMP’s SOC Reporting Indicators.

54.2. Second, as noted in the previous section, there is a misalignment between the priorities in the Draft NCMP’s Implementation Plan and in the SOC Reporting, being that the SOC Reporting section includes the priority of “Priority 6: Coastal livelihood and Poverty Alleviation”, which seeks to “promote sustainable coastal livelihoods and reduce poverty through equitable access to coastal resources, development of local enterprises, and capacity building programs that enhance community resilience while ensuring responsible stewardship of coastal ecosystems.”<sup>101</sup> Priority 6 is important to ensure integrated coastal management, and its importance should be reflected in the Draft NCMP’s Implementation Plan. However, we note that in the Draft NCMP’s SOC Reporting Chapter Priority 6’s efficacy is undercut by the lack of clarity on its information sources, it being the only priority that has “tbc” in place of all of its information sources. We note in addition that this uncertainty on the relevant information sources suggests that coastal communities may have been excluded in formulating this Priority, and therefore that key objectives, actions and “potential” indicators have not been considered in its formulation. This is reflected in the “potential” indicators themselves, which collectively do not result in Priority 6’s goal.

54.3. Unfortunately, the SOC Reporting’s indicators for its other priorities generally suffer from a similar problem – while the priorities themselves are important, and their goals clear and considered, their “potential” indicators are both confusingly vague and needlessly narrow, and they are accordingly unable to give full effect to the respective priorities’ goals. For example, Priority 5: Education, Awareness and Information, is aimed at “ensuring that the general public and decision-makers are appropriately

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<sup>99</sup> Draft NCMP at page 47

<sup>100</sup> Draft NCMP at page 47.

<sup>101</sup> Draft NCMP at page 53.

aware, educated and trained, where applicable, so as to be able to take collective responsibility for managing and protecting the coastal environment in a manner that is socially, economically and ecologically justifiable”. Yet this ambitious goal’s “potential” indicators include vague references to oil spill training, national coastal training and awareness programmes.<sup>102</sup> Curiously, the number of Blue Flag beaches is also cited as a “potential” indicator of this Priority.<sup>103</sup>

55. It is concerning that after over 15 years since the commencement of NEM:ICMA, the SOC Reporting Indicators, which are still only “potential” indicators, appear to be so unconsidered.

#### 56. **The Draft NCMP does not provide enhanced guidance to Coastal Provinces and Municipalities**

57. As stated above, section 45(1)(b) and (2)(f) of NEM:ICMA requires an NCMP to provide for an integrated, coordinated and uniform approach to coastal management by organs of state in all spheres of government, and to include a coastal management framework that identifies the responsibilities of different organs of state and facilitates coordinated and integrated coastal management. NEM:ICMA also provides for the NCMP to inform provincial and municipal coastal management programmes, and thereby the work of provinces and municipalities and their coastal committees.

58. The Draft NCMP acknowledges that “limited financial and human resources at various levels of government has led to inconsistent enforcement of regulations and insufficient support for coastal management initiatives”,<sup>104</sup> and that coastal provinces and municipalities “have not fully implemented” NEM:ICMA.<sup>105</sup>

59. The Draft NCMP’s also notes that in comparison to the 2015 – 2019 NCMP, the Draft NCMP provides “enhanced guidance to coastal provinces and municipalities for alignment and consistency between the municipal, provincial and national programmes.”<sup>106</sup>

60. The Draft NCMP includes a chapter headed “Alignment and Consistency Recommendations for Provinces and Municipalities” (**Provinces and Municipalities Chapter**) which purports to provide “comprehensive” and “specific” guidance for coastal provinces and municipalities to align their coastal management programmes with the Draft NCMP,<sup>107</sup> and to “ensure vertical and horizontal integration of coastal management efforts across all spheres of government while accommodating local contexts and needs.”<sup>108</sup>

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<sup>102</sup> Draft NCMP at page 53.

<sup>103</sup> Draft NCMP at page 53.

<sup>104</sup> Draft NCMP at page 36.

<sup>105</sup> Draft NCMP at page 36.

<sup>106</sup> Draft NCMP Gazette Notice at page 40.

<sup>107</sup> Draft NCMP at page 69.

<sup>108</sup> Draft NCMP at page 69.

However, as it stands, the Provinces and Municipalities Chapter offers little guidance to coastal provinces and municipalities, instead it muddies the waters further.

61. Regarding this chapter's "guidance" to provinces, the National Priority Areas that it provides PCMPs must demonstrate "clear alignment with" are different from those in the Draft NCMP's 2025-2030 Implementation Plan. It includes three apparently new priorities, namely "ecosystem-based disaster risk reduction", "natural resource management" and "economic development".<sup>109</sup> The meaning of these new priorities, and their respective goals, objections, actions, performance indicators and completion dates, are not expanded on anywhere in the Draft NCMP.
62. Further, the Provinces and Municipalities Chapter's list of provincial responsibilities merely restates certain NEM:ICMA-imposed provincial responsibilities, such as the requirement to establish provincial coastal committees,<sup>110</sup> and designate lead agencies for coastal management,<sup>111</sup> while not mentioning other NEM:ICMA requirements like the duty on coastal provinces to liaise and coordinate with coastal municipalities on their respective coordinate actions taken in terms of NEM:ICMA.<sup>112</sup> This selective restatement of certain NEM:ICMA duties of coastal provinces is not clear guidance to coastal provinces.
63. The Provinces and Municipalities Chapter's "guidance" to coastal municipalities suffers from similar problems.
64. NEM:ICMA makes the establishment of municipal coastal committees discretionary.<sup>113</sup> The Draft NCMP itself acknowledges this.<sup>114</sup> The Draft NCMP further reflects that municipalities have not fully implemented NEM:ICMA because "many municipalities lack the necessary technical expertise and trained personnel to conduct thorough inspections"<sup>115</sup>, with the result being that there are currently only "nine functional municipal coastal committees" in South Africa.<sup>116</sup> Despite this, the Provinces and Municipalities Chapter elevates the establishment of municipal coastal committees to be a "Municipal Implementation Requirement", and further requires municipalities to, for example, "designate coastal management officers", "create inter-departmental working groups", and "establish stakeholder engagement mechanisms".<sup>117</sup> The deficiencies in resources necessary to capacitate these committees are simply not adequately addressed.

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<sup>109</sup> Draft NCMP at page 70.

<sup>110</sup> Required by section 39 of NEM:ICMA.

<sup>111</sup> Required by section 38 of NEM:ICMA.

<sup>112</sup> Required by section 94(a) of NEM:ICMA.

<sup>113</sup> Section 42(1) of NEM:ICMA.

<sup>114</sup> Draft NCMP at page 39.

<sup>115</sup> Draft NCMP at page 36.

<sup>116</sup> Draft NCMP at page 39.

<sup>117</sup> Draft NCMP at page 72.

65. The Provinces and Municipalities Chapter also elevates coastal municipalities' powers to "develop municipal by-laws aligned with NCMP objectives", which section 50 of NEM:ICMA provides is a discretionary power, to a Municipal Implementation Requirement.<sup>118</sup> The Chapter does not provide any guidance on which of the Draft NCMP's 25 objectives require municipal by-laws.
66. At the same time the Draft NCMP's Municipal Implementation Requirements do not include NEM:ICMA's section 18(1) requirement that coastal municipalities make by-laws designating coastal access land in order to secure public access to coastal public property, or consider coastal municipalities compliance with this obligation. This omission is notable – as is the Draft NCMP's silence on coastal municipalities' compliance with this obligation – as the Minister himself advised on 28 March 2025 that "many municipalities have yet to promulgate their by-laws for coastal access, primarily due to budgetary constraints".<sup>119</sup> It is especially concerning when considering that, as shown above, the 2015 – 2019 NCMP required the development of norms and standards to assist municipalities in fulfilling their coastal access responsibilities by March 2016.
67. The Provinces and Municipalities Chapter does not provide for how resource-strained coastal municipalities will meet their Municipal Implementation Requirements. While it includes a paragraph headed "financial support",<sup>120</sup> this "support" consists of four vague bullet points that do nothing to grapple with the resource constraints that coastal provinces and municipalities face, or to address how municipalities will afford to meet their obligations in terms of both NEM:ICMA, and now the new obligations imposed by the Draft NCMP's Provinces and Municipalities Chapter.
68. As shown above, the Draft NCMP's Implementation Plan does not clarify these matters as it does not identify which state parties are responsible for the objectives and actions of its priorities, nor does it provide for funding or human resources.
69. Rather than providing "enhanced guidance" for coastal provinces and municipalities to align with the Draft NCMP, the Draft NCMP is inconsistent and unclear on their obligations, and further adds to their obligations without providing for any corresponding increase in their capacity.

## 70. Conclusion

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<sup>118</sup> Draft NCMP at page 72.

<sup>119</sup> In response to a question from Member of the National Assembly Mr Cameron Muir Dugmore on the municipalities that have promulgated by-laws designating strips of land as coastal access land. People's Assembly website "Questions asked to the Minister of Forestry, Fisheries and the Environment" <https://www.pa.org.za/questions/questions-asked-to-the-minister-of-forestry-fisher/2025-w1128-28-march-2025>.

<sup>120</sup> Draft NCMP at page 74.

71. As it stands, the Draft NCMP's "recogni[tion] of the coast's multifaceted role as an economic corridor, cultural treasure, and ecological lifeline"<sup>121</sup> is only superficial, as is its references to "lessons learned"<sup>122</sup> from the 2015 – 2019 NCMP, and to the realities of marginalised communities and widespread capacity challenges. It is wholly inadequate to serve as NEM:ICMA's "principal implementation tool",<sup>123</sup> or to inform other NEM:ICMA programmes or committees.

72. We have endeavoured to comprehensively indicate where consideration and amendments are required, and we trust that our representations will be taken under consideration and welcome the opportunity to engage further.

Yours faithfully,



**BIODIVERSITY LAW CENTRE NPC**

***Per* Kate Handley and Khanya Sidzumo**

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<sup>121</sup> Draft NCMP at page xi.

<sup>122</sup> Draft NCMP at page 37.

<sup>123</sup> Draft NCMP at page vi.