

Natural Resources Management:
How far does the NRM Act conserve
Coastal and Marine Biodiversity?

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Outline

- NRM Act: Objects, duties and powers of Boards and the Minister: do they cover marine and coastal issues?
- Interaction with other Acts and Guidelines: Development Act, Stormwater Guidelines
- What are the problems and limitations?
- Areas for reform?

NRM Act

- Does the Act protect marine and coastal natural resources?
 - Act applies to whole of the State and activities or circumstances undertaken or existing outside the State that may affect the natural resources of the State (s.5)
 - Definitions: “natural resources” does not include marine and coast but includes ecosystems; “water resources” includes “watercourse” but does not include marine or coast - does include estuary and can include any other natural resource designated by a NRM Plan
 - Main areas of regulation: management and protection of water and land, control of animals and plants (transferred from the repealed Acts)
 - References to general protection or consideration of impacts eg S.170

NRM (Cont.)

NRM Plans

NRM Plan : identify risks and provide for monitoring

Regional Plans: S. 75(3) ...(c)proper management of wetlands and estuaries and marine resources, (d) scheme of implementation of NRM programs, (e) to monitor and assess extent to which it has succeeded in implementing the plan

Examples of Plans highlighting coastal and marine issues

Powers and Duties of the Boards

- 3 main areas where protection of coastal and marine natural resources can potentially be addressed
- 1 Powers of Boards to do projects, manage land/activities : potentially direct and indirect protection
- 2 Preparation of Regional NRM Plans : implementation of targets
- 3 Enforcement of Act, authorisations and permits for water affecting activities, degradation of land

Powers and duties of Boards (cont)

- Possibly a 4th area: input to plans of other agencies, opportunity to affect decision making under other legislation (eg Development Act, Aquaculture Act – should there be specific referral to NRM Board?)

NRM Act (cont.)

- Limitations on effective protection?
 - Act applies to marine and coastal issues: Plans can and do include strategies and projects for protection, but Act itself focuses on land based activities
 - Diverse/split responsibility for coast and marine between a number of agencies under different legislation but a cooperative/partnership approach can address this.
 - Land based impacts on coastal and marine environment arise from existing and long term land use/infrastructure patterns and legacies – tools of NRM (projects/one off enforcement and approval systems) limited in being able to address these impacts .

NRM Act (cont)

- limitations on effective protection(cont)
 - Effective integration of NRM issues/targets with development control and policy: the challenge
 - Awareness of NRM issues and effective integration of NRM projects and targets in other agencies and operating departments needs to be promoted, also other legislation affecting NRM eg Development Act, needs to be reviewed to ensure ability to implement NRM targets under other Acts
 - Resources and sources of funding

Powers of the Minister under NRM

- Authorisations, licencing, permits
- Preparation of NRM Plan, input to other plans
- WAPs
- Enforcement
- Projects and works

Interaction with other legislation and guidelines

- Development Act
 - Do Development Plans sufficiently incorporate NRM considerations?
 - Is NRM satisfactorily and appropriately considered at the highest policy making level, eg in decision making for significant urban expansion or industrial activity?

Interaction with other Acts and Guidelines (cont.)

- Development Act (cont.)
- Is policy and decision making at the local and State level sufficiently focused on the impact of development on natural resource management?
- Schedule 8 referrals : do they go far enough?

Interaction with other Acts and Guidelines

- Schedule 8 Development Regulations – Referrals
 - 1 Development near the coast: Coast Protection Board – direction (in specific cases)
 - 12 Activities that would otherwise require a permit under the NRM Act: Relevant authority under the NRM Act (in specific circumstances – see s.129(1)(e)) – direction/ commercial forestry (in specific circumstances)

Development Act (cont)

- Schedule 8 referrals (cont)
 - 12A – certain activities that may give rise to water allocation issues under NRM Act : CEO of Department of Minister responsible for NRM Act, regard (activities include aquaculture)
 - 15 – Aquaculture – Minister administering the Aquaculture Act, direction
 - 16- Dams in water restriction areas: CEO of NRM Dept, direction

Development Act (cont)

- Development Plans and Development Control
 - Consultation with relevant agencies and Departments
 - DPAs at request of NRM Boards
 - DP may be amended in accordance with NRM Plan (s.29(1)(b) DA
 - DPs deal specifically with NRM issues
 - How are NRM issues dealt with in consideration of development applications by DAPs or under delegation?

Development Act (cont)

- Consideration of NRM issues at development approval stage:
 - NRM one of many issues considered in DAs.
“Advisory” nature of development plan – provisions not mandatory, process of balancing NRM with other issues
 - NRM not at forefront of decision makers’ thoughts, lack of knowledge/awareness of critical nature of development/land based activities on coastal and marine environment

Interaction with other Acts and Guidelines (cont)

- Stormwater Guidelines
 - Clearly contemplate impact of stormwater on receiving waters and management of stormwater to enhance water dependent ecosystems and quality of runoff and effect on receiving waters
 - NRM Boards can approve extent of catchment areas
 - Advocates multi objective approach including reduction of adverse impacts on receiving waters

Interaction with other Acts and Guidelines (cont.)

- Aquaculture licences: does the NRM Act apply to marine habitats and environments?
- No specific referral requirement (as for EPA)
- Preparation of Aquaculture Policies: consistency with Planning Strategy, Development Plan and Environment Protection Policies but not NRM Plans

Limitations and Restrictions

- NRM Act: structure and substantive approach not focused on coastal and marine issues. Are the impacts of terrestrial activities on the coastal and marine environment capable of being adequately dealt with under the NRM Act ?
- NRM Plans: policy formulation, enforcement and oversight of targets
- Application of NRM objects/plans to policy and decision making outside the NRM Act eg Development Act
- Knowledge, awareness and expertise in NRM – particularly coastal and marine issues at the various decision making levels in the development process

Limitations and Restrictions (cont)

- Stormwater issues – tension between the objects of the Guidelines – flood mitigation and enhancement of water dependent ecosystems
- Limitations of State based legislation to enforce NRM issues in the coastal and marine environment
- NRM impacts not dealt with in broader Government policy decisions eg major expansion of urban areas

Is Reform Needed

- -Need for effective integration of NRM issues in day to day decision making of all relevant agencies and approving authorities
- promote NRM in the formulation of development policy and better integrate into Development Plan provisions
- Schedule 8 referrals - increased referrals for development impacting on the coastal and marine environment

Is Reform Needed (cont.)

- Stormwater- prioritising NRM outcomes in formulation and implementation of plans
- Aquaculture: referral to NRM Board, consistency with NRM Plans
- NRM Act and Plans: enforcement of targets, better resourcing, focus on impact of activities on coastal and marine environments: include marine resources in definition of NRs, feature marine and coastal resources as key part of Act