



Ministry of Environment and Tourism

**REVIEW OF EXISTING INSTITUTIONAL
MANDATES, POLICIES AND LAWS
RELATING TO COASTAL MANAGEMENT,
AND PROPOSALS FOR CHANGE**

Issues and options paper

July 2007

Namibian Coast Conservation & Management Project – NACOMA



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Prepared by:
**The Southern African Institute for Environmental Assessment
(SAIEA)**
P.O.Box 6322
Ausspannplatz
Windhoek

The purpose of this report

This report summarises the paper on policies, laws, mandates and institutional structures completed by the Southern African Institute for Environmental Assessment (SAIEA) for Nacoma in June 2007.

This summary highlights the key issues of concern regarding the management of Namibia's coastline and related resources. It also discusses the management options that might help guide future development along this coast.

This report provides input into the compilation of a White Paper that will lead to the strengthening of laws and institutions linked to coastal management in Namibia.

Why reform is required

It is obvious that any proposed changes to policies, laws, mandates and institutional structures must have the objective of either addressing key problems relating to the management and utilisation of coastal and marine resources or assisting Namibia to achieve a desired, future state.

Given that there is as yet no coherent vision for Namibia's coastline, this paper attempts to 'unravel' the problem through a Root Cause Analysis (RCA) exercise, and then to propose changes that might address causes as close to the 'root' as possible.

Figure 1 illustrates the RCA and lists the main problems relating to the management of the Namibian coastal and marine environments. The diagram is colour-coded to enable an 'unpacking' of the key themes and thus an analysis of how best one could bring about improvements in the future.

Various workshops and discussions with a broad range of stakeholders

have shown that the main concerns along the coast are:

- Landscape alteration and habitat destruction, resulting in biodiversity loss and deterioration of sense of place – which in turn results in lower amenity value and future options.
- Pollution, and
- Declining biomass and biodiversity of coastal and marine organisms.



Photo's above: Tracks (l), pollution (centre) and resource over-exploitation (r) are rapidly undermining the future potential of Namibia's coastal zone.

As is evident from the analysis, there are three immediate causes of the three key environmental problems that are shaded in brown at the top of figure 1. These are:

- Inappropriate development is permitted in certain areas along the coast (especially mining, urban expansion and uncontrolled or poorly planned tourism – often in environmentally important or ecologically sensitive areas)
- Unsustainable resource exploitation (commercial and recreational fishing), and
- Natural causes (e.g. unfavourable climatic and oceanic conditions).

There is little we (as Namibians) can do to control nature, but the first two immediate causes of our main problems are largely due to inadequate management – for which we are directly responsible.

Figure 1: ROOT CAUSE ANALYSIS ILLUSTRATING LINKAGES BETWEEN ENVIRONMENTAL PROBLEMS (TOP ROW OF BROWN-SHADED BLOCKS) AND THE CAUSES OF THESE PROBLEMS

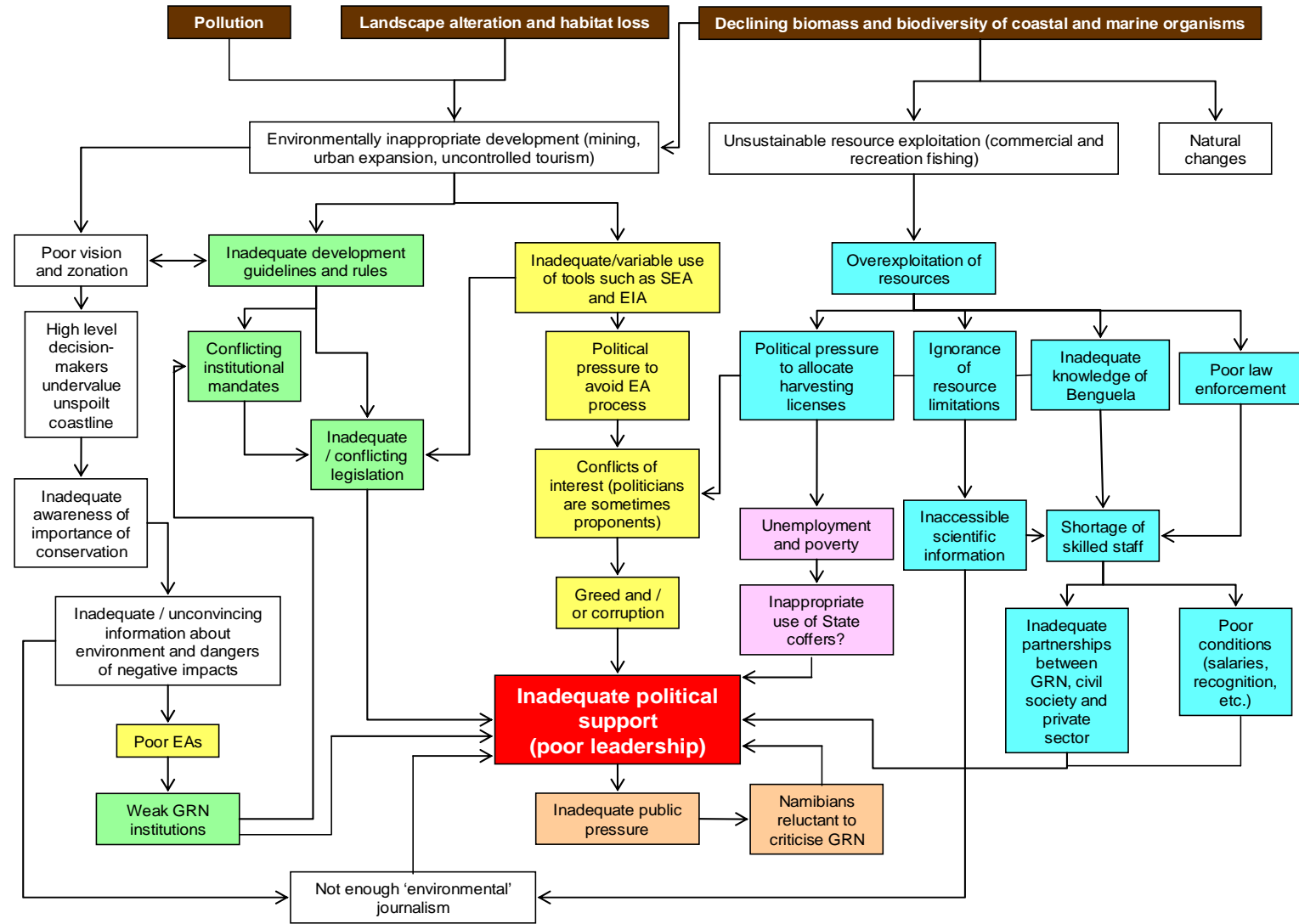


Figure 1 shows that inappropriate development is permitted because Namibia does not have a coherent vision for the coast. Also, the coast has not been properly zoned into 'development nodes' and 'no-go' areas. Although the parks are theoretically protected areas, it is especially here where one observes some of the most serious environmental abuses.



Photo above: This example of small scale mining in an exclusive and valuable tourism concession in the Skeleton Coast Park's northern wilderness area shows the lack of appreciation for avoiding land use conflicts.

In most cases, development appears to be happening in a rather ad hoc fashion, and even areas zoned for conservation are re-zoned for development with apparent ease even when the areas in question are environmentally sensitive.



Photo above: Urban development placed virtually on the high water mark is ecologically unacceptable and economically unwise. Projects of this nature should be discouraged by the local authorities.

Underlying causes are the fact that most high-level decision makers (even ordinary Namibians) undervalue the Namibian coastline which is often referred to as 'barren wasteland'. Ignorance about the coastline must be reversed as this is one of the main causes of the inadequate policies, laws and institutions in the country.

Developing a **coastal vision** is one of the outputs of the NACOMA project. NACOMA has begun a major information awareness campaign that will hopefully change many of the current attitudes about the area.

Environmentally inappropriate development is also caused by the fact that there are inadequate guidelines and rules about what is allowed and what is not allowed along the coast. Examples include the distance away from the High Water Mark that buildings should be placed, various aspects of coastal and marine tourism, etc.

There are also few 'best practice' guidelines that can serve as inspiration or a benchmark that developers can strive to achieve. These deficiencies are a result of inadequate or conflicting legislation, which in turn contributes to inadequate institutions. As is the case with all weaknesses in laws and institutions, poor leadership is ultimately to blame (the root cause).

Institutions and laws are the key theme of this report and options for improvements are presented in the following pages.

Environmentally inappropriate development is also a result of inadequate use of Impact Assessment tools (primarily Strategic Environmental Assessment and Environmental Impact Assessment¹).

¹ The term 'environment' means ecological, social and physical components and the interrelationships between them. Thus, Environmental Assessment includes strategic, social, health, risk, cumulative, regional and all other kinds of impact assessments.

In many cases, EAs are either not done, are poor quality or done too late in the planning process. Often the results of EAs are simply ignored in decision making. To some extent, the lack of EA enabling legislation was a key underlying factor until recently, but this cause is perhaps over-emphasised.

More important is the regularity with which Namibia's EA policy and international standards are ignored and the fact that many EIAs are of substandard quality. These poor quality processes and reports are often approved by government and Conditions of Approval are sometimes vague and inadequate.

Many stakeholders have suggested that conflicting interests (e.g. politicians or people with political connections are often the developers) sometimes result in pressure being placed on officials to rubber stamp projects without the necessary safeguards being applied. If this form of corruption is condoned at higher level, then inadequate political leadership is again the root cause.

Inadequate use of sustainable development tools (or environmental safeguards) is addressed to some extent in this document – notably in the context of enabling legislation and improved institutional importance. However, corruption and inadequate political will are frame conditions that need to be addressed at much higher level.

The BCLME² project identified unsustainable resource use as a major cause of declining biomass and biodiversity imbalances along the Namibian coastline. Whilst natural conditions (e.g. low oxygen levels, rising temperatures, changed wind regime, etc.) are out of our direct control, there are many tools at our

disposal to protect marine resources from over-exploitation.

Some marine biologists suggest that the Namibian commercial fishery has all but collapsed and that linefish are no longer abundant. In spite of the efforts of the Ministry of Fisheries and Marine Resources (MFMR), the pressure on the minister from holders of fishing quota's to allow increased catches, is enormous.

Moreover, there is a mistaken belief that the ocean has limitless resources, leading many Namibians doubting scientific reports. Given the relatively low quality of environmental journalism in Namibia, the public seldom have access to scientific information and mistaken beliefs are thus hard to change.



Photo above: Namibia must be sure to manage its marine resources with great care – unpolluted fish is a high value but fast disappearing commodity.

Fisheries management is not a core theme in this report, but a number of issues relating to inadequate policies, laws and institutions are discussed. In particular, the report stresses the need for the authorities to enter into enduring partnerships with the private sector, NGOs and individuals who could assist greatly with coastal management. There are many willing and skilled people who are prepared to offer their support.

Building the required capacity to better manage the coastal and marine environment requires a multi-faceted strategy. Whilst this report focuses on

² The Benguela Large Marine Ecosystem Project

policies, laws and institutions, these alone are only part of the picture.

Equally important are partnerships within government and between government and the rest of society, the free flow of information, a culture of open, rigorous debate, and an appreciation of the role of so called 'pressure groups'.



Photo: Namibians must be given accurate information about the state of the environment – so that they can express their views on how their resources should be managed and exploited.

Ultimately, political will is essential so that deep rooted factors such as corruption and greed can be eliminated from Namibian society – these are powerful and destructive forces that will undermine all progress. Also, political will is required to ensure that scarce resources are directed at pro-poor initiatives and projects that stimulate the economy. Only then can we address the ultimate root cause – poverty.

OPTIONS FOR IMPROVING LAWS AND INSTITUTIONAL CAPACITY

Policies, laws and institutions are all closely linked, which is why they are dealt with together in this report. Normally, a government begins its thought processes with the development of a policy, which is ideally a response to public views, aspirations and needs, an expression of the nation's values and last but not least, scientific evidence.

Policies can be developed relatively quickly but often require a series of

workshops, input from expert opinion and various forms of public consultation. In most cases, a policy is approved by Cabinet and 'tested' for a period of time, either through voluntary implementation or through public consultation, or both.

Once a policy is established and its need confirmed over a period of time, the next step is usually the development of laws. This is a lengthier and careful process, requiring considerably more debate and consideration, as laws are the ultimate expression of how a nation defines its principles, rules and penalties.

All laws must be passed by Parliament and signed into force by the President.

Namibian legislation consists of legislation enacted by the South African Parliament during the South African occupation of South West Africa (as it then was), legislation enacted by the South West African Parliament and Namibian legislation that has been passed since independence in 1990.

While a number of pre-independence laws were expressly repealed by the Constitution (section 112), in accordance with Clause 140 of the Constitution all other laws in force immediately before the date of independence, remain in force until they are repealed or amended by new legislation or are declared unconstitutional by a competent court.

Consequently many South African Acts that were in force at the time of independence are still operative although several have been amended since independence.

Namibia might be described as having a confused and incoherent system of planning, which results in a multitude of parallel plans that seldom relate to each other, both at central level and lower down. These plans are highly

variable in quality and their implementation even more variable. In an attempt to develop a more coherent structure and system, government has tried to improve its National Planning approached since Independence. The first attempt, NDP1, was a selection of disjointed sector development plans. NDP11 and NDP 111 have been far more systematic, with intersectoral discussions taking place as part of the formulation process.

In order to contribute to participatory democracy and planning, the NPC in the late 1990's, commissioned the preparation of strategic Regional Development Plans (RDP's) for all 13 regions. At the same time, however, many line ministries also prepared their own strategic development plans and subsequently implemented a suite of sector development projects, either in accordance with or contrary to the RDPs.

A critical analysis of the current development planning process in Namibia reveals the following key shortcomings:

- The process combines a bottom-up approach with a top-down control. This undermines genuine participatory planning because what comes from the bottom is usually regarded as a secondary input – often disregarded in favour of decisions taken at central level – resulting in frustration at grass roots level.
- The process results in parallel master plans and/or development plans running simultaneously, even if they are not in support of each other (the 'battle of the plans').
- The process discourages coordination, notably between the sectoral ministries and the regional councils.
- There are inadequate information flows and poor quality information

at regional level upon which to base decisions. Consequently, the regional councils are at a disadvantage while substantial information is available at sector or central level.

- The base of decision making power is at the central level, which defeats the objective of participatory planning and democracy.

It is now argued that Vision 2030 represents the national vision for the development of the country and that regional development should strive to achieve the same vision.

A critical analysis of and comparison with the "old" development planning process enables one to gauge the extent to which the new process is better. The following key observations are made:

- The new process also combines a bottom-up approach with a top down control system which has similar shortcomings of the old system. It may even be more centralised than the old system because proceedings are likely to be dominated by the lead ministry.
- Where the old system saw parallel master plans and development plans being pursued at the same time, the new system is likely to favour the sectoral master plans since the regions will not even have development plans any more. They will therefore have no choice but to fall in with the sectoral plans. This will lead to a more central and sectoral bias.
- The new process does nothing to improve coordination. Although the need is spelled out the practical systems are not in place. One can therefore expect similar problems with coordination as was experienced before.

- Whereas the guidelines require quality and in depth information on which to base the situation analysis, there is no system in place that could yield this information. There is a severe lack of quality information at regional level and it is not clear how this situation will be improved.
- Inadequate skills and capacity at regional level means that planning and implementation of any system will remain a major challenge.
- The use of indicators for monitoring and evaluation of the achievements of NDPIII goals is welcomed, but there is doubt about the appropriateness of the chosen indicators.
- The cross sectoral approach which requires line ministries and stakeholders to work together towards common goals is a good innovation as is the teamwork approach under the leadership of lead ministries.

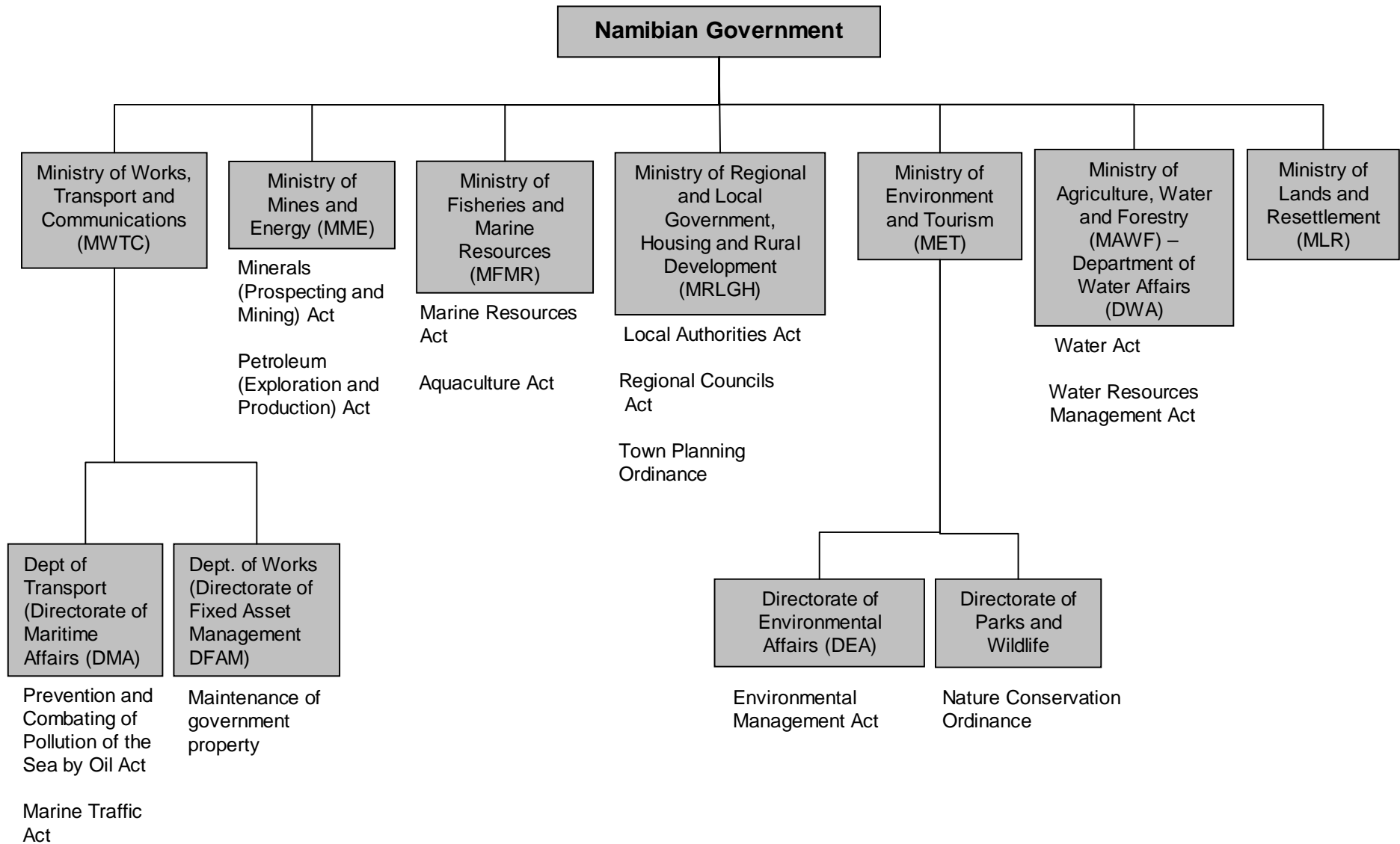
The points raised above highlight the need for an ICZM plan for the entire coastal region and a more integrated approach towards institutional functioning.

Options for institutional improvements

The institutions responsible for managing key aspects of coastal management are reflected in Figure 2. This figure shows that responsibility for coastal management is spread widely and there is no single agency responsible for planning or co-ordinating coastal management.

The tables on the following pages highlight the issues of concern for each ministry, the recommended solution and a comparison of the recommendation to other options (including the status quo). This enables a rapid perusal by the reader.

Figure 2: GOVERNMENT AGENCIES WITH PRIMARY RESPONSIBILITY OF ASPECTS OF COASTAL MANAGEMENT



Ministry of Environment and Tourism (MET)

| Issue of concern | Recommended solution | Other options? |
|---|---|--|
| Inadequate environmental awareness | <ul style="list-style-type: none"> • Improve awareness amongst high-level decision makers (within MET) about the fragility of Namibia's various habitats (especially the coastline) and the need for them to be consistent in their decision making • MET, in turn, needs to sensitise other GRN institutions and the private sector about the importance of the environment and its link to livelihoods and the economy. • Due to inadequate capacity, MET needs to be more proactive and supportive of civil society organisations that are or could be valuable partners in environmental awareness building. | <ul style="list-style-type: none"> • Status quo option not advisable as MET currently faces huge challenges in convincing other sectors about the importance of conservation and the environment. • Outsourcing Environmental Education and PR is a good option as there are service providers, but budget constraints could be a problem. |
| Inadequate legislation | <ul style="list-style-type: none"> • Enact the following ASAP: <ul style="list-style-type: none"> • Environmental Assessment and Management Bill, • Pollution and Waste Management Bill • Parks and Wildlife Management Bill. • Operationalise the Environmental Investment Fund. | No other option – this is a 'bottom line' issue that MET must address as a priority |
| Jurisdictional overlaps between MET and MFMR (intertidal zone) | <ul style="list-style-type: none"> • Improve communication between MET and MFMR so that law enforcement is more effective • Align MET and MFMR legislation • Create ICZM legislation. | <ul style="list-style-type: none"> • Another option is consolidating all coastal management above the low water mark into one ministry – not split between two as is currently the case. Deciding on whether this should be MET or MFMR needs careful consideration, as it will mean legislation and institutional changes. • The 'neither/nor' option is to create a new coastal authority and take the functions entirely away from MFMR and MET – probably not feasible at this stage |
| Escalating habitat destruction from prospecting and mining. | <ul style="list-style-type: none"> • MET needs to reassert itself at high level so that MME improves its governance in awarding of concessions. • MET HQ needs to involve field staff more pro-actively in considering concession applications and in setting conditions. • MET must work with MME to identify important conservation areas/sensitive areas so that they can be excluded from prospecting and mining activities. • Use independent experts to help evaluate EIAs • Improve post-implementation monitoring. | <ul style="list-style-type: none"> • Status quo untenable and needs to be changed urgently • Banning prospecting and mining from parks would be the ideal option from a conservation perspective, but unrealistic given Namibia's current situation. • Use Honorary Conservators to help with monitoring – this is low cost and effective, though the individuals might not be technical experts |
| Jurisdictional overlaps between MET, Local Authority and MWTC (WB enclave area) | <ul style="list-style-type: none"> • Proclaim dune area into the NWCRA and develop new regulations to control land use • Create ICZM legislation and a 'Coastal Management Agency. | <ul style="list-style-type: none"> • Another option is to incorporate dunes into the Walvis Bay Nature Reserve – may be better in that management will be local rather than from Windhoek. However, WB Municipalities commitment to conservation is open to debate. |
| Sensitive and ecologically important areas inadequately protected | <ul style="list-style-type: none"> • Proclaim Sperrgebiet and Walvis Bay Nature Reserve • Apply legally-binding zonation (e.g. strict protection) of important areas (e.g. Cunene mouth). • MET should be supportive of civil society groups (e.g. CETN) that provide a range of | <ul style="list-style-type: none"> • Delaying proclamation and zonation further is unwise, given the escalating demands for development in these areas |

| | | |
|---|---|--|
| | voluntary services aimed at conserving important conservation areas (e.g. Walvis Bay lagoon). | |
| Inadequate capacity in MET to enforce existing and emerging legislation | <ul style="list-style-type: none"> • MET HQ needs to involve field staff more pro-actively in considering concession applications and in setting conditions. • Use independent experts to help evaluate EIAs • Improve post-implementation monitoring (could use independent experts to help with this task) • Form partnerships with Civil Society – they can help MET to undertake a variety of tasks. The idea of ‘Honorary Coastal Wardens’ merits consideration – or simply re-activate the existing idea of Honorary Conservators. • Create opportunities for the general public to be more involved in coastal conservation – perhaps through a ‘Coastal Public Forum’ – that could be open or a committee that represents the public. The committee could have some representatives that attend government-level meetings related to coastal management (similar to basin-wide forums for various river basins – e.g. the Kuiseb) • Appoint staff who have a genuine interest in coastal conservation and provide career-development training for them. | <ul style="list-style-type: none"> • The status quo is untenable as current performance is too poor to be allowed to continue • The option of totally outsourcing all management functions to a professional ‘Coastal Management Agency’ is attractive but probably a political non-starter? |
| Inadequate capacity by MET to guide tourism | <ul style="list-style-type: none"> • MET needs to develop a coherent tourism policy – in consultation with the industry (evidently this is underway). The policy needs to be ‘sold’ to the Regional and Local Authorities so that they can mirror it in their policies, programmes and plans. Consistency will reduce the types of ad-hoc tourism and urban development that are currently occurring along the coast. It will also reduce opportunism, which is on the increase in this sector. • NACOMA needs to interact closely with the tourism component of the SPAN project, which is about to launch a tourism support project. | <ul style="list-style-type: none"> • Current ad-hoc approach not advisable |
| Inadequate budgets for Regional Councils | RCs complain that budgetary constraints limit the amount of work they can do, and thus their effectiveness. | - |

Ministry of Fisheries and Marine Resources (MFMR)

| Issue of concern | Recommended solution | Other options? |
|---|--|--|
| Inadequate capacity at all levels within the MFMR | <ul style="list-style-type: none"> • More targeted approach towards allocation of bursaries for undergraduate and postgraduate students • Intensify in-service training • Use of consultants to fill knowledge/capacity gaps • Reduce ‘political’ pressure on scientists | <ul style="list-style-type: none"> • General perception amongst stakeholders that quality (and quantity) of staff in the MFMR has declined significantly since independence – status quo not a good option • Could outsource more scientific and management functions, but this might be costly and politically unacceptable |
| Inadequate conservation of fish stocks, leading to overexploitation and decline of commercially important species. This in turn leads to proliferation of low/no value species (e.g. jellyfish) | <ul style="list-style-type: none"> • Improve survey methods, frequencies, data analysis and communication of data to decision makers • Improve inspectorate (e.g. on boats. Also take steps to address bribery and corruption) • Improve law enforcement (especially at sea) • Improve governance over the allocation of quota’s (e.g. be steadfast when | <ul style="list-style-type: none"> • See above |

| | | |
|---|--|--|
| | <p>assessment suggest low or no quota)</p> <ul style="list-style-type: none"> • Make use of external experts at times when in-house capacity is inadequate – this is good for scientific rigour and governance. | |
| jurisdictional overlaps between MET and MFMR (intertidal zone) | <ul style="list-style-type: none"> • Improve communication between MET and MFMR so that law enforcement is more effective • Align MET and MFMR legislation • Create ICZM legislation | <ul style="list-style-type: none"> • Another option is consolidating all coastal management above the low water mark into one ministry – not split between two as is currently the case. Deciding on whether this should be MET or MFMR needs careful consideration, as it will mean legislation and institutional changes. • The ‘neither/nor’ option is to create a new coastal authority and take the functions entirely away from MFMR and MET – probably not feasible at this stage |
| jurisdictional overlaps between MFMR, DWA and MWTC (water quality) | <ul style="list-style-type: none"> • Improve communication between MFMR, DWA and MWTC (especially Namport) regarding the implementation of water quality standards, the allocation and monitoring of water discharge permits and the disposal of waste into the marine environment • Clarify mandates so that overlaps are reduced or eliminated • Create ICZM legislation | <ul style="list-style-type: none"> • Another option is to outsource water quality monitoring to a consulting company on contract or to a new coastal authority. Probably not feasible at this stage as there is still resistance in many quarters to the idea of outsourcing. |
| Important marine areas inadequately protected | <ul style="list-style-type: none"> • Proclaim Marine Reserves in areas previously identified as worthy of such status • Apply legally-binding zonation (e.g. strict protection) of particularly sensitive areas in these reserves (e.g. marine species breeding localities, seabird colonies) | <ul style="list-style-type: none"> • Some important marine areas (e.g. islands) are reasonably well protected anyway as a result of their isolation. However, there are escalating demands for concessions on these islands, so the status quo is not advisable. |
| Important marine species inadequately protected | <ul style="list-style-type: none"> • Develop demand and capacity in MFMR to address conservation concerns for ‘non-commercial’ species (e.g. seabirds such as penguins, gannets and albatross, turtles, cetaceans). Some of these species might be accurate indicators of the health of fish stocks and thus the health of the ecosystem. | <ul style="list-style-type: none"> • There is a perception amongst a wide range of stakeholders that MFMR are not serious about species that are not of commercial interest – this needs to be changed with action that proves the contrary. |
| Inadequate capacity in MFMR to enforce existing and emerging legislation | <ul style="list-style-type: none"> • In addition to points raised regarding enforcement of commercial fishing contraventions, MFMR needs to form partnerships with Civil Society – they can help MFMR to undertake a variety of tasks. The idea of ‘Honorary Coastal Wardens’ merits consideration. | <ul style="list-style-type: none"> • Anglers along the coast generally perceive fisheries officials to be unenthusiastic about their work – status quo not viable • Another option is to outsource coastal law enforcement to a consulting company on contract or to a new coastal authority. Probably not feasible at this stage as there is still resistance in many quarters to the idea of outsourcing, especially law enforcement functions. |
| Improve information delivery to the public – especially on the state of fish stocks | <ul style="list-style-type: none"> • MFMR needs to ensure that the public receive accessible information regarding fish stocks. These are public resources and the public has a right to know how they are being managed. • Related to the above, MFMR needs to cultivate a feeling of ownership amongst the public regarding fish stocks. This will instil more awareness amongst Namibians about the fact that these resources are precious – this might lead to greater ‘community policing’ and private/public partnerships. This feeling is currently absent. | <ul style="list-style-type: none"> • The status quo is likely to lead to continued perceptions that the governments withholds ‘bad news’ information from them, or ‘sanitises’ information. This is not a good option. • Outsourcing Marine Environmental Education and PR is a good option as there are service providers, but budget constraints and issues around confidentiality could be a problem. However, confidentiality should not be an issue as fish are State (and therefore public) resources. |

Ministry of Mines and Energy (MME)

| Issue of concern | Recommended solution | Other options? |
|---|---|---|
| Injudicious allocation of prospecting and mining rights, leading to irresponsible practices in coastal protected areas. | <ul style="list-style-type: none"> MME must take more responsibility towards ensuring that proper safeguards are in place before prospecting and mining rights are issued. In some cases, it appears as though allocations are made following a 'fast track' process. Some stakeholders suggest that this is for political expediency. If this is the case, then it must be stopped before corruption is entrenched. MME cannot hide behind inadequate capacity in MET as an excuse for poor safeguards being applied in some cases. MME has environmental clauses in its legislation and it must enforce these properly. MME should use external expertise to assist them in properly evaluating applications and for guiding and reviewing EIAs MME must use its discretion better in allocating licenses. Prospecting and mining in ecologically sensitive areas / important conservation areas should not be done by inexperienced companies. The political requirement for equity or BEE in the mining industry is understood and acceptable because of Namibia's past history, but the environment must also be regarded by MME as an important part of Namibia's long term future. | <ul style="list-style-type: none"> MME contends that MET performs poorly on their joint committee that assesses mineral rights applications, so current situation needs to be changed. Perhaps external experts could be included onto the committee to introduce needed expertise and maybe improved governance – this will have budget implications. Also might be confidentiality implications and this option probably not acceptable politically. Ban all prospecting and mining in parks – unlikely to receive political support. Unrealistic at this stage. |
| Inadequate differentiation between prospecting and mining | <ul style="list-style-type: none"> Define this better in legislation. Given that legislation reform takes time, at least be clear in the licences granted what in fact is permitted in prospecting and what is Allowed in mining | <ul style="list-style-type: none"> The inadequate clarity causes much confusion and abuse by mineral rights holders – status quo not a good option. |
| Inadequate monitoring and enforcement, causing prospecting and mining proponents to ignore set environmental safeguards and thus cause negative impacts | <ul style="list-style-type: none"> MME must work more closely with MET to improve monitoring and enforcement. In the context of diamond prospecting and mining, MME, the Namibian Police and MET need to come to a more sensible arrangement regarding the rights of MET staff to inspect diamond operations along the coast. It is untenable that MET staff in (for example) the Skeleton Coast Park are prevented from inspecting the workings of mines in the park which they are expected to manage. MME should consider using external experts to assist them with monitoring (inspections) – the mining/prospecting companies should be expected to pay for this. | <ul style="list-style-type: none"> Another option is to outsource mining law enforcement to a consulting company on contract or to the proposed new coastal authority. Probably not feasible at this stage as there is still resistance in many quarters to the idea of outsourcing, especially law enforcement functions. |

Ministry of Agriculture, Water and Forestry (MAWF)

| Issue of concern | Recommended solution | Other options? |
|---|--|--|
| Water quality standards not current | <ul style="list-style-type: none"> DWA needs to update water quality standards | <ul style="list-style-type: none"> Process already underway in DWA, but needs to be completed |
| Inadequate capacity in DWA to carry out monitoring of pollution and enforcement of laws and regulations | <ul style="list-style-type: none"> Increase technical capacity in DWA to carry out inspections Create partnerships between DWA and other organisations (e.g. MET, MFMR, etc.) so that the inspectorate role is shared between many organisations Use consultants to fill capacity gaps (short term) | <ul style="list-style-type: none"> Another option is to outsource monitoring of pollution and enforcement of laws and regulations to a consulting company on contract or to the proposed new coastal authority. Probably not feasible at this stage as there is still resistance in many quarters to the idea of outsourcing, especially law enforcement functions. |

Ministry of Works, Transport and Communication (MWTC)

| Issue of concern | Recommended solution | Other options? |
|--|---|---|
| Some aspects of MWTCs mandate are inappropriate given the nature of the organisation | <ul style="list-style-type: none"> Reconsider the responsibility for unproclaimed State Land being given to MWTC. There seems little logic in this ministry being responsible (for example) for the dune area between Walvis Bay and Swakopmund. In light of the above – consider reallocating responsibility for this area to MET. | <ul style="list-style-type: none"> As noted elsewhere, the areas mentioned could either be incorporated into the National West Coast Recreation Area or the Walvis Bay Nature Reserve – both better options than the status quo. |

Ministry of Lands and Resettlement (MLR)

MLR has a relatively small role in the management of coastal and marine resources or the environment. For this reason, it receives minimal attention in this report.

Ministry of Local and Regional Government, Housing and Rural Development (MLRGHRD)

| Issue of concern | Recommended solution | Other options? |
|---|---|---|
| Inadequate capacity of Regional Councils | <ul style="list-style-type: none"> Establish a Coastal Zone Management Agency – chaired by one of the RCs (or by all in rotation), in which key line ministries, NGOs and industry representatives combine knowledge, skills and resources to guide and monitor all development in the coastal zone. This Agency should have statutory status and a well defined responsibility. At first, it could be a 'coalition of the willing' who cooperate with each other. Eventually, the Agency might well take over strategic planning functions from various line ministries, and maybe even enforcement functions. The original line ministries will in such a case have reduced functions <i>along the coast</i>. If government is serious about RCs eventually taking over the planning and management of the regions, then the entire structure of the RCS needs to be reconsidered. Substantially more skilled people will need to be allocated to the RCs (presumably on transfer from the line ministries). This will likely cause many difficulties and much more thought needs to go into this eventuality before creating more expectations or uncertainties. | <ul style="list-style-type: none"> The current situation is unlikely to result in capacity being built and sustained in the 4 RCs. This is why a more inclusive arrangement is proposed. Radically reconsider the roles of RCs and take away all pretensions that they are/will be in charge of running the regions. Politically this will likely not be favoured as an option. Radically reconsider the roles of line ministries and create Regional Governments (as in Nigeria). Seems an unrealistic option given the small population and limited budgets and expertise. |
| Uncoordinated development/management between the 4 RCs – all of whom are managing a "contiguous" natural system | <ul style="list-style-type: none"> In the Agency model proposed above, there will be one "plan" and "strategy", which will guide development and management in the various regions. This prevents uncoordinated development and management | See above |
| Fast growing towns promote inappropriate and unsustainable development | <ul style="list-style-type: none"> Ensure LAs are included in the Agency Promote the development of Structure Plans that each consider environmental/sustainable development considerations Ensure good governance in the implementation of structure plans LAs must promote civil society participation – reduce the current trend of secrecy and poor transparency Ensure consistent use of Impact Assessment | <ul style="list-style-type: none"> Make the LAs even more autonomous – giving them absolute control over their areas of jurisdiction – not viable or appropriate given that impacts are not confined to local areas and many national issues are at stake. Also, expertise at local level is too thin. |

Ministry of Trade and Industry (MTI)

| Issue of concern | Recommended solution | Other options? |
|---|--|---|
| <p>Inadequate knowledge of environmental issues in MTI, resulting in failure to guide investors appropriately</p> | <ul style="list-style-type: none"> • Sensitise MTI staff about environmental issues and the sensitivity of the environment. Whilst the Foreign Investment Act has a discretionary clause that could be used by the Minister (of MTI) to ensure that an Impact Assessment is conducted for certain projects, it is thought not to have been used to date. MTI needs to be more consistent so that it does not cause intersectoral tensions by not fully disclosing national requirements to investors. • MTI should be more pro-active in commissioning Strategic Environmental Assessments for, inter alia, EPZs that will contain a number of different industries that might result in cumulative impacts. • MTI must be more pro-active in seeking the advice of appropriate line ministries regarding the avoidance/mitigation of environmental impacts resulting from projects that it facilitates. Interaction between MTI, MET, MFMR and DWA are insufficient at present. • MTI could hire a full-time environmental officer. | <ul style="list-style-type: none"> • The status quo is not advisable as there are many examples of foreign investors being brought into Namibia without the necessary environmental safeguards being implemented. • MTI could hire consultants to advise foreign investors about what to do. Probably not a viable option as MET should really be performing this public service. The relevant information/guidelines should in any case be available online. |

Options for legislation improvements

The main conclusions and recommendations of this report are set out below.

1. Namibia has a number of laws that regulate human activities within the coastal zone but the existing legal framework has significant gaps from the perspective of integrated coastal management and does not provide an adequate basis for the effective implementation of integrated coastal management. There is no legislation that has the preservation of the coastal environment as one of its objects.
2. The range of legal powers to implement effective coastal management would be greatly enhanced if the Water Resources Management Act, 2004 and the Environmental Investment Fund of Namibia Act, 2001 were brought into force and if the Draft Environmental Assessment and Management Bill, the draft Pollution Control and Waste Management Bill and the draft Parks and Wildlife Bill were finalised, enacted and implemented. (The latter will also require the making of regulations). We recommend that this be given urgent attention.
3. In addition we recommend that new coast-specific legislation should be enacted:
 - a. to maintain, enhance and clarify the legal status of the seashore and coastal waters as the common property of all;
 - b. to define the rights and obligations of both the public and the State in respect of the seashore, islands, tidal waters and adjacent areas;
 - c. to define areas within the coastal area to enable different control measures to be applied within different areas and to provide a legally defined coastal zone for the purpose of implementing ICM;
 - d. to provide for the granting and supervision of leases and concessions to use areas of the seashore and coastal waters;
 - e. to provide principles to guide decision makers;
 - f. to streamline the granting of authorisations for coastal activities that contribute to sustainable coastal development;
 - g. to prohibit within coastal areas, activities that are particularly harmful to the coast and that can be undertaken elsewhere and to require environmental impact assessments for projects that may have a significant adverse impact on the coast or the BCLME (if this is not already provided for in other legislation);
 - h. to establish a system for developing integrated and legally binding spatial plans and associated regulations for the purposes of implementing an ICM programme and for ensuring consistency between these and other sectoral plans;
 - i. to clarify institutional mandates and enforcement powers; and
 - j. to give effect to Namibia's obligations under international law.
4. We recommend that the Government of Namibia consider prioritising the enactment of new legislation that will enable

- integrated and effective planning of coastal and other areas (taking into account ecological considerations as well as human land use and development).
5. We urge the relevant line ministries and LAs to significantly improve their governance regarding the allocation of various land and resource-use rights. These include prospecting and mining and urban expansion/development
 6. There needs to be significant improvements in terms of building the capacity of the institutions with major responsibilities for coastal management. Specifically we recommend:
 7. Establishing a 'Coastal Management Agency' – that is able to implement an ecosystems approach towards the management of the coastal areas (in contrast to the sectoral approach which has achieved little to date). Establishing such an agency could be done step-by-step: Initially, the various ministries could collaborate in a formally constituted 'Coastal Agency Forum' – perhaps chaired by one of the Regional Governors. This interim measure could last a few years, during which the structure, functions and enabling instruments of the Agency could be established.
 8. The 4 regions could each coordinate activities within their area of jurisdiction, with technical services provided by the respective line ministries and contracted NGOs and consultants. However, every region must act in accordance with the 'National Coastal Management Strategy'.
 9. The Coastal Management Agency must be well resourced (perhaps through the Environmental Investment Fund or other mechanisms) so that it can hire professional staff (at least 5 full time dedicated officers) – preferably without being constrained by public service parameters. This core staff will assist the agency and the RCs to keep their 'finger on the pulse' and to facilitate consistent and sustained input from the line ministries and other partners. The RCs and LAs must be part of the agency in order to provide input and so that they can direct requests for assistance as and when required.
 10. The establishment of meaningful partnerships between government (and the 'Agency') and civil society. This consultancy has found that there is an enormous amount of goodwill within the public to assist the authorities to conserve the coastline – but resistance from government to embrace civil society input. The establishment of 'Honorary Coastal Wardens' is strongly recommended. These carefully selected individuals could assist the authorities with monitoring, data collection, reporting of transgressions and conducting inspections. Some might even be sufficiently qualified to undertake law enforcement functions. In our opinion, it is incorrect for government to fear 'losing control' when civil society becomes increasingly involved in helping to implement a national vision. Namibia's CBNRM programme and the contribution of farmers to game conservation are proof that a complimentary partnership can easily be achieved if there is enough confidence to give it a chance to succeed.
 11. Using independent experts (e.g. consultants) to help the authorities to achieve more rigorous quality control in SEA and EIA studies and processes. A more consistent and professional approach is needed to ensure that these tools are applied properly.

12. Improving governance in development planning. This point is linked to many of the previous recommendations, but requires a specific statement in this summary. Simply stated, the current trend of inconsistent application of policies and laws must be reversed. Whilst it is perfectly acceptable for political objectives to be pursued for a range of valid socio-economic reasons, rules and procedures must still be adhered to. Circumvention of government policies cannot and must not be tolerated.

13. Improving capacity in LAs to apply sustainable development tools more effectively in town planning. Our opinion is that few LAs are serious about incorporating

environmental issues in town planning – as evidenced by the inconsistent application of national policies (e.g. EIA). The current trend of inappropriate development (e.g. buildings too close to the beach, developments in environmentally sensitive areas, high-density developments in areas where a more aesthetically pleasing approach would be more appropriate, etc.) indicates greed and a short term vision regarding coastal development. Regular conflicts between LAs and developers vs. conservation agencies and civil society organisations indicate that the degree of prior consultation and governance are perhaps inadequate in some cases.

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