(English text signed by the President)
(Assented to 29 April 2019)

ACT

To provide a framework for marine spatial planning in South Africa; to provide for the development of marine spatial plans; to provide for institutional arrangements for the implementation of marine spatial plans and governance of the use of the ocean by multiple sectors; and to provide for matters connected therewith.

PREAMBLE

WHEREAS South Africa has a vast exclusive economic zone totalling 1 540 000 square kilometres of ocean;

AND WHEREAS the ocean presents economic opportunities;

AND WHEREAS the ocean is subject to environmental change and variability and is not homogenous and there is a need to balance economic, ecological and social objectives;

AND WHEREAS the ocean is being used more intensively than it has been in the past and has multiple usages that may conflict with one another;

AND WHEREAS there is a need to coordinate planning in South Africa's ocean space and optimise sustainable economic growth;

AND IN ORDER TO address these matters,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

ARRANGEMENT OF SECTIONS

Sections

1. Definitions
2. Objects of Act
3. Application of Act
4. Conflicts with other legislation
5. Principles and criteria for marine spatial planning
6. Marine spatial planning system
7. Knowledge and information system
8. Consultation
9. National Working Group
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11. Ministerial Committee
12. Publication
13. Regulations
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(English text signed by the President)
(Assented to 29 April 2019)

UMTHETHO

Ukuhlinzeka uhlaka lokuhlelwa kwendawo yolwandle eNingizimu Afrika; ukuhlinzekela ukuthuthukiswa kwezinhlelo zendawo yolwandle; ukuhlinzekela izinhlelo zokuqaliswa kwezinhlelo zendawo yolwandle kanye nokwenganyelwa kokusetshenziswa kolwandle yimikhakha eyahlukene; kanye nokuhlinzekela izindaba ezixhumene nakho.

ISETHULO

NJENGOBA iNingizimu Afrika inendawo enkulu ekhethekile yomnotho engamakhilomitha ayisikwele ayisi-1 540 000 olwandle;

FUTHI NJENGOBA ulwandle luletha amathuba omnotho;

FUTHI NJENGOBA ulwandle lungashintsha ngokwemvelo kanye nangokwehlukana futhi alusiyo inhlobo eyodwa futhi ukuthi kunesidingo sokusimamisa izinjongo zomnotho, zemvelo kanye nezomphakathi;

FUTHI NJENGOBA ulwandle lusetshenziswa kakhulu kunakuqala futhi lunemisebenzi eminingi engaba nakho ukungahambisani;

FUTHI NJENGOBA kunesidingo sokudidiyela ukuhlela endaweni yolwandle eNingizimu Afrika kanye nokuba nethemba lokusimama komnotho okugcinekayo;

FUTHI UKUZE kubhekanwe nalezi zinto,

KUNGABA NJENGOBA UMISWE yiPhalamende leRiphabhulikhi yeNingizimu Afrika, ngendlela elandelayo:—

UKUHLELWA KWEZIGABA

Izigaba

1. Izincazelo
2. Izinjongo zoMthetho
3. Ukusetshenziswa koMthetho
4. Ukushayisana neminye imithetho
5. Imigomo kanye nenqubo yokuhlelwa kwendawo yolwandle
6. Uhlelo lokuhlelwa kwendawo yolwandle
7. Uhlelo lolwazi kanye nemininingwane
8. Ukuxoxisana
9. IQembu eliSebenza kuZwelonke
10. IKomidi labaQondisi-Jikelele
11. IKomidi loNgqongqoshe
12. Ukushicilela
13. Imithethozimiso
14. Ukubuyekezwa kwezinhlelo
15. Isihloko esifushane kanye nokuqala ukusebenza

Definitions

1. In this Act, unless the context indicates otherwise—

"Director-General" means the Director-General of the Department responsible for environmental affairs;

"Directors-General Committee" means the Directors-General Committee on Marine Spatial Planning established by section 10;

"marine area" means a bio-geographic area that will serve as a planning unit for a marine area plan;

"marine area plan" means a plan developed within a marine area by analysing and allocating the spatial and temporal distribution of human activities in the South African waters to achieve ecological, economic and social objectives, taking into account all relevant principles and factors set out in this Act;

"marine sector plan" means a plan as prescribed, which sets out priorities and potential use allocations for specific users within the ocean environment, developed by an organ of state responsible for such user group;

"marine spatial planning framework" means a document which sets out the goals, objectives, principles and framework for the development of marine area plans;

"Minister" means the Cabinet Minister responsible for environmental affairs;

"Ministerial Committee" means the Ministerial Committee on Marine Spatial Planning established by section 11;

"National Working Group" means the National Working Group on Marine Spatial Planning established by section 9;

"organ of state" means an organ of state as defined in section 239 of the Constitution;

"prescribe" means prescribed by regulation;

"regulation" means a regulation made and includes a notice issued under this Act;

"sector" means a particular industry or user group which operates within South African waters to conduct its activities or operations or business;

"sector department" means a department that regulates a sector;

"South African waters" means the—

(a) internal waters as referred to in section 3 of the Maritime Zones Act, 1994 (Act No. 15 of 1994), but excludes all freshwater bodies and estuaries as defined in section 1 of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

(b) territorial waters, the exclusive economic zone and the continental shelf as referred to respectively in sections 4, 7 and 8 of the Maritime Zones Act, 1994; and

(c) the zones referred to in paragraph *(b)* around the Prince Edward Islands as referred to in the Prince Edward Islands Act, 1948 (Act No. 43 of 1948); and

"this Act" includes any regulation or notice made or issued under this Act.

Objects of Act

2. The objects of the Act are to—

(a) develop and implement a shared marine spatial planning system to manage a changing environment that can be accessed by all sectors and users of the ocean;

(b) promote sustainable economic opportunities which contribute to the development of the South African ocean economy through coordinated and integrated planning;

(c) conserve the ocean for present and future generations;

(d) facilitate responsible use of the ocean;

Izincazelo

1. Kulo Mthetho, ngaphandle uma ingqikithi iveza ngokunye—

"uMqondisi-Jikelele" kusho uMqondisi-Jikelele woMnyango obhekene nezemvelo;

"iKomidi labaQondisi-Jikelele" kusho iKomidi labaQondisi-Jikelele elasungulwa yisigaba se-10;

"indawo yezinto zolwandle" kusho indawo yezinto eziphilayo esetshenziswa njengegatsha lokuhlelela indawo yolwandle;

"uhlelo lendawo yolwandle" kusho uhlelo olwenziwe endaweni yamanzi ngokuhlaziya kanye nokwahlukaniswa kwendawo kanye nokwaba imisebenzi yabantu emanzini aseNingizimu Afrika ukuzuza izinjongo zemvelo, zomnotho kanye nezomphakathi, ngokubheka yonke imigomo kanye nezinto okufanele zibhekwe kulo Mthetho;

"uhlelo lomkhakha wolwandle" kusho uhlelo njengokuba kunqunyiwe, olubeka izinto ezibalulekile kanye nokwaba okusebenzisa kubasebenzisi abasendaweni yolwandle abathile, oluqaliswe yigatsha lombuso olubhekene neqembu elisebenzisayo elinjalo;

"uhlaka lokuhlelwa kwendawo yolwandle" kusho usomqulu obeka imigomo, izinjongo, izimiso kanye nohlaka lokuthuthukiswa kwezinhlelo zendawo yezinto ezihlala emanzini;

"uNgqongqoshe" kusho uNgqongqoshe weKhabhinethi obhekene nezemvelo;

"iKomidi loNgqongqoshe" kusho iKomidi loNgqongqoshe Lokuhlelwa Kwendawo Yolwandle elisungulwe yisigaba se-11;

"iQembu eliSebenza kuZwelonke" kusho iQembu eliSebenza kuZwelonke Lokuhlelwa Kwendawo Yolwandle elisungulwe yisigaba sesi-9;

"igatsha lombuso" kusho igatsha lombuso elichazwe esigabeni sama-239 soMthethosisekelo;

"ukunquma" kusho okunqunywe ngumthethosimiso;

"umthethosimiso" kusho umthethosimiso owenziwe futhi ofaka phakathi isaziso esikhishwe ngaphansi kwalo Mthetho;

"umkhakha" kusho imboni ethile noma iqembu elisebenzayo okusebenza emanzini aseNingizimu Afrika ukwenza imisebenzi noma amabhizinisi;

"umkhakha womnyango" kusho umnyango olawula umkhakha;

"amanzi aseNingizimu Afrika" kusho—

(a) amanzi angaphakathi okukhulunywe ngawo esigabeni sesi-3 *se-Maritime Zones Act,* we-1994 (uMthetho we-15 we-1994), kodwa okungafaki wonke amagatsha amanzi ahlanzekile kanye nomlomo womfula omkhulu njengoba kuchaziwe esigabeni soku-1 sokuPhathwa kwezeMvelo kuZwelonke: uMthetho wokuPhathwa koGu oluSabalele, wezi-2008 (uMthetho wama-24 wezi-2008);

(b) amanzi asezweni, indawo ekhethekile yomnotho kanye neshalofu lezwekazi njengokuba kukhulunywe ngayo ngokulandelana esigabeni sesi-4, sesi-7 kanye nesesi-8 se *Maritime Zones Act, we-1994;* futhi

(c) izindawo okukhulunywe ngazo ku *(b)* eziku-*Prince Edward Islands* njengokuba kukhulunywe ngazo *ku-Prince Edward Islands Act,* we-1948 (uMthetho wama-43 we-1948; kanye

"lo Mthetho" ubandakanya umthethosimiso noma isaziso okwenziwe noma okukhishwe ngaphansi kwalo Mthetho.

Izinjongo zoMthetho

2. Izinjongo zoMthetho—

(a) ukuthuthukiswa kanye nokuqalisa uhlelo lokwabelana lokuhlelwa kwendawo yolwandle ukuze kuphathwe imvelo eshintshayo yayo yonke imikhakha kanye nabasebenzisi bolwandle abangayithola kalula;

(b) ukukhuthaza amathuba agcinekayo omnotho abamba iqhaza ekuthuthukisweni komnotho wolwandle lwaseNingizimu Afrika ngokuhlela ngokubambisana kanye nangokuhlanganyela;

(c) ukugcinela izizukulwane zamanje kanye nezizayo ulwandle;

(d) ukusiza ukusetshenziswa kolwandle ngendlela elungile;

(e) provide for the documentation, mapping and understanding of the physical, chemical and biological ocean processes and opportunities in, and threats to, the ocean; and

(f) give effect to South Africa's international obligations in South African waters.

Application of Act

3. (1) This Act applies to marine spatial planning on or in South African waters and binds all organs of state.

(2) Any right, permit, permission, licence or any other authorisation issued in terms of any other law must be consistent with the approved marine area plans.

Conflicts with other legislation

4. In the event of any conflict between the provisions of this Act and other legislation specifically relating to marine spatial planning, the provisions of this Act prevail.

Principles and criteria for marine spatial planning

5. (1) The following principles apply to marine spatial planning and should be applied and considered having regard to the precautionary approach:

(a) The sustainable use, growth and management of the ocean and its resources;

(b) the identification of economic opportunities which contribute to the development of the ocean economy;

(c) the promotion of collaboration and responsible use of the ocean through consultation and cooperation;

(d) the advancement of an ecosystem and earth system approach to ocean management which focuses on maintaining ecosystem structure and functioning within a marine area;

(e) adaptive management, which takes into account the dynamics of the ecosystems and the evolution of knowledge and of activities in South African waters;

(f) the principle of spatial resilience and flexibility;

(g) the promotion of equity between and transformation of sectors;

(h) the reliance on the best available scientific information;

(i) the equitable resolution of conflict scenarios including the implementation of trade-offs, relocations and other available resolutions;

(j) the principle of efficiency, whereby decision-making procedures are designed to minimise negative financial, social, economic or environmental impacts;

(k) the principle of good administration coherent and holistic planning and management; and

(l) South Africa's international obligations and cross-border cooperation.

(2) Where there is a conflict between existing uses, developing uses or activities, maximum co-existence of uses or activities should be preferred wherever possible but where such co-existence is not possible, the principles in subsection (1) must be applied to resolve such conflict.

Marine spatial planning system

6. The marine spatial planning system is an iterative, phased process consisting of the following steps:

(a) The development of a marine spatial planning framework;

(b) the development of a knowledge and information system referred to in section 7;

(c) the development of marine area plans;

(d) the effective implementation, monitoring and evaluation of marine area plans; and

(e) the review of the marine area plans in terms of section 14.

(e) ukuhlinzekela imiqulu, ukuklama kanye nokuqonda izinhlelo ezibonakalayo, zokuthaka kanye nezemvelo zolwandle kanye namathuba alo, kanye nobungozi, olwandle; kanye

(f) ukuqalisa izibopho zeNingizimu Afrika zomhlaba wonke emanzini aseNingizimu Afrika.

Ukusetshenziswa koMthetho

3. (1) Lo Mthetho usebenza ekuhlelweni kwendawo yolwandle noma emanzini aseNingizimu Afrika futhi uhlanganisa onke amagatsha ombuso.

(2) Noma yiliphi ilungelo, imvume, ilayisense noma yinoma yikuphi ukuvunyelwa okukhishiwe ngokwemigomo yanoma imuphi umthetho kumele kuhambisane nezinhlelo zezindawo zezinto ezihlala emanzini.

Ukushayisana neminye imithetho

4. Odabeni lapho kunokushayisana phakathi kwemibandela yalo Mthetho kanye nezinye izishayamthetho ezimaqondana nokuhlolwa kwendawo yolwandle, imihlinzeko yalo Mthetho iyona ezosebenza.

Imigomo kanye nenqubo yokuhlelwa kwendawo yolwandle

5. (1) Imigomo elandelayo isebenza ekuhlelweni kwendawo yolwandle futhi kusetshenziswe futhi kuthathwe njengokuthatha indlela eqaphelayo:

(a) Ukusetshenziswa, ukukhula kanye nokuphatha okugcinekayo kolwandle kanye nezinsiza zalo;

(b) ukubona amathuba omnotho abamba iqhaza ekuthuthukisweni komnotho wolwandle;

(c) ukukhuthaza ukusebenzisana kanye nokusetshenziswa kolwandle ngokuxoxisana kanye nokubambisana;

(d) ukwenziwa ngcono kwemvelo kanye nokusebenza kwayo endaweni yolwandle;

(e) ukuphatha okwejwayelekile, okubeka emqondweni ukwahlukana kokuxhumana kwezinto eziphilayo zemvelo kanye nokushintsha kolwazi kanye nemisebenzi emanzini aseNingizimu Afrika;

(f) umgomo wokuqina kanye nokuguquguguka kwendawo yolwandle;

(g) ukukhuthaza ukulingana phakathi kanye noshintsho Iwemikhakha;

(h) ukuncika olwazini lobuchwepheshe oluseqopheleni eliphezulu;

(i) izimo zokusombulula ukungqubuzana ngokulingana okufaka phakathi ukuqaliswa kwezivumelwano, ukushintsha izindawo kanye nezinye 8 izisombululo;

(j) umgomo wokuqeqesheka, lapho inqubo yokuthatha isinqumo iqokelwe ukwehlisa umthelela ongemuhle kwezezimali, emphakathini, kwezomnotho noma kwezemvelo;

(k) umgomo wokuphatha okufanele okuhambisanayo kanye nokuhlela okuphelele kanye nokuphatha; kanye

(l) izibopho zeNingizimu Afrika emazweni onke kanye nokubambisana namanye amazwe.

(2) Lapho kunombango phakathi kwezisebenzisi ezikhona, ukuthuthukisa izisebenzisi kanye nemisebenzi, ubuningi bokuhlalisana kwezisebenzisi noma imisebenzi kumele kuqokwe uma kufanele kodwa lapho ukuhlalisana okunjalo kungeke kwenzeke, imigomo esigatshaneni (1) kumele isetshenziswe ukusombulula umbango onjalo.

Uhlelo lokuhlelwa kwendawo yolwandle

6. Uhlelo lokuhlelwa kwendawo yolwandle liwuhlelo Iwezigaba oluphindekayo, olunezinyathelo ezilandelayo:

(a) Ukuthuthukiswa kohlaka lokuhlelwa kwendawo yolwandle;

(b) ukuthuthukiswa kolwazi kanye nemininingwane yohlelo okukhulunywe ngalo esigabeni sesi-7;

(c) ukuthuthukiswa kwezinhlelo zendawo zamanzi;

(d) ukuqaliswa okunomthelela, ukuqapha kanye nokuhlola izinhlelo zendawo yolwandle; kanye

(e) ukubuyekezwa kwezinhlelo zendawo yolwandle ngokwesigaba se-14.

Knowledge and information system

7. (1) The Minister must establish a knowledge and information system to house information in order to develop marine area plans, which must include—

(a) ecological processes;

(b) relevant social and economic information;

(c) information relating to all sectors including existing and future uses and marine sector plans, if available;

(d) the outcome of consultations contemplated in section 8(2);

(e) any other data and information necessary for the development, amendment or review of the marine area plans; and

(f) where relevant, information relating to matters as prescribed by the Minister in terms of section 13.

(2) Sector departments must submit all sector information contemplated in subsection (1) to the Minister upon request, or as prescribed, for consideration in the development of the marine area plans.

(3) The data and information submitted in terms of subsection (2) is subject to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

Consultation

8. (1) In the development of the marine spatial planning framework and the marine area plans, the National Working Group must ensure that all relevant stakeholders are adequately consulted, including—

(a) sector departments;

(b) affected organs of state;

(c) institutional coastal planning bodies;

(d) industrial representative bodies from the various affected sectors;

(e) representative organisations of affected persons and institutions; and

(f) the general public.

(2) Despite subsection (1), sector departments must ensure that their respective stakeholders are properly consulted and the outcomes of the consultations must be made available prior to the development of any marine area plan and this information should form part of the sector information submitted in terms of section 7(2).

National Working Group

9. (1) *(a)* A National Working Group on Marine Spatial Planning is hereby established, comprising of competent officials who are nominated from the departments responsible for defence, energy, environmental affairs, fisheries, mineral resources, planning monitoring and evaluation, public enterprises, science and technology, telecommunications, tourism, transport, rural development and land affairs.

(b) The official nominated from the department responsible for environmental affairs, must be the chairperson and convener of the National Working Group.

(2) The National Working Group is a technical group responsible for—

(a) developing a draft marine spatial planning framework that complies with the objects of the Act and the principles and criteria for marine spatial planning provided for in sections 2 and 5;

(b) developing draft marine area plans by using the information from the knowledge and information data base contemplated in section 7 and by taking into account relevant factors, including the principles in section 5 and the following factors:

(i) Maps and spatial data of different sector uses;

(ii) compatible and incompatible uses;

(iii) synergies among compatible users;

(iv) projections, forecast and future planning scenarios;

(v) the analysis of emerging uses;

(vi) environmental change impacts;

Uhlelo lolwazi kanye nemininingwane

7. (1) UNgqongqoshe kumele asungule uhlelo lolwazi kanye nemininingwane ukugcina ulwazi ukuze kuthuthukiswe izinhlelo zendawo yolwandle, okumele kubandakanye—

(a) izinhlelo zemvelo;
(b) ulwazi olufanele lomphakathi kanye nomnotho;
(c) ulwazi olumaqondana nayo yonke imikhakha okufaka phakathi izisebenzisi ezikhona kanye nezizayo kanye nezinhlelo zendawo yolwandle, uma zikhona;
(d) umphumela wezingxoxo okukhulunywe ngazo esigabeni sesi-8(2);
(e) noma ngabe yiluphi ulwazi noma imininingwane efanele ukuthuthukiswa, ukuchibiyela noma ukubuyekeza izinhlelo zendawo yolwandle; kanye
(f) nolwazi uma kunesidingo olumaqondana nezindaba njengoba kunqume uNgqongqoshe ngokwemigomo yesigaba se-13.

(2) Imikhakha yeminyango kumele ihambise ulwazi Iwayo yonke imikhakha njengoba kushiwo esigabeni soku-(1) kuNgqongqoshe uma eyicelile, noma njengokuba kunqunyiwe, ukuze lubhekwe ekuthuthukiseni izinhlelo zendawo yolwandle.

(3)Ulwazi kanye nemininingwane ehanjiswe ngokwemigomo yesigatshana sesi-(2) luzoba ngaphansi koMthetho wokuKhuthaza wokuTholakala koLwazi, wezi-2000 (uMthetho wesi-2 wezi-2000).

Ukuxoxisana

8. (1) Ekuthuthukisweni kohlaka lokuhlelwa kwendawo yolwandle kanye nezinhlelo zendawo yolwandle, iQembu eliSebenza kuZwelonke lokuHlelwa kweNdawo yolwandle kumele liqinisekise ukuthi bonke ababambe iqhaza bazisiwe ngokwanele, okubandakanya—

(a) imikhakha yeminyango;
(b) amagatsha ombuso athintekile;
(c) amagatsha esikhungo sokuhlela ugu;
(d) amagatsha amele izimboni zemikhakha eyahlukene ethintekile;
(e) izinhlangano ezimele abantu abathintekile kanye nezikhungo; kanye
(f) nomphakathi owejwayelekile.

(2) Ngaphezu kwesigatshana soku-(1), iminyango yemikhakha kumele iqinisekise ukuthi ababambi beqhaza bazisiwe ngokufanele kanye nemiphumela yezingxoxo kumele itholakale ngaphambi kokuthuthukiswa kohlelo Iwendawo yolwandle futhi lolu Iwazi kumele lube yingxenye yolwazi oluhanjiswe ngokwemigomo yesigaba sesi-7(2).

IQembu eliSebenza kuZwelonke

9. (1) *(a)* Iqembu eliSebenza kuZwelonke lokuHlelwa kweNdawo yoLwandle lisunguliwe lapha, liqukethe izikhulu ezifanele eziqokwe yiminyango ebhekene nezokuvikela, ezamandla, ezemvelo, ezokudoba, ezokumbiwa phansi, ukuqapha ukuhlela kanye nokuhlola, ezamabhizini omphakathi, isayensi kanye nobuchwepheshe, ezokuxhumana, ezokuvakasha, ezokuthutha, kanye nezokuthuthukiswa kwezindawo zasemakhaya kanye nezomhlaba.

(b) Isikhulu esikhethiwe ngokusemthethweni emnyangweni obhekele ezemvelo kumele sibe usihlalo futhi sibe umbizi wemihlangano yeQembu eliSebenza kuZwelonke.

(2) IQembu eliSebenza kuZwelonke iqembu elibhekele—

(a) ukuqalisa uhlaka lokuhlelwa kwendawo yolwandle okuhambisana nezinjongo zoMthetho kanye nemigomo kanye nenqubo yokuhlelwa kwendawo yolwandle okuhlinzekelwe esigabeni sesi-2 kanye nesesi-5;
(b) nokuthuthukiswa ukulungiswa kwezinhlelo zendawo yolwandle ngokusebenzisa ulwazi olusuka emininingwaneni kanye nendawo yolwazi okukhulunywe ngayo esigabeni sesi-7 kanye nokubheka izinto ezifanele, okuhlanganisa imigomo yesigaba sesi-5 kanye nalokhu okulandelayo:
(i) Amabalazwe kanye nolwazi lezisebenzisi zemikhakha eyahlukene;
(ii) izisebenzisi ezifanelene kanye nezingafanelene;
(iii) kusebenzisana kwezisebenzisi ezifanelene;
(iv) ukulinganisa, ukubikezela, kanye nezimo zokuhlela zakusasa;
(v) ukuhlaziya izisebenzisi ezivelayo;
(vi) imithelela yokushintsha kwemvelo;

(vii) biological, chemical and physical characteristics of the ocean, including species, habitats and ecosystems;
(viii) the submerged historic environment;
(ix) the community and cultural values;
(x) current uses, activities and pressures for change;
(xi) future uses and opportunities for all sectors;
(xii) the nature, potential utility and value of marine resources;
(xiii) threats to the ocean environment;
(xiv) shared economic, cultural, social and environmental values;
(xv) existing monitoring and management arrangements and the extent that they will need to be adapted;
(xvi) methods of assessing performance and consistency with the marine area plans;
(xvii) the current and future needs and related priorities; and
(xviii) the process of monitoring and implementation of the marine area plans; and

(c) the report contemplated in subsection (3)*(a)* which must be submitted to the Directors-General Committee.

(3) In addition to subsection (2), the National Working Group must make a recommendation to the Directors-General Committee—

(a) by submitting draft marine area plans, accompanied by a report detailing transitional provisions aimed at enabling the implementation of marine area plans within a reasonable period of time and how the recommendation was reached, including what factors were considered; and

(b) on how to resolve user conflicts, including relocations, trade-offs or other resolutions as contemplated in section 5(2).

(4) The recommendation contemplated in subsection (3) must be made by consensus, and where no consensus is reached, all the proposed options must be presented in the report.

(5) The National Working Group may appoint a panel of experts to advise them on any aspect of their functions in terms of this Act.

Directors-General Committee

10. (1) A Directors-General Committee on Marine Spatial Planning is hereby established, comprising of Directors-General from the departments responsible for defence, energy, environmental affairs, fisheries, mineral resources, planning monitoring and evaluation, public enterprises, science and technology, telecommunications, tourism, transport, rural development and land affairs.

(2) A Director-General from another relevant department may be co-opted where necessary.

(3) The Director-General is the chairperson and convener of the Directors-General Committee and in his or her absence, the Director-General responsible for planning, monitoring and evaluation must act as the chairperson of the Directors-General Committee.

(4) A decision of the Directors-General Committee, must be made by consensus, and where no consensus is reached, all the proposed options must be presented to the Ministerial Committee for a final decision.

(5) The Directors-General contemplated in subsection (1) may nominate their alternates on the Directors-General Committee which alternate may not be a member of the National Working Group and may not be lower than the rank of Deputy Director-General.

(6) The Directors-General Committee must consider the marine area plans and accompanying reports referred to it by the National Working Group, and either—

(a) approve and refer a marine area plan and accompanying report to the Ministerial Committee, which referral may include—

(vii) izici zemvelo, zekhemikhali kanye nezinto ezibonakalayo zolwandle okubandakanya izinto eziphilayo, indawo yokuhlala kanye nokuxhumana kwezinto eziphilayo;

(viii) ukucwila emanzini komlando wendawo;

(ix) amagugu omphakathi kanye namagugu amasiko;

(x) izisebenzisi zamanje, imisebenzi kanye nengcindezi yoshintsho;

(xi) izisebenzisi zakusasa kanye namathuba ayo yonke imikhakha;

(xii) ubunjalo, ukusebenziseka kanye nenani lezinsiza zezinto zasemanzini;

(xiii) ubungozi endaweni yolwandle;

(xiv) ukwabelana kwamagugu omnotho, esiko, omphakathi kanye nendawo;

(xv) ukuqapha okukhona kanye nezinhlelo zokuphathwa kanye nezinga okuzodingeka ukuthi kusetshenziswe ngalo;

(xvi) izindlela zokuhlola ukusebenza kanye nokuhambisana nezinhlelo zendawo yezinto zasolwandle;

(xvii) izidingo zamanje kanye nezakusasa kanye nezinye izinto ezibalulekile; kanye

(xviii) uhlelo lokuqapha kanye nokuqalisa izinhlelo zezinto zasemanzini; kanye

(c) nombiko okukhulunywe ngawo esigatshaneni (3)*(a)* okumele uhanjiswe eKomidini labaQondisi-Jikelele.

(3) Ukwengeza esigatshaneni sesi-(2), iQembu eliSebenza kuZwelonke kumele lenze izincomo eKomidini labaQondisi-Jikelele—

(a) ngokuhambisa uhlaka lwezinhlelo zendawo yolwandle, luhambisana nombiko ochaza kabanzi imihlinzeko yoshintsho ehlose ukuqalisa izinhlelo zendawo yolwandle ngesikhathi esifanele futhi nokuthi kufinyelelwe kanjani ezincomeni, okubandakanya izinto ezibhekiwe; futhi

(b) ukuthi isombululwa kanjani ukungaboni ngasolinye kwezisebenzisi, okufaka phakathi ukushintsha indawo, izivumelwano kanye nezinye izisombululo njengokuba kushiwo esigabeni sesi-5(2).

(4) Isincomo okukhulunywe ngaso esigatshaneni sesi-(3) kumele senziwe ngesivumelwano bese kuthi lapho kungafikelelwanga esivumelwaneni, okunye okuphakanyisiwe kube khona embikweni.

(5) IQembu eliSebenza kuZwelonke lingaqoka iphaneli yongcweti ezokweluleka kunoma yini emayelana nemisebenzi yabo ngokwemigomo yalo Mthetho.

IKomidi labaQondisi-Jikelele

10. (1) IKomidi labaQondisi-Jikelele lokuHlelwa kweNdawo yoLwandle lisunguliwe lapha, lakhiwe abaQondisi-Jikelele abasuka eminyangweni ebhekene nezokuvikela, ezamandla, ezemvelo, ezokudoba, ezokumbiwa phansi, ukuqapha ukuhlela kanye nokuhlola, ezamabhizinisi omphakathi, isayensi kanye nobuchwepheshe, ezokuxhumana, ezokuvakasha, ezokuthutha, kanye nezokuthuthukiswa kwezindawo zasemakhaya kanye nezomhlaba.

(2) UMqondisi-Jikelele osuka komunye omnyango ofanele bengafakwa uma kunesidingo.

(3) UMqondisi-Jikelele ungusihlalo kanye nombizi womhlangano weKomidi labaQondisi-Jikelele futhi lapho engekho, uMqondisi-Jikelele obhekele ukubheka, ukuqapha kanye nokuhlola kumele abe ibamba likasihlalo weKomidi labaQondidi-Jikelele.

(4) Isinqumo seKomidi labaQondisi-Jikelele, kufanele senziwe ngokuvumelana, uma kungafikwa esivumelwaneni, zonke izindlela eziphakanyisiwe kumele zinikwe iKomidi loNgqongqoshe ukuze kwenziwe isinqumo sokugcina.

(5) AbaQondisi-Jikelele okukhulunywe ngabo esigatshaneni soku-(1) bengaqoka abanye eKomidini labaQondisi-Jikelele lapho abanye bengewona amalunga eQembu eliSebenza Kuzwelonke futhi bengekho ngaphansi Kwesekela loMqondisi-Jikelele.

(6) IKomidi labaQondisi-Jikelele kumele licabange izinhlelo zezinto zasemanzini kanye nemibiko ehambisana nazo okushiwo yiQembu eliSebenza kuZwelonke lokuHlelwa kweNdawo yoLwandle, noma—

(a) livumele futhi lidlulise uhlelo Iwezinto zasemanzini kanye nokuhambisa umbiko eKomidi loNgqongqoshe, lapho ukudluliswa kuqukethe—

(i) recommendations to resolve user conflicts, including relocations, and trade-offs or other resolutions between sectors as contemplated in section 5(2); and

(ii) recommendations on facilitating cooperation between sector departments; or

(b) refer the marine area plan and accompanying report back to the National Working Group for reconsideration, with specific instructions.

Ministerial Committee

11. (1) The Ministerial Committee on Marine Spatial Planning is hereby established, comprising of Ministers responsible for defence, energy, environmental affairs, fisheries, mineral resources, planning monitoring and evaluation, public enterprises, science and technology, telecommunications, tourism, transport, rural development and land affairs.

(2) A Minister from another relevant portfolio may be co-opted where necessary.

(3) The Minister is the chairperson of the Ministerial Committee and in his or her absence, the Minister responsible for planning, monitoring and evaluation must act as the chairperson of the Ministerial Committee.

(4) The final decision made by the Ministerial Committee in terms of this Act, must be made by consensus.

(5) The Ministerial Committee may—

(a) approve any marine area plans and accompanying reports referred to it by the Directors-General Committee;

(b) approve any marine area plans and accompanying reports with amendments; or

(c) refer any marine area plans and accompanying reports back to the Directors-General Committee for reconsideration with specific instructions.

(6) The Ministerial Committee must—

(a) ensure cooperation between sector departments; and

(b) where necessary, resolve user conflicts, including relocations, and trade-offs or other resolutions between sectors as contemplated in section 5(2).

(7) The Ministerial Committee must report to Cabinet on implementation of marine spatial planning at least every two years.

Publication

12. (1) Any marine spatial framework and marine area plans that have been approved by the Ministerial Committee, must be—

(a) tabled by the Minister, in Parliament for consideration by the relevant Parliamentary Committee, if Parliament is in session; or

(b) submitted to the Speaker of Parliament for consideration of the relevant Parliamentary Committee, if Parliament is not in session.

(2) Two months after the marine spatial framework and marine area plans have been tabled in Parliament or submitted to the Speaker of Parliament as contemplated in subsection (1), the Minister must publish—

(a) the marine spatial planning framework and those parts of the marine area plans which can be published, by notice in the *Gazette*; and

(b) those parts of the marine area plans which cannot be published by notice in the *Gazette*, on an appropriate electronic platform.

(i) izincomo zokusombulula ukungqubuzana, okufaka phakathi ukushintsha indawo, kanye nokungqubuzana noma ezinye izisombululo phakathi kwemikhakha njengokuba kushiwo esigabeni sesi-5(2); kanye

(ii) nezincomo ekusizeni ukusebenzisana phakathi komkhakha weminyango; noma

(b) lidlulise uhlelo Iwezinto zasemanzini kanye nombiko ohambisana nazo eQenjini eliSebenza kuZwelonke ukuthi luphinde lubhekwe, nemiyalelo ethile.

IKomidi loNgqongqoshe

11. (1) IKomidi loNgqongqoshe lokuHlelwa kweNdawo yoLwandle lisunguliwe lapha, elakhiwe oNgqongqoshe ababhekele nezokuvikela, ezamandla, ezemvelo, ezokudoba, ezokumbiwa phansi, ukuqapha ukuhlela kanye nokuhlola, ezamabhizinisi omphakathi, isayensi kanye ngobuchwepheshe, ezokuxhumana, ezokuvakasha, ezokuthutha, kanye nezokuthuthukiswa kwezindawo zasemakhaya kanye nezomhlaba.

(2) UNgqongqoshe osuka kwenye iphothifoliyo efanele engashintshwa uma kunesidingo.

(3) UNgqongqoshe ungusihlalo weKomidi loNgqongqoshe futhi uma engekho, uNgqongqoshe obhekele ukuhlela, ukuqapha kanye nokuhlola kumele abe yibamba likasihlalo weKomidi loNgqongqoshe.

(4) Isinqumo esingumnqamulajuqu esithathwe iKomidi loNgqongqoshe ngokwemigomo yalo Mthetho, masithathwe ngokuvumelana.

(5) IKomidi loNgqongqoshe—

(a) lingavumela noma yiziphi izinhlelo zendawo yezinto zasemanzini kanye nemibiko edluliselwe kulo yiKomidi labaQondisi-Jikele;

(b) lingavumela noma yiziphi izinhlelo zendawo yezinto zasemanzini kanye nokuchibiyelwa kwemibiko ehambisana nazo; noma

(c) lidlulise noma yiziphi izinhlelo zendawo yezinto zasemanzini kanye nemibiko ehambisana nazo emuva eKomidini labaQondisi-Jikelele ukuthi ibuyekezwe nemiyalelo ethile.

(6) IKomidi loNgqongqoshe kumele—

(a) liqinisekise ukusebenzisana phakathi komkhakha weminyango; futhi

(b) lapho kunesidingo, ukusombulula ukungqubuzana kwezisebenzisi, okufaka phakathi ukushintsha indawo, izivumelwano kanye nezinye izisombululo njengokuba kushiwo esigabeni sesi-5(2).

(7) IKomidi loNgqongqoshe kumele libike kuKhabhinethi ngokuqaliswa koku-Hlelwa kweNdawo yoLwandle okungenani eminyakeni emibili.

Ukushicilela

12. (1) Noma yiluphi uhlaka Iwezinto ezihlala olwandle kanye nezinhlelo zezindawo zezinto ezihlala olwandle oluvunyelwe yiKomidi loNgqongqoshe, kumele—

(a) lubekwe uNgqongqoshe, ePhalamende ukuthi lubuyekezwe yiKomidi lase-Phalamende elifanele, uma iPhalamende lihleli; noma

(b) luhanjiswe kuSomlomo wePhalamende ukuthi lubuyekezwe iKomidi lePhalamende elifanele, uma iPhalamende lisamile.

(2) Ezinyangeni ezimbili emuva kokuthi uhlaka Iwezinto ezihla olwandle kanye nezinhlelo zezindawo zezinto ezihlala olwandle kubekiwe phambi kwePhalamende noma kuhanjiswe kuSomlomo wePhalamende njengokuba kushiwo esigatshaneni soku-(1), uNgqongqoshe kumele ashicilele—

(a) uhlaka Iwezinto ezihlala olwandle kanye nalezo zingxenye zezinhlelo zezindawo zezinto ezihlala emanzini okungashicilelwa, ngesaziso sikaSomqulu; kanye

(b) nalezo zingxenye zezinhlelo zezindawo zezinto ezihlala emanzini ezingakwazi ukuthi zishicilelwe kuSomqulu, zishicilelwe enkundleni yokuxhuma efanele.

Regulations

13. The Minister may, after consultation with the Ministerial Committee, make regulations on the following:

(a) Submission of marine sector plans, including—
  (i) responsible organs of state that must submit marine sector plans;
  (ii) the frequency of submission of marine sector plans by responsible organs of state; and
  (iii) the content and format of marine sector plans;

(b) the provision of data, statistics, documents and any other relevant information that may be necessary for the development of a marine area plan from organs of state or other relevant persons, bodies or institutions;

(c) the manner and form of consultation as contemplated in section 8(1);

(d) anything that may be prescribed under this Act; and

(e) any other matter that is required for the effective implementation of marine spatial planning under this Act.

Review of plans

14. The marine area plans must be reviewed at least every five years and, if necessary, amended in terms of the iterative, phased process contemplated in section 6 and the process and procedure contemplated in sections 9 to 11.

Short title and commencement

15. This Act is called the Marine Spatial Planning Act, 2018, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

Imithethozimiso

13. Ngemuva kokuxoxisana neKomidi uNgqongqoshe engenza imithethozimiso kokulandelayo:

(a) Ukulethwa kwezinhlelo zomkhakha wendawo yolwandle okufaka phakathi—

(i) amagatsha ombuso afanele okumele ahambise izinhlelo zomkhakha wendawo yolwandle;

(ii) ukuvama kokuhanjiswa kwezinhlelo zomkhakha wezinto zasemanzini ngamagatsha afanele ombuso; kanye

(iii) okuqukethwe kanye nesimo sezinhlelo zomkhakha wendawo yolwandle;

(b) ukuhlinzekwa kolwazi, izibalo, imiqulu kanye nolunye ulwazi olufanele olungafuneka ekuthuthukisweni kwezinhlelo zendawo yolwandle okusuka emagatsheni ombuso noma abantu abafanele, emagatsheni kanye nezikhungo;

(c) indlela yokuxhumana njengokuba kushiwo esigabeni sesi-8(1);

(d) noma yini enganqunywa ngaphansi kwalo Mthetho; kanye

(e) noma yiluphi udaba oludingekayo ukuze kuqaliswe kahle ukuhlolwa kwezinto zendawo yolwandle ngaphansi kwalo Mthetho.

Ukubuyekezwa kwezinhlelo

14. Izinhlelo zendawo yolwandle kumele zibuyekezwe okungenani njalo eminyakeni emihlanufuthi, zichibiyelwe uma kunesidingo, ngokwemigomo ephindekayo, yohlelo olunezigaba okukhulunywe ngabo esigabeni sesi-6 kanye nohlelo kanye nenqumo okukhulunywe ngayo esigabeni sesi-9 ukuya kweye-11.

Isihloko esifushane kanye nokuqala ukusebenza

15. Lo Mthetho ubizwa ngokuthi uMthetho wokuHlelwa kweNdawo yoLwandle, wezi-2018, futhi uqala ukusebenza ngosuku olunqunywe nguMongameli ngesimemezelo kusoMqulu.

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