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The role of EIA in influencing coastal access in two golf estates in the southern Cape coast, South Africa.

Kenneth Kirkby

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Dissertation submitted to the Department of Environmental and Geographical Science, University of Cape Town, in fulfilment of the requirements for a Master of Science degree.

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Abstract

As coastal development pressures continue to transform coastal regions into private havens for the benefit of a privileged few, conflicts over coastal access issues continue to increase. The southern Cape coast of South Africa is no exception to this phenomenon and the privatization of this coastal region is taking place at a rapid rate. Associated with this trend is the notable increase in large-scale golf estates developed along this coastline. Due to their size, their close proximity to the coast and their exclusive nature, loss of public access to the coast has been identified as a negative impact of such developments. The aim of this research is therefore to enhance understanding of changing coastal access patterns associated with two coastal golf estate developments along the southern Cape coast of South Africa and in particular to review and analyse the role that the Environmental Impact Assessment (EIA) processes played in influencing such access patterns.

Using a number of different methods this study reviewed and analysed how coastal access patterns had changed as a result of the approval of two golf estates on the Cape South coast. It identified benefits different stakeholder groups derive from the coast and the extent to which each development had either enabled or restricted stakeholders' ability to benefit from the coast. 'Winners' and 'losers' were identified in this respect. Following this, the EIA processes conducted for each development proposal were reviewed and assessed to determine the extent to which issues of coastal access had been taken into account. More specifically, four key aspects of each EIA process were examined to ascertain how issues of coastal access had been identified, assessed and addressed in each EIA process. Finally, factors responsible for influencing the extent to which issues of coastal access had been addressed throughout the EIA processes were identified.

The research highlighted the restrictions that have been imposed on historical stakeholders' (i.e. subsistent and recreational fishers and recreational users) ability to access the coast post development approval. It highlighted the significant negative impact such development has had and will continue to have on the publics' ability to access the coast at these areas. A number of inherent weaknesses within the EIA processes investigated were also identified. Both processes failed to identify and/or resolve pertinent social issues related to coastal access adequately, especially in terms of what current policies and legislation in South Africa require. Finally, various factors responsible for such shortcomings, such as inadequate channels of communication, methods of public participation and enforcement of conditions, were identified.

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List of Abbreviations

BotSoc – The Botanical Society of South Africa
DEA – Department of Agriculture
DEA&DP – Department of Environmental Affairs and Development Planning
DEAT – Department of Environmental Affairs and Tourism
CARA – The Conservation of Agricultural Resources Act (43 of 1983)
CEMP – Construction Environmental Management Plan
EA – Environmental Assessment
EAP – Environmental Assessment Practitioner
ECA – Environmental Conservation Act (73 of 1989)
EIA – Environmental Impact Assessment
EIR – Environmental Impact Report
ELC – Environmental Liaison Committee
EMP – Environmental Management Plan
GEAR – The Growth, Employment and Redistribution programme
GIS – Geographic Information Systems
ICM – Integrated Coastal Management
IEM – Integrated Environmental Management
I&AP – Interested and Affected Party
ICMA – Integrated Coastal Management Act (24 of 2008)
IDP – Integrated Development Plan
MLRA – Marine Living Resources Act (19 of 1998)
NEMA – National Environmental Management Act (108 of 1998)
NGO – Non-Governmental Organisation
NOAA – National Oceanic and Atmospheric Administration
NRF – National Research Fund
OEMP – Operational Phase Environmental Management Plan
ROD – Record of Decision
SANPAD – South African Netherlands Research Programme on Alternatives in Development
SIA – Social Impact Assessment
SoER – State of the Environment
SCLC – Southern Cape Land Committee
WESSA – Wildlife Society of South Africa

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Chapter 1: Introduction

1.1 Introduction and Background

The coast is a limited spatial area located at the interface where land meets sea (Department of Environmental Affairs and Tourism (DEAT), 2000). It is a unique part of the environment, which supports a diverse range of human activities and contributes significant economic and social benefits to the global population. It is a complex, dynamic, interconnected natural system with resources that are finite and vulnerable to overuse and degradation (DEAT, 2000). Coastal ecosystems provide a wide array of goods and services to a variety of stakeholders each with their own interests and demands (Bower & Turner, 1998). Some examples of economic sectors that have competing interests in coastal regions are tourism, fishing, agriculture, forestry, manufacturing, oil, waste disposal, transportation and real estate development. Coastal regions are also home to the world's primary ports of commerce, they are the primary producers of fish and shellfish for both human and animal consumption, they are significant sources of fertilizer, pharmaceuticals, cosmetics, household products, minerals and construction materials and are of significant importance for recreational, tourism, educational and cultural purposes (Glavovic, 2000; Burke et al., 2001). The natural beauty and environmental quality associated with coastal ecosystems also makes them a magnet for much of the world's population. As a result of this and the countless benefits people accrue from coastal ecosystems, people gravitate to coastal regions looking for work, to live as well as for leisure, recreational activities and tourism (Burke et al., 2001). This is evident in the fact that over two thirds of the world's population live within sixty kilometres from the coast, a figure that is expected to significantly increase in the near future (Vallega, 1998).

Given the coast's enormous value to society, the range of products and services it generates, the competing interests and demands, as well as the growing human pressures being placed on coastal ecosystems internationally, it has been recognized that an integrated, multidisciplinary and participatory approach to managing the coast and its resources could be used to promote sustainable coastal development (Glavovic, 2000; DEAT, 2000). Although this form of coastal management is widely acknowledged in theory (Cicin-Sain & Knecht, 1998; Turner, 2000; Olsen, 2003), the task of implementing it is often difficult owing to the physical, social and regulatory divisions attributed with the coast (Creel, 2003). In the past, governments have frequently used a sector-by-sector (e.g. fisheries) or issue-based (e.g. coastal erosion) approach to manage the coastal zone, rarely attempting to deal with comprehensive planning of the entire coastal region

and without consideration of the distinctive nature of the coast and the interrelationships that exist between activities (Francis, 2004; Glavovic, 2006). In South Africa, this has often resulted in coastal developments proceeding in an ad-hoc, uncoordinated and exploitative fashion, while using scientific or technocratic advice to regulate the biophysical impacts of such development with little consideration for the social and cultural aspects of such activities (Sowman, 1993; Glavovic, 2006). In other parts of the world, such inappropriate planning and management is also evident and has led to rapid, uncontrolled and unplanned development along the coastline, which has resulted in severe conflicts over coastal space and resource utilization, a situation which is exacerbated by an ever increasing coastal population and related development pressures (Post & Lundin, 1996; Pogue & Lee, 1999; Creel, 2003; Garcia & Baltodano, 2006).

Access to the coast is a global issue that is increasingly generating much debate amongst both scholars and policy-makers alike (Curry, 2001). Although this matter has not instigated much debate historically, as coastal populations have increased, as the demand for recreation has steadily intensified and as coastal regions continue to be reconfigured into exclusionary, private spaces that fail to uphold public rights of access to the coast, conflicts of this nature have inevitably ensued with different stakeholders having legitimate expectations of what is fair and what is right (Finnel, 1988; Navarro, 2000; Mongeau, 2003). Whilst such controversies are generally tied to the public's collective right to access the coast versus private landowners individual exclusionary rights (Navarro, 2000), other pressures that exacerbate coastal access problems include: ever-increasing coastal populations, increasing development pressures within the coastal region; legacies of poor coastal development planning and management, changing land ownership patterns and changes in the socio-political status of a country (Navarro, 2000; Curry, 2001; Peter Scott Planning Services Ltd et al., 2006; Springuel, 2007). However, despite the global concern that has been raised over issues of coastal access, there have been a limited number of programmes, projects or monitoring initiatives developed in response to such concerns, especially in developing countries (Clark & Milton, 2003). As such, there is little evidence to show whether or not public access to the coast is being restricted or improved in reality (Clark & Hilton, 2003). Research of this nature is therefore necessary in order to highlight the current coastal access issues prevalent in different countries throughout the world.

Whilst the public's right to access the coast is a social value that has been secured and granted throughout the centuries in terms of the public trust doctrine (Takacs, 2008), it is fundamentally a socio-political issue constrained by country specific policies and legislation, which denote who gets to use what, how they should be using it and when (Neale, 1998). The

public's right to access the coast is therefore largely dependent on country specific philosophies and policies that facilitate its provision in reality (Navarro, 2000). This can vary from country to country and is often influenced by characteristics such as, historical backgrounds and legacies, distinctive physical environments, different property rights regimes and the differing attitudes rights holders have with regards to access, differing government structures and agendas (or a lack thereof), as well as a host of other factors which have to be seen in the context of each country (Jenkins et al., 2001). Although there is a growing concern in the literature relevant to developed countries that access to the coast is an issue that needs urgent consideration (Navarro, 2000; NOAA, 2006), in less developed countries, there is a definite lack of literature on the subject. Here coastal management policies and legislation promoting public access to the coast, need to be considered within the context of much broader socio-economic pressures and concerns, not prevalent in most developed countries. This research therefore seeks to enhance understanding of changing coastal access patterns associated with two coastal golf estate developments along the southern Cape coast of South Africa and in particular to review and analyse the role that the Environmental Impact Assessment (EIA) processes played in influencing such access patterns. This will provide information with regard to the specific coastal access issues that are prevalent at each of the case study sites, which will contribute to the overall understanding of coastal access issues in South Africa and shed some light onto factors responsible for influencing such patterns in this county.

1.2 Study Rationale

Access to the coast and its resources remains a highly contested issue in South Africa, particularly along the southern Cape coast where the urbanisation and privatisation of coastal land is taking place at rapid rates (Department of Environmental Affairs and Development Planning (DEA&DP), 2005). This rapid expansion of the coastal region can be attributed to many factors, including the abolition of the Apartheid system and the related lifting of legal restrictions on the movement of 'black'¹ South Africans (Sowman, 1993), the mass migration of individuals from inland areas to the coast in the search for a more attractive lifestyle, job opportunities and improved services (Bekker, 2002) and increased investment in high-end, exclusive property in a response to the increased demand for coastal amenities from local and foreign tourists (DEA&DP, 2005; Glavovic, 2006).

The Garden Route region (**Figure 1**) in particular, has been subjected to a notable increase in large-scale golf estates along the coast (DEA&DP, 2005). This trend is largely associated with

¹ "Black" is a generic term in South Africa for those ethnic groups identified by apartheid policy as "Indian", "African" or "Coloured" (Erasmus 2001, as cited by Sowman *et al.* 2006).

the regions unspoilt natural beauty, its pristine coastal environments, the vast open spaces available to accommodate such developments, its accessibility regarding transport routes and its associated comparative economic advantage, which is vested strongly in the tourism sector (Van der Merwe, 2006). Developments such as large-scale golf estates have therefore escalated in recent years on the grounds that they are potential sources of economic growth and job creation, likely to contribute to a more sustainable future with a related positive impact on previously disadvantaged communities (DEA&DP, 2005). Other motivations for the sudden rise in these forms of gated communities² can be seen as a response to crime (Atkinson et al., 2004), investment potential, the desire for status, an attractive lifestyle and privacy (Atkinson & Blandy, 2005).



Figure 1: Map illustrating the location of the Garden Route region in relation to other regions within the Western Cape of South Africa

Due to their close proximity to the coast, their size and exclusive nature, loss of public access to the coast has been identified as a potentially negative impact of such large-scale golf estates (DEA&DP, 2005). Whilst some research has been undertaken to identify the environmental and socio-economic impacts of such developments (DEA&DP, 2005; Van Zyl, 2006, Van der Merwe, 2008), the extent to which these developments affect different stakeholders' ability to access this coastal region and its associated benefits remains relatively unknown and poorly documented. By focusing on two large-scale golf estates located along the Garden Route region of South Africa, this study seeks to identify and analyse the changing access patterns at each

² A development that is physically isolated by high walling and/or fences and access to the development is controlled with boomed and guarded gates (DEA&DP, 2005).

case study site and assess to what extent different stakeholders access to the coast has been impacted on by each development.

The planning and design of large-scale golf estates situated along the coast can have a significant impact on stakeholders' ability to access the coast and its resources. With respect to this, the major decision-making tools used to inform the planning and design of such developments are principally the Environmental Impact Assessment (EIA) and planning-rezoning processes (Van Zyl, 2006). Whilst both processes have an important role to play in the overall planning and design of such development proposals, the EIA process in particular has been identified as one of the overarching processes that can influence the extent to which issues of access are identified, assessed and addressed when deciding whether or not and on what terms to approve such developments (DEA&DP, 2005; Van Zyl, 2006; Van der Merwe, 2008). This key assumption is based on the fact that the EIA process is meant to be informed by progressive principles and provisions enacted post democracy and contained within South Africa's policy and legal framework, which promote ideas of equitable access to the coast and its resources for all South Africans. Whilst many of these policies and laws do not specifically include provisions for providing physical access to the coast, policies and legal frameworks such as, The Constitution of the Republic of South Africa (108 of 1996), The National Environmental Management Act (NEMA) (107 of 1998), The White Paper for Sustainable Coastal Development (2000) as well as the newly enacted National Environmental Management (NEM): Integrated Coastal Management Act (24 of 2008) represent a marked paradigm shift towards Integrated Coastal Management (ICM), with more focus on human development imperatives, participation and sustainable development (Glavovic, 2006). As such they bring with them expectations of improved and equitable access to the coast for all South Africans through an informed and integrated decision-making process (Glavovic, 2006). Despite this, many decisions are being taken based on EIA reports that continue to have an impact on the public's ability to access the coast and its resources (DEA&DP, 2005). These decisions are at odds with provisions contained within national policies and legal frameworks, especially with regard to those principles and provisions mentioned above that aim to promote stakeholders' improved and equitable access to the coast (Blizzard & Mangun, 2008). This study is therefore concerned with determining the role that EIA plays in influencing the public's ability to access the coast and its resources, in the case of two golf estates. Of particular interest is determining the extent to which the EIA processes conducted for each development proposal informed outcomes that conform to the progressive principles and provisions mentioned above.

1.3 Research Aims and Objectives

This study is part of a larger three-year research project, which is being supported by the South African Netherlands Research Programme on Alternatives in Development (SANPAD) and the National Research Fund (NRF). It is a collaborative project between the University of Cape Town's Environmental Evaluation Unit (EEU) and other Universities in the Netherlands. The overall aim of the project is to describe, analyse and evaluate the way in which access to the South African coast and its resources has changed and been governed since 1994. By focusing on a specific aspect of the broader project, the findings from this study will give further insight into the overall access patterns that are prevalent at each of the case study sites, as well as provide useful information on planning and decision-making processes, such as the EIA process and the role that it plays in influencing stakeholders' ability to access the coast and its resources.

The overall aim of this research is to enhance understanding of changing coastal access patterns associated with two coastal golf estate developments along the southern Cape coast and in particular to analyse the role that the EIA processes played in influencing such access.

The specific objectives of this research are:

- To review relevant literature including theoretical ideas associated with the concept of 'access' and 'access to the coast', as well as theories underpinning the concept and practice of EIA.
- To review the policy and legal framework relevant to coastal access in South Africa in order to highlight the government's current position with regard to issues of access;
- To map, document and analyse the changing access patterns pre- and post-development approval, in both case study sites, in order to determine the extent to which coastal access has been restricted or enabled for different stakeholder groups over this period.
- To review and analyse the EIA processes conducted for each development proposal in order to evaluate to what extent issues of coastal access informed planning and decision-making in each process; and
- To determine the role that four key aspects of the EIA process (i.e. the public participation, reporting, decision-making and implementation stages) played in identifying, assessing and addressing issues of coastal access.

1.4 Case study sites

Two large-scale golf estates located within the Garden Route region have been chosen as suitable case study sites for this dissertation. These are the **Pinnacle Point Beach and Golf Club** and the **Pezula Private Estate** (Figure 2). They are located adjacent to the coast within the Garden Route region and more specifically on the urban edge of two major towns within the area, namely Mossel Bay and Knysna. The reasons for choosing the Garden Route region and each development as a suitable case study site, is described in more detail in **Chapter 2**, which deals with the methodological approach used to conduct this research. **Chapter 5** gives a comprehensive description of the study region and provides information on the key characteristics and conditions prevalent in each case study site.

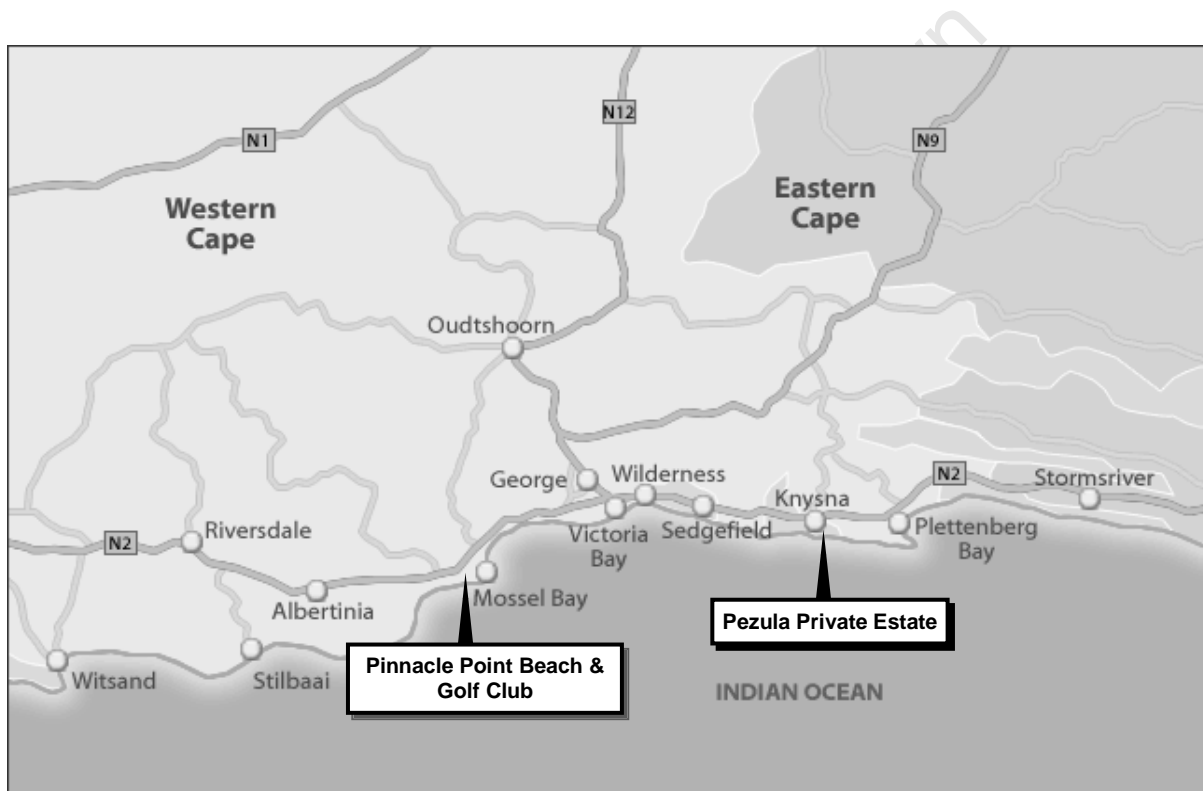


Figure 2: A map of the Garden Route region showing the specific location of each case study site

1.5 Limitations

The EIA documents and planning applications required to conduct this study were not easy to locate as the relevant practitioners tasked with compiling such reports were generally unwilling or unable to make them available. This meant that the researcher had to obtain many of the necessary reports from the Department of Environmental Affairs and Development Planning in Cape Town. This resulted in time delays and unforeseen costs, owing to the lengthy administrative process that needed to be followed in order to obtain such public information.

A second limitation relates to the fact that many of the disadvantaged communities from the southern Cape coast do not speak English as their first language. Although the researcher is reasonably fluent in Afrikaans (the predominant language used by local communities), it is not his first language and thus certain information may have been lost or misinterpreted during the semi-structured interviews conducted. In order to overcome this problem, each interview was recorded and then transcribed into note form with help from fellow researchers that were fluent in Afrikaans.

Thirdly, much of the information gathered during this study relies on stakeholders' perceptions and opinions, which could not always be substantiated through personal observation, official reports or quantitative data - this is largely attributed to the lack of available literature on the subject of access to the coast in South Africa. To overcome this, every effort was made to obtain a broad range of information and perspectives from as many different interviewees and sources as possible. Despite this, the information reported on could at times highlight different perceptions of reality or hidden motivational agendas. Thus the findings generated from this study should be regarded as preliminary. Similarly the mapping of access patterns was largely based on stakeholders' perceptions and particular judgements. The diagrams are therefore more schematic than spatially accurate; however, to all intents and purposes they do serve to convey the changing access patterns at each case study site over the allotted time period.

Finally, the literature dealing with 'access' theory is limited, especially within a developing country context. Such limitations of literature meant that the theoretical framework developed to measure changing access patterns at each case study site is largely based on work conducted by Ribot and Peluso (2003).

1.6 Structure of the dissertation

This dissertation consists of eight chapters structured as follows. This introductory chapter provides a background into the concept of coastal access and builds a rationale for this research project. It provides the overall aim and specific objectives of this study. It explains the limitations of the study and introduces the reader to the case study sites and their location.

Chapter 2 describes the methods used in this research and gives reasons as to why particular methods were used. The advantages and limitations of the different methods are also highlighted.

Chapter 3 is dedicated to the review of literature pertinent to the concept of access to the coast. It starts by reviewing the theoretical ideas, trends and debates underpinning the concept of

'public access to the coast' (**Part I**). **Part II** focuses on reviewing the theoretical debates underpinning the concept of 'access'. Finally, through reviewing the relevant EIA literature, the last section (**Part III**) examines the certain ideas regarding the theoretical underpinnings of Environmental Impact Assessment (EIA) process in order to identify some of the key factors that can influence different aspects of the EIA process and the extent to which specific social impacts of a development proposal are identified, assessed and addressed in practice.

Chapter 4 provides a review of relevant policy and legislation contained within South Africa's legal framework, which has been enacted since 1994. This review identifies some of the key principles and provisions contained within such policies and laws that relate to issues of access, which are meant to inform the EIA process.

Chapter 5 provides a comprehensive description of each case study site. It gives a background to the study region and elaborates on the specific characteristics and conditions prevalent at each case study site.

Chapter 6 presents the findings concerned with changing access patterns at each case study site. The findings are grouped under main themes including: identifying the 'historical' and 'new' stakeholder groups and the benefits they have gained from accessing the coastal region under examination before and after each development's approval; an overview of how access patterns have changed for these stakeholders as a direct result of each development being approved and subsequently implemented.

Chapter 7 reports on the role that the EIA played in influencing stakeholders' access to the coast at each site. It starts with a review and analysis of each EIA process in order to identify the extent to which issues of coastal access were identified, assessed and addressed throughout. It then identifies some of the key factors and constraints that influenced the way in which issues of coastal access were addressed throughout different aspects of the EIA processes.

Chapter 8 discusses the findings presented in **Chapters 6** and **7**, drawing on the theoretical literature presented in **Chapter 2**. It also discusses the disjuncture between legislation and policy relevant to access to the coast, and what is happening in reality.

Chapter 9 presents the conclusions and recommendations of the study.

Chapter 2: Methodology

2.1 Case Study Approach

This dissertation adopted a case study approach. This research approach is concerned with 'how' and 'why' things happen, allowing the contextual realities and the causal factors lying behind an eventual outcome to be explained (Terre Blanche & Durrheim, 1999). It provides a systematic way of looking at events, collecting data, analysing information and reporting on results, especially when the boundaries between a contemporary phenomena and its real life context are not clearly evident (Yin, 1994). In addition to these qualities, it was a particularly appropriate approach to use in this study as it gave the researcher an opportunity to narrow the focus in order to gain an in-depth understanding of the main issues at stake within a limited time period (Terre Blanche & Durrheim, 1999). Despite this, the big weakness often associated with a case study approach is its inability to interpret spatial or temporal trends at a regional or national level (Hershman et al., 1999). However, according to Yin (1993) by using multiple case studies and following a replication logic, instead of a sampling logic (i.e. random), similar results can be predicted, thus enhancing a research projects accuracy, validity and reliability. As such, an information-oriented sampling approach was used to select case study sites of a similar nature that were most likely to provide particularly information-rich data. This involved choosing 'telling cases' that would provide a revealing picture of what is going on (Maxwell, 2004).

Whilst different developments of a similar nature may potentially impact upon stakeholders' ability to access the coast to varying extents, a number of key characteristics related to each case study site were determined as being important in terms of this study. In this regard, large-scale golf estates were selected as particularly relevant units of analysis owing to their considerable size and exclusive nature and the fact that they are often developed adjacent to the coast owing to its attractive qualities. Moreover, their potential to impact negatively on stakeholders' ability to access the coast and its resources has been documented in the available literature (DEA&DP, 2005). The Garden Route was selected as a suitable study region owing to the rapid increase in development pressures that it has experienced over the past decade. This is particularly evident from **Figure 6 (Chapter 5)**, which shows the location of the 16 large-scale golf estates that have been developed along this coastline to date (2010). Finally, in order to assess the role that the EIA played in facilitating or constraining stakeholders' access to the coast, the selected developments needed to have been approved after 1994 and to have

conducted an EIA process in accordance with the Environmental Conservation Act (73 of 1989) or section 24(7) of the National Environmental Management Act (NEMA) before such approval was given.

Within the above mentioned parameters, two case study sites were selected from interviewing a number of key informants from the Southern Cape coastal region (see **Section 2.2.3**). They are the 'Pinnacle Point Beach and Golf Club' in Mossel Bay and the 'Pezula Private Estate' in Knysna. These case study sites were also selected as they were likely to provide particularly rich data on the subject of access to the coast. In this regard, the key informants interviewed during the preliminary stages of this research project, specifically identified Pinnacle Point and Pezula as being relevant sites for the subject of this study, owing to the controversy over coastal access issues at each site. Moreover, these views were backed-up by various reports which recognised the impact each separate development had on public access to the coast (Southern Cape Land Committee (SCLC), 2004; DEA&DP, 2005; Cape Times, 2006). Other characteristics that made each development suitable cases included: historical land-use patterns, the number of communities surrounding each development whose access to the coast had been influenced prior to each development's approval, the topography, the available road network and the approvals process. **Chapter 5** further elaborates on these specific characteristics of each case study site to provide the reader with a greater understanding and the necessary baseline data from which to analyse changing access patterns.

2.2 Triangulation

A triangulation approach (De Vos, 1998) to data collection and analysis was used for this study. This involved using various data collection methods to approach the research subject from several different angles and the use of multiple data sources, where possible, to enhance the robustness of the research. By using multiple methods of data collection this approach allowed the researcher to 'hone in' on coastal access issues facing each case study site, in a number of different ways. This use of multiple methods as discussed above has been proposed before in such situations (Terre Blanche & Durrheim, 1999; Robson, 2002). Consequently, the methods employed to collect the necessary data included: (1) a review of the relevant literature; (2) a policy and legislative review; (3) key informant interviews; (4) semi-structured interviews; (5) secondary document review and (6) EIA review and process analysis. These methods were used to gather and analyse the relevant information in order to inform and meet the related aim and objectives of this study. Each method is discussed in detail below.

2.2.1 A review of relevant literature

A literature review was undertaken in order to provide a theoretical understanding of the general concepts used throughout the study. The first section focused on the concept of 'public access to the coast' and the theoretical underpinnings of how and why the public's right to access the coast has been secured and granted by different countries throughout the world.

The second part of the literature review focused on the theoretical debates underpinning the concept of 'access'. In this respect, work by Ribot & Peluso (2003) was heavily drawn upon as their understanding of access goes beyond property rights, sanctioned laws and conventions that define the public's right of access to the coast, to include a number of other 'mechanisms of access' (i.e. capital, technology, labour etc.) that stakeholders can harness in order to gain, maintain and control access to the coast and its resources. A slightly modified version of their access analysis framework (**See Section 2.3.2**) was then used to guide the analysis and discussion of changing access patterns at each case study site.

Through conducting a number of interviews with key informants, the EIA process was identified as one of the overarching processes used to identify, assess and address issues of coastal access when considering a development proposal along the coast. As such, part three of the literature review examined certain ideas regarding the theoretical underpinnings of the EIA process and the role that it plays in influencing decisions and the specific social outcomes associated with that decision. Moreover, a number of key factors that influence the EIA process and lead to social outcomes and decisions that differ from what specific policies and legislation recommend were identified. With respect to this, the EIA process was systematically divided up into four aspects that were identified through key informant interviews (see **Appendix 1**) as having the most significant influence on the extent to which issues of coastal access are identified, assessed and addressed throughout the related EIA process. These included: (1) The public participation process; (2) the identification, assessment and reporting of social impacts within the context of EIA; (3) the decision-making process; and (4) the implementation and management of the development activity. The theoretical ideas underpinning each of these aspects were then discussed and a number of factors commonly responsible for influencing their role within the EIA process were identified. This part of the literature review guided the analysis and discussion concerning the specific reasons for why any disjuncture from policy in practice may have occurred, with regards to issues of access to the coast.

2.2.2 Policy and legislative Review

A review of relevant South African policies and legislation was undertaken in order to highlight the government's position with regard to issues of coastal access (**Chapter 4**). In this regard, a number of progressive provisions and principles enacted post-democracy were identified that have brought about expectations of improved and equitable access to the coast and its resources for all South Africans through an informed and integrated decision-making process (see **Section 4.7**). This review provided a legal framework from which to assess each EIA process and the extent to which such provisions and principles were being acknowledged and considered throughout the EIA processes being examined.

2.2.3 Key informant interviews

Key informant interviews (see **Appendix 1**) were held with respected or knowledgeable people from the case study region (i.e. Garden Route). They provided the researcher with a deeper understanding of the major access issues prevalent within the Garden Route coastal region, which in turn influenced decisions made as to the overall research design of this project. In this regard, they were especially instrumental in assisting with identifying suitable case study sites and the primary stakeholder groups whose access to the coast had been directly affected by the golf estates. They were also instrumental in identifying a number of active representatives from each primary stakeholder group that may be willing to be interviewed.

As the key informant interviews were an important aspect of this study, they had to be selected carefully. In this regard, every effort was made to obtain the broadest range of information and perspectives on each case study site, through choosing key informants with different experiences or perceptions regarding the research subject. As such, the key informants came from various different backgrounds and fields (see **Appendix 1**). This allowed the researcher to gain an all encompassing view of the case study area and the major issues at play. Moreover, through communicating with key informants with varying degrees of interest in development projects (e.g. pro-development proponents and anti-development opponents), a relatively unbiased representation of the key stakeholder groups and their associated interests could be obtained.

In total there were 6 key informant interviews conducted (see **Appendix 1**). Four interviews were conducted over the telephone and the other two were conducted in person, as it was particularly difficult to organise a mutually convenient time to meet with many of the informants owing to their busy schedules. The interviews themselves were largely unstructured, however were conducted with reference to a number of questions and themes

that were considered to be important to the research (see **Appendix 3**). Each interview was about 30-60 minutes in length. They were also recorded and then transcribed directly onto a word processor following each interview.

2.2.4 Semi-structured interviews

A number of semi-structured interviews (see **Appendix 2**), were conducted with representatives from each of the primary stakeholder groups. Semi-structured interviews were considered to be the most appropriate method of collecting qualitative data for this study as it gave the researcher the ability to explore certain sensitive issues in depth through building a rapport with the person being interviewed. It also gave the interviewer the ability to ask more probing questions in response to unclear answers and to gain additional information that may not have been obtained through other methods (e.g. questionnaires or surveys). With respect to this, the sensitive nature of the research topic and the fact that the issue of access to the coast has caused much controversy at both case study sites meant that the interviews were conducted anonymously, so that controversial and sensitive issues could be discussed with full disclosure, whilst at the same time preserving stakeholder's anonymity.

A set of open-ended questions, based on the literature reviewed, was prepared in order to initiate a conversational and flexible, two-way communication between the interviewer and the interviewee (see **Appendix 3**). Relevant interviewees were also handed aerial photographs of the appropriate study sites and asked to physically illustrate the specific access routes that they have used to access the coast pre- and post- development approval. This was used to map and document the changing access patterns at each case study site (see **Section 2.3.1**).

Whilst preliminary representatives from each primary stakeholder group were identified from key informant interviews, a chain referral sampling approach was used to identify subsequent interviewees. This sampling strategy was often necessary, as finding stakeholders to interview proved challenging at times. The chain referral methodology in this instance involved getting interviewees to identify active representatives from other primary stakeholder groups that in their opinion would be useful to the research and willing to be interviewed. This was systematically repeated until at least one representative from each stakeholder group had participated. In total, 25 semi-structured interviews were conducted (See **Appendix 2**), some during the site visits, some in Cape Town and others over the telephone due to travel, cost and time restrictions. The interviews themselves lasted between 30 – 80 minutes long and were recorded on tape and transcribed directly onto a word processor subsequent to the interview.

2.2.5 Secondary document review

A number of other documents were reviewed for the purposes of gaining a better understanding of the socio-economic context in the case study region and gaining other specific information pertaining to each case study site area. This method was also used to compensate for the limitations of other methods (i.e. data gaps or invalid assumptions) and to cross validate information gathered from the interviews and personal observations (Noor, 2008). The major data sources reviewed included: Spatial Development Frameworks (SDF's), State of the Environment Reports (SoER), Zoning Schemes, Integrated Development Plans (IDP's) and other relevant government reports, such as the Rapid Review of Golf Courses and Polo Field Development Guidelines (DEA&DP, 2005).

2.2.6 Review of the EIA process and reports

The review of the EIA process and reports was a major source of information for this study. It was specifically instrumental in determining the role that this aspect of the EIA process played in influencing different stakeholder groups' ability to access the coast and its resources. The actual review involved systematically reviewing a number of relevant EIA documents (i.e. EIA reports, scoping reports, minutes of meetings, independent reviews, the Record of Decision (ROD), internal memoranda, the Environmental Management plans etc.) in order to identify information pertaining to 'how', 'why' and 'when' coastal access issues had been reported on and/or resolved. This information was then gathered into four thematic areas, which relate to the four central aspects of the EIA process already mentioned (i.e. the public participation process; the identification, assessment and reporting of social impacts within the context of EIA; the decision-making process; and the implementation and management of the development activity). Most of the EIA documents reviewed were obtained from the Department of Environmental Affairs and Development Planning (DEA&DP) in Cape Town, whilst some were obtained from the relevant consultants tasked with compiling these reports.

2.3 Data Analysis

Analysis of the data gathered was carried out through the breaking down of data in a process of thematising and categorizing (Terre Blanche and Durrheim, 1999), which allowed for the systematic identification of key thematic areas, and the subsequent building up of data in novel ways that allow for both elaboration and interpretation. Information was thus grouped according to two main areas of investigation. Firstly, changing coastal access patterns at each case study site were analysed, and secondly, the role that EIA plays in influencing stakeholders'

ability to access the coast and its resources was examined. The findings were then discussed in terms of the ideas explored in the literature review (**Chapter 8**) and finally a number of recommendations and conclusions were presented (**Chapter 9**). The approach to the analysis will now be discussed in order to familiarise the reader with the actual methods used to analyse the data collected in each case.

2.3.1 Analysing changing access patterns at each case study site

The ideas and steps involved in analysing changing access patterns as articulated in the literature (Ribot & Peluso, 2003) were used to guide the analysis of changing access patterns at each case study site. The access analysis framework suggested by Ribot and Peluso (2003) was principally used to guide the analysis and discussion of this aspect of the study. Accordingly, the process of analysing access patterns at each case study site was systematically broken up into four separate activities, which included:

- (1) Identifying the primary stakeholder groups and their respective interest in the coastal areas under examination.
- (2) Mapping, documenting and analysing the changing access patterns pre- and post-development approval.
- (3) Identifying the extent to which stakeholders' ability to access the coast and its resources has been restricted or enabled over this period.
- (4) Determining the most significant 'mechanisms of access' that have been mobilised by different stakeholders groups in order to gain, maintain and control access.

The timeframe for the analysis of site access patterns covered a 20 year period from 1990 to 2010. It involved combining the qualitative data obtained through the key informant and semi-structured interviews with other data acquired through secondary document analysis. **Step one** involved identifying the benefits that 'historic' and 'new' stakeholder groups have gained from accessing the coastal land under examination over the past two decades, from 1990 to present (2010). These results were principally obtained through interviewing the key informants and representatives from each primary stakeholder group. **Step two** involved examining and mapping the changing access patterns at each case study site that have occurred as a direct result of each developments approval. This entailed identifying the access patterns used by 'historic' stakeholder groups to gain access to the coast in the past. Here insights into the traditional access patterns were gained through conducting semi-structured interviews with representatives from the 'historic' stakeholders groups in each case. Historical access routes were captured on aerial photographs during the interviews, which were then transformed into a digital form using GIS mapping in order to illustrate the historical access patterns used by

related stakeholder groups at each case study site. The resultant output was illustrated on specific aerial photographs as lines (i.e. access routes), dots (i.e. access points) and polygons (i.e. private or public areas). Similarly, insights into the current access patterns at each case study site were obtained from semi-structured interviews with representatives from each stakeholder group. Again, the drawings captured on the aerial photographs were converted into spatial data and illustrated on various aerial photographs as lines, dots and polygons in order to visually illustrate the current access patterns at each case study site. The results from this were then compared with the historical access patterns identified in order to determine to what extent historical stakeholders' access has been affected by each large-scale golf estate and to identify any 'new' stakeholder groups that may have subsequently been able to gain or control access to the benefits associated with the two coastal areas under examination (**Step three**). Finally, the findings are discussed in relation to the theoretical ideas presented in **Section 3.2.2** of the literature review. This relates to the specific 'mechanisms of access' by which different stakeholder groups have been able to gain, maintain and control their ability to benefit from the coast and its resources, over the study period.

2.3.2 Analysing the role that EIA played in identifying, assessing and addressing issues of coastal access at each case study site

This part of the research was undertaken as a systematic assessment of the EIA processes conducted for each development and to what extent the current coastal access patterns (i.e. the 'on-the-ground' outcomes) described in **Chapter 6** were actually influenced by this process. As such, the focus was on the extent to which coastal access issues were identified, assessed and addressed throughout each of the EIA processes investigated. Moreover, the analysis sought to examine the applied elements of the process and the extent to which these were responsible for influencing such ends. This involved focusing on the procedural elements of the EIA process, to identify some of the major factors that may have been responsible for influencing some of the outcomes reported on in **Chapter 6**.

Firstly, information gathered from the review of the EIA processes and reports, was grouped into thematic themes related to the four central aspects of the EIA process (i.e. public participation, social impact reporting, decision-making etc.) in order to identify the extent to which issues of coastal access had been identified, assessed and addressed in each. Relevant information taken from the semi-structured and key informants interviews was used to cross validate such findings and to identify some of the major factors that may have influenced the extent to which issues of coastal access had been identified, assessed and addressed in any of the four aspects mentioned above. This was used to determine the extent to which issues of

coastal access had been identified and resolved throughout the EIA processes as a whole and the role that each EIA process played in influencing the final development outcomes, with respect to issues of coastal access.

Whilst the majority of factors were identified through conducting semi-structured interviews with representatives from each primary stakeholder group, a number of other data sources were used to supplement and support the information contained within this critical analysis. These included: secondary document sources, key informant interviews and personal observation. Finally, the theoretical ideas identified in part three of the literature review (**Chapter 3**) were used to guide the discussion in **Chapter 8**, which considered the major factors responsible for influencing the extent to which issues of coastal access were identified, assessed and addressed throughout the entire EIA process and more particularly throughout each of the four aspects mentioned above.

Chapter 3: Literature Review

3.1 The concept of 'public access to the coast'

Part I of the literature review focuses on the concept of public access to the coast. It examines the origins of the concept of providing the public with access to the coast; how and why this social principle has been introduced into many coastal management policies and legislation throughout the world; the relationship between coastal access and Integrated Coastal Management (ICM) and the reason why coastal access policies and efforts to manage coastal access differ from one country to the next. It ends by giving a brief summary of some of the key issues prevalent along South Africa's coastal region which have exacerbated problems of coastal access creating conflict between stakeholders over finite coastal space and resource utilization.

3.1.1 The importance of providing the public with access to the coast

Historically, society has used the coast and its associated resources for the provision of food to supplement or support livelihoods or for means of transport to facilitate trade and commerce (European Commission, 1999; Navarro, 2000). Access to the sea-shore was therefore vital in order to gain access to the sea for travel and trading purposes and also to harvest marine and coastal resources (Cicin-Sain & Knecht, 1998; Peter Scott Planning Services Ltd et al., 2006). In developed countries, this trend changed towards the end of the 20th century owing to an unprecedented increase in leisure time, mobility and a rise in fast modes of transportation (Mongeau, 2001). Affluent sectors of western society increasingly desire to gain access to the coast for recreational purposes (Navarro, 2000; Mongeau, 2001). The appeal to use the coast as a site for such activities relates to its special nature and defining attributes such as the associated climate, scenery and general pristine environment as well as the vast recreational opportunities it offers to both active and passive recreationalists which include sunbathing, hiking, fishing and snorkeling (Fabbri, 1990; Booth & Doody, 2004). This trend has been well documented by scholars who regard this as an important exercise for relaxation, education and entertainment and one that can foster social, cultural, intellectual and creative developments for individuals and groups within society (Fabbri, 1990; Williams, 1995; Navarro, 2000).

In developing countries many coastal communities access the coast in order to harvest coastal and marine resources which are then used either to sustain or supplement their livelihoods (Berkes et al., 2003; Branch et al., 2002; Granek et al., 2008; Sowman, 2006; Glavovic & Boonzaier, 2007). In addition to this, coastal regions and their ecosystems also provide a wide

range of services for many coastal dependent communities, including sources of income and employment, sites of human habitation as well as objects of spiritual value (Granek et al., 2008). This highlights the increasing importance coastal regions represent for human well-being and poverty alleviation in such countries (Brown et al., 2008; FAO, 2007). For example, the South African coastal region is seen as an important resource which can contribute to the transformation and empowerment of historically disadvantaged communities by providing them with access to the benefits associated with the coastal region in an attempt to meet their basic needs, alleviate poverty and inequality and improve their general well-being (Stiedl, 2000; Cornelissen, 2005; Glavovic & Boonzaier, 2007). Apart from these aspects, the fact that people have been using coastal resources for centuries suggests a strong relationship between coastal communities and coastal resources. For example, in the case of South Africa, indigenous people have been harvesting resources for more than 100 000 years along the coast, which means that a rich archaeological and cultural heritage has developed which is reflected in a number of contemporary coastal uses and activities of vital importance to some coastal communities, their traditions and their culture (DEAT, 2000).

3.1.2 The public nature of the coast

The protection and development of the public's right to access the coast was initially inspired by the public trust doctrine - a common law principle codified 1500 years ago during the Roman Empire (Oehme, 1987). The public trust doctrine suggests that certain natural resources (e.g. the sea and sea-shore) are held by the sovereign in trust on behalf of all the citizens because of their unique characteristics and central importance to their well-being (Kameri-Mbote, 2007). In Roman times, the public trust doctrine was used to support people's livelihoods and commerce which included securing them the right to navigation, fishing, accessing ports, tethering vessels and offloading cargo on the river bank and using the seashore to the highest tide mark (Smallwood, 1993; Maguire, 1996; Tigerstrom, 1997; Navarro, 2000).

Throughout the centuries this doctrine became part of common law in many European nations with several different interpretations (Navarro, 2000). In Roman-Dutch Law (which later informed South Africa's common law) the sea and the sea-shore were classified as 'public things' (*res publicae*) owned by the emperor. This meant that the emperor owned the sea and the sea-shore, not in his own capacity but in his capacity as custodian on behalf of the people (Freedman, 2000). South Africa later altered this principle to vest ownership of the 'sea³' and

³ Defined in terms of the Sea Shore Act (21 of 1935) as 'the water and the bed of sea below the low-water mark and within the territorial waters of the Republic, including the water and the bed of any tidal river and any tidal lagoon'.

the 'sea-shore'⁴ in the State President⁵. It meant that the South African public had a legal right to access any part of the shoreline between the low water mark and the high water mark. This provision defined the public's right to access the coast in South Africa until the recent enactment of the National Environmental Management: Integrated Coastal Management Act (24 of 2008) which fully repealed the outdated Sea Shore Act (21 of 1935) and empowered the state to extend coastal public property to improve public access to the sea and the sea shore (Basterfield, 2007). This is discussed in more detail in the policy and legal review chapter (**Chapter 4**).

There are two ways in which the public can exercise their right to access the coast and its resources (**Figure 3**). The first is 'lateral access' which refers to the public's right to freely walk between the publicly owned sea and the sea-shore regardless of private upland ownership (Summerlin, 1995; Mc Kean, 1970). This type of access although limited to the publicly defined coastal strip (between the high water mark and the low water mark) is secured and controlled in most countries by the state, and furthermore, is largely dependent on the extent to which geographical barriers, such as jutting headlands and cliffs, prevent lateral passage (Summerlin, 1995).

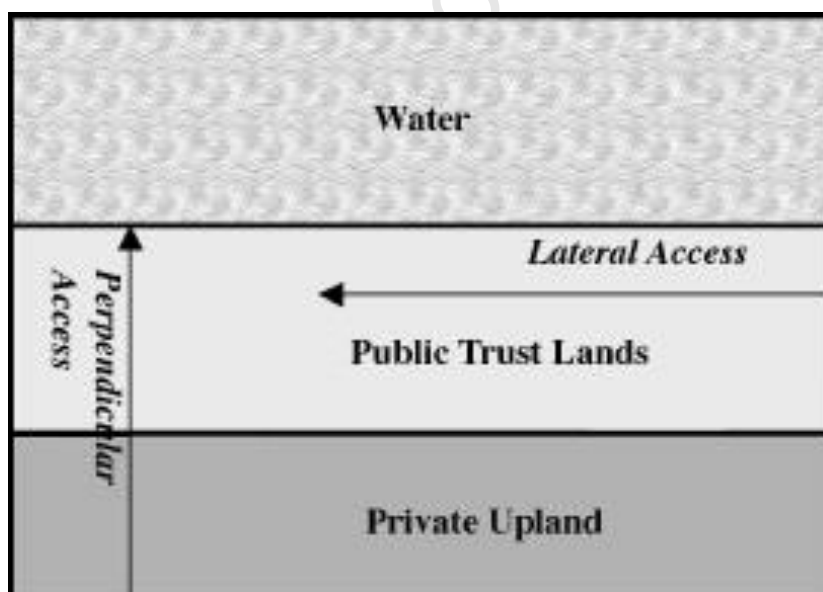


Figure 3: An illustration of the two different types of public access to the coast (Source: Vickey, 2002)

The second type of access is 'perpendicular access' (**Figure 3**) which involves crossing over land adjacent to the coast in order to access the sea and the sea-shore (Summerlin, 1996). Whilst the public trust doctrine secures the public's right to access the sea and the sea-shore, it does not

⁴ Defined in terms of the Sea Shore Act (21 of 1935) as 'the water and land between the low water mark and the high water mark'.

⁵ Section 2 of the Sea Shore Act (21 of 1935)

grant them the same right or privilege to cross over private land to reach the publicly defined sea-shore (Summerlin, 1996). This leaves the unusual situation of having beaches open to the public with no way of reaching them (Summerlin, 1996). Historically this matter did not instigate much debate, but as coastal populations increased, the privatization of coastal land and the demand for recreation steadily intensified, conflict between the public and private property owners inevitable ensued with different stakeholders having legitimate expectations of what is fair and what is right (Finnel, 1988; Navarro, 2000; Mongeau, 2003). On the one hand you have the public who have the right of access to the sea and the sea-shore which has been granted in common law throughout the ages. On the other hand you have private property owners who also enjoy equally compelling rights of private property (Mongeau, 2003). In the middle you have a small and limited amount of prime real estate that is subject to intense development pressure and changing boundaries brought on by natural forces such as erosion, sea-level rise and accretion (Mongeau, 2003). The end result is that whilst the sea and the sea-shore are owned by the state and the 'upland area' is frequently under private ownership, neither one can be said to own the full bundle of rights usually associated with 'conventional' property rights (Eagle, 2007). This type of access therefore remains the most controversial and contentious issue facing both scholars and policy makers (Summerlin, 1996).

The general rule is that it is principally the responsibility of the state and local governments to ensure that perpendicular access to the coast is secured and granted (Mongeau, 2003). Whilst this has in many instances initiated state legislative efforts to maintain or enhance perpendicular access to the coast, it is often left up to the courts to resolve specific conflicts between stakeholders (Finnel, 1988; Summerlin, 1996; Navarro, 2000; Mongeau, 2001; Mongeau, 2003). This is, however, a complicated and costly procedure owing to: a) the physical instability of the disputed border along the sea-shore; b) property law that does not clarify the extent of private and public rights along its length; and c) vague rules regarding disposition of public and private claims (Eagle, 2007).

3.1.3 Managing conflicts inherent in the coast

The coastal region is a limited spatial area with resources that are finite and vulnerable to overuse and degradation (DEAT, 2000). It is a complex and dynamic system which comprises various agents of change, both natural and man-induced, that act on inter-connected socio-economic and natural sub-systems leading to both negative and positive (economic, social, cultural and biophysical) impacts (Fabbri, 1998). These complex interactions between natural and socio-economic systems at the coast and the intense competition between coastal users

over limited coastal space and resource utilization have caused much conflict and controversy between stakeholders within the coastal region (Green & Penning-Rowse, 1999).

Conflicts arise within the coastal region because different options available to stakeholders or those managing and regulating certain activities within this region, are often mutually exclusive (Green & Penning-Rowse, 1999). Typically, coastal management brings a multiplicity of goals and objectives to decision-making which are often mutually exclusive (Green & Penning-Rowse, 1999). For example, policies seek to protect the natural integrity of the coastal system whilst promoting economic development and they seek to promote public access to the coast whilst protecting individual property rights (Green & Penning-Rowse, 1999; NOAA, 2006). If goals and objectives are mutually exclusive the adoption of one decision over another inevitably precludes another decision being made and/or the benefits to be gained from that alternative option (Green & Penning-Rowse, 1999). Also as stakeholders have different interests and demands for using the coast and its associated resources, one option is most likely to favour certain stakeholders more than others. This unequal distribution of benefits that stakeholders derive from the coast, which is related to the different policy options used, is the very source of conflict inherent within the coastal region and the very problem coastal policy-makers are trying to solve (Clark, 1997; Green & Penning-Rowse, 1999).

Integrated Coastal Management (ICM) is a process which aims to resolve such conflict inherent within the coastal zone (Green & Penning-Rowse, 1999). By recognising the unique nature of the coast, ICM seeks to manage the interplay between coastal stakeholders and the environment in order to minimise user conflicts between stakeholders and to improve the quality of life of communities who depend on the coast and its resources, while maintaining the biological diversity and productivity of coastal ecosystems (UN, GESAMP, 1996; Olsen, 2002). It emphasises the linkages and dependencies that exist between ecological, socio-economic and governance systems which need to be managed as one single interacting unit and understood holistically (Clark, 1997; Cincin-Sain & Knecht, 1998; Berkes et al., 2003).

3.1.4 Access to the coast as a key principle of Integrated Coastal Management (ICM)

As discussed in the previous sections, public access to the coast and its resources is a social principle which has been embraced by many countries throughout the world (Navarro, 2000; Jenkins et al., 2001; Booth & Doody, 2004; Clark, 2008). Whilst it is an important social principle, it is generally not considered to be a crucial national issue and consequently only some countries develop a legal and institutional framework to specifically address it - which is why it is often included within the broader context of a country's ICM programme (Navarro,

2000). As such, access to the coast is a fundamental goal of many ICM policies and legislation throughout the world (Pogue & Lee, 1999).

There is a growing concern in the literature relevant to developed countries that access to the coast is an issue that needs urgent consideration owing to the increasing development pressures and population growth in these coastal regions (NOAA, 2006; Clark, 2008). In developed countries, conflicts associated with access to the coast are generally tied to public access rights versus private landowner rights and the negative consequences of irresponsible use of the coastal region which relate to litter and waste accumulation, shore erosion, pollution, noise and ecological damage (Navarro, 2000). While the conflict over public access rights is dependent on country specific policies that define the public's right to access the coast and property rights holders' expectations regarding public access to the coast, the negative consequences of irresponsible coastal use is largely related to poor management practices and inadequate planning (Navarro, 2000). In many of these instances, state projects and programmes, developed in response to ICM legislation and policies, have been the prime catalyst in promoting public access initiatives amongst state and federal agencies, public organisations and the private sector (Pogue & Lee, 1998; Vickey, 2003; Clark, 2008). These programmes have used an array of innovative tools with varying degrees of success (NOAA, 2006). These include land acquisition tools, planning-rezoning processes, state laws and regulations, strategic planning initiatives, education and environmental assessment (Pogue & Lee, 1998; NOAA, 2006). Despite these efforts, the lack of monitoring and research regarding access patterns means that there is little evidence to show whether or not access to the coast is being eroded or not in various countries (Clark & Milton, 2003).

In less developed countries, there is a definite lack of literature on the subject of 'access to the coast' perhaps due to more pressing socio-economic issues that characterise these countries coastal zones (Navarro, 2000). Here, coastal management policies and legislation promoting public access to the coast, need to be considered within the context of much broader socio-economic pressures and concerns, not prevalent in most developed countries. These include rapidly increasing coastal populations, rising levels of poverty and inequality, high rates of crime and corruption, environmental degradation, the need to ensure sustainable livelihoods of poorer coastal dependent communities, legacies of poorly planned economic development, under-resourced government institutions and weak implementation of existing policies and laws (WIO Editorial, 2004; Glavovic & Boonziaer, 2007). These pressures and concerns have had a significant effect on the extent to which important principles and provisions relating to public access to the coast are prioritised amongst other ICM goals and objectives. Moreover, these related pressures can often lead to outcomes that differ from what national and local

policies and laws recommend. Research of this nature will therefore help generate important baseline information regarding the various processes and factors that influence access to the coast and the extent to which policy and legal provisions are being implemented in practice.

3.1.5 Access to the coast in the context of South Africa

Access to the coast and resource utilisation remains a highly contested issue in South Africa, largely owing to poor coastal management efforts in the past, a legacy of inequality and discriminatory practices associated with the country's Apartheid regime and the colonial rule prior to that (State of the Coast, 2005). Prior to 1994, coastal management in South Africa was generally characterised by a resource-centred approach which was imposed in a 'top-down' manner and focused on command and control methods to direct the use of coastal resources with little consideration of the complex interactions that occur between humans and the coastal zone (Glavovic, 2006; Celliers et al., 2009). This combined with the inadequate forward planning and no formal requirement to carry out some level of environmental assessment for coastal development proposals meant that decisions regarding new development proposals, such as large-scale golf estates, often proceeded in an ad hoc fashion causing much conflict between various stakeholders over coastal space and resources (Sowman, 1993; Sowman & Hauck, 2001; Glavovic, 2000). Access to the coast and its resources was also denied to many black South Africans as discriminatory policies and laws such as, the Black Land Act (27 of 1913), the Development Trust and Land Act (18 of 1936), the Coloured Labour Preference Policy, the Group Areas Act (41 of 1951) and the Homelands Policy effectively blocked access and ownership to vast stretches of coastline and resources for indigenous people on the basis of race (Sowman & Hauck, 2001). In addition to the discriminatory policies and laws of the Apartheid regime, outdated policies such as the Sea-Shore Act (21 of 1935) have also had a significant effect on stakeholders' ability to access the coast in the past (Freedman, 2000). Until the recent enactment of the National Environmental Management: Integrated Coastal Management Act (24 of 2008) national jurisdiction of the coastal region was formalised according to the Sea-Shore Act, which vested ownership of the 'sea' and the 'sea-shore' in the State President (Glazewski & Haward, 2005). Whilst the Sea-Shore Act protected the public's interest by providing rights to the 'sea' and the 'sea-shore' and by preventing private ownership of this area (e.g. free lateral access), it made no provision for providing perpendicular access over private land to the sea-shore (Glazewski, 2005). The lack of this provision combined with unjust and complicated judicial procedures of the past, meant that many stakeholders were often denied access to this publicly defined area by private land-owners who asserted their private property rights to prevent people from traversing over their land (Glazewski, 2005).

These aspects are discussed in more detail in the policy review chapter (**Chapter 4**) of this dissertation.

Since political emancipation in 1994, circumstances have changed and certain legal administrative measures have been put in place to overcome past injustices relating to the public accessing the coast and its resources (Glavovic and Boonzaier, 2007). Recent coastal management efforts in South Africa have recognised the distinctive and complex nature of the coast and as such have undergone a dramatic transformation towards promoting sustainable coastal development through an Integrated Coastal Management (ICM) approach (DEAT, 2000; Glavovic, 2006). A set of coastal principles has been incorporated into law and various mechanisms and tools have been identified to facilitate a more integrated approach that balances coastal biodiversity, social equity and economic development goals (DEAT, 2000). Environmental Impact Assessment (EIA) has been identified as one such tool.

The first formal EIA legislation emerged in terms of the 1997 EIA regulations promulgated under the Environmental Conservation Act (73 of 1989). In addition to this, a suite of policies and laws relevant to a number of resource sectors have been enacted to overcome injustices of the past, giving previously disadvantaged community's access to the coastal region and its associated benefits. These measures bring with them expectations of improved and equitable access to the coast and its resources for all South African's through an informed and integrated decision-making process (DEA&DP, 2005).

Despite this, there are still many instances where the South African coastal region is being reconfigured into exclusionary and private spaces that fail to uphold the rights of citizens as a whole to use and enjoy the publicly defined coastal region (Sunde, 2011). This is particularly evident along the southern Cape coast, which has been subjected to a notable increase in development pressures over the past decade (DEA&DP, 2005). Whilst these developments vary in nature from individual holiday homes to residential complexes, an alarming trend found within this region is the high number of large-scale golf estates that have either been approved or are in the process of being approved (SCLC, 2004). Of the estimated 30 approved golf developments located within the Garden Route region, approximately two thirds of these are large-scale golf estates, consisting of a residential component centred around a golf-course (DEA&DP, 2005; Van Zyl, 2006). Owing to their close proximity to the coast, their considerable size and exclusive nature, loss of access to the coast has been identified as a potential negative impact of such developments (DEA&DP, 2005; Van Zyl, 2006; Van der Merwe, 2008). However, the extent to which stakeholder's access to the coast is being affected by such developments is still relatively unknown and poorly documented in the available literature. As a result, there is

little evidence to show whether such concerns are actually founded in reality and to what extent different stakeholders' access to the coast, is being eroded or facilitated by such developments. Research of this nature is therefore necessary in order to highlight the current coastal access issues prevalent along South Africa's coastline.

3.1.6 Key issues pertaining to coastal access

In summary, whilst lateral access along the coastal region is largely dependent on physical and anthropogenic barriers that block lateral passage, the extent to which perpendicular access is facilitated through country-specific policies and legislation differs from country to country. This is due to a number of factors, including different histories and legacies, distinctive physical environments, varied property rights regimes, differing attitudes of rights holders with regards to access, differing government agendas as well as a host of other factors which have to be seen in the context of each country (Jenkins et al., 2001). Resolving conflicts of this nature, therefore, involves not only balancing different stakeholders' interests and demands with national and local economic-political agendas, dealing with coastal management goals and objectives that are mutually exclusive, but also managing these complex, inter-connected, dynamic systems subject to major natural and anthropogenic pressures (Green & Penning-Rowell, 1999). This requires prioritising certain key issues and making trade-offs in an attempt to find the most 'preferred' solution for society as a whole (Pogue & Lee, 1998). Despite this, many socio-economic pressures, particularly associated with developing countries, can often lead to solutions that differ from what national policies and legal frameworks recommend with regards to provisions that promote public access to the coast (Blizzard & Mangun, 2008).

Whilst providing the public with access to the coast is a fundamental goal of South Africa's legal framework and the White Paper for Sustainable Coastal Development (DEAT, 2000) in particular, the research undertaken on this topic is considered to be inadequate. With respect to this, there is limited information on historic access patterns and very little that identified and analyses the major pressures and processes affecting coastal access patterns in South Africa. These information limitations are considered to significantly undermine the effectiveness of state efforts to improve and promote equitable access to the coast for all South Africans. Moreover, the various socio-economic and development pressures identified above, particularly widespread along the southern Cape coastal region of South Africa, further exacerbate problems of inequitable coastal access and conflicts over finite coastal space and resource utilisation. As such there appears to be a need for researchers to examine how access to the coast is being reconfigured, the dynamics associated with changing access patterns in a particular context and

how different stakeholders may be affected by such changes. The following section explores some of the ideas underlying the concept of 'access' in order to guide the study.

3.2 Theoretical ideas underpinnings of the concept of 'access'

Part II of this chapter reviews some of the theoretical ideas underpinning the notion of 'access'. Owing to the lack of research into this topic, it draws considerably on the definitions and theoretical ideas put forward by Ribot and Peluso (2003) and seeks to clarify the concept of 'access' by making a distinction between property rights on the one hand and other factors that have been identified to influence access patterns in specific contexts. Put more simply, it seeks to expand the focus of this study beyond property rights, sanctioned laws and conventions that define the public rights to access the coast (i.e. rights-based factors), to a broader range of factors that can influence stakeholders' ability to access the coast and its resources. In particular, it draws on the access analysis framework developed by Ribot and Peluso (2003), to guide the identification and analysis of how and why different stakeholders' are affected by changes in access and the significant factors responsible for such change.

3.2.1 The distinction between 'property rights' and 'access'

The notion of 'access' has been extensively used by property analysts, who generally equate the term to 'property rights' and a stakeholder's 'right to use' a resource or an area (Schlager and Ostrom, 1992; Ostrom, 2000; Ribot & Peluso, 2003). Within this context, the notion of 'access' can be compared to a 'bundle of rights', as rights holders can enjoy the right to use the resource, the right to transfer or manage the resource, the right of enforcement of legal arrangements over the resource and the right to exclude people from the resource (Grove-Hills et al., 1990; as cited by Curry, 2002). Whilst such property rights are not absolute and rights holders must exercise their rights within the bounds imposed upon them by political-economic systems, rights holders still gain control over a stream of benefits associated with that resource, in the knowledge that the state will validate the authority of that right to a point (Glazewski, 2005). This notion is in line with that of Mac Phearson (1978) who identifies property rights as an enforceable claim, which is sanctioned by society through law, custom or convention, to use or benefit from something. According to this viewpoint, 'access' can be defined as, the right to use or benefit from a resource and is fundamentally a political issue constrained by country specific policies and legislation, which denotes who gets to use what, how they are or should be using it and when (Berry, 1989; Neale, 1998; as cited by Ribot & Peluso, 2003).

In comparison, Ribot and Peluso (2003:153) define access 'as the ability to derive benefits from things'. They have undertaken widespread research on a topic that, although being extensively used by property analysts, has been poorly theorized historically (Ribot & Peluso, 2003). 'Access' as defined by Ribot and Peluso (2003) is a more multifaceted term than 'access' as defined by property theorists. By defining access as the 'ability to derive benefits from things' and not the 'right to benefit from things', the ambit of the notion of access extends beyond property rights, sanctioned laws and conventions (called rights-based factors) to a broader range of 'strands', 'webs' and 'bundles of power' (operating parallel to rights-based factors) that can influence access patterns, within a certain context and at a particular moment in time (Ribot & Peluso, 2003). Ribot and Peluso (2003:153) refer to these 'strands', 'webs' and 'bundles of power' as 'mechanisms of access', which relate to the means, factors and processes that enable stakeholders' to gain, maintain and control the ability to benefit from a resource (Ribot & Peluso, 2003). 'Control' refers to stakeholder's ability to mediate others access and is complementary to 'maintenance' which is the process of expending resources and/or powers to keep access to the coast and its resources open to certain stakeholders. 'Gaining' access is a more general process by which access is established (Ribot & Peluso, 2003).

In summary, stakeholders have certain rights, values and interests which they seek to maintain or promote and they pursue these interests using certain means, factors and processes available to them, within the bounds imposed upon them by political-economic constraints. Powerful stakeholders, by actively pursuing their preferred agenda, are able to mobilise factors such as capital, technology, information and status in order to gain, maintain or control the benefits and benefit streams associated with a resource, whilst less powerful stakeholders must make use of other mechanisms such as social relations, coercion or labour to gain or maintain benefits from the same resource (Ribot & Peluso, 2003). According to Ribot and Peluso (2003), access analysis therefore involves identifying and mapping the 'mechanisms of access' by which access is gained, maintained and controlled. Whilst, the EIA process and the decisions emanating from it (e.g. decisions regarding whether or not to approve the development proposal, its overall planning and design and the specific conditions attached to approval) has already been identified as an overarching process that can significantly influence access patterns when considering large-scale golf estate developments along the coast, the following section continues to draw upon work conducted by Ribot and Peluso (2003) in order to develop a theoretical framework to guide the analysis and discussion on changing access patterns at each case study site. Furthermore, it seeks to identify a number of relevant 'mechanisms of access' that have been recognised by Ribot and Peluso's (2003) in their work. These theoretical ideas will then be used to guide the discussion (**Section 8.1**) in identifying some of the most

significant 'mechanisms of access' (working either outside of or parallel to the EIA process) that have been responsible for the changing access patterns at each case study site and the resultant changing beneficiaries identified in the research.

3.2.2 'Mechanisms of access' by which access is gained, maintained and controlled

In terms of the framework developed by Ribot and Peluso (2003) there are numerous 'mechanisms of access' that can influence stakeholders' ability to gain, maintain and control access to resources. These relate to the means, factors and processes that operate parallel to rights-based factors, which Ribot and Peluso (2003) identify in their work. Examples of some of the most relevant mechanisms that are applicable to this study are examined below.

Access to markets can significantly influence stakeholders' ability to commercially benefit from a resource (Ribot and Peluso, 2003). For example, in order to gain rights over a piece of land stakeholders must first enter into exchange relations or gain access to a market in order to put down the necessary tender required to purchase that property. Capital, in the form of wealth, is another means or factor that can shape who is able to benefit from a resource. It can be used for resource access control through the purchasing of rights. It can be used to maintain resource access through paying rent, access fees or buying influence over stakeholders with control over a particular resource. Generally those with access to capital can also gain access to other mechanisms that determine stakeholders' ability to benefit from things; owing to the power such wealth affords (Ribot & Peluso, 2003). These include social identity, education, coercion, forms of knowledge and realms of authority (Ribot & Peluso, 2003). Technology can also mediate stakeholders' access in a number of ways. Fences and other security measures, such as cameras and booms, create a physical and mental barrier to stakeholders, as these technologies symbolize intent to restrict access to other actors (Ribot & Peluso, 2003). In comparison, technologies such as roads are seen to provide means, which facilitate stakeholders' ability to gain access to resources that would not have been otherwise accessible. Finally, other relational factors such as, social relationships, negotiation, networks of communication, friendship, trust and reciprocity can also be used by stakeholders to maintain or gain access to a resource that would otherwise be difficult to access (Ribot & Peluso, 2003).

As rights-based factors work parallel to many of the mechanisms mentioned above (i.e. markets, labour, resource rights, technology etc.), and although they only constitute one set of factors amongst many others, they can significantly shape access patterns or resource allocation over a given historical period. In this regard, the transformation or introduction of new policies and laws can significantly enable or restrict stakeholders' ability to access resources. This was

evident during South Africa's Apartheid regime, whereby the majority of the population were denied access to vast stretches of the coastline on the basis of race (Sowman, 2006). Laws and policies enacted under a single government within a specific historical period can also often be fragmented, uncoordinated and conflicting, assigning rights and control over the same resource to different parties (Ribot & Peluso, 2003). These ambiguities can sometimes give state institutions and government appointees greater discretion in allocating rights of access to resources. This leaves resource users in the position of having to invest in social relationships with the state authorities and/or other powerful stakeholder groups, in order to maintain or gain access to a resource (Ribot, 1995). In these instances, access patterns can be influenced by more than just economic and social factors, but also by illegal factors such as corruption, manipulation, deceit, threats and coercion (Ribot & Peluso, 2003). Furthermore, instead of transferring user rights of access onto the local people, such discretionary power can lead to insecure arrangements or privileges being transferred to stakeholders, which can be changed at will by those with power, leaving those without such rights 'powerless' to combat any changes that may occur (Ribot & Peluso, 2003).

Access analysis therefore involves not only identifying rights-based factors inherent within legislation, customs and conventions but also identifying other means, factors and processes within a certain temporal or spatial context, by which stakeholders gain, control and maintain their ability to access the coast and its resources. Whilst the 'mechanisms of access' described above will be used to guide the discussion in **Chapter 8**, the actual process of analysing access patterns, as described by Ribot and Peluso (2003), involves:

- Identifying and mapping the flow of the particular benefit or interest;
- Identifying the mechanisms by which different actors involved gain, control, and maintain the benefit flow and its distribution.

Ribot and Peluso's (2003) access analysis framework has been slightly altered to suit the scope and context of this study. Accordingly, access analysis in terms of this study involves conducting a number of steps, which include:

- (1) Identifying the primary stakeholder groups and their respective interest in the coastal areas under examination.
- (2) Mapping, documenting and analysing the changing access patterns pre- and post-development approval.
- (3) Identifying the extent to which stakeholders' ability to access the coast and its resources has been restricted or enabled over this period.

- (4) Determining the most significant ‘mechanisms of access’ that have been used to gain, maintain and control access to the coast and its associated benefits.

The above mentioned access analysis framework has been applied to this study to identify the affected stakeholders and to examine the impact decisions to approve both coastal development proposals, has had on different stakeholders’ ability to benefit from the coast and its resources at each case study site. The findings from this research are reported on in **Chapter 6**, whilst the most significant ‘mechanisms of access’ responsible for changes in the coastal access patterns at each site are discussed in **Chapter 8**.

3.3 The theoretical ideas underpinnings of the EIA process

Part III of this chapter examines the theoretical ideas underpinning the EIA process. Through conducting interviews with a number of key informants from the southern Cape coastal region, EIA has been identified as one of the overarching processes used to identify, assess and address issues of coastal access when considering a development proposal along the coast. As such, this section is concerned with reviewing and analysing the role that the EIA process plays in influencing decisions that ultimately affect final development outcomes. It also reviews specific EIA literature related to four central aspects of the process that have been acknowledged through key informant interviews to have a significant influence on the extent to which issues of coastal access are identified, assessed and addressed in practice. In doing so, it seeks to examine some of the key factors that can influence specific aspects of the EIA process and lead to decisions that may differ from what national and local policies and legislation recommend, with respect to issues of coastal access. This is used to guide the discussion and analysis of this study with respect to the role that EIA plays in influencing stakeholders’ ability to access the coast and its resources at each case study site.

3.3.1 EIA as an overarching process used to identify, assess and address issues of coastal access in South Africa

The planning and design of large-scale golf estates situated along the coast can have a significant impact on stakeholders’ ability to access the coast and its resources. With respect to this, the major decision-making tools used to inform the planning and design of such developments in South Africa are principally the EIA and planning-rezoning processes (Van Zyl, 2006). Whilst both processes have an equally important role to play in the overall approvals processes of such development proposals, the EIA process in particular has been identified as one of the overarching processes that is used to identify, assess and address the likely impacts of a development proposal when deciding whether or not and on what terms to approve such

developments (DEA&DP, 2005; Van der Merwe, 2008; Van Zyl, 2006). The basis for this assumption is discussed in more detail below.

Prior to the introduction of a formal EIA requirement in terms of ECA (73 of 1989) and NEMA (108 of 1998), the assessment of large-scale golf estate development proposals was carried out on an ad hoc basis, relying on scientific advice and development control through administrative regulation (Glavovic, 2006). As a result developments that had significant adverse effects on the environment went largely unregulated and their impacts unmitigated (Sandham & Du Pisani, 2006). This left a legacy of poorly planned developments that proceeded in an uncoordinated and exploitative fashion with little consideration for the socio-economic impacts associated with such activities (Sowman, 1993). In the coastal zone, this situation was further exacerbated through the approval of large-scale developments along the coast, which due to their size and nature cut off vast tracts of coastal land to a variety of stakeholders (Sowman, 1993; DEA&DP, 2005). This trend has had serious implications for local communities and other stakeholders who have been denied access to the traditional benefits associated with the coast and its resources (DEA&DP, 2005).

Post Apartheid, the enactment of new environmental legislation made EIA a formal requirement for a wide range of activities that may have a detrimental effect on the environment in South Africa (Glazewski, 2000). The first formal EIA legislation emerged in terms of the 1997 EIA regulations promulgated under the Environmental Conservation Act (73 of 1989). Large scale developments such as large-scale golf estates are now required by law to conduct a formal EIA process which must include, amongst other things, the identification of issues and impacts associated with the relevant proposal, the consideration of alternative development options, as well as the identification of possible mitigation measures in order to prevent irreversible harm to the surrounding biophysical and social environment (DEAT, 2000; DEA&DP, 2005). Furthermore, in the course of conducting the EIA, practitioners must take account of other relevant legislation to inform the related process. Promoting the public's right of access to the coast and its resources is a key principle of the White Paper for Sustainable Coastal Development in South Africa (DEAT, 2000) and thus measures to retain such access in the long term must be provided for in the EIA process, which includes facilitating historical access routes over private land (DEAT, 2000). Principles such as these, as well as other relevant provisions and principles contained within South Africa's legal framework enacted post Apartheid, mean that the EIA process is one of the key processes that can influence how coastal access is reconfigured in South Africa.

3.3.2 Theoretical ideas underpinning the role that the EIA plays in identifying, assessing and addressing impacts of a development proposal

EIA is an environmental management tool that is used to manage the impacts associated with developments that can lead to adverse effects on the natural and human environment (Le Gouais, 2003). It is a process of identifying, predicting, evaluating and mitigating the biophysical, social and other relevant effects of proposed projects and physical activities prior to major decisions and commitments being made (Sadler, 1996). The philosophy and underpinning principles of EIA can be traced back to the 1960's where an emerging movement towards a rationalist approach to decision-making required that a technical evaluation be made to provide the basis for objective decision-making which would ultimately result in a solution that would be in the best interest of society as a whole (Jay et al., 2007). Since its introduction it has evolved substantially, at least in theory, toward a broader more integrative, participatory assessment process with stronger socio-political dimensions and more methodologically diverse and specialized scientific-rational foundations (Sadler, 1996). As such, it now has numerous objectives which relate to improving the environmental planning and design of proposals, informing decision-making, institutional reform and enhancing societal benefits with the ultimate goal of promoting sustainability in order to benefit both present and future generations (Sadler, 1996; Hill, 2004; Jay et al., 2007).

Although there have been significant advancements in the theoretical understanding of how EIA works in different jurisdictions around the globe, it is acknowledged that EIA legislation and practices seldom conform to the idealised, largely positivist theory have been developed in an attempt to improve its substantive and procedural effectiveness (Cashmore et al., 2004). Especially in developing countries, the EIA process is still often characterised by a rational, scientific approach to planning and decision-making (Morrison-Saunders & Arts, 2004). This is characterised by a conventional techno-rational approach to EIA whereby information relating to baseline environmental conditions and projections of future change are processed and given to a central decision-maker who is assumed to be apolitical in nature (Barlett & Kurian, 1999; Hill, 2005). It focuses on quantitative methods for impact prediction, viewing more and better information as producing the right decision. It views public involvement as a necessary but limited process, used mainly as a source of information and ignores hidden political agendas and/or ulterior motives (Bartlett & Kurian, 1999). In reality, environmental planning and decision-making is far more complex than this rather simplistic, linear account of rational decision-making and in practice one finds that the implementation of a related development proposal is often subject to various factors that can undermine the process resulting in final

outcomes that somewhat differ from what is expected or sought (Morrison-Saunders & Arts, 2004).

The following section therefore examines certain theoretical ideas linked to specific aspects of the EIA process that have a bearing on how social issues are identified, assessed and addressed. These aspects include: (1) The public participation process; (2) the identification, assessment and reporting of social impacts within the context of EIA; (3) the decision-making process; and (4) the implementation and management of the development activity. The theoretical ideas relevant to each aspect of EIA are now discussed in turn below.

3.3.2.1 The public participation process

Public participation is a fundamental component of EIA and SIA good practice (Wood & Hartley, 2005). The benefits of involving the public in the EIA process is well documented in the literature which recognises that it can add value to a development project by promoting public values and societal objectives; promoting accountability, efficiency, equity, empowerment and transparency throughout the process; and avoiding public controversy and conflict (Wallace-Jones & Del Furia, 2000; Sandham & Pisani, 2005). Despite this there are a number of factors which can significantly undermine stakeholders' ability to effectively participate in the EIA process. This can in turn affect the extent to which social issues such as issues of coastal access are identified and incorporated in the EIA process and subsequently influence the overall planning and design of the relevant development proposal and decisions formulated as to whether or not to approve such a development and on what terms.

The public participation process gives stakeholders the opportunity to voice their opinions and question predictions made regarding a relevant development proposal. However, unless stakeholders have sufficient understanding of their basic rights, technical information regarding the nature and scale of the likely effects of a development activity and the basic procedures and timeframes of the EIA process, the stakeholder participation process can be severely compromised (Bisset, 2000; Hartley & Wood, 2005; Doelle & Sinclair, 2006). Furthermore, gaining access to such information and enhancing ones knowledge in order to effectively participate in such EIA processes is made difficult through inaccessible information, incomplete information (e.g. information obtained through assumptions or uncertain estimates) and overly technical discourses adopted by the facilitating consultant (Diduck & Sinclair, 2002). With respect to this, Van Zyl (2006) argues that the public's lack of understanding of the dynamics of golf developments and their lack of understanding of the environmental and planning policies regulating such developments, is a major obstacle to constructive co-operation between

stakeholders. Hamann (2000) re-iterates this point by acknowledging that many disadvantaged communities in South Africa are not properly educated about their rights in terms of the Constitution and NEMA, which makes meaningful participation very difficult. As a result, the more deprived communities are not always in a position to successfully resist development proposals which may eventually have more negative social impacts than positive ones, as they lack the knowledge to challenge proponent and state positions with regards to the development proposal (Du Pisani & Sandham, 2006).

In relation to this, the control different individuals and groups have over public participation proceedings can also significantly affect the extent to which stakeholder's issues and concerns are addressed in the particular EIA process. In many instances, stakeholders with different values and interests manipulate and construct various arguments to advance their preferred outcome (Bartlett & Kurian, 1999, cited from Hill, 2004). Without access to knowledge and important information regarding the development proposal and its likely impacts, those with control over such information or knowledge can shape discursive terms and/or use technical information or mis-information to manipulate poorer, less-informed stakeholder's perceptions (Diduck & Sinclair, 2002). Flyvbjerg (1998) argues that this characteristic of power, its ability to hold back or facilitate knowledge transfer, is the very thing that makes one party more powerful than the next. Stakeholders operating within a specific public participation process therefore have certain rights and values which they seek to maintain or promote and they pursue these interests using certain factors available to them (i.e. time, money, social relations, status etc.) within the bounds imposed upon them by socio-political constraints (Stolp et al., 2002; Ingram et al., 1984, cited from Morrison-Suanders & Bailey, 2009).

The method of public participation used can also significantly affect the extent to which different individuals and groups' issues and concerns are identified and addressed throughout the related public participation process. Different methods of public participation exist which involve the public to varying extents using a variety of methods (Rowe & Frewer, 2004). Innovative methods (e.g. focus groups) work directly and consistently with stakeholders to ensure that their concerns are addressed throughout the process thus empowering them to inform the final outcome, whilst more traditional methods (e.g. public meetings) are based on receiving feedback from stakeholders and keeping them informed (DEA&DP, 2005). Whilst low level methods characterised by top-down communication and a one-way flow of information may be appropriate for more technical based decisions, value-based decisions may require more participatory methods that involve dialogue and a two-way information exchange which gives the public some authority over the decisions and their outcomes (Rowe & Frewer, 2000; Rowe & Frewer, 2004). The effectiveness of a public participation method used will therefore

depend on the specifics of a certain project and on key principles relating to fairness, competence, independence, representativeness, early involvement, transparency, empowerment and the degree of influence it has on the final outcome of the development proposal (Petts, 1995; Webler, 1999; Barnes, 1999; Rowe & Frewer, 2004).

Hamann (2000) identifies the importance of social capital in public participation processes and the 'ramifications that inter-personal and inter-group networks of communication and trust' can have on these processes. This concept can be likened to 'social identity' and 'social relationships', which profoundly shape the distribution of resources and who is able to benefit from what (Ribot & Peluso, 2003). In his work Hamann (2000) identifies groups of actors that form loose affiliations with other actors who share the same values or discourses with respect to the relationship they envisage the development activity is having on the environment. This point is reiterated by other academics (O'Faircheallaigh, 2010 citing Lawrence, 2003) who acknowledge that groups of people, often those that are marginalised, will sometimes need to work outside of such decision-making processes in order to promote their own bargaining position, which can require the ability of that actor to attach themselves to a social institution or group with the same agenda or interest in that system. Active individuals within these groups can then engage with and within state institutions and civil society organisations to influence the decision making process and its outcome (Hamann, 2000). This creates a situation where stakeholders who usually lack the necessary information or knowledge can use their social identity and/or social relationships to effectively participate in the EIA process. In this instance, groups use their privileged position within the group to mobilise resources that may not have been available to the individual by themselves (Hill, 2004). It also helps marginalised communities to effectively participate in procedures or processes that otherwise would have been perceived as being unfamiliar and intimidating to them (O'Faircheallaigh, 2010).

3.3.2.2 The identification, assessment and reporting of social issues and impacts

The identification and assessment of social impacts during the reporting stage of the EIA process is largely accepted as an action-forcing mechanism of the process (Hill, 2004). The environmental assessment practitioners (EAPs) tasked with compiling the reports have control over privileged information with regards to measuring, predicting and reporting on the potential impacts of a certain activity, whilst meeting the bare requirements of relevant legislation and policy (Shepherd & Bowler, 1997). These EAPs are employed by the development proponent to advise them on relevant EIA policies, to assist them in dealing with the administrative aspects of EIA and to undertake the technical work necessary to prepare the required report (Morrison-Saunders & Bailey, 2009). The information generated by this

analytical process contributes to the environmental design of the proposal and the formulation of decisions on whether or not, and on what terms, the development should be approved (Cashmore et al., 2004). In many cases, full discretion is given to the EAP in deciding what methodologies to use and how to approach the related assessment (Wilkins, 2003). This requires making a decision with regard to whose definition of an impact, value or fact is considered to be legitimate whilst dismissing those that are seen as being subjective, emotional or irrelevant (Lockie, 1999). As such, the final report developed is generally a mixture of different sources of information, which are presented by the practitioner in his/her own way (Bailey & Saunders, 2009). Whilst the information that is processed and reported on is assumed to be done so in an objective manner, such technical rationality is generally hard to apply in practice owing to the competing interests, norms, values and beliefs that often characterise multifaceted social circumstances (Lockie, 2001; Vanclay, 2002; Barbour, 2007). The extent to which issues of access are heard and addressed in the relevant report will therefore often depend on the EAP's technical expertise and their ability to provide relevant information that conceptualises the extent of the impact (i.e. local, regional, national), the duration of the impact (i.e. short-, medium- or long-term), the significance of the impact (i.e. high or low) and the impacts overall effect on the surrounding environment (i.e. positive or negative). It will also depend on their ability to incorporate stakeholder's interests, views and perceptions into the process in an appropriate and fair manner.

In relation to this, the information regarding for example the social impacts of a development proposal, which have been identified and assessed and reported on by a relevant EAP, are largely perceived to be insufficient in developing countries owing to the inadequate and relatively undeveloped practice of SIA in such regions (Kakonge, 1999; DEA&DP, 2005; Du Pisani & Sandham, 2006; O'Faircheallaigh, 2010). The factors responsible for such shortcomings have been well documented in the available literature (both from Southern Africa and internationally) and are summarised in **Table 1** below.

| Factors | Comment |
|---|---|
| Narrow assessment of the associated socio-economic impacts | EAP's often focus on the social impacts of isolated developments over the short to medium term, whilst ignoring the cumulative and longer term impacts that a development can have on the receiving social environment. EAP's also tend to focus on socio-economic impacts that are conceptually or politically convenient instead of assessing the full range of significant socio-economic impacts (Vanclay, 1995; O'Faircheallaigh, 1996; Vanclay, 2002; DEA&DP, 2005; Sandham et al., 2005; Du Pisani & Sandham, 2006); |
| Technical expertise and information deficiencies | Often EIA reports are conducted by practitioners who have a natural science rather than a social science background or those who lack adequate training. This problem is exacerbated by a general lack of baseline information or guideline documents to direct SIA's in developing countries (Kakonge, 1999; |

| | |
|--|--|
| | Vanclay, 2002; Du Pisani & Sandham, 2006); |
| Uncertainties, information gaps and time restrictions | The uncertainties and gaps in data bases which inevitably result from time, information and funding restrictions imposed upon the EAP's, force assessors to make value-based interpretations and general assumptions of the potential impacts of a proposed development (O'Faircheallaigh, 1996; Sager, 2001; O'Faircheallaigh, 2010); |
| Poor legal frameworks | Ineffective regulations and ambiguities within legislative provisions which undermine the administrative process to be followed and allocate conflicting rights to the same resource can significantly undermine the associated process (Lee et al., 1995; Rassouw et al., 2003); |
| Bias | There is potential for consultants to be biased as they are funded by the developers or proponents of the development (DEA&DP, 2005; Du Pisani & Sandham, 2006; Sandham & Pretorius, 2008); |

Table 1: A summary of the major factors perceived to undermine the identification and reporting of social impacts within the EIA context

In summary, a number of factors that can potentially influence the identification, assessment and reporting of social impacts within the EIA process have been identified through reviewing the relevant literature. With respect to this, the EAP's privileged control over important information contained within the EIA report has been identified as one of the key factors influencing the extent to which selected issues are identified, assessed and reported on during this aspect of the EIA process. Other factors related to the EAP's technical expertise, their access to relevant and complete information, their ability to conduct holistic studies and provide objective reports and the legislative and political provisions that guide the EIA process, have all been identified as potential problems associated with this aspect of the EIA process. These inherent shortcomings can significantly alter the nature of the information contained within the EIA report and thus affect the extent to which particular issues are identified, assessed and addressed in the EIA process. Moreover, such information contributes to the overall environmental planning and design of the development proposal and informs decisions on whether or not, and on what terms, the development should be approved.

3.3.2.3 The decision-making process

EIA is not merely a tool designed to gather and assess environmental information to aid project authorisation but can be described as a decision process, whereby decisions are made at every stage of the process from project screening and the identification of significant impacts during scoping, through to the consideration of alternatives and mitigation measures and on to project authorisation and beyond (Brown & Hill, 1995; Glasson et al., 1999; Weston, 1999). Whilst this is acknowledged, in terms of this study the decision-making process refers to decisions made by a competent authority that has been legally empowered to do so at the scoping report and Record of Decision (ROD) stages.

The values of decision-makers engaged in EIA play a significant role in its final outcomes due to the considerable subjective nature upon which EIA is based (Wilkins, 2003). Whilst it is assumed that such decision-makers will act in a value free, apolitical manner to meet specific goals and objectives that benefit society as a whole, this rational-comprehensive approach to decision-making has been strongly criticised by academics who view the separation of means and ends (and even the identification of clear ends) and the assumption that these ends can be met without political, social and personal influences that generally characterise decision-making processes, as being unrealistic in practice (Sadler, 1996; March, 1994; Kornov & Thissen, 2000; Wood & Becker, 2005). In reality decision processes have increasingly been recognised as involving more than the simple use of objective scientific information in a comprehensive rational manner, but instead are seen as complex multi-dimensional processes formulated on a basis of subjective judgements and values (in addition to technical criteria) which vary between individuals and different situations (Lawrence, 1993; Beattie, 1995; Tewdwr-Jones, 1995; Kontic, 2000; Lui & Lai, 2009). In this regard, certain factors affecting the decision-making process can influence the overall planning and design of a development proposal and lead to outcomes that are not in alignment with national and/or local policies.

Access to knowledge and information can have a significant influence on decisions in the EIA process as these factors play a significant role in shaping an actor's beliefs, values and ideologies in a system (Weston, 1999; Ribot & Peluso, 2003). This is recognised by Simon (1957) who acknowledges that rational decision-making cannot be achieved in reality due to incomplete human knowledge, competing interests and values that underlie objectives and goals and the limited capacity actors have for the rational analysis of alternatives in complex situations (Wood & Jones, 1997). Decision-makers access to knowledge is limited by their mental capacity which means that they are only able to cope within these limits and with a limited volume of information (Kornov & Thissen, 2000). Encyclopaedic and highly technical information employed in many EIA reports can be seen as a barrier to effective decision-making in this regard, especially in the face of time and financial constraints and a lack of technical expertise - a significant constraint for most government departments in developing countries (Duthie, 2001; Cashmore et al., 2004). EIA processes are often characterised by a high level of confusion and complexity owing to the multiplicity of stakeholders whose interests and views need to be accounted for (Kornov & Thissen, 2000). Decision-makers therefore have to consider uncertain outcomes, act in a political system and face many new and interlinked situations and problems when making trade-offs between alternative courses of action (Kornov & Thissen, 2000). With incomplete information and knowledge about different alternatives, consequences and preferences, decision-makers are forced to make value-based judgements and as a result there

will always be a degree of uncertainty and risk about the eventual impacts of a decision made which can sometimes lead to undesired outcomes and conflict (Kornov & Thissen, 2000). The lack of decision criteria and transparency in decision processes also allows authorities to make value judgements on what should be happening in society, a problem which is further exacerbated by a prevailing 'asocietal mentality' (an attitude that humans do not count), which has been documented to influence some decision processes globally (Burdge & Vanclay, 1995; Du Pisani & Sandham, 2006).

Another situation whereby decision processes do not follow the rational decision-making model is when decision-making is confined by rules and conventions (Kornov & Thissen, 2010). The fact that the administrative framework for EIA emerged from a political imperative and not a scientific background means that political factors play an important role in the decision process (Morrison-Saunders & Bailey, 2003). Within this context, decisions can be seen as consequences of standardised working procedures, professional standards, cultural norms and institutional structures (March, 1994). Ambiguities within laws, customs and conventions can significantly shape decision-making processes. Laws and policies enacted under a single government within a specific historical period can often be fragmented, uncoordinated and conflicting, assigning rights and control over the same resource to different parties (Ribot & Peluso, 2003). This can have a significant influence on the decisions pertaining to a particular development proposal and the extent to which national and local policy objectives, such as providing the public with access to the coast, inform the final development outcomes (Petts, 1999). Commitment to statutory objectives and goals in these situations will mean very little unless decision-takers have and display the necessary leadership skills when using their available resources to pursue such ends (Mazmanian & Sabatier, 1983). This situation is exacerbated by legislative provisions that are introduced without due consideration of the governmental institutional requirements in terms of their organisational structure, staffing and capacity development (Duthie, 2001; Cashmore et al., 2004).

The political nature of decision-making in the EIA process means that decisions are often difficult to predict because they are reached through a process which involves trade-offs, compromise and stakeholder interactions and may reflect power relationships and vested interests (Cashmore et al., 2004). Many determinants need to be weighed when making these decisions, which include environmental factors, financial costs, societal benefits and costs, economic and political priorities (Hill, 2004). It is therefore highly improbable that decisions made in political arenas and informed by science will be truly rational (Cashmore et al., 2004). This is not entirely a consequence of poor quality work, but often arises as a result of diverging expectations about the information that is generally required for effective decisions to be made.

Cashmore et al. (2004) link this problem to the lack of decision-orientated theory that has been conducted on considering how EIA can evolve to interact and interface more effectively with decision processes. He calls for greater attention to be given to factors such as ‘the nature and form of decision processes; the needs and requirements of decision makers, in terms of input timings and types; and the broader institutional, political and socio-cultural context in which decision making occurs’ (Cashmore et al., 2004, pg. 303).

3.3.2.4 The implementation and management of the development activity

Once decision-makers have given their final approval or authorisation and stipulated conditions of approval, the development can proceed. Developers are seldom given *carte blanche* to proceed as they like as often the ROD will contain a number of conditions which aim at mitigating environmental damage and enhancing societal benefits (Southern African Institute of Environmental Assessment, 2003; Fuggle & Rabie, 2009). The nature and content of the conditions of approval will flow from various stages of the EIA process (e.g. the public participation process, the reporting stages and the decision stages) and as a result will be largely dependent on the factors already discussed in the previous sections. However, the extent to which these conditions of approval are implemented and the methods of management used can also have a significant influence on the outcomes of the development proposal and the extent to which issues and impacts identified throughout the process are addressed in practice.

Whilst setting conditions of approval presupposes the enforcement of such conditions (Fuggle & Rabie, 2009), in many instances this is not the case, especially related to EIA practice in developing countries (Southern African institute of Environmental Assessment, 2003). Here, the general lack of enforcement in ensuring that mitigation measures or conditions and recommendations of the EIA process are implemented in practice, seriously undermine the entire EIA process (Hulett & Diab, 2002; Fuggle & Rabie, 2009; Kolhoff et al., 2009). In practice, enforcement procedures and ensuring that developments comply with Record of Decision (ROD) conditions can be instigated by various stakeholders, including government authorities who generally use command and control⁶ techniques to regulate development activities, proponents of the development through self regulatory procedures conducted at their own discretion (e.g. Environmental Management Systems) or through public pressure by media attention or lobbying interest groups (Morrison-Saunders & Arts, 2004). In the case of government authorities, weak enforcement can generally be linked to capacity constraints felt by such institutions (Saddler, 1996; Wood, 1999; Duthie, 2001; Hulett & Diab, 2002; Fuggle &

⁶ Morrison-Saunders and Arts (2004) refer to command and control techniques approaches to EIA follow-up as ‘permits, standards, surveillance, enforcement and prosecution of offences for non-compliance’.

Rabie, 2009). This can be associated with staff shortages specifically in the compliance and enforcement areas, a lack of technical expertise to carry out the necessary procedures (e.g. human capacity constraints), capital constraints in the form of finances, time constraints and a lack of the latest technologies and methods to deal with complex issues that usually characterise environmental issues (Ahmed, unknown; Duthie, 2001; Gu & Sheate, 2005). This is why provincial and local authorities must often rely on reports from the public or media and the integrity of the developer and their consultants for information about instances of non-compliance (Wood, 1999). If the government subsequently fails to act or is reluctant to take further steps to ensure compliance (which is sometimes the case) stakeholders will be forced to take the developers to court in which case they will need substantial capital in the form of legal fees and sufficient time and information to make their case against the development (Fuggle & Rabie, 2009).

Apart for ensuring compliance with the conditions imposed in the ROD, follow-up and post-decision monitoring are also identified as critical elements to the effective implementation of EIA (Saddler, 1996; Wood, 1999). Within the context of this study the term 'follow-up' is used as an umbrella term for various activities that take place once an approved action is implemented and includes monitoring, auditing, ex-post evaluation, post-decision analysis and post-decision management (Morrison-Saunders & Arts, 2004). Through monitoring, auditing and evaluation, EIA follow-up can ensure that the expected benefits of EIA forecast during the pre-decision stages of the process are achieved during project implementation and management and by incorporating feedback into the EIA process it can enable learning from past experience and promote effective EIA practice in the future (Morrison-Saunders & Arts, 2004). Without this process EIA can be seen as little more than an administrative hurdle in order to obtain project approval as developments will be able to proceed with little concern for predictions that are inaccurate and they will suffer no ill consequences for their actions (Morrison - Saunders et al., 2001; Dipper et al., 2010). Whilst legislative and regulation deficiencies can be seen as a significant reason for the relatively limited number of EIA follow-up activities that are conducted in developing countries, Hulett and Diab (2002) view this as an inconsequential barrier. Instead they view financial constraints, stakeholders' lack of interest in conducting EIA follow-up and their lack of knowledge as to what EIA follow-up entails, as being responsible for the perceived lack of follow-up practices in reality. Morrison-Saunders and Arts (2004) also recognise that the limited amount of research that has been conducted to improve the principles and guidance on how to conduct EIA follow-up studies, is a major challenge to its implementation and that follow-up procedures require considerable resources in terms of time, money and staff for both the proponent and the regulatory agency.

Chapter 4: Policy and Legislative Review

4.1 Introduction

As mentioned in the literature review, many developing countries around the world have secured and granted public access to the coast within the context of ICM policies and legislation. However, apart from Environmental Impact Assessment (EIA) processes there have been limited programmes, projects or monitoring initiatives developed in response to such laws to ensure its provision in practice (Celliers et al., 2009; Navarro, 2000). The extent to which ICM policies and legislation are taken into account in EIA processes can therefore have significant repercussions for stakeholders in terms of their access to the coast. This review is therefore concerned with identifying key principles and provisions relevant to coastal access, contained in South Africa's legal framework that should inform EIA processes and decisions. The information drawn from this review will then be used to determine whether such provisions and principles enacted post democracy, have been acknowledged and considered in the EIA's conducted for the two large-scale golf estate developments under examination.

4.2 The EIA process in terms of the Environmental Conservation Act (73 of 1989)

Post the democratic election, the enactment of new EIA regulations promulgated under the Environmental Conservation Act (73 of 1989) made EIA a formal requirement for a wide range of activities that may have a detrimental effect on the environment in South Africa (Glazewski, 2000). From 1997 onwards, developments such as large-scale golf estates along the coast, were therefore required by law to conduct a formal EIA process in order to identify, evaluate and mitigate against any biophysical, social and economic impacts that were likely to occur prior to any major decisions being made (Van Zyl, 2006). The EIA regulations promulgated to give effect to sections 21, 22 and 26 of ECA set out a substantive body of rules regarding the actual conduct and contents of environmental authorisations⁷, with a strong emphasis on scoping and public participation and were accompanied by a list of identified activities⁸ that would require an EIA to be conducted (Glazewski, 2000; Sandham & Pretorius, 2008; Fuggle & Rabie, 2009). **Figure 4** summarises the related EIA administrative process, when the public is involved and at what stages decisions are made by the relevant authorities.

⁷ Government Notice R. 1183 (1997)

⁸ Government Notice R. 1182 (1997)

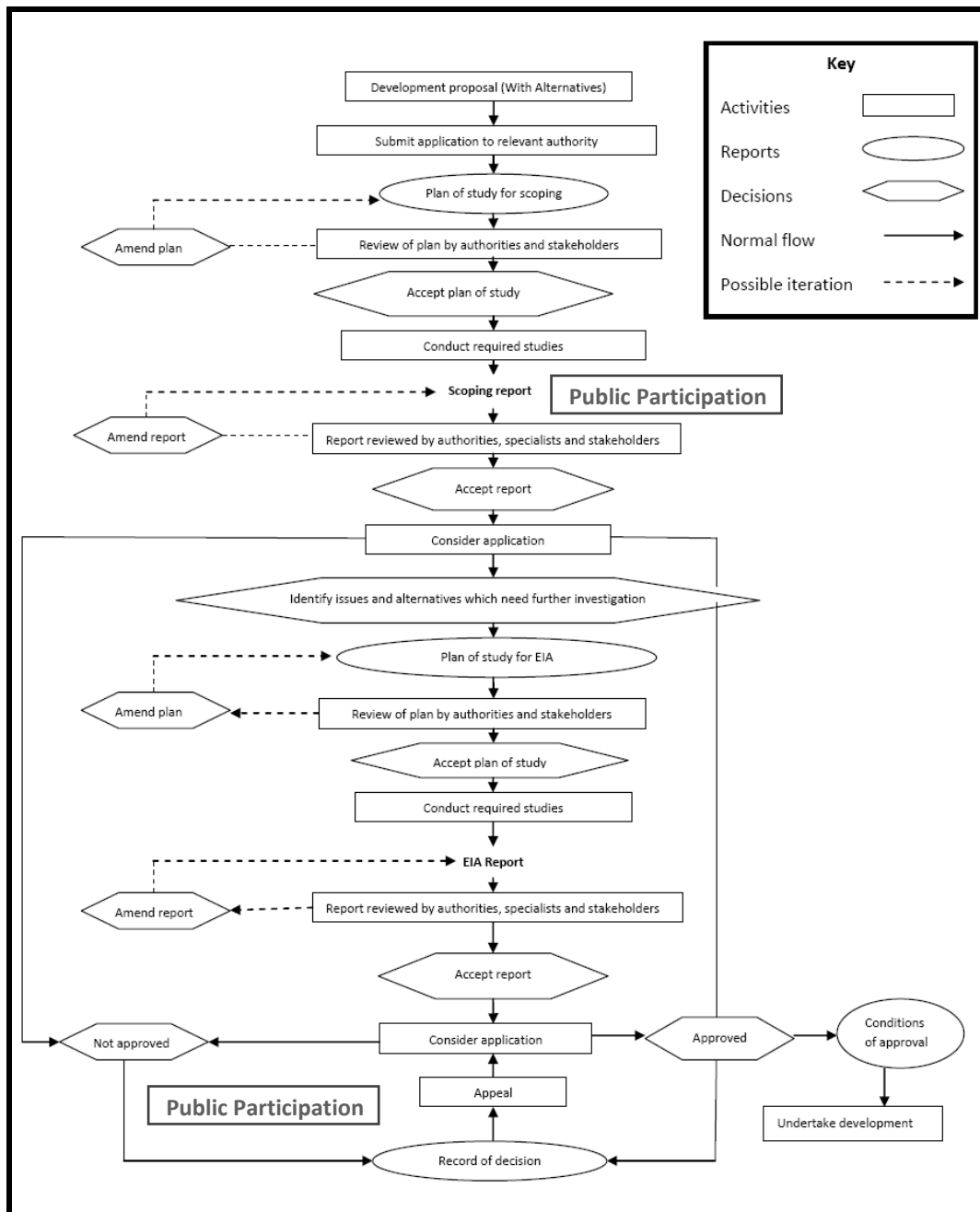


Figure 4: The EIA administrative process (DEAT, 1998)

A little over a year after the ECA EIA regulations had been in effect, the National Environmental Management Act (107 of 1998) was enacted and came into effect on the 1 January 1999. As a result, the existing EIA regime operated in parallel with certain NEMA provisions set out in Chapter 5, which listed the general objectives of IEM and their implementation⁹. From 1999 to 2006, when new regulations¹⁰ promulgated in terms of NEMA repealed sections 21, 22 and 23 of ECA, it appeared that relevant authorities were using ECA for ‘identified activities’ required

⁹ Section 23 and 24 of NEMA (107 of 1998).

¹⁰ Government Notice No. R. 385, R. 386 and R. 387 in Government Gazette No. 28753 of 21 April 2006.

by law whilst they were applying Section 24¹¹ of NEMA to those activities which may significantly affect the environment but were not identified activities in terms of ECA (Fuggle & Rabie, 2009). Chapter 5 of NEMA is discussed in more detail below. Both developments being studied were given approval prior to 2006 and as a result both conducted their EIA processes in term of the Environmental Conservation Act (73 of 1989) and the 1997 EIA regulations promulgated under this Act. The focus of this review will therefore be on the ECA EIA regime.

4.3 Assessing social impacts within the context of EIA

In South Africa, as is the case in many countries, the assessment of social impacts has been fully incorporated into the EIA process as a result of the recognition that social considerations, such as public access to the coast and its resources, must be included in the evaluation and decision-making process (Burdge & Vanclay, 1996; Du Pisani & Sandham, 2003). This is largely due to the broad definition given to the 'environment' in environmental legislation which has been expanded to include not only a biophysical component, but also an 'economic' and 'social component' which is in line with the triple bottom line approach to sustainable development and the spirit of agenda 21 (Burdge & Vanclay, 1996; Du Pisani & Sandham, 2003). In South Africa, the need to include social issues within the EIA context is underpinned by two key pieces of legislation, namely the Constitution of the Republic of South Africa and the National Environmental Management Act (108 of 1998). Each contains principles and objectives that help inform the EIA process by providing a benchmark for social sustainability (Barbour, 2007). These legal principles and provisions have had a significant bearing on development activities that affect the environment in South Africa and mean that considerations for social impacts, such as public access to the coast, carry equal weight with both economic and biophysical impacts (Du Pisani & Sandham, 2003). The following section therefore seeks to identify key principles and provisions from each of the above mentioned pieces of legislation that are important in promoting public rights of access to the coast and its resources.

4.4 The Constitution of the Republic of South Africa (Act 108 of 1996)

The Constitution is the supreme law of the land and thus provides a framework for all policies and legislation regulating and managing coastal development in South Africa (DEAT, 2000). Section 24 of the Constitution sets out the provision for the environmental right, which each and

¹¹ Section 24 is entitled 'Implementation' and sets out the general objectives of integrated environmental management laid down in Chapter 5 (DEAT, 1998).

every person in South Africa is entitled to¹². This imposes a constitutional duty on the State to protect the environment through measures that secure ecologically sustainable use of natural resources *whilst* promoting necessary economic and social development. This important provision has also been the starting point from which South Africa's environmental legislation has been born over the past twelve years. As such, the significance of the environmental clause is discussed in further detail below, in addition to some other important provisions contained within the Constitution which are particularly relevant for this study.

4.4.1 The significance of the 'environmental right' clause

Prior to 1990, environmental protection in South Africa was mainly regulated in an uncoordinated and reactive manner through sectoral legislation regulating specific environmental activities (Fuggle & Rabie, 2009). The enactment of the Constitution (1996) has resulted in major advancements in environmental protection by including a provision for an environmental right which each and every person was entitled to, creating a more co-ordinated and integrated approach to environmental protection at a national level (Fuggle & Rabie, 2009). Whilst the interpretation and ambit of this provision is discussed in more detail below, the case *BP Southern Africa (Pty) Ltd v MEC for Agriculture, Conservation, Environment and Land Affairs* (2004) specifically highlighted the significance of the Constitution's 'environmental right' in terms of including socio-economic considerations into environmental decision-making. Here the court noted that the inclusion of a provision for an environmental right in the constitution 'elevated the environment into a justifiable human right and meant that South Africa irreversibly embarked on a road that would potentially lead to the goal of attaining a protected environment by an integrated approach, which considered, inter alia, socio-economic concerns and principles'¹³.

Section 24(a) entitles citizens 'to an environment that is not harmful to their health or wellbeing'. The term 'well-being' elevates the environmental right into a 'not readily determinable realm' as it implies that the environment has an inherent worth or intrinsic value that should not be undermined through development, pollution or other activities (Glazewski,

¹² Everyone has the right -

- (a) to an environment that *is* not harmful to their health or well-being; and
- (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that-
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development

¹³ *BP Southern Africa (Pty) Ltd v MEC for Agriculture, Conservation and Land Affairs* 2004 (5) SA 124 (W) at 144B-D.

2005:p. 77). Denying a person access to the coast, a public asset held in trust by the state, would be in contravention of this provision in that it affects an individual's well-being or ability to enjoy life. A person's health or the ability to secure adequate food, another constitutional right, can also be affected through various activities and actions that restrict historical access routes to the coast and its resources by denying them the ability to sustain their associated livelihoods (e.g. subsistence fishers).

4.4.2 Co-operative governance

The duty is also placed on every government authority and institution, whether it is national, provincial or local, to take reasonable steps within their current functions as well as future plans to ensure that the environmental right is adhered to and properly implemented. Many complexities associated with the coastal zone and its management can make this a difficult task. These problems include ever changing boundaries associated with the dynamic interface between land and sea, conflicting interests between local, provincial and national authorities, overlapping areas of jurisdiction between government departments, as well as the differences in international instruments and domestic laws that regulate different activities within the coastal zone (Glazewski & Haward, 2005). Chapter 3 of the Constitution, entitled Co-operative Government, therefore seeks to deal with integrating divided jurisdictions and overlapping areas of responsibility in order to minimise the likelihood of such problems presenting themselves in practice.

4.4.3 The right to property

Section 25 of the Constitution protects the right to property. As public rights of access to the coast are often gained, maintained or controlled through the acquisition of property rights (Ribot & Peluso, 2003; Glazewski & Witbooi, 2005), the interpretation of this provision through judicial precedent will have significant implications for affected stakeholders when determining conflicting interests which relate to the public's right of access versus existing property owner's exclusionary rights.

4.4.4 Progressive judicial and administrative provisions

Section 32 of the Constitution states that, "everyone has the right to access information that is held by the state or another person which is required for the execution or protection of any rights". This provision gives stakeholders the right to obtain the necessary information in order to inform themselves of and/or to participate meaningfully in planning and decision making processes that have the potential to impact upon their lives. It also gives stakeholders the ability

to obtain the necessary information required for them to challenge a decision or action in court. The Promotion of Access to Information Act (2 of 2000) has been enacted to give effect to this constitutional provision. Section 33 of the Constitution states that, “everyone has the right to just administrative action”. It requires administrative action that is lawful, reasonable and procedurally fair¹⁴. Similarly, the Promotion of Administrative Justice Act (3 of 2000) has been promulgated to clarify the content of this Constitutional imperative. There has been a law made that gives effect to this law, which is called the Promotion of Administrative Justice Act (3 of 2000). The Constitution has also introduced the liberalisation of the legal standing or *locus standi* requirement which is very important in that it gives a much wider range of individuals who believe that their rights have been infringed or threatened upon the right to approach the court¹⁵. Previously, individuals were required to have some degree of personal interest in the administrative action under challenge which often impeded individuals and environmental groups from bringing environmental actions to court.

All three sections of the Constitution mentioned above (Section 32, 33 and 38) and the two acts (PAJA and PAIA) that have been enacted to give effect to these provisions, contribute to protecting stakeholder’s rights to access the coast by bringing equality to administrative and judicial actions in South Africa. They also provide mechanisms for individuals and groups to challenge decisions made during and after the EIA process in court. As South Africa’s coastline becomes increasingly developed and privatised conflicts of this nature are inevitably going to increase. In these instances, the only way for the public to gain perpendicular access to the ‘sea’ and the ‘sea-shore’ is on the relatively undeveloped common law notion of Immemorial user (*vestustas*¹⁶) and through public servitudes that were stipulated in the original deed of grant or subsequent title deeds. This places a large responsibility on the judicial arm of the law to see that the interpretation of provisions and principles set out in relevant laws and policies, regarding access to the coast, are in line with the spirit of the Constitution. With changing public values regarding the environment and the above mentioned provisions and legislation, judicial precedent is likely to have a significant effect on the realization of public access to the coast, though to what extent remains to be determined.

¹⁴ Section 33(1) of the Constitution

¹⁵ Section 38 of the Constitution

¹⁶ Refers to the common law notion of Immemorial user, whereby one needs to prove in a court of law that they have been using an access route for ‘a time extending beyond the reach of memory, record, or tradition’.

4.5 National Environmental Management Act (107 of 1998)

NEMA was enacted in 1998 to give effect to the constitutional obligations and entitlements afforded by Section 24 of the Constitution. It contains a number of instruments to promote and give effect to the principle of co-operative governance and sets out a framework for Integrated Environmental Management (IEM) which all development activities that may have a detrimental effect on the environment must adhere to (Fuggle & Rabie, 2009). In relation to this, Chapter 2 of NEMA promotes a number of important IEM principles that largely reflect international trends, but at the same time are specific to the South African context as they recognise the need to set right the discriminatory practices of the past Apartheid regime (Glazewski, 2005).

4.5.1 NEMA principles relevant to issues of coastal access

Section 2 of NEMA sets out 14 principles, which are central to integrated environmental management in South Africa (Fuggle & Rabie, 2009). These principles must be used to ‘guide the interpretation, administration and implementation of NEMA and any other law concerned with the protection or management of the environment’¹⁷. The fact that the coast and its resources can be included under the broad definition given to the ‘environment’¹⁸, means that these principles are equally appropriate to management actions and decisions affecting the coast and its resources. In addition, these principles also apply to EIA processes conducted in terms of ECA. The principles that are particularly relevant to coastal access and facilitating the public’s right to access the coast and its resources are summarised in **Table 2** below.

| Section | IEM Principle |
|---------|---|
| 2(2) | “Environmental management must place people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interests equitably”. |
| 2(3) | “Development must be socially, environmentally and economically sustainable”. |
| 2(4)(b) | “Environmental management must be integrated, acknowledging that all elements of the environment are linked and interrelated, and it must take into account the effects of decisions on all aspects of the environment and all people in the environment by pursuing the selection of the best practicable environmental option”. |
| 2(4)(c) | “Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly |

¹⁷ Section 2(1)(e)

¹⁸ Section (1)(xi) of NEMA - ‘environment’ - means the surroundings within which humans exist and that are made up of:

- (i) the land, water and atmosphere of the earth;
- (ii) micro-organisms, plant and animal life;
- (iii) any part or combination of (i) and (ii) and the interrelationships among and between them; and
- (iv) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

| | |
|----------------|---|
| | vulnerable and disadvantaged persons”. |
| 2(4)(d) | “Equitable access to environmental resources, benefits and services to meet basic human needs and ensure human well-being must be pursued and special measures may be taken to ensure access thereto by categories of persons disadvantaged by unfair discrimination”. |
| 2(4)(f) | “The participation of all Interested and Affected Parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured”. |
| 2(4)(g) | “Decisions must take into account the interests, needs and values of all Interested and Affected Parties, and this includes recognizing all forms of knowledge, including traditional and ordinary knowledge”. |
| 2(4)(i) | “The social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated, and decisions must be appropriate in the light of such consideration and assessment”. |
| 2(4)(k) | “Decisions must be taken in an open and transparent manner and access to information must be provided in accordance with the law”. |
| 2(4)(l) | “There must be intergovernmental co-ordination and harmonisation of policies, legislation and actions relating to the environment”. |
| 2(4)(o) | “The environment is held in public trust for the people. The beneficial use of environmental resources must serve the public interest and the environment must be protected as the people’s common heritage”. |
| 2(4)(r) | “Sensitive, vulnerable, highly dynamic or stressed ecosystems, such as coastal shores, estuaries, wetlands, and similar systems require specific attention in management and planning procedures, especially where they are subject to significant human resource usage and development pressure”. |

Table 2: Relevant principles for Integrated Environmental Management (DEAT, 1998)

4.5.2 NEMA Chapter 5: IEM provisions

Chapter 5 of NEMA, entitled ‘Integrated Environmental Management’ complements the Environmental Assessment provisions of the 1989 Environmental Conservation Act and the EIA regulations promulgated under it, by providing broad terms for the IEM philosophy to be applied in the carrying out of EIA’s (Glazewski, 2005). These objectives, set out in section 23 of NEMA, promote various principles that are relevant to this study. Relevant objectives relate to identifying the socio-economic and cultural heritage of activities with a view to minimising negative impacts and maximising social benefits¹⁹ and ensuring adequate public participation in decision-making²⁰. Section 24 entitled ‘Implementation’ sets out how these objectives and principles of environmental management are to be accomplished in the IEM procedure. This is related to the general administrative and executive functions and responsibilities of state officials and the general procedure that must be followed when conducting an environmental authorisation in terms of NEMA. Thus although the golf estate developments investigated in this study were authorised in terms of ECA, NEMA is clear that the principles and provisions articulated in this Act must guide the interpretation and implementation of all laws concerned with respect to managing the related environment.

¹⁹ Section 23(2)(b)

²⁰ Section 23(2)(d)

4.6 Relevant principles and provisions from South Africa's sectoral policies and laws

Other legislation and policies enacted post democracy such as: The Marine Living Resources Act (18 of 1998); The National Environmental Management Act (107 of 1998); The White Paper for Sustainable Coastal Development (2000); as well as the newly enacted NEM: Integrated Coastal Management Act (24 of 2008) are all relevant since they contain important provisions and principles relevant to coastal access that inform the EIA process when dealing with related development proposals. Whilst not all of the provisions contained within these pieces of legislation specifically include provisions for providing physical access to the coast, they instead promote important principles such as fairness, justice and equity which in turn bring expectations of improved and equitable access to the coast through a fairer, informed and more integrated decision-making process (DEA&DP, 2005). This section of the review therefore seeks to provide a broad review of such policies and legislation that govern and inform the EIA process, in order to highlight important provisions and principles that promote public access to the coast. The information derived from this review will then be used to determine the extent to which such provisions are being acknowledged and implemented in practice. Whilst the NEM: ICMA (24 of 2008) is less relevant in the context of this study, as it was not enacted prior to the approval of both large-scale golf estates under examination, it nevertheless contains certain provisions that are important for facilitating perpendicular access to the coast and its resources in the future and as such will be included in this review.

4.6.1 The White Paper for Sustainable Coastal Development in South Africa (DEAT, 2000)

The White Paper for Sustainable Coastal Development in South Africa (2000) provides the overall framework within which all coastal development in South Africa takes place. It recognises the many opportunities and benefits that the South African coastal region provides for the nation as a whole and realises the need to use it as a pathway for the development, empowerment and transformation of its people and its related economy (DEAT, 2000; Cornelissen, 2005). It is rooted in the understanding that the coast is a national asset that belongs to all the people of South Africa and therefore contains important principles and provisions that promote equitable access to the coast and its resources, as well as a more rational use of its associated resources. In fact, the considerable emphasis placed on ideas of 'access to the coast' throughout the White Paper make it one of the most important policies in terms of this study. As such, a number of key principles and provisions contained within the White Paper are discussed in further detail below.

4.6.1.1 Relevant coastal management principles

Many of the principles and provisions included in the White Paper are based upon agreed international norms for the development and management of the coastal environment or the special character of the coast. Adherence to these norms and principles is essential for securing and promoting public access to and along the coast. Whilst most of these principles may not specifically include provision for public access to the coast and its resources, the principle of equitable access can fall under the broad language used in several of the principles. The following relevant principles are taken from Chapter 6 of the White Paper for Sustainable Coastal Development in South Africa (DEAT, 2000) and are summarised in **Table 3** below.

| Principle | Explanation of principle |
|--------------------------------------|--|
| The coast as a National Asset | This refers to the fact that the coast must be retained as a national asset for all South Africans. It is not owned by any one person or agency but is common property available equally for all citizens (Clark, 1997). The Government therefore has a duty to maintain the public's right to access the coast and all benefits from the many opportunities provided by coastal ecosystems. |
| Economic development | Coastal economic development opportunities must be optimised to meet society's needs and to promote the wellbeing of present and future coastal communities. |
| Social equity | Management efforts must ensure that all people, including future generations, enjoy the rights of human dignity, equality and freedom. |
| Integration and participation | A dedicated, coordinated and integrated coastal management approach must be developed and conducted in a participatory, inclusive and transparent manner. Participation is an important process to ensure that local knowledge and interests are included in the decision making process aligning the process with basic democratic ideals and making them more legitimate and procedurally fair (Western Indian Ocean editorial, 2004). |
| Co-operative governance | Partnerships between government, the private sector and civil society must be built in order to ensure co-responsibility for coastal management and to empower stakeholders to participate effectively. |
| Cultural Heritage | This principle refers to identifying and recognising indigenous peoples claim to coastal space and resources. |

Table 3: Relevant Principles for Coastal Management taken from the Coastal White Paper (DEAT, 2000)

4.6.1.2 Key goals and objectives of the White Paper

Chapter 7 of the White Paper sets out goals and objectives for coastal management which address key issues of concern. The goals and objectives outlined in theme B, entitled 'Our National Asset', are of particular importance in the context of this study as they identify specific concerns relating to access to the coast and its resources. The first goal relates to physical access (Goal B1) and aims to '*ensure that the public has the right of physical access to the sea, and to and along the sea shore, on a managed basis*' (DEAT, 2000). This goal highlights the importance of providing access to the coast, including perpendicular access across private land, but at the same time recognises that it must be appropriately managed in order to minimise coastal degradation (DEAT, 2000). This includes providing public facilities and services where

necessary and giving particular attention to historical inequalities, the planning of new developments, existing user rights, sensitive coastal ecosystems, public health, safety, disabled persons and security (DEAT, 2000).

The second goal of equitable access (Goal B2) aims *'to ensure that the public has the right of equitable access to the opportunities and benefits of the coast, on a managed basis'* (DEAT, 2000). This goal promotes the fundamental human rights of dignity, equality and freedom that originates from the Bill of Rights, Section 2 of the Constitution (DEAT, 2000). It advocates that access to coastal resources should be allocated in a fair and just manner, with particular attention given to past disadvantaged communities (DEAT, 2000).

The third relevant goal relates to historical and cultural heritage (Goal B3) and aims *'to preserve, protect or promote historical and cultural resources and activities of the coast'* (DEAT, 2000). This goal recognises the long history of people using the South African coast and the rich cultural and traditional heritage it symbolizes for them (DEAT, 2000). As such it protects traditional coastal resource user practices and cultural activities that may be adversely impacted upon by modern activities and actions (DEAT, 2000).

The final important goal that concerns the responsibility of the State (Goal B4) is *'to ensure that the State fulfils its duties as the legal custodian of all coastal State assets on behalf of the people of South Africa'* (DEAT, 2000). This goal highlights the importance of the South African Government maintaining ownership of state owned land along the sea-shore, which includes the admiralty reserve²¹ (DEAT, 2000). This includes investigating areas where historical rights have been granted for private ownership and/or exclusive usage of the area below the high water mark that conflict with the White Paper (DEAT, 2000). The state will need to identify and retain ownership of land along the coast above the high water mark, unless it is in public interests to alienate or lease it (DEAT, 2000).

4.6.2 Marine Living Resources Act (18 of 1998)

The MLRA seeks to ensure the sustainable utilisation of marine living resources, through scientifically based and publicly acceptable operational management procedures (DEAT, 2000). It places an emphasis on fair and equitable management procedures for the benefit of all South Africans and addresses the need to address historical imbalances to achieve equity within the fishing industry (Van der Linde, 2006). The principles and objectives of the MLRA span a range

²¹ Admiralty Reserve is defined in the White Paper as a *'narrow strips of State land, seldom more than 200 feet wide, that are dispersed along the coastline above the high water mark'*.

of matters and promote three main values, namely: social equity, ecological sustainability and economic stability²² (Hauck & Sowman, 2003). Another defining characteristic of the MLRA is that it is the first statute to formally recognise subsistence fishers who until the enactment of this Act were not subject to domestic regulation (Glazewski, 2005).

The Act applies to all South African people within South African waters, which includes the sea-shore²³. It provides for a principle of national control and co-ordination and places responsibility for resource-allocation decisions with the Minister of Environmental Affairs and Tourism (DEAT, 2000). Furthermore it empowers the Minister to declare subsistence fishing communities and/or individuals and to establish subsistence fishing zones²⁴ which could substantially benefit this category of fisher and promote their constitutional right to the 'full and equal enjoyment of all rights and freedoms'²⁵ (Glazewski, 2005).

4.6.3 National Environmental Management: Integrated Coastal Management Act (24 of 2008)

The National Environmental Management: Integrated Coastal Management Act (ICMA) gives legal effect to the policy provisions provided for within the White Paper for Sustainable Coastal Development in South Africa (2000). One of the primary objectives of the Act is to promote an integrated approach to coastal management and as such it has been designed to dovetail with other Acts such as the MLRA and NEMA in an attempt to reduce overlaps and increase efficiency in managing the coast (Fuggle & Rabie, 2009). It establishes the need to ensure that development and the use of natural resources in South Africa's coastal region is socially and economically justifiable as well as being ecologically sustainable (Celliers et al., 2009). It has also repealed the outdated Sea-Shore Act (21 of 1935) and as such has the potential to have far reaching implications for coastal access through a suite of progressive provisions contained within.

In this regard, whilst the Sea-Shore Act made no provision for ensuring perpendicular access to the sea and the sea-shore, the ICMA makes provision for declaring 'coastal access land'²⁶ as a means of ensuring that access to coast is realised in the future. According to the ICMA, coastal access land will ensure that the public can gain access to coastal public property via public access servitudes, which must be declared by the relevant municipal authorities within four years of establishing the ICMA (Celliers et al., 2009). Furthermore, the Act stipulates general

²² Section 2

²³ Section 3(1)(a)

²⁴ Section 19(1)(b)(i-iii)

²⁵ Section 9(2) of the constitution

²⁶ Section 18

responsibilities and procedures that municipalities designating such areas must abide by. These include signposting entrances, assessing the environmental impacts of coastal access lands, controlling the use of activities on that land, maintaining access routes and providing public amenities and services²⁷. In addition to this, sections 23 and 24 empower the Minister to declare and designate 'special management areas' which act to facilitate the management of coastal resources by a local community or to promote sustainable livelihoods for communities that depend on coastal resources to survive (e.g. subsistence fishers).

Although the ICMA was enacted prior to the approval of both developments under consideration, the provisions contained within the ICMA represent a positive step with regards to facilitating equitable access to the coast for the benefit of present and future generations in South Africa. They empower the state at different levels of government (i.e. national, provincial and local) to take the necessary steps in order to improve public access to the coast and its associated benefits through progressive provisions, such as the one mentioned above. Although these provisions do not prevent the state from prohibiting or restricting access to or the use of any part of coastal public property to ensure its sustainable use and management, they can be seen as another means (e.g. besides taking a developer to court) of enforcing the general public's right to access the coast and its resources after a development or related feature has blocked or restricted access to them. This will potentially facilitate retrospective action that will open traditional or other perpendicular access routes to the coast. This is particularly pertinent in South Africa owing to the extent of the coastline that has already been subjected to extensive, poorly planned development activities, which have essentially blocked off coastal access routes for various stakeholders in the past (DEA&DP, 2005; Glazewski, 2005).

4.7 Conclusion

From the above policy and legal review, a number of key principles and provisions that promote stakeholders' ability to benefit from the coast and its resources can be identified. These are summarised in **Table 4** below.

| Provision | Comment | Statute |
|--|--|---|
| Co-operative governance and integration | This calls for all three spheres of the Government to be co-ordinated and act in a holistic manner when dealing with decisions that affect the coastal environment. These policies have recognised the unique nature of the coast and seek to manage the interplay between stakeholders and the biophysical environment in a holistic manner in order to minimise user conflicts whilst maintaining the biological diversity and productivity of coastal environments. | Constitution NEMA Coastal White Paper ICMA |

²⁷ Section 19 & 20

| | | |
|---|---|--|
| <p>Sustainable development</p> | <p>Sustainable development is another concept, underpinned by a set of principles that has been at the cornerstone of much of the legislation enacted post 1994. The three facets it advocates, namely environmental protection, economic efficiency and social equity must be taken into account in planning and decision-making processes to ensure the realisation of public access to the coast and its resources. It is also principally associated with the EIA process which is defined as an environmental management tool with the ultimate goal of achieving sustainable development (Saddler, 1996).</p> | <p>Constitution ECA NEMA Coastal - White Paper MLRA ICMA</p> |
| <p>EIA provisions and IEM principles</p> | <p>EIA is an environmental management tool used to inform planning, identify and address potential impacts on the environment, socio-economic conditions and cultural heritage and to involve the public in the decision making process of a listed activity, with the ultimate goal of achieving sustainable development (Glazewski, 2005). All the progressive principles and provisions reviewed above are meant to inform the EIA process and as such bring expectations of equitable and improved access through an integrated and informed decision-making process.</p> | <p>ECA NEMA</p> |
| <p>Access to information and administrative justice</p> | <p>These provisions are essential in seeing that people's rights to access the coast and its resources are realised in the future. In this respect the liberalisation of the <i>locus standi</i> requirement and various provisions calling for improved information flows between stakeholders and administrative action that is lawful, reasonable and procedurally fair are important in bringing equality to judicial actions and decision processes that are likely to have a significant effect on stakeholders wishing to gain, maintain or control access to the coast.</p> | <p>Constitution NEMA PAIA PAJA</p> |
| <p>Full and inclusive Public participation processes</p> | <p>Public participation is another principle that has been promoted throughout. Effective Public participation is important, as it promotes principles such as, equity, empowerment and transparency in decision-making (Rowe & Frewer, 2004). This gives stakeholders the ability to voice their opinions and concerns for a particular development activity which in turn can have an influence on the development proposals design and who is able to gain, maintain and control access to the coast and its resources.</p> | <p>ECA NEMA Coastal - White Paper ICMA</p> |
| <p>Equitable access to resources</p> | <p>The transformation of policies and legislation towards a more people-centred approach and the fact that they have realised the significant benefits and opportunities that different sectors of society gain from the coastal zone, signifies the intent of recent policies to prevent the exclusive use of the coast and rather to facilitate access to the coast for the benefit of all South Africans. This is an important principle, especially for those who have been denied access in the past for various reasons.</p> | <p>Constitution NEMA MLRA Coastal- White Paper ICMA</p> |

| | | |
|---|--|---|
| Perpendicular access the coast and its resources | The public's right to access the "sea" and the "sea-shore" has been facilitated through recent provisions that enable them to cross over/on private land in order to access the coast and its resources. | Coastal - White Paper ICMA |
| Historical and Cultural Heritage | These provisions recognise the long history of people using the South African coastline and the rich cultural and intrinsic value it symbolises for them. As such they promote indigenous peoples' claims to coastal space and marine resources, which may be adversely affected by modern activities and related actions. | Constitution NEMA MLRA Coastal White Paper ICMA |

Table 4: Summary of the key principles and provisions identified in the above policy review

This review of the relevant policies and legislation shows that coastal management efforts have been transformed since 1994, and seek to promote a more integrated, co-ordinated, people-centred approach based on ideas of equity, public participation, co-governance and accountability in coastal resource management, which in turn bring expectations of improved and equitable access to the coast and its resources through an informed and integrated decision-making process (DEA&DP, 2005; Glavovic, 2006; Glavovic & Boonzaier, 2007). Despite this fact, limited research has been undertaken in order to assess South Africa's performance and whether or not such provisions are being implemented in practice. This study will contribute to determining the extent to which such legal principles and provisions, enacted since 1994, are informing EIA and decision-making processes, by focusing on two large-scale golf estates in the Garden Route coastal region.

Chapter 5: Case Study Sites

5.1 A background to the Garden Route coastal region

The Garden Route Region (**Figure 5**) is located along the southern Cape coast of South Africa, between the Outeniqua Mountain Range in the North and the Indian Ocean in the South. It stretches along the coastline from the Gourits River in the West to the Bloukrans River in the East. The region forms part of the larger Eden district municipality, which is the amalgamation of the municipal areas of Kannaland, Langeberg, Mossel Bay, George, Oudtshoorn, District Management Area, Kynsna and Plettenberg Bay. According to the Statistics SA Community Consensus in 2007, the population of the Eden District was 513 307 people, a large majority of which is concentrated in the four main towns of George, Mossel Bay, Oudtshoorn and Knysna (SA Statistics, 2007). Its economy, although somewhat diversified, is largely based on tourism and holiday-related activities, with sectors such as fishing, forestry, agriculture and petroleum industries playing a less dominant role (DEAT, 2000). The regions' scenic beauty and high biodiversity have been identified as a direct consequence of its relative economic success and as such efforts to expand the nation's conservation estate have been seen as a major priority in the region (DEAT, 2000). However, despite having a slightly higher economic growth rate than the Western Cape Province as a whole (i.e. 3.3% as opposed to 3%), the Eden District is still regarded as the poorest district in the province (Eden District IDP, 2010). The considerable income inequality that exists between the rich and the poor of this district is testament to this fact (Sunde, 2011). Such disparities present a considerable challenge for the already overwhelmed local municipalities in this region whom depend on the rates base from the more affluent areas to fund the basic service provision for the poor (Sunde, 2011). The continual migration of people into these areas, also further exacerbate infrastructural capacity problems facing these municipalities. These migration patterns include:

- The continual mass influx of job seekers from the Eastern Cape and surrounding rural areas to urban coastal areas in the search of improved lifestyles and livelihoods (Bekker, 2002).
- The mass influx of local holiday-seekers during peak seasons of the year. This places insurmountable pressures on the coastal towns' already limited infrastructure; creates seasonal boom and bust periods for local small businesses and creates seasonal employment opportunities, adding to the already high unemployment rate during the off-peak season (DEA&DP official, 2010, pers comm.).

- A high proportion of affluent white residents that have moved into the Garden Route area to retire, owing to its remote, scenic and tranquil nature (Van Zyl, 2006).

Finally, out of all the district municipalities in the Western Cape, the Eden District and the Garden Route coastal region in particular, has experienced the greatest number of applications for residential estates and controversial large-scale golf estate developments (DEA&DP, 2005). These development pressures are considered to be one of the greatest drivers of change within this region (Sunde, 2011). The reason for this sudden increase and the implications that this has had for issues of coastal access are discussed below.

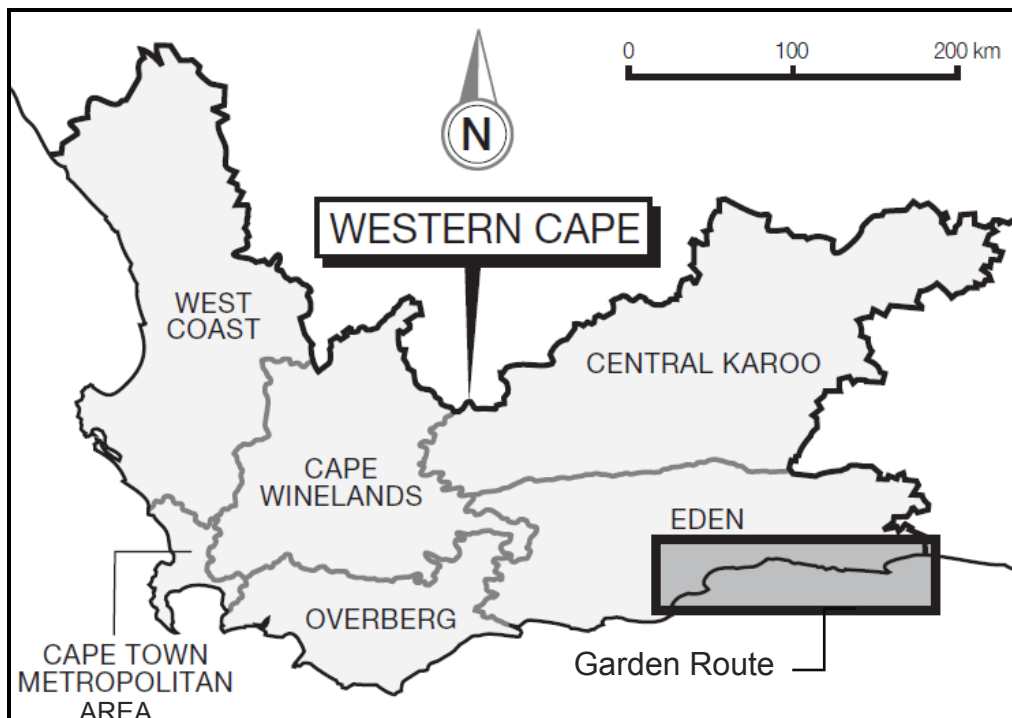


Figure 5: Map showing the Garden Route coastal region in relation to other regions in the Western Cape

5.2 Increasing development pressures along the Garden Route coastal region

As discussed in previous sections, the Garden route region has been subjected to a notable increase in development pressures over the past decade (DEA&DP, 2005). Whilst these developments vary in nature from individual holiday homes to residential complexes, an alarming trend found within this region is the high number of large-scale golf estates (See **Figure 6**) that have either been approved or are in the process of being approved over this time (SCLC, 2004). Of the estimated 30 approved golf developments located within the Garden Route Region to date (2010), approximately two thirds of these are large-scale golf estates, consisting of a residential component centred around a golf-course (DEA&DP, 2005; Van Zyl, 2006). Apart

from being far bigger in scale and requiring significantly more space than a traditional golf course (e.g. a golf-course, a clubhouse and related facilities), these estates also capitalise on the scenic and natural amenity of their location (DEA&DP, 2005). Similarly, developments of this nature also tend to promote attractive lifestyle qualities such as, remoteness and exclusivity, in order to attract potential buyers, which explains why the undeveloped, pristine and remote coastal environment of the Garden Route is so highly sought after by prospective developers (Van Zyl, 2006).

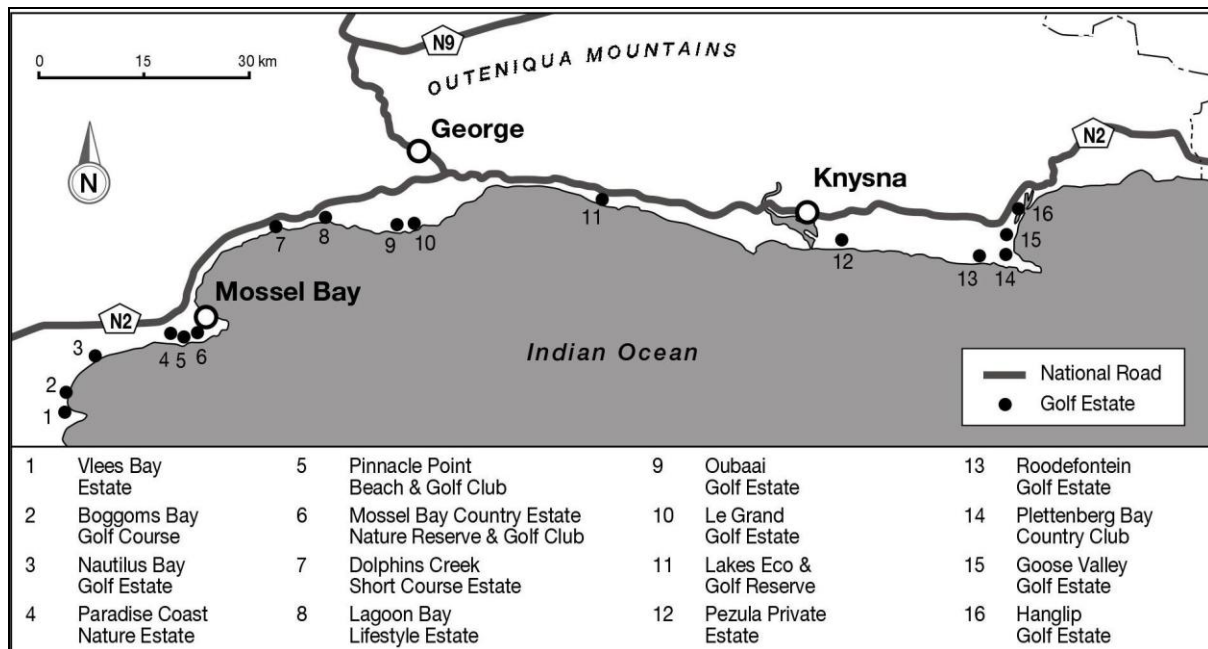


Figure 6: Map showing the number of golf estates located along the Garden Route coastal region

Whilst the need for development to provide much needed job opportunities and economic growth in the region is often cited (DEA&DP, 2005) as a key motivating factor for the need and desirability of such developments, their transformation capacity is relatively unknown and they instead are documented to create new forms of spatial apartheid by compounding the divide between the rich and the poor, through reinforcing social and economic inequalities and past patterns of skewed ownership (Cape Times, 2004; SCLC, 2004; DEA&DP, 2005). Moreover, owing to their close proximity to the coast, their considerable size and exclusive nature, access to the coast has also been identified as a potentially negative impact of such developments (DEA&DP, 2005). As a result, they were chosen as suitable units of analysis for this study. Moreover, the limited amount of research that has been done into identifying and monitoring the impact that such developments have on stakeholders' ability to access the coast and its resources means that there is little evidence to show whether or not such views are supported in reality. Whilst different developments of a similar nature may potentially impact upon stakeholders' ability to access the coast to varying extents, a number of key characteristics related to each case study site have been determined as being important in terms of this study.

These features are discussed for each of the case study sites that have been chosen for this study in the following section.

5.3 The Pezula Private Estate

5.3.1 Geographic location in relation to key landmarks: Pezula

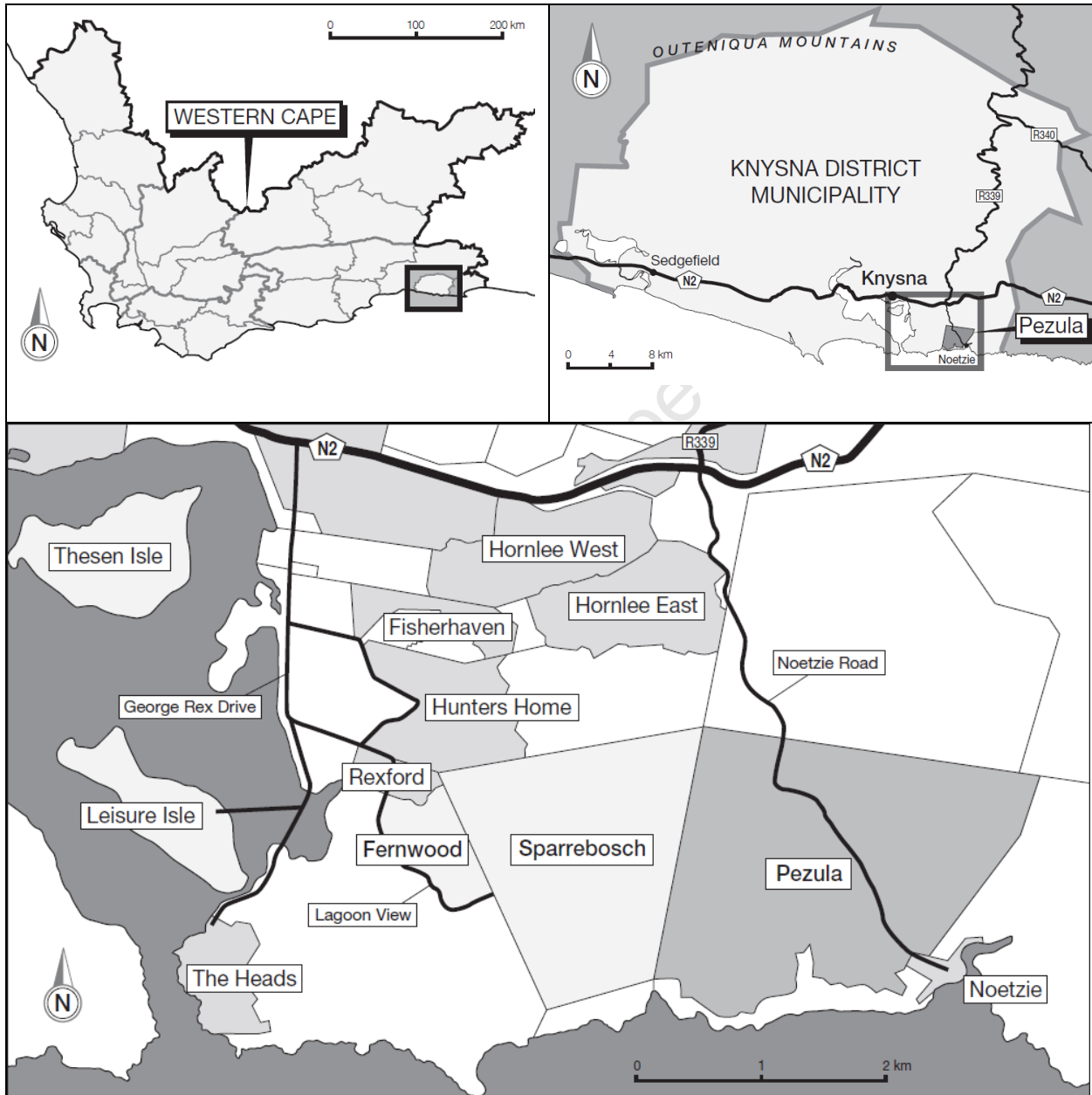


Figure 7: (Top left) Map of the Western Cape depicting the location of Knysna Municipality in relation to other municipalities in the province. (Top right) Map depicting Knysna’s location in relation to other places within the Knysna Municipality.

The Pezula Private Estate (**Figure 7**) is located to the southeast of Knysna, to the east of the Knysna Heads and to the west of the Noetzie Township. The Pezula Private Estate itself comprises of the remainder of the Farm Noetzie (Erf no. 394), which covers an area of about

612 hectares (Pezula Spokesperson 1, 2009, pers comm.). Its southernmost borders stretch some 2.9 kilometres along the coastline, from the Noetzie Beach in the east to the Cove Beach in the west. This strip of coastline is characterised by a rocky shoreline with steep topography near to the sea which rises steeply to form a coastal plateau (approximately 220 metres above sea level) upon which the development is situated (**Figure 8**).



Figure 8: An aerial photograph illustrating the steep topography and rocky shoreline to the south of the Pezula case study site

There are two main roads that are used to gain access to the Pezula Private Estate. The first is via Divisional Road 1771 (referred to as the “Noetzie Road”), which stretches over a length of about 5 kilometres from the N2 through the middle of the estate to a parking lot situated above the Noetzie Township (**Figure 7**). The second access route on the western side of the development is Lagoon View Drive, a public servitude that was upgraded and realigned by the Sparrebosch development to meet with municipal standards (HilLand Associates, 2002). This road runs through the Rexford Township, Sparrebosch Estate and the Pezula Championship Golf Club and enters the Pezula Private Estate on its north-west border (**Figure 7**). It is linked to the N2 by three adjoining roads, namely George Rex Drive, Wilson Street and Duthie Drive. Internal access is mostly facilitated along the existing forestry roads, which have subsequently been maintained and upgraded by the developer (HilLand Associates, 2002).

The Sparrebosch Estate and the Pezula Championship Golf Course are situated on the western border of the Pezula Private Estate. The Sparrebosch Estate which was approved after 1996 comprises of 257 hectares of land, which overlooks the Knysna Lagoon to the North West and the Indian Ocean to the South. The initial proposal included an 18-hole championship golf course, a luxury hotel and spa and various up-market residential units. There are plans to build 422 houses on the assigned land and 60 percent of these houses had already been built by 2009

(Sparrebosch Homeowners Association, 2009, pers comm.). The Golf Course, Hotel and spa that were built in line with the initial Sparrebosch proposal of 1996 have subsequently been sold to Pezula who now has full ownership over them. In between Sparrebosch and Pezula is an area of land which is zoned as public open space (Knysna Zoning Scheme, 1992), called the “Sparrebosch Nature Reserve”. To the North East of the Pezula Private Estate there is a sports complex which consists of a cricket oval, two tennis courts, 2 bowling greens, a putting green, a squash court and an indoor facility with a table tennis table, a games room and a pool table (Pezula Spokesperson 1, 2009, pers comm.).

The Noetzie Township, situated on the south eastern border of Pezula, was established in 1913 and now comprises of some 52 plots, which vary in nature from open plots, through various holiday cottage types, to three castles that tower over the Noetzie Beach to the South East of the township (**Figure 9**). Two of the castles were bought by Pezula in 2006 which have subsequently been renovated to provide upmarket accommodation for local and foreign tourists visiting the area (Noetzie Resident, 2010, pers. comm.). Nearly all of the other houses are only occupied for a few months of the year by various local holiday- makers, generally from the Western Cape, who come to stay at Noetzie over the holiday periods or for the odd weekend (Noetzie Resident, 2010, pers. comm.). The Noetzie beach situated to the South East of the township is a popular tourist attraction for the Knysna region owing to its unspoilt, pristine nature and the various castles that present a unique spectacle for first time visitors to the area (Mentis, 2006).



Figure 9: An aerial photograph of the Noetzie township and the adjacent beach (left) as well as a photograph showing two of the Pezula Castles situated just above the Noetzie beach (right).

The Hornlee community is situated to the north of the development (**Figure 7**). Originally developed to be a self sufficient ‘coloured residential township’ in accordance with the Group Areas Act (41 of 1951) it is characterised by predominantly middle to low income coloured families (Knysna Municipality, 2009). The township comprises of a range of semi-detached

plastered and painted sub-economic houses, with more recent trends indicating an increase in RDP housing and backyard shacks (NM & Associates, 2004). Regional statistics (2004) indicated a relatively high level of unemployment in this area (21%) with the majority of those who are employed being involved in elementary occupations, crafts and related trades (NM & Associates, 2004). To the west of the development there are three attractive and well established 'suburban communities', which include the Rexford, Fernwood and Hunters Home townships (NM & Associates, 2004). These townships represent a high percentage of the retired elderly individuals that make up a significant proportion of the Knysna population (Knysna Rate Payers, 2009, pers. comm.). These stakeholders are considered to be fulltime residents of Knysna who fall into the middle to higher income brackets (Knysna Rate Payers, 2009, pers. comm.).

5.3.2 Specific characteristics: Pezula

Prior to the Pezula Private Estate development the land was used as a commercial timber plantation, which had been operational for 60 years prior to the development. During this time the land was privately owned by a Mr Geo Parks (Pezula Spokesperson 1, 2009, pers comm.). As a result, the commercial plantations covered 414 hectares (68%) of the property when it was sold to Fast Pulse Trading 72 (Pty) Ltd (i.e. the new developers), whilst the remaining 194 hectares (31%) consisted of indigenous vegetation (HilLand Associates, 2002). This indigenous vegetation includes a strip of afro-montane forest along the Noetzie River and a mosaic of forest/thicket and fynbos along the thin coastal cliff strip to the South of the current site (HilLand Associates, 2002).

The initial plan to develop the land consisted of developing approximately 255 low density residential units (ranging from 2000m² to 3000m²) across the site within the area of the former commercial plantation (HilLand Associates, 2002). The remaining open space on the property (approximately 504 hectares) has subsequently been retained as private open space and the undeveloped plantation areas have been actively managed and rehabilitated in an attempt to return them to their original natural state (Pezula Spokesperson 1, 2009, pers comm.).

Certain security measures have also been put in place in order to control and monitor access in and around the private estate. Electric fences have been erected around the perimeter of the property to prevent uncontrolled access over the current site. Security gates have been put up at each of the estates entrances, which are continually monitored by security personnel. In addition, security cameras have been placed at strategic points throughout the development and along major access routes (i.e. the "Noetzie Road") to monitor stakeholder's access over these routes.

The proposed target market for potential buyers was aimed at high income earners anticipated to earn in excess of R5 million per annum (MCA Planners, 2002). It was envisaged that the majority of these buyers would come from overseas (60 percent), with a similar percentage expected to reside within the estate for at least 6 months of the year (MCA planners, 2002). Membership and the use of the various recreational facilities located within the Pezula Private Estate (i.e. the sports complex, cricket oval, tennis courts etc.) is limited to the homeowners and playing a round of golf on the Pezula Champion Golf Course costs around R700 for a non-member, making it the third most expensive course in South Africa (Van Zyl, 2006).

5.3.3 The approvals process: Pezula

Fast Pulse Trading 72 Pty (Ltd) became the registered owner of the land in the year 2000 after which it applied for approval to develop the land. An application was submitted to the relevant authorities in terms of Section 4(7) of the Land Use Planning Ordinance (15 of 1985) for an amendment of the Knysna-Wilderness-Plettenberg Bay Regional Structure Plan to change the current reservation of portion of the Farm Noetzie from 'Agriculture/Forestry' to 'Township Development' and 'Nature Area'. Simultaneous applications in terms of Section 17(1) of the same Ordinance for rezoning of portion of the Farm Noetzie from 'Agricultural Zone 1' to 'Subdivisional Area' and in terms of Section 24(1) of the same Ordinance for the subdivision of the Farm Noetzie (Erf no. 394) in accordance with a proposed subdivision layout were also submitted to the relevant authorities. HillLand Associates CC was appointed as the independent consultant to prepare and submit the application for environmental authorisation in terms of the regulations promulgated under the Environmental Conservation Act (73 of 1989)²⁸ and section 24(7) of the National Environmental Management Act (107 of 1998). This EIA process started in November 2000 (HillLand Associates, 2002). The Western Cape Department of Environmental Affairs and Development Planning (DEADP) issued a Record of Decision (ROD) in terms of the EIA process conducted on the 16th of October 2002, with attached conditions of approval. Subsequent to this the development was allowed to proceed and the construction of the estate commenced towards the beginning of 2003 (Pezula Spokesperson 2, 2010, pers comm.).

²⁸ Government Notice R1183

5.4 The Pinnacle Point Beach and Golf Club

5.4.1 Geographical location in relation to key landmarks: Pinnacle Point

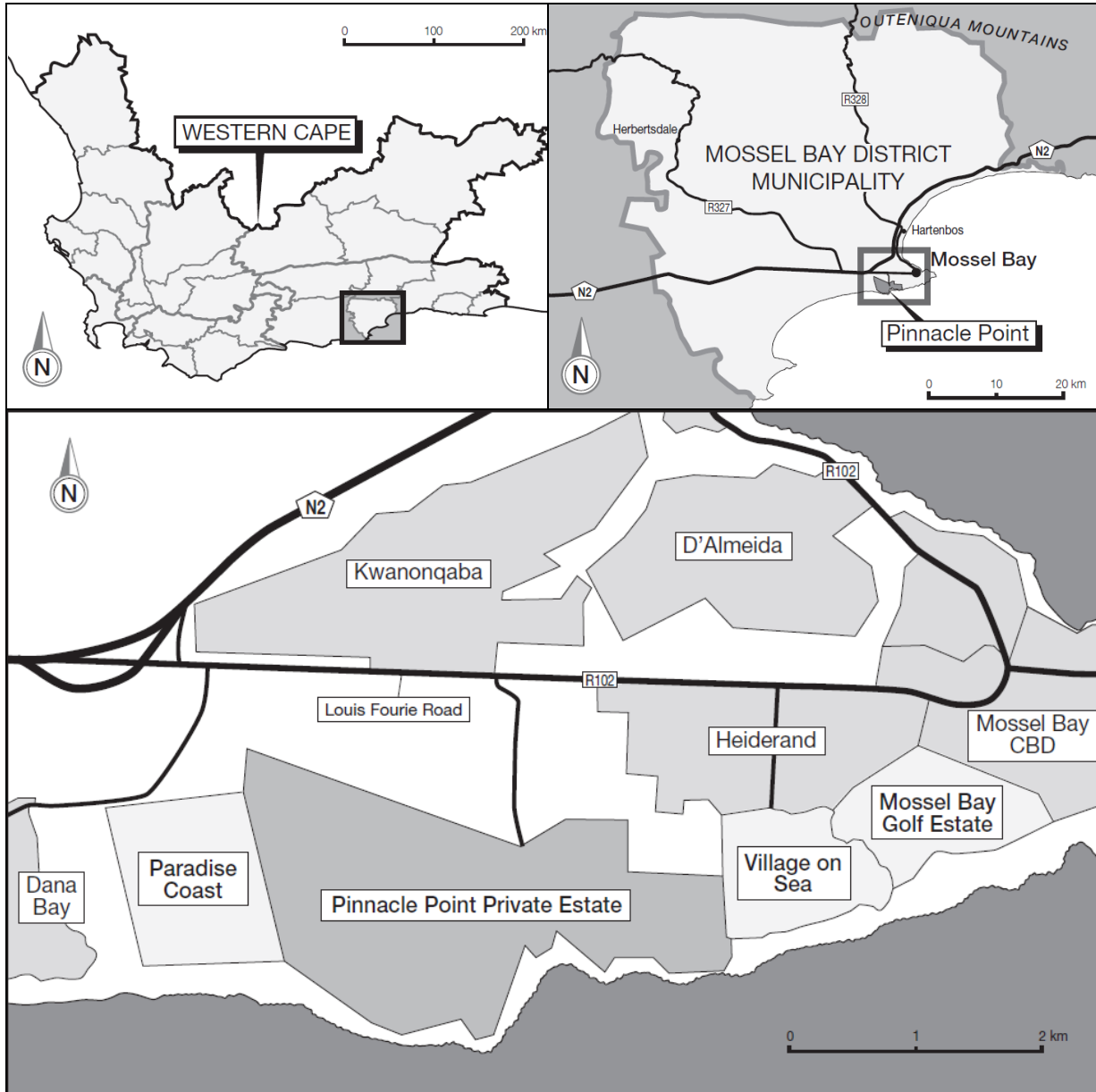


Figure 10: (Top left) Map of the Western Cape depicting the location of Mossel Bay Municipality in relation to other municipalities in the province. (Top right) Map depicting the location of Pinnacle Point Beach and Golf Club in relation to the Mossel Bay Municipality. (Bottom) Map depicting the location of Pinnacle Point Beach and Golf Club in relation to key landmarks and surrounding communities.

Pinnacle Point is located approximately 5 kilometres west of the town of Mossel Bay in the Garden Route Region (**Figure 10**). It is situated on the outskirts of the town within the Urban Edge, between the residential extension of Dana Bay in the west, Louis Fourie Road in the north, Heiderand Township in the east and the Indian Ocean in the south. Similar to the Pezula Private Estate it is situated along about 3.8 kilometres of coastline on top of a coastal plateau that slopes

down from 160 metres above sea level to the edge of the platform. Whilst the eastern part of the case study site is characterised by steep topography and sheer cliff faces, the topography in the western part is far more gradual making it far more accessible for stakeholders accessing this part of the coastline (**Figure 11**). The Pinnacle Point beach is located to the south of the case study site and a number of archaeological sites of significant national and international importance can be found there (St. Blaize Trail Representative, 2009, pers comm.). The only formal access route that facilitates vehicular access to the Pinnacle Point Beach and Golf Club is via Pinnacle Point Road, which runs from Louis Fourie Road (an extension of the N2) past the Pinnacle Point Casino to the entrance situated on the northern border of the current Estate.



Figure 11: Photographs depicting the contrasting topography in the western (left) and eastern (right) parts of the Pinnacle Point case study site.

There are three large-scale residential estates on either side of the Pinnacle Point Golf and Beach Club that have been developed in the past decade or so (Heiderand Resident 2, 2010, pers comm.). These include Paradise Coast Nature Estate, Village-on-Sea and Mossel Bay Golf Estate (**Figure 10**). Paradise Coast Nature Reserve is situated to the West of Pinnacle Point. Their application to develop a residential estate combined with a golf course component was approved by the Mossel Bay Municipality in 1996 (Van Zyl, 2006). However, as the developers did not act on their developmental rights at the time, the Department of Environmental Affairs and Development Planning requested that an alternative layout plan be investigated through an EIA process that was initiated in 2001 (Van Zyl, 2006). Many objections were raised throughout the lengthy EIA process and resulted in Paradise Coast amending its initial proposal to a residential estate without the golf course component (Van Zyl, 2006). As a result the approved development is still in its infancy stages and is now called 'Paradise Coast Nature Reserve' instead of 'Paradise Coast Golf Reserve' as was initially proposed (Heiderand Resident 2, 2010, pers comm.). Village-on-Sea is another residential estate that is situated to the east of the current Pinnacle Point site. Approximately 80 percent of the estate is currently occupied by

fulltime residents from the Mossel Bay Region (Pinnacle Point Resorts (Pty) Ltd, 2010, pers comm.). Mossel Bay Golf Estate situated to the east of Village-on-Sea, commenced its development in the late 1990's, after an agreement was reached between the Mossel Bay Municipality, the Mossel Bay Golf Course and the developer to develop a housing estate on the outskirts of the existing golf course (Van Zyl, 2006). It comprises of 393 residential properties which vary in both nature and size and approximately 75 percent of the estate is occupied by fulltime residents (Pinnacle Point Spokesperson 2, 2010, pers comm.). All three of these developments have been developed up until 200 metres inland from the coastline, which roughly coincides with an area zoned as the 'admiralty reserve'. Access within each estate is restricted to homeowners and visitors to each estate (Pinnacle Point Spokesperson 2, 2010, pers comm.).



Figure 12: Signpost at the start of the St. Blaize trail

The St. Blaize hiking trail runs along the southern border of the Pinnacle Point development and the three adjacent properties mentioned above. Completed in 1987, it is a contour path which extends for about 13.5 kilometres along the edge of the coastal cliffs from the 'Cape St. Blaize Cave' at the Point in Mossel Bay to Dana Bay in the West (**Figure 12**). This trail is an important tourist attraction for the Mossel Bay Region as it forms part of the world renowned 'Oystercatcher Trail' which has earned itself a number of local and international accolades over the past decade. This includes being rated by the BBC as one of the top hiking experiences in the world in their book entitled, 'Unforgettable walks to take before you die', written by Steve Watkins and Clare Jones in 2008. Visitors hiking along the St. Blaize Trail can experience magnificent views that include unique rock formations, caves, scenic coastal views and superb

flora. The route also passes by some of South Africa's most significant archaeological sites with remnants from early civilisations dating as far back as the Middle Stone Age (Olivier, 2003).

There are a number of poorer communities located to the North of the Pinnacle Point. These include the predominantly low income African and Coloured neighbourhoods of KwaNonqaba and Jo Slovo (Coetzee, 2006). The withdrawal of former large employers (e.g. Coca Cola, the local abattoir, much of the fishing manufacturing industries as well as the Langeberg canned fruit industry) in the area has contributed to the relatively high levels of unemployment experienced particularly in the lower income African neighbourhoods that characterise each area (Coetzee, 2006). These communities therefore contain a high proportion of the subsistence and recreational fishers that utilize the coastline to the south of the development (Mossel Bay Angling Society, 2010, pers comm.).

Dana Bay is situated to the West of the development. This township is a predominantly a white neighbourhood with stakeholders from the middle to upper middle income groups (Coetzee, 2006). A large proportion of homeowners in Dana Bay are holiday users who come to visit over December and other major holiday periods (Dana Bay Ratepayers Association, 2009, pers comm.).

5.4.2 Specific characteristics: Pinnacle Point

Prior to the Pinnacle Point Beach and Golf Club development being approved the land under examination was public land, held in public trust by the Mossel Bay Municipality. A large portion of the land was zoned as 'admiralty reserve' (Erf. 3438), which itself was declared due to its relative importance and sensitive nature. The remainder of the land (Erf. 2001) formed part of the municipal commonage and was zoned as undetermined. Prior to the Pinnacle Point development being approved the 'admiralty reserve' portion of the land had been transferred by the National Government to the Mossel Bay Municipality, thereby entrusting them to manage it accordingly. This portion of land (Erf. 3438) extends inland from the sea to about 200 metres and along the coastline from Pinnacle Point Eastwards towards the town of Mossel Bay.

The Pinnacle Point site itself is 479 hectares in extent, which includes a coastal fynbos conservation area of approximately 110 hectares of land to the west of the Estate. The initial proposal to develop the land consisted of a residential component of 408 erven/homes, 120 Cape Cod style golf lodges and 113 villas, a club house, a spa and an 18-hole links golf course (CODEV, 2003). It is still in its operational phase with only about 30 to 40 percent of the proposed residential units having been completed to date (2010) (Pinnacle Point Resorts (Pty) Ltd, 2010, pers comm.). The developments target market for property investors is specifically

aimed high income earners, of which 30% are estimated to come from the international market (MCA Planners, 2002).

Like Pezula, Pinnacle Point has also instigated certain security measures to control and monitor access within the estate. A fence has been erected around the perimeter on the northern, eastern and western borders of the property. In addition to these fences, access in and around the estate is controlled by a security gate at the front entrance and security personnel and CCTV cameras which monitor access within the estate. Stakeholders using the section of the St. Blaize Trail which traverses the property are also required to sign a register when entering the estate. This is monitored by security personnel strategically positioned as check points on either side of the development.

5.4.3 The approvals process: Pinnacle Point

Prior to 2000 the property, owned by Mossel Bay Municipality at the time, was put out on tender specifically for the development of a golf estate (Swanepoel, 2003). The applicant (Pinnacle Point Holdings) submitted the successful tender and subsequently became the registered owner of the land at which point certain conditions of approval were imposed upon the developer by the Municipality as a prerequisite of the sale (e.g. the relocation and upgrade of a waste water treatment facility). Prior to this the applicant applied for three separate Records of Decisions (ROD's) to develop the land, these included: (1) the development of a Casino, a hotel and 120 lodges for people to stay in; (2) the development of the Pinnacle Point Beach and Golf Club and (3) the relocation and upgrade of the municipal sewerage works initially located at the existing clubhouse. The planning of the Pinnacle Point Beach and Golf Club and preparation of the relevant applications were undertaken in accordance with the standard procedures stipulated in terms of the Land Use Planning Ordinance of the Western Cape (15 of 1985), the Environmental Conservation Act (73 of 1989), the Subdivision of Agriculture Land Act (70 of 1970) and the Natural Heritage Resources Act (25 of 1999). Conservation and Development Facilitation Services (CODEV CC) was appointed as the independent consultant to conduct the EIA process in terms of the regulations promulgated under the Environmental Conservation Act (73 of 1989), which started in 1997. After a confusing and fragmented application history, the Department of Environmental Affairs and Development Planning issued their environmental authorisation in a positive ROD on the 19th of August 2003, for the development to commence with certain conditions of approval attached. After a lengthy appeals process, which delayed construction of the golf estate component for another year, construction finally commenced in October 2004.

Chapter 6: Changing Access Patterns

This chapter presents the first part of findings in this study. It draws on the access analysis framework developed by Ribot & Peluso (2003) to understand and analyse the changing access patterns at each case study site. This involves conducting the first three steps in relation to the modified access analysis framework developed in terms of this study (**Section 3.2.2**). These include:

- (1) Identifying the primary stakeholder groups and their respective interest in the coastal areas under examination.
- (2) Mapping, documenting and analysing the changing access patterns pre- and post-development approval.
- (3) Identifying the extent to which stakeholders' ability to access the coast and its resources has been restricted or enabled over this period.

This chapter reports on the major findings identified through conducting the above mentioned steps.

6.1 Primary Stakeholders identified

Six primary stakeholder groups have been identified through semi-structured interviews with key informants from each case study site. The primary stakeholders identified are determined as those individuals or groups whose ability to access the coastal area under investigation and its associated benefits, has been affected (negatively or positively) as a direct result of each development being approved and subsequently implemented. The six stakeholder groups identified include: (1) subsistence fishers and recreational fishers; (2) other recreational users and tourists; (3) estate homeowners and visitors; (4) estate employees; (5) the developer; and (6) state institutions. Whilst the first two stakeholder groups are identified as 'historic users' of the coastal area under examination (e.g. stakeholders that have been deriving benefits from the coast prior to each development being approved), the last four stakeholder groups are identified as 'new users' of the coast and its resources (e.g. stakeholders that have gained benefits from the coastal area since each development has been approved). The following section identifies and explores each stakeholder group's interest in the coast and the benefits that they have gained from accessing the coastal area under examination before and after each large-scale golf estate has been developed. This information was gathered through conducting a

number of semi-structured interviews with active representatives from the above mentioned primary stakeholders groups (see **Appendix 2**).

6.1.1 Subsistence and recreational fishers

Subsistence and recreational fishers benefit substantially from the marine resources offered by both coastal regions under examination. Whilst the sheer cliff faces and steep topography characteristic of each of the case study sites, make parts of the coastline inaccessible, the deep gullies resulting from such topography combined with the favourable deep ocean currents make certain areas ideal locations from which to harvest the abundant marine resources on offer (Hornlee Fisher 1, 2009, pers comm.; KwaNonqaba Fisher 1, 2010, pers comm.). Apart from harvesting the available line-fish (e.g. Mussel Cracker, Steenbras, Elf, Galjoen and Yellow Tail) the fishers also collect various invertebrates (i.e. mussels, oysters and winkels) from the rocky shoreline situated to the south of each development (Hornlee Fisher 1, 2009, pers. comm.; Pinnacle Point Spokesperson 1, 2010, pers comm.).



Figure 13: Fishers using the rocky shoreline at Pinnacle Point

Most of the marine resources harvested by the recreational fishers are consumed by the fishers, their friends and families, whilst many of the subsistence fishers sell any surplus catch within their respective communities to generate some additional income (Hornlee Fisher 2, 2009, pers. comm.; Pinnacle Point Spokesperson 2, 2010, pers. comm.; Dana Bay Ratepayers Association, 2010, pers comm.). These subsistence fishers often have to resort to catching fish when job opportunities in the region are scarce and fishing is seen as the only source of livelihood for them to feed their families or to generate some extra income (Hornlee Fisher 2, 2009, pers comm.). Fishing of this nature is therefore seen as more of a necessity than a lifestyle choice.

This means that whilst recreational fishers gain benefits from consuming the marine resources on offer, recreational benefits from being able to fish at their preferred fishing spots and intrinsic benefits from enjoying the surrounding natural environment, subsistence fishers, gain access to an important source of food that contributes to sustaining their livelihoods, as well as important economic benefits from harvesting the available marine resources.

The rich tradition and cultural importance of fishing amongst fishers using the coast and its resources at each case study site has also been identified. According to one of the Hornlee fishers (Hornlee Fisher 2, 2009, pers comm.) the coast has been an integral part of their community's culture for many generations and as a result they feel that it is their fundamental human right to be able to access this part of the coast and the benefits that it offers them. Personal accounts of fishers spending entire weekends camping at their preferred fishing spots with their family and friends, is testament to this fact (Hornlee Fisher 3, 2009, pers comm.). This trend was also identified at Pinnacle Point through interviews with fishers who have been accessing the coast for many decades (Pinnacle Point Spokesperson 1, 2010, pers comm.; KwaNonqaba fisher 2, 2010, pers comm.). This means that apart from the recreational, economic and intrinsic benefits these stakeholders gain from the coast, they also place a significant traditional and cultural value on each of the respective coastal regions and what it represents for them.

6.1.2 Other recreational users and tourists

Other recreational users and tourists (e.g. from surrounding community members to people visiting for a day) that use this part of the coast associate a high intrinsic value with accessing the coast and its associated environment (Noetzie Resident 2, 2009, pers comm.; Environmental Lawyer, 2009, pers comm.). This is the indirect value or utility these stakeholders gain from being able to access the coast and its resources. The high intrinsic value associated with each case study site can be related to its great natural beauty, the intact environmental functioning and the scarcity of comparable coastal locations with similar qualities (Mentis, 2006). Here again, the steep topography that characterises each coastline and more specifically the coastal plateau used by recreational users, provides them with an ideal vantage point from which to view the magnificent coastal scenery and abundant marine life associated with each coastal region under examination. Also the indigenous vegetation (e.g. a mosaic of forest/thicket and fynbos) along each of the thin coastal cliff strips provides a unique spectacle of fauna and flora, enjoyed by hikers and recreational users alike (**Figure 14**). Some of the activities that recreational users and tourists who frequent this part of the coastline enjoy include: spear fishing, snorkelling, recreational fishing, hiking, whale watching, beach going and bird watching

(Pinnacle Point Spokesperson 1, 2010, pers comm.; Mossel Bay Policemen, 2010, pers comm.; St. Blaize Trali Representative, 2009, pers comm.; Noetzie Resident 1, 2009, pers comm.).



Figure 14: Photographs illustrating the coastal environmental characteristics of the Pinnacle Point case study site

Some of the recreational users and tourists, especially those with houses in the surrounding neighbourhoods, have been accessing the coastal areas under examination since their early childhood and as a result place a traditional or cultural value on gaining access to the coast and its associated benefits (Heiderand Resident 1, 2010, pers comm.; Noetzie Resident 1, 2009, pers. comm.). This trend is particularly characteristic of the Noetzie Community (see **Figure 7**). Many of these landowners have held the land in their families for generations and therefore place a significant value on the historical heritage that Noetzie represents for them and their ability to pass down the land unimpaired to future generations for their enjoyment (Noetzie Resident 1, 2009, pers comm.). Homeowners, who own property in neighbouring suburbs, also gain significant economic benefits from their houses close proximity to the coast (Mentis, 2006). This relates to the high land exchange values associated with the environmental integrity of the area and the scarcity of comparable coastal sites that offer similar development opportunities (Mentis, 2006).

6.1.3 Estate Homeowners and visitors to the Estate

Since the development of both large-scale golf estates, additional stakeholders in the form of estate homeowners and visitors to the estate have gained access to the coastal regions under examination. Like the previous recreational users and tourists to the site, these stakeholders also associate an intrinsic value with each coastal area, which is related to, amongst other things, the majestic views and unique indigenous vegetation associated with each of them (Pezula Spokesperson 1, 2009, pers comm.; Pinnacle Point Spokesperson 1, 2010, pers comm.). The fact that they own property within the estate or gain access via other means (e.g. rent, green

fees and/or social relations) gives them privileged access to the recreational facilities offered within each estate (e.g. the golf course, sports and recreational facilities and the hiking trails) and the recreational benefits associated with such activities. Moreover, these stakeholders gain a sense of privacy and safety that go hand-in-hand with exclusive developments of this nature (Pinnacle Point Spokesperson 2, 2010, pers comm.). Finally, the estate homeowners gain economic benefits (or costs) from the potential investment gains (or losses) that their properties hold for them in the future.

6.1.4 Estate Employees

Those stakeholders employed by each development during its construction and operational phases have been able to gain significant economic benefits from the coastal areas under examination, in the form of salaries and wages (see **section 6.4.2**).

6.1.5 The Developer

The developers have the potential to gain significant economic benefits in the form of profits from developing each coastal area under investigation. In this regard, each respective local (Pinnacle Point Beach and Golf Club) and foreign (Pezula Private Estate) investor have accepted the fact that the golf course component will not be run at a profit (i.e. increasing the volume of players is not the focus) and instead profits for each development have been generated from other sources (i.e. selling the residential units or plots, the hotels, restaurants and spa facilities) (Pinnacle Point Spokesperson 2, 2010, pers comm.; Pezula Spokesperson 1, 2009, pers comm.). Moreover, because these developers are able to submit the necessary tender needed for them to purchase such properties, they also gain control over the stream of benefits associated with each coastal area (i.e. property rights) and the knowledge that the state will validate the authority of that right to a point (Ribot & Peluso, 2003).

6.1.6 State Institutions

Subsequent to each developments approval, each of the local municipalities, the South Cape District Council and the National Government have been able to gain substantial economic benefits through increased rates and tax revenues received from each of the developments (DEA&DP official, 2010, pers comm.). In this regard, the local municipalities benefit substantially from the increased rates revenue received from each development, whilst the district municipalities and the National government will benefit to a lesser degree from the levies paid by each estate (based on their staff compliment and their annual turnover) and the increased company tax respectively.

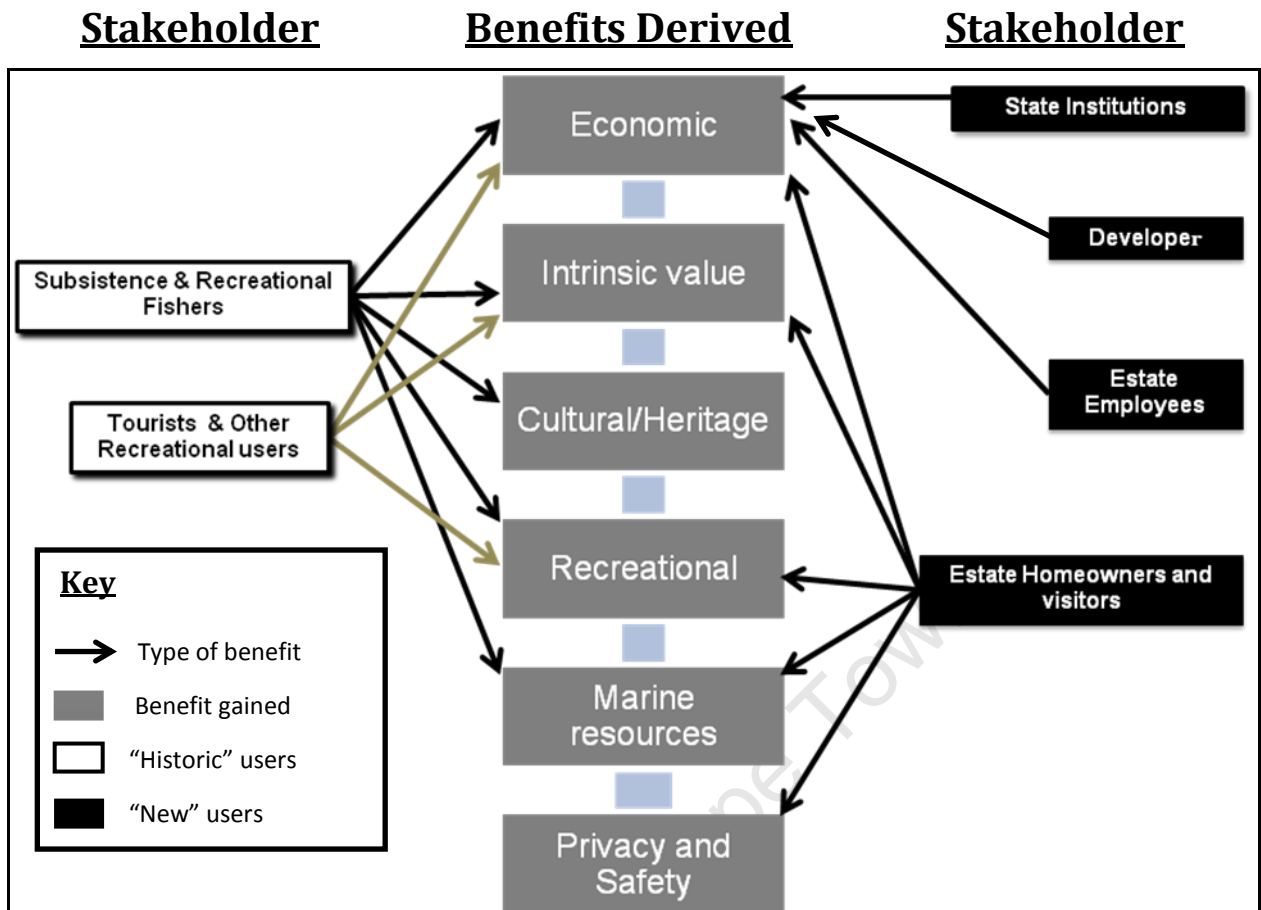


Figure 15: A summary of the benefits each stakeholder group gains from accessing the coastal land under examination

6.2 A review of the historical access routes used by stakeholder groups to access the coast

Coastal access patterns in each case study site have changed considerably since 1990, with the development of both large-scale golf estates. This has had a significant impact on the extent to which 'historic' stakeholders are currently able to gain access to and benefit from the coastal regions under examination. Whilst the previous section aimed to identify the benefits that 'historic' and 'new' stakeholder groups gain from accessing the coast at both case study sites, the following section examines how 'historic' stakeholder groups have traditionally gained access to the coast prior to the development approval and subsequent implementation processes. The findings from this analysis will provide the necessary baseline information from which to identify and assess the changing access patterns associated with each coastal region under examination.

6.2.1 The historic access routes used by stakeholders: Pezula

Prior to Fast Pulse Trading 72 (Pty) Ltd (i.e. the Pezula developer) becoming the registered owner of the land in 2000, the current Pezula site was a private timber plantation, owned by Geo Parks and Sons (Pezula Spokesperson 1, 2009, pers comm.). Despite the land being privately owned, a number of stakeholders that traditionally gained access through the former commercial timber plantation to the coast have been identified through conducting interviews with active representatives from the primary stakeholder groups identified (see **Appendix 2**). These stakeholder groups include: subsistence and recreational fishers, other recreational users and tourists.

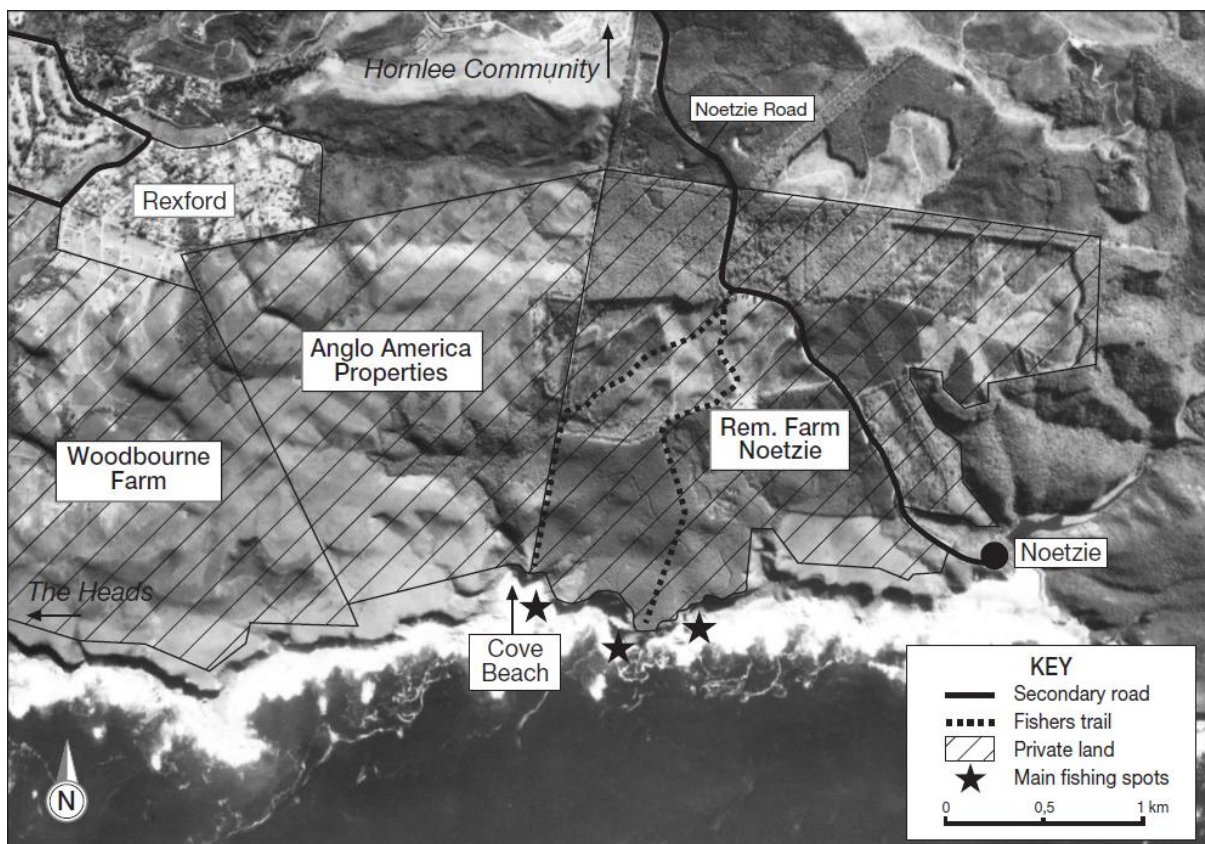


Figure 16: An aerial photograph depicting the traditional access routes used by subsistence and recreational fishers prior to the development of the Pezula Private Estate.

Subsistence and recreational fishers traditionally gained access to their preferred fishing-spots via informal fishing trails that ran across the former commercial timber plantation to the coast (**Figure 16**). Whilst a small proportion of the recreational fishers came from Noetzie or neighbouring communities, in terms of this study the Hornlee community in particular represented the highest proportion of subsistence and recreational fishers that would utilise the rocky shoreline to the south of the current development site (Hornlee Fisher 3, 2009, pers comm.; SanParks Official, 2009, pers. comm.). The majority of fishers from this community are

recreational fishers, with a high proportion of women making up the small percentage of subsistence fishers who sustain their livelihoods entirely from the marine resources on offer (Hornlee Fisher 3, 2009, pers. comm.). Many of these fishers entered into an informal agreement with the previous land owner (Geo Parks and Sons) who allowed them perpendicular access across the former timber plantation to their preferred fishing spots (Hornlee Fisher 4, 2009, pers. comm.). However, the lack of measures to monitor or control such access during this time (i.e. prior to the year 2000) meant that fishers without such permission could also gain perpendicular access across the former timber plantation to the coast without being prosecuted (Hornlee Fisher 4, 2009, pers. comm.). As a result, despite the steep topography that made parts of the coastline inaccessible (**Figure 8**), subsistence and recreational fishers essentially had unrestricted access to the coast in the past (Hornlee Fisher 4, 2009, pers. comm.).

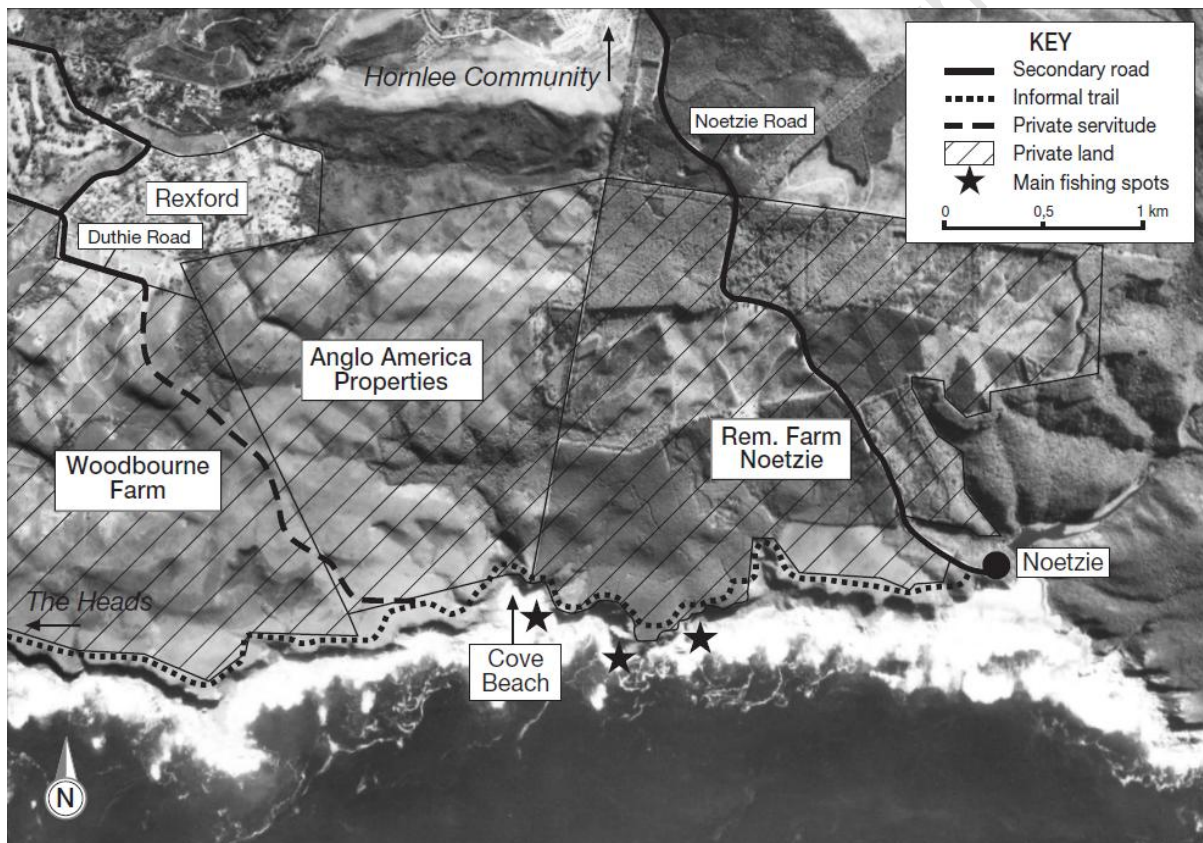


Figure 17: An aerial photograph depicting the historical access routes used by other recreational users and tourists prior to the development of the Pezula Private Estate.

Other recreational users and tourists (e.g. hikers, whale-watchers, beach goers etc.) mainly from the local Knysna community and neighbouring communities (e.g. Noetzie, Rexford and Hunters Home) made use of an informal trail that stretched along the edge of the coastal cliffs (**Figure 17**), from the Noetzie Township in the east to the Heads in the west (Knysna Ratepayers Association, 2009, pers. comm.; Noetzie Resident 4, 2009, pers. comm.). Whilst the trail crossed over private land, as mentioned before, there were no measures in place to control or monitor

access through the former commercial timber plantation and as such these stakeholders gained unrestricted access to the informal trail prior to the Pezula Private Estate being developed (Noetzie Resident 4, 2009, pers comm.). The above mentioned trail was primarily a pedestrian contour path that could be accessed from the Noetzie Parking lot in the east, from the Heads in the west or via a private servitude that led from the Rexford Township through the Woodbourne Farm to the edge of the coastal plateau (**Figure 17**). In terms of the private servitude that lead through the former Woodbourne Farm, this was previously owned by a Mrs. Jean Duthie and as a result the use of this servitude was gained or maintained subject to her approval (Knysna Ratepayers Association, 2009, pers comm.).

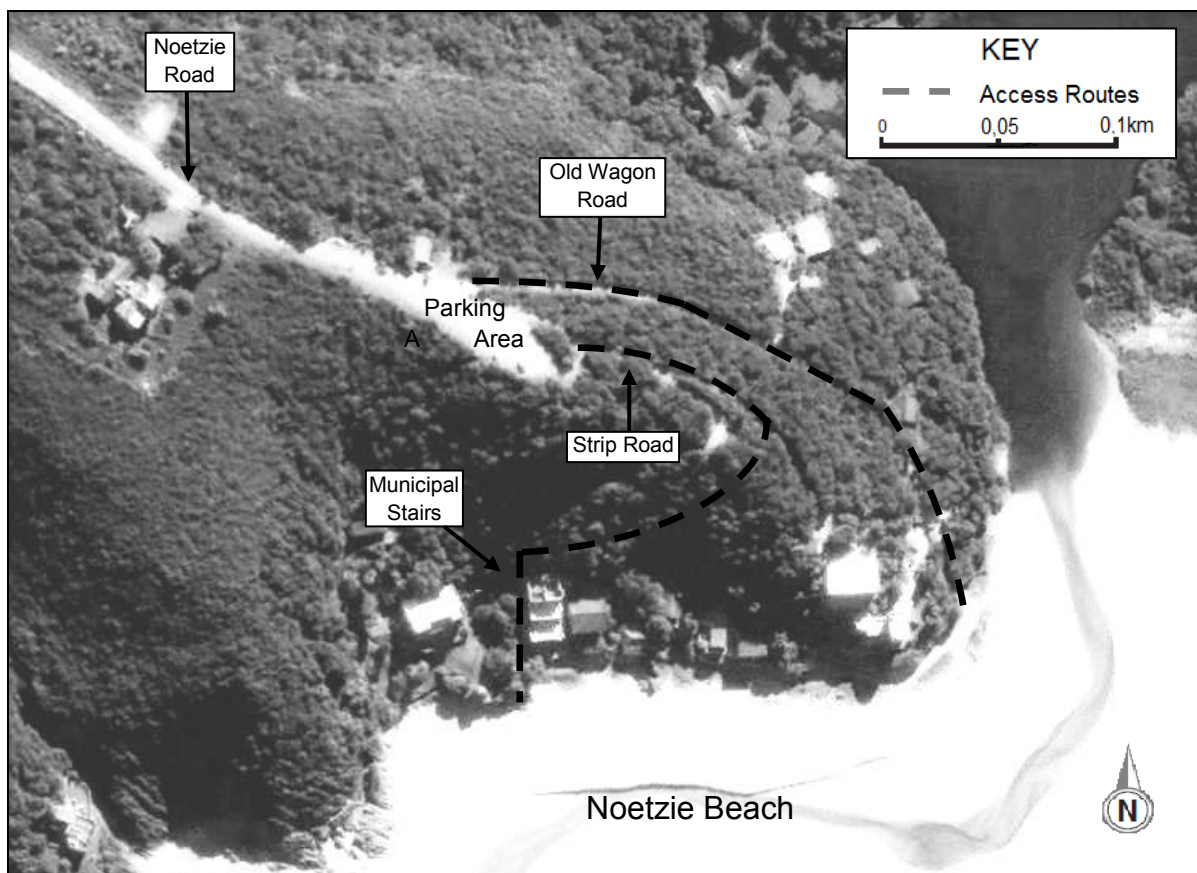


Figure 18: A map showing the two access routes traditionally used by stakeholders to access the Noetzie Beach from the Noetzie parking lot.

Unrestricted access to the Noetzie Township and its beach has also been facilitated for many decades via the public “Noetzie road” (**Figure 17**) - a gravel road that runs from the N2 to a parking lot situated above the Noetzie Township (Noetzie Resident 1, 2009, pers comm.). Noetzie Homeowners, subsistence and recreational fishers, other recreational users and tourists have traditionally gained unrestricted access to the Noetzie Township and beach via this road (Noetzie Resident 1, 2009, pers comm.). From the parking lot there have traditionally been two access routes to the Noetzie Beach. A privately owned strip road leading from the parking lot to a public stairway leading down to the beach and a municipal road (called the “Old Wagon

Road”) which leads from the Noetzie parking area down to the beach (**Figure 18**). Whilst the strip road has always been privately owned, the previous landowner allowed unrestricted use of this road for the general public (Noetzie Resident, 2009, pers comm.).

6.2.2 The historic access routes used by stakeholders: Pinnacle Point

Prior to the land being sold to Pinnacle Point Resorts (Pty) Ltd, the land was owned by the Mossel Bay Municipality. Various stakeholders have traditionally gained unrestricted access to the coastal region under examination and the benefits associated with it (Mossel Bay local official, 2010, pers comm.). The rich tradition of stakeholders accessing this coastal region is evident from the numerous access routes to the coast that have been identified through reviewing and analysing aerial photographs of the site and through conducting interviews with key informants in the area. Similar to the current Pezula Private Estate site, the stakeholders that have traditionally gained access to the coast at the current Pinnacle Point site include subsistence and recreational fishers, as well as other recreational users and tourists.

Subsistence and recreational fishers historically gained access to their preferred fishing spots via a host of informal access routes that crossed over the former municipal land (**Figure 19**) to the coast. Similar to the Pezula case study site, the majority of subsistence fishers that utilized the coastline traditionally came from the low income, predominantly African and Coloured neighbourhoods of KwaNonqaba to the north of the proposed site (Pinnacle Point Spokesperson 1, 2010, pers comm.; Mossel Bay Policeman, 2010, pers comm.). In contrast, most of the recreational fishers traditionally came from the relatively higher income, predominantly white neighbourhoods of Mossel Bay, Heiderand and Dana Bay adjacent to the current Pinnacle Point site (Pinnacle Point Spokesperson 2, 2010, pers comm.; Mossel Bay Policeman, 2010, pers comm.).

In the past, only those fishers with access to a 4x4 vehicle could make use of various tracks leading down to the coast, within close proximity of the popular fishing spots (Pinnacle Point Spokesperson 2, 2010, pers comm.). However, pedestrian access was facilitated for other fishers via the St. Blaize Trail, via public access routes that ran along the western and eastern borders of the current Pinnacle Point site and via a network of informal pathways that crossed directly through the former municipal land (**Figure 19**).

Other recreational users and tourists (e.g. hikers, sight-seers, beach-goers etc.) also made extensive use of the coastal region at Pinnacle Point in the past. A large proportion of these ‘historic’ recreational users were local and foreign tourists that came to Mossel Bay with the primary intention of hiking along the St. Blaize Trail, the first stage of the world renowned

“Oyster Catcher Trail” (St. Blaize Trail Representative, 2009, pers comm.). Completed in 1987, the St. Blaize Trail extends for about 13.5 kilometres along the edge of the coastal cliffs from ‘the St. Blaize Cave’ at the Point in Mossel Bay to Dana Bay in the west (**Figure 12**). From the top of the contour path (approximately 160 metres above sea level) stakeholders using the trail experience magnificent views that include unique rock formations, caves, scenic coastal views and superb indigenous flora (St. Blaize Trail Representative, 2009, pers comm.). The route also passes by some of South Africa’s most significant archaeological sites with remnants from early civilisations dating as far back as the Middle Stone Age (Olivier, 2003).

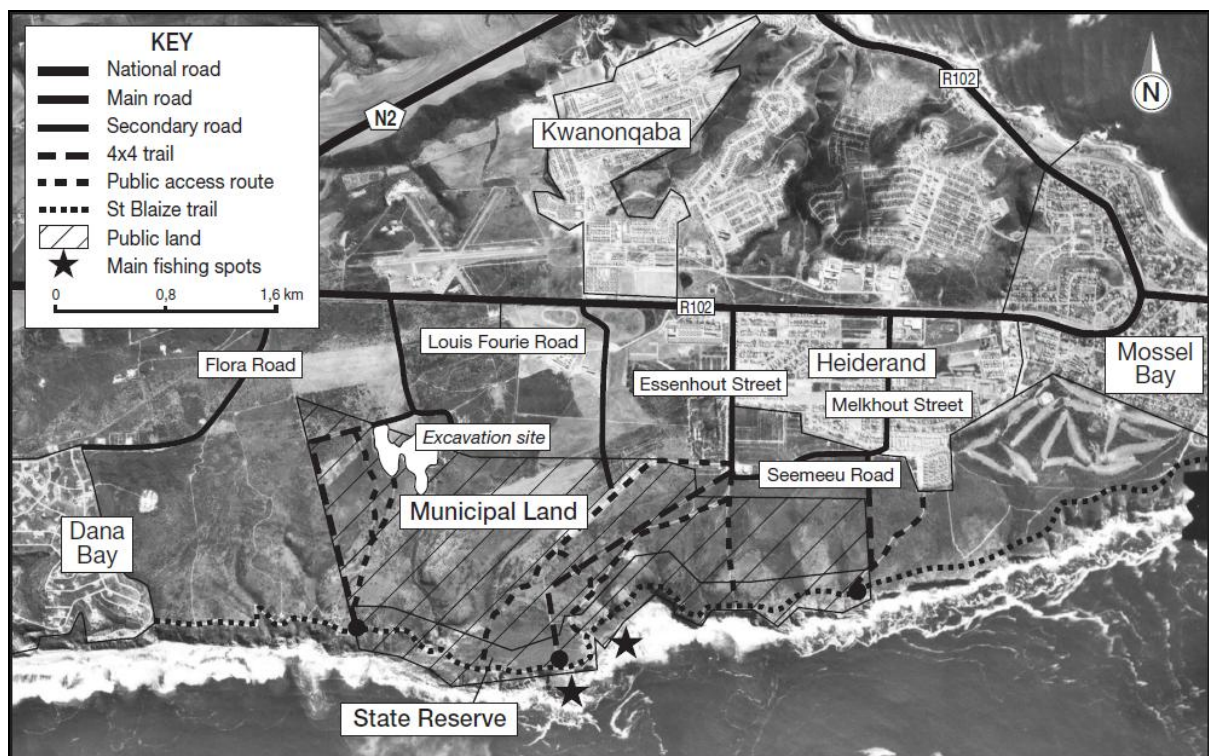


Figure 19: Aerial photograph depicting the traditional access routes used by fishers, other recreational users and tourists at the current Pinnacle Point site

Other recreational users predominantly from the surrounding middle to higher income white neighbourhoods of Mossel Bay, Heiderand and Dana Bay have also traditionally utilised the coastal land at Pinnacle Point for a number of different recreational activities (Heiderand Resident 2, 2010, pers comm.). These include walking, jogging, whale-watching, 4x4 trails, four-wheeling, bird watching and beach-going (Heiderand Resident 2, 2010, pers comm.). Whilst some of these stakeholders have gained access to the coastline, cliffs and beaches in the past via the St. Blaize Trail, (similar to the local fishers) many of them have traditionally gained unrestricted perpendicular access across the former municipal land via informal footpaths or 4x4 tracks leading to the coastline or the hiking trail (Pinnacle Point Spokesperson 2, 2009, pers comm.).

6.3 Changing access patterns as a direct result of each development

Access patterns in each case study site have changed considerably since the subsequent approval and implementation of both large-scale golf estates. This has had a significant impact on the extent to which historical stakeholder groups are currently able to gain and maintain benefits from the coastal areas under investigation. Whilst a number of 'historic' stakeholders' access to the coast has either been terminated or blocked by each of the golf estate developments, other historic stakeholder groups have been able to maintain their existing rights of access to the coast. The following section examines to what extent historical patterns of access have changed since the approval and implementation of each large-scale golf estate.

6.3.1 The extent to which 'historic' access routes have been affected: Pezula

Access within the Pezula Private Estate (**Figure 7**) is restricted to Pezula employees, homeowners and visitors to the Estate (Pezula Spokesperson, 2009, pers comm.). This access is strictly controlled and monitored by means of electric fences that have been set up around its perimeter, security gates at both of its entrances and through security personnel and CCTV cameras which have been set up at strategic points within the development and along certain major access routes (Pezula Spokesperson, 2009, pers comm.). These measures to control and monitor access within the estate and along its borders have had a significant impact on historic stakeholders' ability to access the coast and its resources at the Pezula case study site.

Many of the subsistence and recreational fishers that used to gain unrestricted access through the former timber plantation have been denied access through the Pezula Private Estate and as such can only access their preferred fishing spots via the "Noetzie Road" or from the Sparrebosch side via the "Sparrebosch Hiking Trails" (**Figure 20**). However, a handful of subsistence and recreational fishers from the Hornlee community have been able to maintain access across the Pezula Private Estate through an informal agreement that has been reached between themselves and the developer (Pezula Spokesperson 1, 2009, pers comm.). This perpendicular access across the estate is however subject to certain conditions, which means that instead of having unrestricted access to the coast as they have had in the past, such access is instead controlled by Pezula on their own terms. The conditions of this agreement are discussed in more detail in subsequent sections dealing with the management and implementation aspects of the EIA process (see **Section 7.5.3**).

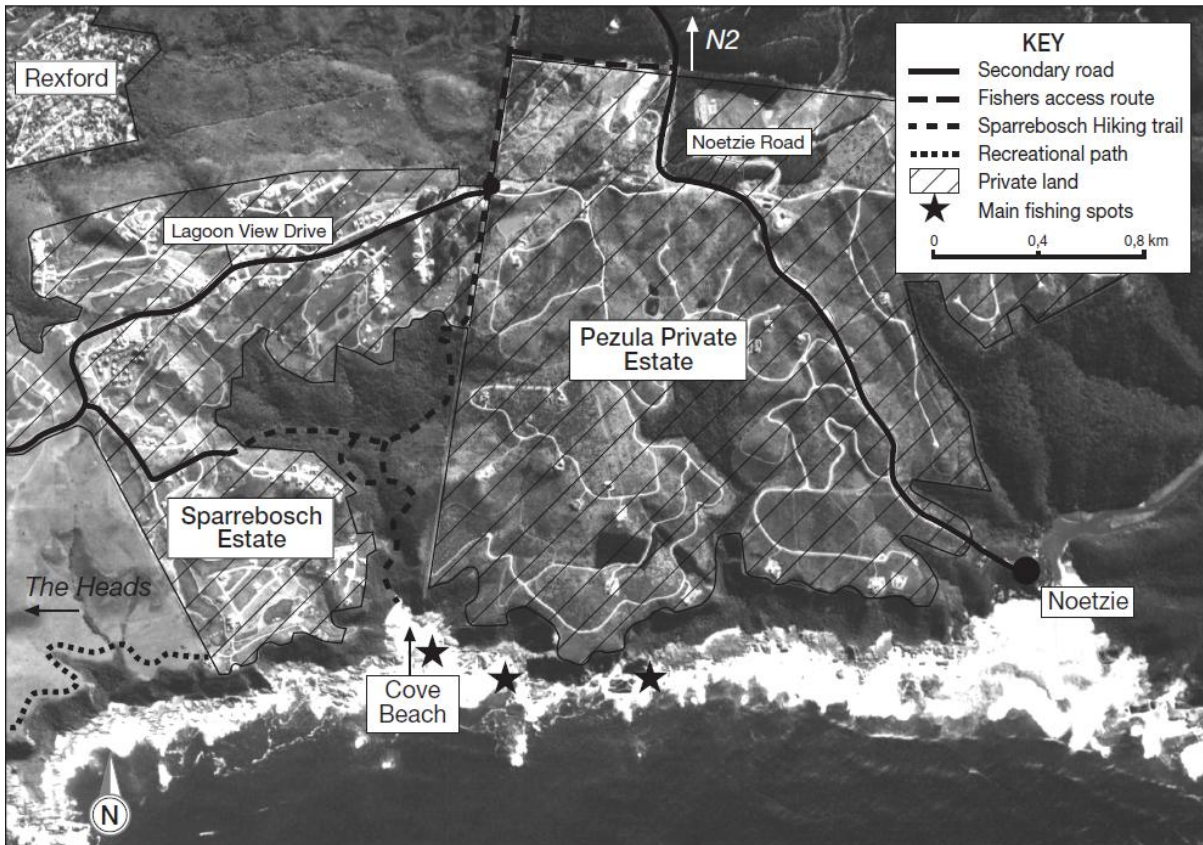


Figure 20: Aerial photograph depicting the current access routes used by stakeholders to access the coast at the current Pezula case study site

Recreational users and tourists' historic access across the southern part of the case study site has also been significantly compromised (**Figure 20**). As such, it is currently impossible to access the informal trail that historically facilitated lateral access along the coastal cliffs on the seaward side of the Pezula site (Hornlee Fisher 1, 2009, pers comm.; Noetzie Resident 2, 2009, pers comm.). Those members wishing to make use of this part of the coastal area are now forced to use the rocky shoreline to the south of the current development site (**Figure 8**), which is substantially less accessible owing to the steep topography and rocky shoreline that characterises this coastal region (Noetzie Resident 1, 2009, pers comm.; Environmental Lawyer, 2009, pers comm.).

Access to the coast in the western part of the case study site has been increased, with the subsequent construction of formal access routes that facilitate vehicular and pedestrian access adjacent to the Pezula site (**Figure 20**). These formal access routes have made the western part of the case study region substantially more accessible for 'historic' (e.g. subsistence and recreational fishers, other recreational users and tourists) and 'new' (e.g. Sparrebosch and Pezula Homeowners and visitors to the estate) stakeholder groups alike. This has also facilitated access to the coast for 'new' recreational users and tourists that previously would not

have thought to make use of this part of the coastal area as no formal access routes were present (Knysna Ratepayers Association, 2009 , pers comm.).

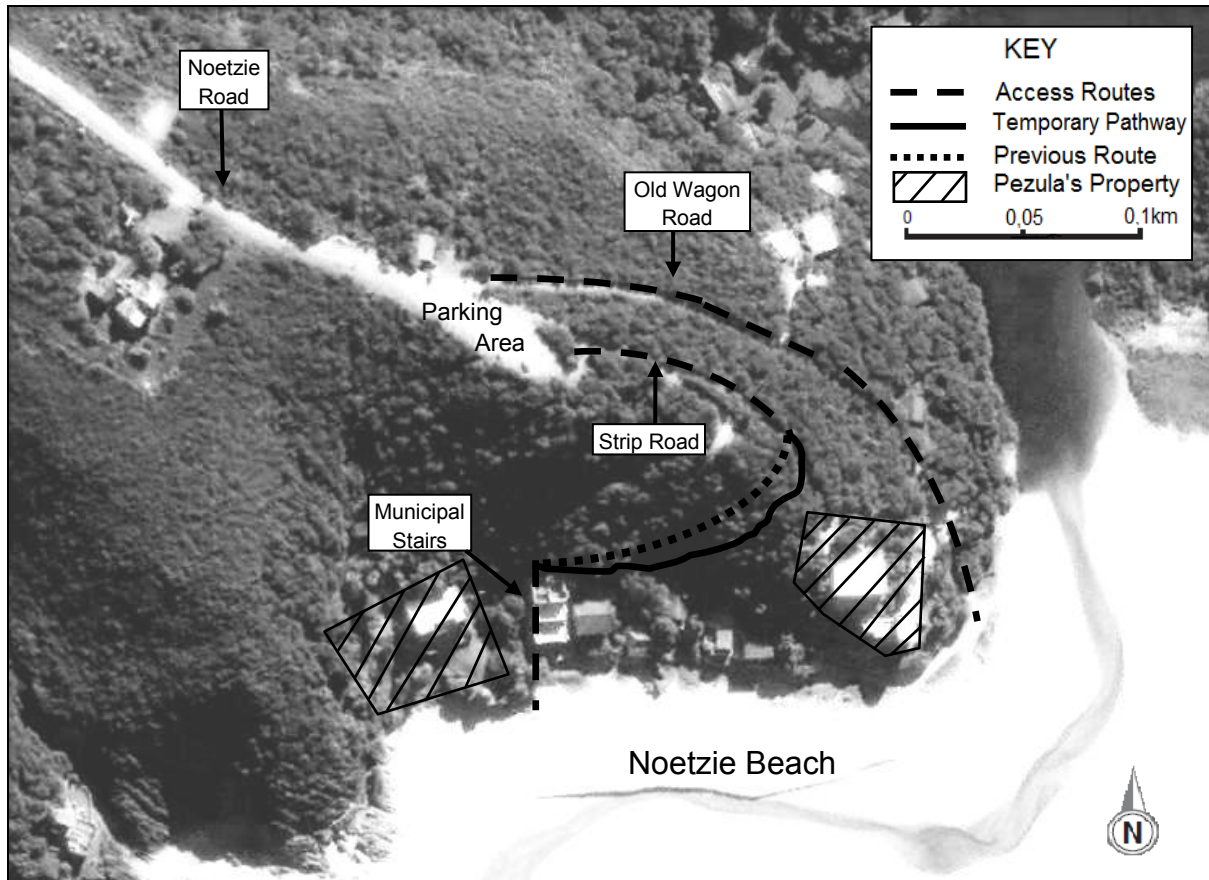


Figure 21: Noetzie map illustrating the current access routes used by various stakeholders to access the Noetzie Beach.

Whilst vehicular access to the Noetzie Township has been improved by means of an upgrade to the existing 'Noetzie Road', access to the Noetzie Beach has to some extent been compromised by Pezula. In May 2006, whilst doing renovations to one of their castles, Pezula cut off access to the strip road previously used to access the public stairway leading down to the beach (**Figure 21**). A lengthy court case ensued, which resulted in Pezula constructing a temporary pathway (**Figure 21**) to the public stairs after a settlement agreement was reached between them and the relevant applicant (Noetzie Homeowner 1, 2009, pers comm.). At present (2010), this temporary pathway is still in use and facilitates unrestricted access to the Noetzie Beach. In relation to this, the other access route used to access the Noetzie Beach (i.e. the 'Ox Wagon Road') is still in use (**Figure 21**), however vehicular access on this road is now restricted by means of a security boom and the use of this road is limited to Noetzie Homeowners with beachfront plots and Pezula service vehicles (Noetzie Resident 4, 2009, pers comm.).

6.3.2 The extent to which historical access routes have been affected: Pinnacle Point

Like Pezula, access within the Pinnacle Point beach and Golf Club is also restricted to estate employees, homeowners and visitors to the Estate (Pinnacle Point Spokesperson, 2010, pers comm.). This access is also stringently controlled by means of electric fences that have been set up along its northern, western and eastern borders, a security gate at its front entrance and through security personnel and CCTV cameras which act to monitor stakeholders' access within the estate (Pinnacle Point Spokesperson 1, 2010, pers comm.). As such, a number of historical stakeholder groups have been denied perpendicular access across the former municipal land to the coast (i.e. subsistence and recreational fishers, other recreational users and tourists). The development of a number of large-scale exclusive residential estates on either side of Pinnacle Point (**Figure 22**) has further exacerbated problems of access, blocking perpendicular access to the coast for numerous stakeholders over an even greater portion of coastline (Heiderand Resident 2, 2010, pers comm.). This is perceived to have significantly compromised a number of historical stakeholder groups' (i.e. subsistence and recreational fishers and other recreational users) ability to benefit from the coast and are currently only able to gain access to the coastal area via the St. Blaize Trail - accessed either from the Dana Bay side in the west or from the Mossel Bay side in the east (**Figure 22**).

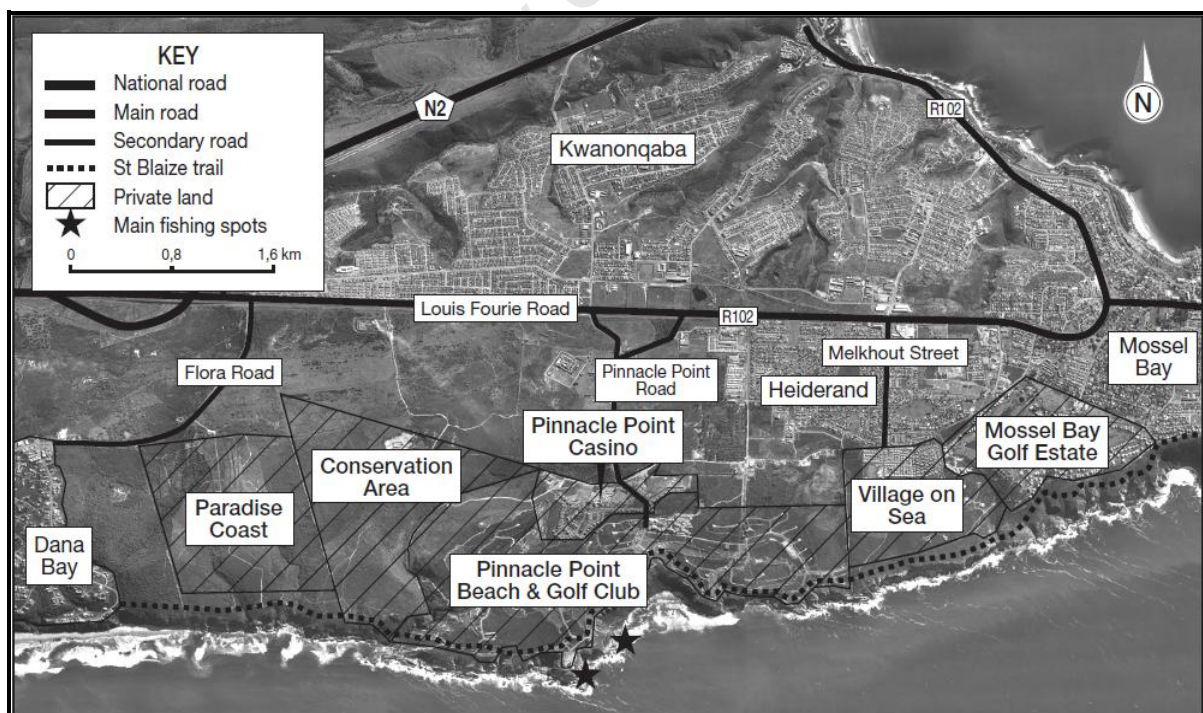


Figure 22: Aerial photograph depicting the current access routes used by stakeholders to access the coast at the current Pinnacle Point case study site

Despite this, a number of subsistence and recreational fishers, predominantly from the low income KwaNongaba community, have been able to maintain access across the Pinnacle Point site to their preferred fishing spots through a ‘fisher’s agreement’ that has been drafted between themselves and representatives from the Pinnacle Point development group (Pinnacle Point Spokesperson 2, 2010, pers comm.). Whilst such an agreement has facilitated perpendicular access to the coast for these fishers, such access is restricted by certain rules and regulations imposed upon the fishers by the development team. These regulate and manage fishers’ access to the coast and are discussed in more detail in subsequent sections dealing with the management and implementation phases of the EIA process (see **Section 7.5.2**).

Other recreational users and tourists that have historically made use of the St. Blaize trail to access this part of the coastal region have also been significantly affected by this development. Whilst the section of the St. Blaize Trail that traverses through the estate has been maintained and relocated (**Figure 23**) around certain physical barriers (e.g. the clubhouse and the golf course) to ensure continued use of the hiking trail, the development has negatively impacted upon the hiking trails ‘sense of place’ and the visual amenity previously associated with this part of the coastal region (St. Blaize Trail Representative, 2009, pers comm.; Heiderand Resident 2, 2010, pers comm.). Furthermore, access within the estate is subject to certain rules imposed upon such stakeholders by the development team. These rules are listed on signposts which have been placed at strategic points within the estate along sections of the trail and aim to:

- Regulate and manage stakeholder’s adverse impact on the surrounding environment.
- Ensure the overall safety of stakeholders using this part of the St. Blaize Trail.
- Ensure the overall safety of homeowners and visitors (i.e. golfers and holiday-makers) to the estate.
- Make sure that the use the St. Blaize Trail does not negatively impact upon homeowners and visitors enjoyment of the Pinnacle Point site.

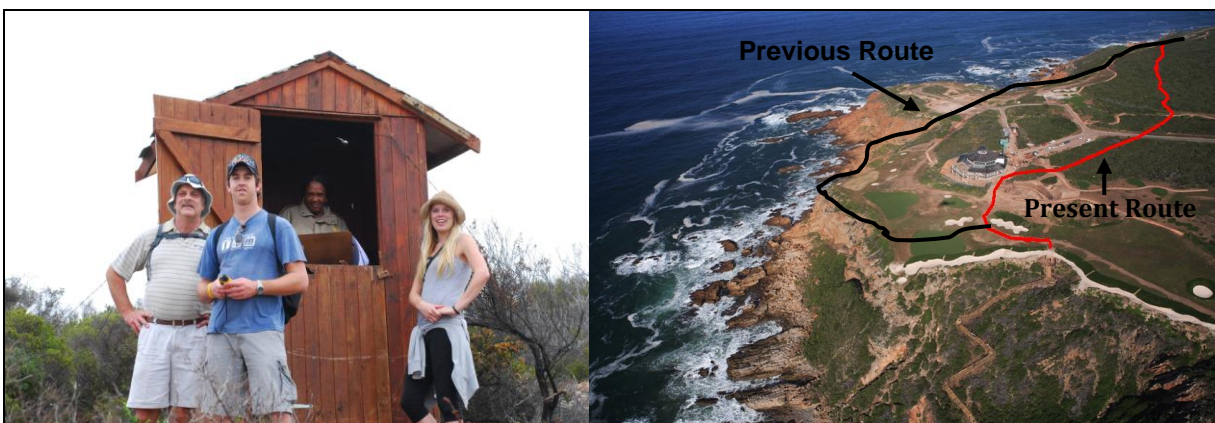


Figure 23: (Left) Photograph of the security point where hikers using the St. Blaize Trail must register before entering the Pinnacle Point estate. (Right) Aerial photograph depicting the extent to which the St. Blaize Trail has been reconfigured since the Pinnacle Point development was implemented.

Whilst these measures are perceived to have negatively affected recreational hikers enjoyment of the St. Blaize Trail (St. Blaize Trail Representative, 2009, pers comm.), the construction of an environmentally sensitive boardwalk below the clubhouse down to the Pinnacle Point Beach has made this part of the coastal region more accessible to a number of 'new' stakeholder groups (i.e. homeowners and visitors to the estate), especially those elderly and physically challenged stakeholders (within this stakeholder group) using this part of the coastal region (Pinnacle Point Spokesperson 2, 2010, pers comm.).

6.4 Conclusion

From the above findings, it is evident that each development has had a significant impact on different stakeholder groups' ability to derive benefits from the coast and its resources at each case study site. This section seeks to identify which stakeholders have been able to derive benefits from the coastal areas under investigation and which stakeholders have been denied benefits following the implementation of the two projects. The results from this section of the study are then used to inform the discussion section which compares these findings with progressive principles and provisions identified in the policy and legislative review chapter (**Chapter 3**), in order to determine to what extent such development outcomes actually conform to South Africa's post democratic legal framework.

6.4.1 Stakeholders whose access to the coast has been negatively affected

Both developments have compromised 'historic' stakeholder groups' access to the coast and its resources to varying extents. This in turn has significantly undermined their ability to derive benefits from the coastal areas under investigation. Whilst a few fishers have been able to maintain their rights of access to the coast through each development, such access is not unrestricted and is instead controlled by the development group on their own terms (see **Section 7.5.2**). As such, many of the fishers find these measures to be intimidating or invasive of their privacy and instead choose to use less convenient access routes (i.e. more remote and further in distance) to access their preferred fishing spots (Hornlee fisher 4, 2010, pers comm.). In addition to this, more stringent regulations and management procedures have been implemented since the developments were approved, which has had a significant influence on fishers' ability to benefit from the coast and its resources at each case study site. In this regard, the tradition of neglect and mismanagement, associated particularly with the Pinnacle Point site in the past, meant that 'historic' stakeholders generally had uncontrolled, unrestricted access to the coast and its resources, to the detriment to the receiving environment and its associated marine resource base. Since the development of the two projects, the enforcement of

regulations pertaining to fishing activities and the requirements that are expected from each category of fisher in terms of the Marine Living Resources Act (1998) have become far more stringent. As a result, regulations such as bag limits, size limits, equipment requirements, species-specific regulations and closed seasons have all had a profound effect on local fishers' ability to benefit from the coast and its resources. Moreover, legal provisions restricting certain activities at the coast (i.e. fires and camping), have restricted overnight camping and making fires at fishing spots. Whilst it can be argued that this would have happened irrespective of the developments being approved, the reality is that the local municipalities often do not have the capacity to employ rangers to enforce these provisions whilst the governing bodies of such developments do (DEA&DP official, 2010, pers comm.) As a result, the enforcement of regulations relevant to coastal access and use has definitely become more stringent since the development of these estates (Pinnacle Point Spokesperson 1, 2010, pers comm.). This has significantly undermined the strong cultural and historical ties that many of the poorer fishing communities associate with these coastal areas.

The benefits historical recreational users and tourists gained from accessing each of the coastal areas in the past have also been significantly compromised by both developments. The developments have detracted from the natural amenity values associated with each of the coastal areas through negatively impacting on the magnificent coastal scenery and each areas "sense of place". This has negatively impacted upon the intrinsic and cultural values that related stakeholder groups would have associated with these coastal areas in the past. More so, both developments have cut off perpendicular and lateral access routes to the coast, thus denying "historic" stakeholder groups the recreational benefits they used to gain from accessing the coastal areas before. This is especially evident at Pezula, as the development has essentially blocked lateral access along the coast, through denying stakeholders the ability to gain access to the informal trail along its southern border. Again this can be attributed to the inaccessible shoreline on the seaward side of the development site, however this could have been incorporated into the planning of the development. Finally, the overall "losers" appear to be the general public and future generations. These stakeholders have been restricted from accessing coastal areas that the public would have been able to access in the past and they have been denied the ability to benefit from the significant natural amenity previously associated with each site.

6.4.2 Stakeholders that have derived benefits from the golf estate developments

Whilst 'historic' stakeholder's ability to benefit from the coastal areas under examination have been affected to varying extents by each development, a number of 'new' stakeholder groups

have been able to derive significant benefits from each of the coastal areas under investigation prior to each developments' implementation. In this regard, the overall 'winners' appear to be each of the local municipalities, the South Cape District Council and the National Government who have been able to gain significant benefits from the coastal land under examination through increased rates, levies and tax revenues received from each of these developments. The local Mossel Bay Municipality has also benefitted substantially from a much needed upgrade to their municipal bulk services in the form of a new municipal three mega litre sewage treatment plant, which was relocated and upgraded by the Pinnacle Point development as one of the land sale agreements between them and the Mossel Bay Municipality (Pinnacle Point Spokesperson 2, 2010, pers comm.).

Other stakeholder's that have been able to derive benefits from the coastal areas under investigation, subsequent to each developments approval, are the developers (i.e. Pinnacle Point Resorts (Pty) Ltd and Fast Pulse Trading 72 (Pty) Ltd). Through being allowed to apply for licences to develop the land and through supplying the necessary tender (e.g. capital) needed to purchase each of the related properties, each developer has been able to gain access to and control over the significant benefits associated with each case study site.

Stakeholders employed by each development have also benefitted substantially from each large-scale golf estate through gaining access to additional income in the form of salaries and wages. In this regard, both estates created significant employment opportunities during their construction phases, predominantly for semi-skilled and unskilled workers. During Pezula's construction phase from 2003 to 2005 approximately 1500 direct employment opportunities were created of which 261 were permanent. Most of these employment opportunities were given to local labourers and local enterprises from the Knysna Region (Pezula Spokesperson 2, 2010, pers comm.). Similarly, during its first year of construction from 2004 to 2005 Pinnacle Point created approximately 1700 direct employment opportunities, the majority of which came from the local labour market and related enterprises that were sub-contracted to assist in the construction of the development. Inevitably the employment opportunities have reduced during the operational phases of each golf estate as running the estate requires significantly fewer employees. Whilst no employment statistics are available for Pezula's golf course component, 40 staff members are employed to run the residential component of the estate (Pezula Spokesperson 2, 2010, pers comm.). Pinnacle Point currently employs approximately 70 people per year to run both the residential and golf course component of the estate (Pinnacle Point Spokesperson 2, pers comm.). These include 30 to 40 people employed by the Pinnacle Point Homeowners Association to run the residential component (i.e. a general manager, public relations, accountants, maintenance team, landscapers and cleaners), 10 to 20 stakeholders

working to run the golf course component (i.e. caddies, waiters, managers etc.) and a handful of sub contracted individuals (i.e. green keepers) who are responsible for the general upkeep and maintenance of the golf course²⁹ (Pinnacle Point Spokesperson 2, 2010, pers comm.).

Finally, the homeowners and visitors to each estate have also been able to gain significant benefits from the coastal areas under examination. Here, those stakeholders who can afford it have been able to purchase or rent residential units within the estates and finance levies, membership fees and green fees, which in turn gives them the ability to gain access to the many recreational, intrinsic and economic benefits associated with each case study site. In addition to this, the homeowners obtain a sense of security, status and privacy, characteristic of developments of this nature. Whilst the majority of homeowners residing within the Pinnacle Point estate are South African citizens, the majority of homeowners residing within the Pezula Private Estate are foreign. Moreover, the very low occupancy rates³⁰ throughout the year, (i.e. 5% and 20% for Pinnacle Point and Pezula respectively), mean that such homeowners only make use of these benefits for a very limited period of the year. Visitors to each estate also predominantly come during the peak summer holiday seasons (December and March), which further exacerbate problems of seasonal employment and places added pressure on the already limited infrastructure, characteristic of both Knysna and Mossel Bay.

²⁹ Note that the information gathered in terms of the number of jobs created and the nature of these jobs is largely speculative owing to the fact that no economic impact studies have been undertaken for either development and figures rely on estimates provided by knowledgeable interviewees.

³⁰ The percentage of residential units occupied (on average) throughout the year

Chapter 7: The role of Environmental Impact Assessment in identifying, assessing and addressing issues of coastal access

7.1 Introduction

The previous chapter examined changing access patterns in two coastal areas where large-scale golf developments have been developed. The following section reports on the major findings identified through reviewing the two EIA reports and the processes followed, in order to determine to what extent the EIA process as a whole was responsible for influencing such outcomes. More specifically, the findings are now discussed in relation to four key aspects of the EIA process, which have been identified as being central to determining the extent to which social issues of concern are identified, assessed and addressed throughout the EIA process. These include: (1) The public participation process; (2) the identification, assessment and reporting of social impacts; (3) the decision-making process; and (4) the management and implementation of the development activity. Each aspect is now discussed separately in order to explore how, why and when issues of coastal access were reported on and/or resolved throughout each aspect. Furthermore, the major factors that have been identified to have influenced each aspects are documented below.

7.2 The Public Participation Processes

Public participation is an integral part of any EIA process (Wood & Hartley, 2004; Du Pisani & Sandham, 2006). If conducted effectively, the public participation process gives stakeholders the opportunity to identify and integrate their concerns, perceptions and judgements into decisions pertaining to the overall planning and design of a development proposal (Van Zyl, 2006). Despite this, many factors can undermine the effectiveness of a public participation process. These can undermine stakeholders' ability to effectively engage with the process and influence the extent to which their views, perceptions and judgements (e.g. concerns related to issues of coastal access) are incorporated into the overall planning and final project design (Petts, 2003). The following section analyses and documents which coastal access issues were identified, how they were identified and who the major stakeholders were that raised these issues. It also documents some of major factors that were determined to have undermined the public participation processes investigated.

7.2.1 The methods of public participation

A number of different methods of public participation were used to incorporate the views, perceptions and judgements of various stakeholders into the EIA processes. **Figure 24** and **Figure 25** give a summarised breakdown of the different procedures employed by each of the relevant environmental consultants in each public participation process under investigation. In this regard, the majority of concerns related to issues of coastal access were raised during the scoping phase of each EIA process (see **Figure 4**). Here, both consultants employed a number of similar methods to obtain input from stakeholders. These included (see **Figure 24** & **Figure 25**):

- Placing **adverts** in various local and regional newspapers, calling for the registration of all interested and affected parties.
- Conducting a **public information sharing meeting** with interested and affected parties from the general public.
- Conducting a number of formal authority **scoping meetings** with local and provincial authorities.
- Conducting a number of formal **scoping meetings** with relevant non-governmental organisations (NGO's).
- Conducting a number of **site visits** with local authorities and registered NGO's.

Pezula's EIA consultant employed a number of additional methods that Pinnacle Point did not use. These included (see **Figure 24**):

- Various ad hoc **meetings** with relevant interest groups in order to elicit responses and to raise issues of environmental significance.
- Other formal **scoping meetings** with representatives from the Noetzie Conservancy Owners Association (NCOA).
- A **social workshop** held with the local Knysna Councillors in order to gain direction as to the social requirements of their various constituencies.
- A **Social Policy Statement workshop** with representatives from the Black Economic Empowerment group.

Whilst some innovative methods (i.e. formal scoping meetings and social workshops) were used to gain input from various interest groups, NGO's and local authorities (see **Table 5**) during each development's scoping phase, the public information sharing meetings represented the principal method used by each consultant to elicit issues of concern from the general public. Both meetings were held in relatively affluent, predominantly white neighbourhoods (i.e. at the

Mossel Bay Library Hall and the Ashmead Resort for the Pinnacle Point and Pezula developments respectively). Public notices advertising each of the public information sharing meetings (see **Figure 24** & **Figure 25**) appeared in the legal sections of the local newspapers, namely the Mossel Bay Advertiser and the Knysna-Plett Herald.

Prior to the meetings listed above, both consultants conducted a public feedback meeting to further assess stakeholders' concerns with respect to how 'issues' identified during the scoping process were going to be addressed and implemented during the construction and operational phases of each development. This was done through presenting an advanced draft of the final layout plan for each of the proposed developments. Again, both meetings were advertised in the legal sections of the local newspapers. However, whilst Pinnacle Point held their feedback meeting in the Mossel Bay library hall, in the centre of the town, the public feedback meeting for Pezula was held at the Masifundi Library Hall, in the previously disadvantaged neighbourhood of Condordia, in Knysna (CODEV, 2002).

Representatives from each development group also entered into on-going correspondence with a number of other informal organisations (i.e. Hornlee Fishers, the Mossel Bay Heritage Society and the Mossel Bay Angling Society) that had raised significant concerns during each of the related public participation processes (see **Figure 24** & **Figure 25**). These on-going discussions represented a much higher level of public involvement than the public meetings, as the development group worked directly and consistently with the above mentioned stakeholder groups to address their concerns throughout the process and as such gave them the opportunity to inform the final project design and layout (see **Section 7.2.4**). In both development proposals, this was the most influential method of public participation used, especially with regards to dealing with those issues relating to the fisher's historical rights of access to the coastal area under examination (Pinnacle Point Spokesperson 1, 2010, pers comm.; Pezula Spokesperson 1, 2009, pers comm.).

A further stage of public input involved advertising the availability of the Draft Scoping Report and later the Draft Environmental Impact Assessment Report for public comment (see **Figure 24** & **Figure 25**). In terms of Pinnacle Point's public participation process, the availability of both reports was advertised in the local press (i.e. The Mossel Bay Advertiser) and made available for public comment at the Mossel Bay Municipal planning offices and at Pinnacle Point's sales office (CODEV, 2003). In comparison, Pezula advertised the availability of both reports in the legal sections of various local and regional newspapers (HilLand, Associates, 2002). These included the George Herald, the Knysna-Plett Herald, the Mossel Bay Advertiser, the Oudtshoorn Courant, the South Cape Forum and the Swellendam News (HilLand Associates,

2002). The reports themselves were made available at the Knysna Library, the Hornlee Library and the Knysna Municipal Offices (HilLand Associates, 2002). From the date of the advertisement, stakeholders were given a period of two weeks to submit their comments to the relevant consultant regarding each of the proposed developments.

The final stage of public participation was the appeals process, whereby the public was given 30 days to appeal the authority's decision to approve each of the proposed developments.

7.2.2 Stakeholder groups that participated

Table 5 below lists the stakeholder groups involved in the public participation processes conducted for each development. From the previous section, it is evident that some innovative methods of public participation were used to gain input from various interest groups, NGO's and local authorities during each developments scoping phase. As a result, a number of local and provincial authorities were able to incorporate their views and concerns into each public participation process (**Table 5**) through participating in various formal scoping meetings, site visits and social workshops (see **Figure 24** & **Figure 25**). Similarly, through formally responding to the adverts placed in the local and regional newspapers that called for Interested and Affected Parties (I&AP's) to register (see **Figure 24** and **Figure 25**), a number of active organisations were also given an opportunity to participate. In this regard, the Wildlife Society of South Africa (WESSA) and the Botanical Society of South Africa (BotSoc), represented two very 'vocal' NGO's that raised a number of objections to each development (i.e. mainly focused on negative biophysical aspects). In terms of Pezula's public participation process, the Black Economic Empowerment Group was also given a significant opportunity to participate by means of a Social Policy Statement Workshop that was held between them and the relevant consultant (**Figure 24**). Other NGO's such as the Lepidopterist Society, the Outeniqualand Trust and the Fisch Group participated to a lesser degree through submitting written response forms, with their respective concerns and issues, to the relevant consultant. In addition to this, a small minority of coastal dependent individuals from the surrounding previously disadvantaged communities (i.e. subsistence and recreational fishers), were able to loosely affiliate themselves with organizations such as, the Mossel Bay Angling Society and an informal group of Hornlee Fishers (see **Table 6**). Active representatives within such informal organisations were then able to engage with the public participation processes and influence the final design of the development proposals, through on-going correspondence between themselves and the development group.

Pezula's Public Participation Process

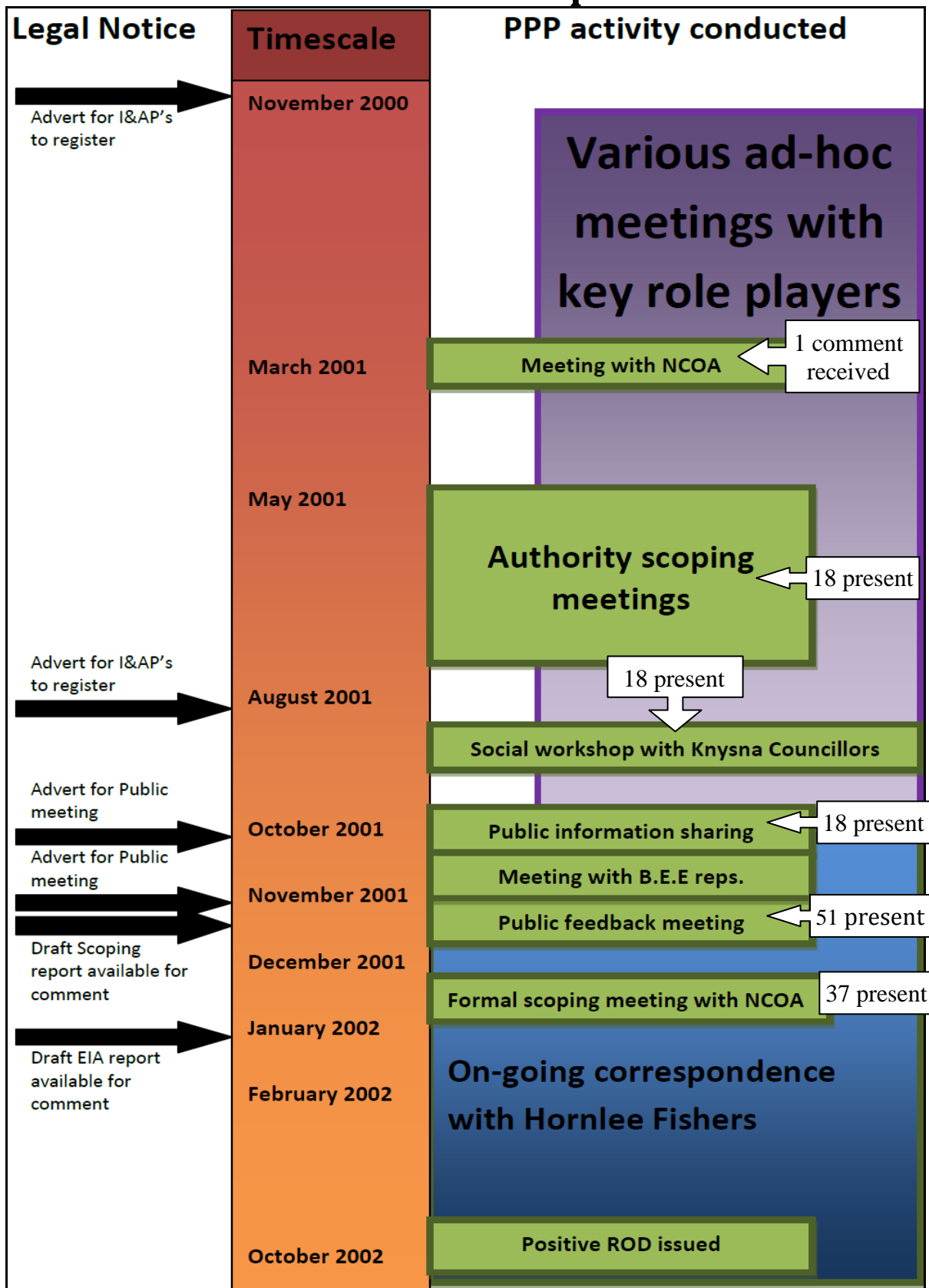


Figure 24: A summary of the public participation activities and their timings conducted during Pezula's EIA process.

Pinnacle Point's Public Participation Process

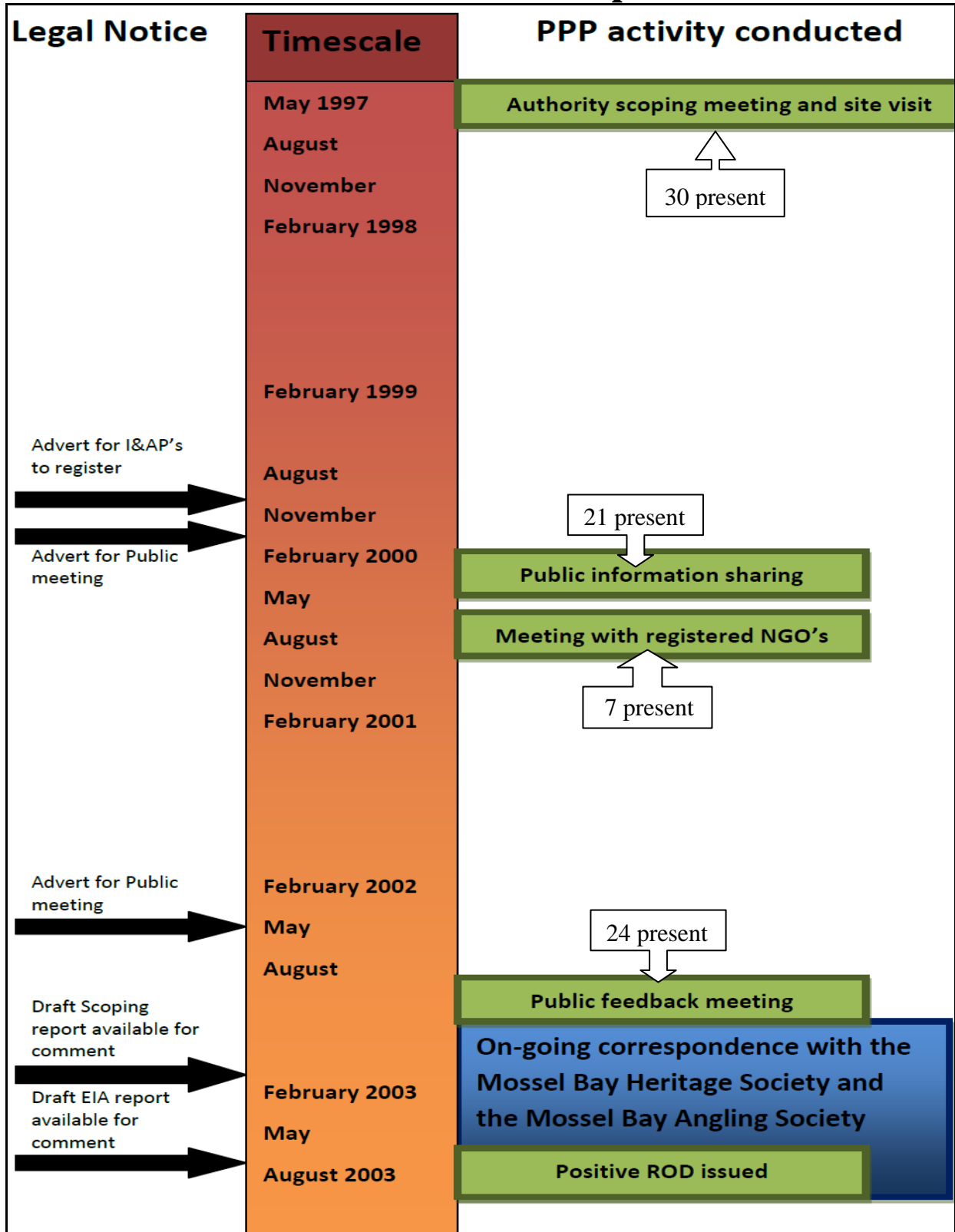


Figure 25: A summary of Pinnacle Point's public participation activities and their timings conducted during its EIA process.

However, a large majority of the affected public did not participate in the formal public participation processes linked to these two projects. This can be largely attributed to the reliance on public meetings as the principal method to incorporate public input into the process. This method was perceived to be ineffective in receiving feedback from the affected population as a whole (Hornlee Fisher 1, 2009, pers comm.; Environmental Lawyer, 2009, pers comm.), especially those individuals and groups from the surrounding previously disadvantaged communities (i.e. Hornlee and Qua NonQaba). The reasons for this are summarised below:

- Apart from Pezula holding their public feedback meetings in the previously disadvantaged community of Condoria in Knysna, all of the other public meetings were held in venues located within white affluent areas. This created a physical barrier for those who had no means of getting there and a mental barrier for others who were intimidated by or unfamiliar with the surroundings.
- The dominant language used at each meeting was English, despite the fact that many of the poorer communities, such as Hornlee and much of Qua NonQaba only speak Afrikaans. No translator was present.
- The notification procedures used to advertise the time and place of the public meetings and the availability of reports for public comment (e.g. public notice in the legal section of the local newspapers) were perceived to be ill suited to the effective participation of all stakeholders, especially those stakeholders with low levels of literacy and education.
- No effort was made to inform, educate or empower the general public prior to each of the meetings, which meant that they lacked the knowledge and the technical information needed to successfully engage with the process and challenge state and proponent positions with regards to each development proposal.

As a result, in addition to the limited number of people that were actually present at these meetings (see **Figure 24** & **Figure 25**), they were dominated by active individuals and groups from the more affluent sectors of society (i.e. affluent white neighbouring property owners and ratepayers associations), those with a political responsibility to attend (i.e. political constituency representatives and local councillors), as well as those stakeholders with a vested interest in the project (i.e. local businesses) [see **Table 5**]. This rendered a significant portion of the affected population (i.e. predominantly those from previously disadvantaged communities) 'voiceless' in affairs that were of crucial importance to them.

| Pezula | Pinnacle Point |
|---|---|
| Authorities | |
| Dept. Environmental and Cultural Affairs, WC (DECAS) Dept. Environmental Affairs and Tourism, WC (DEAT) Dept. Environmental Affairs & Development Planning, WC (DEA&DP) Agriculture Department - Elsenburg Dept. Water Affairs and Forestry (DWAF) South African Heritage Resource Agency (SAHRA) SA National Parks (SanParks) South Cape District Local Authorities – Knysna Municipality - Planning - Engineers - Electrical Engineers - The Mayor Relevant Local Councilors | Dept. Environmental and Cultural Affairs (DECAS) Dept. Environmental Affairs and Tourism (DEAT) Dept. Environmental Affairs & Development Planning (DEA&DP) South African Heritage Resource Agency (SAHRA) Heritage Western Cape (HWC) Cape Nature South Cape District Local Authorities – Mossel Bay Municipality - Planning - Engineers - Electrical Engineers - The Mayor Relevant Local Councilors |
| Non-Governmental Organizations (NGO's) | |
| Wildlife Society of SA (WESSA) Botanical Society of South Africa (BotSoc) Lepidopterist Society Outeniqualand Trust Black Economic Empowerment Group Fisch Group | Wildlife Society of SA (WESSA) Botanical Society of South Africa (BotSoc) |
| Other Organizations | |
| Guardians of the Garden Route (GoG) | The Mossel Bay Angling Society Southern Cape Shore Angling Committee The Mossel Bay Museum Society The Mossel Bay Heritage Society The Aquatic Protection Group |
| The General Public | |
| Neighbouring property owners - Sparrebosch Homeowners Association - Noetzie Conservancy Homeowners - Noetzie Conservancy Owners Association - PK Development Political Party representatives: - ANC - DA - Independents Relevant Rate Payers: - Knysna Ratepayers Association Local interested and affected businesses | Neighbouring property owners - Paradise Coast representatives - Village-on-Sea homeowners - Mossel Bay Golf Estate Homeowners Relevant Rate Payers: - Dana Bay Ratepayers Association Local interested and affected businesses |

Table 5: A list of all the main stakeholder groups that participated in the participation processes conducted for each development.

7.2.3 Coastal access issues raised

Despite a large majority of the affected population not being able to participate, a number of socio-economic concerns were raised during each public participation process. The major socio-economic concerns raised revolved around the following issues: stakeholders' existing rights of

access to the coastline; the number of direct and indirect employment opportunities that would be created during the construction and operational phases; the use of local labour and businesses; the developer's commitment to the social upliftment of neighbouring previously disadvantaged communities; plans to conserve and manage the natural resource base and cultural heritage of the proposed sites; and how such commitments would be enforced or implemented in practice. The following section provides examples of some of the most relevant socio-economic issues raised that relate to issues of coastal access.

Issues raised during Pinnacle Point's scoping process (CODEV, 2002)

- "Will staff be locally recruited?"
- "How is the use of local labour going to be guaranteed?"
- "The present site is abandoned and abused – the current situation can only be improved by a responsible development"
- "How will the development ensure that the archaeological sites are protected?"
- "The marine environment is being stripped - more control is needed!"
- "Boardwalks should be installed in the sensitive sandy areas"
- "The alienation of public land"
- "Public access to and maintenance of the public hiking trail"
- "Access and parking for anglers/hikers"

Table 6: Examples of some of the statements and questions raised by stakeholders during Pinnacle Point's scoping process

In terms of the public participation process conducted for the proposed Pinnacle Point development, the misuse of the proposed site through former neglect and mismanagement was raised as a major concern (CODEV, 2002). Certain stakeholders were particularly concerned about the natural integrity of the proposed site and the impact that past trends of uncontrolled access were having on it (CODEV, 2002). Particular reference was made to the importance of the natural indigenous vegetation and the rapidly diminishing marine resource base along the rocky shoreline (CODEV, 2002). The developer proposed that management personnel, such as honorary rangers, could assist in this regard through the implementation and enforcement of provisions set out in relevant environmental legislation (CODEV, 2002). However, in terms of their agreement with the Local Authority, unrestricted public access to the coast would continue to be ensured (CODEV, 2002).

In terms of the developments' potential to restrict access to the coast, a number of key concerns were raised in relation to fishers' existing rights of access to the coast and the development's impact on public access to the coastline and the St. Blaize Hiking Trail (CODEV, 2003). The Mossel Bay Heritage Society and the Mossel Bay Angling Society in particular, were the two stakeholder groups principally concerned with the above mentioned issues (Pinnacle Point Spokesperson 2, 2010, pers comm.). Representatives from the Mossel Bay Angling Society were

concerned that fishers' who had historically gained unrestricted access over the proposed land to their respective fishing spots may be deprived of this ability subsequent to the developments approval (CODEV, 2003). Another concern raised specifically by the Mossel Bay Heritage Society was related to the alienation of public land on the proposed site (SIP Project Managers, 2003). This concern was specifically related to the alienation of Erf 3438 (i.e. the 'admiralty reserve' portion – see **Figure 19**) which had been transferred to the Mossel Bay Municipality by the National Government in 1996/1997 (Mossel Bay Heritage Society, 2002). In their view it was highly inappropriate that public land of this nature should be alienated for the exclusive use of a number of residents from an enclosed housing estate (Mossel Bay Heritage Society, 2002). Furthermore, whilst they acknowledged the fact that the municipality may not have the technical or financial capacity to conserve and maintain the proposed site, their decision to alienate portions of the land was seen as a clear violation in terms of their 'responsibility to the public, and especially the disadvantaged people of Mossel Bay' (Mossel Bay Heritage Society, 2002). They also identified the extensive chain of developments to either side of the proposed Pinnacle Point site, which according to them had cut off access to the coast for the general public over a substantial section of the coastline (Mossel Bay Heritage Society, 2002). The shuttle service proposed by Pinnacle Point in one of their meetings, to carry stakeholders through the estate to the coastline was also perceived to be 'entirely unsatisfactory, inappropriate, unsustainable and unenforceable' (Mossel Bay Heritage Society, 2002). In this regard, they suggested that a road be constructed along the Eastern Boundary of the property in order to facilitate public access to the coastline and the associated hiking trail (Mossel Bay Heritage Society, 2002). Finally various other stakeholder groups in opposition to the proposed development were apprehensive that the proposed development may detract from the natural scenic beauty and 'sense of place' of the area, especially for those recreational users making use of the popular St. Blaize Hiking Trail (Swanepoel, 2003).

Table 7 below identifies some of the key socio-economic issues raised during the public participation process conducted for the proposed Pezula Private Estate development. In addition to the developers commitment to employ local labourers and businesses, the issue of 'access to the coast' was raised as a potentially significant impact of the proposed development (HilLand Associates, 2002). Similar to Pinnacle Point, these stakeholders were concerned about the "issue of access", both from the viewpoint of the development's restriction on stakeholders existing rights of access to the coast and in terms of the impact that increased access to the coastal area could have on the sites natural integrity and the surrounding neighbourhoods (HilLand Associates, 2002). The neighbouring property owners, particularly those from the Noetzie and Sparrebosch townships, were concerned about the increased access such a

development may facilitate to the adjacent beaches and rivers (HilLand Associates, 2002). A suggestion was made in this regard for the development to control access to the proposed site and for them to define the methods for monitoring and controlling such access (HilLand Associates, 2002). This included the provision of beach toilet facilities and their assistance in beach cleaning and policing (HilLand Associates, 2002). The increased traffic flow to the proposed site, as a result of the development's proposal to upgrade and maintain the existing road network, was another concern raised by various stakeholders from the neighbouring communities (i.e. the Knysna Ratepayers). In terms of planning, local authorities were worried that the proposed development, in addition to the developments adjacent to it, may constitute ribbon or strip development (HilLand Associates, 2002). With respect to this, certain suggestions were proposed by the local authorities to facilitate public access to and along the coastline (HilLand Associates, 2002). These included establishing a set-back line 150 metres from the cliff edge to facilitate lateral access along the coast (SanParks, 2001), making specific areas available to facilitate public access to the traditional access points along the coast (SanParks, 2001), establishing a hiking trail between Sparrebosch and Noetzie (Knysna Town Planner, 2001), and investigating non-vehicle (motorised) eco-tourism opportunities (e.g. hiking, cycling, horse-trails) through the proposed site (NCOA, 2001). Those stakeholders concerned with the developments' impact on existing stakeholders' rights of access to the coastline were adamant that the development should make provisions to accommodate local fishers' historical access routes to the coast (HilLand Associates, 2002). Another suggestion was made for the development to use the existing informal pathways (e.g. the cliff top hiking trail), to facilitate public access to the coastline and the hiking trail (Noetzie Homeowners, 2001).

Issues of access raised during Pezula Private Estate's scoping process (HilLand Associates, 2002)

- "Will the development use local skills during construction and operational phases?"
- "There needs to be provision of full time jobs, not just part time construction phase jobs".
- "Define control of beach access and methods for monitoring and controlling this access. The beach has a limited carrying capacity".
- "Access to the proposed estate must be clearly defined especially in the light of the inevitable increased traffic flow".
- "Establish a 150 metre setback line from the coast".
- "Fishing rights – the existing facilities used by the local fishermen must be taken into consideration in the overall planning of the project – existing rights must not be taken away".
- "Access to the beach and hiking trail – control of access to the beach and hiking trail must be established, this must include provision of controlled access to local fisher families and the public".
- "Assistance in improving beach toilet facilities and assistance in beach cleaning and policing".
- "Wonderful opportunity for using some of the existing pathways for hiking, horse riding and mountain biking – especially the cliff top road".

Table 7: Examples of some of the statements and questions raised by stakeholders during Pezula's scoping process, which have been taken from Pezula's Final Scoping Report

7.2.4 Factors identified to have undermined each public participation process

The unequal opportunity given for different stakeholders to participate was identified as a major factor undermining each public participation process reviewed. In this regard, a large majority of the affected public did not participate in the formal public participation processes. As a result, the public participation processes were determined not to have represented the broader public's interests and concerns, but instead to have represented the views of a self-selected subset of the population that was able to effectively engage with the two processes. Moreover, the narrow motivational agenda and discourses many of the stakeholders adopted in an attempt to promote their own self-interest in each of the related projects was perceived to be misrepresentative of the broader collective interest, especially the legitimate needs and aspirations of those stakeholders from previously disadvantaged communities (DEA&DP official, 2009, pers comm.). This is largely attributed to the strict divide that existed between competing stakeholder groups (i.e. pro-development vs anti-development) and the reluctance many stakeholders showed to compromise their own self-interest for the greater good. Those in support of the development (i.e. developers, sub-contractors, local businesses) focused on the positive short-term economic benefits of the development, whilst those in opposition (i.e. NGO's, neighbouring homeowners and other informal organisations) tended to focus on the negative biophysical aspects and concerns related to the overall sustainability of the proposed developments (see **Section 7.2.3**). According to a DEA&DP official (2010, pers comm.), this problem is exacerbated by the large number of retirees within the Garden Route who are very reactionary to change of any kind. These stakeholders align their discourses with progressive forces opposed to such developments, without having any interest in the actual objection that group has against the development (i.e. rising land prices, water consumption etc.), in order to stop the development from being approved (DEA&DP official, 2010, pers comm.). Finally, whilst competing stakeholder groups on either side of the spectrum had legitimate arguments for and against the proposed development, there were no mediation procedures or alternative forms of dispute resolution adopted by either consultant, which significantly undermined constructive participation between stakeholder groups and the achievement of a consensus on the optimal outcome for society as a whole.

Another factor undermining each public participation process was the limited input it provided for the actual terms of reference, choice or design of the technical studies conducted. Instead, they provided a value-based assessment or weighting of the issues stakeholders considered to be most important. Similarly, it was perceived to only give the public a chance to inform the EIA processes by means of identifying the issues that required specialist investigation (Environmental Lawyer, 2010, pers comm.). With respect to this, a number of technical studies

(i.e. socio-economic report, visual impact report, traffic assessment) were conducted to further assess and evaluate the issues of significance (according to the relevant consultant) that had been raised during the public participation process. This meant that the consultants' discretion played an important role in deciding which of the issues raised by the public were to be considered, assessed and addressed throughout the EIA process and which ones should be dismissed as being irrelevant. In this regard, a number of significant issues raised in the above section appear to have been lost along the way and not reported on in any of the reports reviewed. These shortcomings are discussed in more detail in the following section (**Section 7.3**), which examine the study approach and method used by each consultant process to describe and assess the significant social impacts identified and the extent to which issues of coastal access (mentioned above) were identified, assessed and reported on within the EIA context.

7.3 The identification, assessment and reporting of social impacts within the context of EIA

As discussed in the literature review, the identification, assessment and reporting of social impacts during the EIA process is an action-forcing mechanism which can significantly contribute to the overall design of a development proposal and the formulation of decisions on whether or not, and on what terms, the development should be approved (Cashmore et al., 2004; Hill, 2004). As such, it can significantly influence certain social outcomes of a development proposal and the extent to which national and local legislative provisions such as those related to coastal access, are incorporated into the EIA process. Accordingly, the methodologies used by the relevant consultants to assess the full range of potential socio-economic impacts; their ability to rationalise whose definition of an impact, value or fact is considered to be legitimate whilst dismissing those that are seen to be irrelevant; their ability to identify and assess relevant alternative development scenarios and their ability to adhere to important legislative provisions pertaining to issues such as coastal access, are determined to have a significant influence on the EIA process and decisions emanating from it (Lockie, 1999; Wilkins, 2003). The following section therefore reviews and analyses the social reporting aspect of each EIA process conducted in order to identify any factors (if there were any) that may have contributed to a positive ROD that contradicts national policies and legislation, as well as local planning documents, with regards to issues of coastal access.

7.3.1 The study approach and methods used

The same specialists (MCA Planners) were appointed by both development groups to undertake a socio-economic impact assessment report for each of the proposed large-scale golf estates being examined. Whilst the differences with respect to the actual socio-economic impacts identified for each development (see **section 6.3.2 & Table 10**), MCA Planners used an identical study approach (**Figure 26**) and method to assess and evaluate the socio-economic impacts identified for each development.

Firstly, the significant socio-economic impacts (e.g. positive and negative) were identified from either the concerns raised during the public participation process or from the relevant specialists who based their findings on past experience working with developments of a similar nature (MCA Planners, 2003). Once an impact was identified as being a potentially significant socio-economic impact of the respective development, each impact was then described, assessed and evaluated according to seven specific criteria. The seven criteria used to assess and evaluate the major socio-economic impacts identified for each development were identical in both cases and are listed in **Table 8**.

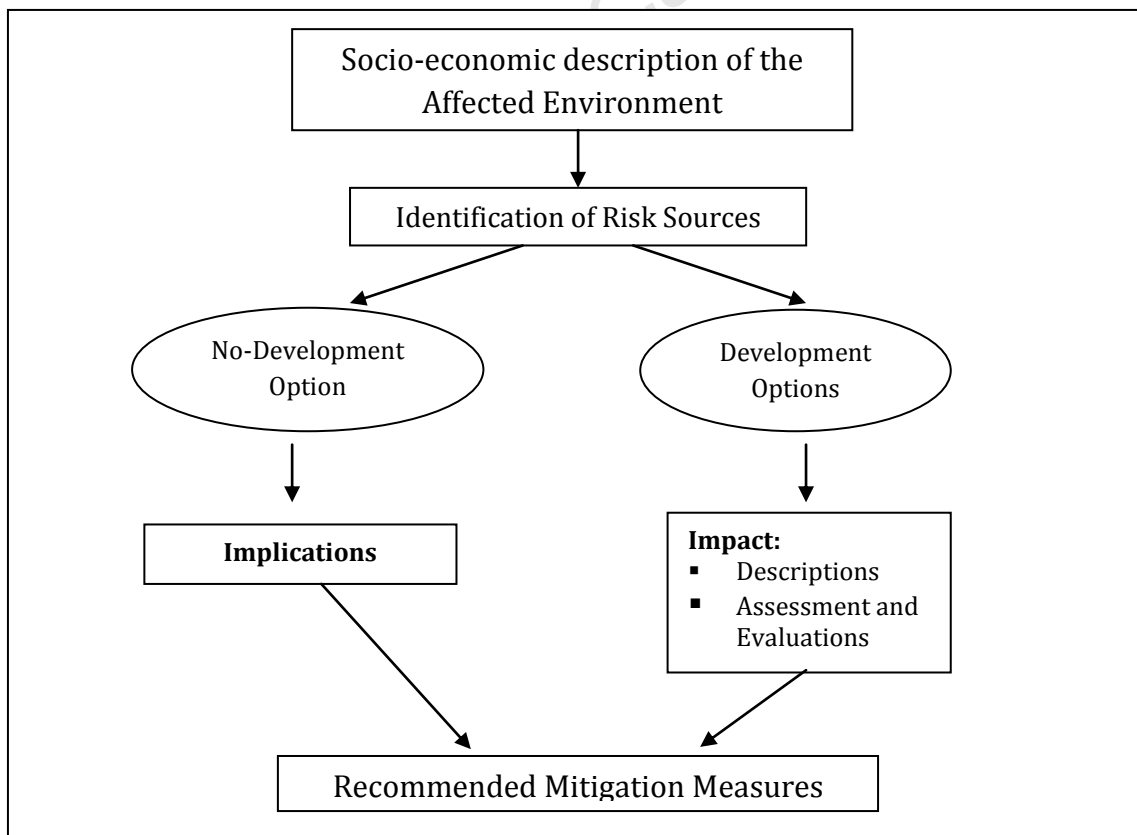


Figure 26: A summarised break down of the study approach used by MCA Planners (2003) for the socio-economic impact studies conducted for both developments.

In addition to the describing, assessing and evaluating the major socio-economic impacts for each development, various mitigation measures were identified and reported on for those socio-economic impacts given a medium to high significance and a negative status (MCA Planners, 2003). Moreover, in order to determine the viability of the proposed development in relation to the alternative development scenario's being investigated, certain advantages and disadvantages of each alternative were reported on in relation to each socio-economic impact identified (see **Section 7.3.6**). The assessments and evaluations of the major socio-economic impacts for each development, the disadvantages and advantages of each alternative development scenario assessed and the proposed mitigation measures for the potentially negative socio-economic impacts identified were then incorporated into the final Environmental Impact Report (EIR) for each development in a summarised format. This information was then used to inform the competent authority's decision as to whether or not and on what terms to approve the two development proposals.

| Criteria | Description |
|-----------------------|--|
| Spatial Extent | This describes the region in which the impact will be experienced: <ul style="list-style-type: none"> - Site Specific - Local (less than 2km from the site) - Regional (Within 30km of the site) - National |
| Duration | The duration is the time frame in which the impact will be experienced: <ul style="list-style-type: none"> - Temporary (less than 1 year) - Short term (1 to 6 years) - Medium Term (6 to 15 years) - Long term (more than 15 - 30 years) - Permanent |
| Intensity | The intensity describes the magnitude or size of the impact: <ul style="list-style-type: none"> - High: Natural and/or social functions and/or processes are severely altered - Medium: Natural and/or social functions and/or processes are notably altered - Low: Natural and/or social functions and/or processes are negligibly altered |
| Probability | The Probability of the impact occurring: <ul style="list-style-type: none"> - Improbable (little or no chance of occurring) - Probable (less than 50% chance of occurring) - Highly probable (50% to 90% chance of occurring) - Definite (more than 90% chance of occurring) |
| Significance | The significance of the identified impact: <ul style="list-style-type: none"> - High: Impacts of high magnitude locally for longer than 6 years and/or regionally and beyond. The impact results in major alterations to the environment even if effective mitigation measures are implemented and will have an influence on decision making. - Medium: impacts of moderate magnitude locally to regionally in the short term. The impact results in medium alterations to the environment and can be reduced or eliminated by the implementation of effective mitigation measures. - Low to very low: impacts will be localised and temporary. Impact result in minor alterations to the environment and can easily be alleviated by the implementation of effective mitigation measures. - No Impact: a potential concern or impact which upon evaluation is found to have no significant impact at all. |

Table continued...

| | |
|-------------------|--|
| Status | The status is the impacts overall effect on the environment: - Positive (a benefit) - Negative (a cost) - Neutral |
| Confidence | The degree of confidence in predications (whether an impact will occur) based on available information and specialist knowledge: - Low (doubtful) - Medium (possible) - High (confident) |

Table 8: The seven criteria used by MCA Planners to assess and evaluate each significant socio-economic impact identified for each development.

7.3.2 Assessment and evaluation of the impact ‘access to the coast’

The issue of ‘access to the coast’ was identified to be a potentially significant socio-economic impact of both proposed developments, as a result of concerns raised during the two public participation processes (**Section 7.2.1**). However, the way in which this impact was described, assessed and evaluated in each socio-economic report, especially with regards to Pezula’s socio-economic report, is considered to be entirely inadequate. In this respect, there is no description of the baseline information regarding access to the coast for different stakeholders. For example, both reports contain no baseline information pertaining to the use patterns of the ‘historic’ users (e.g. tourists, recreationalists, subsistence and recreational fishers) to the proposed site. As such, there is no historical context given from which to assess the associated impact or from which to measure change.

In terms of assessing the development’s impact on public access to the coast, Pezula’s socio-economic impact assessment report merely identifies it as a significant issue raised during the public participation process and states that the developer had addressed a number of related issues (see **Table 9**) through separate correspondence with each of the relevant role-players. With respect to this, there is no explanation given as to whether or not this correspondence resulted in any commitments being made by the developer to ensure that such impacts do not occur. Moreover, no attempt was made to assess or evaluate the development’s impact on different stakeholders’ access to the coast according to the before mentioned evaluation criteria (**Table 8**), despite the fact that it was identified as a significant issue during Pezula’s scoping phase (HilLand Associates, 2003). In terms of the final Environmental Impact Report (EIR), it stated that the traditional access routes used by fishers to access various angling sites to the south of the proposed development will need to be retained; however illegal access across the private property will no longer be permitted (HilLand Associates, 2003). Measures to facilitate public access to the Cove Beach via ‘public hiking trails’, were also recommended by the relevant consultant (HilLand Associates, 2003). In this regard, there were no plans describing

how the developer intended to implement such commitments. For example, at the very least the EIA report should have explained the following issues:

- The specific access routes to be implemented?
- How the developers intended to control access to the beach?
- Which stakeholders would be allowed to use the related access routes and when?
- Whether a nominal fee or permit system would be used to control public access to the beaches?
- What improved beach toilet facilities and assistance in beach cleaning and maintenance meant?

The manner in which issues of coastal access were described, identified and assessed in the above mentioned reports is therefore considered to be entirely inadequate for a competent authority to make an informed decision on the subject. Also, by not supplying any information as to how the proponents intended to address such issues, implementation of the mitigation measures is left largely at the discretion of those in charge of the developments final project implementation and management. The implications of this are discussed in more detail during the implementation and management aspects of the EIA process which have been reviewed and analysed in **Section 7.5**.

Other issues raised during the scoping phase have been addressed as follows:

- **Controlled access to the beach for recreational and fishing purposes, secure parking at the beach, improved beach toilet facilities and assistance in beach cleaning and maintenance**

Pezula Private Estate has addressed this issue

- **The Provision of hiking trails and eco-tourism opportunities on the estate, including access to the cliff top road**

Pezula Private Estate has addressed this issue

Table 9: Extract taken from Pezula's socio-economic impact assessment report, illustrating the extent to which the issue of access to the coast was described, assessed and evaluated.

In terms of the socio-economic study conducted for Pinnacle Point Beach and Golf Estate, the impact of the proposed development on 'public access to the coastline, the St. Blaize Trail and the various angling sites' was identified by the relevant specialist as a potentially significant impact of the proposed development through concerns raised during its scoping phase (MCA Planners, 2003). As such, it was described, assessed and evaluated in Pinnacle Point's socio-economic impact assessment report³¹ as follows. In their description of the proposed impact, the socio-economic report merely states that 'the developer has to ensure continued public access to the St. Blaize Hiking trail and the various angling sites along the coastline as a

³¹ 'Public access to the coastline, hiking trail and angling sites' was described and assessed in **section 4.2.9** of Pinnacle Point Beach and Golf Club's Socio-Economic Impact Assessment Report (MCA Planners, 2003)

condition of the land availability agreement between the developer and the municipality' (MCA Planners, 2003:p. 9). Moreover, the report claims that such issues have been addressed through an on-going correspondence between the consultant, the relevant stakeholder groups (e.g. Mossel Bay Heritage Society and Mossel Bay Angling Society) and the Mossel Bay Municipality when deemed necessary. The socio-economic report describes the specific measures that will be undertaken by the developer in order to honour such commitments (see **Table 10**).

"The developer will construct a gravel access road from Heiderand down the eastern boundary of the property to a parking area and a walkway from this parking area to the St Blaize hiking trail. A public servitude will be registered over this road, parking area and walkway. The developer will also upgrade the St Blaize hiking trail over the section that it traverses the property and will register a public servitude over the upgraded trail. Public access will also be provided along the western boundary of the lease area in a similar manner as above and will also include registered public access servitudes over the roads, walkways and hiking trail. This will also provide access to fishing spots for anglers to".

Table 10: An extract from Pinnacle Point's Socio-economic Impact Assessment Report

With the proposed mitigation measures in place, the impact on stakeholders' access to the coastline, the hiking trails and the angling sites was assessed and evaluated (see **Table 11**) according to the previously mentioned evaluation criteria (**Table 8**). According to the socio-economic report no negative impacts were expected due to the above mitigation measures being implemented (MCA Planners, 2003). In fact the provision of a formalised parking area with an environmentally sensitive boardwalk leading down to the hiking trail as well as the Pinnacle Point beach was perceived to improve public access to the coast (MCA Planners, 2003). Moreover, the establishment of the golf estate with security measures, as well as monitored but unobstructed access to the hiking trail, was seen to 'improve security for those using the hiking trail and the associated coastline' (MCA Planners, 2003). Accordingly, the proposed golf estate was seen to have a positive impact of low significance on stakeholders' access to the coast (MCA Planners, 2003). Similar to Pezula though, no plans or methods describing how or when the developer would implement such measures were reported on. As such, the information provided is considered to be inadequate for a competent authority to make an informed decision on this subject.

| Criteria | IMPACT |
|------------------|--|
| Nature of Impact | <i>Access to coastline, hiking trail and angling sites</i> |
| Extent | Site Specific |
| Duration | Long term |
| Intensity | Low |
| Probability | Low |
| Significance | Low |
| Status | Positive |
| Confidence | Medium |

Table 11: The assessment and evaluation of Pinnacle Points impact on public access to the coastline, hiking trail and angling sites (MCA Planners, 2003)

7.3.3 The alternative development scenarios investigated

The investigation of alternative development scenarios was included in each of the EIA processes in terms of section 24(7)(b) of NEMA (108 of 1998) and in terms of section 6(d) and 8(b) of the regulations promulgated under ECA (73 of 1989)³². The fact that alternative development scenarios can significantly influence stakeholders' ability to access the coastal area under investigation means that this is an important aspect of this study. The focus of this section is therefore to review and analyse whether or not feasible alternative development scenarios were adequately identified and assessed during the reporting aspect of the two EIA processes.

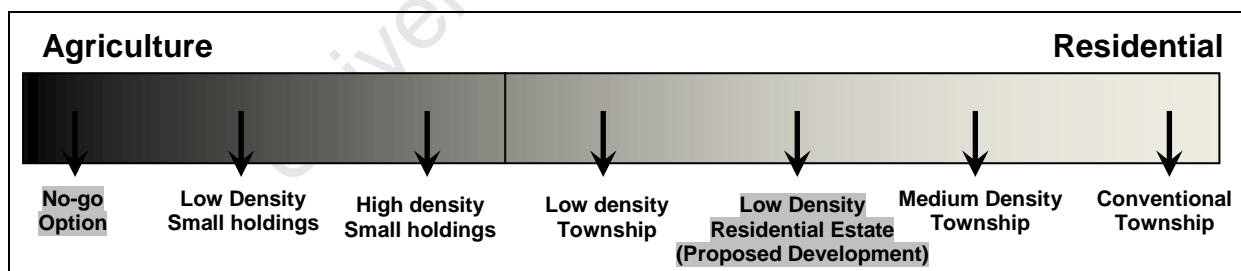


Figure 27: A 'sliding scale' representing the spectrum of alternatives proposed for the Pezula Private Estate site

In terms of the EIA process conducted for the Pezula Private Estate a number of alternative options were described during the plan of study for the EIA (**Figure 27**). However, owing to some questionable assumptions being made by the relevant consultant (i.e. 'potential agricultural use would not contribute towards the conservation or rehabilitation of the bulk of the property' and 'it would be difficult to finance the required funding for the provision of municipal infrastructure by means of subdivision into small holdings'), the agricultural use and

³² Government Notice No: R1183

smallholding alternative options were not further investigated as they were perceived to be unfeasible alternatives for the proposed site. As a result, only the no-development option and a number of different densities (i.e. low, medium and high) for the proposed residential estate (e.g. the number of houses constructed on the site) were investigated. With respect to the no-development option, a number of benefits and disadvantages from a socio-economic perspective were reported on (see **Table 12**).

Disadvantages

- The potential social benefits that could derive from the development would not materialise. This includes creation of job opportunities, small business development and revenue to the local and district Council in the form of levies and taxes to the public sector.
- Changes in the timber market have reduced the feasibility of this activity on site. It is unlikely that the use of the site will revert back to its original use and the site may fall into a state of neglect under these circumstances.

Advantages

- By retaining it in a natural state the site will continue to contribute to the natural beauty of Knysna, which is regarded as a key driver of the local economy.
- Alternative primary activity uses for the site could be investigated and considered for the site.
- Although informal, community access to and through the site, on hiking trails, and to fishing and beach facilities could continue, should the owner allow this.

Table 12: An extract taken from Pezula's Socio-Economic Impact Assessment Report illustrating the extent to which the "no-development" option was investigated.

In comparison, the consultant for Pinnacle Point did a comparative assessment of three alternative development scenarios in addition to an assessment of the proposed development option. These alternative options included: a no-development option; an option for a low-key conservation project; and a standard township development (CODEV, 2003). In terms of the no-development option, the same advantages and disadvantages identified in the Pezula no-development option were identified by the relevant specialist (**Table 12**). The low-key conservation project was assessed to have a negligible to low impact on the surrounding social environment and a neutral impact on stakeholder's 'access to the coast' as they would be able to use existing pathways down to the coastline, hiking trails and angling sites (MCA Planners, 2003). In terms of the standard township development scenario, it was assessed to be unviable owing to the sites inappropriate location. According to the consultant, constructing a standard township development in this location would result in the depreciation of nearby properties values and the reinforcement of patterns of inequality, segregation and inefficiency amongst the poorer members of the Knysna community (MCA Planners, 2003). As a result the standard township development scenario was not recommended by the relevant consultant. In summary, the level of detail given for assessing each of the alternatives and the scope of alternatives

investigated, especially for the proposed Pezula Private Estate site, are considered to be inadequate.

This review and analysis identifies a weak assessment of the socio-economic impacts identified for both the actual development scenarios. Also, there seemed to be a significant bias towards the proposed development option in each case, as many key issues based on questionable assumptions suggested that the proposed development option was the only way to preserve the natural integrity of the area, whilst other alternatives scenarios identified were considered to be unfeasible. Another key aspect was the fact that no other eco-tourism ventures were investigated. If increased tourism is one of the major reasons behind the competent authorities decision to approve a development of this nature (see **section 7.4**), other eco-tourism development scenarios that benefit the broader public should have been investigated.

7.3.4 Other factors identified to have undermined the social reporting aspect

The above findings have identified a number of shortcomings related to the reporting aspect of the EIA processes investigated. In this regard, the description of the affected environment, especially with respect to the “historic” coastal access patterns at each site, is considered to be entirely inadequate. Pezula’s failure to identify, assess and evaluate the developments impact on public access to the coast, despite this being a significant issue raised during their public participation process, is considered to be a major shortcoming in this regard. Mitigation measures were also not adequately covered, especially at a management and implementation level. For example, the access routes to be used by stakeholders and methods of management surrounding the issue of access were not properly defined or reported on. Through reviewing and analysing each of the reports a number of additional constraints related to this aspect have been identified.

Neither of the EIA reports (e.g. Pezula’s or Pinnacle Point’s) provide the qualifications and experience of the specialists conducting such reports. This means that it is impossible to determine whether or not they were suitably qualified to assess and evaluate the issues of significance mentioned above. This undermined the legitimacy of the reporting process and the results presented throughout. Also, it is difficult to track an issue of interest from scoping, through specialist assessment to mitigation and some potentially significant issues identified during the scoping phase appear to have been lost along the way or were not adequately covered (i.e. the alienation of public land and the municipalities responsibility to preserve such land; establishing a 150 metre set-back line at Pezula; concerns about whether the developments constitute ribbon development). Moreover, a number of issues generally

associated with developments of this nature seem to have been omitted or ignored. For example, issues related to the surrounding areas “sense of place” and concerns regarding changes to the community structure also need to be considered when assessing the potential social effects of such a development (DEA&DP, 2005). Also potentially significant impacts on a regional scale have not been given adequate attention. These include tourist perceptions of the Garden Route region or the cumulative effect developments of this nature can have on public access to the coast at a local or even a regional level. Other important cumulative impacts such as the impact associated with the migration of additional job seekers into the area owing to the increased job opportunities created by such developments were not addressed. Also, the cumulative impact of increased access to the Noetzie beach (raised as a potentially significant impact of the proposed development during the scoping phase) was not assessed. Finally, the lack of a specialist economic study in both cases is considered to have significantly undermined the adequacy of the reporting aspect, as value-based judgements and assumptions have been made by the relevant consultant based on data that is out of date and aggregated.

The objectivity of the consultant in both cases is also questionable, especially in relation to the alternative development options investigated. In many instances, the information regarding the alternative options is presented in a biased manner and is superfluous to answering the key issues associated with the viability of the related alternatives in relation to the proposed development. In both cases, the reports assume that the no-development option would result in the continued degradation of conservation worthy vegetation communities through neglect; mismanagement and uncontrolled access across the proposed sites (see **Table 12**). However, assumptions like these are considered to be unfounded in terms of section 28(1) of NEMA which states that “everyone, including the landowner is legally obliged to prevent degradation to the environment”, as well as CARA which places a legal duty on landowners to control invading alien plants. Moreover, there is no effort made to investigate alternative eco-tourism development opportunities on the proposed site.

7.4 Decision-making process

EIA is generally seen as a tool to assist the authorities to make decisions concerning proposed projects and determine which conditions must be fulfilled (Leknes, 2001). However, the decision-making process itself is increasingly recognized as involving more than the simple use of objective scientific information in a comprehensive rational manner, but instead as a complex multi-dimensional process formulated on the basis of subjective judgements and values (Lawrence, 1993; Beattie, 1995; Tewdwr-Jones, 1995; Kontic, 2000; Lui & Lai, 2009). As such, many determinants need to be weighed when making these decisions, which include

environmental factors, financial costs, societal benefits and costs, as well as economic and political priorities (Hill, 2004). The following section therefore reviews and analyses the Record of Decision (ROD) for each development in order to identify whether the competent authority's decision to approve each of the respective developments was made in a logical manner with clear reasoning.

7.4.1 Conditions of approval

The Provincial Department of Environmental Affairs and Development Planning (DEA&DP) issued a positive ROD in terms of the EIA process conducted for the Pezula Private Estate on the 16th of October 2002, with conditions attached (DEA&DP, 2002). The same department issued a positive Record of Decision (ROD) on the 19th of August 2003, for the Pinnacle Point Beach and Golf Club to commence with certain conditions of approval attached (DEA&DP, 2003). The relevant conditions contained within each of the related ROD's, for the execution of each of the proposed developments, are summarised in the **Table 13** below.

| Conditions of Approval |
|---|
| 1. Both developments were required to adopt and implement the mitigation measures and recommendations set out in the EIR conducted for each development. |
| 2. Each applicant was required to appoint a suitably experienced and qualified Environmental Control Officer (ECO) to ensure that the above mentioned mitigation measures were implemented and to ensure compliance with the provisions of the Construction phase EMP. |
| 3. Each applicant was required to compile and submit an acceptable construction phase EMP for the installation of the services, roads, residential units and golf course to the Directorate for approval prior to any land clearing or construction commencing. |
| 4. Each applicant was required to compile and submit an acceptable operational phase EMP for the entire property. This OEMP needed to be approved by the Directorate prior to any of the residential units being occupied. |
| 5. Each Home Owners Association and/or the operator of the facility (i.e. the developer) were required to implement and ensure compliance with this OEMP. |
| 6. Each applicant was required to establish an Environmental Liaison Committee (ELC), at the cost of the applicant, at least three weeks prior to any land clearing or construction commencing. In addition to monitoring the compliance and implementation of the proposed estate, the ELC was required to act as a consultative forum from which to integrate the views of the community as a whole, as well as providing input into environmental issues that may arise during the construction phase |
| 7. Each applicant was required to submit an Environmental Audit Report to the Directorate which must include: <ul style="list-style-type: none"> ▪ The date on which the construction phase was completed; and ▪ The extent to which the each development had adopted and implemented the relevant conditions approval set out in the above ROD. <p>In terms of the Pezula Private Estate an Environmental Audit Report needed to be submitted to the Directorate every 12 months for a period of four years following the ROD and thereafter every 24 months for a further period of six years. For Pinnacle Point only one audit report was required six months prior to the construction phase and related infrastructure being completed.</p> |

Table 13: A brief description of the relevant conditions of approval imposed on Pinnacle Point and Pezula.

In terms of the Pinnacle Point ROD, a number of additional conditions of approval were imposed. These are summarised in the **Table 14** below.

| Relevant conditions of approval for the Pinnacle Point Beach and Golf Club |
|--|
| 1. The Applicant was required to develop and implement an Archaeological Conservation Management Plan (ACMP) for the entire site, which needed to be approved by Heritage of the Western Cape or the South African Heritage Resources Agency (SAHRA) prior to any of the residential units being occupied. |
| 2. The applicant had to ensure that the individual property owners were legally bound to comply with the requirements of the OEMP, either in the deeds of sale or constitution of the Homeowners Association. |
| 3. The applicant had to establish a Conservation Trust, at the cost of the applicant, to oversee the conservation areas through the lifespan of the development. |

Table 1: A brief description of additional conditions of approval imposed specifically upon the Pinnacle Point development by the Directorate

7.4.2 The competent authority's reasons for approval

In both cases, as required by the EIA regulations, DEA&DP provided reasons for the decision taken. The factors guiding their decision were broken up into different categories, which included the biophysical impacts, the socio-economic/cultural/historical impacts, the alternative development scenarios investigated and the public participation process conducted for each development proposal.

In terms of the ROD for the Pinnacle Point Beach and Golf Club development, the expansion of the tourism sector within the Southern Cape region and its use as a pathway for economic growth, empowerment and transformation was seen as one of the major driving forces behind their decision to approve the related development (DEA&DP, 2003). In this respect, DEA&DP argued that the region's slow economic growth owing to a lack of industries to generate such income and its associated high unemployment rate, especially among the historically disadvantaged communities, were seen as major areas of concern (DEA&DP, 2003). Golf tourism in particular was therefore identified by the department as one of the most important sectors that could alleviate such problems (DEA&DP, 2003). Apart from drawing many tourists to the area, a large-scale golf estate development of this nature was identified to create secondary industries that would contribute towards increased job opportunities in the area and a much needed economic injection into the local economy (DEA&DP, 2003). According to the Department, the Pinnacle Point Beach and Golf Club was therefore clearly in line with the National Government's Growth and Development Strategy (GEAR) and the Western Cape Government's development strategy called "iKapa Elihlumayo" (i.e. "Growing the Cape"), which

encourages all departments to effectively contribute to the economic growth of the province (DEA&DP, 2003). It was also in line with the Southern Cape Municipalities intent to develop the region into a golfing 'Mecca' with the potential to 'generate a lot of income for the area' (DEA&DP, 2003). In terms of the other key factors affecting their decision, the ROD stated that no significant objections to the proposed development had been raised during the public participation process (DEA&DP, 2003). Also the various mitigation measures proposed in the EIR to minimise the identified biophysical impacts, as well as the conditions imposed on the development by the municipality to enhance the identified socio-economic benefits of the development (e.g Construction Environmental Management Plan, Operational Environmental Management Plan, Archaeological Conservation Management Plan etc.) were considered adequate and would ensure that no significant negative socio-economic impacts would result (DEA&DP, 2003).

In terms of the Pezula Private Estate, the relevant department gave no justification for why the proposed development had been approved. This is seen to have significantly compromised the accountability of the competent authority and the transparency of the overall decision-making process. Only decisions pertaining to the key factors mentioned above (i.e. the biophysical impacts, the socio-economic/cultural/historical impacts, the alternative development scenarios investigated and the public participation process) were enlarged upon. Accordingly, the competent authority stated that there were no limiting biophysical aspects of the proposed development to justify the directorate refusing authorisation of the activity (DEA&DP, 2002). The socio-economic/cultural/historical impacts of the proposed development were perceived to have a positive influence of a medium to high significance on the local economy (DEA&DP, 2002). The competent authority, acknowledged the difficulty of assessing the cumulative impacts of such a development activity, however in this respect the positive socio-economic and bio-physical impacts of the proposed development were determined to out-weigh its negative impact (DEA&DP, 2002). The competent authority also recognised that different alternatives had been identified and assessed during the Pezula EIA process. However, no comment was made on the proposed developments feasibility in relation to the above-mentioned alternatives. Finally, the ROD referred to the public participation process conducted by the relevant consultant and considered it to have met the necessary requirements (DEA&DP, 2002). Accordingly, it was suggested that all of the issues had been adequately addressed in the final EIR (DEA&DP, 2002).

7.4.3 Factors affecting the competent authority's decision-making

All of the factors identified in previous sections, that influenced the public participation processes and the reporting aspects of the EIA processes investigated will have certain implications for the competent authority to make an informed decision. In terms of the social impact reporting aspect, a number of shortcomings were identified including the failure to adequately address key issues (particularly important socio-economic impacts) and the use of simplistic assumptions to negate the significance of other key impacts (**Section 7.3.4**). These shortcomings suggest that the relevant authorising agency was not in a position to make an informed decision that would be in the public's best interest. A key concern that emerged from reviewing the public participation processes conducted for each development was the skewed representation of the affected population in the process.

The general incapacity of local municipalities to comment on the large number of EIA applications they are receiving in an effective manner is seen as a significant factor undermining the decision-making process (DEA&DP representative, 2010, pers comm.). In this regard, human capacity problems, staff shortages and a lack of experience in the government departments is perceived to significantly undermine their ability to effectively conduct such work (DEA&DP representative, 2010, pers comm.). Moreover, the lack of financial resources needed to improve the capacity of staff members, time constraints and a lack of the latest technologies and methods to deal with complex issues further exacerbates municipal capacity problems (DEA&DP representative, 2010, pers comm.).

Socio-political agendas were another factor affecting the competent authority's decision-making ability. In this regard, the change in South Africa's socio-political status demands that developments of this nature be positively encouraged in an attempt to use them as a pathway for economic growth, empowerment and transformation (Van der Merwe, 2006). At the same time, with the restructuring and rationalisation of government and the neo-liberal market driven paradigm, municipalities have been required to become more and more sustainable or self income generating (SCLC, 2010, pers comm.). As a result, they may be more open to compromising sound planning principles in order to secure financing for infrastructure development or in order to gain favour with their constituencies (SCLC, 2010, pers comm.).

7.5 The implementation and management of the development activity

Once the above mentioned decision-makers have given their final approval or authorisation regarding the relevant development proposal, it can proceed subject to the conditions contained within the related ROD. The nature and content of the conditions of approval and the mitigation measures and recommendations set out by the relevant EIR will be largely dependent on different aspects of the EIA process already discussed (e.g. the reporting stage, the public participation process, the decision stages and the influence different stakeholders have on the proposals final design). However, the extent to which these conditions of approval and related mitigation measures are adopted and implemented, and the specific methods used to manage the development once it has been approved can also have a significant impact on stakeholders' ability to access the coastal land under investigation and its associated benefits. As such, this section seeks to:

- Identify and report on the various methods and approaches used to manage each development;
- Identify whether each development has adopted and implemented the specific mitigation measures and recommendations set out in each of the EIRs reviewed; and
- Determine to what extent stakeholders' concerns regarding issues of access have been addressed and implemented during the construction and operational phases of each development.

7.5.1 Methods and procedures used

The Pinnacle Point Beach and Golf Club was implemented in accordance with a Construction Phase Environmental Management Plan (CEMP), which was required by the Provincial Government of the Western Cape as one of the conditions of approval. All construction and other implementation activities during the two year construction phase were undertaken under the supervision of an Environmental Control Officer (Pinnacle Point Resort (Pty) Ltd, 2010, pers comm.). Compliance of the implementation process with the specified guidelines and conditions of approval is continually monitored by an Environmental Liaison Committee (ELC), which includes representatives from the following stakeholders groups: Pinnacle Point Resorts (Pty) Ltd, Mossel Bay Municipality, DEA&DP and its compliance and enforcement division, Pinnacle Point Homeowners Association, Village on Sea Homeowners Association, Petro SA, Botanical Society of South Africa, Coastal Care, Mossel Bay Heritage Society and WESSA (Pinnacle Point Spokesperson 1, 2010, pers comm.). Compliance of the implementation process with the specified guidelines and conditions of approval is also annually audited by an auditing

committee. This committee includes representatives from Pinnacle Point Resorts, Pinnacle Point Homeowners Association, DEA&DP and Cape Nature (Pinnacle Point Spokesperson 1, 2010, pers comm.). The estate is managed by a conservation manager and the Home Owners Association. The management function is funded through a conservation trust fund that is supported by Pinnacle Point Resorts and levies paid by the residents (Pinnacle Point Spokesperson 1, 2010, pers comm.). Whilst the management of the estate during the operational phase was intended to be undertaken in terms of an Operational Phase EMP (OEMP), this report has still not been completed (Pinnacle Point Spokesperson 2, 2010, pers comm.).

The Pezula Private Estate was also implemented in accordance with a construction phase Environmental Management Plan (CEMP) which was required by the Provincial Government of the Western Cape as one of the conditions of approval. All construction and other implementation activities were undertaken under the supervision of an Environmental Control Officer (ECO). Compliance with the specified guidelines and conditions of approval is monitored by the ELC committee which consists of the ECO and representatives of the Knysna municipality, DEA&DP, Cape Nature and other relevant NGO's (Pezula Spokesperson 2, 2010, pers comm.). Pezula is managed by a homeowners association that was established in terms of Section 29 of the Land Use Planning Ordinance (15 of 1985). Management is undertaken in terms of an Operational Phase EMP that was approved by DEA&DP and this management function is funded by, amongst others, levies paid by the residents (Pezula Spokesperson 2, 2010, pers comm.).

7.5.2 The extent to which mitigation measures and recommendations regarding issues of coastal access were implemented in practice: Pinnacle Point

A number of mitigation measures set out in the Pinnacle Point EIR and the related socio-economic impact assessment report have been implemented to promote continued public access to the coastline, hiking trail and the various angling sites to the south of the development. In terms of public access to the angling sites, a legal agreement has been drafted by the developer's attorney to ensure that fishers' historical rights of access to the coast have been realised subsequent to the Golf Estates approval and subsequent implementation (Pinnacle Point Spokesperson 2, 2010, pers comm.). This formal agreement, called the 'Fisher's Agreement', essentially arose as a result of concerns raised during the scoping process and through an on-going correspondence with representatives from the Pinnacle Point development group and the Mossel Bay Angling Society (Mossel Bay Policeman, 2010, pers comm.). All of the fishers wanting to make use of this agreement are currently obliged to obtain an access card

from a local policeman in the Mossel Bay area, which then allows them controlled access over the Pinnacle Point Estate to their respective fishing sites (Mossel Bay Policeman, 2010, pers comm.). The fishers park at an assigned parking area near to the entrance of the Pinnacle Point Beach and Golf Club, show their respective access cards, at which point they are loaded up into a 4X4 vehicle and transported down to the coastline at two different points within the estate (Pinnacle Point Spokesperson 2, 2010, pers comm.). The one drop off zone is located at the Pinnacle Point Clubhouse, whilst the second is located near to the coastline along the south western border of the estate (Pinnacle Point Spokesperson 2, 2010, pers comm.). From the clubhouse fishers can then make use of the steps and walkway leading down to the cliffs, beaches and coastal land from where they fish (Pinnacle Point Spokesperson 2, 2010, pers comm.). Their access across the estate is however subject to certain conditions summarised in **Table 15**.

Certain measures have also been put in place by the development to ensure continued public access along the St. Blaize Hiking trail to the south of the Estate. The section of the St. Blaize Hiking Trail that traverses through the estate has been maintained, however it has been relocated inland to accommodate for certain anthropogenic barriers (e.g. the clubhouse and the golf course) constructed by the development (see **Figure 28**). A public servitude has been registered over this section of the hiking trail (St. Blaize Trail Representative, 2010, pers comm.). Stakeholders using the St. Blaize trail are required to sign a register at strategically positioned security points (see **Figure 23**) on either side of the development, which acts to monitor access within the estate. As such, stakeholders who enter the estate are required to adhere to certain rules and regulations set out by the estate, which aim to minimise the environmental damage caused by visitors and ensure their safety (Pinnacle Point Spokesperson 1, 2010, pers comm.). From just below the clubhouse stakeholders can also make use of the stairway and environmentally sensitive boardwalk that has been constructed by the development down to the Pinnacle Point Beach.

| Conditions of the 'Fisher's Agreement' |
|---|
| <ul style="list-style-type: none"> ▪ Fishers are required to sign a logbook to indicate their time of arrival. ▪ Fishers must sign in between 8am and 5pm and leave their membership card at the front desk. ▪ All fishers must have a valid fishing license before entering the estate. ▪ At all times whilst traversing the land and beaches fishers: <ul style="list-style-type: none"> - Must be dressed in a shirt and trousers. - Must act in an orderly and civilised manner. - Must not consume any drugs or alcohol. - Must dispose of all fish waste in the sea. - Must not litter anywhere on the land. ▪ Fishers are not allowed to erect any tents or campsites on the beaches or cliffs. ▪ Fishers must ensure that they are ready to be collected at the designated collection or drop off zones at the agreed upon time. ▪ If fishers do miss their collection time and return on foot they will at all times give preference to |

golfers and owners of the land. They shall also not be allowed to traverse over the golf course and will only make use of the roads.

- The fishers will not be allowed to make use of any of the amenities on the estate.
- The fishers shall hereby indemnify and hold harmless to the company and each of the affiliates from all the environmental liabilities arising at or from the land to such extent to which the company, subsidiary companies, shareholders, employees against claims and actions by any member of the community arising from or in connection with their presence on the land, beaches or cliffs.
- In the event of any parties defaulting from any provisions of this above mentioned agreement, the agreement party shall be entitled to without notice cancel the agreement.

Table 15: A summary of the conditions imposed on fisher's making use of the 'Fisher's agreement' at Pinnacle Point.

Apart from drafting the 'Fisher's Agreement' and maintaining and relocating parts of the St. Blaize Trail that traverse through the estate, no further measures have been put in place to promote perpendicular access through the estate to the coastline. Whilst the EIA proposed to ensure such access via public roads on either side of the development with walkways leading down to the hiking trail, cliffs and beaches, these measures have been largely overlooked by the developer. With respect to this, a public road, of very poor quality, has been constructed down the eastern border of the estate (**Figure 28**), however no walkway has been constructed from the road down to the coastline. The resultant 'pathway' that stakeholders are expected to use, has also been compromised by the neighbouring development's (i.e. Village-on-Sea) fence, which has left a gap no bigger than half a metre wide for stakeholders to use. Moreover, whilst they have been ordered to upgrade the road in line with municipal standards, they have said that they do not have the funds to do so (Pinnacle Point Spokesperson, 2010, pers comm.). As such, this access route is largely inaccessible and has meant that 'historic' and 'new' stakeholders wishing to make use of the coastline and hiking trail to the south of the development have been significantly inconvenienced as they can no longer walk through or alongside the designated site to the coast. This problem has been further exacerbated by private developments being constructed on either side of Pinnacle Point, which have also blocked perpendicular access routes that facilitated historic stakeholders access to the coast in the past (**Figure 28**).

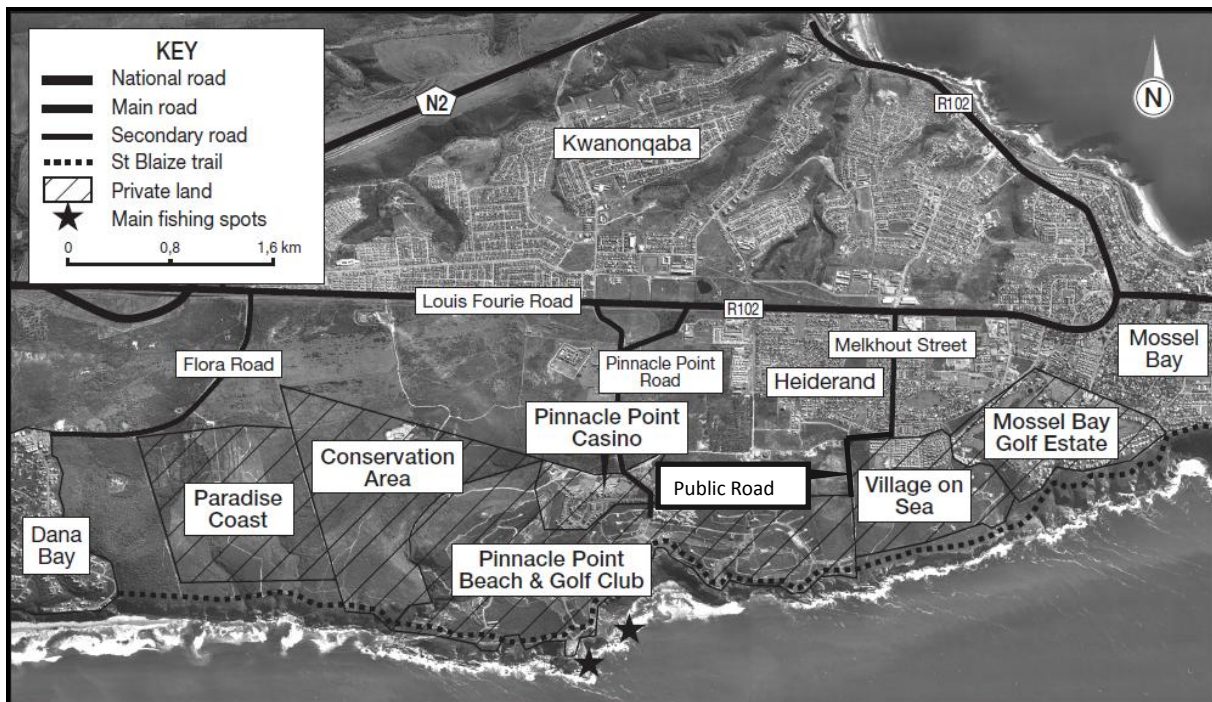


Figure 28: An aerial photograph showing the access routes used by stakeholders to access the coast at the current Pinnacle Point site.

7.5.3 The extent to which mitigation measures and recommendations regarding issues of coastal access were implemented: Pezula

Certain measures have been implemented by the Pezula development to address stakeholders' concerns regarding access to the coast. With respect to this, a small group of fishers, predominantly from the Hornlee community, have been able to maintain access across the Pezula Private Estate through an informal agreement that has been reached between them and the development group (Pezula Spokesperson 2, 2010, pers comm.). Very similar to Pinnacle Point's approach, the agreement works on a permit system, which the relevant fisher obtains from a local policeman at the Knysna Municipality (Pezula Spokesperson 2, 2010, pers comm.). The fishers present their permits to the security personnel at Pezula's front gate and are then transported to their respective fishing spots on the southern border of the development, by means of a golf cart. At an agreed upon time, the fishers are then collected and transported back to the entrance from which they came (Pezula Spokesperson 2, 2010, pers comm.). Similar to the Pinnacle Point case study, fishers are only able to make use of this agreement during the day time and their use is subject to similar conditions proposed in terms of Pinnacle Points 'Fisher's agreement'.

Despite the developers' commitment to make provision for a hiking trail and eco-tourism opportunities on the estate, including access to the cliff top road (see **Table 9**), no such measures have been implemented in practice. As mentioned before, this has compromised the

general public's ability to gain lateral access along the coastline, as they are no longer able to make use of the informal trail that used to facilitate access across the former commercial timber plantation (see **Figure 17**) (Environmental Lawyer, 2009, pers comm.; Noetzie Resident 1, 2009, pers comm.). Stakeholders wishing to access the coastline are now forced to make use of the rocky shoreline to the south of the current development site (**Figure 8**), which is substantially more difficult to access owing to the steep topography and rocky shoreline that characterises this region.

Despite this, a number of measures have been implemented in the western part of the case study site with the subsequent construction of numerous formal access routes that facilitate vehicular and pedestrian access to the proposed site. During the construction of the Sparrebosch Estate the former private servitude (that ran through the former Woodbourne Farm) was re-aligned and upgraded to meet with municipal standards (SRK, 1996). The same road is now called Lagoon View Drive (see **Figure 29**) and has facilitated unrestricted public access to the coastal land under examination for various stakeholders, many of whom would not have thought to visit the area as no formal access routes were present prior to this. From the parking lot situated on the north eastern border of the Sparrebosch property these stakeholders can now gain access to the Cove beach by means of the Sparrebosch hiking trails (called 'Fishermens' Walk') that have been upgraded and maintained by both the Sparrebosch and Pezula developments (Pezula Spokesperson 1, 2009, pers comm.). A public servitude has been registered over these hiking trails, as part of the Sparrebosch Cove Project, in order to recognise and formalise the public's historical right to access the beach (HilLand Associates, 2003). Anyone who wishes to make use of the 'hiking trails' must sign a register at the start of the each trail, which allows the developer to monitor stakeholders use of the associated trails.

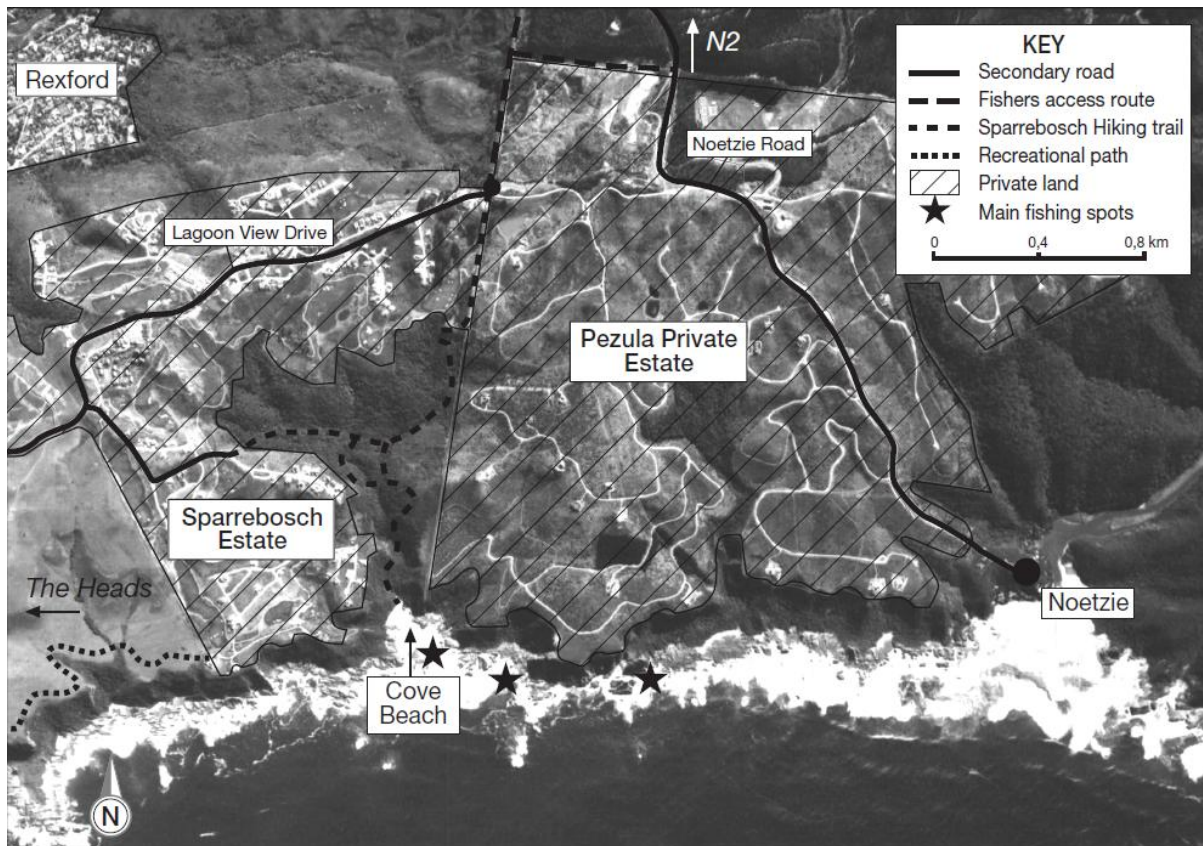


Figure 29: Aerial photograph depicting the current access routes used by stakeholders to access the coast at the current Pezula case study site

7.5.4 Factors influencing the extent to which such mitigation measures and recommendations were implemented

From the above findings, it is evident that both development projects have not adopted or implemented all of the mitigation measures and recommendations set out in each of their EIRs. As such they have in many respects disregarded the conditions of approval set by the relevant authority, which has seriously undermined the effectiveness of the EIA process and its influence on the final outcome of each development proposal. In this regard, a number of factors have been identified for the above mentioned shortcomings.

All of the factors identified in previous sections that influenced certain aspects of the EIA processes investigated had significant implications for the extent to which such issues were addressed and implemented once the development received its final approval. In this regard, the mitigation measures and recommendations provided in each EIA process were considered inadequate to inform the final management and implementation of such activities. As mentioned before, the EIA documents investigated (including the EMP) provided no guidelines on the following issues:

- Maps showing the specific access routes to be implemented;

- The specific dimensions (i.e. width) and standards such access routes would be expected to conform to;
- The appropriate measures to monitor and control public access through the estate (i.e. whether a nominal fee or permit system should be used); and
- The exact number of beach toilet facilities being constructed and specific plans to implement beach cleaning and maintenance programmes.

As such the execution of such measures is left largely at the discretion of those in charge of the projects final implementation and management (i.e. the Developer, the Environmental Control Officer (ECO), the Environmental Liaison Committee (ELC) and the Homeowners Association). Moreover, without specific mitigation measures being outlined, the responsibility of the municipality to monitor and enforce the conditions of approval set out in the ROD, are made difficult as no baseline standard has been set for the developments to adhere to. This problem of weak enforcement is further exacerbated by capacity constraints hard felt by each of the local Knysna and Mossel Bay municipalities. This is largely associated with staff shortages in the compliance and enforcement areas, financial constraints and a lack of technical expertise to carry out the necessary procedures (DEA&DP official, 2010, pers comm.).

Another problem undermining the implementation of such mitigation measures is the fact that subsequent to the construction phase, the management function of each estate is largely funded by, amongst other things, levies paid by the individual estate homeowners. As such, the homeowners are expected to fund many of the mitigation measures employed (i.e. archaeological plan, rehabilitation of the fynbos, burning plans, landscaping, 'fishermen agreement' etc.), which often results in a large financial burden on their behalf (Pinnacle Point Spokesperson, 2010, pers comm.). In many cases this is not fully disclosed to the homeowners by the relevant sales teams and as such homeowners are unaware of all the obligations that they must abide by in terms of the sale agreement between them and the development group. This can lead to long tedious legal proceedings that delay the implementation of such mitigation measures indefinitely.

Finally, the limited role that the ELC played during each development projects construction phase is perceived to have severely undermined the implementation and management of each EIA process (St. Blaize Trail Representative, 2009, pers comm.). The ELC was established for each development as a requirement of the ROD, to play an advisory role in environmental management during the construction phase, as well as to serve as a consultative forum to integrate the views of the community into the process. However, these groups were perceived to be largely unrepresentative of the broader public interest. Instead they were dominated by proponents of the development (see **Section 7.5.1**) and influential NGO's mainly concerned

about the biophysical aspects of each development. As a result, they had very little influence on the social aspects of each development and were perceived to be largely ineffective in the role that they were initially set up to perform (Environmental Lawyer, 2009, pers comm.; St. Blaize Trail Representative, 2010, pers comm.). In this regard, a number of Pinnacle Point's ELC members have stepped down from the committee because the developer has been asked repeatedly to honour certain requests, but has never done so (Pinnacle Point Spokesperson 2, 2010, pers comm.).

7.6 Conclusion

The findings from this research highlight that whilst the decision to approve both developments has had a significant influence on coastal access patterns and stakeholders' ability to benefit from the coastal areas under examination (see **Chapter 6**), the EIA process itself did not adequately identify, assess and address issues of coastal access in practice, especially in terms of what current policies and legislation in South Africa articulate. Similarly, a very limited number of measures have been implemented to minimise the negative impact each development has been identified to have had on stakeholders' ability to access the coast and its resources. In this regard, it is evident that both developments are not fostering ideas of improved and equitable access to the coast, but instead are reinforcing existing legacies of social and economic inequality, with the majority of the benefits disseminating into the pockets of a wealthy minority. These shortcomings identified in the research are largely associated with a number of factors identified throughout **Chapter 7** that have undermined different aspects of the process and decisions pertaining to the overall planning and design of the two development proposals. A summary of the major factors responsible for such undesirable development outcomes are reported on below.

In terms of the public participation processes conducted for the two development proposals, the unequal opportunities given for different stakeholder groups to participate was identified to be a major area of concern. This resulted in a small minority of active individuals and groups, often with very narrow motivational agenda, dominating the formal public participation processes, whilst the large majority of the public were left 'voiceless' in decisions of upmost importance to them. The methods of public participation used and the reliance on public meetings as the principal means of incorporating public input into the process was considered to significantly undermine the process in this regard as not everyone was able to effectively engage with the process. Furthermore, both public participation processes provided little input into the actual terms of reference, choice or design of the technical studies conducted throughout. This meant that the consultants' and specialists' discretion played an important role in deciding which of

the issues raised should be considered in the reports or dismissed as being irrelevant. As such, a number of significant issues raised during the public participation processes (i.e. set-back lines, the alienation of public land, eco-tourism ventures, hiking trails etc.) were largely disregarded or overlooked.

During the social reporting aspect, a number of inherent shortcomings significantly undermined the extent to which issues of coastal access were identified, assessed and addressed throughout the related EIA process. In this regard, the information generated during this aspect of the EIA process was considered to be completely insufficient for a competent authority to make an informed decision on the potential social impacts of each development proposal, especially with regards to the issue of coastal access. Whilst the technical expertise and objectivity of both consultants were cited as possible reasons for such shortcomings, the actual information deficiencies identified include:

- No baseline information regarding the use patterns of historical patterns of coastal users;
- The poor identification and assessment of alternative development scenarios;
- The narrow assessment of social impacts (i.e. cumulative and regional impacts were not assessed);
- Mitigations measures were not described at an adequate level to inform the implementation and management of such activities.

The findings from this research also suggest that the competent authority tasked with making a decision as to whether or not and on what terms to approve the relevant development proposals, were not in a position to make an informed decision in the public's best interest. Although shortcomings mentioned above, which relate to the incomplete and superfluous information contained with the EIA reports can be largely held responsible for this, the capacity constraints felt by provincial state institutions in South Africa and the political and economic arena within which such decisions are made, were considered to further undermine the decision-making aspect of the two EIA processes investigated. In this regard, the decision to approve both developments was considered to have been considerably motivated by short-term economic growth considerations and political priorities, whilst broad societal interests such as providing the public with access to the coast were overlooked.

Finally, the research showed that both developments did not implement or adopt all of the mitigation measures and recommendations set out in the two EIA reports. This significantly

undermined the EIA process and the degree of influence it was able to impart on the final outcomes of both development proposals. Again, this was seen as a direct consequence of the information deficiencies already mentioned, which compromised the ability of the municipality to regulate development compliance with the relevant conditions, as no baseline standard had been set for the developments to adhere to. This problem of weak enforcement was further exacerbated by capacity constraint problems that characterise both the local Knysna and Mossel Bay municipalities. This meant that in addition to the limited amount of measures identified during the EIA process, few measures were implemented in order to reduce the developments' impact on public access to the coast. This was considered to have significantly undermined the role of the EIA process as the overarching process used to identify, assess and address issues of coastal access, when considering large-scale development proposals along the coast.

Chapter 8: Discussion

This dissertation has reviewed and analysed changing access patterns that have taken place at the two case study sites as a direct result of the approval of two golf estates. It has looked at the benefits different stakeholder groups derive from the coast and to what extent each development has either enabled or restricted different stakeholders' ability to benefit from the coast and its resources. A number of overall 'winners' and 'losers' were identified in this regard. Following this it looked at the EIA processes conducted for each development proposal and the extent to which they were responsible for influencing such development outcomes already mentioned above. It specifically focused on four central aspects of each EIA process and how issues of coastal access had been identified, assessed and addressed in each. Finally, some of the major factors responsible for influencing each aspect and, in turn, the extent to which issues of coastal access were identified, assessed and addressed throughout the EIA process, were identified and reported on.

This section will now refer to the literature and theoretical ideas developed in **Chapter 3** to discuss the findings. In particular, the main theoretical ideas developed by Ribot and Peluso (2003), with regards to the 'mechanisms of access' (i.e. means, factors and processes) by which stakeholders' are able to gain, maintain and control access to resources (**Section 3.2.2**), will be drawn upon to further understand the changing access patterns at each case study site. The policy and legislation review chapter (**Chapter 4**) will be drawn on to discuss the findings in relation to South Africa's post-democratic legal provisions and principles (**Section 4.7**), in order to identify any major disjuncture from policy in practice. Finally, the ideas developed during **Part III** of the literature review, regarding the conceptual underpinnings of the EIA process and the factors that influence certain aspects of this process, will be used to guide the final part of discussion, concerning the major factors responsible for influencing the EIA process and the extent to which issues of access were identified, assessed and addressed throughout the related process.

8.1 Changing access patterns: Changing beneficiaries

From mapping, documenting and analysing the changing coastal access patterns at each case study site, it is evident that access patterns have changed considerably since the approval and implementation of each development proposal. This has led to changing beneficiaries, as stakeholders' ability to benefit from the coast and its resources has been enabled and restricted

to differing extents. Some stakeholders have managed to gain and control access to the benefits associated with each coastal area under investigation, whilst others have managed to maintain their ability to benefit from the coast and its resources. Other stakeholders, such as the public at large, have been generally denied such privileges. The following section discusses such findings in relation to the theoretical ideas developed in **Part II** of the literature review. In this regard, it continues to draw upon work conducted by Ribot and Peluso (2003) in order to identify the specific 'mechanisms of access' by which different stakeholder groups have been able to gain, maintain and control their ability to benefit from the coast and its resources, over the study period. Whilst it is evident from the research that the EIA process, and the decisions emanating from it, played a significant role in influencing the changing access patterns and beneficiaries identified, this section seeks to identify a number of additional means and factors that have been harnessed and mobilised by stakeholders' (outside of and/or during the EIA process) in order to gain, maintain and control their ability to benefit from the coast and its resources over this period.

8.1.1 Capital and Markets

As mentioned before, access to capital in the form of wealth can significantly shape who is able to benefit from a particular resource (Ribot & Peluso, 2003). The results from this research tend to support this notion, as capital was used by a number of the stakeholder groups (i.e. the developers, homeowners and visitors to each estate) in order to gain and control access to the coastal areas and their associated benefits. In this regard, through gaining access to the necessary finance, each developer was able to purchase property rights over pristine stretches of South Africa's coastline. As such, they stood to gain significant economic benefits (or losses) from developing the land and furthermore gained control over the benefits and benefit streams associated with owning such property rights (see **Section 8.1.2**). Whilst gaining access to the necessary finances was essential in order to find such a project, their ability to purchase the property was also largely dependent on their ability to access the relevant markets and to submit the required tender. As such, access to markets is another factor identified to have shaped the changing access patterns at each case study site. Similarly, South Africa's market based economy, which motivates all land owners to sell to the highest bidder, is considered to significantly influence stakeholders' ability to benefit from the coast and its resources, as it gives those who can afford it the ability to purchase property rights over a piece of land (SCLC, 2004). Finally, the homeowners and visitors used capital to purchase property within each estate, to rent residential units, as well as to financing levies, membership fees or green fees. This in turn afforded them privileged access to the coastal area and the benefits associated with accessing it.

8.1.2 Property rights

Property rights have had a significant effect on stakeholders' ability to benefit from the coast and its resources at each site. This relates to the fact that property rights holders often gain access to and control over the benefits associated with their respective land, in the knowledge that the state will validate the authority of that right to a point (Ribot & Peluso, 2003). With respect to this, the homeowners from each estate have been able to gain many significant recreational, intrinsic and economic benefits from owning such property; however the low occupancy rates identified throughout the year mean that such benefits are only made use of for a very limited period each year. Furthermore, whilst the previous property rights holders (i.e. Mr Parks and the Mossel Bay Municipality) allowed unrestricted public access to the coast, the new property owners (i.e. both developers) have exerted their exclusionary rights to deny much of the public the ability of crossing over their land to reach the coast. Such access has been controlled through the use of specific technology and security measures, discussed in more detail below (**Section 8.1.3**). This has significantly undermined 'historic' stakeholders' ability to benefit from the coast and its resources. Despite this, the fact that an individual Noetzie Homeowner was able to negotiate a settlement agreement with Pezula after a lengthy court case, which resulted in them constructing a temporary pathway to the municipal stairs that lead to the beach, illustrates the point made by Glazewski (2005) that property rights are not absolute and that owners cannot use their land completely at their own discretion.

8.1.3 Technology

As mentioned above, the various technologies employed by Pezula and Pinnacle Point to control access throughout each estate (i.e. security gates at the entrances, electric fences along the perimeter, security cameras along the major access routes and security personnel), have significantly influenced changing access patterns over the study period and the extent to which different stakeholders are able to benefit from the coast and its resources. This is largely attributed to the fact that such technologies keep certain people away from a resource, through physically restricting access and through symbolising or communicating intent to restrict access (Ribot & Peluso, 2003). Furthermore, they have increased the visual impact each development has had on its surrounding environment and have detracted from the scenic and natural amenity value of the areas, which are the very things that developers are so quick to capitalise on when marketing estates of this nature (DEA&DP, 2005). The resulting impact on the areas 'sense of place' has significantly undermined 'historic' stakeholder's enjoyment of the area and also compromised the ability of future generations to gain similar benefits from the coastal areas under examination. However, through facilitating a means of enforcing rights-based (i.e.

legal) and illicit (i.e. illegal) access through each estate, these technologies are also used to prevent crime and provide homeowners with a sense of safety and security which relieves their fear of crime (Landman, 2002). As a result these technologies, through controlling access within the estate, also promote lifestyle ideals such as security, privacy, status and isolation which many prospective buyers find very attractive (DEA&DP, 2005).

Roads and other access routes (i.e. hiking trails) are other technologies that have significantly influenced access patterns at each case study site. Whilst new roads can alter the number of people and the types of vehicles that are able to reach a remote area (Ribot & Peluso, 2003), the accessibility³³ (i.e. quality and remoteness) of a road or access route can influence which stakeholders are willing or physically able to use it (Clark and Milton, 2003). With respect to this, a number of traditional access routes have been lost post development approval, which has restricted 'historic' stakeholder's ability to benefit from the coast and its resources. However, a number of new roads and formal access routes have been constructed; particularly along the eastern part of the Pezula case study site (see **Figure 29**), which have significantly benefitted a number of 'new' stakeholder groups (i.e. estate homeowners, visitors and tourists) who are now able to access the coastal area and its associated benefits. Although these access routes have generally benefitted a privileged minority and not the general public as a whole (see **Section 6.2** and **Section 6.3**), provisions such as the construction of an environmental friendly boardwalk from the Pinnacle Point clubhouse down to the beach, have facilitated access to the coast for a sector of the public (within the privileged minority that is able to gain access into the estate) that would not have been able to use this part of the coastline in the past (e.g. elderly people, those with physical disabilities and young children).

8.1.4 Labour and labour opportunities

A number of 'new' stakeholders' employed by each development have also benefitted substantially from each large-scale golf estate through gaining access to additional income in the form of salaries and wages. This relates to their ability to gain access to labour and labour opportunities in each of the developments, which according to Ribot and Peluso (2003) is another 'mechanism of access' by which stakeholders are able to gain access to resources. In this regard, there was a significant number of employment opportunities offered during each developments construction phase, predominantly for semi-skilled and unskilled workers. However, once this phase was completed the running of each development (i.e. operational phase) required substantially less employees and the employment opportunities became far more seasonal in nature.

³³ Accessibility refers to the ease with which a site or service may be reached or obtained (Nicholls, 2001)

8.1.5 Other rights-based factors

Whilst a number of stakeholders have been able to maintain access through each of the estates (i.e. fishers and hikers using the St. Blaize Trail) through measures implemented during the EIA process, the rules and regulations imposed on them by the developer, have significantly undermined their ability to benefit from the coast and its resources. The 'Fishers Agreement', drafted by Pinnacle Point to recognise local fishers existing rights of access, is one such example of this. Whilst this legal document gives historical fishers the opportunity to maintain access through the Pinnacle Point estate to their preferred fishing spots, such access is significantly constrained and controlled by the development on their own terms. In this regard, fishers can only make use of the agreement at certain times of the day, they must be dressed accordingly and they must ensure that they are ready to be collected from a designated collection zone at an agreed upon time (See **Table 20**). As a result, instead of maintaining unrestricted access to the coast and its resources as they have done in the past, their ability to benefit from the coast and its resources is largely dependent on an agreement that is managed and implemented by the development group (i.e. homeowners, ELC, ECO). This dilemma is acknowledged by Ribot and Peluso (2003) who recognise that instead of procedures to enfranchise local people with rights over a resource, such people are often managed as subjects to whom privileges, rather than rights, are to be delegated and as such the full allocation of rights is never fully transferred to these stakeholder groups.

The stringent enforcement of newly enacted legal provisions in terms of the Marine Living Resources Act (18 of 1998) has also compromised local fishers' ability to benefit from the coastal resources available at each site. Whilst the enactment of such regulations is not related to each development's approval and implementation, the enforcement of such regulations has become increasingly more stringent as each development has employed management procedures, which aim to minimise environmental harm and control legal and illicit access through each of the estates. As such, 'historic' fishers from the poorer communities are no longer allowed to camp over night at their preferred fishing spots, which has weakened the cultural and historical ties many of these stakeholders associate with the coastal areas under investigation. This trend is supported by Sunde (2011: p. 9) who says, "The lack of affordable camping facilities, coupled with more enforcement of regulations prohibiting camping on public open spaces has furthered the sense that the coastal commons is now less accessible to ordinary citizens who do not own property along the coast".

8.2 Disjuncture between policy rhetoric and practice

Chapter 3 reviewed South Africa's legal framework in order to highlight the Government's current position in relation to issues of access to the coast. In this regard, there has been a significant transformation post democracy (i.e. post 1994) as recent policies and legislation represent a marked paradigm shift towards Integrated Coastal Management (ICM), with more focus on human development imperatives, public participation and equality (Glavovic, 2007). With these recent legal provisions and other policies, such as 'Guidelines for Golf Estates in Western Cape (2005)' come expectations of improved and equitable access to the coast and its resources for all South Africans through an informed and integrated decision-making process. However, one of the key findings of this research is that many of these principles and provisions have not been used to inform decisions pertaining to the overall planning and design of the two development proposals under investigation. This section discusses the findings presented in **Chapter 6** and **Chapter 7** in relation to the progressive principles and provisions identified in **Chapter 4**, in order to identify the most significant areas of disjuncture from policy in practice.

8.2.1 The Public's right to access the coast

The Coastal White Paper (2000) and the ICMA (24 of 2008) enacted to give legal effect to this policy, highlight the importance of providing the public with physical access to the coast, which includes provisions for providing them with perpendicular access across private land. At the same time, they also recognise that uncontrolled access to the coast can have a detrimental effect on the surrounding coastal environment and its associated marine resource base, if not managed appropriately (DEAT, 2000; Celliers et al., 2009). These objectives bring into sharp relief the notions of public rights versus private landowner rights and the negative consequences associated with the irresponsible use of the coastal region, which include litter, waste accumulation, pollution, noise and ecological damage (Navarro, 2000). However, it is also important to note that whilst the conflict over rights of access are dependent on country specific policies that define the public rights of access to the coast and right holders' expectations regarding the issue of coastal access, the negative consequences of irresponsible coastal use are largely related to poor management practices and inadequate planning (Navarro, 2000).

From the findings, it is evident that both developers researched asserted their individual exclusionary rights to control access through each estate by employing various security measures already mentioned above. This significantly compromised perpendicular and lateral access routes that used to facilitate public access to the coast in the past. At Pezula, whilst the public can still make use of the roads on either side of the development to access the adjacent

coastal areas, gaining access to the informal trail that used to facilitate lateral access across the former commercial timber plantation is now impossible (**Figure 17**). In comparison, whilst lateral access across the Pinnacle Point site has still been maintained through the relocation and preservation of the St. Blaize Trail (**Figure 23**), perpendicular access through the site has been denied, as the public can no longer cross over the former municipal land to the sea-shore (**Figure 28**). Moreover, although a road was constructed down Pinnacle Point's Eastern border to ensure that public rights of access to the coast were maintained, the pathway leading from the road to the coastline has been significantly compromised by the neighbouring developments security fence, which has restricted people from using this route. As a result, apart from the St. Blaize trail and the 'fishers' agreements' drafted by both developments to ensure that fishers existing rights of access are maintained, no measures have been implemented to ensure that public rights of access to the coast are preserved for current and future generations. As such, these developments continue to represent private, exclusive spaces that fail to uphold the collective rights of the public at large, to access the coast and its resources. This is considered to go against the spirit of the Coastal White Paper (DEAT, 2000) and the ICMA (24 of 2008) and provisions that seek to ensure that the 'public has the right of physical access to the sea, and to and along the sea-shore, on a managed basis'³⁴.

The inappropriate location of both developments, more specifically the fact that both estates have been developed up until the edge of the coastal plateau, has further exacerbated this problem, as the steep topography and rocky shoreline characteristic of each case study site, has created a natural barrier making parts of the coastline physically inaccessible (see **Figure 8** & **Figure 11**). As a result, whilst the public has a legal right to walk freely between the publicly defined sea and the sea-shore in terms of the Integrated Coastal Management Act (24 of 2008), such access (i.e. lateral access) is limited by unforgiving terrain (i.e. steep cliffs and gullies) that restrict physical access. This characteristic of the coast is acknowledged by Summerlin (1995), who recognizes that whilst a coastal area may be legally accessible to the public, lateral access is often dependent on the extent to which geographical barriers, such as jutting headlands and cliffs, prevent lateral passage. In addition to this, apart from an environmentally sensitive walkway being constructed down to the Pinnacle Point beach, no other measures have been put in place to manage the impacts usually associated with stakeholders accessing the coast (i.e. toilet facilities, bins, assistance in beach cleaning and maintenance etc.). Instead it seems that they have managed the negative impacts associated with irresponsible coastal use, through making each coastal area less accessible to the general public, in the hope that this will minimise the number of people that are willing or able to use the area, thus minimising the harm to the

³⁴ Goal B1 of the White Paper for Sustainable Coastal Development in South Africa (DEAT, 2000, pg. 9).

environment. Moreover, as mentioned above, they have been very stringent on enforcing recently enacted provisions that regulate coastal activities, which has further restricted different stakeholders' (i.e. particularly local fishers) ability to access the coast and its resources.

In summary, very few measures have been implemented by either of the developments to ensure that the general public is granted their rights of access to the coast. As such, key principles and provisions related to public rights of access to the coast seem to have been overlooked in the EIA processes and decisions pertaining to the overall planning and design of each development proposal. Instead public rights of access to the coast are being constrained and controlled through security measures employed by each development. Furthermore, instead of allowing unrestricted public access through each estate and minimising the impact that such stakeholders may be having to the receiving environment, through employing appropriate management principles (i.e. toilets, honorary rangers, refuse facilities), the public has been denied the ability to exercise such rights on the premise that controlled access will minimise the impact that the public can have on the surrounding environment and its associated resource base. This seems to go against the spirit of the Coastal White Paper, which seeks to ensure that the public has the right of physical access to the sea, and to states that the 'coast is a national asset and belongs to all people of South Africa'.

8.2.2 Sustainable development and equitable access to resources

Recent coastal management efforts in South Africa have recognised the distinctive and complex nature of the coast and as such have undergone a dramatic transformation towards sustainable coastal development through an Integrated Coastal Management (ICM) approach (DEAT, 2000; Glavovic, 2006). The coastal region has also been recognized as an important resource for bringing about transformation owing to its capacity to unlock new development opportunities which can help reduce poverty, meet the basic needs of poorer coastal communities and as such improve the quality of their lifestyles (Glavovic, 2005). These provisions in turn have brought expectations of improved and equitable access to the coast and its associated benefits through an informed and integrated decision-making process (DEA&DP, 2005; Glavovic, 2006; Glavovic & Boonzaier, 2007). However, whilst the rapid increase in development pressures along the Garden Route coastal region have contributed somewhat to the region's relatively high economic growth rate, developments of this nature are not generally associated with fostering ideas of transformation and equity, but instead notorious for compounding the divide between the rich and the poor and historically skewed patterns of ownership, whereby the majority of the land and resources are in the hands of a wealthy minority (SCLC, 2004; DEA&DP, 2005).

Moreover, developments of this nature are even referred to as 'modern day forms of spatial apartheid' which 'reinforce existing legacies of social and economic inequality' (SCLC, 2004). The results from this research tend to support such views, as it is evident that the benefits from both developments have not been equally distributed amongst all stakeholders, but instead have generally disseminated into the pockets of a wealthy few. These notions are discussed in relation to the findings below.

A minority of stakeholder's (i.e. the developers, the estate homeowners and visitors to each estate) have been shown to have derived significant benefits (predominantly economic) from each development. Moreover, through submitting the tender required to purchase rights to develop the land, the developer has also been able to gain control over the coastal area and the benefits streams associated with it. Whilst some significant benefits have been passed on to the local community members during the construction phases of each development, these are generally short-term economic benefits accruing to local businesses and labourers. Only a limited amount of employment opportunities are created in the long-term and these are also very dependent on the seasonality associated with the tourism sector. Despite this, the increased revenue that local and district municipality's gain from increased rates and levies, should in theory, be used to upgrade infrastructure and other challenges at a local level. As such, whilst the economic benefits do accrue to quite a broad sector of the affected public, the long-term sustainability of these benefits are difficult to quantify as they are largely dependent on seasonal changes and the ability of government institutions to channel any extra revenue received into initiatives that combat such challenges.

Despite this, the social inequity associated with developments of this nature is determined to significantly undermine their transformation capacity. In this regard, golf estates generally create an unhealthy divide between the elite and the surrounding communities, fostering resentment and tension between related stakeholder groups (DEA&DP, 2005). Moreover, the findings have identified a number of adverse social impacts that have been passed on to the surrounding communities at each case study site. These include: restricting stakeholders access to the coast, devaluing the natural amenity value historic stakeholders associate with the coast, affecting communities' 'sense of place' and their cultural and historical ties with the coastal area. In this regard, subsistence fishers' ability to supplement their livelihoods through harvesting marine resources from their traditional fishing sites has been compromised. In addition, surrounding homeowners can no longer make use of paths that they have been using since their early childhood. The migrant labourers such developments have been documented to attract, can also impact on the surrounding marginalised communities already fragile social and cultural fabric (DEA&DP, 2005).

As such, instead of promoting ideals of social equity and transformation, which national and local policies and laws recommend, these developments rather compound problems related to social segregation, income inequality and patterns of skewed ownership. Moreover, the economic benefits that often motivate the approval of such developments, do not always filter down into the local communities or the people in desperate need of them, but instead are principally received by a wealthy minority of people, who also gain privileged control over the coastal areas and the other benefits associated with them (i.e. recreation, intrinsic, economic etc.).

8.2.3 Full and inclusive public participation

Public participation is important in that it promotes principles such as accountability, equity, empowerment and transparency in decision-making (Petts & Leach, 2000; Rowe & Frewer, 2004). This gives stakeholders the ability to voice their opinions and concerns regarding a particular development proposal, which in turn can have an influence on the planning and design of the development proposal under consideration. Full and inclusive participation is also an important aspect of South Africa's post democratic transformation process³⁵, as efforts have been made to move away from past discriminatory practices of centralised decision-making to include everyone, especially those from previously disadvantaged communities, in decisions that have the potential to impact upon their lifestyles (DEA&DP, 2005). This has in turn brought about expectations of improved and equitable approaches through a fair, informed and integrated decision-making process (DEA&DP, 2005). However, this research suggests that a number of shortcomings have been identified in this regard.

Whilst a number of innovative methods (i.e. social workshops, formal scoping meetings and on-going correspondence) were used in the public participation processes to incorporate the views and perceptions of state authorities, non-governmental organisations (NGO's) and other informal organisations into each of the planning and assessment processes (see **Figure 24** & **Figure 25**), the use of low level methods (i.e. public meetings) to receive feedback from the general public and to keep them informed, was based on the bare minimum legal requirements³⁶ and standards that are considered to be entirely inadequate for complex and controversial developments of this nature (DEA&DP, 2005). In this regard, no effort was made to inform, educate or empower those stakeholders from the general public that did not

³⁵ **NEMA principle 2(f)** "The participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation and participation by vulnerable and disadvantaged persons must be ensured".

³⁶ In terms of the Environmental Conservation Act (73 of 1989)

participate. As such, these stakeholder groups were not provided with the knowledge or the technical information, needed to challenge proponent and state positions and to influence decisions that can affect their livelihood and quality of life (Bisset, 2000; Hartley & Wood, 2005; Scott & Oelofse, 2005; Doelle & Sinclair, 2006). This resulted in not everyone being given an equal opportunity to participate in the two EIA processes, which significantly undermined the procedural equity of each process and rendered a significant portion of the affected population (i.e. predominantly those from previously disadvantaged communities) 'voiceless' in affairs that were of crucial importance to them. Instead a minority of active individuals and groups from the more affluent sectors of society dominated each of the public participation processes investigated. As such, the public participation processes reviewed did not represent the interests of the broader public, but instead represented the views of a self-selected subset of the population that was able to effectively engage with the formal EIA processes. Similarly, instead of being fully inclusive and integrated, the public participation processes reviewed were largely perceived to be an exercise of public manipulation, which as evident from the findings, resulted in many of the hidden societal costs of the developments (i.e. increased migrant labourers, the loss of a communities 'sense of place' and the developments' impact on public access to the coast) being passed on to those affected communities that did not participate.

8.3 The major factors responsible for undermining the EIA process

EIA has been identified as one of the overarching processes used to identify, assess and address the likely social impacts of any large-scale development proposal along the coast (DEA&DP, 2005). It is a process of identifying, assessing and mitigating the biophysical, social and other relevant effects of proposed projects and activities prior to major decisions and commitments being made (Sadler, 1996). It is used to inform decisions pertaining to the overall planning and design of a development proposal, as well as whether or not to approve the development and on what terms (Van Zyl, 2006). This study has found that these processes have a significant impact on stakeholders' ability to access the coast and its resources. From the findings, it is evident that the EIA process did not adequately address social issues as required by current policies and legislation in South Africa, especially with respect to issues of coastal access. In this regard, a number of factors were identified to have been responsible for undermining the EIA processes investigated. The following section seeks to discuss the major findings presented in **Chapter 7** in relation to the theoretical ideas developed in **Part III** of the literature review, which explored the major factors that have been acknowledged in the literature to influence four specific aspects of the EIA process.

8.3.1 Factors undermining the public participation processes investigated

Public participation is regarded as a disappointing feature of Social Impact Assessment (SIA) practice in South Africa (Du Pisani & Sandham, 2006). The public participation processes reviewed in this study were no different and a number of factors were identified to have undermined the EIA process in this regard. As mentioned before, these factors were determined to have significantly undermined the fairness and procedural equity of each public participation process. This in turn influenced the extent to which issues of coastal access were identified, assessed and addressed throughout the two EIA processes. Some of the major factors identified to have undermined the public participation processes investigated are now discussed in relation to the theoretical ideas discussed in part three of the literature review, which relate to public participation and EIA best practice.

Firstly, the methods of public participation used were determined to have been a significant factor influencing the extent to which stakeholders' issues of concern were incorporated into the EIA processes under examination. In this regard, the reliance on public meetings as the principal method to identify and incorporate public input into the process was considered to be significantly flawed as not everyone was able to engage with the process, which meant that a large majority of the public were left 'voiceless' in decisions of utmost importance to them, especially with respect to the overall planning and design of the development proposals. Many stakeholders (especially those from the surrounding previously disadvantaged communities) did not participate as they found the formal participation procedures unfamiliar or intimidating. Others were unable to engage with the process as they lacked the means or resources to do so (i.e. technical information, knowledge, transport, awareness, language barriers, time constraints and literacy). These findings are supported by O'Faircheallaigh (1996) who suggests that highly formalised and legalistic public meetings can alienate marginalised communities from effectively participating in a process as they feel unfamiliar with the language or process employed. Similarly, Van Zyl (2006) argues that the public's lack of understanding of the dynamics of golf developments and their lack of knowledge regarding the environmental and planning policies regulating such developments are a major obstacle to effective participation in this regard.

Social relationships, group identities and informal channels of communication were other factors that influenced stakeholders' ability to effectively participate in the above mentioned process. This relates to the dominating presence that inter-personal and inter-group networks of communication had on the related public participation processes. Active individuals or representatives within certain organizations mobilized different resources or means available

to them in order to participate (i.e. time, capital, technology etc.) and were able to effectively engage with each process and raise concerns regarding the proposed development in order to promote their chosen interest or agenda regarding the development proposal. These powerful stakeholder groups (i.e. NGO's and other organizations), by actively pursuing their preferred agenda, were able to use their privileged position in society to influence the extent to which their issues and concerns were identified and addressed throughout the EIA processes. With respect to this, the narrow motivational agenda and discourses adopted by many of these participants in an attempt to promote their own interests were perceived to be largely unrepresentative of the broader public's interest, especially the legitimate needs and aspirations of those stakeholders from previously disadvantaged communities. This finding is supported by Van Zyl (2006) who views the narrow motivational agendas adopted by different individuals and groups, the isolation of public participation activities, as well as the lack of constructive interaction between stakeholders to limit the achievement of a consensus with regards to the optimal outcome for society as a whole (Van Zyl, 2006).

Those stakeholders who lacked the ability to participate (i.e. the general public) were reliant on their concerns being identified and addressed through the involvement of various political players and the competent authority's ability to provide the necessary checks and balances in this regard during the decision making-process. Despite this, a small number of individuals from the more marginalized sectors of society (i.e. local subsistence fishers) were able to loosely affiliate themselves with organizations such as the Mossel Bay Angling Society and an informal group of Hornlee Fishers and influence the development proposals' final planning and design. This finding is supported by work conducted by Lawrence (2003) and O'Faircheallaigh (2010) who recognize the ability of marginalised groups to work outside of the formal EIA process to enhance their negotiation position. This is most successfully achieved where such stakeholders attach themselves to a social institution or group with the same agenda or interest in the system under consideration. With respect to this, the informal on-going correspondence that occurred between these organisations and representatives from the development group was most influential, especially with regards to dealing with those issues relating to the fishers' historical rights of access to the coast.

8.3.2 Weak identification and assessment of social impacts in the EIAs reviewed

The identification, assessment and reporting of social impacts during the EIA process is an action-forcing mechanism which can significantly contribute to the overall planning and design of a development proposal and the formulation of decisions as to whether or not, and on what terms, the development should be approved (Cashmore et al., 2004; Hill, 2004). However, from

the literature it is clear that this is still not a particularly strong aspect of the EIA process in South Africa (Rossouw et al., 2003; DEA&DP, 2005; Du Pisani & Sandham, 2006). The findings from this research support these views, as the information reviewed and analysed in this study was found to be inadequate for a competent authority to make an informed decision on the potential social impacts of each development proposal, especially with regards to the issue of coastal access.

A number of the shortcomings identified in the literature (Vanclay, 2002; Du Pisani & Sandham, 2006; Morrison-Saunders & Bailey, 2009) were relevant in these cases and undermined the social impact assessment and reporting processes investigated. For example:

- There was no description of the baseline information regarding the use patterns of historical coastal users;
- A number of significant issues identified during the public participation processes were not investigated in the EIA (i.e. public access to the coast; the impact of increased stakeholders on the coastal zone; set-back lines being implemented and the alienation of public land);
- The alternative development scenarios were poorly described and assessed;
- Cumulative impacts were not adequately covered; and
- The mitigation measures were not described at an adequate level to inform the execution of such activities.

These shortcomings, as identified in the literature review, are largely dependent on the environmental consultants and specialists tasked with compiling such reports, as they are given complete control over which issues are investigated, which methodologies to use, how to approach the technical studies and what information to include throughout the assessment (Lockie, 2001; Wilkins, 2003; Morrison-Saunders & Bailey, 2009). In this regard, the lack of baseline data on the social dynamics of large-scale golf estates is seen to have undermined the relevant consultant's ability to conceptualise the full range of social impacts usually associated with developments of this nature (Van Zyl, 2006). This problem was further exacerbated by an absence of specific guidelines to direct the process (Du Pisani & Sandham, 2006). Finally, the expertise and years of experience of the social specialist was not clearly stated and this raises concerns regarding their knowledge and experience in the field of SIA. This remains one of the biggest problem areas contributing to the low standards of SIA practice in South Africa, which according to Du Pisani and Sandham (2006) will not improve unless consultants assessing such impacts are professionally trained, accredited and monitored by a professional body.

Other factors that undermined the social reporting process of each EIA reviewed was the limited terms of reference each report provided for improving the overall planning and design of the development proposals. With respect to this, Hill (2005) argues that enhancing the environmental planning and design of proposals is one of the most important Environmental Assessment (EA) objectives in advancing the goal of sustainability. Accordingly, the EIA reports investigated (particularly the socio-economic reports) were mainly focused on describing the affected environment, identifying the most significant direct impacts and benefits for each development scenario and describing the possible mitigation measures. They were therefore more focused on processing information and describing the situation than actually improving the situation. Rossouw et al. (2000) recognises this problem with EIA practice in South Africa. He states that instead of assessing cumulative impacts and identifying the implications and issues surrounding the issues of sustainable development, most EIA reports in South Africa assess the direct impacts and benefits of a relevant development proposal, without concern for these other potentially significant long-term concerns. In this regard, no consideration was given to future generations and their ability to access the coast and its resources and the mitigation measures reported on were determined to be largely descriptive and insufficient in guiding the subsequent implementation and management of such activities. This was seen to have significantly undermined the social reporting process and the extent to which issues of coastal access were addressed following the approval of each development.

8.3.3 Factors influencing the competent authority's ability to promote broad societal interests such as access to the coast

Through a review of the literature, EIA has been identified as (1) a tool designed to gather environmental information to inform project planning, design and project authorisation, and more importantly, (2) as a decision process whereby decisions are made throughout the process from the methods of public participation used and the identification of impacts, through to the consideration of alternatives and the description of mitigation measures (Glasson et al., 1999; Weston, 1999). As such, each factor identified in the previous sections, will have certain implications for the competent authority's decision-making ability. For example, the social impacts reported on, especially with respect to the issue of coastal access, were considered to be entirely inadequate for the competent authority to make an informed decision as to whether or not, and on what terms to approve each of the development proposals investigated. Although one would expect government decision-makers to pursue the broad public interest and provide the necessary balances and checks to overcome such shortcomings in practice, this is often not the case, as is evident from the findings of this research. With respect to this, a number of factors that were identified in the findings to have significantly influenced the decision-making

aspect of the EIA processes investigated are discussed below in relation to the theoretical ideas developed in the literature review.

The administrative capacity of state institutions and their ability to effectively process EIA applications has been cited as a significant factor undermining EIA practice in South Africa (Duthie, 2001). In this regard, staff shortages, financial constraints, the technical expertise of those processing such reports and unrealistic time constraints imposed on such authorities were determined to have significantly influenced the decision-making processes investigated, particularly at a local municipal level. This was exacerbated by inadequate information on certain aspects in the reports, incomplete information and knowledge on different alternatives, consequences and preferences, which according to Kornov and Thissen (2000), forces competent authorities to make value-based judgements, which can lead to undesired outcomes and conflict. The lack of decision criteria and transparency in decision-making processes can also lead to broad societal interests, such as public access to the coast being overlooked, which according to O'Fairchallaigh (2010) is particularly widespread in situations whereby the EIA process is dominated by project proponents, consultants on their payroll, corrupt government agencies that are subject to 'capture' by proponents and politicians intent on promoting short-term economic growth to boost their electoral prospects. In this regard, the fact that Pezula's competent authority made no attempt to justify why such a development had been approved was seen to significantly undermine the transparency of the decision-making process and the EIA process as a whole.

The political and economic nature of the decision-making process was also identified to have influenced the decision-making processes investigated. Whilst Hill (2004) identifies a number of determinants that need to be considered when making such decisions (e.g. environmental factors, financial costs, societal benefits, economic and political priorities), it is evident from the findings that many of these determinants have been overlooked, particularly with respect to the societal implications of such developments, which have been already discussed above (**Section 8.2.2**). In this regard, the decision to approve both developments seem to have been motivated largely by economic growth considerations and political priorities, which amongst other things include efforts to lessen the infrastructural capacity problems hard-felt in both of the case study site areas. This is particularly evident at Pinnacle Point, whereby public land of immeasurable value has been sold off to a private developer at a surprisingly low cost, with a commitment from them to relocate and upgrade the municipal Waste Water Treatment Works (WWTW) that services most of Mossel Bay. This view is supported by Sunde (2011:p. 30) who states that, 'Those municipalities with low rates bases are more vulnerable to compromising good planning principles in order to secure financing for infrastructure'. This highlights the view that decisions

made in a political arena are seldom made objectively or in a value free manner, but instead are influenced by a host of determinants that vary between individuals and different situations (Sadler, 1996; March, 1994; Kornov & Thissen, 2000; Wood & Becker, 2005). In turn this has had a significant influence on the extent to which national policy objectives, which include providing the public with access to the coast, have been able to inform the final planning and design of the development proposals investigated.

8.3.4 Weak enforcement of conditions

The findings from this research indicated that many of the commitments made to minimise the impact on stakeholders' access to the coast have not been adequately addressed in practice. In this regard, a number of mitigation measures and recommendations were completely overlooked, despite one of the conditions of approval being that each development must adopt and implement the mitigation measures and recommendations as set out in the relevant EIA Report (See **Section 7.4.1**). Whilst this is not uncommon practice in South Africa (Hulett & Diab, 2002; Fuggle & Rabie, 2009; Kolhoff et al., 2009), it was determined to have significantly undermined the entire EIA process and the extent to which issues of coastal access were resolved. The major factors that have been responsible for such non-compliance are discussed below in relation to literature on the subject.

Firstly, the general lack of enforcement in ensuring that mitigation measures or recommendations of the EIA process were implemented in practice was seen as a significant factor contributing to non-compliance. This was generally attributed to capacity constraints experienced by the local Knysna and Mossel Bay municipalities. This was associated with staff shortages in the compliance and enforcement areas, financial constraints and a lack of technical expertise to carry out the necessary procedures. These problems of weak enforcement are documented repeatedly throughout the literature and are seen to significantly undermine the entire EIA process (Sadler, 1996; Wood, 1999; Duthie, 2001; Hulett & Diab, 2002; Fuggle & Rabie, 2009), which in this instance is seen as more of a paper hurdle to gain development approval, than an exercise in environmental management to bring about real environmental benefits (Ramjeawon & Beedassy, 2004). This includes enforcing conditions of approval that can be readily undertaken from an office, such as the requirement to submit an Environmental Management Plan to the competent authority for approval subsequent to the construction phase (DEA&DP, 2005). In this regard, the fact that Pinnacle Point is yet to submit their OEMP (September, 2010), even though people have been residing within the residential estate for a number of years now, is determined to be a significant barrier to effectively managing the estate and addressing issues such as access to the coast.

Secondly, the authority's ability to regulate each development's compliance was also undermined by insufficient and incomplete information contained within the EIA reports. The mitigation measures in particular were considered to be inadequate to inform the final management and implementation of such activities. In this regard, the lack of adequate information on how to conduct or implement the proposed mitigation measures in practice, renders the identification and assessment of such impacts before mitigation completely superfluous (DEA&DP, 2005). As such, no baseline standard was set for the projects to adhere to, which left the execution of such activities largely in the hands of those in charge of the developments' implementation and operational phases. Furthermore, the weak enforcement or regulation of such activities meant that the development proponents could proceed with little concern for the consequences of their actions (Morrison - Saunders et al., 2001; Dipper et al., 2010).

Chapter 9: Conclusions

This study has examined changing access patterns that have taken place as a direct result of two large-scale golf estates being approved and implemented along the southern Cape coast. It examined the extent to which the decision to approve both development proposals has impacted on different stakeholder groups' ability to access the coast and its resources and the role that the EIA process played in identifying, assessing and addressing such coastal access issues in practice. A review of the literature concerned with 'access to the coast', emphasized the public nature of the coast, the importance of providing the public with access to the coast and the contextual pressures and difficulties facing different countries around the world, who are trying to secure and grant its provision in practice (**Section 3.1**). It explored the notion of 'access', particularly in terms of the theoretical ideas put forward by Ribot and Peluso (2003). Their work expands the ambit of the notion of 'access' beyond legal rights of access (i.e. property rights, permits and laws), to a broader range of structural and relational factors that operate in parallel to such legal rights to influence access patterns within a particular context (**Section 3.2**). It also highlighted the importance of the EIA process, and identified it as one of the overarching processes that can influence coastal access patterns in informing decision-making and influencing the terms for approving development proposals along the coast. Moreover, it identified a number of factors that influenced four key aspects of the EIA processes examined and the extent to which specific social impacts of these development proposals were identified, assessed and addressed throughout the EIA processes. Finally, a number of significant findings were reported on which can help improve the overall understanding of access patterns along the South African coastline and the specific factors and processes that influence access to the coast within this coastal region.

This research highlighted the extent to which coastal access patterns have changed as a direct result of the two golf estate developments.. The decision to approve these developments has impacted on access patterns of different stakeholder groups to varying extents. In terms of physical access to the coast, this research identified a number of stakeholders whose ability to access the coast has been restricted by each of the developments. In this regard, many of the 'historic' stakeholder groups (i.e. subsistence and recreational fishers, recreational users and tourists) access to the coast has been compromised by the various security measures and technologies employed by each development to control access throughout the estates. Even though some fishers have been able to maintain their existing rights of access through each estate, such access is no longer unrestricted and is instead controlled by the development group on their own terms. The general public as well as future generations seem to be the biggest

'losers' in this regard, as various access routes that used to facilitate public access to the coast in the past have been blocked. This is particularly evident at Pinnacle Point, where public land has been reconfigured into a private space for the use and enjoyment of a wealthy few. As such, it is now more difficult for members of the public to gain access to the coast, as no perpendicular access routes through the development have been maintained. Efforts to construct a public road down the eastern border of the Pinnacle Point estate to facilitate such access, have also been compromised by funding constraints and the neighbouring developments fence, which makes this route inaccessible. In comparison, a number of new roads and formal access routes have been constructed, particularly along the eastern part of the Pezula case study site, which has facilitated physical access to the coast for a number of 'new' stakeholder groups (i.e. estate homeowners, visitors and tourists). Although these have generally benefitted a privileged minority of the wealthy elite and not the public at large, provisions such as the construction of an environmental friendly boardwalk from the Pinnacle Point clubhouse down to the beach, have facilitated access to the coast for other members of the population (within the privileged minority) that would not have been able to use this part of the coastline in the past (e.g. elderly people, those with physical disabilities and young children).

The transformation of the policy and legal framework governing coastal management in South Africa since 1994 represent a marked paradigm shift towards Integrated Coastal Management (ICM), with more focus on human development imperatives, redressing past imbalances, transformation and equitable access to resources for all South Africans (DEAT, 2000; Glavovic 2006). In this regard, the coastal region has been recognized as a particularly important resource for bringing about such transformation, owing to its capacity to unlock new development opportunities which can help reduce poverty, meet the basic needs of poorer coastal communities and as such improve the quality of their lifestyles (Glavovic, 2005). Despite this, decisions continue to be taken (based on planning and decision-making tools such as the EIA process) to approve large-scale estate developments along the coast, which fail to contribute in a significant manner to addressing the above mentioned primary challenges facing present-day South Africa (Van der Merwe, 2006).

The findings from this research support such views, as it is evident that both developments are not fostering broad policy goals of transformation and equity but instead compounding the divide between the rich and the poor and historically skewed patterns of ownership in South Africa. This relates to the fact that through submitting the necessary tender, wealthy developers are given full ownership over sections of pristine coastline and control over a stream of benefits associated with that area. Furthermore, both of the developers under investigation have exerted their individual exclusionary rights to restrict access, thereby reconfiguring these coastal areas

into exclusive havens for the benefit and enjoyment of a wealthy few, whilst surrounding poorer communities and the public at large are denied such privileges. Moreover, this has resulted in other hidden costs of the development, which relate to the areas 'sense of place' and changes to the local community structure, which is transferred onto the public and those already marginalised communities surrounding each of the developments. Whilst, some of the economic benefits associated with these new developments accrue to a broad sector of the affected public (i.e. labourers, local businesses, the municipalities etc.), the long-term sustainability of these benefits are difficult to quantify as they are largely dependent on seasonal changes associated with the tourism sector and the ability of government institutions to channel any extra revenue received into initiatives to combat such challenges. As a result, whilst the economic sustainability of such developments remains questionable, the findings from this research support views which acknowledge the potential of these developments to compound problems related to social segregation and social inequity, thus undermining efforts to promote transformation within South Africa's coastal region.

Another issue that has been sorely ignored throughout the planning and design of both development proposals, is the inappropriate location of both developments in relation to the sea-shore and the fact that they have been developed right up to the edge of the coastal plateau. With respect to this, implementation of a set-back line would have significantly reduced the impact the developments have had on coastal access patterns. Through implementing a set-back line at Pezula, stakeholders would have been able to make use of the traditional informal path that facilitated public access along the top of the coastal cliffs. The visual impact of both developments would have been reduced and the coastlines 'sense of place' could have been partly retained. Similarly, the St. Blaize trail at Pinnacle Point would not have been reconfigured to make way for the golf course and the clubhouse and the development group would no longer need to manage stakeholders making use of the coastal areas to the south of the development. The absence of a setback line has resulted in stakeholders feeling prejudiced and intimidated. Security measures and other technologies symbolize the developers' intent to restrict public access. In order for stakeholders to access the coast, privileges have to be obtained instead of rights being transferred to coastal users and many are left unable to access the coast of their own free will. A setback line would have retained the traditional and cultural ties many stakeholders have with the coast, which they have lost as a result of the approval of these projects. It would also have created a better sense that the coastal commons are for the use and the enjoyment of all South Africans, thus reducing the tension and controversies surrounding these developments.

This research has highlighted that EIA is one of the overarching processes that affects public access to the coast, as it is a tool that is used to identify, assess and address the likely social impacts of development proposals along the coast in South Africa. However, it is also evident from the research that there are inherent weaknesses in the EIA process. Both EIA processes investigated failed to identify and/or resolve pertinent social issues adequately, in terms of what current policies and legislation in South Africa require. The issue of coastal access was one such social issue that was inadequately addressed in the two EIA processes examined. A number of factors were identified to have been responsible for the poor identification and assessment of this impact. In this regard, the EIA process was seen to have been influenced by powerful active minorities (i.e. predominantly affluent white stakeholders) who had little interest in promoting the public's broader interest, especially in relation to the needs of the surrounding previously disadvantaged communities. The assessment of social impacts within the context of EIA was limited in that it did not incorporate the views and concerns of the affected public at large, despite the requirement that such assessments include a broad consideration of sustainability issues such as, the empowerment of local communities, gender issues, minority groups, capacity building, equity, development and poverty reduction (Barbour, 2007). Instead, these considerations seem to have been generally overlooked in the EIA processes investigated, which were perceived to be processes of public manipulation, which largely promoted powerful stakeholders narrow self interest and not the broader public interest as a whole. The process was still overly concerned with the biophysical aspects of each development, whilst the social impacts (particularly with respect to the issue of coastal access) were poorly identified and assessed, in a manner that was considered to be inadequate for a decision-maker to make an informed decision on the subject. As a result, instead of providing informative solutions to improve the situation (i.e. set-back lines, access points and access routes), the entire EIA process was seen as a paper hurdle to gain development approval. Although one would expect the competent authorities tasked with making such decisions to consider the public good and to provide the necessary checks and balances to ensure that public interests were represented, they were also plagued by capacity problems, including staff shortages, financial constraints and a lack of technical expertise to carry out the necessary procedures. Their general lack of technical expertise was further exacerbated by a lack of decision criteria or baseline data to guide their decision-making ability. Moreover, the process was considered to lack transparency and accountability, which aided the extent to which hidden agendas and politically motivated decisions were able to influence the final outcomes of the decision processes.

As shown throughout this dissertation, these institutional shortcomings resulted in decisions and outcomes that differ considerably to what national and local policies and legislation

recommend, especially with respect to issues of coastal access. Instead of upholding the Public Trust Doctrine and promoting principles relating to equitable and improved access to the coast for all South Africans, short-term economic objectives that benefitted a self-selected minority of the population influenced the decision-making process and resulted in various hidden development costs (i.e. restricted access to the coast) being passed onto the public and those previously disadvantaged communities that were unable to provide input into or influence the process. As a result, whilst the importance of the EIA process as a tool to inform decisions pertaining to the planning and design of development proposals is uncontested, such factors undermining its implementation in practice significantly compromise its ability to provide outcomes that benefit society as a whole.

Finally, these trends may not be limited to the study site area alone but could possibly be extrapolated to the Western Cape coastal region as a whole. This can be attributed to increasing affluence, mobility and available leisure time among the middle- to high-income groups globally, which has resulted in a rapid increase in the demand for tourist and recreational facilities in this region (DEA&DP, 2005). Furthermore, the unique and undisturbed nature of much of the Western Cape coastal region, the relatively low cost of purchasing land in South Africa, its market-based economy and the relative scarcity of comparable sites globally, make such areas attractive investment opportunities for willing developers. As a result, these trends are likely to continue to place increasing pressures on local municipalities and their ability to balance the rapid economic growth associated with such development pressures, with other broader societal benefits, which include providing the public with access to the coast and its resources. For this reason, it is important that further studies on the issue of coastal access be undertaken in order to improve the overall understanding of access patterns and their driving forces along the South African coastal region. This will lead to evidence-based planning and management decisions that will help to ensure that public rights of access to the coast and its resources are realised into the future.

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Appendices

Appendix 1 - Key Informants interviewed

| No. | Informants interviewed |
|------------|-------------------------------|
| 1 | SanParks Regional Manager |
| 2 | Southern Cape Land Committee |
| 3 | DEA&DP Official |
| 4 | Environmental Lawyer |
| 5 | Guardians of the Garden Route |
| 6 | WESSA Representative |

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Appendix 2 – Semi-structured interviews

| No. | Stakeholder interviewed |
|-----|---------------------------------|
| 1 | Noetzie Resident 1 |
| 2 | Noetzie Resident 2 |
| 3 | Noetzie Resident 3 |
| 4 | Noetzie Resident 4 |
| 5 | Pezula Spokesperson 1 |
| 6 | Pezula Spokesperson 2 |
| 7 | Knysna Town Planner |
| 8 | Knysna Council Member |
| 9 | DEA&DP official (Knysna) |
| 10 | Knysna Ratepayers Association |
| 11 | SanParks Official |
| 12 | Knysna Policeman |
| 13 | Sparrebosch Spokesperson |
| 14 | Hornlee Fisher 1 |
| 15 | Hornlee Fisher 2 |
| 16 | Hornlee Fisher 3 |
| 17 | Pinnacle Point Spokesperson 1 |
| 18 | Pinnacle Point Spokesperson 2 |
| 16 | Mossel Bay Policeman |
| 17 | Dana Bay Ratepayers Ass. |
| 18 | CHARM Spokesperson |
| 19 | DEA&DP official (Mossel Bay) |
| 20 | Mossel Bay Municipality |
| 21 | Village-on-sea Homeowner |
| 22 | Paradise Coast Developer |
| 23 | Heiderand Resident 1 |
| 24 | Heiderand Resident 2 |
| 25 | St. Blaize Trail Representative |

Appendix 3: Interview structure and open-ended questions

Coastal access issues

Historical aspects

- Prior to the development who owned the land in question?
- During this time who accessed the coastal zone and for what reasons? (e.g. fishing, hiking, recreation etc.)
- In your understanding what percentage of these people were from surrounding communities, other parts of South Africa or overseas tourists?
- What rights did the people have to access the coastal zone?
- How accessible were the access routes used? (e.g. easy, moderate, hard or visual access only)

Current aspects

- Currently who accesses the coastal zone and for what reasons?
- Approximately what percentage of the people accessing the land are locals, tourists or people staying within the development?
- How has the accessibility of the access routes changed prior to the development?
- Do you believe that access patterns in relation to the number of people and the type of people accessing this region have changed as a direct result of the development?
- What do you see as the major reasons for such a change? (e.g. lack of information; their perception of the development; mental barriers; physical constraints or technological constraints; change in land-use or property owner)
- Currently, what interests do people have for accessing the land (e.g. fishing; hiking; sight seeing)?

EIA aspects

Reporting of social impacts

- Do you believe that the social impacts of the development have been sufficiently considered and incorporated into the EIA report?
- If not, what are some of the reasons for such deficiencies in information?
- Do you believe that the EAP's tasked with compiling the various reports are sufficiently independent from the development to provide objective and complete information on the social impacts of a proposed development?
- Do EAP's tasked with compiling the reports have the technical expertise to conduct comprehensive reports that take into account the full range of social impacts a development of this nature can have on its surrounding environment (e.g. cumulative impacts, short-term and long-term impacts)?
- Does the lack of baseline information or guideline documents to direct the assessment of social impacts create confusion and complexities surrounding the information that is required within the report?

- Is there a problem of ambiguities within laws that cause conflicts between different stakeholders?

Public participation

- Do you believe that interested and affected parties have a sufficient understanding of their basic rights; a general understanding of the dynamics of related developments (e.g. the nature and scale of the likely affects of the development activity) and the basic procedures and timeframes of the EIA process to effectively participate in the EIA process?
- Do you believe that there was an adequate chance given for all interested and affected parties, including disadvantaged communities to effectively participate in the EIA process? If not, why?
- To what extent did the public participation process counter problems of illiteracy and language barriers that characterise many of the disadvantaged communities within the Garden Route Region?
- To what extent does social identity, social relationships and wealth shape the way in which different stakeholders are able to effectively participate in the EIA process?
- What method of public participation was used and does this method lend itself to sufficiently incorporating all stakeholder's views, values and concerns into the process?
- Where all stakeholder's views, concerns and values sufficiently represented in the EIA process? If not, why?

Decision making

- Do you believe that the local municipalities have sufficient technical and human capacities to effectively make decisions on all aspects of the development?
- Does the high level of competing interests from different stakeholders make it harder for a consensus to be reached regarding the general outcomes and mitigation measures incorporated into the final proposals design?
- To what extent does power and vested interests influence the final decision made?

Management and Implementation

- To what extent have mitigation measures to ensure public access to the coast and its resources been managed and implemented prior to the approval of the development?
- What role do local authorities play during the implementation phase of the development and to what extent do they monitor or enforce compliance with the conditions imposed on the development?
- Do you believe that local municipalities have sufficient capacity to enforce and monitor conditions imposed on a developments prior to approval?
- What do you think of the media's role in all of this?

- Direct employment benefits during construction phase; Indirect employment benefits; Direct employment benefits during operation phase (how many local or not)?

Legal aspects

- What is your view regarding the EIA administrative process and the regulations regulating the EIA process?
- How do developments of this nature promote legislative provisions such as sustainable development; equitable access to resources?
- In your opinion is this development sustainable from a social point of view?
- Does it promote equitable access to the coast and its associated benefits to all sectors of society?
- Does it sufficiently consider the public's right to access including provisions that facilitate public access over/through private land?

General aspects of the development

- What do you see as the major contributing factors for the significant increase in large-scale development pressures along the Garden Route Region over the past decade?
- In your perspective which stakeholders benefit the most from such a development?