State of Environmental Compliance and Enforcement Report eThekwini Municipality

2023/2024 Financial Year

1st Edition

BIODIVERSITY MANAGEMENT DEPARTMENT

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INTRODUCTION

The **State of Environmental Compliance and Enforcement Report (SECER)** by eThekwini Municipality aims to assess and report on the effectiveness of environmental compliance and enforcement interventions within the City of Durban. The SECER provides a comprehensive overview of the municipality's efforts to uphold compliance with environment legislation and safeguard the well-being of the communities that are serviced by the City as required by Section 24 of the RSA Constitution,1994. Furthermore, the report provides an insight of environmental contraventions that have been identified and aims to improve on strategies that would lead to improved environmental compliance.

OVERVIEW OF ETHEKWINI MUNICIPALITY

eThekwini Municipality operates within a complex regulatory framework that encompasses National, Provincial and Local Bylaws which govern various aspects of environmental management, including air quality, water quality, waste management, biodiversity conservation, and land use planning. The municipality conducts regular compliance monitoring activities to monitor compliance against environmental legislation. These include inspections, sampling , analysis, and data collection. In cases of non-compliance ,the City is compelled to enforce compliance both administratively and/or criminally to ensure corrective measures are taken.

In the hope of being Africa's most caring and liveable City by 2030, the City remains committed to enhancing compliance with environmental legislation.

Figure 1: Map of Durban

FOREWORD

ACTING HEAD: DEVELOPMENT PLANNING, ENVIRONMENT AND MANAGEMENT UNIT

The Development Planning, Environment and Management Unit's Biodiversity Management Department has played a huge role in laying the foundation for environmental compliance and enforcement with the City. Some of the strides made include the review of the Escalation Protocol for reporting environmental non-compliance with environmental legislation. The purpose of the escalation protocol was to outline the municipal internal reporting procedure in an event of a non-compliance or transgression with the national environmental management act and the specific environmental management acts.

The CM also approved the establishment of the eThekwini Environmental Compliance meetings, comprised of the BMD, Chief Operating Officer's office and all Line Departments/line functions that have an environmental function to aid in environmental compliance reporting and for the coordination of responses to the administrative enforcement notices. Lastly the reviewed escalation protocol came with an approval for the compilation of the eThekwini Annual State of Environmental Compliance and Enforcement Report (SECER). Hence, I bring you the 1st Edition of the SECER.

Mr. Sbu Ndebele (*Acting Head, Development Planning, Environment and Management)*

The City's commitment to ensure compliance with the prescripts of environmental and water legislation have been demonstrated through the number of interventions that have been put in place such as compiling the database of all legal notices that have been issued to the City by DFFE, EDTEA and DWS since 2019.

Having standing environmental compliance engagements between the City and the authorities as a for the City to report on progress made in addressing the environmental non-compliances. This has led to the reduction of the number of the legal notices as the City has managed to respond to several legal notices, thus resulting in closure letters being issued by EDTEA and DWS. The involvement of the COO's office has played a huge role in addressing unresponsiveness from line Departments as some of the matters have also been escalated to the service delivery war room.

This report not only contains data regarding the City's environmental compliance status but also reports on compliance and enforcement functions that have been performed by the City's Environmental Management Inspectors in protecting the environment as a regulator at a local government level. This includes responses to environmental compliances related to biodiversity, sand mining, air quality and waste management. BMD has also been instrumental under this function by playing a coordinating role with interventions such as having quarterly EMI coordinators meetings with different line Departments and leading the eThekwini Annual EMI Meeting.

I therefore would like to call upon all line Departments to exercise their best efforts in ensuring environmental compliance while delivering services to our communities.

-Sbu Ndebele – Acting Head Development Planning and Environmental Management

"The City's commitment to ensure compliance with the prescripts of environmental and water legislation have been demonstrated through the number of interventions that have been put in place such as compiling the database of all legal notices that have been issued to the City by DFFE, EDTEA and DWS since 2019"

PURPOSE OF THE STATE OF ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT REPORT (SECER)

The State of Environmental Compliance and Enforcement Report serves the purpose of :

- Providing an overview of eThekwini Municipality's adherence to environmental regulations.
- Identifying areas of environmental non-compliance.
- Outlining actions undertaken to correct environmental non compliances.
- Making recommendations on interventions required to enhance environmental compliance.

ENVIRONMENTAL REGULATORY FRAMEWORK

The regulatory framework governing environmental management comprises of the National Environmental Management Act (NEMA), the Specific Environmental Management Acts (SEMAs, as well as Municipal Bylaws. These regulations aim to protect the environment, promote sustainable development, and ensure the well-being of the communities that reside within the City . Which is inline with plan 3 of eThekwini Municipality Integrated Development Plan (IDP) which speaks on creating a quality living environment.

Therefore, compliance with environmental regulations is essential for businesses, industries, and individuals operating within eThekwini Municipality to minimize environmental impacts, prevent pollution, and maintain the overall health and quality of the environment. Compliance requirements may include obtaining Environmental Authorizations (EAs) , permits and licenses, adhering to conditions ,standards and guidelines, implementing pollution prevention measures, and participating in environmental monitoring and reporting initiatives.

Regulatory Framework	Description	Compliance Requirement
National Environmental Management Act, 1998 (Act No 107 of 1998)	Primary legislation governing environmental management in South Africa. It establishes principles for environmental protection, conservation, and sustainable development.	Compliance with NEMA regulations, includes obtaining permits and authorisations for activities with potential environmental impacts
National Water Act, 1998 (Act No. 36 of 1998)	Regulates the use and management of water resources in south Africa, including water pollution control and water licensing.	Compliance with water use licenses, adherence to water quality standards, and implementation of water conservation measures.
National Environmental Management: Air Quality Act, 2004 (Act No.39 of 2004)	Addresses air pollution and regulates emissions from industrial processes, vehicles, and other resources	Compliance with air quality standards, emissions monitoring, and implementation of air pollution control measures.
National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008)	Local Regulations specific to eThekwini Municipality, addressing environmental issues such as land use planning, noise pollution, and waste management.	Compliance with municipality by-laws, including obtaining permits for construction activities, waste disposal, and adherence to zoning regulations.
Integrated Coastal management Act, 2008 (Act No. 24 of 2008)	legislative framework designed to promote the sustainable management and development of coastal areas. It aims to balance economic development with environmental protection and social equity by adopting an integrated, ecosystem-based approach to coastal management.	Obtain permits for any coastal development activities, including but not limited to construction, dredging, land reclamation, or any alterations to the coastal environment. Compliance involves submitting applications for permits to the relevant Coastal Management Authority or Committee, providing detailed project plans, and demonstrating adherence to coastal management regulations and guidelines.
eThekwini Municipality By-laws	Local regulations specific to eThekwini Municipality, addressing environmental issues such as land use planning, noise pollution and waste management.	Compliance with municipal by-laws including obtaining permits for construction activities, waste disposal and adherence to zoning regulations.

LEGISLATIVE UPDATES- NATIONAL ENVIRONMENTAL MANAGEMENT LAWS AMENDMENT ACT (NEMLAA)

Municipal Awareness Regarding Implementation of Section 28 NEMA Amendments

Department: **Biodiversity Management**

Summary of Amendments: Section 28 of NEMA, at 30 June 2023, has been amended by the National Environmental Laws Amendment Act 2 of 2022 (NEMLAA4) to mandate a Municipal Manager (City Manager) to issue a directive in order to administer and/or manage environmental pollution and degradation within his/her area of jurisdiction and performance. Therefore, the City Manager may issue a directive in terms of Section 28(4) of NEMA to a person who (by action or omission) causes, has caused, or may cause, significant environmental pollution or degradation. The directive may instruct the responsible person to undertake or refrain from undertaking certain action(s) to inter alia stop or prevent imminent harm and/or remediate harm caused to environment.

The issuing of a Section 28 of NEMA directive must be preceded by issuing of a pre-directive (notice of intent to issue a directive) to afford the person (who is about to be issued a directive) an opportunity to provide reasons as to why he/she/it should not be issued a directive. The pre-directive must also be issued by the City Manager as per the provisions. An exception is made where urgent action is necessary to protect the environment, in that case a directive may be issued, and the directed person be afforded an opportunity to make representations soon after being issued with a directive. The most critical amendments to note for relevant line functions relate to the provision (inserted Section 42D of NEMA) empowering City Manager to delegate Section28(4) of NEMA power or any related duty to any official in the Municipality

ENVIRONMENTAL COMPLIANCE ENHANCEMENT STRATEGIES

eThekwini Municipality conducts various environmental management activities which includes Environmental Impact Assessments (EIAs), development and implementation of Environmental Management Plans, environmental audits, training and capacity building initiatives, establishment of an Environmental Compliance Committee, and enforcement actions. These activities collectively aim to ensure compliance with environmental regulations, promote sustainable practices, and protect natural resources. Regular inspections are conducted to assess compliance with regulations, while EIAs are performed for development projects to evaluate environmental impacts and implement mitigation measures. Environmental Management Plans are devised to guide efforts, address risks, and meet regulatory requirements, with specific goals to protect habitats and promote sustainability.

Strategies	Description
Inspection	Regular inspections of facilities, sites, and operations to verify compliance with environmental regulations, including assessments of air, water quality, waste management practice, and biodiversity management.
Environmental Impact Assessments (EIAs)	Conducting EIAs for development projects to assess environmental impacts, review reports, and impose mitigation measures to meet standards.
Environmental Management Plans	Development and implementation of management plans for priority areas or activities to guide efforts, ensure compliance with regulations, and address risks, with specific goals and actions to protect habitats, promote sustainable practices, and meet regulatory requirements
Environmental Audits	Conducting periodic audits of businesses, industries, and municipal facilities to assess compliance with regulations, identify areas for improvement, and ensure adherence to legal requirements.
Training and Capacity Building	Providing training programs and capacity-building initiatives to enhance environmental awareness and compliance among municipal staff, businesses, and communities, covering topics such as laws, pollution prevention, waste management, and sustainable development principles.
Environmental Compliance Committee	Establishment of a committee comprising representatives from various departments and stakeholders to oversee compliance efforts, develop policies, and coordinate enforcement actions, with regular meetings to review compliance reports and address emerging issues.
Enforcement Actions	Taking enforcement actions, such as issuing compliance notices and sanctions, to address non-compliance issues.,
Escalation Protocol	Operational issues that pose challenges are escalated to the executive level for intervention. The process of escalation is overseen by the BMD and the Office of the COO, who facilitate Environmental Compliance Committee Meetings biweekly with relevant authorities.

INTERVENTION MADE BY BMD – REVIEW OF THE ESCALATION PROTOCOL

In response to non-compliances within the city, it was recommended by City Manager on 28 November 2022 that Biodiversity Management Department must review and revise the escalation protocol for reporting environmental non-compliance with the legislation with the aim of optimizing environmental compliance and proactive approach in dealing with legal Notices, Warning letters and complaints.

An environmental compliance committee meetings were established to discuss issues attached to legal notices that have been issued to the city by EDTEA, DFFE and DWS. The committee meeting are held once a month with relevant authorities to keep track of legal notices received by the city and to discuss solutions and actions plans which are done by responsible municipal line departments.

The purpose of the escalation protocol is to outline the internal reporting procedure that will be affected in an event a non-compliance or transgression with the national environmental acts and the specific management acts (environmental legislation) is identified or reported. It also enables annual reporting of environmental compliance and enforcement activities to the City Manager through the Annual State of the City's Environmental Compliance and Enforcement Report. Moreover, the establishment of an Environmental War Room will assist in the management of these non-compliances and facilitate the implementation of the required actions in terms of environmental legislation

THE ESCALATION PROTOCOL FOR REPORTING ENVIRONMENTAL NON-COMPLIANCE WITH ENVIRONMENTAL LEGISLATION

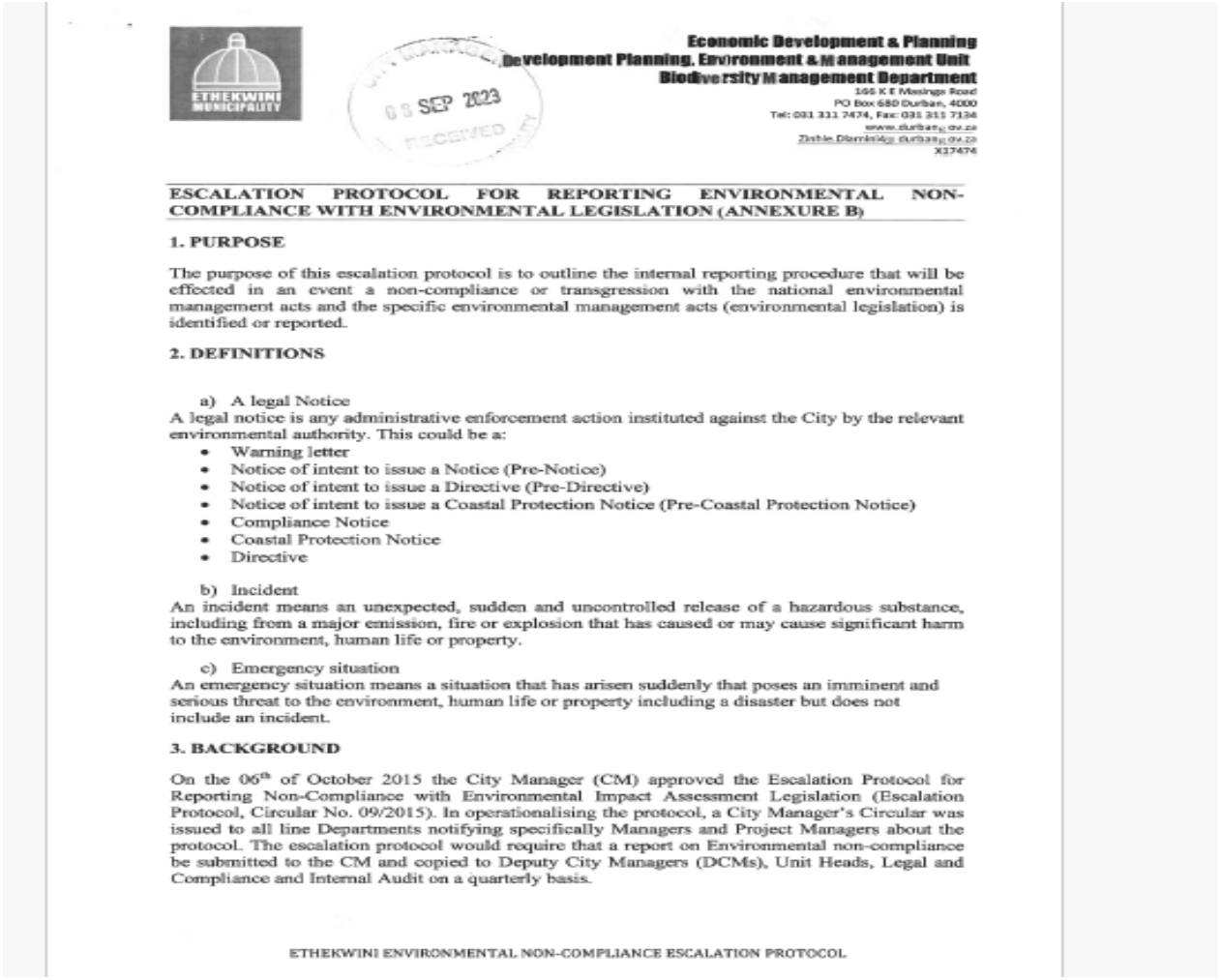
The first Escalation Protocol for Reporting Non-Compliance with Environmental Impact Assessment Legislation (Escalation protocol, Circular No. 09/2015) was approved by the City Manager(CM) on the 6th of October 2015. In operationalizing the protocol, a City Manager's circular was issued to all line Departments notifying specifically Managers and Project Managers about the protocol. The escalation protocol requires that a report on Environmental Compliance by the Municipality be submitted to CM and copied to Deputy City Managers (DCMs), Unit Heads, Legal and Compliance and Internal Audit.

In response to non-compliances within the city, the Biodiversity Management Department branch was instructed by City Manager to review and revise on 28 November 2022, the escalation protocol for reporting environmental non-compliance with the legislation with the aim of optimizing environmental compliance and proactive approach in dealing with legal Notices, Warning letters and complaints.

At the instruction of the City Manager on 28 November 2022, the Biodiversity Management Department (BMD) updated the said Escalation Protocol. On the 6th of September 2023, the CM approved the reviewed/revised Escalation protocol. The approved Circular that amends and replaces the Circular No: 09/2015 was circulated via info services to eThekwini staff.

An environmental compliance committee meeting has been established to discuss issues attached to legal notices that have been issued to the city by EDTEA, DFFE and DWS. For the 2023/24 financial year the city has received 7 legal Notices which is quite low as compared to the previous financial year.

THE ESCALATION PROTOCOL FOR REPORTING ENVIRONMENTAL NON-COMPLIANCE WITH ENVIRONMENTAL LEGISLATION



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ESCALATION PROTOCOL FOR REPORTING ENVIRONMENTAL NON-COMPLIANCE WITH ENVIRONMENTAL LEGISLATION (ANNEXURE B)

1. PURPOSE

The purpose of this escalation protocol is to outline the internal reporting procedure that will be effected in an event a non-compliance or transgression with the national environmental management acts and the specific environmental management acts (environmental legislation) is identified or reported.

2. DEFINITIONS

a) A legal Notice

A legal notice is any administrative enforcement action instituted against the City by the relevant environmental authority. This could be a:

- Warning letter
- Notice of intent to issue a Notice (Pre-Notice)
- Notice of intent to issue a Directive (Pre-Directive)
- Notice of intent to issue a Coastal Protection Notice (Pre-Coastal Protection Notice)
- Compliance Notice
- Coastal Protection Notice
- Directive

b) Incident

An incident means an unexpected, sudden and uncontrolled release of a hazardous substance, including from a major emission, fire or explosion that has caused or may cause significant harm to the environment, human life or property.

c) Emergency situation

An emergency situation means a situation that has arisen suddenly that poses an imminent and serious threat to the environment, human life or property including a disaster but does not include an incident.

3. BACKGROUND

On the 06th of October 2015 the City Manager (CM) approved the Escalation Protocol for Reporting Non-Compliance with Environmental Impact Assessment Legislation (Escalation Protocol, Circular No. 09/2015). In operationalising the protocol, a City Manager's Circular was issued to all line Departments notifying specifically Managers and Project Managers about the protocol. The escalation protocol would require that a report on Environmental non-compliance be submitted to the CM and copied to Deputy City Managers (DCMs), Unit Heads, Legal and Compliance and Internal Audit on a quarterly basis.

ETHEKWINI ENVIRONMENTAL NON-COMPLIANCE ESCALATION PROTOCOL

Figure 2 : Image of the Escalation Protocol Front Page

CATEGORIES OF ENVIRONMENTAL NON-COMPLIANCES OR TRANSGRESSIONS UNDER THE ESCALATION PROTOCOLS

Below are categories of environmental non-compliances or transgressions to be dealt with under the Escalation Protocol:

- Attendance to a Legal Notices
- Undertaking a development without an Environmental Authorization or a Water Use License
- Admission of Guilt (Section 24G of NEMA) fine
- Reporting an incident in terms of NEMA S30 and NWA S20
- Compliance with an environmental authorization or Water Use Licence/ General Authorisation
- Compliance with Section 20A of NEMA and 67(1)(a) of NWA Emergency Approvals
- Discharging a Duty of Care and remediating environmental damage
- Compliance with an environmental management programme (EMPr) or maintance management plan (MMP)

THE RE-ESTABLISHMENT OF THE ETHEKWINI COMPLIANCE AND ENFORCEMENT FORUM

Background: The 2020 Biodiversity CME Strategy and Implementation Plan identified the need for a formalised platform where key authorities involved in compliance monitoring and enforcement can sit to discuss issues of common interest and collectively produce ways to address those. As a response to the identified gap, the BMD committed to re-establishing the eThekwini Compliance Monitoring and Enforcement Forum.

Actions Taken: An initial meeting to establish the forum was convened on 01 March 2024 with DWS, DFFE, DWS and BMD attending the meeting and agreeing that the forum be re-established. A follow-up meeting was convened on 27 June 2024 where terms of reference were discussed and agreed upon.

Current Status: Forum meetings will continue with 1 meeting held each quarter. BMD to coordinate and chair all meetings.

CROSS CUTTING MATTERS CASE STUDIES DISCUSSED IN THE ENVIRONMENTAL COMPLIANCE FORUMS

Zamani Transit camp

Activities on Site: Illegal dumping and ablution pipe discharging directly onto the environment

Transgressed Legislation: NEMA

Background: The City has been issued with legal notices for Zamani Transit Camp, 80 Jadwat Street and Bottlebrush Informal settlement.

Findings: According to CSW, there is only one waste collection point located near the taxi stop where waste is collected once a week (Fridays). The main challenge for the houses located on the far lower end is the distance to the designated site. As a result, the residents who stay far from the taxi stop have established an illegal dumping site at the end of 122882 STR, near Isipingo River. Waste on this site is not collected since CSW trucks cannot access the area. Furthermore, residents reside in bachelor units with limited space and cannot store the waste in their homes for longer period. Some of the residents end up placing the waste bags in front of their homes, hanged on poles, and are thrown at the illegal waste dump site. The designated spot for waste near the taxi stop is not well equipped to receive the waste. The waste is disposed on bare ground. Thus, exposing the environment to waste contamination, should there be leachate from the waste. Several refuse bags containing waste were observed on site with some torn and waste is exposed to the environment. Several dysfunctional ablution facilities were identified on the site. There were broken pipes noted on the site from the ablutions discharging water (looked clean) to the stream. According to HSU, the relocation plans for Zamani may take 5-7 years to implement due to the lack of available land to support the required services and number of people

CROSS CUTTING CASES - ENVIRONMENTAL COMPLIANCE FORUMS

Discussion and Recommendations :

CSW will devise a plan for waste to be collected from the houses located further from the designated waste collection point by the taxi rank. They will consider waste collection to be done at least twice a week and continuous education campaigns/awareness on proper waste management practices for the community. They will introduce recycling programs/initiatives in the area and organise regular clean up campaigns for the area.

EWS will remove the old and dysfunctional ablution containers.

HSU will engage with the councilor regarding these ablution facilities and ensure that ablution facilities that are faulty with (leaks, blockages, no water supply etc.) are fixed.

Figure 6: Dysfunctional ablution facility, Pipe from ablution discharging directly onto the environment and Illegal dumping

CROSS CUTTING MATTERS CASE STUDIES DISCUSSED IN THE ENVIRONMENTAL COMPLIANCE FORUMS

Isipingo Transit camp

Activities on Site: Illegal dumping and ablution pipe discharging directly onto the environment

Transgressed Legislation: NEMA, Section 24 of the Constitution of the Republic of South Africa

Background: The City has been issued with legal notices for Zamani Transit Camp, 80 Jadwat Street and Bottlebrush Informal settlement.

Findings: There are two families left on site reluctant to be relocated to their new home, at Kanku Road Housing Project. Their reasons for refusal are that the new houses are small compared to their current houses. HSU also stated that the department has started with the legal process of evicting the two families who are refusing to be relocated. They further advised the team that a consultant/ specialist has been appointed and is currently busy with the impact assessments and will produce a rehabilitation plan for the site. The rehabilitation plan will be submitted to HSU by end of November. The presence of dilapidated ablution facilities awaiting removal by EWS. Stacks of uncollected building rubble/material.

Discussion and Recommendations :

HSU will share the specialist report with Biodiversity Management Department for comments and recommendations once it has been finalised. HSU will implement the rehabilitation plan once it has been endorsed by council and provide progress update on the legal eviction process for the two families.

EWS will remove the ablution facilities and indicated that the reason for the delay in removal of these containers is the renewal of the discs for their trucks. The department will seek assistance from the office of the COO/ Metro Police to bypass the issue of disc renewal for their trucks.

CROSS CUTTING MATTERS CASE STUDIES DISCUSSED IN THE ENVIRONMENTAL COMPLIANCE FORUMS

Jadwat Street

Activities on Site: Illegal dumping and ablution pipe discharging directly onto the environment

Transgressed Legislation: NEM:WA

Background: The City has been issued with legal notices for Zamani Transit Camp, 80 Jadwat Street and Bottlebrush Informal settlement.

Findings: There is evidence of illegal dumping on the site with noticeable improvement compared to the last inspection. The community has started greening activities(food gardens) on site with the assistance of CSW and PRC. This has a positive impact on the site. Illegal dumping of rubble noted on the on the opposite site. Land ownership issues hindering expansion on the use of the site for gardening. The land belongs to Human Settlements and was initially set aside for housing. The community wishes to adopt a portion of the affected land through the Adopt A Spot programme, where they will do gardening and other greening activities. However, HSU has granted permission for the site to be used on a 2-month basis which is not sufficient for the success of the programme. According to CSW, an adopt A Spot participant signs a three-year contract with the Municipality.

Discussion and Recommendations :

HSU to advise if they allow the community to adopt a portion of their land for three years through the Adopt a Spot programme, as a short-term solution to address the issue of illegal dumping on site. Support is required from other internal departments such as Agroecology with seedlings and pesticides. HSU, CSW & PRC to devise a long-term plan to manage the site and prevent any future illegal dumping.

CROSS CUTTING MATTERS CASE STUDIES DISCUSSED IN THE ENVIRONMENTAL COMPLIANCE FORUMS

Bottlebrush Informal Settlement

Activities on Site: Illegal dumping and ablution pipe discharging directly onto the environment

Transgressed Legislation: NWA

Background: The City has been issued with legal notices for Zamani Transit Camp, 80 Jadwat Street and Bottlebrush Informal settlement.

Findings: Section 24 of the Constitution of the Republic of South Africa has been violated. The living conditions are not favourable for humans to survive as it poses a threat to their health and wellbeing. Access to the site is limited and CSW trucks cannot enter to collect waste hence the general waste is being disposed into the stream and any vacant space in the area. There is no operational sanitation infrastructure in Bottlebrush informal settlement as a result raw sewage is being discharged directly into the stream by residents. HSU stated that it is possible to relocate those residents situated on the floodplains to nearby sites. However, the issue will be settlements of those sites.

Discussion and Recommendations :

The involvement of the Environmental Health department to address health related issues. Municipal officials to attend the ward 71 war room to capture issues and escalate to the relevant service departments for urgent attention.

EWS will conduct a site inspection to assess the condition of the sewer infrastructure and ablutions at Bottlebrush and a detailed action plan to be submitted for consideration. The municipality will engage with and involve ward councillors in all planning and meetings regarding improving their areas. They will also consider installing jojo tanks to ensure that ablutions can function in the event where water is unavailable and follow up on the actions from the last inspection done in 2019 and further escalate request the intervention of the COO's office through the service delivery war room to deal with challenges at Bottlebrush Informal Settlement.

LEGAL NOTICES 2023/24

The table below provides stats of environmental legal notices received during the 2023/24 financial year, by relevant authorities. These notices highlight various environmental issues ranging from sewage overflow to unlawful clearance of indigenous vegetation and discharging of sewage effluent into coastal waters and estuaries. The municipal departments responsible for addressing these issues, such as eThekwini Water and Sanitation, Engineering, Human Settlement Unit, and Parks, Recreation, and Cemeteries, are noted alongside each complaint. However, the compliance status across all complaints is indicated as partially Compliant, suggesting ongoing challenges in achieving full compliance with environmental regulations and directives

2023/24 Financial year Legal Notices

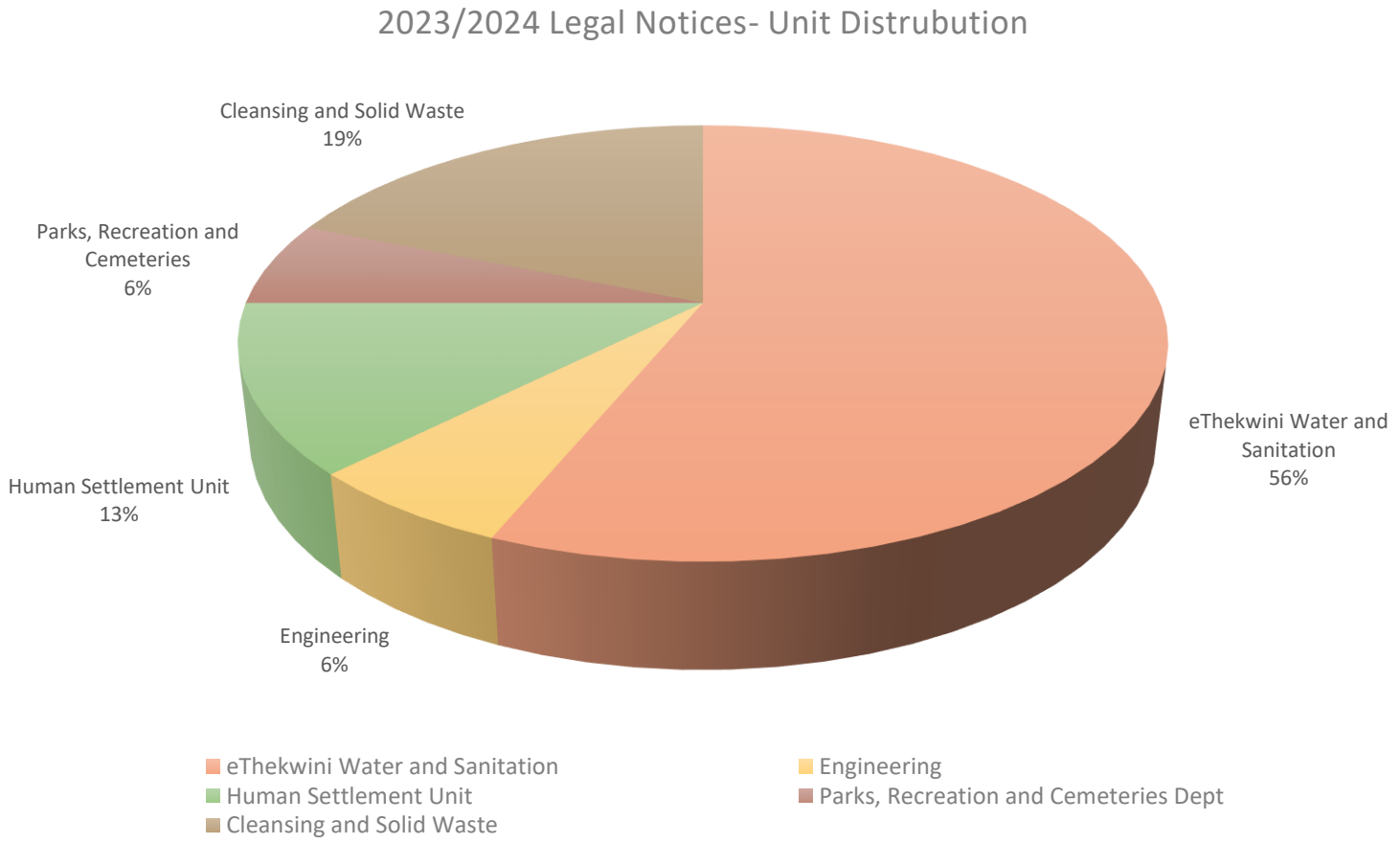
No.	Authority	Site Description	Legal Notice	Environmental Issue	Municipal Department Responsible	Compliance Status
1	EDTEA	Ohlanga Pump Station	Pre-Directive	Sewage overflow	eThekwini Water and Sanitation	Partially Compliant
2	EDTEA	30 Umganu Rd	Pre- Notice	Over topping of pollution Control dam, effluent into the environment at Cornubia UPL	Engineering	Compliant
3	EDTEA	Cornubia	Pre- Notice	Non-compliance with conditions of Environmental Authorisation for Cornubia Phase 2	Human Settlement Unit	Partially Compliant
4	EDTEA	Ottawa Cemetery, Mount Edgecombe	Pre- Notice	unlawful clearance of indigenous vegetation and dumping of waste	Parks, Recreation and Culture	Partially Compliant
5	DFFE	Wilsons Wharf	Pre-Coastal Protection Notice	Discharging of raw sewage into coastal waters	eThekwini Water and Sanitation	Partially Compliant
6	DFFE	Winklespruit, Kingsburg	Pre-Coastal Protection Notice	Discharging of sewage effluent into stwinfred beach	eThekwini Water and Sanitation	Partially Compliant
7	DFFE	Umgeni estuary	Pre-Coastal Protection Notice	Discharging of sewage effluent into Umgeni Estuary	eThekwini Water and Sanitation	Partially Compliant
8	EDTEA	ERF 3213 Reservoir Hills	Notice	Clearance of Vegetation without authorisation	Human Settlement Unit	Partially Compliant
9	EDTEA	21 Janine Road	Pre-Directive	Environmental degradation caused by the damaged sewer lines	eThekwini Water and Sanitation	Partially Compliant
10	EDTEA	Amanzimtoti	Notice	Environmental degradation and pollution causing pollution in Amanzimtoti estuary	eThekwini Water and Sanitation	Compliant
11	EDTEA	Foreshore Road, Brighton Beach, Bluff	Warning Letters	Maintenance of existing coastal infrastructure at foreshore road, bluff	eThekwini Water and Sanitation	Partially Compliant
12	EDTEA	Canelands Pedestrian Bridge, Verulam	Warning Letters	Repair, Upgrade and rehabilitation of Canelands Pedestrian bridge	eThekwini Water and Sanitation	Partially Compliant
13	EDTEA	Kwalinda, KwaNdengezi	Notice	Unlawful disposal of waste at Kwalinda in KwaNdengezi	Durban Solid Waste	Partially Compliant
14	EDTEA	Umkhumbane River, Cato Manor	Pre-Notice	Environmental degradation /pollution due to damaged sewer infrastructure causing pollution to Umkhumbane River	eThekwini Water and Sanitation	Partially Compliant
15	EDTEA	Marianhill Landfill Site	Notice	Non-compliance with conditions of the amended permit	Durban Solid Waste	Partially Compliant
16	EDTEA	EThekwini Municipality	Directive	Environmental Degradation as result of illegal Dumping	Durban Solid Waste	Complaint

2023/24 LEGAL NOTICE DISTRIBUTION BY AUTHORITIES AND ENVIRONMENTAL ISSUES

Authority Distribution	Environmental Issues
1. EDTEA issued seven legal notices. **2. DFFE issued three legal notices.**	• Sewage overflow
	• Overtopping of pollution control dam
	• Non-compliance with environmental assessment conditions
	• Unlawful clearance of indigenous vegetation and waste dumping
	• Discharging of raw sewage into coastal waters
	• Discharging of sewage effluent into beaches and estuary
	• Environmental degradation caused by damaged sewer lines
	• Clearance of vegetation without authorization

2023/24 LEGAL NOTICES AMONGST MUNICIPAL LINE FUNCTIONS

The pie chart provided lists various municipal departments within eThekwini, along with the number of legal notices they received and their respective responsibilities: eThekwini Water and Sanitation, Engineering Department, Human Settlement Unit, Parks, Recreation and Cemeteries and Cleansing and Solid Waste. This data reflects the distribution of legal responsibilities across different line departments, with eThekwini Water and Sanitation bearing the largest share.



OLD LEGAL NOTICES (2019 TO 2022) OVERVIEW

The table below displays the total number of legal notices issued to eThekwini municipality by **DFFE, EDTEA and DWS between 2019 and 2022.**

Regulatory Authority	Total Number of notices received (2019-2022)	Status Resolved	Not resolved/Partially Compliant
DFFE	11	0	11
EDTEA	21	12	9
DWS	26	8	18

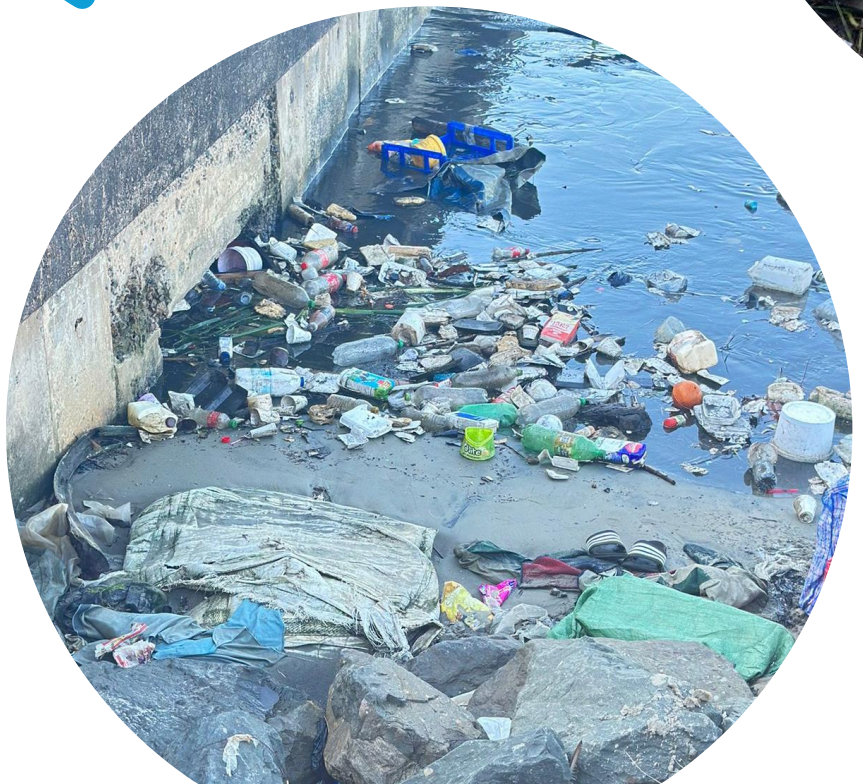
2023 TO 2024 LEGAL NOTICES OVERVIEW

The table below displays the total number of legal notices issued to eThekwini municipality by the **DFFE, EDTEA and DWS between 2023 and 2024**

Regulatory Authority	Total Number of notices received (2023-2024)	Status Resolved	Not resolved/Partially Compliant
DFFE	3	0	3
EDTEA	13	4	9
DWS	2	1	1

2023/24 ENVIRONMENTAL COMPLAINTS FROM THE PUBLIC

The data below represents the frequency of various environmental complaints reported by the public, highlighting a range of issues such as sewage pollution, illegal dumping, land invasion, and other pollution incidents. Notably, sewage leakage and illegal development are among the more common complaints, each recorded twice. Land invasion stands out as the most frequently reported issue, with four occurrences. This data emphasizes the urgent need to address these environmental concerns to ensure the preservation and protection of natural resources. It indicates the importance of implementing effective regulatory measures and enforcement mechanisms to prevent/ mitigate environmental degradation and safeguard ecosystems



Frequency of Complaints by Nature	
Sewage Pollution and Dumping of Tar	1
Cutting Of Trees	1
Development Within 32-Meter Buffer Zone of a River	1
Fire Incident at Buffelsdraai Landfill Site	1
Sewage Overflow into Wetland Park: 1	1
Illegal Dumping	2
Illegal Development	3
Land Invasion	4
Encroachment Of Servitudes and Redirection of a Stream Flow	1
Infilling Of a Wetland	1
Construction In A DMOSS Area And a Conservation Servitude	1
Bay Of Plenty Sewer Pipe Spillage	1
Alleged DMOSS Degradation	1
Palmiet River Excavation	1
Land Pollution	1
D'MOSS Land Invasion	2
Bulk Diesel Depot: 1	1
Illegal Dumping and Filling of Bank: 1	1
Forest Complaint	1
Multiple Complaints	1
Illegal Sand Mining	2
Illegal Infilling of Watercourse	2
Sewage Overflow	2
Sewage Pollution at Durban Harbor	1
Mass Fish kill in estuary	1
Pollution	1
Blocked Sewer	1
Backfilling on A Watercourse	1
Encroachment/ Clearance Construction D'Moss	5
Development Within 32-Meter Buffer Zone of a River	1
Sewage Overflow into Wetland Park	1
Illegal Dumping	1
Sewage Spillage	3
Sewage Leakage	2
Illegal Development	2
Land Invasion	5

SUCCESS STORIES TOWARDS ENHANCEMENT OF ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT

1. Giba Business Park Complaint - Biodiversity Management Department

Site Description: Rem of Erf 6803 Pinetown

Activities on Site: Unauthorised Excavation and damage to biodiversity/grasslands

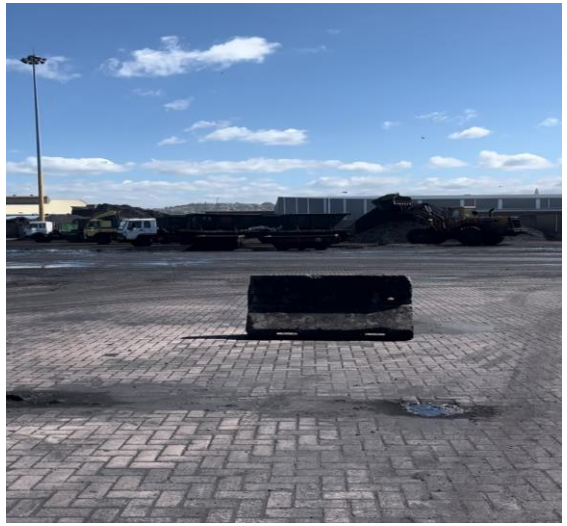
Transgressed Legislation: NEMA

Background: In February 2023, it was found that the subcontractor of developer began levelling a large portion of the hilltop consisting of KwaZulu-Natal Sandstone Sourveld, a critically endangered ecosystem with legally protected status, for storage area for heavy plant associated with the upcoming business park development further down the valley. No relevant approvals were issued prior to undertaking activities.

Actions Taken: After investigation findings and agreeing on rehabilitation the damaged area to the satisfaction of the Department, the Biodiversity Management Department (BMD) regularly monitored rehabilitation activities on the ground and advised regarding acceptable biodiversity standards and best practices until reaching the current site status. By November 2023, there were visible signs of rehabilitation activities on site.

Current SSstatus: The developer has complied with all requests as per approved rehabilitation plan and the rehabilitation has been a success.

Damage of Grassland due to unauthorized excavation



During rehabilitation of Grassland

Grassland rehabilitation progress

SUCCESS STORIES TOWARDS ENHANCEMENT OF ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT

Transnet Stockpiles - Air Quality Branch

Site Description: Umdloti River – Transnet Port Terminals (Maydon Wharf)
Activities on Site: Storing and processing of mining commodities
Transgressed Legislation: NEMA: AQA, National Dust Control Regulations
Background: Exceedance of dust control regulations standards
Actions Taken: Environmental Health with Air Quality branch conducted an inspection and issued Transnet Port Terminals with a pre-compliance notice.
Current Status: Transnet submitted a dust management plan for approval by the Air Quality Officer

Transnet Port Terminals operations in Maydon Wharf

Uncovered stockpiles at Transnet Port Terminals

SUCCESS STORIES TOWARDS ENHANCEMENT OF ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT

3.Grindod Stockpiling –Air Quality Branch

Site Description: Umdloti River – Grindrod (Vetch Road and Eagle Warehouse)
Activities on Site: Storing and processing of mining commodities
Transgressed Legislation: NEMA: AQA, National Dust Control Regulations
Background: Exceedance of dust control regulations standards
Actions Taken: Environmental Health with Air Quality branch conducted an inspection and issued Grindrod with a pre-compliance notice.
Current Status: Grindrod submitted a dust management plan for approval by the Air Quality Officer. Developed Terms of Reference to form Maydon Wharf Air Quality Management Forum for Transnet 's Tenants and operators.

Stockpiles at Grindrod – Dust pollution

SUCCESS STORIES TOWARDS ENHANCEMENT OF ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT

4 Construction Activities Encroaching into Pigeon Valley Nature Reserve-BMD.

Site SDescription: Portion 01 of Erf 191 Chiltern Hill, 04 Faurea Place, Westville

Activities on Site: Clearing of indigenous vegetation and construction of structures within a municipal owned property that constitute a protected area (Pigeon Valley Nature Reserve)

Transgressed Legislation: NEMA, NEM:PA, ECA, NFA, CPA

Background: Clearing and construction of student accommodation within a protected area. BMD EMI's, investigated the matter in collaboration with Natural Resources official and Building Inspectors. The developer was advised to halt all further activities on site pending a full investigation by all relevant authorities. Illegal excavation of sand from the river without authorisations from Department of mineral resource and Energy (DMRE) and Department of Water and sanitation (DWS).

Actions Taken: The following action was undertaken by BMD Environmental Management Inspectors (EMI's):

- Investigated the matter in collaboration with Building Inspectors and Natural Resources officials.
- Advised the developer to stop all activities pending an investigation.
- Referred the matter to EDTEA and DFFE for the investigation of NEMA and NFA contraventions.
- Advised the Legal and Compliance Unit on developments in the matter.
- Conducted joint inspections with DFFE
- Drafted and issued an ECA directive to the developer .

Current Status: The matter is under monitoring and awaiting the following action from relevant authorities:

- Compliance with BMD ECA Directive
- Further advice from Legal and Compliance Unit
- Investigation and action by EDTEA and DFFE

Ariel photo showing 04 Faurea Place and surrounding D'MOSS area.

Ariel photo showing 04 Faurea Place before encroachment.

Ariel photo showing 04 Faurea Place after D'MOSS encroachment.

SUCCESS STORIES TOWARDS ENHANCEMENT OF ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT

5. Verulam Illegal Sandmining – Biodiversity Management Department

Site Description: Umdloti River – Verulam

Activities on Site: Illegal sand mining

Violated Legislation: NEMA: EIA Regulation, Section 21 National Water Act

Background: Illegal excavation of sand from the river without proper permits from Department of mineral resource and Energy (DMRE) and Department of Water and sanitation (DWS).

Actions Taken: Biodiversity Management Department (BMD) investigated and reported to DMRE. The matter was added to Operation Phakisa and addressed on October 25, resulting in arrests.

Current Status: The case is with the investigating officer (SAPS), awaiting a decision by the NPA on enforcement actions.

SUCCESS STORIES TOWARDS ENHANCEMENT OF ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT

6.Springfield road unauthorised excavations and diversion of watercourse

Site Description: 29 Springside Road, Westville

Activities on Site: Unauthorised excavations and diversion of a watercourse

Violated Legislation: NEMA: EIA Regulation, Section 21 National Water Act

Background: Complaint received regarding stormwater issues led to the discovery of potential environmental violations. BMD confirmed unauthorised excavations and watercourse diversion.

Actions Taken: BMD stopped activities and coordinated inspections with DWS and EDTEA.

Current Status: Transgressor has ceased activities and is now cooperating with EDTEA and DWS for rectification. Compliance is being monitored.

ETHEKWINI MUNICIPALITY : ENVIRONMENTAL MANAGEMENT INSPECTORATE

Environmental Management Inspectorates (EMI)
The City has designated Environmental Management Inspectors (EMIs), who form a network of environmental compliance and enforcement officials from various line Departments designated in terms of e National Environmental Management Act (NEMA) of 2008.

Mandate and Functions of EMI
The primary role of EMIs is to ensure that environmental legislation is adhered to and enforced. They possess the following powers:
•**Investigate:** EMIs can question witnesses, inspect and remove articles, take photographs and audiovisual recordings, collect samples, and remove waste.
•**Inspect:** EMIs are authorized to enter premises to verify compliance with environmental laws and to seize evidence related to criminal activities.
•**Enforce:** They have the authority to search premises, containers, vessels, vehicles, aircraft, and pack animals, seize evidence and contraband, set up roadblocks, and make arrests.
•**Administrate:** EMIs can issue compliance notices and admission of guilt fines.

However, EMIs do not have the power to prosecute cases in court. All cases are handed over to the National Prosecuting Authority (NPA) for prosecution. To ensure successful outcomes, EMIs collaborate closely with prosecutors across the country.

Roles of EMI in Relation to the South African Police Service (SAPS):
The South African Police Service (SAPS) continues to play a crucial role in enforcing environmental legislation. EMIs work in close partnership with SAPS in the investigation of environmental crimes. Under the National Environmental Management Act, all police officers are granted the powers of an EMI.

ETHEKWINI MUNICIPALITY EMI's

The City has approximately 100 trained EMI's that are distributed within various municipal line departments, however, below is the number of designated EMIs.

eThekwini Municipality Environmental Management Inspectors	
Biodiversity Management Department	7
eThekwini Water and Sanitation	4
Natural Resource Division	3
Environmental Health	73
Cleansing and Solid Waste	2

CHALLENGES ON ADDRESSING ENVIRONMENTAL COMPLIANCE ISSUES

Environmental Compliance Challenges	
Compliance Monitoring	Monitoring compliance across sectors requires effective coordination and data management system.
Climate Change events	Climate change impacts such as extreme weather events and sea level rise, exacerbate environmental challenges.
Industrial Pollution	Air and water pollution, posing health risks and requiring stringent oversight.
Rapid Urbanisation	Population growth and urbanisation has increased pressure on natural resources and pollution on the environment.
Informal Settlements	Lack of infrastructure for waste management, leading to pollution and habitat degradation.
Community Participation	Engaging communities in environmental compliance require collaboration of all stakeholders of eThekwini municipality

OUTLOOK FOR 2024/2025

For 2025, we have outlined the following key initiatives:

Public Consultation of Draft Biodiversity Bylaw: BMD plans to engage the public in reviewing and providing feedback on a proposed bylaw. This consultation is crucial for ensuring that the bylaw reflects the needs and concerns of the community before it is finalized.

Compilation of SECER 24/25: BMD will be compiling the 2nd SECER for the 2024/2025 period, which will provide a comprehensive overview of key metrics and developments in these areas.

Annual eThekwini EMI Forum: The Annual eThekwini Environmental Management Inspectorate (EMI) Forum. This event will bring together stakeholders to discuss updates, share data, and collaborate on environmental compliance and enforcement strategies.

NEMLAA4 Engagement Session: BMD to organize an engagement session focused on the National Environmental Management Laws Amendment Act 4 (NEMLAA4). This session will aim to discuss the implications of the amendments and ensure compliance and awareness among all relevant line Departments.

PLANS TO ENHANCE ENVIRONMENTAL COMPLIANCE WITHIN THE CITY

Project Description: Biodiversity (Green) Bylaw Development

Purpose: Strengthen protection of biodiversity assets within eThekwini Municipality area

Project Lead: Biodiversity Management Department – Municipal Compliance Sub-branch
Drafting Line Functions: Biodiversity Management Department, Parks, Leisure & Cemeteries Department – Natural Resources Division constituted a drafting Working Group, and Legal & Compliance.

Main Project Activities: 20 Working Group Meetings held from August 2023 – June 2024
Stakeholders engaged in April 2024 on discussion document.

Current Status: Finalising technical draft document.
Planned Activities: Submission of final technical draft document to Legal & Compliance to prepare into a Draft Bylaw for Council approval and public participation process.

THE BIODIVERSITY BYLAW

Towards a Biodiversity Management By-law for eThekwini Municipality

Background

In 2008, an initiative began to draft and implement a "green bylaw" aimed at protecting biodiversity within the eThekwini Municipal Area (EMA). The bylaw would serve as a comprehensive tool for the Biodiversity Management Department (BMD) and Natural Resources Management Division (NRMD), as well as potentially other departments. However, due to limited applicability and insufficient training among enforcers, the project faced challenges.

In 2013, an attempt to revive the bylaw was made by T. Petterson of the BMD, but it was halted due to institutional disagreements. Interest in the bylaw was reignited in 2022, leading to discussions among key departments—City's Legal & Compliance Unit, NRMD, BMD, and Museums. These departments are currently collaborating to draft the bylaw.

A core group of officials from these departments meets weekly, with four chapters completed and a first draft near completion. There will be two engagements with stakeholders: one within the represented departments and another with external partners who work closely with the municipality, to refine the draft and gather broader input.

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1. What is the Biodiversity By-law

This by-law aims to establish a comprehensive framework for the protection and management of biodiversity within the eThekwini Municipality (EMA). Its success relies on robust enforcement mechanisms, stakeholder engagement, and continuous evaluation to ensure its effectiveness in achieving its objectives.

2. Purpose

The by-law seeks to consolidate and strengthen biodiversity protection efforts across relevant municipal departments. It aims to empower enforcement agencies with clear guidelines for biodiversity-related regulations. The by-law endeavours to promote sustainable environmental management practices within the municipality

3. Strategy

- Formation of a multi-departmental task force comprising representatives from key departments such as the Biodiversity Management Department (BMD), Natural Resources Management Division (NRMD), Legal & Compliance Unit, and Museums.
- Regular meetings and consultations to draft and refine the by-law, ensuring inclusivity and transparency.
- Collaboration with external stakeholders to gather diverse perspectives and expertise.
- Development of clear and enforceable provisions addressing various aspects of biodiversity conservation and management.
- Establishment of monitoring and evaluation mechanisms to assess the effectiveness of the by-law implementation.

4. Biodiversity By-Law requirements for success:

Commitment and cooperation from all relevant line departments and stakeholders. Adequate resources and support for the enforcement of the by-law. Public awareness and education campaigns to foster understanding and compliance. Regular review and updates to adapt to evolving environmental challenges and legislative changes.

CONCLUSION

The City of Durban's State of Environmental Compliance and Enforcement Report offers a detailed analysis of the municipality's strategies to uphold environmental laws, focusing on key areas such as legal notices, NEMLAA 4 implementation, escalation protocols, and the integration of the Green Bylaw in future plans.

The implementation of NEMLAA 4 has further strengthened Durban's environmental enforcement capabilities by introducing stricter penalties and streamlined enforcement processes. This has empowered authorities to act more decisively against violators, resulting in enhanced compliance rates.

The report also details the successful implementation of escalation protocols, which have been crucial in handling persistent non-compliance cases. These protocols ensure that unresolved issues are promptly escalated to higher authorities or legal channels, leading to quicker resolutions and more robust enforcement outcomes.

Looking ahead, the Green Bylaw forms a significant part of the City’s 2024/2025 environmental strategy. This bylaw aims to promote sustainable development by setting stricter environmental standards for new developments, ensuring that Durban's growth is aligned with its environmental goals.

Overall, the report demonstrates the city's commitment to continuous improvement in environmental compliance and enforcement, with a clear vision for integrating more sustainable practices through the upcoming Green Bylaw and other future initiatives.

ABBREVIATIONS

- BMD- Biodiversity Management Department
- CM – City Manager
- COO- Chief Operating Officer
- CPA-Consumer Protection Ac
- CME- Compliance Monitoring and Enforcement
- CSW- Cleansing and Solid Waste
- DCM – Deputy City Manager
- DMRE- Department of Mineral Resources and Energy
- DFFE- Department of Forestry, Fisheries and Environment
- DWS- Department of Water and Sanitation
- ECA- Environmental Conservation Act
- EDTEA- KZN provincial Department of Economic Development, Tourism and Environment Affairs
- EIA- Environmental Impact Assessment
- EMI- Environmental Management Inspectors
- EMPr- Environmental Management Plan
- EWS- eThekwini Water and Sanitation Department
- HSU- Human Settlement Unit
- IDP- Integrated Development Plan
- MMP- Management Monitoring Plan
- NFA- National Forest Act
- NEMA- National Environmental Management Act
- NEMLAA- National Environmental Management Law Amendment Act
- NEM:AQA- National Environmental Management Air Quality Act
- NEM:WA- National Environmental Management Waste Act
- NEM:PA- National Environmental Management Protection Act
- NPA- National Prosecuting Authorities
- PRC - Park, Recreation and Cemeteries Department
- SAPS- South African Police Service
- SEMA- Specific Environmental Management Act
- SECER- State of Environmental Compliance and Enforcement Report

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