

# **A DEVELOPER'S GUIDE TO INVESTING IN TOURISM PROJECTS IN KWAZULU-NATAL**

**2<sup>ND</sup> EDITION**

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## **Overview**

The purpose of this *Developer's Guide to Investing in Tourism Projects in KwaZulu-Natal* is to introduce the prospective investor to:

- The economy and geography of the province. The reader is given an introduction to the province which highlights some of the competitive advantages enjoyed by the province.
- The key characteristics of the domestic and international tourism industry in South Africa and KwaZulu-Natal. This includes an introduction to the national and provincial tourism authorities, in addition to looking at accommodation, food and beverage, casinos and gambling, and sports-, cultural- and eco-tourism sectors of the market.
- The business environment in South Africa and KwaZulu-Natal. The *Developer's Guide* addresses taxation issues and labour relations in detail.
- The procedures involved when making land development applications. This section also includes a review of existing, recently introduced and proposed new legislation affecting land development, whether it be in a rural, urban or conservation area.
- Key role players and stakeholders in the province, especially those involved in the tourism industry. The appendices of this guide book include a list of contact names and addresses.

This Developer's Guide does not claim to be a comprehensive step-by-step manual for investors in tourism in the province. Rather it provides an introduction to the many facets of the tourism industry. In these changing times, information can quickly become dated, hence the prudent investor will make use of the contact list provided in this guide, in order to communicate ideas and discuss intentions with consultants, tourism experts and government officials, and to learn of new developments.

## ***Important Notice***

South Africa is a country which is currently in a state of change. At both national and provincial level, Parliament is busy reviewing, changing, repealing and introducing new legislation. For the prospective investor in the KwaZulu-Natal tourism industry, the most noteworthy changes relate to:

- Labour legislation;
- Tax laws;
- Exchange control regulations; and
- Land development legislation.

In some instances changes are effective immediately. Alternatively new legislation is phased in over a period of time, and no clear cut indication is given as to when the old legislation will be repealed. In many instances existing and new legislative acts are planned to run in parallel for a time.

While the authors of this guide have endeavoured to include the most recent information, it will nevertheless soon become outdated. Although the publisher intends to update and revise this Developers' Guide on a regular basis, the authors will be hard pressed to keep up with the fast pace of change in the new South Africa.

## **Disclaimer**

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## **APPENDIX: Useful Addresses and Contacts**

## **Chapter 1: An Introduction to KwaZulu-Natal**

### **1.1 PHYSICAL GEOGRAPHY**

South Africa lies at the southern tip of the African continent, between 22° and 35° south. Physically it is larger than Germany, France, Italy, Belgium and Holland combined. The country is dominated by a plateau of over 1 200 meters and a narrow coastal belt washed by the cold Benguela current on the west and the warm Mozambique current on the east. It has a coastline of over 2 900 kilometres, from the Indian Ocean on its eastern shores to the Atlantic on the west. Within its borders, the large variety of climatic zones allow a wide diversity of plant and animal kingdoms to be flourish.

The province of KwaZulu-Natal, on the eastern side of the country, is bordered by the warm Indian Ocean to the east and the escarpment of the Drakensberg to the west. It covers almost 8% of the country's geographic area. The relatively low lying coastal strip rises to rolling hills in the Midlands before reaching the high altitudes of the mountains and escarpment. The province boasts two of the country's major natural harbours at Durban and Richards Bay.

#### **1.1.1 Climate, Temperature and Rainfall**

The wide expanse of surrounding ocean generally provides South Africa with a temperate climate, although weather patterns vary widely. The Cape has a Mediterranean climate with hot, sunny summers and cold, rainy winter, while for most of the rest of the country summer rains are the norm. Rainfall decreases westwards with about 1 000mm annually in KwaZulu-Natal, to less than 250mm in the west. South Africa is a dry country with an average annual rainfall of under 500mm. Summers are generally warm to hot with temperatures averaging 23°, while winters rarely experience temperatures below 10°. Only the high escarpment is regularly subject to snowfalls, and frost is a phenomenon which occurs only in the interior of the country. The interior has fewer than 80 days of rain a year with an average of 8,5 daily hours of sunshine.

KwaZulu-Natal has a warm, sub-tropical, maritime climate, with temperatures moderated by the expanse of the Indian Ocean. Summers are hot and humid, averaging 28° and experience the majority of the annual rainfall, while winters, with average temperatures of 23°, are warm and dry with occasional frost in the interior. Winter sunshine averages almost 7 hours a day, some of the highest in the country. The province boasts an all-year tourism friendly climate. Sea temperatures are also relatively stable, averaging 21°C around the year providing possibilities for a diversity of aquatic activities in any season, including diving, fishing, swimming and surfing.

#### **1.1.2 Rivers and Lakes**

Although there are many rivers and lakes in the country, none of them are navigable due to the paucity of rainfall and lack of perennial snows. There are many man-made dams with resort facilities and in the north the natural lakes and estuaries of Maputaland and the St Lucia Wetland Park are a world heritage site.

#### **1.1.3 Vegetation**

Due to the varied climate of the country, South Africa's vegetation is one of the most diverse in the world, ranging from sub-tropical forest to desert scrub. South Africa is also the only country to contain an entire floral kingdom, the Cape *fynbos*, within its borders.

KwaZulu-Natal's vegetation varies from tropical and subtropical types at the coast, through rolling grasslands, to tundra types in the high Drakensberg. As the best-watered province,

vegetation tends to be lush along the coastal strip. Enormous coastal forests are found on some of the highest sand dunes in the world along the coast north of Richards Bay.

#### **1.1.4 Resources**

South Africa is the world's largest producer of gold, platinum, chromium, vanadium, manganese and alumino-silicates. Kimberley's Big Hole, where diamonds were mined, is the largest hand-dug excavation on earth. The Western Deep Levels gold mine is the world's deepest, at 3 777 meters.

KwaZulu-Natal has an abundance of coal and a variety of other minerals, and the combination of its soils and climate make it ideal farming country. Sugar production within the province is a significant industry.

### **1.2 DEMOGRAPHICS**

#### **1.2.1 Lifestyle**

The province offers a relaxed lifestyle, with access to virtually every major sporting, recreational and cultural facility. Sophisticated urban facilities, including music, art and theatre, are found close to the natural attractions of Africa, including game reserves, mountain scenery and endless beaches. As a whole, the province provides every possible resource for the tourist and is, indeed, geared for this industry.

#### **1.2.2 Demographics**

The total population of South Africa was estimated to be approximately 44 million in 1995. However, the 1996 Census figures place the present population at only 37,9 million. A population of almost 49 million is projected for the year 2000. The average population growth rate is 2,06%, although four provinces exceed this, KwaZulu-Natal's growth rate is 2,18% per year Central Statistics Services (SCC) now called Statistics South Africa (SSA).

Women outnumber men, particularly in rural areas, although the national male-female ratio is 0,98:1.

Functional urbanisation, including informal settlements around existing towns and cities, is approximately 56%.

KwaZulu-Natal has the largest population of South Africa's nine provinces, at 7,6 million, or 20,3% of the total.

Several general demographic trends have been identified for the country as a whole - continuing urbanisation, rapid population growth, and a youthful population.

#### **1.2.3 Political and Economic Profile, Socio-Economic Infrastructure**

South Africa recently undertook a transition from minority to majority rule, with a fully democratic election taking place in April 1994 for the first time. Nelson Mandela, of the African National Congress, was elected President, and his party obtained a large majority (62,6%) of the votes.

The national government is made up of a State President, two Deputy State Presidents and a Cabinet representative of parties elected during national elections. There are two houses of Parliament, a National Assembly with 400 members, and a Senate with 10 members from each region. In terms of the interim constitution the Government of National Unity (GNU),

sworn in during 1994, has two functions; to govern the country until the next elections in 1999, and to write the new constitution.

The government is committed to, and guided by, the underlying principles of the Reconstruction and Development Programme (RDP), which attempts to redress historical imbalances in economic and social welfare.

South Africa's economy is based on primarily on manufacturing, mining and agriculture. The GNU has also committed itself to disciplined fiscal and monetary policies and the pursuit of a mixed market economy. It is active in forging multi-lateral and bi-lateral agreements and in seeking regional and international linkages designed to promote the country's development. South Africa is a signatory to the General Agreement on Tariffs and Trade (GATT), and efforts are being directed at increasing local industrial competitiveness.

The USA has identified South Africa as being one of ten big emerging markets, and expects these ten markets to double their share of global GDP to 20% by 2010, and to increase their share of world exports to a figure greater than that of Japan and the EU combined. Since the 1994 elections, over R2 billion in foreign investment has flowed into South Africa. Foreign investor purchases on the Johannesburg Stock Exchange increased from R4 billion in 1992 to R12 billion in 1993 and R22,4 billion in 1994 (Ernst and Young, Strategic Trends 1995/6).

KwaZulu-Natal is presently administered jointly from Pietermaritzburg and Ulundi. The province has a monarch, the King of the Zulu nation, and the provincial government is run by a Premier and 10 Cabinet Ministers who represent major parties which enjoyed success in provincial elections. The KwaZulu-Natal Regional Legislature consists of 81 members elected by voters in a system of proportional representation from regional party lists. In terms of Schedule 6 of Act 200 of 1983 (as amended) the province will have executive and legislative competence within its region over: agriculture, casinos, cultural affairs, education, environment, health services, housing, language policy, local government, nature conservation, police, provincial public media, public transport, regional planning, roads, road traffic regulations, tourism, trade and industrial promotion, traditional authorities, urban and rural development and welfare services.

The Premier of KwaZulu-Natal is Dr Ben Ngubane, and the provincial cabinet ministers (with their respective portfolios) for 1998 are:

Agriculture & Housing:	Mr N Singh
Economic Affairs and Tourism:	Mr Jacob G Zuma
Education and Culture:	Dr Vincent T Zulu
Health:	Dr Zweli L Mkhize
Local Government & Finance:	Mr Peter M Miller
Public Works:	Rev Celani J Mthethwa
Traditional and Environmental Affairs & Safety and Security:	Nyanga (inkosi)
Transport:	Mr S'bu Ndebele
Social Welfare and Population Development:	Prince Gideon L Zulu

Abundant natural and human resources have helped KwaZulu-Natal to build an extensive and modern infrastructure and a strong business and industrial base. Besides abundant water, other natural resources include extensive coal fields, a variety of strategic minerals, the cheapest electrical power in the world, and a vast array of important tourist resorts and attractions.

Business benefits include an excellent communications infrastructure, an abundance of labour, high standards of local management as well as good institutional capacity, which includes excellent banking, insurance and other services in the province.

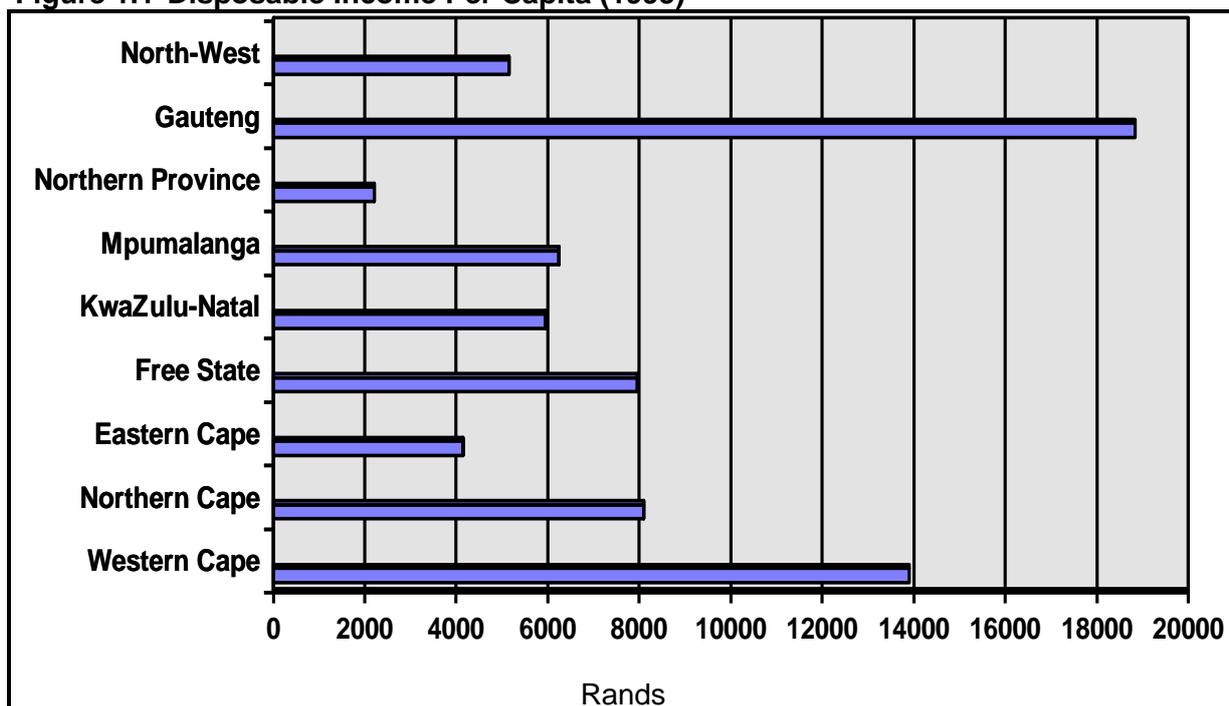
Schools are located throughout the province, while four universities have campuses in the region. Public libraries, technikons, teacher training colleges and other tertiary institutions can be found in several centres.

The languages most widely used in KwaZulu-Natal are Zulu and English.

#### **1.2.4 Economic Regions**

The nine provinces show some marked differences, with highly skewed income and population profiles.

**Figure 1.1 Disposable Income Per Capita (1995)**



Source: Bureau of Market Research

On a national population group basis, whites have the highest average per capita personal disposable income, of R30 572, followed by Asians with R12 696, coloureds with R8 482 and Africans with R4 122. The development process of the rapidly growing black middle class has been accelerated by recent political developments. The population benefited from real wage increases as well as a rise in employment and during 1995 real per capita disposable income rose by 0,3%, the first increase since 1988. The rate of increase in personal disposable income has not been able to keep up with spending, however, and combined with lower savings, implies that much of consumer spending is still being financed by credit (Economic Comment, 1996).

On a district basis, Gauteng is the most important in economic terms, followed almost equally by the Durban Metropolitan Area and the Cape Peninsula.

In 1997, South Africa had a work force of approximately 9,6 million. The total national household expenditure was estimated at R331,6 billion for 1995.

### **1.3 ECONOMIC SECTOR OVERVIEW**

#### **1.3.1 The KwaZulu-Natal Economy**

Economic activities in KwaZulu-Natal are centred in the Durban-Pinetown metropole and Pietermaritzburg, with significant concentrations in the lower Umfolozi area (Richards Bay/Empangeni), Klip River district (Ladysmith - Emnambithi), and Newcastle - Madadeni region. The following table presents the share in total employment in 1995 and growth expectations in these areas:

**Table 1.1 Total Employment and Growth Expectations (1995)**

	Employment Share (%)	Growth Index (SA=100)
Pietermaritzburg	1,4	100,9
Durban-Pinetown	7,6	97,9
Lower Umfolozi (Richards Bay-Empangeni)	0,6	113,3
KlipRiver (Ladysmith-Emnambithi)	0,5	106,1
Newcastle - Madadeni	0,7	104,4

Source: Bureau of Market Research

The following table presents various economic size and growth statistics for KwaZulu-Natal:

**Table 1.2 Size and Growth Statistics for KwaZulu-Natal**

	Value	Compound Annual Growth Rate	% of SA
Employed Econ. Active Labour Force, 1994 (000)	2,724	(1988-1993) -1.8%	21,1
Real KZN GDP, 1993 (Rm)	51 429.7	(1988-1993) 0.1%	14,9
Real KZN GDP per capita, 1993 (Rm)	6 157	(1988-1993) -2.0%	70,7
Real KZN GDP per worker, 1993 (Rm)	28 387	(1988-1993) 1.9%	72,1

Source: CSS

Over the period 1988 to 1993, KwaZulu-Natal outperformed South Africa as a whole on several aspects e.g., although the real growth in GGP for KwaZulu-Natal was only 0,1% per annum, the growth in GDP was -0,1% per annum for South Africa as a whole, over the period 1988 to 1993. Similarly, the growth in real GDP per capita and per worker, over this period, was -2,3% and 0,4% per annum respectively, for South Africa.

The following table presents some comparison between KwaZulu-Natal and South Africa of some economic indicators:

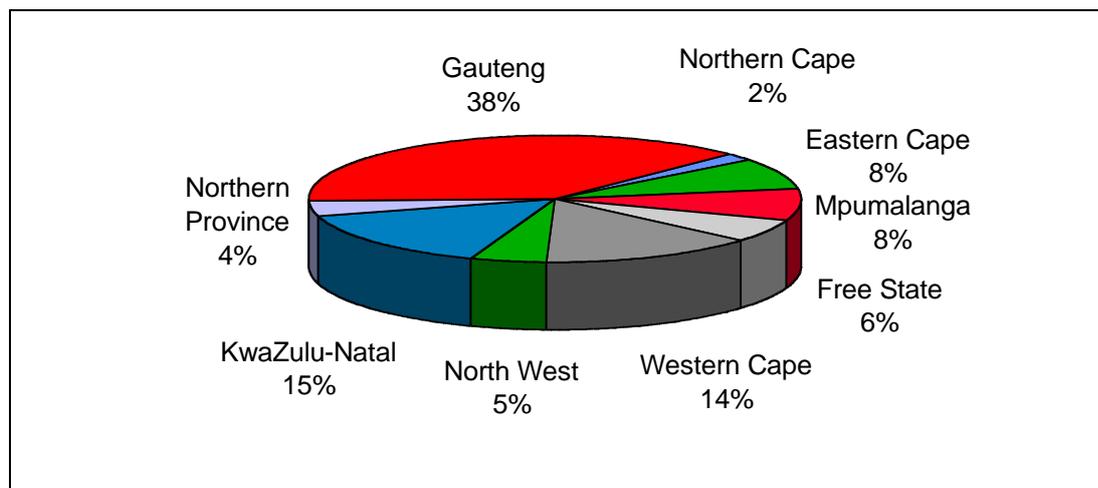
**Table 1.3 Indicator Statistics**

	KZN	SA
Labour Force Participation Rate, 1994 (%)	52,1	55,6
Labour Absorption Capacity, 1991 (%)	55,9	61,1
Unemployment Rate, 1994 (%)	32,2	32,6
Personal Income to GDP, 1993 (%)	60,9	60,9

Source: CSS

KwaZulu-Natal was second only to Gauteng in terms of percentage contribution to SA's GDP, as depicted below (CSS):

**Figure 1.2 Provincial Distribution of GDP (1995): R430,4 billion**



**Several studies have shown a positive growth trend for KwaZulu-Natal:**

KwaZulu-Natal is ranked fourth amongst the provinces in terms of **growth in GDP** over the periods 1991-1993 and 1993-1994, as the following table shows:

**Table 1.4 Average Annual % Increase In Provincial GDP (1991-1994)**

PROVINCE	% INCREASE	
	(1993-1994)	(1991-1993)
Eastern Cape	10,8	11,7
Free State	10,7	10,3
Gauteng	10,7	12,0
<b>KwaZulu-Natal</b>	<b>10,8</b>	<b>11,4</b>
Mpumalanga	11,5	9,4
North-West	12,1	10,6
Northern Cape	9,5	11,1
Northern Province	9,0	11,4
Western Cape	11,6	11,9

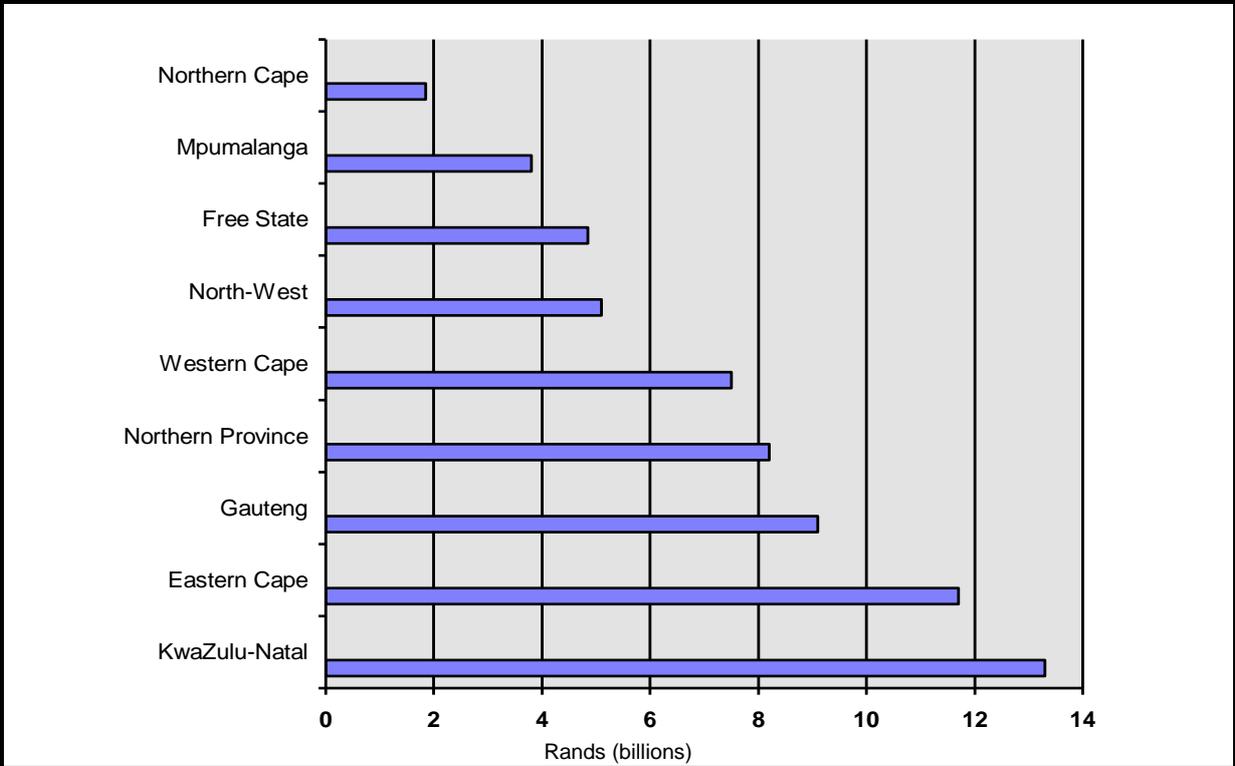
The National productivity Institute (NPI) defines **labour productivity** as being the gross product at constant prices to the labour input. Studies have shown that KwaZulu-Natal's labour productivity has improved since 1990, by a compound annual growth rate of approximately 2,0% per annum.

**Unit labour cost** represents the cost of labour required to produce one unit of output. KwaZulu-Natal is ranked second in terms of increase in cost of labour since 1990, a compound annual increase amounting to some 13,2% per year.

The **ratio of capital to labour** represents the ratio of fixed capital stock to labour input. It is therefore an indication of the change in capital intensity. Change in capital intensity for KwaZulu-Natal has been growing by about 3,8% per annum over the period 1990 to 1993.

The figure below shows the relative **1995/1996 budgets** of the nine regional governments. As befits the most populous province, KwaZulu-Natal heads the list with R13,3 billion available to be spent.

**Figure 1.3 1995/6 Regional Budgets**



Source: Ernst and Young

**Growth indices** of the country’s five most important economic regions showed that the KwaZulu-Natal Central Coastal area - the hub of economic activity in the province - grew the second fastest. The region has also attracted major industrial investments under the regional industrial incentive scheme, owing, in part, to its excellent infrastructure and location of South Africa’s two most important ports.

Regarding the compilation of the GGP, the manufacturing sector and the commerce and tourism sector contribute the largest shares, namely 36% and 20% respectively, with tourism having enjoyed rapid growth. The financial, insurance, real estate and business services sector is also strong in the province, contributing 18% to GGP.

There has been strong relative growth in the transport sector since 1989, amounting to a compound annual real growth rate of 1,7% per annum, and which now contributes 13% to the province’s GGP. The following table gives an overview of the contribution made by each of the sectors to KwaZulu-Natal’s GGP for 1995.

**Table 1.5 Sectoral Contribution To GGP For KwaZulu-Natal 1995  
(Total GGP: R55 billion)**

<b>SECTOR</b>	<b>GGP</b>	<b>% CONTRIBUTION</b>
<b>Agriculture</b>	R 2,8bn	5
<b>Mining</b>	R 1,1bn	2
<b>Manufacturing</b>	R 19,8bn	36
<b>Electricity and Water</b>	R 1,1bn	2
<b>Construction</b>	R 2,2bn	4
<b>Commerce and Tourism</b>	R 11,0bn	20
<b>Transport</b>	R 7,1bn	13
<b>Financial</b>	R 9,9bn	18

Source: CSS

The importance of tourism as a contributor to the GGP of KwaZulu-Natal is obvious, coming second only to manufacturing.

### **1.3.2 Tourism Nodes**

The KwaZulu-Natal region has a number of well defined tourism nodes in which tourism-specific development projects have been successful and new ones are encouraged. These are:

- The Coastal Belt, divided into the North and South Coasts either side of Durban and Maputaland in the far north, bordering on Mozambique
- The Drakensberg Mountains area backing onto the mountain Kingdom of Lesotho, divided into the high Berg and the Little Berg or foothills
- The Midlands and Battlefields
- Zululand

#### **1.3.2.1 The Coastal Belt**

Tourism in the Coastal Belt is based on the resources provided by kilometres of beaches, warm seas and abundant coastal vegetation. The northern sector contains the Greater St Lucia Wetlands Park, a World Heritage site based on Lake St Lucia, as well as a number of well-stocked game reserves run by the KwaZulu-Natal Conservation Service. It is well provided with transport routes in the form of freeways, national roads, toll roads and other smaller, tarred roads. There are railway lines for passengers and freight running along both the north and south coasts, and inland following the national road to Pietermaritzburg, Mooi River, Estcourt and on to Johannesburg.

Communications are excellent in this belt with telephone, cellular (mobile) phone, and satellite network services widespread. The Coastal Belt is also well provided with water and electricity supplies.

#### **1.3.2.2 The Drakensberg Mountains**

The Drakensberg Mountain area is easily accessible by road although many of the roads in the higher or more remote areas are not sealed. In some areas, use of 4 x 4 vehicles is advised. There are many small airfields and air strips throughout the area. The area is generally well provided with electricity, telephone and water services.

#### 1.3.2.3 The Midlands and Battlefields

The Midlands provides a wealth of tourism resources based more on crafts, culture and history than is the case in the other areas. An area scenic rolling hills, it provides tourists with a wide range of possibilities, from game reserves, resorts based on dams, to tourism adventures such as the Battlefields Route based on the Anglo-Boer and Anglo-Zulu wars.

#### 1.3.2.4 Zululand

Zululand offers the mystique of the Zulu Kingdom with its rich history and wealth of culture. The Kingdom of Zululand and the associated monarchy draws people from all parts of the globe.

Each area has a host of tourism trails for those who desire more than just a lazy seaside holiday. Arts and crafts trails including the popular *Midlands Meander* may be found throughout the province. KwaZulu-Natal also pioneered the Milescares concept. These are essentially self-drive tours of up to 100 kilometres taking visitors to venues of particular interest to the north, south or west of Durban. Maps and route details are available from tourist information centres, and indicate points of interest from nature reserves, hotels, restaurants, craft centres to crocodile farms and art studios.

The province has an international airport at Durban as well as numerous hardened/surfaced and grass light aircraft fields near most of the major population centres. A new international airport is being planned to the north of the city at La Mercy.

Durban's harbour is said to be the largest, busiest, safest and most sheltered harbour on the African continent, and the ninth largest in the world. Plans are at present afoot for major further development of the port.

## **Chapter 2: The South African Tourism Industry - Key Characteristics**

### **2.1 INTERNATIONAL TRAVEL**

#### **2.1.1 World**

The position of the tourism industry in the world economy is presently an exceptionally important and strong one, and is perhaps underestimated in terms of its contribution to the world GDP. International tourism arrivals are growing rapidly at 8% to 9% per year and reached 613 million in 1997, representing a growth rate of 3,12% during the period 1996-97 (*World Tourism Organisation [WTO], 1998*). Tourism accounted for total market receipts of some \$444 billion last year, which was up by 2,21% compared to the previous year.

The largest market share of the world wide industry, in terms of tourism receipts, goes to Europe (60,2%), followed by the Americas (7,2%). In terms of tourism arrivals, Europe and the Americas account for 78,3 of the global industry (*WTO, 1998*).

As an employer, the industry supported some 183 million jobs in 1991, 10,2% of the global workforce. This increased marginally to 10,3% in 1994, and to 10,7%, accounting for 212 million jobs in 1995 - one in every nine jobs worldwide. By the year 2000, tourism will have created 125 million new jobs. Africa as a tourism region conforms to the world average as a tourism employer with one in nine employees engaged in tourism (*WTO, 1993*).

According to the *WTO (1996)*, the major world source markets are Germany, the USA, the UK, and the Netherlands, while the countries showing the greatest number of tourism arrivals are France, the USA, Spain, Italy and the UK. South Africa was ranked in 54th position. France, the world's leading destination, received 61,5 million arrivals, compared to South Africa's 4,9 million.

The *WTO* predicts that the international tourism market will grow at a rate of approximately 4-5% per annum during the period 1996-2000. A similar growth rate is expected during the first two decades of the new millenium (*WTO, 1997*).

#### **2.1.2 Africa**

Africa as a whole is not an exceptional performer in the tourism industry in world terms, although parts of the continent do exhibit growth above the world average. In general terms, tourism in Africa is projected to grow at around the 4% level, but the *WTO* predicts a growth rate in excess of 5% per annum into the new century. This exceeds the predicted world average growth rate of approximately 4% per annum during the first decade of the new century (*WTO,1997*).

In volume, the African continent attracted some 23,3 million visitors in 1997, an increase of 1,7 million from the previous year. By the end of the century, this is expected to grow to 2,7 million. Southern Africa's share of total arrivals in Africa increased from 13,5% in 1990 to 30.5% in 1997.

There are a number of factors which will influence, either positively or negatively, the continent's tourism activity in the foreseeable future. On the positive side, the global economic recovery has contributed to growth in the tourism industry in a number of African countries. This factor is also closely connected to the scale and variety of tourism development in major tourist destinations in the region. "Western" visitors continue to have a growing interest in the peoples and cultures of developing countries, thus increasing tourism to many parts of Africa. This sector consists largely of those with the greatest ability in terms of personal discretional/disposable income and leisure time to engage in such travel. The

number of visitors with the financial ability and interest to travel is also increasing. Ethnic ties between people of the region and between Africa and Europe are increasing in importance, further promoting tourism growth. Expansion in airline services to important source markets and a continuation of the impact of computer technology and communications also have positive benefits for the tourism industry.

On the negative side, fears for personal safety, health and security continue to play a strong role in reducing travel to Africa. Insufficient funding for all the infrastructure and tourist facilities required for the full development of the industry has been the cause of stunted development in most parts of Africa. Education, training and skills development programmes have not been implemented to their fullest extent. High tourist price inflation relative to other destinations, and conflicts between tourism developers and local communities in respect of projects which are not subject to sustainable environmental planning principles, have also negatively affected the industry in the Africa region.

### **2.1.3 South Africa**

Many of the factors noted above apply to the South African situation as much as to the wider African or global situation. Southern Africa is the fastest growing sub-region in Africa, and the South African tourism industry experienced an average annual growth rate of 8,8% between 1980 to 1992, and a growth rate of 10,2% between 1996 and 1997. During 1994 the country received 5,4 million international visitors with the rest of Africa generating of the bulk of those visitors (72%). Europe accounted for about 16%. South Africa's major source market countries, after Africa, are the UK, Germany, USA, Netherlands, France, Australia, and Switzerland.

In 1996 the country received over 5,4 million foreign visitors, which was 10% above the 1996 equivalent. The growth in overseas visitor (i.e. visitors from outside the African continent) numbers was 17,7%.

Many countries experienced a time of 'stagnation' in the industry and South Africa's tourism growth only resumed with the easing of political sanctions at the end of the 1980s. However, it is estimated that by 2010, Africa will be hosting some 46 million arrivals with Southern Africa receiving almost one third of that total (WTO 1997). Bearing in mind the fact that the majority of these arrivals are concentrated in South Africa, the possibilities for the development of this industry are enormous. Further, South Africa has immense potential for increasing its African visitor sector due to the potential for increasing visitor numbers from neighbouring countries. There is also potential for increasing its domestic market although due to the smaller size of this potential market, the opportunity is obviously more restricted by nature. With increases in both leisure time and disposable income, growing numbers of new domestic tourists are entering the tourism arena.

### **2.1.4 International Market**

Visitors to South Africa spent an average of 16,7 nights in the country in 1997, compared with 19 nights in 1995. The average duration of stay has shown little change (range 15,6 to 19,5 nights) since the SATOUR summer survey of 1998. In SATOUR's summer survey of 1997, holiday and visiting friends and relatives (VFR) was stated as the purpose of visit by 65% of visitors to South Africa. Business travel accounted for a further 27%. Almost two thirds (61%) of foreign tourists stayed at least one night in a hotel during their stay, while 37% also stayed for some time with friends and relatives. The average spend per day by foreign visitors was R752 in the 1998 summer survey, whereas the comparable figure in 1996 was R537 per day. The average total expenditure of foreign visitors was R20 072, of which 41% was paid in South Africa. The 1996 summer figures were R16 100 and 34%.

In so far as the motivation for travel and tourism to, and within, the region are concerned, the main reasons for international arrivals to South Africa are wildlife, safaris, diverse scenery, African culture, and the South African coastal wilderness. The WTO (1994) reports that there remains considerable growth potential in the European-derived beach resort tourist market segment and there are considerable opportunities for Africa, especially South Africa, to realise more of its potential in this market. Nevertheless, evidence exists that tourist demand is moving towards holidays which increasingly involve active pursuits and exposure to local society and manifestations of its culture. *These trends must be kept in the forefront when tourism development possibilities for KwaZulu-Natal are envisioned.*

The South African tourism market in 1993 consisted of 90% domestic movement and 10% international tourism. Furthermore, with a population growth rate in the region of 2,06% annually, increasing pressure on tourism facilities has created a growing demand for further facilities in the tourism industry for both these sectors.

Estimates from both SATOUR and other sources are that during 1996, tourism's contribution to the GDP was in the region of 4-5%% - a fairly low figure when compared to the world figure of 10,9%. It is also estimated that an increase of 500 000 jobs are directly and indirectly created by tourism and that tourism is the fourth largest earner of foreign exchange in the country. The implications of these findings are that South Africa's tourism industry has a very real potential to grow, to increase its contribution to the national income threefold, and double its foreign exchange earnings by the turn of the century (SATOUR targets). If tourism could contribute 10% to the GDP of the country, as is the case in world tourism, and in the USA, but substantially less than in the UK or other European countries (e.g. Spain 29%), it would generate some R40 billion per year and create over 2 million jobs.

### **2.1.5 KwaZulu-Natal**

KwaZulu-Natal played host to almost one third of the 1,625 million overseas and African air arrival visitors in 1997. This amounted to approximately 474 000 visitors. Gauteng was the most visited province (63%) by foreign tourists in SATOUR's summer survey of 1998, while KwaZulu-Natal (33%) lay in third place.

KwaZulu-Natal's source markets for foreign tourists do not differ from those of the country as a whole. The UK, Germany, France, the Netherlands and the USA all feature highly.

Most of those foreign tourists who did travel to KwaZulu-Natal spent less than 7 nights in the province (KwaZulu-Natal Tourism Authority, 1998). The value of this sector of the market is estimated to be in order of R3,4 billion.

In terms of purpose of visit, the foreign tourist market in KwaZulu-Natal displays a similar profile to that detailed for South Africa in the preceding section with the exception that holiday assumes a greater importance, and business a lesser importance.

## **2.2 DOMESTIC TRAVEL**

### **2.2.1 KwaZulu-Natal**

The amount spent by domestic tourists is estimated at less than half that of their international counterparts for the same period, but the number of domestic tourists, and thus the gross receipts, are approximately double those of international tourists (WTO).

KwaZulu-Natal's domestic holiday market (1998) is based on more than one third of the 21 million leisure trips taken annually by South Africans and 26% of all "pure" holiday trips. The value of the domestic tourism market for the Province is estimated (DSI) to be in the

region of R3,4 billion for 1998. The domestic business market in KwaZulu-Natal accounts for 8% of all business trips in South Africa (DSI, 1998).

The Durban domestic tourism market accounts for 52% of all trips to KwaZulu-Natal, with an estimated value in excess of R1,8 billion. The most important source markets for domestic tourists to KwaZulu-Natal are the province itself, followed by Gauteng.

Domestic tourists enjoy shorter stays than do international tourists, largely due to the travel distance, and thus the cost, involved in international movements, with the result that overseas travellers then often spend over two weeks at their destination. Whereas foreign visitors spend almost 17 nights in the country, local tourists' holidays show a tendency to be restricted to periods of just under 5 days. In KwaZulu-Natal, the holiday patterns indicate that of people holidaying in the Drakensberg areas, 59% stay for between 4 and 7 nights and a further 31% stay for 3 nights or less. Visitors holidaying in the Natal Midlands stay for even shorter periods, with 34% staying for up to 2 nights and 25% staying for 4 to 7 nights. On average, domestic visitors spent 6,7 nights in the Midlands, 5 nights in the Drakensberg or 6 nights in Zululand.

In KwaZulu-Natal, 53% of holiday trips were for the purpose of visiting friends and relatives and a further 28% were for holiday. Also, 57% of domestic holidaymakers in the province stayed with friends or family, 5% stayed in hotels and less than 1% stayed in game or country lodges. Travel to destinations was mainly by private cars (49%) and minibus taxis (9%).

Domestic holiday makers travelled in an average group size of 5 adults, however, this was strongly influenced by several very large groups although the most frequent group size for KwaZulu-Natal was 2 adults. The average number of children in the holiday group was 1,2 although just over 70% of all holiday groups contained no children.

### **2.3 NATIONAL TOURISM POLICY**

Based on the government white paper (1996), the national government has several roles to play in the development and promotion of the tourism industry. These are:

- Facilitation and implementation
- Co-ordination
- Planning and policy making
- Regulation and monitoring, and
- Development promotion

Any investor in the South African tourism industry would be advised to take note of these points.

At a provincial level, provincial government will take on similar functions to those at the national level although there are three major thrusts which will be concentrated under the control of the provincial authorities. First, the focus is much more on the implementation and application of national principles, objectives and policy guidelines appropriate to local conditions. Second, the provinces will play an important role in facilitating and developing the local tourism product at the provincial level. Third, the responsibility for marketing and promoting tourism destinations will fall to each provincial authority. The domestic/international emphasis is not as yet determined.

At a local level, similar functions exist but there is a greater emphasis on specific aspects of the local tourism product.

### **2.3.1 South African National Tourism Organisation**

The South African Tourism Organisation, SATOUR is presently undergoing major transformation. SATOUR is a statutory parastatal body responsible for the marketing and promotion of tourism in the country. It also has offices outside the country. SATOUR functions will be:

- International marketing and promotion
- Research, market intelligence and information management
- Industry standards setting
- Product development, and
- Human resource development

Provincially, SATOUR is presently being replaced by a number of different provincial organisations, or interim tourism bodies.

### **2.4 KWAZULU-NATAL TOURISM AUTHORITY**

The provincial government has a critically important role to play in the development and promotion of the tourism industry in the province. Both provincial and private tourism bodies are currently undergoing transformation. Provincial tourism organisations are specifically provided for in the Constitution. The KwaZulu-Natal Tourism Authority is presently responsible for producing the tourism development strategy for the province under the auspices of the KwaZulu-Natal Ministry of Economic Affairs and Tourism.

The public sector has a critical role to play in the development of tourism, but the private sector also provides significant impetus to the industry. The private sector bears both the risks of investment as well as a large part of the responsibility for successful development and marketing. Specific functions of the private sector include:

- Industry investment;
- Efficient and profitable operation of tourism plant;
- Advertising and promotion of individual tourism services;
- Capacity building;
- Development and promotion of socially and environmentally responsible tourism; and
- Community participation in tourism development.

Other bodies involved in the development of the industry in KwaZulu-Natal include the Tourism Association of KwaZulu-Natal (TANK) which is concerned with the still operative promotion and marketing of the products and destinations of different areas of the Province. Tourism Durban has had as its specific task the marketing and promotion of the Durban Metropolitan Area (DMA) and had also undertaken some tourism research projects in the area. Tourism Durban promotes the DMA and, to some extent, the province, both domestically and internationally and operates a convention bureau. Tourism Durban is also presently undergoing a major transformation process, and may be absorbed into other existing bodies.

## **2.5 TOURISM INDUSTRY SECTORS**

### **2.5.1 Accommodation**

The accommodation sector is perhaps the most important sector of the tourism industry, and one which contributes significantly to the GDP. The average South African hotel occupancy rate for 1997 was 52,1% and brought in a total revenue of R4,46bn an increase of 8,3% over

the corresponding period of 1996. Average hotel occupancies in the Durban area were higher than the national average, 53%.

## **2.5.2 Transport**

The transport sector is the principal infrastructural backbone of the tourism industry. South Africa has its own national carrier - South African Airways - which carried 8,8 million passengers during the 1998 financial year, producing 11,1 million revenue passenger kilometres and R363 million operating profit. The service is complemented by over 80 other international airlines flying into the country. Durban's international airport is currently situated 15 kilometres south of the city, but will be relocating to a new site at La Mercy, 20 km north of Durban, early in the new century.

Internally, the country has 375 licensed airfields, including 74 private aerodromes and 180 approved heliports.

Surface transportation is provided by car hire companies, bus and coach lines, mini-bus taxis, and passenger train services. There are 60 car hire companies throughout the country, 25 coach charter firms and 460 tour operators. The Association of South Africa Travel Agents (ASATA) has 440 retail travel agent members and the International Airline Transport Association (IATA) has 820 registered travel agent members. Some 27% of foreign tourists to SA (over 300 000 pa) participate in organised tours.

Spoornet is the South African train service company and operates an extensive mainline service throughout the country. However, the service provided is slow, particularly in comparison with air travel, and trips are usually substantially longer than coach travel, too. Mainline passenger numbers have decreased from some 4 million in 1980 to about 2 million in 1993 due mainly to competition from inter-city coaches and reduced airfares. There has, however, been an increase in train passengers since 1993 with present users numbering in the region of 6 million, most of whom are black urban commuters. Most of the passengers are holidaymakers or people visiting friends and relatives.

Few overseas tourists use the local train services but many use special luxury theme trains such as the Blue Train which runs between Cape Town and Pretoria. The train is presently running at 70-75% occupancy despite the expensive fares which range from R2 500-R8 500 per person, one way.

Rovos Rail is the other specialist train operator running luxury train services on four main routes. It has an average occupancy of 60-70% with 80% of its passengers from overseas. The trains are a combination of steam, electric and diesel. In KwaZulu-Natal, the steam railway trips, such as those run by the Umgeni Steam Railways, are proving increasingly popular with South Africa being one of the few countries in the world still operating steam trains. A number of other short train tours exist, and new overnight or long distance tours from Durban through Zululand are being planned.

In terms of the domestic market, the transport sector earned R4 545 million during 1995. The business market used mainly cars (63%) and planes (23%) as their major means of transport. However, on the whole, the major means of transport for the domestic travel and holiday market is still the car or minibus taxi. Air or train travel remain peripheral in the domestic market. Nevertheless, Durban International Airport presently contends with some 2,2 million passengers annually.

## **2.6 HOTEL AND NON-HOTEL ACCOMMODATION**

As mentioned earlier, visitors tend to stay with friends and family wherever possible (44%), in hotels (10%) and in a variety of other accommodation types. However, there is an indication

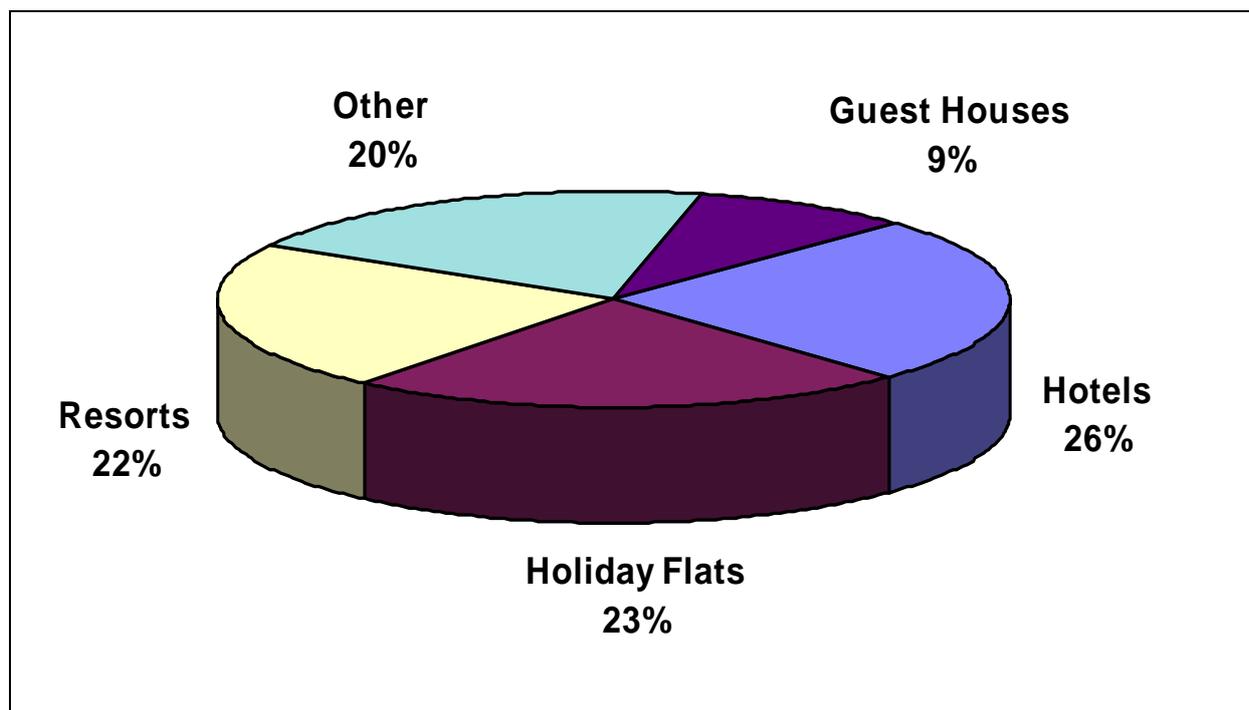
that fewer foreign tourists are staying with friends or relatives, probably due to the increasing proportion of holidaymakers and business persons (SATOUR). Stays in game lodges account for only a small percentage of the accommodation used by foreign visitors. The relatively new hostel/backpacking sector of the accommodation market is presently undergoing significant growth and already accounts for some 5% of the accommodation market. There are 8 495 tourist accommodation establishments throughout South Africa with some 609 825 beds. Camping and caravan sites are in the majority, accounting for 28% of the total, followed by hotels (25%), holiday flats and resorts (11% each), guest houses and farms (9%) and game lodges (6%).

### **2.6.1 Hotel Accommodation**

Hotel accommodation falls into two broad categories - graded and ungraded. Hotels can be graded into five divisions based on the SATOUR star grading system, from one to five stars, with five stars being the most luxurious. In Durban the occupancy rates for hotels for 1997 were: 60%. Figures for the first five months of 1997 were in the same order as a result of more hotels/rooms/capacity.

Achieved room rates in the Durban area for 1997 were R214. Graded hotels account for approximately 16% of the accommodation market with non-graded hotels a further 10%. The accommodation market can be broken down into its individual sectors as follows:

**Figure 2.1 South Africa's Accommodation Breakdown**



Accommodation was the main expense of international tourists to the province, accounting for almost 35% of local expenses (SATOUR 1996). Business visitors, who pre-pay less of their expenditure, pay more for accommodation which accounts for approximately 40% of their total expenditure. Tourists who stay with friends and relatives (28% of the international market and 40% of the domestic market) constitute the second largest group of visitors after those coming to the country purely on holiday, and spend the least on accommodation. An average international visitor spent R1 900 on a visit to South Africa in 1996. By purpose of visit, a business person spent R2 500 on accommodation, and a holiday visitor R1 800 (SATOUR).

KwaZulu-Natal captures almost one third of the overseas tourism market, or some 474 000 people (1997), who stay for an average of 12 nights. The value of this market is estimated to be in excess of R3 billion (1998).

Domestic tourists in South Africa spend an average of R259 on accommodation per trip. If the average expenditure is projected to the total market, the total value to the accommodation sector is some R3 137 million, based on 70% of the market. If this was projected further to include all trips taken, or 100% of the market, the accommodation sector benefited by a total of R4 475 million for 1994.

### **2.6.2 Non-standard Hotel Accommodation**

Non-standard hotel accommodation includes luxury country house hotels, a relative newcomer to the accommodation scene in South Africa. The luxury country house hotel market has gained significantly in popularity and there has been an increase from between 80-100 establishments in 1993-94 to around 180 in 1995-96 and well over 200 in 1998. Some 76% of their trade is with holiday visitors and the remaining 24% with business travellers. Over half of their clientele are from the international market.

Average room occupancies for luxury country house hotels were in the region of 52% for 1995, an increase of 4% on the previous year. Accommodation provides for 66% of their revenue with food and liquor making up a further 31%. The average room rate is R274, with the average achieved room rate of R252.

### **2.6.3 Timeshare**

In South Africa there are approximately 170 timeshare resorts and some 5% of the world's 3,3 million timeshare owners. Between 6 000 and 7 000 weeks remain unsold, a small proportion in relation to the 200 000 weeks sold to date. The number of exchanges has increased by 20% in 1995 to reach 110 000 & 160 000 in 1997, a 9% increase over 1996. This sector is currently in an expansion phase.

### **2.6.4 Guest Lodges**

Guest lodges are also a popular sector of the accommodation market hosting an average of 31% of the foreign market.

### **2.6.5 Bed and Breakfast**

The bed and breakfast sector is a relative newcomer to the South African accommodation market, having only come into serious existence in the mid 1980s. This sector has experienced unprecedented growth and consists presently of over 8 000 establishments with more than 4 000 rooms.

### **2.6.6 Conference, Convention and Exhibition Sector**

The conference, convention and exhibition sector is currently undergoing rapid growth. Durban's International Convention Centre, the largest in the southern hemisphere, began operating during 1997. Most hotels and many non-hotel accommodation venues offer conference facilities of some sort.

### **2.6.7 Parks Boards**

The two most important conservation agencies in South Africa are the South African National Parks Board and the KwaZulu-Natal Nature Conservation Services (KZNCS). Occupancy rates at National Parks Board facilities were in the region of 62% for 1995 with a total of 1,2 million visitors. There are a further 300 private game lodges throughout South Africa. Negotiations are presently taking place for the development of three cross-border parks: one including parts of South Africa, Zimbabwe and Botswana; and a second between Lesotho and South Africa, the Drakensberg-Maloti Peace Park, which is likely to have a positive impact on related tourism opportunities in KwaZulu-Natal and the third one is being negotiated between Mozambique and Swaziland.

## **2.7 FOOD AND BEVERAGE SECTOR**

After accommodation, the food and beverage sector provides a substantial contribution to the income of the tourism industry as a whole. Worldwide, the catering industry will be worth \$1,2 trillion by the year 2000. In 1994 the total revenue from catering in South Africa was R936 million with over 14 700 people employed. South Africa has some 6 600 restaurants and fast food outlets although the growth in the numbers of outlets is currently exceeding the growth in demand.

## **2.8 CASINOS, GAMBLING AND GAMING**

The gaming sector is a relative new-comer to the industry in South Africa, due to previously conservative legislation restricting the operation of casinos to former 'homeland' areas. However, with substantial changes in legislation regarding gaming since 1994, the operation

of legal casinos has become an accepted part of the tourism industry. Licenses of different levels have been, and are being, granted within each province. The KwaZulu-Natal Gaming Board has been established to orchestrate the granting of casino licenses for KwaZulu-Natal, and casino license submissions were called for early in 1998.

National legislation presently allows for 5 licenses in the 'A' or major category for the province of KwaZulu-Natal. Businesses have been granted for casinos at Midmar Dam, Richards Bay and Newcastle. Negotiations are still in progress for two more in the Drakensberg.

## **2.9 SPORTS TOURISM**

Since the re-entry into the world of international sports, South Africa has hosted a variety of major sporting events, as well as taken part in such events at a wide range of international destinations. The Kingsmead Cricket Ground in Durban and the Kings Park Rugby Stadium are well known and well used venues for provincial, national and international events. The Durban Beachfront also hosts the Ocean Action Festival during Easter and the Gunston 500 International surfing competition later in the year.

The province is also host to four of the country's premier endurance events, the Pietermaritzburg-Durban "Dusi" canoe marathon, the Comrades ultramarathon road race, the Mont-aux-Sources 50km Mountain Challenge, and the Midmar Mile (swimming). Pietermaritzburg is home to the Scottsville Race Course. Durban offers two horse racing tracks, Clairwood Park and Greyville (home of the July Handicap - South Africa's premier horse race).

## **2.10 ECOTOURISM**

The term ecotourism is defined in the government *White Paper on The Development and Promotion of Tourism in South Africa* as "environmentally and socially responsible travel to natural or near natural areas that promotes conservation, has low visitor impact and provides for beneficially active socio-economic involvement of local people" (1996). A popular and rapidly growing sector of the tourism market, ecotourism is of enormous significance throughout South Africa and holds a prominent position in KwaZulu-Natal. According to a SATOUR report, some entrepreneurs and conservationists believe that ecotourism "creates economic growth without smokestacks... it can turn grave robbers into tours guides, guerrillas into game rangers". It is a form of sustainable economic growth compatible with the aims of the Reconstruction and Development Project. Its importance is indicated in that between 70-90% of foreign travellers say they came to South Africa to experience its combination of landscape, climate and wildlife.

The Natal Parks Board, responsible for the management of game reserves and wilderness areas in the former Natal, and the KwaZulu-Natal Department of Nature Conservation, responsible for conservation efforts in the former KwaZulu, are undergoing a process of amalgamation. As a single new body, the KwaZulu-Natal Conservation Services will be in a stronger position to work in a holistic manner throughout the province.

The KwaZulu-Natal Conservation Services provides a broad spectrum of accommodation facilities catering for most income groups. Such facilities include camping, hutted accommodation, luxury lodges and bush camps. These facilities are scattered throughout the KwaZulu-Natal Conservation Services reserves with two dominant spatial concentrations, namely the Drakensberg and north east Zululand/St Lucia.

The annual occupancy rates vary between different accommodation facilities and different reserves. Seasonal fluctuations, marketing, popularity of locality and visitor preferences also influence occupancy rates. Therefore, an across the board annual occupancy rate does not provide a true reflection of the use of KwaZulu-Natal Conservation Service accommodation. When the accommodation is divided according to type, the picture becomes clearer and occupancy rates for 1995/1996 are:

- Camping and caravanning (R17 - R30 per person per day): 45%
- Hutted accommodation (R55 - R99 per person per day): 60%
- Luxury hutted accommodation (R100 - R180 per person per day): 85%

The tourism boom is expected to continue, generating higher occupancy rates throughout the spectrum of possible accommodation. Of interest is the high occupancy rate for luxury hutted accommodation, illustrating a high demand for that standard of accommodation which, for the KwaZulu-Natal Conservation Board, helps in sustaining rustic accommodation facilities and so providing a wide range of accommodation facilities. Such occupancy rates are also indicative of a real opportunity for further growth in this sector of the market. Given the tourism boom and an influx of overseas visitors, the demand for luxury accommodation is likely to remain.

## **2.11 CULTURAL TOURISM**

Cultural tourism is defined in the government *White Paper on The Development and Promotion of Tourism in South Africa* as “cultural aspects which are of interest to the visitor and can be marketed as such, including the customs and traditions of people, their heritage, history and way of life” (1996).

Cultural tourism is a relative newcomer to the tourism field and is undergoing significant growth throughout South Africa and within KwaZulu-Natal. KwaZulu-Natal is in a unique position in the country with regards to cultural tourism and offers a wealth of possibilities in this regard. As home to the Zulu nation and its king, as well as the location of the Battlegrounds of the Zulu and Boer Wars, the variety of cultural attractions within the province is enormous. The value of the concept of *Zululand* as a unique resource is being developed and related support industries are increasing.

As well as being home to the Zulu nation, KwaZulu-Natal provides enormous diversity in terms of culture with its unique African/Asian/European mix. The Province is home to the largest number of Indian people outside of India and Durban has the highest Indian population of any city in South Africa - almost one million people. The city was, for a time, the home of Mahatma Gandhi who influenced history in the area. Durban also has the largest mosque in the southern hemisphere, the Grey Street Mosque, whose golden domes can be seen from most parts of the city and whose *muezzin* can be heard calling the faithful to prayer five times a day. Attractions such as the Indian Market in Victoria street with its spices, curries and saries provide further flavour to the city.

The city exhibits further non-African influence with its Edwardian industrial architecture along Point Road, and a row of English Terrace houses in the area dating back to the early days of the century.

Durban offers a range of Art Galleries, Museums and Music Centres with a variety of themes - Maritime and Local History Museums; Modern, Traditional and African art galleries; traditional jazz, African jazz, symphony concerts, Indian music events and popular music concerts hosting international and local musicians.

Durban acts as gateway city to the hinterland of the KwaZulu-Natal province which offers a further range of attractions in terms of cultural tourism from the Battlefields of Blood River and the Tugela, to craft centres at Rorkes Drift and the Midlands Meander.

Over 600 kilometres of KwaZulu-Natal coast north and south of Durban offer even more in terms of culture and history. From Portuguese explorers to Indian Ocean pirates, ivory traders, shipwrecks and battlegrounds, the possibilities for cultural tourism development are endless.

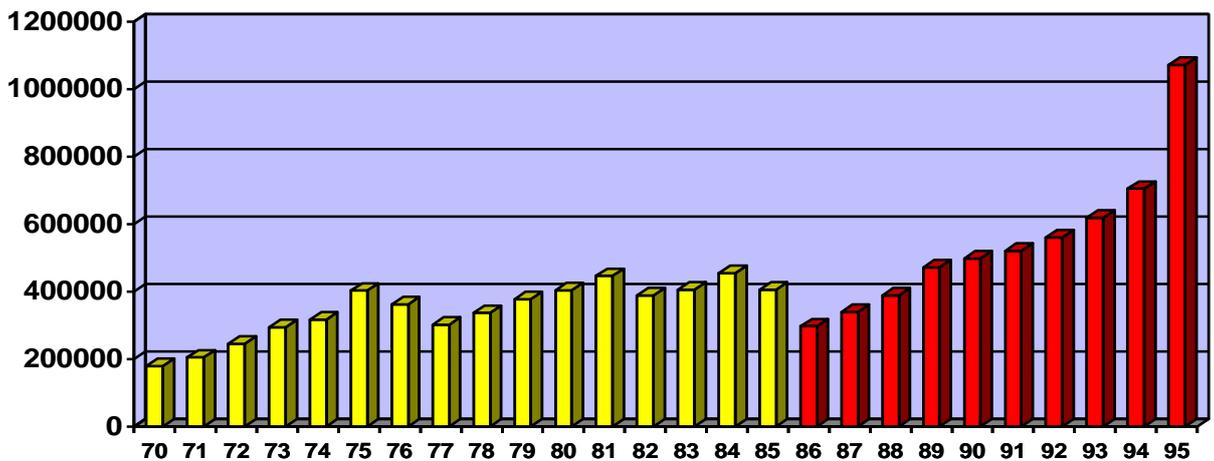
## Chapter 3: Tourism Principles and Practice

### 3.1 TOURISM DEMAND

Demand for the tourism product in South Africa as well as in KwaZulu-Natal has shown significant increases, particularly since 1994. From under 200 000 visitors in 1970, the numbers swelled to over one million overseas tourism arrivals in 1995 with even greater increases during 1996 and 1997.

**Figure 3.1 South Africa's Annual Overseas Tourist Arrivals: 1970 - 1997**

The present offerings are under substantial pressure from these increases and, for example,



bedstock is having to undergo critical growth in order to cope. This, in part, is the reason for the unprecedented growth in the bed and breakfast industry. Presently in Durban, a number of new hotels have been, and are being, built, including the five star Hilton hotel, and several feasibility studies are underway to investigate the possibility of developing yet more hotels. These are likely to fall into the 3 star conference and convention market.

Increasing demand for the tourism product is due to a variety of factors including increases in foreign arrivals, population increases within the country, and increasing disposable income and leisure time. The media have also played a part in increasing the numbers of people who have entered the tourism market.

#### 3.1.1 Demand Measurement and Analysis

Measurement of demand is calculated in several ways. The occupancy rates of the present number of tourism beds available in an area are increased according to a range of accepted growth rates to provide high, medium and low growth rate scenarios. Thus, the point at which the demand for beds exceeds their supply can be calculated. This is also done according to the star rating of beds available so that the demand of a particular level of supply might be calculated.

**Analysis** An analysis of tourism demand should take into account the volatile nature of tourism, particularly international tourism. Such tourists are quick to abandon a formerly popular destination because of threats to health or security - a lesson important to the South African, and specifically the KwaZulu-Natal industry (Lea, 1993). Trends in tourism, including tourism destinations, include changing demands for the type of tourism product required. As tourists become more sophisticated their requirements develop and change, as can be noted by the increasing numbers of people involved in adventure tourism and in specialised tourism throughout the world.

### **3.1.2 Demographic Influences**

Demographic influences on the supply of the tourism product are also critical. South Africa has a notably high annual population growth rate of 2,68% and this is increasing pressure on the tourism product of the country and of KwaZulu-Natal in particular.

### **3.1.3 Economic Influences**

Changes in the economic environment on a global scale affects not only the numbers of people involved in the tourism industry, but also the type and duration of the holidays they take. With the present economic situation prevailing in South Africa, the reduced cost of the Rand makes the country an attractive and relatively low-cost destination option for many international travellers. However, the effect is not the same for the domestic holidaymaker, the larger proportion of the market.

Salaries and wages throughout South Africa have increased substantially over the past decade such that disposable income, that money available for spending after all necessities have been paid for, has increased, or for many, become available for the first time. That, coupled with the increase in leisure time available to many - paid leave etc. - have encouraged an enormous sector of the previously non-engaged market to begin to take part in the industry. Access to the media, also a widely increasing phenomenon, has encouraged a consideration of travel and holidays amongst this sector of the domestic population.

### **3.1.4 Travel Propensity**

The propensity for people to travel is influenced by a number of factors amongst the most important of which are economic climate, availability of travel options, access to information regarding travel options and destinations, and education regarding benefits of such travel. Sophisticated promotion of the tourism product can create a demand which did not previously exist. In part this involves the marketing of packaged tours but tourism promotion also means creating the image of a destination in the mind of the potential traveller.

In countries where there exists a high percentage of domestic travellers within the population, there also exist high and rising incomes, increased leisure time, good education and new and cheaper forms of transport. Such well-developed countries are usually also the suppliers of travellers to less developed countries.

The decision to travel goes through five sequential phases:

- 1) Travel desire: the initial period when a need to travel is felt and when the pros and cons are weighed up.
- 2) Information collection and evaluation: involves the process of finding out about the trip from travel agents, books, and acquaintances. Information is evaluated against cost and time constraints, alternative possibilities and other factors.
- 3) Travel decisions: covers the destination, way of travelling, accommodation, and activities involved.
- 4) Travel preparations and experience: involves tickets, bookings, travel money and documents, clothing and travel itself.
- 5) Travel satisfaction evaluation: the whole experience is constantly evaluated before, during and after completion and the results used to influence future decisions.

Opportunities to influence decision-making in destination countries are limited although an ability to do this could greatly increase tourist traffic.

## **SUPPLY DYNAMICS**

### **3.2.1 Sustainable Tourism**

In view of the importance of ecotourism and the role this sector plays in the industry, the sustainability of associated resources is paramount. New legislation (see Chapter 7) promotes the necessity of Environmental Impact Assessments for any new tourism development project. It is believed that negative impacts from tourism on surrounding communities begin to be felt when over 30% of receipts from local business originate from tourists.

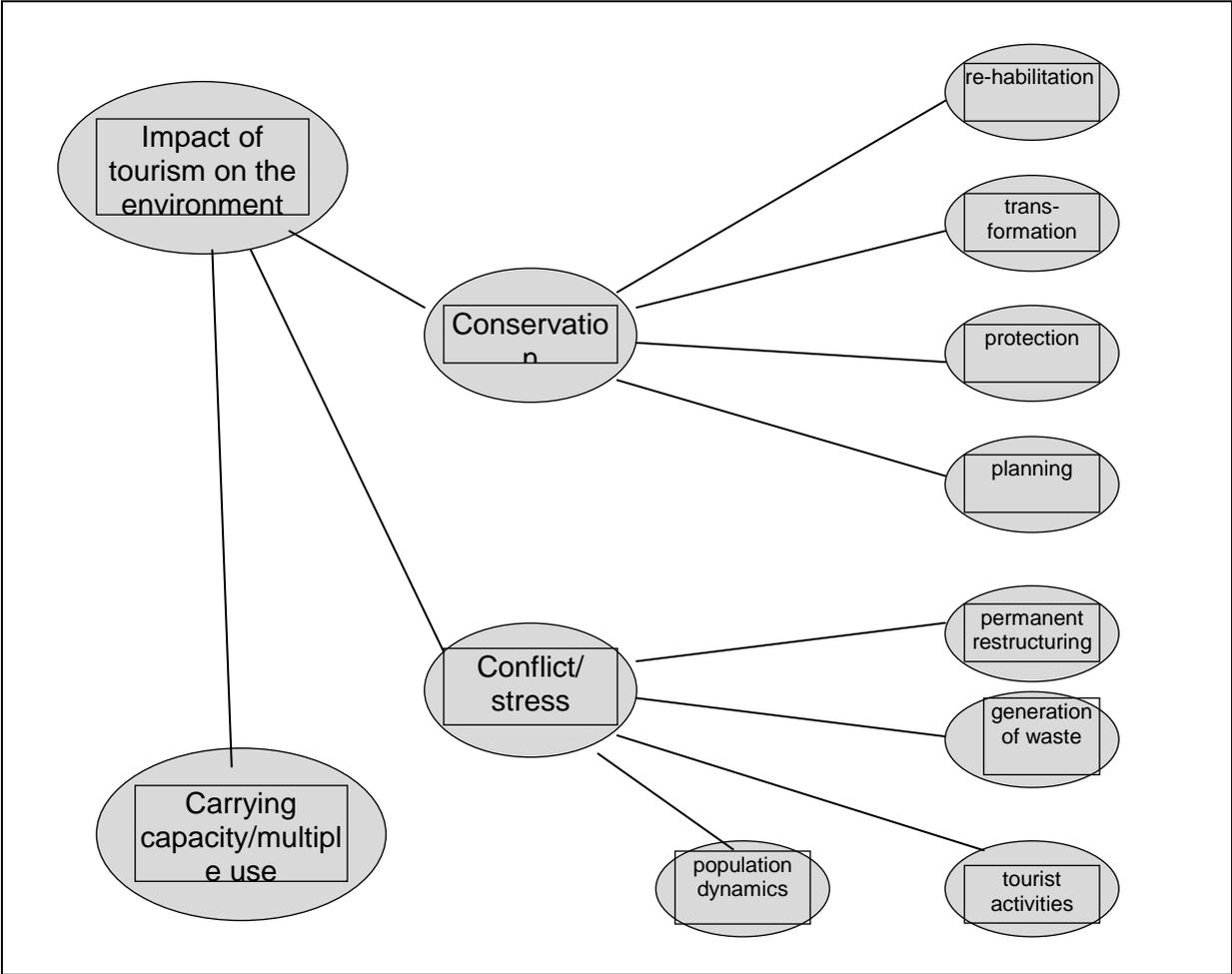
### **3.2.2 Carrying Capacity**

The capacity for any area to absorb tourists without negative effects on the host area varies according to a multiplicity of factors. Environmentally sensitive areas and wilderness areas have a lower carrying capacity than do urban areas.

### **3.2.3 Environmental Impacts**

The tourism industry has a range of effects on the environment as illustrated below:

**Figure 3.2 Tourism and the Environment**



In order that the negative effects of tourism developments on the environment are kept to a minimum, Environmental Impact Assessments must be carried out on any large, new projects, and constant monitoring of environmental and other effects must be conducted.

**3.2.4 Socio-Cultural and Economic Impacts**

The economic impacts of the tourism industry tend to be positive in the locations where development is taking place. However, the same cannot be said, on the whole, for socio-cultural impacts with the one often occurring at the expense of the other.

## **Chapter 4: Tourism Business Environment**

Several points underlie the positive nature of the tourism industry in South Africa and in KwaZulu-Natal in particular:

- Full international recognition offers opportunities for growth
- Stimulatory government policies encourage industry development
- Developed legal system allows for flexibility in choice of business entity within the industry

### **4.1 CLIMATE OF THE INDUSTRY**

During the 1980s South Africa was subjected to international economic sanctions due to its political policies. This severely restricted foreign investment in the country and economic growth was hampered severely as a direct consequence of these restrictions.

Since 1994, however, and the election of a fully representative government, South Africa has gained full international recognition with the result that it is now able to trade freely with the world and receive foreign investment. Rapid and sustained growth in GDP and in per capita income appear to be a reality. Such growth would lead to the development of stronger local markets and a stronger local tourism industry. Limiting factors are the shortage of development capital and both the perception and reality of the prevailing high crime rate.

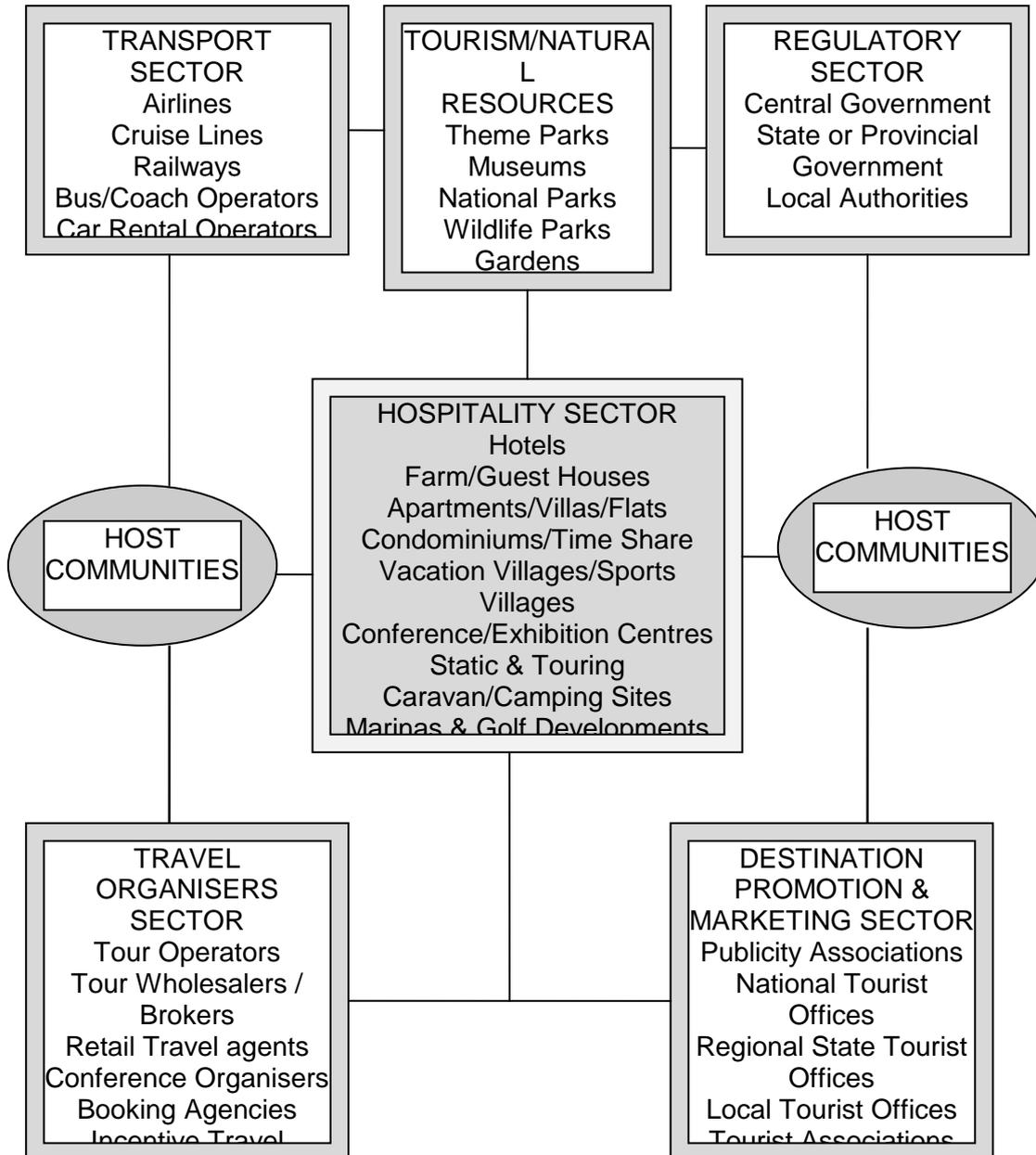
South Africa has a sophisticated, modern economy based primarily on primary and secondary industry, but the service sector is growing rapidly. Industrial development has centred around the largest cities, mainly Johannesburg, Durban and Cape Town. Besides the efficient and well developed infrastructure allowing rapid communication and transport, the financial and commercial sectors are also well developed. Professional services such as banking, accounting, financial and legal services are highly sophisticated and on par with those on offer in other parts of the developed world. Free enterprise has increased in recent years due to the conversion of several large state-controlled corporations to fully corporate organisations. These include the South African Coal Oil and Gas Corporation (SASOL) and the Iron and Steel Corporation (ISCOR). Privatisation of certain state-controlled corporations is set to continue.

### **4.2 FRAMEWORK OF THE TOURISM INDUSTRY**

Manufacturing, mining and major service industries are dominated by public listed corporations, although closely held companies and family enterprises are also common. The tourism industry is largely dominated by private organisations and a few public listed companies such as Kersaf and Leisurenat. Within each sector certain companies hold significant interests.

The tourism industry can be usefully divided into the following sectors:

**Figure 3.3 TOURISM STAKEHOLDERS**



Each of these sectors has its major role players. The accommodation sector is dominated by several large chains of hotels. These include Protea Hotels, Holiday Inn, Karos and City Lodge. Outside of the company-owned hotels, a plethora of privately owned hotels and other types of accommodation - bed and breakfasts, guest houses, holiday homes - exist, and the number grows daily.

The National Parks Board and the KwaZulu Department of Nature Conservation now combined into the Conservation Services offers considerable amounts of accommodation, in terms of both and variety of types and of bed numbers. The privately-run Conservation Corporation Africa also plays an important role in the accommodation sector.

In the transport sector, the car hire firms are dominated by several large chains - Budget, Imperial, Hertz, Avis - but there are over 30 other car hire firms. Coach transport companies

include Greyhound, Springbok-Atlas, Intercity Coaches and there are also many privately owned fleets. There are also firms which hire out combi-campers, 4x4 vehicles, caravans, mobile homes and other specialised vehicles.

Besides the national carrier, South African Airways, and the array of smaller local airlines, most airports hire out small planes and helicopters.

There is no national cruise line although South Africa does act as an agent for several lines. Smaller craft are available for hire in most of the harbours.

In the food and beverage sector, catering companies such as Kagiso, Kulani and Leisurenent represent the larger firms. Many smaller, privately concerns also exist profitably.

### **4.3 GOVERNMENT POLICY AND THE RDP**

The Reconstruction and Development Programme (RDP) is mentioned briefly in Chapter 2. As regards the tourism industry the government's standpoint is that a process of reconstruction and development must take place in view of the distortions created by apartheid. In this process of restructuring the industry a vast potential could be realised, both in terms of the local mass market, and in terms increased foreign exchange. The result would be the creation of a large number of jobs in both tourism and allied industries. For this to occur, sound planning is needed, based on thorough research and consultation.

The promotion of ecotourism and of South Africa's cultural and political heritage is a priority. There is an emphasis on community involvement and partnerships with emerging black firms in the industry. Tourism is required to be integrated into provincial and local-level development programmes. As tourism could be a major industry, it should receive greater priority, and support, at national and provincial levels (The RDP, 1994).

Government policy is directed towards stimulating economic growth, particularly in rural areas, so as to absorb the rapidly growing population, reduce the black/white wage gap, and contain inflation. Despite previously high inflation rates, a present rate of between 10% and 11% is forecast.

The government encourages foreign investment, actively identifying international business possibilities. The form of such foreign investment is largely unrestricted.

#### **4.3.1 Labour-Management Relations**

Although there is an abundant supply of unskilled and semi-skilled labour, skilled and managerial personnel are in short supply in all areas and sectors of the industry. Staff training and service skills development remain high on the list of priorities for the tourism industry.

#### **4.3.2 Incentives**

In line with government policy regarding foreign investment, some development assistance incentives exist to attract international investors. Tax incentives include:

- Tax write-offs in the form of annual depreciation allowances
- Exported goods are zero-rated in terms of value-added tax (VAT) and a full input credit is granted on the acquisition of capital and intermediate goods
- Income tax for companies as well as individuals is only imposed on South African income sources. Remuneration for services abroad or income generated outside the country are exempt from South African tax.

Regional and local incentives also exist, mainly in the form of tax-free cash payments, and only in certain circumstances. These include establishment grants, output incentives and relocation grants of up to R1 million.

Incentives are also offered to new small businesses - small, medium and micro enterprises (SMMEs) and help is frequently obtained from the Small Business Development Corporation (SBDC).

#### **4.4 TAXATION**

- A comprehensive system of direct and indirect taxation is in place
- Company income tax on net income at 35%
- Secondary tax of 12,5% imposed on companies distributing dividends
- No tax on capital gains
- Value-added tax system in operation - 14%

##### **4.4.1 Income Tax - Companies**

###### 4.4.1.1 Companies and Shareholders

Corporate taxable income is subject to normal tax in the hands of the company without any deduction for dividends declared or distributed. Companies are liable to a secondary tax on dividends distributed. Dividends received are exempt from tax. Dividends distributed to shareholders with a foreign address are not subject to withholding tax.

###### 4.4.1.2 Taxable Entities

The corporate tax system applies to all associations (other than partnerships), corporations and companies incorporated in South Africa and to similar bodies incorporated outside South Africa that carry on business or have an office or place of business in South Africa and derive income from any source within or deemed to be within South Africa.

###### 4.4.1.3 Source of Income

Under the definition of gross income, only items of income that arise from a source within or deemed to be within South Africa are taxable.

Actual or real source is a concept that has been developed in court decisions. It has been held to refer to the originating cause of the income which has to be identified at a separate enquiry before determining its geographical location. Deemed sources are listed in the Income tax Act.

###### 4.4.1.4 Gross Income

Gross income is defined as the total amount, in cash or otherwise, received by or accrued to any person (including a company) from a source within or deemed to be within South Africa, excluding items of a capital nature but including certain specified items, whether they are of a capital nature or not.

###### 4.4.1.5 Non-taxable Income

Exempt income includes the following:

- Dividends
- Income from certain specified investments

- Interest receivable provided the investor in a non-resident company or individual that does not carry on business in South Africa and, in the case of an individual, is absent from South Africa for 183 days during the year of assessment.
- The proceeds of the sale of gold bullion or shares acquired with external funds by arrangement with the Treasury where a guarantee of exemption from tax has been provided with the approval of the Minister of Finance.
- Regional industrial development incentives.

#### 4.4.1.6 Deductions

#### 4.4.1.7 Tax Rates

Rates of tax are fixed annually for years of assessment ending during the twelve months to March 31 of the following year. The present rates of tax are as follows:

- For companies other than mining and insurance companies - 35%
- Secondary tax on the net amount of dividends distributed - 12,5%

Tax rates for branches of foreign companies are as follows:

- Normal tax on branch income - 40%
- Secondary tax on dividends declared on or after 13 March 1966 - no tax is payable

#### 4.4.1.8 Tax Credits

Where income that is deemed to arise from a source within South Africa has been subject to a foreign tax, a credit will be available to the lesser of the foreign tax payable or the South African tax liability attributable to the income in question.

#### 4.4.1.9 Consolidation

Group tax returns are not acceptable, and group tax relief allowances are not available.

### **4.4.2 Income Tax - Individuals**

#### 4.4.2.1 Territoriality and Residence

Individuals are subject to tax in respect of income arising from sources within or deemed to be within South Africa, and are entitled to claim any permissible deductions in calculating taxable income and any rebates (personal credits) in determining the amount of tax payable.

#### 4.4.2.2 Taxation of Spouses

There is a separate taxation of spouses, which is a departure from the earlier joint taxation system. Income earned by a woman independently of her husband is taxed separately.

#### 4.4.2.3 Gross Income

As in the case of companies, gross income includes all amounts not of a capital nature from sources within or deemed to be within South Africa during a year of assessment.

#### 4.4.2.4 Double Tax Relief

Individuals qualify for a credit for double tax on the same conditions as companies.

#### 4.4.2.5 Tax Rates

Tax rates and personal allowances are generally announced in the annual budget speech in March and apply for the period from March 1 to the end of February the following year. The current top marginal rate is 45%, payable on an annual taxable income of R100 000

### **4.4.3 Other Taxes - Individuals**

#### **4.4.3.1 Wealth Tax**

There is no wealth tax.

#### **4.4.3.2 Donations (Gift) Tax**

Donations tax at a flat rate of 25% is payable on all taxable donations made from March 14, 1996. Important exemptions include the following:

1. Donations between spouses.
2. Donations under and in pursuance of a trust.
3. Donations of a charitable, educational or religious nature or to any institution for the advancement of art or science.
4. Donations of certain property situated outside South Africa, usually where the property has been acquired from a source outside South Africa.
5. Donations which do not exceed an aggregate value of R25 000 per year.

#### **4.4.3.3 Estate Duty (Inheritance tax)**

Under the current law, estate duty is payable at a flat rate of 25% on the taxable value of the estate of any person dying on or after March 16, 1988. A basic deduction of the first R1 000 000 of the taxable value of the estate is allowed.

Persons who were not ordinarily resident in South Africa at the date of death are only subject to estate duty on property within South Africa.

### **4.4.4 Tax Treaties**

South Africa's tax treaties can be divided into two categories:

- those that are comprehensive and deal with all taxes on income; and
- those limited to income arising from the business of sea and air transport.

The latter category generally determines that each contracting state may not tax residents of the other state on such income. As it concludes trade arrangements with a greater number of nations, the country's net of tax treaties is broadening.

#### **4.4.4.1 Relationship to Domestic Law**

Treaties are specifically incorporated in the Income Tax Act. A treaty may not authorise any additional tax. It may only provide relief from South African tax. A treaty will only retain its legal effect as long as it is being honoured by the other country.

#### **4.4.4.2 Withholding Taxes**

Withholding taxes are levied on royalties.

In respect of dividends, withholding tax does not apply with effect from October 1, 1995. In respect of royalties, the obligation of the payer to withhold tax may be relieved by the Commissioner if he is satisfied that arrangements have been made to pay any tax due thereon by other means.

#### **4.4.4.3 Permanent Establishment**

A permanent establishment is usually defined, on the lines of the OECD model treaty, as a fixed place at, or through, which business is carried on. The definition is expanded by specific inclusions and exclusions.

#### 4.4.4.4 Personal Services

In the absence of a tax treaty, all income earned for personal services performed in South Africa is attributable to a South African source and subject to tax.

The treatment of personal service income in the treaties varies. Some have a 183-day rule, others provide for taxation in the country where the services are performed, irrespective of the country of residence.

#### 4.4.4.5 Elimination of Double Taxation

As a result of the source principle, income arising outside South Africa is not taxable unless it is caught by one of the deemed-source provisions.

#### 4.4.4.6 Anti-abuse Provisions

There are no specific anti-abuse provisions apart from the normal provision limiting treaty protection where interest payable between related parties is fixed at an excessive rate, and the provision enabling either state to readjust the profits of related enterprises or persons where conditions affecting their commercial or financial dealings differ from those which would apply in an arm's-length relationship.

#### 4.4.4.7 Exchange of Information

Most treaties provide for the exchange of information as far as is necessary to carry out the provisions of the treaty and to prevent the avoidance of tax.

### 4.4.5 Indirect Taxes

#### 4.4.5.1 Value-added Tax

Value added tax is a tax on the value added by each registered vendor in the production/distribution chain and is imposed each time a taxable supply of goods or services takes place. The VAT legislation requires each registered vendor in the production/distribution chain to account for VAT on the value added by him.

VAT is a multi-stage tax that avoids tax cascading. VAT is payable each time a taxable supply takes place, and registered vendors are therefore required to bear VAT on purchases of goods or services from other registered vendors.

However, the VAT paid by a registered vendor is recoverable from Revenue as an input tax. The VAT to be accounted for by the supplier on taxable sales made by him is referred to in the Act as an output tax. The Act provides that a vendor is entitled to deduct from the sum of the amounts of output tax for which he is liable to Revenue in relation to a specified tax period, the sum of the amounts of input tax incurred by him during the same tax period.

The excess of input tax paid by a vendor over output tax or a specified period is recoverable from the Revenue authorities. The net effect of this is that registered vendors do not in fact bear any VAT unless they make exempt supplies or are denied input tax incurred.

#### 4.4.5.2 Stamp and Transfer Taxes

##### 4.4.5.2.1 Stamp Tax

Most legal documents and agreements executed in South Africa are subject to stamp duty.

##### 4.4.5.2.2 Transfer Tax

Transfers of immovable property are subject to transfer tax administered by the Commissioner for Inland Revenue. It should be noted that transfers to a company or a trust attract tax at the rate of 10%, whereas transfers to a natural person attract tax at a maximum rate of 8% on values in excess of R250 000.

#### 4.4.5.3 Excise Tax

Excise taxes are levied on a limited range of locally manufactured goods, such as alcoholic beverages, tobacco products, office machines, computer equipment, etc.

#### 4.4.5.4 Regional Council Levies

There are two services levies:

- A regional establishment levy based on turnover, the rate of which is usually between 0,10% and 0,15%.
- regional services levy based on payroll and, in the cases of partnerships or sole traders, on drawings. The rate is usually between 0,25% and 0,35%.

Both levies are a deductible expense for purposes of income tax.

#### 4.4.5.5 Property Taxes

Municipalities and other local authorities assess rates (real estate tax) on owners (but not occupiers) based on the rateable value of land and/or buildings. Rates are levied on all properties, including undeveloped and unoccupied land and buildings as well as agricultural properties.

#### 4.4.5.6 Wealth Tax, Net Assets Tax

South Africa does not currently levy such taxes.

#### 4.4.5.7 Vehicle Tax

An annual vehicle licensing fee is payable to the municipality or local authority in which the vehicle is registered. The amount payable depends on the particular local authority and on the class of vehicle.

#### 4.4.5.8 Other Levies

Various other levies exist, portions of which are retained within the province. There is a tourism bed levy, a hotel levy and, shortly to be finalised, a casino levy.

## **Chapter 5: Foreign Investment**

### **5.1 GOVERNMENT ATTITUDE TOWARDS FOREIGN INVESTMENT**

Although foreign investment is encouraged, currency flows are subject to exchange controls. It is government policy to offer encouragement to foreign companies wanting to establish branches in the country. Growth in the South African economy was slow during the 1980s and this factor, as well as subsequent restraints on the economy encourage South Africa to consider foreign investment as a significant means to increase economic growth and stability.

#### **5.1.1 Restrictions on Foreign Investment and Investors**

Exchange control exists as a measure to protect South African currency. The Exchange Control Act and Treasury regulations define the range of transactions that may take place in South Africa or may be carried out with the permission of the Treasury by residents of South Africa. These regulations are broadly stated and are managed by the exercise of discretionary powers. The Treasury has delegated authority to deal with most exchange control matters to the Reserve Bank which, in turn, has delegated authority to the commercial banks as the authorised dealers. Applications to the Reserve Bank involving matters outside the authority given to the commercial banks must still be made through the applicant's bankers. The Reserve Bank adjusts its controls according to the prevailing economic situation.

#### **5.1.2 Restrictions on Foreign Ownership**

There are no real restrictions on foreign ownership.

### **5.2 EXCHANGE CONTROLS**

#### **5.2.1 Inward Investment**

No prior exchange control approval is generally required for the transfer of funds to South Africa.

#### **5.2.2 Registration of Foreign Capital**

##### **5.2.2.1 Capital**

No exchange control permission is required for the inward transfer of equity share capital.

##### **5.2.2.2 Foreign Loans**

The policy is to require a minimum debt to equity ratio of 3:1. Loans should usually be fixed for a minimum period of 6 months. Foreign loans that are not for property development, consumer credit or speculative purposes will be considered by the authorities. Repatriation is subject to submission of an application prior to repayment.

##### **5.2.2.3 Local Borrowings**

The Exchange Control regulations provide that when 50% or more of the voting stock, capital or earnings of a local company is held or controlled, directly or indirectly, by a non-resident, a local loan may not be made or credit granted to the company without the prior approval of the South African Exchange Control. The exchange control regulations limit the local borrowings of such companies in terms of a formula related to the funds invested in the

company by the respective shareholders. The commercial banks monitor and report on compliance with the formula.

The formula is stated as follows:

Maximum local borrowings = A x B, where:

A = (100%+(South African Participation x 100%)) | Non-resident Participation; and

B = Aggregate of share capital, share premium, retained reserves and shareholders' loans in proportion to equity

#### 5.2.2.4 Other Types of Non-Resident Investment

Funds may be remitted to and from South Africa.

#### 5.2.2.5 Technology Agreements

Royalty and technology agreements require the prior approval of the Exchange Control. Once approved, royalty payments and technical service fees are freely transferable.

### 5.2.3 Repatriation of Capital and Earnings

#### 5.2.3.1 Dividends and Branch Profits

There is no restriction on the transfer of dividends or profits of local branches of foreign parents, provided such transfers are made out of trading profits and are financed from available cash funds without resorting to excessive local borrowings.

#### 5.2.3.2 Interest, Royalties and Service Fees

Interest payments are freely transferable, provided the rate is reasonable with regard to the nature of the loan, current interest rates and past practices. Payment of service fees by wholly owned subsidiaries to their foreign parents comes under particularly close scrutiny as the Exchange Control prefers to see foreign investors withdrawing their profits from South Africa in the form of dividends.

#### 5.2.3.3 Imports and Exports

Some imports are subject to permit but most goods may be imported without restriction. Export licenses are required only for strategic goods, some foodstuffs and a few other categories. For all exports, the necessary forms and documentary evidence must be filed with Customs and with the exporter's bank. The proceeds from exports must be remitted to South Africa within six months of the date of export.

## **Chapter 6: Labour Relations**

### **6.1 LABOUR RELATIONS**

Points of note regarding the labour situation in South Africa are:

- There is an abundant supply of unskilled labour
- South Africa currently has a shortage of skilled labour
- There is an active and highly politicised trade union movement
- No comprehensive social security scheme exists at present
- Most retirement benefits are provided through self-administered funds
- There are no restrictions on the number of foreign personnel employed

### 6.1.1 Availability of Labour

South Africa presently has a population of some 44 million people of whom approximately 33% are economically active. In KwaZulu-Natal about 30% of the Province's 8,7 million people are economically active.

### 6.1.2 Categories of Employment

**Table 6.1 National And Provincial Categories Of Employment**

<b>CATEGORY</b>	<b>South Africa %</b>	<b>KwaZulu-Natal %</b>
<b>Agriculture, forestry, fishing</b>	3,2	2,8
<b>Mining, quarrying</b>	2,2	0,4
<b>Manufacturing</b>	4,1	4,3
<b>Electricity, gas, water</b>	0,3	0,2
<b>Construction</b>	1,5	1,2
<b>Wholesale, retail, catering, accommodation</b>	3,9	3,5
<b>Transport, communication</b>	1,4	1,4
<b>Finance, insurance, real estate, business services</b>	1,4	1,1
<b>Community, social, personal services</b>	7,5	6,4
<b>Not adequately defined</b>	7,6	9,0
<b>TOTAL ECONOMICALLY ACTIVE</b>	<b>33,1</b>	<b>30,3</b>

### 6.1.3 Skills Profile

There is practically no unemployment in South Africa's skilled labour force. Unskilled labour is freely available in both the non-metropolitan industrial areas and in urban industrial zones, but there is a severe shortage of housing. This issue remains inadequately dealt with despite the attempts of the RDP to increase the number of houses substantially. As there is currently a skilled worker shortage, prospective investors should be aware of the potential work force when surveying the labour market for the particular skills they will require.

The skills profile is illustrated in the table below.

**Table 6.2 National and Provincial Skills Profile**

<b>SKILLS PROFILE</b>	<b>SA%</b>	<b>KZN%</b>
Professional, semi-professional, technical	2,2	2,2
Managerial, executive, administrative	0,5	0,7
Clerical, sales	4,8	3,9
Transport, delivery, communications	1,1	1,4
Service	5,3	4,6
Farming and related occupations	3,2	2,7
Artisan, apprentice, related occupations	2,2	2,0
Production supervisor, miner, quarry and related work	7,4	5,6
Occupation unspecified	6,4	7,2
<b>TOTAL</b>	<b>33,1</b>	<b>30,3</b>

#### **6.1.4 Employee Training Programmes**

Education and industrial training facilities are being expanded. For training in the catering and accommodation sectors of the industry, courses are available at a variety of tertiary institutions. The ML Sultan Technikon, for example, has a Hotelier and Caterer course, while the University of Natal, Durban campus, is presently instituting degree courses in tourism. The Pietermaritzburg campus of the University already has several under and post-graduate courses in tourism within the Geography Department. Several local colleges, such as Damelin, have available courses on Travel and Tourism, aimed for the most part at tour operators.

#### **6.2 LABOUR LEGISLATION**

The new Labour Relations Act aims to establish the fundamental environmental regulating the relationship between employers and labour.

KwaZulu-Natal has comprehensive legislation relating to the environmental, training and social security conditions of employment. A summary of the principal enactments is provided below:

1. **Basic Conditions of Employment Act:** Sets out all conditions of employment, except for the hours and days on which shops may be open, which fall within the jurisdiction of the provincial administration.
2. **Machinery and Occupational Safety Act:** Provides for the registration of factories, the regulation of hours and the health and conditions of work, as well as the supervision and use of machinery including precautions against accidents.
3. **Apprenticeship Act:** Provides for the registration, training and employment of persons in certain trades that require a high degree of skill, and the protection of minors in certain trades.
4. **Wage Act:** Provides for the establishment of wage boards to lay down conditions of employment in fields not covered by the above-mentioned Acts.
5. **Labour Relations Act:** This is the major Act governing labour relations and it has essentially two purposes: the establishment of collective bargaining machinery for employers and employees, and the orderly resolution of disputes. Provision is made for collective bargaining with registered trade unions at industry level through the voluntary establishment of industrial councils. Registered employer and employee bodies are equally represented on industrial councils, which provide a platform for industrial self-government through collective bargaining regarding wages and conditions of employment. Agreement once reached is published in the Government Gazette and as such has statutory force and is binding on all parties.

### 6.3 TRADE UNIONS

There is an active and growing trade union movement in South Africa, but only in national terms. The estimated number of trade union members was 2,9 million in 1996, belonging to some 300 unions with more than a dozen federations. The most powerful at present is the Congress of South African Trade Unions (COSATU) which has 1,3 million members. However, in industrial terms, membership has been falling since the early 1990s. Increasing membership has been the case in the public sector. Likewise, the number of days lost to strike action has dropped over the years, with the emphasis moving from the private to the public sector.

### 6.4 PROFIT SHARING

There are few profit-sharing schemes in operation in South Africa except for those for top executives, and these schemes vary considerably.

### 6.5 WORKING CONDITIONS

Minimum wage rates are laid down for certain industries and occupations in terms of industrial council agreements or other labour legislation. Wages and salaries in the more densely industrialised areas are generally higher than the minimum rates and higher than the rates in less densely industrialised areas. Salaries in the greater Johannesburg area, for example, are generally some 9% higher than those in the Durban or Cape Town regions.

#### 6.5.1 Wages and Salaries

Wages and salaries in the tourism industry can be divided according to category of work. The average weekly wages of hourly paid workers excluding overtime are presently:

- Skilled/qualified tradesmen: R800 - 1 200
- Semi-skilled workers: R300 - 700
- Unskilled workers: R250 - 400

Experienced clerical and administrative workers in the Durban City area, monthly salaries:

- Clerks R 1 700 - 3 000
- Private secretaries R 2 500 - 3 500
- Chartered accountants R 10 000 - 12 000

Certain employers also pay employees an annual bonus, usually between 4% and 10% of the annual salary or wage earned.

More specifically, salaries within the tourism industry, according to hotel star gradings, in the Durban area are categorised as follows:

**Table 6.3 Annual salaries of senior hotel and catering staff in Durban**

	Gen.Man.	F&B Man.	FrontMan	HeadChef	SousChef	Rest.Man
<b>1 Star Hotels</b>	R35-40 000	R20-25 000	R20-25 000	R25-30 000	R12-16 000	R15-20 000
<b>3 Star Hotels</b>	R50-80 000	R32-45 000	R25-40 000	R45-65 000	R32-45 000	R25-40 000
<b>5 Star Hotels</b>	R74-120 000	R45-60 000	R40-55 000	R57-110 000	R35-50 000	R30-50 000

Source: Fast Food and family Restaurant, Restaurant guild

Waiters in such hotels earn in the region of R700-R1200 per month plus tips.

Restaurants in the Durban area show a similar picture with regard to salaries:

**Table 6.4 Salaries and wages paid to restaurant staff in Durban**

	<b>Manager p.a.</b>	<b>Head Chef/Cook p.a.</b>	<b>Waiter p.m.</b>
<b>A la Carte</b>	R26-45 000	R28-40 000	R600-700 + tips
<b>Family Restaurants</b>	R20-35 000	R10-15 000	R700-900 + tips

Source: Fast Food and family Restaurant, Restaurant guild

Waiting staff take-home salaries are typically three times higher than the amounts expressed in the table above when gratuities are included.

Of note here are the low levels of education amongst restaurant staff with only some 5% having hotel school or technikon training, 1% having university education and an average of 42% having a matric. Over half the staff (52%) in restaurants, pubs and quick service outlets throughout the country have less than a matric level of education (Fast Food & Family Restaurant).

### **6.5.2 Fringe Benefits**

In many cases workers in the tourism industry receive benefits as well as their salaries. Such benefits take the form of meals provided while at work, uniforms, transport, and in some cases, staff housing. These benefits are in addition to pension, medical aid and unemployment insurance.

### **6.5.3 Hours Worked**

The number of working hours varies, but the average working week is 42 hours in industry and 38 hours in commerce. Workers usually receive a shift allowance if they are required to work shifts that differ from normal working hours. Maximum working hours are laid down by labour legislation.

### **6.5.4 Paid Holidays and Vacations**

South Africa has 13 official public holidays. Also, an annual paid vacation of at least two weeks must be granted to employees, although the norm is three weeks.

### **6.5.5 Termination of Employment**

Employers and employees wishing to terminate employment must give notice of their intention to do so, although the time periods for such termination vary with both position and company. On termination of employment employees are entitled to payment in cash for any vacation earned but not taken. Under the new Labour Relations Act severance pay is compulsory in certain circumstances.

## **6.6 SOCIAL SECURITY**

South Africa presently has no comprehensive social security scheme. Workmen's Compensation and Unemployment insurance contributions are payable in respect of certain categories of employees.

### **6.6.1 Pensions**

The government provides minimal pensions to retired persons, subject to a means test. Most businesses in South Africa provide pension benefits for their employees through either self-administered pension funds or through schemes administered by insurance companies.

Membership of a pension scheme is frequently a condition of employment and contributions are generally shared between the employer and the employee with the employee's contribution equal to approximately 5% of his gross salary. All pension schemes are subject to government control through the Pension Act.

### **6.6.2 Unemployment**

Unemployment insurance for lower-paid employees is provided by the state-controlled Unemployment Insurance Fund, which is funded by government grants and a compulsory contribution by employers and employees. Contributions are payable only in respect of permanent employees earning less than R40 248 per annum. Contributions are 0,9% of basic earnings from employer and employee.

### **6.6.3 Health and Medical Care**

Medical and health insurance coverage is provided by most employers for all employees. Coverage is either through non-contributory insurance schemes or more often through membership in non-profit medical aid societies to which both employer and employee contribute equally on a sliding scale, depending on the employee's income and number of dependants.

### **6.6.4 Sickness Benefits**

The employer is liable under the various Acts governing labour conditions to grant an employee full pay should illness result in the employee being unable to work. The maximum number of days for which such benefits must be given is usually limited to 10 working days per annum.

## **6.7 FOREIGN PERSONNEL**

Foreigners seeking employment in South Africa should visit the South African Embassy or Consulate-General in their own country as all applications must be submitted from outside South Africa. Additional information can be obtained from the Department of Home Affairs, Private Bag X54311, Durban, 4000.

### **6.7.1 Work and Residence Permits**

Foreigners need to obtain a temporary work permit or a permanent residence permit to work in South Africa. If an employee expects to work for a period of more than six months, it is advisable that he apply for permanent residence, although temporary permits can be extended for four further periods of six months each.

The temporary resident, permanent resident or his employer will be required to provide the cash equivalent or a bank guarantee equal to the cost of a two-way air ticket to his homeland for repatriation purposes. The funds are refundable on departure from South Africa.

If a temporary resident is unable to pay his costs of repatriation, the employer will be held liable for such costs.

Holders of permanent residence permits are considered immigrants. No customs deposits are necessary on furniture and personal effects, and the immigrant is allowed to import one car per family free of duty, although VAT will be payable.

A foreign driver's license is valid in South Africa for a period of six months, provided the license is in English and contains a photograph of the license holder. The holder of a foreign license may within the six-month period exchange it for a South African driver's license.

### **6.7.2 Restrictions on Employment**

Foreign personnel may be employed subject to the following main criteria:

1. There is no South African citizen available capable of performing the position's tasks
2. The foreign person has the required qualifications and experience
3. The foreign person's skill shall be transferred to local personnel and the foreign person shall thereafter (and within two years) depart South Africa.

No restrictions exist on the number of foreign personnel employed on a company's payroll.

Costs of Work Permits and Permanent Residence:

- Work Permit - R460-00
- Permanent Residence - R7130-00

## **Chapter 7: Land Development Application Procedures**

### **INTRODUCTION**

The purposes of this chapter are threefold:

- To guide the developer through the various land development application procedures;
- To familiarise the developer with the current legislation affecting land development; and
- To introduce the developer to the proposed changes in legislation affecting land development.

For the purposes of this chapter, land development application procedures have been divided into four different categories; namely:

- Rural freehold

This category comprises predominantly agricultural land within the former Natal, and excludes areas of KwaZulu which were set aside for settlement of 'black persons', South African Development Trust (SADT) land, *Japie Uys* towns and informal settlements.

- Rural community

This category includes all areas, outside of proclaimed R293/63 townships, comprising the former self-governing state of KwaZulu.

- Rural conservation

This category includes all areas falling into formally proclaimed conservation areas in KwaZulu-Natal. These conservation areas are now managed by the KwaZulu-Natal Nature Conservation Service.

- Urban freehold

This category comprises the former white owned areas of Natal, and excludes all land areas under comprising the former self-governing state of KwaZulu.

The proclaimed townships of the former self-governing state of KwaZulu represent a potential fifth category. However, since these areas provide a more limited scope for tourism development, the relevant land development application procedures are not covered in this edition of the Developer's Guide.

### 7.1.1 Existing Legislation and Procedures

Land development application procedures have recently become more complicated with the introduction of new legislative procedures. For example, applications within the former Natal, concerning both urban and rural areas, were until recently based on the requirements of the Town Planning Ordinance No.27 of 1949. However, the new national Development Facilitation Act (DFA) No.67 of 1995 can now be applied where the extraordinary powers of the Development Tribunal are required. Thus at present, the developer is faced with two different development application scenarios. More details regarding the DFA and the Development Tribunal can be found later in this chapter.

The KwaZulu-Natal Planning and Development Act No. 5 of 1998, which is due to come into operation on 1 July 1999, will provide an additional dimension in terms of land development procedures. This Act will then replace the Town Planning Ordinance, and will apply to the entire province in parallel with the DFA.

Although this review of legislative changes could be interpreted as being simplistic, it does serve as an introduction to the complexities involved in planning tourism developments in these changing times. It is therefore strongly recommended that the prospective developer familiarise himself with all the different application procedures and legislation presented in this chapter.

In order to guide the developer through the maze of legislation, Figure 7.1 (overleaf) can be used to identify the procedures and legislation associated with each of the four land development categories, namely; urban freehold, rural freehold, rural community and rural conservation.

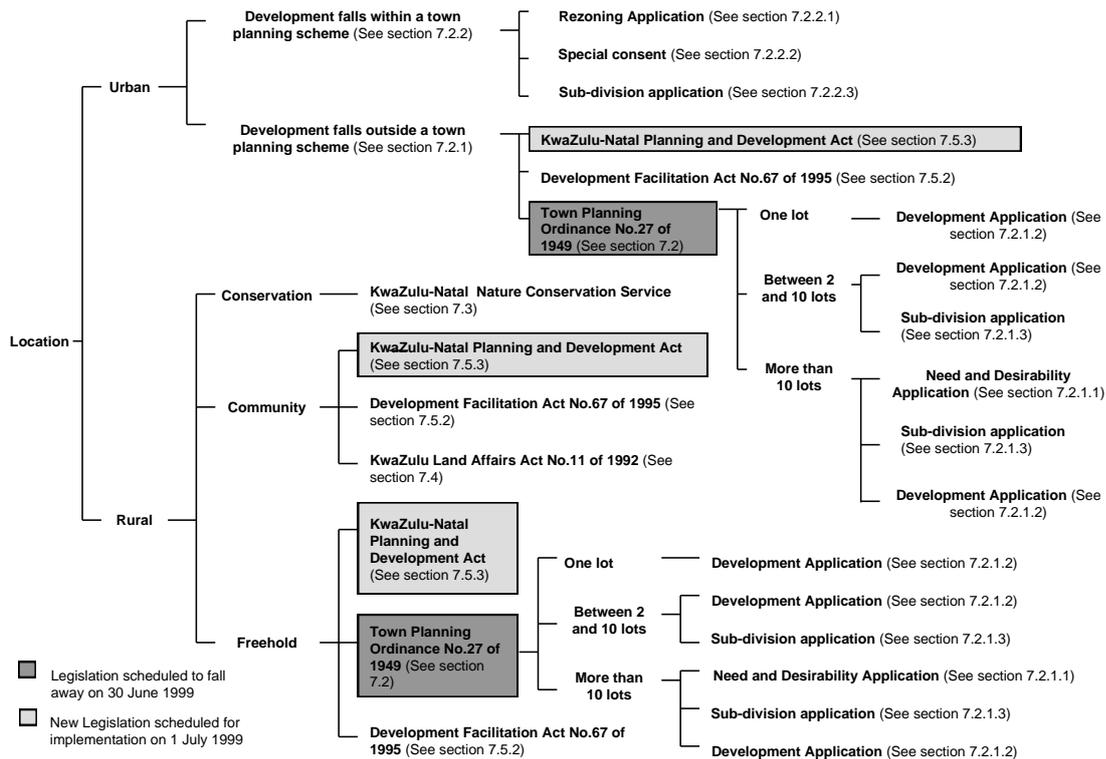
In demonstrating the use of Figure 7.1, it is assumed that a prospective developer has identified an area of land which has potential for a tourism development, and is located in a rural freehold area (see section 7.1 for the definition of rural freehold).

According to Figure 7.1, rural freehold developments are subject to the provisions of either:

- the Town Planning Ordinance No. 27 of 1949 (before 1 July 1999);
- the Development Facilitation Act No. 67 of 1995; and
- the KwaZulu-Natal Planning and Development Act No. 5 of 1998 (after 1 July 1999).

The diagram also highlights the relevant section to which the reader must now refer.

**Figure 7.1 Land Development Application Procedures and Legislation**



**7.2 THE TOWN PLANNING ORDINANCE NO. 27 OF 1949**

In terms of the above ordinance, applications for development can be divided into two types:

- Developments which fall within an area covered by an existing town planning scheme; and
- Developments which do not fall within an existing town planning scheme.

Where the proposed development falls outside of a town planning scheme, there are a further three possibilities to consider:

- Developments where no sub-division will be required i.e. developments consisting of only one lot;
- Developments consisting of ten or fewer lots; and
- Developments consisting of more than ten lots.

The first part of this section deals with developments which do not fall within an existing town planning area i.e. outside of a local authority boundary.

**7.2.1 Development Procedures Outside a Town Planning Scheme**

Where the proposed development falls outside a town planning scheme area and comprises more than ten lots i.e. requiring more than 10 sub-divisions, the developer must submit a need and desirability application to the Town and Regional Planning Commission (TRPC), in compliance with section 11*bis* of the Ordinance. In addition, land development and sub-division applications must be submitted in compliance with sections 11(2) and 12 (or 33) of the Ordinance respectively. Where the proposed development comprises between two and ten lots, the developer can proceed directly with the land development and sub-division

applications. However, if the development is likely to have a significant impact on its surroundings, the TRPC can still insist upon the submission of a need and desirability application. Furthermore, if the development consists of more than 10 buildings or structures on one lot, it is usually necessary to submit a need and desirability application. Where no sub-division is required, the applicant can proceed directly with a development application.

## The Need and Desirability Application

### **Background**

The purpose of the Need and Desirability (N&D) Application is to demonstrate the need for, and the desirability of, the proposed development from the general public's perspective.

### **The Town and Regional Planning Commission**

All N&D applications are submitted to the Head Office of the TRPC in Pietermaritzburg, from where they are distributed to all interested and affected parties (IAP's), including the regional offices of the Department of Land Planning and Survey.

### **Contents of the Need and Desirability Application**

In terms of motivating the need for, and the desirability of the proposed development, the N&D Application must address the following issues:

- Type and scale of proposed facilities
- Locality and extent of the application site, and proximity to existing settlements
- Present land use of the site
- Location, proximity and adequacy of existing similar facilities and others, approved or proposed.
- The market to be catered for i.e. interest group or socio-economic group
- The customer area to be catered for i.e. local, regional, provincial, national or international
- Existing plans, policies or development guidelines prepared by relevant authorities i.e. regional development plans, proposed roads and dams
- Assessment of demand for proposed development
- Site accessibility and provision of basic services i.e. electricity and water
- Agricultural value of site and possible impact on surrounding agricultural uses
- Environmental awareness and the assessment of the anticipated impact thereon, both biophysically and socially. The Integrated Environmental Management (IEM) approach should be used in this regard.

### **The Submission Process**

The N&D Application is submitted by the TRPC for comment to adjacent property owners and all IAP's e.g. Roads Department and Water Affairs. These individuals and organisations are given one month in which to submit their comments to the TRPC. Applications are also advertised in the provincial gazette, and in one English and one Afrikaans daily newspaper. In most instances this is done by the TRPC. The cost of advertising is included in the application fee. Members of the public are invited to view the N&D Application and to submit comments.

Assuming there are no objections to the development, the TRPC is able to recommend to the Minister: Local Government and Housing, that the proposed development be approved.

If objections to the proposed development are lodged with the TRPC, a sub-committee of the TRPC will facilitate a site inspection and public hearing, where the applicant is required to present the proposal, and answer questions from IAP's. After the hearing, this sub-committee then reports back to the TRPC as to whether or not the project should be recommended for approval to the Minister: Local Government and Housing.

The whole N&D application process usually takes not less than 6 months. If a site inspection and hearing are necessary, it can take much longer. It is advisable to employ the services of a specialist planning consultant, as this may substantially reduce the processing time.

### **Other Information**

It is important to note that while the proposed project may be recommended by the TRPC, they are not empowered to approve project proposals. Sole responsibility for this rests with the Minister: Local Government and Housing.

With very few exceptions an Environmental Impact Assessment (EIA) will be requested. Developers, or their consultants, are advised to communicate with staff from the TRPC, in order to determine the exact requirements pertaining to their application.

### **For further information contact:**

The Administrator: Town and Regional Planning Commission  
Phone: (0331) 95 3067  
Fax: (0331) 42 8825

The Development Application

### **Background**

In terms of section 11(2) of the Town Planning Ordinance No.27 of 1949, it is necessary to submit a development application to the Directorate of Land Administration in the Department of Local Government and Housing, in every instance where a developer proposes to erect buildings, or commence with a construction project on a property (but only if the property falls outside a town planning scheme i.e. a local authority area). In fact, even if no building occurs, but the nature of the property will be changed by means of some activity or alternative land use i.e. the establishment of a bed and breakfast in a farming or residential area, the owner is required to submit a development application for approval. The prospective developer must note however, that the above criteria represent a very simplified interpretation of the requirements of the Town Planning Ordinance. It is therefore recommended that prospective developers communicate their intentions to the appropriate official in the Directorate of Land Administration in order to clarify the exact requirements of each different situation.

Note If the proposed development comprises ten or fewer lots, the developer

can proceed with a development application as detailed below, but where the proposed development comprises more than ten lots, the prospective developer must submit a Need and Desirability Application before proceeding with the development application (see previous section). Where the development consists of more than one lot it will also be necessary to submit an application for sub-division. Although a separate application is necessary, this can be done at the same time as the development application.

If the proposed development falls under a local authority area, where there is a town planning scheme in place, and the proposed use of the land is in conflict with this scheme, the applicant must submit a rezoning application to the relevant local authority. This procedure is dealt with in a later section.

## **The Application**

The following items are required in respect of the development application:

- Application form
- Twenty copies of the site/layout plan
- Photocopy of the title deed, and any deed of servitude
- Photocopy of Surveyor-General's diagram showing property boundaries
- The bondholder's consent, if bonded
- A certified copy of the Board resolution authorising the application, if the owner of the property is a company
- A letter of consent/Power of attorney authorising the application, if the property is held in trust
- Power of attorney authorising the application, if the applicant is not the owner
- Approval of Minister: Local Government and Housing where a N&D Application is required
- Comprehensive statement of motivation (where the submission of a Need and Desirability Application is not required)
- Copy of floor plan

The comprehensive statement of motivation should explain in as much detail as possible:

- The need for the proposed development
- Desirability of the proposed development in terms of:
  - its location on the property and in the area
  - service to the area, i.e. will it prove to be an inconvenience to others?
- Benefits of the proposed development to the local/regional/national community
- Impact of the proposed development, such as:
  - its scale
  - number of people benefiting from the development
  - present use of the property
  - possible change to the character of the neighbourhood
- Traffic implications
- Past site history
- Future proposals
- Other non-agricultural uses in the immediate area

Until August 1997, an Environmental Impact Assessment (EIA) was not always required by law. However, as an interested and affected party (IAP), the former Natal Parks Board (now

the KwaZulu-Natal Nature Conservation Service) received a copy of all development applications and could, at any stage, request an EIA. However, with the promulgation of the EIA regulations in August 1997, EIA's became compulsory for almost all development applications. It is therefore strongly recommended that the prospective developer read the section of this chapter which deals with EIA's in detail.

There are strict requirements in terms of the layout of the plans for the proposed development. These are given in the application form.

### **Cost of Application**

The cost of application is R10.00.

### **The Approval Process**

The development application will be judged according to the following criteria:

- Provision of services
- Land tenure
- Environmental considerations
- General planning considerations
- Impact on IAP's
- Integration into the broader resource base

Once the application has been submitted to the relevant authority, in this example the Land Administration department of the Directorate: Land Planning and Survey, it will be circulated to all interested and affected parties (IAP's) i.e. Roads Department, Eskom, Transnet, NCS and Health Department. The applicant is asked to inform all immediate neighbours, in writing, of the proposal, and to obtain their signatures as proof. All IAP's are given 30 days to comment.

All comments are compiled and submitted, with the application, to a Standing Committee which is chaired by Deputy Director General: Local Government and Housing. The Standing Committee meets weekly. The Standing Committee can approve the application, with or without conditions, but cannot refuse the application. Only the Minister: Local Government and Housing can do this. If the Standing Committee intends to recommend that the Minister refuse permission for the application, they will inform the applicant, who is then given a chance to remotivate for the development.

In the event of there being serious objections to the application, the Standing Committee can call for a hearing and site inspection, where the applicant presents the case for development and answers questions from IAP's. The Standing Committee can then recommend its approval/refusal to the Minister.

Irrespective of whether or not a hearing and site inspection are necessary, once approval (in principle) has been granted for the development, a copy of the health department certificate (i.e. the health department's comments about the proposed development) is forwarded to the Water Services Advisory Board (WSAB). The WSAB then have to make final comments regarding the proposed development. If the WSAB give their consent, then the final approval for the project is granted.

Assuming no serious objections, the application process takes 3-4 months. In the event of a hearing, it can easily take twice as long.

**For further information on the development application process, contact:**

The Directorate of Land Administration  
Department of Local Government and Housing

Inland Office            Phone: (0331) 355 6163  
Coastal Office           Phone: (031) 204 1711  
Northern Office         Phone: (0358) 874 2645

### 7.2.1.3     The Sub-division Application

Where it is necessary to sub-divide land for non-agricultural purposes, and where there is no town planning scheme in place, the developer must submit an application to the Directorate of Land Administration, in terms of either section 12 or section 33 of the Town Planning Ordinance. Where the number of sub-divisions exceeds 20 in number, the application is made in terms of section 12. Where the number of sub-divisions does not exceed 20, the application can be submitted in terms of section 33 of the Ordinance, which grants exemption from the requirements of section 12. In reality, it is unlikely that any tourism development will require more than 20 sub-divisions, therefore this guide will only refer to section 33 applications.

Each application must be accompanied by a plan conforming to the requirements of the Surveyor-General's office, and which illustrates the proposed sub-division. It is therefore advisable to employ the services of a land surveyor.

The application and plan are submitted to the relevant regional office of the Directorate of Land Administration. It is almost certain that some kind of EIA will also be required, and the Land Administration officials can advise on this.

The Directorate of Land Administration will forward the application to IAP's, mostly relating to service provision, and the Department of Agriculture for comment. If no objections are raised, the regional office then issues a set of draft conditions which must be complied with before the sub-division can be approved. The applicant has 6 months in which to accept these. If the conditions are accepted, the Directorate will issue a set of final conditions. These are of 2 types:

- A conditions: The applicant must provide certificates from the various service providers stating that they are willing and able to provide the services which are indicated in the final conditions of approval; and
- B conditions: The applicant must provide certificates stating that the required services have actually been supplied.

Once these conditions have been complied with, the Directorate will issue a section 28(1) certificate which will enable the applicant to register the sub-division with the Registrar of Deeds. The whole procedure will take between 4 and 5 months, providing there are no objections to the proposed sub-division.

#### **For further information on the sub-division application process, contact:**

The Directorate of Land Administration  
Department of Local Government and Housing

Inland Office            Phone: (0331) 355 6163  
Coastal Office           Phone: (031) 204 1711  
Northern Office         Phone: (0358) 874 2645

## **7.2.2 Development Procedures Within A Town Planning Scheme**

Where a developer has identified an area of land with development potential which falls within an area which is covered by a town planning scheme, and the intended use of the land is prohibited in terms of the scheme, the developer must submit a rezoning application to the relevant local authority. The procedures for the submission of a rezoning application are detailed in section 47*bis* of the Town Planning Ordinance No.27 of 1949.

If the intended use of the land is not prohibited in terms of the town planning scheme, the developer must gain the consent of the local authority through submission of a development application to that local authority.

While the procedures for rezoning and special consent are, to a degree, standardised for all local authorities, regional differences do exist. Hence, the developer is advised to approach the relevant local authority in order to clarify the necessary procedures within any particular town planning scheme.

If the proposed development requires a sub-division of the property, the application must conform to the requirements of sections 12 and 33 of the Town Planning Ordinance, and be submitted through the local authority.

### **7.2.2.1 The Rezoning Application**

#### **Procedure**

The first point of contact for the developer is with the local authority in order to determine the requirements and scope of the rezoning application. Assuming then that the developer has submitted this application, the responsibility for further action lies with the local authority.

#### **The Local Authority**

In terms of section 47*bis* (1)(b), the local authority must advertise the application once a week, for two consecutive weeks, in the press and in the provincial gazette. The application must also be displayed on a notice board on site. A period of not less than 21 days must be given, after the date of publication, for objections to be lodged. The local authority must also serve a copy of such notice on every property owner who, in the opinion of the local authority, would be adversely affected by the proposal.

Within 12 weeks of the closing date for lodging objections, the local authority must decide whether or not to approve, and thus proceed with the application. If the local authority decides to proceed forthwith, it must notify the Town and Regional Planning Commission (TRPC) and forward copies of the relevant documentation to the Commission. If the local authority decides not to proceed further with the application, the TRPC is not advised. However, if the developer feels aggrieved by the decision of the local authority, he/she can appeal to the TRPC.

#### **The Town and Regional Planning Commission**

The TRPC must communicate their opinion as to the decision of the local authority, within a period of 8 week, although this period of time can be extended in terms of the provisions of the Ordinance.

#### **The Local Authority**

Having considered the opinion of the TRPC, the local authority may resolve to:

- adopt the proposed rezoning application, with or without modifications; or
- disapprove the application.

If the local authority decides to proceed with the application and this is contrary to the opinion of the TRPC, the resolution adopted by the local authority shall not become effective until such time as the TRPC resolves not to further contest the issue. The TRPC must communicate its decision, to the local authority within 2 months, although the Ordinance makes provision for this period of time to be extended.

If the TRPC confirms its initial decision, the local authority may appeal to the Minister: Local Government and Housing for a resolution of the matter.

Note: Where the rezoning application is of minor impact and no objections are raised, the local authority may, after approving the development, notify the Directorate of Land Planning and Surveying instead of the TRPC.

### **Exempted Local Authorities**

Certain local authorities and metropolitan councils may, by virtue of their capacity, approve and adopt rezoning applications without obtaining approval from the TRPC. They must, however, inform the Commission about the rezoning. The Commission then has the right to intervene if it disagrees with the decision of the local authority. Exempted local authorities include the cities and towns of Durban, Pietermaritzburg, Hilton and Newcastle.

#### **7.2.2.2 Special Consent**

As with rezoning applications, the procedures for gaining special consent for a proposed development vary between local authorities. The prospective developer is advised to approach their local authority for clarification of the procedures.

#### **Sub-division**

The application procedure for sub-division within a town planning scheme is almost exactly the same as the procedure for sub-division outside of a town planning scheme (see section 7.2.1.3). Where there are 20 or fewer lots, the application is submitted in terms of section 33 of the Ordinance. However, the application must be submitted to, and be approved, by the local authority. Furthermore, the application does not require the approval of the Department of Agriculture.

For further information on development procedures within a town planning scheme, contact the relevant Metropolitan or Transitional Local Council.

## **7.3 KWAZULU-NATAL NATURE CONSERVATION SERVICE**

This section provides guidance to prospective developers who wish to become involved in tourism developments in areas which fall within a proclaimed conservation area and are managed by the KwaZulu-Natal Nature Conservation Service (NCS).

### **7.3.1 Background**

Prior to 1 April 1998, all proclaimed conservation areas in KwaZulu-Natal fell under the jurisdiction of either the Natal Parks Board (NPB) or the Directorate of Nature Conservation (DNC). After 1 April 1998, the two groups merged to become the KwaZulu-Natal Nature Conservation Service.

Prior to the merger, both the NPB and the DNC provided scope for private sector involvement in tourism developments in conservation areas. The NPB provided opportunities for the private sector to contribute funds in a 'joint venture' scheme with the NPB, aimed at developing a particular lodge or camp in an area of need identified by the NPB. However, ownership and responsibility for the operation of the lodge rested with the NPB. In return for the investment, the private sector entity obtained a number of free nights of accommodation

at that particular lodge or camp. Before the amalgamation with the DNC, this structure did not, however, have a commercial significance.

The DNC provided scope for the private sector to become involved in developments on proclaimed conservation land under its jurisdiction through Isivuno. Isivuno was created in the 1980s when it became apparent that owing to its status as a government department, the DNC was not sufficiently empowered to take on the roles of lodge developer and operator, in addition to that of being a conservator. As a result, a Section 21 company, Isivuno, was created and those conservation sites which were identified as being of high tourism potential, and therefore likely to be of interest to developers, were leased by the KwaZulu-Natal government, through the DNC to Isivuno. Isivuno became responsible for the administration, and the facilitation, of tourism developments by third parties on these high potential tourism sites. It was reasoned that with this structure in place, the development process would be streamlined and would proceed more efficiently.

The Board of Directors of Isivuno comprises members of the KwaZulu-Natal Nature Conservation Service (and its Board), the Department of Traditional and Environmental Affairs, and individuals from the private sector.

Owing to its status as a parastatal, the NPB was empowered to borrow money, develop eco-tourism sites and retain revenues derived from its operations, and therefore had no need of a development vehicle such as Isivuno. The recently formed KwaZulu-Natal Nature Conservation Service exists as a parastatal.

### **7.3.2 Current Scope For Private Sector Development**

#### **7.3.2.1 Sites which are not leased to Isivuno**

The KwaZulu-Natal Nature Conservation Board members were appointed with effect from 1 August 1998, and the Board has not, as yet, established a firm policy for the development and operation of eco-tourism facilities involving the private sector. A Commercial Operations Division has, however, been established with the aim of accelerating development of such facilities, and of maximising profits from existing business units. The NCS is actively seeking private sector developers and/or operators and will consider all proposals which will facilitate acceptable and sustainable eco-tourism developments as well as providing benefits to conservation, the private sector and/or local communities. While retaining a preference for combining the functions of conservation management, developer and operator under one body, the NCS recognises the value of involving both the private sector and local communities in the development and operation of its facilities.

Shortly before its disbandment on 31 March 1998, the former NPB endorsed a model which provided for development on the basis of the following funding structure; 51% NCS, 24% local community and 25% private sector. In due course, the Board will determine which model(s) are to be adopted in future, and will issue guidelines for prospective developers, in addition to calling for proposals and/or tenders. However, it is highly likely that the model(s) will seek to establish partnerships similar to that which is mentioned above.

#### **7.3.2.2 Sites which are leased to Isivuno**

The KwaZulu-Natal Nature Conservation Board has agreed in principle with the continued operation of Isivuno, and will honour existing lease agreements between Isivuno and private sector developers. The Board has also agreed to the development of the various lease sites.

It is Isivuno's practice that all developments on their sites will be subject to a tender procedure in which private sector entities submit a proposal which demonstrates, *inter alia*, the compulsory involvement of the local community in the venture. Prior to the call for

tenders, the NCS, KwaZulu Finance and Investment Corporation (KFC) and Isivuno will have developed a concept plan for the site. An environmental scoping exercise will have been conducted in compliance with the applicable legislation affecting tourism development in KwaZulu-Natal, and all of the parameters for the development will be outlined in the tender documents i.e.

- Exact site boundaries;
- Minimum lease and turnover payment details;
- Bed limits;
- Permissible activities;
- Environmental concerns to be dealt with in the detailed EIA which still has to be conducted;

Finally, all developments will be subject to a code of conduct approved by the KwaZulu-Natal Nature Conservation Board.

### **Contact Persons**

KwaZulu-Natal Nature Conservation Service  
Mr Nigel Hemming or Mr Alan Marlin  
(0331) 845 1999

Isivuno  
Mr Arthur Roberts  
Isivuno Projects Liaison Officer  
(039) 682 3254

## **7.4 KWAZULU LAND AFFAIRS ACT NO.11 OF 1992**

Land development applications concerning areas of the former self-governing territory of KwaZulu are subject to the provisions of the KwaZulu Land Affairs Act No.11 of 1992.

### **Background**

In 1972, the former self-governing territory of KwaZulu was created, on land previously vested in the South African Development Trust (SADT). Together with the control of land within their jurisdiction, this self-governing territory inherited the regulations, in terms of Proclamation R.188 of 1969, whereby these land areas were administered. The KwaZulu Legislative Assembly was empowered, by the Self-governing Territories Constitution Act No.21 of 1971, to make its own laws in regard of matters such as land control and administration.

Subsequent legislation, in the form of the Amakhosi and Iziphakhanyiswa Act No.9 of 1990 then prohibited any person from settling permanently in the area of a tribe or community, of which he was not a member, without first obtaining the permission of the inkosi (or iziphakhanyiswa) in both the area which the person is departing, and the area in which the person wishes to settle. In addition, the Chief Minister was empowered to establish tribal, community and regional authorities. These bodies were responsible for allocating land to persons residing within their area of jurisdiction, and advising the KwaZulu government on matters relating to development and improvement of land areas within their control.

In terms of Proclamation R188 of 1969, there were three forms of land tenure; commonage, quitrent and permission to occupy (PTO). With the introduction of the KwaZulu Land Affairs Act, Regulation 188/1969 was repealed but the new Act made provision for the PTO and even detailed regulations regarding its issue.

### **Permission to Occupy**

Permission to Occupy (PTO) means permission in writing, granted in the prescribed form, to any person, to occupy a specified area of SADT land, for a specified purpose. The concept of a PTO is based on customary law and tribal ownership of land. The KwaZulu Land Affairs Act No.11 of 1992 sets out the procedure for acquisition of a PTO. However, for practical purposes the procedure detailed below is based more on current practices, than on the procedures documented in the Act. PTO's are not granted in the R293 townships. Instead, the instrument which is used is the Deed of Grant. However, for reasons given at the beginning of this chapter, details of the procedures for acquiring a Deed of Grant are not covered in this guide.

### **Obtaining a Permission to Occupy Certificate**

- **Community Approval**

The process for obtaining a PTO begins with the establishment of a communication channel between the developers and members of the community occupying the proposed development site. The developer's first objective is to obtain approval from the community, for the proposed development plan. This initial step is of such fundamental importance to the process that the developer is well advised to be patient and to spend as much time as necessary in order to secure the total support of the community. Although this procedure may take many months, or even years, it is time well spent.

Often the community is represented by an elected development committee which is given a mandate to negotiate on behalf of the community. This facilitates easier communication between the developers and the community. However, since the local inkosi is the true custodian of the land, it is vitally important to obtain his written approval, in addition to that of the development committee.

The prospective developer should be aware that this community approval process will entail repeated visits to the proposed development site, and protracted discussions and negotiations with the inkosi, development committee and the community. Only by spending time with the community will the developer be able to identify the key role players, stakeholders and institutional bodies which are critical to the approval process.

- **Tribal Authority Approval**

Once written approval from the community and the inkosi has been obtained, the developer must seek the approval of the Tribal Authority. At a meeting with the Tribal Authority, the developer will present the concept plan and written approval of the community. If successful in gaining their support, the developer will be issued with a written approval from the Tribal Authority, and a copy of the minutes of the meeting.

- **Regional Authority**

At this point the developer can apply to the Regional Authority, or Magistrate, for the official PTO application forms, which when completed must be returned to the magistrate.

At this point, the developer must organise and pay for the proposed site to be surveyed. At this point, it is also a good idea to communicate with the KwaZulu-Natal Nature Conservation Service (KNCS), and to arrange for an Environmental Impact Assessment (EIA) scoping exercise.

- **Department of Traditional and Environmental Affairs**

The completed application forms and accompanying documentation, are submitted to the Department of Traditional and Environmental Affairs in Ulundi. The application is then circulated, for comment, within the Departments of Agriculture, Public Works and Planning. If all departments are in agreement with the proposal, the developer is issued with a PTO certificate.

- **Tourism Development Working Group**

The Tourism Development Working Group has the task of co-ordinating and guiding tourism developments within the province. During the PTO application procedure developers are obliged to communicate their intentions with this body.

- **Duration**

The developer can expect this whole PTO application process to last approximately two years.

### **The KwaZulu-Natal Ingonyama Trust Act No. 3 of 1994**

In terms of the Ingonyama Trust Act, land which was transferred to the Government of the former self-governing state of KwaZulu in terms of Proclamation R232 of 1986, and all land acquired thereafter by the Government of KwaZulu, was vested in the Ingonyama Trust. However, the KwaZulu Land Affairs Act which conferred upon the KwaZulu government the power to administer, and issue tenure rights, on government land, was not amended. As such, the KwaZulu Land Affairs Act conferred no rights upon the Government to issue tenure rights on land now vested in the Ingonyama Trust.

Since PTO's are issued in terms of the KwaZulu Land Affairs Act, developers were understandably reluctant to invest in land in areas which were vested in the Trust.

This problem has been addressed by the KwaZulu-Natal Ingonyama Trust Amendment Act No. 9 of 1997 and Proclamation R63 of 1998. The proclamation changes the definition of government land in the KwaZulu-Natal Land Affairs Act, to include land vested in the Ingonyama Trust, while the Amendment Act provides that any land tenure arrangement issued by any person or authority, in good faith between the commencement of the original Ingonyama Trust Act, and the commencement of the amending Act, be deemed to have been effected by the Ingonyama. From the date of commencement of the amending Act, tenure forms i.e. the PTO, authorised in terms of the KwaZulu-Natal Land Affairs Act may be issued in respect of land vested in the Ingonyama Trust.

Furthermore, the KwaZulu-Natal Planning and Development Act, and the Development Facilitation Act both have effect on land vested in the Ingonyama Trust.

## **7.5 RECENT LEGISLATIVE CHANGES**

### **7.5.1 Environmental Impact Management**

Prior to the promulgation of environmental impact assessment (EIA) regulations in August 1997, EIA's were not compulsory in terms of the Environment Conservation Act No. 73 of 1989. However, in KwaZulu-Natal, pressure from interested and affected parties (most notably the former Natal Parks Board) would prompt most developers to embark on an EIA exercise. In most instances the scope of the exercise was determined by the nature, scale and intended location of the proposed development, and a high level study by environmental management consultants was not required. Very often, a simplified Integrated Environmental Management (IEM) plan would meet the requirements of the all interested and affected parties, and if the scope of the proposed IEM plan was sufficiently limited, developers would even undertake this exercise themselves.

This status quo changed quite dramatically during 1997, when the Department of Environmental Affairs and Tourism announced a number of amendments to section 21 of the Environment Conservation Act. Each of these amendments has far reaching consequences for developers.

#### **Compulsory Environmental Impact Assessments**

In the first instance (Regulation 1182), the Act now stipulates that an EIA exercise must be conducted where the proposed development involves the construction or upgrading of:

- roads, railways, airfields and associated structures outside the borders of town planning schemes;
- marinas, harbours and all structures below the high water mark of the sea;
- cableways and associated structures;
- racing tracks for motor powered vehicles and horse racing, excluding indoor tracks;
- canals and channels, including diversions of the normal flow of water in a river bed, and water transfer schemes between water catchments and impoundments;
- dams, levees or weirs affecting the flow of a river; and
- public and private resorts and associated infrastructure.

A further amendment also provides for a compulsory EIA where the proposed development involves a change of land use from:

- residential to industrial or commercial use;
- agricultural, or undetermined use, to any other land use;
- use for grazing to any other form of agricultural use; and
- use for nature conservation, or zoned open space, to any other land use.

The above lists are not conclusive and only draw attention to those items which are most likely to have an impact on tourism development.

#### **Responsibilities of Applicant and Authority**

The second amendment (Regulation 1183) to the Environment Conservation Act lists the responsibilities of the applicant and the relevant authority i.e. Minister, provincial authority or local authority. Here it is stated that where an EIA is deemed compulsory in terms of Reg.1182, the applicant:

- must appoint an independent consultant;
- is solely responsible for all costs incurred in connection with the employment of a consultant;
- must ensure that the consultant has no financial or other interest in the undertaking;
- must ensure that the consultant has:
  - expertise in the specific area of environmental concern;
  - the ability to perform all tasks as stipulated in these regulations;
  - the ability to manage a public participation process;
  - the ability to timeously produce thorough, readable and informative documents;
  - adequate recording and reporting systems;
  - a good working knowledge of all relevant policies, legislation, guidelines, norms and standards;
- must ensure that the consultant provides the relevant authority with access to, and the opportunity for review of, all procedures, reports, data and interviews; and
- is responsible for the public participation process regarding all interested parties.

The relevant authority must, in turn, ensure that its representatives have equal capabilities. Before detailing the EIA application process, there follows a brief discussion as to the purpose of an EIA.

### **Purpose of an Environmental Impact Assessment**

The primary purpose of an EIA is to aid decision-making by providing comprehensive and detailed information on the environmental consequences of development. An EIA is a process to gather and evaluate environmental information, so as to provide sufficient supporting arguments to evaluate the overall impacts, consider alternative options, and make a value judgement in choosing one development alternative instead of another. The drafting of an environmental impact report is merely a stage in the EIA process wherein the information, arguments, impacts and alternatives are documented. It can, however, not serve this purpose if the document is not open for review and scrutiny. Thus all interested and affected parties should be involved in reviewing the document.

## **The EIA Application Process**

In terms of the new regulations, an environmental impact assessment will consist of a number of separate phases, each of which is detailed below.

- **Consultation**

A pre-application consultation with the provincial department responsible for environmental management is not compulsory, but it may serve to clarify the requirements of the regulations and the procedures which have to be followed. This step is followed by the submission of an application form. The provincial authority must then inform the applicant whether or not the application must be advertised, and if so, the manner in which this must be done.

- **Plan of Study for Scoping**

After considering the application, the relevant authority may request the applicant to submit either a scoping report, or a plan of study for scoping. A plan of study for scoping must include:

- a brief description of the activity to be undertaken;
- a description of all tasks to be performed during scoping;
- a schedule for completion of the above tasks;
- an indication as to the stages at which the relevant authority will be consulted; and
- a description of the proposed method of identifying the environmental issues and alternatives.

- **Scoping Report**

Assuming the relevant authority has either waived the requirement of, or accepted, a plan of study for scoping, the applicant must submit a scoping report which must include:

- a brief description of the project;
- a brief description of how the environment may be affected;
- a description of environmental issues identified;
- a description of all alternatives identified; and
- an appendix containing a description of the public participation process followed, including a list of interested parties and their comments.

Upon receipt of the scoping report, the relevant authority may decide that the information contained in the scoping report is sufficient for the consideration of the application without further investigation. Alternatively, the relevant authority may decide that the scoping report should be supplemented by an environmental impact assessment.

- **Plan of Study for Environmental Impact Assessment**

The applicant must submit a plan of study for the EIA, which must include:

- a description of the environmental issues, identified during the scoping, that may require further investigation and assessment;
- a description of the feasible alternatives identified during scoping, which may be further investigated;
- an indication of additional information required to determine the potential impacts of the proposed activity on the environment;

- a description of the proposed method of identifying these impacts; and
- a description of the proposed method of assessing these impacts.

- **Submission of Environmental Impact Report**

After the plan of study for the environmental impact assessment has been accepted, the applicant must submit an environmental impact report, which must contain:

- a description of each alternative, including particulars on:
  - the extent and significance of each identified environmental impact; and
  - the possibility for mitigation of each identified impact;
- a comparative assessment of all the alternatives; and
- appendices containing descriptions of :
  - the environment concerned;
  - the activity to be undertaken;
  - the public participation process followed, including a list of interested parties and their comments;
  - any media coverage given to the proposed activity; and
  - any other information included in the accepted plan of study.

- **Record of Decision**

The relevant authority must issue a record of the decision that was taken in respect of the environmental impact report. This record of decision will stipulate any conditions attached to the acceptance of the environmental impact report.

- **Manner of Appeal**

Any appeals against decisions of the relevant authority must be made to the Minister or provincial authority, in writing, within 30 days of the date upon which the record of decision was issued.

## **The Development Facilitation Act**

### **Background**

The multiplicity of existing planning and development laws, and the time taken to approve certain applications has resulted in a rather user unfriendly development process. The Development Facilitation Act No.67 of 1995 (DFA) is intended to facilitate and speed up the development process, particularly in the delivery of housing and other Reconstruction and Development Programme (RDP) benefits. The DFA therefore provides a nationally acceptable process for approving developments, with the following features:

- a faster mechanism for obtaining approval;
- a new policy framework for integrated development; and
- a mechanism for accessing end-user finance earlier in the development process.

## **General Principles of the DFA**

The DFA is structured around the establishment of a Development Tribunal, which comprises approximately equal numbers of private and public sector representatives in each of the provinces. The primary function of a Development Tribunal is to consider and approve, or disapprove, development applications made in terms of the DFA. The Development Tribunal will be supported by Designated Officers drawn from local and provincial government, and by a Registrar and Deputy Registrars. Their various roles will be discussed in a separate section below.

The Development Tribunals will facilitate the delivery of an improved and faster service to developers for the following two reasons:

- the application process has been designed to be as rapid as possible. For example, the Development Tribunals can subpoena anyone, including government departments, to either object to, or approve of a development within 60 to 120 days of the application being made; and
- the Development Tribunals have major legal powers to make sure that appropriate development goes ahead. For example, Development Tribunals can override existing plans and ensure rapid approval for a development. No longer will applications have to follow a chain of authority leading to ultimate approval from the Minister: Local Government and Housing - as is the case at present with some of the larger developments. The DFA provides for a 'one stop shop' with ultimate authority resting with the Development Tribunal.

The benefits which the DFA provides for KwaZulu-Natal include:

- the establishment of a uniform set norms and standards for land development;
- the creation of a fast track procedure for land development applications;
- the creation of a transparent system of regulations for land development;
- the opportunity for people to obtain quicker ownership and occupation of land;
- the promotion of a range of tenure options to accommodate different communities;
- the development of provincial planning and development legislation; and
- the provision for many of the old laws which previously inhibited development to be by-passed if necessary.

## **Integration with the KwaZulu-Natal Planning and Development Act**

There are a number of features which the DFA shares in common with the recently introduced KwaZulu-Natal Planning and Development Act, and in many respects the two acts complement each other. Details of the relationship between the two acts are provided in the section which examines the draft Planning and Development Act.

## **Institutional Structures**

### **The Planning and Development Commission**

In terms of the DFA, the functions of the Town and Regional Planning Commission (so influential in terms of development under Ordinance No.27 of 1949), are supplemented by a Planning and Development Commission which exists at both a provincial and a national level.

At a national level, the Planning and Development Commission will consist of at least one representative from each of the corresponding provincial commissions. Members are appointed by the National Minister of Land Affairs, and the primary function is to advise the Minister on various aspects of land planning and development.

### **The Development Tribunal**

The primary function of the Development Tribunal is to make decisions on land development applications submitted to it in terms of the DFA. The tribunal can approve in whole, or in part, postpone or impose conditions on any land development application brought before it. It has the same powers as a Magistrates Court in that it can request information from any department which has bearing on the application, and it can subpoena any official or person to produce any information relevant to its deliberations. It can also suspend almost any law deemed to stand in the way of any land development application.

In making its decisions, the tribunal is guided by national, provincial and local development policies, as well as the principles of the DFA, precedents and local development plans.

### **The Development Appeal Tribunal**

The DFA also makes provision for the establishment of a Development Appeal Tribunal which has the responsibility for hearing appeals by developers against decisions of the Development Tribunal. If appropriate, the Appeal Tribunal can overturn decisions taken by the Development Tribunal. If the developer still feels aggrieved by the decision of the Appeal Tribunal, the matter may be referred to the Supreme Court for review.

### **The Development Tribunal Registrar**

The Tribunal Registrar is an officer of the Provincial Administration, who is appointed by the Minister: Local Government and Housing to assist the Development Tribunal and the Development Appeal Tribunal. Provision is made for the Registrar to have one or more deputies. The Registrar's function is to manage and co-ordinate the logistical functioning of the Development Tribunal and the Development Appeal Tribunal. This official provides the link between the Designated Officers and the two Development Tribunals.

### **The Designated Officers**

The Designated Officers are people in the employ of any local government body, or the KwaZulu-Natal Provincial Administration, who are designated by the Minister: Local Government and Housing to serve as the first link between the developer (or applicant), and the Development Tribunal. This person is responsible for ensuring that the procedures for submitting and processing of an application are followed correctly.

### **Land Tenure Matters**

The DFA provides the land development applicant with two options for transferring ownership of a site to an end user.

- **The conventional route**

The Registrar of Deeds registers a deed of transfer for a site once the following requirements of the Act have been met:

- the land development application has been approved;
- the general plan has been approved, or provisionally approved;
- the sub-division register has been opened;
- the relevant conditions of establishment have been complied with; and
- the engineering services have been installed.

- **The accelerated route**

The accelerated option allows for the applicant to apply to the Development Tribunal for a registration arrangement which will permit the transfer of *initial ownership* once:

- the land development application has been approved;
- beacons of the lots have been placed by a land surveyor;
- there is a Surveyor-General approved diagram for the outside figure of the group of lots to be registered;
- suitable guarantees are in place to cover the cost of completing all outstanding procedures;
- the consent of the owner and mortgagee of the underlying properties are in place;
- a condition of establishment suspending servitudes or restrictive conditions is in operation;
- the surveyor and conveyancer have satisfied the tribunal that they have sufficient insurance to issue the necessary certificates; and
- if the State or a local government body is to become the owner of the land but has not yet taken transfer, that the land has been expropriated by a competent authority.

Initial ownership is a concept provided for in the DFA which enables people to obtain ownership of a property before all the land development steps have been completed. This is done through a special deed of transfer. Initial ownership must eventually be converted to full ownership.

The principle advantage of initial ownership is that registered ownership can be secured far earlier in the process thereby providing faster access to subsidy funding and mortgage bonds.

### **The Different Land Development Application Processes**

The DFA does not replace all existing laws and development procedures. Instead the DFA will operate alongside the existing procedures, but will offer developers a faster route to achieving their goal. As previously mentioned, the KwaZulu-Natal Planning and Development Act No.5 of 1998 has already passed through parliament, and after implementation which is scheduled for 1 July 1999, it will complement the DFA in a manner which is detailed in the section dealing with the Planning and Development Act.

The implications for land developers, of these different legislative acts, is that in the short term they will be able to choose the process which best suits their needs. Until the Planning and Development Act is implemented in 1999, the developer will be able to choose between the DFA and Ordinance 27 of 1949. In reality, due to the number of land development

applications, and the limited resources of Development Tribunal, only the more complex applications will be channelled through the DFA.

After the introduction of the Planning and Development Act, the land development application process under Ordinance 27 will phased out altogether.

There now follows a description of the detailed process to be followed in the event of several different types of land development applications.

### **Application for the Establishment of a Land Development Area in Terms of Sections 31 and 49 of the Development Facilitation Act No. 67 of 1995**

The following procedure is used for all land development brought through the DFA, including applications for small-scale farming. The following application procedure is set out in Regulation 17.

Step 1	Land Development Applicant (LDA)	<ul style="list-style-type: none"> <li>LDA lodges an application with the Designated Officer (DO).</li> </ul>
Step 2	Designated Officer (DO)	<ul style="list-style-type: none"> <li>DO acknowledges receipt of LDA in writing.</li> <li>DO informs LDA of additional information required</li> <li>DO informs and advises LDA of persons/bodies to be given notice of application, and how notice should be given.</li> <li>DO requests the Development Tribunal Registrar (DTR) to provide the date for the hearing by the Development Tribunal (DT).</li> </ul> <p><b>To be performed within 7 days</b></p>
Step 3	Development Tribunal Registrar (DTR)	<ul style="list-style-type: none"> <li>DTR provides date and venue of hearing to DO within 2 days.</li> </ul>
Step 4	Designated Officer	<ul style="list-style-type: none"> <li>DO notifies LDA of hearing date which is 80-120 days after date of request to DTR.</li> </ul>
Step 5	Land Development Applicant	<ul style="list-style-type: none"> <li>LDA shall, within 65 days of the hearing, notify interested and affected parties (IAP's) as directed.</li> <li>Notice given in terms of Annexure C of Regulations shall be for 14 consecutive days</li> <li>LDA to publish plan once a week for 2 consecutive weeks in the Provincial Gazette and daily newspapers (in at least 2 official languages).</li> <li>Objections and replies shall be lodged with the DO.</li> </ul>
Step 6	Designated Officer	<ul style="list-style-type: none"> <li>Objections to be lodged with DO no later than 21 days after publication of notice. LDA to provide proof of notification to DO.</li> <li>DO to send LDA copies of written or recorded submissions and representations within 7 days of receipt.</li> </ul>
Step 7	Land Development Applicant	<ul style="list-style-type: none"> <li>LDA to submit written reply to DO regarding objections and representations within 14 days. LDA may amend application as DO may instruct regarding service or notification relating to amendment.</li> </ul>
Step 8	Designated Officer	<ul style="list-style-type: none"> <li>DO submits report to DTR and LDA within 14 days.</li> </ul>
Step 9	Development Tribunal Registrar	<ul style="list-style-type: none"> <li>DTR receives application and report and refers it to the DT.</li> </ul>
Step 10	Development Tribunal	<ul style="list-style-type: none"> <li>DT receives documents, holds hearing, and makes decision.</li> </ul>
Step 11	Development Tribunal Registrar	<ul style="list-style-type: none"> <li>DTR has 7 days in which to inform the DO of the DT's decision.</li> </ul>
Step 12	Designated Officer	<ul style="list-style-type: none"> <li>DO has 7 days to notify the LDA and other parties of the decision.</li> <li>IAP's have 28 days from the completion of the hearing to request the DTR to furnish reasons for the DT's decision.</li> </ul>
Step 13	Development Tribunal Registrar	<ul style="list-style-type: none"> <li>DTR has 14 days in which to furnish reasons for the DT's decision.</li> </ul>

**Application for Exemption from Provisions of Chapters 5 and 6 Of The DFA in Terms of Sections 30 or 48**

Under the circumstances detailed in Section 30 (1) (a) and (b) of the DFA, a land development applicant, or prospective land development applicant, may apply to the tribunal for an exemption from any, or all, of the provisions of Chapters 5 and 6 in respect of a land development area. The following procedure for applying for exemption is set out under Regulation 20.

Step 1	Land Development Applicant (LDA)	<ul style="list-style-type: none"> <li>LDA lodges written application for exemption to the Designated Officer (DO).</li> </ul>
Step 2	Designated Officer (DO)	<ul style="list-style-type: none"> <li>DO applies for a hearing from the Development Tribunal Registrar (DTR).</li> </ul>
Step 3	Development Tribunal Registrar (DTR)	<ul style="list-style-type: none"> <li>DTR notifies DO of date of hearing within 2 days of DO's application.</li> </ul>
Step 4	Designated Officer	<ul style="list-style-type: none"> <li>DO immediately notifies the LDA. The hearing date is not to be later than 30 days after the receipt of the application by the DTR.</li> </ul>
Step 5	Development Tribunal Registrar	<ul style="list-style-type: none"> <li>DTR may require LDA to give notice of hearing to any interested or affected person (IAP).</li> </ul>
Step 6	Development Tribunal	<ul style="list-style-type: none"> <li>DT hearing.</li> </ul>
Step 7	Development Tribunal Registrar	<ul style="list-style-type: none"> <li>DTR informs DO of the decision of the DT not more than 7 days after the hearing has been completed.</li> </ul>
Step 8	Designated Officer	<ul style="list-style-type: none"> <li>DO informs LDA, and all objectors, of the decision as soon as possible.</li> </ul>
Step 9	Land Development Applicant	<ul style="list-style-type: none"> <li>Any person may request the DTR to furnish written reasons for the DT's decision within 28 days after the DO has informed them of the decision.</li> </ul>

**Investigation by Designated Officer of Non-Statutory Land Development Process in Terms of Section 42 or 57 of the DFA**

Under Sections 42 or 57 of the DFA, when an applicant is of the opinion that development is taking place contrary to procedures prescribed in the DFA, or when it will be beneficial for an exemption to be granted in terms of Section 30 (1) to people already residing, or proposing to reside, on land, an investigation can be instituted using the following procedure set down under Regulation 21.

Step 1	Land Development Applicant (LDA)	<ul style="list-style-type: none"> <li>• LDA requests Designated Officer (DO) to investigate a non-statutory land development process.</li> </ul>
Step 2	Designated Officer (DO)	<ul style="list-style-type: none"> <li>• Within 7 days of receipt of request, DO shall request any additional information from applicant.</li> </ul>
Step 3	Designated Officer	<ul style="list-style-type: none"> <li>• Within 14 days of receipt of request, DO submits report to the Development Tribunal Registrar (DTR), and gives a copy to the LDA.</li> </ul>
Step 4	Development Tribunal	<ul style="list-style-type: none"> <li>• Development Tribunal (DT) hearing</li> </ul>
Step 5	Development Tribunal Registrar	<ul style="list-style-type: none"> <li>• Within 2 days, DTR informs DO in writing of DT's decision.</li> </ul>
Step 6	Designated Officer	<ul style="list-style-type: none"> <li>• Within 7 days, DO notifies applicant, and any other person as directed by the DT.</li> </ul>
Step 7	Land Development Applicant	<ul style="list-style-type: none"> <li>• Within 28 days, any interested person shall, on request, be provided with reasons for the DT's decision</li> </ul>

### **Application for Approval of Registration Arrangement**

This section (see Regulation 23) is used when an applicant wishes to obtain approval for a registration arrangement independently of a full land development application in term of Sections 31 and 49 of the DFA. If, however, an applicant wishes to obtain approval for a registration arrangement as part of a full land development, then the procedures set out in Regulation 17 should be used.

Step 1	Land Development Applicant LDA	<ul style="list-style-type: none"> <li>• LDA lodges an application with the Designated Officer (DO) NB. Application may be submitted with the land development application.</li> </ul>
Step 2	Designated Officer (DO)	<ul style="list-style-type: none"> <li>• Within 7 days, DO acknowledges receipt of application and advises LDA on additional information or requirements.</li> </ul>
Step 3	Designated Officer	<ul style="list-style-type: none"> <li>• DO applies to Development Tribunal Registrar (DTR) for hearing date.</li> </ul>
Step 4	Development Tribunal Registrar	<ul style="list-style-type: none"> <li>• Within 2 days, DTR notifies DO of date.</li> </ul>
Step 5	Designated Officer	<ul style="list-style-type: none"> <li>• DO informs LDA of hearing date. Hearing to be held within 80-120 days if request is submitted with application, otherwise within 60 days.</li> </ul>
Step 6	Designated Officer	<ul style="list-style-type: none"> <li>• DO has 14 days after lodging of application in which to submit a report to DTR.</li> </ul>
Step 7	Development Tribunal	<ul style="list-style-type: none"> <li>• Development Tribunal (DT) hearing.</li> </ul>
Step 8	Development Tribunal Registrar	<ul style="list-style-type: none"> <li>• Within 7 days, DTR notifies DO of DT decision.</li> </ul>
Step 9	Designated Officer	<ul style="list-style-type: none"> <li>• DO notifies LDA, and any other person as directed by the DT.</li> </ul>

### **Application to Compel by Land Development Applicant**

If the Designated Officer, Tribunal Registrar or any other government body or official, excluding the Development Tribunal, fails to perform any duty or function required of it in terms of the Regulations of the DFA, within a reasonable time after the due date of the performance, the land development applicant shall be entitled to apply to the Tribunal for an order compelling such compliance. The following procedure is set out in terms of Regulation 24 of the DFA.

Step 1	Land Development Applicant (LDA)	<ul style="list-style-type: none"> <li>LDA applies to development Tribunal (DT) by lodging a substantiated application to compel with the Development Tribunal registrar (DTR).</li> </ul>
Step 2	Development Tribunal Registrar (DTR)	<ul style="list-style-type: none"> <li>Within 7 days, the DTR shall acknowledge, in writing, receipt of the application.</li> </ul>
Step 3	Development Tribunal Registrar	<ul style="list-style-type: none"> <li>DTR informs LDA in writing of the date and venue of the hearing. The hearing shall not be later than 30 days after the date of receipt of the application.</li> </ul>
Step 4	Land Development Applicant	<ul style="list-style-type: none"> <li>LDA to issue notice to DTR, DO and any other government body or official whose performance it is sought to compel.</li> </ul>
Step 5	Development Tribunal (DT)	<ul style="list-style-type: none"> <li>Development Tribunal (DT) holds a hearing and considers the application to compel.</li> </ul>
Step 6	Development Tribunal Registrar	<ul style="list-style-type: none"> <li>DTR informs DO of the DT's decision within 7 days after the hearing has been completed.</li> </ul>
Step 7	Designated Officer (DO)	<ul style="list-style-type: none"> <li>DO informs LDA and any other persons as directed by the DT.</li> </ul>
Step 8	Land Development Applicant	<ul style="list-style-type: none"> <li>Interested persons or bodies have 28 days within which to request the DTR to furnish the reasons for the decision by the DT. Such reasons will be provided as soon as is reasonably possible.</li> </ul>

### Appeals in Terms of Section 23 of the DFA

Section 23 of the DFA makes provision for any party in dispute with the Development Tribunal, to be allowed to take the matter on appeal to the development Appeal Tribunal. The following procedure for lodging an appeal is set out in Regulation 13 of the DFA.

Step 1	Land Development Applicant	<ul style="list-style-type: none"> <li>An appellant must deliver a written notice of appeal to the Development Tribunal Registrar (DTR) within 14 days: (a) of the date of the decision of the Development Tribunal (DT), or (b) of the date on which the DT's written reasons for its decision are filed with the DTR pursuant to a request for such reasons by an interested person, whichever is the later. The appellant shall serve a copy of the notice of appeal on any interested persons who were party to the DT proceedings.</li> </ul>
Step 2	Interested and Affected Parties	<ul style="list-style-type: none"> <li>Within 10 days of the serving of the above notice of appeal, any person receiving an appeal, may note a cross-appeal and serve such notice on the party that noted the appeal.</li> </ul>
Step 3	Development Tribunal	<ul style="list-style-type: none"> <li>Within 14 days of the delivery of a notice to appeal, the DT may supplement any reasons already given. The DTR must provide copies of the additional information to each interested party.</li> </ul>
Step 4	Interested and Affected Parties	<ul style="list-style-type: none"> <li>Within 21 days of receipt of the supplementary reasons, any party to the appeal may supplement or amend the notice of appeal or cross-appeal. The amended appeal or cross-appeal must be given to the DTR and any other parties to the appeal.</li> </ul>

### Sub-division of Land

In terms of section 54 of the DFA, an application for the subdivision of land shall be submitted as part of the land development application.

## **Contact Persons**

Deputy Registrar (Head Office)  
Mrs H Krishnan  
(0331) 95 2678

Deputy Registrar (Northern Region)  
Mr L du Toit  
(0358) 874 2611

Deputy Registrar (Inland Region)  
Mrs S Shanmugan  
(0331) 355 6100

Deputy Registrar (Coastal Region)  
Mr K Suzor  
(031) 204 1711

A full copy of the DFA can be viewed in the Government Gazette Vol. 364, No. 16730, dated 4 October 1995.

### **7.5.3 The KwaZulu-Natal Planning and Development Act**

#### **Background**

It is anticipated that the KwaZulu-Natal Planning and Development Act will become operational on 1 July 1999. The purpose of the Act is to rationalise and consolidate the laws relating to planning and development in the province; to facilitate development in the province in an orderly way so as to ensure the rational development of the province and of the utilisation of its resources; to establish a Planning and Development Commission responsible for the co-ordination of planning and development within the province; to establish an Appeal Tribunal with authority to determine appeals arising under the Act; to facilitate planning and development at all levels of government; to rationalise and streamline procedures for land subdivision and generally to put in place systems and structures which will ensure effective, participative and sustainable development, and to provide for matters ancillary thereto.

#### **Integration with Development Facilitation Act**

The KwaZulu-Natal Planning and Development Act and the Development Facilitation Act do not operate independently of each other. Instead, they overlap and complement each other in several ways i.e. in the establishment of both the KwaZulu-Natal Planning and Development Commission and the KwaZulu-Natal Development Appeal Tribunal.

#### **Institutional Structures**

##### **The Planning and Development Commission**

The Planning and Development Commission is established in terms of both the Planning and Development Act and the Development Facilitation Act. Further details regarding the function and composition of the commission are provided in the relevant section concerning the DFA.

##### **Responsible Authority**

The responsible authority (as referred to in the Act), in any land development application, is any Transitional Local Council, Metropolitan Council, Regional Council, Minister or any person tasked with the preparation and administration of a development plan.

## **The Development Appeal Tribunal**

The Development Appeal Tribunal is established in terms of both the Planning and Development Act and the Development Facilitation Act. The tribunal has the responsibility for hearing appeals by developers against decisions made by the Development Tribunal or the relevant responsible authority. If appropriate, the Appeal Tribunal has the power to overturn decisions made by the Development Tribunal.

## **Development Plans**

The Planning and Development Act is largely based upon the principle of integrated development planning throughout the province. This involves the compilation of development plans, at four different levels:

- Provincial - responsible authority is the Minister for Local Government and Housing on the advice of the Planning and Development Commission;
- Regional - responsible authority is the relevant regional services council;
- Metropolitan - responsible authority is the relevant metropolitan council; and
- Local - responsible authority is the relevant municipality.

These development plans are aimed at achieving co-ordinated and sustainable development within a subject area, in a way that effectively promotes health, safety, order, amenity, convenience and general welfare, as well as efficiency, economy and participation in the development process.

## **Contents of Development Plans**

According to the Act, a development plan shall contain:

- a co-ordinated policy framework;
- such planning controls and performance criteria as may be prescribed;
- a programme and budget for the implementation of the plan in determined stages;
- such environmental management components as may be prescribed; and
- such other provisions as may be prescribed, including the name of the authority which is responsible for the administration, implementation and enforcement of the plan.

## **Special Areas and Features**

The Act also makes provision for the identification of special areas or features where the Minister for Local Government and Housing, on the recommendation of the Planning and Development Commission, may:

- prescribe activities which will have a detrimental effect on the environment in those areas, or on those features so identified;
- prescribe special procedures which will have to be followed for the approval of developments affecting special areas or features; and
- establish management or advisory bodies to ensure conservation, protection or preservation of the area or feature concerned.

This feature of the Planning and Development Act will provide for the protection of environmentally sensitive areas such as wetlands and the Drakensberg.

## **The Development Application Process**

The intention behind the Planning and Development Act is that where an approved development plan, or similar scheme under the Town Planning Ordinance, has been prepared by a responsible authority, any development applications falling within this area should be submitted to the same responsible authority, which in turn is empowered to approve or disapprove the application. In any other area, the development application should be directed to the Minister for Local Government and Housing, or any other responsible authority as designated by the Minister.

The Act also makes provision for a responsible authority to disapprove a development application where the amenity or environment cannot be protected, even though the proposed development is permitted in terms of the relevant development plan or town planning scheme.

In the event of a development application being disapproved by the responsible authority, the applicant can lodge an appeal with the Development Appeal Tribunal.

Where the development application does not comply with the requirements of the relevant development plan, the applicant shall request approval to depart from these requirements. If successful, such an application may lead to an amendment to the development plan.

### **Detailed application procedures**

Although the Act has been approved by parliament, the Act's regulations only exist in draft form at present, and until these are promulgated it will not be possible to provide a detailed description of the application procedure in terms of the Planning and Development Act.

### **Choice of Development Paths**

Although the Planning and Development Act and the Development Facilitation Act are designed to dovetail with one another, there are certain classes, or types, of development applications which will be subject to the provisions of the DFA rather than the Planning and Development Act, and *vice versa*. At present it is thought that only the more complex applications which will require the extraordinary powers of the Development Tribunal will be channelled through the DFA. This will become clearer when the regulations of the Act are published.

### **Contact Persons**

Director: Land Planning and Survey  
Inland Region  
Mr N Fox  
(0331) 355 6100

Director: Land Planning and Survey  
Coastal Region  
Mr M Maduna  
(031) 204 1711

Director: Land Planning and Survey  
Northern Region  
Mr B Nkosi  
(0358) 874 2611

A full copy of the Planning and Development Act can be viewed in the Provincial Gazette of KwaZulu-Natal No. 5291, dated 29 July 1998.

## **7.6 OTHER RELEVANT INFORMATION**

### **7.6.1 Other Important Legislation**

Depending on the nature and chosen location of the development, the following acts may also have a bearing on the application, and the need for their compliance may be brought to the attention of the developer through comments and objections from interested and affected parties.

These acts include:

- The Conservation of Agriculture Resources Act No. 43 of 1983
- The Water Act No. 54 of 1956
- The Seashore Act No. 21 of 1935
- The Environment Conservation Act
- The Mountain Catchment Areas Act No. 63 of 1970
- The National Parks Act
- The Physical Planning Act No. 125 of 1991
- The Share Block Control Scheme of 1980

In addition to the above, any proposed developments in the Drakensberg, or other environmentally sensitive areas, should address the following policies and research:

- Drakensberg Approaches Policy (Martin, 1990)
- Development Control Scheme for Natal Drakensberg Babangibone and Garden Castle Development Nodes (W van der Riet, 1992)
- The Wetlands of Natal and KwaZulu (Begg, 1990 (4 parts))

### **7.6.2 Coastal Management Policy Programme**

The Coastal Management Policy Programme was revealed during October 1997.

The aim of the project is to produce a policy which will guide the development and management of the South African coast, and in particular:

- promote environmentally friendly development which will contribute to economic development and enhance the quality of life of coastal communities;
- reduce the costs of coastal land use conflicts;
- enhance the capacity of communities and both local and regional authorities to effectively participate in coastal management policy formulation and implementation;
- contribute to the education of coastal zone managers regarding coastal management issues, thereby increasing their commitment to coastal management; and
- result in a broadly acceptable policy which can be effectively implemented.

The Coastal Management Office falls within the national Department of Environmental Affairs and Tourism, and it is anticipated that a national policy will be in place by May 1999.

The entire South African coastline has been divided into 6 management areas, two of which are in KwaZulu-Natal, namely Southern KwaZulu-Natal and Durban metro, and Northern KwaZulu-Natal.

**For further information, contact:**

**Southern KwaZulu-Natal** Mfezeko Sineke

(031) 212 072

**and Durban Metro**

**Northern KwaZulu-Natal** Duncan Hay or Siyabonga (0331) 460 796  
Makhaya

## Appendix - Useful Addresses and Contacts

### *KwaZulu-Natal Tourism Authority*

PO Box 2516

Durban 4000

Phone National 031- 3047144

International 27-31-3047144

Fax National 031-3056693

International 27-31-3056693

### *Tourism Durban*

PO Box 1044

Durban 4000

Phone National 031-3044934

International 27-31-3044934

Fax National 031-3046196

International 27-31-3046196

The marketing and promotional arm of the City of Durban

### *KwaZulu-Natal Marketing Initiative*

PO Box 1105

Durban 4000

Phone National 031-9078700

International 27-31-9078700

Fax National 031-9075685

International 27-31-9075685

The KwaZulu-Natal Marketing Initiative (KMI) promotes and facilitates inward investment in the KwaZulu-Natal region.

### *KwaZulu Finance and Investment Corporation Ltd (KFC)*

PO Box 2801

Durban 4000

Phone National 031-9078911

International 27-31-9078911

Fax National 031-9075685

International 27-31-9075685

The KFC is the business development facilitator in KwaZulu-Natal, offering investors a wide range of specialist assistance, including financial packages, industrial buildings and supporting management and professional services, designed to successfully establish an industrial undertaking anywhere in the region.

### *City of Durban*

PO Box 1014

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Phone National 031-3006911

International 27-31-3006911

Fax National 031-3006300

International 27-31-3006300

The economic centre of the province, with extensive commercial and industrial sectors supported by a well maintained infrastructure. Durban is also regarded as a prime holiday destination by most South Africans.

*Ministry of Economic Affairs and Tourism*

The Hon Minister Jacob Zuma

PB X54323

Durban 4000

Phone National 031-3606570/1

International 27-31-3606570/1

Fax National 031-3606568

International 27-31-3606568

*Central Statistical Services*

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International 27-31-3053904

Fax National 031-3060072

International 27-31-3060072

*Timeless Afrika*

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International 27-31-3073800

Fax National 031-3083822

International 27-31-3083822

*Portnet (Natal)*

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International 27-31-3618822

Fax National 031-3618920

International 27-31-3618920

*RECEIVER OF REVENUE*

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Fax National 031-3322210

International 27-31-3322210

*Pietermaritzburg*

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Pietermaritzburg 3200

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International 27-331-554611

Fax National 0331-945684

International 27-331-945684

*DEPARTMENT OF LABOUR*

*Workmen's Compensation and Unemployment Insurance*

PO Box 940  
Durban 4000  
Telephone National 031-3011011  
Fax National 031-3076882

International 27-31-3011011  
International 27-31-3076882

Private Bag X9048  
Pietermaritzburg 3200  
Telephone National 0331-429361  
Fax National 0331-945069

International 27-331-429361  
International 27-331-945069

*REGIONAL COUNCILS*

*iNdllovu Regional Council*

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Pietermaritzburg 3200  
Telephone National 0331-945561  
Fax National 0331-425502

International 27-331-945561  
International 27-331-425502

*uThukela Regional Council*

PO Box 116  
Ladysmith 3370  
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Fax National 0361-25608

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International 27-361-25608

*uThungulu Regional Council*

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International 27-351-41404  
International 27-351-41409

*Ugu Regional Council*

PO Box 33  
Port Shepstone 4240  
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International 27-6824820

*Zululand Regional Council*

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*Umzinyathi Regional Council*

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*Ilembe Regional Council*

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*Dundee*

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*Durban Metro*

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*Southern TMS*

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