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GIZ - Support to Policy Harmonisation in Integrated Catchment Management

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Synthesis report

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List of abbreviations and acronyms

AG	Attorney General	LEWA	Lesotho Electricity and Water Authority
APA	Annual Performance Assessment	LG	Local Government
BoS	The Lesotho Bureau of Statistics	LGA	Local Government Act
CC	Community Council	LHDA	Lesotho Highlands Development Authority
CCF	Community Conservation Fund	LHWP	Lesotho Highlands Water Project
CCSAP	SADC Climate Change Strategy and Action Plan	LLWDS	Lesotho Lowlands Water Development Scheme
CMJC	Catchment Management Joint Committee	LMDA	Lesotho Millennium Development Agency
CMP	Catchment Management Plan	LNDC	Lesotho National Development Corporation
CoW	DWA Water Commission	LoCAL	Local Climate Adaptive Living Facility
CPU	(Sub-)Catchment Planning and Implementation Unit	LWSP	Lesotho Water and Sanitation Policy 2007
CRS	Catholic Relief Services	MAFS	Ministry of Agriculture and Food Security
DA	Development Authority	MCs	Minimum Conditions
DA	District Administrator	MEM	Ministry of Energy and Meteorology
DC	District Council	MFRSC	Ministry of Forestry, Range and Soil Conservation
DC	District Coordinator	MoF	Ministry of Finance
DCS	District Council Secretary	MoL	Ministry of Labour
DDP	Deepening Decentralization Program	MoLGCA	Ministry of Local Government and Chieftainship Affairs
DEAP	District Environmental Action Plan	MTEC	Ministry of Trade, Environment, and Culture
DF	District Fund	NDP	National Development Plan
DRWS	Department of Rural Water Supply	NEAP	National Environmental Action Plan
DS	District Secretaries	NGO	Non-Governmental Organisation
DWA	Ministry of Water: Department of Water Affairs	NRM	Natural Resource Management
EIA	Environmental Impact Assessment	NSDP	National Strategic Development Plan
EIIF	Ecological Infrastructure Investment Framework	ODA	Official Development Assistance
EU	European Union	ORASECOM	Orange-Senqu Basin Commission
FAO	Food and Agriculture Organization	PBCRGs	Performance-Based Climate Resilience Grants
FD	Fiscal Decentralization	PEFA	Public Expenditure and Financial Accountability
GEF	Global Environment Facility	PES	Payments for Ecosystems
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit	ROLL	Regeneration of Livelihoods and Landscapes
GOL	Government of Lesotho	RRMA	Range Resources Management Act
GW	Ground water	SADC	Southern Africa Development Community
GWP-SA	Global Water Partnership-South Africa	SDGs	Sustainable Development Goals
HR	Human Resources	SEA	Strategic Environmental Assessment
ICM	Integrated Catchment Management	SGP	Small Grants Program
ICU	ICM Coordination Unit	SLM	Sustainable Land Management
IEC	Information, Education and Communication	SNP	Sehlabathebe National Park
IFAD	International Fund for Agricultural Development	UNDP	United Nations Development Programme
IPSAS	International Public Sector Accounting Standards	WAMPP	Wool and Mohair Promotion Project
IWRM	Integrated Water Resources Management	WASCO	Water and Sewerage Company
WE	Water Efficiency	WCWSS	Western Cape Water Supply System
LAA	Land Administration Authority Act 2010	WS	Workstream
LCN	Lesotho Council of NGOs	WUC	Water User Certificate
LEC	Lesotho Electricity Company		

1 Introduction

1.1 ReNoka and the need for ICM

Lesotho is considered the water tower of Southern Africa. With only 3% of the Orange Senqu river basin in the country, Lesotho contributes 40% of the basin's annual runoff. Water and natural ecosystems are Lesotho's most important resources, as they directly contribute to the country's economy and the livelihood of its people. Environmental challenges such as land degradation, erosion, deterioration of water quality, stress of ground and surface water coupled with climate change threatens national and regional water security, hampering economic growth. Those water and environmental threats are partly a consequence of poor governance and the absence of a legal and institutional enabling environment allowing an integrated and holistic management of the land and water resources.

In Sesotho, ReNoka means "we are a river". It represents an integrated custodial network of critical agents dedicated to the restoration of water, land, and the long-term prosperity of all communities. Healthy catchments, ecosystems and a protected environment are the basis for social and economic development. The movement stems from Lesotho as a key water source in the region and expands to all countries in the Orange Senqu basin to create a shared sense of ownership and protection of the natural resources through a vision of oneness, integration, and multi-sectoral and multidisciplinary approaches.

The national Integrated Catchment Management (ICM) programme implemented through ReNoka drives the integrated and sustainable management of water, land, and related natural resources through: holistic and inclusive policy and institutional reforms, improved coordination and data driven decision making; behaviour change driven by capacity building and awareness raising; and implementation of local level and community driven catchment rehabilitation measures.

1.2 Policy harmonisation as a prerequisite for ICM

Integrated catchment management (ICM) is an approach intended to reduce catchment degradation and ensure sustainable water availability to an increasing population under a changing climate. It requires integrated planning for sustainable development and management of land, water and natural resources in the catchment areas of rivers in Lesotho. The overarching aim of ICM is economic development and improved livelihoods through sustainable management of water resources, land and biodiversity. ICM is cross-sectoral and encompasses a number of entwined elements such as: water, land, environment and ecosystems; spatial planning and development control; gender and human rights; climate adaptation, mitigation and resilience; governance; and general economic development.

Whilst key elements and objectives of ICM have for some time been reflected throughout national policy instruments setting out development priorities in Lesotho, ICM-related governance processes, targets and objectives are elaborated across a wide variety of legislative and policy instruments, relating both to water and to other natural resources.

Ntate Bokang Makututsa from the Office of the Commissioner of Water, in his address to the 2017 Legislative Harmonisation Workshop for Water Resources Management and Protection noted that there are considerable areas of overlap in the legislation that could lead to confusion, not only amongst Government officials but also for the public at large. As an example, he highlighted that there were at least five Ministries involved in wetland management, including the Ministry of Water, the Ministry of Agriculture and Food Security, the Ministry of Pasture and Land Reclamation, the Ministry of Tourism, Environment and Culture, and the Ministry of Local Government and Chieftainship Affairs¹. According to workshop participants, the confusion caused by these overlaps created several challenges to effective implementation of ICM including, but not limited to:

- Over-exploitation of resources, e.g., over-grazing
- Uncontrolled land activities
- Poor waste management, leading to pollution of water

¹ Proceedings of the Legislative Harmonisation Workshop addressing Water Resources Management and Protection, 29th November 2017: Project No. CRIS 2016/37412/1

- Poor monitoring of compliance

It is essential, therefore, for effective ICM implementation to achieve coherence amongst such instruments. The complex challenge of policy integration under ICM might be described as a “wicked problem”, where ‘because of complex interdependencies, the effort to solve one aspect of a wicked problem may reveal or create other problems’.

A key challenge is that of the ‘fragmentation’ of the diverse legal and policy frameworks applying to ICM, giving rise to overlapping policy objectives and institutional architecture that may lack complementarity, or that may even conflict. In such fields, lawyers have long expressed concern regarding fragmentation arising from ‘the emergence of specialised and (relatively) autonomous rules or rule complexes, legal institutions and spheres of legal practice’. A policy framework may be fragmented vertically, with different measures adopted at multiple levels of policy-making (local, national, regional and international), and may also be fragmented horizontally, with various mutually relevant measures addressing different problems and causal activities. While policy specialisation may be inevitable given the ever increasing scientific and technical complexity of natural resources management, the challenge of ICM exemplifies the risk of such fragmentation, as any attempt to implement ICM must inevitably involve policy measures, adopted at various levels of governance, that seek to address management of a range of natural resources, environmental media and related activities, including freshwater resources management, environmental protection, agriculture and land management, spatial planning / development control, and biodiversity conservation. ICM must also incorporate measures to address such critical issues as climate change adaptation, the protection of vulnerable people and gender equity.

Policy and legislative harmonisation are undertaken within the overall strategy of ReNoka and the EU and BMZ funded project to Support Integrated Catchment Management in Lesotho, which aims to update and harmonise the ICM policy framework based on human rights, gender equality and climate resilience principles. This includes:

1. Selected and reviewed ICM national level legislation is ready for submission to Parliament.
2. Selected ICM national level policies and strategies are ready for submission to Cabinet.
3. At the local level, a selected number of relevant ICM bylaws are ready for submission to the Minister of Local Government.

This policy and legislative harmonisation study is a key first step towards achieving this objective by identifying priority legislation and policies for harmonisation and providing a road map for ReNoka to pursue over the remaining program implementation period. The third indicator are not directly addressed by this study but will be advanced by a follow-on activity focused on local ICM bylaws.

The Output 2 objective seeks to establish a “financial mechanism to disburse funds from government, international donors, and private sector institutions for local ICM plans.” The key indicator for successful achievement of the Output 2 objectives by 2024 is the disbursement of at least EUR 2 million in funds for implementation of local ICM plans. This policy and legislative harmonisation study seeks to analyse options for financing mechanism to implement local level ICM plans by studying options for a local ICM grant facility in line with Local Government Act and other applicable legislation.

1.3 Methodology

Implementation of ICM in Lesotho is intended to facilitate socio-economic development, whilst ensuring adaptation to climate change and adopting a rights-based approach particularly respecting the requirements of gender equality. This must be based upon an appropriate climate-resilient policy and legislative framework, which is sensitive to gender and the needs of vulnerable people, and which will require cross-sectoral policy harmonization and reform. An appropriate policy and legal framework must have due regard to the challenges faced by Lesotho in ICM implementation.

Having regard to the key elements and objectives of ICM implementation in Lesotho identified above, it is possible to set out a range of criteria against which fitness for purpose of the existing legislative and policy framework in Lesotho may be assessed. Specifically, legislative and policy measures can be assessed in accordance with the Analytical Framework prepared for the study as shown in Table 1.

Table 1 Analytical Framework Assessment Criteria

Criteria	Assessment Questions
Effectiveness	Does the measure appropriately address key elements and objectives of ICM? <ul style="list-style-type: none"> • Breadth and sufficiency of mandate • Substantive scope of application • Subsidiarity/Decentralization
	Does the measure envisage, create or contribute to a practicable ICM regime for Lesotho? <ul style="list-style-type: none"> • Sufficiently flexible • Sustainably implementable • Practically enforceable • Financially sustainable
Holistic, cross-sectoral	Does the measure link land and water use across the entire catchment area?
	Does the measure link social and economic development with protection of natural ecosystems?
	Does the measure envisage, create or contribute to an integrated management framework?
	Does the measure link with the broader National Development Strategy / Planning Framework, across a mid-to long-term horizon?
	Does the measure contribute to vertical integration or fragmentation?
	Does the measure cohere with global, regional commitments?
	Does the measure take account of any recent, current or impending significant infrastructure investments or commercial development need?
Proportionality	Is the measure likely to achieve its legitimate aims?
	Is the measure cost-effective?
	Does the measure interfere to the least extent necessary with established interests, practices, or policies?
	Does the measure involve an equitable and reasonable distribution of costs and benefits across all sectors?
Currency	Is the measure outdated?
	Is the measure obsolete in objectives, scope of application or approach?
	Does the measure require updating?
	Does the measure require consolidation or codification?
Consistency	Does the measure promote elements and objectives of ICM?
	Does the measure run contrary to (certain) elements and objectives of ICM?
	Does the measure conflict with other national measures? <ul style="list-style-type: none"> • Conflicting / overlapping roles and mandates • Gaps regarding key functions (e.g., enforcement) • Ambiguities regarding scope of application
	Does the measure take account of international and regional commitments, especially regarding transboundary basins?
Participatory (ensuring equitable participation)	Does the measure seek to raise awareness of (elements and objectives) of ICM?
	Does the measure promote transparency (e.g., by means of freedom of public / stakeholder access to relevant information)?
	Does the measure promote public/stakeholder participation in decision-making by means of appropriately structured consultation?
	Does the measure permit and facilitate reviewability by means of a general right to review decisions made thereunder?

The Analytical Framework was applied to the legislative and policy landscape of Lesotho through the following process:

1. Identification and collation of legal, policy, and strategy instruments relating to (relevant aspect of) ICM. This included mapping and sourcing of relevant national and regional instruments. Documents were obtained either from online repositories or directly from stakeholders.
2. Review and analysis of legal, policy, and strategy instruments relating to (relevant aspect of) ICM. This desk-top reviewed the substantive content and design of the instruments using the defined assessment criteria developed in the Analytical Framework.
3. Targeted stakeholder consultation. The desk-top analysis is complemented by the findings of extensive stakeholder consultations as detailed in Table 2. The stakeholder consultations identified challenges in the actual implementation of ICM within the policy and legislative framework.

Table 2 Stakeholders Consulted

Stakeholder Category	Organization Consulted	Department Consulted
Government	Ministry of Gender, Youth, Sports and Recreation	Department of Gender
		Department of Youth
	Ministry of Energy & Meteorology	Lesotho Meteorological Services
		Climate Change Coordination Committee
	Ministry of Local Governance and Chieftainship	Department of Decentralization
	Ministry of Forestry, Rangelands, and Soil Conservation	Department of Range Resources Management
		Department of Soil and Water Conservation
	Ministry of Tourism, Environment, and Culture	National Environment Secretariat
		NES Projects Financing Division & Resources Mobilization
	Office of the Prime Minister	Disaster Management Authority
		Lesotho Millennium Development Authority
	Ministry of Water	Department of Water Affairs
		Commissioner of Water
	Ministry of Finance	
Ministry of Public Works	Commissioner of Lands	
	Land Survey & Physical Planning	
Ministry of Agriculture and Food Security	Lesotho Meteorological Services	
	Climate Change Coordination Committee	
Ministry of Gender, Youth, Sports and Recreation	Department of Crops	
	Department of Planning & Policy Analysis	
	Department of Agricultural Research	
Regional Authorities	ORASECOM	Office of the Secretariat
	Lesotho Highlands Development Agency	Social Services Compliance Monitoring Unit
Donors and NGOs	World Bank	
	FAO	
	IFAD	
	UNDP	GEF/SGP Coordinator
		Energy and Environment Unit

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	Catholic Relief Services	
	Lesotho Council of Non-Governmental Organizations	Agriculture, Environment and Natural Resources Commission (AENRC)
		Women and Children's Commission
	UNCDF	LoCAL Program

Another outcome of the stakeholder consultation process was development of an understanding of the political, economic and social context of policy and legislative reform. This helped identify risks, bottlenecks and other factors which could adversely impact successful reform outcomes. The consultations also helped with identification of opportunities for interventions to achieve reform and identification of other factors that could contribute to successful outcomes. Based on these outputs, the experts attempted to elaborate suitable strategies to facilitate successful reform outcomes.

This Synthesis Report provides an integrated summary of more detailed inputs provided by a series of five technical Workstream Reports. This report provides the key results of the various analyses and their recommendations. The Synthesis Report is structured as follows:

1. Overview of Lesotho’s legislative and policy framework for ICM,
2. Recommendations for anchoring ICM in the legislative and policy framework
3. Recommendations for key thematic areas with a bearing on ICM and addressing root causes of catchment degradation
4. Recommendations for the harmonisation of permitting
5. Recommendations on the role of local governance for ICM
6. Recommendations for financing and budgeting of ICM
7. Recommendations for mainstreaming climate change adaptation into ICM
8. Recommendations for mainstreaming gender and human rights in ICM

The policy harmonization assessment and roadmap is further informed by a related regional policy assessment, which assesses the level of alignment between applicable national level and international, regional, and basin-wide legal and policy instruments. With a view to achieving greater coherence, this regional assessment also presents a policy reform strategy including a roadmap for the harmonization of existing policies, laws, regulations, and institutional frameworks in Lesotho relevant to Integrated Catchment Management to the corresponding basin-wide, regional, and international legal and policy frameworks. The findings of the regional assessment have been integrated into analysis provided in this study.

2 Overview of Lesotho's legislative and policy framework for ICM

2.1 Lesotho's legal system

The legal system of Lesotho is comprised of the Constitution, legislation, common law and customary law. The Constitution of 1993 is the supreme law of the land, and it enjoys legal superiority over conflicting provision of any other law. Legislation comprises parent and subsidiary legislation. The former is passed or enacted by the Parliament while the latter is made by the authorised Minister or local authority pursuant to specific provision of parent legislation. Parent legislation must be consistent with the Constitution; subsidiary legislation must be consistent with both the Constitution and parent legislation. Common law is hierarchically on a par with customary law. In short, common law is comprised of rules that govern the exercise of public power, conclusion of contracts, interpretation of statutory provisions, delictual liability, and others. Customary law rules, inter alia, define the powers of traditional leaders.

Lesotho is a constitutional monarchy with the King as the head of state. At the national level, the government is patterned on the Westminster model with the Parliament as the legislative arm; the Cabinet as the executive arm; and the judiciary. Parliament is the supreme law-making authority but may delegate some legislative powers as explained above. Parent legislation is called an Act whereas national subsidiary legislation is called Regulations. International legal instruments do not have a direct application in the country unless they have been incorporated into the national legal system by an Act of Parliament.

At the local level, the government is patterned on a dual system of government comprising the traditional local authorities (chieftainships) on the one hand and the democratically elected local authorities including municipal, district, urban and community councils (local councils) on the other hand. All these authorities are established by law and their powers, responsibilities, functions, and duties are created and limited by law. A chief is considered the first custodian of law and a symbol of state authority at the village level. Concurrently, the local councils have power to enact subsidiary legislation in the form of bylaws applicable within the confines of their administrative boundaries and regulatory authority. More discussion on the role of local authorities is provided in Section 6.

2.2 Lesotho's ICM regulatory framework

Lesotho does not have a piece of legislation or policy document that expressly, specifically and comprehensively governs all the elements and objects of ICM. Instead, there are over fifty legal and policy instruments including the Constitution, which have a direct bearing on catchment management. These instruments were enacted or formulated in different contexts and each of them is geared to address some and not all the elements and objects of ICM. So, there are overlaps and inconsistencies between and among the relevant instruments.

The lack of structured coordination, consultation and cooperation between and among the institutions involved in the administration, implementation or application of these instruments is one of the most glaring deficiencies in the current institutional framework. In other words, the existing instruments do not establish clear linkages between the responsible authorities and/or their mandates. So, the current framework for ICM is fragmented.

Of the many legal and policy instruments relevant to ICM, the following pieces of legislation (other than the Constitution) were determined by the experts' opinion to be particularly relevant and indispensable:

- Water Act of 2008;
- Land Act of 2010;
- Range Resources Management Bill
- Environment Act of 2008;
- Local Government Act of 1997
- Public Financial Management and Accountability Act of 2011
- Town and Country Planning Act 1980

The relationship of each of these Acts to ICM is described in greater detail below.

2.2.1 Water Act

The Water Act primarily regulates the management, protection, conservation, development and sustainable use of water resources. It defines ‘water resources’ as sources of water useful or potential useful to humans. It is, therefore, inextricably intertwined with most of the elements of ICM (water, ecosystems; climate adaptation, mitigation and resilience; governance and general economic development) and the objectives of ICM (reduce catchment degradation; ensure sustainable water availability; and economic development and improved livelihoods through sustainable management of water resources). In addition, the Water Act expressly stipulates that environmental and social issues such as HIV/AIDS and gender mainstreaming must be integrated into the water resources management. These issues are integral to ICM.

With specific reference to catchment management, section 15 of the Water Act enjoins the Minister responsible for water resources to designate catchment areas for the management and protection of water resources in consultation with the Minister responsible for land. It also expressly vests the responsibility for the management of catchment areas in the local councils and specifies council’s functions in relation to catchment management. This section expressly recognizes or acknowledges that catchment management is a joint responsibility between the three different authorities: the Ministry of Water, the Ministry of Local Government and the local councils. By necessary implication, it also creates an inescapable connection between the Water Act, the Land Act and the Local Government Act. That is so because in order to know what the Minister responsible for land (Minister of Local Government and Chieftainship) will consider or do when consulted by the Minister responsible for water, one has to read the provisions of the Land Act; and in order to ascertain how councils will exercise functions and responsibilities assigned to them by section 15, one has to read the provisions of the Local Government Act. It is, therefore, impossible to review or revise the provisions regulating catchment management under the Water Act independently of the Land Act and the Local Government Act.

The Water Act does not generally purport to be the only legislation that can, does or should regulate the management, protection, conservation, development and sustainable use of water resources. For example, Section 27 leaves the regulation of effluent discharge permits to the Environment Act. Further, it has provisions which expressly refer to and require the application of both the Land Act and Local Government Act. This interrelationship between these four pieces of legislation is not only evident from what the Water Act clearly provides for, but also from what it fails to provide for. For instance, the reports observe that the Water Act fails to establish a clear link between water use, land use (under Land Act), environment protection (under Environment Act) and development planning (under Town and Country Planning Act); to set clear criteria for the designation of catchment areas; to provide for a consultative, coordinated, integrated and cooperative approach to catchment management including planning; to include functions relating to other natural resources within catchment areas in the list of council functions in Section 15; and to provide for the transfer of functions relating to catchment management to local authorities in line with the principle of subsidiarity.

2.2.2 Land Act

The Land Act is the primary legislation for land use regulation. In general, it separates land use regulation into land management, land administration, and land disputes resolution and it also establishes responsible authorities accordingly. With specific reference to catchment management, the Land Act enjoins the local councils to take account of incidences of overgrazing, refusal or failure to combat soil erosion and past land husbandry practices when exercising their authority to allocate land. In this way, it draws a link between land tenure, soil conservation and land use. Moreover, it enjoins the Minister to expropriate land for public purposes such as water conservation by means of watersheds, water catchment areas, reservoirs; and land conservation through afforestation and soil erosion prevention. In this way, the Land Act links land use management with some elements of ICM. The Land Act vests the land allocation authority primarily in the local councils.

2.2.3 Range Resources Management Bill

A new Range Resources Management Bill is currently being developed and is intended ultimately to repeal and replace the 1980 Range Management and Grazing Control Regulations and the 1969 Land Husbandry Act. The new Act, adopted in December 2021 by Cabinet and sent to Parliament, may serve to consolidate the currently highly fragmented regulatory regime for range resources management, which comprises, inter alia, the following legislative instruments: the 1969 Land Husbandry Act, the 1980 Range Management and Grazing Control Regulations, and the 1998 Forestry Act. In addition, certain provisions of the 1997 Local Government Act, the 2008 Water Act, and the 2010 Land Administration Authority Act apply to aspects of range resources management.

As currently drafted, the Range Resources Management Bill falls some way short of providing a range resources management regime suitable for facilitating effective ICM implementation in Lesotho. Most notably, though ICM is identified as a primary objective of the draft Bill, the concept and its related principles (at least as these apply to rangeland management) require further elaboration and clarification in the text. In addition, the draft Bill demonstrates little concern to align itself with the other legislative frameworks in force relevant to ICM implementation. This would inevitably lead to continued confusion regarding the applicability of overlapping permitting requirements and the definition and identification of, and administrative responsibility for, such key protective designations as ‘protected areas’ and ‘wetlands’. Similarly, the powers and responsibilities of all authorities under the Bill, both national and local, requires greater clarification. Specifically, traditional authorities continue to express concern over the erosion of their authority under the Draft Bill, although recent stakeholder consultation efforts and revisions to the Bill appear to have at least partly addressed these concerns. Further, the text of the Bill should expressly provide for the adoption of subordinate delegated legislation (regulations) and/or technical annexes, in order to ensure that a new Act might remain current and up-to-date.

2.2.4 Environment Act

The Environment Act provides for the protection and management of the environment in Lesotho and conservation and sustainable use of Lesotho’s natural resources. This is a holistic legislation on the subject of environment and its scope is so broad that any law that is relevant to ICM is treated as environmental law under this Act. Section 114 states that any other law that is inconsistent with the Environment Act is null and void to the extent of inconsistency. The validity of this provision is doubtful, but if it were valid it would mean that the Environment Act is more important than all other key legislation on ICM. What cannot be doubted is the fact the Environment Act, the Land Act and Water Act are interconnected and interrelated, particularly when it comes to their relevance in the regulation of catchment management. The Environment Act amends the Local Government Act by incorporating the District Environment Officer into the membership of the District Development Coordinating Committee and by assigning specific functions relating to environment management and protection to this committee. Specifically, Section 17 of the Act provides that the Committee prepares a District Environment Action Plan, coordinate the actions of the line ministries for environmental protection and management in the district, and promote public awareness. Section 59 of the Act provides that the Committee has the authority to identify areas of risk of environmental degradation and to prepare and enforce guidelines for their protection. Of particular relevance for ICM, Section 59 provides local authority for the protection of catchment areas.

2.2.5 Local Government Act

The Local Government Act establishes local governments for rural and urban communities in administrative boundaries demarcated in accordance with the relevant provisions. It also provides for the powers, responsibilities and functions of such governments, including the mechanisms and procedures for exercising or performing such powers, responsibilities and functions.

Of particular relevance to ICM are:

- Mechanisms – council committees (standing committee on land, standing committee on planning, standing committee on finance and joint committees);
- Powers and responsibilities – development planning, budgeting, bylaw-making, etc. including powers provided for in other pieces of legislation such as the Water Act, Land Act and Environment Act;
- Functions – those listed in the 2015 Local Government Regulations (sustainable soil management and erosion control; sustainable water management and pollution control; maintenance of aquatic ecosystems and biodiversity; sustainable range management; wetlands management and restoration; water resources development and infrastructure operation; and sustainable urban settlements) and those listed in other pieces of legislation such as the Water Act, Land Act and Environment Act.

It is practically impossible to enact any ICM-related legislation that is not directly aligned with the Local Government Act. That is why the Water Act, Land Act, Environment Act and other ICM-related legislation explicitly establish this link. The Local Government Act is currently being amended pursuant to the National Decentralisation Policy (NDP). The NDP requires ministries to transfer functions and resources to local councils in line with the principle of subsidiarity and their respective sectoral policies. This requirement has been incorporated in the Local Government Bill, currently be developed. However, both the NDP and the Bill were developed in a context that did not take account of ICM.

2.2.6 Public Financial Management and Accountability Act

ICM invariably involves the use of public money; otherwise, it cannot be sustainable. Whether it is about ICM-related revenue collection, sharing or distribution, budgeting, expenditures, accountability or otherwise (at the national or local level) any such law must be aligned with the Public Financial Management and Accountability Act (PFMA Act).

However, there is no ICM specific and no decentralization specific finance legislation in place. There are no legal provisions explicitly regulating ICM financing. The legal basis for this exists in the PFMA generally but lacks details regarding the rights and obligations of all involved actors.

2.2.7 Town and Country Planning Act

Though it is unclear the extent to which the Town and Country Planning Act (T&CP Act) is actually implemented and enforced in practice, it is quite clear that the 1980 Act and the related subordinated statutory instruments (the 1989 Development Control Code and the 1991 Town and Country Planning Order) are very significantly outdated.

The 1980 Act requires that the Planning Authority elaborates and adopts a development plan every five years, which will determine local planning objectives and largely determine which applications for development will be granted planning permission.

Despite its age, the T&CP Act is largely fit for purpose, with clear allocation of responsibilities, ample provision for public participation, and express provision for the adoption of delegated subordinate legislation. However, the planning objectives set out therein (or required to be listed in the development plan) should include those directly related to ICM implementation. In addition, an amended and/or updated T&CP Act should provide for coordination of (or subordination of) the requirement for planning permission with other ICM-related permitting regimes.

3 Anchoring mandates for ICM in legislation

The ICM management paradigm has no formal legislative basis in Lesotho, and only a very tenuous basis in national policy instruments, notably under Key Focus Area I of the 2016 Long-Term Water and Sanitation Strategy, which defines “integrated catchment management” as ‘the integrated planning for sustainable development and management of land, water and natural resources in the catchment areas for the rivers in Lesotho. The aim is economic development and improved livelihoods by sustainable management of water resources and land’.

This lack of a firm legal foundation creates uncertainty regarding ICM’s objectives, guiding principles, conceptual parameters, and the arrangements necessary for its practical implementation, thereby exacerbating problems related to the incoherence of the current legislative and policy framework for implementing such a cross-cutting policy imperative.

Legislative elaboration of the ICM concept would facilitate inclusion within its conceptual scope of a broad range of ICM-related uses of water and land resources associated with economic and social development (including domestic, agricultural, ecological and industrial water and land uses), while having particular regard to gender equality, the needs of vulnerable persons and communities, and climate variability and resilience. Such elaboration would assist in the framing of relevant legislation and policy and of major infrastructure and other projects which contribute to the achievement of ICM-related objectives.

This section proposes two options for providing an “anchoring mandate” for ICM in legislation in Lesotho. The first option envisions an overarching ICM Act while the second option suggests the amendment and alignment of existing primary legislative instruments. Further description of these options is provided below as well as a discussion of the advantages and disadvantages of each option. This section concludes with a discussion of the need for the designation of a Lead ICM Agency to guide implementation of the ReNoka ICM objectives.

3.1 Option 1: Overarching ICM Act

One solution to the legislative dissonance described above would involve development and adoption of a unifying, overarching Act for certain prescribed ICM-related projects and activities, covering all legal and regulatory aspects. These governance roles would be taken out of the hands of the existing Ministries, who would continue to enjoy responsibility for non-ICM-related projects and activities which continue to fall within the scope of the relevant pre-existing Act(s). The normative content of any unifying, overarching ICM Act need not be overly complex. It would be informed by (and have regard to) the core requirements of the existing relevant Acts, to the extent that these are clear and coherent (regarding pollution, nature conservation, water-use, protected areas, land-use control, etc.), but the responsible agency (for ICM) would issue a single license / permit – an Integrated Catchment Management permit – incorporating (by means of conditions attached) the relevant and applicable requirements arising under the existing legislative framework. Of course, an ICM Act would also provide the opportunity to fill gaps in regulatory coverage and to develop a structured programme of relevant subordinated regulations, technical guidance, and other implementing instruments.

3.2 Option 2: Amendment of Primary Legislative Instruments

The alternative solution would involve a programme of carefully sequenced and coordinated amendments to at least eight primary legislative instruments (including the Water Act 2008, the Environment Act 2008, the (draft) Range Management Bill, the Land Husbandry Act 1969, the Forestry Act 1998, the Land Act 2010, the Local Government Acts 1997 and 2004 and the Town and Country Planning Act 1980).

Such amendments would require the identification of a ‘lead’ regime for ICM-related projects and activities (most likely the Environment Act 2008), under which the bulk of ICM-related projects and activities might be ‘channelled’, along with the establishment and elaboration of a formal legal basis for the ICM paradigm. Such ‘channelling’ would require amendment of the key existing Acts and the subordination of certain of their regulatory requirements to those of the ‘lead’ Act. A model for such an approach is provided by EU Member State

transposition and implementation of the EU Integrated Pollution Prevention and Control (IPPC) Directive (under EU Directives 96/61/EC 2008/1/EC).²

However, this alternative would require a carefully structured programme of wide-ranging legislative reform to incorporate the primary objectives, principles and requirements of ICM into the key relevant legislative instruments. This would require at least five years to implement and would place very considerable demands upon the law-making capacity of the key ministries involved. It would also require considerably enhanced procedures (as proposed above) for inter-ministry communication and cooperation over legislative development.

Where the alternative is selected of Introducing ICM-related revisions to the key legislative instruments, each offers a number of opportunities for integrating the wider Imperatives of promoting human rights-based approaches and gender equality and of facilitating climate change adaptation.

3.2.1 Alignment of the Environment Act 2008

The Environment Act 2008 presents a number of key opportunities or ‘entry-points’ for consideration and inclusion of the measures required (in the context of ICM implementation) to ensure the rights of vulnerable individuals and communities, to promote gender equality and to facilitate climate adaptation. The 2008 Act is particularly important in this regard, as it has been suggested that it might serve as the overarching legislative instrument for the cross-sectoral integration required in ICM implementation in Lesotho.

Sections 16 and 17 respectively require the elaboration and adoption every 5 years of a National Environmental Action Plan (NEAP) and of a comprehensive set of subordinate District Environmental Action Plans (DEAPs). The NEAP is intended to be binding on all parties and to provide ‘the basis for national environmental planning and development programmes’, while each DEAP must conform with the NEAD and serves to ‘coordinate the activities of line ministries in the protection and management of the environment and the conservation and sustainable utilisation of natural resources in the district’. It will be critically important to ensure that the requirements of ICM implementation are expressly incorporated into the periodic elaboration of the NEAP (and thence into the DEAPs), and this presents an opportunity to ensure that relevant rights, gender and climate adaptation measures are also incorporated therein. One method of doing so might involve amendment of the Act to include statutory articulation of a range of ‘mandatory objectives’ to be addressed under the NEAP, and thus also under the DEAPs. Further guidance regarding specific measures to be considered under such ‘mandatory objectives’ (i.e., rights, gender equality, climate adaptation) might be provided incrementally under further ministerial guidance or policy documents.

As regards the development of such guidance or policy, it is important to note that sections 11, 13 and 15 provide, respectively, for the establishment of an Environment Coordinating Committee, a Technical Advisory Committee, and creation within line ministries of Environmental Units. It would be important for the effective realisation of rights, gender and climate-related goals that expertise in each of these areas is included, as appropriate, in such Committees and Units.

Further, environmental impact assessment (EIA) of projects (specified in Part A) and strategic environmental assessment (SEA) of matters specified in Part B, stipulated under sections 19-27 of the Environment Act, might be utilised to ensure that such projects, programmes or policies have due regard to potential impacts upon stated rights, gender equality, climate adaptation objectives to mitigation measures intended to avoid, reduce or control such impacts. Once again, specific procedures to ensure such assessment might be provided incrementally under further ministerial guidance or policy documents.

It should be noted that the initial amendments required to the Environment Act 2008 would have to be quite substantial, including (in addition to the issues identified):

- Full enumeration of ICM-related objectives & principles (s. 3 Env Act).
- Harmonisation of essential definitional terms (with WA and range resources legislation initially) and expansion/clarification of scope of application of Environment Act, to include water resources management (s. 2).
- Expansion of s. 28 Environment Act to allow setting of a wide range of standards related to ICM implementation (and reconciliation with s. 27 WA and any subordinate regulations adopted under s. 42 WA).

² https://ec.europa.eu/environment/archives/air/stationary/ipcc/key_impl.htm

- Clarity on inter-relationship, hierarchy, etc. between the various relevant planning mechanisms (NEAP/DEAP; CMP & Water & Sanitation Strategy; development plan; etc.). This would involve, inter alia, inclusion of detailed ICM-related standards among s. 70 standards to be elaborated for land-use plans and CMPs.
- All ICM-related planning processes (CMPs; Water & Sanitation Strategy; development plans; etc. should expressly be subjected to SEA (under s. 19(2) Environment Act).
- Expansion of s. 70 to provide for elaboration of standards in respect of all ICM-related planning processes.
- Most importantly, some rationalization / streamlining of licensing / permitting requirements – both within the Environment Act (EIA license; pollution license; waste license) and beyond the Environment Act (WUP under s. 19-23 WA; planning permission under s. 9 T&CP Act).
- Consolidation of categories of ‘protected areas’ (designated under all relevant legislative instruments) under the Env Act, which might involve Env Act recognition and protection (and even restoration under s. 84) of PAs designated under other relevant legislative frameworks (including rangelands, wetlands, catchment areas, etc.).
- Further elaboration of procedure (under Part XII Env Act) for incorporation of relevant international / regional conventions.
- Consolidation / harmonization of provisions (in WA; T&CP Act; new range resources legislation; etc.) regarding Governance / Enabling Environment; Enforcement; and Dispute Resolution.

If the Environment Act were to be selected as the key legislative framework, the 1998 National Environment Policy would be hopelessly outdated. A programme of policy reform and updating might also usefully review and revise the objectives and approaches set out in the 2000 National Biodiversity Strategy and Action Plan and the National Adaptation Programme of Action (to the extent that the latter instrument has not been overtaken by the National Climate Change Policy 2017-2027 and the 2017 Climate Change Implementation Strategy. Indeed, legislative reform refocusing the Environment Act around ICM implementation may offer welcome opportunities for rationalisation of the policy landscape.

3.2.2 Alignment of the Water Act 2008

In line with any legislative reform of the rights, gender and climate-related requirements to be integrated into the NEAP and DEAP processes above, the requirement for local authorities to elaborate a Catchment Management Plan (CMP) under section 15(3)(a) of the Water Act 2008 might usefully be subject to an amended section 16 on the ‘contents of a catchment management plan’. An express requirement might be included in this section to ensure that the CMP would include detailed plans for the incremental realisation of related rights, gender equality and climate adaptation. This would be a significant improvement on the rather broad and general requirements currently set out under section 16. Of course, further guidance regarding specific measures to be considered in pursuit of such requirements (i.e., rights, gender equality, climate adaptation) might be provided under ministerial guidance or policy documents (issued under either the Water Act or Environment Act).

In parallel with any such amendment, section 3 of the 2008 Act might also be revised to include a broader range of ‘principles’, including more specific reference to ‘the progressive realisation of water-related (human) rights of vulnerable individuals and communities’ and ‘the meaningful promotion of gender equality’. This would be an improvement upon the current wording of section 3(h). In addition, the express inclusion of a reference to ‘climate adaptation’ would be helpful, perhaps in a reformulated articulation of ‘sustainable utilisation of water resources’ under section 3(a).

It should be noted that urgent amendments to the Water Act would include (in addition to those amendments to the Water Act alluded to above):

- Clear articulation of ICM-related objectives (s. 3 WA), including, for example, regarding designation of catchments, etc.
- Clear articulation of ICM-related principles to guide preparation of CMPs (s. 16 WA),
- The scope of application of the WA should be expanded throughout the text to link to / include land-use, range management, biodiversity conservation, (e.g., in relation to definitional terms, etc.).
- Amendment (expansion of scope) of Water and Sanitation Strategy to include a range of ICM-related issues and activities.

- Rationalisation of permitting requirements (for all water uses) to avoid bureaucratic over-regulation (s. 20-23 WA).
- Identification of essential subsidiary regulations (under s. 42 WA): e.g., groundwater quality standards; surface water quality standards; discharge quality standards, drinking water quality standards, aquifer recharge standards, borehole standards, monitoring methodologies; methodology for catchment assessments; etc.
- Repeal of s. 18(6) on fines and inclusion of power to adopt a schedule of fines under s. 42.
- Consolidation of dispute resolution procedures / machinery (merging of Water & Environmental Tribunals).
- Linkage of CMPs with other ICM-related planning processes, and detailed procedures for consultation / coordination with other relevant ministries.
- Defer to single procedure on transboundary engagement and incorporation of international / regional commitments (under amended Env Act).

If the Water Act were to become the key overarching legislative framework for ICM implementation, the objectives set out in 2007 Water and Sanitation Policy would be overtaken by this legislative reform, though the 2014 Long-Term Water and Sanitation Strategy would remain largely relevant, as would the putative Integrated Water Resources Management Strategy. The 2020 Process for Development of Draft Catchment Management Plans (2021-23) would become centrally relevant and significant. Regardless of whichever approach is adopted regarding the legislative framework for ICM, the 2013/14 – 2018/19 National Wetlands Conservation Strategy is likely to require updating, having regard inter alia to the adoption of a new Range Resources Management Act. Similarly, the 2020 National Irrigation Master Plan and Investment Framework would require updated to reflect ICM-related investments, as well as the realities of ongoing and planned projects.

3.2.3 Alignment of the Range Resources Management Bill 2021

While work on developing a new Range Resources Management Bill continues, the introduction of such a new Act would be likely to require substantial updating of the 2014 Range Resources Management Policy 2014 to reflect the key objectives and elements of ICM, as would the National Wetlands Conservation Strategy 2013/14 – 2018/19.

3.2.4 Alignment of the Town and Country Planning Act 1980

Similar integration, of the broader requirements of ICM implementation and of realisation of related rights, gender equality and climate adaptation-related objectives, is required in respect of the development plans to be elaborated and adopted by Local Authorities under sections 5-7 of the Town and Country Planning Act 1980 (as amended). Measures for the realisation of such objectives might be included (in a manner aligned with the NEAP/DEAP and CMP processes) as a legally required 'mandatory objective' in each successive five-year development plan.

Further detailed guidance on the particular measures to be considered for inclusion in each development plan might be include in subordinated regulations adopted by the Minister under section 21 of the 1980 Act.

3.3 Establishment of a Lead ICM Agency

There is a need to establish a permanent coordination function for the development, implementation and monitoring of catchment management plans as foreseen in the 2014 Long Term Water and Sanitation Strategy. Specifically, the Government of Lesotho should stablish a strong inter-sectoral coordinating body for ICM which enjoys adequate resources, capacity and a cross-cutting mandate. Any such reformed ICM Co-ordination Unit (ICM-CU) must not be regarded as concerned only or primarily with water, but should coordinate amongst a range of ministries, departments and governmental and non-governmental agencies. For this reason, it should ideally be located outside the Ministry of Water (perhaps within the Office of the Deputy / Prime Minister) and should report at the very highest levels of government.

4 Alignment of thematic mandates and responsibilities

4.1 Land Use and Infrastructure Planning

4.1.1 Overview of existing relevant legislation and policy framework for each thematic area

Though land-use planning controls represent a potentially important regime for facilitating and ensuring effective ICM implementation in Lesotho, the relevant legislative requirements are poorly implemented and suffer from a chronic lack of enforcement, especially in rural areas. Indeed, at the basin-wide level, the ORASECOM Integrated Water Resources Management (IWRM) Plan recognises land-use planning as a priority area for action in the pursuit of effective IWRM.

It appears that the land-use planning regime exists only on paper and is, in reality, entirely ineffective. This may be partly because responsibility of land-use planning policy and control is shared between several institutions, including the Minister for Development Planning, the Commissioner of Lands, the Town & Country Planning Board, and local authorities.

The 1980 Town & Country Planning Act is very poorly enforced, especially in rural areas where there is very limited awareness of the relevant legislative requirements. Also, there are many exemptions permitted in respect of rural development - even though these are not always set out expressly in the primary legislation. Similarly, though encroachment onto agricultural land is in direct contravention of the 1979 Land Husbandry Act, there is apparently little political will to enforce by revoking the owner's grant of land under sections 21, 22 and 43 of the 2010 Land Act which appears never to have happened).

The 2010 *Land Act* reaffirms the principle that all land in Lesotho belongs to the Basotho nation as a whole (Section 4). So, the *Land Act* prohibits private ownership of the land. It also prescribes mechanisms through which the Government, individuals, companies, partnerships, cooperatives, foreign entities etc. may acquire limited exclusive rights over the use of land in Lesotho. In the first instance, the limited rights over the use of land must be granted through allocation by the allocating authority following the prescribed procedure and in accordance with the substantive requirements (Sections 6-8). The decision to allocate a parcel of land to a particular person is made by a local council within which the parcel of land to be allocated is situated, but the council is required to consult the chief responsible for that area (Sections 8, 24, and 25). All in all, the power to allocate land vests in the local authorities and not the central Government. But in doing so, the local councils must strictly adhere to the substantive and procedural requirements set in the Land Act and the Land Regulations.

In broad terms, land allocation vests in the allottee or lessee an exclusive control over the use of the allocated land; he or she is entitled to occupy and/or use the allocated land and/or allow others to do so. However, the land user's rights are limited in a number of different ways: Firstly, the allottee or lessee is required to use the allocated parcel of land strictly for the purpose it was allocated (Section 15). The land can be allocated for residential, commercial, industrial and agricultural purposes. The most relevant permissible use of land to the elements of ICM is agriculture. This includes the use of land as arable, pasture, grazing, orchard, forestry or forestations (Section 2). It is worth noting that people other than the allottee or lessee may enjoy various informal rights over the use of land allocated for agricultural purposes, for instance, to graze cattle there during the winter without the necessity for the allottee's permission.³

The right to use the allocated land may also be restricted by the conditions laid down in the certificate of allocation (Section 15). Thirdly, land user's rights are subject to overriding interests such as the water rights; flora or fauna naturally occurring or present on the land; and lawfully constructed or erected aqueducts, canals, weirs, and dams (Section 5). In this regard, the Land Act separates land use regulation from water use regulation. This is an important consideration for ICM. But this does not mean that land use rights and water use rights are mutually exclusive. It simply means that land allocation does not include water use permission or licence. Another important consideration for ICM is the fact that an application for lease in respect of agricultural land cannot be granted unless there is proof that the relevant parcel of land has not been previously abused by the allottee through overgrazing and/or refusal or failure to combat soil erosion; and if it is an arable land, the allottee has

³ See Palmer and Poulter *The Legal System of Lesotho* (supra) at page 175

never previously failed to cultivate it for at least three consecutive years (Regulation 12 of Land Regulations). Furthermore, the lease for agricultural land is granted subject to the statutory conditions, which obligate the lessee to prevent overgrazing, combat soil erosion, adopt land husbandry practices and use and cultivate arable land (Regulation 25). Failure to adhere to these conditions may lead to the revocation of the lease (Section 37). It is therefore clear that the Land Act establishes a link between land tenure, soil conservation and land use. Lastly, an allocated land may be expropriated for public purposes such as water conservation by means of watersheds, water catchment areas, reservoirs; and land conservation through afforestation and soil erosion prevention (Section 50).

4.1.2 Describe challenge or obstacle to ICM implementation

The dysfunction of the land use and infrastructure planning regime impacts on ICM implementation as it continues to allow for unabated encroachment of residential settlements onto arable lands and other sensitive resource areas.

4.1.3 Provide relevant and actionable recommendation

The experts provided the following recommendation for harmonizing land use and infrastructure planning:

- Development of a new updated Town and Country Planning Act, which consolidates, reflects and/or corresponds with ICM-related aspects of the 2010 Land Act and the new Range Resources Management Bill, and which incorporates or facilitates adoption of international best practice in land use planning.

Stakeholders that need to be involved / suggested responsibilities and lead roles

The Ministry of Planning would need to assume the lead role in reform of the Town and Country Planning Act. It is unknown whether the Ministry currently has adequate capacity to implement the reforms or whether they would need assistance.

Options or strategies that stakeholders must decide on

It is recommended that the Town & Country Planning Act be reformed to introduce a new / amended legislative framework, which would stipulate the following:

1. the development and adoption of a national spatial development plan which takes full account of the imperatives of ICM, including its climate change, gender and human rights dimensions;
2. the adoption of local development plans by every local authority which is consistent with the national spatial development plan (and ideally consistent with relevant CMPs, DEAPs, etc.); and
3. introduction of a rationalised regime of planning permission (for large-scale projects or those having potentially significant impacts), accompanied by detailed regulations setting out the application and approval procedures, etc.

Procedural issues to be considered

Depending on which existing legislative measure might be selected to provide the lead overarching legal framework for ICM implementation, the T&CP Act would need to be amended to ensure effective integration of the development planning and catchment management planning processes, ideally by stipulating mandatory alignment of the development plan adopted under s. 5-7 of the T&CP Act with the objectives of the relevant catchment management plan adopted under s. 15-16 of the Water Act.

Linkages to related issues or processes

Land use decision making is clearly linked to the current efforts to decentralize authorities. However, this is also tied up in the ongoing debates over the respective roles of local authorities and traditional authorities as outlined in Section 7.1.

Risks and suggested mitigation measures

It had originally been intended that the reforms embodied in the 2010 Land Act should have been followed by reform of the 1980 Town & Country Planning Act (and related subordinate acts and regulations), which had originally been developed following the 1979 Land Act. However, these additional reforms have not been undertaken to date. It is likely that there will continue to be resistance to meaningful reform of land use planning due to customary practices and entrenched power struggles, as further described in Section 5. To address this resistance, the Government of Lesotho will need to continue to engage with traditional authorities as described in Section 5.

4.2 Water Resources Management

4.2.1 Overview of existing relevant legislation and policy framework for water resources management

The current legislative and policy framework in Lesotho relating to water resources management is disjointed and fragmented, creating an incoherent complex of inconsistent rules and supports which hinders effective implementation of ICM.

Substantive provisions of the 2008 Water Act overlap with those of the 2008 Environment Act, as well as those under various legislative and policy instruments relating to range management (including the 1969 Land Husbandry Act and 1982 Regulations, the 1979 Animal Husbandry Act, the 1998 Forestry Act, the 2014 Range Resources Management Policy and the 2015 Range Resources Management Policy Action Plan). Specifically, regulation of wetlands, which are critically important for ICM in Lesotho, are expressly subject to both the Water Act and Environment Act, but different mandates and responsibilities exist under each. Wetlands are also centrally relevant to range resources management. Similar overlaps occur in relation to pollution control, wastewater management, and a range of other aspects of water resources management which are critically significant for ICM implementation. To further complicate this situation, under the 2004 Local Government Act natural resources are deemed to be the responsibility of local councils, but different responsibilities for water resources are allocated to the Ministry of Water (under the Water Act) and to local councils (under the Local Government Act).

It is quite clear that legislative implementation and compliance is hindered by a general lack of detailed guidelines and methodologies for implementation of regulatory measures that can be associated with ICM implementation. The need for such guidance arises across multiple regulated sectors / thematic areas, and guidance is required regarding:

- Catchment management planning and assessment methodologies
- Environmental impact assessment and strategic environmental assessment methodologies
- Biodiversity assessment methodologies
- Water quality monitoring, sampling and reporting methodologies
- Permitting procedures (for each applicable permitting process)
- Protected area designation procedures
- Protected area, rangeland and wetland restoration standards
- Standards for water abstraction (borehole construction)
- Dam safety standards (re constructing, impounding, operating, and decommissioning of dams)

In addition, certain existing policy frameworks, such as the Irrigation Policy and Irrigation Master Plan might usefully be updated to take full account of key challenges such as climate change and its potential impact on rain-fed agriculture. Also, stakeholders point to a lack of clarity and coherence in the Irrigation Master Plan, resulting in tensions between Ministry of Agriculture and Food Security and the Ministry of Water. There is ongoing

uncertainty regarding which government ministry or other agency has responsibility for the maintenance and repair of existing water-related infrastructure and facilities, especially where such facilities have been developed in partnership with or with the assistance of development partners and civil society organisations. For example, the Ministry of Agriculture and Food Security currently provides irrigation infrastructure, but with little or no provision for ongoing facilities maintenance.

4.2.2 Describe challenge or obstacle to ICM implementation

The fragmented legislative and policy framework for water resources management results in widespread normative and institutional confusion, as several different regulatory requirements and procedures (e.g., regarding permitting, reporting, enforcement, etc.) may apply to a single water-related activity or project. Stakeholders highlight the anomaly of having several different overlapping authorisation processes, usually administered by different governmental authorities, for the development and operation of water and irrigation infrastructure, even relatively small-scale projects such as sand dams. Here also applicable, legal requirements relating to grazing or other agricultural activities, or to land-use planning and development control may further complicate this situation.

In addition to the administrative burden imposed upon all actors, including governmental agencies, development partners, and all water users, the simultaneous application of multiple overlapping authorisation processes inhibits new investment in water resources management and the deployment of new techniques and technologies which might improve water efficiency and/or pollution abatement.

Further, the relevant permits or authorisations may not grant the right(s) to access or enter onto land necessary for the implementation of works associated with ICM implementation. For example, in the case of wetland rehabilitation, a water permit would require entry onto and work upon land, but this may be prohibited under rules on range resources management or frustrated by the obstructive exercise of private property rights.

The current lack of relevant detailed technical and methodological standards for water resources management results in organisations and/or large-scale projects having to rely on their own internal policies and procedures and/or on a myriad of international standards (e.g., those applied by multilateral development banks or other donors / development partners).

The overlapping regulatory requirements also cause widespread confusion regarding enforcement of the relevant rules, with different Acts listing similar contraventions, but subject to different standards of proof, different procedures for prosecution and different sanctions and penalties. Consequently, it appears that not one single actor in breach of the relevant rules (which are often governmental agencies or multinational corporations) has ever faced civil or criminal court proceedings in respect of an environmental contravention.

Finally, the lack of clarity on responsibility for maintenance of water resources infrastructure, potentially denies communities of the water-related benefits provided thereby and creates a significant disincentive for collaborative development of the infrastructure and facilities necessary for effective ICM implementation.

4.2.3 Provide relevant and actionable recommendation

The legal experts recommend the following actions to address the gaps in the water resources management legislative and policy framework:

1. Establish a strong inter-sectoral coordinating body for ICM which enjoys adequate resources, capacity and a cross-cutting mandate. Any such reformed ICM Co-ordination Unit (ICM-CU) must not be regarded as concerned only or primarily with water, but should coordinate amongst a range of ministries, departments and governmental and non-governmental agencies. For this reason, it should ideally be located outside the Ministry of Water (perhaps within the Office of the Deputy / Prime Minister) and should report at the very highest levels of government.
2. Establishment of a single harmonised permitting system for ICM-related activities and projects, based either on new ICM legislation (an ICM Act) or on amendment of the existing 2008 Environment Act, to which (where relevant) requirements for a water permit, water user certificate, environmental consent or planning permission, along with any contrary property rights would be subordinated. In the latter case, the existing permitting requirements (for a water permit, environmental consent or planning permission) would be residual and would continue to apply to activities and projects which are not designated as ICM related. Such legislation should clearly set out the respective powers and responsibilities of the lead central government agency / ministry and of the relevant local authority(ies).

3. Undertaking a comprehensive programme to address policy gaps in terms of guidance regarding technical and methodological standards for water and land resources management, in order to inform further a sequenced and coherent roadmap for broader ICM implementation in Lesotho. Ideally, in order to ensure more effective implementation and compliance, such technical guidelines and methodologies should be developed and formally promulgated in subordinated legislation / regulations alongside the development of legislative reforms.
4. Develop a comprehensive suite of detailed technical and methodological standards for water and land management (e.g., regarding environmental flow management, water quality monitoring, irrigation efficiency, wetland rehabilitation, rangeland management, etc.). Such standards might be elaborated by a newly established National Standards Agency, which could initially focus on ICM-related standards.
5. Clearly allocate, within a harmonised legislative framework for ICM, legal responsibility for maintenance of water-related infrastructure and facilities amongst the appropriate governmental agencies

Stakeholders that need to be involved / suggested responsibilities and lead roles

According to the experts, establishment of a reformed ICM-CU will necessarily involve the Ministry of Water and also all other relevant ministries. It is unclear which ministries would be involved in the harmonization of the permitting system as this would be dependent on the approach taken for anchoring ICM legislation. This would also likely involve the proposed reformed ICM-CU.

Development of technical guidelines and standards, and their promulgation in subordinated legislation or regulations, would necessarily involve the to-be-created National Standards Agency. It would also involve the relevant Ministries.

Options or strategies that stakeholders must decide on

In order to implement the proposed recommendations, stakeholders will need to decide on an approach to anchoring ICM in the legislative and policy framework and identifying a lead agency, as outlined in Section 3. The various alternatives and their relative advantages and disadvantages are outlined in Section 3.

Stakeholders will also need to determine how best to reform the ICM-CU and specifically where it will reside in the government. Similarly, stakeholders will need to agree on a path towards establishment of the National Standards Agency.

Procedural issues to be considered

The most appropriate authority for overseeing ICM implementation is essentially a political question, and one which requires a formal statutory basis. The subordination of the role of any other authority would also need to be provided for under (revised) primary legislation. The experts project that the reforms to the Water Act as well as the establishment of the ICM-CU and the National Standards Agency could be implemented within a period of 2-3 years. Development of new standards would take approximately 3-5 years.

Linkages to related issues or processes

A fundamental review of the 2008 Water Act was initiated some 3 years ago with a view to harmonising the Water Act with the other relevant sectoral instruments; however, the review does not propose significant substantive reform for the purposes of ICM implementation. When the review report is finalized and made public, ReNoka could engage with the relevant stakeholders to emphasize where ICM principles could be considered.

Both the World Bank and the Millennium Challenge Corporation (MCC) are in discussions with the Government of Lesotho regarding reform of policy and legislation related to irrigation. Continued engagement with these interventions could provide an entry way for ReNoka on a key element of water resources management.

4.3 Range Resources Management & Agriculture

4.3.1 Overview of existing relevant legislation and policy framework for each thematic area

The existing legislative and policy framework for range resources management presents serious challenges for effective implementation of the cross-cutting ICM paradigm, as key principles of natural resource management differ from one legislative instrument or sector to another (across water resources management, environment protection, biodiversity conservation, forestry, range resources management, etc.).

Range resources management is characterised by a badly fragmented, incoherent and out-of-date legislative framework, comprising the following instruments amongst others:

- 1969 Land Husbandry Act
- 1980 Range Management and Grazing Control Regulations
- 1998 Forestry Act
- 2014 National Range Resources Management Policy
- 2018-2022 Food and Nutrition Strategy and Costed Action Plan
- 1997 Local Government Act
- 2008 Water Act
- 2010 Land Administration Authority Act

Legislative incoherence may be illustrated by highlighting the issue of overlapping jurisdiction among public / governmental authorities in the management of rangelands.

- Under section 4(1) of the 1969 Land Husbandry Act, the ‘Minister’ (of Forestry, Range and Soil Conservation) may make regulations in respect of agricultural land to ensure that land is employed in the most beneficial uses, to promote soil conservation, to promote proper management of water resources and proper irrigation, and to promote certain good and prevent certain bad agricultural practices.
- Under section 41(1) of the 1998 Forestry Act the ‘Minister’ (of Forestry and Range Resources Management) may make regulations for, inter alia, the grazing of livestock and the manner in which pasturage shall be used, including the granting of grazing licences.
- Under section 4(1) of the 1980 Range Management and Grazing Control Regulations, Chiefs designate and set aside areas as ‘leboella’ and may issue directions in that regard.
- Under the 2014 National Range Resources Management Policy, the Department (of Range Resources Management) is responsible for preparing and administering a National Rangelands Program, to be implemented by local and district level authorities, while the Ministry for Agriculture and Food Security has responsibility for agricultural productivity under the Food and Nutrition Strategy.
- At the same time, under section 15(1) and (2) of the 2008 Water Act, the ‘Minister’ (for Water) may designate catchment areas for the management and protection of water resources, where ‘a local authority’ shall be responsible for the management of catchment areas in its area of jurisdiction.
- Under sections 78 and 81 of the 1997 Local Government Act, a District Development Coordinating Committee shall consider the development plans prepared by each Council and prepare and approve a composite District Development Plan. It is not at all clear (having regard to current developments) that the new Range Resources Management Bill / Act will address such inconsistency and confusion.

Normative and institutional fragmentation is apparent across the broad field of range resources management. For example, in the area of fruit tree cultivation there are clear conflicts between the Ministry of Agriculture and Food Security (MAFS), Dept of Crops, Division on Horticulture and the Ministry of Forestry & Rangeland, Division on Fruit Tree Production.

implementation of ICM-related aspects of range resources management under the current legislative and policy arrangements would require an unprecedented degree of coordination amongst multiple ministries and other State agencies, including the Ministry of Forestry, Range Management and Soil Conservation (Dept. of Range); the Ministry of Agriculture and Food Security; the Ministry of Local Government (having regard to role of Community Councils under the Policy on Decentralisation); the Ministry of Environment (having regard to management of protected areas); the Ministry of Water and others. This suggests that continued adherence to a fragmented regulatory framework for range resources management will produce limited results in terms of effective ICM implementation.

There exists little legislative and/or sub-legislative guidance on best practice in respect of range resources management in Lesotho. The ‘Sustainable Land Management’ (SLM) Tool-Kit provides valuable guidance to grazing associations and other land-users regarding diverse sustainable income-generating activities. However, such

guidance enjoys no formal legislative or policy basis in Lesotho, and so these practices remain voluntary and unsupported by formal government policy.

4.3.2 Describe challenge or obstacle to ICM implementation

Such a confused legal and policy framework obstructs the work of government, donors / development partners, civil society and users (e.g., by means of grazing associations).

Range resources management is also closely inter-linked with questions of land ownership, and with problems of trespass and unauthorised grazing, conservation of protected areas, etc. Some degree of harmonisation is urgently required in order to achieve policy consistency and coherence, and to facilitate effective enforcement of the relevant rules and standards.

It is also quite clear that there is no effective enforcement of the existing relevant rules, especially in relation to illegal grazing in protected / conservation areas. Even if enforcement measures were to be attempted, the derisory fines and penalties provided under the current outdated legislative framework would exert little dissuasive effect. The resulting poor levels of compliance deter wetland and protected area conservation and rehabilitation, as improvements are highly likely to be reversed through unlawful grazing or other detrimental activities.

4.3.3 Provide relevant and actionable recommendation

According to the experts, there is urgent need for a thoroughly reformed legislative regime for range resources management, which comprehensively addresses all aspects of rangeland management, including rangeland protection, rehabilitation, related land-use practices, and enforcement.

1. Ideally, the proposed new Range Resources Management Bill would provide such a reformed regime. Such a reformed legislative regime would inform (rangeland-related) aspects of the overarching ICM regime to be established under any consolidated overarching legislative framework (e.g., under any new ICM Act) and would be subordinated to the overarching regime in appropriate ICM-related cases.
2. Any new Act should employ 'enabling' provisions, granting delegated powers to the Minister to adopt updated fines and penalties by means of subordinated statutory instrument / sub-legislative regulation.
3. A new legislative regime for range resources management would also require new policy instruments to assist its effective implementation. Such instruments would include technical guidance regarding livestock carrying capacity, rangeland restoration, optimal set-aside / 'leboella' practices'.
4. Establish sub-legislative technical guidance for range management including:
 - a) Measures for enforcement of livestock grazing restrictions
 - b) Protected area, rangeland and wetland restoration standards
 - c) Guidance on best practices

Stakeholders that need to be involved / suggested responsibilities and lead roles

Enactment of the new Range Resources Management Act will necessarily be driven by the Ministry of Forestry, Range Management and Soil Conservation (specifically Department of Range Management). Development of the new standards for range resource management would fall under the auspices of the new National Standards Agency (if constituted).

Procedural issues to be considered

The Range Resources Management Bill must be finalized and formally submitted to Parliament for consideration. The experts have already reviewed and provided extensive inputs to the Ministry on harmonizing the Bill with ICM objectives.

Section 5(1) of the latest draft of the Range Resources Management Bill 2021, grants the Minister the authority to develop guidelines on how rangeland areas are managed, thereby providing a clear legislative basis for such guidance.

4.4 Wetland Management

4.4.1 Overview of existing relevant legislation and policy framework for each thematic area

One of the most classical areas of conflict between the various ministries in executing what is perceived as being within the purview of their mandates, in the protection of wetlands. The issue of wetland protection and management is covered to some extent in the Water Act of 2008, Environment Act of 2008, the Local Government Act of 1996, in the Range Resources Management Bill amongst others. The specific laws and relevant sections are outlined in Table 1.

Table 3 Legislation for the Protection of Wetlands

Legislation	Definition of Wetland	Relevant Sections
Water Act 2008	“wetland” means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil.	Section 15 (2) A local authority shall be responsible for the management of catchment areas in its area of jurisdiction. (3) A local authority has the following functions: (a) elaboration of catchment management plans for the protection and use of water resources in the catchment area, which shall be in line with the water and sanitation strategy and plans developed by the Commissioner. 18 (1) A Minister may in consultation with the Minister responsible for land, declare, by notice in the gazette, certain wetland areas as protected and prohibit entry into or use unless authorized.
Environment Act 2008	“wetland” means an area permanently or seasonally flooded by water where plants and animals have become adapted.	61. (1) The Director shall, in consultation with the relevant line Ministry issue guidelines and prescribe measures for protection of riverbanks, rivers, wetlands, lakes and lakeshores. 62. (1) The Minister may by notice in the Gazette publish general or specific orders, or standards for the management of rivers, riverbanks, lakes, lakeshores or wetlands.
Draft Range Resources Management Bill	“wetland area” means a sub-catchment in which an important wetland is located.	Minister shall declare by Gazette: 4 (c) specific wetland and catchment areas as protected areas and regulate entry and access to the resources. 8, 10 and 12: Functions of Chief and Local Authority and rangeland user group (e.g., grazing association) respectively protect, in their areas of jurisdiction, selected rangeland sites and wetland areas identified by the Ministry in consultation with other relevant stakeholders.

4.4.2 Describe challenge or obstacle to ICM implementation

Based on the experts’ interactions with the relevant stakeholders, there is general recognition by Ministries regarding the importance of wetlands. However, there are overlaps and grey areas that contribute to poor wetlands management in the country. Without very high levels of cooperation and coordination, it could result in management being poorly implemented and managed.

4.4.3 Provide relevant and actionable recommendation

The experts recommended that:

1. Create and enhance corporate governance instruments for wetlands management between key stakeholders. These may include Memoranda of Agreements/ Understanding on wetlands management, rehabilitation and monitoring
2. Update the 2013/14 – 2018/19 National Wetlands Conservation Strategy

3. Review and refine the roles, responsibilities, budgets, and feasible organizational arrangements for capacity building of stakeholders at all levels, with special attention directed at the decentralized level e.g., Chiefs, Community and District Councils, Grazing Associations, Integrated Catchment Management (ICM) institutions, and CBOs to protect and manage wetlands

Stakeholders that need to be involved / suggested responsibilities and lead roles

The experts identified the following stakeholders that need to be involved

- Ministry of Water
- Ministry of Environment
- Ministry of Forestry, Rangelands, and Soil Conservation
 - Department of Range Resources Management
 - Department of Soil and Water Conservation

Procedural issues to be considered

There are no known reform efforts currently underway for wetland management. This study notes that the National Wetlands Conservation Strategy needs to be updated especially in alignment with the Draft Range Resources Management Bill.

4.5 Environmental Protection

4.5.1 Overview of existing relevant legislation and policy framework for each thematic area

The existing legislative framework for environmental protection is wide-ranging and complex and not ideally suited to the requirements of ICM implementation.

Though the law and policy framework for environmental protection in Lesotho is based on the overarching 2008 Environment Act, a relatively new and modern instrument, the Act seeks to implement a wide range of policy objectives (set out, for example, under the 1998 Environment Policy, the 2005 Biosafety Policy, etc.), and is supplemented by a broad range of subordinate legislative instruments (including, for example, new EIA Regulations and Plastic Levy Regulations). Therefore, the environmental protection regime must accommodate a range of complex policy inter-linkages, including, for example, biodiversity protection, which is based on severely outdated legislation (proclamations) adopted in 1969. A proposal for a (draft) Nature Conservation Bill has been stalled since 2005.

The present complex and fragmented legislative framework for environmental protection (and for ICM implementation more generally) creates many anomalies which may impede effective enforcement action. For example, stiffer penalties exist under the Environment Act to deter illegal grazing and protect rangeland than exist under dedicated measures for range resources management, thereby causing confusion and uncertainty regarding which instrument should be used (and by which governmental agency).

Enforcement of environmental rules and standards is generally very weak, even in the case of non-compliance by major users or polluters. For example, the mining sector tends to avoid enforcement action by arguing that environmental enforcement measures are contrary to progressive economic development in Lesotho.

In addition, severe capacity constraints at key State agencies can encourage non-compliance with key legislative requirements. For example, where a requirement for EIA arises in respect of a planned project, applicants can wait indefinitely for (approval of) an EIA report, ultimately having little choice but to proceed without it.

4.5.2 Describe challenge or obstacle to ICM implementation

As with a range of other ICM-related policy areas, inconsistent and incoherent laws and policies and competing regulatory institutions create confusion and lead to ineffective protection of key environmental elements related

to ICM implementation. For example, effective rangeland management is thwarted by continuing disagreement between agencies regarding jurisdiction and competence regarding wetlands and protected areas (which often overlap). Due to such conceptual uncertainty, different governmental agencies tend to pursue their own work plans and policy priorities in a manner detrimental to the holistic management of catchments. For example, the Environment Act stipulates, that wetlands are not to be developed for economic purposes but, where there are mineral deposits located within wetlands, the Ministry of Mining may overrule this provision under separate legislation.

4.5.3 Provide relevant and actionable recommendation

The experts provide the following recommendations for improving environmental protection to achieve ICM objectives:

1. The 2008 Environment Act should be amended to include express recognition of the primacy of consolidating legislation for ICM (e.g., an ICM Act), and to prioritise the environmental protection requirements ancillary to ICM implementation.
2. In order effectively to ensure their prioritisation, such ICM-related environmental protection requirements (e.g., re wetlands conservation) must be set out in an annex to any amended Environment Act.
3. A single harmonised (ICM) permitting system should (where a project or activity is relevant to or may impact upon ICM implementation) supplant the existing requirement for an environmental consent under the Environment Act. All other legislative or permitting regimes should be subordinated to such a harmonised permitting system (in respect of ICM-related activities and projects).
4. Harmonised legislation should clearly set out the respective powers and responsibilities of the lead central ministry or government agency, of associated agencies and ministries, and of the relevant local authority(ies).
5. Consolidation of the overarching legislative framework for ICM implementation should seek to remove legal anomalies regarding the enforcement of ICM-related environmental rules and standards.
6. Development of a clear guiding policy and strategy on environmental enforcement (or on broader enforcement of ICM-related requirements).

Stakeholders that need to be involved / suggested responsibilities and lead roles

The Ministry of Environment would need to assume the lead role in reform of policy and legislation addressing environmental protection. The reformed ICM-CU and the to-be-established National Standards Agency would also play significant roles in coordination reform of this thematic area.

Options or strategies that stakeholders must decide on

In order to implement the proposed recommendations, stakeholders will need to decide on an approach to anchoring ICM in the legislative and policy framework and identifying a lead agency, as outlined in Section 3. The various alternatives and their relative advantages and disadvantages are outlined in Section 3.

Stakeholders will also need to determine how best to reform the ICM-CU and specifically where it will reside in the government. Similarly, stakeholders will need to agree on a path towards establishment of the National Standards Agency.

Procedural issues to be considered

There is no indication that there are any current efforts to reform the environmental protection regime so this would need to be initiated by ReNoka as part of a larger ICM reform effort.

Linkages to related issues or processes

Environment protection is closely tied to the issues addressed in the Draft Range Resources Management Bill. It is also closely related to protection of wetlands as described above.

Risks and suggested mitigation measures

There is a risk that local stakeholders will resist strengthening of environmental protections if it is seen as detrimental to national economic development objectives. As mitigation, the experts recommend the implementation of a structured programme of awareness-raising for policy-makers on the benefits for Lesotho of ICM and national commitments at regional/international level.

5 Local governance

5.1 The Role Of Chiefs And Councils In Lesotho

Chiefs historically served as “governors” of their communities with authority over all aspects of life, ranging from social welfare to judicial functions. Although their powers have ebbed and flowed, they have nonetheless been steadily eroded since the beginning of the colonial period and continuing into the present with the recent introduction of a decentralised system of government in Lesotho. Lesotho is a nation that takes pride in its history and is keen on preserving positive attributes of its history to shape its governance and development models. However, democratic decentralisation necessitates reviewing the position and role of the Chieftaincy so that chiefs can contribute to governance and service delivery in ways that avoid antagonism and conflict with democratic and citizen-managed institutions

Under the Local Government Act, at least some of their powers and functions related to ICM, including land allocation, grazing control, and water resources and water supply, have been transferred to recently established local government structures. Since some of these powers are given to Chiefs by the (amended) Chieftainship Act (1968) and Land Act (1979), confusion has arisen as to the exact roles and functions of Chiefs in local governance vis-à-vis the roles of local government structures. Some of this confusion may be a deliberate form of resistance to the changes, but it is apparent that legislative clarity is required and that the roles and functions of all role-players need to be clearly defined and understood if development is to take place in a coordinated way.⁴

The role, functions and relevance of Chiefs in local governance is clearly articulated in the Ministry of Local Government and Chieftainship’s draft strategic plan for the period 2009 – 2013”.

Following independence in 1966, the roles, functions and powers of Chiefs were revised by the Chieftainship Act (1968) as:

- To support, aid and maintain the King in his government of Lesotho.
- To serve the people.
- To promote their welfare and lawful interests.
- To maintain public safety and public order among his people.
- To exercise any other powers or functions given to him by law.
- To prevent crime and arrest (or cause to be arrested) anyone suspected of contemplating committing a crime.
- To cause anyone in their area against whom there is a warrant of arrest or who can be arrested without a warrant to be arrested.
- To seize stolen property.

Chiefs are recognised by the Constitution of Lesotho, although it only deals in detail with some of the powers and functions of Principal Chiefs leaving Chiefs’ powers and functions to ordinary legislation.

Chiefs have other functions given to them by a variety of laws (including customary law as established by the 2013 Laws of Lerotholi), including:

- To be the custodians of Basotho culture and traditions.
- To ensure that the poor, the sick, the disabled and the destitute (including widows and orphans) are provided for by setting aside land to be specifically cultivated for them by the rest of the village – known as Tsimo Ea Lira.
- To keep custody of lost items including livestock and establish ownership under the Animal/Livestock Theft Act (2003).
- To enforce rule of law, including under the Criminal Procedure and Provision of Evidence Act (1981).
- To attest the registration of births, deaths and marriages of his subjects under the 1974 regulations for registration of births and deaths and the 2013 Laws of Lerotholi.
- To serve as the first contact person in his area of jurisdiction under the 1968 Chieftainship Act.

⁴ Extract from Morgan, G., T. Wolfson, J. Tangney, N. Sello, M. Tsoele and P. Lerotholi. 2009. Chieftainship and Local Governance in Lesotho. Government of Lesotho (Study by GOPA under European Union funding), Maseru, Lesotho.

As will be seen in the discussion that follows, a great deal of uncertainty and disagreement exists as to whether Chiefs still have the role in land allocation given to them by the Land Act (1979).

However, with the changing times, the Chieftainship Act of 1968 is being considered for review by the Ministry of Local Government following studies undertaken by the Ministry to align it with the prevailing situation of new democratic dispensation. However, these efforts have been halted by the Ministry pending further action on the decentralization policy and there is no indication when reform efforts may be resumed.

The Development Councils Order of 1991 created Village Development Councils to accelerate the socio-economic development of the country. Chiefs were the Chairpersons of these Councils, which existed side by side with the Land Allocating Committees established by the Land Act of 1979, until these Committees were abolished by the Land Amendment Act of 1992, which transferred the power to allocate land from the Land Allocating Committees to the Village Development Committees. Although the Development Councils Order of 1991 was amended in 1994 to elect their Chairperson (removing the automatic right of Chiefs as Chairperson), the Land Act was not amended to provide for an elected Chairperson.

The present Land Act of 2010 defines “allocating authority” as the Local Council or other agency empowered to allocate land under the Act. Section 14 of the Act indicates that power to allocate and revoke land shall be exercised by the local council in consultation with the chief, the two institutions having jurisdiction in the area. Chiefs may only be chairperson if elected within the purview of a council. This is the reason why chiefs have not been happy with the removal of their power from land allocations.

Functions of local authorities have been further redefined in the Local Government (Transfer of Functions) Regulations, 2015 as follows⁵:

5.1.1 Role of Local Authorities for Land

- **Land tenure:** i. Land acquisition and compensation, ii. Land evaluation, iii. Maintenance of valuation roll, iv. Preparation and management of tenancy agreements between government and private sector on immovable property, v. Assessment and acquisition of immovable property for public sector, vi. Land allocation, vii. Establishment and maintenance of database on land tenure within districts, and viii. Land disputes resolution.
- **Physical planning:** i. Preparation of regional, district and local developments plans, ii. Enforcement of development control through grants of planning and building permits, iii. Record keeping of all rights that are allocated in the planning process, iv. Collection of spatial data for future physical planning, and v. Creation of new sub-divisions, consolidations and new patterns of land use.
- **Land use planning:** i. Formulation of land use plans and zoning each type of land to specific use in accordance with its geological state, ii. Collect, analyse and provide relevant socio-economic data for preparation of land use plans, iii. Link land use planning programmes with relevant government agencies and NGOs to eliminate overlaps, and development of district database for best land use options.
- **Land surveying:** i. conduct cadastral, topographic and geodetic surveys, ii. Conduct compensation survey of land earmarked for settlement planning and production of layouts, iii. Supervision of all public and private surveys, iv. Preserve public survey data, v. Regulate survey through the Surveyor’s Licensing Board, vi. Advise all government ministries and agencies on mapping requirements and specifications for the development activities, and vii. Undertake cadastral survey of infill and settlements layouts/plans.

5.1.2 Role of Local Authorities for Forestry and Rangelands

- **Forestry development and outreach:** i. Establishment of nursery networks, ii. Establishment and management of forests, iii. Establishment and management of orchards and vineyards, iii. Utilisation of forests and forest products, iv. Establishment of forest-based cottage industries.
- **Land management and water conservation:** i. planning of soil and water conservation operational areas, ii. Survey and design of soil and water conservation works, iii. Construction of soil and water conservation structures, and iv. Rehabilitation of marginal lands.
- **Management of rangeland resources and utilisation:** i. promotion of community-based natural resources management, ii. Adjudication of cattle posts, and iii. Management and protection of wetland areas.

⁵ Only those relevant to Integrated Catchment Management mentioned extracted from the Regulations.

There is a debate about chiefs' role because as far as range management is concerned, for instance, councillors need to coordinate with a chief for certain functions. In setting aside leboella (resting a grazing area in a rotational grazing system), both the chief and councillor should agree. In some instances, the councillor is unable to reach the breadth and depth of his/her constituency. A chief will, therefore, call a lekhotla (traditional meeting mainly of men) to decide on the times and areas of leboella. Livestock found grazing in such areas must be impounded. It is the chief who must instruct range riders to impound the livestock until owners pay fines to release them.

In this and other cases, there is an overlap of responsibilities. The Local Government Act 1997 has empowered council to oversee natural resources. Chiefs feel belittled by this law and tend to bear a grudge and resist councillors' role. Councillors' role is not well defined, except to indicate their responsibility over grazing control and natural resources. This is a grey area that needs to be harmonised. This refers to chiefs below the level of the Principal Chief. At the Principal Chief's level there is no such overlap. It is clearly spelled out in the Range Management and Grazing Control Regulation of 1980, as amended, that cattle post grazing areas in the mountain areas are under their control and boundaries are well defined.

According to the National Decentralisation Policy:

“The Government considers devolution a new and remarkable phase of Lesotho's democratisation process. It, however, appreciates that the Chieftainship and chiefs will remain integral part of the country's local governance, albeit with re-defined roles to create harmony and avoid conflicts.

The Government will thus ensure that Chiefs at all levels and in all parts of the Kingdom are well positioned and facilitated to effectively serve as the symbol of Basotho's identity and unity; custodians of Basotho culture and security; and embodiment of the King's authority, while advancing the principles of grass-root democracy, local justice, security, human rights and accountability.

The experts have provided the following recommendations for leveraging the role of both traditional authorities and government authorities in achieving ICM objectives.

1. Ensure that village chiefs are protected from partisan political activities and such other activities as are likely to compromise their neutral and inherited authority.
2. Review the status, functioning and welfare of chiefs and identify appropriate functions and platforms for chiefs and the chieftainship institution in the democratic decentralisation process.
3. Review legislation and institutional structures to ensure appropriate placement and functioning of chiefs while maintaining their dignity, respect and authority.
4. Ensure that chiefs at all levels are adequately empowered, facilitated and equipped to play their new roles actively and effectively, such as conflict mediation.

5.2 Devolution of Critical Competencies to Implement ICM

In the past, the functions of Councils were spelled out in Schedule 1 and 2 of the Local Government Act 1997. However, in 2015, the schedules were delegated by the Local Government (Amendment) Act of 2010, which introduced a system whereby functions were to be progressively transferred from the central government to local councils through a process known as decentralization. The regulations on the transfer of functions were enacted in 2015. Those that relate to ICM include water, sanitation and hygiene, pollution control, housing and building, land acquisition and compensation, land allocation, land disputes resolution, physical planning, land use planning, land surveying, forestry development and outreach, land management and waste management, and management of rangeland resources and utilization.

The Government of Lesotho piloted decentralisation with six ministries through the Local Government (Transfer of Functions) Regulations 2015 including the Ministries of Health, Local Government, Social Development, Energy, Forestry, and Range and Soil Conservation. The Ministry of Water dropped out of the pilot due to lack of readiness. Only the Ministry of Local Government and Chieftainship Affairs and the Ministry of Public Works have affected decentralisation of their services on land allocations, physical planning and minor roads construction and maintenance respectively. However, it is only the political decision-making that local authorities are able to undertake. Fiscal regulations are still controlled by central Government as fiscal decentralisation has been delayed due to the Covid-19 pandemic.

There is no doubt that the implementation of ICM under the ReNoka Project is inextricably entwined with all the components of decentralisation outlined above. Based on the concept note it appears that the central theme of catchment management under this project is 'plans' and it involves planning (development of catchment management plans with the priority being on sub-catchment management plans); financing and implementation of such plans; and monitoring and evaluation of the planning, financing and implementation measures.

Under the current and proposed model of political decentralisation, planning, as a process, is legally linked with administrative and not hydrological boundaries. This is actually a point where political decentralisation and catchment management go separate ways. This is how and where they converge and diverge:

Under the political decentralisation (current and proposed) and the ReNoka Project, planning is a bottom-up process. This is a point of convergence, but the devil is in the detail: the bottom stage of planning under political decentralisation is prioritisation whereas under catchment management is consultation. The difference lies here – the former practically means citizens within a given electoral division (ED) list their needs within that ED (which may not relate to catchment areas) in terms of priority, but the latter means that citizens express their views about the management of a catchment area within or that cuts through their ED.

The law (current and proposed) provides for a special committee for planning at the council level, namely, standing committee on planning. The law does not seem to contemplate a situation where planning would be a subject for consideration and determination in any council committee other than a standing committee on planning. For as long as a catchment area falls within a council area there will be no legal problem.

If a catchment area cuts through different council areas, the ReNoka Project proposes that catchment management planning should be under a CMJC. The law (current and proposed) provides for the establishment of joint committees. This is a 3rd category of committees that councils are legally allowed to establish. It is doubtful if a joint committee can perform a function especially assigned to a standing committee. As mentioned earlier, planning is a function especially assigned to a standing committee by the statutory provisions. In principle, general provisions do not derogate from special provisions. Another problem is that the law (current or proposed) does not allow a council to delegate the power to raise any loan, to levy any rate or to impose any tax. It is difficult to conceive of a sustainable CMJC that does not have these powers particularly after the end of the donor funded project.

Under the political decentralisation (current and proposed), the financing of development plans does not contemplate a joint development plan and it is linked with council funds. A sub-catchment management plan formulated by the CMJC would actually be a joint plan and the law does not contemplate anything like that. So, a council fund is not a joint fund, a council budget is not a joint budget etc. – this scenario does not seem to have been anticipated despite the fact the need for joint committees was foreseen. Perhaps this is due to the fact that currently council plans are financed through the consolidated fund. But, with the advent of fiscal decentralisation the existence of joint budgets and joint funds is inescapable.

Fiscal decentralization consists mainly in devolving revenue sources and expenditure functions to the lower tiers of government. It is a system of intergovernmental relations where sub-national governments have certain fiscal powers and enjoy a degree of fiscal autonomy. ICM requires fiscal decentralization which is problematic in practice due to lack of political will to decentralize functions and responsibilities to the local level. Furthermore, decentralizing functions and responsibilities alone would be insufficient, as decentralization has structural implications as well and hence, creation of appropriate, well capacitated structures at the local level is needed especially relating to managing and administering funds and revenues.

It was found that more and stricter conditions to disbursing grants are needed, and that payments to the local level should eventually be made in instalments and be conditioned to progress made and to performance-based criteria. In this regard, technically and financially well capacitated local level staff is needed, and the absence thereof is a key limitation to access available donor funding.

6 Financing and budgeting

6.1 Status Quo of Financing ICM

Understanding the status quo or baseline situation in ICM financing allows identification of the specific needs and requirements for a financing mechanism to implement local ICM plans.

6.1.1 Sources of ICM funding and flow of funds

Sources for local level ICM funding, include the national budget of the GOL, and funding provided by multiple international donors.

Various Ministries (e.g., Water, Forestry and Range, Agriculture) do implement ICM-related interventions funded by the Ministry of Finance. This is not to be seen as fragmentation of ICM per se but rather as integration of ICM elements in the various sub-sectors. These interventions need to be coordinated strictly by the National Coordination Unit. It is highly relevant to review how the Government of Lesotho finances ICM activities through the various ministries and monitor this in view of cost effectiveness. It should be noted that the initial allocations of the Ministry of Finance to the ICM related ministries is considerably uncertain and is often significantly reduced over the course of the financial year.

While ICM specific funding by the GOL budget is rare, ICM funding by international donors is widely available in principle, this funding cannot always be easily accessed by potential beneficiaries on the local level due to capacity constraints. Many international donors are willing in principle to finance ICM interventions, and more sources could be accessed. It was confirmed during stakeholder consultations, that ICM financing heavily depends on international donors and that technical and financial capacity to access all sources often lacks. While ICM generally attracts much donor attention, it is widely acknowledged, that there is a strong water focus in most donor funded ICM interventions.

Regarding the flow of funding, all ICM financing, irrespective of its origin, must mandatorily pass through the national level, via the consolidated fund as required by Section 110 of the Lesotho Constitution. Funds are distributed from the consolidated fund via the accountant general's account from central to local level. Auditing of correct allocation and spending is also conducted by the central level, via the auditor general.

The approach developed by the Local climate adaptive living facility (LoCAL) of financing ICM interventions via performance-based climate resilience grants (PBCRGs) and of topping up national financing, is promising in principle and found wide approval of the Government of Lesotho and relevant Ministries.

The LoCAL model has generally proven successful, a cooperation between ReNoka and LoCAL could be beneficial.

It was confirmed by stakeholders that all sources of funding provided by international donors are generally directed towards short term interventions and are – by nature – not provided infinitely.

To date, sustainable, revenue-based funding currently plays no relevant role in ICM plan implementation financing.

6.1.2 Main constraints

The main constraints in funding local ICM plan implementation relate to silo thinking within Ministries constraining effective use of available budget and of international donor funds.

Constraints also relate to fragmented ICM responsibilities of various Ministries dealing with water resources management, rangelands, wetlands, and forests without sufficient and regular coordination.

Existing government structures both at the central and local level are not aligned with ICM objectives and elements.

Too many ministries and departments are involved in ICM related responsibilities and ongoing, well organized coordination lacks. If coordination takes place, this is mostly done on an ad hoc basis.

ICM requires decentralization, including fiscal decentralization, which is problematic in practice, due to lack of political will to decentralize functions and responsibilities to the local level.

It is highly relevant to note that decentralizing functions and responsibilities alone would be insufficient, as decentralization has structural implications as well and hence, creation of appropriate, well capacitated structures

at the local level is needed. Capacities must relate to both, ICM related, technical skills, as well as capacity relating to managing, and administering funds and revenues.

It was found that more and stricter conditions to disbursing grants are needed, and that payments to the local level should eventually be made in instalments and be conditioned to progress made and to performance-based criteria. In this regard, technically and financially well capacitated local level staff is needed, and the absence thereof is a key limitation to access available donor funding.

The needed political will to continue needed law-making processes lacks. Policies, and concept notes exist, however progress in enacting legal binding mechanism such as primary legislation, acts and subsidiary legislation, regulations, and by-laws, is slow and insufficient.

It is crucial to note that sustainable revenue-based finance mechanisms are clearly underdeveloped with fees for water use, grazing and other ecosystem services mainly not in place or not enforced.

6.1.3 Most relevant lessons learnt

One key lesson that was confirmed by most stakeholders is that international donor funding requires additional counter-financing by the GOL, and more ICM specific Government funding from the national budget is needed.

There were instances where the MoF has reduced the annual disbursement of the relatively high initial earmarked budgets on water/ICM related interventions after international funds have been committed by donors. This reduction had no consequences, and donor funding was not reduced accordingly.

The adoption of new structures for finance mechanisms for administering international donor funds is not seen as the most appropriate approach by stakeholders. Thus, experts believe it is more practicable to build on existing structures and capacities where possible.

Such finance mechanisms for ICM would consist of packages of legal and institutional and capacity building measures intended to direct funding (GOL budget, international donor, and revenue) to local level ICM plan implementation. Once the Legal, Institutional and Capacity measures needed to establish finance mechanisms are recommended, specific actions are needed to implement and achieve the recommended legal, institutional, and capacity changes.

Legislation drives this process of achieving legal, institutional, and capacity changes and strengthening. Legal mandates drive institutional development and the mandates described in law require certain capacities.

Fiscal decentralization consists mainly in devolving revenue sources and expenditure functions to the lower tiers of government. It is a system of intergovernmental relations where sub-national governments have certain fiscal powers and enjoy a degree of fiscal autonomy.

Establishing Charges/payments for ecosystems (PES) systematically, is required urgently. All stakeholders found these highly relevant, while noting that PES is not practiced. They confirmed that sustainable, revenue-based funding of ICM interventions is needed and must be embedded in the law.

To this end, permitting for all ecosystems use activities (key areas: water abstraction, also all activities with adverse impacts on water bodies, course alterations, land use and grazing) and establishing a balanced, implementable charging regime is key.

The collected fees/charges need to be allocated to the local level for ICM funding. In order to operationalize a local level ICM funding regime, the local level capacities and buy-in to collect, distribute and use fees must be developed. This process must be supported and carried by multiple players (government, science, NGOs, Households, civil society) and hence raising their awareness of the value of environmental goods for all is key.

SHs generally considered the potential being great for a variety of possible PES based on new, needed legislation on permitting and charging, mostly in the water and land management, i.e., grazing, sector.

The process of introducing an effective, implementable permitting and charging regime, can be impeded by the fact that this topic is highly political. In addition, high levels of poverty, and competing for limited resources can pose risks to implement a sustainable revenue-based financing system.

Existing fees and penalties are inadequate and outdated. These must be addressed by appropriately flexible, subsidiary legislation that can be easily adapted to changing needs and situations.

6.1.4 Legal framework and legal basis

The legal framework on fiscal decentralization and the allocation of funds to local level ICM funding is clearly underdeveloped.

The existing legal framework allows in principle to establish donor funded local level ICM financing mechanisms that are embedded in and follow the existing government structure, as demonstrated by the LoCAL example.

While a general legal basis for ICM financing and fiscal decentralization exists in the PFMA, a specific, detailed legal basis, to allow enactment of implementing subsidiary legislation, and regulations is needed. This legal basis must be in the parent act and needs to allow for the enactment of sufficiently detailed and easily amendable/adaptable subsidiary legislation (national level regulations and local level statutes/by-laws).

A functioning permitting and charging legislation for sustainable, revenue based ICM financing lacks. Currently the reality is that most revenues are collected by means of fines and penalties, but not, as is preferable, via charges such as fees, tariffs, and levies. In fact, in some legislation (e.g., the RRMA) fees and fines, albeit substantially different in nature, are not clearly distinguished. Revenue generation by means of levies, tariff and fees is legally in its infancy, and largely not enforced.

Hence, detailed, practice friendly regulations with technical schedules on ICM revenue generation, such as permitting and charging for water, grazing and other ecosystems use is needed.

Furthermore, the current laws of Lesotho are silent on how collected fees and funds are allocated and spent. Sectoral laws (water, land/range management, wetlands, etc.) need provisions on allocation of funds in a manner that supports ICM financing.

A potential best practice example could eventually be the draft Bill for a RRMA (as in a draft version made available to the consultant in May 2021), that contains first ideas on allocation of funding in its Chapter VII, Section 21 (6). This legal approach is highly relevant and could lead the way for other sectoral legislation on fees. This draft is particularly relevant as it makes the needed link between revenue generation and revenue spending. This is described in more detail below.

6.2 Recommendations for Financing Local ICM Plans

The analysis of options for finance mechanisms to implement local ICM plans has shown that needed finance mechanisms fall into two main categories:

1. On the one hand, well capacitated local level ICM grant facilities to administer donor funds directed at the local ICM sector is needed.
2. On the other hand, a legal framework and capacities for practicable and implementable sustainable, revenue-based generation of ICM funding is needed.

Below, two main outputs are presented in detail including 1) donor funded ICM plan implementation in line with local government regulations and 2) detailed recommendations on how revenue can be generated sustainably.

6.2.1 Donor-Funded ICM Financing Mechanisms

The expert recommended several categories of funding for implementation of local ICM plans as summarized in Table 3. Detailed implementation plans for these recommendations are provided in the relevant experts report.

Table 4 Recommended Donor-Funded ICM Financing Mechanisms

ICM Financing Mechanism	Key Characteristics of Financing Mechanism
Local revenue (basin/eco system services) by Community Councils	<ul style="list-style-type: none"> Collected for locally delivered ICM related services Relatively small amounts of revenue Functions within one area under the Community Council Suitable for a bonus or topping-up arrangement (from external sources, i.e., international donors) to reward local performance 'What you see is what you get': the ring fencing translates immediately in visible ICM work done or income created at community level Suitable for beneficiary/stakeholder/community-based monitoring Essentially this category of revenue is/should be charged and received by DWA, WASCO and Principal Chiefs/MoLG&C.
ICM subsidy to Community Councils through District Fund	<ul style="list-style-type: none"> Grants for investment in national ICM development Grants from the Lesotho Highlands Development Agency Budget operates within the community Based ICM Plans Suitable for a bonus or topping up arrangement (from external sources) to reward district management performance Suitable for direct beneficiary/district level and stakeholder/community-based monitor
Future District direct ICM Fund (successor to existing District Fund)	<ul style="list-style-type: none"> Budget is related to District development planning Budget operates within the district administrative boundaries in the catchment (these do not coincide) Suitable for a bonus or topping up arrangement (from external sources) to reward district management performance Suitable for direct beneficiary/district level and stakeholder/community-based monitoring At district level a development fund is administered by the District Council Secretary, which is receiving financial allocations from national level.
Lesotho National government subsidy to ICM related ministries	<ul style="list-style-type: none"> Investment from National Government in ICM development through ICM-related ministries Budget does focus on all ICM activities in the mandate areas of the ministries ICM related activity in the program of the ministries has adequate visibility Ministries do coordinate their ICM actions well with the ICM Coordination Unit
International donor funding	<ul style="list-style-type: none"> Budget can focus on ICM local level plan implementation Can be stand alone or follow existing financing and top up Donors can require counter financing and strict performance-based conditions Not sustainable and not infinite, once funding ends there is risk of project ending Sustainability to be ensured by GOL (maintenance, staff salaries, electricity, etc.)

Regarding the most appropriate level of government to engage with (District councils or community councils) it is the CC that put forward project proposals and requests to the DC level. The DCs prioritize these and take projects up in their integrated DC development plan, which is then financed by the Central Government.

In case a CC implements plans, this may result in incomplete implementation as the plans originate at the district level. So, the preferred option is that they are implemented at the DC level.

Larger projects/interventions, that require significant financing, suggest the responsibility to be under the DCs, as they are better suited to deal with these.

Considering the current and proposed structure and responsibilities of a District Council, a financing mechanism for significant projects or schemes through a District Council would be most practical. That is so because a District Council is comprised of Councillors from CCs within the district and is charged with, inter alia, considering and incorporating proposed development plans from the CCs into a district development plan. The main challenge would be that presently urban councils are not part of the DC and so a district development plan does not cover urban areas.

Planning begins at EDs through prioritization led by councillors, then follows deliberations at CC level where each councillor presents priorities from his/her ED. Decisions are then taken as to what should go into the CC proposed development plan, then the proposal together with other proposals from other CCs will be considered by the District Development Co-ordinating Committee which will then draft a district development plan based on such

proposal for consideration and approval by the DC. A district plan is then submitted to the Minister for financing. It is, however, important to underscore the point that a development plan should be aligned with council functions and so it cannot cover aspects of ICM which have not yet been transferred to councils.

It is hence recommended that Integrated sub catchment management plans are implemented through the DCs. Accordingly, any financing should be administered by the DCs. Finance mechanisms are consequently best established on the DC level, as funds could be ringfenced for larger ICM projects.

6.2.2 Long-term, sustainable, revenue based ICM funding

Sustainable funding of ICM interventions, in particular of local level ICM plans, need a solid and reliable revenue basis. Dependence on international donors and external funds, such as grants, should be avoided in the long term. Stakeholder consultations have clearly revealed that a long term, revenue-based finance mechanism should have high priority for Lesotho. Donor funded interventions are finite, and experience shows that revenue-based funds tend to be used more efficiently.

A revenue based ICM funding regime could, however, be amended/completed by donor funds in the short-, mid-, or even in the long term. A main lesson learnt is that local counter financing is crucial in cases of external, donor funding. Counter financing could be based largely on a functioning revenue-based regime.

Water Use Permitting

In particular, it is recommended that the most suitable mechanism for long-term, sustainable ICM funding would be implementation of a water use permitting regime. All forms of water use, including consumptive and non-consumptive uses, have significant potential for revenue generation. To this end, all activities related to water use, as well as activities that may impact water quality, or the condition and natural state of water bodies must be subject to permitting and charging requirements.

A permitting and charging regime will allow to steer water use and water allocation, and may equally address issues of projects and plans, that potentially impact on water bodies, e.g., water course alterations, or water course diversions and all other projects or plans that could adversely affect water bodies. Insofar a water permitting regime is linked to infrastructure (e.g., roads) and land use planning.

The Lesotho Water Act requires permitting for all water uses in its current Section 20 and lists several key issues in Section 20, subsections 1) to 14) and refers to application forms. However, it does not list the procedural and technical requirements in sufficient detail. This must be provided in a detailed regulation on permitting (and charging) with detailed and comprehensive technical annexes on procedures, technical requirements regarding different user forms, equipment and safety requirements, dispute resolution, and many more issues.

Sections 21-23 of the Water Act provide for more details, but these are not sufficient and must be specified via a detailed permitting regulation as explained above.

The matter of charging cannot be separated from the above permitting issues, as any type of water use must be subject to levies (infrastructure development), tariffs (operation and maintenance), and fees (abstraction, use). These need regulation via a detailed permitting and charging regulation with schedules on pricing, considering, inter alia, different forms/types of use, different users, geographic locations, varying quantities, and must consider safe access to water for all and pro poor measures.

Needed regulations need a clear legal basis in the Water Act. Section 42 of the Act provides the legal basis for subsidiary regulations but is too general and provides no guidance or criteria to be considered in the subsidiary legislation. The principle of subsidiarity, best regional practice, and ongoing decentralization efforts require that competences for granting, revocation, monitoring and enforcing permits and permit conditions must be on river basin or catchment level.

The granting of water use permits should be dealt with on a decentralized level, ideally, as best practice in the region shows, on catchment management / river basin authority level. Control and enforcement of permit conditions are also best situated on CM level.

Grazing Permits

Grazing fees are a highly politicized issue that faces implementation resistance because they are perceived to oppress the poor range resource users. Transition of the former Chief-governed and administered public land tenure system to a Community/Council based process has not yet been designed, capacitated and field tested.

As described in the outline above, monitoring of permits, and enforcement of permit conditions is needed. To this end, a register of permits is needed. Grazing permits are not controlled, and institutional and HR capacity as well as incentives for controls is needed.

The ownership of ICM interventions by communities is needed to generate grazing fees.

Concerning a revenue based sustainable ICM local level funding, the following shortcomings in the draft Range Resources Management Bill must be addressed and the following specific recommendations for amendment and clarification need to be considered. The recommendations below are made based on the version of the Range Resources Management Bill that was approved by the Cabinet in December 2022.

- In Part 1, Section 2 “Interpretations” the definitions are provided for both “user fees” and “grazing fees”. It is not clear how these differ. The concept of user fees as opposed to grazing fees must be clarified. The bill does not elaborate on fees in sufficient detail in the substantive sections of the draft Bill. It is recommended to clarify terminology and the concept of user fees and grazing fees. These two terms must be detailed and applied in the substantive provisions in the act.
- Sec 25, (5) of the bill confuses the terms “fees” with “fines” and is unclear regarding the differences between fines and fees – these are substantial. It is recommended to clarify the terminology and to include detailed substantive provisions on fees and fines. The concept should be that fees are the preferred source of revenue and that fines are only adding to these. Fines must be sufficiently deterring and enforceable. The fee structure should be practicable and realistic in order to avoid violations and hence the need for fines.
- The same is the case in Part 1, Section 2 “Interpretation” on “Grazing or Browsing Permit” and “Rangeland User Permit”. These permit types are neither clearly defined nor applied in detail in the substantive sections of the draft Bill. It is recommended to elaborate permitting and related fees in a separate chapter or, preferably in a detailed regulation on permitting and fees. Permitting chapters must address using existing permits to expand those and link these to new ones. These permits should include numbers of livestock that can be taken for grazing to the mountains, and the related fees.
- Section 27 is the legal basis for implementing subsidiary legislation (regulations and schedules thereto). This legal basis in the RRMA must be more precise with regard to the main content of regulations and listing the purposes and scopes of needed implementing regulations. The legal basis should mention the main needed content generally. All rights and obligations of relevant players must be defined in the parent act. It is strongly recommended to add a clear legal basis in the RRMA for subsidiary legislation that then must regulate forms of permits and fees (user and grazing fees) in detail. Needed contents will have to relate to the number of cattle and areas grazed. Fees must be easily adaptable to changing circumstances, hence these should be listed in an easily adaptable schedule to such regulation.
- It is recommended, as in the example of a model structure for a water permitting and charging regulation above, that subsidiary and small-scale users could be exempt from permitting requirements to some extent.
- The Act also needs a procedure regarding with whom the Minister must consult before or while executing powers under the RRMA, in particular when deciding on grazing activities that require permitting and fees. Other ministers, associations, civil society, scientific bodies, and NGOs should be involved and at least have the right to be heard during the decision-making process as far as permitting and fees are concerned.
- In particular, the Ministry of Local Government and Chieftainship, and the Principal Chiefs must be closely coordinated with. The RRMA should include a reference to the LGCA and be harmonized with the LGCA to avoid legal conflicts when enforced.
- Part 4, Section 15.1, Item a could also be the legal basis for subsequently required implementing regulations or technical annexes to the Act. Section 15 is the legal basis for prescribing norms and standards. Both could also relate to permits and permit conditions as well as to fees as mentioned in the definitions
- Part 6, Section 17 must clarify the authority responsible for range resources management, more specifically, who grants prescribed user permits. Ideally this would be delegated by the above-mentioned subsidiary legislation to District Councils.

- Part 6, Section 21, Item 2 is the potential entry point for fiscal decentralization. It is recommended that the provision must include principles regarding how funds are allocated to the catchment level (see also comments to Section 25 below).
- Sec 25 on establishment of a Fund for Range Management is meaningful as it allows for ringfencing under section 25.3 However, this section is incomplete in the draft bill. Importantly, the Director should not have the sole power to sign off on projects to be financed. The Communities Grazing Associations must have a right to be heard and considered during the decision-making process and they must be able to submit project requests.
- The RRMA should detail what the applicable audit rules of the RM Fund will be.
- It is recommended here, that the Chiefs and Councils should be involved in the drafting of the RRMA as they claim to collect grazing fees. Any fund under the RRM (Sec. 23) will need the buy in of Chiefs and the local level in general.
- Trespass fines and impoundment fees under Sec 23, Item 2A should flow to the fund as well.
- Highly relevant is finally that more details must be added to Sec 23, Item 3. It is insufficient to only mention the supported projects as is currently the case. Community councils must be included as an important player, and ICM specific projects/ICM principles to be supported with the fund must be explicitly mentioned.

Generally, the draft bill is imprecise regarding fees and fines and the respective terminology used. The difference in legal nature of fines, on the one hand, and fees, on the other hand, are not correctly reflected in the bill. While fines address violations of existing legally binding provisions, fees are used in the context of permitting activities relating to the use of water, land and other natural resources and ecosystem (Payment for ecosystems, PES). This must be clarified in the definitions as well as in the substantive parts of the bill for a RRMA. Permitting and charging belong together.

While permitting is not yet sufficiently detailed, charging and the fund in Sections 23 and 25 are highly relevant entry points for sustainable financing and fiscal decentralization. Insofar, this draft version of Section 25 could serve as best practice for other sectoral acts and regulations on how collected revenues are allocated and which measures/interventions are financed by these. In light of the reference to the PFMA (section 23 draft bill) all revenues, albeit these are collected by the local authority, the Principal Chief's offices, and the grazing associations, must go through the consolidated fund under sec. 110 of the GOL Constitution on the national level, before they can be reallocated back to the local level (as set forth in section 25). This flow of funds can only be altered or regulated by the RRMA if the PFMAA would be changed accordingly.

It is recommended to consider using the approach chosen in Section 25 draft bill for a RRMA in other sectoral acts, in particular in the Water Act.

7 Climate change adaptation

7.1 Overview of policy and legislative framework

In summary, there is a relatively strong policy and legal framework at national level, with a wide range of policies and legislation that relate to the management and protection of the environment and natural resources (that are essential for the capacity of the environment to provide ecosystems-based adaptation). These include water, rangelands, soil, and biodiversity and priority habitats. Most of the principal legislation directly covers aspects of ecosystem protection which therefore supports a level of climate change adaptation without it being explicit.

For example, rehabilitation of degraded wetlands, soil and water conservation, rangeland management, biodiversity protection and alien invasive species. However, the legal frameworks also tend to be fragmented and lacking in many aspects. Some legislation is outdated and overlooks the need for climate change adaptation and resilience entirely for example Town and Country Planning Act. While other legislation includes outdated penalties and fines that are inadequate to deter transgressors. There is fragmentation between strategies in national initiatives and those of international donor funded programmes. International donor programmes are consistent in aligning with international best practice criteria such as the incorporation of climate change considerations in all funding programmes. Yet this approach is not being mainstreamed nationally, despite the budgets of national programmes far exceeding the budgets of donor funded programmes that aim to demonstrate opportunities and best practice.

The legal framework currently does not provide a framework that contextualises climate change adaptation within ICM and does not emphasise that the responsibility for climate change adaptation lies across multiple institutions and actors, including governmental, non-governmental as well as on community level.

The effect of the weak policy and legal environment, in terms of support for mainstreaming climate change adaptation, is further compounded by the dissonance between a number of traditional customs and statutory laws. The control of some practices that contribute to environmental degradation are challenging due to their deep rootedness in culture and tradition.

Examples of this include:

- Strong attachment to livestock as a form of wealth / savings drives, which translates into unsustainable livestock stocking rates and overgrazing in some areas, leading to a degradation of ecosystems and habitats (such as wetlands) that are critical for adaptation to the impacts of climate change.
- The use of stover remaining in the field once the crop has been harvested for livestock grazing is ongoing and considered a right by livestock owners. This despite the introduction of conservation agriculture practices, which requires that stover be left in the fields as a strategy to retain soil moisture.
- As primary users of natural resources, women have a key role to play in their management and decision making. Yet culture and tradition mean that women remain largely excluded from strategic natural resource and land use management decision making at a local level.
- There is little investment by land and natural resource users in sustainable land management due to insecure land and resource tenure, which contributes to overuse and degradation of natural ecosystems that are important for ecosystems-based adaptation to the impacts of climate change (e.g., wetlands and rangelands). Weak perceptions of ownership in communal areas (e.g., Category A and B grazing areas) underlies a situation in which individuals with access to shared resources act in their own interest rather than the greater interest of society (and the environment) and thereby ultimately deplete the resource.

These challenges are exacerbated by a lack of decentralization and the erosion of the powers of traditional leaders (Chiefs and headmen) to control and enforce resource management regulations.

7.2 Institutional environment

Climate change adaptation currently has no legal basis across the Ministries in sectors that are key to ICM (i.e. water, environment, agriculture, rangelands, local government, etc.). Key ICM departments operate within silos, which results in a lack of integrated planning, particularly in relation to cross cutting issues such as climate change. Furthermore, there is lack of capacity to discharge mandates, particularly at local level where climate change adaptation interventions are required to give effect to policy.

The Ministry of Energy and Meteorology is responsible for the development of all climate change adaptation and mitigation policies and regulations. Lesotho Meteorological Services (LMS), which is located within the Ministry of Energy and Meteorology, is responsible for their implementation - it is the national designated authority.

There are a number of international programmes that are being run through LMS, e.g. LMS is the National Designated Authority (NDA) for the Adaptation Fund; Green Climate Fund's Readiness Programme is currently being developed through LMS; and UNDP funding is being implemented through LMS to update Lesotho's Nationally Determined Contributions (NDC) and the National Adaptation Strategy.

LMS is broadly seen as responsible for mainstreaming climate change adaptation, but the absence of legislation means that there is a lack of legal tools and instruments to give effect to this. The National Climate Change Coordinating Committee (NCCC) is a forum that is tasked with the cross sectoral coordination of climate change issues in the country. However, it has no legislative basis and hence it is an advisory body with no actual power to compel stakeholders to implement their recommendations. The mandates of the Ministries represented on the NCCC therefore continue to be prioritised.

There are many grey areas regarding roles and responsibilities of the institutions across the sectors that are key to ICM. Whilst each department has its specific mandates, adaptation objectives will not be realised until at least areas of conflict and grey areas are resolved. For example, wetlands are a transition between land and water and happen to also be rangelands. Furthermore, the lack of effective decentralization, particularly among ministries that are central to ICM, inhibits the development of locally appropriate adaptation strategies and interventions at district and community council levels.

The ICM unit at the DWA is recognised as coordinating and driving ICM activities in the country. However, the need to highlight that ICM is not only a water issue but rather cross cutting that incorporates climate change adaptation needs to be emphasised.

7.3 Human and financial capacity

Lesotho does not currently effectively access international funding that is available to support climate change adaptation, particularly in Least Developed Countries. Inadequate national level capacity and the absence of an effective approach is a limitation. The absence of a consolidated national fund to responsibly manage and resource climate change adaptation interventions undermines the implementation of climate change adaptation interventions at a meaningful scale, and potentially undermines donor confidence. Furthermore, there is no pre-requisite for incorporation of climate change adaptation into nationally funded project planning. The resultant scarcity of financing results in strategies and sectoral plans that are without financial and human resources and timelines for implementation, which results in a lack of implementation.

7.4 Information and capacity

Planning and implanting effective climate change adaptation requires science-based information and capacity. However, there is a lack of national resources to undertake vulnerability and risk assessments at an appropriate scale to inform strategies and plans that address local adaptation priorities. Furthermore, there is also a lack of research, monitoring and evaluation to inform revision and adaptation of strategies and action plans. There is no integrated information management system for the analysis and evaluation of information across sectors.

The scarcity of science based data and information is also a challenge for reporting. Lesotho has a number of international obligations on climate change adaptation reporting. There are currently three main reports prepared and submitted in terms of climate change adaptation:

Voluntary National Review (VNR), which is coordinated by Ministry of Development Planning.

UNFCCC National Communications – the UNFCCC focal point in Lesotho, i.e., LMS, is largely responsible for this report with financial support from Global Environmental Fund (GEF). United Nations Environmental Programme (UNEP) provides technical and training support.

Nationally Determined Contributions (NDC) Report is required from countries participating under the Paris Agreement. NDC is largely a plan that lists activities the country shall implement under climate action.

Other than the Climate Change Policy of 2017, there is no legal framework that requires monitoring and data collection relating to for example meeting climate change adaptation targets. A lack of data is therefore a challenge.

There is a lack of tools, standards and guidelines for climate change mainstreaming across main sectors, and Ministerial and Departmental staff in the different sectors often do not have the capacity to apply those tools and information that do exist for mainstreaming climate change adaptation.

7.5 Main findings and recommendations

Proposed actions have been identified by the expert as a guide towards implementation of the key recommendations for mainstreaming climate change adaptation in ICM, as described in Table 4.

Table 5 Proposed Actions for Mainstreaming Climate Change Adaptation in ICM

Proposed action	Recommendation to which action relates	Priority	Time-line	Main actors
Finding 1 - The weak policy environment undermines mainstreaming and consistency in climate change adaptation across key ICM sectors.				
<p>a) Clarify the roles and responsibilities of the institutions within the water, environment, rangelands and agricultural sectors in relation to the maintenance of ecosystem functioning and climate change adaptation.</p> <p>b) Incorporate Climate change adaptation explicitly into revisions of the Water Act, Range Management Bill, and Environment Act, Town and Country Planning Act, as well as agricultural policy and regulations.</p>	<p>1. Mainstream climate change adaptation into multi- and inter-sectoral ICM policy and legal framework. This can be achieved through the introduction of a dedicated legislative instrument (ideally an ICM Act), which provides a formal legislative basis for ICM implementation. Alternatively, this may require legislative amendment of an appropriate lead instrument (e.g., the 2008 Environment Act), to incorporate the requirement of promoting human rights and gender equality. In addition, this would require corresponding amendment of other instruments relevant to implementation of ICM in Lesotho.</p>	1	1-3	ICM Coordination UNIT (ICU), Ministry of Water Affairs, Ministry Tourism, Environment and Culture, Ministry Forestry Range and Soil Conservation, Ministry Agriculture and Food Security, Department of Finance, Department of Development Planning (Public Sector Investment Committee), LMS, NCCC
<p>a) Expedite the finalisation of the Draft Climate Change Bill. Its impacts will, however, largely be determined by whether it takes precedence over existing legislation e.g., Environment and Water Acts, and new Range Bill.</p> <p>b) Develop a guideline to inform the incorporation of climate change adaptation into local level ICM plans. Apply international best practice as well as the requirements of the national framework on climate change adaptation to inform the preparation of the guideline.</p> <p>c) Development of a new National Strategic Development Plan (NSDP III) to run from 2023, into which climate change adaptation is mainstreamed as a cross-cutting requirements of ICM implementation.</p> <p>d) Establish regulations requiring all environmental impact assessment and land use and infrastructure development consider climate change adaptation criteria for climate proofing.</p>	<p>2. Embed climate change adaptation in the development and implementation of local level ICM plans. This requires the development of the necessary capacity within government institutions and authorities at all levels. This includes the introduction of a regulatory framework to enforce statutory requirements relating to the protection of adaptation interventions (e.g., conservation agriculture practices) across key ICM sectors.</p>	1	1-3	
Finding 2 - Institutional operations are fragmented and lack capacity resulting in conditions that are un conducive for the mainstreaming of climate change adaptation across sectors that are key to ICM.				
<p>a) Expand and strengthen the ICM Coordination Unit to address ICM more broadly, including capacity to support the mainstreaming of climate change adaptation, and reinforce its capacity to function across relevant sectors.</p> <p>b) Expedite the drafting of the Climate Change Bill and incorporate regulations to strengthen the capacity and authority of NCCC to enhance inter-sectoral and multi-stakeholder participation and address gaps and constraints in effectiveness and operationalise the NCCC and its sub-committees.</p>	<p>3. Develop an integrated ICM organizational framework that supports cross sectoral cooperation for mainstreaming climate change adaptation into ICM.</p>			ICM Coordination UNIT (ICU), Ministry of Water Affairs, Ministry Tourism, Environment and Culture, Ministry Forestry Range and Soil Conservation, Ministry Agriculture and Food Security, Department of Finance, Department of Development Planning (Public Sector Investment Committee), LMS, NCCC
<p>a) Develop capacity building tools to assist authorities and stakeholders in ICM related sectors to mainstream climate change in their ICM programmes.</p>	<p>4. Develop capacity among authorities at all levels to understand climate change adaptation and to integrate it into ICM planning and decision making at all levels</p>			ICM Coordination UNIT (ICU), Ministry of Water Affairs, Ministry Tourism, Environment and Culture, Ministry Forestry Range and Soil

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b) Develop a programme with adequate resources to enhance capacity at all levels of government for the mainstreaming of climate change adaptation in a cross sectoral ICM Framework.				Conservation, Ministry Agriculture and Food Security, Department of Finance, Department of Development Planning (Public Sector Investment Committee), LMS, NCCC, Ministry of Local Government and Chieftainship
Finding 3 - Lack of adequate financing for planning and implementation of climate change adaptation at a meaningful scale for effective ICM.				
a) Build capacity at a national level to access international climate funding for adaptation in Lesotho. b) Investigate cases where other countries have established consolidated national climate funds to learn from their experience to inform the design of a fund for Lesotho that integrates ICM and climate change adaptation.	5. Establish a consolidated national climate change fund and enhance capacity to increase access to funding and improving donor and investor confidence.	2	1-3	ICM Coordination Unit (ICU), Department of Finance, Department of Development Planning (Public Sector Investment Committee), LMS, NCCC
a) Develop criteria and targets that reflect national requirements for climate change adaptation b) Present the criteria and targets to Ministry of Finance to raise awareness of the need for their incorporation into nationally funded ICM programmes.	6. Incorporate criteria and targets reflecting legal requirements for climate change adaptation as a pre-requisite for the evaluation of all nationally funded ICM interventions. This can be addressed by stipulating these as a requirement under a new ICM Act, or alternatively through the legislative amendment of the Environment Act as an appropriate lead instrument for ICM.	1	1-3	
Finding 4 - Limited decentralization inhibits the identification and incorporation of locally appropriate adaptation interventions into ICM and development plans at district and community levels				
a) Develop targeted, practically relevant, training on integrating climate change adaptation into ICM implementation at a local level as part of a broader ICM capacity building programme.	7. Integrate climate change adaptation mandates and responsibilities into the decentralisation of key ICM Ministries, supported by adequate budgets and provision of much needed capacity for district and local authorities.	1	0-1	ICM Coordination UNIT (ICU), Ministry of Water Affairs, Ministry Tourism, Environment and Culture, Ministry Forestry Range and Soil Conservation, Ministry Agriculture and Food Security, Department of Finance, Department of Development Planning (Public Sector Investment Committee), LMS, NCCC, Ministry of Local Government and Chieftainship
Finding 5 - There is dissonance between a number of traditional customs and statutory laws which makes it challenging to the control of some practices that contribute to environmental degradation, which has negative implications for the capacity for ecosystem-based adaptation.				
a) Explore a system to integrate traditional land and resource use practices and statutory laws relating to ICM, particularly for communal rangeland areas (e.g., Category A and B grazing areas) to incentivise long term sustainable land management.	8. Promote alternative ways in which traditions and cultural practices that affect ICM could be practiced without violating statutory law, and by encouraging elements of dualism where possible.	2	3-5	ICM Coordination UNIT (ICU), Ministry of Water Affairs, Ministry Tourism, Environment and Culture, Ministry Forestry Range and Soil Conservation, Ministry Agriculture and Food Security, Department of

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<p>b) Develop a system to monitor and evaluate where there is discourse between statutory law and tradition / customary practices to inform mediation, conciliation, and negotiation mechanisms.</p>				<p>Finance, Department of Development Planning (Public Sector Investment Committee), LMS, NCCC, Ministry of Local Government and Chieftainship, Ministry of Justice</p>
<p>a) Intensify educational campaigns to ensure that those who engage in such practices are sensitized about the law and also the disadvantages of these practices.</p>	<p>9. Harmonise the roles and mandates of Chiefs (natural resources management) and Councillors (development responsibilities) to strengthen land and resource tenure systems and to incorporate climate change adaptation considerations into these systems in support of ICM.</p>			<p>Community ICM groups, Chiefs/Headmen, ICU; Ministries of Water, Environment, Forestry, Rangelands and Soil reclamation; and Ministry of Agriculture and Food Security</p>
<p>Finding 6 - There is a lack of science-based information to integrate climate change adaptation into ICM strategies and plans at all levels, and to support international climate change reporting obligations.</p>				
<p>a) Design a system, considering where the system is housed and how it is resourced to ensure its sustainability. Options could include building on existing programmes, such as the IWRM Programme at the National University of Lesotho.</p> <p>b) A national climate change vulnerability assessment needs to be commissioned to inform policy and strategies that are locally specific and relevant, and to ensure that science-based information is available at a scale that adequately informs the development of effective local level plans. The vulnerability assessment and resultant strategies and plans need to reflect regional variations across the country.</p> <p>c) Develop regulations that make data collection and reporting on adaptation mandatory by stakeholders (government and non-state actors) across key ICM sectors.</p>	<p>10. Establish a national cross sectoral science-based information platform to develop local capacity for research, monitoring and evaluation of climate change impacts and adaptation as it relates to ICM.</p>	<p>2</p>	<p>1-3</p>	<p>LMS; National ICM Coordination Unit, COW, ICM related technical ministries, ICM Community Groups, CC, DC, CMJC;</p>

8 Gender and specific vulnerabilities

8.1 Policy and legal frameworks

The need to protect human rights and promote gender equality is expressed in the Ministry of Social Development and Ministry of Gender, Youth, Sport and Recreation and the Ministry of Social Development's policy and legislative frameworks. However, there is a lack of implementation and enforcement of the frameworks, which may be linked to a lack of political will to translate the policy and legal framework into action, and the agenda is largely donor driven. The Constitution provides for the protection of fundamental human rights, but it also recognizes customary law as a source of law. This sometimes results in undermining of gender and social equality for groups affected by discriminatory customary laws, for example women and youth. Policies and strategies of Ministries key to ICM are generally weak or outdated from the perspective of needing to align with the national policy and legal frameworks relating to human rights and gender equity.

The weak representation of human rights and gender sensitivity in the policy and legal frameworks pertaining to ICM is compounded by the dissonance between a number of traditional customs and statutory laws. The control of some practices that contribute to environmental degradation are challenging due to their deep rootedness in culture and tradition. The patriarchal nature of Lesotho's culture has empowered men, to the disadvantage of women, and vulnerable and marginalized groups. Men also continue to typically dominate decision-making positions across sectors and at all decision-making levels.

8.2 Institutional environment

Within the Ministry of Gender, Youth, Sports and Recreation, the Department of Gender is mandated to ensure equality of opportunities between women, men, girls and boys, and to facilitate proper integration of gender issues in development to ensure full involvement, participation and partnership of women and men, girls and boys. The Department of Youth has a mandate to ensure the physical, intellectual and moral well-being of the youth. However, the budgets allocated to the Department of Gender and the Department of Youth are severely inadequate and undermines their capacity to ensure that human rights and gender equality effectively addressed and integrated into the activities of all Ministries and Departments.

Departments across Ministries that are key to ICM are working in silos, which results in a lack of integrated planning particularly in relation to cross cutting issues such as human rights. The establishment of Gender Focal Points was initiated as a way of ensuring that gender equity is promoted in all operations in the Ministry of Water. However, to date this position only exists in the Office of the Commissioner of Water. While there is a good level of cooperation between this Focal Point and the Department of Gender, effectiveness in terms of promoting a gender and rights-based approach across water resource management is not clearly evident. There are no gender focal points in any other Ministries key to ICM. Ministries in general are operating in silos and as a result consideration of human rights and gender equality is fragmented and not addressed as a cross-cutting priority. There is little cooperation or consultation between government Ministries to drive the promotion of human rights and gender sensitive issues when updating or revising policies, strategies and plans.

While there is limited attention to promoting gender equity, consideration of the rights of youth and other marginalized and vulnerable groups is largely omitted from projects and interventions relating to ICM. The exception to this would be education programmes that target young livestock herders who are unable to attend school due to their responsibilities. However other issues relating to the human rights abuse of children who are livestock herders remain unaddressed and a number of fundamental human rights principles are ignored including. For example, the requirements to protect children from economic exploitation, take actions for and on behalf of children to ensure that their safety and well-being over and above all other considerations (best interests of children); and a multi-sectoral and decentralized response to the protection of the rights of children.

The Environment Act 2008 provides for the appointment of representatives of youth and women into the National Environment Council (NEC) to represent the interests and needs of women and youth, however the NEC does not exist in practice. One of the functions of the NEC is to harmonise policies and plans across sectors, ensuring the integration of environmental management issues. This presents opportunities for building an enabling policy

environment for implementation of ICM while incorporating consideration of human rights (including gender). Furthermore, there is no decentralization in the Ministry of Gender, Youth, Sport and Recreation, or the Ministry of Social Development, both of which are key to promoting human rights and gender equity.

8.3 Human and financial capacity

There is inadequate human and financial capacity to effectively promote human rights and gender sensitivity across the key ICM sectors. For example, resourcing of the Department of Gender and the Department of Youth is severely inadequate and undermines capacity to ensure that human rights and gender equality effectively addressed and incorporated into activities across all Ministries.

Despite widespread inclusion of gender and other human rights criteria in donor funded development projects, this is not reflected in nationally funded programmes. With support from the donor community and the other aid agencies, NGOs have successfully demonstrated a number of sustainable agricultural interventions that are driven by women to enhance household level resilience to food insecurity e.g., conservation agriculture. This appears to be partially as a result of a combination of a lack of resources as well as a lack of political will, and this could relate to the dissonance between culture and statutory law.

There is broadly a lack of monitoring and evaluation to inform the achievement of meaningful targets and the collection of data and information to inform the planning of priority interventions. This is due to a scarcity of both human capacity and financial resources. As a signatory of multiple international conventions, Lesotho has a number of international obligations on human rights reporting. However the lack of financing to cover ongoing data collection and analysis and the lack of dedicated financing to support continuous reporting requirements are significant challenges. There is need to establish a monitoring reporting and verification system that incorporates targets and data on human rights broadly. The initial establishment of this system could be supported through subscriptions to existing data sets that can be used to provide a gender lens to decision-making to promote gender and social inclusion mainstreaming and due diligence (<https://www.equilo.io/>).

8.4 Main findings and recommendations

Proposed actions have been identified by the expert as a guide towards implementation of the key recommendations for promoting human rights and gender sensitivity in ICM, as described in Table 5.

Table 6 Proposed actions for promoting human rights and gender sensitivity in ICM

Proposed action	Recommendation to which action relates	Priority	Time-line	Main actors
Finding 1 - Weak policy environment undermines the promotion of human rights and gender equity across key ICM sectors.				
a) Identify key issues for promoting human rights and gender sensitivity that need to be incorporated into a dedicated ICM legislative instrument, or the amendment of an appropriate lead instrument such as the Environment Act and other instruments relevant to ICM.	1. Integrate the promotion of human rights and gender sensitivity into multi- and inter-sectoral policy and legal frameworks. This can be achieved through the introduction of a dedicated legislative instrument (ideally an ICM Act), which provides a formal legislative basis for ICM implementation. Alternatively, this may require legislative amendment of an appropriate lead instrument (e.g., the 2008 Environment Act), to incorporate the requirement of promoting human rights and gender equality. In addition, this would require corresponding amendment of other instruments relevant to implementation of ICM in Lesotho.	1	1	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, Treasury, ICM Unit
b) Clarify the roles and responsibilities of the institutions within all sectors that are key to ICM (for example water, environment, and agricultural) for the protection of human rights at national, district and local levels, and strengthen regulations that support adherence to gender equality and human rights issues policy and legal frameworks.		1	1	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, ICM Unit, as well as Ministries of Environment, Water, etc.
a) Develop a guideline to inform the incorporation and promotion of human rights and gender sensitivity in local level ICM plans. Apply international best practice as well as the requirements of the national framework on human rights and gender sensitivity to inform the preparation of the guideline.	2. Embed the protection of human rights, gender equity and the rights of vulnerable and marginalized groups in the development and implementation of local level ICM plans. This requires the development of the necessary capacity within government institutions at all levels. This includes the introduction of a regulatory framework to enforce statutory requirements relating to the protection of human rights (including gender sensitivity) across key ICM sectors..	1	1-2	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, ICM Unit, as well as Ministries of Environment, Water, etc.
b) Develop a programme to enhance capacity at all levels of government for the promotion of human rights and gender sensitivity in a cross sectoral ICM Framework		1	1-3	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, ICM Unit, as well as Ministries of Environment, Water, etc.
Finding 2 - Institutional operations are fragmented and lack coordination resulting in ineffective promotion and protection of human rights (including gender equity) across sectors that are key to ICM.				
a) Establish and resource Gender and Human Rights Focal Points in all Departments relevant to ICM.	3. Develop an integrated ICM organizational framework that supports cross sectoral cooperation on the promotion of human rights and gender sensitivity.	1	1-3	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, Treasury, ICM Unit
b) Strengthen the ICM Unit through the inclusion of expertise for the promotion and protection of human rights (including gender and youth) relevant to ICM and reinforce its capacity to function as an authority across relevant sectors.				
c) Develop synergies with human rights organizations in the CSO community that operate in the human rights sectors e.g., Women and Children Commission of LCN or Women and Law in Southern Africa (WLSA).				
a) Develop an action plan to formally capacitate the NEC to execute its functions (as spelled out in the Environment Act 2008).	4. Formally capacitated the NEC to execute its functions and fulfil the requirement to incorporate representation of the interests and needs of women and (as spelled out in the Act). The creation of this body	1	1	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, Treasury, ICM Unit

	holds the potential to address a number of gaps including establishing criteria and targets for promoting human rights and gender equity as fundamental to ICM.			
Finding 3 - There is inadequate resourcing for effective protection of human rights and promotion of gender equity across sectors that are key to ICM.				
a) Prepare a motivation demonstrating the need for additional resourcing for key Ministries relevant to ICM, in order for them to meet the requirements in the policy and legal framework relating to protection of human rights including gender sensitivity	5. Increase the national budget allocation for promoting human rights and gender equality to adequately resource Ministries and Departments relevant to ICM, to give effect to the existing policy and legal framework, and associated strategies and action plans relating to human rights and gender sensitivity.	1	1-3	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, Treasury, ICM Unit
a) Develop criteria and targets that reflect legal requirements for protecting and promoting human rights (including gender) b) Present the criteria and targets to Ministry of Finance to raise awareness of the need for their incorporation into nationally funded programmes.	6. Incorporated criteria and targets that reflect legal requirements for protecting and promoting human rights (including gender) as a pre-requisite for the evaluation of all nationally funded ICM interventions. This can be addressed by stipulating these as a requirement under a new ICM Act, or alternatively through the legislative amendment of the Environment Act as an appropriate lead instrument for ICM.	2	2-3	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, Treasury, ICM Unit
Finding 4 - The dissonance between a number of traditional customs and statutory laws challenges effective promotion and protection human rights and gender equity across sectors that are key to ICM.				
a) Develop a guideline to inform the incorporation and promotion of human rights and gender sensitivity in local level ICM plans. Apply international best practice as well as the requirements of the national framework on human rights and gender sensitivity to inform the preparation of the guideline.	2. Embed the protection of human rights, gender equity and the rights of vulnerable and marginalized groups in the development and implementation of local level ICM plans. This requires the development of the necessary capacity within government institutions at all levels. This includes the introduction of a regulatory framework to enforce statutory requirements relating to the protection of human rights (including gender sensitivity) across key ICM sectors.	1	1-2	Ministry Gender Youth Sport and Recreation; Ministry Social Development; National ICM Coordination Unit
a) Develop a programme to enhance capacity of leaders and authorities at all levels of government for the promotion of human rights and gender sensitivity in a cross sectoral ICM Framework (duplication of Finding 1 recommended action 2(b)). b) Secure support from leaders and authorities at all levels, and the establishment of partnerships for collaboration and coordination, with all government ministries, and civil society. c) Intensification of awareness and educational campaigns to ensure that those who engage in such practices that infringe on human rights and gender equality in ICM sectors are sensitized about the statutory laws. d) Referral of traditional customary practices where there is discord with the Constitution (and conflict with statutory laws) to local courts in order to confer jurisdiction and in this way raise awareness about the requirements of the current statutory policy and legal framework.	7. Implement awareness and capacity building in support of cross sectoral cooperation on the promotion of human rights and gender sensitivity in an integrated ICM framework.	2	3-5	Ministry Gender Youth Sport and Recreation; Ministry Social Development; National ICM Coordination Unit
Finding 5 - Lack of decentralization in Ministries that are central to promoting human rights and gender equity, which inhibits the empowerment and participation of women, youth and other vulnerable and marginalized groups in planning and implementation of ICM related interventions.				

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<ul style="list-style-type: none"> a) Develop targeted, practically relevant, training on integrating human rights and gender aspects into ICM implementation as part of a broader ICM capacity building programme. b) Prepare a motivation demonstrating the need for additional resourcing for Ministry of Social Development and the Ministry of Gender, Youth, Sport and Recreation, to enhance the participation of women, youth and other marginalized and vulnerable groups in ICM related planning and implementation interventions c) Establish and resource Gender and Human Rights Focal Points in all Departments relevant to ICM, to inform interventions by decentralized Ministries and Departments that are functioning at District and Community Council levels. d) Incorporate criteria and targets on human rights and gender sensitivity into a monitoring and evaluation framework for ICM e) Add Ministry of Gender to the list of pilot ministries for decentralization and meet with MoLG for guidance. 	<p>8. Develop a strategic action plan with adequate resourcing for decentralization of the Ministry of Social Development and the Ministry of Gender, Youth, Sport and Recreation, to enhance the participation of women, youth and other marginalized and vulnerable groups in ICM related planning and implementation interventions.</p>	2	1-3	Ministry Gender Youth Sport and Recreation; Ministry Social Development; National ICM Coordination Unit; MoLG&C
Finding 6 - Lack of data and capacity constraints is negatively impacting of ability to fulfil international reporting requirements on human rights.				
<ul style="list-style-type: none"> a) Develop definition of clear rolls and responsibilities for inter-ministerial monitoring and data collection by Ministries that are key to the ICM framework b) Enhance capacity (financial and human) for the effective implementation of the monitoring and reporting system across all relevant sectors 	<p>9. Establish cross sectoral Measuring, Reporting and Verification (MRV) system on progress towards targets for promoting human rights and gender sensitivity as set in the national legal framework by Ministries that are key to the ICM framework.</p>	2	3-5	Ministry Development Planning; Ministry Gender Youth Sport and Recreation; Ministry Social Development

Final Workstream Reports

Workstream 1: Final report on National Policy Harmonisation



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GIZ - Support to Policy Harmonisation in Integrated Catchment Management

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List of abbreviations and acronyms

AG	Attorney General	LEWA	Lesotho Electricity and Water Authority
APA	Annual Performance Assessment	LG	Local Government
BoS	The Lesotho Bureau of Statistics	LGA	Local Government Act
CC	Community Council	LHDA	Lesotho Highlands Development Authority
CCF	Community Conservation Fund	LHWP	Lesotho Highlands Water Project
CCSAP	SADC Climate Change Strategy and Action Plan	LLWDS	Lesotho Lowlands Water Development Scheme
CMJC	Catchment Management Joint Committee	LMDA	Lesotho Millennium Development Agency
CMP	Catchment Management Plan	LNDC	Lesotho National Development Corporation
CoW	DWA Water Commission	LoCAL	Local Climate Adaptive Living Facility
CPU	(Sub-)Catchment Planning and Implementation Unit	LWSP	Lesotho Water and Sanitation Policy 2007
CRS	Catholic Relief Services	MAFS	Ministry of Agriculture and Food Security
DA	Development Authority	MCs	Minimum Conditions
DA	District Administrator	MEM	Ministry of Energy and Meteorology
DC	District Council	MFRSC	Ministry of Forestry, Range and Soil Conservation
DC	District Coordinator	MoF	Ministry of Finance
DCS	District Council Secretary	MoL	Ministry of Labour
DDP	Deepening Decentralization Program	MoLGCA	Ministry of Local Government and Chieftainship Affairs
DEAP	District Environmental Action Plan	MTEC	Ministry of Trade, Environment, and Culture
DF	District Fund	NDP	National Development Plan
DRWS	Department of Rural Water Supply	NEAP	National Environmental Action Plan
DS	District Secretaries	NGO	Non-Governmental Organisation
DWA	Ministry of Water: Department of Water Affairs	NRM	Natural Resource Management
EIA	Environmental Impact Assessment	NSDP	National Strategic Development Plan
EIIF	Ecological Infrastructure Investment Framework	ODA	Official Development Assistance
EU	European Union	ORASECOM	Orange-Senqu Basin Commission
FAO	Food and Agriculture Organization	PBCRGs	Performance-Based Climate Resilience Grants
FD	Fiscal Decentralization	PEFA	Public Expenditure and Financial Accountability
GEF	Global Environment Facility	PES	Payments for Ecosystems
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit	ROLL	Regeneration of Livelihoods and Landscapes
GOL	Government of Lesotho	RRMA	Range Resources Management Act
GW	Ground water	SADC	Southern Africa Development Community
GWP-SA	Global Water Partnership-South Africa	SDGs	Sustainable Development Goals
HR	Human Resources	SEA	Strategic Environmental Assessment
ICM	Integrated Catchment Management	SGP	Small Grants Program
ICU	ICM Coordination Unit	SLM	Sustainable Land Management
IEC	Information, Education and Communication	SNP	Sehlabathebe National Park
IFAD	International Fund for Agricultural Development	UNDP	United Nations Development Programme
IPSAS	International Public Sector Accounting Standards	WAMPP	Wool and Mohair Promotion Project
IWRM	Integrated Water Resources Management	WASCO	Water and Sewerage Company
WE	Water Efficiency	WCWSS	Western Cape Water Supply System
LAA	Land Administration Authority Act 2010	WS	Workstream
LCN	Lesotho Council of NGOs	WUC	Water User Certificate
LEC	Lesotho Electricity Company		

1 Introduction

1.1 Background and objectives

The following report outlines the work of Workstream 1 on National Policy Harmonisation and summarises the findings emerging from a detailed analysis of the legislative and policy framework relevant to the implementation of Integrated Catchment Management (ICM) in Lesotho, along with the recommendations for a programme of legislative and policy reform based thereon. It provides a brief account of methodology and analytical framework employed and details the legislative and policy instruments examined as well as the key stakeholders consulted. The report is primarily intended to support and inform the overall process of ICM implementation in Lesotho.

Integrated Catchment Management (ICM) is an approach intended to reduce catchment degradation and ensure sustainable water availability to an increasing population under a changing climate. ICM requires integrated planning for sustainable development and management of land, water and natural resources in the catchment areas of rivers in Lesotho. The overarching aim is economic development and improved livelihoods through sustainable management of water resources, land and biodiversity. The Lesotho National Strategic Development Plans (NSDP I: 2012-2017 and NSDP II: 2018-2023) address this imperative and regard the formulation of a National Integrated Catchment Management approach as a priority. The overall objective of the project is ‘to ensure that ICM facilitates socio-economic development and adaptation to climate change in Lesotho’, with the specific objective that ‘ICM is institutionalised and under full management in Lesotho based on gender equality and climate change adaptation principles’.

[It may be appropriate and/or useful to provide an overview of Lesotho’s policy environment and overarching challenges here, but this should be developed by one of the Lesotho-based legal experts].

Of the five specialist Workstreams into which work on the project has been divided, Workstream 1 is concerned with national policy harmonisation with a view to promoting the alignment of national laws and policies in order to facilitate ICM implementation through coordination, cooperative management and sustainable community use of land and water resources. A rational, coherent and contextually appropriate legislative and policy framework is key to ensuring sustainable implementation and institutionalization of ICM in Lesotho. To promote an enabling environment that allows for effective and efficient implement of key ICM elements, whilst taking account of the requirements of gender equality and climate change adaptation, comprehensive cross-sectoral legislative and policy analysis has been required. This has involved a multidisciplinary team of legal and policy experts conducting a comprehensive analysis of over 50 legislative instruments, policies, strategies, as well as a range of other instruments and studies. These instruments, which are all related to complex process of ICM implementation in Lesotho, were evaluated against a set of criteria to assess their effectiveness, cross- sectoral dimensions, proportionality, currency, consistency and facilitation of equitable participation. The team has also engaged in a broad stakeholder engagement process with a range of ministries and governmental agencies, civil society actors, and donors and development partners.

The work of Workstream 1 has been conducted in close cooperation with, and has been informed by, the related GWP-SA Regional Policy Harmonisation Assessment, which assessed the level of alignment of existing Lesotho laws and policies to the Orange-Senqu Basin and regional policy contexts and to relevant international treaties, protocols, agreements and conventions that Lesotho has ratified of which it has acceded. On the basis of this analysis, the GWP-SA Assessment has also developed a reform strategy and roadmap of the harmonisation of existing national policies, laws, regulations and institutional frameworks relevant to ICM with the corresponding basin-wide, regional and international legal and policy framework.

This report responds specifically to the objective of developing a rational, coherent and harmonised legislative and policy framework for the effective implementation of ICM-related measures in Lesotho across a range of relevant areas of sectoral activity. It summarises the findings and recommendations resulting from detailed analysis of the relevant legal and policy frameworks in Lesotho, and from extensive stakeholder engagement, against a specially developed analytical framework. Ultimately, it aims to support horizontal integration (i.e., across different sectors and between different ministries) and vertical integration (i.e., between measures adopted and actions taken at the international / regional, national and local levels).

The policy harmonization assignment is designed to break the silos both horizontally (by harmonizing policies across different ministries) and vertically (by addressing issues of subsidiarity and empowering decentralized structures at district and local level) and looking at alignment of national instruments with regional and

international agreements and commitments. Its successful implementation requires concerted and cross-sectoral harmonization efforts, participation and endorsement by all spheres of Government, as well as actors from the civil society, private sector, and international development partners. In this spirit, the policy harmonization work will support all ongoing efforts in terms of policy revision that are critical for the sustain-able implementation of integrated catchment management. Thus, the responsible ministries and subordinate technical authorities will be assisted to assume the roles and responsibilities assigned to them at the national as well as local level.

1.2 Methodology and activities

1.2.1 Activities

The following key steps were followed in the assessment process under Workstream 1:

Identification and collation of key legal, policy and strategy instruments

Most documents were obtained. The four team members engaged in the work of Workstream identified, mapped and sourced a broad range of relevant legislative, policy and strategy instruments relevant to ICM implementation in Lesotho. In addition, the team sourced a wide selection of supplemental studies and reports examining key aspects of the national legislative and policy framework and its practical operation. These documents were obtained from online repositories, directly from key stakeholders, or through the professional contacts of team members.

Review and analysis of legislative, policy and strategy instruments relating to ICM implementation, or aspects thereof

On the basis of an initially mapping of all key legal, policy and strategy instruments, the team members engaged in a detailed desk-top analysis of all instruments identified as centrally relevant, numbering over 50 instruments in total (Annex II). Analysis of these instruments was divided among the four consultant team members of Workstream 1 under the following four sectoral headings:

- Water Resources Management;
- Environmental Protection;
- Agriculture and Range Management;
- Land-Use and Development Control.

This desk-top review represents the core of the substantive analysis, involving a review of the substantive and procedural content, institutional structures and normative design of each instrument having regard to the defined assessment criteria outlined below.

Targeted stakeholder consultation

The desk-top analysis is complemented by the findings of extensive stakeholder consultations, conducted with key governmental, civil society and development partner stakeholders (see list of stakeholders consulted in Annex III). Stakeholder consultations were guided by the Stakeholder Interview Guide (Annex IV) and were exclusively conducted online, due to Covid-19-related restrictions.

Key elements of the stakeholder consultation addressed the following issues:

- The main legal and policy frameworks relevant to each stakeholder's work;
- Each stakeholder's observations regarding the applicability and relevance of the national legal and policy frameworks in terms of the defined assessment criteria outlined below.

The results of the stakeholder consultations are summarised in the Stakeholder Interview Analysis Matrix (Annex V).

Development of preliminary recommendations for legislative and policy reform

Informed by the findings of the legislative and policy assessment as presented in this report, recommendations for a Legislative and Policy Reform Roadmap have been developed (Section 3). The Roadmap is intended to highlight priority areas for inclusion in the ‘package’ of reforms (Annex I) and to provide concrete practicable recommendations for proposed action.

The “Package Approach” employed to present recommendations for ICM legislative and policy harmonisation is modelled on that employed by the European Union in respect of complex, multi-faceted policy problems and reform initiatives, such as the Climate & Energy Package (https://ec.europa.eu/clima/policies/strategies/2020_en) or the Circular Economy Paradigm (see, for example, the *European Strategy for Plastics in a Circular Economy*: <https://www.euoparc.org/wp-content/uploads/2018/01/Eu-plastics-strategy-brochure.pdf>). In particular, the package approach allows for presentation of a comprehensive, yet diverse policy reform agenda across a broad range of policy reform initiatives and interventions. The various recommendations formulated by this study can be grouped into the following eight packages.

Implement ICM-Related Systemic Reforms	Develop a Cohesive Legislative Framework for ICM	Implement ICM-Related Policy Updates	Provide Institutional Strengthening for ICM
Create an Enabling Environment for ICM	Provide Appropriate Technical Guidance for ICM	Identify Sustainable Financing Measures for ICM	Promote Decentralisation and Empower Local Governance

Recognizing that policy harmonisation is not a linear process, the package approach allows for continuous rationalisation of a ‘menu’ of reform measures based on ongoing evolution of the policy landscape. The approach also allows for the incremental and logically sequenced implementation of elements of reform and informs development of a ‘roadmap’ for implementation depending on urgency, opportunity, resources, available assistance, institutional capacity, and political will. By packaging the recommended reform measures, the approach facilitates ‘in-phase’ policy reform coordination with external stakeholders including basin, regional and international partners and facilitates structured engagement with development partners (especially during programming).

Stakeholder validation of policy analysis and reform proposals

The draft report for Workstream 1 will be submitted for review and consideration by relevant stakeholders. The review process will involve technical review by a designated review panel (working through the ICU), as well as broader stakeholder validation.

Finalisation of outputs

Following the stakeholder validation process, the comments received will be integrated into the finalised Workstream 1 report.

Symposium

The stakeholder validation process will culminate in a High-Level Policy Symposium which will seek agreement on the key policy reform priorities and a roadmap for implementation.

1.2.2 Assessment framework

The national policy harmonisation assessment conducted under Workstream 1 is intended to assess the extent to which the key national legislative and policy instruments provide a suitable basis for effective ICM implementation in Lesotho. In order to do so, the consultant team identified a set of assessment criteria to assist in the determination of the suitability of the key instruments examined. In order to ensure the compatibility of the national and regional policy harmonisation assessments, and to facilitate their conjunctive use, these criteria (set out in Table 1 below) were also employed in the regional policy harmonisation assessment.

Criteria	Assessment Questions
Effectiveness	Does the measure appropriately address key elements and objectives of ICM? <ul style="list-style-type: none"> • Breadth and sufficiency of mandate • Substantive scope of application • Subsidiarity/Decentralization
	Does the measure envisage, create or contribute to a practicable ICM regime for Lesotho? Sufficiently flexible <ul style="list-style-type: none"> • Sustainably implementable • Practically enforceable • Financially sustainable
Holistic, cross-sectoral	Does the measure link land and water use across the entire catchment area?
	Does the measure link social and economic development with protection of natural ecosystems?
	Does the measure envisage, create or contribute to an integrated management framework?
	Does the measure link with the broader National Development Strategy / Planning Framework, across a mid- to long-term horizon?
	Does the measure contribute to vertical integration or fragmentation?
	Does the measure cohere with global, regional commitments?
	Does the measure take account of any recent, current or impending significant infrastructure investments or commercial development need?
Proportionality	Is the measure likely to achieve its legitimate aims?
	Is the measure cost-effective?
	Does the measure interfere to the least extent necessary with established interests, practices, or policies?
	Does the measure involve an equitable and reasonable distribution of costs and benefits across all sectors?
Currency	Is the measure outdated?
	Is the measure obsolete in objectives, scope of application or approach?
	Does the measure require updating?
	Does the measure require consolidation or codification?
Consistency	Does the measure promote elements and objectives of ICM?
	Does the measure run contrary to (certain) elements and objectives of ICM?
	Does the measure conflict with other national measures? <ul style="list-style-type: none"> • Conflicting / overlapping roles and mandates • Gaps regarding key functions (e.g., enforcement) • Ambiguities regarding scope of application
	Does the measure take account of international and regional commitments, especially regarding transboundary basins?
Participatory (ensuring equitable participation)	Does the measure seek to raise awareness of (elements and objectives) of ICM?
	Does the measure promote transparency (e.g., by means of freedom of public / stakeholder access to relevant information)?
	Does the measure promote public/stakeholder participation in decision-making by means of appropriately structured consultation?
	Does the measure permit and facilitate reviewability by means of a general right to review decisions made thereunder?

1.3 Problems encountered and risks

The conduct of stakeholder consultations was complicated by Covid-19 restrictions, but all key stakeholders identified proved amenable to the use of virtual platforms. Generally, the inherent flexibility of using such platforms facilitated greater access to senior officials, but it also required carefully structured interviews in order to cover all the relevant issues in a single online engagement. Also, in order to maximise efficiency, interviews were arranged including multiple stakeholders from the same institution. Of course, this created a risk that in certain instances stakeholders may have been discouraged from engaging in a completely frank exchange of views. Therefore, certain meetings (particularly concerning different Departments within the same Ministry) were conducted separately.

In order to avoid stakeholder fatigue, several Workstreams participated simultaneously in the same interview(s) when stakeholders of common relevance were engaged. However, this meant that such meetings tended to be longer in order to cover all the material. To manage this challenge, discussions were sometimes abbreviated and follow-up meetings with the relevant stakeholders were subsequently arranged in order to gain more detail on specific issues.

1.4 Links to other workstreams and operationalisation within workstreams

Due to its broad remit in assessing the ‘fitness for purpose’ (of facilitating ICM implementation in Lesotho) of a broad range of national legislative and policy instruments, and of identifying an extensive suite of possible legislative and policy reforms, the work of Workstream 1 is inevitably cross-cutting, touching upon the work of each of the other four workstreams. However, Workstream 1 coordinated particularly closely with Workstream 2 (Human Rights and Gender Sensitivity) and Workstream 3 (Climate Change Adaptation / Resilience), seeking to ensure that its analysis and recommendations take full account of issues arising under these workstreams.

Such coordination was facilitated in a number of ways:

- The Workstream leader for Workstream 1 also served on Workstreams 2 and 3.
- A common Overarching Analytical Framework was developed for the project as a whole (including all workstreams), which informed the design of the approach and methods undertaken for each of Workstreams 1, 2 and 3.
- Meetings between all Workstream leaders were held every two weeks in order to share information and coordinate activities.
- The stakeholder engagement process was undertaken in close consultation with other workstreams, and the meetings for Workstreams 1, 2 and 3 were carefully integrated to ensure a cross correlation of information and also to minimise stakeholder fatigue.

2 Review of ICM Regulatory Framework

Integrated catchment management (ICM) is cross-sectoral and encompasses a number of entwined elements such as:

- a) water, land, environment and ecosystems;
- b) spatial planning and development control;
- c) gender and human rights;
- d) climate adaptation, mitigation and resilience;
- e) governance; and
- f) general economic development.

ICM is an approach intended to reduce catchment degradation and ensure sustainable water availability to an increasing population under a changing climate. It requires integrated planning for sustainable development and management of land, water, and natural resources in the catchment areas of rivers in Lesotho. The overarching aim of ICM is economic development and improved livelihoods through sustainable management of water resources, land, and biodiversity.

2.1 Outline of Lesotho's regulatory framework

The legal system of Lesotho is comprised of the Constitution, legislation, common law and customary law. The Constitution of 1993 is the supreme law of the land, and it enjoys legal superiority over conflicting provision of any other law. Legislation comprises parent and subsidiary legislation. The former is passed or enacted by the Parliament while the latter is made by the authorised Minister or local authority pursuant to specific provision of parent legislation. Parent legislation must be consistent with the Constitution; subsidiary legislation must be consistent with both the Constitution and parent legislation. Common law is hierarchically on a par with customary law. In short, common law is comprised of rules that govern the exercise of public power, conclusion of contracts, interpretation of statutory provisions, delictual liability etc. Customary law rules, inter alia, define the powers of traditional leaders.

Lesotho is a constitutional monarchy with the King as the head of state. At the national level, the government is patterned on the Westminster model with the Parliament as the legislative arm; the Cabinet as the executive arm; and the judiciary. Parliament is the supreme law-making authority but may delegate some legislative powers as explained in paragraph 2.1 above. Parent legislation is called an Act whereas national subsidiary legislation is called Regulations. International legal instruments do not have a direct application in the country unless they have been incorporated into the national legal system by an Act of Parliament.

At the local level, the government is patterned on a dual system of government comprising the chieftainship (traditional local authorities) on the one hand and the local councils (democratically elected local authorities) on the other hand. All these authorities are established by law and their powers, responsibilities, functions and duties are created and limited by law. The local councils have power to enact subsidiary legislation in the form of bylaws applicable within the confines of their administrative boundaries and confined to matters that fall within the scope of the council's power, responsibility, function or duty and in respect of which a council is legally authorised to regulate.

2.2 ICM Regulatory framework

Lesotho does not have a piece of legislation or policy document that expressly, specifically and comprehensively govern all the elements and objects of ICM outlined in paragraph 1 above; not even framework ICM legislation. Instead, there are over fifty legal and policy instruments (identified and analysed in the reports) including the Constitution, which have a direct bearing on catchment management. These instruments were enacted or formulated in different contexts and each of them is geared to address some and not all the elements and objects of ICM. So, there are overlaps and inconsistencies between and among the relevant instruments most of which are highlighted in the reports.

The lack of structured coordination, consultation and cooperation between and among the institutions involved in the administration, implementation or application of these instruments is one of the most glaring deficiencies in the current institutional framework. In other words, the existing instruments do not establish clear linkages between the responsible authorities and/or their mandates. So, the current framework for ICM is fragmented. These deficiencies are elaborated in the reports.

2.3 Key legal and policy instruments on ICM

Despite the fact that there are just too many legal and policy instruments relevant to ICM, the following pieces of legislation (other than the Constitution) are particularly relevant and indispensable:

- a) Water Act of 2008;
- b) Land Act of 2010;
- c) Range Resources Management Bill
- d) Environment Act of 2008;
- e) Local Government Act of 1997; and
- f) Public Financial Management and Accountability Act of 2011
- g) Town and Country Planning Act 1980

Water Act

This Act primarily regulates the management, protection, conservation, development and sustainable use of water resources. It defines ‘water resources’ as sources of water useful or potential useful to humans. It is, therefore, inextricably intertwined with most of the elements of ICM outlined in paragraph 1.1 (water, ecosystems; climate adaptation, mitigation and resilience; governance and general economic development) and the objects of ICM highlighted in paragraph 1.2 (reduce catchment degradation; ensure sustainable water availability; and economic development and improved livelihoods through sustainable management of water resources). In addition, the *Water Act* expressly stipulates that environmental and social issues such as HIV/AIDS and gender mainstreaming must be integrated into the water resources management. These issues are integral to ICM.

With specific reference to catchment management, section 15 of the *Water Act* enjoins the Minister responsible for water resources to designate catchment areas for the management and protection of water resources in consultation with the Minister responsible for land. It also expressly vests the responsibility for the management of catchment areas in the local councils and specifies council’s functions in relation to catchment management. This section expressly recognizes or acknowledges that catchment management is a joint responsibility between the three different authorities: the Ministry of Water, the Ministry of Local Government, and the local councils. By necessary implication, it also creates an inescapable connection between the *Water Act*, the *Land Act*, and the *Local Government Act*. That is so because in order to know what the Minister responsible for land (Minister of Local Government and Chieftainship) will consider or do when consulted by the Minister responsible for water, one has to read the provisions of the *Land Act*; and in order to ascertain how councils will exercise functions and responsibilities assigned to them by section 15, one has to read the provisions of the *Local Government Act*. It is, therefore, impossible to review or revise the provisions regulating catchment management under the *Water Act* independently of the *Land Act* and the *Local Government Act*.

The *Water Act* does not generally purport to be the only legislation that can, does or should regulate the management, protection, conservation, development, and sustainable use of water resources. For example, section 27 leaves the regulation of effluence discharge permits to the *Environment Act*. Further, it has provisions which expressly refer to and require the application of both the *Land Act* and *Local Government Act*. This interrelationship between these four pieces of legislation is not only evident from what the *Water Act* clearly provides for, but also from what it fails to provide for. For instance, the reports observe that the *Water Act* fails to establish a clear link between water use, land use (under *Land Act*), environment protection (under *Environment Act*) and development planning (under *Town and Country Planning Act*); to set clear criteria for the designation of catchment areas; to provide for a consultative, coordinated, integrated and cooperative approach to catchment management including planning; to include functions relating to other natural resources within catchment areas in the list of council functions in section 15; and to provide for the transfer of functions relating to catchment management to local authorities in line with the principle of subsidiarity.

Land Act

This is the primary legislation for land use regulation. In general, it separates land use regulation into land management, land administration, and land disputes resolution and it also establishes responsible authorities accordingly. With specific reference to catchment management, the *Land Act* enjoins the local councils to take account of incidences of overgrazing, refusal or failure to combat soil erosion and past land husbandry practices when exercising their authority to allocate land. In this way, it draws a link between land tenure, soil conservation and land use. Moreover, it enjoins the Minister to expropriate land for public purposes such as water conservation by means of watersheds, water catchment areas, reservoirs; and land conservation through afforestation and soil erosion prevention. In this way, the *Land Act* links land use management with some elements of ICM. The *Land Act* vests the land allocation authority primarily in the local councils.

Range Resources Management Bill

A new Range Resources Management Bill is currently being developed and is intended ultimately to repeal and replace the 1980 Range Management and Grazing Control Regulations and the 1969 Land Husbandry Act. The new Bill/Act may serve to consolidate the currently highly fragmented regulatory regime for range resources management, which comprises, *inter alia*, the following legislative instruments: the 1969 Land Husbandry Act, the 1980 Range Management and Grazing Control Regulations, and the 1998 Forestry Act. In addition, certain provisions of the 1997 Local Government Act, the 2008 Water Act, and the 2010 Land Administration Authority Act apply to aspects of range resources management.

As currently drafted, the Range Resources Management Bill falls some way short of providing a range resources management regime suitable for facilitating effective ICM implementation in Lesotho. Most notably, though ICM is identified as a primary objective of the draft Bill, the concept and its related principles (at least as these apply to rangeland management) require further elaboration and clarification in the text. In addition, the draft Bill demonstrates little concern to align itself with the other legislative frameworks in force relevant to ICM implementation. This would inevitably lead to continued confusion regarding the applicability of overlapping permitting requirements and the definition and identification of, and administrative responsibility for, such key protective designations as ‘protected areas’ and ‘wetlands’. Similarly, the powers and responsibilities of all authorities under the Bill/Act, both national and local, requires greater clarification. Further, the text of the Bill should expressly provide for the adoption of subordinate delegated legislation (regulations) and/or technical annexes, in order to ensure that a new Act might remain current and up-to-date.

Environment Act

The *Environment Act* provides for the protection and management of environment in Lesotho; conservation and sustainable use of Lesotho’s natural resources. This is a holistic legislation on the subject of environment and its scope is so broad that any law that is relevant to ICM is treated as environmental law under this Act. Section 114 states that any other law that is inconsistent with the *Environment Act* is null and void to the extent of inconsistency. The validity of this provision is doubtful, but if it were valid it would mean that the *Environment Act* is more important than all other key legislation on ICM. What cannot be doubted is the fact the *Environment Act*, the *Land Act* and *Water Act* are interconnected and interrelated, particularly when it comes to their relevance in the regulation of catchment management. The *Environment Act* amends the *Local Government Act* by incorporating the District Environment Officer into the membership of the District Development Coordinating Committee and by assigning specific functions relating to environment management and protection to this committee.

Local Government Act

This Act establishes local governments for rural and urban communities in administrative boundaries demarcated in accordance with the relevant provisions. It also provides for the powers, responsibilities and functions of such governments, including the mechanisms and procedures for exercising or performing such powers, responsibilities and functions. Of particular relevance to ICM are:

Mechanisms – council committees (standing committee on land, standing committee on planning, standing committee on finance and joint committees);

Powers and responsibilities – development planning, budgeting, bylaw-making, etc. including powers provided for in other pieces of legislation such as the *Water Act*, *Land Act* and *Environment Act*;

Functions – those listed in the 2015 *Local Government Regulations* (sustainable soil management and erosion control; sustainable water management and pollution control; maintenance of aquatic ecosystems and biodiversity; sustainable range management; wetlands management and restoration; water resources development and infrastructure operation; and sustainable urban settlements) and those listed in other pieces of legislation such as the *Water Act*, *Land Act* and *Environment Act*.

It is practically impossible to enact any ICM-related legislation that is not directly aligned with the *Local Government Act*. That is why the *Water Act*, *Land Act*, *Environment Act* and other ICM-related legislation explicitly establish this link. The *Local Government Act* is currently being amended pursuant to the *National Decentralisation Policy*. The NDP requires ministries to transfer functions and resources to local councils in line with the principle of subsidiarity and their respective sectoral policies. This requirement is enshrined in the *Local Government Bill*. However, both the NDP and the Bill were developed in a context that did not take account of ICM. So, there are shortcomings which are highlighted in the reports together with specific suggestions for reforms.

Public Financial Management and Accountability Act

ICM invariably involves the use of public money; otherwise, it cannot be sustainable. Whether it is about ICM-related revenue collection, sharing or distribution, budgeting, expenditures, accountability etc. (at the national or local level) any such law must be aligned with the PFMAA. While the *Water Act*, *Land Act*, *Environment Act* and *Local Government Act* are equally relevant and important to ICM, the PFMAA is not so relevant in terms of the elements and objects of ICM, but it is important for the practicability or workability of ICM.

Town and Country Planning Act

Though it is unclear the extent to which the T&CP Act is actually implemented and enforced in practice, it is quite clear that the 1980 Act and the related subordinated statutory instruments (the 1989 Development Control Code and the 1991 Town and Country Planning Order) are very significantly outdated.

The 1980 Act requires that the Planning Authority elaborates and adopts a development plan every five years, which will determine local planning objectives and largely determine which applications for development will be granted planning permission.

Despite its age the T&CP Act is largely fit for purpose, with clear allocation of responsibilities, ample provision for public participation, and express provision for the adoption of delegated subordinate legislation. However, the planning objectives set out therein (or required to be listed in the development plan) should include those directly related to ICM implementation. In addition, an amended and/or updated T&CP Act should provide for coordination of (or subordination of) the requirement for planning permission with other ICM-related permitting regimes.

2.4 Main challenges regarding legislative and policy harmonisation for ICM

The “integrated catchment management” (ICM) paradigm involves a holistic approach to sustainable land and water planning and management which adopts a cross-sectoral catchment perspective, in contrast to a traditional piecemeal approach that artificially separates the management of land, water, biodiversity and other natural resources. Thus, ICM constitutes a form of natural resources use and conservation planning which approaches sustainable resource management from a broad, cross-sectoral catchment perspective. It can only be implemented effectively by ensuring that each measure in the entire range of relevant governance frameworks – set out in myriad policy and legislative instruments applying across a range of sectors and concerns – contributes in a mutually consistent and coherent manner to realisation of ICM objectives. This, in turn, can only be achieved through the coordinated and concerted efforts of the entire policy-making and regulatory community, including various ministries and governmental agencies, community groups, non-government organisations and private-sector actors, all working together towards common and sustainable targets and objectives to achieve balanced use and conservation of water and related natural resources.

Whilst key elements and objectives of ICM have for some time been reflected throughout national policy instruments setting out development priorities in Lesotho, ICM-related governance processes, targets and objectives are elaborated across a wide variety of legislative and policy instruments, relating both to water and to other natural resources. It is essential, therefore, for effective ICM implementation to achieve coherence amongst such instruments. The complex challenge of policy integration under ICM might be described as a “wicked problem”, where ‘because of complex interdependencies, the effort to solve one aspect of a wicked problem may

reveal or create other problems’. A key challenge is that of the ‘fragmentation’ of the diverse legal and policy frameworks applying to ICM, giving rise to overlapping policy objectives and institutional architecture that may lack complementarity, or that may even conflict. In such fields, lawyers have long expressed concern regarding fragmentation arising from ‘the emergence of specialised and (relatively) autonomous rules or rule complexes, legal institutions and spheres of legal practice’. A policy framework may be fragmented vertically, with different measures adopted at multiple levels of policy-making (local, national, regional and international), and may also be fragmented horizontally, with various mutually relevant measures addressing different problems and causal activities. While policy specialisation may be inevitable given the ever increasing scientific and technical complexity of natural resources management, the challenge of ICM exemplifies the risk of such fragmentation, as any attempt to implement ICM must inevitably involve policy measures, adopted at various levels of governance, that seek to address management of a range of natural resources, environmental media and related activities, including freshwater resources management, environmental protection, agriculture and land management, spatial planning / development control, and biodiversity conservation. ICM must also incorporate measures to address such critical issues as climate change adaptation, the protection of vulnerable people and gender equity.

The coordination inherent in ICM is recognised internationally and forms a key feature of cooperative initiatives at the regional and basin levels. The Global Water Partnership (GWP), which has analysed ICM in the context of the shared Orange-Senqu basin, defines ICM/IWRM as ‘a process which promotes the coordinated development and management of water, land and related resources, in order to maximize the resultant economic and social welfare in an equitable manner without compromising the sustainability of vital ecosystems’. More specifically, the Orange-Senqu River Basin Commission (ORASECOM) Integrated Water Resources Management Plan for the Orange-Senqu River Basin identifies catchment degradation, watershed management and land-use planning as priority areas for action. Indeed, Lesotho’s ORASECOM National Action Plan for the Orange-Senqu identifies four ‘priority national concerns’, including:

- Land degradation and increased invasive species;
- Declining water resources quality;
- Changes to the hydrological regime – wetlands degradation; and
- Increased water demand.

In terms of national law and policy, ICM in Lesotho will need to be implemented in a manner consistent with a wide range of key sectoral legislative and policy frameworks:

- Issue areas related to the key elements of ICM in Lesotho:
 - Soil management and erosion control;
 - Water utilisation, management and pollution control;
 - Maintenance of aquatic and related ecosystems, ecosystem services and biodiversity;
 - Range management;
 - Wetlands management and restoration;
 - Water resources development and infrastructure operation; and
 - Planning of human settlements.
- Policy imperatives related to the key objectives of ICM in Lesotho:
 - Socio-economic development;
 - Livelihood maintenance and poverty alleviation;
 - Access to safe water and sanitation services; and
 - Support to commercial and subsistence agriculture;
- Governance frameworks related to the enabling environment for ICM in Lesotho
 - Policy and legislative harmonisation;
 - Subsidiarity and decentralisation;
 - Private-sector involvement in the water sector and in related sectors;
 - Raising awareness regarding ICM;
 - Stakeholder engagement; and
 - Capacity-building, research and training.

ICM implementation is an ongoing, incremental process involving the combined efforts of various governmental agencies, communities, non-governmental organisations, and the private sector working together towards

common targets and objectives to achieve sustainable use and conservation of water-related natural resources. Of course, the ICM concept and approach continues to evolve and among current drivers of ICM in Lesotho is the challenge of climate change, with the 2017 National Climate Change Policy calling for measures to ‘enhance the resilience of water resources, including promoting integrated catchment management, ensuring access to safe water supply and sanitation’.

Implementation of ICM in Lesotho is intended to facilitate socio-economic development, whilst ensuring adaptation to climate change and adopting a rights-based approach particularly respecting the requirements of gender equality. This must be based upon an appropriate climate-resilient policy and legislative framework, which is sensitive to gender and the needs of vulnerable people, and which will require cross-sectoral legislative policy harmonization and reform. An appropriate legal and policy framework must have due regard to the particular challenges faced by Lesotho in ICM implementation. While climate change is a cross-cutting concern, the main ICM-related issues for Lesotho are catchment degradation due to soil erosion and degradation of wetlands, as well as water resources development and infrastructure operation. At the same time, key aims of ICM must include a growing contribution to GDP, ensuring support to livelihoods and the alleviation of poverty, as well as addressing pollution risks. Implementation of ICM must also cohere with the requirement of subsidiarity and the ongoing programme of administrative decentralisation in Lesotho.

Annex VI provides a table with legislative dissonance for ICM implementation.

3 Findings and recommendations

Harmonisation of the national policy and legislative framework in Lesotho for ICM implementation is a multi-faceted and complex challenge. By definition, ICM is cross-sectoral, affecting a range of elements, including:

- water, land, environment and ecosystems;
- spatial planning and development control;
- gender and human rights;
- climate adaptation, mitigation and resilience; governance: and
- general economic development.

The ICM paradigm impacts upon a broad range of human activities and concerns, including water and sanitation services, agriculture and food security, productive and extractive industries, energy generation, and tourism and leisure. As a result, it is necessarily governed by a broad range of governmental actors, including those concerned with water, forestry, rangelands, environment, energy, mining, economic development, local governance and chieftainship, tourism, and culture.

The complexity of the task is aptly illustrated by the large number of legislative, policy and strategy instruments assessed. The complexity of the task is further compounded by consideration of multiple cross-cutting themes including gender and human rights, climate change, and decentralisation. Legislative and policy harmonisation must take place within the context of several relevant multi-level policy frameworks, and it must address the added complexity of basin-wide, regional and international commitments. A summary of the key legislative and policy measures addressed is provided in Annex II.

The Workstream 1 report seeks to summarise the findings of the in-depth review conducted of the national legislative and policy framework relevant to ICM implementation in Lesotho with a view to providing a coherent set of recommendations for policy and legislative reform. The findings and recommendations presented are accompanied by a brief commentary which seeks to provide an explanation and justification therefor. The report tries to prioritise those reform measures that are essential for successful implementation of ICM principles, while being both practicable and politically acceptable.

The findings and recommendations presented herein are divided between those classified as ‘systemic’ and ‘substantive’. The ‘systemic findings and recommendations refer to those problems which relate to the wider system and processes of governance in Lesotho. For example, these findings and recommendations tend to relate to the processes by means of which legislation and policy is adopted in Lesotho, and to the form that many such instruments tend to adopt. On the other hand, the ‘substantive’ findings and recommendations refer to those problems which arise from the normative content of key legislative or policy instruments or from the structural design or functions of institutions created thereunder. The latter category, which makes up the majority of the findings and recommendations contained in this report, are sub-divided under the following sectoral headings:

- General;
- Water Resources Management;
- Environmental Protection;
- Range Resources Management & Agriculture; and
- Land-Use & Infrastructure Planning.

3.1 Systemic findings and recommendations

Finding 1: There doesn’t exist a system of inter-ministerial coordination of the type required to ensure the coherent, multi-sectoral legislative and policy reform required for effective ICM implementation.

The legislative and policy reform required across multiple sectors will require intense ongoing communication and cooperation across several ministries, which currently act largely independently of each other, each aimed at different sectors and activities and pursuing different objectives and priorities. A large-scale, multi-faceted reform programme, of the sort required for effective ICM implementation, should involve a structured, multi-stage,

government-wide process which permits diverse legislative and policy initiatives to be rationally sequenced, normatively coordinated, and substantively, procedurally and institutionally harmonised. This is a vital first step for ensuring a coherent programme of legislative reform for effective ICM implementation.

Recommendation 1: Develop a structured ‘Procedure for Legislative Development’, involving a coordinated programmatic approach to legislative development and reform.

Finding 2: There currently exists no formal or informal process for routine communication and collaboration amongst officials from different ministries involved in related aspects of ICM implementation.

In addition to a formal ‘Procedure for Legislative Development’, a process should be developed for continuing routine communication and collaboration amongst officials from different ministries in the elaboration of initiatives, proposals and draft texts for legislative and policy reform associated with ICM implementation. Such a process might, ideally, centre around an inter-sectoral ICM Committee, through which dedicated officials in each ministry (perhaps designated as ICM Coordination Officers) would collaborate in the coordination of all ICM-related legislative and policy reform initiatives.

Recommendation 2: Develop a process for routine inter-ministry collaboration on legislative and policy development (through an inter-sectoral ICM Committee).

Finding 3: There currently exists no dedicated mechanism for administrative and technical coordination of ICM-related legislative and policy initiatives, representing all relevant interests (public and private) at every level of administration (central, district-level and local).

Effective ICM implementation will impact upon many sectors at all levels of administration and will require intense inter-sectoral coordination amongst a broad range of relevant actors below the level of the key ministries involved. Therefore, a consultative forum should be established, involving representatives of relevant public authorities (including representatives of the key ministries and other government agencies), civil society, business and industry, development partners and other interested groups / sectors.

Such a consultative forum would ideally enjoy a clear legal basis and mandate under legislation and could be provided for under any new overarching ICM Act.

Recommendation 3: Develop structured mechanisms (*e.g.*, a national consultative forum) for effective ongoing inter-sectoral coordination for ICM implementation, at both senior (decision-making) level and technical level, and at central and local levels.

Finding 4: There is currently a lack of a clear procedure (or a lack of knowledge of such a procedure) for the official elaboration and approval of policy and strategy documents, and for their subsequent publication and dissemination.

In order to ensure that policy elaboration is concluded efficiently and within a reasonable timeframe, and that national policies and strategies related to ICM implementation achieve an acceptable standard of quality, clarity and coherence, a concise guideline is required, outlining key mandatory steps for the official initiation, elaboration, approval and endorsement of policies and strategies, and their dissemination following approval. This guideline should include mandatory elements of document quality control (*i.e.*, professional proof-reading and editing, coherence / consistency checks, *etc.*) and clear channels for publication and distribution of documents in order to avoid the current practice of circulating numerous draft versions, where the precise status of each is unclear. Upon approval, each document should be marked ‘officially approved’ and circulated without delay to (relevant) ministry staff and to the wider body of interested stakeholders.

The public availability of approved final versions of policies and strategies should be facilitated and guaranteed by means of a central online ‘policy portal / repository’, to be assiduously maintained by the Government of Lesotho.

Recommendation 4: Develop ‘Policy Development and Approval Guidelines’, providing a formalised approval procedure for official policy and strategy instruments.

Finding 5: Officials within key ministries and governmental agencies involved in ICM implementation suffer from the debilitating impacts of high levels of political instability in Lesotho.

The work of government officials is routinely disrupted and undermined by the debilitating effects of chronic political instability. Regular changes in ministerial appointments, not to mention changes in the government, result in constantly shifting policy priorities and a lack of institutional strategic continuity. In this way, many policy initiatives and ICM-related interventions are frustrated and not allowed to run their course.

In addition, there exist continuing systemic political risks. For example, there may be political interference in the enforcement decisions or activities of public agencies, or interference in the design and/or effective operation of subsidy programmes or grant-making for primarily political purposes.

Recommendation 5: Develop measures to insulate officials in key ministries and governmental agencies against political risk including, for example, increased proceduralisation and transparency in policy elaboration and implementation, increased performance monitoring, evaluation and reporting, robust employment protection from public officials, *etc.*

Finding 6: Legislative instruments related to ICM are often poorly structured, lacking the necessary internal flexibility to allow it to be adapted to changing circumstances.

There are many examples of ICM-related legislative instruments which have become outdated and ineffective due to the absence of flexible provisions permitting their adaptation to changed circumstances. Such changed circumstances might include monetary inflation (rendering fines and penalties hopelessly out of date and non-dissuasive), technological developments (resulting in shifting conceptions of ‘best available techniques / BAT), evolving agricultural or water-use practices (such as modern modes of conservation agriculture), *etc.*

In particular, legislative instruments should be drafted so to include so-called ‘enabling provisions’, empowering the easy adoption of subordinated regulations & instruments (setting out fines and penalties; fees and charging schemes; licensing, reporting and related procedures, methodologies and technical guidance; *etc.*).

Recommendation 6: Revision of structural aspects of new ICM-related legislation, in particular to promote the adoption of ‘enabling’ legislation as a matter of routine, providing ample (delegated) powers for the adoption of necessary supporting subordinated regulations & instruments.

Finding 7: Though Lesotho’s national policy framework for ICM is relatively well aligned with the requirements of international, regional and basin-wide instruments, such requirements tend to be incorporated into national policy frameworks on a primarily sectoral basis, with little or no harmonisation and integration with other sectoral policies and strategies.

During the comprehensive programme of legislative and policy reform required for ICM implementation, careful cross-sectoral consideration is required of the complex of commitments entered into by Lesotho at the international, regional and basin levels.

Such a requirement, along with related procedural steps, could be incorporated into the ‘Policy Development and Approval Guidelines’ proposed in Recommendation 4 above.

Draft legislative and policy instruments intended to address requirements arising under international, regional and basin-wide instruments should be subject to the inter-sectoral coordination processes outlined above.

Recommendation 7: Recommendation 7: As a matter of routine practice, ensure integrated cross-sectoral alignment between international requirements and national-level (ICM-related) legislative and policy measures.

3.2 Substantive findings and recommendations

3.2.1 General

Finding 8: The integrated catchment management (ICM) paradigm has no formal legal basis in Lesotho and consequently remains conceptually and normatively unclear.

The integrated catchment management paradigm has no formal legislative basis in Lesotho, and only a very tenuous basis in national policy instruments, notably under Key Focus Area I of the 2016 Long-Term Water and Sanitation Strategy, which de-fines “integrated catchment management” as ‘the integrated planning for sustainable development and management of land, water and natural resources in the catchment areas for the rivers in Lesotho. The aim is economic development and improved livelihoods by sustainable management of water resources and land’.

This lack of a firm legal foundation creates uncertainty regarding ICM’s objectives, guiding principles, conceptual parameters, and the arrangements necessary for its practical implementation, thereby exacerbating problems related to the incoherence of the current legislative and policy framework for implementing such a cross-cutting policy imperative.

Legislative elaboration of the ICM concept would facilitate inclusion within its conceptual scope of a broad range of ICM-related uses of water and land resources associated with economic and social development (including domestic, agricultural, ecological and industrial water and land uses), while having particular regard to gender equality, the needs of vulnerable persons and communities, and climate variability and resilience. Such elaboration would assist in the framing of relevant legislation and policy and of major infrastructure and other projects which contribute to the achievement of ICM-related objectives.

For example, the current Lesotho Lowlands Water Development Scheme (LLWDS) has been designed primarily to provide water services to domestic and industrial users, whilst excluding many agricultural users in a manner deeply unpopular with many local water users. Furthermore, highly integrated water services planning might serve to assist in realising the goals of industrial policy through the promotion of investment, e.g., by promoting (or even requiring) the ‘clustering’ in appropriate areas of certain (high-risk or water-intensive) industrial activities.

As a policy mechanism, the National Strategic Development Plan (NSDP) offers an opportunity (in conjunction with an appropriate legislative basis for ICM) for elaborating the detailed means of addressing policy and institutional fragmentation and overlapping mandates (e.g., through structured monitoring of the implementation of key aspects of ICM, the logical sequencing and clustering of relevant activities, etc.).

The establishment of a dedicated lead agency at the very highest levels of government for ICM implementation might build upon the experience of the National Environment Secretariat, established in 1994 under the Office of the Prime Minister as the primary coordinating institution for environmental policy. The NES successfully developed the National Action Plan (NAP), approved by Cabinet in 1996, for the specific purpose of implementing the commitments contained in Agenda 21, entered into at the 1992 Rio Conference (UNCED). Such a lead agency might be established for a defined period of time (5-6 years) considered adequate to oversee the comprehensive programme of legislative and policy harmonization required for effective ICM implementation. Over time, the various functions of the lead agency for ICM might be taken over by the key ministries and agencies involved in practical aspects of ICM implementation.

Recommendation 8: Introduction of a dedicated legislative instrument (an ICM Act), which provides a formal legislative basis for the ICM approach and for effective ICM implementation. In conjunction with the adoption of such an Act, preparations should commence immediately on development of a new National Strategic Development Plan (NSDP III) to run from 2023, for which the cross-cutting requirements of ICM implementation would be a/the primary guiding objective.

Ideally, such a legislative instrument (ICM Act) would also coordinate disparate regulatory requirements within a single legislative framework, and clearly assign primary regulatory powers and responsibilities for ICM-related projects and activities to a designated lead agency(ies) at central and local government levels.

Finding 9: The current legislative and policy framework relevant to implementation of ICM in Lesotho is highly fragmented, incoherent and incomplete.

Currently, the broader (multi-sectoral) legislative and policy framework relevant to implementation of ICM in Lesotho is highly fragmented, incoherent and incomplete, resulting in a confused and inconsistent institutional and regulatory landscape.

The cross-cutting and trans-sectoral nature of the challenge of ICM implementation, along with the emerging demands of climate change adaptation and of a rights-based and gender sensitive approach, present a unique opportunity for consolidation and rationalisation of the currently fragmented legislative and policy framework to provide a coherent legal and institutional regime. A consolidating ICM Act would provide the primary regulatory regime in the case of normative overlap or duplication, to which all other ICM-related legislative provisions would be subordinated. Such an instrument would need to provide a detailed definition of ICM-related activities and projects, in respect of which it would enjoy legal primacy.

The problem of incoherence and inconsistency has been long recognized by key experts, officials and commentators. For example, addressing the 2017 Legislative Harmonisation Workshop on Water Resources Management and Protection an official at the Office of the Commissioner of Water highlighted that there are considerable areas of overlap in the legislation which could lead to confusion, not only amongst Government officials but also for the public at large. The issue of the control of wetlands was particularly problematic and the official highlighted that there were at least five Ministries involved in this issue, namely the Ministry of Water, the Ministry of Agriculture and Food Security, the Ministry of Pasture and Land Reclamation, the Ministry of Tourism, Environment and Culture, and the Ministry of Local Government and Chieftainship Affairs. He noted that there was a need for harmonisation to address potential areas of confusion, and also a need for better cooperation and collaboration between Ministries to ensure effective implementation on the ground. Similarly, feedback received from break-out groups convened at the 2017 Legislative Harmonisation Workshop listed a range of problems, including:

- Poor waste management, leading to pollution of water;
- Over-exploitation of resources, e.g., over-grazing;
- Uncontrolled land activities;
- Poor monitoring of compliance;
- Problems with land-use and infrastructure; *etc.*

A range of reasons were put forward for these problems, including:

- Lack of awareness and sensitisation (education);
- Lack of good governance;
- Lack of coordinated range management;
- Lack of resources;
- Lack of political will;
- Poverty;
- Poor human resource capacity;
- Uncoordinated initiatives;
- Political interference; *etc.*

The development of an inclusive and harmonised legislative regime for ICM also offers an opportunity for broader environmental and social integration. Most notably, an opportunity to integrate into national law and policy all ICM-related elements of the Sustainable Development Goals (SDGs) and relevant targets and indicators.

One solution would involve development and adoption of a unifying, overarching Act for certain prescribed ICM-related projects and activities, covering all legal and regulatory aspects (including permitting, enforcement, maintenance of facilities, development of subordinated regulations, etc.). These governance roles would be taken out of the hands of the existing Ministries, who would continue to enjoy responsibility for non-ICM-related projects and activities which continue to fall within the scope of the relevant pre-existing Act(s). The normative content of any unifying, overarching ICM Act need not be overly complex. It would be informed by (and have regard to) the core requirements of the existing relevant Acts, to the extent that these are clear and coherent (regarding pollution, nature conservation, water-use, protected areas, land-use control, etc.), but the responsible agency (for ICM) would issue a single license / permit – an Integrated Catchment Management permit – incorporating (by means of conditions attached) the relevant and applicable requirements arising under the existing legislative framework. Of course, an ICM Act would also provide the opportunity to fill gaps in regulatory coverage and to develop a structured programme of relevant subordinated regulations, technical guidance, etc.

The alternative solution would involve a programme of carefully sequenced and coordinated amendments to around / at least eight primary legislative instruments (including the Water Act 2008, the Environment Act 2008,

the (draft) Range Management Bill, the Land Husbandry Act 1969, the Forestry Act 1998, the Land Act 2010, the Local Government Acts 1997 and 2004 and the Town and Country Planning Act 1980). Such amendments would require the identification of a 'lead' regime for ICM-related projects and activities (most likely the Environment Act 2008), under which the bulk of ICM-related projects and activities might be 'channelled', along with the establishment and elaboration of a formal legal basis for the ICM paradigm. Such 'channelling' would require amendment of the key existing Acts and the subordination of certain of their regulatory requirements to those of the 'lead' Act. A model for such an approach is provided by EU Member State transposition and implementation of the EU Integrated Pollution Prevention and Control (IPPC) Directive (under EU Directives 96/61/EC 2008/1/EC):

https://ec.europa.eu/environment/archives/air/stationary/ippc/key_impl.htm

However, this alternative would require a carefully structured programme of wide-ranging legislative reform to incorporate the primary objectives, principles and requirements of ICM into the key relevant legislative instruments. This would require at least five years to implement and would place very considerable demands upon the law-making capacity of the key ministries involved. It would also require considerably enhanced procedures (as proposed above) for inter-ministry communication and cooperation over legislative development.

Where the alternative is selected of Introducing ICM-related revisions to the key legislative Instruments, each offers a number of opportunities for integrating the wider Imperatives of promoting human rights-based approaches and gender equality and of facilitating climate change adaptation.

Environment Act 2008

The Environment Act 2008 presents a number of key opportunities or 'entry-points' for consideration and inclusion of the measures required (in the context of ICM implementation) to ensure the rights of vulnerable individuals and communities, to promote gender equality and to facilitate climate adaptation. The 2008 Act is particularly important in this regard, as it has been suggested that it might serve as the overarching legislative instrument for the cross-sectoral integration required in ICM implementation in Lesotho.

Sections 16 and 17 respectively require the elaboration and adoption every 5 years of a National Environmental Action Plan (NEAP) and of a comprehensive set of subordinate District Environmental Action Plans (DEAPs). The NEAP is intended to be binding on all parties and to provide 'the basis for national environmental planning and development programmes', while each DEAP must conform with the NEAD and serves to 'coordinate the activities of line ministries in the protection and management of the environment and the conservation and sustainable utilisation of natural resources in the district'. It will be critically important to ensure that the requirements of ICM implementation are expressly incorporated into the periodic elaboration of the NEAP (and thence into the DEAPs), and this presents an opportunity to ensure that relevant rights, gender and climate adaptation measures are also incorporated therein. One method of doing so might involve amendment of the Act to include statutory articulation of a range of 'mandatory objectives' to be addressed under the NEAP, and thus also under the DEAPs. Further guidance regarding specific measures to be considered under such 'mandatory objectives' (i.e., rights, gender equality, climate adaptation) might be provided incrementally under further ministerial guidance or policy documents.

As regards the development of such guidance or policy, it is important to note that sections 11, 13 and 15 provide, respectively, for the establishment of an Environment Coordinating Committee, a Technical Advisory Committee, and creation within line ministries of Environmental Units. It would be important for the effective realisation of rights, gender and climate-related goals that expertise in each of these areas is included, as appropriate, in such Committees and Units.

Further, environmental impact assessment (EIA) of projects (specified in Part A) and strategic environmental assessment (SEA) of matters specified in Part B, stipulated under sections 19-27 of the Environment Act, might be utilised to ensure that such projects, programmes or policies have due regard to potential impacts upon stated rights, gender equality, climate adaptation objectives to mitigation measures intended to avoid, reduce or control such impacts. Once again, specific procedures to ensure such assessment might be provided incrementally under further ministerial guidance or policy documents.

It should be noted that the initial amendments required to the Environment Act 2008 would have to be quite substantial, including (in addition to the issues identified):

- Full enumeration of ICM-related objectives & principles (s. 3 Env Act).
- Harmonisation of essential definitional terms (with WA and range resources legislation initially) , and expansion / clarification of scope of application of Env Act, to include water resources management (s. 2).

- Expansion of s. 28 Env Act to allow setting of a wide range of standards related to ICM implementation (and reconciliation with s. 27 WA and any subordinate regulations adopted under s. 42 WA).
- Clarity on inter-relationship, hierarchy, etc. between the various relevant planning mechanisms (NEAP/DEAP; CMP & Water & Sanitation Strategy; development plan; etc.). This would involve, inter alia, inclusion of detailed ICM-related standards among s. 70 standards to be elaborated for land-use plans (and also now for CMPs).
- All ICM-related planning processes (CMPs; Water & Sanitation Strategy; development plans; etc. should expressly be subjected to SEA (under s. 19(2) Env Act).
- Expansion of s. 70 to provide for elaboration of standards in respect of all ICM-related planning processes.
- Most importantly, some rationalization / streamlining of licensing / permitting requirements – both within the Env Act (EIA licence; pollution licence; waste licence) and beyond the Env Act (WUP under s. 19-23 WA; planning permission under s. 9 T&CP Act).
- Consolidation of categories of ‘protected areas’ (designated under all relevant legislative instruments) under the Env Act, which might involve Env Act recognition and protection (and even restoration under s. 84) of PAs designated under other relevant legislative frameworks (including rangelands, wetlands, catchment areas, etc.).
- Further elaboration of procedure (under Part XII Env Act) for incorporation of relevant international / regional conventions.
- Consolidation / harmonization of provisions (in WA; T&CP Act; new range resources legislation; etc.) regarding Governance / Enabling Environment; Enforcement; and Dispute Resolution.

If the Environment Act were to be selected as the key legislative framework, the 1998 National Environment Policy would be hopelessly outdated. A programme of policy reform and updating might also usefully review and revise the objectives and approaches set out in the 2000 National Biodiversity Strategy and Action Plan and the National Adaptation Programme of Action (to the extent that the latter instrument has not been overtaken by the National Climate Change Policy 2017-2027 and the 2017 Climate Change Implementation Strategy. Indeed, legislative reform refocusing the Environment Act around ICM implementation may offer welcome opportunities for rationalisation of the policy landscape.

Water Act 2008

In line with any legislative reform of the rights, gender and climate-related requirements to be integrated into the NEAP and DEAP processes above, the requirement for local authorities to elaborate a Catchment Management Plan (CMP) under section 15(3)(a) of the Water Act 2008 might usefully be subject to an amended section 16 on the ‘contents of a catchment management plan’. An express requirement might be included in this section to ensure that the CMP would include detailed plans for the incremental realisation of related rights, gender equality and climate adaptation. This would be a significant improvement on the rather broad and general requirements currently set out under section 16. Of course, further guidance regarding specific measures to be considered in pursuit of such requirements (*i.e.*, rights, gender equality, climate adaptation) might be provided under ministerial guidance or policy documents (issued under either the Water Act or Environment Act).

In parallel with any such amendment, section 3 of the 2008 Act might also be revised to include a broader range of ‘principles’, including more specific reference to ‘the progressive realisation of water-related (human) rights of vulnerable individuals and communities’ and ‘the meaningful promotion of gender equality’. This would be an improvement upon the current wording of section 3(h). In addition, the express inclusion of a reference to ‘climate adaptation’ would be helpful, perhaps in a reformulated articulation of ‘sustainable utilisation of water resources’ under section 3(a).

It should be noted that urgent amendments to the Water Act would include (in addition to those amendments to the Water Act alluded to above):

- Clear articulation of ICM-related objectives (s. 3 WA), including, for example, regarding designation of catchments, etc.

- Clear articulation of ICM-related principles to guide preparation of CMPs (s. 16 WA),
- The scope of application of the WA should be expanded throughout the text to link to / include land-use, range management, biodiversity conservation, (e.g., in relation to definitional terms, etc.).
- Amendment (expansion of scope) of Water and Sanitation Strategy to include a range of ICM-related issues and activities.
- Rationalisation of permitting requirements (for all water uses) to avoid bureaucratic over-regulation (s. 20-23 WA).
- Identification of essential subsidiary regulations (under s. 42 WA): e.g., groundwater quality standards; surface water quality standards; discharge quality standards, drinking water quality standards, aquifer recharge standards, borehole standards, monitoring methodologies; methodology for catchment assessments; etc.
- Repeal of s. 18(6) on fines and inclusion of power to adopt a schedule of fines under s. 42.
- Consolidation of dispute resolution procedures / machinery (merging of Water & Environmental Tribunals).
- Linkage of CMPs with other ICM-related planning processes, and detailed procedures for consultation / coordination with other relevant ministries.
- Defer to single procedure on transboundary engagement and incorporation of international / regional commitments (under amended Env Act).

If the Water Act were to become the key overarching legislative framework for ICM implementation, the objectives set out in 2007 Water and Sanitation Policy would be overtaken by this legislative reform, though the 2014 Long-Term Water and Sanitation Strategy would remain largely relevant, as would the putative Integrated Water Resources Management Strategy. The 2020 Process for Development of Draft Catchment Management Plans (2021-23) would become centrally relevant and significant. Regardless of whichever approach is adopted regarding the legislative framework for ICM, the 2013/14 – 2018/19 National Wetlands Conservation Strategy is likely to require updating, having regard *inter alia* to the adoption of a new Range Resources Management Act. Similarly, the 2020 National Irrigation Master Plan and Investment Framework would require updated to reflect ICM-related investments, as well as the realities of ongoing and planned projects.

Range Resources Management Bill/Act 2021

While work on developing a new Range Resources Management Bill continues, the introduction of such a new Act would be likely to require substantial updating of the 2014 Range Resources Management Policy 2014 in order to reflect the key objectives and elements of ICM, as would the National Wetlands Conservation Strategy 2013/14 – 2018/19.

Town and Country Planning Act 1980

Similar integration, of the broader requirements of ICM implementation and of realisation of related rights, gender equality and climate adaptation-related objectives, is required in respect of the development plans to be elaborated and adopted by Local Authorities under sections 5-7 of the Town and Country Planning Act 1980 (as amended). Measures for the realisation of such objectives might be included (in a manner aligned with the NEAP/DEAP and CMP processes) as a legally required ‘mandatory objective’ in each successive five-year development plan.

Further detailed guidance on the particular measures to be considered for inclusion in each development plan might be include in subordinated regulations adopted by the Minister under section 21 of the 1980 Act.

There is a clear need to identify a “lead” governmental ministry or agency with overarching responsibility for ICM implementation. The Ministry of Environment appears the most likely appropriate ministry, as it currently enjoys

(overarching) responsibility for a range of aspects of land management, water management and biodiversity conservation. In the absence of a dedicated legislative instrument (an ICM Act), an extensively amended version of the 2008 Environment Act could serve as the overarching legislative framework instrument. Key among the amendments that would be required are those which would subordinate other ICM-related legislative measures to the Environment Act in the case of normative overlap or duplication.

The establishment of a dedicated lead agency at the very highest levels of government for ICM implementation might build upon the experience of the National Environment Secretariat, established in 1994 under the Office of the Prime Minister as the primary coordinating institution for environmental policy. The NES successfully developed the National Action Plan (NAP), approved by Cabinet in 1996, for the specific purpose of implementing the commitments contained in Agenda 21, entered into at the 1992 Rio Conference (UNCED). Such a lead agency might be established for a defined period of time (5-6 years) considered adequate to oversee the comprehensive programme of legislative and policy harmonization required for effective ICM implementation. Over time, the various functions of the lead agency for ICM might be taken over by the key ministries and agencies involved in practical aspects of ICM implementation.

Recommendation 9: 9(a). Introduction of a consolidating legislative instrument for ICM implementation in Lesotho.

This may take the form of an ICM Act, providing a definition of ICM, along with key principles for its implementation and enforcement, and identifying and mandating a lead agency(ies) at both central and local levels.

9(b). Alternatively, this may require legislative amendment of an appropriate lead instrument (e.g., the 2008 Environment Act), and corresponding amendment of all other instruments relevant to implementation of ICM in Lesotho (e.g., the 2008 Water Act, the 1980 Town and Country Planning Act, the 2004 Local Government Act, and the 2010 Land Act, etc.) to ensure the subordination of the requirements contained therein to the designated lead instrument.

3.2.2 Water resources management

Finding 10: The current legislative and policy framework in Lesotho relating to water resources management is disjointed and fragmented, creating an incoherent complex of inconsistent rules and supports which hinders effective implementation of ICM.

Substantive provisions of the 2008 Water Act overlap with those of the 2008 Environment Act, as well as those under various legislative and policy instruments relating to range management (including the 1969 Land Husbandry Act and 1982 Regulations, the 1979 Animal Husbandry Act, the 1998 Forestry Act, the 2014 Range Resources Management Policy and the 2015 Range Resources Management Policy Action Plan). This results in widespread normative and institutional confusion, as several different regulatory requirements and procedures (e.g., regarding permitting, reporting, enforcement, etc.) may apply to a single water-related activity or project. Stakeholders highlight the anomaly of having several different overlapping authorisation processes, usually administered by different governmental authorities, for the development and operation of water and irrigation infrastructure, even relatively small-scale projects such as sand dams. Where also applicable, legal requirements relating to grazing or other agricultural activities, or to land-use planning and development control may further complicate this situation.

As currently framed, the Water Act focuses too narrowly on water issues to the neglect of other water-related matters, such as land-use, wetland habitat conservation, gender equity, human rights or climate change adaptation. However, the ICM paradigm is truly cross-cutting and requires engagement across a wide range of sectors and activities, including transport, infrastructure development, agriculture, natural environment, land-use management, local government, etc.

Taking the further example of wetlands, which are critically important for ICM in Lesotho, these are expressly subject to both the Water Act and Environment Act, but different mandates and responsibilities exist under each. Wetlands are also centrally relevant to range resources management. Similar overlaps occur in relation to pollution control, wastewater management, and a range of other aspects of water resources management which are critically significant for ICM implementation. To further complicate this situation, under the 2004 Local Government Act natural resources are deemed to be the responsibility of local councils, but different responsibilities for water resources are allocated to the Ministry of Water (under the Water Act) and to local

councils (under the Local Government Act). Confusion regarding the allocation of responsibilities between central and local government is exacerbated by flawed implementation of the National Decentralisation Policy.

Similarly, the current Irrigation Master Plan doesn't adequately reflect the position on the ground, or to key challenges regarding the impacts of climate change or the imperatives of human rights and gender equality and has led to calls for the creation of a new governmental agency with overall responsibility for the elaboration and delivery of irrigation policy, even though there are already existing overlaps and conflicts regarding regulatory and administrative responsibility.

There is urgent need for a strong inter-sectoral coordinating body for ICM which enjoys adequate resources, capacity and a cross-cutting mandate. Any such reformed ICM Co-ordination Unit (ICM-CU) must not be regarded as concerned only or primarily with water, but should coordinate amongst a range of ministries, departments and governmental and non-governmental agencies. For this reason, it should ideally be located outside the Ministry of Water (perhaps within the Office of the Deputy / Prime Minister) and should report at the very highest levels of government.

Further illustrating the need for institutional integration, the Lesotho National Development Corporation (LNDC), established under Ministry of Trade & industry, is responsible for attracting industrial investment to Lesotho, giving rise to significant pollution challenges from untreated industrial effluents from industry. LNDC needs to strengthen its policies, based on detailed direction from the lead ministry / agency for ICM, in order to guide related manufacturing activities (e.g., regarding location, water resources use, waste management processes, etc.), thus promoting greater compliance with legal standards.

In addition to the administrative burden imposed upon all actors, including governmental agencies, development partners, and all water users, the simultaneous application of multiple overlapping authorisation processes inhibits new investment in water resources management and the deployment of new techniques and technologies which might improve water efficiency and/or pollution abatement.

Further, the relevant permits or authorisations may not grant the right(s) to access or enter onto land necessary for the implementation of works associated with ICM implementation. For example, in the case of wetland rehabilitation, a water permit would require entry onto and work upon land, but this may be prohibited under rules on range resources management or frustrated by the obstructive exercise of private property rights.

A fundamental review of the 2008 Water Act has been initiated some 3 years ago with a view to harmonising the Water Act with the other relevant sectoral instruments. The report of the consultant who conducted this review, which is still awaiting approval, might inform measures to consolidate and rationalise legislative arrangements in this field.

Recommendation 10: A single harmonised permitting system for ICM-related activities and projects is required, based either on new ICM legislation (an ICM Act) or on amendment of the existing 2008 Environment Act, to which (where relevant) requirements for a water permit, water user certificate, environmental consent or planning permission, along with any contrary property rights would be subordinated. In the latter case, the existing permitting requirements (for a water permit, environmental consent or planning permission) would be residual and would continue to apply to activities and projects which are not designated as ICM-related.

Such legislation should clearly set out the respective powers and responsibilities of the lead central government agency / ministry and of the relevant local authority(ies).

Finding 11: There exist significant policy gaps related to ICM implementation, as well as a lack of detailed technical and methodological standards.

Despite the complexity of the current legislative and policy framework, there exist several significant policy gaps in relation to water resources management. It is quite clear that legislative implementation and compliance is hindered by a general lack of detailed guidelines and methodologies for implementation of regulatory measures that can be associated with ICM implementation. The need for such guidance arises across multiple regulated sectors / thematic areas, and guidance is required regarding, inter alia:

- Catchment management planning and assessment methodologies;
- Environmental impact assessment and strategic environmental assessment methodologies;
- Biodiversity assessment methodologies;
- Water quality monitoring, sampling and reporting methodologies;

- Permitting procedures (for each applicable permitting process);
- Protected area designation procedures;
- Protected area, rangeland and wetland restoration standards;
- Standards for water abstraction (borehole construction);
- Dam safety standards (re constructing, impounding, operating, and decommissioning of dams); etc.

In addition, certain existing policy frameworks, such as the Irrigation Policy and Irrigation Master Plan might usefully be updated to take full account of key challenges, e.g., climate change and its potential impact on rain-fed agriculture. Also, stakeholders point to a lack of clarity and coherence in the Irrigation Master Plan, resulting in tensions between MAFS and MoW.

The current lack of relevant detailed technical and methodological standards for water resources management results in organisations and/or large-scale projects having to rely on their own internal policies and procedures and/or on a myriad of international standards (e.g., those applied by multilateral development banks or other donors / development partners). For example, projects undertaken under the auspices of the Lesotho Lowlands Water Development Scheme (LLWDS) have mostly been guided by reliance on a selection of international methodologies and standards.

The Water Act provides some details, e.g., on monitoring and recording water quality, but such measures (or the provisions set out thereunder) are rarely sufficiently detailed or comprehensive, and officials must rely on international methodologies and practice (where necessary and available). Detailed guidance is required regarding, inter alia, the conduct of EIA and SEA, basin planning processes, water quality monitoring, reporting, sampling, etc.

While guidance is provided in the EIA Regulations, the quality of EIAs conducted tends to vary quite significantly, e.g., regarding the content of EIA reports, etc. Having regard to the important role of EIA (as a horizontal regulatory device) for effective ICM implementation, this suggests that in addition to further and clearer guidance, supplemental measures may be required, such as closer monitoring and review of the EIA process.

Recommendation 11: A comprehensive programme to address policy gaps in terms of guidance regarding technical and methodological standards for water and land resources management, in order to inform further a sequenced and coherent roadmap for broader ICM implementation in Lesotho. Ideally, in order to ensure more effective implementation and compliance, such technical guidelines and methodologies should be developed and formally promulgated in subordinated legislation / regulations alongside the development of legislative reforms.

Development of a comprehensive suite of detailed technical and methodological standards for water and land management (e.g., regarding environmental flow management, water quality monitoring, irrigation efficiency, wetland rehabilitation, rangeland management, etc.). Such standards might be elaborated by a newly established National Standards Agency, which could initially focus on ICM-related standards.

Finding 12: Confusion regarding the allocation of governmental responsibility for maintenance of existing water-related infrastructure and facilities.

There is ongoing uncertainty regarding which government ministry or other agency has responsibility for the maintenance and repair of existing water-related infrastructure and facilities, especially where such facilities have been developed in partnership with or with the assistance of development partners and civil society organisations. For example, the Department of Agriculture and Food Security currently provides irrigation infrastructure, but with little or no provision for ongoing facilities maintenance.

A reformed and capacitated ICM Co-ordination Unit (ICM-CU) and/or the Office of the Commissioner for Water might play a central role in oversight and coordination of programmes of maintenance and repair of existing water-related infrastructure and facilities.

Such uncertainty regarding the sustainability of water-related infrastructure and facilities potentially denies communities of the water-related benefits provided thereby and creates a significant disincentive for collaborative development of the infrastructure and facilities necessary for effective ICM implementation.

Recommendation 12: Clearly allocate, within a harmonised legislative framework for ICM, legal responsibility for maintenance of water-related infrastructure and facilities amongst the appropriate governmental agencies.

Finding 13: Confusion regarding the allocation of governmental responsibility for enforcement of ICM-related rules and standards.

The overlapping regulatory requirements identified above cause widespread confusion regarding enforcement of the relevant rules, with different Acts listing similar contraventions, but subject to different standards of proof, different procedures for prosecution and different sanctions and penalties. In practice, this situation allows each Ministry to pass the issue on to another Ministry. Consequently, it appears that not one single actor in breach of the relevant rules (which are often governmental agencies or multinational corporations) has ever faced civil or criminal court proceedings in respect of an environmental contravention.

Even within the 2008 Water Act there is some uncertainty regarding the permitting requirements, with section 20(1) requiring a water use permit for engaging in ‘an activity of using or abstracting water’, and section 22(2) requiring a ‘person who is engaged in an activity of drilling boreholes or digging wells’ to obtain water use drilling contractors certificate’, while the user / farmer requires a water use permit. Under each of the relevant provisions, the Director of the Department of Water Affairs has responsibility for monitoring compliance and ensuring compliance with the permitting requirements. However, the practice among stakeholders is to refer generally to ‘water user certificates’ (WUCs). Confusion regarding the appropriate terminology may be due to a marked lack of implementation of the permitting requirements.

Adding to such deficiencies in the enforcement of rules related to ICM, there is a very low level of awareness of the relevant regulatory requirements amongst many water users. For example, very few farmers are aware of the need for Water User Certificates (WUCs) in respect of boreholes for irrigation. Indeed, it appears that no WUCs have ever been issued (for this purpose). Similarly, most Community Councils are also unaware of the requirement for WUCs, and/or the need for their annual renewal.

Recommendation 13: Consolidation of the legislative framework for ICM should incorporate consolidation of responsibility for compliance and enforcement, which might ideally be vested in a reformed and capacitated ICM Co-ordination Unit (ICM-CU).

Such consolidation should be accompanied by a concerted campaign for raising awareness among water users of key regulatory requirements (e.g., regarding WUCs for irrigation boreholes).

Finding 14: Lesotho lacks adequate institutional and human capacity to participate fully in transboundary water cooperation processes at the basin, regional and international levels.

Having regard to Lesotho’s critically important upstream position in the Orange-Senqu basin, there is an urgent need to improve capacity in respect of transboundary engagement and cooperation over the management of shared water resources. At present, Lesotho lacks the diplomatic and technical capacity to engage effectively in transboundary water diplomacy and thus remains heavily reliant on the technical and administrative capacity of existing institutional structures for transboundary water cooperation, including the Secretariat of the Orange-Senqu River Basin Commission (ORASECOM) and the SADC Water Division. This lack of capacity also impedes Lesotho’s engagement with the Lesotho Highlands Development Authority (LHDA).

It should be noted that the SADC Treaty, and particularly the 2000 SADC Protocol on Shared Watercourses, provide some out-line guidance regarding cooperative institutional arrangements for the management of (shared) international water resources.

Lesotho’s lack of relevant capacity means that it struggles to set out clearly its transboundary water-related interests and concerns. Were it in a better position to do so, Lesotho might be in a position to mobilise further basin-wide, regional and international support for national measures and initiatives related to ICM implementation? Co-basin States might be in a position to provide technical, financial or other assistance related to ICM implementation, (e.g., infrastructure maintenance, etc.). Also, international organisations might be in a position to assist, (such as UNECE under the auspices of the 1992 Water Convention). In addition, demonstrated progress in (basin-wide) transboundary water cooperation might present greater opportunities to access international development finance in support of ICM implementation efforts.

In time, such support might ultimately involve benefit-sharing mechanisms which could provide a cooperative framework within which downstream co-riparian States (or other actors) might contribute towards the costs of

upstream stewardship of the catchment and/or share the economic benefits of ecosystem services maintained downstream by virtue of such upstream stewardship. Such ‘payment for ecosystem services’ (PES) mechanisms are increasingly being employed in transboundary basins around the world.

Recommendation 14: A programme of technical, legal and diplomatic capacity development in support of more effective engagement in transboundary water cooperation processes.

3.2.3 Environmental protection

Finding 15: The existing legislative framework for environmental protection is wide-ranging and complex and not ideally suited to the requirements of ICM implementation.

Though the law and policy framework for environmental protection in Lesotho is based on the overarching 2008 Environment Act, a relatively new and modern instrument, the Act seeks to implement a wide range of policy objectives (set out, for example, under the 1998 Environment Policy, the 2005 Biosafety Policy, etc.), and is supplemented by a broad range of subordinate legislative instruments (including, for example, new EIA Regulations and Plastic Levy Regulations). Therefore, the environmental protection regime must accommodate a range of complex policy inter-linkages, including, for example, biodiversity protection, which is based on severely outdated legislation (proclamations) adopted in 1969. A proposal for a (draft) Nature Conservation Bill has been stalled since 2005. Therefore, the current regime has proven unfit for ICM-related aspects of environmental protection, such as protection of fish species.

Amendment of the 2008 Act might prioritise ICM-related objectives and, if appropriate, could recognise the primacy (as regards ICM-related activities and projects) of a dedicated overarching legislative regime (an ICM Act). Alternatively, the scope of application of the Environment Act might be extended to allow the 2008 Act to serve as the overarching legislative instrument governing activities and projects designated as ICM-related.

Recommendation 15: The 2008 Environment Act should be amended to include express recognition of the primacy of consolidating legislation for ICM (e.g., an ICM Act), and to prioritise the environmental protection requirements ancillary to ICM implementation.

In order effectively to ensure their prioritisation, such ICM-related environmental protection requirements (e.g., re wetlands conservation) must be set out in an annex to any amended Environment Act.

If appropriate, the 2008 Environment Act might also be amended to become the overarching legislative instrument for ICM-related activities and projects.

Finding 16: The current legislative, policy and institutional framework in Lesotho relating to broader environmental protection is disjointed and fragmented, creating an incoherent complex of inconsistent rules and supports which hinders effective implementation of key environmental aspects of ICM.

As with a range of other ICM-related policy areas, inconsistent and incoherent laws and policies and competing regulatory institutions create confusion and lead to ineffective protection of key environmental elements related to ICM implementation. For example, effective rangeland management is thwarted by continuing disagreement between agencies regarding jurisdiction and competence regarding wetlands and protected areas (which often overlap). Due to such conceptual uncertainty, different governmental agencies tend to pursue their own work plans and policy priorities in a manner detrimental to the holistic management of catchments. For example, the Environment Act stipulates that wetlands are not to be developed for economic purposes but, where there are mineral deposits located within wetlands, the Ministry of Mining may overrule this provision under separate legislation.

Such institutional fragmentation and confusion extends to the issue of responsibility for the maintenance of existing infrastructure and facilities, and thus undermines the sustainability of existing and new investment for ICM implementation.

In the field of environmental protection, as in other areas, the policy of administrative decentralisation is not working at all in practice.

Recommendation 16: A single harmonised (ICM) permitting system should (where a project or activity is relevant to or may impact upon ICM implementation) supplant the existing requirement for an environmental

consent under the Environment Act. All other legislative or permitting regimes should be subordinated to such a harmonised permitting system (in respect of ICM-related activities and projects).

Harmonised legislation should clearly set out the respective powers and responsibilities of the lead central ministry or government agency, of associated agencies and ministries, and of the relevant local authority(ies).

Finding 17: Detailed standards and methodologies for effective practical implementation of ICM-related legislation and policy are lacking.

Detailed technical standards and methodologies to facilitate effective implementation of environmental legislation and policy are generally lacking. For example, limited technical guidance is provided on practical aspects of conducting EIA (e.g., regarding screening, scoping, consideration of alternatives, etc.) and on the content of EIA reports, etc. Key actors (including project proponents and regulatory agencies) must supplement the methodologies and practices employed by having regard to international practice, donor safeguard policies and procedures, and other sources of guidance.

The lack of detailed methodologies for public consultation / participation has resulted in the conduct of poor stakeholder engagement processes in respect of planned infrastructure and activities, especially as regards local communities likely to be impacted.

A comprehensive, coherent and mutually supporting set of standards are required for ICM implementation, including, for example, technical standards required for siting, building and operating landfill sites, especially where these are located near boreholes / groundwater used for drinking water, stock watering, etc. Similar technical standards are also required for a range of other facilities which present a risk to water bodies, including burial sites, pit-latrines, etc. In addition, no technical rules or standards have been developed regarding invasive species, though some assistance has been provided by donors / development partners.

The development of such technical standards and methodologies should facilitate better use of the legally required EIA process in addressing these problems, especially in identifying unacceptable impacts, appropriate permit conditions, necessary mitigation measures, etc. As a general rule, a project or activity should not be permitted to continue unless impacts contravening relevant technical standards can be mitigated or prevented.

As Lesotho doesn't at present have a national standards agency / authority, such a body might be established with an initial focus on the development of ICM-related standards which are locally appropriate and achievable.

Recommendation 17: Establishment of a comprehensive (rolling) programme for the development of locally appropriate ICM-related standards and methodologies in order to facilitate effective ICM implementation.

Establishment of a National Standards Agency / Authority for Lesotho which could initially focus on the development and adoption of such locally appropriate ICM-related standards and methodologies.

Finding 18: Deficiencies in the enforcement of environmental rules and standards, and confusion regarding the rules and penalties applicable, undermines effective enforcement.

Enforcement of environmental rules and standards is generally very weak, even in the case of non-compliance by major users or polluters. For example, the Mining Sector tends to avoid enforcement action by arguing that environmental enforcement measures are contrary to progressive economic development in Lesotho.

In addition, severe capacity constraints at key State agencies can encourage non-compliance with key legislative requirements. For example, where a requirement for EIA arises in respect of a planned project, applicants can wait indefinitely for (approval of) an EIA report, ultimately having little choice but to proceed without it.

A clear and detailed policy and strategy guiding enforcement action should be adopted in order to support decisions regarding enforcement action, ensure adequate resources for enforcement, and deter political interference. Such a policy and strategy could detail how operators / polluters might be identified and prioritised for inspection, and/or how limited resources for enforcement might best be deployed (e.g., on the basis of pollution risk, the operator's compliance record, and/or information received from the public).

The present complex and fragmented legislative framework for environmental protection (and for ICM implementation more generally) creates many anomalies which may impede effective enforcement action. For example, stiffer penalties exist under the Environment Act to deter illegal grazing and protect rangeland than exist under dedicated measures for range resources management, thereby causing confusion and uncertainty regarding which instrument should be used (and by which governmental agency).

Recommendation 18: Consolidation of the overarching legislative framework for ICM implementation should seek to remove legal anomalies regarding the enforcement of ICM-related environmental rules and standards. Development of a clear guiding policy and strategy on environmental enforcement (or on broader enforcement of ICM-related requirements).

3.2.4 Range resources management and agriculture

Finding 19: Effective range resources management, as a critical element of ICM implementation, suffers from an inconsistent and incoherent legislative and policy framework.

The existing legislative and policy framework for range resources management presents serious challenges for effective implementation of the cross-cutting ICM paradigm, as key principles of natural resource management differ from one legislative instrument or sector to another (across water resources management, environment protection, biodiversity conservation, forestry, range resources management, etc.).

Range resources management is characterised by a badly fragmented, incoherent and out-of-date legislative framework, comprising the following instruments amongst others:

- 1969 Land Husbandry Act;
- 1980 Range Management and Grazing Control Regulations;
- 1998 Forestry Act;
- 2014 National Range Resources Management Policy;
- 2018-2022 Food and Nutrition Strategy and Costed Action Plan;
- 1997 Local Government Act;
- 2008 Water Act;
- 2010 Land Administration Authority Act;

Legislative incoherence may be illustrated by highlighting the issue of overlapping jurisdiction among public / governmental authorities in the management of rangelands, Under section 4(1) of the 1969 Land Husbandry Act, the ‘Minister’ (of Forestry, Range and Soil Conservation) may make regulations in respect of agricultural land to ensure that land is employed in the most beneficial uses, to promote soil conservation, to promote proper management of water resources and proper irrigation, and to promote certain good and prevent certain bad agricultural practices. Under section 41(1) of the 1998 Forestry Act the ‘Minister’ (of Forestry and Range Resources Management) may make regulations for, *inter alia*, the grazing of livestock and the manner in which pasturage shall be used, including the granting of grazing licences. Under section 4(1) of the 1980 Range Management and Grazing Control Regulations, Chiefs designate and set aside areas as ‘leboella’ and may issue directions in that regard. Under the 2014 National Range Resources Management Policy, the Department (of Range Resources Management) is responsible for preparing and administering a National Rangelands Program, to be implemented by local and district level authorities, while the Ministry for Agriculture and Food Security has responsibility for agricultural productivity under the Food and Nutrition Strategy. At the same time, under section 15(1) and (2) of the 2008 Water Act, the ‘Minister’ (for Water) may designate catchment areas for the management and protection of water resources, where ‘a local authority’ shall be responsible for the management of catchment areas in its area of jurisdiction. Under sections 78 and 81 of the 1997 Local Government Act, a District Development Coordinating Committee shall consider the development plans prepared by each Council and prepare and approve a composite District Development Plan. It is not at all clear (having regard to current developments) that the new Range Resources Management Bill / Act will address such inconsistency and confusion.

Normative and institutional fragmentation is apparent across the broad field of range resources management. For example, in the area of fruit tree cultivation there are clear conflicts between the Ministry of Agriculture and Food Security (MAFS), Dept of Crops, Division on Horticulture and the Ministry of Forestry & Rangeland, Division on Fruit Tree Production. Such a confused legal and policy framework obstructs the work of government, donors / development partners, civil society and users (e.g., by means of grazing associations).

Range resources management is also closely inter-linked with questions of land ownership, and with problems of trespass and unauthorised grazing, conservation of protected areas, etc. Some degree of harmonisation is urgently required in order to achieve policy consistency and coherence, and to facilitate effective enforcement of the relevant rules and standards.

It is also quite clear that there is no effective enforcement of the existing relevant rules, especially in relation to illegal grazing in protected / conservation areas. Even if enforcement measures were to be attempted, the derisory fines and penalties provided under the current outdated legislative framework would exert little dissuasive effect. The resulting poor levels of compliance deter wetland and protected area conservation and rehabilitation, as improvements are highly likely to be reversed through unlawful grazing or other detrimental activities.

Recommendation 19: There is urgent need for a thoroughly reformed legislative regime for range resources management, which comprehensively addresses all aspects of rangeland management, including rangeland protection, rehabilitation, related land-use practices, and enforcement. Ideally, the proposed new Range Resources Management Bill would provide such a reformed regime.

Such a reformed legislative regime would inform (rangeland-related) aspects of the overarching ICM regime to be established under any consolidated overarching legislative framework (e.g., under any new ICM Act) and would be subordinated to the overarching regime in appropriate ICM-related cases.

Finding 20: Effective range resources management, as a critical element of ICM implementation, suffers from an outdated and disjointed legislative and policy framework.

The rules and policies related to range resources management, as an absolutely critical component of ICM implementation in Lesotho, are scattered across an extensive range of legislative and policy instruments, including the 1969 Land Husbandry Act and 1982 Regulations (and the draft Animal Welfare Policy 2008); the 2014 Range Resources Management Policy and 2015 Range Resources Management Action Plan; the National Strategic Development Plan II; the Policy on Soil and Water Conservation; and the National Action Plan on Land Degradation, Desertification and Drought. Most of these measures are administered by the Ministry of Forestry, Range and Soil Conservation, which is currently preparing a new Range Resources Management Bill (presumably with the aim of updating and consolidating this outdated and fragmented framework). However, certain elements are administered by the Ministry of Agriculture and Food Security, while other key aspects of range resources management are also simultaneously regulated under the 2008 Environment Act and/or the 2008 Water Act, such as matters relating to the protection of wetlands and protected areas.

Thus, implementation of ICM-related aspects of range resources management under the current legislative and policy arrangements would require an unprecedented degree of coordination amongst multiple ministries and other State agencies, including the Ministry of Forestry and Land Reclamation (Dept. of Range); the Ministry of Agriculture and Food Security; the Ministry of Local Government (having regard to role of Community Councils under the Policy on Decentralisation); the Ministry of Environment (having regard to management of protected areas); the Ministry of Water; etc. This suggests that continued adherence to a fragmented regulatory framework for range resources management will produce limited results in terms of effective ICM implementation.

The current legislative framework for range resources management is hopelessly outdated, with the result that there are no adequately dissuasive penalties for illegal grazing in protected areas. This undermines any prospect of enforcing range resources management requirements. While this deficiency may ultimately be addressed under the new Range Resources Management Bill, any new Act should employ 'enabling' provisions, granting delegated powers to the Minister to adopt updated fines and penalties by means of subordinated statutory instrument / sub-legislative regulation.

A new legislative regime for range resources management would also require new policy instruments to assist its effective implementation. Such instruments would include technical guidance regarding livestock carrying capacity, rangeland restoration, optimal set-aside / 'leboella' practices' etc.

Recommendation 20: Update and consolidate range resources management legislation while integrating key objectives and principles related to effective ICM implementation. Ideally, this should occur by means of mainstreaming ICM in the development of the new Range Resources Management Act. In order that it might be kept up-to-date, the new Act should include 'enabling' provisions.

Such a reformed regime would inform (rangeland-related) aspects of the overarching ICM regime (ICM Act) to be established under any consolidated overarching legislative framework and would be subordinated to the overarching regime in appropriate ICM-related cases.

Finding 21: Range resources management suffers from a dearth of legislative and/or sub-legislative technical guidance, standards and methodologies, which might assist ICM implementation.

There exists little legislative and/or sub-legislative guidance on best practice in respect of range resources management in Lesotho. The ‘Sustainable Land Management’ (SLM) Tool-Kit successfully provides valuable guidance to grazing associations and other land-users regarding diverse sustainable income-generating activities. However, such guidance enjoys no formal legislative or policy basis in Lesotho, and so these practices remain voluntary and unsupported by formal government policy.

As with natural resources management in Lesotho more generally, ensuring the meaningful participation of primary users (herders) in decisions regarding the management of range resources is a significant challenge. The development of appropriate public and stakeholder participation processes and methodologies would assist in this regard.

Such sub-legislative technical guidance might include, inter alia:

- Measures for enforcement of livestock grazing restrictions;
- Protected area, rangeland and wetland restoration standards;
- Guidance on best practices; etc.

Section 5(1) of the latest draft of the Range Resources Management Bill 2021, grants the Minister the authority to develop guidelines on how rangeland areas are managed, thereby providing a clear legislative basis for such guidance.

Recommendation 21: Development of detailed technical guidance regarding standards and methodologies, especially those related to ICM implementation.

Development of such guidance might be the responsibility of a new National Standards Agency / Authority for Lesotho, which could initially focus on the development and adoption of a comprehensive suite of locally appropriate ICM-related standards and methodologies.

Finding 22: Lesotho’s Policy on Decentralisation is not operating as intended in the field of range resources management.

The Ministry of Forestry and Land Reclamation is already partly decentralised, with 10 district resource centres currently established and procedures in place to facilitate village-level participation in range resources management decision-making.

However, the situation is confused due to overlapping mandates regarding land management responsibilities, particularly between local councils and traditional leaders / chiefs. In many rural communities, the chiefs continue to allocate land to people, even though this is formally the role of local councillors under the current legislative framework.

The continuing power struggle (particularly regarding land allocation) between local authorities and traditional leaders is exacerbated by conflicting provisions contained in the Chieftainship Act, which may require amendment, especially in the light of any pertinent provisions to be contained in a new Range Resources Management Act.

Recommendation 22: [Refer to corresponding recommendations on decentralisation, particularly any regarding the distribution of range management and/or land allocation responsibilities between local authorities and traditional leaders.]

Finding 23: Despite the critical importance of range resources management in Lesotho (for economic and social development, as well as for ICM implementation), the enabling environment is not conducive to effective range management nor to effective ICM implementation.

There is a need to significantly improve the entire range of supporting measures which are supposed to be in place for effective range resources management.

A coordinated programme of monitoring and evaluation of range resources management law and policy (which is provided for under the 2015 Range Resources Management Action Plan) is urgently needed.

A coordinated programme of awareness raising regarding the benefits of effective range resources management (especially at village-level) is urgently needed. In particular, the requirements (and benefits) of ‘Conservation Agriculture’ are little understood (including, for example, the purported prohibition on grazing after crop harvesting).

A programme of capacity-building is required at village-level to bridge disagreement between traditional leaders, user groups and local councils (especially disagreement regarding the meaning, objectives and application of range resources management law and policies). Capacity-building at village-level might also aim to promote the meaningful participation of women in related decision-making.

Sustainable arrangements for financing effective range resources management (especially as regards funding for the management of cattle outposts and wetlands) are urgently needed.

Effective arrangements for enforcement of range resources management law and policy are urgently required. Local chiefs should have a key role in enforcement, as there exists no other effective institution in many/most rural areas.

It is clear that scarce public resources for supporting effective range resources management are routinely wasted due to political interference in grant-making and subsidy schemes. A notable example is that of the misapplied MAFS Summer Cropping Programme. This is a particularly serious issue as 90 percent of the total MAFS budget is expended on input subsidy schemes.

Recommendation 23: Development and delivery of a comprehensive programme of practical support (enabling) measures to ensure effective implementation of sustainable range resources management, with a particular focus on the ICM-related objectives outlined in any newly developed dedicated legislative instrument (either an ICM Act or new Range Resources Management Act). Such enabling measures might include, inter alia, measures to promote: *awareness-raising among local users, capacity-building among local authorities, methodologies for monitoring and assessment of rangeland conditions, standards for rangeland restoration, targets and procedures for enforcement, etc.*

3.2.5 Land use and infrastructure planning

Finding 24: Though land-use planning controls represent a potentially important regime for facilitating and ensuring effective ICM implementation in Lesotho, the relevant legislative requirements are poorly implemented and suffer from a chronic lack of enforcement, especially in rural areas.

It appears that the land-use planning regime exists only on paper and is in reality entirely ineffective. This may be partly due to the fact that responsibility of land-use planning policy and control is shared between several institutions, including the Minister for Development Planning, the Commissioner of Lands, the Town & Country Planning Board and Local Authorities (Councils). The system’s ineffectiveness is demonstrated by the fact that encroachment by other activities on arable land (e.g., for residential settlements) continues unabated. The 1980 Town & Country Planning Act is very poorly enforced, especially in rural areas where there is very limited awareness of the relevant legislative requirements. Also, there are many exemptions permitted in respect of rural development - even though these are not always set out expressly in the primary legislation. Similarly, though encroachment onto agricultural land is in direct contravention of the 1979 Land Husbandry Act, there is no political will to enforce (e.g., by revoking the owner’s grant of land under sections 21, 22 and 43 of the 2010 Land Act – which appears never to have happened). Generally, the 2010 Land Act is very poorly enforced, partly because it falls victim to traditional notions of communal ownership. Clear legal land title and tenure is a critical element for effective land-use control and improvement, especially in respect of catchments and rangelands. Indeed, at the basin-wide level, the ORASECOM Integrated Water Resources Management (IWRM) Plan recognises land-use planning as a priority area for action in the pursuit of effective IWRM.

It had originally been intended that the reforms embodied in the 2010 Land Act should have been followed by reform of the 1980 Town & Country Planning Act (and related subordinate acts and regulations), which had originally been developed following the 1979 Land Act. However, several initiatives to develop new land-use planning legislation were thwarted, partly due to the lack of supporting policy instruments (e.g., at the time there existed no National Spatial Plan, etc.). In addition, the 2010 Land Act may be regarded as somewhat premature in its approach, in that it provides a very limited role for traditional leaders /chiefs, to whom most Basuto continue to defer (on matters of land allocation). Therefore, it has fallen victim to the continuing power struggle (regarding land allocation) between local authorities and traditional leaders, which is exacerbated by conflicting provisions

contained in the Chieftainship Act. Further, the 2010 Land Act is also considered to be excessively bureaucratic / administrative having regard to established land practices in Lesotho.

A reformed Town & Country Planning Act would introduce a new / amended legislative framework, which would stipulate the following:

1. the development and adoption of a national spatial development plan which takes full account of the imperatives of ICM, including its climate change, gender and human rights dimensions;
2. the adoption of local development plans by every local authority which is consistent with the national spatial development plan (and ideally consistent with relevant CMPs, DEAPs, etc.); and
3. introduction of a rationalised regime of planning permission (for large-scale projects or those having potentially significant impacts), accompanied by detailed regulations setting out the application and approval procedures, etc.

Depending in which existing legislative measure might be selected to provide the lead overarching legal framework for ICM implementation, an amended T&CP Act would need to ensure effective integration of the development planning and catchment management planning processes, ideally by stipulating mandatory alignment of the development plan adopted under s. 5-7 of the T&CP Act with the objectives of the relevant catchment management plan adopted under s. 15-16 of the Water Act.

As formally presented, the 2010 Land Act is coordinated with the planning code, in that the 2010 Act expressly provides that land may not be allocated without corresponding planning approval. However, the planning code is very outdated and poorly administered, and so the registration of land interests takes place regardless of a lack of planning approval.

Any reformed planning legislation (new Town and Country Planning Act) should be designed to facilitate the adoption of new and innovative international practice and methodologies (e.g., regarding special planning areas and controls, enterprise zones, etc.).

Recommendation 24: Development of a new updated Town and Country Planning Act, which consolidates, reflects and/or corresponds with ICM-related aspects of the 2010 Land Act and the new Range Resources Management Bill, and which incorporates or facilitates adoption of international best practice in land use planning.

Any new land-use planning code would inform (land-use planning-related) aspects of the overarching ICM regime (ICM Act) to be established under any consolidated overarching legislative framework and would be subordinated to the overarching regime in appropriate ICM-related cases.

4 Proposed actions / Legislative and policy reform Roadmap

	Proposed action	Recommendation to which action relates	Priority	Timeline	Main actors
ICM-Related Systemic Reforms					
1	Develop 'Procedure for Legislative Development' - programmatic approach to legislative development and reform.		2	1-3 years	All relevant ministries
2	Develop process for inter-ministry collaboration on legislative development.		2	1-3 years	All relevant ministries
3	Establish structured mechanism for ongoing inter-sectoral coordination for ICM at central level (ICM Committee) and local level.		1	1-3 years	All ministries and public authorities, civil society, industry, development partners, other actors
4	Develop 'Policy Development and Approval Guidelines' - formalised approval process for official policy and strategy instruments.		1	1-3 years	All relevant ministries
5	Develop measures to insulate key public agencies against political risk – increased proceduralisation, performance monitoring & evaluation, etc.		1	1-5 years	All relevant ministries
6	Develop guidance on structural elements of ICM-related legislation, particularly inclusion of 'enabling' provisions empowering adoption of subordinated regulations and statutory guidance;		1	1-3 years	All relevant ministries
7	Ensure integrated cross-sectoral alignment between international requirements and national-level legislative and policy measures.		2	3-5 years	All relevant ministries
Legislative Reforms					
8	Develop dedicated legislation (ICM Act) to provide a formal legislative basis for ICM in Lesotho.		1	1-2 years	All relevant ministries
9	(a) Elaborate and adopt new ICM Act with the following elements: <ul style="list-style-type: none"> - Annex of ICM-related projects and activities; - harmonized, cross-sectoral permitting regime for ICM; - clear demarcation of governmental agency responsibilities; 				

	<ul style="list-style-type: none"> - ‘enabling’ provisions for subordinated regulations; - incorporating gender and rights-based protections; - express requirements regarding climate resilience. <p>(b) Alternatively, an existing measure, most likely the 2008 Environment Act, may be substantially amended (along the lines above) to become the primary overarching legislative instrument for ICM]</p>				
10	<p>Amend the 2008 Water Act (as a complementary measure to an overarching ICM Act):</p> <ul style="list-style-type: none"> - to inform normative content of ICM Act; - clear allocation of institutional responsibilities; - overlapping requirements subordinated to ICM Act. 		1	2-3 years	Water Ministry
11	<p>Amend the 2008 Environment Act (as a complementary measure to an overarching ICM Act):</p> <ul style="list-style-type: none"> - to inform normative content of ICM Act; - clear allocation of institutional responsibilities; - overlapping requirements subordinated to ICM Act. 		1	2-3 years	Environment Ministry
12	<p>Adopt a consolidating Range Resources Management Act (as a complementary measure to an overarching ICM Act):</p> <ul style="list-style-type: none"> - to inform normative content of ICM Act; - clear allocation of institutional responsibilities; - overlapping requirements subordinated to ICM Act. 		1	2-3 years	Forestry Ministry
13	<p>Develop a new consolidating Town & Country Planning Act (as a complementary measure to an overarching ICM Act):</p> <ul style="list-style-type: none"> - mainstreams ICM; - harmonized with requirements of 2010 Land Act and new Range Resources Management Bill/Act; - to inform normative content of ICM Act; - clear allocation of institutional responsibilities; - overlapping requirements subordinated to ICM Act. 		2	3-5 years	Ministry of Planning
14	<p>Adopt an updated version of the 2005 Nature Conservation Bill (as a complementary measure to an overarching ICM Act):</p>		2	3-5 years	Environment Ministry

	<ul style="list-style-type: none"> - mainstreams ICM; - to inform normative content of ICM Act; - clear allocation of institutional responsibilities; - overlapping requirements subordinated to ICM Act. 				
15	<p>Develop and adopt a comprehensive suite of subordinated regulations regarding, <i>inter alia</i>:</p> <ul style="list-style-type: none"> - water quality standards; - designation of protected areas; - procedures for ICM and/or water-use & land-use permitting; - maintenance of ICM and/or water-use & land-use permit register; - monitoring, reporting & enforcement; - dam safety standards and monitoring & inspection procedures. 		2	3-5 years	All relevant ministries
Policy Updates					
16	<p>Revise the current NSDP (NSDP III from 2023) to include:</p> <ul style="list-style-type: none"> - dedicated chapter on ICM; - framework for unified planning process for ICM-related projects and activities, having particular regard to: <ul style="list-style-type: none"> ▪ food security; SDG targets & indicators; economic development and job creation; alternative livelihoods and agricultural innovation; a gender sensitive and rights-based approach; - linked to other strategic planning tools, <i>e.g.</i>, World Bank Country Partnership Framework (CPF); - linked to relevant SDG targets & indicators; - aligned with regional and international requirements. 		1	1-2 years	Ministry of Planning; all relevant ministries; Local Government
17	Revise the Irrigation Master Plan		2	1-3 years	Ministry of Agriculture and Food Security; Ministry of Forestry (Dept of Range Resources Management).
Institutional Strengthening					
18	<p>Establish a reformed ICM Coordination Unit (ICM-CU):</p> <ul style="list-style-type: none"> - at highest possible level of public administration; - adequately resourced and legally mandated. 		1	1-3 years	Ministry of Water; all relevant ministries

19	Establish National Standards Authority / Agency: - initial focus on ICM-related standards and methodologies.		2	3-5 years	All relevant ministries
20	Improve presence of lead agency / ministries at district and local levels: - to promote and facilitate effective decentralization.		1	1-3 years	All relevant ministries
21	Address constraints regarding local authority capacity and mandate: - regarding land allocation; - regarding legislative enforcement (range management, <i>etc.</i>).		1	1-3	All relevant ministries
Enabling Environment					
22	Develop structured programme of awareness-raising for policy-makers on: - in/direct benefits for Lesotho of ICM; - national commitments at regional/international level.		1	1-3	All relevant ministries
23	Develop structured programme of capacity-building for policy-makers on hydro-diplomacy and regional/international water cooperation.				All relevant ministries
24	Develop structured programme of awareness-raising and training for local officials on legislative/policy requirements, institutional requirements, <i>etc.</i>		2	3-5	Local Government
25	Develop structured programme of awareness-raising for water-users on regulatory requirements and on in/direct benefits for Lesotho of ICM.		2	3-5	All relevant ministries
26	Develop centralised online repository of (relevant) legislative and policy instruments and other official government documents		1	1-5	All relevant ministries
27	Develop research programme to improve knowledge base regarding groundwater resources and abstraction/use.		2	3-5	Ministry of Water
Technical Guidance					
28	Develop comprehensive structured programme of technical standards and methodologies for ICM-related projects and activities, including: - EIA procedures and methodologies; - SEA procedures and methodologies; - Water quality monitoring and reporting methodologies; - Standards for groundwater abstraction (boreholes); - Wetland and rangeland rehabilitation; <i>etc.</i>		2	3-5	National Standards Authority / Agency; ICM Coordination Unit

Annexes

Annex I: Legislative and policy reform Package

Legislative, Policy and Institutional Reform Package

<p>ICM-Related (Fundamental) Systemic Reforms</p> <ul style="list-style-type: none"> ▪ Programmatic approach to legislative reform, coordinated at an inter-ministerial level (sequencing, textual / normative coordination, harmonised legislative development, inter-ministry communication and collaboration). ▪ Transparent process for inter-ministry collaboration on legislative development (through inter-sectoral ICM Committee). ▪ Establishment of a structured mechanism for effective ongoing inter-sectoral coordination for ICM implementation, at both senior (decision-making) level and technical level. ▪ Develop a formalised approval process for official policy and strategy instruments. ▪ Insulate key agencies against systemic political risks (<i>e.g.</i>, political interference in grant-making; instability due to frequent change of government or ministerial appointments, <i>etc.</i>). ▪ Revision of structural aspects of new legislation – <i>e.g.</i>, to adopt ‘enabling’ legislation providing ample powers for adoption of supporting subordinated regulations & instruments (setting out fines and penalties; fees and charging schemes; procedures, methodologies and technical guidance; <i>etc.</i>). ▪ As a matter of routine practice, ensure good alignment between international requirements and national-level (ICM-related) legislative and policy measures. 	<p>Develop a Cohesive Legislative Framework for ICM</p> <ul style="list-style-type: none"> ▪ Significant rationalisation of legislative, policy and institutional frameworks – either centred around development of a new overarching ICM Act or comprehensive amendment of a suite of key legislative and policy instruments – in order to avoid overlap, duplication & confusion. ▪ Overarching consolidating legislative instrument for ICM (ICM Act). ▪ Amendment of 2008 Water Act. ▪ Amendment of 2008 Environment Act. ▪ Adoption of consolidating Range Resources Management Bill/Act ▪ Development of new, consolidating Town and Country Planning Act, which mainstreams ICM and is harmonised with requirements of the 2010 Land Act and the Range Resources Management Bill/Act. ▪ Adoption of the 2005 Nature Conservation Bill, appropriately amended to take full account of the requirements of ICM implementation. ▪ Development of a comprehensive list of supporting instruments / regulations (to be adopted under primary legislation) required for effective ICM implementation. ▪ Integrate the promotion of human rights and gender sensitivity into multi- and inter-sectoral policy and legal frameworks. ▪ Mainstream climate change adaptation into multi- and inter-sectoral ICM policy and legal framework.
<p>ICM-Related Policy Updates</p> <ul style="list-style-type: none"> ▪ Revision of the NSPD (new NSDP III from 2023) to provide a unified planning process for ICM-related projects and activities. ▪ Revision of the Irrigation Master Plan to better reflect the current situation in Lesotho. ▪ Overall programme of legislative and policy reform for ICM implementation should inform and link with other strategic planning tools, such as the Country Partnership Framework (CPF) which guides the World Bank’s 5-year Plan of Implementation (and actively incorporates SDG requirements). ▪ Programme of legislative and policy reform for ICM implementation focusing on: food security; economic development and job creation; alternative livelihoods & innovation regarding crops, agricultural practices, products & markets; complementary improvements regarding gender and a rights-based approach. 	<p>Institutional Strengthening for ICM</p> <ul style="list-style-type: none"> ▪ Establishment of a reformed ICM Coordination Unit (ICM-CU) with significant and wide-ranging regulatory powers and functions (along the lines of an independent regulator, <i>e.g.</i>, an Environmental Protection Agency). ▪ Clear attribution of lead-agency regulatory & policy mandate (and corresponding subordination of the regulatory role of other agencies) – as part of the process of legislative and institutional rationalisation. ▪ Establishment of a National Standards Authority/Agency, focusing (at least initially) on ICM-related standards and methodologies (<i>e.g.</i>, range and wetland rehabilitation, water pollution monitoring and sampling, dam safety assessments and standards, <i>etc.</i>). ▪ Improved presence of lead ministry(ies) or lead agency (ICM-CU) at district and local levels – to promote and facilitate effective decentralisation.

<ul style="list-style-type: none"> ▪ Legislative and policy reform for ICM implementation facilitating structured and systemic engagement with the targets and indicators set out under the SDGs, e.g., Indicator 6.5.2 on transboundary water cooperation. ▪ Legislative and policy reform for ICM implementation should consider need for alignment with international and regional requirements. 	<ul style="list-style-type: none"> ▪ Local government capacity constraints, along with contested mandates regarding land allocation, enforcement, etc., must be addressed as a matter of the greatest urgency. ▪ Establish Catchment Management Joint Committee at basin level ▪ Develop an integrated ICM organizational framework that supports cross sectoral cooperation on the promotion of human rights and gender sensitivity. ▪ Formally capacitate the NEC to execute its functions specified in the Environment Act 2008 and fulfil the requirement to incorporate representation of the interests and needs of women and (as spelled out in the Act). ▪ Develop an integrated ICM organizational framework that supports cross sectoral cooperation for mainstreaming climate change adaptation into ICM.
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<p style="text-align: center;">Build an Enabling Environment for ICM</p> <ul style="list-style-type: none"> ▪ Programme of awareness-raising to highlight clearly (for relevant policy-makers / decision-makers) the direct and indirect (economic, social and environmental) benefits of ICM. ▪ Programme of awareness-raising and training for local officials regarding legislative and policy requirements, institutional responsibilities, etc. ▪ Programme of awareness-raising among water users of key regulatory requirements and of key direct and indirect benefits of ICM. ▪ Programme of awareness-raising among officials (across a range of relevant sectors / ministries) of relevant national commitments at the international, regional and basin levels. ▪ Programme of capacity-building regarding hydro-diplomacy to optimise Lesotho’s influence in key basin, regional and international fora. ▪ Development of an online repository for (relevant) legislative and policy instruments and other official government documents. ▪ Programme to improve the knowledge base regarding groundwater resources (including groundwater abstraction and interaction with surface waters). ▪ Programme to implement awareness and capacity building in support of cross sectoral cooperation on the promotion of human rights and gender sensitivity in an integrated ICM framework. ▪ Programme to develop capacity among authorities at all levels to understand climate change adaptation and to integrate it into ICM planning and decision making at all levels 	<p style="text-align: center;">Develop Appropriate Technical Guidance</p> <ul style="list-style-type: none"> ▪ Development of a comprehensive programme of technical standards and methodologies for ICM-related projects and activities (assisted and led by the establishment of new National Standards Authority/Agency). ▪ Establish cross sectoral Measuring, Reporting and Verification (MRV) system on progress towards targets for promoting human rights and gender sensitivity as set in the national legal framework by Ministries that are key to the ICM framework. ▪ Develop a guideline to inform the incorporation and promotion of human rights and gender sensitivity in local level ICM plans. Apply international best practice as well as the requirements of the national framework on human rights and gender sensitivity to inform the preparation of the guideline. ▪ Establish a national cross sectoral science-based information platform to develop local capacity for research, monitoring and evaluation of climate change impacts and adaptation as it relates to ICM. ▪ Develop a guideline to inform the incorporation of climate change adaptation into local level ICM plans. Apply international best practice as well as the requirements of the national framework on climate change adaptation to inform the preparation of the guideline.
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Sustainable Financing Measures for ICM	Promote Effective Decentralisation
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| <ul style="list-style-type: none"> ▪ GOL budget for local ICM plan implementation increased and established in MFRSC, DWA, DoE, MoLGC budgets ▪ Establish GOL Budget and international donor funded decentralized ICM finance mechanisms ▪ Legislative proposal for Establishing a practicable regime for permitting and for charges/payments for ecosystems use (PES) ▪ Proposal for regulations and legal basis for permitting in new ICM Act, or in main acts, WA, RRMA ▪ Proposal for a new ICM Act, or amendment of main acts WA, RRMA to allow for the establishment of ICM funds based on PES ▪ Proposal for regulations and legal basis for fund allocation to ICM plan implementation in a new ICM Act, or in main acts WA, RRMA ▪ Review of the need for independent water regulator in Lesotho ▪ Increase the national budget allocation for promoting human rights and gender equality to adequately resource Ministries and Departments relevant to ICM, to give effect to the existing policy and legal framework, and associated strategies and action plans relating to human rights and gender sensitivity. ▪ Incorporated criteria and targets that reflect legal requirements for protecting and promoting human rights (including gender) as a pre-requisite for the evaluation of all nationally funded ICM interventions. ▪ Establish a consolidated national climate change fund and enhance capacity to increase access to funding and improving donor and investor confidence. ▪ Incorporate criteria and targets reflecting legal requirements for climate change adaptation as a pre-requisite for the evaluation of all nationally funded ICM interventions. | <ul style="list-style-type: none"> ▪ Fee collection on catchment level by new CMJC, mandated under new ICM Act, or (aligned) under main acts, WA, RRMA, PFMAA, LGCA. ▪ Improved presence of lead ministry(ies) (Ministry of Water / Environment) or lead agency (ICM-CU) at district and local levels – to promote and facilitate effective decentralisation. ▪ Embed the protection of human rights, gender equity and the rights of vulnerable and marginalized groups in the development and implementation of local level ICM plans. ▪ Develop a strategic action plan with adequate resourcing for decentralization of the Ministry of Social Development and the Ministry of Gender, Youth, Sport and Recreation, to enhance the participation of women, youth and other marginalized and vulnerable groups in ICM related planning and implementation interventions. ▪ Embed climate change adaptation in the development and implementation of local level ICM plans. ▪ Integrate climate change adaptation mandates and responsibilities into the decentralisation of key ICM Ministries, supported by adequate budgets and provision of much needed capacity for district and local authorities. ▪ Promote alternative ways in which traditions and cultural practices that affect ICM could be practiced without violating statutory law, and by encouraging elements of dualism where possible. ▪ Harmonise the roles and mandates of Chiefs (natural resources management) and Councillors (development responsibilities) to strengthen land and resource tenure systems and to incorporate climate change adaptation considerations into these systems in support of ICM. |
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Annex II: List of key legislative and policy instruments analysed

Key Legal and Policy Instruments

Legal Instruments

- Constitution of Lesotho (1993)
- SADC Revised Protocol on Shared Watercourses (2000)
- Water Act 2008
- Water and Sewerage Company Act 2010
- Environment Act 2008
- National Heritage Resources Act 2011
- (Draft) Range Management Bill
- Land Husbandry Act 1969
- Forestry Act 1998
- Land Act 2010 (as amended)
- Land Administration Authority Act, 2010 (as amended)
- Land Regulations 2011-2013
- Local Government Acts 1997 & 2004
- (Draft) Local Government Bill 2020
- Town and Country Planning Act 1980 (as amended)
- Building Control Act 1980
- Range Management and Grazing Control Regulations 1980
- Lesotho Highlands Development Authority Order 1986
- Managed Resource Area Order 1993

Policy Instruments

- Water and Sanitation Policy 2007
- Long-Term Water and Sanitation Strategy 2014/16
- Integrated Water Resources Management Strategy
- Lesotho Action Plan for the Orange-Senqu River Basin 2014
- National Wetlands Conservation Strategy 2013/14 – 2018/19
- ORASECOM Lesotho Action Plan 2014
- SADC Regional Water Policy 2005

- National Environment Policy 1998
- National Biodiversity Strategy and Action Plan 2000
- National Climate Change Policy 2017-2027
- Climate Change Implementation Strategy (2017)
- National Adaptation Programme of Action (2007)
- Lesotho National Action Programme in Natural Resource Management, Combating Desertification and Mitigating the Effects of Drought 2005
- National Settlement Policy 1990

- National Forestry Policy 2008
- Range Resources Management Policy 2014
- Agricultural Sector Strategy 2003
- Afforestation Programme 2005

- (Draft) Soil and Water Conservation Policy
- National Vision 2020
- Agricultural Sector Strategy 2003
- National Action Plan for Food Security 2007-2017, CAADP
- Food Security Policy, 2005
- Food and Nutrition Policy, 2016
- SADC (2014) Food and Nutrition Security Strategy 2015 – 2025
- Lesotho Food and Nutrition Policy (LFNP) 2016-2025

- National Strategic Development Plan II 2019-23
- National Irrigation Master Plan and Investment Framework 2020
- National Decentralisation Policy 2014
- Lesotho Compensation Policy 1997 and 2002
- ICM Watershed Development Guideline 2019
- Process for Development of Draft Catchment Management Plans 2021-23 (2020)

Annex III: List of stakeholders consulted**List of stakeholder consultation meetings undertaken for Workstream 1**

Date	Stakeholder
19 March 2021	Dept. of Range Resources Management
31 March 2021	World Bank
6 April 2021	Dept. of Environment
6 April 2021	Dept. of Soil and Water Conservation
7 April 2021	Food and Agricultural Organisation
7 April 2021	Lesotho Millennium Development Agency
8 April 2021	Disaster Management Authority
9 April 2021	Dept. of Water Affairs
9 April 2021	Lesotho Council of NGOs
9 April 2021	Catholic Relief Services
12 April 2021	ORASECOM
13 April 2021	Commissioner of Water
14 April 2021	International Fund for Agricultural Development
16 April 2021	Commissioner of Lands
22 April 2021	Lesotho Highlands Development Authority
23 April 2021	Ministry of Agriculture and Food Security
6 May 2021	UNDP Small Grants Programme

Annex IV: Stakeholder Interview Guide

Stakeholder Engagement Template – Round 1

Introduction

The purpose of this interview guide is to support preliminary consultation on the extent to which the existing framework of policy and legislation supports effective ICM implementation in Lesotho. This round of consultation focuses on two specific aspects:

- Section 1 – A review of what stakeholders see as the key policies and legislation for their work related to ICM implementation, and their experience in implementing the requirements arising under these instruments.
- Section 2 - Stakeholders' perceptions regarding the applicability and relevance of these policies and legislation, and the extent to which they (can) provide an adequate enabling environment for ICM implementation in Lesotho.

These questions provide a framework for discussion and a guide on the range of issues to be explored. They are not necessarily intended as a checklist to be answered individually.

We would also welcome any additional insights and information you are able to provide that might not be directly addressed in the questions set out below.

- What are the main legal framework(s) (national laws, policies, strategies and plans) relevant for your work relating to ICM, e.g., Environment Act 2008; Water Act 2008; Town & Country Planning Act 1980; 2016 Long-Term Water and Sanitation Strategy?
 - Please list
 - Please explain briefly how these laws, strategies or plans are relevant for your work (at national, district, local level).
 - Are the principles and requirements of national laws clearly reflected in the strategies and plans relevant for your work?
 - Do the national laws, policies, strategies, and plans give you adequate and practical “tools” / mechanisms to support your activities/responsibilities?
 - i. If yes, please list which tools/ mechanisms are available?
 - ii. If no, please highlight what the gaps are?
 - iii. What institutional linkages between national level organisations exist to assist you in the fulfilment of your responsibilities?
 - iv. Are these linkages adequately established and functioning?

Workstream 2:

- a) Are the legislative requirements for **human rights and gender** clearly reflected in the policies and legislation, strategies and plans relevant for your work?
 - i. If yes are they consistent with current human rights and gender policy and legislation?
- b) Do the policies and legal frameworks give you adequate tools and mechanisms to meet the **human rights and gender requirements** stemming from your activities/responsibilities?
 - i. If yes, please list which tools/ mechanisms are available?
 - ii. If no, please highlight what the gaps are?
 - iii. What institutional linkages between national level organisations exist to assist you in the fulfilment of your responsibilities?
 - iv. Are these linkages adequately established and functioning?

Workstream 3:

- a) Are the legislative requirements for **mainstreaming climate change adaptation** clearly reflected in the policies and legislation, strategies and plans relevant for your work?
 - i. If yes are they consistent with current climate change adaptation policy and legislation?
- b) Do the policies and legal frameworks give you adequate tools and mechanisms to meet the **climate change adaptation** requirements stemming from your activities/responsibilities?
 - i. If yes, please list which tools/ mechanisms are available?
 - ii. If no, please highlight what the gaps are?
 - iii. What institutional linkages between national level organisations exist to assist you in the fulfilment of your responsibilities?
 - iv. Are these linkages adequately established and functioning?

- Overall, what are your main observations regarding applicability and relevance of the national law, policies, strategies and plans for supporting ICM implementation, particularly in terms of:
 - Effectiveness:
 - Do the measures appropriately address key objectives of ICM implementation (sufficient mandate; scope; practicable level of administration)?
 - Do the measures contribute to a practicable regime for ICM implementation (sufficiently flexible; implementable; practically enforceable; financially sustainable)?
 - Holistic / Cross-sectoral:
 - Do the measures link with the mandates of other ministries and departments (*e.g.*, Ministries of Water; Tourism, Environment & Culture; Forestry, Range & Soil Conservation; Development Planning; Agriculture & Food security; *etc.*) and do the measures contribute to an integrated policy framework?
 - Are there gaps / overlaps regarding key functions (*e.g.*, enforcement)?
 - Are there any ambiguities regarding scope of application?
 - Proportionality:
 - Are the measures likely to achieve their legitimate aims?
 - Are the measures cost-effective?
 - Do the measures involve equitable distribution of costs/benefits across all sectors?
 - Currency:
 - Are the measures outdated in terms of their objectives, scope or approach?
 - Do they require updating (*e.g.*, regarding penalties) or require consolidation / codification (to incorporate successive amending measures)?
 - Consistency:
 - Do the measures promote objectives of ICM implementation in a manner consistent with the strategies/plans of other Ministries/Departments engaged in ICM implementation?
 - Do the measures conflict with objectives of other Ministries/Departments engaged in ICM implementation?
 - Do the measures conflict with other (ICM-related) national measures?
 - Participatory (ensuring equitable participation):
 - Do the measures raise awareness of objectives of ICM implementation?
 - Do the measures promote transparency – by means of freedom of (timely) public/stakeholder access to relevant information?

- Do the measures promote public/stakeholder participation in ICM-related decision-making – by means of appropriate and equitable consultation?
 - Do the measures permit and facilitate reviewability of decisions – by means of a general right (and practicable means) to review decisions made thereunder?
- Monitoring and evaluation:
- Are procedures and processes for ICM implementation being adequately monitored and evaluated?
 - Is the effectiveness of ICM implementation at different levels (national, district, local) monitored and evaluated?
 - Are assessments undertaken to inform improvements to ICM-related policies, strategies and plans?
- Enabling environment:
- Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for ICM implementation?
 - Is there a lack of finance or other resources, lack of skills/ capacity, or any other relevant challenges of which you are aware?

Annex V: Stakeholder Interview Analysis Matrix

Thematic area	Workstream # 1: National Policy Harmonisation
<p>Policy/Legal: Water Resources</p>	<p><u>Complex and Disjointed Legislative and Policy Framework:</u></p> <ul style="list-style-type: none"> • 2008 Water Act; National Irrigation Master Plan; but overlap with 2008 Environment Act, etc. – creates several different overlapping authorisation processes for development & operation of water infrastructure (e.g., sand dams); the Water Act, Environment Act and Range Policy all apply to an irrigation project! • Wetlands are expressly mentioned in both the Water Act and Environment Act, but different mandates and responsibilities exist under each, wetlands are also centrally relevant to range resources management. Similar overlaps occur with pollution control, wastewater management, etc. Under the Local Government Act, all natural resources are the responsibility of local councils, but different responsibilities for water resources are allocated to the Ministry of Water (under the Water Act) and to local councils (under the Local Government Act). • Single harmonised permit system required, e.g., in the case of wetland rehabilitation, a water permit would require entry onto and work upon land, but this may be prohibited (by another Ministry) under the Range Resources Management Act. Other questions arise regarding land-use planning, property rights, etc. Water permit should permit land-use aspects. • Confusion re enforcement - different Acts list the same contraventions, but with different penalties. In practice, each ministry passes the issue on to the other ministry – appears that no actor (usually govt agencies or multinationals) has ever been taken to court for an environmental contravention. • Multiple overlapping authorisation processes inhibit deployment of new (untested) techniques and technologies. • Very low awareness of regulatory requirements, e.g., very few farmers aware of need for Water User Certificates (WUCs) for boreholes / irrigation, no WUCs have every been issued. Community Councils also unaware of requirement for WUCs (or the need for annual renewal). • Confusion re maintenance of existing infrastructure / facilities. • Many policy gaps, causing large organisations / projects to rely on their own internal policies and procedures, e.g., LLWDS mostly guided by international methodologies and standards. The Water Act provides some details, e.g., on monitoring and recording water quality, but such measures are rarely sufficiently detailed or comprehensive, and officials must rely on international methodologies and practice (where necessary and available). Detailed guidance required re EIA, SEA, basin planning, monitoring, reporting, sampling, etc. [However, guidance provided in EIA Regulations, but quality of EIAs varies significantly (regarding contents, etc.) – perhaps more than guidance required, such as closer monitoring & review!] • Review of Water Act 2008 has been initiated some 3 years ago, in order to harmonise with other sectoral instruments (consultant’s report awaiting approval). • An Irrigation Policy and Irrigation Master Plan are badly needed. <p><u>Transboundary Water Cooperation:</u></p> <ul style="list-style-type: none"> • Urgent need to improve capacity re transboundary engagement and cooperation over shared water resources (currently heavily reliant on ORASECOM structures, etc.); <p><u>Industrial Use:</u></p> <ul style="list-style-type: none"> • Important to include (current & potential/future) industrial water use as an aspect of water security; concerned with economic and social development, while climate variability and resilience, etc.; • Water services provided for industrial and domestic users should not exclude agricultural users (e.g., LLWDS Project); • Lesotho National Development Corporation (LNDC) under Ministry of Trade & industry – pollution challenges from untreated effluents from industry is a major challenge. LNDC needs to strengthen its policies to guide related manufacturing activities and thus ensure compliance with legal standards. [Institutional Integration] • ICM implementation might assist industrial policy / promotion, e.g., by requiring ‘clustering’ of certain (high-risk or water-intensive) industrial activities. <p><u>Narrowly Focused Policy Framework:</u></p> <ul style="list-style-type: none"> • Focuses too much on water issues to the neglect of other related matters, but ICM truly cross-cutting and requires engagement with transport sector, infrastructure development, natural environment sector, land use management, local government, etc.

	<p><u>Institutional Integration:</u></p> <ul style="list-style-type: none"> • Water Commissioner has no role in irrigation, where Dept of Water Affairs provides irrigation infrastructure but with little provision for ongoing maintenance, etc.; • Urgent need for strong inter-sectoral coordinating body for ICM - ICM Co-ordination Unit (ICM-CU) should not be seen to be concerned only with water but should actively consult and coordinate with other ministries and departments, perhaps it should be located elsewhere (Deputy/Prime Minister's Office); • National Strategic Development Plan (NSDP II) may offer a means of addressing institutional fragmentation and overlapping mandates (through monitoring of implementation, clustering of activities, etc.); • Irrigation Master Plan doesn't reflect the position on the ground – calls for the creation of a new agency / entity, even though there are already existing overlaps and conflicts regarding regulatory and administrative responsibility; • SADC Treaty & Protocol provide guidance regarding institutional arrangements for management of (shared) water resources;
<p>ANALYST OVERVIEW:</p> <p>Based on insights thus far, the following has been established</p>	
<p>Preliminary recommendations</p>	
<p>Policy/Legal: Environment</p>	<p><u>Complex Legislative Framework:</u></p> <ul style="list-style-type: none"> • Environment Act, 2008, implementing 1998 Environment Policy; the 2005 Biosafety Policy; several draft legislative instruments due to be enacted, including new EIA Regulations and new Plastic Levy Regulations; complex policy inter-linkages (e.g., biodiversity); • Creates anomalies (e.g., stiffer penalties exist under the Environment Act to deter illegal grazing and protect rangeland); <p><u>Overlapping / Confused Mandates:</u></p> <ul style="list-style-type: none"> • Governmental agencies pursuing their own work plans & policy priorities; • Rangeland is the subject of repeated disagreement over competence / jurisdiction (re wetlands, protected areas, etc.); confusion re maintenance of existing infrastructure / facilities; • The Environment Act determines that wetlands are no-go areas, but where there are mines located in wetlands the Ministry of Mining may overrule this provision. • Decentralisation not working at all in practice; <p><u>Outdated Legislative Framework:</u></p> <ul style="list-style-type: none"> • Biodiversity legislation based on 1969 proclamations, severely outdated legislation re protection of fish species; • Tools & methodology for effective legislative & policy implementation are lacking - little technical guidance provided on conduct of EIA, contents of reports, etc. Actors must augment methodologies and practices (international practice, donor safeguards, etc.). Poor stakeholder engagement processes (esp. re local communities). • Enforcement very weak, even in the case of major users / polluters (e.g., Mining Sector which argues enforcement contrary to progressive economic development in Lesotho); <p><u>Legislative Gaps:</u></p> <ul style="list-style-type: none"> • Standards required for siting, building & operating landfill sites, esp. near boreholes / groundwater used for drinking water, stock watering, etc. (also burial sites, pit-latrines, etc.) – perhaps better use of EIA requirements could address these problems. No rules regarding invasive species, though some assistance now available from donors / partners. <p><u>Ineffective Implementation:</u></p> <ul style="list-style-type: none"> • Where a requirement for EIA arises, applicants can wait indefinitely for an EIA report and so have to proceed without it.
<p>ANALYST OVERVIEW:</p> <p>Based on insights thus far, the following has been established</p>	
<p>Preliminary recommendations</p>	
<p>Policy/Legal: Range management / agriculture</p>	<p><u>Outdated and Disjointed Legislative and Policy Framework:</u></p> <ul style="list-style-type: none"> • 1969 Land Husbandry Act and 1982 Regulations, 1979 Animal Husbandry Act (all under Ministry of Agriculture and Food Security); 2014 Range Resources Management Policy; 2015 Range Resources Management Action Plan; National Strategic Development Plan II; Policy on

Soil and Water Conservation; National Action Plan on Land Degradation, Desertification and Drought;

- Range Resources Management Bill (2021); no dissuasive penalties for illegal grazing in protected / conservation areas;

Legislative Inconsistency:

- Key principles of natural resource management differ from one instrument / sector to another (water, environment, forestry, range resources, etc.);
- Range resources management closely inter-linked to land ownership (trespass / unauthorised grazing, protected areas, etc.) – harmonisation urgently required;
- Confused framework obstructs work of donors, civil society and user associations (e.g., grazing associations);
- No effective enforcement of rules, esp. re illegal grazing in protected / conservation areas; derisory fines and penalties;
- Poor compliance deters wetland / protected area rehabilitation (improvements reversed through unlawful grazing, etc.)
- MAFS and the Ministry of Forestry & Rangeland: *i.e.*, between the MAFS Dept of Crops, Division on Horticulture and the Ministry of Forestry, Division on Fruit Tree Production.

Inter-Ministerial Agreement Required for Reform:

- Ministry of Forestry and Land Reclamation (Dept of Range); Ministry of Agriculture and Food Security; Ministry of Local Government (having regard to role of Community Councils under Policy on Decentralisation); Ministry of Environment (protected areas); Ministry of Water;

Developing Practice:

- Sustainable Land management (SLM) Tool-Kit re income-generating activities; Grazing Associations, etc., but no legal basis.

Decentralisation:

- Ministry of Forestry and Land Reclamation already partly decentralised – 10 district resource centres and village-level participation, etc.;
- Overlapping mandates regarding land management – local councils v. traditional chiefs - chiefs continue to allocate land to people, even though this is the role of councillors under the legal framework.

Enabling Environment:

- Need for monitoring & evaluation (provided under Action Plan), effective enforcement, raising awareness (esp. at village-level), financial resources (for management of cattle outposts and wetlands), etc. Local chiefs should have a key role in enforcement – no other effective institution in most rural areas.
- Scarce public resources wasted, e.g., MAFS Summer Cropping Programme (90 percent of total MAFS budget spent on input subsidy schemes).

Participation:

- Participation by primary users (herders) of range resources (and natural resources generally) is a challenge;

Capacity & Awareness:

- Requirements of Conservation Agriculture little understood (e.g., prohibition on grazing after crop harvesting);
- Capacity-building required at village-level to bridge disagreement between traditional leaders, user groups and local councils (disagreement re meaning, objective and application of policies);
- Capacity-building required at village-level to promote participation of women, etc.
- Problem of power struggle (re land allocation) between local authorities and traditional leaders, exacerbated by conflicting provisions of the Chieftainship Act.

ANALYST OVERVIEW:

Based on insights thus far, the following has been established

Preliminary recommendations

**Policy/Legal:
Human rights
and Gender
sensitivity**

ANALYST OVERVIEW:	
Based on insights thus far, the following has been established	
Preliminary recommendations	
Policy/Legal: Climate Change Adaptation	<p><u>Climate Integration:</u></p> <ul style="list-style-type: none"> Climate change adaptation must be integrated (urgently) into all areas of policy and there is generally a need for greater coordination across all sectors; <p><u>Climate Change & Agriculture:</u></p> <ul style="list-style-type: none"> Likely to become a much more significant sector and factor, <i>e.g.</i>, with projects involving irrigated agriculture (World Bank programming, <i>etc.</i>). <p><u>Inadequate Legislative & Policy Framework:</u></p> <ul style="list-style-type: none"> Climate change represents a significant gap in the national legislative and policy framework - there is no legislative instrument to ensure implementation and enforcement of Lesotho's obligations under the Paris Agreement. There exists a national implementation plan, but the enabling environment is inadequate.
ANALYST OVERVIEW:	
Based on insights thus far, the following has been established	
Preliminary recommendations	
Policy/Legal: Decentralization	<p><u>Overlapping Mandates re Land Management:</u></p> <ul style="list-style-type: none"> Local councils v. traditional chiefs - chiefs continue to allocate land to people, even though this is the role of councillors under the legal framework. Huge effort needed at community level to build capacity for effective ICM implementation. Women not adequately involved in the management of water and other natural resources at community level, even though they are significant (water and land) users - partly due to capacity, enabling environment, <i>etc.</i> Decentralisation has important role in empowering women (chieftainship largely discriminatory, <i>etc.</i>). Local authorities do not enjoy the necessary financing mechanisms. Decentralisation isn't working because financing arrangements are not decentralised. At community level, Grazing Associations (GAs) and Rangeland Management Areas (RMAs) develop their own by-laws, but these are not recognised as law (or applied) in the local courts, which rely instead on outdated rules, standards and penalties set out in legislation. The decentralisation process desperately needs to be more financially / fiscally sustainable. Local authorities must develop their own revenue-raising, budgeting, procurement, and reporting, but lack capacity in each of these fields. Decentralisation should involve 'deconcentration', allowing more national policy and administration to be implemented through local authorities, which would have more local focus and control.
ANALYST OVERVIEW:	
Based on insights thus far, the following has been established	
Preliminary recommendations	
Policy/Legal: Land Use & Infrastructure Planning	<p><u>Lack of Implementation & Enforcement:</u></p> <ul style="list-style-type: none"> Land-use planning exists only on paper and in reality is entirely ineffective - encroachment by other activities on arable land <i>e.g.</i>, residential settlements continues unabated. 2010 Land Act very poorly enforced– falls victim to traditional notions of communal ownership. Land tenure is a critical element for effective control and improvement, esp. of catchments and rangelands. 1980 Town & Country Planning Act very poorly enforced, esp. in rural areas where there is very limited awareness of the relevant legislative requirements. Also, there are many exemptions in respect of rural development (though this is not always stated expressly in the primary legislation). Major problem of encroachment onto agricultural land in contravention of the 1979 Land Husbandry Act, but no political will to enforce, <i>e.g.</i>, by revoking land grant under ss. the 2010 Land Act sections 21-22 and 43 (which has never happened!). Reforms embodied in the 2010 Land Act should have been followed by reform of the 1980 Town & Country Planning Act (and related acts and regulations), which had originally been

developed following the 1979 Land Act, but several initiatives thwarted (no policy to support - no National Spatial Plan, *etc.*).

- 2010 Land Act may be regarded as premature in that it provides very limited role for chiefs, to whom most Basuto continue to defer (on land allocation). The 2010 Land Act is also excessively administrative having regard to established land practices.
- Problem of power struggle (re land allocation) between local authorities and traditional leaders, exacerbated by conflicting provisions of the Chieftainship Act.
- 2010 Land Act coordinated with the planning code in that land may not be allocated without planning – expressly under the legislation – but planning code is outdated and poorly administered and so registration of land interests takes place regardless of a lack of planning approval.
- Need to learn from new/innovative international practice and methodologies, *e.g.*, regarding special planning, enterprise zones, *etc.*

Annex VI: Legislative dissonance for ICM Implementation

Note:

- The legislative framework for rangeland management has not been included as the Range Resources Management Bill (2021) is currently being developed (and is therefore in a state of flux), which will ultimately repeal and replace the 1980 Range Management and Grazing Control Regulations and 1969 Land Husbandry Act. The new Bill/Act will also alter fundamentally the operational context for the 2014 National Range Management Policy.
- The current legislative and policy framework for range resources management is highly fragmented and not therefore amenable to tabular analysis (as above) as it comprises the following instruments amongst others:
 - 1969 Land Husbandry Act;
 - 1980 Range Management and Grazing Control Regulations;
 - 1998 Forestry Act;
 - 2014 National Range Resources Management Policy;
 - 2018-2022 Food and Nutrition Strategy and Costed Action Plan.

In addition, certain provisions of the following legislative provisions apply to aspects of range resources management:

- 1997 Local Government Act;
- 2008 Water Act;
- 2010 Land Administration Authority Act.

	Water Act	Env Act	Land Act	Local Govt Act	T&C Planning Act
Objectives	ICM-related objectives not (expressly) included. While s. 3 includes IWRM among the guiding principles, water conservation remains the primary objective. Environmental objectives are included in a general manner, though those relating to gender, HIV, etc. are more detailed.	ICM-related objectives not (expressly) included; S. 4 provides for general right to a healthy environment.	ICM-related objectives not (expressly) included. However, some powers under the Land Act may be exercised in pursuit of key ICM-related objectives (e.g., a decision to revoke grant of a lease under s. 21): sustainable soil management and erosion control; sustainable water management and pollution control;	ICM-related objectives not (expressly) included. However, 2015 Local Govt Regs expressly include ICM-related objectives: Sustainable soil management and erosion control; Sustainable water management and pollution control; Maintenance of aquatic ecosystems and biodiversity; Sustainable range management;	ICM-related objectives not (expressly) included. However, ICM-related objectives could be included in the development plan.

	S. 16 include ICM-related principles in the CMP and s. 42 provides for detailed subordinate/subsidiary regulations (though none adopted to elaborate on the principles provided).		<p>maintenance of aquatic ecosystems and biodiversity; sustainable range management; wetlands management and restoration; water resources development and infrastructure operation; sustainable human settlements.</p> <p>However, such exercise of power is subject to general principles of governance under the Constitution of Lesotho: Art 11: right to respect for private and family life; and Art 17: right to freedom from arbitrary seizure of property.</p>	<p>Wetlands management and restoration; Water resources development and infrastructure operation; Sustainable urban settlements.</p> <p>The Act doesn't take account of international / regional commitments.</p>	
Definitions	<p>'catchment' not defined; No clear linkage with land-use plans (Env Act) or with development plans (T&CP Act)</p>	<p>'catchment' not defined, though 'wetlands' are; 'land-use plans' not defined (no clear linkage with land-use planning regime or with ICM)</p>	<p>'agricultural land' broadly defined to include pasture land, grazing land, forestry, etc. 'development plan' defined in terms of the T&CP act; 'Chief' defined in terms of the 1968 Chieftainship Act; 'local council' defined in terms of the 1997 Local Govt Act</p>	<p>'Local authorities' defined to include Community, District, Urban or Municipal Council; LA defined for purposes of both the Env Act and Water Act</p>	<p>'development' broadly defined to include ICM-related infrastructure development; 'development plan' not linked to any other planning process;</p>
Scope	Water resources management focused – doesn't link to land-use, range management, etc.	S. 2 definition of "environment" includes 'the physical factors of the surroundings of the human beings including land, water, atmosphere, climate, sound, odour, taste, biological factors of animals and plants and the social factors of aesthetics and includes	S. 18, 48-52 & 71 set out powers of grant of land and of expropriation, acquisition and redistribution of land.	Council area plus powers and functions of LA	S. 9: planning permission required for a very wide range of "development" projects and activities.

		both natural and the build environment’.			
Permitting / Licensing	<p>S. 19 requires permit for exploring springs, but no detail re abstraction, protection of source, etc.</p> <p>S. 20-23: requires permitting for all water uses but doesn’t provide detail re procedural and technical requirements (and fees / charging). There is a danger of over-regulation but permitting system doesn’t appear to be effectively operational.</p> <p>S. 27 refers to standards set under the 2008 Environment Act (s. 28), but unclear which limit values (LVs) or environmental quality standards (EQVs) apply – if any. These should ideally be adopted under regulations subsidiary to the WA (groundwater standards, surface water standards, discharge standards, etc.).</p> <p>Subsidiary regulations are required re every aspect of water use permitting.</p>	<p>S. 25: requires an environmental impact assessment licence for scheduled activities or projects.</p> <p>S. 44: requires a pollution licence for any project or activity likely to pollute the environment.</p> <p>S. 76: requires a waste licence for waste operations.</p>	No permitting process, though grants of land should be aligned with development planning.	Part IV empowers LAs to enact bylaws. So far there are no bylaws on permitting and licensing and it is not clear if such bylaws, if enacted, would be valid.	S. 9: Requirement for planning permission re any ‘development of land’ (i.e., any engineering or other works or operations, etc.).
Planning	<p>S. 10: requires adoption of Water and Sanitation Strategy, which refers to “catchment area”. However, s. 10(5) provides that Strategy only applies to ‘water management institutions under the WA’, to the exclusion of public</p>	<p>S. 3 provides env management principles to guide development of NEAP and DEAP;</p> <p>S. 16 requires adoption of NEAP every 5 years;</p>	Exercise of Land Act powers should be in accordance with Planning Law i.e., consistent with objectives set out in the relevant development plan (but requirement routinely ignored).	S 27-30 empowers Las to formulate development plans and schemes, which conform to the national development plan and submit such plans to the ministry	<p>S. 5-7 requires adoption of development plans every 5 years;</p> <p>S. 13 compensation for adverse planning decisions;</p>

	<p>authorities involved in land-use planning, range management, land allocation, etc. [Amend s. 10(5) to include other ICM-related authorities]</p> <p>S. 16 considerations re preparation of catchment management plan (CMP) are very general, but CMP may not conflict with Water and Sanitation Strategy.</p>	<p>S. 17 requires adoption of DEAP every 5 years.</p> <p>S. 18: every line ministry shall prepare an environmental management plan (EMP)</p> <p>S. 70: provides for elaboration of environmental standards and guidelines in respect of land-use plans.</p> <p>S. 70(2): provides for monitoring implementation of land-use plans.</p>			
EIA / SEA / Assessment	<p>Not included in Act, but applicable by virtue of Env Act</p>	<p>S. 19-27 requires EIA and/or SEA. First Schedule, Part A, s. 4 lists a broad range of water resources / water-related development projects requiring EIA.</p> <p>S. 22 public scrutiny of environmental impact statements;</p> <p>S. 24 provides procedure for ‘environmental audit’.</p>	<p>Not included in the Act but applicable by virtue of Env Act</p>	<p>Not included in the Act but applicable by virtue of Env Act</p>	<p>Not included in Act, but applicable by virtue of Env Act</p>
Protected Areas	<p>S. 15: designation of catchments, but no criteria re identification, nor any objectives beyond water resources protection.</p>	<p>S. 59-69 provides for designation of PAs (forestation; rivers, lakes & wetlands; biodiversity; rangeland management)</p> <p>S. 72 provides for protection of PAs</p>	<p>Not relevant.</p>	<p>Not relevant (non-sectoral measure).</p>	<p>Not provided for in Act but may / should be included under objectives of development plan.</p>

		S. 84: provides for environmental restoration of aquifers, wetlands, <i>etc.</i>			
Standards	<p>S. 27 refers to standards set under the 2008 Environment Act (s. 28), but lack of detail provided. Standards should be adopted under regulations subsidiary to the WA (including, for example, groundwater quality standards, surface water quality standards, discharge quality standards, drinking water quality standards, aquifer recharge standards, borehole standards, monitoring methodologies, catchment assessment methodologies, <i>etc.</i>).</p> <p>S. 42: provides for detailed subordinate / subsidiary regulations, incl. re standards and methodologies (though none adopted to elaborate on the principles provided). S. 42 should be specific regarding which regulations must/may be adopted.</p> <p>S.33-36 on dam safety lack any normative detail.</p>	S. 70: provides for elaboration of environmental standards and guidelines in respect of land-use plans.	<p>Not relevant, but land must be allocated in accordance with approved development plan (under s. 20).</p> <p>‘Public purposes’, as grounds for expropriation of lands, include ‘water conservation’ and ‘erosion protection’ (s. 50).</p>	Not relevant (non-sectoral measure).	Standards provided for under s. 70 of the Environment Act.
Enabling Environment	<p>S. 10(1): requires stakeholder consultation in preparation of the Water and Sanitation Strategy, though “stakeholder” restricted to water sector (s. 2).</p> <p>S. 11(1)(c): invites public comment on strategy – when already developed and adopted – which</p>	<p>S. 3: ensure environmental awareness, publish data on environmental quality and natural resources, and encourage public participation in development of policies;</p> <p>S. 4: broad right to review all environmental decisions (whether</p>	S. 27 notices regarding availability of land must be published in relevant newspapers.	2005 Local Govt Regs instruct councillors to consult communities in respect of any matter to be discussed at council meeting. Further, LAs are required to issue a one-month notice inviting the public to comment on draft bylaws.	<p>S. 7: public notification and participation re elaboration and adoption of development plan.</p> <p>S. 7(1)(c): objections to draft development plan.</p>

	<p>may be considered by Commissioner.</p> <p>S. 31: provides for public access to (relevant) information, but no details provided.</p> <p>As it stands, the WA fails generally to provide for a consultative approach to water resources (or ICM) planning and management.</p> <p>S. 42: provides for detailed subordinate / subsidiary regulations, incl. re enabling environment (though none adopted to elaborate on the principles provided).</p>	<p>or not taken under the 2008 Environment Act);</p> <p>S. 95: freedom of access to environmental information;</p> <p>S. 96: duty to disseminate environmental information;</p> <p>S. 97: environmental education;</p>			<p>S. 11: public notification and participation re applications for planning permission.</p> <p>S. 21: power to make regulations for very limited range of issues (incl. form of documents, fees, registration of applications, compensation).</p>
Enforcement	<p>S. 18(6): provides for fines for violation of wetlands protection, but these are unlikely to be up to date after 13 years and should have been set out in regulations.</p>	<p>S. 70(3) sets out dissuasive penalties for contravention of standards;</p>	<p>Revocation (s. 21);</p> <p>Termination (s. 37);</p> <p>Expropriation (s. 49).</p>	<p>S 44 contravention of a bylaw is a criminal offence enforceable by the law enforcement agencies.</p>	<p>S. 17: measures for effective enforcement.</p> <p>S. 18: provides for fines – now outdated and ineffectual.</p>
Dispute Settlement	<p>S. 9: Tribunal to resolve water resources management disputes. Tribunal doesn't appear to enjoy jurisdiction regarding other (ICM-related) environmental media.</p>	<p>Part XIV creates specialist Environmental Tribunal (though this doesn't appear to function).</p>	<p>S. 22 decisions may be subject to judicial review by the District Land Court (s. 73-76).</p>	<p>Not relevant (non-sectoral measure).</p>	<p>No provision for review of decision of Town & Country Planning Board to approve development plan.</p>
Coordination / Harmonisation	<p>Preamble should include reference to ICM.</p> <p>S. 2: Definition of "protection" might be enhanced to make it more congruent with ICM objectives.</p>	<p>ICM-related objectives might be integrated into NEAP and DEAPs;</p> <p>NEAP process may facilitate harmonisation with global / regional ICM-related commitments;</p>	<p>Exercise of Land Act powers should be in accordance with Planning Law, <i>i.e.</i>, consistent with objectives set out in the relevant development plan (but requirement routinely ignored);</p>	<p>Local authorities have responsibility for land-use and development control under the 1980 T&CP Act.</p>	<p>Formal allocation of powers & functions largely align between the 1980 T&CP Act, the 1997 Local Govt Act, and the 2010 Land Act.</p>

	<p>S. 2: “water management institutions” should include local level bodies.</p> <p>S. 3: Other ICM-related environmental elements – soil, land, range, biodiversity - should be highlighted among the WA objectives set out.</p> <p>S. 9: Tribunal might have jurisdiction over all ICM-related disputes.</p> <p>S. 16: empowers local authority to manage catchments within its functional area, but allocated functions only relate to water resources management.</p> <p>No provision regarding coordination of CMP with land-use or other ICM-related planning (including coordination among different authorities, though s. 18.1 provides for consultations with MoLG). Consultation mechanisms with other public authorities involved in ICM are needed. [Amend s. 16 accordingly]</p> <p>In line with principle of subsidiarity, delegation of functions to the regional and/or catchment levels should be provided for.</p>	<p>Part XII sets out procedures for legislative incorporation of relevant international / regional conventions;</p> <p>CMPs might be linked to DEAPs;</p> <p>ICM-related objectives might be integrated into process of designation of Pas;</p> <p>ICM-related objectives might be integrated into env standards and guidelines for land-use plans;</p> <p>S. 3 commits ‘to promote cooperation [for] protection of the environment’</p> <p>S. 94: initiate and prepare legislative proposals to implement international / regional conventions.</p>	<p>Both planning control (under T&CP Act) and land allocation (under s. 14 Land Act) are vested in the local authorities councils (though neither function operates effectively);</p> <p>Formal allocation of powers & functions largely align between the 1980 T&CP Act, the 1997 Local Govt Act, and the 2010 Land Act;</p> <p>S 21 of Land Act gives Minister power to make regulations to give effect to 1980 T&CP Act, thereby facilitating integration / harmonisation;</p> <p>Land Act might be updated to make land allocation conditional on ICM-compatible agricultural practices;</p> <p>Concepts of “public purpose” and/or “public use” (for purposes of expropriation or acquisition under s. 50-52) might be updated to include ICM-related objectives (or to refer to objectives of the development plan).</p>	<p>S. 38-30: ensure conformity of District Development Plan to National Development Plan.</p> <p>Development plans might incorporate ICM-related objectives and standards.</p> <p>Part V: Local Authorities may impose levies and taxes.</p>	<p>S 21 of Land Act gives Minister power to make regulations to give effect to 1980 T&CP Act.</p> <p>T&CP Act might be amended to include among mandatory objectives of development plan measures to address any CMP and/or ICM-related objectives.</p> <p>Development Control Code (1989) and Town & Country Planning Order (1991) might be amended to include ICM-related land-use and development control objectives.</p>
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	<p>No provision regarding cooperation over transboundary water resources, whereas the Commissioner is responsible for transboundary water management (s. 8(2)(e)), but no details of powers and functions are provided.</p>				
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Workstream 2: Final report on Promoting Human Rights and Gender Sensitivity in ICM



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GIZ - Support to Policy Harmonisation in
Integrated Catchment Management

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List of abbreviations and acronyms

AG	Attorney General	LEWA	Lesotho Electricity and Water Authority
APA	Annual Performance Assessment	LG	Local Government
BoS	The Lesotho Bureau of Statistics	LGA	Local Government Act
CC	Community Council	LHDA	Lesotho Highlands Development Authority
CCF	Community Conservation Fund	LHWP	Lesotho Highlands Water Project
CCSAP	SADC Climate Change Strategy and Action Plan	LLWDS	Lesotho Lowlands Water Development Scheme
CMJC	Catchment Management Joint Committee	LMDA	Lesotho Millennium Development Agency
CMP	Catchment Management Plan	LNDC	Lesotho National Development Corporation
CoW	DWA Water Commission	LoCAL	Local Climate Adaptive Living Facility
CPU	(Sub-)Catchment Planning and Implementation Unit	LWSP	Lesotho Water and Sanitation Policy 2007
CRS	Catholic Relief Services	MAFS	Ministry of Agriculture and Food Security
DA	Development Authority	MCs	Minimum Conditions
DA	District Administrator	MEM	Ministry of Energy and Meteorology
DC	District Council	MFRSC	Ministry of Forestry, Range and Soil Conservation
DC	District Coordinator	MoF	Ministry of Finance
DCS	District Council Secretary	MoL	Ministry of Labour
DDP	Deepening Decentralization Program	MoLGCA	Ministry of Local Government and Chieftainship Affairs
DEAP	District Environmental Action Plan	MTEC	Ministry of Trade, Environment, and Culture
DF	District Fund	NDP	National Development Plan
DRWS	Department of Rural Water Supply	NEAP	National Environmental Action Plan
DS	District Secretaries	NGO	Non-Governmental Organisation
DWA	Ministry of Water: Department of Water Affairs	NRM	Natural Resource Management
EIA	Environmental Impact Assessment	NSDP	National Strategic Development Plan
EIIF	Ecological Infrastructure Investment Framework	ODA	Official Development Assistance
EU	European Union	ORASECOM	Orange-Senqu Basin Commission
FAO	Food and Agriculture Organization	PBCRGs	Performance-Based Climate Resilience Grants
FD	Fiscal Decentralization	PEFA	Public Expenditure and Financial Accountability
GEF	Global Environment Facility	PES	Payments for Ecosystems
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit	ROLL	Regeneration of Livelihoods and Landscapes
GOL	Government of Lesotho	RRMA	Range Resources Management Act
GW	Ground water	SADC	Southern Africa Development Community
GWP-SA	Global Water Partnership-South Africa	SDGs	Sustainable Development Goals
HR	Human Resources	SEA	Strategic Environmental Assessment
ICM	Integrated Catchment Management	SGP	Small Grants Program
ICU	ICM Coordination Unit	SLM	Sustainable Land Management
IEC	Information, Education and Communication	SNP	Sehlabathebe National Park
IFAD	International Fund for Agricultural Development	UNDP	United Nations Development Programme
IPSAS	International Public Sector Accounting Standards	WAMPP	Wool and Mohair Promotion Project
IWRM	Integrated Water Resources Management	WASCO	Water and Sewerage Company
WE	Water Efficiency	WCWSS	Western Cape Water Supply System
LAA	Land Administration Authority Act 2010	WS	Workstream
LCN	Lesotho Council of NGOs	WUC	Water User Certificate
LEC	Lesotho Electricity Company		

1 Introduction

1.1 Background and objectives

The Constitution of Lesotho entrenches the protection of the rights of all people in Lesotho irrespective of sex, age, race, religion, etc. The rights of women, youth and vulnerable groups are highlighted at the highest policy level in Lesotho, for example the Ministry of Gender Youth Sport and Recreation’s Gender and Development Policy 2018 – 2028, and the National Youth Policy 2017-2030 that specifically highlights the need for effective integration of youth into socio-economic development issues of Lesotho. Furthermore, the National Social Protection Strategy supports the mainstreaming of the poor and marginalised into social and economic development and the sustainable development of vulnerable groups. The Ministry of Social Development advocates for the prioritization of the needs of the poor and vulnerable groups in the national development agenda, including women. A rights-based approach, incorporating a focus on gender, therefore aligns broadly with national policy and strategies in Lesotho. It also aligns with international conventions and goals. Addressing rights, including gender equality, is central to the Sustainable Development Goals (SDGs) (United Nations, 2015). The “Leave no one behind” concept is central to the United Nation’s 2030 Agenda for Sustainable Development. It represents among other things, unequivocal commitment to end discrimination and exclusion, and to reduce the inequalities and vulnerabilities that result in groups or individuals not being supported and incorporated into efforts towards sustainable development.

A further advantage of applying a rights-based approach is that it offers the opportunity to support the simultaneous consideration of rights of all groups of society, including women, youth and other vulnerable and marginalised groups. This approach therefore supports the promotion of an inclusive ICM framework from the outset. This approach does not dilute the requirement for gender sensitivity but highlights the need for the simultaneous consideration of the needs of vulnerable and marginalised groups e.g., youth and disabled.

The United Nations concept of a rights-based approach, as described in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, was applied. This states that “everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. The principle of equality and freedom from discrimination is central, including discrimination on the basis of sex and gender roles. A rights-based approach as a conceptual framework promotes and protects human rights of all, including women, youth, disabled and vulnerable or marginalised groups. This involves analysing inequalities and redressing discriminatory practices and unjust distributions of power in decision making and implementation of policy making and regulations.

Gender equality as a human right is enshrined in a number of international declarations and conventions that will be carefully considered. A range of international and regional policies, strategies and conventions will be identified and explored to identify normative values for rights and gender considerations, highlight benchmarks and good practice in current rights-based and gender considerations. This would include for example:

Human rights broadly and gender equality specifically are also embedded in numerous SDGs including:

- SDG 5: Achieving gender equality and empower all women and girls. This goal aims to achieve gender equality by ending all forms of discrimination, violence and any harmful practices against women and girls in the public and private spheres. It also calls for the full participation of women and equal opportunities for leadership at all levels of political and economic decision-making
- SDG 1: End poverty in all its forms everywhere – this goal aims to ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance. The goal is also to create sound policy frameworks at the national, regional and international levels, based on pro-poor and gender-sensitive development strategies, to support accelerated investment in poverty eradication actions.
- Goal 6: Ensure availability and sustainable management of water and sanitation for all – this goal includes a focus on integrated water resources management at all levels and protecting and restoring

water-related ecosystems helping governments craft policies and programmes that respond to women’s needs and underpin sustainable services.

- Goal 13: Take urgent action to combat climate change and its impacts – targets include integrating climate change measures into national policies, strategies and planning. It also addresses promoting mechanisms for raising capacity for effective climate change-related planning and management in least developed countries and small island developing States, including focusing on women, youth and local and marginalized communities.

A number of legally-binding international Conventions including:

- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (UN General Assembly, 1979), which Lesotho ratified in 1995. Article 14 of CEDAW on the rights of rural women, which emphasises the need for States to take all appropriate measures to eliminate discrimination against women in rural areas. In line with Article 18 of CEDAW, the Government of Lesotho developed a comprehensive report in July 2010 that identified challenges and developments towards recognition and realization of women’s rights.
- Convention on the Rights of Persons with Disabilities (CRPD) (UN General Assembly, 2006), of which Lesotho became a signatory in 2008, is intended as a human rights instrument that adopts a broad categorization of persons with disabilities and reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms.
- The Government of Lesotho has also ratified a number of international instruments which protect the rights of children, including the Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child, International Labour Organisation (ILO) Convention 138 on the minimum age for employment and ILO Convention 182 on the worst forms of child labour.
- At a regional level, ORASECOM has developed a Gender Mainstreaming Strategy (2014) and has recently completed the Gender Baseline Assessment and Gap Analysis (2019) that hold a number of key findings and recommendations relevant to incorporating gender sensitivities and rights into IWRM.

The objective of Workstream 2 is therefore to promote human rights and gender sensitivity in the policy and legal framework for ICM, which involves a holistic approach to sustainable land and water planning and management and adopts a catchment perspective that is in line with the national policy and strategies of Lesotho.

1.2 Methodology and activities

The overall approach explored and analysed opportunities of promoting policy and legal frameworks that incorporate a rights- and gender-based approach that is essential to effective, efficient and sustainable systems and strategies. In doing so the Workstream aligned with the overarching Analytical Framework in terms of the definition and scope of ICM to be applied and recognizing the inter-linked key elements of ICM as well as the range of interrelated objectives. The rights and gender sensitivity assessment takes into consideration the criteria against which fitness for purpose of the existing legislative and policy framework in Lesotho may be assessed, as outlined in the Analytical Framework, namely:

- Effectiveness,
- Holistic, cross-sectoral,
- Proportionality,
- Currency,
- Consistent,
- Participatory (ensuring equitable participation).

The method applied in this workstream incorporated a combination of two approaches:

- Technical review of relevant policy and legal frameworks

- Stakeholder consultation with a range of national level stakeholders

These activities were undertaken in three phases:

Phase 1 – Review and analysis

Activities undertaken included:

- Identification and mapping of international, regional and national policy and legal frameworks relating to human rights and gender equity.
- Review of international and regional benchmarks for good practice on human rights and gender equity.
- Development of stakeholder interview guidelines for the engagement process to be undertaken in Phase 2.

The outcome of Phase 1 was the identification of the core principles for protecting and promoting human rights and gender sensitivity. This provided the baseline for the Phase 2 assessment of sectoral policy and legal frameworks relevant to ICM, to assess the extent to which these core principles are integrated and considered.

Phase 2 – Information collection and analysis

This phase incorporated a dual approach of both stakeholder consultation and a technical review:

- Targeted stakeholder consultation (in accordance with principles set out in the overarching project’s analytical framework and stakeholder engagement plan) was undertaken to explore stakeholder perceptions regarding the extent to which the policy and legal frameworks for Ministries that are key to ICM promote human rights and gender equity. This engagement also provided an opportunity to explore experiences of previous similar processes in Lesotho to inform lessons learned.
- Technical review of priority ICM legislation, policies and strategies (identified in consultation with WS 1) to explore the extent to which they incorporate principles relating to human rights and gender equity to identify areas of overlap, omission, or other issue.

The outcome of this phase was the identification of the key findings relating to the main challenges, gaps and shortcomings currently experienced in promoting human rights and gender sensitivity across sectors that are key to ICM.

Phase 3 – Recommendations and proposed actions

This phase focussed on an integrated analysis of the outcomes of the technical review and the stakeholder consultation and drawing lessons to inform recommendations towards the way in which policy and legal frameworks can create an enabling environment for the promotion of human rights and gender sensitivity across sectors that are key to ICM. A range of proposed actions were prepared as guidance towards the implementation of the recommendations.

The stakeholder consultation process was undertaken in alignment with the principles outlined in Annex 1 of the Overarching Analytical Framework. The stakeholder engagement process incorporated the following steps and activities:

- A stakeholder database was compiled during the inception phase of the project to ensure an inclusive and transparent consultation process.
- The stakeholder meetings were guided by a pre-prepared interview guide that was shared with participants prior to the meetings.
- Information collected through the stakeholder meetings was recorded and documented.

A total of 20 stakeholder meetings were held between February and May 2021 (Table 1). The interviews meetings were undertaken in collaboration with WS 1, 3 and 4, and follow up meetings were arranged if needed to pursue additional detail relating to WS 2 specifically. An interview guideline (Annexure 1) was shared with the stakeholders before the meeting, and each meeting was attended by one or more representatives from the target organisation. The cross-stream integration on stakeholder meetings provided an effective approach to operationalising linkages between the workstreams, particularly Workstreams 1, 3, and 4.

Table 1: List of stakeholder consultation meetings undertaken for WS 2

Date	Stakeholder
16-Feb	National Stakeholder Workshop (Phase 2 Launch)
17-Feb	Lesotho Meteorological Services
17-Feb	Department Gender
12-Mar	Department of Youth
19-Mar	Department of Range Resources Management
29-Mar	National Climate Change Coordination Committee
31-Mar	World Bank
06-Apr	Department Soil and Water Conservation
06-Apr	Department of Environment
07-Apr	Food and Agricultural Organisation
07-Apr	Lesotho Millennium Development Agency
08-Apr	Disaster Management Authority
09-Apr	Catholic Relief Services
09-Apr	Lesotho Council of NGOs
09-Apr	Department of Water Affairs
12-Apr	ORASECOM
13-Apr	Commissioner of Water
22-Apr	LHDA
23-Apr	MAFS
06-May	UNDP SGP

1.3 Problems encountered and risks

Stakeholder consultation processes undertaken in the era of Covid-19 present both new opportunities, as well as challenges related to adapting systems and processes, to embrace the use of virtual platforms. The process proved highlight effective in gaining access to input from senior ranking officials who typically are unable to participate in in-person workshops due to time constraints. However, challenges were still encountered in setting-up consultation meetings involving multiple stakeholders from the same institution, to try to get the bigger picture through one engagement, due to availability clashes.

In order to avoid stakeholder fatigue, Workstreams were integrated when stakeholders of common relevance were engaged. However, this meant that the meetings tended to be longer in order to cover all the material. To manage this challenge, discussions were sometimes abbreviated and subsequent follow-up meetings with the relevant stakeholders were arranged to gain more detail on specific issues.

Other strategies applied during the virtual stakeholder consultation process included:

- Shift in approach to split consultation processes into separate meetings, particularly concerning stakeholders from the same Ministry, but with multiple Departments where it was not possible to engage in joint meetings. This carried the advantage that stakeholders could openly and freely engage without running the risk of stepping on the toes of their colleagues.
- Scheduling of big meetings was avoided. As much as it would seemingly save time and avoid the risk of stakeholder fatigue, big meetings were avoided as they proved not to be highly productive, particularly when soliciting primary inputs, opinions, experiences, and recommendations from multiple stakeholders was top of the agenda.
- The option to engage in follow-up consultations was utilized to augment information gaps that were later identified during the analysis stage. These meetings were highly focused, concise, and yielded very good results.

- It was imperative to allow the consultation process to dictate, within reasonable limits, the timeframes and resources that could be justifiably allocated to it as the process unfolded. This helped to ensure that no one was excluded.

1.4 Links to other workstreams and operationalisation within workstreams

Workstream 2 on Human Rights and Gender Sensitivity, as a cross cutting issue, coordinated closely with Workstream 1 (National Policy Harmonisation). It also coordinated with Workstream 3 (Mainstreaming Climate Change Adaptation), Workstream 4 (Decentralisation) and Workstream 5 (Financing Mechanisms) to ensure that analysis and recommendations take into consideration key issues across these workstreams. This coordination was achieved in the following ways:

- The Overarching Analytical Framework, which was developed for the project as a whole (including all workstreams) informed the design of the approach and methods undertaken for Workstream 2.
- Meetings with Workstream leaders were held every two weeks to share information and coordinate activities
- The stakeholder engagement process was undertaken in close consultation with other workstreams, and the meetings for Workstreams 1, 3, and 4 were integrated to ensure a cross correlation of information and also to minimise stakeholder fatigue.
- Workstream 3 team comprised members from Workstreams 1, 2, 4 and 5 which insured sharing of information and coordination of activities.

2 Results and analysis

A range of international, regional and national policies, strategies and conventions relating to the protection of human rights and gender equity in the context of the elements of integrated catchment management were reviewed (Table 2). In summary, the key issues identified from the review included:

- At the international level, a number of conventions focussing on human rights and gender incorporate elements of ICM explicitly while others address elements of ICM implicitly, for example the realisation of the human right to water.
- At a regional level (SADC), policy and strategy to have a gender specific focus, rather than a broader rights-based focus. Aspects of ICM relating to the water sector are addressed most explicitly.
- The Government of Lesotho is signatory to a number of international conventions on rights- and gender equality and has a number of national policies reflecting its commitment to these conventions. These policies do not refer specifically to ICM, but the thematic and sector approaches do accommodate ICM.

2.1 Guiding principles for promoting human rights and gender sensitivity in ICM

A number of key principles for promoting a rights-based and gender sensitive approach were highlighted through the review. These key principles were taken into the next phase of analysis, as a baseline against which to assess policies and legislation specifically relevant to ICM. The objective will be to identify gaps or weaknesses in promoting a rights-based and gender sensitive ICM framework. This analysis will inform input into a package approach to recommendations on revisions to address potential complex and cross cutting policy challenges in order to support policy harmonisation in ICM. The following principles were highlighted:

- a) The concept of human rights acknowledges that all people are entitled to enjoy his or her human rights without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.
- b) Gender equality is a human right, and implies that the interests, needs and priorities of both women and men are taken into consideration, recognizing the diversity of different groups of women and men.
 - Gender equality is defined as the equal rights, responsibilities and opportunities of women and men and girls and boys.
 - This does not imply that women and men are the same but rather that the opportunities and or their participation in decision-making processes will not depend on whether they are women or men.
- c) Human rights incorporate economic, social and cultural rights, which make provisions for establishing rights including for example rights relating to
 - Work in fair and favourable conditions
 - Social protection
 - Adequate standard of living
 - Education
 - Enjoyment of the benefits of cultural freedom and scientific progress
- d) The rights of children are embodied in human rights based approaches and principles including:
 - Take actions for and on behalf of children to ensure that their safety and well-being over and above all other considerations (best interests of children)
 - Treat all children equally, regardless of their age, sex, family status, physical or mental health status, or other issue of difference. Child protection programmes will actively address social, cultural and economic factors that exacerbate disability and will put in place programmes that redress such inequalities
 - Provide free and compulsory primary education
 - Protect children from economic exploitation
 - Respect, promote and protect the rights of vulnerable children

- Strengthen families and community systems to ensure children’s participation in the planning, implementation and monitoring of child protection actions
 - Provide opportunities for vulnerable children to participate in planning, decision-making, prioritization and implementation of interventions that benefit them
 - Create an enabling legislative environment to offer care, support, and protection to vulnerable children
 - Apply a multi-sectoral and decentralized response to the protection of the rights of children.
 - Leaders at all levels take an active role to protect children from abuse, violence, exploitation and neglect.
 - Establish partnerships for collaboration and coordination, with all government ministries, civil society
- e) People with disabilities have the right to non-discrimination, equality of opportunity, independence, fulfilment of basic needs, and accountability, integration and a focus on ability not inability.
- f) The right to popular participation to ensure the dignity, value and freedom for all people
- Effective participation of all the elements of society in the preparation and implementation of national economic and social development policies and of the mobilization of public opinion and the dissemination of relevant information in the support of the principles and objectives of social progress and development”.
 - Human Rights Based Approach (HRBA) gives equal attention to both achieving development goals and to the processes that are chosen to achieve these goals. Within HRBA, the processes that enable the participation and inclusion of all stakeholders are important.
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Table 2: International, regional and national policies, strategies and conventions reviewed to identify key principles for promoting human rights and gender sensitivity

Document	Preliminary findings
1. Gender and Development Policy 2018 – 2028	The most important instrument that can promote a rights-based and gender sensitive framework for ICM implementation as it integrates gender issues into development across a number of sectors. The Policy is aligned to SDGs, as well as regional and international instruments. It seeks to mainstream gender into all development plans and programmes in Lesotho (this goes beyond the scope of ICM as it considers development holistically).
2. National Policy on Orphans and Vulnerable Children (2006)	The objective of this policy is to create an enabling environment for caring for, supporting and protecting the rights of Orphans and Vulnerable Children (OVCs). This Policy addresses two key issues relevant to promoting a rights-based and gender sensitive policy framework for ICM: i) Promoting care and support for OVCs and ensuring that their rights are protected (e.g., protection against child abuse and child labour (particularly in the implementation of ICM related interventions), protection against sexual offenses to children, as well as trafficking in humans). ii) Promoting and safeguarding secure access of OVCs to productive resources such as land for food security and other productive uses. A potential gap that has been identified relates to the practicality of enforcement measures such as those to prevent the use of children for child labour in the implementation of ICM measures (e.g., livestock herding).
3. National Youth Policy 2017 - 2030	Links with key ICM elements in terms of youth development issues around the theme of Climate Change and Agriculture. The policy identifies youth mainstreaming as a cross-cutting and special interest issue. Human rights issues and gender-based approaches advocated for in the policy are consistent with the Gender and Development Policy 2018 – 2028.
4. National Policy on Social Development 2014/15 - 2024/25	Provides a framework for the development and implementation of programmes to enhance human wellbeing, particularly of the vulnerable groups. It draws relevance from the Constitution of Lesotho (1993) and is closely aligned with the Children’s Protection and Welfare Act (2011) which emphasizes that every intervention must be based on the best interests of the child, thus provides special protection to children from exploitative labour and torture and parental property. It also aligns with the Legal Capacity of Married Persons Act (2006) which empowers and protects the rights of women and ensure their meaningful participation in development issues. The Policy also highlights priorities that include: Combating poverty, deprivation and inequality; Protection of older persons; Protection of children; Gender equality; Empowerment of youth; and Protection and rehabilitation of persons with disabilities. It also refers to elements of ICM through objectives and specific action areas such as spearheading efforts to reduce environmental degradation, ensuring food security and secure livelihoods.

5. National Social Protection Strategy 2014/15 - 2018/19	The main objective is “...to operationalize an integrated set of core social protection programmes aimed at reducing vulnerability; to ensure linkages of all social protection programmes for increased efficiency and effectiveness; and to integrate and harmonize operational systems for the effective implementation of the social protection programmes across Government.” The Strategy takes a life-course approach. It identifies the four key life-course stages at which the citizens are exposed to different vulnerabilities through the course of their lives. These stages are: i) pregnancy/early childhood; ii) school age/youth; iii) working age and iv) old age. The strategy recognizes that chronic illness and disability are cross-cutting themes/shocks that can manifest at any of these life-course stages and therefore the strategy is cast to be responsive to these vulnerabilities and shocks throughout these life-course stages. The scope of the Strategy does not link directly with key elements and objectives of ICM.
6. National Strategic Plan for Vulnerable Children 2012 - 2017	The Plan is intended to operationalize the Children’s Welfare and Protection Act 2011. It informs and guides the multi-sectoral decentralized response to vulnerable children, whereby stakeholders participate in its implementation, based on their respective mandates and comparative advantage. The overall aim of the Plan is to improve the quality of life of vulnerable children and to ensure that they enjoy their basic human rights. The plan is guided by the following principles: i) Best interests of the child; ii) Respect, promotion and protection of the rights of vulnerable children; iii) Empowerment of families and communities; iv) Vulnerable children’s participation (in the planning, decision-making, prioritization and implementation of interventions that benefit them); v) Political commitment (creation of enabling legislative environment to offer care, support and protection to vulnerable children); vi) Gender considerations; and vii) Multi-sectoral and decentralized response. The Strategic Plan’s response to vulnerable children is based on a human rights approach.
7. National Multisectoral Child Protection Strategy 2014/5 – 2018/9	This strategy was developed in response to the need that was highlighted for focus more effort towards prevention of harm, on a coordinated response and on ensuring that we are all more accountable for identifying, reporting and taking comprehensive and appropriate action. The Strategy, which is accompanied by a costed Plan of Action for the first three years, initially focuses on building up the foundational elements of the system, generating evidence and ensuring delivery and results in core priority areas. The fourth and fifth years focus on consolidation and delivering quality services at scale. Notable gaps include the scale, nature and scope of neglect and stigma, experiences of children living without appropriate care (e.g., those who are living with extended family but lacking legal protection, those in kinship care but facing abuse, discrimination or neglect, those in institutional care). The Children’s Protection and Welfare Act of 2011 sets out statutory responsibilities for family, community and state in relation to the protection and welfare of all children, including children in contact with the law. The fact that the strategy has not been updated to extended is a concern.
8. National Social Protection Strategy for Older Persons 2017 - 2027	The Strategy seeks to create an enabling environment for the implementation of the Lesotho Policy for Older Persons 2014, with the involvement of various stakeholders to ensure the wellbeing of older persons. It has a total of thirteen strategic objectives, three of which are identified as relevant to the review process and these include: i) To promote, protect and uphold the fundamental rights of older persons through legal frameworks; ii) To ensure economic sustainability by promoting financial stability and secure livelihoods for older persons in Lesotho; and iii) To promote food and nutrition security among the elderly and create awareness on the importance of good nutrition and nutritional problems related to older persons. The development of associated legislative instruments and political backstopping is still required to support full implementation of the strategy (e.g., Charter on the rights of older persons, to ensure that protection of the rights of older persons is entrenched in legislation).
9. National Disability and Rehabilitation Policy (2011)	National Disability and Rehabilitation Policy (NDRP) has been informed by the 1993 Constitution of Lesotho; various international and regional conventions; Vision 2020; the Poverty Reduction Strategy (PRS) and the Millennium Development Goals (MDGs), legal provisions both within the country as well as at international and regional levels and other national policies. Policy aimed at driving equalization of opportunities for people with disability (PWDs) and to ending discrimination. Overall, the 2011 policy is seen as a good high-level founding document that sets the scene for ‘disability and rehabilitation’ mainstreaming with key principles noted.
10. 2nd National Strategic Development Plan 2018/19 – 2022/23 (NSDP II)	Mainstreams several thematic areas across all sectors, including gender and social inclusion. A number of sectors contained in the plan address key ICM elements and ICM related objectives with a strong inclusion of rights based and gender sensitive development agenda, including for example Agriculture and Food Security; Rangelands Management; Tourism; Education; Health; Social Protection; Gender and Social Inclusion.
11. ORASECOM Gender Mainstreaming Strategy (2014)	This strategy is reviewed to understand its priority in terms of relevance for ICM and if it is worth further review to ensure its alignment to the Lesotho context (i.e., whether key considerations are adequately / appropriately realised through local policy and relevant regulatory instruments). With that in mind, this strategy is not a standalone document, but provides guidance to the member states on the implementation of a gender sensitive IWRM plan. The strategy is gender focused rather than more broadly rights-based focused. The Strategy is noted as a high-level document with a low priority when compared to provisions of the Lesotho gender and development policy. However, it does nevertheless provide a regional level framework
12. United Nations Human Rights Office of the High Commissioner (OHCHR): A basic handbook for UN staff /	Provides an international benchmark for a rights-based approach and gender-sensitive framework. Does not focus on key elements of ICM specifically but focusses on best practice and principles for United Nations work across 4 key sectors: peace and security; economic and social affairs; development cooperation; and

UN Declaration on Human Rights	humanitarian affairs. Does not provide specific measures but recognises that human rights instruments and institutions also exist at regional and national level and the need for alignment with these.
13. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	The Convention sets international best practice guidelines and is aligned with the principles and guidelines prescribed for a HRBA and Gender sensitive framework. The Government of Lesotho is a signatory to the Convention and therefore implies national legislation (e.g., Gender and Development Policy 2018 – 2028) is aligned.
14. FAO Gender mainstreaming and a human rights-based approach: Guidelines for technical officers. (2017)	Provides guidance based on international guidelines for best practice including the UNDP Declaration on Human Rights and Convention on the Elimination of All Forms of Discrimination against Women. It also highlights the need for consideration of local laws and policies. Does not specify elements of ICM but raises the general requirement for development planning at all levels, including recognition of the economic survival of women and their families, which includes their work in the nonmonetized sectors of the economy.
15. Constitution of Lesotho (1993)	The Constitution adequately spells out provisions that create a rights-based and gender sensitive framework for ICM implementation through protection of the environment (section 36) protection and following human rights and freedoms (Chapter II): freedom from inhumane treatment; freedom from slavery & forced labour; freedom from discrimination; right to equality before the law & the equal protection of the law; right to participate in government; enforcement of protective provisions; protection of children & young persons; and provisions for education (e.g. universal free primary education for all).

2.2 Stakeholder engagement and consultation

The stakeholder consultation process provided valuable information on stakeholder perceptions regarding the extent to which the policy and legal frameworks for Ministries that are key to ICM promote human rights and gender equity. The workstream integration on stakeholder meetings provided an effective approach to operationalising linkages between the workstreams, particularly Workstreams 1, 3, and 4. In summary, the following key issues were highlighted:

- The concept of gender mainstreaming into IWRM originated at regional level through SADC and Lesotho has developed an action plan to mainstream gender into water issues. However, water and sanitation priority areas are still not well covered in gender and development policy. This is partially due to the lack of participation of key stakeholders when drafting the policy. The need for integrated and coordinated participation by stakeholders in policy and planning remains a challenge.
- There is donors support for building capacity for the Lesotho Government to advance its development agenda, including supporting policy development processes in areas such as human rights and gender. These efforts are aligned to national priorities as dictated by the government. However, a number of challenges are faced for example the high staff turnover.
- National policy framework on human rights and gender is robust, but inter-sectoral cooperation for implementation is far from achieving what policy specifies.
- There are weak inter-ministerial linkages that are needed to drive mainstreaming of human rights and gender issues. For example, the gender focal point in other ministries only exists in the office of the Water Commission.
- Lack of financial resources to support implementation of human rights and gender activities is a significant challenge
- The strongly patriarchal culture in Lesotho also undermines implementation of the policy and legal framework.

2.3 Analysis of ICM sector frameworks and context

An assessment was undertaken of priority sectoral policy and legal frameworks to assess the extent to which they embed the key principles for promoting human rights and gender sensitivity. The prioritisation of the materials assessed was based on guidance provided by Workstream 1 and Workstream 4 in particular (and informed by the analysis undertaken in these workstreams). Table 3 summarises the materials assessed, and the key issues highlighted during the assessment.

In summary, the integration of human rights and gender in sectors that are key to ICM tends to be relatively broad with limited specific details. It is also yet to be given effect through regulations or action plans. Financial resourcing and budgets for implementation are lacking. There appear to be challenges with practicality of enforcement

measures, for example on issues such as the empowerment of women to participate in decision making, the use of child labour, human trafficking, and land security for women and orphans and vulnerable children (OVCs).

2.3.1 Policy and legal frameworks

The need to protect human rights and promote gender equality is expressed in the Ministry of Social Development and Ministry of Gender, Youth, Sport and Recreation and the Ministry of Social Development’s policy and legislative frameworks. However, there is a lack of implementation and enforcement of the frameworks, which may be linked to a lack of political will to translate the policy and legal framework into action, and the agenda is largely donor driven. The Constitution provides for the protection of fundamental human rights, but it also recognizes customary law as a source of law. This sometimes results in undermining of gender and social equality for groups affected by discriminatory customary laws, for example women and youth. Policies and strategies of Ministries key to ICM are generally weak or outdated from the perspective of needing to align with the national policy and legal frameworks relating to human rights and gender equity.

Table 3: Priority sectoral policy and legal frameworks reviewed to assess the extent to which they embed the key principles for promoting human rights and gender sensitivity.

Document reviewed	Incorporation of human rights and gender considerations
Constitution of Lesotho (1993)	The Constitution provides for the protection of fundamental human rights and freedoms. However, it also recognizes customary law as a source of law, which sometimes undermines gender and social equality for groups affected by discriminatory customary laws.
Water Act 2008	Mainstreams gender in water resources management & planning. Promotes equitable access all to water resources. Provisions do not extend to other vulnerable groups.
Environment Act 2008	Recognises the need for intra-generational equity without explicitly mentioning human rights and gender equity. Promotes gender equity in key decision-making structures to adjudicate over environmental management concerns but fails to account for other vulnerable and marginalized groups. Incorporates the principle of public participation.
(Draft) Range Resources Management Bill	Considers human rights and gender explicitly and a significant number of aspects are covered in the context of rangeland management.
Forestry Act 1998	Does not address human rights or gender sensitivity.
Land Act 2010 (as amended)	Specifies the need for gender balance in land dealings. However, it also potentially undermines social equity for some groups, for example by requiring the appointment of a guardian to hold the title for ‘unmarried persons under the age of 18 years’.
Town and Country Planning Act (1980 as amended)	No reference or provision made for promoting human rights and gender sensitive issues.
Long-Term Water and Sanitation Strategy 2014/16	Sets out appropriate institutional arrangements for ICM implementation at local level but lacks provisions for integrating participation of the marginalized and vulnerable groups.
Integrated Water Resources Management Strategy	The IWRM strategy proposes Social Equity as a strategic goal.
National Biodiversity Strategy and Action Plan 2000	Includes principles of fair and equitable benefit sharing, and stakeholder participation and empowerment of communities, without explicitly referencing gender and the rights of other marginalised groups.
National Climate Change Policy 2017-2027	Promotes the principle of social equity recognizing and respecting human rights including gender parity. Recognises gender, youth, and vulnerable groups as cross cutting issues.
Climate Change Implementation Strategy (2017)	Promotes the participation of women and men, youth and other vulnerable groups.
Lesotho Food and Nutrition Policy (LFNP) 2016-2025	Recognises the need for gender sensitivity and responsiveness in food and nutrition service planning and implementation, and the requirement for involvement of a range of stakeholders from various Government agencies and their partners at national, district and community levels to achieve this. Human rights more broadly are not reflected in detail.
National Strategic Development Plan II 2019-23	Explicitly addresses human rights and gender through the strategic framework, which includes protecting Human Rights and Civil Liberties by expediting constitutional reforms including repeal of laws that are discriminatory. It mainstreams gender and social inclusion in the national development agenda and reflects strongly on the rights-based approaches across multiple sectors.

National Irrigation Master Plan and Investment Framework 2020	Recognises gender issues in irrigation and that in order to promote gender equity, irrigation projects must proactively promote women’s inclusion and participation, especially supporting women to overcome assets-based constraints. Human rights are not addressed broadly other than the requirement that proposals must address participation and non-discrimination of vulnerable groups of society.
Gender and Development Policy 2018 – 2028	Effectively addresses key ICM elements and implementation objectives. It provides a framework for mainstreaming gender and integrates principles of rights-based approaches across a number of sectors.
National Policy for Orphans and Vulnerable Children 2006	It protects OVCs against child abuse and child labour in the implementation of ICM related activities. It provides necessary safeguards for women and vulnerable groups to access productive resources e.g., land.

The weak representation of human rights and gender sensitivity in the policy and legal frameworks pertaining to ICM is compounded by the dissonance between a number of traditional customs and statutory laws. The control of some practices that contribute to environmental degradation are challenging due to their deep rootedness in culture and tradition. The patriarchal nature of Lesotho’s culture has empowered men, to the disadvantage of women, and vulnerable and marginalized groups. Men also continue to typically dominate decision-making positions across sectors and at all decision-making levels.

2.3.2 Institutional environment

Within the Ministry of Gender, Youth, Sports and Recreation, the Department of Gender is mandated to ensure equality of opportunities between women, men, girls and boys, and to facilitate proper integration of gender issues in development to ensure full involvement, participation and partnership of women and men, girls and boys. The Department of Youth has a mandate to ensure the physical, intellectual and moral well-being of the youth. However, the budgets allocated to the Department of Gender and the Department of Youth are severely inadequate and undermines their capacity to ensure that human rights and gender equality effectively addressed and integrated into the activities of all Ministries and Departments.

Departments across Ministries that are key to ICM are working in silos, which results in a lack of integrated planning particularly in relation to cross cutting issues such as human rights. The establishment of Gender Focal Points was initiated as a way of ensuring that gender equity is promoted in all operations in the Ministry of Water. However, to date this position only exists in the Office of the Commissioner of Water. While there is a good level of cooperation between this Focal Point and the Department of Gender, effectiveness in terms of promoting a gender and rights based approach across water resource management is not clearly evident. There are no gender focal points in any other Ministries key to ICM. Ministries in general are operating in silos and as a result consideration of human rights and gender equality is fragmented and not addressed as a cross-cutting priority. There is little cooperation or consultation between government Ministries to drive the promotion of human rights and gender sensitive issues when updating or revising policies, strategies and plans.

While there is limited attention to promoting gender equity, consideration of the rights of youth and other marginalized and vulnerable groups is largely omitted from projects and interventions relating to ICM. The exception to this would be education programmes that target young livestock herders who are unable to attend school due to their responsibilities. However other issues relating to the human rights abuse of children who are livestock herders remain unaddressed and a number of fundamental human rights principles are ignored including. For example, the requirements to protect children from economic exploitation, take actions for and on behalf of children to ensure that their safety and well-being over and above all other considerations (best interests of children); and a multi-sectoral and decentralized response to the protection of the rights of children.

The Environment Act (2008) provides for the appointment of representatives of youth and women into the National Environment Council (NEC) to represent the interests and needs of women and youth, however the NEC does not exist in practice. One of the functions of the NEC is to harmonise policies and plans across sectors, ensuring the integration of environmental management issues. This presents opportunities for building an enabling policy environment for implementation of ICM while incorporating consideration of human rights (including gender). Furthermore, there is no decentralization in the Ministry of Gender, Youth, Sport and Recreation, or the Ministry of Social Development, both of which are key to promoting human rights and gender equity.

2.3.3 Human and financial capacity

There is inadequate human and financial capacity to effectively promote human rights and gender sensitivity across the key ICM sectors. For example, resourcing of the Department of Gender and the Department of Youth is

severely inadequate and undermines capacity to ensure that human rights and gender equality effectively addressed and incorporated into activities across all Ministries.

Despite widespread inclusion of gender and other human rights criteria in donor funded development projects, this is not reflected in nationally funded programmes. With support from the donor community and the other aid agencies, NGOs have successfully demonstrated a number of sustainable agricultural interventions that are driven by women to enhance household level resilience to food insecurity e.g., conservation agriculture. This appears to be partially as a result of a combination of a lack of resources as well as a lack of political will, and this could relate to the dissonance between culture and statutory law.

There is broadly a lack of monitoring and evaluation to inform the achievement of meaningful targets and the collection of data and information to inform the planning of priority interventions. This is due to a scarcity of both human capacity and financial resources. As a signatory of multiple international conventions, Lesotho has a number of international obligations on human rights reporting, However the lack of financing to cover ongoing data collection and analysis and the lack of dedicated financing to support continuous reporting requirements are significant challenges. There is need to establish a monitoring reporting and verification system that incorporates targets and data on human rights broadly. The initial establishment of this system could be supported through subscriptions to existing data sets that can be used to provide a gender lens to decision-making to promote gender and social inclusion mainstreaming and due diligence (<https://www.equilo.io/>).

3 Findings and recommendations

The following key findings and proposed recommendations summarise the outcomes of the results analysis in terms promoting human rights and gender sensitivity in ICM:

Finding 1: Weak policy environment undermines the promotion of human rights and gender equity across key ICM sectors.

- a) The need to protect human rights and promote gender equality is expressed in the Ministry of Social Development and Ministry of Gender, Youth, Sport and Recreation and the Ministry of Social Development’s policy and legislative frameworks. However, there is a broad lack of implementation and enforcement of the frameworks, which may be linked to a lack of political will to translate the policy and legal framework into action, and the agenda is largely donor driven. This lack of effective implementation is also reflected across the sectors that are key to ICM.
- b) Despite the policy and legal framework emphasizing the need for gender equity and protection of the rights of the youth and vulnerable and marginalized groups, there is little commitment to giving effect to the policy and legislation. There is inadequate allocation of financial and human resources, and no meaningful monitoring and evaluation to inform improvement. This results in little or no translation of the national framework into action on the ground, particularly in the sectors that are key to ICM.
- c) The resourcing for the Department of Gender and the Department of Youth is severely inadequate and undermines their capacity to ensure that human rights and gender equality effectively addressed and incorporated into activities on the ground. This translates into the need for all ICM relevant Ministries to promote human rights and gender sensitivity through their operations, particularly those relating to water, environment, agriculture, forestry and rangelands, and soil conservation. However, Ministries in sectors that are key to ICM largely operate in silos and there has been little consultation on human rights and gender sensitive issues with the relevant Departments within the Ministry of Social Development and Ministry of Gender, Youth, Sport and Recreation during the updating or revising policies and strategies, for example in the Long-Term Water and Sanitation Strategy (2017). As a result, action plans are lacking in terms of aspects such as effective targets and are inadequately resourced (human or financial resources) to effectively address the promotion of human rights and gender.
- d) Stakeholder engagement, particularly processes involving communities, in human rights and gender equality policy and strategy development is limited.

Recommendations:

1. Integrate the promotion of human rights and gender sensitivity into multi- and inter-sectoral policy and legal frameworks. This can be achieved through the introduction of a dedicated legislative instrument (ideally an ICM Act), which provides a formal legislative basis for ICM implementation. Alternatively, this may require legislative amendment of an appropriate lead instrument (e.g., the 2008 Environment Act), to incorporate the requirement of promoting human rights and gender equality. In addition, this would require corresponding amendment of other instruments relevant to implementation of ICM in Lesotho.
2. Embed the protection of human rights, gender equity and the rights of vulnerable and marginalized groups in the development and implementation of local level ICM plans. This requires the development of the necessary capacity within government institutions at all levels. This includes the introduction of a regulatory framework to enforce statutory requirements relating to the protection of human rights (including gender sensitivity) across key ICM sectors.

Finding 2: Institutional operations are fragmented and lack coordination resulting in ineffective promotion and protection of human rights (including gender equity) across sectors that are key to ICM.

- a) The Ministry of Gender, Youth, Sports and Recreation has the mandate to promote human rights and gender equity. The Department of Gender is mandated to ensure equality of opportunities between women, men, girls and boys, and to facilitate proper integration of gender issues in development to ensure full involvement, participation and partnership of women and men, girls and boys. The Department of Youth has a mandate to promote the dignity and self-esteem of youth, and to ensure their physical, intellectual and moral well-being. However, the budgets allocated to the Department of Gender and the Department of Youth are severely

inadequate and undermines their capacity to ensure that human rights and gender equality effectively addressed and integrated into the activities of all Ministries and Departments.

- b) Departments across Ministries key to ICM are working in silos, which results in a lack of integrated planning particularly in relation to cross cutting issues such as human rights. While some integration of the promotion of human rights and gender equity exists within the water sector, it focusses mainly on gender related issues and not human rights as a whole. Gender Focal Points are an initiative initiated in the water sector through the SADC IWRM Programme, requires that a person be nominated in each Department in the Ministry of Water to promote gender equity in all operations in the Department. However, to date this position only exists in the Office of the Commissioner of Water. While there is a good level of cooperation between this Focal Point and the Department of Gender, effectiveness in terms of promoting a gender and rights based approach across water resource management is not clearly evident. There are no gender focal points in any other Ministries key to ICM. The Ministry of Energy and Meteorology appears to be the only other Ministry with a person trained on gender equality issues, but again their impact in terms of promoting gender and rights is not clearly evident.
- c) While there is limited attention to promoting gender equity, consideration of the rights of youth and other marginalized and vulnerable groups is largely omitted from projects and interventions relating to ICM. The exception to this would be education programmes that target young livestock herders who are unable to attend school due to their responsibilities. However other issues relating to the human rights abuse of children who are livestock herders remain unaddressed and a number of fundamental human rights principles are ignored including. For example, the requirements to:
- a. protect children from economic exploitation
 - b. take actions for and on behalf of children to ensure that their safety and well-being over and above all other considerations (best interests of children)
 - c. create an enabling legislative environment to offer care, support and protection to vulnerable children
 - d. apply a multi-sectoral and decentralized response to the protection of the rights of children

Leaders at all levels are required to take an active role to protect children from abuse, violence, exploitation and neglect, and to establish partnerships for collaboration and coordination, with all government ministries, civil society. However, this is not evident at any level of government.

- d) The Environment Act (2008) provides for the appointment of representatives of youth and women into the National Environment Council (NEC), to represent the interests and needs of women and youth. The NEC is an apex decision-making body proposed by the environmental legislation. However, the major challenge is that the NEC does not exist in practice. One of the functions of the NEC is to harmonise policies and plans across sectors, ensuring the integration of environmental management issues. This presents opportunities for building an enabling policy environment for implementation of ICM while incorporating consideration of human rights (including gender). Overall, there is need to effect key policy decisions that will result in structural changes necessary to achieve gender development objectives.

Recommendations:

3. Develop an integrated ICM organizational framework that supports cross sectoral cooperation on the promotion of human rights and gender sensitivity.
4. Formally capacitated the NEC to execute its functions specified in the Environment Act 2008 and fulfil the requirement to incorporate representation of the interests and needs of women and (as spelled out in the Act). The creation of this body holds the potential to address a number of gaps including establishing criteria and targets for promoting human rights and gender equity as fundamental to ICM.

Finding 3: There is inadequate resourcing for effective protection of human rights and promotion of gender equity across sectors that are key to ICM.

- a) The lack of financial resources is a very significant challenge to promoting a human rights-based and gender sensitive ICM framework. The Gender Department gets only 5% of the Ministry's budget, which is severely inadequate. The Department of Gender was established 20 years ago and the budget allocation of 5% has never been revised over this period despite the increased awareness and policy relating to the need to promote gender equity.

- b) International donor programmes are consistent in aligning with international best practice criteria such as the incorporation of human rights and gender considerations in all funding programmes. Yet this approach is not being mainstreamed nationally, despite the budgets of national programmes far exceeding the budgets of donor funded programmes that aim to demonstrate opportunities and best practice. Government Departments do include a human rights and gender sensitivity in donor funded project because this is required to fulfil donor funding pre-requisites. With support from the donor community and the other aid agencies, NGOs have successfully demonstrated a number of sustainable agricultural interventions that are driven by women to enhance household level resilience to food insecurity e.g., conservation agriculture.
- c) There is no strict pre-requisite for nationally funded ICM related interventions for incorporation of human rights and gender sensitivity into ICM related projects. For example, the Public Sector Investment Committee (PSIC) does not appear to have criteria relating to human rights and gender for the evaluation of interventions and before funding by the Ministry of Finance. Furthermore, the Government input subsidy programme under the Ministry of Agriculture and Food Security (which is the largest national subsidy programme) does not include criteria or targets for addressing the needs of women or other marginalised or vulnerable groups.

Recommendations:

5. Increase the national budget allocation for promoting human rights and gender equality to adequately resource Ministries and Departments relevant to ICM, to give effect to the existing policy and legal framework, and associated strategies and action plans relating to human rights and gender sensitivity.
6. Incorporate criteria and targets that reflect legal requirements for protecting and promoting human rights (including gender) as a pre-requisite for the evaluation of all nationally funded ICM interventions. This can be addressed by stipulating these as a requirement under a new ICM Act, or alternatively through the legislative amendment of the Environment Act as an appropriate lead instrument for ICM.

Finding 4: The dissonance between a number of traditional customs and statutory laws challenges effective promotion and protection human rights and gender equity across sectors that are key to ICM.

- a) The representation and participation of women, youth and marginalized groups in planning and decision-making processes relating to all dimensions of ICM is limited. This can partially be attributed to the dissonance between number of cultural and traditional practices and the national policy and legal framework on human rights and gender equity. The patriarchal nature of Lesotho's culture has empowered men, to the disadvantage of women and vulnerable and marginalized groups. Men traditionally control decision making and finances at household levels, and also dominate positions of authority in governance structures including sectors that are key to ICM.
- b) Relatively recent developments require that a quota of positions on Community Councils be filled by women. However, despite their increased representation on these Councils, they are typically passive participants as culture prevails and they are not empowered to actively participate in the decision making and planning processes.
- c) This culture of subservience by women, youth and other marginalised groups in the male dominated society drives inequality and the abuse of human rights in a number of forms in sectors relevant to ICM:
- The effectiveness of the management of land use and natural resource use practices is weakened by the lack of participation by women. As primary users of natural resources, women have a key role to play in management and decision making, yet they remain largely passive or excluded from natural resource and land use management decision making.
 - Women and other vulnerable groups (e.g., the elderly) are financially disadvantaged from a number of perspectives for example in accessing input subsidies and benefits for land use and environmental management interventions. This ultimately impacts negatively on well-being of households and their use of the environment in general.
 - The widespread practice of using of young boys to herd livestock is seen as a tradition rather than as child labour or infringing on the rights of children. However, in terms of statutory law it is a direct infringement of the need to protect children from economic exploitation, as well as the need to ensure that the safety and well-being of children is considered over and above all other considerations (i.e., best interests of children principle).
- d) The continuation of these traditions and cultural practices in ICM sectors such as natural resource and rangeland management, and agriculture, illustrate tacit approval or condonement by authorities and

leadership, despite the dissonance with the statutory policy and legal framework on human rights and gender equity. The policy and legal framework on human rights requires a multi-sectoral and decentralized response across sectors relevant to ICM, by leaders at all levels. It also requires the establishment of partnerships for collaboration and coordination, with all government ministries, and civil society. Yet there is little or no evidence of this, particularly in the sectors that are key to ICM. This could partially be attributed to a lack of awareness and understanding of the requirements of the national legal framework on human rights, and also to inadequate capacity and resources to address current shortcomings in the promotion of human rights and gender equity at national, district and local levels.

- e) There is a broad a lack of monitoring and evaluation to inform the setting of meaningful targets and for the collection of data to inform the planning of new ICM interventions, and the adaptive management of existing ICM interventions.

Recommendations:

2. Embed the protection of human rights, gender equity and the rights of vulnerable and marginalized groups in the development and implementation of local level ICM plans. This requires the development of the necessary capacity within government institutions at all levels. This includes the introduction of a regulatory framework to enforce statutory requirements relating to the protection of human rights (including gender sensitivity) across key ICM sectors. (This is a replication of Recommendation 2 under Finding 1).
7. Implement awareness and capacity building in support of cross sectoral cooperation on the promotion of human rights and gender sensitivity in an integrated ICM framework.

Finding 5: Lack of decentralization in Ministries that are central to promoting human rights and gender equity, which inhibits the empowerment and participation of women, youth and other vulnerable and marginalised groups in planning and implementation of ICM related interventions.

- a) There is no decentralization in the Ministry of Gender, Youth, Sport and Recreation, or the Ministry of Social Development, both of which are key to promoting human rights and gender equity through ICM interventions at a local level. To date, the piloting of the devolution process has not included either of these Ministries. The Local Government Transfer of Functions Regulation of 2015 includes the transfer of aspects of community-based development services, which incorporates the facilitation of community participation in local development initiatives. This includes sustainable livelihood initiatives which will have direct bearing on ICM.
- b) Relatively recent developments require that a quota of positions on Community Councils be filled by women. However, despite their increased representation on these Councils, they are typically passive participants as culture still prevails and they are not empowered to actively participate in the decision making and planning processes.
- c) The policy and legal framework requires a multi-sectoral and decentralized response to human rights and gender equity challenges by leaders at all levels, and the establishment of partnerships for collaboration and coordination, with all government ministries, and civil society. Yet there is little or no evidence of this, particularly in the sectors that are key to ICM. This could partially be attributed to a lack of awareness and understanding of the requirements of the national legal framework on human rights, and also on inadequate capacity to address shortcomings in the promotion of human rights and gender equity at national, district and local levels.

Recommendations:

8. Develop a strategic action plan with adequate resourcing for decentralization of the Ministry of Social Development and the Ministry of Gender, Youth, Sport and Recreation, to enhance the participation of women, youth and other marginalized and vulnerable groups in ICM related planning and implementation interventions.

Finding 6: Lack of data and capacity constraints is negatively impacting on the ability to fulfil international reporting requirements on human rights.

- a) There is no requirement for reporting on the promotion of human rights within ICM specifically. The primary report prepared on progress towards the achievement of the Sustainable Development Goals, including human rights and gender equality, is the Voluntary National Review (VNR), which is coordinated by Ministry of Development Planning. The most recent report was produced in 2019 with UNDP financial sponsorship.

- b) The Lesotho Bureau of Statistics (BoS) provides some data on which is collected as one of its ministerial functions. Data is also collected through some national and donor funded programmes. However, the lack of continuous data collection and analysis undertaken over the stipulated reporting periods is a significant challenge for reporting, including across sectors that are key to ICM.
- o Numerous international guidelines exist on types of human-rights and gender-responsive and sensitive indicators to measures changes over time. These provide a combination of quantitative indicators based on disaggregated statistical data. They also include indicators to capture qualitative changes– for example, increases in women’s levels of empowerment or in attitude changes about gender equality. Measurements of human rights and gender equality might track the outcomes of a particular policy, programme. Examples of these guidelines include OECD⁶, United Nations⁷.
- c) Lack of financing to cover ongoing data collection on human rights and gender by Ministries that are key to ICM, and the lack of dedicated financing to support continuous reporting are also significant challenges. There is need to establish a cross sectoral monitoring reporting and verification system that incorporates targets and data on human rights broadly.

Recommendations:

9. Establish cross sectoral Measuring, Reporting and Verification (MRV) system on progress towards targets for promoting human rights and gender sensitivity as set in the national legal framework by Ministries that are key to the ICM framework.

⁶ <https://www.oecd.org/dac/gender-development/43041409.pdf>

⁷ A Human Rights Based Approach to Data - Leaving No One Behind in the 2030 Agenda for Sustainable Development (<https://www.ohchr.org/EN/Issues/Indicators/Pages/documents.aspx>)
<https://www.ohchr.org/Documents/Issues/Women/Publications/GenderIntegrationintoHRIInvestigations.pdf>

4 Proposed actions

The following proposed actions have been identified as a guide towards implementation of the key recommendations for promoting human rights and gender sensitivity in ICM:

Proposed action	Recommendation to which action relates	Priority	Time-line	Main actors
Finding 1 - Weak policy environment undermines the promotion of human rights and gender equity across key ICM sectors.				
c) Identify key issues for promoting human rights and gender sensitivity that need to be incorporated into a dedicated ICM legislative instrument, or the amendment of an appropriate lead instrument such as the Environment Act and other instruments relevant to ICM.	11. Integrate the promotion of human rights and gender sensitivity into multi- and inter-sectoral policy and legal frameworks. This can be achieved through the introduction of a dedicated legislative instrument (ideally an ICM Act), which provides a formal legislative basis for ICM implementation. Alternatively, this may require legislative amendment of an appropriate lead instrument (e.g., the 2008 Environment Act), to incorporate the requirement of promoting human rights and gender equality. In addition, this would require corresponding amendment of other instruments relevant to implementation of ICM in Lesotho.	1	1 year	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, Treasury, ICM Unit
d) Clarify the roles and responsibilities of the institutions within all sectors that are key to ICM (for example water, environment, and agricultural) for the protection of human rights at national, district and local levels, and strengthen regulations that support adherence to gender equality and human rights issues policy and legal frameworks.		1	1 year	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, ICM Unit, as well as Ministries of Environment, Water, etc.
e) Develop a guideline to inform the incorporation and promotion of human rights and gender sensitivity in local level ICM plans. Apply international best practice as well as the requirements of the national framework on human rights and gender sensitivity to inform the preparation of the guideline.	12. Embed the protection of human rights, gender equity and the rights of vulnerable and marginalized groups in the development and implementation of local level ICM plans. This requires the development of the necessary capacity within government institutions at all levels. This includes the introduction of a regulatory framework to enforce statutory requirements relating to the protection of human rights (including gender sensitivity) across key ICM sectors.	1	1-2 years	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, ICM Unit, as well as Ministries of Environment, Water, etc.
f) Develop a programme to enhance capacity at all levels of government for the promotion of human rights and gender sensitivity in a cross sectoral ICM Framework		1	1-3 years	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, ICM Unit, as well as Ministries of Environment, Water, etc.
Finding 2 - Institutional operations are fragmented and lack coordination resulting in ineffective promotion and protection of human rights (including gender equity) across sectors that are key to ICM.				
a) Establish and resource Gender and Human Rights Focal Points in all Departments relevant to ICM.	3. Develop an integrated ICM organizational framework that supports cross sectoral cooperation on the promotion of human rights and gender sensitivity.	1	1-3 years	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, Treasury, ICM Unit
b) Strengthen the ICM Unit through the inclusion of expertise for the promotion and protection of human rights (including gender and youth) relevant to ICM and reinforce its capacity to function as an authority across relevant sectors.				
c) Develop synergies with human rights organisations in the CSO community that operate in the human rights sectors e.g., Women and				

Children Commission of LCN or Women and Law in Southern Africa (WLSA)						
a)	Develop an action plan to formally capacitate the NEC to execute its functions (as spelled out in the Environment Act 2008).	4.	Formally capacitated the NEC to execute its functions and fulfil the requirement to incorporate representation of the interests and needs of women and (as spelled out in the Act). The creation of this body holds the potential to address a number of gaps including establishing criteria and targets for promoting human rights and gender equity as fundamental to ICM.	1	1 year	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, Treasury, ICM Unit
Finding 3 - There is inadequate resourcing for effective protection of human rights and promotion of gender equity across sectors that are key to ICM.						
a)	Prepare a motivation demonstrating the need for additional resourcing for key Ministries relevant to ICM, in order for them to meet the requirements in the policy and legal framework relating to protection of human rights including gender sensitivity	5.	Increase the national budget allocation for promoting human rights and gender equality to adequately resource Ministries and Departments relevant to ICM, to give effect to the existing policy and legal framework, and associated strategies and action plans relating to human rights and gender sensitivity.	1	1-3 years	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, Treasury, ICM Unit
a)	Develop criteria and targets that reflect legal requirements for protecting and promoting human rights (including gender)	6.	Incorporated criteria and targets that reflect legal requirements for protecting and promoting human rights (including gender) as a pre-requisite for the evaluation of all nationally funded ICM interventions. This can be addressed by stipulating these as a requirement under a new ICM Act, or alternatively through the legislative amendment of the Environment Act as an appropriate lead instrument for ICM.	2	2-3 years	Ministry Gender, Youth, Sport and Recreation, Ministry Social Development, Treasury, ICM Unit
b)	Present the criteria and targets to Ministry of Finance to raise awareness of the need for their incorporation into nationally funded programmes.					
Finding 4 - The dissonance between a number of traditional customs and statutory laws challenges effective promotion and protection human rights and gender equity across sectors that are key to ICM.						
a)	Develop a guideline to inform the incorporation and promotion of human rights and gender sensitivity in local level ICM plans. Apply international best practice as well as the requirements of the national framework on human rights and gender sensitivity to inform the preparation of the guideline.	2.	Embed the protection of human rights, gender equity and the rights of vulnerable and marginalized groups in the development and implementation of local level ICM plans. This requires the development of the necessary capacity within government institutions at all levels. This includes the introduction of a regulatory framework to enforce statutory requirements relating to the protection of human rights (including gender sensitivity) across key ICM sectors.	1	1-2 years	Ministry Gender Youth Sport and Recreation; Ministry Social Development; National ICM Coordination Unit
a)	Develop a programme to enhance capacity of leaders and authorities at all levels of government for the promotion of human rights and gender sensitivity in a cross sectoral ICM Framework (duplication of Finding 1 recommended action 2(b).	7.	Implement awareness and capacity building in support of cross sectoral cooperation on the promotion of human rights and gender sensitivity in an integrated ICM framework.	2	3-5 years	Ministry Gender Youth Sport and Recreation; Ministry Social Development; National ICM Coordination Unit
b)	Secure support from leaders and authorities at all levels, and the establishment of partnerships for collaboration and coordination, with all government ministries, and civil society.					
c)	Intensification of awareness and educational campaigns to ensure that those who engage in such practices that infringe on human rights and gender equality in ICM sectors are sensitized about the statutory laws.					

d) Referral of traditional customary practices where there is discord with the Constitution (and conflict with statutory laws) to local courts in order to confer jurisdiction and in this way raise awareness about the requirements of the current statutory policy and legal framework.				
Finding 5 - Lack of decentralization in Ministries that are central to promoting human rights and gender equity, which inhibits the empowerment and participation of women, youth and other vulnerable and marginalised groups in planning and implementation of ICM related interventions.				
<p>a) Develop targeted, practically relevant, training on integrating human rights and gender aspects into ICM implementation as part of a broader ICM capacity building programme.</p> <p>b) Prepare a motivation demonstrating the need for additional resourcing for Ministry of Social Development and the Ministry of Gender, Youth, Sport and Recreation, to enhance the participation of women, youth and other marginalized and vulnerable groups in ICM related planning and implementation interventions</p> <p>c) Establish and resource Gender and Human Rights Focal Points in all Departments relevant to ICM, to inform interventions by decentralized Ministries and Departments that are functioning at District and Community Council levels.</p> <p>d) Incorporate criteria and targets on human rights and gender sensitivity into a monitoring and evaluation framework for ICM</p> <p>e) Add Ministry of Gender to the list of pilot ministries for decentralization and meet with MoLG for guidance.</p>	8. Develop a strategic action plan with adequate resourcing for decentralization of the Ministry of Social Development and the Ministry of Gender, Youth, Sport and Recreation, to enhance the participation of women, youth and other marginalized and vulnerable groups in ICM related planning and implementation interventions.	1	1-3 years	Ministry Gender Youth Sport and Recreation; Ministry Social Development; National ICM Coordination Unit; MoLG&C
Finding 6 - Lack of data and capacity constraints is negatively impacting of ability to fulfil international reporting requirements on human rights.				
<p>a) Develop definition of clear rolls and responsibilities for inter-ministerial monitoring and data collection by Ministries that are key to the ICM framework</p> <p>b) Enhance capacity (financial and human) for the effective implementation of the monitoring and reporting system across all relevant sectors</p>	9. Establish cross sectoral Measuring, Reporting and Verification (MRV) system on progress towards targets for promoting human rights and gender sensitivity as set in the national legal framework by Ministries that are key to the ICM framework.	2	3-5 years	Ministry Development Planning; Ministry Gender Youth Sport and Recreation; Ministry Social Development

Annexes

Annex 1: Stakeholder Interview Guide

Introduction

The purpose of this interview guide is to support preliminary consultation on the extent to which the existing framework of policy and legislation supports effective ICM implementation in Lesotho. This round of consultation focuses on two specific aspects:

- Section 1 – A review of what stakeholders see as the key policies and legislation for their work related to ICM implementation, and their experience in implementing the requirements arising under these instruments.
- Section 2 - Stakeholders’ perceptions regarding the applicability and relevance of these policies and legislation, and the extent to which they (can) provide an adequate enabling environment for ICM implementation in Lesotho.

These questions provide a framework for discussion and a guide on the range of issues to be explored. They are not necessarily intended as a checklist to be answered individually.

We would also welcome any additional insights and information you are able to provide that might not be directly addressed in the questions set out below.

1. What are the main legal framework(s) (national laws, policies, strategies and plans) relevant for your work relating to ICM, e.g., Environment Act 2008; Water Act 2008; Town & Country Planning Act 1980; 2016 Long-Term Water and Sanitation Strategy?
 - a) Please list
 - b) Please explain briefly how these laws, strategies or plans are relevant for your work (at national, district, local level).
 - c) Are the principles and requirements of national laws clearly reflected in the strategies and plans relevant for your work?
 - d) Do the national laws, policies, strategies, and plans give you adequate and practical “tools” / mechanisms to support your activities/responsibilities?
 - i. If yes, please list which tools/ mechanisms are available?
 - ii. If no, please highlight what the gaps are?
 - iii. What institutional linkages between national level organisations exist to assist you in the fulfilment of your responsibilities?
 - iv. Are these linkages adequately established and functioning?

Workstream 2:

- a) Are the legislative requirements for human rights and gender clearly reflected in the policies and legislation, strategies and plans relevant for your work?
 - i. If yes are they consistent with current human rights and gender policy and legislation?
- b) Do the policies and legal frameworks give you adequate tools and mechanisms to meet the human rights and gender requirements stemming from your activities/responsibilities?
 - i. If yes, please list which tools/ mechanisms are available?
 - ii. If no, please highlight what the gaps are?
 - iii. What institutional linkages between national level organisations exist to assist you in the fulfilment of your responsibilities?
 - iv. Are these linkages adequately established and functioning?

Workstream 3:

- a) Are the legislative requirements for mainstreaming climate change adaptation clearly reflected in the policies and legislation, strategies and plans relevant for your work?
 - i. If yes are they consistent with current climate change adaptation policy and legislation?
 - b) Do the policies and legal frameworks give you adequate tools and mechanisms to meet the climate change adaptation requirements stemming from your activities/responsibilities?
 - i. If yes, please list which tools/ mechanisms are available?
 - ii. If no, please highlight what the gaps are?
 - iii. What institutional linkages between national level organisations exist to assist you in the fulfilment of your responsibilities?
 - iv. Are these linkages adequately established and functioning?
2. Overall, what are your main observations regarding applicability and relevance of the national law, policies, strategies and plans for supporting ICM implementation, particularly in terms of:
- a) Effectiveness:
 - Do the measures appropriately address key objectives of ICM implementation (sufficient mandate; scope; practicable level of administration)?
 - Do the measures contribute to a practicable regime for ICM implementation (sufficiently flexible; implementable; practically enforceable; financially sustainable)?
 - b) Holistic / Cross-sectoral:
 - Do the measures link with the mandates of other ministries and departments (e.g., Ministries of Water; Tourism, Environment & Culture; Forestry, Range & Soil Conservation; Development Planning; Agriculture & Food security; etc.) and do the measures contribute to an integrated policy framework?
 - Are there gaps / overlaps regarding key functions (e.g., enforcement)?
 - Are there any ambiguities regarding scope of application?
 - c) Proportionality:
 - Are the measures likely to achieve their legitimate aims?
 - Are the measures cost-effective?
 - Do the measures involve equitable distribution of costs/benefits across all sectors?
 - d) Currency:
 - Are the measures outdated in terms of their objectives, scope or approach?
 - Do they require updating (e.g., regarding penalties) or require consolidation / codification (to incorporate successive amending measures)?
 - e) Consistency:
 - Do the measures promote objectives of ICM implementation in a manner consistent with the strategies/plans of other Ministries/Departments engaged in ICM implementation?
 - Do the measures conflict with objectives of other Ministries/Departments engaged in ICM implementation?
 - Do the measures conflict with other (ICM-related) national measures?
3. Participatory (ensuring equitable participation):
- Do the measures raise awareness of objectives of ICM implementation?
 - Do the measures promote transparency – by means of freedom of (timely) public/stakeholder access to relevant information?
 - Do the measures promote public/stakeholder participation in ICM-related decision-making – by means of appropriate and equitable consultation?
 - Do the measures permit and facilitate reviewability of decisions – by means of a general right (and practicable means) to review decisions made thereunder?
4. Monitoring and evaluation:

- Are procedures and processes for ICM implementation being adequately monitored and evaluated?
- Is the effectiveness of ICM implementation at different levels (national, district, local) monitored and evaluated?
- Are assessments undertaken to inform improvements to ICM-related policies, strategies and plans?

5. Enabling environment:

- Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for ICM implementation?
- Is there a lack of finance or other resources, lack of skills/ capacity, or any other relevant challenges of which you are aware?

Workstream 3: Final report on Mainstreaming Climate Change Adaptation into the ICM Framework



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List of abbreviations and acronyms

AG	Attorney General	LEC	Lesotho Electricity Company
APA	Annual Performance Assessment	LEWA	Lesotho Electricity and Water Authority
BoS	The Lesotho Bureau of Statistics	LG	Local Government
CC	Community Council	LGA	Local Government Act
CCF	Community Conservation Fund	LHDA	Lesotho Highlands Development Authority
CCSAP	SADC Climate Change Strategy and Action Plan	LHWP	Lesotho Highlands Water Project
CMJC	Catchment Management Joint Committee	LLWDS	Lesotho Lowlands Water Development Scheme
CMP	Catchment Management Plan	LMDA	Lesotho Millennium Development Agency
CoW	DWA Water Commission	LNDC	Lesotho National Development Corporation
CPU	(Sub-)Catchment Planning and Implementation Unit	LoCAL	Local Climate Adaptive Living Facility
CRS	Catholic Relief Services	LWSP	Lesotho Water and Sanitation Policy 2007
DA	Development Authority	MAFS	Ministry of Agriculture and Food Security
DA	District Administrator	MCS	Minimum Conditions
DC	District Council	MEM	Ministry of Energy and Meteorology
DC	District Coordinator	MFRSC	Ministry of Forestry, Range and Soil Conservation
DCS	District Council Secretary	MoF	Ministry of Finance
DDP	Deepening Decentralization Program	MoL	Ministry of Labour
DEAP	District Environmental Action Plan	MoLGCA	Ministry of Local Government and Chieftainship Affairs
DF	District Fund	MTEC	Ministry of Trade, Environment, and Culture
DRWS	Department of Rural Water Supply	NDP	National Development Plan
DS	District Secretaries	NEAP	National Environmental Action Plan
DWA	Ministry of Water: Department of Water Affairs	NGO	Non-Governmental Organisation
EIA	Environmental Impact Assessment	NRM	Natural Resource Management
EIIF	Ecological Infrastructure Investment Framework	NSDP	National Strategic Development Plan
EU	European Union	ODA	Official Development Assistance
FAO	Food and Agriculture Organization	ORASECOM	Orange-Senqu Basin Commission
FD	Fiscal Decentralization	PBCRGs	Performance-Based Climate Resilience Grants
GEF	Global Environment Facility	PEFA	Public Expenditure and Financial Accountability
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit	PES	Payments for Ecosystems
GOL	Government of Lesotho	ROLL	Regeneration of Livelihoods and Landscapes
GW	Ground water	RRMA	Range Resources Management Act
GWP-SA	Global Water Partnership-South Africa	SADC	Southern Africa Development Community
HR	Human Resources	SDGs	Sustainable Development Goals
ICM	Integrated Catchment Management	SEA	Strategic Environmental Assessment
ICU	ICM Coordination Unit	SGP	Small Grants Program
IEC	Information, Education and Communication	SLM	Sustainable Land Management
IFAD	International Fund for Agricultural Development	SNP	Sehlabathebe National Park
IPSAS	International Public Sector Accounting Standards	UNDP	United Nations Development Programme
IWRM	Integrated Water Resources Management	WAMPP	Wool and Mohair Promotion Project
WE	Water Efficiency	WASCO	Water and Sewerage Company
LAA	Land Administration Authority Act 2010	WCWSS	Western Cape Water Supply System
LCN	Lesotho Council of NGOs	WS	Workstream
		WUC	Water User Certificate

1 Introduction

1.1 Background and objectives

Lesotho ratified the United Nations Framework Convention on Climate Change (UNFCCC) in February 1995 and has a number of policies and measures that are aligned with the objectives of the UNFCCC. For example, the National Adaptation Programme of Action was drafted in 2007, and the first National Strategic Development Plan (NSDP) was initiated in 2011. The National Environment Act of 2008 provides the necessary legal framework for the protection and conservation of the natural environment and aims to enhance the resilience of the country to extreme weather events and other environmental disasters. In 2017, the National Climate Change Policy was drafted which aims to enhance environmental sustainability and enhance socio-economic resilience. Additionally, the second National Strategic Development Plan (NSDP II) and National Adaptation Programme of Action (NAPA) were prepared which emphasises the need to reverse environmental degradation and to adapt to climate change. There is extensive evidence of Lesotho's vulnerability to climate change and the need for mainstreaming adaptation, including for example the increasing frequency of natural disasters such as droughts and floods, diminishing water resources (perennial springs, robust rivers and many dams), acceleration of soil loss and land degradation, and a steady decline in farming that is a key livelihood strategy in rural areas. Numerous initiatives are being undertaken by Lesotho to address the climate change challenge, including policy development, strategic plans, and on the ground implementation of adaptation interventions.

Integrated Catchment Management (ICM) is key to supporting adaptation and resilience building. Mainstreaming climate change adaptation into policy areas relevant to ICM is therefore a priority and a long-term process that involves, for example, integration into sectoral planning and implementation of specific adaptation options. Mainstreaming climate change adaptation into ICM requires forward-looking approaches and involve legal, institutional and policy changes.

The objective of this workstream was specifically focussed on recommendations for mainstreaming climate change adaptation into policy and legal frameworks across sectors that are key to ICM. This involves the review of the extent to which climate change adaptation is currently integrated into policy and strategies in these sectors, and to develop recommendations and proposals for promoting and supporting this long-term process for mainstreaming climate change adaptation into policy relevant to ICM. In line with the terms of reference, the focus of this workstream is on climate change adaptation. Issues relating to climate change mitigation are not addressed, however this is not an indication that mitigation is not a national priority but rather that it would be addressed independently of this assignment.

1.2 Methodology and activities

The overall approach explored and analysed opportunities mainstreaming climate change adaptation into ICM. In doing so the Workstream aligned with the overarching Analytical Framework in terms of the definition and scope of ICM to be applied and recognizing the inter-linked key elements of ICM as well as the range of interrelated objectives. The rights and gender sensitivity assessment takes into consideration the criteria against which fitness for purpose of the existing legislative and policy framework in Lesotho may be assessed, as outlined in the Analytical Framework, namely:

- Effectiveness
- Holistic, cross-sectoral
- Proportionality
- Currency
- Consistent
- Participatory (ensuring equitable participation)

The method applied in this workstream incorporated a combination of two approaches:

- Technical review of relevant policy and legal frameworks

- Stakeholder consultation with a range of national level stakeholders

These activities were undertaken in three phases:

Phase 1 – Review and analysis

- Identification and mapping of international, regional and national policy and legal frameworks relating to climate change adaptation.
- Review of international and regional benchmarks for good practice on climate change adaptation.
- Development of stakeholder interview guidelines for the engagement process to be undertaken in Phase 2.

The outcome of Phase 1 was the identification of key issues/best practice for climate change in integrated catchment management. The issues largely revolve around a holistic and integrated approach to ecosystems functioning and management of its capacity to support ecosystems-based adaptation (EbA) for resilience building. This provided the baseline for the Phase 2 assessment of sectoral policy and legal frameworks relevant to ICM, to assess the extent to which these core issues are integrated and considered.

Phase 2 – Information collection and analysis

This phase incorporated a dual approach of stakeholder consultation and technical reviews:

- Targeted stakeholder consultation (in accordance with principles set out in the overarching analytical framework and stakeholder engagement plan) was undertaken to explore stakeholder perceptions regarding the extent to which the policy and legal frameworks for Ministries that are key to ICM incorporate and mainstream climate change adaptation directly, or through addressing elements of ICM that contribute to EbA. This engagement also provided an opportunity to explore experiences of previous similar processes in Lesotho to inform lessons learned.
- Technical review of priority ICM legislation, policies and strategies (identified in consultation with WS 1) to explore the extent to which they incorporate and mainstream climate change adaptation directly, or through addressing elements of ICM that contribute to EbA, to identify areas of overlap, omission, or other issue.

The outcome of this phase was the identification of the key findings relating to the main challenges, gaps and shortcomings currently experienced in mainstreaming climate change adaptation across sectors that are key to ICM.

Phase 3 – Recommendations and Proposed Actions

This phase involved an integrated analysis of the outcomes of the technical review and the stakeholder consultation and drawing lessons to inform recommendations towards the way in which policy and legal frameworks can create an enabling environment the promotion of human rights and gender sensitivity across sectors that are key to ICM. A range of proposed actions were prepared as guidance towards the implementation of the recommendations.

The stakeholder consultation process was undertaken in alignment with the principles outlined in Annex 1 of the Overarching Analytical Framework. The stakeholder engagement process incorporated the following steps and activities:

- A stakeholder database was compiled during the inception phase of the project to ensure an inclusive and transparent consultation process.
- The stakeholder meetings were guided by a pre-prepared interview guide that was shared with participants prior to the meetings.
- Information collected through the stakeholder meetings was recorded and documented.

A total of 20 stakeholder meetings were held between February and May 2021 (Table 1). The interviews meetings were undertaken in collaboration with WS 1, 3 and 4, and follow up meetings were arranged if needed to pursue additional detail relating to WS 2 specifically. An interview guideline (Annexure 1) was shared with the stakeholders before the meeting, and each meeting was attended by one or more representatives from the target organisation. The cross stream integration on stakeholder meetings provided an effective approach to operationalising linkages between the workstreams, particularly Workstreams 1, 3, and 4.

Table 1: List of stakeholder consultation meetings undertaken for Workstream

Date	Stakeholder
16-Feb	National Stakeholder Workshop (Phase 2 Launch)
17-Feb	Lesotho Meteorological Services
17-Feb	Department Gender
12-Mar	Department of Youth
19-Mar	Department of Range Resources Management
29-Mar	National Climate Change Coordination Committee
31-Mar	World Bank
06-Apr	Department Soil and Water Conservation
06-Apr	Department of Environment
07-Apr	Food and Agricultural Organisation
07-Apr	Lesotho Millennium Development Agency
08-Apr	Disaster Management Authority
09-Apr	Catholic Relief Services
09-Apr	Lesotho Council of NGOs
09-Apr	Department of Water Affairs
12-Apr	ORASECOM
13-Apr	Commissioner of Water
22-Apr	LHDA
23-Apr	MAFS
06-May	UNDP SGP

1.3 Problems encountered and risks

Stakeholder consultation processes undertaken in the era of Covid-19 present both new opportunities, as well as challenges related to adapting systems and processes, to embrace the use of virtual platforms. The process proved highlight effective in gaining access to input from senior ranking officials who typically are unable to participate in in-person workshops due to time constraints. However, challenges were still encountered in setting-up consultation meetings involving multiple stakeholders from the same institution, to try to get the bigger picture through one engagement, due to availability clashes.

In order to avoid stakeholder fatigue, Workstreams were integrated when stakeholders of common relevance were engaged. However, this meant that the meetings tended to be longer in order to cover all the material. To manage this challenge, discussions were sometimes abbreviated and subsequent follow-up meetings with the relevant stakeholders were arranged to gain more detail on specific issues.

Other strategies applied during the virtual stakeholder consultation process included:

- Shift in approach to split consultation processes into separate meetings, particularly concerning stakeholders from the same Ministry, but with multiple Departments where it was not possible to engage in joint meetings. This carried the advantage that stakeholders could openly and freely engage without running the risk of stepping on the toes of their colleagues.
- Scheduling of big meetings was avoided. As much as it would seemingly save time and avoid the risk of stakeholder fatigue, big meetings were avoided as they proved not to be highly productive, particularly when soliciting primary inputs, opinions, experiences and recommendations from multiple stakeholders was top of the agenda.
- The option to engage in follow-up consultations was utilized to augment information gaps that were later identified during the analysis stage. These meetings were highly focused, concise and yielded very good results.

- It was imperative to allow the consultation process to dictate, within reasonable limits, the timeframes and resources that could be justifiably allocated to it as the process unfolded. This helped to ensure that no one was excluded.

1.4 Links to other workstreams and operationalisation within workstreams

Workstream 3 on Climate Change Adaptation, as a cross cutting issue, coordinated closely with Workstream 1 (National Policy Harmonisation). It also coordinated with Workstream 2 (Human Rights and Gender Sensitivity), Workstream 4 (Decentralisation) and Workstream 5 (Financing Mechanisms) to ensure that analysis and recommendations take into consideration key issues across these workstreams. This coordination was achieved in the following ways:

- The Overarching Analytical Framework, which was developed for the project as a whole (including all workstreams) informed the design of the approach and methods undertaken for Workstream 3.
- Meetings with Workstream leaders were held every two weeks to share information and coordinate activities.
- The stakeholder engagement process was undertaken in close consultation with other workstreams, and the meetings for Workstreams 1, 2, 3 and 4 were integrated to ensure a cross correlation of information and also to minimise stakeholder fatigue.
- Workstream 3 team comprised members from Workstreams 1, 2, 4 and 5 which insured sharing of information and coordination of activities.

2 Results and analysis

A range of international, regional and national policies, strategies and conventions relating to building resilience through climate change adaptation were reviewed (Table 2). In summary, the key issues identified from the review included:

- There are a number of international conventions and strategies, and there are well defined strategies at SADC level, which guide national level policy and action. The relevance to elements of ICM and the cross cutting nature of adaptation is clear.
- The Government of Lesotho is a Party to the United Nations Framework Convention on Climate Change and has developed a number of key national policies. A number of these policy statements and strategies have direct relevance to ICM, and the Climate Change Policy (2017) in particular focusses on enhancing resilience of water resources by promoting ICM.

2.1 Guiding principles for incorporating climate change adaptation into ICM

This review highlighted a number of key issues and best practices for incorporating climate change adaptation into ICM, which is fundamentally based on an ecosystems-based adaptation (EbA) approach. These key issues and best practices were taken into the next phase of analysis, as a baseline against which to assess policies and legislation specifically relevant to ICM. The objective was to identify gaps or shortcomings in mainstreaming climate change adaptation as a cross cutting issue in ICM. The following key issues and best practices were highlighted⁸:

- a) Focus on ecosystems and land use management including for example:
 - Conservation and rehabilitation of rangelands.
 - Conservation and rehabilitation of degraded water resources including wetlands.
 - Conservation and rehabilitation of degraded mountain ecosystems.
 - Soil protection and erosion control.
 - Management and reclamation of degraded and eroded land (particularly in flood prone areas).
 - Biodiversity conservation and control of alien invasive species.
 - Climate smart agricultural practices (e.g., adjustment of planting dates and crop variety; crop relocation; improved land management).
- b) Apply a cross-sectoral approach that includes consideration of ecosystems in conjunction with interrelated objectives such as:
 - Enhancing water, sanitation and hygiene services.
 - Resilient water resources development (through integrated catchment management).
 - Regulated Water and Sewerage Services.
 - Sector Resource Planning, Coordination and M&E.
 - Social and economic development (including poverty alleviation, sustainable livelihoods, food security, and the growth of the green economy).
 - Integrated water resources framework that incorporates the resource needs across sectors.
- c) Participatory and inter-disciplinary approach to planning, decision making and implementation, incorporating:
 - Recognising and developing roles and responsibilities of stakeholders including CBOs, NGOs and local authorities with a role to play in climate change adaptation.
 - Decentralisation and developing roles and responsibilities of district and local actors including local community and community council involvement in district and community-based catchment management.
 - Incorporating rights-based approach including gender equality.
 - Capacity building, awareness raising and education for effective and meaningful participation.

⁸ Guidance on international EbA criteria can be found at: <https://friendsofeba.com/eba-criteria/> and

https://www.adaptationcommunity.net/wp-content/uploads/2017/07/FEBA_EbA_Qualification_and_Quality_Criteria_EN.pdf

- Strengthening capacity of NCCC to enhance inter-sectoral and multi-stakeholder participation.
- d) Meeting international and regional climate change adaptation obligations through a relevant and up to date national policy and legislative framework (enhancing vertical integration):
 - Incorporating the need for review and revision of policy and legislation that reflects more up to date context in terms of climate change.
- e) Adaptive management of adaptation and resilience building strategies, plans and activities informed by research, monitoring and evaluation including:
 - Past successes and failures for example national programmes (e.g., Fato-Fato). lessons learned from donor M&E programmes (e.g., EU water sector activities and rural water supply).
 - Cost benefit analysis of effectiveness of interventions to inform decision making on future investment and allocation of resources.
- f) Institutional and capacity development to create an enabling environment including:
 - Policies and sectoral plans with financial and human resources and timelines.
 - Effectiveness of decision making particularly at the lowest level.
 - Overcoming implementation and planning by sectors in isolation (i.e., silo effect) and establish linkages e.g., between water and land management.
 - Consideration of resilience in planning and decision-making relating infrastructure projects human settlement development (e.g., climate proofing).

Table 2: International, regional and national policies, strategies and conventions reviewed to identify key issues and best practice for mainstreaming climate change adaptation

Document reviewed	Preliminary findings
Climate Change Implementation Strategy (2017)	The measure is rated a high priority as it contributes to practicable ICM in the country. It is sufficiently flexible in that it is a living document and needs to be reviewed every five years. The strategy like the policy mostly lists action plans that need to be undertaken without detail on the timelines and the responsible party. Financial information is lacking although there is mention of a costed action plan. ICM is one of the key focus areas. Social and economic development are taken into consideration as the policy is aligned to national strategic goals. Several policy statements relate to protection of ecosystems. No glaring conflicts or overlaps noted. However, there are ambiguities in terms of timelines and financial resources linked to the proposed actions.
Climate Change Policy (2017)	This is rated as a high priority document as measures for ICM are addressed in the policy statements. The policy includes a focus on enhancing the resilience of water resources by promoting integrated catchment management, ensuring access, supply and sanitation. The policy lists action plans that need to be undertaken but without detail on the timelines and the responsible party. Financial information is also lacking although there is mention of stakeholders collectively involved in fund raising for climate change. Contributes to an integrated management framework and ties into NDS and translates Vision 2020 and National Strategic Development Plan into concrete actions in relation to climate change. Identifies challenges including for example inadequate dedicated financing mechanisms to address climate change in the country, and weak institutional capacity for finance mobilization.
National Adaptation Programme of Action (2007)	The NAPA is slightly outdated (prepared in 2007) and has largely been updated through the Climate Change Policy of 2017. The NAPA does not directly address ICM although some of the proposed projects directly link to enhancing catchment conditions. Pertinent ICM measures include enhancing catchments conditions, rehabilitation of degraded wetlands, reclamation of eroded lands and securing water supply in the drought prone southern districts. Other critical aspects such as maintenance of ecosystems, range management and rights-based approaches do not feature. The common challenge for the proposed projects in the NAPA is the lack financial resources and weak coordination of activities between stakeholders. This suggests there is a weak enabling environment.
Nationally Determined Contribution (2017)	The scope of the strategy is relevant to ICM. Measures for ICM are addressed in the policy under a number of sectors, for example intended policy-based action under the water sector is conservation and management programme and the need to establish a national integrated water resources framework that incorporates district and community-based catchment management is highlighted. In the Agricultural sector issues include adjustment of planting dates and crop variety, improved land management. Other relevant ICM activities that are highlighted include “Management and Reclamation of Degraded and Eroded Land in the Flood Prone Areas” as well as “Conservation and Rehabilitation of Degraded Wetlands in the Mountain Areas.” It is not clear as to the extent to which the measure may contribute to the implementation of ICM. The measure mentions activities, without financial, human and timelines within which they will be implemented.
Lesotho’s Second Communication to COP of UNFCCC (2013):	This document incorporates relevant ICM measures including land degradation, erosion, pollution of water resources, rangeland management and preservation of wetland ecosystems. The document does not however address decision making particularly at the lowest level. Community based organisations, NGOs and local authorities play a role in climate change mitigation. It is not clear as to the extent to which the measure

	may contribute to the implementation of ICM. The measure mentions activities, without financial, human and timelines within which they will be implemented.
Climate change baseline trend analysis (2015)	The report captures elements of ICM dealing with Lesotho's physical and socio-economic status, however linkages between sectoral plans is minimal. While proposed sectorial adaptation plans are well defined, there is no clear project plans to facilitate implementation and financial sustainability not adequately defined. Social and economic development is considered through alignment with a number of other key policy documents. Monitoring and evaluation of proposed climate change measures is not addressed, and the role of district and local level authorities does not feature. The main barriers to implementation that are highlighted include lack of capacity to implement the proposed measures, financial resources and weak institutional arrangements. This suggests there is a weak enabling environment.
Improvement of Early Warning System to Reduce Impacts of Climate Change and Capacity Building to Integrate Climate Change into Development Plans	This is a review of the quality of the results of the project itself. The priority rating is therefore low. Nevertheless, with the focus of trial and implementation is essentially on integrated land and water management and vegetation, there are lessons to be learned from the review.
Guidelines for the integration of climate change in national, sectoral and local policies, strategies and development plans:	The Guidelines are highly applicable to ICM and describe ICM as an integrated approach towards water and land resources management. The document addresses mandates and capacities (or the lack there off) at national and local level, as well as the need for inter-ministerial/ inter-departmental linkages. The document provides valuable detail including application at national and local, real examples, as well as monitoring procedures/suggested indicators. The lack of decentralisation and consequences are also highlighted. The document includes useful suggestions for developing bottom-up/top down approach. There is a gap in terms of financial sustainability, which is not adequately developed, as well as reference to regional and transboundary issues.
National Strategic Development Plan II (2018/19-2022/23)	NSDP II mainstreams Climate Change, Environment, Gender and Social Inclusion across all sectors, and recognises that these are crucial for the realization of inclusive growth. The NSDP II highlights that it is imperative that the strategy for employment creation and growth takes cognizance of climate change adaptation. It particularly emphasises the agriculture sector and rangeland management as two key strategic areas of consideration from a climate change adaptation perspective. NSDP II has a strong national focus with reference to local government mandates/devolution, multisectoral. A number of sectors relevant to ICM are described, but through silo approach (lacking integration). The Plan includes consideration of socio-economic domains, and also provides very useful insights into the results of evaluation of NSDP I. While there is considerable budgeting detail, this is mainly at national level.
Long-Term Water and Sanitation Strategy (LTWSS 2016)	The LTSWW is a high priority as it encompasses 6 key focal areas in IWRM, with 'Establishment of ICM' and also 'Climate Change, Water Resources and Environmental Management'. It covers the range of ICM related sectors in terms of water sources and water use with strong emphasis on subsidiarity and points at the need for circular approaches in ICM. The strategy addresses important dimensions such as institutional and mandate requirements, the need for on long-term financing and investments for effective implementation of the Strategy. The strategy has an explicit district focus and incorporates a cross sectoral approach whereby management is decentralised. It also highlights the need for a regional approach mainly from regional economic perspective and limits itself to Lesotho Highlands Water Project (LHWP). The vision on regional integration related to CCA is broader and more future focused.
SADC Climate Change Year Book (2016):	This document provides comprehensive overview of international and regional obligations and commitments that need to be considered, while also providing insights into national level initiatives and how these relate to the regional aims and objectives. This includes reference to several sectors relevant to ICM for example water and biodiversity. This document also provides useful insights from examples and case studies of climate change interventions across SADC Member States. This is therefore a key document for guiding harmonisation at a national level that is consistent with regional conventions and obligations.
SADC Climate Change Strategy and Action Plan (2015):	The SADC CCSAP strategy is in line with and aims to achieve global and continental objectives as set by the United Nations Framework Convention on Climate Change (UNFCCC), the Africa Union Commission (AUC) and the Regional Development Agenda. Provides overview of main regional policies, strategies and protocols in key sectors Addressed strategies and actions for several sectors that include key elements of ICM e.g., agriculture, biodiversity, water. As well as interrelated objectives such as human health, tourism, infrastructure, mining. But little integration. Provides a detailed Adaptation Action Plan including expected outputs, responsibilities, recommended timeframes, and costs. Recognises that the current capacity and institutional arrangement for the effective implementation and coordination of the strategy at both Secretariat and Member State level is inadequate and highlights that effective implementation of the strategy will require capacity to be improved. Provides guidelines of financing options although no direct assistance to accessing resources is provided.

2.2 Stakeholder engagement and consultation

The stakeholder engagement and consultation process provided valuable information on stakeholder perceptions regarding climate change adaptation mainstreaming and challenges across Ministries that are key to ICM. The

workstream integration on stakeholder meetings provided an effective approach to operationalising linkages between the workstreams, particularly Workstreams 1, 3, and 4.

In summary, the following key issues were highlighted by stakeholders:

- The policy environment is not robust enough to deal with climate change mainstreaming. Regulations are not legally enforceable across sectors. A Climate Change Act is required. It is anticipated that the draft Bill on climate change which will culminate in the required legislation however, the Act must be drafted in a manner that maximises participation of other stakeholders so that it attains the required impact.
- ICM Coordination Unit should not only be seen to focus on Water. It needs to be seen as a collective planning Unit that decides what is the most important for sustainable land management broadly and incorporating climate change adaptation.
- Climate change interventions are currently reactive rather than proactive and this is due to a combination of factors including a lack of capacity and resources. The current lack of tools and resources for climate change mainstreaming is partially due to lack of political will, which also affects the resourcing of climate change adaptation in Lesotho.
- Mainstreaming of climate change is not currently incorporated into the mandates of key ICM Ministries and Departments. They therefore continue to operate in their silos. This is partially due to a lack of capacity to apply a cross-sectoral approach.
- The National Climate Change Coordination Committee (NCCC) is a forum that is mandated to coordinate climate change issues across sectors. However, it has no legislative basis and hence it is only an advisory body with no power to enforce the implementation of recommendations for adaptation.
- There is limited scientific baseline to inform and guide climate change adaptation in Lesotho specifically. For example, there is a need for vulnerability assessments to inform district / local scale policies and plans to address issues on adaptation to climate change and support climate change adaptation mainstreaming.

2.3 Analysis of ICM sector frameworks and context

Priority sectoral policy and legal frameworks were reviewed to assess the extent to which the core elements and issues of climate change adaptation are promoted or supported. The materials assessed were prioritised based on guidance provided by Workstream 1 and Workstream 4 (as informed by the analysis undertaken in these workstreams) and by input provided during the stakeholder engagement process. Table 3 summarises the materials assessed, and the key issues highlighted during the assessment. A review of the contextualisation of these frameworks from the perspective of mainstreaming climate change adaptation was also undertaken to inform the identification of strengths and weaknesses.

In summary, high level action plans have been prepared at regional and national level, however challenges in implementation have been highlighted including weak institutional capacity for finance mobilization, inadequate financing mechanisms, and a general lack of detail on timelines and the responsible parties. The lack of decentralisation and potential consequences have also been highlighted. The role of the National Climate Change Coordination Committee in enhancing cross cutting / mainstreaming has been highlighted, but the level of effectiveness and local level implementation across Ministries is unclear.

2.3.1 Policy and legal frameworks

In summary, there is a relatively strong policy and legal framework at national level, with a wide range of policies and legislation that relate to the management and protection of the environment and natural resources (that are essential for the capacity of the environment to provide ecosystems-based adaptation). These include water, rangelands, soil, and biodiversity and priority habitats. Most of the principal legislation directly covers aspects of ecosystem protection which therefore supports a level of climate change adaptation without it being explicit. For example, rehabilitation of degraded wetlands, soil and water conservation, rangeland management, biodiversity protection and alien invasive species. However, the legal frameworks also tend to be fragmented and lacking in many aspects. Some legislation is outdated and overlooks the need for climate change adaptation and resilience entirely for example Town and Country Planning Act. While other legislation includes outdated penalties and fines that are inadequate to deter transgressors. There is fragmentation between strategies in national initiatives and

those of international donor funded programmes. International donor programmes are consistent in aligning with international best practice criteria such as the incorporation of climate change considerations in all funding programmes. Yet this approach is not being mainstreamed nationally, despite the budgets of national programmes far exceeding the budgets of donor funded programmes that aim to demonstrate opportunities and best practice.

The legal framework currently does not provide a framework that contextualises climate change adaptation within ICM and does not emphasise that the responsibility for climate change adaptation lies across multiple institutions and actors, including governmental, non-governmental as well as on community level.

Table 3: Priority sectoral policy and legal frameworks reviewed to assess the extent to which they embed the key principles for promoting human rights and gender sensitivity

Document reviewed	Incorporation of climate change adaptation
Constitution of Lesotho (1993)	The Constitution provides for the Protection of the natural environment without specifically addressing impacts of climate change and the need for adaptation.
Water Act 2008	Provides for improved climate resilience but fails to account for larger spectrum of potential climate impacts.
Environment Act 2008	Provides for climate resilience through the principle of maintaining eco-system integrity. And recognises that environmental management includes cooperation with other departments and organisations at all levels for the protection of the environment and rehabilitation of degraded environments.
(Draft) Range Resources Management Bill	Considers climate change explicitly and a significant number of climate change aspects are covered.
Forestry Act 1998	Does not address climate resilience.
Land Act 2010 (as amended)	Does not address climate resilience directly or indirectly through environmental management requirements.
Town and Country Planning Act (1980 as amended)	No reference or provision made for addressing any aspects of climate change
Water and Sanitation Policy 2007	Deals with some aspects of sustainable water resources management and climate change adaptation but not in their entirety.
Long-Term Water and Sanitation Strategy 2014/16	Covers climate change actions and options that can be adopted to achieve policy objectives.
National Wetlands Conservation Strategy 2013/14 – 2018/19	Provides for sustainable management of wetlands including many features of climate change adaptation.
National Biodiversity Strategy and Action Plan 2000	Focuses on elements of resilience such as sustainable use and maintaining functioning ecosystems.
National Climate Change Policy 2017-2027	Provides context and discrete actions in dealing with climate change adaptation
Climate Change Implementation Strategy (2017)	Identifies guidelines to build a climate resilient society and promote green development pathways by mainstreaming and integrating climate change into key national socio – economic and environmental sectors.
National Adaptation Programme of Action (2007)	Identify and prioritizes national needs that could be effectively implemented to combat the adverse effects of climate change.
Range Resources Management Policy 2014	Promotes elements of climate change through sustainable development and management of rangeland resources and motivates for improved legislation and implementation thereof.
Food Security Policy, 2005	Addresses elements of climate change including recognising that conservation agriculture could reduce the impacts of climate change. Recognises that agriculture is dependent on environmental resources and that climate change has serious impacts on agriculture and livestock sectors.
Lesotho Food and Nutrition Policy (LFNP) 2016-2025	Addressed climate change from a food production perspective by promoting climate-smart technologies but does not explicitly address protection production potential by addressing / preventing environmental degradation.
National Strategic Development Plan II 2019-23	Explicitly connects environmental degradation to impacts of climate change and consequences for human well-being. Focusses on climate change resilient and sustainable growth with climate change and environment as mainstreamed priorities to build climate change resilience across all sectors.
National Irrigation Master Plan and Investment Framework 2020	Highlights climate change impacts on agriculture and food security and the importance of irrigation as an adaptation strategy. Does not consider impact of climate change on irrigation. Proposes monitoring performance indicators that include the effect of climate change.

The effect of the weak policy and legal environment, in terms of support for mainstreaming climate change adaptation, is further compounded by the dissonance between a number of traditional customs and statutory laws. The control of some practices that contribute to environmental degradation are challenging due to their deep rootedness in culture and tradition. Examples of this include:

- Strong attachment to livestock as a form of wealth / savings drives, which translates into unsustainable livestock stocking rates and overgrazing in some areas, leading to a degradation of ecosystems and habitats (such as wetlands) that are critical for adaptation to the impacts of climate change.
- The use of stover remaining in the field once the crop has been harvested for livestock grazing is ongoing and considered a right by livestock owners. This despite the introduction of conservation agriculture practices, which requires that stover be left in the fields as a strategy to retain soil moisture.
- As primary users of natural resources, women have a key role to play in their management and decision making. Yet culture and tradition mean that women remain largely excluded from strategic natural resource and land use management decision making at a local level.
- There is little investment by land and natural resource users in sustainable land management due to insecure land and resource tenure, which contributes to overuse and degradation of natural ecosystems that are important for ecosystems-based adaptation to the impacts of climate change (e.g., wetlands and rangelands). Weak perceptions of ownership in communal areas (e.g., Category A and B grazing areas) underlies a situation in which individuals with access to shared resources act in their own interest rather than the greater interest of society (and the environment) and thereby ultimately deplete the resource.

These challenges are exacerbated by a lack of decentralization and the erosion of the powers of traditional leaders (Chiefs and headmen) to control and enforce resource management regulations.

2.3.2 Institutional environment

Climate change adaptation has no legal basis across the Ministries in sectors that are key to ICM (i.e., water, environment, agriculture, rangelands, local government, etc.). Key ICM departments operate within silos, which results in a lack of integrated planning particularly in relation to cross cutting issues such as climate change. Furthermore, there is lack of capacity to discharge mandates particularly at local level where climate change adaptation interventions are required to give effect to policy.

Lesotho Meteorological Services (LMS) is broadly seen as responsible for mainstreaming climate change adaptation, but the absence of legislation means that there is a lack of legal tools and instruments to give effect to this. The National Climate Change Coordinating Committee (NCCC) is a forum that is tasked with the cross sectoral coordination of climate change issues in the country. However, it has no legislative basis and hence it is an advisory body with no power to compel stakeholders to implement some of their recommendations. The mandates of the Ministries represented on the NCCC therefore continue to be prioritised.

There are many grey areas regarding roles and responsibilities of the institutions across the sectors that are key to ICM. Whilst each Department has their specific mandates, adaptation objectives will not be realised until at least areas of conflict and grey areas are resolved. For example, wetlands are a transition between land and water and happen to also be rangelands. Furthermore, the lack of effective decentralization, particularly among Ministries that are central to ICM, inhibits the development of locally appropriate adaptation strategies and interventions at District and Community Council levels.

The ICM unit at the DWA is recognised as coordinating and driving ICM activities in the country, however the need to highlight that ICM is not only a water issue but rather cross cutting that incorporates climate change adaptation needs to be emphasised.

2.3.3 Human and financial capacity

Lesotho does not currently effectively access international funding that is available to support climate change adaptation, particularly in Least Developed Countries. Inadequate national level capacity and the absence of an effective approach is a limitation. The absence of a consolidated national fund to responsibly manage and resource climate change adaptation interventions undermines the implementation of climate change adaptation interventions at a meaningful scale, and potentially undermines donor confidence. Furthermore, there is no pre-requisite for incorporation of climate change adaptation into nationally funded project planning. The resultant scarcity of financing results in strategies and sectoral plans that are without financial and human resources and timelines for implementation, which results in a lack of implementation.

2.3.4 Information and capacity

Planning and implanting effective climate change adaptation requires science-based information and capacity. However, there is a lack of national resources to undertake vulnerability and risk assessments at an appropriate scale to inform strategies and plans that address local adaptation priorities. Furthermore, there is also a lack of research, monitoring and evaluation to inform revision and adaptation of strategies and action plans. There is no integrated information management system for the analysis and evaluation of information across sectors.

The scarcity of science based data and information is also a challenge for reporting. Lesotho has a number of international obligations on climate change adaptation reporting. There are currently three main reports prepared and submitted in terms of climate change adaptation:

- Voluntary National Review (VNR), which is coordinated by Ministry of Development Planning.
- UNFCCC National Communications – the UNFCCC focal point in Lesotho, i.e., LMS, is largely responsible for this report with financial support from GEF. UNEP provides technical and training support.
- Nationally Determined Contributions (NDC) Report is required from countries participating under the Paris Agreement. NDC is largely a plan that lists activities the country shall implement under climate action.

Other than the Climate Change Policy of 2017, there is no legal framework that requires monitoring and data collection relating to for example meeting climate change adaptation targets. A lack of data is therefore a challenge.

There is a lack of tools, standards and guidelines for climate change mainstreaming across main sectors, and Ministerial and Departmental staff in the different sectors often do not have the capacity to apply those tools and information that do exist for mainstreaming climate change adaptation.

3 Findings and recommendations

The following key findings and proposed recommendations summarise the outcomes of the results analysis in terms of mainstreaming climate change adaptation into ICM:

Finding 1: The weak policy environment undermines mainstreaming and consistency in climate change adaptation across key ICM sectors.

- a) The inclusion of climate change adaptation is not a legal requirement for Ministries in sectors that are key to ICM (i.e., water, environment, agriculture, rangelands, etc.). Protecting ecosystem functioning is a fundamental principle of climate change adaptation given its ability to support ecosystems-based adaptation. ICM is significant for maintaining ecosystem functioning and managing degradation. There are a number of Ministries that have policies and legislation that have the potential to contribute to the mainstreaming of climate change adaptation through the protection and sustainable management of the natural environment. These include for example Ministry of Water; Ministry of Tourism, Environment and Culture; Ministry of Forestry, Range and Soil Reclamation; and the Ministry of Agriculture and Food Security). Most of the principal legislation directly covers aspects of ecosystem protection which therefore supports a level of climate change adaptation without it being explicit. For example, rehabilitation of degraded wetlands, soil and water conservation, rangeland management, biodiversity protection and control of alien invasive species. However, the legislative and policy framework of these Ministries addresses environmental management and the protection of key habitats from different sectoral and largely fragmented perspectives. As a consequence, there is no enabling environment for collective and integrated environmental protection and rehabilitation, which is critical for climate change adaptation at a meaningful scale. Examples of challenges include:
- i. There is an overlap between the legislation and mandates of some key ICM Ministries, resulting in inconsistent approaches to management of key habitats e.g., wetlands.
 - ii. There are gaps in the policy and legal frameworks across key ICM Ministries, resulting on a lack of regulations to prevent negative impacts of land use on ecosystem health (e.g., to prevent the maximization of agricultural production on rangelands at the cost of ecosystem health; or regulation of infrastructure development that fragments and degrades functioning ecosystems).
 - iii. Despite the inclusion of biodiversity conservation and protection of the natural environment, the Environment Act (2008) has not been instrumental in driving integrated and cross-sector approaches to protect and manage the environment, particularly from the perspective of the potential for ecosystem-based adaptation.
 - iv. Some legal frameworks are outdated in some aspects, for example the Town and Country Planning Act, which focuses on development without any consideration of impacts of climate change and the need for resilience. Land-use and development planning does not take into consideration impacts of climate change, and the legislative requirements are poorly implemented and largely lack of enforcement, especially in rural areas. Other legal frameworks are outdated with respect to penalties and fines that are inadequate to deter infringements such as livestock grazing in protected areas.
- b) The recognition of the role of stakeholder engagement, particularly processes involving communities, in ICM related policies and strategies is limited, as is the recognition of the need for partnerships with civil society and the private sector.

Recommendation:

1. Mainstream climate change adaptation into multi- and inter-sectoral ICM policy and legal framework. This can be achieved through the introduction of a dedicated legislative instrument (ideally an ICM Act), which provides a formal legislative basis for ICM implementation. Alternatively, this may require legislative amendment of an appropriate lead instrument (e.g., the 2008 Environment Act), to incorporate the requirement of promoting human rights and gender equality. In addition, this would require corresponding amendment of other instruments relevant to implementation of ICM in Lesotho.
2. Embed climate change adaptation in the development and implementation of local level ICM plans. This requires the development of the necessary capacity within government institutions and authorities at all levels. This includes the introduction of a regulatory framework to enforce statutory requirements relating to the protection of adaptation interventions (e.g., conservation agriculture practices) across key ICM sectors.

Finding 2: Institutional operations are fragmented and lack capacity resulting in conditions that are unconducive for the mainstreaming of climate change adaptation across sectors that are key to ICM.

- a) Key ICM related Departments are working in silos, which results in a lack of integrated planning particularly in relation to cross cutting issues such as managing and restoring ecosystems (including catchment management). Furthermore, there is weak capacity to discharge mandates particularly at local level where climate change adaptation interventions are required to give effect to policy.
- b) Lesotho Meteorological Services (LMS) is broadly seen as responsible for mainstreaming climate change adaptation, but the absence of legislation means that there is a lack of legal tools and instruments to give effect to this.
- c) The National Climate Change Coordinating Committee (NCCC) is a forum that is tasked with the cross sectoral coordination of climate change issues in the country. However, it has no legislative basis and hence it is an advisory body with no power to compel stakeholders to implement some of their recommendations. The policy and legal frameworks of the Ministries represented on the NCCC therefore continue to be prioritised.
- d) There are many disparities regarding responsibilities and management objectives of key ecosystems across the sectors that are key to ICM. For example, the management objectives for wetlands, which are significant in terms of their role in supporting climate change adaptation (e.g. through their flood attenuation and stream flow regulation functions) need to be clarified so that their consistent management is integrated across all the key ICM Ministries and at all levels of governance (i.e. Department of Water Affairs, Department of Environment, Department of Rangeland Management, Chiefs, local government, grazing associations etc.).
- e) A lack of capacity limits effective climate change adaptation decision making and planning at national, district and local levels. There is a lack of tools, standards and guidelines for climate change mainstreaming across main sectors, and Ministerial and Departmental staff in the different sectors often do not have the capacity to apply those tools and information that do exist for mainstreaming climate change adaptation. The high staff turnover, particularly at local level, means that capacity is continuously lost and needs to be re-developed through repeated capacity development programmes, which comes at a high cost. Government departments and authorities therefore continue, in general, to implement conventional ICM interventions and not to adopt or test new innovations that enhance and integrate climate change adaptation into catchment management and development (for example the adoption of earth dams to enhance water security).

Recommendation:

3. Develop an integrated ICM organizational framework that supports cross sectoral cooperation for mainstreaming climate change adaptation into ICM.
4. Develop capacity among authorities at all levels to understand climate change adaptation and to integrate it into ICM planning and decision making at all levels.

Finding 3: Lack of adequate financing for planning and implementation of climate change adaptation at a meaningful scale for effective ICM.

- a) The absence of an effective national approach and capacity limits access to international climate change adaptation funding, which is required to implement climate change adaptation as an integrated component to catchment management at a meaningful scale.
- b) The lack of a consolidated national fund to responsibly manage and effectively resource climate change adaptation interventions potentially undermines donor confidence.
- c) There is a lack of national resources to undertake climate change vulnerability and risk assessments at an appropriate scale, to inform the development of resilient ICM strategies and plans that address local level priorities.
- d) A scarcity of financing results in climate change adaptation strategies and sectoral plans without financial and human resources and timelines for implementation, which results in the omission of adaptation as a significant component of ICM.
- e) There is no pre-requisite for consideration of climate change risks and the incorporation of adaptation into nationally funded ICM related interventions. The Public Sector Investment Committee (PSIC) does not appear to have criteria relating to climate change for the evaluation of interventions before funding by the Ministry of Finance. For example, the Government input subsidy programme under the Ministry of Agriculture and Food

Security (which is the largest national subsidy programme) does not include criteria or targets for climate change resilience and mitigation of vulnerability (e.g., seed varieties, and conservation agriculture practices).

- f) International donor programmes are consistent in incorporating climate change adaptation criteria in all funding programmes. With support from the donor community and the other aid agencies, NGOs have successfully demonstrated a number of sustainable agricultural interventions that incorporate climate change adaptation and contribute to ICM e.g., conservation agriculture. Government Departments include criteria on climate change adaptation in projects to be funded through donor programmes, but this approach is not being mainstreamed into nationally funded programmes.

Recommendation:

5. Establish a consolidated national climate change fund and enhance capacity to increase access to funding and improving donor and investor confidence.
6. Incorporate criteria and targets reflecting legal requirements for climate change adaptation as a pre-requisite for the evaluation of all nationally funded ICM interventions. This can be addressed by stipulating these as a requirement under a new ICM Act, or alternatively through the legislative amendment of the Environment Act as an appropriate lead instrument for ICM.

Finding 4: Limited decentralization inhibits the identification and incorporation of locally appropriate adaptation interventions into ICM and development plans at district and community levels.

- a) National level determination of adaptation interventions and financial control results in the investment of scarce financial resources into adaptation interventions that are not necessarily locally appropriate or not addressing local priorities. Finances and technical planning for adaptation are still in the full control of central government. This is challenging or design and implementation of adaptation interventions that are integrated with other local level catchment management and developmental priorities. It also creates the potential for political control of local level development agendas.
- b) There is limited decentralization for key Ministries that are central to implementation of adaptation interventions as a component of ICM, and there is lack of capacity (relating to climate change in particular) to discharge mandates particularly at local level where interventions are required to give effect to policy. This inhibits the development of locally appropriate adaptation strategies and interventions at district and community levels.
- c) The situation is further complicated by overlapping mandates regarding land management responsibilities, particularly between councillors and traditional chiefs. In many rural communities, the chiefs continue to allocate land to people, even though this is formally the role of local councillors under the legislative framework. This results in challenges for the enforcement of rules and controls for sustainable land and resource use management, which is critical to adaptation and ecosystem functioning.
- d) Participatory and inter-disciplinary approaches to adaptation planning and decision making at local levels is largely absent, and there is little formal recognition of the role of stakeholders in ICM and adaptation decision making, including for example the private sector, CBOs, NGOs and local authorities.

Recommendation:

7. Integrate climate change adaptation mandates and responsibilities into the decentralisation of key ICM Ministries, supported by adequate budgets and provision of much needed capacity for district and local authorities.

Finding 5: There is dissonance between a number of traditional customs and statutory laws which makes it challenging to the control of some practices that contribute to environmental degradation, which has negative implications for the capacity for ecosystem-based adaptation.

- a) A number of cultural and traditional land and resource use practices contradict sustainable environmental management practices that are prescribed in the statutory national policy and legal framework, and therefore undermine climate change adaptation. Examples of this include:
 - o Strong attachment to livestock as a form of wealth / savings drives, which translates into unsustainable livestock stocking rates and overgrazing in some areas, leading to a degradation of

ecosystems and habitats (such as wetlands) that are critical for adaptation to the impacts of climate change.

- The use of stover remaining in the field once the crop has been harvested for livestock grazing is ongoing and considered a right by livestock owners. This despite the introduction of conservation agriculture practices, which requires that stover be left in the fields as a strategy to retain soil moisture.
 - As primary users of natural resources, women have a key role to play in their management and decision making. Yet culture and tradition mean that women remain largely excluded from decision making at a local level.
- b) Current land tenure systems do not encourage investment in long term sustainable land use management practices and in some cases even contribute to ecosystem degradation, which has negative implications for the capacity for ecosystem-based adaptation. For example:
- There is little investment by land and natural resource users in sustainable land management due to insecure land and resource tenure, which contributes to overuse and degradation of natural ecosystems that are important for ecosystem-based adaptation to the impacts of climate change (e.g., wetlands and rangelands).
 - Weak perceptions of ‘ownership’ in communal areas (e.g., Category A and B grazing areas) underlies a situation in which individuals with access to shared resources act in their own interest rather than the greater interest of society (and the environment) and thereby ultimately deplete the resource.
 - This challenge is exacerbated by a lack of decentralization and the erosion of the powers of traditional leaders (Chiefs and headmen) to control and enforce resource management regulations. It highlights the need to include both the Chiefs and Councillors in the catchment level governance systems.

Recommendation:

8. Promote alternative ways in which traditions and cultural practices that affect ICM could be practiced without violating statutory law, and by encouraging elements of dualism where possible.
9. Harmonise the roles and mandates of Chiefs (natural resources management) and Councillors (development responsibilities) to strengthen land and resource tenure systems and to incorporate climate change adaptation considerations into these systems in support of ICM.

Finding 6: There is a lack of science-based information to integrate climate change adaptation into ICM strategies and plans at all levels, and to support international climate change reporting obligations.

- a) Global climate change models have not been adequately downscaled to identify climate change vulnerabilities at a meaningful local scale. The planning and implementation of adaptation and resilience building into ICM interventions is therefore challenging. Interventions tend to be generic and do not necessarily target local risks and priorities. Adaptation plans are therefore not adequately calibrated to address locally specific vulnerabilities in terms of impacts to the environment, land use practices or livelihoods. For example, water scarcity is widely addressed through water supply interventions (boreholes, and dams and water tanks) in the absence of a holistic suite of interventions that include ecological aspects of adaptation and resilience building for example the rehabilitation of degraded wetlands and riparian areas. This is partially attributed to the lack of robust science-based evidence providing evidence of the impact that these degradations are having on local water insecurity.
- b) There is currently a lack of research, monitoring and evaluation to generate science-based information to inform the incorporation of adaptation into ICM strategies and action plans⁹. Furthermore, there is no integrated information management system for the analysis and evaluation of information across sectors. Challenges include:
- Lack of continuous data collection and analysis undertaken across relevant sectors over stipulated periods.
 - Lack of regulatory framework requiring the collection and reporting of data by all key Ministries and stakeholders.

⁹ Assessments are planned through ReNoka to develop information to support climate change adaptation in details in priority sub-catchments and broadly across the catchments which will help to address this challenge

- Lack of dedicated financing to cover ongoing data collection and analysis by key Ministries.

Some organisations with access to resources are commissioning their own vulnerability assessments to address their particular operational ICM focus. This however increases the silo approach to operations which undermines the achievement of an integrated climate change adaptation strategy in ICM across Lesotho.

- c) There are currently three reports prepared and submitted in terms of international climate change obligations:
- Voluntary National Review (VNR), which is coordinated by Ministry of Development Planning. The most recent report was produced in 2019 with UNDP financial sponsorship. LMS contributed to the report based on existing national reports (e.g., existing national communications). Desktop reporting was used to contribute to the VNR and LMS provided information based on what they had available at the time.
 - UNFCCC National Communications – the UNFCCC focal point in Lesotho, i.e., LMS, is largely responsible for this report with financial support from GEF. UNEP provides technical and training support. UNFCCC provides guidelines that set how countries should report and what information to report. The 3rd National communications report covers vulnerability, the status of GHG emissions, on the country's potential to reduce emissions, as well as the adaptation strategy the country intends to use to reduce emissions. Adaptation has been a focus area for Lesotho's reporting so far. Countries are also required to produce Biennial Update Reports (BUR) which contribute to the national communications. Actions reported against are usually those aligned with the country's National Adaptation Plan (NAP) or from the National Adaptation Programme of Action (NAPA). Lesotho has produced its first BUR.
 - Nationally Determined Contributions (NDC) Report is required from countries participating under the Paris Agreement. NDC is largely a plan that lists activities the country shall implement under climate action. National communications & BURs are used to track progress even in this case. The Paris Agreement also introduces the Enhanced Transparency Framework, which also requires a new report i.e., the Biennial Transparency Report (BTR). BTR more demanding in terms of the data required to affect this type of reporting. It will be critical that Lesotho establishes its own domesticated MRV system (Measuring, Reporting and Verification) to meet these reporting requirements. The BTR is meant to make this data collection and reporting a continuous process.

Shortcomings and challenges experienced in the compilation of these reports include:

- Other than the Climate Change Policy of 2017, there is no legal framework that requires monitoring and data collection relating to for example meeting climate change adaptation targets. A lack of data is therefore a challenge. LMS aspires to develop its own Measuring Reporting and Verification (MRV) system on climate action. They intend to have this system integrated/interlinked with reporting requirements under SDGs, so that it doesn't overburden whoever is responsible for collecting this data to report against indicators. Lesotho Bureau of Statistics (BoS) provides some data on GHG emissions (in its Quality Energy and Agriculture Sector data). BoS already collects this as one of its ministerial functions. Data on vulnerability is also generated through some projects for example LVAC (Lesotho Vulnerability Assessment Committee which consists of multi-stakeholder institutions that undertake vulnerability assessments throughout the country, especially related to agriculture).
- Lack of legislation/regulatory framework that legally binds stakeholders such as the private sector to report is a challenge. Industry/Private sector stakeholders are not willing to share data or any information that relates to how climate change affects them or how their operations contribute to GHG emissions. They have a perception that whoever tries to gain this understanding could be out to sabotage their business operations or intends to share it with their competitors.
- Lack of dedicated financing to support continuous reporting requirements. Therefore, there is need to put in place projects that will be implemented to assist Lesotho establish its MRV system. Through the BUR, Lesotho identified what needs to be done to build the MRV system. These projects will make the reporting more sustainable. Lesotho is not yet started on BTR process.
- Challenge with BTR reporting in particular is that it requires intense stakeholder engagement and data collection in order to produce this level of report.
- LMS has Technical Working Groups established per thematic area to meet reporting requirements. E.g., Vulnerability and Adaptation Assessment (VAA) Tech working groups, GHG technical working groups and a Pool of Consultants from where LMS can draw on their support to assist in this kind of reporting. These relationships with Technical Working Groups need to be established formally over

longer time periods through MoUs, so that there will be continuous collection of data to enable reporting tapping of this pool of associates.

- There are information platforms at some level within some Ministries relevant to ICM and efforts towards integration are ongoing.

Recommendation:

10. Establish a national cross sectoral science-based information platform to develop local capacity for research, monitoring and evaluation of climate change impacts and adaptation as it relates to ICM.

4 Proposed actions

The following proposed actions have been identified as a guide towards implementation of the key recommendations for mainstreaming climate change adaptation in ICM:

Proposed action	Recommendation to which action relates	Priority	Time-line	Main actors
Finding 1 - The weak policy environment undermines mainstreaming and consistency in climate change adaptation across key ICM sectors.				
<p>e) Clarify the roles and responsibilities of the institutions within the water, environment, rangelands and agricultural sectors in relation to the maintenance of ecosystem functioning and climate change adaptation.</p> <p>f) Incorporate Climate change adaptation explicitly into revisions of the Water Act, Range Management Bill, and Environment Act, Town and Country Planning Act, as well as agricultural policy and regulations.</p>	<p>13. Mainstream climate change adaptation into multi- and inter-sectoral ICM policy and legal framework. This can be achieved through the introduction of a dedicated legislative instrument (ideally an ICM Act), which provides a formal legislative basis for ICM implementation. Alternatively, this may require legislative amendment of an appropriate lead instrument (e.g., the 2008 Environment Act), to incorporate the requirement of promoting human rights and gender equality. In addition, this would require corresponding amendment of other instruments relevant to implementation of ICM in Lesotho.</p>	1	1-3 years	ICM Coordination UNIT (ICU), Ministry of Water Affairs, Ministry Tourism, Environment and Culture, Ministry Forestry Range and Soil Conservation, Ministry Agriculture and Food Security, Department of Finance, Department of Development Planning (Public Sector Investment Committee), LMS, NCCC
<p>a) Expedite the finalisation of the Draft Climate Change Bill. Its impacts will, however, largely be determined by whether it takes precedence over existing legislation e.g., Environment and Water Acts, and new Range Bill.</p> <p>b) Develop a guideline to inform the incorporation of climate change adaptation into local level ICM plans¹⁰. Apply international best practice as well as the requirements of the national framework on climate change adaptation to inform the preparation of the guideline.</p> <p>g) Development of a new National Strategic Development Plan (NSDP III) to run from 2023, into which climate change adaptation is mainstreamed as a cross-cutting requirements of ICM implementation.</p> <p>h) Establish regulations requiring all environmental impact assessment and land use and infrastructure development consider climate change adaptation criteria for climate proofing.</p>	<p>2. Embed climate change adaptation in the development and implementation of local level ICM plans. This requires the development of the necessary capacity within government institutions and authorities at all levels. This includes the introduction of a regulatory framework to enforce statutory requirements relating to the protection of adaptation interventions (e.g., conservation agriculture practices) across key ICM sectors.</p>	1	1-3 years	

¹⁰ With reference to the Concept Note: Process for the development of Draft Catchment Management Plans 2021-23 for 6 Priority Sub-Catchments 14 September 2020 – 0Draft 3 November 2020 – v1 after ICU meeting of 26 Oct 2020 Latest version – 19 Nov 2020

Finding 2 - Institutional operations are fragmented and lack capacity resulting in conditions that are un conducive for the mainstreaming of climate change adaptation across sectors that are key to ICM.				
<p>d) Expand and strengthen the ICM Coordination Unit to address ICM more broadly, including capacity to support the mainstreaming of climate change adaptation, and reinforce its capacity to function across relevant sectors.</p> <p>e) Expedite the drafting of the Climate Change Bill and incorporate regulations to strengthen the capacity and authority of NCCC to enhance inter-sectoral and multi-stakeholder participation and address gaps and constraints in effectiveness and operationalise the NCCC and its sub-committees.</p>	<p>4. Develop an integrated ICM organizational framework that supports cross sectoral cooperation for mainstreaming climate change adaptation into ICM.</p>			<p>ICM Coordination UNIT (ICU), Ministry of Water Affairs, Ministry Tourism, Environment and Culture, Ministry Forestry Range and Soil Conservation, Ministry Agriculture and Food Security, Department of Finance, Department of Development Planning (Public Sector Investment Committee), LMS, NCCC</p>
<p>b) Develop capacity building tools to assist authorities and stakeholders in ICM related sectors to mainstream climate change in their ICM programmes.</p> <p>c) Develop a programme with adequate resources to enhance capacity at all levels of government for the mainstreaming of climate change adaptation in a cross sectoral ICM Framework.</p>	<p>5. Develop capacity among authorities at all levels to understand climate change adaptation and to integrate it into ICM planning and decision making at all levels.</p>			<p>ICM Coordination UNIT (ICU), Ministry of Water Affairs, Ministry Tourism, Environment and Culture, Ministry Forestry Range and Soil Conservation, Ministry Agriculture and Food Security, Department of Finance, Department of Development Planning (Public Sector Investment Committee), LMS, NCCC, Ministry of Local Government and Chieftainship</p>
Finding 3 - Lack of adequate financing for planning and implementation of climate change adaptation at a meaningful scale for effective ICM.				
<p>b) Build capacity at a national level to access international climate funding for adaptation in Lesotho.</p> <p>c) Investigate cases where other countries have established consolidated national climate funds to learn from their experience to inform the design of a fund for Lesotho that integrates ICM and climate change adaptation.</p>	<p>6. In Establish a consolidated national climate change fund and enhance capacity to increase access to funding and improving donor and investor confidence.</p>	2	1-3 years	<p>ICM Coordination Unit (ICU), Department of Finance, Department of Development Planning (Public Sector Investment Committee), LMS, NCCC</p>
<p>c) Develop criteria and targets that reflect national requirements for climate change adaptation</p> <p>d) Present the criteria and targets to Ministry of Finance to raise awareness of the need for their incorporation into nationally funded ICM programmes.</p>	<p>7. Incorporate criteria and targets reflecting legal requirements for climate change adaptation as a pre-requisite for the evaluation of all nationally funded ICM interventions. This can be addressed by stipulating these as a requirement under a new ICM Act, or alternatively through the legislative amendment of the Environment Act as an appropriate lead instrument for ICM.</p>	1	1-3 years	

Finding 4 - Limited decentralization inhibits the identification and incorporation of locally appropriate adaptation interventions into ICM and development plans at district and community levels.				
b) Develop targeted, practically relevant, training on integrating climate change adaptation into ICM implementation at a local level as part of a broader ICM capacity building programme.	7. Integrate climate change adaptation mandates and responsibilities into the decentralisation of key ICM Ministries, supported by adequate budgets and provision of much needed capacity for district and local authorities.	1	0-1 year	ICM Coordination UNIT (ICU), Ministry of Water Affairs, Ministry Tourism, Environment and Culture, Ministry Forestry Range and Soil Conservation, Ministry Agriculture and Food Security, Department of Finance, Department of Development Planning (Public Sector Investment Committee), LMS, NCCC, Ministry of Local Government and Chieftainship
Finding 5 - There is dissonance between a number of traditional customs and statutory laws which makes it challenging to the control of some practices that contribute to environmental degradation, which has negative implications for the capacity for ecosystem-based adaptation.				
f) Explore a system to integrate traditional land and resource use practices and statutory laws relating to ICM, particularly for communal rangeland areas (e.g., Category A and B grazing areas) to incentivise long term sustainable land management.	8. Promote alternative ways in which traditions and cultural practices that affect ICM could be practiced without violating statutory law, and by encouraging elements of dualism where possible.	2	3-5 years	ICM Coordination UNIT (ICU), Ministry of Water Affairs, Ministry Tourism, Environment and Culture, Ministry Forestry Range and Soil Conservation, Ministry Agriculture and Food Security, Department of Finance, Department of Development Planning (Public Sector Investment Committee), LMS, NCCC, Ministry of Local Government and Chieftainship, Ministry of Justice
g) Develop a system to monitor and evaluate where there is discourse between statutory law and tradition / customary practices to inform mediation, conciliation, and negotiation mechanisms.				
a) Intensify educational campaigns to ensure that those who engage in such practices are sensitized about the law and also the disadvantages of these practices.	9. Harmonise the roles and mandates of Chiefs (natural resources management) and Councillors (development responsibilities) to strengthen land and resource tenure systems and to incorporate climate change adaptation considerations into these systems in support of ICM.			Community ICM groups, Chiefs/Headmen, ICU; Ministries of Water, Environment, Forestry, Rangelands and Soil reclamation; and Ministry of Agriculture and Food Security
Finding 6 - There is a lack of science-based information to integrate climate change adaptation into ICM strategies and plans at all levels, and to support international climate change reporting obligations.				
c) Design a system, considering where the system is housed and how it is resourced to ensure its sustainability. Options could include building on existing programmes, such as the IWRM Programme at the National University of Lesotho.	10. Establish a national cross sectoral science-based information platform to develop local capacity for research, monitoring and evaluation of climate change impacts and adaptation as it relates to ICM.	2	1-3 years	LMS; National ICM Coordination Unit, COW, ICM related technical ministries, ICM Community Groups, CC, DC, CMJC
d) A national climate change vulnerability assessment needs to be commissioned to inform policy and strategies that are locally specific and relevant, and to ensure that science-based information is available at a scale that adequately informs the development of effective local level plans. The vulnerability assessment and resultant				

<p>strategies and plans need to reflect regional variations across the country.</p> <p>e) Develop regulations that make data collection and reporting on adaptation mandatory by stakeholders (government and non-state actors) across key ICM sectors.</p>				
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Annexes

Annex 1: Stakeholder Interview Guide

Introduction

The purpose of this interview guide is to support preliminary consultation on the extent to which the existing framework of policy and legislation supports effective ICM implementation in Lesotho. This round of consultation focuses on two specific aspects:

- Section 1 – A review of what stakeholders see as the key policies and legislation for their work related to ICM implementation, and their experience in implementing the requirements arising under these instruments.
- Section 2 - Stakeholders’ perceptions regarding the applicability and relevance of these policies and legislation, and the extent to which they (can) provide an adequate enabling environment for ICM implementation in Lesotho.

These questions provide a framework for discussion and a guide on the range of issues to be explored. They are not necessarily intended as a checklist to be answered individually.

We would also welcome any additional insights and information you are able to provide that might not be directly addressed in the questions set out below.

3. What are the main legal framework(s) (national laws, policies, strategies and plans) relevant for your work relating to ICM, e.g., Environment Act 2008; Water Act 2008; Town & Country Planning Act 1980; 2016 Long-Term Water and Sanitation Strategy?
 - e) Please list
 - f) Please explain briefly how these laws, strategies or plans are relevant for your work (at national, district, local level).
 - g) Are the principles and requirements of national laws clearly reflected in the strategies and plans relevant for your work?
 - h) Do the national laws, policies, strategies, and plans give you adequate and practical “tools” / mechanisms to support your activities/responsibilities?
 - v. If yes, please list which tools/ mechanisms are available?
 - vi. If no, please highlight what the gaps are?
 - vii. What institutional linkages between national level organisations exist to assist you in the fulfilment of your responsibilities?
 - viii. Are these linkages adequately established and functioning?

Workstream 2:

- c) Are the legislative requirements for human rights and gender clearly reflected in the policies and legislation, strategies and plans relevant for your work?
 - ii. If yes are they consistent with current human rights and gender policy and legislation?
- d) Do the policies and legal frameworks give you adequate tools and mechanisms to meet the human rights and gender requirements stemming from your activities/responsibilities?
 - v. If yes, please list which tools/ mechanisms are available?
 - vi. If no, please highlight what the gaps are?
 - vii. What institutional linkages between national level organisations exist to assist you in the fulfilment of your responsibilities?
 - viii. Are these linkages adequately established and functioning?

Workstream 3:

- c) Are the legislative requirements for mainstreaming climate change adaptation clearly reflected in the policies and legislation, strategies and plans relevant for your work?
- ii. If yes are they consistent with current climate change adaptation policy and legislation?
- d) Do the policies and legal frameworks give you adequate tools and mechanisms to meet the climate change adaptation requirements stemming from your activities/responsibilities?
- v. If yes, please list which tools/ mechanisms are available?
- vi. If no, please highlight what the gaps are?
- vii. What institutional linkages between national level organisations exist to assist you in the fulfilment of your responsibilities?
- viii. Are these linkages adequately established and functioning?
4. Overall, what are your main observations regarding applicability and relevance of the national law, policies, strategies and plans for supporting ICM implementation, particularly in terms of:
- d) Effectiveness:
- Do the measures appropriately address key objectives of ICM implementation (sufficient mandate; scope; practicable level of administration)?
 - Do the measures contribute to a practicable regime for ICM implementation (sufficiently flexible; implementable; practically enforceable; financially sustainable)?
- e) Holistic / Cross-sectoral:
- Do the measures link with the mandates of other ministries and departments (e.g., Ministries of Water; Tourism, Environment & Culture; Forestry, Range & Soil Conservation; Development Planning; Agriculture & Food security; etc.) and do the measures contribute to an integrated policy framework?
 - Are there gaps / overlaps regarding key functions (e.g., enforcement)?
 - Are there any ambiguities regarding scope of application?
- f) Proportionality:
- Are the measures likely to achieve their legitimate aims?
 - Are the measures cost-effective?
 - Do the measures involve equitable distribution of costs/benefits across all sectors?
- f) Currency:
- Are the measures outdated in terms of their objectives, scope or approach?
 - Do they require updating (e.g., regarding penalties) or require consolidation / codification (to incorporate successive amending measures)?
- g) Consistency:
- Do the measures promote objectives of ICM implementation in a manner consistent with the strategies/plans of other Ministries/Departments engaged in ICM implementation?
 - Do the measures conflict with objectives of other Ministries/Departments engaged in ICM implementation?
 - Do the measures conflict with other (ICM-related) national measures?
4. Participatory (ensuring equitable participation):
- Do the measures raise awareness of objectives of ICM implementation?
 - Do the measures promote transparency – by means of freedom of (timely) public/stakeholder access to relevant information?
 - Do the measures promote public/stakeholder participation in ICM-related decision-making – by means of appropriate and equitable consultation?
 - Do the measures permit and facilitate reviewability of decisions – by means of a general right (and practicable means) to review decisions made thereunder?
6. Monitoring and evaluation:

- Are procedures and processes for ICM implementation being adequately monitored and evaluated?
- Is the effectiveness of ICM implementation at different levels (national, district, local) monitored and evaluated?
- Are assessments undertaken to inform improvements to ICM-related policies, strategies and plans?

7. Enabling environment:

- Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for ICM implementation?
- Is there a lack of finance or other resources, lack of skills/ capacity, or any other relevant challenges of which you are aware?

Workstream 4: Final report on decentralisation



Workstream 4: Final report on decentralisation

GIZ - Support to Policy Harmonisation in Integrated Catchment Management

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List of abbreviations and acronyms

AG	Attorney General	LEWA	Lesotho Electricity and Water Authority
APA	Annual Performance Assessment	LG	Local Government
BoS	The Lesotho Bureau of Statistics	LGA	Local Government Act
CC	Community Council	LHDA	Lesotho Highlands Development Authority
CCF	Community Conservation Fund	LHWP	Lesotho Highlands Water Project
CCSAP	SADC Climate Change Strategy and Action Plan	LLWDS	Lesotho Lowlands Water Development Scheme
CMJC	Catchment Management Joint Committee	LMDA	Lesotho Millennium Development Agency
CMP	Catchment Management Plan	LNDC	Lesotho National Development Corporation
CoW	DWA Water Commission	LoCAL	Local Climate Adaptive Living Facility
CPU	(Sub-)Catchment Planning and Implementation Unit	LWSP	Lesotho Water and Sanitation Policy 2007
CRS	Catholic Relief Services	MAFS	Ministry of Agriculture and Food Security
DA	Development Authority	MCs	Minimum Conditions
DA	District Administrator	MEM	Ministry of Energy and Meteorology
DC	District Council	MFRSC	Ministry of Forestry, Range and Soil Conservation
DC	District Coordinator	MoF	Ministry of Finance
DCS	District Council Secretary	MoL	Ministry of Labour
DDP	Deepening Decentralization Program	MoLGCA	Ministry of Local Government and Chieftainship Affairs
DEAP	District Environmental Action Plan	MTEC	Ministry of Trade, Environment, and Culture
DF	District Fund	NDP	National Development Plan
DRWS	Department of Rural Water Supply	NEAP	National Environmental Action Plan
DS	District Secretaries	NGO	Non-Governmental Organisation
DWA	Ministry of Water: Department of Water Affairs	NRM	Natural Resource Management
EIA	Environmental Impact Assessment	NSDP	National Strategic Development Plan
EIIF	Ecological Infrastructure Investment Framework	ODA	Official Development Assistance
EU	European Union	ORASECOM	Orange-Senqu Basin Commission
FAO	Food and Agriculture Organization	PBCRGs	Performance-Based Climate Resilience Grants
FD	Fiscal Decentralization	PEFA	Public Expenditure and Financial Accountability
GEF	Global Environment Facility	PES	Payments for Ecosystems
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit	ROLL	Regeneration of Livelihoods and Landscapes
GOL	Government of Lesotho	RRMA	Range Resources Management Act
GW	Ground water	SADC	Southern Africa Development Community
GWP-SA	Global Water Partnership-South Africa	SDGs	Sustainable Development Goals
HR	Human Resources	SEA	Strategic Environmental Assessment
ICM	Integrated Catchment Management	SGP	Small Grants Program
ICU	ICM Coordination Unit	SLM	Sustainable Land Management
IEC	Information, Education and Communication	SNP	Sehlabathebe National Park
IFAD	International Fund for Agricultural Development	UNDP	United Nations Development Programme
IPSAS	International Public Sector Accounting Standards	WAMPP	Wool and Mohair Promotion Project
IWRM	Integrated Water Resources Management	WASCO	Water and Sewerage Company
WE	Water Efficiency	WCWSS	Western Cape Water Supply System
LAA	Land Administration Authority Act 2010	WS	Workstream
LCN	Lesotho Council of NGOs	WUC	Water User Certificate
LEC	Lesotho Electricity Company		

1 Introduction

1.1 Background and objectives

It is elaborated within the legislative and policy framework of Lesotho that “integrated catchment management” (ICM) involves a holistic approach to sustainable land and water planning and management which adopts a catchment perspective, in contrast to a traditional piecemeal approach that artificially separates the management of land, water and other natural resources. Lesotho’s 2016 Long-Term Strategy for Water and Sanitation Sector describes ICM as:

‘The integrated planning for sustainable development and management of land, water and natural resources in the catchment areas for the rivers in Lesotho. The aim is economic development and improved livelihood by sustainable management of water resources and land.’¹¹

Workstreams 4 contributes to the key local level activities 1.3 and 1.5, which are:

1.3 Development of a regulatory framework for the use of land and water resources:

- Study of local-level regulations of land and water use (incl. Review of user rights and obligations, formal and informal).

1.5 Support community councils to pass by-laws:

- Study options to enable community councils for local level ICM implementation by enacting local-level regulation (by-laws).

1.2 Methodology and activities

1.2.1 Instruments assessment tools

A mapping matrix tool was developed to screen a number of legal and policy documents or instruments related to integrated catchment management. The workstream team identified a total of sixty six of these to work on. The matrix table sought to arrange the selected policies and pieces of legislation in connection with a range of criteria against which the effectiveness of the current ICM local-level regulatory framework in Lesotho would be assessed. It followed, though not word for word, the key assessment criteria outlined in the Inception Report. It provided indicators on which of the instruments could pass to the next stage assessment. In so doing some of them were eliminated as of no relevance to the regulatory framework for the use of land and water resources.

The main question was whether a particular legislative or policy instrument applied to or covered any, some or all the key elements of the ICM. An outline of these elements is reproduced below:

- Sustainable soil management and erosion control;
- Sustainable water utilisation, management and pollution control;
- Maintenance of aquatic and related ecosystems, ecosystem services and biodiversity;
- Sustainable range management (for livestock rearing and crop production);
- Wetlands management and restoration;
- Water resources development and infrastructure operation;
- Sustainable planning of human settlements; and
- Governance reform in pursuit of all of the above.

If a particular measure, that is, legislative or policy instrument addressed one or more of the above elements, it was certainly relevant and, therefore, it was analysed. Ideally, the column titled ‘scope’ on the matrix table would

¹¹ Long-Term Strategy for the Water and Sanitation Sector (2016), at 15. The Long-Term Strategy lists the establishment of “catchment management” first among the Key Focus Areas (KFAs) set out therein.

require one to list specific ICM elements governed by the selected instrument, but for the purpose of avoiding wordiness, just showed the relevant sections or clauses if any; if none was to write a dash “-“. See an assessment of one the instruments as a sample in Annex 1.

Following the screening exercise twelve legal instruments and thirty two others were carried forward into the next step of assessment. A review matrix tool was applied with each instrument assessed individually against the key criteria:

- Effectiveness;
- Holistic / Cross-sectoral;
- Proportionality;
- Currency;
- Consistency;
- Participatory (ensuring equitable participation).

See Annex 2 for an instrument assessed using this tool.

1.2.2 Stakeholder consultations

At the central government level, virtual meeting discussions were held with departments in a number of ministries and a development assistance agency. A guiding questionnaire, common to all workstreams was adopted and used to trigger discussions (Annex 3). The following stakeholders were engaged:

- Department of Range Resources Management;
- Ministry of Local Government and Chieftainship Affairs;
- Ministry of Agriculture and Food Security;
- Ministry of Forestry, Range and Soil Conservation;
- Ministry of Tourism, Environment and Culture; and
- United Nations Development Programme – Small Grants Programme.

Guiding questionnaires for discussions was developed and agreed on within the ICM programme (Annex 3) for consultations within the ICM catchment areas.

It had been agreed that selection of sites for visits be in the ICM catchment areas, where there already was a hype of ICM activities. Criteria for selection was based on agro-ecological zones, namely the mountains, foothills, and lowlands. Senqu Valley was excluded because of limited resources. Areas selected were: Khubelu (Mokhotlong district for mountains), Makhalaneng (Maseru district for foothills), and Likhsetla (Mafeteng district for lowlands).

Although plans were to visit the sites, virtual meetings were eventually held by phone with these selected individuals:

a. Makhalaneng catchment (Maseru) - District Council Secretary, Council Secretary, two

Councillors, Principal Chief of Ha Maama, Range Management Officer (Regional),

Soil and Water Conservation Officer (Regional), Forestry Officer (Regional),

Councillor, Area Chief, and Wool and Mohair Promotion Project officer. These were out of 17 that had been identified.

b. Khubelu catchment (Mokhotlong) – District Council Secretary and Community Council Secretary from the list 13 potential interviewees.

The full lists were not explored for more information collection because there was no new information coming forth, even so in the case of the differences in agro-ecological zones.

1.2.3 Stakeholder information analysis

During the discussions with stakeholders, a record of proceedings was prepared from each session. All the information was entered into a Stakeholder Matrix Interview Analysis that was broken into Thematic Area, Analyst Overview and Preliminary Recommendations under each thematic area (see sample in Annex 4).

1.3 Problems encountered and risks

The major challenge encountered was the restriction on travel to conduct physical meetings with the stakeholders. It became more pronounced in the case of district consultations. Since it had been planned to start with Khubelu ICM Catchment Area (Mokhotlong) consultations, the ICM Catchment Manager did a lot of preparatory groundwork. A cross section of stakeholders at the district and community levels had been identified and contacted to convene to discussion at a local accommodation facility. Although approval by GIZ was expected with two weeks of the submission of application, it only came after four weeks. ICM Catchment Manager, having been engaged so much in making sure the meeting would be successful, was disheartened by the cancellation. Later, it became difficult, understandably so, when one on one discussions by phone were to be arranged. It took a bit more time. Stakeholders in remote areas were not accessible by phone.

1.4 Links to other workstreams and operationalisation within workstreams

All the five workstreams were interlinked by cross-sectional participation of ICM Programme Team Members in each. There were members of Workstream 4 who were also in Workstreams 1, 2, 3 and 5. This helped to facilitate the flow of information across all the streams. There was a special relationship between workstream 4 and 5 because of financing mechanism such as livestock trespass and impoundment fines and village water fees. Community Councils are confronted by the major challenge of channelling all revenue accrued at local level to central government's consolidated funds. This deprived them of the incentives. Stream leaders bi-weekly meeting played an important role in facilitating coordination between the workstreams.

The overarching analytical framework, matrix tools for mapping/screening and reviewing legal and other instruments, as well as the stakeholder matrix interview analysis were developed within the respective workstreams and shared for use across the board.

2 Review and analysis of Lesotho’s Local Regulatory Framework for Land and Water Use

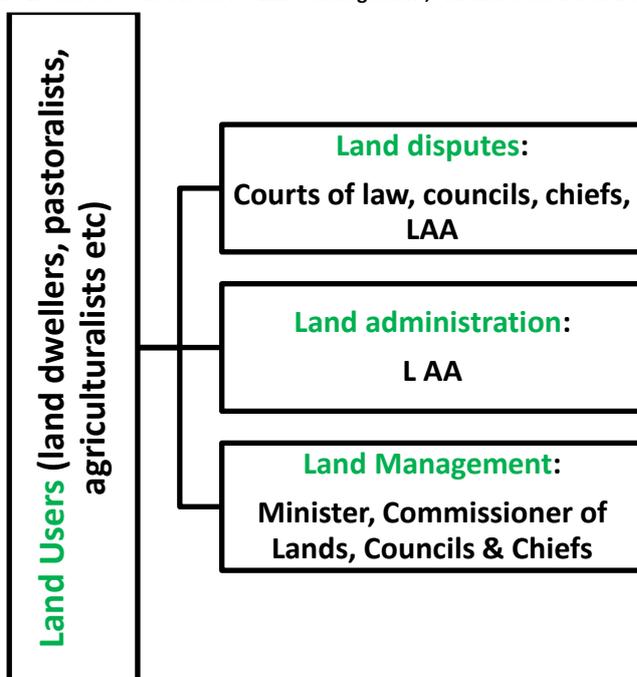
This part of the Report provides a review of Lesotho’s local regulatory framework for land and water use. The review begins with broad outline of Lesotho’s policy and legal framework for land use; followed by a comprehensive review of each policy and legal instrument that is geared to or has the effect of regulating the use of land at the local level. Each policy and legislative instrument is reviewed against set criteria: effectiveness, cross sectoral, proportionality, currency, consistency and inclusiveness. Then will follow the dissection and depiction of the local land regulatory framework taking account of the national regulatory framework for land use with the main objective of ascertaining possible and/or available options for local authorities, particularly Community Councils, to manage catchments within their respective jurisdictions by, inter alia, enacting bylaws.

An analysis of water use regulatory framework will follow afterwards and it will take the same approach. The penultimate section will outline the findings or observations. Lastly, there will be a section on recommended possible viable interventions.

2.1 Regulatory Framework for Land Use

In Lesotho, land is defined broadly to include “land covered with water; all things, natural or man-made, growing on land; and buildings or other structures permanently affixed or attached to land.”¹² Perhaps it is important to point out at this stage that Lesotho’s legal system does not recognise absolute land ownership; rather there exists a communal right to all the land in Lesotho otherwise known as a residual ownership by the nation as opposed to individual ownership. For this reason, all rights in land may be classified into the rights of administration and the rights of use. With specific reference to the rights of administration, the *Land Act* read with the supporting legislation¹³ separates land use regulation into land management, land administration, and land disputes resolution and it also establishes responsible authorities accordingly. ¹⁴The figure below roughly depicts the current framework:

Figure 1: Current Framework for Land Management, Administration and Dispute Resolution



¹² See section 2 of the Land Act of 2010

¹³ See section 2 of the Land Act of 2010

¹⁴ For a more information about this framework see a detailed analysis of the Constitution, Land Act, Land Administration Act and other related pieces of legislation below.

Land management encompasses formulation of policies and enactment of laws that govern land allocations, use and development; allocation of land through a multifaceted process that involves land use planning, community participation, granting of rights and interests in or over allocated land; control over land use and development through mechanisms such as building permits and subdivisions; and acquisition, expropriation or revocation of allocated land. Land administration is primarily concerned with the establishment and maintenance of the country’s cadastre and deeds registration. Land disputes resolution includes adjudication and alternative dispute resolution. Land could be used for residential purposes, agricultural purposes, commercial purposes etc.

As shown in Figure 1 above, while the law clearly separates functional aspects of land regulation into land management, land administration, and land disputes resolution, in general, the institutional responsibilities under each theme (land management, land administration or land disputes resolution) overlap somewhat. For example, some institutions responsible for land management are also responsible for land disputes resolution and vice versa. Such overlaps will be dissected in this Report. It is important to note, however, that, by and large, the roles of the institutions/authorities involved in land regulation, as described, including the prescribed processes and procedures are satisfactorily defined and distinguishable.

Figure 1 depicts the current regulatory framework for land management, land administration and land dispute. Besides that, framework, there are several other pieces of legislation, which regulate specific land uses (as opposed to land use holistically) and provide for specific rights and interests in and over land. For instance, the Land Husbandry Act regulates agricultural activities or practices on any land allocated and/or used for agricultural purposes; the Forestry Act regulates the use of land allocated and/or declared for forestry; the Environment Act regulates the protection of the environment including the conservation of natural resources; the Building Control Act regulates land development etc. A full list of legislation applicable to land use is provided below. Each of these pieces of legislation tailor made to specific land use is administered by significantly different authorities. So, the regulatory framework for land use in Lesotho is much more complex than the picture depicted by Figure 1.

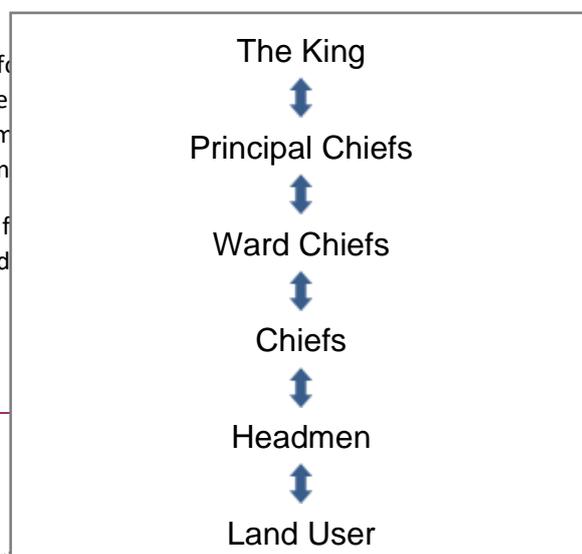
In the long distant past, the regulatory framework for land use was quite simple and straightforward. Palmer and Poulter described the traditional land tenure system briefly thus:

Rights of administration are held in the first instance by the King and are exercised through the Principal Chiefs, Ward Chiefs, Chiefs, and Headmen. They involve the right to allocate or distribute land to a subordinate authority and eventually to an individual subject, the right of reversion when the land falls vacant whether as a result of death or deprivation, and the duty to supervise the activities of those lower in the hierarchy including the hearing of appeals against the wrongful exercise of subordinate powers.¹⁵

Based on the foregoing description, the traditional land use regulatory framework can be illustrated as follows:

Figure 2: Traditional Institutional Framework for Land Management and Dispute Resolution

The above figure indicates that, in the past, powers for land management were exercised by the same authority. Furthermore, in the traditional institutional framework for land management, the powers of chieftainship had been exercised by the King in the first instance. In a nutshell, Lesotho had a traditional institutional framework for land management. These institutions had respective mandates and the requisite processes:



Downward arrow shows land allocation

Upward arrow shows an appeal procedure for land disputes

2.1.1 The Constitution

- Lesotho Constitution of 1993 as amended

¹⁵ Palmer V. and Poulter S., The Legal System of Lesotho, Michie Co Law Publishers, Charlottesville, Virginia

¹⁶ Deeds Registry Act was enacted in 1967, but it did not introduce a complete land administration system.

2.1.2 Parent legislation / Acts

- Local Government Act of 1997 as amended
- Land Act of 2010 as amended
- Land Administration Authority Act of 2010 as amended
- Land Husbandry Act of 1969 as amended
- Environment Act of 2008
- National Advisory Planning Board Act of 1995 as amended
- National Heritage Resources Act of 2012
- National Planning Board Act of 1995
- Town and Country Planning Act of 1980 as amended
- Land Survey Act of 1980 as amended
- Building Control Act of 1995
- Chieftainship Act of 1968 as amended
- Forestry Act of 1998
- Managed Resources Areas Order of 1993
- Mines and Minerals Act of 2005 as amended
- Historical Monuments, Relics, Fauna and Flora Act of 1967 as amended
- The Weeds Eradication Act, of 1969

2.1.3 Delegated legislation

- Local Government Regulations of 2005
- Local Government (Transfer of Functions) Regulations of 2015
- Land Regulations of 2011 as amended
- Land Survey Regulations of 1982 as amended
- Systematic Land Regularisation Regulations of 2010
- Building Control (Building Operations and Building Design and Construction) Regulations of 1999
- Range Management and Grazing Control Regulations of 1980 as amended

2.1.4 The Constitution of Lesotho as amended¹⁷

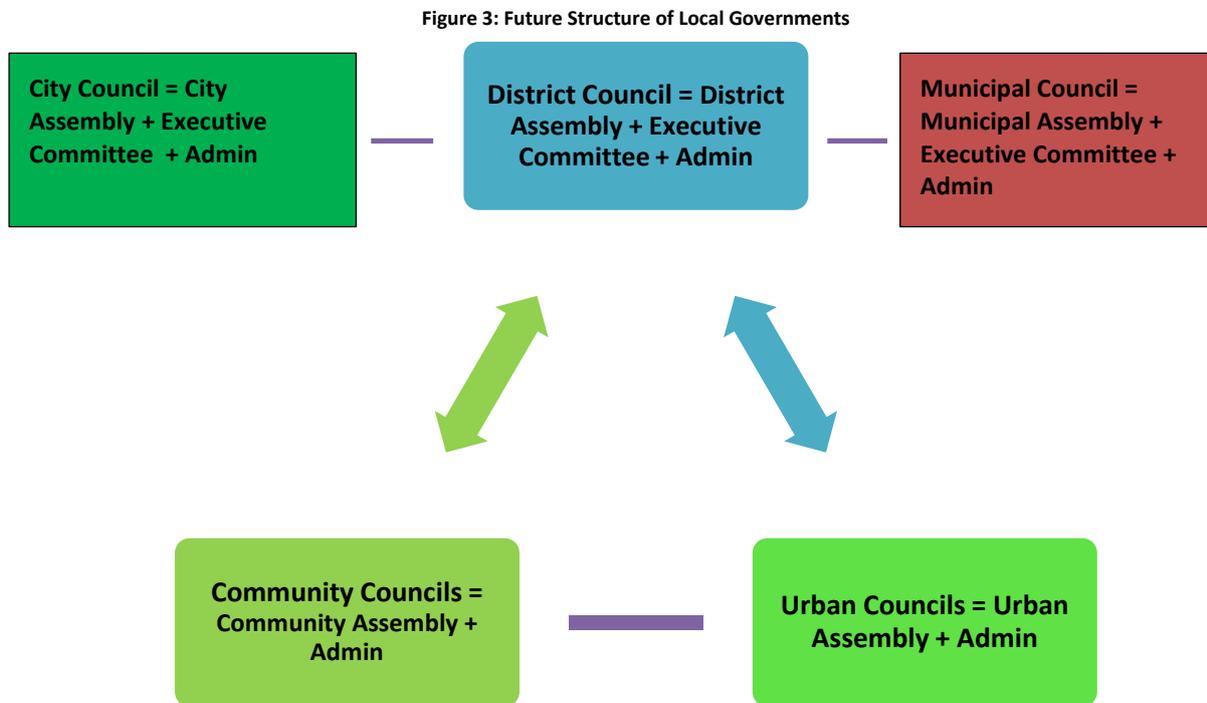
The Constitution does not explicitly address ICM, but it embodies some provisions which have a direct bearing on at least some key elements and objectives of ICM. In particular, Chapter IX reaffirms the principle that all land in Lesotho belongs to Basotho. It also mandates Parliament to enact laws on land management, land administration and land dispute resolution. Further, section 36 provides that “Lesotho shall adopt policies designed to protect and enhance the natural ... environment of Lesotho for the benefit of both present and future generations and shall endeavour to assure to all citizens a sound and safe environment adequate for their health and well-being.” In addition, section 106 obligates Parliament to establish local authorities in order to enable rural and urban communities to determine their affairs and to develop themselves. This section reaffirms the principle of subsidiarity and requires that the mode of decentralisation in Lesotho shall be devolution. It is thus central to the ICM objectives.

Prior to 2011, section 1.5(2) of the Constitution obligated the National Planning Board, as it then was, to “prepare plans for the economic development of Lesotho, including in particular the development, conservation and use of land and other natural resources.” Though not explicitly requiring that the plans should take a holistic approach to the development, conservation and use of natural resources, that provision could be read to mean exactly that by implication. However, it was repealed by the Sixth Amendment.

¹⁷ The Constitution of Lesotho of 1993; The First Amendment to the Constitution of 1996; The Second Amendment to the Constitution of 1997; The Third Amendment to the Constitution of 1998; The Fourth Amendment to the Constitution of 2001; The Fifth Amendment to the Constitution of 2004; The Sixth Amendment to the Constitution of 2011; The Seventh Amendment to the Constitution of 2011.

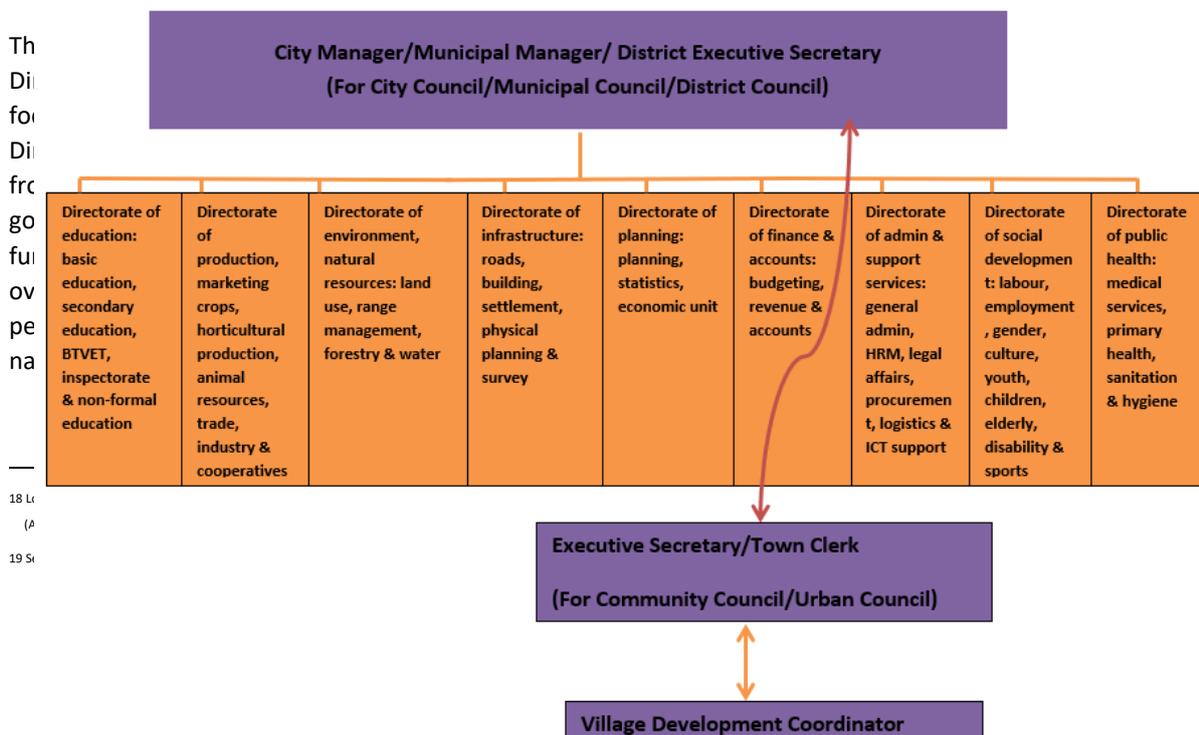
2.1.5 Local Government Act of 1997 as amended and being amended¹⁸

Insofar as it is relevant to the regulation of land and water use, the Local Government Act provides for the establishment of local governments in the designated rural areas, urban areas, districts, municipalities and, as proposed in the Bill, cities. The structure of local governments proposed in the Bill read with the National Decentralisation Policy is as follows:



As shown in Figure 3 above, a local council at the level of municipality, district or city is comprised of three separate and independent arms: legislative, executive and administrative arms. Further, at the district level, a local government has a two-tier structure: the first tier comprises a District Council and the second tier comprises Community Councils on par with Urban Councils. Community Councils and Urban Councils do not have the executive arm. As outlined fully in the National Decentralisation Policy and partially in the Bill, the administrative arm of a local council will be structured as follows:

Figure 4: Proposed Local Governments' Administrative Structure

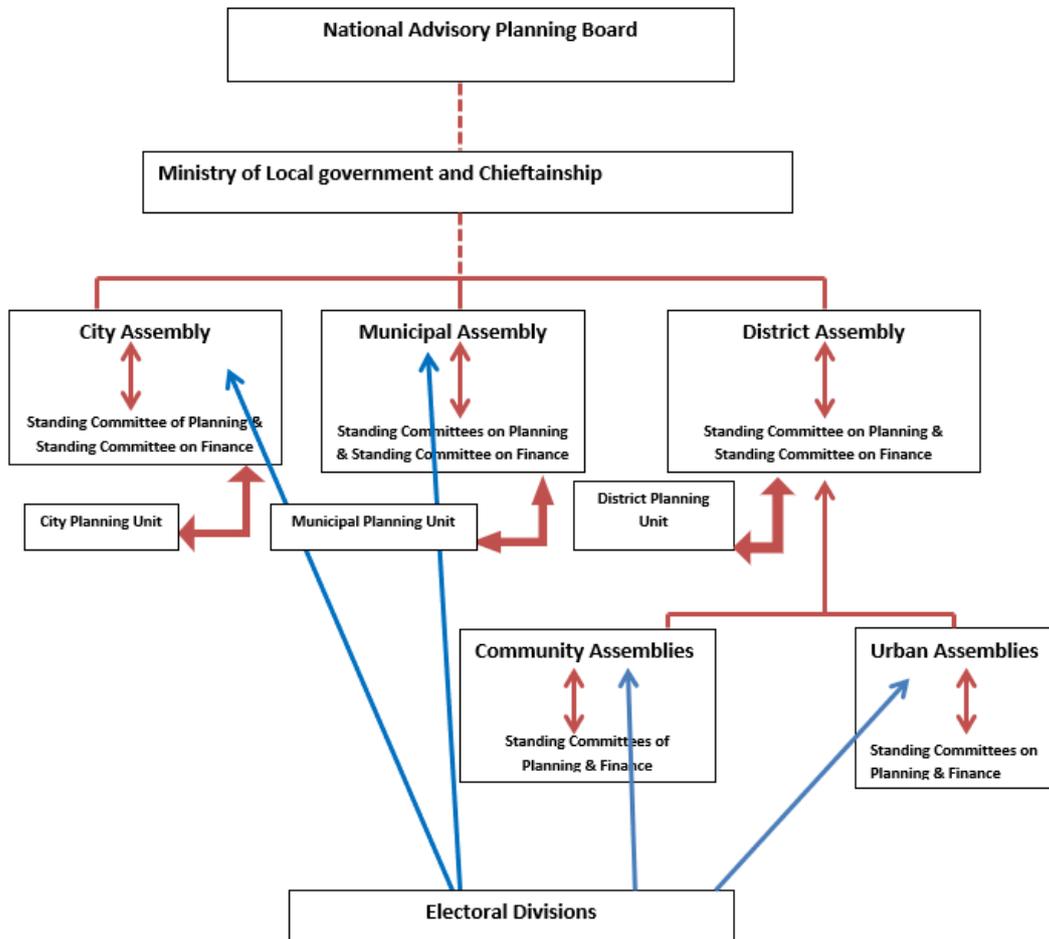


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Besides the structures and transfer of functions, the Bill provides for a comprehensive development planning process and structures responsible for formulating and implementing development plans. The proposed development planning framework is as follows:

Figure 5: Institutional Arrangement for Future Development Planning

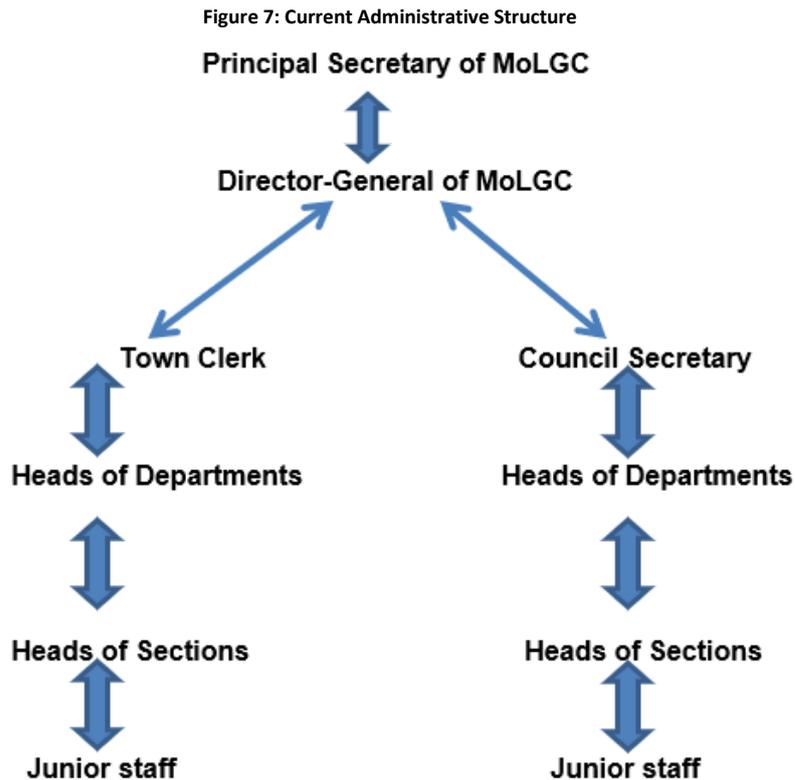


The Bill proposes a bottom-up framework for development planning in terms of which rural and urban communities will prioritise development projects based on their needs; and the priorities will then be considered, integrated and adopted at the Council level. Community and Urban Assemblies adopt development plans. City, Municipal and District Councils adopt Integrated Development Plans. Some of the development projects may relate to the regulation of specific catchment areas, but a development plan, let alone an integrated development plan, is more than that; it is a composite of several different themes so to speak and its lifecycle is five years. Once an Integrated Development Plan is adopted, the Executive Committee is required to annually formulate Implementation Plans to be executed by the administration.

The foregoing local government framework is based on the Local Government Bill, which is currently being considered by the Parliament. Until it is enacted into law and become effective, the following framework will remain in place:

Figure 6: The Current Structure of Local Councils





As shown in Figure 6 above, the apex of a decision-making process in the district is a District Council. An Urban Council, though equivalent to Community Council in terms of status, is not under a District Council. Further, a Municipal Council is on a par with a District Council, but it does not have a second tier. A District Council is a body composed of councillors who represent Community Councils within a district including two chiefs. An Urban Council is the lowest level of government within an urban area and a Community Council is the lowest level of government within a rural area. A Community Council or Urban Council is constituted by councillors who are directly elected at electoral divisions plus two chiefs. The most important decisions such as development planning and budgeting are taken at the District Council following the suggestions from the local communities, which are channelled through Community Councils.

Under the current structure, local administration does not appear, at least from the legal provision, to be vertically structured from the community level to the district or municipality level. Rather, each Council has a secretary known as a Town Clerk for a Municipal or Urban Council or as a Council Secretary for a District or Community Council.²⁰ This Secretary or Clerk, as the case may be, is the Chief Executive Officer of the Council and all other officers in that Council are subordinate to him or her.²¹ Below the office of the Secretary or Clerk are the Departments, which may also be subdivided into Sections.²² These Departments or Sections are managed by their respective Heads.²³ So, the chain of command is vertical within the Council and apparently horizontal between the Councils within a given district or municipality. Chief Executive Officers are individually and directly answerable to the Director-General who is part of the administration at the central government level.²⁴ The Director-General is answerable to the Principal Secretary of the Ministry of Local Government, and Chieftainship.²⁵ The relationships between Council Secretaries are not legally clarified and the law does not state whether or not the District Council Secretary is senior to other Council Secretaries. They are legally regarded as Chief Executive Officers, which creates the impression that they are of equal status. But the situation could be different on the ground.

²⁰ Section 34 as amended by section 17 of the Local Government (Amendment) Act of 2004

²¹ Ibid

²² Clause 2 and Part ii of the Local Government Service Regulations LN 85 of 2008

²³ Ibid

²⁴ section 39 as amended by section 16 of the Local Government (Amendment) Act of 2010

²⁵ Ibid

The law as it is now provides for the establishment of District Planning Units²⁶ and District Development Coordinating Committees.²⁷ The District Planning Unit is comprised of public officers who provide planning services or any other service for their respective ministries. The District Development Coordinating Committee is made up of the specified number of elected Councillors, the District Administrator, a representative of the District Planning Unit, District Environment Officer and other public officers selected by the Minister to represent their ministries. Coordination of planning activities undertaken by line ministries and local authorities takes place within the District Development Coordinating Committees.

2.1.6 Land Act of 2010 as amended including the Land Regulations²⁸

The *Land Act* reaffirms the principle that all land in Lesotho belongs to the Basotho nation as a whole.²⁹ So, the *Land Act* prohibits private ownership of the land. It also prescribes mechanisms through which the Government, individuals, companies, partnerships, cooperatives, foreign entities etc. may acquire limited exclusive rights over the use of land in Lesotho. In the first instance, the limited rights over the use of land must be granted through allocation by the allocating authority following the prescribed procedure and in accordance with the substantive requirements.³⁰ The decision to allocate a parcel of land to a particular person is made by a local council within which the parcel of land to be allocated is situated, but the council is required to consult the chief responsible for that area.³¹ All in all, the power to allocate land vests in the local authorities and not the central Government. But in doing so, the local councils must strictly adhere to the substantive and procedural requirements set in the Land Act and the Land Regulations. So, there is no real option for making bylaws regarding land allocation.

In broad terms, land allocation vests in the allottee or lessee an exclusive control over the use of the allocated land; he or she is entitled to occupy and/or use the allocated land and/or allow others to do so. However, the land user's rights are limited in a number of different ways: Firstly, the allottee or lessee is required to use the allocated parcel of land strictly for the purpose it was allocated.³² The land can be allocated for residential, commercial, industrial and agricultural purposes. The most relevant permissible use of land to the elements of ICM is agriculture. This includes the use of land as arable, pasture, grazing, orchard, forestry or forestations.³³ It is worth noting that people other than the allottee or lessee may enjoy various informal rights over the use of land allocated for agricultural purposes, for instance, to graze cattle there during the winter without the necessity for the allottee's permission.³⁴

The right to use the allocated land may also be restricted by the conditions laid down in the certificate of allocation.³⁵ Thirdly, land user's rights are subject to overriding interests such as the water rights; flora or fauna naturally occurring or present on the land; and lawfully constructed or erected aqueducts, canals, weirs, and dams.³⁶ In this regard, the Land Act separates land use regulation from water use regulation. This is an important consideration for ICM. But this does not mean that land use rights and water use rights are mutually exclusive. It simply means that land allocation does not include water use permission or licence. Another important consideration for ICM is the fact that an application for lease in respect of agricultural land cannot be granted unless there is proof that the relevant parcel of land has not been previously abused by the allottee through overgrazing and/or refusal or failure to combat soil erosion; and if it is an arable land, the allottee has never previously failed to cultivate it for at least three consecutive years.³⁷ Furthermore, the lease for agricultural land is granted subject to the statutory conditions, which obligate the lessee to prevent overgrazing, combat soil erosion,

²⁶ Section 28 of the Local Government Act No. 6 of 1997

²⁷ Section 78 the Local Government Act No. 6 of 1997

²⁸ Land Act No. 8 of 2010; Land (Amendment) Act No.16 of 2012; Land (Amendment) Act No.9 of 2014; Land Regulations LN No. 21 of 2011; Land (Amendment) Regulations LN No. 11 of 2013; and Systematic Land Regularisation Regulations LN No. 103 of 2010

²⁹ See section 4 of the Land Act

³⁰ See sections 6 – 8 of the Land Act

³¹ See sections 8, 14 and 25 of the Land Act

³² See section 15 of the Land Act

³³ See section 2 of the Land Act

³⁴ See Palmer and Poulter *The Legal System of Lesotho* (supra) at page 175

³⁵ See section 15 of the Land Act

³⁶ See section 5 of the Land Act

³⁷ See regulation 12 of the Land Regulations

adopt land husbandry practices and use and cultivate arable land.³⁸ Failure to adhere to these conditions may lead to the revocation of the lease.³⁹ It is therefore clear that the Land Act establishes a link between land tenure, soil conservation and land use. Lastly, an allocated land may be expropriated for public purposes such as water conservation by means of watersheds, water catchment areas, reservoirs; and land conservation through afforestation and soil erosion prevention.⁴⁰

2.1.7 Land Administration Authority Act of 2010 as amended⁴¹

This Act establishes the Land Administration Authority (LAA) as an agency of the central Government charged with land administration. It defines land administration as “a system related to land deeds registration, land valuation for land administration purposes, granting of land administration consents and related matters.”⁴² The two main functions of the LAA are, firstly, the establishment and maintenance of the cadastre. This cadastre provides information on how much land is available in Lesotho and where it is regardless of whether it is occupied or not. Secondly, the LAA is responsible for land deeds registration and the issuance of secure titles. So, a lease is issued by the LAA in line with an allocation made by the responsible local authority and deeds such as transfers, mortgages and subleases are registered by the LAA. In short, the relevance of the LAA and its functions to the ICM is really about access to the information regarding how much land there is, where it is, and who holds rights in such land.

2.1.8 Land Survey Act as amended⁴³

This Act governs specific land management aspect, namely, land mapping and surveying. It provides for the licensing and professional conduct of land surveyors and empowers the Minister responsible for land to make regulations regarding land mapping and survey. The *Land Survey Regulations* enacted pursuant to this Act, give the Chief Surveyor authority to issue directives to the land surveyors on how to conduct surveys, keep records and prepare physical plans. The office of the Chief Surveyor is under the Commissioner of Lands in the Ministry of Local Government and Chieftainship.

2.1.9 National Planning Board Act

This Act gives effect to section 105 of the Constitution by establishing a body responsible for advising the Minister responsible for development planning on, *inter alia*, the integration of district development plans into the nation development plans and for preparing guidelines on development planning. Members of this Board include representatives of the local authorities.

2.2 Regulatory Framework for Water Use

Water resources are “sources of water useful or potentially useful to humans”.⁴⁴ Just like the land, water sources belong to all Basotho, but the use of these resources is regulated or controlled. In other words, there are legal rules which, on the one hand, establish the rights of use including interests in or over the use of water resources, set the contours of or limits to such rights and interests, prescribe the requisite processes for acquiring and/or losing such rights and interests, and establish the requisite processes for the enforcement of such rights. On the other hand, the applicable legal rules establish institutions or authorities with mandates to make laws, policies, plans and strategies regarding the use of water resources; overseeing the implementation and actually implementing the relevant laws, policies, plans and strategies; and enforcing the rights of use.

³⁸ See regulation 25 of the Land Regulations

³⁹ See section 37 of the Land Act

⁴⁰ See section 50 of the Land Act

⁴¹ Land Administration Authority Act No. 9 of 2010; Land Administration Authority (Amendment) Act No.17 of 2012; Land Administration Authority (Amendment) Act No. 8 of 2016

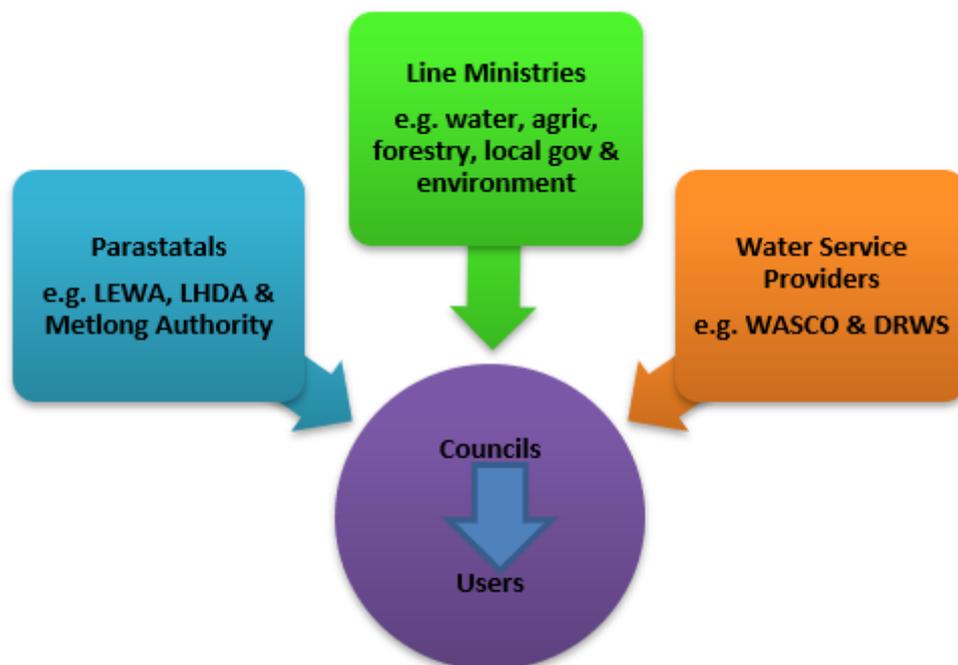
⁴² See section of the Land Administration Authority Act

⁴³ Land Survey Act No.14 of 1980; Land Survey (Amendment) Act No.15 of 2012; Land Survey Regulations LN No.50 of 1982

⁴⁴ See section 2 of the Water Act of 2008

Unlike a regulatory framework for land use, the current regulatory framework for water use or water resources use in Lesotho is predominantly central government. In other words, the central government directly and indirectly through parastatals and agencies controls the use of water and water resources in Lesotho. The local authorities have a residual control, which is not even clearly delineated, over the use of water including water resources. The over picture for the current water regulatory framework can be depicted as shown below:

Figure 8: Current Water Use Regulatory Framework



As shown in Figure 8 above, water is used at the local level within council areas categorised as municipality, urban areas and rural areas. The Line Ministries have varying levels of control over the use of water, but the Ministry of Water has general oversight of all water uses and waterworks in the country. In general, Ministries initiate and are the custodians of all national legislation that govern the use of water within council areas. Furthermore, Ministries make policies, plans and strategies regarding the control of water use and the provision of water. Lastly, Ministries are also charged with supervision, coordination and implementation of water-related legislation, policy, plans and strategies under their respective custodianship.

Parastatals or corporations are the central government agencies established by statute with specific and limited mandates. For instance, the Lesotho Electricity and Water Authority (LEWA) sets standards relating to quality and safety of both water and equipment used in providing water; enacts rules and by-laws governing, amongst others, the collection, treatment and provision of water; reviews and sets tariffs, rates and charges regarding the use of water; responsible for water and sewage service provision licencing and for facilitating efforts to expand rural water and sewerage services. The Lesotho Highland Development Authority (LHDA) and Metolong Authority have been established to take charge of the development and management of water resources including environmental protection in areas respectively designated for the Lesotho Highlands Water Project and Metolong Dam and Water Supply Programme. The Ministry of Water through the Department of Rural Water Supply (DRWS) is mainly responsible for the supply of water in the rural areas including sanitation service delivery. The Water and Sewerage Company (WASCO) is a Government company licensed to provide water and sewage services mainly in the urban centres. In terms of the *Water Act*, local Councils are responsible for the management of designated catchment areas and the provision of water and sanitation services in the rural areas.⁴⁵

⁴⁵ See sections 15, 16 & 17(2) of the Water Act

2.3 Findings

- 1 The current legal system, by and large, separates land use regulation from water use regulation at the national level and it does not establish clear linkages between the responsible authorities and/or their mandates.
- 2 While the *Land Act* is the primary legislation for land use regulation and the *Water Act* is the primary legislation for water use regulation, there are numerous other pieces of legislation including policies with a direct bearing on catchment management. These instruments were enacted or formulated in different contexts and each of them is geared to address some but all not elements of integrated catchment management. So, the current framework for integrated catchment management is fragmented.
- 3 The *Land Act* does not clearly provide room for land management by means of bylaws.
- 4 Land allocation falls within the authority of the local councils and in exercising this authority the local councils are empowered to take into considerations incidences of overgrazing, refusal or failure to combat soil erosion and past land husbandry practices. Therefore, the *Land Act* draws a link between land tenure, soil conservation and land use.
- 5 An allocated land may be expropriated for public purposes such as water conservation by means of watersheds, water catchment areas, reservoirs; and land conservation through afforestation and soil erosion prevention. This is another area where the *Land Act* links land allocation with some elements of ICM.
- 6 The *Water Act* provides that local Councils shall be responsible for the management of designated catchment areas and the provision of water and sanitation services in the rural areas. However, these provisions do not sufficiently elaborate the authority of local councils over the designated catchment areas.
- 7 The *National Decentralisation Policy* and the *Local Government (Amendment) Bill* propose the creation of political and administrative structures which will potentially enable a decentralised model of integrated catchment management, but these instruments must be aligned with pieces of legislation including policies and strategies on land use and water use regulation.

2.4 Recommendations

- 1 It would seem that it is practically impossible to enact comprehensive and standalone ICM legislation. Therefore, the existing legislation and policies must be aligned by repealing inconsistent and outdated provisions and incorporating cooperative and coordination mechanisms or techniques into the applicable legislation to address overlaps and duplication.
- 2 Amongst the techniques worth considering for aligning the existing legislation are cooperative agreements, joint committees, devolution based on subsidiarity, exemptions, expropriation etc.
- 3 In the meantime, a mechanism provided for in the current Local Government Act could be used. That mechanism entails the transfer of functions to local councils by means of regulations and when the councils have functions relating to catchment management they will have an option to enact bylaws on the subject and enforce compliance at the local level. The current regulations transfer some functions with some aspects of catchment management, but that may not be enough. The process of transferring functions through regulations is not as complex as amending the existing legislation.

2.5 Summary of findings from legal and other instruments

General Findings

The following provides a brief summary of the key findings for legislative reforms, updates to policies and strategies, and technical guidance necessary to Implement ICM at the community level.

Legislative Reform

Enabling regulations of the Acts in most instances have not been promulgated.

Several sectoral ministries have not responded to the call for decentralisation to local authorities. Transfer of functions regulations only refer to ministries related health, land, social development, energy, forestry (inclusive of land management, water conservation and range resources management).

Many old laws need to be updated, and in some instances new laws have become difficult to enact. Lack of enforcement of laws has become a serious concern, especially due to inadequate capacity of local authorities. In many cases, penalties for enforcement of laws by the courts are outdated and therefore ineffective. There is a need to enhance stronger synergy between Chiefs and Councils because some laws empower the traditional authorities (e.g., impoundment of livestock caught trespassing in *leboella*).

Policy and Strategies Update

In order to implement local level ICM, decentralization reforms are required in order to fast track the shifting of roles, responsibilities and mandates to the local level.

Monies collected by the Councils get deposited into government's central Consolidated Fund, and therefore inaccessible for their needs.

Lesotho being the tower of water resources in southern Africa, wetlands' current challenges are identified and discussed in some detail. However, other issues such as the legislation, policy and financing seem not to be well taken care of.

Technical Guidance

There is inadequacy of guidelines for local authorities to be empowered to implement policies and laws to take sufficient actions (e.g., Environment Act 2008).

In most instances, there is no transfer of ownership of some resources (e.g., forests) to local councils to manage and accrue income to meet community development needs.

Report addressing harmonization of legislation through cooperative governance approaches contains no analysis or specific recommendations regarding the local regulatory framework.

The role of local authorities in transboundary activities is not well considered.

2.6 Matrix of findings from legal and other instruments

Policy, Act, Regulation	Findings
Land Act of 2010 as amended, Land (Amendment) Act No.16 of 2012; Land (Amendment) Act No.9 of 2014; Land Regulations LN No. 21 of 2011; Land (Amendment) Regulations LN No. 11 of 2013; and Systematic Land Regularisation Regulations LN No. 103 of 2010	S.2 defines ‘land’ broadly to include land covered with water, all natural or man-made things growing on land and buildings, or other structures permanently affixed or attached to land. But the scope of the Act is constrictive in that it focuses mainly on allocation, expropriation and administration of land including the transfer and disposal of land titles. Council is the allocating authority; so, the decision to allocate land is taken at the lowest level of authority. Further, if land is allocated for agricultural purposes, the Ministry of Agriculture is involved and factors that must be considered include prevention of soil erosion, economic viability of the proposed agricultural activity, the requisite environmental safeguards and sound land husbandry practices. There are land courts and established procedures for the enforcement of rights and obligations. The main problem is that all land use fees, and other monies collected under the Land Act regulations are paid into the Consolidated Fund which is established on the national level under Section 110 of the Lesotho Constitution. As a result, the funds do not necessarily flow to the Community Councils resulting in unfunded mandates and no incentives to collect fees.
Land Administration Authority Act of 2010 as amended, Land Administration Authority (Amendment) Act No.17 of 2012; Land Administration Authority (Amendment) Act No. 8 of 2016	It contributes towards integrated management by ensuring systematic approach to land deeds registration, cadastral surveying and land valuation. The scope of this Act is restricted to land administration in general. The regulations have not yet been enacted.
Land Husbandry Act of 1969 as amended cum Range Management and Grazing Control Regulations of 1980 as amended	To control and improve, in respect of agricultural land, the use of land, soil conservation, water resources, irrigation and certain agricultural practices, and to provide for incidental or connected matters. Matters related to decentralization are not incorporated, and therefore need to be. New legislation should empower local authorities in line with Local Government Act 1997, strengthened in Local Government Bill 2020. Enforceability entrusted with the Chiefs through Range Management and Grazing Control Regulations of 1980. Updates are encapsulated in Range Resources Management Policy of 2014 with development of new legislation initiated, Draft Soil and Water Conservation Policy (work in progress), Water Act 2008, Water and Sanitation Policy, National Wetland Conservation Strategy, Integrated Water Resources Strategy.
Water Act of 2008	The preamble does neither explicitly address the integrated nature of IWRM, nor of ICM. This is however mentioned in S. 3. S. 3 provides for an integrated approach – but from a water perspective, as the main objective is water conservation. Decentralisation is not mentioned, and therefore needs to be. Sec 2 regarding “regulated activities” it refers to the “Lesotho Electricity and Water Resources Act of 2008”. This Act does not exist. Only an electricity authority of 2002, amended 2006 and 2011 exists.

Environment Act of 2008	<p>Section 59: Local authorities have been given the power to take sufficient actions, e.g., Areas at risk of environmental degradation: 59 (6) empower local authorities to take re-medial actions based on guidelines. It remains to be seen whether guidelines have been developed, which poses as a gap. Local authorities need to make their own guidelines.</p> <p>Since only re-forestation/afforestation of degraded land is mentioned, it falls short of being holistic. Other interventions must be introduced – revegetation, agricultural practices, range management, soil conservation measures. The intervention must integrate multiple use principle by allowing afforested/reforested areas allow grazing under strict control measures under the aegis of the local authority.</p> <p>Section 94 deals with conventions and treaties at the national level. Local authorities will need to be empowered at transboundary levels with the neighbouring state. Example should be drawn from Maloti/Drakensberg Transfrontier Conservation Area between Lesotho and South Africa. Natural resources management plans were prepared, and draft community council bylaws developed from them. Councils should, therefore, be empowered to take care of locally generated programmes as opposed to central government-driven programmes.</p>
Town and Country Planning Act of 1980 as amended	<p>No specific reflections of ICM. It does however set out the compulsory requirement for development plans (urban and rural) by the Development Planning Authority. Section 5;6;7. This principal act requires updating and consolidation with provisions Buildings Control Order (1991) & Building Codes (1989). Section 17 could be updated to strengthen and incorporated penalties for ICM.</p>
Building Control Act of 1995	<p>The Buildings Control Act highlights that the Minister has power to appoint a local authority or government department to be a building authority.</p> <p>Part II, Section 11 – makes accommodation for the Minister to devolve power to local authorities to become building authorities (enabling making of bylaws etc. as seen fit). Local authorities within their remit of powers could use this principal legislation as impetus for establishing building bylaws – example: could highlight specifications in keeping with climate change adaptation / other ICM provisions e.g., water use efficiency; climate sensitive design standards etc.</p> <p>Part II, Section 25 regulates environmental Impacts Including wetland encroachment and construction Impacts.</p> <p>No direct provisions and links to Key ICM Elements are outdated and therefore deserve to be updated.</p>
Forestry Act of 1998	<p>The Act replaces the law relating to the planting and preservation of forests and to pro-vide for the regulation and control of dealings in forest produce and the sustained management of forests and forest reserves. Forests and indigenous forests in Lesotho are to obtain the maximum benefits in the form of forest production, environmental conservation and other economic uses that can be sustained over time.</p> <p>Local authorities have been considered to partake in forest development.</p> <p>The Act should be better aligned with decentralisation.</p> <p>Gender, youth, and climate change issues are not addressed.</p> <p>Institutional aspects are not well addressed and attention.</p> <p>International, regional, and transboundary are not taken into account.</p>

	<p>There is a need for updating the Act, and clearly define the role of local authorities, as entailed in Local Government (Transfer of Functions) Regulations of 2015.</p> <p>Note section 20: As from the effective date of continuation under section 11 or declaration under section 12, a forest reserve shall be managed, maintained and controlled by the Chief Forestry Officer in accordance with this Act. This should be revised in favour of community councils.</p> <p>The Forestry Act is reportedly under review or revision, but this could not be confirmed during Assessment Phase 1. Additional stakeholder consultation will be conducted in Assessment Phase 2 to confirm status.</p>
Model Rural Areas (Grazing, Pounds, Trespasses) Bylaw 1963 – Government Notice No. 24 of 1963	<p>The bylaw plays a crucial role in impoundment of livestock that may be found stray or trespassing on <i>leboella</i> or cropland, and so causing damage. This may impact on socio-economic development and institutionalization objectives of the ICM. Damage of vegetation (especially grass) in grazing areas has negative impact on climate change because landscape has already been badly denuded leaving land bare. Gender and human rights issues are not explicit but may be implied in that it is applicable irrespective of gender.</p> <p>The bylaws must be updated in line with contemporary socio-economic, climatic and institutional situations. It was passed during pre-independence period when the Chief played a major administrative role, whereas local councils are now in place. There must be synergy and harmonisation between Chiefs’ role and that of local councils.</p>
Maseru City Council By-laws of 2020 (codification)	<p>The bylaws do address some key ICM elements and objectives. The decision-making is also at the lowest level and in line with the decentralisation process in the country. However, the scope is limited as it does not draw from other legislation relevant to ICM e.g., Water Act.</p>
National Decentralisation Policy of 2014	<p>The main objective of this policy is to reaffirm and strengthen Lesotho’s commitment to devolution as a mode of decentralisation. It outlines strategic actions that will be taken to ensure that functions that can be best performed at the local level are transferred to local governments. In other words, it is deep-rooted in the principle of subsidiarity. Such actions include policy and legal reforms.</p> <p>The policy does not create ICM regime, but it contributes significantly to its practicability. It dictates that functions must be transferred with resources coupled with capacity building amongst other things.</p> <p>The only part that requires special consideration is fiscal decentralisation.</p>
Local Government Bill of 2020	<p>The Bill does not list Council’s functions but provides for the transfer of functions with resources from line ministries to councils. It also provides comprehensive procedure for participatory integrated planning.</p>
National Environment Policy for Lesotho of 1998	<p>Section 2.1: Goal is to protect and conserve the environment with a view of achieving sustainable development in Lesotho.</p> <p>ICM and decentralization poorly addressed (refer to note above) Section 4.15 “Water resources management” accedes to development of integrated, coordinated, effective and efficient approaches to conservation and wise use of water resources. Similarly, section 4.14 “Afforestation and re-vegetation” alludes to the fact that water, catchment management, agriculture, rangeland management and forestry development are all interrelated and require a collaborative approach by all sectors involved. Linkages of these elements to</p>

	<p>decentralization are missing. Perhaps this is due to the broad nature of the Environment Policy which is meant to address all environmental matters regardless of their source of origin.</p> <p>The Policy must be reformed to reflect ICM. The Policy makes no mention of decentralised functions pertaining to environmental management. There is need, therefore, to re-view it.</p>
National Forestry Policy of 2008	<p>Sections 3.3.3.2 & 3.3.3.3 provide an entry point for decentralization as they focus on building capacity of stakeholders, including local government structures on forestry development, including establishing mechanisms for the legal ownership of forests and forest resources at community level. It also encourages the need to adapt existing legal instruments to enhance access and benefit sharing on forest products. The issues discussed above strongly imply that management of forest resources will improve when ownership is legally transferred to appropriate levels of decision making, thereby creating an enabling environment for ICM implementation in Lesotho.</p> <p>Furthermore, section 4.2 which is by far the most important, identifies Key stakeholders in forestry sector. It recognizes Ministry of Local Government and Chieftainship Affairs (MoLGCA) as a key stakeholder and, the importance of decentralizing services in forestry development and the role played by local authorities in the implementation of the policy.</p> <p>Section 3.3.1.7 “Protecting forests from all kinds of destructive agents” recommends the revision of the 1998 Forestry Act and to ensure its effective implementation.</p> <p>This is a crucial step that can support ICM implementation in the future. The legislative revision would then take care of associated decentralization issues.</p>
Food Security Policy of 2005	<p>Section 3.3 “promotion of support services and infrastructure” focusing on provision of agricultural extension services targeting rural households, involving MAFS and MoLGCA to ensure effective inter-ministerial collaboration at the lowest level. The Policy recognizes that this process shall be achieved aided by the on-going decentralization process. Moving a level higher, Section 4.3 of the Policy enumerates a host of District level stake-holders and finally Section 4.4 sub-district level stakeholders who are responsible for co-ordination of ICM related food security issues as this level.</p> <p>The Food Security Action Plan (2007 – 2017) that has been used to implement the Policy needs to be reviewed and updated to address current agricultural sector challenges and address the linkages to ICM principles as they relate to environmentally sustainable agricultural practices.</p>
Range Resources Management Policy of 2014	<p>The goal of the policy is to attain sustainable development and management of range-land resources for an enhanced biodiversity, optimum productivity and improved livelihoods of the people of Lesotho. There is no need to update the Policy as it has only been in place for six years and takes into account the role of local councils well.</p> <p>In Local Government (Transfer of Functions) Regulations, 2015, Range Resource Utilisation entrenches local Councils with responsibility:</p> <ul style="list-style-type: none"> Promotion of community-based natural resources management; Adjudication of cattle post; Management and protection of wetland areas.

Lesotho Water and Sanitation Policy of 2007 (2007 LWSP)	<p>The Policy provides good high-level policy statements; key objectives and proposed strategies, the strongest focus / context is provided for; ‘Policy Statement 1: Water Resources Management and Policy Statement 2: Water Supply and Sanitation Services’. This is then followed by ‘Policy Statement 3: Water and Environment’ which has a strong water service link – the link on effluent discharge is apparent which then further substantiates the focus on water service management. Page 2 – 9.</p> <p>Strategies highlighted under Policy Statement 1: ‘Water Resource Management’ are key to ICM. The ICM directed strategies will need to be considered carefully under the remit of local regulatory frameworks as the question arises as to where the function will be held in the interim and long-term planning. The roles of the Catchment Management Joint Committees (CMJC) is thought to have a key focus on co-ordination. Therefore, council bylaws can provide them with legal context to implement the strategies outlined in the 2007 LWSP (the SA case-study – specific to CMA functions, is an added level of insight that could be useful when looking at the above strategies and how to plan for them through the drafting of local regulatory bylaws).</p> <p>Strategies highlighted under Policy Statement 2: Water Supply and Sanitation Services are key to ICM. The strategies highlighted have a strong drive towards funding mechanisms. See annex and refer to stream 5 review context – provides insight for challenges and requirements for relevant bylaws.</p> <p>Whilst good context is noted in the policy, review / updating could be useful.</p>
National Biodiversity Strategy and Action Plan of 2000	<p>Goal 4: Expand Lesotho’s Capacity to Conserve and Manage Biodiversity.</p> <p>Guiding Principle 12: To implement the goals and objectives for conservation and sustainable integration into sectoral planning efforts (e.g., Agriculture, Forestry, Wildlife, Fisheries, Industry, Education, Health, etc.).</p> <p>All the ICM Objectives have been addressed. These are Socio-economic development, Gender issues, Climate change and Institutionalisation.</p> <p>Under objective 4.1: Action is to “Review existing and draft additional policies for increasing human and institutional capacity to conserve biodiversity.</p> <p>Action 4.3: Strengthen law enforcement agencies by direct involvement communities and through their local institutions.</p>
Integrated Water Resources Management	<p>The strategy does cover elements of ICM and interrelated objectives. The strategy has captured all-important ICM aspects and seems to be in line with international practice.</p> <p>It is sufficiently flexible for the implementation of practically enforceable measures for successful ICM.</p> <p>The objectives and scope of application for the strategy are in line with international and the current thinking in terms of effective water resources management. In fact, ICM is one of the recommendations of the strategy.</p>
Draft Soil and Water Conservation Policy	<p>The strategy focuses on technical measures for soil and water conservation and management. The measures are integrated as they relate to land and water use. ICM objectives are listed in some detail. Regarding decentralization, the strategy aims in a general manner at maximizing community involvement in sustainable use of soil and water resources, through engagement of community soil and water conservation committees. Neither the policy areas 1-6, nor the guiding principles mention the local communities as players nor decentralisation in general.</p>

	Its recommendations are relevant for practical ICM implementation, as the measures are technical by nature and need to be implemented via local level regulations or by-laws. They will need consideration when studying options to support CCs to enact by-laws.
National Wetlands Conservation Strategy	The strategy adequately addresses decentralization. It does however, neither detail any decentralization procedure, neither any strategy to actively promote decentralization. The strategy summarizes key ICM objectives, and its guiding principles reflect ICM objectives as well. It is not supported by specific implementing regulations
Formal and Informal Institutions in the wetlands of the highlands of Lesotho	The report focuses mainly on wetlands and rangelands management. The document does propose a new organisational structure and mandates for all role players. This includes local government and other decision makers particularly at the lowest level. Community based organisations, NGO's and local authorities play a role in ICM. It is not clear as to the extent to which the measure may contribute to the implementation of ICM. The measure mentions a proposed framework, without going into details as to how they will be implemented. Current challenges are identified and discussed in some detail. However, other issues such as the legislation, policy and financing seem to be lacking.
Report on National Legal Framework on Decentralisation of 2015 by Ramohapi Shale and Jaap de Visser	This report outlines close to 50 pieces of legislation that bear upon decentralisation in Lesotho. Most of the legislative instruments outlined in this report coincide with the list of legal instruments that have been identified as relevant to ICM in stream 4. It is very relevant.
Issue Paper for the Reform of Lesotho Local Government Act of 1997 prepared in 2015 by Jaap de Visser and Ramohapi Shale	This paper examines several issues arising from the National Decentralisation Policy with specific reference to the legislative reforms necessitated by this policy. It, amongst other things, highlights issues relating to the authority of local governments with regards to local policy formulation and implementation vis-à-vis the implementation of sectoral policies and laws at the local level. It is very relevant.
White Paper: Review of Water Legislation	This is viewed as more of 'review / study report' with a key focus on gaps; challenges and areas for potential improvement, specific to the principal 'Water Act 2008'. It builds a 'business case' almost encouraging / motivating for the reform of the Water Act 2008 based on a perspective of sector needs. It provides good technical/process and institutional insight in context of the Water Sector and may provide further context for the in-depth review of 'Water Act 2008'.
Integrated Catchment Management. Final Reports containing Volumes A, B and C. June 2016	Page 17 -22 ff, the report describes roles and functions of the 4 types of Councils and refers to the applicable laws. On page 24 and 25, the report contains notes concerning: Decentralization and local leadership. It lists in detail what practical constraints and deficits are. There is no study of local level regulations. The WA and the LGA are quoted but not analysed or commented. The study has a strong focus on institutional and capacity strengthening. However, all the highly detailed findings regarding practical bottlenecks, interviews conducted, materials collected, could be useful input to the drafting of local level regulations or by-laws. When studying options to support CCs to draft by-laws, these findings will need to be considered.

<p>Draft SLM Model; Sustainable land Management project 2011</p>	<p>Section 3.3: The objective of this assignment is to develop a participatory and replicable model and techniques that will successfully overcome institutional and governance barriers to sustainable land management.</p> <p>The SLM Model needs to be updated and operationalised. Managed Resource Area model for developing bylaws should be made more realistic. It is beyond the capacity of local councils to implement.</p>
<p>ORASECOM Lesotho Action Plan 2014</p>	<p>Regulatory Insight: Chapter 4 – Page 24-28 of relevance. The Action Plan was reviewed as it was deemed relevant for informing the context of local bylaws. Community councils are meant to work together with ‘Catchment Management Joint Committees’ (CMJC) as reflected in the Long-term Water and Sanitation Strategy (LWSS 2016) and drafting of key bylaws may be required to aid core function implementation. The Lesotho strategic action plan provides valuable local insight as it unpacks the 4 major environmental concerns specific to Lesotho’s context.</p> <p>It provides stakeholder insight as to what the critical issues are on the ground. It is this local level insight that will inform which areas of ICM at National and Local level require strengthening to address long-term ICM concerns.</p> <p>Analysis from the report, presented on Land Degradation and Water Quality Issues – highlights urgent areas requiring practical and enforceable regulation. Land Use and Water Use therefore are areas for flagged for specific focus; detailed unpacking and review with possibility for urgent reform.</p> <p>The detail of the ‘Action Plan Measures’ could also be a good springboard, streamlining opportune areas for by-law drafting case studies at a later point.</p> <p>National Framework of Lesotho & International Governance– covered in section 2.1 & 2.2 – Page 14 of the LAP document and provides useful insight. This section highlights pertinent legislative instruments that are key to addressing the critical concerns noted in Lesotho’s IWRM. Table 3 – Page 15 refers “Local Government Community councils have the legal authority to manage natural resources in Lesotho and to draft resource management regulations that can become community council by-laws. They also prepare natural resources management (NRM) plans that can be built into community council development plans.”</p> <p>Context of the report is current and needs no updating.</p>
<p>Revised SADC Protocol on Shared Watercourses</p>	<p>Article 4 (2) Protection of ecosystems, pollution prevention, policy harmonisation and protection and preservation of the aquatic ecosystem. Institutional framework presented in article 5. However national level institutional arrangements are not prescribed.</p> <p>It is broad enough to allow some flexibility for the implementation of practically enforce-able measures for successful ICM in Lesotho.</p> <p>The protocol is very much relevant as it embodies the latest thinking with regards to cooperation of stakeholders in water resources management.</p>

3 Findings and recommendations

Policy and Legal: Environment and Wetlands

Finding 1: There are conflicting interventions on the protection and management of wetlands. These are found in the Environment Act 2008, Water act 2008 and Draft Range Resources Management Bill programmes on the ground.

One of the most classical areas of conflict between the various ministries in executing what is perceived as being within the purview of their mandates, in the protection of wetlands. The issue of wetland protection and management is covered to some extent in the Water Act of 2008, Environment Act of 2008, the Local Government Act of 1996, in the Range Resources Management Bill amongst others. The specific laws and relevant sections are:

Water Act 2008:

“wetland” means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil.

15 (2) A local authority shall be responsible for the management of catchment areas in its area of jurisdiction.

(3) A local authority has the following functions:

(a) elaboration of catchment management plans for the protection and use of water resources in the catchment area, which shall be in line with the water and sanitation strategy and plans developed by the Commissioner.

18 (1) A Minister may in consultation with the Minister responsible for land, declare, by notice in the gazette, certain wetland areas as protected and prohibit entry into or use unless authorized.

Environment Act 2008:

“wetland” means an area permanently or seasonally flooded by water

where plants and animals have become adapted.

61. (1) The Director shall, in consultation with the relevant line Ministry issue guidelines and prescribe measures for protection of riverbanks, rivers, wetlands, lakes and lakeshores.

62. (1) The Minister may by notice in the Gazette publish general or specific orders, or standards for the management of rivers, riverbanks, lakes, lakeshores or wetlands.

Draft Range Resources Management Bill:

“wetland area” means a sub-catchment in which an important wetland is located.

Minister shall declare by Gazette:

4 (c) specific wetland and catchment areas as protected areas and regulate entry and access to the resources.

8, 10 and 12: Functions of Chief and Local Authority and rangeland user group (e.g., grazing association) respectively:

- protect, in their areas of jurisdiction, selected rangeland sites and wetland areas identified by the Ministry in consultation with other relevant stakeholders;

Based on the interactions with the relevant stakeholders, there is general recognition by Ministries regarding the importance of wetlands. However, there are overlaps and grey areas that contribute to poor wetlands management in the country. Without very high levels of cooperation and coordination, it could result in management being poorly implemented and managed.

Ministry of Water (MoW), Ministry of Forestry and Land Reclamation (MFLR), Ministry of Environment (MTEC) as well as Ministry of Local Government are key stakeholders in wetlands management.

The Environment Act 2008 provides for the appointment of representatives of youth & women into the National Environment Council (NEC), to represent the interests & needs of women & youth. The NEC is an apex decision-making body proposed by the environmental legislation. However, the major challenge is that the NEC does not exist in practice. One of the functions of the NEC is to harmonise policies & plans across sectors, ensuring the

integration of environmental management issues. This presents opportunities for building an enabling policy environment for implementation of ICM in Lesotho.

Recommendations 1.a): Strengthen the governance on wetlands to create an enabling environment for their protection and sustainability.

Recommendations 1.b): The National Environment Council should be duly constituted as provided for in the Environment Act 2008 and activated.

Finding 2: The Ministry of Forestry, Range and Soil Conservation is ready to transfer resources to the districts. Budget was to be transferred to the district sub-accountancies for disbursement and use. There are resource centres with staff and other resources. However, discussions with local authorities revealed that this has been put in abeyance. MFRSC puts the blame on the onset of the Covid-19 pandemic in 2020. It was uncertain when this move will be reactivated.

Preparation for the Draft Range Resources Management Bill 2021 was an advanced stage, likely to be completed in August 2021.

The Draft Range Resources Management Bill will, for the first time, replace chiefs with councils in line with the Local Government Act 1997, and the Local Government Bill 2016 (submitted to Parliament) which will relegate responsibilities on grazing control to councils.

Key points are as follows:

- Define Integrated Catchment Management. Integrated Catchment Management (ICM) is identified as a primary objective of the draft Bill; however, ICM and its related principles require further elaboration and clarification, e.g., through a definition or statement of ‘ICM principles’. A suggested definition is provided in the comments below.
- Expand definition of protected areas. In several places, the draft Bill refers to protection of wetland and riparian areas. This objective should be revised to address all aspects of range-related ecosystems or activities that impact upon sustainable soil and water resources management. An ecosystem approach may be more effective than focusing on any one habitat type.
- Harmonise draft Bill with authorities of other Ministries and other relevant legislation. The draft Bill makes few references to the responsibilities or authorities of other Ministries or Departments in managing rangelands or protecting sensitive areas. Similarly, the draft Bill does not refer to other relevant legislation for instance for defining “protected area.”
- Define authority of the Minister within objective of the Bill. The powers and authorities vested to the Minister of Forestry appear to be overly broad and to confer unlimited discretion upon the Minister. These authorities, such as those to delineate grazing lands and protected areas, should reference specific criteria for these areas in line with the objectives of the Bill (including ICM objectives).
- Clarify or better delineate authorities. The delineation of authority between the Minister, the Council, the chiefs, and the Grazing Associations remains unclear.
- Provide legal basis for subsidiary regulation or guidelines. The draft Bill provides language establishing the legal basis for implementing subsidiary regulations or technical annexes to the Act. This legal basis must be more precise, listing the purposes and scopes of needed implementing regulations, i.e., one regulation on permitting.
- Provide detail on permitting, fees, and funding. The draft Bill defines various permits and fees, but currently fails to provide additional detail on these. It is also noted that Chapter 2 of the Bill regarding funding of Range Resources Management is currently incomplete.

Recommendation 2.a): MFRSC should, in line with the Local Government (Transfer of Functions) Regulation of 2015, proceed with its implementation.

Recommendation 2.b): The ICM inputs to the Draft Range Resources Management Bill be accorded due consideration for incorporation to improve its quality.

Finding 3: There are competing land uses between the Ministry of Agriculture and Food Security and the Ministry of Health 's cannabis programme on one hand, and Ministry of Forestry, Range and Soil Conservation's fruit tree (pomology) production and distribution on the other. As a result, local authorities and communities get prone to negative effects.

The Ministry of Agriculture's Department of Crops has a pomology section, with staff, that has historically been mandated with the production, management, sale and distribution of fruit trees to farmers. However, the Department of Forestry has also got engaged in the same activities. There have been confrontations and tensions between the two government institutions without have amicable resolution of the matter.

Similarly, the Ministry of Health has currently introduced production of cannabis for medicinal purposes, issuing permits to local and foreign investors. In many instances, prime agricultural land get taken up in large tracks of land, only to be subjected to construction of concrete slabs for erection of tunnels to plant cannabis.

Recommendation 3: Conflicts between the Ministry of Agriculture and those of Forestry, Range and Soil Conservation and of Health on pomology (fruit tree production) and cannabis production must be resolved.

Finding 4: Enforcement of the Weeds Eradication Act of 1969 has been abandoned for many years.

Lesotho's land tenure is communal system, where all livestock mingle with one another between farmers' flocks. It was common course, the past that from the village level each chief would make a call for specified days in which to eradicate all noxious weeds within their environs. According to the law, it is the chief and police officers empowered to enforce this provision. The main purpose is that Lesotho's economy has depended on wool and mohair production of export. The quality of these gets degraded easily soiled, and so reducing the price to the detriment of the farmers' income.

Recommendation 4: The Weeds Eradication Act of 1969 should be updated and new mechanisms for enforcement put in place.

Finding 5: The current framework for integrated catchment management is fragmented.

The current legal system for land and water use regulations, by and large, separates land use regulation from water use regulation at the national level, it does not establish clear linkages between responsible authorities and/or their mandates. While the Land Act is the primary legislation for land use regulation and the Water Act is the primary legislation for water use regulation, there are numerous other pieces of legislation including policies with a direct bearing on catchment management. Those instruments were enacted or formulated in different contexts and each of them is geared to address some but all elements of integrated catchment management.

Recommendation 5: The existing legislation and policies for land and water use must be aligned by repealing inconsistent and outdated provisions and incorporating cooperative and coordination mechanisms or techniques into the applicable legislation to address overlaps and duplication.

Finding 6: Functions of Council have been upgraded from the Local government Act 1997 through the Local Government (Transfer of Functions Regulations) of 2015.

In the past, the functions of Councils were spelled out in Schedule 1 and 2 of the Local Government Act 1997. However, in 2015, the schedules were delegated by the Local Government (Amendment) Act of 2010, which introduced a system whereby functions were to be progressively transferred from the central government to local councils through regulations. The regulations on the transfer of functions were enacted in 2015. So far, the functions transferred are as outlines below:

Box 1: Functions of Councils as stated in the Local Government (Transfer of Functions) Regulations of 2015

Those that relate to ICM are; water, sanitation and hygiene; pollution control; housing and building; land acquisition and compensation; land allocation; land disputes resolution; physical planning; land use planning; land

surveying; forestry development and outreach; land management and waste management; and management of rangeland resources and utilization.

Government piloted decentralisation with six ministries through the Local Government (Transfer of Functions) Regulations 2015: Health, Local Government, Social Development, Energy, Forestry, Range and Soil Conservation; Water dropped out due to lack of readiness. Only MoLGCA and that of Public Works have affected decentralisation of their services on land allocations, physical planning and minor roads construction and maintenance respectively. However, it is only the political decision-making that Councils are able to make. Fiscal regulations are still controlled by central Government; fiscal decentralisation has been delayed due to the Covid-19 pandemic. The likely query by the Public Service Commission on transferring staff was overcome without any hurdles since Local Government Commission would deal with such matters.

Recommendation 6: The decentralisation pilot project through the Local Government (Transfer of Functions) Regulations be enforced by the relevant institutions stated therein.

Finding 7: Draft Council bylaws have not been passed because of conflicts encountered with the other principal laws of ministries that had not yet decentralized. The Local Government Bill is meant to address this dilemma.

Box 2: An example of bylaws not enacted: Mateanong and Moremoholo (Mokhotlong)

Bylaws to provide for the conservation, preservation and protection and management of the environment and natural resources within the jurisdiction of Mateanong and Moremoholo Community Councils and for matters incidental thereto. These bylaws are enacted pursuant to section 42 of the Local Government Act No. 6 of 1997, as amended.

Community Councils’ Environmental Protection and Management Bylaws 2007

Recommendation 7: Enactment of the Local Government Bill, now in Parliament, should be prioritised without delay.

Finding 8: The Water Act does contain many ICM objectives and is of medium relevance to decentralization. Decentralization is poorly addressed. Section 42 of the Water Act is the legal basis for implementing regulations and is too general and hence insufficient.

The preamble does neither explicitly address the integrated nature of Integrated Water Resources Management, nor of Integrated Catchment Management. This is, however, mentioned in S. 3. that provides for an integrated approach – but from a water perspective, as the main objective is water conservation. However, decentralization is not mentioned.

Decentralization is not mentioned in the main principles and objectives under Section 3.

The Section on “water management institutions” does not mention the local level. It only mentions national or international level, and decentralization of enforcement is not mentioned.

S. 16 empowers a local authority to manage catchments within its area of jurisdiction. It lists functions of this local authority that are water resource related only. This is highly relevant for decentralization and should be expanded to cover ICM and not only water.

S. 16 includes ICM principles in the “Catchment management plan”. These are not supported by subsidiary legislation, i.e., detailed regulations, or by-laws. There are no enabling provisions in the act to this end. S. 42 on the making of regulations is also not sufficient in this regard.

S. 20 requires permitting for all water uses. With a view to meaningful decentralization, permitting needs to be dealt with as decentralized and local as technically feasible and appropriate. Best regional SADC practice would be to have permits being processed and approved by a RBA, CMJC, or other local to regional level authority.

The issue of permitting is highly relevant for decentralisation as it is at the heart of regional responsibilities. The matter of charging cannot be separated from the above permitting issues, as all these forms of use must be subject to levies, tariffs, and fees. These must also be regulated in a detailed permitting and charging regulation with schedules on different forms of use, different users, varying quantities, respective pricing etc. This must be based on a decentralized approach with clear responsibilities of the local authorities as opposed to the national government, at central level. Locally generated revenue should stay local as far as appropriate.

Recommendation 8: Permits need to be dealt with by authorities with in-depth insights into local matters. On the other hand, charges such as fees, levies, tariffs are fundamental to fund decentralization in general, and in decentralization of ICM in particular.

Finding 9: There is a constraint of lack of resources and training in terms of the relevant laws Councils are expected to enforce.

Interviewees that dealt with councils at district level were consistent if saying that all laws at their disposals were only in English, and not in Sesotho for their better understanding. However, the Range Management and Grazing Control regulations of 1980, as amended have been printed in both English and Sesotho. The District Council Secretaries and Legal Officers assist Councillors in interpretation of the laws. All of them indicated that there was no training at all, some went through orientation on assumption of their duties following council elections.

All copies of the available laws were kept in the council offices.

Recommendation 9: Laws enforced by Councils should be translated into Sesotho and made readily accessible.

4 Proposed actions

	Proposed Action	Recommendation to which Action relates	Priority	Timeline (Years)	Main Actors
Institutional Reforms					
1	Create and enhance corporate governance instruments for wetlands management between key stakeholders. These may include Memoranda of Agreements/ Understanding on wetlands management, rehabilitation and monitoring	Strengthen the governance on wetlands to create an enabling environment for their protection and sustainability.	1	3	MoW, MoE, Range Resources Management, Soil and Water Conservation
2	Remove impediments to implementation of ICM caused by extreme compartmentalisation of institutions.	Promulgate ICM law in order to bring all conflicting programmes under one umbrella of the Environment Act 2008.	1	5	MTEC, MoW, MFRSC, MAFS, MoLGCA, Cabinet, Parliamentary Council
3	Programme of action for National Environment Council should be prepared.	The National Environment Council should be duly constituted as provided for in the Environment Act 2008 and activated.	1	1	MTEC, Cabinet
4	Consultative dispute resolution forums be set up at high official level	Conflicts between the Ministry of Agriculture and those of Forestry, Range and Soil Conservation, and of Health on pomology (fruit tree production) and cannabis permitting for production and respectively, be resolved.	3	1	MAFS, MFRSC
Legal Reforms					
5	Implementation plan for transfer functions of MFRSC to districts be developed and put into action.	MFRSC should, in line with the Local Government (Transfer of Functions) Regulation of 2015, proceed with its implementation.	2	2	MFRSC, MoLGCA
6	Incorporate ICM recommendations into the Draft Range Resources Management Bill 2021.	The ICM inputs to the Draft Range Resources Management Bill be accorded due consideration for incorporation to improve its quality.	1	0.5	MFRSC, Parliamentary Council, Parliament

7	Review to update and enforce eradication of noxious weeds.	The Weeds Eradication Act of 1969 be updated and new mechanisms for enforcement put in place at local community	3	4	MAFS
8	<p>Harmonisation of legislation</p> <p>Address glaring overlaps on Ministerial functions and responsibilities on issues of environmental management</p> <p>Address inconsistencies in the fines specified in the above legislative instruments.</p> <p>Water Act 2008 Preamble should recognize need for integrated management approach for all aspects of water resources and Integrated Catchment management.</p> <p>The Preamble must be amended with subsidiarity: delegation of management functions to a regional or catchment level.</p> <p>And, equally, decentralization or principle of subsidiarity to be mentioned in the main principles and objectives under Section 3, Water Act 2008.</p> <p>The “water management institutions” should mention the local level, it only mentions national or international level.</p> <p>S. 15 (1) must contain criteria on how catchments are identified and designated.</p> <p>S. 16 on local level management competences to be expanded to ICM and not only to water.</p> <p>S. 16 on local level catchment management to be supported by subsidiary legislation, i.e., detailed regulations, or by-laws. These by-laws must be drafted.</p> <p>The Water Act to state clearly that Permitting is being processed and approved by an RBA or other local to regional level authority.</p>	<p>Water Act of 2008, Environment Act of 2008, the Local Government Act of 1997, in the Range Resources Management Policy and Strategy of 2014, the Land Husbandry Act of 1969. Ultimately the relevant pieces of legislation need to be amended so that they are harmonized and cross-referenced to each other.</p> <p>Redefine roles and responsibilities of central government, local authorities as well as chiefs.</p>	1	2-3	MoW, MoE, Ministry of Agriculture, Range Resources Management, Local Government, Soil and Water Conservation

	Charges such as fees, levies, tariffs to be allocated to the local level by the WA.				
9	Develop policy on ecosystem payment. Enact law for enforcement of catchment user fees	Introduction of user fees in the catchment should be introduced for paying a catchment management fee to fund the costs of this work.	2	3-5	Range Resources Management, Local Government, MoW
10	Conduct needs assessment on the technical capabilities of the key stakeholders at national district and community levels	Roll out the developed programme on responsibility, accountability and service delivery at district, and community and catchment levels.	1	2--3	MoW, MoE, Ministry of Agriculture, Range Management, Local Government, Soil and Water Management
	Review and refine the roles, responsibilities, budgets, and feasible organizational arrangements for capacity building of stakeholders at all levels, with special attention directed at the decentralized level e.g., Chiefs, Community and District Councils, Grazing Associations, Integrated Catchment Management (ICM) institutions, and CBOs to protect and manage wetlands		2	1-2	MoW, MoE, Ministry of Agriculture, Range Management, Local Government, Soil and Water Management

Annexes

Annex I: Mapping Matrix: Lesotho's Land and Water Use Regulatory Framework

Instrument	Scope (Key ICM elements)	Objective(s)	Administrative bodies & their mandates	Enforcement, reviews & appeals	Participation, capacity building & records	Priority 1-3 1=highest
Constitution	27,34, 36, 105, 109	106	105	—	20	2
Local Gov. Act	5 & 42	Long title	4, 5, 27, & 42	42(3) & 43	21	3
Local Gov. Reg. 2005	—	—	—	—	9, 12, & 14	3
Local Gov. Reg. 2015	First Schedule	2	2	—	—	2
Local Gov. Bill	7, Part IV & 59	Long Title	38, 54 & 55	59 & 56	29, Part IV, 55	3
National Plan. Board Act 1995	6	—	6	—	—	3
Land Act 2010	5, Parts IV, V, IX & XI	Long Title	12, Part IV & V	Part XII, 72, 83, 84, 85, 86 & 91	12, 23, 26, 27 & 29	2
Land Regulations 2011	6, 12, 13, 27, 28, 29 & 30		6, 7, 9 & 35	52	6, 7 & 37	2
Systematic Land Regularisation Regulations 2010	17	—	5 & 13	5, 8 & 16	4, 5, 8 & 16	3
Land Survey Act 1980	—	—	—	—	—	—
Land Survey Reg. 1982	—	—	—	—	—	—
Land Administration Act 2010	5 & 16	Long Title	4, 5, 6, 16, 18 & 19	5	5	3
National Decentralisation Policy 2014	1.2.7, 1.3.8, 3.3, 3.12 & 3.13	2.1 & 2.2	3.5	—	1.3.5, 1.3.7, 2.3 & 3.9,	2

Annex II: Assessment criteria to review national policy instruments relevant to implementation of ICM

Key elements of ICM:

- a) Sustainable soil management and erosion control;
- b) Sustainable water utilisation, management and pollution control;
- c) Maintenance of aquatic and related ecosystems, ecosystem services and biodiversity;
- d) Sustainable range management (for livestock rearing and crop production);
- e) Wetlands management and restoration;
- f) Water resources development and infrastructure operation;
- g) Sustainable planning of human settlements; and
- h) Governance reform in pursuit of all of the above

Interrelated objectives:

- a) Socio-economic development;
- b) Livelihoods and poverty alleviation;
- c) Improved affordable access to safe water and sanitation services;
- d) Sustainable support to commercial and subsistence agriculture;
- e) Climate change adaptation;
- f) Rights based approach including, in particular, gender equality;
- g) Policy and legislative harmonisation;
- h) Subsidiarity and decentralisation;
- i) Private sector & civil society involvement in the water sector and in related sectors;
- j) Raising awareness regarding ICM
- k) Meaningful stakeholder engagement; and
- l) Capacity-building, research and training.

Method

1. Review

- a. Policy, strategy or plan, against the six key criteria, i.e., the extent to which the key elements of ICM and interrelated objectives are addressed
- b. Policy and strategy relating to the 8 key elements of ICM to assess the extent to which the aspects of ICM are addressed.

2. Apply rating of alignment with the key criteria using Scale:

- (1) Key criterion is not addressed at all
- (2) Key criterion is very poorly addressed
- (3) Uncertain/Unclear whether the criterion is addressed
- (4) Key criterion is addressed
- (5) Key criterion is very thoroughly addressed

3. Justify rating by providing comments / justification of the gaps and weaknesses, strengths etc.

4. Please ensure that parent and subsidiary legislation are reviewed together.

This would usually be an act and a regulation that has its legal basis in the act. A parent legislation may answer some questions through its subsidiary legislation. For example, Local Government Act does not expressly give local councils ICM related functions but empowers the Minister to gazette a list of functions. The regulations do cover some elements of ICM. So, when the two instruments are assessed together, a correct picture will emerge. Otherwise, one would arrive at a conclusion that the Act does not cover key elements of ICM, but the regulations do. The correct picture is that it does cover such elements through its subsidiary legislation. To this end you will need to identify acts and regulations that need to be grouped for review. The respective enactments of a group (consisting of the parent and the subsidiary legislation(s)) needs to be named in the header of the below table that lists the enactments reviewed. In this case indicate in the comment column, using acronyms, to which enactments your comments relate (i.e., WA for water act and SWR for surface water quality standards regulation). In case parent and subsidiary legislation covers certain ICM elements, all relevant Articles/sections need to be commented. The legal basis in the parent legislation should be mentioned (i.e., Sect. 42 WA).

List the Policy, Strategy, Plan etc. Reviewed: **EXAMPLE: National Wetlands Conservation Strategy (no decentralization relevance = NDR)**

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE, 1-5 (5 being the highest level of agreement)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>3</p> <p>The strategy contains ICM objectives.</p> <p>It mentions – in a general way- some decentralization objectives (SO 5).</p>	<p>(See also the review under Workstream 1)</p> <p>The guiding principles on page 10 reflect, inter alia, ICM objectives:</p> <p><u>Inter-linkage between community livelihoods and ecological integrity of wetlands, sustainable use of wetlands resources, empowerment and participation by all stakeholders in wetland conservation, and international cooperation in the conservation and management of shared wetlands resources.</u></p> <p>Strategic objective 3.1 aims at strengthening the capacities of institutions involved in management of the wetlands ecosystems <u>at all levels of governance.</u></p> <p>Strategic objective 4.1 requires good quality “information on the location, biotic and abiotic characteristics of the wetlands for <u>informed decision making at all levels.</u>”</p> <p>It aims at:</p> <ul style="list-style-type: none"> • Developing a comprehensive wetlands’ inventory and database that show their distribution, conditions and uses.

			<ul style="list-style-type: none"> • Develop Information, Education and Communication (IEC) materials to capacitate stakeholders on wetlands ecosystems and their management. • Devise methods for improved access and decision-making support to information and data <u>by all relevant sectors and stakeholders</u> on wetlands areas. <p><u>Strategic objective 5 (see below) encourages community participation and promotes decentralization.</u></p> <p>Strategic Objective 5 is the most relevant SO. It requires the development of innovative mechanisms that empower stakeholders to participate in the management of wetlands by:</p> <ul style="list-style-type: none"> • Strengthening communication, collaboration, and public outreach programmes for <u>all stakeholders</u> on wetland ecosystems conservation and management. <p>Strategies:</p> <ul style="list-style-type: none"> • Advocating for collaboration and cooperation between institutions and stakeholders to share wetlands' information <u>at community, district, national, regional, and international levels</u>
<p>2. Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area?</p>	<p>3</p>	<p>Strategic goal 4.2.1 requires protection of wetlands and promoting their sustainable use through integrated land and water resources management.</p>

	<p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures take account of any recent, current or impending significant infrastructure investments or commercial development need?</p>		<p>Strategic objective 3.1 aims at strengthening the capacities of institutions involved in management of the wetland’s ecosystems at all levels of governance.</p> <p><u>Strategic objective 5 (see below) encourages community participation and promotes decentralization in a general manner.</u></p>
3. Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measure involve an equitable and reasonable distribution of costs and benefits across all sectors?</p>	The strategy contains no measures that are sufficiently specific to justify a rating	There seem no contradictions or conflicts with policies, plans, or acts.
4. Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or 	2	<p>It is from 2013.</p> <p>It is neither implemented by specific legislation on wetlands, nor on decentralization.</p>

	- Requiring consolidation / codification (regarding amending measures).		
5. Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	3	<p>The guiding principles contain several ICM elements and objectives.</p> <p>There are no measures that could conflict with other national measures because the strategy is too general in nature and contains no specific measures.</p> <p>The strategy advocates for collaboration and cooperation between institutions and stakeholders to share wetlands' information at community, district, national, regional, and international levels.</p>
6. Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	4	<p>Strategic objective 4.1 requires good quality “information on the location, biotic and abiotic characteristics of the wetlands for informed decision making at all levels.”</p> <p>It aims at:</p> <ul style="list-style-type: none"> • Developing a comprehensive wetlands' inventory and database that show their distribution, conditions and uses. • Develop Information, Education and Communication (IEC) materials to capacitate stakeholders on wetlands ecosystems and their management. • Devise methods for improved access and decision-making support to information and

			<p>data by all relevant sectors and stakeholders on wetlands areas.</p> <ul style="list-style-type: none"> • Develop and implement research programmes on wetlands conservation <p>Strategic Objective 5 requires the development of innovative mechanisms that empower stakeholders to participate in the management of wetlands by:</p> <ul style="list-style-type: none"> • Strengthening communication, collaboration, and public outreach programmes for all stakeholders on wetland ecosystems conservation and management. <p>Strategies:</p> <ul style="list-style-type: none"> • Advocating for <u>collaboration and cooperation between institutions and stakeholders to share wetlands’ information at community, district, national, regional, and international levels.</u> <p>Reviewability is not mentioned. This is due to the fact that the strategy is too general.</p>
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Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the act fails to adequately address the relevant sector as such. This review takes an ICM decentralization perspective and mainly aims at identifying ICM related gaps and shortcomings.

Note: the matrix above is mainly relevant in its first line on subsidiarity as this Workstream 4 aims at decentralisation. Hence, most Articles are dealt with under line 1. However, short comments on other ICM relevant issues are made in all other lines.

The strategy adequately addresses decentralization. It does, however, neither detail any decentralization procedure, neither any strategy to actively promote decentralization.

The strategy summarizes key ICM objectives, and its guiding principles reflect ICM objectives as well.

It is not supported by specific implementing regulations.

Annex III: Stakeholder Interview Guide

Introduction

The purpose of this interview guide is to support preliminary consultation on the extent to which policy and legislation provides support for the rollout of decentralisation process in Lesotho. This round of consultation focusses on two aspects:

- Section 1 – A review of what stakeholders see as the key policies and legislation for their work on decentralisation, and their experience in implementing the strategies and plans that focus on these instruments.
- Section 2 - Stakeholders' perceptions regarding the applicability and relevance of the policy and legislation and the extent to which it provides an enabling environment for implementing decentralisation in Lesotho.

These questions provide a framework for discussion and a guide on the range of issues to be explored. They are not intended as a checklist to necessarily be answered individually. We would also welcome any additional insights and information you are able to provide that might not be directly addressed in the set of questions.

1. What are the main legal framework(s) (national laws, policies, strategies and plans) relevant for your work?
 - a. Please list
 -
 - b. Please explain briefly how these laws, policies, strategies or plans are relevant for your work (at national, district, local level).
 -
 - c. Are the principles and requirements of national laws clearly reflected in the strategies and plans relevant for your work?
 -
 - d. Do the national laws, policies, strategies, and plans give you adequate legal and practical tools/ mechanisms to meet the requirements stemming from your activities/responsibilities?
 - i. If yes, please list which tools/ mechanisms are available?
 - ii. If no, please highlight what the gaps are?
 - iii. What institutional linkages between national level organisations exist to assist you in the fulfilment of your responsibilities?
 - iv. Are these linkages adequately established and functioning?
 -
2. Overall, what are the main observations relating applicability and relevance of the national law, policies, strategies and plans, for example:
 - a. Effectiveness
 - Do the measures appropriately address key elements and objectives for the decentralisation (sufficiency of mandate; scope of application; and practicable level of administration)

- Do the measures create or contribute to a practicable regime for the decentralisation in Lesotho (sufficiently flexible; sustainably implementable; Practically enforceable; and Financially sustainable)
- b. Holistic / Cross-sectoral
 - Do the measures link with the mandates of other ministries and departments (e.g., social and economic development, water affairs, environment affairs, etc.) and do the measures create or contribute to an integrated framework?
 - Are there gaps regarding key functions (e.g., enforcement)?
 - Are there any ambiguities regarding scope of application?
- c. Proportionality
 - Are the measures likely to achieve their legitimate aims;
 - Are the measures cost-effective;
 - Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors?
- d. Currency
 - Are the measures outdated or obsolete in objectives, scope of application or approach;
 - Do they require updating (e.g., regarding penalties) or require consolidation / codification (regarding amending measures).
- e. Consistency
 - Do the measures promote (at least some) elements and objectives of decentralisation consistently with the strategies and plans of other Ministries and Departments ;
 - Do the measures run contrary to (certain) elements and objectives of other Ministries or Departments;
 - Do the measures conflict with other national measures:
- f. Participatory (ensuring equitable participation)
 - Do the measures seek to raise awareness of (elements and objectives) about decentralisation;
 - Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;
 - Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;
 - Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.
- g. Monitoring and evaluation
 - Are procedure and processes for decentralisation being monitored and evaluated;
 - Is the effectiveness of the promotion of decentralisation at different levels (national, district, local) monitored and evaluated;
 - Are assessments being undertaken to inform improvements to adaptation policy, strategy and plans.
- h. Enabling environment
 - Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for decentralisation
 - Is there a lack of finance or other resources, lack of skills/ capacity, or any other relevant challenges that you are aware of?

Annex IV: Stakeholder Interview Analysis Matrix

Thematic area	Workstream # 4: Decentralisation
<p>Policy/Legal: Decentralization</p>	<p>Central Government Consultations</p> <p>Relevant Instruments</p> <ul style="list-style-type: none"> ○ The Ministry of Local Government and Chieftainship Affairs (MoLGCA) was established in 1994 to drive decentralization agenda (aligned to Constitution section 106), 1997, Act of Parliament Local Government. Act 1997 provides actual framework for local government issues in Lesotho. Act has been amended several times to address challenges met during its implementation. ○ Local Government Regulations 2004 were developed. ○ Local Government Service Act 2008 – addresses human resources issues in respect of personnel implementing local government issues, as amended. ○ Local Government Elections Act 2004 (focuses on elections within Community Council issues etc.). Key services within Lesotho are clustered towards town centres in all districts; hence decentralisation wants to ensure that service delivery is taken closer to communities and that community needs and aspirations are taken into account during planning and implementation. Services were to be removed from the centres to the communities. Communities expected to have a hand on delivery of services. ○ Local Government (Transfer of Functions) Act of 2015. <ul style="list-style-type: none"> ▪ First Community Council elections were held in 2005 following protracted 1998 political instability – Directly voted into councils’ members; quota for women in Community Councils constitution and Chieftainship representation in councils. With time women representation started changing and model revised to include representation of women through 1/3 Proportional Representation from Electoral Divisions as well as the Chiefs. ▪ Lessons learnt from first term of Councils: budget towards councils’ development programme was too little and some Councils could not implement any meaningful programmes (e.g., water maintenance and building roads). The system was revised to reduce Councils from 127 at the beginning to include Urban (11) Councils (64 Community Councils) and 10 District Councils.

- Functions of Councils are in Local Government Act 1997 Schedule 1 and 2. They depend on central government ministries and respective ministries need to unpack the human resources and budget issues so that it implements according to its unpacking. Local Government decentralised land allocation issues to Community Council level.
- In 2010/2011 Ministry of Works decentralised minor road construction and maintenance and issues to Community Councils level, together with Human Resources. Financial decentralization was not done due to lack of fiscal policy on that.
- 2012 first coalition government needed to identify challenges that existed in 2013. National Decentralizations Policy was established and approved by Cabinet in 2014. Government felt the need to know why has there has not been progress with regard to decentralization since 1997. A response was lack of understanding of decentralisation amongst ministries as well as communities. Task was then to define decentralization mode that Lesotho needed to follow – refer to the Constitution – decentralization agenda driven by people.
 - Devolution – driven by the people hence Government selected key ministries in basic services to devolve their functions and giving councils powers to decide on delivery of such services.
 - Another gap/challenge: MoLGCA was seen as trying to impose itself as a superpower by devolving other Ministries functions to it. However, this is not necessarily the case as ministries need to guide councils and build capacity of such councils and monitor their performance on implementing those functions.
- By-laws by councils on functions need to have been legally transferred to councils to do that at first. The Law governing that needed to be harmonised with Local Government laws. This is why Government started this with a few ministries (6) to pilot decentralisation through devolution, the seventh ministry was Mining as ministries were re-arranged post Ministry of Natural Resources dissolution into other ministries. MoLGCA, Health, Forestry, Energy, Mining, Water and Social Development plus Ministry of Works are all expected to have devolved. In 2014. Five ministries agreed to this but Ministries of Water and of Mining did not agree at first, but since ICM is a requirement, Ministry of Water sees the need to fast-track this. Ministry of Works decentralised human and other resources (office and transport).
- Fiscal decentralization framework started since 2019 (but MoLGCA lacks expertise here, hence the Ministry of Finance to come in an assist and co-chair with MoLGCA). At the beginning of 2020, covid delayed this process. Accountability, on use of resources, is key.

- Separation of powers at council level requires structures in place and Executive Majors need to be in place. Local Government Act 1997 has been reviewed and a new bill tabled is before Parliament to establish these new structures that will enable decentralization process.
- For ICM to develop by-laws: MoLGCA wants us to hold our horses so that MoLGCA leads this and identify what is needed (what kind of support is required by the Ministry) to allow this to happen, as by-laws are subsidiary legislation to Local Government Act, hence this process needs to be driven by the MoLGCA. If the Ministry of Water leads this, on whose functions would these be done because it has not yet devolved functions to MoLGCA?
- The issue of by-laws was clarified that it still needs to be finalised by MoLGCA and development partner, and that this will not be carried out in full by ICM Policy Harmonisation Programme. It was recalled that under the Maloti Drakensberg Transfrontier Project's (MDTP) natural resources management programme on Managed Resources Area (MRA), by-laws were drafted. But they have never been passed into law. Similarly, ICM programme under Lesotho Highlands Development Authority (LHDA) experienced the same problem. The sole reason was that these were drawn from the respective ministries without due devolution to councils, otherwise there will remain conflicts.
- LHDA did try to get into by-laws issues through their ICM project, but all these did not bear fruit because the functions of councils are governed by Schedules (1 and 2). Therefore, Ministries need to devolve first before by-laws can come in so that councils do that cognizant of the fact that they are acting within their limits of functions.
- It is a misconception that there is lack of capacity to develop by-laws. Rather, the challenge is that one cannot regulate a function of a sector one does not have jurisdiction on. Once functions have been devolved to councils, then the councils will do that. The by-laws attempted by councils in the past were governed by their schedules, but due to delineation of new councils. For example, Matsoku boundaries changed, then such by-laws fell off.
- It was further confirmed that previous by-laws would not be easy to implement as some functions were outside scope of local government functions and legal interpretations. For example, in respect of education, what is the mandate of councils there? This necessitated the new approach.
- If ICM Policy Harmonisation wants to collect information on development of by-laws, that might be putting the cart before the horse, hence MoLGCA advised against that. The actual drafting of by-laws should be done by legal officers of MoLGCA. Therefore, perhaps ICM can assist with training of legal officers in respect of the exercise to draft by-laws when

the ministry comes to that stage. In addition, development of guidelines would be helpful so that legal officers and councils can, in future, be better empowered to do so.

- Draft by-laws were developed by Maseru City Council, but to implement these there are challenges (legal issues). It is only the land issues that have been delegated to councils by Local Government in which by-laws can be developed into operation.
- The Ministry of Water cannot rope in MoLGCA councils in by-laws development before it devolved its functions to councils. Only then can councils develop by-laws at their own time when all other issues are in place. MoLGCA expressed strong sentiments that, many a times, the issue of the need for Ministry of Water (MoW), as the ICM driver, to decentralise has been brought to the fore, but there is still no movement in this respect. Furthermore, MoW has the opportunity to decentralise while it has the resources under ICM Programme.

District Consultations

Functions of Councils as in Local Government Act 1997 only:

- Land allocation, water supply in villages, construction and maintenance of minor roads, natural resources/environmental protection, burial grounds, range management, marketplaces, mining (sand and quarries), waste management.
- Resources are insufficient for Councils to perform their functions.
- In terms of resources, Maseru City Council (MCC) is the only council that has personnel. There is Waste Management for Councils Fund disbursed from the Central Government that is so little, it lasts only for 5 to 6 months. That is why the landscape is marred with debris (garbage) all over. There is no clear policy, including that of MCC. Ministries are holding onto their resources (personnel, budget, vehicles, equipment).
- Community Councils do not have personnel and vehicles of their own, unlike the MCC that has a full complement of staff, e.g., engineers, others in health, environment, etc. Maseru Community Councils (in Makhalaneng ICM Catchment) have an assistant physical planner, but in other Councils there may be no such planner. This is critical to planning minor road construction and layout for land allocation of plots in new settlement areas. The rest are clerical staff. Decentralisation is way behind as exemplified by lack of Councils' bank accounts; Fiscal Regulations are at Central Government level. Only political decentralised has occurred because political decisions are being made at community level. There are no by-laws, that would have been required, for example, for grazing control purposes. They rely on the Ministry of Forestry, Range,

Soil and Water Conservation for receipts after collecting trespass fines. Department of Rural Water Supply is answerable to the Ministry of Water yet there are no staff expected to operational at village level.

- In allocating land, the Councils are expected to do so only on land that has been surveyed and layout of physical plans in place. But they do have their own surveyors, and rely on central Government personnel, though upon arrival the challenge is lack of funds to construct roads in the planned areas. It is expected that Councils should have well planned settlement areas where they can sell plots, but it does not happen. Their physical planners do not have equipment either.
- Laws enforced by Councils are: The Constitution, Government Act 1997 as amended, Land Act 2010, Range Management and Grazing Control Regulations 1980 as amended, Public Financial Management 2011, Treasury Regulations 2014, Public Procurement Regulations 2017 as amended in 2018, Local Government Service Act 2008, Local Government Regulations 2005, Local Government Service Regulations 2011, Land Regulations 2011, 2012, 2014, Chieftainship Act 1968.
- Challenges:
 - Laws are in English without Sesotho conversion, inclusive of the Constitution; access to them as well due to lack of sufficient funds to purchase them.
 - Councillors have decision-making powers, but most of them have low educational levels which disables them from reading and understanding laws they enforce. However, there is the District Council Secretary and Legal Officer to advise them on the laws.
 - There was only one induction conducted in 2017 (four years ago) when they assumed duty following elections; nothing for the newly elected after by-elections.
 - Revenue collection goes to the central Government coffers, so much that they become unable to purchase even the smallest office items.
 - Legislation enables Councils to develop their own by-laws based on the main laws (Land, Range, Water) by the ministries. It has taken over than ten years by-laws that were prepared not being passed. The Minister was expected to approve and get them enacted. It is apparently due to conflicts with these main laws that by-laws could not be passed.

- There is an opportunity for Councils to perform well if decentralisation can be fully implemented. Currently, budget is still prepared at central Government, and it this is an impediment to implementation at the grassroots level. Councils' priorities in enforcement of laws are those pertaining to water, mining (sand, quarries and diamonds) and range management as these would strengthen Councils. By-laws are needed in these. If decentralisation had occurred, external and internal donor funds would be dealt with directly with the Councils. Councillors are more in contact with the communities than even the Members of Parliament in the National Assembly and therefore exert more influence on development programmes.
- Some ministries like that of Agriculture and Food Security and of Forestry, Range, Soil and Water Conservation have placed their extension staff at a community level, though their budgets, plans and reports get submitted to their parent ministries. In essence, though funds are said to be transferred to the district sub-accountancies, control is still very much centralised. Interaction with Councils is limited to cooperation and coordination of their community activities.
- Councils do not have pound kraals of their own. These are under the control of Chiefs. On the occasion of impounding trespassing livestock, fines are collected by the Councillor, after deducting what has to be paid to range riders. Then the monies are taken to Council offices' appropriate officers who handle funds. Such officers then take the monies to the district sub-accountancies (central Government depository). One of the Councils indicated that some Chiefs and subordinates longer give monies to the Councillors saying that such have been deposited with government, yet they have local needs like a road in villages and potable water in their areas. In other instances, Council offices get reluctant to collect the monies to sub-accountancy without proper records on receipts. Receipts supplied by the Department of Range Resources Management for trespass fines on rested range (leboella) run quite often.
- There exist Village Water Supply Committees that have bank accounts where funds are deposited for maintenance of pipes and ancillaries. A Councillor is a member in each committee.

ANALYST OVERVIEW:

Based on insights thus far, the following has been established:-

Central Government Consultations

- Local Councils have from the onset been allocated meagre budget that has not enabled them to perform their mandated functions effectively. However, Community Councils do not have their own budgets.
- Functions of Councils are spelled out in Schedules 1 and 2 of the Local Government Act 1997. Those that relate to ICM are: 1. Control of natural resources (e.g., sand, stones) and environmental protection (e.g., dongas (gullies), pollution). 2. Physical planning. 3. Land/site allocation. 4. Minor roads (also bridle paths). 5. Grazing control. 6 Water supply in villages (maintenance). 7. Promotion of economic development (e.g., attraction of investment). 8. Burial grounds. 9. Parks and gardens. 10. Control of building permits. 11. Fire. 12. Water resources. 13. Agriculture: services for improvement of agriculture. 14. Forestry: preservation, improving and control of designated forests in local authority areas.
- Government piloted decentralisation with six ministries through the Local Government (Transfer of Functions) Act of 2015: Health, Local Government, Social Development, Energy and Forestry, Range and Soil Conservation; Water dropped out due to lack of readiness. Only MoLGCA and Ministry of Ministry of Public Works have affected decentralisation of their services on land allocations, physical planning and minor road construction and maintenance respectively. However, it is only the political decision-making that Councils are able to make. Fiscal regulations are still controlled by central Government; fiscal decentralisation has been delayed due to the outbreak of Covid-19. The likely query by the Public Service Commission on transferring staff was overcome without any hurdles since Local Government Commission would deal with such matters.
- Draft Council by-laws have not been passed because of conflict encountered with the other principal laws of ministries that had not yet decentralised. The new Local Government Bill is meant to address this dilemma.
- While sentiments had been expressed about lack of capacity by Councils to implement programmes, the Ministry of Local Government counteracts that by saying it is because of resources being held back at central government level by ministries, instead of transferring them to the districts.

District Consultations

- Some Councillors cannot read and write, posing a huge challenge to perform their functions, although in some instances this is of late changing slowing for the better.
- Council lack personnel that would be commensurate with the tasks they are expected to perform on the basis of their local needs to enhance and meet the national economic development goals.

Preliminary recommendations

- All laws must be brought into synchrony with decentralisation in order to facilitate smooth implementation of the same. The major solution lies in the Local Government Bill 2016 that is now in Parliament and needs to be passed as speedily as possible. The piloting project through the Local Government (Transfer of Functions) Act of 2015 be implemented by all the ministries stated therein; Ministry of Water must also be roped in as soon as possible, especially in the light of implementation of the ICM Programme.
- Development of financial mechanisms deserves high prioritisation since without the ability of the Councils to strengthen revenues streams, decentralisation will remain a huge challenge. Budget constraints have been mentioned consistently.
- The central Government should take firm steps on decentralisation of functions such as financial, human and resources and all others.
- Since times are changing fast, the qualifications of Councillors should be reviewed upwards from illiteracy (by some) to at least a high school certificate to make them relatively more effective and efficient in their responsibilities. Many sectors have already followed this trend.
- Upon assumption of duty and on regular basis, Councillors must undergo orientation and training on the laws they are expected to enforce. Then they will be in a better position to see where there are needs to enact by-laws for the sake of efficiency and effectiveness.
- All laws must be translated from English to Sesotho to facilitate better comprehension of their provisions by Councillors.
- For decades, one after the other, decentralisation has been spoken about as the priority vehicle to fast-track economic development of Lesotho. However, there seems to have emerged, stumbling blocks that must be identified and removed speedily. An important legal instrument, which is the Local Government Bill, is now in Parliament and hopefully will get passed timeously.
- Once the new Local Government law gets enacted the following priority areas must get by-laws of the councils passed: Land, Water, Agriculture and Range Resources Management.

Annex V: District stakeholder consultations

Review reports on the ground in selected councils about the implementation and enforcement situation and describe in enforcement overview

Background

The overall objective of the Integrated Catchment Management (ICM) programme is to “.. Facilitate **socio-economic development** and adaptation to **climate change** in Lesotho” to reach the specific objective of “ICM being **institutionalised** and under full implementation in Lesotho based on **gender equality** and climate change adaptation principles”. The ICM programme is being implemented from January 2020 to December 2023 as a multi-donor action. It was agreed between the Government of Lesotho and the EU Delegation to the Kingdom of Lesotho in the Financing Agreement signed in April 2019.

More specifically, the ICM Operational Plan for the first year of implementation in 2020 (ICM OP 2020) highlights that the ICM programme aims at supporting the Government of Lesotho (GOL) in its efforts to rehabilitate degraded watersheds across the country and to put in place prevention measures that will halt the further degradation of Lesotho’s catchment areas. The sustainable management of Lesotho’s catchments is of critical importance for water, energy, and food security not only in Lesotho itself but in the entire Orange-Senqu basin and Gauteng Province, Southern Africa’s economic centre.

Under the Policy Harmonisation programme there are five clusters as follows: i. National Policy Harmonisation, ii. Gender and Rights-based approach, iii. Climate sensitive policy framework, iv. **Decentralisation cluster** and v. Options for financing mechanism to implement local ICM plans.

The ICM policy makers need feedback from the general public and communities, as well as from related officials in a transparent manner regarding the decentralisation, implementation and law enforcement of legislation relating to ICM.

Decentralisation Cluster: These consultations are for a Study of Regulatory Framework on supporting and empowering Community Councils (CCs) ICM implementation. Consultations assess capacity development made through decentralisation with a view to enact by-laws at a later stage. The ICM policy makers need feedback from the general public and communities, as well as from related officials in a transparent manner regarding the experiences and challenges in the decentralisation process, implementation and law enforcement of legislation relating to ICM.

The objective of stakeholder consultations is, therefore, to assess the status of decentralisation and law enforcement situations from the perspective of local authorities that have responsibilities in ICM, and ICM enforcement and from the perspective of the other stakeholders (Community-based Organisations, technical ministries and project staff and judiciary at local level.

Guiding Instruments/Laws/Documents Studied

The policy and legal review looked at more than 40 enactments. This significant number of enactments does not allow for investigate implementation of each in detail. The enforcement situation must relate to ICM, i.e., land, water, rangeland, forest, wetlands management or protection. Hence the below **priority issues** were identified:

INSTRUMENTS FOR STAKEHOLDER CONSULTATIONS AT LOCAL LEVEL

2.1. Land Act of 2010 as amended, Land (Amendment) Act No.16 of 2012; Land (Amendment) Act No.9 of 2014; Land Regulations LN No. 21 of 2011; Land (Amendment) Regulations LN No. 11 of 2013; and Systematic Land Regularisation Regulations LN No. 103 of 2010: **Allocation of land as decentralised by Ministry of Local Government**

2.2 Land Husbandry Act of 1969 as amended with Range Management and Grazing Control Regulations of 1980 as amended; Range Resources Management Draft Bill 202, Model Rural Areas (Grazing, Pounds, Trespasses) Bylaw 1963 – Government Notice No. 24 of 1963: **Grazing control issues (enforcement of rotational grazing and carrying capacities, control of trespasses, impoundment and collection of fines.**

2.3. Water Act of 2008; Integrated Water Resources Management; White Paper: Review of Water Legislation: **Matters related to use of water, e.g., village water supply, boreholes.**

2. 4. Environment Act of 2008; National Wetlands Conservation Strategy; Formal and Informal Institutions in the wetlands of the highlands of Lesotho: **Waste management, pollution, and protection of biodiversity for sustainable use.**

2. 5. Forestry Act of 1998; National Forestry Policy 2008: **Management use and protection of woodlots and forest reserves.**

2. 6. Local Government Act 1997; Local Government Bill of 2020; National Decentralisation Policy of 2014; Report on National Legal Framework on Decentralisation of 2015 by Ramohapi Shale and Jaap de Visser; Issues Paper for the Reform of Lesotho Local Government Act of 1997 prepared in 2015 by Jaap de Visser and Ramohapi Shale: **The status of decentralisation by key ICM related ministries and challenges thereof – Local Government, Water, Agriculture, Environment, Forestry, Range and Soil & Water Conservation.**

2.7 Laws of Lerotholi 1938 (Anti-erosion measures); Draft Soil and Water Conservation Policy: **Combating land degradation on cropland, rangelands and settlements.**

Annex VI: The Role of Chiefs and Councils in Lesotho

“Chiefs historically served as “governors” of their communities with authority over all aspects of life, ranging from social welfare to judicial functions. Although their powers have ebbed and flowed, they have nonetheless been steadily eroded since the beginning of the colonial period and continuing into the present with the recent introduction of a decentralised system of government in Lesotho. Under the legislation governing this process (the Local Government Act of 1997), at least some of their powers and functions have been transferred to recently established local government structures. Since some of these powers are given to Chiefs by the (amended) Chieftainship Act (1968) and Land Act (1979), confusion has arisen as to the exact roles and functions of Chiefs in local governance vis-à-vis the roles of local government structures. Some of this confusion may be a deliberate form of resistance to the changes, but it is apparent that legislative clarity is required and that the roles and functions of all role-players need to be clearly defined and understood if development is to take place in a coordinated way. The role, functions and relevance of Chiefs in local governance is clearly articulated in the Ministry of Local Government and Chieftainship’s draft strategic plan for the period 2009 – 2013”.^{46,47}

Following independence in 1966, the roles, functions and powers of Chiefs were revised by the Chieftainship Act (1968) as:

- To support, aid and maintain the King in his government of Lesotho.
- To serve the people.
- To promote their welfare and lawful interests.
- To maintain public safety and public order among his people.
- To exercise any other powers or functions given to him by law.
- To prevent crime and arrest (or cause to be arrested) anyone suspected of
- Contemplating committing a crime.
- To cause anyone in their area against whom there is a warrant of arrest or who
- can be arrested without a warrant to be arrested.
- To seize stolen property.

Chiefs are recognised by the Constitution of Lesotho (1993), although the Constitution only deals in detail with some of the powers and functions of Principal Chiefs leaving Chiefs’ powers and functions to ordinary legislation such as Chieftainship Act.⁴⁸

Chiefs have other functions given to them by a variety of laws (including customary law) such as:

- To be the custodians of Basotho culture and traditions.⁴⁹

⁴⁶ Extract from Morgan, G., T. Wolfson, J. Tangney, N. Sello, M. Tsoele and P. Lerotholi. 2009. Chieftainship and Local Governance in Lesotho. Government of Lesotho (Study by GOPA under European Union funding), Maseru, Lesotho.

⁴⁷ Chiefs’ roles are, in the main, codified in the Chieftainship act 1968 and Laws of Lerotholi (Revised Edition) 2013.

There is a debate about chiefs’ role because as far as range management is concerned, for instance, councillors need to coordinate with a chief for certain functions. In setting aside leboella (resting a grazing area in a rotational grazing system), both the chief and councillor should agree. In some instances, the councillor is unable to reach the breadth and depth of his/her constituency. A chief will therefore, a lekhlotla (traditional meeting mainly of men) to decide on the times and areas of leboella. Livestock found grazing in such areas must be impounded. It is the chief who must instruct range riders to impound the livestock. It is the chief who has an impoundment kraal to keep the impounded livestock until owners pay fines to release them. There is an overlap of responsibilities. The Local Government Act 1997 has empowered council over natural resources. Chiefs feel belittled by this law which tend to bear a grudge and resist councillors’ role. Councillors’ role is not well defined, except to indicate their responsibility over grazing control and natural resources. This is a grey area that needs to be harmonised. This refers to chiefs below the level of the Principal Chief. At the PC’s level there is no such overlap. It is clearly spelled out in the Range Management and Grazing Control Regulation of 1980, as amended, that cattlepost grazing areas in the mountain areas are under their control. Boundaries are well defined.

⁴⁸ Section 103 of the Constitution entrenches the presence of chiefs, and also refers to their detailed functions in “Each Chief shall have such functions as are conferred on him by this Constitution or by or under any other law”. Their functions are spelled out Chieftainship Act of 1968.

⁴⁹ In practice, Chiefs are no longer only consulted on land allocation.

- To ensure that the poor, the sick, the disabled and the destitute (including widows and orphans) are provided for by setting aside land to be specifically cultivated for them by the rest of the village – known as *Tsimo Ea Lira*.⁵⁰
- To keep custody of lost items including livestock and establish ownership under the Animal/Livestock Theft Act (2003).
- To enforce rule of law, including under the Criminal Procedure and Provision of Evidence Act (1981).
- To attest the registration of births, deaths and marriages of his subjects.⁵¹
- To serve as the first contact person in his area of jurisdiction.
- (And possibly) to allocate land under the Land Act (1979).⁵² As will be seen in the discussion that follows, a great deal of uncertainty and disagreement exists as to whether Chiefs still have the role in land allocation given to them by the Land Act (1979) (as amended by various Orders during the period of military rule).

However, with the changing times, the Chieftainship Act of 1968 is being considered for review following studies undertaken to align it with the prevailing situation of new democratic dispensation.⁵³

The Development Councils Order of 1991 created Village Development Councils to accelerate the socio-economic development of the country. Chiefs were the Chairpersons of these Councils, which existed side by side with the Land Allocating Committees established by the Land Act of 1979, until these Committees were abolished by the Land Amendment Act of 1992, which transferred the power to allocate land from the Land Allocating Committees to the Village Development Councils. Although the Development Councils Order of 1991 was amended in 1994 to elect their Chairperson (removing the automatic right of Chiefs as Chairperson), the Land Act was not amended to provide for an elected Chairperson.⁵⁴

The present Land Act of 2010 defines “allocating authority” as Local Council or other agency empowered to allocate land under the Act. Section 14 of the Act indicates that power to allocate and revoke land shall be exercised by the local council⁵⁵ in consultation with the chief, the two institutions having jurisdiction in the area. This is the reason why chiefs have not been happy with the removal of their power from land allocations.⁵⁶

Chiefs’ functions have been eroding away over time very much to their disgruntlement. According to Section 5 of the Local Government Act 1997, The First Schedule sets out the powers of all local authorities as follows:⁵⁷

1. Control of natural resources (e.g., sand, stones) and environmental protection (e.g., dongas (*gullies*), pollution)*⁵⁸.
2. Public health (e.g., food inspection, refuse collection and disposal)*.
3. Physical planning*.
4. Land / site allocation*.
5. Minor roads (also bridle-paths)*.
6. Grazing control*.
7. Water supply in villages (maintenance)*.
8. Markets (provision and regulation)*.
9. Promotion of economic development (e.g., attraction of investment)*.

⁵⁰ These would have come from the customary law. But in practice it does it is no longer a prevailing practice.

⁵¹ Codified in other law dealing with registration of births and deaths.

⁵² The Land Act 2010 supersedes previous laws and prevails over them. There now exist Community Councils that replaced Village Development Committees.

⁵³ Chieftainship Act to be reviewed will rightly address many of the areas of uncertainty because of later laws that superseded it. Since the process has not started, we cannot ascertain what it will contain. Perhaps now that there is much visibility about ICM, there is a need to incorporate ICM elements.

⁵⁴ All previous laws have been superseded by Land Act 2010. It is the councils’ function to deal with land allocation matters. Chiefs do not maintain historical role as Chairperson any more.

⁵⁵ Local Councils refer to Community Councils, Town/Urban Council, and Municipal Council. As mentioned above, the Land Act prevails.

⁵⁶ Consensus prevails where there is harmonised working relationship between the Council and the Chief. Otherwise, councils have the upper legal hand.

⁵⁷ We can assume that chiefs were consulted when the Local Government Act 1997 assigned these roles to councils at the expense of the chiefs authority, because all laws get passed by Parliament after thorough consultations process. Besides, part of the Parliament, the Senate, vets all laws before enactment. The functions of councils are outlined in the main law. Regulations would help defining specific details on the “how”.

⁵⁸ Asterisk denotes relevance to ICM

10. Streets and public places.
11. Burial grounds*.
12. Parks and gardens*.
13. Control of building permits*.
14. Fire*.
15. Education*.
16. Recreation and culture*.
17. Roads and traffic.⁵⁹
18. Water resources*.
19. Fencing.
20. Local administration of central regulations and licences.
21. Care of mothers, young children, the aged and integration of people with disabilities.
22. Laundries.
23. Omnibus terminals.
24. Mortuaries and burial of bodies of destitute persons and unclaimed bodies.
25. Public decency and offences against public order.
26. Agriculture: services for the improvement of agriculture*.
27. Forestry: preservation, improving and control of designated forests in local authority areas*.

In the Second Schedule of the Act, additional functions of Community Councils are set out as follows:

1. Control of natural resources (e.g., sand, stones) and environmental protection (e.g., dongas, pollution)*.
2. Land/site allocation*.
3. Minor roads (also bridle-paths)*.
4. Grazing control*.
5. Water supply in villages (maintenance)*.
6. Markets (provision and regulation)*.
7. Burial grounds*.

Principal Chiefs' role as far as natural resources is concerned deals with cattle post grazing areas. This has been a bone of contention because PCs were aggrieved by what looked like their function over cattle post areas had been taken over by community councils.⁶⁰ This was brought about by new delineations of community council boundaries that extended into cattle post areas.⁶¹ The problem was heightened during discussions on the Draft Range Resources Management Bill. First, Principal Chiefs complained that their function had been usurped by the Minister because there was nothing that defined their role on cattle post grazing areas⁶². Secondly, there was the issue of new delineation of council boundaries that extended into grazing areas, and thirdly, the Department of Range Resources Management carried out mapping of chiefs' areas under the financial support of the Wool and Mohair Promotion Project (WAMPP), funded by IFAD.⁶³ One or two Principal Chiefs were not satisfied with the exercise, yet they had

⁵⁹ In our consultations with the Ministry of Local Government it articulated well that local councils will have the capacity if and only when resources have been fully devolved to them, namely budget, staff, vehicles and decision-making (non-political). We were informed that rural roads construction and maintenance is answerable to respective district councils.

⁶⁰ In the Range Management and Grazing Control Regulations of 1980. These were originally in the Laws of Lerotoli 1938. Legal definition: "cattlepost area" means an area reserved for winter and summer grazing in the Lesotho highlands as prescribed by relevant authorities". It is the Draft Range Resources Management Bill and preceding laws.

⁶¹ Delineations extended into cattlepost areas during the new boundary merger to align the council constituencies with those of the general elections boundaries.

⁶² Codified in the Range Management and Grazing Control Regulations of 1980.

⁶³ In this instance, chiefs' areas referred to cattlepost areas that were being mapped under the Principal Chiefs jurisdictions. There are many cattlepost areas in the mountain summer grazing areas. There is what is called transhumance where livestock move seasonally between winter grazing areas around villages in the mountains, foothills and lowlands. It is more or less similar to the US, where livestock move seasonally to and from between Bureau of Land Management land and privately owned land.

delegated their subordinates during the delineation field work. All the problems have been resolved to the satisfaction of all those concerned on these matters⁶⁴.

Community councils have been empowered to perform functions that relate to ICM such as the administrative matters on grazing control, particularly outside the cattle post areas. Since there are more village and other grazing areas that the councillors are required to deal with, the grazing areas should ideally be accorded the administration of grazing control. For instance, as enshrined in the Range Management and Grazing Control Regulations of 1980, it is the chief who can summon range riders to go and impound livestock seen trespassing on *leboella*⁶⁵. The bigger picture of the need for harmonization of the roles of chiefs and that of councils need more work than can be dealt with here.

The Study by Morgan *et al.* referenced above provides an excellent starting point for further work. A clearer way forward would be to revise the Chieftainship Act of 1968 as it's very much outdated. New definitions of functions of chiefs should be better spelled out in line with emerging and contemporary governance issues.

⁶⁴ Director of Department of Range Resources Management. Personal Communication (29 September 2021). The conflict referred to under the Range Bill centred on cattlepost grazing areas, which the sole responsibility of Principal Chiefs. The new Range Bill defines their role.

⁶⁵ Leboella is defined in the Laws of Lerotholi (Revised Edition) 2013: "Leboella" means an area set aside for the propagation of grass, thatching grass, reed beds, tree planting or rotational grazing. I.e., it refers to rangeland areas rested from livestock grazing for a specified period to allow rejuvenation of grass.

Workstream 5: Final report on financing options for implementation of local ICM plans



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List of abbreviations and acronyms

AG	Attorney General	LEWA	Lesotho Electricity and Water Authority
APA	Annual Performance Assessment	LG	Local Government
BoS	The Lesotho Bureau of Statistics	LGA	Local Government Act
CC	Community Council	LHDA	Lesotho Highlands Development Authority
CCF	Community Conservation Fund	LHWP	Lesotho Highlands Water Project
CCSAP	SADC Climate Change Strategy and Action Plan	LLWDS	Lesotho Lowlands Water Development Scheme
CMJC	Catchment Management Joint Committee	LMDA	Lesotho Millennium Development Agency
CMP	Catchment Management Plan	LNDC	Lesotho National Development Corporation
CoW	DWA Water Commission	LoCAL	Local Climate Adaptive Living Facility
CPU	(Sub-)Catchment Planning and Implementation Unit	LWSP	Lesotho Water and Sanitation Policy 2007
CRS	Catholic Relief Services	MAFS	Ministry of Agriculture and Food Security
DA	Development Authority	MCs	Minimum Conditions
DA	District Administrator	MEM	Ministry of Energy and Meteorology
DC	District Council	MFRSC	Ministry of Forestry, Range and Soil Conservation
DC	District Coordinator	MoF	Ministry of Finance
DCS	District Council Secretary	MoL	Ministry of Labour
DDP	Deepening Decentralization Program	MoLGCA	Ministry of Local Government and Chieftainship Affairs
DEAP	District Environmental Action Plan	MTEC	Ministry of Trade, Environment, and Culture
DF	District Fund	NDP	National Development Plan
DRWS	Department of Rural Water Supply	NEAP	National Environmental Action Plan
DS	District Secretaries	NGO	Non-Governmental Organisation
DWA	Ministry of Water: Department of Water Affairs	NRM	Natural Resource Management
EIA	Environmental Impact Assessment	NSDP	National Strategic Development Plan
EIIF	Ecological Infrastructure Investment Framework	ODA	Official Development Assistance
EU	European Union	ORASECOM	Orange-Senqu Basin Commission
FAO	Food and Agriculture Organization	PBCRGs	Performance-Based Climate Resilience Grants
FD	Fiscal Decentralization	PEFA	Public Expenditure and Financial Accountability
GEF	Global Environment Facility	PES	Payments for Ecosystems
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit	ROLL	Regeneration of Livelihoods and Landscapes
GOL	Government of Lesotho	RRMA	Range Resources Management Act
GW	Ground water	SADC	Southern Africa Development Community
GWP-SA	Global Water Partnership-South Africa	SDGs	Sustainable Development Goals
HR	Human Resources	SEA	Strategic Environmental Assessment
ICM	Integrated Catchment Management	SGP	Small Grants Program
ICU	ICM Coordination Unit	SLM	Sustainable Land Management
IEC	Information, Education and Communication	SNP	Sehlabathebe National Park
IFAD	International Fund for Agricultural Development	UNDP	United Nations Development Programme
IPSAS	International Public Sector Accounting Standards	WAMPP	Wool and Mohair Promotion Project
IWRM	Integrated Water Resources Management	WASCO	Water and Sewerage Company
WE	Water Efficiency	WCWSS	Western Cape Water Supply System
LAA	Land Administration Authority Act 2010	WS	Workstream
LCN	Lesotho Council of NGOs	WUC	Water User Certificate
LEC	Lesotho Electricity Company		

1 Introduction

1.1 Background and objectives

This task regarding the development of financing mechanisms for local ICM plans supports Output 2 of the ICM programme for the establishment of effective and efficient institutions.

As detailed in chapter 4.5 of the inception report, workstream 5 aims at analysing options for financing mechanism to implement local level ICM plans by studying options for a local ICM grant facility in line with Local Government Act and other applicable legislation.

The outputs are recommendations on how to enable formulation and implementation of local ICM plans from a financial point of view.

The needed tasks and sub-tasks are described in the inception report, the workplan in the interim report, and in detail below.

The outputs are proposals for financing mechanisms to channel international donor funds to local level ICM plan implementation, on the one hand, and sustainable, long-term, financing, and investment mechanisms based on revenues (levies, tariffs, fees, investments) collected from the catchment services on the other hand. A sustainable, revenue-based mechanism may nevertheless be supported or supplemented by external funds such as grants.

1.2 Methodology and activities

The methodological approach applied for the task of analysing options for a financing mechanism to implement local ICM plans, and preparing recommendations for a local ICM grant facility in line with Local Government Act and other applicable legislation can be described as follows:

The team has identified relevant laws, policies, strategies, studies, and other documentation in a first step. The documentation identified as being of relevance was then allocated to respective team members based on thematic topic coupled with professional and regional experience of the team members.

In a second step, the team has conducted a review of the acts, policies, plans, and other documentation by means of analysing the documentation against a set of ICM elements, criteria, and objectives as detailed in the analytical framework.

As of December 2020, a preliminary assessment of the status quo with regard to available funding and the legal basis for the flow and utilization of funding was conducted. The preliminary findings on the status quo were presented in the interim report.

The status quo had to be investigated in detail before engaging on identifying options and making recommendations that can work in practice.

To fully understand the status quo, the legal and policy framework as well as studies and other documents were analysed with a view to identifying the existing financing mechanisms.

For each relevant policy, strategy, act, regulation, study or other document, a review was conducted by means of a review table, and/or narrative text. While all WSs tried to use a uniform standard matrix/review table to enable the reader to compare and collate, all WS had slightly different matrices, reflecting the varying angles taken during the respective reviews. WS 5 is quite distinct from WSs 1-4, as finance mechanisms are less of a policy analysis task and in fact under component 2, as mentioned above. This WS aims inter alia at institutional strengthening. It is different from the other reviews as legislation was not strictly reviewed against ICM objectives. The purpose of the review is identifying financing mechanisms, or the legal basis for such mechanisms, in law, or other enactments. Sections or chapters that are relevant for finance mechanisms may not always mention criteria and elements of ICM. In fact, several acts and documents reviewed have no focus on ICM elements but are nevertheless relevant for a financing mechanism for ICM implementation, e.g., the PFMA.

For the detailed review it is referred to annex 1.

Hence, as opposed to the review Matrices used in WSs 1-4, the WS 5 team described mostly relevant review findings in narrative text format.

Another activity conducted was the formulation of a detailed questionnaire in the format of a specific matrix for WS 5 interview questions needed for the SHCs. The matrix was circulated to the full team across WSs and questions for information needed were added, such as what the finance needs are, which funding mechanisms may exist in the absence of formal written agreements, practical constraints etc. and other questions that will be difficult to answer via the document review. The matrix mainly served as an interview guide.

Stakeholder consultations were then conducted with representatives from the GOL, and international donors.

In addition, site visits in Mophale's Hoek, with participants from DA, DCS, 4 CCs, an Economic Planner, Principal Technical Officer, Finance Manager, Economic Planner from MoLG, Local Government Officer, and DA, as well as in Phiring village, and Qhoasing Taba li atile were conducted to investigate on the effectiveness of the UNCDF financed mechanism of LoCAL.

The consultations provided valuable additional insights. Results of both, the detailed policy, legal, and document review under phase 1 (full report in annex 1), and the SHCs under Phase 2 allow the main conclusions as described under Output 1 below.

1.3 Problems encountered and risks

Stakeholder consultations

The establishment of a local level ICM funding mechanism heavily depended on effective stakeholder involvement. A collaborative approach is needed for this activity. Due to severe restrictions under the GOL anti- COVID measures, the consultative process, in particular on the local level, was negatively affected.

The planned mitigation measure was to select four community councils and other local stakeholders in four ecological zones of Lesotho – Lowlands, Foothills, Mountains and Senqu River Valley and hold small focus group discussions and work meetings. Site visits to the local level were planned to be coordinated with WS 4 local level site visits. To date, these could not be conducted due to lack of approval of such visits.

The needed consultations and workshops could not be fully replaced by virtual meetings. Virtual meetings were exceedingly difficult to hold on the local level.

Political economy

As the eventual shifting of funds from the national to the local level will meet resistance and can be a politically sensitive issue, the work was directed towards the technical level in order to avoid risks on the level of political economy. Decentralization is viewed critically by many central government players, due to fear of losing competences and power.

Risks stemming from political economy cannot be fully avoided. Once the finance mechanism is proposed and agreed, it will need to be translated into legislation, see the described linkages with WS 1 below. However, this process takes time and decision makers can eventually be prepared to accept fiscal decentralization measures as proposed here.

1.4 Links to other workstreams and operationalisation within workstreams

The recommendations given, must be embedded in the recommended drafting activities under all other workstreams as the recommendations, and proposals under this WS impact the legal reform recommendations. The proposed financing mechanisms will need a clear basis in legislation as detailed in the chapter on WS 1 above and in the synthesis report.

The role of women in financing is a sustainable one, as women were found to invest available funding often in the long term. Hence, gender considerations in the proposed mechanisms play a vital role.

As the outputs of this WS relate to fiscal decentralization, they are also considered under WS 4 (decentralization cluster). All local level funding mechanisms must have a clear legal basis, they must be based on national laws and the relevant regulations and by-laws.

2 Findings

2.1 Summary

Understanding the status quo, i.e., the baseline situation in ICM financing, allows identification of the specific needs and requirements for a financing mechanism to implement local ICM plans.

Sources of ICM funding and flow of funds

Sources for local level ICM funding, include the national budget of the GOL, and funding provided by multiple international donors.

Various Ministries (Water, Forestry and Range, Agriculture) do implement ICM-related interventions funded by the MoF. This is not to be seen as fragmentation of ICM per se but rather as integration of ICM elements in the various sub-sectors. These interventions need to be coordinated strictly by the National Coordination Unit. It is highly relevant to make an inventory of how the GOL finances ICM activities through the various ministries and monitor this in view of cost effectiveness. It should be noted that the initial allocations of the MoF to the ICM related ministries is considerably uncertain and is often significantly reduced over the course of the financial year.

While ICM specific funding by the GOL budget is rare, ICM funding by international donors is widely available in principle, this funding cannot always be easily accessed by potential beneficiaries on the local level due to capacity constraints. Many international donors are willing in principle to finance ICM interventions, and more sources could be accessed. It was confirmed during stakeholder consultations, that ICM financing heavily depends on international donors and that technical and financial capacity to access all sources often lacks. While ICM generally attracts much donor attention, it is widely acknowledged, that there is a strong water focus in most donor funded ICM interventions.

Regarding the flow of funding, all ICM financing, irrespective of its origin, must mandatorily pass through the national level, via the consolidated fund as required by Section 110 of the Lesotho Constitution. Funds are distributed from the consolidated fund via the accountant general's account from central to local level. Auditing of correct allocation and spending is also conducted by the central level, via the auditor general.

The approach developed by the *Local climate adaptive living facility* (LoCAL) of financing ICM interventions via *performance-based climate resilience grants* (PBCRGs) and of topping up national financing, is promising in principle and found wide approval of the GOL and Ministries.

The LoCAL model has generally proven successful, a cooperation between ICM PH and LoCAL could be beneficial.

It was confirmed by stakeholders that all sources of funding provided by international donors are generally directed towards short term interventions and are – by nature – not provided infinitely.

To date, sustainable, revenue-based funding currently plays no relevant role in ICM plan implementation financing.

Main constraints

The main constraints in funding local ICM plan implementation relate to silo thinking within Ministries constraining effective use of available budget and of international donor funds.

Constraints also relate to fragmented ICM responsibilities of various Ministries dealing with water resources management, rangelands, wetlands, and forests without sufficient and regular coordination.

Existing government structures both at the central and local level are not aligned with ICM objectives and elements.

Too many ministries and departments are involved in ICM related responsibilities and ongoing, well organized coordination lacks. If coordination takes place, this is mostly done on an ad hoc basis.

ICM requires decentralization, including fiscal decentralization, which is problematic in practice, due to lack of political will to decentralize functions and responsibilities to the local level.

It is highly relevant to note that decentralizing functions and responsibilities alone would be insufficient, as decentralization has structural implications as well and hence, creation of appropriate, well capacitated structures at the local level is needed. Capacities must relate to both, ICM related, technical skills, as well as capacity relating to managing, and administering funds and revenues.

It was found that more and stricter conditions to disbursing grants are needed, and that payments to the local level should eventually be made in instalments and be conditioned to progress made and to performance-based criteria. In this regard, technically and financially well capacitated local level staff is needed, and the absence thereof is a key limitation to access available donor funding.

The needed political will to continue needed law-making processes lacks. Policies, and concept notes exist, however progress in enacting legal binding mechanism such as primary legislation, acts and subsidiary legislation, regulations, and by-laws, is slow and insufficient.

It is crucial to note that sustainable revenue-based finance mechanisms are clearly underdeveloped with fees for water use, grazing and other ecosystem services mainly not in place or not enforced.

Most relevant lessons learnt

One key lesson that was confirmed by most stakeholders is that international donor funding requires additional counter-financing by the GOL, and more ICM specific Government funding from the national budget is needed.

There were instances where the MoF has reduced its relatively high initial earmarked budgets on water/ICM related interventions after international funds have been committed by donors. This reduction had no consequences, and donor funding was not reduced accordingly.

Additional and parallel structures for finance mechanism for administering international donor funds is not seen as the most appropriate approach by stakeholders. It is seen as more practicable to build on existing structures and capacities where possible.

It must be remembered that finance Mechanisms consist of packages of legal and institutional and capacity building measures to direct funding (GOL budget, international donor, and revenue) to local level ICM plan implementation.

Hence, the packages needed to direct funding to local level ICM plan implementation are described (Legal, Institutional and Capacity) below. The ICM “investment menu” (e.g., LoCAL lists permissible investments in a “menu” explicitly) is defined by what is spelled out in detail in the ICM plans, and by the ICM objectives and elements as elaborated in the Analytical Framework.

Once the Legal, Institutional and Capacity measures needed to establish finance mechanisms are recommended, specific actions are needed to implement and achieve the recommended legal, institutional, and capacity changes.

Legislation drives this process of achieving legal, institutional, and capacity changes and strengthening. Legal mandates drive institutional development and the mandates described in law require certain capacities.

Fiscal decentralization consists mainly in devolving revenue sources and expenditure functions to the lower tiers of government. It is a system of intergovernmental relations where sub-national governments have certain fiscal powers and enjoy a degree of fiscal autonomy.

Establishing Charges/payments for ecosystems (PES) systematically, is required urgently. All SHs found these highly relevant, while noting that PES is not practiced. They confirmed that sustainable, revenue-based funding of ICM interventions is needed and must be embedded in the law.

To this end, permitting for all ecosystems use activities (key areas: water abstraction, also all activities with adverse impacts on water bodies, course alterations, land use and grazing) and establishing a balanced, implementable charging regime is key.

The collected fees/charges need to be allocated to the local level for ICM funding. In order to operationalize a local level ICM funding regime, the local level capacities and buy-in to collect, distribute and use fees must be developed. This process must be supported and carried by multiple players (government, science, NGOs, Households, civil society) and hence raising their awareness of the value of environmental goods for all is key.

SHs generally considered the potential being great for a variety of possible PES based on new, needed legislation on permitting and charging, mostly in the water and land management, i.e., grazing, sector.

The process of introducing an effective, implementable permitting and charging regime, can be impeded by the fact that this topic is highly political. In addition, high levels of poverty, and competing for limited resources can pose risks to implement a sustainable revenue-based financing system.

Existing fees and penalties are inadequate and outdated. These must be addressed by appropriately flexible, subsidiary legislation that can be easily adapted to changing needs and situations.

Legal framework and legal basis

The legal framework on fiscal decentralization and the allocation of funds to local level ICM funding is clearly underdeveloped.

The existing legal framework allows in principle to establish donor funded local level ICM financing mechanisms that are embedded in and follow the existing government structure, as demonstrated by the LoCAL example.

While a general legal basis for ICM financing and fiscal decentralization exists in the PFMA, a specific, detailed legal basis, to allow enactment of implementing subsidiary legislation, and regulations is needed. This legal basis must be in the parent act and needs to allow for the enactment of sufficiently detailed and easily amendable/adaptable subsidiary legislation (national level regulations and local level statutes/by-laws).

A functioning permitting and charging legislation for sustainable, revenue based ICM financing lacks. Currently the reality is that most “revenues” are collected by means of fines and penalties, but not, as is preferable, via charges such as fees, tariffs, and levies. In fact, in some legislation (e.g., the RRMA) fees and fines, albeit substantially different in nature, are not clearly distinguished. Revenue generation by means of levies, tariff and fees is legally in its infancy, and largely not enforced.

Hence, detailed, practice friendly regulations with technical schedules on ICM revenue generation, such as permitting and charging for water, grazing and other ecosystems use is needed.

Furthermore, the current laws of Lesotho are silent on how collected fees and funds are allocated and spent. Sectoral laws (water, land/range management, wetlands, etc.) need provisions on allocation of funds in a manner that supports ICM financing.

A potential best practice example could eventually be the draft Bill for a RRMA (as in a draft version made available to the consultant in May 2021), that contains first ideas on allocation of funding in its Chapter VII, Section 21 (6).

This legal approach is highly relevant and could lead the way for other sectoral legislation on fees. This draft is particularly relevant as it makes the needed link between revenue generation and revenue spending. This is described in more detail below.

2.2 Sources of funding

The main sources of ICM funding are the GOL from the national budget, and grants from international donors. The most relevant donors include, inter alia, the EU, WB, GEF, OPEC, UNDP, UNCDF (LoCAL), FAO, WFP, and IFAD.

EU grants are mainly used for implementing technical work. The EU and the GOL, represented by the Ministry of Finance, signed a financing agreement and a MoU as the basis for ICM financing until the year 2023.

Generally, ICM attracts significant donor attention, hence ICM activities will highly likely continue to be financed after the year 2023 by other donors.

The Wool and Mohair Promotion Project (WAMPP) is implemented from 2017 to 2023 and has a Climate Smart Range Management Component. WAMPP funding sources are IFAD, the World Bank, OPEC, OFID & the Lesotho National Wool and Mohair Growers Association (LNWMGA). However, there seems to be a lack of political will and only limited financial support for implementation of climate smart plans.

All ICM related interventions depend largely on short term international donor funding.

At a national level, yearly budget allocation for ICM related interventions has decreased over the years due to constraints in political will, and possible re-prioritizing amongst ministries.

Water (as opposed to land, grazing, planning, decentralization, etc.) related interventions are clearly the focus for donors and for the GOL when dealing with ICM financing. In 2020 for instance, there were five donor funded projects from the DWA alone, dealing with water infrastructure development.

Revenues from fees raised from the use of ecosystems (PES), e.g., in the water or land use sector, play no significant role as an ICM funding source.

2.3 Key donor activities

2.3.1 Local Climate Adaptive Living Facility (LoCAL)

LoCAL Lesotho is a highly relevant model to learn from. It operates in 20 countries, including Lesotho. It seeks to improve the climate change resilience of communities in selected councils as a result of climate change adaptation activities funded through PBCRGs (performance-based climate resilience grants) and capacity development support. LoCAL Lesotho builds on the Deepening Decentralization Program (DDP), implemented jointly by UNCDF and UNDP, which established the Local Development Grant, the only functional performance-based grant to Community Councils, and the practice of minimum conditions.

The LoCAL investment menu allows ICM financing in principle, however ICM is not explicitly mentioned. LoCAL investments are prioritized and designed to create a gender- and vulnerability-sensitive distribution of benefits.

LoCAL Lesotho is being implemented as a stand-alone funding mechanism. However, this can be embedded in future grant schemes as it is aligned with country systems (i.e., intergovernmental fiscal transfer systems). The procurement processes are aligned with the Lesotho Constitution and Procurement Guidelines.

LoCAL did not establish any additional or parallel finance mechanisms. Its approach is best described as a “top-up” of existing government funds, that are provided via Intergovernmental fiscal transfer, as PBCRGs (performance-based climate resilience grants) to the local governments. The first PCBCRGs have been transferred to the LoCAL Lesotho account at the Central Bank and to the community councils during 2020.

LoCAL selected four community councils located in the Moleleke’s Hoek District to pilot the approach in Lesotho: Khoelenya, Lithipeng, Qhoasing and Senqunyane. For each community council, a bank account has been opened to receive and administer the PBCRG funds. All four councils will be audited under LoCAL as part of the annual performance assessment (APA). Minimum Conditions (MCs) and Performance Measures (PMs) have been elaborated to determine access to the grants (compliance with MCs) and the size of the grants (informed by the relative score against the PMs) to ensure that sufficient safeguards are in place for proper handling of funds and that incentives are established to promote performance in core areas of PFM, governance, and climate change adaptation related areas including cross cutting issues. Annual performance assessments are undertaken for each CC and inform grant allocations for subsequent years. The local governments are supported by LoCAL in opening bank accounts in the name of the respective Community Councils, to be used for the purposes of receiving domestic and international funds as well as the “top-up” provided by LoCAL.

Funds for the coverage of the PBCRG will flow from UNCDF to the LoCAL Special Account created by the GOL Accountant General at the Central Bank. The MoLGC will inform the LoCAL Lesotho Committee of the PBCRGs amount for each council and prepare a schedule with the Councils’ names and bank accounts in the format prescribed by the Accountant General. Upon request of the LoCAL Lesotho Committee the Accountant General effects transfers. The PBCRG will be transferred to the councils on an annual basis. Funds will be allocated in January and paid no later than 1st April of each year.

Stakeholders confirmed that the LoCAL approach is favoured, as it is seen as a simple procedure and not subject to complicated financial procedures. Stakeholders agree that LoCAL tries to ensure that local money stays local. The funding is performance based, there are mid-term and additional, regular reviews to verify correct and effective utilization, and evaluations take place. The Department of auditing through the Auditor General also verifies correct performance. Post project monitoring is seen difficult due to the lack of human resources at the local level.

It is important to note that LoCAL financing is limited by a maximum allowed amount of US\$ 14,000, -- per project “top-up”.

Further details can be found in Annex 1, and the detailed description of the LoCAL approach.

2.3.2 International Fund for Agricultural Development (IFAD)

IFAD supports introducing grazing fees into a draft Bill for a Range Resources Management Act. This is a highly relevant activity that is supported by the consultant. Detailed legal recommendations are outlined below in the chapter on sustainable, revenue based ICM financing.

WAMPP is also assisting the MFRSC to develop the Range Resources Management Act (RRMA). This ongoing activity is of utmost importance as the RRMA may be one of the key acts for ICM implementation and can potentially address the apparent gap of missing revenue generation by land use, in particular needed grazing fees.

IFAD, OPEC and GEF support “ROLL” (Regeneration of Livelihoods and Landscapes), which addresses and promotes sustainable land management, and restoration of Lesotho’s natural resources, considering rural poverty, and environmental degradation.

IFAD underlined that counter financing by GOL of all donor funded activities is considered having utmost importance.

It was explicitly confirmed by IFAD, that long term, sustainable, revenue-based funding is key for Lesotho. Hence, the support in the drafting of a new RRMA, which can be the basis for sustainable revenue generation via permits and fees, is of utmost importance, as is a subsidiary, implementing regulation on permitting and charging for all forms of water use.

2.3.3 United Nations Development Programme (UNDP)

The only recent ICM related project relates to “Sustainable Land Management”, a small grants fund addressing ICM objectives with budgets of less than US\$ 50.000,--.

Currently UNDP conducts no pure ICM projects. The Sustainable Land Management intervention attempts to help managing the numbers of livestock in order to avoid overgrazing, and the GOL provides co-financing for this intervention.

UNDP also supports renewable energy projects in a sustainable manner, e.g., avoiding excessive wood cutting to protect forest and land.

2.3.4 World Bank (WB)

The WB assists the GOL in looking at funds that are formally allocated by international donors to the central GOL. They intend to investigate where funds are being allocated to and if they are spent on ICM related activities. For instance, it is investigated if the Ministry of Forestry is in fact conducting afforestation activities, or erosion control, i.e., is that funding allocated and administered properly, and if funding is ringfenced to ICM. An in-depth analysis of DCs and CCs on investigating budgeting procedures and the flow of funds is not included in the WB activities. The Ministry of Finance, and the DWA are the main counterparts for the WB study.

The WB takes a top-down approach to ICM, working at central government level, while GIZ takes a more differentiated, vertically integrated, and more grass-root, detailed approach towards the local level. GIZ ICM PH looks at the landscape on the ground, i.e., who contributes to funds, who collects funds, and whether funds are used for ICM interventions.

No WB funding will be directly allocated to the GOL for ICM related activities currently. The WB’s role is advising and assisting GOL in preparation for a next phase of support of WB programmatic cycle focusing on decentralization, including fiscal decentralization. Once the WB is more advanced, their findings may be relevant for financing local level ICM plan implementation.

2.4 GOL key Ministries and Departments

2.4.1 Ministry of Agriculture (MoAFS)

Several ICM interventions are conducted by the Ministry, noteworthy are, inter alia: agriculture and irrigation, as well as range management interventions, climate smart agriculture, resource management, and forestry. Several interventions exist on fisheries. The Ministry assisted grazing associations in rehabilitation, natural resource projects, and food security and livelihood support, plant protection and livestock.

They support SADP II with a focus on climate smart agriculture and irrigation development. SADP II is also looking at research and innovative technologies for improving agriculture.

The Ministry uses funds inter alia to support new technologies in agriculture, to support irrigation investment, rebuild and refurbish irrigation schemes. They are working with the Lesotho Millennium Development Agency (LMDA) to obtain funds from MCC to develop irrigation schemes. FAO & LMS under GCF are also involved in supporting irrigation schemes development in the country.

2.4.2 Department of Water Affairs (DWA)

The Ministry of Water's DWA oversees water supply and sanitation mainly, there is no direct responsibility for ICM and other management tasks. In 2020 five donor funded water infrastructure development projects were overseen by the DWA.

2.4.3 Department of Environment (DoE)

The DoE relies heavily on donor funding, in particular on the GEF program. The DoE takes mainly a Conservation perspective and the GEF funds most conservation and climate adaptation projects. Currently it is the 7th GEF cycle. GEF small grants project aims directly at communities. The DoE provides assistance to the district councils in improving capacities in raising financing for district councils.

2.5 Flow of funds from donor or national level to the local level

The GOL is the custodian of all international funds, through the MoF, via the consolidated fund as prescribed by Section 110 of the Lesotho Constitution. In cases of international donor funding, the GOL's contribution and counter financing consists mainly of allocating budget to operating costs and salaries for staff involved in ICM related activities.

The MoF's role, is allocating funds and ensuring (controlling and auditing) that all interests of the government of Lesotho are protected and supported in any financial year. All international and national funds must go to the Accountant General's accounts. Standard Bank or Nedbank accounts are used by international donors but must be approved by the Accountant General.

In accordance with the PFMA and the constitution, all donor funding is transferred from the central to the local level. It cannot flow directly from any international donor to the local level. It is mandatory to pass through the Consolidated Fund (Section 110 Constitution, administered by the Accountant General).

Auditing is conducted at the national level by the Auditor General. For water related interventions, in addition to financial auditing, the DWA conducts site visits to control technical compliance with plans and the progress made every year.

Regarding the Small Grants Program (SGP), the SGP does not provide resources directly to the community councils. This is with the view to ensure that funds are disbursed directly to community-based structures and managed at that level to address SGP priority focus areas the funds were meant for. A National Coordinating Committee oversees SGP implementation process (60% membership into this committee constituted by CSOs & 40% from the government). The maximum allowed amount for funding to SGP beneficiaries is US\$ 50.000,--.

While all allocation of funds is guided by the financial regulations of Lesotho in principle, the SGP funds disbursement processes are governed by UN financial regulations and procedures. Regarding UNEP interventions and projects, all funds go to a separate account controlled by the Ministry of Finance.

The GOL signs a MoU with international donors how respective funds are to be used and how they are disbursed.

2.6 Constraints

Constraints and bottlenecks for sustainable financing of ICM measures are inter alia **fragmented mandates** and responsibilities amongst ministries, that are dealing with water resources management, rangelands, wetlands, and forests. It is problematic that too many ministries and departments are involved, while there is a lack of coordination within the government, because there is no incentive to cooperate.

Silo thinking between ministries is still problematic, coordination and communication, as well as data sharing lacks, and happens on an ad hoc basis, if at all.

Decentralization is problematic due to **lack of political will**. The situation for **fiscal decentralization** is no different. The national level fears irrelevance or loss of authority due to any power transfer from national to local level. The Ministry of Forestry is the most decentralized in Lesotho. It is desirable to decentralize all Ministries in the same manner, and the Ministry could serve as national best practice.

Most international donors **focus on the water sector**. The DWA, while being in charge of the water sector in principle, oversees water supply and sanitation mainly, hence it has no direct responsibility for ICM and other management tasks.

Catchment rehabilitation financing by the LHDA as foreseen by the SA and LES agreement has ceased about 5 years ago.

ICM specific GOL funding addressing holistically all environmental sectors and biodiversity, is lacking. Different ministries/departments are receiving funds that relate to ICM in principle, and coordination between Ministries, considering ICM key elements is urgently needed.

The **allocation of ICM related funds** to the ICM related departments (water, land, range management, planning, etc.) does not reflect adequately the level of commitment of the GOL, as these are mostly insufficient and far below the actual needs. Annual fund allocations for ICM are sometimes reduced along the annual timeline, contemplating that this is due to Force majeure. This is problematic in view of consistent implementation of ICM interventions, which take time and must be seen from a long-term perspective.

The **Local government framework** lacks fiscal decentralization which impedes an enabling environment for ICM.

Conditions to disbursing grants are frequently not sufficiently strict, or not conditioned at all, and do not always depend on progress made and the level of performance.

Availability and **capacities of staff** is a key limitation to access avenues of funding including others that is widely available on international level. For instance, the DoE provides assistance in raising financing for district councils, e.g., for GEF financing. District and local councils often submit unsolicited proposals for projects they deem necessary across all sectors i.e., water; forestry/land etc. without the abilities needed to effectively conduct these.

Of crucial importance in practice is the **lack of political will** to establish legislation on fees that is practicable and enforceable. For instance, proposals for plastic waste charging regulations were drafted years ago, however due to lack of political will to continue the law-making process these were never enacted. Environmental levies/charges are highly political (fees for grazing, water use etc.). Hence, there are no grazing fees in place, only penalties and fines for illegal grazing exist. Attempts to establish grazing fees in the 1980ies via regulations and by-laws have failed due to political resistance.

The terms **“fees” and “fines”** are sometimes used synonymously and confusingly, while these are fundamentally different concepts. Regarding range “fees” on impounded livestock, Range Riders would traditionally impound livestock and get a certain % of that “fee”. In fact, these “fees” do legally correctly qualify as “fines”. Current financial management regulations dictate that all the funds (fines) collected must go through Sub-Accountancy to central government coffers. This is a big challenge to ICM because range riders no longer get compensation on the spot from impounding livestock, and incentives for controls and impounding sometimes lack. Fines are generally outdated (trespassing livestock on rangelands). By-laws are urgently needed and must be legally registered. It is evident that Lawmakers take an unbalanced approach towards prioritizing fines over fees in legislation.

The **lack of ownership** of ICM interventions in development areas is a typical problem, therefore counter-financing is considered particularly useful and was supported by all SHs during consultations.

Group dynamics are crucial, as sometimes there are internal problems that make ICM interventions collapse. This is frequently linked to **high poverty levels** forcing people to compete for limited resources. This is in fact profoundly serious in practice. Again, counter financing by all involved is important, even small amounts or labour to be provided helps ensuring a sense of ownership.

Regarding **gender aspects** in financing ICM, it is important to know that financing or compensation payments, are made to the heads of households. In the past, the male heads of households were largely absent (e.g., working in RSA mines) and payments were hence made to the female acting head of the households. Women generally used payments to fund households. However, over time, men have been returning from mines and payments are more recently made to them and due to a patriarchal system, they retain control over the funds and chose how it is spent. Generally, men invest less in household needs than when controlled by female heads of households.

2.7 Lessons learnt and key SH recommendations

All involved players (Ministries and all departments) should **cooperate and harmonize their policies** regarding financial gains from natural resources use in Lesotho. There is great potential in charges for the use of natural resources (payment for ecosystems = PES). Permitting for ecosystems use activities, water abstraction fees, tariffs, levies, grazing fees, and also charges for plastic waste, hydropower, tourism, etc., and a clear procedure that is well coordinated is key. The collected revenues could ensure long term and sustainable ICM funding.

Environmental levies/tariffs/fees imposition is a sore issue politically hence facing extreme challenges e.g., implementing grazing fees. This impacts on ICM effectiveness, as grazing fees are perceived to oppress the poor range resource users. Political will must be improved to this end. Commodity based sources of revenue generation could provide an opportunity for financing ICM. Water is a socio-economically important commodity whose permitting and use charge is essential.

The land tenure system is problematic, and SHs are pessimistic of enforcing grazing or other fees. Key is to build local capacities to collect, distribute and use fees. One of the reasons is that transition of the former Chief-governed and administered public land tenure system to a Community/Council based process has not yet been designed, capacitated and field tested. This could be addressed by using existing permits to expand those and link these to new ones. These permits should include numbers of livestock that can be taken for grazing to the mountains.

Monitoring of permits, enforcement of permit conditions, and a register of permits is needed. Currently there is limited knowledge of what is happening in practice with regard to permitting. No adequate control of grazing permits is in place, and institutional and HR capacity as well as incentives for controls is needed.

The Ministry of Forestry is the most advanced regarding **decentralization** and is active in inter-ministerial cooperation and should be actively involved in all ICM interventions.

Revenue based funding, is seen as most sustainable and most relevant for ICM financing by all SHs. Amongst others, the DoE vigorously recommended new legal instruments to raise and allocate funding, such as payment for ecosystem services, as no levies, tariffs, or fees for water use are currently enforced. An environmental fund regulation could deal with charging for ecosystem use to generate sources of revenues. Currently a major challenge is appropriate development planning which has effects on the planning for such revenue options. Sustainability could also be achieved by means of a fund for farmers. The fund could be filled by farmers, donors, and central government or even grants. Contribution (counter financing) by farmers would be vital. These could be fees for natural resources use. In this context the ongoing attempts to amend and update the RRMA are highly relevant, see below recommendations regarding the draft bill for a RRMA.

The ownership of ICM interventions, as well as awareness and buy-in of communities is crucial for any mechanism that is based on generating revenue via user fees. To this end, capacity building is also key to undertake prior to communities being provided with funding for ICM. This will guide their prioritization of ICM interventions.

A number of commercial private sector companies are operating in Lesotho, which have an impact on the condition of catchments or are dependent on the condition of catchments for their activities. While these operations are required to pay for a range of legally prescribed licenses and permits, that also voluntarily make direct or indirect investment into catchment management through a number of different types of financing and investment mechanisms. For example:

- GEM Diamonds (Let'sing Diamond Mine) – invests in a range of community based environmental and livelihoods interventions annually.
- Storm Mountain Diamonds – operates a corporate social responsibility investment programme associated with mining operations
- SanLei – operates an aquaculture operation in Katse Dam and funds a range of interventions in surrounding communities including investing in community-based catchment management
- African Waters Fishing Safaris – Funds a range of environmental interventions that are undertaken in collaboration with local communities

- Afri-ski Leisure – Funds an implemented a range of interventions in collaboration with local communities

This list of examples is far from complete and simply provides a small sample of the significant voluntary investment by the private sector in catchment management interventions.

Building **capacity to access climate finance** is needed. Lesotho needs to develop capacity and systems to mobilize resources regionally and nationally and through the private sector. There is currently no enabling environment to help these players draw in funding, although funding is widely available in principle.

Financing mechanisms need to ensure **equitable access to financing** and investment into catchment management interventions, and the equitable sharing of benefits between men and women, and active involvement and participation of youth and other marginalized groups (e.g., elderly, disabled, etc.). Due to the largely patriarchal system, particularly in rural areas, men largely retain control over the finances and chose how it is spent. For example, local governance and decision-making structures remain male dominated with little active participation by women. Even when women do attend meetings, they tend to remain passive and silent participants as is their traditional role. As a result, they have little input into decision making particularly around issues relating to financial management. Women are disempowered and need to be capacitated in order to meaningfully participate in discussion and decision making regarding the use of financial resources (which is traditionally / culturally the domain of men). Gender considerations seem absent in Public Sector Investments Committee’s capital investment planning processes. Gender inclusion is typically mandatory in, and a key indicator considered by, donor funded project proposals. For example, in the case of the UN Small Grants Program (SGP) the national steering committee draws on specific criteria for inclusion of these gender issues and human rights. These criteria are mostly based on international standards informed by global SGP programs, but also each country is at liberty to adjust this generic guidance to suit their own local conditions.

The legal framework currently does not specify the allocation of financial resources for implementation of CCA – as long as needed resources are included in the budget plans the resources can be allocated. However, the knowledge that donors largely require the incorporation of climate change considerations in project proposals results in national Ministries including climate change as a strategy to increase the chance of success of securing the funding. This can create the impression that climate change adaptation is widely integrated across sectors, however it does not necessarily translate into meaningful adaptation interventions on the ground. Establishment of a **community development fund** is also a potential source e.g., associated with a certain irrigation scheme where the local population can have access to farming land (which could be community land) and use irrigation water to grow crops that generate profits. Levies from water use can also help contribute to develop this fund.

The issue of **counter financing by GOL** is considered highly relevant by all donors, even small financial contributions or labour contributions can make a significant difference. The same is the case with local level counter financing. Any external finance, both GOL budget and international donors, should only be a contribution with some (counter-) financing from the local level to ensure ownership, even if only labour is contributed.

The **LoCAL approach** of making use of existing finance mechanisms and of “topping up” existing funding was seen as highly efficient as it avoids additional or parallel structures, and it is well embedded in the existing finance system.

Extensive consultations with LoCAL representatives were held during the assignment and it was found that cooperation between ICM PH and LoCAL could be beneficial. Details are described under annex 2.

2.8 Regional best practice considered

2.8.1 Case Study 1: Tourism benefits in Sehlabathebe National Park

Sehlabathebe National Park (SNP) provides a useful example of CBNRM under a decentralised setting (Compact project established with UNESCO involving SNP World heritage site). Community Conservation Fund (CCF) and local communities are empowered to manage these sites and enjoy benefits associated with conservation. E.g.,

establishment of community-led tourism facilities (campsites outside the buffer zone of the SNP world heritage site). Through this approach, communities can derive benefits from nature-based tourism – income generation. The CCF is responsible for managing these community camp sites and have control of resources generated from this initiative for the benefit of the community.

2.8.2 Case Study 2: South Africa, Water Funds

Funding Mechanisms enabled through structured Investment Frameworks

The **Western Cape** Province has been leading in South Africa with regard to innovative planning and investment around growing their ‘Green Economy’ a concept adopted to align with global trends and current Sustainable Development Goals.

The Province has critical catchment management challenges that are highlighted by water security challenges as the highest priority, as well as land degradation across certain catchments. Provincial Government has made more concerted efforts since recent drought disasters, to focus more budget on climate resilience with a priority on water and land management.

An Ecological Infrastructure Investment Framework (EIIF) is an instrument currently developed by CSIR to assist the Province in understanding which are the key geographical sub-catchment areas requiring immediate priority. Development of this EIIF provided an initial scientific basis of which areas to ‘tackle first’ and provided impetus for impact assessments of different land conservation strategies.

The Greater Cape Town Water Fund

The Western Cape Provincial government in partnership with The Nature Conservancy has embarked the establishment of a Water Fund for the Greater Cape Town area. Together with The Nature Conservancy (USA, Non-Profit-Organization) they have developed a business case to assess and demonstrate the return on investment for ecological infrastructure restoration in terms of water security, with a focus on the clearing of invasive alien plants.

This Business Case puts forward ecological infrastructure restoration as a critical component of efforts to enhance water security for all users of the Western Cape Water Supply System (WCWSS). Funding and coordination of restoration will be catalysed by a collective action Water Fund that pools financial support across multiple public and private water users and others interested in ecological infrastructure solutions to Greater Cape Town’s water challenges.

An important early step for such a business case is to understand the biophysical characteristics of impacted watersheds. Research undertaken for the Ecological Infrastructure Investment Framework (EIIF) helped inform the requirements for tailored catchment projects.

A steering committee has been established and includes the likes of Government (Department of Water, Environment; Provincial & Local Govt.), Conservation parastatals such as SA National Biodiversity Institute. Donors including the Nature Conservancy and WWF, Private Sector including the Coca Cola Foundation and Nedbank Green Trust.

In terms of the broader stakeholder pool, other private sector companies have also come on-board to provide financial support.

Thus far, small-scale local catchment-based projects have been initiated to provide further context for the implementation of the fund as a long-term solution and progress seems positive. Current catchment projects are focused on ‘high water-consuming’ alien invasive species.

Based on the experience of Water Funds around the world (including Nairobi, Kenya), the vision is that the Water Fund will evolve into a stand-alone organization. This is anticipated to take the form of a Non-Profit Company under South African law with a strong public-private governance board which will support implementation of strategic planning through a sustainable financing mechanism.

2.8.3 Case Study 3: Nairobi Water Fund

The Nairobi Kenyan Water Fund is noted as the first fund that has been developed for Africa. An extract from the Nature Conservancy site is found below.

<https://www.nature.org/en-us/about-us/where-we-work/africa/stories-in-africa/nairobi-water-fund/>

“Since the 1970s, forests on steep hillsides and areas of wetlands have been converted to agriculture, removing natural areas for storing runoff water and soil from the land. Now, as rain falls over farms, soils are washed down into the river, which reduces the productivity of farmland and sends sediment into the rivers. This increased sedimentation can choke water treatment and distribution facilities causing complete service disruptions for days or weeks at a time. Today, 60 percent of Nairobi’s residents do not have access to a reliable water supply.

This growing challenge requires something innovative to protect the Tana River, increase downstream water quality and quantity and provide positive benefits for tens of thousands of farmers in the watershed. Enter the Upper Tana-Nairobi Water Fund. Water funds are founded on the principle that it is cheaper to prevent water problems at the source than it is to address them further downstream. Public and private donors and major water consumers downstream contribute to the Fund to support upstream water and soil conservation measures, resulting in improved water quality and supply.

The Nairobi Water Fund builds on the Conservancy’s experience addressing similar issues in Latin America, where more than 30 water funds are either underway or in development. This fund is now the first of its kind in Africa and will serve as a model as leaders across the continent look for innovative ways to solve ever-increasing water challenges.

Summary of case studies / Expert Insight:

The Water Fund is an anticipated vehicle to aid the ‘shift in mind-set’ from what is termed ‘grey’ infrastructure solutions for water security to a longer-term vision of addressing ecological ‘at-source infrastructure’. Such a shift will address catchment focused concerns such as source water quality & supply; wetland degradation etc. which will which greatly aid the broader goals of integrated catchment management (ICM).

The SA case-study underpins a bold vision for a financially viable long-term Water Fund model. So far, the business case and projects look promising. In addition to this case-study, the Kenyan Water Fund model, suggests that such a medium to long-term funding mechanism could be an option for consideration in Lesotho.

The ORASECOM Lesotho Action Plan and emanating projects, already provide a good starting point and context to inform a potential business case for such a fund.

Additionally, Lesotho has made an application for climate funding through the ‘Climate Adaptation Fund’ – In case this is successful, this could contribute to short-term ICM funding, however this will be located on the national level.

2.9 Legal and policy review / legal basis for ICM funding:

A detailed policy, legal, and other document (strategies, plans, concept notes, reports) review is presented in Annex 1. The main policy and legal findings can be summarized as follows:

a) **A PFMA exists and provides the needed finance framework legislation.** A local level ICM funding mechanism can be based on this existing legislation. For details it is referred to the legal review of ICM related legislation in annex 1, in particular of the PFMA.

However, there is no ICM specific and no decentralization specific finance legislation in place. There are no legal provisions explicitly regulating ICM financing. The legal basis for this exists in the PFMA generally but lacks details regarding the rights and obligations of all involved actors.

b) **Regarding the highly relevant need for legislation on permitting and charging** of water, land, and generally ecosystem use, the consultant recommends the below outlined needed contents for a model regulation in the water sector, with recommendations for the legal draftsman, and limitations to the all-encompassing applicability of permitting requirements. This recommendation is in line with the recommendations of the regional Policy Advisor to limit the scope and applicability of permitting requirements for small scale users.

Regarding a pricing strategy, criteria and procedures are recommended to establish adequate charges (infrastructure levies, O&M tariffs, user- and abstraction fees).

In accordance with international and regional best practice, criteria for the determination and calculation of fees can, inter alia, be: geographic locations, user forms, users (industry, agriculture, tourism, private, pro-poor, etc.).

The procedure for establishing charges must be clearly detailed in implementing, subsidiary regulations. All responsible players must be adequately mandated by law. These could, inter alia, be: Ministerial departments, governmental agencies, scientific bodies/science, universities, civil society/households, chiefs, NGOs. This will inevitably imply structural changes. These changes will follow and be driven by the detailed procedures once outlined in the law.

3 Recommendations

3.1 Finance mechanisms proposed

The analysis of options for finance mechanisms to implement local ICM plans has shown, that needed finance mechanisms fall into two main categories:

1. well capacitated **local level ICM grant facilities** to administer donor funds directed at the local ICM sector is needed.
2. a **legal framework and capacities for practicable and implementable sustainable, revenue-based generation of ICM funding** is needed.

As detailed above, the SHCs have confirmed, that sustainable, revenue-based funding has not only great potential but is also seen as a high priority. The consultant firmly agrees with this view.

According to the two main categories above, two main outputs are presented below in detail:

1. Recommendations on the needed capacity measures (legal and institutional) for donor funded ICM plan implementation (in line with local government regulations) as detailed in Chapter 3.2, and
2. Recommendations on long-term, sustainable revenue based ICM funding as detailed in 3.4.

For both categories, the criteria considered when deciding whether an option should be included in this report as a recommendation were inter alia:

- good governance, including clear accountability and audit trail,
- clearly defined legal criteria,
- criteria for allocation of the funds (suitable to achieve ICM objectives, including rural poverty alleviation, as in AF),
- capacities to effectively disburse and audit funds,
- performance-based aspects.

Below the reader will find recommendations for financing mechanisms (of both categories) organized in sub-chapters with descriptions of legal initiatives, capacity building and procedural issues that need to be planned or considered in order to implement the recommendations. The structure of the sub-chapters is listed below and summarizes information mostly in table format:

- **Options:**
The tables on options for mechanisms allow the reader an overview of the options, payees, funding, institutional and capacity needs, as well as legal implications.
- **Characteristics:**
The list of characteristics summarizes key considerations to be taken into account.
- **Actors:**
The tables on actors summarize the roles and tasks of the involved and affected stakeholders.
- **Actioning:**
The tables on actioning provide an overview of the leading questions and decisions to be made by stakeholders, the procedural issues, links to related issues, and risks and mitigation strategies.

3.2 Donor funded ICM financing mechanisms

This chapter describes the identified options for donor funded ICM financing mechanisms which have been summarized in the below categories; four different categories of permanent financing mechanisms with essential roles for Lesotho government bodies as well as one short-term category for international funding.

Categories of donor funded ICM financing mechanisms:

- Permanent: local revenue (basin/eco system services) by Community Councils;
- Permanent: Lesotho National government ICM subsidy to Community Councils through District Fund (existing, to be adjusted)
- Permanent: Future District direct ICM Fund (successor to existing District Fund)
- Permanent: Lesotho National government subsidy to ICM related ministries (Water, Forestry and Range, Agriculture, Local Government, others);
- Short term; International funding;

For each of these categories, the sub-chapters provide detailed information on the **recommended options** for financing mechanisms, key **characteristics**, the main **actors** involved, and impact factors for putting the recommendation into action (**actioning**).

3.2.1 Permanent: Local revenue by Community Councils

This section provides information on the options for financing mechanisms, characteristics, actors and actioning factors for the category of permanent mechanisms to generate local revenue by community councils.

The listed options are recommended as they satisfy the following criteria:

- good governance criteria, such as clear accountability and an audit trail,
- clearly defined legal criteria such as in the PFMA and Article 110 of the constitution,
- criteria for allocation of funds suitable to achieve ICM objectives,
- consider capacities to effectively disburse and audit funds,
- and could be tied to performance-based aspects.

Options of local revenue generation (basin/eco-system services) in Community Councils

	ICM related service	Payees/user	Funds/budget expending and administration	Monitored by	Expending authorization by (signature)	External audit	Legal implications/ legal basis
i	Lifeline water supply to local communities (max. X-litre/person/day)	Community members	No revenue	LEWA is the legal authority to establish a subsidy fund – see details in Annex 1.	-	-	LEWA is authorized to redistribute income from the richer users to poor users;
ii	Rural Water Supply	Domestic users/ Rural businesses (except lifeline supply above / pro poor measure)	Cost-recovery for Operation, Community Council/ Committee on Finance, and, Maintenance-subsidised by GoL;	LRWS	LRWS, within approved annual budget	GOL	Water-pay issues are unpopular by political actors, has sometimes led to vandalism. Water supply/ WASCO is integral part of ICM and regulated by LEWA;
iii	Borehole drilling/ deepening	Private sector (farms/lodges/ mines, industries)	Community Council/ Committee on Finance	District Secretaries, -DS/DA monitoring Committee -ICM Coordination Unit	Catchment Management Joint Committee (CMJC)	MoLGC/ MoF-Audit department	i) Currently no fund accounts at CC level, unsustainable for future ICM. No legal implications for new functions/authorit

							<p>y to CC, e.g., administering of a local ICM-project fund;</p> <p>ii) Fiscal decentralization process can mandate for funds to be handled by 'CC/Committee on Finance'. Recommendations for new constellation need to be spelled out clear and in detail;</p> <p>iii) To this end, a study is recommended on need for revision of Local Government Act;</p> <p>iv) DC does not have an area on its own, is made up of CCs/possibly Urban. Does not collect taxes, receives from central government in district fund. Urban councils can collect revenue.</p> <p>v) Basins are area of CC where services fees/fines can be collected. In old days fines were imposed by the chieftainship.⁶⁶ At that time DDF was active, incl. roads, water O&M;</p> <p>vi) Fiscal arrangements between DC and CC including corruption issues to be addressed through reform of PFMAA and enactment of Local Government Financing and Accounting Regulations as</p>
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⁶⁶ A formula indicated which part would be retained by the responsible Area Chief, which part by Principal Chief and the remainder to the consolidated fund at national level, which would -ideally- be returned to the District Development Fund. The system was not effective due to limited accountability which led to misappropriation of funds.

							detailed in the synthesis report under the chapter on consolidated fund vs fiscal decentralization.
iv	Water extraction	Private sector (farms/lodges/mines, industries)	Community Council/Committee on Finance	-District(s) Secretaries, -DS/DA Monitoring -ICM Coordination Unit	Catchment Management Joint Committee (CMJC)	MoLC/ MoF-Audit department	Legal basis in the parent act (Water Act) and detailed permitting and charging regulations needed. Reference made to recommendations regarding suitability of Water Act to govern integrated water resources management/ICM
v	Fees: irrigation, utilities, hydropower,	Various entities					CC/Committee on Finance is mandated to monitor local fund income and allocated ⁶⁷ . This is a key ICM role, capacity development needed. The DA role need to be seen in view of future abolishment ⁶⁸ .
vi	Discharge affluent (waste water treatment)	WASCO					

Characteristics of this ICM funding component:

The options described above should be considered in the context of the following characteristics:

- Relatively small amounts of revenue;
- Functions within one area under the Community Council;
- Suitable for a bonus or topping-up arrangement (from external sources, i.e., international donors) to reward local performance;
- ‘What you see is what you get’: the ring fencing translates immediately in visible ICM work done or income created at community level;
- Suitable for beneficiary/stakeholder/community-based monitoring;

⁶⁷ A function comparable to Public Accounts Commission at national level (in Parliament).

⁶⁸ Central Government has not yet devolved functions to District Councils and Community Council. That’s why it was still relevant and still exists. After decentralization, the office of the DA is redundant, except for ceremonial matters. The DA could, however, play a coordinating role but then would be subject to the Public Service Act, and not to the Local Government Act. Initially, it was thought to be abolished but is now seen as a player to be restructured. In the table DA is sometimes mentioned as a stakeholder, however the paper is unable to define its tasks.

- Essentially this category of revenue is/should be charged and received by DWA, WASCO and Principal Chiefs/MoLG&C. Due to various reasons this system is not functional. In a new style ICM setting this revenue would be received by the Community Council and be ringfenced for local investment in ICM.

Actors and role performance

The table below provides an overview of the roles and task distribution for the recommended options.

Actors	Main tasks	
Communities/local stakeholders	Create Community based ICM Plans (each approx. 400/1000 hectares), constituent part of the (sub-) Basin Management Plan. Planning includes i.e., i) description of community/stakeholder management; ii) ICM works to be carried out; iii) financing plan and management of Community ICM Plans, fees/penalties system, community/stakeholder-based monitoring of local income and expending; ++	Competences development
ICM Stakeholders/Payees	Involved with fees/penalties arrangements, payment regulations and regulations of monitoring and expending	
Community Council/Committee on Finance (existing)	Administer Community ICM Plans under its jurisdiction; Communicate with Catchment Management Joint Committee (CMJC); District Council; Ministry of Local G&C; Ministry of Finance	
District(s) Council Secretary (District Administrator)	District Council/DA has Monitoring responsibility on functions at CC and community level	
Catchment Management Joint Committee (CMJC)	A Catchment level governing committee which approves the various Community (sub-) Catchment Management Plans and ultimately the overall Catchment Management Plan; Liaison with technical ICM related ministries, facilitates establishment of CPU's; relate with ICM Coordination Unit on Basin level matters and Inter-ministerial Catchment Management Committee	
(Sub-)Catchment Planning and Implementation Unit (CPU)	An implementation unit, on project basis, needed by technical ICM related ministries to implement Community ICM plans. Not permanently existing, created on project request by Community Council. Participating Ministries in CPU are reimbursed for expenses of CPU (staff, transport, etc.); This arrangement makes ICM financially affordable	
Ministry of Local Governance and Chieftainship	Oversight on all functions of Community Council/Committees and community-based organizations, matters concerning Chieftainship and functioning within the mandates (monitoring, audits as required)	
ICM Coordination Unit	Coordination with all stakeholders in view of National ICM planning and budgeting	
Communities / local stakeholders	Participating in all stages of the project	

Actioning of the recommendations

Regarding actionability of the recommendations the below aspects must be considered.

Key stakeholders	Options SHs to choose from	Procedural (systemic) issues	Links to related issues/ processes	Risks and mitigation
Communities/local stakeholders	Local ICM fund in CC consisting of funding from local revenue	Establish local consensus on fees and fines, including payments from commercial private sector actors (which can be considerable). Arrange for capacity to use regulations and by-laws and ringfencing procedures	Local revenue collection has been common and effective in the past. Study useful practices and discuss the way forward with local government incl. district government, Chiefs, Councillors, and communities	Risk: No consensus on key issues, limited participation and communities feel local governance is not handling matters well; Mitigation: Apply lessons from the past, arrange for participatory decision taking and ensure ring-fencing

District(s) Council (District Administrator)	District Fund (which will be adapted to address community ICM projects)	Approves, transfers and monitors spending of ICM funds by CC/Community	-Review roles and positioning of the District Council, District Council Secretary, DA and DA-office -Revision of Local Government Act in view of governing ICM	Risk: District government structure, functions and ascribed authorities unclear; Mitigation: Review/study of Local Government Act and restructuring of local government
Community Council/Committee on Finance (existing)	-Funds originating from District Fund; -Funds originating from local revenue (ring-fenced)	-authority of Committee to be defined and local monitoring established; -capacity to be developed	Revision of ICM related aspects of CC structure and functions re community, District government and Catchment Management Joint Committee CMJC)	Risk: CC remains under-capacitated with unclear or unfunded mandate vis-à-vis surrounding stakeholders; Mitigation: CC Mandate legally founded and clarified with its related SH
Catchment Management Joint Committee (CMJC)	Drafts Basin Plans (secretariat) and negotiates basin level budget with stakeholders	CMJC is a crucial basin governments structure which may comprise members (Chiefs/Councillors) from various districts	Communication of CMJC with national Government, National ICM Coordination Unit, CC and District government.	Risk: CMJC is not established or becomes powerless leading to fragmented ICM attempts; Mitigation: Ensure CMJC is established with consensus of related Districts and CCs and authorized by Inter-ministerial Catchment Management Committee (existing)
(Sub-) Catchment Planning and Implementation Unit (CPU)	CC/Communities arrange with technical ministries CPU to implement projects	Crucial arrangement to have ICM established in a realistic financial setting. Clear procedures for funding and reimbursing technical ministries for their role in local ICM project implementation	Communication with technical ministries about staff capacity and possibly partial funding at local level	Risk: CPU is not developed and technical project implementation will be fragmented, only small scale and of relatively poor quality Mitigation: Convince, raise awareness, win hearts and minds of technical ministries for their role in ICM implementation on local level
Ministry of Local Governance and Chieftainship	MoLGC 'owns' and governs the full legal and institutional structure to community level. To endorse all legal and mandate related ICM actions, studies etc.	MoLGC is key stakeholder in ICM development process	Discuss MoLGC vision and opinion of applying some aspects of Deepening Decentralisation project within the framework of ICM development to obtain orientation on the way forward	Risk: Process of linking and involving the ministry is inadequate and renders the process void; Mitigation: Ensure proper participation, sharing and informing the ministry by means of a Communication Plan
ICM Coordination Unit (existing)	Coordination Unit creates clarity about options for funding to various stakeholders at	Coordination Unit could require restructuring and be re-established as an authority to deal with	Current position to ICM related issues and dilemma's may be too much restricted to firmly coordinate	Risk: Coordination Unit remains with DWA with limited senior staff, leading to limited effectiveness;

	various levels. Needs to be a key communicator	all matters pertaining to IWRM/ICM		Mitigation: Ensure an institutional setting which will enable government to avail an adequate mandate and competencies
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3.2.2 Permanent: Lesotho National Government ICM subsidy to Community Councils through District Fund

This section provides information on the options for financing mechanisms, characteristics, actors and actioning factors for the category of permanent ICM subsidies from the Lesotho National Government to Community Councils through a District Fund.

The listed options are recommended as they satisfy the following criteria:

- good governance criteria, such as clear accountability and an audit trail,
- clearly defined legal criteria such as in the PFMA and Article 110 of the constitution,
- criteria for allocation of funds suitable to achieve ICM objectives,
- consider capacities to effectively disburse and audit funds,
- and could be tied to performance-based aspects.

Options of Lesotho National government ICM subsidy to Community Councils through District Fund (existing, to be adjusted)

	Nature of subsidy	Payee	Funds administered by	Monitored by	Budget expending authorized by	External audit
i)	Investment in national ICM development	Government of Lesotho	District Fund	MoLGC/ MoF-Audit department ICM Coordination Unit	DA/DCouncil	Specific audit facility
ii)	Lesotho Highlands Development Authority (LHDA)	Through Government of Lesotho	District Fund	MoLGC/ MoF-Audit department ICM Coordination Unit	DA/DCouncil	Specific audit facility

Characteristic of this ICM fund component:

The options described above should be considered in the context of the following characteristics:

- Budget operates within the community Based ICM Plans
- Suitable for a bonus or topping up arrangement (from external sources) to reward district management performance;
- Suitable for direct beneficiary/district level and stakeholder/community-based monitoring;

Actors and role performance

The table below provides an overview of the roles and task distribution for the recommended options.

Actors	Main tasks	
Government of Lesotho	Vetting ICM proposals from Community Council ICM Fund, disbursing funds	Competences development
Community Council/Committee on Finance (existing)	Administers the receipt, holding and expending of funds on ICM from the District Development Fund; Communicates with Catchment Management Joint Committee (CMJC) and (Sub-)Catchment Planning and Implementation Unit (CPU) on local long/short term ICM investments	

District(s) Council Secretary (District Administrator)	District(s) Council is in the line of local government which connects to the Community Council and decentralized ICM funding to Community Council. Tasks include monitoring of ICM funds in Community Council. Communication with Catchment Management Joint Committee (CMJC)	
Catchment Management Joint Committee (CMJC)	Basin level governance of ICM including development and implementation of the Basin Plan, close communication on financial planning and investment with Community Council, District Councils(s), ICM related Ministries, ICM Coordinator and National Inter-Ministerial Catchment Management Committee	
(Sub-) Catchment Planning and Implementation Unit (CPU)	An implementation unit, on project basis, needed by technical ICM related ministries to implement Community ICM plans. Not permanently existing, created on project request by Community Council. Participating Ministries in CPU are reimbursed for expenses of CPU (staff, transport, etc.); This arrangement makes ICM financially affordable	
Ministry of Local Governance and Chieftainship	The local governmental structures are part of and 'owned' by the Ministry of Local Government & C. Roles to be performed include monitoring planning and financing of ICM at district and community level and especially the governance roles at basin level where Community Council and District Council 'meet'. (Monitoring, audits as required)	
ICM Coordination Unit	Coordination with all stakeholders in view of National ICM planning	
Communities/local stakeholders	Participating in all stages of the project	

Actioning of the recommendations

Regarding actionability of the recommendations the below aspects must be considered.

Key stakeholders	Options SHs to choose from	Procedural (systemic) issues	Links to related issues/ processes	Risks and mitigation
ICM SH: Community level: Grazing Associations; Small scale farmers; Wool and Mohair groups; WASH groups, etc	i) Funding from District Development Fund through CCs	-Current District Fund (DF) adapted to channel and monitor budget to CCs; -GoL Consolidated fund adapted to transfer ICM budget to DF	1.National ICM Coordination Unit is capacitated to support and coordinate budgeting and funding modalities	Risk: Governance at national and basin level inadequate; Mitigation: Ensure firm decisions at Cabinet, Parliament and Senate level
	ii) Direct funding from Development partners	-CC, SHs, District Council (DC) to be capacitated; -Legal framework to authorize DC and CC; -Establish SH-based monitoring	2.Institutional structure developed including a.o. Catchment Management Joint Committee (Chiefs and Councillors) for catchment governance	Risk: National Coordination Unit not adequately authorized to coordinate ICM; Mitigation: Ensure oversight and decisions of National Inter-Ministerial Catchment Management Committee
	iii) Local ring-fenced revenue	-CC, SHs, District Council (DC) to be capacitated; -Legal framework to authorize DC and CC; -Establish SH-based monitoring system; -Establish capacities to utilize by-laws for local governance	3.Gravity of catchment governance is with National Inter-Ministerial Catchment Management Committee and locally the Catchment Management Joint Committee	Risk: Overall ICM structure not adequately authorized to implement ICM; Mitigation: Ensure oversight and decisions of National Inter-Ministerial Catchment Management Committee
	iv) From national ICM-Ministries e.g., MoW, MoLG&C; MoF&R; MoA	-Within framework of Catchment management plan ministries	4.Focused ongoing capacity development at	Risk: No long-term HR and organizational capacity development plan

		implement jointly CC/DC/National ICM projects	the level of CC, SHs, District Council (DC)	developed and properly implemented; Mitigation: Coordination Unit to address and plan remedial measures
	Private sector	-Avail budget for DC and CC level projects	5.Establishment of a monitoring procedure (for each of the modalities), including stakeholder-based monitoring	Risk: ICM Monitoring is ineffective as it is carried out without adequate input of SH-beneficiaries; Mitigation: Ensure that SH/ICM beneficiaries are involved with ICM monitoring
	National projects e.g., LHWP	-LHWP provides for funding for ICM in its catchment through CC/DCs	6.Establish monitoring and auditing procedure (for each of the modalities), which meet GoL standards as well as NGO/donors requirement 7.Ongoing support to the decentralization processes to enable ICM development	Risk: Monitoring procedure and reporting does not reflect realities on the ground and is not congruent with templates of donors; Mitigation: Design monitoring procedure with input of donors Risk: Decentralization not effectuated leading to halted ICM development; Mitigation: Advocate decentralization as a one and only condition for successful ICM development

3.2.3 Permanent: Future District level direct ICM Fund

This section provides information on the options for financing mechanisms, characteristics, actors and actioning factors for the category of a permanent future district level direct ICM Fund.

The listed options are recommended as they satisfy the following criteria:

- good governance criteria, such as clear accountability and an audit trail,
- clearly defined legal criteria such as in the PFMA and Article 110 of the constitution,
- criteria for allocation of funds suitable to achieve ICM objectives,
- consider capacities to effectively disburse and audit funds,
- and could be tied to performance-based aspects.

Options for future District level direct ICM Fund (successor to existing District Fund)

	Nature of subsidy	Payee	Funds administered by	Monitored by	Budget expending authorized by	External audit	Legal implications / legal basis
i)	Direct investment from District Government in local ICM development	District Fund(s)	District Council/DA	-District(s) Secretaries -DS/DA Monitoring Committee	Catchment Management Joint Committee (CMJC)	- MoLGC/ MoF-Audit department	GoL will do an in-depth study on what has been working, and what did not, which elements are essential to address corruption, and accountability. This study must be conducted by the Central Government to support the design of the model of decentralization.

				-ICM Coordination Unit			It should show the situation on the ground, HR needed, structures, and functions which would harmonize with the local concepts in Lesotho. To diagnose the problem Pilots have been carried out, e.g., UNDP, as a way of learning, but were neglected as if these had never been there - after funds were used and finished.
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Characteristic of this ICM fund component

The options described above should be considered in the context of the following characteristics:

- Budget is related to District development planning;
- Budget operates within the district administrative boundaries in the catchment (these do not coincide);
- Suitable for a bonus or topping up arrangement (from external sources) to reward district management performance;
- Suitable for direct beneficiary/district level and stakeholder/community-based monitoring;
- At district level a development fund is administered by the District Council Secretary, which is receiving financial allocations from national level. In practice the Fund is a blanket allocation for all districts, with limited variation all districts receive a comparable amount on annual basis. The allocation does not depend on operational or strategic planning at district level and is normally utilized to meet expenses for maintenance of repair of water supplies and roads, and likely other district infrastructure. This local government budget and the administrative procedures around it could possibly be adjusted and made fit to be functional for future ICM related receipt and expending.

Actors and role performance

The table below provides an overview of the roles and task distribution for the recommended options.

Actors	Main tasks	
Communities/local stakeholders	Create Community based ICM Plans (each approx. 400/1000 hectares), constituent part of the (sub-)Basin Management Plan. Planning includes i.e., i) description of community/stakeholder management; ii) ICM works to be carried out; iii) financing plan and management of Community ICM Plans, fees/penalties system, community/stakeholder-based monitoring of local income and expending	Competences development
Community Council/Committee on Finance (existing)	Administers the receipt, holding and expending of funds on ICM from the District Development Fund; Communicates with Catchment Management Joint Committee (CMJC) and (Sub-) Catchment Planning and Implementation Unit (CPU) on local long/short term ICM investments	
District(s) Council Secretary (District Administrator)	District(s) Council is in the line of local government which connects to the Community Council and decentralizes ICM funding to Community Council. See item above. Tasks include district level governance of ICM matters and monitoring of ICM funds in Community Council. Communication with Catchment Management Joint Committee (CMJC) and National Inter-Ministerial Catchment Management Committee	
Catchment Management Joint Committee (CMJC)	Basin level governance of ICM including development and implementation of the Basin Plan, close communication on financial planning and investment with Community Council, District Councils(s), ICM related Ministries, ICM Coordinator and National Inter-Ministerial Catchment Management Committee	
(Sub-)Catchment Planning and Implementation Unit (CPU)	An implementation unit, on project basis, needed by technical ICM related ministries to implement Community ICM plans. Not permanently existing, created on project request by Community Council. Participating Ministries in CPU are reimbursed for expenses of CPU (staff, transport, etc.); This arrangement makes ICM financially affordable	

Ministry of Local Governance and Chieftainship	The local governmental structures are part of and ‘owned’ by the Ministry of Local Government & C. Roles to be performed include monitoring planning and financing of ICM at district and community level and especially the governance roles at basin level where Community Council and District Council ‘meet’. (Monitoring, audits as required)	
ICM Coordination Unit	Coordination with all stakeholders in view of Nation ICM planning	
Communities/local stakeholders	Participating in all stages of the project	

Actioning of the recommendations

Regarding actionability of the recommendations the below aspects must be considered.

Key stakeholders	Options SHs to choose from	Procedural (systemic) issues	Links to related issues/ processes	Risks and mitigation
ICM SH: District level: WASH projects, Waste water collection/treatment, Road construction; urban physical plans implementation; etc	District level projects, above community level funding directly from District Fund	-Current District Fund (DF) adapted to fund future ICM related works at district level. Provide for clear earmarking and criteria; -National Consolidated fund able to transfer ICM budget to DF	1.National ICM Coordination Unit is mandated/capacitated to support and coordinate budgeting and funding modalities at district level	Risk: Governance at district and basin level inadequate; Mitigation: Ensure firm decisions at Cabinet, Parliament and Senate level to mandate/capacitate District and Basin level
	ii) Direct funding from Development partners	-CC, SHs, District Council (DC) to be capacitated; -Legal framework to authorize DC and CC; -Establish SH-based monitoring	2.Institutional structure developed including a.o. Catchment Management Joint Committee (Chiefs and Councillors) for catchment governance embracing various districts	Risk: National Coordination Unit not adequately authorized to coordinate ICM; Mitigation: Ensure oversight and decisions of National Inter-Ministerial Catchment Management Committee
	iii) From national ICM-Ministries e.g., MoW, MoLG&C; MoF&R; MoA	-Within framework of Catchment management plan the technical ministries implement jointly DC/National ICM projects	3.Gravity of catchment governance is with National Inter-Ministerial Catchment Management Committee and at Basin level with the Catchment Management Joint Committee-clear terms of reference required	Risk: Overall ICM structure not adequately authorized to implement ICM; Mitigation: Ensure oversight and decisions of National Inter-Ministerial Catchment Management Committee
	Private sector	-Avail budget for DC level projects	4.Focused ongoing capacity development at all levels	Risk: No long-term HR and organizational capacity development plan developed and properly implemented; Mitigation: Coordination Unit to address and plan remedial measures

	National projects e.g., LHWP	-LHWP provides for funding for ICM in its catchment through DCs	5. Establishment of a monitoring procedure (for each of the modalities), always stakeholder-based monitoring	Risk: ICM Monitoring is ineffective as it is carried out without adequate input of SH-beneficiaries; Mitigation: Ensure that SH/ICM beneficiaries are involved with ICM monitoring
			6. Establish monitoring and auditing procedure (for each of the modalities), which meet GoL standards as well as NGO/donors requirement	Risk: Monitoring procedure and reporting does not reflect realities on the ground and is not congruent with templates of donors; Mitigation: Design monitoring procedure with input of donors
			7. Ongoing support to the decentralization processes to enable ICM development	Risk: Decentralization not effectuated leading to halted ICM development; Mitigation: Advocate decentralization as a one and only condition for successful ICM development

3.2.4 Permanent: Lesotho National Government subsidy to ICM-related ministries

This section provides information on the options for financing mechanisms, characteristics, actors and actioning factors for the category of permanent subsidies from the Lesotho National Government to ICM-related ministries.

The listed options are recommended as they satisfy the following criteria:

- good governance criteria, such as clear accountability and an audit trail,
- clearly defined legal criteria such as in the PFMA and Article 110 of the constitution,
- criteria for allocation of funds suitable to achieve ICM objectives,
- consider capacities to effectively disburse and audit funds,
- and could be tied to performance-based aspects.

Options for Lesotho National Government subsidy to ICM-related ministries (Water, Forestry and Range, Agriculture, Local Government, others)

	Nature of subsidy	Payee	Funds administered by	Monitored by	Budget expending authorized by	External audit
i)	Investment from National Government in ICM development through ICM-related ministries	ICM related ministry, e.g. (Water, Forestry and Range, Agriculture, Local Government, others)	ICM related ministry	ICM Coordination Unit	ICM Coordination Unit	MoLGC/ MoF-Audit department

Characteristic of this ICM fund component

The options described above should be considered in the context of the following characteristics:

- Budget does focus on all ICM activities in the mandate areas of the ministries;
- ICM related activity in the program of the ministries has adequate visibility;
- Ministries do coordinate their ICM actions well with the ICM Coordination Unit;

Actors and role performance

The table below provides an overview of the roles and task distribution for the recommended options.

Actors	Main tasks	
Government of Lesotho	Vetting ICM activities in technical proposals of ministries, disbursing funds	Competences development
Community Council/Committee on Finance (existing)	Coordinate and facilitate (Sub-)Catchment Planning and Implementation Unit (CPU) to implement ICM projects; Coordinate with Catchment Management Joint Committee (CMJC) and District Council	
District(s) Council Secretary (District Administrator)	District(s) Council is in the line of local government which connects to the Community Council and decentralizes ICM funding to Community Council. Tasks include monitoring of ICM funds in Community Council. Communication with Catchment Management Joint Committee (CMJC)	
Catchment Management Joint Committee (CMJC)	Approve ICM projects from technical ministries as part of the Basin Plan	
(Sub-)Catchment Planning and Implementation Unit (CPU)	Implements on request of technical ministry, facilitated by the Community Council	
Ministry of Local Governance and Chieftainship	The local governmental structures are part of and 'owned' by the Ministry of Local Government & C. Roles to be performed include monitoring planning and financing of ICM at district and community level and especially the governance roles at basin level where Community Council and District Council 'meet'. (Monitoring, audits as required)	
ICM Coordination Unit	Coordination with all stakeholders in view of Nation ICM planning	
Communities/local stakeholders	Participating in all stages of the project	

Actioning of the recommendations

Regarding actionability of the recommendations the below aspects must be considered.

Key stakeholders	Options SHs to choose from	Procedural (systemic) issues	Links to related issues/processes	Risks and mitigation
ICM SH: District and Community level: ICM small and sub-basin level, WASH projects as integrated in the ministerial programming, etc	District/CC level ICM projects at community and district	-Ensure ministerial preparedness, mandates and planning to coordinate well with District Fund (DF) and CC. Support clear earmarking and criteria	1.National ICM Coordination Unit is mandated/capacitated to support and coordinate budgeting and funding modalities at district level	Risk: Governance at ministerial, district and basin level inadequate; Mitigation: Ensure firm decisions at Cabinet, Parliament and Senate level to mandate/capacitate ministries, district and basin level
	ii)Direct funding from Development partners	-CC, District Council (DC)/DA other	2.Institutional structure developed	Risk: National Coordination Unit not

		<p>stakeholders to be capacitated;</p> <p>-Legal framework to authorize DC and CC;</p> <p>-Establish SH-based monitoring</p>	<p>including a.o. Catchment Management Joint Committee (Chiefs and Councillors) for catchment governance embracing various districts</p>	<p>adequately authorized to coordinate ICM;</p> <p>Mitigation: Ensure oversight, functions and decision taking of National Inter-Ministerial Catchment Management Committee</p>
			<p>3.Gravity of catchment governance is with National Inter-Ministerial Catchment Management Committee and at Basin level with the Catchment Management Joint Committee-clear terms of reference required</p>	<p>Risk: Overall ICM structure not adequately authorized to implement ICM. Difficulty to coordinate ministries;</p> <p>Mitigation: Ensure oversight and decisions of National Inter-Ministerial Catchment Management Committee</p>
	<p>iii)From national ICM-Ministries e.g., MoW, MoLG&C; MoF&R; MoA</p>	<p>-Within framework of Catchment management plan the technical ministries implement jointly DC/National ICM projects</p>	<p>4.Focused ongoing capacity development at all levels</p>	<p>Risk: No long-term HR and organizational capacity development plan developed and properly implemented;</p> <p>Mitigation: Coordination Unit to address and plan remedial action of support</p>
	<p>Private sector</p>	<p>-Avail budget for DC level projects</p>	<p>5.Establishment of a monitoring procedure (for each of the modalities), always stakeholder-based monitoring</p>	<p>Risk: ICM Monitoring is ineffective as it is carried out without adequate input of SH-beneficiaries;</p> <p>Mitigation: Ensure that SH/ICM beneficiaries are involved with ICM monitoring</p>
	<p>National projects e.g., LHWP</p>	<p>-LHWP provides for funding for ICM in its catchment through DCs</p>	<p>6.Establish monitoring and auditing procedure (for each of the modalities), which meet GoL standards as well as NGO/donors requirement</p>	<p>Risk: Inadequate Monitoring or auditing will reduce quality of the project funding and implementation;</p> <p>Mitigation: Standardized procedures for monitoring will assist to establish generally accepted approaches;</p>
			<p>7.Ongoing support to the decentralization processes to enable ICM development</p>	<p>Risk: Decentralization not effectuated leading to halted ICM development;</p> <p>Mitigation: Advocate decentralization as a one and only condition for successful ICM development</p>

3.2.5 Short-term: International funding

This section provides information on the options for financing mechanisms, characteristics, actors and actioning factors for the category of short-term international funds.

The listed options are recommended as they satisfy the following criteria:

- good governance criteria, such as clear accountability and an audit trail,
- clearly defined legal criteria such as in the PFMA and Article 110 of the constitution,
- criteria for allocation of funds suitable to achieve ICM objectives,
- consider capacities to effectively disburse and audit funds,
- and could be tied to performance-based aspects.

Options for international funding

	Nature of subsidy	Payee	Funds administered by	Monitored by	Budget expending authorized by	External audit
i)	ICM programme (2020-2023) EU – BMZ	Government of Lesotho	District Fund	MoLC/ MoF-Audit department	DA/DCouncil	Specific audit facility
			Community Council-Committee on Finance ⁶⁹	District(s) Secretaries ⁷⁰ DS/DA Monitoring Committee	Catchment Management Joint Committee ^{71*} (CMJC)	- MoLC/ MoF-Audit department
	UNDP small grants program (non-sector specific performance-based grants for local authorities)	UNDP	District councils, City council, urban councils, and community councils	UNDP, MoF, MoLGC, Office of the Accountant General	UNDP	UNDP and external, local financial management firm
	Land & Water management component in Millennium Challenge Cooperation (MCC), second compact	Government of Lesotho	District Fund	MoLC/ MoF-Audit department	DA/DCouncil	Specific audit facility
			Community Council-Committee on Finance	District(s) Secretaries DS/DA Monitoring Committee	Catchment Management Joint Committee* (CMJC)	- MoLC/ MoF-Audit department
	International Fund for Agricultural Development (IFAD): Country Strategic Opportunities Programme 2020 – 2025 ⁷²	Government of Lesotho/ Min of Agric/ MFRSC		MoF Audit Department and LoCAL	tbd	tbd

⁶⁹ Community Councils do cover most often one sub-catchment, but there may be exceptions;

⁷⁰ Monitoring Committee constituted by the districts in the (sub-) catchment;

⁷¹ A Catchment Management Joint Committee (CMJC) is not restricted by district administrative borders. It may cover -partially- more than one district;

⁷² <https://webapps.ifad.org/members/eb/128/docs/EB-2019-128-R-18-Rev-1.pdf>

LoCAL	Government of Lesotho and top-up by LoCAL/UNCDF	DC and LoCAL	MoF Audit Department and LoCAL	DC and LoCAL	MoF Audit Department and LoCAL
Fato	Government of Lesotho	tbd	tbd	tbd	tbd
Private sector	Varies	Varies	Varies	Varies	Varies

Characteristic of this ICM fund component

The options described above should be considered in the context of the following characteristics:

- Budget can focus on ICM local level plan implementation.
- It can be stand alone or follow existing financing and top up.
- Donors can require counter financing and strict performance-based conditions.
- Not sustainable and not infinite, once funding ends there is risk of project ending.
- Sustainability to be ensured by GOL (maintenance, staff salaries, electricity, etc.).

Actors and role performance

The table below provides an overview of the roles and task distribution for the recommended options.

Actors	Main tasks	
Government of Lesotho	Vetting ICM proposals from Community Council ICM Fund, disbursing funds	Competences development
Community Council/Committee on Finance (existing)	Administers the receipt, holding and expending of funds on ICM from the District Development Fund; Communicates with Catchment Management Joint Committee (CMJC) and (Sub-)Catchment Planning and Implementation Unit (CPU) on local long/short term ICM investments	
District(s) Council Secretary (District Administrator)	District(s) Council is in the line of local government which connects to the Community Council and decentralized ICM funding to Community Council. Tasks include monitoring of ICM funds in Community Council. Communication with Catchment Management Joint Committee (CMJC)	
Catchment Management Joint Committee (CMJC)	Basin level governance of ICM including development and implementation of the Basin Plan, close communication on financial planning and investment with Community Council, District Councils(s), ICM related Ministries, ICM Coordinator and National Inter-Ministerial Catchment Management Committee	
(Sub-)Catchment Planning and Implementation Unit (CPU)	An implementation unit, on project basis, needed by technical ICM related ministries to implement Community ICM plans. Not permanently existing, created on project request by Community Council. Participating Ministries in CPU are reimbursed for expenses of CPU (staff, transport, etc.); This arrangement makes ICM financially affordable	
Ministry of Local Governance and Chieftainship	The local governmental structures are part of and 'owned' by the Ministry of Local Government &C. Roles to be performed include monitoring planning and financing of ICM at district and community level and especially the governance roles at basin level where Community Council and District Council 'meet'. (Monitoring, audits as required)	
ICM Coordination Unit	Coordination with all stakeholders in view of Nation ICM planning	
Communities/local stakeholders	Participating in all stages of the project	

Actioning of the recommendations

Regarding actionability of the recommendations the below aspects must be considered.

Key stakeholders	Options SHs to choose from	Procedural (systemic) issues	Links to related issues/ processes	Risks and mitigation
All stakeholders involved with ICM, national, district and local level;	-direct funding by international donors/agencies; -funding which flows through GoL ministerial programs;	-National Inter-Ministerial Catchment Management Committee essentially leads the fund-raising from international organizations/donors; -GoL will provide for a long term ICM catchment management planning; -Central role of the national Coordination Unit; -Each ministry will prepare for, or contribute to catchment’s long-term ICM management plans of CMJC	-Synergies will be identified for all catchment wide plans as well as small scale projects; -Nexus with ICM adjacent areas will be incorporated in ICM planning; Attention will be given to cost effectiveness of ICM development operations	Risk: Limited coordination at basin or local level: Mitigation: National Coordination Unit, CMJC and District level government to communicate with ministries on need for coordination; Risk: Synergies and nexus approaches do not materialize; Mitigation: National Inter-ministerial Catchment Management Committee communicates with ministries on these matters;
DC/Community Council/Committee on Finance (existing)	Same as above	Sub-Catchment plans will be made available to National ICM Coordination Unit to coordinate for funding	Stock-taking on district/local level on ICM works implemented and preferred technology options	Risk: Expertise at local level does not meet international funding standards; Mitigation: a long term ICM management capacity development (HR as well as organizational development) to be developed and implemented;
Catchment Management Joint Committee (CMJC)	same	CMJC coordinates with National Coordination Unit in view of overall catchment planning and funding priorities	CMJC non-existent as yet. Chiefs and Councillors are involved with ICM but uncoordinated from their position in the CC and DC	Risk: CMJC will be a new and inexperienced committee and may require considerable support to function at standard; Mitigation: All CMJCs will be in close contact with the National Coordination Unit and be trained jointly to perform their duties; .
(Sub-)Catchment Planning and Implementation Unit (CPU)	same	Each catchment has a potential CPU plan ready to mobilize for ICM projects to be implemented	Funding/costing of the CPU ICM actions will be prepared and agreed in standard procedures for communications with donors	Risk: CPU, as a non-permanently existing implementation team may be hard to establish when needed; Mitigation: each sub-basin has under leadership of the CMJC formed a CPU

				team by the technical ministries;
Ministry of Local Government and Chieftainship	same	National ICM Coordination Unit to coordinate with MoLGC on all international funding options and implementation modalities with progress achieved	Current involvement of the ministry in ICM to be supported as required and where possible linked to international funding	Risk: Limited involvement of the ministry will stall progress in decentralization and ICM development; Mitigation: Thorough involvement of the ministry in all ICM matters, including long term funding questions is essential to build a long-term program
ICM Coordination Unit	same	Prepares for a national long term ICM financing plan for different categories of donors	ICM Coordination Unit to be fully mandated and capacitated with staff and means to perform ICM coordination	Risk: National Coordination Unit not adequately authorized to coordinate ICM; Mitigation: Ensure oversight and decisions of National Inter-Ministerial Catchment Management Committee

3.3 Conclusion and recommendations

Institutional recommendations

Regarding the **most appropriate level of government to engage** with (District councils or community councils) it is the CC that put forward project proposals and requests to the DC level. The DCs prioritize these and take projects up in their integrated DC development plan, which is then financed by the Central Government.

In case a CC implements plans, this may result in incomplete implementation as the plans originate at the district level. So, the preferred option is that they are implemented at the DC level.

Larger projects/interventions, that require significant financing, suggest the responsibility to be under the DCs, as they are better suited to deal with these.

Considering the current and proposed structure and responsibilities of a District Council, a financing mechanism for significant projects or schemes through a District Council would be most practical. That is so because a District Council is comprised of Councillors from CCs within the district and is charged with, inter alia, considering and incorporating proposed development plans from the CCs into a district development plan. The main challenge would be that presently urban councils are not part of the DC and so a district development plan does not cover urban areas.

Planning begins at EDs through prioritization led by councillors, then follows deliberations at CC level where each councillor presents priorities from his/her ED. Decisions are then taken as to what should go into the CC proposed development plan, then the proposal together with other proposals from other CCs will be considered by the District Development Co-ordinating Committee which will then draft a district development plan based on such proposal for consideration and approval by the DC. A district plan is then submitted to the Minister for financing. It is, however, important to underscore the point that a development plan should be aligned with council functions and so it cannot cover aspects of ICM which have not yet been transferred to councils.

It is hence recommended that Integrated sub catchment management plans are implemented through the DCs. Accordingly, any financing should be administered by the DCs. Finance mechanisms are consequently best established on the DC level, as funds could be ringfenced for larger ICM projects.

Stakeholders needed

Regarding all of the above proposed mechanisms, **the Stakeholders to be involved** in the development are mainly the District(s) Council Secretary (District Administrator), the Catchment Management Joint Committee (CMJC, as described in the Concept Note on Process for the development of Draft Catchment Management Plans 2021-23 for 6 Priority Sub-Catchments, pages 2, 4, and 6) the (Sub-) Catchment Planning and Implementation Unit (CPU), the Ministry of Local Governance and Chieftainship, the ICM Coordination Unit, and the Communities/local stakeholders. A fundamentally important decision must be made by the GOL whether the described approach of amending sectoral legislation will be followed or whether a new ICM framework act will be drafted. These options are described in more detail under WS 1.

It is important to note, that the Commissioner of water and the accountant-general must take the initiative and the ownership of the process.

Legal basis

Mechanisms that consist of a bundle of legal, institutional, and capacity arrangements as described in the table “Roadmap”, should have a **clear legal basis**. The PFMA should be on top of the list, and treasury regulations, as well as enactment local government financing and accounting regulations. The reform process ordinarily begins with an in-depth review of the relevant legislation, consultations, then revision. The first two steps would shed light on whether mechanisms should be established or provided for in the Acts, or via subsidiary, implementing regulations. It must be remembered that the current revisions of the RRMA must be endorsed (if not yet) by the MoF before it can be tabled in Parliament because it touches on public money.

Main Risks and mitigation measures

The **main risks** were described above and relate to lack of capacity and, in particular, to lack of political will and political/government instability.

Many users will not find it acceptable that they should pay for water use, or for grazing.

A suggested mitigation measure is thorough public engagement and citizen education on these issues through their representatives at the central and local levels including NGOs and development partners. A collective and inclusive effort would build trust and transparency which is essential. Political will can be flexible and is subject to frequent change. This is a risk and an opportunity alike.

Holistic view

It is essential that any planning of ICM interventions is approached with a holistic view of the environment, including not only ICM elements and principles, but also biodiversity. The upstream/downstream dimension of plans, projects, and measures, and the do no harm principle must be considered in the planning process.

Unsustainability of interventions is a serious risk. Sustainability of financing (COPEX & OPEX) must be ensured from the start. Local capacity not only related to ICM measures, but also with regard to sustainable financing is hence vital.

This risk can also be mitigated in requiring (even if minimal) amounts of counter-financing or labour to be contributed by the beneficiaries of the ICM interventions.

3.4 Long-term, sustainable, revenue based ICM funding

Sustainable funding of ICM interventions, in particular of local level ICM plans, need a solid and reliable revenue basis. Dependence on international donors and external funds, such as grants, should be avoided in the long term.

This is confirmed by **the draft ICM Strategic Vision**, that, in the vision 1.2. and the objective 1.3., promotes sustainable water and land management, and, under the vision’s principles, 1.4., promotes sustainable and continuous financing. Continuous and sustainable financing requires long term, and revenue-based financing sources to be implemented, based on a strong legal basis.

The SHCs have clearly revealed, that a long-term, revenue-based finance mechanism should have high priority for Lesotho. Donor funded interventions are finite, and experience shows that revenue-based funds tend to be used more efficiently.

A revenue based ICM funding regime could, however, be amended/completed by donor funds in the short-, mid-, or even in the long term. A main lesson learnt is that local counter financing is crucial in cases of external, donor funding. Counter financing could be based largely on a functioning revenue-based regime.

3.4.1 Carbon offsetting, and carbon offset processes

Establishment of a carbon offset regime seems difficult in the specific Lesotho context as capacities currently do not allow to do so.

Government capacities and independent certification bodies must be in place. Capacity constraints have been identified as a major impediment to accessing international funds and administering funds. In light of the fact, that a functioning carbon offset process is already difficult to develop, organize, and maintain in more developed countries, this option could be introduced to Lesotho at a later stage as an additional, quite sophisticated “add-on” or “extra” once a basic, practicable system of revenue generation and allocation to ICM plan implementation is in place. Without a functioning ICM financing system and the needed capacity being in place, this sophisticated added, or bonus, mechanism seems unrealistic.

It must be remembered in this context, that Lesotho does not lack available funding in principle. To the contrary, as demonstrated above, international donor funding for ICM is widely available and can frequently not be accessed due to capacity constraints.

While carbon offsetting could add additional funding potential to the already available ICM funding options, such carbon offsetting cannot address the problematic, underlying capacity shortcomings, but would rather additionally add to the shortages in capacity.

In conclusion it must be stated that this option does not fit into the specific Lesotho context and can hence not be recommended.

3.4.2 Revenue from water use

The packaged approach will recommend key legislative reform required for major pieces of ICM legislation such as the Water, Environmental Act amongst others. Using the example of the Water Act, it is apparent that water use, and permitting thereof requires reform through primary or subsidiary legal instruments. Coupled with this, reform surround penalties are an additional area requiring reform recommendations. Administrative charge systems surrounding water use and penalties derived from non-compliance can have a direct apportionment for ICM projects. Such allocations will need to be apportioned by the appropriate ministries managing the water use administration and penalty enforcement. ICM financial apportionment using these avenues, need not be ad-hoc but could be formalized through relevant ministries and could feed into broader ICM financing models recommended through this project.

The legal review (water and sanitation policy and long-term strategy etc.) identified a strong focus and drive towards improving and building on Lesotho’s water service models. In doing this, a proactive recommendation to address financial sustainability would be for provisions of ‘water pricing schedules’ in the reform of the Water Act. Such instruments would allow national and local government to determine appropriate charges directly applicable for ICM. This will be particularly important in context of Lesotho’s vision of economic growth and expansion. The SA case-study (see below Annex 3) provides a good example with the unpacking of various charges – holistically

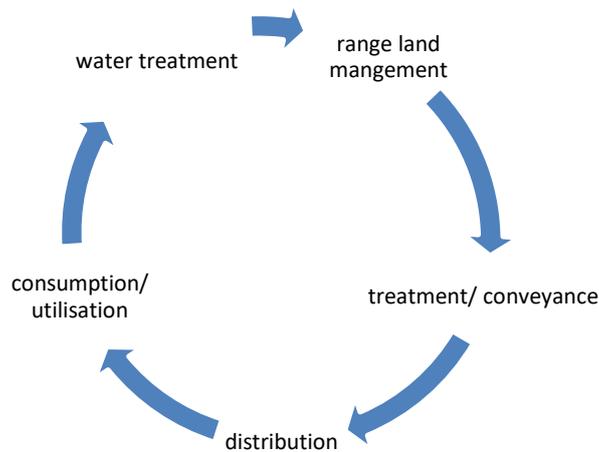
covering raw water charges for abstraction and wastewater discharge charges. All of which have a direct impact on the Water component of ICM i.e., water security/availability; water quality and overall water management.

Additional: The Water sector value chain concept

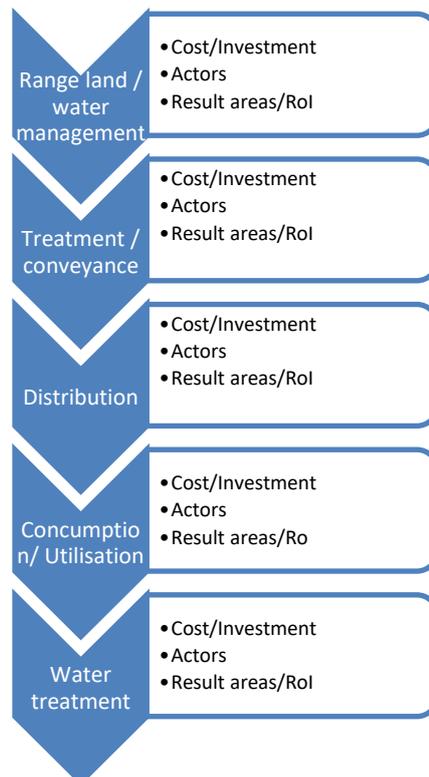
The water sub-sector value chain comprises a continuous cycle divided into several stages, from water withdrawal/source from the natural environment through to handling and treatment back to source and utilisation at the end of the cycle. Each stage of the cycle generates two types of costing areas:

- **investment costs** used to set up or overhaul the infrastructure, fixed costs;
- **operating costs** incurred for the purpose of operating this infrastructure, including labour, ancillary services or treatment products. These are variable costs.

Example: Circular value chain Range Land Management Water Sources



In the schedule below for each of the stages in the circular water/land management model the Cost/Investment, Financial Results/RoI and Effects on Employment can be worked out, as well as the involved ICM actors, etc. This enables for a life cycle calculation of cost/investment and return of ICM against stakeholders’ roles.



All forms of water use, consumptive and non-consumptive uses, have significant potential for revenue generation. To this end, all activities related to water use, as well as activities that may impact water quality, or the condition and natural state of water bodies must be subject to permitting and charging requirements.

A permitting and charging regime will allow to steer water use and water allocation, and may equally address issues of projects and plans, that potentially impact on water bodies, e.g., water course alterations, or water course diversions and all other projects or plans that could adversely affect water bodies. Insofar a water permitting regime is linked to infrastructure (e.g., roads) and land use planning.

The Lesotho Water Act requires permitting for all water uses in its current Section 20 and lists several key issues in Section 20, subsections 1) to 14) and refers to application forms. However, it does not list the procedural and technical requirements in sufficient detail. This must be provided in a detailed regulation on permitting (and charging) with detailed and comprehensive technical annexes on procedures, technical requirements regarding different user forms, equipment and safety requirements, dispute resolution, and many more issues.

Sections 21-23 WA, provide for more details, but these are not sufficient and must be specified via a detailed permitting regulation as explained above.

The matter of charging cannot be separated from the above permitting issues, as any type of water use must be subject to levies (infrastructure development), tariffs (operation and maintenance), and fees (abstraction, use). These need regulation via a detailed permitting and charging regulation with schedules on pricing, considering, inter alia, different forms/types of use, different users, geographic locations, varying quantities, and must consider safe access to water for all and pro poor measures.

Needed regulations need a clear legal basis in the parent act, the water act. Its section 42 forms currently the legal basis for subsidiary regulations but is too general and provides no guidance or criteria to be considered in the subsidiary legislation.

The principle of subsidiarity, best regional practice, and ongoing decentralization efforts require that competences for granting, revocation, monitoring and enforcing permits and permit conditions must be on river basin or catchment level.

Currently Permitting and charging is a priority that is in its infancy and is not sufficiently regulated in the WA. No subsidiary legislation exists. This gap must be addressed urgently. The sensitive issue of access to water and water pricing for various user forms and different users to some extent depend on this needed subsidiary legislation, and the procedures and criteria laid down therein.

The national government level, through the Director of the DWA is responsible for receiving and the granting, denial, of water permit applications, or cancellation of existing permits, in accordance with the Water Act, S. 20, 21 that require permitting for all water uses.

It is hence recommended to establish a detailed regulation on permitting and charging as explained below in detail with an outline, and a best practice example of needed contents.

The needed legal basis for this implementing regulation is Sec 42 WA, which is insufficient. An amended Sec 42 must list in more detail the scope and purpose as well as the limitations of regulations, focusing adequately on rights and obligations, detailed mandates of the competent authorities. It does not mention permitting and charging, albeit these are key elements of water and ICM management.

The granting of water use permits should be dealt with on a decentralized level, ideally, as best practice in the region shows, on catchment management / river basin authority level. Control and enforcement of permit conditions are also best situated on CM level.

Additional Recommendation: A sustainable, revenue-based permitting/charging framework

The below structure, with needed main contents, of a model legislation for permitting and charging is proposed. This draft model is tailored to and based on an example relating to the water sector. It focuses mainly on:

- individual business or domestic water abstraction and water use revenues;
- irrigation water right revenues;
- utility water right revenues;
- industrial water right revenues;
- mining water right revenues;

- ground water abstraction and drilling revenues;
- tourism and entertainment industry (e.g., water sports, wilderness/campsite user fees);

This model could be adapted and used for e.g., grazing activities and other PESs. The draft structure for a model consists of either an act or, preferably, a regulation on permitting and charging. It must be completed by several schedules (annexes) that contain technical details on abstraction activities, technical requirements for, e.g., course deviation, drilling equipment, borehole capping, etc, as well as detailed annexes on levies for infrastructure development, tariffs for maintenance and user fees to cover water management. These may differ depending on criteria such as user form/type, users, geographic location, or volumes abstracted. The latter criteria must be developed in a pricing strategy and embedded in the permitting and charging regulation.

Draft Model structure for a regulation and technical schedules (water permitting and charging) based on regional best practice
Chapter 1: Introduction
<u>Section 1: Preamble, Citation</u> The legal basis in the Parent (water) act must be referred to, also the main objectives and official citation.
<u>Section 2: Definitions and Interpretations</u> Define all terms not yet defined under water legislation and terms relevant for the use of GW, SW, drilling, course deviation, etc., see Article 3.
<u>Section 3: Application</u> Main content: The regulation (and the permitting and charging requirements) should – in principle - apply to all activities: alteration and diversion of (surface) water courses, drilling and exploration or investigation of groundwater, abstraction, storage and use of groundwater and surface water, and the discharge of effluents. Regarding scope of applicability and limitations of legal permitting requirements, the Regional Policy Harmonization Assessment correctly points out that <i>“the water permit system provided for by the Water Act is all-encompassing in terms of a) the type of uses that require permits, and b) the scale of use that requires a permit (i.e., no exemptions for small-scale users). It is highly doubtful that this is practical in a developing country context with a high number of small-scale users (essentially subsistence farmers), neither does it seem to be financially viable given the high administrative effort required to fully implement such a system and the likely inability for most users to pay for the water use. It might arguably be more beneficial (and in fact impactful) if the licensing system focused on larger scale users only and provided exemptions for small scale subsistence users.”</i> This assessment is fully supported here, as this exemption is highly relevant in practice for Lesotho. As the regional policy advisor correctly pointed out, these implementing regulations on permitting and charging must be practice friendly and need a clear legal basis in the respective parent acts (Water Act, RRMA, etc.). The regional policy advisor noted that current legislation in the water sector is all encompassing in that it requires permits from all users and for all user forms. Any permitting regime must ensure its financial sustainability and must be proportional. It must balance the needed administrative effort required to fully implement such a system and the likely inability for most users to pay for the water use, on the one hand, against the interest of the public to charge for water use, on the other hand. It must be considered to focus on larger scale users only and to provide exemptions for small scale, especially for subsistence users. Legislation must ensure that resources (time, staff, funding) focus on activities that matter, and should hence avoid overregulating small scale users. Small scale users should be exempt from the permitting requirements. Criteria for qualifying as a small-scale user and clear thresholds (and hence be exempt from permitting requirements) are needed for all acts and regulations relating to permitting and charges of ecosystem services. Best practice shows that exemptions from the scope of applicability and overregulation in the water sector could be avoided as follows: Exceptions from the scope of applicability of permitting requirements for individual supply/primary purposes such as watering a certain number of cattle, or for sources providing less than 3 m ³ month as an average, or water abstracted for serving settlements of less than 50 persons, allowances of pro-poor lifeline-quantities free of charge of e.g., 20L per person per day, etc.

The types of use can also require exceptions from the scope of applicability, e.g., small scale subsistence agriculture. Details must be determined via multi-expert and multi-stakeholder consultations, that must include government departments, competent catchment level authorities, science, universities, civil society, households, associations, NGOs etc.

Chapter 2: Permitting

Section 4: Permits

As a general rule, all activities require prior permitting. As an exception to the rule, minor activities are not subject to permitting requirements to avoid overregulation, see above.

Section 5: General permit application procedure

A detailed procedure is needed. The catchment level should be responsible. Information required from applicants must be detailed and listed. The timing, deadlines, and reviewability must all be considered.

The procedure must entail the format for permits for all forms of water use. The permit forms should be in a schedule that contains the detailed permit format. There should be different permit formats for different user forms (e.g., forms for drilling, GW or SW abstraction, etc.). The permit format should correspond to the application format, see Article 6. These application forms must be annexed in detailed schedules that Article 5 could refer to.

The reasons and justification for granting and refusal of permits must be provided and should be required in this procedural section.

Permits need to contain clear permit conditions, so they are controllable, and enforceable.

Section 6: Permit for groundwater exploration, investigation and drilling

Detailed technical requirements in the application forms, eventually refer to Lesotho Standards association technical requirements.

Section 7: Permits for water use

Detailed technical requirements and reference to a detailed application form, to be formulated in a schedule to the regulation, see above

Section 7.1. General abstraction conditions

See above

Section 7.2. Surface water abstraction conditions

See above

Section 7.3. Groundwater abstraction conditions

See above

Section 7.4. Water sports

Should contain the mandate to prohibit, restrict and regulate access to and the use of the water surface for water sports and tourism activities.

Section 8: Compliance and monitoring

Right and obligation to monitor, inspect enforce, listing the rights and procedures for the competent enforcement authority (on catchment level). Clear permit conditions, as mentioned above, are key to ensuring compliance.

Section 9: Permit Transfer

Clarify if transfers are permitted, detail the procedure for parties of a water permit transfer, e.g., notification of catchment level authority, or require approval thereof by a CMA.

Section 10: Temporary permits

Try avoiding infinite, unlimited permits, the competent authority may decide so on a case-by-case basis. Consider whether permits should have time limits as a general rule, and if they are subject for renewal requirements.

Chapter 3: Fees, levies and tariffs

<p>Mainly list procedure and criteria for setting al of the above charges, i.e., who is involved apart from competent catchment level authority, e.g., science, universities, civil society, households, associations, NGOs, etc.</p> <p>There may be fees for the actual permitting procedure itself.</p>
<p><u>Section 11: General</u></p> <p>The main part will be abstraction and user fees. These must strike a realistic and appropriate balance between the right to water for all and the principle that water must have an economic value in order to be managed and used sustainably.</p> <p>Fees, levies, and tariffs should cover permit application and procedure costs, and (contribute to) the funding of water infrastructure development, as well as needed O&M.</p> <p>The sections under this chapter should allocate levies, tariffs, and fees, accordingly, see Section 12-14.</p> <p>All charges must be continuously adapted.</p>
<p><u>Section 12: National levy (infrastructure development costs)</u></p>
<p><u>Section 13: Permit management tariff, and O&M costs</u></p>
<p><u>Section 14: Collection of fees (for all water use forms, consumptive and non-consumptive)</u></p>
<p><u>Section 15: Fines and penalties</u></p> <p>Realistic and enforceable but sufficient to deter. Fines must be significantly higher than fees. Fines should be detailed in a separate schedule and be linked to specific violations of the regulation. They must be continuously adapted.</p>
<p><u>Section 16: Review and Appeals</u></p> <p>Internal review procedure on catchment level before addressing courts</p>
<p><u>Section 17: Confidentiality and data sharing</u></p> <p>General rule is that public can access all information unless confidential under law</p>
<p><u>Section 18: Liability</u></p> <p>No liability of permitting authority unless intent or gross negligence is established</p>
<p><u>Section 19: Schedules</u></p> <p>Technical details for all of the above sections, i.e., detailed application forms, technical requirements for drillers and abstracters, permit forms.</p>
<p>Schedules under Section 19</p> <p>Regarding the needed technical annexes / schedules to the above recommended regulations, inter alia, the below criteria and considerations for the setting of charges must be included in such schedules:</p> <ol style="list-style-type: none"> 1. Water use fees should be paid by all users, according to the amounts used and affordability 2. Holders of abstraction rights for raw water should be required to install water meters so that accurate data on the use of raw water is collected and pricing can relate to amounts consumed 3. Raw water charges must consider amounts consumed and the type of sector/ user. Volumetric increase should be subject to higher charges. 4. Boating and water sports must be subject to permitting. Even if they do not consume water, they still use water, and the impacts of boating may pollute the water.

Stakeholders to be involved in the development

Stakeholders to be involved in the development are mainly the DWA and the attorney general (AG) and his draftsmen, as these will receive detailed guidance from the DWA on needed content, how to draft needed regulations, and technical annexes. As sectoral legislation must be aligned across ICM related sectors, it is recommended to involve the DoE and the Ministry of Agriculture and Food Security, and the Ministry of Forestry, Range and Soil Conservation to some extent.

Given the ongoing activities across SADC countries to establish pricing strategies and permitting legislation, it is recommended to closely follow the latest developments of SADC member countries and eventually align legislative developments. It is official SADC policy to align regional legislation.

Options that stakeholders must decide on

The DWA and the AG will need to decide whether they deem it more appropriate to include the above detailed content in a separate chapter and forms to the WA, or if they prefer to draft a regulation with technical annexes/schedules as outlined above. The latter approach is strongly recommended, because the level of detail needed, especially the detailed schedules, are not appropriate content for an Act. Further, the needed contents need to be permanently updated in a flexible and timely manner to reflect frequent changes in technical requirements, amounts of charges, fines, etc. This requires the use of a legal vehicle that can be easily and dynamically developed and adapted as the conditions on the ground change. This legal technique of “outsourcing” technical details and dynamic content to subsidiary legislation, i.e., a regulation, is confirmed by international and regional best practice.

In the context of the latest RRMA drafting activities, the same decision is required. Detailed content could be outsourced to a subsidiary legislation, as Section 27 of the draft bill for a new RRMA explicitly allows.

Procedural issues to be considered

DWA representatives must take the initiative and the ownership of the process. They are the ones that could successfully drive a process of developing new regulations and submit the needed contents and legislative options to the AG and the legal draftspersons for preparing the final legal text. No entity other than the DWA combines the detailed knowledge regarding needed substantial and procedural provisions, with the interest to regulate permitting and charging in a manner that allows for sustainable financing of water management.

If the AG through its Drafting Section gets involved at the early stage in the above-described drafting process, they usually take control over the process right at that stage. Experience shows that the drafting process can take many years, especially in cases of technical legislation. The common practice is hence to engage consultants and to submit the drafts together with review reports including some standard documents required by the AG when the drafts are complete for consideration and approval by the AG.

Linkages to related issues and processes

The process of developing subsidiary legislation in the form of a regulation must be linked to amending the legal basis in the parent act, the Water Act. Any implementing, subsidiary legislation is only as good and valid as the legal basis in the parent act allows it to be. Hence, the Water Act and the insufficient legal basis, Section 42, for regulations on permitting and charging must be amended. Without the legal basis the regulation could be null and void and could be easily challenged in court.

Cross referencing permitting and charging legislation in the water sector with permitting procedures under other legislation in other environmental sectors is vital. This goes even beyond the environmental sector. Building permits or permitting of industrial activities, mining, etc. may have to be cross-referenced in the respective sectoral main acts, as, ideally at a more advanced stage, the objective should be to have one permitting procedure encompassing all needed permits, rather than forcing applicants to apply and obtain several permits for one and the same activity.

Another relevant process to be considered, that relates to the allocation of collected revenues, is the ongoing effort on fiscal decentralization. As described above, all funds are legally required to pass through the consolidated fund at national, central government level (section 110, Constitution). The attempts to address fiscal decentralization have shown that there is a need for the law to change in order to enable fiscal decentralization and that the revision of the law should be preceded by an in-depth study on the model of fiscal decentralization that is best for Lesotho in line with the suggestion made in the Government concept paper for fiscal decentralization (see the analysis thereof below, Annex 1). The study findings should be followed by the development of a fiscal decentralization framework and based on that framework legislative drafting would begin. The Study findings and the framework will define the relationship between a consolidated fund and a council fund. The above activities will have to be considered when it comes to allocating collected revenues. Currently, and probably for a longer period of time, all collected revenue must pass through the central government level.

Risks and suggested mitigation measures

The main risks were described above and relate to lack of capacity and, in particular, to lack of political will in this sensitive area of introducing legally binding tools for permitting and the politically disputed issues around adequate levies, tariffs and fees.

Many users will not find it acceptable that they should pay for water use.

A suggested mitigation measure is following the advice given above in the proposed outline for a regulation, with regard to establishing clear procedures to establish pricing strategies, that must involve not only government departments, but also civil society (households), professional associations, scientific bodies, Universities and eventually NGOs. A clear and transparent process for the determination of levies, tariffs and fees, that involves in a meaningful manner all potentially affected parties, users, providers, and science is key to find adequately balanced, and hence widely accepted fees. These must reflect criteria such as different users, and forms of use as well as geographic locations. All of these to be listed in a legally binding manner in the needed regulations and the schedules thereto.

As explained above and by the regional policy advisor, small scale users, i.e., households and subsidiary agriculture should be excluded from the scope of applicability in order to being able to focus administrative capacities and limited public budget on the users and forms of use that matter and on risks and activities that matter.

Another risk is that no appropriate percentage of collected charges are allocated to ICM plan implementation on the local level. This will need to be addressed by making a clear division of the collected charges in a national infrastructure levy, O&M tariffs and user fees. The pricing strategy must consider and explicitly provide for the allocation of those collected charges, respectively. This strategy will have to be embedded in a legally binding manner in the regulation and its schedules on charges and to whom these are allocated. An example to learn from is described below in the context of the draft bill for a new RRMA, in particular in its sections on the fund and what is paid out of the fund.

The above-described considerations are equally relevant for the other proposed revenue-based mechanisms and sources of ICM funding (grazing fees) below.

3.4.3 Grazing fees under the Range Resources Management Act (RRMA)

Grazing fees are a highly politicized issue that faces implementation resistance because they are perceived to oppress the poor range resource users. Transition of the former Chief-governed and administered public land tenure system to a Community/Council based process has not yet been designed, capacitated and field tested.

As described in the outline above, monitoring of permits, and enforcement of permit conditions is needed. To this end, a register of permits is needed.

Grazing permits are not controlled, and institutional and HR capacity as well as incentives for controls is needed.

The ownership of ICM interventions by communities, is needed to generate grazing fees.

Currently the RRMA is in the process of revision. A draft bill for a new, amended RRMA was shared with the consultant and reviewed by the consultant in different versions during May-July 2021. It is referred to the chapter that considers the draft bill for a RRMA under WS 1 in this regard.

Concerning a revenue based sustainable ICM local level funding, the following shortcomings in the draft bill for a RRMA must be addressed and the following specific recommendations for amendment and clarification need to be considered. The recommendations below are made based on the version of the draft bill for a RRMA that was made available to the consultant on July 8, 2021.

This draft bill version considered several recommendations made by the consultant between May – July 2021:

- In Part 1, Section 2 “Interpretations” the definitions are provided for both “user fees” and “grazing fees”. It is not clear how these differ. The concept of user fees as opposed to grazing fees must be clarified.

The bill does not elaborate on fees in sufficient detail in the substantive sections of the draft Bill.

It is recommended to clarify terminology and the concept of user fees and grazing fees. These two terms must be detailed and applied in the substantive provisions in the act.

- Sec 25, (5) of the bill confuses the terms “fees” with “fines” and is unclear regarding the differences between fines and fees – these are substantial.

It is recommended to clarify the terminology and to include detailed substantive provisions on fees and fines. The concept should be that fees are the preferred source of revenue and that fines are only adding to these. Fines must be sufficiently deterring and enforceable. The fee structure should be practicable and realistic in order to avoid violations and hence the need for fines.

- The same is the case in Part 1, Section 2 “Interpretation” on “Grazing or Browsing Permit” and “Rangeland User Permit”. These permit types are neither clearly defined nor applied in detail in the substantive sections of the draft Bill.

It is recommended to elaborate permitting and related fees in a separate chapter or, preferably in a detailed regulation on permitting and fees.

Permitting chapters must address using existing permits to expand those and link these to new ones. These permits should include numbers of livestock that can be taken for grazing to the mountains, and the related fees.

- Section 27 is the legal basis for implementing subsidiary legislation (regulations and schedules thereto). This legal basis in the RRMA must be more precise with regard to the main content of regulations and listing the purposes and scopes of needed implementing regulations. The legal basis should mention the main needed content generally. All rights and obligations of relevant players must be defined in the parent act.

It is strongly recommended to add a clear legal basis in the RRMA for subsidiary legislation that then must regulate forms of permits and fees (user and grazing fees) in detail. Needed contents will have to relate to the number of cattle and areas grazed. Fees must be easily adaptable to changing circumstances, hence these should be listed in an easily adaptable schedule to such regulation.

- It is recommended, as in the example of a model structure for a water permitting and charging regulation above, that subsidiary and small-scale users could be exempt from permitting requirements to some extent.
- The Act also needs a procedure regarding with whom the Minister must consult before or while executing powers under the RRMA, in particular when deciding on grazing activities that require permitting and fees. Other ministers, associations, civil society, scientific bodies, and NGOs should be involved and at least have the right to be heard during the decision-making process as far as permitting and fees are concerned.
- In particular, the Ministry of Local Government and Chieftainship, and the Principal Chiefs must be closely coordinated with. The RRMA should include a reference to the LGCA and be harmonized with the LGCA to avoid legal conflicts when enforced.
- Part 4, Section 15.1, Item a could also be the legal basis for subsequently required implementing regulations or technical annexes to the Act. Section 15 is the legal basis for prescribing norms and standards. Both could also relate to permits and permit conditions as well as to fees as mentioned in the definitions.
- Part 6, Section 17 must clarify the authority responsible for range resources management, more specifically, who grants prescribed user permits. Ideally this would be delegated by the above-mentioned subsidiary legislation to District Councils.
- Part 6, Section 21, Item 2 is the potential entry point for fiscal decentralization.

It is recommended that the provision must include principles regarding how funds are allocated to the catchment level (see also comments to Section 25 below).

- Sec 25 on establishment of a Fund for Range Management is meaningful as it allows for ringfencing under section 25.3 However, this section is incomplete in the draft bill. Importantly, the Director should not have the sole power to sign off on projects to be financed. The Communities Grazing Associations must have a right to be heard and considered during the decision-making process and they must be able to submit project requests.

- The RRMA should detail what the applicable audit rules of the RM Fund will be.

It is recommended here, that the Chiefs and Councils should be involved in the drafting of the RRMA as they claim to collect grazing fees. Any fund under the RRM (Sec. 23) will need the buy in of Chiefs and the local level in general.

- Trespass fines and impoundment fees under Sec 23, Item 2A should flow to the fund as well.
- Highly relevant is finally that more details must be added to Sec 23, Item 3. It is insufficient to only mention the supported projects as is currently the case. Community councils must be included as an important player, and ICM specific projects/ICM principles to be supported with the fund must be explicitly mentioned.

Generally, the draft bill is imprecise regarding fees and fines and the respective terminology used. The difference in legal nature of fines, on the one hand, and fees, on the other hand, are not correctly reflected in the bill. While fines address violations of existing legally binding provisions, fees are used in the context of permitting activities relating to the use of water, land and other natural resources and ecosystem (Payment for ecosystems, PES). This must be clarified in the definitions as well as in the substantive parts of the bill for a RRMA. Permitting and charging belong together.

While permitting is not yet sufficiently detailed, charging and the fund in **Sections 23 and 25 are highly relevant entry points for sustainable financing and fiscal decentralization.**

Section 25 reads:

...

(5) There shall be paid into the Fund, donations, compensations, fines, grants, loans or money received from any other source and the use of range resources.

(6) There shall be paid out of the Fund the money to support -

(a) the launch of grazing associations' projects;

(b) rangeland and wetland areas development projects;

(c) capacity building of range resources users and practitioners;

(d) meetings, conferences, symposiums and seminars;

(e) research;

(f) civic education; and

(g) other activities prescribed by the Director responsible for range resources management.

Insofar, this draft version of Section 25 could serve as best practice for other sectoral acts and regulations on how collected revenues are allocated and which measures/interventions are financed by these. In light of the reference to the PFMA (section 23 draft bill) all revenues, albeit these are collected by the local authority, the Principal Chief's offices, and the grazing associations, must go through the consolidated fund under sec. 110 of the GOL Constitution on the national level, before they can be reallocated back to the local level (as set forth in section 25). This flow of funds can only be altered or regulated by the RRMA if the PFMAA would be changed accordingly.

It is recommended to consider using the approach chosen in Section 25 draft bill for a RRMA in other sectoral acts, in particular in the WA.

Annexes

Annex 1: Detailed policy and legal review findings

Summary of key conclusions (based on the phase 1 review of relevant strategies, policies, plans, concept notes, acts, regulations, and reports).

1. There is no existing local level ICM funding mechanism or a detailed legal basis for a funding mechanism on the local level. However, the general legal basis for a needed funding mechanism exists in acts and policies regarding decentralization in general and in authorizing councils to collect and spend revenues. The existing policies and acts generally allow both short and long-term funding mechanisms, as well as external grants and revenue-based mechanisms.
2. Recommendations for a more detailed legal basis were made and must be operationalized, specifically detailed content on how funds are allocated and how they must be spent is lacking. Local governments still have significant unfunded mandates and the revenue and tax sources for local authorities appear to be inadequate, while the central government remains responsible for all financial controls.
3. The various "Framework Acts" on water, environment, etc. provide sources of funds but no objectives or guidelines how to allocate or use these. There is no detailed permitting or charging regime for water or land use and implementation and enforcement of existing permitting and charging is generally poor. Finally, the institutional capacity in terms of qualified staff for administering and monitoring funds management is problematic.
4. On a more optimistic note, there are numerous studies, reports, or issue papers on all relevant aspects of fiscal decentralization that are directly applicable to local government ICM financing. Many recommendations are helpful, especially the DDP of UNDP and the CN on fiscal decentralization recommendations. There are also examples of good practices in neighbouring countries and other sub-Saharan countries that can provide lessons for Lesotho.
5. The general approach of LoCAL of using existing government financial systems rather than project or parallel approaches must be further investigated. The tools of Letsema and self-regulation should be applied in practice.

Based on the document review conducted under phase 1, the consultant undertook SHCs to validate the findings and to identify additional relevant information.

Detailed conclusions of the policy and legal review:

Strategic documents (Strategies, policies, plans, concept notes, reports)

Government Concept Note on Fiscal Decentralisation.

The CN explains that "fiscal decentralization (FD) consists primarily of devolving revenue sources and expenditure functions to the lower tiers of government."

The concept note focuses on the establishment of inter-governmental relations and development of a local government financing mechanism. It also focuses on decentralization (devolution as preferred model). The CN appreciates the fact that devolution cannot effectively work without adequate and reliable financing to local governments and that Local Governments must also be supported to develop their own revenue potentials.

It complements and adds to the decentralization policy, as this does not fully elaborate a number of key issues that need to be addressed which are essential for fiscal decentralization. Issues include:

- tax assignment between the centre and the local governments;
- clarity and equity of fiscal transfers to local governments;
- how local governments can be financed if they take up more functions; and
- how central government should provide support, monitor and oversee local governments.

It lists proposals for steps under chapter 3. It also lists main obstacles to Fiscal Decentralization. Obstacles include:

- Failure to devise expenditure assignment;
- unfunded mandates;

- too few tax sources for Local Authorities;
- failure to develop credit and borrowing system;
- financial controls retained by central level;
- lack of Intergovernmental Fiscal System based on transparency rather than on negotiation and political influence.

The CN is helpful regarding explanations and recommendations relating to the Public Financial Management and Accountability Act of 2011:

It explains that a review of the PFM Act should:

- provide for adequate resources to local governments and greater flexibility for LGs to deploy resources based on local priorities;
- a transfer system that preserves budget autonomy at the sub-national level;
- a fair allocation of resources in a predictable manner over time; a simple and transparent formula with incentives for local revenue mobilization.

The CN confirms the need for *“Preparation of LG financing and accounting Regulations, that apply to all financial transactions and business of all local governments and to the management of all public funds and public property in local government. These regulations need to elaborate in detail financial administration and control including functions of the councils, accounting officers, head of finance, internal audit etc. The regulations will also cover the budgeting process, revenue, payments, accounting and controls, treasury management, assets management, risk management, offences and penalties etc.”*

A clear legal basis for a local level ICM mechanism does not yet fully exist. Without a clear legal basis, any recommendation or proposal would be void until that legal basis is drafted.

In summary it is justified to state that the CN describes the situation on the ground and makes valid recommendations on fiscal decentralization. The same is the case in the highly relevant DDP UNDP final report, as described below.

Deepening Decentralization project final report (2018), UNDP

The local development grants were implemented in the 10 district councils, 1 City council, 11 urban councils and the 64 community councils. The programme made available non-sector specific discretionary and performance-based grants for local authorities to improve their institutional, organisational and financial management capacity to deliver services to local communities. The grants came in three types namely; (i) local development grant, (ii) capacity building and (iii) retooling/ equipment grant.

It aimed at several objectives, the most relevant being:

- improving local development funding to the local authorities in all the districts of the country as a catalyst to decentralization and the empowerment of local governance to bring services closer to the people.
- Design a non-sector specific and discretionary local development grant with elements of capital investment grant, capacity building grant and an equipment grant. Transfer grant to local authorities based on agreed criteria to undertake a variety of local development interventions.

It is vital to note, that the project in partnership with the Office of the Accountant General and the MOLGC recruited a local financial management firm to build capacity of the 10 district councils and their community councils and Maseru City Council in International Public-Sector Accounting Standards (IPSAS). IPSAS aims to improve the quality of general-purpose financial reporting by public sector entities, leading to better informed assessments of the resource allocation decisions made by governments, thereby increasing transparency and accountability.

The following were key recommendations from the study;

- *“In equal measure, the policy will need to determine the relationship between district councils and lower councils (urban and community);*

- *The policy should address the human resource aspect of decentralisation particularly in the key service areas of education (teachers) and health (health workers) in a way that will ensure disadvantaged districts are not unduly marginalised for their inability to attract these vital resources;*
- *The policy needs to clearly restate the powers of Councils over local revenues in the areas of determining sources, assessment, setting rates, collection and use of local revenues;*
- *The policy should consider a system of incentives, including the possibility of financial rewards to encourage local authorities to improve local revenue administration and collections;*
- *Human resource policy should be the responsibility of central government;*
- *The policy should clearly establish an internal audit function within each district, urban and municipal council.*

The diagnostic assessment informed much of the DDP programming in terms of organisational and institutional capacity of local authorities and the central government, design of the local development funding mechanisms, processes to transfer functions from the central government to the sub-national level and the development of the systems (legislation and policy framework) for the new decentralisation dispensation.”

With regard to the above-mentioned CN on fiscal decentralization , the report notes:

“2.2.2.1 Support to fiscal decentralization

The activity is aimed at assisting the Ministry of Finance to develop fiscal decentralisation framework that would guide intergovernmental fiscal transfers from the central to local government. The framework is further envisaged to provide guidelines for local revenue mobilisation and management, which taxes are collected and consumed by local authorities or by central government. To this point consultation with the MOLGC, the MOF through Office of the Accountant and the DDP management team have been made to build a common understanding on the fiscal decentralisation model. The output of these consultations has been the development of a concept note describing background to fiscal decentralisation and inter-governmental fiscal transfer. The concept note also proposes steps to be followed in the development of fiscal decentralisation framework which among others include Local Government financing and intergovernmental fiscal relations assessment; prepare a fiscal decentralization strategy (FDS) or fiscal decentralization architecture; review of the public financial management act; and preparation of LG financing and accounting regulations.”

It refers to the decentralization policy of 2014 and reads on page 30:

“Under this new dispensation, local authorities will have authority to generate revenue and utilize it for their own development rather than remitting it to the central government is the case under de-concentration. Local Government Bill 2016 was subsequently drafted to harmonise the new policy with local government law because the new policy was a departure from the Local Government Act of 1997.”

In conclusion, the policy recommends (page 27 DDP UNDP) :

“The National Decentralization Policy proposes the following actions:

- *Strengthen local budgeting and expenditure management system by, inter alia, establishing fully fledged cost centres at local government level;*
- *Review the revenue collection system for Local Governments to develop capacity in revenue generation and management;*
- *Establish an equalization system where local governments with special needs or challenges are specifically supported over and above uniform fiscal transfers;*
- *Establish strong safeguards that involve multiple oversight activities from public accountability institutions, by ensuring that public anti-corruption and accountability institutions are sufficiently capacitated to enforce best practices in local government financial accountability and reporting;*
- *Develop systems to enable citizens to access information on approved budgets, transfers made and expenditure reports from local governments.*

However, the adoption of the fiscal decentralization framework is dependent on the enactment of the Local Government Bill of 2016. The low hanging fruits that have been harnessed include the transition of council financial

reporting from International Financial Reporting Standards to International Public-Sector Accounting standards; conducting regular external audits and gazetting functions (as the saying goes “finance should follow function”).”

On page 39 the report importantly notes:

“The role of the MoF is important in terms of sustainability of the grant system even without donor support. However, the actual level of capacity of the Accountant General and the Office of the Auditor-General both in terms of human resources and funding, are not sufficient to cater for regular follow up and mentoring of the districts in accounting and auditing.

The limited support through the national budget to the decentralization process shows the relative lack of political support to decentralization and is the main concern regarding DDP’s continuation and sustainability. In the past, the decentralization process has been promoted and supported by development partners both in technical and financial terms in particular by GIZ and EU. It should be noted that currently the decentralization strategy and policy still need to be supported by national institutional and international support to ensure the effectiveness of the process.”

On page 41 it concludes:

“For DDP, it became clear that a performance-based grant system requires more robust institutional support compared to normal grants and should be supported by both MoF and MoLGC through clear budget guidelines, regulations and regular accounting and reporting. At the same time, a more empathetic approach, backed by in-built and well-considered flexibility in the enforcement of the minimum conditions may well have borne more positive results compared to the punitive action of withholding the grants entirely.”

The main difficulties of the project are described as follows:

“The key achievements notwithstanding, the programme witnessed a number of challenges. The most outstanding ones include i) limited capacity of local authorities to manage public finances; ii) limited capacity of the Office of Audit General to audit district councils on a regular basis; iii) long and slow bureaucracy in promulgation of the legislative framework”

Lesotho Highlands Water Project (P.1) Policy for Instream Flow Requirements of 2002

It describes compensation measures. These could be sources for ICM funding.

The policy requires compensation to be paid into community trust accounts and reads in 2.3.:

“Adaptive management to address the impacts of reduced downstream flows will provide for mitigation and compensation by payment for resource losses and increased risks, and flow release adjustments, in accordance with clearly articulated procedures. Payment for compensation of resource losses and health aspects will primarily take the form of cash payments to community trust accounts, which will empower communities to decide amongst a range of developmental programmes and projects, as they deem appropriate. Individual claims will be considered on their merits. Adaptive management will also include for the review of impacts other than those involving resource losses. Appropriate responses will be made.”

Long Term Water and Sanitation Strategy of 2016

The strategy fully supports the idea of establishing local level ICM financing mechanisms. It requires in its Key focus area (KFA) VI:

“Sector Resource Planning includes suggestions for a common funding mechanism for funding Local Councils’ investments in water, sanitation and catchment management, common office facilities for sector institutions as well as improved communication and stakeholder and private sector participation in the water sector activities.

The Goals for 2020 are: ‘Water sector planning and coordination will have been well-functioning with strong cooperation between sectors and in partnership with development partners. Sector funding will have been budgeted and implemented through Government systems and the M&E and reporting systems will have been used by Government as well as development partners.’

The strategy also confirms the need for sustainable, revenue based ICM financing:

The Goals for 2030 are: ‘Water sector planning and coordination will be well functioning with an increasing level of cost recovery. Government modalities will be fully used for all planning and implementation modalities’.

“Sector financing will be through a common funding mechanism for financing investments by Local Councils in water and sanitation services and catchment management activities. Major infrastructure development beyond the capacity and areas of the individual Local Councils such as the Lesotho Lowlands Bulk Water Scheme will be implemented through Project Implementation Units funded by Government of Lesotho in cooperation with Development Partners.”

And as a Strategic Priority Area for 2020-2030:

“Full cost recovery for regulated water and sewerage services with Government subsidies specifically targeted to:

i) ensure the provision of services to the poor,

and,

ii) ensure compliance with environmental regulations.”

On p. 16 it is recommended to test in selected priority Catchment Areas regarding inter alia:

- “agree on criteria, select one to three priority catchment areas and sensitise the local and national stakeholders
- Establish the Catchment Management Joint Committees (CMJC) in the priority areas
- Establish mechanism to be able to recover fees from land and water users in the catchments areas to be used directly for the catchment management
- Obtain financing for proposed Catchment Management and Development activities and implement these activities through Local Councils and communities including capacity building activities”

National wetland strategy, 2013

The strategy contains as an objective (1.2):

“Establish a national funding mechanism (a National Biodiversity/wetlands Trust) to sustain wetlands conservation in Lesotho.”

This can contribute to local level ICM funding. Wetlands conservation will be likely a task conducted by local governments. The principle of subsidiarity would imply that this funding must be largely used on the local level.

National Decentralisation Policy of 2014 (NDP)

1. The main objective of this Policy is “to deepen and sustain grassroots-based democratic governance and promote equitable local development”⁷³ by adopting and implementing devolution as a mode of decentralised governance and service delivery.⁷⁴ The Government formulated this Policy after realising that “efforts to implement decentralisation using legal instruments (mainly the Local Government Act of 1997), have only succeeded in creating political councils with limited technical capacity, resources, and guiding framework to deliver services to citizens. This has led to unfulfilled expectations and citizens’ dissatisfaction with local councils.”⁷⁵ This policy statement clearly shows that the question is no longer (if at all there was such a question) whether there is

⁷³ National Decentralisation Policy for Lesotho of 2014 at page x

⁷⁴ Ibid at page xi

⁷⁵ Ibid at page 1

something wrong with the Local Government Act or whether the Local Government Act should be reformed, but how to reform it.⁷⁶ Of course it is important to know exactly what is wrong with the existing legislation in order to come up with the necessary reforms.

2. The NDP was formulated following or alongside a diagnostic assessment study of decentralisation in Lesotho. A report diagnosing problems about decentralisation efforts in Lesotho, providing baseline data on those issues, outlining the findings of the study, and recommending areas in which reforms might be required was published in April 2014.⁷⁷ With specific reference to local governance financing mechanisms, the report, *inter alia*, recommended thus:

- “Include in the policy the powers of councils to retain local revenues and to apply them to their expenditures;
- Include in the policy, and later in the revised Local Government Act, a requirement to protect transfers to local authorities in real terms to allow them to maintain a minimum level of service delivery;
- Undertake an assessment, in view of the functions assigned to local authorities, and determine the full range of sources from which local authorities may collect revenues; [and]
- Revise the Local Government Act, clarifying further the sources of local revenues in view of what is known of these sources, following the assessment above. Include in the Act, the formula for sharing revenue collections between district and community councils and district and urban councils.”⁷⁸

3 It is worthy of note that Diagnostic Assessment Report called for a separate study aimed at determining the full range of local-level sources of revenue. That study is yet to be conducted; six years later! It is also important to recall that the White Paper had called for a similar study way back in 1996, but all in vain. Nonetheless, the NDP was endorsed by the Cabinet in 2014. It is a very detailed Policy, but it has just one page on fiscal decentralisation and prudent financial management. Not surprisingly, it doesn’t really say much because it was not informed by a study. It dictates the following:

The Government will undertake measures for inter-governmental fiscal transfers that enable faster and more efficient implementation of service delivery, while maintaining strict fiscal and public financial management discipline.

The Government will support local governments to progressively increase their ability to finance their own programmes by exploring and effectively utilising local fiscal potentials.

4 Furthermore, the NDP outlines, *inter alia*, the following strategic actions:

- (ii) Review the revenue collection system for local governments to develop capacity in revenue generation and management;
- (iii) Establish an equalisation system where local governments with special needs or challenges are specifically supported over and above uniform fiscal transfers.

5 Looking at paragraphs 2.2 -2.4 above, it is not difficult to recognise a direct link between the recommendations in the Diagnostic Assessment Report and the NDP. In other words, the NDP has elevated study recommendations to policy dictates. For instance, a review of the current local-level revenue collection system in order to develop the capacity of local governments to generate revenue and manage their finances is no longer a suggestion, but a policy dictate. Well, six years down the line the review is yet to be conducted! The NDP does not really address specific local –level financing mechanisms; let alone ICM financing mechanisms. But it is very relevant because it marks a shift from the status quo. As explained in section 1 above, the status quo is that councils, save for MMC, collect revenue as agents of the central government; the new policy marks a shift towards fiscal decentralisation. The status quo is that fiscal transfers from the central government to local governments are, by and large, uniform; the new policy marks a shift towards equalisation system. But we are not there yet.

Report on budget support restoration Lesotho, EU, May 2019

Significant effort was put into this report and its findings are highly relevant and up to date.

⁷⁶ Clause 3.7 of the National Decentralisation Policy states that “the Government shall review existing legislation and develop a comprehensive legal framework to provide guidance and enforcement in the implementation of decentralisation.”

⁷⁷ See FEI Consulting, 2014, *Diagnostic Assessment of Decentralisation in Lesotho* (supra)

⁷⁸ Ibid at page 55

Its most relevant findings are:

- *“Public Finance Management - Despite many years of attempting various PFM reform strategies there has been little progress and no impact. The Public Expenditure and Financial Accountability (PEFA) assessments of 2012 and 2016 show that there has been a consistent failure to implement even the most basic reform measures. In such a situation the assessment is that the standard of public finance management and accountability is insufficiently credible for a resumption of budget support. In fact, given the severity of the issues afflicting PFM arrangements in Lesotho, it is recommended that a reassessment of eligibility for the resumption of EU budget support, as determined by the standard of public finance management, should not be done before 2024 at the earliest. The outcomes of the scheduled four-year PEFA cycles (2020 and 2024) would provide evidence if the currently reported situation had improved enough to justify a repeat assessment of eligibility.*
- *It has been shown that after decades of technical assistance the challenge of addressing low levels of public finance management is not one that can be addressed by still further technical assistance. The solution lies wholly with the members of the Lesotho’s civil service. Improvements in PFM and service delivery will require individual and collective commitment to compliance and the implementation of basic management practices (reporting, performance assessment, etc.). This will be a long-term challenge and if technical assistance is sought then it may well need to take a different format to that adopted in the past.*

Legislation

1. The Local Government Act of 1997 as amended⁷⁹

1.1 This Act provides for the establishment of councils in areas categorised as municipality, district, urban or rural.⁸⁰ Accordingly, the status of a Council established in the municipality, district, urban or rural area is a Municipal Council, District Council, Urban Council, or Community Council respectfully. The primary mandate of Councils established pursuant to the provisions of this Act is to perform decentralised functions.⁸¹ This mandate is in keeping with the *raison d’être* of the Act in question, which is broadly outlined as follows:⁸²

- i Deepening and widening access to the structures of Government in Lesotho, and giving the electorate greater democratic control over development planning processes and making public institutions more accountable to elected representatives;
- ii Moving decision making, resource allocation and district level planning and local development and public services physically closer to the people; and
- iii Distributing Government’s human, institutional and infrastructural resources and capacity equitably across the country.

1.2 As indicated above, the main theme of the Local Government Act is subsidiarity and decentralisation. This is a very broad theme, and it covers ICM incidentally as a subset. That is so notwithstanding the fact that subsidiarity and decentralisation are inextricably intertwined with the objectives of ICM.⁸³ Some parts of the Local Government Act provide for mechanisms aimed at financing the performance of functions, discharge of duties and exercise of powers transferred to the local councils. In particular, Part IV empowers councils to make by-laws, which if contravened; the perpetrator may be required to pay a fine. These penalties may be a source of revenue for councils. Further, Part V empowers councils to impose and collect rates, taxes etc.; to receive grants, gifts and donations; to borrow money; and levy some charges on services provided by councils. Though not particularly and exclusively targeting ICM related activities, it would seem that the funds collected through these mechanisms may be used to finance ICM at the local level.

⁷⁹ Local Government Act No. 6 of 1997; Local Government (Amendment) Act No.5 of 2004; Local Government (Amendment) Act No.5 of 2010; Local Government (Amendment) Act No.6 of 2010; and Local Government (Amendment) Act No.5 of 2011;

⁸⁰ See section 3

⁸¹ See paragraph 2 of the Statement of Objects and Reasons of the Local Government (Amendment) Act of 2010

⁸² See clause 101 of *The White Paper: The Establishment of Democratic Local Government*, Government Notice No. 45 of 1996

⁸³ For a detailed explanation of this issue see section on Lesotho’s Local Level ICM Regulatory Framework in this Report

1.3 In order to assess these mechanisms against the set criteria,⁸⁴ it is important to first provide the context of Part IV and Part V:

1.3.1 The Local Government Act was enacted in 1997 following “an open, consultative process”.⁸⁵ The Government organised a National Workshop in February 1995 for a wide range of stakeholders to discuss the nature and framework of local government for Lesotho.⁸⁶ After that workshop, the then Minister of Local Government, Rural and Urban Development invited members of the public through Government gazette to comment on the White Paper for the establishment of democratic local governments in Lesotho.⁸⁷ The White Paper embodied detailed policy statements on financing of local governance. In particular, section 301 stated the following:

Decentralisation will entail the transfer of financial, material and human resources to match the functions and responsibilities being transferred from line ministries and central government to local governments. *However, given the limited resource base of central government, this process will need to be managed carefully. It will be preceded by and based on a study which will look at the extent of the country’s resource base, the ability of local authorities to carry out decentralised functions effectively, and the capacity of councils to manage their finances, and raise finances locally (our emphasis).*

1.3.2 It is clear, from the foregoing, that the policy that led to the enactment of the Local Government Act contemplated two main sources of revenue for local governments, that is, financial, material and human resources transferred by the central Government to local governments and revenues raised by the local governments. That is more so because section 304 of the White Paper stated that “the Government’s expectation is that local authorities will develop a broad, dynamic and buoyant revenue base based on grants from Central Government and supplemented by locally raised taxes, fees for services and user charges.” Not only that; local governments were also expected to enter into partnerships with parastatals, NGO’s, private enterprises and community groups.⁸⁸

1.3.3 It is noteworthy that the Government was mindful that the transfer of fiscal authority to councils should not only match the transferred functions but should also “be managed carefully.” For that reason, the White Paper called for a comprehensive study to “examine the viability of empowering local authorities to”⁸⁹ do the following:

- Own and manage sources of revenue;
- Collect revenue;
- Manage their own budgets;
- Control their own spending;
- Sue and be sued in their corporate names;
- Procure goods and services;
- Own assets and be free to dispose of them if necessary;
- Monitor and evaluate their own programmes; and
- Borrow and lend monies within defined limits and with the approval of the Ministry of Local Government.⁹⁰

1.3.4 The study contemplated in the White Paper had to “examine a range of issues pertaining to the financing of local governments and financial support, scrutiny and management of local authorities.”⁹¹ Besides examining what local governments could do it had to “look at ways of devolving central Government ... budgets to local authorities and identify potential new sources of revenue for local and central governments, and assess the nature and

⁸⁴ Effectiveness, holistic, proportionality, currency, consistency and participatory

⁸⁵ See Foreword in the White Paper (supra)

⁸⁶ Ibid

⁸⁷ Ibid

⁸⁸ Section 131 of the White Paper: “Councils will not be expected to be direct providers of decentralised functions and some functions are likely to be performed in partnership with government departments, parastatals, NGO’s, private enterprise or community groups. An example here is water supply where a Municipal Council may enter into contract with a private concern to carry out maintenance and repairs.”

⁸⁹ Section 302 of the White Paper

⁹⁰ Ibid

⁹¹ Section 305 of the White Paper

performance of all existing revenue sources.”⁹² Though quite detailed on what additional issues should be considered in the study it is apposite to quote section 306 of the White Paper in full:

Besides suggesting ways of assigning line ministry budgets to local authorities (for example top-slicing line ministry budgets on the basis of analysis of functions and activities which could be decentralised to local authorities), consideration will be given to financing local governments through some or all of the sources listed below:

- Land (ground, rents and property tax);
- Water (levy on permits);
- Vegetation (range management and thatching grass). This is envisaged as a revenue source primarily for rural councils;
- Charges for garbage collection, sanitation etc. This is seen to apply to urban local authorities;
- Loans and mortgages;
- Central government grants (block grants, special grants and equalisation grants for all local authorities);
- Revenue from markets and abattoirs;
- Excavation licences. For example, for sand, gravel, stone cutting etc.;
- Fines for breach of local government bye-laws;
- Fees for other services such as land registration, registration of births and deaths etc.;
- Crop cess (taxes on agricultural produce);
- Business licences and permits; and
- Mining taxes (mining revenues gained by Central Government should be shared with the local authority where the mining activity took place).

1.3.5 It would seem that the study contemplated in the White Paper was never conducted prior to enacting the Local Government in 1997. However, there is no doubt that the Government was quite aware that the transfer of functions and responsibilities to councils must be matched with fiscal decentralisation and that it was imperative to find a workable model of fiscal decentralisation through a study. This is the context in which Part IV and Part V of the Local Government Act must be examined.

1.4 As mentioned in section 1.2 above, parts IV and V of the Local Government Act provide for funding mechanisms or measures aimed at enabling councils to perform their functions and responsibilities. The question is whether these measures are workable or effective. In addressing this question, it is important to bear in mind that Lesotho’s local governments are a creature of statute and as such the confines of their respective authority are defined by the statute. So, whatever powers, functions or responsibilities (including fiscal authority) they exercise or purport to exercise must be provided by or provided for in the applicable statute. Furthermore, the functions and responsibilities of local governments are broad and diverse; management of catchment areas within their respective jurisdictions as defined in the applicable legislation is part of their functions and responsibilities, but it is not their sole responsibility.

1.4.1 Part IV empowers a Council, regardless of its status, to enact by-laws and to impose fines for contravention of such by-laws. This power is limited, *inter alia*, by the functions and responsibilities transferred to Councils because a by-law must be within the parameters of such functions and responsibilities. Presently, there is no clear delineation between the functions and responsibilities of Councils and the mandates of Line Ministries. Without clarity as to what functions have actually been transferred from the Central Government to local governments the enactment of by-laws is technically unworkable. A by-law is subordinate to national legislation, parent or delegated national legislation, so it cannot validly regulate matters that fall within the mandates of Line Ministries because such mandates emanate from national legislation. Section 95 of the Local Government Act attempted to solve this quandary by providing that “the provisions of this Act shall have effect notwithstanding anything contained in any other written law and accordingly in the event of any conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail over such other law.” However, this section was deleted in 2004; a year before the first elections for Councillors under the Act.

1.4.2 To date, there is no single by-law enacted and gazetted pursuant to the provisions of Local Government Act. Some scholars have argued that the requirement, under the Local Government Act, that a by-law must be

⁹² *ibid*

approved by the Minister is the reason why Councils have not enacted any by-laws.⁹³ This argument would be sound if the Minister's desk was inundated with draft by-laws awaiting approval, but as a matter of fact there is not even a single draft by-law on the Minister's desk.⁹⁴ That is not to deny that the requirement for ministerial approval could potentially be more of a hindrance than supervision. There is no doubt that Part V does not provide a workable financing mechanism for local governments due to the lack of clarity as to what functions have actually been devolved. Despite that, fines raised from fines even if existed would not be enough to finance ICM plans on their own.

1.4.3 Part V is couched in terms neither specific nor restricted to ICM; it covers all sources of Council revenues and the application of Council Fund in general. It provides for the establishment of a Council Fund and prescribes how that Fund should be applied; stipulates the sources of Council revenue or moneys such as loans, guarantees, grants, rates, taxes, fees, gifts, fines, donations etc.; and prescribes accounts, budget, expenditures and auditing requirements for a Council. According to the provisions of this Part, all moneys received or collected by a Council must be paid into a Council Fund and the collection of council revenues and expenditures must be supervised by the Minister of Local Government and Chieftainship. Jaap and Shale summed up the provisions of Part V as follows:⁹⁵

The Local Government Act provides for four sources of local revenue. Section 56(1) of the Act provides that local authorities may impose and levy rates on properties. However, the Minister determines limitations, qualifications and conditions. It follows from section 56 that local authorities may only impose rates if they have been explicitly authorised to do so by the Minister. In other words, it is not a generic power for all local authorities. Furthermore, section 61(1) (c) of the Act suggests that a council does not determine rates but proposes a rate to the Minister for approval. In addition, section 57 provides that local authorities may impose a tax, levy or service charge in relation to items gazetted by the Minister. Thirdly, the Act provides that a local authority may apply for a grant to implement its development programme (s 55). Fourthly, a local authority may borrow, but ministerial approval is required unless the council is indebted for an amount lower than the revenue collected over the past two years. In general borrowing is subject to limits set by the Minister (s 52) and an overall ceiling is set in the Act (s 54).

1.4.4 Part V of the Local Government Act is, by and large, unworkable and in disuse for the following reasons:

- First, the inclusion of Part V in the Local Government Act does not seem to have been born out of a study contemplated in the White Paper or any assessment of the status quo and yet it undoubtedly regulates matters so complex. Therefore, it was bound to be a dumb squib as there was no arrangement for it to fit into the status quo or to work outside and independent of the existing frameworks.
- Second, as mentioned in section 1.4.1 above, originally section 95 of the Local Government Act provided that the provisions of Local Government Act would prevail over any legislation that was inconsistent or in conflict with the Local Government Act, but it was deleted before the constitution of the first batch of local governments. So, when the first batch of councils constituted pursuant to Local Government Act assumed their respective statutory responsibilities in 2005, Part V had to be applied together with the Finance Act including the regulations made under the Finance Act.⁹⁶ However, the two pieces of legislation could not be applied together consistently and harmoniously.⁹⁷ Despite the fact that it came into effect long after the Finance Act was enacted, provisions of the Local Government Act could not take

⁹³Hoolo 'Nyane, *A Critique of the Newly Proposed model of Decentralisation in Lesotho* in Commonwealth Journal of Local Governance Issue 22:2019 at page 6, the author makes an unfounded claim that the "the local authorities do not currently have by-laws because the drafts they once produced are permanently the approval of the Minister."

⁹⁴ This information was provided by the Chief Legal Officer in the Ministry of Local Government and Chieftainship and confirmed by officers in the Decentralisation Unit on November 16, 2020 during a telephonic conversation with Advocate Ramohapi Shale. At the moment, Maseru Municipal Council has a draft compilation of by-laws, which is yet to be endorsed at the Council meeting and submitted to the Minister for approval.

⁹⁵ Jaap de Visser and Ramohapi Shale, 2015, *Issue Paper for the Reform of Local Government Act 2015* (unpublished paper prepared for the Ministry of Local Government and Chieftainship) at page 22

⁹⁶ Finance Order No.6 of 1988; Finance (Amendment) Order No.4 of 1992; & Municipal and Urban Councils Financial Regulations LN 137/1988. This Act was repealed and replaced by the Public Financial Management and Accountability Act No.12 of 2011.

⁹⁷ For example, see FEI Consulting, 2014, *Diagnostic Assessment of Decentralisation in Lesotho* available at page 30: "the role of district councils is limited to recording and reporting revenue receipts. In this case, therefore, they act as collection agencies of central government. This role of local authorities is consistent with the 1973 financial regulations (Chapter 8) but in contravention of sections 56-58 of the Local Government Act which provides for the setting of rates and the retention of revenues."

precedence over the Finance Act. That is so because the provisions of public finance legislation specially govern public money's sources and expenditures whereas local government legislation deals with broad matters of governance at the local level. As a rule, general provisions do not derogate from specific provisions; *generalia specialibus non derogant*.

- Lastly, the situation on the ground is that, on the one hand, a Municipal Council (Maseru Municipal Council) and Urban Councils apply Municipal and Urban Councils Financial Regulations instead of Part V of the Local Government Act.⁹⁸ On the other hand, the District Councils and Community Councils do not have a Council Fund; instead, all moneys collected by these councils are paid into the Consolidated Fund; Community Councils do not even have bank accounts.⁹⁹

1.5 The fact that Part V of the Local Government Act is generally in disuse does not necessarily mean that if its provisions were adhered to or followed to the letter by the local governments there would be no shortcomings. In fact, Part V has been scrutinised in the past and found wanting in several aspects.¹⁰⁰ Notably, it has been observed that “the local government’s power to tax ... determine fees, [budget and borrow] is tightly controlled by the Minister.”¹⁰¹ This is done in different ways:

1.5.1 First, the Minister is entitled to prescribe limitations, qualifications and conditions regarding the local government’s power to impose and levy rates on any property within its jurisdiction.¹⁰² In other words, the Minister is entitled to prescribe limitations, qualifications or conditions regarding a council’s power to raise revenue from sources such as crop cess and water (levy on permits). The main problem with this provision is that, on the one hand, it gives local governments taxing powers and, on the other hand, it leaves room for the Minister to take that power away because it is for the Minister and the Minister alone using his unfettered discretion to determine how far the limitations, qualifications and conditions must go.

1.5.2 Second, section 61 provides that a council must prepare a draft budget and then submit it to the Minister for approval. “If local governments are expected to respond to local needs and aspirations, they should be able to weigh priorities and allocate resources to them, i.e., draw up and adopt a budget. If ... [they] have little or no say over what they use their revenue for, it is difficult for local residents to hold them accountable for choices made.”¹⁰³ In practical terms, this means that if a council has prepared a ‘budget’ for the implementation of its ICM programme, the Minister is at liberty to reject it and thereby frustrating the council’s programme from succeeding. While this is objectionable it is not uncommon. For example, “In Zimbabwe, budgeting procedures are tightly regulated, and the central government firmly guides the content of local budgets. Local authorities must submit their budgets and annual plans to the Minister for approval before the beginning of the financial year. In effect, a local authority’s budget does not become operational unless the Minister approved the entire budget.”¹⁰⁴ However, “in South Africa, local authorities determine their own budgets and there is no need to obtain central government’s approval.... However, there is a very elaborate and detailed regulatory framework that regulates the budgeting procedure.”¹⁰⁵

1.5.3 Third, section 57 provides that “the Minister shall publish in the gazette a list of items that are subject to any tax, levy or service charge that a Council may impose and levy within its jurisdiction and specify the maximum amount that may be taxed, levied or charged in respect of such items.” This provision does not afford local governments any discretion whatsoever “when it comes to determining what to tax or charge for and what the tax rate or service fee should be.”¹⁰⁶ In other words, local level sources of revenue must be determined by the

⁹⁸ Ibid at page 44

⁹⁹ Ibid

¹⁰⁰ See Jaap de Visser and Ramohapi Shale, 2015, *Issue Paper for the Reform of Local Government Act 2015* (op cit) at page 22-26

¹⁰¹ Ibid at page 23

¹⁰² See section 56(1)

¹⁰³ Ibid at page 21

¹⁰⁴ Ibid at page 26

¹⁰⁵ Ibid at page 25

¹⁰⁶ Ibid at page 23, it is important to note, however, that Lesotho is not unique. As observed by de Visser and Shale (ibid at 23) “in Uganda, the raising of taxes and levying of fees is tightly controlled by the central government. In Zimbabwe, local authorities have some say over tariffs and charges, but this is curtailed in two ways, namely (1) tariffs must be approved by the Minister and (2) the Minister regularly issues directives that determine issues for local authorities. In South Africa, local authorities in principle determine their own property rates, tariffs

Minister. Not only that, but the Minister also determines the amount that may be taxed, levied or charged! The following are the shortcomings of this approach:

- This is a list system; a tightened list that must be followed by all Councils regardless of their varying resource-bases and potentials. What may be a viable local source of revenue in one Council may not be so in other Councils? So, a one-size-fits-all approach or straitjacket is unrealistic. An asymmetry approach would have been more appropriate and practicable;
- A top-down list is also problematic because it tends to thwart innovation at the local level; Councils tend to look up to the central government for solutions and not at the opportunities right before their eyes;
- Even when functions and responsibilities have been transferred to Councils, such as managing catchment areas within their jurisdictions, and there is every opportunity and potential for councils to raise significant funds by charging service-related fees, they won't do that unless such services were in the list. But they would be required to continue to discharge their functions any way. This is not sustainable; and
- Standardisation of rates across all councils is bound to breed inefficiencies because it is not based on market principles.

1.5.4 Fourth, Part V does not determine the issue of vertical division of revenue, i.e., the determination of the share of nationally collected revenue that is set aside for local authorities. In other words, it does not provide for a minimum percentage. "Increasingly, legal frameworks are providing for a degree of entitlement for local governments to centrally raised revenue. In Zimbabwe, section 301(1) of the Constitution provides that central government must allocate at least 5% of its revenue to provincial and local governments. In Kenya, section 203(2) of the Constitution guarantees counties at least 15% of centrally raised revenue. In South Africa and Uganda, there is no minimum percentage of central revenue for local governments."¹⁰⁷ This issue is important because "local revenue must be predictable. The fact that central government gives or takes revenue powers and determines grants must not result in erratic revenue streams for local authorities. If revenue streams are erratic, local governments cannot and will not plan ahead."¹⁰⁸

1.5.5 Fifth, quite related to the above is the issue of horizontal division of revenue. Part V does not prescribe comprehensive criteria on how the allocation of grants for each local government should be determined.¹⁰⁹ "In South Africa and Kenya, the Constitution prescribes principles that must be considered when central government determines what each local government receives. These principles revolve around equity, i.e., levelling the playing field. In Zimbabwe, the Constitution also emphasises equity and instruct Parliament to adopt a law that provides for equitable distribution of central revenue."¹¹⁰ It is difficult to understand why Part V made this omission because the White Paper addressed this issue as follows:

307 Government will establish objective criteria to determine the allocations of Block grants and Equalisation grants to local authorities. Block grants will reflect the degree of responsibility transferred to a local authority and the level of services it provides. The greater the functional decentralisation and the higher the level of services, the bigger the grant.

308 Equalisation grants will aim to support poorer local authorities to deliver services to acceptable national standards. Equalisation grants will be based on the principle of equitable development across the country and will be inherently egalitarian and redistributive. They will seek to redress national and regional disparities in development.

309 The formula for the dispensation of Central Government grants to local government defined by a specialist study which will consider the following criteria:

- Population size;
- Physical area;
- Topography;

and charges. However, they are subject to a detailed regulatory framework that demands transparency but also deals with issues such as exemptions and general principles (such as cost-recovery, cross-subsidisation etc.) for the determination of tariffs."

¹⁰⁷ Ibid at page 24

¹⁰⁸ Ibid at page 21

¹⁰⁹ Section 55(3) simply states that the Minister shall have regard to the development priorities of the district

¹¹⁰ Ibid at page 24

- Level of services;
- Performance related to collection;
- National development priorities;
- Potential revenue base of the local authority

1.5.6 Lastly, Part V provides for grants on application.¹¹¹ It has been observed that “these grants will naturally be conditional, i.e., there will be ‘strings attached’ and the council will not be permitted to allocate the funds to a project outside the grant agreement. Should the legal framework create ‘unconditional grants’, i.e., grants that have no ‘strings attached, and the funds can be spent in accordance with the council’s determination of priorities?”¹¹²

3. Local Government Bill of 2020

3.1 In 2015, the Government, with the support from development partners, initiated a review of the existing legal framework on decentralisation in order to harmonise the existing legal framework with the NDP. The review process entailed doing the following:

- preparation of a scoping report, which outlined and analysed all pieces of legislation on decentralisation and made some observations and recommendations;
- preparation of an issues paper for reform of the Local Government Act, which introduced pertinent policy issues, presented a brief comparison with Uganda, South Africa and/or Zimbabwe and then presented questions for consideration in the reform. The Issue Paper was structured around three themes, namely (1) autonomy, (2) supervision and (3) coordination;
- the drafting of a Bill;
- presentation of and engagement on the drafts to various stakeholders; and
- preparation of a final report

3.2 In 2017, the Local Government Bill was tabled for first reading in the National Assembly. However, the National Assembly was dissolved shortly thereafter following a successful vote of no confidence against the then Prime Minister. The Local Government Bill was put back in the business of the National Assembly in October 2020 and thereby formally resuming its enactment process. If enacted, it won’t significantly change the status quo on fiscal decentralisation. As observed in the final report “changes to the financial chapter of the Act were kept to a minimum in anticipation of further policy direction.”¹¹³ The final report noted the following with respect to the proposed Local Government Act and fiscal decentralisation:¹¹⁴

The implementation of the Local Government Act and (thereby) the vision of the Decentralisation Policy will require fresh fiscal and financial arrangements for government. These relate to issues such as –

- regulating the revenue raising authority of local councils so as to expand own revenue in a responsible and realistic manner;
- a central grants system that is transparent, predictable, commensurate with local functions and capable of addressing differences between councils;
- local planning and budgeting that is responsive to local needs and in line with national strategic priorities; and
- financial management and financial oversight to minimise wastage and corruption at local level.

Some of these matters were addressed in the draft Bill but many more will have to be addressed in other legislation.

3.3 In short, the Local Government Bill of 2020 does not entail significant changes to Part V of the Local Government Act. That is so because the requisite study is yet to be conducted and then fiscal decentralisation

¹¹¹ Section 55

¹¹² Jaap de Visser and Ramohapi Shale, 2015, *Issue Paper for the Reform of Local Government Act 2015* (op cit) at page 25 “In South Africa, the law provides for an unconditional grant to local authorities, called the equitable share’. It is not earmarked for specific projects or activities. In Zimbabwe, national government transfers both conditional and unconditional grants to local authorities.”

¹¹³ Ramohapi Shale and Jaap de Visser, 2016, *Final Report on Review of Current National Legal Framework on Decentralisation* (unpublished report) at page 10

¹¹⁴ Ibid at page 11

framework be formulated. That framework will indicate if there is need for standalone legislation (parent or subsidiary) on fiscal decentralisation.

4. Lesotho Electricity Authority Act No. 12 of 2002¹¹⁵

4.1 As amended in 2011, Lesotho Electricity and Water Authority Act, hereinafter referred to as the LEWA Act, provides for the establishment of Lesotho Electricity and Water Authority, hereinafter referred to as LEWA, as a regulatory body mandated to regulate the energy sector and water sector. With specific reference to the water sector, LEWA sets standards relating to quality and safety of both water and equipment used in providing water; enacting rules and by-laws governing, amongst others, the collection, treatment and provision of water; reviewing and setting tariffs, rates and charges regarding the use of water; licencing; etc.

4.2 LEWA is a parastatal or an agency of the central government; it is not a local authority so to speak. In addition, the provisions of the LEWA Act do not expressly or impliedly require LEWA to work with local authorities in the discharge of its mandates. Nevertheless, LEWA's functions include "the facilitation of efforts to expand rural water and sewerage services."¹¹⁶ In terms of section 63A of the LEWA Act, "a licence authorising provisions of water or sewerage services shall include the conditions regulating cross subsidy between different categories of consumers." There are several models of cross subsidy, and the Act does not limit the licencing conditions to any specific model. One of the cross-subsidy models currently used by LEWA in the energy sector is the Universal Access fund.¹¹⁷

4.3 Subsidy under this Fund is accessible on request and the procedure is roughly as follows: the inhabitants of a particular village establish a scheme, which is administered by a village committee. Then the interested households in that village pay the prescribed contributions into the scheme's account. Subsequently, the committee will formally request the Ministry responsible for energy and meteorology to facilitate the connection and supply of electricity to specified households. If the request is in order, the Ministry will formally apply for a subsidy from LEWA. This is a financing mechanism, which benefits village electricity schemes and it is adaptable to the schemes for the provision of water and sewerage services in the rural areas.

5. The Land Husbandry Act of 1969 as amended¹¹⁸

5.1 This Act regulates a wide range of ICM aspects such as the use of land, soil conservation, water resources, irrigation, and other agricultural practices. However, it is an old piece of legislation that has been amended through different subsequent legislation such as Land Act, Water Act and Environment Act. Furthermore, the Land Husbandry Act does not have any direct provision on financing mechanisms for ICM activities. Nonetheless, section 4 empowers the Minister responsible for agriculture to enact regulations governing, *inter alia*, the grazing of livestock. In pursuance of this provision, the Minister enacted the Range Management and Grazing Control Regulations in 1980. These regulations give a local chief the authority to control the grazing of livestock through rotational grazing and to impound stock found grazing in protected pastureland and to direct the owner to pay the prescribed pound fee. The chief is required to keep 30% of the collection and pay the remaining 70% into the Consolidated Fund.

5.2 The money that is retained by the chief is not used for conservation of pastures, but it is shared by the chief and those who took care of the impounded stock. In any case these fees are meant to deter the trespassers and not necessarily to raise funds.

6. Land Act of 2010 as amended¹¹⁹

6.1 This is a comprehensive piece of legislation on land matters. It particularly regulates the allocation, regularisation, expropriation, transfer and use of land including the resolution of land-related disputes, protection

¹¹⁵ Read with Lesotho Electricity Authority (Amendment) Act No. 2 of 2006 and Lesotho Electricity Authority (Amendment) Act No. 6 of 2011

¹¹⁶ See section 22(3) (b) of the LEWA Act

¹¹⁷ See section 22(1) (l) of the LEWA Act read with Lesotho Electricity Authority (Universal Access Fund) Rules LN No.83 of 2011

¹¹⁸ Land Husbandry Act No. 22 of 1969; Land Husbandry (Amendment) Act No. 19 of 1974; Range Management and Grazing Control Regulations LN No. 39 of 1980; Range Management and Grazing Control (Amendment) Regulations LN No. 150 of 1993; Range Management and Grazing Control (Amendment) Regulations LN No. 31 of 1995; and Range Management and Grazing Control (Amendment) Regulations LN No. 44 of 1996

¹¹⁹ Land Act No. 8 of 2010; Land (Amendment) Act No.16 of 2012; Land (Amendment) Act No.9 of 2014; Land Regulations LN No. 21 of 2011; Land (Amendment) Regulations LN No. 11 of 2013; and Systematic Land Regularisation Regulations LN No. 103 of 2010

of rights and interests relating to land. Part XIII of this Act specifically provides for land revenue and categorises land revenue into ground rent, development charges and allocation premiums. Local Councils allocate land, but the revenue collected pursuant to this Act is paid into the Consolidated Fund and appropriated at the national level through the national budget. So, it does not, at least directly, finance local plans – they be ICM-related or otherwise. However, in terms of section 6 a council may hold a title to land. That means a council is allowed to hold land for commercial purposes, industrial purpose and agricultural purposes and through that title and the site development, council may collect revenue and use it to finance its development plans. The problem here is that whatever money is collected by District Councils and Community Councils is paid into the Consolidated Fund. So, there is no incentive for councils to use these mechanisms.

7. Land Administration Authority Act of 2010 as amended¹²⁰

7.1 This Act establishes the Land Administration Authority as an agency of the central government charged with land administration in Lesotho. In particular, it governs matters such as cadastral survey, land deeds registration, land valuation, granting of land administration consents and issuance of leases. With specific reference to financing the Authority's day to day operations, section 22 states that the revenue of the Authority shall be obtained from fees and ground rent levied by the Authority for the provision of services; grants and donations from the Consolidated Fund or from any approved source; and loans. While this section has nothing to do with financing ICM plans there are important lessons to be learned from land administration which could be employed in financing land use management at the local level.

8. Municipal and Urban Councils Financing Regulations LN No. 137 of 1988

8.1 These regulations had been enacted pursuant to section 65 of the Urban Government Act of 1983.¹²¹ They are detailed and comprehensively regulate public financial management and accountability at Municipal and Urban Councils. Regulation 2 defines 'public money' as "any money held by or on behalf of a Council for which the Council is accountable to the inhabitants of the municipality." This provision shows that a Council has fiscal autonomy over the money held by it or held on its behalf. As subsidiary legislation, the regulations do not provide for sources of Council's revenue, but regulation 45 states that "all necessary steps for the recovery of all rates, fees, charges and other revenues due and payable to the Council must be taken." This necessarily implies that Council's sources of revenue include rates, fees and charges levied in respect of services rendered by a Council. The regulations further provide that public money must be paid into Council's treasury or directly deposited in the Council's bank account.¹²²

8.2 The main problem with the Municipal and Urban Financing Regulations is that they stem from an Act, which was repealed in 1997.¹²³ Section 85 of the Local Government Act provides that "notwithstanding the repeal of any of the Acts set out in Fourth Schedule, all rules, regulations, orders or proclamations which are in force at the time of the commencement of this Act, and made under the repealed Acts shall continue in force as if they have been made under the provisions of this Act, and all such rules, regulations, orders, [and] proclamations may be varied, amended or replaced by provisions of this Act." The Local Government Act does not expressly vary, amend or replace the Municipal and Urban Councils Financing Regulations. Does it do so by necessary implication? The starting point is that the necessary implication to that effect can only arise from Part V, but as explained in section 1.4 of this report, Part V of the Local Government Act is unworkable and generally in disuse. The second point is that Part V of the Local Government Act, assuming it was workable and in use, is subordinate to the provisions of the Public Financial Management and Accountability Act of 2011. The Municipal and Urban Councils Financing Regulations are, in some respects, inconsistent with the PMFA Act.¹²⁴ The last point is that the Municipal and Urban Councils Financing Regulations are not consistent with the Treasury Regulations LN No. 21 of 2014. Notwithstanding these inconsistencies and uncertainties, the Municipal Council and Urban Councils still apply the Municipal and Urban Councils Financing Regulations.¹²⁵

¹²⁰ Land Administration Authority Act No. 9 of 2010; Land Administration Authority (Amendment) Act No.17 of 2012; Land Administration Authority (Amendment) Act No. 8 of 2016

¹²¹ Urban Government Act No. 3 of 1983

¹²² See regulation 55

¹²³ See the 4th Schedule to the Local Government Act

¹²⁴ For example, the definition of 'public money' under the regulations is inconsistent with the definition provided in the PFMA Act.

¹²⁵ See the observation in section 1.4 above

8.3 Perhaps the most noticeable shortcoming of the Municipal and Urban Councils Financing Regulations is that they exclude the District and Community Councils from their scope of application. So, the fiscal autonomy currently enjoyed by the Municipal Council does not extend to other categories of Councils. Lastly, these regulations are undoubtedly outdated.

9. Letsema¹²⁶

9.1 Letsema is one of the remaining cultural traditions in Lesotho. In the context of local governance, it refers to communal labour on public projects such as cooperative hoeing, harvesting, reservoir construction, etc. Customarily, if communal labour is on public projects, each villager is expected to supply tools, food, materials, labour, skill and so on according to his/her ability or means. So, the elderly, young children, people with disabilities, the sick and wounded, are generally not required to provide their labour, but those who have the means must contribute of one sort or another. In some council areas, the villages within one particular electoral division have a tool shed for equipment such as wheelbarrows, spades etc. supplied by the NGOs in the country. These tools are used by the community when carrying out community projects and activities within the electoral division. Community projects must be discussed and arranged at public meetings.

9.2 There is no doubt that some local-level ICM plans could be implemented by means of *Letsema* or a combination of *Letsema* and other conventional financing mechanisms. Currently, *Letsema* is used on *ad hoc* basis as a short-term financing mechanism. However, the following are the guidelines on how turn it into a more sustainable long-term mechanism:¹²⁷

- The utilisation of this mechanism for the purpose of prioritising and carrying out public projects must be tabled and discussed at council meeting in order to ensure uniformity within council area.
- Once council has endorsed voluntary communal labour by means of a resolution, it would be in a position to ascertain public opinion on voluntary communal labour and to consult all the stakeholders including chiefs within the council area, church authorities, NGOs with local presence, local groups, village committees, the business community and the residents.
- Public opinion may be ascertained through a combination of surveys and consultative processes such as public meetings and public hearings.
- Matters on which stakeholders' opinion is sort should be clearly spelled out. The following must be included: Should communal labour be undertaken on fortnight or monthly basis? On what specific date and time? Description of projects to be carried out through *matsema*; what sort of contribution must be required from community members? Who will supervise *matsema*? What about those who cannot afford to contribute? And what about those who refuse to contribute?
- The findings must be made public as soon as council has endorsed them.
- Once council has a clear picture about public views on *matsema* and the requirements, it will enact a by-law on *matsema* on the basis of public views. The procedure for enacting by-laws is provided for in the *Local Government Act and Regulations* and it must be followed.

9.3 There are challenges regarding the use of this mechanism: First, it is a voluntary work, which rural and urban communities do for the common good. Some individuals may feel like they are burdened with the government's work and therefore drag their feet. Second, *Letsema* requires community members to contribute according to their abilities and means and then reap the fruits according to their needs. Therefore, it leaves room for individuals to reap what they did not sow. Most importantly, if led by a Council, *Letsema* must be used on projects that fall within the Council's legal mandates/functions. But such functions are not spelled out under the current legal and policy framework as there exist glaring overlaps between the Councils' functions and Line Ministries' functions.

¹²⁶For a detailed explanation of this mechanism see Ramohapi Shale: *A Practical Guide to Community Participation in Lesotho's Local Governments, 2017* (published by the GIZ) at page 35-37

¹²⁷ *ibid*

10. Self-regulation¹²⁸

10.1 Self-regulation has been described as follows:¹²⁹

Self-regulation, as a mechanism for citizen participation, is applicable in cases where the subject of regulation comes within the purview of a user group and that particular user group is allowed to take practical control over the protection of its interests in respect of the use of a particular product or service. Under a self-regulatory framework, a user group regulates itself and the conduct of its members in accordance with its own rules, its ethical standards, and the laws of the country. It also establishes structures and procedures for the purpose of monitoring compliance with the rules, ethical standards and the laws of the country and for the enforcement of such rules, ethical standards and laws. The local government maintains overall or general control over the use of that particular product or service.

Most importantly, self-regulation practically means that the local governments and the leadership of the user groups share the responsibility over the determination of local affairs, and this is consistent with the basic tenets of democracy and decentralisation. In a democratic society, responsibility is for all including the authorities and the people. In rural areas, self-regulation is currently utilised in the context of the protection and use of pastures. Herdsmen organise themselves and work as a team to take charge of the protection and use of pastures. Ordinarily, the subject of grazing control falls under the mandates of councils as provided for under the *Local Government Act*. Under the current arrangement between the council and the herdsmen associations, council has general oversight of pasturage and the actual decisions as to which pastureland to protect or open for grazing is in the hands of herdsmen associations.

After the associations have taken a decision, they report that decision to council and the public at a public meeting. The associations also take limited disciplinary measures against the delinquents. This arrangement has been hailed a success by councils and communities. It is indeed the most effective means of grazing control.

10.2 In a strict sense, self-regulation is a form of governance and not a financing mechanism. But it can also be seen as a financing mechanism in that, instead of incurring all the costs of grazing control (for example), a Council partially 'outsources' grazing control to a local self-regulatory body. By maintaining general oversight over a self-regulatory body, Council reduces the costs associated with grazing control. In other words, it reduces the financial burden on the part of local governments by reducing the costs of establishing and maintaining effective external policing and enforcement mechanisms. If a user group is allowed to regulate the use of a chargeable product or service by its members, charges must be paid directly to council as and when they are due. Self-regulation is applicable in all sectors where there are user groups such as the farming community, herbalists, sports clubs etc.

10.3 The following have been identified as possible drawbacks to self-regulation:

There is an inherent conflict of interest whenever the government allows a user group to police itself and that is why it is important for the local government to have general oversight of all the local affairs. It is also possible for some members of the group to feel less obliged to comply with the rules and standards set by the group and consequently disrespect the decisions taken by the internal structures.

11. Water Act of 2008 (especially Sections 15, 16 and 18 and in the Guiding Principles)

Regarding finance mechanisms, the Act contains several potential sources for funding but lacks detail and contains no guidance on fund allocation to specific ICM objectives.

It contains several potential sources of funding, e.g.:

Sect. 15 (3) c) regulates cost recovery for waterworks.

Sections 18 (6) and 19 (5) provide for fines in case of violations of provisions relating to wetlands conservation and springs protection.

Sect. 20 ff contain provisions on permitting. These could potentially be important sources for ICM financing. However, the permitting system is not comprehensive and contains numerous gaps (see the review under WS 4 to this end). Fees collected in accordance with schedule 2 to the WA could form an integral part of local ICM financing.

The WA schedule 2 does not provide for levies or tariffs for infrastructure development and maintenance. It lists fees only. It must be further investigated whether these are still adequate or if they may be outdated. Fees should

¹²⁸ Ibid at page 37-39

¹²⁹ Ibid at page 37-38

certainly be listed in a technical annex (schedule) to a specific regulation on permitting and charging which does not exist.

Regarding penalties and fines for violations of the WA, sect. 41 does not specify or allocate how these would be used.

S. 42 is the legal basis for the making of regulations to carry into effect the purposes of the WA. The legal basis does not entail the making of regulations on permitting, charging (fees, levies, tariffs). Hence, section 42 in its current form does not allow drafting regulations on revenue collection.

The WA does, however, not contain any provisions on how collected fees, penalties or fines are allocated and spent.

12. The Environment Act of 2008

The EA provides the legal basis for land use planning, water use, and for fines and penalties. These are potential sources of ICM funding.

For instance, Section 43 prescribes fees for effluent discharges. Fees all relate to effluent discharge or pollution fees or for access to genetic resources under Section 68 EA.

Section 113 provides for a legal basis for regulations, including on fees and levies.

The EA does not mention or refer to provisions on Payment for Ecosystem Services.

All of these are potential sources of ICM financing.

13. Public Financial Management and Accountability Act, 2011

The PFMA is highly relevant. It is the legal basis (Sect. 61 : Minister to make regulations) and sets the framework for any ICM finance mechanism. Amongst others, it must be read and construed in context with the LGA, as there are several references to the LGA. Relevant are also sections 110-113 of the Constitution regarding the consolidated fund.

The PFMA applies to “local authorities”, Section 3. The term “local authority” is defined by Section 4 of the LGA.

Sect. 21 (4) provides that “public money” as defined by the Act, at local level goes into the council fund. The council fund is regulated in section 47 of the LGA.

The council fund must be clearly distinguished from the “consolidated fund” established under section 110 of the Constitution.

This is especially the case, as all foreign funds must pass through this consolidated fund. Sect 30 (3) requires, that, regarding all foreign grants, the Minister is responsible to receive these. All grants made by foreign governments (= also all other foreign donors, this is ratio of the law) hence pass via the responsible Minister of Finance.

Section 110 Constitution reads:

“110. Consolidated Fund

All revenues or other moneys raised or received for the purposes of the Government of Lesotho (not being revenues or other moneys that are payable, by or under an Act of Parliament, into some other fund established for any specific purpose or that may, by or under such an Act, be retained by the authority that received them for the purpose of defraying the expenses of that authority) shall be paid into and form a Consolidated Fund.”

And importantly Section 111 Constitution reads:

“111. Withdrawals from Consolidated Fund or other public funds

(1) No moneys shall be withdrawn from the Consolidated Fund except -

(a) to meet expenditure that is charged upon the Fund by this Constitution or by any Act of Parliament; or

(b) where the issue of those moneys has been authorised by an Appropriation Act or by an Act made in pursuance of section 113 of this Constitution.”

The PFMA contains procedures to be observed by public officers, and offences in case of violations of said procedures.

The ratio of the PFMA is further explained in the “statement of objectives and reasons” for the PFM Act. It is inter alia: “Harmonizing accounting across all government levels, including local.” (page 295)

Sec. 61 provides for the legal basis for the making of regulations to give effect to the act. On its basis the treasury regulations of 2014 were made. They must be read in context with this act.

14 Mines and Minerals Act

The MMA generally states which fees, royalties, and fines go to the Government.

It regulates permitting and payable fees, and royalties. In accordance with sect 9, all fees go to the Government via the Ministry of Mines, and (S. 59), all royalties paid by holders of mineral mining concessions, pertain to the Government via the Ministry of Mines.

S. 63 requires holders of mineral mining concessions to pay a non-refundable annual fee as detailed in schedule II, and S. 73 regulates detailed penalties.

All of the above are potential ICM funding sources but have no direct bearing on ICM financing or a local level ICM grant facility.

15 Treasury Regulations 2014

The Regulations sets conditions for bank accounts and “public money” and collection of moneys. It must be read with its parent legislation, the PFMA.

It is important to note that “public money” is defined in section 2 of the PFMA.

Sect. 7 holds public officers responsible for efficient use of public money, and section 10 regulates control mechanisms. S. 11 requires auditing.

S 29 allows the Minister to prescribe procedures for receipt, custody, payments and reporting upon of any public moneys paid into a public fund.

S. 74 requires that all public money must be held in official bank accounts. Payments of public money may also only be made from an official bank account. All accounts are listed in a register.

16 Lesotho Constitution

It regulates the consolidated fund for all international funds and grants.

And it describes the responsibilities of (sect 106) local authorities and contains a chapter 9 on land.

Section 110 regulated details of the “Consolidated fund” and importantly Section 111 deals with the needed legal basis by Act of Parliament, see the relevant PFMA above.

Annex 2: Overview of LoCAL Financing Mechanism

This description of the LoCAL ((Local Climate Adaptive Living) Financing Mechanism is based on the following documentation:

1. LoCAL Phase I Design
2. LoCAL Lesotho Logic of Intervention
3. LoCAL Brochure 2020
4. LoCAL Investment Menu

The LoCAL impact statement reads: *“LoCAL Lesotho seeks to improve the climate change resilience of the communities in the selected councils as a result of climate change adaptation activities funded through PBCRG and capacity development support.”*

It aims at two outputs:

1. Increased transfer of climate finance to local governments through national institutions and systems for building verifiable climate change adaptation and resilience

2. A standard and recognized country-based mechanism that supports direct access to international climate finance

In detail, LoCAL allows investments of the below thematic areas:

- Theme 1: Climate smart agriculture
- Theme 2: Agroforestry
- Theme 3: Rangeland management
- Theme 4: Water, sanitation and health
- Theme 5: Strengthening alternative livelihoods resilience
- Theme 6: Ecosystem-based adaptation
- Theme 7: Energy efficiency and security with adaptation benefits
- Theme 8: Policy and planning dialogue on climate change
- Theme 9: Climate proofing infrastructural developments

This investment menu explicitly allows certain activities, while some activities are not allowed to be financed. LoCAL has indicated that this list could be amended as necessary to accommodate ICM needs. Gender sensitivity is included as a performance measure (PM number 2.2. and 5.1).

PM 2.2.: The Adaptation Plan has been updated following an inclusive participation process (considering representativeness in terms of gender):

1. With at least two dialogue sessions organised by the Community Council explaining climate change and informing about resources from LoCAL
1. With one dialogue session organised by the Community Council explaining climate change and informing about resources from LoCAL
2. None of the above and less information or No track record available

Bonus for women participation

1. Between 0-35%
2. Between 36% and 49%
3. Above 50%

PM 5.1: Investments are prioritized and designed to create a gender- and vulnerability-sensitive distribution of benefits.

In pursuing the objectives of adaptation, gender and vulnerability must be taken into account as provided. Investments and their implementation are designed to create adaptation opportunities and benefits by ensuring a distribution that favours women and vulnerable groups. The criterion will be assessed on the basis of:

- Distribution of benefits to women, youth and other vulnerable groups;
- Creation of employment opportunities (community work) for communities by ensuring an equitable share for women, youth and vulnerable groups.

While in principle, LoCAL provides for a so-called “top up” of 10-20 % to existing capital grants, in the specific case of Lesotho, given the absence of capital grants to CCs in Lesotho, LoCAL is being implemented as a stand-alone funding mechanism. However, this can be embedded in future grant schemes as it is aligned with country systems (i.e., intergovernmental fiscal transfer system) The “top-up” is provided via Intergovernmental fiscal transfer, as PBCRGs to the local governments. The first PCBCRGs have been transferred to the LoCAL-Lesotho account at the Central Bank and to the community councils during 2020.

LoCAL has selected four community councils located in the Moleleke’s Hoek District to pilot the approach in Lesotho: Khoelenya, Lithipeng, Qhoasing and Senqunyane. The selection of these pilot community councils was based on the LoCAL Conceptual Framework and on a 2-level analysis, as follows:

Level 1 analysis

1. Analysis of the districts’ exposure and sensitivity to Climate Change impacts: four key climate change risks and hazards (drought, floods, hail and strong winds) were used in the analysis;

2. Analysis of vulnerability to Climate Change:

- Environmental Capital: e.g., human pressure on land resources in relation to agriculture (crops & livestock)
- Economic Capital: distribution of households by main source of income & district (comparing the significance of subsistence farming income to the household to alternative sources of income).
- Wellbeing: analysis of livelihoods survival and protections thresholds
- Data gaps limited analysis of status of social capital

Level 2 analysis

3. These were augmented by understanding the adaptation preparedness of the various districts. The process looked into: what already exists in terms of adaptation e.g., on-going projects, capacity for adaptation and existence of adaptation plans.

Table 1. Councils with Adaptation Plans & or on-going Adaptation Projects

District	Community Council	Previous work on Adaptation	Adaptation Plan developed	On-going Adaptation projects
Botha-Bothe	Nqoe B03	Yes	Yes	Yes
Leribe	Matsoku C01	Yes	Yes	Yes
Maseru	Ratau A02	Yes	Yes	No
	Mohlakeng A05	Yes	Yes	No
	Lilala A07	Yes	Yes	No
	Makhoarane A08	Yes	Yes	No
	Makhoalipana A10	Yes	Yes	No
Mafeteng	Metsi-Maholo E01	Yes	Yes	No
	Lehlakeng E04	Yes	Yes	No
	Tšana-Talana E06	Yes	Yes	No
	Qibing E07	Yes	Yes	Yes
Mohale's Hoek	Khoelenya F03	Yes	Yes	Yes
	Lithipeng F04	Yes	Yes	Yes
	Qhoasing F06	Yes	Yes	No
	Senqunyane F07	Yes	Yes	No
Quthing	Tosing G03	Yes	No	No
	Telle G04	Yes	No	Yes
Thaba-Tseka	Tenesoko K01	Yes	Yes	Yes
	Linakeng K05	Yes	No	Yes

From the first level of analysis, Mohale's Hoek and Qacha's Nek were shortlisted as potential pilot districts. However, the second level of analysis reveals that there is no preparedness to adaptation work in the Qacha's Nek district. Mohale's Hoek was therefore a preferred pilot district with Mafeteng. The application of the second analysis was justified considering the pilot work is to ensure proper testing and refinement of the mechanism to then lead to a phase II/III which covers a larger number of districts including less prepared ones.

For each community council, a bank account has been opened to receive and administer the PBCRG funds. All four councils will be audited under LoCAL as part of the annual performance assessment (APA). Minimum Conditions (MCs) and Performance Measures (PMs) have been elaborated to determine access to the grants (compliance with MCs) and the size of the grants (informed by the relative score against the PMs) to ensure that sufficient

safeguards are in place for proper handling of funds and that incentives are established to promote performance in core areas of PFM, governance, and climate change adaptation related areas including cross cutting issues. Annual performance assessments are undertaken for each CC and inform grant allocations for subsequent years.

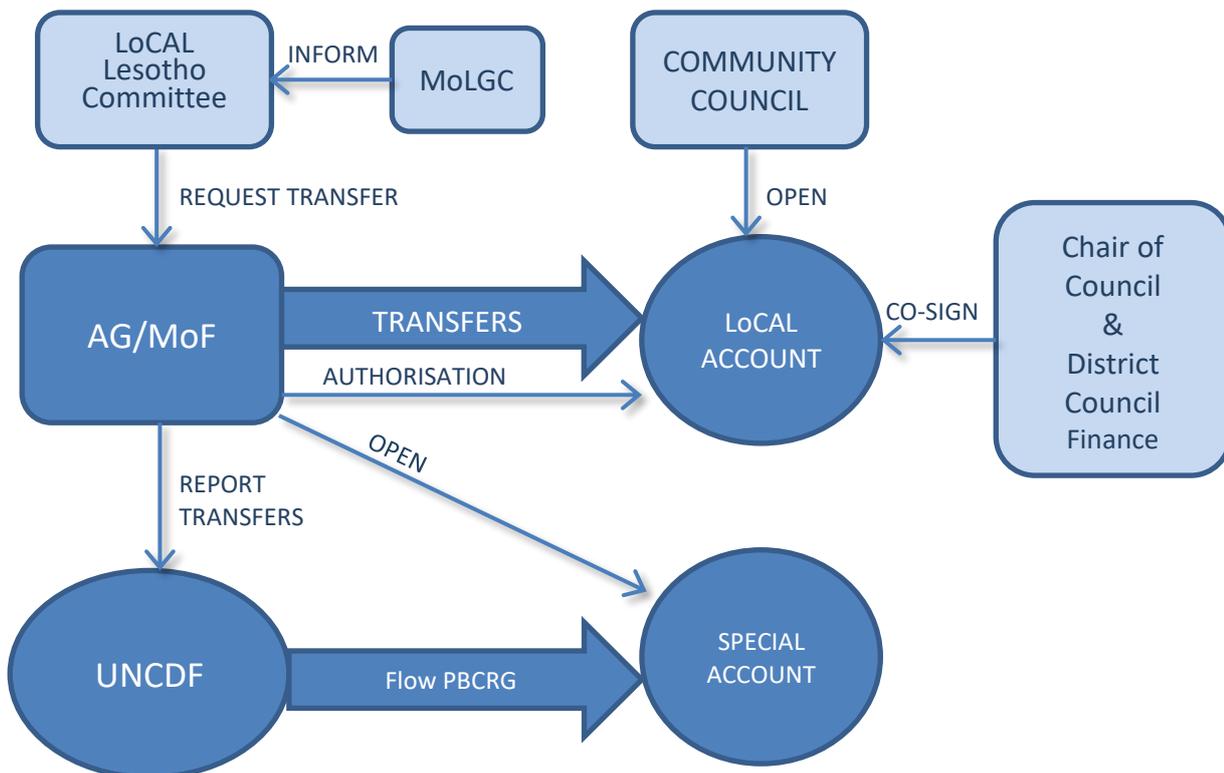
The local governments are supported by LoCAL in opening bank accounts in the name of the respective Community Councils, to be used for the purposes of receiving domestic and international funds as well as the “top-up” provided by LoCAL.

The main document (LoCAL Phase I Design) explains in good detail (chapter 6), why to target Community Councils (subsidiarity and being close to the most vulnerable and where capacity can be built, climate change impacts manifest themselves at local level), institutional arrangements, implementing agencies and coordination, and roles and responsibilities of implementing partners.

In chapter 9, it further elaborates on grant size, grant allocation criteria, and use and flow of funds. It builds upon experience and refers to the DDP UNDP (see the separate review of the UNDP DDP under WS 5 preliminary findings report).

Flow of Funds

Funds for the coverage of the PBCRG will flow from UNCDF to the LoCAL Special Account created by the Accountant General at the Central Bank. The MoLGC will inform the LoCAL Lesotho Committee of the PBCRGs amount for each council and prepare a schedule with the Councils’ names and bank accounts in the format prescribed by the Accountant General. Upon request of the LoCAL Lesotho Committee the Accountant General will affect the transfers.



The PBCRG will be transferred to the councils on annual basis. Funds will be allocated in January and paid no later than 1st April of each year.

Regarding the financing of local level ICM implementation, ICM implementation will *inter alia* contribute to achieve climate change resilience and is relevant to the thematic areas listed in the above investment menu. This suggests that the LoCAL model may be a suitable mechanism for funding ICM implementation at the community council level.

LoCAL-Lesotho builds on the Deepening Decentralisation Programme (DDP), implemented jointly by UNCDF and UNDP, which established the Local Development Grant, the only functional performance-based grant to Community Councils, and the practice of minimum conditions; but more understanding of this model will be

required. UNCDF has had experience with PBGs since the 90's and an analysis of the international experience was published in 2010. UNCDF through LoCAL further has another decade of experience with scoping, designing, launching and institutionalizing PBCRGs, as evidenced by the earlier pilots in Asia and western Africa, now under national scale.

A site visit by GIZ representatives was conducted in May 2021. The field trip has demonstrated that the LoCAL approach has been successful in channelling funds directly to the community councils. It has confirmed that the LoCAL approach works largely well in practice. This was also confirmed by various other SHs.

The main findings on the ground are:

- The LoCAL approach is proven to be cost efficient as it is only using existing government system
- Planning has proven effective as the measures selected were confirmed to be the priority for the communities, however LoCAL has replicated the planning and prioritisation process undermining the previous list provided from CC to DC.
- In terms of implementation the sustainability of the measure should be improved.
- LoCAL approach is not holistic as they look at the implementation of single measures rather than a more integrated plan for the catchment
- Many challenges are linked to the lack of capacity, institutional shortcomings, and the geographical conditions in Lesotho;

Annex 3: Best Practice (additional)

a) Best practice example from SA regarding sustainable revenue based ICM financing:

Below is an example of South Africa's provisioning in the Water Act (primary legal instrument), which has then provided impetus and helped realised subsidiary legislation in the form of the current 'raw water pricing strategy'. The detail for legislative reform in Lesotho's water Act will need to be carefully considered by legal Experts through the detailed drafting process.

Example: SA National Water Act (1998) Section 56 provisions

Pricing strategy for water use charges	15
56 (1) The Minister may, with the concurrence of the Ministry of Finance, from time to time by notice in the <i>Gazette</i> , establish a pricing strategy for charges for any water use within the framework of existing relevant government policy.	
(2) The pricing strategy may contain a strategy for setting water use charges	20
(a) for funding water resource management, including the related costs of—	
(i) gathering information;	
(ii) monitoring water resources and their use;	
(iii) controlling water resources;	
(iv) water resource protection, including the discharge of waste and the protection of the Reserve; and	25
(v) water conservation;	
(b) for funding water resource development and use of waterworks, including—	
(i) the costs of investigation and planning;	
(ii) the costs of design and construction;	
(iii) pre-financing of development;	30
(iv) the costs of operation and maintenance of waterworks;	
(v) a return on assets; and	
(vi) the costs of water distribution; and	
(c) for achieving the equitable and efficient allocation of water.	35
(3) The pricing strategy may—	
(a) differentiate on an equitable basis between—	
(i) different types of geographic areas;	
(ii) different categories of water use; and	
(iii) different water users;	
(b) provide for charges to be paid by either—	40
(i) an appropriate water management institution; or	
(ii) consumers directly;	
(c) provide for the basis of establishing charges;	
(d) provide for a rebate for water returned to a water resource; and	
(e) provide on an equitable basis for some elements of the charges to be waived in respect of specific users for a specified period of time.	45
(4) The pricing strategy may differentiate under subsection (3)(a)—	
(a) in respect of different geographic areas, on the basis of—	
(i) socio-economic aspects within the area in question;	
(ii) the physical attributes of each area; and	50
(iii) the demographic attributes of each area;	
(b) in respect of different types of water uses, on the basis of—	

b) Best practice considered: Excursus on an Independent Economic Regulator Model

OECD Definition of Independent Regulators:

*“Regulators operate in a complex environment at the interface among public authorities, the private sector and end-users. As “referees” of the markets that provide water, energy, transport, communications, and financial services to citizens, they must balance competing wants and needs from different actors. This means that they must behave and act objectively, impartially, and consistently, without conflict of interest, bias or undue influence - in other words, independently. What distinguishes an independent regulator is not simply institutional design. Independence is also about finding the right balance between the appropriate and undue influence that can be exercised through the regulators’ daily interactions with ministries, regulated industries and end-users.”*¹³⁰

In theory independent regulators are bodies that operate autonomously outside undue influence from political forces or private entities. That in itself makes it an attractive model for further consideration in Lesotho, given concerns surrounding political instability and corruption. Such a model could also be seen as favourable to outside investors.

Independent Regulator for Lesotho:

Lesotho requires a formalized independent ‘economic regulator’ for the water sector. Currently the Lesotho Electricity and Water Authority (LEWA) is seen as such a body regulating both electricity and urban water and sewerage services since 2013.

¹³⁰ <https://www.oecd.org/gov/regulatory-policy/being-an-independent-regulator-9789264255401-en.htm>

The status of this body may however require review to ensure that functions and implementation capacity are adequate to cater for the needs of water sector and ICM objectives. Any legislative reform as recommended above i.e., in the form of provisions in primary legislation and sub-regulatory pricing schedules will need to be aligned. An in-depth institutional / governance assessment may be required in order to utilize LEWA to an appropriate ‘realized mandate’.

The key function of the independent Economic Regulator within the water sector currently has an initial focus of addressing critical challenges in water services through varied sector use for e.g., Commercial Agriculture to Municipal Water Use. Water services is noted as a critical area of expansion in Lesotho and therefore a key impact on ICM objectives.

Example focused on Key Water Service Challenges:

- Insufficient investment in maintenance, refurbishment, and replacement of infrastructure.
- Poor management of services – water security, water quality, etc
- High levels of unaccounted for water – theft, wastage, unbilled.
- Areas still unserved, particularly in sanitation.
- Weak tariff setting and billing.
- Value for money in use of national/local grants
- High levels of debt within the sector.

The current remit of LEWA in addressing the above, would need to be better understood. The ‘Economic Regulator Model’ would need to be teased out and expanded to cater for a model that adequately responds to water sector and ICM needs. Reviewing the current LEWA model will enable an assessment and possible required reforms for formalized revenue across all economic sectors to be directed towards ICM objectives. It should be noted that the sub-regulation on pricing as mentioned above i.e., ‘water pricing schedules’ etc. would fall under the remit of LEWA as the regulator to formulate, implement and manage.

In conclusion, it must be stated that any new legislation on permitting, and charging requires an independent water regulator in Lesotho. Current SADC practice confirms that the establishment of independent water regulators may be the most appropriate way forward.

It is hence recommended that further assessment of the current regulator model is a way forward.

Annex 4: Documents found relevant and reviewed

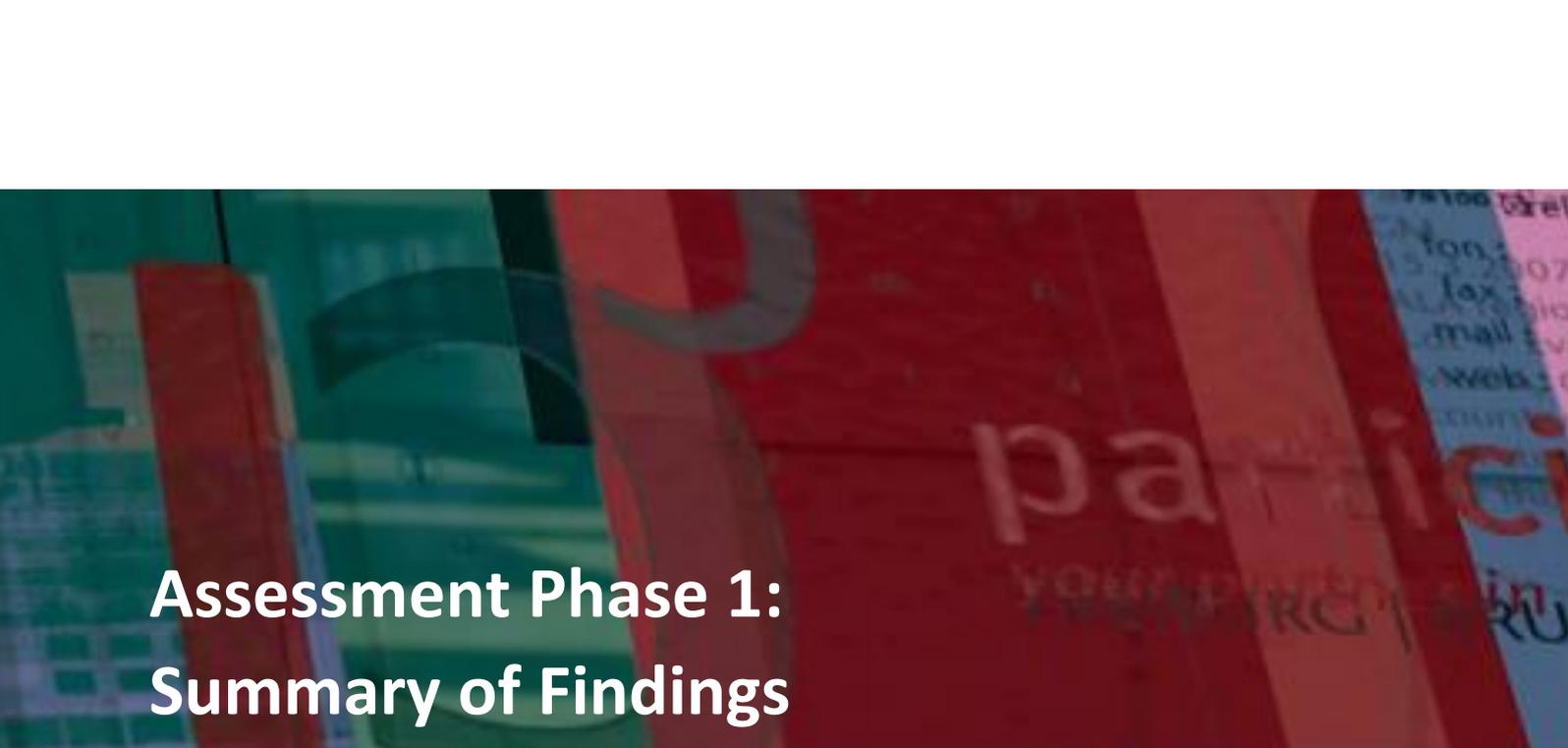
The below listed documents were identified as being relevant for the detailed review:

- Lesotho National strategic development plan 2018/19-2022/23
- ORASECOM Feasibility Study for the Development of a Mechanism to Mobilize Funds for Catchment Conservation (2004 & 2009)
- Notes on financing water resources management -Background report for the OECD Expert Meeting on Water Economics and Financing
- Corporate Social Responsibility and Environmental Policy of key private sector stakeholders from e.g., mining, tourism and aquaculture (where available / if published)
- GED Small Grants Programme
- Catholic Relief Services (funded through GIZ) Integrated Catchment Management in Lesotho” project, (grant agreement between CRS and GIZ)
Involves engaging communities in natural resource management and livelihoods in Lesotho. The initial phase of the project is for 2 years with a possibility of extension.
- Regional / Local level community-based projects across different sectors in Lesotho/Other – provide insight on good projects we can draw from;-
- GEM Diamonds (Let’sing Diamond Mine)
- Storm Mountain Diamonds
- SanLei
- Tourette Fishing Safaris
- Afri-ski Leisure

- African Development Bank / Development Bank of Southern Africa
- USAID Financing and Investment Mechanisms for upscaling climate change adaptation in Lesotho
- Protection of The Orange-Senqu Water Sources ‘Sponges’ Project’ LESOTHO funded through ORASECOM
- Metolong Dam Integrated Catchment Management Plan
- Examples of tourism initiatives
 - Mentioned previously - There have been a number of donor funded interventions around community based natural resource management (which contribute to ICM) and ecosystems-based adaptation (e.g., ENOPS and USAID) – in the initial review perhaps review a short-list of those that would be useful to unpack (later look at the community models; processes; funding component)
 - Funding component: Localised community-based funding mechanisms that have been successful in the above context – a detailed view would be good to understand. Keep in mind short to long-term ICM revenue & sustainability view.
- Lesotho Water and Sanitation Policy of 2007 (LWSP)
- Long-term Water and Sanitation Strategy of 2016 (LTWSS)
- White Paper: Review of Lesotho Water Legislation, 2018
- SADC Guidelines for the development of national water policies and strategies to support IWRM, 2004
- Status Report on the Implementation of Integrated Water Resources Management in Africa, 2018 A regional report for SDG indicator 6.5.1 on IWRM implementation, Sect. 4 and 5
- National Range Resources Management Policy, 2014, Sections 4.1.1, 4.1.2 and 4.4, Section 1.1.8
- Financing of water resources management, 2012, Case studies on Ghana, South Africa and Uganda
- Integrated Water Resources Management and Water Efficiency (IWRM/WE) Main Report 2008, 2007-2030, Volume 1
- The Forestry Act, Section 7 and 9 (3) d and 18
- Operationalisation of Integrated Catchment Management Framework Lesotho, February 2017 – March 2018
- Range Management and grazing control regulations,
- Final Report, Operationalisation of Integrated Catchment Management Framework
- National Decentralisation Policy 2014
- Financing International River Basin Organizations, PP Second Workshop “River Basin Commissions and Other Joint Bodies for Transboundary Water Cooperation: 2014, Geneva, Switzerland, Dr Susanne Schmeier, GIZ –Transboundary Water Management
- Guidelines for Financing Catchment Management Agencies in South Africa; “Development of guidelines for the financing of catchment management in South Africa” 2001
- Water and Sewerage Company Act No. 13 of 2010
- Public Enterprises Act
- Lesotho Electricity Authority (Amendment) Act No. 24 of 2011
- The Local Government Act of 1997, Section 47: funds, inter alia fees, charges levies, also revenues from services
- Lesotho Land Act, 2010, Part XIII
- Land Regulations 2011 and its 5 schedules
- Land Administration Authority Act 2010, Part V
- Handbook by Ramohapi Shale: *A Practical Guide to Community Participation in Lesotho’s Local Governments, 2017 (published by the GIZ)*
- *Issue Paper for the Reform of Local Government Act 2015* (prepared by Jaap de Visser and Ramohapi Shale for the Ministry of Local Government and Chieftainship)
- Government Concept Note on Fiscal Decentralisation;
- The Water Act of 2008, Sections 15, 16 and 18 and in the Guiding Principles

- The Environment Act of 2008, Sections 59 and 61
- Public Financial Management and Accountability Act, 2011
- Mines and Minerals Act
- Study on assignment of functions to local authorities in Lesotho, by Ntate Hoolo 'Nyane, 2016
- Loans and Guarantees Act 1967
- Treasury Regulations 2014
- Lesotho Constitution
- Deepening Decentralization project final report UNDP
- Lesotho Highlands Water Project (P.1) Policy for Instream Flow Requirements of 2002
- Lesotho Highland Development authority Order of 1986
- Lesotho Action plan for the Orange Senqu River Basin (2014)
- National wetland strategy
- Report on budget support restoration Lesotho, EU, May 2019
- National irrigation master plan
- NSDP II
- LoCAL ("*Lesotho Logic of Intervention*", "*LoCAL Brochure 2020*", and "*LoCAL investment Menu*").

Interim Report



Assessment Phase 1: Summary of Findings

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List of abbreviations and acronyms

AENRC	Agriculture, Environment and Natural Resources Commission	LFNP	Lesotho Food and Nutrition Policy 2016-2025
AUC	African Union Commission	LG	Local Government
CBO	Community-based organization	LGA	Local Government Act
CC	Community Council	LHDA	Lesotho Highlands Development Authority
CCA	Climate Change Adaptation	LHWP	Lesotho Highlands Water Project
CCS	Community Council Secretary	LMS	Lesotho Meteorological Services
CCSAP	SADC Climate Change Strategy and Action Plan	LoCAL	Local Climate Adaptive Living
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	LTWSS	Long-Term Water and Sanitation Strategy 2016
CMJC	Catchment Management Joint Committee	LWSP	Lesotho Water and Sanitation Policy 2007
CMP	Catchment Management Plan	MAFS	Ministry of Agriculture and Food Security
CN	Concept Note	MoDP	Ministry of Development Planning
CoW	DWA Water Commission	MEM	Ministry of Energy and Meteorology
CRS	Catholic Relief Services	MoF	Ministry of Finance
DA	District Administrator	MFRSC	Ministry of Forestry, Range and Soil Conservation
DAO	District Agricultural Officer	MGYSR	Ministry of Gender, Youth, Sports & Recreation
DC	District Coordinator	MoLGCA	Ministry of Local Government and Chieftainship Affairs
DCS	District Council Secretary	MTEC	Ministry of Trade, Environment, and Culture
DEAP	District Environmental Action Plan	NAPA	National Adaptation Programme of Action
DMA	Disaster Management Authority	NBSAP	National Biodiversity Strategy and Action Plan
DRWS	Department of Rural Water Supply	NCCC	National Climate Change Committee
DTT	District Technical Team	NDP	National Development Plan
DWA	Ministry of Water: Department of Water Affairs	NEAP	National Environmental Action Plan
EA	Environment Act 2008	NSDP	National Strategic Development Plan
EIA	Environmental Impact Assessment	NGO	Non-Governmental Organization
EU	European Unit	NRM	Natural Resources Management
GIZ	Gesellschaft Für Internationale Zusammenarbeit	ODA	Official Development Assistance
GWP	Global Water Partnership	OECD	Organisation for Economic Co-operation and Development
HRBA	Human Rights Based Approach	OHCHR	United Nations High Commission for Human Rights
IEC	Information, Education and Communication	ORASECOM	Orange-Senqu River Commission
ICM	Integrated Catchment Management	OVCs	Orphans and Vulnerable Children
ICU	ICM Coordination Unit	PEFA	Public Expenditure and Financial Accountability
IWRM	Integrated Water Resource Management	PFM	Public Financial Management
IWRM/WE	Integrated Water Resources Management and Water Efficiency	PFMA	Public Financial Management and Accountability Act 2011
LAA	Land Administration Authority Act 2010	SA	South Africa
LCN	Lesotho Council of NGOs	SADC	Southern Africa Development Community
LEC	Lesotho Electricity Company	SDGs	Sustainable Development Goals
LEWA	Lesotho Electricity and Water Authority	SLM	Sustainable Land Management
		UNFCCC	United Nations Framework Convention on Climate Change
		WASCO	Water and Sewerage Company

Executive Summary

Background and Purpose of the Report

This report is provided as a deliverable under the ‘Support to Policy Harmonisation in Integrated Catchment Management’ in the Kingdom of Lesotho (‘the project’) implemented by Particip GmbH, Freiburg, Germany (‘the Consultant’) under the GIZ ICM programme. The overall objective of the Policy Harmonisation task is to develop recommendations for a coherent policy framework for the effective implementation of ICM in Lesotho, which clearly identifies and addresses priority national concerns regarding land and ecosystem degradation, declining water resources quantity and quality, and increasing water demand with due consideration for gender equality and climate change adaptation principles.

This report marks the conclusion of the Assessment Phase 1 stage of the project which focused on the collection and assessment of relevant policy documentation. This report provides a summary of the preliminary findings resulting from this early stage research. These findings are intended to inform the prioritisation of legislative and policy instruments and materials to be analysed in greater depth in Assessment Phase 2 of the project.

Approach and Methodology

A uniform approach to the mapping and systematic analysis of all legislative and policy instruments was employed for the Assessment Phase 1 research, which identified the scope of application, primary policy objectives, relevant Institutions; mechanisms for enforcement, review and appeals; and provision for public participation, capacity building and record-keeping. Each policy instrument was then assessed against the key ‘fitness for purpose’ criteria for ICM implementation identified in the project’s Analytical Framework including effectiveness; cross-sectoral application; proportionality; currency; consistency; and participatory approach. The mapping and analysis of each policy was captured in a matrix format which has been made available to GIZ and the ICM Coordinating Unit of the Government of Lesotho via a file sharing platform. These matrices will continue to be updated throughout the Policy Harmonisation process as additional information becomes available through research, stakeholder engagement, and analysis.

Key Findings of Assessment Phase 1

The key preliminary findings of the Assessment Phase 1 state are highlighted here:

National Policy Harmonisation

- The Environment Act 2008 may be able to provide an overarching, national level policy framework for ICM implementation in Lesotho. This possibility will need to be further assessed and confirmed through stakeholder consultations in Assessment Phase 2. The Act also requires a District Environmental Action Plan which could Impact on ICM Implementation at the local level. The application of regulations for Strategic Environmental Assessment could also support ICM objectives.
- The Water Act and the Environment Act establish separate tribunals to settle disputes which poses the potential for overlap of mandates and jurisdiction. Furthermore, the current status of these tribunals will need to be assessed In Assessment Phase 2 to determine their effectiveness.
- There is a lack of clarity regarding the criteria applicable to the designation of catchments under section 15(1) of the Water Act 2008, and regarding the elaboration of catchment management plans (CMPs) under section 16. This will need to be resolved to facilitate the establishment of local level catchment plans as planned under Output 2 of the ICM project.

- The National Wetlands Conservation Strategy refers expressly to ‘catchment management’ and articulates a number of guiding principles supportive to ICM implementation; however, Implementation of these principles is not immediately evidenced in Lesotho. Stakeholder engagement during the Assessment Phase 2 stage will seek to explore this disconnect further.

Gender sensitive policy framework and rights-based approach to ICM

- At the international level, a number of conventions and articles focussing on human rights and gender incorporate ICM implicitly while others address elements of ICM explicitly, for example the realisation of the human right to water.
- At a regional level (SADC), ICM related policy and strategy tend to have a gender specific focus, rather than a broader rights-based focus.
- The Government of Lesotho is signatory to a number of international conventions on rights- and gender equality and has a number of national policies reflecting its commitment to these conventions. These policies do not refer specifically to ICM, but the thematic and sector approaches do accommodate ICM.
- In general, the national rights-based and gender policy tends to be relatively broad with limited specific details. It is also yet to be given effect through regulations or action plans. Information on financial resourcing and budgets for implementation are also not yet evident. There appear to be challenges with practicality of enforcement measures, for example on issues such as the use of child labour, human trafficking, and land security for women and orphans and vulnerable children (OVCs).

Climate sensitive policy framework for ICM

- There are a number of international conventions and strategies, and there are well defined strategies at SADC level, which guide national level policy and action. The relevance to elements of ICM and the cross cutting nature of adaptation is clear.
- The Government of Lesotho is a Party to the United Nations Framework Convention on Climate Change and has developed a number of key national policies. A number of these policy statements and strategies have direct relevance to ICM, and the Climate Change Policy (2017) in particular focusses on enhancing resilience of water resources by promoting ICM.
- High level action plans have been prepared at regional and national level, however challenges in implementation have been highlighted including weak institutional capacity for finance mobilization, inadequate financing mechanisms, and a general lack of detail on timelines and the responsible parties. The lack of decentralisation and potential consequences have also been highlighted.
- The role of the National Climate Change Coordination Committee in enhancing cross cutting / mainstreaming has been highlighted, but the level of effectiveness and local level implementation across Ministries is still unclear.

Decentralization and Local Implementation of ICM

Legislative Reform

- Enabling regulations of the Acts in most instances have not been promulgated.
- Several sectoral ministries have not responded to the call for decentralisation to local authorities. Transfer of functions regulations only refer to ministries related health, land, social development, energy, forestry (inclusive of land management, water conservation and range resources management).
- Many old laws need to be updated, and in some instances new laws have become difficult to enact.
- Lack of enforcement of laws has become a serious concern, especially due to inadequate capacity of local authorities.
- In many cases, penalties for enforcement of laws by the courts are outdated and therefore ineffective.
- There is a need to enhance stronger synergy between Chiefs and Councils because some laws empower the traditional authorities (e.g., impoundment of livestock caught trespassing in *leboella*).

Policy and Strategies Update

- In order to implement local level ICM, decentralization reforms are required in order to fast track the shifting of roles, responsibilities and mandates to the local level.

- Monies collected by the Councils get deposited into government's central Consolidated Fund, and therefore inaccessible for their needs.
- Lesotho being the tower of water resources in southern Africa, wetlands' current challenges are identified and discussed in some detail. However, other issues such as the legislation, policy and financing seem not to be well taken care of.

Technical Guidance

- There is inadequacy of guidelines for local authorities to be empowered to implement policies and laws to take sufficient actions (e.g., Environment Act 2008).
- In most instances, there is no transfer of ownership of some resources (e.g., forests) to local councils to manage and accrue income to meet community development needs.
- Report addressing harmonization of legislation through cooperative governance approaches contains no analysis or specific recommendations regarding the local regulatory framework.
- The role of local authorities in transboundary activities is not well considered

Financing mechanism to implement local level ICM plans

1. There is no existing local level ICM funding mechanism or a detailed legal basis for a funding mechanism on the local level. However, the general legal basis for a needed funding mechanism exists in acts and policies regarding decentralization in general and in authorizing councils to collect and spend revenues. The existing policies and acts generally allow both short and long-term funding mechanisms, as well as external grants and revenue-based mechanisms.
2. Recommendations for a more detailed legal basis were made and must be operationalized, specifically detailed content on how funds are allocated and how they must be spent is lacking. Local governments still have significant unfunded mandates and the revenue and tax sources for local authorities appear to be inadequate, while the central government remains responsible for all financial controls.
3. The various "Framework Acts" on water, environment, etc. provide sources of funds but no objectives or guidelines how to allocate or use these. There is no detailed permitting or charging regime for water or land use and implementation and enforcement of existing permitting and charging is generally poor. Finally, the institutional capacity in terms of qualified staff for administering and monitoring funds management is problematic.
4. On a more optimistic note, there are numerous studies, reports, or issue papers on all relevant aspects of fiscal decentralization that are directly applicable to local government ICM financing. Many recommendations are helpful, especially the DDP of UNDP and the CN on fiscal decentralization recommendations. There are also examples of good practices in neighbouring countries and other sub-Saharan countries that can provide lessons for Lesotho.
5. The general approach of LoCAL of using existing government financial systems rather than project or parallel approaches must be further investigated. The tools of Letsema and self-regulation should be applied in practice.

Next Steps of the project

This Summary of Preliminary Findings Report marks the conclusion of the Assessment Phase 1 stage of the Policy Harmonisation Project. Beginning in late-February 2021, the project will transition to Assessment Phase 2 which will provide for a more in-depth analysis of those priority policies identified in Phase 1 and will provide recommendations for medium to long-term policy reform support. During this phase, broad stakeholder engagement will be undertaken in accordance with the project's Stakeholder Engagement Plan. It is anticipated that Phase 2 will conclude in August 2021 followed by a one-month Phase 3 stage during which the findings and recommendations for policy reform will be finalized and presented in a final project report.

1 Introduction

1.1 Background

Considered the “water tower” of Southern Africa, Lesotho is blessed with a unique geographic location, contributes immensely to the annual runoff of the water which supplies majority of the water consumed by 12 million people in the South African province of Gauteng. Unfortunately, due to unsustainable land use patterns leading to land degradation, erosion and aggravated by climate change, this natural resource faces significant threat. The combined forces pose a risk to the urban and rural livelihoods in Lesotho, South Africa, and the rest of the Orange-Senqu basin, thus inherently creating a stumbling block to the socio-economic development of these areas.

It is against this background that the Government of Lesotho has embarked on a national programme for Integrated Catchment Management, known as 'ReNoka', in order to rehabilitate degraded watersheds across Lesotho and to put in place mitigating efforts that will halt any further degradation of Lesotho's catchment areas. To achieve this, the government of Lesotho has partnered with European Union (EU) and the German Federal Ministry for Economic Cooperation and Development (BMZ), through the Transboundary Water Management programme (TWM) in the SADC region, which aims to address these challenges through a technical cooperation programme, “Support to Integrated Catchment Management” (ICM) in Lesotho which is implemented by GIZ and led by the National ICM Coordinating Unit (ICU) in the Government of Lesotho.

This report is provided as a deliverable under the ‘Support to Policy Harmonisation in Integrated Catchment Management’ in the Kingdom of Lesotho (‘the project’) implemented by Particip GmbH, Freiburg, Germany (‘the Consultant’) under the GIZ ICM programme. The overall objective of the ICM programme is to “[...] facilitate socio-economic development and adaptation to climate change in Lesotho” to reach the specific objective of “ICM [being] institutionalised and under full implementation in Lesotho based on gender equality and climate change adaptation principles.”

The ICM programme aims to achieve five interlinked outputs:

1. An effective and efficient gender sensitive and climate-resilient policy framework for ICM is developed and applied.
2. Effective and efficient institutions for ICM are established, with equitable representation of women and youth.
3. Capacity, skills and knowledge of public, private sector and civil society for sustainable ICM is facilitated.
4. ICM measures are implemented.
5. Capacities are strengthened for coordination, monitoring, supervision and general programme management.

The Policy Harmonization project is mostly focused on support for Output 1 (policy framework); however, it also supports Output 2 regarding the development and testing of financing mechanisms for local ICM plans, as these mechanisms are vital for the establishment of effective and efficient institutions. The project has been divided into 5 distinct but interrelated workstreams including:

- Workstream 1: National Policy Harmonisation
- Workstream 2: Gender sensitive policy framework and rights-based approach
- Workstream 3: Climate sensitive policy framework
- Workstream 4: Decentralisation cluster
- Workstream 5: Financing mechanism to implement local level ICM plans

Workstreams 1-4 support ICM Output 1 while Workstream 5 supports ICM Output 2.

1.2 Purpose of this Report

There exists considerable risk of policy ‘fragmentation’ across the various legislative and policy instruments that are relevant to the implementation of ICM in Lesotho. Such instruments include those addressing the management of a range of natural resources, environmental media and related activities, including freshwater resources

management, environmental protection and biodiversity conservation, agriculture and land management, spatial planning and development control. Therefore, the overall objective of the Policy Harmonisation task is to develop recommendations for a coherent policy framework for the effective implementation of ICM in Lesotho, which clearly identifies and addresses priority national concerns regarding land and ecosystem degradation, declining water resources quantity and quality, and increasing water demand with due consideration for gender equality and climate change adaptation principles.

This preliminary review summarizes the interim deliverables of Assessment Phase 1 for all workstreams. The preliminary findings are intended to inform the prioritisation of legislative and policy instruments and materials to be analysed in greater depth in Assessment Phase 2 of the project. To further note, Assessment Phase 2 will also encompass the main activities in regard to stakeholder engagement as agreed with the National ICM Coordination Unit in the Government of Lesotho (ICU) and GIZ and recorded in the Monthly Progress Report October 2020.

1.3 Methodology

The general methodological approach for the Policy Harmonisation study includes the following key tasks:

- i. Review and analysis of experience gained in recent policy and legislative reform initiatives in Lesotho (e.g., regarding reform of the Rangeland Management Act or implementation of the ongoing process of decentralisation) with regards to ICM.
- ii. Identification and collation of policy and legal measures relating to (relevant aspect of) ICM.
- iii. Review and analysis of policy and legal measures relating to ICM.
- iv. Targeted stakeholder consultation.
- v. Development of preliminary recommendations regarding priority policy and/or legal measures necessary for ICM implementation in Lesotho.
- vi. Wider stakeholder consultation.
- vii. Finalisation of outputs on priority rights based and gender-sensitive aspects of ICM.

The Assessment Phase 1 stage of the project covers the first three steps and has sought to identify all legislative and policy instruments relevant to ICM and to conduct a preliminary review and analysis of the substantive content and instrument design of the key instruments amongst this list. The remaining four steps will be addressed in the subsequent phases of the project.

The initial list of key reference documents was compiled during the inception phase of the project. This material was sourced for this review and expanded on as additional material was identified. The material includes a combination of national, regional and international documents.

A uniform approach to the mapping of all legislative and policy instruments was achieved for all Workstreams by using a Policy Instrument Mapping Template developed for the project. This allowed the consultants to set out in a systematic manner the scope of application of each instrument; its primary policy objectives; the administrative institutions involved; the relevant mechanisms for enforcement, review and appeals; and provision for public participation, capacity building and record-keeping. In this way, this template facilitated team members in the early identification of possible regulatory gaps, inconsistencies or inefficiencies.

Similarly, systematic analysis of each the key legislative and policy instruments was conducted by all Workstreams using a Policy Instrument Review Template also developed for the project. This template facilitated the structured assessment of each instrument against the key 'fitness for purpose' criteria (as regards ICM implementation) identified in the Analytical Framework developed for this project and presented in the Inception Report including effectiveness; cross-sectoral application; proportionality; currency; consistency; and participatory approach as shown in Figure 9.

Copies of the mapping and review matrices for all workstreams have been made available to GIZ and ICU via a file sharing platform. These matrices will continue to be updated throughout the Policy Harmonisation process as additional Information becomes available through research, stakeholder engagement, and analysis.

Analytical Framework

Key Assessment Criteria

Effectiveness:

- ✓ Appropriate re key elements and objectives of ICM
- ✓ Practicable, implementable

Holistic, cross-sectoral:

- ✓ Links land & water use; development & ecosystems; integrated management framework; national policy; global, regional commitments; vertical integration/ fragmentation

Proportionality:

- ✓ Likelihood to achieve its aims; necessary; cost-effective; equitable distribution of costs/benefits

Currency:

- ✓ Outdated or obsolete
- ✓ Requires updating or consolidation/codification

Consistency:

- ✓ Promotes / runs counter to key elements and objectives of ICM
- ✓ Conflicts with national measures; coheres with international and regional commitments

Equitable participation:

- ✓ Awareness; transparency; participation; reviewability



Figure 9 Key Policy Assessment Criteria

Using this template, a preliminary review has now been conducted for each of the key instruments identified above for the purpose of identifying strengths, as well as (possible) weaknesses, gaps or other shortcomings.

Workstream 5 is distinct from the other workstreams as legislation was not strictly reviewed against ICM objectives. The purpose of the review for this workstream is identifying financing mechanisms, or the legal basis for such mechanisms, in law, or other enactments. Sections or chapters that are relevant for finance mechanisms may not always mention criteria and elements of ICM. In fact, several acts and documents reviewed have no focus on ICM elements but are nevertheless relevant for a financing mechanism for ICM implementation. Thus, the Workstream 5 team used a different table as a guideline for the review which described mostly relevant review findings in narrative text format.

2 Summary of Findings from Policy Harmonisation Workstreams

2.1 Workstream 1: National Policy Harmonisation

2.1.1 Introduction/Objectives

The key objective of Workstream 1 is to develop a coherent legislative and policy framework for ICM implementation in Lesotho. This will involve avoiding fragmentation, inconsistency, overlap / duplication, bottlenecks, and regulatory gaps. Workstream 1 will also seek to ensure (vertical and horizontal) policy integration and coherence in institutional roles.

2.1.2 Preliminary Findings

A preliminary review has been undertaken of the following instruments included in the 'master' list above and identified as particularly relevant for the implementation of ICM in Lesotho, as provided in Table 1.

Table 1 Workstream 1: Summary of Preliminary Findings

Sector	Policy, Act, Regulation	Preliminary Findings
Water Resources	Water Act 2008	<p>(a) The Water Act 2008 might be revised to expressly address ICM, perhaps in the preambular paragraphs, though section 3 includes IWRM among relevant principles for water resources management.</p> <p>(b) Section 2 of the 2008 Act only includes national or international level institutions among 'water management institutions', which would appear to run counter to the general policy of decentralisation in Lesotho, although section 15 provides that '[a] local authority shall be responsible for the management of catchment areas in its area of jurisdiction'.</p> <p>(c) Section 9 of the 2008 Act establishes a Tribunal to settle water resources management-related disputes, though there is potential for its jurisdiction to overlap confusingly with that of the Environmental Tribunal established under Part XIV of the Environment Act 2008. Perhaps these should be merged, or one tribunal might be conferred with jurisdiction over ICM-related matters.</p> <p>(d) There is a lack of clarity regarding the criteria applicable to the designation of catchments under section 15(1) of the Water Act 2008, and regarding the elaboration of catchment management plans (CMPs) under section 16.</p> <p>(e) There is no requirement in the 2008 Act for CMPs to be coordinated with development plans adopted under sections 5-7 of the Town and Country Planning Act 1980, or with other ICM-related planning (<i>e.g.</i>, the NEAP or DEAP adopted under the Environment Act 2008, <i>etc.</i>).</p> <p>(f) It is not clear how permitting decisions under sections 20-24 and 27 of the Water Act 2008 will take account of relevant requirements of ICM implementation.</p> <p>(g) Generally, the 2008 Act is very much focused on the management of water resources to the exclusion of other, related environmental media in a manner inconsistent with the requirements of ICM.</p> <p>(h) The Water and Sanitation Policy 2007 is fully aligned with ICM principles, seeking to promote a holistic, integrated catchment approach, while balancing water resources development and management with the widest possible provision of water and</p>
	Water and Sanitation Policy 2007	
	Long-Term Water and Sanitation Strategy 2016	
	Integrated Water Resources Management Strategy	
	Lesotho Action Plan for the Orange-Senqu River basin 2014	
	Lesotho Highland Development Authority Order 1986	
	National Wetlands Conservation Strategy	

		<p>sanitation services. The 2007 Policy calls for the introduction of a comprehensive legislative and regulatory framework, many aspects of which cohere with the objectives of ICM. The Policy calls for broad public participation and stakeholder consultation.</p> <p>(i) The Lesotho Action Plan for the Orange-Senqu River basin 2014 identifies four main threats to the aquatic and terrestrial environment within the basin and seeks to address these problems by means of four detailed ‘concept notes’.</p> <p>(j) The Long-Term Water and Sanitation Strategy 2016 includes all the principal elements of ICM, aiming at economic development and improved livelihoods by means of sustainable management of water resources and land. The Strategy promotes the general policy of decentralisation / subsidiarity by providing that catchment management activities will be implemented by local councils and communities and requiring that Catchment Management Joint Committees be composed of representatives of the relevant district. It advocates for meaningful transparency and access to information, as well as a participatory approach.</p> <p>(k) The Lesotho Highlands Water Project Policy for Instream Flow Requirements 2002 impacts upon several ICM related issues, including: environmental criteria and community user requirements; environmental objectives of flow manipulations; and compensation mechanisms for adverse impacts of flow manipulations. Due to the subject-matter involved, the 2002 Policy necessarily provides extensively for public participation and stakeholder engagement.</p> <p>(l) The National Wetlands Conservation Strategy refers expressly to ‘catchment management’ and articulates a number of guiding principles supportive to ICM implementation. In addition, it includes a number of strategic objectives that will be of practical significance for ICM, including: development of a comprehensive wetlands inventory and database; development of Information, Education and Communication (IEC) materials; decision-making support; and research programmes on wetlands conservation. It further emphasises stakeholder participation in the management of wetlands, strengthening public outreach and improving cooperation between stakeholders and institutions at all levels.</p>
<p>Environment</p>	<p>Environment Act 2008</p>	<p>(a) The National Biodiversity Strategy and Action Plan (NBSAP) provides a policy framework for, <i>inter alia</i>, benefit-sharing from communally-owned resources, application of the ‘user-pays’ principle to communally-owned resources, improved law enforcement by direct involvement of communities, empowerment of communities in managing biological resources / diversity, and raising awareness among communities regarding the value of biodiversity.</p>
	<p>National Environment Policy 1998</p>	<p>(b) The National Climate Change Policy 2017-2027 identifies a need to devolve climate action (related to ICM) to local authority levels.</p>
	<p>National Biodiversity Strategy and Action Plan 2000</p>	<p>(c) There is a need to add a new objective to the Lesotho National Action Programme in Natural Resource Management, Combating Desertification and Mitigating the Effects of Drought, so as to ensure review and rationalisation of the labour-intensive land rehabilitation programme (fato-fato), which should be subject to cost-benefit analysis.</p>
	<p>National Wetlands Conservation Strategy 2013/14 – 2018/19</p>	<p>(d) The Lesotho Settlement Policy (final draft) is understood to require a radical overhaul.</p>
	<p>National Climate Change Policy 2017-2027</p>	
	<p>Lesotho National Action Programme in Natural Resource Management, Combating Desertification</p>	

	and Mitigating the Effects of Drought 2005	(e) The Managed Resource Areas Order 1993 is considered obsolete, and a revised version should be incorporated into the (draft) Nature Conservation Bill. (f) The National Environment Policy for Lesotho 1998 ought to be reviewed regarding the lack of mention of decentralised functions of environmental protection. (g) The National Wetlands Conservation Strategy ought to be reviewed regarding its non-inclusion of human settlements.
	Managed Resource Area Order 1993	
	National Settlement Policy 1990	
	National Heritage Resources Act 2011	
Range Management & Agriculture	(Draft) Range Management Act	(a) The National Range Resources Management Policy explicitly emphasises the need to manage water resources; however, it also notes weak enforcement capacity in ministry. (b) The Land Administration Authority Act provides for the establishment of the Land Administration Authority as the main body responsible for land administration, land registration, cadastre, mapping and surveying and other incidental matters. (c) Lesotho Food and Nutrition Strategy focuses exclusively on WASH as an intervening variable to improve health, with limited attention for agricultural and gardening productivity. No other elements of ICM/IWRM included.
	National Range Resources Management Policy 2014	
	Agricultural Sector Strategy 2003	
	Afforestation Programme 2005	
	(Draft) Policy for Soil and Water Preservation	
	Land Act 2010	
	National Vision 2020	
	National Action Plan for Food Security 2007-2017, CAADP	
	Lesotho Food Security Policy, 2005	
	LSO 2016 Food and Nutrition Policy	
	SADC 2014 Food and Nutrition Security Strategy 2015 – 2025	
	Lesotho Food and Nutrition Policy (LFNP) 2016-2025	
	Land Administration Authority Act, 2010	
Land Use & Development Planning	Local Government Acts 1997 & 2004	(a) The land-use planning / development control system already in place in Lesotho offers a primary statutory vehicle for the implementation of ICM. This might be achieved by means of a legislative revision requiring local authorities to include ICM objectives or elements thereof among the (mandatory) objectives of the development plan to be adopted under sections 5-7 of the Town and Country Planning Act 1980 (as amended). It should be noted that section 21 confers upon the Minister the power to make regulations to give effect to the provisions of the 1980 Act. The development plan is updated every five years permitting incremental implementation of critical elements of ICM, as appropriate on a local area basis.
	Town and Country Planning Act 1980	
	Lesotho Land Act 2010	
	Environment Act 2008	
	National Strategic Development Plan II 2019-23	

National Irrigation Master Plan and Investment Framework 2020	(b) The established land-use planning / development control system in Lesotho makes extensive provision for equitable and meaningful public participation in administrative decision-making thereunder, which would be automatically extended to ICM-related decision-making thereunder.
National Decentralisation Policy 2014	(c) The functions of local authorities, as set out under section 5 of the Local Government Act 1997 (as amended), might be revised in order clearly to include functions related to implementation of ICM, or of critical elements thereof. This would align the 1997 Act with a revised Town and Country Planning Act 1980, as regards ICM implementation.
Long-term Water and Sanitation Strategy 2014 (Activity 3.6.5 - Catchment Management and Development Plans	(d) Sections 28-30 of the Local Government Act 1997 (as amended) can help to ensure vertical integration and policy coherence by ensuring conformity of the District Development Plan to the National Development Plan.
Lesotho Compensation Policy 1997 and 2002	(e) The Lesotho Land Act 2010 provides a legislative basis of the grant of leases of land and/or expropriation, acquisition and redistribution of land in furtherance of key objectives of ICM / key elements of ICM implementation. Decisions are to be taken under the 2010 Act in accordance with planning law and, thus in a manner consistent with the objectives set out in a (revised) development plan. Some legislative revision might be necessary in order to clarify these objectives and/or to elaborate upon the concept of 'public purpose' or 'public use' under the 2010 Act.
ICM Watershed Development Guideline 2019	(f) In taking measures under the Land Act 2010, the authorities would need to have careful regard to the relevant protections under the Lesotho Constitution, including Article 11 on the right to respect for private and family life, and Article 17 on the right to freedom from arbitrary seizure of property.
Process for Development of Draft Catchment Management Plans 2021-23 (2020)	(g) The Land Act 2010 appears to align with the Town and Country Planning Act 1980 and the Local Government Act 1997 as, under all three, planning control and land allocation functions are vested in the local councils. (h) The Environment Act 2008 can provide an overarching, national level policy framework for ICM implementation in Lesotho. Section 16 of the 2008 Act requires the elaboration of a five-year National Environmental Action Plan (NEAP) guiding the management and protection of the environment and natural resources of Lesotho. The requirements of ICM implementation can be included in the NEAP. (i) The 2008 Act also requires the elaboration of a five-year District Environmental Action Plan (DEAP), which must be in conformity with the NEAP, thus ensuring vertical integration of policy. (j) The 2008 Act might be revised to require both the NEAP and the DEAP to include specific requirements of ICM implementation, and to require that the objectives of both the NEAP and DEAP are reflected in local development plans. Alternatively, this might be achieved by means of section 70 of the 2008 Act, which provides for the issuance of environmental standards and guidelines in respect of land-use plans (presumably those adopted under sections 5-7 of the Town and Country Planning Act 1980). (k) The Environment Act 2008 includes a number of regulatory mechanisms that might contribute to ICM implementation, including: environmental impact assessment (EIA) and strategic environmental assessment (SEA); designation of protected areas, rivers, lakes and wetlands, forests and rangelands; <i>etc.</i>

		(l) Part XIV of the 2008 Act creates a specialist Environmental Tribunal for the purposes of reviewing measures and decisions taken under the Act, which could play a key role in ensuring the justiciability of measures designed to facilitate implementation of ICM in Lesotho.
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Drawing from the preliminary review, the following have been highlighted as key issues to be further considered in the Assessment Phase 2:

- The Environment Act 2008 may be able to provide an overarching, national level policy framework for ICM implementation in Lesotho. This possibility will need to be further assessed and confirmed through stakeholder consultations in Assessment Phase 2. The Act also requires a District Environmental Action Plan which could Impact on ICM Implementation at the local level. The application of regulations for Strategic Environmental Assessment could also support ICM objectives.
- The Water Act and the Environment Act establish separate tribunals to settle disputes which poses the potential for overlap of mandates and jurisdiction. Furthermore, the current status of these tribunals will need to be assessed In Assessment Phase 2 to determine their effectiveness.
- There is a lack of clarity regarding the criteria applicable to the designation of catchments under section 15(1) of the Water Act 2008, and regarding the elaboration of catchment management plans (CMPs) under section 16. This will need to be resolved to facilitate the establishment of local level catchment plans as planned under Output 2 of the ICM project.
- The National Wetlands Conservation Strategy refers expressly to ‘catchment management’ and articulates a number of guiding principles supportive to ICM implementation; however, Implementation of these principles Is not Immediately evidenced In Lesotho. Stakeholder engagement during the Assessment Phase 2 stage will seek to explore this disconnect further.

Linkages with other workstreams have also been identified including:

- (a) Inclusion of ICM-related objectives arising from the need to safeguard rights (Workstream 2), from the need to address climate change adaptation (Workstream 3) or from commitments arising under international or regional frameworks may also be required (or referenced) among the (mandatory) objectives of the local development plan to be adopted under sections 5-7 of the Town and Country Planning Act 1980 (as amended).
- (b) In the exercise of powers under the Land Act 2010, including the denial of grants or expropriation of land, the authorities would need to have careful regard to the relevant protections under the Lesotho Constitution, including Article 11 on the right to respect for private and family life, and Article 17 on the right to freedom from arbitrary seizure of property (Workstream 2).
- (c) Section 4 of the Environment Act 2008 sets out a right to a clean and healthy environment, which might inform the normative content of rights considered under Workstream 2.
- (d) The Water and Sanitation Policy 2007 expressly seeks to promote gender sensitivity (Workstream 2).

2.2 Workstream 2: Promote a Rights-based and Gender Sensitive ICM Framework

2.2.1 Introduction/Objectives

The objective of this Workstream is to promote and support a rights-based and gender sensitive policy framework for ICM, which involves a holistic approach to sustainable land and water planning and management and adopts a catchment perspective that is in line with the national policy and strategies of Lesotho. This Workstream will align with the Operational Plan for Support to Integrated Catchment Management in Lesotho and incorporate an assessment of rights and gender mainstreaming priorities for ICM and agreement on gender and rights based mainstreaming priorities. The recommendations and priorities developed through this Workstream will be based on a sound review of national, regional and international policy and strategies, and the process will incorporate stakeholder participation to ensure relevance and buy-in to the outputs.

A rights-based approach offers the opportunity to support the simultaneous consideration of rights of all groups of society, including women, youth and other vulnerable and marginalised groups. This approach therefore supports the promotion of an inclusive ICM framework from the outset. The method will ensure that gender is not diluted but rather that the needs of vulnerable and marginalised groups e.g., youth and disabled, are incorporated.

The Constitution of Lesotho entrenches the protection of the rights of all people in Lesotho irrespective of sex, age, race, religion, etc. The rights of women, youth and vulnerable groups are highlighted at the highest policy level in Lesotho, for example the Ministry of Gender Youth Sport and Recreation’s Gender and Development Policy 2018 – 2028, and the National Youth Policy 2017-2030 specifically highlight the need for effective integration of youth into socio-economic development issues of Lesotho. Furthermore, the National Social Protection Strategy supports the mainstreaming of the poor and marginalised into social and economic development and the sustainable development of vulnerable groups. The Ministry of Social Development advocates for the prioritization of the needs of the poor and vulnerable groups in the national development agenda, including women.

A rights-based approach, incorporating a focus on gender, therefore aligns broadly with national policy and strategies in Lesotho. It also aligns with international conventions and goals. Addressing rights, including gender equality, is central to the Sustainable Development Goals (SDGs) (United Nations, 2015). The “Leave no one behind” concept is central to the United Nation’s 2030 Agenda for Sustainable Development. It represents among other things, unequivocal commitment to end discrimination and exclusion, and to reduce the inequalities and vulnerabilities that result groups or individuals not being supported and incorporated into efforts towards sustainable development.

This Workstream applies the United Nations concept of a rights-based approach as described in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, which state that “everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. The principle of equality and freedom from discrimination is central, including discrimination on the basis of sex and gender roles. A rights-based approach as a conceptual framework promotes and protects human rights of all, including women, youth, disabled and vulnerable or marginalised groups. This involves reviewing international issues through relevant reports, for example, from United Nations organisations (e.g., United Nations High Commissioner for Human Rights and UNICEF) and identifying and analysing local inequalities and redressing discriminatory practices and unjust distributions of power in decision making and implementation of policy making and regulations.

Gender equality as a human right is enshrined in a number of international declarations and conventions that will be carefully considered. A range of international and regional policies, strategies and conventions will be identified and explored to identify normative values for rights and gender considerations, highlight benchmarks and good practice in current rights based and gender considerations.

2.2.2 Preliminary Findings

A number of policies informing rights-based, and gender sensitive mainstreaming have been reviewed to date as summarised in Table 2. In summary, the key issues identified from the review to date include:

- At the international level, a number of conventions and articles focussing on human rights and gender incorporate ICM implicitly while others address elements of ICM explicitly, for example the realisation of the human right to water.

- At a regional level (SADC), ICM related policy and strategy tend to have a gender specific focus, rather than a broader rights-based focus.
- The Government of Lesotho is signatory to a number of international conventions on rights- and gender equality and has a number of national policies reflecting its commitment to these conventions. These policies do not refer specifically to ICM, but the thematic and sector approaches do accommodate ICM.
- In general, the national rights-based and gender policy tends to be relatively broad with limited specific details. It is also yet to be given effect through regulations or action plans. Information on financial resourcing and budgets for implementation are also not yet evident. There appear to be challenges with practicality of enforcement measures, for example on issues such as the use of child labour, human trafficking, and land security for women and orphans and vulnerable children (OVCs).

The level of effective integration of rights-based and gender awareness across Ministries is unclear, particularly those Ministries most relevant to ICM

Drawing from the preliminary review, the following have been highlighted as key principles to consider for promoting a rights-based and gender sensitive approach within an ICM framework:

- a) The concept of human rights acknowledges that all people are entitled to enjoy his or her human rights without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- b) Gender equality is a human right, and implies that the interests, needs and priorities of both women and men are taken into consideration, recognizing the diversity of different groups of women and men.
 - a. Gender equality is defined as the equal rights, responsibilities and opportunities of women and men and girls and boys.
 - b. This does not imply that women and men are the same but rather that the opportunities and their participation in decision-making processes will not depend on whether they are women or men.
- c) Human rights incorporate economic, social and cultural rights, which make provisions for establishing rights including for example rights relating to
 - a. work in fair and favourable conditions
 - b. social protection
 - c. adequate standard of living
 - d. education
 - e. enjoyment of the benefits of cultural freedom and scientific progress
- d) The rights of children are embodied in human rights based approaches and principles including:
 - a. take actions for and on behalf of children to ensure that their safety and well-being over and above all other considerations (best interests of children)
 - b. treat all children equally, regardless of their age, sex, family status, physical or mental health status, or other issue of difference. Child protection programmes will actively address social, cultural and economic factors that exacerbate disability and will put in place programmes that redress such inequalities
 - c. provide free and compulsory primary education
 - d. protect children from economic exploitation
 - e. respect, promote and protect the rights of vulnerable children
 - f. strengthen families and community systems to ensure children's participation in the planning, implementation and monitoring of child protection actions
 - g. provide opportunities for vulnerable children to participate in planning, decision-making, prioritization and implementation of interventions that benefit them
 - h. create an enabling legislative environment to offer care, support and protection to vulnerable children
 - i. apply a multi-sectoral and decentralized response to the protection of the rights of children.
 - j. leaders at all levels take an active role to protect children from abuse, violence, exploitation and neglect.

- k. establish partnerships for collaboration and coordination, with all government ministries, civil society
- e) People with disabilities have the right to non-discrimination, equality of opportunity, independence, fulfilment of basic needs, and accountability, integration and a focus on ability not inability.
- f) The right to popular participation to ensure the dignity, value and freedom for all people
 - a. Effective participation of all the elements of society in the preparation and implementation of national economic and social development policies and of the mobilization of public opinion and the dissemination of relevant information in the support of the principles and objectives of social progress and development”.
 - b. Human Rights Based Approach (HRBA) gives equal attention to both achieving development goals and to the processes that are chosen to achieve these goals. Within HRBA, the processes that enable the participation and inclusion of all stakeholders are important.

2.2.3 Key recommendations to be taken into phase two

The preliminary review has highlighted a distinction between assessing the extent to which the key elements of ICM and interrelated objectives are addressed in rights-based and gender sensitive policy, versus the extent to which ICM related policy and strategies and plans consider rights-based and gender sensitive sensitivities.

The preliminary review focused on the key policies and legislation focusing directly on promoting human rights and a gender sensitive framework. The result has been the identification of a set of key principles for the promotion and protection of human rights and gender sensitivity.

These key principles will therefore be taken into the next phase of this assignment, to be applied as a baseline to assess policies and legislation specifically relevant to ICM, as identified in Workstreams 1 (e.g., relating to land, water, agriculture, and infrastructure). The objective will be to identify gaps or weaknesses in promoting a rights-based and gender sensitive ICM framework. This analysis will inform input into a package approach to recommendations on revisions to address potential complex and cross cutting policy challenges in order to support policy harmonisation in ICM.

Table 3 Workstream 2: Summary of Preliminary Findings

Policy, Act, Regulation	Preliminary Findings
1. Gender and Development Policy 2018 – 2028	The most important instrument that can promote a rights-based and gender sensitive framework for ICM implementation as it integrates gender issues into development across a number of sectors. The Policy is aligned to SDGs, as well as regional and international instruments. It seeks to mainstream gender into all development plans and programmes in Lesotho (this goes beyond the scope of ICM as it considers development holistically).
2. National Policy on Orphans and Vulnerable Children (2006)	The objective of this policy is to create an enabling environment for caring for, supporting and protecting the rights of Orphans and Vulnerable Children (OVCs). This Policy addresses two key issues relevant to promoting a rights-based and gender sensitive policy framework for ICM: <ul style="list-style-type: none"> i) Promoting care and support for OVCs and ensuring that their rights are protected (e.g., protection against child abuse and child labour (particularly in the implementation of ICM related interventions), protection against sexual offenses to children, as well as trafficking in humans). ii) Promoting and safeguarding secure access of OVCs to productive resources such as land for food security and other productive uses A potential gap that has been identified relates to the practicality of enforcement measures such as those to prevent the use of children for child labour in the implementation of ICM measures (e.g., livestock herding).
3. National Youth Policy 2017 - 2030	Links with key ICM elements in terms of youth development issues around the theme of Climate Change and Agriculture. The policy identifies youth mainstreaming as a cross-cutting and special interest issue. Human rights

Policy, Act, Regulation	Preliminary Findings
	issues and gender-based approaches advocated for in the policy are consistent with the Gender and Development Policy 2018 – 2028.
4. National Policy on Social Development 2014/15 - 2024/25	Provides a framework for the development and implementation of programmes to enhance human wellbeing, particularly of the vulnerable groups. It draws relevance from the Constitution of Lesotho (1993) and is closely aligned with the Children’s Protection and Welfare Act (2011) which emphasizes that every intervention must be based on the best interests of the child, thus provides special protection to children from exploitative labour and torture and parental property. It also aligns with the Legal Capacity of Married Persons Act (2006) which empowers and protects the rights of women and ensure their meaningful participation in development issues. The Policy also highlights priorities that include: Combating poverty, deprivation and inequality; Protection of older persons; Protection of children; Gender equality; Empowerment of youth; and Protection and rehabilitation of persons with disabilities. It also refers to elements of ICM through objectives and specific action areas such as spearheading efforts to reduce environmental degradation, ensuring food security and secure livelihoods.
5. National Social Protection Strategy 2014/15 - 2018/19	The main objective is “...to operationalize an integrated set of core social protection programmes aimed at reducing vulnerability; to ensure linkages of all social protection programmes for increased efficiency and effectiveness; and to integrate and harmonize operational systems for the effective implementation of the social protection programmes across Government.” The Strategy takes a life-course approach. It identifies the four key life-course stages at which the citizens are exposed to different vulnerabilities through the course of their lives. These stages are: i) pregnancy/early childhood; ii) school age/youth; iii) working age and iv) old age. The strategy recognizes that chronic illness and disability are cross-cutting themes/shocks that can manifest at any of these life-course stages and therefore the strategy is cast to be responsive to these vulnerabilities and shocks throughout these life-course stages. The scope of the Strategy does not link directly with key elements and objectives of ICM.
6. National Strategic Plan for Vulnerable Children 2012 - 2017	The Plan is intended to operationalize the Children’s Welfare and Protection Act 2011. It informs and guides the multi-sectoral decentralized response to vulnerable children, whereby stakeholders participate in its implementation, based on their respective mandates and comparative advantage. The overall aim of the Plan is to improve the quality of life of vulnerable children and to ensure that they enjoy their basic human rights. The plan is guided by the following principles: i) Best interests of the child; ii) Respect, promotion and protection of the rights of vulnerable children; iii) Empowerment of families and communities; iv) Vulnerable children’s participation (in the planning, decision-making, prioritization and implementation of interventions that benefit them); v) Political commitment (creation of enabling legislative environment to offer care, support and protection to vulnerable children); vi) Gender considerations; and vii) Multi-sectoral and decentralized response. The Strategic Plan’s response to vulnerable children is based on a human rights approach.
7. National Multisectoral Child Protection Strategy 2014/5 – 2018/9	This strategy was developed in response to the need that was highlighted for focus more effort towards prevention of harm, on a coordinated response and on ensuring that we are all more accountable for identifying, reporting and taking comprehensive and appropriate action. The Strategy, which is accompanied by a costed Plan of Action for the first three years, initially focuses on building up the foundational elements of the system, generating evidence and ensuring delivery and results in core priority areas. The fourth

Policy, Act, Regulation	Preliminary Findings
	and fifth years focus on consolidation and delivering quality services at scale. Notable gaps include the scale, nature and scope of neglect and stigma, experiences of children living without appropriate care (e.g., those who are living with extended family but lacking legal protection, those in kinship care but facing abuse, discrimination or neglect, those in institutional care). The Children’s Protection and Welfare Act of 2011 sets out statutory responsibilities for family, community and state in relation to the protection and welfare of all children, including children in contact with the law. The fact that the strategy has not been updated to extended is a concern.
8. National Social Protection Strategy for Older Persons 2017 - 2027	The Strategy seeks to create an enabling environment for the implementation of the Lesotho Policy for Older Persons 2014, with the involvement of various stakeholders to ensure the wellbeing of older persons. It has a total of thirteen strategic objectives, three of which are identified as relevant to the review process and these include: i) To promote, protect and uphold the fundamental rights of older persons through legal frameworks; ii) To ensure economic sustainability by promoting financial stability and secure livelihoods for older persons in Lesotho; and iii) To promote food and nutrition security among the elderly and create awareness on the importance of good nutrition and nutritional problems related to older persons. The development of associated legislative instruments and political backstopping is still required to support full implementation of the strategy (e.g., Charter on the rights of older persons, to ensure that protection of the rights of older persons is entrenched in legislation).
9. National Disability and Rehabilitation Policy (2011)	National Disability and Rehabilitation Policy (NDRP) has been informed by the 1993 Constitution of Lesotho; various international and regional conventions; Vision 2020; the Poverty Reduction Strategy (PRS) and the Millennium Development Goals (MDGs), legal provisions both within the country as well as at international and regional levels and other national policies. Policy aimed at driving equalization of opportunities for people with disability (PWDs) and to ending discrimination. Overall, the 2011 policy is seen as a good high-level founding document that sets the scene for ‘disability and rehabilitation’ mainstreaming with key principles noted.
10. 2nd National Strategic Development Plan 2018/19 – 2022/23 (NSDP II)	Mainstreams several thematic areas across all sectors, including gender and social inclusion. A number of sectors contained in the plan address key ICM elements and ICM related objectives with a strong inclusion of rights based and gender sensitive development agenda, including for example Agriculture and Food Security; Rangelands Management; Tourism; Education; Health; Social Protection; Gender and Social Inclusion.
11. ORASECOM Gender Mainstreaming Strategy (2014)	This strategy is reviewed to understand its priority in terms of relevance for ICM and if it is worth further review to ensure its alignment to the Lesotho context (i.e., whether key considerations are adequately / appropriately realised through local policy and relevant regulatory instruments). With that in mind, this strategy is not a standalone document, but provides guidance to the member states on the implementation of a gender sensitive IWRM plan. The strategy is gender focused rather than more broadly rights-based focused. The Strategy is noted as a high-level document with a low priority when compared to provisions of the Lesotho gender and development policy. However, it does nevertheless provide a regional level framework
12. United Nations Human Rights Office of the High Commissioner (OHCHR): A basic handbook for UN staff	Provides an international benchmark for a rights-based approach and gender-sensitive framework. Does not focus on key elements of ICM specifically but focusses on best practice and principles for United Nations work across 4 key sectors: peace and security; economic and social affairs;

Policy, Act, Regulation	Preliminary Findings
/ UN Declaration on Human Rights	development cooperation; and humanitarian affairs. Does not provide specific measures but recognises that human rights instruments and institutions also exist at regional and national level and the need for alignment with these.
13. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	The Convention sets international best practice guidelines and is aligned with the principles and guidelines prescribed for a HRBA and Gender sensitive framework. The Government of Lesotho is a signatory to the Convention and therefore implies national legislation (e.g., Gender and Development Policy 2018 – 2028) is aligned.
14. FAO Gender mainstreaming and a human rights-based approach: Guidelines for technical officers. (2017)	Provides guidance based on international guidelines for best practice including the UNDP Declaration on Human Rights and Convention on the Elimination of All Forms of Discrimination against Women. It also highlights the need for consideration of local laws and policies. Does not specify elements of ICM but raises the general requirement for development planning at all levels, including recognition of the economic survival of women and their families, which includes their work in the nonmonetized sectors of the economy.
15. Constitution of Lesotho (1993)	The Constitution adequately spells out provisions that create a rights-based and gender sensitive framework for ICM implementation through protection of the environment (section 36) protection and following human rights and freedoms (Chapter II): freedom from inhumane treatment; freedom from slavery & forced labour; freedom from discrimination; right to equality before the law & the equal protection of the law; right to participate in government; enforcement of protective provisions; protection of children & young persons; and provisions for education (e.g., universal free primary education for all).

2.3 Workstream 3: Support to Mainstreaming Climate Change Adaptation into ICM Policy

2.3.1 Introduction/Objectives

The impacts of climate change are global in scale and exert significant effects on water cycles worldwide by changing the seasonal pattern of water resources. Therefore, ICM plays a key role in supporting adaptation to climate change impacts, while in turn adaptation is a critical component towards building resilience to climate change. There is extensive evidence of Lesotho's vulnerability to climate change, including for example the increasing frequency of natural disasters such as droughts and floods, diminishing water resources, acceleration of soil loss and land degradation, and a steady decline in farming that is a key livelihood strategy in rural areas.

Numerous initiatives are being undertaken in Lesotho to address the climate change challenge, including policy development, strategic plans, and on the ground implementation of adaptation interventions. Lesotho ratified the United Nations Framework Convention on Climate Change (UNFCCC) in February 1995 and has several policies and measures in various sectors which are closely aligned with the objectives of the UNFCCC. For example, the National Adaptation Programme of Action was drafted in 2007, and the first National Strategic Development Plan (NSDP) was initiated in 2011. The National Environment Act of 2008 provides the necessary legal framework for the protection and conservation of the Environment and aims to enhance the resilience of the country to extreme weather events and other environmental disasters.

In 2017, the National Climate Change Policy was drafted which aims to enhance environmental sustainability and enhance socio-economic resilience. Additionally, the second National Strategic Development Plan (NSDP II) was prepared which emphasises the need to reverse environmental degradation and to adapt to climate change.

The objectives of this Workstream are therefore:

- To support harmonising and mainstreaming climate change adaptation into policy relevant to ICM. This involves analysing the extent to which climate change adaptation is consistently incorporated into a holistic catchment perspective of ICM, and in line with the regional and national policy for sustainable land and water planning and management. This harmonising and mainstreaming also involves identifying policy gaps, redundancies or conflicts across sectors relevant to ICM.
- To support harmonising and mainstreaming of ICM principles into climate change adaptation policies and strategies. This involves identifying gaps and challenges to including ICM as a key component to climate change adaptation practices and interventions.

2.3.2 Preliminary Findings

A range of materials addressing climate change adaptation and national, regional and international levels have been reviewed to date as summarised in Table 4 **Error! Reference source not found.** In summary, the key issues identified from the review to date include:

- There are a number of international conventions and strategies, and there are well defined strategies at SADC level, which guide national level policy and action. The relevance to elements of ICM and the cross cutting nature of adaptation is clear.
- The Government of Lesotho is a Party to the United Nations Framework Convention on Climate Change and has developed a number of key national policies. A number of these policy statements and strategies have direct relevance to ICM, and the Climate Change Policy (2017) in particular focusses on enhancing resilience of water resources by promoting ICM.
- High level action plans have been prepared at regional and national level, however challenges in implementation have been highlighted including weak institutional capacity for finance mobilization, inadequate financing mechanisms, and a general lack of detail on timelines and the responsible parties. The lack of decentralisation and potential consequences have also been highlighted.
- The role of the National Climate Change Coordination Committee in enhancing cross cutting / mainstreaming has been highlighted, but the level of effectiveness and local level implementation across Ministries is still unclear.

The findings of the Phase 1 review undertaken for Workstream 3, are reflected in the set of key Issues/ approaches that highlight the primary climate change adaptation priorities:

- a) Focus on ecosystems and land use management including for example:
 - Conservation and rehabilitation of rangelands
 - Conservation and rehabilitation of degraded water resources including wetlands
 - Conservation and rehabilitation of degraded mountain ecosystems
 - Soil protection and erosion control
 - Management and reclamation of degraded and eroded land (particularly in flood prone areas)
 - Biodiversity conservation and control of alien invasive species
 - Climate smart agricultural practices (e.g.,, adjustment of planting dates and crop variety; crop relocation; improved land management)

- b) Apply a cross-sectoral approach that includes consideration of ecosystems in conjunction with interrelated objectives such as:
 - Enhancing water, sanitation and hygiene services
 - Resilient water resources development (through integrated catchment management)
 - Regulated Water and Sewerage Services
 - Sector Resource Planning, Coordination and M&E
 - Social and economic development (including poverty alleviation, sustainable livelihoods, food security, and the growth of the green economy)
 - integrated water resources framework that incorporates the resource needs across sectors

- c) Participatory and inter-disciplinary approach to planning, decision making and implementation, incorporating:
- Recognising and developing roles and responsibilities of stakeholders including CBOs, NGOs and local authorities with a role to play in climate change adaptation
 - Decentralisation and developing roles and responsibilities of district and local actors including local community and community council involvement In district and community-based catchment management
 - Incorporating rights-based approach including gender equality
 - capacity building, awareness raising and education for effective and meaningful participation
 - Strengthening capacity of NCCC to enhance inter-sectoral and multi-stakeholder participation
- d) Meeting international and regional climate change adaptation obligations through a relevant and up to date national policy and legislative framework (enhancing vertical integration)
- Incorporating the need for review and revision of policy and legislation that reflects more up to date context in terms of climate change
- e) Adaptive management of adaptation and resilience building strategies, plans and activities informed by research, monitoring and evaluation including:
- past successes and failures for example national programmes (e.g., Fato-Fato) lessons learned from donor M&E programmes (e.g., EU water sector activities and rural water supply)
 - cost benefit analysis of effectiveness of interventions to inform decision making on future investment and allocation of resources
- f) Institutional and capacity development to address constraints of current weak enabling environment including:
- Policies and sectoral plans without financial and human resources and timelines
 - Effectiveness of decision making particularly at the lowest level
 - Overcoming implementation and planning by sectors in isolation (i.e., silo effect) and establish linkages e.g., between water and land management
 - Addressing gaps or constraints e.g., in operationalisation of NCCC and sub-committees
 - consideration of resilience in planning and decision-making relating infrastructure projects human settlement development (e.g., climate proofing)

2.3.3 Key recommendations to be taken into phase two

The phase 1 review focused on the key policies, strategies and reports focusing directly on climate change adaptation. The review resulted in the identification of a set of key Issues/ approaches that highlight the primary climate change adaptation priorities. These key issues will now be taken into the next phase of this assignment, to be applied as a baseline to assess policies and legislation specifically relevant to ICM, as identified in Workstreams 1 (e.g., relating to land, water, agriculture, and infrastructure). The objective will be to identify gaps or weaknesses in mainstreaming climate change adaptation into the ICM framework. This will inform the identification of a range of recommendations on revisions to address complex and cross cutting policy challenges in order to support climate change adaptation mainstreaming and policy harmonisation in ICM.

Table 5 Workstream 3: Summary of Preliminary Findings

Policy, Act, Regulation	Preliminary Findings
Climate Change Implementation Strategy (2017)	The measure is rated a high priority as it contributes to practicable ICM in the country. It is sufficiently flexible in that it is a living document and needs to be reviewed every five years. The strategy like the policy mostly lists action plans that need to be undertaken without detail on the timelines and the responsible party. Financial information is lacking

Policy, Act, Regulation	Preliminary Findings
	although there is mention of a costed action plan. ICM is one of the key focus areas. Social and economic development are taken into consideration as the policy is aligned to national strategic goals. Several policy statements relate to protection of ecosystems. No glaring conflicts or overlaps noted. However, there are ambiguities in terms of timelines and financial resources linked to the proposed actions.
Climate Change Policy (2017)	This is rated as a high priority document as measures for ICM are addressed in the policy statements. The policy includes a focus on enhancing the resilience of water resources by promoting integrated catchment management, ensuring access, supply and sanitation. The policy lists action plans that need to be undertaken but without detail on the timelines and the responsible party. Financial information is also lacking although there is mention of stakeholders collectively involved in fund raising for climate change. Contributes to an integrated management framework and ties into NDS and translates Vision 2020 and National Strategic Development Plan into concrete actions in relation to climate change. Identifies challenges including for example inadequate dedicated financing mechanisms to address climate change in the country, and weak institutional capacity for finance mobilization.
National Adaptation Programme of Action (2007)	The NAPA is slightly outdated (prepared in 2007) and has largely been updated through the Climate Change Policy of 2017. The NAPA does not directly address ICM although some of the proposed projects directly link to enhancing catchment conditions. Pertinent ICM measures include enhancing catchments conditions, rehabilitation of degraded wetlands, reclamation of eroded lands and securing water supply in the drought prone southern districts. Other critical aspects such as maintenance of ecosystems, range management and rights-based approaches do not feature. The common challenge for the proposed projects in the NAPA is the lack financial resources and weak coordination of activities between stakeholders. This suggests there is a weak enabling environment.
Nationally Determined Contribution (2017)	The scope of the strategy is relevant to ICM. Measures for ICM are addressed in the policy under a number of sectors, for example intended policy based action under the water sector is conservation and management programme and the need to establish a national integrated water resources framework that incorporates district and community-based catchment management is highlighted. In the Agricultural sector issues include adjustment of planting dates and crop variety; improved land management. Other relevant ICM activities that are highlighted include “Management and Reclamation of Degraded and Eroded Land in the Flood Prone Areas” as well as “Conservation and Rehabilitation of Degraded Wetlands in the Mountain Areas.” It is not clear as to the extent to which the measure may contribute to the implementation of ICM. The measure mentions activities, without financial, human and timelines within which they will be implemented.
Lesotho’s Second Communication to COP of UNFCCC (2013):	This document incorporates relevant ICM measures including land degradation, erosion, pollution of water resources, rangeland management and preservation of wetland ecosystems. The document does not however address decision making particularly at the lowest level. Community based organisations, NGOs and local authorities play a role in climate change mitigation. It is not clear as to the extent to which the measure may contribute to the implementation of ICM. The measure mentions activities, without financial, human and timelines within which they will be implemented.

Policy, Act, Regulation	Preliminary Findings
Climate change baseline trend analysis (2015)	The report captures elements of ICM dealing with Lesotho's physical and socio-economic status, however linkages between sectoral plans is minimal. While proposed sectorial adaptation plans are well defined, there is no clear project plans to facilitate implementation and financial sustainability not adequately defined. Social and economic development is considered through alignment with a number of other key policy documents. Monitoring and evaluation of proposed climate change measures is not addressed, and the role of district and local level authorities does not feature. The main barriers to implementation that are highlighted include lack of capacity to implement the proposed measures, financial resources and weak institutional arrangements. This suggests there is a weak enabling environment.
Improvement of Early Warning System to Reduce Impacts of Climate Change and Capacity Building to Integrate Climate Change into Development Plans	This is a review of the quality of the results of the project itself. The priority rating is therefore low. Nevertheless, with the focus of trial and implementation is essentially on integrated land and water management and vegetation, there are lessons to be learned from the review.
Guidelines for the integration of climate change in national, sectoral and local policies, strategies and development plans:	The Guidelines are highly applicable to ICM and describe ICM as an integrated approach towards water and land resources management. The document addresses mandates and capacities (or the lack there off) at national and local level, as well as the need for inter-ministerial/ inter-departmental linkages. The document provides valuable detail including application at national and local, real examples, as well as monitoring procedures/suggested indicators. The lack of decentralisation and consequences are also highlighted. The document includes useful suggestions for developing bottom-up/top down approach. There is a gap in terms of financial sustainability, which is not adequately developed, as well as reference to regional and transboundary issues.
National Strategic Development Plan II (2018/19-2022/23)	NSDP II mainstreams Climate Change, Environment, Gender and Social Inclusion across all sectors, and recognises that these are crucial for the realization of inclusive growth. The NSDP II highlights that it is imperative that the strategy for employment creation and growth takes cognizance of climate change adaptation. It particularly emphasises the agriculture sector and rangeland management as two key strategic areas of consideration from a climate change adaptation perspective. NSDP II has a strong national focus with reference to local government mandates/devolution, multisectoral. A number of sectors relevant to ICM are described, but through silo approach (lacking integration). The Plan includes consideration of socio-economic domains, and also provides very useful insights into the results of evaluation of NSDP I. While there is considerable budgeting detail, this is mainly at national level.
Long-Term Water and Sanitation Strategy (LTSWW 2016)	The LTSWW is a high priority as it encompasses 6 key focal areas in IWRM, with 'Establishment of ICM' and also 'Climate Change, Water Resources and Environmental Management'. It covers the range of ICM related sectors in terms of water sources and water use with strong emphasis on subsidiarity and points at the need for circular approaches in ICM. The strategy addresses important dimensions such as institutional and mandate requirements, the need for on long-term financing and investments for effective implementation of the Strategy. The strategy has an explicit district focus and incorporates a cross sectoral approach whereby management is decentralised. It also highlights the need for a regional approach mainly from regional economic perspective and limits

Policy, Act, Regulation	Preliminary Findings
	itself to Lesotho Highlands Water Project (LHWP). The vision on regional integration related to CCA is broader and more future focused.
SADC Climate Change Year Book (2016):	This document provides comprehensive overview of international and regional obligations and commitments that need to be considered, while also providing insights into national level initiatives and how these relate to the regional aims and objectives. This includes reference to several sectors relevant to ICM for example water and biodiversity. This document also provides useful insights from examples and case studies of climate change interventions across SADC Member States. This is therefore a key document for guiding harmonisation at a national level that is consistent with regional conventions and obligations.
SADC Climate Change Strategy and Action Plan (2015):	The SADC CCSAP strategy is in line with and aims to achieve global and continental objectives as set by the United Nations Framework Convention on Climate Change (UNFCCC), the Africa Union Commission (AUC) and the Regional Development Agenda. Provides overview of main regional policies, strategies and protocols in key sectors Addressed strategies and actions for several sectors that include key elements of ICM e.g.,, agriculture, biodiversity, water. As well as interrelated objectives such as human health, tourism, infrastructure, mining. But little integration. Provides a detailed Adaptation Action Plan including expected outputs, responsibilities, recommended timeframes, and costs. Recognises that the current capacity and institutional arrangement for the effective implementation and coordination of the strategy at both Secretariat and Member State level is inadequate and highlights that effective implementation of the strategy will require capacity to be improved. Provides guidelines of financing options although no direct assistance to accessing resources is provided.

2.4 Workstream 4: Decentralisation Cluster

2.4.1 Introduction/Objectives

The objective of Workstream 4 is to provide a study of local-level regulations of land and water use and to recommend ways to enable community councils to implement ICM through the enactment of by-laws within the context of the national decentralisation program. The scope of Workstream 4 has also been expanded to involve support to targeted community councils to help draft relevant bylaws and to develop a guideline for bylaw drafting for use by other community councils.

2.4.2 Preliminary Findings

The following provides a brief summary of the key findings for legislative reforms, updates to policies and strategies, and technical guidance necessary to Implement ICM at the community level.

Legislative Reform

- Enabling regulations of the Acts in most instances have not been promulgated.
- Several sectoral ministries have not responded to the call for decentralisation to local authorities. Transfer of functions regulations only refer to ministries related health, land, social development, energy, forestry (inclusive of land management, water conservation and range resources management).
- Many old laws need to be updated, and in some instances new laws have become difficult to enact.
- Lack of enforcement of laws has become a serious concern, especially due to inadequate capacity of local authorities.

- In many cases, penalties for enforcement of laws by the courts are outdated and therefore ineffective.
- There is a need to enhance stronger synergy between Chiefs and Councils because some laws empower the traditional authorities (e.g., impoundment of livestock caught trespassing in *leboella*).

Policy and Strategies Update

- In order to implement local level ICM, decentralization reforms are required in order to fast track the shifting of roles, responsibilities and mandates to the local level.
- Monies collected by the Councils get deposited into government's central Consolidated Fund, and therefore inaccessible for their needs.
- Lesotho being the tower of water resources in southern Africa, wetlands' current challenges are identified and discussed in some detail. However, other issues such as the legislation, policy and financing seem not to be well taken care of.

Technical Guidance

- There is inadequacy of guidelines for local authorities to be empowered to implement policies and laws to take sufficient actions (e.g., Environment Act 2008).
- In most instances, there is no transfer of ownership of some resources (e.g., forests) to local councils to manage and accrue income to meet community development needs.
- Report addressing harmonization of legislation through cooperative governance approaches contains no analysis or specific recommendations regarding the local regulatory framework.
- The role of local authorities in transboundary activities is not well considered.

Table 6 Workstream 4: Summary of Preliminary Findings

Policy, Act, Regulation	Preliminary Findings
Land Act of 2010 as amended, Land (Amendment) Act No.16 of 2012; Land (Amendment) Act No.9 of 2014; Land Regulations LN No. 21 of 2011; Land (Amendment) Regulations LN No. 11 of 2013; and Systematic Land Regularisation Regulations LN No. 103 of 2010:	S.2 defines 'land' broadly to include land covered with water, all natural or man-made things growing on land and buildings, or other structures permanently affixed or attached to land. But the scope of the Act is constrictive in that it focuses mainly on allocation, expropriation and administration of land including the transfer and disposal of land titles. Council is the allocating authority; so, the decision to allocate land is taken at the lowest level of authority. Further, if land is allocated for agricultural purposes, the Ministry of Agriculture is involved and factors that must be considered include prevention of soil erosion, economic viability of the proposed agricultural activity, the requisite environmental safeguards and sound land husbandry practices. There are land courts and established procedures for the enforcement of rights and obligations. The main problem is that all land use fees, and other monies collected under the Land Act regulations are paid into the Consolidated Fund which is established on the national level under Section 110 of the Lesotho Constitution. As a result, the funds do not necessarily flow to the Community Councils resulting in unfunded mandates and no incentives to collect fees.
Land Administration Authority Act of 2010 as amended, Land Administration Authority (Amendment) Act No.17 of 2012; Land Administration Authority (Amendment) Act No. 8 of 2016:	It contributes towards integrated management by ensuring systematic approach to land deeds registration, cadastral surveying and land valuation. The scope of this Act is restricted to land administration in general. The regulations have not yet been enacted.
Land Husbandry Act of 1969 as amended cum Range Management and Grazing Control Regulations of 1980 as amended;	To control and improve, in respect of agricultural land, the use of land, soil conservation, water resources, irrigation and certain agricultural practices, and to provide for incidental or connected matters. Matters related to decentralization are not incorporated, and therefore need to be. New legislation should empower local authorities in line with Local Government Act 1997, strengthened in Local Government Bill 2020. Enforceability entrusted with the Chiefs through Range Management and Grazing Control Regulations

Policy, Act, Regulation	Preliminary Findings
	of 1980. Updates are encapsulated in Range Resources Management Policy of 2014 with development of new legislation initiated, Draft Soil and Water Conservation Policy (work in progress), Water Act 2008, Water and Sanitation Policy, National Wetland Conservation Strategy, Integrated Water Resources Strategy.
Water Act of 2008	The preamble does neither explicitly address the integrated nature of IWRM, nor of ICM. This is however mentioned in S. 3. S. 3 provides for an integrated approach – but from a water perspective, as the main objective is water conservation. Decentralisation is not mentioned, and therefore needs to be. Sec 2 regarding “regulated activities” it refers to the “Lesotho Electricity and Water Resources Act of 2008”. This Act does not exist. Only an electricity authority of 2002, amended 2006 and 2011 exists.
Environment Act of 2008	<p>Section 59: Local authorities have been given the power to take sufficient actions, e.g., Areas at risk of environmental degradation: 59 (6) empower local authorities to take remedial actions based on guidelines. It remains to be seen whether guidelines have been developed, which poses as a gap. Local authorities need to make their own guidelines.</p> <p>Since only re-forestation/afforestation of degraded land is mentioned, it falls short of being holistic. Other interventions must be introduced – revegetation, agricultural practices, range management, soil conservation measures. The intervention must integrate multiple use principle by allowing afforested/reforested areas allow grazing under strict control measures under the aegis of the local authority.</p> <p>Section 94 deals with conventions and treaties at the national level. Local authorities will need to be empowered at transboundary levels with the neighbouring state. Example should be drawn from Maloti/Drakensberg Transfrontier Conservation Area between Lesotho and South Africa. Natural resources management plans were prepared, and draft community council bylaws developed from them. Councils should, therefore, be empowered to take care of locally generated programmes as opposed to central government-driven programmes.</p>
Town and Country Planning Act of 1980 as amended:	No specific reflections of ICM. It does however set out the compulsory requirement for development plans (urban and rural) by the Development Planning Authority. Section 5;6;7. This principal act requires updating and consolidation with provisions Buildings Control Order (1991) & Building Codes (1989). Section 17 could be updated to strengthen and incorporated penalties for ICM.
Building Control Act of 1995	<p>The Buildings Control Act highlights that the Minister has power to appoint a local authority or government department to be a building authority;</p> <p>Part II, Section 11 – makes accommodation for the Minister to devolve power to local authorities to become building authorities (enabling making of bylaws etc. as seen fit). Local authorities within their remit of powers could use this principal legislation as impetus for establishing building bylaws – example: could highlight specifications in keeping with climate change adaptation / other ICM provisions e.g., water use efficiency; climate sensitive design standards etc.</p> <p>Part II, Section 25 regulates environmental Impacts Including wetland encroachment and construction Impacts.</p> <p>No direct provisions and links to Key ICM Elements are outdated and therefore deserve to be updated.</p>
Forestry Act of 1998	The Act replaces the law relating to the planting and preservation of forests and to provide for the regulation and control of dealings in forest produce and

Policy, Act, Regulation	Preliminary Findings
	<p>the sustained management of forests and forest reserves. Forests and indigenous forests in Lesotho are to obtain the maximum benefits in the form of forest production, environmental conservation and other economic uses that can be sustained over time.</p> <ul style="list-style-type: none"> • Local authorities have been considered to partake in forest development. • The Act should be better aligned with decentralisation. • Gender, youth and climate change issues are not addressed. • Institutional aspects are not well addressed and attention. • International, regional and transboundary are not taken into account. • There is a need for updating the Act, and clearly define the role of local authorities, as entailed in Local Government (Transfer of Functions) Regulations of 2015. • Note section 20: As from the effective date of continuation under section 11 or declaration under section 12, a forest reserve shall be managed, maintained and controlled by the Chief Forestry Officer in accordance with this Act. This should be revised in favour of community councils. <p>The Forestry Act is reportedly under review or revision, but this could not be confirmed during Assessment Phase 1. Additional stakeholder consultation will be conducted in Assessment Phase 2 to confirm status.</p>
Model Rural Areas (Grazing, Pounds, Trespasses) Bylaw 1963 – Government Notice No. 24 of 1963.	<p>The bylaw plays a crucial role in impoundment of livestock that may be found stray or trespassing on <i>leboella</i> or cropland, and so causing damage. This may impact on socio-economic development and institutionalisation objectives of the ICM. Damage of vegetation (especially grass) in grazing areas has negative impact on climate change because landscape has already been badly denuded leaving land bare. Gender and human rights issues are not explicit but may be implied in that it is applicable irrespective of gender.</p> <p>The bylaws must be updated in line with contemporary socio-economic, climatic and institutional situations. It was passed during pre-independence period when the Chief played a major administrative role, whereas local councils are now in place. There must be synergy and harmonisation between Chiefs' role and that of local councils.</p>
Maseru City Council By-laws of 2020 (codification)	<p>The bylaws do address some key ICM elements and objectives. The decision-making is also at the lowest level and in line with the decentralisation process in the country. However, the scope is limited as it does not draw from other legislation relevant to ICM e.g., Water Act.</p>
National Decentralisation Policy of 2014	<p>The main objective of this policy is to reaffirm and strengthen Lesotho's commitment to devolution as a mode of decentralisation. It outlines strategic actions that will be taken to ensure that functions that can be best performed at the local level are transferred to local governments. In other words, it is deep-rooted in the principle of subsidiarity. Such actions include policy and legal reforms.</p> <p>The policy does not create ICM regime, but it contributes significantly to its practicability. It dictates that functions must be transferred with resources coupled with capacity building amongst other things.</p> <p>The only part that requires special consideration is fiscal decentralisation.</p>
Local Government Bill of 2020	<p>The Bill does not list Council's functions but provides for the transfer of functions with resources from line ministries to councils. It also provides comprehensive procedure for participatory integrated planning.</p>

Policy, Act, Regulation	Preliminary Findings
National Environment Policy for Lesotho of 1998	<p>Section 2.1: Goal is to protect and conserve the environment with a view of achieving sustainable development in Lesotho.</p> <p>ICM and decentralization poorly addressed (refer to note above) Section 4.15 “Water resources management” accedes to development of integrated, coordinated, effective and efficient approaches to conservation and wise use of water resources. Similarly, section 4.14 “Afforestation and re-vegetation” alludes to the fact that water, catchment management, agriculture, rangeland management and forestry development are all interrelated and require a collaborative approach by all sectors involved. Linkages of these elements to decentralization are missing. Perhaps this is due to the broad nature of the Environment Policy which is meant to address all environmental matters regardless of their source of origin.</p> <p>The Policy must be reformed to reflect ICM. The Policy makes no mention of decentralised functions pertaining to environmental management. There is need, therefore, to review it.</p>
National Forestry Policy of 2008	<p>Sections 3.3.3.2 & 3.3.3.3 provide an entry point for decentralization as they focus on building capacity of stakeholders, including local government structures on forestry development, including establishing mechanisms for the legal ownership of forests and forest resources at community level. It also encourages the need to adapt existing legal instruments to enhance access and benefit sharing on forest products. The issues discussed above strongly imply that management of forest resources will improve when ownership is legally transferred to appropriate levels of decision making, thereby creating an enabling environment for ICM implementation in Lesotho.</p> <p>Furthermore, section 4.2 which is by far the most important, identifies Key stakeholders in forestry sector. It recognizes Ministry of Local Government and Chieftainship Affairs (MoLGCA) as a key stakeholder and, the importance of decentralizing services in forestry development and the role played by local authorities in the implementation of the policy.</p> <p>Section 3.3.1.7 “Protecting forests from all kinds of destructive agents” recommends the revision of the 1998 Forestry Act and to ensure its effective implementation.</p> <p>This is a crucial step that can support ICM implementation in the future. The legislative revision would then take care of associated decentralization issues.</p>
Food Security Policy of 2005	<p>Section 3.3 “promotion of support services and infrastructure” focusing on provision of agricultural extension services targeting rural households, involving MAFS and MoLGCA to ensure effective inter-ministerial collaboration at the lowest level. The Policy recognizes that this process shall be achieved aided by the on-going decentralization process. Moving a level higher, Section 4.3 of the Policy enumerates a host of District level stakeholders and finally Section 4.4 sub-district level stakeholders who are responsible for coordination of ICM related food security issues as this level.</p> <p>The Food Security Action Plan (2007 – 2017) that has been used to implement the Policy needs to be reviewed and updated to address current agricultural sector challenges and address the linkages to ICM principles as they relate to environmentally sustainable agricultural practices. .</p>
Range Resources Management Policy of 2014	<p>The goal of the policy is to attain sustainable development and management of rangeland resources for an enhanced biodiversity, optimum productivity and improved livelihoods of the people of Lesotho. There is no need to update the Policy as it is has only been in place for six years and takes into account the role of local councils well.</p>

Policy, Act, Regulation	Preliminary Findings
	<p>In Local Government (Transfer of Functions) Regulations, 2015, Range Resource Utilisation entrenches local Councils with responsibility:</p> <ul style="list-style-type: none"> • Promotion of community-based natural resources management; • Adjudication of cattle post; • Management and protection of wetland areas.
Lesotho Water and Sanitation Policy of 2007 (2007 LWSP)	<p>The Policy provides good high-level policy statements; key objectives and proposed strategies, the strongest focus / context is provided for; ‘Policy Statement 1: Water Resources Management and Policy Statement 2: Water Supply and Sanitation Services’. This is then followed by ‘Policy Statement 3: Water and Environment’ which has a strong water service link – the link on effluent discharge is apparent which then further substantiates the focus on water service management. Page 2 – 9.</p> <p>Strategies highlighted under Policy Statement 1: ‘Water Resource Management’ are key to ICM. The ICM directed strategies will need to be considered carefully under the remit of local regulatory frameworks as the question arises as to where the function will be held in the interim and long-term planning. The roles of the Catchment Management Joint Committees (CMJC) is thought to have a key focus on co-ordination. Therefore, council bylaws can provide them with legal context to implement the strategies outlined in the 2007 LWSP (the SA case-study – specific to CMA functions, is an added level of insight that could be useful when looking at the above strategies and how to plan for them through the drafting of local regulatory bylaws).</p> <p>Strategies highlighted under Policy Statement 2: Water Supply and Sanitation Services’ are key to ICM. The strategies highlighted have a strong drive towards funding mechanisms. See annexure and refer to stream 5 review context – provides insight for challenges and requirements for relevant bylaws. Whilst good context is noted in the policy, review / updating could be useful.</p>
National Biodiversity Strategy and Action Plan of 2000	<p>Goal 4: Expand Lesotho’s Capacity to Conserve and Manage Biodiversity.</p> <p>Guiding Principle 12: To implement the goals and objectives for conservation and sustainable integration into sectoral planning efforts (e.g., Agriculture, Forestry, Wildlife, Fisheries, Industry, Education, Health, etc.).</p> <p>All the ICM Objectives have been addressed. These are Socio-economic development, Gender issues, Climate change and Institutionalisation.</p> <p>Under objective 4.1: Action is to “Review existing and draft additional policies for increasing human and institutional capacity to conserve biodiversity.</p> <p>Action 4.3: Strengthen law enforcement agencies by direct involvement communities and through their local institutions.</p>
Integrated Water Resources Management	<p>The strategy does cover elements of ICM and interrelated objectives. The strategy has captured all-important ICM aspects and seems to be in line with international practice.</p> <p>It is sufficiently flexible for the implementation of practically enforceable measures for successful ICM.</p> <p>The objectives and scope of application for the strategy are in line with international and the current thinking in terms of effective water resources management. In fact, ICM is one of the recommendations of the strategy.</p>
Draft Soil and Water Conservation Policy	<p>The strategy focuses on technical measures for soil and water conservation and management. The measures are integrated as they relate to land and water use. ICM objectives are listed in some detail. Regarding decentralization, the strategy aims in a general manner at maximizing community involvement in sustainable use of soil and water resources, through engagement of</p>

Policy, Act, Regulation	Preliminary Findings
	<p>community soil and water conservation committees. Neither the policy areas 1-6, nor the guiding principles mention the local communities as players nor decentralization in general.</p> <p>Its recommendations are relevant for practical ICM implementation, as the measures are technical by nature and need to be implemented via local level regulations or by-laws. They will need consideration when studying options to support CCs to enact by-laws.</p>
National Wetlands Conservation Strategy	The strategy adequately addresses decentralization. It does however, neither detail any decentralization procedure, neither any strategy to actively promote decentralization. The strategy summarizes key ICM objectives, and its guiding principles reflect ICM objectives as well. It is not supported by specific implementing regulations
Formal and Informal Institutions in the wetlands of the highlands of Lesotho:	<p>The report focuses mainly on wetlands and rangelands management. The document does propose a new organisational structure and mandates for all role players. This includes local government and other decision makers particularly at the lowest level. Community based organisations, NGO's and local authorities play a role in ICM.</p> <p>It is not clear as to the extent to which the measure may contribute to the implementation of ICM. The measure mentions a proposed framework, without going into details as to how they will be implemented.</p> <p>Current challenges are identified and discussed in some detail. However, other issues such as the legislation, policy and financing seem to be lacking.</p>
Report on National Legal Framework on Decentralisation of 2015 by Ramohapi Shale and Jaap de Visser:	This report outlines close to 50 pieces of legislation that bear upon decentralisation in Lesotho. Most of the legislative instruments outlined in this report coincide with the list of legal instruments that have been identified as relevant to ICM in stream 4. It is very relevant.
Issue Paper for the Reform of Lesotho Local Government Act of 1997 prepared in 2015 by Jaap de Visser and Ramohapi Shale:	This paper examines several issues arising from the National Decentralisation Policy with specific reference to the legislative reforms necessitated by this policy. It, amongst other things, highlights issues relating to the authority of local governments with regards to local policy formulation and implementation vis-à-vis the implementation of sectoral policies and laws at the local level. It is very relevant.
White Paper: Review of Water Legislation:	This is viewed as more of 'review / study report' with a key focus on gaps; challenges and areas for potential improvement, specific to the principal 'Water Act 2008'. It builds a 'business case' almost encouraging / motivating for the reform of the Water Act 2008 based on a perspective of sector needs. It provides good technical/process and institutional insight in context of the Water Sector and may provide further context for the in-depth review of 'Water Act 2008'.
Integrated Catchment Management. Final Reports containing Volumes A, B and C. June 2016:	Page 17 -22 ff, the report describes roles and functions of the 4 types of Councils and refers to the applicable laws. On page 24 and 25, the report contains notes concerning: Decentralization and local leadership. It lists in detail what practical constraints and deficits are. There is no study of local level regulations. The WA and the LGA are quoted but not analysed or commented. The study has a strong focus on institutional and capacity strengthening. However, all the highly detailed findings regarding practical bottlenecks, interviews conducted, materials collected, could be useful input to the drafting of local level regulations or by-laws. When studying options to support CCs to draft by-laws, these findings will need to be considered.

Policy, Act, Regulation	Preliminary Findings
Draft SLM Model; Sustainable land Management project 2011	<p>Section 3.3: The objective of this assignment is to develop a participatory and replicable model and techniques that will successfully overcome institutional and governance barriers to sustainable land management.</p> <p>The SLM Model needs to be updated and operationalised. Managed Resource Area model for developing bylaws should be made more realistic. It is beyond the capacity of local councils to implement.</p>
ORASECOM Lesotho Action Plan 2014	<p>Regulatory Insight: Chapter 4 – Page 24-28 of relevance. The Action Plan was reviewed as it was deemed relevant for informing the context of local bylaws. Community councils are meant to work together with ‘Catchment Management Joint Committees’ (CMJC) as reflected in the Long-term Water and Sanitation Strategy (LWSS 2016) and drafting of key bylaws may be required to aid core function implementation. The Lesotho strategic action plan provides valuable local insight as it unpacks the 4 major environmental concerns specific to Lesotho’s context.</p> <p>It provides stakeholder insight as to what the critical issues are on the ground. It is this local level insight that will inform which areas of ICM at National and Local level require strengthening to address long-term ICM concerns.</p> <p>Analysis from the report, presented on Land Degradation and Water Quality Issues – highlights urgent areas requiring practical and enforceable regulation. Land Use and Water Use therefore are areas for flagged for specific focus; detailed unpacking and review with possibility for urgent reform.</p> <p>The detail of the ‘Action Plan Measures’ could also be a good springboard, streamlining opportune areas for by-law drafting case studies at a later point.</p> <p>National Framework of Lesotho & International Governance– covered in section 2.1 & 2.2 – Page 14 of the LAP document and provides useful insight. This section highlights pertinent legislative instruments that are key to addressing the critical concerns noted in Lesotho’s IWRM. Table 3 – Page 15 refers “Local Government Community councils have the legal authority to manage natural resources in Lesotho and to draft resource management regulations that can become community council by-laws. They also prepare natural resources management (NRM) plans that can be built into community council development plans.”</p> <p>Context of the report is current and needs no updating.</p>
Revised SADC Protocol on Shared Watercourses	<p>Article 4 (2) Protection of ecosystems, pollution prevention, policy harmonisation and protection and preservation of the aquatic ecosystem. Institutional framework presented in article 5. However national level institutional arrangements are not prescribed.</p> <p>It is broad enough to allow some flexibility for the implementation of practically enforceable measures for successful ICM in Lesotho.</p> <p>The protocol is very much relevant as it embodies the latest thinking with regards to cooperation of stakeholders in water resources management.</p>

2.5 Workstream 5: Financing Mechanisms for Local ICM Plans

2.5.1 Introduction/Objectives

Unlike the other four workstreams, Workstream 5 supports Output 2 of the ICM programme for the establishment of effective and efficient institutions through the development and testing of financing mechanisms for local ICM plans. Specifically, Workstream 5 is focused on studying options for a local ICM grant facility in line with local government regulations. The resulting recommendations on how to enable implementation of local ICM plans from a financial point of view will distinguish between interim donor-funded financing mechanisms and a sustainable long-term investment mechanism based on revenues collected from the catchment services on the other hand. A sustainable, revenue-based long-term financing mechanism may nevertheless be supported or supplemented by external funds such as grants.

All outputs, short- and long term, will also distinguish between the local and the national level. Whereas the needed mechanism is targeted at financing the implementation of local ICM plans, the financial sustainability of ICM will require harmonization of financial mechanisms at the national level. Therefore, an analysis of options for local level mechanisms must be embedded in an understanding of national level financing mechanisms. All local level funding mechanisms must be based on national laws and the relevant regulations and by-laws. These must be implementable and enforceable in practice.

2.5.2 Preliminary Findings

The summary of preliminary findings provided in Table 7 lists only the relevant acts, policies, and other documents. Highly relevant documents are presented in more length than documents of medium or low relevance.

Table 7 Workstream 5: Summary of Preliminary Findings

Policy, Act, Regulation	Preliminary Findings
Government Concept Note on Fiscal Decentralisation	<p>The Concept Note is highly relevant. It focuses on the establishment of inter-governmental relations and development of a local government financing mechanism.</p> <p>It complements and adds to the decentralization policy, as this does not fully elaborate several key issues that need to be addressed which are essential for fiscal decentralization. Issues include:</p> <ul style="list-style-type: none"> • tax assignment between central and local government; • clarity and equity of fiscal transfers to local governments; • how local governments can be financed if they take up more functions; and • how central government should provide support, monitor and oversee local governments. <p>It lists proposals for steps under chapter 3. It also lists main obstacles to Fiscal Decentralization. Obstacles include:</p> <ul style="list-style-type: none"> • Failure to devise expenditure assignment; • unfunded mandates; • too few tax sources for Local Authorities; • failure to develop credit and borrowing system; • financial controls retained by central level; • lack of Intergovernmental Fiscal System based on transparency rather than on negotiation and political influence. <p>The CN contains legal recommendations for options to amend the Public Financial Management and Accountability Act of 2011. It explains that a review of the PFM Act should:</p> <ul style="list-style-type: none"> • provide for adequate resources to local governments and greater flexibility for LGs to deploy resources based on local priorities;

Policy, Act, Regulation	Preliminary Findings
	<ul style="list-style-type: none"> • a transfer system that preserves budget autonomy at the sub-national level; • a fair allocation of resources in a predictable manner over time; a simple and transparent formula with incentives for local revenue mobilization. <p>Importantly it must be noted that it confirms the need for “Preparation of LG financing and accounting Regulations, that apply to all financial transactions and business of all local governments and to the management of all public funds and public property in local government. It will elaborate in detail financial administration and control including functions of the councils, accounting officers, head of finance, internal audit etc. The regulations will also cover the budgeting process, revenue, payments, accounting and controls, treasury management, assets management, risk management, offences and penalties etc.”</p>
Water Act of 2008	Regarding finance mechanisms, the Act has medium relevance. It contains several potential sources for funding but lacks detail and contains no guidance on fund allocation to specific ICM objectives.
Environment Act of 2008	The EA has no high priority. It provides the legal basis for land use planning, water use, and for fines and penalties. These are potential sources of ICM funding.
Public Financial Management and Accountability Act, 2011	The PFMA is highly relevant as it is the legal basis (Sect. 61: Minister to make regulations) and sets the framework for a needed ICM grant facility. Amongst others, it must be read and construed in context with the LGA, as there are several references to the LGA. Relevant are also sections 110-113 of the Lesotho Constitution regarding the consolidated fund.
Study on assignment of functions to local authorities in Lesotho, by Ntate Hoolo 'Nyane, 2016	It is relevant, as it discusses different approaches to decentralization in detail, as well as financing of local level mandates. It must be cautioned though, that the study does not consider the present Bill for an updated LG Act. In addition, it seems to assume that by-laws were not approved by the Minister while the realities seem to be that not a single by-law was submitted to the Minister until now (see Ntate Ramohapi Shale's review to that end). The study must be read in context with Ntate Ramohapi Shale's review of the LG Act. Its findings may nevertheless be helpful once we proceed to proposing a funding mechanism. For the identification of the status quo, it must be read, bearing in mind, that some of the quoted legislation is outdated. Hence regarding the status quo, it is not of high relevance.
Lesotho Constitution	It is relevant, as it regulates the consolidated funds (see above: for all international funds and grants). And it describes the responsibilities of (sect 106) local authorities and contains a chapter 9 on land. Section 110 regulated details on the “Consolidated fund” and importantly Section 111 deals with the needed legal basis by Act of Parliament, see the PFMA above. It must be further investigated what may need to be clarified within the Constitution.
Deepening Decentralization project final report UNDP	The findings of the report are relevant for this project. Local development grants were implemented in the 10 district councils, 1 City council, 11 urban councils and the 64 community councils. The programme made available non-sector specific discretionary and performance-based grants for local authorities to improve their institutional, organisational, and financial management capacity to deliver services to local communities. It aimed at several objectives; the most relevant objectives are:

Policy, Act, Regulation	Preliminary Findings
	<ul style="list-style-type: none"> • improving local development funding to the local authorities in all the districts of the country as a catalyst to decentralization and the empowerment of local governance to bring services closer to the people. • Design a non-sector specific and discretionary local development grant with elements of capital investment grant, capacity building grant and an equipment grant. Transfer grant to local authorities based on agreed criteria to undertake a variety of local development interventions.
Long Term Water and Sanitation Strategy of 2016	The strategy is of medium relevance as it is very general by nature. It includes suggestions for a common funding mechanism for funding Local Councils' investments in water, sanitation and catchment management, common office facilities for sector institutions as well as improved communication and stakeholder and private sector participation in the water sector activities.
National wetland strategy	It contains a strategy objective of establishing a national funding mechanism (a National Biodiversity/wetlands Trust) to sustain wetlands conservation in Lesotho. This could contribute local level ICM funding. Wetlands conservation will be likely a task conducted by local governments. The principle of subsidiarity would imply that this funding must be largely used on the local level.
Report on budget support restoration Lesotho, EU, May 2019	The report is highly relevant and must be considered regarding the status quo in practice. Significant effort was put into this report and its findings are highly relevant and up to date. Its executive summary is in part quoted here, as these findings are vital: "Public Finance Management - despite many years of attempting various PFM reform strategies there has been little progress and no impact. The Public Expenditure and Financial Accountability (PEFA) assessments of 2012 and 2016 show that there has been a consistent failure to implement even the most basic reform measures. In such a situation the assessment is that the standard of public finance management and accountability is insufficiently credible for a resumption of budget support. In fact, given the severity of the issues afflicting PFM arrangements in Lesotho, it is recommended that a reassessment of eligibility for the resumption of EU budget support, as determined by the standard of public finance management, should not be done before 2024 at the earliest. The outcomes of the scheduled four-year PEFA cycles (2020 and 2024) would provide evidence if the currently reported situation had improved enough to justify a repeat assessment of eligibility. It has been shown that after decades of technical assistance the challenge of addressing low levels of public finance management is not one that can be addressed by still further technical assistance. The solution lies wholly with the members of the Lesotho's civil service. Improvements in PFM and service delivery will require individual and collective commitment to compliance and the implementation of basic management practices (reporting, performance assessment, etc.). This will be a long-term challenge and if technical assistance is sought then it may well need to take a different format to that adopted in the past."
LoCAL (Local Climate Adaptive Living)	LoCAL operates in over 20 countries and is currently operating in Lesotho based on a MoU with the MoLG and the Ministry of Finance. They are piloting in 4 Community Councils, namely: Khoelenya, Lithipeng, Qhoasing and Senqunyane. LoCAL aims at channelling climate finance to local government authorities in developing countries. LoCAL combines performance-based climate resilience grants (PBCRGs) – which ensure programming and verification of climate change expenditures at the local level while offering strong incentives for performance improvements in enhanced resilience – with technical and capacity-building support. It is important to note that it

Policy, Act, Regulation	Preliminary Findings
	uses existing government financial systems rather than project or parallel approaches.
Lesotho Water and Sanitation Policy 2007	There are direct provisions for revenue / funding from the policy. The policy provides good context for funding mechanisms. However, strategies outlined are very high-level. There is a strong focus on Water services which gives impetus to potential for long-term funding mechanisms through tariff funding / revenue strategies. See highlighted sections under Policy Statement 2 & 3. There is an emphasis on Public-Private Partnerships – noted as essential for sustainable development of water resources (but again through a strong focus of water services). The need for Donor funding for short-term mechanisms is reflected under Policy Statement 5.
Case Study ICM in South Africa	A case study on SA ICM funding mechanisms was conducted. Its findings can be helpful for the next recommendation phase.
Report addressing harmonization of legislation challenges through cooperative governance approaches ("White Paper")	The document provides high-level insight and is general by nature. It deals, inter alia with the recovery of the cost of infrastructure, as this is related to security of supply provided to consumers downstream.
Notes on financing water resources management background report for the OECD Expert Meeting on Water Economics and Financing (2010)	The notes contain evidence from international case studies on financing IWRM.
SADC Regional Water Policy 2005	The policy has nine thematic areas, the ninth policy area is on financing integrated water resources management in the region.
National Range Resources Management Policy, 2014	Section 1.1.8 on funding arrangements contains a brief text on government funding and supplemented from projects and non-governmental organisations, development partners and international organisations. The provision of establishing a Development Fund, through introduction of grazing fees in 1992, was subsequently revoked as per Range Management and Grazing Control (Amendment) Regulations of 1993. Emphasises unsustainability of funding for rangeland management.
Financing of water resources management, 2012, case studies on Ghana, South Africa and Uganda	<p>This EU Water Initiative FWG and UNEP-DHI report contains mainly deals with Financing WRM in theory and discusses principles of User Pays and Polluter Pays and basic distinction between public and private goods which can guide financing. Points at State budgets and external ODA as the main sources of financing, and cost recovery from users which is modest. It takes an international perspective and describes principles applicable to the finance of WRM, as well as African practice of WRM financing, based on three major components in IWRM being governance, stewardship, and infrastructure and the four financing sources of user charges, state budgets, ODA and commercial funding.</p> <p>It also deals with financing for trans-boundary WRM and focuses on 60% of the continent covered by river basins and aquifers shared by two or more countries. Financing for the management and development of trans-boundary waters is a block on development for many countries in Africa, as many financing institutions cannot fund projects unless there is prior agreement between the riparian states. It discusses financing for trans-boundary water management: i) Financing for management functions, such as building regional/basin institutions, establishing goodwill between riparian states, and negotiating agreements, developing capacities, data</p>

Policy, Act, Regulation	Preliminary Findings
	collection/information, coordination activities, etc. ii) Financing infrastructure of varying types and purposes, which requires a package of financing from different sources.
Integrated Water Resources Management and Water Efficiency (IWRM/WE) Main Report 2008, 2007-2030, Volume 1	It describes the financing of the Water Sector (sector wide) and the three sources, government budgets, oversees development assistance and water charges.
Operationalisation of Integrated Catchment Management Framework Lesotho, February 2017 – March 2018	It describes articles related to water and soil management financing in different legislature and in brief comments and recommendations on the way forward to arrange for future ICM funding.
Guidelines for Financing Catchment Management Agencies in South Africa; “Development of guidelines for the financing of catchment management in South Africa” 2001	This is an extensive document working out financial elements of the full business model and value chain of a Catchment organisation/catchment structure.
Water and Sewerage Company Act No. 13 of 2010	According to the official summary in the WASCO’s website, the provisions of this Act establish WASCO as a company and transfer the assets, liabilities, rights and obligations of the Water and Sewerage Authority to it. Under the provisions of this Act, WASCO is mandated to supply water and to provide sanitation services in urban and designated areas in Lesotho. The water supplied by WASCO is collected from designated catchments in the country. Its services are financed through fees, tariffs or charges collected from its customers on the basis of the rates determined by the Lesotho Electricity and Water Authority (LEWA). So, WASCO Act is relevant insofar as it establishes WASCO as water and sanitation service provider and most importantly because it stipulates funding mechanisms aimed at enabling WASCO to financially sustain its operations and make some profit.
Lesotho Electricity Authority (Amendment) Act No. 24 of 2011	This Act provides for the establishment of LEWA, which is a regulatory body mandated to regulate electricity and water service providers mainly WASCO and LEC. It does so by setting standards relating to quality and safety of both water and equipment used in providing water; enacting rules and by-laws governing, amongst others, the collection, treatment and provision of water; reviewing and setting tariffs, rates and charges regarding the use of water; licencing; etc. According to this Act, LEWA is required to fund its regulatory activities through licence fees. This is a financing mechanism, and it is for this reason that this Act is relevant. Further, LEWA may require the licensees to establish contingency funds for the purpose of funding emergency repairs. Again, this is a financing mechanism.
The Local Government Act of 1997 as amended	This Act is relevant insofar as it empowers councils to make by-laws, which if contravened, the perpetrator may be required to pay a fine. These penalties may be a source of revenue for financing ICM related activities in the council area. Further, councils are empowered to impose and collect rates, taxes etc; to receive grants, gifts and donations; to borrow money; and levy some charges on services provided by councils. All these provisions are relevant.
The Local Government Bill of 2020	In 2015, the Government, with the support from development partners, initiated a review of the existing legal framework on decentralisation in order to harmonise the existing legal framework with the NDP. The Local

Policy, Act, Regulation	Preliminary Findings
	Government Bill of 2020 does not entail significant changes to Part V of the Local Government Act. That is so because the requisite study is yet to be conducted and then fiscal decentralisation framework be formulated. That framework will indicate if there is need for standalone legislation (parent or subsidiary) on fiscal decentralisation.
Lesotho Land Act, 2010	This is a comprehensive piece of legislation on land matters. It particularly regulates the allocation, regularisation, expropriation, transfer and use of land including the resolution of land-related disputes, protection of rights and interests relating to land. Part XIII of this Act specifically provides for land revenue and categorises land revenue into ground rent, development charges and allocation premiums. This Part is relevant.
Land Regulations 2011	Land Regulations give effect to some provisions in the Land Act. These regulations enshrine 5 schedules, which regulate the calculation of ground rent, charges, fees and premiums. These schedules are relevant to the assessment of financing mechanisms.
Land Administration Authority Act 2010	This Act establishes the Land Administration Authority and makes further provisions regarding land administration in Lesotho. In particular, it governs matters such as land survey and mapping, land registration, land valuation, and issuance of leases. With specific reference to financing mechanisms, the LAA Act, in Part V, states that the revenue of the Authority shall be obtained from fees, grants and donations from the Consolidated Fund or from any approved source, and loans. This Part is relevant.
The Land Husbandry Act of 1969 as amended	Section 4 empowers the Minister responsible for agriculture to enact regulations governing, inter alia, the grazing of livestock. In pursuance of this provision, the Minister enacted the Range Management and Grazing Control Regulations in 1980. These regulations give a local chief the authority to control the grazing of livestock through rotational grazing and to impound stock found grazing in protected pastureland and to direct the owner to pay the prescribed pound fee. The chief is required to keep 30% of the collection and pay the remaining 70% into the Consolidated Fund.
Handbook by Ramohapi Shale: A Practical Guide to Community Participation in Lesotho's Local Governments, 2017 (published by the GIZ)	<p>This handbook outlines citizen participation mechanisms that are currently used or may be used in the local councils and then guides the councils on how to use such tools effectively. Each Councillor in Lesotho has a copy of this handbook, and most Councillors were trained on how to use the handbook. It was funded, published and its use piloted in 10 districts by the GIZ. There are two tools outlined in this handbook, which have a bearing on funding ICM activities or plans in the local councils: Letsema and self-regulation.</p> <p>Letsema is one of the remaining cultural traditions in Lesotho. In the context of local governance, it refers to communal labour on public projects such as cooperative hoeing, harvesting, reservoir construction, etc. Customarily, if communal labour is on public projects, each villager is expected to supply tools, food, materials, labour, skill and so on according to his/her ability or means.</p> <p>Self-regulation, as a mechanism for citizen participation, is applicable in cases where the subject of regulation comes within the purview of a user group and that particular user group is allowed to take practical control over the protection of its interests in respect of the use of a particular product or service. Under a self-regulatory framework, a user group regulates itself and the conduct of its members in accordance with its own rules, its ethical standards, and the laws of the country.</p>
Issue Paper for the Reform of Local Government Act 2015	This paper outlines some burning issues with regards to fiscal authority of the local governments. Does the National Decentralisation Policy necessitate

Policy, Act, Regulation	Preliminary Findings
(prepared by Jaap de Visser and Ramohapi Shale for the Ministry of Local Government and Chieftainship)	changes to the framework for revenue-raising by local authorities? Are the local authorities' taxing powers adequate? Should they have more or less discretion to design ways to tap into their local tax base? Are the local authorities' powers to charge fees for services adequate? Considering the inequality between local authorities and the redistributive role of national government, should the Local Government Act provide for an entitlement to an equalisation grant? Should the Local Government Act shape the vertical division of revenue, i.e., the determination of the share of nationally collected revenue that is set aside for local authorities? Then the paper provides guidelines and proposals on how to address questions, which proposals are best on best practice in South Africa, Uganda and Zimbabwe. The approach taken by those countries is clearly outlined in the Issue Paper.
National Decentralisation Policy of 2014 (NDP)	<p>The main objective of this Policy is “to deepen and sustain grassroots-based democratic governance and promote equitable local development” by adopting and implementing devolution as a mode of decentralised governance and service delivery. With specific reference to local governance financing mechanisms, the report recommended:</p> <ul style="list-style-type: none"> • Include in the policy the powers of councils to retain local revenues and to apply them to their expenditures; • Include in the policy, and later in the revised Local Government Act, a requirement to protect transfers to local authorities in real terms to allow them to maintain a minimum level of service delivery; • Undertake an assessment, in view of the functions assigned to local authorities, and determine the full range of sources from which local authorities may collect revenues; [and] • Revise the Local Government Act, clarifying further the sources of local revenues in view of what is known of these sources, following the assessment above. Include in the Act, the formula for sharing revenue collections between district and community councils and district and urban councils.
Municipal and Urban Councils Financing Regulations LN No. 137 of 1988	These regulations had been enacted pursuant to section 65 of the Urban Government Act of 1983. Its provisions show that a Council has fiscal autonomy over the money held by it or held on its behalf. As subsidiary legislation, the regulations do not provide for sources of Council's revenue, but regulation 45 states that “all necessary steps for the recovery of all rates, fees, charges and other revenues due and payable to the Council must be taken.” This necessarily implies that Council's sources of revenue include rates, fees and charges levied in respect of services rendered by a Council.
The Lesotho Highlands Water Project (P.1) Policy for Instream Flow Requirements of 2002	<p>The Policy mainly describes compensation measures. These could, however, be sources for ICM funding.</p> <p>The policy requires compensation to be paid in cash into community trust accounts. Compensations aim at addressing the impacts of reduced downstream flows and at mitigating and compensation by payment for resource losses and increased risks, and flow release adjustments, in accordance with clearly articulated procedures. Payment to accounts empowers communities to decide amongst a range of developmental programmes and projects, as they deem appropriate. This could hence be used for catchment rehabilitation. The review of impacts other than those involving resource losses are also considered.</p>

The following key conclusions are based on the above preliminary analysis of relevant policies.

6. There is no existing local level ICM funding mechanism or a detailed legal basis for a funding mechanism on the local level. However, the general legal basis for a needed funding mechanism exists in acts and policies regarding decentralization in general and in authorizing councils to collect and spend revenues. The existing policies and acts generally allow both short and long-term funding mechanisms, as well as external grants and revenue-based mechanisms.
7. Recommendations for a more detailed legal basis were made and must be operationalized, specifically detailed content on how funds are allocated and how they must be spent is lacking. Local governments still have significant unfunded mandates and the revenue and tax sources for local authorities appear to be inadequate, while the central government remains responsible for all financial controls.
8. The various "Framework Acts" on water, environment, etc. provide sources of funds but no objectives or guidelines how to allocate or use these. There is no detailed permitting or charging regime for water or land use and implementation and enforcement of existing permitting and charging is generally poor. Finally, the institutional capacity in terms of qualified staff for administering and monitoring funds management is problematic.
9. On a more optimistic note, there are numerous studies, reports, or issue papers on all relevant aspects of fiscal decentralization that are directly applicable to local government ICM financing. Many recommendations are helpful, especially the DDP of UNDP and the CN on fiscal decentralization recommendations. There are also examples of good practices in neighbouring countries and other sub-Saharan countries that can provide lessons for Lesotho.
10. The general approach of LoCAL of using existing government financial systems rather than project or parallel approaches must be further investigated. The tools of Letsema and self-regulation should be applied in practice.

3 Stakeholder Engagement

The process of stakeholder engagement into the review of National Policies, Plans and Strategies; which will ultimately lead to the development of recommendations for policy harmonisation, in order to enable ICM implementation in Lesotho, shall be coordinated across all workstreams to ensure efficient use of the time and available resources, as well as effectiveness of the process, while limiting stakeholder fatigue. Therefore, all the workstreams are geared up to channel their stakeholder engagement through a single focal point to ensure streamlining and coordination. The process will also be coordinated with parallel ongoing GIZ supported work related to this project to allow for synergies. The engagement shall target key stakeholders identified by the various workstreams, as having a pivotal role to play in providing strategic input and guidance into the process, in order to ensure relevance and buy-in to the review outputs. As such, the stakeholder engagement process shall serve as a vehicle allowing for back and forth transmission of information to provide relay feedback loops to a broader stakeholder base; so that it becomes a living process that ICM stakeholders relate to and own. Therefore, the recommendations and priorities developed through this process will be based on a sound review of the National, Regional and International Policies and Strategies to inform sustainable ICM implementation in Lesotho.

The activities and tasks that have been undertaken to date under this work component include the following:

- 1 Development of a consolidated preliminary stakeholder engagement roadmap (see Annex A). The roadmap is a master plan that tallies all envisaged stakeholder engagement activities involving all the workstreams and serves as a dash-board that allows the user to easily identify when more than one workstreams are targeting the same stakeholder and therefore accordingly plan for the engagement approach and their timing. This may involve merging meetings, engaging through focus groups, arranging workshop sessions or conducting one-on-one interviews, depending on the requirements of each engagement, thereby reducing unnecessary duplications.

Development of stakeholder interview guides. These guides serve to focus and guide the stakeholder engagement process as it predetermines the content of the engagement and casts broad questions that will enable collection of relevant data required to address the specific requirements of each workstream. The Interview guidelines will be sent to the stakeholders prior to their engagement to allow them enough time to refer and prepare accordingly. Copies of the interview guidelines for all workstreams have been provided in Annex B.

Coordination with on-going sister projects supported by GIZ dealing with Regional Policy work (e.g., Global Water Partnership), to allow for synergies, sharing of information, leveraging and standardizing the stakeholder engagement approaches and processes relevant to both projects.

Formalizing the stakeholder engagement process by seeking endorsement of the Ministry of Water, through the office of the Principal Secretary to formally introduce the Consultant (Particip) to stakeholders with a signed letter of introduction (a draft of the letter has been prepared). This is an important step that reassures stakeholders that the engagement we seek to initiate with them through this project is legitimate and in support of the official business of the Government of Lesotho. This will ensure that the project enjoys great reception during stakeholder engagement and stakeholders will feel free to share their information, documents, reports and staff time to participate in the project.

The findings of Assessment Phase 1 were shared with a broad group of stakeholders as part of the Assessment Phase 2 Kick Off Workshop held virtually in mid-February 2021. A participatory exercise was held with all stakeholders in which obstacles, risks, drivers, and solutions were Identified and discussed for each of the Workstream objectives.

4 Next Steps

This Summary of Preliminary Findings Report marks the conclusion of the Assessment Phase 1 stage of the Policy Harmonisation Project. Beginning in late-February 2021, the project will transition to Assessment Phase 2 which will provide for a more in-depth analysis of those priority policies identified in Phase 1 and will provide recommendations for medium to long-term policy reform support. During this phase, broad stakeholder engagement will be undertaken in accordance with the project's Stakeholder Engagement Plan. It is anticipated that Phase 2 will conclude in August 2021 followed by a one-month Phase 3 stage during which the findings and recommendations for policy reform will be finalized and presented in a final project report.

Annex A: Consolidated Stakeholder Engagement Plan Roadmap

Name of Organization	WS1	WS2	WS3	WS4	WS5	GWP	Mode of Consultation	Stakeholder consultation Focal Point
DEVELOPMENT PARTNERS & REGIONAL:								
UNDP	X	X	X		X	X		(GEF-SGP WS2) (GEF SGP WS5)
World Bank	X		X			X		Environment/Water & Climate Change desk
IFAD	X					X	e-meeting envisaged	
MCC / LMDA	X		X			X		
FAO	X	X	X			X		(NRM PO WS2)
GWP	X					X	e-meeting envisaged	if GWP-SA (e-meeting), else WGP-Ls FP
ORASECOM Secretariat	X	X				X	e-meeting envisaged	
LoCAL					X			
SADC Secretariat (Water Division)						X		
LHWC						X		
TCTA (national organisation, but responsible for regional project)						X		
GIZ (Lesotho)						X		
NATIONAL GOVERNMENT:								
Ministry of Water:								
Department of Water Affairs (DWA)	X	X	X	X	X	X	Meeting	
Water Commission (CoW)	X		X			X	Meeting	
Ministry of Development Planning (MoDP)	X					X		
Ministry of Finance (MoF)	X		X		X	X	Meeting	
Ministry of Local Government & Chieftainship Affairs (MoLGCA)	X	X	X	X	X	X	Meeting	Decentralization focal point(WS4)
Ministry of Agriculture & Food Security (MAFS)	X	X	X	X	X	X	Meeting	
Disaster Management Authority (DMA)			X			X	Meeting	
Ministry of Tourism, Environment and Culture (MTEC)	X	X	X	X	X	X	Meeting	
Ministry of Forestry, Range and Soil Conservation (MFRSC)	X	X	X	X		X	Meeting	

Name of Organization	WS1	WS2	WS3	WS4	WS5	GWP	Mode of Consultation	Stakeholder consultation Focal Point
Ministry of Gender and Youth, Sports & Recreation (MGYSR)		X				X	e-meeting	
Ministry of Social Development		X				X		Office responsible for OVC s
National Climate Change Committee (NCCC)			X			X	Workshops	LMS
Ministry of Energy and Meteorology (MEM)						X		
Lesotho Meteorological Services (LMS)			X			X		
LHDA	X					X		
Ministry of Public Works								
Parliament and Senate Members? (GIZ Partner (PISA) can facilitate this engagement)								
Assortment of Stakeholders related to Community Council activities (e.g., Mining, Energy and Meteorology, of Finance, Development Planning, NUL, NGOs, CBOs, private sector, SADC institutions etc)				X			National workshop	All national level stakeholders
Non-Governmental Organizations (NGOs)								
Lesotho Council of Non-Governmental Organizations (LCN):								
a) Agriculture, Environment and Natural Resources Commission (AENRC)	X	X	X			X	Focus Group Meetings (Workshops)	Commissioner AENRC
b) Health and Social Development Commission	X	X				X	Focus Group Meetings (Workshops)	Commissioner HSDC
c) Economic Justice Commission	X					X	Focus Group Meetings (Workshops)	Commissioner EJC
Women and Children's Commission		X				X		Mantsala Ramakhula 58687993 wcc@lcn.org.ls
Democracy & Human Rights Commission		X				X		
Catholic Relief Services (CRS) GIZ funded			X			X	Meeting	
DISTRICT LEVEL								
District Administrator (DA)		X				X	Focus Group Meetings (Workshops)	
District Council Secretary (DCS - MoLGCA)		X				X	Focus Group Meetings (Workshops)	

Assessment Phase 1: Summary of Findings

Name of Organization	WS1	WS2	WS3	WS4	WS5	GWP	Mode of Consultation	Stakeholder consultation Focal Point
District Council				X	X	X	Regional workshop w/ traditional authorities, NGOs & CBOs (WS4) Targeted workshops per Agro- Ecological Zone (WS5)	
District Agricultural Officer (DAO - MAFS)		X				X	Focus Group Meetings (Workshops)	
District Coordinator (DC - MFRSC)		X				X	Focus Group Meetings (Workshops)	
NGOs operating at district level		X						
Department of Rural Water Supply (DRWS - MoW)		X				X	Focus Group Meetings (Workshops)	
District Technical Teams (DTTs)		X						
LOCAL LEVEL								
Community Council Secretary (CCS) & Community Council - MoLGCA		X	X		X		workshops	
Area Chiefs		X	X					
Grazing Associations/Village Grazing Schemes/Herders Associations/WMGA		X	X					
Households		X	X					one-on-one & Focus Group Meetings
CBOs with focus on women & youth		X	X					

Annex B: Stakeholder Interview Guides

Workstream 1 – National Policy Harmonisation for ICM Implementation

Stakeholder Engagement Template – Round 1

Introduction

The purpose of this interview guide is to support preliminary consultation on the extent to which the existing framework of policy and legislation supports effective ICM implementation in Lesotho. This round of consultation focuses on two specific aspects:

- Section 1 – A review of what stakeholders see as the key policies and legislation for their work related to ICM implementation, and their experience in implementing the requirements arising under these instruments.
- Section 2 - Stakeholders' perceptions regarding the applicability and relevance of these policies and legislation, and the extent to which they (can) provide an adequate enabling environment for ICM implementation in Lesotho.

These questions provide a framework for discussion and a guide on the range of issues to be explored. They are not necessarily intended as a checklist to be answered individually.

We would also welcome any additional insights and information you are able to provide that might not be directly addressed in the questions set out below.

3. What are the main legal framework(s) (national laws, policies, strategies and plans) relevant for your work relating to ICM, e.g., Environment Act 2008; Water Act 2008; Town & Country Planning Act 1980; 2016 Long-Term Water and Sanitation Strategy?
 - a. Please list
 - b. Please explain briefly how these laws, strategies or plans are relevant for your work (at national, district, local level).
 - c. Are the principles and requirements of national laws clearly reflected in the strategies and plans relevant for your work?
 - d. Do the national laws, policies, strategies, and plans give you adequate legal and practical tools / mechanisms to meet the requirements stemming from your activities/responsibilities?
 - v. If yes, please list which tools/ mechanisms are available?
 - vi. If no, please highlight what the gaps are?
 - vii. What institutional linkages between national level organisations exist to assist you in the fulfilment of your responsibilities?
 - viii. Are these linkages adequately established and functioning?
4. Overall, what are the main observations regarding applicability and relevance of the national law, policies, strategies and plans for supporting ICM implementation, particularly in terms of:
 - a. Effectiveness:
 - Do the measures appropriately address key elements and objectives of ICM implementation (sufficiency of mandate; scope of application; and practicable level of administration)?
 - Do the measures create or contribute to a practicable regime for ICM implementation in Lesotho (sufficiently flexible; sustainably implementable; practically enforceable; and financially sustainable)?
 - b. Holistic / Cross-sectoral:

- Do the measures link with the mandates of other ministries and departments (*e.g.*, Ministry of Water (incl. Dept of Water Affairs, Dept of Rural water Supply, Water Commission); Ministry of Tourism, Environment & Culture; Ministry of Forestry, Range & Soil Conservation; Ministry of Development Planning; Ministry of Agriculture & Food security; *etc.*) and do the measures create or contribute to an integrated framework?
 - Are there gaps / overlaps regarding key functions (*e.g.*, enforcement)?
 - Are there any ambiguities regarding scope of application?
- c. Proportionality:
- Are the measures likely to achieve their legitimate aims?
 - Are the measures cost-effective?
 - Do the measures involve an equitable and reasonable distribution of costs and benefits across all actors / sectors?
- d. Currency:
- Are the measures outdated or obsolete in terms of their objectives, scope of application or approach?
 - Do they require updating (*e.g.*, regarding penalties) or require consolidation / codification (to incorporate successive amending measures)?
- e. Consistency:
- Do the measures promote (at least some) elements and objectives related to ICM implementation in a manner consistent with the strategies and plans of other Ministries and Departments engaged in ICM implementation?
 - Do the measures run contrary to (certain) elements and objectives of other Ministries or Departments engaged in ICM implementation?
 - Do the measures conflict with other (ICM-related) national measures?
5. Participatory (ensuring equitable participation):
- Do the measures seek to raise awareness of (elements and objectives) related to ICM implementation?
 - Do the measures promote transparency – by means of freedom of (timely) public / stakeholder access to relevant information?
 - Do the measures promote public / stakeholder participation in ICM-related decision-making – by means of appropriately structured and equitable consultation?
 - Do the measures permit and facilitate reviewability of decisions – by means of a general right (and practicable means) to review decisions made thereunder?
6. Monitoring and evaluation:
- Are procedures and processes for ICM implementation being adequately monitored and evaluated?
 - Is the effectiveness of ICM implementation at different levels (national, district, local) monitored and evaluated?
 - Are assessments being undertaken to inform improvements to ICM-related policies, strategies and plans?
7. Enabling environment:
- Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for ICM implementation?
 - Is there a lack of finance or other resources, lack of skills/ capacity, or any other relevant challenges of which you are aware?

Workstream 2 – Rights and Gender

Stakeholder Engagement Template – Round 1

Introduction

The purpose of this interview guide is to support preliminary consultation on the extent to which policy and legislation provides support for the protection of human rights and gender sensitivity in Lesotho. This round of consultation focusses on two aspects:

- Section 1 – A review of what stakeholders see as the key policies and legislation for their work on protecting human rights and promoting gender sensitivity, and their experience in implementing the strategies and plans that focus on these instruments.
- Section 2 - Stakeholders' perceptions regarding the applicability and relevance of the policy and legislation and the extent to which it provides an enabling environment for protecting human rights and promoting gender sensitivity.

These questions provide a framework for discussion and a guide on the range of issues to be explored. They are not intended as a checklist to necessarily be answered individually.

We would also welcome any additional insights and information you are able to provide that might not be directly addressed in the set of questions.

1. What are the main legal framework(s) (national laws, policies, strategies and plans) relevant for your work?
 - a. Please list
 - b. Please explain briefly how these laws, strategies or plans are relevant for your work (at national, district, local level).
 - c. Are the principles and requirements of national laws clearly reflected in the strategies and plans relevant for your work?
 - d. Do the national laws, policies, strategies, and plans give you adequate legal and practical tools/ mechanisms to meet the requirements stemming from your activities/responsibilities?
 - i. If yes, please list which tools/ mechanisms are available?
 - ii. If no, please highlight what the gaps are?
 - iii. What institutional linkages between national level organisations exist to assist you in the fulfilment of your responsibilities?
 - iv. Are these linkages adequately established and functioning?
2. Overall, what are the main observations relating applicability and relevance of the national law, policies, strategies and plans for the protection of human rights and gender sensitivities, for example:
 - i. Effectiveness
 - Do the measures appropriately address key elements and objectives for the protection of human rights and gender sensitivities (sufficiency of mandate; scope of application; and practicable level of administration)
 - Do the measures create or contribute to a practicable regime for the protection and promotion of rights based and gender sensitive processes in Lesotho (sufficiently flexible; sustainably implementable; Practically enforceable; and Financially sustainable)
 - j. Holistic / Cross-sectoral
 - Do the measures link with the mandates of other ministries and departments (e.g.,, social and economic development, water affairs, environment affairs etc) and do the measures create or contribute to an integrated framework?
 - Are there gaps regarding key functions (e.g.,, enforcement)?
 - Are there any ambiguities regarding scope of application?
 - k. Proportionality
 - Are the measures likely to achieve their legitimate aims;

- Are the measures cost-effective;
 - Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.
- l. Currency
- Are the measures outdated or obsolete in objectives, scope of application or approach;
 - Do they require updating (e.g., regarding penalties) or require consolidation / codification (regarding amending measures).
- m. Consistency
- Do the measures promote (at least some) elements and objectives for the protection of human rights and gender sensitivities consistently with the strategies and plans of other Ministries and Departments;
 - Do the measure runs contrary to (certain) elements and objectives of other Ministries or Departments;
 - Do the measures conflict with other national measures:
- n. Participatory (ensuring equitable participation)
- Do the measures seek to raise awareness of (elements and objectives) about Human Rights and Gender Sensitivities;
 - Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;
 - Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;
 - Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.
- o. Monitoring and evaluation
- Are procedures and processes for the promotion of human rights and gender sensitivities being monitored and evaluated;
 - Is the effectiveness of the promotion of human rights and gender sensitivities at different levels (national, district, local) monitored and evaluated;
 - Are assessments being undertaken to inform improvements to adaptation policy, strategy and plans.
- p. Enabling environment
- Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for the promotion and enforcement of human rights.
 - Is there a lack of finance or other resources, lack of skills/ capacity, or any other relevant challenges that you are aware of?

Workstream 3 – Climate Change Adaptation Mainstreaming

Stakeholder Engagement Template – Round 1

Introduction

The purpose of this interview guide is to support preliminary consultation on the extent to which policy and legislation provides support for the mainstreaming of climate change adaptation into ICM implementation in Lesotho. This round of consultation focusses on two aspects:

- Section 1 – A review of what stakeholders see as the key policies and legislation for their work on climate change adaptation, and their experience in implementing the strategies and plans that focus on these instruments.
- Section 2 - Stakeholders' perceptions regarding the applicability and relevance of the policy and legislation and the extent to which it provides an enabling environment for mainstreaming climate change adaptation into ICM implementation in Lesotho.

These questions provide a framework for discussion and a guide on the range of issues to be explored. They are not intended as a checklist to necessarily be answered individually.

We would also welcome any additional insights and information you are able to provide that might not be directly addressed in the set of questions.

1. What are the main legal framework(s) (national laws, policies, strategies and plans) relevant for your work?
 - a. Please list
 - b. Please explain briefly how these laws, strategies or plans are relevant for your work (at national, district, local level).
 - c. Are the principles and requirements of national laws clearly reflected in the strategies and plans relevant for your work?
 - d. Do the national laws, policies, strategies, and plans give you adequate legal and practical tools/mechanisms to meet the requirements stemming from your activities/responsibilities?
 - i. If yes, please list which tools/ mechanisms are available?
 - ii. If no, please highlight what the gaps are?
 - iii. What institutional linkages between national level organisations exist to assist you in the fulfilment of your responsibilities?
 - iv. Are these linkages adequately established and functioning?
2. Overall, what are the main observations relating applicability and relevance of the national law, policies, strategies and plans for supporting the mainstreaming of climate change adaptation into ICM, for example:
 - a. Effectiveness
 - Do the measures appropriately address key elements and objectives for climate change adaptation (sufficiency of mandate; scope of application; and practicable level of administration)
 - Do the measures create or contribute to a practicable regime for mainstreaming climate change adaptation in Lesotho (sufficiently flexible; sustainably implementable; Practically enforceable; and Financially sustainable)
 - b. Holistic / Cross-sectoral
 - Do the measures link with the mandates of other ministries and departments (e.g.,, social and economic development, water affairs, environment affairs etc) and do the measures create or contribute to an integrated framework?
 - Are there gaps regarding key functions (e.g.,, enforcement)?
 - Are there any ambiguities regarding scope of application?
 - c. Proportionality

- Are the measures likely to achieve their legitimate aims;
 - Are the measures cost-effective;
 - Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.
- d. Currency
- Are the measures outdated or obsolete in objectives, scope of application or approach;
 - Do they require updating (e.g., regarding penalties) or require consolidation / codification (regarding amending measures).
- e. Consistency
- Do the measures promote (at least some) elements and objectives for mainstreaming climate change adaptation consistently with the strategies and plans of other Ministries and Departments ;
 - Do the measure runs contrary to (certain) elements and objectives of other Ministries or Departments;
 - Do the measures conflict with other national measures:
- f. Participatory (ensuring equitable participation)
- Do the measures seek to raise awareness of (elements and objectives) about climate change adaptation;
 - Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;
 - Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;
 - Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.
- g. Monitoring and evaluation
- Are procedures and processes for mainstreaming climate change adaptation being monitored and evaluated;
 - Is the effectiveness of mainstreaming climate change adaptation at different levels (national, district, local) monitored and evaluated;
 - Are assessments being undertaken to inform improvements to adaptation policy, strategy and plans.
- h. Enabling environment
- Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for mainstreaming climate change adaptation.
 - Is there a lack of finance or other resources, lack of skills/ capacity, or any other relevant challenges that you are aware of?

Workstream 4 – Decentralisation

Stakeholder Engagement Template – Round 1

Introduction

The purpose of this interview guide is to support preliminary consultation on the extent to which policy and legislation provides support for the rollout of decentralisation process in Lesotho. This round of consultation focusses on two aspects:

- Section 1 – A review of what stakeholders see as the key policies and legislation for their work on decentralisation, and their experience in implementing the strategies and plans that focus on these instruments.
- Section 2 - Stakeholders' perceptions regarding the applicability and relevance of the policy and legislation and the extent to which it provides an enabling environment for implementing decentralisation in Lesotho.

These questions provide a framework for discussion and a guide on the range of issues to be explored. They are not intended as a checklist to necessarily be answered individually.

We would also welcome any additional insights and information you are able to provide that might not be directly addressed in the set of questions.

1. What are the main legal framework(s) (national laws, policies, strategies and plans) relevant for your work?
 - a. Please list
 - b. Please explain briefly how these laws, policies, strategies or plans are relevant for your work (at national, district, local level).
 - c. Are the principles and requirements of national laws clearly reflected in the strategies and plans relevant for your work?
 - d. Do the national laws, policies, strategies, and plans give you adequate legal and practical tools/ mechanisms to meet the requirements stemming from your activities/responsibilities?
 - i. If yes, please list which tools/ mechanisms are available?
 - ii. If no, please highlight what the gaps are?
 - iii. What institutional linkages between national level organisations exist to assist you in the fulfilment of your responsibilities?
 - iv. Are these linkages adequately established and functioning?
2. Overall, what are the main observations relating applicability and relevance of the national law, policies, strategies and plans, for example:
 - a. Effectiveness
 - Do the measures appropriately address key elements and objectives for the decentralisation (sufficiency of mandate; scope of application; and practicable level of administration)
 - Do the measures create or contribute to a practicable regime for the decentralisation in Lesotho (sufficiently flexible; sustainably implementable; Practically enforceable; and Financially sustainable)
 - b. Holistic / Cross-sectoral
 - Do the measures link with the mandates of other ministries and departments (e.g., social and economic development, water affairs, environment affairs etc) and do the measures create or contribute to an integrated framework?
 - Are there gaps regarding key functions (e.g., enforcement)?
 - Are there any ambiguities regarding scope of application?
 - c. Proportionality
 - Are the measures likely to achieve their legitimate aims;
 - Are the measures cost-effective;

- Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.
- d. Currency
- Are the measures outdated or obsolete in objectives, scope of application or approach;
 - Do they require updating (e.g., regarding penalties) or require consolidation / codification (regarding amending measures).
- e. Consistency
- Do the measures promote (at least some) elements and objectives of decentralisation consistently with the strategies and plans of other Ministries and Departments ;
 - Do the measures run contrary to (certain) elements and objectives of other Ministries or Departments;
 - Do the measures conflict with other national measures:
- f. Participatory (ensuring equitable participation)
- Do the measures seek to raise awareness of (elements and objectives) about decentralisation;
 - Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;
 - Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;
 - Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.
- g. Monitoring and evaluation
- Are procedure and processes for decentralisation being monitored and evaluated;
 - Is the effectiveness of the promotion of decentralisation at different levels (national, district, local) monitored and evaluated;
 - Are assessments being undertaken to inform improvements to adaptation policy, strategy and plans.
- h. Enabling environment
- Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for decentralisation
 - Is there a lack of finance or other resources, lack of skills/ capacity, or any other relevant challenges that you are aware of?

Workstream 5 – Financing Mechanisms For Local ICM Implementation

Stakeholder Engagement Template – Round 1

1. Does / has your department/company/organization implement ICM131 interventions?
<p>1.1. If yes – and they are currently ongoing - please describe:</p> <ol style="list-style-type: none"> a) What are the objectives of the ongoing ICM interventions? b) What activities do the ongoing ICM interventions involve? c) What is the source(s) of funding for these interventions? d) How was this funding secured/ what was needed to secure the funding? e) Have you tried to coordinate the funding of ICM interventions with other ICM actors? f) Has the pledged or initially allocated funding been reduced with time? If so, what was the cause of the reduction? g) Has funding been rerouted and used or earmarked for other purposes? If yes, why? h) What is the legal basis for securing or acquiring these funds <ul style="list-style-type: none"> o What legal provisions apply to the allocation of the funds from the source to your organization for the ICM activities? i) What mechanisms are used to disburse the funds (i.e., to those on the ground implementing the activities)? (e.g., paid as wages, grants, investments, etc.) j) Is the financing formalized through legal agreements and if so what types of agreements are being used? k) Who is responsible for on the ground activities (i.e., who are the beneficiaries of the funds e.g., local authorities, NGOs/CBOs, communities, individuals, other?) l) Is there ongoing monitoring and evaluation? <ul style="list-style-type: none"> o If so, to what extent are the objectives being achieved? m) Is funding performance-based / conditional? <ul style="list-style-type: none"> o If yes, please explain o If no, then on what are the conditions, if any, for the funding to be released/disbursed? n) What are the timeframes of the funding e.g., <ul style="list-style-type: none"> o Short term (1 – 2 years) o Medium term (3 – 5 years) o Long term (6> years) o) What are the key challenges you experience with this funding / financing? p) Do you have any recommendations on how these financing / funding mechanisms could be more effective?
<p>1.2. If yes – but implementation of interventions is no longer ongoing please describe:</p> <ol style="list-style-type: none"> a) What were the objectives of the interventions? b) What activities did the ICM interventions involve? c) What was the source(s) of the funding for these interventions? d) How was this funding secured/ what was needed to secure the funding? e) What mechanisms were used to disburse the funds (i.e., to those on the ground implementing the activities)? (e.g., paid as wages, grants, investments, etc.) f) Was the financing formalized through legally binding agreements and if so what types of agreements were used? g) Who was responsible for on the ground activities (i.e., who were the beneficiaries of the funds e.g., local authorities, NGOs/CBOs, communities, individuals, other?) h) Was there monitoring and evaluation?

<ul style="list-style-type: none"> ○ To what extent were the objectives achieved? i) Is funding performance -based /conditional? <ul style="list-style-type: none"> ○ If yes, please explain j) If no then on what basis was funding released / disbursed? k) What were the timeframes of the funding e.g., <ul style="list-style-type: none"> ○ Short term (1 – 2 years) ○ Medium term (3 – 5 years) ○ Long term (6> years) l) What were the key challenges you experienced with that funding / financing investment? m) Do you have any recommendations on how those financing / funding mechanisms could be more effective?
<p>2. Does or has your department/company/organization fund / finance / invest in ICM interventions?</p>
<p>2.1. What is the legal basis for providing / allocating these funds - What legal provisions apply to the allocation of the funds by your organization for the ICM activities?</p>
<p>2.2. How long have you been providing this financing / investment</p> <ul style="list-style-type: none"> ○ Short term (1 – 2 years) ○ Medium term (3 – 5 years) ○ Long term (6> years)
<p>2.3. What is the source of the financing that you use (what is the origin of the funds e.g., national, international etc.)?</p>
<p>2.4. What mechanisms do you apply in order to fund/invest in ICM interventions?</p>
<p>2.5. Has the pledged or initially allocated funding been reduced with time? If so, what was the cause of reduction?</p>
<p>2.6. Has funding been rerouted and used or earmarked for other purposes? If so, why?</p>
<p>2.7. Is the financing formalized through legally binding agreements, and if so, what types of agreements are being used?</p>
<p>2.8. What are the objectives of this funding/financing</p>
<p>2.9. Were/are they being met or achieved?</p>
<p>2.10. Are these activities ongoing, and if yes, what are the future timeframes for ongoing funding?</p>
<p>2.11. If they are no longer ongoing, what was the reason for discontinuing the funding/financing</p>
<p>2.12. What are the key challenges you experience with this funding / financing?</p>
<p>2.13. Do you have any recommendations on how these financing / funding mechanisms could be more effective?</p>
<p>3. Have you ever unsuccessfully tried to secure funding to implement ICM</p>
<p>3.1. What sources did you approach for financing?</p>
<p>3.2. When did you apply?</p>
<p>3.3. Do you understand why you were unsuccessful? - If yes please explain why you were unsuccessful</p>
<p>3.4. Do you have recommendations on how these challenges can be addressed?</p>
<p>3.5. Have you tried to coordinate funding with other ICM actors?</p>
<p>4. Do you have any other information that will assist this review on Financing Mechanisms for Local ICM Plans</p>

Annex C1 - 5 Mapping and Review Matrices

Annex C1 - 5 including the mapping and Review Matrices are added in a separate file due to size.

Workstream 1

Mapping Matrices

Law / Regulation / Policy / Number / Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
Local Govt. Acts 1997/2004	<p>Sustainable soil mgt. & erosion control; Sustainable water utilisation, mgt. & pollution control; Maintenance of aquatic & related ecosystems, ecosystem services & biodiversity; Sustainable range management; Wetlands management & restoration; Water resources dev & infrastructure operation; Sust. planning of human settlements: Sust. planning of human settlements: [As re S. 5, First & Second Schedules]</p> <p>Sustainable planning of human settlements;</p>	<p>Socio-economic development; Livelihoods and poverty alleviation; Improved affordable access to safe water and sanitation services; Sustainable support to commercial and subsistence agriculture; Subsidiarity and decentralisation; Meaningful stakeholder engagement;</p> <p>Policy and legislative harmonization (ensure conformity of District Development Plan to National Development Plan);</p> <p>[As re S. 5, First & Second Schedules]</p>	<p>S. 5 - Local Authority Functions: First Schedule & Second Schedule</p> <p>S. 28-30 District Planning Unit;</p> <p>S. 32 LA Gen Duties & Powers;</p>			<p>1</p> <p>1</p>

Assessment Phase 1: Summary of Findings

	<p>Wetlands management & restoration; Water resources development and infrastructure operation; Sustainable planning of human settlements;</p> <p>Sustainable planning of human settlements;</p>	<p>Climate change adaptation;</p> <p>Socio-economic development; Livelihoods and poverty alleviation; [Climate change adaptation];</p>	<p>S. 71 Land Acquisition and Redistribution in compliance with planning laws</p>			2
<p>Environ. Act 2008</p>	<p>Sustainable soil mgt. & erosion control; Sustainable water utilisation, mgt. & pollution control; Maintenance of aquatic & related ecosystems, ecosystem services & biodiversity; Sustainable range management; Wetlands management & restoration; Sustainable planning of human settlements;</p> <p>Sustainable soil mgt. & erosion control;</p>	<p>Sustainable support to commercial and subsistence agriculture; Climate change adaptation; Rights based approach; Policy and legislative harmonisation;</p>	<p>S 16-18 Environ Planning</p>		<p>S. 16</p>	2

Assessment Phase 1: Summary of Findings

	<p>Sustainable water utilisation, mgt. & pollution control; Maintenance of aquatic & related ecosystems, ecosystem services & biodiversity; Sustainable range management; Wetlands management & restoration; Sustainable planning of human settlements;</p> <p>Sustainable water utilisation, mgt. & pollution control; Maintenance of aquatic & related ecosystems, ecosystem services & biodiversity;</p> <p>Sustainable soil mgt. & erosion control;</p>	<p>Sustainable support to commercial and subsistence agriculture; Climate change adaptation; Rights based approach;</p>	<p>S. 19-27 EIA</p> <p>S. 28 Water Quality Standards</p> <p>S. 31 Soil Quality Standards</p> <p>S. 35 Guidelines re Env Disasters</p>		<p>S. 21</p>	<p>1</p> <p>2</p>
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Assessment Phase 1: Summary of Findings

	<p>Sustainable soil mgt. & erosion control; Sustainable water utilisation, mgt. & pollution control; Maintenance of aquatic & related ecosystems, ecosystem services & biodiversity; Sustainable range management; Wetlands management & restoration; Sustainable planning of human settlements;</p> <p>Sustainable soil mgt. & erosion control; Sustainable water utilisation, mgt. & pollution control; Maintenance of aquatic & related ecosystems, ecosystem services & biodiversity; Sustainable range management; Wetlands management & restoration;</p>	<p>Sustainable support to commercial and subsistence agriculture; Climate change adaptation; Rights based approach; Policy and legislative harmonisation;</p> <p>Policy and legislative harmonisation;</p>	<p>S. 38-44 Water Pollution</p> <p>S. 59-69 Protected areas; re/afforestation; mgt. of rivers, lakes, wetlands; protection of forests; conservation of biodiversity; mgt of rangelands</p> <p>S. 70 Environ. standards and guidelines re land-use plans</p> <p>S. 72 Protection of natural env areas</p>		<p>1</p> <p>1</p>	
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Assessment Phase 1: Summary of Findings

<p>LHWP Comp Regs 1990 / Lesotho Comp Policy (1997/2002) (no separate review matrix included here)</p>	<p>Provides for payment of compensation (under the LHWP Compensation Regulations, 1990) by LHDA to people and communities affected by project works related to LHWP.</p>	<p>Art 12.1 – reinstatement of domestic water supplies; Art 12.2 – replacement of community owned infrastructure; Art 13.1 – registration of vulnerable households;</p>		<p>Compensation required under Art 17 Lesotho Constitution</p>	<p>Art 15 – dispute resolution</p>	
<p>National Strategic Dev Plan II (2018/19 - 2022/23) (no separate review matrix included here)</p>	<p>Policy targets for transformation of Lesotho economy.</p>	<p>7.2.1.1 – sustainable commercial agriculture & food security, including sustainable (water) infrastructure, reducing risks & vulnerabilities, improving range resources management; 7.3.2 – manufacturing (vertical integration in textiles manufacturing); 7.3.2.1 – manufacturing opportunities (food production & processing, water bottling, brick making, leather products, waste management & recycling; 7.3.3 – tourism (high-altitude sports – Afri-Ski King’s Cup) 8.2 – Enabling Infrastructure: 8.2.2 - transport infrastructure – road construction; 8.2.3 - energy – biomass deforestation & soil erosion, renewable energy (hydro) 8.2.4 - increase access to clean water and basic sanitation; water, sanitation and</p>				

Assessment Phase 1: Summary of Findings

		<p>hygiene (WASH) infrastructure; improve ICM framework and implementation;</p> <p>8.2.6 – human settlements and urbanization</p> <p>8.2.7 – solid waste management</p> <p>4.1.4 – environmental governance (enhanced environmental compliance)</p>				
<p>National Irrigation Master Plan and Invest. Framework 2020</p> <p>(no separate review matrix included here)</p> <p>(Draft) Irrigation Policy 2002</p>	<p>2.2 - Critical priorities for improving the irrigation sector: legal, regulatory, administrative and policy; institutional arrangements; priority framework of measures – water resource management</p> <p>To manage and develop water and land resources for diversified, economically sound and sustainable irrigation</p>	<p>7.0 – Irrigation development roadmap (priority criteria and projects);</p> <p>10.0 - Pre-feasibility study of priority project;</p> <p>12.2 - Role of private sector</p> <p>14.0 – Institutional arrangements;</p> <p>17.0 Environmental and sociological impacts of irrigation projects and their mitigation;</p>				
<p>Long-term Water and Sanitation Strategy 2014</p>	<p>KFA I – Selection of priority Catchment Management Areas; preparation of Catchment Management and Development Plans</p>			<p>KFA I - Catchment Management Joint Cttee. (CMJC)</p>		

Assessment Phase 1: Summary of Findings

<p>(no separate review matrix included here)</p>	<p>KFA II – Development and implementation of EIA & SEA processes incorporating ICM in all Catchment Management Areas</p> <p>KFA III - Preparation of water and sanitation plans by the Local Councils/ District RWS Teams; national level planning for water and sanitation services</p> <p>KFA IV – Universal and affordable access to water and sanitation services; planning, feasibility study, EIA, design and implementation of capacity expansion, extension and replacement of water supply infrastructure</p> <p>KFA V – Water resources development; development re the Polihali Dam and Metolong Dam; feasibility study, EIA, and design for multi-purpose water resources dev and bulk water schemes according to national water service plans and Catchment Management Plans</p> <p>KFA VI – continued development and better coordination of a sector-wide approach to planning in the water sector</p>					
<p>ICM Watershed Develop. Guideline 2019 (no separate review matrix included here)</p>	<p>Detailed guidance re watershed development / improvement planning process.</p>	<p>3. Planning preparation - 3.4: integrated watershed planning and management - 3.6: watershed improvement and disaster preparedness, resilience</p> <p>4. Planning procedure - 4.2: participatory planning tools</p>				

Assessment Phase 1: Summary of Findings

		- 4.5: coordination with other stakeholders - 4.6: identification of sub-catchments				
Concept Note (2020) (no separate review matrix included here)	Process re development of Draft Catchment Management Plans	- designates six Catchment Management Areas - three-year Sub-Catchment Management Plans (SCMP) - annual Council ICM Action Plans				

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
National Environment Policy 1998	Section 2.1: Goal is protect and conserve the environment with a view of achieving sustainable development in Lesotho.	Section 2.2: Policy objectives are very broad and cross-sectoral, ICM elements well taken care of.	Section 5: Establish a national mechanism for the harmonious management of policy formulation and implementation, coordination and cooperation on all matters concerning environment and development	Section 6: legal Arrangements	Section 4.20 – 4.26: Getting People Involved	1
National Biodiversity Strategy and Action Plan (NBSAP)	Section C2: To strive to conserve the Country’s biological diversity in the context of sustainable development which in harmony with the environment and environmental components.	Section 1: Conserve biodiversity of landscapes, ecosystems, habitats, populations, species, and genes Section 2: Attain sustainable use of biological resources.	-	Action 4.3: Review existing and enact new laws, and strengthen enforcement agencies so as	Action 4.2: Develop and enhance the capacity of existing institutions to administer	1

Assessment Phase 1: Summary of Findings

		<p>Section 3: Attain a fair and equitable sharing of benefits arising from the use of genetic resources.</p> <p>Section 4: Expand Lesotho’s capacity to conserve and manage biodiversity.</p> <p>Section 5: Create conditions and incentives for biodiversity conservation and sustainable use.</p>		<p>to include opportunities for popular participation in the process of formulating laws for biodiversity conservation and sustainable use</p>	<p>biodiversity management policies and biodiversity use in a coherent and coordinated framework</p> <p>Action 4.6: Increase awareness raising programmes for biodiversity</p>	
National Wetlands Conservation Strategy (2013/14-2017/18)	The purpose of the strategy is to achieve rangeland and wetlands’ management and coordination within the context of effective wetlands’ management principles and practices by stakeholders at national, district and community levels, and thereby contributing to the Water and Sanitation Strategy’s key focus area on Catchment Management.	The goal of the strategy is to protect and sustain wetlands in a healthy status through applying appropriate land management and water conservation principles and techniques whilst optimizing their wise utilization for socio-economic benefits for Basotho.	3.2: The fragmented approach to the management of wetlands, for example, has resulted in conflicts over jurisdiction and authority over wetlands between central government, local government and traditional leadership structures.	Section 4.2.2: Strategic goal 2 - Strengthen the Governance of Wetlands to create an enabling environment for their protection and sustainability.	Section 4.2.4: Strategic goal 5: Develop innovative mechanisms that empower stakeholders to participate in the management of wetlands.	1
National Climate Change Policy (2017-2027)	Section 1.3: Since climate change is fundamentally multi-sectoral in nature (in terms of both its causes and impacts), a policy designed to effectively tackle this challenge must also be multi-sectoral.	Section 2.3: The overarching objective of the policy is to ensure that all stakeholders address climate change impacts and their causes through the identification, mainstreaming and implementation of appropriate adaptation and mitigation measures, while promoting sustainable development.	Section 4.1.1: The Ministry of Energy and Meteorology (MEM) through LMS is charged with the responsibility of monitoring and reporting on weather, climate and climate change issues. In addition, MEM ensures that the country adheres	-	Section 3.17: Policy Statement 17 - Promote Participation of the Civil Society	1

			and implements commitments under the UNFCCC and the Paris Agreement.			
Lesotho National Action Programme in Natural Resource Management, Combating Desertification and Mitigating the Effects of Drought 2005	The CCD requires that Parties work closely together in the elaboration and implementation of National Action Programmes since the NAPs are the key operational tools for transforming the provisions of the Convention and national efforts into concrete actions.	Section 2.1: The objective of the NAP is to structure and guide the process and defines the elements of strengthening environmental capacities, enhance public awareness and mobilise active participation in order to better manage the natural resources, combat land degradation and desertification and mitigate the effects of drought. The objective also contains elements of strengthening the policy, legal and institutional foundations for environmental management.	Section 4.4: Government: The Ministry of Agriculture, and in particular, its Department of Conservation, Forestry and Land Use Planning, and the Range Management Divisions of the Department of Livestock Services. However, in 2002 with re-organisation of government ministries, a new Ministry of Forestry and Land Reclamation was created as a response to the need to enhance capacity for tackling land degradation. NGOs: Durham-Lesotho Link Machobane Agriculture Development Foundation World Vision (Lesotho) Rural Self-Help Development Association	-	Section 5.1: In combating desertification and mitigating the effects of drought, participation of local communities, rural organisations, national Government, NGOs and international and regional organisations is essential. Partnerships will be built to enhance effective implementation of programmes and activities.	
Managed Resource Area Order 1993	Order: To provide for the declaration of Managed Resource Areas, the determination of policies for	Section 5: To protect, preserve and conserve ecological processes, natural systems and natural	Section 7: Constitution of committees to established by gazette	Section 12: Prohibition on activities in	-	2

Assessment Phase 1: Summary of Findings

	Managed Resources Areas, the establishment of Managed Resource Areas and related matters.	beauty as well as the preservation of biotic diversity in the natural environment.	for creation of Managed Resources Areas.	Managed Resources Areas. Section 18: Offences and penalties thereof.		
National Settlement Policy 1990	Section 1: The aim of the National Settlement Policy is to promote a balanced settlement development and to protect natural resources and the environment affected by settlement development.	Section 3: Balanced settlement structure; Improved management of natural resources; Available means and resources.	Section 5: Agricultural policies – Ministry of Agriculture; Land use policies – Ministry of Local Government; Soil conservation, forestry and agro-forestry – Ministry of Agriculture (now Ministry of Forestry, Range and Soil Conservation); Energy policy – Ministry of Water, Energy and Minerals (now Ministry of Energy Meteorology Fauna and flora - Ministry of Tourism, Sports and Culture (now Ministry of Tourism, Environment and Culture).	Section 6.2: Enforcement mechanisms – Town and Country Planning Act 1980 and Land Act 1979. Draft Environmental Action Plan would undertake a comprehensive review of the legal aspects of environmental protection	-	1
National Heritage Resources Act 2011	P. 69: An Act to make provision for the preservation, protection and management of the heritage of Lesotho and for the establishment of the Heritage Council and for connected purposes.	P. 95: The purpose of the National Heritage Resources Act 2011 is to make provision for the preservation, protection and management of the heritage resources of Lesotho. This is an	Section 5: Establishment of the Heritage Council. Functions: To advise Minister on the state of heritage of Lesotho and on any	Sections 12 – 30: The Act has penalties for contravening enforcements in accordance with	-	1

Assessment Phase 1: Summary of Findings

		instrument for maintaining the identity and cultural integrity of the country and its people.	<p>steps necessary to preserve, conserve or protect the heritage of Lesotho.</p> <p>Declare heritage sites and objects.</p> <p>Repatriate Lesotho's heritage objects held in foreign governments, public and private institutions or individuals.</p> <p>To issue permits .</p>	<p>several sections of the Act.</p> <p>Sections 31 – 34 deal with establishment of a tribunal wherein appeals can be lodged with.</p>		
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Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
Water Act 2008	<p>Preamble and S. 3:</p> <p>sustainable use of water resources,</p> <p>integrated water resource management,</p> <p>integrate environmental and social issues into WRM</p> <p>10: develop strategy on water resource management</p> <p>15: designation of catchments</p>	<p>Preamble, and S. 3,</p> <p>equal access to water</p> <p>18 and 19: wetlands and spring protection</p> <p>33-37 dam safety and flood protection</p>	<p>Sec. 7 Minister responsible for control of use of water resources</p> <p>8: Commissioner: strategy direction, develops policies coordinate activities relating to international waters</p> <p>9 Tribunal settle disputes arising under the act</p>	<p>9: Water Tribunal</p> <p>20- 24: permitting</p> <p>25, 26: controlled activities and pollution control</p> <p>27: limit values, reference to EA 2007</p>	<p>11, 15,</p> <p>31: access to information</p>	1

Assessment Phase 1: Summary of Findings

	<p>16 develop catchment management plan, empowers a local authority to manage catchments</p> <p>42: legal basis for regulations</p>		<p>15 catchment management by LA</p> <p>42 legal basis for regulations</p>			
<p>Water and Sanitation Policy (2007)</p>	<p>Short preamble, page 2</p> <p>Foreword:</p> <p>sustainable resource management</p> <p>sustainable utilization</p> <p>sustainability of vital environmental systems</p> <p>decentralization</p> <p>PS1: sustainable use</p> <p>Sector Wide Approach</p> <p>holistic and sustainable WRM</p> <p>Co-ordination and coherence in the management and development of water and other related natural resources</p> <p>PS 2: supply potable water and sanitation for all</p> <p>PS 3: environment as a whole, link land and water uses across the whole of a catchment area</p>	<p>PS 1- 7</p> <p>maximize socio-economic benefits.</p> <p>alleviation of poverty</p> <p>gender and environmental issues</p> <p>regulatory harmonization</p> <p>controlling land degradation, rangeland management</p> <p>wetlands</p> <p>conservation, controlling pollution and invasive alien species</p> <p>sustainable supply of potable water and sanitation</p>			<p>Preamble:</p> <p>Water management and development WM based on a participatory approach</p> <p>PS 6 SH involvement</p> <p>PS 7: institutional strengthening, legal framework</p>	<p>1</p>

Assessment Phase 1: Summary of Findings

	PS 4: transboundary coordination PS 5: sector wide approach					
Long-Term Water and Sanitation Strategy (2016)	Vol 1 KFA 1: Establishment of Catchment Management KFA 2: Climate Change, Water Resources and Environmental Management KFA 5 and 6: Water Resource Development and resource Planning, Coordination and M&E	p. 15, p. 16 maximize socio- economic benefits KFA 3: access to Water, Sanitation and Hygiene			p. 16 KFA 4: Regulations on Water and Sewerage Service	1
<i>Integrated Water Resources Management Strategy (IWRMS)</i>	<i>n.b.: No team member has heard of this document it does not exist.</i>					
Lesotho Action Plan for the Orange-Senqu River Basin (2014)	Chapter 5 indirectly contains ICM elements, but as an action plan mostly objectives. See column to the right.	Page 19 and Chapter 5: Land degradation and desertification reversed through improved catchment management page 30: Water pollution reduced, and water resources quality maintained page 31: Impact of hydrological regime change mitigated and ecosystem services				2

Assessment Phase 1: Summary of Findings

		functioning of wetlands improved page 32: Expanded water and sanitation distribution services to industry and households				
Lesotho Highland Development Authority Order of 1986	Part 11 on environmental protection in general Part 12 water protection measures (19, 36, 40, 50)	19: economic efficient use of water 44: compensation for water rights 51: fishery development (socio-economics) 52 : recreation and tourism (socio-economics)				3
Lesotho Highlands Water Project (P.1) Policy for Instream Flow Requirements (2002)	Chapter 2.1: protect the quality of the environment 2.4: Ecological management of downstream rivers	Chapter 7.1. mitigate environmental impacts (socio economics: mechanisms for determining community losses, identifying mitigation and compensation, and 7.3.: involve Population at Risk			Chapter 6	3
(Draft) National Wetlands Conservation Strategy	Summary, page 10: protect wetlands through applying land management and water conservation principles and optimizing utilization for socio-economic benefits	Vision and mission: efficient management of wetland resources and associated rangelands by applying principles of sustainable environmental management SG 1:			SO 4 and 5 Generate information on wetlands	2

Assessment Phase 1: Summary of Findings

	<p>Strategic objective 2, 3 4 and 5:</p> <p>page 26: sustainable use, polluter pays, precautionary principle, interdependence of ecosystems</p> <p>page 27: international and regional co-operation, utilization of indigenous knowledge and practices, equitable access, benefit sharing</p>	<p>promote sustainable WL use through integrated land and water resources management</p> <p>SG 2: Mainstream wetlands ecosystems’ conservation and management within the existing decentralization framework.</p> <p>SO 2, 3, 4, 5, see ICM elements in left column</p>				
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Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
Agricultural Sector Strategy, 2003	ICM elements from the subsectors in agriculture are well included, and interlinkages described. Operationalisation guidelines support action planning; Cross cutting in the document;	Detailed objectives for the Short, Medium and Long term are well formulated for subsectors, whereby linkages with other ministries are well identified, employment creation, impact of HIV/AIDs reduction; Reduced output instability; Improved access to inputs; Production of a greater variety of crops; Substitution of more suitable crops; Section 5	MofA collaboration with Ministry of Local Government and Ministry of Industry, Trade and Marketing often identified. Limited actioning of interdepartmental/ministerial cooperation;	Responsibility of GoL for regulation/law enforcement mentioned with all goals and objectives, inadequately worked out;	Agricultural Policy and Capacity Building Project (APCBP) designed and implemented; In the strategy emphasis mainly on local farmers/community’s capacity development;	1

Assessment Phase 1: Summary of Findings

National Range Resources Management policy, 2014	<ul style="list-style-type: none"> -Range land resources implicitly include water, land, vegetation, eco-systems and eco-services; - Water resources identified, and management emphasised; -Catchment focus with emphasis on hydrological functions of basins; -Maintenance and protection of wetlands; 	<p>Objectives include:</p> <ul style="list-style-type: none"> -public awareness/participation in rangeland resources management; -To develop and implement efficient and effective strategies to avert land and vegetation degradation, -To improve/maintain productivity of rangeland resources to promote ecosystems balance, -To rehabilitate/improve quality of rangeland to enhance productivity of livestock and wildlife habitat, -To conserve/increase availability of native plant species for economic/ social/cultural utilisation; -To protect water resources/ improve water quality/yield, -To enhance the aesthetic beauty of landscape for recreation/ ecotourism, -To improve income opportunities/ quality of life of the rural communities; -To promote disaster risk reduction, gender equity, HIV/AIDS mainstreaming in range resources management. 	<ul style="list-style-type: none"> - Proposed Institutional Arrangement worked out as well as strategy; -Department at admin/policy level National Rangelands Program; -coordinate initiatives by private sector, NGO's and community based organisations; - Local/district level effective/efficient resources governance and implementation; -communities are primary implementers; 	<p>Weak enforcement capacity identified in various sections as area of incompetence in ministry;</p> <p>Appeal regulations not identified;</p>	<ul style="list-style-type: none"> -Broad participation in all stages of strategy development and project cycle appealed for from stakeholders and particularly communities; -Capacity building/technical support to implementing stakeholders including rural communities emphasized; 	1
Range Management and grazing control, Regulations1980,	All ICM aspects included; most interesting description	<p>Regulations regards:</p> <ul style="list-style-type: none"> -Setting aside Leboella; 	-Chiefs, Communities and MoA district office;	Strict monitoring, identification of	Local hereditary leadership, district administrator, local	3

Assessment Phase 1: Summary of Findings

exercise of the powers conferred upon me by section4(1)of the Land Husbandry Act, 1969: Minister of Agriculture and Marketing	of cultural artefacts through chiefs in ranch land management, access and ownership;	<ul style="list-style-type: none"> -Chiefs to have no special rights to leboella; - Trespass upon leboella; - Responsibility for grazing areas; - Rights of access to grazing areas; - Organisation of rotational grazing; - Regulation of stock numbers; - Control of parasites in small stock; - Prohibition of grass burning; -Opening of new land on thite and Moshoga and the re-establishment of grass on lands unsuitable for cultivation; -Chief to do everything necessary to assist the Ministry of Agriculture; 		trespassers, judgement by the community courts and payment of penalties;	MoA office and Administered by MoA-capital;	
Land Administration Authority Act, 2010	Primarily on land	Act to provide for the establishment of the Land Administration Authority as the main body responsible for land administration, land registration, cadastre, mapping and surveying and matters incidental thereto.	Institutions represented in the board: Ministry responsible for land matters; Ministry responsible for agriculture; Ministry responsible for forestry and land reclamation; Ministry responsible for trade and industry; Lesotho business sector whose representative shall be a person with financial management skills; association of bankers in Lesotho; association of surveyors in Lesotho; notaries and conveyancers; Lesotho Housing and Land Development	No details	No details	3

Assessment Phase 1: Summary of Findings

			Corporation; Director General of the Authority, (non-voting)			
Lesotho Food and Nutrition Strategy and costed action Plan, 2018-2022	The strategy does focus exclusively on WASH as an intervening variable to improve health, with limited attention for agricultural and gardening productivity. No other elements of ICM/IWRM included;	Key Result Areas 1: Infant and Young Child Feeding; 2: Micronutrient Supplementation; 3: Maternal and Child Health; 4: Food Value Chain; 5: WASH; 6: Social Protection; 7: Capacity building; 8: Enabling Environment; 9: Gender Equality and Women’s Empowerment; 10: Strengthening clinical services; 11: Nutrition in emergencies;	Ministry of Agriculture and Food Security (MoAFS)/Food and Nutrition Coordinating Office; Ministry of Gender, Sports and Recreation; Ministry of Social Development; Ministry of Science and technology, National University of Lesotho;	No details	No details	3
Lesotho Agriculture and Food Security Investment Plan NAIP 2015 2020	ICM key elements, including climate, environment essentially crosscutting through all sections. A large number of Investment sub-programmes are covering, operationalising the various ICM concepts well;	Strategic and sub-programme objectives are well formulated and provided with directions for monitoring, outcome indicators and evaluation;	In annex 1 a useful overview of Legal/administrative instruments included. Role and mandate of Local structures not explicitly worked out;	Mainly in 5.5.5.3 Comp. 4.5.3: Support policy dev. Laws, regulations and enforcement, Breakdown NAIP by Program and sub-program and component;	Human and Institutional Capacity Development at all investment levels and subsectors, including monitoring procedure, outcome indicators and evaluation;	1
Ministry of Agriculture and Food Security, Strategic Plan 2019-2023	Soil, Water and other elements little mentioned; MAFs Strategy Implementation Plan does focus disproportionately much on climate;	Strategic Focus Areas 1-6 cover the key areas of attention for the strategy. Does explicitly identify the importance of IWRM/ICM however little elaboration in the body of the text;	Limited information;	Limited information;	Limited information;	2

Review Matrices

Local Government Acts 1997 / 2004

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	c) Do the measures appropriately addresses key elements and objectives of ICM: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	1	<p>No express reference to ICM or ICM elements / objectives.</p> <p>However, s. 5 of the 1997 Act (as amended) identifies ICM-related objectives of sustainable soil management and erosion control; sustainable water utilisation, management and pollution control; maintenance of aquatic and related ecosystems and biodiversity; sustainable range management; wetlands management and restoration; water resources development and infrastructure operation; and sustainable planning of urban settlements. Therefore, the 1997 Act's scope of application is sufficiently broad to play a key role in the implementation of ICM.</p> <p>Decision-making appears to be at the appropriate level of the Local Authority.</p>
	d) Do the measures create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	2	<p>There is an established regime (legal and institutional measures) for land-use and development control (under the Town and Country Planning Act 1980, as amended), which may be fully functional (flexible, implementable, enforceable, sustainable)?</p> <p>Under Part V, Local Authorities enjoy considerable powers to impose levies and taxes (sections 56-57).</p>

Assessment Phase 1: Summary of Findings

Holistic / Cross-sectoral	g) Do the measures link land and water use across the entire catchment area?	1	Potentially – through the elaboration of sufficiently sophisticated development plans under sections 5-12.
	h) Do the measure links social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation.	1	Potentially – through the elaboration of sufficiently sophisticated development plans under sections 5-12.
	i) Do the measure create or contribute to an integrated management framework;	1	By means of sections 28-30 seeking to ensure conformity of the District Development Plan to the National Development Plan.
	j) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation.	2	Not expressly.
	k) Do the measures cohere with global, regional commitments: - Contribution to vertical integration / fragmentation.	1	Potentially – through the elaboration of sufficiently sophisticated development plans under sections 5-12.
	l) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.		
	Proportionality	e) Are the measures likely to achieve their legitimate aims;	1
f) Are the measures cost-effective;		1	Presumably.

Assessment Phase 1: Summary of Findings

	<p>g) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>h) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	1	Presumably, having regard to the availability of compensation for adverse planning decisions under section 13 of the Town and Country Planning Act 1980 (as amended).
Currency	<p>b) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	1	There exists no apparent reason that the system of local government set out under the 1997 Act (as amended) should be considered outdated.
Consistency	<p>e) Do the measures promote (at least some) elements and objectives of ICM;</p> <p>f) Do the measure runs contrary to (certain) elements and objectives of ICM;</p> <p>g) Do the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>h) Do the measures take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p>1</p> <p>1</p> <p>1</p> <p>2</p>	<p>Sections 28-30 seek to ensure conformity of the District Development Plan to the National Development Plan, which might include detailed requirements regarding ICM implementation.</p> <p>No.</p> <p>No.</p> <p>Not expressly, but international and regional commitments may be introduced by means of the National Development Plan.</p>

Assessment Phase 1: Summary of Findings

Participatory (ensuring equitable participation)	e) Do the measures seek to raise awareness of (elements and objectives) of ICM;	2	Not expressly in relation to composition and functions of local authorities.
	f) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;	2	No expressly.
	g) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	2	Not expressly.
	h) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	2	Not expressly.

Town and Country Planning Act 1980 (and Town and Country Planning (Amendment) Regulations 1993; Development Control Code 1989; Town and Country Planning Order 1991)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Do the measures appropriately addresses key elements and objectives of ICM: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	2	No express reference to ICM or ICM elements / objectives. However, sections 5-7 of the 1980 Act (as amended) sets out the requirement for Planning Authority to elaborate and adopt a development plan. The incremental implementation of ICM (or key elements thereof) should be included as a legally required ‘mandatory objective’ in each successive development plan. The Development Control Code (1989) and Town and Country Planning Order (1991) should be

Assessment Phase 1: Summary of Findings

	<p>b) Do the measures create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	1	<p>updated to include detailed guidance on the requirements for ICM implementation.</p> <p>The Local / Planning Authority is the correct level of administration to enjoy responsibility for elaboration of strategic development policy / plans incorporating ICM.</p> <p>Yes – the 1980 Act (as amended) sets out all the key elements of practically implementable land-use and development planning system.</p> <ul style="list-style-type: none"> - S. 17 includes adequate measures for effective enforcement
Holistic / Cross-sectoral	a) Do the measures link land and water use across the entire catchment area?	1	Potentially – where ICM-related objectives are expressly included in the development plan.
	b) Do the measure links social and economic development with protection of natural ecosystems:	1	Potentially – where provided for in the development plan.
		2	The development plan can act as a key policy tool for integrated management. Further detailed guidance would be helpful by means of revision of the Development Control Code (1989) and Town and Country Planning Order (1991)
	c) Do the measure create or contribute to an integrated management framework;	1	The Local Government Act 1997 and Land Act 2010 align with the requirements out under the development plan adopted under the Town and Country Planning Act 1980.
		2	Section 21 leaves power with the Minister to make Regulations to give effect to the provisions of the 1980 Act, thereby facilitating vertical integration.

Assessment Phase 1: Summary of Findings

	<p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	1	<p>Potentially – through the elaboration of development plans consistent with global and regional commitments.</p> <p>Potentially – through the elaboration of development plans.</p>
Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	1 1 1 1	<p>Yes – subject to the general principles of governance developed internationally under land-use planning and development control governance frameworks.</p> <p>In principle – yes.</p> <p>In principle – yes.</p> <p>Yes – having regard to the availability of compensation for adverse planning decisions under section 13.</p>
Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; 	2	The 1980 Act (as amended) adequately sets out the requirement to elaborate and adopt a development plan but might be updated to include the

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		<p>incremental implementation of ICM (or key elements thereof) should be as a legally required 'mandatory objective' in each successive development.</p> <p>The Development Control Code (1989) and Town and Country Planning Order (1991) might be updated to include detailed guidance on the (land-use and development control) requirements for ICM implementation.</p>
Consistency	a) Do the measures promote (at least some) elements and objectives of ICM;	2	Not specifically, but sections 5-7 of the 1980 Act (as amended) set out the requirement for a development plan, which might include ICM implementation (or key elements thereof) as a legally required 'mandatory objective' in each successive development plan.
	b) Do the measures runs contrary to (certain) elements and objectives of ICM;	2	No.
	c) Do the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	2	No.
	d) Do the measures take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	2	Not expressly, but inclusion international and regional commitments could come to be included (as either mandatory or discretionary objectives of the development plan) by means of Regulations adopted under section 21 of the 1980 Act.

Assessment Phase 1: Summary of Findings

Participatory (ensuring equitable participation)	a) Do the measures seek to raise awareness of (elements and objectives) of ICM;	2	<p>Not expressly. However, legal requirements regarding inclusion of ICM-related objectives in the development plan would do so.</p> <p>Section 7 sets out detailed provisions on public notification and participation regarding the elaboration and adoption of the development plan.</p> <p>Section 11 sets out detailed provisions on public notification and participation regarding applications for planning permission.</p> <p>See sections 7 and 11 above, though more detailed procedural guidance might be provided to ensure meaningful participation in decision-making (including re ICM implementation).</p> <p>Section 7(1)(c) provides for members of the public to object to a draft development plan, but there does not appear to be a procedure for review of the decision of the Town and Country Planning Board to approve the development plan subsequently.</p> <p>Appeal against planning permission decisions permitted under section 11(3), though little detail on the appeals procedure is provided.</p>
	b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;	1	
	c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	1	
	d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	2	

Lesotho Land Act 2010

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Do the measures appropriately addresses key elements and objectives of ICM: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and 	2	Sections 18, 48-52 and 71 of the Land Act 2010 permit the grant of leases of land and expropriation, acquisition and redistribution of land

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. <p>b) Do the measures create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p style="text-align: center;">2</p>	<p>(potentially) in relation to / consistent with implementation of key elements of ICM:</p> <ul style="list-style-type: none"> - sustainable soil management and erosion control; - sustainable water utilisation management and pollution control; - maintenance of aquatic and related ecosystems and biodiversity; - sustainable range management; - wetlands managements and restoration; - water resources development and infrastructure operation; - sustainable planning of human settlements. <p>However, it is not clear that the ‘public interest’, in furtherance of which such powers may be exercised, is currently sufficiently broadly defined in section 51 to include all key elements of ICM.</p> <p>There is an established regime (legal and institutional) for the grant of leases of land and for expropriation, acquisition and redistribution of land, which is to be done in accordance with planning law. Therefore, a legal requirement to ensure elaboration and adoption by Planning Authorities of an appropriate development plan should contribute to the creation of a practicable ICM regime.</p>
<p>Holistic / Cross-sectoral</p>	<p>a) Do the measures link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p>	<p style="text-align: center;">1</p> <p style="text-align: center;">1</p> <p style="text-align: center;">2</p>	<p>Potentially – where ICM-related objectives are expressly included in the development plan.</p> <p>Potentially – where expressly provided for in the development plan.</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Do the measure create or contribute to an integrated management framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>1</p> <p>2</p> <p>1</p>	<p>The development plan can act as a key policy tool for integrated management</p> <ul style="list-style-type: none"> - harmonising the overarching policy: framework for planning control and land allocation; <p>Helpfully, Both planning control and land allocation functions (by section 14 of the Land Act 2010) are vested in the local councils.</p> <p>Potentially - the Local Government Act 1997 and Land Act 2010 align with the requirements out under the development plan adopted under the Town and Country Planning Act 1980.</p> <p>At the same time, section 21 leaves power with the Minister to make Regulations to give effect to the provisions of the 1980 Act, thereby facilitating vertical integration.</p> <p>Potentially – through the elaboration of development plans consistent with global and regional commitments.</p> <p>Potentially – through the elaboration of development plans.</p>
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Assessment Phase 1: Summary of Findings

Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>1</p> <p>1</p> <p>1</p> <p>1</p>	<p>Yes – subject to the general principles of governance developed under the Lesotho Constitution:</p> <ul style="list-style-type: none"> - Article 11 on the right to respect for private and family life; or - Article 17 on the right to freedom from arbitrary seizure of property. <p>Subject also to the general principles of governance developed internationally under land-use planning and development control governance frameworks.</p> <p>In principle – yes.</p> <p>In principle – yes, subject to constitutional principles, such as Article 17 of the Lesotho Constitution.</p> <p>Yes – having regard to the constitutional protection provided under Articles 11 and 17 of the Lesotho Constitution, and to the availability of compensation for adverse planning decisions under section 13.</p>
Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	2	<p>The 2010 Act sets out a workable system for the for the grant of leases of land and for expropriation, acquisition and redistribution of land.</p> <p>However, the 2010 Act might be updated to make land allocation condition on ICM-compatible agricultural practices. Similarly, the concept of ‘public purpose’ or ‘public use’, which provide legislative grounds for expropriation or acquisition (under sections 50-52), might be updated to include ICM objectives of elements or, alternatively, to refer to the objectives of the development plan.</p>

Assessment Phase 1: Summary of Findings

Consistency	a) Do the measures promote (at least some) elements and objectives of ICM;	2	Not specifically, but sections 50-52 of the 2010 Act might be interpreted (or amended) to have regard to the ICM-related objectives of the development plan, or to key elements of ICM implementation.
	b) Do the measures runs contrary to (certain) elements and objectives of ICM;	2	No.
	c) Do the measures conflict with other national measures: - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application.	2	No.
	d) Do the measures take account of international and regional commitments, especially regarding transboundary basins: - Contribution to vertical integration / fragmentation.	2	Not expressly, but international and regional commitments could become relevant by means of express reference to the (updated) development plan or by means of an updated definition of the concept of ‘public purpose’ or ‘public use’, which provide legislative grounds for expropriation or acquisition (under sections 50-52 of the 2010 Act).
Participatory (ensuring equitable participation)	a) Do the measures seek to raise awareness of (elements and objectives) of ICM;	2	Not expressly. However, inclusion of ICM-related objectives in the development plan could raise awareness of ICM among agricultural leaseholders of land.
	b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;	1	
		3	As the Land Act 2010 is primarily concerned with private interests in land it doesn’t make express provision for public transparency, though public notices regarding the availability of land must be published in relevant newspapers (under section 27). Greater transparency might be provided for. No.

Assessment Phase 1: Summary of Findings

	<p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	2	<p>A decision of the local authority to revoke any allocation of land for breach of the terms of the lease (under section 21) may, under section 22, seek a review of this decision in the District Land Court.</p>
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Environment Act 2008

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>Do the measures appropriately addresses key elements and objectives of ICM: Breadth / sufficiency of mandate; Substantive coverage / scope of application; and Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho.</p>	2	<p>Potentially – yes.</p> <p>Section 16 requires the elaboration and adoption of a National Environmental Action Plan (NEAP) every five years, which is binding on all parties and is to provide ‘the basis for national environmental planning and development programmes’. The NEAP is also intended to provide general guidance for the management and protection of the environment and natural resources of Lesotho. The requirements of ICM implementation can be included in the NEAP.</p> <p>Section 17 requires the elaboration and adoption by the District Development Coordinating Committee of a corresponding District Environmental Action Plan (DEAP) every five years. The DEAP shall be in conformity with the NEAP and operates to ‘coordinate the activities of line ministries in the protection and management of the environment and the conservation and sustainable utilisation of natural resources in the</p>

Assessment Phase 1: Summary of Findings

			<p>district’. The DEAP should be aligned with the relevant development plan, with both including objectives and elements of ICM.</p> <p>Sections 19-27 of the 2008 Act provide for environmental assessment, including environmental impact assessment (EIA) of projects (specified in Part A) and strategic environmental assessment (SEA) of matters specified in Part B. Such environmental assessment might be employed to ensure that objectives related to ICM implementation are adequately integrated into administrative decision-making (regarding permits, etc.).</p> <p>Sections 59-69 provide for the identification and designation of protected areas; for the identification of areas for forestation; for measures for the management of rivers, lakes and wetlands; for the protection of forests; for the conservation of biodiversity; and for the management of rangelands. Section 72 provides for the protection of natural environmental areas.</p> <p>Such protected areas and environmental measures should be aligned with the objectives and elements of ICM by means of their inclusion in development plans adopted under sections 5-7 of the Town and Country Planning Act 1980.</p> <p>Section 70 expressly provides for the issuance of ‘environmental standards and guidelines in respect of land-use plans’, which may include development plans adopted under sections 5-7 of the Town and Country Planning Act 1980.</p> <p>(Unfortunately, “land-use plans” are not defined in section 2 of the 2008 Act).</p>
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Assessment Phase 1: Summary of Findings

	<p>Do the measures create or contribute to a practicable ICM regime for Lesotho:</p> <p>Sufficiently flexible;</p> <p>Sustainably implementable;</p> <p>Practically enforceable; and</p> <p>Financially sustainable.</p>	<p>2</p>	<p>Potentially! There is an established regime for strategic environmental planning at both national-level and district-level, and for coordination between these levels. Some clarity would be welcome regarding the interlinkage with development plans adopted under sections 5-7 of the Town and Country Planning Act 1980.</p> <p>The 2008 Act contains practical measures for enforcement. For example, section 70(3) sets out dissuasive penalties for anyone who contravenes standards or guidelines issued under section 70(1).</p>
<p>Holistic / Cross-sectoral</p>	<p>Do the measures link land and water use across the entire catchment area?</p>	<p>2</p>	<p>Potentially:</p> <ul style="list-style-type: none"> where ICM-related objectives are integrated into the NEAP and DEAP; where ICM-related objectives are considered in the identification and designation of protected areas, etc; where ICM-related objectives are integrated into the environmental standards and guidelines issued under section 70; and/or where ICM-related objectives are integrated into local development plans. <p>Potentially - environmental planning (at all levels) can take account of social and economic factors.</p>

Assessment Phase 1: Summary of Findings

	<p>Does the measure link social and economic development with protection of natural ecosystems: Contribution to horizontal integration / fragmentation.</p> <p>Do the measure create or contribute to an integrated management framework;</p> <p>Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: Contribution to vertical integration / fragmentation.</p> <p>Do the measures cohere with global, regional commitments: Contribution to vertical integration / fragmentation.</p> <p>Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>2</p> <p>2</p> <p>1</p> <p>2</p> <p>1</p>	<p>The central issuance of environmental standards and guidelines for ‘land-use plans’ contributes to horizontal integration across ‘land-use plans’.</p> <p>The NEAP can act as a key policy tool for integrated management - harmonising the overarching policy framework for environmental protection.</p> <p>The central issuance of environmental standards and guidelines for ‘land-use plans’ contributes to an integrated management framework.</p> <p>Alignment between the NEAP and DEAPs contributes to vertical integration, as does the issuance of environmental standards and guidelines for ‘land-use plans’.</p> <p>Potentially – through the elaboration of a NEAP consistent with global and regional commitments.</p> <p>Potentially – through the coordinated elaboration of mutually coherent NEAP and DEAPs.</p>
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Assessment Phase 1: Summary of Findings

Proportionality	<p>Are the measures likely to achieve their legitimate aims;</p> <p>Are the measures cost-effective;</p> <p>Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>1</p> <p>1</p> <p>1</p>	<p>Yes – the Environment Act 2008 creates a generally coherent and well-structured regime of environmental planning. For example, section 3 provides a comprehensive set of environmental management principles to guide such planning, while section 4 provides for every person’s right to a clean and healthy environment along with an account of types of action that may be taken to vindicate that right.</p> <p>Presumably.</p> <p>Subject also to the principles of environmental management set out in section 3 and the general principles of environmental governance which have evolved internationally.</p> <p>In principle – yes.</p>
Currency	<p>Are the measures outdated: Obsolete in objectives, scope of application or approach; Requiring updating (e.g., regarding penalties); or Requiring consolidation / codification (regarding amending measures).</p>	2	<p>The 2008 Act appears to set out a workable system for environmental planning at the national and local levels.</p> <p>However, the 2008 Act might be updated to require more clearly the integration of ICM-related objectives into environmental planning at national and local levels.</p>
Consistency	Do the measures promote (at least some) elements and objectives of ICM;	2	Not specifically, but the 2008 Act provides a legislative framework for the integration of ICM-related objectives into environmental planning at national and local levels.

Assessment Phase 1: Summary of Findings

	<p>Do the measures runs contrary to (certain) elements and objectives of ICM;</p> <p>Do the measures conflict with other national measures: Conflicting / overlapping roles and mandates; Gaps regarding key functions (e.g., enforcement); or Ambiguities regarding scope of application.</p> <p>Do the measures take account of international and regional commitments, especially regarding transboundary basins: Contribution to vertical integration / fragmentation.</p>	<p>2</p> <p>2</p> <p>2</p>	<p>No.</p> <p>No.</p> <p>Part XII of the 2008 Act sets out a procedure for the legislative incorporation of international or regional conventions or agreements concerning the management of the environment or natural resources.</p> <p>In addition, one of the guiding principles of environmental management listed under section 3 commits 'to promote cooperation with other governments and relevant national, international and regional organisations and other bodies concerned with the protection of the environment'.</p>
Participatory (ensuring equitable participation)	Do the measures seek to raise awareness of (elements and objectives) of ICM;	<p>2</p> <p>1</p>	<p>Section 97 provides that the Director shall ensure the integration of education on the environment at all levels of education.</p> <p>In addition, one of the guiding principles of environmental management listed under section 3 commits 'to ensure that environmental awareness is treated as an integral part of education at all levels'.</p>

Assessment Phase 1: Summary of Findings

	<p>Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>1</p> <p>1</p>	<p>Section 95 provides for general freedom of access to information on the environment, while section 96 imposes a clear obligation on the Director to collect, analyse and disseminate environmental information.</p> <p>In addition, one of the guiding principles of environmental management listed under section 3 commits ‘to publish data on environmental quality and natural resources’.</p> <p>One of the guiding principles of environmental management listed under section 3 commits ‘to encourage participation by the people of Lesotho in the development of policies, plans and processes for the management of the environment.</p> <p>In practical terms, section 22, for example, provides for public scrutiny of environmental impact statements under the EIA process set out in the 2008 Act.</p> <p>The right to a clean and healthy environment set out in section 4 of the 2008 Act includes the broad right, under section 4(3), to review environmental decisions, whether or not taken under the 2008 Act.</p> <p>Part XIV of the 2008 Act creates a specialist Environmental Tribunal for the purposes of reviewing measures and decisions taken under the Act.</p> <p>In addition, a procedure is established for ‘environmental audit’ under section 24 of the 2008 Act.</p>
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National Environment Policy for Lesotho 1998 (and eventually subsidiary regulations with/without schedules)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	5	Section 2.1: Goal is protect and conserve the environment with a view of achieving sustainable development in Lesotho. Section 2.1: Policy objectives are very broad and cross-sectoral, ICM elements well taken care of.
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	5	
2. Holistic / Cross-sectoral	a) Does the measure link land and water use across the entire catchment area?	5	Section 4: Captures a wide spectrum of actions embedded in the basic principles.
	b) Does the measure link social and economic development with protection of natural ecosystems:	5	
	- Contribution to horizontal integration / fragmentation.	5	
	c) Does the measure create or contribute to an integrated management framework;	5	
	d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:	5	
- Contribution to vertical integration / fragmentation.	5		

Assessment Phase 1: Summary of Findings

	<p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		Section 7.0 addresses International Conventions. Lesotho is signatory.
3. Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>5</p> <p>5</p> <p>5</p> <p>5</p>	Section 4.21, Environmental Impact Assessment, Audit and Monitoring takes care of this.
4. Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		The Policy makes no mention of decentralised functions pertaining to environmental management. There is need, therefore, to review the Policy in this regard.
5. Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	5	<ul style="list-style-type: none"> • Section 3.1 addresses Social and economic dimensions; • Section 3.2 on Climate change; • Section 4.3 on Gender issues; • Section 5.0 on Institutional arrangements. •

Assessment Phase 1: Summary of Findings

	d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
6. Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	5	Sections 4.25 and 4.26: <ul style="list-style-type: none"> • Environmental education and public awareness; • Public participation. •

National Biodiversity Strategy and Action Plan (NBSAP)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	4	Key elements of ICM: <ul style="list-style-type: none"> - Soil management and erosion control - yes; - Water utilisation - yes; - Aquatic and related systems - yes; - Range management - yes; - Wetlands - yes; - Water resources - yes; - Human settlements – not taken into account; and - Governance - Objective 3.1, Action 3.1: <ul style="list-style-type: none"> o Establish links with and reach agreement with concerned and affected parties on benefit-sharing from communally-owned
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and 	5	

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Financially sustainable. 		<p>resources, identifying appropriate roles for local authorities in the process;</p> <ul style="list-style-type: none"> o Pass enabling legislation so that local authorities can pass regulations, bylaws, etc. to apply the ‘use-pays’ principle to their communally-owned resources; moreover train local law enforcement agents in how to apply the regulations . <p>ICM Objectives:</p> <ul style="list-style-type: none"> - Socio-economic development - Gender – not covered; - Climate change – not covered; - Institutionalisation:- <ul style="list-style-type: none"> – same as in ‘Governance’ above; – Action 4.3, p. 46 – strengthen law enforcement by direct involvement of communities and through their local authorities.
<p>Holistic / Cross-sectoral</p>	<ul style="list-style-type: none"> a) Does the measure link land and water use across the entire catchment area? 5 b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 5 c) Does the measure create or contribute to an integrated management framework; 5 d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 4 e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		<p>Guiding Principle 10 (p. 18): Decision-makers and consumers of biological resources should be guided by economic approaches which assess the full social and environmental costs and benefits of projects, plans and policies that impacts upon biodiversity, and which internalize costs borne by society. These will both reflect the economic loss that results when biodiversity is degraded or lost and also reflect the value gained from conserving biodiversity</p>

Assessment Phase 1: Summary of Findings

	f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.		
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>5</p> <p>5</p> <p>5</p> <p>5</p>	
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	2	Gender (especially benefit sharing of diversity resources) and climate change (impacts of human activities, e.g., rangeland degradation intertwined with other sectors such as hydropower generation affected reduced water yields) issues should be addressed. Implementation is very weak, possibly because it is highly centralised
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p>	<p>5</p> <p>5</p> <p>5</p> <p>5</p>	See 1 above.

Assessment Phase 1: Summary of Findings

			<ul style="list-style-type: none"> - Gender – yes ; - Climate change – yes; - Institutionalisation:- yes (4.2.3).
2. Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>5</p> <p>5</p> <p>5</p> <p>5</p> <p>5</p> <p>5</p>	
3. Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>5</p> <p>5</p> <p>5</p> <p>5</p>	
4. Currency	a) Is the measure outdated:	5	

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		
5. Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	5 5 5 5	See 1 above
6. Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	5 5 5 5	

National Climate Change Policy (2017 – 2027)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho.	4	Key elements of ICM: - Soil management and erosion control - yes; - Water utilisation - yes; - Aquatic and related systems - yes; - Range management - yes; - Wetlands - yes; - Water resources - yes; - Human settlements – yes ; and - Governance – there is a need to devolve climate change remedial actions to local authority levels. ICM Objectives: - Socio-economic development – yes; - Gender – yes; - Climate change – yes; - Institutionalisation – same as in ‘Governance’ above.
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho: - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable.	5	
2. Holistic / Cross-sectoral	a) Does the measure link land and water use across the entire catchment area?	5	
	b) Does the measure link social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation.	5	
	c) Does the measure create or contribute to an integrated management framework;	5	
	d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation.	5	
		5	

Assessment Phase 1: Summary of Findings

	<p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
3. Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	5	
4. Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	5	
5. Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	5	
		5	
		5	
		5	
		5	

Assessment Phase 1: Summary of Findings

	d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
6. Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM;	5	
	b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;	5	
	c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	5	
	d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	5	

Lesotho National Action Programme in Natural Resource Management, Combating Desertification and Mitigating the Effects of Drought

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	4	Key elements of ICM: <ul style="list-style-type: none"> - Soil management and erosion control - yes; - Water utilisation - yes; - Aquatic and related systems – implied in wetlands; - Range management – implied in Sustainable land management; - Wetlands - yes; - Water resources - yes; - Human settlements – not included; and - Governance – yes. ICM Objectives:
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and 	4	

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Financially sustainable. 		<ul style="list-style-type: none"> - Socio-economic development – yes; - Gender – not included, as well as vulnerable groups; - Climate change – yes; - Institutionalisation – same as in ‘Governance’ above.
2. Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area? 5</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 5 </p> <p>c) Does the measure create or contribute to an integrated management framework; 5</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 3 </p> <p>e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. </p> <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
3. Proportionality	<p>a) Is the measures likely to achieve its legitimate aims; 5</p> <p>b) Is the measure cost-effective; 5</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies; 5</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>		

Assessment Phase 1: Summary of Findings

4. Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	2	<p>There is a need to add a new objective as “To review and rationalise labour intensive land rehabilitation programme (fato-fato). Government spends a huge budget on this activity that has two main objectives of: 1. land rehabilitation and 2. employment creation. It should be subjected to cost-benefit analysis. Reducing Vulnerability to Climate Change Project funded by Global Environment Facility through the UNDP recently trained Ministry of Forestry, Range and Soil Conservation personnel in cost-benefit analysis.</p>
5. Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p>5</p> <p>5</p> <p>5</p> <p>5</p>	See 1 above
6. Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p>	<p>5</p> <p>5</p> <p>5</p> <p>5</p>	

	d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.		
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Managed Resource Areas Order 1993 Desertification and Mitigating the Effects of Drought

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>4</p> <p>4</p>	<p>Key elements of ICM:</p> <ul style="list-style-type: none"> - Soil management and erosion control - yes; - Water utilisation - yes; - Aquatic and related systems – implied in wetlands; - Range management – yes; - Wetlands - yes; - Water resources - yes; - Human settlements – not included; and - Governance – yes. <p>ICM Objectives:</p> <ul style="list-style-type: none"> - Socio-economic development – no, but implied ; - Gender – not included, as well as vulnerable groups; - Climate change – no; - Institutionalisation – same as in ‘Governance’ above.
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 	<p>4</p> <p>1</p> <p>4</p>	

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	<p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>1</p> <p>5</p> <p>3</p>	
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>1</p> <p>1</p> <p>1</p> <p>3</p>	
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<p>2</p>	The law is deemed obsolete and must therefore be incorporated into the Draft Nature Conservation Bill that is still at the Parliamentary Counsel for drafting, though it has been there for very many years. It is unavailable.
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p>	<p>2</p>	.

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>		

Lesotho National Settlement Policy (Final Draft) 1990

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the 	5	<p>Key elements of ICM:</p> <ul style="list-style-type: none"> - Soil management and erosion control - yes; - Water utilisation - yes; - Aquatic and related systems – implied in wetlands; - Range management – yes; - Wetlands - yes; - Water resources - yes;

Assessment Phase 1: Summary of Findings

	<p>ongoing process of decentralisation in Lesotho.</p> <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		<ul style="list-style-type: none"> - Human settlements – yes; and - Governance – yes. <p>ICM Objectives:</p> <ul style="list-style-type: none"> - Socio-economic development – no, but implied ; - Gender – not included, as well as vulnerable groups; - Climate change – no; - Institutionalisation – same as in ‘Governance’ above.
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area? 5</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems: 5</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 5 <p>c) Does the measure create or contribute to an integrated management framework; 5</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		<p>Section 6, p. 48: Implementation of National Settlement Policy</p>
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims; 2</p> <p>b) Is the measure cost-effective; 2</p>		

Assessment Phase 1: Summary of Findings

	<p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	3	
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	1	It is set to be done in a completely different approach (according to the Commissioner of Lands)
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	5 5 5 1	.
Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making</p>	1	

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	<p>– by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>		
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National Heritage Resources Act 2011

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	2	<p>The purpose of the Act is to make provision for the preservation, protection and management of the heritage resources of Lesotho. It is broad in nature and does not entail details of how the land for heritage sites are to be managed.</p> <p>ICM Objectives:</p> <ul style="list-style-type: none"> - Socio-economic development – implied in that land declared as heritage site is to attract tourists to enter upon payment of a fee. Tourism in the country will be boosted, making contribution to the GDP growth; - Gender – no; - Climate change – no; - Institutionalisation - yes.
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	1	
Holistic / Cross-sectoral	a) Does the measure link land and water use across the entire catchment area?	1	Silent.
	b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 	3	
	c) Does the measure create or contribute to an integrated management framework;	1	
	d) Does the measure link with the broader National Development Strategy / Planning	2	
			It is implied as indicated above

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	<p>Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>1</p> <p>4</p>	<p>Minister may make regulations for the control of excavations, development or other works or activities carried out in relation to a heritage site, a heritage building or heritage object.</p>
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>5</p> <p>3</p> <p>1</p> <p>3</p>	
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<p>5</p>	<p>The solution to make the Act more effective is for the Minister to make regulations. These would then address the ICM objectives and elements as well as becoming consistent in terms of effectiveness, being holistic/cross-sectoral, proportionality, currency, consistency, and being participatory.</p>
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; 	<p>1</p> <p>1</p> <p>1</p> <p>1</p>	<p>See 1 above</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	1 1 1 1	

Water Act 2008

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	<p>a) 3</p> <p>b) 2</p>	<p>The preamble does neither explicitly address the integrated nature of IWRM, nor of ICM.</p> <p>IWRM is however mentioned in S. 3 on principles. It provides for an integrated approach – but from a water perspective, as the main objective of a WA is water conservation. ICM is not mentioned.</p>

Assessment Phase 1: Summary of Findings

	<p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		<p>Sec. 3 h) mentions «environmental» only in a general manner, while it explicitly lists HIV, gender etc. in detail.</p> <p>To be balanced, environmental media such as soil/land, as well as socio-economic principles need to equally be mentioned explicitly.</p> <p>Recommendation: Preamble should recognize need for integrated management approach for all aspects of water resources and Integrated Catchment management.</p> <p>The same is the case for the term “protection” in the definition part, S. 2. The definition is neither IWRM nor ICM related.</p> <p>(Side note: recommendation to correct the alphabetical order in S. 2 which is not always correct)</p> <p>Sec. 2: “water management institutions” does not mention local level, it only mentions national or international level. IT must be read in context with Sec. 15 but should be more explicit.</p> <p>Enforcement S. 9 establishes a Tribunal to settle water resources management related disputes. It does not mention any other environmental media to be taken into account.</p> <p>RE: It should mention that water related dispute resolution shall consider all ICM related issues.</p>
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Assessment Phase 1: Summary of Findings

			<p>S. 10 on water and sanitation strategy should provide that the strategy shall also consider an integrated IWRM and ICM approach. It does mention “catchment area” but does not include “integrated” management. This important principle is lacking.</p> <p>The same is the case for S. 12</p> <p>S. 15 (1) provides for the designation of Catchments. It lacks criteria on how catchments are identified and designated.</p> <p>It lists <u>water</u> resource protection objectives only.</p> <p>S. 16 empowers a local authority to manage catchments within its area of jurisdiction. It lists functions of this LA that are water resource related only.</p> <p>S. 16 includes ICM principles in the “Catchment management plan”. These are not supported by subsidiary legislation, i.e., detailed regulations, or by-laws. There are no adequate enabling provisions in the act to this end. S. 42 on the making of regulations is also not sufficient in this regard, and needs improvement, see comment on S. 42 below.</p> <p>16 a) regulates that the CMP may not conflict with the water and sanitation strategy. There is no provision coordinating the plan with land use or other related ICM planning. This is needed.</p>
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Assessment Phase 1: Summary of Findings

		<p>16 c) on CMP considerations is very general and lists only natural resources, land use, demography, Climate, without further specifying these.</p> <p>Rec: it could either further specify that and how these elements must be balanced against each other. What are priorities and criteria that must be considered. How is the integrated nature of this balancing being operationalized in the plan. What public authority would lead the process of balancing these interests. How are conflicted issues balanced.</p> <p>Sec. 16, like all other provisions has a clear water focus, which is normal for a water Act. However, it would then need to contain a coordination mechanism with all other ICM related laws and interests formulated therein. (E.g., Sec 18.1. provides for consultations with MoLG).</p> <p>Alternatively, this could be introduced in the Environment act.</p> <p>Sec 16 (g) promotes involvement of the private sector in water resources management and provision of water and sanitation services.</p> <p>S. 20 requires permitting for all water uses. While it lists several key issues in subsections 1) to 14), it does not list the procedural and technical requirements in sufficient detail. This must be provided in a detailed regulation on permitting (and charging) with detailed and comprehensive technical annexes on procedures, technical requirements regarding</p>
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Assessment Phase 1: Summary of Findings

		<p>different user forms, equipment and safety requirements, dispute resolution and many more issues.</p> <p>Permitting seems to be in its infancy and this vital gap must be addressed urgently. The sensitive issue of access to water and water pricing for various user forms and different users to some extent depend on this needed subsidiary legislation.</p> <p>Sec. 21-23 provide for more details, but these are not sufficient and must be specified via a detailed permitting regulation as explained above.</p> <p>The matter of charging cannot be separated from the above permitting issues, as all these forms of use must be subject to levies, tariffs, and fees. These must also be regulated in a detailed permitting and charging regulation with schedules on different forms of use, different users, varying quantities, respective pricing etc.</p> <p>The Act fails to address financing issues.</p> <p>Side note: Sec. 25 relates to the above activities but sets out no details. (the term “acquirer” should be corrected into “aquifer”)</p> <p>S. 27 fails to refer to a detailed act or regulation with limit values or quality standards. The environmental act of 2007, that S 27 refers to, regulates this in its Sec 28. It must be evaluated</p>
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Assessment Phase 1: Summary of Findings

		<p>in detail where the actual quality standards are listed and whether these are sufficient. It must then be considered if an environmental quality standard approach is sufficient or if limit values for discharges into water should be applied. Eventually a combination of the two approaches could be considered.</p> <p>Water pollution is a specific subject and the details (such as LVs or EQS) should not be regulated in general environmental framework legislation. In fact, it should not even be regulated in the WA, but rather in specific subsidiary legislation such as regulations on GW or SW quality standards, and legislation on pollution control and permitted limit values. This needs further investigation. Overregulation must be avoided in this context.</p> <p>Permitting and limit values under S. 27 are ICM relevant but lack the needed detail.</p> <p>It is recommended to regulate these in detailed regulations under this water act. I.e., groundwater protection and quality standards, surface water quality standards, limit values for water discharge into surface waters etc.</p> <p>Sec 42, the legal basis for regulations is insufficient. It must list in more detail the scope and purpose as well as the limitations of regulations, all of which must be mentioned in the Section 42. focusing adequately on rights and obligations, detailed mandate, of the competent authorities. It does not mention licensing and charging, albeit these are key elements of water and ICM management. (see details below in narrative text)</p>
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Assessment Phase 1: Summary of Findings

<p>7. Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation.</p> <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation.</p> <p>e) Do the measures cohere with global, regional commitments: - Contribution to vertical integration / fragmentation.</p> <p>f) Do the measures take account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>a) 2</p> <p>b) 3</p> <p>c) 2</p> <p>d) 2</p> <p>e) 2</p> <p>f) 1</p>	<p>The Act has a clear water perspective and does not link land, and water under an ICM perspective.</p> <p>Sec 3 mentions some few socio-economic considerations, but it is too general and mentions only few (although important) aspects such intergenerational equity, HIV, and gender. The link to WRM is however explicitly mentioned in Sec 3.</p> <p>In light of the very strong and detailed Water and sanitation Policy of 2007, the WA falls short of several clearly ICM related objectives under the Policy.</p> <p>The water and sanitation strategy by the commissioner, S 10 (5), does only apply to “water management institutions under the WA” and not public authorities in charge of land management and other sectors.</p> <p>Recommendation: Consider extending to bind all public authorities with responsibilities in ICM. Or to involve/consult them in strategy drafting/commenting.</p> <p>S. 19 (3) requires permits for exploring springs. There are no details regarding the exploitation, abstraction, protection of the source etc. This must be regulated in detail with detailed technical annexes.</p>
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Assessment Phase 1: Summary of Findings

			<p>The act fails to adequately address transboundary cooperation, consultative mechanisms in strategy making and in water management. S. 8 (2), e) The Commissioner is responsible for transboundary water management</p> <p>There are however no details and no references.</p>
8. Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>a) 4</p> <p>b) and d) no rating at this time as costs will depend on detailed implementing regulations.</p> <p>c) 4</p>	<p>The measures reviewed seem reasonably balanced and do not conflict with other environmental acts.</p> <p>However, consultative mechanisms with other public authorities involved in ICM are needed.</p>
9. Currency	<p>b) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	3	<p>Sec 2 regarding “regulated activities” it refers to the “Lesotho Electricity and water Resources Act of 2008”. This Act does not exist. Only an electricity authority of 2002, amended 2006 and 2011 exists.</p> <p>Sec 18 (6) fines for violations of wetland protection. It must be investigated whether these are still up to date after 12 years. The maximum is 50.000 M.</p> <p>It must be noted that dynamic content, that is subject to frequent change like amounts of fines, does not belong in the main text of an act. The procedure of amending Acts is formal and lengthy. Fines should be listed in regulations and the schedules thereto, as these are easier</p>

Assessment Phase 1: Summary of Findings

			<p>to update and adapt to emerging and changing needs.</p> <p>Art 33 – 36 on dam safety lacks significant detail as to the different dam categories, procedural details for licensing, constructing, impounding, decommissioning, evaluating risks, ongoing evaluations, etc. etc. this needs to be regulated in a detailed regulation and several technical schedules.</p> <p>Dam safety has strong implications on land use, irrigation, agriculture and industry and has a high priority for ICM.</p>
<p>10. Consistency</p>	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p>a) 4</p> <p>b) 4 (not contrary but it does not contain all ICM elements and objectives see above 1.)</p> <p>c) 3</p> <p>d) 2</p>	<p>Fines may be updated, see above. There are no explicit enforcement measures and there is no reference to general administrative law regarding enforcement measures.</p> <p>This must however be further investigated.</p> <p>S. 9 establishes a Tribunal to settle water resources management related disputes. No other environmental media must be considered.</p> <p>The enforcement situation is unclear presently, but first information indicates that enforcement is problematic in practice.</p> <p>S. 8 (2), e) The Commissioner is responsible for transboundary water management There are however no details and no references.</p>

Assessment Phase 1: Summary of Findings

			<p>Rec: this needs significant amendment to include transboundary obligations, designation of commissions or other entities responsible for transboundary management and coordination. This is a fundamental gap.</p>
<p>11. Participatory (ensuring equitable participation)</p>	<p>a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>a) 3 b) 3 c) 3 d) 2 (to be further investigated, as this may be in general administrative law)</p>	<p>1. <i>Preamble: Subsidiarity:</i> delegation of management functions to a regional or catchment level should be included.</p> <p>On a general note, the act fails to adequately address consultative approaches to planning and management in the water and ICM sector.</p> <p>2. S. 2 “stakeholder “ is restricted to water only.</p> <p>S. 10 (1) requires SH consultations in preparing the water and sanitation strategy. It needs to explicitly include civil society and individuals.</p> <p>S. 11 (1) c) invites the public for comments. However, this is too late, as the Strategy is already developed. While other SH can influence the drafting process. The public can only comment after publication. The Commissioner can consider comments where appropriate. This is an inappropriate restriction of public participation.</p> <p>S. 31 allows for public access to information. The procedure for this is not detailed and it is unclear if subsidiary legislation exists as the law does not refer to any specific legislation.</p>

Assessment Phase 1: Summary of Findings

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the water act fails to adequately address the water sector as such. This review looks at water from an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings. A few important shortcomings with regard to water management were nevertheless addressed.

General comments - preliminary:

1) To be investigated whether regulations exist and what the detailed contents are on:

- aquifer recharge?
- Groundwater protection
- Surface water quality standards
- Drinking water safety
- Permitting and charging
- Dam safety

The answer so far seems to be negative.

2) There is neither sufficient chapter on transboundary cooperation, nor on MEAs. Sec 8 is insufficient in this regard.

3) A clear legal basis is needed for the mentioned regulations under 1)

4) There are no adequate references and linkages to other acts, such as waste, land use, pollution control, nature conservation.

5) There is no mentioning of environmental objectives under the constitution (S. 110).

6) Other specific notes:

1. Section 15, contains no legal basis for CCs to make by-laws
2. The same is the case for S. 17 (2) on Services
3. S. 20 on permits (no regulations exist) is insufficient, as it contains no details.
4. S 28, regarding land use, refers to the Land act of 1979 which is outdated.
5. S 33 on dam safety is incomplete and inadequate. In light of the fact that this is of paramount importance in Lesotho, regulations on dam safety with detailed technical schedules are urgently needed. Minimum contents needed are: Different dam categories, procedural details for licensing, constructing, impounding, decommissioning, evaluating risks, ongoing evaluations. Dam safety links water, land, irrigation, agriculture.
6. S. 42: The legal basis (for Minister regulations), is too short, insufficient, and should contain several enabling provisions with: purpose, scope, limitations. Rights and obligations of all involved players must be in the law, and the details in regulations and schedules.
7. There is no adequate dispute resolution and/or appeals procedure.

Water and Sanitation Policy of 2007

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION
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Assessment Phase 1: Summary of Findings

			(i.e., description of gap, weakness etc. identified)
12. Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>a) 5</p> <p>b) no rating as the policy is too general to rate implementability or enforcement</p>	<p>Short preamble captures ICM in its essence. (page 2)</p> <p>Foreword focuses on decentralization</p> <p>Foreword lists ICM objectives except climate and explicitly mentions ICM.</p> <p>Principles and objectives cover ICM, in wholistic, integrated, and clear catchment perspective.</p> <p>PS 1, strategy h) declares ICM as part of the strategy.</p> <p>PS 2 is a good example of the need to carefully balance the principle of water as an economic good and the principle of safe access to water for all.</p> <p>PS 7 strategy c) and d) on decentralization requires to “separate water resources development and management from the provision of water supply and sanitation services”, and to “devolve water resources development and management functions to lower level institutions”</p>
13. Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p>	<p>a) – e) 5</p> <p>f) no rating as a policy cannot contain specific measures relating to</p>	<p>Principles and objectives cover ICM, in wholistic, integrated, and clear catchment perspective.</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. c) Does the measure create or contribute to an integrated management framework; d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need. 	<p>infrastructure investments or commercial development</p>	<p>page 2, 5, 6 support global and regional commitments. Policy Statement 4 and the related Strategy on page 6 support this in detail:</p> <p>The statement requires: “To strengthen co-operation with riparian states in an effort to find solutions to the challenges of managing trans-boundary water basins, and to promote joint planning and management of the development of trans-boundary water resources while maximising benefits for the people of Lesotho.”</p>
<p>14. Proportionality</p>	<ul style="list-style-type: none"> a) Is the measures likely to achieve its legitimate aims; b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors. 	<p>5</p>	<p>PS 5 Objective 2 demands optimal use of funds and coherence between spending and results.</p> <p>Strategy d) requires establishment of a medium-term expenditure framework</p> <p>Strategy g) requires the establishment of a procedure for donor coordination for effective pooling of resources</p>
<p>15. Currency</p>	<ul style="list-style-type: none"> a) Is the measure outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<p>5</p>	<p>The policy itself is up to date. It requires to be consolidated and implemented via (up to date) acts and regulations.</p> <p>PS 7 requires codification explicitly, in particular with regard to management of water resources and in the provision of water supply and sanitation services.</p>

Assessment Phase 1: Summary of Findings

			<p>PS 7 further requires introduction and implementation of a legislative and regulatory framework “for the management and development of water resources, covering inter alia, water rights; dispute resolution; public participation; water pollution control; water quality standard setting; catchment management; and introduce a basis for charging for water use among other issues. In this regard, the Government’s priority in the short term is to:</p> <p><i>i. Enact water resources management, and water supply and sanitation services bills. The former bill will among others elaborate the roles and responsibilities of key players within the sector particularly those of the Commissioner of Water;</i></p> <p><i>ii. Review corporate governance arrangements for utility companies to be in line with international and regional standards for corporate agencies.”</i></p> <p>PS 7 is of high relevance as this implementing legislation (Acts and regulations) will need to be updated or drafted.</p>
16. Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	4	<p>Foreword lists international cooperation and transboundary principles.</p> <p>PS 4, Strategy c) contains important transboundary principles: “To strengthen co-operation with riparian states in an effort to find solutions to the challenges of managing trans-boundary water basins, and to promote joint planning and management of the development of trans-boundary water resources while maximising benefits for the people of Lesotho.”</p>

Assessment Phase 1: Summary of Findings

	d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
17. Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	4	Principles D provide for participation and E for gender sensitivity PS 6 provides for the objective of stakeholder consultations. PS 7 strategy f) calls for a legislative and regulatory framework for the management and development of water resources, covering inter alia, water rights; dispute resolution; public participation; water pollution control; water quality standard setting; catchment management; and introduce a basis for charging for water use among other issues. All of PS 7 is fully in line with ICM principles

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the Policy fails to adequately address the water sector as such. This review looks at water from an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

General note:

The WP is a strong document that fully captures all ICM key elements. The only improvement recommended here is the involvement of Universities, scientific bodies, and research institutions. The WP only mentions science in a very general way in the foreword. It does neither require nor sets it the framework for involvement of Universities, research institutions or scientific bodies.

The WP was reviewed under an EU funded project in 2017, which concluded, that it can largely remain as it is, except for some regrouping and splitting of Policy statements and explicitly including climate objectives, as well as adding several minor changes. Especially the consulted stakeholders found the WP of 2007 still fully applicable. The review confirmed the view taken here, that – opposed to the WP of 2007, the water related legislation is not yet in line with what is required by the 2007 policy.

While the Policy of 2007 is an up-to-date document regarding ICM principles and good international practice, the Water Act does not fully reflect this. The Policy and the Act compared, allows the conclusion, that the WA needs significant overhaul, see the detailed WA review matrix. It is important to note, that the WA needs several supporting subsidiary enactments, such as regulations and by-laws, as well as several detailed technical schedules to the needed regulations.

The ratings given in the Matrix relate to Policy statements and not to measures.

Long Term Water and Sanitation Strategy, 2016 (3 docs: Summary, Vol. 1 and Vol. 2 = LS, V1, V2)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>a) 4 (the strategy is general in scope)</p> <p>b) too general to rate</p>	<p>LS: Very briefly, and generally lists all main ICM aspects: Integrated, access for all, cost coverage, participation, regulation making, decentralization, institutional decentralization, finance. This is a summary only and too brief to justify a meaningful score.</p> <p>Vol. 1, page 15 provides for Key Focus Area 1 on establishment of Catchment Management. This KFA concerns the integrated planning for sustainable development and management of land, water and natural resources in the catchment areas for the rivers in Lesotho. The aim is economic development and improved livelihood by sustainable management of water resources and land.</p> <p>p. 15 provides (regarding subsidiarity): The catchment management activities will be implemented by the Local Councils and the communities with a focus on benefits from water and natural resources resulting in improved livelihoods in rural areas and economic development.</p> <p>Key focus area (KFA) II – VI are not explicitly ICM related and have a water perspective. They are nevertheless relevant as they address several ICM elements. In detail they provide for:</p>

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			<p>KFA II: Climate Change, Water Resources and Environmental Management</p> <p>Key Focus Area III: Water, Sanitation and Hygiene</p> <p>Key Focus Area IV: Regulated Water and Sewerage Services</p> <p>Key Focus Area V: Water Resource Development</p> <p>Key Focus Area VI: Sector Resource Planning, Coordination and M&E</p>
<p>Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>a) 4</p> <p>b) 2</p> <p>c) 3</p> <p>d)- f) too general to rate</p>	<p>Vol 1 P. 15: The Catchment Management Joint Committee (CMJC) will be the governing organ within the Catchment Area on all issues related to water resources and land use. It will be composed of representatives from each of the involved Districts.</p> <p>The CMJC will take decisions on water resource and land use issues according to national legislation and with advice from the national ministries. The CMJC will arrange for the preparation of the Catchment Management Plan and oversee its implementation.</p> <p>This Committee is responsible for the full scale of ICM objectives. However, it is general by nature and lacks details.</p> <p>Page 3: “The LWSP recognises the international best practices embodied in Agenda 21, the Dublin Principles, the Helsinki Rules, Johannesburg Plan of Implementation and the guidelines from the Global Water Partnership. The policy is formulated within the regional framework established by the Southern African Development Community (SADC) Revised Protocol on Shared Water Courses (2000); the</p>

Assessment Phase 1: Summary of Findings

			<p>SADC Regional Water Policy (2006) and the SADC Regional Water Strategy of 2007.</p> <p>The legal framework includes regional agreements such as the ORASECOM agreement (2000) and the Lesotho Highlands Treaty (1986).”</p>
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>		<p>Page 36 lists funding requirements in detail. It makes no statements that justify saying whether it is cost-effective, but it lists the funding needs in detail.</p>
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	3	<p>The strategy requires to be fully implemented/supported by up-to -date water, land use and general environmental Acts and subsidiary regulations.</p>
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	3	<p>Vol 1, page 16 explains as one strategic aim:</p> <p>Integrated Management Framework for Orange-Senqu River Basin implemented And Integrated water resources management framework for the Mohokare/ Caledon River Basin developed and implemented.</p> <p>This does promote several ICM objectives, but in a general manner only.</p>

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	d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	2	It provides for general advice and a critical review of transparency, information, and participatory approaches in the LWSP and the Water Act. This is very general, and no details are proposed or recommended. (pages 4, 7, 16 and 31). Reviewability is not mentioned.

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the Policy fails to adequately address the water sector as such. This review looks at water from an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

General note:

LS: The above strategy covers the main ICM key elements in a very general manner. The detailed review was based on Vol 1 mainly. Vol 2 lists detailed time schedules, the budgets per Strategic Aim and activities.

Lesotho Action Plan for the Orange Senqu River Basin 2014

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the 	no rating appropriate/possible, see comment below	The LAP mainly describes and summarizes the institutional and regulatory framework. p. 19 “priority national concerns” address key ICM elements in general way, and identifies four main problem areas:

Assessment Phase 1: Summary of Findings

	<p>ongoing process of decentralisation in Lesotho.</p> <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		<ol style="list-style-type: none"> 1. Land degradation and increased invasive species; 2. Declining water resources quality; 3. Changes to the hydrological regime (including wetlands degradation); 4. Increasing water demand. <p>The LAP contains a good description of the four main threats to water and land environment.</p> <p>The Action Plan has been designed as a portfolio of project concepts.</p> <p>In chapter 5, it addresses the four main problem areas via four detailed concept notes. The LAP details the defined country targets for the four priority areas of concern, as well as the proposed interventions required to address the priority problems and achieve the agreed targets</p> <p>The four concept notes address the priority areas/problems and contribute to the Action Plan targets.</p> <p>The objectives listed in chapter 5, which is the main part describing objectives and actions needed, list all key ICM elements.</p> <p>The objectives need to be implemented and cannot be rated yet.</p>
<p>Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area?</p>	<p>no rating, as the plan is descriptive by nature.</p>	<p>page 20 describes the threats to land and water in great detail. There are no measures proposed here.</p>

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	<ul style="list-style-type: none"> b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. c) Does the measure create or contribute to an integrated management framework; d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need. 		<p>page 24 lists threats to water and explains the need for regulations on water quality standards. These seem to be drafted and it must be investigated what the current status of these drafts is.</p>
<p>Proportionality</p>	<ul style="list-style-type: none"> a) Is the measures likely to achieve its legitimate aims; b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors. 		
<p>Currency</p>	<ul style="list-style-type: none"> b) Is the measure outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		

Assessment Phase 1: Summary of Findings

Consistency	<ul style="list-style-type: none"> a) Does the measure promote (at least some) elements and objectives of ICM; b) Does the measure run contrary to (certain) elements and objectives of ICM; c) Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 		

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the Policy fails to adequately address the water sector as such. This review looks at water from an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

Remarks:

The document provides a good description of the situation in the ICM sector. It lists ICM key elements comprehensively in a descriptive manner but does not contain any specific measures. Regarding an actual plan, it contains concept notes to address each of the four identified problem areas via projects. It will depend on these projects, whether ICM key objective are adequately addressed.

The LAP can therefore not be ranked as other documents.

The issue of mining and mining waste, oil spills and leaking, animal dipping, industrial wastewater is poorly researched and there is insufficient facts and information available.

University and research institutions need to be involved here. However, these are not mentioned in the LAP.

Lesotho Highlands Development Authority Order, 1986

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	2	<p>The Order is of low relevance.</p> <p>Art 19 of the LHDA contains a comprehensive list. ICM elements and objectives are not explicitly listed. It has a clear water focus.</p> <p>It does however refer to the Water Act. Hence, the findings of the WA must be considered in this review as well.</p> <p>Art 35 on the development of water resources does not take ICM elements into account.</p> <p>Art 50 addresses “protection of the environment” in a very general manner and does not mention any ICM elements.</p>
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p>	3	<p>Article 19 (1), a), iv) provides that the LHDA promotes and encourages work for the protection of the catchment areas. This is not detailed.</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	no measures or details to rate	
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	1	Sect. 59 is the legal basis for regulations. It is too general in scope and will not be an adequate basis for any regulation of ICM relevance. No regulations were made thereunder.
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p>	1	

Assessment Phase 1: Summary of Findings

	- Contribution to vertical integration / fragmentation.		
Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 		

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the Policy fails to adequately address the water sector as such. This review looks at water from an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

General note:

The Order of 1986 does not contain any significant ICM elements, with the – very general – exception of Article 50 which mentions environmental protection.

Lesotho Highlands Water project Policy for Instream flow requirements (2002)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<ul style="list-style-type: none"> a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; 	4	<p>The Policy lists in a general manner the instream flow requirements and contains several ICM related key elements, such as:</p> <p>Chapter 2: “meet environmental criteria and community user requirements”</p> <p>In Chapter 4: environmental objectives of flow manipulations are described in relation to the river condition classification for Lesotho Highlands Water</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		<p>Project affected rivers. They contain general environmental and water management related objectives, i.e., ICM objectives.</p> <p>The focus is on detailed compensation mechanisms for adverse impacts of flow manipulations.</p> <p>Chapter 7.10, and 7.11 provide for the right to request a review of their compensation allocation and a detailed appeals procedure.</p>
<p>Holistic / Cross-sectoral</p>	<ul style="list-style-type: none"> a) Does the measure link land and water use across the entire catchment area? b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. c) Does the measure create or contribute to an integrated management framework; d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need. 	<p>3 The Policy is very general and lacks details</p>	<p>Chapter 2: “meet environmental criteria and community user requirements”</p>

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Proportionality	<ul style="list-style-type: none"> a) Is the measures likely to achieve its legitimate aims; b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors. 	4	Chapter 7 contains very detailed compensation measures for any losses suffered due to flow manipulations.
Currency	<ul style="list-style-type: none"> a) Is the measure outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	4	There are specific measures for compensation, these are up to date
Consistency	<ul style="list-style-type: none"> a) Does the measure promote (at least some) elements and objectives of ICM; b) Does the measure run contrary to (certain) elements and objectives of ICM; c) Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	3	<p>The compensation measures promote ICM objective in a general way as they inter alia aim at preserving land</p> <p>There are no identified contradictions</p>
Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; 	5	Chapter 6.2. provides for public participation. It requires mechanisms for the active involvement of stakeholders in decision-making processes, including planning, implementation, monitoring

Assessment Phase 1: Summary of Findings

	<p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>		<p>and evaluation of projects and programs that affect their lives.</p>
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Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the Policy fails to adequately address the water sector as such. This review looks at water from an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

General note:

The document contains a few ICM related chapters only. One of its main objectives is detailing compensation mechanisms for adverse impacts of flow manipulations.

The Policy also contains few, rather general environmental and water management related objectives. These contain ICM objectives in a general manner such as that flow requirements “must meet environmental criteria”.

From an ICM perspective, chapter 6.2 is the strongest chapter as it provides for detailed stakeholder participation in decision-making processes, including planning, implementation, monitoring and evaluation of projects and programs that affect their lives.

National Wetlands Conservation Strategy

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and 	<p>3</p> <p>This is a strategy; it is general by nature and there are no specific measures that could be easily rated.</p> <p>The rating given, is therefore based on how broadly the guiding principles and strategic objectives deals with ICM and, if all key ICM criteria and objectives are – generally – covered. All other indicators as listed, are addressed – as far as possible.</p>	<p>1.5 on page 9 summarizes ICM objectives, while not mentioning the term “integrated” explicitly. It does, however, refer to “catchment management” and mentions, water, rangeland, and wetlands</p> <p>The guiding principles on page 10 reflect, inter alia, ICM objectives (inter-linkage between community livelihoods and ecological integrity of wetlands, sustainable use of wetlands resources, empowerment and participation by all stakeholders in wetland conservation, and</p>

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	<ul style="list-style-type: none"> - Financially sustainable. 	Indicators such as implementability and enforceability are not covered.	<p>inter-national cooperation in the conservation and management of shared wetlands resources)</p> <p>Strategic Objective 2.2 aims at mainstreaming wetlands ecosystems' conservation and management within the existing decentralization framework.</p>
Holistic / Cross-sectoral	<ul style="list-style-type: none"> a) Does the measure link land and water use across the entire catchment area? b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. c) Does the measure create or contribute to an integrated management framework; d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need. 	4	<p>Section 2 looks at Wetlands from a wholistic point of view as it mentions, land, water, climate, health, tourism, biodiversity, sustainability, and cultural heritage.</p> <p>Strategic goal 4.2.1 requires protection of wetlands and promoting their sustainable use through integrated land and water resources management.</p> <p>Strategic objective 3.1 aims at strengthening the capacities of institutions involved in management of the wetland's ecosystems at all levels of governance.</p> <p>Strategic objective 5 (see below) encourages community participation and promotes decentralization.</p>
Proportionality	<ul style="list-style-type: none"> a) Is the measures likely to achieve its legitimate aims; b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; 		

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	d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.		
Currency	a) Is the measure outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	2	The Strategy is from 2013. It does not explicitly mention the term “integrated” It is not implemented by specific legislation on wetlands.
Consistency	a) Does the measure promote (at least some) elements and objectives of ICM; b) Does the measure run contrary to (certain) elements and objectives of ICM; c) Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	a) 4 See comment above 1)	
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	4 yes, but in a very general manner. There is no supporting legislation other than in the WA.	Strategic objective 4.1 requires good quality “information on the location, biotic and abiotic characteristics of the wetlands for informed decision making at all levels.” It aims at: <ul style="list-style-type: none"> • developing a comprehensive wetlands’ inventory and database that show their distribution, conditions and uses.

Assessment Phase 1: Summary of Findings

			<ul style="list-style-type: none"> - Develop Information, Education and Communication (IEC) materials to capacitate stakeholders on wetlands ecosystems and their management. - Devise methods for improved access and decision-making support to information and data by all relevant sectors and stakeholders on wetlands areas. - Develop and implement research programmes on wetlands conservation <p>Strategic Objective 5 requires the development of innovative mechanisms that empower stakeholders to participate in the management of wetlands by:</p> <ul style="list-style-type: none"> - Strengthening communication, collaboration, and public outreach programmes for all stakeholders on wetland ecosystems conservation and management. <p>Strategies:</p> <ul style="list-style-type: none"> - Advocating for collaboration and cooperation between institutions and stakeholders to share wetlands’ information at community, district, national, regional, and international levels.
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Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the Policy fails to adequately address the water sector as such. This review looks at water from an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

Remarks:

The strategy is a strong document in principle. It is of a general nature and not all indicators can be rated as there are no specific measures to rate.

It does list research institutions which is highly relevant and could not be found elsewhere.

The strategy summarizes key ICM objectives, and its guiding principles reflect ICM objectives in a general manner as well.

It is, however, not fully supported by implementing legislation, see the review on the WA, 2008.

Agricultural Sector Strategy, 2003

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>a) 2</p> <p>b) 2</p>	<p>A,2) The agricultural sector strategy is a classical strategy that covers all subsectors under agriculture. It does address ICM mainly from agro productive angle, limited on IWRM, resources conservation and basin ecoservices;</p> <p>B,2) Subsidiarity is a clear topic of concern and planning in the Sectoral and Sub Sectoral Objectives are worked out well with considerable attention for the local structure of governance; The strategy does scores relatively low on ICM/IWRM as the principal focus in on productive agriculture, which is an element under ICM/IWRM.</p>
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. • <p>c) Does the measure create or contribute to an integrated management framework;</p> <ul style="list-style-type: none"> • <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p>a) 2</p> <p>b) 2</p> <p>c) 1</p> <p>d) 2</p> <p>e) 1</p> <p>f) 1</p>	<p>A,2: Not outside the domain of productive agriculture;</p> <p>B,2) Attention for social development related to the benefits of agriculture are worked out only in concerning the community members living with HIV/AIDS. Considerable attention for the decentralisation and lack of capacity at local level and communication in the vertical line.</p> <p>Across the strategy references are nominally made to mandates and actions of other national ministries, with limited reference to ministerial and departmental mandates;</p> <p>C,1) It does not focus on the broader ICM context and management needs;</p> <p>D,2) Positively so for the agricultural component in ICM, but hardly for the ICM broad approach. It does take into account the district and community levels (refer to preceding items);</p>

Assessment Phase 1: Summary of Findings

	f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.		E,1) Concerning the ICM elements and practices no references are made to regional commitments and standards. For agronomy nominal reference t are made; F,1) Beside marking and pricing for agricultural crops ICM related measures are not included in the strategy;
Proportionality	a) Is the measures likely to achieve its legitimate aims; b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.	a) 1 b) 1 c) 1 d) 1	A/B/C/D,1) No direct provisions and links to Key ICM Elements.
Currency	a) Is the measure outdated: - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures).	e) 3	e,3) Although there is no direct and supportive focus on ICM development the agricultural strategy could well be reworked to fit with ICM future policy:
Consistency	a) Does the measure promote (at least some) elements and objectives of ICM; b) Does the measure run contrary to (certain) elements and objectives of ICM; c) Does the measures conflict with other national measures: - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: - Contribution to vertical integration / fragmentation.	b) 2 c) 4 d) 4 e) 3	f,2) The strategy does refer to the constituting ICM elements however only within the productive agricultural subsectors. This would enable the strategy to a limited extend to support ICM strategy development; B,1) The strategy does not go contrary to ICM development. Please note that not conflicting is positive and would imply a high score) C,4) The strategy does not conflict with other national measures; D,2) The strategy does nominally refer to regional projects, regulation and legislation, pricing, market development, etc;
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;	a) 2 b) 2 c) 2 d) 2	j/k/l/m,2: The strategy for the agricultural sector does score a '2' for public / stakeholder participatory provisions. Few however are related to ICM development.

Assessment Phase 1: Summary of Findings

	<p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>		
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National Range Resources Management Policy, 2014

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives?</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>c) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<ul style="list-style-type: none"> • 5 • 2 	<p>A,5) The policy has its roots and concepts from profoundly understanding the importance and requirements for ICM. Subsidiarity and the promotion of decentralisation is a principal element in the policy;</p> <p>B,4) The policy can be used to build the future ICM policy and strategy;</p>
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural eco-systems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p>	<ul style="list-style-type: none"> • 5 • 5 • • • 5 • 3 	<p>C,5) The policy links all essential ICM components, and stands out by addressing the problem of deterioration of the wetlands.</p> <p>D,5) The gravity point of the policy on local range resources management and devotes strong attention to local social and economic development, as well as the need to address and strengthen local governance through capacity development.</p> <p>E,5) Fully;</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<ul style="list-style-type: none"> • 1 • 2 	<p>F,3) Vertical integration and references to other ministries as well as the need to devolve capacities and budgets are apparent. The policy does not have a timeline against the objectives;</p> <p>G,1) Limited reference and connection to regional commitments;</p> <p>H,2) The policy refers to the Agricultural Sector Investment Programmes, however none of recent date;</p>
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<ul style="list-style-type: none"> • 4 • 4 • 4 • 4 	<p>E/F/G/H,4) The policy scores provides positive on the 4 criteria mentioned, with strong emphasis on local governance, participation of local beneficiaries. The policy has a broad focus and rightfully provides for policy which is essentially multisectoral;</p>
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<ul style="list-style-type: none"> • 4 	<p>I,4) The policy is up to date and fits well with recent insights in ICM development. More could be done to promote and plan for investments in ICM/IWRM;</p>
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<ul style="list-style-type: none"> • 5 • 5 • 5 • 3 	<p>E/F/G,5) The policy scores high on these criteria.</p> <p>H,3) Better integration and commitment could be expressed with regional and global strategies and directions.</p>
Participatory (ensuring equitable participation)	<ol style="list-style-type: none"> 1. Does the measure raise awareness of (elements and objectives) of ICM; 2. Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; 	<ul style="list-style-type: none"> • 5 • 5 	<p>E/F/G/H,5: the policy has an excellent structure of describing for the distinct ICM/IWRM related actions (5) the Goals-Objectives-Strategies in a coherent way. It adds to each of the subsections a sufficiently detailed monitoring procedure;</p>

Assessment Phase 1: Summary of Findings

	<p>3. Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>4. Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<ul style="list-style-type: none"> • 5 • • 5 	
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‘Range Management and grazing control, Regulations 1980, exercise of the powers conferred upon me by section 4(1) of the Land Husbandry Act, 1969: Minister of Agriculture and Marketing.

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives?</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<ul style="list-style-type: none"> • 3 • 4 	<p>A,4) The regulation does address the domain of the local farmers, communities and restricts itself to community governance, the role of chiefs and representation at district level. Limited reference to national or basin level;</p> <p>Although the scope and domain of the regulation is limited, the quality of it is high and effective and meeting the 4 criteria under item b. In future legislation several of the articles from this regulation should be considered, e.g., lineament of catchment, role of communities, chiefs, farmers, enforcement of regulation sing penalties, etc;</p>
Holistic / Cross-sectoral	<p>a. Does the measure link land and water use across the entire catchment area?</p> <p>b. Does the measure link social and economic development with protection of natural eco-systems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c. Does the measure create or contribute to an integrated management framework;</p> <p>d. Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<ul style="list-style-type: none"> • 4 • 4 • 4 	<p>C,4) The regulation foresees in small community managed catchments, and fully deals with the elements like water, land, soil, vegetation, etc;</p> <p>D,4) Within the small catchments strong focus on users/farmers economic development and income generation, along with community based measure to protect species;</p> <p>E,4) On the micro catchment scale management of soil, water, land use, etc, is effectively carried out;</p>

Assessment Phase 1: Summary of Findings

	<p>e. Do the measures cohere with global, regional commitments:</p> <p>- Contribution to vertical integration / fragmentation.</p> <p>f. Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<ul style="list-style-type: none"> • 2 • 1 • 1 	<p>F,2) The regulation is developed at national level, the implementation is indeed local, does not operate with explicit long-term planning frameworks etc;</p> <p>G,1) No reference made to regional or global policies and commitments;</p> <p>H,1) The regulation deals with local economics, income regulation and small scale catchment infrastructure, it does not deal with significant infrastructure and commercial developments;</p>
3.Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<ul style="list-style-type: none"> • 4 • 4 • 4 • 4 	<p>G/H/I/J,4) The scale of the interventions is a direct response by local beneficiaries on felt needs, and is assured to be effective through direct monitoring by beneficiaries;</p>
4.Currency	<p>a) Is the measure outdated:</p> <p>- Obsolete in objectives, scope of application or approach;</p> <p>- Requiring updating (e.g., regarding penalties); or</p> <p>- Requiring consolidation / codification (regarding amending measures).</p>	<ul style="list-style-type: none"> • 4 	<p>I,4) the measure is outdated. In view of developing new ICM legislation a number of local governance components and approaches from the regulation may be used for new ICM legislation and planning;</p>
5.Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <p>- Conflicting / overlapping roles and mandates;</p> <p>- Gaps regarding key functions (e.g., enforcement); or</p> <p>- Ambiguities regarding scope of application.</p> <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <p>- Contribution to vertical integration / fragmentation.</p>	<ul style="list-style-type: none"> • 5 • 1 • 1 • 1 	<p>I,5) reference made to above item;</p> <p>M,1) No controversial effects on ICM development;</p> <p>N,1) No conflicting effects with other mandates and measures, ambiguities;</p> <p>O,1) The regulation does not take into account regional commitments and transboundary. It does not impact on vertical integration/fragmentation.</p>

Land Administration Authority Act, 2010

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho.	1	A1)Focus primarily on land allocation, title deeds, cadastre;
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho: - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable.	1	B1)Focus primarily on land allocation, title deeds, cadastre;
Holistic / Cross-sectoral	a) Does the measure link land and water use across the entire catchment area?	2	C/D/E/F/G/H,1)Focus primarily on land allocation, title deeds, cadastre;
	b) Does the measure link social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation.	2	
	c) Does the measure create or contribute to an integrated management framework;	1	
	d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation.	2	
	e) Do the measures cohere with global, regional commitments: - Contribution to vertical integration / fragmentation.	1	
	f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.	1	
Proportionality	a) Is the measures likely to achieve its legitimate aims;	1	I/J/K/L,1)Focus primarily on land allocation, title deeds, cadastre;
	b) Is the measure cost-effective;	1	

Assessment Phase 1: Summary of Findings

	<p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>1</p> <p>1</p>	
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	3	M,3) Focus primarily on land allocation, title deeds, cadastre. However not obsolete as it is an important regulator for land management and administration;
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p>4</p> <p>4</p> <p>5</p> <p>1</p>	<p>N,4) Important function of land registration and administration. Will need to be related to future ICM legislation:</p> <p>O,4) Supportive in view of land management and cadastre;</p> <p>P,5) It is an underutilised administration but will be supportive to various sectors if used well;</p> <p>Q,1) It does not.</p>
Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>1</p> <p>1</p> <p>1</p> <p>1</p>	R/S/T/U,1: The Act authorises to administer land use and ownership. This is not related to the criteria in this item;

Lesotho Food and Nutrition Strategy and Costed Action Plan, 2018-2022

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<ul style="list-style-type: none"> • a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<ul style="list-style-type: none"> • 2 • 2 	<p>A,2) The focus on water/WASH limited attention for land and other ICM factors. Role of community management important and well stipulated;</p> <p>B,2) WASH is a component of ICM/IWRM and contributes to it;</p>
Holistic / Cross-sectoral	<ul style="list-style-type: none"> c) Does the measure link land and water use across the entire catchment area? d) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. e) Does the measure create or contribute to an integrated management framework; f) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. • g. Do the measures cohere with global, regional commitments: 	<ul style="list-style-type: none"> • 2 • 2 • 1 • 3 	<p>C,2) It does regulate water use at family/community level;</p> <p>D,2) The strategy does regulate water extraction and use with emphasis on community/household social and economic development;</p> <p>E,1) The impact on IWRM/ICM is limited as water extraction, use and land use for gardening is limited:</p> <p>F,3) The strategy describes the mandate of Ministry of Agriculture and Food Security (MoAFS)/Food and Nutrition Coordinating Office department and coordinates with Ministry of Gender, Sports and Recreation; Ministry of Social Development;</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <ul style="list-style-type: none"> • h. Do the measures take account of any recent, current or impending significant infrastructure investments or commercial development need. 	<ul style="list-style-type: none"> • 4 • 4 	<p>Ministry of Science and technology and National University of Lesotho;</p> <p>G,4) The strategy does reflect and adheres to international standard and policies, e.g., WHO, WFP and policies in SADC;</p> <p>H,4) The Strategy steers the WASH and Food security related programmes, including large low/highlands water schemes and others, considerable infrastructural works and investment; ;</p>
Proportionality	<p>I)Is the measures likely to achieve its legitimate aims;</p> <p>J)Is the measure cost-effective;</p> <p>K)Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>L)Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<ul style="list-style-type: none"> • 2 • 2 • 5 • 3 	<p>I.2)The strategy does have a strong bias for WASH while the purpose of it is formulated as Food and Nutrition. It is most likely that it will achieve a WASH objective which cannot be derived from its name and title;</p> <p>J.2) Cost-effectiveness for WASH is likely to be achieved as the strategy provides for policy and direction. For Food and nutrition it is uncertain;</p> <p>No areas of interference identified;</p> <p>L,3) it does;</p>
Currency	<p>m. Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<ul style="list-style-type: none"> • 4 	<p>M,4) The objectives WASH and Food and Nutrition are a priority for Lesotho and well-integrated with other ministerial policies and actions; ;</p>
Consistency	<p>Does the measure promote (at least some) elements and objectives of ICM;</p> <p>Does the measure run contrary to (certain) elements and objectives of ICM;</p> <ul style="list-style-type: none"> • p. Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	<ul style="list-style-type: none"> • 3 • 4 • 4 • 1 	<p>N,3) It does with water, sanitation, hygiene, land use and registration;</p> <p>O,4) By no means contrary, it’s content is not clearly defined between objectives related to WASH and Food and nutrition:</p> <p>P,4) Essentially well aligned with WASH objectives and strategies;</p> <p>Q,1) Not included in the strategy;</p>

Assessment Phase 1: Summary of Findings

	Does the measure take account of international and regional commitments, especially regarding transboundary basins: - Contribution to vertical integration / fragmentation.		
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM;	4	R/S/T/U,4: The strategy is community based, enables for community management which presupposes awareness, transparency, participation and local monitoring;
	b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;	4	
	c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	4	
	d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	4	

Lesotho Agriculture and Food Security Investment Plan NAIP 2015 2020

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	A)Does the measure appropriately address key ICM elements & objectives? - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho.	• 4	A,4)A broad programme which has all components relevant for ICM carried out by a competent technical ministry; Well worked out strategy for subsidiarity through devolution, limited decentralization;
	B)Does the measure create or contribute to a practicable ICM regime for Lesotho: - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable.	4	B,4)Agricultural strategy and planning is highly relevant for ICM; this strategy has ICM element including climate change included in planning and strategy;
Holistic / Cross-sectoral	C)Does the measure link land and water use across the entire catchment area?	• 4	A,4:

Assessment Phase 1: Summary of Findings

	<p>D)Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. • <p>E)Does the measure create or contribute to an integrated management framework;</p> <ul style="list-style-type: none"> • <p>F)Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>G)Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>H)Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<ul style="list-style-type: none"> • 2 • 4 • 4 • 4 • 5 	<p>D,2)</p> <p>E,4) Fully;</p> <p>F,4) Various linkages to national development strategies, other ministries, objectives and timeline well spelled out;</p> <p>G,4) Various references to local, regional and global policies and commitments:</p> <p>H,5) Long/short terms Investment sub-programmes are covering, operationalising the various ICM concepts well; Objectives, operationalisation and monitoring very well worked out; Support policy dev. Laws, regulations and enforcement, Breakdown NAIP by Program and sub-program and component;</p>
Proportionality	<p>I)Is the measures likely to achieve its legitimate aims;</p> <p>J)Is the measure cost-effective;</p> <p>K)Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>L)Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<ul style="list-style-type: none"> • 4 • 4 • 4 • 4 	<p>I/J/K/L,4) A High quality planning document which will support the sector and aims to coordinates with other sector. Is essentially supportive to organisational and HR capacity development and facilitating investment, provides for adequate monitoring procedure;</p>
Currency	<ul style="list-style-type: none"> • M)Is the measure outdated: - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<ul style="list-style-type: none"> • 4 	<p>M,4) Important planning document which does reflect in much the state of art of the moment and is progressively forward planning;</p>
Consistency	<p>e) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>f) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>g) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; 	<ul style="list-style-type: none"> • 4 • 4 	<p>N/O/P/Q,4) The planning is fully supportive to ICM development, legislation and operationalisation and refers to regional and global standards and commitments;;</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>h) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<ul style="list-style-type: none"> • 4 • 4 	
Participatory (ensuring equitable participation)	<p>e) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>f) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>g) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>h) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>4</p> <ul style="list-style-type: none"> • 4 • 4 • 4 	R/S/T/U,4: Aims to meet these criteria with at the same time identifying capacity development weaknesses and lack of decentralisation, concern of long term funding for commercialisation processes; focus entirely on small and medium large scale commercial agriculture and food production;

Ministry of Agriculture and Food Security, Strategic Plan 2019-2023

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1.Effectiveness	<p>A.Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>B.Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<ul style="list-style-type: none"> • 2 • 3 	<p>A,2) In the body of the text mainly on climate change, limited balance with ICM elements; Focus areas show better balance of ICM elements;</p> <p>B.3) Potentially the strategy will be suitable for ICM development, especially texts of the 6 Strategic Focal Areas;</p>

Assessment Phase 1: Summary of Findings

<p>Holistic / Cross-sectoral</p>	<p>C.Does the measure link land and water use across the entire catchment area?</p> <p>D.Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. • <p>E.Does the measure create or contribute to an integrated management framework;</p> <ul style="list-style-type: none"> • <p>F.Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>G.Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>H.Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<ul style="list-style-type: none"> • 4 • 2 • 3 • 2 • 3 • 4 	<p>C,4) Conceptually does the strategy offer limited support to development of a ICM value chain. This is a weakness which is made better by providing detailed Strategic Focus Areas’ descriptions, which are suitable to underpin generalised ICM concepts; The Strategic Focus Areas do cover all topics relevant for the catchment area;</p> <p>D,2) The strategy is focussed on programming, does not describe in detail the different agricultural target groups linked to the programmes/ Strategic Focus Areas 1-6;</p> <p>E,3)At operational level an integrated framework can be developed;</p> <p>G,3) The strategy does refer and link to other mandate areas/ministries, as well as regional standards (SADC);</p> <p>Strategic Focus Areas (6) are well chosen cases and have been worked out well. These are not only suitable as investment cases but most likely can be generalised as regional investment schemes as well.</p>
<p>Proportionality</p>	<p>I.Is the measures likely to achieve its legitimate aims;</p> <p>J.Is the measure cost-effective;</p> <p>K.Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>L.Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<ul style="list-style-type: none"> • 4 • 4 • 4 	<p>I/J/K/L,4) The strategy Focus cases are real life examples of options for investment and operations which are most like successful. The document doe link to other sectors, and is much concerned about capacity development in understanding that local improved governance will benefit all sectors;</p>

Assessment Phase 1: Summary of Findings

		• 4	
Currency	M.Is the measure outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	• 4	M.4) Fully up to date;
Consistency	N.Does the measure promote (at least some) elements and objectives of ICM; O.Does the measure run contrary to (certain) elements and objectives of ICM; P.Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. - Q.Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	• 3 • 4 • 4 • 3	N,3) Conceptual part jointly with the Strategic Focus Areas embrace all elements in ICM; O,4) Even though there is overemphasis on climate change there are no controversies between the ICM elements described and utilised in the document; P,4) A question could be asked about the dominance of climate change in the document, to the expense of other planning variables. The technical content is well addressed in the Strategic Focus Areas; D,3)
Participatory (ensuring equitable participation)	R.Does the measure raise awareness of (elements and objectives) of ICM; S.Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; T.Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; U.Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	• 4 • 4 4	R/S/T/U,4: These participatory elements of ICM are well addressed to in the strategy.

Workstream 2

Mapping Matrices

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
The Constitution of Lesotho 1993	(Section 36): Protection of the Environment (This makes provision for the formulation of environmental policies & legislation thereby addressing all environmental issues relevant to Lesotho's development trajectory)	Sections (4,5,8,9,18,19,20,22 & 34) - Protection of fundamental human rights & freedoms e.g.,: i) freedom from inhumane treatment ii) freedom from slavery & forced labour iii) freedom from discrimination iv) right to equality before the law & the equal protection of the law v) right to participate in government vi) enforcement of protective provisions vii) protection of children & young persons etc.	-	-	(Section 28) Provision for education	1
National Strategic Development Plan II (2018/19-2022/23)	KPA 1 Sustainable commercial agriculture & food security	7.2.1.1: (2) Improve genetic resources (3) build sustainable infrastructure for agriculture (5) improve technology and use for agriculture (6) improve production of high value crops and livestock products	-	-	-	1

Assessment Phase 1: Summary of Findings

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
		(8) improve management of range resources (strategic actions a to j)				
	Tourism & creative industries	7.3.3.1: (1) increase tourism investment – strategic actions c, d & e (3) improve protection & management of heritage resources (strategic actions a – f) (4) improve institutional frameworks for tourism (strategic actions b, c, d & e)	-	-	-	
	KPA 2: 8.1.2 Education sector	-	-	-	8.1.2 (1c) improve relevance & applicability of skills: (2 k) climate resilient school infrastructure (3 c,d,e,i) inclusive & equitable education system	
	8.1.3 Health sector	8.1.3 (1) (f) Promote a healthy environment that encompasses safe food and water, adequate sanitation, shelter, ventilation and hygiene; (g) Promote equal involvement of both men and women in family planning and health decision making 8.1.3 (2)	-	-	-	

Assessment Phase 1: Summary of Findings

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
		(a) Decentralize health care services in line with decentralization Act				
	8.1.5 Social protection & vulnerability	8.1.5 (1) Improve the efficiency of social protection system (strategic actions (a) to (h))	-	-	-	
	KPA 3: 8.2.2 Building an enabling infrastructure	8.2.2 Public works & Transport infrastructure (1) (a) Review Roads Act of 1969 and its subsidiary laws (b) Develop Road Infrastructure Asset Management Policy (c) Develop the Road Infrastructure Financing Policy & Strategy (d) Review and update the Lesotho Design Standards (e) Formulate the Construction Industry Development policy and enact the Construction Bill and develop Axle Load Control Policy (f) Harmonize land allocating legislation to observe road reserve. (2) (a) Rehabilitate and maintain existing transport infrastructure as asset recovery to climate proof standards (b) Construct new infrastructure that conforms to environmental, clean mobility and climate proof standards	-	-	-	

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
		(c) Introduce performance and output-based maintenance contracting system on all primary roads				
	8.2.3 Energy	8.2.3 (1) Improve energy production (Including integrating social and gender measures and strategies in all programmes and initiatives of the energy sector). 8.2.3 (2) Improve access to energy and promote sustainable use (strategic interventions (a) to (e) relevant)	-	-	8.2.3 (1) d, e Regulatory framework for security of energy supply and increased private sector participation in the energy sector	
	8.2.4 Water, Sanitation and Hygiene (WASH)	8.2.4 (1) Increase access to sustainable water, sanitation and hygiene (strategic interventions (a) to (i) relevant to ICM (2) Expand water harvesting infrastructure (3) Implement ICM (4) Strengthen water resources and environment management	8.2.4 (3) Implement ICM (5) Strengthen water and sewerage services regulations	-	8.2.4 (6) Strengthen coordination, Monitoring and evaluation in the water sector	
	8.2.7 Solid waste management	8.2.7 (1) Improve management of solid waste in the country (2) Improve societal capabilities for solid waste management and handling	-	8.2.7 (1) (f) Compliance with laws, regulations & environmental standards.	8.2.7 (1) (h) promote partnership approaches 8.2.7 (2) capacity building, education & awareness issues	

Assessment Phase 1: Summary of Findings

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
				(g) Equitable and consistent enforcement of regulations.		
	KPA IV: Gender & social inclusion, climate change and environment (all regarded as cross-cutting themes across all sectors)					
	8.4 Service delivery and decentralization	8.4 (1) Decentralize public sector services: a) development of fiscal decentralization frameworks b) institutional capacity building c) coordinated programming & implementation d) awareness creation, harmonization and accountability in service delivery	8.2 (3) Strengthening institutions for public service delivery	8.4 (2) efficient and effective service delivery to the public		
	8.5 Peace and security	8.5 (1) (g) Promote women involvement in peace making processes. (i) Strengthen civic education, and social dialogue to improve social cohesion and stability			8.5 (2) b) Promote participation of disadvantaged groups such as youth, women and people with disabilities in sector reforms and	

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
					decision-making processes.	
Gender and Development Policy 2018 – 2028	<p>4.5 Gender, water and sanitation</p> <p>4.5.3 To promote equitable access to, participation and representation of women and men and other groups at all levels of design, planning, implementation, monitoring and evaluation of water and sanitation management administration of programmes.</p> <p>4.5.4 (strategic actions 1 to 7 to achieve 4.5.3 above all relate to ICM)</p>	<p>4.4.3 To ensure that women, men and other marginalized groups have full and equal access to and control over productive resources, opportunities as well as benefits of socio-economic growth and development.</p> <p>4.4.4 (contains a set of 14 strategic actions to achieve 4.4.3 above)</p> <p>4.6 Gender, Climate change, Sustainable Development and Disaster Risk Management</p> <p>4.6.3 To promote mechanisms for strengthening resilience and mitigating adverse effects of climate change on women, men, girls, boys and other marginalized groups.</p> <p>(4.6.4 contains 9 relevant strategic actions to achieve 4.6.3 above)</p> <p>4.7 Gender, Agriculture, Food and Nutrition Security</p> <p>4.7.3 To promote equitable access, proper utilization and increased food and nutrition security for women,</p>	<p>5.4 Priority Areas: 2, 4, 5, 6 & 12</p> <p>gender and governance; Gender, Productive Resources, Employment and Economic empowerment; Gender, climate change, Sustainable Development and Disaster Risk Management; Gender, Food and Nutrition Security and Gender, water & sanitation</p>	<p>- (no enforcement measures specified)</p>	<p>4.11 Gender, peace & security and Section 6 on partnerships and collaboration</p>	<p>1</p>

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
		men, girls, boys and vulnerable groups (7 strategic actions 4.7.4) 4.11 Gender, Peace and Security 4.11.3 To promote gender responsive, inclusive, participatory and representative decision-making and negotiation processes in peace building efforts at all levels.				
National Youth Policy 2017-2030	Result Area 49: Climate change and agriculture National youth-in-environmental protection programme is operational from 2020 in collaboration with various ministries and partners	Results Areas 50 to 58 on youth participation in agricultural development. Results areas 74 & 75 dealing with youth and human rights issues: 74) Human rights regulations and other legislative instruments reviewed and amended to safeguard and protect youth from abuses, such as human trafficking, sexual abuse, child marriage and child labour.. 75) Human Rights of all youth irrespective of race, gender, political affiliation, sexual identity, income status, disability, sexual orientation, marital status, religion, employment status, social class – are protected in accordance with the dictates of the constitution, laws, and international statutes and conventions Lesotho is a party to.	Results Areas 78 to 81 Deal with institutional structures yet to be in place for effective youth development e.g., Youth Development Act by 2022 (to establish the National Youth Council and National Youth Dev. Agency by 2026; (currently these present gaps))	-	Results Areas 48 & 59 48) Climate change and environmental studies in basic education curriculum and for out of school youth through youth centres 59) youth agricultural information and research centres functional in each district by 2030	1

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
National Policy on Orphans and Vulnerable Children (NPOVC) 2006	-	<p>Policy Priority Area 6.1 on socio-economic security e.g.,</p> <p>i) Safeguard rights of OVC to livelihoods, protection, inheritance, health care, education, information and child participation;</p> <p>ii) Improving household food production for care-giving households;</p> <p>iii) Child-labour prevention programmes.</p> <p>iv) life-skills and livelihood-skills training;</p> <p>Policy Priority Area 6.2 on food and nutrition security e.g.,</p> <p>i) Put in place fair land tenure practices for OVC;</p> <p>ii) Improve productivity and storage of food in households caring for OVC;</p> <p>iii) provision of adequate nutritious food to vulnerable households caring for OVC and children in difficult situations.</p>	<p>7.2.1 highlights the role of Local Authorities at district & community levels;</p> <p>7.2.2 the role of CSOs to design, implement & monitor OVC interventions</p> <p>7.2.3 the role of Communities in OVC care & support</p>	13.0 Monitoring & Evaluation systems in OVC programming & implementation	<p>6.2 Strengthen nutrition and agricultural education targeting OVC households;</p> <p>6.4 Access to education as a basic right of every child</p> <p>9.0 Participation of OVCs in national programmes</p>	2
National Policy on Social Development 2014/15 – 2024/25	<p>Policy Priority Area 2.1: Combating poverty, deprivation and inequality:</p> <p>a) Ensure food security, particularly among the poor;</p>	<p>1.9.2 a) Prevent and reduce poverty, deprivation and inequality in Lesotho;</p> <p>b) Protect vulnerable groups in order to ensure the fulfilment of their</p>	3.1 institutional framework for policy implementation with Ministry of Social Development	2.3 & 2.5 Enforcement through the Enactment of respective legislation e.g., Children’s	1.10.1 Partnerships to ensure multi-sectoral response & shared responsibilities	2

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
	b) Spearhead efforts to reduce environmental degradation	<p>rights and the realisation of their full potential</p> <p>Guiding Principles: 1.10.5 on human rights and 1.10.6 on equity and social justice.</p> <p>1.10.7 Non-discrimination in the provision of services and benefits to ensure social inclusion</p> <p>1.10.9 Decentralized delivery of services to community level</p> <p>2.2 Protection of older persons (protect rights of older persons and from abuse)</p> <p>2.3 Protection of children (rape, early pregnancies, forced marriages, child trafficking, abuse, exploitative labour etc. through Children’s Welfare and Protection Act 2011)</p> <p>2.5 Gender equality: to address gender inequalities, gender based violence, empower & protect the rights of women, men, girls and boys and mainstream gender in development (through the Legal Capacity of Married Persons Act 2006)</p> <p>2.6 Disaster risk management: Address natural disasters particularly floods and droughts which</p>	leading & coordinating, while state and non-state actors play the supporting role benchmarking on decentralization process in Lesotho	Welfare and Protection Act 2011 and the Legal Capacity of Married Persons Act 2006	<p>1.10.2 involvement of stakeholders & beneficiaries in decision-making processes</p> <p>2.7 Empowerment of youth: education and skills development to address unemployment and income security</p>	

Assessment Phase 1: Summary of Findings

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
		undermine agricultural productivity amongst vulnerable households 2.8 Protection and rehabilitation of persons with disabilities (protection of human rights and against discrimination, marginalization and social exclusion to ensure their participation in development issues)				
National Social Protection Strategy 2014/15 – 2018/19	- ICM principles not addressed	- ICM implementation objectives not directly addressed (social protection issues are core to the strategy)	-	-	-	3
National Social Protection Strategy for Older Persons 2017 - 2027	-	3.3 To promote, protect and uphold the fundamental rights of older persons through legal frameworks Guiding Principle on Rights-based Social Protection initiatives towards old persons to promote the progressive realisation of human rights as articulated in Lesotho's Constitution and other relevant national and international legal instruments (section 3.3) Policy Focus Area on Nutrition seeks to promote food and nutrition security for older persons Policy Focus Area on the Rights of Older Persons:	5.3 MoSD coordinates plan implementation with engagement of stakeholders across multiple sectors	4.0 Review the existing legislation and case law to identify gaps related to the rights of the old persons	5.2 clarifies the role and participation of stakeholders to implement the operational plan	2

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
		<p>a) uphold the fundamental rights of older persons through legal frameworks</p> <p>b) ensure protection against abuse, violence and discrimination to older persons</p> <p>c) Facilitate the development of Charter on the rights of older persons</p> <p>Rights based approach used to implement the strategic plan (section 5.2) based on the UN adapted Principles for older persons.</p>				
National Strategic Plan for Vulnerable Children 2012 - 2017	-	<p>Section 1.3 (v) National response to vulnerable children is premised on a child rights-based approach; and (viii) gender dimensions of the response take into account varying needs of boys and girls and associated sensitivities</p> <p>Section 1.5 Guiding Principles:</p> <p>i) best interest of the child.</p> <p>ii) Respect, promotion and protection of the rights of vulnerable children.</p> <p>(vi) Gender considerations to protect all children against all forms of abuse and vulnerability</p>	Section 3.1 Outlines institutional arrangements for coordination and management at National, District and Community levels, with clear roles and responsibilities to maximize synergies	<p>Section 1.5 (v) ensuring the well-being of all Children including vulnerable children as required by the Constitution and Children’s Protection and Welfare Act (2011).</p> <p>Section 2.4.3 Strengthening social, legal and judicial</p>	<p>Section 1.5 (iii) empowerment of families and communities to protect OVCs</p> <p>Section 1.5 (iv) vulnerable children’s participation in planning, prioritization, decision-making on all interventions that benefit them</p> <p>Section 2.4.1.1 social mobilization</p>	1

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
		<p>(vii) multi-sectoral and decentralized approach to response to vulnerable children</p> <p>Section 2.4.4.4 Health Care systems services including promoting improved access to water and sanitation services</p> <p>Section 2.4.4.5 Food and Nutrition Security: to strengthen household food production systems and food support mechanisms to promote food security and access to nutrition</p>		<p>protection of vulnerable children and their families (protect children against sexual abuse, child labour, trafficking, exploitation, sex work etc.)</p> <p>2.4.3.3 Master of the High Court protects children and widows' inheritance rights.</p>	<p>of stakeholders & awareness raising on the rights of children</p> <p>Section 3.2 (table 24 on sustainability elements) e.g., Train service providers on the use of human rights based approaches to programming OVC interventions</p>	
National Multisectoral Child Protection Strategy 2014/5 – 2018/9	No specific reference to ICM elements noted	<p>Section 3 – strategic framework. Highlights Goal to provide a comprehensive coordinated system that prevents and responds to abuse, violence, exploitation and neglect of children and protects children in contact with the law.</p> <p>Section 4 outlines strategic objectives and targets for results.</p>	Section 6 addresses institutional arrangements; 6.1 highlights multisectoral considerations	Section 6.2 addresses accountability and coordination. Section 6.4 proposes management arrangements	Guiding principle 1.1.3 emphasizes need for ensure children's participation in the planning, implementation and monitoring of child protection actions. Section 6.6 raises monitoring and evaluation and includes emphasis on building up basic capacity for	2 (highlights key principles)

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Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
					reporting and acting on child protection risks and generating a strong evidence base.	
National Disability and Rehabilitation Policy 2011	<p>No specific reference to ICM elements noted. However, applicable 'rights based' principles are noted for inclusion in broader mainstreaming objectives of this project.</p> <p>National Disability and Rehabilitation Policy (NDRP) has been informed by the 1993 Constitution of Lesotho; various international and regional conventions; Vision 2020; the Poverty Reduction Strategy (PRS) and the Millennium Development Goals (MDGs), legal provisions both within the country as well as at international and regional levels and other national policies.</p>	<p>Chapter 1 – Pg.. 2-3</p> <p>Policy aimed at driving equalization of opportunities for people with disability (PWDs) and to ending discrimination. Policy focused on the following broad principles.</p> <ul style="list-style-type: none"> • Non-discrimination • Equality of opportunity • Independence not dependence • Fulfilment of basic needs • Accountability • Integration • Participation in decision-making • Ability not inability 	No specifics	No specifics	<p>Pg.. 5 - 21</p> <p>Specific context of participation and social inclusion of PWDs are captured through priority objectives forming a key component of the policy.</p>	<p>2</p> <p>(Principles are relevant for comparing to mainstream ICM legal instruments)</p>
ORASECOM Gender Mainstreaming Strategy (GMS), 2014	<p>Framework developed to support gender mainstreaming during the implementation of projects and activities of the ORASECOM IWRM Plan.</p>	<p>Section 1.3 – Pg.. 7</p> <p>Sets out the rationale for the strategy i.e., 'gender in development' mainstreaming</p>	No specifics	No specifics	<p>Section 2 specific 2.4</p> <p>Key principle unpacked: Promotion of</p>	<p>3</p> <p>(Lesotho Gender & Development Policy)</p>

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Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
	<p>Principles set out are useful to local Lesotho context.</p> <p>Strong Focus on Gender Mainstreaming within Water Resource Management (Principles set out in these references)</p> <p>Section 2.1 – 2.6 (Pg.10-12)</p> <p>Section 3 (Pg.. 13)</p> <p>2.1 Secure high level commitment to gender equality</p> <p>2.2 Strengthen linkages with Gender Focal Points</p> <p>2.3 Improved sectoral coordination in water resources management</p> <p>2.4 Promote meaningful stakeholder participation</p> <p>2.5 Improve the collection and dissemination of gender disaggregated data</p> <p>2.6 Capacity strengthening and awareness</p>				meaningful stakeholder participation	considered more relevant)
United Nations Human Rights Office of the High Commissioner (OHCHR): A basic handbook for UN staff	Pg.. 58 (Integration of human rights into development)	Sec 3 (What are human rights?)	Part 2 (United Nations Organs)	Sec 4 (International Human Rights Law)	Pg.. 19 (Popular participation)	1

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Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
/ UN Declaration on Human Rights				Sec 5 (State responsibility)		
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Article 1 (definitions) Article 3 (scope)	Article 5 -16 (proposed measures to achieve objectives)	Article 17 (Committee on the Elimination of Discrimination against Women)	Article 24 (measures at the national level)		2
FAO Gender mainstreaming and a human rights-based approach: Guidelines for technical officers. Food and Agriculture Organization of the United Nations (2017)	1.2 (What is HRBA) 1.3 (What is gender equality?) 1.4 (What is gender mainstreaming)	2.1.3. Steps to implementing HRBA			1.5. (FAO policy and standards for gender equality)	2

Review Method

2. Review the following material
 - a. National policy and strategies relating to material promoting rights-based and gender sensitive framework in Lesotho
 - b. International and regional material informing and guiding the promotion of rights-based and gender sensitive approaches
3. Apply rating of alignment with the criteria using a scale:
 - (1) Key criterion is not addressed at all
 - (2) Key criterion is very poorly addressed
 - (3) Uncertain/Unclear whether the criterion is addressed
 - (4) Key criterion is addressed
 - (5) Key criterion is very thoroughly addressed
4. Justify rating by providing comments / justification of the gaps and weaknesses, strengths etc.

Review Matrices**The Constitution of Lesotho 1993**

Notes: The review of the Constitution specifically focused on Section 36 of the Constitution dealing with protection of the environment as ICM interventions will in particular be covered within the scope of provisions of section 36. It also narrowed down to the specific sections in the Constitution that spell out human rights issues with the view to understand the link between ICM implementation and gender & human rights; and also how protection of such rights could be enhanced and safeguarded during ICM implementation. Therefore the scope of the review did not consider the Constitution in its entirety.

Findings: The review identifies that the Constitution adequately spells out provisions that create a rights-based and gender sensitive framework for ICM implementation through protection of the environment (section 36) protection and following human rights and freedoms (Chapter II): freedom from inhumane treatment; freedom from slavery & forced labour; freedom from discrimination; right to equality before the law & the equal protection of the law; right to participate in government; enforcement of protective provisions; protection of children & young persons; and provisions for education (e.g., universal free primary education for all). However, not all sections of the key criteria may be applicable to the review of the Constitution as indicated in the matrix below.

KEY CRITERIA	INDICATORS	EXTENT TO WHICH RIGHTS AND GENDER ARE ADDRESSED (SCORE)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness (of promoting a Rights-based and Gender sensitive framework)	a) Do the measures appropriately addresses key elements and objectives of a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	5	Chapter II of the Constitution deals with the protection of fundamental human rights and in particular, section 4 clearly articulates those fundamental human rights and freedoms for the purpose of affording protection to those rights and freedoms for all citizens of Lesotho regardless of their race, colour sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
	b) Do the measures create or contribute to a practicable a Rights-based and Gender sensitive framework for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	5	Section 22 makes provision for full enjoyment of human rights and the exercise of protection of those rights and allows for contestation, in case on any infringements on the rights of any person, through the judicial system; where the High Court shall hear such cases and protect all rights which may have been compromised on.
2. Holistic / Cross-sectoral (for promoting a Rights-based	a) Do the measure links a Rights-based and Gender sensitive framework?	5	As above

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and Gender sensitive framework)	<p>b) Do the measure links social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation of Rights-based and Gender sensitive framework into ICM. <p>c) Do the measure create or contribute to an integrated management framework that incorporates a Rights-based and Gender sensitive framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation of a Rights-based and Gender sensitive framework into ICM. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation a Rights-based and Gender sensitive framework into ICM.. 	5	In section 36, the Constitution allows for protection of the environment and natural ecosystems, also being the Supreme Law, it allows for the enactment of all other subsidiary legislation that will facilitate the full implementation of provisions of the Constitution. Therefore applicability of some of the criteria outlined in this matrix shall hold in view of such legislation and their policies.
3. Proportionality (for promoting a Rights-based and Gender sensitive framework)	<p>a) Are the measures likely to achieve their legitimate aims of promoting a Rights-based and Gender sensitive framework;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve a rights based and gender sensitive approach for an equitable and reasonable distribution of costs and benefits across all sectors.</p>	5	
4. Currency	<p>b) Are the measures for promoting a rights-based and gender sensitive approach to ICM outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; 		

National Strategic Development Plan II 2018/19 – 2022/23

Notes: The second National Strategic Development Plan (NSDP II) for Lesotho is an overarching 5 year national planning document that describes the development trajectory that Lesotho shall take to realise the development goals that Basotho seek to achieve. These are (i) Employment Creation and (ii) Promotion of Sustainable and Inclusive Growth. To achieve these goals, the Plan is structured around four Key Priority Areas (i) Strengthened Human Capital base, (ii) Building an Enabling Environment, (iii) Promoting Inclusive and Sustainable Growth and (iv) Strengthening Governance and Accountability. Successful implementation of the NSDP II shall realise poverty eradication, creation of shared prosperity, lasting peace and security, and the protection of the fragile ecosystems and cultural heritage. Furthermore, the NSDP II specifically mainstreams the following thematic areas across all sectors: (i) climate change, (ii) environment and (iii) gender and social inclusion. All other development plans, policies, strategies and action plans that are implemented by the Government of Lesotho are guided by commitments spelled out in the NSDP II, therefore the review of all sectoral policies, with the view to promoting rights based and gender sensitive framework for ICM implementation, shall be benchmarked against the NSDP II in its entirety.

The Review of the NSDP II has identified that the following 14 sectors contain in their implementation, key ICM elements and ICM related objectives, with a strong inclusion of rights based and gender sensitive development agenda: Agriculture & Food Security; Rangelands Management; Tourism; Education; Health; Social Protection; Public Works & Transport; Energy; Water, Sanitation and Hygiene (WASH); Solid Waste Management; Gender & Social Inclusion; Decentralization; and Peace and Security.

KEY CRITERIA	INDICATORS	EXTENT TO WHICH RIGHTS AND GENDER ARE ADDRESSED (SCORE)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness (of promoting a Rights-based and Gender sensitive framework)	a) Do the measures appropriately addresses key elements and objectives of a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	5	Yes, Section 8.4 (1), (2) and (3) deal to a great length with decentralization and how ICM functions can be addressed at various levels of governance by different institutions and community structures
	b) Do the measures create or contribute to a practicable a Rights-based and Gender sensitive framework for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	4	Section 8.1.5 (1), (2) and (3) articulate specific action interventions towards improving efficiency of social protection systems, promoting income enhancing social programmes and protecting the rights of and improving socio-economic conditions of the marginalized/vulnerable

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<p>2. Holistic / Cross-sectoral (for promoting a Rights-based and Gender sensitive framework)</p>	<p>a) Do the measure links a Rights-based and Gender sensitive framework? 4</p> <p>b) Do the measure links social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation of Rights-based and Gender sensitive framework into ICM. 4</p> <p>c) Do the measure create or contribute to an integrated management framework that incorporates a Rights-based and Gender sensitive framework; 4</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation of a Rights-based and Gender sensitive framework into ICM. 4</p> <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change): - Contribution to vertical integration / fragmentation a Rights-based and Gender sensitive framework into ICM. 4</p>	<p>4</p> <p>4</p> <p>4</p> <p>4</p> <p>4</p>	<p>In respect of ICM, the NSDP II identifies a total of 14 sectors all of whom are key stakeholders to the successful implementation of the country's national development plan</p> <p>Yes</p> <p>The NSDP is itself the national strategic document that development programmes need to align with. It accentuates the importance of all other social protection sector Policies and Acts to protect women, men, youth, the elderly, OVCs and the socially marginalized minority groups.</p> <p>Climate change is flagged as a cross-cutting issue throughout the document. NSDP II is coherent with among others Vision 2020, SDGs, Regional Indicative Strategic Development Plan (RISDP) 2005 – 2020 etc.</p>
<p>3. Proportionality (for promoting a Rights-based and Gender sensitive framework)</p>	<p>a) Are the measures likely to achieve their legitimate aims of promoting a Rights-based and Gender sensitive framework; 4</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies; 3</p>	<p>4</p> <p>3</p>	<p>Yes, with optimistic implementation mindset in place this is achievable</p> <p>Not aware of any legal inconsistencies</p>

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	d) Do the measures involve a rights based and gender sensitive approach for an equitable and reasonable distribution of costs and benefits across all sectors.	4	This depends on the willingness and participation of stakeholders in the implementation process. It needs strengthening
4. Currency	a) Are the measures for promoting a rights-based and gender sensitive approach to ICM outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	4	The policy development process has just recently been completed and requires implementation. Also, (Section 8.5 (2) a, b & e), on peace, security and stability highlights the need to speed up the constitutional reforms process as these are critical to promote inclusive growth and will help identify future policy codification needs.
5. Consistency	a) Do the measures promote (at least some) elements and objectives of a Rights-based and Gender sensitive framework into ICM;	4	Yes
	b) Do the measures run contrary to (certain) elements and objectives of a Rights-based and Gender sensitive framework to ICM;	3	Not aware of any conflicts
	c) Do the measures conflict with other national measures for a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	4	Measures contained in the Policy Key Priority Areas (KPAs) take cognizance of the existence of sector specific Policies and related Legislation that promotes rights based and gender sensitive framework for ICM implementation.
	d) Do the measures take account of international and regional commitments, especially regarding transboundary basins a Rights-based and Gender sensitive framework:	4	Section 8.1.1 “Regional Integration, International Relations and Cooperation” identifies the need for Lesotho to align with Policies and Programmes at this level, and further

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	- Contribution to vertical integration / fragmentation.		domesticate them to the local context to gain stable economic growth
6. Participatory (ensuring equitable participation)	a) Do the measures seek to raise awareness of (elements and objectives) of a Rights-based and Gender sensitive framework for ICM;	5	Sections: 8.2.4 (3) b and 8.2.4 (6) b, both on WASH; articulate the need for improved institutional capacity, participation and cooperation in the implementation of ICM objectives
	b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;	4	(Same as above comment)
	c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	5	Section 8.3 (1) a,b,c,d,e Deals with accountability & effectiveness of oversight institutions. It gives overall independence & autonomy to all oversight bodies mandated to do so, from the grass roots all the way up to Parliamentary Portfolio Committees.

Gender and Development Policy 2018 – 2028

Notes: The Policy is aligned to SDGs, as well as regional and international instruments. It seeks to mainstream gender into all development plans and programmes in Lesotho (this goes beyond the scope of ICM as it considers development holistically). The Policy aims to eradicate sexual, and gender based violence against the vulnerable and marginalized, all forms of inequalities in the control of productive resources, food insecurity and hunger, gender disparity in decision-making positions and in employment and also endeavours to build a sustainable economy base. Strategic Policy Focus Areas in which Key ICM elements are addressed by the Policy in view of its scope and include: Gender, Water & Sanitation Development (4.5.3); Gender Climate Change and Sustainable Development & Disaster Risk Management (4.6); Gender, Agriculture, Nutrition & Food Security (4.7); Gender Based Violence (4.8); and Gender Peace and Security. All these Policy Focus Areas articulate a clear set of Strategic Actions with a strong focus on ICM key elements and ICM Implementation Objectives.

KEY CRITERIA	INDICATORS	EXTENT TO WHICH RIGHTS AND GENDER ARE ADDRESSED (SCORE)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
18. Effectiveness (of promoting a Rights-based and Gender sensitive framework)	<p>c) Do the measures appropriately addresses key elements and objectives of a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. <p>d) Do the measures create or contribute to a practicable a Rights-based and Gender sensitive framework for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	5	The policy very effectively covers a number of key ICM elements and implementation objectives. The review mainly identifies opportunities associated with the effective implementation of the Gender and Development Policy 2018 – 2028 as an important success factor towards successful implementation of ICM in Lesotho.
19. Holistic / Cross-sectoral (for promoting a Rights-based and Gender sensitive framework)	<p>g) Do the measure links a Rights-based and Gender sensitive framework?</p> <p>h) Do the measure links social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation of Rights-based and Gender sensitive framework into ICM. 	4	By far this Policy is viewed as the most important instrument that can promote a rights based and gender sensitive framework for ICM implementation as it integrates gender issues into development across a number of sectors (section 4.5.4)

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	<ul style="list-style-type: none"> i) Do the measure create or contribute to an integrated management framework that incorporates a Rights-based and Gender sensitive framework; j) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation of a Rights-based and Gender sensitive framework into ICM. k) Do the measures cohere with global, regional commitments (e.g., re climate change): <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation a Rights-based and Gender sensitive framework into ICM. l) . 		Yes, Section 4.6
20. Proportionality (for promoting a Rights-based and Gender sensitive framework)	<ul style="list-style-type: none"> e) Are the measures likely to achieve their legitimate aims of promoting a Rights-based and Gender sensitive framework; f) Are the measures cost-effective; g) Does the measure interfere to the least extent necessary with established interests, practices or policies; h) Do the measures involve a rights based and gender sensitive approach for an equitable and reasonable distribution of costs and benefits across all sectors. 		Section 2.6 identifies a rights based approach as a guiding principle for the Gender and Development Policy
21. Currency	<ul style="list-style-type: none"> c) Are the measures for promoting a rights-based and gender sensitive approach to ICM outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or 	4	Yes, measures are well up to date Section 4.4.4 (2), (3), (4), seek to ensure that other existing legislative instruments are accordingly reviewed and updated and operate in harmony with this recently developed Policy.

	<ul style="list-style-type: none"> - Requiring consolidation / codification (regarding amending measures). 		
22. Consistency	e) Do the measures promote (at least some) elements and objectives of a Rights-based and Gender sensitive framework into ICM;	4	Key ICM related measures/strategic policy actions are consistent with promoting a rights based and gender sensitive framework for ICM implementation
	f) Do the measures run contrary to (certain) elements and objectives of a Rights-based and Gender sensitive framework to ICM;		
	g) Do the measures conflict with other national measures for a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	4	No conflicts identified
	h) Do the measures take account of international and regional commitments, especially regarding transboundary basins a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	4	By design, the Policy draws strength from regional and international legislative instruments
23. Participatory (ensuring equitable participation)	e) Do the measures seek to raise awareness of (elements and objectives) of a Rights-based and Gender sensitive framework for ICM;	4	Section 6.1 highlights the importance of partnerships and collaborations in mainstreaming gender issues in development planning, programming, in implementation and in decision making.
	f) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;		
	g) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;		
	h) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.		

National Youth Policy 2017 - 2030

Notes: The Policy seeks to empower Basotho youth through effective integration of youth into socio-economic development issues. It provides a framework for enabling youth to develop necessary skills (social, economic, cultural and political) to participate meaningfully across all spheres of the overall development process for improved quality of life for the youth. The review identifies only one Policy Thematic Area that links directly with Key ICM elements related to youth development issues around the theme of Climate Change and Agriculture. Further, the review notes that the Youth Policy is intricately aligned with the Gender and Development Policy 2018 – 2028, as a guiding sister policy that it draws strength from, and it therefore adopts gender based approaches to youth development.

KEY CRITERIA	INDICATORS	EXTENT TO WHICH RIGHTS AND GENDER ARE ADDRESSED (SCORE)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness (of promoting a Rights-based and Gender sensitive framework)	a) Do the measures appropriately addresses key elements and objectives of a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. • • 	2	Policy Results Area 48 through 59, outlines ICM related targets (climate change and agriculture) that the Policy intends to achieve by 2030, but these are very shallow in coverage/scope and do not specify strategic actions needed to achieve them. Secondly, the Policy highlights the fact that currently, an enabling environment for effective implementation of the Policy does not exist. Results Area 78 – 81 enumerate institutional structures that require setting up in order to ensure holistic implementation of the Policy.
	b) Do the measures create or contribute to a practicable a Rights-based and Gender sensitive framework for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	3	Extensive legal backing is required to ensure the achievement of Policy Result 69 and other related targets: “At least 5% of all line Ministries budgets are directly implemented on programmes benefiting youth by 2020”. This requires enactment of appropriate legislation & strengthened monitoring systems on public expenditure)
2. Holistic / Cross-sectoral (for promoting a Rights-based	a) Do the measure links a Rights-based and Gender sensitive framework?	4	The Policy is mindful of and reflects gender implications contained in the Gender and Development Policy (2018 – 2028), thereby adopts gender-based approaches.

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<p>and Gender sensitive framework)</p>	<p>b) Do the measure links social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation of Rights-based and Gender sensitive framework into ICM. •</p> <p>c) Do the measure create or contribute to an integrated management framework that incorporates a Rights-based and Gender sensitive framework; •</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation of a Rights-based and Gender sensitive framework into ICM.</p> <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change): - Contribution to vertical integration / fragmentation a Rights-based and Gender sensitive framework into ICM.</p>	<p>2</p> <p>1</p> <p>2</p> <p>2</p>	<p>Meaningful participation of multiple stakeholders from other sectors to support implement the policy requires a great deal of lobbying and strengthening</p> <p>The policy planning horizon (13 yrs) is sufficiently long to allow for aligning policy implementation to the NSDP priorities and adapting it accordingly</p> <p>The theme around youth development in climate change and agriculture is captured. However, the strategic action areas for policy implementation need to be detailed out.</p>
<p>3. Proportionality (for promoting a Rights-based and Gender sensitive framework)</p>	<p>a) Are the measures likely to achieve their legitimate aims of promoting a Rights-based and Gender sensitive framework;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve a rights based and gender sensitive approach for an equitable</p>	<p>2</p> <p>1</p> <p>2</p>	<p>To bring the policy to life bears huge fundraising implications requiring the involvement of multiple actors</p> <p>Policy reflections on human rights and in particular the rights of youth and gender based</p>

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	and reasonable distribution of costs and benefits across all sectors.		approaches to development (Target 74 – 77) are adequately articulated and prioritized
4. Currency	a) Are the measures for promoting a rights-based and gender sensitive approach to ICM outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	4	Policy Results Areas (Target 74 & 75 on human rights) reference the most recent legislative instruments in Lesotho that create an enabling environment for promoting rights based and gender sensitive approaches to ICM
5. Consistency	a) Do the measures promote (at least some) elements and objectives of a Rights-based and Gender sensitive framework into ICM;	2	Human rights issues and gender based approaches advocated for in the policy are consistent with the Gender and Development Policy 2018 – 2028
	b) Do the measures run contrary to (certain) elements and objectives of a Rights-based and Gender sensitive framework to ICM;	3	
	c) Do the measures conflict with other national measures for a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	2	
	d) Do the measures take account of international and regional commitments, especially regarding transboundary basins a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	4	
6. Participatory (ensuring equitable participation)	a) Do the measures seek to raise awareness of (elements and objectives) of a Rights-based and Gender sensitive framework for ICM;	2	The policy identifies youth mainstreaming as a cross-cutting and special interest issue. This needs strengthening in order to secure participation of stakeholders towards prioritizing

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	<p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>3</p> <p>3</p> <p>4</p>	<p>youth development and unlocking resources to implement it (Target67, 68 & 69)</p> <p>The Policy Call for Action pronounces the need for periodic policy reviews to allow for addendums, thus ensure a holistic youth development pathway</p>
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National Policy on Orphans and Vulnerable Children (NPOVC) 2006

Notes: The objective of this Policy is to create an enabling environment for caring for, supporting and protecting the rights of OVCs. It seeks to improve the socio-economic wellbeing of OVCs and their families. This Policy is found to address only two key issues relevant to promoting a rights-based and gender sensitive policy framework for ICM. These are:

- 1) Promoting care and support for OVCs and ensuring that their rights are protected (e.g., protection against child abuse and child labour (particularly in the implementation of ICM related interventions), protection against sexual offenses to children, as well as trafficking in humans).
- 2) Promoting and safeguarding secure access of OVCs to productive resources such as land for food security and other productive uses

The review applies to the two key issues identified and gaps are highlighted as appropriate.

KEY CRITERIA	INDICATORS	EXTENT TO WHICH RIGHTS AND GENDER ARE ADDRESSED (SCORE)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness (of promoting a Rights-based and Gender sensitive framework)	<p>a) Do the measures appropriately addresses key elements and objectives of a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable 	4	The policy identifies the role of other key stakeholders at a lower level of decision-making who are responsible for protecting the rights of, empowering and promoting care & support to OCVs (e.g., Local Authorities, Community Councils, Civil Society Organisations, and the local Community members)

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	<p>level of administration) having particular regard to the ongoing process of decentralisation in Lesotho.</p> <p>b) Do the measures create or contribute to a practicable a Rights-based and Gender sensitive framework for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		<p>Policy priority areas 6.1 and 6.2 provide for mechanisms to safeguard and promote socio-economic interventions to empower OVC and promote their rights to inheritance, protecting OVCs against property grabbing by promoting safe land tenure to enhance food security of OVCs and their families.</p> <p>GAP: The missing link relates to the practicality of enforcement measures e.g., against use of child labour such as herding practices in the implementation of ICM related interventions</p>
<p>2. Holistic / Cross-sectoral (for promoting a Rights-based and Gender sensitive framework)</p>	<p>a) Do the measure links a Rights-based and Gender sensitive framework?</p> <p>b) Do the measure links social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation of Rights-based and Gender sensitive framework into ICM. <p>c) Do the measure create or contribute to an integrated management framework that incorporates a Rights-based and Gender sensitive framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation of a Rights-based and Gender sensitive framework into ICM. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p>	<p>2</p>	<p>The key linkage highlighted by the Policy is in respect of <u>safeguarding the OVCs rights of access to productive resources</u> e.g., land for food production in order to promote food and nutrition security for OVCs</p> <p>Gaps: Only limited mention is made of the need to ensure participation of OVCs in national development programmes (Section 9). The development of a strategic action plan to implement the policy presents an opportunity highlight these and bring on board ICM related interventions</p>

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	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation a Rights-based and Gender sensitive framework into ICM. 		
3. Proportionality (for promoting a Rights-based and Gender sensitive framework)	<ul style="list-style-type: none"> a) Are the measures likely to achieve their legitimate aims of promoting a Rights-based and Gender sensitive framework; b) Are the measures cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Do the measures involve a rights based and gender sensitive approach for an equitable and reasonable distribution of costs and benefits across all sectors. 	4	Both measures highlighted in the policy are achievable, cost effective and are not in conflict with cultural practices and norms in the context of Lesotho. Proportionality issue is adequately covered
4. Currency	<ul style="list-style-type: none"> a) Are the measures for promoting a rights-based and gender sensitive approach to ICM outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	5	Currency issue is adequately addressed in terms of scope of application and approach of both measures and are up to date. They are consistent with protection issues afforded by the Child Welfare and Protection Act as well as protection of OVCs properties offered by the Master of the High Court (protection against property grabbing).
5. Consistency	<ul style="list-style-type: none"> a) Do the measures promote (at least some) elements and objectives of a Rights-based and Gender sensitive framework into ICM; b) Do the measures run contrary to (certain) elements and objectives of a Rights-based and Gender sensitive framework to ICM; c) Do the measures conflict with other national measures for a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; 	4	Measures are well aligned with national development strategies & legislation, and they operate within the broad spectrum of international and regional instruments (e.g., ILO Conventions, CEDAW and SADC Declarations on Elimination of Violence Against Women and Children 2000)

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	<ul style="list-style-type: none"> - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
<p>6. Participatory (ensuring equitable participation)</p>	<p>a) Do the measures seek to raise awareness of (elements and objectives) of a Rights-based and Gender sensitive framework for ICM;</p> <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>4</p>	<p>The Policy clearly states that the implementation of both measures requires participation of multi-sectoral stakeholders at varying levels of responsibility and decision making authority to achieve the desired outcomes.</p>

National Policy on Social Development 2014/15 – 2024/25

Notes: The review considers ICM related Social Development Objectives and Policy Focus Areas elaborated in the Policy through a rights based and gender-sensitive lens, to determine the extent to which the Policy addresses rights based approaches and therefore identify gaps and opportunities the Policy presents, to facilitate ICM implementation in Lesotho.

Summary of observations: The Policy provides a framework for the development and implementation of programmes to enhance human wellbeing, particularly of the vulnerable groups. It draws relevance from the Constitution of Lesotho (1993), Section 26 (2) which provides an enabling environment to respond to vulnerability. It is also aligned with Lesotho’s Vision 2020; Children’s Protection and Welfare Act (2011) which emphasises that every intervention must be based on the best interests of the child, thus provides special protection to children from exploitative labour & torture and parental property; as well as the Legal Capacity of Married Persons Act (2006) which empowers and protects the rights of women and ensure their meaningful participation in development issues. The Policy Priority Areas on: “Combating Poverty, Deprivation and Inequality; Protection of Older Persons;

Protection of Children; Gender Equality; Disaster Risk Management; Empowerment of Youth; as well as Protection and Rehabilitation of Persons with Disabilities” link to ICM implementation objectives. Specific action areas such as spearheading efforts to reduce environmental degradation, ensure food security & secure livelihoods of the citizens (section 2.2.1) provide an enabling framework for a gender sensitive and rights based approach to ICM implementation in Lesotho.

KEY CRITERIA	INDICATORS	EXTENT TO WHICH RIGHTS AND GENDER ARE ADDRESSED (SCORE)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness (of promoting a Rights-based and Gender sensitive framework)	a) Do the measures appropriately addresses key elements and objectives of a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	4	<p>The Policy has 11 Policy Focus Areas, 7 of which spell out and adequately cover objectives of a rights based and gender sensitive framework for ICM implementation in Lesotho (refer to underlined observations above)</p> <p>The financial sustainability of funding social development programmes remains a challenge for Lesotho as with most other emerging economies of the world. Also their implementation coverage has not been widespread enough to draw key lessons at a national scale.</p> <p>The Policy can be practically enforceable through associated legislation such as Children’s Protection and Welfare Act 2011 and the Legal Capacity of Married Persons Act 2006.</p>
	b) Do the measures create or contribute to a practicable a Rights-based and Gender sensitive framework for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	2	
2. Holistic / Cross-sectoral (for promoting a Rights-based and Gender sensitive framework)	a) Do the measure links a Rights-based and Gender sensitive framework?	4	The following Policy guiding principles: Partnership; Participation; Accessibility; Transparency & Accountability; Human Rights; Equity & Social Justice; Non-Discrimination; Family Centred Approach and Decentralization, provide a means for and call for a concerted multi-sectoral response from government and

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	<p>b) Do the measure links social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation of Rights-based and Gender sensitive framework into ICM. <p>c) Do the measure create or contribute to an integrated management framework that incorporates a Rights-based and Gender sensitive framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation of a Rights-based and Gender sensitive framework into ICM. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation a Rights-based and Gender sensitive framework into ICM. 	<p>3</p> <p>4</p> <p>4</p> <p>1</p>	<p>non-state actors in order to attain the Policy objectives</p> <p>The proposed strategic actions under Policy Focus Areas create clear linkages between social and economic development, but no direct links with key ICM elements e.g., protection of natural ecosystems</p> <p>The Policy provides a good platform for multi-sectoral stakeholder participation in its implementation and enjoys a strong legal backing from association legislation (refer to paragraph 2 – summary of observations above)</p> <p>There is strong Policy alignment to the National Vision 2020 and NSDP II 2018/19 – 2022/23</p> <p>The scope of the Policy by design does not directly address key ICM elements e.g., climate change. However, it makes reference to ICM implementation objectives e.g., spearheading efforts to reduce environmental degradation, ensure food security & secure livelihoods of the citizens (2.2.1)</p>
<p>3. Proportionality (for promoting a Rights-based and Gender sensitive framework)</p>	<p>a) Are the measures likely to achieve their legitimate aims of promoting a Rights-based and Gender sensitive framework;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p>	<p>4</p>	<p>Criteria well addressed</p>

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	d) Do the measures involve a rights based and gender sensitive approach for an equitable and reasonable distribution of costs and benefits across all sectors.		
4. Currency	a) Are the measures for promoting a rights-based and gender sensitive approach to ICM outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	4	The Policy measures are up to date and in conformity with recent global development trends
5. Consistency	a) Do the measures promote (at least some) elements and objectives of a Rights-based and Gender sensitive framework into ICM;	4	Human rights, gender equality & social inclusion for all sectors of the population, including people with disabilities are well encapsulated in the Policy. Not aware of any Policy inconsistencies with the objectives of a rights based and gender sensitive framework to ICM Not aware of any glaring conflicts Section 1.6 of the Policy enumerates some 13 regional and international policy/legal instruments, as well as an additional 10 national Policies and legal instruments that it gives
	b) Do the measures run contrary to (certain) elements and objectives of a Rights-based and Gender sensitive framework to ICM;	3	
	c) Do the measures conflict with other national measures for a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	3	
	d) Do the measures take account of international and regional commitments, especially regarding transboundary basins a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	5	

			expression to. Its development was therefore well informed by these frameworks.
6. Participatory (ensuring equitable participation)	a) Do the measures seek to raise awareness of (elements and objectives) of a Rights-based and Gender sensitive framework for ICM;	4	<p>Guiding principles: 1.10.3; 1.10.4 & 1.10.7 require social development stakeholders to demonstrate transparency and accountability & promote social inclusion in their operations and conduct to enable accessibility of social development services and information to all who require them.</p> <p>Decentralization (1.10.9) is specified as one of the key guiding principles to ensure that delivery of services and benefits will be decentralized to the lowest level of decision making</p> <p>The Policy M&E system allows for reviewability of the Policy measures & its implementation in consultation with stakeholders every 10 years to ensure effectiveness and efficiency. However, reviewability of decisions is not provided for in the Policy</p>
	b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;	4	
	c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	4	
	d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	3	

National Social Protection Strategy (NSPS) 2014/15 – 2018/19

Summary of observations: The National Social Protection Strategy (NSPS) implements the National Policy on Social Development 2014/15 – 2024/25 in the medium term. The main objectives of the strategy are “...to operationalize an integrated set of core social protection programmes aimed at reducing vulnerability; to ensure linkages of all social protection programmes for increased efficiency and effectiveness; and to integrate and harmonize operational systems for the effective implementation of the social protection programmes across Government.” The Strategy takes a life-course approach. It identifies the four-key life-course stages at which the citizens are exposed to different vulnerabilities through the course of their lives. These stages are: i) pregnancy/early childhood; ii) school age/youth; iii) working age and iv) old age. The strategy recognizes that chronic illness and disability are cross-cutting themes/shocks that can manifest at any of these life-course stages and therefore the strategy is cast to be responsive to these vulnerabilities and shocks throughout these life-course stages.

Conclusion: The scope of the Strategy does not link key elements and objectives of ICM and is therefore not recommended for detailed review

KEY CRITERIA	INDICATORS	EXTENT TO WHICH RIGHTS AND GENDER ARE ADDRESSED (SCORE)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness (of promoting a Rights-based and Gender sensitive framework)	<p>a) Do the measures appropriately addresses key elements and objectives of a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. <p>b) Do the measures create or contribute to a practicable a Rights-based and Gender sensitive framework for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		
2. Holistic / Cross-sectoral (for promoting a Rights-based and Gender sensitive framework)	<p>a) Do the measure links a Rights-based and Gender sensitive framework?</p> <p>b) Do the measure links social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation of Rights-based and Gender sensitive framework into ICM. <p>c) Do the measure create or contribute to an integrated management framework that incorporates a Rights-based and Gender sensitive framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation of a Rights-based and Gender sensitive framework into ICM. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation a Rights-based and Gender sensitive framework into ICM. 		
3. Proportionality (for promoting a Rights-based	<p>a) Are the measures likely to achieve their legitimate aims of promoting a Rights-based and Gender sensitive framework;</p>		

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and Gender sensitive framework)	<ul style="list-style-type: none"> b) Are the measures cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Do the measures involve a rights based and gender sensitive approach for an equitable and reasonable distribution of costs and benefits across all sectors. 		
4. Currency	<ul style="list-style-type: none"> a) Are the measures for promoting a rights-based and gender sensitive approach to ICM outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		
5. Consistency	<ul style="list-style-type: none"> a) Do the measures promote (at least some) elements and objectives of a Rights-based and Gender sensitive framework into ICM; b) Do the measures run contrary to (certain) elements and objectives of a Rights-based and Gender sensitive framework to ICM; c) Do the measures conflict with other national measures for a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. d) Do the measures take account of international and regional commitments, especially regarding transboundary basins a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
6. Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Do the measures seek to raise awareness of (elements and objectives) of a Rights-based and Gender sensitive framework for ICM; b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 		

National Social Protection Strategy for Older Persons 2017 - 2027

Summary of observations: The National Social Protection Strategy for Older Persons seeks to create an enabling environment for the implementation of the Lesotho Policy for Older Persons 2014, with the involvement of various stakeholders to ensure the wellbeing of older persons. The strategy has a total of thirteen strategic objectives. Three of these are highlighted as relevant to the review process and these include: i) To promote, protect and uphold the fundamental rights of older persons through legal frameworks; ii) To ensure economic sustainability by promoting financial stability and secure livelihoods for older persons in Lesotho; and iii) To promote food and nutrition security among the elderly and create awareness on the importance of good nutrition and nutritional problems related to older persons.

KEY CRITERIA	INDICATORS	EXTENT TO WHICH RIGHTS AND GENDER ARE ADDRESSED (SCORE)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness (of promoting a Rights-based and Gender sensitive framework)	a) Do the measures appropriately addresses key elements and objectives of a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	4	The effectiveness of measures contained in the strategy relate more towards the social development dynamics confronting the elderly e.g., protecting the fundamental human rights of the elderly, securing their socio-economic wellbeing and ensuring gender equality in delivering services. There is limited direct reference to ICM as the concept is not core to the mandate of the Ministry of Social Development.
	b) Do the measures create or contribute to a practicable a Rights-based and Gender sensitive framework for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	4	Yes, the guiding principle on rights-based approaches to implementing the strategy states that “social protection initiatives towards old persons should promote the progressive realisation of human rights as articulated in Lesotho's Constitution and other relevant national and international legal instruments.”
2. Holistic / Cross-sectoral (for promoting a Rights-based and Gender	a) Do the measure links a Rights-based and Gender sensitive framework?	2	The strategy shall facilitate the development of a Charter on the rights of older persons, to ensure that protection of the rights of older persons is entrenched in legislation The mandate of the Ministry of Social Development is not focused around these

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<p>sensitive framework)</p>	<p>b) Do the measure links social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation of Rights-based and Gender sensitive framework into ICM.</p> <p>c) Do the measure create or contribute to an integrated management framework that incorporates a Rights-based and Gender sensitive framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation of a Rights-based and Gender sensitive framework into ICM.</p> <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change): - Contribution to vertical integration / fragmentation a Rights-based and Gender sensitive framework into ICM.</p>	<p>3</p> <p>4</p> <p>2</p>	<p>environmental issues. Linkages to ICM can still be made considering issues such as food and nutrition security and provision of adequate water and sanitation services to the elderly.</p> <p>Proposed measures are well aligned with national policy framework and legal instruments from other sectors who are key stakeholders</p> <p>The focus of the strategy is less on the environmental issues and climate change</p>
<p>3. Proportionality (for promoting a Rights-based and Gender sensitive framework)</p>	<p>a) Are the measures likely to achieve their legitimate aims of promoting a Rights-based and Gender sensitive framework;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve a rights based and gender sensitive approach for an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>2</p> <p>3</p> <p>3</p>	<p>There is still a long way to go to achieve the desired outcomes as more of the political and legislative backstopping is required to support full implementation of the strategy</p> <p>Not aware of conflicting areas with other policies</p> <p>The guiding principles to implementing the strategy are based on the rights-based approaches and gender equality</p>

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		4	
4. Currency	<p>a) Are the measures for promoting a rights-based and gender sensitive approach to ICM outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	4	The strategy contains up to date measures that will serve to implement the Policy on Older Persons through the 10 year period 2017 – 2027
5. Consistency	a) Do the measures promote (at least some) elements and objectives of a Rights-based and Gender sensitive framework into ICM;	4	As above in 1(b)
	b) Do the measures run contrary to (certain) elements and objectives of a Rights-based and Gender sensitive framework to ICM;	4	No contradicting issues identified
	c) Do the measures conflict with other national measures for a Rights-based and Gender sensitive framework:		
	<ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	4	The operational plan of the strategy clearly identifies strategic focus areas and activities to be implemented by the identified stakeholders, leaving little room for overlapping mandates
d) Do the measures take account of international and regional commitments, especially regarding transboundary basins a Rights-based and Gender sensitive framework:			
<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 			
6. Participatory (ensuring equitable participation)	a) Do the measures seek to raise awareness of (elements and objectives) of a Rights-based and Gender sensitive framework for ICM;	4	The guiding principles to implementing the strategy are based on the rights-based approaches and gender equality

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	b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;	4	The strategy intends for the protection provided to the elderly to be transparent, incorporating principles of accurate and timely dissemination; publicity of instances involving abuse of the system; disclosure of the contract terms and unit costs of government, NGO or private agencies; effective and accessible grievance redress systems; and transparency in eligibility and implementation. (section 3.1)
	c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	5	Yes, one of the strategy core guiding principles upholds the notion that old persons as beneficiaries should be consulted and actively involved in the design, planning and implementation of old age assistance and support programmes.
	d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	4	The strategy seeks to ensure that legal instruments exist to protect the rights of older people within the family and community, and these will be reviewed to ensure that the older persons’ rights are observed and protected. (policy focus area on supportive family and community environment)

National Strategic Plan for Vulnerable Children 2012 - 2017

Summary of observations: The National Strategic Plan for Vulnerable Children (2012 – 2017) is intended to operationalize the Children’s Welfare and Protection Act 2011. The Plan is meant to inform and guide the multi-sectoral decentralized response to vulnerable children, through which government makes a clarion call on all stakeholders to participate in the implementation of the plan, based on their respective mandates and comparative advantage. The overall aim of the Strategic Plan is to improve the quality of life of vulnerable children and to ensure that they enjoy their basic human rights. The plan is guided by the following principles: i) Best interests of the child; ii) Respect, promotion and protection of the rights of vulnerable children; iii) Empowerment of families and communities; iv) Vulnerable children’s participation (in the planning, decision-making, prioritization and implementation of interventions that benefit them); v) Political commitment (creation of enabling legislative environment to offer care, support and protection to vulnerable children); vi) Gender considerations; and vii) Multi-sectoral and decentralized response. The Strategic Plan’s response to vulnerable children is based on a human rights-based approach underpinned by the seven guiding principles outlined above.

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	<p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation of a Rights-based and Gender sensitive framework into ICM. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation a Rights-based and Gender sensitive framework into ICM. • 	4	Yes, the proposed measures to implement household food security and nutrition interventions recognizes the critical role played by women in food production and considers environmental issues such as climate, geography and socio-economic systems (section 2.4.4.5 with operational strategies i – iv)
3. Proportionality (for promoting a Rights-based and Gender sensitive framework)	<p>a) Are the measures likely to achieve their legitimate aims of promoting a Rights-based and Gender sensitive framework;</p> <p>b) Are the measures cost-effective;</p>	5	<p>Yes, the paradigm shift that moves the national response from business as usual into a more achievable plan includes strategic moves such as: shifting from social welfare to social development; focusing on children’s vulnerability rather than their orphanhood status; adopting a family focused approach; switching to a child rights-based approach to services provision; and making use of indigenous practices to care for and protect vulnerable children in a family orientation set-up where even the community bears responsibilities in the process.</p> <p>Section 3.2 Resource mobilisation and sustainability of the response however covers financial sustainability issues as well as good</p>

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	<p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve a rights based and gender sensitive approach for an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>4</p> <p>3</p> <p>4</p>	<p>governance & leadership and community ownership & participation</p> <p>Not aware of conflicting areas with other policy instruments</p> <p>The strategy provides for a fair and reasonable distribution of costs and benefits as it calls for stakeholders to implement provisions of the strategy based on their respective mandates and comparative advantage.</p>
4. Currency	<p>a) Are the measures for promoting a rights-based and gender sensitive approach to ICM outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	2	The National Strategic Plan for Vulnerable Children 2012 – 2017 content is highly relevant, but the plan needs to be updated to reflect/reiterate the current national commitments that are aligned with the NSDP II 2018/19 – 2022/23
5. Consistency	<p>a) Do the measures promote (at least some) elements and objectives of a Rights-based and Gender sensitive framework into ICM;</p> <p>b) Do the measures run contrary to (certain) elements and objectives of a Rights-based and Gender sensitive framework to ICM;</p> <p>c) Do the measures conflict with other national measures for a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins a Rights-based and Gender sensitive framework:</p>	<p>5</p> <p>3</p> <p>4</p>	<p>(same as in 2 above – holistic)</p> <p>Not aware of possible conflicting areas</p> <p>No, Section 3.1 of the strategic plan provides for a clear delineation of functions, roles and responsibilities of coordinating structures at central, district and community levels to address any implementation ambiguities (three ones approach also clarifies roles)</p> <p>In respect of rights based and gender sensitive approaches, the strategy is well informed by a</p>

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	- Contribution to vertical integration / fragmentation.	4	number of international commitments as well as local legal and regulatory framework
6. Participatory (ensuring equitable participation)	a) Do the measures seek to raise awareness of (elements and objectives) of a Rights-based and Gender sensitive framework for ICM;	4	Priority 1 to the national response to vulnerable children advocates for raising awareness and commitment to vulnerable children's needs and rights through advocacy and social mobilization
	b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;	4	2.4.2.3 operational strategy (vi) facilitates for the dissemination of policies and legal instruments to duty bearers and rights holders (children) to ensure access to information by all relevant stakeholders
	c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	4	2.4.3.3 The Plan supports interventions that strengthen the capacity of families, communities and children to develop community-based child protection mechanisms. It further supports initiatives that promote a better understanding of the legal and judicial systems. Communities will be mobilised and sensitised on legal and social child rights to enhance their participation in law enforcement activities.
	d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	5	Section 2.4.3.2 operational strategy (v) facilitates for the review and harmonization of existing policies to mainstream policy guidelines for the social and legal protection of vulnerable children

National Multisectoral Child Protection Strategy 2014/5 – 2018/9

Notes: This strategy was developed in response to the need that was highlighted for focus more effort towards prevention of harm, on a coordinated response and on ensuring that we are all more accountable for identifying, reporting and taking comprehensive and appropriate action. Prior to this strategy, there has not been one coherent strategic vision to address child protection in its entirety, although elements of child protection are addressed in a range of strategic plans. The Strategy, which is accompanied by a costed Plan of Action for the first three years, initially focuses on building up the foundational elements of the system, generating evidence and ensuring delivery and results in core priority areas. The fourth and fifth years focus on consolidation and delivering quality services at scale. The *National Strategic Plan on Vulnerable Children 2012-2017* (NSPVC) classifies violations related to abuse, violence, exploitation and neglect as a driver for childhood vulnerability. The NSPVC focuses on legal and judicial support to children facing potential violence and exploitation, as well as broader support to strengthen families caring for children who are not living with their biological parents. More than one third of children in Lesotho (34%) do not live with their biological families. Whilst many are doubtless in loving homes with extended family, there is no information about which of these children risk stigma, discrimination or neglect. There is insufficient data collection, reporting and analysis to be able to confidently prioritise key interventions or measure the impact of child abuse. Notable gaps include the scale, nature and scope of neglect and stigma, experiences of children living without appropriate care (those who are living with extended family but lacking legal protection, those in kinship care but facing abuse, discrimination or neglect, those in institutional care). The *Children's Protection and Welfare Act of 2011* sets out statutory responsibilities for family, community and state in relation to the protection and welfare of all children, including children in contact with the law.

KEY CRITERIA	INDICATORS	EXTENT TO WHICH RIGHTS AND GENDER ARE ADDRESSED (SCORE)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness (of promoting a Rights-based and Gender sensitive framework)	a) Do the measures appropriately addresses key elements and objectives of a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	4	Very detailed and clearly laid out in terms of strategic objectives, results and indicators, plus activities, as well as Monitoring.
	b) Do the measures create or contribute to a practicable a Rights-based and Gender sensitive framework for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	4	Strong contribution to rights based as well as gender sensitivity among youth – very practical actions
2. Holistic / Cross-sectoral (for promoting a Rights-based	a) Do the measure links a Rights-based and Gender sensitive framework?	2	Cross sectoral approach although mainly from social development perspective i.e. not

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<p>and Gender sensitive framework)</p>	<p>b) Do the measure links social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation of Rights-based and Gender sensitive framework into ICM.</p> <p>c) Do the measure create or contribute to an integrated management framework that incorporates a Rights-based and Gender sensitive framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation of a Rights-based and Gender sensitive framework into ICM.</p> <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change): - Contribution to vertical integration / fragmentation a Rights-based and Gender sensitive framework into ICM.</p> <p>•</p>	<p>3</p> <p>3</p> <p>4</p> <p>4</p>	<p>necessarily across all sectors e.g. no mention of agriculture, environment, tourism, mining etc.</p> <p>Strategic objective 2: Multisectoral coordination, planning, implementation and monitoring of child protection</p> <ul style="list-style-type: none"> - 5. There are regular coordination and planning meetings of all key actors at national and at every community council and district level, able to identify and respond to local child protection priorities, which are in turn informing national strategies and operational plans. - 13. At least 25 community councils have Village Child Justice Committees who are active, with restorative justice recommendations that are in line with CPWA recommendations
<p>3. Proportionality (for promoting a Rights-based and Gender sensitive framework)</p>	<p>a) Are the measures likely to achieve their legitimate aims of promoting a Rights-based and Gender sensitive framework;</p> <p>b) Are the measures cost-effective;</p>	<p>2</p>	<p>Promotes Inter-sectoral responsibilities – lists many Ministries and non-state actors</p> <p>% increase in state budget allocated to child protection activities by 2019 - Children’s budget allocation known (by 2017);</p>

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	<p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve a rights based and gender sensitive approach for an equitable and reasonable distribution of costs and benefits across all sectors.</p>		<p>** 5% increase from baseline by 2019</p> <p>National OVC Coordinating Committee (NOCC), currently responsible for coordination of the <i>National Strategic Plan on Vulnerable Children</i></p> <p>But no evidence of review and monitoring – why no current/updated strategy</p>
4. Currency	<p>a) Are the measures for promoting a rights-based and gender sensitive approach to ICM outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	3	Strategy is outdated
5. Consistency	<p>a) Do the measures promote (at least some) elements and objectives of a Rights-based and Gender sensitive framework into ICM;</p> <p>b) Do the measures run contrary to (certain) elements and objectives of a Rights-based and Gender sensitive framework to ICM;</p> <p>c) Do the measures conflict with other national measures for a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins a Rights-based and Gender sensitive framework:</p>	4	<p>As above in 1(b)</p> <p>No contradicting issues identified</p> <p>The operational plan of the strategy clearly identifies strategic focus areas and activities to be implemented by the identified stakeholders</p>

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	- Contribution to vertical integration / fragmentation.		
6. Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Do the measures seek to raise awareness of (elements and objectives) of a Rights-based and Gender sensitive framework for ICM; b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 	3	

National Disability and Rehabilitation Policy (2011)

Notes: National Disability and Rehabilitation Policy (NDRP) has been informed by the 1993 Constitution of Lesotho; various international and regional conventions; Vision 2020; the Poverty Reduction Strategy (PRS) and the Millennium Development Goals (MDGs), legal provisions both within the country as well as at international and regional levels and other national policies. Policy aimed at driving equalization of opportunities for people with disability (PWDs) and to ending discrimination. Overall the 2011 policy is seen as a good high-level founding document that sets the scene for ‘disability and rehabilitation’ mainstreaming with key principles noted.

KEY CRITERIA	INDICATORS	EXTENT TO WHICH RIGHTS AND GENDER ARE ADDRESSED (SCORE)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness (of promoting a Rights-based and Gender sensitive framework)	<ul style="list-style-type: none"> a) Do the measures appropriately addresses key elements and objectives of a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	4	<ul style="list-style-type: none"> - Applicable ‘rights based’ principles are noted for inclusion in broader mainstreaming objectives of this project. - The development of this National Disability and Rehabilitation Policy (NDRP) has been informed by the 1993 Constitution of Lesotho; various international and regional conventions; Vision 2020; the Poverty Reduction Strategy (PRS) and the Millennium Development Goals (MDGs), legal provisions both within the country as well as at international and regional levels and other national policies. Parts II and III of the Constitution of

	<p>b) Do the measures create or contribute to a practicable a Rights-based and Gender sensitive framework for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>4</p>	<p>Lesotho provide for support to People with Disability (PWDs) as a principle of national policy under the Protection of Fundamental Human Rights and Principles of State Policy respectively.</p> <p>Objective</p> <ul style="list-style-type: none"> - The Policy is intended to be used as a guiding document for designing, implementing and evaluating generic, as well as disability-specific, public policies and programmes to ensure meaningful inclusion of PWDs into the mainstream society. Its main objectives are: - To identify and remove obstacles to full participation and full equality in society; - Prevent and fight discrimination; and - Promote equality between disabled girls and boys, women and men. <p>Guiding Principles</p> <ul style="list-style-type: none"> - Non-discrimination - Equality of opportunity - Independence not dependence - Fulfilment of basic needs - Accountability - Integration - Participation in decision-making - Ability not inability
<p>2. Holistic / Cross-sectoral (for promoting a Rights-based and Gender sensitive framework)</p>	<p>a) Do the measure links a Rights-based and Gender sensitive framework?</p> <p>b) Do the measure links social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation of Rights-based and Gender sensitive framework into ICM. 	<p>4</p> <p>•</p> <p>1</p> <p>•</p>	<p>Yes, high-level strategic objectives highlighted. See context for Effectiveness no 1.</p>

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	<p>c) Do the measure create or contribute to an integrated management framework that incorporates a Rights-based and Gender sensitive framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation of a Rights-based and Gender sensitive framework into ICM. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation a Rights-based and Gender sensitive framework into ICM. • 	<p style="text-align: center;">4</p> <p style="text-align: center;">3</p> <p style="text-align: center;">4</p>	<p>Yes, high-level strategic objectives highlighted. See context for Effectiveness no 1.</p> <p>It should be noted that the 2011 policy would have been linked to NSDP of that time. Alignment and updating of objectives in the 2019-2023 NSDP may be required.</p> <p>The UN Convention on the Rights of Persons with Disabilities (UNCPRD) was adopted by the General Assembly in 2006 and ratified by Lesotho in 2008. According to Article 4 of the Convention, “countries that have ratified the Convention are required to engage in the development and implementation of policies, laws and administrative measures aimed at securing the rights of people with disabilities and to abolish laws, regulations, customs and practices that constitute discrimination towards people with disabilities”.</p> <p>By 2011, Lesotho had made some progress insofar as the requirements of the UNCPRD are concerned, as the country had developed the National Disability and Rehabilitation Policy (NDRP). The purpose of the NDRP is to “create an enabling environment for PWDs living and working in Lesotho to realise their full potential”.</p> <p>See further context under Effectiveness no 1.</p>
<p>3. Proportionality (for promoting a Rights-based and Gender</p>	<p>a) Are the measures likely to achieve their legitimate aims of promoting a Rights-based and Gender sensitive framework;</p>	<p style="text-align: center;">4</p>	<p>Pg.. 5-21 of the policy cover priority areas to guide the rights based framework specific to Disability and rehabilitation. The policy highlights 8 priority areas along with strategies for operationalizing them.</p>

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<p>sensitive framework)</p>	<p>b) Are the measures cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Do the measures involve a rights based and gender sensitive approach for an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>1 • • • 3 • 1</p>	<p><i>Priority Policy Area 1: Prevention, Early Identification and Intervention</i> <i>Priority Policy Area 2: Rehabilitation</i> <i>Priority Policy Area 3: Accessibility</i> Priority Policy Area 4: Capacity Building Priority Policy Area 5: Quality & Essential Healthcare Priority Policy Area 6: Social Welfare & Protection Priority Policy Area 7: Self-Representation and Participation Priority Policy Area 8: Sports, Recreation and Entertainment Priority Policy Area 9: Research and Appropriate Technology Priority Policy Area 10: Policy and Legal Protection Priority Policy Area 11: Monitoring & Evaluation</p>
<p>4. Currency</p>	<p>a) Are the measures for promoting a rights-based and gender sensitive approach to ICM outdated: - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures).</p>	<p>2</p>	<p>Policy released in 2011 – current but could benefit from updating.</p>

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5. Consistency	<p>a) Do the measures promote (at least some) elements and objectives of a Rights-based and Gender sensitive framework into ICM;</p> <p>b) Do the measures run contrary to (certain) elements and objectives of a Rights-based and Gender sensitive framework to ICM;</p> <p>c) Do the measures conflict with other national measures for a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p>4</p> <p>2</p> <p>2</p> <p>3</p>	<p>Yes principles and measures are relevant – refer to comments under No. 1 & 3.</p> <p>Broad focus. No specifics for ICM</p> <p>Broad focus. No specifics for ICM</p>
6. Participatory (ensuring equitable participation)	<p>a) Do the measures seek to raise awareness of (elements and objectives) of a Rights-based and Gender sensitive framework for ICM;</p> <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>4</p> <p>4</p> <p>3</p> <p>3</p>	<p>Yes. Priority areas provide a framework for this. Refer to comments under No.3</p> <p>Yes. Priority areas provide a framework for this. Refer to comments under No.3</p>

ORASECOM Gender Mainstreaming Strategy (2014)

Note: The SADC instrument is reviewed to understand its priority in terms of relevance for ICM and if it is worth further review to ensure its alignment to the Lesotho context (i.e., whether key considerations are adequately / appropriately realised through local policy and relevant regulatory instruments). With that in mind, this strategy is not a standalone document, but provides guidance to the member states on the implementation of a gender sensitive IWRM plan. The strategy is gender focused rather than more broadly rights-based focused. This Strategy is noted as a high-level document with a lower priority compared to the focus of the Lesotho gender and development policy. The strategy does however highlight strong gender-mainstreaming principles specific to Water Resource Management. Key principles reflected through this strategy are useful and would be valuable to assess against the local Lesotho gender and development policy.

KEY CRITERIA	INDICATORS	EXTENT TO WHICH RIGHTS AND GENDER ARE ADDRESSED (SCORE)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness (of promoting a Rights-based and Gender sensitive framework)	a) Do the measures appropriately addresses key elements and objectives of a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	2	<ul style="list-style-type: none"> - On undertaking the review for this strategy, it was important to understand the purpose in the broader context of the project. The SADC instruments are reviewed to understand its priority in terms of relevance for ICM and if it is worth further review to ensure its alignment to the Lesotho context (i.e., whether key considerations are adequately / appropriately realised through local policy and relevant regulatory instruments). • - Section 2 Pg.. 9 reflects “The strategy is not a standalone document but provides guidance to the member states on the implementation of a gender sensitive IWRM plan” – whilst this is the case, the scoring of the matrix is based on the strategy content itself. • - ‘ORASECOM GM Strategy’ is noted as a high-level document with a lower priority when compared to provisions of the Lesotho gender and development policy. • <p><i>There is a strong focus on gender-mainstreaming specific to Water Resource Management. Specific objectives:</i></p>
	b) Do the measures create or contribute to a practicable a Rights-based and Gender sensitive framework for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	2	

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			<ul style="list-style-type: none"> - "To promote the meaningful consideration of gender in the management of water resources so as to enhance the sustainability and effectiveness of the IWRM plan" - "To promote the equitable participation of women and men in the planning, implementation and monitoring of activities, projects and programmes within ORASECOM" • • <i>The strategy notes the following key gender mainstreaming PRINCIPLES;-</i> • Pg.. 10 - 12 • 2.1 Secure <i>high level commitment</i> to gender equality • 2.2 <i>Strengthen linkages with Gender Focal Points in the Department of Water</i> - Note: The identification of Gender Focal Points (female representatives) and National stakeholder engagement is prioritized in this strategy. An additional noted outcome of the implementation plan was the need to undertake a gap analysis. • 2.3 <i>Improved sectoral coordination</i> in water resources management • 2.4 Promote meaningful <i>stakeholder participation</i> • 2.5 Improve the collection and dissemination of <i>gender disaggregated data</i> • 2.6 <i>Capacity strengthening and awareness</i>
2. Holistic / Cross-sectoral (for promoting a Rights-based and Gender	<p>a) Do the measure links a Rights-based and Gender sensitive framework?</p> <p>b) Do the measure links social and economic development with protection of natural ecosystems:</p>	<p>2</p> <ul style="list-style-type: none"> • • <p>1</p>	Yes, high-level strategic objectives highlighted.

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<p>sensitive framework)</p>	<ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation of Rights-based and Gender sensitive framework into ICM. <p>c) Do the measure create or contribute to an integrated management framework that incorporates a Rights-based and Gender sensitive framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation of a Rights-based and Gender sensitive framework into ICM. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation a Rights-based and Gender sensitive framework into ICM. <ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • <p>2</p> <p>2</p> <p>2</p>	<p>The strategy is gender focused rather than rights based focused. Focus on gender is Water Resource Management. It contributes to a Gender sensitive framework but weakly.</p> <p>The strategy makes provisions for strategic recommendations based on member state consultations, of which, Lesotho was highly participatory. Needs, challenges and priorities are then proposed to be addressed through these strategic gender mainstreaming recommendations specific to Water Resource Management,</p> <p>Yes, aligned to high-level objectives of the strategy – NSDP (Section 1.2 – Pg.. 11). Therefore, NSDP II will pursue gender sensitive strategic intervention as outlined in the strategic framework. Its programmes and projects will specifically target women’s participation, and build women and girls leadership skills for social, economic and political development. The country will ensure that gender is mainstreamed in public policy and in terms of policy implementations, different implications for men and women of any policy action will be assessed, in all areas and at all levels.</p> <p>Yes aligned but SADC protocol could be more strongly realized in the strategy.</p> <p>Section 1.3 – Pg.. 7 Sets out the rationale for the strategy being that ‘gender in development’ has received significant attention in recent years with a key focus on ensuring change in African countries. It seeks to realize a number of international agreements including</p>
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			commitments for CEDAW; SADC protocol on Gender and Development & the Declaration amongst others. The strategy developed in 2014 provides high-level direction on gender mainstreaming with a key focus on realizing tangible transformation through implementation. The strategy also infers it link to provisions made in the ‘SADC Regional Water Policy’ <i>Section 10.2.2 “Policy: All SADC water institutions shall implement the principles, goals and objectives of gender mainstreaming in their administration and implementation SADC has committed itself to mainstreaming gender, requiring integration of this approach as a cross-cutting issue for all sectors.”</i>
3. Proportionality (for promoting a Rights-based and Gender sensitive framework)	a) Are the measures likely to achieve their legitimate aims of promoting a Rights-based and Gender sensitive framework;	2	Refer to comment on Effectiveness no 1.
	b) Are the measures cost-effective;	2	Section 2.3 only relevant mention to financing “All the member states have established gender machineries that are resourced (human and financial resource) that can contribute to the successful implementation of the strategy.” No objectives outlined specific to cost-effectiveness.
	c) Does the measure interfere to the least extent necessary with established interests, practices or policies;	2	No glaring interference noted.
	d) Do the measures involve a rights based and gender sensitive approach for an equitable and reasonable distribution of costs and benefits across all sectors.	2	
4. Currency	a) Are the measures for promoting a rights-based and gender sensitive approach to ICM outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	2	Strategy released in 2014 – current but weak. Could benefit from updating.

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5. Consistency	<p>a) Do the measures promote (at least some) elements and objectives of a Rights-based and Gender sensitive framework into ICM;</p> <p>b) Do the measures run contrary to (certain) elements and objectives of a Rights-based and Gender sensitive framework to ICM;</p> <p>c) Do the measures conflict with other national measures for a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	4	Yes
6. Participatory (ensuring equitable participation)	<p>a) Do the measures seek to raise awareness of (elements and objectives) of a Rights-based and Gender sensitive framework for ICM;</p> <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	4	Participation is strong theme highlighted as a starting point for gender mainstreaming.
		4	
		4	
		3	

United Nations Human Rights Office of the High Commissioner (OHCHR): A basic handbook for UN staff / UN Declaration on Human Rights

Notes: Provides an international benchmark for the implementation of a rights-based approach and gender sensitive framework that is in line with the UN Declaration in Human Rights. Does not focus on key elements of ICM specifically but focusses on best practice and principles across 4 key sectors: peace and security; economic and social affairs; development cooperation; and humanitarian affairs. Does not provide specific measures but recognises that human rights instruments and institutions also exist at regional and national level and the need for alignment with these. These guidelines highlight a number of key principles for consideration in the review of ICM policy and legislation.

KEY CRITERIA	INDICATORS	EXTENT TO WHICH RIGHTS AND GENDER ARE ADDRESSED (SCORE)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness (of promoting a Rights-based and Gender sensitive framework)	a) Do the measures appropriately addresses key elements and objectives of a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	5	Focusses on best practice and principles for United Nations work across 4 key sectors: peace and security; economic and social affairs; development cooperation; and humanitarian affairs.
	b) Do the measures create or contribute to a practicable a Rights-based and Gender sensitive framework for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	5	The handbook is divided into five parts, providing an overview of the following areas: <ol style="list-style-type: none"> 1. International human rights standards and their development 2. United Nations organs 3. Human rights mechanisms 4. United Nations strategies and action to promote human rights 5. OHCHR and partners
2. Holistic / Cross-sectoral (for promoting a Rights-based and Gender sensitive framework)	a) Do the measures link a Rights-based and Gender sensitive framework? b) Do the measure links social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation of Rights-based and Gender sensitive framework into ICM. c) Do the measure create or contribute to an integrated management framework that	4	Recognises that human rights instruments and institutions also exist at regional and national level Addresses social and economic development but does not specify environment specifically

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	<p>incorporates a Rights-based and Gender sensitive framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation of a Rights-based and Gender sensitive framework into ICM. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation a Rights-based and Gender sensitive framework into ICM. 		
3. Proportionality (for promoting a Rights-based and Gender sensitive framework)	<p>a) Are the measures likely to achieve their legitimate aims of promoting a Rights-based and Gender sensitive framework;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve a rights-based and gender sensitive approach for an equitable and reasonable distribution of costs and benefits across all sectors.</p>	4	Provides guidelines for practical and achievable approaches
4. Currency	<p>a) Are the measures for promoting a rights-based and gender sensitive approach to ICM outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	5	Current internationally
5. Consistency	<p>a) Do the measures promote (at least some) elements and objectives of a Rights-based and Gender sensitive framework into ICM;</p>	4	Addresses HRBA holistically but not at detailed levels of ICM

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	<p>b) Do the measures run contrary to (certain) elements and objectives of a Rights-based and Gender sensitive framework to ICM;</p> <p>c) Do the measures conflict with other national measures for a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
<p>6. Participatory (ensuring equitable participation)</p>	<p>a) Do the measures seek to raise awareness of (elements and objectives) of a Rights-based and Gender sensitive framework for ICM;</p> <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>5</p>	<p>Raises the need for participation by all stakeholders.</p>

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Notes: The Convention sets international best practice guidelines – the Convention and is aligned with the principles and guidelines prescribed for a HRBA and Gender sensitive framework. The GoL is a signatory to the Convention and therefore implies national legislation is aligned. Does not specify natural ecosystems / environment however Article 3 States “Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development

and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.” These principles are important for consideration in the review of ICM policy and legislation.

KEY CRITERIA	INDICATORS	EXTENT TO WHICH RIGHTS AND GENDER ARE ADDRESSED (SCORE)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness (of promoting a Rights-based and Gender sensitive framework)	<p>a) Do the measures appropriately addresses key elements and objectives of a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. <p>b) Do the measures create or contribute to a practicable a Rights-based and Gender sensitive framework for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	5	The Convention sets international best practice guidelines – as a signatory the GoL has ratified the Convention and is aligned with the principles and guidelines prescribed for a HRBA and Gender sensitive framework
2. Holistic / Cross-sectoral (for promoting a Rights-based and Gender sensitive framework)	<p>a) Do the measures link a Rights-based and Gender sensitive framework?</p> <p>b) Do the measure links social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation of Rights-based and Gender sensitive framework into ICM. <p>c) Do the measure create or contribute to an integrated management framework that incorporates a Rights-based and Gender sensitive framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning</p>	5	<p>Does not specify natural ecosystems / environment however Article 3 States “Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women , for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.”</p> <p>The GoL is a signatory to the Convention and therefore implies national legislation is aligned.</p>

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	<p>Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation of a Rights-based and Gender sensitive framework into ICM. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation a Rights-based and Gender sensitive framework into ICM. 		
3. Proportionality (for promoting a Rights-based and Gender sensitive framework)	<p>a) Are the measures likely to achieve their legitimate aims of promoting a Rights-based and Gender sensitive framework;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve a rights based and gender sensitive approach for an equitable and reasonable distribution of costs and benefits across all sectors.</p>	4	<p>Addresses framework through promoting alignment of national level policy and legislation</p> <p>Cost effectiveness is not specifically addressed</p>
4. Currency	<p>a) Are the measures for promoting a rights-based and gender sensitive approach to ICM outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	5	Reflects current international best practice
5. Consistency	<p>a) Do the measures promote (at least some) elements and objectives of a Rights-based and Gender sensitive framework into ICM;</p> <p>b) Do the measures run contrary to (certain) elements and objectives of a Rights-based and Gender sensitive framework to ICM;</p>	4	No reference to ICM – but sets high level principles for HRBA

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	<p>c) Do the measures conflict with other national measures for a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
<p>6. Participatory (ensuring equitable participation)</p>	<p>a) Do the measures seek to raise awareness of (elements and objectives) of a Rights-based and Gender sensitive framework for ICM;</p> <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>4</p>	<p>Provides high level principles that emphasises that HRBA require the maximum participation of women on equal terms with men in all fields. Does not specify stakeholder participation per se.</p>

FAO Gender mainstreaming and a human rights-based approach: Guidelines for technical officers. Food and Agriculture Organization of the United Nations (2017)

Notes: Technical guidelines on the FAO approach to gender mainstreaming. Provides guidance based on international guidelines for best practice including the UNDP Declaration on Human Rights and CEDAW. It also highlights the need for consideration of local laws and policies. Does not specify elements of ICM but raises the general requirement for development planning at all levels, including recognition of the economic survival of women and their families, which includes their work in the nonmonetized sectors of the economy. These guidelines highlight a number of key principles for consideration in the review of ICM policy and legislation.

KEY CRITERIA	INDICATORS	EXTENT TO WHICH RIGHTS AND GENDER ARE ADDRESSED (SCORE)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness (of promoting a Rights-based and Gender sensitive framework)	c) Do the measures appropriately addresses key elements and objectives of a Rights-based and Gender sensitive framework: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	5	Guidance for FAO but provides detailed guideline based on international best practice including UNDP and CEDAW.
	d) Do the measures create or contribute to a practicable a Rights-based and Gender sensitive framework for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	5	Specifies consideration of local context (laws and policies) while demonstrating international guidance
2. Holistic / Cross-sectoral (for promoting a Rights-based and Gender sensitive framework)	a) Do the measures link a Rights-based and Gender sensitive framework? b) Do the measure links social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation of Rights-based and Gender sensitive framework into ICM. 	5	Does not specify environment but generally raises the requirement for development planning at all levels. Including recognition of the economic survival of women and their families, which includes their work in the nonmonetized sectors of the economy.

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	<p>c) Do the measure create or contribute to an integrated management framework that incorporates a Rights-based and Gender sensitive framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation of a Rights-based and Gender sensitive framework into ICM. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation a Rights-based and Gender sensitive framework into ICM. 		<p>Does not in itself provide an integrated framework but provide guidelines for how projects / interventions can achieve this.</p> <p>Specifies consideration of local context (laws and policies) while demonstrating international guidance</p>
3. Proportionality (for promoting a Rights-based and Gender sensitive framework)	<p>a) Are the measures likely to achieve their legitimate aims of promoting a Rights-based and Gender sensitive framework;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve a rights based and gender sensitive approach for an equitable and reasonable distribution of costs and benefits across all sectors.</p>	4	Provides guidelines to support achievement by projects rather than specific measures.
4. Currency	<p>a) Are the measures for promoting a rights-based and gender sensitive approach to ICM outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	4	Reflects current international best practice, but not ICM specific.

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5. Consistency	<p>a) Do the measures promote (at least some) elements and objectives of a Rights-based and Gender sensitive framework into ICM;</p> <p>b) Do the measures run contrary to (certain) elements and objectives of a Rights-based and Gender sensitive framework to ICM;</p> <p>c) Do the measures conflict with other national measures for a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins a Rights-based and Gender sensitive framework:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	4	Consistent with international benchmarks and best practice, but not to ICM specifically.
6. Participatory (ensuring equitable participation)	<p>a) Do the measures seek to raise awareness of (elements and objectives) of a Rights-based and Gender sensitive framework for ICM;</p> <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	5	Includes a high level of emphasis on the requirement for participation.

Workstream 3

Mapping Matrices

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
Lesotho National Climate Change Policy (2017)	1.3 paragraph 2, 3.8,3.9,3.12,3.15	2.3(1) and (3), 3.2,3.3, 3.14,3.16,3.17,3.18,3.19, 3.20	5.1 (table1)		3.18,3.19,3.20	1
National Climate Change Policy Implementation Strategy (2017)	2.4(1),2.4(2) and 2.4(3), Policy statements 2(Pg..8), 8,9,12,14,15	Policy statements 16,17,18,19	2.6.1		2.5.5.1,policy statement 3,	1
Lesotho's Nationally Determined Contribution (2017)	Table2, 2.1 Pg..4 last paragraph	1.0 bullet 2, 7.5	7.1		7.6	2
Lesotho National Adaptation Programme of Action on Climate Change	2.5.1	4.1.1	6.2.2, 6.2.3, 6.2.4		6.2.4, 6.2.5	1
Ministry of Energy, Meteorology and Water Affairs, Lesotho (2013); Second National Communication of Lesotho to the UNFCCC	2.8.2 Water Resources, Pg..23 soils and land degradation, 5.3.2,6.4.5	Pg.. 22 livestock and rangelands, 6.4.4	2.4,2.11,7.4		Table 6.8 (Pg.. 114), 7.5, 7.6	2

Government of Lesotho (GOL). National Strategic Development Plan II 2018/19 to 2022/23	62,63	64				
Guidelines for the integration of climate change in national, sectoral and local policies, strategies and development plans, 2018	<p>Water (resources/ management +): 2.3/8,9; 2.4/12, 13,14; 3.3/19; 3.4.2.1/24, 4.1/28, 29; 4.3/34, 5.2.3/40, 5.5.2/47,48; 5.7.5/54; 5.7.6/54, 55; 6.1/58, 6,3/60, 7.4/65; 7.6/6.7; 7.8/70;</p> <p>Land (soil, degradation, management +): 1.2/2; 1.3/4; 2.4/11; 2.5/12, 13, 14; 2.5/15, 3.1/16; 3.3/17,18,19, 20; 5.2.1/ 39; 5.6.1/48; 7.3.2/64; 7.4.1/65; 7.5.2/67; 7.10.3/75;</p> <p>Vegetation: 1.2/2; 3.3/20; 5.2.3/40; 5.7.5/50; 5.7.6/54;</p>	Objectives: 2.2/78,9; 2.5/15; 3.2/16,17; 3.3/19; 3.4.2.5/25; 4.2.3/33; 5.3.3/44; 6.1/57; 6.2/58; 7.4.1/65;	Institutional (various): 4.1/28; 30; 4.2/34; 5.1.2/37; 5.7.1/49; 6.2/59; 7.7/68; 4.2.3/33; 4.3/35; 5.1.2/36; 5.1.4/38; 5.7.2/49; 5.7.4/51;	Enforcement: 2.3/8; 2.6/14; 3.3/19,20; 3.3.5/27; 5.7.6/55; Legal Instruments for the Environment in Lesotho: Appendix1/49; 5.7.4/51; Legal(process/procedures): 2.2/7,9; 2.5/12; 2.5/14; 2.6/14; 6.1/57; 7.7/68,69;	Participation: 2.4/11; 2.5/14; 2.6/15; 3.3/19; 4.3/34; 5.5/46; 7.9/70,71; CapDev: 1.1/1; 1.2/1.3/3,4; 3.1/16; 3.4.2.1/24; 3.5.2/26; 4.1/28,30,31; 4.2/32; 4.2.4/33; 4.3/34; 5.1/36; 5.1.2/37; 5.1.4/38; 5.2.3/40,41; 5.3.3/44; 5.5.2/47; 5.6.2/48,49; 5.7.2/50; 5.7.4/51; 5.7.6/55; 6.3/59; 6.4/62; 7.1/63,64;	Priority components: 1 for All

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	6.1/57; 7.4/65; 7.6/67; Biodiversity +: 1.2/2; 2.2/7; 2.4/11, 12; 13,14; 2.6/15; 3.5.5/27; 5.5.2/47; 6.1/57, 58; 7.1/63; 7.6/67; 7.10.3/75;					
SADC Climate Change Year Book 2016	Section 5 (natural environmental key elements) Section 6 (key interrelated objectives e.g., Agriculture, Livelihoods and Food Security, and the Green Economy)	Section 2 Climate Change Impacts, Challenges and Opportunities in the Region 2.3 Conclusions and Recommendations		Section 3 Policies and Legislative Frameworks in the Region		1
SADC Climate Change Adaptation Strategy And Action Plan (2015)	3.2 Strategic Objectives 3.3 Guiding principles	4. Sectoral analysis	6. Means of implementation 6.6 Institutional Arrangements and Governance		6.4 Communication, Advocacy and Awareness	1
Long-Term Water and Sanitation Strategy (2016)						
Improvement of Early Warning System to Reduce Impacts of Climate Change and Capacity Building	ICM elements mentioned but not	Section 1.3 Main Evaluation Criteria and Questions pp23; Strong	Limited focus on mandate related	Limited info on enforcement, appeals, legalities, etc.	Strong recommendations on capacity	2

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	systematically from ICM/basin perspective;	monitoring procedure worked out; Generally, document well focused on objectives and impact; Annex 7, pp120;	matters, enforcement, authority of administrative entities;		development related matters, pp18; Main evaluation criteria and questions, pp 23; Objectives and components, pp 28; Updated outputs, outcomes, intermediate results at terminal evaluation, 36; Recommendations, pp82;	
Lesotho Climate Change Baseline and Trend Analysis report 2015	1.2.3 Physical Environment, 2.2.5 National Environment Policy, 2.2.6 Environmental Education Strategy, 2.2.7 National Forestry Policy, 2.2.8 Water and Sanitation Policy, 2.2.10 Draft national Soil and Water Conservation Policy	1.2.2 Socio-economic dimension, 1.2.5 Climate Change, 2.2.16 Gender and Development Policy, 3.3 Effects and Impacts of Climate Change and Coping Mechanisms	Table 3 Climate Change Stresses, Impacts and adaptation measures by key sectors (Pg.22)		6.2 Climate Change Education in Lesotho, Figure 9 Institutions which carry out climate related research, 6.5 Capacity Building, 7 Stakeholder Analysis and Table 12 Stakeholder Groups and their Responsibilities	1

Review Matrices**Review Method**

5. Review the following material
 - a. National policy and strategies relating to material promoting rights-based and gender sensitive framework in Lesotho
 - b. International and regional material informing and guiding the promotion of rights-based and gender sensitive approaches
6. Apply rating of alignment with the criteria using a scale:
 - (6) Key criterion is not addressed at all
 - (7) Key criterion is very poorly addressed
 - (8) Uncertain/Unclear whether the criterion is addressed
 - (9) Key criterion is addressed
 - (10) Key criterion is very thoroughly addressed
7. Justify rating by providing comments / justification of the gaps and weaknesses, strengths etc.

Lesotho National Climate Change Policy 2017

Note: This is rated as a high priority as measures for ICM are addressed in the policy statements. The policy includes in particular a focus on enhancing the resilience of water resources by promoting integrated catchment management, ensuring access, supply and sanitation. The policy lists action plans that need to be undertaken but without detail on the timelines and the responsible party. Financial information is also lacking although there is mention of stakeholders collectively involved in fund raising for climate change. Contributes to an integrated management framework and ties into NDS and translates Vision 2020 and National Strategic Development Plan into concrete actions in relation to climate change. Identifies challenges including for example inadequate dedicated financing mechanisms to address climate change in the country, and weak institutional capacity for finance mobilization.

KEY CRITERIA	INDICATORS	SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
24. Effectiveness	e) Do the measures appropriately addresses key elements and objectives of ICM: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. f) Do the measures create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; 	4	Measures for ICM are addressed in the policy as stipulated in section 3 that relates to policy statements. Policy statement 2 in particular says “Enhance the resilience of water resources by promoting integrated catchment management, ensuring access, supply and sanitation” Other relevant policy statements are policy statements 8 and 9, which deal with rangelands and ensuring resilience of ecosystems. The scope of the policy is sufficiently broad. However, decision-making is mostly at a national level

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	<ul style="list-style-type: none"> - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	2	<p>through the NCCC and selected government departments and parastatals. The policy needs to be strengthened in this regard.</p> <p>The measure contributes to practicable ICM in the country. It is sufficiently flexible in that it is a living document and needs to be updated from time to time. The policy mostly lists action plans that need to be undertaken without detail on the timelines and the responsible party. Financial information is also lacking although there is mention of stakeholders collectively involved in fund raising for climate change.</p>
25. Holistic / Cross-sectoral	m) Do the measure links land and water use across the entire catchment area?	4	<p>ICM is one of the key focus areas</p> <p>Social and economic development are taken into consideration as the policy is aligned to national strategic goals. A number of policy statements relate to protection of ecosystems</p> <p>Contributes to an integrated management framework and ties into NDS</p> <p>Translates Vision 2020 and National Strategic Development Plan into concrete actions in relation to climate change</p> <p>The policy measures are aligned to UNFCCC, SDG's, African Union Agenda 2063 and other agreements ratified by the country</p> <p>There seems to be significant consideration of planned and completed major infrastructure projects in the country. However no inferences</p>
	n) Do the measure links social and economic development with protection of natural ecosystems:	4	
	- Contribution to horizontal integration / fragmentation.		
	o) Do the measure create or contribute to an integrated management framework;	2	
	p) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:	2	
	- Contribution to vertical integration / fragmentation.		
q) Do the measures cohere with global, regional commitments (e.g., re climate change):			
- Contribution to vertical integration / fragmentation.			
r) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.	3		

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		4	are made on the impacts of climate change on the infrastructure.
26. Proportionality	i) Are the measures likely to achieve their legitimate aims;	5	The policy has legitimate aims and objectives
	j) Are the measures cost-effective;	2	The policy does not detail activities and associated costs.
	k) Does the measure interfere to the least extent necessary with established interests, practices or policies;		
	l) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.	4	A centralised fund raising and pooling of funds is proposed
		5	
27. Currency	d) Are the measures outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	3	The scope of the policy is deemed relevant to ICM. Other objectives such as rights based approach, policy harmonisation and sustainable human settlements do not feature in the proposed projects.
28. Consistency	i) Do the measures promote (at least some) elements and objectives of ICM;	2	Elements and objectives of ICM not covered. Section 5 if strengthened would cater for this.
	j) Do the measure runs contrary to (certain) elements and objectives of ICM;	1	
	k) Do the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	4	No glaring conflicts or overlaps noted. However there are ambiguities in terms of timelines and financial resources linked to the proposed actions
	l) Do the measures take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	3	International and regional obligations form the basis for the policy. This can be seen as enhancing vertical integration

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29. Participatory (ensuring equitable participation)	i) Do the measures seek to raise awareness of (elements and objectives) of ICM;	4	<p>The measure does raise awareness on some ICM objectives</p> <p>Stakeholders are central theme in the policy. A formation of a Climate change district or local committees are being proposed. Furthermore, community land use practices are promoted. However, there is sketchy detail in terms of the operation of the proposed structure as well as actions.</p> <p>The policy is valid until 2027 and can periodically be reviewed to incorporate climate change issues as and when necessary</p>
	j) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;	2	
	k) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	4	
	l) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	2	
30. Monitoring and evaluation	a) Are procedure and processes for mainstreaming climate change adaptation being monitored and evaluated;	2	<p>The M&E Framework will specify performance indicators and targets for each policy priority and strategic action and will propose accountabilities for the actors that are tasked to implement them. Each ministry, department, and agency for which specific accountabilities will be identified, will have to ensure enforcement of the relevant policy priorities and measures, using means and mechanisms at its disposal.</p>
	b) Is the effectiveness of mainstreaming climate change adaptation on different levels (national, district, local) monitored and evaluated;	2	
	c) Are assessments being undertaken of the benefits of climate change adaptation (e.g., socio-economic and ecosystems) to inform improvements to adaptation policy, strategy and plans.	2	
31. Enabling environment	a) Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for implementation of climate change adaptation strategies and plans.	3	<p>Some of the identified challenges include inadequate dedicated financing mechanisms to address climate change in the country and Weak institutional capacity for finance mobilization. In addition, there is weak institutional arrangements to undertake effective coordination of climate change aspects and lack of legal and regulatory</p>

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			every five years. The strategy like the policy mostly lists action plans that need to be undertaken without detail on the timelines and the responsible party. Financial information is also lacking although there is mention of a costed action plan in annexure 4.
2. Holistic / Cross-sectoral	a) Do the measure links land and water use across the entire catchment area?	4	<p>ICM is one of the key focus areas.</p> <p>Social and economic development are taken into consideration as the policy is aligned to national strategic goals. A number of policy statements relate to protection of ecosystems.</p> <p>The CCPIS is aligned with the second National Strategic Development Plan (NDSP II), the Ministerial Strategic Plan, the Intended National Determined Contribution (INDC), the National Adaptation Programme of Actions (NAPA) and the National Communications (NC).</p> <p>The measures are aligned to UNFCCC, SDG's, African Union Agenda 2063 and other agreements ratified by the country.</p> <ul style="list-style-type: none"> • There seems to be significant consideration of planned and completed major infrastructure projects in the country
	b) Do the measure links social and economic development with protection of natural ecosystems:	4	
	- Contribution to horizontal integration / fragmentation.		
	c) Do the measure create or contribute to an integrated management framework;	2	
	d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:	2	
	- Contribution to vertical integration / fragmentation.		
e) Do the measures cohere with global, regional commitments (e.g., re climate change):	3		
- Contribution to vertical integration / fragmentation.			
f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.	4		
3. Proportionality	a) Are the measures likely to achieve their legitimate aims;	5	The strategy has legitimate aims and objectives
	b) Are the measures cost-effective;	2	The strategy does not detail activities and associated costs

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	<p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>4</p> <p>5</p>	<p>A centralised fund raising and pooling of funds is proposed</p>
4. Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<p>3</p>	<p>The scope of the strategy is deemed relevant to ICM. The strategy encompasses all the necessary elements and actions. Since climate change is a cross cutting issue, it may be worthwhile to explore incentives for climate change</p>
5. Consistency	<p>a) Do the measures promote (at least some) elements and objectives of ICM;</p> <p>b) Do the measure runs contrary to (certain) elements and objectives of ICM;</p> <p>c) Do the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p>2</p> <p>1</p> <p>4</p> <p>3</p>	<p>Elements and objectives of ICM are being promoted.</p> <p>No glaring conflicts or overlaps with national measures noted. However there are ambiguities in terms of timelines and financial resources linked to the proposed actions</p> <p>International and regional obligations form the basis for the strategy. This can be seen as enhancing vertical integration</p>
6. Participatory (ensuring equitable participation)	<p>a) Do the measures seek to raise awareness of (elements and objectives) of ICM;</p> <ul style="list-style-type: none"> • <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making</p>	<p>4</p> <p>2</p>	<p>The measure identifies raising awareness as one of the activities. The extent to which this will include ICM is unclear.</p> <p>Stakeholders are central theme in the strategy. A formation of a Climate change district or local committees are being proposed. Furthermore,</p>

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	<p>– by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	4	<p>community land use practices are promoted. However, there is sketchy detail in terms of the operation of the proposed structure as well as actions.</p> <p>The strategy is valid until 2027 and can periodically be reviewed to incorporate climate change issues as and when necessary</p>
7. Monitoring and evaluation	<p>a) Are procedure and processes for mainstreaming climate change adaptation being monitored and evaluated;</p> <p>b) Is the effectiveness of mainstreaming climate change adaptation on different levels (national, district, local) monitored and evaluated;</p> <p>c) Are assessments being undertaken of the benefits of climate change adaptation (e.g., socio-economic and ecosystems) to inform improvements to adaptation policy, strategy and plans.</p>	2	<p>There is mention of M&E plans that accompany the strategy. It is recommended that undertake a mid-term independent evaluation at the middle of the plan period and a terminal evaluation just before the end of the strategic plan period be carried out.</p>
		2	
		2	
8. Enabling environment	<p>a) Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for implementation of climate change adaptation strategies and plans.</p>	2	<p>Some of the identified challenges include</p> <p>Inadequate dedicated financing mechanisms to address climate change in the country and</p> <p>Weak institutional capacity for finance mobilization. In addition, there is weak institutional arrangements to undertake effective coordination of climate change aspects and lack of legal and regulatory frameworks to support effective coordination of climate change in the country. The enabling environment is therefore not conducive to implementation of climate change adaptation strategies.</p>

Nationally Determined Contribution 2017

Note: The scope of the strategy is deemed relevant to ICM. Measures for ICM are addressed in the policy under a number of sectors, for example intended policy based action under the water sector is conservation and management programme and the need to establish a national integrated water resources framework that incorporates district and community-based catchment management is highlighted. In the Agricultural sector issues include adjustment of planting dates and crop variety; improved land management. Other relevant ICM activities that are highlighted include “Management and Reclamation of Degraded and Eroded Land in the Flood Prone Areas” as well as “Conservation and Rehabilitation of Degraded Wetlands in the Mountain Areas.” It is not clear as to the extent to which the measure may contribute to the implementation of ICM. The measure mentions activities, without financial, human and timelines within which they will be implemented.

KEY CRITERIA	INDICATORS	SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness	a) Do the measures appropriately addresses key elements and objectives of ICM: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	4	<p>Measures for ICM are addressed in the policy as stipulated in section 3 that relates to policy statements.</p> <p>Intended policy based action under the water sector is conservation and management programme. In addition, there is a need to establish a national integrated water resources framework that incorporates district and community-based catchment management. In the Agricultural sector Adjustment of planting dates and crop variety; crop relocation; improved land management, e.g., erosion control and soil protection through tree planting. Other relevant activities are “Management and Reclamation of Degraded and Eroded Land in the Flood Prone Areas” as well as “Conservation and Rehabilitation of Degraded Wetlands in the Mountain Areas.”</p> <p>It is not clear as to the extent to which the measure may contribute to the implementation of ICM. The measure mentions activities, without financial, human and timelines within which they will be implemented</p>
	b) Do the measures create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and 	3	

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	- Financially sustainable.		
2. Holistic / Cross-sectoral	a) Do the measure links land and water use across the entire catchment area?	4	<p>ICM is one of the key focus areas.</p> <p>Social and economic development are taken into consideration as the policy is aligned to national strategic goals (guided by Lesotho Vision 2020 and the five-year National Strategic Development Plan (NSDP).</p> <p>The document is aligned with the second National Strategic Development Plan (NDSP II) and the National Adaptation Programme of Actions (NAPA).</p> <p>The policy measures are aligned to UNFCCC, SDG's, African Union Agenda 2063 and other agreements ratified by the country</p> <p>There is no mention of consideration on planned and completed major infrastructure projects in the country</p>
	b) Do the measure links social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation.	4	
	c) Do the measure create or contribute to an integrated management framework;	3	
	d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation.	3	
	e) Do the measures cohere with global, regional commitments (e.g., re climate change): - Contribution to vertical integration / fragmentation.	2	
	f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.	4	
3. Proportionality	a) Are the measures likely to achieve their legitimate aims;	3	<p>The document has legitimate aims and objectives</p> <p>The implementation of the NDC is through the NCCC that is a multi-stakeholder forum responsible for coordination and advising government on climate change issues.</p>
	b) Are the measures cost-effective;	2	
	c) Does the measure interfere to the least extent necessary with established interests, practices or policies;	4	

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	d) e) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.	5	Financing is captured as one of the main barriers of implementation. However there is no further discussion on costs and benefits across sectors
4. Currency	a) Are the measures outdated: - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures).	3	The scope of the NDC is deemed relevant to ICM.
5. Consistency	a) Do the measures promote (at least some) elements and objectives of ICM;	4	Elements and objectives of ICM are being promoted. There are no conflicting issues in relation to ICM objectives No obvious conflicts or overlaps noted. However, there are ambiguities in terms of timelines and financial resources linked to the proposed actions International and regional obligations form the basis for the policy. This can be seen as enhancing vertical integration
	b) Do the measure runs contrary to (certain) elements and objectives of ICM;	4	
	c) Do the measures conflict with other national measures: - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application.	4	
	d) Do the measures take account of international and regional commitments, especially regarding transboundary basins: - Contribution to vertical integration / fragmentation.	3	
6. Participatory (ensuring equitable participation)	a) Do the measures seek to raise awareness of (elements and objectives) of ICM;	4	The measure identifies raising awareness as one of the activities. The extent to which this will include ICM is unclear. Stakeholder engagement is carried out through the (NCCC) that was formally established in 2013. The Committee is a multi-stakeholder forum chaired by the Ministry. It also serves as
	b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;	2	
	c) Do the measures promote public / stakeholder participation in decision-making	4	

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	<p>– by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	3	<p>platform for information sharing on climate change issues in the country. The current structure needs to bring on board other stakeholders such as Local Government as well as the Private Sector.</p> <p>The is recognised as a living document and can be updated as and when necessary</p>
7. Monitoring and evaluation	<p>a) Are procedure and processes for mainstreaming climate change adaptation being monitored and evaluated;</p> <p>b) Is the effectiveness of mainstreaming climate change adaptation on different levels (national, district, local) monitored and evaluated;</p> <p>c) Are assessments being undertaken of the benefits of climate change adaptation (e.g., socio-economic and ecosystems) to inform improvements to adaptation policy, strategy and plans.</p>	3 3 2	<p>The NDC M&E is the responsibility of the Ministry of Development Planning and other sectoral ministries. These however does not include the participation of the private sector. The role of district and local authorities is not highlighted.</p> <p>There is no evidence that the planned M&E assessments were undertaken particularly with regards to climate change adaptation. Strengthening monitoring and evaluation at the local level would have a positive impact on ICM and climate change adaptation implementation.</p>
8. Enabling environment	<p>a) Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for implementation of climate change adaptation strategies and plans.</p>	2	<p>Key barriers identified are financial, institutional, access to technology and research and monitoring. The impression from the NDC is that the enabling environment is poor.</p>

Lesotho’s National Adaptation Programme Of Action (Napa) On Climate Change

Note: The NAPA does not directly address ICM although some of the proposed projects directly link to enhancing catchment conditions. Pertinent ICM measures include enhancing catchments conditions, rehabilitation of degraded wetlands, reclamation of eroded lands and securing water supply in the drought prone southern districts. Other critical aspects such as maintenance of ecosystems, range management and rights based approaches do not feature. The common challenge for the proposed projects in the NAPA is the lack financial resources and weak coordination of activities between stakeholders. This suggests there is a weak enabling environment.

KEY CRITERIA	INDICATORS	SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness	a) Do the measures appropriately addresses key elements and objectives of ICM: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	2	<p>Some key aspects of ICM are discussed. However, the scope is limited to localised individual projects in the main.</p> <p>The programme does not detail how decision-making would be done at the lowest level. Rather it provides a set of projects that could be pursued for climate change mitigation</p> <p>The proposed projects do not provide details on the timelines, finances and other details to determine how they may contribute to ICM in the country.</p>
	b) Do the measures create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	2	
2. Holistic / Cross-sectoral	a) Do the measure links land and water use across the entire catchment area?	2	<p>The document hardly mentions ICM although some of the proposed projects directly link to enhancing catchment conditions.</p> <p>The criteria applied to select projects does consider social and economic aspects.</p> <p>Proposed measures can potentially contribute to an integrated management framework as planning and ranking of projects was done by a multi-stakeholder team</p>
	b) Do the measure links social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 	4	
	c) Do the measure create or contribute to an integrated management framework;	3	
	d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:	4	

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	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>4</p> <p>2</p>	<p>Reference of MDG's, Poverty alleviation and other strategies</p> <p>In this way, the document aligns and contributes to vertical integration.</p> <p>There seems to provide a list of prioritised climate change projects at the time. Participating stakeholders members drawn from the Private Sector, Government Departments, Local Councils, Local Initiators, Civic Associations, Development Agencies, National University and NGOs</p> <p>The programme is an initiative of UNFCCC in assisting least developed countries to adapt to climate change.</p> <p>No due consideration to infrastructure projects or infrastructure investments is made .</p>
3. Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>3</p> <p>2</p> <p>4</p> <p>3</p>	<p>The action programme does have legitimate aims and objectives. It is however not clear if they will be achieved as the NAPA identifies a number of stand-alone projects</p> <p>No cost benefit analyses was done on each project</p> <p>The proposed measures are standalone projects specific that do not interfere with interests, policies and practises.</p> <p>The costing was done in partnership with the responsible ministries. It is highly likely that the budgets are reasonable as sector specialists were involved in drawing up the budget</p>
4. Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<p>3</p>	<p>The NAPA is outdated (prepared in 2007) and has largely been updated trough the Climate Change Policy of 2017. However, some of the proposed measures are relevant to ICM. Other objectives such as rights based approach, policy harmonisation and sustainable human</p>

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			settlements do not feature in the proposed projects.
5. Consistency	a) Do the measures promote (at least some) elements and objectives of ICM;	5	A number of elements and objectives of ICM are being promoted.
	b) Do the measure runs contrary to (certain) elements and objectives of ICM;	2	These are based on sectoral interventions that are in line with mandates of role players.
	<ul style="list-style-type: none"> • c) Do the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	4	No obvious conflicts or overlaps noted. However, there are ambiguities in terms of timelines and financial resources linked to the proposed actions
	d) Do the measures take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	3	International and regional obligations form the basis for the policy. This can be seen as enhancing vertical integration
6. Participatory (ensuring equitable participation)	a) Do the measures seek to raise awareness of (elements and objectives) of ICM;	4	The NAPA consultative process adopted a multi-disciplinary approach that was designed in a way that would allow successful implementation of the priority activities. The process entailed ten key establishment of multidisciplinary Team, Synthesizing material related to NAPA process, conducting participatory Vulnerability assessment, Stakeholder consultations, Compilation of potential NAPA activities, Prioritisation and screening of NAPA Activities, ranking of the NAPA activities, formulation of project profiles, compilation of the NAPA document and review and adoption of the NAPA. Furthermore, consultations were done in through workshops in the ten districts
	b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;	2	
	c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	4	
	d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.		

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		5	The activities in the NAPA have been reviewed in several documents produced after it was published.
7. Monitoring and evaluation	a) Are procedure and processes for mainstreaming climate change adaptation being monitored and evaluated;	4	Each proposed project has a monitoring and evaluation component Although the projects are overseen by national departments, projects stakeholders include NGO's and local authorities
	b) Is the effectiveness of mainstreaming climate change adaptation on different levels (national, district, local) monitored and evaluated;	4	
	c) Are assessments being undertaken of the benefits of climate change adaptation (e.g., socio-economic and ecosystems) to inform improvements to adaptation policy, strategy and plans.	2	
8. Enabling environment	a) Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for implementation of climate change adaptation strategies and plans.	3	The common challenge for the proposed projects in the NAPA is the lack financial resources and weak coordination of activities between stakeholders. This suggests there is a weak enabling environment.

Lesotho's Second National Communication To COP Of UNFCCC 2013

Notes: This document incorporates relevant ICM measures including land degradation, erosion, pollution of water resources, rangeland management and preservation of wetland ecosystems. The document does not however address decision making particularly at the lowest level. Community based organisations, NGOs and local authorities play a role in climate change mitigation. It is not clear as to the extent to which the measure may contribute to the implementation of ICM. The measure mentions activities, without financial, human and timelines within which they will be implemented.

KEY CRITERIA	INDICATORS	SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness	a) Do the measures appropriately addresses key elements and objectives of ICM: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	4	<p>Pertinent ICM measures include land degradation, erosion, pollution of water resources, rangeland management and preservation of wetland ecosystems.</p> <p>The document is however silent on decision making particularly at the lowest level. Community based organisations, NGO's and local authorities play a role in climate change mitigation.</p> <p>It is not clear as to the extent to which the measure may contribute to the implementation of ICM. The measure mentions activities, without financial, human and timelines within which they will be implemented</p>
	b) Do the measures create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	3	
2. Holistic / Cross-sectoral	a) Do the measure links land and water use across the entire catchment area?	2	<p>The document hardly recognise ICM but rather looks at key elements in isolation.</p> <p>Social and economic development are taken into consideration as the document is aligned to Poverty alleviation strategy, Lesotho Vision 2020 and the five-year National Strategic Development Plan (NSDP).</p> <p>The policy measures are aligned to UNFCCC, SDG's, African Union Agenda 2063 and other agreements ratified by the country</p>
	b) Do the measure links social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 	4	
	c) Do the measure create or contribute to an integrated management framework;	3	
	d) Do the measures link with the broader National Development Strategy / Planning		

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	<p>Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	4	The document was prepared in line with UNFCCC reporting template
		5	There seems to be consideration of planned and completed major infrastructure projects in the country
		4	
3. Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d)</p> <p>e) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	3	The strategy has legitimate aims and objectives
		2	The strategy does not detail associated costs and timelines to activities
		4	The proposed measures are sector specific and do not interfere with interests, policies and practises.
		2	A mechanism for cost benefit analyses is lacking
4. Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	3	The measures proposed in the report strategy are deemed relevant to ICM. However, other issues such as the role of local government and community based organisations seems to be lacking. In addition, the NCCC needs to be legislated to facilitate coordination of all activities.
5. Consistency	<p>a) Do the measures promote (at least some) elements and objectives of ICM;</p> <p>b) Do the measure runs contrary to (certain) elements and objectives of ICM;</p>	5	A number of elements and objectives of ICM are being promoted.
		2	These are based on sectoral interventions that are in line with mandates of role players.

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	<p>c) Do the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p>4</p> <p>3</p>	<p>No obvious conflicts or overlaps noted. However, there are ambiguities in terms of timelines and financial resources linked to the proposed actions</p> <p>International and regional obligations form the basis for the policy. This can be seen as enhancing vertical integration</p>
6. Participatory (ensuring equitable participation)	<p>a) Do the measures seek to raise awareness of (elements and objectives) of ICM;</p> <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>4</p> <p>2</p> <p>4</p> <p>3</p>	<p>The measure identifies raising awareness as one of the critical activities. It proposes formally introducing climate change in the curricula, whereas other topics such as land degradation, environmental management and Geography/Biology are already incorporated. The extent to which this will include ICM is unclear.</p> <p>Stakeholder engagement is done through an Ad hoc inter-disciplinary and inter-sectoral National Climate Change Committee (NCCC) comprising of relevant Government Agencies, Academia, the Private sector and Non-Governmental Organizations (NGOs). Perhaps the NCCC needs to be legislated so that it becomes easier to discharge their mandate.</p> <p>The country prepares UNFCCC communication reports from time to time.</p>
7. Monitoring and evaluation	<p>a) Are procedure and processes for mainstreaming climate change adaptation being monitored and evaluated;</p> <p>b) Is the effectiveness of mainstreaming climate change adaptation on different levels (national, district, local) monitored and evaluated;</p>	<p>2</p> <p>2</p>	<p>The document does not cover monitoring and evaluation of proposed measures.</p> <p>The role of district and local level authorities does not feature. Strengthening monitoring and evaluation at the local level would have a</p>

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	c) Are assessments being undertaken of the benefits of climate change adaptation (e.g., socio-economic and ecosystems) to inform improvements to adaptation policy, strategy and plans.	2	positive impact on ICM and climate change adaptation implementation.
8. Enabling environment	a) Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for implementation of climate change adaptation strategies and plans.	2	The main barriers of implementation include lack of capacity to implement the proposed measures, financial resources and weak institutional arrangements. This suggests there is a weak enabling environment.

National Strategic Development Plan II 2018/19-2022/23

Notes: NSDP II mainstreams Climate Change, Environment, Gender and Social Inclusion across all sectors, and recognises that these are crucial for the realization of inclusive growth. The NSDP II highlights that it is imperative that the strategy for employment creation and growth takes cognizance of climate change adaptation. It particularly emphasises the agriculture sector and rangeland management as two key strategic areas of consideration from a climate change adaptation perspective. NSDP II has a strong national focus with reference to local government mandates/devolution, multisectoral. A number of sectors relevant to ICM are described, but through silo approach (lacking integration). The Plan includes consideration of socio-economic domains, and also provides very useful insights into the results of evaluation of NSDP I. While there is considerable budgeting detail, this is mainly at national level.

KEY CRITERIA	INDICATORS	SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness	a) Do the measures appropriately addresses key elements and objectives of ICM: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. b) Do the measures create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	5	National level focus with references to local government mandates/devolution, multisectoral;

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2. Holistic / Cross-sectoral	<p>a) Do the measure links land and water use across the entire catchment area?</p> <p>b) Do the measure links social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation.</p> <p>c) Do the measure create or contribute to an integrated management framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation.</p> <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change): - Contribution to vertical integration / fragmentation.</p> <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>4</p> <p>5</p> <p>3</p> <p>5</p> <p>5</p> <p>5</p>	<p>Related sectors described, but through silo approach;</p>
3. Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p>	<p>5</p>	<p>Comprise socio-economic domains, including useful inclusion of results of evaluation of NSDP I;</p>

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	<p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>		Considerable budgeting, mainly national level; Inclusive;
4. Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	5	
5. Consistency	<p>a) Do the measures promote (at least some) elements and objectives of ICM;</p> <p>b) Do the measure runs contrary to (certain) elements and objectives of ICM;</p> <p>c) Do the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	5	Water, Land, agriculture and range considerable attentions; Refer to above Refer to above Refer to above
6. Participatory (ensuring equitable participation)	<p>a) Do the measures seek to raise awareness of (elements and objectives) of ICM;</p> <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	5	
7. Monitoring and evaluation	<p>a) Are procedure and processes for mainstreaming climate change adaptation being monitored and evaluated;</p> <p>b) Is the effectiveness of mainstreaming climate change adaptation on different levels (national, district, local) monitored and evaluated;</p> <p>c) Are assessments being undertaken of the benefits of climate change adaptation (e.g., socio-economic and ecosystems) to inform improvements to adaptation policy, strategy and plans.</p>	5	

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8. Enabling environment	a) Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for implementation of climate change adaptation strategies and plans.	5	
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Guidelines for the integration of climate change in national, sectoral and local policies, strategies and development plans

Notes: *The Guidelines are highly applicable to ICM and describe ICM as an integrated approach towards water and land resources management. The document addresses mandates and capacities (or the lack thereof) at national and local level, as well as the need for inter-ministerial/ inter-departmental linkages. The document provides valuable detail including application at national and local, real examples, as well as monitoring procedures/suggested indicators. The lack of decentralisation and consequences are also highlighted. The document includes useful suggestions for developing bottom-up/top down approach. There is a gap in terms of financial sustainability, which is not adequately developed, as well as reference to regional and transboundary issues.*

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	<p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>4</p> <p>2</p>	<p>Positively to global guidelines and policies. Regional links could have been more elaborate;</p> <p>It does not, limited attention for the private sector or options for PPP;</p>
3. Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>5</p> <p>5</p> <p>5</p> <p>2</p>	<p>Provided adequate capacity developed, yes;</p> <p>Provided mandates and enforcement is well arranged for, positive score expected;</p> <p>It does express the need to be cautious about such interference and does practice this in procedures;</p> <p>Financial costing details not included;</p>
4. Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<p>5</p>	<p>Positive</p>
5. Consistency	<p>a) Do the measures promote (at least some) elements and objectives of ICM;</p> <p>b) Do the measure runs contrary to (certain) elements and objectives of ICM;</p> <p>c) Do the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p>5</p> <p>5</p> <p>5</p> <p>4</p>	<p>Guidelines very well applicable to ICM;</p> <p>It does not;</p> <p>Not conflicting, shows a gap in view of financing/costing;</p> <p>Strong in global, however limited in view of regional application and transboundary;</p>
6. Participatory (ensuring equitable participation)	<p>a) Do the measures seek to raise awareness of (elements and objectives) of ICM;</p>	<p>5</p> <p>5</p> <p>5</p>	<p>Various examples for need of land and water management mentioned;</p> <p>Strong focus on stakeholders' participation, monitoring and beneficiary accountability;</p>

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	<ul style="list-style-type: none"> b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 	5	Positive; Positive, monitoring, indicators and procedures worked out;
7. Monitoring and evaluation	<ul style="list-style-type: none"> a) Are procedure and processes for mainstreaming climate change adaptation being monitored and evaluated; b) Is the effectiveness of mainstreaming climate change adaptation on different levels (national, district, local) monitored and evaluated; c) Are assessments being undertaken of the benefits of climate change adaptation (e.g., socio-economic and ecosystems) to inform improvements to adaptation policy, strategy and plans. 	5 5 5	Positive, monitoring procedure identified in detail; Positive; Positive;
8. Enabling environment	<ul style="list-style-type: none"> a) Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for implementation of climate change adaptation strategies and plans. 	4	All positive with exception of coating and finance;

SADC Climate Change Year Book 2016

Notes: *This document provides comprehensive overview of international and regional obligations and commitments that need to be considered, while also providing insights into national level initiatives and how these relate to the regional aims and objectives. This includes reference to a number of sectors relevant to ICM for example water and biodiversity. This document also provides useful insights from examples and case studies of climate change interventions across SADC Member States. This is therefore a key document for guiding harmonisation at a national level that is consistent with regional conventions and obligations.*

In summary, the material addressed that will be considered in the next phase of the review include:

- *International* - The SADC is committed to international conventions such as the UNFCCC and Kyoto Protocol. All SADC countries have joined the UNFCCC. The Kyoto Protocol legally binds countries to reduce greenhouse gas emissions (GHG) and SADC Member States are included.
 - *The UNFCCC on Adaptation and Mitigation*
 - *Convention on Biodiversity*
- *Regional Policies and Strategies*
 - *The SADC Declaration and Treaty (1992) - One of the objectives of the SADC Treaty is to ensure sustainable use of natural resources and effective protection of the environment. Member States agreed to proactively co-operate and show their commitment in areas of food security, land and agriculture, infrastructural services, natural resources, social welfare, information and culture.*
 - *SADC Regional Indicative Strategic Development Plan - The SADC Regional Indicative Strategic Development Plan (RISDP) was developed in 2003. The SADC RISDP acknowledges climate change as an environmental challenge within the region. The overall goal of the regional environmental intervention envisaged by the RISDP is to ensure the equitable and sustainable use of the environment and natural resources for the benefit of present and future generations.*
 - *SADC Regional Water Policy (2005) outlines specific policy principles around water management in the region.*
 - *SADC Regional Biodiversity Strategy (2008) - The vision, goals and objectives of the Biodiversity Strategy is to “conserve biodiversity across the Southern African Development Community (SADC) and to sustain the region’s economic and social development in harmony with the spiritual and cultural values of its people. Its goal is to promote equitable and regulated access to, sharing of benefits from, and responsibilities for protecting biodiversity in the SADC region”.*
 - *Climate Change Strategy for the Water Sector (2011) - The Climate Change Adaptation Strategy for the water sector in SADC reflects the different dimensions of adaptation and promotes a multidimensional approach to climate change adaptation in the water sector. This is in line with Integrated Water Resource Management (IWRM). The strategy also highlights implementation of adaptation measures at different levels, at different stages of the adaptation process and in different intervention areas.*
 - *SADC Disaster Risk and Strategic Plan (2011) - SADC established a Disaster Risk Reduction (DRR) unit which is responsible for coordinating regional preparedness and response programmes for trans-boundary hazards and disasters. The disaster risk and strategic plan sets out the strategic direction to achieve the long term goal of building resilience in the SADC region and their communities to the impact of climate related disasters. It includes for example the Environmental, Climate Change, Water, Natural Resources Management Programmes.*
 - *Food, Agriculture and Natural Resources (FANR) Programmes - The Institutional framework presents the main strategies for implementation of the Food Agriculture and Natural Resources (FANR) long term plan as reflected in the RISDP*
 - *SADC Climate Change Strategy and Action Plan (2015) - Aims to provide a broad outline for harmonised and coordinated Regional and National actions. The strategy takes account of the need for improved adaptation to the impacts of climate change bearing in mind the diverse and gender differentiated levels of vulnerabilities that are more pressing for the region (SADC, 2015b). However, it also aims to trigger and support nationally, and regionally appropriate mitigation*

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actions given mitigation’s potential opportunities for sustainable development. The Climate Change Strategy aims to guide the implementation of Climate Change Programmes over a fifteen year period (2015- 2030). The sectors that are most vulnerable to climate change in the region include Water Resources, infrastructure, Biodiversity, Health, Tourism, Agriculture, Energy, Fisheries, Mining and other Extractive Industries and Human Settlements. Other measures suggested by the SADC Climate Change Strategy and Action Plan (2015b) are to reduce indirect and direct water pollution, prioritise capacity development for water data analysis and water balance and a better understanding of current and future climate change, improve capacity for water data collection and management and up scaling research and development for preservation of water.

- *Other SADC Protocols*
 - *Protocol on Shared Water Resources - was agreed by members in 1995 and ratified in 1998. The 2000 Revision of the Water Protocol emphasised a basin-wide approach to water management rather than accentuating the principle of territorial sovereignty. As much of Southern Africa relies on agriculture for its subsistence, water is of special concern for SADC. Many watercourses in the region are shared among several Member States, a situation that demands their development in an environmentally sound manner.*
 - *Protocol on Environmental Management - for Sustainable Development The main aims of the SADC Protocol on Environmental Management and Sustainable Development are to: (a) enhance the protection of the environment in order to contribute to human health, wellbeing and poverty alleviation; (b) promote equitable and sustainable utilisation of natural and cultural resources and the protection of the environment for the benefit of the present and future generations; (c) promote the shared management of trans-boundary environment and natural resources; and (d) Promote effective management and response to impacts of climate change and variability.*
- *Other SADC Responses to Climate*
 - *Change Challenges and Impacts*
 - *Supporting Measures*

KEY CRITERIA	INDICATORS	SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness	a) Do the measures appropriately addresses key elements and objectives of ICM: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. b) Do the measures create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and 	5	Provides comprehensive overview of regional obligations and commitments that need to be considered, which also providing insights into national level initiatives and how these relate to the regional aims and objectives. Also includes examples and case studies.

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	- Financially sustainable.		
2. Holistic / Cross-sectoral	<p>a) Do the measure links land and water use across the entire catchment area?</p> <p>b) Do the measure links social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Do the measure create or contribute to an integrated management framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	5	<p>Section 5 addresses natural environmental key elements of ICM at national as well as at transboundary / regional level</p> <p>Section 6 addresses key interrelated objectives such as Agriculture, Livelihoods and Food Security, and the Green Economy</p>
3. Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	3	Reflects differences at national level across the SADC member states. Does not address cost effectiveness or distribution of costs and benefits across member states but does highlight that evidence of compliance with SADC level conventions to improve access to international climate change adaptation related finance. Technically this could offset costs.
4. Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	4	Covers innovative measures up to 2016, but largely still relevant
5. Consistency	<p>a) Do the measures promote (at least some) elements and objectives of ICM;</p> <p>b) Do the measure runs contrary to (certain) elements and objectives of ICM;</p> <p>c) Do the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or 	5	Measures are highly consistent in promoting the full range of key elements of ICM as well as the interrelated objectives

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	<ul style="list-style-type: none"> - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
6. Participatory (ensuring equitable participation)	<p>a) Do the measures seek to raise awareness of (elements and objectives) of ICM;</p> <ul style="list-style-type: none"> • <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	4	<p>High level of emphasis of participation between member states.</p> <p>Less detail on participation at national levels however it does highlight that “SADC seeks to increase the capacity of its members through its newly drafted Disaster Risk, aimed at strengthening participation of civil society in regional policy dialogue by improving knowledge base through evidence-based research information”.</p>
7. Monitoring and evaluation	<p>a) Are procedure and processes for mainstreaming climate change adaptation being monitored and evaluated;</p> <p>b) Is the effectiveness of mainstreaming climate change adaptation on different levels (national, district, local) monitored and evaluated;</p> <p>c) Are assessments being undertaken of the benefits of climate change adaptation (e.g., socio-economic and ecosystems) to inform improvements to adaptation policy, strategy and plans.</p>	4	<p>While monitoring and evaluation is not highlighted as a key component, the need for M&E is embedded throughout the document as integral to climate change adaptation.</p>
8. Enabling environment	<p>a) Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for implementation of climate change adaptation strategies and plans.</p>	3	<p>Legal requirements are outlined in terms of the obligations of member states, but not in terms of systems.</p> <p>Financing opportunities are highlighted as an element of encouraging and enhancing compliance and implementation of the range of regional commitments.</p>

SADC Climate Change Adaptation Strategy and Action Plan (2015)

Notes: The SADC CCSAP strategy is in line with and aims to achieve global and continental objectives as set by the United Nations Framework Convention on Climate Change (UNFCCC), the Africa Union Commission (AUC) and the Regional Development Agenda. Provides overview of main regional policies, strategies and protocols in key sectors Addressed strategies and actions for a number of sectors that include key elements of ICM e.g. agriculture, biodiversity, water. As well as interrelated objectives such as human health, tourism, infrastructure, mining. But little integration. Provides a detailed Adaptation Action Plan including expected outputs, responsibilities, recommended timeframes, and costs. Recognises that the current capacity and institutional arrangement for the effective implementation and coordination of the strategy at both Secretariat and Member State level is inadequate and highlights that effective implementation of the strategy will require capacity to be improved. Provides guidelines of financing options although no direct assistance to accessing resources is provided.

KEY CRITERIA	INDICATORS	SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness	a) Do the measures appropriately addresses key elements and objectives of ICM: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. b) Do the measures create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	4	The SADC CCSAP strategy is in line with and aims to achieve global and continental objectives as set by the United Nations Framework Convention on Climate Change (UNFCCC), the Africa Union Commission (AUC) and the Regional Development Agenda. It addresses key elements of ICM broadly rather than Lesotho specific.
2. Holistic / Cross-sectoral	a) Do the measure links land and water use across the entire catchment area? b) Do the measure links social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. c) Do the measure create or contribute to an integrated management framework; d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. e) Do the measures cohere with global, regional commitments (e.g., re climate change): <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	4	Addresses strategies and actions for a number of sectors that include key elements of ICM e.g., agriculture, biodiversity, water. As well as interrelated objectives such as human health, tourism, infrastructure, mining. But little integration across elements / sectors.

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	f) Do the measures take account of any recent, current or impending significant infrastructure investments or commercial development need.		
3. Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	5	A strong strategy and action plan is proposed that will significantly assist the achievement of objectives if resources required are available.
4. Currency	<p>a) Are the measures outdated:</p> <p style="margin-left: 20px;">a. Obsolete in objectives, scope of application or approach;</p> <p style="margin-left: 20px;">b. Requiring updating (e.g., regarding penalties); or</p> <p style="margin-left: 20px;">c. Requiring consolidation / codification (regarding amending measures).</p>	4	Although developed in 2015, remains relevant and current.
5. Consistency	<p>a) Do the measures promote (at least some) elements and objectives of ICM;</p> <p>b) Do the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Do the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
6. Participatory (ensuring equitable participation)	<p>a) Do the measures seek to raise awareness of (elements and objectives) of ICM;</p> <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	4	Proposes requirements for Communication, Advocacy and Awareness. Also highlights the fact that Institutional Arrangements and Governance systems need to reflect the fact that climate change is a multi-disciplinary and cross-cutting issue. Presents importance of requirement for close coordination of relevant stakeholders at all levels including international, regional, national and local levels.

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7. Monitoring and evaluation	<p>a) Are procedure and processes for mainstreaming climate change adaptation being monitored and evaluated;</p> <p>b) Is the effectiveness of mainstreaming climate change adaptation on different levels (national, district, local) monitored and evaluated;</p> <p>c) Are assessments being undertaken of the benefits of climate change adaptation (e.g., socio-economic and ecosystems) to inform improvements to adaptation policy, strategy and plans.</p>	4	<p>Highlights need for Monitoring and Evaluation (M&E) framework to track the performance and impact of implementation of climate change strategy. Emphasises that the monitoring and evaluation framework should include participatory identification of challenges, constraints, success factors as a basis for conclusions, lessons learned and decision on courses of action or change. Proposes need for standardized monitoring, evaluation and reporting framework comprising:</p> <ul style="list-style-type: none"> • Harmonizing M&E systems, format and reporting channels. • Strengthening capacity of SADC Member States in M&E of climate change programmes. • Developing mechanisms for recognition of excellent performance in climate change response actions. • Promote replication and up-scaling of M&E best practices. • Undertake regular reviews of climate change programmes and their impacts on economy and society, and report through the established organs.
8. Enabling environment	<p>a) Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for implementation of climate change adaptation strategies and plans.</p>	4	<p>Strategy for implementation highlights key elements for climate change finance and resource mobilization including bilateral, multilateral and international market based instruments including emissions trading systems. Also highlights need for capacity development and technology development and transfer interventions.</p>

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			<ul style="list-style-type: none"> – Key Focus Area II: Climate Change, Water Resources and Environmental Management – Key Focus Area III: Water, Sanitation and Hygiene – Key Focus Area IV: Regulated Water and Sewerage Services – Key Focus Area V: Water Resource Development – Key Focus Area VI: Sector Resource Planning, Coordination and M&E
		5	
	b) Do the measure links social and economic development with protection of natural ecosystems:	5	
	- Contribution to horizontal integration / fragmentation.		The strategy provides for useful comments on funding requirements for each of the key focal areas, however these are not worked out into detail;
	c) Do the measure create or contribute to an integrated management framework;	5	
			The strategy has an explicit district focus and one of the aims is to support poverty alleviation at catchment level;
	d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:	3	
	- Contribution to vertical integration / fragmentation.	4	Does strategize a cross sectoral approach whereby management is decentralised. Although clear about the need to decentralise the strategy does not suggest to wait for decentralisation before ICM is implemented. It Describes the need for a common finance mechanism for water sector wide ;
	e) Do the measures cohere with global, regional commitments (e.g., re climate change):		The strategy describes the ‘Water Sector and the National Context’, Sector Policy, Strategic and Legal Framework’, ‘Institutional Context’ and ‘Recent Developments related to Institutional Roles and Responsibilities’. This describes the current situation, the institutional and organisational setting and constraints

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	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. - <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		<p>towards establishment of ICM. Lists the key policy documents;</p> <p>The Strategy does describe the need for a regional approach mainly from regional economic perspective and limits itself to Lesotho Highlands Water Project (LHWP). The vision on regional integration related to CCA is broader and more forward looking;</p> <p>Takes the current state of affairs well into account, including the constraints which have manifested themselves over the past time;</p>
3. Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>5</p> <p>2</p> <p>5</p> <p>5</p>	<p>A stepwise strong strategy is proposed which describes Strategic Aims and related activities. Resources required are generalised for implementation of the Strategy, not against the Focal areas;</p> <p>Not identified on focal area level;</p> <p>The Strategy does build on existing policies etc and comes with suggestion for review and abolish and provide for more up to date legislation;</p> <p>The Strategy is fully cross sectoral and does prioritise local community and community council involvement and participation and capacity development;</p>
4. Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> a. Obsolete in objectives, scope of application or approach; b. Requiring updating (e.g., regarding penalties); or 	<p>5</p>	<p>Fully relevant and up to date;</p>

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	c. Requiring consolidation / codification (regarding amending measures).		
5. Consistency	<p>a) Do the measures promote (at least some) elements and objectives of ICM;</p> <p>b) Do the measure runs contrary to (certain) elements and objectives of ICM;</p> <p>c) Do the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. - <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p>5</p> <p>5</p> <p>5</p> <p>Rr: 3</p>	<p>Strong in integrating water, land, environment, institutional and legislation, integrating many if not all elements of ICM;</p> <p>None:</p> <p>None</p> <p>Mainly related to the national projects and projects such as LHWP:</p>
6. Participatory (ensuring equitable participation)	<p>a) Do the measures seek to raise awareness of (elements and objectives) of ICM;</p> <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p>	<p>5</p> <p>5</p> <p>5</p> <p>3</p>	<p>Creating awareness is a crosscutting activity from the level of the high politics through to the community levels and local leadership. The Strategy is relevant as it is most comprehensive on all facets of ICM/IWRM and more or less recently approved by the cabinet;</p> <p>It does strategize to strengthen governance at the local level and includes restructuring at the community council and district level with ensured input and influence of stakeholders in local governance;</p>

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	<p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>		<p>Fully</p> <p>The monitoring procedure in the strategy needs improvement as it does not able to provide overview of the full processes described in the strategy;</p>
7. Monitoring and evaluation	<p>a) Are procedure and processes for mainstreaming climate change adaptation being monitored and evaluated;</p> <p>b) Is the effectiveness of mainstreaming climate change adaptation on different levels (national, district, local) monitored and evaluated;</p> <p>c) Are assessments being undertaken of the benefits of climate change adaptation (e.g., socio-economic and ecosystems) to inform improvements to adaptation policy, strategy and plans.</p>	3	<p>The monitoring procedure in the strategy needs improvement as it does not able to provide overview of the full processes described in the strategy;</p>
8. Enabling environment	<p>a) Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for implementation of climate change adaptation strategies and plans.</p>	4	<p>Strategy for implementation highlights key elements for climate change finance and resource mobilization.</p>

Improvement of Early Warning System to Reduce Impacts of Climate Change and Capacity Building to Integrate Climate Change into Development Plans

Note: This is a review of the quality of the results of the project itself. The priority rating is therefore low. Nevertheless, with the focus of trial and implementation is essentially on integrated land and water management and vegetation, there are lessons to be learned from the review.

KEY CRITERIA	INDICATORS	SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness	a) Do the measures appropriately addresses key elements and objectives of ICM: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	2	Mandate inadequately operationalised and administered; <ul style="list-style-type: none"> - Implemented with limited de-facto subsidiarity; - Limited coverage and participation; - Primarily top down approach;
	b) Do the measures create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	1	Scope and quality of conduct inadequate; <ul style="list-style-type: none"> - de-facto limited results; - limited identification of lessons learned; - and broadcasted;
2. Holistic / Cross-sectoral	a) Do the measure links land and water use across the entire catchment area? <ul style="list-style-type: none"> • 	3	Water and land management components are focussed on; <ul style="list-style-type: none"> - Stakeholders and beneficiaries hardly involved;
	b) Do the measure links social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 	2	Limited planning and effectiveness to contribute on Socio-econ development; <ul style="list-style-type: none"> - Project did not align with opinions in the communities and few results were felt not to be relevant;
	c) Do the measure create or contribute to an integrated management framework;	1	No contribution made;

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	<p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid-to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	3	Project is linked to national level strategies and planning, no feedback to national level due to lack of monitoring effectiveness;
		3	In general terms it aligns with and is coherent with regional commitments;
		1	It is implemented in relative isolation from investments or commercialisation opportunities; After delayed initiation limited support and monitoring leading to limited results;
3. Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	1	Due to poor conduct of project cycle, lack of stakeholder integration at various levels and subsidiarity limited spin off;
		1	Highly cost-ineffective against de-facto results;
		2	Limited association with established interests, etc, hence no interference;
		1	Hardly identifiable benefits;
4. Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	2	Measures are relevant and could be effective in the Lesotho context; Scope of the project is too limited and would show in case of successful implementation very high unit costs; A broad multi-stakeholder, including local beneficiaries planning and implementation format in the strategy is lacking; Lessons learned to be feed forward to follow up programming. Such procedure would require consolidation;
5. Consistency	<p>a) Do the measures promote (at least some) elements and objectives of ICM;</p> <p>b) Do the measure runs contrary to (certain) elements and objectives of ICM;</p> <p>c) Do the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	4	The focus of trial and implementation is essentially on integrated land and water management and vegetation;
		5	Essentially well in line;
		3	Essentially the arrangement is supportive, but underrates its capacity to reinforce and support other national measures;

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	d) Do the measures take account of international and regional commitments, especially regarding transboundary basins: - Contribution to vertical integration / fragmentation.	3	The project design towards Early working in aligned with international and regional arrangements, various references made to SADC and UN system;
6. Participatory (ensuring equitable participation)	a) Do the measures seek to raise awareness of (elements and objectives) of ICM;	2	his objective is essentially in the narrative but not operationalise;
	b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;	2	Refer to a);
	c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	2	Refer to a);
	d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	2	Refer to a);
7. Monitoring and evaluation	a) Are procedure and processes for mainstreaming climate change adaptation being monitored and evaluated; b) Is the effectiveness of mainstreaming climate change adaptation on different levels (national, district, local) monitored and evaluated; c) Are assessments being undertaken of the benefits of climate change adaptation (e.g., socio-economic and ecosystems) to inform improvements to adaptation policy, strategy and plans.	1	Not included; Inadequate; Inadequate;
8. Enabling environment	a) Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for implementation of climate change adaptation strategies and plans.	1	Inadequate;

Lesotho Climate Change Baseline and Trend Analysis Report (2015)

Note: The report captures elements of ICM dealing with Lesotho's physical and socio-economic status, however linkages between sectoral plans is minimal. While proposed sectorial adaptation plans are well defined, there is no clear project plans to facilitate implementation and financial sustainability not adequately defined. Social and economic development is considered through alignment with a number of other key policy documents. Monitoring and evaluation of proposed climate change measures is not addressed, and the role of district and local level authorities does not feature. The main barriers to implementation that are highlighted include lack of capacity to implement the proposed measures, financial resources and weak institutional arrangements. This suggests there is a weak enabling environment.

KEY CRITERIA	INDICATORS	SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
1. Effectiveness	a) Do the measures appropriately addresses key elements and objectives of ICM: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. 	4	The report captures elements of ICM dealing with Lesotho's physical and socio-economic status. Various stakeholders who represent varying interests and sectors involved. Inter-linkages between sectoral plans is minimal.
	b) Do the measures create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	4	Does not give attention on decentralisation and implications on climate change. The proposed sectorial adaptation plans are well defined. However, there is no clear project plans to facilitate implementation; - Financial sustainability not adequately defined
2. Holistic / Cross-sectoral	a) Do the measure links land and water use across the entire catchment area?	4	There are no direct means between land and water management across catchment areas.
	b) Do the measure links social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 	4	It is not clear as to the extent to which the measure may contribute to the implementation of ICM. The measure mentions the status of relevant climate change policies and sectoral plans without financial, human and timelines within which they are to be implemented. This makes it difficult to assess the sufficiency and practicality of implementation;

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	<p>c) Do the measure create or contribute to an integrated management framework</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>4</p> <p>5</p> <p>3</p> <p>4</p>	<p>Structurally considered to contribute to ICM. However this is not explicit.</p> <p>Social and economic development is being considered as the document is aligned to Poverty alleviation strategy, Lesotho Vision 2020 and the five-year National Strategic Development Plan (NSDP).</p> <p>The policy measures are aligned to UNFCCC, SDG's, African Union Agenda 2063 and other agreements ratified by the country. The document was prepared in line with African Union Framework on climate change and is part of efforts to ensure responsive climate change actions in Southern and Eastern African countries response.</p> <p>Global guidelines and policies. Regional links could have been more elaborate;</p>
3. Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>5</p> <p>5</p> <p>5</p> <p>2</p>	<p>The document has legitimate aims and objectives</p> <p>The document provides a list of interventions across the sectors including those implanted by NGO's and CBO's. Most of these however do not go beyond 2016.</p> <p>A mechanism for cost benefit analyses is lacking;</p>
4. Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; 	<p>4</p>	<p>The measures proposed in the report strategy are deemed relevant to ICM. However, other issues such as the role of local government and</p>

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	<ul style="list-style-type: none"> - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		community-based organisations seems to be lacking. In addition, there is need to strengthen the NCCC to ensure meaningful coordination of all climate change activities.
5. Consistency	a) Do the measures promote (at least some) elements and objectives of ICM;	5	<p>A number of elements and objectives of ICM are being promoted.</p> <p>These are based on sectoral interventions that are in line with mandates of role players. It does not;</p> <p>Not conflicting, shows a gap in view of financing/costing;</p> <p>Regional obligations (COMESA) form the basis for the policy. This can be seen as enhancing vertical integration;</p>
	b) Do the measure runs contrary to (certain) elements and objectives of ICM;	5	
	<ul style="list-style-type: none"> • c) Do the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	5	
	d) Do the measures take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	4	
6. Participatory (ensuring equitable participation)	a) Do the measures seek to raise awareness of (elements and objectives) of ICM;	5	<p>The measure identifies raising awareness and climate change education as one of the critical activities. It proposes formally introducing climate change in the curricula, whereas other topics such as land degradation, environmental management and Geography/Biology are already incorporated. The extent to which this will include ICM is unclear.</p> <p>Stakeholder engagement is driven through the inter-disciplinary and inter-sectoral National Climate Change Committee (NCCC). This body comprises of relevant Government Agencies, Academia, the Private sector and Non-Governmental Organizations (NGOs). The extent</p>
		4	

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	<p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation.</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>3</p> <p>4</p>	<p>of inclusivity and effectiveness of the NCCC needs further probing.</p> <p>Stakeholder engagement beyond the NCCC seems to weak.</p> <p>The country prepares UNFCCC communication reports from time to time.</p>
<p>7. Monitoring and evaluation</p>	<p>a) Are procedure and processes for mainstreaming climate change adaptation being monitored and evaluated;</p> <p>b) Is the effectiveness of mainstreaming climate change adaptation on different levels (national, district, local) monitored and evaluated;</p> <p>c) Are assessments being undertaken of the benefits of climate change adaptation (e.g., socio-economic and ecosystems) to inform</p>	<p>2</p> <p>2</p>	<p>The document does not cover monitoring and evaluation of proposed climate change measures. It would seem there are no clear monitoring and evaluation tools being implemented identified in detail;</p> <p>The role of district and local level authorities does not feature. Strengthening monitoring and evaluation at the local level would have a positive impact on ICM and climate change adaptation implementation.</p> <p>It would be beneficial to have a comprehensive database of all climate change efforts in the country. A monitoring and evaluation tool should then be proposed to assess the effectiveness and document lessons learnt.</p>

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	improvements to adaptation policy, strategy and plans.	2	
8. Enabling environment	a) Are legal, administrative, financial, technical and other resources adequately addressed in order to create an enabling environment for implementation of climate change adaptation strategies and plans.	2	The main barriers of implementation include lack of capacity to implement the proposed measures, financial resources and weak institutional arrangements. This suggests there is a weak enabling environment.

Workstream 4

Mapping Matrices

A Brief Description of the Matrix for policy and legal review

The below Matrix was inspired by Ntate Ramohapi's and several expert's approach to the review activities under all WSs and tries to bring its particularly useful elements together. The below text 1.1. to 1.6. is quoted from Nate Ramohapi's matrix for WS 4.

It serves two purposes:

It can be used for the initial review of whether an enactment (policy, law, regulation) is relevant for the more detailed review.

It can also help in the detailed review to ensure that the key elements and criteria as listed in the Analytical framework are systematically considered.

The Matrix will help to bring the review exercises of all WSs into one format for documentation purposes and reporting.

Please note that the Matrix aims at helping the expert during reviews in a free work environment. It is not meant to restrict us from commenting and elaborating narrative reviews. While doing so, please ensure that the Articles/Sections under review are mentioned and documented in the Matrix.

1.1 Introduction

The matrix table below seeks to arrange the selected policies and pieces of legislation in connection with a range of criteria against which the effectiveness of the current ICM local-level regulatory framework in Lesotho will be assessed. It follows, though not word for word, the key assessment criteria outlined in the Inception Report. If properly completed, it will provide indicators and not conclusions. Findings, recommendations and conclusions will be drawn during a comprehensive assessment of each instrument against the set criteria. Enactments are numbered in column 1.

1.2 Scope of the legal or policy instrument

The main question here is whether a particular legislative or policy instrument applies to or covers any, some or all the key elements of the ICM. An outline of these elements is provided in the Inception Report. For ease of reference, the said outline is reproduced here below:

- Sustainable soil management and erosion control;
- Sustainable water utilisation, management and pollution control;
- Maintenance of aquatic and related ecosystems, ecosystem services and biodiversity;
- Sustainable range management (for livestock rearing and crop production);
- Wetlands management and restoration;
- Water resources development and infrastructure operation;
- Sustainable planning of human settlements; and
- Governance reform in pursuit of all of the above.

Assessment Phase 1: Summary of Findings

If a particular measure, that is, legislative or policy instrument addresses one or more of the above elements, it is certainly relevant and, therefore, it must be analysed. Ideally, the column titled ‘scope’ on the matrix table would require one to list specific ICM elements governed by the selected instrument, but for the purpose of avoiding wordiness, just show the relevant sections or clauses if any; if none write a dash -.

1.3 Objectives

The main question here is whether the objective(s) of a particular legislative or policy coincide or overlap with the ICM implementation objectives in Lesotho. Again, these objectives are outlined in the Inception Report, and they are reproduced here below for convenience:

- Socio-economic development;
- Livelihoods and poverty alleviation;
- Improved affordable access to safe water and sanitation services;
- Sustainable support to commercial and subsistence agriculture;
- Climate change adaptation;
- Rights based approach including, in particular, gender equality;
- Policy and legislative harmonisation;
- Subsidiarity and decentralisation;
- Private sector & civil society involvement in the water sector and in related sectors;
- Raising awareness regarding ICM
- Meaningful stakeholder engagement; and
- Capacity-building, research and training.

Ideally, the column titled ‘Objectives’ on the matrix table would require one to list specific ICM implementation objectives covered by the selected instrument, but for the purpose of avoiding wordiness, just show the relevant sections or clauses if any; if none write a dash -.

1.4 Administration

The important questions under this column are: Which body/institution is responsible for implementing/overseeing the implementation of/ regulating the implementation of the ICM elements specified under ‘scope’? Is it a national or local authority? Does this body have some autonomy over the exercise of its powers/functions? Are there mechanisms for supervision and coordination? Just show the relevant specific sections or clauses in the instrument.

1.5 Enforcement, reviews and appeals

Are the provisions governing ICM activities under ‘scope’ enforceable? If so how - procedure? Are the decisions taken by the administrative bodies/institutions reviewable and/or appealable? If so how – procedure? Are there any sanctions/penalties? Just show the relevant specific sections or clauses.

1.6 Participation, capacity building and record keeping requirements

Are there any requirements for stakeholders’ engagement, community participation, capacity building, and records keeping? If so, who is responsible for doing that? Just show the relevant sections or clauses.

1.7 Priority

What is the priority of the reviewed Act/Article/Section? Criteria for prioritisation are wide, these can include level of relevance, or significance of gaps, contradiction etc.

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
Water Act 2008	<p>Preamble and S. 3: sustainable use of water resources, integrated water resource management, integrate environmental and social issues into WRM</p> <p>10: develop strategy on water resource management</p> <p>15: designation of catchments</p> <p><u>decentralization relevance:</u> <u>S. 16: develop catchment management plan, empowers a local authority to manage catchments</u></p> <p>42: legal basis for regulations</p>	<p>Preamble, and S. 3, equal access to water</p> <p>18 and 19: wetlands and spring protection</p> <p>33-37 dam safety and flood protection</p>	<p>Sec. 7 Minister responsible for control of use of water resources</p> <p>8: Commissioner: strategy direction, develops policies coordinate activities relating to international waters</p> <p>9 Tribunal settle disputes arising under the act</p> <p><u>15 catchment management by LA</u></p> <p>42 legal basis for regulations</p>	<p>9: Water Tribunal</p> <p>20- 24: permitting</p> <p>25, 26: controlled activities and pollution control</p> <p>27: limit values, reference to EA 2007</p>	<p>Preamble and S. 3: sustainable use of water resources, integrated water resource management, integrate environmental and social issues into WRM</p> <p>10: develop strategy on water resource management</p> <p>16 develop catchment management plan</p> <p>42: legal basis for regulations</p>	1

Assessment Phase 1: Summary of Findings

<p>Forestry Act of 1998</p>	<p>8, 9 (3) b) 15 (2) and (3) 16 (3), 17 Does contain some ICM elements no specific decentralization relevance.</p>	<p>Sec 5: issuance of licenses and permits for the harvesting of trees, protection and preservation of water resources in forest reserves, private forests, co-operative forests and along streams and the rivers in co-operation with the relevant water affairs authority.</p> <p><u>Sec 6:</u> <u>entry point for the decentralisation of duties:</u> <u>Delegation of duties</u> <u>Chief Forestry Officer may,</u> <u>delegate duties under this Act, to any forestry officer.</u></p> <p>9 (3) b, c, Contains several ICM objectives. It does, however, not have any specific decentralization relevance.</p>	<p>5-6: licensing and delegation of duties</p> <p>21: transfer of ownership, control and management of any forest enterprise owned or run by the government to individuals, groups of individuals, <u>communities</u></p>	<p>24, review of denial of licenses 25 Part III: offenses</p>	<p>10</p>	<p>3</p>
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Assessment Phase 1: Summary of Findings

<p>Mines and Minerals Act of 2005 as amended</p>	<p>21 (1) c, 28 (1) g 33 (1) g 39 (1) b, 50 b 54 (1) d, iv 58</p> <p>No significant decentralization relevance</p>	<p>S. 21 (1) c requires to consider environmental protection in licensing.</p> <p>S 28 (1), g requires protection of boreholes by drilling permit holders.</p> <p>S 33 (1) g requires an EIA license as a prerequisite for a mining license.</p> <p>Obliges holders of mining leases to observe environmental protection practices.</p> <p>50 b</p> <p>Mineral mining permit holders must observe environmental practices</p> <p>Sec 58 lists environmental compensation and env. Management practices required by permit holders.</p> <p>54 (1) d, iv</p>		<p>68 (1) b</p> <p>Enforcement for violations of environmental law via withdrawal of mining permits by the Minister.</p>		<p>3</p>
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		<p>No mining is permitted within 100 meters of a cattle dip, tank or dam.</p> <p>Sec 55</p> <p>Owners or lawful users of land can use the land for grazing if it does not interfere with mining activities.</p>				
Historical Monuments, Relics, Fauna and Flora Act of 1967 as amended	Sec 10 protects fauna and flora, but has no relevance for decentralization					3
Lesotho Highlands Development Authority Order of 1986 as amended	<p>Part 11 on environmental protection in general</p> <p>Part 12</p> <p>water protection measures (19, 36, 40, 50)</p>	<p>19: economic efficient use of water</p> <p>44: compensation for water rights</p> <p>51: fishery development (socio-economics)</p> <p>52 : recreation and tourism (socio-economics)</p>	<p>Part 11 on environmental protection in general</p> <p>Part 12</p> <p>water protection measures (19, 36, 40, 50)</p>			<p>1 (for ICM)</p> <p>3 (for decentralization)</p>
National Wetlands Conservation Strategy	Summary, page 10: protect wetlands through applying land management and	Vision and mission: efficient management of wetland resources and associated rangelands by			SO 4 and 5 Generate information on wetlands	1

Assessment Phase 1: Summary of Findings

	<p>water conservation principles and optimizing utilization for socio-economic benefits</p> <p>Strategic objective 2, 3 4 and 5:</p> <p>page 26: sustainable use, polluter pays, precautionary principle, interdependence of ecosystems</p> <p>page 27: international and regional co-operation, utilization of indigenous knowledge and practices, equitable access, benefit sharing</p>	<p>applying principles of sustainable environmental management</p> <p>SG 1: promote sustainable WL use through integrated land and water resources management</p> <p>SG 2: Mainstream wetlands ecosystems' conservation and management within the existing decentralization framework.</p> <p>SO 2, 3, 4, 5, see ICM elements in left column</p>				
<p>National Strategic Development Plan II</p>	<p>p. 32 land, pollution, 92</p>	<p>p. 68, 69, 87,89, 92, 134 hydropower 134 access to water 136 water resources 140 land settlement development <u>149 decentralization</u></p>		<p>p. 60 land 144 governance, accountability 154 enforcement</p>		<p>2</p>

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Soil and Water Conservation Policy	Very general p. 3-6 legal p.8-12	General p. 14-23 list of objectives	25-31		32-33	2
Plant Protection Policy for Lesotho of 2018	Introduction i	9, 14, 26				3 / could be deleted from list
Lesotho Action Plan for the Orange-Senqu River Basin of 2014	1.1., 1.3. Page 6	3, 4 Page 27ff Table 6		2.4. Page 17		2
Report addressing harmonization of legislation through cooperative governance approaches, February 2018	p. 8 and annex 9: very general	p- 17-20 legal recommendations, general, mentioning regulations	14			3
Deepening Decentralization Project. Final Report. UNDP	See WS 5 The findings of the report are relevant (fiscal decentralization mostly). <u>Local development grants</u> were implemented in the 10 district councils					2
ICM Final Reports 2017-2018	roles and functions of the 4 types of Councils and refers to the applicable laws. <u>reports on decentralisation and local leadership.</u>					2 (because it contains relevant information for legal drafting)

Assessment Phase 1: Summary of Findings

	<u>It lists in detail what practical constraints and deficits are.</u>					
Lesotho Highlands Development Authority. Treaty and Phase II Agreement	n.a.					
Lesotho Highlands Water Project (P.1) Policy for Instream Flow Requirements of 2002		1.2. 2, principles			6.2.	2

Ad 2: Art 7, 18, 22, 23, 39, 41 can provide lessons to be learnt from for ICM

Ad 3: Art 27 (1) b, to be considered: drilling of boreholes (must be limited by environmental considerations, GW bodies protection etc. see 28 (1) g

Ad 5: highly relevant Art 19 with cross references to water, land, energy etc.

A. 37 (3) and A. 35: concentrates all permits!

A. 54: obligation to coordinate with all Ministries

Ad 6: highly relevant: “4.2.3.: *Enhance capacities of local authorities and communities at district, community, household for all gender groups, and integrated catchment management (ICM) levels in the planning, budgeting, implementation, monitoring, evaluation and coordination for wetlands’ conservation and management.*”

Instrument	Scope (Key ICM elements)	Objective(s)	Administrative bodies & their mandates	Enforcement, reviews & appeals	Participation, capacity building & records
Environment Act 2008	First Schedule	Long title	17, 18, 59, 60, 61,	38, 39, 47, 50, 51, 63(5), 64(c), 67, 69, 84, 85, 90, 102,	
Land Husbandry Act 1969 and Range Management Regulations 1980 as amended	3	Long title	6	7	
	Schedule	-	4, 9	6, 10, 12, 13	14

Assessment Phase 1: Summary of Findings

(reviewed in one review matrix)					
National Resources Heritage Act 2011	Preamble	p.95: Objects and reasons	5	12-30	-
Managed Resources Areas Order 1993	To provide for declaration of MRAs	5	7	12	-
Weeds Eradication Act 1969	-	-		4	6, 7, 8
Laws of Lerotholi (Codification)	-	-	-	11, 13, 20, 26, 31, 32, Part III 8(1)(j)(r)	—
National Environment Policy 1998	2	2.2, 4.7-4.20	-	4.3	3.3, 4.23-4.27
National Forestry Programme 2008	4.2	4.3	5.11	5.3	5.1, 5.6, 6.13, 6.15
Range Resources Policy 2014	3.2, 4.2.1	3.3, 4.2.2	4.1	4.4, 5.0	4.3, 4.5, 6.0
National Biodiversity Strategy and Action Plan 2000	C			1.7, 1.11, 2.2, 2.3	1.3, 1.5, 1.6, 1.8, 1.9, 1.12, 1.13, 1.14, 2.1, 2.4, 2.5, 3.1, 4.3, 4.6, 6.4
Environment (Amendment) Bill	Not available yet				
Draft SLM Model	2	3.3	4.1, 4.2, 4.4	4.6	4.5, 4.7, 5.3, 5.4, 5.5
Model Rural Areas	Short Title	Livestock impoundment	3 - 13	14 - 15	-
Chieftainship Act					

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
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Constitution	27,34, 36, 105, 109	106	105	—	—	2
Local Gov. Act 1997	5 & 42	Long title	4, 5, 27, & 42	42(3) & 43	21	3
Local Gov. Reg. 2005	—	—	—	—	9, 12, & 14	3
Local Gov. Reg. 2015	First Schedule	2	2	—	—	2
Local Gov. Bill	7, Part IV & 59	Long Title	38, 54 & 55	59 & 56	29, Part IV, 55	3
National Plan. Board Act 1995	6	—	6	—	—	3
Land Act No. 8 of 2010; Land (Amendment) Act No.16 of 2012; Land (Amendment) Act No.9 of 2014; Land Regulations LN No. 21 of 2011; Land (Amendment) Regulations LN No. 11 of 2013; and Systematic Land Regularisation Regulations LN No. 103 of 2010	5, Parts IV, V, IX & XI	Long Title	12, Part IV & V	Part XII, 72, 83, 84, 85, 86 & 91	12, 23, 26, 27 & 29	2
	6, 12, 13, 27, 28, 29 & 30		6, 7, 9 & 35	52	6, 7 & 37	2
Land Survey Act No. 14 of 1980; Land Survey (Amendment) Act No.15 of 2012; Land Survey Regulations LN No. 50 of 1982	3	—	3, 14 & 24	3	3	3
Land Administration Act 2010	5 & 16	Long Title	4, 5, 6, 16, 18 & 19	5	5	3
National Decentralisation Policy 2014	1.2.7, 1.3.8, 3.3, 3.12 & 3.13	2.1 & 2.2	3.5	—	1.3.5, 1.3.7, 2.3 & 3.9,	2

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records	Priority 1-3 1 = highest
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Assessment Phase 1: Summary of Findings

			Article / Section		Article / Section	
Long-Term Water and Sanitary Strategy of 2016	KFA1 3.1 KFA2 3.2 KFA3 3.3 KFA5 3.5 KFA6 3.6	2.2, 2.4, 4.2 all KFA cross- cutting funding needs	2.3, 1.3, 3.3,3.6	3.1 proposed amendments to legal framework	2.3, 3.1, 3.6	1
National Forestry Policy of 2008	3.3.1.1, 3.3.1.2, 3.3.1.3, 3.3.2.2	3.3.1.6, 3.3.3.4, 3.3.3.5	3.3.3.3, 4.1 – 4.5	3.3.1.7	3.3.3.1, 3.3.3.2, 3.3.3.4, 4.6	1
National Food Security Policy of 2005	3.1.2, 3.2.2, 3.2.3, 3.2.4, 3.2.5, 3.2.6, 3.2.7	3.2.2, 3.2.3, 3.2.4, 3.2.5, 3.4	3.2.2, 3.2.5, 3.4	3.2.6,3.4	2.2.6, 3.2.2, 3.2.5, 3.2.6, 3.2.7, 3.3.1, 4.2 – 4.8	1
National Irrigation Master Plan and Investment Framework, Lesotho (Vol. 1) June 2020	3.0, 3.1, 3.1.1, 3.1.2, 3.1.3, 3.2.1, 3.2.2, 3.2.3, 3.2.4, 3.2.5, 3.2.6, 3.2.7, 3.2.8	1.5.1 – 1.5.5 2.2, 4.1, 4.2, 6.1, 6.2, 6.3, 6.4, 12.1.4.2	Institutional arrangements: 13.2 LIDA, 13.3 SME, 13.4 SGB, 13.5 LAC	-	13.2 – 13.5	1
Irrigation policy 2002 (no review matrix included as policy is only available as draft)	Document not yet accessed					Irrigation policy 2002

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
Integrated water resource management strategy		4.1, 4.2, 4.3	5.2.4 and 6.13	—	Appendix 1	2

Assessment Phase 1: Summary of Findings

Revised SADC protocol on shared water course		Article 2(b), 2(c), 2(d) Article 4 (2)	Article 7(a), 7(b) Article 5	Article 7 (1), (2) and (3)	Article 4(g)	2
National Wetlands Management Strategy (2016)	Purpose (Pg. 10),I,II,1.5,3.1	2.1	3.1		Strategic objective 5, Pg.13-14,4.2.4	1
Chieftainship and local government in Lesotho (no separate review matrix included)		Long title	1.1, 2.12	2.2.3, 2.2.4	2.4.3,2.4.4,Chapter 3, 4.2	2
Maseru City Council draft bylaws 2020 (codified)	Sections A and D		Section D(3)	Section D(2.2)		2
Operationalisation of Integrated Catchment Management Framework - Bridging: Phase	3.		Task 2	Task 6	3. and Task 7	1
Formal and Informal Institutions in the wetlands of the highlands of Lesotho	1.0, 3.2, 3.3	3.6		3.6	3.6	2

Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement, reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
Town & Country Planning Act 1980	First Schedule	Section 5;6;7	Section 4;21	Section 17		1 (based on relevance & gaps for improvement)
Building Control Act (1995)	No Key ICM Elements (Principal Act)	Part II, Section 9	Part IV Section 32; Part V & Section 39 & 40; Part II, Section 11	Section 17		2 (based on relevance & gaps for improvement)
Lesotho Water and Sanitation Policy 2007	Pg. 2 to 9 (Policy) Policy Statement 1: Water Resources Management	Pg. 1	Pg. 11	No specifics	Pg. 8	1 (It is high-level but has Relevance for ensuring alignment to Principal Legislation i.e., Water Act)

Assessment Phase 1: Summary of Findings

	<p>Policy Statement 2: Water Supply and Sanitation</p> <p>Policy Statement 3: Water and Environment</p> <p>Policy Statement 4: Trans-boundary Water Resources</p> <p>Policy Statement 5: Sector Wide Approach</p> <p>Policy Statement 6: Stakeholder Involvement</p> <p>Policy Statement 7: Institutional Arrangements and Legislative Framework</p>					
Agricultural Plant Protection Policy, 2018	<p>Pg. 14 – Section 4.4 (Pest Control Systems – relevance to Alien Invasive Species Control)</p> <p>Pg. 17 - Section 4.6.4</p>	4.4.1; 4.4.2; 4.4.3 highlight Policy Rationale, Objectives and Statement				1 (based on links to Environment & Water Act – i.e., Alien Invasive Species Control – which is a big ICM problem)
White Paper: Review of Water Legislation, 2018	Chapter 7 & 8 (Review/Study Water Sector)	Chapter 3 to 10	Section 4.3 Section 10 (link to harmonization report)	Section 4.5; 4.6	No specifics	1 (It is a review / study that will aid / provide further context for the Water Act review under the banner of this project. – see comments of review matrix)

Assessment Phase 1: Summary of Findings

<p>ORASECOM Reports: NAP/SAP, IWRM</p>	<p>Pg. 3; Pg. 7; Pg. 19 – Section 1.7; Pg. 23 – Chapter 2; Pg. 31-34</p>	<p>Chapter 2 – Pg. 23; Chapter 3 – Pg. 29,</p>	<p>Section 1.7 – Pg. 19</p>	<p>No specifics</p>	<p>Section 1.3 – Pg. 12</p>	<p>2 (Re: Relevance of SAP pertinent – perhaps more for Stream 1)</p>
<p>Establishment Agreement of the Orange–Senqu River Commission (no review matrix included below)</p>	<p>Not flagged for further review. The agreement which was concluded in November 2000 has been based on the 1995 SADC Protocol on Shared Watercourses and does not factor in the principles of the Revised SADC Protocol which was also signed in 2000. Therefore the agreement is less significant compared to the guiding and strengthened principles of the <u>Revised SADC Protocol on shared watercourses which is deemed a more pertinent regional/international</u> instrument impacting the implementation of IWRMP and consequently ICM regulation in Lesotho.</p>					<p>3 (based on relevance – the SADC Protocol on Shared Water Courses are more pertinent)</p>
<p>Water Pollution at Thetsane Industrial Area1: A portrait of</p>						<p>3</p>

Assessment Phase 1: Summary of Findings

Attitudes, Values and Willingness to Participate in Pollution Abatement Activities, 2007						(based on relevance)
Water and Sanitation Sewerage Company (WASCO) Act, 2010	Context provided in review matrix. However, Act could not be sourced but deemed necessary for review. (Principal Act)					

Review Matrices

Water Act 2008

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE (5 being the highest form of agreement)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>e) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>f) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>2</p> <p>Does contain some ICM objectives. It does, however, not contain a high degree of decentralization relevance.</p> <p>Decentralization is poorly addressed. Section 42 is the legal basis for regulations and is insufficient.</p> <p>The rating here, refers to the level of decentralization only. A rating on ICM Policy harmonization is provided under WS 1</p>	<p>1. The preamble does neither explicitly address the integrated nature of IWRM, nor of ICM. This is however mentioned in S. 3. S. 3 provides for an integrated approach – but from a water perspective, as the main objective is water conservation.</p> <p>Decentralization is not mentioned.</p> <p>Sec. 3 h) mentions «environmental» only, while it explicitly lists HIV, gender etc. To be balanced, environmental media such as land, and socio-economic principles need to equally be mentioned explicitly.</p>

Assessment Phase 1: Summary of Findings

			<p>Rec: Preamble should recognize need for integrated management approach for all aspects of water resources and Int. Catchment management.</p> <p>The same is the case for the term "protection" in the definition part, S. 2.</p> <p>Decentralization is not mentioned in the main principles and objectives under Section 3.</p> <p>"water management institutions" <u>does not mention local level</u>, it only mentions national or international level.</p> <p>Enforcement S. 9 establishes a Tribunal to settle water resources management related disputes. It does not mention any other environmental media to be taken into account.</p> <p>RE: It should mention that water related dispute resolution shall consider all ICM related issues.</p> <p>Decentralization of enforcement is not mentioned.</p> <p>S. 10 on water and sanitation strategy should provide that the strategy shall also consider an integrated IWRM and ICM approach. It does mention "catchment area" but does not include</p>
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Assessment Phase 1: Summary of Findings

			<p>“integrated” management. This important principle is lacking.</p> <p>The same is the case for S. 12</p> <p>S. 15 (1) provides for the designation of Catchments. It lacks criteria on how catchments are identified and designated. It lists water resource protection objectives only.</p> <p>S. 15 (2) states that LA are responsible for catchment management in its jurisdiction.</p> <p>S 15 (3) defines the LA functions in Catchment management.</p> <p><u>S. 16 empowers a local authority to manage catchments within its area of jurisdiction. It lists functions of this LA that are water resource related only.</u></p> <p>This is highly relevant for decentralization but only water related.</p> <p>S. 16 includes ICM principles in the “Catchment management plan”. These are not supported by subsidiary legislation, i.e., detailed regulations, or by-laws. There are no enabling provisions in the act to this end. S. 42 on the making of regulations is also not sufficient in this regard, see comment on S. 42 below.</p> <p>16 a) regulates that the CMP may not conflict with the water and sanitation strategy. There is no provision coordinating the plan with land use or other related ICM planning. This is needed.</p>
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			<p>16 c) on CMP considerations is very general and lists only natural resources, land use, demography, Climate, without further specifying these.</p> <p>Recommendation: it could either further specify that and how these elements must be balanced against each other. What are priorities and criteria that must be considered. How is the integrated nature of this balancing being operationalized in the plan. What public authority would lead the process of balancing these interests. How are conflicted issues balanced.</p> <p>Sec. 16, like all other provisions, has a clear water focus, which is normal for a water Act, but it would then need to contain a coordination mechanism with all other ICM related laws and interests formulated therein. (E.g., Sec 18.1. provides for consultations with MoLG)</p> <p>S. 20 requires permitting for all water uses. <u>With a view to meaningful decentralization, permitting needs to be dealt with as decentralized and local as technically feasible and appropriate.</u> Best regional SADC practice would be to have permits being processed and <u>approved by an RBA or other local to regional level authority.</u></p> <p><u>The issue of permitting is highly relevant for decentralisation as it is at the heart of regional responsibilities. Permits need to be dealt with by authorities with in-depth insights into local matters.</u> On the other hand, charges such as fees,</p>
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Assessment Phase 1: Summary of Findings

			<p>levies, tariffs are fundamental to fund decentralisation in general and in decentralisation of ICM in particular.</p> <p>On another note, S. 20 contains significant gaps and shortcomings with regard to a modern and comprehensive permitting system.</p> <p>While a permitting system should be simple and implementable on the one hand, it must contain several minimum contents to make it work in practice on the other hand.</p> <p>Whereas Section 20 lists several key issues in subsections 1) to 14), it does not list the procedural and technical requirements in sufficient detail. This must be provided in a detailed regulation on permitting (and charging) with detailed and comprehensive technical annexes on procedures, technical requirements regarding different user forms, equipment and safety requirements, dispute resolution and many more issues.</p> <p>Permitting seems to be in its infancy and this vital gap must be addressed.</p> <p>Sec. 21-23 provide for more details, but these are by far not sufficient and must be operationalized via a detailed permitting regulation as explained above.</p> <p>The matter of charging cannot be separated from the above permitting issues, as all these forms of use must be subject to levies, tariffs, and fees. These must also be regulated in a detailed</p>
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Assessment Phase 1: Summary of Findings

			<p>permitting and charging regulation with schedules on different forms of use, different users, varying quantities, respective pricing etc.</p> <p>The Act fails to address financing issues.</p> <p>S 24 requires LA to protect boreholes.</p> <p>Sec. 25 relates to the above activities but sets out no details. (the term “aquifer” should be corrected into “aquifer”)</p> <p>S. 27 fails to refer to a detailed act or regulation with limit values or quality standards. The environmental act of 2007, that S 27 refers to, regulates this in its Sec 28. It must be evaluated in detail where the actual quality standards are listed and whether these are sufficient. It must then be considered if an environmental quality standard approach is sufficient or if limit values for discharges into water should be applied. Eventually a combination of the two approaches could be considered.</p> <p>Water pollution is a specific subject and the details (such as LVs or EQS) should not be regulated in general environmental framework legislation.</p> <p>It is recommended to regulate these in detailed regulations under this water act. I.e., groundwater protection and quality standards, surface water quality standards, limit values for water discharge into surface waters etc.</p>
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			Sec 42, the legal basis for regulations is insufficient. It must list in more detail the scope and purpose as well as the limitations of regulations, all of which must be mentioned in a general way in the Section 42. focusing adequately on rights and obligations, detailed mandate, of the competent authorities. It does not mention licensing and charging, albeit these are key elements of water and ICM management.
Holistic / Cross-sectoral	<p>m) Does the measure link land and water use across the entire catchment area?</p> <p>n) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>o) Does the measure create or contribute to an integrated management framework;</p> <p>p) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>q) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>r) Do the measures take account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	2	<p>S 10 (5) does only apply to “water management institutions under the WA” and not public authorities in charge of land and other sectors. Re: this needs to be extended to bind all public authorities with responsibilities in ICM.</p> <p>S. 19 (3) requires permits for exploring springs. There are no details regarding the exploitation, abstraction, protection of the source etc. This must be regulated in detail with detailed technical annexes.</p> <p>The act fails to adequately address transboundary cooperation, consultative mechanisms in strategy making and in water management.</p>
Proportionality	<p>i) Is the measure likely to achieve its legitimate aims;</p> <p>j) Is the measure cost-effective;</p> <p>k) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p>		

Assessment Phase 1: Summary of Findings

	l) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.		
Currency	<p>c) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	3	<p>Sec 2 regarding “regulated activities” it refers to the “Lesotho Electricity and water Resources Act of 2008”. This Act does not exist. Only an electricity authority of 2002, amended 2006 and 2011 exists.</p> <p>References, fines, permitting?</p> <p>Sec 18 (6) fines for violations of wetland protection, still up to date? 50.000 M.</p> <p>Art 33 – 36 on dam safety lacks significant detail as to the different dam categories, procedural details for licensing, constructing, impounding, decommissioning, evaluating risks, ongoing evaluations, etc. etc. this needs to be regulated in a detailed regulation and several technical schedules.</p> <p>Dam safety has strong implications on land use, irrigation, agriculture and industry and has a high priority for ICM.</p>
Consistency	<p>i) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>j) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>k) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or 	2	<p>Fines? no explicit enforcement?</p> <p>S. 8 (2), e) Commissioner is responsible for transboundary water management</p> <p>There are however no details and no references.</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Ambiguities regarding scope of application. l) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		<p>Rec: this needs significant amendment to include transboundary obligations, designation of commissions or other entities responsible for transboundary management and coordination. This is a fundamental gap.</p>
Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> i) Does the measure raise awareness of (elements and objectives) of ICM; j) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; k) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; l) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 	3	<p>1. <i>Preamble: Subsidiarity:</i> delegation of management functions to a regional or catchment level should be included.</p> <p>On a general note, the act fails to adequately address consultative approaches to planning and management in the water and ICM sector.</p> <p>2. S. 2 “stakeholder “ is restricted to water only.</p> <p>S. 10 (1) requires SH consultations in preparing the water and sanitation strategy. It needs to explicitly include civil society and individuals.</p> <p>S. 11 (1) c) invites the public for comments. However, this is too late, as the Strategy is already developed. While other SH can influence the drafting process. The public can only comment after publication. The Commissioner can consider comments where appropriate. This is an inappropriate restriction of public participation.</p>

Please note that the above identified gaps or shortcomings relate to ICM decentralization. This does not always necessarily imply that the water act fails to adequately address the water sector as such. This review looks at water from an ICM decentralization perspective and mainly aims at identifying ICM related gaps and shortcomings.

General comments (see also WA review under WS 1):

- 1) Do Regulations exist on:
 - aquifer recharge

Assessment Phase 1: Summary of Findings

- Groundwater protection
 - Surface water quality standards
 - Drinking water safety
 - Permitting and charging
 - Dam safety
- 2) chapter on transboundary cooperation? On MEAs? Sec 8 is insufficient.
 - 3) clear legal basis for the mentioned regulations under 1)
 - 4) links to other acts, such as waste, land use, pollution control, nature conservation? No
 - 5) No mentioning of env. Objectives of constitution (S. 110)?
 - 6) other specific notes:
 1. Section 15, no legal basis for CCs to make by-laws
 2. S. 17 (2) Services
 3. S. 20 permits (no by-laws) insufficient, no details
 4. S 28 land use, refers to land act of 1979 (outdated)
 5. S 33 dam safety, no regulations. Dam safety is highly relevant for ICM, irrigation, agriculture, land use etc.
 6. S. 42 legal basis (for Minister regulations), short, insufficient, should contain several enabling provisions with: purpose, scope, limitations. Rights and obligations of all involved players must be in the law, only details in by-law and schedules. Compare with Swazi Act and SA, see Adrian whitepaper, where he did some of this.
 7. Is there any good dispute resolution and/or appeals procedure? No

Forestry Act 1998

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE 5 strongly agree (highest)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. b) Does the measure create or contribute to a practicable ICM regime for Lesotho:	2 Does contain some ICM objectives. It does, however, not contain any specific decentralization relevance. The rating here, refers to the level of decentralization only. A rating on ICM Policy harmonization is provided under WS 1.	Sec 5 requires the Chief Forestry Officer to <i>(c) the issuance of licences and permits for the harvesting of trees and other forest produce in forest reserves;</i> <i>(d) the protection and preservation of water resources in forest reserves , private forests, co-operative forests and along streams and the rivers in co-operation with the relevant water affairs authority.</i>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		<p>This is relevant for the protection of forests and, given the important role of forests in the natural water cycle, has a strong bearing on protection of land and water resources.</p> <p>The section does, however, not have any specific relevance for decentralisation.</p> <p><u>Sec 6 may be the entry point for the decentralisation of duties:</u></p> <p><i>Delegation of duties</i></p> <p><i>6. The Chief Forestry Officer may, subject to such conditions as he may specify, delegate any of his duties under this Act, to any forestry officer.</i></p> <p>Sec 9 requires annual drafting of a forestry plan that must be aligned with other sectors:</p> <p><i>9. (1) The Chief Forestry Officer shall prepare a draft Forestry Sector Plan and submit it to the Minister for approval.</i></p> <p><i>(2) In preparing the draft plan, the Chief Forestry Officer shall take into account the views of the Ministry of Planning, the Department of Water Affairs and the Lesotho National Environment Protection Agency.</i></p> <p>Sec 9 has no particular decentralization relevance.</p>
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			<p>SEC 15 (3) has ICM objectives but no dec. relevance:</p> <p><i>Classification of reserves</i></p> <p>15.</p> <p><i>(3) Protection reserves shall be managed for the primary purpose of protecting and conserving the soil, water, vegetation and other natural resources of the reserve and only such harvesting of any forest produce shall be allowed as is compatible with the primary purpose of the reserve.</i></p> <p>Section 16 requires the preparation of Forest management Plans. The relevance for ICM could be that these have preservation of forests, hence ICM objectives. There is no decentralization relevance.</p> <p>Sec 17 could be relevant as an entry point to decentralization as it requires:</p> <p><i>17. (1) Upon a written request of the holders of allotted or leased land for the establishment of a private, community or a co-operative forest, as the case may be, the Minister may, on the advice of the Chief Forestry Officer, <u>declare such land a private, community or a co-operative forest, as the</u> case may be, and enter into an agreement with such holder or holders of the land for a specified term of years for any or all of the following purposes -</i></p>
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Assessment Phase 1: Summary of Findings

			<p>...</p> <p><i>(b) soil and water conservation;</i></p> <p><i>(c) plant conservation including maintaining biological diversity; or</i></p> <p><i>(d) public recreation.</i></p> <p>This can be a community forest and could hence be an entry point for community level forest management with ICM objectives (soil and water conservation)</p> <p>Sec 21 <i>Government forestry enterprises</i> <i>21. (1) The Chief Forestry Officer shall advise the Minister on the <u>transfer of ownership, control and management of any forest enterprise owned or run by the government to individuals, groups of individuals, communities organisations or cooperatives , as the case may be, through a notification published in the Gazette, when, in his opinion, such individuals, groups of individuals, communities, organisations or cooperatives , as the case may be, have the required resource s and management expertise in this regard .</u></i></p> <p>This can be a starting point for decentralized forest ownership and management. Revenues could be used by the CCs in accordance with Sec. 18 FA.</p>
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			Section 41 (f) – (g) <u>provides a legal basis for regulations and hence for decentralization</u>
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		Sec 5, yes, see comments above.
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>		
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; 		

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		
Consistency	<ul style="list-style-type: none"> a) Does the measure promote (at least some) elements and objectives of ICM; b) Does the measure run contrary to (certain) elements and objectives of ICM; c) Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 		

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the water act fails to adequately address the water sector as such. This review looks at water from an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

Note: the matrix above is mainly relevant in its first line on subsidiarity as this WS 4 aims at decentralisation. Hence, most Articles are dealt with under line 1. However, short comments on other ICM relevant issues are made in some other lines, where this seemed most relevant

The forest Act is of low relevance to decentralization. It allows for communal forest management and revenue collection provided that the chief forest officer recommends this to the minister, sections 17 and 21 FA.

The most relevant provision is Sec 41 as it provides for a legal basis for the making of regulations that could operationalize decentralization. To date, there is no subsidiary legislation that was made under this legal basis.

Mines and Minerals Act of 2005 (MMA) no decentralization relevance = NDR)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	no rating (because of lacking decentralization relevance)	<p>S. 21 (1) c requires to consider environmental protection in licensing. NDR</p> <p>S 28 (1), g requires protection of boreholes by drilling permit holders. NDR</p> <p>S 33 (1) g, requires an EIA license as a prerequisite for a mining license. NDR</p> <p>S 39 (1) b, Obliges holders of mining leases to observe environmental protection practices. NDR</p> <p>50 b</p>

Assessment Phase 1: Summary of Findings

			<p>Mineral mining permit holders must observe environmental practices</p> <p>NDR</p> <p>Sec 58 lists environmental compensation and env. Management practices required by permit holders.</p> <p>NDR</p>
<p>Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant</p>		<p>54 (1) d, iv</p> <p>No mining is permitted within 100 meters of a cattle dip, tank or dam.</p> <p>NDR</p> <p>Sec 55</p> <p>Owners or lawful users of land can use the land for grazing if it does not interfere with mining activities.</p> <p>NDR</p>

Assessment Phase 1: Summary of Findings

	infrastructure investments or commercial development need.		
Proportionality	<ul style="list-style-type: none"> a) Is the measures likely to achieve its legitimate aims; b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors. 		
Currency	<ul style="list-style-type: none"> a) Is the measure outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		
Consistency	<ul style="list-style-type: none"> a) Does the measure promote (at least some) elements and objectives of ICM; b) Does the measure run contrary to (certain) elements and objectives of ICM; c) Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		<p>68 (1) b</p> <p>Enforcement for violations of environmental law via withdrawal of mining permits by the Minister.</p> <p>NDR</p>

Assessment Phase 1: Summary of Findings

Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 		
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Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the act fails to adequately address the relevant sector as such. This review takes an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

Note: the matrix above is mainly relevant in its first line on subsidiarity as this WS 4 aims at decentralisation. Hence, most Articles are dealt with under line 1. However, short comments on other ICM relevant issues are made in all other lines.

The MMA is of low relevance to decentralization. Several Sections with ICM relevance were identified and (for the sake of completeness) mentioned here, but no direct decentralization relevance could be identified.

Hence, ranking regarding decentralization is not possible.

Historical Monuments, Relics, Fauna and Flora Act of 1967 as amended in 2006 (no decentralization relevance = NDR)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<ul style="list-style-type: none"> a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; 	no score as it has no relevant decentralization content	Section 10 protects fauna and flora, but has no relevance for decentralization

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		
Holistic / Cross-sectoral	<ul style="list-style-type: none"> a) Does the measure link land and water use across the entire catchment area? b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. c) Does the measure create or contribute to an integrated management framework; d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need. 		
Proportionality	<ul style="list-style-type: none"> a) Is the measures likely to achieve its legitimate aims; b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors. 		
Currency	<ul style="list-style-type: none"> a) Is the measure outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; 		Outdated and no subsidiary legislation as established under it

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		
Consistency	<ul style="list-style-type: none"> a) Does the measure promote (at least some) elements and objectives of ICM; b) Does the measure run contrary to (certain) elements and objectives of ICM; c) Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 		

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the act fails to adequately address the relevant sector as such. This review takes an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

Note: the matrix above is mainly relevant in its first line on subsidiarity as this WS 4 aims at decentralisation. Hence, most Articles are dealt with under line 1. However, short comments on other ICM relevant issues are made in all other lines.

The Act has no significant relevance for decentralization. It may be deleted from the list of relevant documents.

Lesotho Highlands Development Authority Order of 1986 (no decentralization relevance = NDR)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>No rating possible as this WS relates to decentralisation.</p> <p>The order has some (low) ICM relevance but has no bearing on decentralization.</p>	<p>Chapters XI and XII regulate environmental considerations. NDR</p> <p>Sections 19, 36, 40, 50, 10, 54, 44, 51, 52</p> <p>All contain some ICM objectives but no decentralization relevance.</p>
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p>		

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>		
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p>		

Assessment Phase 1: Summary of Findings

	- Contribution to vertical integration / fragmentation.		
Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 		

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the act fails to adequately address the relevant sector as such. This review takes an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

Note: the matrix above is mainly relevant in its first line on subsidiarity as this WS 4 aims at decentralisation. Hence, most Articles are dealt with under line 1.

No rating adequate, as there is no specific decentralization relevance.

National Wetlands Conservation Strategy (no decentralization relevance = NDR)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE, 1-5 (5 being the highest level of agreement)	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<ul style="list-style-type: none"> a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; 	<p>3</p> <p>the strategy contains ICM objectives.</p> <p>It mentions – in a general way- some decentralization objectives (SO 5).</p>	<p>(See also the review under WS 1)</p> <p>The guiding principles on page 10 reflect, inter alia, ICM objectives:</p> <p><u>Inter-linkage between community livelihoods and ecological integrity of wetlands, sustainable use of wetlands resources, empowerment and participation by all stakeholders</u> in wetland conservation, and international cooperation in the conservation and management of shared wetlands resources.</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Practically enforceable; and - Financially sustainable. 		<p>Strategic objective 3.1 aims at strengthening the capacities of institutions involved in management of the wetlands ecosystems <u>at all levels of governance.</u></p> <p>Strategic objective 4.1 requires good quality “information on the location, biotic and abiotic characteristics of the wetlands for <u>informed decision making at all levels.</u>”</p> <p>It aims at:</p> <ul style="list-style-type: none"> - developing a comprehensive wetlands’ inventory and database that show their distribution, conditions and uses. - Develop Information, Education and Communication (IEC) materials to capacitate stakeholders on wetlands ecosystems and their management. - Devise methods for improved access and decision-making support to information and data <u>by all relevant sectors and stakeholders</u> on wetlands areas. <p><u>Strategic objective 5 (see below) encourages community participation and promotes decentralization.</u></p> <p>Strategic Objective 5 is the most relevant SO. It requires the development of innovative mechanisms that empower stakeholders to participate in the management of wetlands by:</p>
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Assessment Phase 1: Summary of Findings

			<ul style="list-style-type: none"> - Strengthening communication, collaboration, and public outreach programmes for <u>all stakeholders</u> on wetland ecosystems conservation and management. - Strategies: - Advocating for collaboration and cooperation between institutions and stakeholders to share wetlands' information <u>at community, district, national, regional, and international levels</u>
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	3	<p>Strategic goal 4.2.1 requires protection of wetlands and promoting their sustainable use through integrated land and water resources management.</p> <p>Strategic objective 3.1 aims at strengthening the capacities of institutions involved in management of the wetland's ecosystems at all levels of governance.</p> <p><u>Strategic objective 5 (see below) encourages community participation and promotes decentralization in a general manner.</u></p>
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p>	The strategy contains no measures that are sufficiently specific to justify a rating	There seem no contradictions or conflicts with policies, plans, or acts.

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors. 		
Currency	<ul style="list-style-type: none"> a) Is the measure outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	2	<p>It is from 2013.</p> <p>It is neither implemented by specific legislation on wetlands, nor on decentralization.</p>
Consistency	<ul style="list-style-type: none"> a) Does the measure promote (at least some) elements and objectives of ICM; b) Does the measure run contrary to (certain) elements and objectives of ICM; c) Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	3	<p>The guiding principles contain several ICM elements and objectives.</p> <p>There are no measures that could conflict with other national measures because the strategy is too general in nature and contains no specific measures.</p> <p>The strategy advocates for collaboration and cooperation between institutions and stakeholders to share wetlands' information at community, district, national, regional, and international levels.</p>
Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making 	4	<p>Strategic objective 4.1 requires good quality “information on the location, biotic and abiotic characteristics of the wetlands for informed decision making at all levels.”</p> <p>It aims at:</p>

Assessment Phase 1: Summary of Findings

	<p>– by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>		<ul style="list-style-type: none"> - developing a comprehensive wetlands’ inventory and database that show their distribution, conditions and uses. - Develop Information, Education and Communication (IEC) materials to capacitate stakeholders on wetlands ecosystems and their management. - Devise methods for improved access and decision-making support to information and data by all relevant sectors and stakeholders on wetlands areas. - Develop and implement research programmes on wetlands conservation <p>Strategic Objective 5 requires the development of innovative mechanisms that empower stakeholders to participate in the management of wetlands by:</p> <p>Strengthening communication, collaboration, and public outreach programmes for all stakeholders on wetland ecosystems conservation and management.</p> <p>Strategies:</p> <ul style="list-style-type: none"> - Advocating for <u>collaboration and cooperation between institutions and stakeholders to share wetlands’ information at community, district, national, regional, and international levels.</u> <p>Reviewability is not mentioned. This is due to the fact that the strategy is too general.</p>
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Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the act fails to adequately address the relevant sector as such. This review takes an ICM decentralization perspective and mainly aims at identifying ICM related gaps and shortcomings.

Assessment Phase 1: Summary of Findings

Note: the matrix above is mainly relevant in its first line on subsidiarity as this WS 4 aims at decentralisation. Hence, most Articles are dealt with under line 1. However, short comments on other ICM relevant issues are made in all other lines.

The strategy adequately addresses decentralization. It does however, neither detail any decentralization procedure, neither any strategy to actively promote decentralization.

The strategy summarizes key ICM objectives, and its guiding principles reflect ICM objectives as well.

It is not supported by specific implementing regulations.

National Strategic Development Plan II (no decentralization relevance = NDR)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>No scoring possible, see comment below.</p> <p>the plan contains no measures, but rather a general review and description of the national situation and (general) recommendations.</p> <p>These recommendations will need to be considered in the next phase, the study on options to support Cs in drafting by-laws.</p>	<p>p. 32 describes Deterioration of Land Quality and Increasing Environmental Degradation, and land, pollution</p> <p>page 92 No. 210 (8) the Plan reads: <i>Improve management of range resources</i> <i>(a) Promote active and inclusive participation of all stakeholders in rangeland resources management.</i> <i>(b) Improve governance of range</i> <i>(c) Rehabilitate rangelands and wetlands in collaboration with private sector/investors and communities.</i> <i>(d) Develop and implement conservation strategies to improve resilience of rangeland resources to climate change.</i> <i>(e) Improve existing guidelines and grazing control regulations for the sustainable management of range resources.</i> <i>(f) Develop a national fire policy for rangelands management.</i> <i>(g) Improve rangelands grazing capacity.</i> <i>(h) Devise and implement mechanisms for mandatory compensation for the utilisation of rangeland resources (environmental services/ecosystem services), e.g., the grazing levy.</i></p>

Assessment Phase 1: Summary of Findings

		<p><i>(i) Manage alien and invasive vegetation species</i> <i>(j) Enforce key land use policies and Acts (e.g. land, environment, range, water, climate change Act, etc)</i></p> <p>This part of the plan aims at <u>involving, inter alia, communities in rangeland management and protection</u>. As a plan, it is very general in this regard.</p> <p>On page 134, regarding sustainable Production and use of Water Resources, and Improved Sanitation and Hygiene, the plan lists several ICM objectives that will have relevance for responsibilities on the local level, such as: Increase Access to Sustainable Water, Sanitation and Hygiene, Expand Water Harvesting Infrastructure, Implement integrated catchment management, Strengthen water resources and environment management, Strengthen water and sewerage services regulations, Strengthen coordination, Monitoring and evaluation in the water sector.</p> <p><u>All of the listed objectives will require local level regulations mandating and operationalizing the local authorities to implement these objectives.</u></p> <p>On page 142, the plan aims at land development and lists inter alia the objectives: Improve land management,</p>
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Assessment Phase 1: Summary of Findings

		<p>Improve the institutional capacity for human settlement and urban development.</p> <p><u>The capacity improvement objectives aim at strengthening local authorities. No details are given in this regard.</u></p> <p>Page 149 describes <u>decentralization in some more detail. This may be the most relevant chapter of the NSDP regarding decentralization and the local regulatory framework. It explains fiscal decentralization and needed decentralization policy reforms.</u></p> <p><i>“365.A cabinet sub-committee chaired by the Deputy Prime Minister has been established to fast track the decentralization policy reforms. During NSDP I implementation the Government formulated and adapted the National Decentralization Policy of 2014 with the purpose of deepening and sustaining grass roots based democratic governance and promoting equitable local development by enhancing citizen participation and strengthening the local government system, while maintaining effective functional and mutually accountable linkages between central and local governmental entities. The policy articulates more importantly strategies for achieving effective decentralization, and Lesotho’s model for decentralized governance and service delivery; establishment of local governments administrative structures with autonomy and executive authority; development and implementation of strategic framework for participatory and integrated development planning; establishment of fiscal</i></p>
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Assessment Phase 1: Summary of Findings

			<p><i>decentralization and prudent public financial management; and the development of a framework for exercising local autonomy and intergovernmental relations. However, this policy is yet to be fully implemented. (p149, NSDP ii)”</i></p> <p>The key challenges such as poor training and capacity and lack of adequate financing on the local level are described in detail.</p> <p>The resulting three main objectives and extensive lists of corresponding key interventions are described in a general manner. The three main objectives are</p> <ul style="list-style-type: none"> • Decentralize public sector services • Deliver services to the public effectively and efficiency • Strengthen institutions for public service delivery
<p>Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		

Assessment Phase 1: Summary of Findings

	<p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>		
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 		

Assessment Phase 1: Summary of Findings

	d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.		

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the act fails to adequately address the relevant sector as such. This review takes an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

Note: the matrix above is mainly relevant in its first line on subsidiarity as this WS 4 aims at decentralisation. Hence, most Articles are dealt with under line 1. However, short comments on other ICM relevant issues are made in all other lines.

The plan addresses ICM and decentralization (naturally) in a general manner in several contexts (see details above).

On page 149 decentralization is dealt with in detail. It is the most relevant chapter of the NSDP regarding decentralization and the local regulatory framework. It explains in a general manner fiscal decentralization and needed decentralization policy reforms.

The key challenges such as poor training and capacity shortcomings and lack of adequate financing on the local level are confirmed in this plan once again.

It contains no measures and cannot be ranked here. It's recommendations will need to be considered in the next phase when the team studies options on supporting CCs in drafting by-laws.

Soil and Water Conservation Policy (no decentralization relevance = NDR)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; 	3	The summary lists objectives that cover institutional and legislative arrangements.

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>The Policy aims at several ICM objectives.</p> <p>It contains no specific measures other than recommendations that could easily be scored. The score relates hence to the recommendations made in the Policy.</p> <p>Regarding decentralization, it is general in nature.</p>	<p>The institutional arrangements envisage policy level advisory and coordination at the national level and <u>policy implementation at the district and community levels.</u></p> <p>Consequently, a three-tier structure shall be established which comprises of the national land management committee at the national level, district land management committee at <u>the district level and village land management committee at community level.</u></p> <p>Policy areas 1-6, contain ICM objectives but have no significant relevance for decentralization.</p> <p>The guiding principles (page 14-15) do neither mention the local communities as players nor decentralization in general.</p> <p>This is a significant gap with regard to decentralization.</p> <p>p. 3-6 describe the context of soil degradation and water use in a general manner.</p> <p>Page 8:</p> <p>The policy aims to:</p> <ul style="list-style-type: none"> • Protect and improve sustainable use of the soil
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		<ul style="list-style-type: none"> • Improve the management of watersheds resources to ensure regular supply and use of water resources. • Implement integrated watershed management approach in order to sustain catchment ecologic integrity and promote social and economic development; • Facilitate engagement of the public and relevant institutions in soil and water activities within and outside catchment areas <p>Pages 14-23 list all objectives in great detail</p> <p>On page 16, Objective 4.1.1. aims to <u>maximize community involvement</u> in sustainable use of soil and water resources, <u>through engagement of community soil and water conservation committees.</u></p> <p>page 24, chapter on critical strategic actions lists inter alia:</p> <p><i><u>“viii. Promotion of <u>community participation and engagement of consultative bottom-up approach for community development.</u>”</u></i></p> <p>Page 25-33 lists in some detail which institutions should be responsible for soil and water management.</p> <p><u>Regarding communities it mentions “Implementation of land management activities” in very general manner.</u></p>
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Assessment Phase 1: Summary of Findings

Holistic / Cross-sectoral	<ul style="list-style-type: none"> a) Does the measure link land and water use across the entire catchment area? b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. c) Does the measure create or contribute to an integrated management framework; d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need. 		
Proportionality	<ul style="list-style-type: none"> a) Is the measures likely to achieve its legitimate aims; b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors. 		

Assessment Phase 1: Summary of Findings

Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	4	<p>The summary mentions and justifies the need for supporting legislation:</p> <p><i>“Legislative arrangements recognise the need to review and enact an enabling legislation for policy enforcement and implementation. This calls for the development of the land management regulations.”</i></p>
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>		

Assessment Phase 1: Summary of Findings

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the act fails to adequately address the relevant sector as such. This review takes an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

Note: the matrix above is mainly relevant in its first line on subsidiarity as this WS 4 aims at decentralisation. Hence, most Articles are dealt with under line 1. However, short comments on other ICM relevant issues are made in some other lines where possible.

The strategy focuses on technical measures for soil and water conservation and management. The measures are integrated as they relate to land and water use. ICM objectives are listed in some detail. Regarding decentralization, the strategy aims in a general manner at maximizing community involvement in sustainable use of soil and water resources, through engagement of community soil and water conservation committees. Neither the policy areas 1-6, nor the guiding principles mention the local communities as players nor decentralization in general.

Its recommendations are hence relevant for practical ICM implementation, as the measures are technical by nature and need to be implemented via local level regulations or by-laws. They will need consideration when studying options to support CCs to enact by-laws.

The strategy focuses on technical measures for soil and water conservation and management. Apart from mentioning communities to be responsible for implementation of land management activities, it is of no relevance to the ICM local regulatory framework.

Its recommendations will be needed to be considered, when studying options to support CCs to enact by-laws.

Plant Protection Policy of 2018 (no decentralization relevance = NDR)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>the policy is too general and has no significant relevance for decentralization to justify a rating</p>	<p>Page 9 lists environmental protection generally</p> <p>Page 14 describes the Pest Control System And explains that excessive use of agricultural pesticides on crops has high potential to impact negatively on the environment in the form of contamination of water sources, soil and air.</p> <p>NDR</p>

			Page 26
Holistic / Cross-sectoral	<ul style="list-style-type: none"> a) Does the measure link land and water use across the entire catchment area? b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. c) Does the measure create or contribute to an integrated management framework; d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need. 		
Proportionality	<ul style="list-style-type: none"> a) Is the measures likely to achieve its legitimate aims; b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors. 		

Assessment Phase 1: Summary of Findings

<p>Currency</p>	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<p>1</p>	<p>Page 22 there is no supporting legislation with relevance for decentralization.</p> <p>The legislation that it refers to is extremely outdated:</p> <ul style="list-style-type: none"> • Weed Eradication Act, no 18 of <u>1969</u> • Stock Disease Proclamation No10 of <u>1876 (!)</u> • Importation and Exportation of Livestock and Livestock Products Proclamation No 57 of <u>1952</u>. <p>The policy consequently demands enactment of plant protection legislation for its implementation and application.</p>
<p>Consistency</p>	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		

Assessment Phase 1: Summary of Findings

Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 		
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Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the act fails to adequately address the relevant sector as such. This review takes an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

Note: the matrix above is mainly relevant in its first line on subsidiarity as this WS 4 aims at decentralisation. Hence, most Articles are dealt with under line 1. However, short comments on other ICM relevant issues are made in all other lines.

The policy has no relevance for decentralization or the ICM local regulatory framework.

One of its main flaws is that there is no supporting legislation, other than highly outdated acts of 1876, 1952 and 1969, see the matrix for details.

Lesotho Action Plan for the Orange-Senqu River Basin (no decentralization relevance = NDR)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<ul style="list-style-type: none"> a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; 	<p>The plan cannot be related as it only describes the authority of the CCs, referencing the relevant LG Act.</p>	<p>The LAP mainly describes and summarizes the institutional and regulatory framework.</p> <p>p. 19 “priority national concerns” address key ICM elements in general way, and identifies four main problem areas:</p> <ol style="list-style-type: none"> 1. Land degradation and increased invasive species; 2. Declining water resources quality;

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Practically enforceable; and - Financially sustainable. 		<p>3. Changes to the hydrological regime (including wetlands degradation);</p> <p>4. Increasing water demand.</p> <p>The LAP contains a good description of the four main threats to water and land environment.</p> <p>The Action Plan has been designed as a portfolio of project concepts.</p> <p>In chapter 5, it addresses the four main problem areas via four detailed concept notes. The LAP details the defined country targets for the four priority areas of concern, as well as the proposed interventions required to address the priority problems and achieve the agreed targets</p> <p>The four concept notes address the priority problems and contribute to the Action Plan targets.</p> <p>The objectives listed in chapter 5, which is the main part describing objectives and actions needed, list all key ICM elements.</p> <p>Regarding local government, the plan mentions all the CC’s responsibilities as listed in the LG Act and other related legislation.</p> <p>The plan describes in detail how land degradation affects the local communities, and what actions and initiatives are in place to support the CCs (Table 6 of the Plan).</p>
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Assessment Phase 1: Summary of Findings

<p>Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation.</p> <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation.</p> <p>e) Do the measures cohere with global, regional commitments: - Contribution to vertical integration / fragmentation.</p> <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
<p>Proportionality</p>	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>		
<p>Currency</p>	<p>a) Is the measure outdated: - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or</p>		

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Requiring consolidation / codification (regarding amending measures). 		
Consistency	<ul style="list-style-type: none"> a) Does the measure promote (at least some) elements and objectives of ICM; b) Does the measure run contrary to (certain) elements and objectives of ICM; c) Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 		

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the act fails to adequately address the relevant sector as such. This review takes an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

Note: the matrix above is mainly relevant in its first line on subsidiarity as this WS 4 aims at decentralisation. Hence, most Articles are dealt with under line 1. However, short comments on other ICM relevant issues are made in all other lines.

Remarks:

Assessment Phase 1: Summary of Findings

The document provides a good description of the situation in the ICM sector. It lists ICM key elements comprehensively in a descriptive manner but does not contain any specific measures. Regarding an actual plan, it contains concept notes to address each of the four identified problem areas via projects. It will depend on these projects, whether ICM key objective are adequately addressed.

The LAP can therefore not be ranked as other documents.

The issue of mining and mining waste, oil spills and leaking, animal dipping, industrial wastewater is poorly researched and there is insufficient facts and information available.

Recommendation: University and research institutions need to be involved here. However, these are not mentioned in the LAP.

Regarding local authorities, the plan cannot be rated, as it only describes the authority of the CCs, referencing the relevant LG Act.

Report addressing harmonization of legislation through cooperative governance approaches (no decentralization relevance = NDR)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>The report cannot be rated as it is very general and contains no specific content regarding LA</p>	<p>The report very generally describes the water sector and ICM situation.</p> <p>It lists the relevant laws and describes these. There is no legal analysis that could be referred to.</p> <p>With regard to the roles of local authorities it refers to the relevant acts and recommends that the role of LA is strengthened, without further detailing this.</p> <p>It contains no analysis or specific recommendations regarding the local regulatory framework.</p>
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p>		

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. c) Does the measure create or contribute to an integrated management framework; d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need. 		
Proportionality	<ul style="list-style-type: none"> a) Is the measures likely to achieve its legitimate aims; b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors. 		
Currency	<ul style="list-style-type: none"> a) Is the measure outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		

Assessment Phase 1: Summary of Findings

<p>Consistency</p>	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
<p>Participatory (ensuring equitable participation)</p>	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>		

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the act fails to adequately address the relevant sector as such. This review takes an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

Note: the matrix above is mainly relevant in its first line on subsidiarity as this WS 4 aims at decentralisation. Hence, most Articles are dealt with under line 1.

Remarks: No recommendations for local regulations.

Deepening Decentralisation Project, Final Report 2016 (no decentralization relevance = NDR)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>4</p> <p>Note: The report contains no measures, but rather a detailed analysis of options to support local authorities.</p> <p>If the proposed measures of providing funding are implemented and work in practice, this could substantially support ICM.</p>	<p>Page 11: The output was aimed at improving local development funding to the local authorities in all the districts of the country as a catalyst to decentralization and the empowerment of local governance to bring services closer to the people.</p> <p>The Project involved all 64 CC and all 10 DCs.</p> <p>A Memorandum of Understanding (MoU) on the operation of the LDG was prepared and signed by the Project partners. The MoU elaborated the purpose of the LDG; funding arrangements; flow of funds, allocation formulae; conditions for accessing the local development grant, utilization and reporting; roles and responsibilities of the partners; and inspection and audit. The MoU was a key document for purposes of commencing the disbursement of the grants.</p> <p>Grants aimed at local communities in various project areas to have access to clean water and sanitation, better health and education facilities, transport and infrastructure.</p> <p>This MoU must be obtained and considered in the next phase on making recommendations.</p>

Assessment Phase 1: Summary of Findings

		<p>There are three different types of grants: (i) local development grants, (ii) capacity building and (iii) retooling/ equipment grants.</p> <p>8 line ministries understood and adopted the principles of local development funding as a result of the DDP. They expressed their understanding and adoption by making themselves available for the pilot of the programme that embrace devolution – a model of decentralisation that promotes transfer of resources, power and authority to the local level.</p> <p>Of the 8 line ministries that piloted devolution, 5 (i.e., Ministry of Health, Ministry of Social Development, Ministry of Local Government and Chieftainship, Ministry of Energy and Ministry of Forestry) went further to gazette functions they wished to transfer to the local authorities. The gazetted functions were published in the Lesotho Government Gazette No. 71, Vol. 60 Friday 13th November 2015 under Local Government (Transfer of functions), and regulations 2015. The relevant Central Government Ministry or Agency responsible for the functions set out in the schedule shall decide for the transfer of the functions to a Local Authority within its jurisdiction within a period of six months from the commencement of the date of these regulations. The regulations came into operation on the date of publication in the Gazette.</p> <p>The program made available performance-based local development funding to contribute</p>
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		<p>to the total development budget that is allocated to local authorities</p> <p>Page 26:</p> <p>2.2.2 Adoption of formula-based system of inter-governmental transfers, integrated financial management information system (IFMIS) Linking the central financial operations and the district councils through the district sub-accountancies</p> <p>2.2.2.1 Support to fiscal decentralization</p> <p>The activity is aimed at assisting the Ministry of Finance to develop fiscal decentralization framework that would guide intergovernmental fiscal transfers from the central to local government. The framework is further envisaged to provide guidelines for local revenue mobilization and management, which taxes are collected and consumed by local authorities or by central government</p> <p>p. 27 National Decentralization Policy proposes the following actions:</p> <ul style="list-style-type: none"> • Strengthen local budgeting and expenditure management system by, inter alia, establishing fully fledged cost centres at local government level; • Review the revenue collection system for Local Governments to develop capacity in revenue generation and management; • Establish an equalization system where local governments with special needs or challenges are specifically supported over and above uniform fiscal transfers;
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		<ul style="list-style-type: none"> • Establish strong safeguards that involve multiple oversight activities from public accountability institutions, by ensuring that public anti-corruption and accountability institutions are sufficiently capacitated to enforce best practices in local government financial accountability and reporting; • Develop systems to enable citizens to access information on approved budgets, transfers made and expenditure reports from local governments. <p>However, the adoption of the fiscal decentralization framework is dependent on the enactment of the Local Government Bill of 2016. The low hanging fruits that have been harnessed include the transition of council financial reporting from International Financial Reporting Standards to International Public-Sector Accounting standards; conducting regular external audits and gazetting functions (as the saying goes “finance should follow function”).</p> <p>2.3. Output 3: Capacities of Line Ministries and Local Authorities Enhanced to Decentralise Functions</p> <p>The output attempts to implement the National Decentralization Policy when it relates to the transfer of functions and human, physical and fiscal resources that ought to accompany the functions</p> <p>Page 29: The MOLGC transferred 10 Senior Economic Planners from the Office of District Administrators – a de-concentrated structure of the central government- into the local government service. Once again, this move by</p>
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Assessment Phase 1: Summary of Findings

		<p>MOLGC is in fulfilment of one of the recommendations of the Diagnostic Assessment of Decentralization in Lesotho.</p> <p>However, as much as significant progress has been made in light of gazetting of functions and the actual transfer of Senior Economic Planners, the coordination of the exercise has proven to be too cumbersome and technical for the Ministry to coordinate alone, hence the exercise has not gone much beyond gazettelement.</p> <p>All councils at different levels got assisted in decentralization. That is, ten (10) district councils, 1 municipal council, 11 urban councils and 64 community councils received training on various components of decentralization. The councils were further granted three categories of funds namely; retooling grants, capacity building grants and local development grants. With retooling grants all councils purchased equipment and office facilities that would enhance their performance on their day-to-day functions. These included office desks, filing cabinets, computers, internet connections, etc. Capacity building grants were given to all district councils to build capacity of their staff and those from urban and community councils on various functional areas. Local development grants were provided on meeting certain minimum conditions. The grants were dedicated to capital investments such as building of schools and health centres, water supply infrastructure, recreational facilities etc.</p> <p>Page 30</p>
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Assessment Phase 1: Summary of Findings

		<p>Devolution requires that local authorities will have authority to generate revenue and utilize it for their own development rather than remitting it to the central government as is the case under deconcentration. Local Government Bill 2016 was subsequently drafted to harmonize the new policy with local government law because the new policy was a departure from the Local Government Act of 1997 (deconcentration)</p> <p>Page 33</p> <p>The key achievements notwithstanding, the programme witnessed a number of challenges. The most outstanding ones include i) limited capacity of local authorities to manage public finances; ii) limited capacity of the Office of Audit General to audit district councils on a regular basis; iii) long and slow bureaucracy in promulgation of the legislative framework;</p> <p>Pages 34-36 describes key limitations of CCs DCs and Office of the Auditor General (OAG).</p> <p>Page 39</p> <p>The role of the MoF is important in terms of sustainability of the grant system even without donor support. However, the actual level of capacity of the Accountant General and the Office of the Auditor-General both in terms of human resources and funding, are not sufficient to cater for regular follow up and mentoring of the districts in accounting and auditing.</p>
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Assessment Phase 1: Summary of Findings

			<p>The limited support through the national budget to the decentralization process shows the relative lack of political support to decentralisation and is the main concern regarding DDP’s continuation and sustainability. In the past, the decentralization process has been promoted and supported by development partners both in technical and financial terms in particular by GIZ and EU. It should be noted that currently the decentralization strategy and policy still needs to be supported by national institutional and international support to ensure the effectiveness of the process.</p> <p>Page 41</p> <p>For DDP, it became clear that a performance based grant system requires more robust institutional support compared to normal grants and should be supported by both MoF and MoLGC through clear budget guidelines, regulations and regular accounting and reporting. At the same time, a more empathetic approach, backed by in-built and well-considered flexibility in the enforcement of the minimum conditions may well have borne more positive results compared to the punitive action of withholding the grants entirely.</p>
<p>Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area? b) Does the measure link social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation. c) Does the measure create or contribute to an integrated management framework;</p>		

Assessment Phase 1: Summary of Findings

	<p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>		
Currency	<p>d) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; 		

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>		

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the act fails to adequately address the relevant sector as such. This review takes an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

The Project could be highly relevant regarding its findings. This will need consideration in the next phase when options for CC support are studied and recommendations are made.

Remarks: This report is highly relevant for WS 5 (financing mechanisms) No recommendations for local regulations are made, and no measures exist. Hence, the rating only refers to findings and their relevance.

ICM Final Reports 2017-2018, Vol I-III (no decentralization relevance = NDR)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and 	3	Page 17 -22 ff, the report describes roles and functions of the 4 types of Councils and refers to the applicable laws.

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>The report contains no measures, but rather a detailed analysis of options to support local authorities.</p> <p>If the proposed measures of providing funding are implemented and work in practice, this would substantially support ICM.</p>	<p>On page 24 and 25, the report contains notes concerning: Decentralization and local leadership.</p> <p>It lists in detail what practical constraints and deficits are.</p> <p>There is no study of local level regulations. The WA and the LGA are quoted but not analysed or commented. The study has a strong focus on institutional and capacity strengthening.</p> <p>However, all the highly detailed findings regarding practical bottlenecks, interviews conducted, materials collected, could be useful input to the drafting of local level regulations or by-laws.</p> <p>When studying options to support CCs to draft by-laws, these findings will need to be considered.</p>
<p>Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p>		

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>		
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p>		

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	- Contribution to vertical integration / fragmentation.		
Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 		

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the act fails to adequately address the relevant sector as such. This review takes an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

Note: the matrix above is mainly relevant in its first line on subsidiarity as this WS 4 aims at decentralisation. Hence, most Articles are dealt with under line 1.

Remarks: No recommendations for local regulations.

Lesotho Highlands Development Authority. Treaty and Phase II Agreement (no decentralization relevance = NDR)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<ul style="list-style-type: none"> a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 		Could not be obtained

Assessment Phase 1: Summary of Findings

	<p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>		

Assessment Phase 1: Summary of Findings

Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>		

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the act fails to adequately address the relevant sector as such. This review takes an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

Note: the matrix above is mainly relevant in its first line on subsidiarity as this WS 4 aims at decentralisation. Hence, most Articles are dealt with under line 1. However, short comments on other ICM relevant issues are made in all other lines.

Remarks: No recommendations for local regulations.

Lesotho Highlands Water Project (P.1) Policy for Instream Flow Requirements (no decentralization relevance = NDR)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	Not ranked, see comment below, no decentralization relevance	<p>The Policy lists in a general manner the instream flow requirements and contains several ICM related key elements, such as:</p> <p>Chapter 2: “meet environmental criteria and community user requirements”</p> <p>In Chapter 4: environmental objectives of flow manipulations are described in relation to the river condition classification for Lesotho Highlands Water Project affected rivers. They contain general environmental and water management related objectives, i.e., ICM objectives.</p> <p>The main focus is on detailed compensation mechanisms for adverse impacts of flow manipulations.</p> <p>Chapter 7.10, and 7.11 provide for the right to request a review of their compensation allocation and a detailed appeals procedure.</p> <p>Chapter 2: “meet environmental criteria and community user requirements”</p>

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			Chapter 7 contains very detailed compensation measures for any losses suffered due to flow manipulations.
Holistic / Cross-sectoral	<ul style="list-style-type: none"> a) Does the measure link land and water use across the entire catchment area? b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. c) Does the measure create or contribute to an integrated management framework; d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need. 		
Proportionality	<ul style="list-style-type: none"> a) Is the measures likely to achieve its legitimate aims; b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors. 		
Currency	<ul style="list-style-type: none"> a) Is the measure outdated: 		

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	<ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		
Consistency	<ul style="list-style-type: none"> a) Does the measure promote (at least some) elements and objectives of ICM; b) Does the measure run contrary to (certain) elements and objectives of ICM; c) Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 		Chapter 6.2. provides for public participation. It requires mechanisms for the active involvement of stakeholders in decision-making processes, including planning, implementation, monitoring and evaluation of projects and programs that affect their lives.

Please note that the above identified gaps or shortcomings relate to ICM. This does not always necessarily imply that the act fails to adequately address the relevant sector as such. This review takes an ICM perspective and mainly aims at identifying ICM related gaps and shortcomings.

Note: the matrix above is mainly relevant in its first line on subsidiarity as this WS 4 aims at decentralisation. Hence, most Articles are dealt with under line 1. However, short comments on other ICM relevant issues are made in all other lines.

Remarks: No relevance and no recommendations for local regulations. There is a strong focus on compensation. This has no decentralization relevance.

Environment Act 2008 (and eventually subsidiary regulations with/without schedules)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	4	a. Section 59: Local authorities have been given the power to take sufficient actions, e.g., Areas at risk of environmental degradation: 59 (6) empower local authorities to take remedial actions based on guidelines. It remains to be seen whether guidelines have been developed, which poses as a gap. Local authorities need to make their own guidelines.
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	5	
Holistic / Cross-sectoral	a) Does the measure link land and water use across the entire catchment area?	2	Since only re-forestation/afforestation of degraded is mentioned, it falls short of being holistic. Other interventions must be introduced – revegetation, agricultural practices, range management, soil conservation measures.
	b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 	2	
	c) Does the measure create or contribute to an integrated management framework;		
	d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:	1	

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	1	
		1	
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	1 1 1	The intervention must integrate multiple use principle by allowing afforested/reforested areas allow grazing under strict control measures under the aegis of the local authority.
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	4	While objectives are still valid, penalties should be updated.
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	5 1 1	<p>a. Yes.</p> <p>b. It is not holistic. Production of spring water can be impeded.</p> <p>c. Principles of range management are compromised</p>

Assessment Phase 1: Summary of Findings

	<p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	1	<p>d. Section 94 deals with conventions and treaties at the national level. Local authorities will need to be empowered at transboundary levels with the neighbouring state. Example should be drawn from Maloti/Drakensberg Transfrontier Conservation Area between Lesotho and South Africa.</p>
<p>Participatory (ensuring equitable participation)</p>	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>		<p>a. Section 22- Environmental Impact Assessments require public participation.</p> <p>b. Section 95, 96, 97 deal with access to information, education and public awareness.</p> <p>c. As in “b” above.</p> <p>d. Section 98 establishes a tribunal for appeals</p>

Land Husbandry Act 1969, Range Management & Grazing Control Regulations 1980 (as amended) (and eventually subsidiary regulations with/without schedules)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>Does the measure appropriately address key ICM elements & objectives:</p> <p>Breadth / sufficiency of mandate;</p> <p>Substantive coverage / scope of application; and</p> <p>Subsidiarity (decision-making at the lowest appropriate / practicable level of administration)</p>	5	<p>To control and improve, in respect of agricultural land, the use of land, soil conservation, water resources, irrigation and certain agricultural practices, and to provide for incidental or connected matters.</p>

Assessment Phase 1: Summary of Findings

	<p>having regard to the ongoing process of decentralisation in Lesotho.</p> <p>Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <p>Sufficiently flexible;</p> <p>Sustainably implementable;</p> <p>Practically enforceable; and</p> <p>Financially sustainable.</p>	5	<p>Matters related to decentralization are not incorporated. New legislation should empower local authorities in line with Local Government Act 1997, strengthened in Local Government Bill 2020.</p> <p>Enforceability entrusted with the Chiefs through Range Management and Grazing Control Regulations of 1980.</p>
Holistic / Cross-sectoral	<p>Does the measure link land and water use across the entire catchment area?</p> <p>Does the measure link social and economic development with protection of natural ecosystems:</p> <p>Contribution to horizontal integration / fragmentation.</p> <p>Does the measure create or contribute to an integrated management framework;</p> <p>Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <p>Contribution to vertical integration / fragmentation.</p> <p>Do the measures cohere with global, regional commitments:</p> <p>Contribution to vertical integration / fragmentation.</p> <p>Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>4</p> <p>4</p> <p>4</p> <p>4</p> <p>4</p> <p>4</p> <p>4</p>	<p>4 (1). Subject to subsection (3), the Minister, in respect of agricultural land, may by Notice in the Gazette make regulations which in his judgement ensure that land is employed in the most beneficial uses, promote soil conservation, proper management of water resources and proper irrigation, and promote certain good and prevent certain bad agricultural practices.</p> <p>Major related activities within a catchment taken care of.</p> <p>Irrigation and agricultural activities are provided for.</p>
Proportionality	<p>Is the measures likely to achieve its legitimate aims;</p> <p>Is the measure cost-effective;</p>	<p>4</p> <p>4</p>	

Assessment Phase 1: Summary of Findings

	Does the measure interfere to the least extent necessary with established interests, practices or policies; Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.	4 3	
Currency	Is the measure outdated: Obsolete in objectives, scope of application or approach; Requiring updating (e.g., regarding penalties); or Requiring consolidation / codification (regarding amending measures).	4	Updates are encapsulated in Range Resources Management Policy of 2014 with development of new legislation initiated, Draft Soil and Water Conservation Policy (work in progress), Water Act 2008, Water and Sanitation Policy, National Wetland Conservation Strategy, Integrated Water Resources Strategy .
Consistency	Does the measure promote (at least some) elements and objectives of ICM; Does the measure run contrary to (certain) elements and objectives of ICM; Does the measures conflict with other national measures: Conflicting / overlapping roles and mandates; Gaps regarding key functions (e.g., enforcement); or Ambiguities regarding scope of application. Does the measure take account of international and regional commitments, especially regarding transboundary basins: Contribution to vertical integration / fragmentation.	5 4 4 1	These are to be address in subsequent legislation. Maloti Drakensberg Transfrontier Conservation Area’s long term strategy makes mention of Community Conservation Forums though not linked to local authority
Participatory (ensuring equitable participation)	Does the measure raise awareness of (elements and objectives) of ICM;	5 5	After setting aside an area as <i>leboella</i> and defining its boundaries the chief shall convene a pitso (public gathering) in the customary manner and inform the community of his decisions

Assessment Phase 1: Summary of Findings

	<p>Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>5</p> <p>4</p>	<p><i>NB: Leboella</i> is an area set aside for the propagation of grass thatch grass, reedbeds, tree planting or rotational grazing).</p>
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National Resources Heritage Act 2011

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho.	2	The purpose of the Act is to make provision for the preservation, protection and management of the heritage resources of Lesotho. It is broad in nature and does not entail details of how the land for heritage sites are to be managed. ICM Objectives: - Socio-economic development – implied in that land declared as heritage site is to attract tourists to enter upon payment of a fee. Tourism in the country will be boosted, making contribution to the GDP growth; - Gender – no; - Climate change – no; - Institutionalisation - yes.
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho: - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable.	1	
Holistic / Cross-sectoral	a) Does the measure link land and water use across the entire catchment area?	1	Silent. It is implied as indicated above Minister may make regulations for the control of excavations, development or other works or activities carried out in relation to a heritage site, a heritage building or heritage object.
	b) Does the measure link social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation.	3	
		1	
	c) Does the measure create or contribute to an integrated management framework;	2	
	d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation.	1	
e) Do the measures cohere with global, regional commitments:	4		

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	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>5</p> <p>3</p> <p>1</p> <p>3</p>	
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	5	The solution to make the Act more effective is for the Minister to make regulations. These would then address the ICM objectives and elements as well as becoming consistent in terms of effectiveness, being holistic/cross-sectoral, proportionality, currency, consistency, and being participatory.
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	<p>1</p> <p>1</p> <p>1</p>	See 1 above

Assessment Phase 1: Summary of Findings

	d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: - Contribution to vertical integration / fragmentation.	1	
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM;	1	
	b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;	1	
	c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	1	
	d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	1	

Managed Resources Areas Order 1993 (and eventually subsidiary regulations with/without schedules)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; 	5	<p>Managed Resource Protected Area (MRA) means an area containing predominantly unmodified natural systems managed mainly for the sustainable use of natural ecosystems and to ensure long-term protection and maintenance of biological diversity, while providing at the same time a sustainable flow of natural products and services to meet community needs.</p> <p>Section 5: Minister may determine policy that should be applied to MRA pertaining to “the protection, preservation and conservation of</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		ecological processes, natural systems and natural beauty as well as the preservation of biotic diversity in the natural environment”
Holistic / Cross-sectoral	a) Does the measure link land and water use across the entire catchment area?	5	
	b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 	5	
	c) Does the measure create or contribute to an integrated management framework;		
	d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	5	
	e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	5	
	f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.	5	
Proportionality	a) Is the measures likely to achieve its legitimate aims;	5	
	b) Is the measure cost-effective;	5	
	c) Does the measure interfere to the least extent necessary with established interests, practices or policies;	5	
	d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.	5	

Assessment Phase 1: Summary of Findings

Currency	<p>b) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	1	MRA should be incorporated into new legislation: Nature Conservation Bill 2005 whose enactment is long overdue.
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	4	<p>The overall objective of the ICM programme is to “facilitate socio-economic development and adaptation to climate change in Lesotho” to reach the specific objective of “ICM [being] institutionalised and under full implementation in Lesotho based on gender equality and climate change adaptation principles”.</p> <p>“Whilst legislation exists that is meant to regulate sustainable natural resource use, it is ineffectively enforced. Such legislation has been developed from separate perspectives, with each implementing agency focusing on its area of interest. There is therefore a high conflict of interest reflected in these laws (Laws of Lerotholi, 1960; Land Husbandry Act, 1969; Historical Monuments, Relics, Fauna and Flora Act, 1967; Range Management Regulations, 1980; Forestry Act, 1998; Local Government Act, 1997 etc.,) all of which need to refer to some framework or principal law (Environment Act, 2001, as amended), which needs consolidation and realignment”¹³².</p> <p>The managed resources area approach is by nature derived from International Union for</p>
	<p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	5	

¹³² MDTP. 2007. Khomo-Phats’oa Managed Resource Area Manage Plan. Ministry of Tourism, Environment and Culture, Maseru.

Assessment Phase 1: Summary of Findings

			Conservation of Nature and Natural Products (IUCN). Category has changed to Managed Natural Resources Protected Area for “sustainable use of resources from natural ecosystems”
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM;	5	Bylaws were drafted through a participatory approach for three Community Councils, namely Khomo-phats’oa (Qacha’Nek district), ‘Moteng (Botha Bothe) and Mokhotlong-Sanqebethu. However they were never gazetted. Ministry of Local Government official said it is because bylaws were in conflict with other line Ministries’ laws.
	b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;	5	
	c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	5	
	d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	5	

Weeds Eradication Act 1969 (and eventually subsidiary regulations with/without schedules)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p>	3	Socio-economic development elements are implied because the weeds impede productivity by lowering yields, e.g., quality of wool gets reduced by Cockle burr. It says nothing about gender and climate change. Institutionalisation refers to the Chief’s role. However, the Local Government Act of 1997 gives some of the powers away from chiefs to Community Councils. In this case it is unclear. Though the Act refers to “Control of natural resources and environmental protection”.

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		It is deemed practically unenforceable that could be attributed to ambiguity of the Act. Chief have abandoned their role.
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area? 4</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems: 5</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 5 <p>c) Does the measure create or contribute to an integrated management framework; 5</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: 5</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 3 <p>e) Do the measures cohere with global, regional commitments: 5</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims; 5</p> <p>b) Is the measure cost-effective; 5</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies; 3</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>		

Assessment Phase 1: Summary of Findings

Currency	a) Is the measure outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	1	The Act needs to be updated and clarified as to who must enforce it, preferably inclusive of community councils through bylaws.
Consistency	a) Does the measure promote (at least some) elements and objectives of ICM;	5	<p>The laws below were repealed:-</p> <ul style="list-style-type: none"> • The Paramount Chief's Rule Number 26 of the Rules commonly known as Part II of the Laws of Lerotholi (Revised Edition, 1959). • The Paramount Chief's Order Number 3 of the Orders commonly known as Part III of the Laws of Lerotholi (Revised Edition, 1959) <p>No mention is made of international obligations.</p>
	b) Does the measure run contrary to (certain) elements and objectives of ICM;	5	
	c) Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	5	
	d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	1	
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM;	5	<p>Chiefs in the past used to make eradication of the weeds abundantly clear that it had to be done; it was mandatory.</p> <p>This must be taken of in updating the Act, by devolving powers to local councils.</p>
	b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;	5	
	c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	5	
	d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	1	

Laws of Lerotholi 1938 (and eventually subsidiary regulations with/without schedules)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho.	5	<ul style="list-style-type: none"> Section 13: Pounds and Compensation - Every Chief and Headman empowered to establish a pound and to charge the owner of any impounded livestock. Section 17: Manner of issuing 'bewyses' – for movement of livestock, especially important in issuing grazing permits as in Range Management and Grazing Control Regulations of 1980 as amended. Orders Under Section 8 (1)(r): dealing with anti-erosion measures in cultivated fields.
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho: - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable.	5	
Holistic / Cross-sectoral	a) Does the measure link land and water use across the entire catchment area?	4	<ul style="list-style-type: none"> To be taken care of in new legislation to be prepared from Draft Soil and Water Conservation Policy.
	b) Does the measure link social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation.	4	
	c) Does the measure create or contribute to an integrated management framework;	4	
	d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation.	1	
	e) Do the measures cohere with global, regional commitments: - Contribution to vertical integration / fragmentation.	3	

Assessment Phase 1: Summary of Findings

	f) Do the measures take account of any recent, current or impending significant infrastructure investments or commercial development need.		
Proportionality	<p>a) Is the measure likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measure involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>5</p> <p>5</p> <p>5</p> <p>3</p>	
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	1	New law for Soil Conservation has long been outstanding. This law is not currently being implemented though still relevant. New law will emanate from Soil and Water Conservation Policy once approved by Cabinet. Most of the elements of the law should be devolved to local authorities for better enforcement.
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measure conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p>5</p> <p>5</p> <p>5</p> <p>1</p> <p>5</p>	<ul style="list-style-type: none"> • This can best be addressed in new law.

Assessment Phase 1: Summary of Findings

Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM;	5	
	b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;	5	
	c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	5	
	d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	5	

National Environment Policy for Lesotho 1998 (and eventually subsidiary regulations with/without schedules)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho.	5	Section 2.1: Goal is protect and conserve the environment with a view of achieving sustainable development in Lesotho. Section 2.1: Policy objectives are very broad and cross-sectoral, ICM elements well taken care of.
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho: - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable.	5	
Holistic / Cross-sectoral	a) Does the measure link land and water use across the entire catchment area?	5	Section 4: Captures a wide spectrum of actions embedded in the basic principles.
		5	

Assessment Phase 1: Summary of Findings

	<p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>5</p> <p>5</p> <p>5</p> <p>5</p>	<p>Section 7.0 addresses International Conventions. Lesotho is signatory.</p>
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>5</p> <p>5</p> <p>5</p> <p>5</p>	<p>Section 4.21, Environmental Impact Assessment, Audit and Monitoring takes care of this.</p>
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		<p>The Policy makes no mention of decentralised functions pertaining to environmental management. There is need, therefore, to review the Policy.</p>

Assessment Phase 1: Summary of Findings

Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	5	<ul style="list-style-type: none"> • Section 3.1 addresses Social and economic dimensions; • Section 3.2 on Climate change; • Section 4.3 on Gender issues; • Section 5.0 on Institutional arrangements. •
Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	5	<p>Sections 4.25 and 4.26:</p> <ul style="list-style-type: none"> • Environmental education and public awareness; • Public participation. •

National Forestry Programme 2008

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		<p>Section 2.1: The vision for the future of forestry in the country. This vision looks at how forestry will make a meaningful contribution to economic development and poverty reduction in the country, while at the same time contributing to the reduction of deleterious environmental processes such as soil erosion, deforestation, and the depletion of biological diversity.</p> <p>Section 2.3: It focuses on mobilizing human resources, including the empowerment and capacitating of rural communities.</p> <p>Gender issues are not addresses.</p>
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p>	<p>4</p> <p>4</p> <p>4</p> <p>4</p> <p>1</p>	<p>Section 2.2: The National Forestry Programme , through multi-stakeholder and transparent processes, is able to address these cross-sectoral issues and harness cooperation, donor coordination and participatory decision-making, planning and implementation for sustainable forest sector development.</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures take account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
Proportionality	<p>a) Is the measure likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measure involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	4 4 4 4	
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	1	The role of local authorities must be defined with the view to transfer ownership of some forests to local councils to manage and accrue income.
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measure conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p>	4 5 5 5	<ul style="list-style-type: none"> • Socio-economic development – yes • Gender issues – no. • Climate change – implied in increased actions of afforestation and reforestation. • Institutionalisation – yes. <p>Section 2.3: It ensures that the forest sector is fully integrated with the wider resource management strategies, emphasizing links with land use planning and integrated catchment management</p>

Assessment Phase 1: Summary of Findings

	- Contribution to vertical integration / fragmentation.		
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM;	5	<ul style="list-style-type: none"> Category C, p. 24: Public Participation
	b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;	5	
	c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	5	
	d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	5	

Range Resources Management Policy 2014 (and eventually subsidiary regulations with/without schedules)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	5	Goal: To attain sustainable development and management of rangeland resources for an enhanced biodiversity, optimum productivity and improved livelihoods of the people of Lesotho.

Assessment Phase 1: Summary of Findings

Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area? 5</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation. 5</p> <p>c) Does the measure create or contribute to an integrated management framework; 5</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation. 5</p> <p>e) Do the measures cohere with global, regional commitments: - Contribution to vertical integration / fragmentation.</p> <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		See Annex 1 attached for interactive relationship between range resources management and other catchment activities.
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims; 5</p> <p>b) Is the measure cost-effective; 5</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies; 5</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>		
Currency	<p>a) Is the measure outdated: - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures).</p>	5	<p>There is no need to update the Policy as it is has only been six years in place and has the role of local councils has well taken into account .</p> <p>In Local Government (Transfer of Functions) Regulations, 2015, Range Resource</p>

Assessment Phase 1: Summary of Findings

			<p>Utilisation entrenches local Councils with responsibility – E3:</p> <ul style="list-style-type: none"> • Promotion of community-based natural resources management; • Adjudication of cattle post; • Management and protection of wetland areas.
Consistency	a) Does the measure promote (at least some) elements and objectives of ICM;	5	<ul style="list-style-type: none"> • Elements of ICM have all been into account: Socio-economic development, Gender, climate change, institutional arrangement. • If not well managed, conflicts do ensue between Chiefs and Local Councils. It is desirable to strike a balance and synergy between two institutions.
	b) Does the measure run contrary to (certain) elements and objectives of ICM;	5	
	c) Does the measures conflict with other national measures:	2	
	<ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 		
d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:			
<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 			
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM;	5	<ul style="list-style-type: none"> •
	b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;	5	
	c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	5	
	d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	5	

INTERACTIVE RELATIONSHIP BETWEEN RANGE RESOURCES MANAGEMENT AND OTHER SECTORS



National Strategy on Lesotho’s Biodiversity: Conservation and Sustainable Use, 2000 (and eventually subsidiary regulations with/without schedules)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	4	ICM Objectives have been addressed: <ul style="list-style-type: none"> • Socio-economic development – yes. • Gender issues – yes. • Climate change – yes. • Institutionalisation - yes. Goal 4: Expand Lesotho’s Capacity to Conserve and Manage Biodiversity
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	5	
Holistic / Cross-sectoral	a) Does the measure link land and water use across the entire catchment area?	5	Guiding Principle 12: To implement the goals and objectives for conservation and sustainable integration into sectoral planning efforts (e.g., Agriculture, Forestry, Wildlife, Fisheries, Industry, Education, Health, etc.)
	b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 	5	
	c) Does the measure create or contribute to an integrated management framework;	5	
	d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	5	
	e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	3	

Assessment Phase 1: Summary of Findings

	f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.		
Proportionality	a) Is the measures likely to achieve its legitimate aims; b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.	5 5 5 5	
Currency	a) Is the measure outdated: - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures).		Under objective 4.1, Action is to “Review existing and draft additional policies for increasing human and institutional capacity to conserve biodiversity. Action 4.3: Strengthen law enforcement agencies by direct involvement communities and through their local institutions.
Consistency	a) Does the measure promote (at least some) elements and objectives of ICM; b) Does the measure run contrary to (certain) elements and objectives of ICM; c) Does the measures conflict with other national measures: - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: - Contribution to vertical integration / fragmentation.	5 5 5 5	ICM Objectives have been addressed: <ul style="list-style-type: none"> • Socio-economic development • Gender issues • Climate change • Institutionalisation. <p>The Strategy and Action is based on the Convention of Biological Diversity Conservation under the United Nations to which Lesotho is signatory.</p>

Assessment Phase 1: Summary of Findings

	<p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>5</p> <p>5</p> <p>5</p> <p>3</p>	
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>4</p> <p>4</p> <p>4</p> <p>4</p>	
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<p>1</p>	<p>The SLM Model needs to be updated and operationalised. Managed Resource Area model for developing bylaws should made more realistic. It is beyond the capacity of local councils to implement.</p>

Assessment Phase 1: Summary of Findings

Consistency	a) Does the measure promote (at least some) elements and objectives of ICM;	4	
	b) Does the measure run contrary to (certain) elements and objectives of ICM;	5	
	c) Does the measures conflict with other national measures:	5	
	- Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application.	5	
d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:			
- Contribution to vertical integration / fragmentation.			
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM;	5	•
	b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;	5	
	c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	5	
	d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	5	

Model Rural Areas (Grazing Control, Pounds, Trespasses) (Government Notice No. 24, 1963) (and eventually subsidiary regulations with/without schedules)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	5	The bylaw plays a crucial role in impoundment of livestock that may be found stray or trespassing on leboella ¹³³ or cropland, and so causing damage. This may impact on socio-economic development and institutionalisation objectives of the ICM. Gender issues are not explicit but may be implied in that it is applicable irrespective of gender. Damage of vegetation (especially grass) to grazing areas has negative impact on climate change because landscape has already been badly denuded leaving land bare.
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	5	
Holistic / Cross-sectoral	a) Does the measure link land and water use across the entire catchment area?	5	Implied because of downstream effects on soil erosion that pollutes running rainfall water to neighbouring countries (south Africa, Botswana, Namibia)
	b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 	5	
	c) Does the measure create or contribute to an integrated management framework;	4	
	d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:	4	
		3	

¹³³ “Leboella” means an area set aside for the propagation of grass thatch grass, reedbeds, tree planting or rotational grazing (Range Management and Grazing Control Regulations, 1980 as amended).

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>			•
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	5 5 5 5		
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	1		The bylaws must be updated in line with contemporary socio-economic, climatic and institutional situations. It was passed during pre-independence period when the Chief play a major role, whereas local councils are now in place. There must synergy between Chiefs’ role and that of local councils.
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or 	5 5 5 1		As stated in 1 above.

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		May not be necessary to address this issue at this level
Participatory (ensuring equitable participation)	<p>e) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>f) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>g) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>h) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	5	Village dwellers are well aware of this law as it affects them in their daily activities such as the common livestock herding practice.

Chieftainship Act 1968 (and eventually subsidiary regulations with/without schedules)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives:	5	Section 6: Gives functions of the office Chief. They are to: <ul style="list-style-type: none"> • Aid and maintain the King in his Government of Lesotho according to the Constitution and other laws of Lesotho; to serve; • Serve people in his area of authority; • Promote welfare and lawful interests; • Maintain public safety and public order among them; • Exercise all lawful powers and perform all lawful duties impartially, efficiently and quickly.
	<ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and 	5	
	<ul style="list-style-type: none"> - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	5	
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho:		
	<ul style="list-style-type: none"> - Sufficiently flexible; 		

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		Chief and local councils share responsibilities with regard to ICM related activities.
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area? 5</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems: 5</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 5 <p>c) Does the measure create or contribute to an integrated management framework; 5</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: 4</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 3 <p>e) Do the measures cohere with global, regional commitments: 3</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	5	
Currency	a) Is the measure outdated:	2	The Act needs updating, especially to be in a better position to deal with the current socio-

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		<p>political-economic development and other issues bearing in mind objectives of ICM whose elements are:</p> <ul style="list-style-type: none"> • Socio-economic development; • Gender equality; • Climate Change; and Institutionalisation for the modern times.
Consistency	a) Does the measure promote (at least some) elements and objectives of ICM;	5	•
	b) Does the measure run contrary to (certain) elements and objectives of ICM;	5	
	c) Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	5	
	d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	3	
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM;	5	<p>Traditional <i>lipitso</i> (public gatherings) lent themselves to an entrenched practice of raising public awareness.</p> <p>Chiefs’ decision can be appealed through their hierarchical levels as well as to the local (customary) and highest courts of the land.</p>
	b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;	5	
	c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	5	
	d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	5	

Lesotho Constitution of 1993 as amended

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	2	Key ICM elements and objectives are impliedly covered under principles of state policy of environmental protection; integrated development planning; and the requirement that the underlying reason for establishing local authorities must be to enable urban and rural communities to determine their affairs and to develop themselves.
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	3	
Holistic / Cross-sectoral	a) Does the measure link land and water use across the entire catchment area?	3	Before 2011, S. 105(2) provided that the National Planning Board shall prepare plans for the economic development of Lesotho, including in particular the development, conservation and use of land and other natural resources. But it was deleted and replaced with a different provision in 2011. This can be inferred from provisions dealing with integrated development planning.
	b) Does the measure link social and economic development with protection of natural ecosystems:	3	
	- Contribution to horizontal integration / fragmentation.	2	
	c) Does the measure create or contribute to an integrated management framework;	2	
	d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:	3	
- Contribution to vertical integration / fragmentation.	3		

Assessment Phase 1: Summary of Findings

	<p>e) Do the measures cohere with global, regional commitments: - Contribution to vertical integration / fragmentation.</p> <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors</p>	<p>3</p> <p>3</p> <p>3</p> <p>3</p>	
Currency	<p>a) Is the measure outdated: - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures).</p>	3	
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures: - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application.</p>	<p>2</p> <p>3</p> <p>3</p>	

Assessment Phase 1: Summary of Findings

	d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	4	

Local Government Act of 1997 as amended, Local Government Regulations of 2005, and Local Government (Transfer of Functions) of 2015

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and 	3	S.5, as amended, provides that a council shall be charged with the regulation, control & administration of all matters to be set out in the regulations to be made by the minister. Such regulations were enacted in 2015 and cover some key elements of ICM, which would be transferred by Line Ministries within 6 months. It is not clear if such functions have actually been transferred, how they shall be transferred, whether once transferred, councils will have autonomy on such functions, whether councils' capacity to perform such functions will be strengthened etc.

Assessment Phase 1: Summary of Findings

	- Financially sustainable.	4	
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation.</p> <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation.</p> <p>e) Do the measures cohere with global, regional commitments: - Contribution to vertical integration / fragmentation.</p> <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>3</p> <p>4</p> <p>4</p> <p>3</p> <p>3</p>	<p>It is just a list of functions without any indication as to how to perform them and without any links whatsoever. So, councils may take a fragmented or integrated approach; a coordinated or silo approach etc.</p> <p>Its contribution is limited, and it is insofar as it provides for integrated district development planning</p>
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>2</p> <p>3</p> <p>3</p>	<p>The main objective of the Act and regulations is decentralisation, but the lack of clarity on the scope of decentralised functions and resources including the fact that councils are treated exactly the same regardless of differences in terms of status and capacity will make it difficult to meet the real objective.</p>

Assessment Phase 1: Summary of Findings

Currency	a) Is the measure outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	2	The Act is actually being reformed because it is outdated in view of the current National Decentralisation Policy.
Consistency	a) Does the measure promote (at least some) elements and objectives of ICM;	2	The Act read with the regulations provides that functions such as land management and water conservation; construction of soil and water conservation structures; and management and protection of wetlands shall be transferred to councils. But it is silent on the continued application of sectoral laws which mandate line ministries to perform the same functions (vertically overlapping mandates). It is not clear if the transfer of functions gives councils autonomy and some exclusive control over the regulation and administration of such matters. It is not clear what will happen in cases where, for example, one wetland falls within the jurisdiction of several councils (horizontally overlapping mandates)
	b) Does the measure run contrary to (certain) elements and objectives of ICM;		
	c) Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	2	
	d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	2	
		3	
Participatory (ensuring equitable participation)	e) Does the measure raise awareness of (elements and objectives) of ICM;	4	Though not catchment management legislation, the Act read with the regulations list some elements of catchment management as functions of council. Further, councillors are required to consult communities within respective EDs and present their views at council meetings. Council meetings are open to the public and the law gives the public a right to have access to council minutes.
	f) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;	4	
	g) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	4	

Assessment Phase 1: Summary of Findings

	h) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	4	
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Local Government (Amendment) Bill 2020

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	4	The Bill does not list Council’s functions but provides for the transfer of functions with resources from line ministries to councils. It also provides comprehensive procedure for participatory integrated planning. It contributes to a practicable ICM regime by creating structures conducive to that regime and coordination plus supervision mechanisms
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	4	
Holistic / Cross-sectoral	a) Does the measure link land and water use across the entire catchment area?	4	It outlines principles of integrated development planning and emphasis is placed on socio-economic development
	b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 	4	
	c) Does the measure create or contribute to an integrated management framework;	5	
	d) Does the measure link with the broader National Development Strategy / Planning	2	

Assessment Phase 1: Summary of Findings

	<p>Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures take account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	2	The planning process clearly establishes this link
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measure involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	2 2 4 2	It would depend on the model of fiscal decentralisation that will be adopted and the cooperation from line ministries regarding the transfer of functions
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	N/A	
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or 	4 no 3 1	<p>It promotes such elements indirectly</p> <p>It is expected that other laws will be harmonised with this Bill once enacted</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>1</p> <p>4</p> <p>5</p> <p>4</p>	<p>Council minutes must be made publicly available on request.</p> <p>Through ministerial supervisory powers</p>

National Plan. Board Act 1995

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	3	<p>This Act provides for the election of the Board's chairperson and the procedure of the Board. Otherwise it states that the Board shall perform functions stipulated in S.105(2) of the Constitution. That is as far as it is remotely relevant</p>

Assessment Phase 1: Summary of Findings

	<p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	3	
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	3	

Assessment Phase 1: Summary of Findings

Currency	<p>b) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	3	
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	3	
Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	3	

Land Act No. 8 of 2010; Land (Amendment) Act No.16 of 2012; Land (Amendment) Act No.9 of 2014; Land Regulations LN No. 21 of 2011; Land (Amendment) Regulations LN No. 11 of 2013; and Systematic Land Regularisation Regulations LN No. 103 of 2010

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	4 4	S.2 defines 'land' broadly to include land covered with water, all natural or man-made things growing on land and buildings, or other structures permanently affixed or attached to land. But the scope of the Act is constrictive in that it focuses mainly on allocation, expropriation and administration of land including the transfer and disposal of land titles. Council is the allocating authority; so the decision to allocate land is taken at the lowest level of authority. Further, if land is allocated for agricultural purposes, the Ministry of agriculture is involved and factors that must be considered include prevention of soil erosion, economic viability of the proposed agricultural activity, the requisite environmental safeguards and sound land husbandry practices. There are land courts and established procedures for the enforcement of rights and obligations. The main problem is that all the money collected is paid into the Consolidate Fund.
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning</p>	4 4 4 4 3	S.50 provides for the expropriation of land for purposes such as water conservation by means of watersheds, water catchment areas, reservoirs; land conservation through afforestation and prevention of soil erosion; and providing water supply, drainage, sewage and nature reserves. Expropriation is made on the basis of a development plan. This provision does not create an integrated management framework but enables the creation of that framework.

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	<p>Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	4	
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	4 4 4 4	This legislation is comprehensive, and the structures established by this legislation are efficient. So, by and large, it does achieve its legitimate goals.
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	4	It actually changed the old ineffective system. It has been amended a number of times.
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or 	4 3 3	Though not ICM specific legislation, its objectives coincide with at least some key ICM objective

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	<ul style="list-style-type: none"> - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>4</p> <p>4</p> <p>4</p> <p>5</p>	Public participation and transparency are key principles underlying the Land Act. There are clearly described review procedures and land courts to handle disputes.

Land Survey Act No. 14 of 1980; Land Survey (Amendment) Act No.15 of 2012; Land Survey Regulations LN No. 50 of 1982

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>1</p> <p>1</p>	<p>This Act regulates cadastral surveying and the administration of cadastre system. It is administered by the Land Administration Authority.</p>
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p>	<p>1</p> <p>1</p> <p>2</p> <p>2</p> <p>1</p> <p>1</p>	<p>It contributes towards integrated management by ensuring systematic al cadastral surveying.</p>

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	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures take account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measure involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>4</p> <p>4</p> <p>4</p> <p>2</p>	Only insofar as the efficient and effective administration of cadastre system is concerned.
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	4	It was last amended in 2012 in order to harmonise it with the new revisions in the Land Act and Land Administration Authority Act.
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p>	<p>1</p> <p>1</p> <p>1</p>	It promotes such elements indirectly

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	- Contribution to vertical integration / fragmentation.	1	
Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>1</p> <p>2</p> <p>2</p> <p>4</p>	<p>The information on the cadastre system must be made publicly available on request.</p> <p>Decisions taken by Surveyors can be reviewed and resolved administratively</p>

Land Administration Authority Act No. 9 of 2010; Land Administration Authority (Amendment) Act No.17 of 2012; Land Administration Authority (Amendment) Act No. 8 of 2016

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of 	<p>2</p> <p>2</p>	The scope of this Act is restricted to land administration in general.

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	<p>administration) having regard to the ongoing process of decentralisation in Lesotho.</p> <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>1</p> <p>1</p> <p>4</p> <p>4</p> <p>1</p> <p>4</p>	<p>It contributes towards integrated management by ensuring systematic approach to land deeds registration, cadastral surveying and land valuation.</p>
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p>	<p>4</p> <p>4</p> <p>4</p> <p>1</p>	<p>Insofar as the efficient and effective land administration is concerned a proper application of the Act is likely to achieve it. The problem is that the Authority does not have offices in ten districts. So, the costs for its clients from remote areas are prohibitive.</p>

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	d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.		
Currency	a) Is the measure outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	4	The regulations have not yet been enacted
Consistency	a) Does the measure promote (at least some) elements and objectives of ICM; b) Does the measure run contrary to (certain) elements and objectives of ICM; c) Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	2 4 4 1	It promotes such elements indirectly
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	1 4 4 4	The information about land holdings and other interests must be made available on request.

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	<p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures take account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		Clause 3.15 specifically talks to “localising regional integration and international cooperation.
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measure involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>4</p> <p>4</p> <p>4</p> <p>4</p>	
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	4	The only part that requires special consideration is fiscal decentralisation
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	<p>4</p> <p>no</p> <p>no</p> <p>1</p>	

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	d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	1 4 5 4	

Long-Term Water and Sanitary Strategy of 2016

The review looks at ICM related Water and Sanitation Strategy objectives, key focus areas and proposed strategic actions through a decentralization lens, to determine the extent to which the Strategy addresses decentralization issues and therefore identify gaps and opportunities it presents, to facilitate ICM implementation in Lesotho.

Notes: The 2016 Long-term Strategy for the Water and Sanitation Sector outlines the actions that the Government will take to ensure implementation of the Water and Sanitation Policy 2007 and the Water Act 2008. The Strategy aims at implementing catchment management plans (mindful of changing climatic conditions), that will ensure sustainable management of catchments while increasing availability and use of water to drive socio-economic development in Lesotho. It outlines the programme of establishing catchment management structures (Catchment Management Joint Committees - CMJC), based on the Local Government Authorities, with support from the sector ministries with expertise in catchment management.

The strategic aims and actions elaborated in the Long-Term Water and Sanitation Strategy 2016 through the strategy's key focus areas are highly relevant to ICM and address decentralization issues, recognising the important role played by District and Local Councils as Water Service Authorities responsible for planning and overseeing that communities in their areas of jurisdiction have adequate water and sanitation services available to them. The strategy is by far a very important sectoral instrument that creates an enabling environment for implementation of ICM in Lesotho.

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; 	5	The following Key Focus Areas of the Strategy adequately address ICM:

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	<ul style="list-style-type: none"> - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	4	<p>KFA 1 – Establishment of Catchment Management Institutional Arrangements (section 3.1)</p> <p>KFA 2 – Climate Change, Water Resources and Environmental Management (section 3.2)</p> <p>KFA 3 – Water, Sanitation and Hygiene (section 3.3)</p> <p>KFA 5 – Water Resources Development (section 3.5)</p> <p>KFA 6 – Sector Resource Planning, Coordination and M&E (section 3.6)</p> <p>Section 2.2 highlights a set of strategic actions emanating from engagement with sector stakeholders that accentuate the importance of decentralization of functions in the planning, management and development of water resources. These include: involvement of Local Councils in water services provision; linking water sector development efforts into decentralization process rather than imposing functions on structures that are not ready; clarifying future roles and responsibilities of Councils and water sector institutions and using adaptive management to take advantage of opportunities associated with decentralization.</p> <p>Section 2.3 establishes effective catchment management coordination structures and plans; improves capacity for adapting to climate change in the water sector; promotes integrated planning of water resources development involving communities and stakeholders and sets M&E systems in place</p>
<p>Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area?</p>	4	<p>Strategic Priority Areas for 2020 – 2030 planning horizon (Section 2.4) envision integrated implementation of catchment management and development plans that results in improved</p>

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	<p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 	5	<p>livelihoods, food security, universal access to water and sanitation services and improved environmental management.</p> <p>Key Focus Area 1 establishes CMJCs (section 3.1) dealing with integrated planning for sustainable development and management of land, water and natural resources at a catchment scale. At national level an Inter-Ministerial Catchment Management Committee is established to implement catchment management plans.</p>
	<p>c) Does the measure create or contribute to an integrated management framework;</p>	4	
	<p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	4	<p>The longer-term planning horizon of the strategy (2020 – 2030) that links the NSDP processes and implements the Water & Sanitation Policy and Water Act involving various water sector institutions and local government decentralization efforts contributes to vertical integration</p>
	<p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	4	<p>Yes, Section 1.3 sector policy strategy and legal framework is based on best international practices and regional agreements governing the water sector development (e.g., SADC Protocol on Shared Water Resources, ORASECOM Agreement and LHDA Treaty).</p> <p>The water sector programme funding requirements articulated by the strategy (section 4.2) are based on assessment of investment framework needs to implement activities under each KFA</p>
	<p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p>	4	<p>The strategy is well framed under the current decentralization trajectory taken by Lesotho and likely to be well implemented</p>

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	<p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	4	<p>Opportunity: The strategy proposes specific amendments to the legal framework to enable clarification of roles and responsibilities and collection of water use charges. It seeks to put in place mechanisms to recover fees from land and water users in the catchment to be used directly for catchment management. With fiscal decentralization fully implemented, this will provide the necessary financing mechanism for ICM implementation.</p>
Currency	<p>c) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	5	<p>The strategy presents an up-to-date proposal for implementation of ICM with clear structures that must be in place and capacitated to manage catchment activities at all levels</p>
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <ul style="list-style-type: none"> • <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	<p>3</p> <p>3</p> <p>4</p>	<p>Key Focus Area 2: Climate Change, Water Resources and Environmental Management (Section 3.2) highlights the gaps and what needs to be done to address improved data collection needs, monitoring of water resources, climate and the aquatic environment. (Also KFAs 1, 3, 5 & 6 as above)</p> <p>Not aware of such</p> <p>There are no outright conflicting areas identified by the review</p> <p>Section 1.3 sector policy strategy and legal framework is based on best international practices and regional agreements governing the</p>

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	d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		water sector development (e.g., SADC Protocol on Shared Water Resources, ORASECOM Agreement and LHDA Treaty) and Section 3.1 advocates for effective participation in transboundary water resources management
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	4	KFA 6 proposes a combination of top-down and bottom-up approaches to planning and management of catchment activities within the framework of ICM. Quarterly water sector coordination meetings as well as annual water sector reviews present good platforms for transparent stakeholder participation, access to information and consultations, as well as a means to review and adapt approaches to the water sector development. The Water Sector Programme progress is reported in the state of water resources report, and this provides insight for sector management reviews and improvements

National Forestry Policy of 2008

The review looks at ICM related Forestry objectives, key priority areas and proposed strategic actions elaborated in the NFP (2008) through a decentralization lens, to determine the extent to which the Policy addresses decentralization issues and therefore identify gaps and opportunities the Policy presents, to facilitate ICM implementation in Lesotho.

The review identifies section 4.2 of the Policy as a central pillar towards addressing decentralization issues in forestry development.

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the 	4	Sections 3.3.3.2 & 3.3.3.3 provide an entry point for decentralization as they focus on <u>building capacity of stakeholders, including local government structures on forestry development</u> , including establishing mechanisms for the <u>legal ownership of forests and forest resources at community level</u> . It also encourages the need to <u>adapt existing legal instruments to enhance</u>

	<p style="text-align: center;">ongoing process of decentralisation in Lesotho.</p> <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		<p>access and benefit sharing on forest products. The issues discussed above strongly imply that management of forest resources will improve when ownership is legally transferred to appropriate levels of decision making, thereby creating an enabling environment for ICM implementation in Lesotho.</p> <p>Furthermore, section 4.2 which is by far the most important, identifies Key stakeholders in forestry sector. It recognizes MoLGCA as a key stakeholder and in particular, the importance of decentralizing services in forestry development and the role played by local authorities in the implementation of the policy.</p>
<p>Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p style="text-align: center;">4</p> <p style="text-align: center;">4 (as above)</p> <p style="text-align: center;">2</p> <p style="text-align: center;">3</p>	<p>Yes, Section 3.3.1.6 “Synergy with policy of other sectors” supports development of appropriate mechanisms for cross-sectoral collaboration and cooperation amongst stakeholders on forestry development issues. <u>ICM implementation should strengthen/build onto the decentralization role in this regard</u></p> <p>Section 3.3.2.2 “Livelihoods improvement & poverty reduction” proposes implementing the policy as a vehicle for achieving the Lesotho Poverty Reduction Strategy and Vision 2020; while improving the livelihoods of Basotho through their active involvement in forestry activities. However, this does not explicitly heighten the role of decentralization</p>

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	f) Do the measures take account of any recent, current or impending significant infrastructure investments or commercial development need.		
Proportionality	<p>a) Is the measure likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measure involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	3	<p>Regarding ICM, Section 3.3.1.1 “combating land degradation through increased tree forest cover” addresses the need for soil conservation and improvement of water catchment areas; including sustainable water management and conservation. <u>The potential area of conflict could be regarding competing land uses e.g., land for agriculture, rangelands, forestry etc.</u> Even so, this section read in conjunction with section 3.3.1.3 on integrated land use planning, could offer the remedy sought to address land use mismatch concerns that often further exacerbate land degradation.</p> <p>Decentralization role is also not pronounced here.</p>
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	4	<p>Section 3.3.1.7 “Protecting forests from all kinds of destructive agents” recommends the <u>revision of the 1998 Forestry Act and to ensure its effective implementation.</u></p> <p>This is a crucial step that can support ICM implementation in the future. The legislative revision would then take care of associated decentralization issues.</p>
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <ul style="list-style-type: none"> • <p>c) Does the measure conflict with other national measures:</p>	<p>4</p> <p>3</p>	<p>Yes, Sections: 3.3.1.1 land degradation; 3.3.1.2 Biodiversity conservation; 3.3.1.3 Integrated land use planning; & 3.3.2.2 Livelihoods improvement all have strong ICM scope and some even highlight the role of decentralization.</p> <p>No outright areas of conflict, except to guard against competing land uses discussed already</p>

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	<ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	4	Yes, section 3.3.1.5 “forestry development strategy” aligns with international conventions such as CBD; UNFCCC; UNCCD; Ramsar and the UNFF.
Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	4	Yes, Section 4.2 “Key stakeholders in forestry sector” recognizes MoLGCA as a key stakeholder and in particular, the importance of decentralizing services in forestry development and the role played by local authorities in the implementation of the policy.

National Food Security Policy of 2005

Notes: The review considers ICM related Food Security objectives, policy focus areas and strategic actions elaborated in the Policy through a decentralization lens, to determine the extent to which the Policy addresses decentralization issues and therefore identify gaps and opportunities the Policy presents, to facilitate ICM implementation in Lesotho.

Summary of observations: The review identifies that by far, MAFS is one of the pioneer Ministries in Lesotho that has successfully managed to fully decentralize its functions for many decades in order to offer fully coordinated, responsive and all-inclusive services to its target beneficiaries. In particular, Chapter 4 of the Policy “Institutional Framework” presents a clear overview of the stakeholder linkages and institutional set-up that MAFS adopts in the delivery of its coordinated public service mandate. These can be summarized as follows:

- 1) National Level: (Inter-Ministerial Steering Committee & Stakeholder Technical Committee): outlines a host of stakeholders, their roles & responsibilities and their Administrative Secretariat
- 2) District Level: (District Food Security Coordinating Committee) their roles and responsibilities; including their coordination guided by decentralization process of the Ministry of Local Government and Chieftainship Affairs
- 3) Sub-District Level: (Community Councils and Traditional Leadership role Chiefs): These are the custodians of developments at community level
- 4) The role of CSO, NGOs, Donor Community and the Private Sector in Food Security: These are also key stakeholders identified in the Policy.

Finally, the review further notes that most of the food security interventions implemented by these various key actors link to key ICM elements therefore are essential.

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	5	Yes, Section 3.3 “promotion of support services and infrastructure” focusing on provision of agricultural extension services targeting rural households, involving MAFS and MoLGCA to ensure effective inter-ministerial collaboration at the lowest level. The Policy recognizes that this process shall be achieved aided by the ongoing decentralization process. Moving a level higher, Section 4.3 of the Policy enumerates a host of District level stakeholders and finally Section 4.4 sub-district level stakeholders who are responsible for coordination of ICM related food security issues as this level. Recommendation: ICM implementation to adapt this approach
	b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	4	
Holistic / Cross-sectoral	a) Does the measure link land and water use across the entire catchment area?	4	Yes, Section 3.2.2 “Conservation Farming” touches on various key ICM elements of water conservation & harvesting, land management &
		4	

Assessment Phase 1: Summary of Findings

	<p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>4</p> <p>4</p> <p>4</p> <p>2</p>	<p>erosion control, poverty eradication and conservation of natural ecosystems etc. and all these rely on decentralized approaches. Also Sections: 3.2.3 “Block Farming” dealing with commercializing agriculture; 3.2.4 “homestead gardening” and 3.2.5 “Irrigated Crop Production” all have an important ICM bearing.</p> <p>Yes, agriculture and food security is recognized as one of the key sectors that can drive socio-economic development of Lesotho in the NSDP. The policy proposes relevant ICM related measures and links them directly with decentralization</p> <p>The policy (Sections 3.2.3 & 2.4) advocate for commercialized agriculture, however more emphasis must be placed here with clear strategic actions in place to address challenges associated with climate change</p>
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	2	<p>The drafting of the Food Security Policy is done well. The challenge might be with its implementation as its success depends on the active involvement of other stakeholders and requires significant funding to achieve its aims. Without external injection of financing support, agricultural production may remain stagnant for a long time in Lesotho.</p>
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or 	2	<p>The Food Security Action Plan (2007 – 2017) that has been used to implement the Policy needs to be reviewed and updated to address current agriculture sector challenges.</p>

Assessment Phase 1: Summary of Findings

	- Requiring consolidation / codification (regarding amending measures).		
Consistency	a) Does the measure promote (at least some) elements and objectives of ICM;	4	(Same as reasons provided in 1 above)
	b) Does the measure run contrary to (certain) elements and objectives of ICM;	3	Not aware of such
	c) Does the measures conflict with other national measures: - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application.	3	Not aware of conflicting objectives
	d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: - Contribution to vertical integration / fragmentation.		
Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM;	2	Capacity building is integral to most strategic action areas of the Policy, however these are not framed as capacity building for ICM, though they link ICM Yes, section 3.2.6 encourages community councils to spearhead improved systems of rangeland management and control The Policy (Section 3.4) identifies the importance of monitoring the impact of land reform on food security for effective land administration and to improve access to
	b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;	4	
	c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	4	
	d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.		

			productive land and protect the rights of the marginalized groups
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National Irrigation Master Plan and Investment Framework, Lesotho (Vol. 1) June 2020

Notes: The National Irrigation Master Plan and Investment Framework (NIMP) for Lesotho is a technical report that guides the Ministry of Agriculture and Food Security to:

- **Plan** (take inventory of available irrigable land across the country, available water resources, irrigation water demand, existing irrigation schemes and undertake siting of new schemes, including plans to build irrigation capacity nationwide);
- **Implement** (prioritise, select, design, cost, identify sources of funding, construct, operate and maintain irrigation infrastructure to invest in based on comparative advantage and suitability);
- **Manage** proposed irrigation investments in the short term (2020 – 2025), in the medium term (2026 – 2040) and in the long term (2041 – 2050), including all aspects of capacity building across the entire value chain from production to post-harvest handling, processing & storage, market linkages, investment frameworks and cost recovery.

The plan recognises that irrigation development has potential for food security, poverty alleviation and economic growth in Lesotho. It adopts the development of climate adaptive irrigation systems and irrigated agriculture in the country. The process for the plan development was informed by extensive assessment of national policies, strategies and legal frameworks relating to environment, land, food & agriculture, water utilization and management, poverty reduction, drought management etc. Therefore the plan is well aligned with existing national legislative and policy framework.

However, the review observes that in the absence of an up-to-date and robust irrigation policy, the NIMP may fall prejudice to lack of legal basis and political support to finance its implementation. Currently there exists a Draft Irrigation Policy of 2002.

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. b) Does the measure create or contribute to a practicable ICM regime for Lesotho:	4	The assessment of existing legislative and policy framework to inform alignment of the NIMP to ICM related sectors e.g., environment, land, water, agriculture etc. (section 3.0 to 3.2.8) ensure the effectiveness of the NIMP to be implemented within the framework of ICM and Water, Energy and Food Security Nexus. (Comment above on lack of backing policy framework may become a challenge to the NIMP)

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	3	
Holistic / Cross-sectoral	a) Does the measure link land and water use across the entire catchment area?	4	The assessment of arable and potentially irrigable land (chapter 4) and the assessment of available water resources and irrigation water demand (chapter 6), followed by the NIMP seeks to ensure sustainable utilization and development of water resources across all catchment areas in Lesotho and these intricately link ICM and socio-economic development
	b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. 	4	NIMP objective 5 prioritizes a framework of measures, from the perspective of improved agricultural productivity, sustainable water resources management, economic development and employment opportunities
	c) Does the measure create or contribute to an integrated management framework;	3	The NIMP proposes development of a Lesotho Irrigation Development Authority under MAFS to function at central level (section 13.2), and a Scheme Management Entity to operate at catchment level
	d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	3	The phased planning horizon of the NIMP (2020 – 2025; 2026 – 2040 & 2041 – 2050) provides an opportunity for close alignment with NSDP processes & national budgeting priorities
		4	

Assessment Phase 1: Summary of Findings

	<p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		<p>It is assumed all water resources developments within shared water courses and governed by transboundary obligations</p> <p>The investment framework (chapter 9) associated with the proposed irrigation infrastructure development plans are economically feasible and viable and propose measures such as:</p> <p>Development of water harvesting infrastructure and increase irrigation potential;</p> <p>Promote sustainable commercialization and crop diversification</p>
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>		
Currency	<p>e) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	5	The 2020 NIMP has just been finalized and yet to be implemented
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p>	4	Siting, type & scale of proposed irrigation schemes & technologies are informed by climate data & aquatic resources monitoring reports and uphold principles of soil and water conservation to ensure sustainable development (section 1.5.1 to 1.5.5)

Assessment Phase 1: Summary of Findings

	<p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
<p>Participatory (ensuring equitable participation)</p>	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>4</p>	<p>(as above) The NIMP is mindful of the impact of climate change on agriculture and water resources and therefore upholds principles of soil and water conservation to ensure sustainable development</p>

Integrated water resource management strategy

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Do the measures appropriately addresses key elements and objectives of ICM:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. <p>-</p> <p>b) Do the measures create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<ul style="list-style-type: none"> • 5 • 4 	<p>The strategy does cover elements of ICM and interrelated objectives. The strategy has captured all-important ICM aspects and seems to be in line with international practice.</p> <p>It is sufficiently flexible for the implementation of practically enforceable measures for successful ICM</p>
Holistic / Cross-sectoral	<p>a) Do the measure links land and water use across the entire catchment area?</p> <p>b) Do the measure links social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Do the measure create or contribute to an integrated management framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<ul style="list-style-type: none"> • 5 • 5 • 5 • 4 • 3 	<p>Catchment management in terms of the link of water and land management is a central feature in the strategy. Considerations on the social and economic development whilst protecting the natural ecosystem are discussed. National strategies and planning frameworks are also considered. The proposed measures in the strategy recognise planned infrastructure projects at the time feature in the report.</p>

Assessment Phase 1: Summary of Findings

	<p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<ul style="list-style-type: none"> • 4 	<p>Since some of these measures are yet to be implemented and new one's came to the fore, the strategy may be outdated in this regard</p> <p>The strategy is in line with global and regional commitments as it encapsulates latest thinking in terms of ICM</p>
Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<ul style="list-style-type: none"> • 4 • 4 • 4 • 4 	<p>The strategy is likely to achieve its legitimate aims although in the long term. It does not interfere with established interest but rather seeks to consolidate efforts for sound management of water resources. It recognises that policies and practices must be harmonised in order for the socio economic goals to be realised.</p>
Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<ul style="list-style-type: none"> • 5 	<p>The objectives and scope of application for the strategy are in line with international and the current thinking in terms of effective water resources management. In fact, ICM is one of the recommendations of the strategy.</p>
Consistency	<p>a) Do the measures promote (at least some) elements and objectives of ICM;</p> <p>b) Do the measure runs contrary to (certain) elements and objectives of ICM;</p> <p>c) Do the measures conflict with other national measures:</p>	<ul style="list-style-type: none"> • 5 • 5 • 4 	<p>The strategy promotes most elements and objectives of ICM. In addition, it recognises national measures and identifies gaps in the country's gaps and measures to be adopted with regards to the implementation of ICM. Regional and transboundary commitments also feature in the strategy. Role players (both</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<ul style="list-style-type: none"> • 4 	<p>government and private sector) and their mandates are discussed in some detail. This contributes to enhancing vertical integration and not fragmentation</p>
<p>Participatory (ensuring equitable participation)</p>	<p>a) Do the measures seek to raise awareness of (elements and objectives) of ICM;</p> <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<ul style="list-style-type: none"> • 4 • 4 • 4 • 2 	<p>The strategy promotes transparency and stakeholder access in that it makes reference to gaps in the role of different water sector organisation (section 3.2.2). Recommendations are made on how the situation could be enhanced. In particular, section 2.9 covers the participatory approach and stakeholder involvement. Furthermore, Appendix 1 provides some guidelines on undertaking stakeholder involvement.</p> <p>It is not clear when the strategy will be renewed</p>

Revised SADC protocol on shared water course

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	a) Do the measures appropriately addresses key elements and objectives of ICM: - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho.	• 5	Article 4 (2) Protection of ecosystems, pollution prevention, policy harmonisation and protection and preservation of the aquatic ecosystem. Institutional framework presented in article 5. However national level institutional arrangements are not prescribed It is broad enough to allow some flexibility for the implementation of practically enforceable measures for successful ICM in Lesotho
	- b) Do the measures create or contribute to a practicable ICM regime for Lesotho: - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable.	• 4	
Holistic / Cross-sectoral	a) Do the measure links land and water use across the entire catchment area?	• 5	Seems to be in line with a),b),e) and f. See objective 2 b),c) and d). Measures seem to link land and water management, protection of ecosystems and cohere with global and regional commitments Since some of these measures are yet to be implemented and new one's came to the fore, the strategy may be outdated in this regard
	b) Do the measure links social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation.	• 5	
	c) Do the measure create or contribute to an integrated management framework;	• 5	
	d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation.	• 4	
		• 3	
	• 4		

Assessment Phase 1: Summary of Findings

	<p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>		The protocol is in line with global and regional commitments as it encapsulates latest thinking in terms of ICM
Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<ul style="list-style-type: none"> • 4 • 4 • 4 • 4 	It is likely to least interfere with established interests and strives to have reasonable distribution of costs and benefits between member states. The protocol does not interfere in national matters but sets the parameters as it relates to transboundary management of water resources
Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<ul style="list-style-type: none"> • 5 	The protocol is very much relevant as it embodies the latest thinking with regards to cooperation of stakeholders in water resources management
Consistency	<p>a) Do the measures promote (at least some) elements and objectives of ICM;</p> <p>b) Do the measure runs contrary to (certain) elements and objectives of ICM;</p> <p>c) Do the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; 	<ul style="list-style-type: none"> • 5 • 5 • 4 • 5 	<p>The protocol supports numerous elements of ICM as well as interrelated objectives. There is no glaring evidence of contradiction with any of the elements and objectives of ICM.</p> <p>The protocol is meant to guide relationships of member states in terms of water resources management and development. It is therefore</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		not relevant to individual member states national matters
Participatory (ensuring equitable participation)	<p>a) Do the measures seek to raise awareness of (elements and objectives) of ICM;</p> <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<ul style="list-style-type: none"> • 4 • 4 • 4 • 2 	<p>Article 7 specifically deals with disputes between member states and the process that needs to be followed to resolve them.</p> <p>It is not clear when the protocol will be renewed</p>

National Wetlands Strategy (2016)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Do the measures appropriately addresses key elements and objectives of ICM:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; 	<ul style="list-style-type: none"> • 3 	The strategy covers the restoration of degraded wetlands as well as maintenance of ecosystems. Decision-making takes into cognisance decision making at local, catchment as well as national

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. <p>b) Do the measures create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<ul style="list-style-type: none"> • 3 	<p>level. However, considerations on climate change as well as a rights-based approach seems to be lacking.</p> <p>The measure creates a practical ICM regime in terms of it being flexible in that it is broad and does not restrict interventions. At the same time it is not practically enforceable as there are no instruments to do it.</p>
<p>Holistic / Cross-sectoral</p>	<p>a) Do the measure links land and water use across the entire catchment area?</p> <p>b) Do the measure links social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Do the measure create or contribute to an integrated management framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>a) 5</p> <p>b) 4</p> <p>c) 4</p> <p>d) 4</p> <p>e) 3</p> <p>f) 2</p>	<p>a) Links land and water across the catchment</p> <p>b) Social and economic development recognised</p> <p>c) The measure does contribute to an Integrated Management framework</p> <p>d) Links to national development strategy (NDS) as it is referenced in the document</p> <p>e) The link to global commitments is vague although some mention of RAMSAR convention is made</p> <p>f) No mention of the current or recent developments have been mentioned</p>

Assessment Phase 1: Summary of Findings

Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>a) 2</p> <p>b) 2</p> <p>c) 4</p> <p>d) 2</p>	<p>a) Highly unlikely that legitimate aims will be achieved in the near future. Capacity, Uncoordinated mandates and funding are some of the reasons for this</p> <p>b) Not able to evaluate the cost effectiveness</p> <p>c) The measure does contribute to an Integrated Management framework and does not interfere with established practices and policies</p> <p>d) Links to national development strategy (NDS). A mechanism for cost benefit analyses across the sector is lacking</p>
Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<p>a) 3</p>	<p>a) Objectives and scope highly relevant to ICM</p> <p>Unable to evaluate the cost effectiveness. The document provides various actions that need to be undertaken in order to achieve sound wetlands conservation. This does assign specific activities to timelines hence it will be difficult to monitor implementation</p>
Consistency	<p>a) Do the measures promote (at least some) elements and objectives of ICM;</p> <p>b) Do the measure runs contrary to (certain) elements and objectives of ICM;</p> <ul style="list-style-type: none"> • <p>c) Do the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins:</p>	<p>a) 5</p> <p>b) 5</p> <ul style="list-style-type: none"> • <p>c) 4</p>	<p>a) It promotes Wetlands management and ecosystems conservation</p> <p>b) Does not run to the contrary but intends to coordinate efforts</p> <p>c) There is no obvious contradiction with other national roles and responsibility. The main ambiguity is the haphazard manner in which different stakeholders manage wetlands resources. Unless this gap is addressed from the highest administrative level, wetlands degradation will persist</p>

Assessment Phase 1: Summary of Findings

	- Contribution to vertical integration / fragmentation.	d) 3	d) The approach does not conflict with best practice approaches
Participatory (ensuring equitable participation)	<p>a) Do the measures seek to raise awareness of (elements and objectives) of ICM;</p> <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>a) 3</p> <p>b) 3</p> <p>c) 4</p> <p>d) 3</p>	<p>a) Awareness raising is one of the identified key activities in the strategy</p> <p>b) Through the involvement of local, district, national and CBO's, stakeholder engagement is strengthened</p> <p>c) The level to which different stakeholders play a role is discussed</p> <p>d) The strategy is a five year renewable document Involvement of gender and vulnerable groups also lacking.</p>

Maseru City Council Draft By-laws 2020 (Codification)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	4	The bylaws do address some key ICM elements and objectives. The decision-making is also at the lowest level and in line with the decentralisation process in the country. However, the scope is limited as it does not draw from other legislation relevant to ICM e.g. Water Act.

Assessment Phase 1: Summary of Findings

	<p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		
Holistic / Cross-sectoral	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>4</p> <p>4</p> <p>4</p> <p>4</p> <p>3</p> <p>2</p> <p>3</p>	<p>There does not seem to be any consideration of catchments although there are elements of waste management, water conservation and natural resources protection (sections 11 to 19 and 21 section 2.1 to 2.3). Reference and alignment to other environmental and water laws would ensure vertical integration. In addition, roles and responsibilities of MCC Versus national departments must be spelled out to ensure cohesion.</p> <p>MCC is within an international catchment shared with RSA. Any management measure should be in line with objectives set by DWA. An example here is the water pollution issue from the industrial area</p>
Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>5</p> <p>3</p> <p>4</p> <p>3</p>	<p>Measures are unlikely to achieve their legitimate aims due to lack of adequate enforcement. There might also be interference with established interests specifically with regards to mining rights (quarries)</p>

Assessment Phase 1: Summary of Findings

Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	4	The bylaws do reflect conventional ways of thinking in many aspects of ICM. Consolidation with regards to general environmental and water resources protection is necessary
Consistency	a) Does the measure promote (at least some) elements and objectives of ICM;	2	<p>There may be overlapping mandates in relation to natural resources management with mandate of the national government. This is one of the most important issues that need to be resolved for successful implementation of ICM</p> <p>Through alignment with DWA's control measures such as licensing, MCC will be indirectly taking regional and International and transboundary issues into account.</p>
	b) Does the measure run contrary to (certain) elements and objectives of ICM;	5	
	c) Does the measures conflict with other national measures:	4	
	<ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. 	1	
	d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:		
	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	e) Does the measure raise awareness of (elements and objectives) of ICM;	3	The bylaws do stipulate the rights and obligations of the applicants as well as MCC in the use of natural resources in sections 3 (7) (d) and (f). However, they do not go as far as detailing the appeal process where the applicant wishes to challenge MCC's decision. Having a formal review process would enhance transparency and participation in sound decision making
	f) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;	3	
	g) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;	5	
	h) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.		

Operationalisation of Integrated Catchment Management Framework - Bridging: Phase

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Do the measures appropriately addresses key elements and objectives of ICM:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. <p>-</p> <p>b) Do the measures create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>a) 5</p> <p>b) 3</p>	<p>Most of the elements and objectives are addressed in the report. Some consideration on the decision making from the lowest and practicable level is a key consideration. Sections 1.1, 1.2, 1.3, 2 and 3 deal with stakeholders and their involvement in ICM. The report also deals with implementation of ICM in pilot catchments to ensure that the country is able to learn and expand to the rest of the country. However, climate change, rights based approach do not feature. capacity building only confined to DWA</p> <p>The measure creates a practical ICM regime in terms of it being flexible in that it is broad and does not restrict interventions. At the same-time it is fairly practically enforceable.</p>
Holistic / Cross-sectoral	<p>a) Do the measure links land and water use across the entire catchment area?</p> <p>b) Do the measure links social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Do the measure create or contribute to an integrated management framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p>a) 5</p> <p>b) 4</p> <p>c) 4</p> <p>d) 4</p>	<p>The report deals with management of water in line with established catchments. It links well with the national strategy over the mid and long term. The report contributes to vertical integration as to recognises roles and responsibilities from a bottom- up approach</p> <p>There is alignment with key national objectives and goals</p>

Assessment Phase 1: Summary of Findings

	<p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>e) 3</p> <p>f) 3</p>	<p>The strategy is in line with global and regional commitments as it encapsulates latest thinking in terms of ICM.</p>
Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>a) 4</p> <p>b) 3</p> <p>c) 4</p> <p>d) 3</p>	<p>The measure is likely to achieve its aims. However, the proposed ICM organisational arrangement will interfere with established interests to some extent. It may therefore take time before ICM is embraced and accepted by all concerned. The measure seeks to ensure that there is equitable distribution of costs as pooling of financial resources is proposed so that ICM efforts are coordinated</p>
Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<p>a) 3</p>	<p>The objectives and scope is very much relevant and up to date. An update could be made on other aspects of ICM such as water quality management, licensing, wetlands protection etc. The current focus is mainly on soil degradation and no other aspects</p>
Consistency	<p>a) Do the measures promote (at least some) elements and objectives of ICM;</p> <p>b) Do the measure runs contrary to (certain) elements and objectives of ICM;</p> <p>c) Do the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; 	<p>a) 5</p> <p>b) 5</p> <p>c) 4</p>	<p>Elements and objectives of ICM are being promoted. There is no conflict with other national measures identified. Overall the measure is consistent with national objectives and therefore promotes vertical integration</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	d) 4	
Participatory (ensuring equitable participation)	<p>a) Do the measures seek to raise awareness of (elements and objectives) of ICM;</p> <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>a) 3</p> <p>b) 3</p> <p>c) 4</p> <p>d) 3</p>	<p>The measure promotes awareness raising on ICM and promotes transparency. It ensures that there is an appropriate organisational structure with all stakeholders involved.</p> <p>It is not clear when the strategy will be renewed</p>

Formal and Informal Institutions in the wetlands of the highlands of Lesotho

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Do the measures appropriately addresses key elements and objectives of ICM:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho. <p>b) Do the measures create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>a) 4</p> <p>b) 3</p>	<p>The report focuses mainly on wetlands and rangelands management.</p> <p>The document does propose a new organisational structure and mandates for all role players. This includes local government and other decision makers particularly at the lowest level. Community based organisations, NGO's and local authorities play a role in ICM.</p> <p>It is not clear as to the extent to which the measure may contribute to the implementation of ICM. The measure mentions a proposed framework, without going into details as to how they will be implemented</p>
Holistic / Cross-sectoral	<p>a) Do the measure links land and water use across the entire catchment area?</p> <p>b) Do the measure links social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Do the measure create or contribute to an integrated management framework;</p> <p>d) Do the measures link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p>a) 5</p> <p>b) 4</p> <p>c) 4</p> <p>d) 2</p> <p>e) 2</p>	<p>The document recognises the link between water use and the entire catchment.</p> <p>Social and economic development are taken into consideration as the document is seeks to strengthen the weak coordination amongst stakeholders. However, the detail is lacking.</p> <p>The document seems to align to the integrated framework.</p> <p>The document is not based on any national strategies or frameworks. It is considered to contribute to vertical integration</p>

Assessment Phase 1: Summary of Findings

	<p>e) Do the measures cohere with global, regional commitments (e.g., re climate change):</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	f) 2	<p>There seems to be no consideration of global and regional commitments. These commitments are lacking in the discussion</p> <p>No mention of the current or recent developments have been mentioned</p>
Proportionality	<p>a) Are the measures likely to achieve their legitimate aims;</p> <p>b) Are the measures cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Do the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>a) 2</p> <p>b) 2</p> <p>c) 4</p> <p>d) 2</p>	<p>The document has legitimate aims and objectives however these are unlikely to be met due to lack of detail on implementation</p> <p>The document does not detail associated costs and timelines to activities</p> <p>The proposed measures are sector specific and do not interfere with interests, policies and practises.</p> <p>A mechanism for cost benefit analyses is lacking</p>
Currency	<p>a) Are the measures outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	a) 2	<p>Current challenges are identifies and discussed in some detail. However, other issues such as the legislation, policy and financing seem to be lacking.</p>
Consistency	<p>a) Do the measures promote (at least some) elements and objectives of ICM;</p> <p>b) Do the measure runs contrary to (certain) elements and objectives of ICM;</p> <p>c) Do the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; 	<p>a) 5</p> <p>b) 5</p> <p>c) 4</p>	<p>A number of elements and objectives of ICM are being promoted.</p> <p>These are based on sectoral interventions that are in line with mandates of role players.</p> <p>No obvious conflicts or overlaps noted. However, there are ambiguities in terms of timelines and financial resources linked to the proposed actions</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Do the measures take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	d) 3	International and regional obligations do not feature in the document. This may enhance fragmentation although to a less extent
Participatory (ensuring equitable participation)	<p>a) Do the measures seek to raise awareness of (elements and objectives) of ICM;</p> <p>b) Do the measures promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Do the measures promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Do the measures permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>a) 3</p> <p>b) 2</p> <p>c) 4</p> <p>d) 3</p>	<p>The measure does not identifies raising awareness as one of the critical activities. It proposes formally dealing with the conflict between local government authority as well as traditional leadership.</p> <p>Involvement of gender and vulnerable groups also lacking.</p> <p>However, the Stakeholder engagement is hardly mentioned. This is a glaring gap in the document</p> <p>This is a once off report.</p>

Town & Country Planning Act 1980

REGULATORY OVERVIEW

In keeping with the above re: reviewing parent / principal Acts with other linked principal Acts, or their subsequent subsidiary legislations. The following were grouped for the review.

Principal Act reviewed in conjunction with the following suite of instruments:-

- **Town & Country Planning Act (1980): Principal Act on the listing for review**
- Land Act (2010)
- Town & Country Planning Order (1991)
- Town & Country Planning Act (Development) (Amendments), Regulations 1993
- Development Control Code (1989)

Overview of the Town & Country Planning Act (1980): The Act empowers the planning authorities to prepare development plans in order to ensure sustainable development of land – so the objective is controlled development. The Planning Authority shall prepare a development plan in respect of any area to which this Act applies. It requires permission for any land development (Land Act 2010 link) and provides for enforcement.

Insight: Town & Country Planning Act 1980 and subsequent regulations do not have specific reflections of ICM. The principal Act for review, does however set out the compulsory requirement for development plans (urban and rural) by the Development Planning Authority. See further regulatory insight provided in matrix below.

Overview of the Town & Country Planning Act (Development) (Amendments), Regulations 1993: Published in 1993. The amendment is These Regulations amend the Town and Country Planning (Development) Order in various articles by changing its name in "Town and Country Planning (Development) Regulations" and with respect to the role of a (local) Council in development planning and permission. The regulations are a subsidiary instrument to Section 9 of the parent ‘Town & Country Planning Act’ - it provides minor amendments on text changes and administrative detail for the Land Permissions Application. No provisions are included for ICM – NO FURTHER REVIEW IS RECOMMENDED.

Additional Insight: Linking of other principle acts and subsidiary legislation to the Town & Country Planning Act 1980

Overview of the Land Act (2010): The Land Act 2010 has been seen as a consolidation of the Land Act 1979 amendments and related laws. It was introduced to improve reforms in land administration and land tenure security. A key aim is to enhance use of land for economic growth in Lesotho. See further regulatory insight provided as additional insight to the matrix.

Overview of the Town & Country Planning Order (1991): This Order specifies permitted development, requires a planning permission to be obtained for certain development and provides with respect to other matters related to development control. See further regulatory insight provided as additional insight to the matrix.

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	Does the measure appropriately address key ICM elements & objectives: Breadth / sufficiency of mandate;	2	No specific reflections of ICM.

	<p>Substantive coverage / scope of application; and Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho.</p> <p>Does the measure create or contribute to a practicable ICM regime for Lesotho: Sufficiently flexible; Sustainably implementable; Practically enforceable; and Financially sustainable.</p>	<p>2</p>	<p>It does however set out the compulsory requirement for development plans (urban and rural) by the Development Planning Authority. Section 5;6;7.</p> <p><i>“Section 5 of the Act needs to cater for more detail regarding ICM requirements to be well incorporated into these development plans.”</i></p> <p><i>In keeping with this Section 17 – Enforcement of Land Planning Control could be strengthened for ICM.</i></p> <p>The Act and subsidiary regulations as it stands are weak on ICM objectives or element inclusion. This said, the principal / parent legislation is seen as important.</p> <p><i>Section 4 & 21 reflects powers and functions – powers held at national level, no devolution of power to local authorities are prevalent</i></p> <p>LAND ACT 2010 & it’s Link to Town & Country Planning Act 1980: The Land Act 2010 has good reference alignment with the development planning of Town & Country Planning Act 1980 and provides for enforcement w.r.t. controlling planning.</p> <p><u>Further insight</u> – reference: “approved development plan” means a general land use plan approved in accordance with the Town and Country Planning Act 1980;</p> <p>PART IV ALLOCATION IN RURAL AREAS – Application – Section 13 (2) - Allocation under this Part shall be in accordance with an approved development plan.</p> <p>Consistent - Compliance with prescribed use Section 20. (1) The Commissioner shall not issue a lease on the application of an allottee unless the allottee’s land is used in accordance with an approved <u>development plan</u>.</p> <p>PART V GRANT OF TITLE IN URBAN AREAS – Application – Section 24 (3) Grant of title under this Part shall be in accordance with an approved <u>development plan</u>.</p> <p>Overview of the Town & Country Planning Order (1991): This Order specifies permitted development, requires a</p>
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		<p>planning permission to be obtained for certain development and provides with respect to other matters related to development control.</p> <p>Town & Country Planning Order (1991) Link to Town & Country Planning Act 1980: The order is a subsidiary instrument to <u>Section 10</u> of the parent ‘Town & Country Planning Act’ – it provides detail on administrative process for the Land Permissions Application. No provisions in the order are included for ICM – there is however a link to the Development Control Code (1989).</p> <p>Overview of Development Control Code (1989): The code supplements the Town & Country Planning Act (1980) and to some degree the Building Control Act (1995) with ‘land development’ requirements. This code is outdated and has no specific inclusion for ICM requirements.</p> <p>Development Control Code (1989) Link to Town & Country Planning Order (1991): This code is outdated and has no specific inclusion for ICM requirements. <u>As it relates to the Order (1991)</u> – it has its grounding in <u>Part III Applications</u> – specifically <u>Section 8</u> “General provisions on applications” of the Order (and by default, then linked to Section 10 of the parent ‘Town & Country Planning Act’.</p> <p>This could be flagged for further review if deemed necessary – legal expert view required.</p> <p><i><u>Further Insight:</u> Section 1 of the Development Control Code highlights specific linkage to Section 2 of the Town & Country Planning Order (1991).</i></p> <p><i>Section 1.2 & 1.3 set the objective i.e., the code was initially established for the Maseru Municipal Planning Area, with the intention of expanding its relevance to other jurisdictional areas. The code and rules outlined herein were meant to be considered in the compilation of Development Plans (Section 1.5 – Pg. 1&2). ICM is not captured at all in this code – mention of Development Standards have been highlighted in this code (decision was made to pause here – consideration to be given norms/standards at a later point if so decided by legal experts).</i></p>
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Assessment Phase 1: Summary of Findings

Holistic / Cross-sectoral	<p>Does the measure link land and water use across the entire catchment area?</p> <p>Does the measure link social and economic development with protection of natural ecosystems:</p> <p>Contribution to horizontal integration / fragmentation.</p> <p>Does the measure create or contribute to an integrated management framework;</p> <p>Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <p>Contribution to vertical integration / fragmentation.</p> <p>Do the measures cohere with global, regional commitments:</p> <p>Contribution to vertical integration / fragmentation.</p> <p>Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>1</p> <p>1</p> <p>2</p> <p>2</p> <p>3</p> <p>1</p>	<p>No direct links to key elements of ICM noted as noted above..</p> <p>Contributes to an integrated management framework and ties into NDS but provisions under Section 5 are weak.</p>
Proportionality	<p>Is the measures likely to achieve its legitimate aims;</p> <p>Is the measure cost-effective;</p> <p>Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>2</p> <p>1</p> <p>1</p> <p>1</p>	<p>In order to achieve legitimate aims of ICM development planning under section 5 to be strengthened.</p>
Currency	<p>Is the measure outdated:</p> <p>Obsolete in objectives, scope of application or approach;</p> <p>Requiring updating (e.g., regarding penalties); or</p> <p>Requiring consolidation / codification (regarding amending measures).</p>	<p>2</p>	<p>This principal act requires updating and consolidation with provisions Buildings Control Order (1991) & Building Codes (1989).</p> <p>Section 17 could be updated to strengthen and incorporated penalties for ICM.</p>
Consistency	<p>Does the measure promote (at least some) elements and objectives of ICM;</p> <p>Does the measure run contrary to (certain) elements and objectives of ICM;</p>	<p>2</p> <p>1</p>	<p>Elements and objectives of ICM not covered. Section 5 if strengthened would cater for this.</p>

Assessment Phase 1: Summary of Findings

	<p>Does the measures conflict with other national measures: Conflicting / overlapping roles and mandates; Gaps regarding key functions (e.g., enforcement); or Ambiguities regarding scope of application.</p> <p>Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <p>Contribution to vertical integration / fragmentation.</p>	4 3	No glaring conflicts noted.
Participatory (ensuring equitable participation)	<p>Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	1 2 1 2	<p>Participatory elements covered in section 5&11 are related to planning authorisations.</p> <p>Broader ICM participatory elements are absent.</p>

Building Control Act (1995)

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	a) 2	<p>The Buildings Control Act highlights that the Minister has power to appoint a local authority or government department to be a building authority.</p> <p>Powers of the Minister – <u>Part IV Section 32 Part V & Section 39 & 40</u> – reflect national powers.</p> <p><u>Part II, Section 9</u> – stipulates provision for further rules & codes of practice that can be gazetted by the National ministry. (i.e., codes that shall define good</p>

Assessment Phase 1: Summary of Findings

	<p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>b) 2</p>	<p>design or construction practice or acceptable use of materials – provides context for ICM link)</p> <p><u>Part II, Section 11</u> – makes accommodation for the Minister to devolve power to local authorities to become building authorities (enabling making of bylaws etc. as seen fit). Local authorities within their remit of powers could use this principal legislation as impetus for establishing building bylaws – example: could highlight specifications in keeping with climate change adaptation / other ICM provisions e.g., water use efficiency; climate sensitive design standards etc.</p> <p>Section 9 is the only provision noted with indirect ICM objectives – which indicates significant room for inclusion. Flexibility under Section 11 also means that detailed <u>ICM measures could be realised through local by-laws.</u></p>
<p>Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p>	<p>a) 1</p> <p>b) 1</p> <p>c) 2</p> <p>d) 2</p> <p>e) 3</p> <p>f) 1</p>	<p>No direct provisions and links to Key ICM Elements.</p> <p>It has a direct link to National Development Strategy / Planning Framework; however provisions may not be adequate aligned to economic growth objectives and sustainable development anticipated for Lesotho.</p>

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. f) Do the measures take account of any recent, current or impending significant infrastructure investments or commercial development need. 		
Proportionality	<ul style="list-style-type: none"> a) Is the measure likely to achieve its legitimate aims; b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Does the measure involve an equitable and reasonable distribution of costs and benefits across all sectors. 	<ul style="list-style-type: none"> a) 1 b) 1 c) 1 d) 1 	No direct provisions and links to Key ICM Elements.
Currency	<ul style="list-style-type: none"> a) Is the measure outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<ul style="list-style-type: none"> a) 1 	No direct provisions and links to Key ICM Elements.
Consistency	<ul style="list-style-type: none"> a) Does the measure promote (at least some) elements and objectives of ICM; b) Does the measure run contrary to (certain) elements and objectives of ICM; c) Does the measure conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. d) Does the measure take account of international and regional 	<ul style="list-style-type: none"> a) 1 b) 1 c) 3 	No direct provisions and links to Key ICM Elements. No glaring conflicts noted.

Assessment Phase 1: Summary of Findings

	<p>commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	d) 3	
Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 	<ul style="list-style-type: none"> a) 1 b) 1 c) 1 d) 1 	No public / stakeholder participation provisions included in relation to ICM or the current objectives.

Lesotho Water and Sanitation Policy 2007

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<ul style="list-style-type: none"> a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	<ul style="list-style-type: none"> a) 4 b) 4 	<p>Regulatory Insight: KEY FOCUS OF THE POLICY IS WATER SEVRICE / WATER RESOURCES / WATER - ENVIRONMENT LINK (So, deemed strong and fit for purpose regarding water link to ICM)</p> <p>The Policy provides good high-level policy statements; key objectives and proposed strategies, the strongest focus / context is provided for;</p> <p>'Policy Statement 1: Water Resources Management and Policy Statement 2: Water Supply and Sanitation Services'. This is then followed by 'Policy Statement 3: Water and Environment' which has a strong water service</p>

	<p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		<p>link – the link on effluent discharge is apparent which then further substantiates the focus on water service management. Pg. 2 – 9</p> <p>Strategies highlighted under Policy Statement 1: ‘Water Resource Management’ are key to ICM. The ICM directed strategies will need to be considered carefully under the remit of local regulatory frameworks as the question arises as to where the function will be held in the interim and long-term planning. The roles of the Catchment Management Joint Committees (CMJC) is thought to have a key focus on co-ordination. Therefore council bylaws will provide them with legal context to implement the strategies outlined in the 2007 LWSP (the SA case-study – specific to CMA functions, is an added level of insight that could be useful when looking at the above strategies and how to plan for them through the drafting of local regulatory bylaws).</p> <p>Strategies highlighted under Policy Statement 2: Water Supply and Sanitation Services’ are key to ICM. The strategies highlighted have a strong drive towards funding mechanisms. See annexure and refer to stream 5 review context – provides insight for challenges and requirements for relevant bylaws.</p> <p>Review Insight provided here should be read in context of how well the Water Act provides for the above policy strategies to be realised.</p> <p>Pages 2 to 9 of the policy – SOME KEY EXTRACTS The policy provides context in the following areas; Policy Statement 1: Water Resources Management Key Objectives:</p>
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		<p>1. To enhance the conservation and protection of the country's water resources and to promote its sustainable management; and</p> <p>2. To improve the assessment of the nation's surface and ground water resources.</p> <p>All Strategies:</p> <p><i>a) Expand and maintain existing country wide monitoring networks and systems for effective assessment of national water resources;</i></p> <p><i>b) Develop and maintain a management information system for all water sector related data for ease of storage, retrieval, manipulation and dissemination;</i></p> <p><i>c) Develop and implement a communication strategy for effective flow of data and information at different levels with a view to avoiding duplication of efforts and increasing sharing of knowledge and experience, efficiency and collaboration;</i></p> <p><i>d) Promote integrated planning, development and management of water resources at different levels and in different sectors to maximize benefits arising from hydropower, tourism, flood control, irrigation, water supply, water bottling, water for export and others to enhance complementarity and synergies;</i></p> <p><i>e) Establish and implement water allocation principles and guidelines for different uses based on water demands for sectoral developments;</i></p> <p><i>f) Develop and implement drought relief strategies and flood management measures for risk reduction and effective mitigation of impacts;</i></p> <p>g) Develop systems and put in place measures and guidelines for retaining surface water runoff for utilization and for the artificial recharge of groundwater;</p> <p>h) Promote the adoption of integrated planning for and management of catchments to minimise land degradation and promote sustainable utilization of water and other natural resources;</p>
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		<p>i) Encourage water conservation through the promotion of rainwater harvesting to further increase utilizable water resources;</p> <p>j) Introduce water use charges taking into account the economic value of water without however compromising the ability of poor communities to utilize water for domestic and other productive purposes; and</p> <p>k) Enhance capacity for managing the nation’s water resources of the technical and professional personnel as well as of the institutions charged with the mandate of managing the nation’s water resources.</p> <p>Policy Statement 2: Water Supply and Sanitation Services Key Objectives:</p> <ol style="list-style-type: none"> 1. To accelerate the delivery of water and sanitation services to all Basotho in line with national development goals; 2. To promote increased investment in infrastructure development (reservoirs, conveyance structures, etc) to meet the water demand in urban and rural areas for socio-economic development and for meeting basic consumption and hygiene needs; 3. To devolve provision of water supply and sanitation services to relevant institutions at National, District and Community Council levels; 4. To promote equity in access to water supply and sanitation services taking into account vulnerable and marginalized groups including women, girls and all those affected by HIV/AIDS; and 5. To ensure that the tariffs charged by water and sanitation service providers cover the actual cost, including the capital costs as well as the cost of overheads, of providing water and sanitation services. – Review insight from Stream 5 will be relevant to keep in mind for local regulatory bylaws.
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		<p>Some of the key Strategies</p> <p><i>l) Reconstitute water committees as a mechanism for sustainable service delivery at local level;</i></p> <p><i>m) Empower district and community councils in the effective implementation of water supply and sanitation programmes, including the development of all relevant by-laws;</i></p> <p><i>o) Formulate water supply and sanitation services programmes for the medium (10-15 years) and long term (20-25 years) in order to facilitate the determination of, and access to, funding mechanisms;</i></p> <p><i>p) Develop and implement principles and guidelines for various forms of Public-Private Partnerships to facilitate sustainable provision of adequate water supply and sanitation services to rural, peri-urban and urban areas; hygiene;</i></p> <p><i>s) Establish and implement standards for provision of water supply and sanitation services;</i></p> <p><i>t) Establish and put into effect tariff structures and cost recovery mechanisms for water supply and sanitation services which ensure that water service providers recover the actual cost, including capital costs, of providing water services; (see note under Objective 5 above)</i></p> <p>Policy Statement 3: Water and Environment</p> <p>Key Objectives:</p> <ol style="list-style-type: none"> 1. To promote integrated water resources management with a view to reducing the negative impacts of human activities and natural processes on sensitive ecosystems; 2. To encourage the implementation of catchment management principles and practices as the basis for managing the country’s water resources; 3. To enhance protection of water resources against various forms of pollution and to minimise the risk of over-exploitation; and
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		<p>4. To ensure integration of environmental and other inter-sectoral issues, among them HIV/AIDS and gender equity into water resources programmes and activities.</p> <p>Some of the key Strategies</p> <p><i>a) Develop and implement relevant environmental standards and guidelines for aquatic ecosystems;</i></p> <p><i>b) Promote environmental education aimed at creating awareness of conservation and sustainable use of water resources for all groups including among other industrialists, herders, farmers, youths, councillors;</i></p> <p><i>c) Require the prevention of pollution at source through the adoption of cleaner technologies and management systems;</i></p> <p><i>d) Implement an industrial wastewater policy to effectively control discharges from industrial processes on the basis of the “Polluter Pays Principle” and the adoption of cleaner manufacturing and processing technologies; (NB. Water Service link)</i></p> <p><i>e) Implement integrated waste management and pollution control measures for the effective protection of water resources from potential non-point and point sources of pollution, including from solid and hazardous wastes disposal sites;</i></p> <p>Policy Statement 4: Trans-boundary Water Resources</p> <p>Key Objectives:</p> <ol style="list-style-type: none"> 1. To strengthen co-operation with riparian states in an effort to find solutions to the challenges of managing trans-boundary water basins; and 2. To promote joint planning and management of the development of trans-boundary water resources while maximising benefits for the people of Lesotho. <p>Policy Statement 5: Sector Wide Approach</p> <p>Key Objectives:</p>
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			<p>1. To promote a sector wide approach for water sector management and development in order to facilitate replacement of project-based approach with comprehensive sector-wide programmes;</p> <p>2. To promote optimal use of national and international funding for the management of water resources and the development of water supply and sanitation services through increased coherence between policy spending and results, and to reduce transaction costs; and</p> <p>3. To improve coordination of water sector planning, programming and activities in order to enhance the chances of the</p> <p>Policy Statement 6: Stakeholder Involvement Key Objectives:</p> <p>1. To promote effective stakeholder participation in the formulation and implementation of all sector programmes;</p> <p>2. To ensure participation of all gender groupings in the formulation and implementation of all sector programmes;</p> <p>3. To facilitate the involvement of the private sector as an important stakeholder in the management of water resources and in the provision of water services.</p> <p>Policy Statement 7: Institutional Arrangements and Legislative Framework Key Objectives:</p> <p>1. To improve institutional and legal framework for implementation of the Water and Sanitation Policy;</p> <p>2. To foster clarity and separation of roles and responsibilities in water resources development and management; and water and sanitation services delivery to match the needs of Basotho.</p>
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Assessment Phase 1: Summary of Findings

<p>Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation.</p> <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: - Contribution to vertical integration / fragmentation.</p> <p>e) Do the measures cohere with global, regional commitments: - Contribution to vertical integration / fragmentation.</p> <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>a) 4</p> <p>b) 4</p> <p>c) 4</p> <p>d) 4</p> <p>e) 4</p> <p>f) 3</p>	<p>KEY FOCUS OF THE POLICY IS WATER SEVRICE / WATER RESOURCES / WATER - ENVIRONMENT LINK. See comments on No. 1.</p> <p>Provides context for Water link in ICM – should be measured against how well the principal Act accommodates for the policy objectives & strategies to be realised.</p> <p>It has a direct link to National Development Strategy / Planning Framework. Linked to NSDP Outcomes 3.2 & 3.3 – on the basis of water service objectives.</p> <p>Helps realise the context of ORASECOM instruments such as the National/Strategic Action Plan and Lesotho Action Plan. Likely realises the context of other instruments as well, such as SADC Protocol on shared water courses etc.</p>
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Assessment Phase 1: Summary of Findings

Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>a) 4</p> <p>b) 1</p> <p>c) 3</p> <p>d) 1</p>	<p>Yes. However, it should be measured against how well the principal Act accommodates for the policy objectives & strategies to be realised.</p> <p>No context provided.</p> <p>No glaring issues noted.</p> <p>No context provided.</p>
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<p>a) 4</p>	<p>Whilst good context is noted in the policy, review / updating could be useful.</p>
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p>	<p>a) 4</p> <p>b) 1</p> <p>c) 1</p> <p>d) 4</p>	<p>See comments on No.1</p> <p>No glaring conflicts noted.</p> <p>No glaring conflicts noted.</p> <p>Helps realise the context of ORASECOM instruments such as the National/Strategic Action Plan and Lesotho Action Plan. Likely realises the context of other instruments as well, such as SADC Protocol on shared water courses etc.</p>

Assessment Phase 1: Summary of Findings

	- Contribution to vertical integration / fragmentation.		
Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	<p>a) 4</p> <p>b) 4</p> <p>c) 4</p> <p>d) 1</p>	Yes. See comments No.1 - Reference – Policy Statement no.6 Stakeholder Engagement

Agricultural Plant Policy, 2018

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	<p>a) 4</p> <p>b) 4</p>	<p>Creates a link to efforts being undertaken by the Ministry of Agriculture and has a direct link to ICM at a local level. Policy could help realise key measures for addressing the control of alien invasive species within catchments.</p> <p>Insight – Pg. 7: Policy highlights relevance to the control of invasive plant species.</p> <p><i>“Lesotho lacks appropriate regulatory framework upon which to regulate trade and movement of plants, plant parts and plant products to reduce phytosanitary risks. This increases the risk of introduction of invasive pest species. Managing introduced pests is a challenge and a costly exercise to both farmers and the government.”</i></p> <p>Pg. 14 – Pest Control Systems are of relevance 4.71; 4.72; 4.73 highlight Policy Rationale, Objectives and Statement</p> <p>Although, alien invasive species is noted as a key challenge to ICM, the policy as a stand-alone instrument does not prove a priority. It will however be useful if referenced through catchment/water resource management bylaws at a later stage.</p>

			<p>Furthermore specific relevance could also be linked to the Environment and Water Act – see below;-</p> <p>Policy could provide insight and help better realise the provisions of;-</p> <p><i>“The Environment Act of 2008, Section 61 (2)(c) introduce or plant any part of a plant, plant specimen whether alien or indigenous, whether dead or alive, in a river, riverbank, lake, lakeshore or wetland;”</i></p> <p><i>“The Water Act 2008, Section 16 (h) – Contents of catchment management plan. (h) identify the water resources management needs of the catchment area and for environmental protection, including those for wetlands conservation, riparian buffer zones and the prevention of erosion.”</i></p> <p>Pg. 17 - 4.6.4. Plant Policy Strategies</p> <ul style="list-style-type: none"> • <i>Develop Contingency plan for pest outbreaks.</i> • <i>Identify pests that are likely to cause an outbreak.</i> • <i>Promote regional and international collaboration.</i> • <i>Identify appropriate methods for management of pest outbreaks.</i> • <i>Training of extension officers and the general public on identification of pest outbreaks and proper reporting channels for timely response.</i>
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			<ul style="list-style-type: none"> • <i>Creation of awareness in pest outbreak areas.</i> • <i>Early warning / forecasting systems.</i> <p>Useful to take note of the above for catchment management plans. At this point it is noted that ICM structures are set-up ‘as collaborative committees’ so the need for local government to assist with relevant detailed by-laws on e.g., catchment management plans may be necessary.</p> <p>The Long-term Water & Sanitation strategy notes “catchment management activities will be implemented by the Local Councils and the communities with a focus on benefits from water and natural resources resulting in improved livelihoods in rural areas and economic development.”</p> <p>Perhaps further consideration needs to be given to the significance and links by team lawyers.</p>
<p>Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation.</p> <p>c) Does the measure create or contribute to an integrated management framework;</p>	<p>c) 4</p> <p>d) 4</p> <p>c) 4</p>	<p>Key link to control of Alien Invasive species which has a significant negative impact on water resources. Section 4.4.</p> <p>Yes</p> <p>Provides context for Agricultural & Water link in ICM</p>

Assessment Phase 1: Summary of Findings

	<p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>d) 4</p> <p>e) 4</p> <p>f) 3</p>	<p>Yes</p> <p>Helps realise the context of ORASECOM instruments such as the National/Strategic Action Plan and Lesotho Action Plan. Likely realises the context of other instruments as well, such as SADC Protocol on shared water courses etc.</p>
<p>Proportionality</p>	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>a) 4</p> <p>b) 1</p> <p>c) 3</p> <p>d) 1</p>	<p>Aims and objectives well established. Section 4.4 is of particular interest to this review in terms of catchment management planning by-laws</p> <p>No glaring issues noted.</p> <p>No context provided.</p>

Assessment Phase 1: Summary of Findings

Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	b) 4	Good and current context is noted for Agriculture and Water links
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p>a) 4</p> <p>b) 1</p> <p>c) 1</p> <p>d) 4</p>	<p>Yes. context is noted for Agriculture and Water links</p> <p>No glaring conflicts noted.</p> <p>No glaring conflicts noted. In fact it is an instrument to help better realise specific sections of the Environment and Water Act w.r.t. alien invasive species. See comments under No.1</p> <p>Helps realise the context of ORASECOM instruments such as the National/Strategic Action Plan and Lesotho Action Plan. Likely realises the context of other instruments as well, such as SADC Protocol on shared water courses etc.</p>
Participatory (ensuring equitable participation)	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p>	<p>a) 4</p> <p>b) 3</p> <p>c) 4</p>	Yes. See comments No.1 Section 4.4 accommodates participation.

Assessment Phase 1: Summary of Findings

	<p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>	d) 1	
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White Paper: Review of Water Legislation, 2018

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	It is more of an informative report that will provide insight for the Water Act review – scoring not deemed relevant	<p>This is viewed as more of ‘review / study report’ with a key focus on gaps; challenges and areas for potential improvement, specific to the principal ‘Water Act 2008’. It builds a ‘business case’ almost encouraging / motivating for the reform of the Water Act 2008 based on a perspective of sector needs. It provides good technical/process and institutional insight in context of the Water Sector and may provide further context for the in-depth review of ‘Water Act 2008’.</p> <p>4.3 Duties/Powers/Delegations</p> <p><i>The only real mention of “delegations” in the current Act relates to Minister and the Commissioner of Water. The former refer to the “duty to control and regulate the use of water resources”. It also indicates that the Minister “may give directions to water management institutions on the discharge of their functions.” The assumption therefore is that all of the other activities not specified in the Act fall under the oversight of the Minister of Water. In some cases there may be the need to be more explicit about the specific activities, responsibilities and functions of the Minister.</i></p>

		<p><i>With regard to the role of the Principal Secretary (PS), there are no specific delegations. Some stakeholders questioned this. There is also the issue of the role of the two other critical departments in the Ministry of Water namely; the Department of Water Affairs and the Department of Rural Water Supply.</i></p> <p>4.4 Financial Provisions Provides context for financing mechanisms and high-level insight on ‘water use charges’ for water services.</p> <p>4.5 Penalties and Sanctions <i>The specific penalties and sanctions that are referred to in the Water Act relate to the following:</i></p> <ul style="list-style-type: none"> • <i>In Clause 18 (6), dealing with protection of wetlands</i> • <i>In Clause 19 (5), protection of natural springs</i> • <i>Clause 21 (11), dealing with construction permits</i> • <i>Clause 26 (9), dealing with pollution of water sources</i> • <i>Clause 38 (7), addressing powers of entry</i> • <i>Section 41 which deals with a series of general transgressions</i> <p>This section highlights the need for flexibility on allowing penalty charges to change.</p> <p>Of Particular interest is Chapter 7 & 8 which outlines how the current sector needs are catered for by legislation but also proposed improvements and what would then need to be considered for legal reform of the Water Act.</p> <p>7. Water Resources Management</p> <p>7.1 Resource Classification System</p> <p>7.2 The Environmental Reserve</p> <p>7.3 Wetland Protection</p>
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Assessment Phase 1: Summary of Findings

			<p>7.4 Pollution Prevention 7.5 The Riparian Zone 7.6 Use of Water 7.7 Water Use Permits/Licensing 7.8 Water Resource Development/Government Waterworks 7.9 Dam Safety 7.10 Groundwater</p> <p>8. Water Services</p> <p>8.1 Roles and Responsibilities 8.1.1 Urban 8.1.2 Rural Areas 8.1.3 Peri-Urban 8.2 Right of Access to Water Services 8.3 Norms and Standards 8.4 Guidelines for Tariffs</p>
<p>Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area? b) Does the measure link social and economic development with protection of natural ecosystems: - Contribution to horizontal integration / fragmentation. c) Does the measure create or contribute to an integrated management framework; d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p>		

Assessment Phase 1: Summary of Findings

	<ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need. 		
Proportionality	<ul style="list-style-type: none"> a) Is the measures likely to achieve its legitimate aims; b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors. 		
Currency	<ul style="list-style-type: none"> a) Is the measure outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		
Consistency	<ul style="list-style-type: none"> a) Does the measure promote (at least some) elements and objectives of ICM; b) Does the measure run contrary to (certain) elements and objectives of ICM; c) Does the measures conflict with other national measures: <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or 		

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	<ul style="list-style-type: none"> - Ambiguities regarding scope of application. d) Does the measure take account of international and regional commitments, especially regarding transboundary basins: - Contribution to vertical integration / fragmentation. 		
Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 		

NAP/SAP ORASECOM Report 2014

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<ul style="list-style-type: none"> a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. 	<ul style="list-style-type: none"> a) 4 b) 4 	The National Action Plan also referred to as the Strategic Action Plan (SAP) outlines the critical significance of water to supporting both current economic activities in the Orange–Senqu River basin as well as future economic growth and development.

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	<p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 		<p>Regulatory Insight: The National strategic action plan provides valuable insight for National and hence potentially Local legislative frameworks. The concept notes may provide more detailed insight for National review and highlight areas for strengthening aligned to the ORASECOM water resource / basin objectives for the long term. This is flagged for Stream 1 potentially to consider further review of these concept notes, if feasible later in the project.</p> <p>Chapter 2 – Pg. 23; Chapter 3 – Pg. 29</p>
<p>Holistic / Cross-sectoral</p>	<p>a) Does the measure link land and water use across the entire catchment area?</p> <p>b) Does the measure link social and economic development with protection of natural ecosystems:</p> <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. <p>c) Does the measure create or contribute to an integrated management framework;</p> <p>d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>e) Do the measures cohere with global, regional commitments:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. <p>f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need.</p>	<p>a) 4</p> <p>b) 4</p> <p>c) 5</p> <p>d) 5</p> <p>e) 5</p> <p>f) 2</p>	<p>ICM elements are well covered across varied water and land parameters.</p> <p>Specific context to Pg. 5; Pg. 13 – Section 2.1&2.2; Pg. 19 – Chapter 3; Pg. 24 – Chapter 4; Pg. 29 – Table 6.</p> <p>The NAP.SAP has well established ICM context</p> <p>Strong links to aims of NDSP.</p> <p>Strong alignment. Section 1.7 – Pg. 19 outlines governance framework.</p> <p>Not a key focus but indirectly addressed.</p>

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Proportionality	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>	<p>a) 5</p> <p>b) 3</p> <p>c) 4</p> <p>d) 3</p>	<p>Aimed with intent objectives. Chapter 2 – Pg. 23; Chapter 3 – Pg. 29 of actual report</p> <p>No specifics on cost-effectiveness or financing measures.</p> <p>No glaring issues.</p> <p>No specifics on cost-effectiveness or financing measures.</p>
Currency	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 	<p>a) 4</p>	<p>Context is current.</p>
Consistency	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 	<p>a) 5</p> <p>b) 1</p> <p>c) 1 (n/a)</p> <p>d) 5</p>	<p>Significantly. See comments on No.1</p> <p>No contrast noted.</p> <p>Strong alignment. Section 1.7 – Pg. 19 outlines governance framework.</p>

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Participatory (ensuring equitable participation)	a) Does the measure raise awareness of (elements and objectives) of ICM;	a) 5	Significantly. Section 1.3 – Pg. 12 See comments on No.1 and see context in Annexure.
	b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;	b) 5	
	c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation	c) 5	
	d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.	d) 1 (n/a)	

Water Pollution at Thetsane Industrial Area1: A portrait of Attitudes, Values and Willingness to Participate in Pollution Abatement Activities, 2007

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<p>a) Does the measure appropriately address key ICM elements & objectives:</p> <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. <p>b) Does the measure create or contribute to a practicable ICM regime for Lesotho:</p> <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and - Financially sustainable. 	It is more of an informative report that will provide insight for catchment implementation initiatives.	<p>Study Synopsis: <i>The study was a result of significant water pollution at Thetsane Industrial area, in urban Maseru Lesotho. The objective was to assess peoples 'attitudes and awareness of such pollution.</i></p> <p><i>Moreover, to estimate factors that could perhaps influence their willingness to take part in environmental projects. Survey data collected from Thetsane residents was used for analysis</i></p> <p><i>Study results indicated that that residents who fall in the category of high income level, more educated and are younger tend to show more positive behaviour towards environmental awareness and are more willing to take part in environmental protection measures if given chance than those that earn lower incomes and are less educated and older. The paper identifies that length of tenure at the Thetsane residence has direct positive impact on influencing individuals' participation in environmental projects and conservation. It is therefore deduced that tenure of land is very vital for environmental protection and pollution abatement activities. It is also argued in this paper that despite well documented laws meant to govern</i></p>

Assessment Phase 1: Summary of Findings

			<p><i>environmental degradation and provide preservation, the institutions</i></p> <p><i>charged with such mandate are ineffective hence adverse effects on the environment are observed day after day.</i></p> <p><u>The study provides insightful, local environmental context. However, it is not deemed relevant for review objectives of Stream 4.</u></p> <p>The insight would be used to inform public participation / behavioural <u>context of implementation</u> of catchment management initiatives.</p>
<p>Holistic / Cross-sectoral</p>	<ul style="list-style-type: none"> a) Does the measure link land and water use across the entire catchment area? b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. c) Does the measure create or contribute to an integrated management framework; d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need. 		

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<p>Proportionality</p>	<p>a) Is the measures likely to achieve its legitimate aims;</p> <p>b) Is the measure cost-effective;</p> <p>c) Does the measure interfere to the least extent necessary with established interests, practices or policies;</p> <p>d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors.</p>		
<p>Currency</p>	<p>a) Is the measure outdated:</p> <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		
<p>Consistency</p>	<p>a) Does the measure promote (at least some) elements and objectives of ICM;</p> <p>b) Does the measure run contrary to (certain) elements and objectives of ICM;</p> <p>c) Does the measures conflict with other national measures:</p> <ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		

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Participatory (ensuring equitable participation)	<ul style="list-style-type: none"> a) Does the measure raise awareness of (elements and objectives) of ICM; b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information; c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation; d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder. 		
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Water and Sanitation Sewerage Company (WASCO) Act, 2010

KEY CRITERIA	INDICATORS	LIKERT SCALE SCORE	COMMENT / JUSTIFICATION (i.e., description of gap, weakness etc. identified)
Effectiveness	<ul style="list-style-type: none"> a) Does the measure appropriately address key ICM elements & objectives: <ul style="list-style-type: none"> - Breadth / sufficiency of mandate; - Substantive coverage / scope of application; and - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having regard to the ongoing process of decentralisation in Lesotho. b) Does the measure create or contribute to a practicable ICM regime for Lesotho: <ul style="list-style-type: none"> - Sufficiently flexible; - Sustainably implementable; - Practically enforceable; and 		<p>Overview: <i>The Water and Sewerage Company (PTY) Ltd was established in 2010 and is mandated to provide potable water and sewerage disposal services across urban areas of Lesotho. The company's operational Licensing and tariffs are regulated by Lesotho Electricity and Water Authority (LEWA).</i></p> <p><i>Water and Sewerage Company (WASCO) is a company duly established under the Water and Sewerage Company (Propriety) Limited Act, 2010 Enacted by the Parliament of Lesotho. The company is a State-owned-Enterprise of the Government of Lesotho and is intended to become a fully-fledged Water & Sewerage Utility. The Act provides for the vesting of the assets, liabilities, rights and obligations of the Water and Sewerage Authority in the company and provided for the transfer of employees.</i></p> <p>Understanding the history of WASCO provides functional context and institutional insight:-</p>

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	<ul style="list-style-type: none"> - Financially sustainable. 		<p><i>WASCO has roots from pre independence, during the British rule. Their mandate has since then been water services to urban areas of Lesotho. Then in 1992, the Government of Lesotho established Water and Sewerage Authority (WASA) through act of parliament order number 29. Its main purpose was to provide water and sewerage services to all designated urban areas of Lesotho.</i></p> <p><i>In 2010, the WASA order number 19 of 1992 was repealed and Water and Sewerage Company (WASCO) was established through act of Parliament number 13 2010. The company’s total shareholding is totally with the government of Lesotho through the Ministry of Finance and Water. The formerly single focused regulator, Lesotho Electricity which regulated electricity was turned into a multi sector regulator to include regulation of water and sewerage services.</i></p> <p>Context provided but Legal Review could not be taken further as Act could not be sourced. Yet, review is deemed necessary.</p>
<p>Holistic / Cross-sectoral</p>	<ul style="list-style-type: none"> a) Does the measure link land and water use across the entire catchment area? b) Does the measure link social and economic development with protection of natural ecosystems: <ul style="list-style-type: none"> - Contribution to horizontal integration / fragmentation. c) Does the measure create or contribute to an integrated management framework; 		

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	<ul style="list-style-type: none"> d) Does the measure link with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. e) Do the measures cohere with global, regional commitments: <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. f) Do the measures takes account of any recent, current or impending significant infrastructure investments or commercial development need. 		
Proportionality	<ul style="list-style-type: none"> a) Is the measures likely to achieve its legitimate aims; b) Is the measure cost-effective; c) Does the measure interfere to the least extent necessary with established interests, practices or policies; d) Does the measures involve an equitable and reasonable distribution of costs and benefits across all sectors. 		
Currency	<ul style="list-style-type: none"> a) Is the measure outdated: <ul style="list-style-type: none"> - Obsolete in objectives, scope of application or approach; - Requiring updating (e.g., regarding penalties); or - Requiring consolidation / codification (regarding amending measures). 		
Consistency	<ul style="list-style-type: none"> a) Does the measure promote (at least some) elements and objectives of ICM; b) Does the measure run contrary to (certain) elements and objectives of ICM; c) Does the measures conflict with other national measures: 		

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	<ul style="list-style-type: none"> - Conflicting / overlapping roles and mandates; - Gaps regarding key functions (e.g., enforcement); or - Ambiguities regarding scope of application. <p>d) Does the measure take account of international and regional commitments, especially regarding transboundary basins:</p> <ul style="list-style-type: none"> - Contribution to vertical integration / fragmentation. 		
<p>Participatory (ensuring equitable participation)</p>	<p>a) Does the measure raise awareness of (elements and objectives) of ICM;</p> <p>b) Does the measure promote transparency – by means of freedom of public / stakeholder access to relevant information;</p> <p>c) Does the measure promote public / stakeholder participation in decision-making – by means of appropriately structured and equitable consultation;</p> <p>d) Does the measure permit and facilitate reviewability – by means of a general right to review decisions made thereunder.</p>		

Workstream 5

Mapping Matrices

A Brief Description of the Matrix for policy and legal review

The below Matrix was inspired by Ntate Ramohapi's and several expert's approach to the review activities under all WSs and tries to bring its particularly useful elements together. The below text 1.1. to 1.6. is quoted from Nate Ramohapi's matrix for WS 4.

It serves two purposes:

It can be used for the initial review of whether an enactment (policy, law, regulation) is relevant for the more detailed review.

It can also help in the detailed review to ensure that the key elements and criteria as listed in the Analytical framework are systematically considered.

The Matrix will help to bring the review exercises of all WSs into one format for documentation purposes and reporting.

Please note that the Matrix aims at helping the expert during reviews in a free work environment. It is not meant to restrict us from commenting and elaborating narrative reviews. While doing so, please ensure that the Articles/Sections under review are mentioned and documented in the Matrix.

1.1 Introduction

The matrix table below seeks to arrange the selected policies and pieces of legislation in connection with a range of criteria against which the effectiveness of the current ICM local-level regulatory framework in Lesotho will be assessed. It follows, though not word for word, the key assessment criteria outlined in the Inception Report. If properly completed, it will provide indicators and not conclusions. Findings, recommendations and conclusions will be drawn during a comprehensive assessment of each instrument against the set criteria. Enactments are numbered in column 1.

1.2 Scope of the legal or policy instrument

The main question here is whether a particular legislative or policy instrument applies to or covers any, some or all the key elements of the ICM. An outline of these elements is provided in the Inception Report. For ease of reference, the said outline is reproduced here below:

- Sustainable soil management and erosion control;
- Sustainable water utilisation, management and pollution control;
- Maintenance of aquatic and related ecosystems, ecosystem services and biodiversity;
- Sustainable range management (for livestock rearing and crop production);
- Wetlands management and restoration;
- Water resources development and infrastructure operation;
- Sustainable planning of human settlements; and
- Governance reform in pursuit of any/all of the above.

If a particular measure, i.e., legislative or policy instrument addresses one or more of the above elements, it is relevant and must, therefore, be analysed. Ideally, the 'scope' column on the matrix table would require listing of specific ICM elements governed by the selected instrument, but to avoid wordiness, just show the relevant sections if any; if none, enter dash –

1.3 Objectives

The main question here is whether the objective(s) of a particular legislative measure or policy coincide or overlap with the ICM implementation objectives in Lesotho. Again, these objectives are outlined in the Inception Report, and they are reproduced here below for convenience:

- Socio-economic development;
- Livelihoods and poverty alleviation;
- Improved affordable access to safe water and sanitation services;
- Sustainable support to commercial and subsistence agriculture;

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- Climate change adaptation;
- Rights based approach including, in particular, gender equality;
- Policy and legislative harmonisation;
- Subsidiarity and decentralisation;
- Private sector & civil society involvement in the water sector and in related sectors;
- Raising awareness regarding ICM
- Meaningful stakeholder engagement; and
- Capacity-building, research and training.

Ideally, the column titled 'Objectives' on the matrix table would require one to list specific ICM implementation objectives covered by the selected instrument, but for the purpose of avoiding wordiness, just show the relevant sections or clauses if any; if none write a dash - .

1.4 Administration

The important questions under this column are: Which body/institution is responsible for implementing/overseeing the implementation of/ regulating the implementation of the ICM elements specified under 'scope'? Is it a national or local authority? Does this body have some autonomy over the exercise of its powers/functions? Are there mechanisms for supervision and coordination? Just show the relevant specific sections or clauses in the instrument.

1.5 Enforcement, reviews and appeals

Are the provisions governing ICM activities under 'scope' enforceable? If so how - procedure? Are the decisions taken by the administrative bodies/institutions reviewable and/or appealable? If so how – procedure? Are there any sanctions/penalties? Just show the relevant specific sections or clauses.

1.6 Participation, capacity building and record keeping requirements

Are there any requirements for stakeholders' engagement, community participation, capacity building, and records keeping? If so, who is responsible for doing that? Just show the relevant sections or clauses.

1.7 Priority

What is the priority of the reviewed Act/Article/Section? Criteria for prioritisation are wide, these can include level of relevance, or significance of gaps, contradiction etc.

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Law / Regulation / Policy Number/Sequence	Scope Key ICM elements Article / Section	Objectives Article / Section	Administrative bodies & their mandates Article / Section	Enforcement , reviews & appeals Article / Section	Participation, capacity building & records Article / Section	Priority 1-3 1 = highest
Government Concept Note on Fiscal Decentralization	highly relevant, but no sections or articles devolving revenue sources and expenditure functions to the lower tiers focuses on decentralization	it makes many needed recommendations				1
Water Act 2008	Preamble and S. 3: sustainable use of water resources, integrated water resource management, integrate environmental and social issues into WRM 10: develop strategy on water resource management 16 develop catchment management plan 42: legal basis for regulations	Preamble, and S. 3, equal access to water 18 and 19: wetlands and spring protection 33-37 dam safety and flood protection	Sec. 7 Minister responsible for control of use of water resources 8: Commissioner: strategy direction, develops policies coordinate activities relating to international waters 9 Tribunal settle disputes arising under the act 15 catchment management by LA	9: Water Tribunal 20- 24: permitting 25, 26: controlled activities and pollution control 27: limit values, reference to EA 2007	31: access to information	1

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			42 legal basis for regulations			
The Environment Act of 2008 (see WS 1, Owen)	<p>The EA has no high priority 43, 68, 113</p> <p>Sustainable soil mgt. & erosion control;</p> <p>Sustainable water utilisation, mgt. & pollution control;</p> <p>Maintenance of aquatic & related ecosystems, ecosystem services & biodiversity;</p> <p>Sustainable range management;</p> <p>Wetlands management & restoration;</p> <p>Sustainable planning of human settlements;</p> <p>Sustainable soil mgt. & erosion control;</p> <p>Sustainable water utilisation, mgt. & pollution control;</p> <p>Maintenance of aquatic & related ecosystems, ecosystem services & biodiversity;</p> <p>Sustainable range management;</p>	<p>Sustainable support to commercial and subsistence agriculture;</p> <p>Climate change adaptation;</p> <p>Rights based approach;</p> <p>Policy and legislative harmonisation;</p> <p>Sustainable support to commercial and subsistence agriculture;</p> <p>Climate change adaptation;</p> <p>Rights based approach;</p> <p>Sustainable support to commercial and subsistence agriculture;</p> <p>Climate change adaptation;</p> <p>Rights based approach;</p> <p>Policy and legislative harmonisation;</p>				3

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	<p>Wetlands management & restoration;</p> <p>Sustainable planning of human settlements;</p> <p>Sustainable water utilisation, mgt. & pollution control;</p> <p>Maintenance of aquatic & related ecosystems, ecosystem services & biodiversity;</p>	<p>Policy and legislative harmonisation;</p>				
<p>Public Financial Management and Accountability Act, 2011</p>	<p>21: public money goes into the council fund</p> <p>30: all foreign grants go into the “Consolidated fund” (S. 110 Constitution)</p> <p>61 legal basis for the making of regulations</p>					1
<p>Mines and Minerals Act</p>	<p>21 (1) c,</p> <p>28 (1) g</p> <p>33 (1) g</p> <p>39 (1) b,</p> <p>50 b</p> <p>54 (1) d, iv</p> <p>58</p>	<p>S. 21 (1) c requires to consider environmental protection in licensing.</p> <p>S 28 (1), g requires protection of boreholes by drilling permit holders.</p>		<p>68 (1) b</p> <p>Enforcement for violations of environmental law via withdrawal of mining permits by the Minister.</p>	<p>21 (1) c,</p> <p>28 (1) g</p> <p>33 (1) g</p> <p>39 (1) b,</p> <p>50 b</p> <p>54 (1) d, iv</p> <p>58</p>	3

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		<p>S 33 (1) g, requires an EIA license as a prerequisite for a mining license.</p> <p>Obliges holders of mining leases to observe environmental protection practices.</p> <p>50 b</p> <p>Mineral mining permit holders must observe environmental practices</p> <p>Sec 58 lists environmental compensation and env. Management practices required by permit holders.</p> <p>54 (1) d, iv</p> <p>No mining is permitted within 100 meters of a cattle dip, tank or dam.</p> <p>Sec 55</p> <p>Owners or lawful users of land can use the land for grazing if it does not interfere with mining activities.</p>				
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Lesotho Highlands Water Project (P.1) Policy for Instream Flow Requirements (2002) (reviewed in main document, no review matrix included here)	Chapter 2 and 4	Chapter 7 Chapter 1.2.2, on principles			Chapter 6	1
(Draft) National Wetlands Conservation Strategy	Summary Strategic objective 2, 3 4 and 5	SO 2, 3, 4, 5			SO 4 and 5	1
Financing of water resources management, Experience from sub-Saharan Africa 2012, EU Water initiative, Finance working group						
National Range Resources Management Policy, 2014						
Status Report on the Implementation of Integrated Water Resources Management in Africa, 2018 A regional report for SDG indicator 6.5.1 on IWRM implementation						
White Paper: Review of Lesotho Water Legislation, 2018	Section 4.4 Pg. 12 to 15 <i>Funding relevance</i>	Pg. 1-2				2 (provide s very high-level context but is relevant)
Lesotho Long-term Water and Sanitation Strategy 2016		Section 1; 2.2; 2.3;		Lesotho Long-tern Water and Sanitation		Section 1; 2.2; 2.3;

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				Strategy 2016		
Lesotho Water and Sanitation Policy 2007		Pg. 2; 3; 4; 5; 7 – Funding relevance	Pg. 1-2			
Regional Water Policy 2005 And SADC Water Strategy 2006	Chapter 11 – Section 11.1 to 11.3 – Pg. 96 - 101 Funding relevance Chapter 11 – Section 11.1 to 11.3 – Pg. 54 - 55 Funding relevance					3
Local Govt. Act of 1997	Please refer to text ahead of review matrix.	Ibid.	Ibid.	Ibid.	Ibid.	Ibid.
National Decentralisation Policy of 2014 (NDP)	Please refer to text ahead of review matrix.	Ibid.	Ibid.	Ibid.	Ibid.	Ibid.
Local Government Bill of 2020	Please refer to text ahead of review matrix.	Ibid.	Ibid.	Ibid.	Ibid.	Ibid.
Lesotho Electricity Authority Act No. 12 of 2002	Please refer to text ahead of review matrix.	Ibid.	Ibid.	Ibid.	Ibid.	Ibid.
The Land Husbandry Act of 1969 as amended	Please refer to text ahead of review matrix.	Ibid.	Ibid.	Ibid.	Ibid.	Ibid.
Land Act of 2010 as amended	Please refer to text ahead of review matrix.	Ibid.	Ibid.	Ibid.	Ibid.	Ibid.
Land Administration Authority Act of 2010 as amended	Please refer to text ahead of review matrix.	Ibid.	Ibid.	Ibid.	Ibid.	Ibid.
Municipal and Urban Councils Financing	Please refer to text ahead of review matrix.	Ibid.	Ibid.	Ibid.	Ibid.	Ibid.

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Regulations LN No. 137 of 1988						
Letsema	Please refer to text ahead of review matrix.	Ibid.	Ibid.	Ibid.	Ibid.	Ibid.
Self-regulation	Please refer to text ahead of review matrix.	Ibid.	Ibid.	Ibid.	Ibid.	Ibid.

Note that finance is in fact under component 2 as it aims inter alia at institutional strengthening. It is different from the other reviews as we do not review legislation strictly against ICM objectives, this is about finding financing mechanisms in law, or other enactments. The finance mechanism may not always mention criteria and elements of ICM.

The standard matrix does not suit WS 5 purposes. So, please use this table as a guideline, feel free to add text to it or annex your review and findings in a narrative format outside this table.

Review Matrices

Government Concept Note on Fiscal Decentralisation

Finance / budget relevance	INDICATORS	Priority (1-5) 5 being the highest	description	Authorized routing
Source	External donor, government, private, citizens/users	5	The CN is general, but makes many needed recommendations	
Type of funding	explicit financing of ICM grant loan fees/fines	5	all funds, revenue and non-revenue based (grants)	
ICM related	Water, land, ecosystem services, etc.	4	it is general in nature, but will include all ICM related financing	
Flow of funds	Provisions/measures on the flow of funds from source to local level		requires for regulations as legal basis	
Short term	Non-revenue based (grants, subsidies, other transfers)	3	ST funding is not in the focus but will be part of fiscal decentralization	
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	5	The CN aims at decentralization with a focus on long term financing. It is general enough by nature to allow for all sorts of funding, i.e., grants or revenues.	
National level	Provisions regarding the national level	3	the focus is on decentralization, but	

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			the central level is dealt with as well	
District level (DC)	Provisions regarding the district level	5	detailed recommendations	
Community level (CC)	Provisions regarding the community level	5	detailed recommendations	
Legal Basis	Parent and eventual subsidiary legislation	5	It explains what is needed in detail for the needed legal basis.	

Water Act 2008

Finance / budget relevance	INDICATORS	Priority (1-5) 5 being the highest	description	Authorized routing
Source	External donor, government, private, citizens/users	2	It contains several potential sources of funding but does not deal with external funding or grants.	
Type of funding	explicit financing of ICM grant loan fees/fines	3	<p>e.g.:</p> <p>Sect. 15 (3) c regulates cost recovery for waterworks.</p> <p>Sections 18 (6) and 19 (5) provide for fines in case of violations of provisions relating to wetlands conservation and springs protection.</p> <p>Sect. 20 ff contain provisions on permitting. These could potentially be important sources for ICM financing. However, the permitting system is not comprehensive and contains numerous gaps (see the review under WS 4 to this end). Fees collected in accordance with schedule 2 to the WA could form an integral</p>	

Assessment Phase 1: Summary of Findings

			part of local ICM financing.	
ICM related	Water, land, ecosystem services, etc.	4	water related, but no explicit mentioning of ICM	
Flow of funds	Provisions/measures on the flow of funds from source to local level	1		
Short term	Non-revenue based (grants, subsidies, other transfers)	1		
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	2	permits could be basis for long term financing (fees)	
National level	Provisions regarding the national level	3	<p>national, but S. 42 enables the making of subsidiary regulations.</p> <p>And the LGA details CC responsibilities in the water sector. The funding is not regulated there.</p> <p>Sec 2 regarding “regulated activities” it refers to the “Lesotho Electricity and water Resources Act of 2008”. This Act does not exist. Only an electricity authority of 2002, amended 2006 and 2011 exists.</p>	
District level (DC)	Provisions regarding the district level	1		
Community level (CC)	Provisions regarding the community level	1		
Legal Basis	Parent and eventual subsidiary legislation	3	<p>Section 42 provides for a legal basis for regulations, including on fees and levies.</p> <p>The legal basis does not entail the making of regulations on</p>	

Assessment Phase 1: Summary of Findings

			<p>permitting, charging (fees, levies, tariffs).</p> <p>Hence, section 42 in its current form does not allow drafting regulations that are relevant for grant facilities and sustainable revenue collection.</p> <p>The WA does, however, not contain any provisions on how collected fees, penalties or fines are spent.</p>	
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See the detailed review in the main text of WS 5 review.

Environmental Act 2008

Finance / budget relevance	INDICATORS	Priority (1-5) 5 being the highest	description	Authorized routing
Source	External donor, government, private, citizens/users	2	<p>The EA has no high priority. It provides the legal basis for land use planning, water use, and for fines and penalties.</p> <p>These are potential sources of ICM funding.</p>	
Type of funding	explicit financing of ICM grant loan fees/fines	2	<p>For instance, Section 43 prescribes fees for effluent discharges. Fees all relate to effluent discharge or pollution fees or for access to genetic resources under Section 68 EA.</p>	
ICM related	Water, land, ecosystem services, etc.	4	<p>includes all environmental media, land water etc., but in general.</p>	
Flow of funds	Provisions/measures on the flow of funds from source to local level	1		

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Short term	Non-revenue based (grants, subsidies, other transfers)	1		
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	1		
National level	Provisions regarding the national level	1		
District level (DC)	Provisions regarding the district level	1		
Community level (CC)	Provisions regarding the community level	1		
Legal Basis	Parent and eventual subsidiary legislation	4	Section 113 provides for a legal basis for regulations, including on fees and levies.	

See the detailed review in the main text of WS 5 review.

Public Financial Management and Accountability Act, 2011

Finance / budget relevance	INDICATORS	Priority (1-5) 5 being the highest	description	Authorized routing
Source	External donor, government, private, citizens/users	1	general by nature	
Type of funding	explicit financing of ICM grant loan fees/fines	1	general by nature	
ICM related	Water, land, ecosystem services, etc.	1	general	
Flow of funds	Provisions/measures on the flow of funds from source to local level	5	Sect. 21 (4) provides that “public money” as defined by the Act, at local level goes into the council fund. The council fund is regulated in section 47 of the LGA. It needs to be investigated how this procedure works in detail in practice. See Fonda’s questionnaire Matrix and add to it accordingly. Notwithstanding a more detail legal analysis, the council	

Assessment Phase 1: Summary of Findings

			<p>fund will have to be clearly distinguished from the “consolidated fund” established under section 110 Constitution.</p> <p>This is especially the case, as all foreign funds must pass through this consolidated fund. Sect 30 requires, that, regarding all foreign grants, the Minister is responsible to receive these. All grants made by foreign governments (= also all other foreign donors, this is ratio of the law) hence pas via the responsible Minister of Finance.</p> <p>Sect 30 (3) provides that all foreign grants go into the “Consolidated fund” (the consolidated fund is regulated in Sect. 110 Constitution)</p>	
Short term	Non-revenue based (grants, subsidies, other transfers)	3	no explicit statement, but possible	
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	5	the ratio aims at the long term	
National level	Provisions regarding the national level	5	The ratio of the PFMA is further explained in the “statement of objectives and reasons” for the PFM Act. It is inter alia: “Harmonizing accounting across all government levels, including local.” (page 295)	
District level (DC)	Provisions regarding the district level	5	The PFMA applies to “local authorities”, Section 3. The term “local authority” is	

Assessment Phase 1: Summary of Findings

			defined by Section 4 of the LGA.	
Community level (CC)	Provisions regarding the community level	5	“	
Legal Basis	Parent and eventual subsidiary legislation	5	<p>It is the legal basis for everything needed: Sect. 61 : Minister to make regulations.</p> <p>It sets the framework for a needed ICM grant facility. Amongst others, it must be read and construed in context with the LGA, as there are several references to the LGA.</p> <p>Relevant are also sections 110-113 Constitution regarding the consolidated fund.</p> <p>On S. 61 basis, the treasury regulations of 2014 were made. They must be read in context with this act.</p>	

See the detailed review in the main text of WS 5 review.

Mines and Minerals Act 2005

Finance / budget relevance	INDICATORS	Priority (1-5) 5 being the highest	description	Authorized routing
Source	External donor, government, private, citizens/users	1	It generally states which fees, royalties, and fines go to Government.	
Type of funding	explicit financing of ICM grant loan fees/fines	1		
ICM related	Water, land, ecosystem services, etc.	2	not explicitly	

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Flow of funds	Provisions/measures on the flow of funds from source to local level	1		
Short term	Non-revenue based (grants, subsidies, other transfers)	1		
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	2	It regulates permitting and payable fees, and royalties. In accordance with sect 9, all fees go to the Government via the Ministry of Mines.	
National level	Provisions regarding the national level	3	“	
District level (DC)	Provisions regarding the district level	1		
Community level (CC)	Provisions regarding the community level	1		
Legal Basis	Parent and eventual subsidiary legislation	1		

National Wetlands Conservation Strategy 2018-2022

Finance / budget relevance	INDICATORS	Priority (1-5) 5 being highest	description	Authorized routing/mandate	Comments
Source	External donor, government, citizens/users;	5	Does encompass key components of the strategy planning systematically worked out. Limited on funding/financing;	Unclear identification of lead ministry/ department and task division. Was given to MoW/ Department of Water Affairs, become a contentious issue;	
Type of funding	Grants, fees/fines;	5	all funds, revenue and non-revenue based (grants)		Important sources for ICM funding overlooked are; i)Local ICM revenues be ring fenced (min.75%); ii)Revenue from water exports e.g., 1% for long term funding of ICM;
ICM related	wetland ecosystem conservation, community/local government managed;	4	Wetland management integral part of ICM; specific capacity development required;		
Flow of funds	Provisions/measures on the flow of funds from source to local level		Wetland regulation is part of ICM regulation. Proceeds of Wetlands alone is limited or nil;	i) Local proceeds to be ring fenced at local government/community level; ii) At local government level a ' common facility for water sector funding ¹³⁴ to be established'. Local government/both councils are authorised to administer these funds;	Local revenue not be transferred to national treasury;

¹³⁴ Refer to Long term Water and Sanitation Strategy, page 12, section 2.3 final lines. Quote: 'A major change in the sector financing would be the change from the different Government budgets and various development partner funding modalities to a common funding mechanism for Local Council investments in water, sanitation and catchment management. unquote

Assessment Phase 1: Summary of Findings

Short term	Non-revenue based (grants, subsidies, other transfers)	3	Wetland related funding not operationalised;	Not identified;	Transfer of government funding currently unspecified/fragmented sometimes leading to stress between local and national government;
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	5	The CN aims at decentralization with a focus on long term financing.	Refer to item 2;	Essentially 3 financing streams: -Local basin proceeds earmarked for Wetlands; -External partners; -National government, incl. transfers from proceeds of water exports;
National level	Provisions regarding the national level	3	the focus is on decentralization, but the central level is dealt with as well	-Steps towards Strategy development well developed emphasizing multi-stakeholder approach including local and community level. However insufficient in Wetland funding and budget development and spending;	Considerable lobby existing to reduce decentralisation of mandates and budget spending authority;
District level (DC)	Provisions regarding the district level	5	Well included as important stakeholder, no specific recommendations in the Strategy;		District Administrators are important point of entry for reforms: they are both politically mandated as well as close to development interests at local level. Should not be overlooked that transfer of financial mandate/authority from District Council to Community Council may cause stress. DC, after phasing over financial authority to CC to be capacitated to future planning and monitoring;

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Community level (CC)	Provisions regarding the community level	5	Well included as important stakeholder, no specific recommendations in the Strategy;	No recommendations in view of financial authority;	Currently no HR competence and authority at CC level;
Legal Basis	Parent and eventual subsidiary legislation	5	The process and approach is well explained;	Inadequate reference made to articles which address the position of CC;	Local government law does insufficient distinguish between mandates of District Council, Community Councils and Community interest ;

Financing of water resources management, Experience from sub-Saharan Africa 2012, EU Water initiative, Finance working group

Finance / budget relevance	INDICATORS	Priority (1-5) 5 being highest	description	Authorized routing/mandate	Comments
Source	Study: i. User charge, ii. State budget, iii. ODA, iv. Commercial/repayable sources;	5	Identify optimal funds source with distinct (3) WRM components: i. Governance ii. Stewardship and iii. infrastructure;	The three countries Uganda, South Africa, Ghana central government steered governance. In all countries considerable devolution with varying autonomy of mandates;	Re 1: Skewed user charge 20%->80% total; State funding unreliable and degreasing; Re 2: Increasing and reliable; Re 3: Commercial/repayable not likely feasible;
Type of funding	Refer to item 1;	5	Assessment of linking funds source to spending purpose/domain;		
ICM related	All components of IWRM/ICM included	4	Water, land, vegetation/wetlands components;	All sources controlled by government, with some ringfencing in RSA;	
Flow of funds	Political decisions, budgeting, earmarking, ODA inclusion in national budget	5	Financial governance and accounting processes often inadequate and multi-interpreted leading to variable effectiveness;	Indication if nature of funds should be coupled nature of spending to be clarified;	
Short term	No information	3			

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Long term	Revenue based (fees, tariff, levies, taxes, maybe also ODA and private funding;	5	Procedures central level government often inadequate, ODA may fill in on national funding;	Mainly centralised, limited local revenue with exception of RSA; Authorities and mandates at local level may not be operationalised;	
National level	Refer to 1;	4			
District level (DC)	No information				
Community level (CC)	No information	5			
Legal Basis	Parent and subsidiary legislation.	5			

National Range Resources Management Policy, 2014

Finance / budget relevance	INDICATORS	Priority (1-5) 5 being highest	description	Authorized routing/mandate	Comments
Source	External donor, government, to a limited extend users;	5	Focus on (3 departments) - Forestry Development, -Range Resources Management and -Soil and Water Conservation		
Type of funding	GoL funding; Grants, fees/finances;	5	all funds, revenue and non-revenue based (grants)	Centralised ministerial/department with devolution to local government funding; no direct-funding option of DC and or CC level;	Technical ministries are mainly operating from the capital and have devolved some operational authority to technical teams in districts;
ICM related	All components of IWRM/ICM included	4	Water, land, vegetation/wetlands components;		The Ministry of Forestry and Land Reclamation plays a stronger role in ICM development than MoW/DWA. Between the two ministries/departments is

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					considerable stress regards implementation of ICM; ;
Flow of funds	Reference to item 2				Even though the MoFLR has considerable standing in ICM its approach towards flow of fund holds back local ICM capacity development;
Short term	Non-revenue based (grants, subsidies, other transfers)	3	Project basis implementation, often well-coordinated with other stakeholders like UN and NGOs;	Authorisation top down, limited entrusted to community council level;	
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants, loans)	5	The policy does aim at decentralization, however no steps identified on how to implement the process;	Refer to item 2;	Stakeholder harmonisation will be an important task to be carried out. The point of entry should not be the condition of stress itself but rather the question how ICM would have to be institutionalised in the long run;
National level	Provisions regarding the national level	4	In terms of financing the focus is centralised. In terms of operationalisation it is decentralised;	-reference to item 5	Considerable lobby existing to reduce decentralisation of mandates and budget spending authority;
District level (DC)	Provisions regarding the district level	5	Well included as important stakeholder, no specific recommendations towards local revenue raising and ring-fencing for instance;	The policy reflects devolution only, with limited reform toward local capacity and mandate allocation.	District Administrators are important point of entry for reforms: they are both politically mandated as well as close to development interests at local level. Should not be overlooked that transfer of financial mandate/authority from District Council to Community Council may cause stress. DC, after phasing over

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					financial authority to CC to be capacitated to future planning and monitoring;
Community level (CC)	Provisions regarding the community level	5	Well included as important stakeholder, no specific recommendations in the policy;	No recommendations in view of financial authority and autonomy;	Currently no HR competence and authority at CC level. Water sector reform needs to address this profoundly;
Legal Basis	Parent and eventual subsidiary legislation. Recommendations to review the current Land Husbandry Act No.22 of 1969 . review and revoke the current Range Management and Grazing Control Regulations (as amended) and develop new Rangeland and Range Resources Management Regulations	5		Inadequate reference made to articles which address the mandate of CC and ICM-community level interest groups; ;	Local government law does insufficient distinguish between mandates of District Council, Community Councils and Community interest The suggested revisions and drafting of new bills should be multistakeholder based. The revisions and new articles are reflecting the technical domains of ICM and may not be adequate to reform in view of mandates and re-institutionalisation at district level;

Status Report on the Implementation of Integrated Water Resources Management in Africa, 2018 A regional report for SDG indicator 6.5.1 on IWRM implementation

Finance / budget relevance	INDICATORS	Priority (1-5) 5 being highest	description	Authorized routing/mandate	Comments
Source	External donor, government, citizens/users; (3Ts: Transfers, Taxes, Tariffs)	5	Useful sections on principles and policy directions of IWRM funding and investment;	Stresses the importance of national governments to be committed to mandate of funding water management, national and transboundary IWRM and ensuring cost-effectiveness and impact;	Useful distinction between investment gap in water infrastructure and financing water governance costs, incl. Use-pay and polluter-pay approach;
Type of funding	Grants, loans fees/fines;	5	all funds, revenue and non-revenue based (grants, loans)		
ICM related	IWRM/ICM related, national and transboundary/ regional;	4	Useful distinction between nature-based water management/infrastructure (hardware) and development of water-related policies, laws and by-laws, strategies (soft aspects)	Limited to regional and national level;	
Flow of funds	Not included			-Top down and -User-pay and polluter pay;	
Short term	Task based budgeting prioritised over un-earmarked sectoral budgeting	3	Notes on non-committal standing of sectoral budgeting;	Not identified;	
Long term	Revenue based; fees, tariff, levies, taxes, maybe also grants and loans;	5	Emphasis on quality national level water governance;	Explicit mention of government willingness to invest and govern IWRM;	
National level	Refer to item 6	3	the focus is on central level mainly;		
District level (DC)	DC level not included;	5			

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Community level (CC)	DC level not included;	5			
Legal Basis	Parent and eventual subsidiary legislation	5	Increase of efforts to improve enabling policy and legal environment recommended in the context of decentralisation;	Emphasis on national level good governance;	

White Paper: Review of Lesotho Water Legislation, 2018

Finance / budget relevance	INDICATORS	Priority (1-5) 5 being highest	description
Source	External donor, government, private, citizens/users	1	Extracts directly relating to revenue / funding from the white paper are found below. High-level. See below info table.
Type of funding	explicit financing of ICM grant loan fees/fines	3	Policy provides context for focused long-term funding mechanisms through WRM charges / levies / penalties. High-level. See below info table.
ICM related	Water, land, ecosystem services, etc.	3	Water sector focus – however, high-level
Flow of funds	Provisions/measures on the flow of funds from source to local level	1	No specifics
Short term	Non-revenue based (grants, subsidies, other transfers)	1	No specifics
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	3	Policy provides context for focused long-term funding mechanisms through WRM charges / levies / penalties. High-level. See below info table.

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National level	Provisions regarding the national level	1	No specifics
District level (DC)	Provisions regarding the district level	1	No specifics. However, Tariffs will have relevance.
Community level (CC)	Provisions regarding the community level	1	No specifics. However, Tariffs will have relevance.

White Paper: Review of Lesotho Water Legislation, 2018 – Extracts of section 4 of the white paper provided below – High level
Section 4.4 Financial Provisions – Page 12-15
4.4.1 Water Resource Charges

In order to enhance the viability of the sector, and also to address some of the critical issues related to protection of water resources, it is very important that the enabling legal framework is established to introduce water resource charges. This may have to be phased in over some period of time due to the need to undertake various modelling and feasibility studies and to develop a practical methodology for implementation. The fact that the economy in Lesotho is still in the developmental stage, is another reason why it may need to be phased in over time. It is nevertheless important that the legal framework is put in place at this point. These charges need to be able to address a range of applications including catchment management, payment for water resources infrastructure (capital and operating) and possibly streamflow reduction activities. An application like catchment management benefits everyone in the catchment and therefore charges would need to be broad-based, addressing as wide a range of users as possible. The question of recovery of the cost of infrastructure is related specifically to the issue of enhanced security of supply provided to consumers downstream. This could be for a range of users including potable water consumption, irrigation, hydropower, tourism or a number of other activities. From an administrative point of view, it would make sense that all charges are addressed in one system but with the tariff being different for users with different applications.

In order to address this it is probably appropriate to follow the South African example and develop a pricing strategy/approach that will guide the process. This should however reflect Lesotho's context and be very practical in its implementation. It also needs to follow the principles of equity, as well as encouraging efficient use. Application of these charges will need to be able to grow and evolve over time. In addition to the applications mentioned above, the revenues obtained need to be utilised to address ancillary functions such as monitoring and controlling, protection and conservation.

A spin-off to the issue of water use charges would be that of waste discharges. These can also certainly be considered under the broad heading of water use charges however because of their particular nature, sensitivity and potential impact, they will probably require a separate approach and strategy in terms of pricing and charging. This would need to take into account the sensitivity of the river catchment and thus aspects such as the resource classification for the river.

4.4.2 Water Services

The utilisation of tariffs in return for the provision of a range of water services aspects is a well-established practice. It is critical to the sustainability of the service since these are, in general, provided on a commercial basis as this has been found to be the most reliable way of providing a service on a long-term basis, regardless of the country. That does not negate the need to address the particular needs of the poor and vulnerable however it implies that tailored strategies are needed to address these sectors of society. The Act will not address the issue of a calculation or determination of the tariffs in detail however it should set out guidelines with respect to how the water tariffs should be calculated. It is important also in this regard to cross-reference to the important work being undertaken by LEWA as the

Assessment Phase 1: Summary of Findings

independent regulator for water services. It is also important to recognise that a range of institutions will need to be involved in this aspect. Undoubtedly one of the main players in the urban areas is WASCO, whose tariff increase applications are regulated by LEWA. In the future it is foreseen that, as decentralisation evolves and accelerates, municipalities will play a much more active role in the provision of water services. This means that these tariff guidelines will also be applicable to them. There is the potential in future that LEWA could play some kind of regulatory role in the rural context, though this will necessarily probably have to be less formal and hands-on than it is in the urban context.

The main thing to set out with respect to the tariff guidelines is the principles that need to guide their development. In particular these would include aspects such as the following:

- Equity
- The ability to differentiate for different types of users
- The ability to differentiate for different geographic areas
- The need for tariffs that encourage water conservation, in particular the use of so-called step-tariffs
- The need to have specific measures that address the poor. The concept of the lifeline tariff utilised in many other Southern African countries is applicable in this regard.
- The ability to differentiate between different types of services
- The need to reflect and address sustainability of the service, with particular reference to O and M costs

4.4.3 Innovation Levy

A useful concept that may have potential for the water sector is that of the so-called “Universal Access Fund” utilised in the electricity sector. This can be a relatively small amount of the overall tariff. It is proposed that its use is dedicated to particular applications related to innovation, research and pilot projects within the sector. To some extent there is an analogy here with the levy for the Water Research Commission in South Africa. This is utilised by a specific organisation however their remit is somewhat similar in terms of looking at cutting-edge research and innovation. If this concept finds merit, then consideration and thought would have to be given as to how best it would be administered in the Lesotho water sector. In terms of its application, a number of areas could be considered, such as (most of these are referred to within the LTWSS):

- PPP pilot projects
- WSP pilot projects in the rural areas
- Utilisation of innovative sanitation technologies
- Pilot projects related to ICM
- Appropriate technology solutions related to ICM
- Wetland research, protection and rehabilitation
- Research related to reduction of erosion and related technologies

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One of the key things would be to develop a method and approach for this, which would not present major problems in terms of administration. The reality is that Lesotho does not have the economies of scale that South Africa has and therefore will probably not be able to justify a dedicated organisation. It will nevertheless be important that the funding raised is ring-fenced and only utilised for its defined purpose. Whoever the custodian is would need to be highly trusted in this regard. One option that could be considered is utilizing LEWA for this purpose. If introduced it is believed that this levy should also be applied to the water sales generated by the Lesotho Highlands Scheme. As was noted earlier, a relatively small levy can generate reasonably significant funds that can potentially be used in a highly effective manner.

4.5 Penalties and Sanctions

The specific penalties and sanctions that are referred to in the Act relate to the following:

- In Clause 18 (6), dealing with protection of wetlands
- In Clause 19 (5), protection of natural springs
- Clause 21 (11), dealing with construction permits
- Clause 26 (9), dealing with pollution of water sources
- Clause 38 (7), addressing powers of entry
- Section 41 which deals with a series of general transgressions

As was noted earlier, there is a need to strengthen powers for particular areas, particularly bearing in mind the sensitivity and deterioration of Lesotho's water resources. It is therefore proposed to significantly increase the range of sanctions and fines that are applicable. It is also proposed to add transgressions in the following areas:

- Building within the 50 year flood line
- Altering rivers and river banks
- Sand winning/mining within rivers and streams without a permit – in conjunction with the Mining Act

All of the current fines indicate an amount not exceeding Maloti 50 000. The upper end is very large for an individual but could be regarded as relatively minor for an industry. In practice it will be difficult to differentiate between users for this purpose, but this may necessitate increasing the upper limit. In addition, consideration should also be given to dramatically increasing the fines (and jail terms) for repeat offences.

It is also important to improve the current situation with respect to administration of these fines. One of the practical problems in this regard has been the ability to update the fines on a regular basis otherwise they become out of date. In this regard it is proposed to use the concept of "penalty units" rather than amounts. The penalty units can thereafter be addressed on a regular basis by the gazetting of appropriate regulations. The concept of a range of sanctions would still be retained, as it will allow for the judgement to match the severity of the transgression. In practical terms this would mean that the fines in the Act are replaced by, for example, "up to 1000 units" with the current value of the unit being Maloti 500.

esotho Long-term Water and Sanitation Strategy 2016

Finance / budget relevance	INDICATORS	Priority (1-5) 5 being highest	description
Source	External donor, government, private, citizens/users	1	Extracts either directly or in-directly relating to revenue / funding from the strategy are found below. The strategy does not provide much context for funding mechanisms. However, the insight it provides is useful as background knowledge for developing appropriate funding mechanism options required for this stream. See below mapping table and narrative.
Type of funding	explicit financing of ICM grant loan fees/fines	1	
ICM related	Water, land, ecosystem services, etc.	3	Significant context and background insight provided but not much specific to funding mechanisms.
Flow of funds	Provisions/measures on the flow of funds from source to local level	3	See narrative below
Short term	Non-revenue based (grants, subsidies, other transfers)	1	No specifics
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	4	See narrative below. Pg. 16 – Reference to water use charges
National level	Provisions regarding the national level	1	See narrative below
District level (DC)	Provisions regarding the district level	1	See narrative below
Community level (CC)	Provisions regarding the community level	4	See narrative below. Section 2.3 – Pg. 12
<p>Overview: Extracts either directly or in-directly relating to revenue / funding from the strategy are found below. The strategy does not provide much context for funding mechanisms. However, the insight it provides is useful as background knowledge for developing appropriate funding mechanism options required for this stream.</p> <p>Further Insight:</p>			

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- The LTWS strategy does not provide any options or outlines for achieving long-term sustained funding for any provisions in the water sector. It only highlights the requirement for ‘common local funding mechanisms’
- No reference to existing legal enactments for funding are highlighted
- The strategy highlights the enabling of collection of water use charges however no model / mechanism is outlined. This is an area requiring holistic review
- Water Use Charges are highlighted however, currently this is an area (the unpacking of water use then the cascading of charges need a closer look) requiring improvement in current National and local legislation.
- Enforcement and ‘polluter pays principle’ is highlighted – so the strategy does give significance to these areas. However, funding mechanisms linked to these are not apparent. The waste water policy highlighted could require further investigation to see if it provides funding insight (it is unlikely though).
- This strategy gives effect to considering strong PPP funding mechanisms – which is good a good platform for final funding models option considered under this stream.
- Last extract on MTEF processes is concerning – it suggests that financing processes are either not adequately formally established or that reporting adherence by ministries are lacking (it may be the latter). Either way, it suggests instability in processes which should be taken into account when considering viable effective ICM funding models.

Section 1: PG. 5 –Highlights Water Sector Institutions...important to note for governance context underpinning funding mechanisms

Section 1.4.1 Discusses ‘Recent Developments related to Institutional Roles and Responsibilities’ which are relevant

Section 2.2 – Pg. 10

“Focus on the importance of the water sector for economic development and livelihoods in Lesotho and ensure that the water sector links to the Government’s development efforts in general and the NSDP”

Section 2.3 – Pg. 12

“Sector financing will be through a common funding mechanism for financing investments by Local Councils in water and sanitation services and catchment management activities. Major infrastructure development beyond the capacity and areas of the individual Local Councils such as the Lesotho Lowlands Bulk Water Scheme will be implemented through Project Implementation Units funded by Government of Lesotho in cooperation with Development Partners.”

“A major change in the sector financing would be the change from the different Government budgets and various development partner funding modalities to a common funding mechanism for Local Council investments in water, sanitation and catchment management.”

Section 3.1 – Pg. 16

“National consensus on the framework for Catchment Management:

- *Amendments to the Legal Framework to clarify responsibilities and enable collection of **water use charges***

Section 3.2 – Pg. 18

“Environmental Standards and Guidelines are enforced

- *Review the implementation of the 'Industrial Waste Water Policy and Action Framework (2003)' and define and adopt regulation measures promoting reduction of pollution at source (cleaner technologies) and implement '**Polluter Pays Principle**'...*

Section 3.3 – Pg. 22

“Effective National Support to Local Councils for water, sanitation and hygiene

- *Implementation of pilot projects to develop and test approaches to Public Private Partnerships (PPPs)” ...*

“Effective Sector Planning, Coordination and Funding:

- *MTEF Processes with regular interaction with Sector Funders and Ministry of Finance (MoF) to ensure accurate records of all Sector funding on **Government budgets***

Lesotho Water and Sanitation Policy 2007

Finance / budget relevance	INDICATORS	Priority (1-5) 5 being highest	description
Source	External donor, government, private, citizens/users	4	Extracts directly relating to revenue / funding from the policy are found below. See below info table.
Type of funding	explicit financing of ICM grant loan fees/fines	4	Policy provides context for focused long-term and short funding mechanisms. See below info table.
ICM related	Water, land, ecosystem services, etc.	4	Strong water service focus – See below info table.

Assessment Phase 1: Summary of Findings

			<p><u>Central Funding theme: PPP models & strategies for Water Tariffs</u></p> <p><u>Central Funding theme: In essence Wastewater Tariffs</u></p>
Flow of funds	Provisions/measures on the flow of funds from source to local level	2	<p>Not much context provided.</p> <p>d) Establish and implement a medium term expenditure framework for both internal and external resources that meet the requirements of the agreed sector programme with harmonized processes and procedures;</p>
Short term	Non-revenue based (grants, subsidies, other transfers)	4	<p>Context provided to factor in short-term ICM funding through Donor channels</p> <p><u>Central Funding theme: National / International Funding (Donor)</u></p>
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	4	<p>Strong water service focus – See below info table.</p> <p><u>Central Funding theme: PPP models & strategies for Water Tariffs</u></p> <p><u>Central Funding theme: In essence Wastewater Tariffs</u></p>
National level	Provisions regarding the national level	1	No specifics
District level (DC)	Provisions regarding the district level	4	See point 6 comments. Tariffs have relevance.
Community level (CC)	Provisions regarding the community level	4	See point 6 comments. Tariffs have relevance.

Lesotho Water and Sanitation Policy 2007 – Relevant Sections

Overview: There are direct provisions for revenue / funding from the policy, as below. The policy provides good context for funding mechanisms. However, strategies outlined are very high-level.

Further Insight:

- There is a strong focus on Water services which gives impetus to potential for long-term funding mechanisms through tariff funding / revenue strategies. See highlighted sections under Policy Statement 2 & 3
- There is an emphasis on Public-Private Partnerships – noted as essential for sustainable development of water resources (but again through a strong focus of water services).
- Need for Donor funding short-term mechanisms reflected under Policy Statement 5

Applicable context for ICM funding options;-

- **Pg. 2 – Founding principles of the strategy:** H.) Public-Private Partnerships are essential for sustainable development of water resources and accelerated access to potable water and sanitation services to the un-served and underserved population on account of improved efficiency of operations and investments; and

Policy Statement 2: Water Supply and Sanitation Services (Ensure access to a sustainable supply of potable water and basic sanitation services for all Basotho)

Central Funding theme: PPP models & strategies for Water Tariffs

Objective – Pg. 3:

- **5.** To ensure that the tariffs charged by water and sanitation service providers cover the actual cost, including the capital costs as well as the cost of overheads, of providing water and sanitation services.

Strategies – Pg. 4:

- o) Formulate water supply and sanitation services programmes for the medium (10-15 years) and long term (20-25 years) in order to facilitate the determination of, and access to, funding mechanisms;
- p) Develop and implement principles and guidelines for various forms of Public-Private Partnerships to facilitate sustainable provision of adequate water supply and sanitation services to rural, peri-urban and urban areas;
- t) Establish and put into effect tariff structures and cost recovery mechanisms for water supply and sanitation services which ensure that water service providers recover the actual cost, including capital costs, of providing water services;
- v) Tariffs for non-domestic water supply shall be flat rate and shall not be less than the marginal cost of the water supplied while tariffs for domestic consumers shall be banded, but nevertheless its weighted average shall not be less than the marginal cost of the water supplied;
- w) As a way of promoting equity, the Government shall endeavour to ensure that the maximum expenditure on water shall not exceed 5% of disposable income, and that the water service providers apply a uniform tariff in all areas as opposed to regional tariffs;
- x) Put in place mechanisms to ensure that a proportion of the revenues from the Lesotho Highlands water is utilized to increase coverage of water supply systems in underserved areas;

Policy Statement 3: Water and Environment (Protect and conserve water resources and minimize the adverse impacts of socio-economic development activities on water)

Central Funding theme: In essence Wastewater Tariffs

Strategies – Pg. 5:

- d) Implement an industrial wastewater policy to effectively control discharges from industrial processes on the basis of the “Polluter Pays Principle” and the adoption of cleaner manufacturing and processing technologies;

Policy Statement 5: Sector Wide Approach (Adopt a sector wide approach to water resources management and to water supply and sanitation services development, in order to ensure effective and efficient use of internal and external resources)

Central Funding theme: National / International Funding (Donor)

Objectives:

To promote optimal use of national and international funding for the management of water resources and the development of water supply and sanitation services through increased coherence between policy spending and results, and to reduce transaction costs; and

Strategies – Pg. 7:

- d) Establish and **implement a medium term expenditure framework** for both internal and external resources that meet the requirements of the agreed sector programme with harmonized processes and procedures;
- g) Establish and formalise a procedure for **donor coordination for effective pooling of resources**; and

Regional Water Policy 2005 And SADC Water Strategy 2006

Finance / budget relevance	INDICATORS	Priority (1-5) 5 being highest	description
Source	External donor, government, private, citizens/users	1	Very high-level and dated. No specific provisions made that are applicable to this matrix. Not recommended for further review. Info below shows a quick snap-shot of policy financing objectives linked to strategy aims.
Type of funding	explicit financing of ICM grant loan	1	

Assessment Phase 1: Summary of Findings

	fees/fines		
ICM related	Water, land, ecosystem services, etc.	1	
Flow of funds	Provisions/measures on the flow of funds from source to local level	1	
Short term	Non-revenue based (grants, subsidies, other transfers)	1	
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	1	
National level	Provisions regarding the national level	1	
District level (DC)	Provisions regarding the district level	1	
Community level (CC)	Provisions regarding the community level	1	

Strategic Objective	Strategy	Relevant Policy Statement	RSAP2 (New Project)
11. FINANCING WATER RESOURCES DEVELOPMENT AND MANAGEMENT			
Financial Sustainability <i>To ensure adequate, fiscally efficient and sustainable funding of the water sector</i>	11.1(a) Strategy: <i>Commit realistic and reasonable amounts from local financial resources to the water sector from member state governments and water users</i>	11.1.1 Policy: <i>ensure adequate financial resources for national and regional projects</i> 11.1.2 Policy: <i>Strive to recover all costs for managing the resources.</i>	WG 3: Promotion of Implementation of Regional Water Policy and Strategy??
	11.1(b) Strategy: <i>Solicit and ensure coordination and guidance of initiatives financed by co-operating partners.</i>	11.3.3 Policy: <i>Partnerships with external development agencies maintained and strengthened.</i>	
Cost Reduction <i>To keep water resources expenditure to the minimum possible without rendering the sector ineffective</i>	11.2(a) Strategy: <i>Put in place effective measures to ensure that financial resources are managed in an efficient and accountable manner in an environment of strict and world standard fiscal discipline</i>	11.2.1 Policy: <i>Institute planning and operational systems to facilitate cost reduction in the management of water resources</i>	CB 3: Capacity Building to the SADC Water Division?? CB 4: Strengthening River Basin Organisations??
Public- Private Sector- Civil Partnerships <i>To form stakeholder partnerships in order to equitably and fairly share water resource liabilities and benefits</i>	11.3(a) Strategy: <i>Establish sustainable partnerships among stakeholders in the water sector and ensure equity and fairness in cost and benefit sharing</i>	11.3.1 Policy: <i>Actively develop partnerships with communities, civil society organisations and non-governmental organisations</i> 11.3.2 Policy: <i>Partnerships considered where these contribute to efficient management of resources and delivery of services, and higher inflow of investment capital to the sector.</i> 11.3.3 Policy: <i>Partnerships between SADC Water Sector, SWCIs, Member States and external development agencies shall be maintained and strengthened.</i>	

Local Government Act

This Act provides for the establishment of councils in areas categorised as municipality, district, urban or rural.¹³⁵ Accordingly, the status of a Council established in the municipality, district, urban or rural area is a Municipal Council, District Council, Urban Council, or Community Council respectively. The primary mandate of Councils established pursuant to the provisions of this Act is to perform decentralised functions.¹³⁶ This mandate is in keeping with the *raison d'être* of the Act in question, which is broadly outlined as follows:¹³⁷

- iv Deepening and widening access to the structures of Government in Lesotho, and giving the electorate greater democratic control over development planning processes and making public institutions more accountable to elected representatives;
- v Moving decision making, resource allocation and district level planning and local development and public services physically closer to the people; and
- vi Distributing Government's human, institutional and infrastructural resources and capacity equitably across the country.

As indicated above, the main theme of the Local Government Act is subsidiarity and decentralisation. This is a very broad theme, and it covers ICM incidentally as a subset. That is notwithstanding the fact that subsidiarity and decentralisation are inextricably intertwined with the objectives of ICM.¹³⁸ Some parts of the Local Government Act provide for mechanisms aimed at financing the performance of functions, discharge of duties and exercise of powers transferred to the local councils. In particular, Part IV empowers councils to make by-laws, which if contravened; the perpetrator may be required to pay a fine. These penalties may be a source of revenue for councils. Further, Part V empowers councils to impose and collect rates, taxes etc.; to receive grants, gifts and donations; to borrow money; and levy some charges on services provided by councils. Though not particularly and exclusively targeting ICM related activities, it would seem that the funds collected through these mechanisms may be used to finance ICM at the local level.

In order to assess these mechanisms against the set criteria,¹³⁹ it is important to first provide the context of Part IV and Part V:

The Local Government Act was enacted in 1997 following "an open, consultative process".¹⁴⁰ The Government organised a National Workshop in February 1995 for a wide range of stakeholders to discuss the nature and framework of local government for Lesotho.¹⁴¹ After that workshop, the then Minister of Local Government, Rural and Urban Development invited members of the public through Government gazette to comment on the White Paper for the

¹³⁵ See section 3

¹³⁶ See paragraph 2 of the Statement of Objects and Reasons of the Local Government (Amendment) Act of 2010

¹³⁷ See clause 101 of *The White Paper: The Establishment of Democratic Local Government*, Government Notice No. 45 of 1996

¹³⁸ For a detailed explanation of this issue see section x.x under Lesotho's Local Level ICM Regulatory Framework in this Report

¹³⁹ Effectiveness, holistic, proportionality, currency, consistency and participatory

¹⁴⁰ See Foreword in the White Paper (*supra*)

¹⁴¹ *Ibid*

establishment of democratic local governments in Lesotho.¹⁴² The White Paper embodied detailed policy statements on financing of local governance. In particular, section 301 stated the following:

Decentralisation will entail the transfer of financial, material and human resources to match the functions and responsibilities being transferred from line ministries and central government to local governments. *However, given the limited resource base of central government, this process will need to be managed carefully. It will be preceded by and based on a study which will look at the extent of the country's resource base, the ability of local authorities to carry out decentralised functions effectively, and the capacity of councils to manage their finances, and raise finances locally (our emphasis).*

It is clear, from the foregoing, that the policy that led to the enactment of the Local Government Act contemplated two main sources of revenue for local governments, that is, financial, material and human resources transferred by the central Government to local governments and revenues raised by the local governments. That is more so because section 304 of the White Paper stated that “the Government’s expectation is that local authorities will develop a broad, dynamic and buoyant revenue base based on grants from Central Government and supplemented by locally raised taxes, fees for services and user charges.” Not only that; local governments were also expected to enter into partnerships with parastatals, NGO’s, private enterprises and community groups.¹⁴³

It is noteworthy that the Government was mindful that the transfer of fiscal authority to councils should not only match the transferred functions but should also “be managed carefully.” For that reason, the White Paper called for a comprehensive study to “examine the viability of empowering local authorities to”¹⁴⁴ do the following:

- Own and manage sources of revenue;
- Collect revenue;
- Manage their own budgets;
- Control their own spending;
- Sue and be sued in their corporate names;
- Procure goods and services;
- Own assets and be free to dispose of them if necessary;
- Monitor and evaluate their own programmes; and
- Borrow and lend monies within defined limits and with the approval of the Ministry of Local Government.¹⁴⁵

The study contemplated in the White Paper had to “examine a range of issues pertaining to the financing of local governments and financial support, scrutiny and management of local authorities.”¹⁴⁶ Besides examining what local governments could do it had to “look at ways of devolving central Government ... budgets to local authorities and identify potential new sources of revenue for local and central governments, and assess the nature and performance of all

142 *ibid*

143 Section 131 of the White Paper: “Councils will not be expected to be direct providers of decentralised functions and some functions are likely to be performed in partnership with government departments, parastatals, NGO’s, private enterprise or community groups. An example here is water supply where a Municipal Council may enter into contract with a private concern to carry out maintenance and repairs.”

144 Section 302 of the White Paper

145 *Ibid*

146 Section 305 of the White Paper

existing revenue sources.”¹⁴⁷ Though quite detailed on what additional issues should be considered in the study it is apposite to quote section 306 of the White Paper in full:

Besides suggesting ways of assigning line ministry budgets to local authorities (for example top-slicing line ministry budgets on the basis of analysis of functions and activities which could be decentralised to local authorities), consideration will be given to financing local governments through some or all of the sources listed below:

- Land (ground, rents and property tax);
- Water (levy on permits);
- Vegetation (range management and thatching grass). This is envisaged as a revenue source primarily for rural councils;
- Charges for garbage collection, sanitation etc. This is seen to apply to urban local authorities;
- Loans and mortgages;
- Central government grants (block grants, special grants and equalisation grants for all local authorities);
- Revenue from markets and abattoirs;
- Excavation licences. For example for sand, gravel, stone cutting etc.;
- Fines for breach of local government bye-laws;
- Fees for other services such as land registration, registration of births and deaths etc.;
- Crop cess (taxes on agricultural produce);
- Business licences and permits; and
- Mining taxes (mining revenues gained by Central Government should be shared with the local authority where the mining activity took place).

It would seem that the study contemplated in the White Paper was never conducted prior to enacting the Local Government in 1997. However, there is no doubt that the Government was quite aware that the transfer of functions and responsibilities to councils must be matched with fiscal decentralisation and that it was imperative to find a workable model of fiscal decentralisation through a study. This is the context in which Part IV and Part V of the Local Government Act must be examined.

As mentioned in section 1.2 above, parts IV and V of the Local Government Act provide for funding mechanisms or measures aimed at enabling councils to perform their functions and responsibilities. The question is whether these measures are workable or effective. In addressing this question, it is important to bear in mind that Lesotho’s local governments are a creature of statute and as such the confines of their respective authority are defined by the statute. So, whatever powers, functions or responsibilities (including fiscal authority) they exercise or purport to exercise must be provided by or provided for in the applicable statute. Furthermore, the functions and responsibilities of local governments are broad and diverse; management of catchment areas within their respective jurisdictions as defined in the applicable legislation is part of their functions and responsibilities, but it is not their sole responsibility.

Part IV empowers a Council, regardless of its status, to enact by-laws and to impose fines for contravention of such by-laws. This power is limited, *inter alia*, by the functions and responsibilities transferred to Councils because a by-law must be within the parameters of such functions and responsibilities. Presently, there is no clear delineation between the functions and responsibilities of Councils and the mandates of Line Ministries. Without clarity as to what functions have actually been transferred from the Central Government to local governments the enactment of by-laws is technically unworkable. A by-law is subordinate to national legislation, parent or delegated national legislation, so it cannot validly regulate matters that fall within the

147 *ibid*

mandates of Line Ministries because such mandates emanate from national legislation. Section 95 of the Local Government Act attempted to solve this quandary by providing that “the provisions of this Act shall have effect notwithstanding anything contained in any other written law and accordingly in the event of any conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail over such other law.” However, this section was deleted in 2004; a year before the first elections for Councillors under the Act.

To date, there is no single by-law enacted and gazetted pursuant to the provisions of Local Government Act. Some scholars have argued that the requirement, under the Local Government Act, that a by-law must be approved by the Minister is the reason why Councils have not enacted any by-laws.¹⁴⁸ This argument would be sound if the Minister’s desk was inundated with draft by-laws awaiting approval, but as a matter of fact there is not even a single draft by-law on the Minister’s desk.¹⁴⁹ That is not to deny that the requirement for ministerial approval could potentially be more of a hindrance than supervision. There is no doubt that Part V does not provide a workable financing mechanism for local governments due to the lack of clarity as to what functions have actually been devolved. Despite that, fines raised from fines even if existed would not be enough to finance ICM plans on their own.

Part V is couched in terms neither specific nor restricted to ICM; it covers all sources of Council revenues and the application of Council Fund in general. It provides for the establishment of a Council Fund and prescribes how that Fund should be applied; stipulates the sources of Council revenue or moneys such as loans, guarantees, grants, rates, taxes, fees, gifts, fines, donations etc.; and prescribes accounts, budget, expenditures and auditing requirements for a Council. According to the provisions of this Part, all moneys received or collected by a Council must be paid into a Council Fund and the collection of council revenues and expenditures must be supervised by the Minister of Local Government and Chieftainship. Jaap and Shale summed up the provisions of Part V as follows:¹⁵⁰

The Local Government Act provides for four sources of local revenue. Section 56(1) of the Act provides that local authorities may impose and levy rates on properties. However, the Minister determines limitations, qualifications and conditions. It follows from section 56 that local authorities may only impose rates if they have been explicitly authorised to do so by the Minister. In other words, it is not a generic power for all local authorities. Furthermore, section 61(1) (c) of the Act suggests that a council does not determine rates but proposes a rate to the Minister for approval. In addition, section 57 provides that local authorities may impose a tax, levy or service charge in relation to items gazetted by the Minister. Thirdly, the Act provides that a local authority may apply for a grant to implement its development programme (s 55). Fourthly, a local authority may borrow, but ministerial approval is required unless the council is indebted for an amount lower than the revenue collected over the past two years. In general borrowing is subject to limits set by the Minister (s 52) and an overall ceiling is set in the Act (s 54).

Part V of the Local Government Act is, by and large, unworkable and in disuse for the following reasons:

¹⁴⁸Hoolo ‘Nyane, *A Critique of the Newly Proposed model of Decentralisation in Lesotho* in Commonwealth Journal of Local Governance Issue 22:2019 at page 6, the author makes an unfounded claim that the “the local authorities do not currently have by-laws because the drafts they once produced are permanently the approval of the Minister.”

¹⁴⁹This information was provided by the Chief Legal Officer in the Ministry of Local Government and Chieftainship and confirmed by officers in the Decentralisation Unit on November 16, 2020 during a telephonic conversation with Advocate Ramohapi Shale. At the moment, Maseru Municipal Council has a draft compilation of by-laws, which is yet to be endorsed at the Council meeting and submitted to the Minister for approval.

¹⁵⁰Jaap de Visser and Ramohapi Shale, 2015, *Issue Paper for the Reform of Local Government Act 2015* (unpublished paper prepared for the Ministry of Local Government and Chieftainship) at page 22

- First, the inclusion of Part V in the Local Government Act does not seem to have been born out of a study contemplated in the White Paper or any assessment of the status quo and yet it undoubtedly regulates matters so complex. Therefore, it was bound to be a dumb squib as there was no arrangement for it to fit into the status quo or to work outside and independent of the existing frameworks.
- Second, as mentioned in section 1.4.1 above, originally section 95 of the Local Government Act provided that the provisions of Local Government Act would prevail over any legislation that was inconsistent or in conflict with the Local Government Act, but it was deleted before the constitution of the first batch of local governments. So, when the first batch of councils constituted pursuant to Local Government Act assumed their respective statutory responsibilities in 2005, Part V had to be applied together with the Finance Act including the regulations made under the Finance Act.¹⁵¹ However, the two pieces of legislation could not be applied together consistently and harmoniously.¹⁵² Despite the fact that it came into effect long after the Finance Act was enacted, provisions of the Local Government Act could not take precedence over the Finance Act. That is so because the provisions of public finance legislation specially govern public money's sources and expenditures whereas local government legislation deals with broad matters of governance at the local level. As a rule, general provisions do not derogate from specific provisions; *generalia specialibus non derogant*.
- Lastly, the situation on the ground is that, on the one hand, a Municipal Council (Maseru Municipal Council) and Urban Councils apply Municipal and Urban Councils Financial Regulations instead of Part V of the Local Government Act.¹⁵³ On the other hand, the District Councils and Community Councils do not have a Council Fund; instead all moneys collected by these councils are paid into the Consolidated Fund; Community Councils do not even have bank accounts.¹⁵⁴

The fact that Part V of the Local Government Act is generally in disuse does not necessarily mean that if its provisions were adhered to or followed to the letter by the local governments there would be no shortcomings. In fact Part V has been scrutinised in the past and found wanting in several aspects.¹⁵⁵ Notably, it has been observed that “the local government’s power to tax ...

¹⁵¹ Finance Order No.6 of 1988; Finance (Amendment) Order No.4 of 1992; & Municipal and Urban Councils Financial Regulations LN 137/1988. This Act was repealed and replaced by the Public Financial Management and Accountability Act No.12 of 2011.

¹⁵² For example, see FEI Consulting, 2014, *Diagnostic Assessment of Decentralisation in Lesotho available at at page 30: “the role of district councils is limited to recording and reporting revenue receipts. In this case, therefore, they act as collection agencies of central government. This role of local authorities is consistent with the 1973 financial regulations (Chapter 8) but in contravention of sections 56-58 of the Local Government Act which provides for the setting of rates and the retention of revenues.”*

¹⁵³ Ibid at page 44

¹⁵⁴ Ibid

¹⁵⁵ See Jaap de Visser and Ramohapi Shale, 2015, *Issue Paper for the Reform of Local Government Act 2015* (op cit) at page 22-26

determine fees, [budget and borrow] is tightly controlled by the Minister.”¹⁵⁶ This is done in different ways:

First, the Minister is entitled to prescribe limitations, qualifications and conditions regarding the local government’s power to impose and levy rates on any property within its jurisdiction.¹⁵⁷ In other words, the Minister is entitled to prescribe limitations, qualifications or conditions regarding a council’s power to raise revenue from sources such as crop cess and water (levy on permits). The main problem with this provision is that, on the one hand, it gives local governments taxing powers and, on the other hand, it leaves room for the Minister to take that power away because it is for the Minister and the Minister alone using his unfettered discretion to determine how far the limitations, qualifications and conditions must go.

Second, section 61 provides that a council must prepare a draft budget and then submit it to the Minister for approval. “If local governments are expected to respond to local needs and aspirations, they should be able to weigh priorities and allocate resources to them, i.e., draw up and adopt a budget. If ... {they} have little or no say over what they use their revenue for, it is difficult for local residents to hold them accountable for choices made.”¹⁵⁸ In practical terms, this means that if a council has prepared a ‘budget’ for the implementation of its ICM programme, the Minister is at liberty to reject it and thereby frustrating the council’s programme from succeeding. While this is objectionable it is not uncommon. For example, “In Zimbabwe, budgeting procedures are tightly regulated, and the central government firmly guides the content of local budgets. Local authorities must submit their budgets and annual plans to the Minister for approval before the beginning of the financial year. In effect, a local authority’s budget does not become operational unless the Minister approved the entire budget.”¹⁵⁹ However, “in South Africa, local authorities determine their own budgets and there is no need to obtain central government’s approval.... However, there is a very elaborate and detailed regulatory framework that regulates the budgeting procedure.”¹⁶⁰

Third, section 57 provides that “the Minister shall publish in the gazette a list of items that are subject to any tax, levy or service charge that a Council may impose and levy within its jurisdiction and specify the maximum amount that may be taxed, levied or charged in respect of such items.” This provision does not afford local governments any discretion whatsoever “when it comes to determining what to tax or charge for and what the tax rate or service fee should be.”¹⁶¹ In other words, local level sources of revenue must be determined by the Minister. Not only that, the Minister also determines the amount that may be taxed, levied or charged! The following are the shortcomings of this approach:

156 Ibid at page 23

157 See section 56(1)

158 Ibid at page 21

159 Ibid at page 26

160 Ibid at page 25

161 Ibid at page 23, it is important to note, however, that Lesotho is not unique. As observed by de Visser and Shale (ibid at 23) “in Uganda, the raising of taxes and levying of fees is tightly controlled by the central government. In Zimbabwe, local authorities have some say over tariffs and charges but this is curtailed in two ways, namely (1) tariffs must be approved by the Minister and (2) the Minister regularly issues directives that determine issues for local authorities. In South Africa, local authorities in principle determine their own property rates, tariffs and charges. However, they are subject to a detailed regulatory framework that demands transparency but also deals with issues such as exemptions and general principles (such as cost-recovery, cross-subsidisation etc.) for the determination of tariffs.”

- This is a list system; a tightened list that must be followed by all Councils regardless of their varying resource-bases and potentials. What may be a viable local source of revenue in one Council may not be so in other Councils. So, a one-size-fits-all approach or straitjacket is unrealistic. An asymmetry approach would have been more appropriate and practicable;
- A top-down list is also problematic because it tends to thwart innovation at the local level; Councils tend to look up to the central government for solutions and not at the opportunities right before their eyes;
- Even when functions and responsibilities have been transferred to Councils, such as managing catchment areas within their jurisdictions, and there is every opportunity and potential for councils to raise significant funds by charging service-related fees, they won't do that unless such services were in the list. But they would be required to continue to discharge their functions any way. This is not sustainable; and
- Standardisation of rates across all councils is bound to breed inefficiencies because it is not based on market principles.

Fourth, Part V does not determine the issue of vertical division of revenue, i.e., the determination of the share of nationally collected revenue that is set aside for local authorities. In other words, it does not provide for a minimum percentage. "Increasingly, legal frameworks are providing for a degree of entitlement for local governments to centrally raised revenue. In Zimbabwe, section 301(1) of the Constitution provides that central government must allocate at least 5% of its revenue to provincial and local governments. In Kenya, section 203(2) of the Constitution guarantees counties at least 15% of centrally raised revenue. In South Africa and Uganda, there is no minimum percentage of central revenue for local governments."¹⁶² This issue is important because "local revenue must be predictable. The fact that central government gives or takes revenue powers and determines grants must not result in erratic revenue streams for local authorities. If revenue streams are erratic, local governments cannot and will not plan ahead."¹⁶³

Fifth, quite related to the above is the issue of horizontal division of revenue. Part V does not prescribe comprehensive criteria on how the allocation of grants for each local government should be determined.¹⁶⁴ "In South Africa and Kenya, the Constitution prescribes principles that must be taken into account when central government determines what each local government receives. These principles revolve around equity, i.e., levelling the playing field. In Zimbabwe, the Constitution also emphasises equity and instruct Parliament to adopt a law that provides for equitable distribution of central revenue."¹⁶⁵ It is difficult to understand why Part V made this omission because the White Paper addressed this issue as follows:

307 Government will establish objective criteria to determine the allocations of Block grants and Equalisation grants to local authorities. Block grants will reflect the degree of responsibility transferred to a local authority and the level of services it provides. The greater the functional decentralisation and the higher the level of services, the bigger the grant.

308 Equalisation grants will aim to support poorer local authorities to deliver services to acceptable national standards. Equalisation grants will be based on the principle of equitable development across the

¹⁶² Ibid at page 24

¹⁶³ Ibid at page 21

¹⁶⁴ Section 55(3) simply states that the Minister shall have regard to the development priorities of the district

¹⁶⁵ Ibid at page 24

Assessment Phase 1: Summary of Findings

country and will be inherently egalitarian and redistributive. They will seek to redress national and regional disparities in development.

309 The formula for the dispensation of Central Government grants to local government defined by a specialist study which will take into account the following criteria:

- Population size;
- Physical area;
- Topography;
- Level of services;
- Performance related to collection;
- National development priorities;
- Potential revenue base of the local authority

Lastly, Part V provides for grants on application.¹⁶⁶ It has been observed that “these grants will naturally be conditional, i.e., there will be ‘strings attached’ and the council will not be permitted to allocate the funds to a project outside the grant agreement. Should the legal framework create ‘unconditional grants’, i.e., grants that have no ‘strings attached, and the funds can be spent in accordance with the council’s determination of priorities?”¹⁶⁷

Figure 1 below assesses the financing mechanisms provided for under Parts IV and V of the Local Government Act, 1997 against the criteria set to determine their effectiveness in funding local level ICM plans:

Finance / budget relevance	INDICATORS	Priority 5 – highest 1 - lowest	description	Authorized routing
Source	External donor, government, private, citizens/users	3	Parts IV & V cover all these sources in general; not ICM specific	
Type of funding	explicit financing of ICM grant loan fees/fines	3	Not explicit but impliedly inclusive of ICM financing	
ICM related	Water, land, ecosystem services, etc.	3	Applicable to all based on council functions	
Flow of funds	Provisions/measures on the flow of funds from source to local level	3	Establishes council fund + bylaw making	
Short term	Non-revenue based (grants, subsidies, other transfers)	3	All to be paid into the Fund and then used based on budget	

¹⁶⁶ Section 55

¹⁶⁷ Jaap de Visser and Ramohapi Shale, 2015, *Issue Paper for the Reform of Local Government Act 2015* (op cit) at page 25 “In South Africa, the law provides for an unconditional grant to local authorities, called the equitable share’. It is not earmarked for specific projects or activities. In Zimbabwe, national government transfers both conditional and unconditional grants to local authorities.”

Assessment Phase 1: Summary of Findings

Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	4	Same as above	
National level	Provisions regarding the national level	3	Provides for regulations	
District level (DC)	Provisions regarding the district level	3	Budgeting and planning requirements	
Community level (CC)	Provisions regarding the community level	3	Prioritisation + bylaw making	
Legal Basis	Parent and eventual subsidiary legislation	3	Act, regulations & bylaws	

National Decentralisation Policy of 2014 (NDP)

The main objective of this Policy is “to deepen and sustain grassroots-based democratic governance and promote equitable local development”¹⁶⁸ by adopting and implementing devolution as a mode of decentralised governance and service delivery.¹⁶⁹ The Government formulated this Policy after realising that “efforts to implement decentralisation using legal instruments (mainly the Local Government Act of 1997), have only succeeded in creating political councils with limited technical capacity, resources, and guiding framework to deliver services to citizens. This has led to unfulfilled expectations and citizens’ dissatisfaction with local councils.”¹⁷⁰ This policy statement clearly shows that the question is no longer (if at all there was such a question) whether there is something wrong with the Local Government Act or whether the Local Government Act should be reformed, but how to reform it.¹⁷¹ Of course it is important to know exactly what is wrong with the existing legislation in order to come up with the necessary reforms.

The NDP was formulated following or alongside a diagnostic assessment study of decentralisation in Lesotho. A report diagnosing problems about decentralisation efforts in Lesotho, providing baseline data on those issues, outlining the findings of the study, and recommending areas in which reforms might be required was published in April 2014.¹⁷² With specific reference to local governance financing mechanisms, the report, *inter alia*, recommended thus:

- “Include in the policy the powers of councils to retain local revenues and to apply them to their expenditures;
- Include in the policy, and later in the revised Local Government Act, a requirement to protect transfers to local authorities in real terms to allow them to maintain a minimum level of service delivery;

¹⁶⁸ National Decentralisation Policy for Lesotho of 2014 at page x

¹⁶⁹ Ibid at page xi

¹⁷⁰ Ibid at page 1

¹⁷¹ Clause 3.7 of the National Decentralisation Policy states that “the Government shall review existing legislation and develop a comprehensive legal framework to provide guidance and enforcement in the implementation of decentralisation.”

¹⁷² See FEI Consulting, 2014, *Diagnostic Assessment of Decentralisation in Lesotho* (supra)

- Undertake an assessment, in view of the functions assigned to local authorities, and determine the full range of sources from which local authorities may collect revenues; [and]
- Revise the Local Government Act, clarifying further the sources of local revenues in view of what is known of these sources, following the assessment above. Include in the Act, the formula for sharing revenue collections between district and community councils and district and urban councils.”¹⁷³

It is worthy of note that Diagnostic Assessment Report called for a separate study aimed at determining the full range of local-level sources of revenue. That study is yet to be conducted; six years later! It is also important to recall that the White Paper had called for a similar study way back in 1996, but all in vain. Nonetheless, the NDP was endorsed by the Cabinet in 2014. It is a very detailed Policy, but it has just one page on fiscal decentralisation and prudent financial management. Not surprisingly, it doesn’t really say much because it was not informed by a study. It dictates the following:

The Government will undertake measures for inter-governmental fiscal transfers that enable faster and more efficient implementation of service delivery, while maintaining strict fiscal and public financial management discipline.

The Government will support local governments to progressively increase their ability to finance their own programmes by exploring and effectively utilising local fiscal potentials.

Furthermore, the NDP outlines, *inter alia*, the following strategic actions:

- (ii) Review the revenue collection system for local governments to develop capacity in revenue generation and management;
- (iii) Establish an equalisation system where local governments with special needs or challenges are specifically supported over and above uniform fiscal transfers.

Looking at paragraphs 2.2 -2.4 above, it is not difficult to recognise a direct link between the recommendations in the Diagnostic Assessment Report and the NDP. In other words, the NDP has elevated study recommendations to policy dictates. For instance, a review of the current local-level revenue collection system in order to develop the capacity of local governments to generate revenue and manage their finances is no longer a suggestion, but a policy dictate. Well, six years down the line the review is yet to be conducted! The NDP does not really address specific local –level financing mechanisms; let alone ICM financing mechanisms. But it is very relevant because it marks a shift from the status quo. As explained in section 1 above, the status quo is that councils, save for MMC, collect revenue as agents of the central government; the new policy marks a shift towards fiscal decentralisation. The status quo is that fiscal transfers from the central government to local governments are, by and large, uniform; the new policy marks a shift towards equalisation system. But we are not there yet.

Finance / budget relevance	INDICATORS	Priority 5 – highest 1 - lowest	description	Authorized routing
Source	External donor, government, private, citizens/users	4	Places emphasis on strengthening local level revenue collection capacity	

¹⁷³ Ibid at page 55

Assessment Phase 1: Summary of Findings

Type of funding	explicit financing of ICM grant loan fees/fines	3	Not explicit but impliedly inclusive of financing ICM	
ICM related	Water, land, ecosystem services, etc.	3	Applicable to all based on council functions	
Flow of funds	Provisions/measures on the flow of funds from source to local level	3	Calls for review of all applicable legislation	
Short term	Non-revenue based (grants, subsidies, other transfers)	3	Same as 11 above	
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	3	Same as 11 above	
National level	Provisions regarding the national level	3	Same as 14 above	
District level (DC)	Provisions regarding the district level	3	Same as 14 above	
Community level (CC)	Provisions regarding the community level	3		
Legal Basis	Parent and eventual subsidiary legislation	5	Calls for a study on workable mechanisms followed by revision of all relevant legislation	

Local Government Bill of 2020

In 2015, the Government, with the support from development partners, initiated a review of the existing legal framework on decentralisation in order to harmonise the existing legal framework with the NDP. The review process entailed doing the following:

- preparation of a scoping report, which outlined and analysed all pieces of legislation on decentralisation and made some observations and recommendations;
- preparation of an issues paper for reform of the Local Government Act, which introduced pertinent policy issues, presented a brief comparison with Uganda, South Africa and/or Zimbabwe and then presented questions for consideration in the reform. The Issue Paper was structured around three themes, namely (1) autonomy, (2) supervision and (3) coordination;
- the drafting of a Bill;
- presentation of and engagement on the drafts to various stakeholders; and
- preparation of a final report

In 2017, the Local Government Bill was tabled for first reading in the National Assembly. However, the National Assembly was dissolved shortly thereafter following a successful vote of

no confidence against the then Prime Minister. The Local Government Bill was put back in the business of the National Assembly in October 2020 and thereby formally resuming its enactment process. If enacted, it won't significantly change the status quo on fiscal decentralisation. As observed in the final report "changes to the financial chapter of the Act were kept to a minimum in anticipation of further policy direction."¹⁷⁴ The final report noted the following with respect to the proposed Local Government Act and fiscal decentralisation:¹⁷⁵

The implementation of the Local Government Act and (thereby) the vision of the Decentralisation Policy will require fresh fiscal and financial arrangements for government. These relate to issues such as –

- regulating the revenue raising authority of local councils so as to expand own revenue in a responsible and realistic manner;
- a central grants system that is transparent, predictable, commensurate with local functions and capable of addressing differences between councils;
- local planning and budgeting that is responsive to local needs and in line with national strategic priorities; and
- financial management and financial oversight to minimise wastage and corruption at local level.

Some of these matters were addressed in the draft Bill but many more will have to be addressed in other legislation.

In short, the Local Government Bill of 2020 does not entail significant changes to Part V of the Local Government Act. That is so because the requisite study is yet to be conducted and then fiscal decentralisation framework be formulated. That framework will indicate if there is need for standalone legislation (parent or subsidiary) on fiscal decentralisation.

Finance / budget relevance	INDICATORS	Priority 5 – highest 1 - lowest	description	Authorized routing
Source	External donor, government, private, citizens/users	3	It covers all these sources in general	
Type of funding	explicit financing of ICM grant loan fees/fines	3	Not explicit but impliedly inclusive of ICM financing	
ICM related	Water, land, ecosystem services, etc.	3	Could be used on any of them based on decentralised functions	
Flow of funds	Provisions/measures on the flow of funds from source to local level	3	Establishes council fund & provides for council budget	
Short term	Non-revenue based (grants, subsidies, other transfers)	3	Provided for but not ICM specific	

¹⁷⁴ Ramohapi Shale and Jaap de Visser, 2016, *Final Report on Review of Current National Legal Framework on Decentralisation* (unpublished report) at page 10

¹⁷⁵ Ibid at page 11

Assessment Phase 1: Summary of Findings

Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	3	Provided for but not ICM specific or target	
National level	Provisions regarding the national level	3	Provides for regulations	
District level (DC)	Provisions regarding the district level	3	Provides for council bylaws	
Community level (CC)	Provisions regarding the community level	3	Provides for council bylaws	
Legal Basis	Parent and eventual subsidiary legislation	3	Act, regulations & bylaws	

Lesotho Electricity Authority Act No. 12 of 2002

As amended in 2011, Lesotho Electricity and Water Authority Act, hereinafter referred to as the LEWA Act, provides for the establishment of Lesotho Electricity and Water Authority, hereinafter referred to as LEWA, as a regulatory body mandated to regulate the energy sector and water sector. With specific reference to the water sector, LEWA sets standards relating to quality and safety of both water and equipment used in providing water; enacting rules and by-laws governing, amongst others, the collection, treatment and provision of water; reviewing and setting tariffs, rates and charges regarding the use of water; licencing; etc.

LEWA is a parastatal or an agency of the central government; it is not a local authority so to speak. In addition, the provisions of the LEWA Act do not expressly or impliedly require LEWA to work with local authorities in the discharge of its mandates. Nevertheless, LEWA's functions include "the facilitation of efforts to expand rural water and sewerage services."¹⁷⁶ In terms of section 63A of the LEWA Act, "a licence authorising provisions of water or sewerage services shall include the conditions regulating cross subsidy between different categories of consumers." There are several models of cross subsidy, and the Act does not limit the licencing conditions to any specific model. One of the cross subsidy models currently used by LEWA in the energy sector is the Universal Access fund.¹⁷⁷

Subsidy under this Fund is accessible on request and the procedure is roughly as follows: the inhabitants of a particular village establish a scheme, which is administered by a village committee. Then the interested households in that village pay the prescribed contributions into the scheme's account. Subsequently, the committee will formally request the Ministry responsible for energy and meteorology to facilitate the connection and supply of electricity to specified households. If the request is in order, the Ministry will formally apply for a subsidy from LEWA. This is a financing mechanism, which benefits village electricity schemes and it is adaptable to the schemes for the provision of water and sewerage services in the rural areas.

Finance / budget relevance	INDICATORS	Priority 5 – highest 1 - lowest	description	Authorized routing
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¹⁷⁶ See section 22(3) (b) of the LEWA Act

¹⁷⁷ See section 22(1) (l) of the LEWA Act read with Lesotho Electricity Authority (Universal Access Fund) Rules LN No.83 of 2011

Assessment Phase 1: Summary of Findings

Source	External donor, government, private, citizens/users	1	All but external donor	
Type of funding	explicit financing of ICM grant loan fees/fines	1	Cross subsidy could be used on ICM	
ICM related	Water, land, ecosystem services, etc.	1	Cross subsidy could be used for managing these resources	
Flow of funds	Provisions/measures on the flow of funds from source to local level	1	No clear provision on this issue	
Short term	Non-revenue based (grants, subsidies, other transfers)	1	It provides for cross subsidy but not necessarily for ICM	
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	1	As the source of cross subsidy	
National level	Provisions regarding the national level	1	It is a national body	
District level (DC)	Provisions regarding the district level	1	It does not have offices in the district safe Maseru	
Community level (CC)	Provisions regarding the community level	1	For provision of rural water supply	
Legal Basis	Parent and eventual subsidiary legislation	1	Act & regulations	

The Land Husbandry Act of 1969 as amended

This Act regulates a wide range of ICM aspects such as the use of land, soil conservation, water resources, irrigation, and other agricultural practices. However, it is an old piece of legislation that has been amended through different subsequent legislation such as Land Act, Water Act and Environment Act. Furthermore, the Land Husbandry Act does not have any direct provision on financing mechanisms for ICM activities. Nonetheless, section 4 empowers the Minister responsible for agriculture to enact regulations governing, *inter alia*, the grazing of livestock. In pursuance of this provision, the Minister enacted the Range Management and Grazing Control Regulations in 1980. These regulations give a local chief the authority to control the grazing of livestock through rotational grazing and to impound stock found grazing in protected pastureland and to direct the owner to pay the prescribed pound fee. The chief is required to keep 30% of the collection and pay the remaining 70% into the Consolidated Fund.

The money that is retained by the chief is not used for conservation of pastures, but it is shared by the chief and those who took care of the impounded stock. In any case these fees are meant to deter the trespassers and not necessarily to raise funds.

Finance / budget relevance	INDICATORS	Priority	description	Authorized routing
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Assessment Phase 1: Summary of Findings

		5 – highest 1 - lowest		
Source	External donor, government, private, citizens/users	1	Money paid by trespassers	
Type of funding	explicit financing of ICM grant loan fees/fines	1	fines	
ICM related	Water, land, ecosystem services, etc.	1	As a penalty for trespass	
Flow of funds	Provisions/measures on the flow of funds from source to local level	1	Not at all	
Short term	Non-revenue based (grants, subsidies, other transfers)	1	Not at all	
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	1	Not at all	
National level	Provisions regarding the national level	1	Not at all	
District level (DC)	Provisions regarding the district level	1	Not at all	
Community level (CC)	Provisions regarding the community level	1	Not at all	
Legal Basis	Parent and eventual subsidiary legislation	1	Act & regulations	

Land Act of 2010 as amended

This is a comprehensive piece of legislation on land matters. It particularly regulates the allocation, regularisation, expropriation, transfer and use of land including the resolution of land-related disputes, protection of rights and interests relating to land. Part XIII of this Act specifically provides for land revenue and categorises land revenue into ground rent, development charges and allocation premiums. Local Councils allocate land, but the revenue collected pursuant to this Act is paid into the Consolidated Fund and appropriated at the national level through the national budget. So, it does not, at least directly, finance local plans – they be ICM-related or otherwise. However, in terms of section 6 a council may hold a title to land. That means a council is allowed to hold land for commercial purposes, industrial purpose and agricultural purposes and through that title and the site development, council may collect revenue and use it to finance its development plans. The problem here is that whatever money is collected by District Councils and Community Councils is paid into the Consolidated Fund. So, there is no incentive for councils to use these mechanisms.

Finance / budget relevance	INDICATORS	Priority 5- highest • 1 - lowest	description	Authorized routing
Source	External donor, government, private, citizens/users	3	All but the external donor	

Assessment Phase 1: Summary of Findings

Type of funding	explicit financing of ICM grant loan fees/fines	1	Not explicit but could be used for ICM through budgeting	
ICM related	Water, land, ecosystem services, etc.	3	Related mainly to land use	
Flow of funds	Provisions/measures on the flow of funds from source to local level	1	Money flows from land users to central government	
Short term	Non-revenue based (grants, subsidies, other transfers)	1	No provision for this	
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	3	Fees, tariffs, levies & taxes	
National level	Provisions regarding the national level	1	For fees collected by the LAA	
District level (DC)	Provisions regarding the district level	2	DCs are collecting agents	
Community level (CC)	Provisions regarding the community level	2	CCs are collecting agents	
Legal Basis	Parent and eventual subsidiary legislation	2	Act & regulations	

Land Administration Authority Act of 2010 as amended

This Act establishes the Land Administration Authority as an agency of the central government charged with land administration in Lesotho. In particular, it governs matters such as cadastral survey, land deeds registration, land valuation, granting of land administration consents and issuance of leases. With specific reference to financing the Authority's day to day operations, section 22 states that the revenue of the Authority shall be obtained from fees and ground rent levied by the Authority for the provision of services; grants and donations from the Consolidated Fund or from any approved source; and loans. While this section has nothing to do with financing ICM plans there are important lessons to be learned from land administration which could be employed in financing land use management at the local level.

Finance / budget relevance	INDICATORS	Priority 5 – highest 1 - lowest	description	Authorized routing
Source	External donor, government, private, citizens/users	1	Mainly for users and government	
Type of funding	explicit financing of ICM grant loan fees/fines	1	It does not finance ICM, but the operations of LAA	

Assessment Phase 1: Summary of Findings

ICM related	Water, land, ecosystem services, etc.	1	Land	
Flow of funds	Provisions/measures on the flow of funds from source to local level	1	No funds to local level	
Short term	Non-revenue based (grants, subsidies, other transfers)	1		
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	1	Levies and fees	
National level	Provisions regarding the national level	1	It is a national body	
District level (DC)	Provisions regarding the district level	1	Leases are issued at the central office in Maseru	
Community level (CC)	Provisions regarding the community level	1	The Act does apply at CC level	
Legal Basis	Parent and eventual subsidiary legislation	1	Act and regulations	

Municipal and Urban Councils Financing Regulations LN No. 137 of 1988

These regulations had been enacted pursuant to section 65 of the Urban Government Act of 1983.¹⁷⁸ They are detailed and comprehensively regulate public financial management and accountability at Municipal and Urban Councils. Regulation 2 defines ‘public money’ as “any money held by or on behalf of a Council for which the Council is accountable to the inhabitants of the municipality.” This provision shows that a Council has fiscal autonomy over the money held by it or held on its behalf. As subsidiary legislation, the regulations do not provide for sources of Council’s revenue, but regulation 45 states that “all necessary steps for the recovery of all rates, fees, charges and other revenues due and payable to the Council must be taken.” This necessarily implies that Council’s sources of revenue include rates, fees and charges levied in respect of services rendered by a Council. The regulations further provide that public money must be paid into Council’s treasury or directly deposited in the Council’s bank account.¹⁷⁹

The main problem with the Municipal and Urban Financing Regulations is that they stem from an Act, which was repealed in 1997.¹⁸⁰ Section 85 of the Local Government Act provides that “notwithstanding the repeal of any of the Acts set out in Fourth Schedule, all rules, regulations, orders or proclamations which are in force at the time of the commencement of this Act, and made under the repealed Acts shall continue in force as if they have been made under the provisions of this Act, and all such rules, regulations, orders, [and] proclamations may be varied, amended or replaced by provisions of this Act.” The Local Government Act does not expressly vary, amend or replace the Municipal and Urban Councils Financing Regulations. Does it do so by necessary implication? The starting point is that the necessary implication to that effect can only

¹⁷⁸ Urban Government Act No. 3 of 1983

¹⁷⁹ See regulation 55

¹⁸⁰ See the 4th Schedule to the Local Government Act

arise from Part V, but as explained in section 1.4 of this report, Part V of the Local Government Act is unworkable and generally in disuse. The second point is that Part V of the Local Government Act, assuming it was workable and in use, is subordinate to the provisions of the Public Financial Management and Accountability Act of 2011. The Municipal and Urban Councils Financing Regulations are, in some respects, inconsistent with the PMFA Act.¹⁸¹ The last point is that the Municipal and Urban Councils Financing Regulations are not consistent with the Treasury Regulations LN No. 21 of 2014. Notwithstanding these inconsistencies and uncertainties, the Municipal Council and Urban Councils still apply the Municipal and Urban Councils Financing Regulations.¹⁸²

Perhaps the most noticeable shortcoming of the Municipal and Urban Councils Financing Regulations is that they exclude the District and Community Councils from their scope of application. So, the fiscal autonomy currently enjoyed by the Municipal Council does not extend to other categories of Councils. Lastly, these regulations are undoubtedly outdated.

Finance / budget relevance	INDICATORS	Priority 5 – highest 1- lowest	description	Authorized routing
Source	External donor, government, private, citizens/users	4	It covers all of these source	
Type of funding	explicit financing of ICM grant loan fees/fines	2	Not explicit but impliedly applicable to ICM based on council functions	
ICM related	Water, land, ecosystem services, etc.	1	Could be any service provided it is within the council functions	
Flow of funds	Provisions/measures on the flow of funds from source to local level	3	It regulates the municipal council fund	
Short term	Non-revenue based (grants, subsidies, other transfers)	2	Permissible under the regulations	
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	3	Any revenue collected or given to council is public money	
National level	Provisions regarding the national level	3	It covers grants for the central government	
District level (DC)	Provisions regarding the district level	1	No provisions	
Community level (CC)	Provisions regarding the community level	1	No provisions	

¹⁸¹ For example, the definition of ‘public money’ under the regulations is inconsistent with the definition provided in the PFMA Act.

¹⁸² See the observation in section 1.4 above

Legal Basis	Parent and eventual subsidiary legislation	3	regulations	
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Letsema

Letsema is one of the remaining cultural traditions in Lesotho. In the context of local governance, it refers to communal labour on public projects such as cooperative hoeing, harvesting, reservoir construction, etc. Customarily, if communal labour is on public projects, each villager is expected to supply tools, food, materials, labour, skill and so on according to his/her ability or means. So, the elderly, young children, people with disabilities, the sick and wounded, are generally not required to provide their labour, but those who have the means must make a contribution of one sort or another. In some council areas, the villages within one particular electoral division have a tool shed for equipment such as wheelbarrows, spades etc. supplied by the NGOs in the country. These tools are used by the community when carrying out community projects and activities within the electoral division. Community projects must be discussed and arranged at public meetings.

There is no doubt that some local-level ICM plans could be implemented by means of *letsema* or a combination of *letsema* and other conventional financing mechanisms. Currently, *letsema* is used on *ad hoc* basis as a short-term financing mechanism. However, the following are the guidelines on how turn it into a more sustainable long-term mechanism:¹⁸³

- The utilisation of this mechanism for the purpose of prioritising and carrying out public projects must be tabled and discussed at council meeting in order to ensure uniformity within council area.
- Once council has endorsed voluntary communal labour by means of a resolution, it would be in a position to ascertain public opinion on voluntary communal labour and to consult all the stakeholders including chiefs within the council area, church authorities, NGOs with local presence, local groups, village committees, the business community and the residents.
- Public opinion may be ascertained through a combination of surveys and consultative processes such as public meetings and public hearings.
- Matters on which stakeholders' opinion is sort should be clearly spelled out. The following must be included: Should communal labour be undertaken on fortnight or monthly basis? On what specific date and time? Description of projects to be carried out through *matsema*; what sort of contribution must be required from community members? Who will supervise *matsema*? What about those who cannot afford to contribute? And what about those who refuse to contribute?
- The findings must be made public as soon as council has endorsed them.
- Once council has a clear picture about public views on *matsema* and the requirements, it will enact a by-law on *matsema* on the basis of public views. The procedure for enacting by-laws is provided for in the *Local Government Act* and *Regulations* and it must be followed.

There are challenges regarding the use of this mechanism: First, it is a voluntary work, which rural and urban communities do for the common good. Some individuals may feel like they are burdened with the government's work and therefore drag their feet. Second, *Letsema* requires community members to contribute according to their abilities and means and then reap the fruits according to their needs. Therefore, it leaves room for individuals to reap what they did not sow.

183 *ibid*

Most importantly, if led by a Council, *letsema* must be used on projects that fall within the Council's legal mandates/functions. But such functions are not spelled out under the current legal and policy framework as there exist glaring overlaps between the Councils' functions and Line Ministries' functions.

Finance / budget relevance	INDICATORS	Priority 5 – highest 1 - lowest	description	Authorized routing
Source	External donor, government, private, citizens/users	4	Letsema relies heavily on citizens' volunteerism	
Type of funding	explicit financing of ICM grant loan fees/fines	1	Its predominantly voluntary work	
ICM related	Water, land, ecosystem services, etc.	4	In practice, most projects are ICM related	
Flow of funds	Provisions/measures on the flow of funds from source to local level	1	There is no statutory basis	
Short term	Non-revenue based (grants, subsidies, other transfers)	5	Contribution is usually in the form of tools, meals etc.	
Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	1		
National level	Provisions regarding the national level	1		
District level (DC)	Provisions regarding the district level	1		
Community level (CC)	Provisions regarding the community level	4	It's a collective decision not statutory requirement	
Legal Basis	Parent and eventual subsidiary legislation	1		

Self-regulation

Self-regulation has been described as follows:¹⁸⁴

Self-regulation, as a mechanism for citizen participation, is applicable in cases where the subject of regulation comes within the purview of a user group and that particular user group is allowed to take practical control over the protection of its interests in respect of the use of a particular product or service. Under a self-regulatory framework, a user group regulates itself and the conduct of its members in accordance with its own rules, its ethical standards, and the laws of the country. It also establishes structures and procedures for the purpose of monitoring compliance with the rules, ethical standards and

¹⁸⁴ Ibid at page 37-38

Assessment Phase 1: Summary of Findings

the laws of the country and for the enforcement of such rules, ethical standards and laws. The local government maintains overall or general control over the use of that particular product or service.

Most importantly, self-regulation practically means that the local governments and the leadership of the user groups share the responsibility over the determination of local affairs, and this is consistent with the basic tenets of democracy and decentralisation. In a democratic society, responsibility is for all including the authorities and the people. In rural areas, self-regulation is currently utilised in the context of the protection and use of pastures. Herdsmen organise themselves and work as a team to take charge of the protection and use of pastures. Ordinarily, the subject of grazing control falls under the mandates of councils as provided for under the *Local Government Act*. Under the current arrangement between the council and the herdsmen associations, council has general oversight of pasturage and the actual decisions as to which pastureland to protect or open for grazing is in the hands of herdsmen associations. After the associations have taken a decision they report that decision to council and the public at a public meeting. The associations also take limited disciplinary measures against the delinquents. This arrangement has been hailed a success by councils and communities. It is indeed the most effective means of grazing control.

In a strict sense, self-regulation is a form of governance and not a financing mechanism. But it can also be seen as a financing mechanism in that, instead of incurring all the costs of grazing control (for example), a Council partially ‘outsources’ grazing control to a local self-regulatory body. By maintaining general oversight over a self-regulatory body, Council reduces the costs associated with grazing control. In other words, it reduces the financial burden on the part of local governments by reducing the costs of establishing and maintaining effective external policing and enforcement mechanisms. If a user group is allowed to regulate the use of a chargeable product or service by its members, charges must be paid directly to council as and when they are due. Self-regulation is applicable in all sectors where there are user groups such as the farming community, herbalists, sports clubs etc.

The following have been identified as possible drawbacks to self-regulation:¹⁸⁵

There is an inherent conflict of interest whenever the government allows a user group to police itself and that is why it is important for the local government to have general oversight of all the local affairs. It is also possible for some members of the group to feel less obliged to comply with the rules and standards set by the group and consequently disrespect the decisions taken by the internal structures.

Finance / budget relevance	INDICATORS	Priority 5 – highest 1 - lowest	description	Authorized routing
Source	External donor, government, private, citizens/users	2	From the users	
Type of funding	explicit financing of ICM grant loan fees/fines	2	Not necessarily financial in nature	
ICM related	Water, land, ecosystem services, etc.	3	Could be used in relation to ICM	
Flow of funds	Provisions/measures on the flow of funds from source to local level	1	Not created by statute	
Short term	Non-revenue based (grants, subsidies, other transfers)	1		

¹⁸⁵ Ibid at page 38

Assessment Phase 1: Summary of Findings

Long term	Revenue based (fees, tariff, levies, taxes, maybe also grants)	1	Fees and fines	
National level	Provisions regarding the national level	1	Too local	
District level (DC)	Provisions regarding the district level	1		
Community level (CC)	Provisions regarding the community level	4	But no statutory provisions	
Legal Basis	Parent and eventual subsidiary legislation	-	-	

Inception Report



Inception Report

GIZ - Support to Policy Harmonisation in Integrated Catchment Management

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List of Acronyms and Abbreviations

AF	Analytical Framework
CBO	Community-based Organisation
CC	Community Council
CN	Concept Note
COW	Commission of Water
CPU	Sub-Catchment Planning and Implementation Support Unit
DC	District Council
DWA	Department of Water Affairs
EKF	Energy and Climate Fund
EU	European Union
GDP	Gross Domestic Product
GIZ	Gesellschaft Für Internationale Zusammenarbeit
GNI	Gross National Income
GOL	Government of Lesotho
GWP	Global Water Partnership
ICM	Integrated Catchment Management
ICM OP	ICM Operational Plan for the first year of implementation 2020
ICP	International Cooperating Partner
IWRM	Integrated Water Resource Management
LEA	Lesotho Electricity Authority
LEWA	Lesotho Electricity and Water Authority
LHDA	Lesotho Highlands Development Authority
NCU	ICM National Coordination Unit
NGO	Non-Governmental Organisation
NTS	National Technical Secretariat
OD	Organisational Development
PMC	Project Management Committee
SADC	Southern African Development Community
SEP	Stakeholder Engagement Plan
SLM	Sustainable Land Management
STE	Short-Term Expert
SWAP	Sector-Wide Approach
TL	Team Leader

1 Framing the project

This inception report details the general technical approach, overarching analytical framework, methodology, and implementation plan of the project on 'Support to Policy Harmonisation in Integrated Catchment Management' in the Kingdom of Lesotho ('the project'). The project is being implemented by Particip GmbH, Freiburg, Germany ('the Consultant') and is financed by GIZ.

The project is embedded in the broader technical support activities under the 'Support to Integrated Catchment Management (ICM) in Lesotho' ('the ICM programme'). The overall objective of the ICM programme is to "[...] facilitate[s] socio-economic development and adaptation to climate change in Lesotho" to reach the specific objective of "ICM [being] institutionalised and under full implementation in Lesotho based on gender equality and climate change adaptation principles". The ICM programme will be implemented from January 2020 to December 2023 as a multi-donor action. It was agreed between the Government of Lesotho and the EU Delegation to the Kingdom of Lesotho in the Financing Agreement signed in April 2019. The Financing Agreement outlines the intended results to be achieved with funding from the EU through the 11th EDF with Lesotho (€27.5m); the BMZ through the TWM programme (€6m); and the Government of Lesotho (GoL) (€5m). The EU and BMZ financial contributions are managed through a Contribution Agreement with GIZ as the implementing agency, while the GoL contribution is considered a parallel financing managed by the GoL.

More specifically, the ICM Operational Plan for the first year of implementation in 2020 (ICM OP 2020) highlights that the ICM programme aims at supporting the Government of Lesotho (GoL) in its efforts to rehabilitate degraded watersheds across the country and to put in place prevention measures that will halt the further degradation of Lesotho's catchment areas. The sustainable management of Lesotho's catchments is of critical importance for water, energy, and food security not only in Lesotho itself but in the entire Orange-Senqu basin and Gauteng Province, Southern Africa's economic centre. Lesotho is the custodian of an area that produces 40% of the runoff of the Orange-Senqu catchment, albeit comprising only 3% of the catchment area. Much of the benefits of effective ICM in Lesotho accrue to the downstream countries i.e. South Africa, Namibia and (to a lesser extent) Botswana.

These efforts will contribute particularly to the achievement of the Sustainable Development Goal 17, aiming to strengthen the means of implementation and to establish partnerships for sustainable development.

The ICM programme aims to achieve five interlinked outputs:

1. An effective and efficient gender sensitive and climate-resilient policy framework for ICM is developed and applied.
2. Effective and efficient institutions for ICM are established, with equitable representation of women and youth.
3. Capacity, skills and knowledge of public, private sector and civil society for sustainable ICM is facilitated.
4. ICM measures are implemented.
5. Capacities are strengthened for coordination, monitoring, supervision and general programme management.

The present policy harmonization project is part of this multi-level and multi-stakeholder approach and mainly supports the ICM programme under Output 1 (policy framework). It also supports Output 2 regarding the development and testing of financing mechanisms for local ICM plans, as these mechanisms are vital for the establishment of effective and efficient institutions.

Output 1 is the prerequisite for and will contribute significantly to the achievement of Outputs 2-5. Output 2 aims at the establishment of financing mechanisms for ICM as a precursor to a fully operational local development grant facility.

These outputs must be based on a solid policy framework on the national level, and on a solid regulatory framework, both national and local, for the use of land and water resources, as well as on a financing mechanism for local level ICM implementation.

2 Inception Phase activities and findings

2.1 Kick-off and subsequent meetings

The inception phase has commenced with a kick-off (e-) meeting on 7 August 2020 with participants and representatives from the GOL, ICU, GIZ (hereafter the “Client”) and the Consultant. The project proposal was unpacked, discussed, and the steering and management of the assignment was agreed. A core team was identified that consists of representatives of the GOL, GIZ and the Consultant. It was agreed to have weekly core-team e-meetings, at least at the beginning of the project.

During these calls procedural issues as well as content, scope and limitations of the project activities were discussed. For sake of efficiency, it was agreed that all meetings should have clear objectives and follow an agenda and should lead to clearly defined follow-up activities. Time limits regarding the length of meetings are to be considered, as appropriate, to ensure meetings are productive on the one hand, but not overly time-consuming on the other hand.

On September 16, the Consultant had the opportunity to present the planned project activities and outputs in a larger development partner meeting. The discussion on streamlining all policy harmonization activities between several development partners was especially fruitful and will be followed-up aiming to coordinate policy harmonization activities with the development partners.

On September 17, the Consultant presented the project to the National Technical Secretariat (NTS). The National Technical Secretariat (NTS) is an expert group which is established to support and capacitate ICM development in Lesotho. It aims at supporting the ICM processes as an interministerial technical sounding board, supporting the assignment through sharing of information, technical expertise, and where relevant secondment of technical experts.

The Consultant was the first technical assistance to engage with the NTS upon its recent reconstitution. Contacting the NTS was another important step in the inception phase, as it helped ensuring legitimacy from ministry level and will prove beneficial for future collaboration.

2.2 Main objectives and activities during the inception phase

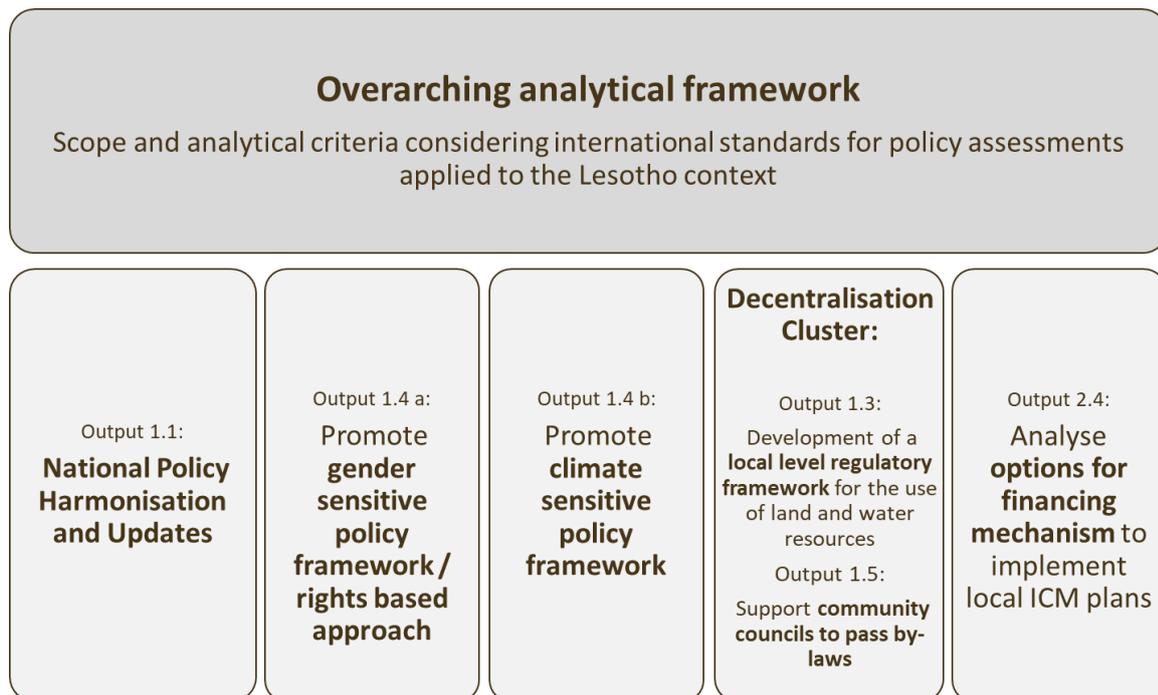
During the inception phase, the outputs and activities required by the TOR were discussed and clarified in the Consultant’s team and a common understanding with the Client was reached. The basis for all work conducted must be a structured analytical approach based on international best practice of policy and regulatory review, adapted to the specific Lesotho ICM context.

One objective of the inception phase was therefore to investigate initial findings, as far as feasible and needed, to prepare an overarching analytical framework (AF) for the activities to be conducted under this project, i.e. for policy and regulatory analysis and for the analysis of financing mechanisms for ICM plan implementation (see Section 3.1).

Based on this understanding, the project’s outputs and tasks were organized in five separate, but interdependent Workstreams:

- Workstream 1: National Policy Harmonisation and updates
- Workstream 2: Promote gender sensitive policy framework / rights-based approach
- Workstream 3: Promote climate sensitive policy framework
- Workstream 4: Decentralisation cluster encompassing development of a local level regulatory framework for the use of land and water resources and the support to community councils (CCs) to pass by-laws
- Workstream 5: Analyse options for financing mechanism to implement local level ICM plans

Figure 10: Overarching Analytical Framework and five main activities



These tasks and the respective outputs all relate to workstream 1 focussing on national policy harmonisation. However, outputs and findings of stream 2-5 will also have implications on the policy and regulatory framework as the project activities evolve. Any new mechanism or new paradigm will have to be embedded in the policy and in legislation (national acts, regulations, and local by-laws). Hence, all 5 tasks are linked and interdependent.

Task-teams were built, and a stream leader was selected for each stream. Based on the AF, a detailed technical approach, methodology and implementation plan was prepared for each workstream which is presented in concept notes (CNs). The CNs contain a detailed description of objectives, methodology, activities, risks, mitigation strategies, work plan, stakeholders, key linkages, and documentation, respectively. These were elaborated by the appointed task teams early in the inception phase and shared with GIZ for comments and subsequent revision before now being presented in this Inception Report (see Section 4).

The process of identifying information needed from stakeholders and defining rules and coordinated procedures for stakeholder consultation, were other important aspects that started in the inception phase.

2.3 General plan and consideration for implementation

2.3.1 Scope and limitations of TOR

The inception phase showed that it might make sense that some activities go beyond what is currently foreseen under this contract.

Workstream 2

The TOR focus only on the promotion of a gender sensitive policy framework. As has been agreed with the GIZ and explained in detail in Section 4.2, it makes sense to widen the scope to a rights based approach. This comes with additional work and we propose to use the flexible remuneration item to provide for this effort which is included in the contract between the GIZ and the Consultant, subject to approval by the GIZ. We estimate and propose to the Client that 5 additional working days for the pool of international experts and 5 additional working days for the pool of national/regional experts are needed to provide for the additional work.

In Workstream 4, under output 1.5., any meaningful and sustainable support to CCs should require legal drafting to some extent. The ToR do not envisage this but only mention “studying options” to support CCs to pass by-laws.

In principle we see three options of support to CCs to pass by-laws:

- Option 1 is based on the current ToR, i.e. to study options and describe these in a report.

Option 2 and 3 go beyond the scope of the current contract and would require additional expert working days:

- Option 2 could be preparing detailed guidelines on legal drafting for the CCs, that describe in detail the legal basis and legal framework, the needed contents, procedures, and technical details (as well as schedules), and the process of formal enactment (obtaining Ministerial approval). These guidelines could be prepared and presented in one or several workshops and include training elements.
- Option 3 would go further and support the CCs in the actual legal drafting, using a shadowing approach via learning by doing. In detail, this implies starting the procedure of legal drafting with small dedicated drafting teams. The actual formal enactment of by-laws, and schedules, will take significantly more time than the collaborative legal drafting and would not be part of this drafting exercise, as formal enactment is not in the hands of the Consultant. However, organizing and starting a collaborative drafting process, will ultimately be the activity and output needed to effectively support the CCs in preparing needed legislation (by-laws and schedules).

Option 3 is preferred and recommended by the Consultant. This was communicated to the Client.

With regard to option 3 it must be noted, that the drafting/task team’s and the Consultant’s collaboration efforts in assisting the CCs to draft by-laws on ICM should not stop just after the drafting exercise, that is, when the representatives of CCs and other stakeholders have endorsed the drafts and before the process of formally passing such draft by-laws begins. After the validation seminar, the draft by-laws will be tabled for the first reading at the relevant Council meetings, then referred to the appropriate Committees. Then public consultations will begin, and the draft by-laws will be presented for consideration and approval by the respective CCs. Thereafter, they will be forwarded as recommendations to the Minister for approval and if approved be gazetted.

These steps of passing a by-law are aimed at ensuring that a by-law is consistent with the national laws amongst other things. The output proposed after successfully drafting by-laws are also guidelines based on the lessons learnt of the complete drafting procedure with regard to procedure, content, stakeholders, process, etc.

In order to have a strong justification to claim that we have acquired sufficient experience and learned adequate lessons to prepare guidelines, the by-law drafts should be “tested” and ideally even enacted. However, formal enactment is certainly something we most likely will not be able to wait for, as political decisions are completely out of the consultant’s hands (see comments on risks of political economy and mitigation measures under CN 4 below).

To prepare guidelines based on experience and lessons learned when drafting a by-law that may be shelved or rejected afterwards may be as futile as the drafting exercise itself.

Hence, as a minimum requirement, confirmative Council meetings and needed public hearings, that must be accompanied by the Consultant, would be essential to provide lessons, which can be shared with other CCs in the guidelines.

It must be noted that guidelines embody more than experience of, or lessons learned by those involved in the process. Another important part of the guidelines is the interpretation of the statutory requirements for a valid by-law and an illustration of how to draft and pass a by-law that meets those requirements.

GIZ informed the Consultant that one or several of the six priority sub-catchment areas that they cooperate with, should be selected and used for the pilots. This advice will be followed, as this is the most efficient way to make use of existing structures and working relationships. In the six areas, ICM is well introduced, stakeholder platforms (CPU) are in place, and the Consultant’s activities of policy harmonisation will support other means of ICM implementation.

In the inception phase these three options were discussed with the Client and bilateral discussions between the Consultant and the GIZ will continue, in order to clarify if, and if so how far, the GIZ wants to extend the scope of the contract and approve the therefore required additional working days.

Regarding the needed finance mechanism under workstream 5, activity 2.4., it was concluded by the Consultant and GIZ, that this mechanism cannot look at the local level and local level regulations only, as initially foreseen by the TOR. National level harmonization, and national level enactments are needed, that provide the legal basis for detailed regulations, and eventually local by-laws and schedules, adapted to the respective CC (or DC) contexts. Additional working days are needed to accommodate the additional work that comes with this effort and could be provided via the flexible remuneration item included in the contract between the GIZ and the Consultant, subject to approval by the GIZ. We estimate that 5 additional working days for the pool of international experts and 5 additional working days for the pool of national/regional expert are realistic to provide for the additional work.

2.3.2 Risks and mitigation measures

Of the risks identified in the technical proposal for this project, the following two currently seem to have the biggest impact on the project's implementation:

1) Despite the travel restrictions inevitably imposed by the COVID-19 pandemic, the methodological approach for implementation of this assignment, as set out in the project Terms of Reference (ToR) and the original methodology remains largely intact.

Since currently no presence in Lesotho for the international and regional experts based outside the country is possible, all meetings are conducted as e-meetings via MS Teams which seems to work well for the Consultant and the GOL experts so far. However, not all stakeholders can easily attend these meetings, especially the wider stakeholder group outside the ICM Coordination Unit. During some meetings, participants needed to attend either via mobile internet data or using telephones, which was both not ideal.

This will likely present a bigger challenge in the upcoming assessment phases.

A mitigation plan should include that GIZ e.g. provides interview partners with mobile credit for phone / WhatsApp calls and MS Teams meetings, so participants do not have to pay out of pocket.

The Consultant will evaluate in which situations this could be required and make use of the stakeholder coordinators Ntate Bore and Ntate Thabo to this end.

However, email correspondence on contractual arrangements and organisational issues with contractual consequences is deemed necessary to provide secure documentation for future reference.

Although the Covid-19 emergency seems to be subsiding, there is a risk that with relaxation of lockdown restrictions, there could be an upsurge in infections. This could lead to further, more restrictive measures introduced. Stakeholder consultations will then also have to take place via remote communication tools only. It seems that by now most are well acclimated to using such tools and the internet connection seems sufficiently stable in the country. If possible, the national experts in the team of the Consultant will complement the consultation process by conducting additional face-to-face interviews and potentially organise focus group discussions and small workshops in line with the Covid-19 health rules.

2) With regard to all workstreams, another potential risk in the engagement with national level stakeholders, community councils and other local stakeholders for consultations is stakeholder fatigue inflicted by previous donor project activities. Quite often these may have lacked the manifestation of tangible benefits to-date.

A possible mitigation measure which needs to be looked at further and eventually adapted in the upcoming weeks is the careful selection of one or several community councils and other local stakeholders, preferably (but considering available budget) in the four ecological zones of Lesotho – Lowlands, Foothills, Mountains and Senqu River Valley for closer engagement. To this end, the six priority sub-catchment areas will be approached. These were already identified by the Client and ICM is well introduced there. It is vital in this context to ensure that the selected sub-catchments and CCs therein, are representative for all 64 CCs in Lesotho with regard to their ecological location, specific situations, problems, budgets, capacity etc.

Not be underestimated is the willingness and motivation of counterparts in the CCs and DCs to actively collaborate in reviewing and drafting exercises.

2.3.3 Planned timeline

The following table provides an overview of the proposed indicative timeline.

Table 8: Planned timeline

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Phase	Main achievements
08-09/2020: Inception Phase	Agreement on project scope and methodology, team composition, process and milestones, resourcing
10-12/2020: Implementation-Assessment phase 1	Initial mapping and analysis across the various workstreams/ministries
	Agreement on relevant policy areas for future in-depth assessment in phase two
	Recommendations to ICM Coordination Unit and GIZ for their policy support in 2021
01-05/2021: Implementation-Assessment phase 2	Further, in depth assessment of critical policy areas identified in assessment phase 1
	Recommendations for medium- and long-term policy support for ICM Coordination Unit, GIZ and other partners
06/2021: Finalisation Phase	Finalisation of project reports and deliverables

This report includes a detailed proposal about measures and activities needed to achieve the project's objectives and tasks, upon an initial assessment of the onsite conditions. A detailed and comprehensive plan of operations/work plan along with the team allocation/personnel assignment is presented in Section 7.2.

3 Methodological proposal for the assignment

3.1 Overarching analytical framework

In order to have a standardized approach to the conduct of legal and policy review, an analytical framework (AF) is required, based on international best practice in policy review, adapted to the Lesotho ICM context. The AF will be the overarching framework for all review activities and will provide guidance for the general methodological approach as well as to the respective specific methodologies developed and employed under the individual tasks (as presented in the five CNs in Section 4).

3.1.1 Definition and Scope of Integrated Catchment Management

Prior to developing an AF adapted to the Lesotho ICM context, the concept of ICM must be clarified and defined.

As elaborated within the legislative and policy framework of Lesotho, “integrated catchment management” (ICM) involves a holistic approach to sustainable land and water planning and management which adopts a catchment perspective, in contrast to a traditional piecemeal approach that artificially separates the management of land, water and other natural resources. Lesotho’s 2016 Long-Term Strategy for Water and Sanitation Sector describes ICM as:

‘the integrated planning for sustainable development and management of land, water and natural resources in the catchment areas for the rivers in Lesotho. The aim is economic development and improved livelihood by sustainable management of water resources and land.’¹⁸⁶

Key elements and objectives of ICM are reflected throughout national policy instruments setting out development priorities in Lesotho. Notably, the second National Strategic Development Plan (NSDP II) covering the period 2018/19 – 2022/23 includes a wide range of related interventions. In relation to ‘Sustainable Production and Use of Water Resources, and Improved Sanitation and Hygiene’, the NSDP II sets out detailed lists of actions for each of the Strategic Objectives listed thereunder, including that of ‘Implementing Integrated Catchment Management.’¹⁸⁷ Further, in relation to the objective of building ‘Sustainable Infrastructure for Agriculture’, in addition specific actions to ‘strengthen and promote integrated catchment management’, the NSDP II includes, *inter alia*, actions to:

- promote environmentally friendly and energy saving irrigation and water harvesting;
- promote climate smart and resource efficient infrastructure;
- develop irrigation policy and irrigation master plan;
- integrate environment and climate change into agricultural policies, strategies, plans and regulatory frameworks;
- promote awareness to farmers to adopt climate smart and conservation agricultural practices, including skills-based training for youth, women and vulnerable groups;
- improve governance of rangeland resources;
- rehabilitate rangelands and wetlands in collaboration with private sector/investors and communities;
- enforce key land-use policies and Acts (e.g. land, environment, range, water, climate change).¹⁸⁸

Implying the fundamental importance of ICM for development in Lesotho, the NSDP II identifies the issues of ‘Climate Change’, ‘Environment’ and ‘gender’ as cross-cutting “mainstreamed themes”, relevant across all key priority areas (KPAs) set out in the Plan.¹⁸⁹

The Government of Lesotho has long been committed to the values and approach encapsulated in ICM. The 2007 Water and Sanitation Policy, for example, committed the State to strive ‘to ensure effective and efficient management and development of this resource in order to maximize socio-economic benefits ... in an equitable

¹⁸⁶ Long-Term Strategy for the Water and Sanitation Sector (2016), at 15. The Long-Term Strategy lists the establishment of “catchment management” first among the Key Focus Areas (KFAs) set out therein.

¹⁸⁷ 2nd National Strategic Development Plan (NSDP II), at 136-137.

¹⁸⁸ NSDP II, at 91-92.

¹⁸⁹ NSDP II, at 68.

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manner without compromising the sustainability of vital environmental systems'. The 2007 Policy creates a framework for achieving this objective through 'proper planning, conservation, development, and management of water resources' on the basis of 'a shared vision and ownership'.¹⁹⁰

ICM is also a key feature of cooperative initiatives at the regional and basin levels. The Global Water Partnership (GWP), which has analysed ICM in the context of the shared Orange-Senqu basin, defines ICM/IWRM as *'a process which promotes the coordinated development and management of water, land and related resources, in order to maximize the resultant economic and social welfare in an equitable manner without compromising the sustainability of vital ecosystems'*.

More specifically, the Orange-Senqu River Basin Commission (ORASECOM) Integrated Water Resources Management Plan for the Orange-Senqu River Basin identifies catchment degradation, watershed management and land-use planning as priority areas for action.¹⁹¹ The ORASECOM National Action Plan for the Orange-Senqu identifies four 'priority national concerns', including:

- Land degradation and increased invasive species;
- Declining water resources quality;
- Changes to the hydrological regime – wetlands degradation; and
- Increased water demand.¹⁹²

ICM implementation is an ongoing, incremental process involving the combined efforts of various governmental agencies, communities, non-governmental organisations, and the private sector working together towards common targets and objectives to achieve sustainable use and conservation of water-related natural resources. Of course, the ICM concept and approach continues to evolve, and in Lesotho a new national ICM Strategy is currently being elaborated, in response to which the approach set out herein may need to be adapted. Key among current drivers of ICM in Lesotho is the challenge of climate change, with the 2017 National Climate Change Policy calling for measures to *'enhance the resilience of water resources, including promoting integrated catchment management, ensuring access to safe water supply and sanitation'*.¹⁹³

Implementation of ICM in Lesotho is intended to facilitate socio-economic development, whilst ensuring adaptation to climate change and adopting a rights-based approach particularly respecting the requirements of gender equality. This must be based upon an appropriate climate-resilient policy and legislative framework, which is sensitive to gender and the needs of vulnerable people, and which will require cross-sectoral policy harmonization and reform. An appropriate policy and legal framework must have due regard to the particular challenges faced by Lesotho in ICM implementation. While climate change is a cross-cutting concern, the main ICM-related issues for Lesotho are catchment degradation due to soil erosion and degradation of wetlands, as well as water resources development and infrastructure operation. At the same time, key aims of ICM must include a growing contribution to GDP, ensuring support to livelihoods and the alleviation of poverty,¹⁹⁴ as well as addressing pollution risks. Implementation of ICM must also cohere with the requirement of subsidiarity and the ongoing programme of administrative decentralisation in Lesotho.

Thus, the inter-linked key elements of ICM in Lesotho¹⁹⁵ include:

- Sustainable soil management and erosion control;
- Sustainable water utilisation, management and pollution control;
- Maintenance of aquatic and related ecosystems, ecosystem services and biodiversity;
- Sustainable range management (for livestock rearing and crop production);
- Wetlands management and restoration;
- Water resources development and infrastructure operation;
- Sustainable planning of human settlements; and

¹⁹⁰ Lesotho Water and Sanitation Policy (January 2007), at v.

¹⁹¹ ORASECOM Integrated Water Resources Management Plan for the Orange-Senqu River Basin, Action Area 3.2.

¹⁹² ORASECOM, Lesotho National Action Plan for the Orange-Senqu River Basin (ORASECOM Report 004/2014), at 19-23.

¹⁹³ Lesotho National Climate Change Policy (2017), Policy Statement 2, at 15.

¹⁹⁴ See, for example, Lesotho Water and Sanitation Policy (January 2007), which states unequivocally, at v, that 'Paramount on Lesotho's development agenda is the alleviation of poverty'.

¹⁹⁵ See, *inter alia*, the following documents: Long-Term Strategy for the Water and Sanitation Sector (2016); NSDP II; Lesotho Water and Sanitation Policy (2007); *etc.*

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- Governance reform in pursuit of all of the above.

At the same time, ICM implementation in Lesotho aims at a range of interrelated objectives:

- Socio-economic development;
- Livelihoods and poverty alleviation;
- Improved affordable access to safe water and sanitation services;
- Sustainable support to commercial and subsistence agriculture;
- Climate change adaptation;
- Rights based approach including, in particular, gender equality;
- Policy and legislative harmonisation;
- Subsidiarity and decentralisation;
- Private sector & civil society involvement in the water sector and in related sectors;
- Raising awareness regarding ICM
- Meaningful stakeholder engagement; and
- Capacity-building, research and training.

3.1.2 Key Assessment Criteria¹⁹⁶

Having regard to the key elements and objectives of ICM implementation in Lesotho identified above, it is possible to set out a range of criteria against which fitness for purpose of the existing legislative and policy framework in Lesotho may be assessed.¹⁹⁷ Such criteria include:

- Effectiveness:
 - Whether the measure appropriately addresses key elements and objectives of ICM:
 - Breadth / sufficiency of mandate;
 - Substantive coverage / scope of application; and
 - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration) having particular regard to the ongoing process of decentralisation in Lesotho.
 - Whether the measure envisages, creates or contributes to a practicable ICM regime for Lesotho:
 - Sufficiently flexible;
 - Sustainably implementable;
 - Practically enforceable; and
 - Financially sustainable.
- Holistic, cross-sectoral:
 - Whether the measure links land and water use across the entire catchment area;
 - Whether the measure links social and economic development with protection of natural ecosystems:
 - Contribution to horizontal integration / fragmentation.
 - Whether the measure envisages, creates or contributes to an integrated management framework;

¹⁹⁶ See, *inter alia*, the following documents: Lesotho Water and Sanitation Policy (2007); Operationalisation of Integrated Catchment Management Framework, Lesotho: February 2017 – March 2018 (Final Report, April 2018); Long-Term Strategy for the Water and Sanitation Sector (2016); *etc.*

¹⁹⁷ See, for example, Sandrine Maljean-Dubois (ed.), *The Effectiveness of Environmental Law* (Intersentia, 2017); N. Weitz, H. Carlsen, M. Nilssen, *et al.*, 'Towards Systemic and Contextual Priority Setting for Implementing the 2030 Agenda', (2018) 13/2 *Sustainability Science* 531-548; J. Tosun and A. Lang, 'Policy Integration: Mapping the Different Concepts', (2017) 38/6 *Policy Studies* 553-570.

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- Whether the measure links with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:
- Contribution to vertical integration / fragmentation.
- Whether the measure coheres with global, regional commitments (e.g. re climate change):
 - Contribution to vertical integration / fragmentation.

- Whether the measure takes account of any recent, current or impending significant infrastructure investments or commercial development need.
- Proportionality:
 - Whether the measure is likely to achieve its legitimate aims;
 - Whether the measure is cost-effective;
 - Whether the measure interferes to the least extent necessary with established interests, practices or policies;
 - Whether the measure involves an equitable and reasonable distribution of costs and benefits across all sectors.
- Currency:
 - Whether the measure is outdated:
 - Obsolete in objectives, scope of application or approach;
 - Requiring updating (e.g. regarding penalties); or
 - Requiring consolidation / codification (regarding amending measures).
- Consistency:
 - Whether the measure promotes (at least some) elements and objectives of ICM;
 - Whether the measure runs contrary to (certain) elements and objectives of ICM;
 - Whether the measures conflicts with other national measures:
 - Conflicting / overlapping roles and mandates;
 - Gaps regarding key functions (e.g. enforcement); or
 - Ambiguities regarding scope of application.

 - Whether the measure takes account of international and regional commitments, especially regarding transboundary basins:
 - Contribution to vertical integration / fragmentation.
- Participatory (ensuring equitable participation):
 - Whether the measure seeks to raise awareness of (elements and objectives) of ICM;
 - Whether the measure promotes transparency – by means of freedom of public / stakeholder access to relevant information;
 - Whether the measure promotes public / stakeholder participation in decision-making – by means of appropriately structured consultation;
 - Whether the measure permits and facilitates reviewability – by means of a general right to review decisions made thereunder.

3.1.3 General Methodological Approach

This general methodological approach is intended to guide and provide a broad structure to the activities of each Workstream in order that each Workstream may access and utilise the information compiled, and conclusions reached by the other Workstreams.

1. Review and analysis of experience gained in recent policy and legislative reform initiatives in Lesotho (e.g. regarding reform of the Rangeland Management Act or implementation of the ongoing process of decentralisation):

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- a. Development of understanding of political, economic and social context of policy and legislative reform;
 - b. Identification of risks, bottlenecks and factors adversely impacting successful outcomes;
 - c. Identification of opportunities and factors contributing to successful outcomes;
 - d. Elaboration of suitable strategy(ies) to facilitate successful reform outcomes.
2. Alignment and cooperation with ongoing policy reform processes in Lesotho, for instance, but not limited to:
 - Identification and assessment of the requirements of the ongoing process of administrative decentralisation.
 3. Identification and collation of policy and legal measures relating to (relevant aspect of) ICM:
 - a. Close cooperation with project team and client / project steering committee;
 - b. Immediate collaboration mapping to substantiate current policy development - mapping GIZ and other ICM-related projects currently ongoing;
 - c. Development of comprehensive database and repository of key relevant policy and legislative instruments, and supporting reports and documentation;
 - d. Identification of relevant regional and international commitments and best practice in cooperation with GWP;
 - e. Identification of information gaps and formulation of a strategy to address such gaps and deficits.
 4. Review and analysis of policy and legal measures relating to (relevant aspect of) ICM:
 - a. Review substantive content and instrument design having regard to assessment criteria set out above;
 - b. Review record / likelihood of effective implementation having regard to (relevant) assessment criteria set out above;
 - c. Review record / likelihood of effective enforcement;
 - d. Review record / likelihood of broad public acceptance and awareness;
 - e. Review operation of relevant institutional arrangements;
 - f. Review past experience in Lesotho regarding establishment of ICM in particular and, more generally, regarding policy and legislative implementation and reform.
 5. Targeted stakeholder consultation (in accordance with principles set out in Annex I):
 - a. Identification of key relevant stakeholders in cooperation with project team and client / project steering committee;
 - b. Structured survey regarding veracity of initial findings, regarding the true situation in terms of implementation status of key measures, regarding institutional constraints, and/or regarding any other relevant facts and circumstances;
 - c. Invite suggestions regarding way(s) forward;
 - d. Briefing notes providing project updates disseminated to stakeholders (monthly).
 6. Development of preliminary recommendations regarding policy and/or legal measures necessary for ICM implementation in Lesotho:
 - a. Identify shortcomings in the policy and legislative framework for (relevant aspect of) ICM on the basis of the findings of the above review and analysis;
 - b. Identify proposals to address such shortcomings, whilst contributing to the elaboration of a coherent policy and legislative framework for ICM;
 - c. Formulate text for detailed proposals for necessary policy and legislative instruments [if/where feasible];
 - d. Refine proposals in conjunction with working groups involving key local stakeholders.
 7. Wider stakeholder consultation (in accordance with principles set out in Annex I):
 - a. Consultation to elicit feedback on preliminary recommendations, having specific regard to assessment criteria set out above;
 - b. Utilise opportunity to raise awareness amongst key stakeholders of the policy and legislative framework for ICM.
 8. Finalisation of outputs:
 - a. Proposals / recommendations refined in the light of wider stakeholder feedback;
 - b. Proposals / recommendations refined in light of overarching need for coherence of policy and legislative framework for ICM.

The importance of the participatory and collaborative approach that is proposed here, cannot be overestimated. All experts will seek to work closely with the national and local level counterparts and stakeholders that are identified.

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If possible, as planned, workshops and seminars should be organized in a participatory way, actively involving national and local counterparts and stakeholder staff. Findings of analyses carried out as well as drafts prepared are planned to be discussed intensively with designated technical experts, eventual task forces of the beneficiary institution, and other stakeholders.

This *shadowing process* for working with the Ministries as well as with stakeholders from the local level is an essential aspect of this methodology and will be operationalized via careful identification of Ministry and local level counterparts or task forces, that are willing and available to work via regular work-sessions with the Consultant. This will be needed for all review as well as for supporting and eventual legal drafting activities. This shadowing process will ensure learning, and ownership of the process and outputs, and will ultimately ensure implementability and enforcement of policy and legal instruments. As explained in detail in chapter 6, the explicit offer was made to different Ministries to work collaboratively on ongoing relevant reform processes relevant to ICM. For instance, the first meeting with the NTS on 17 September 2020 and the agreed follow-up activities with regard to the identification of technical counterparts outside and inside the NTS, were an important step to operationalise this approach.

3.1.4 Guiding Principles for Stakeholder Consultation

It must be noted that a key component to the success of this project is dependent on a well thought-through stakeholder engagement strategy and execution plan. Having regard to the critical importance of research design for this project, we plan to appoint a specialist to guide the development of the general processes of engagement with stakeholder consultees. Ntate Bore Motsamai and Ntate Thabo Nobala have agreed to coordinate and guide all stakeholder consultations to avoid duplication, or stakeholder fatigue as well as to ensure an efficient use of the available time and resources. It is therefore intended that all workstreams will channel all of their stakeholder engagement through them to ensure streamlining and coordination. Both have strong record of experience with Ministries and national level stakeholders, as well as with municipal and community engagement and are well known among a large percentage of the stakeholders that the team identified so far.

With regard to the Ministry of Local Government and Chieftainship, Mme Matebello was assigned the task to cooperate with the Consultant and is hence responsible for consultations with stakeholders relevant to the Ministry of Local Government including local level structures such as community councils.

Principles for Effective Stakeholder Engagement

Stakeholder engagement is usually informed by a set of principles defining core values underpinning interactions with stakeholders. Some of the common principles based on International best practice include the following¹⁹⁸:

- **Commitment** to identifying and engaging with communities / stakeholders throughout the process
- **Integrity** which is demonstrated through engagement that is mutually respectful and establishes trust;
- **Respect** is shown through the recognition rights, cultural beliefs, values and interests of involved stakeholders
- **Transparency & Inclusiveness** which is evident through good response times regarding stakeholder / community concerns and encouragement of wide participation
- **Client Orientation** led by the Government of Lesotho as the ultimate user and beneficiary of project outputs.

Stakeholder Engagement Plan (SEP)

Based on these principles, a more detailed stakeholder engagement plan (SEP) will be prepared to guide all interview and consultation activities for all team members. It is essential to carefully reflect which information is needed for the respective activity.

A more detailed Stakeholder Engagement Plan (SEP) is planned to be developed at the onset of assessment phase 1 as streams begin to formulate detailed activities for their 'mapping and analyses' tasks. The SEP seeks to define a technically and culturally appropriate approach for consultation and disclosure. In the light of the

¹⁹⁸ IFC, 2007, Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets.

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ongoing travel restrictions imposed by the Covid-19 pandemic, the SEP should also set out the arrangements for virtual meeting / interviews, focus groups and workshops. The objective of an SEP is to facilitate informed decision-making through efficient consultation processes. Stakeholder Engagement is seen as an over-arching activity for all streams and should have a dedicated pool of resources focused on it.

Primary Objectives of the SEP are as follows;

- Understand the stakeholder engagement requirements for the broader project and individual streams;
- Align guidance for stakeholder engagement to that of International Best Practice and that most suited for the context of the country
- Identify key stakeholders affected or who are able to influence project activities;
- Establish methods and efficient processes for stakeholder engagement e.g.:
 - establish roles and responsibilities for the implementation of the SEP
 - establish most effective processes and vehicles for disseminating information
 - establish the most appropriate engagement techniques i.e. consultation platforms/forums – working group sessions, one-on-one interview etc.
 - establish the design consultation tools e.g. interview questionnaires
- An element of monitoring must be factored into the SEP to ensure that information gauged through techniques and tools are analysed appropriately and provide the direction required by stream leaders.

NOTE: Data-gathering by means of qualitative interviewing requires a highly structured approach in order to ensure consistency in the findings of each Workstream and, thereby, the relevance and utility of data gathered in one Workstream for the purposes of other Workstreams. Hence, the plan to appoint a specialist facilitator to guide research design and development of the general processes of engagement with stakeholder consultees. However, while the research design shall aim for as uniform and structured a process as possible, it must be remembered that ‘an interview is a complicated, shifting, social *process* occurring between two individual human beings, which can never be exactly replicated.

Identification of Stakeholder Consultees

1. Every effort will be made to identify a representative cohort of consultees, with experience (where appropriate) of a broad range of roles related to (relevant aspects of) ICM, including consultees from government agencies, international organisations, community groups, civil society and the private-sector.

Interview Preparation

2. Stakeholder consultation (at each stage of data-gathering) will be based upon pre-prepared structured and uniform questionnaires in order to ensure focus, accuracy and consistency in data-gathering.
3. Pre-prepared structured and uniform questionnaires will also be employed where stakeholder consultation is conducted by means of working groups.
4. Prior distribution of questionnaires could provide an opportunity for consultees to give their consent to be interviewed. Such consent is entirely voluntary and non-binding.

Conduct of Interviews

5. Every effort will be made to minimise any inconvenience (i.e. stakeholder fatigue) likely to be caused to consultees by, *inter alia*: refining research design to ensure the clarity and usability of the process; ensuring flexibility in the timing of interviews; coordinating the scheduling of interviews by different Workstreams so as to minimise disruption to stakeholders; use of focus groups where appropriate; etc.
6. Questionnaires will be distributed amongst consultees in advance of interviews, allowing adequate time for consultees to reflect upon, source, review and verify the data sought.
7. Though interviews will be based upon pre-prepared structured and uniform questionnaires, interviewers may ask additional questions for the purpose of better interpreting answers obtained to questions included in the questionnaire.
8. Where appropriate, consultees should be permitted / encouraged to express themselves in a conversational manner – stating personal views, possibly with emphasis, strength of feeling and/or

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nuance. Conversational engagement permits consultees to suggest possible reforms and approaches – data that may not otherwise be captured. No such views will at any time be attributed to individual consultees.

Record Keeping

9. Interviews with consultees will be recorded in order to ensure comprehensive and accurate data capture. Consultees must be informed and their consent to recording obtained. Absolute consultee confidentiality will be assured at all times.
10. Minutes will be prepared of each interview, which will be shared with and approved or corrected by the respective consultees. Minutes will not be shared beyond the individual consultee and the core project team.
11. While recordings and minutes will be retained for the purposes of ensuring the accuracy and veracity of findings, absolute consultee confidentiality will be ensured.
12. Where possible and appropriate, data gathered from stakeholder consultees will be (critically) analysed - having due regard to the professional role, experience, or perspective of each consultee - and to their consequent interpretation of the situation (socially constructed reality).

4 Specific methodologies / Concept notes of the different workstreams

The CNs under this chapter are based on and reflect the AF and the general methodology (Section 3) and consider all aspects of the SEP included in the AF. They are a main output of the inception phase as they contain specific objectives and scope of work, activities and timelines, and the specific methodology per workstream. They inform the reader of the responsible team members, relevant skills, and allocation of tasks and resourcing, an indicative workplan, key linkages with other workstreams, key reference documents, and key stakeholders.

When looking at the five CNs, the below listed main principles and considerations are vital:

- 5 workstreams, separate but interdependent
- Work in close cooperation with relevant stakeholders across ministries
- Policy analysis speaks to all streams
- All outputs feed back into the PA
- When possible, local actors are integrated in the Consultant's work (sustainability/capacity building)
- Stakeholder consultation coordination
- All outputs feed into regulations
- Implementability and enforceability

4.1 Concept note – Workstream 1: National Policy Harmonization

4.1.1 Objectives of Workstream

Lesotho's 2016 Long-Term Strategy for Water and Sanitation Sector describes ICM as:

'the integrated planning for sustainable development and management of land, water and natural resources in the catchment areas for the rivers in Lesotho. The aim is economic development and improved livelihood by sustainable management of water resources and land.'¹⁹⁹

Thus, ICM constitutes a form of natural resources use and conservation planning which approaches sustainable resource management from a broad, cross-sectoral catchment perspective. It follows, therefore, that ICM can only be implemented effectively by ensuring that the entire range of relevant governance frameworks – set out in myriad policy and legislative instruments applying across a range of sectors and concerns – each contributes in a mutually consistent and coherent manner to realisation of ICM objectives. This, in turn, can only be achieved through the concerted efforts of the entire policy-making community, including various ministries and governmental agencies, community groups, non-government organisations and private-sector actors, all working together towards common and sustainable targets and objectives to achieve balanced use and conservation of water and related natural resources.

As ICM-related targets and objectives are elaborated in a wide variety of policy and legislative instruments, relating both to water and to other natural resources, it is essential for effective ICM to achieve coherence amongst such instruments. The complex challenge of policy integration under ICM might be described as a "wicked problem", where 'because of complex interdependencies, the effort to solve one aspect of a wicked problem may reveal or create other problems'.²⁰⁰ A key challenge is that of the 'fragmentation' of the diverse policy and legal frameworks applying to ICM, giving rise to overlapping policy objectives and institutional architecture that may lack complementarity, or that may even conflict.²⁰¹ In such fields, lawyers have long expressed concern regarding fragmentation arising from 'the emergence of specialised and (relatively) autonomous rules or rule complexes, legal institutions and spheres of legal practice'.²⁰² A policy framework may be fragmented vertically, with different measures adopted at multiple levels of policy-making - local, national, regional and international, and may also be fragmented horizontally, with various mutually relevant measures addressing different problems and causal activities. While policy specialisation may be inevitable given the ever increasing scientific and technical complexity of natural resources management, the challenge of ICM exemplifies the risk of such fragmentation, as any attempt to implement ICM must inevitably involve policy measures, adopted at various levels of governance, that seek to address management of a range of natural resources, environmental media and related activities, including freshwater resources management, environmental protection, agriculture and land management, spatial planning / development control, and biodiversity conservation. ICM must also incorporate measures to address such critical issues as climate change adaptation, the protection of vulnerable people and gender equity.

At the global level, the implementation of ICM is associated with SDG 6 (clean water and sanitation for all), along with almost all of the other SDGs, and with the targets and indicators adopted thereunder. In addition, natural resources management in Lesotho is shaped by the sovereign commitments contained in a wide range of global conventions and other instruments, including the United Nations Convention to Combat Desertification (UNCCD), the United Nations Framework Convention on Climate Change (UNFCCC), the United Nations Convention on Biological Diversity (CBD), the Stockholm Convention on Persistent Organic Pollutants (POPs), the Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar Convention), and the Convention on International Trade in Endangered Species of Wild Fauna and Flora

¹⁹⁹ Long-Term Strategy for the Water and Sanitation Sector (2016), at 15. The Long-Term Strategy lists the establishment of "catchment management" first among the Key Focus Areas (KFAs) set out therein.

²⁰⁰ Australian Public Service Commission, *Tackling wicked problems: a public policy perspective* (25 October 2007), available at: <https://www.apsc.gov.au/tackling-wicked-problems-public-policy-perspective>.

²⁰¹ See, for example, F M Platjouw, *Environmental Law and the Ecosystem Approach: Maintaining Ecological Integrity through Consistency in Law* (Routledge, 2016), 99–120.

²⁰² United Nations General Assembly, *Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law* (Report of the Study Group of the International Law Commission), UN Doc A/CN.4/L.682 (13 April 2006).

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(CITES). As regards the management of shared water resources, though not a party, Lesotho is likely to be guided by the practice rapidly emerging under global instruments, such as the United Nations Watercourses Convention, the UNECE Water Convention and the International Law Commission Draft Articles on Transboundary Aquifers.

At the regional level, water resources management is subject to a range of instruments, including the Revised SADC Protocol on Shared Watercourses, the Agreement on the Establishment of the Orange–Senqu River Commission (ORASECOM Agreement) and the Treaty on Lesotho Highlands Water Development. A number of other instruments must inevitably inform implementation of ICM, such as the Memorandum of Understanding in respect of the Maloti–Drakensberg Trans-frontier Conservation and Development Area.

In terms of national law and policy, ICM in Lesotho will need to be implemented in a manner consistent with a wide range of key sectoral legislative and policy frameworks, whilst having regard to the requirement of effective adaptation to climate change. These will be identified having regard to the key criteria:

- Measures which relate to the key elements of ICM in Lesotho:
 - Soil management and erosion control;
 - Water utilisation, management and pollution control;
 - Maintenance of aquatic and related ecosystems, ecosystem services and biodiversity;
 - Range management;
 - Wetlands management and restoration;
 - Water resources development and infrastructure operation; and
 - Planning of human settlements.
- Measures related to the key objectives of ICM in Lesotho:
 - Socio-economic development;
 - Livelihood maintenance and poverty alleviation;
 - Access to safe water and sanitation services; and
 - Support to commercial and subsistence agriculture;
- Measures related to the enabling environment for ICM in Lesotho
 - Policy and legislative harmonisation;
 - Subsidiarity and decentralisation;
 - Private sector & civil society involvement in the water sector and in related sectors;
 - Raising awareness regarding ICM;
 - Stakeholder engagement; and
 - Capacity-building, research and training.

It is critical, therefore, to develop a coherent policy framework for the effective implementation of gender-sensitive and climate-resilient ICM in Lesotho, one which clearly identifies and addresses priority national concerns regarding land degradation, invasive alien species, declining water resources quantum and quality, wetlands degradation and increasing water demand.²⁰³ All elements of such a national policy framework for ICM must be consistent inter se, whilst aligning with key basin, regional and international legal and policy instruments, action plans and strategies, in order that national policy-makers, officials, resource managers, and community and civil society leaders can clearly understand the requirements and benefits of implementing ICM in Lesotho, and the parameters within which this must be done.

²⁰³ See, Lesotho Action Plan for the Orange-Senqu River Basin (2014).

4.1.2 Scope of work

Having regard to the key elements and objectives of ICM implementation in Lesotho identified above, it is possible to set out a range of criteria²⁰⁴ against which fitness for purpose of the existing legislative and policy framework in Lesotho may be assessed.²⁰⁵ Such criteria include:

Effectiveness:

- Whether the measure appropriately addresses key elements and objectives of ICM:
 - Breadth / sufficiency of mandate;
 - Substantive coverage / scope of application; and
 - Subsidiarity (decision-making at the lowest appropriate / practicable level of administration).
- Whether the measure envisages, creates or contributes to a practicable ICM regime for Lesotho:
 - Sufficiently flexible;
 - Sustainably implementable; and
 - Practically enforceable.

Cross-sectoral Application:

- Whether the measure links land and water use across the entire catchment area;
- Whether the measure links social and economic development with protection of natural ecosystems:
 - Contribution to horizontal integration / fragmentation.
- Whether the measure envisages, creates or contributes to an integrated management framework;
- Whether the measure links with the broader National Development Strategy / Planning Framework – across a mid- to long-term horizon:
 - Contribution to vertical integration / fragmentation.
- Whether the measure coheres with global, regional commitments (e.g. re climate change):
 - Contribution to vertical integration / fragmentation.
- Whether the measure takes account of any recent, current or impending significant infrastructure investments or commercial development need.

Proportionality:

- Whether the measure is likely to achieve its legitimate aims;
- Whether the measure is cost-effective;
- Whether the measure interferes to the least extent necessary with established interests, practices or policies;
- Whether the measure involves an equitable and reasonable distribution of costs and benefits across all sectors.

Currency:

- Whether the measure is outdated:
 - Obsolete in objectives, scope of application or approach;
 - Requiring updating (e.g. regarding penalties); or
 - Requiring consolidation / codification (regarding amending measures).

Consistency:

- Whether the measure promotes (at least some) elements and objectives of ICM;
- Whether the measure runs contrary to (certain) elements and objectives of ICM;
- Whether the measures conflicts with other national measures:
 - Conflicting / overlapping roles and mandates;

²⁰⁴ See, *inter alia*, the following documents: Lesotho Water and Sanitation Policy (2007); Operationalisation of Integrated Catchment Management Framework, Lesotho: February 2017 – March 2018 (Final Report, April 2018); Long-Term Strategy for the Water and Sanitation Sector (2016); *etc.*

²⁰⁵ See, for example, Sandrine Maljean-Dubois (ed.), *The Effectiveness of Environmental Law* (Intersentia, 2017); N. Weitz, H. Carlsen, M. Nilssen, *et al*, 'Towards Systemic and Contextual Priority Setting for Implementing the 2030 Agenda', (2018) 13/2 *Sustainability Science* 531-548; J. Tosun and A. Lang, 'Policy Integration: Mapping the Different Concepts', (2017) 38/6 *Policy Studies* 553-570.

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- Gaps regarding key functions (e.g. enforcement); or
- Ambiguities regarding scope of application.
- Whether the measure takes account of international and regional commitments, especially regarding transboundary basins:
 - Contribution to vertical integration / fragmentation.

Participatory (ensuring equitable participation):

- Whether the measure seeks to raise awareness of (elements and objectives) of ICM;
- Whether the measure promotes transparency – by means of freedom of public / stakeholder access to relevant information;
- Whether the measure promotes public / stakeholder participation in decision-making – by means of appropriately structured consultation;
- Whether the measure permits and facilitates reviewability – by means of a general right to review decisions made thereunder.

4.1.3 Potential risks and mitigation strategies

As ICM is a truly cross-cutting paradigm, impacting upon (and being potentially impacted by) policy-making in a wide range of sectors, the key risk in Workstream 1 relates to the sheer scale and breadth of the national policy framework to be assessed. In order to ensure the manageability of the work to be undertaken, the team must carefully identify and focus on the key legislative and policy measures of relevance using the selection criteria set out above. To be efficient, and to make best use of the available time and budget, the key, priority issues will be identified, together with the counterparts, early in this process. In addition, the review and analysis work will be carefully shared amongst each of the members of the team and conducted in a carefully structured manner, having regard to the evaluative criteria set out immediately above.

4.1.4 Specific Methodological Approach

Broadly in line with the proposed overarching analytical framework, a specific methodological approach to the conduct of the legal and policy review envisaged under Workstream 1 has been developed. This methodology is based on international best practice in policy review but has been adapted to the particular context in which ICM would operate in Lesotho.

Proposed methodology

Clearly, any process for harmonising such a wide-ranging and diverse set of policy statements and normative sources requires a methodological structure which will ensure systematic identification, assessment and evaluation of each. To this end, the following methodological approach shall be employed:²⁰⁶

Review and analysis of experience gained in recent policy and legislative reform initiatives in Lesotho (e.g. regarding reform of the Rangeland Management Act or implementation of the ongoing process of decentralisation)

- Development of understanding of political, economic and social context of policy and legislative reform;
- Identification of risks, bottlenecks and factors adversely impacting successful outcomes;
- Identification of opportunities and factors contributing to successful outcomes;
- Elaboration of suitable strategy(ies) to facilitate successful reform outcomes.

Identification of key policy instruments having regard to the selection criteria outlined above (mapping)

- Close cooperation with project team and client / project steering committee;
- Broad survey of available legal and policy instruments;

²⁰⁶ See Support to Integrated Catchment Management in Lesotho – Operational Plan for the First Year of Implementation (2020): Towards a Multi-stakeholder Partnership (November 2019), at 7-8.

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- Immediate collaboration with other ongoing ICM-related projects on mapping to substantiate current policy development and or reform processes;
- Development of comprehensive database and repository of key relevant policy and legislative instruments, and supporting reports and documentation;
- Identification of relevant regional and international instruments and best practice;
- Identification of information gaps and formulation of a strategy to address such gaps and deficits.

Review and analysis of policy and legal measures relating to ICM

- Review substantive content and instrument design having regard to assessment criteria set out above;
- Review record / likelihood of effective implementation having regard to (relevant) assessment criteria set out above, to understand why gaps exist between stated aims and actual implementation;
- Review record / likelihood of effective enforcement;
- Review record / likelihood of broad public acceptance and awareness;
- Review of alignment of national policies with relevant regional and international instruments (in close collaboration with GWP);
- Review operation of relevant institutional arrangements;
- Review past experience in Lesotho regarding establishment of ICM in particular and, more generally, regarding policy and legislative implementation and reform.

Targeted stakeholder consultation (in accordance with principles set out in Annex I of the Analytical Framework)

- Identification of key relevant stakeholders in cooperation with project team and client / project steering committee;
- Structured survey regarding veracity of initial findings, regarding the true situation in terms of implementation status of key measures, regarding institutional constraints, and/or regarding any other relevant facts and circumstances;
- Invite suggestions regarding possible way(s) forward.

Development of preliminary recommendations regarding policy and/or legal measures necessary for ICM implementation in Lesotho

- Identify shortcomings in the policy and legislative framework for ICM on the basis of the findings of the above review and analysis;
- Identify (and justify) proposals to address such shortcomings, whilst contributing to elaboration of a coherent policy and legislative framework for ICM;
- Formulate text for detailed proposals for necessary policy and legislative instruments [if/where feasible];
- Refine proposals in conjunction with working groups involving key local stakeholders.

Wider stakeholder consultation (in accordance with principles set out in Annex I of the Analytical Framework)

- Consultation to elicit feedback on preliminary recommendations, having specific regard to the assessment criteria set out above;
- Utilise opportunity to raise awareness amongst key stakeholders of the policy and legislative framework for ICM.

Finalisation of outputs

- Proposals / recommendations refined in the light of wider stakeholder feedback;
- Proposals / recommendations refined in light of overarching need for coherence of policy and legislative framework for ICM.
- Development of policy reform strategy identifying pathways for adoption of proposed reforms.

Operationalization within workstreams

The activity of Workstream 1 will focus upon detailed review and analysis of a broad range of legislative and policy instruments with a view to assessing their 'fitness for purpose' for implementing ICM in Lesotho. In so doing, aspects of its work will be informed by the activities and outputs of other workstreams, particularly Workstream 2 concerning Rights & Gender-Equity and Workstream 3 concerning Climate Change, which will each conduct more specific assessments regarding these cross-cutting concerns.

Therefore, the activities of Workstream 1 will seek to address three key questions:

- To what extent are existing policy and legislative instruments conducive (or obstructive) to effective implementation of ICM in Lesotho?
- Which policy and/or legislative reforms are required in order to provide a facilitative enabling environment for ICM in Lesotho?
- Which are the appropriate priority interventions and strategies to effect these reforms?

4.1.5 Workstream Steering

Responsible Team Members

- Owen McIntyre (Stream Leader, SL)
- Bore Motsamai
- Wim Klaassen
- Robert Seelig

Organisation of the work

Workstream 1 will convene by means of a standing (weekly) online meeting (using MS Teams) but will hold additional meetings (bilateral or plenary) as required. Documents will be shared using MS Teams, SharePoint, Google Docs or similar tools, to allow collaborative editing of text, etc. The Workstream will continue work by agreeing in advance the time-budgets available to the individual team members for the remaining time.

In close collaboration with the team, the SL will plan the Workstream activities and outputs and will take responsibility for the timeliness and quality of such outputs.

4.1.6 Indicative Timing and Proposed Workplan

Table 9: Workstream 1: Indicative Timing and Proposed Workplan

	Inception Phase		Assessment phase one			Assessment phase two					Finalisation phase		Estimated input days										Description of deliverables / milestones	
	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Team Leader	MCINTYRE, Owen	SEELIG, Robert	KLAASSEN, Wim	LEWIS, Fonda	MOTSAMAI, Bore	SHALE, Ramohapi	LEROTHOLI, Sekhonyana	NOBALA, Thabo	PADAYACHEE, Dee		Total
1. National Policy Harmonization														45	16,5	23		35,5					120	
1.1 Output 1: Final CN with final list of Stakeholders														4	1,5	1,5		1					8	
1.1.1 draft CN completed													2	0,5	0,5		0,5						3,5	
1.1.2 final CN completed		▲											1	0,5	0,5								2	Final Concept Note
1.1.3 Stakeholder (SH) engagement protocol with tentative time planning of interviews finalised													1	0,5	0,5		0,5						2,5	
1.2 Output 2: Study of policies/legislation (regards ICM focus)													14,5	6,5	5		11						37	
1.2.1 Selection of key reference documents													4		1		2						7	
1.2.2 Study of documents													5,5	4,5	3,5		5						18,5	Review and analysis of experience gained in recent policy and legislative reform initiatives in Lesotho. Identification of key policy instruments having regard to the selection criteria. Review and analysis of policy and legal measures relating to ICM.
1.2.3 Synthesising notes from preliminary document review and reporting													5	2	2		4						13	Synthesized notes
1.3 Output 3: Broad Stakeholder consultation with feed-back													14,5	3,5	5,5		12,5						36	Targeted stakeholder consultation
1.3.1 Preparation of SH-specific interview guides													4		1		2						7	
1.3.2 SH Interviews conducted													6	2	2		5,5						15,5	
1.3.3 Interview notes discussed, summarised and reported													2,5	1,5	2		3						9	Preliminary recommendations regarding policy and/or legal measures necessary for ICM implementation in Lesotho.
1.3.4 Virtual conference with SH with feedback on interview results													2		1		2						5	
1.4 Reporting Phase: Synthesising of results from policy/legislation research with conclusions from SH consultation													12	5	8		11						36	Finalisation of outputs
1.4.1 Revision and confirmation of findings/conclusions policy/legislation study													4	2	3		4						13	
1.4.2 Revision and confirmation of findings/conclusions from SH consultation													4	1,5	3,5		4						13	

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1.4.3. Drafting of final report aligned with the Stream objective in CN			▲ ▲		4	1,5	2,5	3		11	Draft and Final Report on mapping of national policies.
				TOTAL	45	16,5	23	35,5		120	

- Reports / products to be submitted ▲ Final report to be submitted ▲ Workshops/Seminars ■

4.1.7 Key Linkages

Linkages with other workstreams

- The work of Workstream 1 on National Policy Harmonisation will inevitably link closely to the work of several other workstreams, most particularly Workstream 2 on Rights & Gender Equality and Workstream 3 on Climate Change. Specifically, Workstream 1 will assist the identification of key policy and legislative measures potentially impacting upon Rights & Gender-Equality and Climate Change, and thus requiring assessment under Workstreams 2 and 3. The parameters developed under Workstreams 2 and 3 for assessing Rights and Gender Equality impacts and Climate Change adaptation impacts will assist with assessing the consistency of measures examined under Workstream 1 with these ICM objectives.
- These findings can easily be communicated between Workstreams 1, 2 and 3 as several of the project team are engaged in the work of two or more of these Workstreams. The requirement for monthly reporting of progress will also help to ensure inter-Workstream coordination.
- Inter-linkages and cross-pollination can be assured between the work of Workstream 1 and other teams, projects and processes engaged with ICM in Lesotho by means of the monthly reporting of progress to the NTS.

Linkages with other teams, projects, processes

Several assessment and reform processes being conducted in parallel with the present project will inform the assessment conducted therein. These include:

- Review of the Soil and Water Preservation Policy;
- National Wetlands Conservation Strategy
- Global Water Partnership (GWP) assessment of alignment of national policy with international and regional commitments and drivers.

Inter-linkages and cross-pollination can be assured between the work of Workstream 1 and other projects and processes engaged with ICM in Lesotho by means of the monthly reporting of progress to the NTS and through engagement with the Development Partners' Consultative and Coordination Forum on Environment, Resilience and Natural Resources Management.

Possibility for capacity building within Lesotho

Potential shadowing processes

During Assessment Phase One the team will identify and engage with key actors in the NTS and (hopefully) with the Legal Officers within the key relevant ministries to introduce the project and its objectives. The opportunity for a shadowing process will be discussed, under which representatives from relevant ministries, departments or agencies will be identified to work collaboratively with the Workstream Team.

A shadowing process would also help the project team to understand better any political or bureaucratic hurdles which might hinder stakeholder consultation and data gathering, as well as the adoption of policy reform initiatives.

In the event that a shadowing process is not feasible, other modalities will be devised for working collaboratively with and across different ministries.

4.1.8 Key Reference Documents

Initial provisional list (to be confirmed with the NTS at start of Phase 1).

- Constitution of Lesotho
- Water Act (2008); Water and Sanitation Policy (2007)
- Long-Term Water and Sanitation Strategy (2016)

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- Integrated Water Resources Management Strategy (IWRMS)
- Lesotho Action Plan for the Orange-Senqu River Basin (2014)
- Lesotho Highlands Water Project (P.1) Policy for Instream Flow Requirements (2002)
- Environment Act (2008)
- National Environmental Policy (1998)
- National Climate Change Policy (2017-27)
- National Adaptation Programme of Action (NAPA)
- Range Management Act (draft)
- National Range Resources Management Policy (2014)
- Agricultural Sector Strategy (2003)
- Afforestation Programme (2005)
- (Draft) Policy for Soil and Water Preservation
- Land Act (2010)
- Local Government Acts (1997) and (2004)
- Nature Conservation Bill (2008)
- National Biodiversity Strategy and Action Plan (NBSAP)
- (Draft) National Wetlands Conservation Strategy
- National Strategic Development Plan II (2019-23)
- National Decentralisation Policy 2014

4.1.9 Key Stakeholders

4.1.10 Overview of Planned Stakeholder Consultation

Workstream 1: Overview of Planned Stakeholder Consultation

Name of organisation	Why to consult this organization?	What information is needed?	Planned method of consultation	Planned date of consultation
DONORS AND REGIONAL				
UNDP	Align with international and regional approaches and strategies	Guidance on strategies and international/regional best practice	Individual discussions	Mainly Assessment Phase One and Two
World Bank				
IFAD				
MCC				
FAO				
GWP				
LHDA				
ORASECOM				
NATIONAL GOVERNMENT				
Ministry of Water; Water Affairs Department; Water Commission	To understand national policy and strategy and explore weaknesses and opportunities; to explore capacity to champion	Guidance on national policy and strategies	Individual discussions and workshops	Mainly Assessment Phase One and Two, and Finalisation Phase

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Name of organisation	Why to consult this organization?	What information is needed?	Planned method of consultation	Planned date of consultation
	and take ownership of outcomes and outputs			
Ministry of Development Planning	To understand national policy and strategy and explore perceptions on weaknesses and opportunities to change policy to implement ICM effectively	Guidance on national policy and strategies	Individual discussions and workshops	Mainly Assessment Phase One and Two, and Finalisation Phase
Ministry of Finance				
Ministry of Local Government and Chieftainship Affairs				
Ministry of Agriculture and Food Security				
Ministry of Tourism, Environment and Culture				
Ministry of Forestry, Range and Soil Conservation				
NGO				
Lesotho Council of Non-Governmental Organizations (LCN): e.g.: <ul style="list-style-type: none"> - Agriculture, Environment and Natural Resources Commission (AENRC) - Health and Social Development Commission - Economic Justice Commission 	Understanding of perceptions on weaknesses and opportunities to implement ICM effectively. aligns with national policy and strategy	Insights and specific information on situation on the ground	Focus group meetings/workshops	Mainly Assessment Phase Two

4.2 Concept note – Workstream 2: Promote a Rights based and Gender Sensitive ICM Framework

4.2.1 Objectives of Workstream

- The objective of this Workstream is to promote and support a rights based and gender sensitive policy framework for ICM, which involves an holistic approach to sustainable land and water planning and management and adopts a catchment perspective that is in line with the national policy and strategies of Lesotho.²⁰⁷
- This Workstream will align with the Operational Plan for Support to Integrated Catchment Management in Lesotho and incorporate an assessment of rights and gender mainstreaming priorities for ICM and agreement on gender and rights based mainstreaming priorities. The recommendations and priorities developed through this Workstream will be based on a sound review of national, regional and international policy and strategies, and the process will incorporate stakeholder participation to ensure relevance and buy-in to the outputs.

4.2.2 Scope of work

A rights based approach, which is broader than gender, will be applied to this Workstream. The Constitution of Lesotho entrenches the protection of the rights of all people in Lesotho irrespective of sex, age, race, religion, etc. The rights of women, youth and vulnerable groups are highlighted at the highest policy level in Lesotho, for example the Ministry of Gender Youth Sport and Recreation’s Gender and Development Policy 2018 – 2028, and the National Youth Policy 2017-2030 that specifically highlights the need for effective integration of youth into socio-economic development issues of Lesotho. Furthermore, the National Social Protection Strategy supports the mainstreaming of the poor and marginalised into social and economic development and the sustainable development of vulnerable groups. The Ministry of Social Development advocates for the prioritization of the needs of the poor and vulnerable groups in the national development agenda, including women.

A rights based approach, incorporating a focus on gender, therefore aligns broadly with national policy and strategies in Lesotho. It also aligns with international conventions and goals. Addressing rights, including gender equality, is central to the Sustainable Development Goals (SDGs) (United Nations, 2015). The “Leave no one behind” concept is central to the United Nation’s 2030 Agenda for Sustainable Development. It represents among other things, unequivocal commitment to end discrimination and exclusion, and to reduce the inequalities and vulnerabilities that result groups or individuals not being supported and incorporated into efforts towards sustainable development.

The advantage of applying a rights based approach is that it offers the opportunity to support the simultaneous consideration of rights of all groups of society, including women, youth and other vulnerable and marginalised groups. This approach therefore supports the promotion of an inclusive ICM framework from the outset. The method will ensure that gender is not diluted but rather that the needs of vulnerable and marginalised groups e.g. youth and disabled, are incorporated.

This Workstream will apply the United Nations concept of a rights based approach as described in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, which state that “everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. The principle of equality and freedom from discrimination is central, including discrimination on the basis of sex and gender roles. A rights-based approach as a conceptual framework promotes and protects human rights of all, including women, youth, disabled and vulnerable or marginalised groups. This involves reviewing international issues through relevant reports, for example, from United Nations organisations (e.g. United Nations High Commissioner for Human Rights and UNICEF) and identifying and analysing local inequalities and

²⁰⁷ The TOR focus only on the promotion of a gender sensitive policy framework. As has been agreed with the GIZ, it makes sense to widen the scope to a rights-based approach. This comes with additional work and we propose to use the flexible remuneration item included in the contract to do this work, subject to approval from the GIZ.

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redressing discriminatory practices and unjust distributions of power in decision making and implementation of policy making and regulations.

Gender equality as a human right is enshrined in a number of international declarations and conventions that will be carefully considered. A range of international and regional policies, strategies and conventions will be identified and explored to identify normative values for rights and gender considerations, highlight benchmarks and good practice in current rights based and gender considerations. This would include for example:

- Human rights broadly and gender equality specifically are also embedded in numerous SDGs including:
 - SDG 5: Achieving gender equality and empower all women and girls. This goal aims to achieve gender equality by ending all forms of discrimination, violence and any harmful practices against women and girls in the public and private spheres. It also calls for the full participation of women and equal opportunities for leadership at all levels of political and economic decision-making
 - SDG 1: End poverty in all its forms everywhere – this goal aims to ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance. The goal is also to create sound policy frameworks at the national, regional and international levels, based on pro-poor and gender-sensitive development strategies, to support accelerated investment in poverty eradication actions.
 - Goal 6: Ensure availability and sustainable management of water and sanitation for all – this goal includes a focus on integrated water resources management at all levels and protecting and restoring water-related ecosystems helping governments craft policies and programmes that respond to women’s needs and underpin sustainable services.
 - Goal 13: Take urgent action to combat climate change and its impacts – targets include integrating climate change measures into national policies, strategies and planning. It also addresses promoting mechanisms for raising capacity for effective climate change-related planning and management in least developed countries and small island developing States, including focusing on women, youth and local and marginalized communities.
- A number of legally binding international Conventions including:
 - Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (UN General Assembly, 1979), which Lesotho ratified in 1995. Article 14 of CEDAW on the rights of rural women, which emphasises the need for States to take all appropriate measures to eliminate discrimination against women in rural areas. In line with Article 18 of CEDAW, the Government of Lesotho developed a comprehensive report in July 2010 that identified challenges and developments towards recognition and realization of women’s rights.
 - Convention on the Rights of Persons with Disabilities (CRPD) (UN General Assembly, 2006), of which Lesotho became a signatory in 2008, is intended as a human rights instrument that adopts a broad categorization of persons with disabilities and reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms.
 - The Government of Lesotho has also ratified a number of international instruments which protect the rights of children, including the Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child, International Labour Organization (ILO) Convention 138 on the minimum age for employment and ILO Convention 182 on the worst forms of child labour.
- At a regional level, ORASECOM has developed a Gender Mainstreaming Strategy (2014) and has recently completed the Gender Baseline Assessment and Gap Analysis (2019) that hold a number of key findings and recommendations relevant to incorporating gender sensitivities and rights into IWRM.

The overall approach will be that of promoting social oriented processes that incorporate a rights- and gender-based approach is essential to effective, efficient and sustainable systems and strategies. In doing so the Workstream will align with the Overarching Analytical Framework in terms of the definition and scope of ICM to be applied and recognizing the inter-linked key elements of ICM as well as the range of interrelated objectives. The Rights and Gender sensitivity assessment will be undertaken with consideration of the criteria against which fitness for purpose of the existing legislative and policy framework in Lesotho may be assessed, as outlined in the Analytical Framework, namely:

- Effectiveness:

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- Holistic, cross-sectoral:
- Proportionality:
- Currency:
- Consistency:
- Participatory (ensuring equitable participation)

The general approach of this Workstream will align with the Overarching Analytical Framework. This approach will guide and provide a broad structure to the activities to be undertaken in this Workstream. This will address the need for each Workstream to access and utilise the information compiled, and conclusions reached by the other Workstreams. This general methodological approach will therefore include the following key components:

1. Review and analysis of experience gained in recent policy and legislative reform initiatives in Lesotho (e.g. regarding reform of the Rangeland Management Act or implementation of the ongoing process of decentralisation) with regards to addressing the need for a rights based and gender-sensitive approach to ICM.
2. Identification and collation of policy and legal measures relating to (relevant aspect of) ICM with regards to priority rights based and gender-sensitive ICM issues.
3. Review and analysis of policy and legal measures relating to relevant rights based and gender-sensitive aspect of ICM.
4. Targeted stakeholder consultation (in accordance with principles set out in Annex I).
5. Development of preliminary recommendations regarding priority rights based and gender-sensitive policy and/or legal measures necessary for ICM implementation in Lesotho.
6. Wider stakeholder consultation (in accordance with principles set out in Annex I of the Overarching Analytical Framework).
7. Finalisation of outputs on priority rights based and gender-sensitive aspects of ICM.

4.2.3 Potential risks and mitigation strategies

- There is a risk that the review and analysis of the policy and strategies may highlight inconsistencies in terms of the consideration of rights based and gender sensitivities across sectors.
 - The meaningful engagement and participation of stakeholders will provide an opportunity to mitigate this issue should it arise.
- There is a risk of conflict or disagreement among stakeholders on the opportunities and priorities for addressing current rights- and gender-based weaknesses and challenges in ICM.
 - Stakeholder engagement and participation in the development of the recommendations and priorities will provide an opportunity to mitigate this issue should it arise.

4.2.4 Specific Methodological Approach

Proposed methodology

A combination of methods will be integrated in this Workstream, including review and analysis of information and data, stakeholder consultation and participation, and expert analysis and assessment. These will be undertaken concurrently and will involve:

Review and analysis

This will be undertaken in two steps, namely:

- Review and analysis of international policy and legal measures relating to rights-based and gender perspectives relevant to ICM.
- Review and analysis of experience gained in recent policy and legislative reform initiatives in Lesotho regarding addressing rights- and gender- based sensitivities relevant to reform of the Rangeland Management Act or implementation of the ongoing process of decentralisation.

This will incorporate:

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- Identifying and reviewing relevant international and regional reports and supporting information to identify pertinent issues (including for example OHCHR Universal Periodic Review (UPR)).
- Mapping of relevant national policies and strategies to identify local issues and determine areas of overlap, synergies and gaps between and across sectors.
- Identification of international and regional benchmarks for good practice to inform recommendations and priorities.
- Analysing past experiences of previous similar processes in Lesotho to inform lessons learned.

The review of a combination of international regional and national literature and policy will inform the identification and analysis of the pertinent issues in Lesotho. This process, together with stakeholder consultation on the pertinent issues, will be used to identify and prioritize the key rights based and gender issues to be addressed in this Workstream, and to refine the design of research questions for interviews and focus group workshops to be undertaken through this Workstream, and reduce the risk of stakeholder fatigue by avoiding replication and duplication.

Data collection and analysis

- The data and information collected in this Workstream will largely be qualitative data and will be collected through a combination of sources including literature and stakeholder engagement.
- Data collection through stakeholder consultation events (including one-on-one interviews and focus group workshops) will be guided by a pre-prepared interview guide to support thoroughness, quality and consistent replication. Records of responses will be carefully recorded and documented. All engagement will be documented (e.g. signed attendance registers and photographs).
- A well-maintained record of the sources of information and data will be developed so that follow up analysis and reviews can be undertaken as needed.
- Interpretation and analysis of data will include both expert driven analysis and participatory analysis by key stakeholders. The participation of key stakeholders will facilitate capacity transfer as well as support buy-in into the recommendations and prioritisation of proposals developed through the Workstream.
- Interim results will be documented and disseminated for comment by key stakeholders (including for example government and international partners) to ensure a rigorous process and transparency.

Stakeholder consultation

This stakeholder consultation process will be undertaken in alignment with the principles outlined in Annex 1 of the Overarching Analytical Framework. This process will incorporate:

- An overview of the relevant stakeholder will be compiled during the inception phase of the project to ensure an inclusive and transparent consultation process.
- A well-maintained record of the sources of information and data will be developed so that follow up analysis and reviews can be undertaken as needed.
- Stakeholders will be consulted at national, district and local levels using a range of participatory tools and techniques.
- Data collection through stakeholder consultation events (including one-on-one interviews and focus group workshops, if possible) will be guided by a pre-prepared interview guide to support thoroughness, quality and consistent replication. Records of responses will be carefully recorded and documented. All engagement will be documented (e.g. signed attendance registers and photographs).
- Interpretation and analysis of data will include both expert driven analysis and participatory analysis by key stakeholders. The participation of key stakeholders will facilitate capacity transfer as well as support buy-in into the recommendations and prioritisation of proposals developed through the Workstream.
- Interim results will be documented and disseminated for comment by key stakeholders (including for example government and international partners) to ensure a rigorous process and transparency.
- A detailed stakeholder engagement plan will be prepared and will be strongly informed by the number and range of stakeholders identified during the inception phase as crucial to the Workstream. Examples will include:

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- Representatives from government departments that are central to ICM (e.g. Agriculture, Water, Forestry and Rangelands, Environment and Tourism, Mining, Energy, Local Government and Chieftainship, etc.) as well as departments particularly relevant to this Workstream such as Ministry of Gender, Youth, Sports and Recreation, and Ministry of Social Development.

The rights and gender issues and challenges identified and addressed through this Workstream will focus on priorities in terms of significance to the overall objectives of the project.

Operationalization within Workstreams

The activities that will be undertaken within the Workstream will focus on answering two key questions:

- What needs to change in terms of laws and policies for a rights based and gender sensitive ICM framework?
- What are priority interventions and strategies to effect these changes?

In answering these questions, the objectives and methodology will be operationalised through the following primary activities:

Review

Activities will include:

- Identify and review relevant international, regional and national literature, policies, strategies etc.
- Identify priority issues critical for mainstreaming gender and the rights of vulnerable and marginalised groups (e.g. youth and livestock herders) into ICM planning and implementation at national, district and local levels.
- Identify strengths and opportunities for promoting and protecting human rights and consideration of gender equality.
- Identify current shortfalls and weaknesses in addressing rights and gender sensitivities.
- Review lessons from past successes and challenges in mainstreaming gender and rights of vulnerable and marginalised groups into policy and strategies
- Consideration of the key gender and rights based issues within as well as across sectors.

Result: This review will highlight the extent to which there is an enabling environment for promoting a rights based and gender-sensitive policy framework for ICM. The results of the review will also inform recommendations in priority issues for a rights based and gender sensitive framework for ICM.

Key issues:

- Consultation and alignment with other Workstreams particularly Policy Harmonization (component 1).
- Use review to develop a clear picture of the local socio-political context in order to be responsive to the political environment in Lesotho and to develop recommendations that consider the known political economy and opportunities and barriers for policy reform.

Situational Analysis and Synthesis

- Situational analysis will support the development of preliminary recommendations regarding priorities changes to rights based and gender in policy and/or legal measures necessary for ICM. This will include an examination of knowledge, resources, capacity, commitment and practices in relation to human rights and gender issues within key institutions across sectors.
- We'd propose that a case study will be undertaken in consultation with national, district, level stakeholders to review the implementation of policy, strategies and plans relating to ICM across these levels. This will inform the assessment of the extent to which national policy and strategies are translating to rights based and gender sensitive implementation of ICN policy on the ground.
- Current shortfalls and weaknesses will be analysed incorporating learning from past experience.
- Strengths and opportunities for promoting and protecting human rights and consideration of gender equality through changes in national policy and strategies will be identified.
- Meetings and workshops with key stakeholders will be held to review the situational analysis and key findings.

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Result: The results of the situation analysis and synthesis will inform recommendations and priorities on changes to policy and strategies to promote a rights based and gender sensitive framework for ICM. The recommendations will be refined and prioritised in consultation with stakeholders with a final set of priorities recommended.

Key issues:

- The selection of the case study sites will be undertaken in consultation with the other key stakeholders to ensure transparency and encourage buy-in and support.
- The case study sites will also be carefully selected and planned together with other Workstreams to build synergies.
- The timing of the case studies will also be synchronised with the stakeholder consultation being undertaken at these sites by the other Workstreams to ensure the stakeholders are not continuously engaged and overwhelmed by the project activities.

Development of recommendations

The outcomes of (a) the review and (b) the situational analysis will be assessed to identify proposals for promoting and protecting human rights and consideration of gender equality through changes in national policy and strategies. This will include informing preliminary recommendations and proposals to harness opportunities, and to address short comings and weaknesses in current ICM policy and practice at national, district and community council levels. Recommendations and proposals will be refined through consultation and workshoping with key stakeholders.

Recommendations for monitoring progress towards implementing the recommendations and proposals for changes to address the priority weaknesses and shortcomings in ICM policy in terms of the rights of marginalised and vulnerable groups and gender sensitivities will also be developed. We propose that this involves:

- Developing a set of Key Performance Areas (KPIs) and indicators to monitor changes towards rights based and gender sensitive approach to ICM.
- Identifying and engaging a potential champion organisation that is best positioned to advocate the implementation changes and mainstreaming of a rights based and gender sensitive approach into ICM policy and practice.

Result:

- Development of a set of recommendations and proposals to address priorities, co-developed with key stakeholders.
- Recommendations on a set of KPIs and indicators to monitor changes and mainstreaming of a rights based and gender sensitive approach into ICM policy and practice.

Key issues:

- Recommendations and proposals will take into consideration the local socio-political context in order to be responsive to the political environment in Lesotho
- Recommendations will consider the known political economy and opportunities and barriers for policy reform.

Finalisation of outputs

The synthesis of the results and outcomes will be refined in consultation with other Workstreams. Final recommendations and proposals to strengthen rights based and gender-sensitive policy and strategies for ICM will be drafted into a report for distribution and comment from stakeholders. Comments and feedback will be incorporated into a final report and products/outputs.

4.2.5 Workstream Steering

Responsible Team Members

- Fonda Lewis (SL)
- Owen McIntyre

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- Thabo Nobala
- Daveshini Padayachee

Organisation of the work

- Fonda Lewis will provide overall technical leadership and input on the workstream.
- Owen McIntyre will provide international expertise particularly reviewing outputs to check for adequate inclusion of the international legal rights framework.
- Thabo Nobala will provide national experience and support, including the lead on stakeholder engagement.
- Daveshini Padayachee will provide regional technical input and expertise.

The team will engage and co-ordinate primarily via email and MS Teams. The sharing of document and written information will be electronic via MS Teams and/or a similar platform established by Particip. It is anticipated that a MS Teams Workstream meeting will be held every two weeks.

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4.2.6 Indicative Timing and Proposed Workplan

Table 10: Workstream 2: Indicative Timing and Proposed Workplan

	Inception Phase		Assessment phase one			Assessment phase two					Finalisation phase		Estimated input days										Description of deliverables / milestones	
	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Team Leader	MCINTYRE, Owen	SEELIG, Robert	KLAASSEN, Wim	LEWIS, Fonda	MOTSAMAI, Bore	SHALE, Ramohapi	LEROTHOLI, Sekhonyana	NOBALA, Thabo	PADAYACHEE, Dee		Total
2. Rights Based Approach														3,5			29,5				20,5	8,5	62	
2.1 Output 1														0,5			2,5			1	1	5		
2.1.1 Preliminary review of literature, reports, policy and strategies on key rights and gender considerations, methods and approaches																0,5				0,5	0,5	1,5		
2.1.2 Workstream discussions with Project Leader and Workstream Team														0,5		0,5					0,5	1,5		
2.1.3 Draft Rights and Gender concept note																0,5				0,5		1		
2.1.4 Present draft concept note to Core Team																0,5						0,5		
2.1.5 Incorporate comments and finalise Concept Note		▲														0,5						0,5	Final Concept Note on Rights and Gender	
2.2 Output 2														1			8			7,5	1	17,5		
2.2.1 Identify and review relevant international, regional and national literature, policies, strategies etc. in close consultation with Workstream 1														0,5		2				3	1	6,5		
2.2.2 Identify and engage (interviews and workshops) key stakeholders on review and situation analysis					■											2				2		4		
2.2.3 Analyse outcomes of review (2.1) and initial stakeholder engagement (2.2.) to identify priority issues critical for mainstreaming gender and the rights of vulnerable and marginalised groups into ICM planning and implementation at national, district and local levels														0,5		2				1,5		4		
2.2.4 Summarise outcomes of review and preliminary situation analysis																						3	Summarise progress towards outcomes of review and preliminary situation analysis, including record of stakeholder engagement to date	
2.3 Output 3														1,5			16			10	6,5	34		

4.2.7 Key Linkages

Linkages with other workstreams

As a cross cutting issue, the Rights and Gender Workstream will be undertaken with careful consultation and planning with all other Workstreams to build synergies. In addition, stakeholder consultation activities will be synchronised with the other Workstreams to ensure the stakeholders are not continuously engaged and overwhelmed by the project activities.

Linkages with other teams, projects, processes

The remainder of the Inception Phase and the start of Assessment Phase One will be used to review and understand projects and processes being undertaken by the GoL and other projects. This will inform the identification of what the potential synergies are and how the Team can achieve linkages and cross-pollination where relevant.

Possibility for capacity building within Lesotho

Potential shadowing processes

During the remainder of the Inception Phase and the start of Assessment Phase One the team will seek to identify and engage a potential champion Ministry/Department within the GoL that is best positioned to advocate the mainstreaming of a rights based and gender sensitive approaches into ICM policy and practice. It is proposed that this may be a Department within the Ministry of Gender, Youth, Sports and Recreation, however this will only be confirmed once the engagement process is initiated. If this is confirmed then it is proposed that representatives from this Department will be provided with the opportunity to shadow the Workstream Team during the phases of the project including the review, situation analysis, stakeholder consultation, and development of recommendations. This shadowing process would also offer the Workstream Team the opportunity to work collaboratively with a key stakeholder. If the Ministry is not able or willing to engage in a shadowing process, alternative opportunities will be explored including branching out into different ministries.

4.2.8 Key Reference Documents

- FAO (2017) Gender mainstreaming and a human rights based approach: Guidelines for technical officers. Food and Agriculture Organization of the United Nations. Budapest.
- GIZ (No Date) Capacity WORKS: The Management Model for Sustainable Development
- GIZ Identifying the Stakeholder Landscape for Integrated Catchment Management in Lesotho. Report of the Planning Workshop for the GIZ Project to Support ICM in Lesotho. Held at GIZ Office Maseru, 16-19 September 2019
- ORASECOM (2019) integration of gender mainstreaming into basin wide integrated water resource management and development. Gender Baseline Assessment and Gap Analysis Report. May 2019 Report No: 2 – ORASECOM
- ORASECOM (2014) Orange-Senqu River Commission Integrated Water Resources Management. Gender Mainstreaming Strategy. September 2014
- UNDP Gender and Water Alliance (No Date) Resource Guide: Mainstreaming Gender in Water Management. www.genderandwater.org
- Lesotho Council of Non-Governmental Organisations (2015) The Status of Women in Lesotho. <http://www.lcn.org.ls>.
- World Vision (1999) Mainstreaming Gender in Water Resources Management: How and Why.
- World Vision (2010) Children's Rights in Lesotho. Stakeholder Report - Submission by World Vision Lesotho and World Vision International For Universal Periodic Review, Eighth Cycle, May 2010

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- Support to Integrated Catchment Management in Lesotho Operational Plan for the First Year of Implementation (2020): Towards a Multi-Stakeholder Partnership November 2019
- The Constitution of Lesotho
- Government of Lesotho - Gender and Development Policy 2018 – 2028
- Government of Lesotho - National Strategic Development Plan 2018/19-2022/23
- The Lesotho Ministry of Gender and Youth, Sports and Recreation National Youth Policy 2017-2030
- Government of Lesotho - Land Act No. 8 of 2010
- United Nation Convention on the Rights of the Child (1989)
- United Nations Convention on the Rights of Persons with Disabilities
-

4.2.9 Key Stakeholders

An overview is provided in the table below.

Overview of Planned Stakeholder Consultation

Table 11: Workstream 2: Overview of Planned Stakeholder Consultation

Name of organisation	Why to consult this organization?	What information is needed?	Planned method of consultation	Planned date of consultation
DONORS AND REGIONAL				
UNDP GEF/SGP	Align with international and regional approaches and strategies	Guidance on strategies and international/regional best practice	Individual discussions	Mainly Assessment Phase One and Two
FAO – Focal Point responsible for NRM Programmes under FAO				
ORASECOM				
NATIONAL GOVERNMENT				
Ministry of Gender, Youth, Sports and Recreation (MGYSR):	Understand national policy and strategy and explore weaknesses and opportunities. Also to explore capacity to champion and take ownership of outcomes and outputs	Guidance on national policy and strategies	Individual discussions and workshops	Mainly Assessment Phase One and Two, and Finalisation Phase
Ministry Forestry, Range and Soil Conservation (MFRSC)	Understand national policy and strategy and explore perceptions on weaknesses and opportunities to change policy to address rights based and gender priorities in ICM	Guidance on national policy and strategies	Individual discussions and workshops	Mainly Assessment Phase One and Two, and Finalisation Phase
Ministry of Water (MoW)				
Ministry of Local Government and Chieftainship (MoLGC)				

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Name of organisation	Why to consult this organization?	What information is needed?	Planned method of consultation	Planned date of consultation
Ministry of Agriculture and Food Security (implementing a number of relevant projects)				
Ministry of Tourism, Environment and Culture (MTEC)				
Ministry of Social Development (Office responsible for Orphaned and Vulnerable Children and other marginalized groups)				
DISTRICT				
District Administrator	Introduce project and secure support for case study	Insights and support	Focus group meetings	Mainly Assessment Phase One
District Council Secretary (DCS – MoLGC)				
District Agricultural Officer (DAO – MAFS)				
District Coordinator (DC – MFRSC)				
NGOs operating at district level etc.	Understanding of perceptions on weaknesses and opportunities to effectively incorporate rights based and gender sensitivities to ICM at district level and how this aligns with national policy and strategy	Insights and specific information on district context	Focus group meetings/workshops	Mainly Assessment Phase Two
Departments of Rural Water Supply & Water Affairs (MoW)				
District Technical Teams (DTTs): In some districts these structures are very effective and responsible				

Name of organisation	Why to consult this organization?	What information is needed?	Planned method of consultation	Planned date of consultation
for coordinated planning and implementation supervision of various joint district level developments.				
LOCAL LEVEL				
Community Council Secretary (CCS) & Community Councils (MoLGC)	Understanding of perceptions on weaknesses and opportunities to effectively incorporate rights based and gender sensitivities to ICM at community level and how this aligns with national policy and strategy	Insights and specific information on community context	Focus group meetings/workshops	Mainly Assessment Phase Two
Area Chiefs				
Grazing Associations / Village Grazing Schemes / Herders Associations / WMGA				
Resource Centres (MAFS)				
Households (one-on-one and FGDs)				
Community based Organizations (CBOs) with focus on women and youth groups etc.				
NGO				
Lesotho Council of Non-Governmental Organizations (LCN): e.g.:	Understanding of perceptions on weaknesses and opportunities to effectively incorporate rights based and gender sensitivities to ICM at	Insights and specific information on district and local context	Focus group meetings/workshops	Mainly Assessment Phase Two

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Name of organisation	Why to consult this organization?	What information is needed?	Planned method of consultation	Planned date of consultation
<ul style="list-style-type: none"> - Agriculture, Environment and Natural Resources Commission (AENRC) - Women and Children’s Commission - Democracy & Human Rights Commission - Health and Social Development Commission - Economic Justice Commission 	<p>district and local level and how this aligns with national policy and strategy</p>			

4.3 Concept note – Workstream 3: Support to Harmonising and Mainstreaming Climate Change Adaptation as a component of successful ICM

Climate Change and adaptation thereto is not addressed consistently in policy and legislation across ICM related sectors in Lesotho. Some have entered it well in their strategies and legislation whilst others have not yet initiated conceptualising climate change adaptation for the sector. This implies that capacities to operationalise and implement climate change adaptation vary considerably between the sectors, ministries, and departments. This skewed condition between ICM related sectors and ministries results from lack of overall governmental coordination and mainstreaming of CCA in sectoral policies as well as not regarding CCA as cross cutting. It is of interest that at local level ICM practitioner groups have organised themselves, e.g. Mafeteng district and are meeting regularly and implementing small ICM related projects. These initiatives will be included in the vision development by the workstream. WS 3 will contribute to mapping of national, regional and international policy and strategies in view of adequacy of CCA concepts and provide recommendations for the way forward towards mainstreaming climate change adaptation as a successful component to ICM. The process will incorporate stakeholder participation to ensure relevance and support for the priorities and recommendations. Even though Lesotho does have its distinct policies and regulation, CCA may be more than possibly other areas of legislation and policy intertwined with South Africa due to shared climatic conditions and land and water conditions and use which are to some extent comparable. Against this background the regional, SADC point of entry and experience will be most relevant.

4.3.1 Objectives of Workstream

- The objectives of this Workstream are:
 - To support harmonising and mainstreaming climate change adaptation into policy relevant to ICM. This involves analysing the extent to which climate change adaptation is consistently incorporated into a holistic catchment perspective of ICM, and in line with the regional and national policy for sustainable land and water planning and management. This harmonising and mainstreaming also involves identifying policy gaps, redundancies or conflicts across sectors relevant to ICM.
 - To support harmonising and mainstreaming of ICM principles into climate change adaptation policies and strategies. This involves identifying gaps and challenges to including ICM as a key component to climate change adaptation practices and interventions.
- This Workstream will align with the objectives highlighted in the ICM support Operational Plan 2020 and support its implementation, which involves the analysis of climate change adaptation practices, options, constraints and capacity.
- Analysis will include ways to create an enabling environment for climate change resilient ICM, and exploring the policies required to achieve this.
- Recommendations will be aligned with the current policy formulations for climate change adaptation in Lesotho as well as regional and international policy and strategies for ICN and climate change resilience.
- Recommendations will consider priorities for harmonising and mainstreaming climate change adaptation for ICM into regulations and by-laws on the local level.
- The process will incorporate stakeholder participation to ensure relevance and support for the priorities and recommendations.

4.3.2 Scope of work

The impacts of climate change are global in scale and exert significant effects on water cycles worldwide by changing the seasonal pattern of water resources. Therefore, ICM plays a key role in supporting adaptation to climate change impacts, while in turn adaptation is a critical component towards building resilience to climate change.

There is extensive evidence of Lesotho's vulnerability to climate change, including for example the increasing frequency of natural disasters such as droughts and floods, diminishing water resources (perennial springs,

robust rivers and many dams), acceleration of soil loss and land degradation, and a steady decline in farming that is a key livelihood strategy in rural areas. Numerous initiatives by individual actors are being undertaken by Lesotho to address the climate change challenge, including policy development, strategic plans, and on the ground implementation of adaptation interventions, however without high level guided policies and legislation.

Lesotho ratified the United Nations Framework Convention on Climate Change (UNFCCC) in February 1995 and has a number of policies and measures in various sectors which are closely aligned with the objectives of the UNFCCC. For example, the National Adaptation Programme of Action was drafted in 2007, and the first National Strategic Development Plan (NDSP) was initiated in 2011. The National Environment Act of 2008 provides the necessary legal framework for the protection and conservation of the Environment and aims to enhance the resilience of the country to extreme weather events and other environmental disasters.

In 2017, the National Climate Change Policy was drafted which aims to enhance environmental sustainability and enhance socio-economic resilience. Additionally, the second National Strategic Development Plan (NSDP II) was prepared which emphasises the need to reverse environmental degradation and to adapt to climate change.

The adverse impacts of climate change affect regional vulnerability and water security. Effective climate change adaptation in Lesotho is therefore of regional significance. It is therefore strategically important that policies and strategies relating to climate change adaptation and ICM in Lesotho are also aligned with regional goals and priorities.

Mainstreaming climate change adaptation into relevant areas of public policy is a priority towards building resilience (i.e. poverty alleviation, protection of natural resources, etc).

However, it is a long-term process that involves, for example, integration into sectoral planning and implementation of specific adaptation options. The focus of this Workstream is therefore twofold:

- to promote and support harmonisation and mainstreaming climate change adaptation in policy and regulations relating to ICM across sectors, at national and local level.
- to integrate ICM principles into climate change adaptation policy, strategies and plans across sectors relevant to ICM.

This will involve the review of the extent and consistency to which climate change adaptation is currently integrated into national and local level ICM legislation and policies and vice versa. The outcomes of the review will inform recommendations and proposals for harmonising and mainstreaming climate change adaptation and ICM so as to create an enabling environment that supports the long-term implementation of interventions that enhance resilient ICM and climate change adaptation.

The recommendations and proposals developed through this climate change adaptation workstream will take into consideration the criteria against which fitness for purpose of the existing legislative and policy framework in Lesotho may be assessed, as outlined in the Overarching Analytical Framework, namely:

- Effectiveness,
- Holistic, cross-sectoral,
- Proportionality,
- Currency,
- Consistency,
- Participatory (ensuring equitable participation).

The general approach of this Workstream will align with the Overarching Analytical Framework. This Framework will guide and provide a broad structure to the activities to be undertaken in this Workstream, including the need for each Workstream to access and utilise the information compiled, and conclusions reached by the other Workstreams.

This scope of work will therefore include the following key components:

- Review and analysis of recent climate change adaptation policy development and legislative reform initiatives in Lesotho with regards to sectors relevant to ICM.
- Identification and collation of international and regional policy and legal measures relating to harmonising and mainstreaming climate change adaptation into relevant aspects of ICM.
- Review national policy and legal measures relating to climate change adaptation and ICM, to analyse the current extent of harmonisation and mainstreaming, and to identify conflicts, gaps, inconsistency, and redundancy.

- Review and analyse on-the-ground efforts towards climate change adaptation relevant to ICM, and draw lessons learned to inform recommendations towards the way in which policy can create an enabling environment for upscaling and replicating successful adaptation interventions.
- Targeted stakeholder consultation (in accordance with principles set out in Annex I of the analytical framework and as outlined in the stakeholder engagement plan in Table 6 below).
- Development of preliminary recommendations and proposals regarding addressing priority issues for harmonising and mainstreaming climate change adaptation into ICM in Lesotho.
- Wider stakeholder consultation (in accordance with principles set out in Annex I of the Overarching Analytical Framework as outlined in Table 6 below).
- Finalisation of outputs on priority rights based and gender-sensitive aspects of ICM.

4.3.3 Potential risks and mitigation strategies

- Government Ministries currently tend to operate within silos and there is limited integration and cooperation across Ministries, and even across Departments within Ministries. Integration across ministries will be challenging particularly within the timeframes of the project.
 - The NCCC is a national multi-sectoral climate change coordinating body with the responsibility to coordinate development and implementation of policies, plans and measures to address climate change issues in Lesotho. Therefore, working closely with the NCCC will be key to mitigating the risks tied to the lack of coordination/cooperation and to working towards mainstreaming across Ministries and Departments.
 - Engagement with a wider stakeholder group will also help to address this challenge for example working with non-government stakeholders such as NGOs, donors, and LHDA.
 - Close liaison with the NTS as well as the other workstream teams is also important in this regard.

4.3.4 Specific Methodological Approach

Proposed methodology

The starting point will be to consider available information on Lesotho's country climate profile. Existing documentation and research will be reviewed to this end. This information should serve as an initial reference guide to highlight historic, present, and projected climate information. This will facilitate stakeholder engagement as stakeholders will be aware of such background information.

The proposed methodology includes a combination of (a) review and analysis of policy and information, (b) stakeholder consultation and participation, and (c) expert analysis and assessment. These will be undertaken concurrently and will involve:

a) Review and analysis

This will be closely aligned with the overarching Analytical Framework, and will include:

- Review and analysis of international, regional and national policy and legal measures relating to climate change adaptation perspectives relevant to ICM.
- Review and analysis of recent climate change adaptation policy development and legislative reform initiatives in Lesotho with regards to incorporating the principles of ICM.
- Review national policy and legal measures relating to climate change adaptation across sectors relevant to ICM, to analyse the current extent of harmonisation and mainstreaming, and to identify conflicts, gaps, inconsistency, and redundancy.
- Review regional on-the-ground efforts towards climate change adaptation as a component of successful ICM to inform recommendations towards the way in which policy can create an enabling environment for upscaling and replicating successful adaptation interventions.
- Development of preliminary recommendations and proposals regarding addressing priority issues for harmonising and mainstreaming climate change adaptation as a component for successful ICM in Lesotho.
-

This review will further incorporate:

- Identification and collation of international and regional policy and legal measures relating to harmonising and mainstreaming climate change adaptation into relevant aspect of ICM and vice versa.
- Mapping of relevant national policies and strategies to determine areas of overlap, synergy, conflicts, omission or other issue for creating an enabling policy environment for climate change adaptation as a component of successful ICM.
- Identification of international and regional benchmarks for good practice to inform recommendations and priorities for harmonising and mainstreaming climate change adaptation into ICM.

The information collected and analysed in this review will largely be qualitative data and will be collected through a combination of sources including online and printed documents, literature, and stakeholder engagement.

b) Stakeholder engagement and consultation

This stakeholder consultation process will be undertaken in alignment with the principles outlined in Annex 1 of the Overarching Analytical Framework.

The National Climate Change Coordination Committee (NCCC), Ministry of Energy and Meteorology (MEM), and Lesotho Meteorological Services (LMS) are the main institutions mandated to undertake the coordination and mainstreaming of climate change adaptation in Lesotho. The NCCC is a national multi-sectoral climate change coordinating body with the responsibility to coordinate development and implementation of policies, plans and measures to address climate change issues in Lesotho. As such the stakeholder engagement and consultation undertaken through this workstream will focus primarily on these key stakeholders in order to align with and support their mandates. Where necessary, the stakeholder engagement will be expanded to a wider group but will be undertaken in collaboration with the relevant representatives from the key stakeholder institutions.

This stakeholder consultation process is planned to include:

- An overview of stakeholders will be compiled during the inception phase in consultation with the NCCC, LMC and MEM to ensure an inclusive and transparent consultation process.
- Data collection through stakeholder consultation events (including one-on-one interviews and focus group workshops) will be guided by a pre-prepared interview guide to support thoroughness, quality and consistent replication. Records of responses will be carefully recorded and documented. All engagement will be documented (e.g. signed attendance registers and photographs).
- A well-maintained record of the sources of information and data will be developed so that follow up analysis and reviews can be undertaken as needed.
- The participation of key stakeholders will facilitate capacity transfer as well as support buy-in into the recommendations and prioritisation of proposals developed.
- Interim results will be documented and disseminated for comment by key stakeholders (including for example government and international partners) to ensure transparency.
- A detailed stakeholder engagement plan will be prepared and will be strongly informed by the number and range of stakeholders identified during the inception phase as crucial to the Workstream.
- Due to the limited timeframe and resources, this Workstream will focus on climate change adaptation priorities in terms of significance to the overall objectives of the project.

The recommendations and proposals for changes that will support harmonising and mainstreaming climate change adaptation and ICM will be refined through consultation with the key stakeholders. This will be undertaken in two parts, namely collaborating with the NCCC and a limited number of key stakeholders on embedding ICM principles into climate change adaptation policy and strategies so as to create an enabling environment for ICM (mainly during assessment phase 1). Secondly, to engage with the NCCC and key stakeholders including key Ministries, donors and NGOs to raise awareness and support for harmonising and mainstreaming climate change adaptation across sectors as a successful component of ICM (mainly during assessment phase 2).

Operationalization within workstreams

The objectives and methodology will be operationalised through the following primary activities:

a) Review and analysis

Extensive policy and strategies have been developed internationally, regionally and nationally to inform climate change adaptation including for example:

- International
 - United Nations Framework Convention on Climate Change
 - IPCC International Cooperation Agreements and Instruments
- Regional
 - SADC Climate Change Yearbook 2016
 - SADC Policy Paper on Climate Change: Assessing the policy options for SADC member states (2012)
 - Southern Africa Sub-Regional Framework of Climate Change Programmes Adaptation and Mitigation Actions, Supported by Enabling Measures of Implementation (2010)
 - Support to Phase 2 of the Orasecom Basin-Wide Integrated Water Resources Management Plan Work Package 4: Climate Change in the Orange-Senqu River Basin - Projection of Impacts under Plausible Scenarios and Guidelines on Climate Change Adaption Strategies
- National
 - Lesotho National Climate Change Policy (2017)
 - National Climate Change Policy Implementation Strategy (2017)
 - Lesotho's Nationally Determined Contribution (2017)
 - Lesotho's Second National Communication to the Conference of Parties of the UNFCCC (2013)
 -

The first step in the review will be to expand this initial list of material to ensure the key policies and documents are included in the review. This workstream will then focus on drawing on these to support the analysis of current policy and strategy in Lesotho, including identifying and analysing shortcomings and weaknesses in terms of harmonising and mainstreaming climate change adaptation into ICM, and addressing ICM risks and vulnerabilities linked to climate change. Secondly, where robust policy and strategies exist and national level, challenges and weaknesses with implementation will be explored, including actions within and collaboration across sectors.

An overview will also be prepared reflecting on the key reforms and changes that have occurred in recent policy developments that are relevant from a climate change adaptation perspective. Factors that have triggered such developments will be assessed as well as the results and consequences. This will also inform the identification of factors adversely impacting successful outcomes. This will help to identify opportunities and decisive success factors for mainstreaming climate change adaptation into ICM related policies and strategies.

b) Synthesis and development of recommendations and proposals

The synthesis of the review and analysis will inform the identification of preliminary recommendations regarding priorities for policy changes to improve harmonisation in the way climate change adaptation is addressed across sectors relevant to ICM, and to address current conflicts, gaps or weaknesses for mainstreaming climate change adaptation as a successful component of ICM.

These recommendations will be developed in consultation with the key stakeholders. The recommendations will inform the development of proposals for changes to policy that will support the harmonising and mainstreaming of climate change adaptation across all relevant sectors. These proposals will be refined through consultation and workshoping with the key stakeholders.

c) Development of database and repository

An annotated database and repository of key relevant policy and legislative instruments and supporting reports and documentation will be developed and transferred to the key stakeholders (with the NCCC as custodians) as a resource to support the on-going mainstreaming process beyond the project.

d) Finalisation of outputs

The synthesis of the results and outcomes will be refined in consultation with other Workstreams, particularly Workstream 1 (National Policy Harmonisation). Final recommendations and proposals to support mainstreaming of climate change adaptation into policy across the sectors relevant to ICM will be drafted into a report for distribution and comment from stakeholders. Comments and feedback will be incorporated into a final report and products/outputs.

4.3.5 Workstream Steering

Responsible Team Members

- Fonda Lewis
- Wim Klaassen
- Owen McIntyre
- Sekhonyana Lerotholi

Organisation of the work

- Fonda Lewis will provide overall technical leadership and coordination of the workstream.
- Wim Klaassen will provide technical input and expertise based on his in-country experience.
- Owen McIntyre will provide international expertise particularly reviewing outputs to check for adequate inclusion of the international policy framework.
- Sekhonyana Lerotholi will provide national experience and support, including the lead on stakeholder engagement.

The activities will be undertaken in accordance with the workplan. The team will engage and co-ordinate primarily via email and MS Teams. The sharing of documents and written information will be electronic via MS Teams and/or a similar platform established by Particip. It is anticipated that a MS Teams Workstream meeting will be held every two weeks to enhance coordination and information sharing within the team.

4.3.6 Indicative Timing and Proposed Workplan

Table 12: Workstream 3: Indicative Timing and Proposed Workplan

		Inception Phase		Assessment phase one			Assessment phase two					Finalisation phase		Estimated input days							Description of deliverables / milestones			
		Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Team Leader	MCINTYRE, Owen	EFFING ROBERT	KLAASSEN, Wim	LEWIS, Fonda	MOTSAMAI, Bore	SHALE, Ramohapi		LEROTHOLI, Sekhonyana	NOBALA, Thabo	PADAYACHEE, Dee
3	Climate Sensitive Approach													9	10	24			19				62	
3.1	Output 1: Final CN with final list of Stakeholders													0,5	4	1			2				7,5	
3.1.1	draft CN completed													0,5	2	0,5			0,5				3,5	
3.1.2	final CN completed		▲													1	0,5						1,5	Final Concept Note
3.1.3	Stakeholder (SH) engagement protocol with tentative time planning of interviews finalised															1			1,5				2,5	
3.2	Review of policies/legislation (regards ICM focus)													3	2	8			6				19	
3.2.1	Identification and review of key reference documents at international, regional and national levels															0,5	2		2				4,5	
3.2.2	Analysis of literature, recent policy and regulatory developments, as well as on-the-ground climate change adaptation interventions															1	3		2				6	
3.2.3	Assessing alignment of national policies to regional and International Instruments, and analysing shortcomings and weaknesses in terms of harmonising and mainstreaming climate change adaptation as a successful component to ICM													2		1			1				4	
3.2.4	Summarize outcomes of review and of preliminary recommendations regarding priorities for policy changes to address current gaps or weaknesses for harmonising and mainstreaming climate change adaptation as a successful component of ICM													1	0,5	2			1				4,5	Summary of document study
3.3	Broad Stakeholder consultation with feed-back													4,5	2,5	9			9				25	
3.3.1	Preparation of SH-specific interview guides													1,5	0,5	1			1				4	
3.3.2	SH Interviews with key stakeholders conducted to support analysis and preparation of recommendations and identification of priorities													1	1	4			3,5				9,5	
3.3.3	Interview notes discussed, summarised and reported													1	1	2			3,5				7,5	
3.3.4	Virtual SH-conference with key SH for development of proposals for changes to policy that will support the mainstreaming of climate change adaptation in ICM across all relevant sectors													1		2			1				4	
3.4	Reporting Phase: Synthesising of results from policy/legislation research with conclusions from SH consultation													1	1,5	6			2				10,5	
3.4.1	Revision and confirmation of findings/conclusions policy/legislation study																1						1	
3.4.2	Revision and confirmation of findings/conclusions from SH consultation																1						1	
3.4.3	Feedback of information to Key Stakeholders;																1						1	

3.4.4	Drafting of final report aligned with the Stream objective in CN; and finalisation of the annotated database and repository of key relevant policy and legislative instruments, and supporting reports and documentation				▲ ▲		1	1,5	3	2	7,5	Final report on climate sensitive approach
						TOTAL	9	10	24	19	62	
Reports / products to be submitted ▲ Final report to be submitted ▲ Workshops/Seminars■												

4.3.7 Key Linkages

Linkages with other workstreams

Workstream 3 on Climate Change Adaptation will link closely with Workstream 1 (National Policy Harmonisation). Workstream 3 will also work closely with Workstream 4 in terms of identifying legal instruments for mainstreaming climate change adaptation into local level action, and Workstream 6 on potential financing mechanisms for incorporating climate change adaptation into ICM. Workstream 3 will also draw on Workstream 2 to ensure recommendations and proposals developed take into consideration key rights based and gender considerations.

Linkages with other teams, projects, processes

- The remainder of the Inception Phase and the start of Assessment Phase One will be used to review and understand projects and processes being undertaken by the GoL and other projects. This will inform the identification of what the potential synergies are and how the Team can achieve linkages and cross-pollination where relevant.
- Various policies and studies have been conducted in the water/IWRM sector. Examples include Review of the Soil and Water Preservation Policy; review of the National Wetlands Conservation Strategy, etc.
- Relevant will be the work done by Syspons in view of the governance structure, GWP on regional - SADC/Orasecom policy harmonisation.
- International and local NGOs will be engaged with via focus group meetings / workshops a view to explore their experience of the effectiveness of climate change adaptation policy on the ground, e.g. CRS and Lesotho Council of NGOs;
- Donors such as World Bank, FAO, others.

Possibility for capacity building within Lesotho

During the Assessment Phase One the team will identify and engage with the Lesotho Climate Change Coordination Committee (LCCC) to introduce the project and its objectives. The LCCC is a key stakeholder and represents a range of important stakeholder groups. The opportunity for a shadowing process will be discussed and the representatives from relevant departments will be identified to work collaboratively with the Workstream Team.

4.3.8 Key Reference Documents

Initial provisional list:

- United Nations Framework Convention on Climate Change
- IPCC International Cooperation Agreements and Instruments
- SADC Climate Change Yearbook 2016
- SADC Policy Paper on Climate Change: Assessing the policy options for SADC member states (2012)
- Southern Africa Sub-Regional Framework of Climate Change Programmes Adaptation and Mitigation Actions, Supported by Enabling Measures of Implementation (2010)
- Support to Phase 2 of the Orasecom Basin-Wide Integrated Water Resources Management Plan Work Package 4: Climate Change in the Orange-Senqu River Basin - Projection of Impacts under Plausible Scenarios and Guidelines on Climate Change Adaption Strategies
- Lesotho National Climate Change Policy (2017)
- National Climate Change Policy Implementation Strategy (2017)
- Lesotho's Nationally Determined Contribution (2017)
- Lesotho's Second National Communication to the Conference of Parties of the UNFCCC (2013)
- Ministry of Energy, Meteorology and Water Affairs, Lesotho (2013); Second National Communication of Lesotho to the UNFCCC; <http://unfccc.int/resource/docs/natc/lsncc2.pdf>

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- Ministry of Natural Resources, Lesotho (2007); National Adaptation Programme of Action (NAPA); <http://unfccc.int/resource/docs/napa/lso01.pdf>
- Government of Lesotho (GOL). National Strategic Development Plan II 2018/19 to 2022/23.
- LMS (2018). Guidelines for the integration of climate change in national, sectoral and local plans, Ministry of Energy and Meteorology
- Government of Lesotho (GOL). National Strategic Development Plan II 2018/19 to 2022/23.
- Ministry of Energy, Meteorology and Water Affairs, Lesotho (2013); Second National Communication of Lesotho to the UNFCCC
- Ministry of Energy, Meteorology and Water Affairs, Lesotho (2020); Third National Communication of Lesotho to the UNFCCC (Draft final report).
- LMS (2018). Guidelines for the integration of climate change in national, sectoral and local plans, Ministry of Energy and Meteorology.
- Ministry of Energy and Meteorology/Lesotho Meteorological Services (LMS) (2016) Final Report: Policy Analysis, Improvement of Early Warning System to Reduce Impacts of Climate Change and Capacity Building to Integrate Climate Change into Development Plans (IEWIS)

4.3.9 Key Stakeholders

Primary stakeholder on whom engagement will focus include:

- NCCC: National Climate Change Coordination Committee²⁰⁸
- LMS: Lesotho Metrological Services:
- MEM: Ministry of Energy and Meteorology

Secondary stakeholder consultation will be undertaken if required and could include:

- CoW: Commissioner of Water
- CRS: Catholic Relief Services
- DRS: Department of Rural Water Supply
- DWA: Department of Water Affairs
- LHDA: Lesotho Highlands Development Authority
- LHWP: Lesotho Highlands Water Project
- LCN: Lesotho Council of Non-Governmental Organizations (LCN)
- MoLGCA: Ministry of Local Government and Chieftainships affairs
- MTEC: Ministry of Tourism, Environment and Culture
- MAFS: Ministry of Agriculture and Food Security
- MEMWA: Ministry of Energy, Meteorology and Water Affairs
- MFRM: Ministry of Forestry, Range and Soil Conservation
- NUL: National University of Lesotho
- UN agencies: UNDP, FAO
- WASCO: Water and sewerage company
- NGOs: Lesotho Council of NGOs (LCN)

²⁰⁸ The NCCC is a national multi-sectoral climate change coordinating body with the responsibility to coordinate development and implementation of policies, plans and measures to address climate change issues in Lesotho.

Overview of Planned Stakeholder – selected -

Table 13: Workstream 3: Overview of Planned Stakeholder-selected-consultation

Name of organisation	Why to consult this organization?	What information is needed?	Planned method of consultation	Planned date of consultation
Primary stakeholder consultation will focus on through stakeholder groups:				
National Climate Change Coordination Committee	The NCCC is a national multi-sectoral climate change coordinating body with the responsibility to coordinate development and implementation of policies, plans and measures to address climate change issues in Lesotho.	Insights into key priorities and challenges in mainstreaming climate change adaptation into policy and practice across the sectors	Workshops	Assessment Phase 1 and 2 (quarterly, more if required)
Lesotho Meteorological Services (LMS)	The role of the LMS is to observe and understand Lesotho's weather and climate and provide meteorological services in support of Lesotho's needs and international obligations.			
Ministry of Energy and Meteorology (MEM)	MEM is the coordinating agency charged with the responsibility of monitoring and reporting on weather, climate and climate change issues. In addition, MEM is the UNFCCC focal point			
Commissioner of Water (COW)	In charge of sector wide policy and sector planning	Extent to which climate change adaptation currently addressed in policy and strategy linked to ICM	Meeting	
Secondary stakeholder consultation will be undertaken if required and could include:				
Ministry of Water Affairs	Initiated the ICM Coordination Project	Extent to which climate change adaptation currently addressed in policy and strategy linked to ICM	Meeting	Assessment Phase 2
Lesotho Highlands Development Authority (LHDA)	Operating highly strategic water reserves and export management, including ICM project implementation	Extent to which climate change adaptation currently addressed in policy and strategy linked to ICM		Assessment Phase 2

Disaster Management Authority	Responsible for planning and disaster response	Policy relating to response plans around climate change impacts	Meeting	Assessment Phase 2
Ministry of Tourism, Environment and Culture	Responsible for Environmental planning/management activities	Extent to which climate change adaptation currently addressed in policy and strategy linked to ICM	Meeting	Assessment Phase 2
Department of Forestry, Range and Soil Conservation	Responsible for soil and water conservation	Extent to which climate change adaptation currently addressed in policy and strategy linked to ICM	Meeting	Assessment Phase 2
Ministry of Agriculture and Food Security	Agricultural development in Lesotho	Extent to which climate change adaptation currently addressed in policy and strategy linked to ICM	Meeting	Assessment Phase 2
Ministry of Local Government and Chieftainship Affairs	Responsible for policy and legislation governing local government	Extent to which climate change adaptation currently addressed in policy and strategy linked to ICM	Meeting	Assessment Phase 2
Ministry of Finance	Responsible for planning and budgeting of all government activities	Extent to which budgets for implementing policy and strategy objectives linked to ICM currently incorporate consideration of climate change	Meeting	Assessment Phase 2
UNDP Lesotho	Supports government in general development programmes and initiatives	Influence of international, regional and national climate change policy on programmes and projects relating to ICM	Meeting	Assessment Phase 2
FAO Lesotho MCC WB	Supports government in agriculture and land management programmes and initiatives	Influence of international, regional and national climate change policy on programmes and projects relating to ICM	Meeting	Assessment Phase 2
Lesotho Council of Non-Governmental Organisations (LCN)	Council of Non-governmental Organisations, some members involved with implementation of CCA	Impact of Climate Change Policy on ICM related projects and activities	Workshop	Assessment Phase 2

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Catholic Relief Services (CRS)	Extensive experience in ICM with CCA components	Impact of Climate Change Policy on ICM related projects and activities	Workshop	Assessment Phase 2
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4.4 Concept note – Workstream 4: Decentralisation Cluster

4.4.1 Objectives of Workplan

It is elaborated within the legislative and policy framework of Lesotho that “integrated catchment management” (ICM) involves an holistic approach to sustainable land and water planning and management which adopts a catchment perspective, in contrast to a traditional piecemeal approach that artificially separates the management of land, water and other natural resources. Lesotho’s 2016 Long-Term Strategy for Water and Sanitation Sector describes ICM as:

‘The integrated planning for sustainable development and management of land, water and natural resources in the catchment areas for the rivers in Lesotho. The aim is economic development and improved livelihood by sustainable management of water resources and land.’²⁰⁹

Workstreams 4 and 5 have merged, into one, to implement the key local level activities 1.3 and 1.5, which are:

1.3 Development of a regulatory framework for the use of land and water resources

- Study of local-level regulations of land and water use (incl. Review of user rights and obligations, formal and informal).

1.5 Support community councils to pass by-laws

- Study options to enable community councils for local level ICM implementation by enacting local-level regulation (by-laws).

Page 8, pt 1.3. of the “Study of operational plan (Nov. 2019)” mentions “Study” of local-level regulations of land and water use, and review of user rights and obligations (formal and informal), and a draft of a review report with recommendations for interventions as output. This is understood to be activity 1.3., stream 4. The TOR require this study and then in a next, inseparable step, the development of a regulatory framework. The tools for this will be the legal review, and drafting legislative proposals under 1.3., and the support to Community Councils in drafting by-laws under 1.5. Guidelines for bylaw making will be developed in support of the Councils to draft their respective by-laws.²¹⁰

4.4.2 Scope of work

- The workstream will study, review and identify Local Government legislation for overlaps, duplications and gaps, within and with other sectoral legislation including the Chieftainship Act.
- Recommendations for bylaw-making will be developed to support community council to develop their own by-laws. We’d like to propose to broaden the scope of the current ToR as outlined in section 2.3.1. and also develop clear guidelines to enable CCs to develop their own by-laws, identify pilot areas for implementation, and guide councils to develop regulatory by-laws on use of land and water resources.

4.4.3 Potential risks and mitigation strategies

- Although the Covid-19 emergency situation seems to be subsiding somewhat, there is a risk that with relaxation of lockdown restrictions, there could be an upsurge in infections. This could lead to further restrictive measures introduced. Consultative process can then be negatively affected.

²⁰⁹ Long-Term Strategy for the Water and Sanitation Sector (2016), at 15. The Long-Term Strategy lists the establishment of “catchment management” first among the Key Focus Areas (KFAs) set out therein.

²¹⁰ Under activity 1.5., it is our understanding that the support to CCs will require legal drafting to some extent. The TOR did not envisage this, as they only mention “support” of CCs to pass by-laws through “studying options” to enable CCs. We think however that support in enacting by-laws will depend on starting the procedure of legal drafting with small dedicated drafting teams. The actual formal enactment of, by-laws, and schedules, will take significantly more time than the 11 months foreseen and will not be part of this technical assistance. However, we think that organizing and starting a collaborative drafting process, reflecting the principle of shadowing processes, will be the activity and output needed to effectively support the CCs in preparing needed legislation (by-laws and schedules). This additional work will require additional work days, subject to approval from the GIZ (see also Section 2.3.1).

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- Mitigation: Instead of holding workshops, meetings would be arranged with focus groups. These would attract fewer participants, allowing for the observance of Covid-19 health rules. These could, in a worst case scenario, also take place remotely.
- Selection of community council and other local stakeholders for consultations could meet with resistance due to due fatigue inflicted by previous such activities. Quite often these may have lacked realisation of tangible benefits to-date.
- Mitigation: as explained above under section 2.3.2., the selection of CCs is critical, and the potential benefit of collaborative reviews and later drafting must be explained. The CCs need to be representative for all 64 CCs in Lesotho, as the review and legal drafting process must be scalable. It is assumed here, that GIZ has already put much effort in the past in selecting the six priority sub-catchment areas and hence has experience with determining and applying criteria that are essential for the selection of representative CCs. Essential criteria will inter alia be, that selected CCs must represent the four ecological zones, and should be representative regarding the available budget, experience, interests, and other criteria that will need to be determined. It is planned to use one or several of the six priority sub-catchment areas and the respective CCs that form part of them. Mitigation of stakeholder fatigue will require selecting the ones that are willing and motivated to actively partake in the review and drafting.
- Another risk is that the current decentralisation reform is not evolving as planned. Empowering local communities in ICM management is mainly about decentralization, hence this risk has much potential for adverse impacts on the work conducted. The shifting of responsibilities, mandates and competencies can be a politically sensitive process that is often highly politicised.

Two main mitigation measures are currently considered, others will be identified and eventually put into use during assessment phase 1:

Firstly, the initial focus of the work will be directed towards the technical level to avoid risks on the level of political economy as far as possible.

Secondly, the Consultant will undertake to involve all relevant players as early as possible to make everybody feel involved and consulted. This will be needed on all levels, national, district and community levels. For instance, eventual public hearings will be used to inform the public and decision makers of the benefits related to the proposed legal mechanisms, and the benefits from being actively involved in the review and drafting process. Political (economy) risks can however never be fully avoided. This approach of focussing on the technical level first while being transparent to all players allows for time to adapt to what will be recommended by the Consultant at the end of the project period.

4.4.4 Specific Methodological Approach

The methodological approach is intended to guide, and provide a broad structure to, the activities of this Workstream in order that each it may access and utilise the information compiled, and conclusions reached by the other Workstreams.

- Review and analysis of experience gained in recent policy and legislative reform initiatives in Lesotho (e.g. regarding new Rangeland Resources Management Policy or implementation of the ongoing process of decentralisation):
 - Development of understanding of political, economic and social context of policy and legislative reform;
 - Identification of risks, bottlenecks and factors adversely impacting successful outcomes;
 - Identification of opportunities and factors/enablers contributing to successful outcomes;
 - Elaboration of suitable strategy to facilitate successful development of bylaw-making guidelines for community councils.
 - As the consultant conducts the legal review and later proposes options and recommendations for enacting CC level by-laws, the work will be closely coordinated with ongoing legal review and legal drafting activities. In particular, support by the Consultant will be provided to ongoing processes, especially but not restricted to eventual legal drafting activities, and ongoing decentralization activities relevant to ICM policy harmonisation. It must be remembered, and the Consultant will ensure this in his collaboration and support activities, that the water sector is an important but not the only sector in ICM.
- Identification and collation of policy and legal measures relating to (relevant aspect of) ICM:

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- Close cooperation with project team and client / project steering committee;
- Immediate collaboration mapping to substantiate current development of legal framework - mapping GIZ and other ICM-related projects currently ongoing;
- Development of comprehensive database and repository of key relevant policy and legislative instruments, and supporting reports and documentation;
- Identification of relevant regional and international commitments and best practice; Identification of information gaps and formulation of a strategy to address such gaps and deficits.
- Review and analysis of policy and legal measures relating to (relevant aspect of) ICM:
 - Review substantive content and instrument design having regard to national policy, national legislation, and international and regional best practice;
 - Review record / likelihood of effective implementation having regard to (relevant) assessment criteria set out above;
 - Review record / likelihood of effective enforcement;
 - Review record / likelihood of broad public acceptance and awareness;
 - Review operation of community council arrangements;
 - Review past experience in Lesotho regarding establishment of ICM in particular and, more generally, regarding policy and legislative implementation and enforcement.
- Targeted stakeholder consultation (structured workshop or focus group consultations):
 - Identification of key relevant stakeholders in cooperation with project team and client/project steering committee;
 - Structured survey regarding veracity of initial findings, regarding the true situation in terms of implementation status of key measures, regarding institutional constraints, and/or regarding any other relevant facts and circumstances;
 - Invite suggestions regarding the way forward.
- Development of preliminary recommendations regarding drafting of community council by-laws necessary for ICM implementation in Lesotho:
 - Identify shortcomings in the legislative framework for (relevant aspect of) ICM on the basis of the findings of the above review and analysis;
 - Identify proposals to address such shortcomings, whilst contributing to the elaboration of a coherent legislative framework for ICM;
 - Although not envisaged in the TOR, and provided that the needed, additional expert input is made available: Prepare guidelines for drafting of by-laws and formulate text for detailed proposals for necessary legislative instruments [Currently discussed with GIZ];
- Wider stakeholder consultation (workshop or focus group consultations):
 - Consultation to elicit feedback on preliminary recommendations, having specific regard to assessment criteria set out above;
 - Utilise opportunity to raise awareness amongst key stakeholders of the policy and legislative framework for ICM.
- Finalisation of outputs:
 - Proposals / recommendations refined in the light of wider stakeholder feedback;
 - Proposals / recommendations refined in light of overarching need for coherence of legislative framework (community council by-laws) for ICM.

4.4.5 Proposed methodology

The first step will be to review and analyse the local regulatory framework (LRF) on land and water use against:

1. National level framework legislation and policy (inter alia, not restricted to the Water Act of 2008, the Lesotho Water and Sanitation Policy of 2007 (LWSP), and the Long Term Water and Sanitation Strategy of 2016 (LTWSS), Local Government Act, Finance Regulations, Range Resources Management and Policy, Environment Act of 2008, Decentralisation Policy, livestock impoundment law, draft Soil and

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Water Conservation Policy, Forestry Policy, conservation of nature and land use and physical planning policy/strategy. This will be achieved in collaboration with Stream 1.

2. Best practice from region and eventually internationally (it is official SADC policy to harmonize law and policy of its members).
3. Technical needs/new ICM paradigms/instruments as identified and recommended by previous projects and by the project team.
4. Institutional needs/shortcomings (horizontal: Inter-ministerial coordination, and vertical, levels of government, grassroots institutions as such traditional authorities and CBOs (e.g. grazing associations, farmers associations, traditional healers)).
5. Implementation and enforcement situation/constraints/bottlenecks.

The needed outputs are practical, implementable, and enforceable solutions (recommendations for laws and by-laws as well as annexes), hence the situation on the ground must be carefully investigated, and stakeholder consultations need to be held early in the process and ongoing. Good, effective collaboration arrangements with local level task forces for review of and recommendations for legislation must be established.

The review will inter alia focus on identifying user rights and obligations (including customary law) and will consider different forms of land and water use. A balanced permit system for the use of water, and other natural resources (grazing resources, what is called *liremo* (thatching and other grasses, medicinal plants, felling of trees for fuelwood) is vital and will receive special attention by the team as this system seems still in practice.

Operationalization within workstreams

The stream team will follow a strictly participatory and collaborative approach and identify legal review and drafting teams that are available and dedicated for this task in several selected CCs. After CC legal review teams have been identified, the eventually needed drafting teams will build upon these legal review teams.

Provided that the Consultant is asked to extend services beyond studying and recommending options, the eventually needed legal drafting teams, consisting of CC practitioners (technical staff, economists/accountants, legal, etc.) will conduct the drafting together with the stream team, which would permanently support, and follow up.

In case that this additional drafting activity is requested by GIZ, it is proposed here, that the stream team will initially draft bylaw-making guidelines. Following their validation and approval, these will then be discussed thoroughly with the drafting teams and stakeholders involved to gain a better understanding of issues, check for discerning views as well as encourage dialogue and expression. At the same time examples of best practice from the region and internationally will be considered. This will enable drafting teams to work the draft council by-laws.

The stream team will support the drafting back and forth, capturing evolving and changing ideas and bouncing them back until a consensus is reached. This will enable the whole drafting team of the CCs to be involved in the development as well as the evolution of the document. When it's time to present the information to other CCs or nationally, the CCs will fully understand, own and eventually present the draft by-laws themselves.

Initially, CCs need to be identified, that are willing to and available for collaboratively drafting by-laws. This will be a dynamic process and may need adaption to the assistance and drafting support needs identified with the CCs.

It is essential, that the CCs will need to be involved, feel trusted and should develop a sense of ownership of the drafting process as well as of the final product, the by-laws, and its schedules. It is proposed here, to liaise with the CCs frequently to develop the needed outputs. The stream team sees itself in an assisting role, so the more drafting is conducted by the CCs, the better.

Frequent working sessions with the CC teams will enable the stream team to better identify lessons learnt from past attempts to establish a local level regulatory regime, and avoid shortcomings and mistakes made in the past. This will also allow to verify that there are no overlapping, ongoing activities, and to avoid duplication of efforts.

The needed outputs are twofold:

- Practical, implementable, and enforceable solutions (by-laws and schedules, as well as eventual proposals for amending water-, land-, or general environmental acts).

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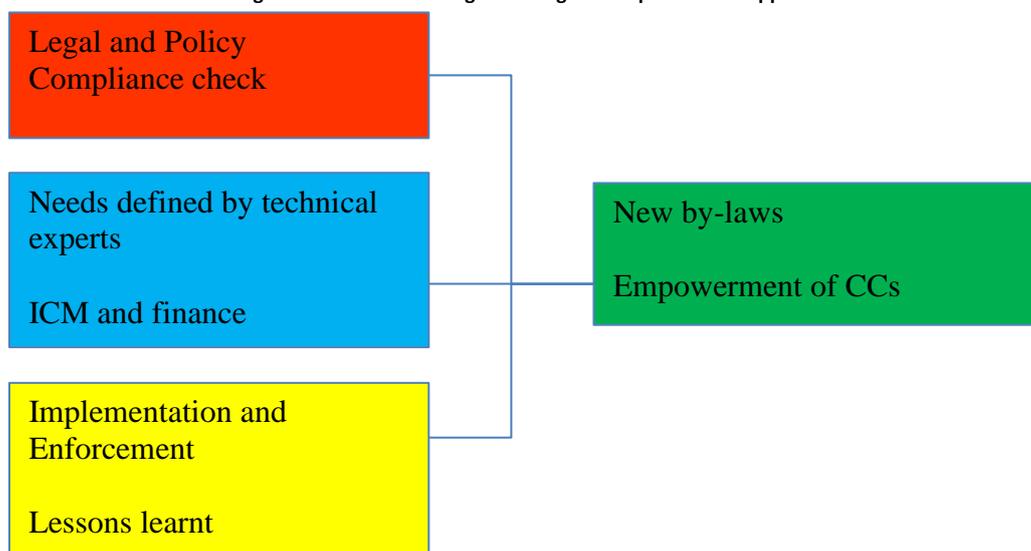
- Support and ultimately empowerment of CCs to conduct future legal drafting independently without much outside assistance.
-

Careful investigations on the ground, and stakeholder consultations need to be held early in the process and continuously. Good, effective collaboration arrangements with local level drafting teams for review and drafting of legislation must be established as early as possible.

It must be noted that the work plan under chapter 7.2, activity 4.6.5. (drafting of guidelines) and 4.7. (legal drafting) depends on the above-mentioned issue of whether these additional activities, that are not foreseen under the current ToR and therefore not included in the current version of the workplan, are requested by GIZ and if the needed expert input will be made available.

In order to ensure that all lessons learnt in this drafting process, are beneficial to all 64 CCs, the guidelines mentioned under section 2.3.1. would be an important output. These guidelines will inter alia record lessons learnt that can then feed back into a scalability strategy. For details see section 2.3.1.

Figure 11: Overview on legal drafting and empowerment approach



4.4.6 Workstream Steering

Responsible Team Members

Responsible Team Members are:

- Bore Motsamai (SL) Environment and Range Management Specialist
- Robert Seelig Legal Specialist
- Thabo Nobala Environment and Rural Development Specialist
- Dee Padayachee Water Resources and Water Services Specialist
- Ramohapi Shale Legal Specialist
- Sekhonyana Lerotholi Water Resources Specialist

Organisation of the work

- Regular weekly and later biweekly virtual meetings with agendas will be held, as well phone calls on one to one basis between the stream leader and other team members when the need arises. It is envisaged that easing of lockdown will allow meetings to be held in the Department of Water Affairs

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boardroom upon request to do so. Once the situation allows it, international experts will be able join field consultation activities.

- Documentation will be shared electronically, as well as write-ups by the individual consultants, and exchanged between team members.
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4.4.7 Indicative Timing and Proposed Workplan

Table 14: Workstream 4: Indicative Timing and Proposed Workplan

		Inception Phase		Assessment phase one			Assessment phase two					Finalisation phase		Estimated input days								Description of deliverables / milestones	
		Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Team Leader	MCINTYRE, Owen	SEELIG, Robert	KLAASSEN, Wim	LEWIS, Fonda	MOTSAMAI, Bore	SHALE, Ramohapi	LEROTHOLI, Sakhosana		NOBALA, Thabo
4	Decentralisation Cluster (Local Level Regulatory Framework and Support Community Councils re By-laws)														43,5		32	31	17,5	18,5	18	160,5	
4.1	Output 1: Concept notes prepared														1,5	2	1	1,5		0,5	6,5	Concept notes developed	
4.1.1	Draft concept notes														0,5	1	1	0,5		0,5	3,5		
4.1.2	Submit concept notes for comments and incorporate them		▲																				
4.1.3	Finalise concept notes based on common concept note template														1	1		1			3		
4.2	Output 2: Local regulatory framework (LRF) on land and water use reviewed														11	8	8	4	5	5	41	Legal review/compliance and gaps identified	
4.2.1	Research and identify Local Government legislation, produce list Review legislation for overlaps and duplications and gaps, gap report Identify similar exercises of drafting by-laws														4	3	3	2	2	2	16	List of relevant Local Government legislation	
4.2.2	Identify constraints in drafting and enacting by-laws and draw lessons learned, brief overview of lessons learned														4	3	3	2	3	3	18	Brief overview of lessons learned	
4.2.3	Consider regulatory framework's responsiveness to different user needs, rights and obligations														3	2	2				7	Brief overview of review	
4.3	Output 3: Inputs from project team technical experts collated														5	3	2	1	2,5	1,5	15	Input from technical experts clarified and considered in legal review	
4.3.1	Communicate needs and liaise with team experts to get a clear understanding what content they are planning / conceptualizing to introduce														2,5	1,5					4		
4.3.2	Review if a legal basis for these paradigms exists and clarify the need and scope for future drafting activities, describe legal basis in overview														2,5	1,5	2	1	2,5	1,5	11	Overview	
4.4	Output 4: Clear understanding of implementation and enforcement situation/problems/bottlenecks in selected communities obtained														9	7	8	7	7	7	45	Implementation and enforcement situation clarified.	
4.4.1	Review reports on the ground in selected councils about the implementation and enforcement situation and describe in enforcement overview														9	7	8	7	7	7	45	Enforcement overview	
4.5	Output 5: Report with options and recommendations														17	12	12	4	4	4	53	Report drafted	

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4.5.1	Draft report on results of activities, describing options and recommendations for by-law drafting			▲ ▲		17	12	12	4	4	4	53
					TOTAL	43,5	32	31	17,5	18,5	18	160,5

Reports / products to be submitted ▲ Final report to be submitted ▲ Workshops/Seminars ■

4.4.8 Key Linkages

Linkages with other workstreams, other teams, projects, processes

The Ministry of Local Government is preparing a new Local Government Bill 2020 that incorporates the process of devolution of power from the parent and other ministries. One of the legal experts on this Team was involved in the drafting of the Bill. This is, therefore, a bonus for this work. The Bill will be submitted to Parliament before the end of the year. According to the Draft Bill the Minister shall define functions and responsibilities of Councils. The sooner the work of stream 1 starts, the better, so that new findings may be incorporated into development of the subsidiary regulations. Other ministries had clung to their respective functions at district level. As a result, Councils could not put in place by-laws because they clashed with other national laws.

The Stream Leader, as a member of the Policy Harmonisation Stream 1, will be in the best position to effect information flow between stream 1 and 4 (incorporating activity 1.5 or the former stream 5).

Possibility for capacity building within Lesotho

Potential shadowing processes

The Department of Water Affairs, as the key role players will be incorporated into our meetings on monthly basis or as when it is necessary. In areas of overlap between the different ministries' programmes and activities, joint meetings will be held to manage overlaps and grey areas. Responsible officers of the various line ministries at the district level will be asked to become members of the legislative drafting teams.

4.4.9 Key Reference Documents

Initial provisional list:

- Laws of Lerotoli;
- Legislation on Water Services Corporations
- Public Enterprises Act
- The Water Act of 2008, Sections 15, 16 and 18 and in the Guiding Principles
- White Paper: Review of Water Legislation
- The Environment Act of 2008, Sections 59 and 61
- The Local Government Act of 1997, Section 5
- The Land Husbandry Act of 1969, Sections 3 and 4
- Lesotho Land Act, 2010
- The Range Resources Management Policy of 2014, Sections 4.1.1, 4.1.2 and 4.4
- Report addressing harmonization of legislation through cooperative governance approaches, February 2018, with more references in its Annexes A-C
- Lesotho Water and Sanitation Policy of 2007 (LWSP)
- Long-term Water and Sanitation Strategy of 2016 (LTWSS)
- National Range Resources Management Policy, 2014, Sections 4.1.1, 4.1.2 and 4.4
- Draft Soil and Water Conservation
- Forestry Policy
- Decentralisation Policy
- National Wetlands Conservation Strategy
- National Strategic Development Plan II
- Deepening Decentralisation Project. Final Report. UNDP.
- Workshop Report on ICM Stakeholders Landscape
- Support to ICM in Lesotho

- Operationalisation of Integrated Catchment Management Framework – Bridging Phase Lesotho

In principle, review of the local regulatory framework (LRF) will need to look at these national level acts and policies as these are the framework and legal basis to analyse LRF against.

4.4.10 Key Stakeholders

A team for coordinating stakeholder consultations has been identified as Thabo Nobala and Bore Motsamai. This will help to avoid stakeholders' reluctance to participate due to fatigue from previous and current consultations. An overview of relevant stakeholders is provided in the table below.

Overview of Planned Stakeholder Consultation

Table 15: Workstream 4: Overview of Planned Stakeholder Consultation

Name of organisation	Why to consult this organization?	What information is needed?	Planned method of consultation	Planned date of consultation
Ministry of Local Government	Responsible for local authorities (Community Councils and Chiefs), Decentralisation	<ul style="list-style-type: none"> • Update on Local Government legislation • Decentralisation • Approach to Councils for consultations and engagement 	<ul style="list-style-type: none"> • Meeting • Meeting • Meeting 	1 September 2 September September
Ministry of Water Affairs	It is the lead organisation for the ICM Project	Envisaged ICM approach	Meetings	21 September
Dept of Range Resources	Responsible for grazing management	Update on Range Resources policy and legislation	Meeting	September
Dept of Soil & Water Conservation	Responsible for soil and water conservation	Update on Soil and Water Conservation Policy	Meeting	September
Dept of Environment	Environmental activities	Consult on Environment activities at grassroots level	Meeting	September
Ministry of Agriculture	Agricultural production programmes	Ministry's programmes related to land and water use for farming (crop and livestock)	Meeting	September
District and Community Councils and local stakeholders (traditional authorities, NGOs, CBOs)	Responsible for grassroots programmes	Collate information on their legislative perspectives and need for incorporation into by-laws	Regional workshops	December February 2021 March 2021
Other Stakeholders (Ministries listed above, Ministries of Mining, of Energy and Meteorology, of Finance, of Development Planning, NUL, NGOs,	Programme that impact on or are related to Community Council activities	Devolution of their work programmes at grassroots level	National workshops	March 2021 May 2021 June 2021

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CBOs, private sector, SADC institutions)				
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4.5 Concept Note – Workstream 5: Financing Mechanisms for Local ICM Plans

4.5.1 Objectives of Workplan

- The objective of this workstream is to analyse options for a financing mechanism to implement local ICM plans by studying options for a local ICM grant facility in line with local government regulations.
- The needed outputs are recommendations on how to enable implementation of local ICM plans from a financial point of view.

4.5.2 Scope of work

This output will need to distinguish between interim, donor funded, financing mechanisms, on the one hand, and a sustainable, long-term, financing, and investment mechanism based on revenues (levies, tariffs, fees, investments) collected from the catchment services on the other hand.

Regarding an interim, donor funded financing mechanism, international responsibility and funding for ICM in Lesotho is based on the fact that Lesotho is the custodian of an area that produces 40% of the runoff of the Orange-Senqu catchment, with only 3% of the catchment area. Much of the benefits of effective ICM in Lesotho accrue to the downstream countries i.e. South Africa, Namibia and (to a lesser extent) Botswana.²¹¹

Regarding a sustainable, revenue-based financing mechanism, such revenues will be based on the concept of charging levies, tariffs, or user fees for the use of e.g. water or land, and/or funds for investment in ecological infrastructure for the restoration and management of ecological infrastructure that is functioning and resilient in order to sustain well-being.

Local level ringfencing of local revenues will be considered and may play an important role.

All outputs, short- and long term, will also distinguish between the local and the national level. Whereas the needed mechanism is targeted at financing the implementation of local ICM plans, the financial sustainability of ICM will require harmonization of financial mechanisms at the national level. Therefore, an analysis of options for local level mechanism must be embedded in an understanding of national level financing mechanisms.

The outputs will be considered in the legal drafting activities under activity 1.5. (decentralization cluster/drafting activities). All local level funding mechanisms must have a clear legal basis, in particular, they must be based on national laws and the relevant by-laws. These must be implementable and enforceable in practice.²¹²

4.5.3 Potential risks and mitigation strategies

This task will depend on effective stakeholder involvement. As during the legal review and drafting activities under activity 1.3. and 1.5., a collaborative approach is needed for this activity. In order to ensure effective collaboration, stakeholders will be identified and contacted early in the process.

- The Covid-19 emergency seems to improve, but the risk for restrictive measures remains. Consultative process can then be negatively affected.

Mitigation: Instead of holding workshops, meetings would be arranged with small focus groups. These would attract fewer participants, allowing for observance of Covid-19 health rules. They could also be conducted remotely.

²¹¹ This can also be informed by work done in the LTWSS looking at a common financing mechanism at district level.

²¹² Regarding the needed finance mechanism under activity 2.4., it was concluded and agreed with GIZ, that this mechanism cannot look at the local level and local level regulations only, as initially foreseen by the TOR. National level harmonization, and national level enactments are needed, that provide the legal basis for detailed regulations, and eventually local by-laws and schedules, adapted to the respective CC (or DC) contexts. This additional work will require additional work days, subject to approval from the GIZ.

- Selection of community council and other local stakeholders for consultations could meet with resistance due to fatigue inflicted by previous activities. Quite often these may have lacked realization of tangible benefits to-date.

Mitigation: As in workstream 4, to make best use of established contacts and proven procedures, work will be conducted with the same selected CCs in one or several of the six priority sub-catchment areas.

- As the eventual shifting of funds can be a politically sensitive issue, the initial focus of the work will be directed towards the technical level in order to avoid risks on the level of political economy. Risks stemming from political economy can, however, not be fully avoided. Once the finance mechanism is proposed and agreed, it will need to be translated into legislation. However, this process takes time and decision makers can eventually be prepared.

4.5.4 Specific Methodological Approach

Assessment of the status quo/baseline

The first step will be to identify and describe the status quo of existing local level ICM funding and financing mechanisms. This baseline is needed to know where to start from. To this end, available documentation, studies, and legislation will be considered. In particular, the ongoing EU funded process of “Local Climate Adaptive Living” (LoCAL) will be considered here. Sections 6 and 9 of the LoCAL Phase 1 design explicitly list inter alia “selection of LoCAL Pilot Community Councils” and “Grant Size, Allocation Criteria and Flow of Funds”. This may prove to be valuable information and, moreover, experience to be considered. Other relevant experience may also be identified and considered.

The experience of the team will allow to identify this status quo in practice, both on the local and national level with regard to available funds from donors or from the national level, and eventual levies, tariffs or fees that are currently collected, in particular those on CC or DC level.

Strategic mapping of stakeholders and their roles and impact on ICM need consideration to this end, early collaboration with the key stakeholders is vital. Such insight will be gained from drawing on existing expert project knowledge and consultation with relevant Ministerial or Local Government stakeholders where required.

As part of the process, constraints and bottlenecks regarding disbursement processes, eventual conditionalities to disbursements, and practicalities such as the availability of bank accounts, auditing mechanisms, accountability established, etc. will be identified. Such findings will inform this stream’s recommendations for implementation.

In this context lessons from the past and/or other attempts to organize local level funding will be investigated and considered.

Another important aspect of identifying the status quo relates to the legal and policy framework in this regard. The existing legal basis, policies and by-laws will need to be reviewed and considered in close collaboration with the legal and policy review activities under activities 1.1, 1.3. and 1.5.

Study and draft options

Interim, non-revenue Funding

On the basis of the investigated status quo, in a first step, options for an initially used, interim funding mechanism that would allow the disbursement and reception of funding at the local level from international donors, the national level, as well as private sector contributions will be elaborated and proposed.

The proposals will need to be prepared in collaboration with Council (DC and CC) level, and line Ministry stakeholders. An effective and efficient way to follow a participatory and collaborative approach will be to liaise closely with the activities under 1.3. and 1.5 and the task forces that will be established under these activities. It is likely, that many members of the legal review and legal drafting task forces on the local level will be valuable resource persons for the status quo investigations as well as for the elaboration of interim funding mechanisms.

Regarding the national level, the Ministry of Finance, the Ministry of Local Government, the Ministry of Water Affairs, the Ministry of Tourism, the Ministry of Range and Forestry, and the Ministry of Energy, as well as the Lesotho Highlands Development Authority, the Lesotho Electricity, and the Water Authority will need to be consulted early in the process. Private sector representatives will also be identified and involved, for instance mining companies (i.e. Letseng Mine), exploration businesses, but also from the tourism industry. Experience shows that consultations with the above authorities will soon show, which authority is available and willing to cooperate with the consultant. Especially the Ministry of Finance will likely have a strong interest in the results of the mapping exercise and the proposal preparations.

Although, under this first step, the interim funding mechanism is a relevant output, this can only be an interim solution. Any funding mechanism must be sustainable and hence ultimately be independent of donor or national level contributions - as far as realistic. It is therefore vital to ensure that a valid legal basis is established once the necessary long-term, sustainable ICM finance mechanism is developed and once there is sufficient accountability. Experience shows that a sustainable finance mechanism will not only ensure ICM funding but will also significantly contribute to improving implementation and enforcement of ICM rules, as successful revenue collection directly depends on healthy ecosystems and the protection thereof.

Sustainable funding via collected revenue

This activity will be approached with a view to decentralisation. Fiscal decentralisation requires the authority of Councils to collect and manage fiscal resources. Currently collection seems in its infancy. Hence, due to inadequate local revenue, fiscal decentralisation in practice is often perceived as “transfers from the central- to the local government”.

As opposed to the short-term, interim funding mechanism, the long term funding mechanism will have to consist of a financially sustainable, revenue based, local (or district/regional) finance mechanism that combines conventional sources of revenue, such as (national) infrastructure development levies, (national) O&M tariffs and (mostly local level) user fees, depending on different forms of use, with modern, innovative tools, reflecting current debates around i.e. ecosystem services levies, carbon credits (carbon certificates) to name a few. A careful examination of the issue is needed, whether existing control and sanction mechanisms, as well as revenues, can be amended and optimized by incentives. The team will draw from its experience with such innovative tools and identify the ones that are most suitable to the specific ICM context in Lesotho.

A key criterion will be to identify solutions that suit ICM criteria as defined in the AF, and the existing ICM context as identified as the status quo. Any financing mechanism must work in practice. It should hence not be overly complicated. It must be carefully considered whether examples from international or regional (SADC: i.e. SA, Zambia, eSwatini and Mozambique) best practice may be too demanding, especially in the early phases of any new mechanism. Any solution must consider budgetary, institutional, and other constraints and must not overburden the local administration. This is particularly an issue regarding capacity for revenue collection and the capacities to reinvest collected funds specifically into ICM. The latter aspect seems to be a serious problem in practice.

Traditional rules must be considered. It could hence be realistic to initially propose simple, realistic measures that are widely accepted and work in practice, and to look at more sophisticated instruments later in the process. These could be gradually introduced over several years, as the capacity of local administration develops.

The legal system must be prepared for both, an initial, simple but functioning mechanism, and must also provide for a clear legal basis for amending by-laws and schedules. Legislation must be ready to enable easy adaptation to new instruments. This process of introducing new instruments over the years can be a dynamic one, so flexibility of the law and implementing local by-laws is essential to be ensured.

Regarding the consideration of international or regional best practice it must be underlined once again, that it will be essential to recognise that the institutional and other aspects of ICM are quite different within SADC countries, and any proposal made must be carefully tailored to the situation on the ground in Lesotho.

The issue of effective revenue collection and of the final recipient of collected revenues is essential and will be in the focus of the work. Revenue and expenditure functions to local authorities must be reviewed. Regarding rangeland use, current inconsistencies in the collection of grazing fees will be investigated.

The results of the status quo analysis will have to be considered in recommendations for improved, harmonized legislation. In the first place a clear legal basis in primary law, the acts, is needed. Without prejudice to the outcome of the needed analysis, this legal basis will likely have to ensure a coordinated

approach, avoiding contradictions, duplications and inefficiencies in ICM. In the context of decentralisation, this generally requires that functions that can best be performed by the local councils at the local level must be transferred/devolved to local councils. Once devolved, the local councils then could exercise some degree of autonomy over those functions under limited but effective supervision from the central government, provided that strong and effective coordination mechanisms are in place. Any changes in or streamlining of legislation will need to carefully consider the ongoing decentralisation processes.

Unlike in several other SADC countries, there seems to be no specific regulation in place that deals with water permitting and charging in detail. The same is the case with rangeland use. It seems hence quite likely, regulations operationalising the Local Government Act are needed to achieve effective fiscal decentralisation. The team will consider previous experience of financial reform of the water sector²¹³ with a clear indication of measures that could be taken going forward in the ICM context.

Criteria to be considered in the proposed option for ICM financing will be developed by the team and be thoroughly discussed with the relevant stakeholders.

Criteria will include inter alia:

- good governance, including clear accountability and audit trail
- clearly defined legal criteria
- criteria for allocation of the funds (suitable to achieve ICM objectives, including rural poverty alleviation, as in AF)
- ability to effectively disburse funds
- feedback loop regarding the success or otherwise of implementation (M and E)
- possibly performance-based aspects

Operationalization within workstreams

As mentioned above, this activity will be embedded in the review and drafting activities under 1.3. and 1.5. regarding the established review and drafting task forces. The outputs of this activity, recommendations, and proposals, will impact the legal review and drafting activities, as financing mechanisms will need a basis in the law as well as detailed regulations and schedules based on the law.

The outputs of activity 1.1. will also be highly relevant. The findings of the status quo identification exercise may, on the other hand, also prove to be valuable input for the policy analysis under activity 1.1.

4.5.5 Workstream Steering

4.5.6 Responsible Team Members

The team for output 2.4) will be Fonda Lewis, Daveshini Padayachee, Ramohapi Shale, Wim Klaassen, and Robert Seelig.

4.5.7 Organisation of the work

Robert Seelig will act as stream leader and coordinate the team and will provide overall technical leadership and input on the workstream.

Wim Klaassen will provide international, as well as local expertise, in particularly reviewing outputs to ensure it is embedded in the overall ICM context.

Fonda Lewis and Daveshini Padayachee will provide regional technical input and expertise.

The investigations on the ground in Lesotho will be conducted by Ramohapi Shale in close coordination with the team.

²¹³ Possibilities here include previous work done by the UNDP and the Lesotho Food for Work Programme.

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He will also provide legal support and help with the stakeholder engagement in coordination with the stakeholder coordinators Ntate Bore and Ntate Thabo.

The team will communicate via email and MS Teams. The sharing of document and written information will be also via MS Teams. Regular work sessions and team meetings will be held every week and needs based in smaller groups.

It will be agreed in advance which time budgets are available to the team members and tasks assigned.

4.5.8 Indicative Timing and Proposed Workplan

The initial, indicative timing for the assignment is shown in the two tables below:

Table 16: Workstream 5: Indicative Timing and Proposed Workplan I

1. Identify status quo/baseline		
1.1	Study available documentation, studies, and legislation	Mid October
1.2	Map existing financial contributions from donors, Ministries, eventually others	Mid November
1.3	<ul style="list-style-type: none"> - Investigate the actual flow of funds from donor or national level to the local level - Identify constraints and bottlenecks and lessons from the past 	End November
1.4	<ul style="list-style-type: none"> - Identify if the status quo relates to the legal and policy framework. - Workshop on findings of 1.2. – 1.5. 	End November
1.5	<ul style="list-style-type: none"> - Review report with findings - Draft report on results of activities under 1.1. – 1.5. 	December 2020
2. Study and draft options		
2.1	Interim, non-revenue Funding	Mid-February
2.2	<ul style="list-style-type: none"> - Funding via collected revenue - Workshop on 2.1. and 2.2. 	End March
2.3	<ul style="list-style-type: none"> - Propose legal basis and by-laws - Final Seminar on activities 1) and 2) 	End May
2.4	Prepare final report until June 2021	until June 2021

Table 17: Workstream 5: Indicative Timing and Proposed Workplan II

	Inception Phase	Assessment phase one			Assessment phase two					Finalisation phase		Estimated input days										Description of deliverables / milestones			
		Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Team Leader	MCINTYRE, Owen	SEELIG, Robert	KLAASSEN, Wim	LEWIS, Fonda	MOTSAMAI, Bore	SHALE, Ramohapi	LEROTHOLI, Sekhonyana		NOBALA, Thabo	PADAYACHEE, Dee	Total
5. Develop/Test Financing Mechanisms															26	11	6,5		24,5				14,5	82,5	
5.1	Output 1 Identify status quo/baseline														16	5	3,5		13,5				8,5	46,5	
5.1.1	Draft Concept Note and study documentation including ICM financing options from other countries; Review/assess ICM financing needs and phasing; Review/assess potential support from ICPs	▲													3	2	0,5		0,5				0,5	6,5	Final Concept Noted and Study documentation
5.1.2	Map existing financial contributions from donors, Ministries, eventually others														3	2	2		3,5				2	12,5	Mapping and workshop
5.1.3	Investigate the actual flow of funds from donor or national level to the local level. Identify constraints and bottlenecks and lessons from the past ²¹⁴														3				3				2	8	Investigate flow of funds, please see footnote.
5.1.4	Legal and policy review / identify if the status quo relates to the legal and policy framework				■										4				4,5				2	10,5	Legal and policy review
5.1.5	Summarize findings and results of activities under 5.1.1. – 5.1.5.					▲									3	1	1		2				2	9	Summary of findings and results of Assessment Phase 1
5.2	Output 2 Recommend options														8	5	2		9				4,5	28,5	
5.2.1	Interim Funding mechanism proposed														2	2	1		3				1,5	9,5	
5.2.2	Revenue Funding mechanism proposed														3	2	1		3				1,5	10,5	
5.2.3	Propose legal basis								■		■	▲			3	1			3				1,5	8,5	Summary of proposed mechanisms and legal basis
5.3	Output 3 Final Report														2	1	1		2				1,5	7,5	
5.3.1	Final report summarizing the entire assignment									▲	▲				2	1	1		2				1,5	7,5	Final report on Finance Mechanisms summarizing the entire assignment

²¹⁴ See section 2.3.1 Workstream 5.

				TOTAL	26	11	6,5	24,5	14,5	82,5	
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Reports / products to be submitted ▲ Final report to be submitted ▲ Workshops/Seminars■

4.5.9 Key Linkages

- Both, the interim, donor funded, financial mechanism, as well as a sustainable revenue based financial mechanism have strong linkages with the relevant national policies, national acts, and local by-laws and schedules. Any finance mechanism must be well embedded in national level, fully harmonized law, and its overarching policy principles.
- Close cooperation with activities 1.1., 1.3., and especially 1.5. is hence needed.
- Other key linkages identified at this stage will be the ongoing Range Management and Local Government Policy and Legislative reform.
- The team will permanently liaise with the above-mentioned teams. The stream leader Robert is part of the teams (1.1., 1.3. and 1.5.) on all above activities and will ensure ongoing and close liaison.

Responsible officers of the various line ministries at the district level will be asked to become members of the task forces. This will be based on the identified task forces under stream 4 and 5.

4.5.10 Key Reference Documents

- Government Concept Note on Fiscal Decentralisation;
- Public Financial Management and Accountability Act, 2011
- Legislation on Water Services Corporations
- Public Enterprises Act
- The Water Act of 2008, Sections 15, 16 and 18 and in the Guiding Principles
- The Environment Act of 2008, Sections 59 and 61
- The Local Government Act of 1997, S 47: funds, inter alia fees, charges levies, also revenues from services
- The Land Husbandry Act of 1969, Sections 3 and 4
- Lesotho Land Act, 2010
- The Range Resources Management Policy of 2014, Sections 4.1.1, 4.1.2 and 4.4
- Report addressing harmonization of legislation through cooperative governance approaches, February 2018, with more references in its Annexes A-C
- Lesotho Water and Sanitation Policy of 2007 (LWSP)
- Long-term Water and Sanitation Strategy of 2016 (LTWSS)
- National Range Resources Management Policy, 2014, Sections 4.1.1, 4.1.2 and 4.4
- Drafting instructions on rangeland management legislation, October 2018
- To be identified: References from South Africa, Zambia, Eswatini and Mozambique

4.5.11 Key Stakeholders

National level

These will include the Ministry of Government and Chieftainship, and potentially specific District Administrators (for pilot work), Ministry of Water Affairs, Ministry of Range and Forestry, Ministry of Energy, Ministry of Finance, Lesotho Highlands Development Authority, Lesotho Electricity Authority and Water Authority. The Lesotho Bulkwater Authority may also have to be involved as it may be an important institution in the future that is modelled after the RSA experience: It delivers untreated water to water supply companies which treat the bulkwater and reticulate it in the urban and high density environments as well as rural areas. The process of establishment of the LBA currently seems stagnant.

Other important stakeholders can be the Ministry of Tourism as mentioned above and eventually also the tourism industry, regarding e.g. water sports or other related activities that may justify fees to be collected at the local level.

These stakeholders are needed to investigate the status quo and the flow of funds to the council level. They are also important to be aboard all activities relating to national harmonization of ICM finance mechanisms.

As explained in detail above, they need to be consulted early in the process to ensure their involvement and awareness. This will help ensuring implementability and enforcement.

Local level

Several CCs, and eventually DCs, need to be identified that are available and willing to play an active role in the identification of the status quo, constraints, and the elaboration of interim, as well as sustainable ICM financing mechanisms.

Overview of planned Stakeholder Consultation

Table 18: Workstream 5: Overview of planned Stakeholder Consultation

Name of organisation	Why to consult this organization?	What information is needed?	Planned method of consultation	Planned date of consultation
<p>Line Ministries (to be determined)</p> <ul style="list-style-type: none"> - Ministry of LG - Ministry of Finance - Ministry of water affairs - Ministry of Agriculture 	<ul style="list-style-type: none"> - Identify status quo and elaborate proposals - To ensure collaborative, participatory approach 	<ul style="list-style-type: none"> - Status quo of ICM funding, mapping thereof. - Identify the flow of funds from national to local level 	<p>Consultative via Lesotho team members</p>	<p>October and eventually ongoing if they are willing to play an active role</p>
<p>Several selected DCs and CCs (probably four community councils and other local stakeholders in four ecological zones of Lesotho Lowlands, Foothills, Mountains & Senqu River Valley - Tbc.</p>	<ul style="list-style-type: none"> - Identify status quo and elaborate proposals - To ensure collaborative, participatory approach 	<ul style="list-style-type: none"> - Status quo of ICM funding, mapping thereof. - Identify the flow of funds from national to local level - Constraints and bottlenecks 	<ul style="list-style-type: none"> - Consultative via Lesotho team members - Task forces to be established / existing task forces from activity 1.3. and 1.5. to be used 	<p>October and eventually ongoing if they are willing to play an active role</p>

5 Team composition and resource allocation

An overview of the team members according to GIZ wishes and input and their relevant skills for this assignment is provided in the Workstream team allocation overview in Table 20.

The following overview captures the main focus of each expert's activities on the project:

- **Fonda Lewis** will provide overall technical leadership and input in workstream 2 and 3 and will help identifying regional technical input and expertise to workstreams 5.
- **Daveshini Padayachee** will provide regional technical input and expertise to streams 2, 3, 4 and 5.
- **Owen McIntyre** will lead stream 1 and provide international expertise to stream 2 and 3, particularly reviewing outputs to check for adequate inclusion of the international legal rights framework.
- **Ntate Bore Motsamai** leads stream 4 and is member of stream 1. He will contribute with his very significant experience and in-depth insight into the Lesotho ICM and other related policies, and GOL institutions. This insight will be used in stakeholder engagement coordination.
- **Ntate Thabo Nobala** will provide national experience and support to stream 2 and 4, including the lead on stakeholder engagement for all streams.
- **Wim Klaassen** will provide international, as well as local expertise, in particularly to workstream 1, 3 and 5 reviewing outputs to ensure it is embedded in the overall ICM context and that all climate change aspects are considered.
- **Ntate Ramohapi Shale** will provide national legal expertise and support to streams 4 and 5, and other streams on a need basis, and help with the stakeholder engagement in coordination with the stakeholder coordinators Ntate Bore and Ntate Thabo. Ntate Ramohapi Shale joined the expert team during the inception phase following the request by GIZ to the Consultant to include him and to make his expertise available to the project.
- **Ntate Sekhonyana Lerotholi** will provide national technical input and expertise to stream 3 and 4.
- **Robert Seelig** will act as technical coordinator of all stream activities and will provide overall technical leadership. He will therefore work closely with the Team Leader. He will also be available to liaise directly with the GIZ on technical issues. He is member of stream 1 and 4, and he leads stream 5. He will provide legal support in particular to the decentralisation cluster, stream 4, as well as eventually to all other streams as needed.
- Adrian Wilson needed to be replaced as the **Team Leader** for this project. The process of replacing him with another expert is under way. The Team Leader will be the GIZ's main counterpart for our operational activities. He will guide all team members but liaise particularly close with the stream leaders through which communication to the stream team members will be channelled for sake of efficiency and in order to have clear communication lines. All reports and products will be checked by him before submission to the client. He will represent the project at meetings and report to GIZ on the project's progress and milestones.

An overview of the planned allocation of working days per expert and workstream is provided below in Table 19.

The detailed workplan illustrating the project schedule and links the team allocation and resourcing (number of days) to working streams deliverables / number of expert days per activity is included in Section 7.

Table 19: Estimated Input Days

Estimated input days

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	Team Leader	MCINTYRE, Owen	SEELIG, Robert	KLAASSEN, Wim	LEWIS, Fonda	MOTSAMAI, Bore	SHALE, Ramohapi	LEROTHOLI, Sekhonvana	NOBALA, Thabo	PADAYACHEE, Dee	Total
Inception Phase – general coordination	22	4,5	4	3,5	3	5,5	1,5	1,5	2	1	48,5
Project Management, Team Coordination and Stakeholder Engagement	88					6			10		104
1. National Policy Harmonization		45	16,5	21,5		35,5					118,5
2. Rights Based Approach		3,5			29,5				20,5	8,5	62
3. Climate Sensitive Approach		9		10	24			19			62
4. Decentralisation Cluster (Local Level Regulatory Framework and Support Community Councils re By-laws)			43,5			32	31	17,5	18,5	18	160,5
5. Develop/Test Financing Mechanisms			26	11	6,5		24,5			14,5	82,5
Final report	10	3	2	2	2	1	1			1	22
Total	120,0	65,0	92,0	48,0	65,0	80,0	58,0	38,0	51,0	43,0	660,0

Table 20: Expert allocation to different workstreams and specific expertise

Stream	Team Member		Core Strengths
1. National Policy Harmonization: Output 1.1	MCINTYRE, Owen	Stream Leader	International water law expert. Extensive transboundary water experience. Excellent experience in SADC and in the Orange catchment. Very good climate change knowledge.
	MOTSAMAI, Bore		Environmental and Range Specialist. Strong policy knowledge. Profound knowledge of Lesotho government institutions. Ex PS of Environment, Gender and Youth and Communications.
	KLAASSEN, Wim		Institutional and change management specialist. Extensive international experience of ICM and climate change. Very strong previous Lesotho experience.
	SEELIG, Robert		Legal Specialist with excellent international experience. Extensive knowledge with Water and Environmental Law and related regulations, as well as related policy. Some experience also in financial instruments.
2. Rights Based Approach: Output 1.4	LEWIS, Fonda	Stream Leader	Environmental, ICM and climate change specialist. Excellent expertise in gender mainstreaming and social development. Very good previous experience in Lesotho.
	NOBALA, Thabo		Environmental and Rural Development Specialist. Excellent experience in climate change, ICM, community mobilization and policy analysis.
	MCINTYRE, Owen		International water law expert. Extensive transboundary water experience. Excellent experience in SADC and in the Orange catchment. Very good climate change knowledge.
	PADAYACHEE, Dee		Very good water services and water resources experience. Strong CV in the area of local government support and development. Very good experience with regard to regulation.
3. Climate Sensitive Approach: Output 1.4	LEWIS, Fonda	Stream Leader	Institutional and change management specialist. Extensive international experience of ICM and climate change. Very strong previous Lesotho experience.
	KLAASSEN, Wim		Environmental, ICM and climate change specialist. Excellent expertise in gender mainstreaming and social development. Very good previous experience in Lesotho.
	MCINTYRE, Owen		International water law expert. Extensive transboundary water experience. Excellent experience in SADC and in the Orange catchment. Very good climate change knowledge.

	LEROTHOLI, Sekhonyana		Water Resources Specialist with excellent knowledge in the policy, climate change and wetlands arenas. Previous Lesotho government experience. Very good community mobilization experience.
4. Decentralisation Cluster (Local Level Regulatory Framework: Output 1.3 and Support Community Councils re By-laws: Output 1.5)	MOTSAMAI, Bore	Stream Leader	Environmental and Range Specialist. Strong policy knowledge. Profound knowledge of Lesotho government institutions. Ex PS of Environment, Gender and Youth and Communications.
	SEELIG, Robert		Legal Specialist with excellent international experience. Extensive knowledge with Water and Environmental Law and related regulations, as well as related policy. Some experience also in financial instruments.
	NOBALA, Thabo		Environmental and Rural Development Specialist. Excellent experience in climate change, ICM, community mobilization and policy analysis.
	PADAYACHEE, Dee		Very good water services and water resources experience. Strong CV in the area of local government support and development. Very good experience with regard to regulation.
	SHALE, Ramohapi		Legal Expert with excellent knowledge on governance and decentralization in Lesotho with lots of work experience with the Ministry of Local Government and Chieftainship. Most recently, he e.g. revised draft Local Government Bill 2020
	LEROTHOLI, Sekhonyana		Water Resources Specialist with excellent knowledge in the policy, climate change and wetlands arenas. Previous Lesotho government experience. Very good community mobilization experience.
5. Develop/Test Financing Mechanisms for ICM Plans: Output 2.4	SEELIG, Robert	Stream Leader	Legal Specialist with excellent international experience. Extensive knowledge with Water and Environmental Law and related regulations, as well as related policy. Some experience also in financial instruments.
	SHALE, Ramohapi		Legal Expert with excellent knowledge on governance and decentralization in Lesotho with lots of work experience with the Ministry of Local Government and Chieftainship. Most recently, he e.g. revised draft Local Government Bill 2020
	LEWIS, Fonda		Environmental, ICM and climate change specialist. Excellent expertise in gender mainstreaming and social development. Very good previous experience in Lesotho.
	PADAYACHEE, Dee		Very good water services and water resources experience. Strong CV in the area of local government support and development. Very good experience with regard to regulation.

	KLAASSEN, Wim		Institutional and change management specialist. Extensive international experience of ICM and climate change. Very strong previous Lesotho experience.
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6 Engagement across other ICM outputs and activities

The Consultant will carefully consider any related past, ongoing, and planned project related activities, and other ICM related outputs, in order to identify overlaps, as well as coordination and collaboration opportunities, and lessons to be learnt.

The implementation model of ICM as proposed here regarding the Policy Harmonization activities (Output 1 of ICM OP 2020) rely on well-established, functional implementation partnerships, which operate at the local, national and transboundary level as well as across the various outputs of the ICM program.

6.1 Development Partners Platform

A first step was made, when representatives of the Consultant had the chance to present the current assignment to a wider group of development partners in a meeting on September 16, 2020 with attendees from BMZ, CRS, EU, FAO, GIZ, IFAD, MCC/LMDA, UNDP, WFP, and the World Bank.

One particular point that stood out in this meeting was that policy harmonisation activities must be closely coordinated amongst different donors, and the proposal was made to form a policy harmonization focus group to make the most efficient use of all ongoing activities in this regard. The stream 1 leader agreed and will try initiating this after the inception phase.

It was also concluded from this meeting to liaise with Philipp Baumgarter and Dr. Mampiti Matete once the inception phase ends to coordinate review, analysis, and eventual recommendations regarding their Range Land Act review activities.

Another important stakeholder to consult under the Climate Change Adaptation Workstream 3, will be the Ministry of Energy and Meteorology and the Department of Meteorological Services that is in charge of the National Climate Change Forum Secretariat as well as leading the climate change response Strategy in the country.

The potential for collaboration with the Ministry of Agriculture regarding irrigation plans will also be investigated and followed-up bilaterally.

During the development partners meeting it was agreed that all outputs would be shared with the partners, and the Consultant extended an invitation to all participants to work on ICM PH together.

The Consultant will build on these first contacts that were made and further investigate the potential for cooperation and information exchange.

6.2 Adaptation Fund: "Improving Adaptive Capacity of Vulnerable and Food insecure Populations in Lesotho"

In response to the Consultant's invitation to all development partners to collaborate, on September 18, 2020, an invitation (by the Director of Lesotho Meteorological Services) reached the core team members regarding the Official Launch of the Adaptation Fund supported project:

"Improving Adaptive Capacity of Vulnerable and Food insecure Populations in Lesotho".

The adaption fund's main goal is to:

"enhance the adaptive capacity and build the resilience of vulnerable and food insecure households and communities to the impacts of climate change on food security. The project will be implemented through three components with the following specific objectives: a) Component 1 aimed at strengthening government capacities to generate climate information and promote its use to forecast risks of climate shocks, mobilise early action, and co-develop tailored and locally relevant climate services for communities; b) Component 2 focuses on raising awareness of communities, women, youth, people living with HIV, and other vulnerable groups on the impacts of climate change, the importance of adaptation, and the use of climate information for seasonal planning and climate risk management; and c) Component 3 enables communities to undertake community-based planning processes that facilitate implementation of appropriate resilience building and adaptation interventions that generate sustainable asset ensuring income diversification and market access."

All components relate to ICM PH and especially component 3 will justify further investigations and eventually collaboration with the Adaption Fund. The Consultant is planning to honour this invitation (e-meeting on October 8, 2020) to learn more, and eventually initiate collaboration during assessment phase 1.

6.3 National Technical Secretariat (NTS)

Collaboration and information exchange opportunities were also investigated via the NTS, with whom a first meeting was held on September 17. It was emphasized by the Consultant that ICM is a cross-sectoral and cross-cutting management approach, that needs coordination amongst all Ministries. Hence the Consultant's support was offered and proposed to extend beyond the Ministry of Water. It is important to reiterate, that a mere "water perspective" is not appropriate for this ICM assignment which, by its *integrated* nature, involves many Ministries and institutions beyond the water sector. The Consultant made the explicit offer on cooperating across ministries and tried to actively involve and raise interest across all Ministries. Each Ministry has seconded technical experts to ICM, therefore the NTS is crucial for collaboration in practice, and can be an entry point to other involved institutions as well as to the local level.

One issue raised in this meeting, was the need to identify ongoing technical assistance activities that may relate to this present technical assistance. This meeting was very promising, as it was already quite specific with many practical collaboration approaches being discussed. Collaboration with the NTS will be followed up via bilateral meetings with the Ministry of LG regarding the decentralisation process- by-laws drafting issues, the identification of criteria and selection of CCs for eventual collaborative by-law drafting pilot projects. This may equally involve the Department of soil and water and the Department of forestry (amongst other issues, regarding climate change, and the amendments regarding the Range management act).

It is worth mentioning here, that close collaboration with legal experts from the Ministries was proposed by NTS members, and that a shadowing approach, by actively working together with Ministry staff, would be seen as most welcome, which is much in line with the methodological approach proposed here and will assist GIZ in its mission to advocate for and promote alignment and coordination of international initiatives and investments in Lesotho. This is in line with the GIZ-EU contract for the "Support to ICM" programme, which emphasises strategy to build on and coordinate existing initiatives.

6.4 Syphons team

The Syphons team of the GIZ funded *Visioning Process for a Multi-sectorial Strategy for Integrated Catchment Management* will be a helpful partner to ensure coordination across all involved sectors. As institutional aspects will be carefully considered by the Consultant, the activities, and findings of Syphons regarding institutional analysis, and coordination will be helpful. Similarly, the findings of the Consultant on the ground,

resulting from the assessment of implementability and enforceability of ICM policies and legislation regarding institutional shortcomings and constraints may be helpful for Syphons. Ongoing consultations and information exchange may be mutually beneficial and in assessment phase one, the Consultant intends to liaise with Syphons to this end.

6.5 Global Water Partnership

Regarding Workstream 1, another interesting and potentially helpful activity is currently initiated by the GWP, as they are in the process of recruiting a Consultant that will identify and review regional (SADC) ICM Policy harmonization with a secondary focus on international policy. This clearly overlaps with activity 1.1. to some extent. To ensure that activity 1.1. and the GWP activities are beneficial for the GOL, the two processes should be aligned as closely as possible.

Whereas GWP is still in the process of hiring an expert, activity 1.1. is supposed to start in October 2020. Hence, the issue of sequencing and timing must be considered, as the GWP expert will most likely start his work later.

In any case, once the timing of the GWP expert work is known, early liaison is mandatory to ensure that the GWP work can contribute to activity 1.1. and vice versa.

In the first week of October, it is planned that further cooperation, and process alignment will be discussed with the GWP.

6.6 Project Management Committee (PMC)

In June 2020, prior to the official kick-off meeting, the Consultant had the opportunity to attend a PMC meeting. Representatives of the GWP, CRS, FAO, GIZ NatuReS South Africa, and GIZ PISA attended this first project management committee meeting. All attendants gave a brief overview on their respective objectives and activities. In this first meeting, no detailed comments were made. The focus was on coordinating with the different service providers within ICM. Hence, collaboration and information exchange, as well as two action points were agreed:

- 1. The sharing of TOR for the Project Management Committee, and
- 2. organisation of the MS Teams room “ICM GIZ, ICU and Partners”, and principles for information sharing before the next PMC meeting.

6.7 Follow-up / general

The Consultant proposes to formalise this consultative cooperation process in regularly participating in the ongoing development partner, and other relevant meetings and liaising with identified, individual partners bilaterally on a needs basis.

The Consultant will undertake to find a viable balance between coordinating with all relevant stakeholders, without endangering the focus of the project work, considering the available time and resources.

7 Plan of Operations and Personnel

7.1 Deliverables

The deliverables as defined in the TOR are:

- Draft Reports (Mapping of national policies; gender and climate change framework; local level regulations, by-laws and financing mechanism) to be submitted 6 months from contract start date with the final versions due 10 months from contract start date.
 - We propose that the submission date for the draft reports is moved towards the end of assessment phase one, i.e. April 2021, so that the findings and work done in this phase can be integrated in the draft report.
- Final Synthesis Report and Policy Briefs on the different studies conducted 11 months from contract start date.
- In addition, it was agreed to submit brief monthly progress reports. A proposed template for this can be found Annex 3: Progress report. Further, interim deliverables will be shared with the client as defined in the workplan (workplans of Concept Notes as well as overall workplan under 7.2.).
- More details on the proposed methodology and activities for collecting and analysing the information needed for the drafting of the reports are found in the CNs (see Section 4).

7.2 Work Plan

The detailed workplan illustrates the project schedule and links the team allocation and resourcing (number of days) to working streams deliverables / number of expert days per activity. It is a combination of the workplans per stream included in the concept notes.

Table 21: Overall indicative Work Plan

	Inception Phase		Assessment phase one			Assessment phase two					Finalisation phase		Estimated input days										
	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Team Leader ²¹⁵	MCINTYRE, Owen	SEELIG, Robert	KLAASSEN, Wim	LEWIS, Fonda	MOTSAMAI, Bore	SHALE, Ramohapi	LEROTHOLI, Sekhonyana	NOBALA, Thabo	PADAYACHEE, Dee	Total
Inception Phase													22	4,5	4	3,5	3	5,5	1,5	1,5	2	1	48,5
0.1 Refine and amplify methodology, in consultation with client/key stakeholders													5	3	0,5	1	0,5	1	0,5	0,5	0,5	0,5	13
0.2 Review and confirm project workplan													4		0,5	0,5	0,5	0,5					6
0.3 Review resource usage and timing													3		0,5	0,5							4
0.4 Establish/confirm project governance structures/arrangements													3		0,5		1	0,5	0,5	0,5	0,5		6,5
0.5 Engagement with project governance structures regarding Inception Phase deliverables													2		0,5	1	0,5	1	0,5		0,5		6
0.6 Identify/confirm key risks and mitigation measures													2	0,5		0,5		1,5			0,5		5
0.7 Confirm format and nature of key deliverables and timing													2		1		0,5						3,5
0.8 Submit inception report consisting of the above as well as the CNs and analytical FW		▲											1	1	0,5		1	0,5		0,5			4,5
Project Management, Team Coordination and Stakeholder Engagement													88					6			10		104
Meetings													22,5										22,5
0.9 Sounding Board Committee Meetings (monthly)													5										5
0.10 ICM Steering Committee Meetings (6 monthly)													3										3
0.11 NTS Meetings (monthly)													5,5										5,5
0.12 Development partners forum and other meetings (needs based)													1,5										1,5
0.13 PMC meeting (quarterly)													2										2
0.14 Progress meeting with GIZ and ICU (monthly)													5,5										5,5
Team coordination													33										33
0.15 Team coordination/alignment													22										22
0.16 Core Team Meeting (weekly)													11										11
Technical advice, QA													25										25
0.17 Technical advice and guidance to team, QA													25										25
Reporting													5,5										5,5
0.18 Progress reports (monthly)													5,5										5,5
Stakeholder engagement													2					6			10		18
0.19 Compile and streamline stakeholder consultations of the different workstreams													1					2			5		8

²¹⁵ The Team Leader column includes Adrian Wilson's work days as previous Team Leader, Robert Seelig's work days as interim Team Leader and Christopher Serjak's work days as new Team Leader.

	Inception Phase		Assessment phase one			Assessment phase two					Finalisation phase		Estimated input days												
	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Team Leader ²¹⁵	MCINTYRE, Owen	SEELIG, Robert	KLAASSEN, Wim	LEWIS, Fonda	MOTSAMAI, Bore	SHALE, Ramohapi	LEROTHOLI, Sekhonyana	NOBALA, Thabo	PADAYACHEE, Dee	Total		
0.20	Organize stakeholder engagements/consultations											1							4				5		10

1. National Policy Harmonization												45	16,5	21,5	35,5	118,5		
1.1	Output 1: Final CN with final list of Stakeholders											4	1,5	1,5	1	8		
1.1.1	draft CN completed											2	0,5	0,5	0,5	3,5		
1.1.2	final CN completed											1	0,5	0,5		2		
1.1.3	Stakeholder (SH) engagement protocol with tentative time planning of interviews finalised											1	0,5	0,5	0,5	2,5		
1.2	Output 2: Study of policies/legislation (regards ICM focus)											14,5	6,5	6	11	38		
1.2.1	Selection of key reference documents											4		1	2	7		
1.2.2	Study of documents											5,5	4,5	3	5	18		
1.2.3	Synthesizing notes from document study and reporting											5	2	2	4	13		
1.3	Output 3: Broad Stakeholder consultation with feed-back											14,5	3,5	6	12,5	36,5		
1.3.1	Preparation of SH-specific interview guides											4		1	2	7		
1.3.2	SH Interviews conducted											6	2	2	5,5	15,5		
1.3.3	Interview notes discussed, summarised and reported;											2,5	1,5	2	3	9		
1.3.4	Virtual conference with SH with feedback on interview results											2		1	2	5		
1.4	Reporting Phase: Synthesising of results from policy/legislation research with conclusions from SH consultation											12	5	8	11	36		
1.4.1	Revision and confirmation of findings/conclusions policy/legislation study;											4	2	3	4	13		
1.4.2	Revision and confirmation of findings/conclusions from SH consultation:											4	1,5	3	4	12,5		
1.4.3	Drafting of final report aligned with the Stream objective in CN											4	1,5	2	3	10,5		
2. Rights Based Approach												3,5			29,5	20,5	8,5	62
2.1	Output 1											0,5			2,5	1	1	5
2.1.1	Preliminary review of literature, reports, policy and strategies on key rights and gender considerations, methods and approaches														0,5		0,5	1,5

	Inception Phase		Assessment phase one			Assessment phase two					Finalisation phase		Estimated input days										
	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Team Leader ²¹⁵	MCINTYRE, Owen	SEELIG, Robert	KLAASSEN, Wim	LEWIS, Fonda	MOTSAMAI, Bore	SHALE, Ramohapi	LEROTHOLI, Sekhonyana	NOBALA, Thabo	PADAYACHEE, Dee	Total
2.1.2														0,5			0,5					0,5	1,5
2.1.3																	0,5			0,5			1
2.1.4																	0,5						0,5
2.1.5		▲															0,5						0,5
2.2														1			8			7,5	1		17,5
2.2.1														0,5			2			3	1		6,5
2.2.2					■												2			2			4
2.2.3														0,5			2			1,5			4
2.2.4																	2			1			3
2.3														1,5			16			10	6,5		34
2.3.1																				2		2	4
2.3.2																	1,5					1	2,5
2.3.3																	2			2	1		5
2.3.4														0,5			2			1			3,5
2.3.5														0,5			1,5			1	1		4
2.3.6																	1,5					1	2,5
2.3.7																	2			1	1		4

		Inception Phase		Assessment phase one			Assessment phase two					Finalisation phase		Estimated input days										
		Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Team Leader ²¹⁵	MCINTYRE, Owen	SEELIG, Robert	KLAASSEN, Wim	LEWIS, Fonda	MOTSAMAI, Bore	SHALE, Ramohapi	LEROTHOLI, Sekhonyana	NOBALA, Thabo	PADAYACHEE, Dee	Total
3.3.3	Interview notes discussed, summarised and reported														1		1	2				3,5		7,5
3.3.4	Virtual SH-conference with key SH for development of proposals for changes to policy that will support the mainstreaming of climate change adaptation in ICM across all relevant sectors														1			2				1		4
3.4	Finalisation Phase: Synthesising of results from policy/legislation research with conclusions from SH consultation														1		1,5	6				2		10,5
3.4.1	Revision and confirmation of findings/conclusions policy/legislation study																	1						1
3.4.2	Revision and confirmation of findings/conclusions from SH consultation																	1						1
3.4.3	Feedback of information to Key Stakeholders																	1						1
3.4.4	Drafting of final report aligned with the Stream objective in CN; and finalisation of the annotated database and repository of key relevant policy and legislative instruments, and supporting reports and documentation														1		1,5	3				2		7,5
4	4. Decentralisation Cluster (Local Level Regulatory Framework and Support Community Councils re By-laws)																							
4.1	Output 1: Concept notes prepared																							
4.1.1	Draft concept notes																							
4.1.2	Submit concept notes for comments and incorporate them																							
4.1.3	Finalise concept notes based on common concept note template																							
4.2	Output 2: Local regulatory framework (LRF) on land and water use reviewed.																							
4.2.1	Research and identify Local Government legislation, produce list. Review legislation for overlaps & duplications and gaps, gap report. Identify similar exercises of drafting by-laws																							
4.2.2	Identify constraints in drafting and enacting by-laws and draw lessons learned																							
4.2.3	Consider regulatory framework's responsiveness to different user needs, rights, obligations																							
4.3	Output 3: Inputs from project team technical experts collated																							
4.3.1	Communicate needs and liaise with team experts to get a clear understanding what content they are planning / conceptualizing to introduce																							
4.3.2	Review if a legal basis for these paradigms exists and clarify the need and scope for future drafting activities																							
4.4	Output 4: Clear understanding of implementation and enforcement situation/problems/bottlenecks in selected communities obtained																							
4.4.1	Review reports on the ground in selected councils about the implementation and enforcement situation and describe in enforcement report																							
4.5	Output 5: Report with recommendations for interventions reviewed																							

8 Project Steering and Project Governance arrangements

Being integrated into the broader GIZ „Support to ICM in Lesotho“-Programme and the fact that this Policy Harmonisation-Project provides the groundwork for the subsequent programme activities influence the project’s governance structure, outlined in the table below.

Table 22: Project Governance

Governance structure	Frequency of meetings
ICM Steering committee	Every 6 months
National Technical ICM Secretariat (NTS)	Monthly
Special ICM National Coordination Unit	Weekly core team calls during Inception Phase, frequency might change in the course of the project’s implementation
Development Partner Forum	Needs based, as required
PMC meeting	Quarterly

With regard to larger stakeholder engagements across the working stream (Development Partners and NTS meetings), as well as engagements with partners that might need pre-arrangements (*table: which stakeholder, indicative date, topic for engagement, form of engagement*), it is referred to Chapter 6 and to chapter 4 on the CNs, as well as to the introduction.

With regard to individual, or smaller stakeholder groups, chapter 4 describes in great detail, all stakeholders identified as of yet, a justification for consulting organizations, the information needed, the planned method of consultation, and the planned date of consultation.

Chapter 6 provides an overview on the larger stakeholder engagement strategy. Although the Consultant will undertake to make best use of the contacts made during the Development Partner meetings, the Consultant welcomes and depends on future invitations to, and facilitation of large stakeholder meetings.

Internally, the project is based on the five workstreams as described in detail in this report. The five different workstreams will be led by a stream leader respectively and are primarily responsible for their respective activities and needed outputs as explained in detail in the above section on CNs.

At the same time, all teams are aware of the need to permanently exchange information, outputs, constraints between the five streams in a formalized manner, as shown in section 4.

As explained above, streams 2-5 are to some extent dependant on the policy analysis under stream 1. At the same time, all outputs, mechanisms, new paradigms, and local by-laws, will feed back into the policy. Good steering processes and coordination are hence vital.

A reliable coordination and information exchange will be achieved via the following formal and informal (needs based) means:

- by dedicating a stream leader for each of the five workstreams;
- by allocating some experts to more than one stream team;
- by holding regular stream leader meetings and core team meetings;
- by the TL and the technical coordinator.

To ensure an efficient work approach, e-meetings are conducted when necessary. However, the teams have agreed to ensure that meetings are only held with clear objectives and an explicit agenda. Also, meetings require clearly defined follow- up activities, with notes taken and record keeping by the TL or meeting host. Time limits regarding the length of meetings are another aspect that will be considered, as appropriate, to ensure meetings are productive on the one hand, but not overly time-consuming on the other hand.

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Regarding the clarification of roles and expectations within the teams and for the different engagements, it is referred to the respective chapters in the five CNs under Section 4, as well as to section 5 on team members, expertise and workstream allocation, where roles and expectations are explained in detail.

Annex 1: Documents reviewed

Document title
TOR
Technical Proposal
ICM OP 2020
Rangeland management Legislation, Final Drafting Instructions (preliminary overview)
White Paper: Review of Lesotho Water Legislation, 2018
Lesotho Constitution (preliminary overview)
LG Act 1997 (preliminary review)
Water ACT 2008 (preliminary review)
Lesotho Land Act 2010 (preliminary review)
Study on assignment of functions to local authorities in Lesotho, by Ntate Hoolo 'Nyane, 2016
SADC Guidelines for the development of national water policies and strategies to support IWRM, 2004 (preliminary review)
An exposition of legislative quality and its relevance for effective development, Victoria E. Aitken1, (July 2013)
Cutting Edge Tools for Legislative Assessment Evaluation of Legislation – European and national perspectives, Péter Pázmány Catholic University Faculty of Law and Political Sciences, Budapest
Camilla Adelle & Sabine Weiland (2012) Policy assessment: the state of the art, Impact Assessment and Project Appraisal
Final Report, Operationalisation of Integrated Catchment Management Framework Lesotho
National strategic development plan 2018/19-2022/23

Annex 2: Persons consulted

Name	Position	Organization
Mr. Makomoreng Fanana	National ICM Coordinator	ICM ICU
Ms. Migwi Matsolo	Deputy ICM Coordinator	ICM ICU
Mr. Moteka Mohale	Policy and Legal Expert	ICM ICU
Ms. Giuliana Branciforti	Policy Reform Adviser	GIZ
Ms. Lifuo Molapo	ICM Governance Advisor	GIZ
Mr. Henrik Hartmann	Senior ICM Technical Advisor	GIZ
Mahlalele Setlhako	tbc	NTS
Makoala V. Marake	tbc	NTS
Mahali Malibeng	tbc	NTS
Bataung Kuenene	tbc	NTS
Mathuto Bokaako	tbc	NTS
Sehlomeng Maqelepo	tbc	NTS
Ramatsoku Isaac Rampai	tbc	NTS
Matsatsinyana Mating	tbc	NTS
Phaello Rantlhomela	tbc	NTS
Molefi Pule	tbc	NTS
Moahloli Ntele	tbc	NTS
Dorcas Mamotebang Moeketsi	tbc	NTS
Palesa Molapo	tbc	NTS

Annex 3: Progress report

The proposed template for the monthly progress reports to be submitted after the Inception Phase can be accessed via the below link.



LSO-GIZ-ICM -
Monthly progress re