

## **6. Report of the Standing Committee on Finance on the Municipal Fiscal Powers and Functions Amendment Bill [B21B - 2022] (National Assembly- section 75), dated 05 December 2023**

The Standing Committee on Finance (SCOF), having considered the Municipal Fiscal Powers and Functions Amendment Bill [B21B - 2022] (National Assembly- section 75) referred to it, reports the Bill with amendments [B21D – 2022]:

### **1. INTRODUCTION AND BACKGROUND**

- 1.1. The Municipal Fiscal Powers and Functions Amendment Bill (MFPFAB) was tabled in Parliament by the Minister of Finance on 22 September 2022. MFPFAB is an ordinary (section 75 of the Constitution) Bill dealing with the regulation of the power of municipalities to levy development charges and related issues.
- 1.2. Among other issues, this Bill seeks to empower the Minister of Finance to make regulations for the effective implementation of matters relating to development charges and to amend the Spatial Planning and Land Use Management Act (SPLUMA), 2013.

### **2. PROCESS**

- 2.1. The SCOF report on the Bill was adopted on 17 May 2023.
- 2.2. The Select Committee on Finance (SECoF) adopted their Committee report on 10 October 2023 and the Bill was subsequently referred back to SCOF to consider proposed technical amendments to the Bill.
- 2.3. The SCOF was briefed on the proposed technical amendments to the Bill on 05 December 2023.

### **3. PROPOSED TECHNICAL AMENDMENTS TO THE MFPPAB**

#### **3.1 Clause 1: Development charges definition**

The proposed amendments seek to clarify that a DC may contribute to the cost of capital infrastructure assets for engineering services; or such cost as well as the cost of land for parks and open spaces in respect of an application for the use of land for residential purposes; or both these costs as well as, if approved by the Minister for municipal services other than engineering services. Under subsection (b) the term “land for parks and open spaces” is used instead of “open parks and spaces” to accord with the terminology in SPLUMA while under subsection (c) the cost of municipal services other than engineering services is included.

The definition would then read as follows: “Development charges” means a charge levied by a municipality in terms of section 9A(1)(a) and contemplated in section 49 of the Spatial Planning and Land Use Management Act, which must contribute towards (a) the cost of capital infrastructure assets required to meet increased demand for existing and planned external engineering services; or (b) the cost referred to in paragraph (a) and the cost of land for parks and open spaces if the land development application provides for the use of land for residential purposes; or (c) the costs referred in paragraphs (a) and (b) and, with the approval of the Minister, the cost of municipal services other than engineering services.

#### **3.2 Clause 1: Capital infrastructure assets definition**

The proposed amendment seeks to clarify that municipalities can use DCs to contribute to infrastructure to service parks and open spaces and municipal services. Therefore, “capital infrastructure asset” means land, property, building or any other immovable asset, including plant and equipment that accede thereto, which is required for the provision of an engineering service, parks and open spaces or a municipal service.

### **3.3 Clause 4: Section 9G (7)**

NT picked a typographical error which makes the intention of subsection (7) incorrect. The amendment proposes to address the omission of the word “not” in section 9G (7) so that it reads as follows: Section 9G (7) (clause 4): If in the circumstances provided for in subsection 9G (6), the municipality does [not] require the installation of link engineering services to accommodate a greater capacity, the municipality must reimburse or off-set the amount of the development charge by the difference between the costs of the link engineering services installed, and the costs of those link engineering services that would have been required for that land development. Section 9G (6) reads “A municipality may require that link engineering services are installed to accommodate a greater capacity than that which is required for the land development, in order to support future development in the area of the land development”.

### **3.4 Clause 4: Section 9I**

NT further proposed to substitute clause 9I for the following: Where a bulk or link engineering service is intended to service subsequent developments and traverse the internal boundaries of the land development by an applicant - (a) the municipality and the applicant must agree that the service must be regarded as an external or internal engineering service; or (b) if the municipality and the applicant do not agree as contemplated in paragraph (a), the municipality’s determination applies.

## **4. CONCLUSION**

- 4.1. The Committee agrees with the amendments proposed in the Bill as reflected in the C list of the Bill.
- 4.2. The Committee reports the Bill with amendments [B21D-2022].

Report to be considered.