



**Western Cape
Government**

Environmental Affairs and
Development Planning

BETTER TOGETHER.

MINERAL AND PETROLEUM RESOURCES DEVELOPMENT AMENDMENT BILL, 2013

Portfolio Committee

Cape Town

Paul Hardcastle

Strategic importance of mineral extraction

- **The importance of mineral extraction is evident from the various strategic policy directions:**
 - The **New Growth Path** considers the accelerating exploitation of mineral reserves as a key requirements for job creation
 - **National Development Plan** regards mineral extraction is a key driver of the economy “*South Africa must exploit its mineral resources to create employment and generate foreign exchange and tax revenue*”

Strategic importance of mineral extraction

- **The NDP also states that:**

“The Department of Energy, Department of Mineral Resources, Department of Water Affairs and Department of Environmental Affairs should collaborate in developing planning instruments that ensure South Africa uses its endowment of renewable energy resources, combined with effective implementation of environmental regulations to mitigate the exploitation of strategic mineral resources.”

Sustainable development....

- The definition of ‘sustainable development’ in the Mineral and Petroleum Resources Development Act, 28 of 2002 (MPRDA) currently reads “*means the integration of social, economic and environmental factors into planning, implementation and decision making so as to ensure that mineral and petroleum resources development serves present and future generations*”.
- The definition of ‘sustainable development’ in the National Environmental Management Act, 107 of 1998 (NEMA) currently reads “*means the integration of social, economic and environmental factors into planning, implementation and decision-making so as to ensure that development serves present and future generations*”.

Sustainable development

- The NEMA calls for **sustainable development**, the Mineral Petroleum Resources Development Act, 2002 (MPRDA) calls for **sustainable mineral development**.
- As such, the objects of the MPRDA, read with the definition of sustainable development contained in the MPRDA, the Minister will not be able to, in an unbiased and objective manner administer the NEMA, which calls for sustainable development (i.e. interpreted broader than in the MPRDA) encompassing the most sustainable land use option as opposed to the MPRDA's call for the most sustainable mining option.

Key issues.....

- **The Western Cape Department of Environmental Affairs and Development Planning does not support the transfer of environmental decision making competencies (in terms of NEMA) to the Department of Mineral Resource Development**
- **The call for improved cooperation, coordination and integration should not be perceived as a call for the transfer of mandates.**
- **The applicability of different mandates to specific sectors is unavoidable (e.g. Water Use Licences and Land Use Rezoning).**

Key issues.....

- **It is anticipated that the transfer of environmental decision making mandates will result in increased appeals (procedural and substantive)**
- **Recently the DMR advertised a substantial number of posts for the anticipated additional functions – this will not replace existing posts at provincial and national level, but merely duplicate these functions.**
- **The call for coordination and integration is supported – this constitutes and 1-stop process. However, a 1-stop process (i.e. one decision), is not supported. Follow one integrated process, but allow separate decision making mandates.**

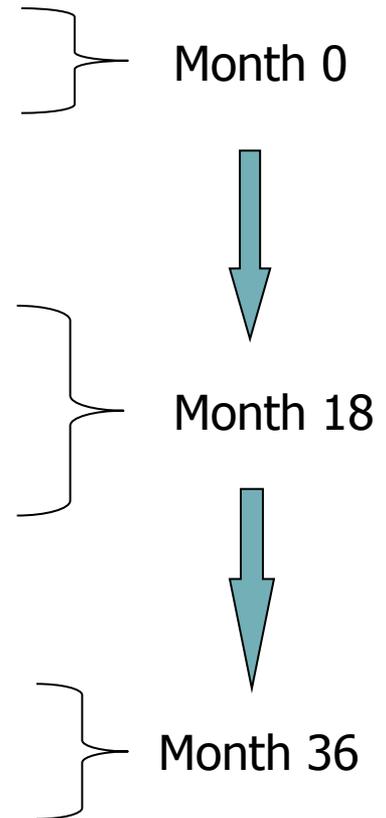
Summary

- **We do not believe it is in the best interest of Mining or Environmental Management to transfer decision making competencies in terms of the NEMA to the mining sector:**
- Conflicting mandates that does not allow for focusing in the primary mandate of mineral extraction (i.e. undermining the mandate to promote mining)
- Unable to objectively fulfil environmental mandate
- Increased challenge of environmental decisions and appeals
- Duplication of functions and resources – and there is no reason to do so

All of the above can be achieved through other (and existing) mechanisms.

The “2008 agreement”

- The first 18-month period commences:
Status quo remains - separate processes and separate decisions.
- The second 18-month period commences:
The provisions relating to prospecting, mining, exploration, and production and related activities come into operation, and the Minister responsible for the MPRDA becomes the competent authority in terms of NEMA for all mining and prospecting related activities.
- The final phase (ongoing):
The decision making power in respect of environmental matters in so far as it relates to mining is transferred from the Minister responsible for the MPRDA, to the Minister of Water and Environment.



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