



Office of the Chairperson

Portfolio Committee on Agriculture, Rural Development and Land Administration; Economic Development, Environment and Tourism

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NEGOTIATING MANDATE

To : The Chairperson: Select Committee on Land and Environmental Affairs

Name of the Bill : National Environmental Management: Integrated Coastal Management Amendment Bill

Number of the Bill : [B8B - 2013]

Date of Deliberation : 14 February 2014

Vote of the Legislature :

The Portfolio Committee on Agriculture, Rural Development and Land Administration; Economic Development, Environment and Tourism (the Committee) supports the objects of the National Environmental Management: Integrated Coastal Management Amendment Bill [B8B - 2013] and hereby confers on the permanent delegate representing the Province of Mpumalanga in the National Council of Provinces, the mandate to **negotiate in favour of the Bill**.

HON RC MAHLOBOGOANE (MPL)

14/02/2014.

DATE

**CHAIRPERSON: PORTFOLIO COMMITTEE ON
AGRICULTURE, RURAL DEVELOPMENT AND LAND ADMINISTRATION;
ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM**

REPORT OF THE PORTFOLIO COMMITTEE ON AGRICULTURE, RURAL DEVELOPMENT AND LAND ADMINISTRATION; ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM ON THE NATIONAL ENVIRONMENTAL MANAGEMENT: INTEGRATED COASTAL MANAGEMENT AMENDMENT BILL [B8B - 2013]

1. INTRODUCTION

The **National Environmental Management: Integrated Coastal Management Amendment Bill [B8B – 2013] (the Bill)** was tabled in the Mpumalanga Provincial Legislature by the Chairperson of the National Council of Provinces (NCOP) on 06 November 2013. The Honourable Speaker of the Mpumalanga Provincial Legislature subsequently referred the Bill to the Portfolio Committee on Agriculture, Rural Development and Land Administration; Economic Development, Environment and Tourism (the Committee) for further processing and report back to the Legislature, in accordance with Rule 185 of the Rules and Orders of the Mpumalanga Provincial Legislature.

The Committee was tasked to provide the NCOP with a negotiating mandate by 18 February 2014 and a final mandate by 25 February 2014, which would enable the delegation representing the Province of Mpumalanga in the NCOP to negotiate in relation to the Bill.

2. BACKGROUND

The ICM Amendment Bill was tabled in Parliament in March 2013, adopted by the National Assembly Portfolio Committee on 29 October 2013 and approved in the National Assembly on 20 November 2013. The Bill seeks to amend the National Environmental Management (NEM): Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (Integrated Coastal Management Act), which is a specific environmental management Act within the framework of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA).

The Bill proposes amendments to certain provisions of the Integrated Coastal Management (ICM) Act. Most of the amendments were identified through the implementation of the legislation.

3. OBJECTS OF THE BILL

The objects of the Bill are as follows:

- To amend the National Environmental Management: Integrated Coastal Management Act, 2008, so as to amend certain definitions;
- To clarify coastal public property and the ownership of structures erected on and in coastal public property;
- To remove the power to exclude areas from coastal public property;
- To clarify and expand the provisions on reclamation;
- To clarify definitions and terminology;
- To simplify the administration of coastal access fee approvals;
- To simplify and amend powers relating to coastal authorisations;
- To replace coastal leases and concessions with coastal use permits;
- To extend the powers of MECs to issue notices for coastal protection and coastal access;
- To clarify the powers of delegation by MECs;
- To limit the renewal of dumping permits;
- To simplify the composition and functions of the national coastal committee;
- To revise offences and increase penalties;
- To improve coastal authorisation processes;
- To provide for exemptions;
- To provide for transitional matters;
- To effect certain textual alterations; and to provide for matters connected therewith.

4. METHOD OF WORK

The Committee interacted with the Bill as follows:

- a. The Honourable Speaker referred the Bill to the Committee on 13 November 2013 for consideration and report back to the House.
- b. On 07 February 2014, the Committee was briefed on the Bill by Hon MP Sibande, the permanent delegate representing Mpumalanga in the NCOP and who sits on the Select Committee on Land and Environmental Affairs. Provincial and national stakeholder departments were invited to attend the briefing.

- c. The Committee resolved in terms of Section 118 (1) of the Constitution to conduct public hearings on the Bill in all three districts of the Province. Invitations to the public hearings were issued to the Speakers of the three targeted local municipalities, which included open invitations to all councillors, ward committees, CDWs and officials involved in pollution and environmental matters.
- d. The targeted communities and invited stakeholders were engaged on the crucial matters relating to the Bill. All invited stakeholders, including those who did not attend the public hearing itself, were also requested to submit their written comments on the bill before 12 February 2014. **No written comments were received.** Subsequently the Committee met on 14 February 2014 to consider its draft report and negotiating mandate on the Bill.

5. BRIEFING BY THE NCOP

- a. Hon Sibande was accompanied by a senior official from the Department of Environmental Affairs (DEA) namely, Dr Niel Malan (Senior Advisor: Oceans and Coasts) who made a presentation to the Committee on the proposed amendments.
- b. Provincial stakeholders who were invited to the briefing session and public hearings:
 - ➔ Department of Economic Development, Environment and Tourism (DEDET);
 - ➔ Mpumalanga Economic Growth Agency (MEGA);
 - ➔ South African Local Government Association (SALGA);
 - ➔ Mpumalanga House of Traditional Leaders (MHTL).

5.1. Political overview of the Bill by the Permanent Delegate

Hon Sibande explained the proposed amendments to the NEM: ICM Act of 2008, emphasizing that the amendments sought to simplify and clarify the structures and administrative processes involved in the management of the country's coasts and coastal properties.

5.2. Presentation by the Department of Environmental Affairs (DEA)

After the overview by the Honourable Sibande, Dr. Niel Malan from the DEA made an informative presentation on the background and objectives of the Bill, the implications of implementing the Bill once it is passed, as well as a clause by clause analysis of the Bill.

5.3. Interaction during the briefing

The following comments, concerns and clarity-seeking questions were raised by the Committee:

- a. The Committee welcomed the overview by Hon Sibande and the presentation by the DEA, acknowledging that although Mpumalanga had no direct stake in the implementation of the Bill, the oceans and coasts of South Africa needed to be protected and preserved to enhance the further economic development of the country and the conservation of our natural heritage for future generations.
- b. The Committee raised a question about whether the ICM Act promotes ownership of coastal property by previously disadvantaged people, to which the DEA responded that the ICM Act does promote access to and along the coast and furthermore states in section 49 that municipal coastal management programmes must address this issue:

“49. (2) A municipal coastal management programme must include—

(c) priorities and strategies—

(iii) to address the high percentage of vacant plots and the low occupancy levels of residential dwellings;

(iv) to equitably designate zones as contemplated in section 56(1)(a)(i) for the purposes of mixed cost housing and taking into account the needs of previously disadvantaged individuals;”

- c. The Committee discussed **the concept of sea reclamation** as contemplated in the Bill, noting that this is necessitated by a shortage of land in countries that hope to create more land for industrial and economic development purposes. South Africa, it was noted, does not have a shortage of land for these purposes. A question was also posed whether government is trying to discourage reclamation, to which the DEA responded that Because of the huge impacts of reclamation government is encouraging stricter precautions when it comes to reclamation. The problems experienced in Dubai were cited as a case in point. The DEA explained that the ICM Act Amendments Bill proposes a system with Parliamentary oversight and will only allow reclamation by private citizens in exceptional circumstances. Any land reclaimed by private individuals will become part of coastal public property and cannot be sold, but may be leased from the government for up to 20 years.

- d. In response to the question about dumping, the DEA responded that it is when a substance is disposed of at sea. For example when the entrance to a harbour is dredged, to ensure that it is deep enough for ships to navigate, the sand and sediment might be disposed of offshore.
- e. A point of clarity was also sought by the Committee about the reference in the Bill to the Minister issuing a verbal notice to stop dumping; it was clarified by the DEA that the Minister would issue a written instruction but would then delegate the function of the actual verbal instruction to a senior departmental official who would ensure that the relevant on-site action, such as the bulldozing of a coastal wetland, is carried out. It was noted that the NEM: ICM Act sets out a procedure in section 92 that should be followed and that this is a discretionary power which the MEC may choose to utilise as and when required.
- f. The Committee asked for an explanation about estuaries, to which the DEA responded that an estuary is that section of the river where the fresh and sea water mixes and where there is a rise and fall in the water level, similar to in the sea. Under certain conditions, such as during a severe drought or when a large dam cuts off freshwater inflow into the estuary, salinity may increase at the upper reaches of the estuary. Estuaries are also very popular recreation areas.

6. PUBLIC CONSULTATION PROCESS

6.1. Public Education and Public Hearings

The PPPS (Public Participation and Petitions Section) of the Legislature facilitated pre-public hearing educational workshops on the Bill on 06 February 2014 in all three districts. Members of the targeted communities and affected stakeholders in attendance were educated about the legislative processes of the Legislature and the content of the Bill.

- a. The following stakeholders were invited to attend the public hearings on 07 February 2014 and to submit written comments on the Bill:
 - SASOL
 - SAPPI
 - TSB

- ESKOM
- WESSA Lowveld (Wildlife and Environment Society of South Africa)
- Kruger Lowveld Chamber of Business Tourism (KLCBT)
- South African Local Government Association (SALGA)

b. The scheduled public hearings were advertised in provincial and regional newspapers, together with a call for written submissions on the Bill, as follows:

- The Lowvelder (whole province) – 31 January 2014 and 04 February 2014;
- Mpumalanga News (whole province) – 30 January 2014;
- Khanyisa (Gert Sibande district) – 05 February 2014;
- Uthingo Mail (Nkangala district) – 05 February 2014.

c. Stakeholders were invited to submit written comments on the Bill on or before 12 February 2014. The Bill was uploaded onto the Mpumalanga Provincial Legislature website at www.mpuleg.gov.za; it was also sent electronically to targeted stakeholders.

The public hearings were held on 07 February 2014 from 09:00 – 13:00 as follows:

| DISTRICT | VENUE |
|---------------------|---|
| Ehlanzeni | Mbombela Local Municipality, Matsulu Community Hall, Matsulu |
| Gert Sibande | Msukaligwa Local Municipality, Wesselton Community Hall, Ermelo |
| Nkangala | Thembisile Hani Local Municipality, Vezubuhle Community Hall, Vezubuhle |

6.1.1. Interaction with stakeholders during the public hearings

- a. The Committee Members who were deployed at the various public hearings explained the purpose of the public hearings, which was to involve the public in the legislative processes of the provincial legislature, as required by Section 118(1) of the Constitution of the Republic of South Africa.
- b. At each public hearing, the Honourable Members ensured that the stakeholders understood the main objectives of the Bill and that their questions were adequately responded to. A common concern from all the public hearings was the pollution caused by

Development, Environment and Tourism made a presentation on the Bill. Mr Mabuza explained the purpose and content of the Bill to the public, in Zulu and English, highlighting the problematic areas that the Bill sought to address.

- b. The stakeholders in attendance at this venue understood that although Mpumalanga did not have a coast, the Bill aimed to protect and preserve the coastal heritage of the country. They appreciated to be part of the process with the other provinces.
- c. The public did not raise any questions or comments on the Bill; there were no objections to the Bill and it was supported by the public at Vezubuhle.

6.1.2. Written comments on the Bill

By 12 February 2014, no written comments were received from the public or any other of the invited stakeholders in the air quality management space - in response to the advertisements and the invitations that were sent directly to them.

7. COMMITTEE OBSERVATIONS

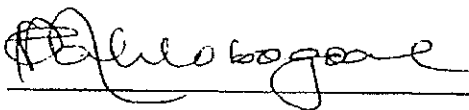
After examining the Bill and considering the inputs from the public consultation process, the Committee concluded that:-

- a) The Committee was satisfied that the objects of the Bill were constructive for the development of the country in terms of protection of natural heritage for future generations.
- b) The Committee is of the view that this bill, once passed, will not necessarily create a financial burden for the provincial Department of Economic Development, Environment and Tourism.
- c) The Bill falls within the functional areas listed in Part A of Schedule 4 of the Constitution, namely "environment". It does not contradict the principles of the Constitution of the Republic of South Africa.
- d) The public consultation process was fruitful; at all three public hearings the public understood the significance of the Bill and participated in the interactions. The proposed amendments as per the Bill were unanimously supported.

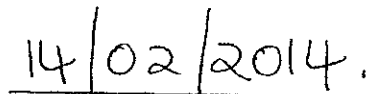
8. CONCLUSION AND RECOMMENDATION

As per the processes detailed in this report, the Committee facilitated the public consultation process in the Province in consideration of the National Environmental Management: Integrated Coastal Management Amendment Bill [B8B-2013].

In light of the above and in consideration of its observations in this report, the Committee recommends that the House confers a mandate upon the Permanent Delegate representing the Province of Mpumalanga in the NCOP to **negotiate in favour of the National Environmental Management: Integrated Coastal Management Amendment Bill [B8B-2013]**.



HON. RC MAHLOBOGOANE (MPL)



DATE

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