

NORTH WEST PROVINCIAL LEGISLATURE

NEGOTIATING MANDATE

TO : CHAIRPERSON OF THE SELECT COMMITTEE ON LAND AND MINERAL RESOURCES

NAME OF BILL : MINERAL & PETROLEUM RESOURCES DEVELOPMENT AMENDMENT BILL

NUMBER OF BILL : B 15D-2013

DATE OF DELIBERATION : 02 MAY 2017

VOTE OF THE LEGISLATURE:

After deliberations, the Portfolio Committee on Tourism & Agriculture, Rural Development & Environment confers the delegation representing the North West Province with the authority and mandate to negotiate in favour of the Mineral & Petroleum Resources Development Amendment Bill [B15D – 2013]; taking into account the proposed amendments as attached herewith.

J M Maluleke

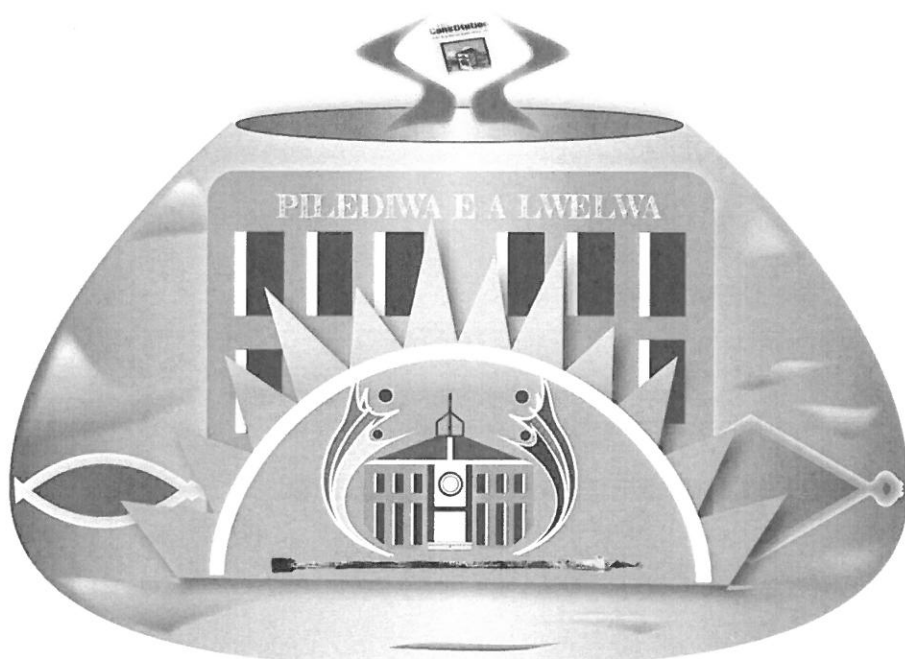
HON. J M MALULEKE

02/05/2017

DATE

CHAIRPERSON: Tourism & Agriculture, Rural Development & Environment

**PORTFOLIO COMMITTEE ON TOURISM, AGRICULTURE, RURAL
DEVELOPMENT & ENVIRONMENT**



NORTH WEST PROVINCIAL LEGISLATURE

**PUBLIC HEARING REPORT ON THE
MINERAL & PETROLEUM RESOURCES DEVELOPMENT
AMENDMENT BILL [B15D – 2013]**

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ANNEXURE

ACRONYMS

DMR.	Department of Mineral Resources
SLP	Social Labour Plans
IDP	Integrated Development Plans
MPRDA	Mineral and Petroleum Resources Development Amendment Bill
NDP	National Development Plan
READ	Department of Rural, Environment and Agricultural Development

1. INTRODUCTION

The Constitution of the Republic of South Africa enables Legislatures with the responsibility to make laws. Section 76 of the Constitution of the Republic of South Africa further details the process to be followed in processing Bills that affect provinces. This is on the basis on which Public Hearings on the Mineral & Petroleum Resources Development Amendment Bill [B15D – 2013] for the were conducted.

- The Mineral and Petroleum Resources Development Act, 2002:
 - Gave effect to the internationally accepted right of the State to exercise sovereignty over all its mineral and petroleum resources.
 - Vested custodianship of mineral and petroleum resources with the State. The Act separated surface rights (land ownership) from mineral rights ownership.
 - Large portions of land in South Africa is still owned and controlled by the previous advantaged South Africans and foreigners.
 - In the first decade of promulgation, the Act created an enabling environment for growth and transformation in the mining industry.
 - In 2008 the Act was amended to amongst others give effect to the “one environmental management system”.
 - Notwithstanding tremendous progress to date on the reform of the mining industry through the MPRDA, the first decade since promulgation of the Act has provided the benefit of jurisprudence on the basis of which inherent weaknesses are being addressed

2. PROCESS FOLLOWED

The Mineral & Petroleum Resources Development Amendment Bill [B15D – 2013]was formally referred by the Speaker, Honourable S.R. Dantjie to the Portfolio Committee on Tourism, Agriculture, Rural Development & Environment, for consideration and reporting.

The Portfolio Committee received a presentation from the Department of Mineral Resources on the Mineral & Petroleum Resources Development Amendment Bill [B15D – 2013 at a meeting held on 24 November 2016.

Public Hearings were conducted throughout the province on 20 April 2017 a total amount of 1 738 people attended.

3. OBJECTIVE OF THE MINERAL & PETROLEUM RESOURCES DEVELOPMENT AMENDMENT BILL [B15D – 2013]

- To improve the ease of doing business in the industry, including the streamlining and integration of mining, environmental and water authorisation processes i.to.o alignment with NEMA and the National Water Act
- To strengthen its content, in order to further enhance and continue creating a conducive environment for investment, growth and job creation
- To augment and substantially increase the socio-economic development impact through mining
- To balance business needs national development imperatives
- Further entrench the principle of security of tenure and protection of the sanctity of investments as an integral part of South Africa's mining regulatory framework and;
- To provide for radical economic transformation in the mining, minerals and upstream petroleum industry
- To bring the administration of historical stockpiles created prior to the promulgation of the MPRDA into the ambit of the Act.

4. PRESENTATION BY THE DEPARTMENT

4.1 STRATEGIC OBJECTS OF THE MPRDA BILL

- Improve the ease of doing business in the industry, including the streamlining and integration of mining, environmental and water authorisation processes i.t.o alignment with NEMA and the National Water Act.
- Strengthen its content, in order to further enhance and continue creating a conducive environment for investment, growth and job creation.
- To augment and substantially increase the socio- economic development impact through mining.

- Balance business needs with national development imperatives.
- Further entrench the principle of security of tenure and protection of the sanctity of investments as an integral part of South Africa's mining regulatory framework; and
- To provide for radical economic transformation in the mining, minerals and upstream petroleum industry
- To bring the administration of historical stockpiles created prior to the promulgation of the MPRDA into the ambit of the Act.
- Provide for the State's active participation in the development of petroleum resources.
- Provide for the designation of minerals for national developmental imperatives such as security of energy supply, food security and industrialisation.
- Enhance provisions relating to the regulation and implementation of Social and Labour Plans.
- Provide for partitioning of rights and enhanced sanctions.
- Entrench and embed transformation (the Mining Charter).
- Provide for enforcement of Housing and Living Conditions standards for mineworkers; and
- To address certain short comings identified in court cases including Macsand, Mawetse and Bengwenyama.

4.2 PROPOSED AMENDMENTS: APPLICATION BY INVITATION (Sec 9)

- The Bill introduces a dual application system.
- The Minister is empowered to invite applications for a defined period through a Gazette on unknown terrains (where the State has generated the knowledge).
- Provision is also made for the first come first serve process on known terrains (where knowledge is independently generated).
- This process will ensure orderly and optimal development of the Country's mineral and petroleum resources.
- It will further optimise the transformation and developmental impact.

4.3 PROPOSED AMENDMENTS: STAKEHOLDER CONSULTATION (Sec 10,16)

- The Bill proposes provisions aimed at strengthening consultation with affected communities, including traditional leaders.
- The Bill provides for separation of consultation for directly affected stakeholders and interested stakeholders.
- Further provides for DMR to facilitate the consultation process.

- The purpose of the consultation is to ensure that the applicant engages meaningfully with directly affected stakeholders.
- It further provides affected parties with an opportunity to submit their comments and objections.
- Further gives the RM powers to forward the comments and objection to the applicant for further consultation with affected stakeholders.

4.4 PROPOSED AMENDMENTS: PARTITIONING OF RIGHTS (Sec 11)

- Section 11 is amended to provide for partitioning of rights by enabling holders thereof to dispose of part of their rights subject to the requirements of the Act.
- Ministerial prior consent is a requirement for the transfer of rights for both listed and unlisted companies as prescribed in the regulations.
- Mining companies are required to request the Minister's consent prior to the transfer of any interests in unlisted companies and change in controlling interests in listed companies.

4.5 PROPOSED AMENDMENTS: CHANGE OF OWNERSHIP (Sec 11)

- The purpose of these provisions is to discourage the dilution of BEE ownership in mining companies.
- In granting a section 11 consent the Minister must reaffirm the rights and interests of affected groups including workers and communities.
- The Bill further provides for national development finance institutions like IDC to finance exploration, prospecting and mining projects through mortgage bonds without Minister's consent.

4.6 PROPOSED AMENDMENTS: SLP's (Sec 23)

- The Bill provides for SLP's as follows:
 - ✓ Submission and approval within the prescribed timeframe.
 - ✓ Review of the approved SLP within a five year period for the duration of a mining right.
 - ✓ A percentage of the holders' contribution towards mine community development is accordingly prescribed in the reviewed mining charter 2016.

- The objects of the Act are amended to include labour sending areas.
- The concept of “labour sending areas” is defined.

4.7 PROPOSED AMENDMENTS: BENEFICIATION (Sec 26)

- Minister is empowered to designate certain minerals in consultation with a relevant Minister for national developmental purposes in order to:
- support national development imperatives such as industrialisation, energy security, food security, infrastructure development and fiscal stability and bring optimal benefit for the Country;
- ensure transformation of the mining industry and related sectors; and
- ensure cost competitive security of supply.
- In so doing the Bill requires mining operations to set aside a certain percentage of their production for local beneficiation.
- These resources are to be acquired by beneficiaries at mine gate price or agreed price.
- Restrictions (Ministerial consent) on exports of designated minerals are introduced for non-producers.

4.8 PROPOSED AMENDMENTS: BEE (Sec's 1, 17, 28)

- The Bill requires not merely the extent of the holder's compliance with the Amended Charter but actual compliance from right holders.
- Emphasis is on “effective Black ownership”, which marks a shift from the vaguely defined definition of BEE.
- Definition of this Act has been revised to expressly incorporate the Amended Charter into the ambit of the Act.
- BEE requirements have been extended to prospecting right applications.

4.9 PROPOSED AMENDMENTS: STATE PARTICIPATION (Clause 86A)

- The Bill provides for the State's active participation in the petroleum industry;
- The State has a right to a 20 % free carried interest in all new exploration and production rights.
- The State is entitled to a further participation interest in the form of acquisitions at either agreed price or through production sharing agreements.
- The State has a right to board representation.

4.10 PROPOSED AMENDMENTS: SANCTIONS (Sec 99)

- The Bill provides for enhanced sanctions.
- The sanctions are linked to a percentage of the annual turn over of the right holder consistent with the Competition Act.
- Provision is also made for administrative fines which will be payable to a designated fund and used to promote exploration activities and matters incidental thereto.
- These sanctions are intended to serve as sufficient deterrent to right holders and encourage compliance with the Act.

4.11 GUIDED MINISTERIAL DISCRETIONARY POWERS (Sec 107 & 56)

In terms of the proposed Section 107, the Minister's discretionary powers are guided in the following manner:

- Minister must develop regulations relating to procedures applicable to invitation of rights in terms of section 9.
- Minister must consult with relevant stakeholders when developing terms and conditions applicable to both State participation and beneficiation.
- Minister must take into consideration the Council's advice when developing such terms and conditions.

4.12 STREAMLINING OF INTER-DEPARTMENTAL PROCESSES

- In 2010, Minister of Mineral Resources adopted the "Strategy for Sustainable Growth and Meaningful Transformation of South Africa's Mining Industry"
- The Strategy identified amongst others a fragmented licensing mechanisms as one of the key binding constraints to the global competitiveness of the industry;

- Consequently, the Ministers of DMR, DEA and DWA agreed on modalities to streamline licensing requirements for mining (in line with the 2008 amendment of the MPRDA).
- Joint PPC on Mineral Resources and Environmental Affairs was briefed prior to the commencement of the public hearings on the alignment of the MPRD Bill and the NEMLA Bill in 2013.
- After the conclusion of the public hearings a Joint PPC meeting was held to ensure that the necessary amendments have been effected to the various pieces of legislation.

4.13 ENVIRONMENTAL MANAGEMENT Sec's 39, 40, 41 & 42

- Prior to 2008, mine environmental management was provided for under the MPRDA.
- Section 39 provided for the process for approval of mine environmental management plans and programmes (EMP's).
- Section 40 provided for consultation process with State departments on approval of EMP's.
- Section 41 provided for financial provision for EMP's.
- Section 42 provided for management of residue deposits and stock piles.
- Section 43 provided for mine closure.
- Applicants had to comply with these provisions in order to be granted rights and permits and in addition comply with the requirements of NEMA .
- The requirement to comply with various pieces of legislation proved cumbersome and further contributed towards non-compliance with NEMA.
- Macsand Judgment reinforced the view that holders of mining rights must comply with all other relevant prescripts.

4.14 Additional proposals cont... (Outcomes of Oceans Phakisa)

- Based on the outcomes of the Oceans Operation Phakisa, the Department has engaged the upstream petroleum industry to relook at clause 86A and find a win-win solution for the sector taking into account its frontier nature.
- In this regard clause 86A of the Bill has been reworked to propose the following:
 - ✓ 20% State carried interest;
 - ✓ A cost recovery mechanism of the carried interest during the production stage;
 - ✓ Downward adjustment at production stage in consultation with the Minister of Finance;

- Certainty of project terms by providing for the determination of terms for both exploration and production rights for the duration of the right;
- Renegotiation of terms when renewing a production right;
- Relinquishment of contiguous portions of exploration rights at the renewal stage;
- Minister to be given powers to develop a Petroleum Charter to make provision for transformation issues for the oil and gas sector.
- The proposal is to provide for a 10% BEE shareholding.
- It is proposed that these additional amendments to the Bill and related proposals be included in
- DMR has identified loopholes relating to the application of small scale mining and thus proposes that the applicability of small scale mining be limited to 50+1% South African owned company's.
- It is proposed that the definition of historically disadvantaged South Africans be replaced with the definition of black persons as per the alignment of the transformation policies in line with the BBBEEA and the generic codes.
- It is further proposed that non compliance with sec 100 be included in sec 47, so as to empower the Minister to suspend and/or cancel rights should the applicant fail to comply with the requirements of the mining charter and the housing and living conditions standards.
- An amendment of the definition of "effective date" is proposed so as to give effect to the Mawetse judgment.

4.15 Additional proposals (technical errors)

- DMR has, post adoption of the Bill by Parliament, identified grammatical errors in the Bill.
- These errors are found in the definition of prospecting right and clarity is also provided in the proposed section 9 to clarify the dual application system.
- Clause 22, section 27 grammatical errors are also corrected to provide clarity that the section refers to mining permits.
- An amendment is further proposed to section 100, clause 74 to empower Minister with powers to develop a petroleum charter.
- An amendment is proposed to section 9 to provide for the dual application system.
- A further amendment is proposed to the mining right granting section (s23) and rights and obligations of the mining right holder (s25) to include compliance with the housing and living conditions standards in order to ensure that the standards are a condition of the mining right.
- It is proposed that Section 27 (small scale mining) be amended to limit its application to qualifying 51% Black South African persons owned.

- It is also proposed that the proposed amendments in the Bill relating to the replacement of the designated agency (PASA) with Regional Manager be omitted.
- An amendment is proposed to section 96 to provide for the appointment of an appeals panel relating to the processing of an appeal involving the State owned mining company.

4.16 CONCLUDING REMARKS

- The proposed amendments and the additional proposals to the MPRDA will:
 - ✓ Strengthen the architecture of the mining and minerals regulatory framework and direct a shift towards local mineral value addition.
 - ✓ Contribute towards national developmental imperatives.
 - ✓ Streamline licensing processes.
- Provide for State participation in the petroleum sector.
- Significantly boost the energy security programme through extractive industries that span mining, minerals and upstream petroleum industry

5. ORAL SUBMISSIONS

5.1 BOJANALA PUBLIC HEARING

- A clear distinction must be drawn between affected communities and interested communities. Consultation should be approved based on the inputs of the affected communities more than interested communities
- Section 10 (a) make publicly known that an application for prospecting right, mining right or mining permit has been accepted in respect of the land question
- Section 10(b) call upon affected persons and communities to submit their comments and objections regarding the application (within 30 days from the date of the notice) to the Regional Manager within 90 days
- The composition of the Regional Mining Development and Environment Committee should include representation from affected communities from across the province

- Section 26) A comprehensive national development on developing skills to ensure that the is optimal beneficiation of the products. This should be coupled with a beneficiation development fund which will establish industries for processing and finalisation of products
- Section (d) 4 No persons or producer may export unrefined minerals from South Africa
- A concern was raised that rehabilitated mining dump in Tlhabane created by Glencore. No environmental impact assessments done on the dust that comes from this un-rehabilitated dump. No are there any plans to rehabilitate it
- BEE ownership should be enforced at 26%
- Section 43 (g) The holder of right or permit should publish mine closure plans make known to the affected community
- An oversight committee should be established by the department to ensure compliance and enforcement of the Social Labour plans
- A study and impact assessment should be done on mining on Restitution of Land Act of 1994 by MRPDA , currently the Chief Land Commissioner making decisions on behalf of communities
- Concluding remarks on strengthening community consultation including land owners and lawful occupiers. A definition needs to be made for the following with clear conscience definitions of :
 - ✓ land owners
 - ✓ land occupiers
 - ✓ affected communities
 - ✓ interested communities
- Consideration of land claims and dispute of land claims and how it adds on the pressures to land dispossessions
- The findings on the Bengwenyama Case on public participation was not fully adhered to in the current pubic participation
- The objects of the AU Mining Law:

“Transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development” This shared vision will comprise: • A knowledge-driven African mining sector that catalyses & contributes to the broad-based growth & development of, and is fully integrated into, a single African market through: o Down-stream linkages into mineral beneficiation and manufacturing; o Up-stream linkages into mining capital goods, consumables & services industries; o Side-stream linkages into infrastructure (power, logistics; communications, water) and skills & technology development (HRD and R&D); o Mutually beneficial partnerships between the state, the private sector, civil society, local communities and other stakeholders; and a comprehensive knowledge of its mineral endowment. • A sustainable and well-

governed mining sector that effectively garners and deploys resource rents and that is safe, healthy, gender & ethnically inclusive, environmentally friendly, socially responsible and appreciated by surrounding communities; • A mining sector that has become a key component of a diversified, vibrant and globally competitive industrialising African economy; • A mining sector that has helped establish a competitive African infrastructure platform, through the maximisation of its propulsive local & regional economic linkages; • A mining sector that optimises and husbands Africa's finite mineral resource endowments and that is diversified, incorporating both high value metals and lower value industrial minerals at both commercial and small-scale levels; • A mining sector that harness the potential of artisanal and small-scale mining to stimulate local/national entrepreneurship, improve livelihoods and advance integrated rural social and economic development; and • A mining sector that is a major player in vibrant and competitive national, continental and international capital and commodity markets.

- Clarity needs to be given on when will this be ratified in South Africa
- Clarity needs to be given on when how the objects are fully incorporated into the MPRDA
- Section 11, clarity is needed on the prescribed manner , no clarity gives an impression that transfers can be done without consultation
- Section 23 The Minister must notify the affected community of approval or rejection of the application of rights
- Communities should be given time to consult legal experts and other resources after public hearings
- The Minister powers seems take more weight than those of the affected communities
- The definition of HDI versus black persons should be clarified
- Consultation should be meaningful , it should be fostered in communities and
- No protection of land invasion created by mining. Labourers occupying land unlawfully then later claiming land tenure
- A proposal was made that before the minister accepts the application, zoning and expansion feasibility studies must be carried out to ensure communities will be able to expand and cater for population growth to avoid the current situation in Luka where the community cannot expand the village
- TVET syllabus focused on mining should be introduced to further ensure that full beneficiation is experienced in the North West and affected communities and rural industrialisation
- Social investment on education and labour upskilling on affected communities to ensure direct local economic development of local communities before labour attraction of labour sending areas

- *The select committee itself will not consider the department's [57 new] amendments, which will be addressed via the provincial mandates. The select committee believes this process will circumvent the restrictions placed by the joint rules of Parliament on what can be considered in cases of presidential referrals. [our insertion]*
- A concern was raised that Bill 15D and the 57 further amendments proposed by the Department of Mineral Resources must be rejected because:
 1. The joint rules of Parliament provide that no amendments can be made when a Bill is returned to Parliament by the President on the procedural ground of lack of participation. Parliament has failed to facilitate proper and meaningful public participation
 2. The NCOP and the Provincial Legislatures therefore cannot cure the flawed NCOP and PL process of March 2014 by now holding fresh hearings because these belated hearings cannot make amendments, which shortcoming would render the hearings meaningless.
 3. In any event the NCOP and the Provincial Legislatures cannot consider amendments which fall outside the referral mandate of the President.
 4. Bill 15D[1] and the 57 further proposed amendments[2] do not address the concerns of communities. They actually dilute the little community participation currently provided for in the MPRDA. For example, Bill 15D and the 57 further amendments delete the MPRDA's current requirement that when a prospecting or mining right is granted and the application relates to the land occupied by a community, the Minister may impose "conditions requiring the participation of the community." [3]
 5. The 57 further amendments cannot be entertained by either the Select Committee or the Provincial Legislatures.
 6. The legal and factual reasoning for these assertions, and the adequacy of the hearings are more fully set out in our earlier correspondence. We stand by each allegation made therein.
 7. . The 57 backdoor amendments of the DMR dated 24 November 2016 be rejected;
 8. The NCOP be requested that a new draft bill be prepared that provides that community consent be required and the IPILRA [the Interim Protection of Informal Land Rights Act of 1996] be inserted as a pre condition for the consideration of any prospecting and mining right on communal land.
 9. The principal demand is that IPILRA be explicitly incorporated into the MPRDA and that no mining on communal land be allowed without community consent. Our further proposed amendments are attached hereto.

10. LAMOSA record that when the President referred^[4] the Bill back to Parliament two years ago on 16 January 2016, he recorded one of the referral grounds as related to “the consent principle in customary law.” He asserted that the bill “ignored” the consent principle. The National Assembly and the NCOP ignored the exhortation of the President. The eight editorial amendments of the NA and the 57 amendments proposed by the DMR fail to address customary law and other property rights of communities on customary land. Instead Bill 15D and the proposed further amendments of the DMR further undermine community property rights and the participatory rights of communities

- DMR failed to consult with affected communities prior to tabling the proposed amendments
- Job reservation for unskilled labour for affected communities should be done and labour sending areas should provide technical skills that take more than a year to acquire skill
- Prioritisation of bulk infrastructure in mining squatter camp next to Segwelane above the community that has been settled
- Causalisation of labour and labour broking deterioration of health of workers and their contracts being terminated after six months without compensation and upskilling
- North West Province needs to enact the North West Mining Development Centre
- Mines should make known and publish achievements of the Social Labour Plans in the Annual Report. It must e monitored that there was actual achievement in accordance to the approved Social Labour Plan.
- Mining is disrupting farming activities and there is no compensation for the disruption in farming and other economic activities.
- The amendments vary significantly from the proposed Bill that the President resent to the National Assembly
- Feedback public hearing should be held after the debates in the NCOP (recommendation)
- Objects of the Amendment : Provide for enforcement of Housing and Living Conditions standards for mineworkers.
- This does not address lack of housing post working especially those not coming from local communities. At retirement most workers go back from labour sending areas of origin and usually without decent housing and depend on the state to provide housing
- Cost of consultation, clarity needs to be given on who carries the cost of consultation and the support from DMR
- Section 11: The Bill further provides for national development finance institutions like IDS to finance exploration, prospecting and mining projects through mortgage bonds without Minister's consent –

ability to finance and ability to carry licence (this discriminates upcoming entrepreneurs who do not necessarily have the financial and technical support to carry and finance the licence)

- Clarity was requested on the level or percentile of employment qualifies an area as a labour sending area.
- Small scale mining (Tlhatlhaganyane) needs financial support and no access to market.
- The Bill proposes amendments to consultation, recourse for current mining that was approved without prior consultation.
- Its recommended that open cast should be stopped due to damage to housing
- The proposal is to provide for a 10% BEE shareholding in the Petroleum Industry is not adequate to redress previous economic exclusion a 30% BEE shareholding is proposed for the net.
- 10 % of total turnover should be legislated should be use.
- The Bill should accommodate to redress past transgressions by mining houses:
- Make provision in the Bill to establish mining forums (DMR, mining houses, affected communities) that will assist in coordinating community development.
- Notice of change of ownership, this must be known to the affected community.

5.2 DR RUTH SEGOMOTSI MOMPATI PUBLIC HEARING

- The community insists that the law should include the previous mines companies to comply with the act in order to compensate the beneficiaries.
- Who should we consult or which local offices will assist us if we want to start mining business.
- The bill does not empower Women and Youth who are interest on mining.
- Consultative Meeting must include all relevant stakeholders and information must be available for everyone (Transparency).
- Establish a local monitoring and evaluation committee to ensure that law enforcement is adhered to.
- There was a concern that mining companies does not give local communities (who have mining skills) opportunity to be employed/ partnering with them.
- The communities recommend that mining companies should review their business plan every year to check compliance.
- Member of the Legislature should be part of the consultative meeting
- The system should be strengthening to ensure that the areas around the mines are proper rehabilitated.
- They proposed that Government must take ownership of mines.

5.3 DR KENNETH KAUNDA PUBLIC HEARING

- Issues were raised regarding illegal mining from stock piles that have not rehabilitated.
- The new Bill seeks to correct injustices of the past but there are lots of miners that did not get their pension funds as mines claimed to have closed only to have them open by another name thereafter.
- There are cracked houses due to the blasts at the mines but the mines do not assist.
- Some companies steal their business plans when they apply for prospecting rights.
- In Matlosana there are lots of old mines that have closed and the community will not benefit from this bill. Some people have suffered from silicosis, lithiasis and injuries at the mines, some have injuries and not yet compensated.
- The Social Labour Plans must be implemented and monitored to ensure that the needs of communities near mines benefit from production at the mine.
- The Bill is silent on how the SLP will be implemented and what criteria must be followed. Most communities have never been consulted on them, have never seen a copy of the SLP.
- There must be transparent process in the community.
- Mines continue to exploit the community by getting minerals from them without benefitting.
- The partitioning of rights needs to be better managed under this bill as this is how some mines are able to get away from implementing the SLPs for communities.
- The land for closed mines can be used for agriculture if only the mines are held to account and penalized for not rehabilitating the land.
- There is fronting in mines during the inspection of DMR. There are certain sections of the mine that do not comply with legislation or safety regulations that are closed when inspections are conducted.
- Some people cannot apply online as they don't have access to internet so it already excludes them from applying for mining or prospecting rights.
- The J Shaft in Khuma has gold but had to be stopped because there is a lot of water in the mine and it rendered the mine unsafe.
- If the SLP is implemented the license of the mine should be reviewed, as communities around mines do not seem to benefit from the mine.
- Penalties for mines not complying to rehabilitate mines puts communities in danger and must be more stringent.
- Mining Charter must include burial rites for employees at mines.
- The closed mines in Matlosana can be used as a tourist attraction and create jobs for the youth in the area.
- Mines must be nationalised.

5.4 NGAKA MODIRI MOLEMA PUBLIC HEARING

- Lack of consultation with the community in terms of mining industries that are been constructed in rural areas.
- No proper developments in terms of roads, bridges and schools at Kripan, as compared to places with no mining industries. There are no meaningful opportunities expanded to members of the community.
- The mining company in Kraipan does not add any value in terms of employment to the community, only foreigners are getting employed.
- There is no proper channel in terms of reporting deaths of mine workers, and these mining companies do not provide any financial assistance to the bereaved families.
- Regular oversight visits should be conducted especially on rural mining areas.
- SLP's and IDP's should work hand in hand to have an increased level of developments in rural mining areas.
- Rural mining companies employ more trained foreigners with relevant mining skills, there is no skills transferred to the community.
- The community of Ditsobotla was never consulted about the mining company that was constructed on their graveyard.
- The Kalgold mining in Kraaipan once promised the community to build a training centre, until today. A trust fund for education was also requested.
- There is a need for community representation in terms of decisions taken between municipalities and mining companies.
- Mining licence should not be granted for a longer period, if there are no developments.
- Most houses have cracks due to the mining blasts.
- A library was long built by the mining company, but has not yet been handed over to the community.
- Members also raised concerns about wholes that were dug previously by one mining company, and they were left opened for years. Those holes were reported to have caused many lives in terms of children and domestic animals.
- Thorough consultations should be done in terms of mines which are constructed on farms belonging to communities.
- Community members should always form part with regard to elections of mining directors.
- Mining communities also required to be updated on their trust accounts

6. RECOMMENDATIONS BY COMMUNITIES/STAKEHOLDERS

Communities and Stakeholders recommended as follows:

- 6.1 Establish a local monitoring and evaluation committee to ensure that law enforcement is adhered to.
- 6.2 Mines must be nationalised.
- 6.3 The Bill must ensure that the areas and communities around mines are rehabilitated.
- 6.4 If the SLP is implemented the license of the mine must be reviewed, as communities around mines do not seem to benefit from mining activities.
- 6.5 Penalties for mines not complying with rehabilitation must be more stringent.
- 6.6 The Mining Charter must include burial rites for employees at mines.
- 6.7 The closed mines in Matlosana can be used as a tourist attraction and create jobs for the youth in the area.
- 6.8 Communities recommend that mining companies should review their business plan every year to check compliance.
- 6.9 A Member of the Legislature should be part of the consultative meetings that are held with communities.
- 6.10 Regular oversight visits should be conducted especially on rural mining areas.
- 6.11 Mining communities be updated on their trust accounts quarterly.

7. RECOMMENDATIONS OF THE COMMITTEE

The Committee recommends that the House resolve as follows;

- 7.1 The Bill be rejected as Bojanala district was not in agreement with the amendments. The amendments do not benefit communities in mining areas, they benefit the state and mining houses.

8. ACKNOWLEDGEMENTS

The Chairperson of the Committee thanked all Members for their commitment to the oversight process of the Mineral & Petroleum Resources Development Amendment Bill [B15D – 2013]

The cooperation of the MEC for READ, the Head of the department , senior officials from the department and The Department of Mineral Resources is highly appreciated.

The Chairperson of the Committee would also like to thank the support staff for contributing in compiling this report.

9. ADOPTION OF THE REPORT

The Portfolio Committee recommends that the House approve the passing of the Mineral & Petroleum Resources Development Amendment Bill [B15D – 2013]

I present to this House, the report of the Portfolio Committee on Tourism, Agriculture, Rural Development & Environment, for consideration and adoption

HON. J M MALULEKE

CHAIRPERSON: TOURISM, AGRICULTURE, RURAL DEVELOPMENT & ENVIRONMENT

DATE