



**PORTFOLIO COMMITTEE ON ECONOMIC DEVELOPMENT  
NEGOTIATING MANDATE**

**TO: Chairperson of the Select Committee on Land and Environmental Affairs**

**NAME OF THE BILL: Marine Spatial Planning Bill**

**NUMBER OF BILL: [B 9D-2017]**

**DATE OF DELIBARATION: 09 October 2018**

**VOTE OF THE LEGISLATURE**

**The Portfolio Committee on Economic Development as designated by the Free State Legislature:**

**The Portfolio Committee votes in favour of the Bill**

A handwritten signature in black ink, appearing to be 'T.P. Meeke', written over a horizontal line.

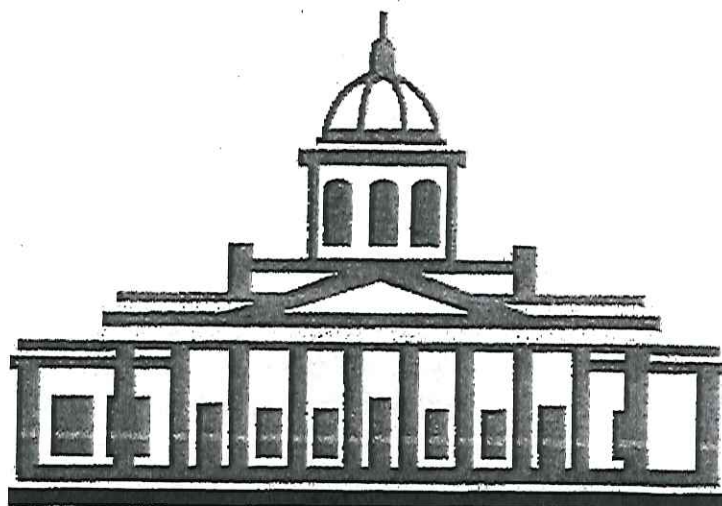
**HON. T.P. MEEKO**

**CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON ECONOMIC  
DEVELOPMENT**

**FREE STATE LEGISLATURE**

**13 June 2018**

**FREE STATE PROVINCIAL LEGISLATURE**



**Free State Legislature**

**REPORT OF THE PORTFOLIO COMMITTEE ON AGRICULTURE, RURAL,  
ECONOMIC DEVELOPMENT, SMALL BUSINESS, SPORT, ARTS AND CULTURE  
WITH REGARD TO THE PUBLIC HEARINGS CONDUCTED ON MARINE  
SPATIAL PLANNING BILL [B 9B-2017]**

**09 October 2018**

**REPORT PROFILE**

**Title of Report:** Report of the Portfolio Committee on Agriculture and Rural Development, Economic Development, Small Business, Sports, Arts and Culture with regard to public hearings conducted on Marine Spatial Planning bill

**Status of Report:** For submission to the Office of the Speaker and tabling in the Free State Legislature.

**Responsible Committee:** Portfolio Committee on Agriculture and Rural Development, Economic Development, Small Business, Sports, Arts and Culture.

**Chairperson and Members of the Portfolio Committee:**

\_\_\_\_\_  
**MEEKO, T.P.**  
**(COMMITTEE CHAIRPERSON)**

\_\_\_\_\_  
**BUTI, M.P.**

\_\_\_\_\_  
**MAPENA, L.N.**

\_\_\_\_\_  
**MOLELEKI, M.S.**

\_\_\_\_\_  
**MORAPELA, K.Z.**

\_\_\_\_\_  
**JANKIELSOHN, R.**

\_\_\_\_\_  
**WESSELS, T**

\_\_\_\_\_  
**VAN ROOYEN, C.J**

**TO THE HONOURABLE SPEAKER AND HONOURABLE MEMBERS OF THE  
FREE STATE LEGISLATURE**

The Portfolio Committee on Agriculture and Rural Development, Economic Development, Small Business, Sports Arts and Culture herewith submits the report and recommendations with regard to Marine Spatial Planning Bill [B 9D - 2017] to the Free State Legislature.

Public hearings were conducted in compliance and commitment to section 118 of the Constitution of the Republic of South Africa, which enjoins the Legislature to facilitate public involvement in the legislative and other processes of the legislature and its committees as well as to conduct its business in an open manner and hold its sittings and those of its committees in public.

The Portfolio Committee extends its acknowledgement to the following stakeholders: Hon. Members for their active participation during the process of consideration of the Bill, Member of the National Council of Provinces, Hon P Parkies, Officials from Department of DESTEA for their insight and assistance during consideration of the Bill, Officials from the Free State Legislature for their sterling work during consideration of the Bill. All stakeholders for their inputs and effective participation during consideration of the Bill.

Report Compiled by: Kgathatso Nkeane and Chabana Chabana

Report checked and edited by: Sylvester Thahane

Report for tabling in the Legislature on: 2018

## **TABLE OF CONTENTS**

<b>Item</b>		<b>Page</b>
<b>1.</b>	<b>INTRODUCTION</b>	<b>5</b>
<b>2.</b>	<b>MEMBERS OF THE PORTFOLIO COMMITTEE</b>	<b>5</b>
<b>3.</b>	<b>PURPOSE AND OBJECTIVE OF THE BILL</b>	<b>5</b>
<b>4.</b>	<b>PROCEDURE OF THE PORTFOLIO COMMITTEE</b>	<b>6</b>
<b>5.</b>	<b>OVERVIEW OF THE PUBLIC HEARINGS</b>	<b>6</b>
<b>6.</b>	<b>RECOMMENDATIONS</b>	<b>8</b>



## **1. INTRODUCTION**

Marine Spatial Planning Bill [B 9D-2017] was referred to the Portfolio Committee on Agriculture, Rural Development, Economic Development, Small Business, Sport, Arts and Culture Portfolio Committee for consideration and report back.

## **2. MEMBERS OF THE PORTFOLIO COMMITTEE**

The Portfolio Committee comprises the following Members:

Buti, M.P.	(Member)
Jankielsohn, R.	(Member)
Morapela, K.Z.	(Member)
Mapena, L.N.	(Member)
Meeko, T.P.	(Chairperson)
Moleleki, M.S.	(Member)
Van Rooyen, C.J.	(Member)
Wessels, W.W.	(Member)

## **3. PURPOSE AND OBJECTIVE OF THE BILL**

To provide a framework for marine spatial planning in South Africa; to provide for the development of marine spatial plans; to provide for institutional arrangements for the implementation of marine spatial plans and governance of the use of the ocean by multiple sectors; and to provide for matters connected therewith.

#### 4. PROCEDURE OF THE PORTFOLIO COMMITTEE

The committee was briefed by the NCOP permanent delegate and National Department of Science and Technology. Public education was conducted in different areas in the Free State.

Adverts of public hearings were placed in the following newspapers (copies thereof are attached)

NAME OF THE NEWSPAPER	DATE OF THE ADVERT
1. Volksblad	22 August 2018
2. Express	22 August 2018

The public hearing were conducted as follows:

Date	Name of Venue	Name of the Area
23 September 2018	Forever Resort	Gariiep Dam

#### 5. OVERVIEW OF THE PUBLIC HEARINGS

##### General views of the Committee

There is a need of effective and efficient public education before public hearing. The chairperson and members of the Committee briefed those in attendance and responded to questions raised at the public hearing.

The following inputs were submitted by stakeholders:



1. The government must provide those who use ocean economy with rules and regulations so that if they don't comply they can be prosecuted.
2. The Departments responsible to ensure compliance with marine laws must do that without fear or favour.
3. The Departments must provide business people who are using the oceans and the sea with licence in time to avoid illegal usage.
4. The prosecution of business people who contaminate oceans and the rivers must be high to protect ocean economy and the animals that leave in the water

#### **Written Submissions**

- No written submission was submitted for Marine Spatial Planning Bill.

## **6. RECOMMENDATIONS**

The Committee recommendations:

- 6.1. The Committee note inputs made at the public hearing and recommend that they be considered by at the negotiating mandate meeting and,
- 6.2. There were no objections to the bill at the public hearing.
- 6.3. The Committee vote in favour of the bill



## NEGOTIATING MANDATE

**TO:** The Chairperson of the Select Committee on Land and Mineral Resources

Hon. O Sefako

**NAME OF BILL:** Marine Spatial Planning Bill

**NUMBER OF BILL:** [B9D-2017]

**DATE OF DELIBERATION:** 19 October 2018

### VOTE OF THE LEGISLATURE:

The Gauteng Provincial Legislature supports the principle and the detail of the bill and therefore votes in favour of-

- Marine Spatial Planning Bill

**HON. E Magerman**

Chairperson of Economic Development, Environment, Agriculture and Rural Development Portfolio Committee

GAUTENG PROVINCIAL LEGISLATURE

Date: 25<sup>th</sup> October 2018





**ECONOMIC DEVELOPMENT, ENVIRONMENT, AGRICULTURE AND RURAL  
DEVELOPMENT PORTFOLIO COMMITTEE**

**NEGOTIATING MANDATE**

**ON THE:**

**MARINE SPATIAL PLANNING BILL [B9D-2017] (s76)**

**19<sup>TH</sup> OCTOBER 2018**

**1. INTRODUCTION**

The Chairperson of the Economic Development, Environment, Agriculture and Rural Development Portfolio Committee, Mr. Errol Magerman, tabled the Committee's report on the Negotiating Mandate on the Marine Spatial Planning Bill [B9D-2017] (s76).

**2. PROCESS FOLLOWED**

The Speaker, Hon. Ntombi Mekgwe formally referred the Marine Spatial Planning Bill [B9D-2017] a Section 76 Bill on the 7<sup>th</sup> May 2018 to the Portfolio Committee on Economic Development, Environment, Agriculture and Rural Development, in terms of GPL Rules 245 (1) read with 246 (1) and 247 and 248 for consideration and reporting.

On the 22<sup>nd</sup> August 2018, the Permanent Delegate from the National Council of Provinces (NCOP), Honourable R M Mlambo gave a briefing to the Committee on the Bill. This was followed by a presentation by the National Department of Agriculture, Forestry and Fisheries on the detail of the Marine Spatial Planning Bill [B9D-2017]. Subsequent to that, the Gauteng Department of Agriculture and Rural Development (GDARD) made a presentation on the views of the Executive on matters related to the Marine Spatial Planning Bill [B9D-2017].

In the same meeting, a legal opinion on the Bill was presented by the NCOP and Legal Unit from the Gauteng Provincial Legislature. In fulfilling its constitutional mandate, the Committee published adverts in the following newspapers;

- Sowetan, Thursday 6<sup>th</sup> September 2018
- City press - Sunday 9<sup>th</sup> September 2018
- Sowetan, Friday 14<sup>th</sup> September 2018;



This was to enable the Committee to request members of the public and stakeholders to make comments on the Bill. Following that, the Committee convened a public hearing on Saturday, 15<sup>th</sup> September 2018 at Parktonian Hotel, City of Johannesburg. The Portfolio Committee deliberated and adopted the report on the Negotiating Mandate of the Marine Spatial Planning Bill [B9D-2017] in a meeting that convened on Thursday, 18<sup>th</sup> October 2018.

### **3. PRINCIPLES AND DETAILS OF THE BILL**

The Bill seeks to create a marine spatial planning system that promotes economic growth and is facilitated by coordinated planning across multiple sectors.

The Bill applies to South Africa's territorial waters (12 nautical miles from the baseline), the Exclusive Economic Zone (200 nautical miles from the baseline), extended continental shelf claim, the territorial waters, exclusive economic zone and extended continental shelf around the Prince Edward Islands.

The Bill further provides a framework for marine spatial planning in South Africa; to provide for the development of marine spatial plans; to provide for institutional arrangements for the implementation of marine spatial plans and governance of the use of the ocean by multiple sectors; and to provide for matters connected therewith.

### **4. OBJECTIVES OF THE BILL**

The objects of the Act are to—

- (a) develop and implement a shared marine spatial planning system to manage a changing environment that can be accessed by all sectors and users of the ocean;
- (b) promote sustainable economic opportunities which contribute to the development of the South African ocean economy through coordinated and integrated planning;
- (c) conserve the ocean for present and future generations;
- (d) facilitate responsible use of the ocean;
- (e) provide for the documentation, mapping and understanding of the physical, chemical and biological ocean processes and opportunities in, and threats to, the ocean; and
- (f) give effect to South Africa's international obligations in South African waters."

### **5. OVERVIEW OF THE PUBLIC HEARINGS**

Public hearings were attended by stakeholders who engaged on all matters related to the Bill. Various sentiments were echoed and the Bill was supported.

### **6. SUMMARY OF STAKEHOLDERS SUBMISSIONS MADE DURING THE PUBLIC HEARING**

It is the Gauteng Provincial Legislature's constitutional duty to facilitate meaningful public involvement when processing a Bill in accordance with section 118 (1)(a) of the constitution and LAMOSA judgement. Prior and during the public hearing, stakeholders were encouraged to make written submissions on issues related to the Bill. However, no submissions were made in this regard. Overall, the stakeholders expressed support for the Bill.



## **7. POSITION BY THE GAUTENG DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT**

In line with the GPL Rule 248 (1) (b) the Committee sought the views of the relevant Member of the Executive on the Bill. The Gauteng Department of Agriculture and Rural Development supports the Marine Spatial Planning Bill [B9D-2017] (s76).

- The Department supports the promulgation of the Bill;
- The Bill may enhance societal benefits and strengthen the level of people's interaction with the ocean.
- Bill provides for a collaborative approach with regards to the use of the ocean space which may in turn enhance cooperation amongst uses and various sectors. This may also contribute towards conflict resolution between users of the ocean.
- Security (Safety, Financial, Food, Energy etc.) - safety provisions resulting from the integrated approach towards planning may positively enhance security (i.e. safety, financial, food, energy etc.).
- The direct benefits of joint planning and management of ocean space through implementation of the Bill, may increase the GDP from ocean space in South Africa, and may create job opportunities that will contribute to security (i.e. safety, financial, food, energy etc.).
- Economic Growth - MSP Bill is aimed at promoting sustainable economic opportunities, which contribute to the development of the SA ocean economy, through coordinated and integrated planning. The aspiration of increasing GDP contribution as estimated in the Operation Phakisa Ocean Economy Lab, is set at R54 billion in 2010 to R177 billion by 2033.
- Economic Inclusion (Job Creation and Equality) - the implementation of the Bill is anticipated to increase job opportunities (i.e. an estimated 800 000 to 1 million opportunities).
- Environmental Sustainability - the Bill looks to promote a healthy marine environment and sustainable use of marine resources.
- The Bill will contribute to good ocean governance which will ensure the integrity of the ocean environment. The MPAs will form part of the conservation layer in MSP, therefore the further implementation of the Bill may enhance conservation and encourage sustainable use of resources within the ocean space
- It is to be welcomed that the DEA took the initiative in drafting the Bill.

## **8. SOCIO-ECONOMIC FINANCIAL IMPLICATIONS**

The Gauteng Province could benefit indirectly from this operation with the setting up of agro-processing industries for marine organisms as well as the hauling of the raw or processed products inland for consumption. Raw produce can further be hauled from the coast for processing by inland agro-processing plants in Gauteng. The income derived from oil and gas exploration is to make an estimated contribution of up to R20 billion into the country's economy over a 5-year period (DEA 2017). The distribution of the petroleum by-products inland, would create job opportunities for wholesalers, retailers and hauliers for the province.

The nature of the economic services provided in relation to the Marine Spatial Planning (MSP) Bill for people living in Gauteng are varied and could include all of oil and gas exploration as well as refineries, fishing, aquaculture, and thus suggest that the possible economic impacts could be varied as well. Figures obtained for fishing, suggest the total haul of fish to be at an estimated 800 000 tonnes per annum. Fish harvesting will involve hauling of the raw or even processed products inland for consumption or further processing by inland agro-processing plants.

The ocean economy in its entirety is projected to contribute as much as R177 billion to the economy of the country with an excess of 800 000 jobs being created by 2023 (Anon, 2018). The impact of the gas and oil exploration could even impact on the global petroleum prices. There is however, a strong view that the main role players could be exclusively big businesses with little or no consideration made for emerging entrepreneurs. The various job opportunities that will be created through the various enterprises will mean added income to various households. A workforce of up to 800 000 people is estimated to be involved in the ocean industry in 2023 and will have positive impacts on the communities from which these employees come from. The number of job opportunities that will be created presents the government with an opportunity to ensure that there is representation in the work force of members of vulnerable groups.

The analysis of the Marine Spatial Planning Bill shows that the social impact of the amendments could ensure that a large workforce is absorbed in the ocean economy and help in reducing the unemployment levels the country is faced with. This provides the country an opportunity to ensure that members of vulnerable communities are involved in the economy as well. The economic returns that could be realized involve the pumping in of up to an estimated R177 billion into the economy over the next 5 years which would be a positive impact for the country's economy and in turn, people of Gauteng would benefit.

## **9. COMMITTEE'S RECOMMENDATIONS**

**It is important that the Department of Environmental Affairs:**

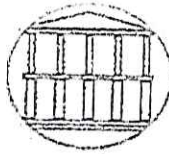
- Ensures that profits do not trump the environment in the exploitation of the marine environment.
- Ensures that traditional fishing grounds are not compromised and pushed aside to make way for mining in cases where oil and gas reserves fall within these environments
- Ensure that there is some involvement of members of vulnerable groups in the job opportunities created
- Guarantees fair representation of the entire coastal line in relation to people employed, including people from rural areas and former homelands.
- Confirms that big business will not be the only beneficiary in the various economic activities that will happen in the industry but that small scale entrepreneurs benefit as well.

## **10. NEGOTIATING POSITION ADOPTED BY THE COMMITTEE**

The Portfolio Committee on Economic Development, Environment, Agriculture and Rural Development supports the principle and details of the Marine Spatial Planning Bill [B9D-2017] (s76).



IPHALAMENDE LAKWAZULU-NATALI



KWAZULU-NATAL PROVINSIALE PARLEMENT

KWAZULU-NATAL PROVINCIAL PARLIAMENT

## NEGOTIATING MANDATE

**TO:** HON OJ SEFAKO, MP  
CHAIRPERSON OF SELECT COMMITTEE ON LAND  
AND MINERAL RESOURCES


**NAME OF BILL:** MARINE SPATIAL PLANNING BILL

**NUMBER OF BILL:** B9D – 2017

**DATE OF DELIBERATION:** 31 AUGUST 2018

**VOTE OF THE LEGISLATURE:**

The Portfolio Committee on Environmental Affairs met today, Friday the 31<sup>st</sup> of August 2018, and agreed to mandate the KwaZulu-Natal delegation to *support* the Marine Spatial Planning Bill [B9D-2017]; with the following proposed amendments as outlined in the Committee Report, attached hereto.

  
.....  
HON Z LUDIDI, MPL  
CHAIRPERSON: PORTFOLIO COMMITTEE  
ON ENVIRONMENTAL AFFAIRS

*31.8.2018*  
.....  
DATE

# **REPORT OF THE ENVIRONMENTAL AFFAIRS PORTFOLIO COMMITTEE ON THE MARINE SPATIAL PLANNING BILL [B9D – 2017]**

The Environmental Affairs portfolio committee received a briefing on the Marine Spatial Planning (MSP) Bill on the 31<sup>st</sup> of July 2018 from officials of the Provincial Department of Economic Development, Tourism and Environmental Affairs since the NCOP permanent delegates and officials from the National Department were not available. However, the committee insisted that since the MSP Bill is a national piece of legislation, the NCOP permanent delegate or officials from the National Department must come and brief them. Subsequently, the committee was briefed by officials from the National Department of Environmental Affairs on the 08<sup>th</sup> of August 2018.

During the briefing on the Bill, the issue of the tagging of the Bill as a section 76 was raised, and it was highlighted that the MSP Bill had no provision binding the provinces and local government. Despite this, the State Law Advisors at the National level insisted that the Bill be tagged as a S76 Bill. Having considered the nature of the Bill, the committee resolved that to comply with provisions of s118 of the Constitution, the stakeholders along the coast should be targeted.

The committee decided to hold three (3) public hearings in the following areas:

- 1. Friday, 24 August 2018: Margate Town Hall (uGu District)**
- 2. Wednesday, 29 August 2018: St Lucia Town Hall  
(uMkhanyakude District)**
- 3. Thursday, 30 August 2018: Durban Exhibition Centre: Coast of  
Dream Hall (eThekweni Metro)**

In almost all the public hearings, there were common general concerns that were raised, which can be summarised as follows:



- (a) The non-availability of the Bill in isiZulu version; and
- (b) The time frame that the public was given within which to submit written inputs.

There were very limited inputs received in relation to the content of the Bill, and these have been captured below as follows:

- (i) The term “sustainable use” is used in the Bill but has not been defined which then leaves it open to different interpretations and thus should be defined.
- (ii) Clause 5 deals with Principles and criteria for marine spatial planning. These should be tabulated in order of hierarchy, the most important to be first until the least at the end.
- (iii) Clause 9(1)(a) deals with the composition of the National Working Group:

The National Working Group proposed within the MSP Bill should not consist of government officials and representatives of government departments only. The only successful historical steering committees and working groups contained a good balance of government and private sector representation.

Therefore, the proposed amendment is as follows:

**“9. (1) (a) A National Working Group on Marine Spatial Planning is hereby established, comprising of competent officials who are nominated from the departments responsible for defence, energy, environmental affairs, fisheries, mineral resources, planning monitoring and evaluation, public enterprises, science and technology, telecommunications, tourism, transport, rural development [and], land affairs and representatives from the environmental private sector and independent civil society.”**

- (iv) The municipalities are of the view that they have been left out from the MSP Bill and they regard themselves as the important component in planning.

- (v) Clause 12 deals with publication of MSP framework and marine area plans in the Gazette by the Minister, however, does not provide for an opportunity for public comments. What is the purpose for this publication and if relevant stakeholders are not satisfied with the plans published, to whom do they appeal or request for review of the plans?
- (vi) Clause 14 deals with the review of plans at least every five years, a shorter period is suggested and five years deemed to be long.

Therefore, the proposed amendment is as follows:

**"14. The marine area plans must be reviewed at least every [~~five~~] three years and, if necessary, amended in terms of the iterative, phased process contemplated in section 6 and the process and procedure contemplated in sections 9 to 11."**

Prepared by:  
K.M. Masondo (Adv.)





## Office of the Chairperson

### PORTFOLIO COMMITTEE ON AGRICULTURE, RURAL DEVELOPMENT, LAND AND ENVIRONMENTAL AFFAIRS

Enquiries: Adv. Buyile Mdiuli

Email: buyilem@mpuleg.gov.za

Tel. No.: 013 766 1038

### NEGOTIATING MANDATE

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

**Name of the Bill** : Marine Spatial Planning Bill

**Number of the Bill** : [B 9D-2017]

**Date of Deliberation** : 30 August 2018

**Mandate of the Legislature** : The Portfolio Committee on Agriculture, Rural Development, Land and Environmental Affairs, after considering the Marine Spatial Planning Bill, [B 9D-2017] ("the Bill"), confers on the permanent delegate representing the Mpumalanga Provincial Legislature in the NCOP, the mandate to negotiate in favour of the Bill taking into consideration the views of the community members and stakeholders as contained in the attached report.

Kind regards,

  
**HON. V.V. WINDVOËL (MPL)**

**ACTING CHAIRPERSON: PORTFOLIO COMMITTEE ON  
AGRICULTURE, RURAL DEVELOPMENT,  
LAND AND ENVIRONMENTAL AFFAIRS**

03/09/2018  
DATE



# REPORT OF THE PORTFOLIO COMMITTEE ON AGRICULTURE, RURAL DEVELOPMENT, LAND AND ENVIRONMENTAL AFFAIRS ON THE MARINE SPATIAL PLANNING BILL, [B 9D-2017]

---

## 1. INTRODUCTION

The Speaker referred the Marine Spatial Planning Bill, [B 9D-2017] to the Portfolio Committee on Agriculture, Rural Development, Land and Environmental Affairs (the Committee) for consideration and report back to the House in accordance with the Rules and Orders of the Mpumalanga Provincial Legislature.

In terms of Section 118(1) of the Constitution of the Republic of South Africa, 1996, the Legislature has a mandate to facilitate public involvement in the legislative and other processes of the Legislature and its committees. It is against this background that the Committee conducted public hearings to solicit inputs and views from members of the public on the above-mentioned Bill.

## 2. OBJECTIVES OF THE BILL

The purpose of the Bill is mainly;

- To provide a framework for marine spatial planning in South Africa;
- To provide for the development of marine spatial plans;
- To provide for institutional arrangements for the implementation of marine spatial plans and governance of the use of the ocean by multiple sectors; and
- To provide for matters connected therewith.

## 3. METHOD OF WORK

The Committee met with the NCOP permanent delegate, Hon AJ Nyambi, officials from the Department of Environmental Affairs and the Department of Agriculture, Rural Development,

Land and Environmental Affairs on 17 August 2018 for a briefing on the Bill. The Committee then decided to conduct public hearings after publishing an invitation in the print media: Lowvelder, Mpumalanga Press (covering Ehlanzeni District), Linda Shabalala Publishers (covering the Nkangala District) and Provincial Media Economist (covering the Gert Sibande District) in order to solicit inputs/comments from interested stakeholders and members of the public. The Bill was also uploaded on the Mpumalanga Provincial Legislature website. The Public hearings were conducted on Friday, 24 August 2018 in the following Districts.

- Ehlanzeni District: Nkomazi Local Municipality – Mbuzini Tribal Hall
- Nkangala District: Thembisile Hani Local Municipality – Thembisile Council Chamber
- Gert Sibande District: Dr. Pixley Ka Isaka Seme Local Municipality – Sinqobile Community Hall – Dagaakraal

Subsequently, the committee met on 30 August 2018 to consider the draft report and the negotiating mandate on the Marine Spatial Planning Bill [B 9D - 2017].

#### **4. INTERACTION BY THE COMMITTEE WITH NCOP PERMANENT DELEGATE AND DEPARTMENT OF ENVIRONMENTAL AFFAIRS**

##### **4.1. The Permanent Delegate gave a brief political overview on the Bill, which amongst others reported that:**

- Mainly, the bill will address the issue of poor coordination when it comes to ocean economy and other related matters.
- The Bill will assist with job creation and the management of the ocean economy.
- The Bill will ensure proper coordination of the relevant departments when it comes to the ocean economy.
- It will make the country to be in line with international laws when it comes to ocean management;
- He emphasized that the Bill should not be regarded as irrelevant for the province as some people of the province might be contributing in the ocean economy.



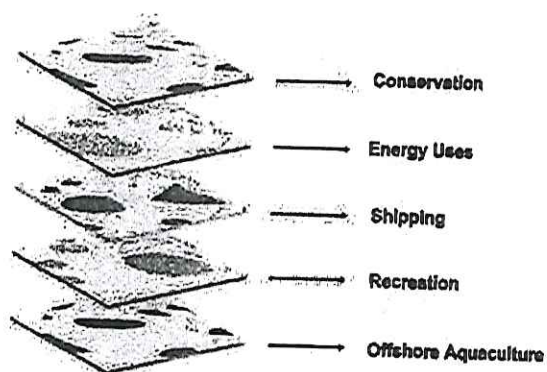
## 4.2. Briefing by the Department of Environmental Affairs

The presentation covered amongst others the following:

### 4.2.1. Purpose of the Bill

To develop an integrated approach to ocean governance including management plans for ocean areas, environmental variables, conflicts scenarios, and tradeoffs.

### 4.2.2. Importance of Marine Spatial Planning (MSP) for South Africa



Currently there is no overall system to guide the development, implementation, monitoring and refinement of National & Regional (Sub-National) Marine Spatial Planning Frameworks and Sub Regional Marine Spatial Management Plans in South Africa, potentially leading to conflict, unsustainable use of ocean resources and failing to capitalize on development opportunities.

## 5. INTERACTION BY THE COMMITTEE WITH STAKEHOLDERS ON THE BILL

The following stakeholders were invited by the Committee to attend the public hearings held on 24 August 2018:

- Community Members
- Department of Agriculture, Rural Development, Land and Environmental Affairs
- Chairperson of Mpumalanga House of Traditional Leaders (HTL) and local houses

- Speakers of the local municipalities in the Districts
- Ward Committees
- Community Development Workers
- Headmen of traditional villages
- AFASA
- Religious Leaders
- Trade Unions

During the public hearings, members of the Committee, assisted by the Legal Section of the Legislature, explained the Bill thoroughly in the local languages spoken in each of the communities where the public hearings took place. The legislative processes and timeframes for processing the Bill through the relevant channels of the National Council of Provinces (NCOP) were also explained. The public was made to understand their Constitutional rights in relation to them making inputs in the processing of bills by the Legislature. The Committee also reported that the Bill under review had some implementation challenges hence the proposed amendments. The Committee also responded to the questions of clarity raised thereafter. The community members and stakeholders who were present at the public hearing unanimously supported the Bill. Most people raised concerns which were also related to the Bill as follows:

- Community Members Supported the Bill and emphasized that everything must be done in order to protect South Africa's marine areas in terms of security.
- It is proposed that a state owned entity must be established to ensure that there is no biasness on the allocation of business rights.
- The Department of Environmental Affairs was requested to ensure protection of wastes disposed in the sea.
- The Bill must protect the marine in terms of imports coming into the country and ensure that strict security measures are taken against people coming into the country through the sea.
- Members of the public enquired how the environment will be kept clean- this came after they were briefed about the bill. Members of the public enquired if there was a bill on environmental issues to ensure that the environment is clean.



## **6. OBSERVATIONS AND FINDINGS MADE BY THE COMMITTEE**

- 6.1. The Bill deals with technical amendments relating to the provision of a framework for marine spatial planning in South Africa, the development of marine spatial plans; provision for institutional arrangements for the implementation of marine spatial plans and governance of the use of the ocean by multiple sectors; and to provide for matters connected therewith.
- 6.2. The issue of keeping the environment non-polluted was raised by members of the community.
- 6.3. Oral submissions that were made by the public were considered accordingly. Other submissions that do not talk to the content of the Bill will be dealt by the Department of Agriculture, Rural Development, Land and Environmental Affairs and local municipalities and through the Petitions process of the Legislature.
- 6.4. Members of the public were unanimously in support of the Bill.

## **7. RECOMMENDATION**

The Portfolio Committee on Agriculture, Rural Development, Land and Environmental Affairs after considering the Bill confers on the permanent delegate representing the Province of Mpumalanga in the NCOP, the mandate to negotiate in favor of the Bill.

## **8. CONCLUSION**

The Chairperson wishes to thank all members of the public for their worthwhile participation in the public hearings and for the inputs or comments they have made. A word of gratitude to the Members of the Portfolio Committee, the NCOP Permanent Delegate, Hon Nyambi, the official from the Department of Environmental Affairs, Mpumalanga Department of Agriculture, Rural Development, Land and Environmental Affairs, Speakers of the Local Municipalities for their efforts in ensuring that the Committee meets its obligation and the support staff who contributed to the success of the public hearings and the production of this report.

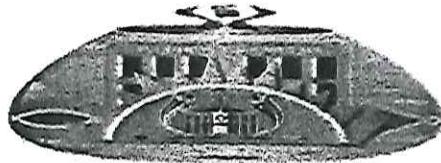


HON. VV WINDVOËL (MPL)

03/09/2018  
DATE

**ACTING CHAIRPERSON: PORTFOLIO COMMITTEE ON  
AGRICULTURE, RURAL DEVELOPMENT,  
LAND AND ENVIRONMENTAL AFFAIRS**

*Appointed in terms of Rule 114 of the Rules and Orders of the Mpumalanga  
Provincial Legislature.*



NORTH WEST PROVINCIAL LEGISLATURE

## NEGOTIATING MANDATE

**To** : Hon Sefako  
Chairperson of the Select Committee on Land and  
Mineral Resources

**Name of Bill** : Marine Spatial Planning Bill

**Number of Bill** : B9D -2017

**Date of Deliberation** : 30 August 2018

**Vote of Legislature** : Portfolio Committee on Tourism and READ confers on the  
North West's Permanent delegate in the NCOP with the  
authority and mandate to negotiate in favour of the Bill with  
proposed amendments.

**Signature** :

**Date:** 30/08/18

**Chairperson** :

**Hon G. V. Tlhapi**

**Portfolio Committee on Tourism and READ**

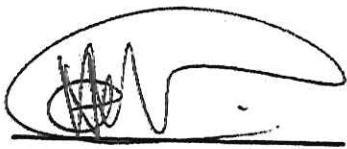
ANNEXURE

PROPOSED AMENDMENT

Definition

1. To insert a clause that defines an "Ocean" is a common heritage of all citizens of South African of which the State is a custodian.

Signature

: A handwritten signature in black ink, consisting of a large, stylized 'S' or 'M' shape with a horizontal line underneath it.

Date: 30/08/18

Chairperson

: **Portfolio Committee on Tourism and READ**





Wes-Kaapse Provinsiale Parlement  
Western Cape Provincial Parliament  
IPalamente yePhondo leNtshona Koloni

KOMITEES  
COMMITTEES  
LIKOMITI

Navrae  
Enquiries  
Imibuzo  
Ncediswa Meyambela

Tel  
Umnxeba  
+27 (0)21 487 1826

Faka  
Fax  
Ifaka  
+27 (0)85 577 4534

Epos  
Email  
Himeyile  
nmayambela@wcpp.gov.za

Detum  
Date  
Umhla  
26 October 2018

Verwysing  
Reference  
Isalethiso  
11/1/3

**NEGOTIATING MANDATE**

To: Hon OJ Sefako  
Chairperson: SC on Land and Mineral Resources

Name of Bill: Marine Spatial Planning Bill

Number of Bill: [B 9D - 2017]

Date of deliberation: 26 October 2018

Vote of Legislature: The Standing Committee on Environmental Affairs and Development Planning reports that it confers on the Western Cape's Permanent Delegate in the NCOP the authority to support the Bill subject to the following amendments:

Signature

Date

29/10/2018

Hon. TA Simmers  
Chairperson: SC on Environmental Affairs and Development Planning



**Wes-Kaapse Provinsiale Parlement  
Western Cape Provincial Parliament  
IPalamente yePhondo leNtshona Koloni**

Ref Number: 11/4/1/2/8

**(Negotiating mandate stage)** Report of the Standing Committee on Environmental Affairs and Development Planning on the *Marine Spatial Planning Bill* [B 9D-2017] (NCOP), dated 26 October 2018, as follows:

The Standing Committee on Environmental Affairs and Development Planning, having considered the subject of the *Marine Spatial Planning Bill* [B 9D-2017] (NCOP) referred to the Committee in terms of Standing Rule 220, confers on the Western Cape's delegation in the NCOP the authority to support the Bill subject to the following amendments:

**1. Definitions**

**1.1** Marine Spatial Planning must be defined in the Bill.

**1.2** The Bill applies to South African waters which is defined to include "internal waters". The Maritime Zones Act (Act 15 of 1994) states that internal waters shall comprise "all waters landward of the baselines and all harbours". The Bill specifically excludes all fresh water bodies as defined in the National Environmental Management: Integrated Coastal Management Act (Act 24 of 2008).

It is submitted that "freshwater bodies" also be defined to further clarify that the Bill is not applicable to inland waters. Terrestrial planning with regard to inland waters is already covered by other legislation.

**1.3** The term "Knowledge and information system" is used throughout the Bill. It is submitted that a definition is required for the sake of clarity as to the meaning of the term.

**2. Marine Spatial Planning Frameworks (MSPFs): Clause 9**

The development and drafting of Marine Spatial Planning Frameworks (MSPFs) are designated to the National Working Group in terms of clause 9(2). The Bill is silent to the manner in which MSPFs must be drafted, whether such frameworks must be national or drafted for certain regions or areas, to whom draft MSPFs must be submitted, how and by whom these draft MSPFs will be evaluated and reviewed and who will be responsible for the approval and implementation of these frameworks.

It is submitted that MSPF's be included as a separate clause, in which the process, from drafting to acceptance and review, be set out.



**3. National Working Group (NWG): Clause 9**

No determinable requirements are set in the Bill for officials to qualify for nomination to the NWG. Furthermore, if the NWG is to be comprised of persons who are considered to be experts in their respective fields of study or practice, a rider must be included in clause 9(4) so that experts may only be appointed in the event where the NWG is not capable of dealing with a specific matter internally. The National Working Group on Marine Spatial Planning created in terms of clause 9 includes competent officials from various national departments but it does not make provision for the inclusion of provincial officials on the committee.

The Bill may have significant implications for provinces which have a coastline and it is therefore submitted that provision should be made for the inclusion of provincial officials on the National Working Group on Marine Spatial Planning.

**Clause 9(2)(b)(xiv):** It is submitted that the "cultural values" mentioned in line 50 is a repetition of that in line 45 and should be deleted.

**4. Directors-General Committee: Clause 10**

The Directors-General Committee created in terms of clause 10 does not provide for provincial or municipal representation on the committee. The Bill also does not provide for representation by the Department of Water and Sanitation, Disaster Management Authorities, the South African Maritime Safety Authority and the South African Local Government Association.

It is not agreed that marine spatial planning can be done without the provincial and municipal input that is responsible for the terrestrial areas that will support the ocean-based activities. The terrestrial areas adjacent to the ocean will be directly affected by marine spatial planning. Provincial governments and municipalities will have to be prepared and ready to respond to the marine spatial planning system.

The Bill may have significant implications for provinces and municipalities that have a coastline and it is therefore submitted that provision should be made for provincial and municipal representation from the entities mentioned on the Directors-General Technical Committee and any other committee created in respect of marine spatial planning.

**5. Drafting Corrections**

**5.1 Clause 4**

As there is no other legislation dealing with marine spatial planning, clause 4 is probably intended to read as follows:

'In the event of any conflict between the provisions of this Act and other legislation, this Act prevails where the conflict relates to marine spatial planning.'

**5.2 Clause 5**

Clause 5(1)(a) starts with capitalisation, which should be lower case.

In clause 5(1)(k) It appears as though ‘... good administration coherent...’ should be ‘... good administrative coherence...’

**6.3 Clause 6**

Clause 6(a) starts with capitalisation, which should be lower case.

**6.3 Clause 8**

It is submitted that the ‘the’ preceding the words ‘marine area plans’ in the first sentence of clause of 8(1) be deleted.

**6.4 Clause 9**

6.4.1 It is submitted that ‘data base’ in the second line of clause 9(2)(b) should be ‘database’.

6.4.2 Clause 9(2)(b)(i) starts with capitalisation, which should be lower case.

It is submitted that everything after the expression ‘subsection (3)(a)’ in the first line of clause 9(2)(c) be deleted, since the obligation here to report to the Directors-General Committee is also stated in subsection 3(a).

**6.5 Clauses 10(1) and 11(1):**

A comma needs to be inserted between “planning” and “monitoring” in lines 17 and 47.

**6.6 Clause 11**

6.6.1 It is submitted that the word ‘the’ be inserted between the word ‘of’ and ‘Ministers’ in the second line of clause 11(1).

6.6.2 It is submitted that clause 11(4) be redrafted to state that, ‘Decisions made by the Ministerial Committee must be by consensus.’ The current draft suggests that there is only one type of decision to which the consensus-requirement applies. From clause 11(5) it appears that this is not the case, and that there are various decisions that the Committee may make.

**6.7 Clause 12**

Parliament does not have a Speaker. Parliament consists of the National Assembly and the National Council of Provinces. If it is the intention for the relevant portfolio committee of the National Assembly to consider these frameworks and plans, clause 12(1) should follow the following approach:

**Clause 12(1) Any marine spatial framework and marine area plans that have been approved by the Ministerial Committee must be submitted by the Minister to the Speaker of the National Assembly for tabling for consideration by the relevant committee of the National Assembly.**

(See rule 337 of the Rules of the National Assembly)



**The Committee further wishes to express the following:**

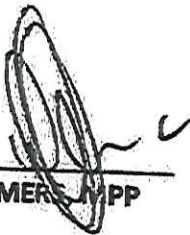
Given the complexity of this Bill and the fact that the Bill is a technical Bill requiring expert consultation and input, the lack of support from the National Department of Environmental Affairs was disappointing. This lack of support from the National Department of Environmental Affairs also impacted on the constitutional mandate of the Committee in terms of effective law-making, oversight and public participation.

Similarly, no support was provided to the Committee at the first two public hearings thus placing the Committee in a difficult position when faced with questions from the public.

Marine planning and resources are of significant economic importance to the Western Cape, to persons employed in these industries as well as to persons and stakeholders that have a direct or indirect interest in the well-being of the industry. It is incomprehensible that members of the public who took the time to attend public hearings were not shown the courtesy of the National Department to be in attendance to answer their questions.

In terms of the Mandating Procedures of Provinces Act (Act 52 of 2008), a "negotiating mandate means the conferral of authority by a committee designated by a provincial legislature on its provincial delegation to the NCOP of parameters for negotiation when the relevant NCOP Select Committee considers a Bill after tabling and before consideration of final mandates, and may include proposed amendments to the Bill".

In light of the above, the Standing Committee on Environmental Affairs and Development Planning submits this report, without the support of the National Department of Environmental Affairs and without clarity on pertinent issues in the Bill, to respect rules 220 and 222 of the Standing Rules of the Western Cape Provincial Parliament.



**TA SIMMERS MPP**

**CHAIRPERSON: STANDING COMMITTEE ON ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

**DATE:** 26/10/2018

