1. **REPORT OF THE PORTFOLIO COMMITTEE ON ENVIRONMENTAL AFFAIRS ON THE PARLIAMENTARY INQUIRY INTO THE ALLEGED EVICTION OF THE BEACH GOERS AT CLIFTON FOURTH BEACH ON 23 DECEMBER 2018, DATED 20 MARCH 2019.**

The Portfolio Committee on Environmental Affairs having conducted an Inquiry into the alleged eviction of the Beach goers at the Clifton Fourth Beach on 23 December 2018, reports as follows;

**1.BACKGROUND**

The issue of access to specifically beaches is an emotive and controversial issue that must be handled with due care for the law and the rights of all people. Limiting public access to beaches is reminiscent of apartheid laws that significantly reduced access to public spaces for the vast majority of South Africans on the basis of race. Thus, there is a need to understand the laws surrounding public access to coastal lands and ensuring compliance with those laws to ensure that local governments and private individuals or organisations do not unlawfully restrict the environmental rights of South Africans to access natural resources, including beaches and coastal public property. The primary law that deals with access to beaches and other coastal public property is the National Environment Management: Integrated Coastal Management Act (NEM: ICMA) of 2008, which defines coastal public property, including beaches as consisting of: coastal waters (and the land underneath them); any natural island within coastal waters; the seashore; and natural resources in or on the areas listed above (*section 7*).[[1]](#footnote-1)

Every person in South Africa has a right of reasonable access to coastal public property, including beaches. Every person is entitled to use and enjoy beaches, provided such use does not negatively affect the rights of others to use and enjoy the same coastal public property or does not negatively affect the environment. No person may prevent access to coastal public property except where it forms part of a protected area or it is in the interests of the whole community or national security to restrict access. Accordingly, coastal public property belongs to all citizens and is held in trust by the State on behalf of the citizens of South Africa. It may not be sold, and no access fee may be charged for access to beaches without the approval of the Minister of Environmental Affairs. The State is mandated to ensure that beaches are used, managed, protected and conserved and enhanced in the interests of the *whole community*. The concept of “whole community”, as articulated in the **NEM: ICMA includes healthy and productive ecosystems and the interests of other living organisms that are dependent on the coastal environment, including humans.**[[2]](#footnote-2)

**Most importantly, m**unicipalities are obliged to designate coastal access land and when determining the boundaries they must take into account the kind of access required for pedestrians, vehicles or vessels as well as provide for parking, recreational and ablution facilities, *inter alia*.[[3]](#footnote-3)

* 1. **Clifton Fourth Beach Alleged “Lockdown”.**

On the evening of 23rd December 2018, tourists and beachgoers claimed to have been removed from the upmarket beach by private security company, Professional Protective Alternatives (PPA). Beachgoers at *Clifton Fourth Beach* were told by the private security company to leave the beach after sunset. The company claimed that it was brought in to help the City of Cape Town after two teenagers were raped.[[4]](#footnote-4) The CEO of the private security company, Mr Alwyn Landman ‘allegedly’ stated that the Company had nothing to do with denying beachgoers night access to Clifton Fourth Beach in a move to “lock down” the beach over the busy holiday period. He stated that his guards were brought in to assist City of Cape Town’s Law Enforcement officers after two teenagers were ostensibly raped. He further stated that “We were requested to accompany Law Enforcement as our Tactical Officers are highly trained and skilled professionals. If anyone claims they were on the beach and chased away they would have seen that it was absolute mayhem and that Law Enforcement were really doing a great job to stabilise the situation – we did not close the beach”.[[5]](#footnote-5) Notwithstanding, SAPS indicated that there were no rape incidents registered at the Camps Bay Police Station that day. On its part, the City of Cape Town distanced itself from the security company, saying in a statement that the allegations against PPA indicated it had overstepped its mandate.[[6]](#footnote-6)

In fact, the City of Cape Town Mayoral Committee on Safety and Security member JP Smith confirmed that the security company “did not act with the permission or consent of the City”, whereas the City Council Director for Safety and Security, Mr Richard Bosman stated that “The only time a beach will be closed is through our staff and that will be in very extreme circumstances and in the interests of the safety of the public”. Consequently, the City of Cape Town indicated that it had launched an investigation into the allegations by beachgoers who have had arguments with the staff of the private security firm.[[7]](#footnote-7) This was in response to JP Smith’s statement that “We learnt of this through the complaints today ‘(24th December 2018)’ and will deal with it”.

1. **COMMITTEE INQUIRY INTO THE ALLEGED LOCKDOWN**

It was therefore in the foregoing context that the Portfolio Committee on Environmental Affairs met to investigate the alleged lockdown of Clifton Fourth Beach at 20:00 on 23rd December 2018 by members of a private security company. The Chairperson indicated that the incident had received a great deal of attention on all media platforms, thereby necessitating his issuing of a media statement, affirming that the Committee would attend to that issue of beach closure to the public as soon as Parliament returned from recess. The Chairperson noted the alleged incident where some beachgoers were taken off the beach and access to the beach restricted as a serious violation of people’s rights to coastal public property, a matter which is sufficiently regulated by the NEM: ICMA whose implementation is being overseen by the Portfolio Committee on Environmental Affairs. Consequently, the Chairperson considered it imperative to invite all role-players together in order to be able to obtain a full understanding of what had transpired on Clifton Fourth Beach on the evening of 23rd December 2018.

Thereafter, the Chairperson welcomed everyone to the first meeting of the year, including: the Private Security Industry Regulatory Authority (PSiRA); the City of Cape Town; Professional Protection Services (PPA); the South African Police Service (SAPS) and senior managers thereof, for the Western Cape Province; the Department of Environmental Affairs (DEA); the Camps Bay Homeowners’ Association; the Bungalow Owners’ Association of Clifton; and *three* members of the public who were at the beach during the incident of 23rd December 2018. The Chairperson further clarified the context for convening the Inquiry on a Monday morning, especially as the Committee had already indicated at the time of the incident that it would look into the matter. The busy session of Parliament meant that the Committee had to request for permission from the Speaker of the National Assembly to meet on that Monday of 5th February 2019, which was a constituency day. He appreciated the attendance of Members of the Committee, especially on a constituency day.

* 1. **Presentation by the Private Security Industry Regulatory Authority (PSiRA)**

Mr Nhlanhla Ngubane, Acting Chairperson of PSiRA, thanked the Committee for the invitation. He explained the purpose of PSiRA, indicating that it had been established by an Act of Parliament to regulate the private security industry and to exercise control over the practice of security service providers. Mr Ngubane then handed over to the CEO, Mr Manabela Chauke to make the presentation. He focused on the registered mandate of the PSiRA, the Code of Conduct and the complaint received about the incident on the beach, underscoring that private security companies were bound to adhere to the very detailed Code of Conduct of PSiRA. They were also accountable to those that employed them. The rules bound all security service providers as well as the people who played in that space. One rule was not to threaten or harm anyone in a public space and to treat the public with respect. A security guard could not use excessive force when dealing with the public, or pose a threat to the public. Services to be rendered had to be in writing and security services could not render services that they were not contracted to do, or the law did not give them powers to do.

He stated that PSiRA had received four complaints about a certain company on 23rd December 2018. The complainants had complained about assault, restraint and abusive language. Consequently, PSiRA commenced investigation into the complaints on 27th December 2018, against the PPA, which had been registered with them since 4th July 2013. He indicated that PPA was not prevented from rendering security services currently, although the company was under investigation. He disclosed that PSiRA had charged three PPA security officers, who had been suspended during the investigation. They had been charged with violation of the Code of Conduct. The Director of PPA had also been charged, as well as PPA as a legal entity for breaching the Code of Conduct, as PSiRA had a legal responsibility to hold security companies to account. Mr Chauke stated that if the officers, the Director and the company were found guilty by the independent panel hearing the case, they could appeal to the Minister of Police who would appoint an independent panel to hear the case. Further escalation would be to the High Court. The sanctions available to PSiRA were to issue a warning, to suspend, to withdraw registration and to issue a fine of up to R1 million.

* 1. **. Presentation by Ms Seehaam Samaai (who was at Clifton 4th Beach)**

The Chairperson invited a member of the public, Ms Seehaam Samaai who was on the beach to present. Ms Samaai thanked the Committee for allowing her to speak. She explained that she was an attorney and Director of the Women’s Legal Centre, but that she was presenting in her personal capacity as she was one of the beachgoers on 23rd December 2018. Ms Samaai introduced her presentation by emphasising the point that South Africa belonged to all that lived in it, united in diversity, and hence the coasts of South Africa were a national asset to all South Africans. However, she noted the perpetuation of apartheid spatial planning as a major barrier to accessing beaches by the vast majority of South Africans. She stated that residents on the Atlantic seaboard were enforcing apartheid spatial planning by the use of private security services, with the knowledge and endorsement of the City of Cape Town. She stressed the need to acknowledge the fact that although beaches were a place of fun, they were also places of pain for many South Africans.

Ms Samaai stated that two security personnel approached them to tell them to vacate the beach, but her group refused to move from the beach as they believed their removal would benefit the residents of Clifton. They were not just concerned about the eviction and who was evicted, but who would ultimately benefit from the eviction. She stressed that what they were against and wished to bring to the attention of Parliament was the issue of structural racism, which referred to a system in which public policies, institutional practices, and cultural representations and other factors worked to perpetuate racial group inequalities and, in that case, enforced white privilege on the Atlantic seaboard. Ms Samaai explained how she and her daughter had gone to Clifton Beach to have a picnic with family and friends. However, at approximately 20:00 two gentlemen had advised the group that the beach was closing, with one of them indicating that he was securing the bungalows, the beach and the area 10 nautical miles out to the sea. She then asked why he did not tell the yacht that was close to the beach to move first, and rightly told him that what he was doing was illegal. His colleague moved on to other groups of people to ask them to leave the beach while her group remained on the beach, while she was trying to show to her 14-year old daughter how to light a paper lantern, which was captured on a slide in her presentation.

At that stage, the Chairperson noted that a member of the City of Cape Town delegation was engaged in a disruptive behaviour of whispering and gesturing during this particular presentation. The Chairperson asked the person in question who turned out to be a certain Ms Caroline Knott, Advisor to the Mayor of Cape Town, Mr Dan Plato, to stop whispering and gesturing to her colleague. Ms Knott, in turn, told the Chairperson that she did not think that she was doing anything wrong. He responded that she was breaking the rules of Parliament. Ms Knott did not accept that she was breaking the rules. The Chairperson retorted that she was not allowed to speak to the Chairperson, and asked her to leave the room. She was breaking the rules. Ms Knott again protested, and the Chairperson informed her that she was not permitted to engage in a dialogue with the Chairperson.

Ms Knott refused to leave, and the Chairperson instructed the Committee Secretary to call the Parliamentary Protection Service to remove Ms Knott from the meeting. Ms Knott refused to move. Ms J Steenkamp asked the Chairperson for an explanation as to why he was asking Ms Knott to leave the meeting as she had not seen what the woman had been doing. As a Member of Parliament, she wished to know why the Chairperson was delaying the meeting. The Chairperson informed Ms Steenkamp that it was none of her business. He was speaking to a member of the public and he was not obliged to explain to her. Ms Steenkamp asked the Chairperson to inform her of the rule under which Ms Knott was being evicted from the meeting. The Chairperson explained that he was evicting her in terms of the rules of Parliament and if Ms Steenkamp so wished, she could also leave.

Ms Steenkamp assured the Chairperson that she would not be leaving. The Chairperson told Ms Steenkamp not to interject when he was talking. The Chairperson repeated that Ms Knott had to leave the meeting as she had been speaking and gesturing. The meeting was adjourned so that the Parliamentary Protection Services could be called to evict her. After about 15 minutes, the parliamentary protection services arrived outside of the room and Ms Knott left of her own accord.

Ms Samaai continued her presentation, stating that she found the Mayor’s response to the incident unacceptable, as he had politicised her experience by reducing friendships, affiliations, relations and experience to the political affiliation of the members of her group. She stated that the City of Cape Town had an oversight function in respect of private security services functioning on public beaches and had to manage beaches in terms of the various laws and policies, which promoted access and inclusivity. She added that it was not just about the eviction, but about who the eviction benefitted, stressing that the racism was imbedded in the structural inequalities perpetuated by the actions of the security company upon instruction of the ratepayers who were known to the City of Cape Town. She questioned the mandate on which PPA acted. Ms Samaai suggested, among others, the need to incorporate previously disadvantaged communities in coastal access planning. She highlighted the apparent relationship between the City of Cape Town and PPA, even if there was no written contract. The Chairperson thanked Ms Samaai for her very passionate submission. He invited a second member of the public to address the Committee.

**2.3 Presentation by Ms Selina Williams (who was at Clifton 4th Beach)**

Ms Selina Williams stated that she had been one of the persons on the beach on 23 December 2018 who had been asked to leave. She supported Ms Samaai’s submission, affirming that the incident had taken her back 29 years when in August 1989, three weeks after her sister had been killed in the Athlone bomb blast, she had gone with a group of UDM supporters to Blouberg Beachfront by taxis. They had been stopped by police and when the people ran onto the beach, the police beat up them and a resident had pointed a gun at them when they sought to escape via the person’s property. She had fought for freedom and had been traumatised by the re-enactment of a similar incident. Ms Williams questioned when all this would change. She noted that the Camps Bay was not accessible to the people; they only went to the beach when people got off from work. She concluded by saying that things had to change and that the people of South Africa had to have access to the beaches.

The Chairperson stated that some people in the room could identify with the experiences of the two ladies as they were the experiences of the majority of the people in the country who had been oppressed by the previous system, which they wanted to get away from in order to build a future different from the system that used to suppress people.

* 1. **. Presentation by the City of Cape Town (CoCT)**

Dr Zahid Badroodien, Mayoral Committee Member for Community Services and Health, made the presentation on behalf of CoCT. He was accompanied by the Executive Director for Safety and Security, Mr Richard Bosman. Dr Badroodien commenced his presentation by pointing out that Ms Knott had left the meeting willingly, and that it was unclear to them under which rule she had been asked to leave. He further stated that some of their colleagues had left with Ms Knott. The Chairperson informed the meeting that he would address the issue after everyone had spoken, including the clarity on the rule, which he had invoked to request Ms Knott’s eviction from the meeting underway.

Dr Badroodien said that he recognised the emotion and pain of the people, but there was a lot of misinformation and misguiding that he hoped to clear up. He indicated that he would not speak on behalf of PPA, as he intended presenting the City’s viewpoint by reading a prepared statement by Mayor Dan Plato and make other comments to deal with uncertainties that might have arisen due to the preceding presentation. He stressed that the incident was being exploited for political purposes, as any talk of a black or coloured person being asked to leave the beach would open up wounds. He pointed out that the incident was not a racial incident, as it was not a particular racial group, but all groups on the beach that were asked, not forced, to leave. The Mayor was concerned about the way in which the ANC had exploited the situation.

Dr Badroodien refuted the claim by the previous speaker that she and other people had been forced to leave the beach by distributing a photograph showing that the beachfront was a hive of activity at 8:30 with two black women walking down the steps to the beach and groups of all races on the beach. He maintained that the City had reported the incident to PSiRA and had provided detailed reports on the incident. He blamed the deficit of SAPS officials in the province for the use of private security services. He further pointed out that the Mayor was shocked and disappointed by the misrepresentation by the media, which he said was expected due to the looming elections. Dr Badroodien expected to see more race baiting, which cruelly reminds one of terrible and unjust past. Reading from the Mayor’s written speech, he noted that CoCT had 307 kilometres of coastline and beaches and tidal pools, among others, which were open to everyone to access and enjoy. It had never been a policy of CoCT to restrict access to those public facilities, affirming that the spaces were used to promote reconciliation and integration. Cape Town was an inclusive city. he concluded by drawing attention to the Executive Director for Safety and Security, Mr Richard Bosman, who Dr Badroodien stated was also available for questions.

* 1. **. Presentation by PPA Security**

Mr Chris Diedericks, Executive Director of PPA Security presented PPA’s statement on the incident. He was accompanied by attorney Simone Carolissen and candidate attorney Kaylynne Darion Stuurman. He indicated that PPA employed 400 individuals, with 80 per cent of them black personnel, six per cent white and 14 per cent coloured employees, stating further that the company was registered with PSiRA. Mr Diedericks explained that every festive season, especially from 16th December to early January, always saw an increase in the number of beachgoers, but also increased criminal activity in the surrounding area, such as robberies, assaults, inappropriate sexual acts, drugs, alcohol and car break-ins. The beach was not within the scope of PPA’s protection, but pointed out that they had been approached by numerous concerned citizens to take action to prevent the criminal activity in the area as they no longer had the freedom to enjoy the beach. PPA had been appointed by numerous residents of Clifton Fourth Beach and surrounding areas to patrol their homes and surroundings areas, but not the beach. PPA commenced duties on 15 December 2018.

Mr Diedericks asked why the work of PPA was being politicised and racialised because of one specific incident. Residents believed that SAPS had abdicated the responsibility to the residents to ensure their own protection, and that was where PPA came in to cater for the inefficacy of SAPS, which he termed was ludicrous. Mr Diedericks referred the Committee to a number of photographs, showing residents close to the beach; items being confiscated by PPA from beachgoers and surrounding areas (e.g., drug-related paraphernalia, dangerous weapons, broken beer bottles, etc.) that had been handed over to the police.

At this point, the Chairperson asked if the PPA officers had confiscated items from the people on the beach. Mr Diedericks confirmed by stating that the items had been pointed out to patrolling PPA officers by the public. The Chairperson noted that PPA patrolled the beaches, conducted law enforcement and confiscated items. Conversely, Mr Diedericks explained that the officers patrolled the parameters of properties that adjoined the beach, but that the main patrol area was in the parking lot, which was the main entrance to the beach. In addition, he alleged that a stabbing incident had taken place in the area and SAPS had warned of a large group of unruly males in the area of Clifton, indicating that the SAPS Camps Bay would have details of the incidents. He also referred to an attempted rape where the victim had been taken to the Camps Bay Police Station, but the victim had declined to lay charges. The perpetrator was taken to hospital following an attack on him by beachgoers.

Mr Diedericks stated that residents had asked for assistance in controlling the crowds in the area on 23rd December 2018, and that PPA did not close or deny anyone right of access, nor did they evict anyone from the beach. At this point Annexure PPA 1, which was a picture taken on 23rd December 2018 showed beachgoers on the beach, was introduced. The picture was taken from a resident’s property, not from the beach. A following picture taken at 21:37 showed the beach to be empty. This same picture was showed earlier by Dr Badroodien in the City’s presentation and hence prompted the Chairperson to ask if the City and PPA had circulated pictures from the same camera. Dr Badroodien interjected by stating that the City of Cape Town’s photograph had been taken from a Lifeguard Hut. He did not know of the picture the Chairperson was referring to. Conversely, Mr Diedericks said that the picture might be the same, as he had not personally obtained the photographs. The Chairperson assured him that it was the same picture.

Mr Diedericks stated that the two PPA officers had merely informed people that it was dangerous on the beach and that the beach had been closed on a previous occasion. PPA had not chased people off the beach, as there were still people on the beach after PPA’s notification of beachgoers on 23rd December 2018. He referred to Annexure PPA 7, which showed that law enforcement members had previously removed people from the beach as well as Annexure PPA 8, which showed that many beaches had been closed down and that PPA had been requested by CoCT Law Enforcement officers to assist during those instances. Mr Diedericks added that PPA had established a working relationship with the station commander, Captain Chandler, of SAPS at Camps Bay to discuss their role. He had evidence of phone calls from Law Enforcement officers and SAPS officers contacting PPA to request assistance. He lamented that the incident had been escalated and even more unfortunate that law enforcement did not step up to state that assistance had been requested from PPA.

* 1. **. Camps Bay and Clifton Ratepayers’ Association/Clifton Bungalow Association**

Mr Chris Willemse, Chairperson of the Camps Bay and Clifton Ratepayers’ Association, stated that the Association was in favour of beaches being open to all, but with the proviso that City Law Enforcement ensured a safe environment. The Association had no association or contract with PPA, but rather that the company had been employed by individual residents. Ms Diana Boynton, of the Clifton Bungalow Homeowners’ Association, confirmed that the Association had never had any association or contract with any security company, including PPA. Mr Bernard Schäfer, Chairperson of the Camps Bay and Clifton Policing Forum, stated that the Forum had seen a slow decline in all the policing stations in the cluster to which the Forum belonged as well as a decline in the resources available from the City of Cape Town Law Enforcement, Metro and Traffic services. Notwithstanding, the City of Cape Town’s Law Enforcement had taken over from the old Beach Police. There were zero Metro Police or traffic services in the Camps Bay and very few Law Enforcement officials, too few to effectively police the beaches. Law Enforcement had specific hours of work, which explained why they closed the toilets, packed away deck chairs and vacated the beach at specific times, although sometimes they were paid overtime on high-risk days. For that reason, public facilities and the people enjoying those facilities were not protected outside of those hours.

He stressed that the CoCT did not have the budget to extend the working hours to provide round-the-clock protection, stating that closing down of public facilities after dark was an international common practice. When Law Enforcement ended their shifts, unruly people and gangs, move in, congregating on the Clifton Fourth Beach because it is wind-protected. Mr Schäfer explained that CPF was only interested in law and order. He stated that the community of Camps Bay and Clifton was a liberal community that had always fought against apartheid, and hence it saddened the community to see its public spaces being used as a political football. He urged everyone to put politics aside and to work towards a truly inclusive society, indicating that the CPF’s enquiries had shown that everyone on the beach had been advised to leave for their own safety after dark, not just a particular racial group.

* 1. **. Presentation by the South African Police Service**

Lieutenant-General Khombinkosi Jula, Provincial Police Commissioner for the Western Cape, was accompanied by Major-General Jeremy Veary, Provincial Commissioner for Detective Services, Major-General Mpumalelo Manci, Deputy Provincial Police Commissioner, and Major-General Hendrick Burger, Deputy Commissioner for Management Interventions. The Provincial Commissioner assured the Committee that the Western Cape no longer had a shortfall of 4 000 members and the current shortage was only 1 326 members in terms of human resource guidelines, but did not include additional operations taking place in the province, such as Operation Thunder.

Major-General Burger presented the background to the incident, pointing out that SAPS had no reason not to believe the reports by the people who were on the beach, such as the earlier presenters. According to the media, PPA appeared to be acting on behalf of the City of Cape Town, although he could not comment on that. SAPS could say that security guards could protect the property of people who employed them, but their actions were limited to the protection of the property. Law Enforcement could specifically request security guards to assist with a specific incident at a specific time. The law did not allow security companies to perform any functions on public property and in public streets unless there was a very serious offence and they were protecting a person from injury. They could not enforce by-laws. Major-General Burger succinctly stated that SAPS had no record of any officially reported rape cases in the Camps Bay Police Station in November or December 2018. There was an incident between family members, which was reported to police, but they had not opened a docket. That group could not have been interpreted as a risk to other beachgoers, as they had not endangered the safety of other beachgoers, especially not on that night. This should not be used as an excuse to explain why people were warned, adding that when a person was warned, the person was informed, but not told to do anything.

Major-General Burger said he had been on the beach at 18:00 until 19:00, with the Minister of Police on 28th December 2018. Mr Plato, the Mayor of Cape Town had also been on the beach. One person from a group of people had said that he was going to slaughter a sheep and that it was his right in terms of the Constitution. The Mayor had asked the police to stop the slaughter, but the police officers could not stop the slaughter because they did not know of any legislation that was being disobeyed. The Mayor quoted a by-law, which SAPS had subsequently found, did not exist. Mayor Plato had asked if he would support the Law Enforcement officers if they attempted to stop the slaughter. Major-General Burger had said that, because of the mood of the people there, SAPS could not stop them. If any offence was being committed, Mayor Plato could approach the police later and open a docket. However, he now heard that the City had laid a complaint with the Independent Police Investigative Directorate (IPID).

Major-General Veary spoke on various incidents, indicating that he could not divulge information about incidents where the investigation was ongoing, as a detective. He informed the Committee of a number of incidents in which PPA had been accused and charged with intimidatory incidents on the beach. He stated that a complaint of slaughtering on the beach on 28th December 2018 was opened based on the Animal Cruelty Act, but no evidence of criminality had been provided. Major-General Veary said that he had been on the beach and had advised Law Enforcement against escalating the risk to people in the vicinity. It had not been a public disorder situation, but rather a ritual slaughter. Slaughtering of an animal was not a crime when done according to prescribed rules and regulations. He believed there had been no suffering and that nothing had violated the rules for slaughtering. The Meat Safety Act did not apply to slaughter for own consumption or for religious or cultural purposes. The Act did not state that it was an offence not to ask for permission to slaughter an animal. SAPS had found no evidence of inhumane acts in the slaughter. Charges of defeating the ends of justice against the three generals and other officers who had been on the beach on 28th December 2018 were laid, but baseless, as nothing prohibited in law had taken place. Consequently, SAPS officers could not act any further on this matter.

Major-General Veary agreed that there had been an allegation of attempted rape, but it had been a family incident where the community had taken control of the situation and had stopped ‘the thing from happening’. The family had declined to lay a charge of rape. He could find no evidence of anarchic behaviour by those who slaughtered the sheep on the beach as suggested in the media. On the other hand, Major-General Manci stated that SAPS had had an integrated plan with CoCT Law Enforcement. Daily foot patrols were conducted on the beach. SAPS had given 50 newly trained members to Cape Town Police Station clusters for beach patrols and for policing the malls. After the incident, SAPS had dedicated deployments in Clifton and Camps Bay. From 24th December 2018 to 1st January 2019, SAPS had deployed 127 people to the Camps Bay and Clifton areas on a day-by day basis. He further stated that Public Order Policing units (POPs) had been deployed to the Western Cape and there were sufficient of them for crowd management. POPs had been put on stand-by to stop any further chasing of people from the beaches in the area.

The Chairperson noted that SAPS had been very helpful. He drew attention to the contradiction between what the CoCT and PPA had said and what was said by SAPS, which he expected the Committee Members, including himself to probe further during the discussion session at the end of all presentations.

* 1. **. Presentation by the Department of Environment Affairs on Coastal Access**

Ms Nosipho Ngcaba, Director-General, Department of Environment Affairs (DEA), informed the Committee that the Minister called her in December 2018, and had asked the Department to respond to the incident on Clifton Fourth Beach. Neither she nor the relevant Deputy Director-General, Ms Judy Beaumont, had enough information on the situation to assist the Minister as they were on leave in rural areas. However, on 28th December 2018, the Director-General provided the Minister with information on the National Environmental Management: Integrated Coastal Management Act (Act No 24 of 2008), and its application in the matter at hand. The DG had also been instructed to write to the City of Cape Town, asking for information on the incident so that the matter could be followed up at the combined Minister and provincial Member of the Executive Council Members (MINMEC) meeting. The DG received a response from the Acting Manager of the City of Cape Town while the Acting Chief Director for Coastal Conservation Strategies, Adv. Radia Razak, had met with provincial counterparts. There was to be a follow-up and the DG would report to the Minister before the MINMEC meeting.

DEA’s presentation covered the legislative framework and the priorities that DEA was working on, stating that the City of Cape had not previously been identified as a priority area. Adv. Razak presented the key legislation in this instance, i.e., the National Environmental Management: Integrated Coastal Management Act, which provides the principles of coastal management, indicates that the beaches are a national asset and that access has to be provided to the sea and the beach. She explained the Department’s strategies, the awareness raising that had taken place and listed the identified priority areas for the pilot programme. Adv. Razak explained that the Department had seen various media reports, but needed to establish the facts and an accurate sequence of events. The City of Cape Town responded, saying that it did not restrict access to beaches and was conducting an investigation into the matter. Based on the outcome of the DEA fact-finding investigation, appropriate action would take place. The Chairperson thanked DEA and stated that there would be a break, following which Committee Members would engage in discussions.

At this point, the Chairperson addressed the matter of Ms Knott who had been asked to leave the meeting. He stated that he used Rule 188 of the National Assembly Rules, which deals with the removal of persons who disrupt the proceedings and also to remove anyone who refuses to leave when a reasonable request has been made to such a person to leave. The Chairperson stated that Ms Knott had been unruly because she had been making comments when she did not like what others said. Her behaviour had become worse when Ms Samaai was speaking. He had heard her protesting about things that she did not like. She had been trying to bully the presenter, showing clearly that she did not agree with what was being said. Everyone had views and at an appropriate time, could have elected to speak, but not in the way, she did. She was an adviser to the Mayor where she was strategically located to feel people’s pain first hand at this level of government, yet she chose to act in a deplorable manner in Parliament when a member of the public was describing her painful experience at the beach on 23rd December 2018.

1. **Key issues that emerged from the discussions**
   1. The private security company, Professional Protective Alternatives (PPA) was not authorised to tell beachgoers to leave the beach on 23rd December 2018; the officers of PPA have no jurisdiction and right to enforce law on a public property, let alone confiscate items from people on the beach. However, it seemed they (PPA) were used to acting this way and hence their stated surprise for having been accused of improper conduct.
   2. PPA and the City of Cape Town had the same version of increase in the number of criminal incidents reported the week before the Clifton Fourth Beach incident, but surprisingly SAPS noted no reported incidents of criminal activity about the same time.
   3. PPA and the City of Cape Town used pictures of beachgoers, which were not properly procured – the pictures were obtained from a private CCTV situated on an adjacent private property. Thus, the City of Cape Town and PPA produced an illegal picture to make an argument in Parliament.
   4. There was no incident of rape at the beach as stated by PPA to justify their intervention in the public space. The women on the beach at the time had prevented the man from doing it.
   5. The City of Cape Town inappropriately considered the public outcry against the illegal action of a private security company (PPA) where the City has jurisdiction, as a political ploy, whereas there is a need to deal with matters of national interest, such as beach access on the basis of their merit, irrespective of the political affiliations of those who raise those issues or are more vociferous about them. People’s experienced realities should not be reduced to their political inclination.
   6. The Department of Environmental Affairs had no action plan for dealing with beach access in the Western Cape Province as at the time of the Inquiry, as the Department’s investigation was not concluded.
   7. The Mayor of the City of Cape Town quoted a national legislation, not a by-law, as represented by Police at the Committee Inquiry.
   8. CoCT and PPA have no contractual agreement or relationship as originally perceived due to media reports. The events of 23rd December 2019 took place with no prior knowledge of CoCT and were undertaken (by PPA) on their own.
   9. The “two gentlemen” referred to by Ms Samaai were actually security personnel from PPA who were dressed in their PPA uniforms.
2. **COMMITTEE RESOLUTIONS**
   1. A private security company should never be allowed to curtail people’s freedom in the manner that PPA had mismanaged beachgoers on 23rd December 2018. Consequently, the Committee supports PSiRA’s investigation and urges them to prioritise it as a matter of urgency;
   2. The Committee should ensure that PSiRA briefs it upon the conclusion of PSiRA’s investigation into the conduct of PPA on the Clifton Fourth Beach on 23rd December 2018;
   3. The Department of Environmental Affairs should brief the Committee about its findings in the matter of the Clifton Beach as well as the Department’s action plan for dealing with beach access in the Western Cape Province and the country;
   4. The Department should also brief the Committee on whether there are quasi-private beaches along the South African coastline, where such beaches are located and what the Department is doing to enhance public accessibility to those beaches, if any.
3. **CONCLUDING REMARKS**

The Chairperson corrected a few misconceptions that there seemed to be an impression that the Chairperson was targeting the City of Cape Town. He stated that the statement was based on the assumption that PPA purportedly acted on an agreement with the City, which he said had been clarified during the briefing. He further pointed out that the *Press Release* of 28th December 2018 had stated that a meeting would be convened to get to the bottom of the issue, which had now also been resolved.

The Chairperson stressed the need for the government of Cape Town not to take sides. It should act in the interest of all the people. The national government is led by the ANC, but acts in the interest of everyone in the country. The City should not choose a political position on crucial issues, such as beach access. When people at the beach said that there had been a particular incident, the City should not jump to conclusions, but rather investigate the matter and respond only when a proper investigation has been conducted. In response to Hon Ms Steenkamp, the chairperson asked whom one should side with when people saw things reported all over the media and people said that they were victims. As an activist, he would always side with the vulnerable and those who had the lived experiences.

He would not associate himself with the powerful. He had been brought up to believe the vulnerable, and hence he had no doubt that the members of the public were telling the truth. He had no reason to believe that the citizens were lying. He did not doubt that they had received that kind of treatment. It was not a story made up; and it was in this regard that he had characterised the incident as barbaric and racist in the *Press Release* of 28th December 2018. He noted that there were still unanswered questions, particularly about PPA, for example, *why did they want to enter public space and control people? What business did PPA have in controlling people’s movement?* He concluded by stating that it was still proper to characterise the incident as barbaric.

**Report to be considered.**

1. Cullinan & Associates (2017) Beach Access: Understanding Your Rights [Internet]. Available from <<http://cullinans.co.za/blog/article/beach-access-understanding-your-rights>> (Accessed on 1st February 2019). [↑](#footnote-ref-1)
2. Ibid. [↑](#footnote-ref-2)
3. Ibid. [↑](#footnote-ref-3)
4. Mjo, O. (2018) Timeline: Rites, racism and rights clash on Clifton's pristine sands [Internet]. Available from <<https://www.timeslive.co.za/news/south-africa/2018-12-31-timeline-rites-racism-and-rights-clash-on-cliftons-pristine-sands/>> (Accessed on 1st February 2019). [↑](#footnote-ref-4)
5. # Maphanga, C. (2018) Clifton beach shut down: 'We did not close the beach', says private security company [Internet]. Available from <<https://www.news24.com/SouthAfrica/News/clifton-beach-shut-down-we-did-not-close-the-beach-says-private-security-company-20181226>> (Accessed on 1st February 2018).

   [↑](#footnote-ref-5)
6. Mjo, O. (2018) Timeline: Rites, racism and rights clash on Clifton's pristine sands [Internet]. Available from <<https://www.timeslive.co.za/news/south-africa/2018-12-31-timeline-rites-racism-and-rights-clash-on-cliftons-pristine-sands/>> (Accessed on 1st February 2019). [↑](#footnote-ref-6)
7. # Staff Reporter (2018) ANC slams private security company for ordering citizens off Clifton beach [Internet]. Available from <<https://www.iol.co.za/news/south-africa/western-cape/anc-slams-private-security-company-for-ordering-citizens-off-clifton-beach-18617023>> (Accessed on 1st February 2019).

   [↑](#footnote-ref-7)