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EASTERN CAPE PROVINCIAL LEGISLATURE

Date: 08 September 2008

PORTFOLIO COMMITTEE ON ENVIRONMENTAL AFFAIRS AND TOURISM

Negotiating mandate on the National Environmental Management Amendment Bill (B36B-2007)

1. *Terms of reference*

The National Environmental Management Amendment Bill (B36B-2007), hereinafter referred to as the Bill, was referred to the Portfolio Committee on the Housing by the NCCP Business Committee for consideration.

2. *Consideration of the Bill*

The Portfolio Committee was briefed on the content and effect of the Bill by the officials from Department of Environmental Affairs and Tourism. The Committee also conducted public hearings on the Bill on the 29th of August 2008 and on the 5th of September 2008.

3. *Negotiating mandate of the Committee*

Our view is that there should always be a balance between the protection of environment on the one hand and the developmental needs on the other hand. The Committee supports the spirit and purpose of the Bill but wishes to raise the following concerns:

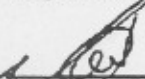
3.1 It is suggested that the Bill be amended to make the provisions in s24(4)(b) peremptory as is currently the case in the principal Act.



- 3.2 The NEMA Bill be amended to ensure that all relevant protections are listed as mandatory under s24(5).**
- 3.3 It is suggested that it should be mandatory to consider all the factors which are listed in s24(O) when considering the granting of an application for an environmental authorisation.**
- 3.4 The requirement for an EMP in s24N should be mandatory for certain activities, and this should be stated explicitly in the Act.**
- 3.5 Where mandatory provisions are set down as in s24(4), other authorisations should only be granted where they accord strictly with those mandatory provisions. Section 24(8)(b) should be amended accordingly.**
- 3.6 Where processes under another law are to be authorised in terms of NEMA, this should require that the standards set in section 24(4) of NEMA should be met in full. Section 24K should be amended accordingly.**
- 3.7 If authorisations under other legislation are to be recognised as environmental authorisations under NEMA, they must meet all mandatory requirements contained in s24(4).**
- 3.8 Sections 24(4), 24(N), 24(O) be amended so as to contain mandatory requirements for the rehabilitation of the environment prior to the granting of an environmental authorisation and the granting of a certificate of closure.**
- 3.9 Both s24F(a) and (d) should prohibit the commencement of activities.**
- 3.10 The requirements in s24G(a) for the granting of an application for an environmental authorisation where the applicant has committed an offence should be the same as for environmental applications in terms of section 24(4).**
- 3.11 All exemptions should be regarded as environment authorisations and the procedures in s24(4) should apply to all applications for exemptions.**

3.11 Section 24O should be amended to make it mandatory that the competent authority ensure that there is a public participation process, which is required by s24(4)(a).

The Committee further resolved that a special delegate Hon PJ Mnguni, represents the Province of the Eastern Cape in the meeting to consider the negotiating mandate.



N. KIVIET

SPEAKER: EASTERN CAPE PROVINCIAL LEGISLATURE