

Report of the Portfolio Committee on Public Works and Infrastructure on the Expropriation Bill dated 13 November 2023, is as follows:

1. Terms of reference

The terms of reference of the Committee were to consider the Expropriation Bill [B23B-2020] which was referred by the National Council of Provinces to the Eastern Cape Provincial Legislature, solicit public inputs on the Bill and consolidate the Province's Negotiating and Final Mandates and report to the House.

2. Method of work

The Committee conducted sixteen (16) physical public hearings over a four (4) day period across the eight (8) regions of the province from 11 – 14 July 2023. Public hearings that were scheduled in Sterkspruit, Engcobo, Komani and Mthatha were postponed. Subsequently, the public hearings in these four (4) areas were re-scheduled and were held on the 07 – 08 November 2023.

The Committee also made a call for written submissions. The submission window for written submissions was open until 11 August 2023. For the re-scheduled public hearings in Sterkspruit, Engcobo, Komani and Mthatha, the written submission window was open until 10 November 2023.

3. Public Consultation and Education

The Committee invited stakeholders to participate in the public hearing and to make written submissions. The stakeholders included, amongst others, the local and district municipalities, the Department of Public Works and Infrastructure, National Department of Agriculture, Land Reform and Rural Development, Provincial Department of Rural Development and Agrarian Reform, Universities in the Province, Farmer Associations, Non-Governmental Organisations' in the Land Sector, Communal Properties Association, Agriculture South Africa, Agriculture Business, South African Human Rights Commission, Traditional Leadership, Commercial Banks, Land Access Movement of South Africa.

Public education workshops on the Bill were conducted and prepared stakeholders to participate and contribute during the public hearings. The Committee’s publicity and educational activities on the Bill were also done using radio and social media.

4. Stakeholder Communication and Engagement

The Committee engaged in pre-public hearings publicity through the use of social media platforms, radio, digital poster notices and newspapers such as daily dispatch. The same publicity plan was implemented for the re-scheduled public hearings that were subsequently held on the 07 – 08 November 2023.

Radio

The Chairperson of the Committee participated in radio interviews hosted by various radio stations on the Expropriation Bill, with the aim to inform stakeholders of the upcoming public hearings and to mobilise communities to attend and participate in the public hearings. The following radio interviews were organised:

INTERVIEW SCHEDULE: 04 – 10 July 2023

MEDIA HOUSE	TIME	RESPONSIBLE PERSON	METHOD
1. Takalani FM JGDM	Tuesday, 04 July 2023 Time: 16:30	MPL Thabo Matiwane	Telephone
2. Vukani FM CHDM	Tuesday, 04 July 2023 Time: 17:30	MPL Thabo Matiwane	Telephone
3. Unitra FM OR Tambo DM	Wednesday, 05 July 2023 Time : 16:30	MPL Thabo Matiwane	Telephone
4. Alfred Nzo FM ANDM	Wednesday, 05 July 2023 Time: 15:30	MPL Thabo Matiwane	Telephone
5. Kouga FM	Thursday, 06 July 2023 Time: 16:30	MPL Thabo Matiwane	Telephone
6. Nkqubela FM NMBM	Thursday, 06 June 2023	MPL Thabo Matiwane	Telephone

MEDIA HOUSE	TIME	RESPONSIBLE PERSON	METHOD
	Time: 14:30		
7. Kouga FM SBDM	Friday, 07 July 2023 Time: 16:30	MPL Thabo Matiwane	Telephone
8. Unitra FM ORTDM	Monday, 05 June 2023 Time :15:30	MPL Thabo Matiwane	Telephone
9. TruFM Bhisho	Monday, 10 July 2023 Time: 10:40	MPL Thabo Matiwane	Telephone
10. Mdantsane BCM	Monday, 10 July 2023 Time: 15:30	MPL Thabo Matiwane	Telephone
11. Ngqushwa FM	Monday, 10 July 2023 Time: 16:30	MPL Thabo Matiwane	Telephone

Pre- Publicity on Legislature Social Media Platforms

The following social media platforms were used for pre-publicity and during the public hearings.

Facebook: A public Notice Poster inviting members of the public to make their submissions regarding the Bill was posted. A pre-publicity poster that informed the public about the public hearings dates, venues and starting times was also posted.

Twitter (now known as 'X'): A public Notice Poster inviting members of the public to make their submissions regarding the Bill was posted. A pre-publicity poster that informed the public about public hearings dates, venues and starting times was developed and posted.

On the day of public hearings, photos of the actual public hearings were taken to create awareness, to inform the public and to profile them.

5. Public Hearings Submissions: 11 – 14 July 2023 and 07 – 08 November 2023

5.1 Alfred Nzo District Municipality

(1) Matatiele – Town Hall

- Some of the stakeholders rejected the Bill, raising the following concerns:
 - The bill favours white people because the state is willing to compensate them meanwhile more than 80% of the land is still in their hands.
 - Traditional Leaders are custodians of the rural communal land, but the bill is silent about them, seemingly they are being side-lined.
- Some stakeholders accepted the Bill with amendments, proposing that the Bill must be aligned to Section 25 of the Constitution and that Section 25 must remain in its current form.
- The Bill must make a provision that the land should be expropriated without compensation.
- Willing buyer willing seller policy must be scrapped because when the rightful owners of the land were dispossessed there was no negotiations nor transaction that was entered into, but the land was directly stolen from the natives of South Africa.
- Section 25 of the Constitution must be amended or removed, and the land be restored to the rightful owners, with the state being the custodian in this instance.
- Questions were raised with respect to land claimed in terms of land claims and restitution provisions of the law, the question was what happens when such land is subject to expropriation?

(2) Emaxesibeni - Alfred Nzo DM Council Chamber

- There was a concern that if Alfred Nzo Traditional Leaders do not release land for development, the district will remain poor and underdeveloped. Therefore, Traditional Leaders must play their role and ensure that there is social stability.
- The Bill must clearly stipulate that the communal land is protected and should not be expropriated.
- The land owned by Public Works in small cities is underdeveloped and many buildings are abandoned and hijacked by foreign nationals to perform illegal activities.
- The Bill was appreciated and supported.

5.2 Amatole District Municipality

(1) Butterworth - Town Hall

- The Expropriation Bill appears to be a second form of dispossession. The Bill appears to create a platform for double-dipping for people who were responsible for dispossessing black people in the previous government.
- The nil-compensation concept does not make sense.
- In 1972 people suffered land dispossession in Theko Springs and no form of compensation has been provided. There are many laws in place, but do not provide any follow up on managing processes related to compensation.
- Land trusts were used to divide and rule the people and there is no benefit of compensation to our descendants. Our parents' properties were destroyed by the previous government, land was stolen, houses destroyed

with no compensation. The proposed law looks like it will reopen old wounds and affect us negatively.

- The Expropriation Bill fails to protect people who were dispossessed. It lacks protection of communal land ownership and the Constitution refers to this as informal rights.
- The public participation process is inadequate, and lessons must be taken from the LAMOSA judgement; Mogale vs Speaker of Parliament. The Bill is rejected as it is unjust, unreasonable and the public participation and consultation falls short of what the Constitution requires.
- Land is communal under Chiefs and traditional leaders do not sell land. The proposed law may have a negative effect on customary law practices with respect to land administration.
- The process of buying of land appears to be unjust with respect to urban and rural land. This is exacerbated by SANRAL who use different pricing arrangements for lands they buy for their projects. Rural land is bought at a much cheaper rate as the value places on the land is minimal.
- This form of public interest expropriation appears to create a divide in the country with respect to urban and rural citizens; it also gives credence to the view that the Bill is meant to benefit the previous land dispossessors over the land dispossession victims.
- South African National Roads Agency Limited (SANRAL) officials came and priced land along the N2 at R4700/hectare on a once-off basis. SANRAL's method of determining the value of the land is arbitrary and unjust.

- The Bill creates grounds for double-dipping where beneficiaries of apartheid will benefit from compensation under the proposed expropriation processes. The failure of the government to compensate black people who were dispossessed of their land before 1994 creates grounds for further distrust of the proposed law. The Bill must be rejected because it proposes an unjust approach to compensation.

- Consultation on the Expropriation Bill must be done in traditional councils and not be limited to Municipalities as traditional leaders are custodians of rural land and communities.

- The cost of legal access is high and makes justice inaccessible as people do not have easy access to the high courts. Government has a sole turf in using the courts and puts citizens at a disadvantage as they cannot fight government in the courts due to costly legal administration processes.

- Traditional leaders lease land and don't sell land; government must respect the role played by traditional authorities in land administration.

- The Mngquma Community rejected the Bill in its current form.

- The majority of the speakers at this public hearing were not in support of the Bill.

(2) Ngqushwa – Ncumisa Kondlo Hall

- Expropriation Bill does not address how people were evicted from their farmlands to create towns. The Bill appears to be a tool of further land dispossession. The government has not fully addressed farmland audits. These need to be done and a determination must be made on how people received ownership of the farmland.

- The Expropriation Bill must be used to promote agriculture, food security by ensuring that communal livestock farmers get more land to farm livestock.
- The Bill lacks clarity due to the interchangeable use of land and property. The Bill must also address whether public interests supersede communal interests as rural communal land is under the authority of traditional leadership.
- The definition of compensation is unclear. The provisions for normal and nil-compensation are unclear.
- There is a lack of clarity about how the Bill affects communal land under traditional leaders.
- The municipality must be allowed to expropriate farms for the development of communal farms. The available land must be used for the development of the majority population.
- The majority of the speakers at this public hearing were not in support of the Bill.

5.3 Buffalo City Metropolitan Municipality

(1) East London – Robbie de Lange Hall

- The Expropriation Bill has a bearing on land administration and this includes open spaces which are not managed properly. The population is growing and people have to be relocated into new lands yet the state has available parcels of land it is not using or releasing. The Bill should address land administration for public benefit.
- Clause 12 (3) of the Bill refers to the concept of nil compensation, which is risky and will negatively affect land and property ownership. The clause

informs the rejection of the Bill as it will result in the lack of protection for banks and property rights for those with bonded properties. The Bill will bankrupt banks and citizens.

- The Bill provides no clear guidelines of the expropriation process. The Bill appears to be beneficial for government use and does not address land restitution and land reform. The Bill further fails to properly define property except for the reference it makes to Section 25 (4) (b) of the Constitution of South Africa.
- Clause 12 of the Bill and the concept of nil compensation is unconstitutional.
- The definition of expropriation should include indirect expropriation. Owners should be compensated for the loss of land. The Bill provides the state with loopholes and unfair access to communal land. It is also an indirect infringement of private property. Therefore, the Bill cannot be supported.
- The state's proposal to expropriate unused property in Clause 12 (3) (c) is abuse by government.
- The matter of land reform remains possible if it is done properly. The Expropriation Bill should encourage private land ownership with title deeds.
- The Bill should not be supported as clause 12 (3) of the Bill proposes nil compensation when abandoned or unused land is expropriated. The Bill appears to promote land occupation by invaders and does not address illegal land invasion or housing developments.
- The Bill undermines the rights of property owners as expropriation can take place prior to compensation. This puts land and property owners at a disadvantage as owners cannot enforce their rights.

- The presentation only covered 3 sub clauses under clause 12 and did not address all 5. The market value and land registration were not presented, this includes abandoned land.
- The Bill doesn't protect black land-owners as it calls black people unregistered citizens. The Bill is supported only if it addresses the injustices of the past with respect to land restitution.
- The Bill does not address land ownership inequality. The Expropriation Bill must deal with land redistribution. Compensation doesn't cater market value compensation for people in communal areas.
- We cannot quantify meaning and value of land for rural people. Relocating people and their graves, a lot needs to be considered before expropriation processes can be concluded. Communal land must not be subject to expropriation until it is protected under land tenure laws.
- The Expropriation Bill must be linked with the discussions and processes related to the review of Section 25 of the Constitution and the Land Court Bill before Parliament.
- Clause 19 (8) deals with mediation when the state makes an offer to the subject of expropriation and the offer is upheld by the court. The fact that the state can go ahead and conclude the expropriation while the matter faces an appeal of the court order is not consistent. This renders the Bill to be against its appeal processes. It is the state that should bring an application to enforce the court judgements while it is being appealed. The burden must not fall on the victim of expropriation.
- Before you make new laws, correct the Expropriation errors that occurred at Bhongweni, Ntentseni and Bhompini. The Expropriation Bill does not address past expropriation matters as we were evicted in Cove Ridge farms in 1989.

The Department of Public Works proposes further expropriation without addressing past injustices.

- The proposed Bill will harm home ownership and food security. It will deprive citizens of private property, negatively affect banks and foreign investment. The Bill cannot correct the wrongs of the past and will perpetuate existing problems while harming the right to private property.
- The Department of Public Works is not trustworthy. The speaker stated that he is a victim of expropriation suffered under Mayor Robbie de Lange who destroyed properties that were built along the road before 1990.
- Proposal was made that there should be compensation in Clause 12 of the Bill and the nil-compensation should be scrapped.
- The expropriation Bill will double the blow of landlessness as farm workers live and die like slaves with nothing to leave for their descendants like the people of West Bank who do not have land or property.
- The majority of the speakers at this public hearing were not in support of the Bill due to their divergent views on whether expropriation of land should be done strictly without compensation, or it should be done strictly with compensation. Some speakers did not support the Bill because it allows expropriation with compensation, while others did not support because it allows expropriation with nil compensation, which can be regarded as expropriation with no compensation.

(2) Qonce – War Memorial Hall

- The Expropriation of land without compensation must be inserted in the Bill. The proposed nil-compensation for non-developed land shows a disrespect to old traditions and communal land use management by rural people.

- The Bill's intentions about the expropriation of property are unclear. This includes the related market-based evaluation processes.
- The proposed Bill seeks to empower the people who initially dispossessed black people of their land. The government's ability to evaluate properties is in question as government has a tendency of using the private sector for conducting evaluations. The Expropriation Bill shows that the oppressors or people who benefited from the previous government and expropriation processes will be used to evaluate land and double dip in the process.
- The question of public purpose compared to public interest need to be communicated with clarity. The contents of the Bill shows a government that does not value communal lands and related customs.
- The government's Bill refers to rural people as unregistered people; this is demeaning. The Bill does not provide certainty on how government will manage appeal processes by rural people with no physical addresses.
- Mpande Village in Qoboqobo was part of forced removals under apartheid. The village is much smaller as a result yet the communities' needs for expansion are greater.
- Parents lost land, properties and submitted land claims in 1998 but had to engage lawyers at great cost for them to receive the claimed funds. The proposed Expropriation Bill appears to be a process that will reopen old wounds, expose people to losses and harm under a democratic government. It is unclear where government will source the funds to administer the expropriation processes as it previously failed to administer financial matters related to the Land Restitution Bill.
- The Expropriation Bill's proposal of expropriating unused land and properties will rob family members of access to an estate of a relative who dies without

bearing children. The lack of documentation for land ownership in the form of title deeds will perpetuate this abuse in communal areas.

- The Bill appears to treat black and white land-owners differently. It seems as if white land-owners are more important. The proposed nil-compensation will rob black people of rewards for their land and properties.
- Clause 18 of the Bill provides for the deposit of the amount of compensation with the Master of the High Court, where the recipient of the funds is not reachable. The question that was asked in this regard was what tracing mechanisms the Department will use to locate the recipient of the funds to avoid a situation where the funds will be kept perpetually with the Master of the High Court.
- The Department of Public Works plays a central role in the dilapidation of public properties' by delaying the sale and transfers of its buildings.
- The effect of these laws is multi-generational. Communities cannot just accept proposed laws without fully understanding them. The proposed Expropriation Bill is unclear and not easy to accept as a result.
- The Expropriation Bill needs to give due consideration to rural people living under communal land administration. Rural people have Permission to Occupy (PTO) certificates and no title deeds. There is a need to administer rural land administration using title deeds and improve the land tenure system.
- The Bill must promote the development of rural people according to their differing abilities and help them get more land to farm grazing animals. Expropriation of farms must be done to promote rural livestock farming.

- There is no point of engaging in the Expropriation Bill as it doesn't deal with land redistribution. Land redistribution must first be addressed as it is related to the Expropriation Bill.

- Communal land lies fallow due to lack of financial means to work the land yet the government proposes to expropriate unused land through nil-compensation. The proposal of nil compensation is oppressive and unconstitutional. Undeveloped rural lands have their own development plans known by traditional authorities responsible for communal land administration. Government's interpretation of the value of rural land and its abandonment shows a lack of appreciation of what people value; this is a ploy to take the land and it is unjust.

- Rural land has no formal value and this places rural people at a disadvantage.

- SANRAL related quarries are a problem. They expropriate or use land without due beneficiation to communities. This form of expropriation in support of public benefit is unjust. The quarries destroy grazing land, water systems and cause congestion but there are no corrective measures applied.

- Nil-compensation is unjust. Government assumes that rural people have no plans to use the land. The lack of understanding about land use and the lack of valuation of rural land makes it difficult to determine the value of communal land. This lack of understanding about the value of communal land exposes rural communities to perpetual abuses as proposed in the Bill.

- The majority of speakers at this public hearing were not in support of the Bill.

5.4 Chris Hani District Municipality

(1) Engcobo – Indoor Sport Centre

The majority of the stakeholders appreciated and supported the Bill, however the following concerns were raised:

- The involvement of traditional leaders and chiefs in the process of expropriation of land is vital as they are the custodians of rural land.
- The value of the land must be determined by the owner of the property and not by the expropriating authority.
- When the expropriating authority contemplates to expropriate land that is not being used, it must first enquire into the ownership of such land and family members/descendants of the owner who may be interested in the land and can make use of it.
- Farmers who own many farms should be restricted to ownership of one (1) farm.
- A member of the community asked, when the owner of the property disagrees with the compensation amount proposed by the expropriating authority and the court rules against his/her proposed amount, what will happen?
- A whopping 87% of property, particularly land, still belongs to commercial farmers.
- Speakers at the public hearing stated that nil compensation is unfair, particularly when a person is not using the land due to not having means to work it.

- The state should start expropriating from those who have vast tracts of land before coming to those with small pieces of land.
- A speaker suggested that in small towns, private land adjacent to the central business districts must be expropriated and be under the control of the state to avoid illegal invasion of such land.
- Communities were not educated about the Bill before the public hearings were conducted to ensure meaningful participation on the Bill.
- The speakers expressed satisfaction with clause 2 of the Bill, this clause states that the expropriating authority may not expropriate property arbitrarily, it will only be for a public purpose or the public interest and negotiations will be entered into with the owner of the property.

(2) Komani – Thobi Kula Indoor Sport Centre

- An overwhelming majority of the stakeholders at this public hearing supported the Bill. The reason for the support is that the Bill seeks to redress the injustice of land dispossession.
- Stakeholders welcomed the Bill, believing that it will accelerate the pace of land reform and sustainable development.
- Traditional Leaders at the public hearing accepted the bill, however expressed disappointment in the delays in its introduction and finalization.
- The Bill must prohibit a farmer from owning more than three farms to ensure equitable land redistribution to the landless people. The Bill must promote a principle of 'one farm, one farmer'.

- The Bill must explicitly state that land will be expropriated from white people since they are the ones' who own large hectares of land. This will ensure that the bill does not affect those who were dispossessed of land.
- Some participants urged government to support black farmers with the necessary resources to ensure high levels of food production.
- A submission was made that land must be made available to communities for economic development and job creation so that poverty is eradicated.
- The Bill must ensure provision of land to small-scale farmers who have intentions to grow their farming businesses as some are currently farming in back yards due to unavailability of land.
- A proposal was made that municipalities shall be given adequate land to build residential properties which will enable the government to collect property taxes. In this regard, it was suggested, municipal Infrastructure units, surveyors, town planners must facilitate and lead the process.
- The phenomenon of foreign nationals owning land in the country must come to an end. Foreign nationals are owning farms in the country while few indigenous people own farms.
- The Bill must make provision for the allocation of land to various municipalities for initiation schools whenever a need arise and such initiation schools must be provided with water tanks and other necessities.
- A submission was made that abandoned factories must be expropriated and be registered under municipalities to generate more revenue and to boost local economic development.

- Stakeholders at the public hearing welcomed the Bill especially the clause that allows for dispute resolution mechanisms when there is a dispute with regards to payment of compensation.
- The Bill must make a provision for the municipalities to be able to expropriate unused ploughing fields in communal areas and be given to communities who have interest to utilize and work the land.
- A representative of the DA indicated that the party will only support the Bill when clause 12 (3) (expropriation with nil compensation) is clarified.
- The Bill was appreciated and supported.

5.5 Joe Gqabi District Municipality

(1) Sterkspruit - Bhunga Community Hall

- Participants expressed different views on the Bill, some accepted the Bill while others rejected it.
- Traditional Leaders expressed a concern that the Bill is silent about communal land, this is despite the Traditional Leaders being the custodians of communal land, it only addresses urban and township land. Furthermore, government must expedite the process of expropriating land because the available land is occupied illegally by some communities who have built informal settlements.
- A representative of the Democratic Alliance (DA) at the public hearing indicated that they are not in support of the Bill, due to the failure of the government to equally distribute the land and some loopholes in the Bill itself. Moreover, the party indicated that the Minister has unfettered powers in terms of the Bill which are susceptible to abuse.

- The representatives of the business sector submitted that they do not support the bill because people do not have Permission To Occupy (PTO) land, even if one does have a PTO it does not guarantee ownership.
- The Bill must clearly provide that the land can be expropriated without compensation when an individual refuses to release land.
- A representative of the Pan African Congress (PAC) submitted that the Bill should be premised on land repossession from white people and its return to the rightful owners before introducing land expropriation, therefore the bill is not supported.
- Small-scale farmers association proposed that the Bill must contain a clause that will allow them when they have identified an unused land to request such land or portion thereof from the Minister for purposes related to agriculture.
- Some stakeholders accepted the Bill and indicated that they acknowledge the efforts of the government in ensuring that the land question is addressed, and that land is equitable distributed.

(2) Joe Slovo Community Hall

The Bill was overwhelmingly supported, and the following concerns were raised:

- That expropriation is good if it were to be managed properly. The issue which is always a challenge is corruption which always creeps in. There is nothing wrong with the current expropriation Bill.
- Clause 12 (3) which indicates circumstances under which it may be just and equitable for nil compensation to be paid. This clause is not in line with the Bill of Rights.

- The Bill strips private property owners of their right to property.
- Negotiations must always be key before property or land is expropriated.
- The ruling party has most of the land. The majority of land belongs to government. Why does government not take land that belongs to it?
- The Bill is giving the government too much power and leave property owners with less power to enjoy their constitutional right to property.
- Private property rights are the cornerstone of the constitution. The Bill in its current form is infringing the right to property.
- Clause 7 (h) does not give the property owner a right to refuse the expropriation. The expropriated owner is further not given a right to oppose the expropriation.
- Clause 12(3)(a) does not set out a criteria that will be used to assess a land that is not being used.
- The Bill only speaks of direct expropriation. There are however circumstances where there is indirect expropriation. Definition of expropriation must include indirect expropriation so that owners of land affected by indirect expropriation can be compensated.
- Clause 12(3), the state is creating a loophole to gain land without compensation.
- Clause 12(3) does not limit nil compensation to only those conditions listed. It must provide clear guidelines on other circumstances other than those listed under which nil compensation will be paid.
- Clause 12(3)(c) is an open invitation to land invasions.

- Land reform remains possible if it is done fairly and without corruption.
- The 1975 must be repealed as its repeal is long overdue as it does not comply with the Constitution.
- There is nothing in the Bill that takes away property rights. The process starts by negotiations, the expropriated owner is given an opportunity to state whether she/he accepts the offer, request further particulars or dispute the amount of compensation.
- The Bill is silent on legal representation. It must provide for pro-bono legal representation for expropriated owners who do not the means for legal representation.
- The Bill must also allow for owners of property to approach the state to allow expropriation.
- There are a lot of people who do not have places to stay while others own 15 farms each. The Bill states that expropriation will be for public purpose. The land was taken through the barrel of the gun and it is time that it be regained. There is no infringement of property rights if the land was not bought by the owner.
- The Bill protects the right to land access. It is ungodly that in the years that have passed, there are people still without land and there are farmers with huge hectares of land.
- Expropriation must not only be for public interest, it must also be for those who are poor and have no access to land.
- 12(3) does not explain what will happen to an expropriated property that is still under a mortgage bond.

- Aliwal North Community must be assisted to have access to land. There are those who are rich who buy land and sell it to government. This is disadvantaging the poor. Communities also sell the land to farmers and when they must get land to build houses that land has to be bought back from the farmer at a very high price.
- Can only talk of just and equitable compensation if the expropriated owner has a title deed.
- The communities stated that they wanted access to land all these years for the purposes of farming, grazing, and eradication of squatter camps.
- The Bill is a good move as it is intended to redress past imbalances.
- Can only support the Bill once the Afrikaner Accord signed in 1993 is implemented.

5.6 Nelson Mandela Bay Municipality

(1) Gqeberha – Nangoza Jebe Hall

The public's views were divided, some appreciated and supported the bill while others rejected the bill in its current form.

- Some community members raised a concern that the term 'property' is not clearly defined in the Bill. Therefore, according to them it can mean that anything and everything can be expropriated. Clarity on what constitute 'property' is needed before the passing of the bill.
- Some speakers expressed some reservations that the state is afforded a right to expropriate property, but private individuals cannot refuse to be expropriated.

- A community member expressed concerns about the uncertainty about mortgaged properties that are a subject of expropriation.
- Some speakers at the public hearing appreciated the bill as it seeks to redress the imbalances of the past. These speakers believed that the Bill should be welcomed as it serves as a mechanism to ensure equal distribution of land.
- A speaker was of the view that the Bill is a threat to food security in South Africa as it does not support farmers.
- Some community members raised that white people dispossessed their land and chased their forefathers away from their ancestral land and view the Bill as an attempt at addressing such land injustice.
- Agri Eastern Cape raised that the definition of “expropriation” in clause one of the Bill is ambiguous as it may give way for all kinds of state action that may limit property ownership and rights without compensation in a severe manner, even allowing property to be acquired on behalf of a third party without compensation. The focus, according to Agri Eastern Cape, should not be on the acquisition of land by government organs, but rather on the loss that the landowner suffers.
- Agri EC further raised the concern about clause 12 of the Bill in that landowners may be undercompensated for their property when expropriated and they cannot allow agricultural landowners to be treated differently from other landowners or any other holders of land. When the compensation paid for land is substantially below the market value it will have dire consequences for investment and negative effect to the agricultural sector. Farmers will be most affected as they will struggle to obtain the required production credit as well as emerging farmers as they will struggle to obtain access to sufficient production credit.

- Furthermore, Agri EC raised reservations about clause 12 (3) and (4) warning that by legislating the possibility for nil compensation in specific cases, it is creating expectations of land at no value, similarly, it is creating fear of land being taken at no compensation within certain categories of landowners. Paragraph (a) of clause 12 (3) is overly misleading and should be withdrawn from the document.
- Agri EC further submitted that paragraph (c) of clause 12 (3) which deals with the concept of abandonment is vague. According to Agri EC, in certain circumstances, a landowner may be forced to abandon their land unintentionally, such as in cases of disaster or land invasion.

(2) Kariega – Babs Madlakane Hall

- Some members of the community at this public hearing expressed unwavering support for the Bill, as they believe that the expropriation of land as proposed in the Bill provides a mechanism for the state to assist communities with provision of land as there is unused land in their area owned by private businesses.
- Section 25 of the Constitution of South Africa provides for the payment of compensation in matters of expropriation of property. Section 12(3) of the Expropriation Bill contravenes this section of the Constitution by providing specific instances where nil compensation can be deemed just and equitable for the expropriation in the public interest.
- Nil compensation should only be restricted in instances where the land is owned by the state and is no longer needed by the department or organ of state or where state property that was previously expropriated and paid for is needed for another purpose. Any other pre-determined basis for the payment of nil compensation places the state in a superior position than a private owner and should not be included in the bill.

- Some community members stated that they observed a disturbing trend by the government of attempting to confiscate water rights and now the land itself. Rightful landowners worked and paid for their land, therefore they support the willing seller, willing buyer free market principle.
- Some community members stated that large tracts of land are in the governments' hands and urged government to take lead and give up unused land in its control to the citizens of South Africa.
- Community members expressed a view that the Bill undermines the individual rights and seems to give more rights to the state/government.
- Some speakers at this public hearing expressed the view that there are no clear guidelines of what will happen to the expropriated property after expropriation.
- A community member was concerned about what will happen to ancestral graves located at the land that is a subject of expropriation.
- Some community members supported the Bill citing a concern regarding dilapidated buildings belonging to people living overseas and these buildings are used by foreign nationals. They expressed that there is land that is not used while people have no space in their own country. Therefore, the state must be able to expropriate these properties for the benefit of communities.
- Some community members support the Bill as it is a necessary intervention and repeals an old order legislation, the Expropriation Act, 1975. The view of this group of community members is that the processing of the Bill must be expedited.
- Other community members supported the Bill citing historical reasons, including the fact that black people were dispossessed of their land by the

apartheid regime and the white population has unduly benefited from the dispossession.

- Some community members were saying that despite consistent voting they felt abandoned by the government, they have no land to build houses on, they hope that the promulgation of this Bill will assist the government to make available land for human settlements.
- Some speakers believed that the Bill would assist in eradicating unused and/or abandoned properties that are used by drug lords, since it affords the state powers to expropriate these properties, with nil compensation in some circumstances.
- The public's views were divided, some appreciated and supported the Bill while others rejected the bill in its current form.

5.7 OR Tambo District Municipality

(1) Lusikisiki – Nongoma Community Hall

- Participants expressed support for the Bill as it seeks to serve the interest of the public and to redress inequalities.
- The Bill must make a provision that the household owners be provided with title deeds in rural communities.
- There must be a land reserved for development such as the building of factories to manufacture cannabis in coastal land, community co-operatives, institutions of higher learning, government offices etc.
- The Bill must make a provision of land audit in the rural areas.
- The Bill must clearly specify the purpose of the land expropriation.

- Traditional Leaders raised a concern that the Bill is excluding them meanwhile they are the custodian of rural communal land.
- Few stakeholders indicated that they will not support the Bill until traditional leaders are involved in land expropriation debate.

(2) Mthatha – OR Tambo Hall

Although the Bill was appreciated and supported, the following concerns were raised:

- A speaker at the public hearing submitted that all properties are subject to regulation by Municipalities, therefore the municipal valuation roll should form the basis for the determination of the amount of compensation by the expropriating authority.
- Some speakers urged the government to fast-track the finalization of the expropriation Bill as it is long overdue.
- A submission was made that in rural areas land is under the custodian of the traditional leadership, therefore the state cannot usurp the powers vested on traditional leadership.
- There was a view that a special public participation programme should have been conducted with traditional leadership before embarking on a broader public participation with the general public and other stakeholders.
- Some speakers stated that the land is the foundation of the economy, life and dignity as such the implementation of the bill must be expedited.
- Other speakers indicated that they view this process as a way of bringing back land to its rightful owners.

- A submission was made that the value for properties in rural areas must be market related and be just and equitable as stated in the Bill.
- A proposal was made to the effect that to protect rural people there must be a minimum threshold for the value of the properties in rural areas. The motivation behind this proposal was that rural people are offered meagre compensation for their properties.
- It was submitted that the Bill must take into consideration the people who purposely build houses on the South African National Roads Agency Limited (SANRAL) road reserve with the hope of getting compensated in the event of a road upgrade.
- A suggestion was made that the Legislature must ensure the availability of sign language interpretation in future public hearings.

5.8 Sarah Baartman District Municipality

(1) Graaff Reinet – Alex Lang Hall

- The Khoi-San are not necessarily against the Bill but are concerned of not being afforded a special consultative process that will only engage them as a group as they are the ‘first nation’ in the space called South Africa today, thus first owners of the land. They further say that the land must not be given to cronies and/or friends of politicians, it must be given to people who are willing to farm and produce food.
- A concern was raised on the unacceptably high levels of inequality in South Africa, including land ownership patterns. The view further says whites have bigger space than blacks and that the constitution of South Africa should be amended to permit expropriation without compensation.

- The community members also raised a concern regarding land that is owned by people who have immigrated to foreign countries and in some cases this land is rented out to foreign nationals in South Africa.
- Other community members expressed an urgent need for equal redistribution of land.
- The community members were also concerned about available spaces that are unoccupied thus leading to invasion of land.
- Some members of the community stated that they are not against land reform and restitution. They believe that existing land reform policies are adequate. They believe that land expropriation is not the remedy for the failure of land reform. According to them, the Bill is an attempt by the government to expropriate land for its own use because it has failed to disclose what will happen to the land once it has been expropriated.
- Other members of the community in the public hearing believe that the Bill, in its current form, undermines private rights to property, thus contravening the constitution.
- Clause 12 (3) of the Bill provides that it may be just and equitable for nil compensation to be paid where land is expropriated in the public interest, taking into account all relevant circumstances. The clause lists five circumstances that may be taken into account and it states that the decision may not only be limited to the five stated circumstances. The problem identified by some stakeholders with this clause is that the five circumstances in this clause are not a closed list. In other words, according to them, expropriation with nil compensation for public interest is broad and may include any other reason not explicitly stated in the law.

- Clause 13 (3) (c) of the Bill permits expropriation of land with nil compensation where the owner has abandoned the land by failing to exercise control over it. A community member proposed that government must assist land-owners (without title-deeds) to acquire title deeds so that ownership of the land can be easily proven. The community member believes that people abandon their land because they have no title deeds to prove ownership. The submission was that it would therefore be incorrect to expropriate land with nil compensation for an owner who abandoned the land due to lack of a title deed. The proposal further says if all land-owners have title deeds, it will be easy to identify real owners of the land and to determine who is entitled to compensation.
- Some community members believed that once land expropriation with nil compensation is exercised; the expropriated property owner that has a contract with the bank through a mortgage will not be liable to pay the mortgage. This will cripple and collapse the banking system and the economy.
- Some speakers stated that indirect expropriation exists, but it is not considered in this Bill, it is only direct expropriation that is incorporated. Therefore, the bill cannot be supported until indirect expropriation is also considered because it does exist.
- Some stakeholders stated that land-owners are bullied through the provisions of clause 12(3) which provides that it may be just and equitable to pay nil compensation for expropriation in the public interest. These stakeholders are of the view that payment of nil compensation is in direct violation of section 25 (2) (b) of the Constitution. They are of the view that clause 12 (3) must be changed to bring it in line with the Constitution.
- The Bill does not correctly define the term 'property', there are no clear guidelines regarding expropriation of property, apart from land.

- The community members raised concerns regarding lack of land for human settlements. The community members expressed that most people in our communities are staying in other peoples' backyards and all they want is land to build their own houses. Therefore, they believe the Bill is necessary.
- Community members said they want to restore their dignity, they want their land back as they live in the streets, in improper housing structures and some are homeless although there are available acres of land lying unused. For these reasons, they support the Bill.
- The community members stated that they need to be informed of the mechanisms that the state will put in place to ensure that the rights of private property owners are not infringed by this bill.
- The public's views were divided, some appreciated and supported the Bill while others rejected the bill in its current form.

(2) Makhanda – Town Hall

- Some community members expressed a view that the approach adopted by the Bill is fair. The Bill stipulates that before any expropriation, the state must negotiate with the owner, must issue notice, and must compensate. Therefore, expropriation should proceed as the land must be for the benefit of every citizen.
- Some speakers at the public hearing were interested in knowing how the Bill will benefit and be of value to the poor.
- Some people stated that, in their views, the Bill represents those people that are marginalized including those that are landless.

- Some community members raised the point that black farmers are not assisted by government. There is land in the villages that is not used, people must be supported by the government to work that land before requiring more land.
- A speaker emphatically stated that farmers are legitimate landowners who worked and paid for their land and are not going to be forced to give up their land without compensation.
- According to some speakers, the land issue does not only affect farmers and agricultural land, it is broader, it also affects each and every owner of land in South Africa, whether it's a farm, house in a city or in a small town.
- Some speakers stated that the Bill will definitely assist government departments, organs of state, state agencies and landless people to have access to the land. The view is that, to broaden access to land and to ensure equitable distribution, land must be expropriated without compensation. Therefore, 'nil compensation' in the Bill must be removed and be replaced with 'no compensation'.
- The public's views were divided, some appreciated and supported the Bill while others rejected the bill in its current form.

6. WRITTEN SUBMISSIONS

After the public hearings, in line with the Lamosa Practice Note, the Committee allowed submission of written inputs up until 11 August 2023. For the re-scheduled public hearings, that were subsequently held on the 07 – 08 November 2023, the written submissions were allowed until 10 November 2023. The written submissions in this regard refer to the submissions that were received after the public hearings. The inputs in a written form that were made orally in the various public hearings are not included in this section of the report but are captured above under the different public hearings. We must also mention that some written submissions were duplicated, for instance Mr Dirk Burger representing Afri-forum submitted three written submissions.

Written submissions were received from the following organisations, bodies and/or individuals.

- i. Afri-forum (represented by Dirk Burger)
- ii. Agri Eastern Cape
- iii. Betshwana Community (Mount Ayliff)
- iv. Cllr Nomvula Nomlala (Ward 5 – Matatiele Local Municipality)
- v. Eastern Cape Civil Society Organisations
- vi. Griekwa Land Reform (Dr Vivian Kok)
- vii. Haji Hanif Manjoo (Member of the Royal Griqua House)
- viii. King Mashiya II – Mashiya Royal Kingdom
- ix. Mxolisi Mnyaka (Middlefrift EC – Cwaru Location)
- x. Nomgcobo Ntanjana – Sterkspruit Resident
- xi. Sakkie van Zyl
- xii. South African Communist Party (Matatiele Sub-District)
- xiii. Tabok Trust (represented by Isak Louis Smuts)

SYNOPSIS OF WRITTEN SUBMISSIONS

Afri-forum

- Afri-forum submits that the Bill should not be passed.
- According to Afri-forum the Bill is damaging to the Constitution.
- Afri-forum believes that the proposed Bill will ruin the economy, deprive citizen of their constitutional right to property, will have a negative effect on foreign and domestic investment, lead to destabilisation of the banking sector and will lead to deprivation of food security.
- The state must use the 17 million hectares of land currently in its possession optimally and release it to people who are willing, capable and able to work the land.

Agri Eastern Cape

- The definition of 'Expropriation' in Clause 1 of the Bill is ambiguous. It has the potential to give way for all kinds of government action that may limit property rights without

compensation in a severe manner. Agri-EC believes that the focus should not be on the acquisition of land by government organs, but must be on the loss that the landowner suffers. Therefore, the submission is that the definition must be removed from the Bill.

- Agri-EC is concerned that landowners may be under-compensated for their properties when expropriated. The organisation believes that any approach whereby compensation paid for land is substantially below the market value is likely to have dire consequences for investment in and contributing to the agricultural sector. If the market value of farms is driven downwards, it will inevitably impact the cost of food.
- The possibility of nil compensation provided in the Bill creates an expectation of land at no value. It also creates fear of land being taken at no compensation within some categories of landowners.
- The provision of nil compensation is misleading and shall be withdrawn from the document.
- Clause 12(3) (c) provides for the possibility of land that has been abandoned by failing to exercise control over it, to be expropriated at nil compensation. Agri-EC has reservations about this clause. According to Agri-EC, the concept of abandonment is vague and it believes that certain circumstances may force landowners to abandon their land unintentionally, such as disaster or land invasion.

Betshwana Community (Mount Ayliff)

- The Betshwana Community is opposed to the Bill in its current form.
- The submission is that the Bill is not clear on which land will be expropriated.
- The community of Betshwana expects the state to facilitate for the restitution of land that was illegally taken during the reign of the apartheid government.
- The Bill does not seem to distinguish between land under traditional authorities and general land. The lack of this distinction will result in land under traditional authorities being expropriated by the state.
- According to the Betshwana Community, the focus of the Bill must be the restoration of land that was forcefully taken during apartheid era through expropriation.

Cllr Nomvula Nomlala (Ward 5 – Matatiele Local Municipality)

- The Bill is supported.
- The expropriation of land will promote farming thus ensure food security.

Eastern Cape Civil Society Organisation

Procedural issues

- The public hearings did not give the people of the province a reasonable opportunity to participate in legislative processes.
- There were no pre-education workshops held to prepare citizens as members of the public to participate in the public hearings.
- The advertising of the public hearings was not adequate.
- The transport plan was not clearly communicated to the people. In one instance, two 15 seater minibuses were organised to transport people from the Sakhisizwe local municipality to the public hearing venue in Ngcobo. According to the Eastern Cape Civil Society Organisation, the 30 people are not representative of the population of the Municipality.
- Some public hearings were postponed due to poor attendance by members of the public. The public hearings mentioned in the submission that were postponed is the one in Ngcobo, which had less than 150 people and the one in Komani.

Substantive issues

- The Bill in clause 7(4) gives a person whose property is identified for expropriation 30 days to respond to a notice of intention to expropriate. This provision, according to the Eastern Cape Civil Society Organisations, does not distinguish between common law property rights and communal land rights. This provision implies that customary processes of land disposal must be circumvented to satisfy the expropriating authority.
- Linked to the point above, Section 2(1) of the Interim Protection of Informal Land Rights Act (IPIIRA) requires the consent of the holder of an informal right before they may be deprived of property. Section 2(2) of the Act requires communal consent. Therefore, the Bill must afford communal land rights holders an opportunity to

deliberate on the notice of intention to expropriate according to their customary processes.

- The Bill is silent about expropriating land for distribution purposes and addressing the unequal land ownership patterns.
- Clause 19(8) of the Bill deals with legal proceedings emanating from the amount of compensation to be paid. This clause states that if there is an appeal against a decision on the amount of compensation, that appeal of a court decision does not prevent the expropriating authority from proceeding with the expropriation based on the amount approved or decided unless a court grants an interim interdict based on compelling prospects of the appeal. According to the Eastern Cape Civil Society Organisations this clause contradicts section 18 (1) of the Superior Courts Act (Act No. 10 of 2013) which provides for the suspension of operation of a judgement or court order while an appeal has been noted. Clause 19(8) will result in people incurring further legal costs through interlocutory proceedings.

Griekwa Land Reform (Dr Vivian Kok)

- The legitimate resolution of the land question in South Africa hinges on the reversal of the illegitimate land dispossessions of colonialism and apartheid.
- The original land dispossession in South Africa was aggressively perpetrated in the Cape, and against the Cape Khoi.
- Land Reform that excludes the restitution of the Khoi, Griqua and so called coloured-people is unjust, because they are aboriginal natives of South Africa.
- The current ANC regime's eagerness to give recognition to the LGBTQ community and deny recognition to the Khoi, Griqua and so-called coloured-community is a grave injustice.
- The recognition of the Khoi, Griqua and so-called coloured-people and their repossession to the land that was lost due to colonisation is necessary for purposes of legitimising any land reform initiative.
- If the current land reform in the form of expropriation does not correct the illegitimate land dispossessions of the Khoi, Griqua and so-called coloured-people, it will then unfortunately constitute a continued colonisation of the Khoi, Griqua and so-called coloured-people by the current regime.

- If the land question as it relates to the Khoi, Griqua and so-called coloured-people remains unresolved, its' likely to give credence to the growing sentiment among Khoi, Griqua and so-called coloured people, that they are second class citizens in the current status quo and that the current status quo represents a form of neo-colonialism and neo-apartheid against them.

Haji Hanif Manjoo (Member of the Royal Griqua)

- The first resistance against the colonisers was by the Khoi-San tribes at the Cape.
- Colonisers never acquired the land legally.
- The colonisers acquired the land through persecution, land theft and mass genocide.
- (The submission is incomplete as it was sent through WhatsApp)

King Mashiya II – Mashiya Royal Kingdom

- Land question must be discussed in a platform such as a Royal Imbizo, presided over by the Kings and Queens.
- Land is a primary asset where secondary and primary industries are established.
- Expropriation of land without compensation will lead to the destruction of agricultural production.
- What is needed is an empowerment of farming community to ensure stable food production.
- Expropriation threatens food security and may lead to political instability.
- Vacant and empty land must be expropriated with compensation.
- The available unoccupied land must be used for human settlements.
- Government must form partnerships with farming communities, including the black emerging farmers and current 'owners of the land' with the view to assist these farmers with equipment and machinery.
- Expropriation of land from farmers is irrelevant and has no bearing in the economic emancipation.
- Land expropriation is the prerogative of the Kings and Queens who are the true custodians of the land.

Nomgcobo Ntanjana - Sterkspruit resident

- The Bill does not address the issue of Permission to Occupy (PTO).
- The Bank and Developers do not recognise the PTO as a legitimate document to work with for purposes of property/business development.
- The Bill must make provision for PTO's.

Mxolisi Mnyaka (Middlefrift EC – Cwaru Location)

- Mr Mnyaka raised some concerns regarding the process of the public hearings.
- He submits that the community of Middlefrift was not aware of the public hearing and there was no hearing or designated venue for the hearings in the Raymond Mhlaba Municipality.
- The dominant language used in the public hearing was English.
- The Bill does not clearly stipulate how land will be restored to the rightful owners and/or how restitution, including compensation will be effected to those who were dispossessed of their land.
- The definition of 'public interest' is broad, it will afford government unfettered powers to take the land without due regard to the communities' culture, customs and natural bio-diversity.
- The Bill does not seem relevant to rural people.
- Transport was not properly arranged for the public hearings.

Sakkie Van Zyl

- The Bill contravenes provisions of the Constitution as it seems to disadvantage private property owners.
- The circumstances under which nil compensation is permitted in the Bill under section 12 (3) is not a closed list as such the provision is too broad.

South African Community Party (SACP) (Matatiele Sub-District)

- The SACP (Matatiele Sub-Branch) is supportive of the Bill and believes that land must be expropriated urgently.
- The land must be expropriated without compensation and the willing buyer, willing seller must be discarded.

- Section 25 of the Constitution must be amended to allow expropriation without compensation. This will enable the restoration of land to the rightful owners and the state shall assume custodianship of all land.

Tabok Trust (Represented by Isak Louis Smuts)

- The trust submits that the existing flawed land restitution and land reform process must be investigated, before any new process of expropriation can be pursued. The existing process must be rectified, particularly the spending of funds, purchase of land, handing over of these lands and the usage of all land that was handed over to beneficiaries. The trust also calls for the official and open audit of all government and 'tribal land' available.
- The trust further submits that there shall be no further expropriation of any land until such time that the 'Afrikaner Accord' (of April 1994) with all its terms and agreements is recognised and included in the processing of this Bill.
- The trust believes that the process of traditional leadership and its relation to land and/or other rights must be clarified and addressed before any new process of land expropriation can be entertained.
- The trust objects to the offensive and unsavoury reference to white people as 'land thieves' and views this identification as reversed discrimination. The trust believes that this must be attended to before any land expropriation can be undertaken.
- Some land that was in possession of the Afrikaner people where their schools were built was expropriated without compensation by the current government since 2001. The trust views this as an injustice.
- The expropriation process encourages lands grabs that will be difficult to contain.
- The proposed expropriation process encourages farm attacks and murders.
- Expropriation of land shall be officially postponed and not be forced into future laws until there is consent amongst all the stakeholders involved.

Signed:



13 November 2023

HON T. MATIWANE (MPL)

DATE

**CHAIRPERSON: PC ON PUBLIC WORKS AND
INFRASTRUCTURE**